

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
<p style="text-align: center;">AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES</p>		

APPLICATION NO. 041/2020

LEGAL AND HUMAN RIGHTS CENTRE AND LIBERATUS MWANG'OMBE

V.

UNITED REPUBLIC OF TANZANIARESPONDENT STATE

CASE SUMMARY

I. THE PARTIES

1. The 1st Applicant is an independent, non-partisan and non-profit human rights organization specialized in legal and human rights education and training, civic awareness, research and advocacy, election observation, voter education, policy and law reform, based in Dar es Salaam with sub-offices in Arusha and Dodoma. It was founded and registered in 1995 under Non-Governmental Organization Act of 2002 as amended. He has observer status before the African Commission on Human and Peoples Rights since 2000.
2. The Second Applicant, Mr. Liberatus Mwang'ombe, a national of Tanzania, is a human right activist who is residing in Dar es Salaam. Both Applicants are hereinafter referred to as "the Applicants".
3. The Applicants are represented by Advocate Jebra Kambole, a national of Tanzania, from law firm Law Guards Advocates.
4. The Respondent State is the United Republic of Tanzania.

II. SUBJECT OF THE APPLICATION

A. FACTS OF THE MATTER

5. The Article 5(2)(c) of 1977 Constitution of the Respondent State gives power to the Parliament to enact an act a law "imposing conditions restricting a citizen from exercising the right to vote for being convicted of certain specified criminal offences."
6. In execution of the above provision of the Constitution, National Elections Act (Cap. 343 R.E 2015) disqualifies from registration a person "under sentence of death imposed on him by any Court in Tanzania or under sentence of imprisonment exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court."

7. The Applicants alleges that these laws of the Respondent State “denies a hundred of citizens of the respondent state from exercising the right to be registered and to vote for a number of years and they continue to suffer due to denial of the said right without any legal or human rights justification.”
8. In the Applicants’ view, both the provision of the Constitution and National Elections Act are in contravention with the relevant provisions of the Charter, the ICCPR and the UDHR.

B. ALLEGED VIOLATIONS

9. The Applicants allege that the Respondent State violates the following rights:
 - i. The right to vote and participate in public affairs under Articles 13(1) of the Charter, 25(a) and (b) of the ICCPR, and 21(1) of the UDHR and ;
 - ii. The right to non-discrimination under Article 2 of the Charter, 2(1)(2) of the ICCPR, 2 of the UDHR and 13(2) and (4) of the Constitution;
 - iii. The right to equality before the law and equal protection of the law, under Articles 3 of the Charter 7 of the ICCPR;
10. He further alleges that Respondent State failed to protect human right under Articles 1 of the Charter and 2(2) of the ICCPR.

III. PRAYERS OF THE APPLICANT

11. The Applicants pray the Court to find/order that :
 - a) The Respondent by having article 5 (2) (c) of the Constitution of United Republic of Tanzania of 1977, and by taking action of prohibit prisoners, detainee, accused and people in diaspora from exercise the right to be registered and vote is in violation of Art 1,2,3 and 13 (1) of the African Charter on Human and people’s Rights.
 - b) The Respondent by having article 5 (2) (c) of the Constitution of United Republic of Tanzania of 1977, by taking action of prohibit prisoners, detainee, accused and

people in diaspora from exercise the right to be registered and vote is violated Art 2(1) (2) and 25 (a) and (b) of International Covenant on Civil and Political Rights, and 2, 7 and 21(1) of Universal Declaration of Human Rights.

- c) Prisoners in United Republic of Tanzania "Respondent" aged 18 years and above possess the fundamental and inalienable right to be registered as voters and to vote pursuant human rights principles as provided under the charter and other international instruments.
- d) The exclusion of these Tanzanians (Prisoners, detainees, accused in police custody or prisons) by the Respondent from the voters' registration exercise is illegal and a violation of their fundamental right to be registered as voters and participate in various voting exercises.
- e) The exclusion of Tanzanians aged 18 years and above living in the diaspora from voter registration is illegal and a violation of their fundamental right to be registered as voters and participate in elections.
- f) An order compelling the Respondent to immediately register these Tanzanians as voters to facilitate their voting in subsequent elections.
- g) The omission and exclusion of these Tanzanians from the voting process is an abuse and failure by the Respondent to perform its duties, amounts to segregation or discrimination hence illegal.
- h) Each of the prisons be declared registration polling centres and the Respondent State deploys its officials as returning officers in prisons for the subsequent 2024 local elections and referenda, or any subsequent election including the 2025 National Election.
- i) The Respondent should liaise with prison authorities and governments with Tanzanians living in the diaspora to issue national identity cards for purposes of registration as voters and for safe keeping of the voters cards of the prisoners.
- j) The non-registration of these Tanzanians by the Respondent amounts to abuse of fundamental human rights of citizens as obligated under the Charter, Constitution and other international human rights instruments.
- k) A permanent injunction restraining the Respondent and/or their agents from further illegal/unlawful breach and non-observance of their mandate to register qualified Tanzanians for the electoral process.
- l) A permanent injunction restraining the Respondent from conducting any elections or referenda in exclusion of these Tanzanians.
- m) Any other orders and directions deemed fit, just and appropriate to safeguard the fundamental rights of these Tanzanians.

- n) The Respondent sets up more polling centres over and above embassies and consulates and deploys electoral officials as returning officers or collaborates with host electoral bodies to provide similar services.
- o) That the Respondent puts in place Constitutional and Legislative measures to guarantee the rights provided for under Article 1, 2, 3 and 13(1) of The African Charter on Human and People's Rights and other international human rights instruments.
- p) Make an Order that the Respondent reports to the Honourable Court, within a period of twelve (12) months from the date of the judgment issued by the Honourable Court, on the implementation of this judgment and consequential orders.
- q) Any other remedy and/or relief that the Honourable Court will deem to grant; and
- r) The Respondent to pay the Applicants' costs.