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THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

CONSTITUTIONAL PETITION NO 07 OF 2017.

UNWANTED WITNESS ..... PETITIONER

VERSUS

ATTORNEY GENERAL ..... RESPONDENT

**PETITION**

*[Under Art. 137 (3) Constitution of Uganda and The Constitutional Court (Petitions and References) Rules S.I. 91/2005]*

THE HUMBLE PETITION of UNWANTED WITNESS of C/o M/s Rwakafuuzi & Co. Advocates, P.O. Box 26003, Kampala, email: kalr@utlonline.co.ug shows as follows -

1. That your petitioner is an organization registered under the laws of Uganda and has interest in the matters following as being inconsistent with the provisions of the Constitution of the Republic of Uganda.
  - (a) That s.7 (2) of the Anti-Terrorism Act, (as amended) which creates the offence of terrorism is over broad and thus fails to define the offence of terrorism contrary to the requirement in Art. 28(12) of the Constitution that every offence must be defined and ascertained;
  - (b) Ss.9(1) and 9(2) of the Anti-Terrorism Act which proscribes publication of news or material that promotes terrorism is unconstitutional for abridging freedom of expression guaranteed in Art. 29 (1)(a) of the Constitution;
  - (c) S.10(2) of the Anti-Terrorism Act which empowers the Minister to declare an organisation terrorist without judicial safeguards inconsistent with the Constitution for breaching the right to be presumed innocent guaranteed in Art. 28(3)(a) and the freedom of association guaranteed in Art. 29(1)(e) of the Constitution;
  - (d) S.11 (1)(c) of the Anti-Terrorism Act which proscribes meetings which are arranged to be addressed by persons which belong to or

profess to belong to terrorist organisations is inconsistent with the Constitution for limiting the freedoms of association and expression guaranteed in Art. 29(1)(a) and (e) of the Constitution;

(e)S.19 of the Anti-Terrorism Act which empowers the Minister to authorise any security person to secretly intercept communication and search the premises of any individual infringes the right to privacy guaranteed in Art. 27 of the Constitution;

(f) The Regulation of Interception of Communications Act to the extent that it provides for interception of communication without judicial safeguards is unconstitutional for breaching the right to privacy guaranteed in Art 27 of the Constitution;

Wherefore your petitioner prays that this Honourable Court declares the impugned provisions of the law above cited unconstitutional

It is also prayed that court awards the costs of the petition to the petitioner.

Dated at Kampala this 13 day of ..... 2 ..... 2017.

.....  
Counsel for the Petitioner

**Drawn & filed by:**  
**M/s RWAKAFUZI & CO. ADVOCATES**  
Plot 8-10, Kampala Road, Uganda House, Flat 14,  
P.O. Box 26003, Kampala  
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**AFFIDAVIT IN SUPPORT OF PETITION**

I, **Geoffrey Ssebagala Wokulira** of C/o M/s. Rwakafuuzi & Co. Advocates Plot 8/10 Kampala Road, Uganda House, Flat 14 P.O. Box 26003, Kampala do solemnly swear and state as follows

1. That I am an adult male Ugandan, a journalist by profession and the Executive Director of the petitioner UNWANTED WITNESS.
2. That the organisation UNWANTED WITNESS has its mandate as promoting and protecting the freedoms of expression and speech.
3. And through my work as a journalist and executive director of Unwanted Witness I have witnessed firsthand the muzzling of people's freedoms of speech and expression on account of allegations of promotion of terrorism as proscribed in the Anti Terrorism Act.
4. That I have been to several detention centres and have seen and interviewed persons arrested and detained under the Anti-Terrorism Act.
5. That because of the over broad definition of the offence of terrorism, I have witnessed persons who would have been charged under the Penal Code Act for holding illegal demonstrations being detained as terrorists.
6. That because the Act does not provide for judicial oversight in the issuance of warrants for searches and arrests the persons enforcing


the same have purported to act under it and abridged people's freedoms guaranteed under the Constitution.

7. That I verily believe that the unbridled power given to the Minister to intercept communication, in s.19 of the Anti-Terrorism Act has the chilling effect of preventing people from expressing themselves contrary to the freedom of expression guaranteed in the Constitution Art. 29(1)(a).
8. That I verily believe that the Regulation of Interception of Communications Act due to its failure to provide for judicial safeguards is unconstitutional for breaching the right to privacy guaranteed in Art. 27 of the Constitution.
9. That s.11(1)(c) of the Anti-Terrorism Act proscribes meetings to be addressed by terrorists even when the presumed terrorist is not to talk about terrorism. Taking into account the minister's power to declare any person or organisation terrorist, the section has the effect of limiting the freedoms of association and assembly guaranteed in Art. 29(1)(d) & (e) of the Constitution.
10. That I swear this affidavit in support of the petition to declare some sections of the Anti-Terrorism Act unconstitutional.
11. That what I have stated herein is true to the best of my knowledge, belief and or information as hereinabove applicable.

Sworn at Kampala this 13<sup>th</sup> day of Feb 2017  
By the said **Geoffrey Ssebagala Wokulira**

Deponent

Before me,

  
**MANGENI O'SINYA PETER**  
ADVOCATE & COMMISSIONER  
FOR OATHS  
7, KAMPALA

**Drawn & filed by:**  
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