

ACA-PILIWA MOOT COMPETITION 2025
HYPOTHETICAL CASE
BETWEEN
ENVIRONMENTAL AND HUMAN RIGHTS DEFENDER (EHRD) V. REPUBLIC OF
EDERA (RoE)

- 1) The Republic of Edera (RoE) is a country in West Africa that has a geographical area of 31,000 km² and a population of 9.5 million people according to the 2023 national census. The Republic of Edera is bordered on the north by the Republic of Zongo, on the south by the Republic of Kakafo, on the east by the Republic of Azia, and on the west by the Democratic Republic of Goke. The capital of the Republic of Edera is Jangola, and the country operates a presidential system of government with 5 geopolitical zones (South, West, East, North, and Central regions), which are further divided into 25 states. Each of the states has a state capital and at least 12 local government areas/councils. Edera gained independence from the United Kingdom (UK) in 1972 and experienced military and democratic government changes at different times.
- 2) RoE is a member state of the United Nations (UN), the African Union (AU), and the Economic Community of West African States (ECOWAS). RoE has ratified the following international treaties:
 - a) International Covenant on Civil and Political Rights (ICCPR) (in 2000);
 - b) International Covenant on Economic, Social and Cultural Rights (ICESCR) (in 2000);
 - c) African Charter on Human and Peoples' Rights (African Charter) (in 1986);
 - d) United Nations Convention on the Rights of the Child (in 1998);
 - e) Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights (in 2015), and made a declaration under article 34(6) of the Protocol (on 2 August 2017);
 - f) African Charter of Public Service and Administration Values and Principles (in 2012);
 - g) United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in 1988);
 - h) ILO Minimum Age Convention, 1973 (No. 138) (in 1999)
 - i) African Charter on the Rights and Welfare of the Child (in 2013);
 - j) Revised African Convention on the Conservation of Nature and Natural Resources (in 2018);
 - k) ILO Worst Forms of Child Labour Convention, 1999 (No. 182) (in 2000); and
 - l) All ECOWAS treaties and Protocols.
- 3) RoE is a country that is blessed with so many natural resources (spread across the different states). It has an average gross domestic product per capita (GDP per capita) of US\$500, with the GDP per capita of the North Region standing at US\$200. Its economy is largely based on mining (diamonds and gold), agriculture, gas exports, and foreign aid. Mining accounts for 30% of the national budget, agriculture for 10%, gas exports for 10%, and foreign aid for 5%. The diamonds, which are found in the North of the country, are predominant in Ofune State.

- 4) The Edera Constitution guarantees civil and political rights in accordance with the African Charter on Human and Peoples' Rights. It also provides that duly ratified international treaties are part of national law. Although not incorporated in the Constitution, the Edera Supreme Court has recognized customary international law principles to be part of domestic law inasmuch as they do not conflict with Ederan law requirements. Section 17 of the Constitution states that "The President has the power to ratify treaties and agreements. However, treaties or agreements that concern membership of international organisations, or affect the vested rights of Ederans, can only be ratified after approval by Parliament."
- 5) Section 32 of the Constitution of Edera focuses on environmental protection and improvement. It mandates the state to "protect and improve the environment and safeguard the water, air, and land, forest and wildlife of Edera". This provision is part of the Fundamental Objectives and Directive Principles of State Policy (Chapter III), which is non-justiciable.
- 6) Constitution designates the Supreme Court as the country's apex court. It can hear any matter resolved by the Court of Appeal. However, the Supreme Court's criminal jurisdiction is confined to appeals in which a sentence of five years or more has been issued, without the option of a fine. It is also the sole court that can rule on the "constitutional compatibility of legislation," which the Constitution defines as "a process separate from appeals" and "an extraordinary legal remedy." The country's appellate court is situated in each of the five regions, and the High Courts in each state have original jurisdiction over all cases, including those pertaining to human rights (apart from whether or not national laws are constitutional). The Court of Appeal has the authority to hear all challenges against decisions made by the High Court, while not having original jurisdiction. Inefficiencies in the court system have been a long-standing problem in Edera, with delays of up to one year in the scheduling of cases before the High Courts. From 2022-2023, the judicial workers in the states went on strike twice for non-payment of salary by the Government, and this led to a total shutdown of the courts.
- 7) Edera has also committed to the Office of the United Nations High Commissioner for Human Rights (OHCHR) to promote compliance with: (a) The United Nations Guiding Principles on Business and Human Rights, adopted in 2011; and (b) The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises, adopted in 1976 and updated in 2011.
- 8) In a bid to increase revenue mobilisation, the ROE over the years has signed concession agreements with Queensline Holding Limited (QHL), a major multinational company for the extraction of diamond and gold in the North Region, particularly in the Bashi Local Government area in Ofune State.
- 9) In 2018, QHL began intensive diamond mining in the Bashi Local Government Area, on the ancestral lands of the Bashi tribe. The Bashi numbers about 240,000 people, of which two-thirds are pastoralists living in the most remote parts of Edera. The Bashi tribe has occupied this land, on which it has relied for its livelihood, for over 130 years.

- 10) In 2019, when QHL wished to begin mining using an explosive technique that was acknowledged in the company's own Environmental Impact Assessment to be dangerous and extremely disruptive to the near-by inhabitants of Bashi LGA, QHL promised to relocate those whose land would be gravely affected by its operations, but only with the individuals/households' consent. However, some families refused to move. State agents acting in the interest of QHL forcibly removed some inhabitants from their homes, especially those whose houses were very close to the mining sites. This sparked a lot of agitation, to which some residents of Bashi came out to the public to announce their plan to have a public protest on the 21st of April, 2019, if the Government does nothing about their plight.
- 11) Ahead of the protests, on the 9th of April 2019, the Inspector-General of Police, Mr. Kelebe, put out television and radio statements to warn residents of Bashi not to violate the provisions of Section 13 of the Public Order Act which requires organisers of any protest to secure permission from his office at least 14 days before the protest.
- 12) Nevertheless, as planned on the 21st of April, 2019, the protests were peaceful with protesters carrying placards and chanting solidarity songs. However, when some policemen deployed to the protest venue started shooting teargas to disperse the protesters, some tout otherwise called "Area Boys," retaliated by throwing stones at them, thereby breaking the vehicle's windscreen and causing head injuries to two policemen. This led to the deployment of more police officers to the scene, where they began shooting sporadically at the protesters.
- 13) Residents of Bashi LGA shared different accounts of this incident. Doris, a thirteen-year-old girl, claimed that, at noon on that same day, some people were protesting near her home. These protesters were returning from the protest but decided to continue protesting by holding placards and chanting "No blasting in Bashi". A few minutes later, she saw police officers arrive on the orders of QHL, threatening residents, destroying property, and releasing tear gas into their communities to get people to leave. Her uncle, Sir James, was with her at the time and urged her to leave with their other family members to a safe place. She did as she was told but snuck back to the area where she left her uncle and hid in an abandoned house. From there, she saw Mr. Dickson shot from behind, and heard him shout that a police officer nicknamed "Triplet" had shot him. Mr. Dickson was eventually taken to the hospital, where he died the same day from the gunshot wound. Mr. Dickson had been the head of his family. When Doris returned home three days later, many of her family's possessions were stolen and some destroyed.
- 14) Mr. Kokoye, a Bashi resident, did not participate in the protests, but he went to the site of the intensifying protests to observe what was happening. Police officers began firing sporadic gunfire sometime between 12:45 and 2:00 p.m., and people began running. Mr. Kokoye saw a blue vehicle that he had previously seen carrying QHL's private security forces. He recognized the two individuals in the vehicle as Peter (an agent in QHL's private security forces) and "Bernard," a police officer, both of whom he recognized personally. Suddenly, gunshots were fired at the crowds where he was standing. He tried to run, but Bernard fired in his direction and shot him in the right foot. He was unable to get the bullet

removed at the government hospital for three days. As a result, Kokoye remained hospitalized for four months. QHL paid 50,000,000 Delria to the Ministry of Mines Director, Mr. Justin, as a “goodwill donation” that was later disbursed to all the victims of the 2019 violence, but continued to deny responsibility. Mr. Kokoye received 3,000,000 Delria, but it was insufficient to cover his 4,500,000 Delria hospital bill.

- 15) Mr. Fredrick was working in his tailor’s shop on the 21st of April 2019 when sporadic shooting and people running nearby alarmed him enough to close for the day. Just as he completed the short run to his home (150 meters), he was shot from behind and wounded on the right side of his torso. The bullet was removed at the General Hospital.
- 16) Mr. Gabriel is a motorcycle rider by trade. As he tried to make his way through the crowd of protesters on the 21st of April 2019, police started firing their weapons. A bullet struck the back of his head and created a gash on the surface. Protestors rushed him to the general hospital, but once he reached the hospital, he was kept waiting, and nobody would come to his assistance. Instead, a relative took Gabriel to a pharmacy, where he had to seek treatment for himself. The QHL gave him a “goodwill donation,” which amounted to only 1,500,000 Delria (approximately 195 USD).
- 17) Following this 2019 incident, RoE called for a judicial commission to review the extent of police involvement in the incident and make recommendations for preventative and remedial actions. This inquiry resulted in the Jacob-Jeffery Commission Report (JJCR) of 2019. In a publicly available White Paper, the state identified “Triplet” and “Bernard” as Police Sergeants and recognised the Jacob-Jeffery report’s recommendations and accepted all of them. Key recommendations included: prosecution and disciplining of officers involved in the violence, amending police rules of engagement, reforming mining laws and practices, and halting most blasting at QHL until proper resettlement was complete. Speaking at a special event to adopt the JJCR, Mr. Kart, the minister of information of RoE, stated emphatically that “The Commission Report was intended to prevent future unjustified police violence.
- 18) After the JJCR adoption ceremony, the said officers were dismissed. QHL stopped mining for some months but later commenced after 5 months, when they were given another approval from the Ministry of Mining stating that they were to engage a new, environmentally safe technique in the mining process, and the people of Bashi continued complaining about QHL mining and inadequate resettlement practices.
- 19) A report by the *Truth Defenders*, an international NGO with consultative status at the United Nations Economic and Social Council (UN ECOSOC), revealed that QHL, in collaboration with the army commander in Bashi LGA (who collects monthly allowance from the Chairman of the LGA) intimidated the Bashi tribe to leave their ancestral lands where their heritage and livelihoods depend.
- 20) According to a series of publications by *The Truth Defenders*, since QHL began operations, at least 2,000 children between the ages of 12 and 17 have worked in mining, specifically as washers and diggers, extracting diamonds in terrible safety conditions and with

insufficient equipment. Despite not being directly employed by QHL, the most of these kids are involved in small-scale artisanal mining operations that have emerged within and around the concession that QHL owns, while some are connected to contractors that work for QHL. According to the report, “the children are poorly housed, fed, and cared for, unable to provide for their families, and 6 of them have passed on as a result of poor working conditions”. The Edera Mining Board (EMB), the government organization in charge of monitoring mining operations, has been urged by a local human rights NGO to take responsibility and address all of these human rights abuses. Although the EMB conducted investigations, the accusations were rejected as baseless in its findings.

- 21) As the struggle continued, Bashi people either continued to live within 500 meters of the QHL mine boundary despite the acknowledged need for them to be relocated, or have been relocated to company-built housing that is inadequate to the needs of their families and incommensurate with their living situation before 2018. In 2022, these people formed The Marginalized Affected Property Owners Association (MAPOA), an association registered in Ofune State which objective is to advocate for access to remedies, reparations, and compensation for property owners affected by mining activities and related environmental damages. They authorized MAPOA to file a case at the High Court seeking compensation for the Bashi people. Unfortunately, the hearing of the case was delayed because of the strikes by judicial workers. Eventually, the case was heard in 2024. The High Court ruled that the citizens had received compensation in kind and that, consequently, neither the government of Edera nor QHL had violated the law, a decision that was upheld by the Court of Appeal on 1 May 2025.
- 22) The EMB (it was reported that anonymous people had reported that QHL had bribed officials of the EMB), the Edera Prosecuting Authority, and the judiciary are specifically mentioned in another report by the Truth Defenders, which emphasized the views of the majority of respondents regarding widespread corruption in many government bodies. The report also points out that the judiciary is so heavily influenced by big corporations and influential politicians that the general public is deprived of an effective remedy, especially when such individuals are involved.
- 23) According to the report, some MAPOA members have been moved since 2018 because of their close proximity to the mine, while others continue to live in its shadow. These groups are faced with similar but different persistent problems. Increased challenges in obtaining enough water for daily needs, overall environmental deterioration, the loss of suitable housing, significant changes in how they obtain their livelihoods, heightened health issues, and property loss have all contributed to a decline in each group’s quality of life. In numerous instances, the QHL has either not offered any compensation at all or failed to fairly compensate individuals for their losses.
- 24) MAPOA members must leave their houses for several hours at a time when QHL blasts during its operations, which occasionally takes place above ground. There have been holes in the roofs and fissures in the walls of people’s houses. Local officials, including council chairmen, have frequently warned those waiting to be resettled not to try to renovate or fix

their homes since they could be relocated “at any time.” Furthermore, because of the mine, many people have restricted access to essential resources like water and rich soil.

- 25) President-elect Symphorosa took the oath of office as Edera’s president on June 1, 2025. He vowed in his speech to fulfill his campaign pledges, which included upholding fundamental human rights, revising investment laws and policies to comply with international human rights standards, combating corruption, and his administration's plan to purchase all lands with natural resources for the government while paying residents and occupants or offering better housing to those who would prefer to relocate.
- 26) The government’s plan to purchase their ancestral land infuriated MAPOA members, and tensions began to rise. The minister of lands and natural resources was heard telling his girlfriend, Sissy, in a voice message posted on social media two weeks after the announcement that the president intended to purchase some of those lands for himself and his friends in order to lease them to international mining companies and receive payment in US dollars. The citizens who felt threatened by the government’s plan to take their property rejected the minister of land and natural resources’ explanation, even though he denied ever saying anything of that sort and said that his voice was cloned by malicious elements to damage the reputation of the newly elected president and his cabinet. Nationwide, and particularly in the north, protests erupted. The administration decided to impose a curfew from 6 am to 6 pm because of the widespread disturbance. At an effort to get the government to pay attention, MAPOA’s chairman and vice chairman, Mr. Jude and Marcus, organized their members to demonstrate at the state capital.
- 27) On June 18, 2025, MAPOA members (led by the chairman and vice chairman) staged a protest in the capital, blocking traffic and disrupting activities. They were joined by organizations with similar goals and some touts who joined the demonstration only to cause chaos and destroy properties. The scenario turned violent because the police, who had been sent in to use tear gas to disperse the protesters, were unable to handle it. Five police officers were gravely injured by the touts’ stone-throwing, and a police van was set on fire. General Anthony sent out three armed “special forces” units when the police were unable to quell the protests; these troops shot the protesters with live ammunition and took Mr. Jude and Marcus into custody. After three days, the protests and demonstrations came to an end. According to a local NGO report, 30 people were gravely hurt and 5 civilians lost their lives during the protests.
- 28) Four days later, Mr. Jude and Marcus were charged with destroying government and public property, an offence provided for under Section 18 of the Ederan Criminal Act (2008), which states: ***Any person who willfully destroys government or public property commits an offence and is liable to imprisonment for a term of no less than three (3) years and not more than five (5) years.***
- 29) Mr. Jude and Mr. Marcus were found guilty by the High Court of destroying public and government property, and they were given a three-year prison sentence without the possibility of a fine. On August 11, 2025, the Court of Appeal upheld their conviction. The Environmental and Human Rights Defender (EHRD), a civil society organization that

defends victims of human and environmental rights abuses, declared on August 12, 2025, that it was in talks with Mr. Jude's and Mr. Marcus's attorneys in order to present a case to the African Court. On August 15, 2025, President Symphorosa announced, that Edera had withdrawn its declaration in accordance with African Court Protocol article 34(6).

- 30) On 22 August 2025, EHRD submitted an application to the African Court on Human and Peoples' Rights, requesting it to make the following findings:
- (a) The withdrawal by Edera of its article 34(6) declaration is invalid, as it violates the African Charter and other relevant human rights instruments by undermining the vested rights of Ederans.
 - (b) Edera violated the African Charter and other relevant human rights instruments by failing to ensure that the Bashi people and child workers are protected from violations committed by the QHL.
 - (c) Public Order Act of the RoE violates international human rights law.
 - (d) Edera violated the African Charter and other relevant human rights instruments by the various treatment meted out on Mr. Jude and Marcus.
- 31) The hearing is scheduled for November 17, 2025. Prepare separate written arguments on behalf of the applicant, Environmental and Human Rights Defender (EHRD), and the Republic of Edera (RoE), the respondent. For each party, address the issue of jurisdiction admissibility, merits, and remedies in relation to (a) to (d) above.