



THE REPUBLIC OF UGANDA

RELIGIOUS TOLERANCE AND THE STATE IN UGANDA

A PAPER PRESENTED BY

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INTRODUCTION

The International Center for Law and Religion, Brigham Young University, Conference organizers, heads of government missions and religious institutions, members of the academia, distinguished ladies and gentlemen.

I wish first of all to thank the organizers of this conference for this invitation which has granted my nation, Uganda the opportunity, once again, to share with you the concerns and developments in furthering the work of religious freedom, the success we have had and the rationale for religious tolerance in Uganda. In this regard, I will endeavor to share with you a few noteworthy developments on religious diversity and tolerance in Uganda.

The Christian religion in Uganda originated in 1877 and 1889 with the arrival of the first European missionaries of the Church Missionary Society (CMS), Shergold Smith and C T Wilson, and Father Simeon Lourdel and Brother Amans Delmas of the Roman Catholic Missions respectively.¹ Most records indicate that Islam reached Uganda earlier, at the very latest in 1844, when Ahmed Ibn Ibrahim reached the Buganda Kingdom under King Mutesa I.

On 3rd June 1886, King Mwanga ordered the execution of twenty-six of his pages – thirteen Anglicans and twelve Roman Catholics. He feared that their religious conversion to Christianity would undermine his political authority. As a consequence, Uganda Martyrs' Day is celebrated every third day of June at Namugongo Martyrs Shrine, the site where the 22 Uganda Martyrs - canonized on Mission Sunday, 18 October 1964 - were executed. This remains a poignant example of State failure to observe religious tolerance at that time within the context of the freedom and respect accorded to individuals to worship their God within their own religious denominations without oppressing others.

RELIGIOUS BODIES/ ORGANISATIONS IN UGANDA THE EARLY YEARS

In the early 1950s and 60s, registration was not a condition precedent for the operation of faith-based organizations. The primary focus at the time centered upon the level of organization of such religious groups. State recognition was accorded to what are referred to as the traditional churches or faiths. These included the Roman Catholic Church, the Anglican church (Church of Uganda), the Greek Orthodox Church, the Seventh Day Adventists and Islam. They were characterized by clear and well-

¹ See Oded, Arye, *Religion and Politics in Uganda: A study of Islam and Judaism*. East African Educational Publishers Ltd: Nairobi (1995).

established hierarchical structures with a central management and branches bound by set of rules and regulations.

In due course, new religious organizations known as Born Again Churches (BAC) consisting of among others Pentecostals and Evangelicals sought to establish themselves. The then military regime of late President Idi Amin reacted by reprisals against and the banning of such organizations. Due recognition by the State only extended to the traditional churches/ faiths in Uganda.

Paradoxically, the regime gained notoriety for and was accused of religious persecution, notwithstanding the establishment of a Ministry for Religious Affairs by Idi Amin consequent to ousting the late President Milton Obote.

THE CURRENT LEGAL FRAMEWORK AND DEVELOPMENTS

The Constitution of Uganda of 1995 was promulgated by the current Government under Presidency of His Excellency Yoweri Museveni. Article 7 of the Constitution provides that Uganda shall not adopt a State Religion and is the equivalent of the "Establishment Clause" set out in the First Amendment to the United States Constitution.

Article 29, sub-article 1(c), which can be equated to the "Free Exercise Clause" in the First Amendment, provides for the freedom to practice any religion and manifest such practice. However, the Uganda Supreme Court has held that this right is not absolute.

A case in point is *Sharon and Others versus Makerere University*² wherein the appellants, who professed **the Seventh Day Adventist Faith**, sought a declaration that the University's policies and regulations of scheduling lectures, mandatory tests and examinations on their Sabbath Day were inconsistent with and contravened Articles 20, 29 (1) (c), 30 and 37 of the Constitution. In dismissing the constitutional appeal, Chief Justice Benjamin Odoki stated that in exercising the right to freedom of religion, the fundamental rights and freedoms of others and/ or the public interest as provided for under Article 43 of the Constitution must not be compromised.

As to the standard and the extent of such limitations, the court stated that it is necessary to ascertain what is acceptable and reasonably justifiable in a free and democratic society. A proportionality test involving the balancing of different interests must be applied. Such a process would take into account, *inter alia*; the nature of the right to be limited, its importance to an open and democratic society based on freedom and

² (Constitutional Appeal No. 2 of 2004) [2006] UGSC 10

equality, the extent and effectiveness of the limitation and whether the desired ends could reasonably be achieved through other less damaging means.

THE DEMOGRAPHY AND REGULATION OF FAITH BASED ORGANISATIONS

General amicability among the religions in Uganda is evidenced by the existence of the Inter religious Councils. According to the national population census of 2002, out of Uganda's population estimated at 33 million, Christians constitute about 85%, Muslims 12%. The Roman Catholic church comprised 42% of the population, the Anglican Church 36%, and other religions including the Seventh Day Adventist church, the Church of Latter Day Saints, the Orthodox church, Jehovah's witnesses, the Baptist church and the Pentecostal Church, the Hindus, Baha'i faith, Judaism made up the rest.

Uganda's legal framework provides for optional registration for the diverse Not-for-Profit Organizations (NPOs), including Non Governmental Organizations (NGOs), trusts, and foundations. The Trustees Act and the Trustees Incorporation Act govern the latter two organizations. The traditional faiths in Uganda all registered under this provision.

Before the NGO Registration (Amendment) Act 2006, was enacted, all new churches/faiths were required to register with the NGO Board. Some FBOs showed resistance to registration. It was their contention that as a faith, the financial disclosure requirement and the lengthy and onerous registration procedure hampered their constitutional right of freedom to worship.

The rationale behind the registration requirement besides accountability and transparency to their constituencies

is based upon Governmental responsibility to protect all its populace, especially the vulnerable groups, and to address security concerns which include extremist tendencies, money laundering, human trafficking and the possible financing of terrorism by some unscrupulous organizations.

Government's desire to resolve the FBOs' grievances triggered the amendment of the NGO Registration Act of 1989 in 2006. The NGO Registration (Amendment) Act of 2006 aimed at giving religious organizations the option of electing to register either as NGOs, Companies Limited by Guarantee or as Trustees.

The draft National NGO Policy – yet to be officially endorsed – stipulates that Faith Based Organizations (FBOs) shall not fall under the ambit of the NGO Policy. However, FBOs such as World Vision International which engage in NGO-type activities will be required to comply with the provisions governing NGOs in Uganda. The policy further provides that while Government

puts in place an appropriate separate policy framework for promoting the guiding and coordination of spiritual activities of FBOs, the existing arrangements shall obtain. At present, by virtue of the amendments alluded to earlier, new religious groups are now able to obtain legal entity status under the Trustees Incorporation Act. Religious groups may also register as companies limited by guarantee without shares under the Companies Act.

The NGO Secretariat besides successfully incorporating the above amendments into the parent Act are working in collaboration with other stakeholders, the Uganda Registration Services Bureau, the Uganda Law Reform Commission to harmonize any shortfalls. The combined effect of the above developments is that previous restrictions requiring mandatory registration with the Board have been lifted by Government with regard to faith-based organizations. Such religious organizations now have greater freedom in choosing where and how to register.

CONCLUSION

The Government of Uganda seeks to address the affairs of Faith Based Organizations in line with global best practices. In this regard models such as the Evangelical Council for Financial Accountability (ECFA) make good study.

The contribution of Faith Based organizations like NGOs is beyond debate because they are all actors in the area of service delivery, advocacy, democracy and good governance as well as community empowerment. Furthermore, in most, if not all local communities, religion forms the golden thread reinforcing the moral fabric of society. FBOs have been very instrumental in the process of conflict resolution and rehabilitation programs in the war ravaged northern region of Uganda.

Needless to say, the Government of Uganda is fully cognizant and appreciative of the substantial contribution made by religious organizations to communities. The efforts of a number of such organizations towards among others, poverty alleviation, are commendable and admirable. The above considerations, among others, form the basis upon which the Government of Uganda has ensured the existence of a conducive environment within which religious freedom and tolerance are able to flourish while recognizing the important role of Non-State actors in accelerating the country's development process.

On behalf of my country and on my own behalf I wish to once again thank the International Center for Law and Religion Studies at Brigham Young University and the organizers of the Symposium for realizing the need to strengthen international ties between scholars and other experts in themes of religion and law.

THANK YOU FOR LISTENING.

