



## OHCHR REGISTRY

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The Permanent Mission of the Federal Republic of Nigeria to the United Nations Office and other International Organisations in Geneva presents its compliment to the Office of the High Commissioner for Human Rights and has the honour to refer to the latter's letter of 17 April 2013 Reference No.: UA G/SO 218/2 G/SO 214 (67-17) G/SO 214 (107-9) Association (2010-1) NGA 2/2013, conveying Allegation from four Special Procedures mandate holders of the Human Rights Council which is connected to the issue of alleged arbitrary arrest and continued detention of Messrs Okorie David Okafor and Odukoya Oluwaseun in Lagos State, Nigeria.

The Mission wishes to convey verbatim, the response of the Government of Lagos State of Nigeria, as follow:

2. *"The matters raised in the letter of allegation by the mandate holders have since been resolved to the satisfaction of all concerned, it is necessary for the Lagos State Government to explain the facts and circumstances for the records.*

3. *In specific answer to questions raised in the letter. The Lagos State Government wishes to state that the facts alleged in the summary of the case were inaccurate for the following reasons:*

- a) *Messrs. Okorie David Okafor and Odukoya Oluwaseun were arrested by Officers of the Nigeria Police on March 26, 2013 for a traffic offence. Their written statements which were taken at the Police Station later the same day indicated that they were employed as drivers only by the NGO called Social and Economic Rights Action Centre (SERAC) or its Director, Mr. Felix Morka.*
- b) *The arrest was neither arbitrary nor premeditated. During subsequent investigation, we found that Messrs. Okafor and Oluwaseun were not previously known to the Police officers or to any Government official as affiliates or active members of SERAC. In fact there was nothing to suggest that when the incident took place, the Police officers who arrested them had any prior contact or encounter with any of them or with SERAC as an organisation.*
- c) *The portion of Badia East which was cleared for a Government Housing Estate Development on 23, February 2013 was largely a refuse dump invaded*

*by some individuals who lived there in totally unhygienic conditions and we are totally unaware of anything extraordinary or anti-government in SERAC's (or any other NGO's) assistance to the affected persons. The Lagos State Government has been in constant engagement with NGOs on many issues, none of which had remotely caused any punitive use of Government or Police powers.*

- d) Despite having the largest number of active NGOs in Nigeria, Lagos State Government has worked actively and productively with them on rights protection and the Government has no record of NGO intimidation. This can be verified from all NGOs operating in the State. In fact, the Director of SERAC Mr. Felix Morka was a member of the Project Steering Committee of the Lagos Metropolitan and Governance Project (LMDGP), a Lagos State Government and World Bank Project, for over five years.*
  - e) By their own admission, the two drivers actually drove against the normal direction of traffic on CMD Road, Lagos and were apprehended by the Police for blocking oncoming vehicles while positioned on the wrong side of the road. In seeking a withdrawal of the criminal action, they later explained the reasons for this infringement and apologised.*
  - f) Driving against traffic has always been illegal, but it remained a common practice and cause of traffic jam in Lagos State prior to the enactment of the Road Traffic Law, 2012 which made it a very serious offence. It is our understanding that this act constitutes a serious offence in many civilised countries of the world.*
  - g) The Drivers were later arraigned before a Magistrate and granted bail. The vehicles were impounded and the Drivers kept in custody for the period it took them to perfect their bail conditions, a period which, unfortunately, coincided with the Easter Weekend. Courts in Nigeria do not work during public holidays and Lagos State is now the first government in Nigeria to mandate Saturday sittings by Magistrates, mainly to ensure that accused persons deserving bail are not kept in custody over a weekend.*
  - h) The interview with the Magistrate and check of court records revealed that money deposit was not at all part of the bail conditions imposed on the two defendants. This situation has since been clarified to SERAC.*
  - i) The allegation that this incident reflects "a growing threat to human Rights defenders working on forced evictions in Nigeria" is totally unfounded as no other similar or corroborative instance was cited in specific terms to demonstrate the so-called trend.*
- 4. It is also pertinent to note that complaint lodged to Lagos State Government was very promptly treated, leading to the resolution of the case as follows:*
- i) The authorities of Lagos State Government held a meeting with Mr. Felix Morka, Director of SERAC and his counsel in the Attorney General's Office, Mr.*

*Morka explained that the drivers felt compelled to pull onto the wrong side of the road because the vehicle immediately in front of them stalled and they could not wait for it to be pushed away. Unfortunately, the pull out caused them to face oncoming traffic, thereby causing an obstruction, which stalled traffic in the area. The accused persons did not deny that acts constituting the offence were complete at the time of arrest.*

*ii) Following these explanations and apologies made to the authorities by Mr. Felix Morka, Director of SERAC on behalf of the two defendants, and for allegations published by him against the Governor to the effect that the Governor personally instigated the arrest as a vindictive act, the vehicles were released and the case discontinued. This can of course be confirmed by communication with SERAC.*

*5. On the legal basis for the arrest and remand of Messrs. Okafor and Oluwaseun, it is incontrovertible that they contravened the **Lagos State Road Traffic Law NO. 4 of 2012** by driving their vehicles otherwise than in the legally specified direction of traffic that they also engaged in careless and inconsiderate driving, all of which are specific offences under the law.*

- a) The Law was duly passed by the State House of Assembly and assented to by the State Governor in accordance with the provisions of the Nigerian Constitution. It came into effect on 2 August 2012, after a period of intensive public enlightenment and sensitisation about its provisions.*
- b) In the event, no prosecution was actually carried out in this case and no penalties were imposed. The charge was withdrawn following representations and apologies made by SERAC Director and his Counsel.*
- c) All actions taken by policemen and Magistrate involved were in accordance with extant Laws of Nigeria and international norms and standards. Investigations and interaction with the police officers that made the arrest revealed no case of beating or severe injuries caused by the Police officers or children being pulled out of a car. These acts would, in any case, have been totally out of character for men in the Governor Fashola's convoy, which is widely acclaimed as one of the most disciplined and restrained in the country, always moving at moderate speed with no sirens.*
- d) Human rights defenders have always carried out their legitimate work without let or hindrance in Lagos State. This can be easily verified as many of them are in active collaboration with the State Government on many projects. Lagos State has the biggest human rights enforcement machinery in Nigeria as its Office of the Public Defender and Consumer Rights Unit offer free legal services and legal representation to the poor and disadvantaged in well over 3,000 cases every year.*

6. *Lagos State Government hopes that the foregoing will assist in dealing with the complaint as appropriate.*"

The Permanent Mission of the Federal Republic of Nigeria to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.

Geneva, 29 August 2013

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