

Legal reforms should unite, not divide

On February 27, the Ugandan Gazette issued a notice on Qadhis Courts Bill following Parliament's grant of leave to one of the private members, who moved to introduce the Bill to operationalise Article 129(1)(d) of the Constitution, in August, 2025.

While some of the arguments were that these courts operate without statutory guidance, and that the Bill shall cover legislative gaps, this is not exactly true. I agree that Parliament's goal of improving access to justice is legitimate. But the method matters. The biggest issue with expanding Sharia-based courts into the national legal framework is not religion itself but rather, legal fragmentation. This particular one raises deeper constitutional and societal concerns about equality and the rule of law.

Uganda relies on a shared unified and secular legal identity. The Sharia courts would introduce a parallel legal system in which citizens are governed by different legal codes based on religion. With this, a lot more problems would emerge as the Bill seeks to have the courts adjudicate marriage, divorce, inheritance and family disputes under Islamic law with mandatory jurisdiction in some of the cases.

Article 21 of Uganda's Constitution guarantees equal protection to every citizen under the law, regardless of sex, race, colour, ethnic origin, birth, creed, or religion. Sharia law, by definition, applies differently to people based on religious identity. When people marry, inherit property, or resolve disputes under different legal systems, and with different outcomes, there would be unequal citizenship. Secondly, in interfaith cases, subjecting non-Muslims to these courts risks violating their fundamental rights. Worse still, in Sharia interpretations,

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women are not equal to men in all legal matters including court testimony. Of all countries under Sharia Law, only Tunisia and Morocco have reformed towards equal testimony in most civil matters. In classical *fiqh* (deep understanding of Islamic law), for cases that include financial disputes, testimony rule is two men or one man and two women. In criminal matters, only men's testimonies are acceptable, for example, a woman can't give a testimony in a case of adultery. Issues arising in financial, criminal, or civil cases intersect with aspects of family law. The Bill, once passed into law, shall violate the principle of equality and non-discrimination before the law.

Some exegeses of Sharia law do not recognise conversion away from Islam. This contravenes freedom of religion, which includes the right to practice any faith, to hold no religious belief, and to change one's religion.

Multiple legal systems inherently generate conflicts over jurisdiction, appeals, and enforcement. We already have customary law structures but with constitutional limitations to principles of justice and equality. Even then,

harmful cultural beliefs and practices persist and are mainly those that disproportionately affect women and girls. Given what I and many others view as misogyny embedded in the Sharia system, Uganda would risk moving further away from constitutionalism. Disputes between Muslims and non-Muslims, or between Muslims who disagree on interpretation, will inevitably force the civil courts to intervene anyway, creating confusion and delay. Others may fear challenging a judgment cloaked in religious authority because of the risk of ostracism from their faith community.

Once the Bill is passed, it shall be a matter of time before the courts extend their jurisdiction to all other matters outside marriage, divorce, inheritance and family disputes.

Also, mobile courts held in public spaces, to an extent, undermine fair trial standards. Adding another parallel system shall deepen instability rather than solve access-to-justice problems.

Taken together, these developments suggest a trend toward legal pluralism without sufficient safeguards because Qadhis courts operate with limited transparency compared to the formal judiciary. Mediation and arbitration based on personal faith should remain voluntary, private and judicial power should not be delegated to religious councils. Parliament should revisit this policy and reaffirm that justice in Uganda wears no religious robe. Our legal reforms should serve as a common foundation, not a set of parallel tracks to divide us further. A stronger path would be to invest in the existing unified judicial system, making it more accessible, efficient, and culturally sensitive without fragmenting it.

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