



Civil Society Coalition on Human Rights & Constitutional Law

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PRESS STATEMENT

For Immediate Release: August 1 2014

A Victory for Constitutionalism

(Kampala) In the case of *Prof. J Oloka-Onyango & 9 Others v. Attorney General (Petition No.8 of 2014)*- the Constitutional Court has struck down Uganda's Anti-Homosexuality Act, 2014 as unconstitutional. The ruling was delivered by a unanimous court of five members by Justices Eldad Mwanguhya and Steven Kavuma on behalf of a unanimous court made of three other justices: Justice Augustine Nshimye, Justice Ruby Opio-Aweri, and Justice Solomy Balungi Bbosa.

The case was brought by a cross-section of concerned Ugandan citizens to challenge the constitutionality of the Act on the grounds that it was passed when Parliament did not have the necessary quorum as required by the Constitution and the Parliamentary Rules of Procedure and also that it violated the constitutional guarantees of freedom from discrimination and from cruel, inhuman and degrading punishment, among others.

Only the ground of quorum was ruled on. The Court found that the Act should be nullified because there was no quorum in parliament on the day that it was passed as required by the Constitution and the Parliamentary Rules of Procedure, and that the Speaker committed an illegality when she allowed it to be passed without ascertaining that the quorum existed as required by the Constitution and the Parliamentary Rules of Procedure. That this was an illegality and the resultant law could not stand.

"The judiciary today has stood for the rule of law and good governance in striking out a law that was passed in a way that contravened the Constitution and the Parliamentary Rules of Procedure. This is a resounding victory for democracy in the country, and confirms that laws passed in violation of the Constitution cannot be allowed to remain on the law books" according to Prof. J Oloka-Onyango, the first petitioner.

"This victory is for all Ugandans. It is an affirmation of the independence of the Judiciary and of a growing democracy: despite populist politicians claiming support for the law, the Court has stood up for what is right," said Adrian Jjuuko, Executive Director of the Human Rights Awareness and Promotion Forum (HRAPF), the ninth Petitioner.

According to sixth petitioner and Executive Director of Sexual Minorities Uganda (SMUG), Frank Mugisha, "The striking down of the law removes a big yoke from the necks of many

LGBTI persons who were criminalised for simply being who they are'. In the few months since the Anti-Homosexuality Act was passed by Parliament on 20 December 2013, activists recorded a marked increase in cases of violence against people known or suspected to be LGBTI (Lesbian, Gay, Bisexual, Transgender and Intersex). Sexual Minorities Uganda (SMUG) documented 162 cases of rights violations targeted against the LGBTI community during the period 1st December 2013 to 1st May 2014.

The court ruling also comes as a relief to civil society stakeholders and service providers who within weeks of the passing of the Anti-Homosexuality Act in February 2014 were falsely targeted as being engaged in the promotion of homosexuality.

The petition was supported by the Civil Society Coalition on Human Rights and Constitutional Law, a Coalition of 50 civil society organisations that was established in 2009 to oppose the then Anti Homosexuality Bill. Clare Byarugaba, Co-Coordinator of the Civil Society Coalition on Human Rights and Constitutional Law asserted, 'As the Civil Society Coalition, we are excited about this development, and call upon the State to respect the rights of all Ugandans and to uphold the Constitution of the Republic of Uganda.'

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