


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
UNIÓN AFRICANA		UMOJA WA AFRIKA
<div>AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS</div> <div>COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES</div>		

APPLICATION NO. 010/2019

IDD KITURE

V.

THE UNITED REPUBLIC OF TANZANIA

CASE SUMMARY

I. THE PARTIES

1. The Application is filed by Mr. Idd Kiture (hereinafter referred to as the “Applicant”) who is a national of the United Republic of Tanzania (hereinafter referred to as the “Respondent State”).
1. The Respondent State is the Republic of Tanzania (hereinafter referred to as “the Respondent State”).

II. SUBJECT OF THE APPLICATION

A. FACTS OF THE MATTER

1. It emerges from the record that on 6 October 2006, the Applicant raped his eleven-year-old daughter at his home in Kasanga Area, within the Morogoro Region in Tanzania.
2. The Applicant was charged, tried and convicted of the offence of rape contrary to Sections 130 and 131 of the Penal Code Cap. 16 R.E 2002, by the District Court of Morogoro, in Criminal Case No. 647 of 2006. On 20 July 2010, the District Court sentenced the Applicant to thirty (30) years’ imprisonment and to pay compensation to the victim for a sum of Three Hundred Thousand Tanzanian Shillings (300,000 TZS).
3. The Applicant then lodged an appeal at the High Court in Dar es Salaam, which, dismissed the appeal and upheld the sentence and the conviction on 14 September 2011.
4. The Applicant’s further appealed to the Court of Appeal sitting at Dar es Salaam, which appeal was also dismissed for lack of merit on 14 November 2014.
5. The Applicant then filed his Application before this Court on 9 January 2019 at which time, he was serving imprisonment term at Ukonga Central Prison in Dar es Salaam, in the Respondent State.

B. ALLEGED VIOLATIONS

6. The Applicant alleges that the Respondent State violated his rights under Articles 2, 3, and 7(1) (a), (c) and (d) of the Charter.
7. He avers that the proceedings of his case are null and void as the charges were not read to him before the commencement of the hearing of the case against him contrary to the provisions of Section 210 (3) of the Criminal Procedure Act (CPA) Cap. 20 R.E 2002.
8. The Applicant further avers that he was kept in police custody for over twenty-four (24) hours contrary to the provisions of Sections 64 (1) (c) and 67 (3) of the CPA and that he was not present in court during the preliminary hearing of the case as he was suffering from Malaria.
9. The Applicant contends that he was tried on a defective charge, which was not in consonance with the provisions of Section 130 of the Penal Code, Cap. 16.
10. Furthermore, that he was not provided a lawyer at the time of his arrest and that his trial was unduly prolonged.
11. Finally, the Applicant asserts that the Respondent State violated his rights when it failed to correct the ‘incurable irregularities done to him by its courts’.

III. PRAYERS OF THE APPLICANT

12. The Applicants pray the Court to:
 - i. Facilitate him with free legal assistance in accordance with Article 10(2) of the Protocol.
 - ii. Order the restoration of his rights.
 - iii. Order reparations where violations are established
 - iv. Order his release from prison custody