

**THE MATTER OF
CHACHA JEREMIAH MURIMI AND OTHERS**

V.

UNITED REPUBLIC OF TANZANIA

**APPLICATIONS NOS. 039/2019, 040/2019 AND 041/2019
(CONSOLIDATED APPLICATIONS)**

JUDGMENT OF 5 JUNE 2026

PARTIAL DISSENTING OPINION BY JUDGE MODIBO SACKO

1. I regret to disagree with the majority decision in this judgment delivered on 5 June 2026 **as regards the award of One Hundred Thousand (100,000) Tanzanian Shillings to each of the Applicants.** a sum which, in my view, departs, from the Court's established practice and jurisprudence without rationale
2. Before addressing the issue of reparations for moral prejudice, which is the subject of this partial dissenting opinion (II), it bears briefly recalling the facts of the matter (I).

I. THE FACTS

3. Messrs Chacha Jeremiah Murimi, Methew Jeremiah Daud and Paschal Ligoye Mashiku (hereinafter referred to as "the first Applicant", "the second Applicant" and "the third Applicant" respectively, or "the Applicants" collectively), are Tanzanian nationals who, at the time of filing the Application, were on death row at Butimba Central Prison, (Mwanza), awaiting execution, having been sentenced to death by the Tanzanian courts. They allege violation of their rights in the proceedings before the said domestic courts.

4. On 19 July 2009, Chacha Jeremiah Murimi, Methew Jeremiah Daud and Paschal Ligoye Mashiku (hereinafter referred to as “the Applicants”) were arrested for the murder of Aaron Nongo, a person with albinism, a murder allegedly committed on 26 June 2019 in the village of Ibandan. They were charged before the High Court sitting in Mwanza which, on 16 October 2015, sentenced them to death.
5. The Applicants appealed the decision before the Court of Appeal of Tanzania sitting in Mwanza which, on 4 April 2019, dismissed their appeal as unfounded.
6. On 6 February 2026, the Applicants informed this Court that the death sentence had been commuted to life imprisonment.

II. REPARATIONS FOR MORAL PREJUDICE

7. In awarding the sum of One Hundred Thousand (100,000) Tanzanian shillings to each of the Applicants as compensation for moral prejudice, the Court reiterated the principle whereby the assessment of moral prejudice must be based on equity and take into account the circumstances of the case.
8. It is regrettable that the Court did not provide more detailed reasoning to justify the significant and unusual reduction in the quantum of reparations, in light of its previous jurisprudence. No relevant factual distinction appears to justify such a reduction in the quantum of reparations. In my view, this constitutes a jurisprudential regression, given that the Court has the established practice of awarding applicants recognised as victims of violations a minimum sum of 300,000 Tanzanian shillings or more, depending on the circumstances.

9. In a similar case, namely, *Habyalimana Augustino and Muburu Abdulkarim v. the United Republic of Tanzania*, in which the two applicants were sentenced to death by hanging for murder, the Court ordered a retrial and also awarded each applicant the sum of Five Hundred Thousand (500,000) Tanzanian shillings as pecuniary reparation for the moral prejudice they had suffered.¹
10. Similarly, in the case of *Emmanuel Yusufu Noriega v. United Republic of Tanzania*, where the applicant was also sentenced to death for murder, the Court, exercising its discretion, awarded him the sum of One Million (1,000,000) Tanzanian shillings as reparation for the moral prejudice suffered as a result of the violations it found.²
11. In this case, the Court held that the Respondent State violated several of the applicant's rights, including the right to the inherent dignity of the human person and the right not to be subjected to cruel, inhuman and degrading treatment, protected by Article 5 of the African Charter on Human and Peoples' Rights (the Charter), on the grounds that the magistrate had failed to investigate allegations of police brutality; the right to a fair trial, on the grounds that the applicant did not receive free legal aid, in accordance with Article 7(1)(c) of the Charter, read in conjunction with Article 14(3)(d) of the (International Covenant on Civil and Political Rights (ICCPR); the right to a fair trial, on the grounds that the applicant was not tried within a reasonable time, in accordance with Article 7(1)(d) of the Charter; the right to life, protected by Article 4 of the Charter, due to the mandatory application of the death penalty; and the right to human dignity and the right not to be subjected to cruel, inhuman or degrading treatment or punishment, protected by Article 5 of the Charter, due to the method of execution of the death penalty, namely, hanging.

¹ *Habyalimana Augustino and Muburu Abdulkarim v. United Republic of Tanzania*, AfCHPR, Application No. 015/2016, judgment of 5 September 2023 (judgment), §§ 233 and 239. Pecuniary reparations.

² *Emmanuel Yusufu Noriega v. United Republic of Tanzania*, AfCHPR, Application No. 013/2018, judgment of 26 June 2025 (judgment), §§ 233 and 239. Pecuniary reparations.

12. In another case, *Ladislaus Chalula v. United Republic of Tanzania*, where the applicant was sentenced to death for murder, the Court held that the applicant's right to life and his right to dignity were violated. The Court therefore awarded him the sum of Three Hundred Thousand (300,000) Tanzanian shillings as reparation for moral prejudice suffered.³
13. In the case of *Boniface Alistedes v. United Republic of Tanzania*, in which the applicant was sentenced to death for murder, the Court held that the Respondent State violated Article 7(1)(c) of the Charter read in conjunction with Article 14(3)(d) of the ICCPR, by failing to provide him with free legal aid. In this case, although the applicant did not seek reparations, the Court held that "the Applicant is entitled to moral damages as there is a presumption that he has suffered some form of moral prejudice as a result of the above-mentioned violation". It held that the assessment of the amount of reparation for moral prejudice must be made in all fairness and taking into account the circumstances of the case.⁴ It also reiterated that the practice in such circumstances was to award lump-sum payments as reparation for moral prejudice.⁵ The Court therefore awarded the applicant the sum of Three Hundred Thousand (300,000) Tanzanian shillings as reparation for moral prejudice suffered.
14. It emerges from the jurisprudence of our human rights court referred to above that the Court exercises its discretion in awarding reparation for moral prejudice. It has consistently assessed the quantum of reparation for moral prejudice fairly and taking into account the circumstances of each case.
15. In light of these recent judgments, which support my position, I am therefore unable to agree with the Court's decision regarding the amount awarded to

³ *Ladislaus Chalula v. United Republic of Tanzania*, AfCHPR, Application No. 003/2018, judgment of 5 February 2025 (judgment), §§ 111 and 118. Pecuniary reparations.

⁴ *Juma v. Tanzania* (judgment), *supra*, § 144; *Viking and Another v. Tanzania* (reparations), *supra*, § 41; and *Umuhoza v. Rwanda* (reparations), *supra*, § 59.

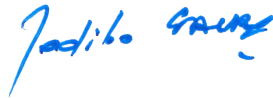
⁵ *Zongo and Others v. Burkina Faso* (reparations), *supra*, §§ 61 and 62, and *Guéhi v. Tanzania* (merits and reparations), *supra*, § 177.

the Applicants. In my view, each applicant should have received at least 300,000 Tanzanian shillings for three reasons.

16. Firstly, in the present case, the Court, as the custodian of the Charter, found that the Respondent State violated the Applicants' right to life, protected by Article 4 of the Charter, insofar as it sentenced him to the mandatory death penalty, and his right to the dignity inherent in the human person, protected by Article 5 of the Charter, due to the method of execution of that sentence, namely, hanging. By awarding an amount that deviates from its established practice regarding reparation for moral prejudice without giving reasons, the Court has unjustifiably reversed its jurisprudence.
17. Secondly, even though the Applicant's death penalty was commuted to life imprisonment, it is clear that such a commutation cannot retroactively erase the psychological suffering endured. The "Death row syndrome" in itself constitutes a form of cruel, inhuman or degrading treatment. The trauma associated with the imminence of execution during six long years of waiting, coupled with the burden of uncertainty, is a *fait accompli* that has caused harm separate from the deprivation of liberty. Consequently, to disregard the six years the Applicants spent on death row would amount to denying the reality of the physical and mental suffering they experienced, along with the resulting stress- and anxiety-related illnesses.
18. Thirdly, in my view, by refusing to award substantial pecuniary reparation, the Court risks sending the wrong message to the Respondent State – that of impunity. Reparation must be sufficiently consequential to reflect the gravity of the violation of Articles 4 and 5 of the Charter, as well as the moral prejudice suffered by the Applicants. By proceeding as it has done, the Court has missed a golden opportunity to deliver effective justice in support of human rights.
19. In conclusion, I dissociate myself from the majority decision of the Court in the present case, with regard to this part of its judgment, where it appears to me that the principle of fairness has not been fully upheld. No indication

is given as to the reasons for this jurisprudential reversal in the absence of sufficient explicit reasoning in its jurisprudence. Thus, in my humble opinion, the Court should have awarded each of the three Applicants at least Three Hundred Thousand (300,000) Tanzanian shillings, in line with its established jurisprudence.

Judge Modibo SACKO



Done at Arusha, on this Fifth Day of June in the year Two Thousand and Twenty-Six, the French text being authoritative.

