



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

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

In the Matter of

**THE INCORPORATED TRUSTEES OF EXPRESSION NOW  
HUMAN RIGHTS INITIATIVE**

**V.**

**THE FEDERAL REPUBLIC OF NIGERIA**

*Application No: ECW/CCJ/APP/41/23;*

*Judgment No. ECW/CCJ/JUD/20/25*

**JUDGMENT**

**ABUJA**

**9 April 2025**

**THE INCORPORATED TRUSTEES  
OF EXPRESSION NOW HUMAN  
RIGHTS INITIATIVE**

**APPLICANT**

**AND**

**FEDERAL REPUBLIC OF NIGERIA**

**RESPONDENT**

**COMPOSITION OF THE COURT**

Hon. Justice Ricardo Cláudio Monteiro GONÇALVES - Presiding

Hon. Justice Dupe ATOKI - Member/Judge Rapporteur

Hon. Justice Edward Amoako ASANTE - Member

**ASSISTED BY:**

Dr. Yaouza OURO-SAMA - Chief Registrar

**REPRESENTATION OF PARTIES:**

Mr. Solomon Okedara - Counsel for the APPLICANT

Maimuna Lami Shiru (Mrs.)

H. U. Chime

Abubakar A. Nuhu

Abdullahi Abubakar

-Counsel for the RESPONDENT


## **I. JUDGMENT**

1. This is the judgment of the Court read virtually in open Court pursuant to Article 8 (1) of the Practice Directions on Electronic Case Management and Virtual Court Sessions, 2020.

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

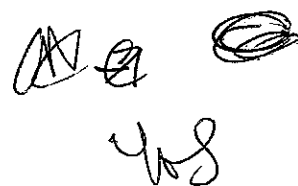
2. The Applicant is a non-governmental organisation incorporated in Nigeria, with its address at 12, Blantyre Street, Wuse II, Abuja, Nigeria.
3. The Respondent is the Federal Republic of Nigeria, a Member State of the Economic Community of West African States (ECOWAS).

## **III. INTRODUCTION**

4. This case concerns allegations that the Respondent's use of blasphemy provisions in its criminal laws to arrest, detain, imprison, and impose death sentences on its citizens, as well as its failure to prevent extra-judicial killings by mobs, of persons alleged to have committed blasphemy, are a violation of the rights to freedom of religion, freedom of expression, and life under the provisions of the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights, the United Nations Convention against Torture and other forms of Cruel, Inhuman or Degrading Treatment, and other international human rights instruments binding on the Respondent.

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

5. The proceedings began with the filing of the Applicant's Initiating Application dated 25 September 2023 on 06 October 2023. The same was served on the Respondent on the same day.

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6. On 01 December 2023, the Applicant filed a Motion for an Order of the Court entering final Judgment in favour of the Applicant, dated the same day. The motion was served on the Respondent on 04 December 2023.
7. The Respondent filed a Motion for Extension of Time within which to file its Statement of Defence, along with a Counter Affidavit in Opposition to the Applicant's Motion on Notice Seeking the Order of the Court to Enter Final Judgment Against the Respondent, and a Statement of Facts & Plea in Law in Opposition to the Applicant's Application, all dated 06 February 2024, and filed on 19 February 2024. These were served on the Applicant on 20 February 2024.
8. The Applicant filed a Reply to the Respondent's Statement, dated 08 July 2024 and filed on 09 July 2024. This was served on the Respondent on 09 July 2024.
9. On 24 September 2024, the Court held a virtual hearing in the case. The Respondent moved its Motion to regularize its filed processes. The Applicant did not object to same, and the Motion was granted by the Court. The Applicant moved to withdraw its Application for a default judgment. This withdrawal was also granted by the Court. Both Parties adopted their filed processes and addressed the Court on same. The Court then adjourned the case for judgment.

## ***V. APPLICANT'S CASE***

### ***a. Summary of Facts***

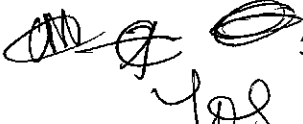
10. The Applicant's case is that at different times within the territory of the Respondent, citizens have been subjected to arbitrary arrest and detention, summary prosecution and imposition of jail terms or death sentences for the offence of blasphemy. In addition to this, several citizens have been subjected to torturous and gruesome extra-judicial killing on the ground of blasphemy without the killers being made to face the consequences of their crimes.
11. The Applicant cites the example of three persons who have faced criminal prosecution for the offence of blasphemy.

   
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12. Yahaya Shariff Aminu was tried before an Upper Sharia Court in Kano State for blasphemy pursuant to the provisions of Section 382 (b) of Kano State Sharia Penal Code Law for making statements on a WhatsApp platform, that were considered blasphemous against Prophet Mohammed. The said Section 382 (b) of the Kano State Sharia Penal Code Law 2000 provides that *“any person whosoever found using any expression by means of words, gestures, abusing the Holy Prophet Muhammad shall be convicted to death.”* On 10 August 2020, Yahaya Shariff Aminu was convicted of the offence and sentenced to death by hanging.
13. Muhammad Mubarak Bala, an indigene of Kano State and self-identified atheist, who renounced his Islamic faith in 2014, had in March 2020 posted some messages on his Facebook page that were considered to be blasphemous to Islamic faith and capable of occasioning breach of public peace. A petition was written against him by a group of lawyers, because of the Facebook post. Bala was arrested in his home in Kaduna State, which is a neighboring state to Kano State on April 28, 2020, and was moved to Kano State to be detained and prosecuted. He was prosecuted and convicted based on the provisions of Sections 114 and 210 of the Penal Code Law of Kano State and sentenced to 24 years imprisonment.
14. Section 210 of the Penal Code of Kano State (which is the same provision in Section 210 of the Penal Code Act applicable in all the Northern States of the Respondent’s territory) provides that:

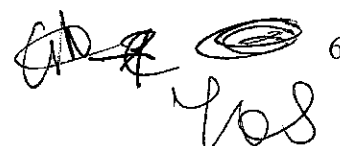
*“Whoever, by any means, publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to a breach of peace, shall be punished with imprisonment for a term which may extend to two years or with a fine or both”*

15. Rhoda Jatau, a Christian woman, was arrested by authorities of the Respondent on 20 May 2020, in Bauchi State within the territory of the Respondent. She was alleged to have shared a message in her work WhatsApp group, condemning the

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murder of Deborah Yakubu (Samuel) who was gruesomely murdered in a College in Sokoto State within the territory of the Respondent for alleged blasphemy. Jatau is reportedly charged with "inciting public disturbance; exciting contempt of religious creed; and cyberstalking" under Sections 114 and 210 of the Penal Code Law, as well as Section 24 subsection 1(b)(i) of the Cybercrime Prohibition Prevention Act 2015. Reportedly, the Court refused to grant her bail on several occasions, citing public safety concerns, yet the Court has refused to accelerate her prosecution. To date, Jatau remains in prison custody.

16. The Applicant also cites some instances of persons who were allegedly killed extra-judicially having been accused of blasphemy.
17. For instance, Eunice Olawale, a Christian preacher was murdered by some fanatics early in the morning of Saturday, 09 July 2016, while preaching outdoors in her neighbourhoods in Gbazango Extension, Kubwa area of Abuja. The Applicant alleges that no one has been brought to justice for her murder.
18. Deborah Yakubu Samuel, a young Christian student of the Shehu Shagari College of Education, Sokoto, was murdered by a mob on 12 May 2022 based on allegations that she had posted statements blasphemous to Islam on a class WhatsApp platform.
19. Mrs. Bridget Agbahime, a trader in Kano, was on 02 June 2015, murdered by a mob in the market where she traded, after she had stopped a Muslim man from performing ablution in front of her shop.
20. Furthermore, the Applicant claimed that on 04 June 2016, the Governor of Kano State announced the arrest of five suspects allegedly involved in the murder of Mrs. Agbahime. On 10 June 2016, these suspects were arraigned before a Chief Magistrate's court in Kano for incitement, culpable homicide and mischief, based on sections 144, 80, 51 and 327 of the State's Penal Code. Shortly after the arraignment, the Police transferred the case to the office of the Attorney General of the State for advice. On 03 November 2016, the Attorney General of the State withdrew the case asking the court to discharge the suspects because there was "no

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*case to answer as the suspects are all innocent.” All the suspects were discharged accordingly.*

21. Usman Buda, a Sokoto-based butcher, was on 25 June 2023 stoned to death on the allegation that he blasphemed Prophet Muhammad. To date, no one has been prosecuted for the murder of Usman Buda.
22. The Applicant alleges that these murders are only some of the instances of extra-judicial killings where the Respondent failed to prevent violations of the right to freedom of religion, right to freedom of expression and right to life, by preventing the extra-judicial killing of the victims. The Applicant alleges moreover that in these instances, no one has been brought to justice for the murders.

b. Pleas in Law

- i. Articles 1, 4 7, 8, 9, 10, 11, 12 and 58 of the African Charter on Human and Peoples’ Rights (ACHPR);
- ii. Articles 6, 7, 12, 18, 19, 21, 22, 27 of the International Covenant on Civil and Political Rights (ICCPR),
- iii. Articles 1, 2, 12, 14 and 16 of the United Nations Convention Against Torture (UNCAT).

c. Reliefs Sought

- i. A DECLARATION that the Respondent has a duty to ensure protection of rights of citizens and residents within its territory particularly, right to freedom of religion, right to freedom of expression, right to life, and freedom from torture as guaranteed under the African Charter on Human and Peoples Rights, the International Covenant on Civil and Political Rights and other international human rights instruments.
- ii. A DECLARATION that extra-judicial killing of persons on the ground of blasphemy within the territory of the Respondent is in clear violation of right

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to freedom of religion, right to freedom of expression, right to fair hearing, right to life, and right to freedom from torture as guaranteed in African Charter on Human and Peoples Rights, Article 14 of the International Covenant on Civil and Political Rights and United Nations Convention Against Torture.

- iii. A DECLARATION that the Respondent's failure to prevent the torturous and extra-judicial killing of all persons so torturously and extra-judicially killed within its territory including Deborah Yakubu (Samuel), Bridget Agbahime, Eunice Olawale and Usman Buda on the ground of blasphemy constitutes violation of their respective rights to freedom of religion, freedom of expression, right to dignity of human person and right to life, while failure to prosecute their killers is a contravention of the Respondent's obligations under the United Nations Convention Against Torture and other international human rights instruments.
- iv. A DECLARATION that the provisions, application and imposition of penalties of death sentence and imprisonment for blasphemy-related offences are excessive or disproportionate restrictions on rights to freedoms of religion and expression and are not reasonably justifiable in a democratic society.
- v. AN ORDER directing the Respondent to facilitate or ensure immediate repeal or amendment of Section 382 (b) Kano State Sharia Penal Code Law 2000 prescribing death sentence for blasphemy and provision of Section 210 of the Penal Code Law of Kano State, Section 210 of the Penal Code Act and similar provisions in any jurisdiction under the Respondent's territory criminalizing public insult or contempt of religion in line with its obligations under the African Charter on Human and Peoples Rights and International Covenant on Civil and Political Rights, and other international human rights instrument.

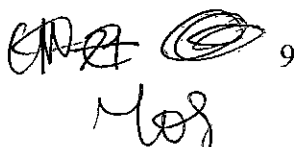
   
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- vi. AN ORDER directing the Respondent to ensure prevention of torturous and extra-judicial killing of persons within its territory on the ground of blasphemy or any other ground whatsoever.
- vii. AN ORDER directing the Respondent to take serious and sustainable steps to facilitate religious tolerance among persons of different faiths within its territory and to take legislative, administrative, judicial and other measures in line with its obligations under international instruments to protect rights to freedom of religion and expression.
- viii. OTHER CONSEQUENTIAL ORDER(S) as this honourable Court may deem fit to grant in the circumstances of this case.

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

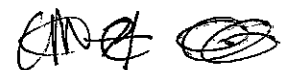
### ***a. Summary of Facts***

- 23. The Respondent's case is that it is not responsible for any of the human rights violations alleged by the Applicant.
- 24. It submits that it complies with its national, regional and international human rights obligations, and it has not relented in its work to always protect the rights of all citizens.
- 25. The Respondent submits that it is a federal and democratic State, and that the component States of the Federation have law-making powers to ensure peace, order and good government of the States.
- 26. Moreover, it insists that the blasphemy laws, of which the Applicant complains, are all laws of the component States, and not those of the Federal Republic of Nigeria, which is the Respondent in this case.
- 27. Furthermore, the Respondent submits that as part of efforts to protect the rights of persons under its jurisdiction, its Constitution makes provisions for human rights

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which align with provisions of international human rights instruments such as the African Charter on Human and Peoples' Rights, and the International Covenant on Civil and Political Rights, among others.

28. Its Constitution provides for a judicial system which can entertain cases alleging violation of human rights, and the Respondent has also created a National Human Rights Commission with a mandate to promote and protect human rights, investigate alleged violations of human rights, and enforce its decisions. Moreover, a department responsible for human rights promotion and protection has been established in the Offices of both Federal and State Attorneys-General.
29. The Respondent avers that Yahaya Shariff Aminu and Muhammad Mubarak Bala were prosecuted pursuant to Section 382 (b), of the Kano State Sharia Penal Code 2000, and Section 114 and 210 of the Penal Code Law of Kano State, which are laws enacted by the Kano State House of Assembly, and which had been enacted well before they were prosecuted. That is, these laws were not retroactively enacted specifically to prosecute Yahaya Shariff Aminu or Muhammad Mubarak Bala.
30. In addition, Rhoda Jatau was arrested, detained and tried pursuant to Sections 114 and 210 of the Penal Code Law, and Section 24 (1)(b) (i) of the Cybercrime Prohibition and Prevention Act 2015. It submits that these laws are not contrary to the laws of Nigeria or the African Charter on Human and Peoples' Rights.
31. The Respondent states that its law enforcement agencies have taken necessary action on all cases of extra-judicial killings reported to them.
32. Furthermore, the Respondent maintains that it provides the right to freedom of thought, conscience and religion, including freedom of a citizen to change his religion or belief, either alone or in community with others, and in public or private, and to manifest and propagate his religion or belief in worship, teaching, practice and observance. It submits that all these rights are enforceable in the domestic courts.



Yes

b. Pleas in Law

African Charter on Human and Peoples' Rights.

c. Reliefs Sought

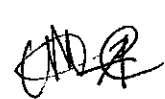
To dismiss and/or strike out this matter for want of Jurisdiction and lacking in merit.

***VII. APPLICANT'S REPLY***

33. The Applicant reiterates that this case has been initiated in the public interest and the instances of convictions, disproportionate sentencing and extra-judicial killing stated in the Initiating Application are only representative of some of several violations of rights in the jurisdiction of the Respondent.
34. It submits that the Respondent in its Statement of Defence did not categorically deny the happenings of extra-judicial killings on the ground of blasphemy nor contradict the instances listed by the Applicant in the Initiating Application.
35. The Applicant concludes that it has been able to prove that the provisions of Section 382 (b) of Kano State Sharia Penal Code Law of 2000 and Section 210 of the Penal Code of Kano State are excessive, disproportionate and unnecessary.

***VIII. JURISDICTION***

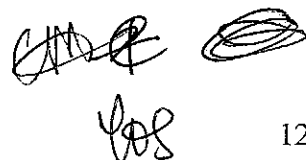
36. Article 9 (4) of the Protocol of the Court A/P.1/7/91 as amended by Supplementary Protocol A/SP.1/01/05, provides that the Court has jurisdiction to determine cases of violation of human rights that occur in any Member State.
37. In this case, the Applicant allege that the Respondent's use of blasphemy provisions in its criminal laws to arrest, detain, imprison, and impose death sentences on its citizens, as well as its failure to prevent extra-judicial killings by mobs, of persons alleged to have committed blasphemy, are a violation of the rights to freedom of religion, freedom of expression, and life under international human rights instruments binding on the Respondent.

   
Yes

38. Since this case concerns allegations that the Respondent is in violation of human rights provisions under the African Charter on Human and Peoples' Rights and other international human rights instruments binding on the Respondent State, the Court holds that it has jurisdiction to determine this case.

### ***IX. ADMISSIBILITY***

39. After a determination that the Court has jurisdiction in this case, the Court must examine to see whether the case meets the admissibility criteria as spelt out in Article 10 (d) of the Court's Protocol of 1991, as amended by the 2005 Supplementary Protocol.
40. Article 10 (d) provides access to the Court to individuals on application for relief for violation of their human rights; the submission of application for which shall:
- i. Not be anonymous; nor
  - ii. Be made whilst the same matter has been instituted before another International Court for adjudication.
41. This creates three conditions that an application for enforcement of human rights must meet to be admissible before the Court, namely: a) the Applicant must prove that they are victims of the human rights violations complained of, b) the Application must not be anonymous, and c) the Application must not have been submitted to another international court for adjudication. See *SAWADOGO PAUL & 3 ORS v. REPUBLIC OF BURKINA FASO ECW/CCJ/JUD/07/20 @ pg. 9.*; *DANIEL AGADA OKOH & 42 ORS. V. FEDERAL REPUBLIC OF NIGER ECW/CCJ/JUD/04/21 @ pg. 16 Para 37.*
42. In this case, the Applicant is not anonymous. The Applicant's name and address is indicated in the Initiating Application. Also, there is no indication that the Application has been submitted to another international court for adjudication.
43. As to the requirement to prove victimhood, the Court notes that the Applicant does not claim to be the victims of the human rights violations complained about. The Applicant claims to have brought the Application in the public interest.

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44. Proof of victim status which is in tandem with "locus standi" is key to a successful claim pursuant to Article 10 (d) of the Court's Protocol as amended by the Supplementary Protocol 2005. See *LAWRENCE H. JOTHAN AND 13 OTHERS v. FEDERAL REPUBLIC OF NIGERIA*. ECW/CCJ/JUD/33/21 @ pg. 25 para 70.
45. The term "locus standi" denotes the interest to institute proceedings in a court of law or to be heard in a given cause. In other words, the strict application of locus standi denotes that an Applicant wishing to sue must have sufficient interest in the subject matter to have a standing to litigate same. See *EBERE ANTHONIA AMADI & 3 ORS v. THE FEDERAL GOVERNMENT OF NIGERIA* ECW/CCJ/JUD/22/19 @ pg. 13.
46. The victim is the person who has suffered, directly or indirectly, any damage or pain (physical or mental injury), emotional suffering (for loss of a family member or relative), economic loss (loss of property) or any other damage that can be classified as a human rights violation. See *TAHIROU DJIBO & 3 ORS v. THE REPUBLIC OF NIGER* ECW/CCJ/JUD/13/2020 @ pg. 26.
47. However, the Court recognises some exceptions. One of these exceptions is representative actions where individuals who are not direct victims of a violation can bring an action before the Court if they are relations of the victim of violation of human rights. See *THE REGISTERED TRUSTEES OF JAMA'A FOUNDATION & 5 ORS v. FEDERAL REPUBLIC OF NIGERIA & 1 OR*. ECW/CCJ/JUD/04/20 @ pg. 18.
48. The second exception is where the Court allows individuals and corporate bodies who are not victims to bring an action in a representative capacity under the principle of *actio popularis*. The Court under this situation will allow non-governmental organisations (NGOs) and public-spirited individuals to institute actions on behalf of a group of victims usually from a community or class of people based on common public interest to claim for the violation of their human rights, because this group may not have the knowledge and the financial capacity to maintain legal action of such magnitude which affects the general public interest. See *REV. FR. SOLOMON MFA & 11 ORS V. FEDERAL REPUBLIC OF NIGERIA & 5 ORS*, ECW/CCJ/JUD/06/19 at para 59; *CONCERNED YOUTH OF GANTA FOR*

49. A matter is of public interest when it affects the wider well-being or common good of the society, encompassing the general population or society as a whole. It covers all members of a community or the general public and not specific individuals or groups. See *INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA V. FEDERAL REPUBLIC OF NIGERIA*, *supra* at para 132.
50. Since the Applicant claims to have brought this Application in the public interest, the Court must examine the Application to see if it meets the requirements of an action brought under the *actio popularis* principle.
51. For an action to succeed under the *actio popularis* principle, The Applicant must fulfill three conditions namely; 1) the rights alleged to have been violated must be established to be capable of being held by the public and not a private right, except where the alleged breach of an individual right has injured the public or a large, indeterminate section of it; 2) the reliefs sought must be for the exclusive benefit of the public to the exclusion of the personal interest of the Applicant. An exception must be made when the Applicant is a member of the community or the group concerned; and 3) the victims, while not determinable, must for the purposes of award or reparation, be capable of being envisioned or envisaged by the Court.
52. The Court will now determine whether these conditions are satisfied by the Applicant in this case. These will be addressed in turn.

*The rights alleged to have been violated must be established to be capable of being held by the public and not a private right*

53. The Court will examine the rights the Applicant alleges that the Respondent has violated, to establish if they are public or private rights.
54. The Applicant alleges that by the existence and application of blasphemy laws in certain parts of Nigeria, and by the failure to protect citizens from extra-judicial executions on the basis of having committed blasphemy, the Respondent has

  
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violated the right to freedom of religion, right to freedom of expression and the right to life.

### ***Right to freedom of religion***

55. The right to freedom of religion is provided for by Article 8 of the African Charter thus:

*“Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.”*

56. The Court considers that religion is a personal set of beliefs in the existence of one or more supernatural beings, and the worship of such beings. As such, everyone’s religion is personal to him or her.

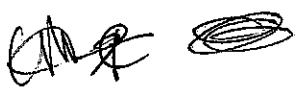
57. Thus, the Court holds that the freedom of religion is a private right. As such, it cannot be the subject of an *actio popularis* application.

### ***Right to freedom of expression***

58. Article 9 of the African Charter provides for the freedom of expression thus:

1. *“Every individual shall have the right to receive information.*
2. *Every individual shall have the right to express and disseminate his opinions within the law.”*

59. The Court recalls that in holding the freedom of expression to be a public right, it noted that each sub-section of the Article begins with the phrase ‘every individual’. The connotation is that everybody has the right to receive, express and disseminate information or opinion and its exercise and enjoyment is available to the public at large. Therefore, the promotion of truth regarding public matters by furnishing a basis for understanding them is a public interest and public good essential to the vitality of not only the public good but also a democratic society. See

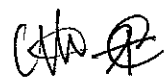
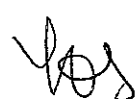
  
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INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA V FEDERAL REPUBLIC OF NIGERIA, ECW/CCJ/JUD/07/24 at para 111.

60. The Court has held that the dissemination and receipt of information is a matter of public interest and a public right capable of being protected under the *actio popularis* principle. Thus, being a right capable of being enjoyed individually and collectively by all, the Court holds that freedom of expression is a public right, and therefore fulfils the first condition. See INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA V FEDERAL REPUBLIC OF NIGERIA, *supra*, at para 113.

### ***Right to life***

61. The right to life is provided for in Article 4 of the African Charter which 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*”.
62. The Court has held that the import of this right is that every human being is guaranteed the respect to **his** life and integrity of **his** person. It connotes the individuality of this right to be enjoyed by an individual and the deprivation of that life and the ensuing loss is solely that of the deceased and cannot be imputed as a loss to the public. In essence a right to life is not one that can be held by the public. See INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA V FEDERAL REPUBLIC OF NIGERIA, *supra*, at para 99.
63. Thus, the right to life is a private right, and does not qualify as a right for which *actio popularis* can be instituted.
64. Having determined that the rights to life and freedom of religion are private rights, the Court considers that there is no evidence before the Court to suggest that the violations of these rights have affected a large, indeterminate section of the public. Therefore, the allegations of violations of the right to life and freedom of religion in this case do not fit into the exception where individual rights can be the subject

   
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of *actio popularis* if the violations affect a large, indeterminate section of the public. See ISAAC MENSAH v. REPUBLIC OF GHANA, *supra*, at para 76.

65. Having held that the rights to life and freedom of religion as alleged in this case are private rights and not public to enable an *actio-popularis* and considering that the failure to fulfil any of the required conditions renders the case inadmissible, the Court holds that the allegations of the violation of the right to life and freedom of religion are inadmissible. SEE ISAAC MENSAH v. REPUBLIC OF GHANA, ECW/CCJ/JUD/30/24 at para 76.
66. The Court will therefore proceed to examine only the allegations of the violation of the right to freedom of expression, same being a public right, to determine whether the other conditions have been met.

*Reliefs sought must be for the exclusive benefit of the public*

67. The import of *actio popularis* is that the action is meant for the benefit of the public. A matter is of public interest when it affects the wider well-being or common good of the society, encompassing the general population or society as a whole. It covers all members of a community or the general public and not specific individuals or groups. *INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA V. FEDERAL REPUBLIC OF NIGERIA, SUPRA AT PARA 132.*
68. Thus, the reliefs sought must be exclusively for the benefit of the public. An action will not meet this requirement if the reliefs sought are not for the benefit of the entire public.
69. A review of the reliefs sought by the Applicant shows that most of these reliefs are not tailored for the benefit of individuals but for the society as a whole, thus satisfying the requirement that reliefs must be for the benefit of the public. However, the third relief sought requires a critical examination.
70. The Applicant seeks the following as the third relief:

*DECLARATION that the Respondent's failure to prevent the torturous and extra-judicial killing of all persons so torturously and extra-judicially killed within its*

*territory including Deborah Yakubu (Samuel), Bridget Agbahime, Eunice Olawale and Usman Buda on the ground of blasphemy constitutes violation of their respective rights to freedom of religion, freedom of expression, right to dignity of human person and right to life, while failure to prosecute their killers is a contravention of the Respondent's obligations under the United Nations Convention Against Torture and other international human rights instruments.*

71. This relief seeks a declaration that the extra-judicial killing of some individuals within the Respondent's territory is a violation of the rights of those individuals. As this relief seeks a vindication of the violation of the rights of individuals, the court finds that it is not a relief exclusively for the benefit of the public.
72. However, since the other reliefs in the case are sought for the benefit of the public, the Court will strike out the third relief, and proceed to determine whether the conditions for granting the other reliefs are fulfilled.

*Indeterminate victims*

73. In an *actio popularis* application, the victims must be indeterminable and not individuals or a group of persons but a society, community or public at large. As earlier stated, public interest refers to matters that affect the broader welfare or common good of society. It encompasses all members of a community, society or the broader public rather than specific individuals or a group. See *INCORPORATED TRUSTEES OF MEDIA RIGHTS AGENDA V. FEDERAL REPUBLIC OF NIGERIA, SUPRA AT PARA 132*.
74. The instant Application alleges that the Respondent by the existence and application of blasphemy laws which impose imprisonment and death penalty for offenders, as well as the failure to prevent the extra-judicial killing of persons accused of blasphemy has violated the rights to freedom of religion, freedom of expression, and life.
75. The Court notes that while the Applicant has named a few victims of each violation alleged, the Applicant maintains that the names mentioned are only examples of

   
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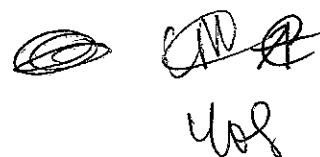
victims of these violations. Moreover, the Court is of the view that violations of the freedom of expression affect the society as a whole, and when individuals in the society cannot express themselves freely, either for fear of imprisonment or fear of death, then everyone in the society becomes a victim.

76. Thus, the Court finds that in this case, as regards the allegations of violations of the right to freedom of expression, the whole society is a victim, and the requirement that the victims be indeterminate is satisfied.
77. Having held that of all the rights alleged to be violated in this case, only the right to freedom of expression is actionable under *actio popularis*, and having struck out the third relief sought by the Applicant, the Court holds that the case is admissible, only in respect of allegations of the violation of the right to freedom of expression.

## **X. MERITS**

### *Alleged violation of the freedom of expression*

78. The Applicant alleges violation of the freedom of expression in two ways. First, the Applicant submits that the Respondent has violated the freedom of expression by its consistent use, or failure to prevent the use of criminal provisions on blasphemy to arrest, arbitrarily detain, unlawfully prosecute, imprison and impose death sentences on citizens.
79. Secondly, the Applicant submits that by its failure to prevent extra-judicial killings by mobs, of persons alleged to have committed blasphemy in its territory, the Respondent has violated the freedom of expression.
80. The Court will now proceed to consider these allegations and determine whether the Applicant has established the violations of the freedom of expression against the Respondent. However ahead of this examination, it is imperative to recall the International Responsibility of State for the violation of Human Rights violations which reposes culpability for any conduct of an organ of a State to the State irrespective of any unauthorized act. TIDJANE KONTE & ANOR v. REPUBLIC OF

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GHANA ECW/CCJ/JUD/11/14 @ pg. 16; See also MOUKHTAR IBRAHIM v. GOVERNMENT OF JIGAWA STATE & 2 ORS ECW/CCJ/JUD/12/14 @ pg. 35.

81. The Court notes that Section 210 of the Penal Code of Kano State and Section 382 (b) of the Kano State Sharia Penal Code Law are not federal laws but laws of Kano State, a federating unit within Nigeria- the Respondent. Thus, in line with the international obligation of States, the Respondent in the instant case will assume any liability if any that may be ascribed to Kano State,

*a. Allegations regarding the use of blasphemy laws that impose imprisonment and death penalty.*

82. The Applicant avers that the Respondent has consistently used, or otherwise failed to prevent the use of criminal provisions on blasphemy to arrest, arbitrarily detain, unlawfully prosecute, imprison and impose death sentences on citizens.

83. The Applicant avers that one Yahaya Shariff Adamu was arrested for posting statements, on a WhatsApp group audio, that were considered blasphemous to Prophet Muhammad. Adamu posted that “*there is no great pagan like prophet Muhammad (PBUH), he is a complete pager, he brought an unforgivable sin to the world*” and “*I will not hold Prophet Muhammad (PBUH) and leave Inyass*”.

84. Adamu was tried before the Upper Sharia Court sitting in Hausawa, Kano State of Nigeria for blasphemy pursuant to the provisions of 382 (b) of Kano State Sharia Penal Code Law 2000, which provides that:

*“any person whosoever found using any expression by means of words, gestures, abusing the Holy Prophet Muhammad shall be convicted to death.”*

85. Adamu had no legal representation at the trial. On 10 August 2020, he was convicted of blasphemy and sentenced to death.

86. Similarly, Muhammad Mubarak Bala, an indigene of Kano State and self-identified atheist, who renounced his Islamic faith in 2014, had in March 2020

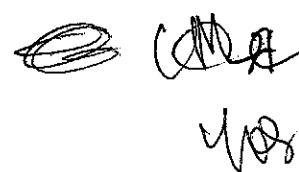
   
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posted some messages on his Facebook page which were considered to be blasphemous to Islamic faith and capable of occasioning breach of public peace. Bala was arrested on April 28, 2020, and was prosecuted and convicted based on the provisions of Sections 114 and 210 of the Penal Code Law of Kano State and sentenced to 24 years imprisonment.

87. Section 210 of the Penal Code of Kano State (which is the same provision in Section 210 of the Penal Code Act applicable in all the Northern States of the Respondent's territory) provides that:

*"Whoever, by any means, publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to a breach of peace, shall be punished with imprisonment for a term which may extend to two years or with a fine or both"*

88. Rhoda Jatau, a Christian woman, was arrested by authorities of the Respondent on 20 May 2020, in Bauchi State within the territory of the Respondent. She was alleged to have shared a message in her work WhatsApp group, condemning the murder of Deborah Yakubu (Samuel) who was gruesomely murdered in a College in Sokoto State within the territory of the Respondent for alleged blasphemy. Jatau has allegedly been charged with "inciting public disturbance; exciting contempt of religious creed; and cyberstalking" under Sections 114 and 210 of the Penal Code Law, as well as Section 24 subsection 1(b)(i) of the Cybercrime Prohibition Prevention Act 2015.
89. The Applicant avers that these are only examples of the Respondent's use of blasphemy laws to arrest and prosecute its citizens.
90. Evidence submitted by the Applicant to support its claims include a certified copy of the judgment of the Upper Sharia Court, Hausawa, Kano, Kano State in the case of *Commissioner of Police v Yahaya Shariff Aminu*, and a certified copy of the



judgment of the High Court of Kano State in the case of *The State v Muhammad Mubarak Bala*.

91. These judgments reveal that Yahaya Shariff Aminu was prosecuted on the basis of Section 382 (b) of the Kano State Sharia Penal Code Law of 2000, and sentenced to death for the offence of blasphemy. Furthermore, Muhammad Mubarak Bala was prosecuted on the basis of Sections 114 and 210 of the Penal Code of Kano State, and sentenced to 24 years imprisonment. The Respondent on the other hand maintains that it has not violated the rights of Yahaya Shariff Aminu, Muhammad Mubarak Bala and Rhoda Jatau as they were all tried under laws that were validly passed by the competent legislative authorities, and were not passed specifically to prosecute Aminu, Bala or Jatau.
93. The Respondent submits that these laws are neither contrary to the Nigerian Constitution, nor incompatible with the African Charter on Human and Peoples' Rights, and as such the State has the authority to prosecute persons who have breached the laws.

#### *Analysis of the Court*

94. The Court, having critically examined the submissions of the Applicant, notes that the allegations relate to the use of two legal provisions concerning offences against the religious beliefs of other persons.
95. These are Section 210 of the Penal Code of Kano State (which is the same provision in Section 210 of the Penal Code Act applicable in all the Northern States of the Respondent's territory); and Section 382 (b) of Kano State Sharia Penal Code Law 2000.
96. The Court has the competence to examine domestic law where the case has a direct bearing on the consideration of whether that domestic law constitutes a violation of the State's international human rights treaty obligations, and constitutes a violation of individual rights. See *NNENNA OBI v. FEDERAL REPUBLIC OF NIGERIA* JUDGMENT NO. ECW/CCJ/APP/JUD/27/16 at page 13. See also *FEDERATION OF*

AFRICAN JOURNALISTS AND OTHERS V THE GAMBIA, ECW/CCJ/JUD/04/18 at pages 30 – 31.

97. The Court will thus examine these legal provisions to determine if they are compatible with the freedom of expression provided for in Article 9 of the African Charter on Human and Peoples' Rights.

*Standards on Freedom of Expression*

98. Article 9 provides that:

*"1. Every individual shall have the right to receive information.*

*2. Every individual shall have the right to express and disseminate his opinions within the law."*

99. The implication of Article 9 (2) of the Charter is that the right to freedom of expression is not absolute and it must be exercised in accordance with conditions imposed by the law of each Member State. See *MR. GABRIEL MESSAN AGBEYOME KODJO v. TOGOLESE REPUBLIC ECW/CCJ/JUD/11/2022 @ pg.54-55 para 190-191.*

100. However, any restrictions imposed by the State on the exercise of freedom of expression must not jeopardize the right itself. In this vein, Article 27(2) of the African Charter requires that *"[t]he rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest"*. See *MR. GABRIEL MESSAN AGBEYOME KODJO v. TOGOLESE REPUBLIC, supra, para 209.*

101. Similarly, Article 19 of the ICCPR provides for freedom of expression but recognises that it may be subject to certain restrictions, which must be provided by law and are necessary either for the respect of the rights or reputations of others; or for the protection of national security, public order, public health or morals.

102. The Court recognises three conditions that must be met by any restrictions or limitations on freedom of expression. These are 1) the limitation must be prescribed by law, 2) the limitation must serve a legitimate aim, and 3) the limitation must be proportionate and necessary to achieve the stated aim in a

democratic society. See *THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS AND ACCOUNTABILITY PROJECT V. FEDERAL REPUBLIC OF NIGERIA*, ECW/CCJ/JUD/12/22 at para 48. See also *Principle 9, DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION IN AFRICA*, adopted by the African Commission on Human and Peoples' Rights.

103. The laws prescribing limitations must pass the test of legality, that is, they should not be arbitrary but should be predictable, reasonable, proportionate and pursue legitimate claims. Such law must define the parameters or elements of the crime that it provides for. A law with vague and imprecise terms will not pass the test of legality. See *THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS AND ACCOUNTABILITY PROJECT V. FEDERAL REPUBLIC OF NIGERIA*, *supra*, paras 45 to 51; *ASSOCIATION DES BLOGUEURS DE GUINÉE & 3 ORS V. GUINEA*, ECW/CCJ/JUD/38/23, at para 54.
104. In addition, laws that limit rights will not pass the test of legality if they do not provide sufficient indication to the citizens on what the law prohibits and confer a broad discretion on law enforcement agencies in terms of how to enforce those laws. See *ADVOCAID V SIERRA LEONE*, ECW/CCJ/JUD/33/24 at paras 73 – 74.
105. The legitimate aims for which rights could be restricted or limited include preserving respect for the rights or reputations of others; or to protect national security, public order or public health. Moreover, the limitation must 1) originate from a pressing and substantial need that is relevant and sufficient; 2) have a direct and immediate connection to the expression and disclosure of information, and be the least restrictive means of achieving the stated aim; and 3) be such that the benefit of protecting the stated interest outweighs the harm to the expression and disclosure of information, including with respect to the sanctions authorised. See *ASSOCIATION DES BLOGUEURS DE GUINÉE & 3 ORS V. GUINEA*, *supra*, at paras 53 to 59; *THE INCORPORATED TRUSTEES OF LAWS AND RIGHTS AWARENESS INITIATIVES v FEDERAL REPUBLIC OF NIGERIA*, ECW/CCJ/JUD/16/20, at paras 116 -117.
106. In this context, the Court will proceed to examine the provisions of Section 210 of the Penal Code of Kano State and Section 382 (b) of Kano State Sharia Penal Code

  
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Law 2000 against these standards to determine if they are compatible with the Respondent's international human rights obligations.

*Section 210 of the Penal Code of Kano State*

107. Section 210 of the Penal Code of Kano State provides:

*"Whoever, by any means, publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to a breach of peace, shall be punished with imprisonment for a term which may extend to two years or with a fine or both"*

108. The Court notes that this provision is a limitation on the freedom of expression which is provided for by domestic law. The Court thus must examine whether the domestic law passes the test of legality, pursues a legitimate aim, and is necessary in a democratic society.

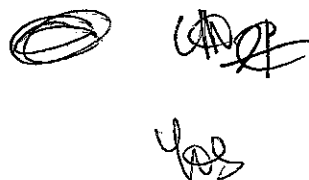
*Does the law pursue a legitimate aim?*

109. The Court reckons that Section 210 of the Penal Code of Kano State seeks to prevent a breach of peace, which could be occasioned by any expression that incites contempt of any religion. The Court appreciates that religion is a sensitive topic that could provoke emotional outbursts as individuals defend their deeply held religious beliefs or objects of worship, which could consequently lead to a breakdown of public order.

110. The prevention of breakdown of law and order falls within the ambit of collective security contemplated in Article 27(2) of the African Charter on Human and Peoples' rights as a legitimate reason for limitation of rights.

111. The Court therefore holds that Section 210 of the Penal Code of Kano State pursues a legitimate aim.

*Does the law pass the test of legality?*

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112. As to the test of legality, the Court notes that Section 210 of the Penal Code Law of Kano State exists to set a limitation on the right to freedom of expression. Thus, the limitation in this respect is provided for by law.
113. The Court notes further that the provision of the law contains the words “*in such a manner as to be likely to lead to a breach of peace*”. The Court considers that these words are vague and are not precise as they do not clearly set out the parameters of the conduct that is prohibited. Moreover, being vague, they leave room for individual discretion of law enforcement authorities in determining what is likely to lead to a breach of peace. See *THE INCORPORATED TRUSTEES OF LAWS AND RIGHTS AWARENESS INITIATIVES v FEDERAL REPUBLIC OF NIGERIA*, *supra*, at para 126 to 127; *ADVOCAID V SIERRA LEONE*, *supra* at paras 73 – 74.
114. It follows therefore that Section 210 of the Penal Code of Kano State does not satisfy the test of legality.
115. Having found that Section 210 of the Penal Code of Kano State does not satisfy the test of legality, the Court sees no need to examine whether it is proportional and necessary in a democratic society. The Court therefore holds that Section 210 of the Penal Code of Kano State is incompatible with obligation of the Respondent under Article 9 (2) of the African Charter on Human and Peoples’ Rights, and Article 19 of the ICCPR.

*Section 382 (b) of Kano State Sharia Penal Code Law of 2000*

116. Section 382 (b) of Kano State Sharia Penal Code Law 2000 provides that:

*“any person whosoever found using any expression by means of words, gestures, abusing the Holy Prophet Muhammad shall be convicted to death.”*

117. The Court considers that this is a limitation on the exercise of the freedom of expression and is provided by law. As with the previous law, the Court will proceed to examine whether the law passes the test of legality, pursues a legitimate aim, and is necessary in a democratic society.

   
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*Does the law pursue a legitimate aim?*

118. Section 382 (b) of Kano State Sharia Penal Code Law 2000 is clearly a law that prohibits blasphemy which may be argued as restricting freedom of expression. While in a democratic society, the right to freely express opinion – including criticism of religion- is fundamental, there is need to strike a balance between this right and the right for the respect of the religious belief of others especially beliefs in the deity and sanctity of religious leaders.
119. In this context, blasphemy laws has the potential to prevent religious motivated violence by discouraging inflammatory speech that provoke riots or communal strife. In deeply religious society such as Kano State whose law is under consideration, blasphemy laws can be seen as necessary for stability, promoting respect between religious groups by discouraging offensive statement that could fuel sectarian tension.
120. As earlier noted, religion is a sensitive topic that could provoke emotional outbursts as individuals defend their deeply held religious beliefs or objects of worship, with the potential of breakdown of public order. There is therefore a pressing need for a law that seeks to maintain public peace and order preventing motivated violence.
121. In this regard, the Court finds that the provisions of Section 382 (b) of Kano State Sharia Penal Code Law 2000 serve this purpose of ensuring respect for the religious beliefs of other persons, as well as sustaining peace, law and order in the society. See *CASE OF E.S. v. AUSTRIA, ECHR 38450/12, at para 41*.
122. Consequently, the Court finds that Section 382 (b) of Kano State Sharia Penal Code Law 2000 pursues a legitimate aim.

*Does the Law pass the test of legality?*

123. As earlier pointed out, laws that limit the freedom of expression must be predictable, reasonable, and must define the parameters or elements of the crime

that they provide for, as laws with vague and imprecise terms will not pass the test of legality. See THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC RIGHTS AND ACCOUNTABILITY PROJECT V. FEDERAL REPUBLIC OF NIGERIA, *supra*, paras 45 to 51; ASSOCIATION DES BLOGUEURS DE GUINÉE & 3 ORS V. GUINEA, *supra*, at para 54.

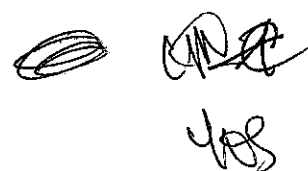
124. The Court notes that this provision of the law seeks to limit the freedom of expression, and observes that the provisions are clear, unambiguous and are precise as to the conduct that it proscribes.

125. Therefore, the Court finds that Section 382 (b) of the Kano State Sharia Penal Code Law of 2000 satisfies the test of legality.

*Is the Law necessary in a democratic society?*

126. With regards to whether this law is proportionate and necessary to achieve the stated aim in a democratic society, the Court recalls that the principle of proportionality or proportional justice is used to describe the idea that the punishment of a particular criminal offence must be proportional to the seriousness of the criminal offense itself. It seeks to determine whether, through the action of the State, a fair balance has been achieved between the protection of the rights and freedoms of the individual and the interests of society as a whole. Human rights limitations imposed by law must be proportionate and the least restrictive means of achieving the purpose of the restriction. See THE INCORPORATED TRUSTEES OF LAWS AND RIGHTS AWARENESS INITIATIVES v FEDERAL REPUBLIC OF NIGERIA, *supra*, at para 155; ADVOCAID V SIERRA LEONE, *supra* at para 69.

127. In this regards, the Court will examine whether section 382 (b) of the Kano State Sharia Penal Code Law of 2000 that imposed death penalty for abusing or insulting a religious leader is excessive and disproportionate. Indeed, while respect for religious beliefs is important, it should not come at the cost of free speech, justice, and human dignity. Blasphemy is an offense against religious sentiments not a

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crime that causes physical harm to individuals. Insulting someone is a verbal offense, not a violent crime.

128. Additionally, capital punishment is typically reserved for serious crimes like murder, terrorism or genocide where there is a clear victim who have suffered grave harm not speech or disrespect. The Court is of the opinion that there are less restrictive ways in which the State could limit the freedom of expression for the purpose of ensuring respect for the religious beliefs of others, and the preservation of public peace. In this vein, punishment for hate speech offers a more proportionate and right based approach to addressing religious sensitivities while upholding freedom of expression. Instead of imposing excessive penalties like death sentences, hate speech law typically result in imposition of fines or imprisonment in severe cases.

129. In that regards, the Court finds that the imposition of the death penalty as punishment for abusing or insulting a religious figure is an excessive measure that cannot be said to be proportional to the aim of preserving the respect of others religious beliefs or preventing the breakdown of peace.

130. Consequently, the Court further finds that Section 382 (b) of the Kano State Sharia Penal Code Law of 2000 is not proportionate and necessary in a democratic society for the purpose of achieving the aims for which it was enacted.

131. The Court therefore holds that the provisions of both Section 210 of the Penal Code of Kano State and Section 382 (b) of Kano State Sharia Penal Code Law 2000 are incompatible with the obligations of the Respondent to guarantee the freedom of expression pursuant to Article 9 (2) of the African Charter on Human and Peoples' Rights, and Article 19 of the ICCPR.

132. Having held that Section 210 of the Penal Code of Kano State and Section 382 (b) of the Kano State Sharia Penal Code Law are incompatible with the obligations of



the Respondent to guarantee the freedom of expression, in consonance with the principle of international responsibility of States, it follows that the Respondent is responsible in international law for the violation of the freedom of expression as provided in Article 9 (2) of the African Charter on Human and Peoples' Rights, and Article 19 of the ICCPR. The Court so holds.

*b. Allegations regarding extra-judicial killings of persons accused of blasphemy*

133. The Applicant avers that the Respondent State has failed to prevent extra-judicial killings by mobs, of persons alleged to have committed blasphemy.
134. The Initiating Application cites four examples of such alleged extra-judicial killings which have happened on the territory of the Respondent. Eunice Olawale, Deborah Yakubu Samuel, Bridget Agbahime and Usman Buda were allegedly murdered by mobs on allegations that they had committed blasphemy against Islam.
135. The Applicant alleges that these extra-judicial killings violate the right to life, freedom of religion and freedom of expression.
136. The Applicant supports its claims in this regard with Annexures 8 to 14, which are online newspaper clips reporting on the alleged killings.
137. The Respondent on the other hand submits that it has not relented in its obligation to protect the right to life of its citizens. Furthermore, it has taken necessary action in respect of all reports of extra-judicial killings lodged with its law enforcement agencies.

*Analysis of the Court*

138. Having dismissed the allegations of the violation of the right to life and freedom of religion, the Court considers this allegation only in respect of the violation of the right to freedom of expression as provided for in Article 9(2) of the African Charter, and Article 19 of the ICCPR.

   
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139. It is trite law that he who asserts must prove. It is therefore the responsibility of the claimant making an allegation to support it with uncontroverted evidence. See *MATTHEW ISABU V. FEDERAL REPUBLIC OF NIGERIA ECW/CCJ/JUD/41/22 @ pg.25 para 79*
140. In this case, the Applicant has submitted online newspaper clips as proof of the extrajudicial killings of Eunice Olawale, Deborah Yakubu Samuel, Bridget Agbahime and Usman Buda.
141. The Court recalls its jurisprudence that the truth or proof must not only be a statement of fact but must be supported by evidence in the form of a document or testimony on oath that establishes the claim and is of persuasive influence to the Court. Online newspaper clippings on their own are insufficient in discharging the burden of proof as the same should be corroborated with, for instance, the oral testimony and or witness statements of the victims. *THE REGISTERED TRUSTEES OF THE SOCIO-ECONOMIC & ACCOUNTABILITY PROJECT (SERAP) V. FEDERAL REPUBLIC OF NIGERIA ECW/CCJ/JUD/12/22 @ para 61.*
142. It therefore follows that the online newspaper clips submitted by the Applicants to prove the extrajudicial killings of Eunice Olawale, Deborah Yakubu Samuel, Bridget Agbahime and Usman Buda will not suffice to prove their deaths.
143. The Court notes moreover that the Applicant's allegation is that the extrajudicial killings of Eunice Olawale, Deborah Yakubu Samuel, Bridget Agbahime and Usman Buda are part of a pattern of extrajudicial killings carried out by mobs on persons accused of blasphemy, and which the Respondent has failed to prevent. However, the Applicant did not place any evidence or statistics before the Court to show the Court of any more persons that were similarly killed.
144. The Court therefore finds that the Applicant has not proved the occurrence, on the territory of the Respondent, of extrajudicial murders on grounds of blasphemy, which the Respondent has failed to prevent.
145. The Court therefore holds that there is no violation of the freedom of expression on this ground.

## ***XI. REPARATIONS***

146. Since the Court has found that the Respondent has violated its human rights obligations to guarantee the freedom of expression, the general principle of law applies that any violation of an international obligation that has produced damage entails the obligation to make reparations. *HEMBADOON CHIA & 7 ORS V. FEDERAL REPUBLIC OF NIGERIA & ANOR ECW/CCJ/JUD/21/18 @ pg. 33; WOMEN AGAINST VIOLENCE EXPLOITATION IN SOCIETY (WAVES) v. SIERRA LEONE ECW/CCJ/JUD/37/19, at page 29.*
147. Reparations may be in the form of satisfaction, restitution, compensation, rehabilitation and guarantees of non-repetition. The type of reparation to be awarded depends on the circumstances of the case involved.
148. Having earlier dismissed the third relief sought by the Applicant, the Court notes that the remaining reliefs sought are forms of satisfaction and guarantees of non-repetition, in which the Applicants seek some declaratory reliefs, orders to repeal or amend the laws of the Respondent, as well as orders to ensure prevention of extrajudicial killings and facilitate religious tolerance.
149. The Court has held that the provisions of both Section 210 of the Penal Code of Kano State and Section 382 (b) of Kano State Sharia Penal Code Law 2000 are incompatible with the international human rights obligations of the Respondent to guarantee the freedom of expression. Therefore, the Court finds it expedient to order the State to repeal or amend these legal provisions, as well as similar provisions in the laws of the Respondent, to bring them in line with the obligations of the Respondent under the African Charter on Human and Peoples' Rights, and the ICCPR.

## ***XII. COSTS***

150. The Courts recalls that Article 66(1) of the Rule of Procedure, which provides that: "A decision as to costs shall be given in the final judgment or in the order, which closes the proceedings."

   
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151. The Rule in Article 66(11) states that: “if costs are not claimed, the parties shall bear their own costs.”

152. The Court notes that both parties i.e. the Applicant and the Respondent in the instant application did not make any submission regarding costs. In line with Article 66(11) of the Rule of Procedure, since the parties have not claimed any cost, the parties shall bear their own costs.

### ***XIII. OPERATIVE CLAUSE***

153. For the reasons stated above, the Court sitting in public, after hearing both Parties:

#### **As to Jurisdiction:**

- i. Declares that it has jurisdiction to determine this case;

#### **As to admissibility:**

- ii. Declares that the case is admissible only with respect to violations of the freedom of expression;

#### **As to the merits:**

- iii. Declares that the provisions of both Section 210 of the Penal Code of Kano State and Section 382 (b) of Kano State Sharia Penal Code Law of 2000 are incompatible with the obligations of the Respondent to guarantee the freedom of expression pursuant to Article 9 (2) of the African Charter on Human and Peoples’ Rights, and Article 19 of the ICCPR;

   
Yes

**As to Reparations:**

- iv. Orders the Respondent to repeal or amend the provisions of both Section 210 of the Penal Code of Kano State and Section 382 (b) of Kano State Sharia Penal Code Law of 2000, and other similar legal provisions in its laws, to bring them in compliance with its obligations in Article 9 (2) of the African Charter on Human and Peoples' Rights, and Article 19 of the ICCPR;

**As to costs:**

- v. Orders each Party to bear its own costs.

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

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

Hon. Justice Edward Amoako ASANTE .....

**ASSISTED BY:**

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

Done in Abuja, this 9<sup>th</sup> April 2025 in English and translated into French and Portuguese.

