



AfCHPR

African Court on Human
and Peoples' Rights

Arusha, Tanzania
Website: www.african-court.org
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JUDGMENT SUMMARY

LAMECK BAZIL V. UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 027/2018

JUDGMENT ON MERITS AND REPARATIONS

13 NOVEMBER 2024

A DECISION OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

Arusha, 13 November 2024: The African Court on Human and Peoples' Rights (the Court) delivered a Judgment in the case of *Lameck Bazil v. United Republic of Tanzania*.

Lameck Bazil (the Applicant) is a national of the United Republic of Tanzania (the Respondent State). At the time of filing the Application, he was incarcerated at Bukoba Central Prison in the Bukoba region, having been convicted of murder and sentenced to death, by hanging. The Applicant alleged that the Respondent State violated his fair trial rights, protected under Article 7 of the African Charter on Human and Peoples' Rights (the Charter), by convicting him on the basis of contradictory evidence from the prosecution witnesses and, through the failure of the prosecution to prove its case beyond a reasonable doubt. He sought reparations to redress these alleged violations.

The Court observed that, pursuant to Rule 63(1) of the Rules, it is empowered to deliver default judgment, either upon request by the Applicant or on its own accord, provided the conditions contained in Rule 63(1) of the Rules were met. In this case, default judgment was issued on the Court's own accord, as the Court was satisfied that the Respondent State had been duly served all the documents pertaining to the proceedings; and that the Respondent State had defaulted by failing to file its Response.

In accordance with Article 3 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol), the Court observed that, it was obligated to preliminarily, determine whether it had jurisdiction to hear the Application. In this regard, the Court found that it had personal jurisdiction since, on 29 March 2010, the Respondent State deposited the Declaration provided for under Article 34(6) of the Protocol which allows individuals to file applications against the Respondent State as per Article 5(3) of the Protocol. The Court underscored that the Respondent State's withdrawal of the said Declaration on 21 November 2019 did not affect this Application, as the withdrawal took effect on 22 November 2020, which is after the Application had been filed at the Court, on 22 October 2018.



The Court held that it had material jurisdiction because the Applicant had alleged violations of his rights, protected under the Charter. Furthermore, the Court held that it had temporal jurisdiction as the alleged violations occurred after the Respondent State had become a party to the Protocol. Lastly, it found that it had territorial jurisdiction, given that the facts of the matter occurred within the territory of the Respondent State.

The Court observed that pursuant to Article 6(2) of the Protocol, the content of which is restated in Rule 50(1) of the Rules, it must rule on the admissibility of the cases brought before it. Consequently, the Court held that, pursuant to Article 50(2) of the Rules, the Application had met the following conditions of admissibility. The Applicant had been clearly identified by name in fulfilment of Rule 50(2)(a) of the Rules. It also held that the allegations by the Applicant sought to protect his rights in line with Article 3(h) of the objectives of the Constitutive Act of the African Union, and thus the Application complied with Rule 50(2)(b) of the Rules. Furthermore, the Court found that the language used in the Application was not disparaging or insulting to the Respondent State or its institutions, in fulfilment of Rule 50(2)(c) of the Rules. The Application was, also not based exclusively on news disseminated through mass media, in fulfilment of Rule 50(2)(d) of the Rules.

As regards exhaustion of local remedies, the Court found that the Applicant had appealed, to the Court of Appeal, the highest judicial organ of the Respondent State, the decision of the High Court convicting him of murder to the Court of Appeal. The Court of Appeal delivered its judgment on 4 September 2018, dismissing the Applicant's appeal. Accordingly, the Applicant had, therefore, exhausted local remedies in compliance with Rule 50(2)(e) of the Rules. The Court further held that the Application had been filed before the Court in a manifestly reasonable time, of one month and 18 days following the rendering of the Court of Appeal's decision on 4 September 2018. Accordingly, the Application had complied with Rule 50(2)(f) of the Rules. The Court was also satisfied that the Application did not raise allegations already settled before another international tribunal. Resultantly, the Court declared the Application admissible.

On the merits of the case, the Court considered whether the Respondent State violated the Applicant's rights under Article 7(1) of the Charter, by allegedly convicting him on the basis of contradictory statements of the prosecution witnesses, and by the failure of the prosecution to prove its case beyond a reasonable doubt. In this regard, the Court held that the manner in which the domestic proceedings were conducted was in line with international standards, and the allegation of the violation of the right to have one's cause heard, protected under Article 7 of the Charter, was dismissed.



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Although the Applicant did not allege a violation of his right to life protected under Article 4 of the Charter, the Court according to its jurisprudence held that the mandatory imposition of the death penalty precluded the exercise of discretion, on the part of the judicial officer. Accordingly, the Court held that the Applicant's right to life had been violated.

Equally, the violation of the right to dignity had not been pleaded, the Court, however, reiterated its established jurisprudence which provides that the execution of the death sentence by hanging, constitutes a violation of the right to dignity as protected under Article 5 of the Charter.

The Court, having found violations of Articles 4 and 5 of the Charter, ordered the Respondent State to take all necessary measures, within a period of one year of the notification of the judgment, to remove the provision of the mandatory death sentence from its laws; to vacate the Applicant's sentence, within a period of one year of the notification of the judgment, and to rehear his case on sentencing, through a procedure that allows for judicial discretion.

Furthermore, it ordered the Respondent State to undertake all necessary measures to remove hanging from its laws, as a method of execution of the death sentence within six months of the notification of this judgment; and to publish this judgment within a period of three months from the date of notification.

Each Party was ordered to bear its own costs.

Pursuant to Rule 70(3) of the Rules, Justice Blaise Tchikaya and Justice Dumisa B. Ntsebeza issued Declarations on the issue of the death penalty.

Further Information

Further information about this case, including the full text of the decision of the African Court, may be found on the website at: <https://www.african-court.org/cpmt/details-case/0272018>.

For any other queries, please contact the Registry by email registrar@african-court.org.

The African Court on Human and Peoples' Rights is a continental court established by African Union Member States to ensure the protection of human and peoples' rights in Africa. The Court has jurisdiction over all cases and disputes submitted to it concerning the interpretation and application of the African



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Charter on Human and Peoples' Rights and any other relevant human rights instrument ratified by the States concerned. For further information, please consult our website at www.african-court.org.