

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
DECLARATION BY JUDGE DUMISA BUHLE NTSEBEZA
IN THE MATTER OF APPLICATION NO. 036/2016
IBRAHIM YUSUPH CALIST BONGE AND 2 OTHERS

V.

UNITED REPUBLIC OF TANZANIA

JUDGMENT OF 4 DECEMBER 2023

Pursuant to a detailed exposition of the reasons for my Dissenting Opinion in the *Lazaro case*; regarding 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, the declaration of Justice Dumisa Buhle Ntsebeza is appended to this Judgment.

The declaration of the disagreement with the majority is on the following bases:

1. The death penalty is not only a clear violation of Article 5 of the African Charter in relation to the method of execution by hanging as implemented by the Respondent State. The death penalty, in and of itself, violates Article 5 because it is an inherently cruel, degrading, and inhuman treatment or punishment. It is irreversible and has a potential for error.
2. It has no demonstrable deterrent effect.
3. Its discriminatory application undermines the fundamental principles of human dignity, justice, and equality.

Signed:

Judge Dumisa Buhle NTSEBEZA

Done at Algiers this Fourth Day of December in the year Two Thousand and Twenty-Three, the English text being authoritative.

