

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE, HUMAN RIGHTS DIVISION, COURT 2, ACCRA - GHANA, HELD ON THURSDAY THE 14TH DAY OF MAY, 2026, BEFORE HIS LORDSHIP JUSTICE NANA BREW

CASE CALLED AT 9:02 A.M.

SUIT NO. HR/0046/2024

1. BRIDGET OTOO
2. VANESSA EDOTOM BOATENG
3. GEORGE GYENING ANYANG

VS

1. THE INSPECTOR GENERAL OF POLICE
 2. THE ATTORNEY-GENERAL
-

PARTIES: APPLICANTS - ABSENT

RESPONDENTS - ABSENT

COUNSEL:

1. SAMSON LARDY ANYENINI FOR THE APPLICANTS – PRESENT
 2. AFRAKOMA BOATENG (S.A.) FOR THE RESPONDENTS – ABSENT
-

JUDGMENT

This is an application for the enforcement of the Applicant's Fundamental Human Rights (Articles 24 (1), 162 (5), 21 (1) (F), 162 (4), 21 (1) (D), 15 (1) and (2), 14 (1) and 18 (2) of the Constitution 1992 Pursuant to Article 33 of The Constitution 1992 & order 67 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47) filed on 7th February, 2024 against the Inspector General of Police and the Attorney-General.

The following are the affidavit evidence.

AFFIDAVIT IN SUPPORT BY APPLICANTS

I, Vanessa Edotom Boateng of 27 DR. ISERT AVE, Ga-015-2840, Metro TV, Accra, make oath and says as follows:

That I am 2nd Applicant and Deponent herein; a Broadcast Journalist in the employment of the Ignite Media Group of the Jospong Group of Companies.

CERTIFIED TRUE COPY
REGISTRAR
HUMAN RIGHTS COURT "2" ACCRA, G/H
2/6/2026

That I have the authority of the 1st and 3rd Applicants herein to depose to these facts on our joint behalf and that the contents of this affidavit unless otherwise stated, are matters within my personal knowledge, information and belief.

That at the hearing of this application, Counsel shall seek leave of the Honourable Court to refer to all processes filed as if same were reproduced this affidavit in extensor and sworn to on oath.

That 1st Applicant is Broadcast Journalist (Presenter, News Anchor and Producer with supervision over 2nd Applicant) in the employment of said company, operators of a foremost private television station in service of the citizens of Ghana for the effective exercise of their constitutionally guaranteed fundamental human rights to information, free speech and expression which includes freedom of the press and other media in compliance with law and ethics of journalism.

That 1st Applicant in the exercise of her freedoms of movement, assembly, demonstration and especially her profession in the normal course, attended to a demonstration dubbed #OccupyJulorbiHouse on the 21st of September, 2023 and suffered violation of her said rights.

That 2nd Applicant in the exercise of her profession in the normal course, attended to said demonstration on said day and suffered violation of her said rights.

That 3rd Applicant, also a citizen of Ghana, is a Chartered Accountant, a democracy activist with presence on social media, organizing discussions where people can freely express their opinions on democracy and human rights, in the exercise of his freedoms of movement, assembly and to demonstrate, attended to said month-long advertised mass protest for improvement, inter alia, in current harsh economic conditions, on said day and suffered violation of his said rights.

That 2nd Respondent is the principal legal adviser to the Government of the Republic of Ghana responsible for defending civil proceedings against the State, while 1st Respondent is established by law as head of the Ghana Police Service with responsibility for the operational control and administration of the Service.

That 1st Respondent deployed officers to perform duties pursuant to the Public Order Act, 1994 (Act 491) and is liable for the complained violations of the rights of Applicants manifested in threatening conduct, threats of harm and harm, indignity, degrading treatment, physical assault including torture and cruel treatment resulting in damage and bodily injury particularly to 1st and 3rd Applicants.

That further to the preceding paragraphs, 3rd Applicant shall offer photographic images (attached hereto and marked as **EXHIBIT "A" SERIES**) showing injury inflicted on his body and eye in proof of his complaint, while audiovisual footage or

recording (on a pendrive attached hereto and marked as EXHIBIT "B") is ocular proof of part of the incidents of assault by an officer of 1st Respondent at 1st Respondent's office premises (Greater Accra Regional Police Headquarters).

That 2nd and 3rd Applicants suffered periods of unlawful detention at 1st Respondent's said offices where 3rd Applicant was subjected to hefty slaps, multiple punching in the face, hit with the metallic part of a belt and hit in the head with a baton and this was led by 1st Respondent's officer identified as Prince Napour (whose photographic image is attached exhibit B) said to be ordinarily working from the Adabraka Police Station.

That 2nd Applicant who filmed the abuse, brutality and torture of 3rd Applicant with her phone was pounced upon by some of the more than six officers with the only female officer pulling her dress, while another twisted her arm and stamping on her feet in attempts to wrest her phone, which they soon succeeded in seizing by reaching for it when she managed to hide it in between her thighs. Attached hereto and marked as EXHIBIT "C" is video recording of a report of the said incident by 2nd Applicant, soon after she gained her freedom.

That two lawyers who came to the rescue of 2nd Applicant were equally mistreated by the officers who pushed one of them aside (i.e. a senior lawyer, former legislator and minister of state), while they beat, arrested and detained the other lawyer.

That said officers took offence at Applicants' acts of publicity of incidents of wrong, threatened to lock up 2nd Applicant to spend the weekend in their cells if she did not delete the video recording of the brutality by the officers, and that she had declined to delete said recording and was only released after she deleted said recording under duress a couple of hours later.

That exhibit C above, was recorded by journalists including 2nd Applicant's camera man, 3 Music, and Citi TV and same was posted on various platforms and 2nd Applicant later tweeted her experience, about which eye witnesses including Lawyer Richmond Rockson and 3 Music reporter who tweets as Olele (real name Emmanuel Kwame Sarpong) tweeted with separate tweets, confirming the content of said tweet. Evidence of said tweets are printed and attached hereto and marked as **EXHIBIT "D" SERIES**.

That the tweets referred to in paragraph 15 above are also contained in exhibit C together with a video recording showing one of the incidents of assault wherein 2nd Applicant can be 'seen on said premises.

That the events as recounted above particularly in paragraph 13 are evinced by a copy of notice of confirmation of manhandling of said lawyer issued by the Greater Accra Region branch of Ghana Bar Association (GBA) attached hereto and marked as **EXHIBIT "E"**.

That said same named officer herein was identified as the one who led the assault on 1st Applicant while she exercised her profession, rights and sought to enquire about the whereabouts of 2nd Applicant and one Kelvin Boakye reportedly mistaken for a protestor and arrested by 1st Respondent while on his way to play basketball.

That 1st and 2nd Applicants who had been identified and identified themselves to officers of 1st Respondent as journalists were prevented from carrying out their profession by the complained conduct including seizure of 2nd Applicant's phone with which she made recordings and filed live reports about the protest.

That Applicants shall contend that 1st Respondent's officers on said day wrongfully and unlawfully interfered with Applicants constitutional fundamental human rights resulting in the assault, physical and emotional torture, detention, seizure of mobile phone and preventing 1st and 2nd Applicants from exercising their lawful profession.

That Applicants shall further rely on printouts attached hereto and marked as EXHIBIT F SERIES (i.e. up to exhibit F-2) in proof of the complained violations in respect of the complained conduct of officers of 1st Respondent to Applicants at said office premises.

That further to paragraph 21 above, Applicants shall further rely on the following video/audio recordings, screenshots, social media posts and media printouts attached to and marked therein exhibit G below as **EXHIBIT F-3** in proof of the complained violations in respect of the complained conduct of officers of 1st Respondent to Applicants at said office premises while the officers threatened, were acting upon the threat or immediately thereafter contemporaneously.

That the said officer in paragraph 18 above can be seen in a video recording (on a pendrive) attached hereto and marked as **EXHIBIT "G"** dragging 3rd Applicant in the midst of other officers of 1st Respondent, and this exhibit also contains ocular evidence of 1st Applicant being assaulted and her blouse being ripped apart.

That Applicants are advised by Counsel and believe same to be true that officers of 1st Respondent acted with impunity and violated Applicants' fundamental human rights wrongfully and unlawfully, also neglecting their duty of care to Applicants, by:

- (a) Interfering with and preventing 1st and 2nd Applicants from lawfully exercising their Article 24 (1) economic right to work, and doing so in safe and satisfactory conditions;
- (b) Interfering with and preventing 1st and 2nd Applicants from lawfully exercising their Article 162 (5) right to at all times be free to uphold the principles, provisions, and objectives of the constitution, and the responsibility and accountability of the Government to the people of Ghana;

- (c) Interfering with and preventing 1st and 2nd Applicants from lawfully performing their Article 21 (1) (f) duty/obligation to cover news in pursuance of the peoples' right to know/information;
- (d) Interfering with and preventing 1st and 2nd Applicants from lawfully exercising their Article 21 (1) (a) right to free speech and expression which includes freedom of the press and other media;
- (e) Interfering with and violating and and Applicants Applicants Article 162(4) freedom and independence from governmental control and interference, punishment or harassment for the editorial opinions, views or the content of their publications;
- (f) Interfering and violating 1st and 3rd Applicants Article 21(1) (d) right to assembly including freedom to take part in processions and demonstrations;
- (g) Interfering and violating Applicants Article 15 (1) and (2) rights not to be subject to in dignifying, cruel, inhuman, degrading treatment or to such condition that detracts or is likely to detract from the dignity and worth of Applicants as human beings, even upon lawful arrest, restriction or detention.
- (h) Interfering and violating 2nd Applicant's Article 14 (1) rights of personal liberty.
- (i) Interfering and violating 2nd Applicant's Article 18 (2) rights of protected communications.

That Applicants are advised by Counsel and believe same to be true that by the complained conduct of officers of 1st Respondent, which 1st Respondent is vicariously liable, there has been grievous infringement on Applicants human and constitutional rights.

That accordingly, Applicants pray this Honourable Court for the following reliefs:

- {i} A declaration that 1st Respondent's officers' interference with and/or violation of Applicants' rights in the manner complained of and referred to in paragraph 24 above are unconstitutional, wrongful and unlawful interference with those rights of Applicants and constitute violations of Applicants' fundamental human rights.
- {ii} An Order directed at 1st Respondent for compensatory damages in sum of One Million Ghana Cedis (GHC 1,000,000.00) for unconstitutional, wrongful and unlawful interference with and violation of Applicants' fundamental human rights.

- {iii} An Order directed at 1st Respondent for general damages for unconstitutional, wrongful and unlawful interference with and violation of Applicants' fundamental human rights.
- {iv} An Order directed at 1st Respondent to render an unqualified apology in writing to Applicants for the violations, and embarrassment caused Applicants, and for said apology to be subject to prior approval of Counsel for Applicants, and to be published in the Daily Graphic newspaper within 14 days from the day of Judgment.

AFFIDAVIT IN ANSWER

I, **Isaac Nicholas Kwabena Yeboah** of the Accra Regional Police Headquarters, Accra make oath and say as follows:

That I am the deponent herein.

That I am a Superintendent of Police and a Staff Officer to the Regional Police Commander of the Ghana Police Service, Accra.

That I have the authority of the Respondents to depose to this affidavit.

That all the matters deposed herein are within my personal knowledge and or information as learnt from the 1st Respondent or matters of which I stand advised.

That at the hearing of this Affidavit in Answer, Counsel for the Respondents shall seek leave of this Honourable Court to refer to all processes filed so far in this matter as if the same have been incorporated herein and sworn to on oath.

That the 1st Respondent is the most senior police officer responsible for the administration and operational control of the Ghana Police Service.

That the Ghana Police Service is mandated by the 1992 Constitution and other legislation to maintain law and order in the country.

That the Respondents were served with an "Application for the Enforcement of Fundamental Human Rights" issued by the Applicants on the 12th February, 2024.

That by a letter dated 21st of August, 2023, "Democracy Hub", a Civil Society Organization notified the Accra Regional Police Command of an intended picketing themed "Occupy Jolorbi House", at the Jubilee House on 21st September, 2023. A copy of the letter has been annexed and marked as Exhibit "AG1".

That in line with the Public Order Act, 1994 (Act 491), the Police engaged the organizers of the demonstration on 1st September, 2023, and raised security concerns regarding the intended picketing. The demonstrators were subsequently advised to

change the proposed location of their pending picketing since the Jubilee House is a security zone.

That contrary to the Public Order Act, 1994 (Act 491), the organizers failed to inform the Command of their unwillingness to comply with Police's advice within the timeline stipulated by Act 491.

That instead of the organizers changing the location of the protest as advised by the Police Command, they rather insisted on having the picketing at the forefront of the Jubilee House, in a letter dated September 4th, 2023. Annexed and marked as Exhibit "AG2" is a copy of the letter from the Organizers.

That by a letter dated 9th September, 2023, the Command informed the group that the police could not grant their request as a result of their failure to adhere to the Public Order Act, 1994 (Act 491) and security concerns, as well as constraints placed on the police service as a result of the Electoral Exercise that was being conducted nationwide by the Electoral Commission of Ghana at the time. A copy of the letter is annexed and marked as Exhibit "AG3"

That in a bid to prohibit the Organizers from proceeding with the picketing, the Police Command initiated a court action on 1st September, 2023 at the Criminal Division of the High Court. Evidence of the court action is annexed and marked as Exhibit "AG4".

That subsequently, the process was served on the Organizers, thereby giving them due notice. A copy of the proof of service is annexed and marked as Exhibit "AG5".

That notwithstanding a court action initiated by the Command to prohibit the proposed demonstration by Democracy Hub, a copy of which was served on their lawyers, Atuguba and Associates, the demonstrators still went ahead to embark on the demonstration as advertised on the 21st of September, 2023.

That in line with the constitutional mandate of the 1st Respondent to maintain law and order, the Police arrested and detained forty-nine (49) protesters for the offence of "Unlawful Assembly" and "failing to inform Police of the unwillingness to comply with a request, contrary to Section 202 of the Criminal and Other Offences Act, 1960 (Act and Section 9 (b) of the Public Order Act, 1994 (Act 491) respectively.

That there is no record of the Applicants of the instant application, on the list of those arrested by the 1st Respondent. Copies of the Respondents records of those who were arrested is annexed and marked as Exhibit "AG6 and AG6 series"

That after news of the arrest hit social media, a mammoth formed at the Regional Police Command of the 1st Respondent in search of information about the arrest and other issues.

That in order not to over-crowd the Regional Police Headquarters, the 1st Respondent allowed entry for only lawyers of the suspects.

That the 1st Respondent turned away unauthorized persons until when the command could adequately address their concerns.

That persons who refused to heed to the instructions of personnel on duty were compelled to move out of the Regional Police Headquarters through the use of minimal reasonable force depending on the level of resistance posed.

That the 1st Respondent has no official records of complaints regarding the Applicant's claims and denies violating Applicants fundamental human rights wrongfully and unlawfully.

Save that Accra Regional Command took the necessary steps to prevent all manner of persons from having access to the Regional Police Headquarters during the said demonstration by Democracy Hub on the 21st of September, 2023 the Respondents deny all the allegations made by Bridget Otoo, Vanessa Edotom Boateng and George Gyening Anyang.

That per Exhibit G submitted by the Applicants to this court, Bridget Otoo together with others rather insulted the Police, insisting on entering the premises.

That in the circumstance, the Honourable Court to dismiss the instant application for being vexatious and unmeritorious.

The brief facts of this case are that on 7th February, 2024, the Applicants caused to be issued at the registry of this Court, an application "for the enforcement of fundamental human rights (Articles 24 (1), 162 (5), 21 (1) (A), 162 (4), 21 (1) (D), 15 (1) and (2), 14 (1) and 18 (2) of the Constitution 1992 pursuant to Article 33 of the Constitution 1992 and Order 67 of the High Court (Civil Procedure) Rules, 2204 (C.I. 47)".

The Applicants seek the following reliefs per their application:

- i. A declaration that 1st Respondent's officers' interference with and/or violation of Applicant's rights in the manner complained of and referred to in paragraph 24 above are unconstitutional, wrongful and unlawful interference with those rights of Applicants and constitute violations of Applicant's fundamental human rights.
- ii. An Order directed at 1st Respondent for compensatory damages in sum of One Million Ghana Cedis (GHC 1,000,000.00) for unconstitutional, wrongful and

unlawful interference with and violation of Applicant's fundamental human rights.

- iii. An Order directed at 1st Respondent for general damages for unconstitutional, wrongful and violation of unconstitutional, wrongful and unlawful interference with and violation of Applicant's fundamental human rights.
- iv. An Order directed at 1st Respondent to render an unqualified apology in writing to Applicants for the violations and embarrassment caused Applicants, and for said apology to be subject to prior approval of Counsel for Applicants, and to be published in the Daily Graphic newspaper within 14 days from the day of Judgment.

APPLICANT'S CASE:

The Applicants who describe themselves as journalists, contend that they attended a demonstration dubbed #OccupyJulorbiHouse on 21st September, 2023 and suffered a violation of their human rights.

The Applicants say that they have attached photographic images showing injury inflicted on 3rd Applicant as well as a pen-drive showing incidents of assault by an officer of 1st Respondent at 1st Respondent's office premises.

It is further alleged by the Applicants that the 2nd and 3rd Applicants suffered periods of unlawful detention at 1st Respondent's offices where 3rd Applicant was subjected to abuse. A photograph of the alleged officer who participated in the abuse is attached.

The Applicants say that the 2nd Applicant who filmed the abuse of 3rd Applicant with her phone was pounced upon by more than six officers with the only female officer pulling her dress, while another twisted her arm and stamping her feet in attempts to wrest her phone, which they succeeded in doing. Applicants allege that they have attached a video recording of the incident.

It is the Applicants' case that the two lawyers who came to the rescue of the 2nd Applicants were equally mistreated by the officers who pushed one of them aside while the beat and detained the other lawyer.

The Applicants alleged that some of the incidents above were recorded by a camera man, 3 Music and Citi TV and same was posted on various platforms. 2nd Applicant later tweeted her experience about the eye witnesses including Lawyer Richmond Rockson and 3 Music Reporter tweeted with separate tweets, confirming the content of said tweet. The tweets are attached by Applicants.

According to the Applicant's, the events recounted are evinced by a copy of notice of confirmation of manhandling of said lawyer issued by the Greater Accra Region branch of the Ghana Bar Association which is attached.

The 1st and 2nd Applicants further allege that they were prevented from carrying out their profession by the seizure of 2nd Applicant's phone with which she made recordings about the protest.

It is the case of the Applicants that an officer of the 1st Respondent called Prince Napour led assault on 3rd Applicant and a video recording of same is attached.

By reason of the above, the Applicants allege that officers of 1st Respondent acted with impunity and violated Applicant's fundamental human rights wrongfully and unlawfully, also neglected their duty of care to the Applicants and are seeking the reliefs listed at paragraph 2 supra.

RESPONDENT'S CASE:

It is the case of the Respondents that by a letter dated 21st of August, 2023, "Democracy Hub" a Civil Society Organization notified the Accra Regional Police Command of an intended picketing themed "Occupy Jolorbi House", at the Jubilee House on 21st September, 2023. A copy of the letter has been annexed and marked as Exhibit "AG1"

The Respondents argue that in line with the Public Order Act, 1994 (Act 491), the Police engaged the organizers of the demonstration on 1st September, 2023, and raised security concerns regarding the intended picketing. The demonstrators were subsequently advised to change the proposed location of their pending picketing since the Jubilee House is a security zone.

The Respondents strongly contend that contrary to the Public Order Act, 1994 (Act491), the organizers failed to inform the Command of their unwillingness to comply with Police's advice within the timeline stipulated by Act 491.

It is also the case of the Respondents that instead of the organizers changing the location of the protest as advised by the Police Command, the organizers rather insisted on having the picketing at the forefront of the Jubilee House, in a letter dated September 4th, 2023. A copy of the letter from the Organizers is annexed and marked as Exhibit "AG2"

That by a letter dated 9th September, 2023, the Command informed the group that the police could not grant their request as a result of their failure to adhere to the Public Order Act, 1994 (Act 491) and security concerns, as well as constraints placed on the police service as a result of the Electoral Exercise that was being conducted

nationwide by the Electoral Commission of Ghana at the time. A copy of the letter is annexed and marked as Exhibit "AG3"

According to the Respondents, in a bid to prohibit the Organizers from proceeding with the picketing, the Police Command initiated a court action on 19th September, 2023 at the Criminal Division of the High Court. Evidence of the court action is annexed and marked as Exhibit "AG4".

That subsequently, the process was served on the Organizers, thereby giving them due notice. A copy of the proof of service is annexed and marked as Exhibit "AG5".

According to the Respondents, notwithstanding the court action initiated by the Command to prohibit the proposed demonstration by Democracy Hub, a copy of which was served on their lawyers, Atuguba and Associates, the demonstrators still went ahead to embark on the demonstration as advertised on the 21st of September, 2023.

The Respondents argue that in line with the constitutional mandate of the 1st Respondent to maintain law and order, the Police arrested and detained forty-nine (49) protesters for the offence of "Unlawful Assembly" and "failing to inform Police of the unwillingness to comply with a request", contrary to Section 202 of the Criminal and Other Offences Act, 1960 (Act 29) and Section 9 (b) of the Public Order Act, 1994 (Act 491) respectively.

Further, there is no record of the Applicants of the instant application, on the list of those arrested by the 1st Respondent. Copies of the Respondents records of those who were arrested is annexed and marked as Exhibit "AG6 and AG6 series".

The Respondents say that after news of the arrest hit social media, a mammoth formed at the Regional Police Command of the 1st Respondent in search of information about the arrest and other issues. In order not to over-crowd the Regional Police Headquarters, the 1st Respondent allowed entry for only lawyers of the suspects.

That the 1st Respondent turned away unauthorized persons until when the command could adequately address their concerns. Persons who refused to heed to instructions of personnel on duty were compelled to move out of the Regional Police Headquarters through the use of minimal reasonable force depending on the level of resistance posed.

The 1st Respondent says it has no official records of complaints regarding the Applicant's claims and denies violating Applicants fundamental human rights wrongfully and unlawfully.

Finally, the Respondents say that save that the Accra Regional Command took the necessary steps to prevent all manner of persons from having access to the Regional

Police Headquarters during the said demonstration by Democracy Hub on the 21st of September, 2023 the Respondents deny all the allegations made by Bridget Otoo, Vanessa Edotom Boateng and George Gyening Anyang (the Applicants herein).

That per Exhibit G submitted by the Applicants to this court, Bridget Otoo together with others rather insulted the Police, insisting on entering the premises.

In the circumstances, the Respondents pray the Honourable Court to dismiss the instant application for being vexatious and unmeritorious.

EVIDENCE AND THE LAW:

Part II of the Evidence Decree, 1975 (NRCD 323) is the applicable law as regards the burden of proof in trials. Of relevance to civil litigation are the following provisions:

Section 11 (1) for the purposes of this Decree, the burden of producing evidence means the obligation of a party to introduce sufficient evidence to avoid a ruling against him on the issue.

Section 11 (4), in other circumstances the burden of producing evidence requires a party to produce sufficient evidence so that on all the evidence a reasonable mind could conclude that existence of the fact was more probable than its non-existence.

Section 12 (1): Except as otherwise provided by law, the burden of persuasion requires proof by a preponderance of probabilities.

Section 12 (2): "Preponderance of Probabilities" means that the degree of certainty of belief in the mind of the Tribunal of fact or the Court by which it is convinced that the existence of a fact is more probable than its non-existence.

The above quoted provision from the Evidence Decree shows that in Civil matters, the Standard of Proof is on the balance of probabilities and a person claiming from another should be able to persuade the Court that he has been wronged. In order to meet this standard, an aggrieved party must produce "sufficient evidence" which on its "totality" must lead to a reasonable conclusion that the assertion or claim is more probable than not.

In explaining the principles relating to the duty to produce evidence, the learned S.A Brobbey states at page 31 of his book **ESSENTIALS OF THE GHANA LAW OF EVIDENCE** thus; "This literally means 'the proof lies upon him who affirms, not on him who denies, since by the nature of things, he who denies a fact cannot produce proof.'"

Furthermore, the Applicants in this particular suit have to prove on the preponderance of probabilities to satisfy the court, as required by rules of evidence, that they are

entitled to the claim as stated in their Application. In **TAKORADI FLOUR MILLS V. SAMIR FARIS [2005-2006] SCGLR 882 @ 900**, the Supreme Court captured the trite position of the law relating to the burden of proof. They stated as follows:

evidence require that the Plaintiff produces sufficient evidence to make out his claim on a preponderance of probabilities, as defined in Section 12(2) of the Evidence Act, 1975 "To sum up this point, it is sufficient to state that this being a civil suit, the rules of (NRCD 323). Our understanding of the rules in Evidence Act, 1975 on the burden of proof is that in assessing the balance of probabilities, all the evidence, be it that of the Plaintiff or the defendant, must be considered and the party in whose favour the balance tilts is the person whose case is more probable of the rival versions and is deserving of a favorable verdict."

What amounts to proof has been succinctly stated in **MAJOLAGBE V. LARBI & RS. 1959] GLR 190** as follows:

"Proof in law is the establishment of facts by proper legal means. Where a party makes an averment capable of proof in some positive way, e.g. by producing documents, description of things, reference to other facts, instances, or circumstances, and his averment is denied, he does not prove it by merely going into the witness-box and repeating that averment on oath, or having it repeated on oath by his witness. He proves it by producing other evidence of facts and circumstances, from which the Court can be satisfied that what he avers is true."

JURISDICTION OF THE HIGH COURT IN THE ENFORCEMENT OF FUNDAMENTAL HUMAN RIGHTS- PRIMARY COURT OF ENFORCEMENT

Article 33(1) of the 1992 Constitution provides as follows:

"Where a person alleges that a provision of this Constitution on the fundamental human rights and freedoms has been, is being or is likely to be contravened, that person may apply to the High Court for redress."

Pursuant to the above Constitutional provision, the High Court has original and exclusive jurisdiction in the enforcement of fundamental human rights under Chapter Five of the 1992 Constitution and in claims against both state and non-state actors.

Under Article 33(2), the High Court may grant; Declarations, Injunctions, Habeas Corpus, Mandamus, Certiorari, Prohibition, Compensation or Damages.

It is trite learning that these orders are discretionary remedies within the jurisdiction of this Honourable Court. The operative word in the above provision is "may" which clearly indicated that the grant of compensation is discretionary, and not mandatory.

The mere allegation or even proof of a violation of a fundamental human right does not automatically entitle an applicant to compensation. Before compensation can be granted, the court must be satisfied that:

- i. A constitutional violation occurred;
- ii. Compensation is necessary to vindicate the right;
- iii. The quantum sought is reasonable and supported by evidence.

In the case of *Atta Akyea v Attorney-General* [2002] SCGLR40, the Supreme Court held that constitutional remedies are remedial and not punitive, and that compensation must be justified by the circumstances of the case.

GENERAL PRINCIPLES GOVERNING ENFORCEMENT OF FUNDAMENTAL HUMAN RIGHTS

Enforcement of fundamental human rights under Article 33 of the 1992 Constitution is not automatic upon allegation. The Applicant bears the burden of proof to establish, on a balance of probabilities, that:

- a constitutionally guaranteed right exists;
- the Respondent interfered with that right and
- such interference was unlawful, unjustified and disproportionate

The Supreme Court has consistently held that courts must balance individual rights with the collective interest of society. In the case of *New Patriotic Party v. Inspector-General of Police* [1993-94] 2 SCLR 459, the Court affirmed that the State may impose reasonable restrictions on the right to freedom of assembly. Essentially, the enjoyment of fundamental human rights is subject to respect for public order, safety and rights of others.

Accordingly, where State authorities act within the bounds of the law to preserve public safety and national security, no constitutional violation arises merely because inconvenience or discomfort is occasioned.

LEGAL ARGUMENTS:

ISSUES

The grounds upon which the Respondents oppose to Applicants application for the enforcement of their fundamental human rights can be summarized in the following issues:

- i. Whether the constitutional right to freedom of assembly under Article 21(1) (d) is absolute and exercisable without regard to public order, public safety and lawful police regulation.
- ii. Whether the Ghana Police Service, in the discharge of its constitutional mandate to maintain public order and safety, is entitled to use reasonable force to enforce lawful instructions and disperse unlawful and security-threatening assemblies.

ISSUE 1: WHETHER THE CONSTITUTIONAL RIGHT TO FREEDOM OF ASSEMBLY UNDER ARTICLE 21 (1) D) IS ABSOLUTE AND EXERCISABLE WITHOUT REGARD TO PUBLIC ORDER, PUBLIC SAFETY AND LAWFUL POLICE REGULATION

Article 21 (1) (d) of the 1992 Constitution guarantees freedom of assembly, but this right is expressly subject to the Constitution and other laws of Ghana. The said provision states as follows:

"All persons shall have the right to -

(d) freedom of assembly including freedom to take part in processions and demonstrations;"

44. Article 21(4), 1992 Constitution empowers the State to impose restrictions that are reasonably required in the interest of defence, public safety, public order or public health. Article 21(4) (d) provides specifically as follows:

"Nothing in, or done under the authority of, a law shall be held to be inconsistent with, or in contravention of, this article to the extent that the law in question makes provision

(a) for the imposition of restrictions by, order of a court, that are required in the interest of defence, public safety or public order, on the movement or residence within Ghana of any person; or"

In the case of **Republic v. Public Tribunal; Ex-parte: Akosah [1980] GLR 592**, the Supreme Court emphasized that constitutional rights *"must be interpreted purposively and harmonized with the need for orderly governance.*

UNLAWFUL DEMONSTRATIONS ARE NOT CONSTITUTIONALLY PROTECTED

In the case of **New Patriotic Party v. IGP (CIBA case) [1996-97] SCGLR**

729, the Supreme Court held that while demonstrations are protected, reasonable regulation is lawful, particularly where security concerns arise.

Respectfully in the instant case, "Democracy Hub", a Civil Society Organization notified the Accra Regional Police Command of an intended picketing themed

"Occupy Julorbi House"

"at the Jubilee House on 21st September, 2023.

In line with the **Public Order Act, 1994 (Act 491)**, the Police engaged the organizers of the demonstration on 1st September, 2023, and raised security concerns regarding the intended picketing. The demonstrators were subsequently advised to change the proposed location of their pending picketing since the Jubilee House is a security zone.

Sections 1 to 7 of Act 491 provide as follows:

- "1) Any person who desires to hold any special event within the meaning of this Act in any public place shall notify the police of his intention not less than 5 days before the date of the special event.*
- (2) The notification shall be in writing and signed by or on behalf of the organisers of the special event and shall specify-*
 - (a) the place and hour of the special event,*
 - (b) the nature of the special event;*
 - (c) the time of commencement;*
 - (d) the proposed route and destination, if any; and (e) proposed time of closure of the event.*
- (3) The notification shall be submitted to a police officer not below the rank of Assistant Superintendent of Police or other police officer responsible for the nearest police station to the location of the proposed special event.*
- (4) Where a police officer notified of a special event under subsection (1) has reasonable grounds to believe that the special event if held may lead to violence or endanger public defence, public order, public safety, public health or the running of essential services or violate the rights and freedoms of other persons, he may request the organisers to postpone the special event to any other date or to relocate the special event.*
- (5) An organiser requested under subsection (4) to postpone or relocate the holding of a special event shall within forty-eight hours of the request, notify the police officer in writing of his willingness to comply.*
- (6) Where the organisers refuse to comply with the request under subsection (4) or fail to notify the police officer in accordance with subsection (5), the police officer may apply to any judge or a chairman of a Tribunal for an order to prohibit the holding of the special event on the proposed date or at the proposed location.*

(7) The judge or chairman may make such order as he considers to be reasonably required in the interest of defence, public order, public safety, public health, the running of essential services or to prevent violation of the rights and freedoms of other persons.

As indicated above, contrary to Section 5 of the Public Order Act, 1994 (Act 491), the organizers failed to inform the Command of their willingness to comply with Police's advice within the timeline stipulated by Act 491.

Instead of the organizers changing the location of the protest as advised by the Police Command, they rather insisted on having the picketing at the forefront of the Jubilee House per their letter dated September 4, 2023. This is evidenced by exhibit AG2.

In good faith, the Command in response of the Organizers' letter informed the group that the police could not grant their request as a result of their failure to adhere to the Public Order Act, 1994 (Act 491), security concerns, as well as constraints placed on the police service as a result of the Electoral Exercise that was being conducted nationwide by the Electoral Commission of Ghana at the time.

In line with Section 6 of Act 491, the Police Command initiated a court action on

19th September, 2023 at the Criminal Division of the High Court, in a bid to prohibit the Organizers from proceeding with the picketing. A copy of the court process was served on lawyers for the organizers and this has been exhibited as exhibits AG4 and AG5.

Notwithstanding the court action initiated by the Command to prohibit the proposed demonstration by Democracy Hub, the organizers and demonstrators still went ahead to embark on the demonstration as advertised on the 21st of September, 2023.

Once a demonstration is held in defiance of lawful security directives and statutory provisions, it loses constitutional protection. The Constitution does not protect civil disobedience masquerading as press freedom as the right to freedom of assembly is not absolute but delimited by the law.

ISSUE 2:

WHETHER THE GHANA POLICE SERVICE, IN THE DISCHARGE OF ITS CONSTITUTIONAL MANDATE TO MAINTAIN PUBLIC ORDER AND SAFETY, IS ENTITLED TO USE REASONABLE FORCE TO ENFORCE LAWFUL INSTRUCTIONS AND DISPERSE UNLAWFUL AND SECURITY-THREATENING ASSEMBLIES

The primary constitutional and statutory responsibility of the Police Service in Ghana is the preservation of public safety, public order and national security. The law recognizes that this responsibility often requires decisive action in volatile and unpredictable situations, including control of crowds and prevention of the breach of peace.

The law does not require the police to wait until violence erupts before acting.

Rather, the police are empowered to take preventive and proactive measures to avert threats to public safety, life, property and national security.

CONSTITUTIONAL BASIS OF POWERS OF THE POLICE

The 1992 Constitution, Article 200(3) provides as follows:

"The Police Service shall be equipped and maintained to perform its traditional role of maintaining law and order."

Thus, this constitutional mandate necessarily includes the authority to control crowds, prevent unlawful assemblies, disperse demonstrations that pose security risks and use reasonable force where persuasion fails.

The Supreme Court held in *Asare v. Attorney-General* [2003-2004] 2 SCGLR 823, that constitutional bodies entrusted with security functions must be afforded operational latitude to discharge their mandate effectively.

Further, the **Police Service Act, 1970 (Act 350)** outlines the core duties of the police, including the prevention of crime, preservation of public peace and enforcement of all laws and regulations. Section 1 of Act 350 is reproduced as follows:

"Section 1- Functions of the Service

- (1) The Police Service as provided for by article 190 of the Constitution, shall prevent and detect crime, apprehend offenders, and maintain public order and the safety of persons and property.*
- (2) A police officer shall perform the functions that are by law conferred on a police officer and shall obey the lawful orders and directions in respect of the execution of the office which may be received from the superiors of the Service."*

Police officers including the Officers on whose lawful actions Applicants commenced this suit, are therefore not passive observers. They are legally obligated to intervene where conduct threatens public order. Officers of the 1st Respondent thus turned away unauthorized persons who showed up at the Regional Police Headquarters on the 21st of September, 2023 until when the command could adequately address their concerns.

Persons who refused to heed to the instructions of personnel on duty were compelled to move out of the Regional Police Headquarters through the use of minimal reasonable force depending on the level of resistance posed.

STATUTORY AUTHORITY TO DISPERSE CROWDS

The **Public Order Act, 1994 (Act 491)** was enacted pursuant to Article 21(4) of the Constitution to regulate public assemblies. Section 2 of Act 491 empowers the police to control the time, place and manner of demonstrations, prevent assemblies that threaten public safety and issue lawful directions to organisers and participants. The said provision states as follows:

"Section 2-Control of Routes and Crowds.

- (1) It shall be the responsibility of every police officer to take all such steps as are reasonably necessary in any public place*
 - (a) to assist in the proper conduct of any special event by directing the routes of such event to prevent obstruction of pedestrian or vehicular traffic;*
 - (b) to disperse crowds at any special event where he has reasonable grounds to believe that a breach of the peace is likely to occur or if any breach of the peace has Occurred or is occurring in order to prevent violence, restore order and preserve the peace. (emphasis mine)*
- (2) The Police officer in charge of an area of a special event may cause to be closed such streets or parts thereof to pedestrian or vehicular traffic or both and may cause to be erected such barriers as may be necessary to preserve public order."*

EFFECT OF SECTION 3(2) OF ACT 491 - OBLIGATION TO OBEY THE POLICE

Section 3 of Act 491 provides for the responsibility of organizers and participants on demonstrations. It states as follows:

"Section 3 - Responsibility of Organizers and Other Persons.

- (1) Where at any special event any damage is caused to any public property, the organisers, or any other persons found to have been damage, responsible for the damage caused shall be liable to pay for the cost of the
- (2) Any person taking part in a special event shall obey the directions of police officers safeguarding the proper movement of other persons and vehicles and generally maintain order.
- 3) Any person taking part in a special event shall conduct himself in such a manner as to avoid causing obstruction of traffic, confusion or disorder."

Section 3 (2) of Act 491 imposes a statutory duty on participants of demonstrations to obey police directions issued in the course of maintaining order. Failure to comply strips the participant of constitutional protection under Article 21.

Section 3(3) places a positive obligation on participants to act responsibly. The Respondents therefore submit that where confusion arises or disorder is imminent, the police are not only empowered but duty-bound to act decisively.

The Applicants as well as all other persons who participated in the "Occupy Julorbi" demonstration were obliged to obey the directions of police officers on duty who were performing their constitutional duty of maintaining public order and safety.

The Respondents further submit that the actions of the Police were lawful, reasonable and fully justified within the framework of the 1992 Constitution and the Public Order Act, 1994 (Act 491). The evidence demonstrates that the right to assemble, though constitutionally guaranteed, is not absolute and must be exercised in a manner that does not endanger public safety or occasion disorder.

Once the Applicants (or any participant) failed to comply with lawful police directions issued pursuant to Section 3 (2) and (3) of Act 491, the police were clothed with the authority and indeed the duty, to intervene. The use of force, where employed was measured, proportionate and strictly limited to what was reasonably necessary to restore order and prevent a breach of peace. Such conduct falls squarely within the constitutional mandate of the Police Service under Article 200 (3) of the Constitution.

Accordingly, the Respondents submit that no violation of the Applicant's fundamental has been established and the enforcement measures undertaken by the Police constituted a legitimate restriction sanctioned by law in the interest of public order and safety.

REASONABLE USE OF FORCE JUSTIFIED UNDER THE CRIMINAL OFFENCES ACT, 1960 (ACT 29)

The Respondents submit that the actions of the Police in the instant case are expressly justified by **Section 37 of the Criminal Offences Act, 1960 (Act 29)**, which provides statutory authority for the use of reasonable force in the execution of lawful duties. The said provision expressly states as follows:

"For the prevention of, or for personal defence, or the defence of any other person against a criminal offence, or for the suppression or dispersion of a riotous or an unlawful assembly, a person may justify the use of force or harm which is reasonably necessary extending in case of necessity even to killing." (emphasis mine)

Section 37 of Act 29 states in substance that a person, including a public officer, is justified in using such force as is reasonably necessary in the circumstances for the purpose of preventing crime, effecting a lawful arrest, or maintaining public order, provided that the force used is not excessive. This provision codifies the long-established common law principle that law enforcement officers are not required to act with passivity in the face of resistance, disorder, or threats to public peace. Rather, the law recognises that the effective maintenance of law and order necessarily entails the measured application of force where lawful instructions are ignored or defied.

In the instant case, the Police were acting pursuant to their constitutional mandate under Article 200 of the 1992 Constitution, as well as their statutory duties under the Public Order Act, 1994 (Act 491), to regulate assemblies and prevent breaches of the peace. Once participants failed to comply with lawful police directions issued to safeguard a security-sensitive location, the Police were entitled, indeed obliged, to take enforcement action.

The Respondents submit that any force employed was: lawful and being directed at dispersing an unlawful assembly to restore order; necessary, in light of the refusal of participants to comply with police directives; and proportionate, having regard to the need to secure a sensitive installation and prevent escalation.

The Applicants have failed to establish that the force used exceeded what was reasonably necessary in the circumstances. As held in *Majolagbe v Larbi* (supra), the burden lies on the Applicants alleging excessiveness to prove same. In the absence of medical evidence, contemporaneous complaints, or credible proof of disproportionate force, the presumption of regularity attaching to official acts remains un rebutted.

It is further submitted that section 37 of Act 29 operates as a complete statutory defence to claims of unlawfulness where force is used reasonably in the execution of lawful authority. The mere fact that physical force was employed does not render police conduct unlawful or unconstitutional.

Accordingly, the Respondents submit that the Police officers acted within the protection of section 37 of Act 29, and that their conduct was lawful, justified, and

consistent with both constitutional and statutory standards governing the maintenance of public order.

A. CREDIBILITY OF RESPONDENTS' EVIDENCE ON ARRESTS

The Respondents submit that the Applicants' attempt to discredit the evidence concerning the number of persons arrested for unlawful assembly is misconceived, speculative and untenable.

As indicated above, it is the Respondents' case that in line with the constitutional mandate of the 1st Respondent to maintain law and order, the Police arrested and detained forty-nine (49) protesters for the offence of "Unlawful Assembly" and

"failing to inform Police of the unwillingness to comply with a request" and that there is no record of the Applicants of the instant application, on the list of those arrested by the 1st Respondent. Copies of said records are before this Honourable Court.

The following ensued during cross examination of the Respondents' deponent on 11th February, 2025:

Q: So, it is your case that 46 persons are the only persons arrested and detained by the police, not so?

A: Yes, my Lord.

Q: You are aware that the police issued a number of statements over the said demonstration arrests.

A: Yes, my Lord.

Q: One such statements dated 21/09/2023 was signed by Juliana Obeng, Superintendent of Police, Head Public Affairs Unit to the media in Accra, not so?

A: She is the Head of the Public Relations Department at the Accra Regional Police Headquarters so one of her responsibilities is to issue statements from the command. So I don't know which one you are talking about. If you can refresh my memory on it.

Q: I am referring to the statement dated 21/09/2023, titled: "Police arrests 49 paragraphs only suspects for unlawful assembly and violation of Public Order Act" and it is five

A: Yes, my Lord.

Q: I put it to you that your Exhibit AG6 series, is incomplete in respect of the number of persons arrested in the circumstances.

A: My Lord, those the police arrest, we have records of them. That is what we have captured.

Q: this number did not include the include the individuals complained about by the Ghana Bar Association (GBA) per Exhibit E, the Ghana Journalist Association (GJA) per Exhibit F and the BBC Reporter per Exhibit F2, not so?

A: Yes, it is not. The police did not receive any report. So, there was no official report on the three (3) persons he is talking about. The police have 46 suspects that were arrested and brought to the Regional Police Command.

During the re-examination of the Respondents' deponent on 3ra March, 2025, the following ensued:

"Q: You were asked " am referring to the statement dated 21/09/2023, titled "Police arrests 49 suspects for unlawful assembly and violation of Public Order Act" and it is five paragraphs only. And you answered, "Yes my Lord". What do you mean by, "Yes my lord"? if you can clarify that to the Court.

A: My lord, on that faithful day, the Police arrested 49 suspects but when they were screened, only 46 of the suspects were found to be part of those who assembled unlawfully, so three (3) others were released to go when the Police realized they were not part of the suspects who assembled unlawfully."

The clarification by the deponent demonstrates transparency rather than any inconsistency, and reflects due diligence on the part of the Police service rather than any attempt at deception as the Applicants sought to insinuate.

B. DUTY OF A BROADCAST JOURNALIST TO VERIFY THE LAWFULNESS OF DEMONSTRATIONS

The Respondents submit that a diligent and responsible broadcast journalist is expected, as a matter of professional ethics and reasonable conduct, to verify the lawfulness or otherwise of a public demonstration before reporting, promoting or participating in the dissemination of information relating to same.

During cross-examination of the 2nd Applicant on 25% March 2025, she candidly admitted that she reports on both lawful and unlawful demonstrations. This admission is significant. The cross-examination is reproduced as follows:

"Q: You will agree with me that as a diligent broadcast journalist, you are supposed to verify the lawfulness or otherwise of demonstrations before publishing information on same.

A: I am broadcast journalist. I report on lawful and unlawful demonstrations."

The above underscores that the Applicant was fully aware that not every assembly enjoys automatic constitutional protection and that demonstrations may lawfully be restricted or prohibited where statutory requirements are not complied with or where public safety considerations so demand.

It is therefore submitted that having regard to her own testimony and professional standing as a broadcast journalist, the 2nd Applicant and by extension the 1st and 3rd Applicants, knew or ought to have reasonably known that the demonstration in issue required compliance with the Public Order Act, 1994 (Act 491), including engagement with the police and obedience of any lawful directions issued by them. A journalist exercising due professional care cannot claim ignorance of the legal status of an event she chooses to cover, particularly where the demonstration implicates public order and security considerations.

C. ABSENCE OF MEDICAL EVIDENCE TO SUPPORT APPLICANTS' ALLEGATIONS

The Respondents submit that the Applicants' allegations of assault, abuse, and physical injury are wholly unsupported by medical evidence, and this omission is fatal to the credibility and probative value of their claims.

The following response was given by 2nd Applicant during her cross-examination on 17th April, 2025:

"Q: I am putting it to you that there is no medical report before the court because you did not obtain one after the incidence:

A: I did not obtain a medical report after the incidence."

It is trite law that where a party alleges physical injury or bodily harm, particularly in proceedings seeking constitutional reliefs and compensation, such allegations must be supported by independent and objective medical evidence. Mere assertions in affidavits, however forcefully made, cannot substitute for medical reports, treatment notes, or expert testimony establishing the nature, extent and cause of the alleged injuries.

In the instant case, notwithstanding the serious nature of the allegations levelled against the Police, no medical report, hospital record or doctor's opinion had been placed before this Honourable Court, the Applicants have failed to show that: they sought medical attention; any injury was diagnosed or treated; or any alleged injury was attributable to the conduct of the police.

Furthermore, photographs and videos without expert interpretation or medical corroboration cannot establish injury in law nor can they prove causation or unlawfulness.

Accordingly, the Respondents submit that the Applicants' allegations of assault remain unproven and speculative and cannot support a finding of constitutional violation or an award of compensation.

D. FAILURE OF THE APPLICANTS TO REPORT THE ALLEGED ABUSE TO INDEPENDENT INSTITUTIONS

The Respondents submit that the Applicants' failure to report the alleged acts of abuse to any independent oversight or accountability institution significantly undermines the credibility, seriousness, and evidential weight of their claims. Ghana's constitutional and statutory framework provides multiple independent bodies to which allegations of police misconduct may be reported, including the Commission on Human Rights and Administrative Justice (CHRAJ) and the Police Professional Standards Bureau.

During cross-examination on 17th April 2025, the 2nd Applicant admitted that she did not report the alleged abuse to any independent body, explaining that she "did not feel safe" doing so. The Respondents submit that such an explanation cannot excuse the total absence of any contemporaneous complaint or report. The said admission is reproduced below:

"Q: I am putting it to you that, you did not report the matter at an independent institution when it occurred and as such there is no record before the Court.

A: I did not report to an independent institution by extension the Police because they manhandled me and seized my phone. I did not feel safe reporting to them that is why I am in Court to seek justice."

The explanation offered is speculative and unsubstantiated, and cannot replace objective proof. It is submitted that a party who alleges serious constitutional violations but fails to invoke available independent complaint mechanisms must bear the evidential consequences of that omission.

Furthermore, the failure to report the matter at the material time deprived the Respondents of the opportunity for prompt investigation and accountability processes. Courts have consistently held that unexplained delay or failure to lodge complaints in matters alleging abuse weakens the probative value of such claims.

The Respondents also submit that the Applicants' status as journalists, who are professionally trained to engage public institutions and accountability mechanisms, makes the failure to report even more telling. A journalist who routinely reports on

governance and human rights issues would reasonably be expected to utilise institutional remedies rather than rely solely on post-event litigation narratives.

Accordingly, the Respondents submit that the Applicants' failure to report the alleged abuse to any independent institution, coupled with the absence of corroborative evidence, casts serious doubt on the veracity of their allegations and militates against any finding of constitutional breach or entitlement to relief.

E. REGIONAL POLICE HEADQUARTERS AS A SECURITY INSTALLATION AND DEVIATION FROM THE ADVERTISED DEMONSTRATION AREA

The Respondents submit that the Regional Police Headquarters constitutes a security installation by its very nature, and is therefore a location subject to heightened protection, control, and restriction. Police headquarters house sensitive operational information, armory facilities, detainees, and command structures essential to the maintenance of law and order. As such, access to and activities within the premises are lawfully regulated in the interest of public safety and national security.

It is submitted that no constitutional or statutory provision permits members of the public to convene demonstrations within the premises of a police headquarters as of right. On the contrary, demonstrations within or in close proximity to security installations pose inherent risks and fall squarely within the category of assemblies that may be lawfully restricted or prohibited. Such demonstrations, including the one in issue constitute an unlawful assembly which is defined under **Section 201 of the Criminal Offences Act 1960 (Act 29)** as follows:

"Definition of unlawful assembly

- (1) For the purposes of this Chapter, there is an unlawful assembly when three or more persons assemble with intent to commit offence, or having assembled with an intent to carry out a common purpose, conduct themselves in a manner likely to cause persons in the neighbourhood reasonably to fear that the persons so assembled will commit a breach of peace, or will by the assembly needlessly and without a reasonable occasion, provoke other persons to commit a breach of the peace.*
- (2) It is immaterial that the original assembling was lawful if, having assembled, they conduct themselves with a common purpose in that manner."*

Further, under Article 21 (4) of the 1992 Constitution and Section 3 of the Public Order Act, 1994 (Act 491), the Police are expressly empowered to regulate the place, manner, and conduct of demonstrations to prevent danger to life, property, and public order. This authority necessarily includes the power to exclude demonstrations from security-sensitive locations, including police headquarters.

The Respondents further submit that the location at which the Applicants and their associates ultimately assembled was not the location advertised or notified for the demonstration. Even assuming without admitting that the original notice complied with Act 491, the movement of demonstrators from the notified location to the premises of the Regional Police Headquarters constituted a material deviation from the notified route and venue.

Such deviation rendered the assembly unlawful and outside the protective scope of Article 21(1) (d) of the Constitution. A demonstration that shifts from its notified location to a security installation, without consultation or approval, cannot be characterized as a lawful exercise of the right to assembly.

Once the demonstrators relocated to the Regional Police Headquarters, the Police were placed under a statutory and constitutional duty to secure the premises and prevent a breach of the peace. At that point, any claim to constitutional protection fell away, and the Police were entitled to issue lawful directives, disperse the gathering, and take enforcement action as permitted by law.

The Respondents therefore submit that the Applicants' presence at the Regional Police Headquarters was unlawful, unauthorised, and inherently security-threatening, and that the actions taken by the Police were a lawful response to a situation created by the demonstrators themselves, not an infringement of constitutional rights.

Accordingly, the Applicants cannot rely on Article 21 to justify conduct that involved occupying a security installation and deviating from the advertised demonstration area, and this Honourable Court is urged to so hold.

F. APPLICANTS' VIDEO AND PHOTOGRAPHIC EVIDENCE DO NOT SUPPORT THE APPLICANTS' ALLEGATIONS

The Respondents submit that the videos and photographs relied upon by the Applicants do not support the serious allegations of assault, brutality, or excessive use of force made against the Police. Rather than corroborating the Applicants' claims, the said exhibits merely depict moments of crowd control and characterised as unlawful or excessive dispersal, without demonstrating any conduct that can reasonably be

The legal principle that parties must prove their assertions with evidence rather than relying on bare assertions, forms a fundamental part of our legal system. A plethora of decided cases exist to support this principle. In the case of *Zabrama v. Segbedzi* [1991] 2GLR 221-247, the court established that a person who makes an assertion which is denied by their opponent has the burden to establish that the assertion is true. The burden is not discharged unless they lead admissible evidence from which the fact can be properly inferred.

Furthermore, the court held in **Re Adjancote Acquisition; Klu v. Agyemang III [1982-83] GLR 852-863** that a party cannot succeed solely on a bare assertion of ownership without showing any 'vestige of title'.

Exhibits do not speak for themselves. Their probative value depends on context, clarity, and corroboration. In the present case, the videos and photographs tendered fail to show: harm being caused on Applicants, the precise nature or degree of force allegedly used or any causal link between police actions and the alleged harm. With the absence of such foundational elements, the exhibits cannot ground a finding of constitutional violation.

In the circumstances, the Applicants' allegations remain bare assertions, unsupported by credible, cogent, and independent evidence. As has been consistently held, the Applicants claims, particularly those seeking declarations and compensation, must be proved by more than conjecture or emotive narratives.

The Respondents therefore submit that the video and photographic exhibits do not advance the Applicants' case and ought to be accorded little or no evidential weight by this Honourable Court.

In conclusion, the Respondents respectfully submit that the Applicants have failed to establish any violation of their fundamental human rights within the meaning of the 1992 Constitution. The totality of the evidence before this Honourable Court demonstrates that the actions of the Police were lawful, measured, and justified in the discharge of their constitutional and statutory mandate to maintain public order and protect public safety.

The right to freedom of assembly under Article 21(1)(d) of the Constitution is not absolute and is subject to lawful regulation pursuant to Article 21(4) and the Public Order Act, 1994 (Act 491). In the instant case, the demonstration was not conducted at the advertised location and was unlawfully relocated to the premises of the Regional Police Headquarters, a security installation to which the public has no right of access for purposes of protest. This conduct amounted to unlawful assembly under Section 201 of Act 29 and stripped the assembly of constitutional protection and justified police intervention.

The Police acted within their authority under section 3 of Act 491, Article 200 of the Constitution, and section 37 of the Criminal Offences Act, 1960 (Act 29).

Any force employed was reasonable, proportionate, and necessary to disperse an unlawful assembly and secure a sensitive installation. The Applicants have failed to discharge the burden of proving that the force used was excessive or unlawful.

Furthermore, the Applicants' case is riddled with evidential deficiencies.

There is no medical report to support claims of physical injury; no contemporaneous complaint was lodged with any independent oversight institution; and the video and photographic exhibits tendered do not substantiate the allegations made. The Applicants' attempt to discredit the Respondents' evidence on the number of arrests was adequately clarified during cross-examination and does not undermine the credibility of the Respondents' case.

The Applicants' own evidence, particularly the admissions made during cross-examination, further weakens their claims. As professional journalists, they were aware of the distinction between lawful and unlawful demonstrations and cannot rely on their status to legitimize participation in an assembly conducted in defiance of lawful police directives and statutory declaration.

In the circumstances, the Applicants' allegations amount to bare assertions, unsupported by credible, cogent, or independent evidence, and fall far short of the standard required to sustain a constitutional claim or warrant the grant of reliefs, including compensation which remains discretionary.

The Respondents therefore respectfully pray this Honorable Court to dismiss the application in its entirety, uphold the lawful actions of the Police, and affirm the principle that constitutional rights must be exercised responsibly and within the confines of the law.

This case presents a most troubling narrative: that those entrusted by law with the solemn duty of protecting citizens have, instead, turned their powers into instruments of abuse. The very individuals sworn to defend life and liberty have unlawfully infringed upon the inalienable rights of the Applicants, subjecting them to harm, beatings, and torture. Such conduct is not only incomprehensible, but it strikes at the very heart of the constitutional order and the trust reposed in the Police Service, sustained by the taxes of the very citizens they mistreat.

The Court has long recognized that the freedoms guaranteed by our Constitution are not privileges to be dispensed at will, but rights that stand as bulwarks against tyranny. In **NEW PATRIOTIC PARTY V. INSPECTOR GENERAL OF POLICE (1993) JELR 67912 (SC)**, where the police sought to restrain the freedom of assembly under Article 21, the Supreme Court reaffirmed the inviolability of constitutional rights, recalling the dark chapter of **RE-AKOTO**, when the Executive, in its perceived absoluteness of power, sanctioned unlawful arrests, torture, and imprisonment, aided by a pliant judiciary.

In reflecting on those times, AMUA SEKYIJSC admonished us never to return to that abyss of despair, reminding that in 1969, 1979, and 1992, successive Constitutions deliberately entrenched elaborate provisions on fundamental human rights, and vested the courts with clear and unequivocal authority to enforce them.

It is against this backdrop that the Applicants now stand before this Court, seeking vindication of rights that should, at this stage of our national journey, have been beyond question. Their ordeal- abuse, beating, and torture at the hands of those sworn to protect them - must not be permitted to echo the shadows of our past. We are confident, that this Court will rise to its constitutional duty and uphold the rights of these three citizens, ensuring that justice is not only done, but seen to be done.

The event which led Applicants to this court unraveled as follows: the Democracy Hub, a Civil Society Organization (hereinafter referred to as "the organizers"), in exercise of their constitutional rights and in accordance with law, organized a peaceful demonstration or picketing dubbed the "#OccupyJulorbiHouse". It was scheduled to take place from 21st September to 23rd September 2023.

In compliance to the Public Order Act, 1994 (Act 491), the organizers duly notified the police of their intention to demonstrate. The police raised an objection to the areas designated for the picketing. The organizers in a meeting on 1st September 2023, were asked to change the route and end point of the protest, which the police were to inspect.

After this meeting, the organizers kept following up with the Police, seeking a day to visit the location with them, for the purpose of demarcating areas that protesters were not to traverse. The police, however, kept giving excuses and postponing the visit to the location even until Monday 18th September, 2023; three days to the planned event.

On said Monday, instead of meeting the organizers near the Jubilee House for the demarcation exercise, as had been verbally agreed, the Police invited the organizers for a meeting where they purported to unconstitutionally, disparagingly, and contrary to procedure laid down in the Public Order Act, prohibit the event. They also threatened the organizers with arrests if their unlawful and unconstitutional oral orders were defied.

The organizers never heard again from the Police until the day of the picketing where the police, who organizers had been informed would not have enough manpower

to offer protection, showed up in "Rambo style" at the peaceful demonstration, well attended by prominent citizenry, to arrest innocent protestors.

It was after this incident that organizers got to know, that the police had drafted a letter dated 19th September 2023, purporting to stop them from having a demonstration, in a bid to support their prohibition application which they filed at the High Court of Accra, on the same day, two days to the planned event. It is interesting to observe that the purported official letter of the Police, to the organizers was written on 19th September, 2023, the injunction application was filed on 19th September at 12:20pm of the same day and process was purportedly served on the same day, 19th September at 2:23 pm, within an interval of 2 hours. This was judicial service delivery at its best, but unfortunately for all the wrong reasons.

Despite providing the Police with contacts of the organizers and their in-person meetings with them, the Police made no attempt to serve the organizers with the said notice of prohibition application, but rather attempted to serve the originating court process on lawyer for the organizers at a chamber, he was not even practicing from at the material time.

It must be noted that the organizers had never at any time, informed the Police that they were waiving personal service in the event of any court processes, much more an originating process, in preference to service on said lawyer who had **NOT** been instructed to represent organizers in any court.

Now assuming without conceding that service on the lawyer is to be deemed as service on the organizers, the bailiff was duly informed that said lawyer was not practicing from said firm at the material time he attempted the purported service and that said firm could not accept service of process for the lawyer, since he was not at that material time practicing with the chamber.

After an unsuccessful attempt to serve this originating process on lawyer, the police now targeted and violated the rights of innocent Ghanaians, on the 21st of September, who were faithfully exercising their basic human rights as provided for under the 1992 constitution.

The acts of the police on these eventful days, as exhibited in videos, articles, audios, tweets and statements were blatant violations of articles 21, 15, 14 and 18 of the 1992 Constitution of Ghana. These acts on innocent Ghanaians have become one too many, and the despicable attempt by the police to bend the laws in their favour were duly condemned when the court to which the police went for an order for prohibition, correctly ruled against them, for failing to serve Respondent as stated on the face of the application.

The police who have been entrusted with Ghanaian lives on occasions for demonstrations such as this one, are the very same who have inflicted such acts of cruelty on their victims. It has become a case of the fox guarding the hen house.

In order to maintain civility and order as a nation, we can only ask that our courts grant justice to these three Applicants, which justice would be a show to the world that human rights abuses are not permissible, in a country that wishes to be seen as a beacon of democracy.

On the 21st of September 2023, 1st Applicant, in exercise of her freedoms of movement, assembly, demonstration and her profession attended to the "occupyjulorbi" house demonstration. 1st Applicant is a journalist by profession and was also at hand for the supervision of 2nd Applicant, who was there with a camera man to cover the said event in exercise of duties imposed by articles 21 (1) (f) and chapter 12 of the 1992 Constitution.

In the course of the demonstration, the police arrested some demonstrators leading the 2nd Applicant to the police station to make further enquiries about the cause of the arrest, at a demonstration which to the best of the public's knowledge was not unlawful.

1st Applicant, supervisor of 2nd Applicant followed through at the police headquarters (Accra Region) in respect of 1st Applicant. Not surprisingly at the police Headquarters, there were others who had also come to enquire of the whereabouts of friends and family.

Though 1st Applicant introduced herself as a journalist, her attempt to reach 2nd Applicant was met with hostility and show of force as seen in the video exhibits attached to the Application.

Meanwhile 2nd Applicant who had been allowed into the police headquarters equally suffered assault, invasion of her phone and serious manhandling by more than 6 police officers, when the police discovered she had been able to film the abuse, brutality and torture of 3rd Applicant, who was also at the police station to make enquiries on the arrest of fellow demonstrators and had been forcibly dragged by the police into their yard as seen in the video exhibits. 3rd Applicant was subjected to hefty slaps, punching in the face, being hit with a baton and the metallic part of a belt, and 2nd Applicant had managed to capture this on her phone which infuriated the perpetrators; police officers. The gravity of assault on 2nd Applicant led two lawyers who were present to aid in the release of unlawfully detained demonstrators, run to the aid of 2nd Applicant.

The series of events that took place at this particular time has been recounted by the former Member of Parliament and Minister Inusah Fuseini Esq. and Richmond Rockson Esq. now Spokesperson for the Ministry of Energy. This the two lawyers did in their sworn statements filed as exhibits to the supplementary affidavit of 2nd Applicant and dated 4th August 2025.

The 2nd and 3rd Applicants were not only abused, assaulted and tortured but were also unlawfully detained by the Police. These series of events exhibit flagrant human rights abuses of 1st, 2nd and 3rd Applicants.

THE APPLICANTS' EVIDENCE IS AS FOLLOWS:

1. Exhibit "A series" - Photographic images showing injuries to body and eye of 3rd Applicant.
2. Exhibit "B" - Pendrive containing video footage of incidents of assault at 1st Respondent's premises
3. Exhibit "C"- Pendrive containing video recordings of 2nd Applicant after she gained her freedom as well as tweets of various persons who followed the coverage of these incidents.
4. Exhibit "D series" - Print out of tweets by Journalist Emmanuel Sarpong, reporter from 3 Music who followed the coverage of these events as well as Lawyer Richmond Rockson who witnessed the assault of 2nd Applicant and was himself assaulted.
5. Exhibit "E" -Copy of notice of manhandling of lawyer Richmond Rockson issued by the Greater Accra branch of the Ghana Bar Association dated 25th September, 2023.
6. Exhibit "F series" - Press release by the Ghana Journalists Association (GJA) and the Ghana Police Service dated 22nd and 21st September, 2023, as well as print out of news report dated 23rd September, 2023 and a tweet by BBC journalist dated 22nd September, 2023, all in respect of complained violations.
7. Exhibit "G"- Video recordings of 3rd Applicant being dragged in the midst of other officers and of 1st Applicant being assaulted, as well as several screenshots, social media posts and media printout in proof of complained violations marked as F-3.
8. Further affidavit of Applicants filed on 3rd June 2025.
9. Further affidavit by 2nd Applicant filed on 4th August, 2025 with attached affidavit evidence of Inusah Fuseini Esq. and Richmond Rockson Esq. Witnesses of complained violations.

Respondents, in answer to the Applicant's Application, filed an affidavit on 5th May, 2024, in which they gave their account of events. Starting with notification to them by the Democracy Hub of an intended picketing at the Jubilee House on 21st September, 2023. The police then said they raised security concerns, which required that the venue for picketing to be changed. That in spite of the advice of the police, Demonstrators still wanted to picket in front of the Jubilee House, and wrote to the police of their intent.

That the police based on the Demonstrators refusal to heed their "advice", security concerns they had and a nationwide exercise held by the Electoral Commission, informed the group that they could not grant their request (for police protection).

That the police in a bid to prohibit the demonstration initiated a court action on 19th September, 2023, (barely three days before the event). That a copy of the originating process was served on Atuguba and Associates.

That on the day of the demonstration, the police arrested forty-nine of the demonstrators for unlawful assembly and failing to inform police of unwillingness to comply, which arrest led to a gathering at the police Headquarters. That the police used "minimal reasonable force" and turned away unauthorized persons until when they could adequately address their concerns allowing entry for only lawyers of the suspects.

Respondents in effect deny all allegations of Human Rights abuses made by 1st, 2nd and 3rd Applicants.

THE RESPONDENT'S EVIDENCE IS AS FOLLOWS:

Exhibit "AG1" - Letter of intended demonstration from Democracy Hub dated August 21st, 2023 Exhibit "AG 2" - Second letter of intended demonstration showing modified routes dated September 4th 2023.

Exhibit "AG 3" - Copy of letter from the police asking organizers to change their venue and event date, dated 19th September 2023.

Exhibit "AG 4" - Motion on notice to prohibit demonstration dated 19th September, 2023

Exhibit "AG 5"- Affidavit of service of motion dated 19th September 2023

Exhibit "AG 6"- Police Enquiry bail for Rexford Eche.

Exhibit "AG 6 series"- Police Enquiry bail for other persons, numbered 45

ISSUES TO BE DETERMINED

While issues were not set down for trial, a critical scrutiny of the narrative would show that the issues in contemplation are grounded on the following:

1. Whether officers of 1st Respondent had lawful justification for the complained conduct on the grounds that said event was prohibited as an unlawful assembly?
2. Whether officers of 1st Respondent interfered with and violated Applicants' rights in the manner complained of in paragraph 24 of the affidavit in support of Application?

ISSUE 1

A matter of paramount interest is whether or not there was an event which constituted an unlawful assembly, since the case of the police is premised on that faulty foundation.

The right to freedom of assembly including the freedom to take part in processions and demonstrations is guaranteed under Article 21(1) (d). The procedure for such event is governed by the Public Order Act, 1994 (Act 491). The case of **NEW PATRIOTIC PARTY V THE INSPECTOR GENERAL OF POLICE (1993), JELR 67912 (SC)**, would reveal that the Public Order Act, 1994 (Act 491), is a bold attempt by the legislature to uphold the constitutionally guaranteed rights of the freedom to assemble and demonstrate, replacing the Public Order Decree (NRC 68), whose provisions specifically sections 7, 8, 12(a) and 13 were adjudged by the apex court to place fetters on freedoms given by the constitution, and therefore unconstitutional. Whereas the old law required permission, the new law required only notice.

Its replacement the Public Order Act, 1994 (Act 491), cannot therefore be used to recreate the fetters so relentlessly dispensed of. In fact in the words of Amua Sekyi JSC in **NPP V IGP**, supra "the Constitution, 1992 is now the supreme law of the land, and any enactment or executive order (**in all its forms**) inconsistent with it is null and void" (emphasis mine).

The Public Order Act, under Section 1 outlines the procedure by which the constitutionally guaranteed freedom to assembly must be exercised, and this is exactly what the organizers of the event did.

The Act provides that for an event such as this, the organizers will notify the police who may request the organizers to postpone the event or relocate the event should they believe, that there would be any danger or violence. An organizer of such an event would within 48 hours inform the police of their willingness or failure to comply.

Where organizers fail to comply or fail to notify the police, the police may then apply to a judge to prohibit the event.

From the evidence provided by the Respondents, the Conveners of the demonstrators indeed provided notice of intention to demonstrate as per the Public Order Act one clear month before the intended picketing, as seen from EXH AG 1.

At a meeting on 1st September, 2023, the Police requested that the proposed location for the picketing be changed, on the basis that the Jubilee House is a security zone, as is again reiterated in their letter of 19th September, 2023. It is important to take judicial notice of the fact that the Jubilee House is well-known for being a choice location for picketing on national issues as it is the seat of government; a representation of the Ghanaian citizen who has duly voted into power, persons to execute the mandate of leading the country. For the majority of demonstrators and protestors, there exists no more lawful, appropriate, or effective avenue for the expression of their grievances than the submission of such concerns (often in the form of written petitions) to the President at the seat of government. This constitutes a recognized and legitimate means of seeking redress within our democratic framework. The Organizers were therefore not out of order.

The White House, the seat of government or the presidency of the United States of America witnesses demonstrations frequently.

THE FOREFRONT OF THE JUBILEE HOUSE HAS NOT BEEN DECLARED A SECURITY ZONE

The police in their interactions with the organizers, asked for a different location to be chosen because according to them, the forefront of Jubilee House was a security zone.

However, this was not backed by any law. A security zone, as defined in Ghana's Zoning Guidelines and Planning Standards, is a designated area intended to accommodate facilities for the police service, fire service, prison service and the military. When any other area is to become security zone, it is declared as such by the Executive, and then codified. The request of the police for the venue to be changed because it was a security zone in this case was not backed by any executive or legal instrument.

THE PUBLIC ORDER ACT (1994), ACT 491

The Public Order Act (1994), Act 491 makes it compulsory for the police to be notified of the organizers willingness or otherwise to comply with the police request. The Act states in section (5) *An organizer requested under subsection (4) to postpone*

or relocate the holding of a special event shall within forty-eight hours of the request, notify the police officer in writing of his willingness to comply.

Therefore, when the police objected to the holding of the event at the forefront of the Jubilee House, the organizers as exhibited by the Respondent in Exhibit "AG 2" submitted a written proposition to the police not to change the venue, but to work with the police to help them in marking out any cordoned areas at the forefront of the Jubilee House.

The organizers further submitted their objection to changing the date as it was a significant date (Kwame Nkrumah Memorial Day that had also been widely advertised.

The written objection was prepared on Saturday 2nd September, 2023, however at the Police's direction it was submitted on September 4th 2023, based on the police's instruction that the Commander who ought to receive the letter was unavailable during that weekend.

That this letter was submitted at the very next weekday, the Monday, highlights the importance the conveners held for complying with the Public Order Act.

The Act goes on to provide that where the police and organizers of such events are at a standoff, a judge or chairman of a tribunal is to be the determinant of such matters.

Section 6 of the Public Order Act states that *"Where the organizers refuse to comply with the request under subsection (4) or fail to notify the police officer in accordance with subsection (5), the police officer may apply to any judge or a chairman of a Tribunal for an order to prohibit the holding of the special event on the proposed date or at the proposed location"*. What this simply means is that the police by themselves do not have any authority to prohibit such events, it must be determined by the courts, supervisors of the realm.

After the submission of the written objection, the organizers did not fold their arms but kept in touch with the police following up and seeking a day to visit the location with the Police, for the purpose of marking out or cordoning areas that protesters were not to traverse.

The police, however, kept giving excuses and postponing the visit even until Monday 18th September, 2023, barely three days to the date of the protest. Instead of meeting the organizers near the Jubilee House for the demarcation, the Police invited the organizers for a meeting where they purported to unconstitutionally prohibit the event and threatened the organizers with arrests, if their unlawful and unconstitutional oral orders were defied. The Respondents' Exhibit "AG 3" clearly states that such a meeting occurred on 18th September, 2023. The Organizers never received a letter

dated 19th September, 2023, purportedly telling the organizers not to hold the event. It is firmly stated that this is a self-serving letter created to serve no other purpose except as a support for the police's prohibition application.

The organizers never heard from the Police again until the day of the picketing where they showed up in an intimidating style to arrest law-abiding and innocent protestors, on the basis that they had filed an application for prohibition on 19th September 2023.

APPLICATION FOR PROHIBITION; AN ORIGINATING PROCESS

It is trite that applications, such as that of the police seeking a Prohibition is an **originating process** which should be served personally on the Respondent the organizers, represented by Mr. Benjamin Akuffo-Darko), who in this case became subject of a suit. However, the organizers of this event were never notified.

ORDER 7 rule 2 of the C.I. 47 states as follows: *Personal Service - A document which is required to be served on a person shall be served personally unless the express provisions of these Rules otherwise provide or the Court otherwise directs.*

Kwamina Mensah, in the Annotated High Court Civil procedure rules 2004, annotates at page 48 of his book that "The general rule of personal service is that for any process initiating a legal action, it is for the defendant to be served personally with a copy of the process".

The police instead of serving this process on the representative of the Organizers of the demonstration, whose name and address is clearly shown in the exhibits, "AG 1", "AG 2" and "AG 3", rather **attempted** service on the lawyer for the organizers, which attempt of service was made at a place where he was not practicing from at the material time and where bailiff was also informed service could not be accepted.

- Francois J.A in the case of **FORI V LARTEY (1978) GLR 492 AT 492 CA** states that proceedings against a party are deemed to commence only after the service of notice on that party. Also see **REPUBLIC V REGISTRAR, MEDICAL AND DENTAL BOARD EX PARTE CHRISTIAN (1973) 2 GLR 323, C.A**, where the same principle was espoused.

These authorities have at their base the age-old principle of *audi alteram partem*, which is for the other side to be heard and until such service, a court is not seized with jurisdiction to proceed against the unserved Defendant. Again, see the case of **BARCLAYS BANK OF GHANA LTD V GHANA CABLE COMPANY LTD (1998-1999) SCLR**, where the court said that *unless a defendant has been served no process can be taken to obtain judgment against him. For until such service, the court is not seized with jurisdiction to proceed against the unserved defendant.*

In *DONKOR V KUSI* (1977) 2 GLR 242 AT 248, *Osei -Hwere J*, said that when personal service is prescribed by a rule, service through a solicitor is not acceptable.

Service of the originating process on a solicitor as the police tried to do was unacceptable at law. You cannot put something on nothing and expect it to stand.

PROHIBITION OF THE DEMONSTRATION CAN ONLY BE BY EXPRESS ORDER OF THE COURT

There is a school of thought that suggests that the moment an application prohibiting the conduct of an act is served on a party or the party becomes aware of the pendency of the application, same must tie his or her hands and maintain the status quo until the court determines the matter. However, there is a long line of cases such the *REPUBLIC V HIGH COURT SEKONDIE PARTE PERKOH II* (2002) JELR70025 (CA) wherein the Supreme Court speaks to the malice this could be used for, if anyone for mischievous reasons serves an application for injunction with the motive of simply staying the hands of a person, without or before the court's express order as was exhibited in that case.

The Respondent in this case however, was never even served with the impugned application. Again the mere service of an application or notification of same, is not an express order of the court, especially when the Section 6 of Public Order Act (supra) is very clear that a Judge or tribunal must determine the outcome when there is a standoff between the police and intending demonstrators. The doctrine of *Generalia specialibus non derogant* must hold; the instructions of the Public Order Act which is specific to demonstrations and protests is what must be complied with.

In the face of these legal principles, it was not surprising that your brother, His Lordship Edward Twum would go on to dismiss the police's injunction application against the organizers of that protest. His reason was simple, *His Lordship Edward Twum, presiding over the case, pointed out that, there was no evidence of service to Benjamin Akuffo Darko, the Respondent in the application.*

A LAWFUL DEMONSTRATION

Based on legal principles espoused, the demonstration was never illegal. The police were therefore wrong when based on their false assumptions, they arrested innocent Ghanaians who had a right to lawfully assemble and protest.

Section 201 of Act 29, of the Criminal Offences Act defines unlawful assembly as follows: (1) *When three or more persons assemble with intent to commit an offence, or being assembled with intent to carry out some common purpose, conduct themselves in such a manner as to cause persons in the neighborhood reasonably to*

fear that the persons so assembled will commit a breach of the peace, or will by such assembly needlessly and without any reasonable occasion provoke other persons to commit a breach of the peace, they are an unlawful assembly. (2) It is immaterial that the original assembling was lawful if, being assembled, they conduct themselves with a common purpose in such a manner.

From all the footages of the demonstration, which are publicly displayed online, on YouTube, Twitter and practically all media stations in Ghana, there was never any point where there was rowdiness, throwing of stones, and destruction of property or the like, at the instance of the demonstrators. In fact, present at the demonstration were celebrities, politicians, and professionals of public repute. The breach of peace was actually perpetuated by the police who forcefully dispersed the crowd by arresting innocent protesters, sent them to the regional headquarters before splitting them up into about eight police stations dotted across the capital, even as family, friends and colleagues searched frantically for these individuals with the police giving little or no information at all.

Indeed it is evident from the facts and legal principles espoused above, that the assembly was lawful both substantively and procedurally, per the 1992 Constitution and the Public Order Act. The 1st Respondent did not have an iota of lawful justification for their actions against the Applicants because demonstrators were lawfully exercising their rights, and they should have been left to do so peacefully, instead of causing disorder as they did.

UNLAWFUL ARRESTS AT A LAWFUL DEMONSTRATION

Whilst the police deny arresting people save the names exhibited in their documents, which are clearly self-serving, Applicants' Exhibit "F2" clearly demonstrates that Thomas Nnamdi a BBC journalist was arrested on that fateful day and later released, his crime, simply put, *"was the coverage of the protest"*. The names of Thomas Namdi, George Gyening Anyang, and several others curiously do not appear in the police's list of arrested persons for that demonstration. It was glaringly clear under cross examination, that the police had omitted these names from their records to cover wrong doing.

Cross examination of Respondent's witness on 11th February, 2025, exposes the fact that more people were arrested other than what they presented to the court.

Take a look at Exhibit F2, have you seen it?

A. Yes I have seen it

Q: So it is your case that 46 persons are the only persons arrested and detained by the police is that not so?

A: Yes my Lord.

Q: You are aware that the police issued a number of statements over the said demonstrations and arrests?

A: Yes my Lord

Q: One such statement dated 21/09/2023 was signed by Juliana Obeng, Superintendent of Police, Head, Public Affairs unit to the media in Accra not so?

A: She is the Head of the Public Relations Department at the Accra Regional Police Headquarters. So one of her responsibilities is to issue statements from the Command. So I don't know what you are talking about if you can refresh my memory on it.

Q: I am referring to the statement dated 21/09/2023 titled Police arrest 49 suspects for unlawful assembly and violation of Public Order Act and it is five paragraphs only

A: Yes my Lord.

Respondent's witness, without ambiguity, clearly admitted that their own reportage by their own Head of Public Relations Department showed they had arrested 49 suspects and yet, here they were in court brandishing 46, as the only persons arrested and detained.

The media report as released by the police is in consonance with the press releases and reports by the Ghana Bar Association (Exhibit E), the Ghana Journalists Association (Exhibit F) and the BBC reporter, Thomas Namdi (Exhibit F2), that there were several other individuals belonging to these organizations who were arrested, but whose names were clearly absent from what the police were presenting in court. The fact that the police violated 3rd Applicant's rights should clearly not be in contention, from the facts presented here.

USE OF UNREASONABLE FORCE

Now assuming without conceding that the police were trying to keep some form of order at their premises, because they did not have the requisite answers for the public, there are laws in this country that guide the use of force in such situations. **Section 32 of the Criminal Offences Act** states - *General Limits of Justifiable Force or Harm. Notwithstanding the existence of any matter of justification for force, force cannot be justified as having been used in pursuance of that matter - (a) which is in excess of the limits hereinafter prescribed in the section of this Chapter relating to that matter;*

or (b) which in any case extends beyond the amount and kind of force reasonably necessary for the purpose for which force is permitted to be used.

The operative word here is the use of "necessary" force. From the ocular evidence presented, it is difficult to comprehend what could possibly justify the indignity and brutalities meted out to the Applicants; innocent citizens who merely sought information at the Police Headquarters.

In concluding on Issue 1, the crux of the matter is that the 1st Respondent had no lawful justification whatsoever for the impugned conduct on the basis that the event was allegedly prohibited as an unlawful assembly. The demonstration itself was lawful; the only illegality was the conduct of the police.

ISSUE 2

Having established that there was indeed a lawful assembly based on a legal demonstration. We must examine whether officers of 1st Respondent interfered with and violated Applicants' rights in the manner complained of in paragraph 24 of the affidavit in support of Application?

The Applicants whether as journalists or as Ghanaians participating in a demonstration were exercising their rights legally. That these rights were interfered with is amply demonstrated by evidence before the court.

Applicant's Exhibit "F-3" shows that upon the arrest of innocent protestors, (true to the threats of the police who chose to brazenly misapply the law), there was a desire by journalists and other persons alike to know of the welfare of friends, family, and colleagues from the police at their office premises. That is why people assembled at the premises of the police headquarters, to seek information and it was here, that the dastardly acts of police against Applicants took place.

Exhibit "E and "F" series clearly show the public outcry against these violations, including statements from the Ghana Bar Association and the Ghana journalists Association whose members (15 and 2nd Applicants) were affected by the despicable conduct of officers of 1st Respondent.

The police in their testimony could not provide any evidence whatsoever to controvert the claims of Applicants. In fact in the cross examination 2nd July 2024, of Chief Superintendent Isaac Nicholas Kwabena Yeboah, the only witness for the Respondents this is what transpired:

Q: Sir, did you personally witness the events of paragraphs 17, 18 and 2022 of your affidavit?

A: No

Q: Your depositions thereto consequently are based on second hand information not so?

A: Yes my Lord

Q: The AG 6 and AG 6 series who prepared it?

A: It was prepared at the regional police headquarters

The witness cannot purport to controvert the Applicants' account of events, for he was not present at the material time. In fact, the only witness for Respondents cannot credibly deny what transpired, from the answers given above. In fact, it is the proverbial case of

"YOU AND I WERE NOT THERE", as espoused by Dr. Mahamudu Bawumia in the 2012 election petition, when he sought to point the court to the facts and evidential documents before it, as opposed to the cross examiner or defending party and himself who were not present at the scene of events where the alleged irregularities took place.

The Respondents failed woefully, right from the onset to show that there were no human rights violations against the Applicants.

HUMAN RIGHTS VIOLATIONS AGAINST APPLICANTS

Paragraph 24 of Applicants motion and affidavit for enforcement of human rights, outline close to ten human rights violations against the Applicants.

- (a) Interfering with and preventing 1st and 2nd Applicants from lawfully exercising their Article 24 (1) economic right to work, and doing so in safe and satisfactory conditions;
- (b) Interfering with and preventing 1st and 2nd Applicants from lawfully exercising their Article 162 (5) right to at all times be free to uphold the principles, provisions, and objectives of the constitution, and the responsibility and accountability of the Government to the people of Ghana;
- (c) Interfering with and preventing 1st and 2nd Applicants from lawfully performing their Article 21 (1) (f) duty/obligation to cover news in pursuance of the peoples' right to know/information;
- (d) Interfering with and preventing 1st and 2nd Applicants from lawfully exercising their Article 21(1) (a) right to free speech and expression which includes freedom of the press and other media;

- (e) Interfering with and violating 1st and 2nd Applicants Article 162 (4) freedom and independence from governmental control and interference, punishment or harassment for the editorial opinions, views or the content of their publications;
- (f) Interfering and violating 1st and 3rd Applicants Article 21(1) (d) right to assembly including freedom to take part in processions and demonstrations;
- (g) Interfering and violating Applicants Article 15 (1) and (2) rights not to be subject to in dignifying, cruel, inhuman, degrading treatment or to such condition that detracts or is likely to detract from the dignity and worth of Applicants as human beings, even upon lawful arrest, restriction or detention.
- (h) Interfering and violating 2nd Applicant's Article 14(1) rights of personal liberty.
- (i) Interfering and violating 2nd Applicant's Article 18(2) rights of protected communications.

Each of these violations against Applicants is clearly demonstrated with ocular proof (live videos), and affidavit evidence of witnesses before this court.

The 1992 Constitution gives every Ghanaian the economic right to work and do so in safe and satisfactory conditions. 1st and 2nd Applicants are journalists whose rights to cover the news and inform, hold government accountable, rights to freedom of press and other media, freedom from governmental control for content of their publications, were all brazenly violated

Exhibit "D" and "F series" proffer proof of how the police roughly handled these two journalists, as they sought to exercise their profession.

Exhibits "C", "D" series and "F" series show how 1st and 2nd Applicants were assaulted over their rights to publish news worthy items and convey such to the public. 1st Applicant was shoved and dragged by the police till her blouse was torn, whilst at the police headquarters seeking information and giving an account of what was happening on 3rd Applicant's "X" platform.

The 1st Respondent officers again interfered with the right to free speech and expression which includes freedom of the press and other media and Exhibits "C", "D" series and "F" series show how 1st and 2nd Applicants were battered in their bid to exercise these rights.

Again, Article 162 (4) of the constitution guarantees freedom and independence from governmental control and interference, punishment or harassment for the editorial opinions, views or the content of their publications. The police were clearly in violation when they proceeded to stop 1st Applicant from airing her views on 3rd

Applicants platform by forcibly seizing the very phone through which information was being disseminated; an act unmistakably captured in Exhibit 'F-3(video footage).

Article 21 (1) (d) as already demonstrated, guarantees the right of every Ghanaian to assembly, including their right to take part in processions and demonstrations. That the police arrested 3rd Applicant, battering and torturing him because he was part of an assembly, and assaulting 1st Applicant because she joined a lawful assembly as evinced by Exhibit "G" is a gross violation.

The constitution guarantees under Article 15 (1) and (2), that no person must be subjected to in dignifying, cruel, inhuman, degrading treatment or to such condition that detracts or is likely to detract from the dignity and worth of Applicants as human beings, even upon lawful arrest, restriction or detention. Exhibits "G" show how 3rd Applicant was brutalized after his arrest by the police, and how 1st Applicant was assaulted to the extent of her blouse ripped apart and exposing her.

Exhibit "A" series and Exhibit "B" provides ocular proof (pictures) of injuries meted out to an innocent Ghanaian, 3rd Applicant. Exhibit "C" is a report of assault of 2nd Applicant when more than 6 police officers attempted to wrest away phone from 2nd Applicant for filming brutalities meted out to 3rd Applicant.

Every Ghanaian under article 14 (1) has a right to personal liberty. The rights of 3rd Applicant was equally violated when he was kept under unlawful detention at 1st Respondent's premises.

There was again a gross violation of this liberty by the 1st Respondent's officers when they kept 2nd Applicant for hours, threatening to keep her in cells for the weekend if she did not delete materials which incriminated them from her phone, putting her under intense pressure for hours and only releasing her when she succumbed to their request.

The actions of the police against the 2nd Applicant's was also in violation of Article 18 (2) - rights of protected communications. Every person has the right to have information on their communication devices protected. This was however not the case for 2nd Applicant on 21st September, 2023, when more than 6 police officers violently attacked her to have access to her phone and cause her to delete communications from her phone which they saw as incriminating of them should it be released. Exhibit "C" proffers evidence of report by 2nd Applicant and tweets by eye-witnesses Lawyer Richmond Rockson and Journalist Emmanuel Kwame Sarpong.

Under Cross examination on 25th March, 2025, 2nd Applicant, quite emotional as she recounted the events and torture of that fateful day, had this to say, much to the charging of all present, when she was asked:

Q: Is there any evidence on record showing evidence of 1st Respondent pulling your dress, twisting your arm and stamping on your feet?

A: My Lord, there is evidence of witnesses coming to my *rescue when police officers numbering more than 6 twisted my arm to the back, hitting my leg with their boots, hitting my chest to bring my phone and reaching for the phone in between my thighs and when these witnesses came to my rescue, a lawyer called Rockson was slapped and thrown into a car. The second lawyer who came to my rescue was shoved aside and there were other police officers with guns on standby looking on. Yes there is evidence.*

And this evidence is amply supported by witnesses, Lawyers Richmond Rockson and Inusah Fuseini in their sworn statements before the court, in affidavit evidence, filed on 4th July, 2025.

As 2nd Applicant aptly responded, "yes there is evidence", of all the human rights violations perpetrated by the police on 21st September 2023, against the Applicants.

The salutary and well-known principle of the law is that he who alleges must prove and therefore there is a burden of proof on a party who alleges a fact before the Honourable Court. The law, not regarding pleadings on their own, to constitute evidence, all averments in pleadings capable of proof, must be established by proper legal means.

In human rights applications, **ORDER 67 RULE 6(2) OF C.I. 47**, states that the court may call any witness whose evidence in the opinion of the court is likely to be relevant to the proceedings. **ORDER 67 RULE 6(3) OF C.I. 47** grants that the court may also receive evidence by affidavit.

This evidence was amply provided by the Applicants in their affidavits and exhibits of 7th February, 2024 and further affidavits of 3rd June, 2024 and 4th August, 2025. Counsel for Respondents duly exercised her rights to cross-examine Applicants, and examined the 2nd Applicant, announcing to the court on 10th November, 2025, she had ended her cross examination, ultimately waiving her rights to cross examine all other Applicants.

In **ACKAH V. PERGAH TRANSPORT [2010, SCGLR 728 AT 736** the Court stated as follows:

"It is a basic principle of the law on evidence that a party who bears the burden of proof is to provide the required evidence of the facts in issue that has the quality of

credibility short of which his claim may fail. The method of producing evidence is varied and it includes the testimonies of the party and material witnesses, admissible hearsay, documentary and things (often described as real evidence), without which a party might not succeed to establish the requisite degree of credibility concerning a fact in the mind of the court or tribunal of fact such as jury. It is trite law that matters that are capable of proof must be proved by producing sufficient evidence so that on all the evidence a reasonable mind could conclude that the existence of a fact is more reasonable than its non-existence"

This principle was also applied in the case of **BOGOSO GOLD LTD. V. NTRAKWA [2011] 1 SCGLR 1139** where in upholding the claims of the Plaintiff, the Supreme Court held as follows: "The Plaintiffs had satisfied the burden of persuasion required of them to establish the existence or non-existence of a fact by a preponderance of probabilities...' in the terms of section 10 (2) (b) of the Evidence Act 1975 (NRCD323)".

With regards to the standard of proof, the position of the law is to the effect that the proof should be such that when placed on opposite sides of a scale, the Plaintiff's evidence tips the scale in his favour failing which his case fails.

Justice Afia Serwah Asare-Botwe (Mrs.) delves into and expatiates on the evidential burden in **ABDUL MALIK KWAKU BAAKO V. KENNEDY OHENE AGYAPONG [2020] DLHC8909** quoting **S.A BROBBEY ESSENTIALS OF THE GHANA LAW OF EVIDENCE (DATRO PUBLICATIONS), 2014 @ PAGE 41** "On the balance, if the existence establishes more than fifty percent chance of existence of the fact, the standard of proof can be said to have been achieved.

The principle of law in respect of the standard of proof is aptly stated in **TAKORADI FLOUR MILLS V. SAMIR FARIS I2005-20061 SCLR 882** where the Court held per holding 5 that:]

"It is sufficient that this being a civil suit, the rules of evidence require that the Plaintiff produces sufficient evidence to make out his claim on a preponderance of probabilities, as defined in section 12 (2) of the Evidence Decree, 1975 (NRCD 323). In assessing the balance of probabilities all the evidence be it that of the plaintiff or the defendant must be considered and the party in whose favor the balance tilts is the person whose case is more probable of the rival versions and deserving of a favorable verdict.

In applying the law to the facts of the case the Applicants have amply demonstrated that via their evidence, the impugned acts actually took place. They have discharged their burden of proof, and done so to the standard required to show that the 1st Respondents actually violated several human rights and did not have any lawful

justification for doing so, as they claim. Ocular evidence before the court and affidavit evidence of other witnesses on the record, clearly make Applicants' case the more probable of the two (2).

Ghana's constitution in chapter 5 clearly states that the fundamental human rights and freedoms enshrined in the constitution shall be respected and upheld by the Executive, Legislature and Judiciary and all other organs of government and its agencies and, where applicable to them, by all natural and legal persons in Ghana, and shall be enforceable by the Courts as provided for in this Constitution.

Under article 33 (1) and (2), the courts are enjoined to protect these rights and issue orders for the purposes of enforcing or securing the enforcement of any of the provisions on the fundamental human rights and freedoms to the protection of which the person concerned is entitled.

The legal arguments backed by evidence before the court demonstrates that 1st Respondent did not have an iota of lawful justification for the impugned conduct.

It also shows that officers of 1st Respondent interfered with and violated Applicants' rights in the manner complained of in paragraph 24 of the affidavit in support of Application as evinced by ocular and written proof. It is our opinion that the balance of probabilities tilts heavily in favour of the Applicants. As iterated in the opening paragraphs, the case of **NEW PATRIOTIC PARTY V THE INSPECTOR GENERAL OF POLICE (1993), JELR 67912(SC)** demonstrates that *"It was to rescue us from such an abyss of despair that on three successive occasions, in 1969, 1979 and 1992, elaborate provisions on fundamental human rights have been set out in our Constitutions and the courts given clear and unequivocal power to enforce them"*.

We respectfully pray this Honourable Court not only to enforce the Applicants' rights, but also to impose appropriate sanctions on the Police for these violations; breaches which have become far too frequent for a democratic state such as ours.

The time-tested evidentiary rules as elucidated upon by Ollenn J. in **MAJOLAGBE V. LARBI & ORS.19591 GLR 190-195** and followed up to date by the Courts is invoked to convince the Honourable that Applicants' have proved their case deserving of the reliefs sought:

"Proof in law, is the establishment of fact by proper legal means; in other words, the establishment of an averment by admissible evidence. Where a party makes an averment, and his averment is denied, he is unlikely to be held by the Court to have

sufficiently proved that averment by his merely going into the witness-box, and repeating the averment on oath, if he does not adduce that corroborative evidence which (if his averment be true) is certain to exist.

Here I may repeat what I stated in the case of **Khoury and anor. v. Richter** on this question of proof. That judgment was delivered on the 8th December, 1958, and the passage in question is as follows:—"Proof in law is the establishment of facts by proper legal means. Where a party makes an averment capable of proof in some positive way, e.g. by producing documents, ... and his averment is denied, he does not prove it by merely going into the witness-box and repeating that averment on oath, or having it repeated on oath by his witness. He proves it by producing other evidence of facts and circumstances, from which the Court can be satisfied that what he avers is true." Emphasis supplied.

Unlike Respondents, Applicant's did not only rely on depositions on sworn affidavits but supplied sufficient evidence - material, documentary and ocular proof as well as witnesses to back their case.

The evidence is overwhelming: the Applicants were lawfully exercising their rights, yet the police, without lawful authority, subjected them to violence and humiliation. The demonstration was never unlawful; the police acted without jurisdiction, without service, and without justification.

Justice in this case is not only for Bridget Otoo, Vanessa Boateng, and George Anyang - it is for every Ghanaian who dares to speak truth to power. To dismiss their claims would embolden impunity; to uphold them would reaffirm that in Ghana, the Constitution is supreme, and no officer is above it.

We respectfully urge this Court to declare the police actions unconstitutional, vindicate the Applicants' rights, and send a clear message that the rule of law, not the rule of force, governs this Republic.

It is telling that despite the police's heavy-handed disruption on the first day, the OccupyJulorbiHouse protest has been described as one of the most successful civic actions in recent memory. The attempt to silence demonstrators only amplified their cause: public outrage at the unlawful arrests and assaults transformed a modest gathering into a nationwide movement, with the hashtag trending globally, journalists and lawyers joining in solidarity, and international media spotlighting Ghana's democratic credentials. Even more damning, after brutalizing citizens on day one, the police themselves cordoned off the frontage of Jubilee House and peacefully policed the very same demonstration for two straight days without incident - an implicit admission that the protest was lawful all along.

This contradiction confirms that the Applicants' rights were violated without justification, while the success of the protest lay in exposing the unlawful abuse of power that the Constitution forbids.

EVALUATION OF EVIDENCE

The Constitution of the Republic of Ghana, 1992, is unequivocal in its protection of these rights, and the courts are enjoined to enforce them without fear or favour.

Upon a careful consideration of the facts, the affidavit evidence, and the submissions of Counsels, the court finds as follows:

The Constitution, under Articles 14, 15, 21 and 162;

ARTICLE 14: PROTECTION OF PERSONAL LIBERTY.

14. (1) Every person shall be entitled to his personal liberty and no person shall be deprived of his personal liberty except in the following cases and in accordance with procedure permitted by law-
- (a) in execution of a sentence or order of a court in respect of a criminal offence of which he has been convicted; or
 - (b) in execution of an order of a court punishing him for contempt of court; or
 - (c) for the purpose of bringing him before a court in execution of an order of a court; or
 - (d) in the case of a person suffering from an infectious or contagious disease, a person of unsound mind, a person addicted to drugs or alcohol or a vagrant, for the purpose of his care or treatment or the protection of the community; or
 - (e) for the purpose of the education or welfare of a person who has not attained the age of eighteen years; or
 - (f) for the purpose of preventing the unlawful entry of that person into Ghana, or of effecting the expulsion, extradition or other lawful removal of that person from Ghana or for the purpose of restricting that person while he is being lawfully conveyed through Ghana in the course of his extradition or removal from one country to another; or
 - (g) upon reasonable suspicion of his having committed or being about to commit a criminal offence under the laws of Ghana.
- (2) A person who is arrested, restricted or detained shall be informed immediately; in a language that he understands, of the reasons for his arrest, restriction or detention and of his right to a lawyer of his choice.

- (3) A person who is arrested, restricted or detained-
 - (a) for the purpose of bringing him before a court in execution of an order of a court; or
 - (b) upon reasonable suspicion of his having committed or being about to commit a criminal offence under the laws of Ghana, and who is not released.

Shall be brought before a court within forty-eight hours after the arrest, restriction or detention.

- (4) Where a person arrested, restricted or detained under paragraph (a) or (b) of clause (3) of this article is not tried within a reasonable time, then without prejudice to any further proceedings that may be brought against him, he shall be released, either unconditionally or upon reasonable conditions, including in particular, conditions reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.
- (5) A person who is unlawfully arrested, restricted or detained by any other person shall be entitled to compensation from that order person.
- (6) Where a person is convicted and sentenced to a term of imprisonment for an offence, any period he has spent in lawful custody in respect of that offence before the completion of his trial shall be taken into account in imposing the term of imprisonment.
- (7) Where a person who has served the whole or a part of his sentence is acquitted on appeal by a court, other than the Supreme Court, the court may certify to the Supreme Court that the person acquitted be paid compensation: and the Supreme Court may, upon examination of all the facts and the certificate of the court concerned, award such compensation as it may think fit; or, where the acquitted is by the Supreme Court, it may order compensation to be aid to the person acquitted.

ARTICLE 15: RESPECT FOR HUMAN DIGNITY.

- (1) The dignity of all persons shall be inviolable. (2) No person shall, whether or not he is arrested, restricted or detained, be subjected to -
 - (a) torture or other cruel, inhuman or degrading treatment or punishment;
 - (a) any other condition that detracts or is likely to detract from his dignity and worth as a human being.
- (3) A person who has not been convicted of a criminal offence shall not be treated as a convicted person and shall be kept separately from convicted persons.

- (4) A juvenile offender who is kept in lawful custody or detention shall be kept separately from an adult offender.

ARTICLE 21: GENERAL FUNDAMENTAL FREEDOMS.

- 21 (1) All persons shall have the right to-
- (a) freedom of speech and expression, which shall include freedom of the press and other media;
 - (b) freedom of thought, conscience and belief, which shall include academic freedom;
 - (c) freedom to practice any religion and to manifest such practice;
 - (d) freedom of assembly including freedom to take part in processions and demonstrations.
 - (e) freedom of association, which shall include freedom to form or join trade unions or other associations, national and international, for the protection of their interest;
 - (f) information, subject to such qualifications and laws as are necessary in a democratic society;
 - (g) freedom of movement which means the right to move freely in Ghana, the right to leave and to enter Ghana and immunity from expulsion from Ghana.
- (2) A restriction on a person's freedom of movement by his lawful detention shall not be held to be inconsistent with or in contravention of this article.
- (3) All citizens shall have the right and freedom to form or join political parties and to participate in political activities subject to such qualifications and law as are necessary in a free and democratic society and are consistent with this Constitution.
- (4) Nothing in, or done under the authority of, a law shall be held to be inconsistent with, or in contravention of, this article to the extent that the law in question makes provision-
- (a) for the imposition of restrictions by order of a court, that are required in the interest of defence, public safety or public order, on the movement or residence within Ghana of any person; or
 - (b) for the imposition of restrictions, by order of a court, on the movement or residence within Ghana of any person either as a result of his having been found guilty of a criminal offence under the laws of Ghana or for the purposes of ensuring that he appears before a court at a later date for trial for a criminal offence or for proceedings relating to his extradition or lawful removal from Ghana; or

- (c) for the imposition of restrictions that are reasonably required in the interest of defence, public safety, public health or the running of essential services, on the movement or residence within Ghana of any person or persons generally, or any class or persons; or
 - (d) for the imposition of restrictions on the freedom of entry into Ghana, or of movement in Ghana, of a person who is not a citizen of Ghana; or
 - (e) that is reasonably required for the purpose of safeguarding the people of Ghana against the teaching or propagation of a doctrine which exhibits or encourages disrespect for the nationhood of Ghana, the national symbols and emblems, or incites hatred against other members of the community; except so far as that provision or as the case may be, the thing done under the authority of that law is shown not to be reasonably justifiable in terms of the spirit of this Constitution.
- (5) Whenever a person, whose freedom of movement has been restricted by the order of a court under paragraph (a) of clause (4) of this article, request at any time during the period of that restriction not earlier than seven days after the order was made, or three months after he last made such request, as the case may be, his case shall be reviewed by that Court.
- (6) On a review by a court under clause (5) of this article, the court may, subject to the right of appeal from its decision, make such order for the continuation or termination of the restriction as it considers necessary or expedient.

ARTICLE 162: FREEDOM AND RESPONSIBILITY OF MEDIA.

- (1) Freedom and independence of the media are hereby guaranteed.
- (2) Subject to this Constitution and any other law not inconsistent with this Constitution, there shall be no censorship in Ghana.
- (3) There shall be no impediments to the establishment of private press or media; and in particular, there shall be no law requiring any person to obtain a licence as a prerequisite to the establishment or operation of a newspaper, journal or other media for mass communication or information.
- (4) Editors and publishers of newspapers and other institutions of the mass media shall not be subject to control or interference by Government, nor shall they be penalized or harassed for their editorial opinions and views, or the content of their publications.
- (5) All agencies of the mass media shall, at all times, be free to uphold the principles, provisions and objectives of this Constitution, and shall uphold

the responsibility and accountability of the Government to the people of Ghana.

- (6) Any medium for the dissemination of information to the public which publishes a statement about or against any person shall be obliged to publish a rejoinder, if any, from the person in respect of whom the publication was made.

These guarantees every person's right to personal liberty, dignity, freedom of expression, and media independence. Any act by the Police that results in arbitrary arrest, detention without due process, or interference with the work of journalist constitutes a breach of these fundamental rights. As the High Court observed in *Francis Agyare Vs. The Inspector General of Police and the Attorney General (2014) DLHC 16444*.

POLICE CONDUCT AND JOURNALISTIC RIGHTS.

The evidence shows that the Applicants, in the course of their journalistic duties, were subjected to arrest and detention by the Police without reasonable or lawful justification. The High Court, in *Solomon Joojo Cobbinah and others vs. Accra Metropolitan Assembly and others [2017] DLHC 3838*, made clear that Journalists are entitled to the constitutional protections of liberty and freedom of expression.

The court further said that the Police must act within the bounds of the law, and any deprivation of liberty must be justified by reasonable suspicion and due process where the courts find violation of fundamental human rights it is empowered under.

Article 33 of the Constitution to grant appropriate reliefs, including declarations, compensation and orders for apology or other remedial action.

In the present case, I award a compensation of GH¢100,000.00 and orders for Apology or other remedial action.

I find the Police conduct amounted to a violation of the Applicant's right to liberty, dignity and freedom of expression.

BY COURT:

Accordingly, the court makes the following orders:

1. A declaration that the arrest and detention of the Applicants by the Police was unlawful and a violation of their fundamental human rights under the constitution.

2. An order of compensation in favour of the Applicants for unlawful deprivation of liberty and interference with journalistic duties.
3. An order directing the Respondents to issue a written apology to the Applicants for the violation of their rights.

The Police and all state actors are reminded that the constitution is the Supreme law of Ghana and any act inconsistent with its provisions is void. The Judiciary will not hesitate to enforce these rights to their fullest extent.

As regard to 1st Respondent for general damages for unconstitutional wrongful and unlawful interference with and violation of Applicants' Fundamental Human Rights, it must be stated, it must be pleaded and particularized.

Indeed, there were unconstitutional wrongful and unlawful interference and violation of Applicants fundamental human rights but indeed on brighter side if heavy amount is awarded, it will cripple the Institution.

Based on that, I award GH¢50,000.00 as general damages.

This is so because if we do not take care the Ghana Police Service will grind to a halt, and they can't protect us. It is also that at that time there was a different Inspector General of Police (I.G.P.) that was at post.

What is seen is that that attitude of the Police Force on that day was unprofessional and they violated the Fundamental Human Rights of journalist and citizens of Ghana getting ready for demonstration. And it must be corrected, never again.

(SGD.)
H/L NANA BREW
JUSTICE OF THE HIGH COURT

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HUMAN RIGHTS COURT - 2nd ACCRA G/H
2/6/2026