#### THE REPUBLIC OF UGANDA

# THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

(Coram: Buteera, DCJ; & Kiryabwire, Kibeedi, Mugenyi & Gashirabake, JJCC)

# CONSOLIDATED CONSTITUTIONAL APPLICATIONS NO. 15, 29, 33 & 43 OF 2023 (ARISING FROM CONSTITUTIONAL PETITIONS NO. 14, 15 & 16 OF 2023)

- 1. MARTIN SEMPA
- 2. STEPHEN LANGA
- 3. FAMILY LIFE NETWORK LTD

**APPLICANTS** 

#### **VERSUS**

- 1. HON. FOX ODOI-OYWELOWO
- 2. FRANK MUGISHA
- 3. PEPE ONZIEMA
- 4. JACKLINE KEMIGISA
- 5. ANDREW MWENDA
- 6. LINDA MUTESI
- 7. KINTU NYAGO
- 8. JANE NASIIMBWA
- 9. PROF SYLVIA TAMALE
- 10. DR. BUSINGYE KABUMBA
- 11. SOLOME NAKAWEESI KIMBUGWE
- 12. KASHA JACQUELINE NABAGESERA
- 13. RICHARD SMITH LUSIMBO
- 14. ERIC NDAULA
- 15. WILLIAMS APAKO
- 16. HUMAN RIGHTS AWARENESS & PROMOTION FORUM (HRAP)
- 17. RUTARO ROBERT
- 18. MUSIIME ALEX MARTIN
- 19. MUTEBI EWARD
- 20. NABUYANDA JOHN SOLOMON
- 21. LETS WALK UGANDA LTD
- 22. ATTORNEY GENERAL

RESPONDENTS

# **RULING OF THE COURT**

#### Introduction

- [1] Pastor Martin Sempa (who will hereafter be referred to as the "1st Applicant") filed three separate applications seeking to be added as a respondent in each one of the Petitions pending before this Court namely:
  - Constitutional Petition No. 14 of 2023 Hon. Fox Odoi Oywelowo & 7 Others Vs Attorney General;
  - Constitutional Petition No. 15 of 2023 Prof. Sylivia Tamale & Others Vs Attorney General; and
  - 3. Constitutional Petition No. 16 of 2023 Advocate Rutaro Robert Vs Attorney General

The particulars of the said applications are as below:

- Constitutional Application No. 29 of 2023 (arising from Constitutional Petition No. 14 of 2023) Martin Sempa Vs Hon. Fox Odoi-Oywelowo & 7 Others Vs Attorney General;
- Constitutional Application No. 33 of 2023 (arising from Constitutional Petition 15 of 2023) Martin Sempa vs Prof. Sylivia Tamale & Others; and
- 3. Constitutional Application No. 15 of 2023 (arising from Constitutional Petition No. 16 of 2023) Martin Sempa Vs Advocate Rutaro Robert and Attorney General.
- [2] Each one of the above three applications was stated to be brought under section 98 of the Civil Procedure Act, Cap. 71 (CPA), Rule 23 of the Constitutional Court (Petitions and References) Rules, 2005 and Order 52 Rules 1, 2 and 3 of the Civil Procedure Rules S.I No. 71 -1 (CPR).
- [3] Each one of the applications was supported by an affidavit deponde upon by the 1<sup>st</sup> applicant setting out the reasons and evidence in support of each application.
- [4] The respondents filed their respective Affidavits in opposition to each one of the applications.

- [5] Also before this Court is a separate application made by Eng. Stephen Langa and Family Life Network Limited (who will hereinafter jointly be referred to as "2<sup>nd</sup> and 3<sup>rd</sup> Applicants") seeking to be added as respondents in Constitutional Petition No. 15 of 2023 Prof. Sylivia Tamale and 8 Others Vs Attorney General. The Court reference for the said application is Constitutional Application No. 43 of 2023.
- [6] The 2<sup>nd</sup> and 3<sup>rd</sup> applicants filed an affidavit deponed upon by Eng. Stephen Langa setting out the detailed grounds and evidence in support of the 2<sup>nd</sup> applicants' application.
- [7] The respondents likewise filed Affidavits in opposition to the above application.

# **Appearances**

- [8] When the above applications came up for hearing before this Court, the 1st applicant was represented by Mr. Gawaya Tegule; while the 2nd and 3rd applicants were represented by Mr. Ssekabanja Kato.
- [9] The Attorney General was represented by Mr. Martin Mwambusya, the Director of Civil Litigation, assisted by Ms. Elizabeth Namakula, a Senior State Attorney, and the following learned State Attorneys from the Attorney General's chambers: Mr. Lazaka Tibakuno, Mr. Samuel Kananda, Mr. Raymond Nganzi, and Ms. Jackie Amusugut.
- [10] Hon. Fox Odoi and 7 others were represented by Mr. Nicholas Opio, Mr. Henry Byansi, Mr. Derrick Tukwasibwe, and Ms. Fridah Mutesi; while Mr. Onyango Owor and Ms. Susan Baluka represented Prof. Sylivia Tamale and 8 others.
- [11] Mr. Robert Rutaro was represented by Mr. Tonny Tumukunde.
- [12] The parties' advocates adopted their written submissions, which had already been filed in Court, as their respective legal arguments. Thereafter the Court stood over the matters to consider the parties' respective cases and render its Ruling.

#### Consolidation of the application by court on its own motion

[13] In the course of reviewing the pleadings, Affidavit Evidence and Written Submissions of the parties in the above matters, it became crystal clear to us that the four applications

raise similar questions of law for resolution by this court, and arise from Petitions which have been consolidated by this Court with the consent of the parties. As such, we found it appropriate in the circumstances to consolidate the four applications and render one Ruling, disposing of all of them.

# Overview of the parties' respective cases

- [14] The gist of the 1<sup>st</sup> applicant's applications is that he has a legitimate interest in the Constitutional Petitions challenging the constitutionality of the Anti-Homosexuality Act, 2023 (AHA) whose outcome, he contends, will have a fundamental impact on the integrity of the family, sanctity of sexual intercourse and the welfare of children.
- [15] As such, the 1st applicant craves to be added as a respondent in the Petitions in order to reinforce the Attorney General in defence of the AHA and to advance the perspectives of "traditional African values", "family values" and "Christian faith" which, he contends, are relevant considerations when this court is resolving the issues of the constitutionality of the AHA raised in the Petitions. The 1st applicant adduced evidence to demonstrate to this court that he is possessed with sufficient knowledge and experience in the areas he craves to have this court to consider while resolving the petitions.
- [16] The 1st applicant concluded by submitting that if citizens are free to challenge laws made by Parliament, then they should likewise be free to defend them alongside the Attorney General when they come under challenge.
- [17] As for the 2<sup>nd</sup> and 3<sup>rd</sup> applicants, they contend that the resolution of the issues in the Petitions goes beyond the law and stands at the moral gates of the Ugandan society and directly impact the family which is the basic building block of the Ugandan society. That the issues raised by the petitions are of great public concern and that the 2<sup>nd</sup> and 3<sup>rd</sup> applicants have a special interest in their resolution as they touch their work, values and objectives, as well as the reason for their existence.
- [18] The 2<sup>nd</sup> and 3<sup>rd</sup> applicants likewise adduced evidence to demonstrate to this court that they are possessed with the requisite knowledge and experience to enable them to demonstrate to this court why it is in public interest to keep homosexuality as an offence on the statute books of Uganda.

- [19] The 2<sup>nd</sup> and 3<sup>rd</sup> applicants further contended that by being joined in the Petitions, it will enable them to rebut the claims of research on gender and sexuality as well as the scientific studies which are being relied upon by Dr. Sylivia Tamale in Constitutional Petition No. 15 of 2023 to justify homosexuality.
- [20] The applicants' applications were opposed by all the respondents largely on technical grounds which can be summarised as follows:
  - The applicants have no legal interests which will be affected by the reliefs sought in the petitions.
  - 2) The Attorney General as the statutory respondent does not need any reinforcement when defending the AHA.
  - 3) Granting the applications will delay disposal of the Petitions.
  - 4) The issues for resolution relate to the Constitutionality of the AHA and not values, morality and ethics.
  - 5) The applicants lack locus standi.
  - 6) The petitioners cannot be compelled to sue parties against whom they have no cause of action.
  - 7) The applicants are not possessed of the expertise necessary to render assistance to this Court when resolving the issues raised in the Constitutional Petitions.

#### <u>Analysis</u>

- [21] The Attorney General is the statutory respondent in all legal proceedings against government, including petitions filed before this court challenging the constitutionality of an Act of Parliament. This is by virtue of articles 119 (4)(c) and 250 of the Constitution which confer the Attorney General the mandate to represent the Government in courts of law.
- [22] With specific regard to petitions to this court, Rule 5 (2) of the Constitutional Court (Petitions and Reference) Rules, 2005 requires that even where the Attorney General in not named as the respondent in a Constitutional Petition or Reference made to this court,

still the Attorney General must be served with the petition in such a matter. This makes the Attorney General an interested party in all constitutional actions even where no specific respondent is named or targeted in a constitutional petition.

- [23] However, there is a growing trend in the area of public interest litigation in Uganda and beyond, whereby private individuals and civil society organisations who/which are non-parties to suits are increasingly seeking to join and directly participate in court litigation instead of leaving the litigation exclusively to the parties named at the time of institution of the suits (principal parties). The first form of such direct participation has been by way of "friends of court" (amicus curiae) applications. These applications are commonly made by persons and organisations who/which satisfy the court that they are neutral and impartial and have expertise in the areas under consideration by the court. The Judicature (Amicus Curiae) Rules of 2022 were enacted to provide statutory clarity on the procedure and qualification criteria for the parties when the court is faced with applications seeking such a form of direct participation.
- The second form of direct participation involves parties and organisations who/which are neither neutral nor impartial but, nonetheless, have expertise and partisan interest which can add valuable information and perspectives to assist the court to effectually adjudicate and dispose of the dispute. Uganda has not come up with a specific statutory framework tailored to meet this growing need. The closest statutory law which confers non-parties the right to apply to be joined in suits of this nature is Order 1 Rule 10(2) of the CPR. It provides as follows:

"The court may at any stage of the proceedings either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added." [Emphasis added]

[25] In short, for the applicants to qualify to be joined as parties under the above rule, they ought to bring themselves within the category of "necessary parties", that is to say, that their presence before the court is necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit(s).

[26] The above rule is applicable to the proceedings of this court by virtue of rule 23(1) of the Constitutional Court (Petitions and References) Rules, 2005, Statutory Instrument No. 91 of 2005 which is couched as follows: -

"Subject to the provisions of these Rules, the practice and procedure in respect of a petition or a reference shall be regulated, as nearly as may be, in accordance with the Civil Procedure Act and the rules made under that Act and the Court of Appeal Rules, with such modifications as the Court may consider necessary in the interest of justice and expedition of the proceedings."

[27] The Supreme Court of Uganda had occasion to consider the scope of application of rule 10(2) of the CPR in the case of *Departed Asians Property Custodian Board v Jaffer Brothers Ltd (Supreme Court Civil Appeal No. 9 of 1998) [1999] UGSC 2 (27 May 1999).* Justice Mulenga, JSC, summarised the position as follows:

"For a person to be joined on the ground that his presence in the suit is necessary for effectual and complete settlement of all questions involved in the suit one of two things has to be shown. Either it has to be shown that the orders, which the plaintiff seeks in the suit would legally affect the interests of that person, and that it is desirable, for avoidance of multiplicity of suits, to have such person joined so that he is bound by the decision of the court in that suit. Alternatively, a person qualifies, (on application of a defendant) to be joined as a co-defendant, where it is shown that the defendant cannot effectually set up a defence he desires to set up unless that person is joined in it, or unless the order to be made is to bind that person. (See <u>Mulla on the Code of Civil Procedure</u> (of India) 14th Ed. By J.M. Shelat, Vol.11 pp. 858 and 864-5; and <u>Amon vs. Raphael Tuck & Sons</u> Ltd. (1956) 1 All ER 273 at p.290)."

- The Supreme Court decision above needs to be understood in the context that the subject matter of the dispute involved private property rights, unlike the instant petitions which are in the realm of public interest litigation, and where the resultant decisions of this court are judgments *in rem* and binding on all persons irrespective of whether they are direct parties to the petitions or not. In line with rule 23(1) of the Constitutional Court (Petitions and References) Rules, 2005, this court is required to make such modifications to the strict application of rule 10(2) of the CPR as the Court may consider necessary "*in the interest of justice and expedition of the proceedings*". In so doing, we found it prudent to consider the practices from other jurisdictions to guide the exercise of our discretion under rule 23(1) of the Constitutional Court (Petitions and References) Rules.
- [29] In Kenya, there exists the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedures Rules, 2013 which gives locus to persons and organisations who/which are categorized by the Rules as "interested parties" to be joined and actively participate in the litigation with leave of court. The Kenyan Rules

define an "interested party" as "a person or entity that has an identifiable or legal interest or duty in the proceedings before the Court but is not a party to the proceedings or may not be directly involved in the litigation."

[30] The Supreme Court of Kenya in *Trusted Society of Human Rights Alliance v. Mumo Matemu & 5 Others, Supreme Court Petition No. 12 of 2013, [2015] eKLR (an application by Katiba Institute)*\_had this to say about with reference to the term "interested party":

"... an interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause."

- [31] In the same case of *Trusted Society of Human Rights Alliance v. Mumo Matemo & 5*Others, ibid, the Supreme Court of Kenya drew the distinction between an "amicus curiae" and an "interested party" thus:
  - "... while an interested party has a 'stake/interest' directly in the case, an amicus's interest is its 'fidelity' to the law: that an informed decision is reached by the Court, having taken into account all relevant laws, and entertained legal arguments and principles brought to light in the Courtroom."
- [32] The East African Court of Justice has audience for such "interested" participants under the baptism name of "interveners". Their right of audience before the court arises from article 40 of the Treaty Establishing the East African Community which is couched thus:

#### "Article 40 - Intervention

A partner State, the Secretary General or a resident of a Partner State who is not a party to a case before the court may, with leave of the court, intervene in that case, but the submissions of the intervening party shall be limited to evidence supporting or opposing the arguments of a party to a case."

[33] The procedure to be followed by any party seeking leave of the Court to participate as an "intervener", the effect of the grant of the application on the proceedings before court, and other related matters are set out in the East African Court of Justice Rules of Procedure, 2019. Of particular relevance is rule 59 of the East African Court of Justice Rules of Procedure which is couched thus:

#### "59 – Applications for intervention

(1) An application for leave to intervene under Article 40 of the Treaty shall be by notice of motion.

- (2) An application under sub-rule (1) shall contain:
  - (a) a description of the parties;
  - (b) the name and address of the intervener as required under rule 33;
  - (c) a description of the claim or reference;
  - (d) the order in respect of which the intervener is applying for leave to intervene; and
  - (e) a statement of the intervener's interest in the result of the case.
- (3) The applicant shall serve on each party who shall, within fourteen (14) days, file and serve a response.
- (4) If the Court is satisfied that the application is justified, it shall allow the intervention and fix a time within which the intervener may submit a statement of intervention and the Registrar shall supply to the intervener copies of the pleadings.
- (5) The intervener shall accept the case as it is at the time of intervention.
- (6) Where a request to intervene is granted, the decision of the Court in respect of the dispute or reference shall be binding upon the intervener in respect of the intervention. Applications for intervention."
- [34] The East African Court of Justice Rules of Procedure thereafter make independent and specific provisions to cater for the *amicus curiae* applications as distinct from "intervener" applications.
- [35] In UHAI EASHRI & Another v Human Rights Awareness & Promotion Forum (HRAPF) & Another, Consolidated Applications No. 20 & 21 of 2014, the role of an intervener as was contextualized as follows:

"In the EAC jurisdiction, distinction has been drawn between an amicus curiae and an intervener: the latter may advocate a point of view in support of one party over another, whereas the former may not. See **Trusted Society of Human Rights Alliance v Mumo Matemo & Others, Petition No 12 of 2013** (Supreme Court, Kenya). We think that is a useful distinction to distinguish between a party to a suit that has locus standi in a matter; an intervener that, while not having locus standi in a matter, does have a partisan interest therein, and an amicus curiae that has an interest in providing objective, cogent assistance to the courts to engender the advancement of jurisprudence on a given subject."

[36] The qualification criteria for a party seeking leave to join proceedings before the East African Court of Justice as an intervener was set out in the *Mukasa Mbidde v Attorney General of Burundi & Another, EACJ Application No. 6 of 2018*. In that case, the court cited with approval the case of *Julie Folcik v Orange County Register of Voters &* 

Another, Superior Court of the State of California, Case No. 30-2012-00553905, where such third-party intervention was held to be appropriate where: (1) the nonparty has a direct and immediate interest in the litigation, (2) intervention will not enlarge the issues in the case and (3) the reasons for intervention outweigh any opposition by the existing parties.'

- In the matter before us, the 1st and 2nd applicants did not disguise their partisan interest in respect of the issues which are before this court for adjudication in the petitions challenging the constitutionality of the AHA. They clearly stated that they are in defence of the AHA using the parameters of what they term "African traditional values", "family values", "Christian faith values" "morality", "ethics". They crave to be added as parties so that they can directly put these perspectives before court for consideration while resolving the issues raised by the petitions. Accordingly, we are satisfied that the applicants meet the first qualification criteria as set out in the case of **Mukasa Mbidde v Attorney General of Burundi & Another** (op cit).
- [38] We have also considered whether the perspectives sought to be tabled by the applicants before us are relevant in the resolution of the issues raised by the petitions before this court.
- [39] Article 126(1) of the Constitution of the Republic of Uganda directs this court, while discharging its judicial mandate to take into account not only the law but also "the values, norms and aspirations of the people" of Uganda. Article 126(1) is couched thus:

#### "126 Exercise of judicial power

- Judicial power is derived from the people and shall be exercised by the courts established under this Constitution in the name of the people and <u>in conformity</u> <u>with law and with the values, norms and aspirations of the people</u>." [Emphasis added]
- [40] As such, we are satisfied that the perspectives which the applicants crave to present before this court are relevant in so far as they are part of the parameters prescribed by the Uganda Constitution which this court is required to consider when resolving the issues raised by the petitions.
- [41] We have also considered the competence of the applicants in terms of the knowledge and experience in the areas they seek to espouse before this court.

- [42] From the Affidavit evidence of the 1st applicant, he stated that he is a holder of a Bachelor of Social Science degree in Political Science and Sociology from Makerere University, a Master of Science degree in Biblical Counselling from CAIRN University Philadelphia, USA and an honorary Doctorate in Public Service from the same CAIRN University. He is the founding pastor of Makerere Community Church at Makerere University, a Bible-teaching church that promotes holiness. That for the last 23 years he has mentored thousands of Makerere University Students to become strong Christian marketplace leaders.
- [43] The 1st applicant further stated that he is also the Chief Executive Officer of Straight Nation, in Kampala, an outfit that promotes heterosexuality as stipulated in the Holy Bible and was seized of a recognizable track record of fighting homosexuality in Uganda. That he has spoken and debated with leading thinkers on the emerging subject of LGBTQ sexual identity. He has done what he terms "groundbreaking research which is critical in decolonizing gender and family theories in the African context" and his book on the subject which is titled, "How to Protect Your Child from Homosexuality" is due for publication. He has also written several other books which are due for publication, including "Africa's Resistance to Homosexuality", and "Magoba Ga Uganda" (an autobiography).
- [44] The 1st applicant further stated that he has worked for the Government of Uganda on the Pornography Control Committee to regulate indecencies and obscenities. He has also written HIV prevention policies for Uganda AIDS Commission and been given a Heroes award for being the most influential clergy in working with young people to stop HIV / AIDS by President Museveni and Uganda's Parliament.
- [45] The 1<sup>st</sup> applicant contended that as a trained, exposed and knowledgeable theologian; an experienced, well-practiced, passionate and dedicated Christian Pastor of unquestionable renown; a fervent, steadfast and committed human rights activist; a resolute, unwavering, dyed-in-the-wool crusader of morality as elucidated upon, stipulated, provided for and inextricably entrenched in the Bible; and as a person who has been involved in the formulation of policy against moral vices, including pornography and homosexuality, and the romanticizing of HIV / Aids, his presence as one of the respondents in the petitions would add great value to this court.

- [46] On the part of the 2<sup>nd</sup> and 3<sup>rd</sup> applicants, Eng. Stephen Langa stated in his Affidavit evidence that he is the Executive Director of Family Life Network Limited which he founded in 2002 to promote morals, family values and ethics. That he has done extensive research and study on the subject of counseling, marriage, sexuality and morality. That together with Family Life Network they have conducted parenting courses, marriage seminars, courtship seminars, value based sexual education and seminars on the dangers of homosexuality and other related vices for the last 20 years. That they have written and published books on pornography in Uganda (2004), foundations for relationships (2016) and understanding sexuality (2017).
- [47] Eng. Langa also stated that since 2002 to date, the 2<sup>nd</sup> applicants have visited over 800 schools in Uganda, reached and led over 300,000 youth to sign commitment cards to sexual purity.
- [48] Furthermore, that he has been engaged as an expert and consultant in ethics, values and integrity by the Government of Uganda. That he has also done advocacy for pro-life and pro-family at the United Nations (UN) and the East African Community (EAC) levels.
- [49] Eng. Langa further stated that from his observation and studies, he has come to the conclusion that homosexuality is a learned behaviour that has been largely propagated through recruitment of children. That he craved to join the litigation so as to demonstrate to court why it is in public interest to keep homosexuality as offence on the statute books of Uganda.
- [50] From the training, experience, exposure, research and workings of the applicants as set out above, we are satisfied that the applicants have demonstrated that they are possessed of the experience and knowledge on the subject of values of the Ugandan society and that their expert evidence would, after being subjected to the general rules of admissibility and credibility, greatly assist this court in its quest to effectively resolve the issues raised in the petition.
- [51] We have considered the injustice which would arise from admission of the applicants as parties in the proceedings and not seen any evidence thereof in the instant matter. The fears of widening the issues for trial, or the possibility of a delay in the proceedings being caused by admission of the applicants at a time when the conferencing of the cases has already been completed and the issues for trial already agreed upon, can be addressed by

borrowing a leaf form the practice of the East African Court of Justice. Under rule 59 (5) of the East African Court of Justice Rules of Procedure, 2019, upon grant of an application for intervention, an intervener takes on the case as it is at the time of intervention.

[52] Lastly, we considered the overriding demand of justice in a matter of this nature and found that the balance weighed in favour of allowing the 1st and 2nd and 3rd applicants to be joined in the respective Petitions as Co-respondents in order for them to champion their viewpoints by themselves and thereby enable this Court to consider their perspectives alongside the other diverse viewpoints on the same subject if this court is to effectually and completely adjudicate upon and settle all the questions involved in the Petitions challenging the constitutionality of the AHA.

# Disposition

- Constitutional Application Nos. CCA-0029-2023 Martin Ssempa Vs Hon. Fox Odoi-Oywelowo & 7 Ors, and Attorney General; CCA-0033-2023 Martin Sempa Vs Prof. Sylivia Tamale & 8 Others, and Attorney General; CCA-0015-2023 Martin Sempa Vs Advocate Rutaro Robert and Attorney General; and CCA-43-2023 Eng. Stephen Langa Vs Prof. Sylivia Tamale & Others, and Attorney General are hereby granted.
- 2. Accordingly, the applicants are hereby joined in the petitions as co-respondents.
- 3. The subject matter of the suits being of public interest, each party shall bear one's costs arising out of, or incidental to the above applications.

# We so Order

Signed, delivered and dated at Kampala this 13th day of December, 2023.

RICHARD BUTEERA
DEPUTY CHIEF JUSTICE (DCJ)

GEOFFREY KIRYABWIRE
JUSTICE OF THE CONSTITUTIONAL COURT (JCC)

MUZAMIRU MUTANGULA KIBEEDI JUSTICE OF THE CONSTITUTIONAL COURT (JCC)

MONICA K. MUGENYI

JUSTICE OF THE CONSTITUTIONAL COURT (JCC)

CHRISTOPHER GASHIRABAKE
JUSTICE OF THE CONSTITUTIONAL COURT (JCC)