

5 **The Grounds of the Petition are as follows;**

a) That the omission of the State to enact and pass a law that operationalizes Qadhis Courts under Articles 129(1)(d) and Article 79(1) and (2) is inconsistent with and in contravention of Article 20 of the Constitution of the Republic of Uganda.

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b) That the omission of the State to enact and pass a law that operationalizes Qadhis Courts under Articles 129(1)(d) and Article 79(1) and (2) is inconsistent with and in contravention of Article 21 of the Constitution of the Republic of Uganda.

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c) That the omission of the State to enact and pass a law that operationalizes Qadhis Courts under Articles 129(1)(d) and Article 79(1) and (2) is inconsistent with and in contravention of Article 33(1), (2), (3), (4) and (5) of the Constitution of the Republic of Uganda.

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Background

The 1st Petitioner is a female Muslim, a practicing Advocate, a Ph.D. Human Rights Fellow at Makerere University, and the Executive Director of the 2nd Petitioner. The 2nd Petitioner is a non-profit, legal aid and advocacy organisation for Muslim women's rights, incorporated under the laws of Uganda as a company limited by guarantee and licensed by the Law Council to provide legal aid services. The Respondent is sued as the representative of the Republic of Uganda under Article 119(4)(c) of the Constitution, with the mandate to sue and be sued on behalf of Government.

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The Petition is brought under Articles 137(3)(b), 129(1)(d), 20, 21, 33(1), (2), (3), (4) and (5) of the Constitution, together with Rule 3(1) & (2)(a) of the Constitutional Court (Petitions and References) Rules, S.I 91 of 2005 and Rule 7(3) of the Judicature (Fundamental and Other Human Rights and Freedoms) (Enforcement Procedure) Rules, S.I 31 of 2019.

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35 The Petitioners contend that:

Since the promulgation of the 1995 Constitution, no law has been enacted to operationalize the establishment and functioning of Qadhis Courts, despite the express provision for their creation under Article 129(1)(d).

5 The omission of the State to enact such a law contravenes and is inconsistent with various provisions of the Constitution guaranteeing fundamental rights and freedoms (Articles 20 and 21) and specifically the rights of women to equality, dignity, welfare, protection, and affirmative action (Articles 33(1)– (5)).

10 The Petitioners acknowledge that some steps were undertaken by the Ministry of Justice and Constitutional Affairs, the Uganda Law Reform Commission and other stakeholders in 2009 and 2010, but maintain that more than 15 years later, there is still no law in place to operationalize the said Courts.

15 In support of the Petition, several affidavits were filed on behalf of the Petitioners, namely Mwanga Mastulah Ashah, Nakinaalwa Sofia Ndase, Farouk Kirya, and Monda Hamudan. Their collective evidence illustrates the plight of Muslim women and the Muslim community at large in accessing justice in matters of marriage, divorce, inheritance, property and guardianship, and highlights the State's continued omission to operationalize Qadhis Courts as envisaged under Article 129(1)(d) of the Constitution.

20 In her affidavit, Mwanga Mastulah Asha stated that the 2nd Petitioner has for several years conducted research and advocacy on Article 129(1)(d) of the Constitution, which envisages the establishment of Qadhis Courts, and has engaged different stakeholders, including the Uganda Muslim Supreme Council, with a view to having Parliament enact the necessary law. From these engagements, it was established that
25 there exists an urgent demand within the Muslim community, especially among women, for the operationalization of Qadhis Courts in Uganda.

The deponent averred that access to justice is a fundamental human right, and that the State's omission to enact legislation to operationalize Article 129(1)(d) has denied Muslim women facilities and opportunities essential for their welfare and
30 their unique maternal functions in society. She observed that, in the absence of a formal legal framework, the Uganda Muslim Supreme Council informally set up Qadhis' Courts to handle Islamic family disputes. However, these courts are unregulated, follow no procedural rules, have no force of law, and therefore cannot guarantee the rights of women who appear before them.

35 She further testified that research by the 2nd Petitioner revealed that the majority of users of these informal Qadhis Courts are Muslim women, who often seek resolution of family matters and access to reproductive health-related rights. Nevertheless, treatment of vulnerable groups within this informal system is undocumented, leaving

5 women exposed and unprotected. She also pointed out that certain matters, particularly those concerning marriage and reproductive health of Muslim women, would be more appropriately and sensitively adjudicated by Qadhis Courts rather than by the ordinary Courts of Judicature.

10 The deponent recalled that as far back as 2009 and 2010, efforts were made by the Ministry of Justice and Constitutional Affairs, the Uganda Law Reform Commission, and the Uganda Muslim Supreme Council to operationalize Qadhis Courts. Despite such initiatives, no law has been enacted to date. She attached correspondences evidencing those efforts. She further noted that in March 2022 she represented the 2nd Petitioner before the UN CEDAW Committee, where Article 15 129(1)(d) was debated, and Uganda was strongly urged to establish and operationalize Qadhis' Courts in line with its constitutional and international obligations.

In her conclusion, she contended that there is no justification whatsoever for the continued omission by the State to operationalize Qadhis Courts as envisaged under 20 Articles 129(1)(d), 79(1) and 2 of the Constitution. She therefore affirmed her affidavit in support of the Petition seeking declarations that the State's failure to enact and pass a law to give effect to Article 129(1)(d) is unconstitutional.

25 Nakinaalwa Sofia Ndase, a Muslim woman, wife, and mother of three, narrated her personal ordeal in accessing justice. She stated that she was married to Ashiraf Kyambadde, a Muslim preacher, in April 2017, but their marriage was plagued by misunderstandings. Her husband eventually abandoned her and their children in Buikwe District without financial or emotional support.

30 When she became pregnant with their third child, her husband ordered her to terminate the pregnancy and, upon her refusal, completely withdrew maintenance. She reported him to mosque leaders and informal Qadhis Courts, but he consistently ignored their summonses, fully aware that they lacked any legal enforcement power. She narrated how she suffered severe stress, illness, and bleeding during pregnancy, and had to rely on mosque leaders and good Samaritans for survival. Eventually, she was admitted to Kiwoko Hospital where she prematurely gave birth.

35 Nakinaalwa affirmed that despite repeated complaints to mosque authorities, relatives of her husband, and the Uganda Muslim Supreme Council, no remedy was provided because the husband defied the summons and the Mosque authorities admitted their lack of any legal power to compel him. The Imam of the mosque

5 where she reported declined to reprimand him for reasons that there was no remedy available in the absence of an enforcement law. She emphasized that her husband's defiance of Qadhis Court summonses demonstrates the weakness of informal systems which lack force of law. She concluded that her experiences highlight how the non-existence of formal Qadhis Courts continues to deny Muslim women justice.

10 Farouk Kirya, an Imam at Masjid Taqwa in Budaka District and a student of Islamic Studies at the Islamic University in Uganda, swore an affidavit highlighting the difficulties encountered by Muslim leaders in resolving disputes under the current framework. He deponed that as an Imam he routinely receives cases relating to marriage, divorce, inheritance and guardianship, but is unable to adjudicate them
15 effectively due to the absence of Qadhis Courts established by law.

He testified that Parliament has over the years failed to enact a law operationalizing Article 129(1)(d), despite repeated advocacy by the Uganda Muslim Supreme Council. In practice, mosque leaders attempt to mediate disputes, but such summonses are ignored since the parties know that informal forums lack legal force.

20 He stated that most Muslims in Budaka District prefer to seek redress within Qadhis Courts rather than secular courts, believing that matters of Islamic family law are better handled within Sharia-based systems. However, he admitted that he and other leaders have no power to enforce compliance, leaving complainants without justice. He concluded that the non-existence of Qadhis Courts has denied Muslim men and
25 women access to justice in matters of personal law, and supported the Petition.

Monda Hamudan, the Deputy District Qadhi of Budaka District, affirmed a further affidavit in support of the Petition. He stated that Article 129(1)(d) of the Constitution provides for the establishment of Qadhis Courts, yet Parliament has failed to enact the enabling legislation.

30 He explained that in the absence of formal courts, the Uganda Muslim Supreme Council established informal Qadhis Courts, but these operate without statutory recognition, are guided by inconsistent references to the Quran, Hadith, customary practices, and the Mohammedan Marriage and Divorce Act, and lack uniform standards. This has created confusion, uncertainty, and limited access to justice for
35 marginalized groups and the indigent.

He emphasized that informal Qadhis judges are not trained in secular law or human rights principles, and therefore fail to adjudicate matters in line with constitutional and international standards. He added that lack of training, procedures, and

5 accountability has undermined the credibility of these courts, creating doubts among litigants and other stakeholders about their jurisdiction.

He concluded that properly established Qadhis Courts, functioning as special family courts under the Constitution, would ease access to justice for Muslims in accordance with Sharia and the laws of Uganda. He supported the Petition, urging
10 the Court to declare unconstitutional the State's omission to enact a law operationalizing Article 129(1)(d).

Respondent's case

In opposition to the Petition, the Attorney General filed an Answer supported by the affidavit of Nakiranda Colline, an advocate of the courts of judicature and Senior
15 Legal Counsel in the Parliamentary Commission.

The Respondent categorically denied all allegations that the Government, by act or omission, has violated or infringed the Constitution in relation to the establishment of Qadhis Courts. The Respondent maintained that the Petition raises no proper questions for constitutional interpretation under Article 137 of the Constitution and
20 that the Constitutional Court lacks jurisdiction to construe one constitutional provision against another.

The Respondent argued that Article 129(1)(d), which refers to Qadhis Courts, does not impose a mandatory constitutional obligation upon Parliament to enact a law establishing such courts. Rather, it is a permissive provision that gives Parliament
25 discretion in law-making. Consequently, the non-enactment of a law to operationalize Qadhis Courts cannot be construed as an infringement of the Constitution.

The Respondent further contended that there exists a functional and competent justice system in Uganda accessible to all persons, including Muslim women.
30 According to the Respondent, the Judicature system already guarantees access to justice for all citizens, and Muslim women have not been denied their right to access courts. Indeed, the Respondent pointed out that Sharia Courts operating under the structures of the Uganda Muslim Supreme Council already exist and are competent to handle religious matters, and their operation does not require a special law of
35 Parliament.

The Respondent specifically denied the allegations that Articles 20, 21, 33(1)(2)(3)(4)(5) of the Constitution had been contravened. It was asserted that none

5 of the constitutional provisions cited by the Petitioners is inconsistent with the failure to establish Qadhis Courts, and the Petitioners bear the burden of strict proof.

Addressing the Petitioners' reliance on international obligations, the Respondent stated that General Recommendation No. 33 (2015) of the CEDAW Committee on women's access to justice has no binding authority over Uganda and cannot create
10 an obligation on Parliament to establish Qadhis Courts.

The affidavit of Nakiranda Colline further confirmed, upon a search of the Parliamentary records, that no Muslim Personal Law Bill has ever been tabled before Parliament. She also referred to the Private Member's Bill of 2023 introduced by
15 Hon. Yusuf Mutembuli titled The Qadhis Courts Bill. She stated that upon scrutiny, the Bill was found to be inconsistent with Article 93 of the Constitution and Rule 124 of the Rules of Procedure of Parliament as it sought to impose a charge on the Consolidated Fund, a matter reserved only for Government Bills. The sponsor of the Bill was accordingly advised to reconsider and address these defects before re-
20 tabling it.

The Respondent therefore concluded that the Petitioners' case is misconceived, incompetent and without merit, since:

There is no constitutional mandate requiring Parliament to operationalize Qadhis Courts;

25 Uganda already has a functional judicial system that guarantees access to justice for all persons without discrimination;

Sharia Courts under the Uganda Muslim Supreme Council already exist and are competent to provide relief within their structures; and

The Petitioners' reliance on international recommendations and attempted private
30 legislation does not create enforceable obligations against the State.

The Respondent prayed that the Petition be dismissed with costs, maintaining that the Petitioners are not entitled to any of the declarations or orders sought.

In rejoinder deposed by the 1st petitioner, the petitioners contend that the petition raise serious questions of constitutional interpretation. They contend that there are
35 several persons who prefer Qadhis courts to formal Ugandan justice system and

- 5 failure to operationalize these Qadhis courts is a bar to access to justice for all persons who would prefer to use them.

That there are several issues relating to Muslim women such as reproductive health issues that are better handled by Qadhis courts rather than the formal justice system due to their sensitivity.

- 10 Finally, the petitioners contend that any charge from consolidated fund should not prevent laws from being debated and enacted, especially if they are necessary for equal protection under the law and provision of access to justice.

Representation.

- 15 At the hearing of this petition, both petitioners were represented by Mr. Sebabi Kenneth and Ms. Shifrah Matovu of M/S Springs Advocates. The respondent was represented by Ms. Akello Suzan, Senior State Attorney and Mr. Mathew Muhesi, State Attorney, both of the Attorney General's Chambers.

Both parties adopted their conferencing notes as submissions

Issues for Determination

- 20 From the pleadings and submissions of the parties, the following issues arise for determination by this Court:

1. Whether the Petition raises a question for interpretation of the Constitution under Article 137.

- 25 **2. Whether the omission of the State to enact and pass a law operationalizing Qadhis Courts under Articles 129(1)(d) and 79(1) & (2) of the Constitution is inconsistent with, and in contravention of, Article 20 of the Constitution.**

3. Whether the omission of the State to enact and pass a law operationalizing Qadhis Courts under Articles 129(1)(d) and 79(1) & (2) of the Constitution is inconsistent with, and in contravention of, Article 21 of the Constitution.

- 30 **4. Whether the omission of the State to enact and pass a law operationalizing Qadhis Courts under Articles 129(1)(d) and 79(1) & (2) of the Constitution is inconsistent with, and in contravention of, Article 33(1)–(5) of the Constitution.**

5. Whether the Petitioners are entitled to the declarations and reliefs sought in the Petition.



5 The first issue was raised by the respondent and the petitioner only submitted on it in rejoinder. I will in that regard consider the respondent's submissions first.

Respondent's submissions on issue No,1.

10 Counsel for the Respondent submitted that this Honourable Court's jurisdiction is strictly circumscribed by Article 137(1) of the Constitution. The said provision vests jurisdiction in the Constitutional Court to determine only questions as to the interpretation of the Constitution. It was argued that the Court cannot assume jurisdiction unless a clear question for interpretation of a constitutional provision has been raised.

15 In support of this proposition, Counsel relied on the authority of **Ismail Serugo v. Kampala City Council & Attorney General, Supreme Court Constitutional Appeal No. 2 of 1998**, where the Supreme Court held that the jurisdiction of this Court is special and limited, and that where no issues of constitutional interpretation are disclosed, the Court has no jurisdiction to entertain such a matter. The Supreme Court underscored that not every allegation of constitutional violation necessarily raises a question for interpretation.

20 It was contended that the Petition before Court does not disclose any question that calls for interpretation of the Constitution. Rather, it merely alleges contraventions of certain constitutional provisions by acts or omissions of the State. Such complaints, Counsel submitted, amount to enforcement of rights under Article 50 of the Constitution and not interpretation under Article 137, and therefore cannot confer jurisdiction on this Court.

25 Further reliance was placed on **Mbabali Jude v. Edward Kiwanuka Ssekandi, Constitutional Petition No. 28 of 2012**, where it was emphasized that the Constitutional Court does not exercise jurisdiction to enforce rights and freedoms in isolation, but only to interpret the Constitution and resolve disputes as to its meaning. Counsel also cited the majority decision in **Attorney General V. Major General David Tinyefuza, Constitutional Appeal No. 1 of 1997**, for the proposition that the Constitutional Court must be petitioned only to determine the meaning of a constitutional provision, and that remedies flow from such interpretation, not from mere allegations of infringement.

35 In addition, Counsel invoked the opinion of Justice Remmy Kasule in **Mbabali Jude (supra)**, where he cautioned that jurisdiction to interpret the Constitution must not be abused or misapplied by litigants seeking to pursue causes that can legitimately



5 be pursued before other courts. The proper question for this Court, he noted, must demonstrate an apparent conflict between the Constitution and an Act of Parliament, another law, or an act or omission of a person or authority, which conflict requires resolution through constitutional interpretation.

10 Counsel for the Respondent further referred to comparative jurisprudence from the Kenyan Court of Appeal in **Hassan Ali Joho and Another Vs Suleiman Shahbal and 2 others (2013) EKL**R where it was held that a petitioner cannot simply invoke constitutional interpretation by citing constitutional provisions. The petition must disclose a real and substantive question of interpretation or application of the Constitution. Where the grievance is essentially about enforcement of rights or
15 challenges to administrative action, the appropriate remedies lie in judicial review or enforcement proceedings, not in a constitutional petition for interpretation.

It was further submitted for the Respondent that the declarations and orders sought by the Petitioner, such as directing the Attorney General to file periodic reports, or ordering the Executive and Parliament to enact a law within a specified period, are
20 remedies that can be competently granted by the High Court through judicial review, or pursued under Article 50 of the Constitution. In their view, the instant Petition is therefore a disguised enforcement action clothed as a constitutional petition, yet it does not raise any question for interpretation under Article 137.

Finally, Counsel argued that the declarations sought cannot be granted unless and
25 until disputed questions of fact have first been proved, which requires recourse to a competent trial court. They submitted that the Petitioner has not discharged the burden of demonstrating that this matter calls for constitutional interpretation. Accordingly, Counsel prayed that the Court finds that the Petition discloses no question for interpretation of the Constitution, that this Court has no jurisdiction to
30 entertain it, and that it be dismissed.

Petitioner's submissions on issue No 1.

Counsel for the Petitioner on the other hand submitted that the Petition discloses clear questions for constitutional interpretation within the meaning of Article 137 of the Constitution. It was argued that the gravamen of the Petition is that the omission
35 by the State to enact a law operationalizing Qadhis Courts under Article 129(1)(d) and Article 79(1) and (2) of the Constitution is inconsistent with and contravenes Articles 20, 21, 33(1), (2), (3), (4) and (5) of the Constitution. This, Counsel contended, raises a fundamental constitutional question of whether such omission is

5 compatible with the constitutional guarantees of equality, non-discrimination, freedom of religion and affirmative action.

The Petitioner further submitted that by alleging that one constitutional provision (Article 129 on the establishment of courts) has been undermined by another constitutional provision or by the inaction of the State under Articles 20, 21 and 33, 10 the Petition calls for this Honourable Court to reconcile and interpret the meaning and effect of the cited provisions. Counsel maintained that the matter is not simply one of enforcement of rights under Article 50, but rather one of resolving an apparent inconsistency between provisions of the Constitution itself and the acts or omissions of the State.

15 In support of this position, Counsel relied on the decision of **Mbabali Jude v. Edward Kiwanuka Ssekandi, supra** where Justice Remmy Kasule underscored that the jurisdiction to interpret the Constitution is of fundamental importance, and that once an apparent conflict between provisions of the Constitution, or between the Constitution and an act or omission of a person or authority, is disclosed, the 20 Constitutional Court must assume jurisdiction. The Petitioner also cited **Hassan Ali Joho & Another v. Suleiman Shahbal supra** where the Court of Appeal of Kenya observed that the exercise of constitutional interpretative jurisdiction must not be denied where genuine questions as to the meaning of constitutional provisions are raised.

25 The Petitioner submitted that the omission by Parliament and the Executive to enact a law that operationalizes Qadhis Courts, despite the clear provision of Article 129(1)(d), creates a constitutional lacuna that infringes fundamental rights. Resolving this omission necessarily requires the interpretation of the Constitution to determine whether the inaction is consistent with the Constitution or amounts to a 30 contravention thereof.

Counsel therefore prayed that this Honourable Court finds that the Petition does indeed raise substantial questions for constitutional interpretation, and that the Court is properly seized with jurisdiction to entertain and determine the same under Article 137 of the Constitution.

5 Consideration by the Court

Article 137(1) vests this Court with jurisdiction “to determine any question as to the interpretation of the Constitution.”

It provides that;

- 10 *'Any question as to the interpretation of this Constitution shall be determined by the Court of Appeal sitting as the Constitutional Court'.*

Articles 137 (3) of the Constitution clearly sets out the matters that require constitutional interpretation,

137 (3) “*Any person who alleges that: -*

- 15 *(a) An Act of Parliament or any other law or anything in or done under the authority of any law; or*

(b) Any act or omission by any person or authority, is inconsistent with or in contravention of a provision of this Constitution, may petition the Constitutional Court for a declaration to that effect, and for redress where appropriate...”

- 20 **Article 137(3)** permits a petition where a law, act, or *omission* is alleged to be inconsistent with the Constitution. However, the Supreme Court has consistently held that this jurisdiction is confined to interpretation, not the original enforcement of rights in isolation.

- 25 **In *Ismail Serugo v. Kampala City Council & Attorney General*, SC Const. Appeal No. 2 of 1998**, Mulenga JSC held that:

- 30 *“The jurisdiction of the Constitutional Court is exclusively derived from Article 137 of the Constitution. It was not the holding of this Court that Article 50 confers on the Constitutional Court any additional and/or separate jurisdiction to enforce rights. An application for redress may be made to the Constitutional Court only in the context of a petition under Article 137 brought principally for interpretation.”*

In *Attorney General V. Major General David Tinyefuza*, SC Const. Appeal No. 1 of 1997, Wambuzi C.J. (as he then was) explained:

“In my view, the jurisdiction of the Constitutional Court is limited by Article 137(1) of the Constitution to interpretation of the Constitution. Put differently, no other jurisdiction apart from interpretation is given. Unless the question before the Constitutional Court depends for its determination on the interpretation or construction of a provision of the Constitution, the Court has no jurisdiction.”

In **Kabagambe v. Uganda Electricity Board**, Const. Petition No. 2 of 1999, the Constitutional Court stated:

“A person who seeks to enforce a right or freedom guaranteed under the Constitution, but whose claim does not call for interpretation of the Constitution, has to apply to any other competent court. The Constitutional Court is competent for that purpose only upon determination of a petition under Article 137(3). A declaration and redress can only be granted by this Court where appropriate when a matter is brought before it for interpretation. There cannot be a declaration without interpretation.”

In **Mbabali Jude v. Edward Kiwanuka Ssekandi**, Const. Petition No. 28 of 2012, Kasule JA cautioned:

“Jurisdiction to interpret the Constitution must not be abused or misapplied by litigants who bring matters to this Court that can be competently resolved in other fora.”

These authorities set the principle that this Court’s role is confined to interpretation. Enforcement of rights belongs primarily to the High Court under Article 50, unless a petition first discloses a genuine interpretive controversy under Article 137.

The Petitioners ask this Court to declare that the failure by Parliament to enact a law operationalising Qadhis Courts is inconsistent with Articles 20, 21 and 33, and to order the Executive and Parliament to pass such a law within a specified time, with reporting obligations. The relevant constitutional provisions are Articles 129(1)(d), 79(1)– (2), 20, 21 and 33.

In order to resolve the question as to whether the petition presents an interpretive question, one needs to look at the provisions of the constitution in dispute.

35 **129. The courts of judicature.**

(1) *The judicial power of Uganda shall be exercised by the courts of judicature which shall consist of—*

- 5 (a) *the Supreme Court of Uganda;*
 (b) *the Court of Appeal of Uganda;*
 (c) *the High Court of Uganda; and*
 (d) *such subordinate courts as Parliament may by law establish, including*
10 *qadhis' courts for marriage, divorce, inheritance of property and*
 guardianship, as may be prescribed by Parliament.

Article 79. Functions of Parliament.

- 15 (1) Subject to the provisions of this Constitution, Parliament shall have power to
 make laws on any matter for the peace, order, development and good governance of
 Uganda.
 (2) Except as provided in this Constitution, no person or body other than Parliament
 shall have power to make provisions having the force of law in Uganda except under
20 authority conferred by an Act of Parliament.

 The petitioners contend that the omission of the state to enact and pass a law that
 operationalizes Qadhis Courts under Article 129(1)(d) and Article 79(1) and (2) is
 inconsistent with and contravenes Article 20, 21, 33(1), (2), (3), (4) and (5) of the
25 Constitution of Uganda.

 Articles 20,21 and 33 are reproduced for clarity

Article 20 –Fundamental and other human rights and freedoms

- 30 (1) *Fundamental rights and freedoms of the individual are inherent and not granted*
 by the State.
 (2) *The rights and freedoms of the individual and groups enshrined in this Chapter*
 shall be respected, upheld and promoted by all organs and agencies of Government
 and by all persons.

Article 21 – Equality and freedom from discrimination

- 35 (1) *All persons are equal before and under the law in all spheres of political,*
 economic, social and cultural life and in every other respect and shall enjoy equal
 protection of the law.

5 (2) Without prejudice to clause (1) of this Article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.

(3) For the purposes of this Article, "discriminate" means to give different treatment to different persons attributable only or mainly to their respective descriptions by
10 sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.

(4) Nothing in this Article shall prevent Parliament from enacting laws that are necessary for—

15 (a) implementing policies and programmes aimed at redressing social, economic, educational or other imbalance in society; or

(b) making such provision as is required or authorised to be made under this Constitution; or

(c) providing for any matter acceptable and demonstrably justifiable in a free and democratic society.

20 (5) Nothing shall be taken to be inconsistent with this Article which is allowed to be done under any provision of this Constitution.

Article 33 – Rights of women

(1) Women shall be accorded full and equal dignity of the person with men.

25 (2) The State shall provide the facilities and opportunities necessary to enhance the welfare of women to enable them to realise their full potential and advancement.

(3) The State shall protect women and their rights, taking into account their unique status and natural maternal functions in society.

30 (4) Women shall have the right to affirmative action for the purpose of redressing the imbalances created by history, tradition or custom.

(5) Without prejudice to Article 32 of this Constitution, women shall have the right to equal treatment with men and that right shall include equal opportunities in political, economic and social activities.

35 It is a settled principle that the Constitution should be read as an integrated whole; all its provisions must be given effect and none should be read so as to render the

5 others meaningless or contradictory. In **Attorney General v. Salvatori Abuki & Anor, Constitutional Appeal No. 1 of 1998**, the Supreme Court stated that “*the entire Constitution has to be read together as an integrated whole, and no one particular provision destroying the other but each sustaining the other. All provisions bearing upon a particular subject are to be brought into view and*
10 *interpreted so as to effectuate the greater purpose of the Constitution.*”

Likewise, in **Okello Okello John Livingstone v. Attorney General & Anor, Constitutional Petition No. 4 of 2005**, the Constitutional Court held that “*the Constitution must be read as an integrated whole, and no one provision should be*
15 *read in isolation but rather in harmony with other provisions to give it full meaning and effect.*”

Accordingly, the constitutional provisions in question must be interpreted harmoniously, each sustaining the other, to give effect to the overarching intent of the framers. See also **Uganda Association of Women Lawyers (FIDA-U) v. Attorney General, Const. Petition No. 2 of 2003**.

20 The petitioners invited this Court to be guided by the spirit and purpose of the Constitution. They contended that the failure by Parliament to enact legislation operationalising the Qadhis Courts has created uncertainty, leaving both the Courts of Judicature and the Sharia Courts of Uganda Muslim Supreme Council to function with distinct procedures where decisions of the Islamic courts are non-binding.

25 They further submitted that this petition presents a challenge to systemic inaction by Parliament. In their view, the failure to enact a law operationalising the Qadhis Courts undermines the constitutional architecture and weakens the enforcement of rights guaranteed to Muslims in matters expressly recognised under Article 129(1)(d) of the Constitution.

30 This court is mindful of the caution expressed by Justice Remmy Kasule in *Mbabali Jude* (supra), that the jurisdiction to interpret the Constitution must not be abused or misapplied by litigants pursuing matters that can legitimately be resolved in other fora. At the same time the court notes that where there is an apparent conflict between constitution provisions or between the Constitution and an act or omission
35 of an authority, then a genuine question of interpretation arises which falls squarely within the jurisdiction of this court.

I have carefully considered the submissions of counsel for the petitioners. The arguments advanced, taken together with the authorities cited, disclose that the



5 petition raises a proper question for constitutional interpretation within the meaning
of Article 137 of the Constitution. The Court is satisfied that the omission of
Parliament to enact a law for the establishment of Qadhis Courts, as mandated by
Article 129(1)(d), is not merely a matter of enforcement of rights under Article 50,
10 but a constitutional question that calls for interpretation of the obligations imposed
by the Constitution itself. The absence of legislation to operationalize this provision
raises a legitimate concern regarding the extent to which parliament has fully
implemented the constitution. It is therefore my finding that the petition properly
invokes the interpretative jurisdiction of this Court.

I will now turn to the merits of the Petition.

15 **Petitioners submissions on issues 2,3,4&5**

**Whether the omission of the State to enact a law operationalizing Qadhi Courts
under Article 129(1)(d) and Article 79 contravenes Articles 20, 21 and 33 of the
Constitution.**

20 The Petitioners contend that the omission by the State to enact and operationalize a
law establishing Qadhis Courts, as envisaged under Articles 129(1)(d) and 79(1)
and (2) of the Constitution, is inconsistent with and in contravention of Articles 20,
21, and 33 of the Constitution. They argue that for the last thirty years since the
promulgation of the 1995 Constitution, the State has failed to give effect to a clear
25 constitutional command requiring Parliament to establish Qadhis Courts, thereby
denying Muslims their right of access to justice in a manner consistent with their
religious beliefs and practices.

The Petitioners rely on **Article 20(1)** of the Constitution, which provides that
fundamental human rights and freedoms are inherent and not granted by the State.
They submit that among these rights is the right of access to justice, which, for
30 Muslims, in matters of marriage, divorce, inheritance, and guardianship, can only
be meaningfully realized through courts structured in accordance with Islamic law.
They also invoke **Article 21**, which guarantees equality and freedom from
discrimination, providing that every person is equal before and under the law. It is
their submission that the continued failure by the State to establish Qadhis Courts
35 amounts to discrimination against Muslims, as it deprives them of a
constitutionally envisaged forum for the resolution of personal law disputes and
excludes them from enjoying equal access to justice guaranteed by the
Constitution.

5 The Petitioners further rely on **Article 79(1) and (2)**, which impose on Parliament the duty to make laws for peace, order, development and good governance, including laws necessary for the implementation of the Constitution, and on **Article 129(1)(d)**, which expressly contemplates the establishment of Qadhis Courts. They contend that by neglecting to enact such a law, the State has
10 abdicated its constitutional duty to operationalize a judicial system intended to serve Muslims in matters of personal law.

They maintain that this omission has had serious practical consequences. Many Muslims, particularly those in rural areas, are unable to access justice due to financial limitations, the procedural complexity of the formal judicial system, and
15 the backlog of cases in ordinary courts. Properly established and regionalized Qadhis Courts would provide a cost-effective, culturally appropriate, and accessible avenue for justice. The failure by the State to establish them is, in itself, discriminatory and contrary to the spirit of equality and inclusiveness that underpins the Constitution.

20 The Petitioners support their position with reference to regional and international human rights instruments. They cite the **African Commission on Human and People's Rights** decision in *Legal Resources Foundation v. Zambia* (Communication No. 211/98), which emphasized that the right to equality entails that all citizens be treated fairly within the legal system and assured equal
25 enjoyment of rights before the law. They also rely on the **Concluding Observations of the Committee on the Elimination of Discrimination Against Women (CEDAW)**, which urged Uganda to harmonize its justice system by enacting legislation under Article 129(1) for the establishment of Qadhis Courts. They further invoke **Article 8(a) and (f) of the Protocol to the African Charter**
30 **on the Rights of Women in Africa**, which obliges State Parties to ensure effective access to judicial services, reform discriminatory laws, and protect the rights of women. The Petitioners argue that Uganda's continued failure to operationalize Qadhis Courts constitutes a breach of its international obligations under these instruments.

35 They also draw comparative insight from Kenya, where **Article 170** of the Constitution provides for the establishment of Qadhis Courts. Kenya has since enacted detailed procedural laws governing their jurisdiction, the qualifications of Qadhis, the enforcement of judgments, and the codification of Qur'anic principles into statutory law. The Kenyan example, they argue, demonstrates the
40 practicability and necessity of translating constitutional text into effective legislation to ensure that Muslims have access to justice within their faith tradition.

5 In contrast, the Petitioners observe that in Uganda, disputes touching on Islamic law are informally adjudicated under the auspices of the **Uganda Muslim Supreme Council** through its Directorate of Sharia. This arrangement, they contend, lacks legal foundation, codification, and uniformity, resulting in non-binding and inconsistent determinations. They acknowledge that efforts were made
10 between 2009 and 2010 by the **Uganda Law Reform Commission** and the **Ministry of Justice and Constitutional Affairs** to draft a law establishing Qadhis Courts, but those efforts were never concluded, leaving the constitutional promise unfulfilled.

They further argue that the Respondent's admission that there is no law
15 specifically operationalizing Qadhis Courts confirms the State's failure to meet its constitutional obligation. The reference made by the Respondent to the *Marriage and Divorce of the Mohammedans Act*, Cap. 252, is said to be wholly inadequate, since that statute merely regulates matters of marriage and divorce but does not provide for adjudication of disputes. It entirely excludes guardianship and
20 inheritance of property, which are expressly envisaged under Article 129(1)(d) of the Constitution. The omission, therefore, results in a denial of the right of access to justice for Muslims in those essential areas of personal law.

The Petitioners also dismiss the Respondent's reliance on legislation authorizing Islamic banking as irrelevant to the constitutional question before the Court. They
25 argue that the establishment of Islamic banking institutions bears no relation to the constitutional duty to establish Qadhis Courts, which are judicial organs concerned with personal status matters rather than commercial transactions.

While acknowledging that Uganda is a secular State not governed by religious or canonical law, the Petitioners contend that the secular character of the State does
30 not absolve Parliament from its obligation under Article 79 to enact laws to operationalize express constitutional provisions. They maintain that secularism cannot be invoked as a pretext to avoid compliance with the Constitution and that, on the contrary, a secular State must accommodate and give effect to the diverse constitutional rights of its citizens, including those grounded in religion.

35 The Petitioners further argue that the absence of a statutory framework has left existing informal Sharia adjudicatory practices largely male-dominated, lacking procedural safeguards, and susceptible to inconsistent or biased interpretations. This situation, they assert, undermines the constitutional guarantees of equality and women's rights. They emphasize that the continued failure to enact a law
40 establishing Qadhis Courts contravenes **Article 33**, which secures the rights and

5 dignity of women, as well as **Article 21**, which guarantees equality and freedom from discrimination.

They particularly rely on **Article 33(1)– (5)**, which accords women full and equal dignity with men, mandates the State to enhance their welfare, protects their rights taking into account their unique status and maternal functions, guarantees equal
10 treatment and opportunities, and obliges the State to take affirmative action to redress historical imbalances. They cite *Uganda Association of Women Lawyers & Others v. Attorney General* (Constitutional Petition No. 2 of 2003), where this Court underscored Parliament’s duty to enact implementing legislation to give practical effect to constitutional guarantees.

15 In conclusion, the Petitioners maintain that the continued omission by the State to enact a law operationalizing Qadhis Courts is inconsistent with and in contravention of Articles 20, 21, and 33 of the Constitution. They argue that this omission denies Muslims access to justice in personal law matters, perpetuates inequality, undermines the rights of women, and violates Uganda’s constitutional
20 and international obligations. They therefore pray for declarations to that effect and for consequential orders compelling Parliament to enact the necessary legislation to give full operational meaning to Article 129(1)(d) of the Constitution.

Respondent’s submissions.

Relating to the substance of the petition, particularly whether the omission of the
25 State to enact a law operationalizing Qadhis Courts under Article 129(1)(d) and Article 79(1) and (2) contravenes Articles 20, 21 and 33(1)– (5) of the Constitution, it was submitted for the Respondent that the failure to operationalize Qadhis Courts does not contravene Article 20 of the Constitution, as alleged by the Petitioners. Counsel contended that although the Constitution empowers Parliament to enact a
30 law establishing Qadhis Courts, the provision is not a direct or automatic requirement. While the Constitution contemplates the establishment of Qadhis Courts for matters of marriage, divorce, inheritance and guardianship of persons professing the Mohammedan faith, no specific law has been enacted to operationalize them. However, Section 2 of the Marriage and Divorce of
35 Mohammedans Act provides that Muslims may handle their marriage and divorce matters in accordance with their customs (Sharia).

It was further submitted that under the courts of judicature, the High Court enjoys unlimited original jurisdiction as provided in Section 14 of the Judicature Act. According to Counsel, there is nothing preventing the Petitioners from taking their

5 cases to the established court system, particularly the High Court. Counsel cited Article 274 of the Constitution, which provides that existing laws shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

10 On the Petitioners' argument that Muslim women are compelled to adjudicate conflicts through an informal justice system that is largely unregulated, undocumented and lacking in legal force, the Respondent argued that there is already a legal framework in place. Section 2 of the Marriage and Divorce of Mohammedans Act, Cap. 252, was cited as evidence of such operational law. It was further submitted that the failure to operationalize Qadhis Courts has not resulted in a denial
15 of access to justice or the infringement of other fundamental rights such as the right to a fair hearing. In addition to the Mohammedans Act, Parliament has passed legislation authorizing Islamic banking and amending tax laws to accommodate Islamic finance, thereby addressing the needs of the Muslim community.

20 The Respondent emphasized that the judicature system in Uganda is open to all Ugandans without segregation on the basis of religion. Uganda is a secular state under Article 7 of the Constitution, governed by the Constitution, statutory law, case law derived from common law and equity, and principles of justice, equity and good conscience. It was therefore submitted that Uganda is not governed by canon or religious law, and the omission to operationalize Qadhis Courts cannot be construed
25 as a violation of Article 20 of the Constitution.

On whether the omission contravenes Article 21, Counsel submitted that discrimination is defined under Article 21(3) as giving different treatment to different persons solely on the basis of sex, race, colour, ethnic origin, tribe, birth, creed, religion, social or economic standing, political opinion or disability. Article
30 21(4) further empowers Parliament to make laws implementing policies and programmes of affirmative action to redress imbalances in society, provided they are demonstrably justifiable in a free and democratic society.

It was argued that while differential treatment on the specified grounds is prohibited, not all distinctions amount to discrimination. A distinction or differentiation only
35 qualifies as discrimination if it lacks objective or rational justification, is unnecessary or disproportionate. Counsel cited **African Commission on Human and Peoples' Rights v. Kenya, Application No. 006/2012**, Judgment of 26 May 2017, para 139, where it was held that distinctions must be objectively and rationally justified. They also referred to **Federation of Women Lawyers (FIDA-K) & 5**



5 **Others v. Attorney General & Another, Kenya Petition No. 102 of 2011**, where the High Court of Kenya emphasized that a provision is unconstitutional if the difference it creates has no reasonable connection with the legislative objective.

Respondent's counsel further relied on **Willis v. The United Kingdom (Application No. 36042/97)**, where the European Court of Human Rights held that
10 discrimination means treating differently, without any objective and reasonable justification, persons in similar situations. They also referred to **Andrews v. Law Society of British Columbia [1989] 1 SCR 143**, where McIntyre J observed that the essence of discrimination lies in differential treatment that is arbitrary and unfair. The South African Constitutional Court decision in **Harksen v. Lane NO and
15 Others [1997] ZACC 12; 1998 (1) SA 300 (CC); 1997 (11) BCLR 1489 (CC)** was also invoked for its three-part test on whether differentiation amounts to unfair discrimination.

Counsel submitted that under these authorities the Constitution prohibits only *unfair* discrimination, which is differential treatment that is demeaning or arbitrary. Mere
20 differentiation, where rational and proportionate, is permissible. In their view, since all Ugandans, including Muslims, access the same courts of judicature without segregation on religious grounds, the omission to operationalize Qadhis Courts does not amount to discrimination.

Turning to Article 33, Counsel conceded that equality before the law and freedom
25 from discrimination are constitutionally guaranteed, particularly with respect to the protection of women. However, they stressed that the Constitution itself recognizes exceptions, including affirmative action, which do not amount to discrimination. Reliance was placed on Article 43(2)(c), which allows derogation of rights where such derogation is acceptable and demonstrably justifiable in a free and democratic
30 society. Counsel further invited Court to consider **Constitutional Appeal No. 1 of 2016, Christopher Martin Madrama Izama v. Attorney General**, where it was held that exceptions to strict equality, where justified, do not offend the Constitution.

On the aspect of religious freedom, Counsel emphasized that the right to freedom of religion is a matter of personal choice under Article 29 of the Constitution.
35 Individuals are free to choose or not to choose a religion, and to manifest their faith in the manner they see fit. They referred to **Serbian E. Orthodox Diocese v. Milivojevich 426 US 696, 713 (1976)**, cited with approval in **Christopher Madrama Izama v. Attorney General (supra)**, where it was observed that religious controversies are not proper subjects for civil court adjudication.

5 In conclusion, Counsel for the Respondent submitted that even though Parliament has not enacted a law to give effect to Article 129(1)(d) of the Constitution, the existing court system accommodates all Ugandans without discrimination. The omission to establish Qadhis Courts does not contravene Articles 20, 21 or 33 of the Constitution. Counsel prayed that the Petition be dismissed.

10 **Consideration by court.**

The issue for determination is whether the omission by the State to enact and pass a law operationalising Qadhis Courts under Articles 129(1)(d) and 79(1) and (2) of the Constitution is inconsistent with and in contravention of Articles 20, 21 and 33 of the Constitution.

15 The Petitioners contended that the State's failure, for more than three decades, to legislate for the establishment of Qadhis Courts has deprived Muslims of a constitutionally envisaged avenue of access to justice and amounts to discrimination contrary to Articles 20, 21 and 33. They argued that meaningful access to justice for Muslims in matters of marriage, divorce, inheritance and guardianship can only be
20 realised through courts consistent with their faith. They further submitted that the absence of a statutory framework forces Muslim women to rely on informal mechanisms that are largely unregulated, thereby undermining the protections guaranteed by Article 33.

Counsel for the Respondent acknowledged that Article 129(1)(d) contemplates the
25 establishment of Qadhis Courts but maintained that the provision is enabling rather than mandatory. While Parliament is empowered to create such courts, the Constitution does not impose an automatic duty to legislate within a specific timeframe. Counsel pointed to Section 2 of the Marriage and Divorce of Mohammedans Act, Cap. 252, which already permits Muslims to solemnise and
30 dissolve marriages in accordance with their customs. They further emphasised that the High Court enjoys unlimited original jurisdiction under Section 14 of the Judicature Act and remains open to all persons, including Muslims, for the adjudication of personal-law disputes.

The Respondent also relied on Article 274 of the Constitution, which requires
35 existing laws to be construed with such modifications as are necessary to conform to the Constitution. Counsel submitted that the failure to operationalise Qadhis Courts has not resulted in denial of access to justice because Muslims, like all Ugandans, may approach the regular courts for redress. It was further argued that



5 Uganda is a secular State under Article 7, governed by the Constitution and laws of general application, not by canon or religious law. Parliament has, in fact, enacted measures such as the Marriage and Divorce of Mohammedans Act and Islamic banking legislation to accommodate aspects of Muslim practice.

10 On the question of discrimination, the Respondent argued that; not all distinctions constitute discrimination. Article 21(3) prohibits only *unfair* discrimination, meaning differential treatment that is arbitrary, unjustifiable, or demeaning. Counsel maintained that since all Ugandans have equal access to the same secular courts, the omission to create Qadhis Courts does not amount to unequal or discriminatory treatment. With regard to Article 33, it was submitted that the constitutional
15 protections for women remain fully applicable to Muslim women within the ordinary court system.

The questions before this Court, therefore, are twofold: (i) Whether Parliament has failed to legislate for the establishment of Qadhis Courts; and (ii) If so, whether that omission infringes Articles 20, 21 and 33 as alleged.

20 Article 129(1)(d) provides that the courts of judicature shall consist of:

“... such subordinate courts as Parliament may by law establish, including Qadhis Courts for marriage, divorce, inheritance of property and guardianship, as may be prescribed by Parliament.”

25 The operative words **“may by law establish”** and **“as may be prescribed by Parliament”** are permissive and enabling, rather than mandatory. They confer discretion upon Parliament to establish such courts when it deems fit rather than imposing a self-executing obligation to legislate within a defined timeframe. This conforms with the approach stated in *David Wesley Tusingwire v. Attorney General, SC Const. Appeal No. 4 of 2016*, where Katureebe CJ held that: **“the starting point
30 is the constitutional text, and where the language is plain and admits of only one meaning, that meaning must be applied.”** The textual clarity of Article 129(1)(d) thus leaves no room to infer a constitutional compulsion to enact the law within a particular period.

35 In contrast, Article 170(3) of the Constitution of Kenya adopts directory and mandatory language. It provides that:

Parliament shall establish Kadhis' courts, each of which shall have the jurisdiction and powers conferred on it by legislation, subject to clause (5).

5 Clause (5) further confines the jurisdiction of the Kadhis' courts established under Article 170 to matters of Islamic law relating specifically to personal status, marriage, divorce or inheritance. The use of the word "**shall**" denotes a constitutional command, not a discretion. It imposes an express duty upon the Kenyan Parliament to establish such courts as part of the judicial structure, leaving
10 only the details of jurisdiction and procedure to subsequent legislation.

Accordingly, while the Ugandan provision Under Article 129(1)(d) is permissive and enabling, creating a constitutional possibility dependent on legislative initiative, the Kenyan provision under Article 170(3) is directory and obligatory, constituting a self-executing constitutional directive. The comparative analysis demonstrates that
15 the omission by the Ugandan Parliament to enact a law operationalizing Qadhis' Courts cannot in itself amount to a constitutional violation.

Article 79 of the Constitution of the Republic of Uganda confers upon Parliament the general power to make laws for the peace, order, development and good
20 governance of Uganda. These provisions allocate legislative competence to Parliament but do not create a mandatory duty to legislate in respect of any particular matter unless expressly stated.

While considering the legal consequences of Parliament's omission to enact a law for the establishment of Qadhis Courts, this Court bears in mind the constitutional
25 guarantees under Article 20, which affirms that fundamental rights and freedoms are inherent and not granted by the State; Article 21, which prohibits discrimination on enumerated grounds, including religion; and Article 33, which protects the rights of women and mandates affirmative action to redress historical imbalances.

It is true that the prolonged inaction of Parliament has left Article 129(1)(d) largely
30 dormant. However, I am unable to conclude that the omission, in itself, amounts to discrimination contrary to Articles 20, 21 or 33. The Petitioners have not demonstrated that Muslims are denied access to justice in the courts of judicature established under the Constitution. On the contrary, Section 14 of the Judicature Act, read together with Article 274 of the Constitution, vests the High Court with
35 unlimited original jurisdiction to adjudicate all disputes, thereby ensuring that all citizens, irrespective of faith, have an avenue to seek remedies, including in matters of personal status.



5 Additionally, existing legislation, such as the Marriage and Divorce of
Mohammedans Act, though limited in scope, provides a statutory framework
enabling Muslims to regulate key aspects of marriage and divorce in accordance
with their customs. These mechanisms, while not exhaustive, demonstrate that the
constitutional guarantees of equality and access to justice remain available to
10 Muslims despite the absence of a specific law operationalising Qadhis Courts.

The authorities cited by the Respondent correctly emphasise that not every failure to
create a specialised forum amounts to discrimination. The essence of discrimination
is unequal treatment that is arbitrary or unjustifiable. In the present case, all
Ugandans, including Muslims, share equal access to the same secular courts and
15 enjoy the protection of the same substantive laws. The omission to establish Qadhis
Courts does not deprive Muslim women of the safeguards guaranteed by Articles 21
and 33, since those protections remain enforceable in the regular courts.

Issue No. 5

Remedies

20 In the result, I find that although the Constitution contemplates the establishment of
Qadhis Courts and the absence of enabling legislation raises a genuine constitutional
question, the Petitioners have not established that the omission of the state to enact
and pass a law that operationalizes Quadhis Courts under Articles 129(1)(d) and
Article 79(1) and (2) is inconsistent and in contravention of Articles 20, 21, 33(1),
25 (2), (3), (4) and (5) of the Constitution of the republic of Uganda.

I would further find that, the existing legal framework, including the High Court's
unlimited jurisdiction and the Marriage and Divorce of Mohammedans Act affords
Muslims access to justice and protects the rights of women regardless of religion.

Parliament may, at an appropriate time and in accordance with its legislative
30 mandate, enact a law to give effect to Article 129(1)(d), should it deem it necessary
for the better administration of justice.

I would decline to grant the prayer to compel the Executive and Parliament to enact
and pass a law operationalising Quadis Courts within one year.

35

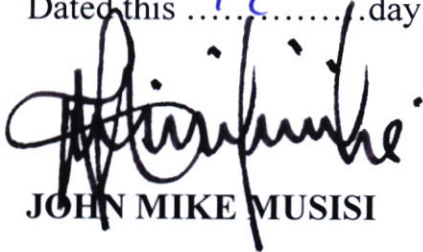


5 **Conclusion**

In the result, the petition fails, in respect of the orders sought. I would propose that each party bears its costs given that the question sought to be answered on this petition is a matter of public importance.

10

Dated this 12th day of December 2025



JOHN MIKE MUSISI

15 **JUSTICE OF THE CONSTITUTIONAL COURT**

THE REPUBLIC OF UGANDA
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

[Coram: F. Zeija, DCJ, Egonda-Ntende, K K. Katunguka, F. Nakachwa, J.M Musisi, JJCC.]

CONSTITUTIONAL PETITION NO. 0010 OF 2024

BETWEEN

- 1. MWANGA MASTULLAH ASHAH**
- 2. ISLAMIC WOMEN'S INITIATIVE
FOR JUSTICE LAW, AND PEACE**

}

..... PETITIONERS

AND

ATTORNEY GENERAL

..... RESPONDENT

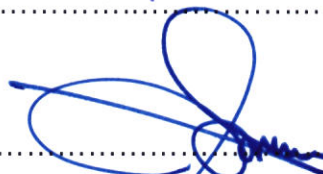
JUDGMENT OF DR. FLAVIAN ZEIJA, DCJ

I have had the benefit of reading in draft the Judgment of Justice John Mike Musisi, JCC.
I agree with his findings, reasoning and conclusion that this petition fails.

As Egonda-Ntende, Katunguka & Nakachwa , JJCC, also agree, this petition is dismissed
with each party bearing their own costs.

It is so ordered.

Dated at Kampala this..... day of 2025



.....
Flavian Zeija (PhD)

DEPUTY CHIEF JUSTICE

THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

[Coram: Dr. Zeija, DCJ, Egonda-Ntende, Katunguka, Nakachwa, & Musisi, JJCC]

Constitutional Petition No. 10 of 2024

BETWEEN

Mwanga Mastullah Ashah=====Petitioner No.1

Islamic Women's Initiative for Justice, Law and Peace=====Petitioner No.2

AND

Attorney General=====Respondent

JUDGMENT OF FREDRICK EGONDA-NTENDE, JCC

I have had the opportunity of reading in draft the judgment of our brother, Musisi, JCC. I agree with it and have nothing useful to add.

Signed, dated and delivered at Kampala this 17th day of December 2025



Fredrick Egonda-Ntende
Justice of Appeal

THE REPUBLIC OF UGANDA
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA
CONSTITUTIONAL PETITION NO. 0010 OF 2024

BETWEEN

1. MWANGA MASTULLAH ASHAH	}	
2. ISLAMIC WOMEN'S INITIATIVE	}	
FOR JUSTICE, LAW AND PEACE		PETITIONERS

AND

ATTORNEY GENERAL	}	RESPONDENT
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[Coram: F. Zeija DCJ, Egonda Ntende, K K. Katunguka, F.Nakachwa, J M.
Musisi, JJCC]

JUDGEMENT OF KETRAH KITARIISIBWA KATUNGUKA, JCC

I have had the opportunity to read in draft the judgment prepared by my learned brother Hon. Justice John Mike Musisi, JCC. I agree with his reasoning, finding and conclusions. I have nothing useful to add.

Dated at Kampala this 17th day of December 2025



Ketrah Kitariisibwa Katunguka
Justice of the Constitutional Court.

THE REPUBLIC OF UGANDA
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA
[Coram: Dr. F. Zeija DCJ, F. Egonda Ntende, K. K. Katunguka,
F. Nakachwa, J. M. Musisi, JJCC]
CONSTITUTIONAL PETITION NO. 0010 OF 2024

BETWEEN

1. MWANGA MASTULLAH ASHAH	()	
2. ISLAMIC WOMEN'S INITIATIVE		
FOR JUSTICE, LAW AND PEACE	()	PETITIONERS

AND

ATTORNEY GENERAL	()	RESPONDENT
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JUDGMENT OF FLORENCE NAKACHWA, JCC.

I have read the draft judgment of my learned brother, Justice John Mike Musisi, JCC. I agree with the analysis, reasoning and conclusion that this petition has failed and I would dismiss it with no orders as to costs.

Dated at Kampala this 17th day of December 2025


Florence Nakachwa

JUSTICE OF THE CONSTITUTIONAL COURT.