



**COMMUNITY COURT OF JUSTICE, ECOWAS**  
**COUR DE JUSTICE DE LA COMMUNAUTE, CEDEAO**  
**TRIBUNAL DE JUSTICA DA COMUNIDADE, CEDEAO**

**IN THE COMMUNITY COURT OF JUSTICE OF THE ECONOMIC  
COMMUNITY OF WEST AFRICAN STATES (ECOWAS)**

In the Matter of

**PATRICK EHOLOR (PRESIDENT OF ONE LOVE FOUNDATION) V.  
FEDERAL REPUBLIC OF NIGERIA**

*Application No: ECW/CCJ/APP/38/21 Judgment No: ECW/CCJ/JUD/51/23*

**JUDGMENT**

**ABUJA**

**7 DECEMBER 2023**

**PATRICK EHOLOR  
(PRESIDENT OF ONE LOVE FOUNDATION)**

**-APPLICANT**

**V.**

**FEDERAL REPUBLIC OF NIGERIA**

**- RESPONDENT**

**COMPOSITION OF THE COURT:**

Hon. Justice Dupe Atoki	- Presiding/Judge Rapporteur
Hon. Justice Sengu Mohammed Koroma	- Member
Hon. Justice Claudio Monteiro Gonçalves	- Member

**ASSISTED BY:**

Dr. Yaouza <b>OURO-SAMA</b>	- Chief Registrar
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**REPRESENTATION OF PARTIES:**

Ihensekhien Samuel Jnr, O. Douglas Esq		- Counsel for Applicant
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Maimuna Lami Shiru		-Counsel for the Respondent
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## ***I. JUDGMENT***

1. This is the judgment of the Community Court of Justice, ECOWAS (hereinafter referred to as “the Court”) delivered in open court.

## ***II. DESCRIPTION OF THE PARTIES***

2. The Applicant is Patrick Eholor who describes himself as President of One Love Foundation, an NGO committed to the rule of law, justice, and engaging in public litigation. The Applicant shall (hereinafter be referred to as the “Applicant”).
3. The Respondent is the Federal Republic of Nigeria, a Member State of the Economic Community of West African States (ECOWAS), a signatory to the ECOWAS Treaty and to the African Charter on Human and Peoples’ Rights and other international human rights instruments (hereinafter referred to as the “Respondent”).

## ***III. INTRODUCTION***

4. The Application is premised on the allegation of the violation of the rights to freedom of expression of human rights defenders, activists, bloggers, journalists, broadcasters, and social and media users as well as murder and the unlawful arrest, detention, and false prosecution of protesters contrary to the rights guaranteed under the African Charter on Human and Peoples’ Rights, the International Covenant on Civil and Political Rights, and other international human rights Treaties.

## ***IV. PROCEDURE BEFORE THE COURT***

5. The Applicant filed the Initiating Application on 5 July 2021 and served on the Respondent on 19 July 2021.
6. The Respondent filed a Motion for Extension of Time within which to file its Defence on 13 September 2021 and the Motion for Extension of Time was served on the Applicant on 24 September 2021.

7. Defence by the Respondent filed on 13 September 2021 and served on the Applicant on 24 September 2021.
8. During the Court's hearing on 12 May 2023, the Respondent was not represented by Counsel. Applicant was heard and the Court thereafter adjourned the matter for judgment.

## ***V. APPLICANTS' CASE***

### **a) Summary of facts**

9. The Applicant claim that he is the President of One Love Foundation, an NGO with mandate to promote the respect for socio-economic rights of Nigerians through litigation, research, publication, advocacy, and monitoring and to ensure access to information by advocating against ban on any social media outlets.
10. He allege that while the Respondent is active in ratifying international human right treaties that protect individuals' human rights including freedom of expression, information, and press freedom its tolerance to contrary political views is low. This results in the unlawful arrest and detention of media practitioners, bloggers, and human rights defenders and a never-ending intimidation by the state.
11. He aver that the Respondent had through its agents violated the rights of human rights defenders, activists, bloggers, journalists, broadcasters, and social media users' right to freedom of expression and information at the slightest criticism of government actions or its officials.
12. The Applicant submit that the Respondent, its agents, and several states consider lawful protest as a threat to their official position and normally arrest peaceful protesters. In that respect, the Applicant allege that the Respondent arrested protesters of a socio-cultural group named the 'Yoruba Nation' led by one Sunday Igboho who demanded the secession of the southwest of Nigeria and Yoruba Nation from Nigeria in line with the domesticated UN Treaty Declaration.

13. In the same vein, despite a peaceful protest by the activists, a young girl named Jumoke was killed by the Nigerian Police, and several journalists such as Deji Adeyanju, Daniel Abobama, and Boma Williams were either unlawfully arrested, detained, or falsely prosecuted.
14. The Applicant allege that several other killings were revealed at the #endsar panel Lagos sitting, which chronicled the allegation of the violation of the rights of protesters by the Respondent security agencies.
15. The Applicant therefore on this basis approached the court for redress.

**b) Pleas in law**

16. The Applicant rely on the following laws:
  - ii) Articles 1, 2, 3, 4, 5, 6, 7, 8, 9 & 24 of the African Charter on Human and Peoples' Rights
  - iii) ii) Articles 1, 2, 3, 5, 7, 9, 19 & 26 of the International Covenant on Civil and Political Rights.
  - iv) Articles 1, 2, 3, 9, 27, 28, & 30 of the Universal Declaration of Human Rights 1948.
  - v) Articles II & XII of the Declaration of Principles on Freedom of Expression in Africa
  - vi) Articles 1, 6, 7, 10, 11 & 12 of the Supplementary Act (A/SA.1/6/10) on Freedom of Expression and Right to Information in West Africa.
  - vii) Articles 4, 65 & 66 of the Revised Treaty of the Economic Community of West African States
  - viii) Article 33 of the Rules of the Community Court of Justice
  - ix) Articles 10 of the Supplementary Protocol (A/SP.1/01/15) amending the Protocol (A/P.1/7/91) relating to the Community Court of Justice.

**c) Reliefs.**

17. The Applicant pursuant to the alleged violation is seeking the following reliefs from the Court:



1. A declaration that the act of the Nigeria government in banning/suspension of all protests in Nigeria and the Nigeria government act/directive to criminalize/prosecute persons protesting and arrest of all group members of the Applicant and other protesters of all kinds in Nigeria and same illegal criminalization of same by the Nigeria government infringe on the rights to the freedom of expression, right to peaceful assembly and opinion guaranteed under the African Charter on Human and Peoples' Rights, the Declaration Principles on Freedom of Expression in Africa 2002, the Universal Declaration of Human Rights 1948, the International Covenant on Civil and Political Rights 1976, the Revised Treaty of the Economic Community of West African States 1993, the 1999 Constitution of the Federal Republic of Nigeria (as amended)
2. An Order directing the Respondent and/or its agents and the Lagos state of Nigeria to provide effective remedies and reparation of 1 billion dollars to the parents of Miss Jumoke being the deceased killed by the Nigerian Police Force on 3 July in Lagos State of Nigeria including adequate compensation, restitution, satisfaction or guarantees of non-repetition that the Honourable Court may deem fit to grant to human rights defenders, activists bloggers, journalists and other online and off-line media practitioners that have been harassed, intimidated, unlawfully arrested, detained, and unfairly prosecuted by the Respondent because of lawfully protest through the criminalization of same by Nigeria government.
3. Cost of this suit in the sum of \$1,000,000.00 (one million dollars) in contingent fees.
4. General damages of the sum of \$1,000,000.00 (one million dollars) being all inconvenience, damages suffered by the Applicant, its group, and its NGO members by the clamp down and banning by the Nigeria federal government of all protests of all kinds and further criminalizing protest in Nigeria.
5. **SUCH FURTHER** Orders the Honourable Court may deem fit to make in the circumstances of this suit.

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## **VI. RESPONDENT'S CASE**

### ***a) Summary of facts***

18. In response to the allegation of arrest of protesters, it denied several paragraphs of the Applicant's averment but stated that it has put in place due process for a written consent to be obtained, thereby notifying the security agencies to ensure the breach of public peace and break down of Law is avoided.
19. They submit that the Applicant's evidence is speculative and that the protest was not peaceful rather it was criminal in nature. However, no arrest was made at any residence or anywhere nor was anyone killed in the cause of the protest.
20. The Respondent further state that it has promulgated the Freedom of Information Act, 2011 to ensure adherence to the right to Freedom of Expression and the Press as enshrined in Section 39 of the 1999 Constitution of the Federal Republic of Nigeria which has limitations.
21. They caution that the right to a peaceful assembly is not absolute but subject to compliance with Law which in this case is a requirement of a written consent from the Police and other security agencies to monitor and ensure that the demonstration is peaceful. They reaffirm that protesters did not obtain written consent before embarking on the protest.
22. The Respondent contend that the alleged peaceful protest embarked upon by the Applicant resulted in the infringement of the statutory right to freedom of movement of law-abiding citizens through total blockage of Lekki Toll gate and strategic locations or axis of Lagos, FCT Abuja, and other prominent cities.
23. They submit that the overriding interest of the general public is far above any personal or group interest which extends guaranteed right to life. And that the overall security and peaceful co-existence of Nigeria is far and above any



personal or group interests as the government is obligated to protect lives and properties of its citizens.

24. In conclusion, the Respondent submit that it has not banned/suspended peaceful protests or directed criminalization/prosecution of peaceful protesters and reaffirm that the Act and Regulations prohibit illegal, unlawful protests that tend to undermine the overall security and peaceful co-existence of its people.

**b) Pleas in law**

25. The Respondent relies on the following laws:
- i. Sections 39(3), 41 & 214(2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).
  - ii. Articles 27(2) and 29(2) African Charter on Human and Peoples' Rights.
  - iii. Article 19(3) of the International Covenant on Civil and Political Rights.
  - iv. Police Act.

**c) Reliefs sought.**

26. The Respondent urge the Court to dismiss the Application for lacking in merit.

***VII. JURISDICTION***

27. This Application is founded on the alleged violation of the rights to freedom of expression and information guaranteed by Articles 8 and 9 of the African Charter and Articles 7, 9 & 19 of the International Covenant on Civil and Political Rights.
28. The Court therefore holds that the Application being premised on the alleged violation of human rights, the Court in accordance with Article 9(4) of the Supplementary Protocol declares it has jurisdiction to adjudicate on the Application.

***VIII. ADMISSIBILITY***

29. The Court deems it expedient before it seeks to determine any issues presented before it, not only to establish whether it has the competence to deal with the



issues so presented but also to ascertain the capacity of the parties before it. TAAKOR TROPICAL HARDWOOD COMPANY LTD. v. THE REPUBLIC OF SIERRA LEONE, ECW/CCJ/JUD/02/19, PARAG 16 &17 AND ARISTIDES GOMES V REPUBLIC OF SENEGAL AND 3 OTHERS ECW/CCJ/JUD/08/23, PARAS 67-81).

30. In this regard, having established that the Court has competence to adjudicate over this Application, in order for same to be admissible it must proceed to determine the capacity of the Applicant in line with Article 10(d) of the Supplementary Protocol (A/SP.1/01/05) 2005 which provides that: individuals on application for relief for violation of their rights must submit an applications which shall be anonymous, nor made whilst the same matter has been instituted before another International Court for adjudication.
31. The Court has summarised this provision to mean that an applicant must be established as an individual who is alleged to be a victim of a human rights violation. In addition, the application must not be anonymous nor pending before another international court. AZIAGBEDE KOKOU REP OF TOGO (2013) CCJELR @ PG. 167; ASSIMA KOKOU INNOCENT & ORS V. REPUBLIC OF TOGO (2013) CCJELR @ PG. 187
32. In this regard, it is important to evaluate the instant Application to determine its compliance with Article 10(d), especially with regard to the Applicant's capacity as an individual in the light of the reliefs sought which are reproduced as follows
  - i. A declaration that the act of the Nigeria government in banning/suspension of all protests in Nigeria and the Nigeria government act/directive to criminalize/prosecute persons protesting and arrest of all group members of the Applicant and other protesters of all kinds in Nigeria and same illegal criminalization of same by the Nigeria government infringe on the rights to the freedom of expression, right to peaceful assembly and opinion guaranteed under the African Charter on Human and Peoples' Rights, the Declaration of Principles on Freedom of Expression in Africa 2002, the Universal Declaration of Human Rights 1948, the International Covenant on Civil and Political Rights 1976, the Revised Treaty of the Economic Community of West

African States 1993, the 199 Constitution of the Federal Republic of Nigeria (as amended)

- ii. An Order directing the Respondent and/or its agents and the Lagos state of Nigeria to provide effective remedies and reparation of 1 billion dollars to the parents of Miss Jumoke being the deceased killed by the Nigerian Police Force on 3 July in Lagos State of Nigeria including adequate compensation, restitution, satisfaction or guarantees of non-repetition that the Honourable Court may deem fit to grant to human rights defenders, activists bloggers, journalists and other online and off-line media practitioners that have been harassed, intimidated, unlawfully arrested, detained, and unfairly prosecuted by the Respondent because of lawfully protest through the criminalization of same by Nigeria government.
  - iii. General damages of the sum of \$1,000,000.00 (one million dollars) being all inconvenience, damages suffered by the Applicant, its group, and its NGO members by the clamp down and banning by the Nigeria federal government of all protests of all kinds and further criminalizing protest in Nigeria.
33. A reading of these reliefs present a convolution of facts from which the Court is called upon to analyse and reach a decision on the claims therein. In that regard, an attempt to decipher the facts and the intent of the Applicant poses a great challenge such that the Court can only just wade through and bring it out the best it can.
34. The understanding of the Court of relief 1 is that the Applicant is seeking a declaration from the Court that the directive of the Respondent's action in banning/suspending and or criminalizing/prosecuting all kinds of persons protesting in Nigeria, as well as the arrest of all the group members of the Applicant and other protesters of all kinds in Nigeria, amounts to the violation of the right to freedom of expression, to peaceful assembly and opinion guaranteed under the African Charter on Human and Peoples' Rights,



35. Relief 2 seeks an order
- a. For payment of 1 billion dollars to the parents of Miss Jumoke killed by the officers of the Nigerian Police Force on the 3<sup>rd</sup> of July in Lagos State
  - b. For adequate compensation, restitution, satisfaction, or guarantees of non-repetition that this Court may deem fit to grant to human rights defenders, activists bloggers, journalists, and other online and off-line media practitioners that have been harassed, intimidated, unlawfully arrested, detained, and unfairly prosecuted by the Respondent.
  - c. For general damages of the sum of \$1,000,000.00 (one million dollars) being damages suffered by the Applicant, its group, and its NGO members for banning of all protests of all kinds by the Respondent.
36. What these facts show is that the Applicant is claiming two reliefs in his individual capacity: 1) reliefs for the violation of the human rights of one Jumoke and 2) reliefs for the violation of an indeterminable group of people including all group members of the Applicant and other protesters of all kinds in Nigeria and human rights activists and media practitioners for the violation of their right to freedom of expression, right to peaceful assembly and opinion.
37. From the facts presented and the reliefs sought, and in determining the capacity of the Applicant, the Court must reach a finding as to whether the Applicant as an individual can institute this action for the violation of the human rights of another individual and also for the violation of the human right of an indeterminable group. The Court will examine these issues separately.
- i) *Capacity of an individual to sue on behalf of another individual(s) for the violation of that other's human right.*
38. The first rule of the thumb in an action for the violation of human rights, is that an Applicant who is an individual must prove a sufficient interest in the subject matter. Therefore, the essential criterion for human rights complaint is

that the applicant is an alleged victim of the human rights violation and that the applicant must prove his or her locus standi in the case. TAHIROU DJIBO & 3 ORS V. THE REPUBLIC OF NIGER ECW/CCJ/JUD/13/2020 PAGE 25.

39. The victim status (which is sometimes also referred to as ‘standing’) simply means that the applicant must have a legal right or other protectable interest which the conduct of the state has adversely affected or injured. (See AMNESTY INTERNATIONAL TOGO AND OTHERS V THE TOGOLESE REPUBLIC ECW/CCJ/JUD/09/20, PARAS 31-33). In other words, the applicant must demonstrate, prima facie, that he or she was affected by either a law, policy, practice, or conduct of the respondent state which is the cause of the alleged human rights violations.
40. Where however the one whose right has been violated is unable to press for a relief, the right of action may be delegated to a third party in a representative capacity. Certain conditions are attached to this representative capacity which includes the proof of an authorization to act from the direct victim. BAKARY SARRE & 28 ORS V REPUBLIC OF MALI (2011) CCJELR PG. 72 PARA 38 and NOSA EHANIRE OSAGHAE & 3 ORS V. REPUBLIC OF NIGERIA (2013) CCJELR PG 45 @ 59
41. The facts presented to the Court show that the Applicant allege that one Miss Jumoke was killed by the police in Lagos on the 3<sup>rd</sup> of July on whose behalf he is seeking a compensation of 1 billion dollars to be paid to her parents. In view of the fact that the Applicant is not claiming relief for the violation of his own human right, rather this action is brought on behalf of a Miss Jumoke who is deceased, an authorization from the family of the said Miss Jumoke is imperative See ATTIPOE KUAKU RICHARD & 19 ORS V REPUBLIC OF SIERRA LEONE; ECW/CCJ/JUD/07/23 PG. 17 PARA 44-46 (UNREPORTED) also SERAP V FEDERAL REPUBLIC OF NIGERIA ECW/CCJ/RUL/03/14 PG 249 @ 451
42. The Court is not presented with such authorization, consequently the Applicant has no locus standi to institute this action to claim the relief sought on her behalf. In that regard, the Court holds that this application is inadmissible as it concern the allegation of the killing of Miss Jumoke.

ii) *Capacity of an individual to sue on behalf of an indeterminable group of people for the violation of their human right.*

43. The second relief discernible from the mumble-up narration of facts by the Applicant is for an order for adequate compensation, restitution, satisfaction, or guarantees of non-repetition that this Court may deem fit to grant to an indeterminable group of people including all *group members of the Applicant, human rights defenders, activists bloggers, journalists and other online and off-line media practitioners that have been harassed, intimidated, unlawfully arrested, detained, and unfairly prosecuted by the Respondent.*
44. From this relief, it is clear that this action is brought on behalf of these groups including all members of the Applicants group who are not determinable. This therefore present a need for an examination of the capacity of the Applicant as an individual to bring this action for this group of people.
45. The jurisprudence of the Court on the capacity of the applicant is premised on Article 10(d) of the Supplementary Protocol 2005 which clearly vests an individual with the capacity to seize the Court on an alleged violation of his/her human rights. This provision has also been interpreted to accommodate representative action by individual(s) bringing an action for another individual where it is impossible for such person(s) to seek reliefs from the Court.
46. The underlying condition however is that such representative applicant must be authorized to act on behalf of the alleged victim(s). Thus the jurisprudence of the Court in this regard is that an Applicant bringing an action in a representative capacity on behalf of an individual victim or a determinable number of them must be so authorized. THANKGOD IBIAM V FEDERAL REPUBLIC OF NIGERIA ECW/CCJ/JUD/24/23 PG.13 PARAs 43, 44 & 45 (UNREPORTED); AND INCORPORATED TRUSTEES OF FISCAL AND CIVIL RIGHTS ENLIGHTENMENT FOUNDATION & 11 ORS V FRN & 2 ORS (2016) CCJELR PG. 381 @ 397



47. With regards to representative action on behalf of an indeterminable group of people, the Court allows NGOs and public-spirited persons to bring an action seeking relief for the violation of the human rights of such indeterminable group usually a community or class of people based on common public interest. See SERAP V FRN (2010) CCJELR PG. 196 PARA. 32 & 34.
48. Unlike a representative action by an individual for determinable persons, the NGOs are exempted from obtaining authorization to bring such action as in the case of SERAP V. FEDERAL REPUBLIC OF NIGERIA (2012) CCJELR PG. 361 PARA 45 UNREPORTED where the Court held that; the Plaintiff by virtue of its registration under the Laws of Nigeria is recognized to represent the People of Niger Delta without the need to produce any proof of authorization.
49. However, with regards to the requirement of authorization by individual(s) seeking reliefs in the public interest on behalf of an indeterminable group for the violation of their human rights, the Court's jurisprudence has been inconsistent. On one hand, it allowed individuals to bring an action on behalf of a community without authorization as in the case of REV. FR SOLOMOM & 11 ORS VS FEDERAL REPUBLIC OF NIGERIA & 5 ORS JUDGMENT NO ECW/CCJ/JUD/06/19 @ Pg. 16 & 17
50. On the other hand, it has held that an individual cannot bring an action on behalf of the Niger Delta people without their authorization. NOSA EHANIRE OSAGHAE & 3 ORS V REPUBLIC OF NIGERIA, (2013) CCJELR PG 45 @ 59
51. The court, faced with these conflicting decisions has the responsibility to reconcile them. In doing so, the court has taken into consideration the fact that vulnerable persons are entitled to the protection of their collective human rights through the benevolence of public-spirited individual(s). In the circumstance, this court holds, in the exercise of its inherent jurisdiction that public- spirited person(s) shall be allowed to seek reliefs for the violation of the human rights of indeterminable group of persons without express authorisation from them. This is however subject to certain conditions which are hereunder being laid out. In this respect therefore, this court departs from

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its previous decision in NOSA EHANRIE OSAGHAE V. REPUBLIC OF NIGERIA which is hereby overruled.

52. Thus in granting an individual the capacity to bring an actio-popularis application, the following conditions must be fulfilled; 1) the rights allegedly violated must be established to be capable of being held by the public and not a private right. 2) The reliefs sought must be exclusively for the benefits of the public to the exclusion of the personal interest of the Applicant. An exception must be made when the Applicant is a member of the community or the group concern. 3) The victims while not determinable, must for purposes of award of reparation be capable of being envisioned or envisaged by the Court. See THE INCORPORATED TRUSTEES OF LAWS AND RIGHTS AWARENESS INITIATIVE v. THE FEDERAL REPUBLIC OF NIGERIA ECW/CCJ/JUD/16/20 @ pg. 19
53. The Court hasten to warn that the door is not open to frivolous and vexatious applications by busy bodies or meddlesome interlopers who have no targeted or conceivable victims.
54. Following from above clarification, the Court will now proceed to determine whether the Applicant being an individual meets these requirements that will qualify him to bring the instant action. In this regard, an examination of the alleged violation, the alleged victims as well as the reliefs sought is imperative.
55. Based on the Initiating Applicant, the right alleged to be violated is the right to freedom of expression and information under Article 9 of the African Charter. The Court recognises that the Article guarantees the enjoyment of this right by **all** persons. In that regard, the right being capable of enjoyment by everybody is a public right which therefore meets the requirement of the right to be capable of being held by the public.
56. Concerning the requirement that the reliefs sought must be exclusively for the benefits of the public to the exclusion of the personal interest of the Applicant, the Court notes that one of the reliefs sought is for *general damages of the*



*sum of \$1,000,000.00 (one million dollars) being damages suffered by the Applicant, its group, and its NGO members for banning of all protests of all kinds by the Respondent.*

57. The core value of an actio-popularis is the support of the vulnerable in a community who may not be enabled to seek redress for the protection of their human rights. In the instant, an action for the benefit of the Applicant, its group and its NGO members does not fit into a public interest action as this relief revolves around the Applicant. It is in that wise the Court has emphasised that the Applicants bringing such action must not be a personal beneficiary of the relief sought except as a member of the larger community or the indeterminable group. *MOUVEMENT NIGERIEN POUR LA PROMOTION DES PEUPLES DE LA PROMOTION DE LA DEMOCRATIE V REPUBLIC DU NIGER ECW/CCJ/JUD/01/23, PG. 14 PARA 46 (UNREPORTED)*
58. Consequently, the Court finds that reliefs sought being of personal benefit to the Applicant fail the requirement under consideration. The Court therefore holds that the Applicant has no capacity to bring this action for “*damages suffered by the Applicant, its group, and its NGO members*”
59. With regards to the requirement for the victims though not determinable, but for purposes of award of reparation must be capable of being envisioned or envisaged by the Court, the relevant relief sought in this regard is hereby reproduced for proper recollection - *A declaration that the act of the Nigeria government in banning/suspension of all protests in Nigeria and the Nigeria government act/directive to criminalize/prosecute persons protesting and arrest of all group members of the Applicant and other protesters of all kinds in Nigeria and same illegal criminalization of same by the Nigeria government infringe on the rights to the freedom of expression, right to peaceful assembly and opinion guaranteed under the African Charter on Human and Peoples’ Rights, the Declaration Principles on Freedom of Expression in Africa 2002, the Universal Declaration of Human Rights 1948, the International Covenant on Civil and Political Rights 1976, the Revised Treaty of the Economic Community of West African States 1993, the 199 Constitution of the Federal Republic of Nigeria (as amended)*

60. As earlier mentioned, the alleged victims in this plea are convoluted and difficult for the Court to discern. What the Court can decipher from this relief is that all Nigerians have been banned by the Respondent from protesting and have also given a directive to prosecute all such protesters of **all kinds** in Nigeria including all group members of the Applicant.
61. The import of this allegation is that protesters of **all kinds** in Nigeria have been banned and or ordered to be prosecuted. There is no indication as to what kind of protest has been banned. The Court notes that the subject-matter of the violation in the instant case is in relation to freedom of expression, but the declaration sought is in regard to protesters of all kinds, The implication is that the Court is called upon to issue a declaration that the banning and prosecution of protests of all kinds - unspecified, unknown and yet to occur - violates the right to freedom of expression and information of these indeterminable groups.
62. Additionally, the Court notes that on one hand the Applicant alleged the violation of the right to freedom of expression of Nigerians as a result of the ban and prosecution of protestors of all kinds, on the other hand, he is seeking relief for *adequate compensation, restitution, satisfaction or guarantees of non-repetition that this Court may deem fit to grant to human rights defenders, activists bloggers, journalists and other online and off-line media practitioners that have been harassed, intimidated, unlawfully arrested, detained, and unfairly prosecuted by the Respondent.* The question to ask is who actually are the alleged victims on whose behalf the Applicant is bringing this action - all Nigerians or all human rights defenders, activists bloggers, journalists and other online and off-line media practitioners?
63. The facts presented to the Court do not enable any answer that gives a clarity for the Court to make a determination either way. The consequences of this complicated pleading is that the Court is unable to envision the victims whose rights the Applicant is seeking to protect. Obviously, the Court in seeking to protect the right to freedom of expression cannot issue a blanket declaration

that the prevention of all Nigerians or all journalists practicing in Nigeria to protest is a violation of the right to freedom of expression as this portends an impracticable situation that is difficult to actualise.

64. Following the above analysis, the Court does not hesitate to find that the Applicant is a busy body who has no clear understanding of the import of an action in the interest of public good. He equally has no clarity as to whose right he really is seeking to protect as he does not have in mind a clear discernible victims who though may be indeterminable but ought to be possible to envisage by the Court for purposes of award of reparation.
65. Consequently, the Court holds that the Applicant has not met the requirement to establish that the victims are capable of being envisioned in respect of the application before the Honourable Court.
66. Based on the above analysis, the Court holds that the Applicant lacks the capacity to bring this action as an individual for the groups pleaded. The totality of the Application is therefore declared inadmissible.

## ***XI. REPARATIONS***

67. The Applicant in his submission for reliefs urge the Court to resolve this case in his favor and to make some declarations as well award damages to the family of one Jumoke as well as order damages to assuage and offset the loss he and his NGO members have suffered. See paragraph 17

### *Analysis of the Court*

68. Reparations for a wrongful act is an important principle of international law, which requires a State which has been found liable for a human rights violation, to restore the victim to the status he would have been had his rights not been violated. This is done by giving effective remedies, including compensation and restitution to the victim.

69. A State must therefore make full reparation for any injury caused by an illegal act for which it is internationally responsible. Reparation consists of full



restitution of the original situation if possible or compensation where that is not possible or satisfactory that is, acknowledgement of or an apology for the breach, may contribute immensely to resolving wounds from the violation. MOUKHTAR IBRAHIM V. GOVERNMENT OF JIGAWA STATE & 2 ORS ECW/CCJ/JUD/12/14, PAGE 40. See also HAMMA HIYA & ANOR V REPUBLIC OF MALI JUDGMENT NO. ECW/CCJ/JUD/05/21 PARAGRAPH 64.

70. The Application having been declared inadmissible, the Court holds that award of reparations are consequently unjustified.

### ***XI. COSTS***

71. The Applicant prays the Court to order the Respondent to pay the sum of \$1,000,000.00 (one million dollars) in contingent fees and the sum of \$1,000,000.00 (one million dollars) being all inconvenience, damages suffered by the Applicant, its group, and its NGO members by the clamp down and banning by the Nigeria federal government of all protests of all kinds and further criminalizing protest in Nigeria.
72. In regard to the claim of the Applicant for cost, the Court is guided by Article 66 (4) of the Rules of Court which provides, "*where each party such succeeds on some part and fails on other heads, or where the Circumstances are exceptional; the Court may order that the costs be shared or that the parties bear their own costs*". Considering the circumstance of the instant case, the Court hereby orders each party to bear their own costs.

### ***XII. OPERATIVE CLAUSE***

For the reasons stated above, the Court sitting in public after hearing both parties:

#### **As to jurisdiction:**


- i. **Declares that it has jurisdiction to adjudicate on the case**

**As to admissibility:**

ii. **Declares** that the Application is inadmissible.

**As to cost:**

iii. **Orders** parties to bear their own cost.

Hon. Justice Dupe ATOKI - Presiding/Judge Rapporteur..... 

Hon. Justice Sengu Mohammed KOROMA - Member..... 

Hon. Justice Ricardo Cláudio Monteiro GONÇALVES -Member..... 

Dr. Yaouza OURO-SAMA - Chief Registrar ..... 

Done in Abuja, this 7<sup>th</sup> day of December 2023 in English and translated into French and Portuguese.

