

**THE REPUBLIC OF UGANDA**  
**IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA**  
**CONSTITUTIONAL PETITION NO. 014 OF 2023**

1. HON. FOX ODOI-OYWELWO
2. FRANK MUGISHA
3. PEPE ONZIEMA
4. JACKLINE KEMIGISA
5. ANDREW MWENDA
6. LINDA MUTESI
7. KINTU NYAGO
8. JANE NASIIMBWA.....



PETITIONERS

VERSUS

ATTORNEY GENERAL .....RESPONDENT

**RESPONDENT'S ANSWER TO THE AMMENDED PETITION**

**SAVE** as herein below expressly admitted, the Respondent denies each and every allegation contained in the Petition as if the same were set forth herein verbatim and denied seriatim.

1. The contents of paragraphs 1 - 9 regarding the parties to this petition are noted but not admitted save for the description of the 1<sup>st</sup> Petitioner as a Member of Parliament.
2. The Respondent admits the contents of paragraph 10 of the Petition and adds that his address for purposes of this petition shall be the **Attorney General's Chambers, Ministry of Justice and Constitutional Affairs, Baumann House, Plot 7 Parliament Avenue P.O. Box 7183 Kampala-Uganda.**
3. The contents of paragraph 11-17 are noted but not admitted.
4. The Respondent makes no admission to all the allegations contained in Paragraphs 18 and all sub-paragraphs thereunder in their entirety and shall put the Petitioners to strict proof thereof.

*Received by Fox  
Odoi-Oywelewo  
on 11/6/23  
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[Signature]*

5. In reply to paragraph 18 of the petition, the Respondent contends that the provisions of the Anti-Homosexuality Act are not inconsistent with and/or in contravention with the provisions of the Constitution of the Republic of Uganda 1995, international treaties, covenants, conventions and declarations, continental and regional human rights instruments to which Uganda is a state party.

**I. Alleged unconstitutionality for offending Article 92 of the 1995 Constitution of the Republic of Uganda as Amended**

6. In reply to paragraph 18 (I)(a),(b),(c),(d),(e), (f),(g),(h),(i),(j) and (k) of the petition, the Respondent denies the allegations therein and avers that the consideration or enactment of the Anti-Homosexuality Act ,2023 did not fundamentally, substantially and/or wholly or at all vary the decision and/or the judgement of the *Constitutional Court in Oloka Onyango & Others Vs Attorney General Constitutional Court No. 8 of 2014, Kasha Jacqueline & 2 Others Vs. Rolling stone & Another HCCM No. 163 of 2010 , Victor Juliet Mukasa & Another Vs. Attorney General HCCM No. 247 of 2006 and BN vs Uganda Criminal appeal No. 381 of 2016*. The Respondent shall contend and prove that the Anti-Homosexuality Act does not have retrospective application.

7. The Respondent shall aver that:

- a. the decision/judgment in *Oloka Onyango & Others Vs Attorney General Constitutional Petition No. 8 of 2014* was based on the lack of quorum and did not go to the substance of the legislation. The Anti-Homosexuality Act does not does not in any way alter the decision or judgment of court between Oloka Onyango & Others and Attorney General
- b. The judgement of the High Court in *Kasha Jacqueline & 2 Others Vs. Rolling stone & Another HCCM No. 163 of 2010* was about publications leading to infringement of the right to life and the right to privacy of person. The Anti-Homosexuality Act does not does not in any way alter the decision or judgment of court between *Kasha Jacqueline & 2 Others Vs. Rolling stone*.
- c. the decision and /or judgement of the High Court in *Victor Juliet Mukasa & Another Vs. Attorney General HCCM No. 247 of 2006*

was about an illegal search by an LCI and LDU and man handling that culminated into infringement of the right to property and privacy. The Anti-Homosexuality Act does not in any way alter the decision or judgment of court between Victor Juliet Mukasa and Attorney General.

- d. the decision and/or judgement of the BN vs Uganda Criminal appeal No. 381 of 2016 provided guidance to the Courts on how to address child offenders during criminal sessions and the passing of the Anti-Homosexuality Act does not in any way alter the decision of the Court as between BN and Uganda.

## **II. Alleged unconstitutionality of offending Art. 1(1)(2)(3), 38(2) and 94 of the Constitution**

8. In reply to paragraph 18 (l),(m),(n),(o) and (p) of the Petition, the Respondent denies the allegations therein and states that the consideration by the Legal and Parliamentary Affairs Committee, the Parliament of the Republic of Uganda and the ultimate enactment of the Anti-Homosexuality Bill 2023 did not deny the public from participation and contribution to the Bill in a meaningful and exhaustive representative manner, and contends that the procedure adopted by Parliament guaranteed fair consultation and public participation and thus was not in contravention of Article 1(1), (2), (3) and 94 of the Constitution.
9. The Respondent shall aver that the bill was introduced in Parliament in accordance with Article 94(1) of the Constitution and Rule 122 of the Rules of Procedure of Parliament.
10. In further reply to paragraph 18 (l),(m),(n),(o) and (p) of the Petition, the Respondent states that the Anti-Homosexuality Act 2023 was passed after wide consultation with the public and their representatives in form of written and oral memoranda from various stakeholders both in support and opposition of the bill and following the procedures as set out in the Rules of Procedure of Parliament and thus not in contravention of Articles 1 (1), (2) and (3) of the Constitution or at all.

11. The Respondent shall aver that there is no legal requirement for a private member to undertake prior consultation before moving Parliament to present a private members bill to Parliament and shall contend that the committee adopted a qualitative approach to carry out consultations.

**III. Alleged unconstitutionality for offending Article 93 (a) (ii) of the Constitution:**

12. In reply to paragraph 18(q),(r ),(s) and (t) of the Petition, the Respondent contends that :
  - a. The Anti-Homosexuality Act does not impose a charge on the consolidated fund as alleged or at all.
  - b. The certificate of financial implication conforms to the provisions of section 76 (2)(3) of the Public Finance Management Act.

**IV. Alleged unconstitutionality for offending fundamental rights and freedoms guaranteed under chapter four of the constitution.**

13. In reply to paragraph 18(u) (v) and (pp) of the Petition, the respondent contends that Section 2 of the Act that creates the offence of homosexuality and attempted homosexuality does not contravene Article 20(1),21(1), (2), (3), 24, 27, 29(1)(b), 32(1), 43(1)(c) and 44(a) and 45 of the Constitution as alleged.
14. The Respondent shall aver that:
  - a. The Constitution of Uganda and the Penal Code Act prohibit any sexual activity that is against the order of nature and as such an illegality cannot be condoned by any court.
  - b. sexual practices between persons of the same sex are prohibited as it contravenes the Constitution and the Penal Code Act.
  - c. No one can consent to an illegality
  - d. No one can claim immunity or discrimination for what is fundamentally prohibited under the law, the petitioners are misinterpreting Article 21 of the Constitution.
  - e. The sexual practices between persons of the same sex are contrary to Article 24 the Objective principles XXIV(a) and a number of

other human rights guaranteed under chapter four of the constitution of the republic of Uganda of the Constitution.

15. In reply to paragraph 18(w) and (x) of the Petition, the respondent contends that Section 3 of the Act creates the offence of aggravated homosexuality and does not contravene Article 20(1),21(1), (2), (3), 24, 27, 29(1)(b), 32(1), 43(1)(c) and 44(a) ,45 and the principle of legality as enshrined under Article 28(12) of the Constitution as alleged.
16. The Respondent shall aver that;
  - a. Under the laws of Uganda, unlawful sexual activities are prohibited.
  - b. the right to privacy and the right to freedom of expression, thought, assembly and association are derogable rights.
  - c. All derogable rights including the right to privacy and the right to freedom of expression, thought, assembly and association are subject to constitutional limitations under the law.
  - d. the laws of Uganda recognize the traditional natural family as the basic unit of society which is entitled to protection by the state from unnatural sexual activities and promotion of cultural values and norms.
  - e. the rights being sought by consenting adults to perform sexual acts between persons of the same sex are intended to undermine the true conscience of majority Ugandans and amount to a breach of society values in the public interest.
17. In reply to paragraph 18(y) of the Petition, the respondent contends that Section 4 prescribes a punishment for a child who is convicted of the offence of homosexuality, attempted homosexuality, aggravated homosexuality and attempted aggravated homosexuality. The punishment is imprisonment not exceeding three years. This is in line with the Constitution and the Children Act.
18. In further reply to paragraph 18(y) of the Petition, the respondent contends that Section 4 of the Act is not read in isolation, the provisions therein are subject to the provisions of the Children Act which provides for the age of

criminal liability of a child and there is no contravention with Articles 20(1) 24 and 34(1) of the Constitution as alleged.

19. In reply to paragraph 18(z) of the Petition, the respondent contends that Section 5(2) of the Anti-Homosexuality Act does not penalize consensual sexual acts between adults of the same sex and does not contravene Article 20(1), 21(1), (2), (3), 24, 27, 29(1)(b), 32(1), 43(1)(c) and 44(a) and 45 of the Constitution.
20. The Respondent denies the contents paragraph 18(aa), (bb), (ee), (ff), (gg),(hh),(ii),(ll) and (oo), of the Petition and contends that Section 6,7,9,11(2) (c),(d),(e),14(1),(2),(3) and 15 of the Anti-Homosexuality Act do not contravene the principle of legality under Article 28(12) and neither do the said provisions contravene Article 20(1),21(1), (2), (3), 24, 27, 29(1)(b), 32(1), 43(1)(c) and 44(a) and 45 of the Constitution.
21. The Respondent avers that the language used in the Anti -Homosexuality Act is very clear, unambiguous and purposeful, the offences are well defined and their punishments clearly prescribed under the Act.
22. The Respondent avers and contends that the Act is intended to protect the traditional family by protecting the culture of the people of Uganda against the acts of same sex rights activists.
23. In reply to paragraph 18(cc) of the Petition, the respondent contends that the provisions under Section 7 of the Anti-Homosexuality Act in requiring editors, publishers, reporters, columnists, announcers among others to seek authority from the victim or court before publishing any material is not inconsistent and or in contravention with Article 29(1)(a) and 128(1) and (2) of the Constitution.
24. In reply to paragraph 18(dd) of the Petition, the respondent contends that Section 8 of the Anti -Homosexuality Act which makes it an offence to expose a child to a sexual act and this is intended to protect children and youth who are made vulnerable to sexual abuse through homosexuality and related acts. No one can claim immunity or discrimination for what is prohibited under the law.

25. The Respondent shall aver that there are other laws criminalizing similar offences committed by consenting heterosexual persons
26. In further reply to paragraph 18(dd) of the Petition, the Respondent shall contend that it is the duty of every citizen to protect children and vulnerable persons against any form of abuse, harassment and ill treatment.
27. In reply to paragraph 18(ff), (gg), (hh), (ii), (jj), (kk) of the Petition, the respondent contends that Section 11 which creates the offence of promotion of homosexuality and prescribes a punishment of imprisonment not exceeding twenty years is consistent with the principle of legality and does not contravene the rights protected under Article 27(2), 29(1)(a), (b), (e), 38, 40(2)(e) and 43 of the Constitution.
28. The Respondent shall aver and contend that:
  - a. Uganda is a democratic state and the views of Ugandans were enlisted through their representatives who passed the Anti-Homosexuality Act.
  - b. The constitution remains supreme in as far as protecting social values and norms of Ugandans are concerned.
  - c. States are mandated to enact laws that respect the values and norms of a particular society.
  - d. Sexual practices between persons of the same sex are not and have never been part of the cultural values in Uganda, it is illegal and cannot override the supremacy of the constitution of the republic of Uganda.
  - e. Any non-governmental organizations which tend to promote sexual practices between persons of the same sex against the norms and aspirations of the people of Uganda lose the constitutional protection of the state and is subject to prosecution in accordance with the law.
  - f. it is the duty of the state to promote cultural values that are inherent and acceptable to the society as required by the national objectives and direct principles of state policy, the practice of sexual practices between persons of the same sex are against the norms, values and aspirations of the people of Uganda.

29. The Respondent shall contend that the limitations imposed by the Anti Homo-sexuality Act are not beyond what is acceptable and demonstrably justifiable in a free and democratic society or what is provided for in the Constitution.
30. In reply to paragraph 18(IV)(mm),(nn) of the Petition, the respondent contends that Section 14 of the Act which places an obligation on the public to report to police where the offence of homosexuality has been committed does not oust professional duty to protect client confidentiality as alleged.
31. The Respondent shall contend that privilege does not preclude a person from reporting the commission of an offence.
32. In reply to paragraph 18(IV)(pp) of the Petition, the respondent contends that Section 2,3(2)(b)-(c),4,8 and 10 of the Act do not create any discrimination as alleged. Parliament has the mandate under Article 79 of the Constitution to make laws and nothing prevents Parliament from enacting new or improve on existing provisions of the law to meet emerging challenges in society.

**V. Alleged unconstitutionality for offending the International Human Rights Instruments, Conventions, treaties and Article 45,123, and 8A of the Constitution and Objective XVII(i)(b) of the National Objectives and Directive Principles of state Policy of the Constitution.**

33. The Respondent denies the contents of paragraph 18(qq),(rr), (ss),(tt),(uu),(vv),(ww),(xx),(yy),(zz),(aaa),(bbb),(ccc),(ddd),(eee),(fff),(g gg) and (hhh) of the Petition, and contends that the Anti-Homosexuality Act does not offend international human rights instruments, conventions treaties and the Constitution of the Republic of Uganda.
34. In reply to paragraphs 18(qq), (rr) and (ss) of the Petition, the Respondent contends that the Municipal laws take precedence over International Instruments, Conventions and Treaties of a partner State.



35. In further reply to paragraphs 18(qq), the Respondent contends that the Anti-Homosexuality Act prohibits any form of sexual relations between persons of the same sex which offence attracts a penalty of imprisonment for life upon conviction, and the offence of aggravated homosexuality whose punishment upon conviction is death.
36. In reply to paragraphs 18(ss), the respondent contends that Section 3 (1) of the Anti-Homosexuality Act which provides for the death penalty for the offence of aggravated homosexuality does not violate the right to life under Article 3 of the Universal Declaration of Human Rights (UDHR); Article 6 of the International Covenant on Civil and Political Rights (ICCPR); Article 4 of the African Charter on Human and People's Rights (ACHPR); and the right to be protected from torture under Article 2 of the Convention against Torture and other Cruel Inhuman and Degrading Treatment (CAT); neither does it violate Articles 45 and 8A of the Constitution of Uganda, 1995 as amended.
37. The Respondent shall contend that similar offences such as defilement against the girl child also attract the penalty of death.
38. In reply to paragraphs 18(tt), (uu)and (xx) of the petition, the respondent contends that the provisions of Sections 2 ,3,13 and 14 of the Anti-Homosexuality Act do not violate the right to freedom from discrimination, the right to dignity, the right to privacy and the right to freedom of expression enshrined in Constitution; the Universal Declaration of Human Rights (UDHR); the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the African Charter on Human and People's Rights (ACHPR); and the National Objectives and Directive Principles of State Policy in the Constitution of Uganda 1995 as amended.
39. The Respondent shall aver that provisions of Sections 13 and 14 of the Anti-Homosexuality Act were enacted while considering the principles relating to what is in the best interests of the child. The provisions of the Act are therefore intended to preserve morality and are not a violation of the rights to privacy, dignity, equal treatment and freedom of expression.

40. In reply to paragraphs 18 (yy), (bbb)and (fff) of the petition, the Respondent contends that the provisions of the Anti-Homosexuality Act relating to the prohibition of the promotion of the offence of homosexuality are not couched in broad, vague, enormous, indeterminate terms as alleged and are not a violation of the right to assembly, association and expression as enshrined in the Constitution; the Universal Declaration of Human Rights (UDHR); the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the African Charter on Human and People's Rights (ACHPR); and the National Objectives and Directive Principles of State Policy in the Constitution of Uganda 1995 as amended.
41. The Respondent contends that the provisions of Section 2, 3, 12, 13,14 and 17 of the Anti-Homosexuality Act do not violate the provisions of Articles 21 and 40 of the Constitution of Uganda; Article 1(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR); Article 22 (1) of the Universal Declaration of Human Rights (UDHR) and Article 45, 8A and Objective XXVIII (i) b) of the National Objectives and Directive Principles of State Policy in the Constitution of Uganda 1995 as amended.
42. In reply to paragraph 18(ccc) of the petition the Respondent contends that Section 16 of the Anti-Homosexuality Act providing for rehabilitation of a convicted person under the Act is not contrary to the right to equal treatment and protection against cruel, inhuman and degrading treatment under Article 24 of the Constitution of Uganda as amended.
43. The Respondent shall aver that the limitations placed on the sexual practices between persons of the same sex are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

44. In reply to paragraph 18(ddd) of the petition, the Respondent contends that the provisions of Section 4 of the Anti-Homosexuality Act providing for a sentence of three years' imprisonment for a child convicted of an offence under the Act do not violate provisions of the Convention on the Rights of the Child (CRC) and Article 45, 8A and Objective XXVIII (i) b) of the National Objectives and Directive Principles of State Policy in the Constitution of Uganda 1995 as amended.
45. In reply to paragraph 18(eee) of the petition, the respondent contends that Section 3 (2) (c) of the Anti-Homosexuality Act relating to aggravated homosexuality where the person against whom the offence is committed contracts a terminal illness as a result of the sexual act do not in any way refer to HIV+ people as alleged and do not contravene Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Rights of Persons with Disabilities (CRPD); Article 18 of the African Charter on Human and People's Rights (ACHPR); Article 14 (1) and 23 (b) of the Protocol to the ACHPR on the rights of Women in Africa and Article 45, 8A and Objective XXVIII (i) b) of the National Objectives and Directive Principles of State Policy in the Constitution of Uganda 1995 as amended.
46. The Respondent shall aver that the provisions of the Anti-Homosexuality Act relating to offences are well-defined, precise and a punishment provided for as enshrined under Article 28 (12) of the Constitution of Uganda as amended and are therefore enforceable.
47. In reply to paragraph 18(ggg) of the petition, the Respondent shall contend that the provisions of the Anti-Homosexuality Act are consistent with international standards relating to state sovereignty and independence, and by virtue of Uganda's international obligations under customary International Law enforceable and effective in upholding the rights and interests of the greater Ugandan community.
48. In reply to paragraph 18(hhh) of the petition, the Respondent contends that the provisions of the Anti-Homosexuality Act are consistent with international legal standards, judicially enforceable and do not pause a

conflict between the offence of homosexuality and the universally acceptable human rights and freedoms of the many Ugandans including those who are alleged or suspected of being homosexuals.

**VI. Unconstitutionality of Article 31(2)(a) for offending Article 1(1)44(a) and 94 of the Constitution.**

49. The Respondent denies the contents of paragraph 18 (iii),(jjj),(kkk),(lll), (mmm),(nnn),(ooo),(ppp),(qqq),(rrr),(sss),(ttt),(uuu) and (vvv) of the Petition, the Respondent contends that Article 31(2)a does not offend Article 1(1) ,44(a) and 94 of the Constitution.
50. The Respondent shall aver that the Constitutional Amendment bill No.3 of 2005 included an amendment to Article 31 of the Constitution.
51. The Respondent shall aver that the Legal and Parliamentary Affairs Committee carried out consultations on the contents of the Bill including the proposed amendments to Article 31 of the Constitution.
52. The Respondent shall aver that the Constitution should be read as an integral whole, a constitutional provision cannot be challenged as against another constitutional provision.
53. The Respondent contends that the allegations contained in paragraph 18(iii),(jjj),(kkk),(lll),(mmm),(nnn),(ooo),(ppp),(qqq),(rrr),(sss),(ttt),(uuu ) and (vvv) of the Petition do not pose a question that calls for Constitutional interpretation by this Honorable Court in determining whether the Anti-Homosexuality Act 2023 violate any of the provisions of the Constitution of Uganda 1995 as amended.
54. The Respondent contends that the procedure adopted by the Legal and Parliamentary Affairs Committee relating to the Constitutional Amendment Bill (No.3) of 2005 does not in any way contravene any of the provisions of the Constitution of Uganda 1995 as amended.
55. The Respondent shall contend that the Anti-Homosexuality Act is judicially enforceable, is consistent with the universally applicable

human rights of LGBTQ+ people and thus the Act is not in contravention of obligations with regard to rights guaranteed under the international human rights instruments.

56. The Respondent shall aver that the introduction and passage of Article 31 (2) (a) of the 1995 Constitution of Uganda, 1995 was well within the law and in accordance with the norms, values and aspirations of the people of Uganda.
57. The Respondent shall contend that this petition is brought in bad faith and is intended to destroy and overthrow the constitutional social order by seeking court orders for the protection of an unconstitutional and illegal act of homosexuality.
58. The Respondent shall contend that there is no international instrument that overrides and defeats the objective and primary principles of the protection of the values, norms and aspirations of the people guaranteed under the Constitution.
59. The Respondent contends that the Petitioners are not entitled to the declarations, orders and reliefs sought under paragraph 19 of the Petition.
60. The Respondent's Answer to the Petition is supported by the Affidavit of **ASUMAN BASALIRWA, the Hon. Member of Parliament of the Republic of Uganda representing Bugiri Municipality** and other Affidavits that may be filed with the leave of this Honorable Court.

WHEREFORE, the Respondent prays that this Petition be dismissed with costs.

DATED at Kampala this <sup>8<sup>th</sup></sup>.....day of <sup>JUNE</sup>.....2023



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COUNSEL FOR THE RESPONDENT

**DRAWN & FILED BY**

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**KAMPALA**

**TO BE SERVED UPON**

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**KAMPALA**

**THE REPUBLIC OF UGANDA  
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA  
CONSTITUTIONAL PETITION NO.014 OF 2023**

1. HON.FOX ODOI-OYWELowo
2. FRANK MUGISHA
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.....PETITIONERS

VERSUS

ATTORNEY GENERAL.....RESPONDENT

**AFFIDAVIT IN SUPPORT OF THE RESPONDENT'S ANSWER TO  
THE AMMENDED PETITION**

I **ASUMAN BASALIRWA** of C/O the Attorney General's Chambers, Plot 7 Parliamentary Avenue, P.O.BOX 7183, Kampala, Uganda do hereby take oath and affirm as follows;

1. THAT I am a male adult Ugandan of sound mind, a Member of Parliament of the Republic of Uganda representing Bugiri Municipality, and I affirm this affidavit in that capacity.
2. THAT I have read and understood the contents of Constitutional Petition No.014 of 2023 and the supporting affidavit of 1<sup>st</sup> Petitioner and I respond as follows:
3. THAT I make no admission to any of the contents in the paragraphs of the 1<sup>st</sup> Petitioner's Affidavit in support of the Petition.
4. THAT I know that the Minister of Finance issued a Certificate of Financial Implication certifying that the bill will be implemented within

- the existing budgetary provisions by the implementing agencies which include Law Enforcement, Judiciary, Medical Institutions among others.
5. THAT I know that the Anti-Homosexuality Bill did not and neither does the Act contain provisions that have the effect of imposing a charge on the consolidated fund. The provisions contained in the Act and are not in contravention of Article 93(a)(ii) of the Constitution and the Rules of Procedure of Parliament.
  6. THAT I know that the Certificate of Financial implication issued conforms to the provisions of Section 76(2) and (3) of the of the Public Finance Management Act 2015 and specifically states that the implementation of the bill is not anticipated to directly generate revenue or savings for Government.
  7. THAT I know that Section 16 of the Anti-Homosexuality Act gives Court the discretion to order a person convicted of the offence of homosexuality to be rehabilitated.
  8. THAT I know the Section 16 of the Act also empowers prisons service or a probation, social and welfare officer of the area where the convicted person is serving his or her sentence to provide the rehabilitation services.
  9. THAT I know that the requirement for rehabilitation will not in any way impose a charge on the consolidated fund since the agencies mandated to offer rehabilitation already have budgets in place to offer the said services.
  10. THAT I know that the Private Members Bill was not fundamentally amended and the amendments introduced do not have the effect of causing a charge on the consolidated fund.
  11. THAT I know that Section 2 of the Act that creates the offence of homosexuality and attempted homosexuality does not contravene the Constitution as alleged.
  12. THAT I know that sexual practices between persons of the same sex are prohibited as they contravene the Constitution and the Penal Code Act.



13. THAT I know that no one can claim immunity or discrimination for what is fundamentally prohibited under the constitution.
14. THAT I know that sexual practices between persons of the same sex are a dehumanizing act, inhuman practice and undignifying contrary to the other human rights guaranteed under chapter four of the constitution of the republic of Uganda of the Constitution.
15. THAT I know that Section 3 of the Act which creates the offence of aggravated homosexuality does not contravene the principle of legality as enshrined under the Constitution as alleged.
16. THAT I know that Section 3 of the Act does not contravene Article 27 on the right to privacy and Article 29 on protection from freedom from conscience, expression, movement, assembly and association other provisions of the Constitution.
17. THAT I know that under the laws of Uganda, unlawful sexual activities are prohibited notwithstanding consent of the participating adults.
18. THAT I know that under the laws of Uganda not every action of a consenting adult is lawful.
19. THAT I know that there are several other sexual offences by consenting adults that are prohibited under the law including incest, prostitution, bigamy, elopement.
20. THAT I know that the right to privacy and the right to freedom of expression, thought, assembly and association are derogable rights and do not guarantee a right to immunity from state interference where the offenders are guilty of doing acts or omissions which are unlawful under the law.
21. THAT I know that all derogable rights including the right to privacy and the right to freedom of expression, thought, assembly and association are subject to constitutional limitations under Article 43 of the Constitution in public interest.

22. THAT I know that the laws of Uganda recognize the traditional natural family as the basic unit of society which is entitled to protection by the state from unnatural sexual activities.
23. THAT I know that the practice of homosexuality by consenting adults undermines the true conscience of majority Ugandans and is a breach of society values in the public interest.
24. THAT I know that Section 4 of the Anti-Homosexuality Act prescribes a punishment for a child who is convicted of the offence of homosexuality, attempted homosexuality, aggravated homosexuality and attempted aggravated homosexuality.
25. THAT I know that the punishment for a child who is convicted of the offence of homosexuality, attempted homosexuality, aggravated homosexuality and attempted aggravated homosexuality is imprisonment not exceeding three years and this is in line with the Constitution and the Children's Act.
26. THAT I know that the provisions under Section 4 of the Act are not read in isolation of the provisions of the Children Act which provides for the age of criminal liability of a child.
27. THAT I know that the language used in the Act is clear, unambiguous, purposeful and the offences are well defined and their punishments prescribed.
28. THAT I know that the Act is intended to protect the traditional family by protecting the culture of the people of Uganda against the acts of same sex rights activists.
29. THAT I know that Section 8 of the Anti –Homosexuality Act is intended to protect children and youth who are vulnerable to sexual abuse through the practice of same sex acts.
30. THAT I know that the petitioners cannot allege discrimination for what is fundamentally prohibited under the constitution.

31. THAT I know that it is the duty of every citizen to protect children and vulnerable persons from any form of ill treatment and harassment.
32. THAT I know that it is illegal under the laws of Uganda to have sexual relations with a boy or girl child.
33. THAT I know that Uganda is a democratic state and the views of Ugandans were enlisted through their representatives who passed the Anti-Homosexuality Act.
34. THAT I know that the constitution is supreme in as far as protecting social values and norms of Ugandans are concerned.
35. THAT I know that Parliament is mandated to enact laws that respect the values and norms of a particular society.
36. THAT I know that the sexual practices between persons of the same sex are not and have never been part of the accepted cultural values in Uganda, it is illegal and cannot override the supremacy of the constitution of the republic of Uganda.
37. That I know that any non-governmental organizations which tend to promote sexual practices between persons of the same sex against the norms and aspirations of the people of Uganda lose the constitutional protection of the state and is subject to prosecution in accordance with the law.
38. THAT I know that it is the duty of the state to promote cultural values that are inherent and acceptable to the society as required by the national objectives and direct principles of state policy.
39. THAT I know that the Act places an obligation on the public to report to police where the offence of homosexuality has been committed.
40. THAT I know that that privilege does not preclude a person from reporting the commission of an offence.

41. THAT I know that Parliament has the mandate under the Constitution to make laws and nothing prevents Parliament from enacting new or improve on existing provisions of the law to meet emerging challenges in society.
42. THAT I know that the Anti-Homosexuality Act is judicially enforceable and is consistent with the universally applicable human rights.
43. THAT I know that there is no international instrument that overrides and defeats the objective and primary principles of the protection of the values, norms and aspirations of the people guaranteed under the Constitution.
44. THAT I know that this Petition is misconceived and devoid of merit, the Petitioners are not entitled to the reliefs sought and the Petition ought to be dismissed.
45. THAT I swear this affidavit in support of the Respondent's Answer to the Petition.
46. THAT whatever is stated herein above is true and correct to the best of my knowledge save for the information based on sources herein disclosed.

AFFIRMED by the said **ASUMAN BASALIRWA**  
 at Kampala this .....<sup>8<sup>th</sup></sup> day of June 2023

AFFIRMANT

BEFORE ME

COMMISSIONER FOR OATHS

**SERWADA ANGOZOSI**  
 ADVOCATE & COMMISSIONER FOR OATHS  
 P. O. BOX 6999 KAMPALA  
 TEL: 0772450533 / 701450539  
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