



7th Congress of the Conference of Constitutional
Jurisdictions of Africa (CJCA)

REPORT

2024



"Human dignity as a fundamental value and principle: A source of constitutional interpretation, protection of fundamental human rights and application"

7th Congress of the Conference of Constitutional Jurisdictions of Africa (CJCA)



Under the Theme

"Human dignity as a fundamental value and principle: A source of constitutional interpretation, protection of fundamental human rights and application"



Oct 31- 03 Nov 2024 | Elephant Hills Resort, Victoria Falls, Zimbabwe



**7th Congress of the
Conference of Constitutional
Jurisdictions of African (CJCA)**

REPORT
2024

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**JUDICIAL SERVICE COMMISSION, REPUBLIC
OF ZIMBABWE**

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SALUTATIONS

1. The Vice President of the Republic of Zimbabwe, **The Honourable General (Retd) Dr. C. G. D. N. Chiwenga;**
2. The Chief Justice of the Republic of Zimbabwe, **Hon. Mr. Justice Luke Malaba;**
3. The President of the Constitutional Court of the Kingdom of Morocco and President of the Conference of Constitutional Jurisdictions of Africa, **Hon. Mr. Justice Mohammed Amine Benabdallah;**
4. The Minister of State for Provincial Affairs and Devolution, Matabeleland North Province, **Honourable Richard Moyo**
5. The Minister of Justice, Legal and Parliamentary Affairs, **Hon. Ziyambi,** and all Ministers and Deputy Ministers present;
6. The Honorary President of the Conference of Constitutional Jurisdictions of Africa, **Hon. Mr. Justice Robert Servais Marcellin Dossou;**
7. Excellencies, Presidents and Honourable Chief Justices of Supreme Courts and Constitutional Courts.
8. Deputy Chief Justices and Deputy Presidents of Supreme Courts and Constitutional Courts and Judges here present;
9. The Secretary General of the Conference of Constitutional Jurisdictions of Africa (CJCA), **Hon. Mr. Justice Moussa Laraba;**



10. Excellencies, Heads and representatives of Diplomatic Missions here present;
11. Members of the Executive Bureau of the Conference of Constitutional Jurisdictions of Africa, (CJCA);
12. Heads and representatives of Regional and International Organisations here present;
13. The Permanent Secretary for Justice, Legal and Parliamentary Affairs and other Permanent Secretaries and representatives of Government Ministries here present;
14. Service Chiefs and Members of security services here present;
15. Members of Judicial Service Commissions here present;
16. Members of the Academia, Legal Profession, and Civic Organisations here present;
17. Members of the media;
18. Colleagues, Distinguished guests, ladies and gentlemen.





PROGRAMME OF EVENTS

Thursday, October 31, 2024

Tuesday, October 29, 2024

Arrival and reception of participating delegates:

HOUR	ACTIVITY	RESPONSIBLE
	<p style="color: #8B4513;"><i>- Arrival and reception of the delegations and their transport to the “Elephant Hills” hotel.</i></p> <p style="color: #8B4513;"><i>-Registration</i></p>	JSC and CJCA



Wednesday, October 30, 2024

Arrival and reception of participating delegates:

HOUR	ACTIVITY	RESPONSIBLE
	<i>- Arrival and reception of the delegations and their transport to the "Elephant Hills" hotel.</i> <i>-Registration</i>	JSC and CJCA
1700 - 1800	17th Session of the Executive Board of the CJCA <i>(Session reserved only for members of the Executive Board of the CJCA)</i> <i>MARQUEE – Elephant Hills Hotel</i>	CJCA
1900 – 2200	Welcome Dinner under the stars at A'zambezi Hotel (Casual Dress)	JSC and CJCA

Thursday, October 31, 2024

I- Opening Ceremony

Moderator:

Mr. W. T. Chikwana (Zimbabwe)



Secretary to the Judicial Service Commission



HOUR	ACTIVITY	SPEAKERS
0800 – 0900	<i>Arrival of participants and delegates</i>	JSC and CJCA
0900 – 0905	<i>Singing of the National Anthem</i>	
0905 – 0915	<i>Remarks</i>	Hon. Richard Moyo , Minister of State for Provincial Affairs and Devolution, Matabeleland North Province.
0915 – 0925	<i>Remarks</i>	Hon. Mr. Luke Malaba , Chief Justice and Chief Justice of the Supreme and Constitutional Court of Zimbabwe.
0925 – 0935	<i>Remarks</i>	Hon. Mr. Mohammed Amine BENABDALLAH , President of the Constitutional Court of the Kingdom of Morocco, President of the CJCA.
0935 – 0955	<i>Speeches by representatives of regional and international organizations (5min)</i>	<p>Hon. Ms. Patience Chiradza, Representative of the African Union, Director of Governance and Conflict Prevention.</p> <p>Hon. Mrs. Aboud Daud Imani, President of the African Court on Human and Peoples' Rights.</p> <p>Hon. Mr. Giovanni Buquicchio, Special Representative and President Emeritus of the Venice Commission - Council of Europe.</p> <p>Hon. Mrs. Holta Zaçaj, President of the Constitutional Court of Albania, President-in-Office of the Conference of European Constitutional Courts.</p>
0955 – 1000	<i>Introducing the Guest of Honour</i>	Hon. Ziyambi Ziyambi – Minister of Justice, Legal and Parliamentary Affairs.
1000 – 1030	<i>Opening speech by the guest of honour</i>	The Vice-President of the Republic of Zimbabwe, Hon. Gen. (RETD) Dr. C.G.D.N. Chiwenga .
1030 – 1100	PHOTOSHOOT AND TEA/COFFEE BREAK	

1100-1110	<i>Speeches by representatives of regional and international host organizations (5min)</i>	<ul style="list-style-type: none"> - Hon. Mr. Gavier Cremades, President of the World Association of Jurists - Hon. Mrs. Victoria de Mello, Representative of the United Nations Development Programme - Hon. Mr Christoph Grabenwarter, Member of the Venice Commission, Co-Chair of the Joint
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		<p>Council of Constitutional Justice and President of the Constitutional Court of Austria</p> <p>- Hon. Mr Justice Bheki Maphalala, Chief Justice of Eswatini and Chairperson of the Southern and East Africa Chief Justices Forum (SEACJF)</p> <p>-Professor Helle Krunke, International Association of Constitutional Law (IACL)</p>
1110 -1120	<i>“Presentation of the report on the replies to the questionnaire” (10min)</i>	Dr Tarisai Mutangi , Senior Lecturer and Chairperson of the Postgraduate Department at the University of Zimbabwe

PROGRAMME DIRECTOR

DR. I. MAJA, EXECUTIVE DEAN OF THE FACULTY OF LAW, UNIVERSITY OF ZIMBABWE

II- Thematic Congress

1st Panel

“Human dignity as a fundamental constitutional value and principle”

Moderator:

Honourable Mrs. Elizabeth Gwaunza

Deputy Chief Justice of the Constitutional Court of Zimbabwe

HOUR	SUB-THEME	SPEAKERS
1120 - 1200	<i>“The Concept of Human Dignity in Constitutional Law” (10min)</i>	Hon. Mr. Bolous Fahmy Iskandar, President of the Supreme Constitutional Court – Egypt
		<p>- Hon. Mr. Ibrahim Juma, Chief Justice of the Supreme Court of Tanzania</p> <p>Hon. Mr. Naceurdine Saber Membre de la Cour constitutionnelle d’Algérie</p>



HOUR	SUB-THEME	SPEAKERS
		<ul style="list-style-type: none"> - Hon. Mrs. Aleyya GOUDA BACO, Judge at the Constitutional Court of Benin - Hon. Mrs. Aminata Ly, Member of the Constitutional Council of Senegal - Hon. Mr. Sergei Kniazev, Judge of the Constitutional Court of Russia
	Debates/Plenary Discussion	ALL
1200-1300	<i>"The Fundamental Meaning of Human Dignity as a Constitutional Value and Principle" (10min)</i>	- Hon. Mr. José Manuel Avelino de Pina Delgado - President of the Constitutional Court - Carbo Verde
		- Hon. Mr. Javier Cremades – President of the World Association of Jurists- Spain
		<ul style="list-style-type: none"> - Hon. Mrs. Sanou, Touré Fatimati, Member of the Constitutional Council - Burkina Faso -Hon Justice Njoki Ndung'u- Justice of the Supreme Court of Kenya
	Debates/Plenary Discussion	ALL
1300 – 1430	LUNCH- Elephant Hills Restaurant	ALL

2nd Panel

"Human dignity as a fundamental human right and freedom"

Moderator:

The Honourable Mr. Dieudonné Kamuleta Badibanga

President of the Constitutional Court of DR Congo



HOUR	SUB-THEME	SPEAKERS
1430-1520	<i>“Human dignity and fundamental rights and freedoms” (10min)</i>	Hon. Mrs. Laurinda Cardoso President of the Constitutional Court of Angola
		Hon. Mr. Kadir Ozkaya President of the Constitutional Court of Türkiye Hon. Mr. TEWODROS Meheret KEBEDE, President of the Supreme and Constitutional Court of Ethiopia
		Hon. Mr. Emille ESSOMBE Member of the Constitutional Council of Cameroon -Hon. Mr. Jean Pierre WABOE President of the Constitutional Council of the Central African Republic
	Debates/Plenary Discussion	ALL
1520 - 1540	TEA/COFFEE BREAK	
1540 - 1630	<i>“Human dignity as a fundamental human right” (10min)</i>	- Hon. Jassim Mohammed Abbood al-Omari, Chief Justice of the Federal Supreme Court of Iraq
		Hon. Mr. Diego Solana International Advisor of the World Association of Jurists – Spain
		- Hon. Mr. Fodé BANGOURA

HOUR	SUB-THEME	SPEAKERS
		1st President of the Supreme Court of Guinea - Hon. Mr. Amadou Ousmane TOURÉ , President of the Constitutional Court of Mali
	Debates/Plenary Discussion	ALL
1900 – 2200	DINNER AND DRUM SHOW at The Boma Restaurant <i>(Casual Dress)</i>	ALL

Friday, November 1, 2024

3rd Panel

"Human dignity as a source of constitutional interpretation"

Moderator:

Honourable Mrs. Chantal Nanaba CAMARA

President of the Constitutional Council of Côte d'Ivoire

HOUR	SUB-THEME	SPEAKERS
0900– 1000	<i>"Human Dignity and Judicial Interpretation of Human Rights"</i> (10min)	-Hon. M. Luke Malaba , Chief Justice and Chief Justice of the Supreme and Constitutional Court of Zimbabwe



HOUR	SUB-THEME	SPEAKERS
		<ul style="list-style-type: none"> - Hon. Mr. Dieudonné Aba'a Owono, President of the Constitutional Court of Gabon - Hon Mr Dieudonné Kamuleta Badibanga, President of the Constitutional Court of the DR Congo
		<ul style="list-style-type: none"> - Hon. Mr. Diallo Mamadou Bathia, President of the Constitutional Council of Mauritania - Hon. Mr. João Carlos António Paulino, Judge of the Constitutional Court of Angola - Hon Mr. AMEKOUDI Koffi Jérôme Member of the Constitutional Court of Togo
	Debates/Plenary Discussion	ALL
1000-1020	TEA/COFFEE BREAK	
1020 -1200	<i>"The Role of the Judiciary in the Protection of Human Rights and Human Dignity in Africa" (10min)</i>	- Hon. Mr. Peter Shivute , Chief Justice and Chief Justice of the Supreme Court of Namibia .
		- HON. ABDI ISMAEL HERSI President of the Constitutional Council of Djibouti .
		<ul style="list-style-type: none"> - Hon. Mr. Bashe Yusuf Ahmed, Chief Justice of Somalia -Hon. Mr. MSA Youssouf Judge of the Supreme Court of the Comoros.



HOUR	SUB-THEME	SPEAKERS
		- Hon. Mr. Florent Rakotoarisoa , President of the High Constitutional Court of Madagascar.
	Debates/Plenary Discussion	ALL
1200 – 1330	LUNCH- Elephant Hills Restaurant	



WELCOME REMARKS



Delivered by Hon. Richard Moyo

Minister of State for Provincial Affairs and Devolution, Matabeleland North Province

SALUTATIONS

YOUR EXCELLENCY, Honourable Chief Justices, Presidents of the Constitutional Courts and Supreme Courts, Distinguished Guests, Ladies and Gentlemen, it is with utmost honour and privilege that I welcome you all to the 7th Congress of Conference of Constitutional Jurisdictions of Africa, here in the breath-taking setting of the mighty Victoria Falls. We are privileged to host such a diverse group of Africa's finest legal minds; the Honourable Justices, constitutional experts in academia and advocates dedicated to the advancement of constitutional governance and protection of fundamental human rights across the African continent and beyond.

We are gathered here in Victoria Falls, one of Zimbabwe’s magnificent tourist attractions. Victoria Falls is a natural wonder of the world and one of the world’s cultural heritage sites. It is home to a plethora and diversity of unique flora and fauna. Affectionately known as the “Adventure Capital of Africa,” it offers an array of activities, all designed to give any visitor a taste of the true essence of prime Zimbabwean tourism at its finest. This magnificent natural wonder symbolises the strength and resilience of our African continent, just as our commitment to human rights and constitutional governance embodies our aspiration for a just society.

I am informed that the Congress under the guidance of the CJCA Secretariat has brought together dignitaries from forty-five (45) constitutional jurisdictions and African states, nine (9) regional and international organisations and three (3) observer countries. Such a humongous gathering symbolises our collective commitment to the growth and development of Africa and, as Matabeleland North, it is our singular privilege, pride and honour to be the province you chose for this magnificent event. I am advised that this august Congress is themed on the protection and enforcement of fundamental human rights within and beyond our jurisdictions. This gathering demonstrates our collective and unstoppable resolve to jointly ruminate on matters of constitutional justice and the rule of law. We are indebted to host this Congress which not only demonstrates an unparalleled unity of purpose, mutuality of interest and an unwavering commitment to but an opportunity to showcase the unique constitutional landscapes of our Pan-African jurisdictions and our collective innovative solutions in the promotion of justice, accountability and the rule of law.

YOUR EXCELLENCY, Honourable Chief Justices, Presidents of the Constitutional and Supreme Courts, Distinguished Guests, Ladies and Gentlemen, it is my hope that you, our esteemed guests enjoy your stay in Victoria Falls. There are a lot of natural wonders that nature has blessed us with. These include the



rainforest and the smoke that thunders, the game drives that show us the diverse fauna we have, the boat cruises carefully scheduled to experience the beautiful sunset amongst others. This 7th Congress of the Conference of Constitutional Jurisdictions of Africa event has also come as a major boost for our tourism, particularly, as it markets us to the whole of the world. I would like to wish you all fruitful deliberations and a resounding success of the 7th Congress.

I thank you, and welcome you to Victoria Falls.



OPENING REMARKS



Delivered by Hon. Mr. Luke Malaba

Chief Justice of The Constitutional Court of The Republic of Zimbabwe

SALUTATIONS,

The Honourable Vice President of the Republic of Zimbabwe, General (Rtd) Dr. C. G D N Chiwenga, Distinguished Guests, Ladies and Gentlemen, it is an honour and a privilege to welcome you all to the 7th Congress of the Conference of Constitutional Jurisdictions of Africa ("CJCA") at Victoria Falls, Zimbabwe.

I would like to take this opportunity to thank the Vice President of Zimbabwe for having accepted the invitation to grace the occasion as the Guest of Honour. I would also want to take the opportunity to express on behalf of the

Congress our gratitude to the Government of Zimbabwe (“the Government”) for the unwavering support extended to the Judicial Service Commission of Zimbabwe (“the JSC”) and the CJCA Secretariat in the preparations for the hosting of the 7th Congress. The support the JSC received from the Government to enable it to meet the costs of the task of hosting this Congress is consistent with the support and cooperation it enjoys from Government under the President’s able leadership.

As a result of such support, the JSC has been able to reform many areas of the justice delivery system with the view of improving its efficiency and effectiveness as a guarantee of access to quality justice to everyone. In that regard, conditions of service for the Judiciary have improved to the level of meeting international standards.

The hosting of the 7th Congress is evidence of the solidarity we share as constitutional jurisdictions in Africa. There are over forty African constitutional jurisdictions represented here at the 7th Congress. The Congress is also being attended by representatives of countries and international organisations outside the African continent, including Albania, Austria, Türkiye, and Russia. With such solidarity, there is hope for the entrenchment of constitutional justice on the African continent.

The support that the Congress has received from the members of the Conference over the years confirms the importance of the principles and values for which the Congress is held and stands for.

We meet today to share ideas on the subject matters arising from the theme of the 7th Congress. The theme is: *“Human dignity as a fundamental value and principle: A source of constitutional interpretation, protection of fundamental human rights and application”*.



Human dignity is at the heart of constitutionalism. As we all know, international human rights instruments, particularly the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the African Charter on Human and Peoples' Rights (1981) and many constitutions of countries of members here represented, state as an infinite truth that all human beings are born free and equal in dignity and rights. Human dignity is an intrinsic worth of every person inalienably grounded in his or her very being. Inherent human dignity prevails in and beyond every circumstance a person may encounter. The recognition of inherent human dignity underscores the primacy of the human person and the protection of human rights and freedoms. Ontological dignity is rooted in the very being of the human person in all circumstances.

The international human rights instruments referred to above tell us that fundamental human rights and freedoms enshrined in many constitutions of African countries derive from human dignity. As a source of every fundamental human right, inherent human dignity forms the essence of the right.

Human dignity as a legal term and a concept affects every aspect of the process of constitutional justice relating to the protection and enforcement of fundamental rights, the alleged infringement of which would be in issue.

The focus on human dignity recalls the commitment of the respective countries to the respect of human rights, particularly under the auspices of the African Union. The Statute of the Conference recognises the decision of the African Union to create a mechanism through which it can discharge its duty of protecting fundamental rights. Our commitment to the ideals of constitutionalism, and the particular focus on human dignity in this Congress, are consistent with the regional objectives of the African Union of promoting and protecting human rights throughout the continent. We must, therefore,



take the opportunity to use this platform to advance our commitment to the respect for human rights as an aspect of constitutional democracy.

As we all know, constitutional jurisdiction is the bulwark for a robust and effective system for the protection of fundamental human rights and freedoms. It was important for the constitutional jurisdictions of Africa to assemble under the auspices of the CJCA to interrogate the notion of inherent human dignity. It was also important for the Congress to interrogate the role of human dignity as a foundational value in the processes of constitutional review and adjudication of individual complaints applications alleging violation of fundamental human rights. The sharing of ideas and experiences on how various constitutional jurisdictions have dealt with issues relating to the subject matters of the theme of the Congress is important. This is so because constitutional courts bear the legal authority and responsibility to provide leadership internally in the sphere of constitutional law. The decisions of these courts on constitutional matters are invariably final and binding on the State, its agents at every level and on everyone.

Decisions of constitutional courts enjoying final and binding authority on constitutional matters can have serious impact on policy decisions of Governments. In that way, decisions of such courts may affect the development of States such as African States, which are modernising and undergoing major transformational changes in pursuit of social and economic justice for their peoples.

It is therefore necessary for members of the CJCA to occasionally meet to share and discuss ideas on matters of common interest. The common purpose is to learn from each other's experiences to ensure efficient and effective judicial protection and the enforcement of fundamental human rights and freedoms within the framework of the fundamental principles of the supremacy of the constitution and the rule of law. The acknowledgement and



consideration of the role of inherent human dignity as the source of fundamental human rights and freedoms underlie the commonality of shared values from which courts can draw inspiration in the exercise of constitutional jurisdiction.

Constitutional jurisdictions of Africa have a legal and moral duty to contribute to the development of societies in Africa in which human dignity is respected and protected.

We hope that this Congress will prove to be a lively forum for frank discussions. Before concluding these welcome remarks, it is worth mentioning that the Zimbabwean landscape offers a wonderful view of nature and its beauty. The Congress is taking place in the town of Victoria Falls, which hosts one of the seven wonders of the world - the Victoria Falls. It follows, therefore, that, in addition to the discussions on human dignity that are going to take place during the 7th Congress, guests are welcome to enjoy the natural wonders offered by Victoria Falls. The Congress offers an opportunity for Judges in the constitutional world to enjoy each other's company and relax while accepting their solidarity towards the entrenchment of constitutionalism in Africa.

Once again, I welcome you to the 7th Congress of the CJCA. Let us remain united in our solidarity and fraternity in ensuring the entrenchment of constitutional justice in Africa.

I thank you.



SPEECH



Delivered by Hon. Mr. Mohammed Amine Benabdallah

**President of the Constitutional Court of The Kingdom of Morocco and
President of the CJCA**

SALUTATIONS,

In the name of God, the Most Gracious, the Most Merciful.

At the outset, I am pleased and happy to address a word of thanks and gratitude to His Excellency the Chief Justice, President of the Supreme Court of Zimbabwe, Mr. Luke Malaba, for the warm welcome and hospitality that this great country with its history and people has provided us; as well as the welcome and celebration that we have experienced since we arrived in this land rich in its heritage and diverse cultures.

We indeed feel most welcome here, in Victoria Falls, this charming city, after our last meeting in Rabat, the capital of the Kingdom of Morocco.

As the Arab proverb goes, the occasion is a condition, and here we are today, to seize it as a precious opportunity to offer our warmest congratulations and sincere wishes of success to the ladies and gentlemen, presidents of the constitutional courts and councils, each by name, who have gained the trust of their superiors, and have been appointed for the first time to the position they are honoured to hold today or have had their appointments renewed, representing their countries. We would like to mention in this regard: the Republics of South Africa, Côte d'Ivoire, Mozambique, Gabon, Togo, Cape Verde, Chad, Sao Tome and Principe, and Burkina Faso.

Distinguished ladies and gentlemen;

After two years of the Constitutional Court of the Kingdom of Morocco assuming the presidency of this gathering, here we meet today within the framework of the eighth session of our Conference, to renew the meeting, and evaluate the outcome of our activity during this period; This is what we will discuss in detail during the fourth session tomorrow, Friday, before handing over the conference banner to our colleague, the Honorable Chief Justice Luke MALABA.

However, our meeting tomorrow, whose agenda you have certainly seen is distinguished by a set of points of an organisational and managerial nature, cannot prevent us at this historic moment from asking ourselves about the progress we have made in developing the various methods aimed at improving constitutional justice on our continent.

The exchange of experiences and expertise among us still lacks a lot, at a time when the world has become more open, and the nature and type of cases before its judicial bodies, especially constitutional ones, are more similar. The protection of rights and freedoms - despite our firm and absolute belief in its relative concept - before being the subject of constitutional justice, it is essentially the subject of all parliaments across the world, especially when they



exercise their legislative duties. Any breach by it in this field has a direct impact on the role of constitutional courts since the laws, whenever they are formulated with high quality, whether in terms of their content and essence, or even their formulation, will spare the constitutional judge, before the ordinary judge, from entering into the labyrinths of interpretation and explanation, which, if resorted to excessively, may lead to replacing the original legislator, and this should of course remain unlikely. We used to make excuses for the difficulties - whatever their nature - that prevented the possibility of communicating in general among us; but today, as technology has achieved a qualitative leap - almost terrifying and sometimes harmful - we can no longer wait for the arrival of these type of periodic forums in order to share the most prominent constitutional issues that occupy the minds of our judicial bodies. The lesson that we all learned during the days of the Covid-19 pandemic created in us a culture and convictions that we did not know before. The technology of direct communication via video vision conference, we adopted as a successful mechanism at all levels of teaching departments; the regular courts were also holding their sessions, even remotely, for prison inmates and those in their situation. For this reason, it is time for us all to think, with the support of the Permanent Secretariat, about organising communication meetings of this kind among us, even if limited and exclusive at first, until its scope expands, and it becomes a familiar and reliable matter for all of us.

Perhaps our meetings in these two days, and the interventions we will enjoy during them, are strong evidence of what we are calling for. Who among us does not hear almost every day someone talking to him about protecting human dignity, and the rights it should produce, and the freedoms it should provide, for each individual, before the group. And who among the actors, especially in the legal field, within our societies does not expect a greater role from us in preserving human dignity, within the limits of what is constitutionally authorized to us, of course? And who among us cannot find pleasure and passion in sharing the details surrounding this topic, for this reason I ask your



permission to express some of my thoughts on it before this esteemed gathering of yours.

First, we can only congratulate ourselves all for our positive interaction with the topic chosen for our forum. Everyone talks about protecting rights and freedoms, to the point that it has become a refrain repeated on every occasion, knowing that "protecting human dignity" remains the rule and foundation. It is enough to recall it to exempt us from entering the labyrinths of searching for the limits of rights and freedoms, and the standards for controlling them; which are known for their high flexibility in their concept and significance due to their strong influence on place, time, and the nature of societies, as well as the geographical environment whose scope can no longer be limited. It is enough to refer to the "Universal Declaration of Human Rights" to know the position occupied by this pillar. "Dignity" was mentioned before "rights", both at the level of its preamble, and at the level of its first article, which states "All human beings are born free and equal in dignity and rights."

Its first Article states, "All human beings are born free and equal in dignity and rights...". Perhaps this is what makes "human dignity" one of the non-negotiable constitutional principles, as it is the foundation and cornerstone of protecting human rights. Of course, addressing it from the perspective of constitutional justice cannot make us turn a blind eye to the difficulties that the legislator encounters when he finds himself required to set precise, explicit and advanced standards that define the scope of protecting human dignity. Taking into account the principle of "legal security" and maintaining the stability of transactions prevents him from reviewing the laws in force at any moment and time, to make them keep pace with all changes. This of course has a direct impact on the interpretive role of the constitutional judge whenever it is reviewed. His situation in this is like that of the ordinary judge who is supposed to have in his hands explicit legislation that is clear in its standards, enabling him or her from his position to "promote the dignity of the citizen" as



a strong lever for development, interconnected in its political, economic, social and cultural dimensions. However, the invocation of the legislator and parliament should not make us forget, on the other hand, the pioneering role of governments in taking initiatives in this regard. In Morocco, for example, an “independent arbitration body” was established more than two decades ago, which focused on compensating for the damages of arbitrary detention and enforced disappearance; as a mechanism of transitional justice, in which the element of restoring human dignity was strongly present. For this reason, the interpretive role of the constitutional judge in protecting dignity should remain only complementary and supplementary to what may have been overlooked or difficult to explain by the legislator. For example, the Moroccan Constitution revised in 2011, when it stipulated in its preamble that the Kingdom of Morocco continues with determination the process of consolidating the institutions of a modern state, among the foundations of which is that everyone enjoys security, freedom and dignity; in its second chapter, it prohibits any infringement on the physical or moral integrity of individuals, as well as any form of treatment that degrades human dignity; Accordingly, the constitutional judge has the role of purifying and removing impurities whenever a referral is presented to him or her; this role envisages not only monitoring compliance based on reading the thought of the constitutional legislator and his purposes but to declare the violation or non-violation of the constitution.

I cannot end my speech without pointing out the challenges that modern technology and artificial intelligence have posed to the constitutional judge, who is entrusted within his or her limits to protect the "principle of human dignity" from the threats that have begun to affect the rights and fundamental freedoms of the individual.

The excessive use of smart electronic devices, even if stipulated by law, the spread of big data collection and analysis, facial and fingerprint recognition technologies, and other forms of infringement of privacy and personal data



are inevitable, as such, all of this has become today a new challenge for the constitutional judge, with what this requires of him or her , to be interactive and positively keep up with what is happening around him, and this is not an easy matter, as long as it must be based on deep thinking, carefully recalling the necessity of ensuring the protection of human dignity as a universal constitutional value.

These are some of the ideas that I have been keen to share with you, ladies and gentlemen herepresent. I hope that this meeting of ours will be a complete success.

Thank you for your careful listening.



SPEECH



**Delivered by Hon. Ms. Patience Chiradza,
Representative of the African Union, Director of Governance and Conflict
Prevention**

SALUTATIONS,

I feel extremely humbled and delighted to be here in Victoria Falls, Zimbabwe, at the 7th Congress of the Conference of Constitutional Jurisdictions of Africa – CJCA. It is indeed an honour for me to address this important meeting on behalf of the leadership of the African Union Commission, His Excellency Moussa Faki Mahamat, the Chairperson of the African Union Commission and Ambassador Bankole Adeoye, the AU Commissioner for Political Affairs, Peace and Security.

I would like to thank the Government of the Republic of Zimbabwe and the Judicial Services Commission for the excellent hospitality accorded to us since our arrival.

I am also delighted to be part of the conversations for the next two days, considering the importance and timing of the theme: “Human dignity as a fundamental value and principle: A source of constitutional interpretation, protection of fundamental human rights and application”. In view of our Continental Agenda 2063, in particular Aspiration 3, “Africa of good governance, democracy, respect for human rights , justice and rule of law.” The African Union has made significant strides in consolidating peace, promoting good governance, and advancing social justice. Over the past year, we have seen peaceful transitions of power, greater efforts towards gender equality, and a rise in youth participation in civic and political life. These are victories for all of us, for they reflect the aspirations we share in building a more inclusive and democratic Africa.

At the same times, we face the reality of a continent in flux—one where progress and challenges walk hand in hand. From conflicts and displacement to shrinking civic spaces and emerging threats to freedom of expression, our resolve has been tested. Yet, our belief in the African dream—a continent where peace, prosperity, and human rights are the birthright of every citizen—remain unshaken.

The recent regional and international developments have also revealed – a concerning crisis of global multilateralism, and our collective failure to prevent, address, and bring an end to the disasters that are affecting first and foremost civilian populations and human dignity. Human dignity is a core societal value, as it permeates the tapestry of constitutional governance and the rule of law and is universally recognised as an indispensable and supreme value for constitutionalism, democracy, and the protection of fundamental human



rights. However, violent conflicts with their humanitarian consequences alongside with spreading terrorism, radicalisation, violent extremism and transnational organised crimes in a number of African countries have negatively impacted Human dignity on our continent.

Furthermore, the resurgence of unconstitutional changes of government (UCG) has continued, with more countries being recently affected, whereas previous UCG countries have remained caught in complex and protracted transitions bearing heavy social, economic, and security consequences for the local communities.

Excellencies, Distinguished Guests

All these issues are symptomatic of more profound woes that affect most African countries. These notably include a crisis of governance and citizens' declining trust in institutions that have failed to deliver on their needs and expectations, and in particular on younger generations' aspirations for a better future. Without addressing these root causes, we will not be able to efficiently respond to ongoing crises and to prepare ourselves to prevent future ones. At the African Union level, efforts have been deployed to address these burning issues in the joint framework of the African Governance Architecture and the African Peace and Security Architecture.

I would like, at this stage, to thank the CJCA for its partnership with the African Union Commission. We value this relationship, which resulted in the signing of a Memorandum of Understanding (MoU) some years ago that we are currently in the process of renewing.

I also wish to commend the CJCA for providing a great space for all African Constitutional Courts to meet and reflect on the challenges they face but also on those affecting the continent. The CJCA is also a platform that allows the



sharing of comparative knowledge with other Courts such as the Conference of European Constitutional Courts.

Finally, I would like to congratulate the Government of the Republic of Zimbabwe and the Judicial Service Commission in collaboration with the Conference of Constitutional Jurisdictions in Africa for hosting this Congress and I encourage us all to make a good use of this space to help us build the Africa we all want and the Africa that we deserve.

I wish you fruitful deliberations and, I thank you for your kind attention.



SPEECH



Delivered by Hon. Mrs. Aboud Daud Imani

President of The African Court on Human and Peoples' Rights

SALUTATIONS,

It is with great honour and profound respect that I stand before you today, on the occasion of the 7th Congress of the Constitutional Jurisdictions of Africa. I am deeply honoured and grateful to have been invited to speak before this distinguished gathering. Your invitation and the opportunity to contribute to this important dialogue are greatly appreciated. On behalf of my colleagues, judges, staff and on my own behalf, I say thank you.

Excellencies, Hon. Judges, distinguished participants

The theme of this Congress is "***Human dignity as a foundational value and principle: A source of Constitutional Interpretation, fundamental human rights***

protections, and enforcement". No one in this room, and I dare say, no human rights advocate worthy the name is in any doubt as to the foundational value of human dignity in shaping the human rights discourse of our time. In fact, the entire human rights debate originated from and is based on the value and principle of human dignity.

The very origin of the doctrine and concept of human rights as espoused by great philosophers such as John Locke, Immanuel Kant, Jeremy Bentham, Aristotle, was based on the belief that everyone, by virtue of their humanity, is entitled to certain human rights, this, simply because of them being human.

Historical documents, such the Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791), all point to the dignity of the human being and the need to protect their human rights. These documents are the precursors to many of today's human rights documents.

The Universal Declaration of Human Rights (UDHR) of 1948 embraced the notion of human dignity and demonstrated that human rights are not only inalienable, but also *interdependent* and *indivisible*. Its Preamble eloquently asserts that; *recognition of the inherent dignity ... of all members of the human family is the foundation of freedom, justice, and peace in the world.*

Given the centrality of human dignity in the conceptualisation and enjoyment of human rights, there is little wonder that today, human rights and human dignity are viewed as two sides of the same coin.

At the global level, all international human rights instruments recognise the centrality of human dignity in the interpretation, protection and enforcement of human rights. The International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights



(ICESCR) and the Convention Against Torture, for example, all recognise “that these rights derive from the inherent dignity of the human person”.

At the regional level, the adoption of the Charter of the Organisation of African Unity (OAU) and the formation of the OAU itself were all inspired, drafted and championed by the desire to protect human dignity – the dignity of the African people, which had been crushed by centuries of enslavement, slave trade, colonialism and apartheid. The Preamble of the OAU Charter captures this eloquently by stating that “freedom, equality, justice and **dignity** are essential objectives for the achievement of the legitimate aspirations of the African peoples”. Article 5 of the 1981 African Charter on Human and Peoples’ Rights provides that “Every individual shall have the right to the respect of the dignity inherent in a human being...”. The Constitutive Act of the African Union reiterates this point and recalls “the heroic struggles waged by our peoples and our countries for political independence, **human dignity** and economic emancipation”, and for that reason, African leaders, in the Constitutive Act, expressed their *determination* “to promote and protect human and peoples’ rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law”.

Excellencies, Hon. Judges, distinguished ladies and gentlemen

As a manifestation of that determination, African Union Member States and the African Union itself have put in place constitutional, legislative and other measures to enhance the promotion and protection of human and peoples’ rights on the continent. The value and principle of human dignity now characterises African political discourse. As a matter of fact, African leaders have come to the realisation that the human rights, human dignity, development and peace are inextricably linked.



At the national level, the constitutions of almost, if not all, African countries provide for the normative as well as institutional protection of human rights. Most constitutions provide for a bill of rights or have incorporated or domesticated international human rights norms into their domestic legal regimes. Many countries have also established judicial and quasi-judicial mechanisms to interpret, promote, protect and enforce human rights within their borders. These range from courts, including Constitutional Courts, national human rights institutions, Ombudsmen, etc.

Excellencies, Hon. Judges, distinguished participants

Countries around the world have not only adopted instruments, but established institutions to give credence to the centrality of human dignity in the interpretation, protection and enforcement of human rights. By interpreting and enforcing laws related to human rights, these institutions ensure that individuals are treated with respect and fairness.

As constitutional judges, you must interpret and apply the constitution in a manner that is consistent with the principle of human dignity. This requires adoption of a purposive approach to interpretation, seeking to give effect to the underlying values and principles enshrined in a constitution. This also means drawing inspiration from the well-established norms and jurisprudence developed at the international level for which the country has subscribed.

Numerous cases across Africa demonstrate the power of constitutional justice in protecting human dignity. From challenging discriminatory practices to safeguarding the rights of marginalised groups, courts have played a crucial role in advancing the cause of justice and equality and enforcing human rights. In this connection I find it apposite to highlight the fact that the Constitution of South Africa, for example, uniquely, identifies dignity both as a foundational value as well as a stand-alone human right. The South African



Constitution also, remarkably, lists dignity as a non-derogable right, thereby guaranteeing its elevated status.

At the continental level, the African Court on Human and Peoples' Rights has also reaffirmed the importance of dignity. For example, in *Ghati Mwita v United Republic of Tanzania* (Application No. 012/2019), the applicant who was serving a death sentence, after having been tried and convicted for the offence of murder, alleged a violation of her rights in connection with her conviction and sentencing. Amongst other violations, she alleged a violation of her right to dignity protected by Article 5 of the African Charter. The African Court found that the Respondent State had violated the Applicant's right to dignity under Article 5 of the Charter by, among other things, prescribing hanging as a method of the execution of the death penalty.

The African Court, and other regional and global human rights bodies have a rich body of jurisprudence that draw from human dignity as a means to interpret, protect and enforce human rights. The same can also be said of Courts at the domestic level. It is pivotal that we must strengthen our judicial institutions, invest in human rights education, promote the rule of law and regional cooperation. We must ensure that our courts are independent, impartial, and equipped with the resources they need to deliver justice effectively. This requires investing in judicial training, improving court infrastructure, and protecting judges from undue influence.

Excellencies, Hon. Judges, distinguished participants

I note, in conclusion, that human dignity remains a cornerstone of our shared humanity, and a fundamental value enshrined in many African states' constitutions and regional human rights instruments. By strengthening the independence and impartiality of courts, investing in capacity building, and fostering regional cooperation, we can create a more just and equitable



Africa where human dignity is truly protected for all. I would urge all of us to work on building a future where human dignity is not merely an aspiration but a reality for every African.

Thank you for your attention.



SPEECH



Delivered by Hon. Mr. Giovanni Buquicchio

**Special Representative and President Emeritus of the Venice Commission -
Council of Europe**

SALUTATIONS,

First and foremost, I would like to extend my deepest gratitude to Chief Justice Malaba and judges of the Constitutional, Supreme and High Court of Zimbabwe for graciously hosting this prestigious Congress. The warm hospitality and meticulous organisation by our hosts have provided an excellent setting for productive discussions and valuable exchanges.

HISTORY OF COOPERATION

Constitutional justice has been at the heart of the Venice Commission's mission since its inception. The Commission and myself, has steadfastly supported

independent constitutional courts by establishing and promoting the principles and standards they are tasked with upholding. This support has taken various forms, including providing guidance through *amicus curiae* briefs, issuing public declarations in defence of courts facing political pressure, and fostering the creation of a community of constitutional courts that can support one another.

In promoting this cooperation, the Venice Commission has actively encouraged coordination and cross-fertilisation, particularly through the sharing of case law among constitutional courts. This effort has been enhanced by the creation of regional and linguistic networks, such as the Conference of Constitutional Jurisdictions of Africa. The relationship between the Venice Commission and the African continent has a long and dynamic history. Africa has been a key region where the Commission's primary focus—the promotion of constitutionalism for the benefit of the people, for the benefit of each individual—has taken shape.

From its early work in South Africa in the 1990s, this mission has expanded across the Southern African region, into Western Africa through collaborations with Francophone constitutional courts, and into Northern Africa via engagements with Arab constitutional courts and councils.

The Commission's first significant interaction with an African country occurred at the end of apartheid in South Africa. Lord Carrington, Henry Kissinger, and Antonio La Pergola, the founding president of the Venice Commission, served on a mediation panel aimed at resolving a political conflict concerning the elections between the National party, the ANC and Inkata Freedom party. I myself actively participated in this mediation process.

In 2003, the time was ripe for formalising the cooperation between the Venice Commission and African constitutional courts. At a gathering of Chief Justices



in Zanzibar, they established the Southern African Judges Commission (SAJC) now Southern and Eastern African Judges Forum.

I vividly recall our collaborative efforts alongside late Chief Justices Arthur Chaskalson and Pius Langa, working toward the successful establishment of this network. The SAJC's constitution explicitly recognises cooperation with the Venice Commission as a key component in achieving its goals.

Furthermore, collaboration with the Association of Constitutional Courts using the French language (former ACCPUF and current ACCF) has strengthened the Venice Commission's ties with West African constitutional courts. Unlike the multilateral approach seen with ACCF, cooperation with Northern African courts began bilaterally. In 2004, the Algerian Constitutional Council was invited as a special guest to the Joint Council for Constitutional Justice, showing a keen interest in the Venice Commission's work. And in 2007 Morocco and Algeria formally acceded to the Commission.

This growing interest led the Union of Arab Constitutional Courts and Councils to mandate the Constitutional Council of Algeria and the Secretary General of the Union, who also served as Vice-President of the Egyptian Constitutional Court, to explore ways of cooperating with the Venice Commission.

Additionally, the Venice Commission, alongside the World Conference on Constitutional Justice, has established fruitful cooperation with the Association of Constitutional Courts of Portuguese-speaking countries, some of which include African nations. At the initiative of Algeria, the African Union decided in July 2010, to create an African area of constitutional justice. I vividly remember when I discussed in Venice this initiative with late Mr. Boualem Bessaih, President of the Constitutional Council of Algeria.



A preparatory meeting of African constitutional court presidents, held during the Second World Conference of Constitutional Justice in Rio de Janeiro in January 2011, tasked Algeria with leading the initiative. On May 7 - 8, 2011, the Constitutive Congress of the African Constitutional Justice Area was held in Algeria, where it was formally named the "Conference of African Constitutional Jurisdictions" (CJCA).

To sum up, today, across Africa, we collaborate with numerous constitutional courts through various important organizations. The World Conference on Constitutional Justice (WCCJ) stands as a unifying force, bringing together 120 Constitutional Courts and all these distinguished organisations under one common banner. We deeply value this cooperation, viewing it as one of the most vital and beautiful pieces in the intricate, vibrant mosaic of global constitutional justice. I strongly encourage those African Constitutional Courts that have not yet joined the World Conference on Constitutional Justice (WCCJ) to do so.

I would like to underline that the role of individuals in the success of this cooperation is not significant, it may very well be the most important factor. In this context, I would like to highlight the immense efforts and contributions of Mr. Boualem Bessaih, Mr. Robert Dossu, and in particular Mr. Moussa Laraba, the Permanent Secretary General of the CJCA. Through his unwavering dedication and tireless daily work, he has played a pivotal role in deepening and strengthening this cooperation, increasing the number of member courts from fifteen (**15**) at its inception to (**48**) today.

CODICES DATABASE

I would like to take a moment to highlight the significant participation of African countries in the various tools and instruments developed by the Venice Commission to promote and disseminate the principles of constitutional justice



globally. One such essential tool is the Codices database, which serves as a vast repository of constitutional jurisprudence. The database contains summaries (précis) and full texts of approximately 9,000 decisions from Constitutional Courts, along with relevant constitutions and court-related legislation, primarily in English and French.

This resource greatly enhances comparative legal research, allowing courts to benefit from the experiences and legal reasoning of their counterparts in other countries, particularly in the area of fundamental rights.

The exchange of information facilitated by Codices acts as a powerful tool for cross-fertilization, enabling courts to draw inspiration from the constitutional practices of other nations. I am pleased to note that a search for "CJCA" within the Codices database currently yields 760 précis—a number that demonstrates the active involvement of African courts. We encourage continued and even greater participation in contributing to this vital resource, as it strengthens the global dialogue on constitutional justice.

THEMATIC FOCUS OF THE CONFERENCE

This Congress is particularly significant because it centers around the theme of "Human Dignity as a Fundamental Constitutional Value and Principle."

This theme touches upon one of the most profound and universal principles of constitutional law, the intrinsic worth of every individual, which underpins the protection of human rights. Human dignity serves as both a guiding value and a foundation for constitutional interpretation, influencing the way courts safeguard fundamental rights and freedoms across Africa.



The discussions during this Congress will explore how constitutional jurisdictions across the continent are applying and protecting the concept of human dignity within their legal frameworks.

These deliberations will deepen our understanding of human dignity not just as an abstract notion, but as a concrete principle that shapes the judiciary's role in upholding justice and human rights.

CONCLUSION

As we embark on the discussions of this Congress, let us be reminded that together, we have the power to shape not only the legal frameworks of our nations but also the future of our societies. Through cooperation, dialogue, and a shared commitment to the rule of law, we can ensure that the principles of human dignity, justice, and equality are upheld for all. I wish everyone a productive and successful event, filled with fruitful discussions and valuable insights that will undoubtedly contribute to the advancement of constitutional justice across Africa.

Thank you.



SPEECH



Delivered by Hon. Mrs. Holta Zaçaj

President of the Constitutional Court of Albania, President-in-Office of the Conference of European Constitutional Courts

SALUTATIONS,

It is a privilege and an honour to be here today as the President of the Constitutional Court of Albania and of the Conference of European Constitutional Courts. Although geographically we belong to different continents, and share different political, economic, cultural and legal backgrounds, in fact we are united by the same, common values and goals: the protection and promotion of the principles of democracy, rule of law and fundamental human rights and freedoms.

I take the opportunity to express our deepest support and compliments to your courts' journey towards democratic state and society, peace, and justice. We

are well-aware of the progress made in your countries in the process of establishing and strengthening constitutional justice and human rights, a process that naturally identifies in its very center constitutional courts. This is not an easy task. It comes with its challenges in upholding the independence of the judicial systems, the separation of powers, in promoting a participatory democracy and social justice.

No matter what the station of our journey to democracy is, we do share one ultimate goal which is to guarantee effective justice for our citizens through constitutional justice. This means that we have to make sure and guarantee that constitutionalism is not a mere decorative instrument, which would be more dangerous than the very absence of a constitutional system. This implies our duty to give life to the Constitution itself, to interpret and apply its principles and norms in such a way that makes it tangible and materialised in the citizens' life.

Dear friends,

Constitutional Courts are not only legal institutions but also moral beacons that promote the values enshrined in national constitutions. Having this in mind, we are gathered today in the 7th Congress to discuss on the "Human Dignity as a Fundamental Constitutional Value and Principle". This theme could not be more relevant to the times we live in.

But what is the connection between human dignity and constitutional justice? Constitutions, in many parts of the world, enshrine human dignity as a core principle. This means that the rights to equality, freedom, and protection from discrimination are grounded in the respect for human dignity.

Constitutional justice ensures that these rights are not just words on paper but real protections that can be claimed and defended in courts. It's through



constitutional justice that human dignity becomes more than an idea; it becomes a guaranteed right. Human dignity is in fact the *rationale* and the *justification* for the existence and essence of all human rights. By prioritising human dignity, we can foster a more just and equitable society, in which rights are not only protected but also actively promoted.

The rights and freedoms are also conceived as limitations imposed on the public power and they stand as foundations of all legal systems. On the other hand, the law must limit the powers, and this is achieved through the protection of the rights. As the German scholar Rudolf Jering stated: "Whoever defends his own right, within its narrow limits, he defends the right in general".

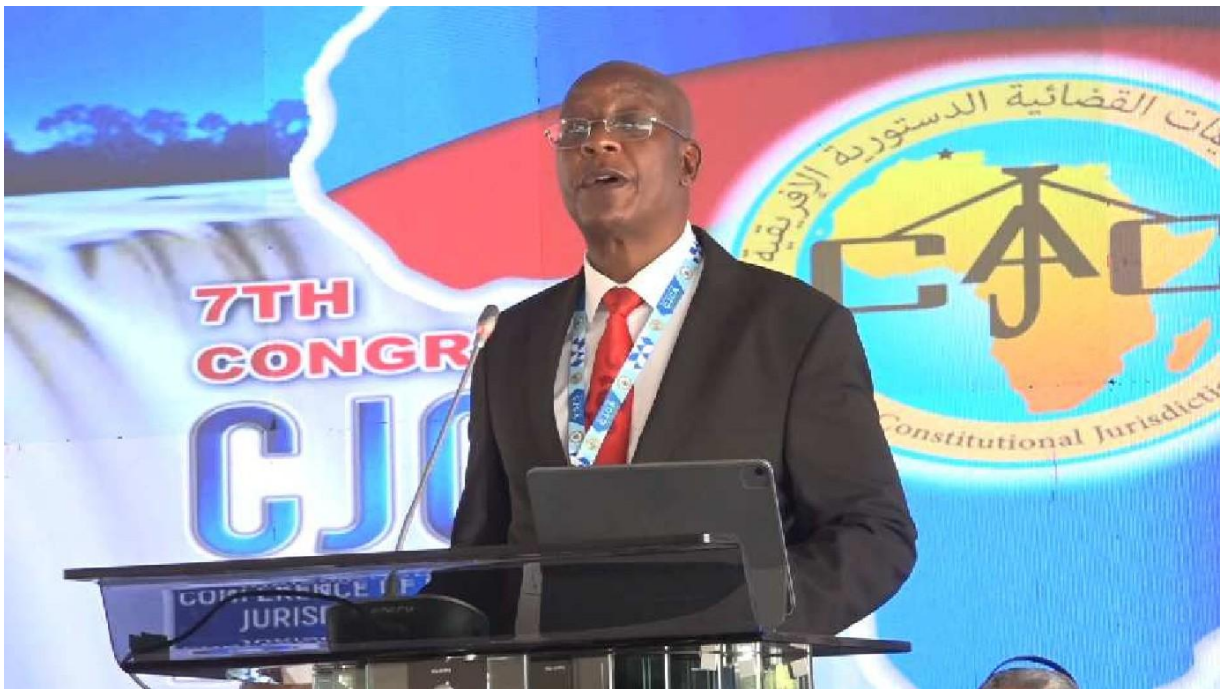
I am confident that this Congress will provide a platform for fruitful discussions, new perspectives, and strengthened partnerships between the constitutional courts of Africa. The cause of human dignity and constitutional justice across our continents require the Constitutional Courts to continue to be champions of democracy and protectors of the constitutional rights of every citizen. Together, we can contribute to a more just and democratic society.

I would like to conclude by expressing, on behalf of the Conference of the European Constitutional Courts, best wishes for a successful conference.

Thank you for your attention!



INTRODUCING THE GUEST OF HONOUR



Hon. Mr. Ziyambi Ziyambi
Minister of Justice, Legal and Parliamentary Affairs

SALUTATIONS,

It is my singular honour and privilege to be part of this ceremony to mark the official opening of the 7th Congress of the Conference of Constitutional Jurisdictions of Africa. I have been advised that this is the biggest gathering of Judiciaries in Africa, and we can only be proud as Zimbabwe to have been afforded the opportunity to host such an important meeting. In my capacity as the Minister of Justice, Legal and Parliamentary Affairs, may I take this opportunity to welcome you to Zimbabwe.

My task today is to introduce the next Speaker, who is our Guest of Honour. Before I do that, allow me to briefly remark that we are glad that you elected to come to Zimbabwe, a country which is a constitutional democracy, and which respects the rule of law. This is a vote of confidence in this jurisdiction at large and our Judiciary in particular. This shows that we have a functioning and vibrant Judiciary in this country worth the respect of its counterparts in the

region. I wish to congratulate the **Chief Justice of Zimbabwe, Hon. Mr. Justice Luke Malaba** for accepting the invitation to host this Conference and for putting together with your team all the necessary logistics required to make the holding of this congress a reality.

Honourable Presidents, Chief Justices, Excellencies, and Distinguished Guests,

The Ministry of Justice in Zimbabwe enjoys cordial relations with the Judiciary which have greatly contributed to various successes in the administration of justice in this country, especially on access to justice for the poor, marginalised and persons with disabilities. That relationship is unique in more ways than one. Firstly, it is a healthy and mutually beneficial relationship which has not been foisted upon us by anyone, but is borne out of a realisation that we both strive for an efficient justice delivery system in Zimbabwe.

Secondly, and probably the most important reason why this relationship is unique, is that in our quest to improve the administration of justice in Zimbabwe, we both realise that we have a duty to ensure that the constitutionally set parameters are respected. The Courts are independent and subject only to the Constitution and the law and our interactions jealously guard this constitutional imperative. My fervent hope is that as you engage in a forum such as this one, you continue to explore ways to strengthen and capacitate your respective Judiciaries for the common good of the people who look up to the Courts to safeguard their fundamental human rights and uphold the rule of law without fear, favour or prejudice.

Having said this, allow me Honourable Presidents and Chief Justices, Distinguished Guests, Ladies and Gentlemen, to introduce the Vice President of the Republic of Zimbabwe, Honourable General (RETD) Dr. C.G.D.N Chiwenga who will take us to the next stage of our programme.

The Vice President is himself a decorated military commander with glittering liberation war credentials. A son of the soil and revered leader of our



democracy, he participated in the fight for the liberation of this Country from a very young age and rose through the ranks in the ZANU PF military wing ZANLA, holding positions such as that of Deputy Political Commissar to the then Political Commissar up to that of High Command. Post-Independence, he continued to serve with distinction in different roles in the Zimbabwe National Army holding the ranks of Brigadier, Major General and Lieutenant General until he became the Commander of the Zimbabwe Defence Forces where as the leader, he contributed in shaping our Defence Forces into a professional unit and a force to reckon with.

With the advent of the Second Republic, he became the Vice President of the Republic of Zimbabwe. He is a results-oriented leader known for his demand for performance, and implementation of tasks while leading from the front. He is a constitutionalist who believes firmly in the doctrine of separation of powers for the three arms of government and more particularly the Independence of the Judiciary.

EXCELLENCIES, Honourable Presidents and Chief Justices, Distinguished Guests, Ladies and Gentlemen, it is my honour and privilege to now invite the Honourable Vice President of the Republic of Zimbabwe, (RETD) General, Dr. C.G.D.N Chiwenga to the podium.

Hon. Vice President, Sir!

I Thank You!



OPENING SPEECH



Hon. Gen. (Retd) Dr. C.G.D.N. Chiwenga
Vice-President of The Republic of Zimbabwe

SALUTATIONS,

Distinguished Guests, Ladies and Gentlemen, fellow Africans, it is my singular honour and privilege to officiate at this august and auspicious gathering of the 7th Congress of the Conference of Constitutional Jurisdictions of Africa (CJCA). I am advised that the Congress, which is held every two years, is made up of jurisdictions in the African continent which are constitutional democracies, with its inaugural meeting having been held in Algeria in 2011. I am also advised that with the 7th Congress being held in Zimbabwe, this is the second time that this gathering is meeting in Southern Africa after South Africa hosted the 4th Congress in Cape Town in 2017. Zimbabwe is therefore honoured to be hosting such a prestigious meeting with an impressive attendance of two hundred and

nine (209) delegates coming from forty-five (45) countries and ten (10) regional and international organisations.

Meetings of this nature are crucial as they bring together members of the Judiciary to discuss and engage in matters of common interest for the good of our countries, region and humanity as a whole. This is because the judiciary plays a critical role in ensuring that there is oversight on other organs of state, especially the executive in making sure that they comply with the constitutional provisions of a country. It is only an independent judiciary that will be able to undertake and fulfil such a critical role. An independent and impartial judiciary is the cornerstone of the rule of law in a democratic state. It serves to protect human rights and people's liberties, provides a check on other branches of government and helps secure an environment conducive to economic growth and social cohesion.

Distinguished Guests, ladies and gentlemen, I wish to take this opportunity to congratulate all of you for setting up this conference. It is gratifying to note that you have been meeting every two years consistently since your formation. Such consistency despite the changes that may be taking place in the judiciaries of individual jurisdictions as Chief Justices and Presidents of courts retire and new ones are appointed to replace them, is in my view, ample evidence that the conference is relevant to the jurisprudential development of this region. I urge you therefore to remain united and to take the activities and thinking of the conference to even greater heights for the benefit of legal systems in our region.

We, in the executive and legislative branches of states in the region, have long formed our various platforms and fora for fostering integration within the region, be it on different economic and political levels. As you may be aware our Parliamentarians from the region have formed the Pan-African Parliament (PAP) and the SADC Parliamentary Forum (SADC PF) among other groupings.



As Heads of governments, we meet in various permutations at various levels within the Southern African Development Community (SADC), Common Market for Eastern and Southern Africa (COMESA) and the African Union (AU). Recently in August 2024, Zimbabwe had the honour to host the 44th SADC Summit of Heads of State and Government in Harare which was very successful. These gatherings and meetings have benefitted and continue to benefit our people immensely and we expect nothing less from similar gatherings convened by our judiciaries. I have been made aware that our non-African sister countries namely Russia, Iraq, Turkey, Albania and Austria are part of this gathering as observers. This is testimony to the fact that the application of constitutionalism and respect for fundamental human rights knows no continental nor regional boundaries. It is universal and applies equally to humanity. Justice, as a value guiding men's aspiration to self-actualisation and self-determination, knows no political or physical boundaries. If we all believe that justice is fairness in the protection of fundamental rights and in the punishment of wrongs, then we cannot talk of a different justice for the people of Africa and a different justice for the rest of the world. This is why lady Justice is blind-folded and holding a set of scales and a scroll. She is blind-folded because justice is unbiased and should not be based on a person's appearance, where he or she comes from or other outside influences. Lady Justice holds scales to represent the impartiality of the court's decisions and a sword as a symbol of the power of justice. All legal systems must strive towards the ideal of fairness at all times.

Distinguished guests, fellow Africans, when the African Union was formed some sixty-one years ago, in 1963 in Addis Ababa, as an organisation of African Unity, the realisation then by the nationalists of that day was that in unity lies Africa's strength to fight oppression and poverty. That realisation should remain the guiding principle of all our endeavours as we seek to build nations with systems that serve the best interests of our people. In unity lies the strength of Africa to outdo the machinations of those who do not wish to see us prosper but would



rather we remain disabled to resist their will. In unity also lies the strength of Africa to deliver the kind of justice that resonates with African values and principles and to which our people can easily relate.

These African values and principles find their place in the focus of the 7th Congress which is running under the theme:

"Human Dignity as a Founding Value and Principle: A Source of Constitutional Interpretation, Protection and Enforcement of Fundamental Human Rights."

The theme highlights the essential concept of human dignity, which underpins the entire framework of fundamental human rights in any democratic society. By emphasising human dignity, we ensure that our constitutional frameworks are rooted in the inherent worth and autonomy of every individual, fostering a culture of respect, equality, and justice.

Human dignity is a fundamental principle and foundational constitutional value that relates to the appreciation, and respect that every individual possesses, regardless of race, gender, age, religion, or social status, to humanity. It is an internationally recognised cornerstone of human rights and a fundamental constitutional ideal that underpins the comprehensive framework of freedoms essential for human existence.

As you engage in this very important theme during your conference, it is important to appreciate that the respect for human dignity lays the basis that our laws and institutions protect the inherent worth of every human being. Across African nations and beyond, human dignity has increasingly become central to interpreting constitutional rights and freedoms. The African Charter on Human and Peoples' Rights unequivocally affirms that every individual has the right to respect for their inherent dignity. In addition, for many African countries, the recognition of human dignity was and remains the cause for the



quest of liberation, self-determination, and national independence as well as the attainment of societies in which every human being is respected and has a right to existence. At its most basic, the concept of human dignity, therefore, is based on the belief that all people hold a special value that is tied solely to their humanity. It has nothing to do with class, race, gender, religion, abilities, or any other factor other than being human. The theme therefore that you have adopted for your conference is all encompassing and speaks to the way we interpret, apply and stand guided by our respective Constitutions in the treatment of our citizens.

Zimbabwe likewise recognises that the privilege of self-governance, self-determination and self-actualisation was borne by the blood shed during the liberation struggle. Our Constitution recognises, as one of its founding values, the right of every human being to exist freely. It has an expansive bill of rights that every person can enforce and vindicate in our courts. The Constitutional Court has the ultimate jurisdiction to interpret and protect the fundamental rights of our people. We regard our courts, and I believe every court in the region and beyond, to be the last line of defence when it comes to the application and protection of people's fundamental human rights. The expectation therefore as you debate this theme in the next two days is that you must explore the best and most effective methods and ways that should be used by the courts to uphold and enforce fundamental human rights and freedoms in general and human dignity in particular.

Respect for human dignity and other human rights as expressed in our Constitution has permeated all spheres and aspects of the society in our country. Our commitment to give full expression to human dignity has seen us develop a collective aspiration for Zimbabwe under Vision 2030 to become an Upper Middle-Income Nation by 2030. Underpinning Vision 2030 which appears, at face value, to be only an economic aspiration are principles of constitutionalism, rule of law and the respect for human rights. It is like I always



say that a nation is built by its own people. People whose inherent dignity and worth is respected become self-actualised individuals who build their nations. We also recognise that the economic success of our nation is instrumental in the full realisation of the enjoyment of human rights and in preserving the dignity of Zimbabweans. In this way, the aspiration for economic stability and constitutionalism are symbiotic in their benefit to human dignity.

To this end, while our primary aim is to eradicate poverty, the economic blueprint addresses cross-cutting socio-economic challenges affecting different sectors of our society. These include issues of unemployment, access to justice, water and sanitation, provision of basic health care and transport and infrastructural development. These are key fundamentals that every state is required to provide in order to uphold the human dignity of all our people. It is indeed undignified for our people to wallow in poverty, to leave in fear and to be unable to pursue happiness. The economic blueprints and policies that we put in place are therefore meant to uplift the lives of our people and consequently uphold human dignity for the citizens.

Distinguished guests, ladies and gentlemen, allow me at this juncture to take this opportunity to extend my sincere gratitude to the CJCA for bestowing the honour of hosting this very important event to the Judiciary of Zimbabwe. I also congratulate the Judicial Service Commission of Zimbabwe and other government departments for organising and putting in place all the necessary logistics that ensured that we received our delegates and extend world class hospitality for their comfort. I sincerely hope that our foreign visitors will find their stay in Zimbabwe worthwhile.

Finally, as we are gathered here today, I am confident that our guests will witness the beauty, peace, and stability that define our great nation. From the natural wonders of the Victoria Falls to the vibrant culture of our people, I hope that Zimbabwe's rich heritage will leave a lasting impression. Beyond the



Congress' proceedings, I encourage our guests to explore the country's wondrous landscapes, the majestic Victoria Falls and wildlife reserves, rich historical and cultural attractions, and not the least, its hospitable people.

Distinguished guests, ladies and gentlemen, with these remarks, I officially declare the **7TH CONGRESS OF THE CONFERENCE OF CONSTITUTIONAL JURISDICTIONS OF AFRICA** open.

I thank you.



SPEECH



**Delivered by Hon. Mr. Javier Cremades,
President of the World Association of Jurists**

SALUTATIONS,

Thank you very much for this invitation, I am speaking today on behalf of the World Association of Jurists, and I was thinking of sharing a couple of ideas with you. The first is when the World Association of Jurists was founded the world was in the midst of cold war and it was a dangerous world, in the midst of a holocaust and billions of people were living under autocracies and tyrannies and human dignity was not duly protected.

So, my first question is, in today's world where we are in a better position and safer position, in terms of the protection of human dignity, we could have a thermometer to prove the quality of human dignity on our planet earth, would it be a good position. Two generations ago, our fellow peers overcame the dangers that we are currently facing, indeed we are facing different dangers

and situations and the question is; What are we doing now with the dangers and challenges that we are facing? Needless to say, poverty is one such danger that we face.

Secondly, I want to congratulate the Conference of Constitutional Jurisdictions of African (CJCA) to have chosen the topic of human dignity, as this topic connects the purpose of the whole system and us and the reality on why we are here, some of us are politicians, attorneys and legal practitioners and some of you have been working on the bench your whole life, some of us are in the academia. This is the best topic, that human rights are to be protected internationally and in our local courts in a small town in this country.

Let me also share with you the fact that various constitutions contain the right to human dignity and human dignity is central to any constitution and the centre of any system. Constitutions have evolved over time since 1787 when the Constitution started, there was just the Declaration of Independence. Then came the Bill of Rights, the German Constitution on the other side, after the Nazis, which in article 1 provided for the protection of human dignity, and the Italian constitution which surpasses 20 years of fascism. Spanish which surpasses 40 years of political dictatorship, any constitution should not just be daughter of its time but the purpose for protecting human dignity.

What is human dignity?

What is threatening human dignity today?

Yesterday, we had short speeches one was by our Host Chief Justice of Zimbabwe; to protect human dignity and we need to have our honour, properties protected and a lot of human rights all of them are protected and we say the systems protect human dignity. What harms human dignity is always the same, *abuse of power*, by families, society and wars and what is worse is



when the abuse of power is practiced by public institutions. For instance, let's take the blank sheet as human dignity, if we crumple the paper, we take properties of the person, if we crumple the paper, we damage the honour of the person and we are damaging human dignity. If someone experiences sexual abuse as a child, we are harming their human dignity. Afterwards comes the concept of preparation, it will not be the same, but what we need is full restoration. It is to give back the situation of the person before the abuse of power, and that is what justice should look after.

Let me finish with one simple idea on the center of the World Association of Jurist, world is ruled by Constitution not by men and to have love between human beings is not to abuse the power. Let me recall we have different world congresses and in Africa we had the world congress in Cape Town with President Nelson Mandela, and he received the world peace liberty award. What could be today's representative of human dignity globally and I would say it's Nelson Mandela and you would say why, and it is because of his words, attitude, works and words and actions, and because of this moral authority of his works, the system should continue to protect human dignity. In May 2025, we are having a World Conference, and many jurisdictions are coming, and we are extending an invitation anyone who will be happy to attend the conference.

I had the opportunity to meet Justice Ruth Bader-Ginsburg in Washington D.C when we were delivering her the Nobel prize of the law, the World Peace and Liberty Award.

We have to look for a stronger purpose to protect human dignity everywhere.

Thank you very much.



SPEECH



Delivered by Hon. Mrs Aleyya GOUDA BACO

Judge of the Constitutional Court of Benin

Ladies and Gentlemen, all protocols observed. I am Mrs. Aléyya Goudabakou, not Victoria de Mello. I am a magistrate by training. And I would like to introduce my remarks by sharing with you this quote from the Canadian philosophers Thomas de Conique and Gilbert de la Roche, who said, and I quote,

"The place of human dignity is central and is at the beginning of the 21st century the sole and ultimate argument invoked in major cases. Why? Firstly, the decline of previous systems of thought makes the need for a universal, unique, minimal agreement urgent, around a principle common to all humanity, despite the multitude of beliefs. Secondly, totalitarian horror reminds us that the conditions for living together are never acquired. If the ruin of the meaning of existence wants to be desolate, the progress of science accompanies a return of the human."

This statement you agreed with me, that the notion of human dignity, as my predecessors have emphasized, remains at the heart of the agendas and in all fields of intervention of law, starting with the one that brings us together here, that is to say, the law that founds each society, constitutional law. If this is so, it is because the modern world, with its major changes, threatens the dignity that remains an intrinsic valet of humanity. Under these conditions, no forum would be too much to discuss this value, and there is no better forum to discuss it than that of the Conference of African Constitutional Jurisdictions. With the term chosen this year, human dignity is a fundamental value and principle, a source of interpretation, protection of basic human rights, and application. You agree that the prerequisite to the interview requires that we agree on the terminology. However, that of human dignity cannot be confined, ladies and gentlemen, in a simple geometry. In the words of Muriel Fabre-Mayan, a French jurist, I quote,

"The human mind necessarily stumbles at a given moment on something indemonstrable and something unknowable at a given moment, and this is what, in law, takes the name of dignity of the human person"

Francisco Fernández Segado added, I quote,

"That the difficulties of defining the concept of dignity are such that constitutional doctrine has not yet arrived at a satisfactory definition. Attempts at definition stumble on general formulations such as the content of the personality, the core of the personality, etc., etc."

In any case, without falling into these doctrinal controversies, allow me for the needs of the exchanges, that dignity is understood as the recognition of the inherent and inalienable value of each individual. Thus stated, the following question should be asked: how can human dignity as a fundamental value and principle serve as a basis for interpreting, protecting, and applying fundamental human rights? To answer this question, it would be necessary to ensure that as such, that is to say as a value and principle, human dignity is elevated to the rank of rights guaranteed and protected in our Constitutions.



Member States of the CJCA. On a sample of about twenty constitutions studied in the geographical area concerned, the observation is that of a unanimous recognition of the principle of dignity in national constitutions. This has been enshrined by various approaches, either implicitly or explicitly, through enshrined rights. I would not like to return to the States with the articles in relation to the mention of dignity and the elevation of this principle to the rank of guaranteed and protected rights. I would just like us to question ourselves on the challenges. As revealed by my predecessor, we are faced, with this notion on principle even today. At the end of the challenges that are posed to human dignity, we can say on one hand that there are challenges linked to globalization which are technological organs. As for globalization, it changes economic inequalities. I am not telling you anything new. Wealth is unequally distributed and working conditions are increasingly precarious in many parts of the world.

Relatively, globalization allowed us to teach. As for globalization, I would like to share with us once again this quote from Mireille Delmas-Marty who states, I quote,

"Economic globalization has freed up trade since the end of the First World War, of the pre-Cold War, but she highlights the paradox of a global market that opens borders to goods and capital and closes them on human beings, toughening migration control which improves global prosperity, but increase inequalities by worsening social inclusions which promote economic development, but aggravate economic challenges by multiplying environmental damage."

Faced with these challenges, we, constitutional judges, are challenged and what must be our position from now on? Our position, time does not allow it, but you will have in the communication, I will share with you two case law of the Constitutional Court of Benin in relation to the affirmation of human dignity because, in Benin, the constituent gave each citizen the power to refer to the constitutional judge in order to guarantee, protect and respect his rights. This is an experience for which I invite other constitutions to adhere to it.

Thank you.



SPEECH



Delivered by Hon. Dr. Christoph Grabenwarter

Member of the Venice Commission, Co-Chair of the Joint Council of Constitutional Justice and President of The Constitutional Court of Austria

SALUTATIONS,

Human rights are rights that all human beings enjoy by virtue of their human dignity. Since 1948, human rights and fundamental freedoms have been codified in universal and regional, binding and non-binding instruments. Today, human rights represent the only universally recognised value system. The aspiration to protect the human dignity of all human beings is at the core of the human rights concept. It is based on a common universal value system devoted to the sanctity of life.

HUMAN DIGNITY AND THE EMERGENCE OF INTERNATIONAL HUMAN RIGHTS

Yet, the concept of universal human rights for all human beings was acceptable to states only after the horrors of the Second World War. The massive affront to human dignity during the War, the atrocities of the Holocaust and the need felt to never let such horror happen again led to the codification at the international level and put the human being back in the centre of concern. Article 1 of the UN Charter declares “promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” as one of the purposes of the UN. The Universal Declaration of Human Rights, adopted in December 1948, was the first step towards achieving this objective. As you all know, together with the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights adopted in 1966, the Universal Declaration constitutes the International Bill of Human Rights.

The Preamble to the Universal Declaration is unequivocal about the need to preserve human dignity: The recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Article 1 of the UDHR states that " All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." Furthermore, the Declaration also recognized the ideal of free human beings enjoying freedom from fear and want and being endowed with equal and inalienable rights.

The International Covenant on Civil and Political Rights (CCPR), which also refers to the inherent dignity of the human person, adds in its Article 10 that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. In addition to the rights specified in Article 4 of CCPR, this cannot be subject to derogation. The



Universal Declaration on Human Rights contributed enormously to the dissemination of the principle of human dignity in legal texts.

REGIONAL SYSTEMS OF PROTECTION OF HUMAN RIGHTS

Today, judicial protection of human rights by judicial organs takes place in particular in the framework of regional human rights treaties. If we talk about regional instruments, it is adequate (not only in the opening session of an African conference) to mention the African system first.

The African Charter on Human and Peoples' Rights (Banjul Charter) came into effect in 1986. Its preamble contains a reference to the Charter of the Organization of African Unity (1963; African Union since 2002), according to which "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples". Article 5 Banjul-Charter contains an explicit reference to human dignity: It emphasizes the right of every individual to the respect of the dignity inherent in a human being and prohibits all forms of exploitation and degradation, including inhuman or degrading treatment.

Since all (recognised) 55 African states have ratified the Banjul-Charter (the last one being South Sudan in 2023, after Morocco was readmitted in 2017), it is the biggest regional human rights protection system worldwide.

On the European level, although the European Convention on Human Rights (ECHR) does not explicitly mention human dignity, it nevertheless presupposes human dignity as a universally valid legal principle. Only in the preamble does the ECHR refer to the UDHR. Nevertheless, the ECHR is based on the principle of the inviolability and inalienability of human dignity and the recognition of the individual enjoying equal freedoms.



Crucial in this regard is Article 3 of the ECHR, which protects against cruelty and humiliation and thus guarantees respect for the individual person and prohibits instrumentalisation of the person. Today, it is most frequently applied in the context of asylum law – in particular in connection with measures terminating residence, such as expulsion. Besides Article 3 of the ECHR, Article 5 of the ECHR regulates in detail the rights of those deprived of liberty. In Austrian law, Section 1 para. 4 of the Federal Constitutional Law of 1988 on the Protection of Personal Freedom emphasises that anyone who is arrested must be treated with respect for human dignity and with the greatest possible protection of the person. This respect for human dignity is absolute and does not allow any restrictions.

In the Americas, the American Declaration of the Rights and Duties of Man was adopted in May 1948, even before the Universal Declaration of Human Rights and together with the Charter of the Organization of American States. Originally not binding, the Declaration became binding on all member states in 1967, due to an amendment to the Charter of the OAS. The preamble of the Declaration emphasizes that all "men are born free and equal, in dignity and in rights, and, being endowed by nature with reason and conscience, they should conduct themselves as brothers one to another." The OAS Charter states in Article 45 that "all human beings, without distinction as to race, sex, nationality, creed, or social condition, have a right to material well-being and to their spiritual development, under circumstances of liberty, dignity, equality of opportunity, and economic security."

On the basis of the American Declaration, the OAS adopted the American Convention on Human Rights in 1969 – also called the Pact of San José (it entered into force in 1978). In its preamble, it refers to the OAS Charter, the ACHR and the UDHR. According to Article 5 para. 2, no one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All people deprived of their liberty shall be treated with respect for the inherent dignity of the human person.



As to the case law of the regional judicial bodies we find again parallels between Africa and Europe. In Europe, there exists abundant case law relating to the concept of human dignity, notably regarding treatment of persons deprived of liberty and asylum law.

In Africa, where the African Court on Human and Peoples' Rights started operating in 2006 and delivered its first substantial decision in 2013, there also exists extensive and, by now, long-standing jurisprudence on the subject of human dignity, emanating from the African Court but also from the African Commission on Human and Peoples' Rights. These cases concern, among many others, arbitrary arrest and detention, cruel and degrading treatment, corporal punishment.

In order to assess whether the right to dignity protected by Article 5 of the Charter has been violated, the African Court on Human and Peoples' Rights has adopted the approach of the African Commission on Human and Peoples' Rights and considers three main factors. "First, Article 5 has no limitation clause. The prohibition of indignity inflicted through cruel, inhuman and degrading treatment is thus absolute. Second, prohibition must be interpreted to afford the widest possible protection against abuse, whether physical or psychological. Lastly, personal suffering and indignity can take various forms, and their assessment will depend on the circumstances of each case." (ACtHR 5 Sept 2023, Baedan Dogbo Paul & Baedan M'Bouke Faustin v. Côte d'Ivoire, No. 019/2020, para. 95; 28 Mar 2019, Lucien Ikili Rashidi v. United Republic of Tanzania, no. 009/2015, para. 88 with further reference to jurisprudence of the African Commission. See also ACtHR 5 Sept 2023, Yassin Rashid Maige v. United Republic of Tanzania, no. 018/2017, para. 143 regarding corporal punishment – sentence to be caned twelve times violated the applicant's right to dignity as provided under Article 5 of the Charter).



An important case where the African Court found a violation of the applicant's dignity and Article 5 of the Charter concerned a businessman prosecuted for drug trafficking who was subsequently acquitted. After the acquittal judgment, the Head of State made statements on several occasions regarding the case without equivocation as to the fact that the applicant had been acquitted. The Court considered that these statements would compromise the applicant's reputation and dignity in the public and violate Article 5 (ACfHR 29 Mar 2019, *Sebastien Germain Ajavon v. Republic of Benin*, no. 013/2017, paras. 252-255).

THREE THOUGHTS ON PRESENT AND FUTURE CHALLENGES FOR THE PROTECTION OF HUMAN DIGNITY BY CONSTITUTIONAL COURTS

The protection of human dignity shows special features within human rights protection in general. Let me therefore mention three considerations at the beginning of this important conference:

- a. Human dignity is not only a concept of constitutional law of many African and European constitutions but also a concept of international law, not only with respect to human rights treaties. Core elements of the human dignity are protected in also under customary international law, and partly also as mandatory international law, in particular with regard to the prohibition of torture. The lines between torture and other degrading or inhuman treatment of persons infringing human dignity are shifting to more severe protection of dignity.
- b. From a historical perspective, protection of human dignity was directed against violations by the state, emerging from a reaction to the atrocities during the second World War in Germany and in my country, Austria. Today, we still face severe violations of human dignity by official forces related to armed conflicts, not only in Middle East but also in Europe. However, we must not forget violations by private forces, committed through organised crime in the context of migration and in particular of human trafficking.



Moreover, we must not forget our common responsibility for the protection of human dignity with regard to the challenges following climate change. In this context, constitutional courts as well as regional human rights courts increasingly develop new foundations of the duty on the side of states under the notion of “positive obligations” or comparable concepts.

- c. Constitutional courts have a duty to use all means available within the competences under the respective constitutions to protect human dignity. When challenges to human dignity and not any longer limited to the territory of a specific state, it is up to the constitutional courts to develop the possibilities of international cooperation to react properly to these international challenges transgressing geographical borders.

CONCLUSION

In conclusion, human dignity is an indivisible concept. Human rights are universal because they are based on every human being’s dignity, irrespective of race, colour, sex, ethnic or social origin, religion, language, nationality, age or any other distinguishing characteristic. They apply equally and indiscriminately to every person. Guaranteeing human dignity is a universal responsibility of all constitutional courts in the world. African and European constitutional courts are called upon to cooperate in a particular way, as societal and environmental issues have reciprocal impact on societies on both sides of the Mediterranean Sea. By putting the protection of human dignity on the agenda of the Seventh Congress of African Constitutional Jurisdictions, African constitutional courts show that they are committed to this spirit of cooperation in the protection of human rights. The coherent structure of the programme and the quality of the speakers are guarantors for the success of this gathering in a special place in Africa.



SPEECH



**Delivered by Hon. Mr. Justice Bheki Maphalala,
Chief Justice of Eswatini and Chairperson of The Southern and East Africa
Chief Justices Forum (SEACJF)**

SALUTATIONS,

Ladies and Gentlemen, it is a great honour and privilege for me to address this esteemed Conference and representing the Southern and Eastern Africa Chief Justices Forum. I would like to express my sincere gratitude to the Judiciary of the Republic of Zimbabwe for the warm hospitality extended to me and members of the Forum. I also wish to congratulate the Judiciary of Zimbabwe for hosting such a historic and successful Conference. Many members of the Forum are also members of the CJCA. This shared membership highlights the solemn truth that our respective mandate transcends borders, and organizations and that we are connected by our collective objective

to uphold the rule of law and safeguard the constitutional values and fundamental human rights.

The shared membership of the CJCA and the Forum further underscores the necessity for collaboration between the two organisations. Conferences like these constitute a vital platform for exchange, reflection and co-operation, as well as the broader convergence at the World Conference on Constitutional Justice (WCCJ).

This convergence emphasises that our challenges and aspirations are universal and that together we could form a powerful network which is united by shared principles and commitment to Constitutional Justice.

The theme of the Conference entitled "Human Dignity as a Fundamental Constitutional Value and Principle" is timely on the basis that it highlights and underpins our commitment to the protection, promotion and enforcement of fundamental human rights. As we gather here today, we should not forget the plight of many Judges in the African Continent who are being persecuted for exercising their constitutional mandate. It is common cause that many of our Judges have already been dismissed whilst others are being subjected to political disciplinary hearings with the sole objective of being dismissed for executing their judicial mandate under the constitution. Our silence as Constitutional Judges to the political interference of our judicial mandate is an indictment to our weakness in upholding the human dignity of our judges.

I thank you and wish you success during your deliberations.



SPEECH



Delivered by Prof. Helle Krunke
International Association of Constitutional Law

SALUTATIONS,

It is a great honour for the International Association of Constitutional Law (IACL) to be invited to participate in the 7th Congress of the Conference of Constitutional Jurisdictions of Africa.

As President of the International Association of Constitutional Law, I would like to thank the organisers deeply for the invitation, and to congratulate the CJCA on this important congress and the choice of theme. Human dignity is the most

fundamental right. Not only is it a right in itself. It constitutes the basis of all fundamental rights.

It is enshrined in international and regional treaties as well as national Constitutions all over the world. We find it in preambles and in articles of these documents.

Article 1 of the UN Universal Declaration of Human Rights is of course the very heart of all protection of human dignity across continents. Regional human rights treaties such as the African Charter of Human and People's Rights, the American Convention on Human Rights, and the European Convention of Human Rights, all provide important contributions to the protection of human dignity.

Regional treaties refer to the UN Universal Declaration of Human Rights, and regional courts study case law from other regional courts. National Constitutional Courts and Supreme Courts also study case law of regional courts, and courts in other countries.

This way, we may learn from each other, inspire each other, and give each other courage, in the important and sometimes challenging task of protecting human dignity throughout time, geographical space, and in different political and cultural contexts. This judicial dialogue is of fundamental importance, and we must never give up on it. Sharing experiences from different constitutional systems - including from regional and international legal systems - and inspiring each other, is at the very heart of the purpose of the International Association of Constitutional Law, which is an academic association. Read more here: [IACL-IADC Blog and Home](#).

This exchange of experiences takes place among others at our World Congresses where constitutionalists – scholars and practitioners - from all over the world – normally around 600-800 people – come together to discuss a



broad and diverse array of themes within Constitutional Law in a comparative perspective.

The last World Congress of the International Association of Constitutional Law was held in Africa in 2022 - at the University of Johannesburg – and the local hosts organised an impressive, rich and dynamic academic congress. Over five days, constitutionalists from all of Africa and the rest of the World were brought together to discuss important topics of constitutional law.

The next World Congress will take place in Latin America, in Colombia, in 2026, and I invite all of you to participate, and enter into a global dialogue with other constitutionalists on the overall topic of “Sustainable Constitutionalism: Answers for a Changing World”, with a huge variety of sub-themes, including on human rights and courts. We always have judges among the speakers. Read more here: [The IACL World Congress 2026 || Sustainable Constitutionalism: Answers for a Changing World and World Congress of Constitutional Law 2026 – Sustainable Constitutionalism: Answers for a Changing World - Universidad Externado de Colombia.](#)

Africa has a special place in the heart of the International Association of Constitutional Law (IACL). Africa has always made very important and valuable contributions to the IACL. Our Secretariat was placed in South Africa for more than ten years, we had a Secretary General from South Africa for many, many years, and we have had and still have many esteemed African members of our Executive Committee, including as Vice Presidents. The IACL is extremely grateful for these contributions, and we look forward to a continued fruitful cooperation.

For now, please allow me to express, that I look tremendously forward to learn more about the African experience regarding human dignity - in the African context - during the coming days of this magnificent Congress.



I wish all of you a fruitful congress with valuable exchange of experiences regarding human dignity.

Thank you for your attention.



PRESENTATION OF THE QUESTIONNAIRE SURVEY REPORT



Presented by Dr. Tarisai Mutangi

Senior Lecturer and Chairperson of the Postgraduate Department at the University of Zimbabwe

SALUTATIONS,

INTRODUCTION

The Survey findings are based on responses to the Pre-Conference Questionnaire by participating jurisdictions. They contextualise the Conference's discussions through the theme and sub-themes, making observations on comparative African constitutionalism and why it is necessary to convene gatherings such as this and by so doing, amplifying the importance of human dignity.

The pre-Conference questionnaire was sent to about 45 constitutional jurisdictions. It has 7 themes or chapters and 40 questions derived from sub-themes. Of these 19 (50%) African jurisdictions plus Russia responded to the request. The Questionnaire is critical in terms of preparing for an upcoming Conference and also largely informs discussions on the Conference days. Therefore, it is very important for member jurisdictions to participate in this pre-conference exercise.

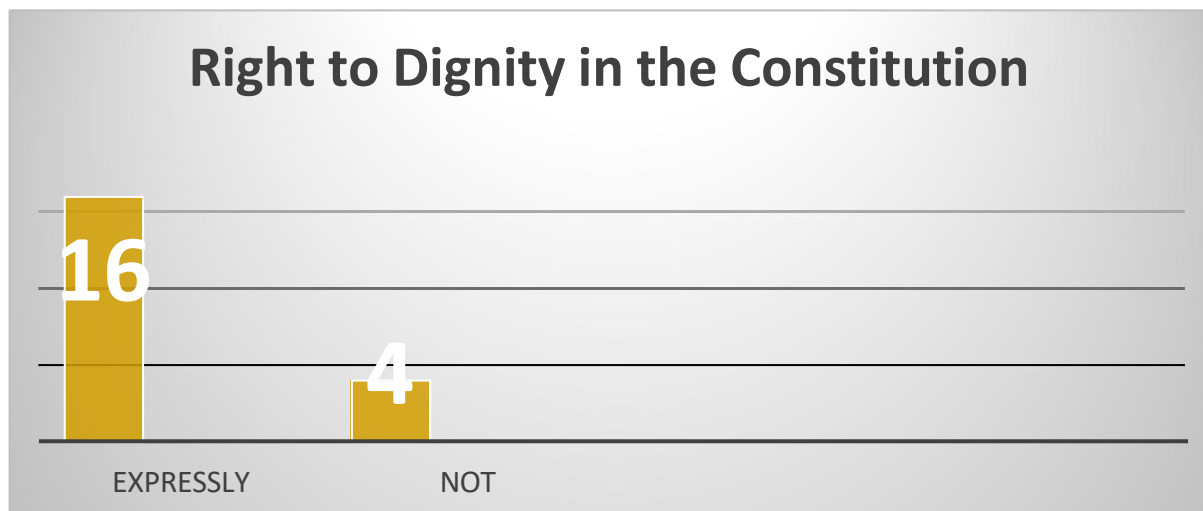
The Conference is an opportunity not to compete but showcase national aspirations as reflected in constitutions, and also inspire one another. It's the hallmark of comparative constitutionalism in Africa. It's a form of inter-country judicial dialogue on matters of common interest. Judicial cooperation.

LIST OF JURISDICTIONS THAT RESPONDED

• Algeria	• Botswana
• Angola	• Djibouti
• Cape Verde	• Mali
• Egypt	• Morocco
• Ethiopia	• São Tomé and Príncipe
• Ivory Coast	
• Kenya	
• Madagascar	
• Mozambique	
• Namibia	
• Russia	
• Somalia	
• Togo	
• Western Sahara	
• Zimbabwe	

Table 1: *List of Jurisdictions that responded*

Theme 1 – Human Dignity in National Constitutions: Conception in Constitutional Law



Graph 1: Right to Dignity in the Constitution

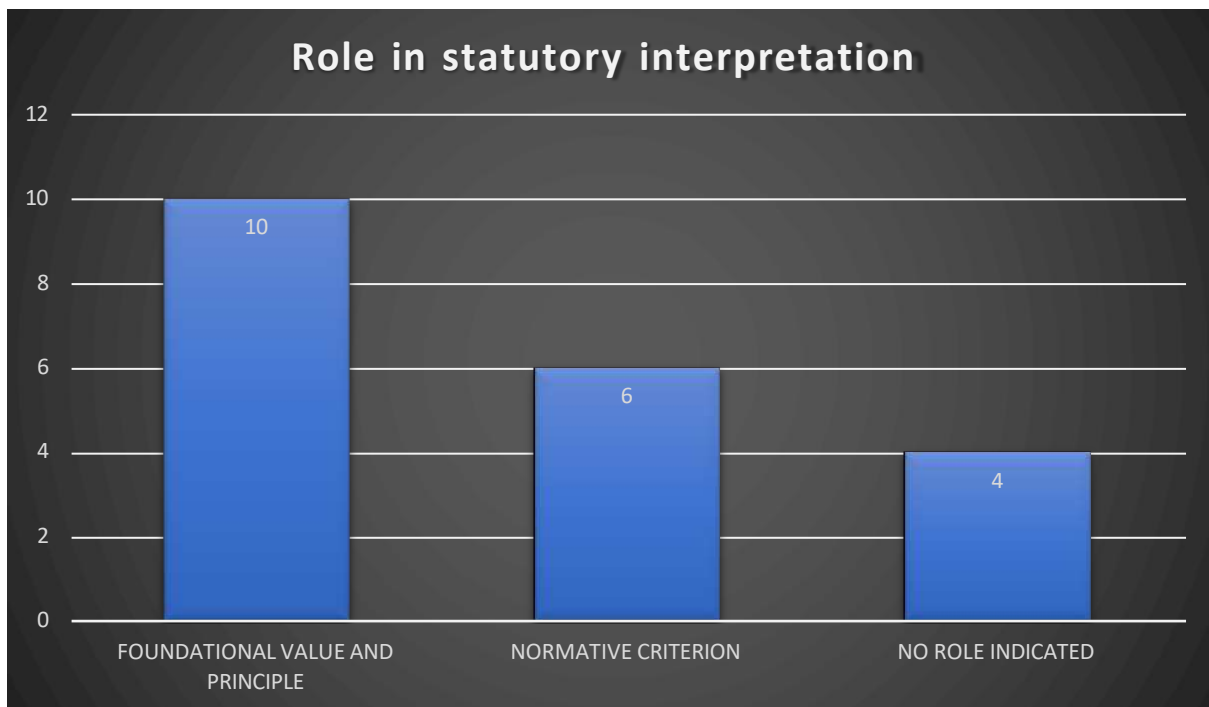
Theme 1: Is human dignity limited or derogable?

INVIOLABILITY	NON-DEROGABILITY	ENFORCEABLE HUMAN RIGHT	NO STATUS INDICATED	VALUE AND PRINCIPLE
<ul style="list-style-type: none"> Algeria 	<ul style="list-style-type: none"> Algeria 	<ul style="list-style-type: none"> Cape Verde 	<ul style="list-style-type: none"> Botswana 	<ul style="list-style-type: none"> Angola
<ul style="list-style-type: none"> Cape Verde 	<ul style="list-style-type: none"> Cape Verde 	<ul style="list-style-type: none"> Namibia 	<ul style="list-style-type: none"> Ivory Coast 	<ul style="list-style-type: none"> Djibouti
<ul style="list-style-type: none"> São Tomé and Príncipe 	<ul style="list-style-type: none"> São Tomé and Príncipe 	<ul style="list-style-type: none"> Togo 	<ul style="list-style-type: none"> Mali 	<ul style="list-style-type: none"> Egypt
<ul style="list-style-type: none"> Zimbabwe 	<ul style="list-style-type: none"> Zimbabwe 	<ul style="list-style-type: none"> Zimbabwe 	<ul style="list-style-type: none"> Western Sahara 	<ul style="list-style-type: none"> Somalia
<ul style="list-style-type: none"> Russia 	<ul style="list-style-type: none"> Russia 	<ul style="list-style-type: none"> Kenya 		<ul style="list-style-type: none"> Zimbabwe

• Morocco	• Morocco	• Russia		• Kenya
		• Mozambique		• Madagascar
				• Russia
				•
				• Ethiopia
26%	26%	32%	26%	• 42%

Table 2: *Is human dignity limited/derogable?*

Theme 1: Role of Human Dignity in Guiding the Legal Interpretation of Legislation



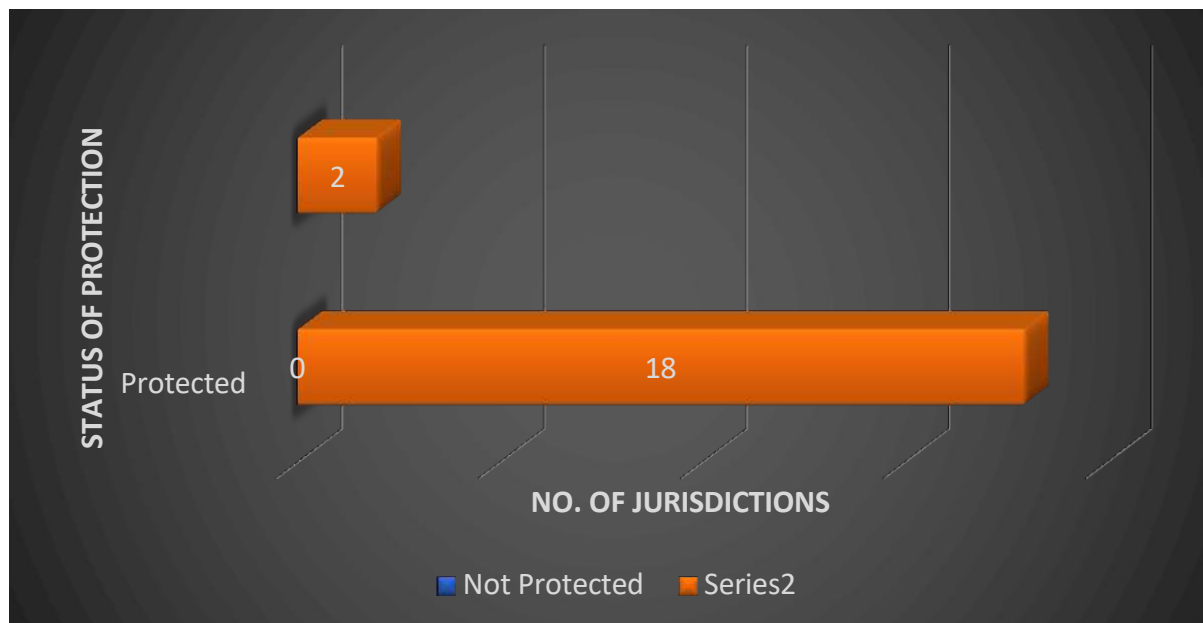
Graph 2: *Role in Statutory Interpretation*

Theme 2: Core meaning of Human Dignity: Constitutional Value or Principle

ROLE	JURISDICTION
Constitutional principle	All jurisdictions
Human value	Djibouti; Western Sahara
General regulator	Egypt; Mozambique; Ethiopia; Western Sahara; Russia
Inviolability	São Tomé and Príncipe, Zimbabwe
Interpretational benchmark	Algeria; Morocco; Namibia; Somalia; Zimbabwe
Foundational value	Cape Verde; Kenya; Madagascar; Somalia; Zimbabwe
Philosophical value	Angola
No role specified	Botswana; Ivory Coast; Mali; Togo

Table 3: *Core meaning of Human Dignity*

Is Human Dignity Protected as a Constitutional Value?

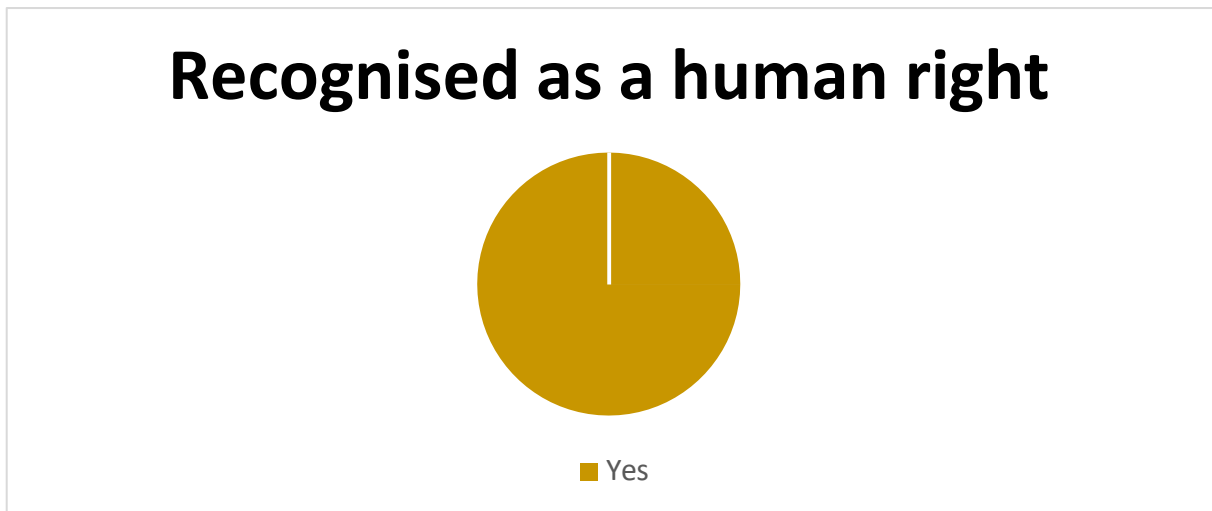


Graph 3: *Human Dignity Protected as a Constitutional Value*

Theme 3: What is the Place of the Concept of Human Dignity in the Human Rights Discourse?

- Human dignity plays a fundamental role in human rights discourses.
- Human dignity is recognised as the basis upon which all other fundamental rights are established, protected and enforced.
- Of particular interest to this analysis are the rights of detained and arrested persons, in the jurisdiction of Kenya.
- The self-worth of all citizens in spite of their social standing.

Theme 3: Recognition of Human Dignity as a human right



Pie Chart 1: *Recognition of Human Dignity*

Theme 3: Recognised as a tool of Constitutional Interpretation



Theme 3: Status of International Human Rights Law

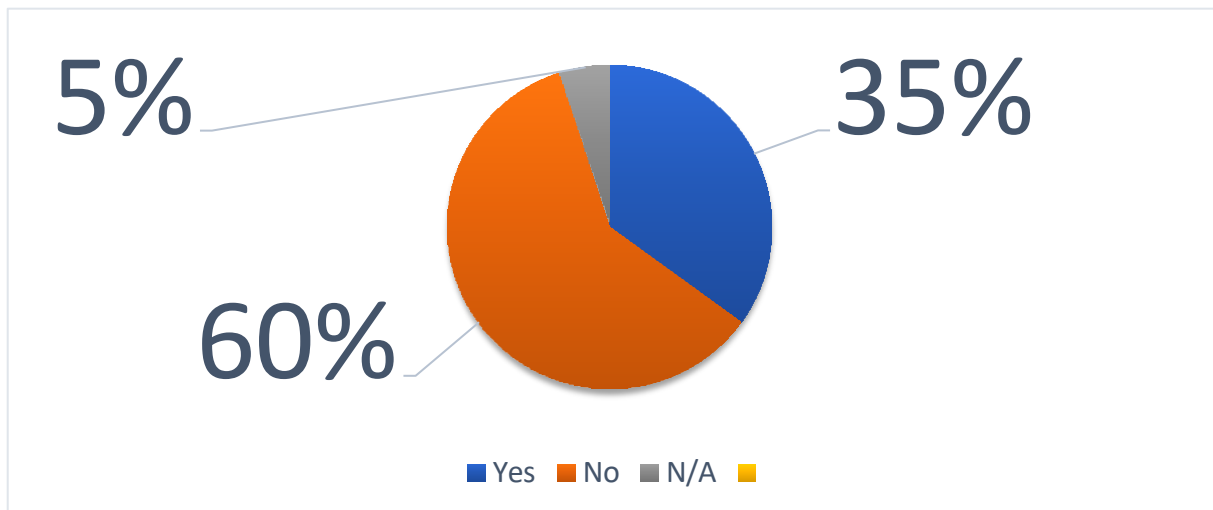
- International law:
- Superior status over national laws;
- Supra-legal status;
- Constitution superior to international treaties;
- Not binding until domesticated;
- Standard of interpretation of national laws;

- Is received unless it is in conflict with national laws;
- Has persuasive value when interpreting national laws; and
- Is referred to in judgments (100%).

Theme 3: Meaning of Human Dignity

- Protection from cruel, inhumane or degrading treatment or punishment;
- Prohibition of the death penalty and torture; in the right to honour, good name and reputation, freedoms;
- Core dimensions of several economic and social rights, namely those related to health, social security and housing etc.;
- Mother rights that incorporate all other human rights;
- Consensus is yet to be reached upon its normative content;
- Man deserves respect, for he is created in the image of God;
- Personal inviolability – not subject to physical or psychological harm.

Theme 4: Deconstructing Human Dignity as a Human Rights: Is Human Dignity Limited?

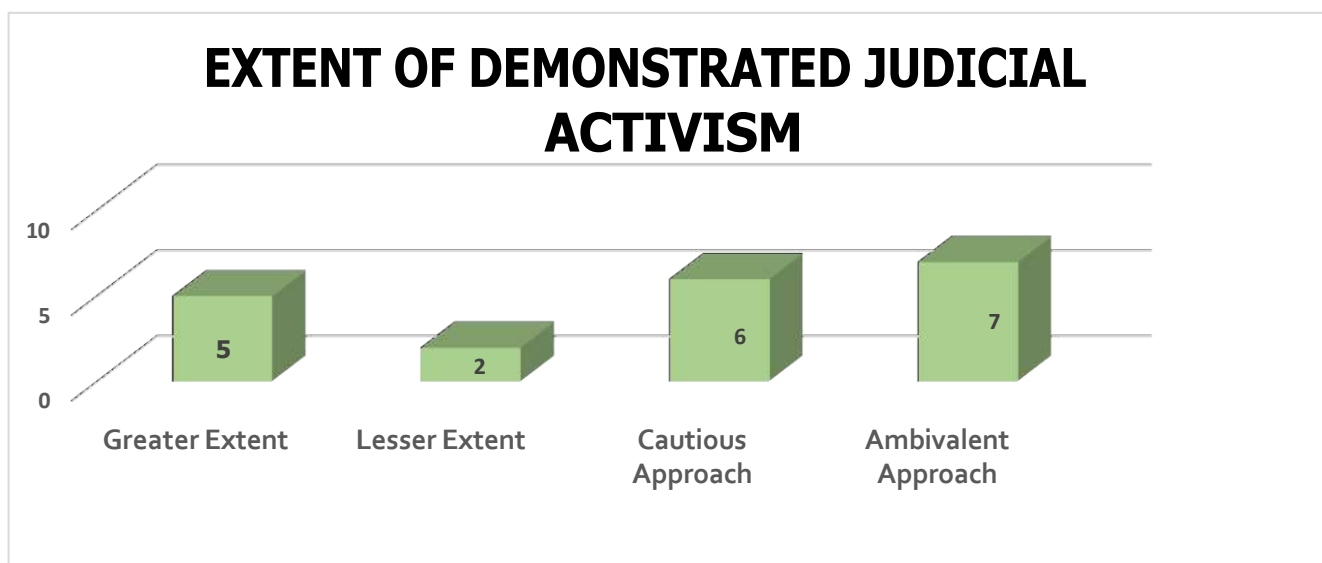


Pie Chart 3: *Deconstructing Human Dignity*

Theme 5 – Human Dignity and Judicial Interpretation of Human Rights: Tools and Approaches the Courts Utilised in Interpreting Human Dignity as a Fundamental Human Right

- Domestic laws – constitutions; acts of parliament; decrees etc.;
- International legislative instruments/ratified international treaties;
- Judicial precedent;
- Historical, economic, social, cultural and political background;
- Comparative jurisprudence;
- Quran, Sunnah and the opinions of jurists in law;
- Comparative perspectives and contextual analysis; and
- Etc.

Theme 5: Extent Courts Apply Judicial Activism in Interpreting and Enforcing Human Dignity as a Fundamental Human Right



Graph 4: *Extent of Demonstrated Judicial Activism*

Theme 5: Contribution of Human Dignity to Penological Jurisprudence

- Foundational value in shaping criminal jurisprudence.
- helps protect the accused's rights e.g. right to liberty;

- prohibits the imposition of cruel, inhuman or degrading punishment or treatment of accused persons;
- renders basic decency and dignity to accused persons and prisoners;
- Support for the concept of preliminary investigation through to trial;
- Shapes offences and types of penalties that can be imposed on offenders;
- Ensuring the humane treatment of prisoners and encouraging legal reform such as banning the use of shackles.
- Shapes penological aspects such as sentencing to ensure they are proportionate;

Theme 5: How Does the Concept of Human Dignity Help to Interpret and Enforce the Rights of Women, Children, Persons with Disabilities and Other Groups

- Drives gender equality initiatives and protects women against discrimination and violence;
- Enables them to be recognised as full members of society;
- Ensures the inherent worth of women, children, persons with disabilities and other marginalised groups;
- Provides protection from abuse and discrimination;
- Dignity combats gender discrimination as well as promoting inclusivity;
- Used to justify affirmative action in favour of vulnerable groups; and
- Connects human dignity and normal living conditions.

Theme 6: The Use or Abuse of Human Dignity: Dangers, and or Potential Abuses of the Excessive Use of the Concept of Human Dignity

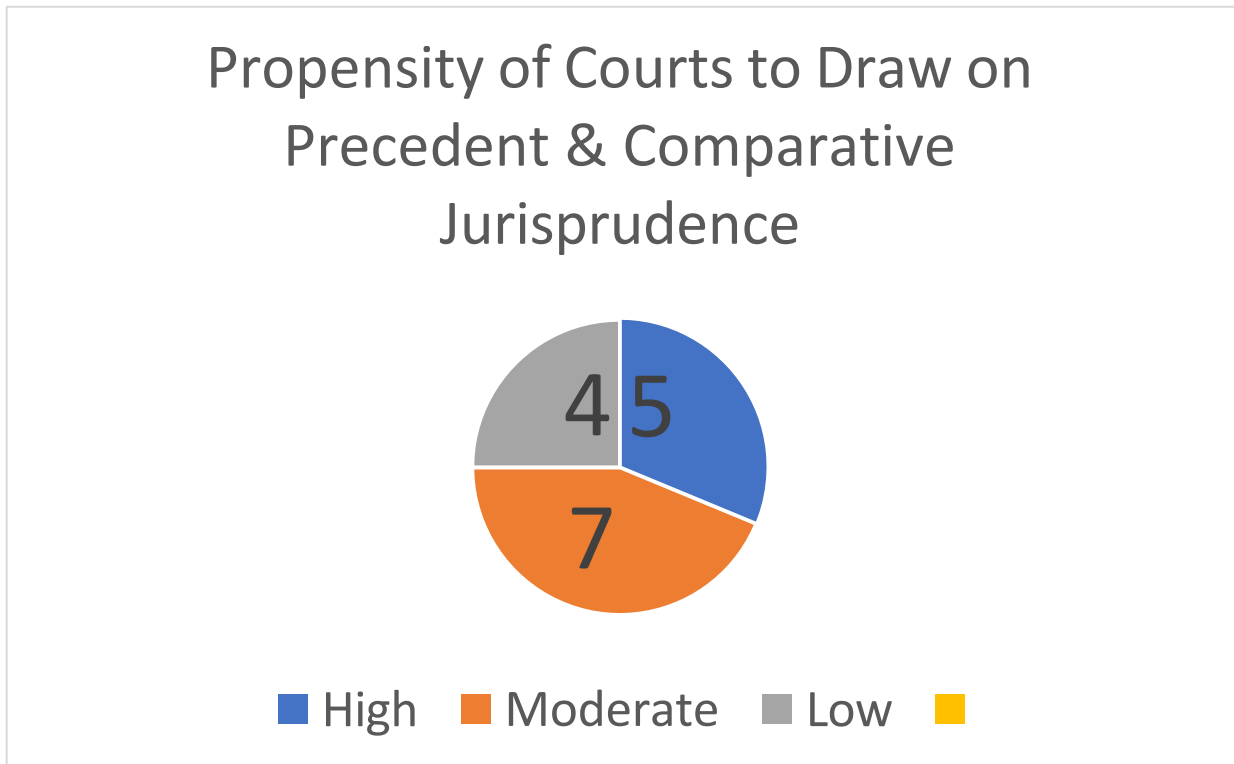
JURISDICTION	POTENTIAL ABUSES
Algeria	Restriction of human freedoms.
Angola	It may conflict personal autonomy and freedom of expression.



Botswana	Not stated.
Cape Verde	It can cause difficulties in balancing operations between the dignity of the human person and other principles or rights.
Djibouti	Not stated.
Egypt	It may be an excuse of interference with affairs of other countries thereby stirring public opinion.
Ethiopia	It will be difficult to reconcile individual rights and public security.
Ivory Coast	No potential abuse.
Kenya	It can be used to propagate certain harmful cultural practices.
Madagascar	It can tend towards the protection of serious criminals.
Mali	It can cause tensions between groups that do not share the same cultural orientation.
Morocco	It may result in the judge exceeding his or her jurisdiction and encroach in to the authority of the legislature.
Mozambique	There is risk of emptying it thereby losing its essence.
Namibia	It may justify broad interpretations of the law thereby encroaching into the role of the legislature.
Russia	This is illustrated by situation when a debtor uses legislative provisions establishing enforcement immunity with regard to his only living premises (i.e. a prohibition of its foreclosure in certain situations).
São Tomé and Príncipe	<ul style="list-style-type: none"> • Limitations on legislative autonomy • Conflicts with other rights • Challenges in the implementation of policies.
Somalia	It can cause impunity for commission of crimes.
Togo	Disturbances of public order.
Western Sahara	It can be used in the protection of deeds that are abhorrent and those that advance the instability of a society.
Zimbabwe	It may be abused to advance spurious litigation.

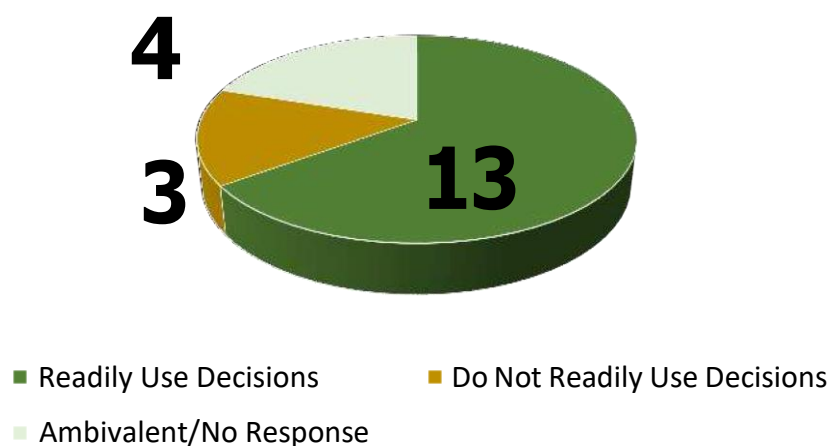
Table 4: *The Use or Abuse of Human Dignity*

Theme 7: The Role of the Judiciary in Protecting Human Rights & Human Dignity



Theme 7: Attitude towards Decisions of other Jurisdictions

Attitude towards the decisions of other jurisdictions



Pie Chart 4: *Attitude towards Decisions of other Jurisdictions*

Theme 7: Weight Courts place on Decisions of Regional and International Human Rights Courts

WEIGHT	JURISDICTION	REMARKS
Not specified	Botswana; Morocco; Djibouti; Ivory Coast; Madagascar	These jurisdictions did not offer a response to this question.
High	Egypt; São Tomé and Príncipe; Western Sahara; Cape Verde.	These jurisdictions indicated that they place great importance on the jurisprudence of regional and international human rights tribunals.
Moderate	Algeria; Angola; Kenya; Mali; Mozambique, Somalia; Togo; Zimbabwe.	These jurisdictions indicated that the weight they assign to the jurisprudence or regional and international human rights tribunals is only accepted subject to it being consistent with their own legal systems.
Low	Russia	Foreign constitutional supervision bodies' case-law does not have obligatory force for the Constitutional Court.
Low to high	Ethiopia	The weight ranges from low to high depending on the nature of the case or the context.

Table 5: *Decisions of Regional and International Human Rights Courts*

CONCLUSION

The Report is a treasure trove of comparative information. The CCJA is a key platform for sharing experiences. Human dignity occupies a central place in the constitutional, philosophical and cultural values of African countries. It is largely ascribed a privileged status, is regarded as inviolable and plays a key role in the development of penological jurisprudence and interpretation of local laws. The way forward is more sharing of experiences and learning from one another including jurisprudence of international courts and tribunals.

II- Thematic Congress

1ST PANEL

"Human Dignity as a fundamental constitutional value and principle"



THE CONCEPT OF HUMAN DIGNITY IN CONSTITUTIONAL LAW



Presented by Hon. Mr. Bolous Fahmy Iskandar
President of the Supreme Constitutional Court of Egypt

SALUTATIONS,

Human dignity is a universal concept that transcends cultural and civilizational differences between nations, as stated in the Preamble to the Charter of the United Nations. It concerns belief in fundamental human rights, in the dignity of the individual, and in the equal rights of men and women and of nations - large and small - and as stated in Article 1 of the Universal Declaration of Human Rights, which states that all human beings are born free and equal in dignity and rights.

In light of the above, the Constitution of the Arab Republic of Egypt has been concerned with human dignity and has given it a high status. The preamble to

the Constitution, which, together with its texts, forms an integrated fabric and an indivisible whole, provides that freedom, human dignity and social justice are the rights of every citizen. It begins with the chapter on rights, freedoms and public duties by stating in Article 51 that “dignity is the right of every human being, and it may not be violated. The State is committed to respecting and protecting it.” Thus, it placed it at the forefront of rights and freedoms, making it a foundation to which all rights and freedoms are traced, and a principle that dominates them in every organisation.

If the concept of human dignity is the right of every human being to have value and to be respected for his own sake, then at the same time it is not just a right, but the source and goal of all rights, as it is a major comprehensive value from which an unlimited number of values branch out, which together constitute a system of pure rights and freedoms for the human being, especially the rights and freedoms inherent in his person, which are rights that do not accept suspension, restriction or diminution.

It is perhaps necessarily known that a human being has fixed rights when he becomes a fetus, and he has the right to health and social care, and even criminal protection, since aborting a pregnant woman is a crime. When a human being is born, he has the right to a name that distinguishes him, and to family and social care, including food and clothing. In childhood, he has the right to education that is consistent with his talents and inclinations. When he reaches the stage of youth, he has the right to exercise political rights, and he has the right to work that he chooses and is not forced to do it, in return for a fair wage, and the right to a clean environment, safe and suitable housing, and the right to choose a spouse, to have children and to form a new family, so that human life can resume its cycle.



Dear guests:

The Constitution of the Arab Republic of Egypt, in its statement of rights, elevates the status of human dignity, considering it the basis on which personal freedom cannot breathe except by ensuring its existence, as required by Article (51) of the Constitution. The constitutional protection established for this right includes every human being, regardless of his gender, type, belief, or job position, so that any attack on it is a violation of this constitutional right. On the other hand, it imposes on the state a duty to protect human dignity through all its legislation, to prevent it from being violated, and to protect and defend it; thereby to guarantee for every human being who lives.

On the land of this nation, there is the right to preserve its dignity and protect it from being violated. One of the manifestations of this constitutional right is that the constitution, in Article (59), imposes on the state a genuine obligation to provide security and reassurance to its citizens, and even extends to every resident on its land. This obligation is not limited to preserving the soul from physical assault, but rather to preserving human dignity in all its forms.

If the personal freedom of man is the area most closely connected to human dignity, the constitutional document has included many texts that protect the personal freedom of man, due to its connection to the individual's entity since its existence, and has surrounded it with many guarantees to protect it, and the freedoms and sanctities that branch off from it, and has raised it to the level of constitutional rules, including the right to a safe life, the personality of punishment, the origin of innocence, which may not be overturned except by a final judicial ruling, the release of freedom of belief, and the guarantee of the right to move and travel without restrictions, in a way that preserves human dignity. Therefore, the ordinary legislator may not violate those rules, and what they include in guaranteeing those freedoms, otherwise his work will be in violation of constitutional legitimacy.



Our constitution did not stop at protecting human dignity at the point of stipulating it as a right that precedes and takes precedence over all rights and freedoms, but rather made it in many of its articles the goal of the rights it stipulated, and indeed it is the goal of all rights. In Articles (8) and (17) of the Constitution, the State is obligated to achieve social justice and social solidarity in a way that guarantees a decent life for all citizens. To ensure the same goal, Article (27) obligated the economic system to equal opportunities and fair distribution of wealth and a minimum wage and pension. Article (52) prohibited torture in all its forms, and Article (54) obligated anyone who is arrested or whose freedom is restricted must be treated in a manner that preserves his dignity, and his detention must be in places that are humane and healthy. It is not overlooked that in the field of protecting the private life of the human being, the Constitution of the Arab Republic of Egypt stipulates in its fifty-sixth article that "private life is sacred, protected and may not be violated." Then, a branch of this right in the second paragraph includes the right to protect postal correspondence and other means of communication and guarantee their confidentiality, so that no one may confiscate them or access them by reviewing them except by a judicial order, which is reasoned and limited to a specific period. In its last paragraph, the State is obligated to protect the right of citizens to use means of communication in all their forms, which is a constitutional guarantee aimed at protecting human dignity by protecting the private life of the person, as no one should intrude upon it to guarantee its confidentiality, protect its sanctity, and prevent attempts to spy on it or steal some aspects of it, especially through modern means of communication, whose development has reached an astonishing level, and the growth of its ability to penetrate has had a far-reaching effect on all people, even in their most delicate affairs, and what is related to the features of their lives, as well as their personal data, which viewing and collecting has become prey to their eyes and ears, in a way that has caused embarrassment and harm to their owners, which is considered an aggression on private life,



and an intrusion into its boundaries, which must be rejected and criminalised, for its aggression It is rightly considered one of the most comprehensive.

Dear guests:

Since all human rights and freedoms are subject to aggression, whether by violation or infringement, from any party, the right to litigation is the main guarantor of protecting human rights and freedoms and repelling any aggression against them. Therefore, the legislator has surrounded it with protective mechanisms. The Constitution is surrounded by guarantees and immunity, and absolutely prohibits interference in the affairs of justice, to guarantee the right of man - whether national or foreign - to a fair trial, in all areas, especially in the criminal field. It is represented in a set of basic rules whose contents reflect a comprehensive scope, which primarily seeks to preserve human dignity and basic rights, and prevents, through its guarantee, the misuse of punishment in a way that takes it out of its objectives, based on the belief of civilized nations in the sanctity of private life, and the burden of restrictions that affect personal freedom, and to ensure that the State is bound when exercising its authority in the field of imposing punishment. Penal legislation is inconsistent with the conviction of the accused being an intended goal in itself, or the rules under which he is tried being in conflict with the correct concept of effective criminal justice administration. The protection of human dignity does not stop at the rights stipulated in the articles of the Constitution, but rather extends to other rights and freedoms not stipulated in the Constitutional Document, as the dimensions of the relationship between constitutional texts and their connection to each other, and their integration, often suggest rights that are not stipulated, but indicate their establishment through the rights guaranteed by the Constitution, which are an introduction to them as their dependencies, assumptions, or requirements, as the branches of some issues organised by the Constitutional Document lead to the general principle that



unites them, and this can only be achieved through a deeper understanding of its aims, and refining the values and ideals behind it that the Constitution embraces, including freedom of assembly, which is a framework for freedom of expression, and it does not mean, with freedom of the press, merely expressing opinions, printing them, and publishing them, but also the Egyptian Supreme Constitutional Court, in its investigation of all rights and freedoms that guarantee human dignity, does not stop at what is stated in the Constitutional Document of the Arab Republic of Egypt, but rather seeks them in all international charters and treaties related to human rights, and even in judicial precedents of rulings and decisions of constitutional courts and councils around the world.

Dear attendees:

Our meeting today is just one episode in a series of fruitful cooperation towards exchanging visions and experiences in the field of constitutional justice; to achieve the goal that the peoples of our African continent aspire to, and on which they pin their hopes for a constitutional justice that protects their rights and freedoms and preserves the dignity of man. May you be guided to what is best for your country, to what you seek in terms of complete justice for your citizens, and to your efforts to achieve the lofty goals of your conference.

May the peace, mercy, and blessings of God be upon you.



THE CONCEPT OF HUMAN DIGNITY IN CONSTITUTIONAL LAW



**Presented by Hon. Prof. Ibrahim Juma
Chief Justice of the Supreme Court of Tanzania**

SALUTATIONS,

I am making a case for a reconceptualisation of human dignity as a fundamental value, principle, and constitutional interpretive principle. After 76 years of the UN Universal Declaration of Human Rights and as many years of treaty-making, constitution-making, and elaboration of human dignity through case law, the time has come to re-imagine and push the frontiers of well-trodden human dignity beyond words on paper. ¹

¹ Abstract, Beryck Beyleveld & Roger Brownsword, Chapter: Human Dignity as Empowerment,

THE CONCEPT OF HUMAN DIGNITY IN CONSTITUTIONAL LAW

HAS HUMAN DIGNITY LIVED THE EXPECTATION AS EMPOWERING CONCEPT?

Intrinsic human dignity is a seminal idea that acts as the background justification for the recognition of human rights and as the source of the fundamental freedoms to which all humans are entitled. In this context, human dignity as empowerment, specifically the empowerment that comes with the right to respect one's dignity as a human, and the right to the conditions in which human dignity can flourish, is the ruling conception.²

AHARON BARAK, ["The Role of Human Dignity as a Constitutional Value," published online by the Cambridge University Press 05 February 2015] considered three values of human dignity

Time to re-evaluate court decisions to what extent they have:

- Demonstrated human dignity as a constitutional value that unites human rights into one whole.
- Determining the scope of constitutional rights or limit that scope.
- Used human dignity to assess the proportionality of a statute limiting a constitutional right.

JURGEN HABERMAS: RESPONDING TO SPECIFIC VIOLATIONS OF HUMAN DIGNITY

It is time to interrogate successes or failures of Constitutional Courts:

- To use violations of human dignity as moral force to push the frontiers of application of human rights and fundamental freedoms to uncharted frontiers.

Published December 2001.

²Abstract, Beryck Beyleveld & Roger Brownsword, Chapter: Human Dignity as Empowerment, Published December 2001.



- Used Human dignity as moral foundations from which all of the basic rights derive their meaning.

CONCEPT OF HUMAN DIGNITY AT THE CENTRE OF INDEPENDENCE STRUGGLE

Eleanor Roosevelt said in her “Struggle for the Rights of Man Speech” that human rights and freedoms must give people dignity. She added that for countries fighting for independence, human dignity unites them to struggle for their independence.

It is time to investigate why; after invoking human dignity to win struggles and independence, countries invariably lapse back into violations of human dignity and why countries espousing human dignity in their constitutions still violate the human dignity they have pledged to protect and defend.

The First President of Tanzania, Mwalimu Julius Kambarage Nyerere, said as much: *We have already agreed on certain basic principles; now is the time to put these principles into operation. All the time that TANU has been campaigning for Uhuru [independence] we have based our struggle on our belief in the equality and dignity of all mankind and on the Declaration of Human Rights.*³

RETROSPECTION OF JUDGES AND JUSTICES ON APPLICATION OF PRINCIPLE AND VALUE OF HUMAN DIGNITY

Hundreds of constitutional court decisions in Africa provide sufficient data for reconceptualisation research to examine to what extent judges and justices have taken up the gauntlet or demurred (hesitated) when presented with opportunities to push the frontiers of human dignity.

³ J.K. Nyerere: Independence message to TANU as published by UHURU Newspaper Uhuru.



HUMAN DIGNITY OF THREE WOMEN PLACARDED "PROSTITUTES": *BELTIDA BENGESI 2 OTHERS VS THE ATTORNEY GENERAL* [2023] TZHC 23997

Categories of violations of human dignity are never closed; that is, if Article 12(2) of the Constitution of Tanzania, "*Every person is entitled to recognition and respect for his dignity,*" it is to go by. Courts in Tanzania have helped to discuss the scope of respect for human dignity. Police arrested three women accusing them of prostitution, took their photographs carrying a placard reading "*I am a prostitute*" invoked Article 12 (2).

The three women were arrested at their residential houses and taken to a Police Station. Police did not inform them the offence they had committed to warrant the arrest. Police photographed them while holding placard reading that "I am a prostitute".

The pictures were spread via various social media and thereafter the Petitioners were charged at a Resident Magistrate Court in Dar es Salaam with an offence under Section 176(h) of the Penal Code: "*An able-bodied person who is not engaged in any productive work and has no visible means of subsistence... shall be deemed to be an idle and disorderly person and shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding three months or to both.*"

Substance of their Constitutional Petition in the High Court:

FIRST: The provision of section 176(a), (b), (c), (d), (e), (f), (9), (h), (i) of the Penal Code, which criminalises disorderly person, loitering or soliciting, wandering, begging or gathering alms, wandering or causing a breach of peace or a person who is not engaged in any productive work and has no any visible reasons of subsistence, idle and disorderly persons in the United Republic of Tanzania, is too wide, vague, unclear, without protection against abuse contravening the right to equality, right to privacy and dignity, right to non-



discrimination, right to be heard and fair trial, right to liberty and freedom of movement, right to work and other fundamental freedoms as provided in the Constitution of the United Republic of Tanzania.

SECOND: The provision of section 177(a) 177(a), (b), (c), of the Penal Code which criminalises rogues and vagabonds person in the United Republic of Tanzania, is too wide, vague, unclear, without protection against abuse contravening the right to equality, right to privacy and dignity, right to non-discrimination, right to be heard and fair trial, right to liberty and freedom of movement, right to work and other fundamental freedoms as provided in the Constitution of the United Republic of Tanzania;

THIRD: The provision of Section 177(d) and (e) of the Penal Code CAP. 16 [R. E. 2019] which criminalises people in roads, highways and public premises, also consent to carry out private activities, making provision too wide, vague, unclear, without protection against abuse contravening the right to equality, right to privacy and dignity, right to non-discrimination, right to be heard and fair trial, right to liberty and freedom of movement, right to work and other fundamental freedoms as provided in the Constitution of the United Republic of Tanzania.

The High Court sitting as First Instance Constitutional Court, did not seize the moment to push the frontiers of human dignity, by at least commenting on circulated placards labelling the three women as "Prostitutes."

Although the High Court dismissed the petition, only because the Petitioners did not prove "breach of the constitution is such a grave and a serious manner that cannot be established by a mere inference but by proof beyond reasonable doubt,"—valuable lessons emerged from the Petition:

HOWEVER, there were valuable lessons that emerged from the petition by the three women:

(1)- Highlight the possibility of pursuing constitutional remedy based on human dignity against laws that can potentially infringe on human dignity.

(2)-Plight of the vulnerable groups who live on prostitution, begging.

(3)-The High Court addressed the question "what is human dignity," by citing the answer from Cited its earlier decision in **HASSAN HUSSEIN MUSSA & ANOTHER JAMBO FOODS PRODUCTS CO. LIMITED** [2022] TZHC 9809:

—valuable lesson of DEFINITION OF HUMAN DIGNITY:

"What is human dignity exactly? At its most basic, the concept of human dignity is the belief that all people hold a special value that's tied solely to their humanity. It has nothing to do with their class, race, gender, religion, abilities or any other factor other than them being human. The term "dignity" has evolved over the years. The actual meaning of the word dignity" is established that someone deserves respect regardless of their status.

"It is something all humans are born with. Simply by being human, all people deserve respect. Human rights naturally spring from that dignity. Human dignity in our Jurisdiction is well recognized in our Constitution of the United Republic of Tanzania, (1977)..."

This definition laid a fertile ground for filing future petitions based on human dignity. It creates room for flexibility in future constitutional interpretations to achieve human dignity for those whose vulnerability forces them into begging and prostitution.

**KUSEKWA MELICKI KAZIMOTO VS THE HONOURABLE ATTORNEY GENERAL 2
OTHERS [2024] TZHC 5899**

The case concerned the human dignity of a disabled man married and blessed with nine (9) children, all dependent on him, and who lived by begging. Kusekwa Melicki Kazimoto's disability was caused by polio virus and who had to beg to support his family of nine. He invoked his right to dignity.

He described himself as an illiterate Tanzanian, born in the city of Mwanza City. He travelled 1,146 km to relocate and live gainfully in Dar es Salaam city. He was born normal but while still a child suffered from poliomyelitis, an illness caused by poliovirus that mainly affects nerves in the spinal cord of the brain stem.

The resulting disability prevented him from moving his legs in a normal way or hold things properly with his arms. Despite his disability, he is married to one wife and was blessed with nine (9) issues all dependent on him. To support his family, he begged in various areas in the city of Dar es Salaam. In March 2019, the Ilala Municipal Council passed and published By-laws to control beggars within Ilala Municipality. This affected Kusekwa Melicki Kazimoto.

He petitioned to the constitutional under article 26 (2) of the Constitution of the United Republic of Tanzania arguing that they offend the provisions of Articles 12(2) which provides that "Every person is entitled to recognition and respect for his dignity." The declaration by the by-laws criminalised his status of being a beggar, caused by his disability.

He sought a declaration from High Court sitting as First Instance Constitutional Court that all persons, irrespective of their social status, are human beings deserving of respect and dignity, and that the by-laws undermine the right to dignity and equal protection before the law.



The High Court did not however go into the substantive question whether the by-laws undermined the beggar's right to dignity and equal protection before the law, because the High Court struck out the petition on ground that there were other remedies other than constitutional remedies.

Question here: *Should the High Court have helped by at very least by obiter dicta to persuade future decisions?*

HUMAN DIGNITY AND IMPRISONMENT, CUSTODY OR DETENTIONS

Petitioners in JOSEPH OSMUND MBILINYI & ANOTHER V. COMMISSIONER GENERAL PRISON SERVICE [2022] TZHC 15340 complained over:

- Every time a prison leaves or enters a prison, he is searched, naked and in front of all present.
- All prisoners subjected to HIV tests and results announced to all prisoners.
- Prisoners receive only one pair of prison uniform, forced to stay naked after washing the uniform and waiting to dry.
- Although High Court dismissed the Petition in JOSEPH OSMUND MBILINYI & ANOTHER for lack of proof, questions remained whether prison officers IN REALITY respect and implement the progressive Prison Standing Order 2(1):
- *"All prisoners shall be treated with respect due to their inherent dignity and value as human beings... Staff must treat prisoners at all times with humanity and with regard to their status as individuals. ... Whilst all prisoners, and their property and clothing must be searched, searches must be carried out with dignity and respect for privacy."*



LAW REFORM COMMISSION OF TANZANIA RECONCEPTUALISATION HUMAN DIGNITY AS THE FOCUS OF CRIMINAL LAW AND PROCEDURE

In 1998, Law Reform Commission of Tanzania (LRCT) prepared a Research Report, in essence recommending refocusing of the making of criminal justice to protect personal integrity, dignity and liberty of women. Report made Human dignity central to recommended reforms of criminal law and justice system. The LRCT noted that violence against women in all its manifestations, from wife battery, rape, incest, sexual harassment, sexual slavery, defilement of young girls, indecent assaults, abductions, kidnappings for sexual purposes and kindred offences are basic human dignity violations.

In so far as the Law Reform Commission was concerned, it is not enough for section 55 (1) of the Criminal Procedure Act of Tanzania to declare: "*a person shall, while under restraint, be treated with humanity and with respect for human dignity* [Section 55(1)] and that "*no person shall, while under restraint, be subjected to cruel, inhuman or degrading treatment* [Section 55 (2)," if the practice violates Human Dignity.

CONCLUSION—QUOTES ABOUT HUMAN DIGNITY

<https://www.humanrightscareers.com/issues/quotes-about-human-dignity/>

"What should move us to action is human dignity: the inalienable dignity of the oppressed, but also the dignity of each of us. We lose dignity if we tolerate the intolerable." – **Baltasar Gracian**⁴

"Human rights rest on human dignity. The dignity of man is an ideal worth fighting for and worth dying for." – **Robert C. Maynard**⁵

⁴ [Baltasar Gracian (1601-1658) was a Spanish Jesuit writer, philosopher, and Baroque moralist].

⁵ [Robert C. Maynard was an American journalist, editor, and newspaper publisher].



"When an individual is protesting society's refusal to acknowledge his dignity as a human being, his very act of protest confers dignity on him." – **Bayard Rustin**⁶

"Today, no walls can separate humanitarian or human rights crises in one part of the world from national security crises in another. What begins with the failure to uphold the dignity of one life all too often ends with a calamity for entire nations." – **Kofi Annan**

⁶ [Bayard Rustin was the primary organizer of the March on Washington and an advisor to Martin Luther King Jr.]



THE CONCEPT OF HUMAN DIGNITY IN CONSTITUTIONAL LAW



Presented by Hon. Mr. Naceurdine Saber
Member of the Constitutional Court of Algeria

SALUTATIONS,

Dignity is one of the important principles in constitutional discourse, as it constitutes the basis on which rights and freedoms are built, as it is directly related to human life. Jurists have differed on the difficulty of finding an accurate definition of it, because its concept lies in the sum of rights and freedoms, as its definition has a broad and comprehensive meaning.

In Algeria, the principle of dignity has been included in various constitutions and is considered a fundamental principle on which the State is based. The Algerian Constitutional Court plays an important role in developing Algerian

constitutional jurisprudence regarding the protection of human dignity through the powers assigned to it under the new constitution, and its decisions are considered final and binding on all public authorities, administrative and judicial authorities.

This leads us to ask about the status of human dignity in the Algerian constitution and constitutional jurisprudence, and what are the constitutional guarantees that ensure the protection of human dignity as a constitutional value and fundamental principle, and what is the role of constitutional jurisprudence in establishing that protection?

To answer this problem, we decided to allocate two axes, the first of which deals with human dignity in the current Algerian Constitution of 2020, while the second axis addresses human dignity in Algerian constitutional jurisprudence.

First axis: Human dignity in the Algerian Constitution

The constitutional amendment of 2020 was distinguished by its keenness to allocate an independent chapter for rights and freedoms, which included 44 articles related to fundamental rights and public freedoms. It also highlights the importance of the status that rights enjoy through what the Constitution stipulated in its preamble, where the second paragraph (2) of it states: "The history of (the Algerian people), whose roots extend over thousands of years, is a continuous chain of struggles and jihad, which has always made Algeria the birthplace of freedom and the land of pride and dignity."

Also, paragraphs 14 and 16 of its preambles, which state, respectively:

"The Constitution is above all, and it is the basic law that guarantees individual and collective rights and freedoms, protects the principle of the people's



freedom of choice, legitimises the exercise of powers, and enshrines democratic rotation through periodic, free and fair elections."

"The Algerian people express their adherence to the human rights stipulated in the Universal Declaration of Human Rights of 1948, and the international agreements ratified by Algeria."

Referring to the same document, it becomes clear that my country, Algeria, has constitutionalised the human rights stipulated in the Universal Declaration of Human Rights of 1948, and the international agreements ratified by it, which means that the 2020 Constitution has adopted the principle of human dignity as a constitutional value.

One of the most prominent manifestations of the constitutional commitment to human dignity in the 2020 Constitution is respect for the human being from the beginning of his life to its end, as Article 38 of the Constitution states (The right to life is inherent to the human being, protected by law, and may not be deprived of it except in cases determined by law).

In addition to enshrining the right to equality in accordance with Article 37 thereof, which is the most important right that establishes human dignity, and based on international covenants, dignity is inherent to all members of the human family, and therefore it is a value that cannot be separated from Human beings, as all human beings are free and equal in dignity and rights, and any discrimination in this regard is considered a violation of them.

Referring to the text of Article 37 of the Constitution, we find that it stipulates that all citizens are equal before the law, without discrimination in terms of birth, race, gender, opinion, or any other personal or social circumstance.



Article 35 of the Constitution also confirmed in its second paragraph that the institutions of the Republic aim to ensure the equality of all citizens, male and female, in rights and duties, including political rights, by participating in political life through voting and candidacy and through political parties and civil society institutions or through individual initiatives, in accordance with the provisions of Articles 56 and 57, while preventing any political party from resorting to the use of violence or coercion, regardless of their nature or form. In addition, all citizens are equal in assuming positions and tasks in the state, without any preference based on gender or age, except for considerations of merit and scientific competence (Article 67), on the one hand, and benefiting from the services of public facilities in accordance with the conditions for benefiting from the service, as well as the enjoyment by members of society on an equal footing of all the rights and freedoms of a social and economic nature stipulated by the Constitution in its Articles 60, 61, 62, 63, 64, 66, 69, 70, and 76, on the other hand. The State also ensures equality in access to free education and vocational training and improves their quality, in addition to the civil, political and individual rights guaranteed by the Constitution in Articles 36, 38, 39, 41, 42, 44, 45, 46, 47, 48, 49, 51, 52, 53 and 55, which fall within the concept of social dignity and the provision of the minimum means to ensure a dignified existence for the individual.

In this context, the 2020 Constitution guarantees:

1. The right to work and related rights, such as wages, social security, rest, protection, security and hygiene during work, with the State working to promote professionalisation and develop policies to help create jobs and prevent child labor (Articles 66, 69 and 70).
2. Exercising the right to unionise and the right to strike as determined by law,
3. The State ensures, in accordance with Articles 62, 63 and 64, that citizens are able to obtain potable drinking water.



4. Health care or coverage, especially for the needy and prevention and control of infectious and epidemic diseases,
5. Obtaining housing, especially for disadvantaged groups, in addition to the right to a healthy environment within the framework of sustainable development,
6. The public authorities work to protect consumers, in a way that guarantees them security, safety, health and their economic rights.
7. The right to litigation represents a basic constitutional guarantee to protect the right to human dignity and all other rights and freedoms.

The 2020 Constitution has strengthened the independence of the judiciary and the judge and made him subject only to the law - by constitutionalising the formation of the Supreme Council of judges only elected by their colleagues at all levels of litigation, and considered it (the Supreme Judicial Council) a constitutional institution headed by the President of the Republic in his capacity as the first judge in the country and the President of the Supreme Court deputises him instead of the Minister of Justice (a member of the government and affiliated with the executive authority) as was the case in previous constitutions - which allows the judiciary to perform its role in protecting human dignity as a constitutional value in the most complete manner, which is what Article 164 of the Constitution explicitly stipulated on the judiciary's protection of freedoms and citizens' rights, in addition to guaranteeing the principle of litigation in two levels and enshrining the presumption of innocence and subjecting criminal penalties to the principles of legality and personality, in addition to affirming the protection of the litigant from any arbitrariness issued by the judge, and his (the litigant's) right to defense and guaranteeing it in criminal cases, as well as the benefit of needy persons from the right In legal aid, in addition to dedicating the lawyer's benefit from legal guarantees that guarantee him protection from all forms of pressure, and enable him to practice his profession with complete freedom within the framework of the law (Articles 163, 164, 167, 171, 174, 175, 176 and 177).



On the other hand, the protection of the psychological and physical integrity of the individual received important constitutional attention due to its connection to the principle of human dignity. This protection was embodied in many articles, especially Articles 39, 40, 41, 42, 43, 44, 45 and 46, where the state guarantees that human dignity is not violated and prohibits any physical or moral violence, or any violation of dignity, and emphasises that the law punishes torture, cruel, inhuman or degrading treatment and human trafficking, with the establishment of guarantees to protect detainees for investigation by preventing the prosecution, arrest or detention of any person except within the conditions specified by law and in accordance with the forms stipulated therein, with the constitutionalisation of the exceptional nature of the temporary detention procedure, provided that the law determines its reasons, duration and conditions for its extension, and the law punishes acts and actions of arbitrary detention, and grants the right to compensation to every person who was subject to arbitrary temporary detention or judicial error after obtaining acquittal or the absence of a case issued by the investigating authorities. In the same context, Article 47 affirmed the right to protect the privacy and honor of individuals, and the right to the confidentiality of private correspondence and communications in any form, which may not be violated except by a reasoned order from the judicial authority. It also established the protection of individuals when processing personal data, and that the law punishes any violation of these rights.

The 2020 Constitution also included essential additions related primarily to guaranteeing:

1. Freedom of assembly and peaceful demonstration,
2. The right to establish associations that are exercised once they are authorised, and preventing their dissolution except by a judicial decision,
3. Freedom of the press is guaranteed as long as it does not affect the dignity, freedoms and rights of others, with a ban on the dissemination



of hate speech and discrimination, and the same applies to freedom of intellectual creativity, which the Constitution restricted to not violating the dignity of individuals (Articles 52, 53, 54 and 74).

4. The constitutional founder also allocated a number of rights and freedoms to women, children, youth, families, deprived groups, the elderly and people with special needs, while emphasising the State's work to ensure the integration of deprived groups with special needs into social life, in order to ensure the actual enshrinement of these rights and freedoms.
5. Respecting the rights of citizens abroad (Articles 81, 29 of the Constitution), as well as the Algerian community present in all countries of the world.

As for talking about the general constitutional guarantees to protect human dignity, they are enshrined in the 2020 Constitution and are evident in the nature of the constitutional document itself in terms of:

1. The Constitution is codified, along with the constitutional principles approved by the constitutional founder, perhaps the most important of which is the rule of law (Article 34 of the Constitution in its first paragraph and Articles 26, 37, 163, 164 and 165 of the Constitution).
2. Separation of powers (Paragraph 15 of the Preamble to the Constitution, Article 16 of the Constitution)
3. Constitutional oversight and the establishment of the Constitutional Court. (Articles 185 to 198 of the Constitution), with a neutral composition, most of whom are university professors specializing in constitutional law and elected judges with no less than 20 years of field experience, unlike the previous (composition) of the Constitutional Council.
4. Establishing an independent body called the National Council for Human Rights, which is an advisory body to the President of the Republic and enjoys administrative and financial independence. The Council



undertakes the task of oversight, early warning and evaluation in the field of respect for human rights (Articles 212, 211 of the Constitution), including human dignity.

THE SECOND AXIS: HUMAN DIGNITY IN ALGERIAN CONSTITUTIONAL JURISPRUDENCE

The mechanisms for protecting human dignity as a constitutional value are multiple in the Algerian Constitutional Court, including:

- Its jurisdiction in the field of constitutional oversight of treaties, agreements, laws, orders, regulations and compliance with treaties, oversight of the conformity of organic laws and the internal regulations of both chambers of parliament with the constitution (Article 03 of the system specifying the rules of work of the Constitutional Court), and it cancels any text that conflicts with the provisions of the constitution, including provisions related to human dignity.
- As for the field of interpretation, the Constitutional Court has one or more constitutional provisions (Article 192 of the Constitution) in accordance with the provisions of the constitution, including provisions on human dignity when notified by the notification bodies specified in the constitution, and it also has jurisdiction to consider the plea of unconstitutionality of laws and regulations (Article 195 of the Constitution) to protect human dignity.
- In the field of elections and referendums, the Constitutional Court shall adjudicate on the appeals it receives in accordance with Article 191 of the Constitution, to protect the rights of candidates, ensure respect for the principles of equality and justice, and maintain the rule of law.
- The Constitutional Court cooperates with national and international bodies concerned with human rights, in order to exchange expertise and information and cooperate in the field of protecting human dignity.



- The Constitutional Court organises international and national forums and seminars aimed at raising awareness about the importance of human dignity and its protection.
- Finally, the Constitutional Court issues final and binding decisions for all public authorities, administrative and judicial authorities (Article 198 of the Constitution), including human dignity.
- Including human dignity.

Among the most important decisions and opinions of the Algerian Constitutional Court that contributed to protecting human dignity:

- A decision related to protecting the right to defense and thus protecting human dignity, represented by the principle of litigation in two stages,
- The principle of the presumption of innocence,
- The State's protection of youth from social ills, and the guarantees guaranteed for citizens' rights and freedoms established in the constitution,
- The right to establish associations,
- Protection of children's rights.

CONCLUSION

Human dignity in my country has an intrinsic value that cannot be compromised and must be preserved at all times and in all circumstances, and the Algerian constitution represents an important tool to ensure its preservation and protection. Considering that the Algerian Constitutional Court is an independent and neutral institution that ensures respect for the Constitution, through its powers of constitutional oversight, constitutional compliance oversight, the mechanism for challenging unconstitutionality, adjudicating disputes that may arise between constitutional authorities, interpreting the provisions of the Constitution, and finally the appeals it receives regarding the



provisional results of the presidential elections, legislative elections and referendums, and announcing the final results of all these operations.

Finally, Algeria, since its independence, has made and is making great efforts to join international human rights instruments with their various contents, perhaps the most prominent of which is the ratification of the Universal Declaration of Human Rights in 1963 and the accession to the two international covenants in 1989 and many other international instruments that there is not enough time to mention them all, not only that, but it is also trying hard to empty and embody the contents of these instruments in its relevant legislation.

May God guide us all to what is best for our countries and our continent.

I thank you all for your kind attention and peace be upon you and God's mercy and blessings.



THE CONCEPT OF HUMAN DIGNITY IN CONSTITUTIONAL LAW



Presented by Hon. Mrs. Aminata Ly

Member of the Constitutional Council of Senegal

SALUTATIONS,

On behalf of the President of the Constitutional Council of Senegal, Mr. Mamadou Badio Camara, I would like to thank the CJCA, the authorities and the people of Zimbabwe for their hospitality. My colleague from the Constitutional Council of Senegal, Mr. Mbake Ndiaye, is the winner of the CJCA's Thesis Prize and will receive his award tomorrow.

I've been asked to develop the theme of human dignity as a fundamental constitutional value and principle, and I'll try to keep my presentation to the 5 minutes allotted." The notion of human dignity is first and foremost invoked in

support of rights and freedoms, but it also serves to limit those same rights and freedoms, which can be restricted by law and by judges in the name of safeguarding that same human dignity.

In the name of human dignity, article 7 of the Senegalese Constitution enshrines a set of inviolable rights such as the right to life, the right to personal integrity, the right not to be subjected to torture, punishment or unhuman or degrading treatment, and the right not to be forced into slavery or forced labor.

The African Charter on Human and Peoples' Rights of 27 June 1981, an integral part of the Senegalese Constitution, affirms in Article 3 of its preamble that freedom, equality, justice and dignity are essential objectives for the realisation of the legitimate aspirations of the African peoples. Added to this are the provisions of articles 5 and 19 of the same charter. The Senegalese Constitution, therefore, provides the judiciary, including the Constitutional Council, with sources of protection for human dignity. As for judicial and administrative judges, they hear appeals in the context of the implementation of the principles of human dignity rights.

The Senegalese Constitutional Council has ruled that other rights and freedoms can be restricted by the legislator for reasons of public order, public safety or health, when the aim is to avert a collective danger, to protect people in mortal danger or to protect young people in danger. This decision by the High Court, which refers to article 16 of the Constitution, reflects a perfect implementation of the constitutional text and the intangible principles of the right to human dignity. Respect for human dignity therefore applies to all public authorities, whether they are concerned with the dignity of the individual human being or as a member of a specific human group. However, some freedoms can be restricted by the judge in the name of safeguarding human dignity.



Senegalese judges have thus ruled that a newspaper's front-page photo of the President of the Republic's nocturnal escapades violates the honour and dignity of the human person. In this case, freedom of expression has been restricted in the name of respect for human dignity.

Thank you for your attention.



THE CONCEPT OF HUMAN DIGNITY IN CONSTITUTIONAL LAW



**Presented by Hon. Mr. Sergei Kniazev
Judge of the Constitutional Court of Russia**

SALUTATIONS,

The Seventh Congress of the CCJA is an important event not only to the members of the Conference, but to constitutional review bodies that are observers to the Conference, as well as to our colleagues throughout the world who are interested in promotion of cooperation and equal dialogue between constitutional justice bodies.

I would like to seize this opportunity and once again to thank the Constitutional Court of Zimbabwe and his Excellency Mr. President Luke Malaba for the

hospitality and great organisation of this event. Turning to the theme of our session, I would first like to note that the term “dignity” is used in the Constitution of the Russian Federation in various contexts.

Thus, the term “dignity” in Article 21 of the Constitution points to its fundamental importance in relations between individual and the State, and also associates it with physical inviolability. The first part of Article 21 of the Constitution states: **human dignity** shall be protected by the State. Nothing may serve as a basis for its derogation.

The second part of this Article establishes that nobody should be subjected to torture, violence, or other severe or humiliating treatment or punishment; nobody may be subjected to medical, scientific or other experiments without voluntary consent. Therefore, these constitutional provisions reflect both the right of person to dignity, and corresponding obligations of the state: to refrain from derogation of human dignity, and to exercise protection of human dignity from any encroachment.

There are similar provisions in international human rights sources: for example, Article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant for Civil and Political Rights proclaim that no one should be subjected to degrading treatment or punishment. Note that the provisions of Article 21 of the Constitution on the obligation to protect dignity became the starting point for development of our Court’s practice in this sphere. Recognition of everyone’s dignity establishes a whole range of requirements to public authorities as regards respect of dignity of person, protection of human from any forms of its derogation on the part of anyone, including the State itself.

The authorities must guarantee that people in all their relations with the State shall not be an object of the State’s activities, but an equal subject. (*Judgment*



of 3 May 1995 No. 4-П). Therefore, natural persons can challenge the decisions and actions or omissions of state authorities, local authorities and officials in courts. Such a challenge may seek to protect not only individual interest related to restoration of one's violated rights, but also public interest aimed to ensure legality and constitutional order (*Judgment of 6 July 1998 No 21-П*). But this aspect of dignity is not exhaustive. The Constitution of the Russian Federation also enshrines the socio-economic component of dignity. Russia is a social state whose policy is aimed at creating conditions ensuring a **worthy life** and a free development of man (part one of Article 7).

Let me note that in Russian the term commonly translated as "worthy life" (достойная жизнь) has the same root of word as the term "dignity" (достоинство). Additionally, in Russia protection of citizen's **dignity** and respect of a working man shall be guaranteed (Article 75.1 of the Constitution).

Among international documents also giving attention to this aspect one can note Article 22 of the Universal Declaration of Human Rights according to which everyone, as a member of society, has the right to social security and is entitled to realisation of the economic, social and cultural rights indispensable for his dignity and the free development of his personality, and also its Article 25 on the right to adequate standard of living.

Distinctive from international recommendations presented by the Universal Declaration, the constitutional rights are developed by the practice of the Constitutional Court. In this regard, the Constitutional Court noted that while there is sufficient discretion of the legislator, the choice of directions and ways of realisation of state social policy should be based on constitutional recognition of human, his rights and freedoms as supreme value.

Protection of health must be guaranteed as a value without which many other goods and values lose their meaning. Without it, it is impossible to create



conditions for mutual trust of State and society, for social partnership and social solidarity (*Judgment of 26 September 2024 No. 41-П* and others). Therefore, the use of the term “dignity” both in the Constitution and in constitutional judicial practice demonstrates that this term has various meanings.

As a constitutional value, human dignity affects legal regulation both as a separate constitutional right and as a principle that creates special guarantee of other human rights and freedoms. The complex nature of the term “dignity” in its interpretation by the Constitutional Court was extensively presented in the information prepared by its Secretariat in response to the Questionnaire of the CJCA.

Thank you for your attention!



THE FUNDAMENTAL MEANING OF HUMAN DIGNITY AS A CONSTITUTIONAL VALUE AND PRINCIPLE



**Presentation by Hon. Mr. José Manuel Avelino de Pina Delgado
President of The Constitutional Court of Carbo Verde**

SALUTATIONS,

Thank you, Madam Moderator, for giving me the floor, in the use of which I congratulate you and all colleagues, delegates and guests, present here, in accordance with their respective protocol positions. I leave, however, special words of appreciation and gratitude to our hosts at the Conference of African Constitutional Jurisdictions and the Constitutional Court of Zimbabwe, for the hospitality and reception they reserved for us in this place blessed by nature.

I will not take more than the seven minutes given to us to make a general presentation on the three levels of standardisation of human dignity that are relevant to characterise the integrated approach of the Constitutional Court of Cape Verde in relation to this matter: the universal, the regional and the national.

The dignity of abstract man as a result of its proclamation in the Preamble and Article 1 of the Universal Declaration of Human Rights, dignity has as its primary recipient as man, abstractly considered, and, as such, unconditioned by time, space or his circumstances. There is nothing to point to this moral and legal conception as a necessary starting point. Ultimately, all of us, here and there, South and North, East or West, we integrate the great human civilization, as members of a kind of idealised maximum civitas.

THE VALUE OF DIGNITY IN THE AFRICAN REGIONAL SYSTEM

However, if the theoretical support of human dignity cannot be detached from this essential core, it will not be fully fulfilled if we do not densify it based on the different levels of belonging that characterise this man and that reflect his particularities. In this case, of interest us the conception of human dignity in the African regional system, about which I will make brief considerations.

Dignity as an objective value of the regional legal system arises from the reference made in the Preamble of the African Charter on Human and Peoples' Rights, based on the OAU Charter, to the values of freedom, equality, justice and dignity, dignity which covers not only the African man, but also the African peoples. As a value, dignity is simultaneously the foundation and the purpose of the legal system. The African Commission on Human Rights and Povos called it, in Communication 318/06, the "soul of the African rights protection system."



Based on these premises, to which are added those that represent continental thought on the nature of African man and his human condition, therefore, contextualised and subject to concrete historical challenges, the concept of human dignity in the African system of rights protection has to be necessarily comprehensive and integrative.

One that involves the inference of the intrinsic value of man, but not considered in his individuality, but as part of a civilization that also bears equal relevance when compared to its counterparts. It is a dignity that is not only intended to recognise the value special of the individual who has strayed from his culture, but that of a person that interacts within a group. Furthermore, it is a notion that also has at its heart the dignity of the community, of which it is inseparable. Not only due to the foundational reason of there being an umbilical connection between man and his community in Africa, but also pragmatically, because, for the drafters of the Charter, aware that, in part, the history of the dehumanisation of African men resulted from the subordination of their traditions, the recognition of their dignity would equally depend on the rescue of the civilizational merits of all the peoples of the continent.

The normative, international or constitutional concretisation of the value of human dignity, despite depending on the consideration of moral foundations, follows its own criteria affirmed by concrete legal indications. In this sense, it is defined by the normative effects of the expression “all forms of exploitation and degradation of man” recovered by article 5 of the Charter, which is decisive in giving substance to the concept. Thus, clearly encompassing a prohibition on the instrumentalisation of people by the State or other individuals resulting from the term “exploitation”, and the prohibition of human destitution formulated by the word “degradation”, which covers any situation in which individual existence falls, objectively, below levels considered by a given concrete society, at a given moment in its historical evolution, economic, social and cultural, as minimums for a dignified existence.



But such notions also depend on considering the pluralism of identities that marks our continent, considering the diverse traditions that make up the mosaic of people, cultures and national values in this region. Thus, all constitutional jurisdictions, in addition to operating in a universal dimension, also operate within a framework of continental values shared and, above all, in the context of their own national constitutional identity.

In the case of Cape Verde, the Preamble is the segment of the 1992 Constitution that brings together the values that represent the constitutional identity of the Cape Verdean nation, in the sense of being a set of shared cultural, ethical and political justice elements, which are characteristic of an African Creole population, the result of centuries of miscegenation and cultural hybridisation, in a small island territory. It proclaims that the dignity of the human person is “an absolute value that overrides the State itself”.

As a constitutional value, human dignity can be protected through various procedural mechanisms in Cape Verde, falling within a mixed system of control, in a diffuse manner, to any court, with the possibility of appeal to the Constitutional Court, and in a concentrated manner, to this same Court when requested by one of the six entities that have procedural legitimacy to take actions to verify constitutional compatibility.

Specifically, the Constitutional Court, which considers itself the guarantor of Cape Verde's constitutional identity, within the scope of its vast jurisdiction, has already decided dozens of cases involving human dignity, always trying, without denying the universal core of the concept, necessarily minimalist, root it in local history and traditions. Thus, appealing not only to tests inspired by authors such as Cicero, Mirandola and Aquino, based on the natural capabilities and qualities of the human being, or Kant, accentuating their autonomy and the prohibition of their objectification, but also resorting to contributions that local thinkers have been, since the 19th century, defining its



contextual content through denunciations of social evils that afflicted the archipelago, such as slavery, the discrimination of locals in the face of metropolitans, the disregard of colonial authorities towards famines that cyclically affected the Islands and, finally, the non-recognition of their right to self-determination, respectively by José Evaristo de Macedo, Eugénio Tavares, Pedro Monteiro Cardoso, Luiz Loff de Vasconcelos and Amílcar Cabral. From the perspective of ensuring individual protection and social justice for all.

Jurisprudence that has not developed further because the STF, to avoid the difficulties of operating with plastic and disputed concepts, normally uses the value of dignity only in cases where there are no more specific norms applicable to a given situation, and strictly when the act does not only result in violations of subjective rights, but the denial of the humanity of the person or a group of people considered, as stated in the recent decision *Markovic v. Federal Supreme Court*, September 2024.

Thank you for your attention.



THE FUNDAMENTAL MEANING OF HUMAN DIGNITY AS A CONSTITUTIONAL VALUE AND PRINCIPLE



Presented by Hon. Mr. Javier Cremades
President of the World Association of Jurists

SALUTATIONS,

The Constitution is a permanent normative framework for the three branches of power, namely the executive, for the legislature and the court. Indeed, as we heard this morning, constitutions are living instruments in the hands of the current generation to not only protect their own human dignity, but also to protect the future generation's dignity. Therefore, the constitutions are there to be permanent.

What is happening today in our western societies is in my view, a threat to the normative value of the constitution through different ways. One of the ways is to disconnect the community of the normative value of the constitution and

you do so by calling as many people to the judges, particularly in the Supreme Court and the Constitutional Court, politicians with robes and eroding the faith or confidence of the people in the work of the judges explaining that they have ideological approaches or that they are behaving as the other power because they do not feel comfortable with the control that courts in the name of the constitution is imposing.

Let me also share with you two other ways that are threatening the protection that the rule of law provides for human dignity. One is confrontation polarisation. So, we have the rule of law which states that we have constitutions in order to live in peace. This peace is particularly threatened. Many people in the first democracy or the old democracy with the oldest constitution have already started to speak about the civil wars. It is not a war in terms of the 19th century wars, but it is a real civil disconnect amongst fellow citizens.

Another threat that is really posing a risk to human dignity is the truth. Our system is a sophisticated system that needs the support and participation of the people. The populace sovereignty needs real information to be freely executed and today, after the intimidation of the media, the digitalisation of the conversation has become very difficult for people to get the facts and that is getting our systems irrational. If the systems become irrational and the people become disconnected and the courts are no longer respected, then that is something we need to work on because the system will not be sustainable.

Let me finish with one book and one idea. The book is Mary- Ann Glendon's story. Mary-Ann Glendon is a well-known Harvard Law School professor, and she wrote the book, *A World Made New*, where she describes the process for a universal declaration of human rights. That was done with the already existing cold war, the final meeting in Paris in 1948 where the declaration was approved. The two big powers were already sitting and accusing each other



of threatening each other so they were not allying but confronting each other. That time we managed to define and establish a standard for human dignity. If you ask me what is the only living instrument that humanity has in its hands, it is probably this universal declaration of human rights that was once approved by different cultures, political systems and regions and continents of this earth. Finally, a quote. We are relatively close to Nelson Mandela's birth place and hometown and country. One of his famous phrases was "The most powerful weapon to improve this world is education." I think this meeting is a great opportunity to learn from others like what the Japanese did after the second world war. They were beaten and destroyed and needed to recover. Something they did was create the quality circles. The quality circles were a way not to focus on what was not working, they knew particularly well what was not working. They focused on what was working and people were sharing the best practices. That is what we are doing here, and I really appreciate it and I really thank you.

Thank you very much.



THE FUNDAMENTAL MEANING OF HUMAN DIGNITY AS A CONSTITUTIONAL VALUE AND PRINCIPLE



Presented by Hon. Mrs. Fatimata Sanou Touré
Member of the Constitutional Council of Burkina Faso

SALUTATIONS,

On behalf of the President of the Constitutional Council of Burkina Faso, Maître Barthélémy Terry, and on my own behalf, I would also like to thank the President of the Supreme Court of Zimbabwe and the President of the CJCA not only for the warm welcome, but also for the accommodation provided to us since our arrival in this warm environment of Zimbabwe.

To introduce my remarks, I would like to point out that human dignity is the principle according to which a person should never be treated as an object or a means, but as an individual entity, deserving unconditional respect regardless of age, sex, physical or mental health, social condition, religion or ethnicity. As we see the importance of this notion, there is even a normative

framework for the application of the principle, with several texts and laws enshrining the principles at an international, regional and even national level, i.e. in our constitutions. At international level, the Declaration of Philadelphia of May 10, 1944, which defined the aims and objectives of the International Labor Organization, was the first to enshrine these principles, followed by the Universal Declaration of Human Rights of 1948, which recognised that human beings have inherent dignity and that they are born free and equal in rights and dignity (Article 1). This is the twin covenants of 1966 and also the Convention on Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, which was adopted in Europe in April 1997. At regional level, we also have instructions and instruments that have enshrined these principles and their protection. Without going into detail, we can mention the African Charter on Human and People's Rights and the Protocol to the said Charter.

At national level, as we have heard since this morning, we have the constitutions of our various countries. It's important to note that the texts I have just described have been ratified by our various countries and are part of the domestic legal system. So, to give a meaning to human dignity and to stick to the theme, I would say that human dignity is like an indemonstrable and interrogable action, I would even say indissoluble. Why an indemonstrable principle? Because the principle of human dignity in itself seems incontestable: we can't demonstrate human worth or define it, but we can only show it.

The principle of dignity is not only indisputable, it is also a fundamental principle that no derogation of the human person is possible, which makes the legal concept of dignity an entirely separate concept in law, and one that must be firmly maintained as such. Dignity is in fact a respect that we owe to ourselves, so as the famous philosopher Conte said: "You must treat humanity as well as yourself. You have to treat humanity as well as yourself". Always at the same time as an end and never only as a means. The principle of the dignity of the



human person must remain subsidiary, i.e. it must be used when no other notion or more precise rule can be applied.

As been pointed out here by other speakers, that it is a principle that is difficult to define, the principle of dignity is used to state how human beings should be treated and how they should not be treated, which means humanely, i.e. as a human being. The implementation of this dignity - the right to dignity - is absolutely restrictive. We can say that this right to dignity is restrictive and absolute. Human dignity has never been the object of a restriction in the name of another right. We have found an abundance of jurisprudence on the subject by comparing it with French law, where the notion has been applied.

In Burkina Faso, until recently, the Constitution did not allow citizens to appeal directly to the courts, but now it is possible. The constitutional judge in Burkina Faso is expected to follow this path.

I said thank you.



THE FUNDAMENTAL MEANING OF HUMAN DIGNITY AS A CONSTITUTIONAL VALUE AND PRINCIPLE



**Presented by Hon. Mrs. Susan Njoki Ndungu
Justice of the Supreme Court of Kenya**

SALUTATIONS,

I will try to be very brief, and I will not approach this question in a scholarly manner, but rather in a more practical approach as to how we have handled this in the Republic of Kenya. In 2010 the Kenyans went to a referendum, and they adopted a Constitution which was drafted by the Committee of Experts, and I was one of the Experts that drafted the Constitution. This Constitution clearly provides for the right to human dignity, stating that every person has the right to human dignity and the right to have that dignity respected and protected.

Kenya has signed several treaties on the protection of human rights and have been adopted as part of the Kenyan law. When we look at a human right claim as Judges, we not only look at the international law but also the national treaties, Constitution and any other domestic laws. The Constitution states specifically, that these national values shall bid all State organs, all state officers, public officers and all persons. We have an extensive bill of rights that provides for 30 rights and freedoms. In the beginning of the bill of rights, we have the preamble that recognises the preservation of the right to human dignity, of individuals and communities. It states that *"a court shall promote human dignity and the State should observe, respect, protect the rights and fundamental freedoms.*

Specifically mentioned are the rights of persons of with disabilities, the elderly and the rights of children. Do we have a barometer and how do we measure, one of the ways of measuring is how the courts are treating these claims. They are number of cases on different claims. One of the cases, was a lot of fire burning in secondary school and their pictures were taken by the social media and it printed their pictures in the newspapers, and we held that the publishing the identity of minors in the public violates their right to human dignity.

The Supreme court also found the violation of the right to human dignity in evictions, whether the evictions are done by the State, in the eviction of members on their government lands or they are done by private individuals on their private lands. Both the State and the private individuals have to remove, them in manner that preserves the human dignity, they cannot be removed at night and without sufficient notice.

We also had a matter in the High Court relating to a person who was intersex and had government documents listing them as a male and they wanted to attain government documents and to be registered as female. The High Court held that, *"it violated her right to dignity, as the refusal to grant those*



documents violated her right to choose, the sexuality that would be wanted to be included on her governmental documents.”

We also had a case where persons living with HIV/AIDS sued a government provisions, suing them that it denied them the ability to get cheaper and affordable medicines for HIV and that the denial is a violation of their human dignity and the law was in violation of the Constitution. We also found that prisoners ought to be allowed to have a leave of absence, to attend the burial of a close family relative or family member that would have passed away upon request. As to deny so would be in tandem to denying the right to dignity. Further the High Court also held that were you sterilise a woman without her consent, this woman had gone to have a baby in hospital, and she was HIV positive, the hospital then after she gave birth, they did a tubulation on her without her consent, and the courts confirmed that sterilising a woman without her consent, is violating her right to dignity.

We have various other cases on how long you stay in police custody. But more importantly for us, it seems as if it is working, the only challenge we have is whether it is correct that the courts should protect the right, but how do citizens access the courts. The responsibility then lies with the Judiciary, to ensure that those have their right violated, are able to access the court and access how they can claim their rights. In Kenya we are doing this through the small claims courts, and we are trying to make it inexpensive. But in the end, it is the rights of the vulnerable and poor which we need to protect and to ensure how they access justice.

Thank you very much.



2ND PANEL

"Human dignity as a fundamental human right and freedom"



HUMAN DIGNITY AND FUNDAMENTAL RIGHTS AND FREEDOMS



Presented by Hon. Mrs. Laurinda Cardoso
President of the Constitutional Court of Angola

SALUTATIONS,

"I was a person with dignity and self-respect, and I shouldn't consider myself worse than anyone else just because I was black."

Rosa Parks

It is with great enthusiasm that we participate in this 7th Congress of our Conference of Constitutional Jurisdictions of Africa, on the topic "**The human dignity as a fundamental right and freedom**", in which we are all invited to reflect, especially considering the alarming situations of war, increasingly

widespread in various latitudes of the globe, and the systematic violations of fundamental rights, ostensible or veiled, to which many peoples are subjected today. Regarding the subject and obviously with reference to the reality of Angola's constitutional jurisdiction, Article 1 of the Constitution of the Republic of Angola (CRA) states "Angola is a sovereign and independent Republic, based on the DIGNITY OF THE HUMAN PERSON (...).

In analysis, we can say that the matrix norm referred to above, whether in the strict latitude of the law, as well as in the latitude of a fundamental institution prior to it, offers us a tripartite view of the **Human Dignity**, which can be unfolded in the following perspectives:

LEGAL-CONSTITUTIONAL PERSPECTIVE

The human dignity is a core principle of the Angolan legal system, presenting itself not only as a fundamental value, but as a true norm of our constitutional system. In the Angolan constitutional structure, this principle finds its maximum expression in **Article 1** of the Constitution, functioning as a true legitimation clause of the entire subsequent legal order.

From a technical-legal point of view, we can identify three essential dimensions:

1. Negative dimension: prohibition of rape;
2. Positive dimension: promotion and protection;
3. Prestational dimension: guaranteeing material conditions.

Its legal nature is presented simultaneously as:

- Fundamental principle;
- Constitutional value;
- Autonomous fundamental right.



LEGAL AND POLITICAL PERSPECTIVE

As a fundamental political value, the human dignity is presented as a cornerstone of the Rule of Law, constituting simultaneously as:

- Limit to the action of the State;
- End of state activity;
- Criterion for legitimizing political power.

In political *praxis*, this principle is manifested through:

- Social policies;
- Legislative;
- Government/administrative action;
- State Budget Implementation Rules.

It is true that its implementation requires the State:

- Equitable distribution of resources;
- Guarantee of existential minimums;
- Promotion of equal opportunities;
- Protection of the most vulnerable.

In summary, the role of the rule of law or, as also JJ GOMES CANOTILHO calls it, constitutional state, is also to protect the freedom of the citizen or to protect the citizen against the poor performance of the State, guaranteeing public welfare.

HUMANISTIC PERSPECTIVE

From the humanist point of view, the human dignity transcends its juridical-political dimension, presenting itself as an intrinsic and inalienable value of the human being.

This perspective is based on three fundamental pillars:

- Recognition of individuality;

- Respect for autonomy (self-determination);
- Guarantee of personal fulfillment.

The humanist perspective recognizes that

- Each human being is unique and unrepeatable;
- Dignity is prior to Law;
- The person is an end in himself;
- Human life has absolute value.

The principle of the human dignity plays a fundamental role in the interpretation and integration of other fundamental rights. Fundamental rights and human rights are intrinsically related, which is why the Constitution provides, in Article 26(2), that the constitutional and legal precepts relating to fundamental rights must be interpreted and integrated in accordance with the UDHR (Universal Declaration of Human Rights), ACHPR (African Charter on Human and Peoples' Rights) and international treaties on the matter ratified by Angola. This principle also guides judicial decisions and reflects the commitment to justice, equality and respect for humanity. Moving from a more theoretical and principled level to a more practical approach, please allow us to look at some of the jurisprudence of the Constitutional Court of Angola. See, for example, the following Rulings:

Judgment no. 122/2010⁷

The defendants were forced to wear the prison uniform during the trial hearing and the images were broadcast live on national television. On appeal, the Constitutional Court ruled that the imposition of the clothing and the way the defendants were treated resulted in a manifest and reprehensible offence against their dignity and personal integrity.

⁷ Available in <https://www.tribunalconstitucional.ao/media/lljlswo/122.pdf>



Judgment no. 379/2015⁸

In this ruling, the Constitutional Court reviewed an appeal against the contested decision that had dismissed a *habeas corpus* petition, and although it denied the appeal on the understanding that the appealed decision did not violate the appellants' fundamental rights, it nevertheless ruled that the appellants' imprisonment should cease as soon as the Law on Precautionary Measures in Criminal Proceedings (which was in *vacatio legis*) came into force, also by virtue of the principle of retroactive application of the most favourable law.

Judgment no. 887/2024⁹

Since the right to individual liberty is at stake, understood as a corollary of the principle of human dignity, the Constitutional Court ruled that the appellant's liberty should be restored, considering that there had been a violation of the principles of criminal legality, subsidiarity and freedom, by applying the precautionary measure of pre-trial detention to the defendant, without the assumptions of adequacy, necessity and proportionality of the measure in relation to the crime in question having been met in this case.

Judgment no. 884/2023¹⁰

In the ruling in question, the Constitutional Court considered that 'The prohibition of multiple sentences in Article 65 is linked to the human dignity and the principle of the rule of law. In its scope of application, the protection of the human dignity is specified mainly in articles 67, 72 and 174, all from CRA.' From the jurisprudential record in the application of the principle of **human dignity**,

⁸ Available in <https://www.tribunalconstitucional.ao/media/ulpnrqyw/379.pdf>

⁹ Available in <https://www.tribunalconstitucional.ao/media/4vwhixix/ac%C3%B3rd%C3%A3o-887.pdf>

¹⁰ Available in <https://www.tribunalconstitucional.ao/media/oiko1dgg/ac%C3%B3rd%C3%A3o-884.pdf>



we feel comfortable in stating that the Constitutional Court of Angola plays a crucial role in attributing meaning and importance to the recognition of human dignity as a fundamental human right.

Based on the recognition of the truth affirmed by NELSON MANDELA that 'Education is the most powerful weapon you can use to change the world', it has not only been at the judicial level that the Constitutional Court has played a central role in defining, protecting and promoting human dignity as a fundamental right, ensuring that this principle is realised in legal and social practice. In this regard, the Constitutional Court of Angola has made a concerted effort to promote citizens' constitutional literacy, promoting the translation of the constitutional text into national languages, creating content for children and holding meetings with communities (*Ondjango*), thus recognising that the first step towards respect for the dignity of the person is knowledge of their rights and duties.

CONCLUSION

It is remarkable that in the Angolan legal panorama the different perspectives on human dignity mentioned above do not differ significantly. This is justified by the fact that, as already mentioned, it is the basis and foundation of the State. Therefore, the State cannot fail to protect human beings, preserving their identity, integrity and dignity. Therefore, the dignity of the human person is inviolable and constitutes the foundation of the CRA. Each case or law has its specificity. However, respect for the dignity of the human person is a guideline to determine the scope of constitutional rights, it serves as a starting point and hermeneutic limit to ensure the other rights, since human dignity concretises the value of the human person as the ultimate end to be safeguarded by the law.



We ended up inspired by IMMANUEL KANT, when he said that 'Everything has its value' and that the 'human being, however, has dignity'. Well, I would say that human beings are their own value, which is what matters most! So, talking about human beings and dignity should mean the same thing.

Thank you very much for listening.



HUMAN DIGNITY AND FUNDAMENTAL RIGHTS AND FREEDOMS



Presented By Hon. Mr. Kadir Ozkaya
President of the Constitutional Court of Türkiye

SALUTATIONS,

I would like to extend my heartfelt thanks to Mr. L. MALABA, Chief Justice of the Constitutional Court and Supreme Court of Zimbabwe, which holds the term presidency of the Conference of Constitutional Jurisdictions of Africa (CJCA).

It is a great pleasure to express my sincere congratulation to Mr. MALABA, the esteemed members of the Court, and all those who have contributed to this successful and marvellous organisation. I would also like to express my sincere gratitude to Mr. Musa Laraba, Permanent Secretary General of the CJCA.

I am fully convinced that the 7th Congress of the CJCA would yield outstanding and beneficial outcomes not only for the sake of cooperation, but also in the academic sense. I would like to express my gratitude, once again, for the

opportunity given to us to represent the Turkish Constitutional Court in this eminent organisation.

Today, we gather here at this paramount session to address human dignity, a fundamental human right, from both constitutional and legal perspectives. Human dignity is not only one of the most significant elements of law, but also an essential aspect of human existence. Laying at the heart of common values of our civilisations, human dignity has been enshrined and promoted in all constitutional regulations and judicial decisions as the underlying basis of fundamental rights and freedoms. In other words, human dignity is the core foundation of constitutionality. Therefore, constitutional jurisdictions undertake a vital responsibility in protecting and reinforcing human dignity.

As such, to comprehend and discuss how human dignity, as the underpinning value of fundamental rights and freedoms, is articulated in judicial interpretations, notably in constitutional jurisdiction, will provide a significant opportunity to strengthen the rule of law. In fact, all legal texts, notably constitutions, must be subject to evolutionary interpretation for being a living instrument. I therefore consider that the presentations and discussions here would make paramount contributions in this regard.

In my opinion, **human dignity** means that each human being, as the possessor of the highest rational and moral values, has an intrinsic value that cannot be infringed and waived, or deprived of.

When we use the term of human dignity, we refer to *in abstracto* simply the dignity of being human. We infer therefrom the dignity and honour inherent in merely being a human without any distinction based on race, colour, sex, ethnic origin, or any other ground whatsoever. We are speaking of a value that every human being equally possesses and that cannot be denied or ignored under any circumstances.



The concept of human dignity remains at the heart of modern understanding of human rights. Dignity refers to the individual's right to equal respect and consideration, and this right is afforded protection through legal sanctions. Human dignity is a moral imperative that shapes the law. Through reason and freedom of will, people can create their own values and way of life. This freedom constitutes the essence of human dignity.

Human dignity is recognised globally as an ethical and legal principle that ensures respect for all human beings. This concept is rooted in the profound belief that everyone has an inalienable value intrinsic to "*humanity*". Being a key element of international human rights law, human dignity is enshrined also in many conventions and declarations. Dignity is a core value of individuals that must be protected and is an integral element of human rights. The need to protect and promote it in times of both peace and war is also emphasised in international instruments.

Human dignity, above all, rejects oppression, racism, exploitation, isolation, discrimination, hate speech, othering and excessiveness. In this sense, unfortunately, it is regrettably evident that we have not yet fully overcome these issues or succeeded in fully safeguarding human dignity. Unfortunately, persecution, outrageous practices, hatred and othering continue to proliferate in different parts of the world, calling into question all the humanitarian values we have embraced so far. A blatant example of this situation is the treatment faced by asylum seekers and refugees forced to flee their countries due to wars, conflicts or socio-economic reasons.

Dear participants,

The Preamble of the Turkish Constitution lays down that "*Every Turkish citizen has an innate right and power, to lead an honourable life and to improve his/her material and spiritual wellbeing*".



In Article 5 of the Constitution, *"to provide the conditions required for the improvement of the individual's material and spiritual existence"* is enumerated among the fundamental aims and duties of the State. The State is expected to prevent social exclusion of individuals and communities and to strive for ensuring a dignified life standard for everyone, and to overcome the obstacles to this end. It is a mandatory positive obligation stipulated in our Constitution for the State to provide a legal environment in pursuit of human dignity.

In this regard, I will strive to provide you with an insight into how the Turkish Constitutional Court addresses human dignity and interprets this concept in its judgments. In the sublime hall of the Turkish Constitutional Court, just behind the stage and directly facing the audience, the following statement appears *"Rights and freedoms are the honour and virtue inherent in humanity"*.

In connection with the principle of the rule of law, the Turkish Constitutional Court emphasises the material and spiritual existence of the individual, as well as the protection and realisation thereof. It thereby points to the necessity to respect human dignity through a rights-based approach (the Court's decision no. E.2014/122, K.2015/123, § 55).

The Court regards the respect for human dignity as the recognition of the inherent value of every individual simply for being human (the Court's decision, no. E. 2014/122, K. 2015/123, 30 December 2015, § 55). This respect requires the protection of the individual under all circumstances. According to the Court, treatments infringing human dignity are the actions or treatments that deprive an individual of their humanity. *"This represents a standard of conduct whereby any action falling below this threshold gives rise to the dehumanisation of the affected individual"* (the Court's decision, no. E. 1963/132, K. 1966/29, 28 June 1966). This principle affirms that the legal protection of human dignity applies not only against external threats but also implies that an individual's dignity cannot be compromised, even with their



own consent. Therefore, human dignity is recognised by the Turkish Constitutional Court as an absolute value that must be upheld under all circumstances.

The Court's definition of a social state provides an essential framework for the protection and promotion of human dignity. The Republic of Türkiye is a State that places human dignity at the core of fundamental rights and steers its obligations around this concept. In defining the social state, the Court lays emphasis on human dignity and accordingly notes that the State's obligations are designed to ensure that individuals can lead dignified lives across all spheres of life.

Distinguished participants,

With the 2010 constitutional amendment, the Turkish Constitutional Court has been entrusted with the task and power to examine and adjudicate on individual applications, along with engaging in constitutionality review.

The power to examine individual applications has entrusted the Court with identifying and redressing violations of fundamental rights and freedoms resulting from public acts, actions, and negligence. The Turkish Constitutional Court has embraced and successfully fulfilled this mission, particularly in recent years.

Article 17 of the Turkish Constitution states that everyone has the right to protect and improve his/her corporeal and spiritual existence. Therefore, it prohibits penalties or treatment incompatible with human dignity. This provision serves as a clear guarantee of human dignity. The Court has rendered many decisions on individual applications under this provision that is directly related to human dignity. Another provision in the Constitution further safeguards the integrity of one's physical and spiritual being, affording protection even during times of war, mobilisation, or states of emergency.



In the Court's view, these constitutional provisions mandate that the State not only refrains from acts that infringe upon human dignity but also imposes an active duty to investigate such acts thoroughly and punish those responsible in case of an alleged violation. This provision entails strict scrutiny of interferences with dignity and rights of individuals under the State's control, in particular to protect such persons against abuses.

Distinguished fellow colleagues,

The Court has delivered numerous decisions under Article 17 but our limited time today prevents us from exploring them all. In brief, the Turkish Constitutional Court considers that human dignity constitutes the very essence of the rights and justice-centred constitutional interpretation. Human dignity encompasses the basic requirement that individuals lead their lives as free and autonomous beings (the Court's decision, no. E. 2020/13, K. 2020/68, 12 November 2020). This necessitates the realisation of human dignity within a legal framework founded on rights and justice.

Distinguished colleagues,

For the common future of humanity, it is necessary to establish a just and everlasting peace in every corner of the world. This endeavour calls for a swift return to our moral values and justice and ensuring justice to prevail globally. Concluding my remarks, I sincerely hope for the cessation of all actions that infringe upon human dignity in our world. On behalf of myself and the esteemed members of the Turkish Constitutional Court, I extend my warmest greetings to each of you, wishing you a long, healthy and peaceful life with all your loved ones.

Thank you for your attention.



HUMAN DIGNITY AND FUNDAMENTAL RIGHTS AND FREEDOMS



**Presented by Hon. Mr. Tewodros Meheret Kebede
President of The Supreme and Constitutional Court of Ethiopia**

SALUTATIONS,

On behalf of the Council of Constitutional Inquiry and Federal Supreme Court of Ethiopia, I wish to express my profound gratitude to the Conference of Constitutional Jurisdictions of Africa for offering me the opportunity to make a brief remark on one of the sub-themes of the conference – *"Human Dignity and Fundamental Human Rights and Freedoms."*

Both in the interest of time and to confine my remark to the sub-theme, which is assigned to me, I will focus on the nexus between human dignity and fundamental human rights and freedoms in the context of the Ethiopian

Constitutional System. In context of the conceptual framework set by other speakers, I will focus on the domestic application of the concepts. For the sake of clarity and coherence, I will break down my observation into three interrelated parts. First, I will elucidate the place of the concept of human dignity in the Ethiopian human rights discourse in both in the academic and non-academic circles. Second, I will illustrate the place of human dignity as a *human right* in its own sake and *as a principle of constitutional interpretation* as inferred from the Ethiopian Constitution. Third, I will illuminate on the status of international human rights law in the Ethiopian legal system and the instances in which the Council of Constitutional Inquiry and the House of Federation could refer to international human rights jurisprudence while they discharge their duties relating to constitutional interpretation.

To start from the first component of my remark, human dignity is viewed as an essential concept in the Ethiopian human rights discourse both in the academic and non-academic realms. The notion that human rights emanate from the inherent dignity and worth of the human family is one of the key topics that is passionately discussed in the Human Rights Law discourses. In non-academic circle, the idea that human beings are created in the image of God that they deserve special treatment is deeply rooted in the social fabric of the Ethiopian society. In non-academic sphere, there is a well-known aphorism in the Ethiopian public that summarises the special place of human kind among creatures as a dignified being.

Let me turn to the second component of my reflection. Normatively speaking, human dignity is not explicitly mentioned in the Ethiopian Constitution as a *human right in its own sake* (as a standalone right). However, it is explicitly mentioned in connection with other fundamental rights and freedoms that are recognised in the Constitution. For instance, Article 21 (1) of the Constitution provides that persons held in custody have to be treated in a manner that respects their *human dignity*. In this provision, human dignity is provided not as



a human right in and of itself but as a component of the rights of persons in custody. Similarly, Article 24(1) of the Constitution, which stipulates the *right to honour and reputation of individuals*, states that everyone has the right to respect for his or her *human dignity*. In this provision too, human dignity is provided not as a human right in and of itself but as a component of the right to honour and reputation. We find reference made to this standard in other provisions of the Constitution, as well.

It should also be noted that human dignity is not explicitly mentioned in the Constitution as a *principle of constitutional interpretation*. However, it is implicitly recognised as a constitutional principle because Article 10(1) of the Constitution which recognises “human and democratic rights” as one fundamental principle of the Constitution stipulates that “human rights and freedoms, emanating from the *nature of mankind*, are inviolable and inalienable”. In this provision, the term *nature of mankind*, which is portrayed as a source (foundation) from which human rights emanate, could have no other connotation than the *inherent dignity* of human kind. In this sense, human dignity is recognised in the Constitution as a principle being embedded in the principle of “human and democratic rights” in the article just mentioned.

I am coming to the final element of my remark. As partly mentioned earlier, the Ethiopian Constitution prescribes that its bill of rights chapter has to be interpreted consistently with international human rights instruments. It is not, however, evident as to the status of international human rights law in the hierarchy of laws. On the one hand, Article 9(1) of the Constitution declares the Constitution as the *supreme law* of the land. On the other hand, Article 13(2) of the Constitution stipulates that the human and democratic rights provisions of the very Constitution (Articles 13-44) have to be interpreted in *conformity* with the Universal Declaration of Human Rights, international covenants on human rights and other international human rights instruments *ratified* by the country. Indeed, the argument that international human right



law is *on equal footing* with the Constitution is getting a wider support in the academics and the CCI and the HOF also adhere to this stance. This position is preferable as it ensures that Ethiopia acts consistently with its international human rights obligations.

To understand the possibility of referring to international jurisprudence while interpreting human dignity or human rights in Ethiopia, it is worth noting, beforehand, that Ethiopia follows a unique constitutional interpretation model. Simply put, ordinary courts have no constitutional *interpretation* power under the Ethiopian Constitutional system. The power to interpret the Constitution is vested in the House of Federation (HOF) pursuant to Article 62(2) and Article 83(1) of the Constitution. While it discharges its constitutional interpretation duty, the HOF is aided by the Council of Constitutional Inquiry (CCI). The CCI is vested with the power to *investigate* constitutional interpretation cases and submit its recommendation to the HOF for final decision pursuant to Article 84(1) of the Constitution. Thus, the issue of interpretation of human rights is entertained by the CCI and HOF rather than by the courts.

To sum up, human dignity is recognised in the Ethiopian Constitution at least as a component of other fundamental human rights and it can be gathered that it is a value enshrined in the Constitution. Mere recognition of human rights and freedoms is manifestation of the aspiration of ensuring human dignity through the standards set in the law. Therefore, beyond the specific mention made in some provisions of the Constitution, the dedication of a chapter in it which comprises a third of its provisions is a testament to the import given to human dignity under the Constitution.

Thank you so much for your attention!



HUMAN DIGNITY AND FUNDAMENTAL RIGHTS AND FREEDOMS



Presented by Hon. Mr. Emille Essombe

Member of the Constitutional Council of Cameroon

SALUTATIONS,

"All human beings are born free and equal in dignity and rights".

Through this formula of Article 1 of the Universal Declaration of Human Rights of 1948, human dignity appears as the cornerstone and counterpart of all fundamental human rights. It refers to the consideration that every human being deserves by the simple fact of being human and is based on the idea that all individuals have inalienable rights, regardless of their origin, race, sex, age, social status or any other characteristic. It is therefore an ethical principle that guides individual and collective behaviour, by promoting justice, equality

and solidarity. Within the framework of the sub-theme dealing with human dignity and fundamental rights and freedoms, we have chosen to limit our intervention by answering three (3) questions:

- What are the rights and freedoms linked to human dignity?
- What are the main violations of human dignity?
- What are the means of protecting human dignity?

I. RIGHTS AND FREEDOMS RELATED TO HUMAN DIGNITY

This is generally the right to life and all the other rights that make life worth living.

a. THE RIGHT TO LIFE

This is the fundamental human right in essence, the one that enshrines the sacred nature of human life. Article 3 of the UDHR states that “Everyone has the right to life, liberty and security of life”. Under this right, States must take appropriate measures to preserve life and, where appropriate, to protect it when it is in danger. The philosophical debate on the extent of the right to life, particularly with regard to the legitimacy or otherwise of the death penalty, remains an unresolved issue since this penalty is still applied in several countries around the world.

Defenders of the absolutism of the right to life maintain that it is a supreme right from which no derogation is permitted, even in situations of armed conflict and other situations of exceptional danger threatening the existence of the nation. The European Convention on Human Rights (ECHR) offers in its Article 2 the most universally accepted formulation when it provides that:



1. The right of everyone to life shall be protected by law. No one shall be killed intentionally, except in execution of a sentence of death pronounced by a court of law in cases where the offence is punishable by law.
2. Death shall not be considered as inflicted in violation of this Article in cases where it results from the use of force rendered absolutely necessary:
 - a. To ensure the defence of any person against unlawful violence;
 - b. To effect a lawful arrest or to prevent the escape of a person lawfully detained;
 - c. To suppress, in accordance with the law, a riot or insurrection. "

The same provision is repeated in Article 6 of the International Covenant on Civil and Political Rights (ICCPR) and Article 4 of the African Charter on Human and Peoples' Rights (ACHPR). It follows from the above that the right to life is a sacred right which may only be infringed within a framework strictly provided for by law.

b. OTHER RIGHTS THAT MAKE LIFE WORTH LIVING

In addition to the right to life, human dignity implies on the one hand the right to liberty and security and on the other hand the right to privacy.

The right to liberty and security finds its expression in the right to food, education, decent work, health, dignified treatment in criminal proceedings and prisons etc., while the right to privacy includes the home, image, voice, state of health, emotional life, correspondence etc.

To better understand the issue of human dignity, it is useful to analyse the attacks that are made to it.



II. ATTACKS ON HUMAN DIGNITY

These attacks are sometimes made to the body of others and sometimes to the honour and dignity of others.

a. ATTACKS ON THE BODY OF OTHERS

Here we find physical violence, rape, torture, homicide, moral and sexual harassment, etc. It is in this context that we also classify cruel, inhuman or degrading treatment that can be inflicted during criminal proceedings or in prisons. Similarly, slavery and forced labour are considered both physical and moral violence and attacks on dignity.

b. ATTACKS ON THE DIGNITY AND HONOR OF OTHERS

These are defamations, slanderous denunciations and other attacks on privacy, the consequence of which is to give a negative image by affecting the opinion that a person has of themselves or that others have of them. The digital age, characterised by the ultra-rapid circulation of information, has exponentially amplified attacks on privacy by aggravating their often-dramatic consequences. Discrimination, abuse of the weak and even attacks on the respect due to the dead complete the picture of attacks on human dignity that it has been necessary to protect.

III- PROTECTION OF HUMAN DIGNITY

It is done through national legislation, but especially through international conventions. The latter can be classified into three categories:

- Conventions relating to human rights;
- Conventions relating to the fight against discrimination and the protection of vulnerable groups;



- Conventions relating to the repression of international crimes.

a. CONVENTIONS RELATING TO HUMAN RIGHTS

- The Universal Declaration of Human Rights (1948);
- The International Covenant on Civil and Political Rights (1966);
- The African Charter on Human and Peoples' Rights (1981);

b. CONVENTIONS RELATING TO THE FIGHT AGAINST DISCRIMINATION AND THE PROTECTION OF VULNERABLE GROUPS

- The Geneva Convention relating to the Status of Refugees (1951);
 - The International Convention on the Elimination of All Forms of Social Discrimination (1965);
 - The International Convention on the Elimination of All Forms of Discrimination against Women (1979);
 - The International Convention on the Rights of the Child (1989);
 - The International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (1990);
 - The Convention on the Rights of Persons with Disabilities (2006);

c. CONVENTIONS RELATING TO THE REPRESSION OF INTERNATIONAL CRIMES

- The Convention on the Prevention and Punishment of the Crime of Genocide (1948);
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
- The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2002);



- The Convention on the Protection of All Persons from Enforced Disappearance (2006).

Finally, we can say with Emmanuel KANT that human dignity is the most fundamental ethical principle from which all fundamental human rights and freedoms draw their universal value. It must therefore be preserved at all times and in all places as the guarantee of a world of justice and peace.



HUMAN DIGNITY AND FUNDAMENTAL RIGHTS AND FREEDOMS



Presented by Hon. Mr. Jean-Pierre Waboe

President of the Constitutional Council of the Central African Republic

SALUTATIONS,

I titled my speech "The link between human dignity and fundamental rights and freedoms: lessons learned from crimes and violence in the Central African Republic". So, I come from a country whose national motto is Unity - Dignity - Work. Our country, since December 1, 1958, has considered human dignity as one of its fundamental values and has enshrined it in all its Constitutions. Unfortunately, in 2012 - 2013, the country sank into an inter-religious civil war that left more than 6,000 dead.

How does this reminder relate to the concern that brings us together here and now?

I would like to point out that the lives of the 6,000 people who died were taken in the most appalling conditions. The victims were slaughtered like animals for slaughter, burned alive, buried alive, drowned, starved, hacked with machetes or axes, beaten to death. You understand, during these sad moments, human dignity was ignored, set aside, flouted. This is where we realise the importance of human dignity, without which man is less than an animal or less than a thing. The trigger for the civil war was a simply isolated act of contempt for human dignity: the assassination of a farmer who refused to wish a good appetite to the oxen of a breeder who had intentionally introduced them into a field to destroy it. It was the fact of having placed his oxen on top of a man.

I. THE CENTRAL AFRICAN CONSTITUTION OF HUMAN DIGNITY

a. Reminder of the provisions of the Constitution of August 30, 2023

The preamble, as stated by the Founding Father of the Central African Republic, Barthélemy BOGANDA, stipulates that we are driven by the concern to ensure man's dignity in accordance with the principle of "ZO KWE ZO." This is deeply attached to constitutional legality and democratic institutions, and to the dignity of the human person, as well as the cultural and religious values.

Text of the Constitution

- Article 1 (al 5): Its motto is: UNITY-DIGNITY-WORK.
- Art. 11: All human beings are born free and equal in dignity and rights. However, the enjoyment of political rights is recognised only to Central Africans, except for exceptions established by law.



- Art.18 (al 5): Every prisoner must benefit from treatment that preserves his life, his physical health and his dignity.
- Art. 36 (al 2): The State guarantees the right to work, social protection and fair remuneration ensuring the worker an existence consistent with human dignity.
- Art. 72: Upon taking office, standing, uncovered, with his left hand placed on the Constitution and his right hand raised, the President of the Republic takes the following oath, in French, then in Sängö:

"I , SWEAR BEFORE GOD AND THE NATION TO SCRUPULOUSLY OBSERVE THE CONSTITUTION, TO GUARANTEE THE INDEPENDENCE AND SUSTAINABILITY OF THE REPUBLIC, TO SAFEGUARD THE INTEGRITY OF THE TERRITORY, TO PRESERVE PEACE, TO CONSOLIDATE NATIONAL UNITY, TO ENSURE THE WELL-BEING OF THE CENTRAL AFRICAN PEOPLE, TO CONSCIOUSLY FULFILL THE DUTIES OF MY OFFICE WITHOUT ANY CONSIDERATION OF ETHNIC, REGIONAL OR CONFESSIONAL ORDER, TO NEVER EXERCISE THE POWERS THAT ARE GIVEN TO ME BY THE CONSTITUTION FOR PERSONAL PURPOSES, TO BE GUIDED IN EVERYTHING ONLY BY THE NATIONAL INTEREST AND THE DIGNITY OF THE CENTRAL AFRICAN PEOPLE".

b. Analysis of the provisions of the Constitution

This is why the Central African Constitution treats human dignity in a particular way:

1. It recalls through the national motto that it is one of the fundamental values of the Republic and whose enjoyment is egalitarian (paraphrase of Art 1 UDHR 1948 and art 5 ACHPR) and prohibits the traditional conception of dignity based on considerations external to the individual;
2. It considers human dignity as a particular right, part of the whole of human rights. (Article 11 of the Constitution cites human dignity among



other fundamental rights and freedoms) and must be the subject of specific mechanisms for promotion and protection.

3. It considers human dignity as the foundation of all other subjective rights. This means that if all human rights could be considered as a house, human dignity would be the foundation on which the entire building would be based. This is why there is no room for restricting human dignity.

II. LESSONS TO BE LEARNED FROM THE CENTRAL AFRICAN CRISIS

To return to the lessons to be learned from the crimes and violence in the Central African Republic:

1. We must not be satisfied with the elevation of human dignity by international texts, nor with its consecration by the Constitution and other domestic law texts. It is a multidimensional concept whose content must be determined in a specific manner. Each nation must be able to give a particular content to the concept of human dignity, taking into account its history, its own values, its political, social, sociological and other realities. In doing so, it states that human dignity must not be considered in isolation. It is accompanied by other principles such as constitutional legality, democratic institutions, and respect for cultural and religious values.
2. The State must be able to guarantee its enjoyment through established and strong rules and mechanisms.
3. The unwavering repression of any act that undermines human dignity must be at the heart of the guaranteed mechanisms, because a right whose violation is not sanctioned cannot be considered a subjective right that must be legally protected.



CONCLUSION

Someone compared the fight to enforce human dignity to the fight against climate change. And just as environmental protection is more than necessary, the triumph of human dignity on the legal level most certainly conditions the future of humanity.



HUMAN DIGNITY AND FUNDAMENTAL RIGHTS AND FREEDOMS



**Presented by Hon. Mr. Jassim Mohammed Addood Al-Omari
Chief Justice of the Federal Supreme Court of Iraq**

SALUTATIONS,

In The Name of Allah , The Most Beneficent, The Most Merciful.

The Respected Chief Justice of the Republic of Zimbabwe, the Respected President of the Constitutional Court of the Democratic Republic of Congo, Representatives of Courts at the Congress and Heads of Judicial Bodies in Africa, Respected guests, here present , Peace and blessings of God be upon you.

I feel humbled and honoured to address you at this auspicious congress, representing the Supreme Court of Iraq, which has been granted observer member status.

We should have been physically present, but due to circumstances our region is going through, we couldn't make it. My dear brothers and sisters, the recognition of human dignity as the basic right is a value shared by all humankind. Equality of all is also regarded as an important part of this value and it is the basis of freedom, justice and peace in the world. Neglecting that has led to the increase of international crimes, barbarism and anger among humankind. Therefore, protection of human rights comes from observing international and domestic laws, which can be from constitutions or some ordinary domestic laws.

Our constitutions should have clauses which protects and guarantees human rights, freedom and human dignity. Those clauses should forbid all forms of torture be it physical or psychological, as well as inhuman treatment. These clauses should protect human dignity, guaranteeing political and religious freedoms, together with freedom of expression in all its forms, holding demonstrations, forming and belonging to political parties and associations, without forcing any person to belong to any group.

Our domestic laws in our countries, shouldn't allow discrimination based on religion, colour or creed. Every person should have right to life, with guaranteed security, peace and freedom under our laws. The respect of special rights of an individual, as long as they don't infringe on the rights of others should be guaranteed. Protection of citizens' rights, men and women, so that they can participate in public affairs, having the right to participate in voting, being nominated and in all election processes.

All the above mentioned is contained in all constitutions, but it is not enough to guarantee human dignity and all freedoms, without a just delivery system, manned by a competent judiciary which looks into constitutional matters.



The constitutional judiciary has the jurisdiction to look into all the constitutional matters being the guarantor of all the rights, as it is the mouthpiece on constitutional issues, on the domestic, regional and international fronts. On the domestic front, the constitutional courts and councils through their rulings should guarantee all human rights by not allowing the two powers the executive and the legislature, any indulgence or exceeding of limits on human rights. In any country, it is the prerogative of the constitutional judiciary to hold to account the executive and legislature, when they exceed their limits, by restoration of constitutional rights, be they legal or constitutional ,wherever they will have been violated. The constitutions represent charters which embodies the values and rights of the people.



HUMAN DIGNITY AS A FUNDAMENTAL HUMAN RIGHT



Presented by Mr. Diego Solana

International Advisor of the World Association of Jurists

SALUTATIONS,

Good afternoon, it is an honour to be here particularly since I represent an association that promotes peace through law and rule of law, which are intrinsically linked to human dignity. Truly it really is an honour.

I want to particularly thank the President of the Constitutional Court of Zimbabwe and the President of the Constitutional Court of Morocco for the amazing organisation and also all the delegates that have been involved in the organisation of this Conference. While thinking about what I could say with so many wise people that are here; so many people who know more than I do about human dignity, I was thinking that in order to understand what really is

human dignity and what it could bring us in the near future I could reflect on the origins of when humans started to think whether we had an inherent dignity and whether we did not.

First of all, I think everyone gathered here shares one fact that humans are exceptional. That exceptionalism is what makes us different from other animals or other parts of nature and that's really what gives us that dignity. I am not saying that animals or the forest do not have dignity but at least as far as today we still have further dignity. I do not know maybe in ten; fifteen years there will be a different species. But nowadays, we have a dignity above other species. The first reference that I identify as referring to human dignity is Greek and Roman culture, Greek philosophers and Roman philosophers. Aristotle and Cicero referred to the exceptionalism of humans and the inherent dignity of humans.

Remember that quote from Cicero, "Let's be slaves of the law in order to be free". That is the first reference in my view to human dignity. Christians have 500 - 600 years later, also debated about what we are? What are humans within this complex world of animals, of planets, of everything? And it was Thomas Aquinas the famous theologian who said, "Human dignity is founded because we are a divine creation because we are a reflection and an image of God."

So that is what in Christian theology I am talking about 1200 years, 1300 years. It was also when Christians understood that we are different from other things we see on earth and in nature. Also, Islam the other Abrahamic religion jointly with Judaism also reflected about that and also even in the Quran it is said that humans come from God and therefore we are elevated and different from other species.

Then we get to the enlightenment era where humans and philosophers started to discuss human dignity irrespective of religion, they are not focused on



religion they are focused on the rational. On reason, and there are a bunch of them of cause and you know them very well, but I wanted to quote a little bit from Immanuel Kant and he said, "It is our capacity of making rational decisions, is the rational proof that we have an inherent dignity and that this inherent dignity is universal." It does not matter where you are from. It does not matter your social status. It is something that all humans have.

It was being said by some of you. Then unfortunately the First World War and the Second World War devastated the world and particularly after the Second World War, human dignity was discussed another time and thanks to the declaration of the United Nations that some of you have quoted here to an extent. All the countries agree that humans have inherent dignity.

The cold war years after the Second World War when some men particularly, Sir Winston Churchill and Chief Justice Earl Warren decided to mobilise the whole international legal community to promote peace through law and to promote rule of law. A rule of law that recognises human dignity.

So, these extraordinary men created the World Juris Association and that really gathered Chief Justices, judges, professors and legal practitioners from all around the world in that idea that we can achieve peace through the law and that rule of law is the only alternative to the rule of force.

And they created the World Law Congress, the first one was in 1963. I know that some of you are going to attend the World Law Congress of 2025 in Dominican Republic. I am making a formal invitation to all of you to attend and to not only discuss with African continent but with the whole world. With chief justices of all continents about human dignity and rule of law.

My last remark is just to refer to a history and a conversation that I had with Justice Ruth Bader-Ginsburg. I had the opportunity to meet her in Washington



D.C when we were delivering her the Nobel prize of the law, the World Peace and Liberty Award.

And during a dinner at the well-known Watergate Hotel, we were discussing the rule of law and at some point, with a very weak voice because she was already quite old but also with a lot of her strength she said, forget about the rule of law if it's not human dignity if it does not have an anthropocentric view, it will not be rule of law. It will be a bunch of norms maybe enacted by a parliament.

But if it is an architectural institution and human dignity is not at the center it will not be a rule of law. We cannot call that a rule of law. Because rule of law, you said it, quite several of you, it's to protect minorities, it is to protect the weakest. The majority does not really need the rule of law.

And we have to avoid ending up as Dr. Will said, in a tyranny of the majority. I hope to see all of you in the Dominican Republic.

Thank you very much!



HUMAN DIGNITY AS A FUNDAMENTAL HUMAN RIGHT



Presented by Hon. Mr. Fodé Bangoura
First President of the Supreme Court of Guinea

SALUTATIONS,

I stand before you today, with a deep sense of responsibility and duty, to evoke a theme that is at the heart of our common mission: "Human dignity as a value and fundamental principle: A source of constitutional interpretation, protection of fundamental human rights, and the application of the law." In effect, human dignity is not reduced to a simple legal concept. It transcends borders, cultures, and socio-economic contexts. It is the foundation of any just society, as it reminds us that every human being, regardless of their social, economic, and cultural condition, carries an intrinsic and inalienable value that must be respected, promoted, and protected.

As judges and guardians of the laws, we have the heavy responsibility to embody this principle in each of our decisions. Our jurisdictions are the last bulwarks against injustice, arbitrariness, and violations of fundamental freedoms and rights. In our judgments, we must ensure that human dignity is not only recognized but also preserved in the face of selfish interests that could compromise its respect.

In Africa, the concept of human dignity takes on a particular dimension. Our peoples have, in fact, gone through historical trials that have often severely undermined their dignity: slavery, colonisation, armed conflicts, massacres, and other cruelties. However, these trials have forged a resilience and a collective aspiration for a society where the dignity of each citizen is protected, where human rights are guaranteed, and where justice is rendered fairly. Our supreme courts, as symbols of justice and the rule of law, are called to play a leading role in the defense of human dignity. Their decisions must reflect our commitment to ensuring respect for this principle, particularly in matters concerning human rights, fundamental freedoms, and equitable access to justice.

Allow me to highlight three areas in which our jurisdictions can and must intensify their efforts to protect human dignity:

1. **Socio-economic rights:** Ensuring access to healthcare, education, and a decent standard of living is an essential component of human dignity. It is our responsibility to ensure that judicial decisions support efforts to reduce poverty and inequalities that undermine the dignity of the most vulnerable.
2. **Protection against abuses and power excesses:** Power, whether political, economic, or institutional, must never result in abuses or violations of citizens' rights. Human dignity must be protected against all forms of brutality, injustice, and marginalization.



3. Respect for individual freedoms: In these times when security threats are often invoked to restrict fundamental freedoms, it is essential to keep in mind that human dignity rests on individual freedom, freedom of expression, freedom of thought, and the freedom to live without fear.

Ladies and gentlemen, we have, as judges, the exhilarating task of defending these principles on a daily basis. Our decisions must not simply follow the texts, but they must embody justice, equity, and respect for humanity. Is not justice, without human dignity, nothing more than a cold mechanism, devoid of humanity and empathy? It is therefore with humility and an unwavering determination that we must continue to assert, through the decisions of our jurisdictions, that human dignity is inviolable.

It is in this dynamic that the recent trial in Guinea, concerning the massacres of September 28, 2009, involving the highest authorities of the country at that time, is situated. We must continue to ensure that human dignity remains the guiding thread of all the decisions we will undertake, whether they are constitutional, civil, criminal, or other nature.

Allow me to conclude my remarks by quoting Nelson Mandela, this great defender of human dignity, who said, quote: "To be free, you must not only reject the chains but live in a way that respects and enhances the freedom of others." This respect, this enhancement of human dignity, is the primary mission of justice.

Thank you for your attention.



HUMAN DIGNITY AS A FUNDAMENTAL HUMAN RIGHT



**Presented by Hon. Mr. Amadou Ousmane Touré
President of the Constitutional Court of Mali**

SALUTATIONS,

We are gathered this afternoon to discuss a very crucial subject, a very crucial subject for the rooting and development of constitutionalism in general and African constitutionalism in particular: “the human dignity, retained as a right fundamental human”.

It is a universal concern that affects us all, whatever our origin, belief or status. The subject has already been widely demonstrated by my predecessors and the ideas developed converge to retain the precept as a founding right of other human rights. Inalienable and universal, dignity is intrinsically linked to our existence as human beings.

This is how we find it stated in the preamble to the Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948:

"Recognition of the inherent dignity of all members of the human family and of their equal and inalienable rights constitutes the foundation of freedom, justice and peace in the world."

Whether it is reformulated in one way or another by the different constitutions, we will agree on one fact; it implies the respect and consideration that each individual deserves because of their humanity. It manifests itself in many ways and demands that we treat others with respect and tolerance, and it pushes us to defend the rights of the most vulnerable, to fight against injustices.

Indeed, when the dignity of an individual is violated, the fundamental principles of justice and peace are called into question. This is the whole point of the theme chosen for this 7th Congress which should, ultimately, lead us all to greater responsibility for promoting human dignity through opposition to any form of discrimination, violence or oppression, through a dialogue that aims to be sufficiently respectful of diversity and pluralism. It is in the richness of our differences that our collective strength is found.

It is true that in Africa, as elsewhere, human dignity is still compromised. Whether it is poverty, war or violations of fundamental rights, it is essential for us to find lasting solutions to this concern together. We must unite our efforts to guarantee everyone the enjoyment of their rights, freedom and respectful treatment of their person.

The best way to achieve this remains education. Whether through awareness-raising or other means, the objective is to build a future where human interactions will be guided by respect and understanding of human dignity. Leaders and citizens alike must work together to make human dignity a priority.



On “dignity-fundamental human right”, it should be described as “a key right” which opens the door to the realisation of all the other human rights (I) before examining it in its relationship with the constitutional order of which it constitutes the foundation (II) Human Dignity, “a key right” for other rights.

The so-called inviolable rights of the human person, affirmed in the various constitutions, are inherent to their dignity. Inspired by human dignity, these rights aim to improve the individual and concrete conditions of each individual, a constitutional objective and a complement to their dignity as a “sacred and inviolable human person”. A higher-ranking principle, respect for human dignity is a widely shared concern internationally, regionally and nationally.

Whether it concerns respect for other rights or that of the law, these requirements not only constitute the logical and obligatory continuation of the primitive affirmation of human dignity in constitutional texts as a common heritage of human beings, but above all, they arise from a constituent will which aims to regulate the peaceful coexistence of humans, conditioning social peace and respect for human dignity.

Thus, human dignity, as a fundamental human right, appears to be a primordial right, recognised to every human being, free to develop their personality, in the exercise of their rights. It implies the consecration of the human person. It is the intrinsic value of each individual. Unlike the State, which is an organisation established for the well-being of people, the human person, taken individually, is a reality in itself. It is therefore entirely logical that it should be considered as such in all circumstances.

The principles of freedom and equality, all referring to the content and end of justice and retained as social values, emanate from human dignity. Human



dignity, as a fundamental human right, would then be this fundamental human right which would be located at another level higher than the rank occupied by other rights. It constitutes a reference for the latter.

It is in it that they find their ultimate reason for being and this is all the more justified as its consecration by the political philosophy which underlies it places it at the center of legal systems. Human dignity, “a right-order” for the constitutional order, inspired by a more transcendent political philosophy.

As the source of other rights, human dignity is inspired by an ideology that transcends all other ideologies. The political philosophy which underlies it finds its foundation not exclusively in one of the conceptions of law (jusnaturalist or positivist) but rather in the will of nations which recognise it as the foundation of constitutional order and social peace. It thus reveals itself as a constitutional principle which guides the entire legal system, an order for the constitutional order. It is:

- a requirement prior to determining the constitutional order;
- a material order for constitutional values;
- a principle which legitimises the legal and political order; and
- therefore, an order which precedes and inspires the constituents in their work.

Limiting themselves to recognising and guaranteeing human dignity, the constituents generally refer to the idea of man which is based on values.

Ladies and Gentlemen,

We cannot say everything about human dignity, although everything deserves to be said about it. To conclude and in the light of everything that has been mentioned so far, I would like to reformulate it on a completely different level



which is that of its characterisation by submitting a question of a practical nature to our general reflection: Are the constitutional values enshrined in texts for the protection of fundamental rights, which result in the observance of human dignity, ultimately the work of man or of the State?

ON THE CHARACTERIZATION OF THE DIGNITY OF PERSON

Starting from the difficulties in defining the concept, difficulties which explain the fact that, for example as in Germany, attempts at definition result in formulations of a general, good examples of which are its characterisation as:

"Core of the human personality" or as "personality content".

Part of the doctrine (among others, Nipperdey, Neumann and Scheuner) has maintained that the dignity of the person is not a legal concept and signifies an appeal to the essence of human nature. In a first approach to the concept, it is possible for us to distinguish two meanings:

- a certain mode of behavior of the person, characterised by their seriousness and decorum,
- and a quality that belongs to every person, regardless of their specific mode of behavior, because even unworthy conduct does not deprive the person of his dignity.

From this angle, dignity is the rank or category which corresponds to man as an endowed being of intelligence and freedom, different and superior to everything that has been created, and which involves treatment in harmony at all times with human nature. Dignity thus requires giving to every human being which is adequate to his very nature as man as a personal being different and superior to any animal being, as soon as he is endowed with reason, freedom and responsibility.



It is for this reason that dignity must translate into the free capacity for self-determination of all person, who, as the German Federal Constitutional Court affirmed in a well-known judgment of December 15, 1983. In this judgment, it presupposes that the individual is granted the freedom of decision on the actions he must carry out or, where applicable, refrain from committing, and from acting in fact in a manner consistent with the decision adopted.

In a more casuistical and meticulous position, other authors have been able to distinguish four levels or dimensions in personal dignity:

- a) the religious or theological dimension for those who believe in the connection of human beings to God, which implies a bond of filiation and openness to him as “made in his image and likeness”;
- b) the ontological dimension, as a being endowed with intelligence, rationality, freedom and self-awareness;
- c) the ethical dimension, in the sense of moral autonomy, not absolute, but as an essential function of valorative consciousness in the face of any norm and any driving model; and as an effort of liberation in the face of interference or alienating pressures and manipulation transformative which reduces the person as if it were an object,
- d) and the social dimension, as esteem and reputation emanating from positively valuable behavior, private or public, in the life in society.
- e) From these levels, we were able to retain that the dimensions that are primarily assumable (by those who should apply the normative rule of article 10.1 of the Spanish Constitution) are that of an ontological nature (rationality and freedom of the human being) and that of a profound ethical character (autonomy and end of oneself, and not means or instrument of anyone).

In summary, we can deduce from the above that dignity, as an intrinsic and exclusive quality of every human being, primarily translates into the capacity



for free decision and rational on any model of conduct, with the consequent demand for respect from others.

The case law has hardly been different. Indeed, after having considered dignity as being substantially linked to the moral dimension of human life, the judges were able to consider in Spain that “dignity is a spiritual and moral value inherent in the person, which manifests itself particularly in conscious and responsible self-determination of one’s life and which must be respected by others.”

If, as we have just explained, it is hardly superfluous to consider that it proves extremely difficult to determine in a completely satisfactory what the dignity of the human person is, several authors understand, on the other hand, that it is clearly possible to determine when dignity is transgressed.

Thus, in Germany, it is held that dignity implies the prohibition of making man an object of state action. The Federal Constitutional Court, taking into account the fact that the person individual is often the subject of measures on the part of the State, without their dignity being violated, qualified the preceding reflection in the sense that there is no violation of the dignity of the person only when a subjective goal is added to the treatment as an object: it is only when the treatment constitutes an “expression of contempt” of the person, or towards the person that said German Court considers that there is a violation of personal dignity.

Among the Spanish authors, González Pérez listed a set of criteria which, according to him, must be considered to appreciate the moment when it is violated the dignity of a person:

- a) Firstly, the personal circumstances of the subject are indifferent, because dignity is recognised to all people on the same level of equality



and with a general character, a reflection entirely compatible with the nuances expressed by the Constitutional Court for which, when the constitutional interpreter tries to concretize the principle of dignity, it cannot ignore the obvious fact of the specificity of the feminine condition;

- b) Secondly, neither intention nor purpose to be able to assess the violation of this fundamental value. If objectively respect that we owe to the human condition is diminished, the intention of the agent is of little importance;
- c) Thirdly, it also turns out that the will of the affected person is not important,
- d) And finally, it is necessary to evaluate the different circumstances which contribute when qualifying a certain conduct.



Friday November 1, 2024

3rd PANEL

"Human dignity as a source of constitutional interpretation"



HUMAN DIGNITY AND JUDICIAL INTERPRETATION OF HUMAN RIGHTS



Presented by Hon. Mr. Luke Malaba

Chief Justice of the Constitutional Court of the Republic of Zimbabwe

SALUTATIONS,

Thank you very much, Madam Chair, thank you for introducing us to the audience. Thank you everybody here present; distinguished guests, ladies and gentlemen.

There is a paper which I have prepared on this subject, quite a comprehensive subject it is. I am not going to read the paper I will try to summarise the main subject matter of this very important part of our discussions at this Conference. We are judges, most of us here and we know what interpretation is. We are supposed to know that interpretation is central to the functions of a judge.

Interpretation is central to the delivery of constitutional justice. Interpretation is central and is key therefore to the rule of law. Interpretation is central and key to the supremacy of the constitution. Supremacy of the constitution, the rule of law and the judge live together, and that relationship survives and delivers justice and there is no justice without human dignity.

There is no justice without human dignity, so the conveyance of the justice aspect and the processes are driven by interpretation. It is through that interpretation that we all make sense. We all make sense to the rules. We all make sense to the reality of those rules. And rules by their nature are an embodiment not just of justice, they are an embodiment of the protection of the person. Human rights do not exist in the air, they don't exist on paper, they exist because they protect the human. That is why we call them human rights protection. Human rights protection of the person, without the person, and without the dignity of that person the inalienable inherent intrinsic worth of the person, there is no need for rules.

So, when we talk about constitutionality, we must always remember we are talking about the judge and in this case, we are talking about the highest courts, the constitutional courts, these are the fundamental authoritative interpreters of the supreme laws of each one of our countries.

They are the courts, they are the fora, they are the means, they are the end of the living law - the constitutional court judge. And many of us here are specialised courts. Our courts, the constitutional courts, in many of our jurisdictions are specialised courts, we enjoy specialised jurisdiction.

We deal only with constitutional matters and in many cases, so it is in Zimbabwe under our Constitution the definition of constitutional matter is that it relates to a case where the issue; where the determination; where the decision of that issue involves or demands the interpretation of the Constitution. That is the



definition of a constitutional matter. This is when the determination of a matter demands the interpretation of the Constitution.

Interpretation becomes the central aspect of the definition of the jurisdiction of that court, and we know that almost all these specialised courts we do not deal with diffused jurisdiction we deal with specialised courts with specialised jurisdiction. Almost all of us who have that kind of jurisdiction enjoy finality, they enjoy finality and bindingness of our decisions. Every decision of the constitutional court is final and binding on constitutional matters. Which means, therefore, ladies and gentlemen the interpretation of the constitution by constitutional courts in the delivery of constitutional justice must be correct, they must be correct. They are final.

Their decisions on interpretation of the constitution must be correct because there is nowhere else to go for the citizen. They are final and it is binding even governments or agents of governments at every level. It's binding on every citizen, so those decisions are correct because they are final. They are correct because they are final, so we need to look very closely now on the importance of this phenomena called interpretation.

It is a process that moves from the provision of the constitution, which is the norm, the current norm to the normative standard. You move from the provision of the constitution to a new norm, the normative standard, and it is this process here that is critical. How is it done? What method do you apply? How do you move from the normative statement of the constitution which is being challenged in its meaning?

This is a normative statement which protects human rights. You have to move from there to the final statement of standard. The authoritative interpretation, giving the meaning so that everybody else accepts that meaning and everybody else must then act according to that meaning. There are five



fundamental principles in this process, I may not have time to go through each one of them but to me there are five fundamental principles.

The first one is that the interpretation must give full effect to the human right that is the first fundamental principle of interpretation, the interpretation must give full effect to the fundamental right which means the interpretation must be rights based it must be human rights-based. You must adopt a human rights-based approach to interpretation.

The next fundamental principle is that you must have a holistic interpretation. You cannot pick a provision in isolation of the rest of the constitutional provisions because a constitutional aspect is meant to live and breathe as such. It affects all the aspects of human activity, that is where human dignity comes from so you must have a holistic approach to interpretation.

The third is that you must give effect to the values of the constitution, you must promote the fundamental values of the constitution and that is where human dignity comes in. You must always protect human dignity because human dignity is central, it is in the heart of constitutionalism.

The fourth principle is that you must always take into account the international human rights instruments. You must always take into account the international human rights instruments because rights by nature are universal, they are interdependent, so we cannot isolate what other countries, what other people world over are thinking about what human dignity is about.

But the last point which is what is happening now, human dignity by its very nature, I want to underline this, human dignity is a human right. It is not just a value because human rights by their very nature are fundamental values. Human rights by their very nature are fundamental values, so human dignity by its very nature is a human right. But it's a very special right, it is supreme right,



and it is protected and must be protected by the interpretation of the constitutional court. We must interpret constitutional provisions in order to protect human dignity as a fundamental right on its own because if we fail to do that, we will fall into the trap of limiting human dignity. If we fail to understand that human dignity is a fundamental right on its own, we will limit it and subject it to limitations and yet you cannot limit human dignity, it is non-derogable.

It cannot be limited, it is absolute. So, you cannot apply, for example, doctrines of proportionality when you are dealing with human dignity as a right. But if you are dealing with another right, you are free to apply this doctrine of proportionality, because you are free to limit it, it is limitable, it is derogable. But not when you are interpreting human dignity as a right. So, I thought I would just have a share with you of the few points that I was thinking of when I came to the podium.

I thank you.



HUMAN DIGNITY AND JUDICIAL INTERPRETATION OF HUMAN RIGHTS



**Presented by Hon. Mr. Dieudonné Kamuleta Badibanga
President of The Constitutional Court of the DR Congo**

SALUTATIONS,

Thank you very much Madam President and moderator of this panel.

Hello everyone and dear colleagues, we are going to talk about the interpretation of the constitution based on the need to protect human dignity. We are not going to read the full text, which will be forwarded to the Permanent Secretary for posting on our website. Article 11 of the Congolese Constitution of February 18, 2006, which incorporates a provision of the Universal Declaration of Human Rights, states that all human beings are born free and equal in dignity and rights. It is true that this provision does not establish any relationship of degree between dignity and rights, but it does set out a

fundamental truth that cannot be circumvented; it is not human to have rights without dignity, which gives meaning to the right to use or to have, in a logic that holds that it is even fundamental rights that guarantee a person's dignity. As a result, human dignity is seen this year as a supreme value and a fundamental principle serving as a source of constitutional interpretation for the protection and application of fundamental human rights.

Using a variety of techniques to interpret the constitution in the light of the need to protect the supreme value of human dignity, the aim is to demonstrate how it is possible, on the basis of the principle of human dignity, to use the normative or creative power of the judge to interpret the constitution with the supreme aim of protecting fundamental human rights in mind.

Indeed, it should be remembered that the principle of human dignity catalyses the normative construction of jurisprudence, which places the human being at the center of its spectrum of protection, and it is on this basis that some rightly consider the protection of human dignity to be the point of convergence between the constitutionalism and internationalisation of the law. After the horrors of the Second World War and the many cruel mass violations of human rights throughout the world to the point of reducing its existence to the rank of mere greens on the ground, humanity as a whole must rise to stop the infernal cycle of human dehumanisation by erecting normative and institutional barriers to protect mankind alone, and no more. This presentation focuses on two points:

The first concerns the constitutional proclamation of human dignity in the Congolese Constitution of February 18, 2006, and the second the protection of this value through the exercise of the interpretative power of the Congolese judge.



The constitutional proclamation of human dignity and its place in the constitutional system of freedom, it would seem useful to point out that the Congolese people, in the preamble to the constitution, reaffirm their adherence and attachment to the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and the international legal instruments relating to the protection and promotion of human rights. In this regard, several articles of our Constitution clearly state the need not to neglect and never to set aside the question of human dignity. These are Articles 12, 13, 16 and, above all, article 61, which constitutes the hard core of our Constitution and stipulates that in no case, even when the State of seat or the State of an emergency will have been declared in accordance with Articles 85 and 86 of the Constitution. No derogation may be made from the rights to life, interpretation, the prohibition of torture, punishment, cruel, inhuman or degrading treatment, slavery and servitude, or from the principle of the legality of offences and penalties.

The Constitutional Court's power of interpretation and the protection of human dignity, it is indisputable that any violation of personal dignity resulting from the exercise of a right makes this exercise abusive for the person who acts, as well as for any constitutional or legal cover using its interpretative right of the Congolese Constitutional Court in several of its decisions, without mentioning its desire to base itself on the supreme requirement to ensure the protection of human dignity, but in a certain way to ensure that the dignity of the human principle is safeguarded through its interpretative approach to the constitution, We can see this strong work to protect human dignity by reading between the lines of this decision both in terms of protecting the right or respect for private life, the right to life and by restricting freedom of worship.

As far as human dignity is concerned, the Constitutional Court was seized with an objection of unconstitutionality raised in open court against Article 566 of the Family Code Act for violation of Article 20 of the Constitution. In the



petitioner's view, the divorce debate should comply with Article 20 and not 566 of the Family Code. For violation of Article 20 of the Constitution, for the petitioner the debate in divorce matters should comply with Article 20 of the Constitution and not with article 566 of the family code states that it is abnormal for the judge to order hearings to be held in camera, whereas the Constitution stipulates that all hearings must be public. In this case, the court recognised that, firstly, the principle of public hearings is intended to protect litigants from secret justice that is beyond the public's control, thereby contributing to the proper administration of justice and the guarantee of a fair trial. It then noted that the principle of the publicity of hearings does not evolve in a vacuum, as it may be subject to inflections under certain conditions when publicity would be detrimental to the interests of justice or when the particular circumstances of the right to privacy enshrined in Article 31 of the Constitution so require. In this case, the court made it clear that the right to respect private life took precedence over the rule on the publicity of hearings.

With regard to human dignity, made visible by the restriction of freedom of worship in favor of the right to life, in another case the Constitutional Court was seized by the President of the Republic to rule on the constitutionality of the ordinance proclaiming a state of health emergency to deal with COVID 19. This ordinance contained measures relating to the exercise of freedom, including the suspension of all religious worship. The court declared this suspension to be in conformity with the Constitution alone of the freedom of religions, noting that religious services were prohibited in the presence of the people, but that remote services via the airwaves were allowed to continue. In the text of this decision, we read as follows: Article 3 concerns measures relating to the exercise of freedom, and does not derogate from the Constitution. As this is a state of health emergency, the fact that the ordinance both proclaims a state of emergency and enumerates related measures of immediate application in the general interest of protecting the health of the Congolese people in no way derogates from the Constitution. Clearly,



although the constitution of our country does not expressly mention the word human dignity, it has made human dignity the key word or dependent on all the other fundamental rights protected, and the courts of our country has ensured that the protection, not only of fundamental rights, but also of human dignity.

As it is a fundamental issue in that it has even extended its competence, even if the constitution does not say so *ipsissima verba*. That, in a nutshell, is the essence of the communication that will be handed over to you in the next few days.

Thank you very much.



HUMAN DIGNITY AND JUDICIAL INTERPRETATION OF HUMAN RIGHTS



Presented By Hon. Mr. Diallo Mamadou Bathia
President of the Constitutional Council of Mauritania

SALUTATIONS,

I am honored to speak before you and allow me in turn to thank the President of the Constitutional Court and the authorities of Zimbabwe for the warm welcome they have given us since our arrival on this beautiful land of Southern Africa. The subject of our 7th Congress is fundamental insofar as it is at the beginning and end of all human work, namely the dignity of man on this earth. Since yesterday, many things have been said by the various speakers through their communications.

It is clear that all our Constitutions through their preambles, the block of constitutionality, adherence to the Universal Declaration of Human Rights and the African Covenant on Human Rights proclaim and adhere to the protection of human dignity in all its forms. The question that must now be asked is to know from now on what role our different institutions Constitutional Courts and Councils can play to enshrine this right in everyday reality. This is all the more important since we all know that no Constitution, however perfect, can transcribe all the rights to human dignity. A significant part of the codification of this right will come back to the Jurisprudence of our Constitutional Courts and Councils. This requires boldness and courage; I hope that we have or will have it from our relevant conclusions in this 7th Congress of our Continental Organization.

I Thank you.



THE ROLE OF THE JUDICIARY IN THE PROTECTION OF FUNDAMENTAL RIGHTS AND HUMAN DIGNITY IN AFRICA



**Presented by Hon. Mr. João Carlos António Paulino
Judge of the Constitutional Court of Angola**

SALUTATIONS,

Excellencies, it is with deep pleasure that we assume the responsibility of briefly pronouncing on "The Role of the Judiciary in the protection of fundamental rights and human dignity", in this 7th Congress of the Conference of African Constitutional Jurisdictions (CJCA), Conference in which the Constitutional Court of Angola had the privilege of exercising the Presidency, after organizing, in June 2019, its 5th Congress.

INTRODUCTION

When we propose to make brief considerations about the role of the judiciary in the protection of fundamental rights and human dignity, we see a problem,

which like a pandemic has affected States all over the world, and Angola is no exception: Corruption.

A disease that must be fought and requires joint efforts, and it is a satisfaction to be able to say that Angola has fought for this cause, even ratifying international instruments to combat corruption, money laundering and others.

However, I invite those present to pay attention to possible border situations and issues that potentially threaten fundamental rights and human dignity in the name of the fight against corruption.

THE REVERSAL OF THE BURDEN OF PROOF IN CONFISCATION AND THE DIGNITY OF THE HUMAN PERSON

All over the world and Angola being no exception, legislative measures have been created in compliance with the recommendations arising from the international conventions that Angola has ratified such as the African Union Convention on Preventing and Combating Corruption, validated by the Letter of Ratification of the President of the Republic No. 1/18, of 26 March, or those arising from the Financial Action Task Force (FATF), on international standards to combat money laundering and terrorist financing (2012-2023). It is in this context that Angola approved Law No. 15/18, of 26 December - Law on Coercive Repatriation and Extended Loss of Assets, and introduced in its new penal code, approved by Law No. 38/20, of 11 November, the figure of loss of assets or confiscation.

Confiscation, which is a measure of a political and criminal nature that leads to the definitive deprivation of assets originated, directly or indirectly, from criminal activity, decreed by a court, or other competent body, as a result of a process relating to one or more criminal offences.



This form of extended confiscation allows all the criminal's assets that are not congruent with his lawful income to be presumed to be the result of criminal activity, operating here a reversal of the burden of proof.

Ladies and gentlemen,

Although it is recognised that extended confiscation is a necessary evil, we certainly all agree that it must be used carefully, respecting the constitutionally guaranteed fundamental principles and rights, especially the presumption of innocence and the dignity of the human person, otherwise the remedy will become more harmful than the disease itself.

The protection of fundamental rights, as well as respect for the principle of human dignity, is one of the most important, if not the most important, achievements of modern States, to the extent that it has made it possible to consolidate the democratic rule of law. In this sense, the effective action of the judiciary must not be merely a form of declaration of rights, but a way of giving concrete expression to the dignity of the human person.

It is therefore at this point that the judiciary is called upon to intervene, safeguarding respect for the fundamental rights and freedoms enshrined in its constitutional texts.

PRACTICAL EXAMPLES

Currently, processes are being processed in the Angolan courts, in their different jurisdictions, that require everyone to continuously study and debate on this subject. At the level of the Constitutional Court, the challenges have been no less: In 2023, in a process of successive abstract review, the Court declared unconstitutional, with *erga omnes* effect, Presidential Decree No. 69/21, of 16 March, which established the System of Co-Payment Attributed to the Bodies of the Administration of Justice for the Financial and Non-Financial



Assets recovered by it, because it considered that it conflicted with the guarantees of independence and impartiality of the courts and, consequently, with the principle of due process, by creating the conviction that the verdict of the case was contaminated from its genesis through the attribution of the aforementioned co-payment to the bodies responsible for the prosecution and judgement of the offences that generated such financial assets. (Ruling no. 845/23, available at www.tribunalconstitucional.ao)

In a recent ruling, the Constitutional Court also addressed the constitutionality of the provisions of its Penal Code and Law No. 15/18, referring to the extended confiscation of property regime, in the context of an ordinary review of unconstitutionality, (concrete review) mechanism in which the effects of the Constitutional Court's decision are limited to the specific case, having, after a careful approach to the matter, concluded that the interpretation of the aforementioned rules applied to the specific case, submitted to its appreciation, did not constitute a violation of the constitutional principles invoked. (Ruling no. 896/2024, available at www.tribunalconstitucional.ao)

CONCLUSION

At this point, it is important to summarise that the mere constitutional provision of fundamental rights and the principle of human dignity is not enough, but that African States, through the actions of the judiciary, must effectively guarantee the effective judicial protection of these rights, ensure the defence of fundamental rights and human dignity and firmly repress violations of the law, and that justice cannot be denied under any circumstances.

Thank you very much.



HUMAN DIGNITY AND JUDICIAL INTERPRETATION OF HUMAN RIGHTS



**Presented by Hon. Mr. Amekoudi Koffi Jérôme
Member of the Constitutional Court of Togo**

SALUTATIONS,

Two of the fundamental values that are at the heart of the concept of human rights are human dignity and equality. Human rights can be understood as defining the fundamental standards necessary for a dignified life; their universality arises from the fact that, in this aspect, all human beings are equal.

In national and international legal systems, human dignity occupies a fundamental place and constitutes a cornerstone of the interpretation of human rights. Furthermore, before judicial authorities, this notion is often used as a standard of evaluation and a point of reference to protect individuals against degrading, inhumane or discriminatory treatment.

In Togo, in accordance with the provisions of Article 1 of the annex to the Constitution of May 6, 2024, which constitutes a solemn declaration of the fundamental rights and duties of persons and citizens, “The dignity of the human person is intangible. It constitutes the foundation of inalienable and inalienable human rights which public authorities have the obligation to respect and protect.

Often considered the basis or very essence of human rights, it has an intrinsic value that does not depend on circumstances or the qualities of a person. It implies the recognition of each human being as an end in themselves, and not as a means. This concept therefore has a strong resonance before the courts, particularly in cases affecting individual freedom, private life, the prohibition of torture and inhuman or degrading treatment.

Judicial interpretation of human rights is based on texts such as the Universal Declaration of Human Rights, Constitutions and various international treaties which mention human dignity as a fundamental value. In Togo, for example, the provisions of Articles 7 and 8 of the annex to the Constitution illustrate the need to protect the rights of individuals and citizens during a trial.

Judges also see themselves obliged to concretise this abstract notion of dignity by translating it into decisions applicable to specific cases.

i. Human dignity as the basis of human rights

Human dignity is explicitly mentioned in numerous international texts, such as the Universal Declaration of Human Rights of 1948. It is seen as a fundamental right inherent to every human being, determining their social status, their nationality, or of his beliefs. The recognition of dignity as the basis of law is based on a universal vision of the individual, where each person deserves equal respect.



ii. Judicial interpretation of human dignity

In the course of justice, human dignity serves as a criterion of interpretation and sometimes as an autonomous standard for evaluating other fundamental rights. It allows, for example, to limit certain rights (freedom of expression, freedom of the press) when they encroach on a person's dignity. Judges use this concept to protect against practices that could devalue the individual, such as torture, inhumane treatment, or discrimination.

For example, in Togo, human dignity is intangible (Art. 1 of the Constitution, annex part). This intangibility manifests itself in decisions prohibiting any degradation of the individual, even for public or collective interests.

iii. Tensions between individual and collective rights: towards a balanced interpretation

Human dignity can come into tension with other rights, such as national security or public health. For example, detaining people for security reasons may be seen as necessary to protect society, but it must not violate the dignity of the detained individuals. Courts must then find a balance between the protection of individual dignity and collective interests.

Human dignity is more than just a moral concept; it constitutes a solid legal basis in the defense of human rights. Its interpretation by the courts gives substantial protection to individuals, affirming that every human being has the right to inalienable respect. By evolving over time, it responds to new societal challenges and encourages a dynamic interpretation of human rights.

In short, human dignity stands out as an essential pillar of the protection of human rights, and a standard of evaluation making it possible to trace the limits of state power and to promote fair and respectful justice.

I thank you.



THE ROLE OF THE JUDICIARY IN THE PROTECTION OF HUMAN RIGHTS AND HUMAN DIGNITY IN AFRICA



**Presented by Hon. Mr. Peter Shivute,
Chief Justice of The Supreme Court of Namibia**

SALUTATIONS,

Since I am speaking for the first time, I wish to express my deep thanks and appreciation to the Judiciary and the Government of Zimbabwe for the excellent arrangements placed at my disposal and at the disposal of the members of my delegation. Thank you for your hospitality. I must also commend the CCJA and the Judicial Service Commission of Zimbabwe for organising this Conference so perfectly. We are very proud of the hard work you have put in to organise this. I am sure it will be a successful Conference.

I will provide an overview of the Namibian Judiciary's role in safeguarding human rights and dignity. The full presentation of this topic will be accessible to delegates on the website previously shared by the Conference organisers. To begin with, Namibia's Constitution is more than just a legal framework. It is a commitment to ensuring that past injustices are never repeated. At its heart is a commitment to human dignity as an inviolable right guiding our pursuit of justice, democracy and equality. In Namibia, human dignity is a fundamental right that cannot be derogated from. The very first paragraph of the preamble to the Constitution recognises human dignity "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is indispensable for freedom, justice and peace." Furthermore, Article 8 of our Constitution states clearly that the dignity of all persons must be respected. This protection extends across all legal proceedings prohibiting any form of inhumane or degrading treatment.

Namibia's dedication to this right aligns with international human rights standards such as those in the African Charter on Human and People's Rights, reinforcing that dignity and justice are not only important national constitutional principles but principles that are regional and as we heard yesterday. The Namibian Judiciary has actively enforced these principles through leading cases that highlight its commitment to safeguarding individual rights and freedoms. It has done so to interpret the rights to freedom of speech with the Supreme Court confirming that fair criticism and freedom of expression are vital to maintaining human dignity.

The Judiciary has also, in the interpretation of the humane treatment of prisoners, made reference to dignity in its interpretation of humane treatment of prisoners with a court ruling that dignity requires that prisoners, even those serving life sentences, have a hope for reform and release. In a more recent case, the Supreme Court demonstrated its stance on equality and dignity by recognising same sex marriages conducted outside Namibia for purposes of



the nation's immigration laws. This decision reaffirmed that every individual deserves equal respect under the law regardless of sexual orientation marking a significant step forward in our human rights jurisprudence.

While these cases highlight the Namibian Judiciary's approach to human rights, the Judiciary also balances activism with judicial restraint respecting the constitutional boundaries between the Judiciary and other branches of Government. Our second Chief Justice, Ishmael Mohamed, set the tone when he set the value judgment approach that he enunciated in a case in which the question of whether corporal punishment in state schools is unconstitutional or not. This value judgment approach has become a guiding principle suggesting that dignity must be interpreted in line with the Namibian norms and aspirations. However, I may stress that the term "dignity" itself remains open to interpretation which can lead to broad application and even perceptions of judicial overreach. The Judiciary therefore must balance the need to protect dignity with respect for legislative roles, maintaining public trust while guarding constitutional values.

In closing, the Namibian Judiciary's commitment to human rights and dignity remains a cornerstone of our legal system, balancing activism with restraint to protect all individuals' rights under the constitution through its evolving interpretation. The Judiciary reaffirms its dedication to justice, equality and the inherent dignity of all people.

Thank you.



THE ROLE OF THE JUDICIARY IN THE PROTECTION OF HUMAN RIGHTS AND HUMAN DIGNITY IN AFRICA



Presented by Hon. Mr. Abdi Ismael Hersi
President of the Constitutional Council of Djibouti

SALUTATIONS,

Let me first thank the President of the Supreme Constitutional Court of the Republic of ZIMBABWE, the Honourable Chief Justice Mr. L. MALABA for his invitation, the excellent organisation and the warm welcome we have received since our arrival. Our warm thanks to the government and people of Zimbabwe who have fraternally allowed us to hold our conference in this beautiful country that has fought so hard for its dignity and independence.

Mr. Moderator,

The sub-theme under discussion at this level of the conference is entitled "The role of the judiciary in the protection of human rights and human dignity in Africa". This theme, according to our understanding, raises countless questions, particularly related to the diversity of rights in force on our continent, the organisation and the human and material resources allocated to them, the evolution of the content in space and time, the impact of culture and religious beliefs.

Despite these diversities, there is a common foundation, every judicial system has a superior and crucial mission, which is to protect and promote the fundamental rights and dignity of the human person. In order to fulfill this noble mission, the judge must be independent, impartial and endowed with great moral probity.

WHAT ABOUT THE REPUBLIC OF DJIBOUTI?

The Constitution of the Republic of Djibouti, in its preamble, adopts all the provisions of the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights. It should be recalled that the abolition of the death penalty in the fundamental law is to guarantee the strongest protection of the right to life, one of the first, I believe in Africa and in the Arab-Muslim world. Like any State of Law and pluralist democracy, the Republic adopted in 1992 a Constitution which in its Article 7 enshrines the separation of powers in these terms "The institutions of the Republic are:

- The executive power;
- The legislative power; and
- The judicial power.

Each of these powers assumes full and entire responsibility for its prerogatives and attributions in conditions such that the continuity and regular functioning of republican institutions are ensured".



Articles 8 to 15 of the fundamental law enacts and organise the system of protection of the fundamental rights and freedoms of the person. Without this constitutional shield, human dignity would be an empty word, each individual and each institution would act in a completely arbitrary manner.

Human dignity is a cardinal value that is omnipresent in our legislation. Here are some examples:

In the Civil Code: -

- Article 14

The law ensures the primacy of the person, prohibits any attack on their dignity and guarantees respect for the human being from the beginning of their life.

In the Penal Code: -

- Article 187

Constitute an insult the words, gestures, threats, writings of any nature or sending of any objects addressed, publicly or not, to a person designated in Articles 188 and 189 and likely to undermine his dignity or the respect due to the function with which he is invested.

In Law No. 133/an/16/7th on the fight against trafficking in persons and the illicit trafficking of migrants.

- Article 32:

Measures will be taken to ensure the physical safety of foreign persons who are victims of trafficking in persons while they are on the national territory. They may only be repatriated in conditions of dignity and security.

In Law No. 2/an/92/2nd I of September 15, 1992, relating to freedom of communication.



- Article 4:

Freedom of communication must not undermine social peace and the dignity of the human person, nor disturb public order, it must not contain any information or insertion contrary to Islamic morality, or likely to advocate racism, tribalism, treason or fanaticism.

It is on the basis of this foundation that the judge is required to apply the content.

To conclude, I will say that in a State governed by the rule of law, the judge is the last bulwark against attacks on dignity and all other forms of arbitrariness. Before ending my speech, I would also like to say a word about what is happening in the Middle East, we are witnessing live and in an almost general indifference the worst violations of human rights and human dignity, the massacres, the displacement and even the genocide of the Palestinian people and probably soon that of LEBANON. We must at least be indignant and call for an immediate and unconditional ceasefire.

Thank you for your attention.



THE ROLE OF THE JUDICIARY IN THE PROTECTION OF HUMAN RIGHTS AND HUMAN DIGNITY IN AFRICA



Presented by Hon. Mr. Bashe Yusuf Ahmed
Chief Justice of Somalia

SALUTATIONS,

It is my great honour and privilege to be part of this esteemed gathering of judiciaries from across the African continent. I extend my heartfelt gratitude to the host, the Honourable Chief Justice of Zimbabwe, the Judiciary Service Commission, his entire team and the Secretariat of the Conference for effectively and successfully organising this important Congress and for the invitation and warm welcome extended to all of us.

The theme of this Congress, "Human dignity as a fundamental value and principle: A source of constitutional interpretation, protection of fundamental

human rights and application,” is both timely and crucial. Human dignity is the foundation upon which our societies are built, and it is the cornerstone of our constitutional Principles.

The Somali Constitution, adopted in 2012, enshrines fundamental human rights, human dignity and guarantees the independence of the judiciary. Chapter Two of the Constitution outlines the fundamental human rights and freedoms, particularly focusing on human dignity and equality. Article 10 which is the first Article of the Chapter, recognises Human dignity as a divine gift inherent in every human being and the foundation for all human rights, the article further asserts that human dignity is sacred and inviolable, and must be respected and protected by all, and mandates that State authority must never be exercised in a way that compromises or violates human dignity. Article 11 guarantees equality before the law, prohibiting discrimination on any grounds. Article 12 outlines the state's obligation to respect, protect, and fulfill these rights.

These provisions establish a framework for safeguarding human rights and human dignity, placing responsibilities on both individuals and the State. In our continent’s diverse and evolving legal landscapes, the judiciary remains a pillar of stability, champion and promoter of justice, fundamental human rights, freedoms and human dignity principles. Our work directly influences the lives of millions, as we ensure that human rights are not just ideals in our constitutions but lived realities for every human being.

The principles enshrined in the Universal Declaration of human Rights and African Charter on Human and Peoples’ Rights guide our commitment to freedom, equality, and the protection of inherent human dignity. It is these values that we, as guardians of the law, strive to uphold, even amidst the unique challenges we face in Africa.



Many African nations have enshrined human rights protections within their constitutions, often inspired by international human rights instruments like the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, the African Charter on Human and Peoples' Rights and other human rights instruments.

The judiciary interprets and enforces these constitutional guarantees, ensuring that all laws and government actions comply with these foundational rights. In Somalia, Chapter Two of the Somali Constitution of 2012, titled "Fundamental Rights and Duties," is foundational to Somalia's commitment to human rights, civil liberties, and the rule of law. It delineates the fundamental rights and freedoms of individuals and groups within Somalia, incorporating both national and international human rights standards. Given Somalia's history, Chapter Two of the Constitution serves as an essential safeguard for rebuilding trust between the State and its citizens, seeking to restore faith in the rule of law and create a rights-respecting society.

Furthermore, through judicial review and the power of judicial interpretation, The Judiciary has the authority to strike down laws or executive actions that violate fundamental human rights and human dignity principles. This function is vital, especially when governments enact laws and policies infringing fundamental human rights and freedoms.

Article 40 of the Somali Constitution establishes a framework for judicial interpretation of fundamental rights and freedoms. It mandates that these rights be interpreted in a way that aligns with their core values and objectives, promoting an adaptive and progressive approach responsive to evolving societal needs and challenges. paragraph one states, "When interpreting the rights set out in this Chapter, a court shall take an approach that seeks to achieve the purposes of the rights and the fundamental values that underlie them." This directive underscores a purposive interpretation of rights, ensuring



that courts prioritise the intent and fundamental values and principles behind constitutional protections.

Paragraph Two of Article 40 acknowledges the relevance of Sharia, international Instruments of human rights, and foreign court decisions in interpreting fundamental rights. It provides that “In interpreting these rights, the court may consider Shari’a law, international human rights instruments and decisions of courts in other countries, though it is not bound to follow these decisions.” While non-binding, these sources enrich the judiciary’s interpretation, offering perspectives that contribute to a nuanced and well-rounded understanding of human rights principles.

Additionally, Article 40 calls for a consistency between the law interpretation and the overarching principles of human rights. This ensures that judicial decisions align with the Constitution’s human rights framework, justice, equality, and dignity embedded in Somali constitutional law.

Our continent’s judicial systems are often structured around pluralistic frameworks. Many African nations, including Somalia, operate with a mix of customary, religious, and statutory laws. This plurality can enrich our legal systems by bringing culturally significant solutions. However, it can also create challenges, particularly when customary practices or local interpretations of religious principles conflict with internationally recognised human rights standards. Our duty, therefore, is to harmonise these diverse laws, anchoring them in fundamental human rights and ensuring they protect all citizens equally, especially vulnerable groups such as women, children, and ethnic minorities.

In Somalia, the reality of conflict and terrorism poses unique challenges to the judiciary’s reach and effectiveness in many regions. The judiciary faces ongoing challenges in ensuring justice and safeguarding fundamental human



rights where State infrastructure remains fragile. Yet, we have made significant strides in creating a legal framework that protects fundamental rights as enshrined in our Constitution of 2012. This Constitution firmly establishes the rights to life, freedom from torture, and dignity for all individuals. Courts in Somalia continue to adjudicate on matters that uphold these rights, despite limitations.

The Somali judiciary will continue to progress toward upholding and promoting fundamental human rights and freedoms enshrined in our Constitution and international human rights instruments. Our courts will continue to be inspired and guided by the general tenets of Islamic values, international norms and local customs to shape the legal system of Somali jurisprudence. If we strengthen our judiciary, peace, prosperity, and economic development will follow.

In Somalia and beyond, the judiciary's commitment to social equity can also be transformative. Through progressive judgments on issues like gender-based violence, child protection, and discrimination, African courts have become arenas where citizens, especially those marginalised by society, find recourse and justice. We recognize that many citizens, particularly vulnerable groups, continue to face barriers to justice, and it is our responsibility to address these barriers through judicial reform, increased legal aid, and community engagement.

The independence of the judiciary is essential for the protection and promotion of the fundamental human rights, freedoms and human dignity. We must resist pressures that undermine judicial independence, including political interference and corruption, which threaten the very fabric of justice. An independent judiciary not only fortifies the protection of rights but also fosters public trust, ensuring that citizens see the judiciary as a legitimate and unbiased defender of their rights. In Somalia, the Constitution provides for the



independence of the judiciary. Article 108 of the Constitution states that “The judiciary is independent of the legislative and executive branches of government whilst fulfilling its judicial functions. Members of the judiciary shall be subject only to the law.”

Finally, the judiciary’s role in human rights protection and human dignity depends on sustained capacity-building. Access to continuous legal education and judicial training are essential steps in enhancing our capacity to deliver justice, protect and promote fundamental human rights and human dignity. In Somalia, we are making a concerted effort to fortify these aspects of our legal system. These efforts are fundamental to creating a judicial system that is not only skilled and effective but also compassionate and responsive to the unique needs of our people.

As I conclude, let us remember that our work as judges is to embody the values of justice, equity, and human dignity in our societies. We bear a sacred responsibility to uphold the rule of law and protect the inherent rights of every individual. I am confident that by strengthening our collaboration across the continent and committing to shared ideals, we can make significant strides in realising a future where human rights and dignity are safeguarded for all Africans.

Thank you.



THE ROLE OF THE JUDICIARY IN THE PROTECTION OF HUMAN RIGHTS AND HUMAN DIGNITY IN AFRICA



Presented by Hon. Mr. Youssouf Msa
Judge of the Supreme Court of the Comoros

SALUTATIONS,

First of all, allow me to convey all the best wishes for happiness and success in all our work, thanks and congratulations from MR. CHEIKH SALIM SAID ATHOUMANE, First President of the Supreme Court of the Union of Comoros and to the Hon. LUKE MALABA, President of the Constitutional Court of ZIMBABWE, for the warm and professional welcome he gave us with all of our colleagues and the people of Zimbabwe;

Then, allow me to tell you that the letter dated April 1, 2024, from His Excellency MR. LUKE MALABA, President of the Constitutional Court of ZIMBABWE to his counterpart in the Comoros to remind him of the importance of taking part in

the work of this 7th congress of the Conference of African Constitutional Jurisdictions CJCA, organised under the theme “Human dignity as a fundamental value and principle: A source of constitutional interpretation, protection of fundamental human rights and application”, sparked a real enthusiasm among the members of our august Court, which resulted in the appointment of your servant to intervene in the context of this interesting and current issue relating to the “Role of the judicial power in the protection of human rights and human dignity in Africa.”

Madam President,

Excellencies, ladies and gentlemen, the notions of human dignity and fundamental human rights have been amply defined throughout our work and in particular at the 2nd Panel, chaired by our colleague the honourable Dieudonné Kamuleta Badibanga devoted to “Human dignity as a fundamental human right and freedom.

In addition, I would also like to remind you that the notion of human dignity appeared after the Second World War in reaction to Nazi crimes. It was included in the Preamble to the Charter of the United Nations in 1945; The French Constitutional Council inserted into the first paragraph of the Preamble of the 1946 Constitution related elements according to which “In the aftermath of the victory won by free peoples over regimes which attempted to enslave and degrade the human person, the French people proclaim once again that every human being, without distinction of race, religion or belief, has inalienable and sacred rights.”

The European Convention on Human Rights prohibits torture and the application of “inhuman or degrading treatment or punishment” (Article 3); The Charter of Fundamental Rights of the European Union provides that “human dignity is inviolable. It must be respected and protected” (Article 1);



Subsequently, the notion of human dignity was integrated into the German Basic Law of May 23, 1949, and the Spanish Constitution of 1978;

Finally, by a judgment of October 14, 2004, the Court of Justice of the European Community (now the Court of Justice of the European Union - CJEU) (Case C-36/02, *Société Omega*) considered that the legal order community aims to ensure respect for human dignity as a general principle of law. Regarding Human Rights, we know that they are inalienable and that every human being has them. That at the United Nations level alone, more than a hundred documents are devoted to human rights and, if we add all the instruments that exist at the different regional levels, this figure increases further.

The Universal Declaration of Human Rights is made up of a preface and 30 articles which set out the human rights and fundamental freedoms to which all men and women, everywhere in the world, are entitled, without discrimination. It guarantees both civil and political rights, and social, economic and cultural rights and in particular:

- Right to equality;
- Right not to be discriminated against;
- Right of everyone to life, liberty and security of person;
- Right not to be held in slavery;
- Right not to be subjected to torture or degrading treatment;
- Right of every person to recognition of their legal personality;
- Right to equality before the law;
- Right to an effective remedy before the competent courts;
- Right not to be arbitrarily arrested or exiled;
- Right of everyone to have their case heard fairly and publicly;
- Right of everyone to be presumed innocent until proven guilty according to law;



- Right of every person not to be the object of arbitrary interference in his private life, his family, his home or his correspondence;
- Right to move freely within and outside a State;
- Right to asylum in other countries in the event of persecution;
- Right to a nationality and freedom to change it;
- Right to marriage and family;
- Right to property;
- Freedom of thought and religion;
- Freedom of opinion and expression;
- Right to freedom of peaceful assembly and association;
- Right to participate in the management of public affairs of one's country and in free elections;
- Right to social security;
- Right of everyone to free choice of work and to join unions;
- Right to rest and leisure;
- Right to an adequate standard of living;
- Right to education;
- Right to take part freely in the cultural life of the community; and
- Right to a social order such that the rights and freedoms set out in the UDHR can find full effect

Regarding regional instruments, to date, there are three permanent courts considered as specific monitoring bodies relating to the implementation of human rights: the European Court of Human Rights, the Inter-American Court of Rights of Human Rights and the African Court on Human and Peoples' Rights (CAFDHP).

The Inter-American Court of Human Rights was established by the Organization of American States in 1979 to interpret and apply the American Convention on Human Rights.



The African Court is the most recent regional court, established in 2004. It adjudicates cases in accordance with the African Charter on Human and Peoples' Rights and concerning member states of the African Union. Based in Arusha, Tanzania, its judges were elected in 2006.

At the national level, we have also seen that almost all States on the African continent have ratified these international and regional instruments, which are intended to apply in a complementary manner to their own legislation.

Thus, in the Union of the Comoros, litigants invoke the national laws in force, starting with the Constitution of December 23, 2001, revised by the referendum of July 30, 2018, of which the preamble which is an integral part, provides that “The Comorian people solemnly affirm its desire to demonstrate its attachment to the principles of fundamental rights as defined by the Charter of the United Nations, that of African Unity, the Covenant of the League of Arab States, the Universal Declaration of Human Rights of United Nations, the African Charter on Human and Peoples' Rights as well as international conventions, particularly those relating to the rights of children and women.”

Madam President,

We have seen that despite the existence of all these instruments to which all national legislation is added, attacks on individual and collective rights and freedoms continue to gain ground:

- Violation of the rights of people in detention;
- Restriction of freedom of expression, towards journalists;
- Attack on the honor of personalities who file a complaint for defamation against journalists;
- Discrimination against groups;
- Widespread gender-based violence,



- Sexual violence; and
- Arbitrary interference in the private lives of citizens (violation of home or correspondence).

It is in this context that instead of relying solely on the will of God, (philosophical, mystical definitions of the notion of dignity as the honorable Mr. Diégo Solana reminded us yesterday), we ask ourselves what is "The role of the judiciary in the protection of human rights and human dignity in Africa"?

Madam President,

The judiciary is commonly called the guardian of the laws. Its role in the protection of human rights and human dignity in Africa is therefore to ensure the proper application of the law to guarantee respect for human dignity as well as the effectiveness of the exercise of human rights.

Which leads us to present our reflection in part: The judicial power is certainly the guarantor of respect for human dignity as well as the effectiveness of the exercise of human rights in Africa , however, it is clear that its role is increasingly limited by numerous obstacles.

THE JUDICIAL POWER GUARANTEEING THE RESPECT OF HUMAN DIGNITY AND THE EFFECTIVE EXERCISE OF THE RIGHTS OF JUSTICIABLES IN AFRICA

In this regard it must:

- Prevent or put an end to the effects of acts detrimental to human dignity and violations of human rights by appropriate means;
- Allow anyone whose freedom has been illegally obstructed to regain its exercise as quickly as possible;
- Conduct contradictory investigations; and



- Pronounce exemplary sanctions to protect victims of abuse of human rights and individual and collective freedoms.

ALL FUNDAMENTAL LAWS OF THE CONTINENT GUARANTEE TO ALL LITIGANTS “THE RIGHT TO A FAIR AND PUBLIC TRIAL”

This includes:

- The right to a trial within a reasonable time, except in cases of *force majeure*;
- The right to be defended by a lawyer chosen or designated by the President of the Bar Association at the expense of the State if the persons being prosecuted are indigent;
- The right to free assistance from an interpreter for any defendant unable to understand or speak the language used before the trial court;
- The right to an effective remedy before the competent courts;
- The right not to be arbitrarily arrested or exiled;
- The right of everyone to have their case heard fairly and publicly; and
- The right of everyone to be presumed innocent until their guilt has been legally established.

CHALLENGE OF THE LEGALITY OF HIS ARREST OR DETENTION BEFORE A COURT

All the basic laws of the continent guarantee and prohibit to all litigants, arbitrary arrests and detentions and provide the right of any person to challenge the legality of their arrest or detention before a court. Placement in pre-trial detention for the purposes of judicial information is provided for by our Codes of Criminal Procedure which ends with presentation before the trial court, and the pronouncement of a decision capable of the exercise of ordinary channels and extraordinary appeals. Detainees who irregularly await their trial for long periods for reasons such as administrative delays, or judicial



backlog, collection of evidence, have numerous avenues of appeal before the competent courts.

Thus, in application of Article 148 of the Comorian Code of Criminal Procedure, "If the day of investigation fails to be within the time limit set in the third paragraph, the accused may directly submit his request to the Indictment Chamber, which will pronounce within fifteen days of the referral, failing which, the person is automatically released..." Failing this, the judgment of the Indictment Chamber which confirms an arbitrary detention order is intended to be overturned by the Criminal Chamber of the Supreme Court, the guardian of human rights and human dignity.

However, Madam President, Excellencies Ladies and Gentlemen,
The debates we have had in recent days have highlighted theoretical limits and practical obstacles.

CONCLUSION

Martin Luther King said: "Laws do not change hearts, but they make them less hard. Our courts can only remain the last ramparts against injustice, arbitrariness and attacks on fundamental rights and freedoms, only on the double condition of guaranteeing victims access to their rights, and of pronouncing exemplary sanctions to protect against abuses of human rights and individual and collective freedoms.



CLOSING REMARKS



Hon. Mr. Luke Malaba, Chief Justice of the Constitutional Court of the Republic of Zimbabwe

SALUTATIONS,

Distinguished guests, ladies and gentlemen, I am honoured to stand before you to deliver the remarks marking the end of the 7th Congress of the Conference of Constitutional Jurisdictions of Africa (“CJCA”). There is no doubt that the success of the 7th Congress was only possible through your full attendance and participation. The responses that the jurisdiction of Zimbabwe received to the invitations to attend this 7th Congress of the CJCA were both encouraging and reassuring of the importance of fostering constitutionalism on the African continent.

The 7th Congress of the CJCA was a success. In this regard, the theme on which the 7th Congress was founded bears repetition. It focused on human dignity as a fundamental value and principle, exploring its functions as a source of

interpretation, the protection of fundamental human rights and interpretation. The theme brought to the fore the importance of human dignity in the entrenchment of constitutionalism in our various jurisdictions.

The participation of the delegates from different jurisdictions in the proceedings of the Congress was enriching. We were able to break the language barriers and share our experiences with respect to our common obligations of delivering constitutional justice to our people. The materials presented by the different speakers were rich and demonstrated the unique thoughts and approaches to issues of human rights and constitutional interpretation. In all of the discussions, the underpinning factor was human dignity.

In concluding the Congress, I take a moment to reflect on the profound discussions we have had on the topic of human dignity. The insights and perspectives shared here are not just for today, but for us to carry forward into our daily lives and professional practices.

It is crucial that we all take the time to thoroughly digest the material we have covered, reflect on the principles of human dignity and consider how they can be integrated into our work and interactions. This is not just a theoretical exercise, but a call to action to uphold and promote dignity in all aspects of our lives. As shown by the discussions that we had, human dignity is an important concept running through all constitutional processes on which our democracies are established.

On behalf of the judiciary of Zimbabwe, and indeed on my behalf, it is observed that the 7th Congress culminated in the commencement of Zimbabwe's chairmanship of the CJCA. Firstly, I express my sincere gratitude to this Conference for bestowing this important role to Zimbabwe. Secondly, I am pleased to express my own and Zimbabwe's commitment to entrenching and



advancing the objectives of the CJCA during its tenure of the chairmanship of the Conference. For Zimbabwe, fulfilling the constitutional framework on which the CJCA is founded is an abiding commitment.

The Statute of the Conference of Constitutional Jurisdictions of Africa reaffirms the Conference's commitment to the promotion of constitutional justice in Africa. In this regard, the Judiciary of Zimbabwe commits to facilitating the attainment of the objectives of the CJCA as other past presidents have done and continue to do. The entrenchment of constitutionalism is a process that is founded on continuous efforts to adhere to the principles it emphasises.

Looking into the future, we look forward to the statutory activities set out in the Statute of the CJCA including the 8th Congress of the CJCA. We are confident that the upcoming Congress will build on the momentum that has been created here and it will continue to foster collaboration, solidarity and mutual aid among the members of the CJCA.

During the General Assembly of the CJCA held this afternoon, a resolution was made to host the next meeting of the Executive Bureau of the CJCA. The Supreme Constitutional Court of Egypt has agreed to host us during the important statutory meeting. We thank the President of the Supreme Constitutional Court of Egypt, Honourable Boulos Fahmy Iskandar for agreeing to host us.

Before I wrap up, I am delighted to announce as indicated on the programmes for this Congress that we have a wonderful experience planned for you. We will be concluding the Congress with a Cultural Day tomorrow during which we will visit the Victoria Falls rainforest. The Cultural Day was deliberately included as a component of the programme. It is a continuation of the solidarity and brotherhood which we have celebrated in the past two days. The display of our different cultures tomorrow is hoped to strengthen the Pan-Africanism we



share in the pursuit of the administration of constitutional justice. The visits to the different destinations for excursions will be an opportunity to relax and reflect on the insights we have gained over the past two days. The members of staff of the Judicial Service Commission of Zimbabwe will provide the necessary information about these visits.

In closing, I express my gratitude to the different persons that have made this Congress a success. I am grateful to the member jurisdictions, organisations, and observer countries that have joined us in making the 7th Congress of the CJCA a reality. Your presence and active participation were instrumental in the success of this Congress.

I also thank the President of the Constitutional Court of the Kingdom of Morocco Mr. Mohammed Amine Benabdallah for his exceptional leadership and dedication in ensuring that the CJCA continues to transform into an entity pursuing constitutional justice across all the African states. In the same vein, I am also grateful to Mr. Moussa Laraba, the Permanent Secretary General for the CJCA. He worked tirelessly with the Judicial Service Commission to make the Congress a success.

I would also like to take a moment to express our deepest gratitude to the dedicated members of staff of the Judicial Service Commission of Zimbabwe, led by the Secretary, Mr. Walter T. Chikwana. Your hard work and commitment have been pivotal in ensuring the success of this Congress. I also thank Dr I. Maja, who ably directed the proceedings of this Congress.

Finally, I extend my heartfelt thanks to His Excellency, the President of Zimbabwe, Dr. E. D Mngagwa, for his and the Government's unwavering support for the 7th Congress. I also extend my gratitude to the Honourable Vice President of Zimbabwe, General (Retd) Dr. C. G D N Chiwenga for officiating at the opening ceremony. The support and participation of the Government



of Zimbabwe greatly enriched the Congress. We are truly privileged to have had the opportunity to hear the Honourable Vice President's valuable insights on human dignity.

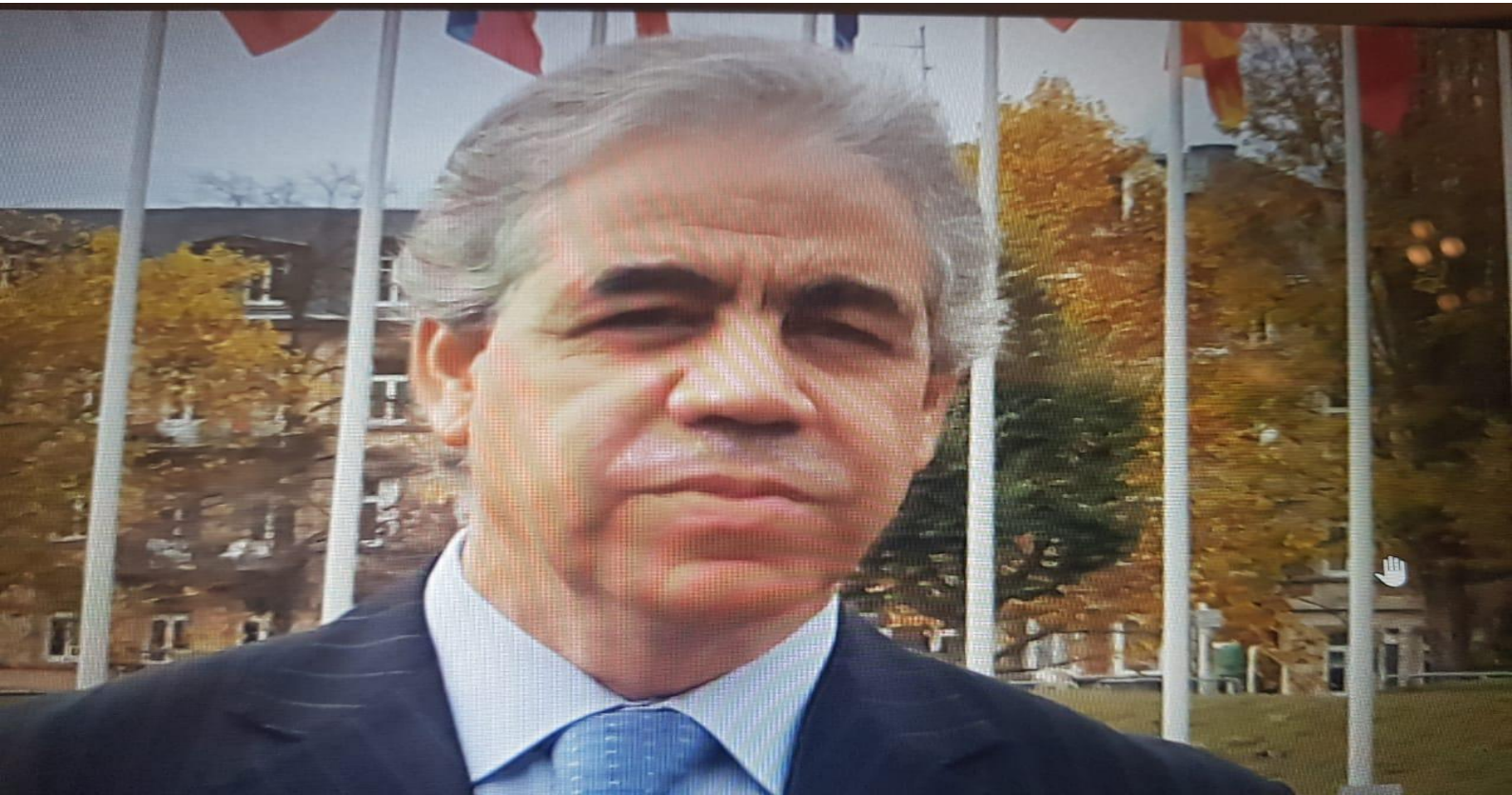
Distinguished guests, ladies and gentlemen,

I thank you.





"PRESS RELEASE
FROM VICTORIA FALLS"



PRESS RELEASE

PRESENTED BY H.E. MR. MOUSSA LARABA
JUSTICE-SECRETARY GENERAL OF THE CJCA

The Conference Constitutional Jurisdictions of Africa (CJCA) held its 7th Congress from 30 October to 2 November 2024 in Victoria-Falls (Republic of Zimbabwe), at the kind invitation of Hon. **Mr. Luke MALABA**, Chief Justice and President of the Supreme and Constitutional Court of Zimbabwe.

Report on the 7th Congress of The Conference of Constitutional Jurisdictions of Africa (CJCA)
31 October 2024 to 3 November 2024



This event was enhanced by the presence of the Vice President of the Republic of Zimbabwe **His Excellency Dr. Constantino CHIWENGA**, who delivered the opening speech and kicked off the work of this 7th Congress.

The Congress brought together forty (40) African Constitutional and Supreme Courts and Councils that are members of the CJCA, the Supreme and Constitutional Courts of Iraq, Russia and Turkey in their capacity as Observer Members of the CJCA, the Constitutional Court of Austria as a special guest, the African Union, the African Court on Human and Peoples' Rights, the World Conference on Constitutional Justice, the Council of Europe's Commission for Democracy through Law, as well as the regional groups working in the field of constitutional justice, namely: the Union of Arab Constitutional Courts, the Asian Association of Constitutional Courts, the Conference of European Constitutional Courts, and the Forum of Chief Justices of Southern Africa, to which are added civil society organizations, such as the International



Association of Constitutional Law and the World Law Foundation, for a total of one hundred and fifty (150) participants.

The theme of the Congress was: ***"Human dignity as a value and founding principle: A source of constitutional interpretation, protection and application of fundamental human rights"***

At its 7th General Assembly, the Congress:

- adopted the activity and financial reports;
- ruled on new applications for membership;
- adopted the activity programme and the provisional budget for 2024-2026;
- ratified of the cooperation agreement between the CJCA and the Conference Portuguese-speaking Constitutional Courts.
- Announcement and awarding of trophies to the winners of the first edition of the "CJCA Thesis Prize".
- proceeded to the election of a new Executive Bureau.

The new Bureau is composed of:

- The Supreme and Constitutional Court of **Zimbabwe**, as President of the CJCA, for the period 2024-2026.

The following Councils and Constitutional and Supreme Courts as members of the Bureau:

- **1st Vice-President:** The Constitutional Court of the Democratic Republic of **Congo** (Host of the 8th Congress);
- **2nd Vice-President:** The Supreme Constitutional Court of **Egypt**;
- **Vice-Presidents:** **Algeria, Angola; Côte d'Ivoire, Ethiopia, Gabon, Seychelles, South Africa, Somalia, Morocco, Mozambique and Zambia.**

The mandate of the Bureau is two years.



The Congress accepted the candidacy of the Constitutional Court of the **DR Congo** to host and organize the 8th Congress of the CJCA, scheduled for 2026. The participants take this opportunity to express their sincere thanks and deep gratitude to the Honourable Judge, **Mr. Mohammed Amine BENABDALLAH**, President of the Constitutional Court of the Kingdom of Morocco, for his distinguished presidency of the Conference, and for what he has done, during his mandate, for the development and flourishing of the organization.

On this occasion, **Mr. BENABDALLAH**, outgoing President, handed over the banner of the CJCA to the Honourable **Mr. Luke MALABA**, Chief Justice and President of the Supreme and Constitutional Court of Zimbabwe, as a passage of the Presidency to Zimbabwe for the next two years.

The participants of the 7th Congress of the Conference of African Constitutional Jurisdictions (CJCA) as well as all the representatives of the host jurisdictions and organizations, gathered in Victoria Falls, extend their heartfelt thanks and congratulations to the Honourable **Mr. Luke MALABA**, Chief Justice and Chief Justice of the Supreme and Constitutional Court of Zimbabwe, the Judges, the Secretary of the Judicial Commission **Mr. Walter CHIKWANA** and to his Team, for the excellent organization of this event, to the authorities and the people of Zimbabwe, for the quality of their welcome and hospitality, which greatly contributed to the success of the work of this 7th Congress.

They express their feelings of deep gratitude.

They take this opportunity to extend their best wishes for the success of **Chief Justice Luke Malaba**, in the mission that has just been entrusted to him, at the head of the Conference for the next two years, in the service of constitutional justice in Africa.



Done at Victoria Falls, Friday, November 1st, 2024.





LIST OF PARTICIPANTS

JURISDICTIONS		
JURISDICTION	NAMES OF PARTICIPANTS	DESIGNATION
CJCA SECRETARIAT	Laraba Moussa	Secretary General of CJCA
	Abdelmadjid Tabbech	Treasurer of CJCA
ALBANIA	Holta Zacaj	President of the Constitutional Court and Acting President of the CECC
	Vilma Premit	Chief of Staff
ALGERIA	Naceurdine Saber	Member of the Constitutional Court
ANGOLA	Laurinda Prazeres Monteiro Cardoso	President of the Constitutional Court
	Maria Da Conceicao De Almeida Sango	Justice
	Julia De Fatima Lente Da Silva Ferreira	Justice

	Joao Carlos Antonio Paulino	Justice
	Claudio De Jesus Da Silva Mota	Director of Exchange and International Relations
	Aida Bernardeth Pires Alberto Goncalves	Director of Technical Advisory and Case Law
	Neide Marisa Trindadr Pinto De Fonseca	President's Advisor
ANGOLA	Alibio Antonio Pascoal Montenegro	Head of Protocol
	Edmilson Alfredotavares Cardoso	Escort
AUSTRIA	Christoph Grabenwarter	President of the Constitutional Court
	Ralf Bockle	MPA Director of International Relations of The Constitutional Court of Austria
BENIN	Aleyya Gouda Baco	Conseillere, Juge A La Cour Constitutionnelle
	Mr Soumanou Issaou	Legal Assistant at The Constitutional Court
BURKINA FASO	Sanou Toure Fatimati	Member of The Constitutional Council
	Savadogo Daouda	Secretary General
BURUNDI	Valentin Bagorikunda	President of the Constitutional Court

CABO VERDE	Jose Manuel Avelino De Pina Delgado	President of the Constitutional Court
	Joao Alberto Almeida Borges	General Secretary of the Constitutional Court of Cabo Verde
CAMEROON	Joseph Aseh Malegho	Secretary General of the Constitutional Court
	Emile Essombe	Member of the Constitutional Council
CENTRAL AFRICA	Jean Pierre Waboe	President
COMOROS	Yousouf Msa	President de la Section Judiciaire
DR CONGO	Dieudonne Kamuleta Badibanga	President
	Lumu Mbaya Sylvain	Judge
	Bondo Katuma Paul	Deputy Chief of Staff of the President of the Constitutional Court
	Viny Budibanga Viny	Advisor
	Mukebay Dezzy	Advisor
	Fabien Lumbala Kalongi	Press Officer
	Laetitia Malonda Masiala	Camera Woman
	Muanzi Mwinzi Timothee	Close Guard
	Dipa Tshibamba Guylain	Consultant

COTE D'IVOIRE	Camara Nanaba	Presidente du Conseil Constitutionnel de Cote D'ivoire
	Franck Dahie	Chief of Protocol
	Akissi Odile Assouman	Assistant to President
	Kindoe Rosalie Kouame Epouse Zalo	Councillor
	Mr Sebastien Yedoh Lath	Conseiller Constitutionnel de Cote D'ivoire
DJIBOUTI	Abdi Ismael Hersi	President du Conseil Constitutionnel
	Ahmed Osman Hachi	Membre du Conseil Constitutionnel
EGYPT	Bolous Fahmy Iskandar	Chief Justice, President of the Supreme Constitutional Court of Egypt
EQUATORIAL GUINEA	Antonio-Lasqui Santander Sabbe	Jurisdictional Secretary
	Antonio Nsue Nguema Eyang	Constitutional Judge
ESWATINI	Moses Cuthbert Bhekie Maphalala	Chief Justice
	Bongani Mandla Mhlanga	Police Officer to the Chief Justice
	Nontobeko Princess Nhlabatsi	Police Officer to the Chief Justice
	Melusi Alex Zwane	Police Officer to the Chief Justice
	Ncamsile Fortunate Mavuso	Police Officer to the Chief Justice

ETHIOPIA	Tewodros Meheret Kebede	Chief Justice
	Dessalegn Wayessa Denta	Secretary-General
GABON	Dieudonne Aba'a Owono	President of the Constitutional Court
	Christian Bignoumba Fernandes	Judge of the Constitutional Court
	Herve Vendakambano Tako	Judge of the Constitutional Court
	Marie-Louise Ntsame Eyogho	Attache de Presse
	Gauthier Tsouaris	Chef de Securite
	Rodrigue Tessa Mouanga	Conseiller en Communication
GUINEA	Fode Bangoura	Premier President
	Hassane II Diallo	Secretary General
	William Fernandez	Premier Avocat General
KENYA	Susan Njoki Ndungu	Supreme Court Judge
LESOTHO	Sakoane Peter Sakoane	Chief Justice
LIBYA	Abdalla Aburaziza	President of the Supreme Court
	Abdelgader Menshaz	Counsellor at the Supreme Court
MADAGASCAR	Florent Rakotoarisoa	President

	Mbalo Rainaivo Fidele	High Advisor
	Christo-Rico Rajaonarivelo	Aide-de-Camp
	Ralison Samuel Andriamorasoa	Chief Registrar
MALAWI	Rizine Mzikamanda	Chief Justice
	Ivy Kamanda	Justice of Appeal
	Patrick Kamisa	Assistant Registrar
MALI	Toure Amadou Ousmane	President of the Constitutional Court
	Maiga Mohamed Abdoura Hamane	Conseiller Cour Constitutionnelle
MAURITANIE	Mamadou Batia Diallo	President of the Constitutional Court
	Sidi Baba Ely Robe	Directeur de Cabinet
MOROCCO	Mohammed Amine Benabdallah	President of the Constitutional Court and President of the CJCA
	Abdelahad Dekkak	Constitutional Member
	Mohammed Bouaziz	Cabinet Chief
MOZAMBIQUE	Domingos Cintura	Judge
	Aderito Quive	Judges Assistant
NAMIBIA	Peter Shivute	Chief Justice

	Gervasius Nate Ndauendapo	Judge of the High Court
	Naomi Ndilimeke Shivute	Judge of the High Court
	Alapeje Nambira	Special Assistant to Chief Justice
SENEGAL	Madiena Bakoum Diallo	Directeur de Cabinet
	Aminata Ly Epouse Ndiaye	Judge Member du Conseil Constitutionnel
	Ndiaye Cheikh Mbacke	CJCA Thesis Book Prize Winner
SEYCHELLES	Mohan Niranjit Burhan	Judge of Supreme Court and Constitutional Court
	Lionel Okon Garrick	Director of Legal Affairs
SOMALIA	Bashe Yusuf Ahmed	Chief Justice and President of the Supreme Court
	Ahmed Ali Mohamud	Personal Assistant and Director Planning
SOUTH AFRICA	Mahube Betty Molemala	President of The Supreme Court of Appeal
SOUTH SUDAN	Chan Reec Madut Puolpiny	Chief Justice
TANZANIA	Prof Ibrahim Hamis Juma	Chief Justice
	Yahaya Baruti	Personal Assistant to Chief Justice
	Ezekia Moses Mahiri	Personal Assistant

	Venance Mlingi	Personal Assistant to the Chief Justice
	Juma Mshana	Protocol Officer for the Chief Justice
	Mary Charles Gwera	Senior Information Officer
	Michael Mwanakulya	Personal Assistant to the Former Chief Justice of Tanzania
TOGO	Amekoudi Koffi Jerome	Member of the Constitutional Court of Togo
	Sogoyou Pawele	Member of the Constitutional Court of Togo
ZAMBIA	Prof Margaret Mulela Munalula	President of the Constitutional Court
	Arnold Mweetwa Shilimi	Deputy President of the Constitutional Court
	Martin Masaluke	Constitutional Court Judge
	Nalishebo Imataa	Chief Administrator
	Kalumba Chisambisha Slavin	Deputy Director Corporate Communication
	Lekeshya Kaunda	Protocol Officer
	Gillian Chanda	Assistant Protocol Officer
	Chibwe Tembo	Assistant Protocol Officer
	David Sam Kasezya	Assistant Protocol Officer
	Perpetual Mumba	Assistant Protocol Officer
	Champemba Chileshe	Documentalist

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	Kalyata Limbwanga	Aide de Camp – Deputy President of Constitutional Court
	Misozi Mtonga	Senior Research Advocate
	Vaison Phiri	Transport Officer
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	Hon Elizabeth Gwaunza	Deputy Chief Justice
	Hon. Paddington Garwe	Judge of the Constitutional Court
	Hon. Rita Makarau	Judge of the Constitutional Court
	Hon. Anne Gowora	Judge of the Constitutional Court
	Hon. Ben Hlatshwayo	Judge of the Constitutional Court
	Hon Bharat Patel	Judge of the Constitutional Court
	Hon. Antonia Guvava	Senior Judge of the Supreme Court
	Hon Susan Mavangira	Judge of the Supreme Court
	Hon. Chinembiri Bhunu	Judge of the Supreme Court
	Hon. Tendai Uchena	Judge of the Supreme Court

	Hon. Lavender Makoni	Judge of the Supreme Court
	Hon. Nicholas Matonsi	Judge of the Supreme Court
	Hon. George Chiweshe	Judge of the Supreme Court
	Hon. Charles Hungwe	Judge of the Supreme Court
	Hon. Alphas Chitakunye	Judge of the Supreme Court
	Hon. Samuel Kudya	Judge of the Supreme Court
	Hon. Feliciah Chatukuta	Judge of the Supreme Court
	Hon. Joseph Musakwa	Judge of the Supreme Court
	Hon. Hlekani Mwayera	Judge of the Supreme Court
	Hon. Maria Dube	Judge President of The High Court
	Hon. Happius Zhou	Judge of the High Court
	Hon. Rodgers Manyangadze	Judge of the High Court
	Hon. Amy Tsanga	Judge of the High Court
	Hon. Davison Foroma	Judge of the High Court
	Hon. Jester Helena Charewa	Judge of the High Court

	Hon. Tawanda Chitapi	Judge of the High Court
	Hon. Phildah Muzofa	Judge of the High Court
	Hon. Neville Wamambo	Judge of the High Court
	Hon. Isaac Muzenda	Judge of the High Court
	Hon. Benjamin Chikowero	Judge of the High Court
	Hon. Pisirayi Kwenda	Judge of the High Court
	Hon. Jacob Manzunzu	Judge of the High Court
	Hon. Evangelista Kabasa	Judge of the High Court
	Hon. Siyabona Musithu	Judge of the High Court
	Hon. Emilia Muchawa	Judge of the High Court
	Hon. Samuel Deme	Judge of the High Court
	Hon. Munamoto Mutevedzi	Judge of the High Court
	Hon. Lucie – AnneeChipo Mungwari	Judge of the High Court
	Hon. Custom Kachambwa	Senior Judge of the Labour Court
	Hon. Betty Chidziva	Judge of the Labour Court

	Hon. Doreen Lilian Hove	Judge of the Labour Court
	Hon. Maxwell Kaitano	Judge of the Administrative Court
	Mr Collet Ncube	Deputy Chief Magistrate
	Mr. Farai Gwitima	Principal Administrator in the Office of the Chief Magistrate
	Mrs. Judith Zuyu	Senior Regional Magistrate
	Mrs. Phatekile Msipa	Senior Regional Magistrate
	Mr. Clever Tsikwa	Senior Regional Magistrate
	Mr .Tarusarira Mabeza	Senior Regional Magistrate
	Ms. Rangarirai Gakanje	Provincial Head
	Ms. Charity Maphosa	Provincial Head
	Mrs. Learn More Mapiye	Provincial Head
	Mr. Tendai Mahwe	Provincial Head
	Ms. Lindiwe Maphosa	Provincial Head
	Mr. Shepherd Mjanja	Provincial Head
	Mr. Tinashe Ndokera	Provincial Head
	Mr. Archie Wochiunga	Provincial Head
	Mr. Franklin Mkwananzi	Provincial Head

	Mr. Sam Chitumwa	Provincial Head
	Ms. Shelly Zvenyika	Provincial Head
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	Ms Kumbirai Mutamba	Senior Researcher
	Ms. Priscilla Sakutukwa	Senior Researcher
	Ms. Mellisa Hove	Senior Researcher
	Ms. Sharon Mamvura	Senior Researcher
	Ms Kudakwashe Kundizeza	Senior Researcher
	Ms Yemurai Maribha	Senior Researcher
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	Dr. G. Manyatera	Pro Vice- Chancellor, MSU
	Dr. T. Mutangi	Chairperson, Department of Post Graduate Studies
	Dr. A. Mugadza	Dean Faculty of Law, MSU
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	Mucahit Aydin	Deputy Secretary General and Observer
	Ilyas Kurt	Security Officer
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