

DECLARATION BY JUDGE RAFAÂ BEN ACHOUR

1. I am in full agreement with all the conclusions in the judgment *Masudi Said Selemani v. United Republic of Tanzania* (Application No. 0042/2019). This judgment reflects a balanced and considered approach to the legal issues at hand.
2. However, I wish to reiterate the views I previously expressed in *Ladislus Chalula v. United Republic of Tanzania* (Application No. 003/2018), delivered on 5 February 2025, as well as in *Emmanuel Yusufu alias Noriega v. United Republic of Tanzania* (Application No. 013/2018) and *Tembo Hussein v. United Republic of Tanzania* (Application No. 001/2018). These decisions highlight fundamental issues relating to human rights and dignity.
3. With regard to the violation of the right to the respect of the dignity inherent in a human being, a fundamental right guaranteed by Article 5 of the Charter, I wish to express my disagreement with the reasoning of the Court. Indeed, the justification put forward to establish the violation of this right does not have me fully convinced. The Court states that:

[e]mphasizes that execution by hanging, one of the methods mentioned, is degrading by its very nature. In this regard, as a method of carrying out this sentence, hanging inevitably undermines dignity, given the prohibition of cruel, inhumane and degrading treatment.
4. Furthermore, the Court adds that “detention on death row is degrading by its very nature and undermines human dignity”. This statement highlights a legitimate concern regarding conditions of detention and the way in which they may affect the dignity of the individuals concerned.
5. As I have elaborated in my declarations on the judgments cited above, I maintain that the violation of the right to dignity is not limited solely to the method of execution or to detention on death row. In my view, the death penalty itself constitutes a fundamental denial of human dignity. I do not

wish to repeat what has been written in the *Ladislus* and *Noriega* judgments, but I invite the reader to refer to those analyses for a deeper understanding of my position on this crucial issue.



Judge Rafaâ Ben Achour

