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social justice in health

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CENTER FOR HEALTH HUMAN RIGHTS AND DEVELOPMENT (CEHURD), PROF BEN K TWINOMUGISHA & DR ROSE NAKAYI VERSUS ATTORNEY GENERAL OF UGANDA – CONSTITUTIONAL PETITION NO 10 OF 2017

THE OBJECTIVE OF THE PETITION

The objective of the petition is to challenge the failure of the state of Uganda to make a law regulating termination of pregnancy as is required by the Constitution.

WHAT ARE THE GROUNDS OF THE PETITION?

- The Constituent Assembly when making the Constitution of Uganda directed the Parliament to make a law regulating termination of pregnancy.
- Since the enactment of the Constitution, the state has not made any effort to make a law regulating termination of pregnancy.
- The omission by the state to make a law regulating termination of a pregnancy therefore contravenes the requirements of the Constitution.

WHICH PROVISIONS OF THE CONSTITUTION HAVE BEEN ALLEGEDLY VIOLATED?

- Article 22 (2) of the Constitution which provides that no person has the right to terminate the life of an unborn child except as may be authorised by the law.
- Article 79 (1) of the Constitution which provides that Parliament has the power to make laws on any matter for the peace, order, development and good governance of Uganda.
- Article 79 (2) of the Constitution which provides that no person or body other than Parliament shall have power to make provisions having the force of law in Uganda except under authority conferred by an Act of Parliament.

WHAT DO THE PETITIONERS WANT THE CONSTITUTIONAL COURT TO DO?

- To declare that the failure of the Parliament to make a law regulating termination of pregnancy contravenes provisions of the Constitution of Uganda.
- To order the Parliament and Executive of Uganda to make a law regulating termination of pregnancy within two years of deciding the petition.
- To order the government of Uganda to report to the Court every six months about the steps it has taken to make the law regulating termination of pregnancy.

WHAT IS THE PETITION NOT ABOUT?

- It does not ask the court to legalise termination of pregnancy – that is the work of Parliament.
- It does not ask the court to provide for grounds on which women should be permitted to terminate their pregnancies – that is for the people of Uganda to decide through their Members of Parliament.