



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

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

In the Matter of

**OBIANUJU CATHERINE UDEH & 2 ORS. V FEDERAL REPUBLIC OF  
NIGERIA**

*Application No: ECW/CCJ/APP/72/21 Judgment NO. ECW/CCJ/JUD/29/24*

**JUDGMENT**

ABUJA

DATE: 10<sup>th</sup> July, 2024

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**JUDGMENT NO. ECW/CCJ/JUD/29/24**

- 1. OBIANUJU CATHERINE UDEH** - APPLICANT  
**2. PERPETUAL KAMSI**  
**3. DABIRAOLUWA ADEYINKA**

**V.**

**FEDERAL REPUBLIC OF NIGERIA** -RESPONDENT

**COMPOSITION OF THE COURT:**

Hon. Justice Dupe ATOKI -Presiding  
Hon. Justice Sengu Mohamed KOROMA - Member/ Rapporteur  
Hon. Justice Claudio Monteiro GONCALVES -Member

**ASSISTED BY:**

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



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**REPRESENTATION OF PARTIES:**

Bolaji GABARI

- Counsel for the APPLICANT

Mojirayo OGUNLANA-NKANGA

Maimuna Lami SHIRU (Mrs.)

- Counsel for the RESPONDENT

Enoch SIMON

AMNESTY INTERNATIONAL

*-Amicus Curiae*



## **I. JUDGMENT**

1. This is the judgment of the Community Court of Justice, ECOWAS (hereinafter referred to as the Court) delivered virtually in open Court pursuant to Article 8(1) of the Practice Direction on Electronic Case Management and Virtual Court Session, 2020.

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

2. The First Applicant is Obianuju Catherine Udeh, a citizen of the Federal Republic of Nigeria.
3. The Second Applicant is Perpetual Kamsi, a citizen of the Federal Republic of Nigeria.
4. The Third Applicant is Dabiraoluwa Adeyinka, a citizen of the Federal Republic of Nigeria.
5. The Respondent is the Federal Republic of Nigeria and a Member State of ECOWAS.

## **III. INTRODUCTION**

6. The claims herein are premised on allegations of human rights violations, particularly the right to life, security of person, freedom of expression, assembly and association, prohibition of torture, duty of the state to investigate and the right to effective remedy perpetrated by the Respondent contrary to its obligations under various fundamental human rights treaties.

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

7. The Applicants filed their Initiating Application in the Registry of the Court on 15<sup>th</sup> December 2021, along with a Summary of the said Initiating Application.



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8. On the 24<sup>th</sup> February 2022, the Respondent filed a Motion for the Consolidation of cases in Suit Nos. ECW/CCJ/APP/71/21 & ECW/CCJAPP/72/21 in the Registry of the Court.
9. The Applicants promptly filed a Counter Affidavit on the 12<sup>th</sup> April 2022, opposing the Respondent's Motion for Consolidation, in the Registry of the Court.
10. On 7<sup>th</sup> September 2022, a Motion on Notice was filed in the Registry of the Court by an Amicus Curiae requesting leave to intervene. The Motion was accompanied with the Brief which identified the *Amicus Curiae* as Amnesty International.
11. The Applicants on the 9<sup>th</sup> September 2022, made an application via the Registry of the Court seeking to tender additional evidence.
12. On the 9<sup>th</sup> September 2022, the Applicants filed a Motion seeking for Judgment in Default.
13. The Respondent, on 11<sup>th</sup> October 2022, filed a Counter Affidavit in Opposition to the Application for Leave to Intervene made by the *Amicus Curiae* in the Registry of the Court.
14. This prompted an Affidavit in Response from the Applicants, filed in the Registry of the Court on 18<sup>th</sup> January 2023.
15. The Court held a virtual session on the 8<sup>th</sup> May 2023, in which all the parties were represented by Counsel therein. The Court dealt with the Motion for Intervention by the *Amicus Curiae*, after listening to the Applicants and the Opposition raised by the Respondent it adjourned to 22<sup>nd</sup> June 2023, to deliver its Ruling.
16. The Respondent, on the 13<sup>th</sup> June 2023, filed a Motion for the Extension of Time to file its Defence in the Registry of the Court. It also filed its Statement of Defence on the same day.
17. Not long after, on the 30<sup>th</sup> June 2023, the Respondent filed a Notice of Application for Amendment of its Defence in the Registry of the Court. It filed



this application with the Amended Statement of Defence with the Amended Statement of Facts and Law in Opposition on the same day.

18. The Applicant in turn filed a Motion for Extension of Time to File a Response to the Respondent's Statement of Defence and Statement of Facts on the 18<sup>th</sup> January 2024, in the Registry of the Court.
19. The Respondent filed a Statement of Defence and Statement of Facts and Plea in Law in Opposition to the Applicant's Application on the 18<sup>th</sup> January 2024, in the Registry of the Court.
20. The Court had a virtual session on the 30<sup>th</sup> January 2024, in which the Applicants were represented by Counsel in Court and the Respondent was absent. The Court adjourned on the request of the Respondent which was unopposed by the Applicant.
21. Another virtual session was held by the Court on the 2<sup>nd</sup> May 2024, in which all the parties were represented by Counsel. However, due to technical challenges on the part of the Respondent, the Court had to adjourn the session.
22. The Court held a final virtual session on 6<sup>th</sup> May 2024, in which all the parties were represented by Counsel in Court. The Court admitted the documents of both parties that were outstanding and further granted leave to the Applicants to withdraw ANNEXURE 4-11. The Court admitted *Amicus Curiae* and proceeded to hear the Applicants, Respondent and *Amicus Curiae* on the merits, after which it adjourned for judgment.

## V. APPLICANTS' CASE

### a) Summary of facts

23. The facts narrated by the Applicants is that whilst holding a peaceful protest together with other persons at the Lekki Toll Gate in Lagos State, Nigeria, on 20<sup>th</sup>



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and 21<sup>st</sup> October 2020, the Respondent's agents disrupted same with gunfire that led to several injuries and grievous bodily harm on protesters.

24. The Applicants claim that the protests which were nationwide and peaceful were directed at the Special Anti-Robbery Squad (SARS), a unit of the Nigerian Police Force as a result of their harassment and brutality which is contrary to their mandate. The Applicants submit that the *SARS* was set up by the Respondent to check the activities of armed robbers, but instead of carrying out its duties of checking armed robbery, the *SARS* unit became an instrument of brutality and harassment of young Nigerians unlawfully arresting, extorting and even carrying out extra-judicial killings. The Applicants allege that the *SARS* unit profiled young men based on fashion choices, hairstyles, tattoos, and made arbitrary arrests based on this, whilst the young women were harassed by the men of the *SARS*.

25. In 2016, there was a report by Amnesty International alleging complicity of the *SARS* unit in all the allegations levied by the victims. These random acts of arrests, brutality and harassment, prompted the momentum that spiralled into the nationwide protest, especially by young Nigerians.

26. The Applicants recount that on 22<sup>nd</sup> September 2020, there was a report of the killing of a 20-year-old upcoming musician named Daniel Chibuike (Aka Sleek) alleged to have been perpetrated by the *SARS*. The Applicants narrate that he was reported to be sitting in front of a hotel with a friend when the *SARS* officers approached them, prompting them to flee, and he was shot and killed. This act gathered public outcry that culminated in the protest of 20<sup>th</sup> October 2020, at the Lekki Toll Gate.

27. During this protest, the Applicants claim that seeing that the demeanour of the security men was not friendly, they decided to engage other protesters in an orientation program to educate them on how to avoid confrontation with the law



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enforcement agents. However, later that evening, while the First Applicant was playing music as a disc jockey to entertain the protesters, she suddenly heard shots fired by soldiers who were approaching the protest ground which made her jump down from the platform where she was stationed to seek for cover. She recounts that whilst in the position of cover, she felt a body drop next to her having been shot by the Respondent's agents. This prompted the First Applicant to take out her phone and live-stream the ongoing event on her Instagram page under the name of *@DJ Switch*, a verified Instagram account.

28. The First Applicant alleges that after the shooting, she saw the soldiers (who are agents of the Respondent) collect the empty bullet shells and dead bodies from the floor, and cart them away. She claims that while on the ground, she managed to pick up some empty bullet shells. However, she alleges that many protesters were injured as a result of the actions of the soldiers on the 20<sup>th</sup> October 2020, that this continued into the 21<sup>st</sup> October 2020 when they returned to the venue and the security men were still shooting to disperse them.
29. The First Applicant claims that due to the fact that she was live streaming the events at the Lekki Toll Gate, she was targeted, as she started receiving threatening calls from unknown persons. This resulted in her being forced into hiding for eleven months before finally leaving the country to seek asylum as she feared for her life.
30. The Second Applicant who was also at the Lekki Toll Gate on the evening of the 20<sup>th</sup> October 2020 conducting her duty of ensuring that protesters were getting the welfare and support needed, was surprised when the large electronic billboard that illuminates the Lekki Toll Gate area went off at about 5 p.m. She narrates that upon enquiry, it was disclosed that the facility owners had ordered it to be switched off. She recounts that at around 6 pm, the streetlights around the area also went off. Not long after the lights went off, gunshots from soldiers were





heard followed by screaming and the protesters were asked to leave the premises by soldiers. The Second Applicant narrates further that she hid for safety and from this spot saw soldiers picking up dead bodies, dumping them in their trucks, and picking up bullet casings. At this point, she recounts that she managed to count seven bodies.

31. It is the claim of the Second Applicant that she was involved in providing First Aid for the injured and was threatened by soldiers. She also narrates that after the soldiers left, the Nigerian Police came with teargas and fired sporadically at protesters. This led to her being hospitalised for two weeks as a result of the effect of the teargas.

32. The Third Applicant claims to have been at the scene at around 6 pm and was on the platform with the First Applicant when they heard gunshots fired by soldiers. The Third Applicant narrates that she was holding a microphone and was calling on protesters to calm down and not to run but remain peaceful when she saw soldiers shoot into the air and then directly at protesters. She alleges that she watched as protesters were hit by bullets and fell by her side; and saw the First Applicant streaming the assault and the victims of the assault live. The Third Applicant recounts that whilst in hiding, the soldiers closed in on both herself and the First Applicant on two occasions and at one point, the soldiers shot directly at her. She was however, saved by a young man who pushed her away from the target of the bullet though he, unfortunately, got shot in his side, and died trying to save her.

33. The narration also contains that at some point one General Oyata, drove to the scene of the incident to order a ceasefire, and the Applicants approached him to seek consent in allowing ambulances enter the premises to assist victims. The Applicants, however, allege that although he asked them to get the ambulances



and asked a soldier to accompany the Third Applicant to do so, the soldiers at the barricade refused to allow the ambulances in.

34. The Third Applicant submits that after the shooting, she asked persons present at the scene to take pictures of the incident. She claims that she later visited victims that had been taken to the hospital and observed that they were not cared for adequately and so she and her colleagues had to take up the care and payment of the medical bills of the said victims.

35. The Third Applicant narrates that after this incident she got threatening messages and calls from unknown sources that forced her to relocate multiple times because her house was being monitored and had been visited by strange persons. She reasonably suspected that these strange persons were agents of the Respondent as they were the only ones with such facility to trace her whereabouts. This ordeal left her physically and psychologically traumatised.

36. In conclusion, the Applicants are seeking several reliefs for the alleged violations herein.

b) Pleas in law

37. The Applicants are relying on the following pleas in law:

- i. Articles 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 13, 20 & 23 of the African Charter on Human and Peoples' Rights.
- ii. Articles 1, 2, 3, 4, 5, 6, 7, 9, 15, 19, 21, and 22 of the International Covenant on Civil and Political Rights.
- iii. Articles 1, 2, 3, 5, 6, 7, 8, 12, 18, 19, 20 and 21 of the Universal Declaration of Human Rights (1948).
- iv. Articles 2, 12, 13, and 14 of the UN Convention against Torture.

c) Reliefs sought

  
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38. The Applicants are seeking the following the reliefs from the Court:

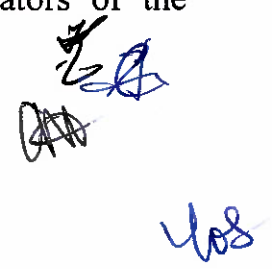
- a. A declaration that the Respondent's attempt to take the Applicants' lives, its failure to protect some of them from calculated murder, failure to protect their security and lives, breach of their rights to inviolability of the lives of their loved ones, breach of their rights to equality and dignity of persons, breach of their rights not to be subjected to torture, inhuman and degrading treatment, breach of their rights to existence, rights to international peace and security, rights to a general satisfactory environment, rights not to compromise the security of the state, rights to freedom of association, assembly, and expression is in contravention of Articles 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 13, 20 and 23 of the African Charter of Human and Peoples' Rights and Articles 1, 2, 3, 4, 5, 6, 7, 9, 15, 19, 21 and 22, of the International Covenant on Civil and Political Rights and articles 1, 2, 3, 5, 6, 7, 8, 12, 18, 19, 20 and 21 of the Universal Declaration of Human Rights.
- b. A declaration that the psychological and mental trauma to which the Applicants have been subjected since the events of 20<sup>th</sup> and 21<sup>st</sup> of October 2020 as a result of the negligence and irresponsibility of the Respondent violates the provisions of Articles 4, 5 and 28 of the African Charter on Human and Peoples Rights.
- c. A declaration that the Respondent's failure to protect the lives and security of the Applicants by creating and tolerating a state of systemic impunity in Nigeria and violent attacks against the *ENDSARS* protesters and other human rights defenders and critics is in contravention of Articles 1 and 4 of the African Charter.
- d. A declaration that the Respondent's failure to effectively investigate the unlawful killing of some of the *ENDSARS* protesters, the attempted



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murder of the Applicants and the protected witnesses, and other human rights violations submitted in the arguments before this Court is a violation of their rights to life, liberty, security of persons and lives, violation of rights to equality and dignity of persons, violation of the right of the Applicants to inviolability of the lives of their loved ones, violation of their rights not to be subjected to torture, inhuman and degrading treatment, violation of the right to existence, right to international peace and security, right to a general satisfactory environment, violation of the rights not to compromise the security of the state, rights to freedom of association, assembly and expression.

- e. A declaration that the Respondent violated its obligations under the African Charter, the ICCPR, and under international law to promote and protect the security of lives of Applicants, the protected witnesses, and other citizens who were at the Lekki toll gate on the night of the brutal assault and shooting, and to protect them against the arbitrary force of any kind by creating and tolerating a state of systemic impunity.
- f. A declaration that the failure of the Respondent to provide adequate and qualitative security, which led to the indiscriminate shooting, wounding, and killings of citizens of the Respondent, including specified persons in the witness statements annexed, is illegal, unlawful as same violates the express provisions of Article 4, 6, 20 and 23 of the African Charter on Human and Peoples Rights and Article 3 of the Universal Declaration of Human Rights.
- g. A declaration that the failure of the Respondent, its agents, assigns, privies, and by whatsoever name called to investigate, identify, arrest, arraign, and prosecute its officials who were perpetrators of the

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violence meted out against the Applicants and the protected witnesses is a dereliction of duty of the state i.e. the Respondent to investigate human rights violations and violation of the Applicants rights to redress.

- h. An order of this Honourable Court compelling the Respondent, its agents, assigns, privies, and by whatsoever name called to investigate, arrest, arraign, and prosecute before a Court of competent jurisdiction the perpetrators of the unlawful shooting, wounding, and killings of the Applicants, witnesses, and *ENDSARS* protesters.
- i. An order mandating and compelling the Respondent to take all necessary actions to guarantee measures of non-recurrence of these violations occurring in the future, such as but not limited to, strict compliance to Section 83(2) of the Police Act 2020; the regular conduct of human rights training for law enforcement, especially on the use of force; provision of tactical tool for the policing of assemblies.
- j. An order mandating and compelling the Respondent to issue adequate reparations, such as the provision of psychological and psycho-social support to the Applicants.
- k. An order of this Honourable Court compelling the Respondent to pay over to each of the Applicants and protected witnesses the sum of N50, 000, 000.00 (Fifty Million Naira) only as general damages for the untimely violations of their rights as claimed.
- l. An order of this Honourable Court compelling the Respondent in this suit to immediately pay the sum of N200, 000, 000.00 (Two Hundred Million Naira) to each of the Applicants as aggravated and punitive damages due to the failure of the Respondent to checkmate the illegal and oppressive act of its agents against the Applicants and others at



Lekki Toll gate on the evening of 20th October 2020 and morning of 21st of October 2020.

- m. An order that the Respondent pay the Applicant the costs of this action in accordance with Article 66 of the Court's Rules of Procedure.

## VI. RESPONDENT'S CASE

### a) Summary of facts

39. The Respondent expressly denies the averments of the Applicants and contends that the Applicants are members of a group of unlawful protesters (hoodlums). The said protesters unlawfully assembled on 20<sup>th</sup> October 2020, at the Lekki Toll Gate to confront the Nigerian Police Force under the guise of protest against the Special Anti-Robbery Squad (SARS), which is a unit of the Nigerian Police Force.
40. Notwithstanding the objective of the protesters, the Respondent avers that its agents maintained a high level of their rules of engagement and this "*... did not lead to shooting and killing/murder of the protesters...*" (sic).
41. Further, the Respondent denies paragraph 6.3 of the Initiating Application, but states that on the 20<sup>th</sup> October 2020, the First Applicant by playing music to protesters/hoodlums during an unlawful protest, incited them against its security agents who were meant to calm down violence and fish out escapee members of Boko Haram and Bandits among the protesters.
42. It further denies the narration of facts in paragraph 6.4 of the Initiating Application and says in its defence that the acts of the First Applicant through the use of her Instagram page was to establish disaffection against law enforcement agents who had dispersed the violent gang on the 20<sup>th</sup> October 2020. The Respondent avers that its agents were surprised to see the gang




resurface on the 21<sup>st</sup> October 2020 but were repelled by the security agents through the application of the Rules of Engagement.

43. The Respondent denies further the claim of the First Applicant that its agents put a threatening phone call to her and asked her neighbours about her whereabouts which warranted her to go on exile. Instead, the Respondent contends that its agents are saddled with the statutory responsibility to arrest or invite the Applicants for interrogation/investigation and possible prosecution. It contends that the Second Applicant's act of the supply of logistics and welfare to the unlawful protesters indicated a clear support of the violent protest against its security agents which necessitated the switching off of the Lekki Toll Gate Electronic Billboard. The Respondent avers that this was intended "*...to avert the continuation of the unlawful violent protest initiated by the Applicants against SARS*" (sic).

44. The Respondent also avers that its agents responsible for the distribution of electricity around the Lekki area of Lagos State had to switch off the streetlights in the area as they suspected that "*...the unlawful protest was rising to high dimension*" (sic). It avers that the gunshot heard was shot in the air to scare and disperse unlawful protesters and denies the allegation that a soldier at the scene threatened the First Applicant or any of the Applicants. The Respondent avers that the soldiers at the scene were there to restore peace until arrival of the police and the use of teargas by the police after the departure of the soldiers was to disperse obstinate protesters. It denies inflicting assault on the protesters through its law enforcement agents but that the arrival of security agents on the scene was to halt the escalation occasioned by the protest.

45. The Respondent avers that the arrival of the Third Applicant at the scene and her role was not peaceful but meant to increase the intensity of the violence and to incite the protesters against the Nigerian Police Force. It submits that the First



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Applicant's use of social media was to invite more hoodlums nationwide to join in the unlawful protest. It avers that no protester was ordered to run by its agents and no ambulance was denied access to the scene, which was in the midst of the soldiers was to maintain peace in the midst of one General Omata.

46. The Respondent denies the claim that there was shooting by the police after the departure of General Omata, as claimed by the Third Applicant. It submits that the treatment and care of the victims of the protest in the hospital was borne by Lagos State as directed by the Governor.

47. In conclusion, the Respondent submits that its constitution contains provisions guaranteeing fundamental human rights of its citizens, this is followed by its agents in the course of engagement with members of the public. Lastly, that the cause of action has been resolved by the National Human Rights Commission and a special panel of inquiry set up by the Respondent that has treated the complaints of protesters by awarding compensation to deserving victims.

48. The Respondent amended its Statement of Defence and submitted that the Applicants have not established credible evidence to support their claim or, to benefit from the reliefs sought.

b) Pleas in law

49. The Respondent has submitted the following jurisprudence and statutory provisions as pleas in law in support of its defence:

- i. KARIM MEISSA WADE V REPUBLIC OF SENEGAL (2013) CCJELR.
- ii. HON. JUSTICE S.E. ALADETOYINBO V FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/18/20 (UNREPORTED).





- iii. Section 14 (2) (b) of the 1999 Constitution of the Federal Republic of Nigeria.
- iv. ONAH V OKENWA (2010) 7 NWLR (PT 1194) 512 at 535-536.
- v. Sections 131 and 132 of the Evidence Act.
- vi. CHIEF IKECHI EMENIKE V PEOPLES DEMOCRATIC PARTY & ORS. (2012) LPELR – 7802 (SC).
- vii. CHIEF L. C. MEZUE & ANOR V PRINCESS NKIRU OKOLO & ORS. (2019) LPELR– 47666 (CA).
- viii. IDU GODWIN EMEKA V HON. LYNDA CHUBA- IKPEAZU & ORS. (2017) LPELR-41920 (SC).

c) Reliefs sought

50. The Respondent prays that the Court should consider its defence and dismiss the claims of the Applicants for lacking in merit.

**VII. JURISDICTION**

51. The claims of the Applicants before the Court is for the violation of various human rights contrary to the guarantee enshrined in fundamental human rights treaties to which the Respondent is a party. The claims have been defended by the Respondent who has also prayed that the Court dismisses the claims.

52. The Court for its part, cannot begin to consider the claims and the defence of same without determining if the application is within its competence to adjudicate. The jurisdiction of the Court to determine claims of human rights is that pursuant to Article 9 (4) of the Supplementary Protocol (A/SP.1/01/05) and it has a versatile scope which allows claims to pass the test for jurisdiction on the strength of merely stating that they are human rights violations! A proper

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elucidation of its competence is laid down in the decision of the Court in ALADETOYINBO V. FEDERAL REPUBLIC OF NIGERIA JUDGMENT NO ECW/CCJ/JUD/18/20 (Unreported) at page 8, where it held that a mere allegation of human rights violation is enough to confer jurisdiction on the Court.

53. The Court finds that the subject matter of the present claim, being a violation of human rights, is within its jurisdiction as vested by law. Consequently, the Court declares that it has jurisdiction to adjudicate the claims herein.

### VIII. ADMISSIBILITY

54. Admissibility, like jurisdiction, are preliminary procedures that all applications must go through before the merits of the claims can be determined by the Court. Therefore, pursuant to Article 10 (d) of the Supplementary Protocol (supra) the Court will grant access to:

*“Individuals on application for relief of violation of their human rights the submission of which shall:*

- i. Not be anonymous nor*
- ii. Be made while the same matter has been instituted before another international Court for adjudication”.*

55. The jurisprudence of the Court has distilled three parameters from Article 10 (d) aforementioned, into the following:

- i. The Applicants must establish that they are victim/s;*
- ii. The application must not be anonymous; and*
- iii. The application must not be pending before another international Court.*



56. Based on this, the Court is bound to determine whether the application is admissible based on the cumulative parameters laid down, *seriatim*.

57. The first question for consideration is whether the Applicants have established that they are victims, so as to determine their *locus standi* in the claim before the Court. In answering this question, the Court will rely on the *Basic Principles and Guidelines on the Rights to Remedy and Reparation for Survivors of International Human Rights and Humanitarian Law* GA. Res. No 60/147 Preamble Sec IX UN Doc A/RES/60/147 March 21<sup>st</sup>, 2006, which states that “A victim is anyone who suffers individual or collective harm (or pain) such as physical or mental injury, emotional suffering, economic loss or generally any impairment of human right as a result of acts or omissions that constitute gross violation of humanitarian norms.” Thus, the Applicant/s in any claim for the violation of human right must establish that it has suffered some harm either directly or indirectly. It is settled in the jurisprudence of the Court in THE INCORPORATED TRUSTEES OF FISCAL & CIVIL RIGHT ENLIGHTENMENT FOUNDATION & 11 ORS V FEDERAL REPUBLIC OF NIGERIA & 2 ORS (2016) CCJELR at page XXX, that it is only the direct victims of human rights violation that have the standing to move the Court. However, exceptions to this rule exist which include but is not limited to cases of collective interest (usually referred to as public interest litigations) and the non-victims receiving authority to act on behalf of the victims or their close relations. This is better articulated in the Court’s decision in REV. FR. SOLOMON MFA & 11 ORS v. FEDERAL REPUBLIC OF NIGERIA & 5 ORS JUDGMENT NO: ECW/CCJ/JUD/06/19 (UNREPORTED) at pages 16 & 17, where it held that individuals who are indirect victims can ground an action before the Court if they are a relative of the direct victim of a violation of human rights. However, such non-direct victim must provide a mandate for such



representation from the victim except where the victim is deceased or prevented from so doing one way or the other.

58. Essentially, the Court finds it necessary to establish victim status to determine the *locus standi* of the party bringing the claim of violation. Therefore, in THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS & ACCOUNTABILITY PROJECT (SERAP) & 10 ORS. V FEDERAL REPUBLIC OF NIGERIA & 4 ORS. (2014) at page 249, the Court held that the law of *locus standi* relates to the propriety of a litigant to institute an action. The standing focuses on the right of the party in the matter, either in terms of injury suffered or special interest possessed which is worthy of protection.

59. In the present claim, the Applicants have established that they suffered some harm or pain. It is the Court's view that this qualifies them as direct victims. Thus, the Court finds that the Applicants have evinced the necessary *locus standi* and declares that they have fulfilled the first requirement.

60. However, the Court notes that within the body of the claim and in the reliefs sought, the Applicants have consistently referred to '*protected persons*'. This will not be considered within the judgment as the Applicants sought leave of the Court which was granted to withdraw ANNEXURE 4 TO 11 which contains the basis for the inclusion of these persons.

61. Having perused the facts and evidence carefully, the Court in determining whether the Applicants have fulfilled the remaining requirements for admissibility can emphatically affirm that they have done so. That is, the application has sufficient information, on the one hand, identifying the Applicants to establish that they are not anonymous. On the other hand, the Court finds no fact or evidence pointing to pendency of this claim before another international Court.



62. Having thoroughly assessed the admissibility criteria cumulatively, the Court declares the application admissible.

## IX. PROCEEDINGS BEFORE THE COURT

### a. *Application for intervention as Amicus Curiae*



#### *Amicus Curiae brief*

63. Amnesty International, a non-governmental organisation, filed an application pursuant to Articles 89 of the Rules of the Community Court of Justice 2002 before the Court seeking to intervene as an *Amicus Curiae*.

64. The intervener brief states that Amnesty International is a human rights defender with consultative status before the United Nations Economic and Social Council, among others. More particularly, it has observer status before the African Commission on Human and People's Rights and is duly registered as a civil society organisation with the Organisation of American States. The objectives of this organisation are deeply rooted in the protection of human rights and the application of human rights standards.

65. With a particular interest in the use of force by law enforcement agents, the *Amicus* is seeking to bring before the Court valuable expertise on human rights especially the freedom of assembly, speech association and right to personal dignity. In light of this, the *Amicus* is seeking to assist the Court by:

- i. *Providing crucial analysis of the interpretation of the rights to life and peaceful assembly under international and regional human rights law applicable to the Federal Republic of Nigeria;*
- ii. *Providing analysis on the right to life and related violations through the use of firearms by law enforcement officials and under what circumstances can the law enforcement officials use force;*



- iii. *offering analysis of the limited circumstances on the use of firearms by law enforcement officials during violent assemblies and why the use of firearms to disperse illegal 'illegal' or 'unlawful' assembly is unlawful; and*
- iv. *Providing comparative analysis of international and regional law and jurisprudence on freedom of expression and access to the internet in relation to this instant matter.*

66. The *Amicus Curiae* submits that it is neutral, impartial and independent of the dispute between the parties but has a keen interest in the right to life and peaceful assembly.

*Respondent's Opposition to the intervention*

67. The Respondent filed a Motion in Opposition to this intervener citing that the Applicant therein cannot bring forth such an application as it is not a Member State, or a Corporate Body registered in any of the Member States of ECOWAS. It is submitted that the Protocol of the Court (A/P1/7/91) in Article 21 state that: *"Should a Member State consider that it has an interest that may be affected by the subject matter of a dispute before the Court, it may submit by way of a written application a request to be permitted to intervene."*

68. Premising its argument in opposition on this, the Respondent submits that:

- i. *The Applicant is not a Member or Member State or a Corporate Body registered in any of the Member States of the Economic Community of the West African State.*
- ii. *By the rules of the Court, an Intervener is not a neutral party. In other words, an intervener must have and establish interest in the subject matter before the court.*


- iii. *In any event, if the intervenor is aggrieved by the action of the Defendant as it relates to the subject matter of this suit, the rules of this court have made provisions for how parties aggrieved can approach this Honourable Court.*

### ***Analysis of the Court***

69. The Court notes that the application to intervene has been brought pursuant to Article 89 of the Rules of the Community Court which sets out the conditions for intervening. It is worthy of note that the application to intervene can be made in line with Article 21 of the Protocol of the Court (supra), but it is not exclusive. Article 89 (1) (f) of the Rules (supra) clearly states that *“An application to intervene must be made within six weeks of the publication of the notice referred to in Article 13(6) of these Rules. The application shall contain...a statement of the circumstances establishing the right to intervene, where the Application is submitted pursuant to Article 21 of the Protocol.”*
70. Having noted the contention of the Respondent to the application to intervene and recalling its emphatic submission that *“...the cardinal principle of law on interpretation is for the Court to give words and the language used in the statutes their ordinary meaning”* (Document 8, paragraph 1.8: Respondent); the Court considers Article 89 (1) (f) of the Rules (supra) self-explanatory.
71. In determining whether the application is admissible, the Court considers the identity of the Applicant in line with Article 89 of the Rules. In this regard, the Court notes that the application has been filed by an independent organisation with the objective of assisting the Court on several areas of law listed in paragraph 65 above. Whilst this may seem altruistic, the Court relies on the definition of *Amicus Curiae* to wit *“A friend of the court. A person with strong*

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*interest in or views on the subject matter of an action, but not a party to the action, may petition the court to file a brief, ostensibly on behalf of a party, but actually to suggest a rationale consistent with its view.”* It is this definition that has enabled it to previously admit *Amici Curiae* in THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS AND ACCOUNTABILITY PROJECT (SERAP) & 3 ORS. V FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/40/22 (UNREPORTED) on the grounds that “*This Court has severally granted leave for intervention as amicus curiae on the grounds that the said amicus is not a party to the suit and has no proprietary interest in the said claim. The intervention must simply be an objective assistance into the research exercise necessary in the adjudication of the claim/s before the Court.*”

72. The Court has carefully considered the brief before it and finds that it contains erudite literature on the right to life, right to freedom of peaceful assembly, and the right to an effective remedy. Furthermore, the brief establishes no link to the claims before it and is devoid of any pecuniary orders in favour of the *Amicus Curiae*.

73. Recalling its bench Ruling admitting the assistance of the *Amicus Curiae*, the Court affirms the same and conclusively states that the brief is good literature on specific human fundamental human rights and not in any way a claim for the violation of human rights. Consequently, it declares the *Amicus Curiae* admissible.

## X. MERITS

74. The Court having considered the facts and evidence before it has identified the issues of contention from the facts and evidence before it, as:

- Violation of the right to life, existence, security of person;





- Violation of the right not to be subjected to torture, inhuman and degrading treatment, right to equality and dignity of person;
- Violation of the right to freedom of expression, assembly and association;
- Duty of the state to investigate human rights violations; and
- The right to effective remedy.

75. It is a general norm that Applicants can rely on multiple treaties to emphasise the gravity of their claims by enlisting the African Charter on Human and People's Rights (hereinafter ACHPR), the International Convention on Civil and Political Rights, the International Convention against Torture and Other cruel, Inhuman or Degrading Treatment, and the Universal Declaration of Human Rights. However, in its analysis, the Court will rely on the provisions of the ACHPR which is in tandem with those cited in the other international treaties. Furthermore, the Court notes the use of the Universal Declaration of Human Rights will be for instruction only as it is not binding on any state.

*i. Whether there is a violation of the right to life, existence and security of person.*

*Applicants' Case*

76. It is the Applicants' claim that the Respondent ordered the indiscriminate and cold-blooded shooting carried out by soldiers, of live bullets into the crowd of unarmed peaceful protesters, who prior to the incident had coordinated and remained peaceful on the protest ground. It submits ANNEXURE 1-3, 12-35 in support of this claim. The Applicants allege that the Respondent deliberately and calculatedly ordered the extra-judicial execution of unarmed citizens.



77. The Applicants herein allege that the Respondent attempted to take their lives, failed to protect them from cold-blooded massacre, failed to protect their security and lives, utterly breached their right to inviolability of the lives of their loved ones, right to international peace and security, right not to compromise the security of the State. The Applicants have submitted pieces of evidence in this regard and are claiming a contravention of Article 4 of the ACHPR occasioning a violation of their rights thereunder.

78. For this reason the Applicants are seeking for declaratory reliefs and orders

*Respondent's case*

79. The Respondent denies shooting and killing unarmed protesters and states that the persons who gathered on that day, including the Applicants, were a gang of hoodlums who were there to orchestrate violence. The Army and Policemen at the scene were there to disperse the protesters and stop the violence in order to maintain peace. It submits that the army shot in the air to disperse the violent crowd to avoid a breakdown of law and order. The Respondent also denies threatening the Applicants and further states that the Applicants and their gang of hoodlums were using social media platforms to reach out to other hoodlums to join the protest and destabilise the State.

80. The Respondent contends that the Applicants were not peaceful protesters and that the deliberate shutdown of electricity on that fateful night by the electricity company responsible for the Lekki Toll Gate area was done to avoid the violence and tension that was brewing as a result of the protest.

81. In consequence of which, the Respondent submits that the subject matter of the cause of action has already been resolved by the National Human Rights Commission and a special panel of inquiry which dispensed with the complaints and awarded compensation to deserving victims.



### *Analysis of the Court*

82. The Court notes that the contention between the parties is that the provisions of Articles 4 and 6 of the ACHPR were contravened leading to the violation of the rights of the Applicants, i.e. the right to life, existence, and security of person.
83. Article 4 of the ACHPR provides that *“human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.”*
84. The obligation of the Member States in this regard is to establish a legal framework to ensure the full enjoyment of the right to life by all individuals. Thus, the Court in *HEMBADOON CHIA & 7 ORS. V FEDERAL REPUBLIC OF NIGERIA*, JUDGMENT NO: ECW/CCJ/JUD/21/18 (Unreported) at page 30 held that *“A State has a legal duty to take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out serious investigation of violations committed within its jurisdiction to identify those responsible, impose appropriate punishment and ensure the victim's adequate compensation. This obligation requires that states maintain mechanisms and procedures through which investigations can be initiated.”*
85. This ratio of the Court in the preceding jurisprudence, epitomises the seriousness of the right to life and the duty attached to the protection of same. The Court is guided by the Human Rights Committee, General Comment No. 36, paragraph 19 which states that *“...the right to life is the fulcrum of all other rights. It is the fountain through which other rights flow, and any violation of this rights without due process amounts to arbitrary deprivation of life.”*
86. Furthermore, the General Comment No. 3 on the African Charter on Human and People's Rights: The Right to Life (Article 4), mandates that *“States must take steps both to prevent arbitrary deprivations of life and to conduct prompt,*

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*impartial thorough and transparent investigations into any such deprivations that may have occurred, holding those responsible to account...States are responsible for violations of this right by all their organs.”*

87. The implication of the provisions of the various soft law and jurisprudence aforementioned is that the right to life is sacrosanct and can only be derogated from through judicial procedures. However, Article 4 of the ACHPR not only protects lives of human beings but its inherent dignity and integrity of persons. This was articulated by the Court in *MRS NAZARE GOMES DE PINA V REPUBLIC OF GUINEA BISSAU*, JUDGMENT NO: ECW/CCJ/JUD/15/18 (Unreported) at page 1, where the Court held that *“The obligation to preserve the right to life makes it binding on the State to ensure, particularly the security of persons. Thus, this is a positive obligation that every citizen must enjoy, but which takes another dimension when it is to be applied to certain categories of persons, who, due to their peculiar situation, such as being exposed to threat, or the risk of having the physical integrity of their persons infringed upon, should have the right to enhanced protection.”*

88. In the instant case, the Applicants have claimed that the acts of the Respondent amounted to the violation of their right under Article 4, but the Respondent has disputed same. The Court, nonetheless, notes that facts undisputed by both parties in this regard are that:

- There was an incident at the Lekki Toll Gate on the 20<sup>th</sup> October 2020.
- That there was a shooting at the Lekki Toll Gate on the 20<sup>th</sup> October 2020.
- The shooting at the Lekki Toll Gate on the 20<sup>th</sup> October 2020 was carried out by agents of the Respondent.

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- The Applicants were present at the Lekki Toll Gate on 20<sup>th</sup> October 2020.
- That some persons sustained injuries and were hospitalised.

89. The Court is aware that the parties have presented certain qualifications of this consensus yet, the bottom line is that both briefs converge on the issues listed above.

90. The Court, in *WOMEN ADVOCATES RESEARCH AND DOCUMENTATION CENTER & ANOR. (ON BEHALF OF MARY SUNDAY) V FEDERAL REPUBLIC OF NIGERIA*, JUDGMENT NO: ECW/CCJ/JUD/11/18 (Unreported) at page 9, held that it is inconceivable that a State, worthy of its name, will close its eyes to the violation of rights as serious as that which consists of a violent attack on the physical integrity of human beings.

91. Having established that the right to life, dignity and integrity of a person is undeniably sacrosanct, the Court takes seriously any allegation relating to the same. Thus, in the present claim where the Applicants allege that whilst protesting against a certain arm of the security apparatus of the Respondent, at various times on 20<sup>th</sup> and 21<sup>st</sup> October 2020, the Respondent through its agents violated these rights, the Court will look at the elements of the claim *vis a vis* the circumstances.

92. In doing so, the Court will consider the First Applicant's allegations that whilst acting as a Disc Jockey during the protest, she was forced to seek for cover after the gunshots were fired by soldiers in the protest site, i.e. Lekki Toll Gate; that whilst in the position of cover, someone fell on her having been shot by the soldiers for which she submits ANNEXURE 18-22 ; that someone fell by her side with bullet wounds for which she submits ANNEXURE 24, which is a Channels Television Link and that she picked up bullet shells from the site of

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the shooting for which she submits ANNEXURE 25 which is a livestream on her INSTAGRAM page depicting the aftermath of the shooting by both soldiers and police.

93. The Court also considers the Second Applicant's allegation that on the 20<sup>th</sup> October 2020, when the shooting started, she hid and watched as soldiers shot at the crowd of protesters whilst shouting at them to leave the site. Her account that she later joined the First Applicant to resuscitate and provide crude first aid to gunshot victims/protesters is equally noted. She alleges that she saw soldiers dump lifeless bodies of protesters into a military vehicle and she claims to have counted seven, ANNEXURE 27 is submitted in support of this.

94. The Court also considers the Third Applicant's allegation that she held a megaphone, trying to maintain a peaceful protest area, when she saw soldiers fire into the air and then directly at protesters, and puts ANNEXURE 3 in support of this allegation. It further notes her claim that she was shot at twice by the soldiers but was saved by a young man who pushed her out of harm's way but succumbed to the bullet and died for which she submits ANNEXURE 3 in support.

95. In its consideration, the Court also notes the Respondent's defence that the First Applicant's live stream on her Instagram page was to post on the abortive unlawful protest of her gang to create disaffection against law enforcement agents. It also notes the Respondent's claims that the Applicants tried to engage its agents, but they repelled them with the application of the Rules of Engagement. The Respondent's averment that the soldiers on the scene were there to restore peace and quench the flame of the violent protest is equally noted by the Court, as is the action of the Lagos State Government declaring curfew due to the violence and denies infliction of assault on the protesters by its agents.



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96. In considering the evidence before it in its entirety, the Court particularly notes Document 6 which is a Motion for Additional Evidence submitted by the Applicants that contained a Video Verification Report from the University of Essex Digital Verification Unit. It is noted that this report elaborates on pictorial evidence, time and date stamps, GPS locations etc. The Court finds no evidence from the Respondent rebutting these pieces of evidence put forward by the Applicants.

97. It is trite law that the claimant has the onus of proving its claim with evidence as the mere claim itself without evidence is insufficient to persuade the Court. However, where the claimant has adduced evidence in support of its claim, the burden of proof shifts to the defender of the claim. In this instance, due to the fact that the Applicants have adduced evidence in support of the claim for the violation of the right to life, the burden has been duly discharged. It is then the onus of the Respondent to rebut same; however, the Court notes that the Respondent has made several submissions rebutting the claims but has not submitted any evidence in support of its rebuttal.

98. The general rule is that in claiming for the violation of the right to life, evidence that the life has been arbitrarily taken must accompany a successful claim: (MR. MAMADOU MOUCTAR BALDÉ V REPUBLIC OF GUINEA, JUDGMENT NO: ECW/CCJ/JUD/53/23 (Unreported)). The Court finds instruction in General Comment 3 which provides that:

*“States have a responsibility under the Charter to develop and implement a legal and practical framework to respect, protect, promote and fulfil the right to life. States must take steps both to prevent arbitrary deprivations of life and to conduct prompt, impartial, thorough and transparent investigations into any such deprivations that may have occurred, holding those responsible to account and providing*

  
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*for an effective remedy and reparation for the victim or victims, including, where appropriate, their immediate family and dependents. States are responsible for violations of this right by all their organs (executive, legislative and judicial), and other public or governmental authorities, at all levels (national, regional or local) ... Where a State or its agent has ... forcibly caused a person to disappear and that person's fate remains unknown, in addition to the violation of other rights, a violation of the right to life has occurred...Building blocks of a proper State system for the protection of the right to life will include the enactment of appropriate domestic laws that protect the right to life and define any limitations on the right in accordance with international standards, a law enforcement system with the necessary equipment and training, and a competent, independent and impartial judiciary and legal profession based on the rule of law...As part of their broader duty to secure the conditions for dignified life, States have a particular responsibility to protect the human rights, including the right to life, of individuals or groups who are frequently targeted or particularly at risk...[T]he right to assemble and to demonstrate is integral to democracy and human rights. Even if acts of violence occur during such events, participants retain their rights to bodily integrity and other rights and force may not be used except in accordance with the principles of necessity and proportionality. Firearms may never be used simply to disperse an assembly."* GENERAL COMMENT NO. 3 ON THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS: THE RIGHT TO LIFE (ARTICLE 4), ADOPTED DURING THE 57TH ORDINARY SESSION OF ,THE AFRICAN

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COMMISSION ON HUMAN AND PEOPLES' RIGHTS HELD  
FROM 4 TO 18 NOVEMBER 2015 IN BANJUL, THE GAMBIA.

99. It is clear from this General Comment that the central obligation for States with regards to human rights is to promote, protect and fulfil the right to life and conduct prompt, impartial, thorough and transparent investigations into any deprivations. The duty of the State is to safeguard all its citizens from the arbitrary deprivation of the right to life, especially during protests where the State is enjoined to use proportionate force if it has to use force.
100. Hence, in the instant case, notwithstanding the overwhelming evidence establishing the deaths of citizens the Applicants have brought the claims on behalf of themselves only and "*in vitam.*" Consequently, the Court finds no violation of the right to life as guaranteed under Article 4 of the ACPHR but directs that the Respondent investigates the claims of arbitrary killing of citizens in fulfilment of its obligation thereunder.
101. With regards to the alleged violation occasioned by the contravention of Article 6 of the ACHPR, the Court reproduces the same for ease of reference: "*Every individual shall have the right to liberty and to the security of his person...*" In this vein, the Court finds instruction in SUDAN HUMAN RIGHTS ORGANISATION & ANOR. V SUDAN (2008) as reproduced in MOHAMED MORLU V REPUBLIC OF SIERRA LEONE, JUDGMENT NO: ECW/CCJ/JUD/04/24 at page 17, paragraph 41; where the African Commission explained that an individual's rights to security of person has a public element which requires the State to protect '*the physical integrity of its citizens from abuse by official authorities.*'
102. The Court notes that the Applicants allege that they were on protest against a certain arm of the Respondent's security apparatus, SARS. While the Respondent rebuts that the Applicants are hoodlums who intended to incite

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unrest and disrupt the peace. The evidence in support of the Applicants' claim is that the protest were peaceful until the Respondent's agents arrived and started shooting. The Court is aware that whilst the Respondent disputes that it shot directly at protesters and describes them as hoodlums, it confirms that its soldiers and police were at the scene to restore peace.

103. The Court will rely in its recent decision in MOHAMED MORLU V REPUBLIC OF SIERRA LEONE (supra) where it stated that "...even if the student's protest has escalated, as alleged by the Respondent, firing live ammunition into the crowd without prior warning...was heavy-handed and unjustified...the Court rejects the Respondent's assertion...and concludes that the Respondent violated the Applicant's right to the security of person."(Unreported at page 18, paragraph 44). The Court further relies on General Comment No. 37 (2020) on the right to peaceful assembly (Article 21): United Nations Human Rights Committee, paragraph 79; only the minimum force necessary may be used if required for a legitimate law enforcement purpose. Also, the Code of Conduct for Law Enforcement Officials, Article 3 which states that "*Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.*"

104. From the evidence, the gunshots and shooting started at the scene only when the security agents of the Respondent arrived. The evidence is devoid of gunshots prior to this and as such the Court considers that this use of force was not '*strictly necessary.*' Rather it caused harm far greater to the extent that the Respondent admits that it had to pay hospital bills and make compensation to '*deserving victims.*'

105. Based on the foregoing, the Court finds that the Respondent's use of force was not proportionate and necessary. Furthermore, its tone towards the victims of this unnecessary use of force, is disparaging, and the acts in sum, contravenes



its obligations under Article 6 of the ACHPR. Consequently, the Court finds the Respondent in breach of Article 6 of the ACHPR which occasioned a violation of the right to security of person of the Applicants.

*ii. Whether there is a violation of the right not to be subjected to torture, inhuman and degrading treatment, right to equality and dignity of person; Applicants' Case*

106. The Applicants argue that every person is entitled to respect for his/her dignity, should not be subjected to torture or inhuman treatment, and emphatically states that both rights are intricately tied to the right to life.

107. It is the claim of the Applicants, hereunder, that each of them and the protected witnesses have suffered physical, mental, emotional and psychological torture from the failure of the Respondent to protect it from extrajudicial attack from its agents. That the treatment meted out to the Applicants and the protected witnesses by law enforcement agents constitutes torture, cruel inhuman and degrading treatment.

108. The Applicants allege that all these acts perpetrated by agents of the Respondent constitute physical, mental, emotional and psychological assault on the Applicants and the protected witnesses contrary to Article 5 of the ACHPR.

109. Consequently, the Applicants submit that their plea is consistent with reports of the systemic nature of torture and ill-treatment by agents of the Respondent which has been reported by international organisations. The Applicants reference an Amnesty International publication titled: "*In Nigeria, police continue to torture with impunity*", "14 October 2020, [www.amnesty.org](http://www.amnesty.org). The Applicants are therefore seeking several declarations and orders listed in paragraph 38 above.



*Respondent's Case*

110. It is the Respondent's defence that the Applicants have failed to substantiate their claims in relation to the alleged violation occurring on the 20<sup>th</sup> October 2020, to entitle them to the reliefs sought.
111. The Respondent avers that in recognition of its obligations, it has instituted broad police reforms and established judicial panels of enquiries to investigate allegations of human rights violations by members of the Nigerian Police Force and other security agencies. That the police personnel indicted by the panel has also been prosecuted, and it has set up compensation funds for victims.
112. The Respondent argues vehemently that the Applicants have only sought declaratory reliefs for the alleged violations which have not been proved. It therefore relies on the *ratio* in the case of CHIEF IKECHI EMIKE V PEOPLE'S DEMOCRATIC PARTY & ORS. (2012) LPELR- 7802 (SC), among others, to emphasise that the burden of proof must be discharged by the Applicants.
113. It is the general prayer of the Respondent that the Court dismisses the suit for lack of merit.

*Analysis of the Court*

114. It is evident that the allegation before the Court as put forward by the Applicant under this rubric right guaranteed under Article 5 of the ACHPR. Notwithstanding the allegation, the Courts notes the contention of the Respondent that the Applicants have not supported their claim with evidence, and that they have fulfilled their obligation of investigating and prosecuting the alleged violations.
115. In the Case of A V THE UNITED KINGDOM, Judgment of 23<sup>rd</sup> September 1998, (100/1997/884/1096), European Court of Human Rights in considering

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whether a violation meets the requirement of Article 3 of the European Convention, which is similar to Article 5 of the African Charter, held that ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative: it depends on all the circumstances of the case, such as the nature and context of the treatment, its duration, its physical and mental effects and, in some instances, the sex, age and state of health of the victim

116. Meanwhile, the Inter-American Court of Human Rights had previously, in *LOAYZA-TAMAYO V. PERU* Judgment of September 17, 1997 held that the violation of the right to physical and psychological integrity of persons is a category of violation that has several gradations and embraces treatment ranging from torture to other types of humiliation or cruel, inhuman or degrading treatment with varying degrees of physical and psychological effects caused by endogenous and exogenous factors which must be proved in each specific situation.

117. More recently, the Court in *HON. JUSTICE S. E. ALADETOYINBO V FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/18/20* (Unreported) at page 21 held that *“The relevant points in understanding the nature of torture are that the act complained of need not be physical with accompanying visible signs... other acts with the capacity to affect mental faculties of the victim by causing amongst others severe mental delusion coupled mostly with, fear, anguish and suffering. Additionally, such act must be inflicted by a Public officer acting in an official capacity and carrying on same with the required intention. The situ of the act is of no consequence.”*

118. The prohibition of cruel, inhuman or degrading treatment or punishment is therefore, to be interpreted as widely as possible to encompass the widest possible array of physical and mental stress.

119. The Court notes that the pivotal development in the jurisprudence determining a claim under Article 5 of the ACHPR spans from establishing that the treatment is severe and must be assessed alongside the circumstances. Furthermore, that torture does not only constitute the acts physical, but can be psychological acts capable of causing fear or anxiety. More particularly, a violation under Article 5 of the ACHPR must be perpetrated by a public officer and a claim for the same should be supported with evidence. What distinguishes torture from other forms of inhumane and degrading treatment is the purposive aspect that is there is a requirement that the acts inflicted must be for a specific purpose. However, it is trite law and practice that the greater absorbs the lesser. So if torture is proved, all other violations covered by Article 5 of the ACHPR will also be deemed to have been proved.

120. Thus, the Court in adjudging the present contention takes cognisance of the fact that the issues agreed to by the parties are that:

- There were civilians at the Lekki Toll Gate on the 20<sup>th</sup> October 2020.
- That security agents of the Respondent with arms were also present at the scene.
- That civilians suffered casualty and were hospitalised, whilst some were killed.
- That the Respondent's agent paid some of the medical bills of the civilians.

121. The Court recalls the point of contention raised by the Respondent, i.e. that the Applicants have not supported the allegation under Article 5 of the ACPHR with evidence. In this regard, the Court is also mindful that all claims before it must be proved and more so it recalls its statement in MR JEAN-PAUL EDOH NUNYAVA OUMOLU V TOGOLESE REPUBLIC ECW/CCJ/JUD/03/24 at





page 18, paragraph 43 that *“The Court views torture as an act so heinous that the international community as a whole, has continued to push for its universal prohibition through treaties and encouraging states to domesticate jus cogens prohibiting torture.”* Thus, the Court will consider the contention in line with the evidence adduced by Applicants in support of their allegations.

122. It is recalled by the Court that the Applicants, by sworn Affidavit, made oath, and stated that their claims are true; see ANNEXURE 1 to 3. The Applicants have also submitted ANNEXURE 12 to 17 which are recordings depicting scenes of a congregation by them and others which generally appeared to be peaceful. ANNEXURE 18 to 20, 22 & 34 are submitted as video evidence establishing gunfire, screams, darkness, and chaos. ANNEXURES 21, 23, 24, 29, 30, 31 and 35 are video evidence depicting injured persons and bodies covered in blood, as well as sounds of gunfire in the background of ANNEXURE 35. The Applicants further submit a Video Verification Report (Document 6) that contains analysis of the evidence, more particularly the location, date, and time the videos were taken.

123. The rule of law is that the Applicant has the duty to adduce evidence corroborating the allegations. However, where the Applicant has discharged this duty the burden shifts to the Respondent: see MR. CHUDE MBA V. REPUBLIC OF GHANA (2013) CCJELR. Thus the Court held in FESTUS A. O. OGWUCHE V FEDERAL REPUBLIC OF NIGERIA, JUDGMENT NO: ECW/CCJ/JUD/02/18 at page 33 that *“As a general rule, the burden of proof lies on the Plaintiff. If that burden is met, the burden then shifts to the Defendant, who now has to plead and prove any defense, by a preponderance of evidence.”*

124. However, when the burden shifts, the Respondent is under no obligation to lead evidence to the contrary though it is wise that evidence rebutting the claim be adduced (MUSA SAIDYKHAN V PREBULIC OF THE GAMBIA (2008)



CCJELR). For when the Respondent puts the Applicant to the strictest proof and fails to impeach their evidence, the Court is compelled to attach probative value to the Applicant's evidence.

125. In the present claim before the Court, the Applicants have adduced evidence in support of their claim for violation under Article 5 of the ACHPR establishing that they suffered physical, mental, emotional and psychological torture. The Court finds the evidence before it establishes a state of fear and anxiety and psychological distress that amounts to torture, perpetrated by the disproportionate acts of the Respondent's agents. Having found no evidence rebutting these pieces of evidence but recalling especially that the Respondent claims to have set up quasi-judicial bodies to investigate and award compensation, the Court is compelled to conclude that the evidence possesses sufficient probative value. The Court finds it necessary to emphasise that the obligations of Member States under the ACHPR are not to be taken lightly. All rights thereunder are to be protected by the Member States and the same should be enjoyed by the citizens. In the instance of an allegation of torture in the context of a protest by civilians, the Court is compelled to find that an area controlled by security agents of the Respondent (who are heavily armed and shooting) supported by evidence, is a breach of Article 5 of the ACHPR

126. Consequently, the Court declares that the Respondent is in breach of Article 5 of the ACHPR, occasioning a violation against the Applicants.

*iii. Whether there is a violation of the right to freedom of expression, assembly and association*

*Applicants' Case*

127. The Applicant submits that although the right to freedom of opinion and expression is an individual right in the broadest sense of its enjoyment, it is also

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a collective right. That this freedom extends to mass demonstrations of various kinds.

128. It is alleged by the Applicants that the brute force and assault meted out on them through the Respondent's agents on the 20<sup>th</sup> October 2020, was an attempt to muscle the Applicants into silence which is a clear violation of their right to freedom of expression under the ACHPR. The Applicants referenced the Guidelines on Freedom of Association and Assembly, African Commission on Human and People's Rights adopted at the Commissions 60<sup>th</sup> Ordinary Session in May 2017. From the provisions of the Guidelines, the Applicants submit that the conduct of the Respondent's agents on the 20<sup>th</sup> and 21<sup>st</sup> October 2020, at the Lekki Toll Gate in Lagos State is distressing and should be condemned.

129. The Applicants allege that the Respondents agents violated their right to freedom of expression, assembly and association by the violent conduct meted out them. They are therefore, seeking several declaratory reliefs and orders as to reparation.

#### *Respondent's Case*

130. The Respondent avers that the Applicants are hoodlums. It contends that the actions of the Applicants were to cause disaffection and undermine the peace. The Respondent also submits that it has established quasi-judicial bodies to investigate and award damages in relation to the allegations of human rights violations.

131. The Respondent also argues that the Applicant has failed to discharge the burden of proof and the Court should dismiss the claims for lack of merit.

#### *Analysis of the Court*

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132. The Court notes that the Applicants have made one legal argument with respect to three guarantees, i.e. Articles 9, 10 and 11 of the ACHPR. Therefore, it will deal the claim as a whole in its analysis.

133. With regards to Article 9 of the ACHPR, the guarantee is that everyone has a right to receive, express and disseminate information within the law. Thus, freedom of expression as provided for in the ACHPR is a safeguard for all individuals to freely express themselves. This was articulated by the Court in *FEDERATION OF AFRICAN JOURNALISTS & 4 ORS V. REPUBLIC OF THE GAMBIA*, JUDGMENT NO: ECW/CCJ/JUD/04/18 (Unreported) at page 32 where it stated that freedom of expression is a fundamental human right, and full enjoyment of this right is central to achieving individual freedom and developing democracy. It is not only the cornerstone of democracy, but indispensable to a thriving civil society.

134. Thus, the Court has established that Member States owe their citizens an obligation under the Charter to ensure that at all times, the rights which are provided for in the Charter are respected and protected by all, especially by agents of the State. Hence, peaceful demonstrations are viewed as a democratic by product of freedom of expression that is usually intended to engage with political bodies of policies, laws or frameworks and issues affecting citizens. Paragraph 15 of the United Nations Human Rights Committee, General Comment No. 37 provides that:

*“A ‘peaceful’ assembly stands in contradistinction to one characterised by widespread and serious violence...The right of peaceful assembly may, by definition, not be exercised using violence...Mere pushing and shoving or disruption of vehicular or pedestrian movement or daily activities do not amount to ‘violence.’”*



135. It stands to reason that as a rule, peaceful protests are protected by law, yet non-peaceful protesters have protection of their fundamental rights like the right to life, prohibition from torture, cruel and inhuman treatment and the presumption of innocence. Therefore, the European Court Grand Chamber in the Case Of KUDREVICIUS AND OTHERS V LITHUANIA (37553/05) at paragraph 94 held that a peaceful protest does not lose its peaceful character due to sporadic violence of unlawful behaviours of some individuals. Similarly, the European Court of Human Rights in the case of LAGUNA V SPAIN, 2020 explained that *“an individual does not cease to enjoy the right to freedom peaceful assembly as a result of sporadic violence or other punishable acts committed by others in the course of the demonstration if the individual in question remains peaceful in his or her own intentions or behaviour.”* The ACHPR in the same vein has indicated that ‘peaceful’ must be *“interpreted to include conduct that annoys or gives offence as well as conduct that temporarily hinders, impedes or obstructs the activities of third parties.”*(-African Commission on Human and People’s Rights, Guidelines on Freedom of Association and Assembly in Africa, paragraph 70(a))

136. In the present claim, the Court recalls the evidence submitted by Applicants, i.e. ANNEXURE 1-3;12-35 which depicts two scenes of the protest namely the daytime and night-time. The former was largely calm with speeches and loud talking, whilst the night-time was peppered with gunfire and shouts. The evidence submitted by the Applicants also contained videos of wounded persons and bodies which looked still and covered in blood. The Respondent’s defence on the other hand, contained confirmation that its security agents were present at the scene and engaged the hoodlums/protesters using the Rules of Engagement.



137. In adjudging whether there was a violation under Article 9, 10 and 11 of the ACHPR, the Court relies on the General Principle 5 (a) of the United Nations Basic Principle on the Use of Force and Firearms by Law Enforcement Officials, to wit: "*Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved.*" It would seem that law enforcement agents must use proportional force in dispersing a crowd. Consequently, the Court is inclined to agree with the Applicants that the use of guns to disperse the protesters was a violation of their rights. The Court finds that the Respondent failed in its obligation to disperse a 'peaceful' protest by reasonable and proportionate means and dismisses its defence that the same had become violent. It is the considered opinion of the Court from the evidence before it, that the nature of the protest took a turn for the worse with the intervention of the Respondent. Based on the foregoing the Court declares a breach of Article 11 of the ACHPR.

138. As regards Article 9 of the ACHPR, the Court considers that whilst the Respondent claims that the Applicants are hoodlums intending to cause disaffection, they failed to allow them the basic guarantee of expressing themselves peacefully. On the part of Article 9 of the ACHPR, the Court declares a breach as the Respondent failed to afford the Applicants the freedom of expression.

139. As to Article 10 of the ACPHR, the Court finds that the Respondent failed in its obligation to guarantee the Applicants' right to freely assemble. The use of unreasonable force by the Respondents agents is not a lawful means of dispersing the Applicants.

140. Based on the foregoing analysis, the Court finds that the Respondent violated the rights of the Applicants under Articles 9, 10, & 11 of the ACHPR.



*iv. Whether the duty of the State to investigate human rights violations was discharged*

*Applicants' Case*

141. The Applicant submits that the Respondent failed to safeguard the lives and security of the Applicants on the 20<sup>th</sup> October 2020 as guaranteed under the ACHPR. Based on this, the Applicants allege that the Respondent is required to conduct investigations into the events of the day and establish facilities and procedures that will guarantee the rights of the Applicants.
142. However, the Applicants claim that they received death threats and have been forced into hiding which highlights the Respondent's failure to protect the security and afford the Applicants effective remedy.
143. The Applicants allege that inspite of the evidence tendered before the Respondent's quasi-judicial bodies, the Respondent has not tried or prosecuted any of the perpetrators. Further, that the Respondent has failed to take genuine actions towards identifying the authorities behind the order to violently attack protesters and to identify the soldiers and police who carried same. Rather, the Applicants claim that the Respondent has concealed evidence in this regard.
144. The Applicants submit that this breeds impunity and is in direct violation of their rights.

*Respondent's Case*

145. The Respondent denies the allegations and maintains that there was a panel set up by the Lagos State Government regarding the Lekki Toll Gate shooting headed by a Chairman (who is a retired High Court Judge), two representatives of civil society groups, one retired police officer of high repute, one Youth Representative, one Student Representative, one Representative of the State

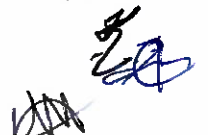
~~NO~~  
Yes

Attorney- General from the Ministry of Justice and a representative from National Human Rights Commission. That the objective of the panel was to *receive and investigate complaints of police brutality or related extra-judicial killings, evaluate the evidence presented/other surrounding circumstances and draw conclusions as to the validity of the complaints and recommend compensation and other remedial measures, where appropriate.* The panel had a six (6) months tenure.

146. The Respondent admits that “...it is public knowledge that the National Human Rights Commission Panel on the ENDSARS Protest was only constituted in 29 States including the Federal Capital Territory and only reports of 16 out of the 29 States were received. Also, though the Lagos State Judicial Panel of Inquiry for Restitution for Victims of SARS Related Abuses and Other Matters, which submitted its report on 15th November 2021 to the Lagos State Government, corroborates the evidence of the Applicants, the Lagos State Government refused the report of the panel on the Lekki Toll Gate Shooting.” It also went further to state that “The Justice Doris Okuwobi-led panel made known in its report (*supra*) through its report titled ‘Report of Lekki Incident Investigation of 20th October 2020’, a copy of which was made available to The PUNCH newspaper, the panel said there were 48 casualties of the shooting incident, out of which nine people were dead, four were presumed dead, and 24 were injured.”

### ***Analysis of the Court***

147. The Court finds it necessary to set out the obligation of the Respondent and to adjudge if it has met them. In this wise, the Court aligns with the *Draft Articles on the Responsibility of States for Internationally Wrongful Acts* (adopted by the International Law Commission at its fifty-third session, in 2001), and



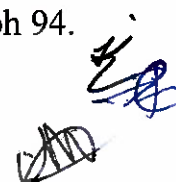
Yes

submitted to the General Assembly as a part of the Commission's report covering the work of that session (A/56/10) which states in Article 2 that:

*"There is an internationally wrongful act of a State when conduct consisting of an action or omission: (a) is attributable to the State under international law; and (b) constitutes a breach of an international obligation of the State."*

148. This was elucidated in the Inter-American Court of Human Rights case of VALESQUEZ-RODRIGUEZ V. HONDURAS Judgment of July 29<sup>th</sup>, 1988 paragraph 197 that the *"State has a legal duty to take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation."*

149. The Court notes the submissions of the Respondent that a Panel to investigate the events of 20 October 2020 was set up. The Respondent also submits that the Panel produced a report, identified perpetrators, and recommended actions. On the one hand, as a Court of record, it would have been of persuasive value if the Respondent had submitted evidence of the establishment of the panel and the said outcome. On the other hand, however, the Court notes that the Applicants has not refuted this submission, rather their contention is that the recommendations of the Panel have not been implemented, and perpetrators have not been prosecuted. It is necessary that the Court instructs here that an effective investigation must address the complaints made, be prompt, independently conducted by an impartial body, conclude within a reasonable time, and identify perpetrators, if any, for prosecution. (See: SERAP & 10 ORS V. FEDERAL REPUBLIC OF NIGERIA (2014) supra at paragraph 94.



150. Having carefully considered the submissions made by both parties, the Court notes that the issue for determination herein is not a failure to investigate human rights violations but rather a failure to implement the recommendations made by the panel established by the Respondent to investigate the alleged human rights violations.

151. The basis of this claim is found under Article 1 of the ACHPR, which places an obligation on the Member States to promote and protect the rights enshrined in the Charter and to adopt all means, legislative or otherwise, to protect those rights. States are under an obligation to ensure access to justice and that all allegations of violations are addressed, that investigations are conducted effectively, and that perpetrators are identified and prosecuted. The Court explained this in the case of *MRS. MODUPE DORCAS AFOLALU V. FEDERAL REPUBLIC OF NIGERIA* (2014) CCJELR at page 229, that the State shall put in place administrative and legal framework specifically designed to deter violent acts from being committed against people; the framework must be anchored on a mechanism of application conceived to prevent, suppress and sanction violent acts. This position was further expounded in *HEMBADOON CHIA & 7 ORS v. FEDERAL REPUBLIC OF NIGERIA & ANOR* JUDGMENT: ECW/CCJ/JUD/21/18 (UNREPORTED) at page 30 where the Court held that *“A State has a legal duty to take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out serious investigation of violations committed within its jurisdiction to identify those responsible, impose appropriate punishment and ensure the victim’s adequate compensation. This obligation requires that states maintain mechanisms and procedures through which investigations can be initiated.”*

152. In a more recent decision of the Court in *MR. MAMADOU MOUCTAR BALDÉ V REPUBLIC OF GUINEA*, JUDGMENT NO: ECW/CCJ/JUD/53/23



held that Respondent failed in its obligation under Article 1 of the ACHPR as whilst it knew its responsibility and commenced with same, it failed to conclude which left the Applicant without a remedy.

153. Relying on this jurisprudence, the Court finds that while the Respondent established quasi mechanisms, the independence and inclusion of the same is questionable as the recommendations have not been implemented. The failure of the Respondent to adduce evidence on the steps it has taken to discharge its obligation warrants the Court to declare that it has failed in its duty under Article 1 of the ACHPR in this instance. The duty is not only to initiate the process but to see it to a conclusion and make reparations to victims. Consequently, the Court declares that the Respondent has failed in its duty to investigate human rights violations.

*v. Whether the Applicants have been denied the right to effective remedy*

154. The Applicants aver that they have been denied their right to an effective remedy by the Respondent's failure to investigate and prosecute offenders and compensate victims, a fact which the Respondents denied.

155. The Respondent has denied the claims of the Applicants and has further stated that they have failed to adduce evidence in support of their claim.

*Analysis of the Court*

156. The Court notes that the right to an effective remedy is well captured in Article 2 of the International Covenant on Civil and Political Rights, ICCPR to wit: *"Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming*




*such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted."*

157. It is also noted by the Court that the African Charter on Human and Peoples Rights does not specifically provide for the right to an effective remedy as an independent right, but Article 1 imposes an obligation on the Member States to ensure respect and observance of the rights contained in the Charter and to promote and protect them through legislative and other means. It also imposes an obligation on the Member States to ensure that violations are remedied, and systems of redress are established to address those complaints within the domestic sphere. Hence, the African Commission also in the case of JAWARA V. THE GAMBIA COMMUNICATION 147/95 & 149/96 maintains the view that remedies must be "*available, effective and sufficient*", *that remedy is considered to be available if the petitioner can pursue it without impediment, it is deemed effective if it offers a prospect for success, and it is found sufficient if it is capable of redressing the complaint.*"

158. Therefore, the Court considers that effective remedy is a right provided for by the law and must be, following the reasoning in the aforementioned jurisprudence, available "*available, effective and sufficient.*" In the instant case, the Applicants, argues that even though a panel was set up to investigate by the Lagos State Government, the same Lagos State Government rejected the report of the investigative panel. Moreover, out of the 36 states of the Respondent State that were supposed to set up similar panels to investigate the incident of the ENDSARS protest nationwide, only 16 states submitted their report. In this



regard, the Respondent did not give contrary evidence or facts to dispute the Applicants' assertions.

159. The Court finds that the establishment of a panel is not enough to affirm that the Applicants have been availed of an effective remedy or a channel to seek an effective remedy. An effective remedy must be accessible or at least satisfy the victims that their cause has been heard and that justice has been done in the circumstance. Furthermore, although a panel was set up and recommendations made, the Court finds that the Applicants were denied the right to an effective remedy as the Respondent rejected the report of the panel.

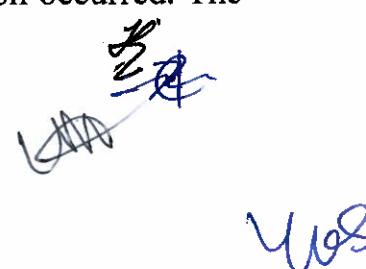
160. Based on the foregoing, the Court declares that the Applicants were denied the right to an effective remedy.

## **XI. REPARATIONS**

161. The Applicants have approached the Court with several allegations of human rights violations and in turn prayed for several reliefs as a form of reparation. The Court in *KARIM MEISSA WADE v. THE REPUBLIC OF SENEGAL* (2013) CCJELR at page 231 held that *“Reparation of harm may only be ordered upon the condition that the harm in question is established to have occurred and that there is found to have existed a link of cause and effect between the offence committed and the harm caused.”*

162. Also, in *MRS MODUPE DORCAS AFOLALU v. REPUBLIC OF NIGERIA* (2014) CCJELR at page 229 the Court held that *“The principle of reparation constitutes one of the fundamental principles of law regarding liability. It is sufficient that the harm to be repaired must exist, must be directly linked to the victim, and shall be true and capable of being evaluated.”*

163. Thus, reparations in human rights cases is meant to put the victims/claimants of violations, in the position that they were before the violation occurred. The



Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, United Nations General Assembly Resolution 60/147 Adopted 15 December 2005, provides that victims have a right to reparation for harm suffered as a result of a gross violation of human rights law.

164. Consequently, the Court having made several declarations will make reparations for the following:

- The Court found the Respondent in violation of the right to the security of persons.
- The Court found the Respondent in violation of the prohibition of torture, inhuman and degrading treatment and the dignity of persons.
- The Court found the Respondent in violation of the right to freedom of expression, assembly and association.
- The Court found the Respondent in violation of the duty of the State to investigate human rights violations.
- The Court found the Respondent in violation of the right to effective remedy.

165. The Court notes that the Applicants, in their Initiating Application, sought seven declaratory reliefs and six orders which includes compensation by way of general damages, punitive and aggravated damages. It is necessary to state here that compensation is not a means of buying the victim, rather it is intended to be symbolic in deterring a reoccurrence of the same violations.



166. In dealing with the reparations therefore, the Court is mindful of the actual contentions raised by and successfully pleaded by the Applicant. Therefore, it will proceed to order reparations based its analysis and conclusions thereto. Also, the Applicants failed to specifically plead for special damages, so the Court will order reparations for the violations based on its discretion and the gravity of the offences. The Court admonishes that reparations are a sign of recognition that a breach resulting in a harm has occurred, it is not meant to absolve the violation.

167. Regarding the first violation of the right to the security of persons, the Court orders that the Respondent pays each Applicant the sum of Two Million Naira as compensation.

168. As to the second violation of the prohibition of torture and human dignity, the Court orders that the Respondent pays each Applicant the sum of Two Million Naira as compensation.

169. As to the third violation of the right to freedom of expression, assembly and association, the Court orders that the Respondent pays each Applicant the sum of Two Million Naira as compensation.

170. As to the fourth violation of the duty of the state to investigate, the Court orders that the Respondent pays each Applicant the sum of Two Million Naira as compensation.

171. As to the fifth violation of the right to effective remedy, the Court orders that the Respondent pays to each Applicant the sum of Two Million Naira as compensation.

172. The Court further orders that in view of the lack of conclusion of the Panel, that the Respondent conducts a new investigation and prosecution in line with its obligations under international law. The said Panel should not award



reparations for the violations disposed of herein, but should prosecute the acts of agents of the Respondent.

## **XII. COSTS**

173. The Court, in the spirit of Article 66 of the Rules of the Court, awards costs in favour of the Applicants to be calculated by the Chief Registrar.

## **XIII. 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.

### **As to admissibility**

- ii. **Declares** the application admissible.

### **As to merits of the case:**

- iii. **Finds breaches** of Article 1, 4, 6, 9, 10 and 11 of the African Charter on Human and People's Rights.
- iv. **Dismisses** the claim under Article 4 of the African Charter on Human and People's Rights.
- v. **Dismisses all other claims.**

### **As to reparation:**

- vi. **Orders payment of** Two Million Naira to each Applicant by the Respondent as compensation for the violation to the security of persons.


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- vii. **Orders payment of Two Million Naira to each Applicant by the Respondent as compensation for the violation of the prohibition of torture, cruel inhuman and degrading treatment.**
- viii. **Orders payment of Two Million Naira to each Applicant by the Respondent as compensation for the violation the rights to freedom of expression, assembly and association.**
- ix. **Orders payment of Two Million Naira to each Applicant by the Respondent as compensation for the violation of the duty of the State to investigate human rights violations.**
- x. **Orders payment of Two Million Naira to each Applicant by the Respondent as compensation for the violation of the right to effective remedy.**
- xi. **Orders the Respondent to adhere to its obligations under the African Charter on Human and People’s Rights and investigate and prosecute its agents for the violations adjudged herein. Furthermore, orders the Respondent to report to the Court within six months on measures taken to implement this judgment.**

**COSTS:**

- xii. **Orders that the Respondent pays costs to to the Applicants, to be calculated by the Registrar of the Court.**

Hon. Justice **Dupe ATOKI**

Hon, Justice Sengu M. **KOROMA**/Judge Rapporteur

Hon. Justice **Ricardo GONCALVES**

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

A handwritten signature in blue ink, consisting of several loops and flourishes, positioned above a horizontal dotted line.

Done in Abuja, this 10<sup>th</sup> day of July, 2024 in English and translated into French and Portuguese.

