

**THE REPUBLIC OF UGANDA
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA
CONSTITUTIONAL PETITION NO. 029 OF 2017**

- 1. INITIATIVE FOR SOCIAL
AND ECONOMIC RIGHTS (ISER)**
- 2. UGANDA NATIONAL ASSOCIATION
OF THE DEAF (UNAD)**
- 3. WASWA RONALD**
- 4. NAMUSISI JOSEPHINE:.....PETITIONERS**

VERSUS

ATTORNEY GENERAL:.....RESPONDENT

**CORAM: HON. MR. JUSTICE FREDRICK EGONDA-NTENDE, JCC
HON. LADY JUSTICE ELIZABETH MUSOKE, JCC
HON. MR. JUSTICE CHRISTOPHER MADRAMA, JCC
HON. LADY JUSTICE MONICA K. MUGENYI, JCC
HON. MR. JUSTICE CHRISTOPHER GASHIRABAKE, JCC**

JUDGMENT OF ELIZABETH MUSOKE, JCC

The petitioners filed this Petition under **Article 137 (1), (3) (b) and 4** of the **1995 Constitution** and under **Rule 3 and 4** of the **Constitutional Court (Petitions and References) Rules, 2005**. The petition concerns the alleged failure of Government to make available enough sign language interpreters at public health facilities and the failure of Government to compel private health facilities to provide enough sign language interpreters, in order to ensure effective provision of health services to persons with hearing disabilities. The petitioners contend that the mentioned omissions are in contravention and/or inconsistent with various provisions of the 1995 Constitution.

Background

Persons with disabilities, and specifically those with hearing disabilities with which this Petition is concerned, face various challenges to accessing social

services, such as health care. Those persons can only communicate with persons conversant with sign language or sign language interpreters, and when it comes to accessing health care, they require the assistance of the sign language interpreters in order to communicate their medical issues with medical practitioners. The petitioners claim that they are insufficient sign language interpreters at health facilities across the country which impedes delivery of effective health care services to persons with hearing disabilities.

The petitioners contend that Government's failure to ensure enough sign language interpreters at health facilities affects the provision of health care to persons with hearing disabilities, and this in turn violates several of their rights guaranteed under the 1995 Constitution, such as; their right to equality and protection from discrimination under **Articles 20, 21** and **Objective XXIV (c)** of the **National Objectives and Directive Principles of State Policy (NODPOSP)**; their right to dignity under Article 35; their right to freedom from cruel, inhuman and degrading treatment or behaviour under **Articles 20, 24, 35** and **44 (a)** and **Objectives XXIV (c) and XVI**; their right to privacy under **Article 27**; their right to health under **Articles 8A, 20, 35, 45, 287**, and **Objectives I, XIV, (b), XX** and **XXIV (c) of the NODPOSP**; their right to receive, seek and impart health information under **Articles 20, 21, 40** and **45** and **Objective XXIV (c)** of the **NODPOSP**; and in relation to women with hearing disabilities, their rights to equal treatment under **Articles 20, 32, 33**, and **Objective XXIV (c)** of the **NODPOSP**.

The petitioners further contend that failure to provide enough sign language interpreters causes communication barriers and affects the quality of health care provided to persons with hearing disabilities.

Further that the failure to provide enough sign language interpreters is contrary to the obligation to achieve substantive equality imposed on Uganda by several international instruments to which it is party, such as; the Convention on the Rights of Persons with Disabilities; the International Covenant on Economic, Social and Cultural Rights; the International

Covenant on Civil and Political Rights; the African Charter on Human and People's Rights; the Africa Protocol on the Rights of Women in Africa (the Maputo Protocol); and the African Charter on the Rights and Welfare of the Child. The petitioners contend that the notion of substantive equality requires Government to go beyond enacting legislation and put in place measures that facilitate persons with disabilities to fully realise their rights. Thus, in the present case, Government ought to have provided enough sign language interpreters at all health facilities and not just end at enacting favourable laws like the Persons with Disabilities Act, 2006.

The petitioners further contend that Government's failure to ensure enough sign language interpreters at health facilities is contrary to the rights granted under international instruments to which Uganda is party, such as the rights of persons with disabilities to give free and informed consent to treatment.

In light of the above allegations, the petitioners are seeking this Court to make a declaration that the omission to ensure enough sign language interpreters violates the rights of persons with hearing disabilities referred to earlier and is for that reason in contravention with and/or inconsistent with the 1995 Constitution. The petitioners are also seeking this Court to make the following orders:

- "a) An order directing the Minister responsible for Health and the one responsible for Gender, Labour and Social Development to ensure that all health facilities in Uganda, both public and private, provide sign language interpreters within the hospital organizational structure for persons with hearing disabilities in accordance with Section 7 (1), 3 (a) and (b), 8, 21 (1) (a), 25, 27, 29, 32, 33 and 35 of the Persons with Disabilities Act, 2006.**
- b) An order directing the Minister responsible for Health and the one responsible for Gender, Labour and Social Development to ensure that all necessary steps are taken to introduce sign language interpretation in the curriculum of medical personnel, in accordance with Section 7 (1), 3 (a) and (b) of the Persons with Disabilities Act, 2006.**

- c) **An order directing the Minister responsible for Health, the one responsible for Gender, Labour and Social Development, and the one responsible for Education to ensure the continuous training of all qualified health workers in sign language in accordance with Sections 7, 8, 21 (1) (a), 25, 27, 29, 32, 33 and 35 of the Persons with Disabilities Act, 2006.**
- d) **An order that Government furnishes the Court with a comprehensive framework on how it intends to ensure provision of enough sign language interpreters at health facilities for persons with hearing disabilities, within one year from the date of determination of this Petition.**
- e) **An order granting the 1st and 2nd petitioners leave to follow up with the respective Ministers responsible for Health, Education and Gender, Labour and Social Development and other relevant State Agencies, and obtain quarterly reports on the measures taken by Government to ensure compliance with the Orders and Reliefs granted in this Petition and directing the respondent to ensure that the Ministers cooperate with the 1st and 2nd petitioners.**
- f) **An order that the Court retains jurisdiction to ensure compliance with its orders and to take such measures as it may deem just and necessary to compel Government to satisfactorily comply with the orders this Court has granted.**
- g) **An order for any other relief that this Court deems fit and just."**

The Petition is supported by evidence contained in, among others, the respective affidavits of the 3rd and 4th petitioners, both persons with hearing disabilities; as well as the respective affidavits of Ms. Salima Namusobya, the Executive Director of the 1st petitioner; Mr. Joseph Mbulamwana, the Executive Director of the 2nd petitioner; Mr. Ambrose Murangira, a member of the 2nd petitioner; Ms. Florence Safina Naigaga, Ms. Fatina Namukose; Ms. Margaret Nabandi; Ms. Nabirye Rose; Ms. Susan Isabirye; Ms. Damalie Kasega; Ms. Hagira Kakuutu; Ms. Bangi Zulaika; and Mr. Med Ssengooba.

The respondent filed an Answer opposing the Petition. He contended that the Petition raises no question(s) for constitutional interpretation and ought

to be dismissed as the Court has no jurisdiction to entertain it. With respect to the substance, the respondent made a bare denial of the allegations contained in the Petition.

The respondent's Answer is supported by evidence contained in the affidavit of Dr. Henry G. Mwebesa, Director General Health Services at the Ministry of Health; and the affidavit of Dr. Stackus Okwaput, a Senior Lecturer in the Department of Special Needs Studies under the Faculty of Special Needs Studies and Rehabilitation at Kyambogo University.

I shall refer to the evidence later in the judgment.

Representation

At the hearing, Mr. Robert Kirunda and Ms. Nabilah Sumaya, both learned counsel represented the petitioners. Mr. Moses Mugisha, learned State Attorney in the Attorney General's Chambers represented the respondent.

The parties, with the leave of Court, proceeded by way of written submissions.

Resolution of the Petition

I have carefully studied the pleadings and the evidence and considered the submissions of counsel for both sides and the law and authorities cited. I have also had regard to other relevant authorities that were not cited.

In my analysis, I shall adopt the issues that the parties referred to in their submissions, namely:

- "1. Whether the Petition raises any questions for constitutional interpretation.**
- 2. Whether the failure by Government to provide sign language interpreters to persons with hearing disabilities at state owned health facilities, and its failure to require that privately owned health facilities provide sign language interpreters to persons with**

hearing disabilities and train their health workers in sign language violate the following rights of persons with disabilities:

- (i) The right to equality and non-discrimination provided for under Articles 20 and 21 and Objective XXI (c) of the NODPOSP.
- (ii) The right to dignity provided for under Articles 20 and 35 and Objective XXIV (c) of the NODPOSP.
- (iii) The right to freedom from cruel, inhuman and degrading treatment provided for under Articles 20, 24, 35, 44 (a) and Objectives XXIV (c) and XVI of the NODPOSP.
- (iv) The right to privacy as provided for in Articles 20 and 27 and Objective XXIV (c) of the NODPOSP.
- (v) The right to health as provided for in Articles 8A, 20, 35 (2), 45 and 287 and Objectives I, XIV (b), XX and XXIV (c) of the NODPOSP.
- (vi) The rights of women with hearing disabilities as provided for in Articles 20, 32 and 33 and Objective XXIV (c) of the NODPOSP.
- (vii) The right to information, specifically the right to seek, receive and impart health information as provided for in Articles 20, 21, 41 and Objective XXIV (c) of the NODPOSP."

I shall deal with issue in turn.

Issue 1 – Whether the Petition raises questions for constitutional interpretation

Petitioners' submissions

Counsel for the petitioners submitted that the Petition raises questions for constitutional interpretation under Article 137 (3) (b) of the 1995 Constitution, and therefore falls within the mandate of this Court which is to interpret and apply/enforce the 1995 Constitution. Counsel submitted that

the criteria for determining whether a Petition raises questions for constitutional interpretation was articulated in **Baku vs. Attorney General, Constitutional Appeal No. 01 of 2003 (unreported)** where Kanyeihamba, JSC held that:

"...in constitutional petitions brought under Article 137 (3) of the 1995 Constitution, a cause of action is disclosed if the petitioner alleges the act or omission complained of and cites the provision of the Constitution which has been contravened and prays for a declaration."

Counsel submitted that the Petition satisfies the above criteria because it clearly sets out the acts of the respondent and the provisions of the 1995 Constitution which they contravene. For those reasons, counsel submitted that issue 1 ought to be answered in the affirmative.

Respondent's submissions

Counsel for the respondent disagreed. He submitted that the Petition does not raise any question(s) for constitutional interpretation as required to invoke the jurisdiction of this Court under Article 137 (1) of the 1995 Constitution. He referred to the cases of **Attorney General vs. Tinyefuza, Constitutional Appeal No. 1 of 1997** and **Serugo vs. Kampala City Council, Constitutional Appeal No. 2 of 1998 (both unreported)**, which discussed the jurisdiction of this Court. Counsel submitted that the Petition, as seen from the summary of evidence and the 25 supporting affidavits, sets out allegations of violation of rights of persons with hearing disabilities due to Government's failure to ensure the availability of enough sign language interpreters at health facilities to aid communication and effective access to health services by those persons. The rights alleged to have been violated include the right to equality and non-discrimination, the right to dignity, the right to freedom from cruel, inhuman and degrading behaviour. Counsel submitted that this Court cannot entertain matters that primarily require the enforcement of rights. For this position, counsel referred to the cases of **Serugo vs. Attorney General and Kampala City Council, Constitutional Appeal No. 2 of 1997; Kabagambe vs.**

Uganda Electricity Board, Constitutional Petition No. 2 of 1999; and Uganda Journalist Safety Committee vs. Attorney General, Constitutional Petition No. 11 of 1997.

Counsel further submitted that his counterpart for the petitioners misunderstood the decision in the case of **Baku (supra)**. He submitted that the said case concerned whether **Section 67 (3)** of the **Parliamentary Elections Act, 2001** was inconsistent with **Article 140** of the **1995 Constitution**, and thus it is important that Kanyeihamba, JSC's comments are understood in their proper context, which is that they were made in a decision concerning whether a provision of a legislation was inconsistent with a provision of the 1995 Constitution. Counsel contended that this Petition is distinguishable as it relates to constitutionality of omissions by the respondent and not legislation.

Counsel concluded by urging this Court to find that the Petition raises no questions for constitutional interpretation and that this Court accordingly has no jurisdiction to entertain it.

Petitioners' submissions in rejoinder

In rejoinder, counsel for the petitioners maintained that the Petition raises questions for constitutional interpretation, and submitted that the respondent's submission otherwise is misconceived. Counsel reiterated the earlier submission that under Article 137 (3) (b), a Petition raises questions for constitutional interpretation if it alleges certain acts and omissions and the provisions of the 1995 Constitution they contravene. For this submission counsel referred to the cases of **Centre for Health, Human Rights and Development (CEHURD) vs. Attorney General, Constitutional Appeal No. 1 of 2013 (per Katureebe, C.J); Kiiza Besigye vs. Attorney General, Constitutional Petition No. 52 of 2011 (per Egonda-Ntende, JCC); and Foundation for Human Rights Initiative vs. Attorney General, Constitutional Petition No. 53 of 2011 (per Egonda-Ntende, JCC); and Satya Peter Chapa vs. Attorney General, Constitutional Petition No. 0036 of 2012.**

Counsel also referred to the holding of **Madrama, JCC** in the **Foundation for Human Rights Initiative case (supra)** that:

"For the Constitutional Court to have jurisdiction such an allegation must have in it a controversy as to interpretation of the Constitution of the Republic of Uganda. It follows that the question before Court should involve a controversy about interpretation before the Constitutional Court assumes jurisdiction in the matter. As I have noted above, a question for interpretation must be an arguable case about interpretation ... In other words, it must be a doubt which makes the meaning of an article controversial and which controversy should be cleared by the Constitutional Court."

Counsel then submitted that the Petition presents a controversy as to whether the omission by Government to ensure the presence of enough sign language interpreters at all health facilities contravenes various provisions of the 1995 Constitution that enshrine rights for persons with hearing disabilities. In counsel's view, this Court has jurisdiction under Article 137 (3) (b) of the 1995 Constitution to entertain the Petition.

I have carefully considered the submissions of counsel for both sides on issue 1. The jurisdiction of this Court is provided for under **Article 137** of the **1995 Constitution**, which, in material part provides as follows:

"The constitutional court.

137. Questions as to the interpretation of the Constitution.

(1) Any question as to the interpretation of this Constitution shall be determined by the Court of Appeal sitting as the constitutional court.

(2) ...

(3) A person who alleges that—

(a) an Act of Parliament or any other law or anything in or done under the authority of any law; or

(b) any act or omission by any person or authority, is inconsistent with or in contravention of a provision of this Constitution, may petition the constitutional court for a declaration to that effect, and for redress where appropriate.

(4) Where upon determination of the petition under clause (3) of this article the constitutional court considers that there is need for redress in addition to the declaration sought, the constitutional court may—

(a) grant an order of redress; or

(b) refer the matter to the High Court to investigate and determine the appropriate redress."

The position established in many decisions of the Supreme Court, notably **Attorney General vs. Tinyefuza, Constitutional Appeal No. 1 of 1997**; and **Serugo vs. Attorney General and Another, Constitutional Appeal No. 2 of 1998** is that the jurisdiction of the Constitutional Court which is derived from Article 137 (1) read together with either Clause 3 (a) or 3 (b), empowers it to determine only Petitions that present questions that require, for their determination, interpretation of the provisions of the 1995 Constitution. In the **Serugo case (supra)**, Wambuzi C.J held that:

"In my view for the constitutional court to have jurisdiction the petition must show, on the face of it, that interpretation of a provision of the Constitution is required. It is not enough to allege merely that a Constitutional provision has been violated."

This Court has in many cases applied the principles enunciated in the above-mentioned cases. For example, in **Foundation for Human Rights Initiative vs. Attorney General, Constitutional Petition No. 53 of 2011**, Owiny-Dollo, DCJ (as he then was) held:

"...the Supreme Court whose decisions bind this Court has consistently pronounced itself that the two provisions of Article 137 under reference [Clauses 1 and 3] must be read conjunctively. Wherefore, the Constitutional Court only has jurisdiction in matters brought under clauses (3) and (4) where the issue in contention first requires the

interpretation of a provision of the Constitution as provided for in clause (1) of Article 137."

The majority constituting Muhanguzi, JCC (as he then was) and Madrama, JCC expressed similar views.

It will be noted in the Tinyefuza and Serugo cases, matters for constitutional interpretation are spoken of in contrast with matters for enforcement of rights. Thus in the **Serugo case**, Kanyeihamba, JSC quoting the Tinyefuza decision with approval, held that:

"Nevertheless, when it comes to that Court's view of the jurisdiction of the Court of Appeal as a Constitutional Court, its decision in that case is that the Constitutional Court has no original jurisdiction merely to enforce rights and freedoms enshrined in the Constitution in isolation to interpreting the Constitution and resolving any dispute as to the meaning of its provisions. The judgment of the majority in that case, [Wambuzi, C.J., Tsekooko J.S.C., Karokora J.S.C., and Kanyeihamba J.S.C], is that to be clothed with jurisdiction at all, the Constitutional Court must be petitioned to determine the meaning of any part of the Constitution in addition to whatever remedies are sought from it in the same petition.

In the same case, Wambuzi, C.J held that:

"If therefore any rights have been violated as claimed, these are enforceable under Article 50 of the Constitution by another competent Court. The article provides in so far as is relevant. "(1) Any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.

Here the appellant alleges his rights were violated and claims compensation. One cannot rule out malicious prosecution, wrongful detention or false imprisonment. These are matters dealt with by specific laws. They can be enforced by a competent court and should a question of interpretation of a provision of the Constitution arise, that question can always be referred to the Constitutional Court. I am aware that the Constitutional court is also a competent court under Article 50

but this Court has already held that the Constitutional Court has no jurisdiction in any matter, which does not involve the interpretation of a provision of the Constitution. See Attorney General v Tinyenfuza Const. App. No.1 of 1997."

Counsel for the petitioners, in the submissions in rejoinder, denied that the Petition concerns matters for enforcement of rights. They submitted that the Petition raises questions relating to omissions by Government to make available sufficient sign language interpreters at health facilities to facilitate communication and access to health care for persons with disabilities. Counsel for the petitioners relied on the definition of constitutional interpretation given by Madrama, JCC in the case of **Foundation for Human Rights Initiative case (supra)**. His Lordship held that constitutional interpretation arises **"where there is a doubt or precisely a dispute as to the meaning of an Article or Articles [of the Constitution]"**. Madrama, JCC further held that:

"My understanding is that the word "question" used in Article 137 (1) means "controversy" or imports the meaning of an "arguable issue" which discloses a genuine dispute about interpretation of the Constitution so as to resolve the controversy."

Taking the above definition, it is possible that a matter involving violation of rights may call for constitutional interpretation. Take the example given by Kanyeihamba, JSC in the **Tinyefuza case (supra)** of a prisoner who learns that the prison authorities have been opening and reading letters sent to him from outside prison. Assuming that the prisoner feels that his/her right to privacy under Article 27 (2) of the 1995 Constitution which states that **"No person shall be subjected to interference with the privacy of that person's home, correspondence, communication or other property,"** has been violated and files a Petition in the Constitutional Court. There may be a controversy as to whether, although the opening of his/her letters violates rights under Article 27 (2), it may constitute a justifiable derogation under Article 43. The above illustration shows that the line sought

to be drawn by the authorities between constitutional interpretation and enforcement of right is not clear cut.

Further, in the case of **Centre for Health, Human Rights and Development (CEHURD) and 3 Others vs. Attorney General, Constitutional Appeal No. 01 of 2013**, the Supreme Court decided, to the effect, that the Constitutional Court can entertain a Petition alleging human rights violations provided that the Petition sets out the acts of human rights violations and the provisions of the Constitution that those violations are deemed to have contravened. The petitioners in that case had, in their Petition, inter alia, set out allegations that acts of the state of failing to provide basic maternal health care commodities to expectant mothers violated the right of health of those expectant mothers thereby contravening certain provisions of the 1995 Constitution. Kisaakye, JSC with whom the majority consisting of Okello, Kitumba, and Odoki, Ag. JJSC, (Tumwesigye, JSC and Tsekooko, Ag. JSC agreed with Kisaakye, JSC and Katureebe, CJ) after noting that the Petition had set out the acts and the provisions of the Constitution they violated, held:

"Apart from making allegations about the acts and/or omissions of the Government and health care workers, as indicated above, the petitioners also cited the various provisions of the Constitution which they alleged the various acts/omissions which they were complaining about were inconsistent with or in contravention of. These included Articles 8A, 20 (1) & (2), 22 (1) & (2), (24), 33 (2) & (3), 34 (1), 44 (a), 287 and 45 of the 1995 Constitution.

It is clearly evident from the above pleadings that the appellants specified the acts and omissions of the Government and its workers in the health sector, which they alleged were inconsistent with and in contravention of the Constitution. The appellants also cited the particular provisions of the Constitution which the said acts and omissions of the respondent and its workers were alleged to be contravening. The appellants also prayed in their Petition to the Constitutional Court for specific declarations to the effect that those acts and omissions contravened the Constitution and also for redress.

All these averments, in my view, give rise to competent questions for the Constitutional Court to hear, interpret and determine, with a view to establishing whether the petitioners' allegations had been proved to warrant the Constitutional Court to issue the declarations sought by the petitioners and to either grant the petitioners redress or refer the matter to the High Court with the appropriate directions, in accordance with the dictates of Article 137 (4)."

The CEHURD case (*supra*) contradicts the principles set out in *Serugo* and *Tinyefuza* (*supra*) that the Constitutional Court has no jurisdiction to handle Petitions which are primarily for enforcement of rights. It seems Kisaakye, JSC followed the principles articulated in the minority decision of Mulenga, JSC in the former cases. However, in the latter case of CEHURD (*supra*), the Supreme Court neither declared the decision of the majority in the *Serugo* case that the Constitutional Court has no jurisdiction to handle Petitions which are primarily for enforcement of rights, bad law nor did it depart therefrom. This effectively means that this Court can continue to apply the decision of the majority in the *Serugo* case (*supra*).

I prefer the reasoning by the majority in the **Serugo case (*supra*)**, that the Constitutional Court should not handle matters concerning violation and enforcement of human rights. I agree that, under **Article 50** of the **1995 Constitution**, such matters ought to be lodged and determined in other competent Courts and not the Constitutional Court. **Article 50** provides:

"50. Enforcement of rights and freedoms by courts.

(1) Any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.

(2) Any person or organisation may bring an action against the violation of another person's or group's human rights.

(3) Any person aggrieved by any decision of the court may appeal to the appropriate court.

(4) Parliament shall make laws for the enforcement of the rights and freedoms under this Chapter."

It will be noted that in 2019, Parliament, pursuant to Article 50 (4), enacted the Human Rights (Enforcement) Act, 2019, which provides that the "competent court" for purposes of Article 50 is either the High Court or a Magistrate's Court. Appeals may be made to the Court of Appeal and the Supreme Court.

In my view, the present Petition alleges violation of rights and is consequently for enforcement of rights. The petitioners allege that the omission by Government to ensure the availability of enough sign language interpreters at both public and private health facilities, to assist persons with hearing disabilities to communicate with medical practitioners so as to effectively address their medical issues, violates several rights of those persons under the 1995 Constitution. Further, the fact that this Petition concerns enforcement of rights is apparent from issue 2, the substantive issue, which was framed as follows:

"Whether the failure by Government to provide sign language interpreters to persons with hearing disabilities at state owned health facilities, and its failure to require that privately owned health facilities provide sign language interpreters to persons with hearing disabilities and train their health workers in sign language violate the following rights of persons with disabilities:

- (i) The right to equality and non-discrimination provided for under Articles 20 and 21 and Objective XXI (c) of the NODPOSP.**
- (ii) The right to dignity provided for under Articles 20 and 35 and Objective XXIV (c) of the NODPOSP.**
- (iii) The right to freedom from cruel, inhuman and degrading treatment provided for under Articles 20, 24, 35, 44 (a) and Objectives XXIV (c) and XVI of the NODPOSP.**

- (iv) The right to privacy as provided for in Articles 20 and 27 and Objective XXIV (c) of the NODPOSP.**
- (v) The right to health as provided for in Articles 8A, 20, 35 (2), 45 and 287 and Objectives I, XIV (b), XX and XXIV (c) of the NODPOSP.**
- (vi) The rights of women with hearing disabilities as provided for in Articles 20, 32 and 33 and Objective XXIV (c) of the NODPOSP.**
- (vii) The right to information, specifically the right to seek, receive and impart health information as provided for in Articles 20, 21, 41 and Objective XXIV (c) of the NODPOSP."**

I therefore agree with the submissions of counsel for the respondent that the question the petitioners seek this Court to decide, concerns enforcement of rights, in that it relates to a claim that certain omissions of Government infringe the rights of persons with hearing disabilities. The petitioners' claim ought to have been filed in the High Court for redress under Article 50 (4).

I would therefore answer issue 1 in the negative.

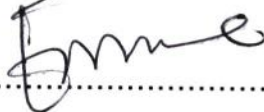
In light of the decision on issue 1, it becomes unnecessary to consider issue 2. I would find that the underlying question (issue 2) in the Petition does not concern constitutional interpretation, and thus this Court has no jurisdiction to entertain the Petition.

However, notwithstanding the findings on issue 1, I wish to comment that persons with disabilities are entitled to full and effective enjoyment of rights. Unfortunately, persons with disabilities face barriers that prevent them from enjoying their rights and accessing Government services. In relation to persons with hearing disabilities, this Petition brings to light the likelihood that many persons with hearing disabilities are unable to get effective health care when they go to health facilities across the country because there are insufficient sign language interpreters to assist them to effectively communicate their health issues, and receive appropriate medical advice.

Government has, by enacting the Persons with Disabilities Act, 2006, undertaken to provide assistance necessary to ensure that persons with disabilities enjoy their rights, and it ought to consider intervening if there are inadequate sign language interpreters at health facilities as alleged by the petitioners.

For the reasons, given earlier, I am inclined to find that the Petition raises no questions for constitutional interpretation and I would dismiss it. As for costs, my view is that the Petition raises matters of public interest concerning the need for Government to make available more sign language interpreters at health facilities so as to aid persons with hearing disabilities to obtain effective access to health care, and considering the practice of this Court not to award costs in matters instituted in the public interest, I would make no order as to costs.

Dated at Kampala this 20th day of Feb 2023.



Elizabeth Musoke

Justice of the Constitutional Court

THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

[Coram: Egonda-Ntende, Musoke, Madrama, Mugenyi and Gashirabake, JJCC]

CONSTITUTIONAL PETITION NO. 029 OF 2017

BETWEEN

Initiative for Social And Economic Rights (ISER)=====Petitioner No.1

Uganda National Association of The Deaf (UNAD)=====Petitioner No.2

Waswa Ronald=====Petitioner No.3

Namusisi Josephine=====Petitioner No.4

AND

Attorney General=====Respondent

JUDGMENT OF FREDRICK EGONDA-NTENDE, JCC

- [1] I have had the opportunity to read in draft the judgment of my sister, Musoke, JCC. I agree with it and have nothing useful to add.
- [2] As Madrama, Mugenyi and Gashirabake, JJCC, agree this petition is dismissed with no order as to costs.

Dated, signed and delivered at Kampala this 9th day of Feb 2023


Fredrick Egonda-Ntende

Justice of the Constitutional Court

THE REPUBLIC OF UGANDA,
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA
(CORAM; EGONDA NTENDE, MUSOKE, MADRAMA, MUGENYI,
GASHIRABAKE, JJCC/JJCA)

CONSTITUTIONAL PETITION NO. 029 OF 2017

1. INITIATIVE FOR SOCIAL AND ECONOMIC RIGHTS (ISER)}
2. UGANDA NATIONAL ASSOCIATION OF THE DEAF (UNAD)}
3. WASWA RONALD}
4. NAMUSISI JOSEPHINE}PETITIONERS

VERSUS

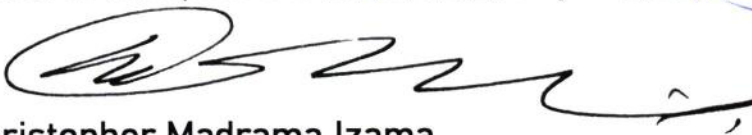
ATTORNEY GENERAL}RESPONDENT

JUDGMENT OF JUSTICE CHRISTOPHER MADRAMA IZAMA, JCC

I have read in draft the Judgment of my learned sister Hon. Lady Justice Elizabeth Musoke, JCC.

I concur with the Judgment for the reasons given that this court has no jurisdiction in the matter and the Petition should be dismissed with the orders proposed and I have nothing useful to add.

Dated at Kampala the 20th day of FEB 2023



Christopher Madrama Izama

Justice Constitutional Court



THE REPUBLIC OF UGANDA

**THE CONSTITUTIONAL COURT OF UGANDA
AT KAMPALA**

(Coram: Egonda-Ntende, Musoke, Madrama, Mugenyi & Gashirabake, JJCC)

CONSTITUTIONAL PETITION NO. 29 OF 2017

1. INITIATIVE FOR SOCIAL
& ECONOMIC RIGHTS (ISER)
2. UGANDA NATIONAL ASSOCIATION
OF THE DEAF (UNAD)
3. RONALD WASSWA
4. JOSEPHINE NAMUSISI PETITIONERS

VERSUS

THE ATTORNEY GENERAL RESPONDENT

JUDGMENT OF MONICA K. MUGENYI, JCC

1. I have had the benefit of reading in draft the judgment of my sister, Lady Justice Elizabeth Musoke, JCC in respect of this Petition
2. I agree with the conclusions and the orders issued.

Dated and delivered at Kampala this 20th day of FEB, 2023.



Monica K. Mugenyi

Justice of the Constitutional Court

THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

[Coram: Egonda-Ntende, Musoke, Madrama, Mugenyi & Gashirabake, JJCC/JJCA]

CONSTITUTIONAL PETITION NO. 029 OF 2017

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|---|---|-------------|
| 1. INITIATIVE FOR SOCIAL AND ECONOMIC RIGHTS (ISER) | } | PETITIONERS |
| 2. UGANDA NATIONAL ASSOCIATION OF THE DEAF (UNAD) | | |
| 3. WASWA RONALD | | |
| 4. NAMUSISI JOSEPHINE..... | | |

VERSUS

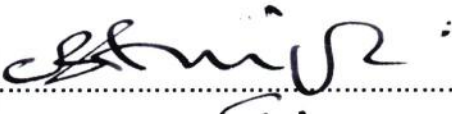
THE ATTORNEY GENERAL.....RESPONDENT

JUDGMENT OF CHRISTOPHER GASHIRABAKE, JCC.

I have read in draft the judgment of Hon. Lady Justice Elizabeth Musoke, JCC.

I concur with the judgment for the reasons given that the Petition does not concern constitutional interpretation and the Petition should be dismissed with the orders proposed and I have nothing useful to add.

Dated and at Kampala the 20th Day of Feb 2023.


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Christopher Gashirabake
JUSTICE OF THE CONSTITUTIONAL COURT