

**A CORRELATION BETWEEN DIVINE LAW AND SECULAR LAW: A CASE OF  
KUMI DIOCESE**

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**UGANDA CHRISTIAN  
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## APPROVAL

This dissertation has been carried out under our supervision and is submitted with our approval.

Signed: .....



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## **DEDICATION**

First, this study is dedicated to every committed Christian in the world that believes in biblical principles of leadership as a way to a progressive and transformed Church of Christ.

Last, this study is for the glory of God almighty who guides me, gives me strength, power of mind, protection and skills. All this I offer to you.

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## **ABSTRACT**

This dissertation explores the intricate relationship between divine law and secular law within the context of the Church of the Province of Uganda, with a specific focus on the Kumi Diocese succession dispute. Over the last decade, the Church of the Province of Uganda has faced a rising number of legal challenges, particularly in relation to the election and succession of bishops. This trend has raised concerns about the possible encroachment of secular legal principles into church governance, leading to significant divisions within various dioceses. The research traces the historical evolution of the Church of the Province of Uganda's governance, beginning with the establishment of the first African Synod in 1914, through to the current structure of the Church with 39 diocesan bishops. The dissertation investigates the causes of recent lawsuits, examining whether these conflicts stem from changes in church laws, shifts in leadership practices, or misunderstandings between secular law and divine legal frameworks. The study adopts a constructivist research design, utilising a literary analysis of books, journals, statutory laws, and Canonical laws. It also analyses key case laws, particularly the Kumi Diocese succession case, to understand the legal and theological implications of these disputes. The findings aim to clarify the relationship between secular law and divine law, propose best practices for their harmonious coexistence, and offer recommendations to church leaders for effectively managing legal conflicts. This research is intended to enhance the understanding of legal frameworks within the Church of the Province of Uganda and provide a foundation for further academic inquiry into the intersection of secular and divine law in church governance.

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## CHAPTER ONE

### 1.0 INTRODUCTION

This dissertation is about the study of the relationship between divine law and secular law whose understanding or misunderstanding needs to be carefully substantiated. In Uganda, divine law and secular law have co-existed next to each other and sometimes in juxtaposition for a long time. However, given the current state of the church in leadership successions and legal standing, the possibility of the world system entering the church system is a reality that the Church of the Province of Uganda needs to check over the last decade. Therefore, a study was necessary to correlate divine law and secular law in the Church of the Province of Uganda with the prominent Kumi Diocese succession dispute as a case study.

#### 1.1 Background of the study

The Church of the Province of Uganda and the diocesan arrangements we see today are a product of a long historical evolution as far back as 1884 when Uganda was part of the Eastern Equatorial Africa, until the diocese of Uganda was carved out in 1897 to see Bishop Alfred Tucker become its first Bishop. This instrumental Bishop by 1890 had begun to prepare African men in Uganda as priests of the Anglican Church even before the vast diocese was divided as narrated by Byaruhanga in his book, *Bishop Alfred Robert Tucker and the establishment of the African Anglican Church*.<sup>1</sup>

By 1914, efforts had been made to establish the order of operation in the church with the first African church Synod composed of 40 clergy and 250 delegates who debated and adopted a constitution for the Anglican Church of Uganda. Byaruhanga writes that Bishop Tucker's model of an "African ministry" culminated in the consecration of men in ministry like Reverend Aberi Balya of Tooro in October 1947 as the first Anglican Bishop in East Africa in charge of western Uganda and the region of Mboga. Furthermore, when the diocese of Uganda was divided into five in 1957, many more Ugandan priests took on office as Bishops.

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<sup>1</sup>Christopher Byaruhanga. *Bishop Alfred Robert Tucker And the Establishment of the African Anglican Church*, 2008, WordAlive, Nairobi.pg 87-169

For example, the Rev Hosea Shalita was consecrated as Assistant Bishop in charge of Ankole-Kigezi, the Rev Erica Sabiti was appointed Bishop of the diocese of Tooro-Bunyoro-mboga which came to be known as Rwenzori diocese among others.<sup>2</sup> In 1961, the created dioceses in the province of Uganda were eight in number; Namirembe, Ankole-Kigezi, Rwenzori, west Buganda, Ruanda-Urundi, Mbale, Northern Uganda and Soroti. These dioceses on record had smooth transitions from one Bishop to the other without any law suits or any major arbitration cases at all until the early 1990s when the first succession dispute erupted in Busoga diocese under Bishop Bamwoze as narrated by the Rt Rev Livingstone Nkoyoyo in his book, *Leadership Under Pressure*.<sup>3</sup>

Notably, the Church of the Province of Uganda since 1961 to date due to different factors has thirty-nine (39) sitting Diocesan Bishops (House of Bishops) under the guidance of the threefold doctrine of scripture, tradition, and reason.<sup>4</sup> However, over the last ten (10) years, the Church of the Province of Uganda has been significantly rocked by a number of grinding legal battles pitting the flock against newly elected Bishops. Nearly all the four regions of Uganda have witnessed a legal battle in which Christians have challenged the process of electing their Bishops in Courts of law.

For the first time Namirembe had a rough transition early this year (2024) and the petitions were foiled off internally, Kigezi has had two lawsuits in two transitions (2014 and 2022), Luweero diocese transition was challenged in high court in 2023, Muhabura diocese since 2003 had never had a smooth transition until 2023. Finally, the most critical law suit that escalated into a bitter split was the Kumi diocese transition of (2019-2020) where the aggrieved clergy, Rev. Charles Okunya broke away to join another religious sect after court had dismissed his case.<sup>5</sup> This trend has resulted into significant divisions within the church across various dioceses, with factions of Christians rejecting both the nominated candidates and the ultimately elected bishops.

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<sup>2</sup> Ibid

<sup>3</sup> Hamlet Kabushenga Mbabazi. *Leadership Under Pressure: The Authorised biography of the Most Rev. Dr. Livingstone Mpalanyi Nkoyoyo 1995-2004*, 2004, ACRLI, Kamapala. pg 121-122

<sup>4</sup> [www.churchofuganda.org](http://www.churchofuganda.org) accessed 15<sup>th</sup> February, 2024

<sup>5</sup> <https://ulii.org/akn/ug/judgment/ughc> accessed 12<sup>th</sup> February, 2024

One would therefore wonder what has gone wrong over these years that the influx of cases against the Church of the Province of Uganda on this particular matter seems to get out of control. Has the process and the governing laws of the church changed or the people managing the process and implementing the laws have changed?

It is against this background that this dissertation seeks to do a correlation between secular law and divine law in the Church of the Province of Uganda with focus the Kumi Diocese succession row.

## **1.2 Problem Statement**

The dialectic friction and correlation of the secular and the divine realms of life has deep roots in Christian thought. Jesus Christ instructed his contenders to give to Caesar the things which are Caesar's and unto God the things that are God's (Mark 12:17). Furthermore, in Christ's teaching to his disciples, he said in John 17 that they were in the world but not of the world. "That which is born of the flesh is flesh and that which is born of the spirit is spirit", and except a man be born of the spirit, he can't enter the kingdom of God (John 3:3-6). To a converted St. Paul, he said, "to be of carnal mind is death, but to be spiritually minded is life and peace" (Romans 8:6). The Church of the Province of Uganda has had many law suits against her whenever the seat of the bishop falls vacant. One of such cases is that of *Rev Charles Okunya Vs The Registered Trustees of the Church of Uganda* in a succession dispute for the office of the Diocesan Bishop in Kumi diocese.<sup>6</sup> Could there be a misunderstanding or even a mix-up between secular and divine law in Uganda?

## **1.3 Purpose of the study**

The purpose of this dissertation is to correlate secular law and divine law.

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<sup>6</sup> Rev Charles Oode Okunya v Registered Trustees of the Church of Uganda (Civil Suit No. 35 of 2020) [2021] UGHCCD 74 (30 June 2021).

## **1.4 Research Objectives**

The dissertation:

- I. Determines the causes of lawsuits against the Church of the Province of Uganda in the last ten years.
- II. Analyses the relationship between secular law and divine law.  
Examines the challenges arising from the misunderstanding of secular law and divine law by the church.
- III. Suggests best practices that can enhance the co-existence of divine law and secular law

## **1.5 Research Questions**

- I. What are the causes of lawsuits against the Church of Uganda in the last ten years?
- II. What is the relationship between secular law and divine law?
- III. What challenges arise from the misunderstanding of secular law and divine law by the church?
- IV. What best practices can enhance the harmonious co-existence of divine law and secular law?

## **1.6 Methodology**

This dissertation adopted a constructivist research design and therefore, a literary study of books, journals/articles, and laws (Canonical, statutory, and case laws) is the methodological approach to this study. Books, journals, and laws assisted in giving historical, theological, and legal thought or reflection concerning the correlation between divine law and secular law.

Laws that are in the form of statutory and Canonical Laws such as the Constitution of the Republic of Uganda, the Church of the Province of Uganda constitution, and Provincial Canons assisted in the understanding of the state and church legal frameworks and the relationship between the two systems through a thorough legal analysis.

Lastly, Case law in the form of decided cases especially the Kumi Diocese case of *Rev Charles Okunya Vs Registered Trustees of the Church of Uganda* helped this dissertation to get to the reality of the misconceptions between divine law and secular law, the causes of disputes in the Church of the Province of Uganda and the ways or recommendations on how divine law and secular can coexist harmoniously in the Church of the Province of Uganda.

## **1.7 Scope**

### **1.7.1 Content Scope**

This dissertation focused on material information and events in the Church of the Province of Uganda in the last ten (10) years to help me successfully do a correlation between secular law and divine law with focus on Kumi diocese.

### **1.7.2 Geographical Scope**

The research was carried out in the Church of the Province of Uganda with a focus on the Kumi Diocese succession dispute.

### **1.7.3 Time Scope**

This dissertation on a correlation between secular law and divine law in the Church of the Province of Uganda covered events that have spanned ten years from 2014 to 2024.

## **1.8 Justification**

The dissertation helps Christians as well as church leaders such as Bishops of the church of Uganda to understand the correlation between secular law and divine law plus its significance. It helps church leaders to proactively deal with disputes out of the understanding of this correlation.

This dissertation also serves to add on the existing knowledge that other researchers may use to be part of their literature review and the recommendations from this dissertation will be used as a basis for further research.

## **1.9 Significance of study**

This dissertation creates awareness about the relationship between secular law and divine law among Christians.

It helps clergy and theological institutions to appreciate the need for legal education in ministerial formation.

It helps Christians to understand how secular law and divine law can live harmoniously without overlapping each other.

The dissertation helps Christians understand the right mechanisms of resolving disputes in the church of Christ.

This dissertation helps future researchers and academicians with interest in serving the church to fulfil its mission on earth.

## CHAPTER TWO

### 2.0. The Relationship Between Secular and Divine Law

#### 2.1 Introduction

Law is a word that means different things at different times. **Black's Law Dictionary** says that law is "a body of rules of action or conduct prescribed by controlling authority and having binding legal force. That which must be obeyed and followed by citizens subject to sanctions or legal consequence is a law."<sup>7</sup>

**Augustine of Hippo** held that there were at least four species of law: (1) the eternal law, which is God; (2) the natural law, which is a "notion" of the eternal law "impressed" on human beings, and thus an aspect of the innate image of God; (3) the temporal law, wherein particular laws change over time and vary according to circumstance, and which includes what we should call civil or secular law (and Thomas Aquinas will characterize both as "human law" and as "positive law"); (4) divine law: a term that sometimes refers narrowly to the Mosaic law but can also express a broader concept of any laws passed down by God.<sup>8</sup> The legal system is made up of all the institutions, branches, and norms of law that the state has established and guaranteed to govern social interactions that are precisely defined in terms of place and time, without being rendered uniform or globally applicable.

Generically, there are two categories of law: holy/divine or religious laws and lay or secular laws. It is important to note that a legal system distinct from the state or secular law is referred to as Canon law. My understanding is that Canon law is a branch of the juridical-theological sciences, which means that it deals with both legal and theological issues. Canon law is in its nature fundamentally practical concerning the global mission of the church, interactions between the many orthodox communities, and the church's relationship with the state. In reality, a legal framework that supplements the state structure is represented by canon law and the two legal systems have complicated relationships with one another and have fluctuated throughout time. For a very long time, civil or secular law and Canon law have stood by one another to safeguard the institutions of marriage, the family, individual rights, and human dignity.

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<sup>7</sup> **Black's Law Dictionary**. 6th ed., s.v. "law."

<sup>8</sup> **Gronewoller B. Augustine of Hippo**. In: Reynolds PL, ed. *Great Christian Jurists and Legal Collections in the First Millennium*. Law and Christianity. Cambridge University Press; 2019:266-282.

Henceforth, there are convergent, supplementary, and interacting relationships between the two. Since human nature, equipped with knowledge and free will, is the unifying premise underpinning both of these legal systems, they rely on each other to support humans as social creatures.

## 2.2. What is divine law?

The term “Divine law” describes a body of guidelines, precepts, or directives regarded as having been bestowed by a supremely powerful deity or other supernatural being. It is commonly believed to control the moral, ethical, and spiritual being. It is commonly believed to control the moral, ethical, and spiritual facets of human existence and to originate from a transcendent source, such as a deity or supernatural revelation. Unlike human-made rules, which are established by governments and societies to control behaviour and preserve order within specific social contexts, divine law is different.<sup>9</sup>

For purposes of our study on the above subject, I will broadly discuss some of the common essential traits of divine law drawing my understanding and analysis from a paper written by **Cosmin Santi** on sacred and secular law<sup>10</sup>:

First, divine law is a source of authority. In monotheistic faiths like Judaism, Christianity, and Islam, the laws of heaven are said to have come from a divine entity or source of supreme authority, such as God. However, divine rules in polytheistic religions might originate from a multitude of gods or cosmic principles. Second concerns revelation. Acts of revelation, such as holy books, prophets, religious authorities, or mystical experiences, are usually how divine laws are revealed to humans. These revelations are the way by which people learn about and obey the laws of God. Third is on infallibility. It is commonly believed that divine rules are unchangeable and unalterable, which means they are error-free and cannot be repealed or altered by humans. They are thought to be the universe’s enduring facts. Furthermore, Santi avers that divine law possesses moral and ethical guidance. In other words, that divine laws give believers moral and ethical direction by prescribing norms for both social and personal behaviour as well as guidelines for good and incorrect behaviour. They frequently cover a broad spectrum of moral precepts, including ideas like fairness, compassion, integrity, and altruism.

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<sup>9</sup> "Divine Law." *Encyclopedia Britannica*. <https://www.britannica.com/topic/divine-law>.

<sup>10</sup> Santi, C. (2021). *The Relation between Sacred Law and Secular Law. A Comparative Analysis*. 4, 114–135.

Finally, regarding purpose, it is considered that divine laws have a larger purpose than only controlling human behaviour. They are frequently perceived as encouraging spiritual development, establishing social harmony and justice, and making it easier to achieve enlightenment or salvation.

Important to note is that religious traditions differ in their examples of divine laws. For example, in Christianity, heavenly laws are frequently connected to the Ten Commandments that Moses received on Mount Sinai and the lessons that Jesus taught and are written in the New Testament. As advanced by **Cosmin S**, Jesus is the divine logos in the New Testament dispensation<sup>11</sup>

The Quran, which is regarded as the exact word of God as revealed to Prophet Muhammad, and the Hadith, which compiles the sayings and deeds of the Prophet, are the sources of Islamic divine law.<sup>12</sup> Religions such as Buddhism, Hinduism and others also have their ideas about divine law, which are frequently entwined with cultural conventions and philosophical ideas.<sup>13</sup>

Therefore, divine law plays a major part in a lot of religious worldviews, providing a basis for moral, ethical, and spiritual living as well as directing believers in their search for purpose and meaning. Additionally, I interpret divine law as a framework by which God reveals His intentions and expectations to humans, meaning that the natural order that God built and the moral precepts that scripture reveals are both included in divine law. It provides direction for leading a life that is in line with God's purposes and upholds justice, love, and righteousness. While religious scriptures and teachings frequently explain divine law, their significance transcends all religious traditions and influences social norms and ethical standards. Henceforth, recognizing and abiding by divine rule requires not only obedience but also a profound respect for the supernatural source from which it springs, acknowledging God's omnipotence and wisdom in directing human behaviour and interpersonal interactions.

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<sup>11</sup> Ibid

<sup>12</sup> **Hallaq, W. B.** (2009). *An Introduction to Islamic Law*. Cambridge University Press. Pp.11-22

<sup>13</sup> **Smith, Huston.** "The World's Religions: Our Great Wisdom Traditions." HarperCollins Publishers, 1992. Pp.10

### 2.3. What is Secular law?

If law is “a body of rules of action or conduct prescribed by controlling authority, and having binding legal force as discussed in the introduction, the word secular is used to describe laws that have no connection with religion, deity, or supreme beings. Historically, secular and secularity derive from the Latin word *saeculum* which meant "of a generation, belonging to an age" or denoted a period of about one hundred years. In the ancient world, *saeculum* was not defined in contrast to any sacred concerns and had a freestanding usage in Latin.<sup>14</sup> It was in Christian Latin of medieval times, that *saeculum* was used for distinguishing this temporal age of the world from the eternal realm of God. The Christian doctrine that God exists outside time led medieval Western culture to use secular to indicate separation from specifically religious affairs and involvement in temporal ones.<sup>15</sup> According to cultural anthropologists such as **Jack David Eller**, secularity is best understood, not as being "anti-religious", but as being "religiously neutral" since many activities in religious bodies are secular themselves and most versions of secularity do not lead to irreligiosity.<sup>16</sup>

In the international context, the best understanding of the nature and operation of Secular law can be best expressed by **Lorenzo Zucca's** description of the same in Europe. He advances that secular law is the tool with which conflicts between people and ideas are dealt with. Conflicts between religious and non-religious people cannot be solved, avoided, or defined away. Secular law pursues the overarching goal of social peace which is not posited from the outside as an ideal goal, but is instead intrinsic to the very formation of communities: secular law aims at a unitary framework which is not transcendent, but immanent. The framework provided by secular law is a default arrangement within which diversity thrives. Religion has to be fitted within this framework and not outside it.<sup>17</sup> In other words, it is a legal system that is not based on supernatural authority or religious teaching, but rather on society norms, conventions, legislation, and Court precedents.

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<sup>14</sup> **Titus Hjelm.** (2020) *The Oxford handbook of secularism, Religion, State and Society*, 48:5, 421-423, <https://doi.org/10.1080/09637494.2020.1841981>

<sup>15</sup> Ibid

<sup>16</sup> **Eller, Jack.** (2010). "What is Atheism?". In Zuckerman, Phil (ed.). *Atheism and Secularity*. Santa Barbara, Calif.: Praeger. pp. 12–13.

<sup>17</sup> **Zucca, Dr Lorenzo.** 'The Rule of Secular Law in Europe', *A Secular Europe: Law and Religion in the European Constitutional Landscape* (Oxford, 2012; online edn, Oxford Academic, 24 Jan. 2013), <https://doi.org/10.1093/acprof:oso/9780199592784.003.0009>, accessed 18 Mar. 2024.

It is also known as civil law or non-religious law. Its purpose is to control how people and things behave in a community. It covers a wide range of topics, including family law, criminal offences, contracts, property rights, and torts. Government organisations such as legislatures, executive branches, and judicial bodies normally produce and uphold secular legislation without interference from or compliance with religious doctrines.<sup>18</sup> Secular law is built on the tenets of equality, fairness, and rule of law. Its goal is to offer a neutral and just framework for settling conflicts and controlling social relations. In contrast to religious law, which frequently draws from sacred texts or theological interpretations, secular law is distinguished by its commitment to reason, factual data, and changing social norms.

It's important to note that under this arrangement, distinct jurisdictions have distinct secular legal systems, which reflect varying political, historical, and cultural settings. Among the commonalities in secular legal systems include the following:

*Codification.* By this we mean a process by which laws are arranged into written statutes or codes that are passed by legislative bodies.<sup>19</sup> This is the case with many secular systems. These statutes function as the principal source of law, offering precise rules that people and organisations must abide by.

*Judicial Precedents.* Here courts interpret and apply existing laws to particular instances, a process that is frequently used by secular legal systems. For example, by using the principle of 'Stare Decisis', sometimes known as "standing by decided matters", courts create legally enforceable precedents.<sup>20</sup>

*Separation of Powers.* In order to prevent power concentration and maintain checks and balances, secular systems usually uphold the idea of separation of powers, which divides government authority among three distinct branches; the legislative, executive and judicial.<sup>21</sup>

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<sup>18</sup> **Supra**

<sup>19</sup> **Black's law dictionary.** (2<sup>nd</sup> Edition) Codification is the process of collecting and arranging the laws of a country or state into a code, t. e., into a complete system of positive law, scientifically ordered, and promulgated by legislative authority. <https://thelawdictionary.org/codification>

<sup>20</sup> **Black's Law Dictionary.** (10th ed. 2014) (defining stare decisis as the doctrine of precedent, under which a court must follow earlier judicial decisions when the same points arise again in litigation); Precedent, Black's Law Dictionary (10th ed. 2014) (defining precedent as a decided case that furnishes a basis for determining later cases involving similar facts or issues).

<sup>21</sup> **Granner.** *Constitution and administrative laws*, penguin in S.A. DE Smith. The doctrine of Separation of Powers has been defined by Granner to mean that the three powers of government that is, the Executive, Legislature and Judiciary must in free democracy be kept separate and never become exercisable by the same organs of government.

*Legal pluralism.* This allows multiple legal systems or sources of law, such as customary law, international law, and religious law, to coexist alongside secular law in some secular states. On the other hand, when it comes to public policy and state governance, secular law usually wins out.

*Secular Ethics.* Although secular legislation is not intrinsically linked to religion, it frequently incorporates moral precepts drawn from liberalism, utilitarianism, secular humanism, and other philosophical traditions. Legal standards and judgments of individual rights, social welfare, and the common good are informed by these ethical considerations.

In summary, secular law encompasses legal systems based on secular principles, independent of religious authority, and oriented toward the governance of societal affairs through legislative enactments, judicial interpretations, and administrative regulations.

#### **2.4. The relationship between Secular law and Divine law in Uganda**

In as much as it is expressly stated by law (Governing Constitution) in Uganda that the state shall not adopt a state religion<sup>22</sup> like many other nations, Uganda's legal system, cultural norms, and historical influences<sup>23</sup> all play a role in the complicated and multidimensional interaction between secular law and divine law. Its legal framework is mostly founded on secular laws that are passed by the government and come from various sources, including statutes, common law, and constitutional clauses as traits of a true secular system were described above (2.3). Nevertheless, Uganda is also a religiously diverse nation, home to the coexistence of Christianity, Islam, and indigenous African faiths.

#### **Uganda's application of Secular law**

*The Constitution.* Uganda's 1995 Constitution as amended establishes fundamental laws of the nation and serves as the basis for its legal system. It protects all citizens' freedoms and liberties, irrespective of their religious convictions.<sup>24</sup>

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<sup>22</sup> The constitution of the Republic of Uganda 1995 as amended, Article 7

<sup>23</sup> Ibid, Preamble

<sup>24</sup> Ibid, Chapter 4

*The legislature.* The Ugandan Parliament under the Constitution above has the mandate to pass laws that control many facets of daily life in the nation, such as family law, criminal law, and business law.<sup>25</sup> The Police, Courts, and Executive departments of government are among the state institutions that uphold these laws, which have their roots in secular sources.

*The Judiciary.* Uganda's legal system is secular, meaning that it implies and interprets the law independently of religious teaching. Judges and magistrates are required to make decisions in cases based on the evidence, legal reasoning, and precedents; they are trained in secular legal concepts.<sup>26</sup>

*International law.* Uganda has ratified a number of international conventions and treaties, which are incorporated into its legal framework. Both the government and the people are required to abide by these treaties, which cover topics including trade, environmental protection, and human rights.<sup>27</sup>

### **Uganda's application of Divine law**

*Religion:* "Africans are notoriously religious", as noted by **John S Mbiti**, who made this observation in his book *African Religions and Philosophy* (1969)<sup>28</sup>. With Christianity and Islam being the two most common religions in secular Uganda, religion governed by divine law (Canon<sup>29</sup> and Mosaic law respectively) is very important to the country's culture. A large number of Ugandans spend their lives following religious precepts and teachings, which include morality, ethics, and family values.

*Customary law:* Uganda acknowledges customary law in addition to official legal systems. Customary law is derived from the traditions, customs, and beliefs of various ethnic groups.<sup>30</sup> Religious teachings are frequently incorporated into customary law, which can have an impact on family and personal decisions including marriage, inheritance, and conflict resolution.

*Personal Beliefs:* A lot of Ugandans derive their sense of good and evil from their religious views and personal beliefs. Even while secular laws may regulate public behaviour and interactions, people's moral judgments may nevertheless be influenced by their beliefs.

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<sup>25</sup> Ibid, Chapter 6

<sup>26</sup> The constitution of the Republic of Uganda 1995 as amended, Chapter 8

<sup>27</sup> Ibid, National objective XXVIII

<sup>28</sup> **Mbiti, J.S.** (1969). *African religions and philosophy*. London: Heinemann

<sup>29</sup> Provincial Canons of the Church of Uganda 2018 as amended

<sup>30</sup> The constitution of the Republic of Uganda 1995 as amended, Chapter 4, Article 37

## **A Comparative Analysis**

Examining historical and modern elements that impact the interplay between divine law and secular law in Uganda is necessary for a comparative study of their relationships. I shall explain different areas of analysis hereunder:

*Historical Context:* Regarding divine law in Uganda, although there are many different religions practiced in Uganda, the most common ones are Islam and Christianity. It's evident that religious practices and beliefs have shaped Ugandan culture historically, having a notable influence on the country's legal system. On the other hand, customary law, colonial legacies, and contemporary statute law have all influenced the secular nature and development of Uganda's legal system. British common law was implemented during colonial control, but it has also had a tremendous impact on customary African law.

*Constitutional Framework:* Imperative to note is that Uganda's religious principles have a significant influence on personal morality and societal values. Although not expressly stated in the constitution, divine law can be found in many areas of Ugandan life, such as family law, morality, and societal norms. On the other hand, the Ugandan constitution guarantees religious freedom and separates religion from the state. Secular laws are derived from statutes, the constitution, and judicial precedent and are intended to govern public life impartially.

*Pluralism in law:* Regarding divine law in Uganda, secular and customary laws coexist with divine laws. Religious groups frequently use their faith-based laws to regulate private affairs like marriage, divorce, and inheritance. However, the legal system is based on a framework of legal pluralism, which accepts secular statutes in addition to customary and religious rules. Different legal systems, however, may clash, particularly when religious rules run counter to secular values.

*Challenges and Tensions:* On divine law, tensions often arise when religious principles conflict with constitutional rights and freedoms, leading to debates over issues such as the recent and ongoing LGBT (Lesbian, Gay, Bisexual, and transgender) rights, reproductive rights, and freedom of expression. On the side of secular law, challenges include ensuring the impartial application of secular laws in the face of religious influence and navigating conflicts between different legal systems, especially in areas such as family law and human rights.

## **2.5 Conclusion**

It is important to identify both potential points of agreement and conflict while examining Uganda's legal system's relationship to divine and secular law. Even though secular laws are intended to safeguard citizens' rights and offer a framework for government, they do not always precisely conform to religious beliefs and ideas. This discrepancy occasionally sparks discussions and confrontations, especially when it comes to topics like morality-based laws, family law, and cultural customs.

In the case for Uganda, it still consistently upholds the division of powers between the state and religious institutions, with secular law taking precedence over religious ones when it comes to public policy and governance. While religious practices and beliefs still have an impact on societal norms and individual conduct, the structure and operation of the legal system are primarily secular. Therefore, Uganda's link between divine law and secular law clearly illustrates the dynamic interaction of legal, cultural, and religious elements. Religious practices and beliefs continue to affect the moral fabric of society and have a huge impact on individual behaviour, even while secular laws serve as the cornerstone of governance and the legal system. For Uganda, maintaining the rule of law while honouring the rich religious and cultural history of its people has meant constantly balancing these various sources of authority.

## CHAPTER THREE

### 3.0. SUCCESSION DISPUTES AGAINST THE CHURCH OF UGANDA OVER THE PAST DECADE

#### 3.1. Introduction

Over the past decade, succession disputes within the Church of the Province of Uganda have garnered significant attention, raising pertinent questions at the intersection of divine law and secular law legal frameworks. According to the Church of the Province of Uganda's official website<sup>31</sup>, since 2014, out of thirty-nine (39) sitting bishops, it has witnessed the consecration of thirty-five (35) new bishops across thirty-two (32) dioceses, excluding Bishops whose tenure hasn't expired and assistant bishops. However, beneath the surface of these ecclesiastical appointments lie complexities and challenges, manifesting in succession disputes that have tested the institutional legal fabric of the church.

In the analysis of the above, it is critical to further note that out of the thirty-five (35) bishops consecrated within the time-frame, more than fifteen (15) have encountered challenges during the selection process, indicating a lack of seamless transition within the leadership structure of the church. These challenges, ranging from disagreements over eligibility, criteria to contentious nomination processes, have underscored the inherent tensions in the general ecclesiastical and episcopal succession. Moreover, a subset of these consecrations has been marred by legal petitions, further complicating matters both within the ecclesiastical realm and the broader legal landscape. More than six of the selected bishops have had their election challenged either in the civil courts of law (High Court of Uganda) or the Church of Uganda Tribunal, highlighting the intricate interplay between divine law, ecclesiastical authority, and secular legal mechanisms in resolving succession disputes.

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<sup>31</sup>[www.churchofuganda.org](http://www.churchofuganda.org)

### 3.2. The Biblical View on Dispute Resolution in the Church

#### The Old Testament Perspective

There are several dispute resolution guidelines and illustrations found in the Old Testament (ESV) that may still apply to churches today.<sup>32</sup> Even though these ideas were first implemented in the setting of ancient Israel, they might still offer helpful direction for settling general disputes inside the church. Here are some key aspects;

*Seeking wisdom and Counsel*, particularly within the context of resolving disputes, is emphasized throughout the bible. Proverbs 15:22 underscores the significance of seeking advice, highlighting that plans are prone to failure without counsel, but with multiple advisors, they tend to succeed. This principle stresses the importance of consulting trusted individuals such as pastors, elders, or spiritual leaders in navigating conflicts. Additionally, Proverbs 2:6 further underscores the importance of wisdom, suggesting that divine wisdom is essential in gaining knowledge and understanding to effectively address disputes.

*Justice and fairness*. In settling disputes, the Old Testament (ESV) places a strong emphasis on justice and fairness. Both Proverbs 24:23-25 and Deuteronomy 16:20 emphasize the value of impartiality and equity, emphasizing that it is improper to display partiality in judgment and that only upholding justice brings rewards and the possession of God's promises.

*Mediation and Arbitration*. The Old Testament emphasizes the value of mediation and fair arbitration in resolving disputes. In Exodus 18, Moses's father-in-law Jethro advises him to choose judges to help resolve Israelite disputes, illustrating the importance of employing unbiased third parties for fair and quick settlement. Proverbs 18:18 emphasizes the use of casting lots a method for unbiased decision-making, establishing concord, and separating powerful opponents.

*Forgiveness and reconciliation*. The Old Testament emphasizes forgiveness as a pathway to resolving disputes and maintaining healthy relationships. Proverbs 19:11 underscores the wisdom in overlooking offenses, promoting patience, and glorifying forgiveness. Similarly, Proverbs 17:9 underscores the importance of forgiveness and reconciliation in preserving close relationships and preventing further discord.

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<sup>32</sup> **The Holy Bible, English Standard Version**

*Appeal to Higher Authority.* In cases where disputes cannot be resolved at the local level, the Old Testament allows for an appeal to higher authority. Deuteronomy 17:8-13 provides instructions for bringing difficult cases before the priests or judges at the central sanctuary. This process ensures that Justice is administered fairly and consistently throughout the community.

### **Old Testament perspective succession disputes**

Specifically, the Old Testament (ESV) contains numerous examples of succession disputes within the Israelite community, particularly over leadership positions such as Kingship and priesthood.<sup>33</sup> While these accounts shed light on ancient means of settling such disputes, their direct application to today's church may necessitate careful interpretation and adaptation due to differences in cultural, and theological contexts.

*Divine appointments.* In the Old Testament, succession was typically through divine intervention or appointment. When Saul failed as King, God told the prophet Samuel to appoint David as his successor (1 Samuel 16:1-13). Similarly, the priesthood and high priesthood in Aeron's line were divinely ordained (Exodus 28:1, Numbers 16:40). While this concept of divine direction is still important in many religious traditions, including Christianity, modern churches may not rely on direct intervention from prophets or miraculous miracles to resolve succession disputes. Instead, discernment through prayer, spiritual advice, and commitment to biblical principles may drive the decision-making process.

*Inheritance and Lineage:* Succession may be based on familiar or specific genealogy. For example, throughout the Davidic dynasty, sovereignty frequently passed from father to son (1 Kings 1:28-40). Similarly, the priesthood was originally reserved for Aeron's descendants (Exodus 29:9). While hereditary succession was frequent in ancient Israel, many religions chose leaders based on spiritual qualities and character traits rather than familial heritage. However, maintaining continuity and respect or honouring historical legacies can still be important issues for consideration.

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<sup>33</sup> **The Holy Bible**, English Standard Version

*Community Consensus:* Succession was sometimes decided by popular vote or consensus. For example, upon Moses's death, Joshua was chosen as a leader by the Israelite society (Numbers 27:18-23). Similarly, monarchs frequently earned legitimacy with the help of tribal leaders and people (1 Samuel 11:15). Today's churches use democratic systems, congregational ballots, or selection committees to establish leadership succession. While community involvement is important, it must be tempered with an understanding of God's will and commitment to biblical leadership principles outlined in scriptures like 1 Timothy 3:1-13 and Titus 1:5-9 (ESV).

*Judicial Arbitration:* As earlier highlighted, in times of a succession dispute, Israelites frequently resorted to judges, prophets, or religious authorities for advice and guidance. For example, when there was disagreement over who was the rightful monarch, the prophet Samuel acted as an arbiter and mediator (1 Samuel 8-10). Similarly, contemporary churches may seek the advice of experienced pastors, elders, or denominational officials to handle succession issues. This procedure relies heavily on objective evaluations of candidates' qualifications, conformity to doctrinal standards, and alignment with the church's mission and ideas.

In summary, while the Old Testament gives rules and examples for settling succession issues, today's church must contextualize and adapt these teachings to current conditions. A balanced strategy that includes spiritual discernment, community input, commitment to biblical principles, and reliance on experienced leadership can help to ensure a seamless and God-honouring transition of leadership within the church.

### **The New Testament Perspective on Dispute Resolution**

In the New Testament (ESV), Christian teachings offer a comprehensive framework for addressing disputes within the church community. These teachings emphasize principles of reconciliation, forgiveness, humility, and preservation of Christian unity. The approach to conflict resolution within the church is deeply rooted in the values of love and humility, reflecting the broader Christian ethic of grace, mercy, and redemption. Several key passages in the New Testament (ESV) give scriptural guidance on resolving disputes, underscoring the importance of maintaining harmony and fostering healthy relationships within the church.<sup>34</sup>

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<sup>34</sup> **The Holy Bible**, English Standard Version

Mathew 18:15-17 provides a structured approach for resolving conflicts within the Church. This passage suggests that disputes should first be addressed privately between the involved parties, emphasizing the importance of direct communication and personal responsibility. If the issue remains unresolved, the process escalates to involve additional members of the church community, ultimately aiming for reconciliation.<sup>35</sup> This method promotes privacy, respect, and the potential for forgiveness and restoration, aligning with the broader Christian values of compassion and understanding.

In Corinthians 6:1-8, the Apostle Paul cautions believers against taking their disputes to secular courts. Instead, he advocates for resolving conflicts within the church community, even if it requires accepting personal loss to maintain unity and integrity among believers.<sup>36</sup> This passage underscores the importance of prioritizing the collective well-being of the church over individual grievances, reflecting the New Testament's emphasis on communal harmony and mutual support.

Paul further addresses the issue of conflict resolution in Galatians 6:1-2, where he advises believers to gently restore those who have fallen into sin while remaining aware of their own vulnerabilities<sup>37</sup>. This passage highlights the significance of compassion, humility, and mutual accountability in resolving internal church conflicts. By fostering an environment of support and understanding, the church can address disputes in a manner that upholds Christian values and strengthens the community.

James 4:1-3 identifies the root cause of disputes within the church as selfish ambitions and worldly desires. He encourages believers to humble themselves before God and resist the temptation to engage in quarrels and arguments.<sup>38</sup> This passage emphasizes the need for self-reflection and spiritual maturity in resolving conflicts, arguing believers to prioritize their relationship with God over personal disputes.

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<sup>35</sup> Ibid

<sup>36</sup> Ibid

<sup>37</sup> Ibid

<sup>38</sup> Ibid

Ephesians 4:1-3 reiterates the importance of maintaining the unity of the Spirit through humility, gentleness, patience, and love. Paul exhorts believers to bear with one another in love and to make every effort to preserve the bond of peace within the church.<sup>39</sup> This passage underscores the need for patience and forbearance in resolving disputes, encouraging believers to prioritize unity and peace in their interactions.

In Phillipians 4:2-3, Paul addresses a specific dispute between two women in the Phillipian church, urging them to reconcile their differences and work together harmoniously for the sake of the gospel.<sup>40</sup> This example illustrates the practical application of the New Testament's teachings on conflict resolution, demonstrating how disputes can be resolved in a manner that fosters unity and furthers the mission of the church.

Acts 6:1-7 provides a historical example of how the early church resolved a dispute concerning the distribution of resources.<sup>41</sup> The apostles facilitated the process by involving the broader community in selecting individuals to address the issue, ensuring that the resolution was both fair and inclusive. This passage highlights the importance of communal involvement and shared responsibility in resolving conflicts, reflecting the New Testament's emphasis on collective decision-making and mutual support.

### **The New Testament perspective on succession disputes**

The New Testament (ESV) does not provide explicit instructions for resolving succession disputes within the church. However, certain principles and examples from its teachings can be applied to such situations, offering guidance for contemporary church communities. These principles include the qualifications for leadership, the role of elders and apostolic authority, the importance of prayer and divine guidance, and historical precedents from the early church.

The New Testament (ESV) outlines specific qualifications for church leaders in passages such as 1 Timothy 3:1-13 and Titus 1:5:9.<sup>42</sup> These criteria emphasize the importance of character and competence in leadership roles, suggesting that succession disputes should be resolved by ensuring that those assuming leadership positions meet these qualifications.

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<sup>39</sup> Ibid

<sup>40</sup> **The Holy Bible**, English Standard Version

<sup>41</sup> Ibid

<sup>42</sup> Ibid

By prioritizing the integrity and capabilities of potential leaders, the church can navigate succession disputes in a manner that aligns with biblical principles.

Eldership and apostolic authority are also discussed in the New Testament, with passages like Acts 14:23, Titus 1:5, and 1 Peter 5:1-4 describing the appointment of elders and the authority of apostles in the early church.<sup>43</sup> These examples suggest that succession processes should involve the recognition and endorsement of new leaders by existing elders or leaders within the church community. This approach ensures continuity and stability within the church, reinforcing the importance of established leadership structures.

Prayer and seeking God's guidance are crucial components of the decision-making process, as emphasised in passages such as Acts 1:24-26 and James 1:5.<sup>44</sup> In situations involving succession disputes, church communities are encouraged to rely on prayer and discernment to navigate the challenges they face. By seeking divine guidance, believers can make decisions that are aligned with God's will and promote the well-being of the church. While the New Testament does not explicitly address succession disputes, historical examples from the early church, such as the appointment of Mathias to replace Judas Iscariot in Acts 1:15-26, provide insights into how disputes were handled during the apostolic era.<sup>45</sup> These precedents offer valuable lessons for contemporary church communities, demonstrating the importance of orderly and prayerful succession processes.

Therefore, the New Testament's teachings on dispute resolution within the church emphasize the importance of reconciliation, forgiveness, humility, and love. Believers are encouraged to address conflicts directly and privately, prioritizing the restoration of relationships over personal grievances. The guidance provided by scripture and the Holy Spirit is central to this process, reflecting the broader Christian ethic of grace, mercy, and redemption. In the context of succession disputes, while explicit instructions may be lacking, the principles of leadership qualifications, eldership and apostolic authority, prayer, and historical precedents offer valuable insights for navigating such challenges. Ultimately, the New Testament's approach to conflict resolution mirrors the example of Christ in His ministry of reconciliation, serving as a model for maintaining unity and harmony with the church community.

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<sup>43</sup> **The Holy Bible**, English Standard Version

<sup>44</sup> Ibid

<sup>45</sup> Ibid

### 3.3. Dispute Resolution Processes Common to the Anglican Communion

The Anglican Communion is a global network of churches in communion with the Anglican Church of England. Dispute resolution mechanisms within the Anglican communion differ based on the nature and scope of the dispute, as well as the cultural and legal contexts of the regions concerned. Here are some frequent conflict resolution mechanisms used in the Anglican Communion:

*The Lambeth Conference:* The Archbishop of Canterbury convenes a decennial meeting of bishops from across the Anglican communion. While its primary goal is not dispute resolution, it does provide a forum for discussion and collaboration on a variety of topics confronting the Anglican Communion, including disagreements.<sup>46</sup> Bishops may bring disputes to the conference for debate and possible resolution.

*The Anglican Consultative Council (ACC)* is one of the Anglican Communion's four instruments of communion. It brings together bishops, clergy, and lay people from around the communion to debate issues of common concern.<sup>47</sup> While its primary focus is on theology, government, and mission, it can also be used to resolve internal communion conflicts.

*The Primates' Meeting* brings together the primates (head bishops) from the various Anglican provinces. It provides a place for discussion and collaboration on issues impacting the communion.<sup>48</sup> While it lacks official authority, decisions taken by the Primates' Meeting can have a substantial impact within the communion.

*Mediation and Conciliation:* Internal disputes within individual provinces or dioceses may be resolved through mediation and conciliation processes.<sup>49</sup> These processes frequently include the appointment of a neutral third party, such as a mediator or arbitrator, to encourage communication and negotiation between opposition parties with the goal of achieving a mutually acceptable conclusion.

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<sup>46</sup> "The Lambeth Conference," The Lambeth Conference, <https://www.lambethconference.org/>

<sup>47</sup> "The Anglican Consultative Council." The Anglican Communion Office, <https://www.anglicancommunion.org/structures/acc.aspx>

<sup>48</sup> Primates' Meeting: <https://www.anglicancommunion.org/structures/instruments-of-communion/the-primates-meeting.aspx>

<sup>49</sup> Anglican Communion Dispute Resolution: An Assessment: <https://www.religion-online.org/article/anglican-communion-dispute-resolution-an-assessment/>

*Ecclesiastical Courts:* In some Anglican Communion provinces, ecclesiastical courts or tribunals resolve legal or disciplinary problems involving clergy, congregations, or other church stakeholders.<sup>50</sup> These courts use canonical law and provincially established processes to resolve disputes in conformity with the church's beliefs and traditions.

*Bishops' meetings and synods* at various levels of the Anglican hierarchy serve as platforms for discussing and resolving disputes within their jurisdictions.<sup>51</sup> These gatherings may include discourse, debate, and voting on resolutions to resolve disputes and maintain church unity.

*International commissioners and Panels:* In cases where disagreements span numerous provinces or have global ramifications, international commissioners or panels may be formed to study the issues, foster conversations, and offer solutions.<sup>52</sup> These groups frequently include delegates from many provinces and may be called together by the Archbishop of Canterbury or other senior Anglican Communion official

Therefore, it is significant to note that the efficiency of these dispute-resolution mechanisms varies depending on factors such as the parties' willingness to engage in discourse, the complexity of the issues at hand, and the cultural and political dynamics within the Anglican Communion. Furthermore, while these processes seek to foster reconciliation and unity within the communion, they may not always result in a satisfactory outcome for all those concerned.

### **3.4. Dispute Resolution within the Church of the Province of Uganda**

#### Introduction

In resolving disputes, the Church of the Province of Uganda like in many religious institutions is guided by both spiritual principles and institutional frameworks. The Church of the Province of Uganda adheres to certain structures and processes for handling disputes, drawing from its theological foundations and practical considerations. Below is how dispute resolution is typically approached within the Church of the Province of Uganda, with references to its practices and principles:

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<sup>50</sup> Anglican Communion Dispute Resolution: An Assessment: <https://www.religion-online.org/article/anglican-communion-dispute-resolution-an-assessment/>

<sup>51</sup> Ibid

<sup>52</sup> Ibid

*Scripture and Theological Foundation:* Dispute resolution within the Church of Uganda is often grounded in biblical teachings emphasizing reconciliation, forgiveness, and peace making. Principles drawn from passages such as Mathew 18:15-17, which outlines steps for addressing grievances within the Christian community, serve as guides for resolving conflicts among members.

*Mediation and conciliation:* These two are commonly used methods for dispute resolution within the Church of Uganda. Neutral third parties, often trained clergy or lay leaders, facilitate dialogue between parties in conflict to reach a mutually acceptable resolution.

*Legal framework:* while ecclesiastical matters are usually governed by internal church laws and regulations, there are circumstances where disputes have legal implications that fall under the jurisdiction of civil courts. In such cases, the Church of Uganda normally engages with legal authorities to ensure that any legal aspects of the dispute are dealt with appropriately.

*Traditional practices:* In some contexts, particularly within African Anglican churches like the Church of the Province of Uganda, traditional customs and practices that resonate with the Anglican doctrine are deployed to help in resolving disputes. The above customs could involve community leaders, elders, or other traditional authorities who may be called to provide guidance or arbitration in the dispute resolution process.

*Episcopal Intervention:* In more complex or contentious disputes, Bishops or other senior clergy may intervene to provide guidance or arbitration. Their role may involve listening to both sides, offering pastoral care, and making decisions following church law and doctrine.

## **The Church of the Province of Uganda Constitution**

This was promulgated on the 7<sup>th</sup> day of December 1972 to provide a legal framework for sound and orderly management of the affairs of the church, including the propagation of the gospel, discipleship, and resolution of disputes fairly and expeditiously. The provincial constitution delineates comprehensive mechanisms for dispute resolution within the ecclesiastical domain, emphasizing internal adjudication and exhaustion of prescribed procedures before seeking external redress.<sup>53</sup> Articles 16 and 17 outline the establishment of tribunals and the adjudication process for ecclesiastical offenses.<sup>54</sup>

*Article 16: On Ecclesiastical Discipline:* This article mandates that individuals within the church of Uganda must exhaust internal dispute resolution mechanisms before seeking external adjudication. It specifies the matters deemed as ecclesiastical offenses and the permissible sentences to be imposed, emphasizing adherence to the Canons.

*Article 17: On Tribunals:* Article 17 delineates the structure and functions of tribunals established under the provincial constitution.

- **Diocesan Tribunals (17.2-17.4):** Comprising the Diocesan Chancellor and a balanced representation of clergy and lay members, Diocesan tribunals are responsible for adjudicating ecclesiastical offenses and settling related disputes as prescribed by the provincial assembly.
- **Provincial Appeals Tribunal (17.5-17.7):** Comprising the Deputy chancellor and members appointed by the provincial assembly, this tribunal hears and determines appeals from Diocesan Tribunal decisions.
- **Provincial Tribunal (17.8-17.7):** Chaired by the Provincial Chancellor and including nominated bishops, clergy, and lay members, the Provincial tribunal serves as the primary court for trying bishops accused of ecclesiastical offenses, subject to confirmation by the House of Bishops.

*Principles and Procedures (17.10-17.14):* All tribunals are mandated to observe principles of natural justice in their proceedings. Tribunal members' tenure is limited to four years, with provisions for renewal.

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<sup>53</sup> **The Church of Uganda. Provincial Constitution 1972.** Kampala: COU Provincial Secretariate. (Amended 1994, 2016) Pp. VI (Preamble)

<sup>54</sup> *Ibid*, Pp.21

Any individual affected by an ecclesiastical offense may complain with the appropriate tribunal, and the terms of service for tribunal members are determined by the Provincial Assembly or Diocesan Synod.

Therefore, the provincial constitution of the Church of Uganda establishes a robust framework for internal dispute resolution, emphasizing the primacy of ecclesiastical tribunals and adherence to prescribed procedures and principles of justice. These mechanisms aim to uphold the integrity and cohesion of the church community while ensuring fairness in adjudication.

### **The Church of the Province of Uganda Canons**

These canons of the Church of the Province of Uganda were produced by the Commission on canon law, doctrine, and liturgy of the Church of the Province of Uganda in 1997. The canons were reviewed by the provincial constitutional review committee and approved by the 24<sup>th</sup> Provincial Assembly in August 2018.<sup>55</sup> Dispute resolution within the Church of the Province of Uganda is further governed by Canon Canon 3.27, which outlines the establishment and functioning of tribunals at various levels of the church hierarchy.<sup>56</sup> These tribunals are responsible for adjudicating ecclesiastical offenses and settling disputes of a religious nature following established Canons.

*Establishment of Diocesan Tribunal (3.27.1-3.27.5):* Each diocese within the Church of the Province of Uganda is mandated to establish a diocesan tribunal, consisting of the Diocesan Chancellor as Chairperson, and a balance of clergy and lay members, including at least two females. The diocesan tribunal holds jurisdiction over trials of ecclesiastical offenses and resolution of related disputes. Appeals from its decisions are directed to the Provincial Appeals Tribunal.

*Provincial Appeals Tribunal (2.27.6-2.27.10):* The provincial level maintains a tribunal for hearing appeals from diocesan tribunals. Comprising the deputy provincial chancellor as chairperson and members appointed by the provincial assembly, this tribunal is tasked with reviewing decisions of lower tribunals. Appeals on matters of law from the Provincial Appeals Tribunal are further directed to the Provincial Tribunal.

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<sup>55</sup> **The Church of Uganda**. *Provincial Canons 1997*. Kampala: Earnest Publishers, (Amended 2018) Pp.2

<sup>56</sup> *Ibid.* Pp.103-105

*Establishment and jurisdiction of the provincial tribunal (3.27.11-3.27.13):* The Provincial Tribunal, chaired by the Provincial Chancellor and composed of nominated bishops, serves as the primary instance for trying bishops accused of ecclesiastical offenses. It ensures adherence to church laws and policies, oversees the management of such affairs and upholds doctrinal integrity. Decisions of the provincial tribunal are subject to confirmation by the House of Bishops

*Guiding Principles and Procedural Regulations (3.27.15-3.27.20):* All tribunals are bound to uphold principles of natural justice in their proceedings. The tenure of tribunal members is limited to four years, with one renewed allowed. Complaints regarding ecclesiastical offenses may be lodged with the appropriate tribunal, and procedures for tribunal functioning are determined by the Provincial Assembly, ensuring adherence to natural justice principles.

Therefore, Canon 3.37 provides a comprehensive framework for dispute resolution with the Church of the Province of Uganda, ensuring the fair and just adjudication of ecclesiastical offenses and disputes. By establishing tribunals at various hierarchical levels and prescribing procedural regulations, the canon strives to maintain the integrity and harmony of the church community.

### **3.5. Succession disputes involving the Church of the Province of Uganda over the past decade**

The Kigezi diocese succession dispute of 2014

It was reported in November on the 8<sup>th</sup>, 2013 that Kigezi Diocese of the Church of the Province of Uganda found itself embroiled in a contentious succession dispute following the election of George Bagamuhunda as Bishop-elect. In a court matter presided over by Justice Micheal Elubu, this dispute, fraught with legal and procedural challenges, culminated in a High Court injunction at Kabale temporarily halting Bagamuhunda's consecration pending resolution of the legal proceedings.<sup>57</sup>

*Background:* In July of the preceding year, George Bagamuhunda was elected by the House of Bishops to succeed Bishop George Katwesigye as Bishop of Kigezi Diocese. However, allegations emerged that the election process was tainted by undue influence from Bishop Katwesigye to challenge Bagamuhunda's election in court.

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<sup>57</sup> **Andante Okanya.** (November 8, 2013), *Kigezi Christians Petition Court over Bishop's Election* via <https://www.newvision.co.ug/news/1334400/kigezi-christians-petition-court-bishop-election>

Their contention was that the election violated both the diocesan and Provincial constitutions of the Church of the Province of Uganda.<sup>58</sup>

*Legal Issues:* The core legal issues revolved around the validity of Bagamuhunda's election and the jurisdiction of the court to intervene in ecclesiastical matters. The petitioners argued that the election process was flawed and contravened established church protocols, while the respondents maintained that the court lacked authority to adjudicate internal church affairs. Additionally, questions arose concerning the standing of the petitioners, as the court noted that they were not members of the synod, the diocese's decision-making body.<sup>59</sup>

*Court Decision:* Justice Micheal Elubu presided over the case dismissed the petitioners' application for an interim injunction. He reasoned that petitioners would not suffer irreparable harm if the consecration proceeded, but halting it would inflict substantial damage on the diocese.<sup>60</sup> He further emphasized that the petitioners' lack of standing within the synod, casting doubt on the reliability of their claims regarding the election process. consequently, the court refused to intervene and allowed the consecration to proceed as scheduled.<sup>61</sup>

Therefore, the Kigezi diocese succession dispute of 2014 underscores the complex intersection of ecclesiastical autonomy and legal oversight. While aggrieved parties sought judicial intervention to challenge Bagamuhunda's election, the court ultimately deferred to the internal mechanisms of the Church of the Province of Uganda. This case highlights the challenge inherent in reconciling religious autonomy with legal accountability and raises pertinent questions about the limits of judicial intervention in ecclesiastical matters.

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<sup>58</sup> Ibid

<sup>59</sup> Ibid

<sup>60</sup> Ibid

<sup>61</sup> High Court Judgements accessed via <https://ulii.org/judgments/UGHC/>

## **The Kumi diocese succession dispute of 2020**

Presided over by Justice Ssekaana Musa, the case of *Rev Charles Okunya Vs The Registered Trustees of the Church of Uganda* is a landmark succession dispute case in the history of the church so far.<sup>62</sup> It presented a complex legal and religious dispute revolving around the revocation of Okunya's election as the second Bishop of Kumi Diocese.

*Background:* As seen in the case judgement, Rev Charles Okunya was elected as the bishop of Kumi Diocese in November 2019. However, allegations regarding his personal life, including discrepancies in his age and relationship history, surfaced shortly after his election. The House of Bishops, upon investigation, concluded that Okunya's age indeed had some discrepancies and consequently annulled his election as Bishop.<sup>63</sup>

*Court Decision.* On age requirement, in reference to article 13(6) of the Provincial Constitution<sup>64</sup> and Canon 3.6.2 of the Provincial Canons of the Church of Province of Uganda, a bishop must be at least 45 years old<sup>65</sup>. The defence argued that Okunya had consistently declared his birth year as 1975 in various official documents over the years. Despite Okunya's claim of correcting an earlier mistake in his birth year, the court deemed his alteration of age as suspicious and fraudulent. Consequently, the court upheld the decision of the House of Bishops to revoke Okunya's election due to his failure to meet the age requirement.<sup>66</sup>

*On the correct party in the suit,* another significant issue was whether Rev Okunya sued the correct party in the lawsuit. The defence argued that the Registered Trustees of the Church of Uganda, against whom the suit was filed, had no role in the election of Bishops. The court analysed the roles of different church organs and concluded that the Registered Trustees were not responsible for the election process. therefore, the lawsuit against them was deemed incompetent.<sup>67</sup>

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<sup>62</sup> **Rev Charles Okunya v Registered Trustees of the Church of Uganda.** (Civil Suit No. 35 of 2020) [2021] UGHCCD 74 (30 June 2021) via <https://ulii.org/akn/ug/judgment/ughccd/2021/74/eng@2021-06-30>

<sup>63</sup> Ibid

<sup>64</sup> **The Church of Uganda.** *Provincial Constitution 1972.* Kampala: COU Provincial Secretariate. (Amended 1994, 2016), Pp.17-18

<sup>65</sup> **The Church of Uganda.** *Provincial Canons 1997.* Kampala: Earnest Publishers, (Amended 2018) Pp.70

<sup>66</sup> Rev Charles Okunya Vs Registered Trustees of the Church of Uganda, (2021)

<sup>67</sup> Ibid

*On religious autonomy*, the defence invoked the doctrine of religious autonomy, emphasizing that the church had the right to determine the qualifications of its clergy and resolve internal disputes without external interference. The court acknowledged the church's autonomy in matters of faith and governance, asserting that it was not within its jurisdiction to adjudicate religious questions. Consequently, the court declined to intervene in the church's decision to revoke Okunya's election hence dismissing his case.<sup>68</sup>

Therefore, the above case underscores the delicate balance between legal principles and religious autonomy. While the court recognized the church's authority to govern its internal affairs, it also upheld legal standards, particularly regarding age requirements for ecclesiastical office. Ultimately, the court's decision to dismiss the suit reaffirmed the church's right to self-governance while ensuring adherence to established legal norms. This case serves as a significant precedent highlighting the intersection between secular law and divine law in the context of succession disputes within religious institutions.

### **The Muhabura diocese succession dispute of 2021**

In December 2021, a succession dispute arose within the Church of the Province of Uganda over the selection process of the next Bishop of Muhabura diocese. The conflict emerged following Bishop Cranmer Mugisha's announcement of early retirement during an extraordinary diocesan council meeting. For purposes of background, it should be noted that this particular diocese had experienced a breath-taking succession dispute that dragged on from 2001 to 2007 when Bishop Cranmer took over as the second Bishop of Muhabura Diocese from Bishop Ernest Shalita.<sup>69</sup>

*Background:* Bishop Cranmer Mugisha, consecrated in August 2007, declared his intention to retire early during a diocesan Synod meeting on October 11<sup>th</sup>, 2021. His announcement without giving specific dates of retirement, confused the diocese before allegations later arose that Mugisha intended to influence his successor's selection by appointing his grandson, Joel Sendegeya as a diocesan chancellor, in violation of Canon Law.

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<sup>68</sup> Ibid

<sup>69</sup> Ziraguma Emmanuel and Another Vs The most Rt Rev L.M Nkoyoyo. Case No. HCT-00-CV-MA-0282 of 2003 <https://ulii.org/akn/ug/judgment/ughc/2003/28/eng@2003-11-03/source.pdf>

*Legal issues:* The dispute raised several legal concerns, including the lack of a constitution guiding the succession process, Bishop Mugisha's alleged mismanagement, and his purported interference in the selection of his successor. The petitioners argued that these actions contravened Canon law, which prohibits a Bishop from directly or indirectly participating in the selection of their successor.

*Court Decision:* In response to the dispute, the petitioners led by Innocent Ndagijimana and Solomon Rugera Kaana filed a case in the High Court civil division. However, Justice Musa Ssekana directed the parties to seek an out-of-court settlement. The court granted them until December 13<sup>th</sup>, 2021 and this dragged on for two more years until February 2023 when the House of Bishops successfully elected Canon Godfrey Mbitse as the 3<sup>rd</sup> Bishop of Muhabura Diocese.<sup>70</sup> Therefore, the resolution of the Muhabura Diocese succession dispute outside court marked a significant step towards restoring the long-lost harmony within the Church of the Province of Uganda and Muhabura Diocese in particular.<sup>71</sup> The successful out-of-court settlement paved the way for the consecration of the new Bishop in April 2023, ending years of uncertainty and conflict. This case underscores the importance of adherence to legal procedures and the amicable resolution of disputes within religious institutions to uphold their integrity and mission.

### **The Luweero diocese succession dispute of 2023**

The case of Archbishop of Uganda Vs Joyce and others of 2023<sup>72</sup> highlights the intricate interplay between secular law and divine law, particularly concerning the jurisdictional boundaries of civil courts in adjudicating religious disputes. The case further sheds light on the principle of non-justiciability of religious matters.

*Background:* In April 2023, the House of Bishops of the Church of Uganda elected Rev Can Godfrey Kasana as the 4<sup>th</sup> Bishop of the Diocese of Luweero. However, allegations questioning Kasana's moral conduct emerged, leading to a petition seeking nullification of his election. Consequently, the House of Bishops nullified Kasana's election, prompting legal action by his supporters against the Arch Bishop.

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<sup>70</sup>Church of Uganda official website via <https://churchofuganda.org/blog/2023/02/25/godfrey-mbitse-elected-bishop-of-muhabura/>

<sup>71</sup> Isiko, Alexander Paul. (2019). The Succession Crisis to the Diocesan See of Muhabura, Church of Uganda Saarbrucken, Lambert Academic Publishers.

<sup>72</sup> The Most Reverend Dr. Kazimba v Mazzi and 5 Others (Miscellaneous Application 36 of 2023) [2023] UGHCCD 323 (25 October 2023) <https://ulii.org/akn/ug/judgment/ughccd/2023/323/eng@2023-10-25>

*Legal Issues:* The central legal issues in this case revolved around the jurisdiction of the civil court to intervene in religious matters and the applicability of constitutional provisions on freedom of worship. Justice Flavian Zeija's ruling addressed these fundamental aspects before dismissing the suit as follows;

*On jurisdictional limitation,* Justice Zeija emphasized the civil court's lack of jurisdiction to overturn the nullification of Kasana's election. He cited the principle that religious controversies fall outside the scope of civil court inquiry, highlighting the separation of religious and legal domains. The Church of Uganda, he noted, possesses internal mechanisms for resolving such disputes.

*On the non-justiciability of religious disputes,* Justice Zeija affirmed the principle that courts should refrain from adjudicating purely religious matters. He drew on legal precedent and constitutional provisions to underscore the importance of respecting religious autonomy and adherence to internal religious laws and canons. The judgment emphasized that civil courts cannot substitute themselves for religious authorities in matters of spiritual significance.

*Court Decision:* Justice Flavian Zeija delivered a decisive ruling on October 25<sup>th</sup>, 2023. He upheld the principle of non-justiciability of religious disputes and affirmed the jurisdictional limitation of civil courts in intervening in matters of religious doctrine and practice. Justice Zeija's decision emphasized the importance of respecting religious autonomy and internal dispute-resolution mechanisms within religious institutions. By refusing to interfere in the internal affairs of the Church of the Province of Uganda, the court upheld constitutional guarantees of freedom of worship and promoted harmony within religious communities.<sup>73</sup>

Therefore, the above case underscores the delicate balance between legal jurisdiction and religious autonomy. The ruling reinforces the principle of non-justiciability of religious disputes, affirming that civil courts should refrain from intervening in matters deeply intertwined with religious faith and practice. By upholding the autonomy of religious institutions and their internal dispute mechanisms, the court's decision promotes harmony within religious communities while respecting constitutional guarantees of freedom of worship. This case serves as a significant reminder of the limitations of civil courts in adjudicating matters of religious doctrine and practice.

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<sup>73</sup> Ibid

## **The Kigezi diocese succession dispute of 2023**

Months after the Bishop of Kigezi was elected and consecrated on 22<sup>nd</sup> May 2022, a case unfolded in which a Christian in the same diocese named Habasa Nelson filed a petition in the High Court at Kabale challenging the election of Rt. Rev. Gaddie Akanjuna as Bishop.<sup>74</sup>

*Background:* On 20<sup>th</sup> April, 2023, Nelson Habasa lodged a petition with the tribunal of the church of Uganda, contesting the legitimacy of Bishop Akanjuna's alleged election. The crux of his argument centred on Akanjuna's alleged lack of qualifications as per Article 13(6) and Canon 3.6.2/3.7.22 of the Church of the Province of Uganda Constitution and Canons respectively which outline the academic prerequisites for a bishop.<sup>75</sup>

*Legal Issues:* Habasa contended that Bishop Akanjuna's academic credentials fell short of the required standards. Despite possessing a bachelor's degree in education and an ordinary diploma in theology, Akanjuna lacked a postgraduate diploma in theology or divinity, as mandated by Canon 3.7.22. Therefore, Habasa sought the nullification of Akanjuna's consecration and appointment, citing wilful violation of church laws. In response to Habasa's petition, Bishop Akanjuna's qualification was questioned, and the legitimacy of his appointment came under scrutiny. The legal issue revolved around the interpretation and application of the church's canons regarding the academic qualifications for Bishops.

*Tribunal Decision:* Before the tribunal could decide on this matter, it happened that in August 2, 2023, Nelson Habasa unexpectedly withdrew his petition. He cited guidance from God and his conscience acknowledging that Bishop Akanjuna met all requirements for the position. Habasa conveyed his decision to withdraw the petition through a letter submitted to Rev Amesu, the secretary at the provincial headquarters in Namirembe-Kampala.<sup>76</sup>

Therefore, this case on short records highlighted the complexities involved in leadership appointments within religious institutions. Despite initial legal contention, the matter was ultimately resolved through the withdrawal of the petition by Nelson Habasa. This outcome underscores the importance of introspection, faith, and reconciliation in resolving internal disputes within the church.

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<sup>74</sup> John Semakula, (June 21, 2012), *Why Christians In The Anglican Church Of Uganda Are Challenging New Bishops* Via <https://religionunplugged.com/news/2023/5/23/why-christians-in-the-anglican-church-of-uganda-are-challenging-the-new-bishops>

<sup>75</sup> Ibid

<sup>76</sup> Ibid

### **The Namirembe diocese succession dispute of 2023**

The election of Rev. Canon Moses Banja as the next Bishop of Namirembe sparked both celebration and scepticism within the Church of the Province of Uganda. Amidst allegations of corruption, conflict of interest, and unfairness, the nomination process leading to Banja's election came under intense scrutiny. Consequently, a joint committee was convened to investigate the matter, chaired by Rt Rev Johnson Gakumba, emeritus Bishop of the Diocese of Northern Uganda.<sup>77</sup>

*Background and Legal Issues:* The controversy stemmed from the nomination process for the next Bishop of Namirembe following the impending retirement of Bishop Wilberforce Kityo Luwarira. A nomination committee chaired by the diocesan chancellor Fred Mpanga received 13 candidates, including Rev. Can. Moses Banja and Rev Abraham Muyinda. However, disagreements arose during the committee's meeting regarding the vetting and election procedures of certain candidates. Despite objections from ten members, two names were forwarded to the House of Bishops.<sup>78</sup>

*Probe Committee Decision:* The allegations of corruption, unfairness, and conflicts of interest prompted the elders of Namirembe Diocese to petition the House of Bishops. Consequently, the election of Namirembe was deferred, and a probe committee was established to investigate the nomination process. After a thorough investigation, the committee, led by Rt Rev Johnson Gakumba, reaffirmed that the nomination process adhered to due process and was free from irregularities. The committee's report was presented to the House of Bishops, who proceeded to elect the New Bishop from the names previously presented by the search committee.<sup>79</sup>

Therefore, the Namirembe diocese succession short-lived dispute also underscores the complexities involved in the selection of church leaders and the importance of transparency and integrity in such processes. While the probe committee's findings validated the nomination process leading to Rev. Canon Moses Banja's election, lingering scepticism highlights the need for continuous review and improvement of the nomination procedures within the church of Uganda.

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<sup>77</sup> Jane Nafula.(October 5, 2023), *House of Bishops fails to elect Luwalira's successor*, via <https://www.monitor.co.ug/uganda/news/national/house-of-bishops-fails-to-elect-luwalira-s-successor--4390440>

<sup>78</sup> Ibid

<sup>79</sup> Ibid

Moving forward, the recommendations put forth by the committee serve as a road map for enhancing the integrity and fairness of future bishop nominations, ensuring the stability and credibility of the church's leadership succession process.

### **3.6. The Kumi Diocese Case Study**

#### Case Background

As highlighted in the case judgement, it was recorded that on the 19<sup>th</sup> of November 2019, the plaintiff (Rev Charles Okunya) was duly elected as the Bishop of Kumi Diocese after a thorough process of vetting and nomination. Subsequently, by letter dated 16<sup>th</sup> December 2019, the Archbishop of the Church of the Province of Uganda communicated to the plaintiff that there were complaints raised against him and issues concerning his first relationship with the mother of his children Dinah for which the plaintiff was to respond to in writing. The said letter also informed the plaintiff that his consecration and enthronement as the 2<sup>nd</sup> Bishop of Kumi Diocese scheduled for 29<sup>th</sup> December 2019 was postponed till further notice. The plaintiff made a response concerning the allegations in writing to the Archbishop of the defendant. The said lady in question Dinah Amongin and her father Mr. Onyait Stephen also wrote to the Archbishop in respect of the allegations against the plaintiff. The House of Bishops sitting at Boroboro appointed a select committee of three Bishops to investigate the matter. Among the issues that came before the select committee was the issue of the Bishop Elect's age. The select committee picked up the issue of age upon which the plaintiff was allowed to explain the discrepancy in his age and especially the date of birth of 1975 or 1970. The select committee made a report to the House of Bishops sitting at Mityana on the 01<sup>st</sup> day of February 2020. The House of Bishops accordingly proceeded to revoke the plaintiff's election on grounds that he falsified his age by way of statutory declaration and had not attained the age of 45 years by the time he was elected. The defendant in their defence contended that the plaintiff's assertion that he was born on 23<sup>rd</sup> November 1970 is fraudulent given the over eight documents from different government and educational institutions where the plaintiff passed where he submitted information that he was born on 23<sup>rd</sup> November 1975. He fraudulently altered his year of birth to 1970 to meet the requirement for the office of the bishop which at the time he had not attained.<sup>80</sup>

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<sup>80</sup> **Rev Charles Okunya v Registered Trustees of the Church of Uganda** (Civil Suit No. 35 of 2020) [2021] UGHCCD 74 (30 June 2021) via <https://ulii.org/akn/ug/judgment/ughccd/2021/74/eng@2021-06-30>

Relief sought from the court

The plaintiff in his plaint sought the following reliefs from the court:

- First, a declaration that the impugned decision of the House of Bishops revoking the election of the plaintiff as the 2nd Bishop of Kumi is illegal and unlawful
- Second, a declaration that the impugned decision of the House of Bishops barring the plaintiff's name from ever coming up among any future candidates is illegal and unlawful.
- Third, a permanent injunction restraining the defendant, its agents, servants and or employees from further conducting the search and subsequent appointment of another Bishop of Kumi Diocese until the determination of the suit.
- Fourth, an order directing the defendant to consecrate and enthrone the plaintiff as the 2nd Bishop of Kumi Diocese
- Finally, a relief of general damages, exemplary damages, and costs of the suit.

The parties filed a joint scheduling memorandum where the following issues were agreed for the court's determination:

Issues in Contention

- Whether the plaintiff had attained the age of 45 as required by the provincial constitution and canons by the time of his purported election by the House of Bishops
- Whether the defendant illegally and unlawfully revoked the election of the plaintiff as second Bishop of Kumi Diocese
- Whether the defendant's decision to bar the plaintiff's name from ever coming up among candidates for electoral office with the defendant was lawful
- Whether the defendant plays any role in the election of Bishops in the Church of Uganda
- Whether the plaintiff is entitled to the reliefs claimed in the pleadings.

*Court decision:* The court dismissed the suit, emphasising the plaintiff's failure to comply with age requirements and suing the wrong party. It upheld the Church's autonomy in clergy matters and deemed its decision lawful.<sup>81</sup>

### **Case analysis**

*Particulars:* Rev Charles Okunya Vs The Registered Trustess of the Church of Uganda

*Summary of Background:* Rev Charles Okunya (the plaintiff) was elected as the Bishop elect of Kumi Diocese but faced allegations regarding his age and past relationship. The House of Bishops, after investigating, revoked his election based on discrepancies in his age declaration. The plaintiff sued the church of Uganda, seeking various reliefs, including reinstatement as Bishop. The court examined whether the plaintiff's age met the requirement for bishopric and the appropriateness of suing the Church's Registered Trustees.

#### Issues in Contention

1. Was the plaintiff's age compliant with the provincial Constitution and Canons at the time of his election?
2. Did the church unlawfully revoke the plaintiff's election
3. Was the decision to bar the plaintiff from future candidacy lawful?
4. Does the church play a role in Bishop elections?
5. Are the reliefs sought by the plaintiff justified?

#### **Analysis of Issues**

1. *Age Requirement for Bishopric:* The plaintiff claimed to have been born in 1070 but presented documents indicating 1975. The church's constitution mandates Bishops to be at least 45 years old. Despite a statutory declaration, the plaintiff's inconsistency and lack of proper procedure to change his birthdate rendered him ineligible for bishopric.
2. *Lawfulness of Revocation:* The House of Bishops, having authority over such matters, revoked the plaintiff's election due to age falsification. This was within their jurisdiction, ensuring integrity in clergy appointments.

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<sup>81</sup> Ibid

3. *Decision on Future Candidacy:* The church's decision to bar the plaintiff from future candidacy was lawful, considering his disqualification due to age discrepancy and integrity concerns.

4. *Church's Role in Bishop Elections:* The church, not the registered Trustees, plays a significant role in Bishop elections. The plaintiff sued the wrong party, as the Trustees' functions do not encompass bishopric matters.

5. *Appropriateness of Reliefs:* The reliefs sought by the plaintiff, including reinstatement, were unfounded due to his failure to meet the age requirement and suing the wrong party.

### **Key Study Aspects in the Kumi Diocese Case**

The Kumi Diocese succession dispute presents a complex interplay between religious autonomy and secular legal principles. This part of the dissertation analyses the case as a study in the correlation between divine law, as interpreted by the Church of the Province of Uganda, and secular law, as adjudicated by the High Court of Uganda. Examining the legal arguments, religious doctrines, and judicial decisions involved, will help to elucidate the dynamic relationship between these two realms of law.

#### Religious autonomy versus judicial review

The case underscores the principle of religious autonomy, which grants religious institutions the freedom to govern themselves and make decisions regarding matters of faith and doctrine. The House Bishops, as the highest ecclesiastical authority within the Church of the Province of Uganda, invoked its right to determine the qualifications of clergy members, including bishops, based on its interpretation of divine law and canonical regulations.<sup>82</sup> This assertion of autonomy is supported by legal precedents such as *Serbian Eastern Orthodox Diocese for the United States of America and Canada Vs Milivojevich*<sup>83</sup>, which upheld the authority of religious bodies in matters of internal governance. However, the plaintiff, Rev. Charles Okunya, sought recourse in the secular legal system by bringing a civil suit against the church of the Province of Uganda. This action raises questions about the extent to which secular courts can intervene in disputes involving religious institutions.

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<sup>82</sup> **Rev Charles Oode Okunya v Registered Trustees of the Church of Uganda** (Civil Suit No. 35 of 2020) [2021] UGHCCD 74 (30 June 2021) via <https://ulii.org/akn/ug/judgment/ughccd/2021/74/eng@2021-06-30>

<sup>83</sup> *Serbian Eastern Orthodox Diocese for The United States of America and Canada Vs. Milivojevich* 426 US 696, 713 (1976)

The defendant argued that the dispute fell within the purview of internal ecclesiastical mechanisms and should not be adjudicated by secular courts. This contention aligns with the doctrine of ministerial exemption, which safeguards religious organizations from undue interference by civil authorities in matters of religious governance.

#### Legal interpretation of age requirement

Central to the dispute was the question of whether Rev. Okunya had attained the age of 45, a prerequisite for the position of Bishop according to both divine laws, as articulated in the Constitution and Canons of the church of the Province of Uganda, and secular law. The plaintiff asserted that he was born in 1970, thereby meeting the age requirement. However, the defendant presented evidence, including official documents and witnesses' testimony, indicating that Rev Okunya had consistently declared his birth year 1975 in various contexts over the years. The court's analysis of the evidence highlighted the importance of factual accuracy and consistency in determining eligibility for ecclesiastical office. Despite Rev Okunya's claim of a clerical error in his birth date, the court found the evidence of his consistent representation of being born in 1975 more compelling.<sup>84</sup> This decision illustrates the court's adherence to secular legal standards, which prioritize objective evidence and procedural integrity in resolving disputes.

#### Jurisdictional issues and proper parties

Another aspect of the case pertained to jurisdictional issues and the identification of the proper party to the lawsuit. The defendant argued that the suit was improperly filed against the Registered Trustees of the Church of the Province of Uganda, as they did not play a role in the election of Bishops. Instead, the House of Bishops was identified as the relevant authority responsible for such appointments. This distinction underscores the importance of accurately identifying parties and their roles in legal proceedings, ensuring that judgments are enforceable and directed as appropriate entities.<sup>85</sup>

Therefore, the Kumi Diocese succession dispute serves as a compelling case study in the correlation between divine law and secular law. While religious autonomy grants religious institutions significant latitude in internal governance, secular legal principles provide a framework for resolving disputes and ensuring procedural fairness.

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<sup>84</sup> **Rev Charles Oode Okunya v Registered Trustees of the Church of Uganda.** (Civil Suit No. 35 of 2020) [2021] UGHCCD 74 (30 June 2021) via <https://ulii.org/akn/ug/judgment/ughccd/2021/74/eng@2021-06-30>

<sup>85</sup> *Ibid*

By navigating the complex interplay between these two realms of law, the court demonstrated a commitment to upholding legal standards while respecting religious autonomy. Ultimately, the case highlights the importance of balancing competing interests and principles in the pursuit of justice.

### **3.7. Conclusion**

The examination of succession disputes within the Church of Uganda over the past decade reveals a complex interplay between religious doctrine, ecclesiastical law, and secular legal principles. Across various cases, including those in Kigezi, Muhabura, Luweero, Namirember, and Kumi Dioceses, issues of procedural integrity, jurisdictional boundaries, and adherence to religious autonomy have been central. The landscape surrounding these disputes reflects the tensions between religious autonomy and judicial review. While religious institutions like the church of Uganda maintain the right to govern themselves and resolve internal disputes according to their doctrines and canons, secular courts may intervene when fundamental rights or statutory provisions are at stake. However, such intervention is typically limited, respecting the principle of religious autonomy and the separation of church and state.

Furthermore, the analysis above underscores the importance of procedural integrity and adherence to established protocols in dispute resolution. Whether it pertains to the age requirement for bishopric, the lawfulness of revocation, or the identification of proper parties in legal proceedings, consistency, transparency, and adherence to due process are essential for maintaining the integrity of ecclesiastical appointments and resolving disputes effectively. Ultimately, the resolution of succession disputes within the Church of the Province of Uganda requires a delicate balance between religious principles, legal norms, and institutional integrity. By upholding the autonomy of religious institutions while ensuring access to justice and procedural fairness, the Church of the Province of Uganda can navigate these challenges while preserving its doctrinal integrity and fostering unity within its community of believers.

## CHAPTER FOUR

### 4.0 THE CHALLENGE OF DIVINE LAW AND SECULAR LAW; RELATIONSHIP

#### 4.1. Introduction

As the Church of the Province of Uganda tries everything possible to resolve disputes, there is a challenge of the relationship between divine law and secular law which often stems from their interdependence. Matters related to the Church of the Province of Uganda inevitably influence secular society and cannot be completely separated from secular regulations. Similarly, secular laws impact church members because they are also citizens bound by these laws.<sup>86</sup> This interconnection makes it difficult to fully dissociate divine and secular legal systems, leading to potential misunderstandings about the boundaries and interactions between divine and secular laws.

This chapter delves into the terrain where secular law intersects with divine law, presenting a multifaceted challenge of interpretation and application as highlighted in the above chapters. As societies navigate the complexities of governance, legal systems often grapple with reconciling the dictates of secular legislation with the principles enshrined in religious teachings. This dissertation further embarks on a nuanced exploration of the tensions, contradictions, and synergies that emerge when these two realms converge. From the Courts of Justice to the halls of religious institutions, the interplay between Church and State, divine and secular law shapes not only legal outcomes but also societal norms, ethical frameworks, and individual beliefs.<sup>87</sup> By unravelling this interplay, we aim to shed light on the complexities inherent in navigating the intersections of law and faith, offering insights into the challenges and opportunities they present for individuals, communities, and policymakers alike

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<sup>86</sup> **Isaac Christopher Lubogo. (2023).** *When Courts Do Religion: The Disambiguation between Religion and State.* Luwum, Kampala, Jescho Publishing House. Pp.7-10

<sup>87</sup> Ibid

## 4.2 The Church Law System Versus the State Law System

The Church of the Province of Uganda's quest for a peaceful and non-chaotic church operates in contemporary times where the relationship between secular and divine law is intricate and multifaceted as observed in previous chapters. This particular section therefore examines the key contrasts between church law and state law, exploring their distinct objectives, foundational principles, and spheres of influence, as well as the areas where they interact and complement each other.

In Uganda, the above separation concept has found resonance in cases where, Doctrines of 'Church autonomy' and 'Ministerial exception' are affirmed in Uganda: *Rev. Charles Okunya Vs The Registered Trustees of the Church of Uganda, HCCS No.305/2020* where it was held that Religious disputes- that are purely ecclesiastical or doctrinal such as the appointment of ministers-are not within the jurisdiction of civil courts. However, an exception may be made where the dispute is either civil or involves property. In light of the above deliberations, it is quite elucid that the extent of separation between government/state and the church/region all over the world continues to be a major subject of debate.<sup>88</sup>

Crucial to note in the above quest is that church law, rooted in divine will and God's intention to establish His church on earth, governs the internal life and organization of the church. It operates independently from secular law, which serves as the legal framework for the state and society at large and derives its authority from the will of the people. Although both legal systems aim to regulate human conduct and ensure peace and harmony within their respective domains, their differing sources, purposes, and methods of enforcement present unique challenges and opportunities for achieving a balanced relationship between divine and secular laws while resolving disputes.<sup>89</sup>

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<sup>88</sup> Isaac Christopher Lubogo. (2023). Pp.10

<sup>89</sup> 1 Morden, J. W. 1984, *An essay on the connection between law and religion*. Retrieved August 14, 2024

## **Foundational principles**

The foundational principles of divine law and secular law differ significantly due to their distinctive purposes and origins. Church law also known as Canon law is rooted in divine will and God's command, focusing on spiritual guidance, moral rectitude, and leading believers on their journey of faith. It encompasses both theological and juridical aspects and serves as a guiding force for religious institutions and practices. On the other hand, secular law is based on human reason and the collective will of the people, aiming to establish a just and orderly society through the regulation of human conduct and the maintenance of social order. Although their foundational principles are different, both legal systems ultimately aim to promote the well-being and harmony of their respective communities.<sup>90</sup>

## **Sources of Authority**

Canon law, also known as church law, derives its authority directly from divine will and sacred texts such as the Bible and other religious writings. Its foundation lies in the teachings of Jesus Christ, aiming to guide individuals toward salvation and a deeper relationship with God. In contrast, state law, often termed secular or civil law, originates from human reason, social customs, and the authority of the state. Its authority stems from the governing institutions and the collective will of its citizens, focusing on maintaining order and justice in society.<sup>91</sup> While both legal systems hold significant authority in their respective realms, they operate independently of each other, addressing distinct aspects of human experience.

## **Pursued Objectives**

The church and state pursue different objectives; the state operates for the welfare of society and the promotion of justice and order, while the church's focus is on guiding believers toward eternal salvation. As such, state law emphasizes justice through legal norms, while church law emphasizes moral and ethical conduct. Both systems aim to enhance human well-being and promote ethical behaviour, yet they operate on different levels of authority and importance. The norms of state law are based on the authority of the state, while church law derives its authority from divine mandates.<sup>92</sup> This distinction underscores the varying degrees of independence between the two legal systems.

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<sup>90</sup> Santi .C. (2021), *The Relationship between Sacred Law and Secular Law. A comparative Analysis.* 4, 114-135

<sup>91</sup> Santi .C, Pg.128

<sup>92</sup> Ibid

## **Independence and Interaction**

While church and secular law operate independently, they often intersect and interact. For instance, religious freedom and legal recognition of religious institutions are areas where the two systems overlap. The state under the legal doctrine of *ministerial exception* provides a legal framework that protects religious freedom and supports religious institutions' ability to function effectively. At the same time, the church can offer spiritual guidance and moral support to society, contributing to its overall well-being. This symphony of church and state seeks to promote the common good and harmonious coexistence of both legal systems.<sup>93</sup>

## **Differences in enforcement**

Church law and state law also differ in their approaches to enforcement. While state law relies on coercive measures such as penalties and imprisonment to ensure compliance, church law emphasizes moral conscience and spiritual discipline.<sup>94</sup> The goal of church law is to guide believers toward moral rectitude and spiritual salvation, rather than merely enforcing obedience to legal norms.

Therefore, the Church of Uganda in its bid to resolve disputes should be keen to note that the relationship between church law and state law is marked by a complex interplay of distinctions and commonalities. While each legal system has its unique foundation, objectives, and sphere of influence, they both have the potential to collaborate and mutually support one another in promoting ethical conduct, social harmony, and justice in society. By understanding the nuances of each system while resolving disputes, a balanced and respectful coexistence can be achieved, benefiting both the temporal aspects of human life and the spiritual well-being of individuals. This harmonious relationship requires ongoing dialogue and reflection to navigate the challenges and opportunities presented by the intricate interaction between divine and secular laws. Ultimately, this partnership can contribute to a society that respects both the spiritual and material dimensions of human existence.

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<sup>93</sup>Ibid, Pg.129

<sup>94</sup>Mircea Dute. *Procesul Lui Iisus* (Jesus's Trial), Bucharest: Herald Publishing House, (2011), P.11

### 4.3 The Challenge of Understanding Canon Law

The Church of the Province of Uganda not exempted, understanding and applying Canon law while resolving disputes presents several challenges for scholars, legal practitioners, and religious adherents alike due to its complex and multifaceted nature. As the system of law governing the internal life, organization, and spiritual practices of the church, Canon law is deeply rooted in divine will and religious traditions. This dissertation explores the challenges of understanding Canon law, including its unique sources, complex historical development, interplay with secular law, and the diverse interpretations of its principles which affect dispute-resolution processes.

#### Sources and historical development

One of the primary challenges in understanding Canon law for effective dispute resolution is its diverse range of sources, including sacred texts such as the Bible, ecclesiastical writings, decrees from church councils, and episcopal guidance. These sources form the basis for a legal system with clear principles that has evolved over centuries, influenced by changing theological, cultural, and historical contexts.<sup>95</sup> Canon law's complex development, from early Christian communities to the codification of the modern Church of the Province of Uganda Code of Canon Law in 1997<sup>96</sup> and subsequent revisions as an example, make it a dynamic and evolving body of law that can be difficult to navigate in a bid to resolve disputes.

#### Interplay with Secular Law

In general resolution of disputes in the church, another challenge arises from the interplay between Canon law and secular law. While canon law operates independently of state law, they often intersect in areas such as marriage, education, and property rights. The relationship between these two legal systems varies depending on the political and historical context of a given religion. In some countries, the state may recognize and enforce certain aspects of Canon law, while in others, the two systems may be entirely separate.<sup>97</sup> Understanding the nuances of this interplay requires a deep knowledge of both systems and the cultural context in which they operate.

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<sup>95</sup> **The Anglican Consultative Council.** *The Principles of Canon Law Common to the Churches of the Anglican Communion*, 2008, Anglican Communion Office, London, UK. Pp.20

<sup>96</sup> **The Church of Uganda.** (1997). *Provincial Canons as amended in 2018*

<sup>97</sup> **Visotzky, R. B. L.** (2001). *Myth of Divine Law in Secular Society*, *The. DePaul L. Rev.*, 51(4), 1064.

## Diverse Christian interpretations and applications

In resolving church disputes, the interpretation and application of Canon law in the worldwide church can also be challenging due to the diversity of opinions and practices within the church. Different denominations and branches of Christianity may have their distinct legal traditions and interpretations of Canon law irrespective of the required principles of interpretation and application of Canon law.<sup>98</sup> For example, the Pope's words, instructions, decisions, and appointments in the entire Roman Catholic church are final and unchallenged but this is different with the Anglican Church where words, instructions, decisions, and appointments by the Archbishop of Canterbury are examined against scripture, reason and church tradition. Additionally, cultural and regional variations can influence how Canon law is understood and applied in different contexts. This diversity requires scholars and practitioners to approach canon law with an open mind and an awareness of the complexities involved.

## Theological and philosophical foundations

As a principle, Canon law has a historical basis, philosophical connotations, a theological foundation, rationale and end. In dispute resolution, the theological and philosophical foundations of Canon law add another layer of complexity to its study. Furthermore, Canon law as a servant of the church is deeply rooted in the religious beliefs and teachings of the church, which may not always align with secular legal principles.<sup>99</sup> Understanding the underlying theological and philosophical assumptions of canon law is essential for grasping its objectives and methods of enforcement. This requires a multidisciplinary approach that considers not only legal but also theological, historical, and ethical perspectives for anyone in authority to successfully resolve any church disputes.

Therefore, while the church badly yearns to resolve disputes using its internal legal systems guided by canon law, understanding canon law is a challenging endeavour that requires a comprehensive approach. Scholars and practitioners on dispute tribunals must navigate its diverse sources, comprehensive historical development, interplay with secular law, and diverse interpretations and applications within the church. By recognizing and addressing these challenges, peacekeepers and promoters in the church can gain a deeper appreciation of canon law's role in shaping the spiritual life and governance of the church.

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<sup>98</sup> **The Anglican Consultative Council.** The Principles of Canon Law Common to the Churches of the Anglican communion, 2008, Anglican Communion Office, London, UK. Pp.20-21

<sup>99</sup> Ibid, Pp.19

## **The Church of the Province of Uganda Context**

Canon law serves as the guiding framework for the internal governance and organization of the Church of the Province of Uganda, providing principles and regulations that shape its spiritual life and administrative functions. Regarding disputes, the Church of the Province of Uganda's Canons, particularly **Canon 3.27**, establish a comprehensive framework for resolving disputes within the Church of the Province of Uganda. These Canons create multiple levels of tribunals (Diocesan, Provincial Appeals, and Provincial) to handle ecclesiastical offenses and disputes<sup>100</sup>. While this multi-tiered approach provides a structured mechanism for dispute resolution, the effective understanding and application of canon law within the church present several challenges, ranging from complexity and interpretation issues to cultural and contextual differences.

### Complexity and interpretation

Canon law in the Church of the Province of Uganda encompasses a wide range of topics, from theological doctrines to ecclesiastical procedures. In the event that theological education is not a requirement for all chancellors, their deputies (secular lawyers) and laypeople who man the tribunals under the Provincial Constitution (Article 15 and 17), mistakes and error become imminent due to a missing link or mismatch in their interpretation or comprehension of canon law.<sup>101</sup> This complexity poses challenges such as disagreements, in fully comprehending and consistently applying the canons in resolving disputes as it was the case for Namirembe diocese recently as seen in the previous chapter. In addition, bearing in mind that justice delayed is justice denied, the complexity of canon law in the Church of the Province of Uganda also stretches to encompass the multiple tribunals and levels of appeal that end up making the system bureaucratic, lengthy, and burdensome. This defeats the aim of seeking justice in the church tribunals as an internal mechanism for settling disputes.

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<sup>100</sup> **The Church of Uganda**. (1997). Provincial Canons as amended in 2018

<sup>101</sup> **The Church of Uganda**. *Provincial Constitution 1972*. Kampala: COU Provincial Secretariate. (Amended 1994, 2016) Pp. 20-21

## Cultural and contextual differences

Whereas Canon law knows no tribe or ethnic group, the reality is that the Church of the Province of Uganda operates within a diverse cultural and traditional landscape, encompassing four major ethnic groups (Bantu, Hamites, Nilo Hamites, and Nilotics), and 56 tribes<sup>102</sup>. Canon law must be sensitive to the above differences while upholding the core tenets of the Church's doctrine in resolving disputes. Striking a balance between universality and cultural relevance poses a significant challenge, requiring nuanced approaches to ensure that Canon law is applied equitably across different contexts within the church (Rebecca:2012).<sup>103</sup> For instance, it took several years for Christians and church leadership in the Church of the Province of Uganda to embrace women in the priesthood.<sup>104</sup> More so on this leadership dynamic, it is always with mixed feelings in reality that congregants easily welcome elected Bishops who are not residents of the dioceses to which they are sent to preside. In the true Ugandan cultural context indeed, it tends to always be tricky in church leadership and across other leadership spheres for a mukhonzò to reign over batooro, a muganda to reign over Acholi, an Itesot to reign over Japdola or a mukiga/mwiru to reign over Bahima due to deep seated historical paradigms.

## Balancing tradition and modernity

Canon law in the Church of the Province of Uganda is deeply rooted in centuries-old traditions and practices, yet it must also adapt to contemporary realities and societal changes as contemporary clergy take over ecclesiastical duties. The tension between tradition and modernity presents challenges in reconciling traditional ecclesiastical norms with evolving social norms and ethical standards. Take an example of the issue of priesting of women in which the Church of the Province of Uganda embraced it after many years of debate and struggle<sup>105</sup>. Addressing issues such as gender equality, human rights, and social justice within the framework of Canon law requires careful discernment and engagement with both theological and practical realities for effective dispute resolution,

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<sup>102</sup> The Constitution of the Republic of Uganda 1995 as amended

<sup>103</sup> **Rebecca Nyegenye**. A study of Discipleship in Mark 10:35-52: A model for Leadership Development of Clergy in the Church of Uganda (Anglican) 2012.Pp.xii

<sup>104</sup> **Christopher Byaruhanga**. "Called by God but Ordained by Men: The Work and Ministry of Reverend Florence Spetume Njangali in the Church of the Province of Uganda," *In Journal of Anglican Studies* 8/2 (2013):220

<sup>105</sup> Ibid

## Confidence versus human reproach

Canon law is orthodox given its divine source and Christians believe in its truth. However, in the Church of the Province of Uganda, it challenges many Christians on the essence of Canon law when those meant to be custodians and enforcers of canon law are known culprits against the same. As a principle of rule and applicability of law under Canon law, persons or church leaders cannot give what they don't have where by such leaders are seen to completely lack any moral or spiritual authority. Therefore, Instances of an adulterous Archbishop, a bishop contestant who alters his birth year, a Reverend Canon who has children outside an existing valid marriage, and a fraudulent and corrupt Archdeacon are a sign of a bigger problem in the church leadership. Yet the above clergy full of reproach are most likely to be in authority to preside over dispute resolution tribunals of the church. Such clergy, lay people, and chancellors presiding over tribunals put in place by the Provincial Canons as mechanisms of dispute resolution pose a big challenge in understanding the essence of canon law.

## Composition and procedure

The last challenge of understanding Canon law, especially in dispute resolution is the question about the composition of members of the tribunals and the procedures thereof as seen in Article 17 of the Provincial Constitution. Based on the assumption that one cannot be a judge in his own case, the composition of the Provincial tribunal, which consists of bishops nominated by the House of Bishops, may raise concerns about potential bias and lack of independence in a matter where one is challenging the decisions of the same House of Bishops. More so, the procedures laid down by the Provincial Canons are silent on key circumstances such as conflict of interest and undue influence. The hierarchical structure leads to a perception that higher-ranking members of the church influence outcomes compromising the impartiality of the dispute resolution process. This from the beginning becomes a barrier and challenge for Christians to understand as well as have confidence in Canon law for the resolution of disputes.

#### 4.4. The Challenge of Resolving Church Disputes in a Secular Law System

Resolving church disputes in a secular law system presents significant challenges for religious institutions, particularly when it comes to safeguarding their autonomy and managing conflicts by their own internal rules and doctrines. While secular legal systems provide a framework for addressing legal disputes, religious institutions such as churches must navigate the complexities of balancing their internal governance with the authority of the state. This research discusses the key challenges faced by the church when resolving disputes in a secular state beginning with a biblical perspective.

##### **Biblical perspective**

In contemporary Christian discourse, the question of whether disputes should be resolved through secular legal systems is a topic of considerable debate. This research explores the biblical perspective on this issue, drawing primarily from Paul's first letter to the **Corinthians 6:1-8** and interpretations by theologians such as John Calvin and Mathew Henry. In an examination of the passage in **1 Corinthians 6:1-8**, Paul admonishes the Corinthians for resorting to secular courts to settle disputes among believers. Paul frames his argument through a series of rhetorical questions, challenging the Corinthians' reliance on "unrighteous" judges outside the faith rather than resolving conflicts within the community of believers (1 Corinthians 6:1-3).<sup>106</sup> This passage underscores the notion that Christians possess the competence and spiritual authority to adjudicate matters among themselves, drawing upon the higher calling of their faith. According to MacArthur, Paul's critique of the Corinthians' conduct is situated within the broader context of the church's struggle to disengage from prevailing cultural norms and factionalism. The Corinthian community's reliance on secular courts reflects a deeper spiritual malaise, characterized by disunity and immaturity.<sup>107</sup> Furthermore, Paul's exhortation emphasizes the importance of intra-community reconciliation and the avoidance of trivial disputes that undermine the integrity of the church.<sup>108</sup>

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<sup>106</sup> **The Holy Bible**. English Standard Version

<sup>107</sup> **John MacArthur**. (2006), *MacArthur Study Bible*, Pp. 1694.

<sup>108</sup> **Mathew Henry**. (1991), *Mathew Henry's Commentary on the Whole Bible*. Pp.429

The interpretation of theologians like John Calvin and Mathew Henry in the above passage provides nuanced perspectives on the application of Paul's teaching. Calvin argues for a cautious approach to legal recourse, viewing it as a last resort that should not contravene the principle of loving one's neighbor.<sup>109</sup> Henry similarly advocates for restraint in legal actions, particularly in matters of minor consequence.<sup>110</sup> Contrary to a common misinterpretation, Paul's message does not categorically prohibit legal recourse among believers but instead underscores the importance of internal dispute resolution guided by biblical principles. The biblical framework articulated in Mathew 18:15-17 presents a structured approach to resolving conflicts within the church, culminating in a process that seeks reconciliation and maintains the integrity of Christian community life (Mathew 18:15-17).

It is from the above early church biblical guidance on the issue of disputes in the church that we derive consequent structured challenges of resolving church disputes in a secular law system as further discussed below:

#### Preservation of church autonomy

Important to note is that the primary challenge for the church in resolving disputes in a secular law system is the need to preserve its autonomy. Religious institutions have their own internal rules, doctrines, and governance structures, which are essential for maintaining their identity and integrity. When disputes arise, the church aims to resolve them internally through its established framework. However, secular courts sometimes assert jurisdiction in certain matters, potentially infringing upon the church's autonomy and ability to self-govern.

#### Risk of doctrinal interference

Under this challenge, it's important to note that secular courts may not fully understand or appreciate the theological nuances of church disputes, leading to decisions that could contradict or undermine the church's beliefs and teachings. This erodes the trust of the religious community in both the legal system and the church's ability to uphold its doctrines.

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<sup>109</sup> **Joseph Allegretti.** (1991). *"In All This Love Will be The Best Guide": John Calvin on the Christian's Resort to the Secular Legal System*, 9 J.L & Religion Pp.1, 10.

<sup>110</sup> **Henry,** supra note 60, at 429.

## Maintaining Confidentiality and Sensitivity

Church disputes as discussed in the previous chapters often involve sensitive issues such as personal conduct, doctrinal disagreements, or internal conflicts within the religious community. When disputes spill over into secular courts, they exacerbate tensions, divisions, and shame within the church as seen today in the Kumi Diocese succession dispute.<sup>111</sup> Moreover, the Kumi diocese dispute ended up in a secular court, before a Muslim judge (Justice Musa Ssekana), and the petitioner in this case (Rev Okunya) has since left the Church of the Province of Uganda with hundreds of followers and church properties to join another Christian sect.<sup>112</sup> The church must handle these matters with discretion and confidentiality to maintain trust and respect among its members. Involving secular courts whose most proceedings are public in these disputes jeopardizes the church's ability to keep these matters private and maintain harmony within the community.

## Potential Impact on Church-State Relations

Church disputes that spill over into secular systems can have broader implications for church-state relations. In a recent “Light up Ankole region mission” in western Uganda, the President of Uganda in his speech confessed that he withdrew from the church due to church disputes between different groups of Christians in the same church<sup>113</sup>. The church may find itself at odds with secular authorities if it perceives the legal system as encroaching on its autonomy or failing to respect its religious rights. Navigating these disputes diplomatically and effectively is crucial for maintaining positive church-state relations

## Navigating jurisdictional boundaries

Church disputes often involve a complex challenging interplay of legal and religious issues where sometimes tension builds up due to the intersections of canon law and secular law. While the church may prefer to handle disputes through its internal tribunals or mediation processes, secular courts may claim jurisdiction over certain aspects of a dispute, particularly when it involves civil matters such as property, contracts, or employment.

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<sup>111</sup> **Rev Charles Oode Okunya v Registered Trustees of the Church of Uganda.** (Civil Suit No. 35 of 2020) [2021] UGHCCD 74 (30 June 2021) via <https://ulii.org/akn/ug/judgment/ughccd/2021/74/eng@2021-06-30>

<sup>112</sup> Ibid

<sup>113</sup> **President Museveni's** Speech during the Light up Ankole Region Mission 2024 on 18th May 2024 via <https://www.youtube.com/watch?v=dsh6ebvUEPk>

The church therefore is left with the huge challenge of navigating these jurisdictional boundaries carefully to avoid overstepping its authority or facing legal consequences.

The issue of costs and impact on relationships

Lastly, settling church disputes in a secular law system involves serious costs on the side of the offender and the offended Christian in the church. The processes, procedures, and expenses involved tend to stretch the parties involved to the extent that this affects the post-litigation relationship of the parties that incur the expenses. Unlike the Canonical system which is reconciliatory in nature, secular law systems are about the winner or loser and the costs to be paid to the winner in compensation. A case in point is Rev. Canon Godfrey Kasana of Luweero Diocese who has not reconciled with the Church of the Province of Uganda for almost a year after losing a legal battle in October 2024<sup>114</sup>, and Rev Charles Okunya of Kumi Diocese who has since February 2020 parted ways with the Church of the Province of Uganda to even join another sect after losing legally against the church of the Province of Uganda in June 2021.<sup>115</sup> This therefore poses a challenge that even when secular courts may offer solutions to resolving church disputes, they in most cases cause further damage to Christian relationships.

#### **4.5. Conclusion**

The interaction between divine law and secular law presents a complex landscape characterized by challenges and opportunities. The fundamental divergencies in sources, objectives, and enforcement methods of these legal systems underscore the intricacies involved in their harmonization. Divine law, deeply rooted in divine will and theological principles, guides the spiritual life and governance of religious institutions. However, understanding and applying canon law in dispute resolution faces significant obstacles, including historical complexities, diverse interpretations, and challenges in adapting to contemporary societal norms. In resolving church disputes within a secular legal framework, religious institutions encounter formidable hurdles in preserving their autonomy, safeguarding doctrinal integrity, and maintaining confidentiality. The risk of doctrinal interference and potential impact on church-state relations further complicates this dynamic.

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<sup>114</sup> Mazzi Joyce, Mubiru Zigwa, Sabavuma Godfrey, Wasswa Paul, Mutebi Stephen, Edith Kagimu Vs The Most Rt Rev. Dr Stephen Samuel Kazimba Mugalu (HCCS NO.0034 of 2023)

<sup>115</sup> Rev Charles Oode Okunya v Registered Trustees of the Church of Uganda. (Civil Suit No. 35 of 2020) [2021]

Despite these challenges, this research emphasizes the importance of internal dispute resolution guided by biblical principles, advocating for the church's autonomy and its capacity to adjudicate matters internally wherever possible.

Therefore, navigating the complexities of divine and secular law interactions demands ongoing dialogue, contextual sensitivity, and a nuanced understanding of both legal systems. While secular legal frameworks provide avenues for dispute resolution, the preservation of church autonomy and doctrinal integrity remains paramount. Ultimately, the harmonious coexistence of canon law and secular law hinges on mutual respect, cooperation, and a shared commitment to upholding ethical conduct and social harmony within society.

## CHAPTER FIVE

### 5.0 SUMMARY, CONCLUSION, AND RECOMMENDATIONS

#### 5.1 Introduction

The Church of Uganda, over the past decade, has experienced a series of high-profile succession disputes leading to numerous lawsuits. These legal challenges, which stem from procedural irregularities, dishonesty among candidates, undue influence, jurisdictional issues, and allegations of corruption, underscore the complexities at the intersection of ecclesiastical autonomy and secular legal principles. Understanding the root causes of these disputes is crucial for the church to navigate the delicate balance between maintaining its doctrinal integrity and adhering to legal accountability.

This part of research aims to provide a comprehensive summary of the causes behind succession lawsuits against the Church of Uganda, exploring the interplay between divine and secular laws and the challenges arising from their misunderstanding. It will also draw logical conclusions from the analysis and offer recommendations to mitigate future disputes.

By examining the causes, drawing informed conclusions, and providing actionable recommendations, this chapter seeks to equip the Church of Uganda with the insights and tools necessary to uphold its values while effectively managing succession disputes within the framework of both divine and secular laws

#### 5.2 Summary

##### A. Causes of succession lawsuits against the Church of Uganda in the last 10 years

Over the past decade, the Church of Uganda has been involved in several high-profile succession disputes that have culminated in lawsuits. Using the **Kumi Diocese case** as a springboard, these disputes typically arise from the complex interplay of ecclesiastical autonomy, procedural integrity, and legal accountability. The rest of the prominent cases from dioceses such as Kigezi, Muhabura, Luweero, and Namirembe provide valuable insights into the recurring causes of these legal battles. This summary synthesizes these causes, underscoring the tensions between religious doctrines and secular principles:

## Procedural Irregularities in Elections

Unfortunately, many disputes have stemmed from alleged procedural flaws in the election processes of Bishops. For instance, the 2014 Kigezi Diocese succession dispute highlighted claims of undue influence and procedural violations during the election of George Bagamuhunda. Petitioners argued that the election did not adhere to the diocesan and provincial constitutions of the Church of Uganda, leading to a legal challenge aimed at halting Bagamuhunda's consecration. Similar procedural concerns were evident in the 2020 Kumi Diocese case, where Rev Charles Okunya's election was revoked due to discrepancies in his age declarations, raising questions about the integrity of the vetting process.

## Dishonest contestants

A recurring legal issue involves disputes over candidates' failure to be genuine and honest from inception. The tendency to conceal information, fraud and misinformation by contestants has absolutely caused legal battles. In the Kumi Diocese case, Rev Charles Okunya faced allegations of falsifying his birth year to meet the minimum age requirement of 45 for bishopric eligibility. The court ultimately upheld the revocation of his election, emphasizing the necessity for candidates to meet established age and qualification standards as per the church's canons.

## Interference and influence in succession

Accusations of improper influence and interference in the selection process have also been a significant cause of disputes. The Muhabura Diocese succession dispute of 2021 involved allegations against Bishop Cranmer Mugisha, who was accused of attempting to influence the selection of his successor. This led to legal action and a directive from the court to seek an out of court settlement, underscoring the complexities involved when bishops are perceived to meddle in succession processes.

## Jurisdiction and Autonomy Issues

The boundaries between ecclesiastical autonomy and civil judicial authority have been a focal point in many cases. The 2023 Luweero Diocese dispute illustrated this tension when allegations against the newly elected Bishop Rev Can. Godfrey Kasana led to a legal challenge. The court dismissed the suit, citing the principle of non-justiciability of religious matters and reinforcing the church's right to self-governance.

This principle was also evident in other cases, where courts often deferred to the church's internal mechanisms for resolving disputes, thus respecting its autonomy.

#### Allegations of Corruption and Unfairness

It is unfortunate that allegations of corruption, conflict of interest, and unfair practices during the nomination and election process of Bishops have also led to legal challenges. In the Namirembe Diocese succession dispute of 2023, concerns about the integrity of the nomination process led to the establishment of a probe committee. Although the committee found no irregularities, the initial allegations reflected deep seated concerns about fairness and transparency in church elections.

In conclusion, the causes of lawsuits against the Church of Uganda over the past decade predominantly revolve around procedural irregularities, qualification dishonesty or discrepancies, allegations of undue influence, jurisdictional boundaries, and concerns over corruption and fairness. These cases highlight the delicate balance that must be maintained between upholding religious autonomy and ensuring legal accountability. By adhering to established procedures, maintaining transparency, and respecting both ecclesiastical and legal norms, the Church of Uganda can navigate these disputes while preserving its doctrinal integrity and fostering unity within its community.

#### **B. The relationship between divine law and secular law**

The relationship between divine law and secular law is multifaceted and has evolved over time, reflecting complex interplay between religious beliefs and state governance. While secular law governs public and state affairs, ensuring a neutral and just framework, divine law influences personal conduct and moral decisions. Balancing these two systems involves recognising their distinct roles and managing potential conflicts to uphold both legal integrity and cultural-religious values. Historically, thinkers like Augustine of Hippo and Thomas Aquinas have categorised laws into divine (eternal and natural laws) and human (temporal or secular laws), highlighting the interaction between immutable divine principles and adaptable human laws.

*Divine law* is seen as a set of moral, ethical, and spiritual guidelines believed to originate from a supernatural source, such as God. It is perceived as infallible and provides moral and ethical guidance, often revealed through religious texts and teachings. In contrast, *Secular law* is established by governments and is designed to regulate societal behaviour based on human reason, social norms, and legislative process, without direct reference to religious doctrines.

In practical terms, secular law aims to manage social interactions impartially, promoting fairness, equality, and the rule of law. It encompasses various legal domains, such as criminal, family, and commercial law, and operates through codified statutes, judicial precedents, and administrative regulations. Meanwhile, divine law influences personal and communal ethics, providing a moral framework for individuals and religious communities.

The interaction between divine law and secular law can be cooperative or conflictual. For instance, in Uganda, the legal system predominantly follows secular principles derived from its constitution and international treaties. However, divine law, as practiced through religious customs and beliefs, significantly impacts personal morality and social norms. This relationship is evident in areas like family law, where customary and religious practices intersect with state legislation.

In conclusion, the relationship between divine and secular law in Uganda exemplifies the dynamic interplay of legal, cultural, and religious elements. While secular laws form the basis of governance, religious beliefs continue to influence societal norms and individual behaviour. Balancing these diverse sources of authority is crucial for maintaining the rule of law and honouring Uganda's rich religious and cultural heritage. This balance ensures that the legal system upholds citizens' rights while respecting the profound impact of religious traditions on personal and social life.

### **C. Challenges of divine law and secular law; Relationship**

#### **Interdependence and Complexity**

The above misunderstanding leads to a mix up of laws by the church. The interconnection between divine and secular law makes it challenging to fully dissociate the two, leading to potential misunderstanding about their boundaries and interactions. This complexity stems from their different sources, purposes and methods of enforcement.

### Difficulty in Preservation of Autonomy

Religious institutions, including the Church of Uganda, face significant challenges in preserving their autonomy when resolving disputes within the secular legal system. Secular courts may assert jurisdiction in certain matters, potentially infringing upon the church's ability to self-governance.

### Risk of Doctrinal Interference

Secular courts may not fully understand or appreciate the theological nuances of church disputes, leading to decisions that contradict or undermine the church's beliefs and teachings. This poses a risk to the church's doctrines and erodes trust within the religious community.

### Maintaining Confidentiality and Sensitivity

Church disputes often involve sensitive issues. Therefore, misunderstanding them to the extent of involving secular courts may jeopardize the church's ability to handle these matters with discretion and confidentiality. Public proceedings in secular courts can exacerbate tensions and divisions within the church community.

### Impact on Church-State Relations

Disputes that spill over into secular systems can strain church-state relations, especially if the church perceives the legal and state systems as encroaching on its autonomy or failing to respect its religious rights. In the escalated Kumi Diocese dispute, the case aftermath has led to tension, confusion and division within state security agencies and politicians. The most recent attempt is an act of security where the Archbishop of the Church of Uganda was advised against making a pastoral visit to a Church of the Province of Uganda parish church currently controlled by defected Rev Charles Okunya under a different Christian sect<sup>116</sup>. Navigating these disputes diplomatically is crucial for maintaining positive relations between religious institutions and secular authorities.

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<sup>116</sup> **Simon Peter Emwamu.** *Splinter group denies Kazimba access to a church*, 15<sup>th</sup> March 2024, Daily Monitor via <https://www.monitor.co.ug/uganda/news/national/splinter-group-denies-kaziimba-access-to-church-4556948>

## Impact on costs and relationships

When there are misconceptions between divine and secular laws, the church which is an island in a secular state ends up in a secular court. Resolving disputes in a secular system can incur significant costs and strain relationships within the church community as seen in the 2020 Kumi Diocese succession dispute. Unlike the reconciliatory nature of canonical systems, secular legal processes may focus on evidence, winners, and losers, leading to further damage to relationships among Christians involved in the dispute.

In conclusion, addressing these challenges requires ongoing dialogue, contextual sensitivity, and a nuanced understanding of both divine and secular legal systems. Ultimately, achieving a harmonious coexistence between divine/canon law and secular law hinges on mutual respect, cooperation, and a commitment to upholding ethical conduct and social harmony within society.

## 5.3 Conclusion

Therefore, several logical conclusions can be drawn regarding the correlation between divine law and secular law, particularly in the context of succession disputes and their legal ramifications as discussed below:

*Procedural Integrity and Ecclesiastical Autonomy:* The recurring procedural irregularities in the election of bishops underscores the necessity for the Church of Uganda to rigorously adhere to its established ecclesiastical protocols. Ensuring procedural integrity not only aligns with divine principles of honesty and fairness but also minimizes the likelihood of secular legal challenges. By maintaining internal consistency and transparency, the church can uphold its autonomy and avoid external interference.

*Importance of Honesty and Ethical Conduct:* The frequent disputes over dishonesty among candidates, such as falsifying age or qualifications, highlight a critical moral failing that must be addressed. As divine law emphasizes truthfulness and integrity, the church especially leaders must first lead by example and then deliberately enforce strict ethical standards to prevent such issues. This will not only foster trust within the church community but also enhance the church's moral standing in the eyes of secular authorities.

*Balancing Influence and Accountability:* Allegations of undue influence in the selection of bishops reveal the tension between maintaining ecclesiastical authority and ensuring accountability.

The church must navigate this by creating transparent, accountable processes that resist improper interference while respecting divine guidance. This balance is essential to prevent conflicts that may lead to legal disputes, thus preserving both the church's integrity and its public reputation.

*Jurisdictional Clarity and Respect for Autonomy:* The challenges arising from jurisdictional boundaries between ecclesiastical and secular law highlight the need for clear demarcation and mutual respect. While secular courts may defer to church autonomy in religious matters, the church must also respect the secular legal framework governing broader societal interactions. A harmonious relationship between divine and secular law requires the church to resolve internal disputes through its canonical systems while recognizing the role of secular law in protecting broader societal interests.

*Addressing Allegations of Corruption and Unfair Practices:* Allegations of corruption and unfairness during the nomination and election processes point to a critical area where the church must do serious introspection to improve its governance and credibility. Upholding divine law's emphasis on justice and fairness can help mitigate such issues. Establishing robust, transparent, and reliable mechanisms for addressing grievances internally will reduce the need for secular legal intervention and enhance the church's credibility.

*Challenges in understanding Divine and Secular Laws:* Misunderstandings between divine and secular laws can lead to significant challenges, including doctrinal interference, loss of autonomy, and strained church-state relations. To address these challenges, ongoing dialogue and education are essential. The Church of the Province of Uganda must work to educate its leaders and members (legal education) on the distinct roles and boundaries of divine and secular laws to prevent unnecessary conflicts and promote cooperative coexistence.

All in all, the Church of the Province of Uganda must strive to maintain procedural integrity, enforce ethical conduct, balance influence with accountability, clarify jurisdictional boundaries, address corruption, and educate its community on the interplay between divine and secular laws. By doing so, the church can uphold its doctrinal integrity, foster unity and maintain a respectful and cooperative relationship with secular authorities.

## 5.4 Recommendations

### Returning to Biblical Guidance

In today's world, truth has become so relative. However, the church as an institution still has an advantage of reference to the bible as the ultimate test and measure of truth in resolving disputes. Sufficient to note is that all scripture is breathed by God and profitable for teaching, for reproof, for correction, and for training in righteousness, that the men of God may be complete, equipped for every good work (**2 Timothy 3:16-17**).

Furthermore, the bible in clear words says in **1 Timothy 3:1** that anyone that aspires for the office of the bishop desires a noble task! Traditionally, the biblical expectations required church leaders to be above reproach, to be filled with the Holy Spirit and to exhibit godly character before assuming their roles. Today, however, there is a misconception that the office itself will sanctify individuals, errant leaders are simply transferred, allowing for moral laxity among leaders. This flawed notion has resulted in individuals using their positions for personal gain rather than spiritual service, leading to numerous issues within the church. Leaders who have conformed to the world patterns and not embraced a true transformation in Christ often resist stepping down, and the provincial leadership struggles to address crises effectively due to lack of adherence to biblical truth. To firmly combat these challenges, the Church of the Province of Uganda must return to biblical truth and guidance in its leadership selection process. Ensuring that leaders are genuinely spiritually transformed and exhibit godly character is essential. Repenting and returning to such biblical guidance and truth without an iota of compromise of **1 Timothy 3** would be a more equitable and spiritually sound process to save the Church of Uganda from the current succession menace during and after the selection of diocesan bishops.

### Education and Training

The current practice of the Church of the Province of Uganda is that tribunals are manned by secular lawyers, which poses a challenge as these disputes often involve theological complexities that secular lawyers may not fully comprehend. To resolve this issue and enhance the integrity of its internal dispute resolution process, the Church of the Province of Uganda must ensure that its tribunal members especially the leaders (Chancellors and Deputy Chancellors) possess expertise in ecclesiastical matters, Canonical jurisprudence, in both legal and theological disciplines.

If they are lay men, let them acquire some basic legal/theological training, if they are secular lawyers, let them acquire basic theological/canonical education. This approach aligns the tribunal system with the church's spiritual and ministerial needs and reinforces the church's stance against taking grievances to secular courts.

In addition to enhancing tribunal expertise, cultural and educational reforms are crucial. Promoting ecclesiastical unity involves emphasizing the theological and spiritual importance of unity within the church, teaching and preaching biblical principles of reconciliation, humility, and collective responsibility. Organizing retreats, workshops, and seminars focused on building a cohesive church community can further this goal. Leadership development programs such as investing in comprehensive training for potential bishops, including ecclesiastical governance, ethical leadership, and conflict management, is vital. Moreso, encouraging mentorship and continuous professional development for clergy prepares them for higher responsibilities within the church, fostering a culture of capable and spiritually grounded leadership.

#### Alternative Dispute Resolution Framework

Succession disputes within the Church of the Province of Uganda often lead to significant internal divisions, undermining trust and unity within the congregation. Currently, the Canons and Church constitutions do not have a dispute resolution framework. To address these issues, it is recommended that the Church of the Province of Uganda adopt an Alternative Dispute Resolution (ADR) framework tailored to its unique context. ADR methods, such as mediation and arbitration, offer structured yet flexible approaches to conflict resolution that resonate with Christian values. Mediation, facilitated by a neutral third party, encourages dialogue and reconciliation, allowing parties to explore solutions without imposing decisions. This voluntary and less confrontational process helps preserve relationships within the church. On the other hand, arbitration involves a neutral arbitrator who makes binding decisions, providing a quicker resolution than litigation but with a formality that can strain relationships. For effective and practical dispute management, the Church of the Province of Uganda should incorporate a comprehensive ADR clause within its canons and constitutions (legal framework) mandating internal resolution of conflicts. This clause should emphasize biblical principles, referencing scriptures such as **Mathew 18:15-20** and **1 Corinthians 6:1-8**, which advocate for resolving disputes within the Christian community.

The proposed ADR process would commence with negotiation facilitated by church leadership, followed by mediation with a neutral mediator if necessary, and finally, binding arbitration by a panel of independent arbitrators if mediation fails. This approach ensures alignment with Christian teachings, avoids the adversarial nature of civil courts, and upholds internal harmony. By adopting this ADR framework, the Church of the Province of Uganda can maintain its values and effectively manage succession disputes.

#### Strategic Missions and Outreach Programs

In dealing with succession disputes, strategic missions are both proactive/preventive and cure measures. For example, given the history and other guiding factors in different dioceses, the church of the Province of Uganda must have its ear on the ground to quickly and proactively arrest succession disputes at the formation stage. More so, the Church of the Province of Uganda in its strategic planning, must intentionally direct and dispatch missions and outreach efforts to dioceses that are fractured by succession disputes. Given the current context within the Church of the Province of Uganda, it is imperative that the missions department prioritizes sending dedicated teams to preach the gospel of love, peace, and reconciliation, especially to the affected dioceses of Kumi and Luweero. To ensure the effectiveness of these missions, a year-round schedule should be implemented, focusing on continuous engagement and support. These outreach teams should be well-equipped with training in conflict resolution, pastoral care, and community building to address the unique challenges in these regions. By fostering an environment of understanding and unity, the Church of the Province of Uganda can help heal divisions and strengthen the bonds within the Christian community.

#### Integration of faith in the Church of the Province of Uganda laws

In addressing the issue of succession disputes within the Church of the Province of Uganda, it is crucial to integrate faith deeply into the church's legal framework. This approach aligns with the biblical guidance provided by St Paul in his epistle to Romans 12:2, where he argues believers not to conform to the standards of the world but to be transformed by the renewing of their minds through the truth of God's word. This scripture highlights the importance of grounding church operations, including legal matters, firmly in biblical principles rather than secular norms. The more the church relies on secular laws and secular lawyers to govern its internal affairs, the more it opens itself up to external interference, particularly from secular courts that may not have the necessary understanding or respect for religious contexts and principles.

By expressly embedding faith into the church's legal structure, the Church of the Province of Uganda can create a robust framework that aligns with its spiritual values and theological beliefs, thereby reducing the influence of secular authorities in its internal matters. One practical step in this direction is the thorough incorporation of faith-based principles in the church's internal dispute resolution mechanisms. This can be achieved by developing a comprehensive set of church laws and regulations (Canons) that reflect biblical teachings and the Church of the Province of Uganda's doctrinal positions. These laws should cover all aspects of church governance, including succession planning and dispute resolution, ensuring that every decision and action is rooted in faith.

Furthermore, by establishing a clear and faith-driven legal framework, the church can confidently invoke the doctrine of ministerial exemption, which is a legal principle that prevents secular courts from intervening in religious matters. As earlier confirmed in the case of *Rev Charles Okunya Vs Registered Trustees of Church of Uganda*. This doctrine recognizes that religious institutions are best suited to resolve their internal disputes, especially those that pertain to doctrinal and faith-based issues, as secular courts lack the expertise to make informed judgments in these areas.

#### Deal with errant Church leaders early enough

Succession disputes within the Church of the Province of Uganda have often been exacerbated by the Church's tendency to tolerate and compromise with errant leaders. This pattern of complacency has allowed problematic behaviours to fester, ultimately contributing to more significant issues when it comes time to appoint new leaders. To safeguard the integrity and stability of the church's leadership, it is imperative to address these issues promptly and decisively. This approach aligns with the biblical principle found in Song of Songs 2:15: "Catch for us the foxes, the little foxes that ruin the vineyards, our vineyards that are in bloom." Historically, the Church of the Province of Uganda has sometimes responded to errant leaders by demoting, transferring or even turning a blind eye to the misdeeds of its leaders rather than addressing the underlying issues head-on. This reluctance to take firm action can be likened to allowing "little foxes" to roam free, ultimately causing significant harm to the church's "vineyard." Errant leaders, if not dealt with early, can undermine the spiritual and organizational health of the church, leading to deep-rooted problems that particularly become evident during leadership transitions. Dealing with errant church leaders early and decisively is crucial for several reasons:

Firstly, it upholds the church's moral and ethical standards. Leaders are expected to be the epitome of integrity, guiding their congregations not just through sermons, but through their actions. When these leaders deviate from the path of righteousness, allowing them to continue without consequence sends a contradictory message to the faithful and diminishes the church's credibility. Secondly, addressing issues early prevents the accumulation of unresolved conflicts that can escalate into major disputes during succession. Succession periods are particularly vulnerable times for any institution. If the church is already dealing with internal conflicts and unethical behaviour, these issues can explode into confusion and full-blown crises when it is time to appoint new leaders. By dealing with errant church leaders promptly, the Church of the Province of Uganda can ensure a smoother, more harmonious transition process. Third, early intervention is a deterrent to others who might contemplate unethical behaviour. When the church demonstrates that it doesn't tolerate any form of misconduct, it sets a precedent that upholds its values and principles. This not only protects the integrity of the church but also inspires confidence among the congregation that their leaders are held to the highest standards.

The practical steps for dealing with errant leaders could include setting up a robust accountability framework within the church's governance structure. Regular evaluations, transparent reporting systems, and spiritual accountability as a culture are essential components of such a framework. Therefore, the Church of the Province of Uganda must adopt a firm, precise, and swift approach in dealing with ungodly service to prevent future succession disputes. By addressing errant leaders early, the church can maintain its moral authority, ensure smooth transitions, and foster a culture of accountability and integrity. This approach, grounded in biblical wisdom, will help the church navigate its leadership challenges and continue to be a beacon of hope and faith for its followers.

#### Introduce legal education in theological schools

In my three years of ministerial and spiritual formation in theological school, I have not encountered a course unit that provides students with a comprehensive understanding of the legal framework governing the Church of the Province of Uganda. This lack of legal education or exposure likely contributes to the confusion between divine and secular laws, and the ignorance of the church's own governing laws among clergy. If future clergy are not given such legal awareness, disputes are inevitable. Theological schools serve as the foundation for church leadership, while the church itself is the application field.

Any defects in the educational foundational foundation will undoubtedly affect the leadership quality in practice. Therefore, based on challenges studied in previous chapters, I recommend that the Church of the Province of Uganda introduces compulsory legal education courses on Canon law in all its theological schools. This will ensure that future clergy are well-equipped with the necessary legal knowledge to navigate and uphold the church's legal framework, thereby minimizing conflicts and succession disputes.

Do thorough due diligence on Bishopric candidates

In the current procedural framework of the Church of the Province of Uganda, Diocesan nomination committees are tasked solely with identifying and nominating two candidates for the House of Bishops, which then makes the final decision regarding the appointment of a new Bishop or otherwise. Despite the six-month' notice period given for the meetings, there is no specified timeline within the church's legal framework for the nomination committees to commence and conclude their searches, resulting in a hasty and insufficient due diligence process. As demonstrated in previous chapters, many succession disputes across various dioceses can be attributed to inadequate due diligence during the nomination process such as marital issues in Luweero diocese, forged age in Kumi among others. Therefore, based on current state of affairs in the nomination process as analysed in previous chapters, I recommend that the nomination committee allocates a minimum of two years from inception of their search to thoroughly vet potential candidates, ensuring a comprehensive evaluation free from time constraints. Additionally, the House of Bishops should conduct its rigorous due diligence over a one-year period before making any official announcements. Consequently, the entire process of selecting and appointing a diocesan Bishop should span a minimum of three years, allowing for a meticulous and deliberate assessment of all candidates to ensure they meet the ecclesiastical standards and the noble calling of the position.

## BIBLIOGRAPHY (WORKS CONSULTED)

**Anon.** International Conference on Law and Religion, Ibadan: University of Ibadan Faculty of Law, 2017, p. 30

**Audi, Robert.** *Action, Intention, and Reason.* (1993) Ithaca, N.Y.: Cornell University Press.

Barr v. United Methodist Church, 153 Cal. Rptr. 322 (Cal. Ct. App. 1979).

**Basir Mitchel. Roberts, T. A.** (1984). Law, Morality and Religion in a Christian Society. *Religious Studies*, 20(1), 79–98 via <http://www.jstor.org/stable/20006032>

**Berkley D. James,** (1994), *Leadership Handbook of management and Administration*, Baker Books House, Michigan.

**Berman, H. J.** (1997). *Interaction of Spiritual and Secular Law: The Sixteenth-Century and Today.*

Bonds of Affection-1984 ACC-6 p49, Mission in a Broken World-1990 ACC-8 p101. See: <http://www.anglicancommunion.org/ministry/mission/fivemarks.cfm>

Boy Scouts of America v. Dale, 530 U. S. 640, 648 (2000)

**Byaruhanga Christopher,** “*Essential Approaches to Christian Religious Education: Learning and teaching*” (2018), Uganda Christian University.

**Calo, Z. R.** (2014). Constructing the Secular: Law and Religion Jurisprudence in Europe and the United States. *SSRN Electronic Journal.* <https://doi.org/10.2139/ssrn.2498503>

**Christopher Byaruhanga. (2008)** *Bishop Alfred Robert Tucker And the Establishment of the African Anglican Church*, wordalive, Nairobi.

**De Blois, M.** (2010). Religious law versus secular law: The example of the get refusal in Dutch, English and Israeli law. *Utrecht Law Review*, 6(2), 93. <https://doi.org/10.18352/ulr.126>

Dimanche Sharon and Ors V Makerere University Constitution Number 1 of 2003

Everson v Board of Education (1947) 330 US 1

**Guenther Bruce L**, (1999), "The elusive Biblical model of Leadership", Direction journal, vol.28 (1999) 1-5

**Hamlet Kabushenga Mbabazi**,(2004) *Leadership Under Pressure: The Authorised biography of the Most Rev.Dr.Livingstone Mpalanyi Nkoyoyo 1995-2004*, 2004,ACRLI, Kamapala

**Harold J. Berman**. (1993). *Faith and Order: The Reconciliation of Law and Religion*. Atlanta, Georgia. Scholars Press

**Henry & Richard Blackaby**. *Spiritual Leadership*, 2011, Nashville, B&H Publishing group. pg 15-40

**Hicks, M. A.** (2010). *Comment The Art Of Ecclesiastical War: Using The Legal System To Resolve Church Disputes*. 866

**Igor Oborotov**, The Concept and Features of legal system of Canon Law

**Isiko, A. P.** (2019). *The Succession Crisis to the Diocesan See of Muhabura, Church of Uganda*. November.

**Ken Blanchard, Phil Hodges, Phyllis Hendry**. *Lead Like Jesus*, Lessons from the greatest leadership model of all times,2016, Nashville, W Publishing pg. 3-15

Luseleka and Others v Namalwa (Miscellaneous Application 167 of 2021) [2021] UGHCFD 3 (23 November 2021)

Mazzi Joyce, Mubiru Zigwa,Sabavuma Godfrey,Wasswa Paul, Mutebi Stephen, Edith Kagimu Vs The Most Rt Rev. Dr Stephen Samuel Kazimba Mugalu (HCCS NO.0034 of 2023)

**Miller, Patrick.** (2010). Divine Command/Divine Law: A Biblical Perspective. *Studies in Christian Ethics*. 23. 21-34

**Pettit, P.** (1974). A theory of justice? In *Theory and Decision* (Vol. 4, Issues 3–4). <https://doi.org/10.1007/BF00136652>

**Pryor, C. S.** (2014). Law and the Bible: Justice, Mercy and Legal Institutions. Edited by Robert F. Cochran Jr. and David VanDrunen. Downers Grove, IL: InterVarsity Press, 2013. Pp. 269. \$24.00. ISBN-13: 978-0-8308-2573-8. *Journal of Law and Religion*, 29(2), 351–354. <https://doi.org/10.1017/jlr.2014.10>

**Rafael Domingo**, Why Spirituality Matters for Law: An Explanation, *Oxford Journal of Law and Religion*, (2019), no. 8, pp. 328, 348, 349.

Rev Father Cyril Adiga Nakari Vs Right Reverend Ocan Odoki and Registered Trustees of Arua Diocese HCCS No. 002/2017

**Robert F. Cochran Jr. and David VanDrunen.** (2013). *Law and the Bible: Justice, Mercy and Legal Institutions*, Downers Grove, InterVarsity Press.

**Roberts, T. A.** (1984). Law, Morality and Religion in a Christian Society. *Religious Studies*, 20(1), 79–98. <http://www.jstor.org/stable/20006032>

United States v Ballard 322 U.S 78 (1944)

**Visotzky, R. B. L.** (2001). Myth of Divine Law in Secular Society, *The DePaul L. Rev.*, 51(4), 1061.

**Wainwright, G.** (2017). Faith and order. In *The Oxford Handbook of Ecumenical Studies* (pp. 377–386). <https://doi.org/10.1093/oxfordhb/9780199600847.013.24>

Welsh v. United States, 398 U.S. 333 (1970). *Young Scientist*, (2015), no. 12, pp. 110-113.

Ziraguma Emmanuel and Another Vs The most Rt Rev L.M Nkoyoyo (HCCS No.0282 of 2003) via <https://ulii.org/akn/ug/judgment/ughc/2003/27/eng@2003-06-16>

**Akinloye, Idowu A.** (2021). Legal Issues Involving Succession Disputes among South African Churches: Some Lessons. *Ecclesiastical Law Journal*. 23. 160-190.  
<http://dx.doi.org/10.1017/S0956618X21000041>

**Matshobane, M., & Masango, M.** (2020). The challenge of pastoral succession in African independent Pentecostal churches. *HTS Teologiese Studies / Theological Studies*, 76(2), 10 pages. doi:<https://doi.org/10.4102/hts.v76i2.6265>

**C. Ruwona, E., & Rights, A.** (2009). *Succession Disputes in Zimbabwe Churches*  
[https://www.academia.edu/7972891/Succession\\_disputes\\_in\\_Zimbabwe\\_Churches](https://www.academia.edu/7972891/Succession_disputes_in_Zimbabwe_Churches)

**Dweba, Z. M., & Rashe, R. Z.** (2021). *African Leadership Wisdom and Experience: Lessons for Church Leaders in South Africa*. 102, 1–15.