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IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE WARRI JUDICIAL DIVISION  
HOLDEN AT WARRI

IN THE MATTER OF AN APPLICATION BY THE APPLICANTS HEREIN FOR THE ENFORCEMENT OF THEIR  
FUNDAMENTAL HUMAN RIGHTS

IN THE MATTER OF FUNDAMENTAL RIGHT (ENFORCEMENT PROCEDURE) RULES, 2009 MADE BY THE CHIEF  
JUSTICE OF NIGERIA PURSUANT TO SECTION 46 (3) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF  
NIGERIA, 1999 (AS AMENDED)

SUIT NO: HCW/FHR/ /2023

HCW/FHR/CS/67/2023

BETWEEN:

1. Samuel C. Odoh Esq.
2. Abdulraham Yusuf Abdulkadir Esq.
3. Samuel Ihensekhien Esq.
4. Emmanuel NworahOnyia Esq.
5. Laurettalkwuka Esq.
6. Felix Uzoma Esq.
7. James Irogbo Esq.
8. Vincent Adodo Esq.
9. Kazeem Adewale Esq.
10. GodspowerEroga Esq.
11. Obi Ajuluchukwu F. Esq.
12. Emmanuel Ekpuda Esq.
13. Blessing EsinwokeEsq.
14. Cyril Ede Esq.
15. Lilian OkenwaEsq
16. Alfred Ogunli Esq.
17. IkediAbonyi Esq.
18. Uzoma Aneto Esq.
19. Theophilus Akinsanmi Esq.

*(for themselves and on behalf of Nigerians that  
ply federal highways in Nigeria)*

And

1. Federal Government of Nigeria
2. Attorney General of the Federation

*This summons is to be served outside Delta State and in Abuja*



Applicants

Respondents

### 3. Federal Minister of Works

#### ORIGINATING MOTION ON NOTICE

BROUGHT PURSUANT TO THE PROVISIONS OF CHAPTER IV SECTIONS 33 (1), 34(1), 41 & 46 OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 (AS AMENDED); ARTICLES 4, 5, 12(10), 16 (1) & (2), 22 (1)& (2) AND 24 OF THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHT, PROVISIONS OF THE FUNDAMENTAL RIGHTS (ENFORCEMENT PROCEDURE) RULES 2009 AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT

TAKE NOTICE that this Honourable Court will be moved on the ..... day of ..... 2023 at the hour of 9 O'clock in the forenoon or so soon thereafter as Counsel may be heard on behalf of the Applicants herein praying this Honorable Court for the following reliefs against the Respondents jointly and/or severally:-

1. A Declaration that the reckless abandonment of the bad portions on the Benin-Warri trunk A Federal Highway (particularly the deteriorated axis from Warri to the Interchange in Benin City) by the Respondents is unconstitutional, unlawful and therefore amounts to a clear violation and infringement of the fundamental rights of the Applicants and Nigerians to life, dignity of human persons, freedom of movement, enjoyment of best physical and mental state of health, economic, socio and cultural development and right to general satisfactory environment, as guaranteed under the provisions of Articles 4, 5, 16(1) & (2), 22(1) & (2) and 24 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act and Section 33(1), 34(1) and 41 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended).
2. A Declaration that the reckless abandonment of the bad portions on the Benin-Warri trunk A Federal Highway (particularly the bad spots at Sapele roundabout, Delta State portion of the Ologbo boundary and the Ikpoba slope axis) by the Respondents and which bad state occasioned accidents on that axis, and the death of more than 10 motorists and commuters in the inferno that was caused by a fallen fuel tanker on the highway; is a breach of the duty of care, unlawful and therefore amounts to a clear violation and infringement of the Applicants and Nigerians fundamental right to life, dignity of human persons, freedom of movement, enjoyment of best physical and mental state of health, economic, socio

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and cultural development and right to general satisfactory environment, as guaranteed under the provisions of Articles 4, 5, 16(1) & (2), 22(1) & (2) and 24 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act and Section 33(1), 34(1) and 41 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended).

3. An order of mandamus compelling the Respondents to effect immediate rehabilitation and reconstruction work on all the bad portions of the Benin-Warri Trunk "A" Federal Highway to quickly avert the avoidable frequent loss of lives and properties of Nigerians on the Highway.
4. An order compelling the Respondents to verify the number of lives that were burnt and properties destroyed at or near the Delta State boundary at Ologbo of the Benin-Warri Federal Highway which occurred on the 1<sup>st</sup> day of October, 2023 at the Ologbo axis and on the 8<sup>th</sup> of October, 2023 at the Ikpoba Slope of same the Benin-Warri Federal Highway, for the purpose of adequately compensating the families of the victims.
5. An order compelling the Respondents to undertake and insure the lives of Nigerians that ply any of the Federal Highways in Nigeria with reputable Insurance Companies against any future accident and destruction of their properties that may be caused by bad Federal Highways.
6. An order compelling the Respondents to issue a Public Apology to be published in at least two national dailies, seeking the forgiveness of the victims of the accidents on the Benin-Warri Trunk "A" Federal Highway, which were occasioned by the neglect and abandonment by the Respondents of their responsibilities to maintain the said roads.
7. An Order of this Honourable Court directing the Respondents to pay to the Applicants the sum of One Hundred Million Naira (N100, 000, 000.00) as general, punitive and exemplary damages for the flagrant and reckless deprivation of the Applicants' fundamental rights to life, human dignity and freedom of movement.

AND for such further Order or other Orders as this Honorable Court may deem fit to make in the circumstances.

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**GROUND UPON WHICH THIS APPLICATION IS BROUGHT ARE:**

- a. The Applicants' Rights to Life, Human Dignity and to Freedom of Movement as guaranteed by Sections 33(1), 34 (1) and Section 41 (1) of the Constitution of the Federal Republic of Nigeria, 1999 (as Amended) and Article 12 of the African Charter on Human and Peoples' Rights have been and are still being breached by the Respondents.
- b. That the Respondents' long and reckless abandonment of maintenance work on the bad portions of the Benin-Warri Trunk "A" Road have led to the death of many commuters, destruction of vehicles and other properties, and many times the abduction and robbing of commuters on the said road.
- c. That it is the constitutional responsibility of the Respondents to ensure that the lives and properties of Nigerians are protected and preserved at all times.
- d. That the Benin-Warri Highway has now become a death trap and this has deprived many Nigerians from plying the road, thus substantially restricting movement on the Benin-Warri Highway.
- e. The Applicants' Fundamental Rights continues to be threatened by the Respondents long and reckless abandonment of maintenance work on the bad portions of the Benin-Warri Trunk "A" Road.

Dated this 16<sup>th</sup> day of October, 2023.

Settled By:



3409-1692-3114

**Kunle Edun Legal**

*Olukunle Oghene-ovo Edun Esq. LL.M (signed)*

*Dr. Jonathan Ekperusi*

*Sunday Emuveyan Esq.*

*Anthony Sidi Esq.*

*Fabian Egbuna Esq.*

*Applicants' Counsel*

*No. 35 NNPC Housing Complex Road*

*Warri, Delta State*

*08038695936*



**ADDRESS FOR SERVICE ON THE 1<sup>ST</sup> AND THE 2<sup>ND</sup> RESPONDENTS**

C/O the office of the Honorable Attorney General of the Federation

Federal Ministry of Justice, Abuja.

**SERVICE ON THE 3<sup>RD</sup> RESPONDENT**

Federal Ministry of Works, Abuja.

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IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE WARRI JUDICIAL DIVISION  
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FHC/Delta/CA/67/2023  
SUIT NO: HCW/FHR/ /2023

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17. IkediAbonyi Esq.
18. Uzoma Aneto Esq.
19. Theophilus Akinsanmi Esq.

Applicants

*(for themselves and on behalf of Nigerians that ply federal highways in Nigeria)*

And

1. Federal Government of Nigeria
2. Attorney General of the Federation
3. Federal Minister of Works

Respondents

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**STATEMENT MADE PURSUANT TO ORDER II RULE 3 OF THE FUNDAMENTAL RIGHT (ENFORCEMENT PROCEDURE) RULES, 2009.**

**I. NAMES, ADDRESSES AND DESCRIPTIONS OF THE APPLICANTS**

The listed Applicants are legal practitioners called to the Nigerian Bar, road users and resident in various States in Nigeria, including Edo and Delta States. They practice their law business in various courts in Nigeria including Courts in Delta and Edo States. For the purpose of this suit the Applicants' address shall be C/O their Counsel as endorsed herein.

**RELIEFS SOUGHT.**

- i. A Declaration that the reckless abandonment of the bad portions on the Benin-Warri trunk A Federal Highway (particularly the deteriorated axis from Warri to the Interchange in Benin City) by the Respondents is unconstitutional, unlawful and therefore amounts to a clear violation and infringement of the fundamental rights of the Applicants and Nigerians to life, dignity of human persons, freedom of movement, enjoyment of best physical and mental state of health, economic, socio and cultural development and right to general satisfactory environment, as guaranteed under the provisions of Articles 4, 5, 16(1) & (2), 22(1) & (2) and 24 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act and Section 33(1), 34(1) and 41 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended).
- ii. A Declaration that the reckless abandonment of the bad portions on the Benin-Warri trunk A Federal Highway (particularly the bad spots at Sapele roundabout, Delta State portion of the Ologbo boundary and the Ikpoba slope axis) by the Respondents and which bad state occasioned accidents on that axis, and the death of more than 10 motorists and commuters in the inferno that was caused by a fallen fuel tanker on the highway; is a breach of the duty of care, unlawful and therefore amounts to a clear violation and infringement of the Applicants and Nigerians fundamental right to life, dignity of human persons, freedom of movement, enjoyment of best physical and mental state of health, economic, socio and cultural development and

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right to general satisfactory environment, as guaranteed under the provisions of Articles 4, 5, 16(1) & (2), 22(1) & (2) and 24 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act and Section 33(1), 34(1) and 41 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended).

- iii. An order of mandamus compelling the Respondents to effect immediate rehabilitation and reconstruction work on all the bad portions of the Benin-Warri Trunk "A" Federal Highway to quickly avert the avoidable frequent loss of lives and properties of Nigerians on the Highway.
- iv. An order compelling the Respondents to verify the number of lives that were burnt and properties destroyed at or near the Delta State boundary at Ologbo of the Benin-Warri Federal Highway which occurred on the 1<sup>st</sup> day of October, 2023 at the Ologbo axis and on the 8<sup>th</sup> of October, 2023 at the Ikpoba Slope of same the Benin-Warri Federal Highway, for the purpose of adequately compensating the families of the victims.
- v. An order compelling the Respondents to undertake and insure the lives of Nigerians that ply any of the Federal Highways in Nigeria with reputable Insurance Companies against any future accident and destruction of their properties that may be caused by bad Federal Highways.
- vi. An order compelling the Respondents to issue a Public Apology to be published in at least two national dailies, seeking the forgiveness of the victims of the accidents on the Benin-Warri Trunk "A" Federal Highway, which were occasioned by the neglect and abandonment by the Respondents of their responsibilities to maintain the said roads.
- vii. An Order of this Honourable Court directing the Respondents to pay to the Applicants the sum of One Hundred Million Naira (N100, 000, 000.00) as general, punitive and exemplary damages for the flagrant and reckless deprivation of the Applicants' fundamental rights to life, human dignity and freedom of movement.

AND for such further Order or other Orders as this Honorable Court may deem fit to make in the circumstances.

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**GROUND UPON WHICH THIS APPLICATION IS BROUGHT ARE:**

- a. The Applicants and Nigerians fundamental right to life, dignity of human persons, freedom of movement, enjoyment of best physical and mental state of health, economic, socio and cultural development and right to general satisfactory environment, as guaranteed under the provisions of Articles 4, 5, 16(1) & (2), 22(1) & (2) and 24 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act and Section 33(1), 34(1) and 41 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) have been and are still being breached by the Respondents.
- b. That the Respondents long and reckless abandonment of maintenance work on the bad portions of the Benin-Warri Trunk "A" Road have led to the death of many commuters, destruction of vehicles and other properties, and many times the abduction and robbing of commuters on the said road.
- c. That majority of the bad portions of the Highway are in Delta State.
- d. That it is the constitutional responsibility of the Respondents to ensure that the lives and properties of Nigerians are protected and preserved at all times.
- e. That the Benin-Warri Highway has now become a death trap and this has deprived many Nigerians from plying the road, thus substantially restricting their movement on the Benin-Warri Highway. This has subjected them to inhumane and indignifying conditions, ill-health and many times loss of lives on the highway.
- f. The Applicants' Fundamental Rights continued to be threatened by the Respondents' long and reckless abandonment of maintenance/palliative work on the bad portions of the Benin-Warri Trunk "A" Road.

**Kunle Edun Legal**

*Olukunle Oghene-ovo Edun Esq. LL.M (Signed)*

*Dr. Jonathan Ekperusi*

*Sunday Emuveyan Esq.*

*Anthony Sidi Esq.*

*Fabian Egbuna Esq.*

  
**OLUKUNLE O. EDUN**  
LEGAL PRACTITIONER  
NOTARY PUBLIC  
35 Nnpc Housing Complex Road, Ekpan, Warri  
TEL: 08038695936



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3409-1672-3114



IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE WARRI JUDICIAL DIVISION  
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FHC/WJDC/CS/67/2023  
SUIT NO: HCW/FHR/  
/2023

IN THE MATTER OF AN APPLICATION BY THE APPLICANTS HEREIN FOR THE ENFORCEMENT OF THEIR  
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Applicants

*(for themselves and on behalf of Nigerians that ply federal highways in Nigeria)*

And

1. Federal Government of Nigeria
2. Attorney General of the Federation
3. Federal Minister of Works

AFFIDAVIT SETTING FORTH FACTS IN SUPPORT OF APPLICATION

*This summon is to be served outside Delta State and in Abuja*

I, Alfred E. Ogunli Esq. Male, Christian, Nigerian legal practitioner of Tri-Lex Partners, No 1 NNPC Housing Complex Road Ekpan, do hereby make oath and state thus:

1. That I am the 16<sup>th</sup> Applicant in this case and I have the authority of the other Applicants to make this affidavit on their behalf.
2. That I was on a conference call with the 1<sup>st</sup> to 19<sup>th</sup> Applicants on the 13<sup>th</sup> day of October 2023 via my number 08033077127, at about 2pm wherein we all discussed the facts herein deposed to and they all jointly informed me and I believe the following to be true to be true
3. That this action is a public interest litigation filed on behalf of Nigerians who died on federal highways and those who ply daily the deteriorating federal highways in Nigeria, particularly the deplorable Benin-Warri Federal Highway, thereby; exposing their lives and properties to risks every day.
4. That all the Applicants are legal practitioners who practice law and conduct their businesses in various courts and locations in Nigeria.
5. That as required by the nature of their practice, they appear before various courts and are always on the road, travelling to different cities and towns.
6. That I know as a fact that the Benin-Warri Highway is a Federal Trunk road owned, constructed but abandoned by the Federal Government of Nigeria and the Respondents.
7. That I know as a fact that the 1<sup>st</sup> Respondent is the statutory owner of the Benin-Warri Federal Highway. The 2<sup>nd</sup> Respondent is the Chief Law officer of the Federation who is responsible for handling all legal matters pertaining to the Federation and the Federal Government of Nigeria. The 3<sup>rd</sup> Respondent is an agent of the 1<sup>st</sup> Respondent but assigned principally to ensure that all the federal highways are in good and motorable conditions.
8. That I know as a fact that tens of thousands of Nigerians also ply the Benin-Warri Federal Highway which is a major artery (actually the only road) linking the South-West directly to the South-South Region of Nigeria.
9. That the Benin-Warri Federal Highway has been in terrible and deteriorating condition for more than 5 years running without any effort made by the Respondents to effect repairs or palliative works on the said Road.
10. That presently some portions of the Road are completely not motorable and vehicles no longer ply those bad portions.

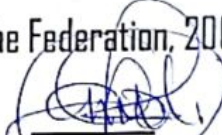
*This sumon is to be served outside Delta State and in Abuja*

11. That several attempts by travelers from Warri (including my humble self) to use unchartered alternative routes in the bush to bypass the bad portion at Ologbo, resulted in my being attacked and robbed by armed robbers and in some cases, abducted by kidnappers. That the Ologbo, Oghara, Jesse (all in Delta State) and the interchange in Benin, and the stretch from the Benson Idahosa Church on the bypass including the Ikpoba Slope end are completely bad and not motorable. These areas have become soft spots for criminal elements.
12. That I know as a fact that many of the Applicants (including myself) from Warri, Port Harcourt, Yenegoa, Onitsha and other areas are now unable to attend to cases in courts on behalf of our clients, businesses and events in Benin City. Ditto, many Nigerians coming from Lagos, Ore, Benin and adjoining areas are unable and/or find it very difficult to ply the Benin-Warri highway to come to Warri and other cities.
13. That because of the bad state of the Benin-Warri Federal Highway and the abandonment of same by the Respondents, lives and properties of Nigerians have been lost and destroyed. It is now a regular scene on the said Road seeing heavy and articulated vehicles abandoned and littering the highway because of the bad Road, which are not motorable.
14. That a lot of accidents have occurred on the Benin-Warri Federal Highway which led to loss of several lives of Nigerians and destruction of vehicles, all majorly as a result of bad roads.
15. That only recently, actually on the day that Nigerians celebrated the Independence of the Country, many Nigerians were gutted by fire and died on the Ologbo stretch of the Benin-Warri Federal Highway. This was as a result of a fuel tanker that fell because it could not pass the bad road. The tanker fell and spilled out its contents, which ignited fire that consumed all the vehicles and persons in close proximity to the tanker. Attached and marked as **Exhibit "A"** are pictures of the gory incident of October 1<sup>st</sup>, 2023.

16. That again on the 8<sup>th</sup> of October, 2023 another accident occurred at the Ikpoba Slope of the Benin Bypass and some fatalities recorded, as a result of the bad road. Attached and marked as **Exhibit "B"** is a confirmation of the incident.
17. That since the sad incidents occurred; the Respondents refused to be bothered and did nothing to fix the bad roads. The victims were abandoned by the Respondents and no form of compensation or care has been given to the victims and their families.
18. That the continued state of the bad portions of the Benin-Warri Federal Highway is a threat to the life of the Applicants and Nigerians who ply the Road putting their lives at risk and also restricts the movement of Nigerians who ordinarily would want to ply the Road if it is motorable.
19. I know that Nigerians' rights to life and freedom of movement as guaranteed to all Nigerians by the Constitution of the Federal Republic of Nigeria have been, are being and will continue to be breached by the Respondents except this Honorable Court grant the reliefs sought.
20. That more than 95% of Nigerians cannot afford air travel and more so, there is no airline that flies Warri-Benin and return. Thus, the only Road to and from Warri-Benin remains the Benin-Warri Federal Highway.
21. That the reckless abandonment of the constitutional responsibilities of the Respondents have occasioned the violation of the fundamental rights of Nigerians.
22. That the Applicants have lost and are losing business opportunities and social contacts as a result of the violation of their fundamental rights by the Respondents.
23. That the Applicants are law abiding citizens of Nigeria that need the protection of this Honourable Court from the violation of their fundamental rights by the Respondents.
24. That it is in the interest of justice to grant all the reliefs sought in this Application.

25. That I know as a fact that the Respondents will not be prejudiced with the grant of this Application.

26. That I depose to this affidavit in good faith, consciously believing same to be true and correct in accordance with Oath Acts, Laws of the Federation, 2004.

  
DEPONENT

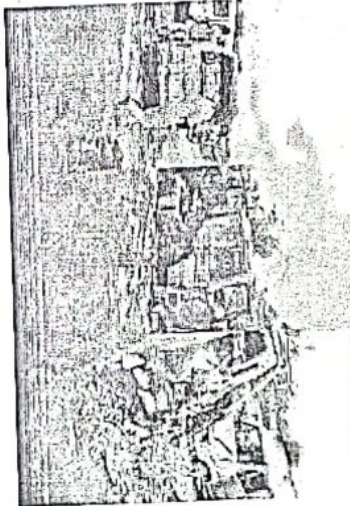
Sworn to at the High Court Registry,

Warri, this 17<sup>th</sup> day of October, 2023.

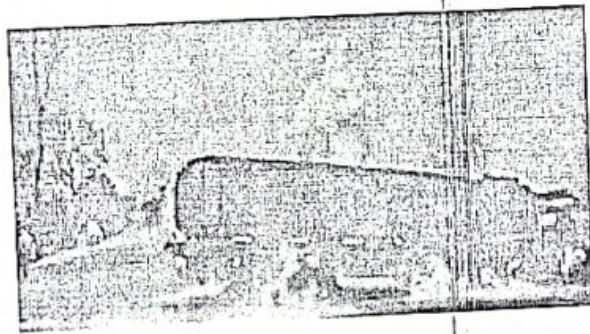


3409-1692-3114

S. J. A.  
FEDERAL HIGH COURT  
COMMISSIONER FOR OATHS  
17/10/23  
WARRI  
Oath



FEDERAL HIGH COURT  
CASHIER OFFICE  
DATE 17/10/23  
WARRI  
3409-1692-3114











exh B  
Before MA



*[Handwritten signature]*

*[Handwritten initials]*

IN THE FEDERAL HIGH COURT OF NIGERIA  
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IN THE MATTER OF AN APPLICATION BY THE APPLICANTS HEREIN FOR THE ENFORCEMENT OF THEIR FUNDAMENTAL  
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FHC/WR/567/2023

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Applicants

*(for themselves and on behalf of Nigerians that ply federal highways in Nigeria)*

And

1. Federal Government of Nigeria
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Respondents

WRITTEN ADDRESS

INTRODUCTION

This motion on notice was brought pursuant to Order 11 Rrules 1, 2, 3, 4 and 5 of the Fundamental Rights Enforcement procedure rules 2009 and under

*This summon is to be served outside Delta State and in Abuja*

inherent jurisdiction of this Honourable Court. We rely on the reliefs sought on the face of the motion and the grounds upon which the application is anchored.

1.03. **THE APPLICATION IS SUPPORTED BY THE FOLLOWING:**

- a. A Statement containing the Names, Addresses and particulars of the Applicant, the Reliefs claimed and the grounds upon which those reliefs are predicated.
- b. A substantive affidavit deposed to by one of the Applicants setting out in details, facts leading to this Application.

1.04. **FACTS OF THE CASE**

1.05. The brief facts of this are the reckless deprivation of the Applicants to their rights to life, human dignity and freedom of movement by the refusal of the Respondents to protect their lives from dangers caused by the bad roads constructed by the Respondents; restriction of their right to freedom of movement as a result of the many portions of the Benin-Warri federal highway being in terrible and deplorable state and for this reason many Nigerians can no longer ply that road while those that take the risk to ply the bad road are attacked and robbed by criminals. Many deaths have also been recorded as a result of the Respondents' neglect of the road. Exhibit "A" are some of the pictures of bad/failed portions of the highway.

1.06. **ISSUES FOR DETERMINATION**

1.07. From the Affidavit evidence and grounds on which this application is premised, following sole issue arose for determination namely:

**Whether considering the entire circumstances of this case, particularly the impunity/recklessness/neglect exhibited by the Respondents to the sanctity of the lives of Nigerians and respect for their fundamental rights, are the Applicants not entitled to all the reliefs sought.**

1.08. **ARGUMENT ON THE ISSUE RAISED**

1.09. We submit that the Respondents are bound by compulsion to abide by the provisions of the Constitution of the Federal Republic of Niger, 1999, as amended. Pursuant thereto, and to guarantee the rights of citizens of the Federal Republic of Nigeria, the

Constitution of Nigeria assured them basic and minimum rights which cannot be derogated therefrom except in the manner provided by the same Constitution. Section 33(1) of the **Constitution of the Federal Republic of Nigeria, 1999 (as Amended)** hereinafter simply referred to as **CFRN, 1999 (as Amended)** guaranteed the right of every person to life by providing that,

*"Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty"*

1.10. Similarly, **Sections 34 (1) CFRN, 1999 (as Amended)** also provides thus:

*"Every individual is entitled to respect for the dignity of his person and accordingly ..no person shall be subject to torture or to inhuman and degrading treatment.."*

1.11. Section 41(1) of the CFRN, 1999 provides that  
*"Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof....."*

1.12. In the interpretation of the Constitution, the Court must give broad and liberal construction to those provisions designed to safeguard fundamental rights.

1.13. We refer this Honorable Court to the reliefs sought in this application, the grounds for the Application and Statement of Facts in support relied upon; and we submit humbly that the main plank of this Application is hinged on the violation of the Applicant's rights to life, human dignity and Freedom of Movement. We respectfully urge this Honourable Court to so hold.

1.14. The law imposes on the Respondents the duty to provide and create enabling facilities for the enjoyment of the rights contained in Chapter 4 of the Constitution. The right to life provided in the Constitution will be useless if the Respondents fail

to make the necessary provisions that will make the right to be enjoyable and realistic. Failure of the Respondents to maintain its roads and make traveling on same smooth and not prone to accident is a violation of the right to life of Nigerians. Failure of the government to also ensure that there is nothing on the federal highway that will lead to accident or loss of human lives is a violation of the right to life of Nigerians. Therefore, we submit that subjecting Nigerians and commuters that ply the federal highways to terrible ordeals, torture and inhumane conditions while plying the federal highways amounts to disrespect of their right to human dignity as provided for in the Constitution.

1.15. We further submit that by the abandonment and neglect of the federal highway due to its bad state, the Respondents have deliberately deprived the Applicants and Nigerians from traveling on the road. Failure of the Respondents to maintain the said road amounts to telling Nigerians to risk their lives plying on the road. Subjecting Nigerians to such dangers and risks of their vehicles being damaged by the bad road, lives lost and being attacked by criminals amount to gross disrespect to the fundamental rights of Nigerians to life, dignity of their persons and freedom of movement. The Courts are called upon, as it is now the norm in other jurisdictions, to give a purposive and expansive interpretation to the provisions of Chapter 4 of the Constitution.

1.16. In the case of **Coralie v. Union Territory of Delhi AIR 1981 SC 746, 753**, the Supreme Court of India held that

*"The fundamental right to life, which is the most precious human right...must be interpreted in a broad and expansive spirit so as to invest it with significance and vitality which may endure for years to come and enhance the dignity of the individual and the worth of the human person, we think that the right to life includes the right to live with dignity and all that goes with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter."* (See, Nigerian Law on Socio-Economic Rights by Femi Falana, SAN 1<sup>st</sup> Edition @ page 14.

1.17. ENFORCEMENT OF THE RIGHTS OF THE APPLICANTS UNDER THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (AFRICAN CHARTER).

1.18. We submit that Section 1 of the African Charter on Human and Peoples' Right (Ratification & Enforcement) Act has empowered all Courts to enforce the provisions of African Charter including the right to development and socio-economic rights. The Supreme Court of Nigeria has since given judicial approval to the applicability of the African Charter by Nigerian Courts in the case of **General Sani Abacha v. Chief Gani Fawehinmi** (2000) 6 NWLR (Pt. 660) 228; (2001) 15 WRN 29, when it held that:

*"The African Charter on Human and Peoples' Rights, having been passed into our municipal law, our domestic courts certainly have the jurisdiction to construe and apply the treaty. It follows then that anyone who felt that his rights as guaranteed or protected by the Charter have been violated could well resort to its provisions in our domestic Courts."*

1.19. Pursuant to the provisions of Section 46(3) of the Constitution, the Chief Justice of Nigeria enacted the Fundamental Rights (Enforcement Procedure) Rules 2009 (FREP Rules) to secure the enforcement of the fundamental rights enshrined in Chapter 4 of the Constitution and under the African Charter on Human and Peoples' Rights. Under Order 1 of the FREP Rules any person whose human rights are protected and guaranteed under Chapter 4 of the Constitution and the African Charter on Human and Peoples' Rights may seek redress by filing an application in a High Court of a State where the violation occurred.

1.20. In the case of **Ogugua v. State** (1994) NWLR (Pt. 366) 1, the Supreme Court held that

*"Since the Charter has become part of our domestic laws, the enforcement of its provisions like all our other laws fall within the judicial powers of the court as provided by the Constitution and all other laws relating thereto...."*

1.21. Article 4 of the African Charter provides that

*"Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person..."*

1.22. Article 5 also provides that

*"Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All*

*forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited."*

1.23. Article 12 (1) provides that:

*"Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law."*

1.24. Article 16 (1) & (2) provides that

*"Every individual shall have the right to enjoy the best attainable state of physical and mental health.*

*States Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick."*

1.25. Article 22(1) & (2) provides that.

*"All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.*

*States shall have the duty, individually or collectively to ensure the exercise of the right to development."*

1.26. Article 24 provides that.

*"All peoples shall have the right to a general satisfactory environment favourable to their development."*

1.27. PUBLIC OFFICIALS MUST OBEY THE CONSTITUTION AND THE LAWS OF THE COUNTRY

1.28. Public officials, particularly elected public officers swore to the Oath of Allegiance to the constitution of the Federal Republic of Nigeria and therefore, have no reason not to comply with the provisions of the Constitution. The need for public officials and institutions to obey the law was emphasized in the case of GOVERNOR OF EBONYI STATE & ORS V. HON. JUSTICE ISUAMA (2003) FWLR (PT. 169) 1210 @ 1227-1228, where the Court of Appeal while stressing the need for public officials to obey rules of law held that:

*"Obedience to the rule of law by all citizens but more particularly those who publicly took oath of office to protect and preserve the constitution*



*is a desideratum to good governance and respect for the rule of law. In a democratic society, this is meant to be a norm; it is an apostasy for government to ignore the provisions of the law and the necessary rules made to regulate matters".*

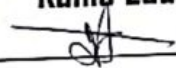
- 1.24. We respectfully urge this Honourable Court to so hold in favour of the Applicant.
- 1.25. We respectfully urge this Honourable Court to grant all the reliefs sought including the relief for damages for the violations of the fundamental rights of Nigerians.
- 1.26. Finally, we submit that the Applicants have furnished this Honorable Court sufficient material evidence to ground the reliefs sought.

We beg to move

Dated at Warri this 16<sup>th</sup> day of October, 2023.

  
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