RELIGION AND POLITICS: A CRITICAL STUDY OF THE POLITICIZATION OF ISLAM IN KENYA

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SOUTH AFRICA

SUPERVISOR: PROFESSOR S E DANGOR

HASSAN J. NDZOVU

REGISTRATION NUMBER: 204002243

SEPTEMBER 2008

Declaration

Declaration by the Candidate

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12 November 2008

Hassan J. Ndzovu — Date

Student Number : 204002243

Declaration of the Supervisor.

This dissertation has been submitted with my approval as university supervisor.

12 November 2008

Prof Suleman E. Dangor, — Date

School of Theology and Religion,

University of Kwazulu Natal,

Private Bag X54001,

Durban 4000,

South Africa.

Dedication.

This work is dedicated to those Kenyans who feel politically marginalized by the Kenya government. May their cry be heard and justice accorded upon them.

Abstract.

In Kenya, there has been a tendency to portray a separation of Church and State. However, attempts made by political leaders to separate Church and State have not successfully severed the relationship between religion and politics. The interweaving of religion and politics is the subject of this project. In particular it studies the changing relationship between Muslims and various political orders in Kenya from the pre-colonial times to the present. The study traces the role of Muslim individuals and associations under different political regimes. It explores the ways in which Muslims have politically mobilised in a context of political authoritarianism and limited space for protest. This has led to increasing politicization of Islam in Kenya with the formation of the Islamic Party of Kenya (IPK) in 1992 crystallizing the growing process of radicalization of sections of the Kenya's Muslims. Therefore, this study focuses on the politicization of Islam in Kenya and discusses the factors that triggered the process of its politicization and its challenges in Kenya's politics.

Over a period of one year, a structured interview with selected informers and informal discussions was conducted. The finding of the study indicates that the emergence of politicization of Islam in Kenya is a reflection of the exclusionary-repressive politics of the various Kenyan regimes. This political system is alleged to have contributed to the perceived political marginalization of Muslims in the country. It is this perceived marginalization which Muslims are striving to overcome. The formation of the IPK was an attempt by Muslims to address this perceived political marginalization. Fearing Islamic oriented political competition the Kenyan government refused to offer the IPK recognition. It is concluded that despite the registration setback the Muslims faced in Kenya's politics, they are still a significant opposition to political leadership in the country. None the less, this study shows that Muslim political engagement is not a monolithic. There are political differences among Muslims in relation to Kenya's politics. These differences are attributed to ethnic and racial binaries exhibited within the Muslim community.

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over a protracted length of time. Their interest lay with the gradual conversions, especially as they constituted the majority of conversions.

It is generally accepted that conversion is a process over time and not a single event; that it is contextual therefore affects and is affected by a number of relationships, situations and expectations and, factors in the conversion process are multiple, interactive and cumulative. Gillespie proposes that conversion accounts are both anachronistic and apologetic; the former because the conversion experience is moulded by the context and the latter through the necessity of converts to defend their new faith to their prior group of allegiance (1991: 5). Rambo maintained that conversion had to be viewed with the components of the cultural, social, religious and personal systems so as to understand the complexities of the individual's specific conversion process. This supports those scholars who feel that no two conversion processes or experiences are the same as each process is affected differently by each of these systems. Furthermore, the historical context allows scholars to trace the conversion traditions over time which presents the possibilities of documenting conversion patterns. Historians such as Bulliet, have been able to prove that conversion, even within the same tradition, may be different in different times and places depending on the motives for conversion! Through his theory of innovative diffusion and the 'S' and Bell-shaped curves of logistics (Bulliet: Accessed in June 2006), he ascertained that the first converts to Islam were different to those who followed after a long period of time.

The cultural system is recognized by the symbols and rituals which provide the guideline for living and which are unconsciously adopted through the socialization of the individual and maintained by the social institutions and relationships of the individual within the community. As the classical scholars suggested, conversion is often preceded by personal crises that involve the individual's thoughts, feelings and actions displayed by anguish, turmoil, guilt or conflict and it is the religious system that enables the convert to form a relationship with the spiritual to create a new identity and sense of meaning and purpose in life. (Rambo 1993; Gillespie 1991)

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Interviews were indispensable in the writing of this dissertation. My major debt is to those Kenyans who accepted interviews with me, and in between their busy schedules took time to discuss various events affecting Muslims in the country. I would like to thank all those who contributed to my knowledge and apologize for anything that I may have got wrong. I look forward to the day when I might acknowledge their assistance individually. I would like to make special mention of certain people whom the success of this thesis depended. Words fail me to express my sincere gratitude to my supervisor, Prof. Suleman E. Dangor for his genial leadership and scholarly guidance. He provided much practical help, crucial professional guidance and supervised the thesis throughout.

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Map of Kenya

The map below shows the provincial administrative boundaries with the major towns.

Source: Arye Oded, *Islam and Politics in Kenya*. (London: Lynne Rienner Publisher, 2000)

Table of Acronyms

1. AAA: Afro-Arab Association
2. AMS: African Muslim Society.
3. BAKWATA: Baraza Kuu la Waislamu wa Tanzania
4. CAA: Coast Arab Association
5. CIA: Central Intelligence Agency
6. CIPK: Council of Imams and Preachers of Kenya
7. CKRC: Constitution of Kenya Review Commission
8. COTU: Central Organization of the Trade Unions
9. CPG: Coast Protective Group
10. CPP: Coast Peoples Party
11. DC: District Commissioner
12. DEMO: Democratic Movement
13. DO: District Officer
14. DP: Democratic Party
15. FBI: Federal Bureau of Investigation
16. FORD: Forum for the Restoration of Democracy
17. FORD-Asili: Forum for the Restoration of Democracy, Asili
18. FORD-Kenya: Forum for the Restoration of Democracy, Kenya
19. GEMA: Gikuyu, Embu, Meru Association
20. IBEACo: Imperial British East African Company
21. IPK: Islamic Party of Kenya
22. KADU: Kenya African Democratic Union
23. KANU: Kenya African National Union
24. KAU: Kenya African Union
25. KBC: Kenya Broadcasting Corporation
26. KNA: Kenya National Archives
27. KPNP: Kenya Protectorate National Party
28. LDP: Liberal Democratic Party
29. LSK: Law Society of Kenya
30. MADU: Mombasa African District Union

31. MEWA: Muslim Education and Welfare Association
32. MP: Member of Parliament
33. NAAM: National Association for the Advancement of Muslims in Uganda
34. NCCK: National Council of Churches in Kenya
35. NFD: Northern Frontier District
36. NPPP: Northern Province Peoples Party
37. PLO: Palestine Liberation Organization
38. SDA: Seventh Day Adventist
39. SPK: Shirikisho Party of Kenya
40. SUPKEM: Supreme Council of Kenya Muslims.
41. TANU: Tanganyika African National Union
42. UECK: United Evangelical Churches of Kenya
43. UMA: United Muslim of Africa
44. US: United States
45. USAID: United States Agency for International Development

INTRODUCTION

1.1 Introductory Background.

This dissertation is the result of my interest in the role religion plays in politics. Religion influences the social, cultural and political lives of communities in different ways. It has emerged as a strong factor that influences societies. From time immemorial, religion and politics have been inseparable. In the great ancient civilizations of the world, religion and politics were closely related and intertwined. This made it difficult for people to clearly ascertain whether they were dealing with a king with sacred powers or a priest with political authority. The reason was that the two offices were inextricably linked. In almost all the continents of the world, the priest-king phenomenon was a common feature. This phenomenon was evident among the Egyptians in Africa,[1] the Romans in Europe,[2] the Assyrians in Middle East,[3] and the Incas in Americas.[4] Islam and Christianity, in the order of seniority of arrival, are two religions which dominate the religious realm in Kenya. Historically, both Islam and Christianity have been state religions in different places of the world, and have even survived as such in modern times.[5]

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[1]Philiph Lee Ralph et al (editors), *World Civilizations: Their History and Their Culture.* (London: W.W. Norton & Company Ltd., 1991), p57.

[2]Ralph, *World Civilizations*, pp 232-233.

[3]John Olorunfemi Onaiyekan, 'Forward' in Mathew Hassan Kukah, *Religion, Politics and Power in Northern Nigeria.* (Ibadan: Spectrum Books Limited, 1993), pVII.

[4]Onaiyekan, 'Forward' in Kukah, *Religion, Politics and Power in Northern Nigeria*, pVII.

[5]Anwar Moazzam (editor), *Islam and Contemporary Muslim World.* (New Delhi: Light and Life Publishers, 1981), p5.

Kenya is a country based on the separation of Church and State. The attempts made by political leaders to separate the Church and the State have not succeeded in curtailing the relationship between religion and politics. Despite having clear separation between the two institutions, personal involvement of politicians in religion is still common. This is documented in a report in one of the magazines of Reinhard Bonnke on a 'crusade' he had conducted in Kenya. It stated:

> The attendances at the crusade began to grow steadily as the final weekend approached and as thousands received Jesus as their saviour each night. News of the fact that the state President, His Excellency Daniel T. arap Moi, had requested an audience with Reinhard Bonnke was greeted with great joy even as the news came through that the President would attend the Thursday evening crusade himself and would sit in the crowd to hear the word of God. The President was accompanied by the Vice-President, eight of his Cabinet Ministers and by a number of Permanent Secretaries who all listened intently to the Gospel. Three Cabinet Ministers responded by receiving Jesus into their lives....The President informed the crusade team that he had ordered the Ministry of Information and Broadcasting to broadcast the final two crusade meetings LIVE across the nation on television and radio. This privilege had never before been granted for anything other than official state occasions and can only be seen as a mighty miracle in the declaration of the Gospel. The broadcasts went out for three hours live on each day to the entire nation of 22 million people....Reinhard Bonnke and the team have been personally invited by His Excellency the state President to return frequently to continue declaring the message of life to the nation of Kenya. [6]

From the above quotation, one can deduce that in Kenya, a strong religious commitment among its political leadership echelon is not uncommon. This unofficially enhances the bond between the Church and the State, hence integrating religion with politics. The claim that Church and State are separate in Kenya is dismissed by Hassan Mwakimako who argues that this separation is ambiguous and it is only employed to suppress the

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[6] As quoted from the Revival Report, 4/88E: 8, by Paul Gifford, 'Christian Fundamentalism in Black Africa', in David Westerlund (editor), *Questioning the Secular State: The Worldwide Resurgence of Religion in Politics*. (London: Hurst & Company, 1996), pp. 199-200.

political development of Muslims as opposed to that of their Christians compatriots.[7] He suggests that such claims are only a strategy to favour the Christian faith and undermine the political aspirations of Muslims.

This view is misleading and there is no evidence to support the claim. If it was true that the Christian faith had been favoured, the church leaders would not have been critical of the President Daniel arap Moi (second President of Kenya) government. More so, the church in Kenya was strongly opposed to the one party state system which had dominated the country's political scene for more than two decades. During the single party era, the church challenged authoritarianism, human rights abuse and the rigging of elections which were characteristic of the Kenya African National Union (KANU) regime.[8] The Kenyan government, especially under Moi, was extremely unpopular and people needed a forum to express their disenchantment. The only forum available was the pulpit.[9]

Therefore, the general religious sector was among the few forces which dared to publicly express dissatisfaction with the government. From the late 1990s, religious leaders were in the forefront advocating for people-driven constitutional reforms as opposed to government influenced reforms. Indeed the religious community has become an integral part of Kenya's politics due to its efforts to institutionalize moral politics.

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[7]Hassan A. Mwakimako, 'Muslim NGOs and Community Development: The Kenyan Experience', in Mohamed Bakari and Saad S. Yahya (editors.), *Islam in Kenya*. (Nairobi Signal Press Ltd. 1995), pp. 226-227.

[8] From 1963-2003 Kenya African National Union (KANU) was the political party in power having assumed leadership after the departure of the British colonialists. Following the general election of 2002 KANU was removed from power by the National Rainbow Coalition (NARC).

[9]For more on opposition to the Moi regime by the religious sector see David Throup and Charles Hornsby, *Multi-Party Politics in Kenya*. (Oxford: James Currey, 1998).

Together with other civil bodies, religious societies in Kenya have played a significant role in promoting liberty and democracy. Through civic education platforms religious societies embarked on educating the public on various issues concerning civic liberties and governance.

However, the power of the religious sector in Kenya could not match that of the state with the intelligence department and security forces at its disposal. With its loyal security forces, the state is capable of controlling any religious opposition it views as a political threat. Under the Moi regime (1982-2002), the state had perfected the art of control over the lives of its citizens. Criticism of the state's excess was perceived to be dissent. Religious personalities who were vocal like Bishop Alexander Muge of the Anglican Church and preacher Khalid Balala amongst Muslims suffered the consequences of opposing the state. Muge died in a suspicious road accident in 1990,[10] while Balala was stripped off his Kenyan citizenship while in Germany in 1995.[11]

Many Kenyans believe that these incidents were politically motivated and they suspect the state to have been involved because the two religious figures were strong critics of the Moi's administration. The incumbent regime viewed criticism by religious bodies as encroachment into its political domain and insisted that religious leaders should not indulge themselves in politics since it is an arena exclusively for politicians.[12] This

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[10]Jeff Haynes, *Religion and Politics in Africa.* (Nairobi: East Africa Educational Publishers Ltd. 1996), p114. The mysterious murder of Father John Anthony Kaiser in 2000 is also viewed by the Kenyan public to have been politically motivated. See *Sunday Nation*, August 24, 2003, p36, and *Daily Nation*, September 4, 2003, p6 for these views.

[11]Arye Oded, *Islam and Politics in Kenya.* (London: Lynne Rienner Publisher, 2000), p161. See also Mohamed Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003', a paper presented at the International conference, St. Anthony's College, Oxford, June 2004, p12; *Daily Nation*, Wednesday, January 8, 1997, p32.

[12] Interview with Sheikh Ali Shee, on 24th February 2005, at Junda mosque, Mombasa. Sheikh Ali Shee regards himself as a strong critic of the Kenyan government.

attitude made one wonder if religion had a place in Kenya's politics. It is possible to argue that this call for the separation between religion and politics is meant to restrict the political engagement of religious leaders than to undermine a particular faith.

Kenya's political history provides ample illustration of the salient role of Muslims in national politics. Muslims politics in Kenya is not a monolithic phenomenon because there have been variant Muslim political voices influenced by ethnic, racial and sometimes religious considerations. The variant participation of Muslims in Kenya's politics can be traced from the colonial to the postcolonial period. This difference of approach by Muslims is attributed to the British policy of variant treatment accorded to different sections of the Muslim population. Initially, colonial administrators were known to be helpful and sympathetic to Arab Muslim over African Muslims. This dissertation will illustrate these varied attitudes and relations that existed between the colonial government and Muslims, and their consequences for Muslim politics today.

During the colonial rule African Muslims, like other communities in Kenya, also suffered disenfranchisement. For instance, African Muslims had demanded to have a representative from amongst them in the Legislative Council. This demand is briefly described by Mwakimako, saying:

> Through the African Muslim society (AMS), Muslims of African descent petitioned the governor demanding the nomination of an African Muslim to the Legislative Council to represent their interests. The AMS reminded the governor that other Muslim groups like the Arabs and the Indians were allowed to elect a representative from their racial-ethnic groups and demanded that they too wanted to be represented by an African Muslim.[13]

[13] Hassan A. Mwakimako, ,Politics, Ethnicity and Jostling for Power: The Evolution of Institutions of Muslim Leadership and Kadhiship in Colonial Kenya 1895-1963,' PhD Thesis, University of Cape Town, 2003, p95; see also OP/1/497 Kenya National Archives (KNA)

The colonial administration refused to grant the African Muslims the request for representation. It was out of such injustice that African Muslims joined other Kenyans agitating for political equality. This explains why the earliest nationalistic political organizations such as Kenya African Union (KAU), Kenya African National Union (KANU) and Kenya African Democratic Union (KADU), had African Muslims among their membership.[14] Evident also in the politics of this time, was the refusal by most Africa Muslims to support the secession agenda of the Arab Muslims at the coast. This was influenced by the different treatment they were accorded by the British, which was based on racial prejudice.

After independence, Muslim groups decided to discard their differences and attempted to unite under an umbrella body called the Supreme Council of Kenya Muslims (SUPKEM). This period saw Muslims being integrated into the political regimes of Jomo Kenyatta (1963-1978), Daniel arap Moi (1978-2002), and now Mwai Kibaki (since 2002). It is important to realize that the new independent nation-state was curved out as a multi-ethnic and multi-religious society. This is why ethnicity is prevalent in Kenya where language, common ancestry and history provides significant ascription of identity. There is also tendency in Kenya of one's ethnic inclination being connected to a particular religion. Though not conclusive, there is a general tendency to associate Islam with some of the ethnic groups living at the coast and northeastern Kenya, while linking Christianity with those ones found in the hinterland of the country. For instance, it is common knowledge in Kenya that tribes like the Digo and the Swahili from the coast are associated with Islam, while ethnic groups such as the Luo and the Kikuyu from the

[14]Mohamed Bakari, 'Muslims and Politics of Change in Kenya', in Mohamed Bakari and Saad S. Yahya (editors), *Islam in Kenya*. (Nairobi: Signal Press Ltd., 1995), p237.

hinterland are viewed as Christians. This religious affiliation of different ethnic communities to a particular faith has provided them with a distinct identity from the others.

As a result of this ethno-religious classification independent Kenya regimes have been dominated by competing inland ethnic groups which are mostly Christians. Consequently, the three governments of independent Kenya have been characterized by ethnic and religious tension. The ethnic tension emerges when the various tribes in Kenya compete for political supremacy. And after a government is formed a direct result of their ethnic composition demonstrates gross under-representation of Kenyan Muslims who claim that these regimes undermined them, leading to their collective marginalization. The perceived marginalization resulted in Muslims focusing on improving their welfare. This effort has led to the mushrooming of various Muslim organizations since independence. Of all these organizations the most significant in political terms was the unregistered Islamic Party of Kenya (IPK) founded in January 1992.

The increase in Islamic political activity can be linked to the campaigns for political reforms throughout the country. However, IPK's attempts at making political progress were persistently obstructed by the political leadership of President Moi. Moi's government refused to grant the IPK registration claiming that the party was likely to stir inter-religious conflicts in the country. On their side, the officials of the IPK interpreted this denial as part of a wider scheme by the Moi's government to subjugate Muslim voice. This political conflict pitting the government of Moi and the IPK is discussed in this study.

The study also examines certain cases facing Muslims in contemporary Kenya. This includes the issue of terrorism and how Kenyan Muslims perceive it. The activities of international terrorism in Kenya attributed to extremist Muslim groups such as Al-Qaedah pose a daunting political challenge to Kenya's authorities. The Kenyan government faces a strong challenge of how to prevent militant Muslims from committing more acts of terrorism in the country without antagonizing its Muslim population. The terror onslaughts of December 1980 (in Nairobi), August 1998 (in Nairobi) and November 2002 (in Mombasa), coupled with the arrest of several alleged terror accomplices of Kenyan origin indicate that Kenya has entered the global arena of terrorists' activities.

The situation was exacerbated in August 2003 (in Mombasa) when a suicide bomber detonated a grenade killing himself and a policeman in a bid to resist arrest. This incident was the first suicide attack in Kenya and confirmed that international terrorism network is active in Kenya and willing to strike at any given opportunity. These recurrences compelled the government to take a firm and uncompromising stand against terrorists and their supporters. This study will delineate steps taken by the Kenyan government in curbing international terrorism through the drafting of the Suppression of Terrorism Bill (2003) which most Muslims rejected.

To sum up, Islam has operated as a viable political force among Muslims in Kenya. My study focuses on the politicization of Islam in Kenya and discusses the factors that triggered the process of its politicization and the challenges that it poses to Kenya's political future.

1.2 Definition of Terms.

The following are the meanings of terms that have been used in this study:

1. Coast: This is the region of Kenya that was formerly under the sultan of Zanzibar
2. Ethnic: This is used to refer to the 42 tribes living in Kenya.
3. Ethno-religious: This refers to the identity of ethnic groups with a specific religion, for example Digo are Muslims, Luo are Christians etc.
4. Majority: A dominant and numerically superior group.
5. Minority: A subordinate and numerically inferior group.
6. Racial: It refers to the three races mentioned in the discussion of this study, namely, African, European and Arab.
7. Religious sector: This refers to religion-based groups and organizations.
8. Upcountry: This is the region of Kenya that was formerly a British colony.
9. Upcountry-Christian: This refers to politicians of Christian background living in the inland of present-day Kenya.
10. Wanjiku constitution: This implies a constitution which reflects the type of government preferred by ordinary citizens of the country

1.3 A Brief Background to the Research Subject.

The composition of the Muslim population in the country cuts across geographical, cultural and racial boundaries. Geographically, the regions predominantly inhabited by Muslims in Kenya are the Northeastern province and the coastal region. Compared to other regions in the country, Islam is more visible in the Coast and Northeastern province. Consequently, the bulk of the Muslim population can be traced

among the Somali of Northeastern Kenya, and also among the Digo, Swahili, Arabs and Asians living at the coast. In these regions Islam has remained the dominant religion along with traditional tribal institutions and values.

Pockets of the Muslims population are concentrated in the interior of the country in various urban centers like Nairobi, Nakuru, Eldoret, Kisumu, and Mumias. Statistics of Muslim population tend to be varied depending on the source of information. Non Muslim scholars and sources usually estimate the Muslim population to be between 5-8%; where as higher figures of between 25-35% are proposed by Muslim sources. Muslims are convinced that their numbers have been underestimated.[15]

Therefore, it is possible to argue that the numerical strength of the various religious groups in Kenya is largely a matter of conjecture. The issue of religious demography is of concern to Muslims because of the practice of apportioning national resources on the basis of the ratio of an ethnic group to the total population. The smaller your number, the lesser resources you receive. Coincidentally, Muslims in Kenya are drawn from minority ethnic groups. It is against this background that Muslims claim that independent Kenya has apportioned them few resources and insignificant appointments into positions of power.

The fact that all the Muslims in Kenya regard the Qur'an and *hadith* as supreme authorities on all aspects of life does not make Islam in Kenya an unequivocal or static

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[15]For non-Muslim source see Francois Constantin, 'Leadership, Muslim Identities and East African Politics', in Louis Brenner (editor), *Muslim Identities and Social Change in Sub-Saharan Africa.* (London: Horst and Company, 1983), p41. For a Muslim source see Mohammed Bakari, 'Muslim and Politics of Change in Kenya', in Mohammed Bakari and Saad S. Yahya (editors), *Islam in Kenya.* (Nairobi: MEWA Publication, 1995), p234 and p246; M. Ali Kettani, 'Muslim East Africa: An Overview', in Journal Institute of Muslim Minority Affairs, Vol. 4, No. 1 and 2, 1982, p113. See also Donal B. Cruise, 'Coping With the Christians: The Muslim Predicament in Kenya', in Holger B. Hansen and Michael Twaddle, *Religion and Politics in East Africa.* (London: James Currey, 1995), p201 for more detailed discussion on the varying estimates of Muslims in Kenya.

phenomenon. The presence of the major Muslim sects, *sunni* and *shii,* reflects the basic diversity within the community. Neither *sunni* nor *shii* constitute a monolithic systems of belief. Instead, both contain internal sectarian differences, such has Imamis, and Ismailis among the *shii*, or distinguish followers of different schools of law among the *sunni*. The adherents of both *sunni* and *shii* Islam in Kenya come from culturally diverse ethnic and racial groups, who practice distinct versions of a Muslim way of life. It is these internal cleavages which have hampered the political aspirations of Muslims in Kenya.

In the Muslim dominated regions, socio-political movements tend to take a religious form under an Islamic umbrella. In demanding liberty and social progress some Muslims have resorted to politicizing Islam and have employed Islamic symbols to further their cause. This study illustrates how the use of Islamic symbols for political purposes has been received by the government.

1.4 Statement of the Problem.

In Kenya, until the formation of IPK, Muslims have for a long time been peaceful in their demands. Until the 1990s Muslims had not been known to be violent in demanding what they feel is rightly theirs. The formation of the IPK in 1992 coincided with Kenyan Muslims becoming forceful and militant in their struggle for equality. The establishment of IPK illustrates increased political activism by Kenyan Muslims. In an attempt to control the Muslim voice the Moi government proscribed the IPK.[16] This resulted in supporters of IPK embarking in activities of violence in an effort to coerce the government to recognize their political party.

[16] I have discussed the reasons why IPK was denied registration in chapter six of this work.

Kenya also has a history of legislation that have been contested by Muslims. There were certain public issues that were politicized by Muslims leading to religio-political tensions between them and the government. Consequently, the government decided to withdraw these controversial Bills, including the Affiliation Act (1969), Succession Act (1972), Marriage Bill (1985), Equality Bill (2002) and the Anti-Terrorism Bill (2003). Despite the fact that the government argued that the Bills were drafted with good intentions, it had to withdraw them for fear of antagonizing its Muslim population. The foregoing illustrates that there is a possibility of religio-political conflict in Kenya. This study raises the following important questions:

1. How did the perceived marginalization of Muslims affect their participation in national politics, both during the liberation struggle (1950-1963) and after independence?
2. To what extent did Muslim organizations become involved in Kenyan politics both before and after independence?
3. How do Muslims cope with their minority status in the Kenyan political context? For instance, how do they express their rejection of certain legislation introduced by the government, which they believe to be detrimental to Muslims?
4. What role did the Islamic factor play at certain critical junctures?

The above questions address three major themes emerging in this study. These are the Muslims' perceived marginalization, their political involvement and minority status.

1.5 Literature Review.

Scholarly interests in the influence of religion on the political sphere have produced a large body of literature over the years. Scholars of sociology, anthropology, political science and religion have given a great deal of attention to the interaction between religion and politics. This can be attributed to the fact that both religion and politics play a significant role in the various societies the scholars have studied. Despite the fact that religion and politics are subjects where extensive researches have been done, opinions vary as to the correct definition of these practices. A few definitions made by reputable scholars will suffice.

Melford E. Spiro defines religion as an "institution consisting of culturally postulated superhuman beings."[17] His definition emphasizes the power of omnipotence unknown to the believers. The reference to religion as an institution implies that it is a phenomenon that can be empirically studied like other cultural institutions. A more theological definition is given by Paul Tillich. His definition is:

> Religion is the state of being grasped by an ultimate concern, a concern which qualifies all other concerns as preliminary and which itself contains the answer to the question of the meaning of our life. Therefore, this concern is unconditionally serious and shows a willingness to sacrifice any finite concern which is in conflict with it.[18]

In this definition Tillich identifies the attitude of committed religious people. However, the definition ignores people who are nominal in their involvement with religion. It also

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[17]As quoted by Arthur C. Lehman and James E. Myers, *Magic, Witchcraft, and Religion: An Anthropological Study of the Supernatural*. (New York: McGraw-Hill Companies, 2001), p3.

[18]As quoted by Ian S. Markham, (editor), *A World Religions Reader*. (Cambridge: Blackwell Publishers, 1996), 4.

ignores the content of religion by emphasizing the attitude of religious people. There is no mention in this definition of any belief in the supernatural.

Ian S. Markham attempted to give an encompassing definition by saying:

> Religion, for me, is a way of life (one which embraces a total world view, certain ethical demands, and certain social practices) that refuses to accept the secular view that sees human life as nothing more than complex bundles of atoms in an ultimately meaningless universe.[19]

This definition attempts to capture the essence of all forms of religion by emphasizing the all embracing nature of religion. On the other hand it gives the impression that there is hostility between religion and the modern secular worldview.

Another scholar, Steve Bruce, defines religion in his book *Politics and Religion* as:

> Beliefs, actions and institutions that assume the existence of supernatural entities with powers and judgement and action.[20]

According to this definition, there exists a supernatural being with powers to influence the believers in certain ways. This definition illustrates that religion could act as an autonomous force with powers to bind its adherents.

Kenneth Minogue said the following about politics:

> Politics refers merely to actions of monarchs, parliaments, and ministers, and to activities of the politically committed who helped or hindered their accession to authority....[21]

In this definition, Minogue shows that politics is usually associated with certain institutions and categories of people who exercise power in a society. The above definition is different from the following one given by D. Miller:

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[19] Ian S. Markham, (editor), *A World Religions Reader*, p6.

[20] Steve Bruce, *Politics and Religion*. (Cambridge: Polity Press, 2003), pp 9-10.

[21] As quoted by Bruce, *Politics and Religion,* p9

> Politics is a process whereby a group of people, whose opinions or interests are initially divergent, reach collective decisions which are generally regarded as binding on the group, and enforced as common policy.[22]

Miller's definition implies that politics is a process or a complex set of activities that form part of a group of people's shared existence. The purpose of those activities is essentially the making of decisions which is a form of exercising power.

The above definitional variations as propounded by the scholars indicate that there is no unanimity on the meaning of religion and politics. This creates room for scholars and researchers to adopt a meaning relevant to the communities they are studying. In this study, the term religion is used broadly to refer to a religious establishment, a religious group or religious movement that is involved in political issues. The term politics will be confined to the actions of the government, political parties, individuals and groups aimed at influencing the people they represent.

The following section provides a critical and analytical survey of the literature on religion and politics. Let's now turn to the works relevant to this research that I have reviewed.

1.5.1 Literature on the General View on Religion and Politics.

The study on the relationship between religion and politics compels me to give a brief review on secularism. The book, *Islam, Secularism, and Human Rights in the*

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[22]As quoted by George Moyser, (editor), *Politics and Religion in the Modern World.* (London: Routledge, 1991), p3

Middle East,[23] by Mahmood Monshipouri focuses on the debate on secularism among Islamists. This book warns that the Islamists' choice should not only be seen as rejection or toleration of secularism. The author attributes the coining of the term secularism to George Jacob Holyoake. Monshipouri argues that "in the twentieth century, secularism is generally known as an ideology that advocates the eradication of religious influence in political, social, and educational institutions."[24] He advises that to understand secularism in a non-Christian society, one needs to evaluate the impact of religious beliefs on the lives of people in that society. In Muslim societies, the separation between religion and politics is not distinct. Yet, many Muslims have either accepted the secular system in principle - as will be illustrated in chapter two - or have reconciled themselves to live within secularized societies.

M. Balasubramanian's book, *Nehru: A Study in Secularism*,[25] examines the roots of secularism, and Nehru's views on religion, minorities and the secular state. The book traces the evolution of the concept of secularism and outlines its diverse interpretations. Balasubramanian argues that:

> ....Nehru's secularism stood against all discriminations based on religion, race or caste, spurned communal approach to human problem, afforded an equal place in society to members of minority communities to live a honourable life along with the members of the majority community and conceived India as a place for harmonious living for citizens, no matter to what religion or group they belong.[26]

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[23] Mahmood Monshipouri, *Islamism, Secularism and Human Rights in the Middle East*. (London: Lynne Rienner Publishers, 1998)

[24] Ibid, p11.

[25] M. Balasubramanian, *Nehru: A Study of Secularism*. (New Delhi: Uppal Publishing House, 1980).

[26] Ibid, p65.

The author further examines Nehru's concept of a secular state in India. This book will offer some insights into the principles of a secular state and how they have been applied in the Kenyan context.

The book, *Politics and Religion*,[27] by Steve Bruce describes a variety of ways in which religion and politics interact. It explains some of the general features connected with this relationship and makes some "abstract propositions about the sort of political regime and movements that are associated with different religions."[28] As an autonomous force, Bruce argues that religion can create order and stability because of its ability to bind people together under a shared God, a common cosmology and morality. In this situation religion promises the pious poor rewards in the next life. This position reconciles them to their fate in this life thereby discouraging them from rebelling against their condition.[29] Despite promoting social cohesion, "religion is [also] a potential threat to any political or social order because it claims an authority higher than any available in this world,"[30] Bruce posits. This is because religion offers the possibility of challenging any political order. The link between religion and politics will be explored in this study.

Ilter Turan, in 'Religion and Political Culture in Turkey,'[31] uses the phrase political culture to imply the framework within which people engage in political behaviour. According to him "a study of political culture....enhances our ability to

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[27] Bruce, *Politics and Religion.*

[28] Ibid, p3

[29] Ibid, p10.

[30] Ibid, p11.

[31] Ilter Turan, 'Religion and Political Culture in Turkey,' in Richard Tapper (ed), *Islam in Modern Turkey: Religion, Politics and Literature in a Secular State.* (London: I.B. Tauris & Co. Ltd, 1991).

explain current and predict future [political] behaviour."[32] Turan further asserted that an accurate way of examining the relationship between religion and politics would be to suggest that religion influences politics very significantly in some societies, significantly in others, and very little in the reminder. In the case of Muslim societies, he insisted, it is likely to find many of them leaning toward the first two categories.

However, Turan cautioned that "societies change, and they may move either way in the classification at a given moment in time."[33] Turan also discusses the phrase 'political community' which, according to him, refers to "a collectivity whose members feel they should be under the same government."[34] He added that the criteria on which membership in a political community is based have varied over time and across political systems. Some of the views raised in this article will be engaged in later discussion because they have been considered to be relevant for this study.

Bassam Tibi's study, 'Post-Bipolar Order in Crisis: The Challenge of Politicized Islam,'[35] offers an explanation to the question 'what is politicization of religion?' Tibi asserts that religion is today becoming increasingly politicized leading to the possibility of religion becoming an ideology, particularly when religion becomes a social power assuming the function of mobilisatory ideology.[36] It is against this background that the author emphasizes the need to engage in a serious study of the politicization of religion

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[32] Ibid, p31

[33] Ibid, p32

[34] Ibid, p35.

[35]Bassam Tibi, 'Post- Bipolar Order In Crisis: The Challange of Politicised Islam', in Bryan S. Turner, *Islam: Critical Concepts in Sociology.Volume I* , (London: Routledge, 2003).

[36]Ibid, p149

and its subsequent transformation to religious fundamentalism. This is significant because it will enable one to have a better understanding of catchwords that deal with this subject in terms of 'fanaticism', 'terrorism', and 'extremism.' In addition, Tibi holds that "the politicization of religion signifies the articulation of a concept of order designed and articulated in divine terms."[37] Based on this argument, the politicization of Islam results in the belief that "Islam is a political system in as much as it is a religious one."[38] This idea of religion as a mobilisatory ideology has been borrowed to shape this study as it addresses the politicization of Islam in Kenya.

Another important work is *Muslim Politics* by Dale F. Eickelman and James Piscatori. The book offers an insight into different views held by Muslims regarding the relationship between religion and politics. The authors include in their discussion the views of different personalities ranging from politicians (Sadiq al-Mahdi, Ayatollah Khomeini, Sadam Hussein), a writer (Qamardin Khan), a modernist (Fazlur Rahman), an intellectual (Nurcholish Madjid) and a prominent judge (Said Al-Ashmawi). The wide sample chosen was to assist the authors to ascertain if there is consensus of opinion on the relationship between religion and politics in Islam. From the responses of the above named people, Eickelman and Piscatori concluded that "Muslims hold a variety of opinions on the relationship between religion and politics. Yet despite both the intellectual diversity, the indivisibility of the two realms persists in the study of Islam." [39]

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[37]Ibid, p151

[38] Ibid ,p154

[39] Dale F. Eickelman and James Picatori, *Muslim Politics*. (Princeton: Princeton University Press, 1996), p56.

Their study has also illustrated how religious symbols could be used to legitimize a regime. Here the two scholars claim the "....common way for Muslim political leaders to assert their religious credentials and to affirm their sacred authority is undertaking the *hajj* and public performance of prayers."[40] The insight gained from their study is the use of religious symbols in politics. This study will examine how religious symbols have featured in Kenyan politics.

1.5.2 Literature on Religion and Politics Outside Africa.

Why Muslims Rebel: Repression and Resistance in the Islamic World,[41] by Mohamed M. Hafez is considered significant to this study. In the book Hafez examines the question, 'why do Muslims rebel?' Coincidently, this study endeavours to respond to the same question among Muslims in Kenya. In tackling the question, Hafez explores various revolts in Muslim countries by comparing different countries and situations. According to him, the root of all rebellions in these countries may be viewed in their political context. The failure of the various states to provide openings to Islamist movements for participation in the political process and the manner in which states repress these movements is a cause for rebellion and violence by the Islamists. It is political exclusion and repression which inspire the Islamists to wage a protracted war against the various states. Though Hafez's work was mostly based in societies with a majority Muslim population, this researcher applied his ideas within a context where the Muslim population is a minority. This research investigated whether Hafez's hypothesis

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[40]Eickelman and Picatori, *Muslim Politics*,p65.

[41]Mohammed M. Hafez, Why *Muslims Rebel: Repression and Resistance in the Islamic World.* (London: Lynne Rienner Publishers, 2003).

of political exclusion and repression has any relation to the violent activities of Kenyan Muslims in early 1990s.

Hafez's ideas are supported by Nazih Ayubi in his book, *Political Islam: Religion and Politics in the Arab World.*[42] As Ayubi discusses the issue of Islamic resurgence, he sees resentment of political exclusion and a quest for a higher degree of participation as the contributing factors to this phenomenon. He mentions regimes like those of Pahlavis of Iran and Nasser and Sadat of Egypt as examples of closed systems that did not allow genuine political participation thereby sowing the seed for rebellion. It is this idea of political exclusion that was pursued and related to the Kenyan context.

The Politics of Islamic Revivalism,[43] edited by Shireen T. Hunter gives a comparative study of revivalist movements in a wide selection of Muslim countries. The various presentations in the book identify and assess the causes of the emergence and strength of Islamic revivalist movements. They have also examined their nature; the different ideological tendencies within the movements; the number, types and political strength of various militant groups; the linkages and transnational connections among different parts of the revivalist movement; and the potential for the revivalist movement's success in gaining power. Since the conclusions in the book are intended to help to put the movement in its proper political context that position inspired me to also examine Islamism in this study within the political context of Kenya.

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[42]Nazih Ayubi, *Political Islam: Religion and Politics in the Arab World.* (London: Routledge, 1991).

[43]Shireen T. Hunter (editor), *The Politics of Islamic Revivalism.* (Indianapolis: Indiana University, Press, 1988).

1.5.3 Literature on Religion and Politics in Africa.

Religion and Politics in Africa,[44] by Jeff Haynes is a study a researcher in this subject in Africa cannot ignore. The book analyses the interaction between religious organizations and politics in both the colonial and post-independence eras. The author focuses on the organized religious traditions in Africa, especially Islamic and Christian. As he addresses this subject (religion and politics), the author goes further to locate Africa's religio-political groups in relation to fundamentalism. In his comparative approach, Haynes embraces all parts of sub-Saharan Africa and seeks to establish the role of religion in the African political process in its historical, social and international context.

In the book, the author analyses the political situation in the colonial period. The section covers the period from the late 19th century to about 1960 showing that Christianity was largely associated with European colonial administration in most parts of Africa. During this period Islam was seen as a challenge to Christian missions and to the colonial administration. Despite this treatment of Islam by colonial authorities, Haynes argues that there were some Muslim communities who established a working relationship with colonial administrators. This research has also established that there were agreements made on specific issues between Muslims and the British colonialists in Kenya.

Religion, Politics and Power in Northern Nigeria[45], by Mathew Hassan Kukah is a valuable contribution to the subject. In this book, Kukah gives a good exposition on

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[44]Haynes, *Religion and Politics in Africa.*

[45]Kukah, *Religion, Politics and Power in Northern Nigeria.*

how the northern oligarchy in Nigeria acquired and held on to power using religion as its main weapon. His main emphasis is on the Islamic faith where he has critically shown how the ruling class in Northern Nigeria has employed Islam in establishing the Hausa-Fulani hegemony. According to him Islam has remained the focal veneer for the legitimacy of the ruling class leading to politicians claiming to be the defenders of the Islamic faith. This strategy has made it easier for the Hausa-Fulani politicians to hold the polity together by depicting their political opponents, not as politicians with different views, but as enemies of Islam. With the realization of the potency of Islam, the ruling elite embarked on casting political opposition in religious terms.

As the ruling class clings to power, Kukah observes that it has made no efforts towards making concessions to the South in achieving power. He attributes this development to the perception held by the Northern hegemony in which it has always seen itself as possessing the required numerical advantage to win a political election. My research established that this view of political neglect is also held by the Muslims in Kenya. The perception among Kenyan Muslims is that since independence the upcountry ruling class has not bothered to bring them to the center of power because they tended to regard Muslims as politically insignificant.

Kukah further notes that the ascendancy of Hausa-Fulani hegemony coincided with the alienation and marginalization of non-Muslims in the region. This marginalization has made non-Muslims ask themselves questions relating to their positions within the region. It is important to point out at this juncture that the same feeling has been the reverse within the Kenyan context. With the emergence of the upcountry hegemony, Muslims in Kenya have felt alienated and discriminated. Some of

the areas where Kenyan Muslims feel discriminated have been discussed in this study. Though Kukah's book was written within the context of Nigeria, his work sheds light on the subject of politicization of religion.

Religion and Politics in East Africa[46] by Holger Bernt Hansen and Michael Twaddle (editors) is a vital book too on the subject of religion and politics. The book is a collection of articles on religio-political development in the East African region with references to religion and politics in Kenya, Uganda, Tanzania and Sudan. The essays in this book are well researched and presented by fourteen different scholars. Not all the presentations in this book had to be reviewed for this work.

Francois Constantin's essay, 'Muslims and Politics: The Attempts to Create Muslim National Organizations in Tanzania, Uganda and Kenya,'[47] explores the creation of Muslim national associations in these countries. Upon attaining independence, the East African governments pursued a scheme of controlling Muslim activities through the establishment of national organizations. Constatin confirms this by arguing that "creating a national Muslim association [was] therefore seen as part of a general policy of social control initiated by post-colonial governments."[48] This desire saw the creation of organizations such as the Supreme Council of Kenya Muslims (SUPKEM), Baraza Kuu la Waislamu wa Tanzania (BAKWATA) and National Association for the Advancement of Muslims in Uganda (NAAM). According to Constantin, all these national associations are supposed to co-ordinate, regulate and centralize the various activities of Muslims.

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[46]Hansen and Twaddle, *Religion and Politics in East Africa.*

[47]Francois Constantin, 'Muslims and Politics: Attempts to Create Muslim National Organizations in Tanzania, Uganda and Kenya', in Hansen and Twaddle, *Religion and Politics in East Africa.* pp. 19-31.

[48] Ibid, p24

Having the blessings of the various states in their creation, these organizations are expected to be loyal to the government of the day and never to indulge in politics. This research investigated whether this position does indeed apply to the Supreme Council of Kenyan Muslims.

Rex S. O'Fahey's article, 'The Past in the Present? The Issue of the *Sharia* in Sudan,'[49] examines the subject of *shariah* which has become central to the political and military conflicts in Sudan. The essay illustrates that at one end of this conflict is the National Islamic Front government, which has until recently been under the influence of the chief Islamic ideologue, Hassan Abdalla al-Turabi. The other side is the Sudan People's Liberation Movement led by the late John Garang, which was critical of the government's policy of Islamization and Arabization in Sudan. The Islamist government has continued to enforce *shariah* law in Sudan. The refusal of the northern hegemony to compromise over the issue of *shariah* has incidentally been the source of a protracted civil war in Sudan. O'Fahey claims that since the introduction of the *shariah* "no Sudanese government has faced up to the fact that, so long as these laws are on the statute books, no non-Muslim political movements will make peace until they are removed."[50] However, in 2004, both parties to the conflict have agreed to remain in negotiations and concluded a comprehensive peace settlement in Kenya.

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[49]Rex S. O'fahey, 'The Past in the Present? The Issue of the *Sharia* in Sudan,'in Hansen and Twaddle, *Religion and Politics in East Africa*. pp. 32-44.

[50]Ibid,'p39.

Omari H. Kokole's discussion in 'Idi Amin 'the Nubi' and Islam in Ugandan Politics',[51] considers the Nubi factor in Uganda from 1971-1979. Though very small in number, the Nubi came into prominence of Uganda's politics during Idi Amin's reign. In describing this development, Kokole said:

> It is arguable that had Idi Amin exclusively depended on his own tribe or ethnic group – the Kakwa – he would have been forced to be less favourable to Islam than he turned out to be. After all, the Kakwa are multi-religious (Christians as well as Muslims and others). But such a tribal base would have been dangerously narrow in plural and multi-ethnic Uganda. It was the addition of the Nubi constituency to the historically related and overlapping Kakwa/West Nile base which tilted the balance more clearly in favour of Islam, the Nile Valley and Arab world more broadly. On the whole, the Nubi overlapped with, and reinforced, the Kakwa and other Bari-speakers as ethnic groups. The Nubi factor also made Idi Amin's regime more ethnically mixed than otherwise it would have been.[52]

According to Kokole when Amin came to power he sought to widen internal support for his regime and this is why he identified himself more with the wider Muslim community. By playing the Islamic card Amin was able to expand his political base and support beyond his tiny Kakwa community. Consequently, the Nubi being Muslims benefited from Amin's pro-Islam policy. There is a certain parallel between this policy by Amin and that of President Daniel arap Moi of Kenya. Having come from one of the smallest communities in Kenya, the Tugen, Moi decided to expand his political base by portraying himself as a staunch Christian adherent. This strategy assured Moi of political supporters outside his tiny Tugen community. Nevertheless, this approach did not stop some of the church leaders criticizing Moi's unpopular policies.

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[51]Omari H. Kokole, 'Idi Amin 'the Nubi' and Islam in Ugandan Politics,'in Hansen and Twaddle, *Religion and Politics in East Africa*. pp. 45-55.

[52] Ibid, pp. 45-46.

'The Church of Uganda amidst Conflict: The Interplay between Church and Politics in Uganda since 1962,'[53] by Kevin Ward discusses the variant relationship between the Christian churches and political authority in Uganda. Though the Roman Catholics (hereafter referred as Catholics) constitute the majority in Uganda, the author argues that since colonial days the Catholic Church has not been politically successful compared to the Anglican Church. However, he points out that by the 1950s the Catholics began to have hopes of reversing their subordinate position in independent Uganda because their party, the Democratic Party (DP), was destined to take over the leadership. But even in post-colonial Uganda, political power continued to elude the Catholics. This frustration and denial of central political authority "has helped to give the Catholic Church a certain degree of internal unity and cohesion, and a powerful critical voice vis-à-vis the state."[54] On the other hand, the Anglican Church has had a more complex and ambiguous relation with the state after independence. As a quasi-establishment religion during colonial period, the Anglican Church has tended to cling on that position in the various political periods of independent Uganda. Despite the political competition between the two churches, Ward has noted that both of them have been integrated into the social, cultural and political fabric of Uganda.

The book *Islam and Politics in East Africa: The Sufi Order in Tanzania,*[55] by August H. Nimtz Jr, deals with the political involvement of Muslims in East Africa from the pre-colonial period to the 1970s, with particular focus on the *Qadiriyya Sufi* order in

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[53]Kevin Ward, 'The Church of Uganda amidst Conflict: The Interplay between Church and Politics in Uganda since 1962,'in Hansen and Twaddle, *Religion and Politics in East Africa.* pp. 72-105.

[54] Ibid, p72.

[55]August H. Nimtz Jr, *Islam and Politics in East Africa: The Sufi Order in Tanzania.* (Minneapolis: University of Minnesota Press, 1980).

Tanzania. The book illustrates a peculiar instance of the relationship between religion and politics, as it addresses the story of a *Qadiriyya* leader (a *sunni*), *sheikh* Uways b. Muhammad, and Zanzibar's sultan Barghash b. Said (an *Ibadi*). It is argued that this close ties between Sheikh Uways and Sultan Barghash was for political survival on the part of Zanzibar's rulers. The *Qadiriyya* leader was invited to Zanzibar at the same time when European imperialism was looking covetously at the Busaidi Empire. Since Sultan Barghash was not ready to lose an inch of his empire, he decided to forge a political alliance by rallying the support of *sunni* scholars of inner Tanganyika and the East African coast in order to resist the European intrusion in the interior.

The author also shows the varying attitudes of the German administrators in Tanganyika towards Muslims. Before 1905, Germany's general policy towards Muslims had been one of tolerance and impartiality. From 1905, following the *MajiMaji* rebellion and the Mecca letter affair, a sharp policy change occurred. The Germans now sought to impair and stop the spread of Islamic teachings in German Tanganyika. It was alleged that Muslim teachers in Tanganyika took part in the attempt to unite Africans in opposition to colonial rule. In 1908, a chain letter allegedly from Mecca with strong anti-European overtones was in circulation in several coastal and interior towns. These developments led to the change of the German policy towards Islam in the region.

However, this new policy was short lived because its implementation coincided with the outbreak of the First World War. The war resulted in a new political consideration where the Germans took the Ottoman Empire as an ally. Germany sought to use this Islamic connection to its advantage in the East African campaign of the war. This illustrates how the power of religion can influence political moves and strategies of

a country. The book further shows that during the period of the struggle for independence of Tanganyika, several leaders of Sufi orders (*tariqas*) actively participated in the nationalist struggle, either as officials of the Tanganyika African National Union (TANU), or in co-operation with TANU leaders. The major role of the *tariqas* in the independence movement was mobilizing support for TANU.

According to Abdin Chande, in the article '*Radicalism and Reform in East Africa,*'[56] the problems East African Muslims face can partly be traced to the colonial era. More specifically, Chande asserts that it was the colonial educational system which was strongly influenced by Christian missionaries that structured the social order. This led to Muslims feeling that the education system privileged certain ethnic groups which had contacts with Christian missionaries. As a result of this, Muslim efforts to mobilize their communities for educational opportunities have progressively contributed to a growing Muslim consciousness.

In the case of Kenya, the author sees a political dimension involved in this growing Muslim awareness. He attributes this to the perceived feeling of marginalization and exclusion from the political process among Muslims on the part of the upcountry ethnic groups. This was the main reason why during the agitation for independence, the coastal Muslims advocated for secession as they feared unfair treatment by these groups. After independence Chande posits that the situation was not any better leading to Muslims forming their own political party in the early 1990s so that they could voice their grievances.

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[56] Abdin Chande, 'Radicalism and Reform in East Africa', in Nehemia Levtzion and Randall L. Pouwels (eiditors), *The History of Islam in Africa*. (Ohio: Ohio University Press, 2000).

1.5.4 Literature on Religion and Politics in Kenya.

David Throup's essay, 'Render unto Caesar the Things that are Caesar's': The Politics of Church-State Conflict in Kenya 1978-1991',[57] in the book, *Religion and Politics in East Africa,* edited by Holger Bernt Hansen and Michael Twaddle, traces the growing political role of the Protestant denominations and the Catholic church in Kenya from the time President Daniel arap Moi assumed power in 1978. Throup asserts that when Moi became the President of Kenya, he embarked on creating his own political hegemony. This included advancing people from his Kalenjin community into positions of influence and power in the country.

This process was further speeded up following the abortive coup of 1982 and the subsequent downfall of Attorney-General Charles Njonjo. Njonjo's downfall coincided with the ascension of a populist generation of politicians in the ruling Kenya African National Union (KANU). This brand of politicians attacked any Member of Parliament and clergy who overstepped the permitted bounds of debate. Despite these developments, Church leaders continued criticizing Moi's government without fear. The author views this contemporary involvement in politics by the Kenyan churches as essentially reacting to the prevailing political situation. In the absence of political opposition in Kenya before 1990, the Church became a surrogate opposition to the government of Daniel arap Moi.

The article, 'Coping with the Christians: The Muslim Predicament in Kenya',[58] by Donal B. Cruise O'Brien examines the perceived marginalization of Muslims in Kenya.

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[57] David Throup, 'Render unto Caesar the Things that are Caesar's': The Politics of Church-State Conflict in Kenya 1978-1991,' in Hansen and Twaddle, *Religion and Politics in East Africa.* pp. 143-176.

[58]Donal B. Cruise O'Brien, 'Coping with the Christians: The Muslim Predicament in Kenya,' in Hansen and Twaddle, *Religion and Politics in East Africa.* pp. 200-219.

The writer points out that right from the colonial period to the post-colonial era, Muslims in Kenya have claimed to have been marginalized in various sectors of development. Economically, the alleged marginalization is the development of commercial agriculture in upcountry Kenya. Educationally, Muslims have been left behind and have much to make up for. Reverse migration by labourers as well as literate clerks from upcountry areas turned Muslims living in Mombasa virtually into a minority community.[59] The essay further observes that Muslim political activism increased in 1992 following the establishment of the IPK. As mentioned earlier, the IPK was banned by the Moi government. This study has given a detailed account of the activities surrounding the IPK.

Islam and Politics in Kenya[60] by Arye Oded is a path-breaking book that seeks to present the political force of Islam in contemporary Kenya. The book covers several issues involving Muslims in Kenya. They range from politics, law, education and social interaction with Christian compatriots. More significantly, the author proceeds to trace the origins of radical Islam in Kenya and the formation of the Islamic Party of Kenya in the 1990s. The issue of radical Islam among Kenyan Muslims is examined against the backdrop of the influence of Arab countries together with Iran. Though Oded acknowledges that the Muslim community is politically significant, division among Muslims have weakened this significance. He attributes this division to ethnicity saying:

> Ethnic divisions are primarily between Arabs on the one hand....and black African Muslims from Bantu Ethnic groups on the other. The former

[59] Ibid, p204

[60] Oded, *Islam and Politics in Kenya*.

> group regards itself as superior partly because, in the pre-colonial period, it ruled the coast.[61]

The above quotation illustrates the historical racial divisions existing within the Muslim fraternity, which have obstructed the possibility to forge a united force to advocate their rights.

However, Oded's ambition to tackle almost all the issues relating to Muslims in Kenya has been his major shortfall. His approach has exposed him to haphazard and shallow treatment of issues some of which have gone unsubstantiated. Further, I need to mention that the author does not maintain the 'objective position' he claims in the introduction. His bias is evident when he claims that the population of Muslims in Kenya is estimated at twenty percent according to 1998 census. This is not correct because Kenya's population census prohibits questions dealing with the religious affiliation of a person. Though he admits that there are conflicting reports regarding the size of Muslims in Kenya, Oded should have gone further and presented the different figures with their respective sources. His conclusion therefore seems to have been influenced by a particular source thereby falling into the trap of presenting the accurate figure of Muslims' population in Kenya.

Oded also seems not to view the actions of Muslims as similar to those of other Kenyans advocating democracy and good governance. He tends to perceive the protests staged by Muslims against injustice as unjustifiable and simply driven by extremism and radicalism. This position appears to have been influenced by his loyalty and concern for Israel in relation to the Arab-Muslim world. Therefore, the author has not been able to detach himself from the Arab-Israel conflict in order to offer an objective analysis of

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[61] Ibid, p164.

Islam and politics in Kenya. Further, his major weakness is that of failing to locate the Kenyan Muslim politics in the larger historical context. Instead, Oded tends to interpret Muslim politics in Kenya as an extension of developments outside the country. While it is certainly correct to point to foreign influences as determinants of the politicization of Islam in Kenya, Oded occasionally seems to over-state the importance of such influences. This study has paid little attention to outside influences on politicization of Islam in Kenya, arguing that Kenyan Muslims are more concerned with national and local issues.

In his article, '*Ethnicity and Pluralism: The Politicization of Religion in Kenya*',[62] Alamin Mazrui explores the interaction between parties, politics and religion in Kenya during the Daniel arap Moi era. He begins by showing how ethnicity and not religion has been accepted as a legitimate democratic social expression in Kenya. However, he mentions that with the return of multiparty politics in 1992, religion too seems to have entered the fray. This involvement of religion in politics was rejected by Moi who appeared to have accepted the ethnic equation in the county's politics of pluralism rather than the religious equation. It is against this background that the author argues that the Moi regime refused to allow the registration of the IPK and the Democratic Movement (DEMO) because of their religious affiliation. According to Mazrui, though the Moi administration refused to register IPK and DEMO, his government was more of a quasi-theocratic order. To him, it is this essentially Christian-oriented order which caused the emergence of these religiously inclined political parties. This conclusion is based on the premise that where a government is quasi-ethnocratic, it may lead to an ethnic-oriented

[62]Alamin Mazrui, 'Ethnicity and Pluralism: The Politicization of Religion in Kenya', in Saleh S. Mahmood (editor), *Journal of Muslim Minority Affairs*, Vol. XIV, no.1 & 2, January &July, 1993

expression of democracy in a plural society; and where it is quasi-theocratic, it may give rise to a religious-oriented democratic expression.

Further, Mazrui discusses how the ascendancy of Christian politicians to positions of dominance in Kenya's political system has partly resulted in a systematic imbalance that allowed the management of national and public affairs to assume a peculiarly Christian bias. It is this direction embraced by the Moi regime which increased the politicization of religion culminating in the formation of IPK and DEMO. Mazrui views this Christian bias to have been the cause of denying the registration of IPK and DEMO. In his conclusion the author suggests that if depoliticization of religion is to succeed in Kenya, then it must begin with policy reforms necessary to redress the structural imbalance against Kenyans of non-Christian background. The present study investigated how far the post-independence governments of Jomo Kenyatta (first president) and Daniel arap Moi (second president) have pursued this line of depoliticization of religion.

1.6 Objectives of the study.

The main objective of this research is to analyse the Muslim political activism and involvement in Kenyan politics. In addition, this study aims to achieve the following objectives:

1. To investigate the roles and views of Muslim leaders during the national liberation struggle in Kenya (1950-1963).
2. To explore the extent that Muslim organizations became involved in Kenyan politics while championing the political demands of Muslims in Kenya.

3. To understand why there is continuing Muslim opposition to certain legislation drafted by the government.
4. To determine the place of politicized Islam in Kenya.

1.7 Significance of the Study.

In recent years, an anti-government stance among Muslims has become manifest in Kenya. Since Muslims have been known to be in favour of the political establishment of the country, this has led to speculation about the causes of this development. The current discontent can be traced to a myriad of factors, the most significant being the perceived discrimination and marginalization. If one engages a Muslim in a discussion about their condition, this could be some of the response: In education, regions where the principal groups are Muslims have low enrolment of children in school. Economically, the majority of Muslims are jobless, low-income earners and generally poor. And politically, Muslims do not have sufficient clout to influence policy-making.[63]

It is my contention that the Kenyan government alone cannot be held responsible for this situation, but that a share of the blame has to be placed on the local and national Muslim political leaders as well. Apart from offering insignificant service to their constituents, most Muslim politicians have not done enough to politically awaken the community or initiate projects that would socially uplift their electorates, particularly

[63] This view is also echoed by most of the informants such as Sheikh Juma M. Ngao, Chairman SUPKEM Mombasa branch, interviewed on 7th March 2004, Mombasa; Ahmad Awadh Yafie of MUHURI, interviewed on 2nd August 2004, Mombasa; Munir Mohammed Mazrui, SUPKEM, Vice National Chairman, interviewed on 1st September 2004, Nairobi; Khalifa Mohammed, former Chairman of IPK, interviewed on 27th July 2004, Mombasa; Kassim Bakari Mwamzandi former Member of Parliament for Msambweni, interviewed on 15th September 2004, Msambweni; and Khelef Khalifa, Commissioner Kenya National Commission of Human Rights, interviewed on 29th September 2004, Nairobi.

Muslims. However, this perceived marginalization and discrimination is serving to mobilize them, extremists included, in demanding justice and fair treatment. The frustration of Muslims as a result of their poor education, economic impoverishment and political powerlessness, are among the reasons why they have resorted to politicize Islam to agitate for their rights.

In addition, contemporary Kenyan society is concerned about Muslims due to the ferocious outbursts by some of their leaders and scholars in defense of Islam and Muslims in Kenya. To date, there is no serious academic work that has been done to examine the development of politicized Islam in Kenya. This is the gap in existing research which this study seeks to address. The research will be a pioneering work on this subject. The study will provide information and analysis from which answers to the questions raised earlier may be suggested. The findings of this study will be useful to Kenyan society in general as well as to government by assisting them in formulating policies that would obviate the feelings of alienation and perceived marginalization that most Muslims experience. Hopefully, this will help to contain the development of militant Islam in Kenya.

1.8 Hypotheses of the Research.

This study specifically explains why Islam in Kenya has been politicized in the recent period. The work is more analytical than descriptive. To this end the study is exploratory in that it formulates hypotheses. It sets out with the following presuppositions:

1. The emergence of politicization of Islam in Kenya is a reflection of the exclusionary policies of the various Kenyan regimes.
2. Political diversity among Muslims is as a result of conflicting racial and ethnic identities within the community.

1.9 Theoretical Framework.

This work builds upon several ideas propounded by Mohammed M. Hafez. According to Hafez, an exclusionary and repressive political atmosphere forces Islamists to undergo a process of radicalization, which has been witnessed by other rebellious groups such as ethno-nationalist, socialist and right wing movements.[64] This theory asserts that accessibility to a political system plays a vital role in influencing the tactical response of an opposition movement.[65] A political system is accessible to a movement when the state grants it the possibility to influence policy making through government institutions; and on the other hand, it is closed when the movement is prohibited from influencing public policy through institutional channels. Under completely accessible systems, opposition movements encounter few restrictions to form parties, compete in elections, lobby state officials, hold public office, engage in policy formulation, etc. Conversely, completely inaccessible systems make illegal any attempt by movements to engage in formal policy making and instead opt to repress them.[66]

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[64]Hafez, Why Muslims Rebel. p22.

[65]According to Mohammed M. Hafez, political system refers to the set of formal institutions of the state. It includes the parliament, government ministries, and policy implementing agencies.

[66]Hafez, *Why Muslims Rebel*. p28.

This repression may include restrictions on the right of citizens to criticize the government; restrictions on the right of opposition parties to campaign against the government; prohibition of groups or political parties opposed to the government; and at times mass arrest and torture of their supporters, and secret abductions commonly known as 'disappearances'.[67] Therefore, the more accessible the political system, the more likely opposition movements will adopt accommodative strategies and shun violence. In other words, a more inclusive political system will diminish the possibility of a united violent opposition with mass public support. This is because accessibility to the system provides the opposition movement with an option beyond disruption or revolutionary struggle to effect change. However, by contrast, closed systems encourage the radical members in a movement to embrace disruptive and violent means in realizing their political objectives. The present study analyzes the sporadic violent activities of the Kenyan Muslims in the early 1990s on the basis of this theory.

Since this study brings forward the issue of majority-minority relations in Kenya, the work of Norman R. Yetman, *Majority and Minority: The Dynamics of Race and Ethnicity in American Life*,[68] is explored to give further theoretical basis. Yetman explains the phrase minority group in the following way:

> The term minority group was originally derived from the European experience, particularly after the rise of nationalism and the emergence of the nation-state in the late eighteenth and early nineteenth centuries. In that context, it was used to characterize national or ethnic groups that had become subordinate to the peoples of another national group through imposition of, or shifts in, political boundaries.[69]

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[67] Ibid. p71.

[68] Norman R. Yetman (ed), *Majority and Minority: The Dynamics of Race and Etnicity in American Life*. (Boston: Allyn and Bacon, Inc, 1985).

[69] Ibid, p1

However, since differences in power comprise the distinctive feature of majority-minority relations, Joseph B. Gittler gives a more comprehensive definition:

> Minority groups are those whose members experience a wide range of discriminatory treatment and frequently are relegated to positions relatively low in the status structure of a society.[70]

The above definition refers to the existence of a distinct group or social category occupying a sub-ordinate position of prestige, privilege and power. Though Yetman argues that a minority group represents a numerical majority of the total population, in my study it would refer to a numerically minority group. This study will borrow Yetman's position where the term dominant is seen to be synonymous with majority and subordinate as synonymous with minority. The religious dimension will be used to distinguish a minority from the majority. It is contended that the majority-minority relationship examined in this study has some potential for conflicts. Although conflict is not always overt, continuous, or apparent in a social system based on inequality,[71] cases of conflict are evident in Kenya as it deals with the challenges of diversity within its borders.

Otomar J.Bartos and Paul Wehr define conflict "as a situation in which actors use conflict behaviour against each other to attain incompatible goals and, or to express their hostility."[72]According to this definition conflict behaviour can occur when the parties have incompatible goals and they feel hostility towards each other. It is this definition of conflict as propounded by the conflict theory, which is used in this study. In the book

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[70] As quoted by Yetman, *Majority and Minority*, p1

[71]Yetman, *Majority and Minority*, p2

[72] Otomar J. Bartos and Paul Wehr, *Using Conflict Theory*. (Cambridge: Cambridge University Press, 2002), p13.

Using Conflict Theory,[73] Bartos and Wehr have identified several developments behind conflict since 1800. They argue that ethnic identity and racial superiority were encouraged by European governments as they established colonial empires in Africa. This arrangement strongly affected the newly independent African states because civil conflict among its tribal groups emerged.

Bartos and Wehr claim that the colonial policies had ensured that civil conflict would occur in these new states because the European powers had carved up colonial territories with little regard for the African political arrangements in place. The colonial boundaries split "ethnic groups into two, creating vulnerable minorities,"[74] they asserted. In such arrangements, the authors contend, inter group resentments were bound to contribute to post independence conflict. This theory would be applied to the subject of secession which was articulated by the Arabs and Somali Muslims in Kenya.

2.0 Limitations of the study.

It is challenging to write a narrative while events are still unfolding as illustrated in chapter seven. The main challenge in writing about contemporary events lies in the availability of sources. Most of the unfolding events in chapter seven have so far only been documented in newspapers. Therefore, I relied heavily on this source to discuss my analysis in chapter seven especially on the contemporary events. I opted for the inclusion of occurring events albeit contested, rather than leaving important events in Kenya's political history unstudied.

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[73] Ibid.

[74] Ibid, p5

Another limitation was that the study could not extensively cover all regions principally inhabited by Muslims in Kenya. The study was restricted to Nairobi (the capital city) and Mombasa (the heartland of Islam in Kenya) where selected individuals and officials of certain Muslim organizations were interviewed. Although the findings may therefore not claim to represent the entire Muslim population of Kenya, they can nevertheless reveal the most prominent trends and positions. A further research would be ideal that will be able to reflect the views of Muslims in the grassroots.

2.1 Research Methodology.

A descriptive type of research was conducted involving the historical/archival and field research methods which were subjected to analytical interpretation. Both primary and secondary data was employed in this research to make it comprehensive. Newspaper articles or journalistic comments on current political debates involving Muslims were analyzed. Significant for the study were sermons attributed to certain *imams*, which were also interpreted. The historical method is vital in this research and was used to collect secondary data especially on Muslims' political development in Kenya. Information obtained through this method was supplemented by the primary data that had been collected in the field in an effort to verify certain data. Much of the information for chapters six and seven was collected through field research. The following techniques were utilized in carrying out the research:

2.1.1 Structured Interviews.

I had earlier used questionnaires at the beginning of this study, but found that the data was inadequate to be included in the analysis. Judging by the nature of the response, I had to rely on structured interviews conducted with key informants as indicated in appendix A.

During the fieldwork in Kenya (Nairobi and Mombasa) over a period of one year, a series of personal interviews and informal discussions were conducted. The informants were politicians, activists, professionals, officials of Muslims organizations, mosque leaders together with other key informants. These structured interviews revolved around certain specific questions (see appendix B).

2.1.2 Archival Source.

The archival sources at the Kenya National Archives (KNA) provided vital information for the study especially relating to Muslims during the pre-colonial and colonial periods. The records used for this study are of an official nature. Since most of the source materials relate to the British period, they include records, minutes of meetings, official letters and reports. By nature of the material available, these archival sources have been used primarily to document the attitude of the British towards Muslims in the pre-colonial and colonial era.

2.1.3 Sampling and Analytical Methods of Research.

This study was restricted to certain key informants who were picked from certain organizations, primarily in Nairobi and Mombasa. These informants were approached in

their respective places of living, socialization and work after they had been identified and agreed to the interviews. In an effort to test the hypotheses and solving the research questions, the data collected was carefully analyzed so that a critical interpretation could be deduced.

2.1.4 Area of Study.

This study was confined to Kenya where the discourse of politicized Islam has manifested itself vigorously in recent years. The research was based in large measure on a presentation of the political views of Muslims in Kenya together with an examination of the response, critique and analysis to which these views have given rise among intellectuals in Kenya. Precisely, the choice was based on the following reasons:

a) Kenya provides a fascinating scene for exploring the role of religious institutions in civil society and politics.

b) Islam in Kenya has produced the most politically visible form of associational activity.

c) The recent emergence of militant brand of Islam makes Kenya a setting that requires careful study.

Chapter Two

Secularism, Religion and Politics: A General Background.

2.1 Introduction

A general way of examining the relationship between religion and politics would be to suggest that religion affects politics differently in different countries. These implications could be rated as: very significantly; significantly; and moderately as observed by Ilter Turan.[1] This implies that religion continues to assume a central position in the political life of some societies in the world. States founded on religious principles tend to lean more towards the first category.[2] There are at least two major conceptions of religious states in the world, and both are found in the Middle East. These are Jewish and Islamic states.[3] Whereas the policy in secular states is supposed to be based on the formal distinction between Church and State, this does not imply complete absence of interaction and influence between religion and politics. In secular states the incorporation

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[1] Ilter Turan, 'Religion and Political Culture in Turkey' in Richard Tapper (editor), *Islam in Modern Turkey: Religion, Politics and Literature in a Secular State.* (London: I.B. Tauris and Company Ltd, 1991), p32

[2]Carl F. Hallencreutz and David Westerlund, 'Anti Secularist Policies of Religion', in David Westerlund (editor), *Questioning the Secular State: The World wide Resurgence of Religion in Politics.* (New York: St. Martins' Press, 1996), 2-3.

[3] More than Christianity, Judaism and Islam are intimately linked with politics. The state of Israel was created on the basis of religion and strongly identifies itself as a Jewish state. Since its inception Israel appeared as a religio-political unit. The concept of the promised land, which is strongly defended by Jews, is itself a religious idea as it is based on Genesis 15. Other examples for the interplay of religion and politics are provided by the states of Saudi Arabia and Iran. Both are Islamic states proclaiming the application of the *shariah* as their constitution.

of religion into politics varies and can be described as either moderate or even very little.[4]

This chapter discusses on the general concept of secularism, and the principles of a secular state. Effort to illustrate how this idea is perceived in the Muslim world has also been undertaken. This is followed by an examination of the relationship between religion and politics. The divergent views held by Muslim scholars on the relationship between religion and politics shows the variant forms of politics practiced in Muslim societies. The information in this chapter is important as it will provide ideas that will form a basis for subsequent discussion.

2.2 Secularism: Advocating Separation between the Religious and Political Spheres.

Since this study is concerned with the relationship between religion and politics in Kenya, some discussion on the concept of secularism and a secular state would be useful. According to M. Balasubramanian, the term secularism has been used indiscriminately and ambiguously in the 20th century.[5] The word secularism was originally coined by

[4]See how religion and politics are mixed in various secular states in the following works. For USA see Bruce Lincoln, *Holy Terrors: Thinking about Religion after September 11.* (Chicago: University of Chicago Press, 2003); Syed Habibul Haqnadvi, *Islamic Fundamentalism: Theological Liberation and Renaissance.* (Durban: The Centre for Islamic, Near and Middle Eastern Studies Publication, 1995); Charles J. Adams, 'Background of the Contemporary Islamic Resurgence', in *Islamic Order Quarterly*, Vol. 4 No. 1, 1982, p55; For Britain see Ali A. Mazrui, 'African Islam and Comprehensive Religion: Between Revivalism and Expansion', in Nura Alkali et al (editors), *Islam in Africa.* (Ibadan: Spectrum Books Ltd, 1993), p258; For Nigeria see Oyelye Oyediran and Adigon Agbaje (editors), *Nigeria: Politics of Transition and Governance 1986-1996.* (Basford: Rusell Press Ltd. 1999); For Eastern Africa see Holdger Bernt Hansen and Michael Twaddle (editors), *Religion and Politics in East Africa.* (London: James Currey, 1995).

[5] M. Balasubramanian, *Nehru: A Study of Secularism.* (New Delhi: Uppal Publishing House, 1980), p1

George Jacob Holyoake in 1846.[6] Mahmood Monshipouri describes Holyoake's understanding of secularism as follows:

> Holyoake maintained that science was the sole providence of humankind, that reason was the measure of truth, that people's rightful concern was with the removal of inequalities in this world rather than with possible compensation for such inequalities in another life, that the state should be impartial in religious matters, and that all religious and philosophical doctrines should be equally tolerated.[7]

The above quotation signifies that Holyoake used the term secularism to describe a social order independent of religion but where all religions are respected equally. .

In the Encyclopedia Britannica, the term secularism is defined as "no spiritual, having no concern with religious or spiritual matter."[8] Similar views are expressed by J.C. Barnet who stated that "secularism is life organized apart from God, as though God did not exist."[9] The preceding views on secularism envisage a society in which religion has no place in public life.

To S. Radhakrishnan secularism did not imply the absence of religion as he declared:

> Secularism....does not mean irreligion or atheism or even stress on material comforts. It proclaims and lay stress on the universality of spiritual values which may be attained by a variety of ways.[10]

According to this interpretation, secularism does not favour any specific faith, or negate religion or spirituality per se. Holyoake's and Radhakrishnan's approaches are significant

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[6] Mahmood Monshipouri, *Islamism, Secularism and Human Rights in the Middle East*. (London: Lynne Rienner Publishers, 1998), p10; Balasubramanian, *Nehru: A Study of Secularism*, p1; "Secularism" at http://en.wikipedia.org/wiki/secularism (10th March 2008).

[7] Monshipouri, *Islamism, Secularism and Human Rights in the Middle East*, pp10-11

[8] As quoted by Balasubramanian, *Nehru: A Study of Secularism*, p2

[9] As quoted by Balasubramanian, *Nehru: A Study of Secularism* pp2-3

[10] Ibid, pp4-5

in that they denote a system that would ensure harmonious coexistence of the variant forms of religion within the same country or region.

A study of the evolution of secularism reveals a long history of competition between the church and the state. The papacy at the height of its power in Europe is alleged to have advanced the idea that the church is the kingdom of God on earth where the Pope was supposed to be its head. This implied that all authority belonged to the Pope and not the Emperor who was the head of the state.[11] The Emperors in Europe resented the encroachment of the Pope into their domain and a bitter struggled between the two institutions ensued.

Finally, the conflict between the church and the state was resolved. The church agreed to confine its activities to spiritual matters, whereas the state was accorded its independence to deal with political affairs. The outcome of the struggle between the church and the state is summarized by Balasubramanian as follows :

> The concept of secularism in the political arena means, in effect, state's freedom unsullied by interference from the church or religious authorities, to deal with the affairs of the state.[12]

This policy of non-interference in each others domain has been adopted in several constitutions in the world today. As an ideology, secularism bestows on the state the freedom to deal with its affairs without interference from religious authorities. In conducting its administrative functions the state cannot allow itself to be influenced by any religious considerations.

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[11] Ibid, p95

[12] Ibid, p7

2.3 The Principles of a Secular State

It is not easy to ascertain the ingredients that form a secular state. The characteristics of a secular state differ from one state to the other. This is attributed to the variant interpretations of the concept of secularism, which secular states are expected to incorporate in their constitution as a policy. From the outset it is evident that there has been no consensus on whether secularism is anti-religious or non-religious in essence. Consequently, there are many variations of a secular state. For instance, in England there is a constitutionally established state religion but one inclusive of the other faiths.[13] The head of state is expected to swear to uphold the Protestant faith. There are also twenty six positions in the upper house that are usually reserved for the senior clergymen of the Church of England who are known are Spiritual Peers.[14]

In Norway, the King is also supposed to be the leader of the state church. In addition, the 12th article of the constitution of Norway requires the majority of the members of the Norwegian Council of State to be members of the state church. Though the second article guarantees freedom of religion to all citizens, Lutheranism is referred to as the official religion.[15] In the former USSR, secularization implied the right to conduct anti-religious propaganda, which was regarded as more important than the right to freedom of religion.[16]

Being a secular state, Turkey's constitution in its preamble states that "there shall be no interference whatsoever of the sacred religious feelings in State affairs and

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[13] http;//en.wikipedia.org/wiki/Separation_church-state, on 13th March 2008.

[14] http;//en.wikipedia.org/wiki/Secular_state, on 10th March 2008.

[15] http;//en.wikipedia.org/wiki/Separation_church-state, on 13th March 2008.

[16] Balasubramanian, *Nehru: A Study of Secularism*, p69

politics."[17] Despite this declaration, the state pays wages for the *sunni imams*, provides *sunni* religious education in public schools, and controls the content of the Friday sermons given in the mosques.[18] This approach where the state controls religious affairs is different from the U S model.

This is how Balasubramanian describes the US form of secular state:

> Here the object was to give equal freedom to its citizens, in religious, political, economic and other aspects. It was not to promote one religion at the cost of other religions. Its primary object was not to promote secular end but to avoid partisan attitude, but guaranteeing to its citizens the right to freedom of religion. So its position with regard to religion was strict neutrality.[19]

In this form of a secular state, though the religious institution is respected no religion is regarded as superior to another. It is left to the citizens to decide whether or not they wish to adhere to a certain religion.

This illustrates how secularism can be applied in a variety of ways and explains why various types of secular states have emerged in the world. When we discuss politics in Kenya we will examine if it conforms to any of the models discussed above.

2.4 The Approach of Muslims to the Separation between State and Religion

In Muslim societies, the separation between the religious and the secular is not clearly defined. Islam plays a significant role in shaping the lives of its adherents and

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[17] http;//en.wikipedia.org/wiki/Separation_church-state, on 13th March 2008

[18] http;//en.wikipedia.org/wiki/Separation_church-state, on 13th March 2008

[19] Balasubramanian, *Nehru: A Study of Secularism*, p69

provides guidance on all spheres of life. Monshipouri alludes to this phenomenon in the following words:

> To understand secularism in a non-Christian society, one must examine the extent to which religious institutions and norms are pervasive in all areas of that society's life.[20]

This is true of Muslim societies. The dominant view among Muslim scholars is that religion and politics are inter-related and cannot be regarded as two completely distinct institutions. This is why in Islam there is no equivalence of a papacy that is "severed" from the political institution. Monshipouri declares: "Public office existed to serve Islamic needs, to preserve the *ummah* (community) and to ensure the application of *sharia* (Islamic law),"[21] Monshipouri added.

Secularism is believed to have been introduced into Muslim societies through European contact and influence. This has reinforced the commonly-held perception among Muslims that secularism is an externally imposed ideology that reflects European imperial interests.[22] It is this understanding that has led many Muslims to reject secularism and dismiss it as insignificant and irrelevant to their societies. However, a sector of Muslims has embraced secularism and is fundamentally opposed to

> .... any institutionalized control by religion over human life, arguing that such a dominance fosters absolutist tendencies, destroys the existing intellectual life, and promotes less tolerant and anti-democratic forms of social and political control.[23]

This indicates that despite the fact that there is a thin line dividing the religious and the secular in Islam, secularism has been adopted by many Muslims as a system that affords

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[20] Monshipouri, *Islamism, Secularism and Human Rights in the Middle East*, p11

[21] Ibid, p12

[22] Ibid, pp11-12

[23] Ibid, p11

them protection from tyranny, domination and intolerance. Besides, secular-minded leaders have ruled many newly independent Muslim countries. These leaders emphasized separation between religion and politics and secularized their legal and educational systems. While some of them embraced aggressive secularization methods and programs (Ataturk of Turkey, Nasser of Egypt, and the Shah of Iran), "others manipulated Islamic symbols and pursued a more subtle and circumspect approach to secularization (Sadat of Egypt, Qaddafi of Libya, and Zulfaqar Ali Bhutto of Pakistan)."[24]

The adoption of a secular system by Muslim leaders illustrates that they did not consider secular norms and Islamic social ethics as incompatible. Both have a common concern for humanity. It can be argued, therefore, that it is possible to find within Islam elements that are in agreement with certain values of secularism. This is the view of Monshipouri who contends:

> Whereas Islamic humanism emphasizes the interconnections among faith, social justice, and equality, secular humanism stresses the interlocking nature of reason, choice, and liberty and has regularly concerned itself with social justice and equality.[25]

To sum up, while in theory many Muslims still uphold the position that religion and politics cannot be separated, in practice most Muslims living as minorities have adapted themselves to secular societies and secular political systems. Others accept the secular system in principle. The attitudes of Kenyan Muslims will be examined against these approaches.

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[24] Ibid, p13

[25] Ibid, p25

2.5 The Relationship between Religion and Politics: An Overview

To understand clearly this subject of religion and politics, Carl F. Hallencreutz and David Westerlund suggested a comparative model of three different policies of religion. These are (a) confessional (strict); (b); secular (liberal or Marxist); (c) generally religious. According to the two authors countries with a confessional policy of religion ensure that a certain religious community is politically established with a more or less intimate interaction of religion and politics. This alternative is predominant in most Muslim countries though at one time in European history there also existed states founded on religious basis.[26] The strict pursuant of confessional policies is found in theocratic states, which the Islamic Republic of Iran and Saudi Arabia serve as illustrations. In these countries the state apparatus is subordinate to Islam and religious leaders have a strong and decisive voice in political affairs. Nevertheless, there are "other countries with a Muslim majority, as well as in some predominantly Christian and Buddhist countries such as Sweden and Thailand,"[27] where a modified confessional policy is observed. In a Muslim majority country this modified confessional policies is in the form of Islam being declared as a state religion and privileged in various ways. Despite these privileges, the religious leaders and institutions are to some extent subordinate to the interests of the state.[28]

The secular policy of religion evolved after the American and French revolutions of the eighteenth century. This policy has been adopted in many countries of the world.

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[26] Hallencreutz and Westerlund, 'Anti Secularist Policies of Religion', in Westerlund (editor). *Questioning the Secular State*, p2.

[27] Ibid, p3

[28] Ibid, p3

According to this alternative, it "presupposes that there is at least a formal separation between religion and state."[29] The tendency is to limit the role of religion to the private sphere. In the liberal form of secular religious policy, religion is respected as an important resource in society. Individual as well as corporate religious freedom is provided. As a result religion plays an important role in the political life.[30]

The other form of secular religious policy is the Marxist version. This version emerged in the Soviet Union and China in 1917 and 1949 respectively. It is a policy that is characterized by an ideology that has a negative view of religion. Hallencreutz and Westerlund assert that "countries whose regimes are inspired by a Marxist critique of religion have a strong ideological divide between religion and politics,"[31] hence corporate religious freedom is subordinate to the prerogatives of the political order. The main objective of states with this form of policy is to completely banish religion from the consciousness of the people and presumably leave them with only politics. In such a state the political power defines the social order that keeps the state together. This policy has not been successful in the countries where it was introduced as it has always been challenged by the citizens.

Lastly, the generally religious policy of religion is more ambiguous than the other two alternatives. In this policy a state is in principle guided by religion, but it is "not institutionally tied to any specific religious tradition."[32] It is a situation where a country is operating on a middle ground between confessional and secular policies. An example of a

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[29] Ibid, p3

[30] Ibid, p3

[31] Ibid, p3

[32] Ibid, p3.

state that has adopted this middle ground option is Indonesia. In this country one of the five pillars of the state ideology, *pancasila*, refers to belief in God as one of the bases on which the Indonesia nation is built upon.[33] However, it should be observed that such a state is different from the theocratic ones.

This study will borrow some of the ideas articulated above and employ them in the discussion on religion and politics in Kenya. It will show which of the three policies the Kenyan government has adopted. This approach will provide us with an insight into the nature of the relation existing between Muslims and the government.

2.6 Religion and Politics: An Islamic View

Since the main focus of the thesis is on Muslims and politics in Kenya, it is important to have a brief discussion on the relation between religion and politics in Islam. There seem to be divergent views in Islam on the question of religion and politics. There are those who hold the view that religion and politics are integral, while for others the two are separable. The view that there is no distinction between religion and politics in Islam is widespread among Muslim scholars. This position is found in the writings of Khurshid Ahmad, Muhammad Asad, Muhammad Husayn al-Mawdudi and Hasan al-Turabi. The proponents of this view argue that from the beginning of the history of Islam, religion and politics were not separate entities.[34]

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[33] Ibid, p3.

[34] Dale F. Eickelman and James Piscatori, *Muslim Politics*. (Princeton: Princeton University Press, 1996), pp. 34-56: Nazih Ayubi, *Political Islam: Religion and Politics in the Arab World*, (London: Routledge, 1991), p1.

The main defence is that Islam is a complete way of life. As evidence they draw from the life of Muhammad as both a messenger of God and a political leader of the state of Medina. Ayatullah Khomeini explains this position:

> As for [those] who consider Islam separate from government and politics, it must be said to those ignoramuses that the Holy Quran and the Sunnah of the prophet contain more rules regarding government and politics than in other matter.[35]

Consequently, after the death of the Prophet the rightly guided caliphs took control of the affairs of the Muslim community in the same line pursued by Muhammad. It is in this context that the traditional jurists forged a link between religion and politics by giving a religious legitimacy to political power.[36] The ultimate goal of this interaction is the creation of an Islamic state, which is subordinate to the *shariah*. The *shariah* is regarded as the code that outlines the general norms and functions of the state.[37] The citizens of such a state should not necessarily be all Muslims as there hardly been such a situation in Muslim history. In fact the seventh century Prophet's state in Medina was a multi-religious one. All the citizens irrespective of their faiths are required to abide by the law and policies of the state.[38] However, those who do not subscribe to the ideological basis of the state (in this case the non-Muslims) are not allowed to assume the leadership position, apart from occupying other high administrative positions of the state.[39]

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[35] As quoted by Eickelman and Piscatori, *Muslim Politics*, p49.

[36]Ayubi, *Political Islam*, p3; See also Eickelman and Piscatori, *Muslim Politics*, p35.

[37]Mathew Hassan Kukah, *Religion, Politics and Power in Northern Nigeria.* (Ibadan: Spectrum Books Limited, 1993), p116.

[38]Mutalib H, *Islam in Malaysia: From Revivalism to Islamic State.* (Singapore: Singapore University Press, 1993), p50.

[39]Ibid, p67.

The contending view is that there is a separation between religion and politics in Islam. Among the scholars in this camp is Norma Salem who claims:

> In the first place, the Arabic language does distinguish between the concept of *din* (religion) and *siyasa* (politics), *dawla* (state) and sultan (power). The fact that many Muslim thinkers argue in favour of subjecting politics to the exigencies of religion indicates that such an ideal situation did not always exist either historically or even ideologically.[40]

In support of this separation is Nazih Ayubi who argues that the original Islamic sources (Quran and hadith) have not adequately addressed the issue of state. This view is illustrated in his words:

> Islam is indeed a religion of collective morals, but there is very little in it that is specifically political i.e. there is very little in the original Islamic sources on how to form state, run governments and manage organizations. If the rulers of the historical Islamic state were also spiritual leaders of their community, this was not because Islam required the religious leaders (Imams) to be also a political ruler.[41]

Muhammad Said al-Ashmawi agrees with Ayubi and comments as follows on the question of an Islamic state:

> ....there is no passage in the Quran about such a state and form of government, because the essence of religion, including Islam, is man, without regard to his terrestrial location, racial division or variety. Until the death of the prophet, there was no state in Islam; Medina approximated a city state. There was only a Muslim community led by the prophet. The basis of loyalty was religious belief, not any territorial state or nation. The Quran and sharia always addressed themselves to the faithful, not the citizens. In fact the idea of citizenship was alien and unknown to Islam.[42]

This line of argument is also repeated by another critic of the Islamic state, Husain Fawzi al-Najjar. He argues that there is no single authentic text in the classical sources of Islam

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[40] Norma Salem, 'Tunisia', in S. T. Hunter (editor), *The Politics of Islamic Revivalism.* (Indianapolis: Indianapolis University Press, 1988), p151.

[41] Ayubi, *Political Islam*, p4.

[42] As quoted by J.P. Vatikiotis P.J 1981, 'Islamic Resurgence: A Critical View', in A. S. Cudsi and A. E. Dessouki, *Islam and Power.* (London: Croom Helm, 1981), p187.

that supports the unity of religion and state where the sovereignty of God is seen as the source of governance. This is because the *shariah* does not deal with any specific system of government,[43] a position supported by Sadiq Al-Mahdi. According to Al-Mahdi, all those who theorized about such a system have simply expressed historically relevant means of applying Islamic political injunctions.[44] From the arguments of the opposing scholars, there is a consensus that the Quran and hadith did not tackle the question of the form of government.

The proponents of separation argue that religion and politics were brought together in the historical Islamic state by way of the state appropriating religion. This connection between religion and politics in much of the history of Islam was the result of the state taking over religion as a legitimizing instrument.[45] The scarcity of political stipulations in the Quran and hadith forced Muslims to improvise by borrowing from other sources. Al-Mahdi asserts that the Quran has an open attitude to the adoption of useful ideas and institutions of foreign origin.[46] This process was well illustrated in the era of the Abbasid and the Ottoman empires. The Muslims in these periods borrowed from the political heritage of the people they had conquered, especially Persian and Byzantine traditions.[47] Therefore, the form of government that emerged out of this interaction can not *per se* be pronounced as Islamic.

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[43]See Bassam Tibi, 'Post- Bipolar Order In Crisis: The Challange of Politicised Islam', in Bryan S. Turner, *Islam : Critical Concepts in Sociology.Volume I.* (London: Routledge, 2003), p154

[44] Al-Mahdi. S, 'Islam: Society and Change', in John L. Esposito (editor). *Voices of Resurgent Islam.* (Oxford: Oxford University Press, 1983), p236.

[45]Ayubi, *Political Islam*, p5.

[46] Al-Mahdi., 'Islam: Society and Change', in Esposito (editor). *Voices of Resurgent Islam*, p233.

[47]Ayubi, *Political Islam*, pp. 6-7.

The views in this section will provide us with a base to assess the nature of the religio-political relation being articulated by Kenyan Muslims in the pre-colonial and post-colonial periods.

2.7 Conclusion

This chapter has shown that the term secularism has been interpreted differently by scholars. Despite the variant meanings, secularism as an ideology refers to the separation between religion and politics. However, the adoption of secularism tends to differ from one state to the other culminating to several types of secular states. In some states their conception of a secular state implies anti-religious propaganda while in others the religious institution is recognized and respected. When this idea of separation of religion and politics is contextualized within Muslim societies, there seem to be divergent views among Muslims on the debate on religion and politics. There are those who hold the view that religion and politics are integral, while for other Muslims the two are separable. The view that there is no distinction between religion and politics in Islam is widespread among Muslim scholars. In spite of the fact that there is a thin line dividing religion and politics in Islam, secularism has been adopted by some states in Muslim societies because the system affords them protection from tyranny, domination and intolerance.

Chapter Three

Religion and Politics in Kenya in the Pre-Colonial, Colonial and Post-Colonial Periods.

3.1 Introduction

This chapter explores the extent to which religion has played a role in politics in Kenya. The chapter analyzes the religio-political relation in Kenya in both the pre-colonial and post-colonial eras. At the very outset, this chapter points out that there is a strong relationship between religion and the practice of politics in Kenya. Some of the questions I endeavour to answer in this chapter are: (a) how do religion and politics interact in Kenya? (b) is it possible to have a balanced co-existence between religion and politics in Kenya?

3.2 The Religio-Political Relation in Pre-Colonial and Colonial Times.

During the pre-colonial period the Kenyan coast was under the rule of a political model partially inspired by Islam. This was the Sultan's dominion which was a form of an Islamic sultanate. The dominion covered the capital Zanzibar, and the ten miles strip of the coastal regions of Kenya and Tanzania. Apart from Mombasa, Malindi and Lamu, in Kenya, the Zanzibari hegemony also covered parts of Sabaki North bank, Chonyi, Kauma, Bajun area south of Kiunga and parts of Digo.[1] Under the rule of Seyyid Said bin Sultan (1806-1856) in Zanzibar the empire extended its realm of influence, and by the end of eighteenth century Zanzibar had emerged as a dynastic empire with an Arab (or

[1]PC/COAST/1/22/22 Kenya National Archives (KNA).

Muslim) sultanate at the top.[2] This implied that before coastal Kenya was annexed by the British and turned into a protectorate, it had a long tradition of sultanate rule.

Before Seyyid Said shifted the capital to Zanzibar, the sultanate was based in Oman, where it had grown out of the original imamate.[3] The Ibadi imamate ensured that the religious community was politically established, thus providing for an intimate interaction between religion and politics. Randall Lee Pouwels describes this interaction as follows:

> The Ibadi Imamate saw itself....as an umma, a community of the "righteous ones" which maintained its special relationship to God by walking the path of righteousness. Also....it saw itself as pursuing the "right path" through adherence to the laws of God as interpreted by a body of educated jurisconsults. In addition they were led by an elected leader....the Imam....who was head of state and who ultimately was responsible for the administration of the Sharia.[4]

However, in the eleventh century, Oman witnessed transition in the highest political office from imam to sultan. These changes saw the sultan's office assuming a purely political position and delegating the religious duties to another office.[5] Although theoretically there evolved a clear separation of religion and state in Oman, the sultans still retained most of the prerogatives which formerly had been the privilege of the imams. Therefore, when the Oman sultanate eventually established its base in Zanzibar, efforts were made to maintain the same political system in accordance with the *shariah*.

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[2]Ali A. Mazrui, 'The Triple Heritage of the State in Africa', in Ricardo Rene Laremont and Tracia Leacock Seghatolislami, *Africanity Redefined: Collected Essays of Ali A. Mazrui, Vol.1.* (Trenton: Africa World Press Inc. 2002), pp. 37-138.

[3]According to *Ibadis* their political system was viewed as imamate. The sultanate was actually a concession to Ottoman traditions of government in the eleventh century. See Randall Lee Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa, 1700 to 1914.* (London: University Microfilms International, 1979), p363.

[4]Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa,* p363.

[5] Ibid, p394.

The *liwali* and *kadhi* system of administration was consequently introduced to represent the sultan in various capacities in different parts of the dominion.

Until 1875, if one was to participate in the political affairs of the dominion such as holding an administrative office, one had to be a Muslim. This is because all the upper ranks in the sultan's administration were held by Omani Arabs who were by religious affiliation Muslims.[6] The non-Muslims in the sultanate were free to practice their religion without interference, in return for recognizing and obeying the political authority of the sultan. It was not possible for non-Muslims to have the opportunity to rule the dominion because they were not members of the dominion's political community.[7] It is evident that during this era religion gave legitimacy to the polity. The religion of the political elites and rulers of the sultanate was Ibadi (a subsect of Kharijite) Islam, which had its origins in Oman.[8] Consequently, the political leadership was supposed to be reserved to Arab Muslims, especially of the Ibadi affiliation.

Although the Ibadi ruling elite has always been a minority, it managed to uphold its hegemony from the mid nineteenth century to the early twentieth century. As in all forms of colonialism, the logic was to serve the interests of their own kind. Accordingly, the Ibadi rulers reserved the most significant administrative positions to themselves.[9] In situations where Ibadi adherents could not be found, then Arabs of *sunni* persuasion were allowed to oversee some parts of the dominion on behalf of the sultan. The administrative

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[6] Hyder Kindy, *Life and Politics of Mombasa.* (Nairobi: East Africa Publishing House, 1972), p27.

[7] For a discussion of the term political community see Turan, 'Religion and Political Culture in Turkey' in Richard Tapper (editor), *Islam in Modern Turkey*, p35.

[8] August H. Nimtz Jr, *Islam and Politics in East Africa: The Sufi Order in Tanzania.* (Minneapolis: University of Minnesota Press, 1980), p 5.

[9] Discussion with Prof. Mohamed Bakari of Fatih University, Istanbul, Turkey, on May 28th 2005.

positions, such as *kadhi*, and *liwali*, were occupied by Muslims of both Ibadi and the *sunni* persuasion.[10] This trend shows that the dominion was strictly meant to be an Arab-Muslim affair. Carl F. Hallencreutz and David Westerlund have referred to such a system of governance (like the one witnessed in the sultanate) as the state's modified confessional policy of religion.[11] In the Zanzibar sultanate, Islam was regarded as the religion of the state and privileged in various ways. Despite these privileges, the religious leaders and institutions were subordinate to the interests of the sultan.

In his explanation regarding Islamic political thought, Ilter Turan argues:

> In Islamic theology, all Muslims are supposed to constitute an umma, a community of believers who accept the divine basis of society. Because the sharia regulates the social relationships, there is no need for autonomous politics. Political community is synonymous with religious community, the state is its political organization. In an Islamic state there may be non-Muslims: If so they are extended protected status (dhimmi) but they do not have equal rights and duties with members of the umma. They are subjects but not members of the political community.[12]

According to Turan a political community "means a collectivity whose members feel they should be under the same government."[13] Since in Islamic political thought the political community is synonymous with the religious community, theoretically there is no need for autonomous politics. In such a system non-Muslims do not have equal rights and duties with the members of the *umma* mainly because they are considered subjects of

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[10]Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa,* p395;

[11] Carl F. Hallencreutz and David Westerlund, 'Anti Secularist Policies of Religion', in David Westerlund (editor), *Questioning the Secular State: The World wide Resurgence of Religion in Politics.* (New York: St. Martins' Press, 1996), pp. 2-3.

[12] Ilter Turan, 'Religion and Political Culture in Turkey' in Richard Tapper (editor), *Islam in Modern Turkey: Religion, Politics and Literature in a Secular State.* (London: I.B. Tauris and Company Ltd, 1991), p36.

[13]Ibid, p36.

the state but not members of the political community. This argument by Turan explains why the sultanate was run by Arab Muslims.

The end of the nineteenth century, during the rule of Sultan Barghash (1870-1888), brought the transition from pre-colonial Arab Muslim hegemony to Arab Muslim dominance under colonial over lordship. During the transition period, the British policy was based on indirect rule. In this policy the colonial administrators attempted to use native institutions of government as a means to exert colonial control. The British were reluctant to tamper with local native institutions that had recognised their authority and preferred to use those institutions instead of inventing new ones.[14] Therefore, when the sultanate in Zanzibar acknowledged the British authority, the colonial administration proceeded to give them recognition and used the sultanate as a basis of indirect rule.

As a result of this agreement, freedom of religion was guaranteed during the colonial era though no extra effort was made to encourage Islam. Theoretically, at least, the British colonial power respected Muslim sensitivities in so far as religious practices and feelings were concerned. This was evident with the recognition of the *shariah* courts whose officials (*kadhis)* were on the pay roll of the colonial administration in the country. In the pre-colonial period the *kadhis* were expected to interpret the Islamic law as judges on behalf of the sultan. Therefore, when the British took over the administration of the region, they felt it was prudent to retain these institutions that had been established by the sultan for continuity and smooth transition.

Another example that illustrates British concessions to Muslim interests and also illustrates that the dominion of the sultan was governed using the *shariah*, was the ban of

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[14]Mazrui, 'The Triple Heritage of the State in Africa', in Laremont and Seghatolislami, *Africanity Redefined*, pp. 137-139.

alcohol in the protectorate. A notice given by Arthur H. Hardinge, Consul General, in July 1897 states:

> Whereas it is provided in the ordinance for restriction of importation of alcoholic liquors into Zanzibar, dated June 15th and published in the Zanzibar Gazette of the 30th ....no distilled or alcoholic liquor shall be imported whether by land or sea into any of the territories administered by or for His Highness the Sultan of Zanzibar otherwise than in accordance with this ordinance, which is thus rendered applicable to the mainland dominions of His Highness as well as to the Island of Zanzibar and Pemba.[15]

The above notice by Hardinge to the colonial administrators was a reminder to them to implement an Islamic law that was already in existence. The ban of alcohol in the sultan's dominion shows how Islam was an important factor in the administration of Zanzibar, to the extent that it was granted the status of a Muslim polity.

The clear distinction between Muslims and non-Muslims in the Zanzibar sultanate should, however, not lead us to conclude that the former were a unified political community. Racial and sectarian differences that divided the *umma* were evident in the sultanate. There were certain Ibadi sultans who displayed intolerance to other sects of Islam. It was during the reign of sultan Barghash when this religious intolerance occurred. Upon his accession, Barghash came under the influence of a reformist party of the Ibadi *ulama* called the *mutawwiun*. This party greatly influenced his personal religious conviction as well as the affairs of the state. One result of this influence was the banning of the separate Friday prayer for the *sunni* subjects.[16] The move did not augur well with the *sunni* Muslims who constituted the majority in the dominion, thereby undermining the popularity of the sultanate.

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[15]PC/COAST/1/1/178 Kenya National Archives (KNA).

[16]Pouwel, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa*, p396.

Apart from sectarian differences, there were also racial divisions. The African Muslims inhabitants of the dominion were not integrated into the political community.[17] Hassan A. Mwakimako has illustrated this view by saying:

> Immediately the Omani established their rule and they embarked on imposing their own governors over the indigenous communities. In appointing his representatives (liwalis, mudirs and khadis), the sultan hardly considered the Mijikenda or the Swahili Muslims. This perhaps was a bad precedent set by the Omani which later the British built on.[18]

This illustrates why with the advent of nationalism in Kenya, the African Muslims supported the vision of a unitary Kenya. The nationalists' effort was to inculcate a sense of Kenyan nationality with equal treatment to all citizens. The Arab Muslims, on the other hand, found it difficult to accept an ideology that challenged their monopoly in politics and their superior social status. As it became clear that the Arab Muslims would now compete for positions with the rest of Kenyans (whether Muslims or non-Muslims), Islam was turned to as a means of securing and preserving their privileges, but to no avail. The spread of nationalist ideas among the non-Muslims and African Muslims prompted further resentment towards integration among Arab Muslims. This was important as the spirit of Kenyan nationalism had become dominant.

Upon attaining independence, efforts were launched to shape the population which remained within the boundaries of the state into a new polity. Membership of this polity was acquired by being a citizen of the nation-state. Citizens were expected to develop a Kenyan national identity so as to enhance their feeling of attachment to the political community. This required the sultan's subjects at the coast to adjust and accept

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[17]On racial issues among Muslims see Kindy, *Life and Politics of Mombasa.*

[18]Hassan A. Mwakimako, ,Politics, Ethnicity and Jostling for Power: The Evolution of Institutions of Muslim Leadership and Kadhiship in Colonial Kenya 1895-1963,' PhD Thesis, University of Cape Town, 2003, p54.

the new basis of community membership, which previously was religiously based. All citizens were, by definition, members of the Kenyan state, having equal rights. Religious affiliation was not mentioned in the laws as a criterion for membership in the political community.

The rise of the Kenyan nation state as the prevalent form of collectivity with which people identify, demonstrates that the nationalists' efforts were successful in helping to redefine the nature of the political community. Contrary to Islamic political thought which views all believers as belonging to a collective unit and also divides the *umma* into political communities on a religious base, the nationalists' ideology took the nation state as the appropriate unit on which to build the political community. This trend has gradually permeated the Muslim community in Kenya. Today, Kenyan Muslims, while being aware that they share a common religion with many people in the Middle East and other parts of the world, do not think that this commonality warrants their incorporation under a universal Islamic political system.

3.3 The Religio-Political Relation in the Post-colonial Period.

Once the post-independence Kenyan leaders inherited the instruments of power from the colonial administration, their primary concern was to build a strong nation out of the variegated ethnic groups in the country. After independence, Kenya adopted a constitution that did not elevate any religion in the country to the status of a state religion. An examination of the various sections of the Kenyan constitution will reveal the nature of the secular state that obtains in Kenya. To understand the extent to which secularism

has been embodied in the constitution, it is necessary to examine the specific provisions of the constitution. The following Article is pertinent in this respect:

Protection of Fundamental Rights and Freedom of the Individual.

Protection of Freedom of Conscience.
Article 78

1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section that freedom includes freedom of thought and religion, freedom to change his religion or belief, and freedom either alone or in community with others, and both in public and private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.
2) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage a place of education which it wholly maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided at a place of education which it wholly maintains or in the course of any education which it otherwise provides.
3) Except with his own consent (or, if he is a minor, the consent of his guardian), no person attending a place of education shall be required to receive religious instruction or to take part in or attend a religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.
4) No person shall be compelled to take an oath which is contrary to his religion or belief or take an oath in a manner which is contrary to his religion or belief.
5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required -
    a) in the interests of defence, public safety, public order, public morality or public health; or
    b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise a religion without the unsolicited intervention of members of another religion, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.
6) References in this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

It is clear from the above that the constitution does not specifically stipulate that Kenya is a secular state. Article 1 of Chapter One of the constitution simply describes Kenya as "a sovereign Republic."[19] However, most Kenyans understand their country to be secular.

The form of secularism observed in the country is not anti-religious. As we have noted above, Article 78 of the constitution provides for freedom of religion to all Kenyan citizens. This freedom is guaranteed under the protection of freedom of conscience. In terms of this article, the state is not allowed to interfere in or control religious affairs. It is possible to argue that the policy of the state was to accord equal freedom of religious association to Kenyans. Like the United States, the objective of Kenya's constitution is not to promote one religion at the expense of other religions, but to provide an enabling environment to all religions. This demonstrates that religion in Kenya is respected by the state.

The constitution separated Church and State, and consequently the state has no constitutional right to intervene in religious affairs. This is the secular policy of religion as propounded by Hallencreutz and Westerlund.[20] The intention of the Kenyan state to adopt this policy was to separate religion as much as possible from the politics of the country. This means religion is regarded as an entirely private issue outside the scope of state legislation or policy. If the state supports the religious activities of a particular group then it is a violation of the constitution.

Nevertheless, in Kenya attempts by the state to separate religion and politics have not been entirely successful. References to God are embedded in the national fabric and

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[19]*Laws of Kenya: The Constitution of Kenya.* (2001) Nairobi: Government Printers

[20]Hallencreutz and Westerlund, 'Anti Secularist Policies of Religion', in Westerlund (editor). *Questioning the Secular State*.. pp. 2-3.

some deistic concepts are woven into the mix. For instance the country's national anthem opens with 'Oh God of all creation....' which is a prayer to the Ultimate Reality. The opening ceremony of every parliamentary session is always preceded by prayers offered by the representatives of the various religious groups who are always invited to the chamber. Also when the President, Members of Parliament, Judges among others take the oath of office, they usually hold the Bible or the Quran depending on their religious affiliation, and add at the end of the oath "so help me God."

What Hallencreutz and Westerlund had observed about the secular policy of religion is evident within the Kenyan context. From the above examples, religion in Kenya is respected and ultimately plays a significant role in the political life. Here I concur with John Voll who observes that 'the old ideas of the separation of church and state in many countries clearly do not signify the separation of religion from politics.'[21] This is true of the Kenyan situation. Despite the claim that Kenya is a secular state constitutionally, one never fails to notice the presence of religion during state functions.

In post-colonial Kenya the relationship between religion and politics was varied. This variance implied that religion could have a profound political impact depending on how the political authority of the time handled it. If affiliation to a particular denomination by the political leadership was publicized, then the influence of religion on the political agenda would suggest itself. During the reign of the first President, Jomo Kenyatta, religion played a more indifferent role in politics. Kenyatta was focused on initiating development projects to aid the emerging young nation. When Daniel arap Moi took power after Kenyatta, religious representatives gradually took a more critical stance against the state. During Moi's tenure the civil society was clamped down, and

[21] John O Voll, Islam, Continuity and Change in Modern World. (Essex, 1982), p276.

subsequently the religious sector and some professional bodies became avenues for dissent against the state. In this period the mainstream churches (Roman Catholic Church, Anglican Church of Kenya and Presbyterian Church of East Africa) together with a Muslim body (IPK) sided with the opposition to counter the excesses of the Moi regime.

After the removal of Moi's political party from power in 2002 elections, the role of religion as the conscience of society against the state has drawn mixed results. The churches that had earlier leaned towards the opposition turned to be less politicized in the Mwai Kibaki era. The first evidence of the role of religion in politics during the Kibaki presidency did not come from the churches but from Muslim groups. Muslims made statements against the government in the constitution review debate and also in the rejection of the Suppression of Terrorism Bill. For the main Christian churches, the election of Kibaki brought a dilemma. These churches had been partners of opposition against the leadership of Moi. With the former opposition in power, the mainstream churches had to resolve the dilemma of how to cooperate with the state without compromising their role as the conscience of the society.

The following sections examine the interplay of religion and politics in the eras of Kenyatta and Moi.

3.3.1 The Religio-Political Interaction in Kenyatta's Era.

During Jomo Kenyatta's era, the influence of religion on politics was reduced to insignificance. In his interaction with the public Kenyatta never showed open inclination towards a particular religion. This interaction is aptly described by Mohamed Bakari:

> To his credit, though, Kenyatta never adopted sectarian positions as the Head of Sate. He cared very little for religion or display of religious

> symbolism and went out of his way to treat all citizens with equality, in keeping with his earlier promise, when he came to power, to maintain political harmony by practicing the politics of inclusion.[22]

Though he never bothered himself much with religion, this does not exclude the possibility that he understood the power of religion and its vitality in Kenyan politics. This is illustrated by a statement Kenyatta made in 1964 where he praised the various religious bodies for their role in developing the country. In the statement he called the religious bodies to continue acting as a unifying force for the young nation and declared:

> The Churches and missions have done a great deal to help our progress and our independent government will welcome their continued help and cooperation in the years to come....I hope that over the years the churches will also play their full part in bringing us together in a true and everlasting unity.[23]

This call on religious bodies to unify the Kenyan population and by extension reinforce the legitimacy of the regime continued throughout the Kenyatta period. Religious leaders were several times invited to major state events such as the opening of parliament and national celebration days.[24]

On the social and economic level, various religious groups responded to Kenyatta's call to assist in development and nation building. His appeal was consistent with the development work of some of these religious bodies. The religious sector capitalized on this opportunity to continue providing education, health and other services as it had done under the colonial administration.[25] At the same time Kenyatta realized

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[22] Mohamed Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003'. A paper presented at the International conference, St. Anthony's college, Oxford, June 2004, p14.

[23] As quoted by Galla Sabar, *Church State and Society in Kenya: From Mediation to Opposition, 1963-1993*. (London: Frank Cass, 2002), p66.

[24] Sabar, *Church State and Society in Kenya*, p66.

[25] Ibid, p70.

that it was not prudent to allow the religious bodies to provide services in all the spheres of development. He knew that if their influence was not checked, it could impede his efforts to consolidate power. Consequently, he began to limit their autonomy by declaring in his party's (KANU) manifesto that:

> In the great task of educating our people, the continued participation of the missions and the voluntary agencies, who have served us so well in the past, will be welcomed....[But] the government....is bound to provide education and can not delegate this responsibility to any other bodies.[26]

It is clear that the field of education is a very sensitive one and Kenyatta wanted to limit the involvement of the religious group in this field. He believed that the government had to assume a larger role in providing education for all Kenyans. In order to continue its development work with minimum government control, the religious sector avoided conflict with the ruling authority. As a result the religious sector in Kenyatta's era was more of a partner in the social development of the new nation than a critical political voice. This can also be attributed to the fact that Kenyatta was at the height of his popularity where he was perceived not only as a political leader, but also as the father of the nation.[27]

3.3.2 The Religio-Political Interaction in Moi's Era.

When Daniel arap Moi came to power after the death of Kenyatta, the religious sector was already an integral part of the social life in Kenya. The sector was deeply involved in the daily lives of most Kenyans. Its wide network of educational, health care,

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[26]Ibid, p69.

[27]Ibid, p72.

social and economic facilities was firmly established. This enabled the religious sector to continue cooperating with the government in the provision of social services.

Early in his political career there was nothing to suggest that Moi was a religious man. This could be due to the fact that he had served under Kenyatta for quite a long period and during that time the unwritten code was to keep religion out of public domain. But as soon as he ascended to the presidency, Moi assumed a religious posture. This portrayal is illustrated in the words of Mohamed Bakari:

> ....Moi cast himself as a Christian president and used public media to cultivate the classic Machiavellian image of a pious politician, and did this by a public display of religiosity through the use of government media to broadcast his Church attendances. He was always shown flanked by a familiar retinue of political opportunists and hangers on.[28]

Throughout much of his presidency, Moi was shown on national television going to church every Sunday, until the opposition began to question whether it was morally right for the president of a secular state and a multi-religious society to use state television to portray himself in religious posture.

Partly because of Moi's personality, during his leadership religion became more pronounced in the political sphere. In his tenure as the President of Kenya, there was significant religious presence on politics. It was not difficult in Moi's era to realize the preponderance of religious behaviour among the ruling class. During his reign Moi sought to cultivate his personal image as a devout Christian. In some of his speeches he quoted the Bible to emphasize a point. This attitude strengthened the bonds between the Church and the State hence integrating religion with politics. The attempt to establish

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[28] Mohamed Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003', a paper presented at the International conference, St. Anthony's college, Oxford, June 2004, p2.

courtship with religion did not prevent the Anglican Church, Catholic Church, Presbyterian Church of East Africa and some Muslim groups from criticizing the bad governance of the President.[29]

With the establishment of a one party regime from the mid 1960s, Kenya's politics stumbled into crisis with an increasing degree of repression. The height of the crisis was reached in late 1980s, when President Moi abolished the secret ballot voting and replaced it with a queuing system. Even after the establishment of a *de jure* one party state, Moi continued to be suspicious of his opponents, and sought for a mechanism that would allow him to detect party loyalists and dissidents. He hoped that this could be achieved by adopting the queuing system as election method. The queuing system required each citizen to queue behind a candidate and would thus allow Moi to ensure party loyalty and expel those perceived as dissidents.

The pattern of conflict that ensued during this period of political crisis had a lasting impact on the relationship between religious and political leaders. Spearheading the protest against the new scheme introduced by Moi was the National Council of Churches of Kenya (NCCK). Those religious bodies who criticized the queuing system were attacked by officials of the ruling party, KANU, as unpatriotic Kenyans and acting on behalf of foreign governments. It was during this period that Moi found solace with the evangelical churches.

According to Paul Gifford, these are a new brand of churches in Africa that has resolutely refused to challenge government authorities on their bad record. Their principle is never to engage in any social analysis of political structures. These are mainly

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[29]For criticism of Moi's administration from the Anglican church, see Sabar, *Church State and Society in Kenya*; The Sunday Standard, November 5, 2006, pp16-18.

the Pentecostal and the US influenced churches.[30] In Kenya they include the Redeemed Gospel Church, African Church of Holy Spirit, Seventh Day Adventist, African Inland Church, and the newer American-influenced churches under the umbrella of the United Evangelical Churches of Kenya (UECK).[31] As other religious groups were condemning the queuing system, these churches (evangelical churches) refused to join the protest, claiming that it would lead to political polarization that would ultimately undermine national unity.

Since these churches diverted attention away from government shortcomings, the government used them in its bid to continue to stay in power. Thus, at a time when the Moi regime was under increasing pressure to become more democratic and accountable, the evangelical churches were busy offering their political support. This was evident after the allegedly rigged elections of 1988, when Reinhard Bonnke's magazine described Kenya as privileged to be ruled by a born again head of state.[32]

This courtship between religion and politics in Moi's reign was also illustrated during the visit made by the international President of the Seventh Day Adventist (SDA) church. During his 1991 visit to Kenya, he paid a courtesy visit to President Moi. In their discussion Moi took the opportunity to commend the SDA church for its role in preaching the gospel and for its great missionary success in Kenya. It appears that to Moi a good religious body was one that did not indulge in politics and, specifically, in criticism of his government. In his reply, the church leader commended President Moi,

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[30]Paul Gifford, 'Christian Fundamentalism, State and Politics in Black Africa', in Westerlund (editor). *Questioning the Secular State*, pp. 198-215.

[31]This is an umbrella body of about sixty churches most of which are affiliated to the United Evangelical Churches of America.

[32]*Revival Report*, b/1989 E, p3.

describing him as a champion of religious freedom and expression. He assured President Moi that the SDA church together with its followers would continue to be loyal supporters of the government.[33]

Under Moi, Kenya's political structures had become characterized by corruption and mismanagement to such an extent that external donors refused to give further aid, pending the introduction of some system of accountability. Not satisfied with the government's response to their economic and political prescriptions, donors suspended $350 million of scheduled payments in November 1991.[34] In the midst of widespread agitation for multiparty democracy as part of political reforms which Moi was strenuously resisting, an official of Potter's House (an American denominational organization) came to his support, as reported by one of the country's daily newspapers:

> A Pastor [of the Potter's House] said yesterday that Christians should be praying for the government instead of criticizing it. [The pastor said] 'As an American citizen who has lived in Kenya, I do not believe that a multiparty political system will work at this time in Kenya.' He said he had been to many developing countries and Kenya was one of the fastest developing he had been to. 'I believe that this is the result of good leadership. I want to thank President Moi....for the outstanding job [he has] done', [the pastor] said.[35]

The same sentiments that Kenya was not ready for multiparty politics were echoed by Moi in his campaign to suppress the agitation for political pluralism. For over ten years, Moi staunchly defended the one party system as the ideal for Africa. This did not stop other religious bodies in Kenya to continue pressuring for a leadership that was accountable.

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[33]*Kenya Times*, December 1, 1990, p2.

[34]Harden B, *Africa: Dispatches from a Fragile Continent*. (London: Harper Collins, 1991), pp. 248-68.

[35]*Daily Nation*, July 2, 1991, p3.

At this particular moment in time when the government was under sustained criticism from several sources, the African Church of the Holy Spirit held a special service in Nairobi to pray for the government. During the service over one thousand and two hundred followers together with their leader Bishop Kisanya registered as KANU members. The church resolved to side with KANU and President Moi.[36] Despite the support from the evangelical churches, Moi had to give in to the will of the majority of Kenyans, and to introduce multiparty politics after the repeal of section 2(a). In 1991 Moi's government announced that Kenya would now allow new political parties to register. This was the beginning of a new chapter for Kenya, although Moi had always insisted that it would not work.

As the first multiparty elections of 1992 were approaching, more support for Moi surfaced from the United Evangelical Churches of Kenya (UECK). The head of their parent affiliate body (United Evangelical Churches of America), Rev. Charles Hardin led a delegation to Kenya for a major convention. This was in November 1992 only a month before the elections. And just before the convention, Rev. Hardin, his colleagues and the Kenyan leadership paid a visit to President Moi to confer and pray with him. Moi took the opportunity to advice them to avoid ungodly behaviour, to have no antagonism to the state, and to stay out of politics. Moi's message and patronage was not lost on the UECK, as the ensuing convention turned into a promotion of Moi, leading to a statement signed by UECK leaders challenging the negative comments coming from other churches.[37]

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[36]*East Africa Standard*, March 30, 1992, p4.

[37]Gifford, 'Christian Fundamentalism, State and Politics in Black Africa', in Westerlund (editor). *Questioning the Secular State* p207.

This declaration gave Moi some assurance that not all religious groups in Kenya opposed his administration. It was at this point in time that the Protestant NCCK, the Catholic Church and the unregistered Islamic Party of Kenya (IPK) came out with politically harsh statements critical of his regime. However, Moi won the elections in December 1992, although voting was marred by alleged mass irregularities. As the opposition and NCCK were still debating whether to challenge the results, the UECK leaders came out again strongly rebuking the NCCK and urging the opposition to accept the results.

In March 1993, Pastor Paul Yonggi Cho of Yoido Full Gospel Church of Seoul came to Kenya for a 'crusade'. He had a well publicized reception with President Moi at state house, where Moi referred to his preaching as a 'blessing' for Kenya. In his last 'crusade', which Moi attended, Cho is reported to have preached the following:

> ....[He] called on Kenyans to have faith in God in order to be delivered from the economic crisis facing the country. He said that Kenya was a blessed country because it had a God fearing leader. The South Korean preacher urged Kenyans to trust in Jesus in order to prosper....[Pastor Cho said] that God gave the President wisdom to lead the country.[38]

Like other evangelical churches, Cho's preaching had an obvious political message. In the same month, the London Financial Times reported that Kenya's economy had been plundered by Moi together with his cronies. It claimed that Moi and his friends had deposited millions of dollars into their personal accounts thereby adversely affecting Kenya's economic development.[39] At a time when foreign and local press were pointing out that the root cause of Kenya's economic retardation was state sanctioned corruption, a

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[38]*Daily Nation*, April 1, 1993, p26.

[39]*Financial Times*, March 24, 1993, p6.

visiting religious head was preaching to thousands that Moi was ruling with wisdom bestowed by God himself. To him, Kenyans were unable to prosper unless they were committed to God.

The preaching by Cho is what Steve Bruce described as the power of religion to create order and stability in society by promising the pious poor reward if they believe in God. This power reconciles the poor followers to their fate in this world life by discouraging them to rebel against the political authority.[40]

3.4 Conclusion

I have outlined in this chapter that during the pre-colonial era the political practice in the sultan's dominion had a religious basis. However, the establishment of colonial structures and efforts of the nationalists paved the way to the transformation of the political system. Henceforth, the basis of political legitimacy was the secular system. It should not be presumed that once this secularization of the state took place, it was going to diminish the relevance of religious factors to politics. To the contrary, religion has been a persistent and an integral factor in Kenya's politics especially during the leadership of Moi. Therefore, secularization of the state has not marginalized religion to the extent that it ceases to have an impact on the country's politics. I have illustrated how, during the presidency of Moi, religion still left a substantial imprint on politics.

During his tenure as the President of Kenya, Moi was strongly opposed by some of the country's churches. However, this opposition was not unanimous. As the main church bodies were opposing the actions of the government, the evangelical churches

[40] Steve Bruce, Politics and Religion. (Cambridge: Polity Press, 2003), pp.9-10.

were supporting the government. The clergy of these evangelical churches hoped to gain some privileges from the state by backing the Moi regime. As a result of this, the new churches became an alternative focus for loyalty.

I have also shown how religious symbolism and groups were manipulated by President Moi. The purpose for him engaging in this manipulation was to build his domestic legitimacy and to neutralize other religious critics. The Moi government was definitely aware of the undercurrent of religious sentiments. To counter these sentiments, Moi believed that it was important to present himself as a believing Christian President. Therefore, it is not possible in Kenya to ignore the presence of religion in public affairs. Virtually on a daily basis, the media provides examples of religious leaders and institutions which have a continuing relevance to the political realm. What these events demonstrate is that religion and politics are intricately linked to each other; they interact in a number of important but complex ways.

Chapter Four

Socio-Political Conditions of Muslims in Colonial Kenya: Emergence of Muslims' Political Parties, Politics of Nationalism, and Secessionism.

4.1 Introduction

Before examining Muslims and politics in Kenya in the contemporary period, an analysis of colonial era is undertaken in order to place the independence decades in proper perspective. The roots of the contemporary relationship between Muslims and politics in Kenya can be traced back to the period of British imperialism, which lasted from about 1895 to 1963. This chapter seeks to examine the socio-political conditions of Muslims in the colonial period. This will allow us to put into a wider perspective the role and political development of Muslims in Kenya. It is my contention that the British attitude toward Muslims was mainly influenced by whoever was the administrator at the time. The chapter also shows that Muslims have to some extent contributed to their ill-treatment by the colonialists, traces the development of Muslim political parties during this period and analyzes the reasons behind their emergence. This is followed by a critical analysis of Muslims involvement with the politics of nationalism before independence. During this period, some Muslims in the coast and Northern Frontier District were preoccupied with the politics of secession as a way of avoiding political control by the upcountry-Christian dominated government. I will begin by examining the British attitude towards Muslims and Islam following their occupation of the Kenyan coast.

4.2 The Fate of Muslims and Islam in the Face of British Occupation at the Coast.

The colonial power exhibited a reserved if not suspicious attitude towards Islam in Kenya. However, within this framework, British policies were somewhat varied. During the formative years of the installation of the British rule, the colonial administration did not have a clear policy regarding the Islamic faith. Indeed, it is not possible to identify a single colonial policy on Islam. Attitudes towards Islam and Muslims varied among colonial officials who were greatly influenced by their individual background. From 1895 to about 1912, the British did not officially support nor discourage the spread of Islam, but as the result of particular policies, the religion made significant gains.

The establishment of the colonial regime in Kenya had a profound impact on Islam's future. Sometimes consciously, but more frequently not, the colonial government adopted policies that led to the unprecedented growth of the Muslim community. There were certain colonial circumstances that tended to favour Islam. However, we should bear in mind that at the same time there were colonial policies that favoured Christianity to the disadvantage of Islam. During the period of colonial occupation, there was a steady expansion of missionary evangelization and education. Almost all Kenyans in this period were exposed to Christian missionary activities such that by around 1920s, the influence of Christianity was outstripping that of Islam especially in the rural interior areas.[1] This led to the steady increase of the number of Christians, while the spatial frontiers of Islam became more fixed.

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[1]David C. Sperling, 'The Historical Development of Islam in East Africa', University of Nairobi seminar paper, 1970, p9.

For a long time Islam in pre-colonial Kenya was confined to the coastal region. Before World War I, Islam in this region was perceived as mostly a foreign factor. It was associated largely with Arabs, Persians, Indians and some Muslim merchants who were culturally oriented towards the Middle East.[2] For that matter, Islam remained restricted to coastal and urban centres which had emerged as administrative and trading centres. The earliest colonial officials indirectly promoted the spread of Islam in Kenya. One contributing factor was the colonial policy of using Muslims, mostly Arabs, in low level administrative posts in the protectorate. The policy of appointing Arabs as state officials was based on the assumption that the Arab culture was superior to that of Africans. This is confirmed by Sir Arthur H. Hardinge, who as the British High Commissioner of British East Africa observed:

> The Arabs....are the only natives....who can read, or have any comprehension of politics, justice or government. Community of religion, language and intermarriage gives them an influence over negro coast populations, which the European stranger cannot as a rule possess in the same degree, and even in the interior they are as Africans more at home than he can be. Once they have thoroughly learnt the lesson that he is the predominant partner, and must be obeyed as such, their influence applied under his control may be....very useful; and it is, I think, very important for the future of East Africa that a native administrative element should, if possible, be formed and trained up out of the Arabs....[3]

This colonial view of Arabs' superiority was endorsed by Provincial Commissioner Coast, C.W. Hobley, who stated:

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[2]Jeff Haynes, *Religion and Politics in Africa.* (Nairobi: East African Educational Publishers Ltd, 1996), p40.

[3]As quoted by Randall Lee Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa, 1700 to 1914.* (London: University Microfilms International, 1979), p537.

> The Arab has several characteristics that made him of value particularly to the coastal areas. He possesses greater intelligence than the ordinary native of the country. He possesses a hereditary gift of managing natives....[4]

It was out of such convictions that a system which reserved a special place for Arab Muslims within the colonial administration was initially established. In this system of administration Arab Muslims were incorporated in the nascent colonial administration as clerks and administrators.

When the need for establishing a British African troop was realized, Muslims of Arab, Nubi, Somali and Swahili background were conscripted to the force. Many of these soldiers took it to be their duty to convert their non-Muslim colleagues to Islam. Also, the choice of location of colonial administrative centres in the interior to some extent influenced the progress of Islam in the area. Most of the administrative centres were established in existing trading towns that had initially been set up by Muslims before the British occupation of Kenya. It is through these and other policies that the earliest colonial rule served to reinforce Islam indirectly.[5]

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[4]See 'Administrative Relations between Arab Officials and Headmen', PC/COAST/1/22/22 Kenya National Archives (KNA).

[5]For more and detailed discussion on how the British policy influenced the spread of Islam in Kenya, see Shirin R. Walji, 'Ismailis in Kenya: Some Perspectives on Continuity and Change', in Mohamed Bakari and Saad S. Yahya (editors), *Islam in Kenya.* (Nairobi: Signal Press Limited, 1995); Yusuf A. Nzibo, 'Islamization in the Interior of Kenya: A General Overview', in Bakari and Yahya, *Islam in Kenya.*

4.3 The Arab Factor at the Coast and the Maintenance of the Status Quo: A Case of Muslim Collaboration with Colonial Administration in Colonial Kenya.

Though Arabs formed a tiny minority amongst the mass of indigenous African Muslims, they dominated the politics of Kenya's coast in the pre-independence era. During the colonial period, Arabs (and later Indians) were the principal Muslim political players. Muslims' political activity in this era took place within the framework of Arab politics.[6] It is only after independence that the participation of the wider Muslim society is evident in Kenya's politics. Therefore, the discussion of political activities of Muslims in pre-independence Kenya should be understood as referring to Arab Muslims only.

It all began in 1895, when the Imperial British East African Company (IBEA Co) surrendered its management of the sultan's dominions, paving way for the British government to take over. With the collapse of IBEA Co in December 1895, Sultan Hamid bin Thuwain (1893-1896) was prevailed upon to accept an agreement that formally entrusted the coast of Kenya to the protection of the British authority.[7] This agreement ushered in the era of colonialism over the sultan's subjects on the Kenyan coast. Under British rule, the sultan became only a symbol of Muslim political sovereignty without any authority to make a decision. This development saw the course of Arab Muslims

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[6]This view is also shared by Hyder Kindy in his book, *Life and Politics in Mombasa*. (East African Publishing House, 1972).

[7]Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa,* p518.

changing from one colonial governor to the other. However, British colonial rule over the sultan's subjects was not as devastating as that of the Portuguese in the fifteenth century.[8]

During the formative years of the establishment of colonial rule, Arabs on the coast of Kenya were initially opposed to British administration before they learnt to live with it and benefit when they could. The notable rebellions by Arab Muslims against the British were those led by the sultan of Witu and the Mazrui around 1895.[9] Both uprisings were successfully put down by British troops due to lack of unity among Muslims living along the coast. After these initial hostilities, the British administration found ways to establish working relations with leaders of the coastal region, based on the principle of mutual benefit. This working relation came in the form of the British acknowledging Arab Muslims as the local leaders of the communities living along the coast. The following extract from a report by the Chief Native Commissioner on Coast administration illustrates this clearly:

> It is an axiom that the best way to govern any race is through its own acknowledged leaders and the organizations to which it is accustomed. The Arabs were masters of the Coast for centuries and are still its aristocracy....[10]

These views were also reinforced by J.H. Fazan, the 1925 Resident Commissioner, who in a report on the administrative relations between the Arab officers and native headmen at the coast, said:

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[8]Ibid, p92.

[9]Ahmed Idha Salim, 'The Impact of Colonialism Upon Muslim Life in Kenya', Journal Institute of Muslim Minority Affairs, Vol. 1. No. 1, May 1979, pp. 62-63; See also Kindy, *Life and Politics in Mombasa*, p185. The establishment of colonial rule was also met with armed resistance in Mrima and Mombasa. See Kindy, *Life and Politics in Mombasa*, p52 for confirmation.

[10]See 'Administrative Relations between Arab Officials and Headmen', PC/COAST/1/22/22 Kenya National Archives (KNA).

> The Arab officers are legacy of the treaty with Zanzibar. It is possible for us to use then simply in the administration of Arabs...or again we may give them a recognized position in the scheme of direct administration of the coast people as a whole...[11]

We can deduce from the above extracts that, when the colonial government established its rule in Kenya, it assumed that the Arabs were the overlords of the coastal region. As a result of this biased perception the British administrators felt it was necessary to create conducive working relations with local Arab Muslim leaders. This working relation excluded leaders of other communities in the region, for example the *Mijikenda* and Swahili.[12] In this arrangement, Arab Muslim leaders were to administer their areas of influence, which included the land of the *Mijikenda* and Swahili, in return for both pecuniary rewards and a range of political and religious privileges. In this *modus vivendi*, Arab Muslim leaders promised to deliver their peoples' support to the new administration in exchange for being recognized as notables within the new political structure. Some of the notable Arab families who were elevated to "royal" positions by the British administration were the Nabhani, Mazrui and Busaidi families.[13]

Therefore, the process to train Arab Muslim cadets embarked with earnest as they were viewed to be an asset to the protectorate.[14] The imperialists decided to establish an efficient administration of young Muslims who came from upper class Arab families.

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[11] See 'Administrative Relations between Arabs Officials and Headmen', PC/COAST/1/22/22 Kenya National Archives (KNA)

[12] *Mijikenda* is term used to refer to the nine ethnic groups living at the coast. They are believed to have a common ancestral origin and they include: Chonye, Digo, Duruma, Giriama, Jibana, Kabe, Kauma, Rabai, Ribe.

[13] For the British collaboration with certain notable families at the coast, see Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa* p523; Ahmed Idha Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895-1945.* (Nairobi: East Africa Publishing House, 1973).

[14] See 'Administrative Relations between Arab Officials and Headmen', PC/COAST/1/22/22 Kenya National Archives (KNA).

This emerging cooperation between the British authority and some Arab families was based on the assumption that Arab Muslims at that time were the only group at the coast who had any comprehension of politics and government.[15] With only a small European staff and little prospect of the treasury providing resources to recruit more, it was inevitable that the earliest administration depended on Arab Muslim work force and experience. Though no longer rulers of the coast, Arab Muslims were able to retain some of their previous privileges under the colonial authorities whose notion of racial stratification served Arab interests. In the colonial hierarchy of prestige, Europeans were ranked at the top, followed by Indians, then Arabs and lastly Africans.

After the British had successfully imposed their supremacy in the coastal protectorate, Arab Muslims were assured of a special position in the new administration. Immediately when Hardinge took over the governorship of the protectorate from the IBEA Co on behalf of Britain, he initiated a number of changes that had far reaching implications. This started with the promulgation of East Africa Order in Council of 1897, which entrenched British rule over the subjects of the sultan as it legally established institutions of state, power and authority. The Order-in Council of 1897 established the Legislative Council which in turn enacted the Native Court Regulation 1897 which empowered colonial officials to make rules and regulations for the administration of natives. The Native Courts Authority 1897 established the Native Courts Ordinances which contained statutes like the *Liwali, Mudir* and *Kadh*i Courts Ordinances.[16]

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[15] See the earlier quotation attributed to Sir Arthur H. Hardinge in page 56.

[16]Hassan A. Mwakimako, 'The Ulama and the Colonial State in the Protectorate of Kenya: Appointing *Shaykh al-Islam Sharif* Abd-al-Rahaman b. Ahmad Saggaf (1884 - 1922) and Chief Kadhi *Shaykh* Muhammad b. Umar Bakore (c.a.1932)', in Roman Loimeir and Rüdiger Seesemann (editors), *The Global Worlds of the Swahili.* (Hamburg: LIT Verlag, 2006), pp293-294.

In another development, the Legislative Council enacted the Mohammedan Marriage Divorce and Succession Ordinance 1897 which institutionalized selected aspects of Islamic personal law like marriage, divorce and succession. These developments indicated that Hardinge was ready to fulfill the agreement that had been made between the sultan and the British. In the agreement the British had promised to continue applying the *shariah* and to recognize the authority of both the religious and the political elite in the protectorate. This explains why officers were required to give due regard to the *shariah* in dealing with Muslims living along the coast. To cite Arthur Hardinge:

> The Mohammedan religion will remain the public and established creed in the Sultans territories and all cases and law suits between natives will continue to be decided according to the sharia....[17]

One may wonder why Hardinge exhibited this kind gesture to Muslims. The answer could be that apart from the agreement the British had made with the sultan, it is possible that his work experience and background also influenced some of his decisions. Having worked in other Muslim societies in the world (Egypt and Ottoman empire), Hardinge was willing to demonstrate some respect to local Islamic institutions and thereby accord Islam a special position in the new administration. Gradually, a sort of a dual form of administration emerged at the coast: the Muslim and the British. In return for that recognized position in the British administration, Arab Muslim local leaders were

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[17]Carmichael, T. 'The British Practice Towards Islam in East Africa Protectorate: Muslim and Officials, Wakf Administration and Secular Education in Mombasa and Environs 1895-1920', *Journal of Muslim Minority Affairs*, Vol. 17, No. 2 1987, p296.

expected to acknowledge the British officials as their superiors and not the sultan of Zanzibar. [18]

As all these events and developments were unfolding, the affairs of the colony and the protectorate were being run from Mombasa.[19] The growth and endowment of Mombasa with the necessary infrastructures during that period made it an ideal choice for an administrative capital. With the choice of Mombasa and the recognition of local Arab leaders, the Arab community began to gradually associate itself with the new administration. However, the decision by Sir Charles Eliot in 1907 to transfer the capital of the colony and the protectorate from Mombasa to Nairobi was interpreted by some Muslims as a move that was intended to push Kenyan Muslims to political irrelevance.[20]

While this could be true, there are other reasons which made the British favour Nairobi over Mombasa. The present study established that the transfer of the administrative capital from Mombasa to Nairobi had as much to do with Nairobi's proximity to the White Highlands as with marginalizing coastal Muslims. Due to the newly emerging European settler class of the White Highlands, Nairobi was going to be geographically close and a strategic location for the colonial administration.[21] Therefore, the growth of Nairobi in size and politics was part and parcel of the history of white settlers in Kenya.

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[18]On the British efforts to curtail the powers of the sultan, see Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa*. pp. 516-573.

[19]Mombasa has been the homeland of Islam in Kenya since pre-colonial era. The large presence of Muslim population has made it appear like a part of the Muslim world.

[20] Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa*, p523 and p538.

[21]Correspondence with Ali A. Mazrui of Binghamton University, USA, on 13th September, 2005.

Apart from the *liwalis,* the *kadhis* (Islamic judges) were the most important Muslim officials to be incorporated into the native administration initiated by Hardinge. At the beginning the two (*liwali* and *kadhi*) worked from the same office and sometimes their duties overlapped. This was due to the fact that their duties were not clearly defined. In order to distinguish between and to define the duties of the *kadhi* office, Hardinge borrowed from the Egyptian and Ottoman systems. The two systems were familiar to him, having previously worked in these societies. Based on these previous experiences, the Mohammedan Marriage Divorce and Succession Ordinance 1897 was drafted. It was now made clear that the *kadhi*'s jurisdiction would extend to all cases affecting the personal status of Muslims. In addition the *kadhis* were also made legal advisers to the *liwali* and the District Officers (DOs), whom they assisted in interpreting Islamic law.[22]

On the other hand, British administrators were supposed to work with Muslim officials known as *liwalis*, who had offices at Vanga and Gasi, Mombasa, Takaungu, Malindi and Mambrui, Mkunumbi and Kiwayu, Lamu, and one who administered the region between Kiwayu and Tula.[23] The scope and terms of reference for the *liwali* were set out in a report by the Chief Native Commissioner for the Coast region as follows:

> The *liwalis* and *mudirs* are both judicial and executive officers. Their judicial functions are defined in the Courts Ordinance 1913 and amendments thereof. They should be under the immediate control of their District Commissioner and should, in addition to their judicial work, be required to perform the same sort of administrative duties as Assistant District Commissioners, viz- the collection of tax, the counting of houses, the taking of census for tax and other purposes, to supervise the work of

[22]Salim, *Swahili Speaking Peoples of Kenya's Coast,* p79.

[23]Ibid, p78.

> village headmen, and generally to assist the District Commissioner in all the multifarious duties which he has to undertake.[24]

Through these changes, a special cadre of officials known as the Arab administration emerged. This Arab administration consisted of the positions of the *liwali*, *mudir* and *kadhi*. Though answerable to the colonial provincial administration, the head of the entire Arab administration was a senior *liwali* who resided in Mombasa.[25]

These Arab Muslim officials acted as intermediaries between British authorities and the Muslim population at the coast. The British officials trusted and depended on them as they were the ones who were more familiar with the laws and customs of their people. Though these Arab Muslim officials (*liwali, kadhi, mudir*) were to a lesser degree placed at the same level with some British administrators (i.e. District Officers), in principle the DOs would be given seniority over their Muslim counterparts. There was no doubt that the British solution to governing the protectorate lay in the application of indirect rule, where they maintained the indigenous elites by co-opting some of them into the nascent colonial bureaucracy though in subordinate positions. Gradually the Muslim 'royal' families and state officials began identifying themselves with the British administration with the hope of preserving their privileged position.[26]

Nevertheless, the initial stages of implementing indirect rule points to uncomfortable relations between colonial officials and the Muslim elite they appointed. As a result of this tension the British officials resorted to retain only those individuals of

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[24]See 'Administrative Relation between Arab Officials and Headmen', PC/COAST/1/22/22 Kenya National Archives (KNA).

[25]Kindy, *Life and Politics in Mombasa*, p26.

[26]See Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa*, p536.

the Muslim elite who were useful to the smooth administration of the local people. When colonial officers felt that some Muslim officials posed a threat to their authority they did not hesitate to curb their influence. The following excerpt from the Chief Native Commissioner on Coast administration illustrates the efforts exerted by the colonial administrators to subdue Muslims officials:

> The *Liwalis, Mudirs, Kathis*, and *Akidas* are now, as always have been, Arabs or Swahili, but it would appear that in some cases they have been permitted to regard themselves as a class apart, instead of an ordinary integral portion of the general administrative machinery of the protectorate. This is a condition which calls for correction. These officers must be either in the civil service or out of it. If they are in the service, they must conform to regulations, obey orders and carry out whatever is required of them as every European officer must.[27]

In case the Muslim officials thought that they were a special class of officers not linked to colonial state bureaucracy, they were mistaken. Subsequent Governors like Sir Charles Eliot and Sir Donald Stewart were fast in correcting this misconception.[28] During their tenure they made it clear to the Muslim officials that they were civil servants like their British counterparts, and that they should not presume to have independent authority outside the orbit of British leadership. This implied that the position of the Muslim officials depended on the colonial administrators who monitored, regulated and sanctioned their authority. In fact, like other civil servants, the Muslim officials also enjoyed monthly remunerations together with other benefits that accompanied their

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[27]See 'Administrative Relation between Arab Officials and Headmen', PC/COAST/1/22/22 Kenya National Archives (KNA).

[28]See Salim, *Swahili Speaking Peoples of Kenya's Coast,* pp. 71-93; see Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa* p538.

respective positions.[29] Muslims in the service of the colonial state were expected to be sympathetic and subservient to the state. The decision to pay the Muslim officials salaries and allowances can therefore be interpreted as the colonial government's effort to get maximum loyalty from the prospective appointee and by extension from the Muslim masses.

During this period of colonial rule there was also close affinity between the various Christian missionaries and the British administrators. Though at times some Church missionaries were against certain aspects of colonial policy, such as that of taking African land in the White Highlands, there were more areas of agreement than disagreement between them. Not only did they share the same race and religion, but as Jeff Haynes has argued, colonialists and missionaries also shared the goal to bring their 'superior' European civilization, which included their Christian faith, to as many Africans as possible.[30] Until the protectorate government began to consider its educational responsibilities, the missionaries were the primary providers of Western education. For religious reasons, most Muslims avoided missionary schools since during these early years it was intimately bound up with Christian teachings.[31] To some extent proselytizing was an ulterior motive of these mission schools, making most Muslims (both African and Arabs) reluctant to send their children to school.

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[29]For more discussion on the remuneration of Muslim officials see Hassan A. Mwakimako, 'Politics, Ethnicity and the Jostling for Power: The Evolution of Institutions of Muslim Leadership and Kadhiship in Colonial Kenya, 1895-1965.' PhD Thesis, University of Cape Town, 2003.

[30]Haynes, *Religion and Politics in Africa*, p2.

[31]See Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa*, p538; However, there were cases where Muslims went through these mission schools and later on became powerful *liwalis* in Mombasa. Amongst them were Salim bin Munammad Muhashami, Mbarak bin Ali Hinawi and Sir Ali bin Salim. See Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa*, p550.

This Muslim boycott of the missionary school had an advance effect on the Muslim community. Lack of education severely narrowed the scope for the participation of Muslims and improvement in their position in the protectorate administration.[32] Chances of improving their conditions were very low given that government-sponsored schools were inadequate on the Muslim coast. The government felt reluctant to establish secular education for Muslim communities that did not seem to appreciate it. Whether Muslims appreciated it or not was a different question. The fact was that the British administration was not willing to support the education in the protectorate, and this applied to Muslims as well. Every time the administration was approached, they gave the same response that 'there was no money'. This prompted the Director of Education, in his letter of October 1918, to retort the following:

> It is time that this ceased. I have informed the Education Commission that in the proportion of expenditure on Education to public expenditure generally, the East Africa Protectorate ranks the lowest of- if not all - very nearly all the colonies and Protectorate of the Empire. Where Basutoland spends 10.2% and Southern Rhodesia 9.7%, Zanzibar spends 1.4% and East Africa 0.69%.[33]

This situation put the Muslim community into an educational disadvantage. As a result they were rendered incapable of coping with their economic problems and of retaining positions in various departments in the government. According to Robert Hamilton's report to the Education Commission of 1919, it was estimated that only around one hundred Muslims were employed by the government. This figure was too low given the

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[32] Salim, *Swahili Speaking Peoples of Kenya's Coast,* p91.

[33]See 'Administrative Relations between Arab Officials and Headmen', PC/COAST/7/22/22 Kenya National Archives (KNA).

fact that four thousand clerks were employed by the colonial administration.[34] At this point Muslims came to consider education as the remedy to their precarious condition, but not if it was of the low standard provided in the few government schools. Far from being adequate, they regarded the education offered in those schools as useless as it produced semi-educated Muslim youths who were ill-equipped to compete for work with other groups.[35]

Despite the fact that many Muslims along the coast interpreted British policies as unjust and biased against them, it is important to note that their frustration did not lead to a religious conflict with the British. This was evident in the unquestioned loyalty of most Muslim officials and troops under the colonial administration. Different segments of the Muslims population i.e. Arabs, Swahilis, Somalis and Sudanese had been used several times to put down one another's mutinies and rebellions under British order without religious sentiments.[36] Such incidents illustrate that the Islamic factor was not strong enough to unify Muslims in sabotaging British rule. This was clearly evident when the Sultan of Witu and the Mazrui were revolting against the British. Their call for jihad failed to inspire the coastal Muslims against the colonial administration. Even when there were indications that their fortune was changing, Arab Muslims never resorted to religious fanaticism as a means to restore their eroding privileges. Around 1925 there were efforts to curb the influence of Arab officials in some districts such as Malindi-Kilifi and Digo. The British felt that increased Arab influence amounted to encouraging

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[34]See report of Education Commission of EAI; 1919.

[35]Salim, *Swahili Speaking Peoples of Kenya's Coast,* , p193.

[36]Ibid, p173.

of Islam, which was not desired.[37] Despite this change of attitude of British officials towards their earlier collaborators, there is no evidence that Arab Muslims resorted to Islam to rally their co-religionists against British authority.

4.4 The Emergence of Party Politics on the Muslim Coast: A Response to Racial and Religious Representation in the Legislatives Council.

Due to the educational and political situation Arab Muslims found themselves in, they felt that they had genuine reasons to complain. A need arose for an independent voice to articulate their grievances. The only Arab Muslims within the government were the *liwali, kadhi* and *mudir.* All of them were civil servants thereby unable to question the authority which they were expected to represent. Consequently, an independent voice had to emerge. This voice turned out to be the Coast Arab Association (CAA), which appeared on the political scene in 1921. The association believed that Arab Muslim support for the colonial administration had been taken for granted, in spite of their inadequate representation in the Legislative Council responsible to the community.[38] The CAA therefore demanded elected representation. Growing political consciousness in the 1920s inspired this demand further. The association was an attempt by Arab Muslims to raise their status through independent representation. Although CAA showed lack of

[37]See 'Administrative Relations between Arab Officials and Headmen', PC/COAST/1/22/22 Kenya National Archives (KNA).

[38]Salim, *Swahili Speaking Peoples of Kenya's Coast*, p180.

confidence in government appointees representing the community, it was not extremist in its outlook. Rather, it can be described as representing responsible and moderate views.[39]

On January 1922, a public meeting was held at Mombasa under the auspices of the CAA. The meeting resolved to request the government to grant Arab Muslims two seats in the Executive and four seats in the Legislative Council.[40] It was resolved during the meeting that these seats should exclusively be the preserve of Arab Muslims. This request demonstrated Arab Muslim resolve that they did not want to be left behind in the struggle for communal interests which had dominated the politics of the time. Ultimately, their pressure yielded positive results, though the British authority agreed to offer the community only two seats in the Legislative Council.

However, the election of Arab Muslims to the Legislative Council caused a serious split in the Arab-Swahili camp that had for a long time been regarded as a composite body. This schism was witnessed in 1927 when Arabs refused to allow the Swahili to vote for the Arab Legislative Council member. The Arabs considered the Swahili as Africans and therefore not legally eligible to vote for an Arab franchise seat. This argument was frequently used when it came to deciding on who had the right to vote for the Arab Legislative Council member. The Swahili Muslims were denied acceptance on the voter's list on the basis that they were not Arabs. According to the Arab Muslims, Swahili Muslims were more Africans than Arabs, and that was why Arabs refused to be treated equally with them. The Swahili blamed their exclusion on some influential Arab Muslims who had embraced the government's classification of Muslims as two distinct

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[39]Ibid.

[40]See 'Africa Muslim Representation', OP/1/497 Kenya National Archives (KNA).

groups that received different treatment.[41] It thus appears, although the two groups shared the same faith, racial identity was stronger than Islamic identity.

The major historical cleavage in the Muslim world, other than that between Muslims and non-Muslims, was that between Arab and non-Arab Muslims. Frequently, non-Arab Muslims were assigned second class status by Arabs even though this was inconsistent with the egalitarian principles of Islam.[42] This general attitude of the Arab Muslims was also reflected in the politics of colonial Kenya where they were reluctant to concede equality to Africans (both Muslim and non-Muslim) who in their eyes were of inferior status. This attitude explains the antipathy many African Muslims developed for Arabs. In a religion which advocates that no ethnic group was superior to the other, African Muslims were not accepted as equals by the influential Arab minority. From the African perspective there was a tendency of Arabs to look down on Africans. Despite sharing the same faith, the basis for the African-Arab cleavage was centered on the issue of colour bar. Africans (both Muslims and non-Muslims) reacted to this attitude of the Arab Muslims with an underlying resentment towards them. This was reflected in later nationalistic politics.

Confronted with the rejection from the Arabs, the Swahili community felt the need to establish their own party. It was against this background that in 1927 Swahili Muslims together with other African communities formed their own organization, which they called the Afro-Asian Association (AAA). The formation of this association came in

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[41]See Salim *Swahili Speaking Peoples of Kenya's Coast* ; and Kindy, *Life and Politics in Mombasa.*

[42]August H. Nimtz, Jr, *Islam and Politics in East Africa: The Sufi Order in Tanzania.* (Minneapolis: University of Minnesota Press, 1980), p34.

response to their elimination from the voter's roll for the Legislative Council seats which had been reserved for Arab Muslim. The AAA was in opposition to the CAA, which was seen by many as a racist association. Its formation meant that two rival Muslim bodies were now in existence. The next few years witnessed an intense rivalry between the two, and little positive benefit accrued to either side.[43]

The AAA members especially the Tisa and Thelatha Taifa strove for access to the voter's roll, while Arab Muslims continued to resist any amendments.[44] In their campaign the members of the Twelve tribes tireless strove to justify their claim to recognition as Arabs based on (a) alleged genealogical proof of Arab origin; (b) the possession of various letters, treaties and proclamations from the sultans of Zanzibar granting them the status of Arabs.[45] Their efforts did not yield immediate results since the issue of the status of the Twelve tribe was complicated. The Arab Muslims in their defense insisted that the contentious seats in the Legislative Council had always been regarded as a 'Franchise for Arabs.'

As if to create more wedge among Muslims, the government informed the AAA that their demand depended on the approval of Arab Muslims since the seats were reserved for Arabs. This response by the colonial government was based on the notion that all along they had viewed the protectorate as an Arab state. Consequently, Arab Muslims were in a privileged position as they were always considered first when it came to the distribution of administrative and elective posts. It was this denial to realize their

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[43]Salim, *Swahili Speaking Peoples of Kenya's Coast.*

[44] The Tisa and Thelatha Taifa are collectively known as the Twelve tribes.

[45]See 'Legislative Council', PC/COAST/2/3/7 Kenya National Archives (KNA).

full potential that pushed the Swahili to agitation. Having many things with Arabs in common, they could not comprehend why they were now being relegated to lower status.

But the colonial authorities were adamant that they would not change their policy of appointing Arabs to both religious and political positions. This attitude later created the lasting impression that the Arab Muslims participated as collaborators within the colonial policy of indirect rule. Unless the law was changed, there was no hope of bringing the two factions together. And because the division within the Muslim community was serving the colonialist political interests, they were not inclined to change the law very soon. However, later in 1952 as a result of emerging new political developments, the Swahili were granted franchise as Arabs. After this recognition, the Swahili were finally able to register as Arabs for both the 1957 and 1961 national elections.[46]

However, other African Muslims did still not feature in the scheme of the colonial administration. When both administrative and elective posts were being distributed to Arabs, African Muslims were not considered. This prompted their officials in 1958, under the banner of the African Muslim Society (AMS), to send a petition to the Governor, Evelyn Baring, concerning African Muslim representation in the Kenya Legislative Council. In part the letter stated:

> All races in Kenya are represented in Legislative Council either on a religious or tribal basis except the African Muslims. The European and Arab communities have their representatives, whereas the Asians are catered for on a religious basis. Although African representation is composed on a tribal basis, all these representatives are of Christian denomination...It may well be said that the Arab and Asian Muslims can well serve the religious interests of our community in all vital problems affecting our faith, but experience has shown that neither of these two

[46] Kindy, *Life and Politics in Mombasa*, pxii

> communities are prepared to assist us particularly when it involves a clash with their own immediate interests.[47]

The above letter by the President of AMS, A.A. Omar, was an attempt to champion the rights of African Muslims at Mombasa and the coast to representation in the Legislative Council. In response to the issue raised by the AMS, F.R. Wilson, Private Secretary argued:

> Representation in Legislative Council is accorded to various sections of the population on a racial and not on a religious basis. The only exception to this rule is the separate representation of Asian Muslim and non-Muslim communities which is based on a long tradition of separation that has culminated in the partition of their country of origin and creation of two separate states: India and Pakistan. The religious divisions among the European and African communities and inside the Asian non-Muslim community have never been recognized as a proper basis for affording representation in Legislative Council and it would be wrong to recognize them as such at this stage. African representation is on a geographical and not on tribal or religious basis, but it is open to African Muslims to contest any constituency where they think they can obtain a majority....In selecting candidates for appointment to the government backbenches, the Governor has always deliberately refrained from considering a person's religion since if the government attempted to base its majority on the support of denominational groups, it would probably serve to encourage religious differences....[48]

The letter from the Private Secretary's office was an attempt to downplay a genuine concern that had been raised by African Muslims. What emerges from the letter is that the colonial administration did not have a coherent policy on how to deal with the religious factor. Its actions suggest that it was more keen to emphasize racial differences, but the religious card indirectly influenced some of its policies. By allowing Asian Muslims and Asian non-Muslims to have separate representation in the Legislative Council, the religious factor that formed the basis of the formation of India and Pakistan

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[47]See 'Africa Muslim Representation', OP/1/497 Kenya National Archives (KNA).

[48]See 'Africa Muslim Representation', OP/7/497 Kenya National Archives (KNA).

was being employed in colonial Kenya. The decision shows the influence of both Islamic and international politics in colonial Kenya.

While the Islamic factor was acknowledged through the recognition of Arab and Asian Muslims, the same privilege was denied to African Muslims. The latter group did not figure in the mental map of the colonial administrators, and they did not know how to deal with it. Since Africans were rated low in the racial hierarchy, it is possible that the British authorities did not find them worthy enough to endorse their request. As far as the administration was concerned, the solution to the issue lay in doing anything within its power to discourage the idea of separate representation in the Legislative Council on the basis of religious affiliation. Though European, Asian, and Arab representation was influenced by religion that, did not appear to be sufficient reason to extend the religious privilege to African Muslims.

It is important to note at this juncture that during the colonial era, the politics of Kenya were racially oriented to the extent that certain groups struggled to rid themselves of the inferiority status, while striving for the benefit enjoyed by the privileged class. The colonial policy dictated that the more native a group the less privileges it enjoyed.[49] A.P. Thornton described this experience as follows:

> Colonial encounters included moments of individual and communal negation of one's identity because belonging to the 'wrong identity' carried with it the irresolvable consequences of loss of privileges. In the Muslim community of Kenya, the colonial state also defined local populations as 'natives' making them suffer an intractable social humiliation. The native in short was denied a legal personality which was the domain of civil and civilized order within the arm bit of civilization.[50]

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[49]See, 'Status of Arabs', PC/COAST/1/3/164 Kenya National Archives (KNA).

[50]As quoted by Hassan A. Mwakimako, 'Politics, Ethnicity and the Jostling for Power: The Evolution of Institutions of Muslim Leadership and Kadhiship in Colonial Kenya, 1895-1965.' PhD Thesis, University of Cape Town, 2003, p68

According to A.C. Hollis in a letter to the Governor on 22nd December 1908, a native was defined as:

> ....any native of Africa, not of European or American origin. It includes any person not of European or American origin, who, within the dominion of the sultan of Zanzibar, would be subject to 'His Highness' jurisdiction even though such a person should not have been born in Africa.[51]

Due to lack of foresight, Arabs, Swahili, Bajuni and Shirazi (all Muslims) who had no other home but the coast demanded to be accorded equal status with immigrant groups (Indians and Europeans) by denouncing their native status.[52] This move by some coastal Muslim groups implied that they were not indigenous to the coast and more akin to the immigrant groups. This step was a miscalculation by these Muslim groups because they could have agitated for equality under the native status. It was this demand by certain Muslim groups that later led to the development of an ambiguous relation between them and African nationalists. Their demand for non-native status was a dangerous move which resulted in a growing animosity towards them among indigenous black Africans. Such was the political façade which the Muslim community presented as Kenya was approaching independence.

4.5 Muslims and Nationalist Politics in Kenya from the 1950s to 1963.

Incidentally, as discussions and preparations for independence were going on, the two predominant regions of Muslims, the Northeastern Frontier District and the Ten Miles coastal strip, wanted to secede from the rest of Kenya. As the British administration was preparing to pass leadership of the state to the Kenyan political elites

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[51]AP/1/504 Kenya National Archives (KNA)

[52]Salim, *Swahili Speaking Peoples of Kenya's Coast,* p200.

who had been educated and trained in the various missionary schools, the Arab Muslims at the coast and the Kenyan Somali Muslims were agitating for secession. Sections of Muslim population were suspicious and nervous about the power of the upcountry-Christian politicians which explains the emergence of a strong separatist tendency among them. The Kenyan Somali were advocating to join Somalia.[53] Their political agenda was both ethnic and religious. Although Somalis perceived their struggle in ethnic terms, religious differences with the majority of Kenyans had an indirect impact on them. On the other hand, the coastal Arab Muslims were agitating for unity with their fellow Muslims in Zanzibar. Historically, the coastal strip had been the dominion of the Busaidi sultanate and this is why the Arab Muslims wanted to be under the governorship of the sultan of Zanzibar.[54] Their political agenda was among other factors guided by religious principles.

The following sections examine in depth the political activities of Muslims in these two regions and their relation with nationalist politics in Kenya.

4.5.1 Coastal Muslims' Secession Agenda and the Politics of Kenyan Nationalism.

The decade of the 1950s was one of the crucial phases in the political history of Kenya. This phase was momentous as it saw the rise of African nationalism which by

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[53]See Joseph Makokha, 'The Islamic Factor in Somali Irredentism: Towards Rationalizing the Kenya Government's Stand against Islamic Political Association', in Bakari and Yahya (editors), *Islam in Kenya,*p87; Marc-Antoine Perouse de Montclos, 'Elections Among the Kenya Somali: A Conservative but Marginalized Vote', in Marcel Rutten et al (editors), *Out For the Count: The 1997 General Elections and Prospects for Democracy in Kenya.* (Kampala: Fountain Publishers Ltd, 2001), p298; An Africa Watch Report, *Kenya: Taking Liberties*. Human Rights Watch, July 1991, pp. 269-322.

[54] Salim, *Swahili Speaking Peoples of Kenya's Coast.*

1963 succeeded in removing the colonial regime. Another crucial political development in this period was the idea of secession that was being contemplated by some of the sultan's coastal subjects. According to the Arab Muslims, it was an historical error that led the coast to be amalgamated to the colony. To them the coastal region should have been allowed to be administered with Zanzibar because the later has more in common with the coast culturally, religiously and even ethnically.[55]

African politicians from the region, however, had different ideas about the status of the coast. They perceived themselves to have greater cultural affinity with the other Africans in the colony than with Zanzibar. In the emotional debate that was engendered by racial politics, the Arab Muslims sought refuge in separation.[56] This view was not shared by African coastal politicians such as Ronald Ngala, Msanifu Kombo and Francis Khamisi. To them Arabs at the coast were imperialists just like European colonialists. The confrontation between the two sides gradually manifested itself as a competition between Africans and Arabs.

During the colonial period, Arabs were accorded a more privileged position than Africans. As a result, Africans at the coast were reluctant to embrace the idea of secession. They feared that unification with Zanzibar would imply being under Arab rule, and continue being subjected to subordination. Their preference was union with the other parts of Kenya. On the other hand, the advocates of coastal autonomy viewed the upcountry-Christian nationalist politicians who collaborated with the African coastal politicians as 'foreigners'. Consequently, the secessionists vowed never again to be under

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[55] Ibid, p266.

[56] See DC/MSA/2/1/93 Kenya National Archives (KNA), Salim, *Swahili Speaking Peoples of Kenya's Coast*, p266.

the leadership of 'outsiders'.[57] According to them, the first foreign rule was the British-Christian government that was preparing to leave, and pass governance of the country to other 'foreigner' in the form of upcountry-Christian leaders.

The attitudes of the secessionists could be attributed to both social pride and the Islamic factor. One reason why the secessionists were agitating for union with Zanzibar was their expectation that traditional Arab privileges and status would be protected. Moreover, as Muslims they were unwilling to be ruled by non-Muslims. It was not until November 1958 that Governor Baring clarified the British position on the issue. The Governor declared that the 1895 treaty between Britain and the sultan had not been abrogated and was still the basis of administration of the protectorate.[58] Following this revelation by the Governor, Africans were disappointed as they could not contemplate the idea of an Arab dominated coast. As far as they were concerned, the coast belonged to the *Mijikenda* tribes and the 1895 treaty did not alter that fact.

In late 1958, during the debate on secession, the two Arab elected members, Mackawi and Shatry, presented a memorandum to the British authority which they claimed had the support of the Afro-Asian Association and the Bajunis. In the memorandum they requested the British authority not to relinquish the protectorate to a government of independent Kenya.[59] When the AAA came to know of this development, it decided to send a telegram to London dissociating itself from the claims of the two elected members. This move was prompted by the fact that most Swahili had for a long

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[57]See DC/MSA/2/1/93, Kenya National Archives (KNA).

[58]Salim, *Swahili Speaking Peoples of Kenya's Coast*, p228.

[59]Ibid, p230.

time been angered by the Arab tendency to consider them as inferior. Therefore, they seized this opportunity to express their dissatisfaction with the way they had been perceived. And there was no better way than denying the Arabs the support which they desperately needed at that crucial moment.

In addition to the telegram, the AAA presented a memorandum to the British authority stating that it was erroneous to insinuate that the coast belonged to Arabs only. According to the AAA, there were other communities like Baluchi, Digo, Giriama, Swahili among others who also had a stake in the affairs of the region. In their view it would be necessary to involve the other sections of the population in any discussion regarding the future of the coast. This action of the AAA was seen by Arab Muslims as sabotaging the presentation of a united front in London. In response, Arab Muslims sent telegrams expressing their support for Mackawi and Shatry. To calm matters the Colonial Secretary, Iain Macleod, in his address to a conference in February 1960, stated that the coastal strip was not within the agenda of the conference and that no change was being contemplated in the agreement with the sultan.[60]

Arab Muslim attempts to form a Coast Union to protect the interests of the coast were thwarted by African politicians from the region who refused to join. In fact, the Mombasa African District Union (MADU) called upon all African organizations in the region not to be part of a union that was being sponsored by Arabs and Asians. The Africans felt that since their objectives were different from those of Arabs and Asians there was no need for collaboration. It was regarded futile to support such a union. This

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[60]Ibid, p231.

response supports the claim by Otomar J. Bartos and Paul Wehr that conflict is more likely to arise between groups with incompatible goals.[61]

Having been turned down by the Africans, the Arab Muslims had to solicit support elsewhere. In May 1960, a delegation of Arab and Swahili Muslims went to Zanzibar and sought audience with the sultan. In the meeting with the sultan, they expressed the fear that the sultan's impending visit to Britain might lead to pressure being exerted on him to renounce his sovereignty over the protectorate. Therefore, they requested the sultan not to make any decision on the issue without consulting them. They feared that Britain might leave them at the mercy of an upcountry government which according to them would be unsympathetic to their ideals, culture and religion. Rather than being forced into that sort of arrangement, they visualized for themselves and other residents an autonomous status of the protectorate.[62]

It was inevitable that the Arab claim to the coast as a separate entity would meet strong African opposition. Coast Africans under their leader Ngala were not willing to compromise. In fact Ngala was reported in the Mombasa Times of 7th November 1960 reacting to one of the party advocating for secession. In the report Ngala said:

> Coast People's Party had an out of date, crazy and stupid idea about coast autonomy. He added that no Africans supported the party and its policy. Thus the idea that the coastal strip or protectorate was another country separate from Kenya.[63]

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[61] Otomar J. Bartos and Paul Wehr, *Using Conflict Theory*. (Camridge: Cambridge University Press, 2002), p13.

[62] Ibid, p232.

[63] DC/MSA/2/1/93, Kenya National Archives (KNA)

These views were in agreement with those raised by an African Muslim, Msanifu Kombo, organizing secretary, Kenya Africa National Union (KANU), Mombasa branch. In an intimidating letter of June 1961 addressed to the Arabs, Kombo said:

> We say that this Coast of Kenya is an integral part of Kenya and it can never be separated either by force or without force, and anyone who will try to do that, then I say that will be the day of "TROUBLE AND ANXIETIES HERE AT THE COAST." Africans are the owners of the country and they will not tolerate either you or what your party will do. Africans have evidence that they do not want *Mwambao* (Coastal Strip) separated and there is no better proof than those 21,000 voters who boycotted the *Mwambao* Representative. Here the Africans demonstrated by deed their determination of their rejection of this matter, and so if you want to introduce it by force, then what you will reap, will be what you have sown.[64]

It is clear that most of the coastal politicians of African descent did not embrace the idea of being under the sultan. They regarded the Arab Muslims as an immigrant minority group whose special privileges over the years had been an obstacle to Africans advancing to majority rule. Also of concern to them was the privileged land ownership. The African coastal politicians challenged the land rights that enabled the Arabs to acquire huge tracts of land thereby rendering the Africans (both Muslims and non-Muslim) as squatters in their own land. This was the case in Malindi, Kilifi and Kwale where land from some indigenous people was taken by the Arabs turning the people into squatters.[65]

The coast African politicians emphasized that the Arabs had originally arrived in Kenya not as rulers but as traders. Therefore, they did not have any territorial rights in the country. According to them the coastal strip agreement was made between two

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[64] DC/MSA/2/1/93 Kenya National Archives (KNA)

[65] Salim, *Swahili Speaking Peoples of Kenya's Coast*, p224; See also Kwale Distric Annual Report, 1958, KWL/XLV. Kenya National Archives. (KNA)

foreign parties without due consultation with the rightful owners of the region.[66] While the Arab Muslims would refer to upcountry politicians as outsiders or foreigners, African politicians from the coast regarded the Arab Muslims as non-indigenous immigrants. This attitude of the coastal African politicians towards Arab Muslims was fueled by the latter's rejection of their native status. Under British rule Arabs had preferred to be considered as alien so that they could enjoy the privileges that status entailed.

In general, African coastal politicians (both Muslims and non-Muslims) felt more comfortable to deal with upcountry-Christian politicians than with Arab Muslims. Accordingly, African coastal leaders sought an assurance from the colonial government that it would not enter into any further agreement with the sultan until Kenya had achieved *uhuru* (independence). In other words, they were suggesting that the new government of Kenya should be involved in any future discussions on the status of the strip. This view was utterly rejected by the proponents of separation who considered the treaty solely bilateral, and insisted that the discussions should only involve the sultan and Britain. Lack of understanding between Arab leaders and African politicians led to the rise of several parties at the coast each claiming to fight for the interest of *mwambao* (the coastal strip). Some of the parties that emerged during that period were (i) the Shungwaya Freedom Party, (ii) the Kenya Protectorate National Party (KPNP), (iii) the Coast Peoples Party (CPP), (iv) and the Coast League.[67]

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[66]See DC/MSA/2/1/91 Kenya National Archives (KNA).

[67]By the time Kenya was attaining independence there were around nine bodies formed by Muslims of the coast that were engaged in the political discourse of the time. Apart from the Kenya African Muslim Political Union, all the other organizations indulged in sectarian and secessionist politics.

The Shungwaya Freedom Party, which emerged under the leadership of Ahmed Jeneby, was believed to be a Bajuni party. Its creation reflected Bajuni's reaction to Mombasa-based leadership. Their disillusionment with the Mombasa leadership was evident in the 1960 general meeting where they criticized the Arab elected members for neglecting issues affecting Bajuni. They were bitter that the two elected members of the Legislative Council had never bothered to visit Bajuni district so as to keep people informed of political developments in the country. It was out of this feeling of resentment that the Bajuni dissociated themselves from the petition to the sultan. During the meeting, they resolved that any future decisions concerning the community would be dictated by a careful study of the political development of the time. To indicate their commitment to their 1960 resolutions, in May 1961, Bajunis decided to support the advocates of a unitary system based on the conviction that Bajuni land formed part of Kenya.[68]

Turning to the KPNP, the party emerged as an Arab organization in Malindi district. The party was also dissatisfied with the established leadership in Mombasa, which allegedly only remembered the district during election period. Some of the party's objectives were:

> 1. To constitutionally fight for independence of *mwambao* and later on federate with the rest of East African states. To avoid any sort of colour and/or religious discrimination; 2. To strive for the abolition of all forms of racialism and oppression, and to uphold democratic ideals.[69]

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[68]Salim *Swahili Speaking Peoples of Kenya's Coast, 1895-1945*, p233; The unitary sentiments were being echoed by the Kenya African National Union (KANU) of Kenyatta, and Kenya African Democratic Union of Ngala.

[69] See CG/2/60 Kenya National Archives (KNA).

Though on paper the party intended to eradicate all forms of racialism and oppression, in practice it appeared more of a party that was championing the cause of the Arab Muslims, particularly those of Malindi. However, its main objective was to constitutionally fight for the independence of *mwambao* which it strongly believed was part of Zanzibar and not Kenya.

This explains why in March 1963, the KPNP requested the DO of Malindi to allow them to raise a red flag at an intended public rally as a symbol that the decision about the coastal strip was with the sultan. However, the request was rejected by the DO on two grounds: (i) according to section 10 of the Public Order Ordinance Cap 56 laws of Kenya it was illegal to fly a flag at a public meeting; (ii) the red flag being the sultan's flag, it could not be permitted to be hosted where the British were in authority.[70] That would be tantamount to suggesting that it was the sultan who was in authority at the coast and not the British. Though that was the motive behind the request by KPNP, naturally, the colonialists would not encourage such a notion to be nurtured in the minds of the sultan's subjects.

Among all the other parties that appeared at that time, the Coast Peoples Party (CPP) emerged as the most articulate proponent of coastal autonomy. One of its pamphlets of 17th September 1961 inviting people to a public rally reads:

> The Coastal Strip has never and will never be one with the colony. You are all invited to a MAMMOTH meeting by the COAST PEOPLES PARTY: (CHAMPIONS OF COASTAL AUTONOMY).[71]

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[70]See CG/2/60 Kenya National Archives (KNA).

[71] DC/MSA/2/1/93 Kenya National Archives (KNA).

Through their campaign cries of '*mwambao*' or '*umma hai*' (the nation alive), they managed to draw huge crowds of people to their meetings. In its effort to have a non-sectarian, non-ethnic, non-racial and non-religious outlook, the party attempted to gain support outside Mombasa district. This is why its leadership had Ali Abdallah (an Arab Muslim) as its secretary and *maalim* Rashid Bakuli (a Digo Muslim) as its Vice President. *Maalim* Bakuli's position was perceived as strategic with the hope that being a Digo Muslim, his allegiance would sway his tribesmen to join CPP.[72] Nevertheless, the efforts by Bakuli to gain support from fellow Digo Muslims failed to dislodge the Kenya African National Union (KANU) and the Kenya African Democratic Union (KADU) which had already established themselves along the southern region of the coast.

It was in Kwale district that non-Muslim politicians from upcountry Kenya received significant support. Kenyatta and several Kenya African Union (KAU) officials had visited the region in early 1952 and established a branch of KAU among Digo Muslims.[73] A year later when KAU was proscribed, a series of *barazas* (public meetings) were held in Kwale warning people against associating themselves with 'subversive activities'. As Muslims they were reminded to be good citizens and respect those in authority.[74] All these efforts, including the religious appeals, were ineffective in diluting the strong nationalistic favour which had spread among the Digo Muslims. And when KANU and KADU were formed, they found enthusiastic supporters among the Digo.

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[72]Salim, *Swahili Speaking Peoples of Kenya's Coast,* p234.

[73]See 'Kwale District Annual Report 1952', KWL/XLV, Kenya National Archives (KNA).

[74]See 'Kwale District Annual Report 1953', KWL/XLV, Kenya National Archives (KNA).

By joining these earliest nationalistic political organizations, Digo-Muslims hoped to be able to contribute to policies aimed at redressing imbalances in society. This reaction can be explained by the injustices they had witnessed in the colonial period. All Africans irrespective of their religion condemned oppression, yet the only Muslim group that was accorded privileges was the Arab community. It was this injustice that influenced the relationship between African Muslim and Arab Muslims vis-à-vis African nationalism.

Yet another party was the Coast League, which was described as the party of moderation and compromise in comparison with the CPP. It was alleged that this party advocated for the establishment of a British base at the coast in return either for autonomy or continued protection of the strip until the coastal people were prepared to take over. While the Coast League was also seen as being more pro-sultan, the CPP critically questioned the allegiance given to a sultanate that seemed unconcerned with the welfare of its mainland subjects. The CPP was disillusioned by the leadership in Zanzibar that was not coming forth to espouse the cause of Arab Muslims. It was against this background that the CPP was advocating for the autonomy of *mwambao*. The Coast League's agenda did not resonate with most coastal inhabitants and thereby contributed to the failure of this party to make any significant impact at the coast. It was completely outshone by the CPP, which was consistent in its demand for an autonomous *mwambao*.[75] The fact that more than one party emerged to fight for *mwambao* was symptomatic of basic divergences in approach and multi-layered rivalries. This wrangling

[75]Salim, *Swahili Speaking Peoples of Kenya's Coast*, p234.

and lack of coordination among the *mwambao* parties affected their cohesion which would have been crucial to advance their cause.

The plan for *mwambao* autonomy that was supposed to be submitted to the British government was undermined by divisions in the Arab camp. Amongst Arab Muslims there were those who wanted to see the continuation of British protection and those who sought the complete autonomy of *mwambao*. The two elected Arab members, Mackawi and Sharif Abdallah, favoured a revision of the 1895 agreement and opposed the idea of the establishment of a British base at the coast. Their views were criticized by other Arabs including the President of the Central Arab Association. Opposition to the two elected Arab members also came from Salim Mohammed Balala, a spokesman of the Hadhrami traders and shopkeepers, who ascribed Mombasa's development to British enterprise.[76] Due to these divisions the Arab Muslims were in a dilemma and could not agree which political agenda to embrace. This dilemma was expressed in an article published in the Mombasa Times on the 10th of October 1957:

> No clear cut (Arab) policy has been issued although the atmosphere is challenging and other races have come out in their true colours....the Africans have put the 'Africa for Africans' slogan....and it is hard to believe that we shall be immune. The Coast is protected for us but it is nevertheless part of Africa. Things are moving fast and disintegration looms ahead like a nightmare. With all our long cultural and religious association with Zanzibar do we accept it? [77]

In the midst of this confusion and division came a boost to the secessionists in the form of a speech by Governor Patrick Renison at Lamu in September 1960. He assured the Arabs that the status of the protectorate would be considered, and the 1895 treaty would

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[76]Ibid, p221.

[77]As qouted by Salim, *Swahili Speaking Peoples of Kenya's Coast*, p224.

not be abandoned by the colonial government. He promised them that consideration would be given to proposals made by the Arabs regarding the future of the protectorate. The speech provoked criticism by African nationalists from both the coast and upcountry.[78]

Despite the assurances the Arab Muslims received from colonial administrators, they were at the same time aware of the nationalistic politics that was spreading in the country. They came to recognize that they no longer had any special political status of their own given that the majority of the people living at the coast felt that the region should be part of Kenya. They decided unequivocally to place their destiny in the hands of those who would soon command power in the country. As they accepted integration into the Kenyan colony, it was important for them to achieve an internal reconciliation. Ali Abdallah of the CPP gave the following advice in his address to a meeting attended by members of the various political parties at the coast:

> The time has come when we should be thinking of each other not as enemies, because we belonged to different political groups, but as friends, willing to settle difference and deeply interested in the welfare, progress and prosperity of our communities.[79]

At this meeting they agreed to bury their differences and forge a united front as coast politicians irrespective of race, ethnicity and religion. The major factor that influenced the decision of the Arab Muslims to forego their earlier political aspiration and opt for full integration with Kenya was the adoption of a regional system of government (*majimbo*). This was the idea propagated by Ngala's KADU.

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[78] Salim, *Swahili Speaking Peoples of Kenya's Coast*, p235.

[79] Ibid, p242.

With regionalism, the Arab Muslims were assured of some degree of autonomy, escaping domination by non-Muslim politicians from upcountry Kenya. According to this system of government as agreed upon in the London conference in 1963, there would be six regional governments and a central one responsible for major matters such as foreign affairs, defense, trade and economic development.[80] During the conference, an agreement was signed in October 1963 between Kenyatta and Mohamed Shamte, the Zanzibari Minister representing the sultan. This agreement stated that the sultan's government had agreed to surrender its sovereignty over the strip to Kenya and that Britain had also accepted to make the necessary compensation to the sultan.[81] The signing ceremony implied that the issue concerning the status of the coast had been resolved and the region became legally part of Kenya.

Before the signing was concluded at the Lancaster conference, the Kenyan delegation led by Kenyatta gave an assurance that they would honour and respect Muslims' way of life in assuming sovereignty. As freedom of conscience and of religion was embodied in the constitution, there was no fear of interference in their religious affairs. This was further boosted when the Kenyan delegation agreed to entrench the *kadhi* courts in the constitution to oversee Muslims' welfare.[82] Shortly after the integration of the coast with Kenya, the unification of the administration led to the abolition of the offices of *liwali* and *mudir*. The handful who remained became District Officers (Dos) and District Commissioners (DCs), according to their experience and

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[80]Ibid, p243.

[81]Ibid, p244.

[82]Interview with Kassim Bakari Mwamzandi, former Member of Parliament for Msambweni from 1963 to 1997, on 15th September, 2004, Msambweni.

qualifications.[83] The change of status meant better opportunities of promotion for them as the offices of DO or DC are higher in the administrative hierarchy than those of a *mudir* or *liwali*. All these changes were taken in the spirit of creating a united Kenya devoid of racial discrimination that could obstruct the full equality of all Kenyans. The promises of the leaders of the independence movement that the coastal Arabs would be regarded as Africans were followed by action. As one of the smaller composite bodies of the new Kenyan state, the Arab Muslims were accorded fairly good positions in the independence government.

4.5.2 Somali Irredentism and the Politics of Kenyan Nationalism.

The main political discourse of the Somali Muslims from 1952 to independence centred around the issue of secession to Somalia and the formation of an independent pan-Somali nation state. This agenda was based on the argument that Somali-speaking people constitute a distinct nation entitled to a separate existence, just like other nation states in the world. Accordingly, the Republic of Somalia claimed that the Northern Frontier District (NFD), which is mainly inhabited by Somali speakers, should be part of its territory and not of Kenya. This claim was an integral part of the concept of 'Greater Somalia', which politicians in the Republic of Somali endeavoured to achieve.[84] Though the idea of secession originally appears to have been nurtured by politicians from the

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[83]Salim, *Swahili Speaking Peoples of Kenya's Coast,* p244.

[84]Makokha, 'The Islamic Factor in Somali Irredentism: Towards Rationalizing the Kenya Government's Stand against Islamic Political Association', in Bakari and Yahya (editors), *Islam in Kenya*, p82. The authorities in Mogadishu supported this idea of the 'Greater Somalia' by extolling the five stars in their new flag. These stars represented the Italian Somalia, the British Somaliland, Djibouti on the French side, the NFD in Kenya and the Ogaden in Ethiopia. See de Montclos, 'Elections Among the Kenya Somali: A Conservative but Marginalized Vote', in Marcel Rutten et al (editors), *Out For the Count,*. p298.

Republic of Somalia, it found ready acceptance among Somalis of the NFD. To realize this goal, various political parties were formed by Somali Muslims in the region.

The most effective party was the Northern Province Peoples Party (NPPP) led by Wako Happi. The NPPP championed the cause of secession of the NFD to 'Greater Somalia.' As a result of its campaigns the NPPP succeeded in gaining more support from both Somali and non-Somali speaking people (especially among the Boran and Rendille) than any earlier political movement in the region. To indicate their determination not to be part of independent Kenya, the Somali resorted to boycott the 1960 electoral registration and to abstain from any involvement in the movement towards independence in Kenya.[85] Through such strategies, the Somali hoped that their union with Somalia would be accomplished. From the political development at that time it was evident that the upcountry-Christians were bound to take over the leadership role from the British. This reality did not augur well with the Somali Muslims. They hated the idea of being under a government dominated by people they disliked and despised.[86]

During the Lancaster conference of 1962, the NPPP representative in the Legislative Council, Abdi Rashid Khalif, and a delegation from the NFD presented their case for secession and unification with the Republic of Somalia. They emphasized that they had more in common with the people of Somalia than those of Kenya in terms of culture, environment and above all the Islamic faith. This explained their desire for an administration that would respect them as a community. They believed that their

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[85]Makokha, 'The Islamic Factor in Somali Irredentism: Towards Rationalizing the Kenya Government's Stand against Islamic Political Association', in Bakari and Yahya (editors), *Islam in Kenya*, p86; de Montclos, 'Elections Among the Kenya Somali: A Conservative but Marginalized Vote', in Marcel Rutten et al (editors), *Out For the Count*, p298.

[86]P.E Walters, NFD Annual Report 1960, PC/NFD/1/1/12, Kenya National Archives.

objectives would best be served by the Republic of Somalia. According to the pro-secessionists, it was the Republic of Somalia that would be able to uplift them from their colonial status and offer them prosperity because they believed its administration was consistent with their way of life and beliefs.[87]

This view was utterly rejected by Ronald Ngala of KADU and Jomo Kenyatta of KANU during the Lancaster conference. They argued that the neglect of the NFD was not the fault of the African leaders, but that of the British administration. They promised to redress the situation upon gaining independence and assured the Kenyan Somalis of a better future under independent Kenya than under the Republic of Somalia. The assertion by the Kenyan nationalists has proved to be true. Later events in Somalia have shown that one religion shared by the entire population and backed up by the same language and ethnicity was not enough to prevent a country from plunging into chaos. Though KANU and KADU were strongly opposed to the idea of secession of the NFD,[88] by the end of the Lancaster conference, the issue of Somali secession had not been resolved.

In its final effort to resolve the issue of the NFD, the British government arranged for a conference in Rome, on August 25, 1963. Invited to the conference were the Somalia Republic, Kenya and Britain. The Kenya Somalis of the NFD were not represented as the issue was now viewed as involving states. The British delegation was led by the Minister of State for Foreign Affairs, Peter Thomas; the Somali delegation by

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[87]Makokha, 'The Islamic Factor in Somali Irredentism: Towards Rationalizing the Kenya Government's Stand against Islamic Political Association', in Bakari and Yahya (editors), *Islam in Kenya*, p89.

[88]Makokha, 'The Islamic Factor in Somali Irredentism: Towards Rationalizing the Kenya Government's Stand against Islamic Political Association', in Bakari and Yahya (editors), *Islam in Kenya*, p89. de Montclos, 'Elections Among the Kenya Somali: A Conservative but Marginalized Vote', in Marcel Rutten et al (editors), *Out For the Count*, p299.

the Prime Minister Sharmarkey; and the Kenya Internal government was represented by Governor MacDonald and some government Ministers. Like the earlier conference in Lancaster, the Rome conference also ended in a deadlock. This was as a result of the British position that it could not act unilaterally over the NFD and also Kenya's insistence that it was not willing to lose that part of its territory. This development was interpreted by the Kenyan delegates as a 'great victory for Kenya.'[89] However, the inability to resolve the issue before independence meant that the demand for secession continued in the initial years of independent Kenya.

4.6 Conclusion

This chapter could be summarized by examining the conflict theory. The secession debate in Kenya confirms this theory. On the one hand, the debate highlights the conflict between Arab Muslims and African nationalists (upcountry and coastal), and on the other hand the conflict between Somali Muslims against the African nationalist politicians. The debate supports the argument by Bartos and Wehr that conflict is bound to erupt when there are opposing camps with different goals.[90] It is evident that the goal of the Arab Muslims and the Somali Muslims was to secede to join Zanzibar and Somalia respectively, while that of the African nationalists was to have a united Kenya. These differences created tension and conflict between the protagonists as illustrated in this chapter.

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[89]Makokha, 'The Islamic Factor in Somali Irredentism: Towards Rationalizing the Kenya Government's Stand against Islamic Political Association', in Bakari and Yahya (editors), *Islam in Kenya*, p91.

[90] Otomar J. Bartos and Paul Wehr, *Using Conflict Theory*. (Camridge: Cambridge University Press, 2002), p13.

The root cause for the demand to secede by these groups of Muslims can also be expounded by the conflict Theory. Bartos and Wehr posit:

> The colonial policies of colonialism had ensured that civil conflict would occur in these new states. The European powers had curved up their colonial territories with little regard for the African political arrangements in place. Colonial boundaries often split ethnic groups in two, creating vulnerable minorities.[91]

On the basis of this argument, Arab Muslims at the coast felt uncomfortable with the idea of being incorporated to Kenya. They argued that before the 1895 agreement, they were part of the Zanzibar administration. As a result of this historical tie, Arab Muslims aspired to be rejoined with their former compatriots. The Somalis, on the other hand, believed that they were part of the greater Somalia before they were scattered into five different territories. They campaigned to be incorporated into Somalia where they predicted a better future for themselves.

The secession agenda also reveals the tension and conflict felt by minority groups who feared domination by majority. Norman R. Yetman argues that "....the crucial feature of the minority's status is the inferior social position in which its interests are not effectively represented..."[92] In an independent Kenya the Arab Muslim and Somali Muslims were destined to be under African majority rule. As a result of their inferior numerical strength, the Arabs and the Somalis were suspicious that their interests would not be well catered in independent Kenya. This prompted them to seek secession as the best option for their different groups.

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[91] Ibid, p5.

[92] Norman R. Yetman, *Majority and Minority: The Dynamics of Race and Ethnicity in Americn Life*. (Boston: Allyn Bacon Inc, 1971), p1.

Through out the period of British rule over Kenya's coast, Arab Muslims and the colonial administration maintained a working relationship that took the form of incorporating the *liwalis*, *mudirs*, and *kadhis* into the British administration. Despite the recognition of these Muslim officials, the colonial officers had the exclusive capacity to appoint, monitor, regulate and sanction the authority of these Muslim officials. Nevertheless, this element of cooperation with the colonial rule does not imply complete absence of criticism of the British administration. The latter part of the colonial period saw the emergence of significant bodies of Muslims who were not satisfied with the benefits accruing to the community from the imposed political arrangements. This amounted to a revolt against a traditional authority which the colonial government had worked hard to perpetuate.

The chapter has also illustrated that when Kenyan nationalism was on the rise, the Arab Muslims at the coast and the Somali Muslims in the NFD were preoccupied with the idea of secession. This section of Muslim population from these regions did not want to be under a government dominated by upcountry-Christian politicians. In the NFD, the ethnic and religious factors were employed in supporting the demand for joining Greater Somalia. Politicians from both Somalia and the NFD worked together towards attaining this goal. When the British authority failed to give in to the demands of the Somalis, the struggle for secession continued during the earliest years of independent Kenya. At the coast the Arab Muslims used the 1895 treaty as a lever to strengthen their case. This explains why numerous negotiations were initiated by Arab Muslim leaders about the possible autonomy for the coast. However, following debates and negotiations that ensued between Arab Muslim representatives and their fellow upcountry compatriots

who were set to take over power, an assurance was eventually given to Arab Muslims about their welfare in independent Kenya. The issue of secession was buried for a while. More recently, since the early 1990s, the issue of separatism has re-emerged. The latest version of separatism in Kenya finds its expression in the sometimes unpopular debate about federalism (*majimbo*).[93] There is no doubt that the issue of secession has been re-born, even if in a different shape.

[93]For the debate on *majimboism* see *Saturday Nation*, November 17, 2001, pp. 1-2; *Sunday Standard,* November 18, 2001; *Daily Nation*, Monday, November 19, 2001; *Sunday Nation*, August 30, 2001, pp. 8-9 among others.

Chapter Five

Independent Kenya's Attitude Toward Muslims: The Kenyatta and Moi Regimes.

5.1 Introduction.

> For 40 years, we (Muslims) have stood by KANU, a party that had neither advanced the cause of Muslims in Kenya nor denied the status quo. In Kenyatta (first president of Kenya) regime, Muslims were largely irrelevant politically. Moi (second president of Kenya) had no love for Muslims but used them....To the West Moi was pro-Islam, pro-fundamentalism because he entertained Muslims. The Muslims now believe that the Kibaki (third president of Kenya) regime has accepted to exchange the constitutional rights of Muslims for financial support from the US government. The suppression of Terrorism Bill is an effort at not only curtailing the freedom and civil rights of Muslims but also undermining the future of Islam in the country.[1]

The above assertion by Billow Kerrow, Member of Parliament for Mandera Central, implies that independent Kenya's treatment of Muslims has varied. According to Kerrow, the various governments of independent Kenya have neglected the welfare and interests of Muslims.

This chapter seeks to examine the socio-political conditions of Muslims in the post-independence period. This is the era when power shifted from the colonialists to African majority rule. It is my assumption that the changing of political circumstances in Kenya have had an impact on the conditions of Muslims. Though all the post-colonial political periods impacted on Muslims in different ways, my focus in this chapter will be on the period of Jomo Kenyatta and Daniel arap Moi. The chapter also shows how Muslims have contributed to their situation in this period.

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[1]These assertions were made by Billow Kerrow, Member of Parliament for Mandera Central. See *Sunday Nation*, January 4, 2004, p9.

5.2 The Shifting Fortune of Muslims in Kenya's Changing Politics.

The creation of a mutual working relationship between Muslim leaders and political authorities was to continue into the post-colonial era. For many Muslim leaders, collaboration with the new government was necessary for the benefit of the community. The expectation of material resources from the state helped to establish close relations between leading Muslim personalities and senior government officials. In this relation both the religious and political Muslim figures were expected to comply with the political authority of the day. Throughout its contemporary history, Kenya has experienced three different civilian presidential regimes. The period related to these regimes covers the Kenyatta era from 1963-1978; the Moi era from 1978-2002; and the present Kibaki's government which was inaugurated in December 2002. All the three governments have encouraged Islamic tendencies to some extent, as reflected, for instance, in the fact that since independence many mosques have been built throughout the country in areas where Muslims form a significant part of the population.

The Kenyan constitution provides for the freedom of religion. The various administrations in Kenya have strived to protect this right and did not tolerate its abuse. In section 78 (1) of the constitution, religious liberty is stipulated as follows:

> Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section that freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public or in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.[2]

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[2] *Laws of Kenya: The Constitution of Kenya.* (Nairobi: Government Printers, 2001); See also Albert P. Blaustein and Julio Menezes, 'Kenya' in Albert P. Blaustein and Gisbert H. Flanz (editors), *Constitutions of the Countries of the World.* (New York: Oceana Publications, Inc, 1988), pp. 50-51.

As a result of the provision on freedom of worship in the independence constitution, Islamic religious rituals are observed without any restrictions and festivals like *Idd-ul Fitr* and *Idd-al-Adha* are official public holidays in Kenya.

Islamic Religious Education is taught in some public schools which have Muslim pupils, and in some public universities, the departments of Religious Studies offer courses in Islamic Studies. Comparatively, Christian programs occupy more airspace than Islamic lectures that are broadcast on radio and television stations run by the government.[3] Today there are two Muslim radio stations that have been granted a license to operate by the Kibaki administration. These are *Rahma* and *Iqra* FM Radio services in Mombasa and Nairobi respectively.[4] Political appointments of Muslims to serve in the three governments have been varied. In some governments, Muslims have been given some form of prominence and recognition, while in others no Muslim held any significant position at the level of governing council.

However, the post-independence regimes have witnessed varying responses by Muslims to events which I will refer to in this chapter as the 'Islamic factor.' This Islamic factor has featured differently in all the post-colonial governments because it was inspired by specific events of that time. It is these events associated with Muslims that have shaped the post-independent government's attitudes towards Muslims. In Kenyatta's period the Islamic factor manifested itself in the campaign of the Kenyan Somali to secede and join Somalia. I have observed in the earlier chapter that this campaign was

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[3] The Kenya Broadcasting Corporation (KBC) television has around ten regular Christian programs each week. These include *Kuna Nuru Gizani, End of Prophecy, Celebration Time, Turning Point, Just Liveth by Faith, World Outreach Centre, Liberation Hour, Neno Litakuweka Huru, Nguvu Zake Mungu,* and *Revival Times* among others. Muslim viewers have been allotted only one half-hour program a week, *Ukumbi wa Kiislamu.*

[4] Christian-owned broadcasting stations in Kenya include *Baraka* FM (inter-denominational Christian), *Biblia Husema*, Family FM (inter-denominational), Hope FM (Pentecostal), *Imani* FM, *Sayare* FM (interdenominational), *Waumini* FM (Catholic).

inspired by the desire to build the greater Somaliland. There was also the Succession Act that was passed in 1972. This Bill was contested by Muslims until a concessional amendment excluding Muslims was added in 1990.

During Moi's tenure, the Islamic factor was expressed through the rise of an Islamic party and demand for equal treatment of Muslims as Kenyan citizens. The democratic wave that was blowing through the country influenced these trends. This period also saw the rejection of the Marriage Bill (1985) and the Equality Bill (2002) by Muslims. Presently (from 2003-), the Islamic factor is evident in the issue of the *kadhi* courts in the constitutional review; greater demands by Muslims to have a say in the running of the government, and in the isolated cases of international terror activities attributed to Muslim groups that have led to the drafting of the Suppression of Terrorism Bill (2003). The Anti-Terrorism Bill has been viewed by most Muslims as targeting the community arousing their stiff opposition. All these scenarios will be examined under the influence of local politics.

In the following, I will focus on Muslims' endeavour for parity in Kenya within the context of the Kenyatta and Moi regimes.

5.2.1 Muslims under the Kenyatta Regime.

There is a general view among the Kenyan public that Jomo Kenyatta, the first President, was an agnostic. As a result of this background, he had an indifferent attitude towards religion. It is not documented anywhere in Kenya's history that Kenyatta had a tendency to favour one religious group at the detriment of the others. In dealing with the various religious issues and religious organizations, Kenyatta was considered balanced. He is noted to have had respect for all faiths and as an honour to his commitment to them,

his elaborate state funeral was officiated by a Catholic, a Protestant, a Muslim and a representative of African Religion.[5] In his public conduct, Kenyatta did not exhibit any religious tendencies, indicating that religion should be relegated to the private sphere.

Kenyatta's attitude to religious matters was a blessing to Muslims in the sense that he did not appear to be a threat to their existence in any way. In his policies Kenyatta was more interested in ethnic balance than in religious equilibrium.[6] This implied that he was willing to enter into mutual political partnership with any group including Muslims, but through their ethnic background. The political culture Kenyatta initiated required that the political system appeared as all inclusive in the eyes of the public. In this regard, ethnic, racial, and regional criteria became important considerations in the formation of his government. The politics of symbolism, where appointment to a national office signified social prestige and political inclusion, became institutionalized during the Kenyatta leadership. It was in this context that some of those Muslims in parliament such as Sheikh Salim Balala, Mohammed Jahazi, Mohammed Alamoody, Noormohamed Janhohamed and Kassim Bakari Mwamzandi were appointed assistant ministers. The concern of Kenyatta's government was ethno-regional balancing to the exclusion of other criteria.

However, Muslims came to view the appointments of their co-religionists in religious terms. It is largely as a result of these appointments that Muslims began to regard themselves as part of the larger Kenyan society. Muslims expressed satisfaction with the inclusion of their co-religionists in government. They viewed Kenyatta's decision as an act of honour to the whole community. Nevertheless, Mohamed Bakari has

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[5]Mohamed Bakari, 'The Secularization of Kenyan Muslims.' A paper presented in a conference, University of Bayreuth, 2003, p1; Mohamed Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003'. A paper presented at the International conference, St. Anthony's college, Oxford, June 2004, p2.

[6]Bakari, 'The Secularization of Kenyan Muslims,' p2.

commented that in terms of appointments towards Muslims the Kenyatta regime was unremarkable. This is because during the Kenyatta era, neither did a Muslim occupy a full ministerial position, nor was a sizeable number of them appointed to substantive administrative positions. The only exceptions were Ahmed Abdalla and Omar Fakih.[7] This situation has been attributed to lack of professional or higher education of Muslims' Member of Parliament (MP) during the Kenyatta's rule. There was no single Muslim MP with a university degree during this period.[8] It is this educational deficiency which was a major drawback for Muslim politicians. The following observation was made by Mohammed Bakari:

> ....the educational handicap of the Muslim politicians has meant that they pushed themselves to the periphery, rather than the centre of power. In a political system that relies on patronage and sectional lobbying, these politicians have been reduced to the positions of clients, used for the purposes of advancing the careers of the more astute politicians who have a deeper insight into the purpose of power, and who know how to put that power to effective use for the benefit of their ethnic groups. It is here where Muslim politicians appear to have failed their people and thus created a leadership vacuum among Muslims.[9]

The above quotation implies that the leadership vacuum meant that there were no reliable Muslim politicians who could articulate the interests of the community. Despite their loyalty and close proximity to the President they failed to lobby for the benefit of Muslims. Their inferiority in education made them feel satisfied with the small gains the community had made. As a kind gesture in return for Muslim loyalty to the state, Kenyatta's government acceded to the request of declaring *Idd-ul-Fitr* a national public

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[7]Bakari, 'The Secularization of Kenyan Muslims,' p2; This view is also held by Shekh Ali Shee who was interviewed on the 24th of February, 2005 at Junda mosque, Mombasa. He lamented that for fifteen years during Kenyatta's tenure, there was no single Muslim appointed to the position of minister, permanent secretary, or provincial commissioner.

[8]Bakari, 'Muslims and Politics of Change in Kenya', in Mohamed Bakari and Saad S. Yahya (editors), *Islam in Kenya*. (Nairobi: Signal Press Limited, 1995), p244.

[9] Ibid, p245.

holiday in 1971, while *Idd-ul-Adha* was made a holiday for Muslims only.[10] This event had been preceded by a memorandum presented by Muslims to the President requesting the government to recognize these two important Islamic festivals.

In the later years of Kenyatta's presidency (1973), Muslims in Kenya felt that it was necessary to find ways to unify their voice. In the course of ensuing negotiations Muslims agreed to create an organization that came to be known as the Supreme Council of Kenya Muslims (SUPKEM). However, this exercise could not have succeeded without the approval of the government. As a form of political control Kenyatta encouraged the formation of religious organizations of national reach among the party loyalists. This explains why Muslims Members of Parliament (MPs) were among the ex officio members of SUPKEM. Some of the Muslim Assistant Ministers and senior government officials in the Kenyatta administration held senior positions within SUPKEM.[11] As a result, the formation of SUPKEM enjoyed political blessings. It is reasonable to argue that its establishment was meant to check potential disruptive tendencies among Muslims. The organization was expected to create new structures for addressing Muslims' grievances to the government. Prior to the introduction of multiparty politics, the council was expected to be in harmony with the political leadership of the day.

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[10]Idd-ul-Fitr and Idd-ul-Hajj as a public holiday in Kenya, see 'Kenya' in US Department of State, at http://www.state.gov/g/drl/rls/irf/2004/35363.htm, on 6th December 2005.

[11]This was the case of former Assistant Minister Kassim B. Mwamzandi who was chairman of SUPKEM. According to Mwamzandi the reason of incorporating senior government officials and ministers as official of SUPKEM was to give it authority and influence in its endevour to serve the Muslims community. He believes that the government representation in the organization would make it earn recognition especially in its international dealings. Mwamzandi refused to accept that it is possible to have a conflict of interest in situation where one is a government minister and at the same time representing a Muslim body; Another former Assistant Minister was Sheikh Mohamed Salim Balala, who was SUPKEM's secretary general; Assistant Minister Mohamed Shaikh Aden was SUPKEM's director of Education; and Deputy Director of Central Bank of Kenya, Ahmad Abdallah was SUPKEM's director general. See also Arey Oded, *Islam and Politics in Kenya*. (London: Lynne Rienner Publishers, 2000).

As an umbrella organization for all Muslims in Kenya, SUPKEM is supposed to serve as an intermediary through which the government deals with the Muslim population. The government expects the council leaders to ensure that they control the Muslim population for the benefit of the government. Open disagreement with political authority was to be avoided. In return for their loyalty, Muslims found themselves rewarded in different ways. Some of the Muslim religious leaders were allowed to participate in state functions, while some Muslim politicians were appointed as assistant ministers in the Kenyatta government, and a few Muslims were promoted to substantive administrative positions. The cost that was to be incurred by Muslims to have access to these privileges was political conformism. It is against this reasoning that historically, most Muslims unceasingly supported the regime of Kenyatta.

It is important to mention that during Kenyatta's period a significant Islamic factor manifested itself in the form of the continuous campaign by Somalis to secede and join Somalia. Historically the Northeastern region that was predominantly Somali had been neglected by the colonial administrations in terms of development. This was one of the reasons for the demand for secession as the country was approaching independence. The Somalis openly campaigned for a greater Somaliland. When this demand was not granted they resorted to armed resistance to sabotage the independent government of Kenyatta.[12]

Although the idea of Somali nationalism propelled Kenyan Somalis' agitation for secession and self-determination, the Islamic factor also mobilized the Northern Frontier

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[12]See Joseph Makokha, 'Islamic Factor in Somali Irredentism-Towards Rationalising the Kenya Government's Stand Against Islamic Political Association', in Bakari and Yahya (editors), *Islam in Kenya*, p87; Marc-Antoine Perouse de Montclos, 'Elections Among the Kenya Somali: A Conservative but Marginalised Vote', in Marcel Rutten et al (editors), *Out for the Count: The 1997 General Elections and Prospects for Democracy in Kenya*. (Kampala:Fountain Publishers, Ltd, 2001), pp297-301; *An Africa Watch Report, Kenya: Taking Liberties*. Human Rights Watch, July 1991, pp. 269-322.

District (NFD) residents to the Somali cause. Evident was the fact that the campaign for Somali secession gained considerable support among Muslims of non-Somali background such as the Boran and the Rendille.[13] To further rally Muslims behind their cause the Somalis incited their emotions by referring to their cause as a *jihad* against the government of Kenyatta.[14] These developments demonstrated the significance of the Islamic card in the Somali politics of secession. The reference to the Somali cause as a form of *jihad* was an example of the politicization of Islam. The usage of an Islamic symbol was intended to provide a political mileage to the Somali cause by rallying Muslims behind them.

The Somali uprising in the initial years of independent Kenya was rooted in a mixture of religious and ethnic motivations. Nevertheless, the desire to join the greater Somalia was never to be fulfilled. This frustrated the pro-secessionist of the NFD who resorted to armed struggle in order to change the political fate of the region. This struggle which came to be known as the *shifta* war was fought in sporadic ways throughout the region. They employed a guerrilla form of warfare which concentrated on ambushing government convoys and personnel.[15] Their intention was to make the region ungovernable so that Kenyatta would eventually relinquish the region to the Republic of Somalia. The government of Kenyatta, allegedly, used excessive force against the Somalis to ensure that centralization was imposed on the region, since it was not willing to lose any part of the Republic of Kenya. To downplay their struggle for secession,

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[13]Makokha, 'Islamic Factor in Somali Irredentism-Towards Rationalising the Kenya Government's Stand Against Islamic Political Association', in Bakari and Yahya (editors), *Islam in Kenya.* ; Marc-Antoine Perouse de Montclos, 'Elections Among the Kenya Somali: A Conservative but Marginalised Vote', in Marcel Rutten et al (editors), *Out for the Count.*

[14] Hyder Kindy, *Life and Politics in Mombasa.* (Nairobi: East African Publishing House, 1973), p128.

[15] *An Africa Watch Report, Kenya: Taking Liberties.* Human Rights Watch, July 1991, p284.

Kenyatta's administration branded the Somali's armed struggle as *shifta* skirmishes. This term was used by the Kenyan government authorities to convey its illegality and invalidate its political rationale.[16]

The armed conflict between Somali Muslims and the government of Kenyatta led to the political marginalization of the community. For over a decade the Somalis lagged behind the rest of the country in terms of development.[17] As the Somalis were waging these sporadic wars with the battle cry for *jihad,* they were not supported by Muslims from other parts of the country. When the Somali guerilla activities spilled over to Lamu, Kipini Mpeketoni and Tana areas, they inflicted suffering on the Muslim population in these areas. As a result whatever sympathy other Muslims had for the Somali cause was eroded. In fact, the non-Somali Muslims assured President Kenyatta that they supported the government's effort to subdue the *shifta* and bring peace to the region.[18] Consequently, through military resistance and diplomatic efforts, the Kenyatta government managed to keep the Northeastern province in Kenya. Eventually the Kenyan Somali Muslims' agitation for self determination came to an end.

Another episode that caused concern among Muslims about their relation with Kenyatta's government was the establishment of a commission to reform the succession laws in Kenya in 1967. The commission was charged with the task of reforming the inheritance laws in Kenya and thereby bringing Islamic law and other customary laws in

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[16] *An Africa Watch Report, Kenya:*Op.Cit, p284.

[17] Bakari, 'Muslims and Politics of Change in Kenya', in Bakari and Yahya, *Islam in Kenya.* p240.

[18]Kindy, *Life and Politics in Mombasa*, p126.

harmony with English Common Law.[19] The aim of the Kenyatta government was to study the laws of inheritance practiced by the various ethnic and religious groups in Kenya with a view to reconciling them by bringing equality and justice when it came to sharing inheritance among members of a deceased's family. From the moment of the commission's inception, Muslims took great exception to any attempts to tamper with what they considered Divine Law. As a result Muslims were united in opposition against any efforts to introduce new legislation. Apart from Muslims, the proposed reforms were also opposed by the followers of African customary law.

After the commission had accomplished its work, a Bill was drafted in 1972. The Bill attempted to give men and women equal rights of inheritance and was, therefore, hailed as a milestone in ensuring equality between sexes.[20] Muslims lobbied against the reforms through various petitions until their position was acknowledged. Through their efforts and those of the defenders of the African customary law, the Bill was not presented to parliament during Kenyatta's life time. Kenyatta thought it prudent not to hurt Muslim sensibilities and also those of many Africans who, in matters of personal status, often observed African customary law. The reforms touched on sensitive African issues such as inheritance and polygamy which affected many Kenyans. It is believed that Kenyatta and many of the parliamentarians during his time were polygamous, which contributed to their reluctance to adopt the Bill.[21]

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[19] Bakari, 'Muslims and Politics of Change in Kenya', in Bakari and Yahya, *Islam in Kenya*. p240; Janet Kabeberi Macharia, *Women, Laws, Customs and Practices in East Africa*. (Nairobi: WLEA Publications, 1995), 95. Ahmed Idha Salim, 'The Impact of Social, Political and Cultural Changes on Kenya's Muslims - With Special Reference to Arab-Swahili.' A paper presented at a conference organized by the Center for the Study of World Religions, Harvard University, and the School of Oriental and African Studies, London, April 1991.

[20] Macharia, *Women, Laws, Customs and Practices in East Africa*, p96.

[21] Bakari, 'Muslims and Politics of Change in Kenya', in Bakari and Yahya, *Islam in Kenya*. p241.

However, in July 1981, during Moi's tenure as the second President of Kenya, the Law of Succession Act was passed despite strong Muslim protest. Muslims contended that the law was unconstitutional as it compromised their freedom of religion and worship as embodied in section 78 of the constitution. They also argued that imposing the new law on them was tantamount to making them renounce Islam.[22] In one united voice, Muslims emphasized that the Act was in direct conflict with succession laws laid out in the Qur'an. Specifically, Muslims quoted the following Qur'anic injunction: '....To the male a portion equal to that of two females. If only daughters, two or more, their share is two-thirds of inheritance. If only one, her share is half....'[23] Therefore, this formed the basis of the Muslims' rejection of the Bill.

Muslim protest continued until a concessional amendment was added in 1990 (still during Moi's tenure) excluding Muslims from the Bill. Considering the political context and timing of this amendment, there is reason to believe that it was not intended to redress the long existing problem of the law. Moi's gesture to intervene and direct parliament to amend the controversial Law of Succession to accommodate the wishes of Muslims was driven by the desire to seek Muslim support. This was the period when Kenyans were advocating for multiparty democracy. The political climate had changed and there was stiff opposition against Moi's government. At that moment in Kenya's political history, Moi was willing to accede to Muslims' wishes in the hope of wining their political support. And to attain this, Moi wanted to assure Muslims that their freedom of conscience would always be safeguarded in the constitution.

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[22]Patricia Kameri Mbote, *The Law of Succession in Kenya.* (Nairobi: WLEA Publications, 1995), 23; Salim, 'The Impact of Social, Political and Cultural Changes on Kenya's Muslims - With Special Reference to Arab-Swahili.'

[23]Quran 4:11.

In 1976, the Palestinian cause and another call for *jihad* put the loyalty of Kenyan Muslims to the state to another test. Kenyan security agents had arrested three Palestinians at Embakasi Airport (now Jomo Kenyatta Airport) and accused them of planning to shoot down an Israeli El Al plane with missiles that were found in their possession. Idi Amin, the Muslim President of Uganda, who at that time maintained close relations with the Palestine Liberation Organization (PLO), demanded the unconditional release of the three Palestinians. The Kenyatta government objected and instead handed over the three Palestinians to the Israel government. This angered Amin, and in his wrath he called for a *jihad* against the regime of Kenyatta.[24]

In their response Kenyan Muslims represented by SUPKEM, came out in support of Kenyatta and strongly condemned Amin's move. The statements by Muslim leaders, both religious and political, criticized Amin's military regime, which had massacred large numbers of innocent Kenyan and Ugandan citizens. For that matter they stressed that Amin was not a sincere Muslim because, contrary to Islamic tenets, was responsible for the arbitrary killing of innocent people. Such a leader, they argued, should not be trusted, and his call for *jihad* against the government of Kenyatta should not be heeded.[25] This stance taken by SUPKEM and other Muslim political leaders illustrated Muslim loyalty to the Kenyan state. Even the Palestinian cause that had emitted strong passion among Muslims all over the world was not enough to rally Kenyan Muslims against the government of Kenyatta.

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[24] Oded, . *Islam and Politics in Kenya,* p38.

[25]Ibid, p39.

5.2.2 Muslims under the Moi Regime.

Following the death of the first President, Kenyatta, on August 22nd 1978, his longest serving (1967-1978) Vice President, Daniel Toroitich arap Moi ascended to the presidency. Moi's accession to the presidency was in accordance with a stipulation in the Kenyan constitution. Concerning the issue of a vacancy in the Office of the President, the Kenyan constitution states:

> 6. (1) If the office of the president becomes vacant by reason of the death or resignation of the President, or by reason of his ceasing to hold office by virtue of section 10 or section 12, an election of a President shall be held within the period of ninety days immediately following the occurrence of that vacancy, and shall be held in a manner prescribed by section 5(5) of this constitution.
>
> 6. (2) While the office of President is vacant as aforesaid, the functions of that office shall be exercised- (a) by the Vice President; or (b) if there is no vice president, or if the Vice President considers that he is for any reason unable to discharge the functions of the office of the President, by such Minister as may be appointed by the Cabinet.[26]

Therefore, according to the constitution, following Kenyatta's death Moi was to assume power for a period of ninety days. This automatic accession to power of Moi did not please certain sections of Kenyan's powerful politicians. The opposition was led by an alliance of Kenyatta's family and the Gikuyu, Embu, Meru Association (GEMA). Constitutionally, Moi was the successor, but in 1976, a number of politicians led by the GEMA-Kenyatta's family alliance initiated the Change the Constitution Movement in order to prevent Moi's automatic succession.[27] As a result the issue of succession became a major political debate during the last years of Kenyatta's rule. The first political leader

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[26] *Laws of Kenya: The Constitution of Kenya.* ((Nairobi: Government Printers 2001). Section 10 of this constitution deals with determination of questions as to the validity of presidential elections, while section 12 deals with the removal of a President on grounds of incapacity.

[27] D. Pal Ahluwalia, *Post-Colonialism and the Politics of Kenya.* (New York: Nova Science Publishers, 1996), p81.

to condemn the Change the Constitution Movement was a Muslim politician, Shariff Nassir bin Taib, who gave Moi unconditional support in his struggle to assume the presidency in the face of opposition by the Kiambu politicians.[28]

It is believed that Nassir supported Moi morally and financially to assume the presidency at the height of the Change the Constitution Movement intended to deny Moi the possibility of assuming office after Kenyatta. Following the death of Kenyatta and the accession of Moi, Nassir urged KANU delegates to elect Moi unopposed as the chairman of the party. This strategy was to entrench Moi's powers in the party making his position uncontested. A few days after Nassir's statement, most politicians and community groups issued statements of support and allegiance to Moi, urging the need for continuity and stability.[29] Following cue, in December 1978 a delegation from the Muslim community led by SUPKEM met the President and expressed their loyalty.[30] Therefore, it is reasonable to argue that as Moi was ascending to leadership he had already made allies with individual Muslims.

During Moi's period as the President of Kenya, several Muslims distinguished themselves as staunch supporters of his regime. For instance, the 1982 coup attempt against Moi's government was put down by an army General, Mahmoud Mohamed, a Somali Muslim. As a general in the army, Mahmoud played a key role in foiling the coup. This incident is presumed to have changed Moi's attitude towards Somalis and Muslims in general. After the failed coup attempt, for the first time in the history of Kenya's politics, a Muslim was appointed to the cabinet. General Mahmoud's brother,

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[28]Ibid, p87.

[29] Ibid, p108.

[30]Oded, *Islam and Politics in Kenya,* p23.

Hussein Maalim Mohamed became a member of Moi's cabinet.[31] General Mahmoud was later to occupy the office of the Chief of General Staff in the Kenya Armed Forces. Some scholars have interpreted Moi's gesture as a form of payback to General Mahmoud.[32] Another strong ally of Moi was Nassir, who allegedly spoke out at KANU's Special Delegates Congress in December 1991 against repealing Section 2(a) of the constitution and permitting the registration of opposition political parties. Nassir's sentiments no doubt had the backing of Moi who was an ardent opponent of multipartism.

Based on this background Moi became concerned and sympathetic to individual Muslims who had supported him at various crucial moments in his political career. The politics of inclusion which Moi exercised was taken positively by a section of Muslim population. A section of Muslim population came to believe that the Moi regime has been considerate to the community in terms of appointment that the previous government. This is asserted by Mohamed Bakari who said:

> Some Muslims....felt that as Muslims they had collectively fared better under the Moi regime than they had done under Kenyatta....It was Moi, just as soon as he had emerged from the turbulent events of August 1992 that had appointed the first Muslim to a full ministerial position, however insignificant the portfolio itself may have been. Maalim Mohamed, the brother of General Mahmoud Mohamed who was instrumental in squashing the coup, was appointed the Minister of Culture in appreciation of his brother's role. He was the first Muslim ever in independent Kenya to hold a full ministerial position. Under Kenyatta, Muslims never got appointed beyond the positions of Assistant Ministers, and again these were only a handful.[33]

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[31]See Bakari, 'Muslims and Politics of Change in Kenya', in Bakari and Yahya, *Islam in Kenya*, p240; Oded, *Islam and Politics in Kenya*, p30.

[32]Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003.' A paper presented at the International conference, St. Anthony's College, Oxford, May 2004, p3.

[33]Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003', pp. 13-14.

However, there are other Muslims who hold the view that Moi's interaction with his Muslim compatriots was pragmatic and for mutual convenience. This relationship is best described by Billow Kerrow, Member of Parliament for Mandera Central, in his account of the conditions of Muslims under Moi's government.[34] Kerrow claimed that Moi would only entertain Muslims in a quest for a longer lease of life for his regime. Moi's actions towards Muslims were interpreted to be a strategy for political survival. A case in point was the concessional amendment that was added to the Laws of Succession in 1990. The sentiments raised by Kerrow imply that despite voting loyally for KANU and Moi's government in particular, Muslims wonder why their conditions have deteriorated instead of improving. Three decades after independence, Muslims claim that they have suffered the most compared to other communities.[35]

During Moi's tenure, Muslims demanded justice and equal treatment as Kenyan citizens. The Moi regime was viewed to favour Christianity vis-à-vis the Islamic faith. To cite one example, the Moi administration sanctioned a major address by Reverend Reinhard Bonnke of Germany in the Muslim town of Mombasa, while the region's Provincial Commissioner prevented Muslim preachers from Tanzania from addressing Muslims of the same town. This callousness on the part of the government led to Muslim demonstrations in October 1989.[36] These demonstrations were indications of the community's frustrations and their determination to be treated equally as Kenyan citizens.

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[34]See the quotation in the 'Introduction'-derived from the *Sunday Nation*, January 4, 2004, p9.

[35] This view is shared by Billow Kerrow Member of Parliament for Mandera Central; Kassim Bakari Mwamzandi, former Member of Parliament for Msambweni; Abdulrahaman of Jamia Mosque, Nairobi; Khelef Khalifa, Commissioner, Kenya National Commission of Human Rights; and Abdulrazak M. Bunu, Teacher at Serani High school, Mombasa.

[36] Alamin M. Mazrui and Ibrahim Noor Shariff, *The Swahili Idiom and Identity of an African People.* (New Jersey: Africa World Press, 1994), 145.

One area where Muslims allege discrimination is the issuing of identity cards, passports and citizenship. When it came to acquiring these national documents, Muslims, especially those of Somali, Arab and Asian descent, claim as the most discriminated group during the presidency of Moi.[37] By the end of Moi's tenure in 2002, these Muslims were still required to produce extra documentary evidence of citizenship. The policy was meant to identify genuine Kenyan citizens who deserved these important citizenship documents. Further, Moi's government singled out the Somali Muslims as the only group whose members were required to carry an additional form of identification to prove that they were citizens. They were required to produce upon demand their national identification card and a second identification card verifying screening. Both cards were required by any of them applying for passport.[38] This policy angered Muslims who termed it as illegal.[39]

Moi claimed that the screening was necessary during the 1990s to curb the influx of illegal immigrants from the neighbouring collapsed Somali state. This prompted Alamin M. Mazrui and Ibrahim Noor Shariff to counter this directive saying:

> The presence of refugees from the predominantly Muslim Somali has sometimes been used to justify this unconstitutional practice. The same treatment, however, has never been extended to Christian Kenyans on account of refugees from predominantly Christian regions of Africa. For instance, there has long been an influx of Nilotic speaking refugees, carrying Christian names, from neighbouring Uganda and Southern Sudan.

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[37] Interview with Sheikh Juma M. Ngao, chairman SUPKEM Mombasa branch, on 7th March, Mombasa;Ahmad Awadh Yafie of MUHURI, on 2nd August 2004, Mombasa; see also Bakari, 'Muslims and Politics of Change in Kenya', in Bakari and Yahya, *Islam in Kenya,* p236. See also 'Kenya' in US Department of State, at http://www.state.gov/g/drl/rls/irf/2004/35363.htm, on 6th December 2005, p3.

[38]See 'Kenya' in US Department of State, at http://www.state.gov/g/drl/rls/irf/2004/35363.htm, on 6th December 2005; *An Africa Watch Report, Kenya: Taking Liberties*. Human Rights Watch, July 1991, pp298-311.

[39]Interview with Khelef Khalifa, 29th september, 2004, Nairobi; See the protest letter written by Khelef Khalifa to the Provincial Commission, Coast Province, on 4th June 2001, where he referred the policy as illegal.

> Yet there has not been any government action to subject Nilotic speaking Kenyans of the Christian faith to this discriminatory exercise of having to produce additional evidence of citizenship. The impression that has been created, then, is that immigration policies and practices of the Kenyan government are designed to favor Christians, allowing them to take their Kenyan citizenship for granted to a greater extent than Muslim Kenyans.[40]

Protest from Muslims, led to President Moi in August 2002 directing his government to stop screening the Somalis. He clarified that the government would instead rely on local leaders to determine the citizenship of the Somalis.[41] This put into question the timing of the recession of his government policy on the Somali Muslims. It was an election year, and five months to the polls Moi wanted to appease the Somali in particular, and the Muslim population in general that his government was concerned with their welfare. Although the intention of Moi's government in the screening exercise was to safeguard the security of the nation, the process was allegedly abused and genuine Kenyans were denied their rights. Given that corruption was rampant during Moi's presidency, the policy was abused. The policy served as an opportunity to extort money from Muslims of Somali, Arab and Asian descent, or reject their applications if they refused to 'cooperate.'

It is this allegation of discrimination and unfair treatment that drove Khelef Khalifa, a Commissioner for Kenya National Commission of Human Rights, to take the Attorney General to court for violating the constitutional rights of Muslims by denying his son a passport.[42] Closely related to this issue is the incident where the Moi administration revoked Khalid Balala's passport while in Germany, from April 1995 to

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[40]Mazrui and Shariff, *The Swahili Idiom and Identity of an African People*, p158.

[41] See 'Kenya' in US Department of State, at http://www.state.gov/g/drl/rls/irf/2004/35363.htm, on 6th December 2005; *An Africa Watch Report, Kenya: Taking Liberties*. Human Rights Watch, July 1991, p299.

[42] Interview with Khelef Khalifa on 29th September 2004, Nairobi. See also Bakari, 'The Secularization of Kenyan Muslim', p7.

July 1997, on the pretext that he was not a Kenyan citizen.[43] The government revoked Balala's passport while he was renewing it on the claim that he was holding a Yemenite citizenship. It appears that the real reason was his staunch criticism of the political establishment. Apparently, the Moi government wanted to prevent Balala from entering the country for some time, as evidenced by the fact that without issuing any explanation, in July 1997 Balala was given back his Kenyan passport. This action demonstrates how Moi could mobilize government resources to frustrate critical voices in the country and including that of Muslims.

It happens that the majority of Muslims in Kenya are poor,[44] a fact aggravated by lack of education. As Muslims were shunning western education, their non-Muslim compatriots embraced it, placing them in a better position than the Muslims. This is well illustrated in the words of Francois Constantin:

> For a long time modern education was neglected when not completely rejected by traditional Muslim leaders. Muslims are still generally less well educated than Christians according to the norms of the modern westernized state system. Higher political and government positions are strongholds of a westernized ruling class which few people can enter with diplomas from Muslim schools or even with degrees from an Arab University.[45]

Having had an earlier start than Muslims, Christians were well educated and better placed to take the most rewarding jobs in the country. Because of their higher income they were able to build more schools, equip those already in existence and improve their living standard. Thus, a viscous cycle was established.

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[43] Interview with Khalid Balala on 16th September, 2004, Mombasa. See also *Sunday Nation*, September 8, 2001, p2.

[44] Shaheen Ayubi and Sakina Mohyuddin, 'Muslims in Kenya: An Overview', *Journal Institute of Muslim Minority Affairs, Vol.* 15:1 &2 January and Juy 1994, p151.

[45] Francois Constantin, 'Leadership, Muslim Identities and East African Politics', in Loius Brenner (editor), *Muslim Identities and Social Change in Sub-Saharan Africa*. (London: Horst and Company, 1983), p41.

By the early 1980s, just a few years after Moi had come to power, there emerged a growing demand for western education among Kenyan Muslims. This demand coincided with the realization that western education was the gateway to a good job and luxuries of life. Muslims had come to appreciate that a high standard of living could only be acquired with a certain standard of western education. Like the rest of Kenyans, Muslims embarked on building their own educational institutions through the spirit of *harambee* and foreign assistance to cater for the growing demand.[46]

These efforts by Muslims were sometimes allegedly frustrated by the Moi government. In alleviating the shortage of trained teachers, the Muslim community felt it was necessary to establish their own teachers' training institutions. This culminated in the establishment of the Mikindani Teachers' Training colleges. It is a policy of the Kenyan government that before any private institution could start its operations, it has to apply for registration. Consequently, Muslims complied and applied for official registration and recognition of these institutions by the government. On its part, the Ministry of Education under Moi's government refused to offer these institutions official registration. This decision outraged Muslims, and it took their strong outcry and condemnation of the government to allow these institutions to operate. It was only in January 1996 that a presidential order was issued granting recognition to the Mikindani College to train Muslim teachers.[47]

As the thirst for modern education grew deeper, Muslims advocated for the establishment of an Islamic university in Kenya to compensate for their inadequacy in education. At a time when almost all the private universities in Kenya are religiously

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[46] *Harambee* means people putting their resources together to realize a specific project.

[47] Interview with Sheikh Juma M. Ngao, chairman SUPKEM Mombasa branch, on 7th March, 2004. See also Oded, *Islam and Politics in Kenya*, p154.

sponsored, Muslims as a community do not have even a single university.[48] It is alleged that the Kenyan political administration under Moi was reluctant to support the creation of a private Islamic university on the ground that it would encourage 'Islamic fundamentalism' in the country.[49] This allegation was criticized as it does not conform to the current scholastic practice even in the so called 'Western' and Christian nations. For instance, in the United States Muslims were considering establishing a Crescent University. If the fear of Islam was to be extended to academic circles, one would have expected the Christian nations of the West to have adopted such a policy. It is against this background that Ali Mazrui stated that Muslims were the first to be literate in Kenya, and they may be the last to be given a university of their own.[50]

As Muslims are engaged in the construction of secular schools in virtually every district where there are significant populations of Muslims, they came to the realization that their performance in national examination was low compared to other groups in Kenya.[51] This necessitated the creation of an organization called Muslim Education and Welfare Association (MEWA) in 1986. Its main task was to redress and find ways of improving the education of the Muslim fraternity. Despite the organization operating under a very tight budget, Muslims have applauded its educational contribution to the community.

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[48] In Kenya most of the private universities are sponsored by Christian religious organization. These universities include: Day Star University, Catholic University of Eastern Africa (Catholic Church), University of Eastern Africa, Baraton (Seventh Day Adventist Church), Kenya Methodist University (Methodist Church), Kabarak University, Strathmore University (Catholic Church), and St. Paul's United Theological College among others

[49] Mohamed Hyder, 'Islamic University in Kenya: Is there a Case for it?' in Bakari and Yahya (editors), *Islam in Kenya*, p278.

[50] Ali A. Mazrui, 'Muslims in Kenya and the United States as Political Minorities: Between Piety and Participation', 2001, p5. A public lecture given at the Jamia Mosque, Nairobi Kenya.

[51] See Mazrui and Shariff, *The Swahili Idiom and Identity of an African People*, p159.

To sum up, it seems that Moi's rationale was to silence his rivals, whether Muslims or not. The issue of Islam was less relevant to his policy than the issue of maintaining power. In the cases where Muslims have felt discriminated, this can not be regarded as anti-Islamic policy per se, though he did not see much use in making alliance with Muslims as a community.

5.3 Conclusion.

The primary legacy of the Kenyatta and Moi eras was the incorporation of a few Muslims as symbolic figureheads to form the impression of political inclusion and participation at the highest levels of government, while most influential positions were held by upcountry-Christian professionals. This condition of domination of Muslims in all sectors is what Ali Mazrui has described as internal colonization.[52] If the colonial paradigm is applied with reference to the Kenyatta and Moi administrations, the case of Kenya seems to resemble the French rather than the British model of colonialism.[53] During the colonial period, the British order combined both paternalism and institutionalized segregation in its relations towards Muslims and all its subjects. Then came independence ushering in the era of Kenyatta and Moi. In these two eras we can observe an unconscious shift from a British model of colonialism to a French model.

French colonial policy permitted their subjects to rise to high positions as individuals within the state. The system allowed considerable individual social mobility while retaining collective ethnic subordination. Individual natives from the colonies rose

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[52] Ibid, p152.

[53] This idea of British and French colonial models is borrowed from Ali A. Mazrui. See his article in, Alamin M. Mazrui (editor), *Black Reparations in the Era of Globalization.* (New York: Institutte of Global Cultural Studies Global Publications, 2002),pp. 76-77.

high in France itself while the group to which they belonged still remained subordinate in the total French hierarchy. [54] Could Kenyan Muslims have entered a neo colonial status based on the French model in independent Kenya? From the available evidence and sentiments, it can indeed be argued that Muslims in Kenya are experiencing the French style of colonialism. Individual Kenyan Muslims may have risen to become Chief of General Staff, ministers, directors of government firms, permanent secretaries, or education officers while the general Muslim community is allegedly claimed to be least educated, most unemployed, and most discriminated.

However, the general legacy of the Kenyatta regime was the creation of a secular society, which recognized the freedom of worship and religious parity among different faiths. Kenyatta was very cautious not to favour one particular religion, unlike Moi who was out to give the impression that Kenya was a Christian country as illustrated in chapter two. Moi's interaction with Muslims in most cases was for mutual convenience. The timing of the president's accession to Muslim demands on various occasions has been perceived as a pre-election campaign strategy to woo Muslims voters. On his part, Kenyatta strived to live in accordance with his principles of separating religion and politics, which was welcomed by Muslims in Kenya. It is only through the adoption of such principle, which maintains the separation of religion and politics, that the protection of minority religious groups like Muslims of Kenya can be guaranteed.

Emerging clearly from this chapter is the changing position of Muslims with regard to the issue of secession. First to be reconciled were Muslims from the coast. When the call for *jihad* was raised by Somali Muslims, the coastal Muslims did not support it. Later, after the Somalis had been subdued, another *jihad* was declared by

[54] Ali A Mazrui in Alamin M Mazrui, *Black Reparations in the Era of Globalization*, p77.

President Idi Amin of Uganda against the Kenyatta regime, which was not supported by all Muslims. Though earlier sections of Muslims from both the coast and Northeastern province had been in favour of secession, the various instances of the usage of Islamic symbols (*jihad*) failed to mobilize them in their quest for secession. This illustrates Muslims willingness to be identified as Kenyans.

The chapter has also shown that the Islamic factor becomes a basis of unity when it affects all Muslims irrespective of their ethnic and racial background. For instance, the issue of succession law rallied the entire Muslim population behind it. However, the call for *jihad* by Somali Muslims did not meet with the same enthusiasm. The agenda for secession by the Somalis was interpreted by other Muslims as driven by ethnic inspiration rather than an Islamic cause. Even the alleged cases of discrimination by some sections of the Muslims population have not managed to evoke passion within the entire community. This reflects the significant role of ethnicity among Kenyan Muslims.

Chapter Six

The Politicization of Muslim Organizations in Kenya.

6.1 Introduction.

Many Muslims believe that the ascendancy of upcountry-Christian hegemony is responsible for the perceived marginalization and discrimination of Muslims in Kenya.[1] Although the predicament of Muslims predated colonialism, post-colonial politics is blamed for not reversing the situation. Instead, independent Kenya has made Muslims ask themselves questions relating to their position as citizens. Such questions include their perceived social, economic and political alienation vis-à-vis the upcountry-Christian hegemony in Kenya. The perception of dominance by the upcountry-Christian hegemony has influenced some Muslims to conclude that religion plays a significant role in the power game exhibited by the upcountry politicians.[2] As a result some Muslims are of the opinion that it has become imperative to employ Islam for achieving their social-political goals. This development of playing the Islamic card in African politics has also been observed by Louis Brenner:

> Today Islam has become a major factor in world politics and in consonance with this trend African Muslims have increasingly been turning to Islam for the resolution of their own social and political problems. They are injecting themselves into the political arena as Muslims.[3]

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[1]See Abdin Chande, 'Radicalism and Reform in East Africa', in Nehemia Levtzion and Randall L. Pouwels (editors), *The History of Islam in Africa.* (Ohio: Ohio University Press, 2000). This view is also echoed by most of the informants such as Sheikh Juma M. Ngao, Chairman SUPKEM Mombasa branch, interviewed on 7th March 2004, Mombasa; Ahmad Awadh Yafie of MUHURI, interviewed on 2nd August 2004, Mombasa; Munir Mohammed Mazrui, SUPKEM, Vice National Chairman, interviewed on 1st September 2004, Nairobi; Khalifa Mohammed, former Chairman of IPK, interviewed on 27th July 2004, Mombasa; Kassim Bakari Mwamzandi former Member of Parliament for Msambweni, interviewed on 15th September 2004, Msambweni; and Khelef Khalifa, Commissioner Kenya National Commission of Human Rights, interviewed on 29th September 2004, Nairobi.

[2]Alamin Mazrui, 'Ethnicity and Pluralism: The Politicization of Religion in Kenya', in *Journal of Muslim Affairs*. Vol. XIV, no. 1 and 2, January and July 1993.

[3]Louis Brenner , 'Muslim Representations and Unity and Difference in the African Discourse', in Louis Brenner (editor), *Muslim Identities and Social Change in Sub-Saharan Africa.* (London: Hurst and Company, 1983), p1.

In Kenya, as elsewhere, the place of Islam in the political process has been redefined as a means of dealing with new political realities. Things have since begun to change from Muslims protesting against perceived discrimination by the government, to Muslims seeking to shape the direction of Kenya's politics.

Over the last fifteen years, several Muslim organizations have been established in Kenya, and their impact is felt in the religious as well as the political field. This chapter examines Muslims' efforts in the formation of a national organization. Since the issue of cleavage emanates in different forms among Kenyan Muslims, I have investigated to what extent the national Muslim organization in Kenya has succeeded in uniting Muslims. Being the main umbrella body for Muslims, its contribution to developing the political consciousness of the community is also assessed. Further, the chapter analyzes the political opposition of the 1990s with special reference to Muslim involvement. This is followed by an examination of the development of politicized Islam in Kenya. The purpose is to study the reasons for the rise of the politicization of Islam and how it challenges the Kenya government.

6.2 Ethnic and Racial Rivalry in the Creation of Muslim Organizations in Kenya's Political History.

The formation of Muslim associations during the colonial period reflected ethnic and racial divisions, which continued to be politically significant after independence. These divisions involved Arab Muslims, Indian Muslims and indigenous African Muslims. This intra-Muslim competition is a clear reflection of ethnic and racial antagonism. In its effort to divide the Muslim community, the colonial authority granted Arab and Indian Muslims political favours over indigenous African Muslims. The

favouring of certain groups over others is reflected in the composition of the colonial Legislative Council in Kenya. From 1920, it included one seat for a nominated Arab Muslim member. When the Coast Arab Association was formed in 1921 it demanded elective representation for the community. This demand was accorded to them in 1923 with two elective seats. The decision to allow the Arabs to elect their representative led to an increase in the factional rivalries among Muslims, culminating in the formation of a separate organization, the Afro-Asian Association, in 1927 to represent non-Arab Muslims.[4]

Other ethnically based Muslim associations that were created in the colonial period were the Arab Association (1900), the Indian National Association (1914) and the African Association (1934).[5] Each community established its own organization to act as a lobby for its interests. Each of these associations professed Islamic ideals of solidarity while promoting the particularistic cause the respective community. The result was that the Muslim associations represented a wide range of religious, welfare, educational and economic objectives. However, they failed to develop a nationalistic and unified Muslim approach on important issues. This fragmentation of Muslim interests across a variety of

[4]See Hassan A. Mwakimako, 'Politics, Ethnicity and Jostling for Power: The Evolution of Institutions of Muslim Leadership and Kadhiship in Colonial Kenya 1895-1963', PhD Thesis, University of Cape Town, 2003.

[5] Some of the Muslims political associations that were formed are: Coast Arab Association (established in 1921 to defend the welfare of Arab Muslims); Afro- Asian Association (formed in 1927 with the desire to represent Swahili and other African communities, thereby overcoming their differences); Mombasa Muslim Political Union (founded in 1958 with the goal of advocating the political interests of Muslims of Indian origin); Kenya Protectorate Nationalist Party (founded in 1960 was also seen to be championing the Arab cause); Kenya African Muslim Political Union (registered in 1962 with the aim of promoting the political consciousness of African Muslims); the Digo Mwambao Party (formed around early 1960s to articulate the political position of the Digo); the Bajuni Federal Front (founded in 1963 to work for the political advancement of the Bajuni) among others.

associational activities led to a diffusion of any significant Muslim impact in Kenya, which was of great value to post-independence regimes.[6]

After independence, an important aspect was evident among Muslims. Muslims came to the realization that their efforts in uplifting the welfare of Muslims had been weakened by the prevailing fragmentation along ethnic and racial lines. Muslims felt it was time to have a umbrella body that could articulate the demands of Kenyan Muslims. This need gave birth to the formation of the Supreme Council of Kenyan Muslim (SUPKEM).

With the creation of a post-colonial state in Kenya, it also became evident that the strengthening of social control required Muslims to be unified into a bureaucratically centralized body.[7] This became clear by the beginning of 1970s. Mohamed Bakari clarifies this development saying:

> The Supreme Council of Kenya Muslims was established as part of the grand strategy of the Kenyatta government to control various sections of the Kenyan society, from trades unions to religious organizations, in the name of centralization of decision making. It was established about the same time that the Central Organization of the Trade Unions (COTU) and the National Christian Council of Kenya (NCCK) [were formed]. These were umbrella organizations that were created to provide direct channels of communication between the government and important and influential sectors of the Kenyan society. All the organizations that served civil society were supposed to be affiliated to one or another of these umbrella bodies. And the Supreme Council of Kenya Muslims (SUPKEM) was intended to be a clearing ground for Muslim organizations that wanted to deal with the government.[8]

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[6]Jeff Haynes, *Religion and Politics in Africa*.(Nairobi: East Africa Educational Publishers Ltd. 1996), p41.

[7]Mohamed Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003'. A paper presented at the International conference, St. Anthony's college, Oxford, June 2004, p16.

[8] Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003'.

Though creating a national Muslim association may be seen as part of a general policy of social control initiated by the post colonial government, it needs to be appreciated that Muslims themselves were also involved in this bureaucratization process. The need to have a unifying body dealing with the affairs of all Muslims in Kenya was the inspiration behind the formation of this national organization. Top level Muslim politicians and religious leaders were directly involved in the negotiations which culminated in the creation of SUPKEM in May 1973.

However, the internal rivalry among Muslims led to the establishment of other organizations with claims to wider representation than the SUPKEM. The Baladiya Muslim Association was formed as a result of the power struggle among the Muslim population. The association was founded in Nairobi, and claimed to represent the interests of African-upcountry Muslims. It was to serve as a counter balance to what they perceived to be coast dominated SUPKEM. The issue of ethnicity appeared to have dominated the affairs of SUPKEM. Suspicion among Muslims that had been witnessed in the colonial period was again evident in post-colonial Kenya. To resolve this dilemma, popular acclaim allowed certain respected upcountry Muslims like Sheikh Maulid Jasho and Issa Kuria to be nominated to senior national positions within the SUPKEM.[9]

6.2.1 The Supreme Council of Kenyan Muslims and its Political Role.

As a supreme body, the council is supposed to be in charge of the management of national religious activities, particularly the organization of the pilgrimage to Mecca, collecting and allocating national and foreign funds for religious activities, and to some extent organizing religious festivals, such as *Idd* celebrations. The council also has a

[9]Bakari, 'The Secularization of Kenyan Muslims', A paper presented at a conference, University of Bayreuth, 2003, p3.

diplomatic role concerning accommodation for pilgrims in Mecca or managing international funds for construction of Muslim schools or hospitals within the country. In essence, however, the SUPKEM was set up as an umbrella body to unite all Muslim organizations, societies, mosque committees and groups in Kenya. This goal could be affirmed by going through its vision statement as paraphrased by the national chairman, Abdulghafur Al-Busaidy:

> The Council was formed with a clear vision of a united and therefore, strong Muslim community in the country. A community whose contributions in national development would be approached and recognized through unity of purpose. A community with clear, strong and established links with the Kenya government and with other local and international development partners.[10]

According to the vision statement, the SUPKEM's desire was to provide a single channel of communication with the government and the rest of the world on all matters concerning the Islamic-faith and the general welfare of Muslims in Kenya. To the Kenyan government, the supreme council is the only acknowledged Muslim mouth piece at national level in the country. This recognition presents the Supreme Council as both an institutionalized interest group and an adviser to the government on secular matters concerning Muslims. The official close relationship of the SUPKEM and the state has sometimes been condemned by other Muslims because most of the time the organization is hesitant to criticize the government.

In principle, all Muslim associations are required to be under the SUPKEM. However, some Muslim associations have no links with the SUPKEM, and remain independent registered bodies. The Kenyan government does not appear to ban these rival bodies except when they are suspected of opposing the government, or supporting

[10]According to the SUPKEM's brief prepared by the National Chairman, Abdulghafur Al-Busaidy. See appendix C.

subversive activities deemed dangerous to the security of the state.[11] A Muslim body like the Council of Imams and Preachers of Kenya (CIPK) founded in 1997 is not integrated with SUPKEM. With its own structure, the CIPK is becoming more popular and assertive in political matters than the SUPKEM.[12]

The CIPK was formed with the intention of addressing the welfare of *imams* and preachers in Kenya. Its objective was to find ways of how the status and lives of both the *imams* and preachers could be uplifted. Over a period of time the organization managed to take other tasks given the leadership vacuum that had been created among Muslims. The organization's wide network has enabled it to come across a myriad of problems facing Muslims forcing it to appropriate other responsibilities that were initially not part of the organization's objectives.[13] On the popularity of the CIPK, Mohammed Dor, the national secretary, said:

> It is possible to find an *imam* even in the remotest part of the country than a SUPKEM official. It is because of this sort of network that the organization has become popular with Muslims. Whenever Muslims are confronted with problems, they present it to their Imam, who report or present it to the nearest district office and eventually to the national office in Mombasa[14]

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[11]For instance after the August 1998 bombing of US embassy in Kenya where around 250 people were killed, the government decided to ban five Islamic Non Governmental Organizations (NGOs). These NGOs were Mercy International, Haramain Foundation, Help African People, International Islamic Relief Organization and Ibrahim bin Abdul Aziz al-Ibrahim Foundation. According to the NGO Coordinating Board, the organizations were proscribed because they had been found to be working against the interests of Kenyans in terms of security. See M.A. Mohamed Salih. 'Islamic NGOs in Africa: The Promise and Peril of Islamic Voluntarism', in Alex De Waal, Islamism and its Enemies in the Horn of Africa. (London: Hurst and Company), p175.

[12] National official of the CIPK are Chairman, *Sheikh/imam* Mohammed Idris; Secretary, *Sheikh/imam* Mohammed Dor; Treasurer, *Sheikh* Hassan Omar; and Organizing Secretary, *Sheikh* Khalifa Mohammed.

[13]Some of the projects that have been undertaken by CIPK are: Acting as a verifying board that scrutinizes school children's applications for bursary and recommend them to donors; helping orphans by providing financial assistance, clothing and food; and in 2001 the organization was able to conduct civic education among Muslims through the assistance of National Civic Education Project (NCEP).

[14]Interview with *Sheikh* Mohammed Dor, Secretary, Council of Imams and Preachers of Kenya, on 31st January 2005, Mbaruk mosque, Mombasa.

As a result of this network the organization has become popular with Muslims who appear to have faith in it. The emergence of CIPK has to some extent undermined the SUPKEM's claim as the sole mouth piece of Muslims thereby limiting its authority.

The Supreme Council's authority is further weakened by its sharing of religious authority with independent *sheikhs* and *imams,* and government *kadhis*. Its main domain is limited to secular matters as it has no authority in theological or intra-Islamic legal disputes. Traditionally, theological issues are handled and interpreted by renowned independent *sheikhs* and *imams* of mosques. If there is an intra-Islamic legal issue to be resolved, in most occasions such cases are handled by the *kadhi* courts established by the government. This demonstrates that the leadership of the Supreme Council is limited if not superficial. Further, intra-party wrangling has severely damaged the reputation of the organization. Contradicting statements made by official members have left Muslims in confusion. For instance, in 2004, the SUPKEM vice chairman, Munir Mazrui issued a press statement that the organization had decided to support a Muslim, Hassan Omar Sarai in the Kisauni by election. Juma Ngao, SUPKEM chairman Mombasa branch, released a statement refuting the endorsement of the candidate by SUPKEM.[15]

According to Mazrui, Ngao rejected his endorsement claiming that it was meant to favour a Muslim of Arab descent. It happened that Ngao supported Anania Mwaboza, a non-Muslim of Mijikenda descent. This racial conflict could be evident with the position the two protagonists had taken. In the ensuing war of words meant to show who has supremacy in the Muslim politics of the coast, Ngao allegedly sent the following short message to Mazrui's phone. It reads (Kiswahili version):

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[15] Interview with Munir Mazrui, SUPKEM, vice chairman, national office, in-charge of Coast Province, 26th January, 2005, Mombasa.

> *Jumapili ndio siku ninayo kujibu rasmi. Inshallah nitaona mimi na wewe ninani msemaji na yupi siye hapa pwani. Nasikushimu tena kwa tabiya yako yakutohishimu sisi tuliyo kuchangua na badala yake unatumiwa ni Dor ambaye yeye na watu wake hutukana* SUPKEM *matusi aina yote tena mibarini. Wallahi* I will teach you a lesson. *Na* SUPKEM *si yako ni ya* Kenya Muslims *ni mimi ni* Kenya Muslim. *Utaonga na* DOR *wako.*[16]

Translation:

> I will respond to you on Sunday. *Inshallah* I will know between you and me who is the spokesperson for the people of the coast. I don't respect you anymore because you don't have respect us who elected you. Instead you have allowed [sheikh] Dor who together with his clique use the mosque to attack and insult the officials of SUPKEM. *Wallahi* 'I will teach you a lesson.' Be aware SUPKEM is not your property it belongs to Kenyan Muslims and am a 'Kenya Muslim.' Dor and you are bound to fail.[17]

The above incident illustrates the in-fighting within SUPKEM which is sometimes influenced by racial conflict. It is clear that each side supported a candidate based on his racial background. For Ngao, a candidate of African (specifically Mijikenda) background was more important than a Muslim of another racial group, while for Mazrui both the Arab and Islamic factors were significant. Therefore, this conflict of interest has severely hampered SUPKEM from providing leadership to the general Muslim public.

As a matter of fact, many Muslims view SUPKEM merely as an instrument for individual prestige and power rather than a serious body serving Kenyan Muslims. The organization is alleged to have failed to deliver substantial services to Muslims.[18] In defense SUPKEM claims to have accomplished several projects mostly on education.[19] In the words of its national chairman, El-Busaidy:

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[16] The short message was shown to me during an interview with Munir Mazrui, SUPKEM, vice chairman, national office, in-charge of Coast Province, 26th September, 2005, Mombasa.

[17] The translation is mine.

[18] These were the views of most people interviewed during the research.

[19] According to the SUPKEM's brief. See appendix C.

> Through collaboration and cooperation with its member organizations, and the assistance from international donors, especially the Islamic Development Bank, the Council has initiated developments projects on behalf of the community. These include academies, separate boys' and girls' secondary schools, a joint education bursary programme, a Teachers' Training College and a scholarship programme that has seen about 140 young Muslim men and women train as doctors and engineers in Turkish universities.[20]

For many ordinary Muslims, enough schools have not been built, scholarships are not offered transparently and health facilities are ignored. The Muslim national organization therefore comes to be seen as another extension of a corrupt system. It is as a result of this that most Muslims would prefer to be associated with structures that are strongly independent of any governmental influence. The emergence of strong and influential organizations such as the unregistered Islamic Party of Kenya (IPK) and the Council of Imams and Preachers of Kenya are evidence of the crisis and incompetence within SUPKEM.

However, this statutory recognition of a national Muslim association is a form of success for a much divided group. It is a positive step for Muslims who are seeking to increase their social influence at national level. It was out of this recognized national organization that Muslim leaders lobbied for Muslim personal affairs (e.g. the issue of law of succession) to be administered through the *kadhi* courts, for the development of Muslim educational facilities and for greater access to state electronic media.[21] Confronted with numerous subordinate Muslim associations competing with one another for attention, one national Muslim association acting on behalf of all Muslims should

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[20]Abdulghafur H.S. El-Busaidy, 'Islam in Kenya', in Hussein Solomon (editor), *Islam in the 21st Century: Perspectives and Challenges*. (Pretoria: Centre for International Political Studies, 2005), p35.

[21]Interview with Abdulghafur El-Busaidy, National Chairman SUPKEM, on 30th September, 2004, Nairobi.

enable it to overcome the problems of leadership in a pluralist and complex group and indeed be more efficient in operating as an interest group in support of Muslim concerns.

Though the SUPKEM is expected to co-ordinate Muslims activities, the organization has been accused of failing to give political guidance to the Muslim community. There is a perception among Muslims and within SUPKEM that the official hierarchy of the SUPKEM is politically immature and unable to develop the political consciousness of the community.[22] In fact there is a belief that the officials of the SUPKEM have been compromised by the government and that is why the government is comfortable to work with the organization. This accusation is based on the notion that whenever there emerges an alternative Muslim voice, the government quickly employs the SUPKEM to diffuse the emerging voice.[23]

This political weakness of the SUPKEM lies in the organization's readiness to denounce Muslim individuals or groups that are perceived to be critical of the state. At one time the SUPKEM suspended its secretary general, Ahmed Khalif, from his position because of his critical stand against the government. As a Member of Parliament, Khalif advocated for the rights of his constituents and denounced the Wagalla massacre by the army in 1984. In 1989, Khalif again condemned the government's discriminatory policy

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[22]Interview with Munir Mazrui, SUPKEM, vice chairman, national office, in-charge of Coast Province, 1st September, 2004, Nairobi office.

[23]Interviews with Khalid Balala on 16th September, 2004, Mombasa; Khelef Khalifa, Commissioner, Kenya National Commission of Human Rights, on 29th September, 2004, Nairobi; and Abdulrahaman on 29th September, 2004, Jamia mosque, Nairobi.

that required Kenyan Somalis to have special identity cards.[24] Another incident was evident in early 1990s when the SUPKEM was again not keen to offer its support to the unregistered Islamic Party of Kenya. Therefore, it is possible to argue that the condemnations by Khalif and the emergence of the IPK were interpreted as anti-establishment, which did not amuse the political authority. For fear of the government's retribution, the SUPKEM usually distances itself from such individuals or groups who are critical of the state.

It is my position that this perceived political failure of the SUPKEM could be traced to its objectives that were outlined at the inception of the organization. Political objectives were not among the reasons behind the formation of the SUPKEM. This implies that a great deal of caution needs to be exercised when engaging in political issues. Its leadership carefully avoids adopting a political approach that will be viewed as antagonizing towards the government. It is this cautious engagement of the SUPKEM in politics that has led it to be branded as a quasi government body. There is a perception among Muslims that the organization is always willing to defend the government whenever it is in confrontation with Muslims. According to some Muslims, when the government is confronted with what it considers to be opposition closely related to identifiable Muslim groups, it usually seeks support from the national body.[25]

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[24]Marc-Antoine Perouse de Montclos, 'Elections among the Kenyan Somali: A Conservative but Marginalised Vote', in Marcel Rutten et al (editors), *Out fort he Count: The 1997 General Elections and Prospects for Democracy in Kenya*. (Kampala: Fountain Publishers, 2001), p304. After the formation of Forum for the Restoration of Democracy (FORD) in November 1991 as a pressure movement championing for multiparty democracy, its founders sought for distinguished personalities who could serve as its representatives in various parts of the country. Therefore, the FORD founders sought to recruit Ahmed Khalif Mohamed as its representative for the North Eastern province, but he refused to join because he did not want to embarrass his colleagues in SUPKEM. See David Throup and Charles Hornsby, *Multiparty Politics in Kenya*. (Oxford: James Currey Ltd, 1998), p78.

[25]Interview with Khalid Balala on 16th September, 2004, Mombasa.

However, the national chairman of the SUPKEM, Abdulghafur H.S. El-Busaidy, has a different view regarding the SUPKEM's engagement in national politics. Firstly, he views politics as being aware of one's rights, and therefore, he is of the opinion that SUPKEM has strived in articulating and making Muslims aware of their rights. In addition, he argues:

> The council has always mobilized and advised Muslim Members of Parliament by arranging seminars to prepare them whenever Bills if particular interest to Muslims are being debated in Parliament. Despite the fact that the organization is expected to refrain from partisan politics, SUPKEM has always be firm on political issues affecting Muslims.[26]

From the above quotation, El-Busaidy vehemently refutes the allegation that the SUPKEM is a government organ and thereby ineffective. His assertion is that whenever, the rights of Muslims have been infringed, the SUPKEM has not hesitated to condemn the government. Despite the defense fronted by the SUPKEM officials, it is clear that political objective is not one of its goals and it becomes difficult for the organization to engage in partisan politics. It is this against background that Muslims formed a political party as an alternative voice, which will be examined in the following section.

6.3 Muslim Political Opposition from 1990s.

SUPKEM was the main channel through which Muslims have traditionally negotiated with the government. Whenever there were major political decisions to be made which affected the Muslim-State relationship, a delegation from the SUPKEM met with the president or a minister depending on the importance of the matter. For a long time SUPKEM was regarded as the sole representative of Kenyan Muslims, although there were other Muslim groups not affiliated with SUPKEM. The reason is that there is a

[26]Interview with Abdulghafur El-Busaidy, National Chairman SUPKEM,on 30th September, 2004, Nairobi.

feeling of mistrust between SUPKEM and those organizations outside its control. This means that there are individuals and Muslim bodies who are not satisfied with the leadership of the SUPKEM and especially the relationship between Muslims and State.

Consequently, in January 1992 in an atmosphere of political consciousness influenced by both local and international developments, the IPK was founded. Kenya for the first time after independence witnessed an Islamic based political ideology. Unlike the SUPKEM, the IPK wanted to make a more direct political impact in the context of the unfolding new opposition politics sparred by demands for multiparty democracy. The IPK emerged as the Muslims' alternative voice of opposition to Moi's regime. The criticism of the state formed a common ground between the IPK and emerging opposition parties. With the introduction of multipartism, there emerged mutual partnership between the IPK and the new opposition political parties. This could be attributed to the fact that all the emerging opposition parties were agitating for a common goal.

The goal of the opposition parties was to get rid of the Moi administration which they accused of bad governance, corruption, abuse of power and disrespect for human and civic rights. In line with the programs of other political parties, the IPK was primarily seeking reform and improvement of the public institution in order to facilitate justice and fair play. It is this approach of making the system more open, fair and honest rather than demolishing the existing system that marks the struggle of the IPK.[27] However, it is also possible that the formation of the IPK implied that Muslims were set on contesting power with the government through the party. The aim of any political party is to attain power either through winning a majority or forming of a coalition government with other

[27]Interviews with sheikh Khalifa Mohamed, Chairman IPK, on 27th July, 2004, Mombasa; Khalid Balala, on 16th September, 2004, Mombasa.

parties. As a political party that was demanding registration, the IPK was set to attain this political objective.

If the main Christian churches generally were aligned with the opposition, the IPK was equally not supportive of the state. The Muslim political movement played a substantial role in the development of the politics of opposition in the country. Between 1992 and 1997, the IPK made common cause with some churches and political parties in opposition to Moi's government, identifying restrictions on its freedom and discriminatory treatment of Muslims. Vocal preachers such as Khalid Balala in Mombasa, used the mosques to criticize KANU and to call for change.[28] In most of his public speeches Balala attacked Moi's government and his personality. This established him as a fearless leader with strong convictions ready to attack Moi's policies and personality in public. This turned Balala into a hero among Muslims for his criticism of Moi.

On his part Moi decided to ban the IPK because of the party's ferocious attack on his government. In the meantime the SUPKEM had withdrawn its support for the IPK and so avoided being proscribed as well. Although the repeal of section 2(a) of the constitution permitted the formation of opposition parties, political parties still had to be approved by the Registrar of Societies, a government official, under the Societies Act. The government through this office embarked on an exercise to vet opposition parties. A number were refused registration, including the Green African Party, the Kenya Nationalist People's Democratic Party and, the Islamic Party of Kenya. Under the

[28]Many scholars and newspapers writers have been referring Khalid Balala with the title of a *Sheikh*. But during my discussion with him, Balala indicated to me that while in Saudi Arabia he never enrolled to any institution of learning to study. During his free time, he just had informal contacts with renowned *Sheikhs* of Arabia who were able to impart some Islamic knowledge on him. Based on that knowledge I have decided not to use the title of the *Sheikh* in reference to Balala.

leadership of *Sheikh* Khalifa Mohamed, the IPK was refused registration on the grounds that it was discriminatory, requiring specific religious beliefs of its members. This practice of the government to veto political organizations remained a real constraint on Kenyan's freedom to organize politically.

This brings us to an important question: did the Kenyan Muslims have a case in demanding for the registration of the IPK? One wonders whether the principles of democracy are against the registration of a party that is founded on religious lines. It is common in the world that even political parties based on religious values are allowed to exist provided they are committed to the democratic process. As long as their policies and manifestos respect the rights of all humanity, denying them registration has been perceived to be undemocratic. Kenya would not have been a peculiar case to have a political party founded on religious basis. There are Christian Democrats parties in both Germany (Christlich Demokratische Union) and Italy (Democrazia Christiana),[29] Britain has the Christian People's Alliance (CPA),[30] and in Russia there is the Islamic Party of Russia.[31]

In fact in Russia, Muslims had earlier applied for the registration of their party under the title of the Party of the Muslims of Russia. The Russian Justice Ministry denied the party registration because they were concerned that the name would lend the

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[29]For the Christian Democrat parties in Germany and Italy see Ali Mazrui, 'Human Rights, Constitution-Making and Comparative Terrorism: The View from Kenya', delivered under the auspices of Muslims for Human Rights and Kenya Human Rights Commission, in Mombasa, Kenya, July 18, 2005, p5. According to the paper, the Democrazia Christiana (DC) of Italy has ruled the country for more than forty years, while the Christlich Demokratische Union (CDU) in Germany is in power (2005) through coalition with Social Democratic Party (SPD).

[30]Britain has a Christian political party, the Christian People's Alliance (CPA) which was launched in April 2005. See http: //religion.info/English/articles/artcle-164.shtml, 5th May 2005.

[31]Robert Bruce Ware, 'The Islamic Party of Russia'. This article was published by REF/RL, 27 February, 2003.

organization a monoconfessional appearance contrary to the law on political parties, which prohibits monoconfessional and mononational parties. However, when the name was changed to the Islamic Party of Russia, it passed administrative review on the ground that 'Islam is an ideology, a culture, and lifestyle of many people in the world.' On that basis it was officially registered on 17 May 2001.[32] Provided that these parties based on religion show respect for human and civil rights of others, and comply with the democratic process, they have the right to compete in political elections.

It is therefore possible to argue that the main reason for the rejection of the IPK by Moi's government was to stifle the political ambitions of the Muslim party and restrict their activities to the social and religious spheres. Moi's party, KANU, foresaw the possibility of losing support at the coast and in the Northeastern Province, which are predominately Muslims, once IPK was permitted to compete in the elections.[33] The government insisted that no political organization should employ religious symbols and names. As a result of this decree, it was argued that the word 'Islamic' on the party's name could be interpreted as exhibiting Islamic political ambitions and also restricting the party to Muslims only. This strategy to deny the IPK official registration was a clear suppression of the Muslims political ambition in Kenya. It severely weakened the Islamic oriented politics in Kenyan.

Despite being denied registration the party did not disappear, though the action angered it officials and supporters. By contrast, the country's Muslim political leadership continued to maintain good relations with the government. The result was a bitter conflict in Mombasa between the militant wing of the IPK and the KANU youth wing, which led

[32]Ware, 'The Islamic Party of Russia.'

[33]Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003', p7.

to widespread violence, destruction of property and vehicles, mass arrests and sporadic street fighting. The situation got worse in August 1992, when Shariff Nassir attempted to remove all the IPK symbols and banners from Mombasa prior to President Moi's regular August visit. This prompted vicious street battles between the IPK and the KANU militants. Six days before the general election, when Balala was arrested and remanded in prison, violence erupted once again and two demonstrators were killed during the clash between the IPK supporters and the police.[34] The abuse from the government is described by Bakari who said:

> There were several cases of human rights violations documented both by IPK itself and also the Amnesty International in its annual country profiles. The IPK itself documented cases to justify its high-handed tactics. A number of their activists were driven into enforced exile in the United Kingdom and Canada, and the treacle of activist outward migration led to the establishment of sizeable refugee communities there.[35]

In addition, violence against the IPK was manifested through putting some of its activists in custody and harassment of its officials. This resulted to some of its supporters fleeing the country to seek political asylum abroad, as observed by Bakari.[36]

Unable to field its own Parliamentary and local government candidates, the IPK leadership decided to form an alliance with the Forum for the Restoration of Democracy, Kenya (FORD-Kenya).[37] In the memorandum of understanding FORD-Kenya agreed to nominate IPK members as its Parliamentary candidates in areas where it had following. This arrangement was well illustrated in all the Mombasa constituencies. The IPK

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[34]Throup and Hornsby, *Multiparty Politics in Kenya*, p502.

[35] Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003,' p8.

[36]Interview with sheikh Omar Salimin, on 22nd February, 2005, at Junda mosque, Mombasa confirming the allegation of IPK supporter seeking asylum abroad.

[37] Due to leadership crisis within the original FORD, it split to two factions of FORD-Kenya and FORD-Asili, led by Jaramongi Oginga Odinga and Kenneth Matiba respectively.

believed that FORD-Kenya best represented the 'original' forum's ideology for political reform.[38] However, it emerged later that IPK activists in Lamu preferred to work with the Democratic Party (DP). This emerging alliance with DP angered the IPK leadership in Mombasa. The fissure within IPK suggests that there was no coordination between the party's leadership and activists. It appears that the party leaders and activists had different visions of the party's politics, which resulted in disorganization and adversely affected the party's unity.

In Mombasa where the party was believed to be strong, its most intense election campaign took place in Mvita, the city centre constituency. This had been the seat of Shariff Nassir who had been a staunch Moi loyalist and strong opponent of the change to multiparty politics. Facing him for the IPK (under the banner of FORD-Kenya) was *maalim* Omar Mwinyi who had a strong following among the constituency's youths and disenchanted Muslims. Apart from these two strong contenders, Forum for the Restoration of Democracy, Asili's (FORD-Asili) standard bearer was its national organizing secretary, Ahmed Salim Bamahriz, who had been one of the Forum for the Restoration of Democracy's (FORD) six initial founders. Well supplied with funds by Kenneth Matiba, Bamahriz ran a strong, highly visible campaign, but was marginalized by the IPK-KANU conflict. The DP candidate, Ismail Yunis, the secretary general of the Dock Workers' Union, was also a well known and powerful local figure. All the four candidates were Muslims and all had money, though none could match Nassir's wealth.[39]

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[38]Kagwanja, 'Politics of Marionettes: Extra-Legal Violence and the 1997 Elections in Kenya', in Rutten et al (editors), *Out for the Count*, p90.

[39]Throup and Hornsby, *Multiparty Politics in Kenya*, p504.

Until 2002, money had become a major factor in assisting a contestant win an election. Those who did not own much money were unlikely to win the election.[40]

The outcome of the election was that KANU won Mvita, FORD-Kenya won Likoni and Kisauni, and DP took the Changamwe seat, whilst Ford-Asili won nothing. At least two of the four results were questionable, and the results in all the four constituencies were petitioned. The worst problems were in Mvita, where some polling stations were moved at the last minute, poll observers were threatened by KANU supporters and Nassir himself campaigned on polling day.[41] Nassir's victory was a result of his political patronage, strong government support and financial resources, and the split in the opposition vote. The returning officer was accused of having favoured KANU in deciding which votes were declared spoilt. International Republic Institute (IRI) observers reported that the returning officer leaked Nassir's 'victory' to Kenya Broadcasting Corporation (KBC) before the count was completed. All these formed the basis for FORD-Kenya's demand for a recount and petition.[42]

Apart from the fissure within IPK that undermined its strength, it is evident that the IPK's political appeal was limited to Mombasa. The IPK/FORD-Kenya pact captured the Kisauni and Likoni seat in the 1992 elections. Elsewhere in the Coast Province, especially among the largely Muslim Digo population of Kwale District, Bajuni in Lamu, and Somali in Northeastern Province, support for KANU remained solid. Voters overwhelmingly supported KANU which was secular in orientation. It was clear that apart from Mombasa, in the rest of the country the IPK was still weak. Despite all the

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[40]Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003,' p4.

[41]This was according to the National Election Monitoring Unit (NEMU). For more information see Throup and Hornsby, *Multiparty Politics in Kenya*, p503.

[42]See *Weekly Review*, February 5, 1993, p5.

efforts the IPK exerted it did not manage to mobilize most of the Muslim population on the basis of their religious identity.

6.4 Towards the Politicization of Islam in Kenya.

'Free Balala', 'IPK', 'Kill Moi', 'We are fed up: Want Change'. These are some of the graffiti sprayed on the walls of houses and shops one might come across walking through the streets of Old Town, Mombasa, in 1992. What could be deduced from these graffiti is a Muslims opposition to the government and the emergence of politicized Islam as symbolized in the formation of the IPK. Prior to the formation of IPK, the quiescence of Kenyan Muslims in politics could be observed in their relatively non-violent approach. Muslims in Kenya hardly engaged in any overt political opposition or extra institutional mobilization such as demonstrations and marches. Therefore, in an effort to tackle the main subject of this research, an important question needs to be asked: what are the underlying factors that explain the politicization of Islam in Kenya?

I had examined at both the international and the local factors, and found no evidence that the international factors played a major role on the politicization of Islam in Kenya. I would now turn to the local situation and examine how it influenced on the politicization of Islam in Kenya.

6.4.1 The Local Political Situation

It is my position that the local factors have strongly influenced the development of politicized Islam in Kenya. Abdel Salam Sidahmed has described these internal factors as particularities of each society, which are very significant in shaping the nature and form

of the debate around Islam and politics.[43] As a state, Kenya has its own internal particularities which have contributed to the politicization of Islam in the country. The political crisis evident in Moi's period increased tension between his regime and Muslims, intensifying the latter's sense of religious identity.

After the repeal of section 2 (a) ushering in multiparty politics, a tremendous desire from a cross section of Kenyans to form political parties was evident. This was out of the belief that such parties would champion and articulate their needs well. A section of Muslims took advantage of the political freedom and openness in the country to form the IPK. The party's intent and desire was to join the rising voice of national democracy and liberation. It had declared that its aim was to bring about a just constitutional government that upholds the ideals of democracy, human rights and removal of all forms of discrimination at all levels.[44]

However, the party was not given the opportunity to participate in the elections. Moi's government failed to accede to the appeals of the IPK officials to register it as a political body. In response, youth within the IPK steered the organization towards its militant direction. This direction radicalized the IPK with respect to the state, and took a step towards a perceived united Muslim identity in the coastal town of Kenya. The behaviour of the IPK sympathizers could be explained as a reaction of a group suffering from the rejection complex that often drives a minority-based movement to adopt violent means, as observed by Mohammed M. Hafez.[45]

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[43]Abdel Salam Sidahmed, *Politics and Islam in Contemporary Sudan.* (Surrey: Curzon Press, 1997).

[44]Interviews with *Sheikh* Khalifa Mohamed, chairman IPK, on 27th July, 2004, Mombasa; Khalid Balala on 16th September, 2004, Mombasa.

[45] Mohammed M. Hafiz, *Why Muslim Rebel: Repression and Resistance in the Islamic World.* (London: Lynne Rienner Publishers, 2003)

At this point I would like to raise another significant question: Why did its founders decide to name the party, 'Islamic Party of Kenya'? My investigations revealed that there was debate amongst its founders as to whether to use the word Islam in the party's name. *Sheikh* Khalifa Mohamed, chairman IPK, confirmed:

> Within the IPK leadership there were those who were against the name because they felt it would give the impression that the party was not inclusive. There were also those who supported the use of the name because they wanted Muslims to be associated with the party of their own. They hoped that the use of the word Islam would make the party appealing to Muslims though its wide intention was to fight for the rights of all Kenyans.[46]

According to Khalifa, the usage of the word Islam did not imply that the IPK was a religious party; it was, in fact, a secular party. He argues that the IPK constitution only bore the name of Islam in its title and does not mention Islam anywhere else in its content.[47] The argument that the word 'Islamic' in the party's name did not imply that the party had an Islamic political agenda could be confirmed by its vocal activist, Khalid Balala. He said:

> I am a nationalist. I believe in the unity of this country. All Kenyans are my brothers, whether they are Muslims or not. I never have been and will never be for the formation of an Islamic state in Kenya.[48]

Balala's statement confirms the position that the party was not geared towards introducing a new political order based on the Islamic law. It was like other parties intending to compete in a democratic election.

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[46]Interview with *Sheikh* Khalifa Mohamed, Chairman IPK, on 27th July, 2004, Mombasa.

[47]Several efforts by me to get a copy of the constitution from the Chairman, *Sheikh* Khalifa Mohamed and other officials were not successful. It appeared to me that the document is secretly guarded.

[48] As quoted by Writenet Reports, 'Kenya Since the Elections,' Wednesday, January 24, 2007.

However, there is no doubt that the IPK possessed an Islamic face. This was evident in its methods of mobilizing support and spreading its political views to Kenyans. Conspicuous was the party's main activist, Balala who was a charismatic Islamic preacher. In between his preaching he would criticize the government of Moi and call for the support of the IPK. Secondly mosques were used in articulating political issues. The party's activist, Balala used a network of mosques that had *imams* who were loyal to him in spreading the party's political programmmes.[49]

Discussions were facilitated in mosques where debates on political issues were encouraged by *imams* of certain mosques. These discussions vocalized issues that affected Muslims such as alleged police injustice, wearing of *hijab* in public schools, alleged discrimination at the immigration office among others. Most effective in terms of publicity were the Friday prayers where worshippers would attend *en masse* for religious nourishment and political conscientious. These sermons were overtly political and critical of the state and 'enemies' of Islam thereby drawing attention from the government. And if there was a demonstration to be observed, the IPK leadership held them on Friday after the main prayers. The timing was crucial because the demonstrations easily mobilized thousands of supporters.

Another local experience that influenced the development of politicized Islam in Kenya is ethnicity as the defining feature of Kenya's post-independence politics. In Kenya the politics of ethnicity are regarded as another source of power. With the removal of section 2(a), the emerging political parties are tribally associated. By the year 2005, all the political parties in Kenya were based on an ethnic constituency. Once a political

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[49]Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003', p6.

constituency is forged as a result of communal solidarity and ethnic appeal then it becomes easy to reject other political parties on the basis that they are from different ethnic groups. Here is a list of the present political parties in Kenya together with their support base: Ford-Kenya is a Luhya party; LDP is a party for Luo: DP is a Kikuyu party; while KANU is seen as Kalenjin party.[50] The rest of the ethnic groups are absorbed in one of the parties depending on their influence in the region.

None of these parties promises to create an ethnic state, or even to promote the interests of a specific ethnic group despite being associated with a particular community. However, when an idea of political alliance is suggested among the various political parties, the balance always tilts in favour of non-Muslims. This could be because the support base for these different political parties could be traced among the upcountry tribes who majority are non-Muslims. It is alleged that this accidental arrangement has always benefited the non-Muslims and alienated Muslims. Therefore, Muslims political consciousness in Kenya was heightened by this ethnic political competition. The founders of the IPK attempted to turn this ethnic awareness to religious consciousness for their cause. They hoped to draw their supporters mostly from the Muslim population across the various ethnic communities in Kenya. It is this that expectation gave birth to the formation of the IPK.

I have noted that when the government of Moi refused to recognize the party, its supporters resorted to demonstrations and violence to coerce his administration to offer the party formal registration. These insurgencies were not protracted but spontaneous depending on the state's alleged provocation. Most of this violence would start as

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[50] This was the situation during the time the study was being conducted. There have been shifting changes as new alliances keep on being formed in Kenya's politics.

peaceful demonstrations organized by the IPK leadership to condemn the actions of the government to exclude the party from Kenya's politics. These demonstrations were reported to have been ruthlessly dispersed by the police, resulting in riots. In their defense, the IPK officials claimed that these clashes with government security agents were not premeditated rather they were spontaneous expressions of anger.[51] Although around four people were killed, the 'enemy' of the IPK was the state and not ordinary civilians. The anger of the IPK was allegedly directed towards the state, and certain Muslim individuals who were perceived to be collaborating with the state.

Ideally, the IPK claims that it did not have a radical project geared to the revolutionary overthrow of the secular state or violent destruction of secular institutions. Both party officials and activists insist that their intention was to participate in Kenya's politics through the normal democratic processes.[52] This explains why when their efforts to have a formal registered political party were frustrated by Moi's government, the leadership of the IPK sought a political solution to the crisis. They decided to enter into alliance with other legal parties (especially FORD-Kenya) in the country as a sign of their commitment to opposition politics. This decision by the IPK could also be interpreted as the party's willingness to play an active role in the democratization process. This was necessary for the IPK because for it to make an impact in politics, it had to have its candidates nominated through a party with which it had established an alliance.

However, this development was to some extent a handicap to the IPK as it was not able to nominate its candidates independently because it did not legally constitute a party.

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[51]Interviews with *Sheikh* Khalifa Mohamed, chairman IPK, on 27th July, 2004, Mombasa; Khalid Balala on 16th September, 2004, Mombasa.

[52]Interviews with *Sheikh* Khalifa Mohamed, chairman IPK, on 27th July, 2004, Mombasa; Khalid Balala on 16th September, 2004, Mombasa.

Despite the number of political parties increasing in the early 1990s, IPK faced greater restrictions on its ability to play even a limited role in the Kenya's political arena. This scenario leads me to assert that it is the prevailing local circumstances that shaped the growth and development of politicized Islam.

6.4.2 Ethnicized Muslims and the Future of the Islamic Party of Kenya.

Having examined the factors that could have led to the development of politicized Islam in Kenya, I wish to explore the second question: what explains the duration of the opposition? Or why was the opposition not able to sustain a protracted conflict? In responding to this question, the issue of particularity of each state or society comes into play. However, the failure of the IPK to sustain a protracted opposition against the state has been attributed to the fact that Muslims did not present a united front. To one extent this lack of unity and solidarity among Kenyan Muslims has been attributed to ethnic and racial dialectic within the community. The endemic leadership struggle within the community, which goes back to the colonial era, has been the community's major weakness. Throughout modern Kenya's history, different political regimes have exploited the ethnic and racial status of Muslims for political survival when necessary. It is as a result of the racial fissure that a government sponsored Muslim movement, the United Muslim of Africa (UMA), was created to counter the IPK, which was getting strong and more popular among Muslims.[53]

It is alleged that Moi's government engineered the formation of the UMA which it presumed would draw most of its support from Muslims of African background. The aim

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[53]Both parties were not officially registered with the government but they had supporters and in short while they had succeeded to instil political and racial tension in the country.

of forming the UMA was to split the Muslim constituency along racial lines in order to diminish its political impact. This could be attested by a police statement allegedly made by Emanuel Karisa Maitha, a KANU coastal politician. The statement, which on its release Maitha strongly denied having recorded, reads in part:

> I have been involved in organizing youth in the past who have organized operations which the state orders from time to time. The operations were always sanctioned by the DSC [District Security Committee] and PSC [Provincial Security Committee] where money is spent by the state agencies. I wish to elaborate further that sometime in the year in 1991 to 1992 during the IPK resurgences and disturbances at the Coast, I was called at [to] State House in Nairobi where I was engaged to [sic] a talk of how the IPK activities would be suppressed within Mombasa and the Coast. Those who had been given the authority to tell me and who assured me they had the blessing of his Excellency the President was [sic] Mr Joshua Kulei who is a personal assistant to the President and a Mr Rashid Sajjad who is a nominated MP.[54]

According to this statement, Maitha then arranged to recruit Omar Masumbuko to lead the government backed UMA. Maitha continued:

> Mr Masumbuko usually could visit the State House alone or I would be called to go to Kulei or Mr Sajjad for payment of any operation needed by the State. The DSC and PSC teams normally could be ordered to give us any help or even get logistic support from them. Despite all this, I recall that Masumbuko managed to silence the IPK by various operations which included petrol bombing of targeted areas, fighting, invasion of Old Town [a neighborhood in Mombasa] and hijacking of Khalid Balala and others. I wish to state further that after the silencing of the IPK, UMA was disbanded with the instructions from State House, where most of the youths and their leaders were paid or some employed for good jobs they had done. I was approached again in the year 1993 where I [was] asked now to reassemble the UMA youth who were now already trained so that they could be ordered to do a further State Operation. When ordered I

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[54]Akiwumi Commission Official Transcript, October 12, 1998, pp. 4-10, p20, and p31 as quoted by Human Rights Watch, *Playing with Fire: Weapons Proliferation, Political Violence, and Human Rights in Kenya.* (New York: Human Rights Watch, 2000), 37. This August 8, 1997 statement allegedly made by the late Maitha who charged that was fabricated by police was read loud in its entirety at the Akiwumi hearing by the officer who recorded it and who testified as to its authenticity.

> assembled all the youth leaders and changed the name from UMA to Coast Protective Group (CPG). I was under the paymaster of Kulei and Sajjad.[55]

The above quotations inform us that the formation of the UMA as a rival movement to the IPK was believed to have had the backing of President Moi. Once it was formed the UMA claimed that: (a) IPK was not a true representative of Muslims in Kenya; (b) and Black Muslims have been discriminated against and sidelined by Arabs and Asian Muslims in Kenya.[56] It is this division among Muslims that Moi allegedly utilized to divide them politically. He capitalized on the schism and manipulated Muslim leaders so as to derive maximum advantage that would guarantee his clinging to power. Unity among Muslims could threaten Moi's political survival, hence he would seek means to divide them.

The recruitment of Omar Masumbuko, a Muslim of African descent, was to rally African Muslims against the IPK, which was viewed to be a party of Muslims of Arab and Asian descent. Ironically, UMA was allegedly financed by a Muslim nominated Member of Parliament, Rashid Sajjad, who is of Asian descent.[57] The alleged involvement of Sajjad explains the unwillingness of some Muslim politicians to lose the influence and power they had cultivated during the Moi era. Most incumbent Muslim politicians had feared that if the IPK euphoria was not checked there was a possibility of them losing their influence and power given to them by the state. This is also illustrated by the strong opposition of Shariff Nassir, MP for Mvita constituency, against the IPK.

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[55] Akiwumi Commission Official Transcript, October 12, 1998, pp. 6-10 as quoted by Human Rights Watch, *Playing with Fire: Weapons Proliferation, Political Violence, and Human Rights in Kenya.* (New York: Human Rights Watch, 2000), p38. Maitha repudiated the statement and its contents, saying he had never been involved with UMA or Masumbuku. Sajjad denied he had financed UMA, and also denied that Kulei had been linked to Maitha. However, a statement by Masumbuko does not support these denials and instead confirms the information in the statement attributed to Maitha concerning high level political involvement in the violent UMA campaign.

[56] Interviews with *Sheikh* Khalifa Mohamed, chairman IPK, on 27th July, 2004, Mombasa

[57] Interview with sheikh Omar Salimin, on 22nd February, 2005, at Junda Mosque.

Therefore, the alleged plan was to split the Muslims' strength. The move to divide Muslims succeeded as violent campaigns between the two sides emerged.

Another incident to illustrate Moi's effort to counter Muslim alliance was the encouragement of ethnicization of Muslim politics. In an unexpected move, the government registered the Shirikisho Party of Kenya (SPK) one month before the 1997 general elections. The party is believed to have its political base among the Digo Muslims. Its sudden registration was interpreted as government efforts to ethnicise Digo politics and counteracting any possibility of religious alliance with the IPK that had drastically been weakened by that time.[58] Therefore, a major obstacle that came in the way of the Muslim political unity was the ethnic-oriented nature of the community.

Related to the lack of a unified front among Muslims was the absence of cooperation between the leadership of the IPK and the SUPKEM. While the IPK chose to oppose the state, the SUPKEM chose to work with the state thereby undermining the IPKs' strategy. This could be attested by the SUPKEM publicized visit to the State House at a time when the IPK was engaged in both court and street battles with the state. Consequently, this allegedly angered the militant wing of the IPK who resorted to attacking the leadership of the national umbrella organization (SUPKEM) representing Muslims. It is likely that the umbrella organization could not identify with the IPK on the claim that it is not supposed to practice partisan politics.

The above scenario suggests that Muslims' politics in Kenya has been evident in militant, democratic and conservative forms. Its militant face was presented by the violent activities of the IPK and UMA militant wing. This group was convinced that their

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[58]Kagwanja, 'Politics of Marionettes: Extra-Legal Violence and the 1997 Elections in Kenya', in Rutten et al (editors), *Out for the Count*, p92.

violent approach was the right course of action, which would enable them achieve their goal. Its democratic form is manifested by the intentions of the IPK leadership to participate in the political election of the country. And lastly, its conservatism has for a long time manifested itself through the SUPKEM and the incumbent KANU Muslim politicians. Both the SUPKEM and the incumbent KANU Muslim politicians were intent on acting as the sole guardians of Muslim affairs in Kenya and felt challenged by the IPK and as a result they ceased to show their solidarity with the party. Instead the incumbent KANU Muslim politicians and the SUPKEM leadership maintained a co-operative approach to the state.[59] Consequently, this constituency allegedly scuttled the anti-state Islamic ethos of the IPK that was witnessed in Kenya. Since that period there has never been any effort to revive the party. The division of Muslims along ethnic and racial fissures makes this difficult. Nevertheless, the challenge posed by the IPK to the government redeemed the complacency of the community with the state until then.

Despite the politicization of Islam taking place among Kenyan Muslims, there is no future for an Islamic political model. This is because the Kenyan case is rather peculiar as neither its earlier history, nor the present composition of its society could accommodate this development and state of affairs. The particularity of the Kenyan situation stems from the following considerations: (a) in Kenya the process through which Islam had become associated with its politics and ideology greatly differs from those in Egypt, Sudan, Nigeria and other countries in the Middle East; (b) the reality and complexity of today's Kenya as a multi religious country with a Christian majority; (c) Kenya and even more specific its Coast and Northeastern regions had not been part of the

[59]This refusal of some Muslim politicians to offer their support to IPK implies that they believed, as a community Muslim fared better. This is because it was during the tenure of Moi where more Muslims were appointed to cabinet and senior positions in government. See Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003', p13.

classical Islamic Order (622-1258), or of the Ottoman Empire (1400-1924). During the early 19th century, the Zanzibar sultanate, which was a form of an Islamic authority, was established with its dominion extending to the coast of Kenya. The local political systems continued existing on condition that they offered allegiance to the sultan in Zanzibar. As a result of these varied processes, Muslim political approach in Kenya is distinct from the ones witnessed in other parts of the Muslim world.

6.5 Conclusion

To sum up this chapter, I will revisit the exclusionary and repressive model of Mohammed M. Hafez. The exclusionary and repressive theory asserts that a system is inaccessible when individuals and political parties are prohibited from influencing public policy through institutional channels. Hafez claims that such a regime makes illegal any attempt by movements to engage in formal policy making. In Moi's reign the political system in Kenya was exclusionary, characterized by intolerance to criticism. This was illustrated by his government's refusal to register the IPK, denying it an opportunity to participate in elections. This denial was a clear case of a system that is closed, as propounded by Hafez.

According to Hafez, repression could include restrictions against criticizing the government, proscription on campaigning against the government, prohibition of political parties opposed to the government, mass arrest of their supporters, and secret abduction of their members.[60] These descriptions accord with the experience the IPK encountered as discussed in this chapter. It is possible to argue that Moi's regime was exclusionary and repressive thereby heightening the politicization of Islam. However, it is important to

[60] Mohammed M. Hafez, Why *Muslims Rebel: Repression and Resistance in the Islamic World.* (London: Lynne Rienner Publishers, 2003), p28

understand that this was part of Moi's way of silencing his critics. Even leaders of some church and other non-religious bodies who had criticized Moi's policy suffered the same consequences. Therefore, Moi's strategy should not be interpreted as a deliberate policy to undermine the Muslim s.

According to Bassam Tibi, politicization of religion has been made possible because of the ability of religion to mobilize people.[61] In this chapter we have seen how Islam has been politicized through the use of a religious institution i.e. the mosque to articulate politics and organize demonstrations. These demonstrations were usually organized after the Friday main prayer to condemn the government for excluding the Muslim party from Kenya's politics. The timing was significant because the demonstrations were able to mobilize many protesters.

The political environment in Kenya appears to presage the continuation of the politicized Islam. Despite the setback where the IPK party was denied registration, Muslims have been, and are still an important oppositional force to political leadership. Given the experience of political disturbances and violence between the government and members of the IPK, the influence of Islam should not be underestimated in national politics. Although, Islam in Kenya will continue to be a religion of a minority in the years to come, its impact on politics at the national level cannot be ignored.[62] Its aggressiveness in offering a politicized Islamic opposition in Kenya has deepened the already prevalent fissures along ethnic competition.

Despite this politicization, the establishment of an Islamic political model in Kenya as illustrated in chapter one is not guaranteed. This can be attributed to Kenya's

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[61] Bassam Tibi, 'Post- Bipolar Order In Crisis: The Challange of Politicised Islam', in Bryan S. Turner, *Islam : Critical Concepts in Sociology. Volume I*, (London: Routledge, 2003), p149.

[62] Shaheen Ayubi and Sakina Mohyuddin, 'Muslims in Kenya: An Overview', in *Journal of Institute of Muslim Minority Affairs*, Vol. 15, NO. 1, January 1994, p154.

multi-religious nature. Also what emerged in this chapter is that the intention of IPK was to participate in Kenya's politics through the usual democratic process. The party wanted to be recognized like any other political party in Kenya so that it could participate in election, to be able to make the system more open and honest rather than demolishing the existing system. This agenda can hardly be described as Islamist, and that implies that IPK was not Islamist in outlook.[63]

Political parties in Kenya embody polarization along ethnic lines where ethnicity increasingly came to be the relevant reference pertaining to political alignment, even if none of the parties had ever developed an ethnic ideology. The Muslim political movement in Kenya experienced both ethnicization and racialization. The split between the IPK and the UMA embodied specifically a growing racial polarization between Asian-Arab (IPK) and African (UMA) Muslims. The UMA party stressed its African identity before Islamic solidarity. Consequently, this ethnic and racial polarization has been the main predicament of a Muslim political movement in Kenya. It would take a lot of effort and time for the Muslims to bypass the racial divide, which is widely entrenched in Kenya.[64] Ethnicization of Muslim politics was evident by the unexpected registration of the Shirikisho Party of Kenya (SPK). The party is believed to have its strong political

[63]On view on Islamism see Olivier Roy, 'Has Islamism a Future in Afghanistan? In William Maley (editor), Fundamentalism Reborn?: Afghanistan and the Taliban. (London: Hurst and Company, 1998), p199; Alex De Waal, Islamism and its Enemies in the Horn of Africa. (London: Hurst and Company, 2004).

[64] Today, Muslims are divided concerning the fate of IPK. There are those supporting and those against its registration. The voice opposed to the registration of IPK as a political party is represented by SUPKEM chairman, Mombasa Branch, Sheikh Juma Ngao. According to him IPK has no national outlook and proper structures to be a strong political party. He argues that for IPK to be accorded official recognition by the government it has to be reorganized and its name changed from a religious one to a neutral one to cater for all communities. These views by Ngao should be seen within the context of competition for supremacy among Muslim bodies. A political party with an Islamic name will undermine the popularity of SUPKEM as the mouth piece of Muslims. Such a challenge is not in the interest of some SUPKEM officials. Ngao's sentiments could also be analyzed as not official position of SUPKEM, but his own personal opinion intended for personal gains from the state. In most cases the government is quick to work with those Muslim officials who are perceived as accommodative and cooperative.

support among the Digo Muslims. Its sudden registration was analyzed as government strategy to ethnicise Digo Muslim politics thereby counteracting possible alliance with any section of Muslim population on religious identity. The strategy seemed to have worked because ethnicity posed a major obstacle in the way of the Muslim political unity.

Though Muslims believe that the ascendancy of upcountry-Christian hegemony has contributed to their perceived marginalization, this should not be seen as the only factor to their predicament. Ethnic and racial considerations have affected Muslims' efforts to present a united voice of the community. This has greatly influenced how the upcountry politicians have related with the Muslims.

Chapter Seven

Kenyan Muslims and Selected Legal Contestations

7.1 Introduction

The phenomenon of the politicization of Islam has become so entrenched that Muslim leaders tend to weigh every government decision in terms of their faith, thereby calculating possible gains and loses. Kenya has a significant record of legislation that has been met with strong popular Muslim opposition. Several public laws were politicized by Muslims and became the subject of a religio-political conflict. Among the laws that have led to tension between Muslims and the government are the Affiliation Act (1969), Succession Act (1972), Marriage Bill (1985), Equality Bill (2002) and the Anti-Terrorism Bill (2003). Reasons for their rejection were varied where some of the legislation were viewed as a direct affront to their religious belief, while another was alleged to be interfering with the individual liberty of Kenyan citizens.

More recently (from 2003 to present), the controversy surrounding the relationship between Muslims and politics in Kenya has come to focus on the centrality of the *shariah* through the *kadhi* courts. The acrimonious debate over the *kadhi* courts among Muslims, and between Muslims and non-Muslims has raised several important issues bearing on: (a) the religious status of Muslim personal law, (b) to what extent Muslims can claim zones of legal autonomy in a non-Muslim state, and (c) how Muslim personal law can be made compatible with the Kenyan constitution. This tension is the predictable situation of a national minority negotiating a dominant majority in both religion and politics (parliamentary representation). These intense dynamics have a crucial role in influencing the politicization of Islam in Kenya.

This chapter discusses two laws, the Equality Bill and the Anti-Terrorism Bill together with the *kadhi* courts as recommended in the Bomas Draft Constitution. The debates involving these public issues had assumed a religio-political dimension in Kenya.

7.2 The Equality Bill 2002: The Case of Women Emancipation.

The Equality Bill was drafted in early 2000 as a response to the Beijing and New York gender conferences. Authorship to the Bill is attributed to the Attorney General's office in conjunction with Federation of Kenya Women Lawyers (FIDA). The Bill was intended to promote 'the welfare of all Kenyan and to outlaw discrimination based on gender, race, ethnicity, citizenship, creed, marital status, disability, family status, sex, age or colour.'[1] Despite this broader inclusion of the Bill, its main focus was to protect Kenyan women against discrimination. In September, 2000 the Bill was presented to parliament for deliberation. Ever since proposed in 1999, the Bill had caused political and religious controversy. In support of the Bill were the civil and human rights groups, women organizations, donors and opposition politicians. While President Moi and some church were opposed to the Bill, the strongest reaction to the document came from sections of Kenyan Muslim population.[2] The Bill was immediately opposed by some Muslims, precipitating a religio-political conflict. Their objections have centered mainly on the marriage, divorce and inheritance clauses of Part II, Section 4 of the Bill which provides:

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[1] See *The Equality Bill, 2002, Kenya Gazette Supplement*. (Nairobi: Government Printers, 2002), p1810.

[2]While there were some Christians who were opposed to the proposed Bill, its main opposition came from the Muslim community. See 'Women's Equality Bill Causes Controversy in Kenya', at http://www.afrol.com/News2001/Ken001_equality_bill.htm, 7th November 2005.

> Every person is entitled to equality with respect to the following without discrimination:[3]
>
> a) acquisition, change or retention of nationality and change of domicile;
> b) access to financial credit without requirement for guarantee by a spouse;
> c) rights and responsibilities during marriage and its dissolution and in all partnerships and unions;
> d) use, distribution and disposal of property acquired during marriage;
> e) inheritance.

The reasons for the rejection of the Bill were diverse. Some Muslims charged that the Bill intends to 'make men and women the same', which according to them is contrary to Islamic teachings.[4] Even without accurate knowledge of the Bill, many interviewees readily spoke of it as being 'against the Islamic faith' because of its portrayal of men and women as the same.

The defense of Islam was presented by Muslims as the reason for their objection to the Equality Bill. According to some Muslims the *shariah* was enough for them as it has stipulated proper guidance for all Muslims.[5] As a result most Muslims denounced the Equality Bill as irrelevant for the Muslim community. Consequently, Muslim opponents to the Bill appealed to the government not to include Muslims in the Bill. They argued that if included in the Bill, it would violate the fundamental rights of Muslims in Kenya to be guided by the Islamic legal code on matters of personal law.[6] This request by Muslims to be excluded from the Bill runs counter to the spirit of the Bill, which sought

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[3] See *The Equality Bill, (2002)*, pp. 1815-1816.

[4]Interview with Hussein Khalid Programme Coordinator, Muslims for Human Rights, on 15th September, 2005, Mombasa.

[5]Interview with Mbarak Abdulkadir, Education Officer, Fort Jesus, on 14th July, 2005, Mombasa; Saady Rashid, Education Officer, Fort Jesus, on 14th July, 2005, Mombasa; Fatma Muslim, School for International Training, on 16th September, 2005, Mombasa.

[6]These were the views of Abdulrahaman M. Wandati, Executive Director of the Muslim Consultative Council, which were noted by Alamin Mazrui, 'The Equality Bill 2000: An Alternative Islamic Perspective', October 2000.

to remove exclusion and discrimination. To show their dissatisfaction, protest marches were held in both Nairobi (October 2000) and Mombasa (November 2000), at which Muslim women presented a memorandum of objection to the Bill.

The notion of equality, which was captured in the title of the Bill raised suspicion among Muslims as to the intention of the Bill. The issue of equality was passionately discussed by Muslims and in that respect a question could be asked: Does Islam recognize equality between sexes? Those who understood equality to mean 'sameness' responded in the negative because to them Islam does make a distinction between men and women.[7] This position is supported by Maryam Jameelah who argues:

> From the Islamic point of view, the question of the equality of men and women is meaningless....Men and women are not the same....Islam envisages their roles in society not as competing but as complementary.[8]

Those who answered in the affirmative interpreted the issue of equality to mean justice and fairness in Islam. According to them, Islam does not preference between men and women. Both have equal roles, obligations and rights that are stipulated in the Qur'an.[9] The defense for this interpretation is traced to *sura* 33:35, which exhorts both men and women to good and promises them the same reward. This verse is often cited as proof of equality between men and women in Islam.

Islam permits polygyny, invests the unilateral power of divorce in man and endorses the unequal distribution of inherited wealth between sexes. Therefore, Muslim

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[7]For instance this was the view of Hussein Khalid Programme Coordinator, Muslims for Human Rights, who was interviewed on 15th September, 2005, Mombasa. Other Muslims who were involved in informal discussions held the same view.

[8]Maryam Jameelah, *Islam and Western Society*. (Pakistan: Mohammed Yusuf Khan, 1976), p109.

[9]Interview with Masad M. Omar, Programme Officer, Muslim Civic Education Trust, on 3rd August, 2005, Mombasa; Mbarak Abdulkadir, Education Officer, Fort Jesus, on 14th July, 2005, Mombasa; Saady Rashid, Education Officer, Fort Jesus, on 14th July, 2005 Mombasa; Fatma Muslim, School for International Training, on 16th September, 2005, Mombasa.

opponents of the Bill regard parts of it to be in contravention of the Islamic law on marriage, divorce and succession as provided in Kenyan law under the Mohammedan Marriage, Divorce and Succession Act. Let's now return to these three issues (marriage, divorce and inheritance), which influenced Muslims' opposition to the Bill and find out if the Equality Bill could be related to the spirit of the Qur'an.

7.2.1 Polygynous Marriage in Islam.

Indulgence in multiple marriages is one of the most abused practices by Muslim men world wide.[10] Polygyny is observed by some Muslim men with lust rather than family welfare as their overriding motive. This is contrary to the Qur'anic position on the issue which is reflected in the following verse:

> ....marry women of your choice, two, three or four. But if you fear that you will not be able to deal justly (with them) then only one....to prevent you from doing injustice.[11]

The above verse essentially provides a Muslim man with the freedom of choice to have more than one wife at the same time, with a maximum of four. However, this freedom is circumscribed by a condition that has to be fulfilled before he contracts polygyny. The polygynous man is expected by the Qur'an to deal justly and equitably with all his partners in all aspects of their marital life.

With regard to this condition, it is the position of most commentators that maintaining comprehensive equality and justice between one's spouses is an impossible task. Given the limitation of human beings, it will be difficult for man to treat all his

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[10]See John R. Bowen, 'Sharia, State and Social Norms in France and Indonesia', ISIM Publiçation, 2001, p8; Betha Baron, 'The Making and Breaking of Marital Bonds in Modern Egypt', in Nikki R. Keddie and Betha Baron (editors), *Wommen in Middle Eastern History: Shifting Boundaries in Sex and Gender.* (New Haven: Yale University Press, 1991), p283.

[11]Qur'an 4:3

partners with equity without showing some traces of favouring a certain side. It is clear that the spirit of the Qur'an has been inclined towards monogamous relationships. On the basis of the above verse, it is possible to argue that Islam does not require polygyny. Its permissibility under strict condition is an implication that the practice is a limited freedom for men and not a duty. Since the Equality Bill was advocating monogamy, it could be argued that it was in accord with the spirit of the Qur'an.

7.2.2 Divorce by Repudiation.

Like polygyny, divorce is also one of the most abused practices by Muslim men.[12] Though permitted in Islam, divorce is a detested act by God. Mere pronouncement of the words, 'I divorce you', in the presence of witnesses is enough to dissolve one's marriage. This power of divorce by repudiation, without obligation to show cause for the action, is exclusively invested in man.[13] On the other hand, a woman who seeks divorce must obtain a judicial decree from the *kadhi* (Islamic judge). Muslim women had to appear before a *kadhi* and request him to grant a divorce under one of the several available categories.[14] These categories can be either *taliq talaq*, where the wife claims that the husband committed an act that according to the marriage agreement calls for *talaq* to be effected, or as *faskh*, where arising conditions warrants the dissolution of the marriage. In the process the woman would be required to submit valid reasons for seeking the

[12]See Bowen, 'Sharia, State and Social Norms in France and Indonesia', pp. 8-9; Baron, 'The Making and Breaking of Marital Bonds in Modern Egypt', in Nikki R. Keddie and Betha Baron (editors), *Wommen in Middle Eastern History*, pp. 284 –287.

[13]Mazrui, The Equality Bill 2000: An Alternative Islamic Perspective', p4.

[14]See Bowen, 'Sharia, State and Social Norms in France and Indonesia', p9.

dissolution of the marriage. Before I make any conclusions, it is important to examine the position of the Qur'an on the matter:

> When ye have divorced women, and they have reached their term, then retain them in kindness or release them in kindness. Retain them not to their hurt so that ye transgress (the limits). He who doth that hath wronged his soul. Make not the revelations of Allah a laughing stock (by your behaviour), but remember Allah's grace upon you and that which He hath revealed unto you of the scripture and of wisdom, whereby He doth exhort you. Observe your duty to Allah and know that Allah is aware of all things.[15]

The above verse illustrates that men are supposed to enter into marriage with women on equitable terms and similarly dissolve their unions with women on equitable terms. According to Alamin Mazrui, this equitability of terms is in reference to substance as much as to procedure.[16] From the premise of Mazrui's position, only a court of law as an independent party can be better placed to examine whether the terms of divorce are genuinely equitable. Against the backdrop of this verse, we can reason that Islam accepts the establishment of alternative structures that will eliminate the abuse of the power of divorce by repudiation. The Equality Bill's intention of restoring justice among partners during the dissolution of their marriage accords with the Qur'anic spirit of promoting equitability of terms at the point of divorce.

7.2.3 The Law of Succession.

I have shown in chapter four that the Islamic law of succession is the most sensitive area when it comes to reforms. Muslims in Kenya were against efforts of reforming the Islamic customary laws of succession during the early 1970s. Muslims'

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[15]Qur'an 2:231.

[16]Mazrui, 'The Equality Bill 2000: An Alternative Islamic Perspective', p4.

reaction is attributed to the formula laid out in the Qur'an that can be used in settling matters of inheritance. In simple terms the Qur'an enjoins:

> All chargeth you concerning (the provisions for) your children: to the male the equivalent of the portion of two females, and if there be women more than two, then theirs is two-thirds of the inheritance, and if there be one (only) then for her is the half. And parents a sixth of the inheritance, if he have a son; and if he have no son and his parents are his' heirs, then to his mother appertaineth the third; and if he have brethren, then to his mother' appertaineth the sixth, after any legacy he may have bequeathed, or debt (hath been paid). Your parents or your children: you know not which of them is nearer unto you in usefulness. It is an injunction from Allah. Lo! Allah is Knower, Wise.[17]

> And unto you belongeth a half of that which your wives leaves, if they have no child; but if they have a child then unto you the fourth of that which they leave, after any legacy they may have bequeathed, or debt (they may have contracted, hath been paid). And unto them belongeth the fourth of that which ye leave if ye have no child, but if ye have a child then eighth of that which ye leave, after any legacy (ye may have bequeathed, or debt ye may have contracted, hath been paid). And a man or a woman have a distant heir (having left neither parent nor child), and (he or she) have a brother or a sister (only on the mother's side) then to each of them twain (the brother and the sister) the sixth, and if they be more than two, then they shall be sharers in the third, after any legacy that may have been bequeathed or debt (contracted) not injuring (the heirs by willing away more than a third of the heritage) hath been paid. A commandment from Allah. Allah is Knower, Indulgent.[18]

In general terms, the mathematical formula illustrated in the Qur'an has been perceived to be 'inequitable' where it apportions less to women than to men. The above verses explicitly show that when it comes to distribution of wealth between male and female relatives, the men get double the share of women. This disproportionate distribution between the sexes has been defended and justified by commentators of the Qur'an. In an ideal Islamic family, the responsibility of earning livelihood is exclusively placed on

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[17]Qur'an 4:11.

[18]Qur'an 4:12.

men, in this case the father. In the absence of the father, the brother takes the responsibility for woman's maintenance. After marriage, it is the husband who is required to provide and meet all the maintenance expenses of his wife. Whatever the woman earns and acquire over the years is supposed to be exclusively hers, while what belongs to man is shared with the woman.[19] It is against this reasoning that it has been justified to lower the proportion of women's inheritance.

However, emerging realities among Kenyan Muslims today call for re-evaluation of this original justification with regard to disproportionate distribution of inherited wealth. Among Muslims in Kenya there are cases where men have neglected to fulfill their material responsibilities in a manner provided by the Qur'an. As a result there are several cases where women have to play the role of the family provider for unemployed siblings and husbands together with aged parents. In addition, new economic demands have forced women to join their spouses in the work arena and assist in providing for the family. Present day family needs and other economic expenses have made it untenable for men to be the sole family providers.

In his call to Kenyan Muslims to reflect on the new emerging situations and thereby move towards reforming the Islamic law of inheritance within the spirit of the Qur'an, Alamin Mazrui remarks:

> Certainly, the spirit of justice and equality in Islam cannot be blind to these unfolding new realities. Where the gender imbalance in the Islamic law of inheritance was both equitable and just in a particular context in time, it can no longer uphold these principles adequately today.[20]

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[19] Mazrui, 'The Equality Bill 2000: An Alternative Islamic Perspective', p4.

[20] Ibid, p5.

As a result of the emerging new economic environment there is need for Muslims in Kenya to reformulate the law of inheritance so as to uphold justice and equality, which is the foundation of the Qur'an. It is possible that the Equality Bill had these considerations, which necessitated the distribution of inheritance to be equitable. However, as a result of the Muslims opposition and other sections of the Kenyan population, the Bill was not acceded into law.

7.3 The Suppression of Terrorism Bill 2003: Legislating Against Civil Liberties.

The international community recognizes that terrorism constitutes a global threat and it has therefore committed itself to taking firm action to address the problem. The activities of international terrorism have raised the issue of how global security can be guaranteed and maintained.[21] Kenya being part of the international community acceded to the International Convention for the Suppression of Terrorism and ratified both the International Convention for the Suppression of the Financing of Terrorism, and the African Union Convention on the Prevention and Combating Terrorism.[22] These international resolutions implied that the global community was internationally bound to come up with strategies to combat terrorism.

It was against this background that after the terrorist attacks of 9/11 and the subsequent international resolution on terrorism, the US government passed an anti-terror

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[21]Ali A. Mazrui, 'Human Rights, Constitutional-Making and Comparative Terrorism: The View From Kenya.' A paper delivered under the auspices of Muslims for Human Rights and Kenya Human Rights Commission, Mombasa, Kenya July 18 2005, p1.

[22]'Patterns of Global Terrorism' at http://www.state.gov/s/ct/rls/pgtrpt/2003/31578.htm, on 7th November, 2005; See also *Daily Nation*, Tuesday, November 18, 2003.

legislation, the US Patriot Act, to combat terrorism.[23] Thereafter, many countries taking a cue from the US government passed anti-terror legislation. Examples of these anti-terrorism laws are: Anti-Terrorism Crime and Security Act, (Britain);[24] Prevention of Terrorism Act 2002 (India);[25] Anti-Terrorism Act 2002 (Uganda);[26] and Prevention of Terrorism Act 2002 (Tanzania). [27]

In line with the international community, Kenya's Attorney-General published the Suppression of Terrorism Bill, 2003, to be discussed in Parliament. This Bill was part of the effort by the Kenyan government to combat terrorism. Before it had the opportunity to be taken to Parliament for discussion, the Bill raised wide criticism from a cross section of Kenyans. This included lawyers, human rights activists, the parliamentary legal committee and Muslim leaders who had all described the Suppression of Terrorism Bill

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[23]Ali A. Mazrui, 'Terrorism and the Global Image of Islam: Power, Passion and Piety.' A lecture presented under the auspices of Muslim Consultative Council and the Young Muslim Association, in Nairobi, Kenya, July 13 2003, p8. See also remarks by the President of USA at the signing of the Patriot Act, Anti-Terrorism Legislation at http://www.whitehouse.gov/news/releases/2001/10/20011026-5.html, on 7th November, 2005.

[24]The British parliament voted 300 against 299 for the Bill to go through on 2nd November, 2005. Such voting pattern shows that there is strong opposition to the Bill in Britain. See http://www.belfasttelegraph.co.uk/news/story.jsp?story=667818, on 7th November, 2005.

[25]The Act came into force after the President of India gave his assent. See http://www.satp.org/satorgtp/countries/india/document/actandordinances/POTA.htm, on 7th November, 2005.

[26]The Act was assented to by the President of Uganda on May 2002 and it came into force on June 2002. See http://www.icj.org/IMG/pdf/Paper_Bossa.pdf, on 7th November, 2005.

[27]The Tanzanian parliament passed the Act in November 2002, but it has not yet been enforced to law because implementing regulations for the law have not yet been drafted. See also 'Patterns of Global Terrorism' in http://www.state.gov/s/ct/rls/pgtrpt/2003/31578.htm, on 7th November, 2005. According to Ali Mazrui, African countries like Uganda, South Africa, Tanzania and Kenya have been under American pressure to pass anti-terrorist legislation, partly intended to control their own Muslim populations and partly targeted at potential Al-Qaeda infiltrators. Uganda, Tanzania and some other countries in the world have already capitulated to American pressure. See Mazrui, 'Terrorism and the Global Image of Islam: Power, Passion and Piety', p7.

as draconian and oppressive.[28] The Kenyan public believed that the US government had influenced the drafting of this Bill considering that there are many similarities between it and the US Patriot Act.[29] The anti-Bill demonstrations were not only vocal against the US government, but also vented their anger in various other ways. For instance, the July 2003 demonstrations organized by human rights lobbies and student organizations witnessed the burning of US flags as protesters marched to Sheria House to present their memorandum to the Justice and Constitutional Affairs minister.[30]

The opponents of the Bill fear that if adopted it would undermine civil liberties and human rights and infringe on one's privacy and freedom. This is because the proposed law empowers the government to open and read private letters, download emails and confiscate diskettes and computers. All it takes are suspicions by a police officer that a person could be engaging in terrorist activities. The powers of investigation under the proposed Bill are also alleged to be immense. From the Bill the law allows the police to use 'necessary force' instead of 'reasonable force' on suspects. While all this happens the police are not liable for any damages they inflict on a suspect as they implement this law. This has raised fears that the legislation would in the long run legitimize excessive police violence against a suspect, a culture of impunity and routine torture in the name of 'state security.'[31]

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[28]*Daily Nation, Friday*, July 4, 2003; *Sunday Nation*, August 31, 2003. See also 'Kenya's Terror Bill Rejected', at http://news.bbc.co.uk/2/hi/africa/3069211.stm, on 7th November, 2005.

[29]See the 'Big Issue' of *East African Standard*, Monday July 14, 2003; *Daily Nation*, Tuesday, November 18, 2003; Mohamed Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003.' A paper presented at the International conference, St.Anthony's college, Oxford, June 2004, p21.

[30]*Daily Nation*, Wednesday, July 16, 2003.

[31]See Part I section 4 and 5, Part V section 25 and 26 of *The Suppression of Terrorism Bill, 2003*. (Nairobi: Government Printers, 2003); Kenya Memorandum to Kenyan Government on the Suppression of Terrorism Bill 2003, at http:web.amnesty.org/library/index/ENGAFR320032004?open&of=ENG-KEN, on 7th November, 2005.

Part VII, section 33and 34 of the Bill gives foreign states authority to directly compel the Commissioner of Police to make available terrorism intelligence and logistical support for their pursuits in the country. Section 35 requires the Attorney General to execute any request from foreign states to track down, attach or forfeit any suspected terrorist property in the country.[32] Allowing foreign authorities to penetrate Kenya's intelligence and security agencies have been interpreted as similar to Kenya ceding its sovereignty to external administration.

The Act also criminalizes any association with any member of an organization that has been declared 'terrorist.' Directors of banks which offer financial services to the organization or its members, property managers who let their premises to them, lawyers who arrange for trustee or nominee ownership of any property belonging to the organization or its members, get long term imprisonment. The onus of proof of innocence in most of these offences rests with the accused person. All the prosecution has to prove is that someone was found in possession of an article that could be used for terrorist purposes. It would now be the responsibility of the accused person to prove to the court that the article was not meant to cause terror.[33]

Kenyan Muslims on their part strongly believe that apart from the Bill infringing on one's freedom and privacy, it is also anti-Muslim. Muslims have reiterated that already the government was applying the provisions of the Bill against them even before it has been enacted into law. This was evident in the words of an official of the Council of Imam and Preachers of Kenya (CIPK):

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[32] See *The Suppression of Terrorism Bill, 2003.*

[33]See Part III, section 11 (2) of *The Suppression of Terrorism Bill, 2003*; Kenya Memorandum to Kenyan Government on the Suppression of Terrorism Bill 2003, at http:web.amnesty.org/library/index/ENGAFR320032004?open&of=ENG-KEN, on 7th November, 2005.

> Over thirty Muslims have been arrested and others are facing trial on allegations of being terrorists. To us this shows that this government has targeted the Terrorism Bill on Muslims only.[34]

Muslims' wariness that the Bill is targeting them more than any other community in Kenya is reinforced by a section 12 (1) of the draft Bill that says:

> A person who in a public place, (a) wears an item of clothing; or (b) wears, carries or displays an article in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a declared terrorist organization shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine or both.[35]

If the new legislation is influenced by the US counter terrorism measures against Al Qaeda and radical Muslims in the Middle East, then its repercussion would be felt by Kenyan Muslims. The media regularly relays images of the Al Qaeda and alleged Muslims terrorists in flowing robes and long beard. This typical image of a Muslim in robe (*kanzu*), an Islamic cap (*kofia*) and long beard (*ndevu*) is also evident among Muslims in Kenya. This particular dress code is important to Muslims because it is a way of showing that they belong to a certain faith.

Muslim protest against the Bill is based on the fear that the police could arbitrarily use the powers invested in them by the Bill to arrest Muslims on the ground that they were dressing like certain declared terrorists or terrorist groups. Already there is concern among Muslims about the war on terror. A disproportionate number of Muslims have allegedly been harassed by police and some arrested on suspicion of terrorist activities

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[34]The Friday Bulletin, *The Muslim News Update*, July 02, 2004.). See also Abdulghafur H.S. Elbusaidy, 'Islam in Kenya', in Hussein Solomon, *Islam in the 21st Century: Perspectives and Challenges.* (Pretoria: Centre for International Political Studies, 2005), p34.

[35]See *The Suppression of Terrorism Bill, 2003*, p455.

without evidence.[36] Some of the alleged questions asked while in custody were related to their dress code. Their interrogators want to know why they wore the robe, the Islamic cap and kept long beards.[37]

Before the Bill could be tabled in Parliament, some of its opponents mandated the Law Society of Kenya (LSK) to set up a special team to review the Bill and present a new draft to the government.[38] After a thorough review, in April 2003, the LSK presented a new draft to the government that revised the articles to which Muslims and human rights groups most objected. The LSK claimed to have removed seventy per cent of the clauses in the Bill which were seen as targeting Muslims. However, Muslim leaders still would not accept the amended version. They insisted that the government should withdraw the proposed law completely thereby calling Muslims to reject the amended version.[39] This response could be attributed to the fact that there is immense mistrust and fear on the part of Muslims. It is evident that the Suppression of Terrorism Bill, 2003, draft is not acceptable to most Kenyans, particularly Muslims. It is the responsibility of the government to convince Muslims that the Bill is not targeting the community, but only

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[36]Around seventy people have so far been arrested on charges of terrorism and coincidently are all of them are Muslims. There is yet no evidence to link them with terrorist activities that were witnessed in Kenya. This is according to the interview with *Sheikh* Mohamed Dor, Secretary, Council of Imam and Preachers of Kenya, on 26th January 2005, Mombasa; Also two of the four suspects who had been arrested in connection with the bombing of Paradise Hotel were acquitted. Aboud Rogo and Muhammed Kubwa who had been in custody for more than two years were clear by the court after lack of evidence to incriminate them. See *East African Standard*, Tuesday, June 14, 2005.

[37]Interview with Sheikh Dor, Secretary, Council of Imams and Preachers of Kenya, on 26th January 2005, Mombasa; See also the 'Big Issue' in *East African Standard*, Monday, July 14, 2003.

[38]*Daily Nation, Friday*, July 4, 2003.

[39]This view was also emphasized by Sheikh Dor, Secretary, Council of Imams and Preachers of Kenya, during an interview with him on 26th January 2005, Mombasa.; See also El-Busaidy, 'Islam in Kenya', in Solomon, *Islam in the 21st Century*, p34.

terrorists. It left to be seen if Muslim leaders would support the government efforts when the Bill is taken to parliament for discussion and eventually voting.

There is no doubt that Kenya requires an effective anti-terrorism law. But the question that should be asked is: is Kenya under threat of international terrorism? I will now examine the prospects of terrorism in Kenya.

7.3.1 Prospects of International Terrorism in Kenya.

International terrorism has posed an array of challenges to the Kenyan government since the 1980s.[40] The first terror onslaught in Kenya was witnessed in December 1980 in Nairobi. This was the bomb explosion in the Norfolk hotel believed to be owned by an Israeli.[41] Apart from the ownership of the hotel influencing its bombing, some Kenyans believe that this act of terrorism was driven by Kenya assisting Israel to free an airliner held by a Palestinian squad in Uganda in 1979.[42] On August 7, 1998, eighteen years later, the US embassy in Nairobi was attacked. The attack claimed twelve Americans and over two hundred Kenyan casualties, while injuring more than five thousand people. Statements by Osama bin Laden released subsequently, led to the conclusion that Al-Qaeda was responsible for the strike. After investigations it was revealed that all the perpetrators of the bombing were foreigners including a Palestinian, Mohammed Sadiq Odeh, who was married to a Kenyan and had lived in the country for around five years.

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[40]This section is indebted to Ruediger Seesemann's papers: 'East African Muslims after 9/11', Bayreuth African Studies Working Papers No. 3 (12 pp). Available under: http://www.uni-bayreuth.de/sfbs/sfb-fk560/index-publikationen.html; and 'Anti-Americanism in Sub-Saharan Africa', in S. Faath (editor), *Anti-Americanism in the Islamic World*. (London: Hurst), pp. 197-208.

[41]Arye Oded, *Islam and Politics in Kenya*. (London: Lynne Rienner Publishers, 2000), p130.

[42]See *Sunday Nation*, September 23, 2001, p15.

On the first anniversary of the devastating strike, August 7, 1999, SUPKEM had a statement read in all mosques around the country, saying:

> What would be the reason for planting bombs in Nairobi....if not to disrupt the spread of Islam in East Africa, which has been enhanced by the existing peaceful atmosphere.[43]

In the Nairobi central Jamia mosque, SUPKEM chairman Abdulghafur Al-Busaidy gave a speech summarizing the painful experiences of Kenyan Muslims since the attack. These include having to endure sweeping suspicions of Muslims as terrorists, public defamation of Islam by the media, politicians, and Church representatives, a ban on not less than five Islamic non-governmental organizations which allegedly threatened domestic security, as well as confiscation of files and computers from Islamic organizations.[44] Such statements reveal how Muslims view the whole scenario. They show that Muslims in Kenya are aware of the negative impact that such terrorist attacks have when they are carried out in the name of Islam. For many this is a sufficient reason to condemn and reject such violent actions.

Sheikh Ali Shee was asked in an interview what Kenyan Muslims thought of Osama bin Laden and he replied: 'He is a hero.'[45] However, Shee disclosed to me during this study that his position was quoted out of context. He clarified his comment by explaining that:

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[43]See *Daily Nation*, August 7, 1999.

[44]See *Daily Nation*, August 7, 1999. It was reported that while addressing mourners after the bomb blast in Nairobi, President Daniel Moi remarked that those behind the bombing 'could not have been Christians.' This statement attributed to Moi could have insinuated Muslims were complicity in the atrocity. The remarks by the President were criticised by Muslim leaders who argued that their religion was being wrongly associated with violence. See M.A.Mohamed Salih, 'Islamic N.G.Os in Africa: The Promise and Peril of Islamic Voluntarism', in Alex de Waal (editor) *Islamism and its Enemies n the Horn of Africa*. (London: Hurst and Company, 2004), p175.

[45]See Seesemann, 'East African Muslims after 9/11.'

> Bin Laden is viewed by Muslims to be their hero in terms of advancing their education, seeking unity among them and promoting the general social life of Muslims in the world. But when it comes to committing terrorism, Bin Laden cannot be regarded as a hero on the basis that his actions have gone against the Islamic principles of war. According to Islam it is wrong to kill people indiscriminately for political gains.[46]

Inspite of the above clarification from Shee there is no doubt that he has established himself as one of the most vocal critics of the Kenyan regime and is also a staunch advocate of anti-Americanism.[47]

This growing anti-Americanism was evident during the demonstrations that were held in Kenya in the coastal city of Mombasa and the capital Nairobi following the fateful event of September 11. These demonstrations were a reaction against the American bombing of Afghanistan and the Kenyan government's pledge of support for the American cause. In one of the biggest demonstrations witnessed in Kenya, thousands of people marched in the capital on October 12th shouting 'down, down, USA', and at the same time praising Osama bin Laden. These demonstrations were an expression of their sympathy with Al-Qaeda. An attack on Muslims anywhere whether Palestine, Kashmir, Bosnia or Afghanistan is allegedly viewed as an attack on all Muslims. These demonstrations could also be interpreted as Kenyan Muslims' perception of the attacks on the United States. To them, the attack signified the demystification of the power of the West and a proof that America is not invincible.

On November 28, 2002, terrorism struck again, this time at the Israeli-owned Paradise Hotel in Kikambala and an Israeli jet taking off from Mombasa's international

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[46]Interview with Sheikh Ali Shee, on 24th February 2005, at Junda mosque, Mombasa.

[47] He confirmed to me during the interview that he is a strong critique of the Kenyan government and American policies. This anti-Americanism is also evident in the sermons of *Sheikh* Dor during Friday prayers at the Mbaruk mosque in Mombasa.

airport. The remnants of the Al-Qaeda cell responsible for the embassy attack were said to be responsible. On the property of the Paradise Hotel, which is mostly visited by Israelis, three suicide bombers attacked the hotel reception as two hundred guests were checking in. Sixteen lives were lost, including the three perpetrators and three Israeli tourists.[48]

At almost the same time at the airport in Mombasa, a missile was fired at an Israeli Arkia airline that had just taken off with two hundred and sixty one passengers who had checked out from the Paradise Hotel. The shot from the two SAM-7 missiles narrowly missed the targeted plane. While a report came from Beirut, saying that a group known as the Army of Palestine had claimed responsibility for the two attacks, a US government spokesman in Washington suggested that the Somali organization *al-Ittihad al-Islami*, which is linked to Al-Qaeda, could be responsible for the attacks.[49] However, fresh investigations have shown that the same cell established by Odeh was responsible for the two attacks.[50]

Again Kenyan Muslim officials spoke up condemning terrorist attacks. An official SUPKEM statement read:

> Whoever planned and executed the bombing is definitely the number one enemy of Islam and Muslims in Kenya....We would like to assure ....that the Muslims of Kenya will continue to co-exist with Kenyans of other faiths as they have always done [51]

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[48]See Ali A. Mazrui, 'Human Rights, Constitution-Making and Comparative Terrorism: The View from Kenya', p5; Ali A. Mazrui, 'Terrorism and the Global Image of Islam: Power, Passion and Piety; Until now the identity of the three perpetrators has been revealed. There has emerged an allegation that Mossad plotted the attack to assist Ariel Sharon win nomination for the then elections which were to be held in 2003. For more information on this report see *The Dispatched Weekly*, July 11, 2004, p11.

[49]Alex de Waal and A.H Abdel Salam, 'Africa, Islamism and America's War on Terror', in de Waal , *Islamism and its Enemies n the Horn of Africa*, p247.

[50]See *Daily Nation Friday* 22, 2003, p12.

[51]Quoted from http://www.islamonline.org/english/news/2002-11/29/article40.shtml.

The situation was worsened in August 2003 when a suicide bomber, Feisal Ali Nassor, detonated a grenade killing himself and a policeman in a bid to resist arrest in Mombasa. As he was being driven to the police station Nassor decided to detonate a hand grenade to conceal any further leads following his arrest. This was the first hand grenade suicide attack staged in Kenya. The incident confirms that members of the Al-Qaeda network are still in Kenya and willing to strike at any given opportunity.

Thereafter, investigations were launched and at a house used by Nassor an arms cache was found. It included five SAM-7 missiles similar to those used in a failed attempt to shoot down an Israeli airline taking off from Mombasa in 2002, a hand grenade and six AK-47 assault rifle magazines. The five missiles were reported to have been ready for firing. Despite this major breakthrough by the Kenya Anti-Terrorism Police Unit, Nassor's accomplices are still at large.[52] This incident reveals that there are some Kenyan Muslims who serve as host for international terrorist in the country as they plan their activities. There is no doubt that Kenyans have not established Al Qaeda cells, but may host Al Qaeda operatives. What is not clear yet, is how many Kenyan have directly been involved in the terrorist acts witnessed in the country.

What needs to be examined critically at this juncture is that though bin Laden may have gained admiration in Kenya, he has at the same time not won sympathy among Muslims. This was shown by the official statements of the SUPKEM during the US embassy bomb blast anniversary and the twin attacks in Mombasa. The statements strongly condemned violent actions in the name of Islam. The admiration for bin Laden is based on his perceived role as a champion for the resistance against the political and

[52]See *Daily Nation*, Wednesday, August 13, 2004, p1 and p11.

economic hegemony of the United States. To sum up, Muslims in Kenya admire his courage to confront a super power, but not his actions.

7.4 Growing Anti-Americanism among Kenyan Muslims.

The rejection of terrorist violence among Kenyan Muslims has not stemmed the tide of growing anti-Americanism. A decade ago, there were no outbursts of anti-American sentiments during the first Gulf war. In fact in 1991, the relation between Kenyan Muslims and America was one of mutual trust. Don Stader, the American consul in Mombasa had forged a special relationship between the coastal Muslims and the United States government. During that time the US diplomat protected the interests of Muslims especially the IPK supporters. When the IPK sympathizers were being hounded by the police, Stader provided them with physical security.[53] The change of heart by Kenyan Muslims towards the United States has raised concern within their ranks prompting US to search for solutions.

In order to tackle the problem of mounting anti-Americanism, the US government has pursued a two prong approach in Kenya since 9/11. On one level, the US has intensified its intelligence operations in the country. Posing as a loyal US ally in the 'war against terror', the Kenyan authorities allowed the Central Intelligence Agency (CIA) and the Federal Bureau of Investigation (FBI) to conduct their activities in Kenya. The Mombasa sea port was also allowed to be used as a base for the navies of the United States and its allies so that they could monitor the shipping traffic in the horn of Africa.[54]

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[53] Interview with Mohamed Hyder, on 12th March, 2005, at MCET offices, Mombasa

[54]See Seesemann, 'East African Muslims after 9/11'; and 'Anti-Americanism in Sub-Saharan Africa', in Faath (editor), *Anti-Americanism in the Islamic World.*

Some of the surveillance intelligence activities are camouflage under the guise of socio-cultural and economic projects in certain Muslim populated areas in the country.

Already identified for these US projects are the Islands of Lamu, Pate and Faza, which cover Kizingitini, Shanga, Mbwajumwali, Miabogi, Tchundwa and Siyu villages. It is believed that some of the terrorists being sought by the US had at one time lived in these villages. Mohammed Odeh, now in prison in the US, arrived in Lamu and married a Swahili woman from the remote village of Witu. There was also Saleh Ali Seleh Nabhan, who married a young woman from Lamu Island. The other was Fazul Abdallah Mohammed who lived at Siyu where he had married a local girl. Fazul is suspected of involvement in the bombing of the 1998 US embassy in Nairobi as well as the 2002 bombing of an Israeli hotel in Kikambala.[55] Therefore, to gain the support and trust of the local communities in these areas, American marines are engaging in community projects.[56]

Although the US army and marines have carried out significant projects in Lamu, suspicion remains high about their motives. Some *imams* who are opposed to their presence believe that the American penetration of Lamu is a scheme to counter Islamic influence and Swahili culture in the area. These preachers often use the mosque to condemn the marine presence. Their actions reflect an interpretation of the US war on terror as a global fight against Islam. However, there are also other local Muslim leaders in the area who praise the work of the Americans signaling their acceptance. There are some Lamu residents who have come to the realization of the significance of the projects undertaken by the US forces. Since 2002, the US embassy in Nairobi has sponsored the

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[55]See *Sunday Standard*, March 7, 2004, p11.

[56]See *Sunday Standard*, March 7, 2004, p12.

popular Lamu annual cultural festival.[57] The sponsorship has kept alive and enhanced the profile of the ceremony that blends the Islamic and rich Swahili culture.

On another level, America has sought ways to counter the negative image that Kenyan Muslims have of them. This approach is based on the assumption that the tensions had to do with 'image problem' that could be resolved with good public relations. The US embassy in Nairobi assumed a leading role in this strategy. Members of the Public Affairs Section developed an internet site providing regular information on the 'war on terror.' The content on the internet site emphasizes that these measures do not target Islam but terrorist groups which manipulate Islam for their evil actions.[58]

At the same time, the United States Agency for International Development (USAID) has established contacts with Muslim charity organizations, in order to explore the possibility of co-operation to provide support for needy Muslims. The USAID had approved a new education Strategic Objective for Kenya, which focuses on providing opportunities for children in marginalized areas, including Muslim communities in the northern and coastal regions where enrolment is low. The programme would strengthen school management committees, train teachers, develop curriculum and learning materials. The organization also developed a proposal to fund Islamic religious schools (*madrasa*) in the country.[59]

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[57]The 2005 Lamu cultural event was sponsored by the US, French and German embassies in Kenya.

[58]See Seesemann, 'East African Muslims after 9/11'; and 'Anti-Americanism in Sub-Saharan Africa', in Faath (editor), *Anti-Americanism in the Islamic World.*

[59]See 'Reaching the Marginalized: Program Targets Underserved Children in East Africa', at http://www.afr_sd.org/Publications/AEI.NewSpring05rev4.pdf, 7th November 2005; *The East African*, February 23-29, 2004, p1 and p52.

However, this offer was met with resistance by some religious leaders. They perceived the offer by the US government as part of Washington's global anti-terrorism campaign to win over Muslims hearts and minds. A statement by the organizing secretary of the Council of Imams and Preachers of Kenya, *Sheikh* Khalifa Mohamed, read:

> We doubt the Americans' sincerity in supporting Islamic schools and we suspect their aim is to influence our curriculum to suit their interest.[60]

Khalifa added that Muslim organizations would reject any assistance from the US because they suspect there is an ulterior motive behind the offer. The US ambassador at the time, William Bellamy, in response denied that the US offer was linked to any anti-terrorism campaigns. He pointed out that some Muslim organizations in Kenya had sought the assistance of USAID, which led to negotiations about providing financial assistance to the *madrasas*. The ambassador stressed that Washington would only fund Islamic schools in the country if there was an expression of interest from the community.[61] The critics of this proposal allege that the US interest in the *madrasas* is based on suspicion that terrorist organizations had infiltrated the religious schools in both the Northeastern and Coast province of Kenya. Based on that assumption, they believe that the US now wants to control the *madrasas*.

With the presence of the American marines busy at work to alleviate poverty, and the Kenya anti-terrorism police on high alert, Pate, Faza and Lamu are not considered safe places for terrorists any more.

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[60] *The East African*, February 23-29, 2004, p1 and p52.

[61] *The East African*, February 23-29, 2004, p1 and p52.

7.5 The Challenges of Constitution Making and the Politics of the *Kadhi* Courts in Kenya.

After around forty years of independence, Kenya began a search for a new constitution. It was this search that culminated in the historic Constitution of Kenya Review Commission (CKRC, 1997) with its rallying call for a people driven constitution. The independence constitution was alleged to have allowed the suspension of human rights in many circumstances and also permitted a range of oppressive laws to continue. There was a feeling by the majority that the laws in the independence constitution were used by the colonial government to oppress Kenyans and, were no longer relevant in post-colonial Kenya. Together with the numerous amendments to the constitution suggested after independence, it attracted increasing calls for complete overhaul of the constitution.[62] As the clamour for constitutional reform reached a crescendo, President Moi insisted that the drafting of such an important document was a task which could be done by foreign experts.[63] However, reform advocates disagreed with him. Foreign experts could not offer solutions to local problems, they argued, and reminded the President that the process must be people driven to be valid.

This is the constitution which its advocates referred to as 'the Wanjiku constitution.' Wanjiku is a common Kikuyu female name, and like elsewhere in Africa, the female in Kenya is the most underprivileged person. The name Wanjiku was borrowed to symbolize the common person in the country. The call for a Wanjiku constitution implied a constitution where the ordinary citizens of the country were consulted about the type of government they desired. As Moi was not keen to see a

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[62]P. H. Okondo, *A Commentary on the Constitution of Kenya.* (Nairobi: Phoenix Publishers, 1995).

[63]*Daily Nation,* December 11, 2003, p5.

complete overhaul of the constitution, he ordered the Office of the Attorney General to address the contentious laws in the constitution through a published Constitution of Kenya Stature Law (Repeals and Miscellaneous Amendments) Bill. This move was supposed to rid Kenya of the various laws that had for years been criticized as outdated and repressive. These included the Vagrancy Act, Outlying Districts Act, Special District Act, Administration Police Act, Public Order Act and several others.[64] However, the Law Society of Kenya led public calls for the rejection of the Bill saying that the laws did not address the constitution.

Moi's government eventually realized that it could not stop the demand for a new constitution and by the late 1990s it had begun to engage activists and political parties in talks about how to review the constitution. Consequently, in December 1998, President Moi signed the Constitution of Kenya Review Commission (Amendment) Act making it law. The Act allowed for the establishment of a commission of twenty five officials. These commissioners were nominated by political parties, civil society and special interest groups. The head of the commission was Yash Pal Ghai, a career law professor.[65]

The Ghai commission was charged with the responsibility of collecting and collating views of Kenyans on what they would want reflected in the new constitution. This was why the commission endevoured to hear as many voices as possible to ensure that the recommendations they made were as representative of the common person as possible. When the draft Bill of the Constitution of Kenya Review Commission was published on September 27th, 2002, a group of churches highlighted a number of issues

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[64] *Daily Nation*, December 11, 2003, p5.

[65] *Daily Nation*, Saturday, June 12, 1999.

that were of concern to them. The key issues of concern were the entrenchment of *kadhi* courts, abortion and same sex marriages in the constitution.[66]

I would now want to focus on the *kadhi* courts, where the debate is centered on whether to entrench or retrench them.

7.5.1 To Entrench or Retrench the *Kadhi* Courts?

I have already observed in chapter three that after the colonialists successfully imposed their regime, they introduced a number of changes that came to have a significant impact on both the colony and the protectorate of Kenya. Among these initiatives was the enactment of the Native Court Regulation of 1897, which legally allowed the British administrators to be able to establish the *kadhi* courts. The constitutional status of the *kadhi* courts in post-independence Kenya can be traced in Article 66 (1) to (5), which provides for the establishment of these courts. Later, in 1967, the *kadhi* Courts Act allowed the establishment of eight *kadhi* courts in Kenya. According to the Act these courts could be presided by either a Chief *kadhi* or a *kadhi* appointed by the Judicial Services Commission. Much of what is proposed in the Bomas Draft Constitution is already in existence within the independence constitution.

The entrenchment of the *kadhi* courts in the Bomas Draft Constitution has emerged as one of the contentious issues in Kenya almost polarizing the nation into Christian and Muslim camps. In the proposed Bomas Draft, Muslims had requested for the expansion of the *kadhi* courts to include Muslim commercial disputes and have Muslim judges *(kadhis)* at the high court to hear appeals. Below was how the *kadhi* courts appeared in the Bomas Draft Constitution:

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[66] *The Eagle*, August , 2004, p8.

Kadhi courts:
Article 199.

(1) There are established *Kadhi*'s Courts, the Office of Chief *Kadhi*, Office of Senior *Kadhi* and the Office of *Kadhi*.
(2) There shall be a number, being not less than thirty, of other *Kadhis* as may be prescribed by the Act of Parliament.
(3) A *Kadhi* is empowered to hold a *Kadhi*'s court called a District *Kadhi*'s Court, having jurisdiction within a district or districts as may be prescribed by, or under an Act of Parliament.

Jurisdiction of *Kadhi* courts:
Article 200

(1) The Jurisdiction of a *Kadhi*'s court extends to (a) the determination of questions of Muslim Law relating to personal status, marriage, divorce, including matters arising after divorce, and inheritance and succession in proceedings in which all the parties profess Islam; (b) the determination of civil and commercial disputes between parties who are Muslims, in the manner of a small claims courts as by law established, but without prejudice to the rights of parties to go to other courts or tribunals with similar jurisdiction; (c) the settlement of disputes over or arising out of the administration of *wakf* properties.
(2) Subject to the Constitution, an appeal lies, as of right, from a judgement, decree or order of the District *Kadhis*' Court to the Provincial *Kadhis*' Court, presided over by a Senior *Kadhi,* in any matter or cause determined by the lower court.
(3) An appeal lies, as of right, from a judgement, decree or order of the Provincial *Kadhis*' Court to *Kadhis*' Court of Appeal, presided over by the Chief *Kadhi* and two Senior *Kadhis*.
(4) An appeal from the *Kadhis*' Court of Appeal lies to the Supreme Court only on a point of Islamic Law or on an issue affecting the interpretation of the Constitution or any other constitutional issue.
(5) For the purposes of hearing and determining an appeal within its jurisdiction, the Provincial *Kadhis*' Court of Appeal have all the powers, authority and jurisdiction in the court from which the appeal is brought.
(6) The Chief *Kadhi* shall, in consultation with the Chief Justice and the Law Society of Kenya, make rules of Court for the practice and procedure to be followed by the *Kadhis*' Courts.

Appointment of *Kadhis*:
Article 201

(1) *Kadhis* shall be appointed by the Judicial Service Commission.

Qualifications for Appointment of *Kadhis*:
Article 202

(1) A person is qualified to be appointed as a Chief *Kadhi* if that person-
    a) Is a Muslim of not less than thirty five years of age.
    b) Is an advocate of the High Court of Kenya of at least ten years experience as a legal practictioner and has attended, and obtained a

recognized qualification in Muslim personal law, applicable to any sect or sects of Islam, from a recognized university; and

c) Has obtained a degree in Islamic Law from a recognized university, and has not less than ten years experience in the practice of Islamic Law, or has held the office of a *Kadhi* for a similar period.

(2) The qualification for appointment as a *Kadhi* or Senior *Kadhi* is the same as the qualification as for the appointment of the Chief *Kadhi* except that the requisite number of years of experience shall be five years.

According to the above sections of the Bomas Draft Consitution, Muslims had recommended that the existing *kadhi* courts be reformed and made efficient. Some of the recommendations that were incorporated into the Bomas Draft Constitution were that the *kadhis* should be trained in both Islamic law and common law. In addition to their Islamic credentials the *kadhis* were required to be experienced advocates with a common law degree. Also recommended was the provision for a *kadhi* Court of Appeal to address appeals from the lower *kadhi* courts. The draft pointed that only after these appeals have passed through the *kadhi's* Court of Appeal would cases from the lower *kadhi* courts be heard in the national High Court of Appeal. And lastly, the Bomas Draft Constitution recommended that the jurisdication of the *kadhi* courts be expanded to hear minor commercial disputes.

When these recommendations were published in the draft Bill of CKRC, they raised concern among Christians particularly those drawn from the Anglican and Pentecostal churches. Their opposition in the plenary was uncompromising. The controversy instigated an intense debate between Muslims and Christians, and by extension over religion and state. Following the unresolved discussion in the plenary, the chairman of CKRC, Yash Pal Ghai, called a meeting of Christian, Muslim and Hindu leaders to find ways of resolving the impasse. The meeting agreed to appoint a committee charged with the responsibility of solving the issue amicably. After several meetings the

committee accepted a number of amendments, which Muslim representatives refused to endorse. While Muslims insisted on having the *kadhi* courts entrenched in the constitution, the church led opposition wanted the entire institution of *kadhi* courts removed from the constitution.[67]

Leading this opposition is a group of church clergies who identify themselves under the banner of 'The Federation of Churches in Kenya'or 'The Kenya Churches.' The demand by the Christian clergy for the abolition of the Muslim courts was based on the following provisions in the Bomas Draft Bill:

> Article 9 State and Religion
> (1).State and religion shall be separate.
> (2).There shall be no state religion.
> (3).The state shall treat all religions equally.

According to the opponents of the *kadhi* courts, the Bomas Draft Constitution has provided that Islamic personal laws would be a source of laws in Kenya despite the above provisions. To them, the Islamic laws are religious laws and contradict the three provisions stated above. They further argued that the Bomas Draft Constitution has created a parallel judicial system for Muslims, which was tantamount to favouring one religion and contravening the principle that the State should treat all religions equally. This line of argument was to reappear many times during the debate and became the basis of reference for the opponents of the *kadhi* courts.

In this regard, the group of clergies requested all provisions on *kadhi* courts be removed and replaced by a provision establishing subordinate courts with limited jurisdiction on issues of personal laws relating to marriage, divorce and inheritance, between parties of the same religious faith or persuasion and who submit to that

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[67] *Daily Nation*, Monday, September 15, 2003, p15.

jurisdiction.[68] The proposed provision by the opposing churches would allow Parliament to establish subordinate courts for any religious community, including Muslims, to deal with their personal laws if so desired. This approach in their view would ensure equal treatment of all religions. After a wide debate at the constitution review conference, three issues that are related to the *kadhi* courts were removed. These were: (i) The provision of Islamic laws being a source of laws in Kenya, (ii) the creation of a parallel judicial system for Muslims, and (iii) determination of civil and commercial disputes.

This implied that the provision entrenching the *kadhi* courts in the Bomas Draft Constitution was retained to the dissatisfaction of the opposing churches. And as a result in July 2004, a group of Kenyan churches sought legal redress over the entrenchment of *kadhi* courts in the Bomas Draft Constitution. The Federation of Churches of Kenya decided to take the issue to the High court. According to the papers filed before the court, the church clerics are uncomfortable with the presence of the *kadhi* courts in both the independence and Bomas Draft Constitution.[69]

They contend that the entrenchment of the *kadhi* courts in the Bomas Draft Constitution was a step towards the introduction of *shariah* laws in Kenya, which was unacceptable. They also pointed out that any financial maintenance of *kadhi* courts from the public coffers was unjust and amounts to development of one religion. To them, this implied that Islam was in effect being declared a State religion, contradicting one of the three above mentioned provisions that there shall be no State religion. Therefore, they wanted section 66 of the independence constitution, which introduces and entrenches

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[68] *Daily Nation*, Monday, September 15, 2003, p15, *The Eagle, August*, 2004, p8.

[69] *East African Standard*, Thursday, July15, 2004, p11.

kadhi courts to be declared unconstitutional and expunge the same from the Bomas Draft Constitution.[70] Until now the court has not yet made its ruling.

Apart from the objection of the *kadhi's* courts, the Federation of Churches of Kenya had other objections to the Bomas Draft proposals. This led to the federation drafting a proposal that reflected its vision of relationship between religion and state. The federation insisted that the first clause of the constitution should mention God indicating that it recognizes the supremacy and sovereignty of the Almighty God of all creation. A similar demand of the recognition of God was made in another clause, which originally read:

> Kenya is founded on the Constitution and the rule of law and shall be governed in accordance with the Constitution.[71]

The federation suggested:

> Kenya is founded on the supremacy of God, and shall be governed in accordance with the constitution and rule of law.[72]

These recommendations by the federation could be interpreted that the churches are not supporting the establishment of a secular state in Kenya. Their suggestions shows that they were willing to allow an aspect of religion pervade the Kenya's constitution. The action of these Kenya churches could be summarized in the words of Abdulkader Tayob that the Kenya Churches had accepted the place of religion in the broader symbolism of the state, but the symbolism of a specific religion like Islam was unacceptable.[73] It is

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[70] *East African Standard*, Thursday, July15, 2004, p11.

[71] See the Bomas Draft Constitution

[72] As quoted by Abdulkader Tayob, 'The Demand for Shariah in African Democratisation Processes: Pitfalls or Opportunities?', in Franz Kogelmann et al (editors), *Comparative Perspectives on Shariah in Nigeria*. (Ibadan: Spectrum Book Limited, 2005), 41.

[73] Tayob, The Demand for Shariah in African Democratisation Processes: Pitfalls or Opportunities?', in Franz Kogelmann et al (editors), *Comparative Perspectives on Shariah in Nigeria*, p41.

clear that these churches are not keen to recognize the Islamic religious symbols in relation to the state.

On their part Muslims accepted the idea of retaining the courts in their present status quo. As the *kadhi* courts play an important role in the preservation of Muslim identity, they insisted that the courts required to be entrenched in the Bomas Draft Constitution, maintaining that this was not a new demand, but an issue that had been recognized many years ago. Within the pro-*kadhi* courts camp, apart from Muslims there were also several non-Muslim sympathizers who supported their cause. Among them was Wycliffe Muga, who observed in a press commentary that the clergy had no right stopping Muslims realize their freedom of worship. He commented:

> ....Those who support [the] arguments that *Kadhis'* courts should be dealt with by routine parliamentary legislation fail to take into consideration two important points. The first is that-precisely because any such minorities will have limited powers to influence legislation-minority rights protection must necessarily be entrenched in that constitution....[Besides] the *Kadhi* courts represent a fundamental religious freedom. It is one of the pillars of liberal democracy that minority rights....be studiously protected through constitutional provisions. Viewed from the perspective of democratic values and principles, any attempt to remove the *Kadhis'* courts constitutional protection necessarily proposes gross injustice....The logical conclusion then is that any minority rights not protected by the constitution are likely to be trampled underfoot sooner or later on one pretext or another. The *Kadhi*'s courts, while benefiting Muslims only, do not in any way harm or inconvenience Christians, Hindus, or adherents of any other religions. Nobody who seeks to deny the *Kadhis'* courts any constitutional protection can claim to be acting in good faith or democratic principles.[74]

Similar support and concern was shown by Father Gabriel Dolan, of Catholic Justice and Peace Commission, Kitale. His appeal to fellow Christian leaders was:

> *Kadhi*'s Courts, according to the final document, are not a threat to other faiths. Nor do they give preferential treatment to the Islamic Faith. Rather,

[74]As quoted by Mohamed Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003.' A paper presented at the International Conference, at St. Anthony's college, Oxford, June 2004, pp 18-19.

> the aim is to protect the rights of a minority....and also confine their jurisdiction to matters of Personal Law. We should admit that Kenyan law is based on British law, which in turn was critically influenced by Canon Law and Christian values. The Islamic Faith comes from a different tradition, with its own values in matters of family, property and inheritance. By supporting the right of *Kadhi*'s Courts to be protected by the Constitution we are just acknowledging that there are different traditions in our young nation and that minorities need protection in the constitution.[75]

On his part the chairman of the Constitution of Kenya Review Commission, Yash Pal Ghai, thought it would have been an act of good gesture by the Christian majority accepting the entrenchment of the *kadhi* courts in the constitution. In presenting this argument he had the following to say:

> The recognition of the well established *Kadhi* courts in the constitution-as they have been recognized since 1963-would have been an act of good will on the part of Christian majority. To remove them can only appear to Muslims as act of vindictiveness, which is regrettable to see the Church indulging in.[76]

The above views expressed by the chairman of CKRC, a newspaper writer and a church leader implied that the act of entrenching the *kadhi* courts in the Bomas Draft Constitution was a way of safeguarding the rights of minorities. There is an argument that democracy requires the majority to protect the minority and not to bully them. In the context of constitution making, the constitution is usually made for both the majority and minority. It is important the voices of all are heard so that they can all own the constitution which will bind them together. Since Muslim constitutes a minority group, the CKRC felt it was significant to entrench their rights in the constitution than to leave them under the mercy of Parliament.

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[75]See *East African Standard*, Tuesday, October 5, 2004.

[76]*Daily Nation*, Monday, January 19, 2004, p11.

Most Muslims perceive opposition to the *kadhi* courts as being externally inspired. They suspect that it forms part of the Western agenda to fight proxy wars with Muslims all over the world since September 11. The US government and the American evangelical churches are mentioned specifically as the main culprits. It has been alleged that the American evangelical churches exerted undue influence on the Kenyan Pentecostal Church to oppose the rights that Muslims have enjoyed for over centuries.[77]

7.6 Conclusion

In this chapter I have shown that there are certain legal contestations that had provoked religio-political tensions in Kenya. These are the Equality Bill, Suppression of Terrorism Bill and *kadhi* courts as proposed in the Bomas Draft Constitution. All of them are held as matters of significant value by Kenyan Muslims as they determine their development in the country. The main ground for the rejection of the Equality Bill was that the Bill amounted to gross abuse of the fundamental rights of Muslims in Kenya to be guided by the Islamic legal code on matters of personal law.[78] On the Suppression of Terrorism Bill, though it is connected to global event of September 11, the Kenyan debate is focused on the local implications of the new legislation. Many Muslims view

[77]Mohamed Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003'; See *East African Standard*, April 8, 2004, p16, for similar sentiments of US influence, which were echoed by Rev Timothy Njoya during a National Convention Executive Council conference in Mombasa (NCEC). Others who also view American interference in the *kadhi* saga are Sheikh Mohamed Dor, Secretary, Council of Imams and Preacher of Kenya, interviewed on 26th January 2005, Momabasa; Munir Mazrui, interviewed on 26th January 2005, Mombasa. However, Mazrui added that some senior American officials have argued that it is not the policy of the US government to indulge itself on the *kadhi* issue, but it is possible that there could be some American churches involved in the whole saga.

[78]Abdulrahman M. Wandati, 'The Equality Bill 2000: What Does it Portend to the Muslim Community in Kenya?' A paper presented at the FIDA Consultative Workshop, Nairobi, Kenya, September 29, 2000.

the Bill to be targeting them more than any other religious and political groups in the country.

The row over the *kadhi* courts revolves around the question of whether the courts should be entrenched in the Bomas Draft Constitution or not. Opponents of the *kadhi* courts, chiefly the Federation of Kenya Churches, claim to have embraced the ideal of secular state against the adoption of religious laws. The reality is that the role of religion in the development of a public philosophy tends to make some concession to the meaning of religion in political and public life in Kenya. On the other hand, the supporters of the *kadhi* courts, most of whom are Muslims, are oblivious of the implications of religious laws in the national context characterized by pluralism and freedom of expression.

Concerning the Equality Bill the outcome was in favour of Muslims. This could be attributed to the fact that President Moi and some Christian churches were also against the Bill at that time.[79] On the Suppression of Terrorism Bill and the *kadhi* courts issue, it is difficult to predict a definite outcome. It remains to be seen whether Muslims would continue mounting pressure on the government and whether the latter would grant their demands, thereby averting tension and conflict. Addressing the question of anti-Americanism, the US government embarked on an image lifting strategy. It is unlikely that the causes of anti-Americanism can be addressed by launching an image campaign given that the activities of the Federal Bureau of Investigations (FBI) and Central Intelligence Agency (CIA) continue to stir mistrust among Kenyan Muslims.[80]

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[79]See 'Women's Equality Bill Causes Controversy in Kenya', at http://www.afrol.com/News2001/ken001_equality_bill.htm, on 7th November, 2005. During the era of President Moi, when he opposed an issue then it was expected that the government will follow suit and withdraw its support on the issue.

[80]The US secret agent operations harassed not only those people alleged of planning terrorist activities, but also the family members of these suspects. See Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003,' p21.

Chapter Eight

Conclusion

8.1 Summary.

According to Islamic political theory as illustrated in chapter two there are divergent views on the relation between religion and politics. We have observed that there are those who hold the view that religion and politics are integral, while others believe that the two are separable. The view that there is no distinction between religion and politics in Islam is common among Muslims. The ultimate goal of those who hold this view is to establish an Islamic state governed by the *shariah.* This aspect of Islamic political theory is not acceptable in the Kenyan situation. The constitution of Kenya is based on the principle of a nation constituted by all citizens, irrespective of religious or other identities. As a multi-religious state, the Kenyan constitution does not give preference to any religion.

The independence constitution has instituted a political system that is supposedly democratic, deriving its legitimacy from the consent of the people. This constitution provide for religious and political rights, and special protection of minority cultural interests, especially those of Muslims. In this new polity, Kenyan Muslims cannot impose a system based on Islamic law. However, the opportunities provided by the state guarantees religious and cultural rights, which have ensured for the Muslim community substantial autonomy in spheres they consider important for preserving their identity. Muslims' autonomy in Kenya's polity is closely bound up with the preservation of Muslim personal law. During the colonial period and later after independence, Muslims were allowed to apply their personal law in accordance with the *shariah*. This was made possible through the entrenchment of the pre-colonial and colonial *kadhi* courts in the

independence constitution. This issue of the *kadhi* courts has been discussed in chapters three and seven.

This study advances two major hypotheses, which relate to recurrent themes of Muslim politics in Kenya. The first hypothesis addresses the perceived marginalization of the Muslim community in Kenya. Being a minority religious group vis-à-vis Christians, with the highest concentration in the coastal and northeastern regions, it can hardly be expected that Muslims constitute a dominating force in Kenyan politics. However, they have less political influence than their proportion would suggest. The perceived marginal role of Muslims in the political process goes back to the colonial period. In spite of the integration of some Muslims into the British administration of indirect rule, Muslims did not manage to capitalize on their privileged position, particularly in the coastal region. Muslims failed to seize the educational opportunities offered by the colonial regime, which in some cases they deliberately ignored. This has placed them in a disadvantageous position, heightening the perception of marginalization and discrimination.

In post-colonial Kenya, Muslims claimed to be politically excluded leading to them demanding justice and equal treatment. Although the predicament of Muslims could be traced to the colonial period, post-colonial Kenyan regimes have been accused of relegating Muslims from the centre of political power. We have seen how an insignificant number of Muslims had been appointed to position of power. Some Muslims began to perceive religion as an important factor in the arena of politics, particularly when they observed how the government indirectly used religion in dealing with Muslims. This influenced Muslims to employ Islam as way of dealing with the political realities, thereby sometimes intensifying their religious identity. It is as a result of these political developments that some Kenyan Muslims formed the Islamic Party of Kenya (IPK) with

the hope that the party will be better placed in advocating Muslims' welfare, which they believe to have been taken for granted by different Kenyan regimes.

In the second hypothesis the study has identified racial and ethnic cleavages within the Muslim community as another reason for their predicament. The roots of this problem could be traced to the colonial period, particularly to the British policy of treating the Muslim groups differently, with a preference for Arabs over Africans. In chapter four the thesis illustrates how Muslim schism, based on different racial identities, contributed to the failure of the *mwambao* movement, which was formed in the 1950s with the goal of avoiding the incorporation of the Ten miles coastal strip into the Kenyan state. Similarly, the attempt of the Muslim Somalis in the North Frontier District (NFD) to join Somalia rather than the new Kenya was ultimately not successful. This racialized and ethnicized Muslim politics has been the community's main obstacle in presenting a united front. The absence of unity has influenced the way the upcountry non-Muslim politicians have perceived the Muslim community in general. Different political regimes have allegedly exploited this ethnic and racial dialectic of Muslims for political expediency. This has resulted in Muslims claiming to be politically marginalized. It is this perceived marginalization which Muslims are presently striving to overcome.

On the issue of secession this study has shown that as Kenya was about to gain its independence, certain Muslims' political endeavour was directed towards achieving complete secession, or communal autonomy in a plural society. Arab Muslims of the coast and the Somalis of the NFD did not countenance the idea of being under a Christian dominated administration. The coastal Arab Muslims felt that their cultural and religious welfare would be guaranteed by joining either Zanzibar, or granted self autonomy, while

the Somalis from the NFD aspired to join the Republic of Somalia which they believed would be sensitive to their Islamic faith, needs, and culture.

In both regions the aspiration to autonomy was strong where intentions to unite an otherwise heterogeneous population, divided by language, class, religion and sects was witnessed. This demand for secession led to an ambivalent relation between the pro-secessionists and the nationalist leaders in the country. It took several negotiations before the pro-secessionist Muslims agreed to be part of Kenya. Though the Arab and Somali Muslims in Kenya have reconciled themselves to the loss of being governed from Zanzibar and Somalia respectively, they have not abandoned the *majimbo* ideal. What could be deduced from this secession politics is that sections of Muslims isolated themselves from Kenyan politics for a while. As the rest of Kenya was struggling to attain independence from the British, the politics of certain Muslims was preoccupied with the idea of secession. These sections of the Muslim population remained committed to the idea of secession as the post-colonial political model, rather than seeking their place in the emerging multi-ethnic and multi-religious independent Kenyan state. It is due to the fact that they had a different political agenda in the colonial period, these sectors of the Muslim population feel marginalized in post-colonial Kenya.

The thesis demonstrates, in chapter five, how the perceived marginalization theme and the intra-Muslim divisions continued to shape Muslim politics in post-colonial Kenya. The creation of the Supreme Council of Kenyan Muslims (SUPKEM) did not provide a significant change in the relationship between Muslims and the state, as SUPKEM tended to side with the government authorities whenever Muslim interests conflicted with those of the state. So far the most serious attempts to unite the Muslims of Kenya politically were witnessed after the introduction of multipartism in early 1990s.

However, the refusal of the Moi government to grant the party official recognition was an example of the exclusionist strategy of his administration vis-à-vis the Muslim minority. Moreover, the racial differences of the Muslims weakened their efforts to present a united party. The Moi regime allegedly exploited these differences through its clandestine support of the United Muslims of Africa (UMA) as the authentic voice of the 'African' Muslims, as opposed to the 'Arab' element that purportedly dominated the IPK.

This development has been discussed in chapter six. The UMA emphasized the racial identity among Muslims in its attempt to weaken the IPK. It is this division among Muslims that Moi allegedly utilized to weaken them politically. He capitalized on the schism and manipulated Muslim leaders to ensure that his political survival was guaranteed. Moi would seek to scatter any attempt at Muslim unity that threatened his political career. This is why the formation of the UMA as a rival movement to the IPK was believed to have had the backing of President Moi. Due to lack of unity among Muslims, Moi could insult Islam as a religion of slavery and still continue to have support amongst them. This situation would not have arisen if Muslims in Kenya had been united. Although the Muslim leadership presented itself as the custodian of Muslim interests and dedicated to rendering services to the entire community, ethnic and racial identities have weakened this aspiration. It is not difficult to observe that most Muslim leaders in Kenya have more ethnic and racial interests at heart than religious concerns.

One may wonder if the issue of cleavages is a factor among Kenyan Muslims. On the surface Muslims appear as one united group, but beneath it is a community which likes others, experiences conflicts, division and suspicion amongst themselves. For various reasons Kenyan Muslims are a community that is divided, having allowed narrow sectarian-mindedness to come between them. Beginning from the colonial era and

continuing to the post-colonial period, it is possible to find Muslims split along lines of Black Muslims versus Arab (non-African) Muslims; *Sunni* versus *Shii*; and even coastal Muslims versus Somali Muslims. Such divisions make Muslims politics not to be monolithic in Kenya.

On the discussion of the IPK, this study has illustrated that the party was not out to establish an Islamic political system, nor do the characteristics of Islamist movements match those of the IPK. Rather, the IPK leadership explicitly recognized the state, its constitution, and the democratic system as established in the early 1990s. The main intention of the IPK was to be involved in Kenya's politics through the normal democratic process. For this reason it is appropriate to describe the party as a political lobby for the interests of Muslims, rather than a means for Islamist political objectives. Under the leadership of the IPK, Muslims had not attempted to enter the political arena as propagators of Islamic political ideas. Their role in Kenya's ethnicized politics resembles that of a tribe laying claim to its own share of the national resource.

The case studies of selected legislation opposed by Muslims in chapter seven supports such a reading of Muslim politics in Kenya. Whenever Muslims feel that their interests as a group are under threat, as in the case of the Equality Bill, the Suppression of Terrorism Bill, or the issue of the *kadhi* courts, they display a high degree of unity. Repressive measures by the state, such as the failure to recognize the IPK or the restrictive policy of issuing passports to section of Muslims, increase the sense of marginalization among Muslims and have the same effect of enhancing Muslim unity. However, when it comes to pursuing objectives that are not related to their perceived marginalization, Muslims tend to abandon their 'tribal' (read – Islam) identity and appear divided along racial and ethnic lines. This shows there is a dialectics at play, with certain

factors creating unity, while others create division. The latter factors are prone to exploitation by the government in order to prevent the emergence of a united Muslim political voice. Nevertheless, when Muslims are convinced that the government is deliberately oppressing Muslims, they become militant. The 1992 violence of the IPK demonstrated the revolutionary potential of Muslims in the face of oppression. The contours of this dialectics have been outlined in chapter six and seven.

The Muslims' rejection of the Equality Bill and the Suppression of Terrorism Bill and insistence on the entrenchment of the *kadhi* courts as proposed in the Bomas Draft Constitution are indications of religio-political tensions in the country. The reason for the rejection of the Equality Bill was that Muslims feared that the Bill would deny them the right to observe their personal matters in accordance with the Islamic legal code. On the Anti-Terrorism Bill many Muslims viewed it as targeting the community and that is why they withdrew their support for the Bill. This response from the Muslims has placed the Kenyan government in a dilemma: how does it confront international terrorism without being seen to antagonize its Muslim population? The debate over the *kadhi* courts is centered on the question of whether to entrench or retrench these courts as specified in the Bomas Draft Constitution. From 2003 there have been attempts by certain churches in Kenya to remove the privilege enjoyed by Muslims in the constitution, pitting the debate on the issue of the *kadh*i courts between Muslims and Christians

The debate on the *kadhi* court illustrates the contradiction between the Kenya Churches' demand for a separation of religion and state, and its demand for a religious justification for the state. The emergence of the unregistered IPK and insistence on recognizing *kadhi* courts reveals Muslim efforts to shape the nature of Islam-state relations. In Kenya, Muslims are concerned about the close relationship between

churches and state officials, which reached its peak during the Presidency of Daniel arap Moi. Muslims are now eager to have their religious symbols recognized within the Kenyan state. This demand has culminated in competition between Muslims and Christians for official recognition of their respective religious symbols. Muslims hope that such symbolic representation could be attained through having a party of their own (i.e. IPK) and by entrenching the *kadhi* courts in the constitution.

To sum up, it is important to appreciate that Kenyan Muslims have been a large and an active constituent of Kenyan politics for a very long time. From the study, it is clear that Muslim politics in Kenya was not a monolithic phenomenon. There have been variant Muslim political voices influenced primarily by ethnic, racial and religious considerations. The racial and ethnic antagonism among Muslims contributed to the emergence of different Muslim political parties and associations. This divergence is not only reflected in the characteristics of the various Muslim political groupings or associations, but also in ideological differences between and within the different political movements. Despite significant differences among them, these political movements shared certain underlying views and objectives, as well as certain causes for their emergence. The greatest unifying factor was the demand for justice and political autonomy.

It is also shown in this study that Muslims have long participated in the country's political process, in both its democratic and non-democratic aspects, and are accorded recognition within the Kenyan system. They have in distinct capacities represented various political parties during parliamentary elections conducted in the country since its emergence as a sovereign state in 1963. The political engagement of Kenyan Muslims has also undergone much transformation since the rekindling of democratic process in the

1990s. With the transition to competitive politics in the 1990s, the role of Islam in politics has become more visible.

8.2 Contribution.

This study has grappled with the question of religion and politics. This discourse is confused with what is commonly referred to as Church-State relationship. The problem of Church and State has to do with institutions. Since these institutions are independent of each other, the separation of the two is possible. The question of religion and politics defines another set of issues. Religion and politics have to do with two spheres of activities in the life of the same persons. Citizens who belong to religious groups are also members of political parties, thereby this dual association generates complications. This explains why even if the Church and State are separate in Kenya, personal involvement of politician in religion is evident. There is a strong religious commitment among its political leadership in the country as illustrated by Moi. More graphically illustrated are the references to God embedded in the national fabric as it is the case with the national anthem. It needs to be appreciated that religious beliefs have moral implications, and this is why the political engagement of some Muslims in Kenya is influenced by their religious background. This is illustrated by the Islamic symbols that have become a prominent feature of Kenyan Muslim politics. However, these appeals to specific religions in the political arena should be based on public reason. Principles open to everyone and not on the religious tenets of a specific religion should be encouraged.

A second issue examined in this thesis is how a religious minority has challenged the uniformity of a nation-state. This thesis explored structural power relations between the Kenyan state and a segment of its Muslim population. Before Kenya attained

independence, there was effort by the British colonialist to bring together the different sections of its population to form a new political state. This process challenged the Arab and Somali Muslims traditional political system. Their political system with Islamic ethos was subsumed with the new notion of nationalism and state building, creating conflict between sections of the Muslim population and the emerging new state. The state crafted by the colonialists replaced the Islamic ethos that characterised the political systems of some Muslim groups in Kenya.

Upon gaining independence the power structure shifted in favour of upcountry-Christian hegemony. This political dominance led to varying Muslim response such as the demand to secession, contestation of the Succession Act (1972) and the demand by Muslims to be treated equally as Kenyan citizens. All these developments illustrate how Islamic discourses are employed to challenge the new political structures in Kenya. This was more pronounced when the IPK was founded with the aim of rallying Muslim support behind a single political party, which was formulated with Islamic symbols. Despite IKP posing a challenge to the Kenyan state, the party also challenged the Muslim community. New identities driven by racial and party loyalty appeared within the Muslims political scene. This was witnessed when the IPK political appeal was limited to Mombasa, while elsewhere in the country Muslim voters supported other parties that were non-religious in orientation. It is concluded in this work that racial manipulation is among the obstacles for a united Muslim political voice in Kenya.

To sum up, the main contribution of this research lies in its analysis of Muslim politics in Kenya from a wide historical perspective. The study paid much attention to the national and local influences on the politicization of Islam in Kenya. More significantly, it has been able to record the recent political discourses involving Muslims in the country.

The information documented in this work will hopefully serve as a background for further research on the current developments in the Kenyan political arena.

8.3 Recommendations.

The study shows that a major contributory factor to the politicization of Islam in Kenya has been the failure of the government to recognize the political and cultural role of Muslims in the country. This created a sense of marginalization among Muslims, which contributed to the emergence of politicized Islam. Kenyan government's refusal to register the IPK, the introduction of a number of bills which Muslims believe to be a direct affront to their faith, and the controversies regarding the *kadhi* courts have served to reinforce this uncertainty. All these areas of concern for Muslims demand a change of attitude by government.

In a democratic environment individuals and religious groups should enjoy constitutional guarantees with regard to their relation with the state. This should include the right of the various sections of the population not only to worship as they wish, but also to promote their values in civil society by creating organizations within the country. According to democratic principles it is wrong to prohibit any societal group, including religious groups, from forming a political party. It is only permissible to impose restrictions on political parties once their activities are observed to be inimical to democracy.

I have also shown in this study that international terrorism attributed to Al-Qaedah poses a political challenge to Kenya. Kenya has witnessed terrorist attacks in 1980 (in Nairobi), 1998 (in Nairobi) and 2002 (in Mombasa). The recurrence of these attacks raises concern and calls for stiff measures against terrorism. Analysts have not been able

to confirm the role played by the local Muslims in these terrorist activities. The debate ranges from placing the blame on foreigners to exonerating the local Muslims of any wrong doing. Within a terrorism network, there exist different levels of duties that could be assigned to members of a terrorist cell. In Kenya, reports from the CIA and FBI indicate that the major planners and executers of these terror onslaughts were foreigners. This does not imply exonerating the local Muslims of any involvement in terrorism action. The major role played by the local Muslims could be confined to providing assistance to the terrorists in the form of sanctuary, renting houses to them, purchasing cars for them etc.[1] The Kenyan government needs to be vigilant and take drastic actions against terrorists because if left unchecked they will wreak havoc on the already vulnerable religious relations.

Also important to observe is that Kenyan Muslims are more concerned about national and local issues than what is happening at the international level. This does not imply that they are totally disinterested in global events. To the contrary, Kenyan Muslims keenly follow the Israel-Palestine conflict and other events in the Muslim world. They exhibit concern for and solidarity with their fellow Muslims elsewhere in the world fighting against oppression. Nevertheless, local and national issues are more pressing than what is happening outside the Kenya's boundaries. For instance, though the US and Israel's Middle East policy has raised concern among Muslims, that did not fuel tensions on the same level as during the IPK ban in the early 1990s. This suggests that Kenyan Muslims are more focused on local affairs and are prepared to fight when they feel that they are being oppressed and denied their rights as Kenyans.

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[1] In 4th April 17, 2006, Omar Said Omar who had been acquitted of murder in the Kikambala terror case was sentenced to eight years for hiding weapons in his house. It is reported that Omar was found with five anti-tank weapons, hand grenade, a manual with graphics on various explosive and Arabic illustrations on how to explode a hand grenade using an electric circuit and TNT material. See *Daily Nation*, Wednesady, April 5, 2006, p5.

8.4 Areas for Further Research.

Due to limitation on information gathering and analysis in Kenya, there are events and statements that I may have overlooked. The task of refining and improving this understanding will necessarily lie with other researchers. It is my hope that researchers with interest on Islam and politics in Kenya will be able to expand and amend the analysis presented. The degree to which Kenyan Muslims' political culture is shaped by Islamic values has remained unstudied. Islamic tenets emphasize a communal solidarity and their consequences for politics need to be investigated within the Kenyan context.

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Appendix A

List of Key Informants

1. Khalifa Mohammed, Chairman of the unregistered IPK, Mombasa, 27/07/04
2. Ahmad Awadh Yafie, MUHURI, Mombasa, 02/08/04
3. Sheikh Juma Ngao, Chairman, SUPKEM, Mombasa Branch, 10/08/04
4. Munir Mohammed Mazrui, SUPKEM Vice Chairman, National office in-charge of Coast province, Nairobi, 1/09/04
5. Kassim B. Mwamzandi, Former Member of Parliament, Msambweni, from 1963-1997, Msambweni, 15/09/04
6. Khalid Balala, Political activist, Mombasa, 16/09/04
7. Abdurahman, Jamia Mosque, Nairobi, 29/09/04
8. Khelef Khalifa, Commissioner Kenya National Commission of Human Rights, Nairobi, 29/09/04
9. Abdulghafur H.S.El-Busaidy, Chairman, Supkem, 30/09/04
10. Asha Ali, Teacher, Serani High School, Mombasa, 3/10/04
11. Juma H. Bora, Deputy Head teacher, Serani High School, Mombasa, 4/10/04
12. Abdulrazak M. Bunu, Teacher, Serani High School, Mombasa, 06/10/04
13. Sheikh Mohamed Dor, Secretary, Council of Imams and Preachers of Kenya, Mombasa, 26/01/05.
14. Sheikh Omar Salimin, Junda mosque, Mombasa, 22/02/05
15. Sheikh Ali Shee, Junda Mosque, Mombasa, 24/02/05
16. Mohamed Hyder, Muslim Civic Education Trust, Kenya, Mombasa 12/03/05
17. Mbarak Abdulkadir, Education officer, Fort Jesus, Mombasa, 14/07/05
18. Saady Rashid, Education officer, Fort Jesus, Mombasa, 14/07/05
19. Masad Omar M, Programme Officer, Muslim Civic Education Trust, Mombasa, 3/08/05
20. Fatma Muslim, School for International Training, Mombasa, 16/09/05
21. Hussein Khalid, Programmes Coordinator, Muslim for Human Rights, Mombasa, 20/09/05

Appendix B

Selected Questions

1. What do you think is the attitude of the Kenya government towards the Muslim community and Islam in general?

2. Since independence do you think the state has shown enough concern for the general welfare of Muslims?

3. Do you agree that the Muslim community has been marginalized and discriminated against?

4. How would you describe Muslim appointments by the various post-colonial regimes

5. Which areas of service delivery have Muslims suffered most discrimination?

6. Why was the SUPKEM formed? – 1.e. its activities and purposes

7. Has SUPKEM done enough in terms of developing the political consciousness of Muslims?

8. What was the role of politicians in the creation of SUPKEM?

9. Why was the Imam of the Council of Preachers in Kenya formed? – i.e. its purposes and activities

10. How would you describe the Muslims' participation in the politics of the country?

11. What was the relation between the Muslim leaders and the nationalist leaders during the liberation struggle in Kenya?

12. Why was IPK and UMA parties formed?

13. What do you think are the causes for the emergence of Islamic-based opposition in Kenya?

14. Why did the founders of IPK insist on retaining the word 'Islamic' as part of its name?

15. Why do you think the IPK lacked support in the Muslim dominated coastal and Northeastern regions in the multiparty elections of 1992 and 1997?

16. Why are Kenyan Muslims not united politically?

17. What role has the Islamic factor play in the politics of Muslims?

18. How do Muslims express the rejection of certain legislations introduced by the government?

19. What is your understanding of the Equality Bill (2000)?

20. Do you think the status of Muslim women in Kenya would have been changed by this legislation (Equality Bill)?

21. Could you give the reasons why Muslims strongly opposed the Bill?

22. Is equality between sexes recognized in Islam?

23. Why are Muslims not comfortable with the anti-terrorism Bill?

24. Why do you think the *kadhi* courts are so important to Muslims?

Appendix C

A BRIEF ON THE SUPREME COUNCIL OF KENYA MUSLIMS (SUPKEM)

WHAT IS SUPREME COUNCIL OF KENYA MUSLIMS (SUPKEM)

Supreme Council of Kenya Muslims is the umbrella body of all the Muslim organizations, Societies, Mosque committees and groups in Kenya. The members of the Council are these organizations, societies, committees and groups affiliated to it and not individual Muslims. The population of Kenya is thirty one million (31,000,000) people. The Muslims constitute over 7 Million of the population.

WHY WAS SUPKEM FORMED?

Muslims in Kenya as in any part of the world, have different local problems and needs, and, to solve those problems, groups, committees, societies and organizations arc formed. Each of these organizations aims at improving the life of its members; and by life means the short life on the surface of the earth and the eternal life hereafter. These organizations may be approaching the same issues and problems in uncoordinated manner and may be duplicating them. Efforts to bring about the coordination of these activities and common approach to issues and problems led to the idea of the formation of the Supreme Council of Kenya Muslims.

The idea by the grace of Allah, was strengthened by the visit of Almarhum Sheikh Muhammad Mahmoud Asswawaaf who was sent from Saudi Arabia by the late King Faisal Bin Abdulaziz Al-Saud (Rahmatullah aleihi) who helped to form such Supreme Councils in quite a number of African countries.

The Supreme Council of Kenya Muslims (SUPKEM) was formed in May 1973, following the holding of a general conference at Qur'an house, Mfangano Street, Nairobi, Kenya

VISION

The Council was formed with a clear vision of a united and therefore, strong Muslim community in the country. A community whose contributions in national development would be approached and recognized through unity of purpose. A community with clear,

strong and established links with the Kenya government and with other local and international Development partners.

MISSION STATEMENT

1. To provide a single channel of communication with the outside world and with the Government of Kenya on any matter touching on the FAITH, INTEGRITY and the GENERAL WELFARE of Muslims.

2. To refrain from being partisan, that is taking sides in political wrangles BUT to stand firm on socio-economic and political issues which have direct or indirect effect on Islam as a faith and on the welfare of the Muslim Community in Kenya.

SPECIFIC OBJECTIVE

• To act as the coordinator, advisor and spokesman for all Muslim organizations in Kenya so as to provide a UNIFIED STAND on issues of common concern.

General Objectives

+To promote the growth of united efforts by its member organizations in all matters beneficial to the progress of Islam and the Muslim community
+ To facilitate cooperation and collaboration between member organizations in their programmes of activities
+ To serve as agents for conciliation in the event of disputes or misunderstandings arising between any of the organizations, whenever called upon,
+ To promote, set up and establish institutions for Islamic and secular studies to the Muslim youth.

HOW IS SUPKEM RUN?

The Council's activities are managed from its secretariat in Nairobi with staff who implement the decisions of the elected members of the National Executive Committee. The Executive Committee in its mandate nominates non elective professionals to run directorates created from time to time to outsource skills not readily available in the Executive Committee.

All the members of the Executive Committee volunteer their time and therefore are not paid for their services. The paid up secretariat is very small (four persons only) due to financial constraints and this is the biggest drawback. Most of the work is done by members of the Executive Committee on voluntary basis during their spare time.

WHAT HAS SUPKEM ACHIEVED?

1. Through collaboration and cooperation with its member organizations, and with the assistance from international donors, especially the Islamic Development Bank (1DB), the Council has initiated development projects on behalf of the community.

Among those projects and programmes are:
+ Kenya Muslim Academy located at Huruma Nairobi which is providing the much needed Islamic environment and opportunity for Muslim boys to pursue secondary education. (The school buildings were put up by 1DB while the Mosque was put up by Africa Muslim Agency).

+ Eldoret Islamic Centre built with funds from the 1DB and at present used as a secondary school for Boys with sponsorship from African Muslim Agency

+ The Maragua Muslim Girls Secondary School built by 1DB. This is a very recent programme for the Muslim girls to study and live under Islamic environment. The project needs further support for expansion due to great demand for learning placing.

+ A joint education bursary programme with the Aga Khan Educations Services, under which Kshs. 750,000 is disbursed annually to deserving Muslim students studying in local secondary schools.

+Administration of the 1DB scholarship programme which has seen about 140 young Muslim men and women train as doctors and engineers in Turkish universities. Most of these students have come back and are gainfully employed to the benefit of the community and the nation at large.

2. The Council in its capacity as the umbrella organization negotiated with the Kenya government and secured:—
+ The registration of the Islamic Teachers Training College
+ The resolution of the land issues for Islamic Institutions
+ The facilitation of the Kadhi's courts

3. The Council has mobilized and advised the Muslim members of Parliament (MPs) by arranging seminars to prepare them whenever BILLS of particular interest to Muslims are being debated in Parliament.

4. The Council initiated the efforts for the establishment of a MAJLIS ULAMAA (Council of scholars) for the spiritual guidance of the Muslims based on consensus (FATWA) since Muslims remain puzzled and perplexed by matters related to banking, insurance, contraceptives etc. The Council of scholars is still sorting out itself to start its very crucial role for the community.

WHAT ARE THE CHALLENGES FACING SUPKEM?

+To mitigate against profiling of Islam as an intolerant Religion and Muslims as potential terrorists.
+ To effectively function as the legitimate mount—piece of the community on national and international issues and
+ To mobilize the community to support its visions and programmes,
+To impress upon the government and other relevant institutions that Muslims are indeed what they are, about one third of the Kenya population.

COMPILED BY
THE NATIONAL CHAIRMAN
PROF.ABDULGHAFUR H. S. EL-BUSAIDY (PHD-CHEMISTRY)