

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

IN THE MATTER OF

PETER JOSEPH CHACHA

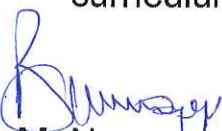
V.



THE UNITED REPUBLIC OF TANZANIA

SEPARATE OPINION OF JUDGE B.M. NGOEPE

1. Although I agree with the conclusion reached by the majority, I do not agree with them regarding the Ruling on the admissibility of the evidence of Prof. Leonard P. Shaidi, professor of law at the University of Dar es Salaam, whom the Applicant had sought to call as his expert witness.
2. I was one of the minority against that Ruling. With respect, I still disagree with the majority decision on this point and associate myself with, and support entirely, the position held in the separate minority opinion of S.A. Akuffo - President, Thompson and Kioko JJ, appended to the majority decision.
3. I adopt the reasons given in the said minority opinion and therefore need not deal with the issue relating to the admission of the witness's evidence any further, except to make a few observations.
4. The objection against receiving the evidence of the professor on the basis that he is not an expert is misconceived:
 - 4.1 That kind of argument only arises after the witness has testified and qualified or failed to qualify himself or herself as an expert.
 - 4.2 If the Court finds that he/she is not an expert, the evidence would be discarded.
 - 4.3 If the Court finds that he/she is an expert, the next step is to decide how much weight, if any, is to be attached to the evidence.
5. It is therefore hard to see how an argument that a witness is not an expert can be sustained before the witness is given the opportunity to qualify himself/herself; certainly not even on a curriculum vitae.


B. M. Ngoepe

Judge 28 MARCH 2014

Dr Robert Eno
Registrar

