

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

CASE SUMMARY
APPLICATION NO 008/2015
SHUKRANI MASEGENYA MANGO & 6 OTHERS¹ V. UNITED REPUBLIC OF
TANZANIA

FILING AND PARTIES

1. The Applicants have presented their application which was received at the Court's Registry on 17 April 2015.
2. The Applicants are all convicts serving their sentences at Ukonga Prison in Dar es Salaam, Tanzania. Two of the seven applicants are serving 30 year sentences after being convicted for committing armed robbery. The remaining five applicants were all sentenced to death and at diverse dates their sentences were all substituted to life imprisonment. The Applicants were convicted and sentenced in separate and unrelated cases.
3. The Applicants have sued the Attorney General of the United Republic of Tanzania in his capacity as a government employee responsible for all legal matters and suits.

COMPLAINTS

¹ The other applicants are Ally Hussein Mwinyi, Juma Zuberi Abasi, Julius Joshua Masanja, Micheal Jairos, Azizi Athuman Buyogela and Samwel Mtakibidya.

4. The Applicants contend that they are “long term sentence servers” who have been discriminated against in the granting of pardons for their sentences. They contend that unlike short term sentence servers who are granted pardons after serving one third of their sentence, long term sentence servers are systematically denied pardons. They argue this is discriminatory and a violation of the principle of equality before the law.
5. The Applicants contend that long term sentence servers are subjected to prison conditions that are different from other convicts. This includes being placed in isolation, being denied their constitutional and fundamental rights including being denied access to legal processes and being subjected to conditions that are “boring.” They urge this unequal treatment of convicts is discriminatory and a violation of their basic rights.
6. The Applicants contend that the Respondent State treats corruption and other economic crimes lightly. They argue perpetrators of such crimes receive “first class” and “extremely better treatment” than other convicts including by receiving presidential pardons despite their actions leading to “recession and inflation and or demoralization of insecurity in society.” This they argue is discriminatory, a violation of Tanzania’s constitutional obligation for the judiciary to dispense justice impartially to all without due regard to one’s social or economic status and a violation of the principle of equality before the law and equal protection before the law.
7. The Applicants argue that the 1st Applicant, Shukurani Masegenya Mango was convicted together with Thobias Mangara Mango and ordered to serve a penalty of that was heavier than the penalty in force at the time they committed the offence.
8. The Applicants have made reference to violations of the following legal instruments;

- a. Articles 2, 3, 5, 7, 9, 15, 19, 27 and 28 of the African Charter on Human and Peoples' Rights.
- b. Articles 5, 7, 8 and 10 of the Universal Declaration of Human Rights.
- c. Articles 13 (1) - (6), 45, 64(5) and 107 A (2) (a) of the Constitution of the United Republic of Tanzania.

EXHAUSTION OF LOCAL REMEDIES

- 9. The Applicants contend that local remedies are unavailable. They argue that filing a constitutional case at the Constitutional Court is "useless and senseless" where violations arise from the judicial system itself. They argue that the Constitutional Court is not "independent, fair and just" as they are "discredited" at the preliminary stage without being heard on the merits. This in itself they argue is a violation of their right to access an effective remedy and to be heard by an independent and impartial tribunal as stipulated under Articles 8 and 10 of the Universal Declaration of Human Rights.
- 10. The Applicants argue that there are "under covers of the Respondent State" who bar their ability to access the courts.
- 11. The Applicants appear to argue that they are filing a representative suit on behalf of all other convicts. They argue, that they "as a whole are sacrificing themselves...to the benefit of justice to themselves and all other convicted prisoners in the Respondent State...for the better future of all people in the land."

RELIEFS SOUGHT

12. The Applicants request free legal representation.
13. The Applicants state that they are “intending and or expecting to suffer inhuman and irreparable consequences” if their Application is not acted upon. They request the Court to try the case “under urgency” and invoke Article 27(2) of the Court Protocol and Rule 51 of the Court’s Rules of Procedure. However, the Applicants do not make reference to any specific provisional measures sought.
14. On the merits of the Application, they seek the following reliefs;
- a. That their Application be allowed;
 - b. An order stating that their rights had been violated and that the Respondent State violated the Constitution;
 - c. An order that the Respondent State take measures to recognize their rights and give effect to them;
 - d. “An order for nullifying the Respondent State’s decisions” and a declaration that the decisions were unconstitutional and violated their basic rights;
 - e. An order quashing all inhuman aspects inflicted upon the Applicants;
 - f. An order for the release from custody and in relation to the rest of the Applicants, “as to the circumstances of each applicant in the case in issue”;
 - g. An order for reparations; and
 - h. Any other orders and reliefs that the court may grant.