ECOWAS Court dismisses sexual violence case against Nigeria

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The Court of Justice of the Economic Community of West African States (ECOWAS) has dismissed a human rights case brought against the Nigerian government, citing insufficient evidence to support claims of sexual violence, denial of reproductive rights, and lack of access to justice.  
  
In a statement shared with PREMIUM TIMES on Sunday, the judgement marked: ECW/CCJ/APP/48/23 was delivered in Abuja on Friday by a three-member panel of justices comprising Ricardo Gonçalves (Presiding and Rapporteur), Sengu Koroma, and Gberi-Bè Ouattara.  
  
The case was filed by Dorothy Bebe, a Nigerian citizen from Benue State, who alleged multiple violations of her fundamental rights following a sexual assault she suffered as a minor in Abuja.  
  
She claimed the perpetrator, identified only as Emmanuel, raped and impregnated her.  
  
She further alleged that she was unable to access safe abortion services due to Nigeria’s restrictive abortion laws, which criminalise abortion except when the mother’s life is at risk.  
  
According to Sections 228–230 of Nigeria’s Criminal Code and Sections 232–236 of the Penal Code, abortion is a criminal offence, with limited exceptions.  
  
Nigeria ratified the Maputo Protocol in 2005, a treaty that guarantees access to safe abortion in cases of rape, incest, or health risks.  
  
However, the country has yet to domesticate the protocol through national legislation, making access to legal abortion nearly impossible in most cases.  
  
Ms Bebe also stated that her attempts to seek justice were thwarted by law enforcement, who subjected her to victim-blaming and failed to investigate her complaint.  
  
She claimed the absence of legal, medical, and psychological support worsened her suffering, exposing her to long-term stigma and economic hardship.  
  
Her allegations reflect a broader national trend. A 2021 United Nations Women Report stated that nearly 7 out of 10 women (68 per cent) in Nigeria have experienced some form of violence against women in their lifetime.  
  
Ms Bebe’s experience mirrors the reality faced by many survivors of sexual violence in Nigeria, who struggle with limited access to legal redress and reproductive healthcare.  
  
According to the Guttmacher Institute, an estimated 1.25 million abortions occur annually in Nigeria, the vast majority of them unsafe due to the country’s restrictive laws.  
  
Ruling  
  
In its judgement, the ECOWAS Court rejected Nigeria’s objection to the hearing of the suit, but dismissed the suit on merit.  
  
It rejected Nigeria’s preliminary objection, affirming its jurisdiction to hear the matter since it involved alleged violations of human rights.  
  
The court also ruled the application admissible, noting that the applicant was clearly identified as the victim and that there was no parallel case pending before another international tribunal.  
  
However, on the substance of the case, the Court ruled that Ms Bebe failed to provide concrete evidence to support her claims.  
  
While acknowledging that Nigeria’s legal framework on abortion contradicts Article 14(2)(c) of the Maputo Protocol, the judges held that the applicant did not demonstrate that the State directly denied her access to abortion or medical services.  
  
The court referenced prior rulings—including SERAP v. Nigeria and Peter David v. Nigeria—emphasising that general allegations are not sufficient to establish state liability.  
  
The burden of proof, the court said, requires specific, credible evidence of state action or inaction amounting to a rights violation.  
  
The court also noted that despite the ECOWAS Court’s broad human rights mandate, it has dismissed several past cases against Nigeria for similar lack of evidentiary support. Since 2005, the ECOWAS Court has handled over 150 human rights-related cases, with Nigeria being the respondent in a significant number.  
  
The court stated that the alleged violation of the applicant’s right to health under Article 16 of the African Charter on Human and Peoples’ Rights was not substantiated.  
  
It explained that the alleged violation of the right to the protection of the family, rights of women, the elderly, and persons with disabilities under Article 18 of the African Charter, Article 14(2)(c) of the Maputo Protocol, and Articles 4, 16, and 27 of the African Charter on the Rights and Welfare of the Child, was also not established.  
  
The case was, therefore, dismissed.