

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
<p>AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES</p>		

APPLICATION NO. 032/2017

AMOS KABOTA

v.

THE UNITED REPUBLIC OF TANZANIA

CASE SUMMARY

I. PARTIES

1. The Applicant is a citizen of the United Republic of Tanzania and is currently serving 30 years imprisonment at the Uyui Central Prison, Tabora having been convicted of rape. His application is against the United Republic of Tanzania which is thus considered the Respondent.
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, through which it accepted the jurisdiction of the Court to receive applications from individuals and NGOs (hereinafter referred to as “the Declaration”). On 21 November 2019, the Respondent State deposited, with the African Union Commission an instrument withdrawing the said Declaration.

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. The Applicant was convicted of rape in the District Court of Nzega on 26 May 2009 and sentenced to thirty (30) years imprisonment. The conviction and sentence were both upheld on appeal to the High Court in Criminal Appeal no. 159 on 9th August 2011 and subsequently in Criminal Appeal no. 33 of 2012 in the Court of Appeal on 8th March 2014.

B. Alleged violations

4. The Applicant alleges the violation of his right to a fair trial under Article 7 of the Charter, that:
 - (a) The Court of the Appeal in its judgment of 8th March 2014 erred in upholding his conviction. That the Court of Appeal especially erred in failing to take into account the effect of the defective

charge sheet used in his conviction. The said charge sheet, the applicant avers, did not categorize his rape charge.

- (b) The Court of Appeal erred in accepting the evidence of the witness who was twelve (12) years old because it was taken on oath. This is especially because according to the Applicant, there was no proof that the witness understood the meaning of swearing an oath.
- (c) '... the medical report was used in the evidence in breach of section 240 (3) of the Criminal Procedure Act 2002 (Cap.20) R.E.'

III. APPLICANT'S PRAYERS

5. The Applicant prays the Court to:

- (a) Grant him reparations pursuant to Article 27 (1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights.
- (b) 'Restore(s) justice where it was overlooked, quash both the conviction and sentence imposed on' him, and set him free from 'prison custody'.
- (c) Make 'any other order(s) or legal remedy that the Court think fit in the circumstance of the complaint'.