

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
DECLARATION BY JUDGE DUMISA BUHLE NTSEBEZA
IN THE MATTER OF APPLICATION NO. 017/2016
DEOGRATIUS NICHOLAUS JESHI
V.
UNITED REPUBLIC OF TANZANIA
JUDGMENT OF 13 FEBRUARY 2024

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, I issue this Declaration on the disagreement with the majority 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 Arusha this Thirteenth Day of February in the year Two Thousand and Twenty-Four, the English text being authoritative.

