

Relevance And Effects Of Qadhi Courts In Uganda

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Abstract

The paper investigates the role, relevance, challenges, and stronghold of Qadhi Courts in Uganda in solving Islamic family disputes. It examines the legal and institutional framework governing Qadhi Courts in solving Islamic family disputes in Uganda. It further analyzes the various challenges hindering the implementation and operationalizing of Qadhi Courts in Uganda are investigated. The researchers use secondary information from the library of the university and the legislative council of Uganda, which includes principal laws of Uganda, journals and textbooks. It is discovered that the decision of the Qadhi in the Qadhi courts are subject to High court ruling either upholding or otherwise, especially if the aggrieved party appeal against the decision of the Qadhi Court. It revealed that the judge sitting in the appellate may not be versed on Sharia law. The study will be of relevance to the legislative council of the Republic of Uganda in establishing the legal and institutional framework governing family disputes in Islam with guidance of Qadhi Courts in Uganda. It will also be of importance to the Government of Uganda and the community at large in the need for revision of Islamic family laws in relation to divorce, sharing of inheritance, among others. It helps the academia by providing more relevant findings in regard to the provision and relevance of Qadhi Courts in Uganda.

Keywords: Qadhi Courts, Legal framework, Sharia law, Islamic Family Challenges.

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Introduction

Islam was introduced to Uganda in the 1840s by Arab traders³ but unlike in some parts of Kenya, Tanzania, and in Zanzibar, where the introduction of Islam was accompanied by the introduction of Muslim courts, which continued to operate even during colonialism⁴, such courts were never introduced in Uganda, but provision were made for the recognition of Islamic marriage and divorce as legally binding under Protectorate law. Muslims are estimated to be between 12 per cent of the Ugandan population⁵. In 1988, the Ugandan government embarked on the process of drafting a new constitution and appointed the Uganda Constitutional Commission to travel the whole country and gather people's views of what they thought should be addressed in the new Constitution⁶.

The Constitutional Commission was headed by Mr. Benjamin Odoki, hence its name the Odoki Commission. Muslims made submissions to the Odoki Commission to the effect that the new Constitution should also establish Sharia courts. However, the Odoki Commission recommended that extensive research was needed before Sharia courts were introduced in the Constitution. The result was that the Odoki Commission did not recommend that Sharia courts should be introduced in the Constitution. It also did not recommend that the Constituent Assembly (CA) delegates should have an opportunity to debate the matter. During the CA debates, some delegates called for the inclusion of the Qadhi courts in the Constitution to deal with issues relating to Muslims' marriage, divorce, inheritance, and guardianship⁷.

One of the reasons given for the need to have such courts in the Constitution was that the 1966 Constitution was silent on Qadhi courts and that although the 1906 Marriage and Divorce of Mohammedans Act had given the Minister of Justice powers that could be interpreted as allowing him or her to establish Qadhi courts, such courts were never established although the Minister issued different statutory instruments giving effect to some provisions of the Act such as on fees and courts with jurisdiction to apply the Marriage and Divorce of Mohammedans Act. The

³ The report of the Uganda constitutional commission Analysis and recommendation (1992) para

⁴ Spensor-trimingham (1964) Islam in east Africa, oxford, clarendon press ,158 for detail discussion of Islam in Uganda

⁵ Uganda at <http://www.state.gov/r/pa/2963.htm> / accessed at Islamic University in Uganda Law Library on 15 February 2026 at 11.30am

⁶ Islamic medical association (1964). AIDS education through imams: a spiritually motivated community effort in Uganda

⁷ The marriage and divorce of Mohammedan Act ,1998

proposal that Qadhi courts should be provided for in the Constitution met severe resistance from some quarters for several reasons and was defeated on two occasions. On the third occasion it was successful and a provision on Qadhi courts, Article 129(1) (d)⁸, was included in the Ugandan Constitution. Hence this paper looks at the role of Qadhi courts in solving family disputes in Uganda

Article 129(1) (d)⁹ of the Constitution provides that the judicial power of Uganda shall be exercised by the courts of judicature, which shall comprise the Supreme Court, the Court of Appeal, the High Court and subordinate courts¹⁰. The Constitution adds that these courts may, by law, establish Qadhi Courts to handle marriage as well as cases of divorce, inheritance of property and guardianship. The Qadhi courts are run according to the Sharia law, but supervised by the High Court. Those who are not satisfied with their judgments are at liberty to appeal in the High Court of Uganda. Despite the various institutional bodies and policy on existence of Qadhi Courts in Uganda, there exists lack of clarity on whether the Qadhi courts in Uganda have jurisdiction and the will to handle family related disputes including divorce, Gender Based Violence and other family disputes.

This uncertainty has created doubt among the clients and other stakeholders on the jurisdiction of the court. There are instances where the jurisdiction of the Qadhi court in handling family disputes were challenged in the High Court. It is thought that the problem of uncertainty of the jurisdiction of the Qadhi court over family disputes is brought about by misinterpretation or misunderstanding of the legal and institutional framework governing Qadhi Courts in Uganda. Due to the gap, some lawyers, clients, and judges have conceived that the family disputes be removed from the jurisdiction of Qadhi court.

Role of Qadhi Courts in Uganda

The relevance and effects are based on scholar's views on Qadhi court, but many of them focused on the history, evolution, administration and general jurisdiction of the Qadhi court as envisaged in the constitution and statutes. Hassan Mwakimako, in his article "Conflicts and

⁸ Of the constitution of Uganda as amended by 1995

⁹ Article 129(1)(d) of the constitution of Republic of Uganda 1995 as amended

¹⁰ Article 139 of the constitution of Uganda 1995 as amended

Tensions in the Appointment of Chief Qadhi in Colonial Kenya 1898-1960 "which was published in" Muslim Family Law in Sub-Saharan Africa (2010, exclusively focused on the colonial politics of appointing Shaikh Al- Islam and Chief Qadhi in Kenya and how the administration endeavored to Control and curtail the powers and jurisdiction of the qadis Courts especially that of the Chief Qadhi ¹¹

Since during this time the Chief Qadhi Courts had appellate jurisdiction that had limited appeals, at some point the colonial authorities thought of abolishing this critical office. He enumerated and gave accounts the Chief Qadhi from Shaikh Al- Islam Shariff Abdurrahman bin Ahmad Saggaf (1844-1922)

The Islamic Charter on Family (2007): this Charter was published by International Islamic Committee for Women and Child (IICWC) and World Assembly of Muslim Youth (WAMY), the charter is a product of deliberations in series of symposiums where prominent Muslim scholars participated and made their contributions. It was in response to the organizers believed that there was western ideological invasion lead by United Nations on Muslim Society.

Uganda achieved independence in 1962. In 1972, a Muslim Supreme Council was established in an effort to unite various Muslim communities. The council's constitution provided for a Chief Qadhi, a College of Sheikhs, and district Qadhi to be nominated by the Chief Qadhi, but did not outline specific duties for these positions.

The 1995 Ugandan Constitution declares that Uganda has no state religion and permits free practice of the religion. The Constitution allows parliament to establish any subordinate courts it sees fit; Article 129 states that this includes Qadhi courts for marriage, divorce, inheritance of property and guardianship as may be prescribed by parliament.

In 2008, a Muslim Personal Law Bill proposed the creation of Qadhi courts. The bill was very controversial, however, and Christian leaders petitioned the government to remove the constitutional provision allowing the establishment of qadis s courts. Since 1998, attempts have been made to pass a Uganda Domestic Relations Bill, which would regulate many aspects of marriage relevant to Islamic law. For example, the bill gave men and women equal rights to

¹¹ The Islamic chapter on family, international Islamic committee for women and child (IICWC) and world Assembly of Muslim Youth

divorce, made many optional, and required the first wife's permission for subsequent polygamous marriages. Muslim leaders in Uganda opposed the bill on grounds that it conflicted with Islamic law. The bill never passed. In Iganga, qadis courts have been in existence for over 5 years¹².

According to Sheikh Sinani Munanika (2017), Qadhi courts have been hearing cases including divorce petitions, land disputes and resolving disputes in the distribution of the wealth of deceased family heads. However, the court hasn't been handling any criminal cases since they involve seeking proof and evidence from various witnesses. Majority of the cases heard were earlier on filed in high court but withdrawn by the petitioners and transferred to the qadis court. The recent development was that in August 2025, Parliament granted leave to Hon. Asuman Basalirwa to introduce the Qadhis Courts Bill in Uganda¹³.

Qualifications for a Chief Qadhi

Section 7 deals with the qualification of the Chief Qadhi and Qadhi and provides that a person shall be qualified for appointment as:

- (I) Chief Qadhi if such a person is eligible for appointment as a Chief Magistrate and possesses a degree in Islamic law;
- (II) This means that section 7 of the Qadhi Court Act has to be read together with section 4 of the Magistrate Courts Act, with the relevant criteria governing the qualifications of a Chief Magistrate and a Magistrate Grade 1. The practical effect of section 7 is that for someone to be appointed a Chief Qadhi, he has to have two degrees: a degree in secular law (LLB) and a degree in Islamic law; and for one to be appointed a Qadhi he must also have a degree in secular law and a degree in Islamic law.

The inclusion into the Bill of those requirements was based on the recommendations made to the Uganda Law Reform Commission by Muslim Members of Parliament. Whether there are

¹² Jeppie et –al- Muslims family law in sub-Saharan Africa: colonial legacies and post-colonial challenges, Amsterdam university press, 2010.edited book essay originally prepared for conferences in 2000.

¹³ The Qadhis Courts Bill in Uganda, introduced by Hon. Asuman Basalirwa and granted leave by Parliament on August 7, 2025

enough people in Uganda with such qualifications is a question that was raised during the Constituent Assembly debates and the supporters of the amendment argued that there were enough people in Uganda with the necessary qualifications to preside over Qadhi courts. One hopes that the position will remain the same at the time the Qadhi Court Act will come into force otherwise the courts will remain unoccupied.

The question that is likely to arise in the future, after the Qadhi courts have started operating, is whether a woman with an LLB degree and a degree in Islamic law will also be appointed as a Chief Qadhi or a Qadhi. The Qadhi Court Bill contemplates that both men and women can be appointed Qadhi. Should such an issue arise, there will be a need to look at Islamic law and its position on whether a woman can occupy such an office on the one hand and the Ugandan Constitution and Uganda's international human rights obligation which prohibit discrimination on the ground of sex on the other hand.

It has to be recalled that Article 21(2) of the Ugandan Constitution prohibits discrimination on the ground of sex and Article 33(5) of the Constitution is to the effect that laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status, are prohibited by this Constitution.' In answering the question of a whether a woman qualifies to be appointed as a Chief Qadhi or a Qadhi, those two constitutional provisions will have to be considered. It also has to be recalled that the potential conflict between Islamic law and secular law was one of the concerns raised by in the Constituent Assembly debates by those opposed to the inclusion of Qadhi courts in the Constitution and was not sufficiently addressed or answered by those in support of the amendment.

Relevance of Qadhi Courts in Protecting Children

As part of the subordinate court system, Qadhi courts are empowered to determine issues of Muslim law relating to personal status, marriage, divorce and inheritance for persons of Muslim faith. In its operation this court applies Sharia Law. However, appeal from the decision of the court

lies to the High Court. This is based on Article 129 (1) (d) of the constitution¹⁴ which establishes subordinate courts to provide service to the people fairly, equitably and expeditiously.

It is a holistic working policy paper but unless it addresses our concern in this study some quarters of Ugandan population will still remain to face limited access to justice. When considering the rights of the children, Sharia seeks to create formidable foundation for the child long before the child comes into being. According to the rules and policy of the Sharia there will be no child of a single parent, unless such situation occurred by natural cause of death. That is why in Islam sexual relationship outside marriage is strongly abhorred. In order to safeguard this policy Islam establishes and protects the institution of marriage. In order to build the future of the yet unborn child, Islam ordains people who are planning to marry to make proper choice. It goes a further step of suggesting certain qualities which should be considered when planning to marry. Of all qualities religion and good mannerism are highly emphasized. Taking away jurisdiction of the Qadhi courts to hear and determine cases concerning children would amount to miscarriage of justice. Family disputes are interconnected to each other.

They are in form of a chain, hence cannot be separated from each other. Wife may file a suit against her husband who has neglected his duty towards the family. Imagine if she has children with him and she wants the court to compel him to provide maintenance for the family. Should she be subjected to move Qadhi court for her own rights and the children's court for the rights of the children? And in case she wants a divorce, custody of the child and maintenance¹⁵, What about a succession case where the parties are mixtures of adults and minors would they move different courts for the same estate? Surely these scenarios, if allowed would involve double cost, delay and time consuming, confusion and end up in conflicting rulings from the different courts. The end result would be occasion of injustice from the institution which is custodian of justice. Therefore, the Qadhi courts as a special court are better placed to impart justice according to the Sharia and it is competent to do so more than any other court. Sharia provides similar rights of the child as in international, regional and domestic conventions and legislation. Therefore, if that is the position then it is always fairer to handle all family-related cases under one roof.

¹⁴ Article 129(1)(d) of the constitution of Uganda 1995 as amended

¹⁵ Section 18 of Children Act Laws of Uganda 2006

Relationship Between Qadhi Courts and Other Courts

The draft bill provides that the Minister of Justice shall consult with the Chief Justice in dividing Uganda into Qadhi areas and in establishing Qadhi courts. Although the provisions do not expressly say so, one expects the Minister to also consult with the Muslim leadership in dividing Uganda into Qadhi areas and in establishing those courts. The appointment of Qadhi shall be done by the Judicial Service Commission after consultation with the Chief Justice. As in the cases of the dividing Uganda into Qadhi areas and establishing Qadhi courts, the Judicial Service Commission should consult with the Muslim leadership in the appointment of Qadhi. For the avoidance of doubt, it should be expressly provided for in the bill that in making all the above decisions the Muslim leadership in Uganda should also be consulted.

This will ensure that such consultation is not at the discretion of the Minister or the Judicial Service Commission as the case may be. Section 31 of the Qadhi Court Bill empowers the court to impose a fine on a person who for no good cause fails to attend as a witness before a Qadhi's court and in the event of failure to pay the fine, the Qadhi' court may order that such a person be imprisoned as a civil prisoner for not more than 15 days. However, the High Court may reduce or remit any fine imposed by the Qadhi' court. Section 51 provides that:

(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without that notice, the High Court may at any stage¹⁶,

- transfer any suit, appeal or other proceeding pending before it for hearing or disposal to any Qadhi court competent to try or dispose of it;
- withdraw any suit or other proceeding pending in any Qadhi court, and—
 - try or dispose of it;
 - transfer it for hearing or disposal to any court subordinate to it and competent to try or dispose of it; or
 - Re-transfer it for hearing or disposal to any court from which it was withdrawn.

¹⁶ Article 129(1)(d) of the 1995 Constitution as subordinate courts for handling Islamic personal law matters, including marriage, divorce, inheritance, and guardianship

(2) Where any suit or proceeding has been transferred or withdrawn as aforesaid, the court which thereafter hears the suit may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.

Appeals against decrees or orders by a Qadhi court presided over by the Chief Qadhi or a Qadhi shall lie to the High Court. The above sections in effect give the High Court control over all the proceedings before the Qadhi courts. This means that there will be appropriate supervision of the Qadhi courts by the High Court which will ensure that the Qadhi courts do not interpret or apply laws in a manner that is contrary to the constitution. The question is whether the High Court will have the necessary expertise in Islamic law to resolve these matters to the satisfaction of the Muslim parties.

Relationship Between Civil Customary Law and Islamic Law

Another important provision is section 13 of the Bill which provides that¹⁷:

1. Subject to this section, nothing in this Act shall deprive a Qadhi court of the right to observe and to enforce the observance of, or shall deprive any person of the benefit of any civil customary and Sharia law which may be applicable that is not repugnant to justice, equity or good conscience or incompatible either in terms or by necessary implication with any written law for the time being in force.
2. Notwithstanding subsection (1), no party to a civil cause or matter shall be entitled to claim the benefit of any civil customary or Sharia law if it appears, either from express contract or from the nature of the transactions out of which any civil cause or matter shall have arisen, that he or she agreed or must be taken to have agreed that his or her obligations in connection with all such transactions should be regulated exclusively by some law other than civil customary or Sharia law.

¹⁷ Article 129(1)(d) of the Constitution of the Republic of Uganda, 1995 (as amended)

3. In civil causes or matters where no express rule is applicable to any matter in issue, a Qadhi court shall be guided by the principles of justice, equity and good conscience.

In terms of section 13(1), a Qadhi court has jurisdiction to observe or enforce not only Islamic law but also civil customary law which is not repugnant to justice, equity or good conscience or incompatible with any written law. This provision has the effect of extending the jurisdiction of Qadhi courts to customary civil law which law may not have been developed in line with Islamic teachings. The effect of section 13(2) is that a dispute arising out of a marriage that was not conducted in accordance with the teachings of Islam shall not be resolved by Qadhi courts. It is critical to emphasize that the principles of justice, equity, and good conscience will be instrumental in the interpretation and application of Islamic law by Qadhi courts.

Challenges in Implementing and Operationalizing Qadhi Courts in Uganda

There is no Qadhi Courts in Uganda. However, the Constitution for the establishment of subordinate courts that include Qadhi Court with the jurisdiction of handling cases of personal status, marriage, divorce, inheritance and guardianship. These courts also face challenges and among the are:

a) Structural Set up

All Muslim dispute resolution mechanisms in Uganda fall under the Uganda Muslim Council (UMSC) which heads all mosques in the country. The Qadhi Court is situated at the UMSC headquarters at Old Kampala in Kampala. This court is established under the constitution of UMSC and is one of the organs of UMSC falling under the Directorate of Sharia. It is headed by a director. The directorate is composed of the director, a deputy director and three registrars one of whom is tasked with handling the administration and registration of cases reported. The role of the registrar is to summon both parties and register the complaint

The court handles mostly cases of a domestic nature as laid out under Article 129 (d) of the constitution to include marital disputes, inheritance, guardianship, guidance and counseling. Other non-domestic cases such as theft are mediated or referred. Mediation is employed first before

a decision is made and both disputing parties are included as much as possible in amicable settlement and resolving of disputes. However, it should be noted that the decision of the UMSC Sharia Court is not final, the unsatisfied party can appeal to a higher court.

Beneath the Council's Sharia Court at headquarters, it is expected that all districts should have their own smaller Sharia courts which should handle matters arising from individual mosques. At the same time, most district mosques have executive committees comprising of village Muslim elders who assist the mosque heads, the Imams, in dispute resolution. However, due to several factors especially limited financial resources, these district courts are not operational. However, the presence of the Sharia court at UMSC and Qadhi courts generally has created controversy over whether they are competent court whose rulings or orders can be enforced in Uganda.

There are claims over lack of jurisdiction and force while others argue that they are competent courts envisaged under Section 2 of the Marriage and Divorce of Mohammedan Act and under Article 129(1)(d) read together with Article 274 of the Constitution

The status of the informal Sharia court at UMSC has been considered by Hon. **Justice B. Kainamura in Sumaya Nabawanuka v. Med Makumbi (High Court Family Division** in which the petitioner (Sumaya)¹⁸ filed a petition seeking for a decree nisi dissolving her marriage with her husband, the respondent. The marriage was contracted in accordance with Muslim law. She wanted custody of the child; maintenance of the child, alimony; share of the matrimonial property and costs. The respondent filed his reply refuting the allegations in the petition and by way of a preliminary objection applying that the petition be dismissed because it was re-judicata since the matter before court had been finally determined by the Sharia Court of the Muslim Supreme Council.

¹⁸ Sumaya Nabawanuka v. Med Makumbi (Divorce Cause No. 39 of 2011) [2013] UGHCFD 3 (13 February 2013)

He argued that a sharia court is a court of competent jurisdiction as provided for Under Article 129 (1) (d) of the Constitution 1995. He further contended that the Sharia Court of the Muslim Supreme Council is such court that is envisaged under the Marriage and Divorce of Mohammedans Act. He urged further that the petition was incompetent in as far as it sought reliefs under the Divorce Act Cap 249 even though the marriage between the parties was celebrated under Mohammedan law

Accessibility

There are as many Qadhi courts operating informally within the country as there are mosques. Except for minimal municipal standards for building, there are no strict formal requirements prior to erecting a mosque. As such, anyone can build a mosque and as a result, there are many mosques in Muslim stronghold areas across the country, both public and privately owned.

The multiplicity of mosques translates into physical accessibility to justice mechanisms because mosque leaders or Imams also take on the role Qadhi or judges. Furthermore, except for the UMSC Sharia Court which charges a case opening fee of 50,000 shillings (approximately USD 15), dispute resolution services in most Qadhi courts are free. In general, therefore, Muslim justice mechanisms are fairly accessible, both physically as well as economically.

Competence and Quality Assurance

Majority of the mosques in Uganda are privately established, there is minimal control and oversight over their work by the UMSC. Beyond the issuance of a certificate of practice, there is no technical or financial assistance received by the mosques from UMSC with regard to aspects such as dispute resolution. In some limited instances, leadership of mosques including mosque chairpersons and deputies undertake monitoring of the welfare of the mosque, but this is mainly limited to physical upkeep and sanitation with no input into the handling of disputes because they are not religious leaders. The majority of Imams across the country have not received any specific training and mostly rely on their knowledge of the Qur'an to resolve disputes. Additionally, because of the internal wrangles within Muslim leadership in Uganda, some mosques fall outside

of the control of UMSC, to other factions which have even less administrative capacity to provide oversight and quality assurance

Thus, most lack simple items such as stationery for case documentation purposes, which affects their competence to perform effectively. Related to the aspect of competence is the undue reliance on legal technicalities, which do not often serve the purpose of justice or protection of vulnerable parties, especially women. As shared by MOL, most Islamic marriages are not formally registered.

Standard of Performance

Due to the limitations in funding, most Qadhi courts experience low standards of performance. For one, documentation is almost non-existent, cases are rarely recorded, and therefore enforcement of decisions becomes difficult, or appeals therefrom. Secondly, confidentiality is not always guaranteed because of the limited space within mosques to hold private meetings. In fact, it was revealed during the study that some Imams invite conflicting parties into their homes to guarantee some form of privacy

Even the UMSC Sharia Court¹⁹ though faring better than others in terms of having facilities for documentation, lacks private rooms in which to hold confidential meetings. In terms of personnel dedicated to dispute resolution, cases may be handled by normally 1-2 adjudicators, including the Imam and (female Muslim leader), but most often it is just one person. Due to the above-mentioned factors, dispute resolution work is under-prioritized, especially where it requires resources in the dispensation of justice, such as where there is need to travel to the locus or where a victim requires medical support in cases of physical violence

¹⁹ The Uganda Muslim Supreme Council (UMSC) Sharia Court, often operating within the framework of the UMSC Arbitration Council (based on Article 28 of the UMSC Constitution)

Qadhi courts operate within the precincts set by several statutes, including the Qadhi Courts Act, the Mohammedan Marriage and Divorce Registration Act and the Mohammedan Marriage, Divorce and Succession Act. Therefore, unlike Uganda, Kenya has a specific legislation guiding the operation of Qadhi courts as well as complimentary legislation on aspects such as divorce and succession which are missing in Uganda. Additionally, the said laws have codified Quranic provisions into statutory law, making them easily applicable in formal courts, whether or not the presiding officer is a person of the Muslim faith. In the Ugandan case, this is lacking, and it implies that the interpretation of Islamic law on aspects such as marriage and succession are the reserve only of Muslim scholars. This in itself is limiting because it confines the application of this law to a selected part of the population. Also, because fewer persons have an adequate understanding of Islamic law, this is subject to abuse to misinterpretation, which cannot be easily challenged, especially in the context of poorer court users like women.

Conclusion and Recommendations

The Ugandan population is made up of a significant number of Muslims, the Islamic adjudication system appeals to, and is used by a fair number of citizens. It is clear, therefore, that Muslim adjudication mechanisms, including the existing forms of Qadhi courts, are regarded as pertinent in enhancing justice for women. This paper has investigated the jurisdiction of the Qadhi Courts in matters relating to the children in Uganda.

The relevant laws in Uganda donate to the Qadhi Courts powers to adjudicate matters of Islamic law pertaining to personal status, marriage, divorce, and inheritance where all parties are Muslims. Among these four items, marriage, divorce, and inheritance are clear though not in detail. However, what constitute personal status in Ugandan legal context remained ambiguous. During the research of this paper, we did not come across any domestic law, be it statute or case law, where personal status is defined. As a result of this ambiguity, even superior courts have given conflicting decisions on the matter.

In order to bridge this gap were compelled to resort to other jurisdictions with a similar judicial system as Uganda. We have also had chance to consult some academic work of the scholars on the subject and as well as legal dictionaries. It is our humble finding that from the work

consulted the coming up with constitutional mandate for establishment of Qadhi court was a battle as discussed. For brevity it includes marriage, divorce, inheritance, affairs of the children. It is also important to note that from this research there is nothing in the Children's Act No 8 of 2012 that would suggest stripping Qadhi Courts from jurisdiction to handle children's cases.

To the contrary, it is our finding that international and regional conventions and the children's Act strengthen the jurisdiction of the Qadhi Court in this regard. Among many rights guaranteed to the child under the above laws is the right to religion, which in the words of the Convention on the Rights of the Child, states parties to it shall respect child's rights to religion and the child shall have freedom to manifest their religion without limitation whatsoever except as prescribed in the law.

Recommendations:

In light of the above, Uganda needs to enact a law regulating operation of its own Qadhi Courts, combining both substantive Quranic provisions on aspects outlined under the constitution such as marriage and child maintenance, as well as procedural issues such as the structure and numbers of Qadhi Courts countrywide. In order to strengthen the operation of these courts, the law should further elaborate on aspects such as:

- i. Specifications of personnel manning the courts;
- ii. Permission for women to be appointed as assistants to the Qadhi (a position limited only to men) to help in those instances where women litigants in the court find it difficult to explain to the male Qadhi the delicate and intimate details of some of their domestic problems.
- iii. Establishment of courts with representation of all Muslim sects across the country, both Sunni and Shia. Consideration ought to be given to the appointment of Qadhi of both sects so as to cater for the interests of all Ugandan Muslims
- iv. Codification of Islamic family law in Uganda: This will help Qadhi to save their time in researching in the wider corpus of Islamic law and as

well as the judges on appeal the lawyers, academicians and other stakeholders to have firsthand information on Islamic family law.

- v. As an interim solution and before the enactment of a detailed Muslim Family law it is prudent for the Chief justice of Uganda to exercise his power under the children's Act to appoint the Qadhi to handle children's cases.
- vi. Creation of awareness among the Qadhi, judges, lawyers' academicians and other stakeholders on the role and mandate of Qadhi courts in children's cases and why is it important to have the Qadhi courts to handle cases of the children of Muslim communities in Uganda. This can be done through training, seminars, meetings, and discussions on the matter.

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