



THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

CONSTITUTIONAL PETITION NO 16 OF 2017

UNWANTED WITNESS-UGANDA
TUMUHIMBISE NORMAN PETITIONERS

VERSUS

ATTORNEY GENERAL RESPONDENT

PETITION

[Under Article 137(3)(a) of the Constitution of Uganda and the Constitutional Court (Petitions and References) Rules, 2005]

The Humble Petition of **Unwanted Witness-Uganda** and **Tumuhimbise Norman** is brought to this honourable court by M/s Rwakafuuzi & Co. Advocates, Flat 14 Uganda House, P.O. Box 26003, Kampala, Tel: 0414 258136, 0772406589, Email: kalr@utlonline.co.ug; and it states that:

1. Your 1st humble petitioner is a duly registered non-governmental organisation promoting and defending human rights. It advocates for the freedom of expression on the internet.
2. Your 2nd humble petitioner is a Ugandan human rights and governance activist.

Grounds of the Petition

1. The blocking and or shutting down of social media by the respondent during the presidential, parliamentary and local elections in February 2016 was inconsistent with, and violated *Article 29(1)(a)* of the Constitution of Uganda which guaranteed the right to freedom of speech and expression.
2. The blocking and shutting down of mobile money transfer services during the general elections in February 2016 violated *Articles 22(1), 45* of the Constitution of Uganda, which protects the right to livelihood and life.
3. The blocking and shutting down of social media by the respondent on 11th - 12th May 2016 during the inauguration of the president-elect violated *Article 29(1)(a)* of the Constitution of Uganda which guarantees the right to the freedom of speech and expression.

4. Wherefore your Petitioners pray that this court may:-

a) Make a declaration:-

- i) That the blocking and shutting down of social media purportedly done under the authority of Uganda Communications Act, 2013 during the general elections in February 2016 was unconstitutional.
- ii) That the blocking and shutting down of mobile money transfer services purportedly done under the authority of the Uganda Communications Act, 2013 was unconstitutional.
- iii) That the blocking and shutting down, during the presidential inauguration in May 2016, of social media by the respondent purportedly done under on the authority of the Uganda Communications Act, 2013 was unconstitutional.

b) Grant an order that the respondent pays the costs for this petition.

THIS PETITION is supported by the affidavit of **Geoffrey Ssebagala Wokulira**, which is hereto annexed and upon which counsel for the petitioner will rely.

DATED at Kampala this 4..... day of 4..... 2017

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Counsel for the petitioner

LODGED in the Registry this 25th Day of April 2017

.....
Registrar

DRAWN & FILED BY:
Rwakafuuzi & Co Advocates
Flat 14 Uganda House
P.O. Box 26003, Kampala
Tel: 0414 258136, 0772406589
Email: kalr@utlonline.co.ug

TO BE SERVED ON:
The Attorney General
The Attorney General's Chambers
Plot 1 Parliament Avenue
Kampala

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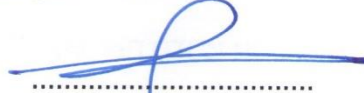
AFFIDAVIT IN SUPPORT

I, **Geoffrey Ssebagala Wokulira** of C/o M/s Rwakafuuzi & Co. Advocates, Flat 14 Uganda House, P.O. Box 26003, Kampala, Tel: 0414 258136, 0772406589, Email: kalr@utlonline.co.ug do solemnly swear and state that:-

1. I am a male adult Ugandan of sound mind.
2. I am the Executive Officer of Unwanted Witness-Uganda, the petitioner.
3. Sometime during the presidential, parliamentary and local elections in February 2016, the respondent ordered, instructed or otherwise directed telecommunications operators and other internet service providers to block, shut down or slow down social media and mobile money transfer services.
4. As a result of the respondent's order, instruction or directive, social media and mobile money transfers became inaccessible across the country.
5. Many people in the country tried but failed to access social media and mobile money transfer services. Hereto attached are affidavits of some of persons that were affected marked "Affidavits".
6. I verily believe that the order, instruction or directive made by the respondent to telecommunications operators and other internet service providers was a threat to the maintenance of a free and democratic society that is anchored on human rights and constitutionalism.
7. I swear this affidavit in support of the petition filed by Unwanted Witness-Uganda and Tumuhimbise Norman.

Whatever I have stated herein is true and correct to the best of my knowledge, belief and or information as hereinabove applicable.

SWORN at Kampala this 24th day of 4 2017.
By the said **Geoffrey Ssebagala Wokulira**



.....
Deponent

Before me,



.....
Commissioner for Oaths

Drawn & filed by:
M/s RWAKAFUZI & CO. ADVOCATES
Flat 14, Uganda House
P.O. Box 26003, Kampala
Tel: 0414 258136
Email: kalr@utlonline.co.ug



"Affidavits"
(1)

THE REPUBLIC OF UGANDA

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ATTORNEY GENERAL RESPONDENT

AFFIDAVIT IN SUPPORT

I, **Tumuhimbise Norman** of C/o M/s Rwakafuuzi & Co. Advocates, Flat 14 Uganda House, P.O. Box 26003, Kampala, Tel: 0414 258136, 0772406589, Email: kalr@utlonline.co.ug do solemnly swear and state that:-

1. I am a male adult Ugandan of sound mind and one of the persons that were affected by the blocking and or shutting down of social media and mobile money by Uganda Communications Commission during the 2016 General Election in which capacity I swear this affidavit.
2. I am a resident of Kasubi, Zone 4, Rubaga Division
3. That I am the national coordinator of the Jobless Brotherhood.
4. That on the 18th day of February 2016, I was supposed to conduct a Skype interview with the Beautiful Trouble (a world social movement on political and social activism)
5. That the purpose of the interview was to submit my contribution to a book titled "The Tool Box of Revolutions", which is published once a year by the Beautiful Troublemakers.



"Affidavits"
(1)

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ATTORNEY GENERAL RESPONDENT

AFFIDAVIT IN SUPPORT

I, **Tumuhimbise Norman** of C/o M/s Rwakafuuzi & Co. Advocates, Flat 14 Uganda House, P.O. Box 26003, Kampala, Tel: 0414 258136, 0772406589, Email: kalr@utlonline.co.ug do solemnly swear and state that:-

1. I am a male adult Ugandan of sound mind and one of the persons that were affected by the blocking and or shutting down of social media and mobile money by Uganda Communications Commission during the 2016 General Election in which capacity I swear this affidavit.
2. I am a resident of Kasubi, Zone 4, Rubaga Division
3. That I am the national coordinator of the Jobless Brotherhood.
4. That on the 18th day of February 2016, I was supposed to conduct a Skype interview with the Beautiful Trouble (a world social movement on political and social activism)
5. That the purpose of the interview was to submit my contribution to a book titled "The Tool Box of Revolutions", which is published once a year by the Beautiful Troublemakers.

6. My contributions to the book are made through interviews via Skype, which sessions I had began on 16th Feb and were supposed to last up to 19th February, 2016. Interviews were conducted every 3: 00 pm E.A TIME.
7. On the evening of 17th February 2016, I tried to log on to my Skype account in order to carry out my interview, without success
8. Upon inquiry I confirmed that Uganda Communications Commission has directed the interception shut down of social media during the election period of February 2013.
9. As the deadline was 20th February 2016 for the final editions, I missed out on some sessions, as a result of which my contract to contribute to that edition was terminated.
10. On the 20th day of February 2016 when social media was re-connected, I was already time barred and my contribution could not be submitted for inclusion in the edition.
11. As a result of the foregoing, I missed out on a pay Cheque of USD 500, which is given to any person that contributes to the final publication.
12. Losing out on the USD 500 (five hundred United States Dollars) was such a big loss to me, a jobless youth looking for survival and a living and which matter I had planned to use to settle my rent obligations and clear off debts,
13. I had to sell off my Television set and chairs to raise rent money and clear off my debts.
14. That the above shut down of social media violated my constitutional right to freedom of speech and expression and I feel aggrieved.

THE REPUBLIC OF UGANDA

I swear this affidavit in support of the petition and whatever I have stated herein is true and correct to the best of my knowledge, belief and or information as hereinabove applicable.

SWORN at Kampala this 24th day of April 2017.
By the said **Tumuhimbise Norman**



Deponent

Before me,



Commissioner for Oaths

Drawn & filed by:
M/s RWAKAFUZI & CO. ADVOCATES
Flat 14, Uganda House
P.O. Box 26003, Kampala
Tel: 0414 258136
Email: kalr@utlonline.co.ug



"Affidavits"
(2)

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ATTORNEY GENERAL RESPONDENT

AFFIDAVIT IN SUPPORT

I, **Chemonges Ivan** of C/o M/s Rwakafuuzi & Co. Advocates, Flat 14 Uganda House, P.O. Box 26003, Kampala, Tel: 0414 258136, 0772406589, Email: kalr@utlonline.co.ug do solemnly swear and state that:-

1. I am a male adult Ugandan of sound mind and one of the persons that were affected by the blocking and or shutting down of social media and mobile money by Uganda Communications Commission during the 2016 General Election in which capacity I swear this affidavit.
2. I am a resident of Senior Quarters Village Barawa Parish, Kapchorwa Municipal Council, Kapchorwa District.
3. I am a student
4. On 16th day of February 2016, I set out from Kapchorwa heading to Ishaka District to pick application forms for admission to Mbarara University of Science and Technology.
5. On reaching Kampala on 17th February I realised I had to withdraw money from my MTN mobile money line in order to facilitate my transport to Ishaka on 18th February 2016 and back.

6. On the evening of 17th February 2016, I tried out several MTN mobile money outlets with a view of withdrawing the money only to be told that the network for mobile money had been shut down following a directive by Uganda Communications Commission due to the general elections.
7. I had no alternative source of money so, I decided to cancel my journey and lodge at a friend's rented room in Seeta Mukono, where I spent 3 days.
8. At the end of the 3 days my friend asked me to back him with Ush 106,000/- (one hundred six thousand shillings only) being the cost of maintaining me.
9. When I eventually managed to withdraw money after the presidential and parliamentary elections I travelled to Mbarara University of Science and Technology only to be informed that I was out of time and that the applications had been closed.
10. I returned to Kapchorwa disappointed feeling a loser and totally dejected as my future seemed uncertain since I could not apply to join any university as I had scheduled.
11. As a result of the afore going, I suffered mental and psychological anguish.

I swear this affidavit in support of the petition and whatever I have stated herein is true and correct to the best of my knowledge, belief and or information as hereinabove applicable.

SWORN at Kampala this 24th day of April 2017.
By the said **Chemonges Ivan**



.....
Deponent

Before me,

.....
Commissioner for Oaths



Drawn & filed by:
M/s RWAKAFUZI & CO. ADVOCATES
Flat 14, Uganda House
P.O. Box 26003, Kampala
Tel: 0414 258136
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'Affidavits'
(3)

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ATTORNEY GENERAL RESPONDENT

AFFIDAVIT IN SUPPORT

I, **Ochen Dickson Ojakol** of C/o M/s Rwakafuuzi & Co. Advocates, Flat 14 Uganda House, P.O. Box 26003, Kampala, Tel: 0414 258136, 0772406589, Email: kalr@utlonline.co.ug do solemnly swear and state that:-

1. I am a male adult Ugandan of sound mind and one of the persons that were affected by the blocking and or shutting down of social media and mobile money by Uganda Communications Commission during the 2016 General Election in which capacity I swear this affidavit.
2. I am a resident of Okobwin LC1, Ngora sub-county, Ngora District.
3. On 16th day of February 2016, I travelled to Kampala to participate in the 2016 general elections as my polling station is at Nabisunsa, Kyambogo, Nakawa Division, Kampala District.
4. On 17th February 2016, I received a phone call from my mother who resides in Ngora asking me to go back home indicating that she needed me urgently.

5. My mother informed me that she was not feeling very well as she is a known case of HIV/AIDS and she needed me to take her to the health centre which is 5km from our home.
6. I had no money at all but opted to go to my cousin brother who offered to lend me Ush 90,000/- (ninety thousand shillings only)
7. My cousin and I went to the nearest mobile money outlet in Banda Kyambogo only to be informed that MTN mobile money network had been shut down by Uganda Communications Commission for purposes of the general elections.
8. I was left helpless as I did not have anywhere else to borrow money from, meanwhile my mother was ailing in intense pain and suffering
9. As a result of the foregoing, my mother health condition general deteriorated due to the fever she went through during the general elections without my help in taking her to a health centre.
10. I also suffered mental and psychological anguish as a result of the foregoing.

I swear this affidavit in support of the petition and whatever I have stated herein is true and correct to the best of my knowledge, belief and or information as hereinabove applicable.

SWORN at Kampala this 24th day of April..... 2017.
By the said **Ochen Dickson Ojakol**


.....
Deponent

Before me,


.....
Commissioner for Oaths

Drawn & filed by:
M/s RWAKAFUZI & CO. ADVOCATES
Flat 14, Uganda House
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"Affidavits"
(4)

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

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TUMUHIMBISE NORMAN PETITIONERS

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ATTORNEY GENERAL RESPONDENT

AFFIDAVIT IN SUPPORT

I, **Okure Nathan** of C/o M/s Rwakafuuzi & Co. Advocates, Flat 14 Uganda House, P.O. Box 26003, Kampala, Tel: 0414 258136, 0772406589, Email: kalr@utlonline.co.ug do solemnly swear and state that:-

1. I am a male adult Ugandan of sound mind and one of the persons that were affected by the blocking and or shutting down of the social media and mobile money services by Uganda Communications Commission during the 2016 General Election in which capacity I swear this affidavit.
2. I am a resident of Osubut Village, Osubut Parish, Ngariam sub-county, Osuk County, Katakwi District.
3. I am a fresh graduate of Kyambogo University, having graduated in December 2016.
4. On the 14th day of February 2016, I set out from Katakwi to Kampala to take part in the general elections, as my polling station was located in Nabisunsa Parish, Kyambogo, Nakawa Division Kampala District, near the Kyambogo University.

5. On the 16th day of the same month, I received a call from my brother informing me that my mother who suffers from a kidney disease was very ill and in need of medical attention.
6. I was financially constrained, so I contacted my friends to lend me some money to enable me attend to my mother.
7. On the evening of the 17th February 2016 a friend lent me Ush 50,000/- (fifty thousand shillings) which I could only send to my mother via MTN mobile money like I always did.
8. On the morning of 18th February 2016, I went to the nearest mobile money kiosk with a view of sending the money only to find most of the kiosks closed. For the only one that was open, the attendant informed me that the network was off.
9. I moved to five other kiosks and received information that the mobile money network was shut down on a directive by the Uganda Communications Commission, and that this would go on until the end of the elections.
10. I was left helpless while my mother continued ailing at home.
11. Throughout the election period, my mother did not access any medical help since I was the only source of such help.
12. I have been informed by my lawyer, which information I verily believe, that as a result of the mentioned mobile money disruption, my mother's right to health was violated since she could not access the critical medical support.


Whatever I have stated herein is true and correct to the best of my knowledge, belief and or information as hereinabove applicable.

SWORN at Kampala this24th day ofApril..... 2017.
By the said **Okure Nathan**



.....
Deponent

Before me,



.....
Commissioner for Oaths

Drawn & filed by:
M/s RWAKAFUZI & CO. ADVOCATES
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