

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		

APPLICATION NO. 058/2016

NIYONZIMA AUGUSTINE (APPLICANT)

VS

UNITED REPUBLIC OF TANZANIA (RESPONDENT STATE)

CASE SUMMARY

I. THE PARTIES

1. On the 28 November 2016, Niyonzima Augustine (hereinafter referred to as the Applicant) filed an Application before the Court against the United Republic of Tanzania (hereinafter referred to as the Respondent State).

II. SUBJECT OF THE APPLICATION

A. Facts of the Matter

2. This Application originates from criminal proceedings against the Applicant who is a Rwandise national. The Applicant was convicted on a rape charge by Karagwe District Court. His conviction and sentence were upheld by the High Court of Tanzania at Bukoba as well as the Court of Appeal of Tanzania at Bukoba.
3. The Applicant states that he was charged, convicted and sentenced to 30 years imprisonment for rape contrary to Sections 130(1), (2) (e) and 131(1) of the Penal Code in Criminal Case No. 491 of 2010.
4. The Applicant further alleges, that being dissatisfied with the conviction and sentence from Karagwe District Court entered on 19 August 2011, he appealed to the High Court of Tanzania at Bukoba in *Criminal Appeal No. 31 of 2015*. On 12 October 2015 the High Court substituted the sentence of 20 years to the mandatory sentence of 30 years' imprisonment.
5. The Applicant avers that he appealed further to the Court of Appeal of Tanzania at Bukoba in *Criminal Appeal No. 483 of 2015*, which upheld the decision of the High Court and confirmed the sentence of 30 years' imprisonment on 20 February 2016.
6. The Application was filed at the Registry on 28 November 2016.

B. Alleged violations

7. The Applicant alleges the violation of the following rights:
 - i. The right to be heard, to be accorded legal representation and a fair trial provided under Article 7(1) (c) of the Charter

III. PRAYERS OF THE APPLICANT

8. The Applicant prays the Court to make the following Orders:

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- a. To declare this Application admissible.
- b. To be granted free legal representation.
- c. To find that his right to be heard, to a fair trial and to legal representation were violated by the Respondent State
- d. Make an Order quashing the decisions of the lower court and set aside his conviction and sentence.”

9. The Applicant further prayed for the following Orders in respect of Reparations:

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- e. Monies as stated in Paragraph VII
- f. That this honourable Court orders for the restoration of Applicant's liberty by his release from the prison and set free
- g. We pray that this Honourable Court applies the principle of proportionality when considering the award for compensation to be granted.
- h. That this Honourable Court makes an order that the Respondent guarantees non-repetitions of these violations against the Applicant.
- i. Any other reparations this Honourable Court shall deem necessary.”