AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

THE MATTER OF

LAMECK BAZIL

V.

UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 027/2018

JUDGMENT

13 NOVEMBER 2024

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The Court composed of: Modibo SACKO, Vice President, Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Chafika BENSAOULA, Blaise TCHIKAYA, Stella I. ANUKAM, Dumisa B. NTSEBEZA, Dennis D. ADJEI, Duncan GASWAGA – Judges; and Robert ENO, Registrar.

In accordance with Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as "the Protocol") and Rule 9(2) of the Rules of Court (hereinafter referred to as "the Rules"),[1] Justice Imani D. ABOUD, President of the Court, and a national of Tanzania, did not hear the Application.

In the matter of

Lameck BAZIL

Represented by Advocate Godfrey Canuti MPANDIKIZI, Executive Director, Tanzania Anti Human Trafficking and Legal Initiative.

Versus

UNITED REPUBLIC OF TANZANIA

Represented by:

i. Dr Boniphace Nalija LUHENDE, Solicitor General, Office of the Solicitor General;
ii. Ms Sarah Duncan MWAIPOPO, Deputy Solicitor General, Office of the Solicitor General; and
iii. Mr Hangi M. CHANG'A, Deputy Director, Constitution, Human Rights and Election petitions, Office of the Solicitor General.

[1] Rule 8(2), Rules of Court, 2 June 2010.

After deliberation,

Renders this Judgment:

I. THE PARTIES

1. Lameck Bazil (hereinafter referred to as "the Applicant"), is a Tanzanian national who, at the time of filing the Application, was incarcerated at Bukoba Central Prison, Bukoba, having been convicted of murder and sentenced to death. He alleges violation of his right to a fair trial during proceedings before the domestic courts.

2. The Application is filed against the United Republic of Tanzania (hereinafter referred to as "the Respondent State"), which became a Party to the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter") on 21 October 1986 and to the Protocol on 10 February 2006. Furthermore, the Respondent State, on 29 March 2010, deposited the Declaration prescribed under Article 34(6) of the Protocol (hereinafter referred to as "the Declaration"), through which it accepted the jurisdiction of the Court to receive Applications from individuals and Non-Governmental Organisations. On 21 November 2019, the Respondent State deposited with the Chairperson of the African Union Commission, an instrument withdrawing its Declaration. The Court held that this withdrawal has no bearing on pending and new cases filed before the withdrawal came into effect one year after its deposit, in this case, on 22 November 2020.[2]

[2] *Andrew Ambrose Cheusi v. United Republic of Tanzania* (judgment) (26 June 2020) 4 AfCLR 219, §§ 37-39.

II. SUBJECT MATTER OF THE APPLICATION

A. Facts of the matter

3. It emerges from the record that, on 21 September 2008, the Applicant and his father-in-law, Pancras Minago (now deceased), killed the latter's neighbour, Ms Magdalena Andrew, who was a person with albinism, by using a *machete*. Subsequently, they were arrested, and charged with murder on 26 November 2015.

4. On 27 October 2016, the Applicant and his father-in-law, were convicted of murder by the High Court of Tanzania sitting at Bukoba and sentenced to death by hanging.

5. Dissatisfied with the conviction and sentence, the Applicant on 31 July 2017, filed an appeal to the Court of Appeal of Tanzania, which dismissed the same on 4 September 2018 for lack of merit.

B. Alleged violations

6. The Applicant alleges the violation of his right to a fair trial in that, there were contradictions in the evidence submitted by the prosecution witnesses and that the prosecution failed to prove its case beyond a reasonable doubt.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

7. The Application was filed at the Registry on 22 October 2018, and served on the Respondent State on 16 January 2019 for its Response within 60 days of receipt.

8. On 11 February 2019, the Respondent State notified the Court that it would be represented by the Solicitor General but it did not file a Response to the Application.

9. The Respondent State's time to file its Response was extended on 9 July 2020, 23 February 2021 and 28 July 2021. Furthermore, on 10 August 2022, the Respondent State was reminded to file its Response within 30 days, failing which, the Court would proceed to deliver a judgment in default in accordance with Rule 63(1) of the Rules. The preceding notwithstanding, the Respondent State has failed to file a Response.

10. Pleadings were closed on 19 April 2024 and the Parties were notified thereof.

IV. PRAYERS OF THE PARTIES

11. The Applicant prays the Court to:

    i. Quash his conviction and sentence;
    ii. Order his release from prison; and
    iii. [Grant him] costs.

12. The Respondent State did not participate in the proceedings and, therefore, did not make any prayers.

V. THE DEFAULT OF THE RESPONDENT STATE

13. Rule 63(1) of the Rules stipulates that:

> Whenever a party does not appear before the Court, or fails to defend its case within the period prescribed by the Court, the Court may, on the Application of the other party, or on its own motion, enter a decision in default after it has satisfied itself that the defaulting party has been duly served with the Application and all other documents pertinent to the proceedings.

14. The Court notes that Rule 63(1) sets out three conditions for a decision in default: i) the notification to the defaulting party of all the documents on record ii) the default of a party; and iii) Application by the other party for a decision in default or the Court on its own motion decides to enter a decision in default.

15. On the first condition, the Court notes from the record that, the Registry served the Respondent State with the Application on 16 January 2019 notified the Respondent State of all the pleadings filed by the Applicant. The Court observes from the record, the proof of delivery of those notifications. The Court therefore finds that the first condition is met.

16. With respect to the second condition, the Court observes that the Respondent State was granted 60 days to file its Response. However, it failed to do so. The Registry also sent reminders to the Respondent State on 9 July 2020, 23 February 2021, 28 July 2021 and 10 August 2022 granting it each time 30 days to file its Response but it failed to do so. The Court thus finds that the Respondent State has defaulted in defending the case.

17. With respect to the last condition, the Applicant having not requested for a default judgment, the Court renders the decision *suo motu* for the proper administration of justice.

18. The required conditions having been fulfilled, the Court renders this decision in default.[3]

VI. JURISDICTION

19. The Court notes that Article 3 of the Protocol provides as follows:

[3] *African Commission on Human and Peoples' Rights v. Libya* (merits) (3 June 2016) 1 AfCLR 153 §§ 38-42; *Robert Richard v. United Republic of Tanzania,* ACtHPR (merits and reparations) (2 December 2021) 5 AfCLR 822 § 16.

1. The jurisdiction of the Court shall extend to all cases and disputes submitted to it concerning the interpretation and Application of the Charter, this Protocol and any other relevant Human Rights instrument ratified by the States concerned.
2. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.

20. The Court further notes that pursuant to Rule 49(1) of the Rules it "…shall conduct preliminarily examination of its jurisdiction…in accordance with the Charter, the Protocol and these Rules."

21. The Court notes that there is no contention with regard to its jurisdiction. Nevertheless, it must satisfy itself that it has jurisdiction to hear the Application.

22. The Court notes, with respect to its personal jurisdiction that, as earlier stated in paragraph 2 of this Judgment, the Respondent State is a party to the Protocol and on 29 March 2010, it deposited the Declaration with the African Union Commission. Subsequently, on 21 November 2019, it deposited an instrument withdrawing its Declaration.

23. The Court recalls its jurisprudence that, the withdrawal of a Declaration does not apply retroactively and only takes effect one year after the date of deposit of the notice of such withdrawal, in this case, on 22 November 2020.[4] This Application having been filed before the Respondent State's withdrawal came into effect, is thus not affected by it. Consequently, the Court finds that it has personal jurisdiction.

24. With respect to material jurisdiction, the Court reiterates, as it has consistently held in accordance with Article 3(1) of the Protocol, that it has jurisdiction to consider any Application filed before it, provided that the

[4] *Cheusi v. Tanzania* (merits and reparations) *supra*, §§ 37-39.

alleged violations are of rights guaranteed in the Charter, the Protocol or any other human rights instruments ratified by the Respondent State.[5]

25. In the instant case, the Applicant alleges the violation of the right to a fair trial which is protected under Article 7 of the Charter, to which the Respondent State is a party. The Court thus finds that it has material jurisdiction.

26. With regard to temporal jurisdiction, the Court notes that the alleged violations happened between 2015 and 2018. Therefore, the alleged violations occurred after the Respondent State had ratified the Protocol on 10 February 2006. Accordingly, the Court finds that it has temporal jurisdiction.

27. The Court also notes that it has territorial jurisdiction as the alleged violations occurred in the Respondent State's territory.

28. In light of the foregoing, the Court holds that it has jurisdiction to hear this Application.

VII. ADMISSIBILITY

29. Article 6(2) of the Protocol provides that "the Court shall rule on the admissibility of cases taking into account the provisions of article 56 of the Charter."

30. Pursuant to Rule 50(1) of the Rules, "[t]he Court shall ascertain the admissibility of an Application filed before it in accordance with Article 56 of the Charter, Article 6(2) of the Protocol and these Rules."

[5] *Alex Thomas v. United Republic of Tanzania* (merits) (20 November 2015) 1 AfCLR 465, § 45; *Kennedy Owino Onyachi and Charles John Mwanini Njoka v. United Republic of Tanzania* (merits) (28 September 2017) 2 AfCLR 65, §§ 34-36; *Jibu Amir alias Mussa and Said Ally Mangaya v. United Republic of Tanzania* (merits and reparations) (28 November 2019) 3 AfCLR 629, § 18; *Abdallah Sospeter Mabomba v. United Republic of Tanzania,* ACtHPR*,* Application No. 017/2017, Judgment of 22 September 2022, § 21.

31. Rule 50(2) of the Rules, which in substance restates the provisions of Article 56 of the Charter, provides as follows:

> Applications filed before the Court shall comply with all of the following conditions:
>
> a. Indicate their authors even if the latter request anonymity;
> b. Are compatible with the Constitutive Act of the African Union and with the Charter;
> c. Are not written in disparaging or insulting language directed against the State concerned and its institutions or the African Union;
> d. Are not based exclusively on news disseminated through the mass media;
> e. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
> f. Are submitted within a reasonable time from the date local remedies were exhausted or from the date set by the Court as being the commencement of the time limit within which it shall be seized with the matter; and
> g. Do not deal with cases which have been settled by those States involved in accordance with the principles of the Charter of the United Nations, or the Constitutive Act of the African Union, or the provisions of the Charter.

32. The Court notes that the conditions of admissibility set out in Rule 50(2) of the Rules are not in contention between the Parties, as the Respondent State did not to take part in the proceedings. However, pursuant to Rule 50(1) of the Rules, the Court is required to determine if the Application fulfils all the admissibility requirements as set out in Rule 50(2).

33. From the record, the Court notes that, the Applicant has been identified by name in fulfilment of Rule 50(2)(a) of the Rules.

34. The Court also notes that the Applicant's claims seek to protect his rights guaranteed under the Charter. It further notes that one of the objectives of the Constitutive Act of the African Union, as stated in Article 3(h) thereof, is the promotion and protection of human and peoples' rights. Furthermore, nothing on file indicates that the Application is incompatible with the Constitutive Act of the African Union. It therefore holds that the requirement of Rule 50(2)(b) of the Rules is met.

35. The Court further finds that the language used in the Application is not disparaging or insulting to the Respondent State and its institutions or to the African Union, in fulfilment of Rule 50(2)(c) of the Rules.

36. The Court also observes that the Application is not based exclusively on news disseminated through mass media as it is founded on record of the proceedings of the national courts in fulfilment with Rule 50(2)(d) of the Rules.

37. With regard to Rule 50(2)(e) of the Rules on the exhaustion of local remedies, the Court reiterates its case law that "the local remedies that must be exhausted by the Applicants are ordinary judicial remedies",[6] unless they are manifestly unavailable, ineffective and insufficient or the proceedings are unduly prolonged.[7]

38. It emerges from the record that the Applicant having been convicted of murder at the High Court on 27 October 2016, appealed to the Court of Appeal of Tanzania, the highest judicial organ of the Respondent State, which on 4 September 2018, dismissed his appeal. Consequently, the Applicant exhausted all the available domestic remedies and the Application complies with Rule 50(2)(e) of the Rules.

[6] *Mohamed Abubakari v. Tanzania* (merits) (3 June 2016) 1 AfCLR 599 § 64. See also *Alex Thomas v. Tanzania* (merits) (20 November 2015) 1 AfCLR 465, § 64; and *Wilfred Onyango Nganyi and 9 Others v. Tanzania* (merits) (18 March 2016) 1 AfCLR 507, § 95.
[7] *Lohé Issa Konaté v. Burkina Faso* (merits) (5 December 2014) 1 AfCLR 314, § 77. See also *Peter Joseph Chacha v. Tanzania* (admissibility) (28 March 2014) 1 AfCLR 398, § 40.

39. Regarding, the requirement that an Application be filed within a reasonable time, Rule 50(2)(f) of the Rules, which in substance restates Article 56(6) of the Charter, stipulates that, an Application should be filed within: "a reasonable time from the date local remedies were exhausted or from the date set by the Court as being the commencement of the time limit within which it shall be seized with the matter."

40. As the Court has established in its constant jurisprudence, the reasonableness of the period for seizure of the Court depends on the particular circumstances of each case and must be determined on a case-by-case basis.[8]

41. In the instance case, the Application was filed on 22 October 2018, that is, one month and 18 days after the Court of Appeal rendered its decision on 4 September 2018. Consequently, the Court finds the period of one month and 18 days to be manifestly reasonable.

42. Furthermore, the Court finds that the Application does not concern a case which has already been settled by the Parties in accordance with the principles of the Charter of the United Nations, the Constitutive Act of the African Union, the provisions of the Charter or of any legal instrument of the African Union in accordance with Rule 50(2)(g) of the Rules.

43. The Court, therefore, finds that all the admissibility conditions have been fulfilled and, the Application is admissible.

VIII. MERITS

44. The Applicant alleges the violation of the right to have one's cause heard in that, there were contradictions in the evidence filed by the Prosecution

[8] *Anudo Ochieng Anudo v. United Republic of Tanzania* (merits) (22 March 2018) 2 AfCLR 248, § 57; *Shija Juma v. United Republic of Tanzania*, ACtHPR, Application No. 028/2016, Judgment of 13 June 2024.

Witnesses and that the Prosecution failed to prove its case beyond a reasonable doubt. The Court will consider this allegation.

45. Furthermore, the Court notes from the record that the Applicant was mandatorily sentenced to death by hanging under a law that the Court has previously held, does not allow the judicial officer any discretion in violation of Articles 4 and 5 of the Charter.[9] The Court will therefore consider whether the circumstances of the present Application requires findings similar to those in its case-law on the issues of violation of the right to life, protected under Article 4 of the Charter; and violation of the right to dignity, guaranteed in Article 5 of the Charter.

A. Alleged violation of the right to have one's cause heard

46. The Applicant contends that the testimonies of the prosecution witnesses were inconsistent and contradicted each other, and thus, lacked the credibility to establish his guilt beyond a reasonable doubt.

47. He avers that his conviction was based on hearsay and false testimonies. Furthermore, that the Court of Appeal noted the contradictions in the prosecution witness statements but did not reverse the decision of the High Court. Consequently, he submits that he was denied justice in the national courts.

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48. Article 7(1) of the Charter provides that: "[e]very individual shall have the right to have his cause heard…".

49. The Court notes in line with its established jurisprudence "… that "a fair trial requires that the imposition of a sentence in a criminal offence, and in particular a heavy prison sentence, should be based on strong and credible

[9] See also *Deogratius Nicolaus Jeshi v. United Republic of Tanzania*, ACtHPR, Application No. 017/2016, Judgment of 13 February 2024 (Merits and Reparations), §§ 109-112.

evidence. That is the purport of the right to the presumption of innocence also enshrined in Article 7 of the Charter."[10]

50. Even though the Applicant raised concerns regarding the handling of evidence and the discrepancies in the testimonies of the prosecution witnesses; from the record, the Court of Appeal noted that they could not interfere with the findings of the trial Court unless there was "misdirection" as the trial court was better placed to decide on matters of evidence.

51. Furthermore, the Court of Appeal found that even though there were some slight inconsistencies in the testimonies of the prosecution witnesses in relation to the words uttered by the Applicant, the substance of their testimonies were consistent, that the Applicant had used derogatory words towards the victim, a person with albinism, to the effect that the villagers could generate wealth from the sale of her body parts and, he subsequently killed her by using a *machete*.

52. The Court further notes that the Applicant was represented by counsel during the trial and on appeal, indicating that he was given the opportunity to defend himself. Additionally, the Court of Appeal, addressed each point raised by the Applicant's counsel, and relied on DNA evidence, corroborated by eyewitness testimony, to establish the guilt of the Applicant. The Court of Appeal therefore concluded that that the evidence adduced by the prosecution was credible and proved beyond a reasonable doubt that the Applicant killed the victim.

53. In light of the foregoing, the Court finds that the manner in which the domestic proceedings were conducted does not disclose any manifest error or miscarriage of justice.

[10] *Abubakari v. Tanzania* (merits), *supra*, § 174; *Diocles Williams v. United Republic of Tanzania* (merits and reparations) (21 September 2018) 2 AfCLR 426, § 72. *Majid Goa v. United Republic of Tanzania* (merits and reparations) (2019) 3 AfCLR 498, § 72.

54. Accordingly, the Court dismisses the Applicant's allegation and holds that the Respondent State did not violate his right to have his cause heard, protected under Article 7 of the Charter.

B. Violation of the right to life

55. As earlier noted, the Applicant did not make any submissions on the right to life. The Court notes, however, from the record that he was mandatorily sentenced to death under a law that does not allow any discretion to the judicial officer. The Court, in these circumstances, reiterates its finding in its previous decisions that the mandatory imposition of the death penalty is a violation of the right to life under Article 4 of the Charter.[11]

56. The Court, therefore, holds that the Respondent State has violated the Applicant's right to life protected under Article 4 of the Charter due to the mandatory nature of the death penalty imposed on him.

C. Violation of the right to dignity

57. Although the Applicant did not make any submissions on the right to dignity, the Court also notes that he was sentenced to death by hanging. The Court, reiterates its established jurisprudence that the execution of the death penalty by hanging constitutes a violation of the right to dignity under Article 5 of the Charter.[12]

58. Consequently, the Court holds that the Respondent State violated the Applicant's right to inherent dignity protected under Article 5 of the Charter

[11] *Ally Rajabu and Others v. United Republic of Tanzania* (merits and reparations) (28 November 2019) 3 AfCLR 539, §§ 104-114; *Amini Juma v. United Republic of Tanzania* (merits and reparations) (30 September 2021) 5 AfCLR 431, §§ 120-131; *Gozbert Henerico v. United Republic of Tanzania,* ACtHPR, Application no. 056/2016, Judgment of 10 January 2022 (merits and reparations), § 160; *Romward William v. United Republic of Tanzania,* ACtHPR, Application no. 030/2016, Judgment of 13 February 2024 (merits and reparations), §§ 59-65.

[12] *Rajabu and Others v. Tanzania*, *ibid*, §§ 119-120; *Henerico v. Tanzania, ibid*, §§ 169-170; *Juma v. Tanzania, ibid*, §§ 135-136.

in relation to the method of execution of the death penalty, as meted out against the Applicant, that is, by hanging.

IX. REPARATIONS

59. The Applicant prays the Court to grant him reparations for the violations he suffered, including quashing his conviction and sentence and ordering his release.

60. The Respondent State did not reply.

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61. Article 27(1) of the Protocol provides that:

> If the Court finds that there has been violation of a human or peoples' rights, it shall make appropriate orders to remedy the violation, including the payment of fair compensation or reparation.

62. The Court recalls its jurisprudence according to which, "to examine and assess Applications for reparation of prejudices resulting from human rights violations, it takes into account the principle according to which the State found guilty of an internationally wrongful act is required to make full reparation for the damage caused to the victim."[13]

63. Having found that the Respondent State did not violate the right to have one's cause heard alleged by the Applicant, the Court dismisses the Applicant's prayers for reparations.

64. The Court recalls however, that it found *suo motu* that the Respondent State violated the Applicant's rights to life under Article 4 of the Charter in relation

[13] *Abubakari v. Tanzania* (merits), *supra*, § 242(ix) and *Ingabire Victoire Umuhoza v. Republic of Rwanda* (reparations) (7 December 2018) 2 AfCLR 202, § 19.

to the mandatory imposition of the death penalty and the right to inherent dignity, guaranteed under Article 5 of the Charter, in relation to the method of execution of the death penalty, as meted out against the Applicant, that is, by hanging.

65. The Court, therefore, orders the Respondent State to take all necessary measures to repeal, within six months of the notification of this Judgment, the provision for the mandatory imposition of the death sentence from its laws.[14]

66. The Court further orders the Respondent State to take all necessary measures, within one year of the notification of this Judgment, to vacate the sentence, remove the Applicant from death-row and rehear his case on sentencing through a procedure that allows judicial discretion.[15]

67. Regarding the Court's finding that the method of execution of the death penalty by hanging is inherently degrading,[16] the Court orders the Respondent State to undertake all necessary measures to remove "hanging" from its laws as the method of execution of the death sentence, within six months of the notification of this Judgment.[17]

68. The Court further observes that, for reasons now firmly established in its practice,[18] and in the peculiar circumstances of this case, publication of this judgment is necessary. Given the current state of law in the Respondent State, threats to life associated with the mandatory death penalty persist in the Respondent State. The Court has not received any indication that

[14] *Rajabu and Others v. Tanzania*, *ibid*, § 163; *Juma v. Tanzania, ibid*, § 170; *Henerico v. Tanzania, ibid*, § 207; *Ghati Mwita v. United Republic of Tanzania*, ACtHPR, Application no. 012/2019 Judgment of 1 December 2022 (merits and reparations), § 166.
[15] *Rajabu and Others v. Tanzania*, *ibid*, § 171 (xvi); *Juma v. Tanzania, ibid*, § 174 (xvii); *Henerico v. Tanzania, ibid*, § 217 (xvi); *Mwita v. Tanzania*, *ibid*, § 184 (xviii).
[16] *Rajabu and Others v. Tanzania*, *ibid*, § 118.
[17] *Chrizant John v. United Republic of Tanzania,* ACtHPR, Application no. 049/2016, Judgment of 7 November 2023 (merits and reparations) § 155.
[18] See *Legal and Human Rights Centre and Tanzania Human Rights Defenders' Coalition v. United Republic of Tanzania,* ACtHPR, Application no. 039/2020, Judgment of 13 June 2023 (merits and reparations), §§ 180-182. *Lucien Ikili Rashidi v. United Republic of Tanzania* (merits and Reparations) (28 March 2019) 3 AfCLR 13, § 151-153. *Rajabu and Others v. Tanzania*, *ibid*, §§ 164-167.

necessary measures have been taken for the law to be amended and aligned with the Respondent State's international human rights obligations. The Court thus finds it appropriate to order publication of this judgment within a period of three months from the date of notification.

69. With regard to implementation and reporting, the Court considers that, for the same reasons stated above, its findings on the publication of this Judgment apply to implementation and reporting. The Court therefore deems it proper to order the Respondent State to report on the steps taken to implement this Judgment within six months from the date of notification thereof.

X. COSTS

70. The Applicant prays the Court to order the Respondent State to bear costs.

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71. The Court notes that Rule 32(2) of its Rules provides that "unless otherwise decided by the Court, each party shall bear its own costs, if any."

72. The Court sees no reason to depart from the above provision and decides that each Party shall bear its own costs.

XI. OPERATIVE PART

73. For these reasons,

THE COURT,

On jurisdiction

Unanimously and in default,

i. *Declares* that it has jurisdiction.

On admissibility

ii. *Declares* the Application admissible.

On merits

Unanimously,

iii. *Holds* that the Respondent State did not violate the Applicant's right to have his cause heard, protected under Article 7(1) of the Charter with regards to his conviction;

By a majority of Eight Judges for, and Two Judges against, Justices Blaise TCHIKAYA and Dumisa NTSEBEZA dissenting on the issue of the death penalty,

iv. *Holds* that the Respondent State violated the Applicant's right to life protected under Article 4 of the Charter in relation to the mandatory imposition of the death penalty; and

v. *Holds* that the Respondent State violated the Applicant's right to inherent dignity protected under Article 5 of the Charter in relation to the method of execution of the death penalty.

Unanimously,

On reparations

vi. *Dismisses* the Applicant's prayers for reparations;

vii. *Orders* the Respondent State to take all necessary measures to remove within six months of the notification of this Judgment the mandatory death penalty from its laws;

viii. *Orders* the Respondent State to take all necessary measures within one year of the notification of this Judgment, to vacate the sentence, remove the Applicant from death-row and rehear his case on sentencing through a procedure that allows judicial discretion;

ix. *Orders* the Respondent State to take all necessary measures within six months of the notification of this Judgment to remove "hanging" from its laws as the method of execution of the death sentence;

x. *Orders* the Respondent State to publish this Judgment, within a period of three months from the date of notification, on the websites of the Judiciary, and the Ministry for Constitutional and Legal Affairs, and ensure that the text of the judgment is accessible for at least one year after the date of publication;

xi. *Orders* the Respondent State to submit to it, within six months from the date of notification of this judgment, a report on the status of execution of the orders set forth herein and thereafter, every six months until the Court considers that there has been full implementation thereof.

On costs

xii. *Orders* each that each Party shall bear its own costs.

Signed:

Modibo SACKO, Vice President;

Rafaâ BEN ACHOUR, Judge;

Suzanne MENGUE, Judge;

Tujilane R. CHIZUMILA, Judge;

Chafika BENSAOULA, Judge;

Blaise TCHIKAYA, Judge;

Stella I. ANUKAM, Judge;

Dumisa B. NTSEBEZA, Judge;

Dennis D. ADJEI, Judge;

Duncan GASWAGA, Judge;

and Robert ENO, Registrar.

In accordance with Article 28(7) of the Protocol, and Rules 70(3) of the Rules, the Declarations of Justice Blaise TCHIKAYA and Justice Dumisa NTSEBEZA are appended to this Judgment.

Done at Arusha, this Thirteenth Day of November in the Year Two Thousand and Twenty-Four in English and French, the English text being authoritative.