

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
DECLARATION BY JUDGE DUMISA BUHLE NTSEBEZA
IN THE MATTER OF APPLICATION NO. 015/2016
HABIYALIMANA AUGUSTINO AND ANOTHER

V.

UNITED REPUBLIC OF TANZANIA

JUDGMENT OF 3 SEPTEMBER 2024

Pursuant to the detailed exposition of the reasons for my Dissenting Opinion in the Judgment of 7 November 2023 in *Application No 003/2016 John Lazaro v United Republic of Tanzania*, in accordance with Article 28(7) of the Protocol and Rule 70(3) of the Rules, I, issue this Declaration on the disagreement with the majority on the following bases:

1. The death penalty is not only a clear violation of Article 5 of the African Charter on Human and peoples' Rights ("the Charter") in relation to the method of execution by hanging as implemented by the Respondent State but also, in and of itself, violates Article 5 of the Charter, because it is inherently cruel, degrading, and inhuman treatment or punishment.
2. The death penalty has a potential for error, yet its consequences are irreversible. Further, it has no demonstrable deterrent effect, and its discriminatory application undermines the fundamental principles of human dignity, justice, and equality.

Signed:

Judge Dumisa Buhle NTSEBEZA

Done at Arusha, this Third Day of September in the year Two Thousand and Twenty-Four, the English text being authoritative.

