

MUSLIM CENTRE FOR JUSTICE AND LAW

CONSULTANCY PROJECT

**“THE CHALLENGES OF REGISTRATION OF MARRIAGES IN
UGANDA. A CASE STUDY OF MUSLIM COMMUNITIES IN
UGANDA.”**

CONSULTANT:

SENKUMBA AHMED

(LLM, LLB, MAK, Dip. L.P (LDC); Dip in Revenue and Tax Administration (DITRA-EAST),
Advocate of the High Court of Uganda, Lecturer-Faculty of Law Islamic University In Uganda
Kampala Campus.

P.O Box 33360 Kampala, Uganda

Email: senkumbaah@yahoo.co.uk

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LIST OF STATUTES

1. Constitution of the Republic of Uganda 1995 as amended.
2. Customary Marriage (Registration) Act Cap.248.
3. Hindu Marriage and Divorce Act Cap. 250.
4. Marriage Act Cap.251
5. Marriage and Divorce of Mohammedans Act Cap.254.
6. Registration of Persons Act 2015.
7. Uganda Registration Service Bureau Act Cap 210

REGULATIONS

1. The Marriage and Divorce of Mohammedan (Appointment of Registrars) (Amendment) Order 2014. No. 23
2. The Marriage and Divorce of Mohammedans (fees) (Amendment) Order 2014. No. 24

ACRONYMS

1.	CAO	Chief Administrative Officer
2.	CAP	Chapter
3.	E-FILING	Electronic Filing
4.	FBOs	Faith Based Organizations
5.	MCJL	Muslim Centre for Justice and Law
6.	UBOS	Uganda Bureau of Statistics
7.	UGX	Uganda Shillings
8.	UMSC	Uganda Muslim Supreme Council
9.	URSB	Uganda Registration Services Bureau
10.	US\$	United States Dollars
11.	WB	World Bank

ABSTRACT

Registration of a Muslim marriage is a legal requirement under the Marriage and Divorce of Mohammedan Act Cap. 254 upon payment of a prescribed fee to the government. The Registrar general is charged with registration Muslim marriages in Kampala whereas the Chief Administrative Officers are the district registrars of Muslim marriages in respect of a Muslim marriage solemnized in his or her district or area.

This study made a critical examination of the Challenges of registration of marriages in Uganda, a case study of the Muslim community in Uganda. This is premised on the apparent concern that according to the statistics available with the Uganda Registration of Service Bureau, very few Muslim marriages are registered hence the need to examine the challenge and appropriate redress.

The study reveals that the challenges to Muslim marriage registration in Uganda range from economic, social and political factors. The high registration fees in relation to the poverty level in Uganda remain a great challenge yet there is no or limited government support in the entire exercise. The situation is aggravated by the lack of awareness of the need to register a marriage and the disunity within the Muslim community in Uganda.

The study findings and recommendations provide a premise for the legal and policy reforms so as to overcome the various challenges associated with registration of marriages within the Muslim community.

GENERAL OVERVIEW OF THE RESEARCH STUDY.

1 GENERAL INTRODUCTION

1.1 Background of the study

The Marriage and Divorce of Mohammedans Act is an Act that Commenced on the 15th April, 1906 relating to Marriage and Divorce of Mohammedans. It provides for the registration of marriages within the Muslim Community in Uganda. However, though Muslim marriages are celebrated on daily occurrence, few such marriages are registered with the Uganda Registration Services Bureau (URSB).

This research, which was commissioned by the Muslim Centre for Justice and Law (MCJL) investigates the challenges faced by the Muslim community in registration of marriages in Uganda and makes a case for redressing such challenges.

1.2 Objectives of the study.

1.2.1 General objectives

The overall objective of this research was to develop a position paper highlighting the challenges of registration of marriages in Uganda: A case study of Muslim communities in Uganda.

1.2.2 Specific Objectives were;

- (a) To identify challenges involved in the registration of Muslim marriages in Uganda
- (b) To identify gaps and anomalies in the current laws relating to registration of Muslim marriages in Uganda
- (c) To identify the various practices in the celebration and registration of Muslim marriages in Uganda
- (d) To amass an evidence base of data or statistics relating to registration of Muslim marriages.
- (e) To raise awareness of the challenges of registration of Muslim marriages in Uganda.

- (f) To propose recommendations and identifying best practices to improve on the registration process within the Muslim community.

1.3 Scope of the study

1.3.1 Subject scope

This study examined the challenges of the registration of marriages in Uganda and makes a case study of the Muslim community in Uganda. The study investigates the various recognized marriages in Uganda and the requirement for their registration and considers the challenges of registration of marriages within the Muslim community and proposes redress to such challenges.

1.3.2 Geographical scope

Since the Uganda Registration Services Bureau (URSB) and the major respondents of the study like the Uganda Muslim Supreme Council (UMSC), Kibuli mosque are in Kampala, the study was conducted within Kampala District although relevant illustration and comparisons were got from elsewhere.

1.3.3 Temporal scope

The study was conducted for a period of two weeks from the 3rd -15th of July 2017. This was the period assigned for the research study.

1.4 Methodology

A mixed approach of both qualitative and quantitative research designs were employed. This is because the study involved understanding the various challenges relating to the registration of Muslim marriages in Uganda and also considering the various figures of registered Muslim marriages.

Various methods of data collection were used to obtain both primary and secondary data. An extensive literature review was undertaken of various documents like journals, books, documentations, articles on Muslim marriage registration. This was done to ensure that before any information is obtained, the researcher has some material about the subject.

Interview guides were used to obtain primary data from the respondents who were officials from the Uganda Registration Service Bureau (URSB), Uganda Muslim Supreme Council (UMSC) and Kibuli mosque. Other methods include observation and document analysis.

1.5 Significance of the study.

The study will help in understanding the challenges faced by the Muslim community in registration of marriages in Uganda.

The recommendation of the study will assist policy makers like the government officials, members of parliament, Uganda Registration Service Bureau (URSB) and others to implement policies for the easy registration of Muslim marriages in Uganda.

The study has added on the existing body of knowledge.

2 REGISTRATION OF MARRIAGES IN UGANDA; A CASE OF MUSLIM MARRIAGES IN UGANDA.

2.1 Purpose of Marriage registration.

The discussion that has always raged on revolved around why register a marriage with the government of Uganda. Marriage registration has various purposes:

Every certificate of marriage that has been filed with the Uganda Registration Service Bureau (URSB) is admissible as evidence of the marriage to which it relates; in any court of law or before any person having by law or consent of the parties, authority to receive on it.¹

A registered marriage is a safeguard for spousal benefits like insurance, pension, citizenship, immigration, emigration, family resettlements as well as inheritance of estates upon the demise of spouse²

Marriage records provided to URSB by marriage celebrants are used to compile a marriage data bank. A credible marriage data bank is a safeguard against bigamy, polygamy and polyandry in case of Church and Civil marriages. Many people spend huge sums of money contracting marriages to parties that have subsisting marriages and have no legal capacity to marry³

¹ Bemanya Twebaze, Registration of Marriages in Uganda, June 06, 2016, Retrieved on 12th July 2017 from www.ursb.go.ug

² Ibid

³ Ibid

Marriage registration is aimed at ensuring that the end users of these marriage records are equipped with evidential value for the protection of related rights as well as to assist the government of Uganda to build a credible marriage data base.⁴

Planning purpose by the government. It is the objective of the government to migrate its citizens from the informal sector to the formal sector by acquiring statistics about its people. It is incumbent on the government to know how many Ugandans are legally married in order to make projections and plan for the society in that regard. Marriage registration can therefore be used to determine demographic trends and predict population dynamics.⁵

Travel purposes. Anyone who travels with another person such as spouse, siblings, parents, relative, children etc. have to be supported by verifiable documents. Travel is not only for the luxury of vacations and anniversaries, but also for the necessity of health. Many a time couple get hindered from travelling when one is in poor health due to invalid marriage certificate.⁶

2.2 Recognized Marriages in Uganda

The Constitution of the Republic of Uganda 1995 as amended guarantees the right of a man and a woman of eighteen years and above to marry⁷ and the marriage should be entered into with the free consent of the man and woman intending to marry.⁸

Uganda has got several forms of recognized marriages. These are Muslim, Customary, Church, Civil and Hindu Marriages. Muslim marriages are celebrated in accordance with rites and observance of the Islamic faith, between persons professing the Islamic

⁴ Ibid

⁵ Kalibala, (2017). 'Making a case for registration of marriages in Uganda'. Publication of Uganda Registration Service Bureau Registry newsletter April-June 2017 Issue 9 Volume 9. Retrieved from www.ursb.go.ug. on 15th July 2017.

⁶ Ibid

⁷ Article 31(1) of the Constitution

⁸ Article 31(3) of the Constitution

religion.⁹ Customary marriages are celebrated according to the rites of an African community and one of the parties to the marriage must be a member of that community¹⁰. Church marriages are celebrated in any licensed place of worship according to the rites or usages of marriages observed by a particular religious denomination¹¹. Hindu marriages are celebrated between Hindus or persons of allied religions like Buddhists of Indian origin, jains or Sikhs¹² and Civil marriages are celebrated in the offices of the Registrars of marriages¹³.

Registration of marriages in Uganda is governed by the Marriage and Divorce of Mohammedans Act Cap.254, Marriage Act Cap.251, Customary Marriage (Registration) Act Cap.248, and the Hindu Marriage and Divorce Act Cap. 250.

2.3 Registration of Muslim Marriages in Uganda

Section 2 of the *Marriage and Divorce of Mohammedans Act* provides that “All marriages between persons professing the Mohammedan religion, and all divorces from such marriages celebrated or given according to the rites and observance of the Mohammedan religion customary and usual among the tribe or sect in which marriage or divorce takes place shall be valid and registered as provided in this Act.”

Section 3 of the Act gives the minister powers by statutory order to appoint any person called a registrar, to register Mohammedan marriages which have been effected within certain specified limits.

Muslim marriage registrars are provided under *The Marriage and Divorce of Mohammedan (Appointment of Registrars(Amendment) Order 2014*. Rule 2(1) of the Order provides that the Registrar General is the registrar of marriages and divorces of Mohammedans in Kampala. Rule 2(2) provides that the Chief Administrative officers

⁹ Marriage and Divorce of Mohammedans Act Cap. 254

¹⁰ Customary Marriage (Registration) Act Cap.248

¹¹ Marriage Act Cap.251

¹² Hindu Marriage and Divorce Act Cap. 250

¹³ Supra note 11.

are the district registrar of marriage and divorce of Mohammedans in respect of registrable marriage and divorces solemnized in his or her district or area.

Wandera,¹⁴ a records officer attached to the civil registration department of the Uganda Registration Service Bureau (URSB) confirmed that URSB registers various Muslim marriages. That at the district level, the Chief Administrative Officer (CAO) is responsible for registering marriages including Muslim marriages and file returns with the URSB. He noted however that there is an issue of non-compliance by majority of the districts. That in relation to the Muslim marriages the record files with the URSB are for Kampala, Wakiso, Mpigi, Butambala and Mbale.

Section 5 of Marriage and Divorce of Mohammedan Act makes it mandatory to register a marriage. Application shall be made within one month from the date of marriage. However non-registration does not render the marriage invalid as per section 16 of the Act.

The practice is that upon completion of a marriage in the mosque, the couples are issued with a marriage certificate by the person who officiated over their ceremony. The marriage celebrant should file marriage returns with the Registrar of Marriages within one month of conducting the marriage. This is done by the marriage celebrant transmitting an official letter head from the mosque and a certified copy of the marriage extract to URSB.¹⁵

Wandera observed that the Uganda Muslim Supreme Council (UMSC) at Old Kampala and Kibuli mosque have been consistent in filing returns for Muslim marriages with the URSB though it is also possible to receive a Muslim marriage return celebrated from elsewhere provided there is a cover letter coming from the authority that celebrated the

¹⁴ Wandera Joel, Personal interview held on 6th July, 2017 at the URSB, 4th Floor.

¹⁵ Bemanya Twebaze, Registration of Marriages in Uganda, June 06, 2016, Retrieved on 12th July 2017 from

www.ursb.go.ug

marriage with seal or stamp.¹⁶ Ali Mpanso¹⁷, the registrar directorate of Shariah at the UMSC, headquarters at Old Kampala stated that registering marriage at the URSB is a daily occurrence immediately after a marriage has been celebrated while Gotto¹⁸, the superintendent at Kibuli mosque stated that submitting marriage returns with the URSB is at the end of the month but in case of any urgency the return is immediately submitted to the URSB at a fee by the interested party.

The fees for registering marriages and divorce under the Marriage and Divorce of Mohammedan Act are provided under *The Marriage and Divorce of Mohammedans (fees) (Amendment Order 2014.)*. For filing a marriage return nationals pay Ugx. 35,000/- and foreigners pay US\$.35. For a certified copy of the marriage return nationals pay Ugx. 35,000/- and foreigners pay US\$. 25.

The above fee is confirmed by URSB on their website.¹⁹ Mpanso stated that the practice at the UMSC is to charge the nationals Ugx. 75,000/- (Uganda Shillings Seventy Five Thousand only) and foreigners a fee between US\$ 70-US\$ 100 for filing marriage returns, certification of marriage returns and relevant bank charges.²⁰ The fee is exclusive of the mosque fees. On the other hand Gotto stated that at Kibuli mosque, the mosque fee of Ugx. 500,000/- charged is inclusive of the filing marriage return with the URSB.²¹

The available statistics from the Uganda Registration Service Bureau (URSB) relating to the filing of Muslim marriage returns from January-June 2017 as of 6th July 2017 was as follows²²;

¹⁶ Supra note 14.

¹⁷ Sh. Twaibu Ali Mpanso, Personal interview on 07th July 2017 at the Uganda Muslim Supreme Council headquarters, Old Kampala Mosque.

¹⁸ Gotto Hussein, Personal Interview on 9th July 2017 at Kibuli Mosque offices.

¹⁹ URSB, Marriage fees, retrieved on 5th July 2017 from www.ursb.go.ug

²⁰ Supra note 17

²¹ Supra note 18.

²² Data as provided by Wandera Joel, Records officer attached to the civil registration department, Personal interview held on 6th July, 2017 at the URSB, 4th Floor.

Sr. No.	Month of the year 2017	Number of Muslim marriage returns filed with the URSB.
1.	January 2017	40 returns
2.	February 2017	44 returns
3.	March 2017	55 returns
4.	April 2017	49 returns
5.	May 2017	54 returns
6.	June 2017	36 returns

3 THE CHALLENGES OF REGISTRATION OF MUSLIM MARRIAGES IN UGANDA.

3.1 Introduction

The nature of a Muslim marriage is simple since as it just requires consenting and competent couple (who are of marriageable age), consent of the bride's guardian, Mahr /bridal gift, in the presence of two witnesses²³ and the marriage can be celebrated anywhere.

However despite the many Muslim marriages celebrated countrywide in Uganda, available statistics from the Uganda Registration Service Bureau a government agency mandated to register all marriages that take place in Uganda reveals that very few Muslim marriages are registered. This research therefore investigated the challenges of registering Muslim marriages in Uganda.

3.2 The challenges of registration of Muslim marriages in Uganda can systematically be categorized into economic, social and political factors.

3.2.1 Economic factors

3.2.1.1 High fees for filing a marriage return with URSB.

The amount of Ugx. 35,000/- for filing marriage return by the nationals does not put into consideration the rural areas who also solemnize marriages but cannot afford the filing fees. According to the World Bank report of 2016, most of the poor in Uganda live in rural area. In 2013, approximately 84 percent of the poor lived in the Northern

²³Sewaya, 2017, Guideline for local and national service delivery framework in the Muslim justice system, MCJL.

and Eastern regions of the country.²⁴ In fact according to the National Population and housing census 2014, of the total 4,663,2014 Muslims in Uganda, 3,239,201 Muslims live in rural areas²⁵ and Iganga District in the East of Uganda had the highest percentage of Muslims.²⁶ Mpanso observed that the fee for filing marriage return is high for the up country people.²⁷ He noted that not all marriages celebrated in the UMSC structures are registered. That the national headquarter at UMSC distributes marriage booklets at a fee to the various imams of mosques country wide who officiate the celebration of marriages after which the district imam or the interested bride and /groom forwards the certificate for registration. That those who register it is well and good and those who do not it's left to themselves.²⁸ Gotto too noted that the filing fees is too much to be afforded by the ordinary Muslims.²⁹ The paradoxical however is that unlike the Marriage Act that grants a minister powers upon satisfaction of the poverty of the parties to reduce the amount of the fees or remit them altogether and if paid into the consolidated fund to order their refund, the Marriage and Divorce of Mohammedans Act lacks such a similar provision.³⁰

In additional, is the fee charged from asylum seekers or refugees. Those who have received refugee cards from the office of the prime minister are required to pay Ugx. 35,000 despite being refugees. Those who have not yet received refuge cards are treated like any other foreigner and subjected to an exorbitant filing fee of US\$.35. This poses a serious question of their ability to pay this amount considering their refugee status.

²⁴ World Bank, The Uganda Poverty Assessment Report 2016, retrieved from pubdocs.worldbank.org on 17th July 2017.

²⁵ Uganda Bureau of Statistics 2016, The National Population and Housing Census 2014-Main Report, Kampala, Uganda

²⁶ United States Department of State. 'Uganda'. International Religious Freedom Report 2015. Retrieved from www.state.gov on 17th July 2017.

²⁷ Supra note 17

²⁸ Ibid

²⁹ Supra note 18.

³⁰ Sec. 39 of the Marriage Act Cap. 251

3.2.1.2 Lack of financial support from the URSB to the Muslim community.

The URSB is the government agency mandated to register all marriages that take place in Uganda. The mosques that ensure filing of marriage returns contribute to national development since the filing fees are part of funds to the consolidated fund. However there is totally no economic or financial support to the mosques to enable them fulfil their mandate with the URSB apart from waiting for submission of returns with proof of payment. Mpanso stated that their efforts in registering the marriages with URSB haven't been appreciated.³¹ That there is no logistical support whatsoever from the URSB. This view was similarly echoed by Gotto that the government does not provide any return yet a lot of money is collected with their assistance through this exercise.³²

3.2.2 Social factors

3.2.2.1 Lack of awareness of the requirement to register a marriage.

It is a legal requirement under the Marriage and Divorce of Mohammedan Act to register a marriage within one month from the date of marriage. However this requirement is unknown to majority of the Muslims including those charged with the celebration of Muslim marriages. Wandera observed that in relation to the Muslim marriages the record files with the URSB are for Kampala, Wakiso, Mpigi, Butambala and Mbale and attributed to the non-compliance from other districts to the lack of awareness on what to do.³³ Similarly Gotto noted that very few Muslims are aware of the registration requirement and its procedure.³⁴

3.2.2.2 Failure to appreciate the need for registration.

Connected to the lack of awareness to register a marriage, there is also another challenge of failing to appreciate the need for registration. In Uganda registration of

³¹ Supra note 17.

³² Supra note 18.

³³ Supra note 14.

³⁴ Supra note 18

marriage is relevant more so for citizenship and immigration purposes. In case a person is not faced with such legal challenges, the celebrant sees no need of registering a marriage. Mpanso stated that some marriage celebrants after being notified of the breakdown of the mosque fee including the registration of their marriage with the URSB request for postponing the registration process until they get the required funds.³⁵ All this is attributed due to the failure to appreciate the need for registration.

3.2.2.3 Misconceptions related to marriage registration.

There are some mistaken beliefs to marriage registration within the Muslim community. Gotto observed that women desire more to register their marriages than men.³⁶ This however creates the perception that the woman might be having the intention of claiming a man's property. Similarly is the misconception by some Muslim men that in case they register their marriage it will be a bar to marrying a second, third or fourth wife. Mpanso however observed that with sensitization and assurance that all the wives can be registered with the URSB, this perception has gradually been changing from 2014 to date.³⁷

3.2.2.4 Muslim disunity in Uganda.

The parallel Muslim factions existing within the Muslim community have also posed a challenge to marriage registration in Uganda. Mpanso stated that the Uganda Muslim Supreme Council (UMSC) at Old Kampala has a top to bottom structure.³⁸ That at the top there is the National headquarters which oversees all Muslim affairs in the country, followed by District Qadhi at the district level, followed by the county sheiks at the county and finally imams of every mosque in the villages. That marriage certificates are accordingly distributed in that structure and likewise marriages registration and verification is within the same structure. The challenge however is

³⁵ Supra note 17

³⁶ Supra note 18

³⁷ Supra note 17

³⁸ Ibid

that not all mosques in Uganda subscribe to the leadership of the Uganda Muslim Supreme Council (UMSC) at Old Kampala. The Kibuli based office of the Supreme mufti also has its mosques that owe it allegiance and there are also some mosques neither having allegiance to Old Kampala nor Kibuli. This in turn pose a challenge to marriage registration since some forged marriage certificates can end up being registered at the URSB.

3.2.2.5 Absence of /lost marriage records.

Muslims have been celebrating marriages since time immemorial. However some of the old records for instance of 1970s, 1980s and 1990s cannot be retrieved from the mosque archives. Gotto stated that some applicants to marriage registration claim to have celebrated their marriages in 1970s and even having credible witnesses who testify to the same fact but there no records of their marriages.³⁹The situation is exacerbated by the fact the claimant to the marriage celebration too has no record whatsoever.

3.2.2.6 Un registered records celebrated before 2014.

The Marriage and Divorce of Mohammedans Act commenced on the 15th April, 1906 in Uganda and made provision for registering a Muslim marriage. However it was not until the year 2014 that the Uganda registration Service Bureau embarked on sensitization process of the requirement to register a marriage. Both Mpanso and Gotto noted that the enforcement of the law in Muslim registration started in 2014 after the conference and since then they consider the registration charges when they are setting their fees. However there very many un registered marriages before 2014 and there no funds for their registration with the URSB. This is a challenge since the mosques have records which cannot be registered due to lack of funds.

3.2.3 Political factors

The government of Uganda does not provide enough funds to the Uganda Registration Service Bureau (URSB) to enable it execute its mandate under the Act.⁴⁰ URSB

³⁹ Supra note 17

⁴⁰ Uganda Registration Service Bureau Act Cap 210

is a government agency mandated to register all marriages that take place in Uganda. It is responsible to carry out research and also disseminate research findings in the fields covered by the relevant laws through seminars, workshops, publications or other means and to recommend to the government any improvements in the relevant laws appearing to the bureau to be required as a result.⁴¹ URSB contributes to the national development through the various marriage fees charged and deposited to the consolidated fund. However, the major challenge facing the URSB is limited financing which has affected the bureau's expansion programs. Funds are required for additional office space country wide, human resource, further investment in ICT infrastructure, legal and regulatory reforms and the establishment and implementation of sensitization and communication strategy.⁴² This in turn hampers the registration of marriage exercise.

Further the budgetary constraints of URSB has also contributed to limited awareness about its activities⁴³. The budgetary constraints against which the Bureau operates makes it almost impossible to ensure massive country wide sensitization even with the relevance of the services the Bureau offers.

3.2.4 Religious factor.

Spiritual against State consideration.

Marriage is defined in the Qur'an as a compassionate and peaceful relationship that is grounded in love.⁴⁴ Its spiritual validity requires consenting and competent couple (who are of marriageable age), consent of the bride's guardian, Mahr /bridal money,⁴⁵ in the presence of two male witnesses.⁴⁶ Registering a marriage is a state requirement without any spiritual connotation. So with challenges associated with marriage registration like exorbitant fees charged the consideration is majorly placed on spiritual against state

⁴¹ Ibid

⁴² URSB Annual Report 2015/2016, Challenges.

⁴³ URSB Annual Report 2015/2016, Challenges.

⁴⁴ Qur'an 30:21.

⁴⁵ Qur'an 4:19.

⁴⁶ Quran 2:282.

considerations. Kalibala observed that Faith Based Organizations (FOB) by registering a marriage the government just wants to tax, taking it as an affront on marriage, religion and culture considering that traditionally marriages have been an exclusive confine of rituals and belief.⁴⁷

3.2.5 Legal challenge

3.2.5.1 Change of names upon celebration of Muslim marriage.

Section 2 of the *Marriage and Divorce of Mohammedans Act* recognizes validity of a Muslim marriage in case it is celebrated between persons professing the Muslim religion. However on a number of occasions there are Christians who embrace Islam and are given Muslim names which do not appear on their official records like birth certificates, Identity cards, passports, national identity cards etcetera. The Registration of persons Act 2015 requires such a person to cause the name to be published in the gazette, and payment of a fee before the change can be effected.⁴⁸ Mpanso observed that this is not an easy process upon celebration of the marriage and filing a marriage return.⁴⁹ Gotto said that in their practice they retain the bride / groom's Christian name and remain silent on the Muslim name.⁵⁰ The change of names therefore becomes a legal challenge upon filing of marriage return with the URSB since the law can only recognize the change of name after complying with the legal process.

3.2.5.2 Ignorance of the laws.

There exists the *Marriage and Divorce of Mohammedan (Appointment of Registrars(Amendment) Order 2014 SI 2014 No. 23*. Rule 2(2) provides that every Chief Administrative officer shall be the district registrar of marriages and divorce of Mohammedans in respect of registrable marriages and divorces solemnized in his or her district or area. The rationale of the order seems to have been delivering services closer to the people in their respective districts for easy registration process. However the research

⁴⁷ Kalibala Supra note 5

⁴⁸ Section 36 of the Registration of Persons Act 2015.

⁴⁹ Supra note 17

⁵⁰ Supra note 18.

reveals that Muslim authorities are not aware of this law to be exploited for up country mosques. Mpanso stated that the UMSC headquarters at Old Kampala receive marriage returns from the district Imams and register them with the URSB. This challenge however is attributed to the failure of the URSB to sensitize the various stakeholders about the various laws.

3.2.6 Registration challenge.

There is failure of some officials at the Uganda Registration Service Bureau (URSB) to appreciate the Muslim system for efficient registration process. Unlike the church marriage that requires celebration of a marriage in a licensed place of worship, a Muslim marriage can be celebrated anywhere in any mosque. The major issue to be noted by the URSB during the registration process is that in Uganda mosques are independent. Not all mosques in Uganda are controlled by the Uganda Muslim Supreme Council or the office of the Supreme mufti at Kibuli. On certain occasions the URSB has required marriages returns filed by a given mosque to get a recommendation from either the UMSC, Old Kampala or Kibuli. Gotto observed that this is totally wrong and attributes it to the failure of URSB to appreciate the Ugandan Muslim system concerning the independence of mosques.⁵¹ He further notes that the URSB risks itself being entangled in the Muslim disunity in Uganda.

⁵¹ Ibid

4 CONCLUSION AND KEY RECOMMENDATIONS

4.1 Introduction

This part presents the conclusion and recommendations on the challenges of registration of marriages in Uganda; a case study of the Muslim community in Uganda. The study set out specifically to;

- (a) To identify challenges involved in the registration of Muslim marriages in Uganda
- (b) To identify gaps and anomalies in the current laws relating to registration of Muslim marriages in Uganda
- (c) To identify the various practices in the celebration and registration of Muslim marriages in Uganda
- (d) To amass evidence data or statistics relating to registration of Muslim marriages.
- (e) To raise awareness of the challenges of registration of Muslim marriages in Uganda.
- (f) To propose recommendations and identifying best practices to improve on the registration process within the Muslim community.

4.2 Conclusion from the study

Registration of a Muslim marriage is a legal requirement under the Marriage and Divorce of Mohammedan Act Cap. 254 upon payment of a prescribed fee to the government. The Registrar general is charged with registration Muslim marriages in Kampala whereas the Chief Administrative Officers are the district registrars of Muslim marriages in respect of a Muslim marriage solemnized in his or her district or area.

The study findings reveal that few Muslim marriages are registered with the Uganda Registration Service Bureau (URSB) in comparison with the Muslim marriages celebrated country wide among the Muslim community in Uganda.

The challenges to Muslim marriage registration in Uganda range from economic, social and political factors. The high registration fees in relation to the poverty level in Uganda

remain a great challenge yet there is no or limited government support to the Muslim community in the entire exercise. The situation is aggravated by the lack of awareness of the need to register a marriage and the disunity within the Muslim community in Uganda.

4.3 Recommendations

The challenges of Muslim marriage registration in Uganda can be controlled and overcome for effective registration. Based on the study findings, the following are recommended;

4.3.1 Sensitization of the registration requirement.

The government through the Uganda Registration Service Bureau (URSB) a government agency mandated to register all marriages that take place in Uganda should embark on a mass sensitization campaign of the requirement to register a marriage through organizing various workshops, seminars, mass media, social media etc. with the imams / Muslim leaders at the national, district and village levels throughout the country who in turn will disseminate the message to the Muslim followers. Both Mpanso and Gotto expressed the desire for the URSB organizing workshops with Muslim stakeholders about the marriage registration exercise. The benefits associated with marriage registration should clearly be emphasized and the various misconceptions against marriage registration should also be cleared. Through sensitization, the Muslims should be educated and reminded about the various laws and statutory instruments or orders regulating marriage registration meant to ease the registration process like registering a marriage with the office of the Chief Administrative Officer at the district level. Sensitization can control the challenge of changes acquired names as this will provide ample time to consider the legal requirement for before changing a name.

4.3.2 Institution of the Qadhis Courts in Uganda

It was the spirit of Article 129(1) (d) of the 1995 Constitution of the Republic of Uganda to establish the Qadhis courts for Muslim marriages among others, unfortunately which provision has never been operationalized by the government. In order to effectively manage the Muslim marriages and its registration in Uganda, Article 129(1) (d) of the Constitution which caters for the establishment of the Qadhis Courts should be put into

effect. In essence Qadhis courts once established can better serve as district registrars of Muslim marriages solemnized in their districts or areas instead of the present Chief Administrative Officers since Qadhis courts will be mandated to handle Muslim marriages.

4.3.3 Reducing / exempting registration fees.

The amount of Ugx. 35,000/- for registering a marriage is too high to be afforded by ordinary Muslims. Both Mpanso and Gotto recommend for the reduction of the registration fees to a minimal fee ranging between Ugx. 5000/--10,000/-. The researcher however recommends that registration of marriages in Uganda should primarily be directed towards assisting the government of Uganda build a credible marriage data base than collecting revenue. In so doing, the fees should be structured depending on the geographical areas of Uganda. The view of the researcher therefore is that the marriage fees for Kampala capital city should be Ugx. 10,000/- while other Urban centers in Uganda should be Ugx. 5000/-. Rural areas which according to the World Bank report are majorly associated with the poor yet also celebrate marriages should be exempted from the registration fees.

4.3.4 The law to empower minister to remit fees.

Like the Marriage Act,⁵² the Marriage and Divorce of Mohammedan Act should also empower the line minister upon satisfaction of poverty of the parties, reduce the fees or remit them altogether, and if they have been paid into the consolidated fund, order their refund. Such a provision will enable the poor marriage celebrants also to register their marriages in the different parts of the country, the refugee problem will also be curtailed, unregistered records before 2014 can also be registered etc.

4.3.5 Government to take keen interest in the Muslim Unity in Uganda.

The division within the Muslim community has posed a challenge to the marriage registration in some ways. The government of Uganda should therefore take keen interest in all efforts directed to Muslim unity in Uganda. For instance the government should

⁵² Section 39

consider reviewing and implementation of the joint committee report 2014 recommendations on the wrangles in Uganda's Muslim community.

4.3.6 Government / URSB to facilitate the Muslim community in the registration.

The government through the URSB should assist the Muslim leaders with logistical support to effectively execute their mandate. Such support include; providing registration books, printing, photocopying, transport in the registration process, trainings in a wide range of aspects related with marriage registration etc.

4.3.7 Employment of qualified Muslims with the URSB.

The URSB should consider employment of qualified, suitable, competent and experienced professional Muslims when filling various vacancies at the Bureau to handle the registration process. These can better appreciate Muslim matters and the social set up of the Muslim community in Uganda for better registration process.

4.3.8 Incorporating Muslim officials in the marriage registration system into the Civil service.

The system of filing marriage returns from the various Muslim authorities entails tireless efforts of ensuring that the government treasury or the consolidated fund is enhanced through the payment of filing and certification fees. However there is no return from the government to the officials involved in this tireless exercise. Both Mpanso and Gotto expressed the view that despite contributing to the consolidated fund, there is no motivating factor from the government. This research therefore recommends that the government should select a small portion of Muslim officials involved in the registration process and incorporate them in civil service so that they are government employees and paid by the government. This will further enhance the registration process within the Muslim community.

4.3.9 URSB should embrace E- filling / Electronic filing.

This process involves submitting returns and declarations over the internet, using preparation software that has been approved by the relevant authority. E-filing has

manifold benefits as it enables filing from the comfort of office or any place at any convenient time. It saves time and money because the return is transmitted directly through into its computers, significantly reducing the possibility of rasing and input errors.

Electronic filing of marriage returns will ease on the numerous movements to and from the URSB and also encouraging professionalism in filing returns. Embracing E-filing however requires joint efforts between the URSB and the Muslim leadership at the various levels responsible for filing returns like constant trainings on the use of the system, provision of internet services etc

4.3.10 Government to adequately fund the URSB.

The fact that the major challenge facing the URSB in executing its mandate is inadequate funding from the government, the government should consider the budget of the Bureau covered for proper functioning and increasing revenue collection from the Bureau.

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6 ANNEXIURES.

Annexure 1:

Interview Guide 1: **Uganda Registration Service Bureau**

The Registrar General

Uganda Registration Service Bureau

Kampala.

INTERVIEW GUIDE

Preamble

The researcher, Mr. Senkumba Ahmed (LL.M, LL.B, MUK, DIP.L.P. LDC, PODITRA, EAST) is an Advocate and Lecturer of Law in the Islamic University in Uganda, Kampala Campus. He is undertaking research on behalf of a Non-Government Organization interested in making findings about the challenges of registration of marriages in Uganda, a case study of Muslim marriages.

The topic of study is **THE CHALLENGES OF REGISTRATION OF MARRIAGES IN UGANDA. A CASE STUDY OF MUSLIM COMMUNITIES IN UGANDA.** It is premised on the fact that the Marriage and Divorce of Mohammedans Act Cap. 252 provides for the registration of marriages of the Muslim community in Uganda. However, some marriages are celebrated in various places ranging from homes to mosques. This creates challenges of their registration with the Uganda Registration Services Bureau (URSB).

It's on this basis that there is need to identify and engage the services of a consultant to develop a well-researched position paper suitable to address this challenge that can guide local and national policy makers in the Muslim justice system.

The Object of the Study.

The overall object of the study is to develop a position paper pertaining to the challenges of registration of marriages in Uganda; A case study of the Muslim communities in Uganda. This will form a breakthrough for advocacy on Muslim justice related concerns, raise awareness and influence policy makers in the decision making process.

The Interview guide therefore seeks to enlist information under the following specific questions.

1. Is the Marriage and Divorce of Mohammedans Act Cap. 252 exhaustive as regards registration of Muslim Marriages.
2. Has the minister appointed Registrars in specified limits and deputy registrars to register Muslim Marriages
3. How many registration centers are we having in Uganda for the registration of Mohammedan marriages
4. Are such centers facilitated with equipment like register books
5. On average when are applications for marriage registration submitted, (Act requires 1 months)
6. Who normally makes an application for marriage registration (Act requires the husband, widow-what of a mosque)
7. How does a registrar make inquiries about a marriage
8. How much is paid for registration
9. Does URSB provide register books to village imams
10. When does the registrar refuse to register a marriage
11. Do mosques submit quarterly returns
12. Inspection of register book and how much is paid
13. What statistics are available relating to the registration of Muslim marriages

14. What challenges are available relating to the registration of Muslim marriages
15. What solutions are proposed to such challenges
16. Is there a difference between 'Mohammedan' and 'Muslims'? Which name is preferred for registration?
17. Any other useful information.

THANK YOU.

Annexure 2

Interview guide:

The Director of Shariah

Uganda Muslim Supreme Council

Kampala.

INTERVIEW GUIDE

Preamble

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The Interview guide therefore seeks to enlist information under the following specific questions.

1. What's the structure of the UMSC in celebration of Marriages in Uganda?
2. Is the entire country covered by this structure?
3. Are all Marriages celebrated under your structure registered with the URSB?
4. Where are the up country marriages registered?
5. How much is charged for celebration and registration of Marriages?
6. Do you consider the income disparities country wide?
7. What's your opinion on the Ugx. 35,000/- fee charged by the URSB for registration of Marriages?
8. After registration of Marriages with URSB what's issued to you?
9. How comes that very few Muslim marriages are registered with the URSB?
10. How often do you submit returns to the URSB?
11. Do you submit returns to the CAO and sub county chiefs?
12. What statistics are available relating to celebration of marriage by UMSC from Jan 2017?
13. Of the above how many have been registered with the URSB?
14. What challenges are faced in registration of Marriages?
15. What solutions are proposed to such challenges?
16. Any other useful information.

Annexure 3:

Interview guide 3

Kibuli Mosque

Kampala.

INTERVIEW GUIDE

Preamble

The researcher, Mr. Senkumba Ahmed (LL.M, LL.B, MUK, DIP.L.P. LDC, PODITRA, EAST) is an Advocate and Lecturer of Law in the Islamic University in Uganda, Kampala Campus. He is undertaking research on behalf of a Non-Government Organization interested in making findings about the challenges of registration of marriages in Uganda, a case study of Muslim marriages.

The topic of study is **THE CHALLENGES OF REGISTRATION OF MARRIAGES IN UGANDA. A CASE STUDY OF MUSLIM COMMUNITIES IN UGANDA.** It is premised on the fact that the Marriage and Divorce of Mohammedans Act Cap. 252 provides for the registration of marriages of the Muslim community in Uganda. However, some marriages are celebrated in various places ranging from homes to mosques. This creates challenges of their registration with the Uganda Registration Services Bureau (URSB).

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The Interview guide therefore seeks to enlist information under the following specific questions.

1. What's the structure of Kibuli in the celebration of Marriages in Uganda?
2. Are all Marriages celebrated under your structure registered with the URSB?
3. How much is charged for celebration and registration of Marriages?
4. Do you consider the income disparities country wide?
5. What's your opinion on the Ugx. 35,000/- fee charged by the URSB for registration of Marriages?
6. After registration of Marriages with URSB what's issued to you?
7. How comes that very few Muslim marriages are registered with the URSB?
8. How often do you submit returns to the URSB?
9. Do you submit returns to the CAO and sub county chiefs?
10. What statistics are available relating to celebration of marriage from Jan 2017?
11. Of the above how many have been registered with the URSB?
12. What challenges are faced in registration of Marriages?
13. What solutions are proposed to such challenges?
14. Any other useful information.

LIST OF RESPONDENTS

SR. NO.	NAME	DESIGNATION	INSTITUTION.
1.	Twaibu Ali Mpanso	Registrar, directorate of Shariah	UMSC
2.	Gotto Hussein	Superintendent	Kibuli Mosque
3.	Wandera Joel	Records officer, Civil Registration Department	URSB