


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

APPLICATION NO. 019/2018

CENTRE FOR HUMAN RIGHTS AND OTHERS APPLICANT

v.

THE UNITED REPUBLIC OF TANZANIA RESPONDENT STATE

CASE SUMMARY

25 SEPTEMBER 2024

I. THE PARTIES

1. The Application is filed by the Centre for Human Rights – University of Pretoria, the Institute for Human Rights and Development in Africa, and the Legal and Human Rights Centre.
2. The Centre for Human Rights – University of Pretoria (CHR) is a hybrid institution which functions as an academic department of the Faculty of Law, University of Pretoria, as well as a non-governmental organisation (NGO), established in 1986 in Pretoria. The Centre was granted observer status before the African Commission on Human and Peoples' Rights (African Commission) in 1993.
3. The Institute for Human Rights and Development in Africa (IHRDA) is a pan-African NGO based in Banjul, The Gambia. Its mandate is to promote awareness of human rights in Africa and improve the effectiveness of the African human rights system. The IHRDA was granted observer status before the African Commission in 1999.
4. The Legal and Human Rights Centre (LHRC) is an NGO based in Dar es Salaam, Tanzania whose mandate is to promote, enforce and safeguard human rights and good governance in Tanzania. The LHRC was granted observer status before the African Commission in 2000.
5. The three afore-mention entities are hereinafter referred to as “the Applicants”.
6. The Application is filed against the United Republic of Tanzania which is the Respondent State.

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

7. It emerges from the record that this Application is filed on behalf of PWAs within the territory of the Respondent State. The Applicants submit that throughout history, PWAs in the Respondent State's territory have endured persecution and humiliation, in particular killings and mutilations.
8. The Applicants aver that as a general practice, the assailants target the body parts of PWAs accompanied by their trade in persons which is mainly for witchcraft purposes. Due to the high demand for the body parts, desecration of graves and subsequent robbery of body parts in the Respondent State's territory have been reported along with outright human trafficking of PWAs.
9. The Applicants submit that statistics indicate that since the resurgence of attacks in the year 2000 up to June 2016, the total number of deaths in the Respondent State's territory was 76 whilst the number of survivors of attacks and kidnappings were 69. According to the Applicants, with PWAs being minority community, such high numbers are indicative of a serious and widespread threat to PWAs.
10. The Applicants further submit that apart from the socio-political challenges, PWAs suffer from impaired vision and susceptibility to skin cancer. The Applicants submit that in the Respondent State's territory, many PWAs die from skin cancer between the ages of 30 and 40. It is the Applicants' submission that the PWAs' vulnerability to early death from skin cancer is made worse by the fact that most PWAs have meagre job prospects that forces them to take up petty jobs in the sun where skin cancer will develop or be expedited. The Applicants aver that with these conditions, most PWAs in the

Respondent State's territory generally have difficulties accessing adequate education, health and other essential services.

11. The Applicants submit that because of discrimination and persecution, PWAs in the Respondent State's territory feel ostracized and neglected by the State and society at large. The Applicants aver that the attacks against PWAs have not been effectively prevented as evident by the ongoing attacks against PWAs.
12. According to the Applicants, nearly seventy percent of the victims of the killings and mutilations are children as they are considered as easy targets and also considered to have innocent souls more suitable for magical purposes of wealth generation.
13. The Applicants aver that the killings and mutilation have caused far reaching psychological problems for PWAs. Due to fear of death and mutilations, their movements are limited and so is access to basic services. They submit that some children stopped going to school due to fear of putting their lives at stake.
14. The Applicants assert that the steps taken by the Respondent State so far to contain the situation of persecution, discrimination and killings have proven insufficient. This is evident from the ongoing attacks against PWAs as illustrated above.
15. The Applicants further assert that the judicial and prosecutorial response has also been ineffective. They submit that as of January 2014, only 11 cases out of the 139 reported resulted in convictions by the courts. Of the 76 murders of PWAs documented in the Respondent State's territory since the year 2000, only 5 cases are known to have resulted in successful prosecutions.

B. Alleged Violations

16. The Applicants allege violation of the following provisions:

- i. The right to life protected under Article 4 of the Charter;
- ii. The prohibition against torture, degrading and inhumane treatment under Article 5 of the Charter, Article 7 of the International Covenant on Civil and Political Rights (hereinafter referred to as “ICCPR”), Article 16 of the African Charter on the Rights and Welfare of the Child (hereinafter referred to as “African Children’s Charter”);
- iii. The prohibition of sale, trafficking and abduction of children under Article 29 of the African Children’s Charter;
- iv. The right to non-discrimination protected under Article 2 of the Charter; and
- v. The right to an effective remedy guaranteed under Article 7 of the Charter.

C. Prayers of the Applicants

17. The Applicants pray the Court to find that the Respondent State has violated the following provisions:

- i. Right to life under Article 4 of the Charter;
- ii. Prohibition against torture, degrading and inhumane treatment under Article 5 of the Charter, Article 7 of the ICCPR and Article 16 of the African Children’s Charter;
- iii. Prohibition of sale, trafficking and abduction of children under Article 29 of the African Children’s Charter;
- iv. Right to non-discrimination protected under Article 2 of the Charter and Article 3 of the African Children’s Charter;
- v. Right to dignity protected under Article 5 of the Charter; and
- vi. Right to an effective remedy protected under Article 7 of the Charter.