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Political Involvement, Marginalization, and Minority Status

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NORTHWESTERN UNIVERSITY PRESS
EVANSTON, ILLINOIS

Northwestern University Press
www.nupress.northwestern.edu

This book has been published with the support of the Andrew W. Mellon Foundation.

Printed in the United States of America

10 9 8 7 6 5 4 3 2 1

Library of Congress Cataloging-in-Publication data are available from the Library of Congress.

This book is dedicated to my daughters,
Swabra and Jamilla,
for enduring my long absences
during my numerous study trips abroad.

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PREFACE AND ACKNOWLEDGMENTS

This study was confined to Kenya where the discourse of politicized Islam has manifested itself vigorously in recent years. The study 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 the country. Clearly demonstrated in this book is that Kenya provides a fascinating scene for exploring the role of religious institutions in civil society and politics, and also that Muslims, despite being a minority have produced the most politically visible form of associational activity in the country. Interviews were indispensable in the writing of this book as it is based on a long field research. My major debt is to those Kenyans who accepted interviews with me and took time out of their busy schedules to discuss various events affecting Muslims in the country. I would like to thank all those who contributed to my knowledge, and I apologize for anything that I may have gotten wrong. I look forward to the day when I might acknowledge each individual.

I am grateful to the Moi University administration for granting me the study leave that allowed me to undertake this book project. My other debt is to the two institutions that made the research and writing of this book possible. The African Studies Centre (ASC) at Leiden University gave me a three-month visiting fellowship (January–April 2010) to begin work on the book manuscript. After this fellowship expired, the Institute for the Study of Islamic Thought in Africa (ISITA) at Northwestern University offered me a nine-month postdoctoral position (September 2010–May 2011) to continue researching and writing the manuscript. Both institutions provided good working environments and high expectations, which challenged me to deliver results.

I would like to make a special mention of the people upon whom the success of this book depended. I owe a debt of gratitude to Professor Muhammad Sani Umar of Ahmadu Bello University in Nigeria (formerly of ISITA) for his genial leadership and scholarly guidance. He provided much practical help and crucial professional guidance during the writing of this book. His suggestions were thoughtful and went a long way in improving the manuscript. I would like to express my sincere gratitude to Professor Benjamin Soares of the African Studies Centre at Leiden University for being the first person to guide me in the ways of writing a manuscript. I wish to thank most sincerely

Professor Ruediger Seesemann of Bayreuth University for his inspiration, continuing encouragement, and support. Professor Seesemann provided meticulous comments from the beginning of my research and through the project's evolution from a dissertation to a book. His knowledge of Islam in Kenya and other parts of Africa was an asset and offered valuable lessons. It was a stroke of good fortune that I met him. My debt to him is greater than he realizes.

I owe a great deal to members of the Department of Philosophy and Religious Studies at Moi University in Kenya, and especially to Dr. Mohammed Mraja and Mr. Simon Omare for agreeing to teach my courses during my absence from the university. I am grateful to Professor Anne Nangulu, former dean of the School of Arts and Social Science, for intervening on my behalf so that I could accept the fellowship at Northwestern University. She knew it was a wonderful opportunity for my academic career, and she did not want me to forsake it.

My debt is also to a host of other wonderful and amazing people, who provided vital comments, criticism, and support during the period when this project was a dissertation. They include Professor Suleman Dangor (my supervisor at the University of Kwazulu Natal), Professor Ulrich Berner (Bayreuth University), Dr. Franz Kogelmann (my advisor at Bayreuth University), Professor Roman Loimeier (Goettingen University), Dr. Hassan Mwakimako (Pwani University College), Professor Eunice Kamaara (Moi University), and Professor Mohamed Hyder (Muslim Civic Education Trust, Kenya).

Finally, the support and encouragement of my family—particularly my spouse, Salma N. Kibicho—and friends was crucial. I would not have accomplished this important task in my career without them. I am blessed to have a family who always wants me to strive for greater heights.

ABBREVIATIONS

AAA	Afro-Asian Association
ACK	Anglican Church of Kenya
AIC	African Inland Church
AMS	African Muslim Society
APHIA II	AIDS, Population, and Health Integrated Assistance
ATPU	Anti-Terrorism Police Unit
BAKWATA	Baraza Kuu la Waislamu wa Tanzania
CAA	Coast Arab Association
CIA	Central Intelligence Agency
CIPK	Council of Imams and Preachers of Kenya
CKRC	Constitution of Kenya Review Commission
COTU	Central Organization of the Trade Unions
CPA	Christian People's Alliance
CPG	Coast Protective Group
CPP	Coast Peoples Party
DC	District Commissioner
DO	District Officer
DP	Democratic Party
FBI	Federal Bureau of Investigation
FORD	Forum for the Restoration of Democracy
FORD-Asili	Forum for the Restoration of Democracy, Asili
FORD-Kenya	Forum for the Restoration of Democracy, Kenya
GEMA	Gikuyu, Embu, Meru Association

IBEAC	Imperial British East African Company
ICU	Islamic Courts Union
IPK	Islamic Party of Kenya
KADU	Kenya African Democratic Union
KANU	Kenya African National Union
KAU	Kenya African Union
KBC	Kenya Broadcasting Corporation
KDF	Kenya Defence Forces
KMNAC	Kenyan Muslim National Advisory Council
KNA	Kenya National Archives
KPNP	Kenya Protectorate National Party
LSK	Law Society of Kenya
MADU	Mombasa African District Union
MEDA	Malindi Education and Development Association
MEWA	Muslim Education and Welfare Association
MOU	Memorandum of Understanding
NAAM	National Association for the Advancement of Muslims in Uganda
NAMLF	National Muslim Leaders Forum
NARC	National Rainbow Coalition
NCCK	National Council of Churches in Kenya
NFD	Northern Frontier District
NGO	Nongovernmental Organization
NPPP	Northern Province Peoples Party
ODM	Orange Democratic Movement
PFLP	Popular Front for the Liberation of Palestine
PLO	Palestine Liberation Organization
SDA	Seventh-day Adventist
SPK	Shirikisho Party of Kenya

SUPKEM	Supreme Council of Kenya Muslims
TFG	Transitional Federal Government
UECK	United Evangelical Churches of Kenya
UMA	United Muslims of Africa
U.S.	United States
USAID	United States Agency for International Development

This map of Kenya shows the provincial administrative boundaries with the major towns.

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

Muslims in Kenyan Politics

INTRODUCTION

Kenya's established tradition of separation of church and state has not successfully severed the relationship between religion and politics. This book investigates the interweaving of religion and politics and, in particular, the changing relationship between Muslims and various political developments in Kenya from precolonial times to the present. It traces the role of Muslim individuals and associations under different political regimes, and explores the ways in which Muslims have politically mobilized in a context of political authoritarianism and limited space for protest in Kenya. 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 Kenyan Muslims. Bassam Tibi asserts that religion is today becoming increasingly politicized as an ideology of mobilization.[1] He holds that "the politicization of religion signifies the articulation of a concept of order designed and articulated in divine terms."[2] 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."[3]

Politicization of Islam in Kenya is intrinsically connected to Muslims' sense of their own marginalization, which shapes their understanding of Kenyan politics and governmental policies. Since the 1990s, an antigovernment stance has manifested among Muslims in Kenya, and there is much speculation about why. This book examines Muslim discontent and traces it to a myriad of factors, the most significant being perceived discrimination and marginalization, as well as divisions within Muslim communities. If one engages a Muslim in a discussion about the condition of Muslims, the conversation will likely include the following points: educationally, there is low enrollment of Muslim children in schools; economically, the majority of Muslims are jobless or low-income earners and generally poor; and politically, Muslims do not have sufficient clout to influence policy making. As a result, Muslims have come to perceive their situation as "collective discrimination, punishment and marginalization of the community."[4] To illustrate their oppressed condition, this is how they interpret certain events confronting Muslims: The internal security permanent secretary ordered an audit of properties in the Eastleigh Estate in Nairobi. These properties have witnessed enormous investments by both Kenyan and non-Kenyan Somalis. There is concern that

some of the wealth that the Kenyan Somalis hold is associated with illegal activities, such as piracy, and that wealthy Somalis who benefit from the proceeds of piracy are escalating the property prices in Kenya's towns beyond the reach of most Kenyans. The audit would ascertain the income sources of Somali investors, but Muslims want to know why the government is only targeting the Somalis.

From time to time, the government has been freezing the issuance of identity cards (IDs) to Northeastern Province residents, who are predominantly Somali, on the pretext that foreigners were also being issued the IDs. This government policy has led Muslims to ask why an entire region should be punished because of a few corrupt immigration officers. Another government ministry that raised suspicions for Muslims is Environment and Natural Resources, which proposed a law seeking to regulate noise and excessive vibration. Though the statement published by the ministry did not directly identify the Muslim call to prayer (*adhaan*) as one of the sources of noise pollution, Muslims are concerned that such a law will impede the call to prayer because it employs loudspeakers. Muslims view the noise-reduction proposal as a strategy to curtail their freedom of worship, and claim that the government declared the *adhaan* to be noise. There is also the Catholic Church's refusal to allow Muslim children wearing head scarves (*hijab*) to continue attending schools that are run by the church but whose teachers are paid by the government. Muslims feel that the head scarf is being used as a pretext to deny Muslim children education. These are only some of the frustrations building up in the Muslim community and waiting to erupt.

Obviously, the Kenyan government alone cannot be held responsible for this situation; a share of the blame must be placed on local and national Muslim political leaders as well. This book explores the myriad problems confronting Muslims, including failures of leadership. Besides providing lackluster service to their constituents, most Muslim politicians have done little to inspire political awareness in their communities or to initiate projects that would socially elevate their electorates, particularly Muslims. However, the overwhelming perception of marginalization and discrimination is beginning to mobilize Muslim politicians (extremists included) to demand justice and fair treatment. Poor education, economic impoverishment, and political powerlessness are some of the many reasons why frustrated Muslims have resorted to politicizing Islam to agitate for their rights. Consequently, the non-Muslim Kenyan community is concerned about the aggressive political activism by some Muslim leaders demanding justice and equality for Muslims. By examining the dynamics of Muslim politics in Kenya, this book hopes to illuminate possibilities and the potential for a positive future.

The discourse of religion and politics is often confused with what is commonly referred to as the church-state relationship. While the problem of church and state involves institutions that are independent of each other and

thereby separable, the question of religion and politics revolves around a different set of issues involving the same people. Citizens who belong to religious groups are also members of political parties, and this dual association generates complications.

Religion influences the social, cultural, and political lives of communities in different ways. From time immemorial, religion and politics have been inseparable. Islam and Christianity, in order of seniority, are the two dominant religions in Kenya. Historically, both Islam and Christianity have been state religions in different places of the world; they have even survived as such in modern times.[5] In Kenya, the concept of state religion has not been incorporated into national politics based on the separation of church and state. However, while separation of church and state has been established, religion and politics continue to interact, and the personal involvement of politicians in religion is quite common. For example, President Daniel arap Moi takes members of his cabinet and senior government officials to participate in a Christian crusade organized by the renowned televangelist Reinhard Bonnke. 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."[6] Such media coverage is usually restricted to "official state occasions"; hence, Bonnke sees it as "a mighty miracle in the declaration of the Gospel."[7] Clearly, public participation by the political leadership in religious events enhances the bond between church and state, further integrating religion with politics.

Hassan Mwakimako dismisses the legitimacy of church and state separation in Kenya, arguing that it is only employed to suppress Muslims' political aspirations and to favor Christians.[8] This view is misleading; if Christians were indeed favored, then church leaders would not have been critical of the Kenyan government and strongly opposed to the one-party system that dominated national politics for more than two decades. The church challenged authoritarianism, human rights abuses, and the rigging of elections that were characteristic of the Kenya African National Union (KANU) regime.[9] President Moi's regime was extremely unpopular, and the church pulpit provided a forum from where popular disenchantment could be raised.[10] The religious sector is one of many that publicly express dissatisfaction with the government. Here, the term religious sector is used to refer to a vast community comprised of religious leaders, respected jurists, and teachers of the various religious groups in Kenya. In this sense, the meaning is not restricted to bishops, priests, imams, sheikhs, *ulama*, and *Kadhis*, but to a more general group of people who may be referred as "holy men." Since the late 1990s, religious leaders have been in the forefront, advocating for people-driven constitutional reforms as opposed to government-sponsored reforms. Together with other civil bodies, religious societies have played significant roles in promoting multiparty democracy, civic education, and good governance.

However, the power of the religious sector could not match that of the state. With its loyal security forces, the government was capable of controlling any religious opposition it viewed as a political threat. President Moi's regime perfected state control over the lives of citizens, and any criticism of the state's excess was perceived as dissent. David Throup asserts that when Moi assumed power, he embarked on creating a political hegemony that included advancing people from his Kalenjin community into positions of influence. This process coincided with the ascension of a populist generation of politicians in the ruling party, KANU, who attacked any individual criticizing Moi's policies.[11] Despite this development, a section of leaders in the religious sector continued criticizing Moi's government without fear, providing a surrogate opposition to his regime.

Vocal religious personalities like Bishop Alexander Muge of the Anglican Church, Muslim preacher Khalid Balala, and Father John Antony Kaiser of the Catholic Church suffered the consequences of opposing the regime. Muge died in a suspicious road accident in 1990,[12] Balala was stripped of his Kenyan citizenship while he was visiting Germany in 1995,[13] and Kaiser was mysteriously murdered in 2000.[14] Many Kenyans believe that these incidents were politically motivated and suspect state involvement because these three religious figures were strong critics of 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.[15] As an autonomous force, Steve Bruce argues, religion is capable of creating order and stability by binding people together under a shared belief, a common cosmology, and morality. But despite promoting social cohesion, religion can also present "a potential threat to any political order" because of its ability to challenge political authority.[16] It is this posed threat that led the political leadership in Kenya to call for a separation of religion and politics, which is meant to restrict the political engagement of religious leaders rather than to undermine a particular faith.

Religion took a prominent role in the public domain as a result of political liberalization that allowed multiparty politics in Kenya, leading Rene Otayek and Benjamin F. Soares to comment that "Islam, Christianity, and even African traditional religions have all in varying degrees 'gone public' and entered into politics."[17] Muslims in Kenya capitalized on this emerging development by increasing their political activities, with Muslim activists and preachers joining the seasoned politicians. Kenya's political history amply illustrates the salient role of Muslims in national politics. Donal B. Cruise's position that Kenyan Muslims "seemed to find little to say of their present situation" due to their own incompetence at engaging in national politics is not true.[18] This book explores abundant evidence that Muslims have engaged in national politics in both the colonial and postcolonial period.

Muslims in Kenya predominantly inhabit the Northeastern Province and the coastal region. Islam has remained the dominant religion in these areas, along with traditional tribal institutions and values. Pockets of Muslim populations are concentrated in the interior of the country in various urban centers like Nairobi, Nakuru, Eldoret, Kisumu, and Mumias. The most striking feature of the Kenyan Muslims, like their Christian compatriots, is a sociocultural heterogeneity that cuts across the various racial and ethnic groups in the country. Due to this heterogeneity, Muslims' political participation has often been influenced by ethnic, racial, and sometimes religious considerations. In some cases, such racial and ethnic heterogeneity does not support a monolithic political voice. Instead, in a widely varied and plural community, the political control of certain personalities is bound to be eroded when racial and ethnic considerations constitute the main factors of political mobilization. This, in combination with other factors, has made the Muslim community in Kenya and their political direction vulnerable to external penetration and manipulation. These cleavages are traced to the British colonial policy of racially differentiating Muslims based on their Arab and African ancestries.[19] This study examines the contemporary consequences of that colonial policy.

After independence, Muslims groups discarded their differences under the unifying umbrella of the Supreme Council of Kenya Muslims (SUPKEM) and also became integrated into the regimes of presidents Jomo Kenyatta (1963–78), Daniel arap Moi (1978–2002), and Mwai Kibaki (2002–13). In a study by Francois Constantin, he argues that the creation of a national Muslim association in Kenya, Uganda, and Tanzania was "part of a general policy of social control initiated by post-colonial governments."[20] It is this desire that influenced the creation of organizations such as SUPKEM, Baraza Kuu la Waislamu wa Tanzania (BAKWATA), and the National Association for the Advancement of Muslims in Uganda (NAAM). According to Constantin, all of these national associations are expected to be loyal to their respective governments and to abstain from political involvement. It is this position that compelled me to ascertain why SUPKEM, within the Kenyan context, has been reluctant to participate in partisan politics.

It is important to realize that ethnicity has remained prevalent in Kenyan politics because of its composition as a multiethnic nation-state, with subnational identities based on language, common ancestry, and religion. Sometimes, religion and ethnicity combine to provide individuals with distinct identities. There is a tendency in Kenya to associate one's ethnicity with a particular religion; this is why Islam, for example, is associated with "Arab," Digo, and Swahili ethnic groups living at the coast or the Somalis of northeastern Kenya, while ethnic groups from the hinterland, such as the Luo and the Kikuyu, are viewed as Christians. Due to this affiliation of different ethnic communities with particular faiths, independent Kenya has experienced ethnic and sometimes religious tension that often arises from Muslims' claims

of marginalization by the regimes of three presidents who are all ethnically associated with Christianity.

As a minority religious group vis-à-vis Christians, it can hardly be expected that Muslims would constitute a dominating force in Kenyan politics. However, they have less political influence than their proportion suggests. Despite 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 not only failed to seize the educational opportunities offered by the colonial regime; in some cases they deliberately ignored them. This has heightened the Muslim perception of marginalization and discrimination. My study establishes that Kenyan Muslims actively give voice to the issue of political neglect, arguing that since independence the upcountry Christian ruling class has regarded them as politically insignificant and, therefore, allocated them paltry positions in government. As an emerging young nation—between 1963 and 1979—there were no Muslim cabinet members in government, demonstrating the lack of political influence of Kenyan Muslims in the country. This heightened Muslims feeling alienated and discriminated against with the advent of the upcountry Christian hegemony. This book discusses the chief manifestations of such Kenyan Muslim discrimination.

Despite this shared experience, the Muslim community in Kenya is not monolithic. The large majority of Kenyan Muslims belong to the various Sufi orders—such as the Qadiriyya and the Alawiyya—that are prominent in the rural areas.[21] This diversity within the community is further reflected in the presence of the two major Sunni and Shi'a sects, both of which contain internal differences, such as the Ithna'ashari, Ismailis, and Bohora among the Shi'a, and the different schools of law among the Sunni Muslims. Furthermore, Kenyan Muslims come from culturally diverse ethnic and racial groups, who practice distinct versions of the Muslim way of life. These examples of diversity illustrate that Muslims in Kenya do not present a single cohesive community.

There are conflicting reports regarding the number of Muslims in Kenya. Statistics vary depending on the source of information. Non-Muslim sources usually estimate the Muslim population to be between 5 and 8 percent, whereas Muslim sources propose higher figures of between 25 and 35 percent.[22] External sources give similarly different figures. For instance, a 2007 report by the U.S. State Department notes that "approximately 80 percent of the country practices Christianity; Protestants represents 58 percent of the Christian majority, Roman Catholics represent 42 percent. Ten percent of the population practice Islam, less than 1 percent practice Hinduism, Sikhism, and Baha'i, and the remainder follow various traditional indigenous religions. There are very few atheists."[23] Another external report ranks the population of Muslims in Kenya at 24 percent,[24] while Arye Oded points out that

the 1998 census estimated the population at 20 percent. The 2009 census has been rejected by Muslim leaders; it put the community's population at 10 percent, which they allege is underestimated.[25] On average, Muslims claim to represent at least 30 percent of the population.[26]

Muslims alleged that certain government officials in the department dealing with census had deliberately manipulated the 2009 census data to adjust the figures of Kenyan Somalis—and to a large extent Muslims. This demonstrates keen awareness, and even apprehension, of the numbers of Kenyan Somalis (read also Muslims) by the central government that did not exist before. Clearly, the numerical strength of the various religious groups in Kenya is a volatile issue. Muslims claim that they have received fewer resources and insignificant appointments into positions of power despite their sizeable numbers. In fact, the government does make decisions based on ethnic demography, allocating national resources according to the ratio of an ethnic group to the total population. The smaller the population, the fewer resources it receives.

My examination of majority-minority relations draws from the works of Norman R. Yetman, Joseph B. Gittler, and Otomar J. Bartos and Paul Wehr. Yetman traces the political origins of majority-minority consciousness to the emergence of nationalism and nation-states in Europe during the late eighteenth and early nineteenth centuries, when the term minority "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."[27] However, by emphasizing the differences in power as the distinctive feature of majority-minority relations, Gittler defines minority as a group "whose members experience a wide range of discriminatory treatment and frequently are relegated to positions relatively low in the status structure of a society."[28] In the Kenyan context, where religious difference instigates the dominance of the Christian majority over the Muslim minority, conflict is evident if not always overt. In their analysis of several developments in conflict since 1800, Bartos and Wehr argue that ethnic identity and racial superiority were encouraged by European governments as they established colonial empires in Africa. Bartos and Wehr claim that European powers carved up colonial territories with little regard for the prior political arrangements, thus ensuring that civil conflict would occur in these new states. The colonial boundaries split "ethnic groups into two, creating vulnerable minorities."[29] The authors contend that intergroup resentments were bound to contribute to postcolonial conflict in such arrangements. Following Bartos and Wehr, I examine Muslim-Christian relations in Kenya in terms of conflict between a majority and a minority that have incompatible goals and feel hostility toward each other.

Muslims in Kenya are drawn from minority ethnic groups, thus doubling their sense of marginalization as ethnic and religious minorities. This per-

ceived marginalization led to the formation of various Muslim organizations for improving Muslims' welfare. Of all these organizations, the most significant politically is the unregistered Islamic Party of Kenya (IPK), which was founded in January 1992. The formation of the IPK coincided with the general political activism in the country that inspired Kenyan Muslims to become more forceful in their struggle for equality. This study examines the increased political activism among Muslims that took the form of campaigns for political reforms throughout the country.

This study also explores the incidents of terrorism in Nairobi (1980 and 1988) and Mombasa (2002 and 2003), which posed daunting challenges to the Kenyan government's attempts to prevent militant Muslims from committing more acts of terrorism in the country without antagonizing its Muslim population. This study delineates the legislative steps taken by the Kenyan government to curb international terrorism and Muslims' rejection of the Suppression of Terrorism Bill in light of the history of Muslims' opposition to the controversial legislation. This study illuminates how these legislative contests reveal three major recurrent themes: Muslims' perceived marginalization, their political involvement, and their minority status. I argue that despite persistent racial and ethnic cleavages, Muslims' involvement in Kenya's national politics is linked to their constant sense of marginalization as a minority.

In addition to defining the ideology of mobilization, Islamic symbols are also used to define Muslims as a political community. Ilter Turan defines "political community" as meaning "a collectivity whose members feel they should be under the same government."[30] Turan adds that the criteria of membership in a political community vary over time and across political systems. Applied to the Kenyan situation, Turan's analysis sheds light on how Muslims have thought of themselves as a collective or as discrete groups of different tribes and races. This realization of a distinct political identity explains sections of Muslims' secession campaigns during the early 1960s. Central to Muslim political identity and sense of community is sharia, or Islamic law, which is often used to define Muslims in local and national contexts. For example, the application of sharia is enshrined in the constitutions of Iran and Saudi Arabia, but in Nigeria it is confined to local jurisdiction over Muslims of the northern regions of the country. In Kenya, Muslims' sense of community and political identity in relationship to sharia has focused on both the demand to retain aspects of sharia in the Kenyan constitution and the application of sharia to Muslims only. Writing about sharia and Sudan, Rex S. O'Fahey argues that the subject of sharia was central to the political and military conflicts in that country.[31] The Islamist government continued enforcement of sharia in Sudan, and its refusal to compromise over the issue has been the source of a protracted civil war in Sudan. In Kenya, tensions between Muslims and the state have sometimes been heightened by governmental policies that are re-

garded as contradictory to certain aspects of Muslims' personal law. Through excessive lobbying, Muslims have been able to influence governmental decisions and gain exclusion from certain laws of the country.

Since this study is concerned with the relationship between religion and politics in Kenya, it brings forward two important concepts: *secularism* and the *secular state*. The term *secularism* has been interpreted differently by scholars, but despite variant meanings, secularism as an ideology refers to the separation between religion and politics. However, the nature of secularism tends to differ from one state to another, culminating in several types of secular states. In some states, the concept of a secular state implies antireligious propaganda, while in others the religious institution is recognized and respected. When the idea of separation of religion and politics is contextualized within Muslim society, Muslims express divergent views. There are those who hold that religion and politics must be integrated, while other Muslims believe that the two are separable. In their insightful analysis of Muslim politics, Dale F. Eickelman and James Piscatori concluded that "Muslims hold a variety of opinions on the relationship between religion and politics" but despite "the intellectual diversity, the indivisibility of the two realms persists in the study of Islam."[32] The view that there is no distinction between religion and politics in Islam is widespread among Islamists scholars.

Islamist scholars reject secularism, arguing the commonly held perception that it is an externally imposed ideology that reflects European imperial interests and, therefore, is irrelevant in Muslim societies.[33] This position is found in the writings of Khurshid Ahmad, Muhammad Asad, Muhammad Husayn al-Mawdudi, and Hasan al-Turabi, among others. Proponents of this view argue that religion and politics have never been separate entities since the beginning of the history of Islam.[34] As evidence, they draw from the life of Prophet Muhammad as both a messenger of God and a political leader of the state of Medina. A leading Islamist, Ayatollah Khomeini, has supported this view in his numerous writings, arguing that 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 matters."[35] The ultimate goal of this interaction is the creation of an Islamic state that is subordinate to sharia, which is then regarded as the code that outlines the general norms and functions of the state. Once such a state is formed, an Islamic religious authority is established that directs people's "lives in accordance with an interpretation of what the holders of such authority claim to be divine authority, which overrides authority established by 'secular powers.'"[36] This has led to "constant tension in the Muslim world between the realities of secular power and the idealism of those who claim religious authority," John Hunwick observed.[37]

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.[38]

In support of this separation is Nazih Ayubi, who argues that the original Islamic sources, the Quran and the hadith, have not adequately addressed the issue of a state. Ayubi took up the discussion by arguing

> 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.[39]

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.[40]

This line of argument is repeated by another critic of the Islamic state, Husain Fawzi al-Najjar. He argues that there is no authentic text in the classical sources of Islam that supports the unity of religion and state where the sovereignty of God is the source of governance.[41] The arguments of oppositional scholars form a consensus that the Quran and the hadith have not tackled the question of the form of government, thereby encouraging secularism and opposing "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."[42]

According to the views of oppositional scholars, secularism has been adopted by some Muslim societies because it affords people protection

from tyranny, domination, and intolerance. There are abundant examples of secular-minded Muslim leaders who have ruled by emphasizing a separation between religion and politics, thereby disarming a potentially threatening religious authority. In determining the tension between secular powers and religious authorities, Hunwick thoughtfully observes variant forms of the strained relationship in Muslim societies.[43] While some embraced aggressive secularization methods and programs (e.g., Mustafa Kemal Ataturk of Turkey, Gamal Abdel Nasser of Egypt, and Mohammed Reza Shah of Iran), "others manipulated Islamic symbols and pursued a more subtle and circumspect approach to secularization (Anwar Sadat of Egypt, Muammar Qaddafi of Libya, and Zulfaqar Ali Bhutto of Pakistan)."[44] In addition to these two categories, most Muslims living as minorities have adapted to secular societies and political systems. This book examines the participation of Kenyan Muslims in national politics against this background of creating a secular state.

There is no recipe for a secular state, since the ingredients differ from one state to the other. Indeed, there are a variety of interpretations of the concept of secularism, which secular states are expected to incorporate into their constitution as a policy. From the outset, there is no consensus on whether secularism is essentially antireligious or nonreligious. For instance, England has a constitutionally established state religion but is inclusive of other faiths,[45] while Indonesia's constitution does not declare Islam to be the official religion of the state, despite being a predominantly Muslim country. Though the various political groups "do not espouse an Islamic state or a literal interpretation of shari'ah," they nevertheless "tend to pursue agendas and policies guided by the principles of shari'ah."[46] In the former USSR, secularization implied the right to conduct antireligious propaganda, which was regarded as more important than the right to freedom of religion,[47] whereas Turkey's constitution does not allow the interference of religion in state affairs and politics.[48] 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.[49]

This approach to secularism, where the state controls religious affairs, is different from the U.S. model, whose objective is "to give equal freedom to its citizens, in religious, political, economic and other aspects" and "not to promote one religion at the cost of other religions."[50] In this form of a secular state, the religious institution is respected, but no one religion is regarded as superior to another. It is left to citizens to decide whether or not they wish to adhere to a certain religion.

The constitution of Kenya is based on the principle of a nation constituted by all citizens, irrespective of religion or other identities. The Kenyan constitution does not show preference to any one religion, but it does give special protection to minority cultural interests. This is why Muslims have enjoyed substantial autonomy in spheres that they consider important for preserving

their identity: those closely bound up with Muslim personal law. During both the colonial and postcolonial periods, Muslims have been allowed to apply their personal law in accordance with sharia via the entrenchment of the *Kadhi* courts in the country's constitution. Therefore, this book examines Kenya's form of a secular state vis-à-vis the Muslim minority in order to determine how it impacted Muslims' political involvement in both the colonial and postcolonial periods.

I assert in this book that there have been factors within Kenya's political scene that create both division and unity among politically engaged Muslims. Specifically, I argue that Muslim politics are grounded in ethnicity and race in both the colonial and postcolonial periods. The racial and ethnic antagonism among Muslims contributed to the emergence of different Muslim political associations, in different political periods, with great ramifications for Muslims. More significantly, this book records recent political discourses involving Muslims in Kenya, in hopes that they will serve as a background for future research on current developments in the Muslim political arena.

This book attempts to answer many questions. How do religion and politics interact in Kenya? Is it possible for religion and politics to coexist in the country? How did the perceived marginalization of Muslims affect their participation in national politics both during the liberation struggle (1950–63) and after independence? To what extent did Muslim organizations become involved in Kenyan politics before and after independence? How do Muslims cope with their minority status in the context of Kenyan politics? For instance, how do they express their rejection of legislation introduced by the government that they see as detrimental to Muslims? What role did the Islamic factor play at certain critical junctures? These questions and their answers demonstrate that religion and politics are intricately linked, and that they interact in important and complex ways.

The major recurring themes in this book are the perceived marginalization and intra-Muslims divisions that continue to shape Muslim politics in postcolonial Kenya. Although the predicament of Muslims can be traced to the colonial period, postcolonial Kenyan regimes have been accused of excluding Muslims from political power. As the rest of Kenya was struggling to attain independence from the British, some Muslims were preoccupied with the idea of secession, remaining committed to the idea even after independence rather than seeking their place in the emerging multiethnic and multireligious Kenya. These Muslims were confronted with marginalization that continues to shape Muslim politics in Kenya today, with internal divisions along racial and ethnic lines weakening their political strength even more. A recurrent paradox in Muslim politics is that repressive state measures that affect multiple disparate subgroups of Kenyan Muslims tend to bind them together through a shared increase in sense of marginalization and common misfortune. However, when it comes to pursuing objectives that are not

related to their perceived marginalization, Muslims tend to abandon their "tribal" (read: Islamic) identity and appear divided along racial and ethnic lines. This shows a dialectic play of some factors creating unity and others creating division.

Separation of church and state and integration of religion and politics are two important themes that function differently for Muslims and Christians. Muslim courts are enshrined in the Kenyan constitution, and Muslims struggle very hard to keep it that way, while Christians demand the removal of the courts from the constitution on the basis of separation of church and state. Simultaneously, Muslims are concerned about the close relationship between churches and state officials, which reached its peak during the presidency of Moi. Muslims are now eager to have their religious symbols recognized within the Kenyan state, leading to competing politics between Muslims and Christians for recognition of their respective religious symbols. This book will demonstrate how the use of Islamic symbols to articulate a "mobilisatory ideology" provides a better understanding of Muslim politics in Kenya.

This book also uses the theme of minority participation in politics to trace the various ways Muslims have engaged in Kenya's political process. By actively engaging in both the democratic and nondemocratic aspects of national politics, Muslims earned political recognition within the Kenyan system. They have represented various political parties during parliamentary elections, which have been conducted in the country since its emergence as a sovereign state in 1963. Like other Kenyans, Muslims' political engagement in the country underwent great transformation since the rekindling of the democratic process in the 1990s, with the role of Muslim activists becoming more visible. Due to this development, this book examines how a religious minority has challenged the uniformity of a nation-state, exploring structural power relations between the Kenyan state and a segment of its Muslim population. My narrative will follow Kenyan periodization, presenting Muslims' political engagement from the precolonial era, through British colonial rule, and into the postcolonial period.

CHAPTER ONE

Historical Evolution of Muslim Politics in Kenya from the 1840s to 1963

Religio-Political Relations in Precolonial and Colonial Times

Before examining Muslims' political involvement in the contemporary period, this chapter puts the independence decades in proper perspective with an analysis of the precolonial and colonial eras. In the chapter, I explore the historical evolution of Muslim politics before independence. During the precolonial period, the Kenyan coast was under the rule of a political model inspired by Islam. This was the Omani, Al-Busaid, dynasty that was a form of an Islamic sultanate. In 1749, the Omani Yarubi dynasty was overthrown by their adversary, the Al-Busaid family, which endured dynastic conflicts that incapacitated their domestic powers forcing them to relocate their capital to Zanzibar in 1830s. Said bin Sultan al-Busaid (1806–56), is recognized as the founder and "first *seyyid* (prince or ruler) of the Al-Busaid Sultanate of Zanzibar."[1] The dominion covered the capital Zanzibar and the coastal strip of Kenya and Tanzania. In Kenya, apart from Mombasa, Malindi, and Lamu, the Zanzibari hegemony also covered parts of the Sabaki north bank, Chonyi, Kauma, the Bajun area south of Kiunga, and parts of Digo.[2] Under Seyyid Said's rule in Zanzibar, the domain extended its realm of influence, and by the end of the nineteenth century the sultanate emerged as a dynastic kingdom with Arabs (read also Muslims) at the top.[3] Although Seyyid Said exercised little direct control, his agents, the Omani governors, were established along what is now the Kenya coastline.[4] This implies that coastal Kenya had a long tradition of sultanate rule prior becoming a British protectorate. The appointed governors secured their political control over the assigned regions by compelling indigenous leaders to submission through the lenses of Arabocentrism.[5] Clearly, this illustrates that the power of the sultanate was derived from the notion of belonging to a purportedly superior racial class.

Before Seyyid Said shifted the capital to Zanzibar, the sultanate was based in Oman, where it had grown out of the original Ibadi imamate.[6] The Ibadi imamate ensured that the religious community was politically established, 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*.[7]

However, in the eleventh century, some changes were brought to the Oman dominion that included transition in the highest political office from imam to sultan. With the changes the sultan's office assumed a purely political position and delegated the religious duties to another office.[8] Although a clear separation of mosque and state evolved in Oman, the sultan retained most of the prerogatives that had formerly been the privilege of the imams. For that reason, when the Oman sultanate ultimately established its base in Zanzibar, efforts were made to maintain the same political system. The *Liwali* (plural, *Maliwali*) and *Kadhi* (plural, *Makadhi*) system of administration was introduced in the Zanzibar dominion to represent the sultan in various capacities.

Until 1895, if an individual was to participate in the political affairs of the dominion such as holding an administrative office, one had to be a Muslim. This was because all the upper ranks in the sultan's administration were held by Omani Arabs who were by religious affiliation Muslims.[9] 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. It is evident that during this era religion gave legitimacy to the polity. The religion of the political elites of the sultanate was Ibadi (a subsect of Kharijite) Islam, and accordingly, the political leadership was reserved for Arab Muslims, especially of the Ibadi affiliation.[10] This religious affiliation assisted in distinguishing the Omanis as a distinct class and caste in the Al-Busaid dominion of Zanzibar.

Although the Arabs were a minority in the region, they managed to uphold the hegemony through force from the mid-nineteenth century to the early twentieth century. As in all forms of colonialism, the Arab hegemony served the interests of their own kind. Only Arab Muslims were appointed in various parts of the dominion to represent the sultan as either *Kadhi*, or

Liwali, or *Mudir*.[11] By 1886 most of the governors (*Maliwali*) were Arabs of Omani descent, who during their service were transferred to different posts along the coast depending on their performance, a policy that thwarted them from creating an independent "local power base."[12] Beneath the *Liwali* were the *Wajumbe* who served as mediators between the *Liwali* office and the indigenous people. While executing their duties these administrative mediators also assisted in resolving cases using the local law of the people in their areas, but citizens could petition to the *Liwali*, or the *Kadhi*, when dissatisfied with the *Wajumbe* ruling.[13] However, in places that the Arab representative was a *Mudir*, he was assisted in his duties by the African *Masheha*, who acted as messengers for the Muslim official.[14] Gradually, the Omani Arabs constructed a "racial state" crafted on a "political culture of Arabocentrism," which for many years "accorded status and prestige to those who claimed connections to the Islamic Middle East."[15]

This trend of appointing officials of the state confirms that the dominion was firmly 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.[16] In the Zanzibar sultanate, Islam was regarded as the religion of the state and privileged in various ways. Ilter Turan has argued that "in an Islamic state there may be non-Muslims" who are privileged with the "protected status (*Dhimmi*) but they do not have equal rights and duties with members of the *umma*" because they are regarded as "subjects but not members of the political community."[17] Theoretically, in Islamic political thought the political community is regarded to be synonymous with the religious community, thereby renouncing the need for autonomous politics. In such a system, non-Muslims do not have equal rights and duties with the members of the *umma* because they are considered subjects of the state, but not members of the political community. This argument by Turan confirms why the sultanate was dominated by Arab Muslims.

The end of the nineteenth century, during the rule of Sultan Barghash bin Said (1870–88), brought the transition from precolonial Arab Muslim hegemony to Arab Muslim dominance under colonial overlordship. As the European countries were dividing Africa in the 1880s, Barghash succeeded in safeguarding the sultanate's sovereignty by arranging for British "protection," which recognized Zanzibar as a "protected Arab state."[18] The roots of the contemporary relationship between Muslims and the Kenyan state can be traced back to the period of British imperialism, which lasted from about 1895 to 1963. The historical coastal strip (*mwambao*) that was part of the Zanzibar sultanate—2,116 square miles that extended from Kipini in the north to Vanga in the south, and stretching inland from the coast for ten nautical miles—was granted a British protectorate status by the 1895 treaty. In opposition to the colonial rule forced upon what became Kenya, the 1895 treaty

between the British government and the Zanzibar hegemony recognized the sultan's autonomy over the *mwambao*. This saw the colonial administration that governed the area as a protectorate being sympathetic to the religious and cultural heritage of the Muslims in the region. The Arabs and the colonial administration maintained a working relationship throughout the period of British rule over the Kenyan coast, incorporating the *Liwalis* (governor), *Mudirs* (lieutenant), and *Kadhis* (court judge) into the nascent colonial administration. Initially, Muslims—especially Arabs—were appointed as colonial administrative officials to assist the British officers, but their number dwindled over time.

During this period, the British policy of indirect rule used the native institutions of government as a means to exert colonial control. The colonial administration was reluctant to tamper with local native institutions that had recognized their authority, preferring to use those institutions instead of inventing new ones.[19] After the sultan accepted that the colonial authority would operate at the coast as overlords, the British acknowledged the sultan as a former master of the coast, thereby incorporating the institutions to impose direct rule. This recognition implied that only the welfare of "a narrow stratum at the top of coastal society" was guaranteed, excluding other coastal groups who did not share "in the benefits of Omani rule."[20]

Following this arrangement, freedom of religion was guaranteed, though no extra effort was made to encourage Islam. Supposedly, at least, the British colonial power respected Muslim sensitivities insofar as religious practices were concerned. This was evident with the recognition of the sultan's administrative (*Liwali* and *Mudir*) and legal (*Kadhi* courts) institutions. A clear illustration of this recognition is evident in James W. Robertson's report:

> Within the administration there is a special cadre of Arab administrative officers [read also Arab Muslims] headed by the Liwali for the Coast (who is also Adviser on Arab affairs to the Governor) and consisting, apart from him, of four Liwalis and ten Mudirs. These officers also had subordinate Courts of the second and third class with jurisdiction in both civil and criminal cases. There are, in addition, Kadhis who are magistrates specialising in questions of Islamic law in relation to inheritance, marriage and divorce, and other personal matters. Jurisdiction is limited to Arabs, Somalis and Africans [Muslims]. These posts were in existence before British administration and to the Muslim peoples of the Coast they are, on nationalist, religious and historical grounds, of very great importance.[21]

However, Donal B. Cruise O'Brien calls the arrangement between the sultan of Zanzibar and the British authority over the Kenyan coast a "fictitious autonomy" under colonial rule that provided consolation to the Muslim rulers

of the *mwambao*. He regards this arrangement to have soothed some Muslims, which in the long run isolated coastal Muslims from development in the interior of the country.[22] It is this isolation, I argue, that Muslims in the postcolonial era are striving to correct. Despite the recognition of various Muslim institutions, colonial administrators had the exclusive capacity to appoint, monitor, regulate, and sanction the authority of Muslim officers. The sultan was not anymore consulted in the appointment of the three Arab officials: *Liwalis*, *Mudirs*, and *Kadhis*.[23] This Arab cadre of officers was now on the payroll of the colonial administration. Since, for instance, in the precolonial period the *Kadhis* were expected to interpret the Islamic law as judges on behalf of the sultan, such an institution was retained for continuity and smooth transition. Nevertheless, cooperation between Arab Muslim elites and the colonial rule did not imply complete absence of criticism of the British administration. The latter part of the colonial period saw the emergence of Muslim groups that were not satisfied with the imposed political arrangements.

Another example that elucidates British concessions to Muslim interests, thereby demonstrating that the dominion was Islamic oriented, is the ban of 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.[24]

Hardinge's letter to the colonial administrators shows the extent the British authority respected the Islamic law governing foods and drinks. The ban of alcohol in the sultan's dominion is an indication of how Islam was an important factor in the administration of the sultanate, 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 to the conclusion that the former were a unified political community. Racial and sectarian differences that divide the Muslim community were also evident in the sultanate. For example, there were certain Ibadi sultans who displayed intolerance to other sects of Islam. It was during the reign of Sultan Barghash that 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 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.[25] The move angered the Sunni Muslims who constituted the majority in the dominion, thereby undermining the popularity of the sultanate.

Apart from sectarian differences, there were also racial divisions. African Muslim inhabitants of the dominion were not integrated into the political community.[26] Hassan A. Mwakimako has illustrated this view by saying:

> Immediately the Omani established their rule, they embarked on imposing their own governors over the indigenous communities. In appointing his representatives (*liwalis, mudirs* and *kadhis*), 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.[27]

It is a historical reality that the Arab settlers on the coast "used images of Arab descent to bolster their authority."[28] To justify the exclusion of the indigenous coastal Africans from the dominion leadership, the Arab elite regarded Africans as *wajinga* or *washenzi*, denoting ignoramuses. Such metaphors fitted absolutely with the prejudices of the colonial rule. It was the practice of British administration "to conflate race and culture" where any "Muslim of aristocratic bearing was considered an Arab, not an African, and the Arab element of coastal society was assumed to control the rest."[29] In the colonial view, "any upper-class Muslim might be called an 'Arab,'" even if "he was born in Africa and spoke little or no Arabic."[30] This rejection of the native Africans from the political community elucidates why with the advent of nationalism, African Muslims supported the agenda for a unitary Kenya. The nationalists' efforts inculcated 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. The spread of nationalist ideas prompted resentment toward integration among Arab Muslims. As it became clear that Arabs would now lose their political monopoly, Islam was turned to as a means of securing and preserving their privileges, but to no avail. This was important as the spirit of Kenyan nationalism had become dominant.

The Fate of Muslims After the British Occupation at the Coast

The colonial power exhibited a reserved if not suspicious attitude toward Islam in Kenya. However, within this framework, British policies were 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. Attitudes toward Islam and Muslims varied among colonial officials who were influenced by their individual background. From 1895 to about 1912, the

British did not officially support or discourage the spread of Islam, but as a result of particular policies, the religion made significant gains. Sometimes consciously, but frequently not, the colonial government adopted policies that led to the unprecedented growth of the Muslim community. However, at the same time there were colonial policies that favored Christianity to the disadvantage of Islam. During the period of colonial occupation, there was a solid expansion of missionary evangelization and education. Many 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.[31] This led to increase of the number of Christians, while the spatial boundaries of Islam became static.

For a long time Islam in precolonial Kenya was confined to the coastal region (*pwani*) where it was associated with foreigners—Arabs, Persians, Indians, and some Muslim merchants who were culturally oriented toward the Middle East.[32] Some of the earliest colonial officials indirectly promoted the spread of Islam in Kenya by adopting the policy of using Muslims, mostly Arabs, in low-level administrative positions within the protectorate. The policy of appointing Arabs as state officials was based on the assumption that Arabs were superior to Africans. This was confirmed by Sir Arthur H. Hardinge, who as the 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.[33]

This colonial view of Arabs' superiority was endorsed by the provincial commissioner of the coast, C. W. Hobley, who stated:

> 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.[34]

Clearly, the colonial administration considered the Arabs as enlightened and their urban centers located along the coastline as oases of "civilization."[35] The

Europeans' view was grounded in racial bias that regarded native Africans as incapable of organizing themselves politically without the control and manipulation of the Arabs. It was out of such convictions that a system that reserved a special place for Arab Muslims within the colonial administration was initially recognized. In this system of administration, Arabs were incorporated in the nascent colonial administration as clerks and administrators. When the need for establishing a British African troop was mooted, 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 the location of colonial administrative posts in the interior to some extent abetted the progress of Islam in the area. Most of the administrative posts were established in existing trading posts that had in the beginning been set up by Muslims before the British occupation of Kenya.[36] It is through these and other policies that the earliest colonial rule served to reinforce Islam indirectly.

The Arab Factor in Muslim Collaboration with the Colonial Administration

Though Arabs formed a tiny minority among the mass of indigenous African Muslims, they dominated the politics of Kenya's coast in the pre-independence era.[37] It is after independence that the participation of the wider Muslim society is evident in Kenya's politics. In this period, Arab influence was confined to the established coastal settlements and had no substantial impact inland. This limitation was partly from choice given that the Arab settlements had primarily a trading purpose. Apart from the period in the sixteenth and seventeenth centuries in which the Portuguese held a tenuous disputed authority, Arab control of the coastal centers continued until the nineteenth century. During the first half of the nineteenth century, the Arab control was reinforced and consolidated by Seyyid Said, who in 1832 moved his capital to Zanzibar.[38]

Following the death of Seyyid Said, an inheritance dispute emerged between his two sons. To resolve the matter, it was referred to the governor general of India, Lord Canning, for arbitration; he decided that the sons should share their father's possessions. According to the arbitration, Seyyid Thuwain became the sultan of Muscat and Oman, while on Seyyid Majid was bestowed the sultan of Zanzibar as an independent state from Oman. The recognition of Zanzibar's independence was confirmed by Britain, France, and Germany in the 1862 declaration. In a 1886 agreement, Britain and Germany further recognized the sultan's sovereignty in Zanzibar. The 1886 agreement stipulated that the sultan's mainland dominions were defined as

> The islands of Zanzibar and Pemba and the smaller islands, as well as the islands within a radius of twelve nautical miles round those two

> islands, as well as the islands of Lamu and Mafia . . . a continuous line of coast from the Minegani River at the head of Tungi Bay to Kipini. . . . The line has an internal depth of ten nautical miles from the coast, measured direct into the interior from high water mark. The northern limit includes Kau, and to the north of Kipini the stations of Kismayu, Brava, Meurka, Mogadisho with a radius of ten nautical miles, and of Washeikh with a radius of five nautical miles.[39]

In May 1887, the British East Africa Association received from Sultan Barghash of Zanzibar a concession for fifty years over all his mainland territories and dependencies from Vanga to Kipini. The franchise granted the association the administration of these areas to be conducted on behalf of the sultan, under his flag and subject to his sovereign rights. After acquiring the concession, the association petitioned to the queen to be granted a charter. This petition was granted in 1888, and a royal charter was vested in the association under the name of Imperial British East Africa Company (IBEAC).[40]

For several reasons, the IBEAC found it difficult to continue overseeing the sultan dominion in the mainland and began negotiation with the British government to take over. Eventually, in 1895, the British government agreed to take over the property rights and assets of the company. The formal transfer of authority was conducted at Mombasa, Lamu, and Kismayu in July 1895. In the Mombasa meeting, Sir Lloyd Mathews, the *wazir* of the sultan, made the following remarks in relation to the transfer of authority:

> I have come here today by the order of our Lord, Seyyid Hamid bin Thuwain, to inform you that the Company has retired from the administration of this territory, and that the great English Government will succeed it, and Mr. Hardinge, the Consul-General at Zanzibar, will be the head of the new administration.[41]

On the December 14, 1895, a formal agreement was signed between the British authority and the sultan, where the IBEAC surrendered its management of the sultan's dominions, paving the way for the British government. With the collapse of IBEAC, Sultan Hamid bin Thuwain (1893–96) was prevailed upon to accept an agreement that formally entrusted the coast of Kenya to the protection of the British authority.[42] The agreement signed between Sultan Thuwain and Hardinge, on behalf of the British authority, stated:

> His Highness Seyyid Hamid bin Thuwain,[43] Sultan of Zanzibar, agrees for himself, his heirs and successors, that as regards his possessions on the mainland and adjacent islands, exclusive of Zanzibar and Pemba, the administration shall be entrusted to officers appointed direct by Her Majesty's Government, to whom alone they shall be responsible. . . . Her Britannic Majesty's Government shall have the

> power of terminating this Agreement on giving six months' previous notice to the Sultan of Zanzibar of their intention to do so.[44]

This agreement ushered in the era of colonial rule over the sultan's subjects on the Kenyan coast, and the net effect was the gradual destruction of the authority of the Arab elite. 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 changing from one colonial governor to the other. However, the British rule over the sultan's subjects was not as devastating as that of the Portuguese in the sixteenth century.[45]

During the formative years of colonial rule, Arabs on the coast were initially opposed to British administration before they learned to live with it and benefit when they could. Along the Kenyan coast, the Mazrui and Nabahani "were among the earliest Omani families" to settle in the region, and highly privileged "within the political framework of the Zanzibar sultanate."[46] The arrival of colonial rule ushered a new era that saw some "noble" Arab families at the coast losing their authority, forcing them to rebel against the British leadership. The revolts by these Arab elites were not efforts to defend the Omani state, but to safeguard their own sphere of influence, as they feared under British overlordship they would lose their local predominance. Among the notable rebellions by the Arab elites against the British were those led by the sultan of Witu and the Mazrui family around 1895.[47] Both uprisings demonstrated dissatisfaction with colonial rule, but 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 Arab elites of the coastal region based on mutual benefit. This working relationship 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.[48]

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

> The Arab officers are a legacy of the treaty with Zanzibar. It is possible for us to use them 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.[49]

What can be deduced from the foregoing extracts is that when the colonial government established its rule in Kenya, it assumed that Arabs were the overlords of the coastal region. As a result of the biased perception, British administrators felt it was necessary to create conducive working relationships with local Arab Muslim leaders. This working relationship excluded leaders of other communities in the region, for example, the Mijikenda and the Swahili.[50] In this arrangement, Arab leaders were to administer their areas of influence, which included the land of the Mijikenda and the Swahili, in return for both financial rewards and a range of political and religious privileges. In the accepted political arrangement, Arabs leaders agreed to support 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 Nabahani, Mazrui, and Busaidi families.[51]

Therefore, after visualizing the Arabs as a special ruling class, the process of training Arab cadets started in earnest as they were viewed to be an asset to the protectorate.[52] The imperialists decided to establish an administration of young Muslims who came from upper-class Arab families based on the assumption that Arabs at that time were the only group at the coast who had any comprehension of politics and government.[53] With only a small European staff and little prospect of the British treasury providing resources to recruit more, it was inevitable that the earliest administration depended on an Arab Muslim workforce and experience. Though no longer rulers of the coast, Arabs were able to retain some of their previous privileges under the colonial authorities, whose notion of racial stratification served Arabs' interests. In the colonial hierarchy of prestige, Europeans were ranked at the top, followed by Indians, then Arabs, and lastly Africans. Through their preferential policies, the colonial administration, like the earlier Al-Busaid leadership, contributed to strengthening racial groupings in coastal politics, "though by no means can it be said to have invented them."[54]

As soon as Hardinge took over the governorship of the protectorate, he initiated a number of changes that had far-reaching implications. This started with the promulgation of the East Africa Order in Council of 1897, which entrenched British rule as it legally established institutions of state, power, and authority. The Order in Council established the Legislative Council, which in turn enacted the Native Court Regulation that empowered colonial officials to make rules and regulations for the administration of natives. The Native Courts Authority (1897) established the Native Courts Ordinances that contained statutes like the *Liwali*, *Mudir*, and *Kadhi* courts ordinances.[55] After its establishment, the Legislative Council enacted the Mohammedan

Marriage Divorce and Succession Ordinance of 1897, which institutionalized selected aspects of Muslim personal law like marriage, divorce, and succession. The unfolding events indicate Hardinge's eagerness to fulfill the agreement that had been made between Zanzibar and Britain. In the agreement, the British had promised to continue recognizing the authority of the religious institutions in the protectorate. It was the sultan's wish that "all affairs connected with the faith of Islam will be conducted to the honour and benefit of religion, and all ancient customs will be allowed to continue."[56] This explains why British officers gave due regard to sharia in dealing with Muslims living along the coast. To cite Hardinge: "The Mohammedan religion will remain the public and established creed in the Sultan's territories and all cases and law suits between natives will continue to be decided according to the sharia."[57] One may wonder why Hardinge exhibited kind and tolerant gestures to Muslims. The answer could be that, apart from implementing the agreement, it is possible that his work experience and background influenced some of his decisions. Having worked in other Muslim societies (Egypt and the Ottoman Empire), Hardinge was willing to respect some local Islamic institutions thereby according Islam a special position in the administration. Steadily, a dual form of administration emerged on the coast: the Muslim and the colonial. In return for that recognized position, local Arab leaders were now expected to acknowledge the British administration and not the sultan.[58]

All along, the affairs of the new administration were managed from Mombasa.[59] The growth and endowment of Mombasa with the necessary infrastructures during this 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 associate itself with the colonial administration. However, the decision by Sir Charles Eliot in 1907 to transfer the capital of the colonial administration from Mombasa to Nairobi was viewed with skepticism by some Muslims. The action was interpreted as a deliberate intention to marginalize coastal Muslims and push them to political irrelevance.[60] While this could be true, the transfer of the administrative capital to Nairobi had as much to do with Nairobi's proximity to the emerging White Highlands.[61] With the creation of the European settler class of the White Highlands, Nairobi was geographically close and a strategic location for the colonial administration. Therefore, the growth of Nairobi in size and politics was part and parcel of the history of white settlers in Kenya.

Under colonial rule, the *Maliwali* and the *Makadhi* were the most important Muslim officials to be incorporated into the native administration initiated by Hardinge. At the beginning, the two (*Liwali* and *Kadhi*) officials worked from the same office, and sometimes their duties overlapped because the duties had not been clearly defined. In order to distinguish between the two, and to define the duties of the *Kadhi* office, Hardinge borrowed from the Egyptian and the Ottoman systems to draft the Mohammedan Marriage Divorce and

Succession Ordinance. It was now clear that the *Kadhi*'s jurisdiction would extend to all cases affecting the personal status of Muslims. In addition, the *Makadhi* were also made legal advisers to the *Liwali* and the district officers (DOs), whom they assisted in interpreting Islamic law.[62]

On the other hand, British administrators were supposed to work with Muslim officials known as *Liwali*, who had offices at Vanga, Gasi, Mombasa, Takaungu, Malindi, Mambrui, Mkunumbi, Kiwayu, and Lamu, and one who administered the region between Kiwayu and Tula.[63] 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*. . . [are] 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 village headmen, and generally to assist the District Commissioner in all the multifarious duties which he has to undertake.[64]

Through these changes, a special cadre of officials known as the Arab administration emerged. Though answerable to the colonial provincial administration, the head of the entire Arab administration was a senior *Liwali* who resided in Mombasa.[65] The Arab administrative 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. There was no doubt that the British solution to governing the protectorate lay in the application of indirect rule, where they co-opted some of the Arab elites into the colonial bureaucracy though in subordinate positions.[66] Such arrangements served to establish a belief among the Arab elites that they were the masters, a special class, over the native inhabitants.

Nevertheless, the early stages of implementing the indirect rule points to uncomfortable relations between colonial officials and the Muslim administrators they had appointed. In resolving the tension, British officials only retained Muslim individuals who were useful to the administration of the locals. When colonial officers noticed 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 [Kadhis]*, 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.[67]

If any Muslim officials thought that they were a distinct class of officers not linked to the colonial state bureaucracy, they were mistaken. Subsequent governors like Sir Charles Eliot and Sir Donald Stewart quickly corrected such misconceptions.[68] During their tenures, they made it clear to the coastal Muslim officials that they were civil servants and should not presume to have independent authority outside the orbit of colonial administration. This implied that the position of the Muslim officials depended on the colonial administrators who monitored, regulated, and sanctioned their authority. Like other civil servants, Muslim officials also received monthly remunerations together with other benefits that accompanied their respective positions.[69] The decision to pay the Muslims officials salaries and allowances can 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 British administrators. Though at times some church missionaries were against certain aspects of colonial policy, such as taking peoples' 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 of bringing their "superior" European civilization, which included their Christian faith, to as many Africans as possible.[70] Until the protectorate government began to consider its educational responsibilities, the missionaries were the primary providers of Western education. It is this colonial educational system influenced by Christian missionaries that structured the social order. The educational system privileged ethnic groups that had connections with Christian missionaries, thereby excluding Muslims who ignored the missionaries. For religious reasons, some Muslims avoided missionary schools since during these early years it was intimately bound up with Christian teachings.[71] To some extent proselytizing was an ulterior motive of these mission schools, making some Muslims (both African and Arabs) reluctant to send their children to school. However, there were cases where some Muslim individuals went through these mission schools and upon completion of their education became powerful *Liwali* in Mombasa. This was the case of Salim bin Muhammad Muhashami, Mbarak bin Ali Hinawi, and Sir Ali bin Salim.[72]

This Muslim boycott of the missionary school had an adverse effect on the Muslim community. Lack of education severely narrowed the scope for the

participation of Muslims and the opportunities for improvement in their position in the protectorate administration.[73] 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 a community 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 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 make the following retort:

> 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%.[74]

This situation put the Muslim community at 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 colonial government. According to Robert Hamilton's report of 1919 to the Education Commission, it was estimated that only around one hundred Muslims were employed by the government. This figure was too low given that four thousand clerks were employed by the colonial administration.[75] At this point, Muslims came to consider education as the remedy to their pathetic condition, but not the low standard of education provided in the scarce government schools. Far from being adequate, they regarded the education presented in those schools as insufficient, producing semi-educated Muslim youths unable to compete for employment.[76]

Although some Muslims along the coast interpreted colonial policies as unjust and biased against them, 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 Muslim 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.[77] Such incidents illustrate that the Islamic factor was not strong enough to unify Muslims in sabotaging British rule as demonstrated by the sultan of Witu and the Mazrui revolts. Their call for jihad failed to inspire the coastal Muslims against the colonial administration. Even when there were indications that their fortune was changing, Arabs did not resort to religious fanaticism as a means to restore their eroding privileges. Around 1925, there were efforts to curb the influence

of Arab officials in the districts of Malindi-Kilifi and Digo because the British observed that increased Arab influence amounted to encouraging Islam, which was not desired.[78] Despite this change of attitude of British officials toward their earlier collaborators, there is no evidence that Arab Muslims resorted to Islam to rally their coreligionists against British authority.

Muslims' Response to Representation in the Legislative Council

Due to the position Arabs 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 Arabs within the government were the *Liwalis*, *Kadhis*, and *Mudirs*. All of them were civil servants unable to question the authority they served. 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 Arabs' support for the colonial administration had been taken for granted, due to the inadequate representation in the Legislative Council.[79] For that reason, the CAA demanded elected representation inspired by the growing political consciousness of the 1920s. This appeal was an attempt by Arabs to raise their status through independent representation.[80] Although the CAA showed a lack of confidence in government appointees representing the community, it was not an Islamist body in its outlook. Rather, it could be described as a party that was secular in orientation. The actions of this Muslim body amounted to a revolt against the authority that the colonial government had worked hard to perpetuate.

In January 1922, a public meeting was held at Mombasa under the auspices of the CAA. The meeting agreed to request that the government grant Arab Muslims two seats in the Executive Council and four seats in the Legislative Council.[81] It was also resolved during the meeting that these seats should exclusively be the preserve of Arab Muslims. This request demonstrated Arabs' determination not to be left behind in the struggle for communal interests that had dominated the politics of the time. Ultimately, the British authority agreed to offer the community only two seats in the Legislative Council in 1923. However, the election of Arabs 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. Informing this perception was that some of the earliest Omani families living on the Kenyan coast like the Mazrui and Nabahani had long become assimilated to Swahili culture, explaining why some of their descendants could no longer be regarded as "white Arabs," but rather as people of a "mixed blood," whom their European acquaintances referred as "black Arabs."[82] It is possible that in their efforts to distinguish between the "white Arab" and "black Arab" the local natives used the terms *mwarabu* in reference to "a Swahili speaking 'Arab' born at the coast," and *mmanga* indicating "an Arabic speaker born in Oman."[83]

Etymologically, the word *Swahili* is derived from "an Arabic root meaning 'of the coast,'" that "was used as a euphemism by which slaves and others of low status could eschew their upcountry origins and identify with the Muslim culture of the coastal town."[84] Gradually, the word took a broader meaning to imply "a term of self-identification by those engaged in popular struggles for [coastal] citizenship."[85] Considering themselves as the aristocrats of the coast, the Arab elites were reluctant to be clustered with the Waswahili as one homogenous group, taking into account the category of people the word *Swahili* incorporated, the low class in society. This schism was witnessed in 1927 when Arabs refused to allow the Swahili to vote for the Arab Legislative Council member. Clearly, the Arab elites' attitude toward their Swahili allies was ambivalent. Arabocentrism ensured that the Swahili were classified as native Africans despite the former's opposition to such perception.[86] 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. According to the Arabs, the Swahili were more Africans than Arabs, and that is why they refused to be treated equally with them. The Arab elites uncompromisingly disapproved the notion of being equated with the "uncivilized African" (*washenzi*). The Swahili blamed their exclusion on some influential Arabs who had embraced the government's classification of the Muslim community as two distinct groups that received different treatment.[87] Although the two groups shared the same faith, racial identity was stronger than Islamic solidarity.

The major historical cleavage in the Muslim world, other than that between Muslims and non-Muslims, was that between Arabs 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.[88] This attitude of some Arabs was reflected in the politics of colonial Kenya where they were reluctant to concede equality to African Muslims. In a religion that advocates that no ethnic group was superior to any other, African Muslims were not accepted as equals by the influential Arabs. Despite sharing the same faith, the basis for the African-Arab cleavage was centered on the issue of race. This explains the antipathy many African Muslims developed for Arabs. Some African Muslims reacted with an underlying resentment toward Arab Muslims. This was reflected in later nationalistic politics.

Faced with Arab rejection, the Swahili community felt the need to establish their own party. It was against this background that in 1927 Swahili Muslims formed their own organization, the Afro-Asian Association (AAA). The choice of the name for the association suggests the Swahili's willingness to be associated with the Arabs even if in a confused way. In this contradiction, it is clear that the Swahili identified themselves as both Arabs and Africans with individual racial identity changing depending on the prevailing circum-

stances. The formation of the AAA meant that two rival Muslim bodies were now in existence. The AAA was in opposition to the CAA, which a section of coastal Muslims considered to be a racist association. In the next few years, intense rivalry between the two groups was evident.[89] However, some members of the Swahili community like the Tisa (Nine Tribes) and Thelatha Taifa (Three Tribes) struggled to have access to the voters' roll as Arabs, while Arabs continued to resist any amendments.[90] In their campaign, the members of the Twelve Tribes tirelessly strove to justify their claim to recognition as Arabs based on (*a*) alleged genealogical proof of Arab origin and (*b*) and the possession of various letters, treaties, and proclamations from the sultans of Zanzibar granting them the status of Arabs.[91] Clearly, the Twelve Tribes were playing at being Arabs so as to accrue the benefits of being aristocrats, but the Arab elites did not share their aspirations and denounced their claim to Arab status. In the ongoing conflict, the Swahili community sought full recognition in the urban community, while the Arab elites steadily ensured that the Waswahili were excluded and relegated to an inferior position. These struggles for recognition and supremacy in the urban community formed the core of the ambivalent relationship between Arabs and Swahili as evident in the later years. The struggles were essential in shaping the politics of the *mwambao* (coastal strip) that I will discuss in the next section.

For their part, the colonial authorities were adamant that they would not change the policy of appointing Arabs to both religious and political positions. This attitude later created a lasting impression that Arabs 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 division in the Muslim community was serving the colonialist political interests, they were not inclined to change the law very soon. However, 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.[92]

As the Swahili were eventually granted access to the voter's roll as Arabs, still the indigenous African (black) Muslims did not feature in the scheme of the colonial administration. When both administrative and elective posts were being distributed to Arabs (and belatedly to Swahilis), 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 communities are prepared to assist us particularly when it involves a clash with their own immediate interests.[93]

The above letter by the president of AMS, A. A. Omar, was an attempt to champion the rights of African Muslims on the coast to representation in the Legislative Council. In response, F. R. Wilson, private secretary to the governor 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.[94]

This letter downplayed 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 keen to emphasize racial differences, but the religious factor 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 was in play in colonial Kenya.

While the Islamic factor was acknowledged through the recognition of Arabs 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 them. 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 discouraging 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, it was not a sufficient reason to extend the religious privilege to African Muslims. This colonial policy demonstrates the British government's role in reinforcing racial segregation between the native African and the Arab elite. As a result of these policies of communal representation, politics were extremely polarized both racially and ethnically. 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 was, the fewer privileges it enjoyed.[95]

According to a colonial official, A. C. Hollis, a native was "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."[96] This explains why certain groups rejected their "identity because belonging to the 'wrong identity' carried with it the irresolvable consequences of loss of privileges," A. P. Thornton observed.[97] To be a native implied one being denied human rights and important privileges that were reserved for the "civilized groups." 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.[98] This move by some coastal Muslim groups implied that they were not indigenous to the coast, but immigrant groups. This step was a miscalculation by these Muslim groups because they could have agitated for equality under their 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 nonnative status was a dangerous move that resulted in a growing animosity toward them among indigenous black Africans. Such was the political front that a section of the Muslim community presented as Kenya was approaching independence.

Coastal Muslims' Secession Agenda and the Politics of a Unitary Kenya

As a result of having acquired a Western formal education from the various missionary schools, upcountry Christian politicians were better prepared and equipped to take over leadership of the country from colonial authorities, raising concerns among Muslims that they would be marginalized by upcoun-

try ethnic groups. This fear of political marginalization explains the Muslim secession campaigns in the early 1960s. In postcolonial Kenya, Arabs and Somalis were destined to be under African majority rule, dominated by Christians. As a result of their lower status, both ethnically and religiously, Arabs and Somalis were concerned that their interests would not be considered in postcolonial Kenya. This prompted them to seek secession. The entire secession agenda revealed tensions among minorities, who feared domination by a majority who would subject them to an "inferior social position" where their interests would not be represented.[99]

During the years of agitating for Kenyan independence, a protracted debate took place regarding the political status of the *mwambao* and the Northern Frontier District (NFD) largely inhabited by Somalis. Incidentally, both regions—principally occupied by Muslims—advocated separately for secession to avoid being integrated into the new Kenya. The debate on secessionism highlights, on the one hand, the conflict between Arabs and African nationalists (read: other coastal and upcountry politicians), and, on the other hand, the conflict between Somalis and the African nationalists (read: upcountry Christian politicians). This demand led to an ambivalent relationship between pro-secessionists and the nationalist leaders in the country. The debate supports Bartos and Wehr's argument that conflict is bound to erupt when there are opposing camps with different goals.[100] It is evident that the goal of the Arabs and the Somalis was to secede to join Zanzibar and Somalia, respectively, while that of the African nationalists was a united Kenya. With the loss of being administered from Zanzibar and the Republic of Somalia, Kenyan Muslims became a minority group.

These sections of Muslim population—Arabs and Somalis—were suspicious and nervous about the power of the upcountry Christian politicians, which explains the emergence of a strong separatist tendency among them. The political agenda of the Kenyan Somalis who advocated joining Somalia was both ethnically and religiously influenced.[101] Although Somalis perceived their struggle in ethnic terms, religious differences with the majority of Kenyans prejudiced their political cause. On the other hand, the coastal Arabs were agitating for reunification with the Busaidi sultanate in Zanzibar.[102] Their political agenda was among other factors guided by religious principles. Arguably, the pro-secessionists had a nostalgic feeling of an Islamic era under the Zanzibar sultanate, which they wanted to reestablish.

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 1963 succeeded in removing the colonial regime. Another crucial political development in this period was the campaign for secession that was being fronted by some of the coastal Muslims. As early as 1956, once it was established that the colonial administration was on the verge of ending and as countrywide demand for independence deepened, a section of Mus-

lims on the coast began campaigning to be either rejoined with their former compatriots in Zanzibar or granted some autonomy relative to the emerging nation. Underlying the petition was the fear of being subjugated by the largely non-Muslim upcountry ethnic groups. The history of the position of *mwambao* as part of the dominion of Zanzibar became a mobilizing factor and the legal rationale for demanding special consideration from the colonial authority.

According to the Arab Muslims, it was a historical blunder that led the coast to be incorporated into the colony. For them, the coastal region should have been allowed to be administered with Zanzibar because the latter had more in common with the coast culturally, religiously, and even ethnically.[103] They viewed their culture to be similar to that of the Arab aristocrats in Zanzibar, which was reinforced by professing the same Islamic faith. Therefore, as the prospects for independence became real, the Arab Muslims feared the possibility of being denied certain privileges by the upcountry Christian administration in the impending postcolonial Kenya. African politicians from the region, however, had different views 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 prompted by racial politics, Arab Muslims sought refuge in separation.[104] This view was not shared by African coastal politicians such as Ronald Ngala, Msanifu Kombo, and Francis Khamisi. The confrontation between the two sides gradually manifested itself as a competition between Africans and Arabs.

Both non-Muslim and Muslim African politicians on the coast were reluctant to embrace the idea of secession. They feared that unification with Zanzibar would imply being under Arab rule, and would mean continued subordination. Their preference was union with the rest of Kenya. On the other hand, the advocates of coastal autonomy viewed the upcountry Christian nationalist politicians who were collaborating with African coastal politicians as "foreigners." Accordingly, the secessionists vowed that they would not allow again another leadership of "outsiders."[105] According to them, a foreign administration in the form of British-Christian government was preparing to pass governance of the country to another "foreigner" in the form of upcountry Christian leaders.

The attitude of the secessionists could be attributed to both social pride and the Islamic factor. One reason why the secessionists supported union with Zanzibar was their expectation that previous 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 Zanzibar had not been abrogated and was still the basis of administration of the protectorate.[106] Following this revelation, Africans were disappointed as they could not endorse the notion 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. The Africans argued that they were not consulted when the agreement was signed. In fact, there is no mention in the British official report of indigenous coastal Africans' participation in the meetings that culminated in the treaty.[107]

In late 1958, during the debate on secession, the two Arab elected members, Sharif Abdallah and Sheikh Mahfudh Mackawi, presented a memorandum to the British authority, which they claimed had the support of the Afro-Asian Association and the Bajunis.[108] Confronted with the possibilities of losing their privileges in postcolonial Kenya, the Arab elites appealed for the support of the Swahili community, only to realize that the latter had their own vision of the form of coastal politics. In the memorandum, Arab elites requested the colonial authority not to relinquish the protectorate to a government of independent Kenya.[109] When the AAA was informed about this development, they decided to send a telegram to London dissociating themselves from the claims made by the two leaders. The response was prompted by the fact that for a long time Arabs had considered the members of the AAA as inferior. Therefore, they seized the opportunity to express their dissatisfaction with the way they had been perceived. And there was no better way than denying Arabs the support that they desperately needed at that crucial moment. Clearly, as the debate raged about secession of the coastal strip, Muslim and non-Muslim sections of Swahili communities and other African indigenous groups supported the amalgamation of the Kenyan colony and protectorate. Supporters of a united Kenya abandoned the idea of seceding, fearing continued domination by the Arab elites. Their apprehension was intensified by the colonial authority's promise that the 1895 treaty would be respected and would form the basis of considering the future of the *mwambao*.

Consequently, in addition to the telegram, the AAA presented a memorandum to the British administration stating that it was inaccurate to insinuate that the coast belonged to Arabs only. According to the AAA, there were other communities like Baluchi, Digo, Giriama, and 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 interpreted by Arabs as sabotage to a united front in London. In response, some Arabs decided to send telegrams expressing their support for Mackawi and Abdallah. To calm matters, the colonial secretary, Iain Macleod, in his address to a conference in February 1960, stated that so far there were no changes being contemplated in the agreement with the sultan.[110]

Arab Muslims' attempts to form a coastal union association to protect the interests of the coast were frustrated by African politicians from the region who refused to join. In fact, the Mombasa African District Union (MADU) called upon all Africans organizations in the region not to be part of a union

that was being sponsored by Arabs. The Africans felt that since their objectives were different from those of Arabs there was no need for collaboration. It was regarded as futile to support such a union. This response supports the claim by Bartos and Wehr that conflict is likely to arise between groups with incompatible goals. Having been disappointed by the coastal Africans, the Arabs solicited support elsewhere. In May 1960, a delegation of Arabs and Swahili Muslims went to Zanzibar and sought an audience with the sultan. In the meeting with the sultan, they expressed the concern about the sultan renouncing his sovereignty over the protectorate. They requested the sultan not to make any decision on the issue without consulting them, fearing that Britain might leave them under an upcountry government, which according to them would be unsympathetic to their 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.

It was inevitable that the Arab claim to the coast as a separate entity would meet strong African opposition. Coastal Africans under their leader Ronald Ngala were not willing to compromise. In fact, Ngala said, in a November 1960 *Mombasa Times* interview responding to one of the parties advocating for secession, that the "Coast People's Party had an out of date, crazy and stupid idea about coast autonomy," which is not supported by any African.[111] These views were in agreement with those raised by an African Muslim, Msanifu Kombo, organizing secretary, Kenya African 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.[112]

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 Arabs 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 coastal African politicians challenged the land rights that enabled the Arabs to acquire huge tracts of land thereby ren-

dering 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.[113]

The coastal 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 foreign parties without due consultation with the rightful owners of the region.[114] So while Arabs referred to upcountry politicians as "outsiders" or "foreigners," African politicians from the coast regarded the Arabs as nonindigenous immigrants. This attitude of the coastal African politicians toward Arabs was fueled by the latter's rejection of their native status earlier in the colonial period.

In general, African coastal politicians (both Muslims and non-Muslims) felt more comfortable dealing with upcountry Christian politicians than with Arab Muslims. Accordingly, African coastal leaders sought 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 Zanzibar 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), and (iv) the Coast League.[115]

The Shungwaya Freedom Party, which emerged under the leadership of Ahmed Jeneby, was believed to be a Bajuni party representing the views of the community. The main objective of the party was to champion for the improvement of the social welfare and the political rights of the Bajuni.[116] Its creation reflected the 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 the Bajuni community. They were bitter that the two members of the council had not bothered to visit the Bajuni district and inform the people of the political developments in the country. It was out of this resentment that the Bajuni dissociated themselves with 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 changes. 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 the Bajuni land formed part of Kenya.[117]

Turning to the KPNP, the party emerged as an Arab organization in the Malindi district. The party was also dissatisfied with the established leadership in Mombasa, which allegedly only remembered the district during election periods. Some of the party's objectives were "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; to strive for the abolition of all forms of racialism and oppression, and to uphold democratic ideals."[118] 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 Arabs, particularly those of Malindi. However, its main objective was to constitutionally advocate for the independence of *mwambao*, which it considers as part of Zanzibar and not Kenya. This explains why in March 1963, the KPNP appealed to the district officer (DO) of Malindi to permit them to raise the red flag at a public rally as a symbol that the decision about the coastal strip was with the sultan. Previously, the red flag, representing the Busaid dynasty, "was flown on Fridays and holidays" to assert the coastal region was under "a Muslim power."[119] 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 and (ii) the red flag, being the sultan's flag, could not be permitted to be hoisted where the British were in authority because that would be tantamount to suggesting that it was the sultan who was in authority at the coast and not the British.[120] Though that was the motive behind the demand by the KPNP, naturally, the colonialists would not encourage such a notion to be nurtured by the coastal Arabs.

Despite the fact that both the Shungwaya party and the KPNP were coastal Muslims' political platforms, they were all sectarian in outlook, promoting the welfare of their respective communities. Through the Shungwaya party, the Bajuni resented the treatment the community was accorded by the Arab elites. This was a clear case of the "politics of reputation" as observed by Jonathon Glassman, "in which the weak might vilify the powerful for being ungenerous, and the rich ignore their obligations to those they deemed ungrateful."[121] Upon realizing that the Arabs had been taking them and other Swahili communities for granted, the Bajuni envisaged their aspirations being accorded in postcolonial Kenya rather than in separation dominated by Arabs. On the other hand, the KPNP championed the continued influence of the Arab elites in coastal politics, which was only guaranteed through secession.

Among all the other parties that appeared at that time, the Coast Peoples Party (CPP) emerged as the most articulate proponent of coastal autonomy in the 1960s. One of its pamphlets of 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)."[122] The

main objective of CPP was "to strive peacefully and constitutionally for the ultimate independence of the Kenyan Protectorate and its eventual federation with Kenya or other East African territories."[123] Through their campaign cries of *mwambao hai* (coast alive/arise) or *umma hai* (the nation/community alive/arise), they drew huge crowds to their meetings. In its effort to have a nonsectarian, nonethnic, and nonracial 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.[124] Remarkably, at this juncture, the Arab elite begun seeking the support of groups of people they had earlier regarded as *wajinga* or *washenzi* like the Digo, only to find out that these "ignoramuses" had a different idea of the shape of coastal politics. The efforts by Bakuli to gain support from fellow Digo failed to dislodge the Kenya African National Union (KANU) and the Kenya African Democratic Union (KADU), both of which had already been established among the Digo of southern region of the coast.

It was in Kwale district that non-Muslim politicians from upcountry Kenya received significant support. Jomo Kenyatta and several Kenya African Union (KAU) officials had visited the region in early 1952 and established a branch of KAU among Digo Muslims.[125] 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 to respect those in authority.[126] All these efforts, including the religious appeals, were ineffective in diluting the nationalistic fervor that had spread among the Digo. And when KANU and KADU were formed later in the early 1960s, they found enthusiastic supporters among the Digo. 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 Muslims 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 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 the coastal people, especially the Arab elites. It was against this background that the CPP advocated for *mwambao* autonomy. The Coast League's agenda did not resonate with most coastal inhabitants, which thereby contributed to the failure of this party to make any significant impact at the coast.[127] The fact that more than one party emerged to fight for *mwambao* was symptomatic of basic divergences in approach and multilayered rivalries. Clearly, the sectarian approaches to the issue of *mwambao* politics demonstrate the multivariant fault lines that characterized the coastal society. The evident wrangling and lack of coordination among the *mwambao* parties affected the cohesion that 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. Among the Arabs 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 favored 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 Salim Mohammed Balala, a spokesman of the Hadhrami traders and shopkeepers, who ascribed Mombasa's development to British enterprise. Due to these divisions the Arabs were in a dilemma and could not agree which political agenda to embrace. This dilemma is expressed in an article published in the *Mombasa Times*:

> 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?[128]

In the midst of this confusion and division, in September 1960, Governor Patrick Renison assured Arabs that the status of the protectorate would be considered and the 1895 treaty would not be abandoned by the colonial government. He promised them that consideration would be given to proposals made by Arabs regarding the future of the protectorate. The speech provoked criticism by African nationalists from both the coast and the upcountry.[129]

Meanwhile, the British government together with the sultan of Zanzibar commissioned Sir James W. Robertson to inquire and present appropriate suggestions concerning the future of the coastal strip. Discussions between Robertson and leading political actors of the early 1960s reveal that representatives of the indigenous African communities (Mijikenda) favored the coastal strip being integrated with the Kenya colony upon independence. The at-

titude of the coastal African politicians toward Arabs was fueled by the latter's rejection of their native status, where under colonial rule Arabs preferred to be considered as alien so as to enjoy the privileges that status entailed. The Arab elites uncompromisingly disapproved the notion of being equated with the "uncivilized African" (*washenzi*) as that would deny them special rights. This colonial policy demonstrates the British government's role in reinforcing racial segregation between the native African and the Arab elite. As a result of this policy of communal representation, politics was extremely polarized both racially and ethnically—and to some extent religiously—as evident during the *mwambao* debate. After Robertson concluded his consultations with the various segments of the coastal population, he compiled a report that recommended integration of the two political spheres before independence. With the commission's findings that recognized *mwambao* as part of the Kenya territory, the Arab elites and their supporters felt shortchanged, as Governor Renison had earlier assured them of colonial administration support. The colonial government approved the suggestion, and in the London conference of 1963, it was agreed that the sultan's government would surrender its sovereignty over the strip to Kenya and that Britain would make the necessary compensation to the sultan.[130] The agreement implied that the issue concerning the status of the coast had been resolved and that it was legally part of Kenya.

Given that the coastal strip was heterogeneous, it increasingly became difficult for Arabs to continue advocating separatism on their own. They came to the realization that they no longer had any special political status of their own since the majority of the people living along the *mwambao* wanted the region to be part of Kenya. This awareness compelled them to unequivocally decide to place their destiny in the hands of those who would soon command power in the country. As they accepted integration into Kenya, it was important for them to attain internal reconciliation. Ali Abdallah of the CPP had earlier addressed a meeting attended by members of the various political parties at the coast advising them that "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."[131] At this meeting, they agreed to forget their differences and forge a united front as coast politicians irrespective of race, ethnicity, and religion. The major factor that influenced the decision of a section of coastal Muslims to forgo their earlier political aspirations 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.

With regionalism, Arabs were assured of some degree of autonomy, escaping domination by non-Muslim politicians from upcountry. 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 develop-

ment.[132] During the conference, an agreement was signed in October 1963 between Kenyatta and Mohamed Shamte, the Zanzibar prime minister representing the sultan, which legally bequeathed the *mwambao* to Kenya.

Before the signing was concluded at the Lancaster conference, the Kenyan delegation led by Kenyatta gave an assurance that they would honor 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. In principle it was agreed that the Ten-Mile Coastal Strip would become part of Kenya on the condition that the rights of Muslims as well as the *Kadhi* courts would be preserved at all times.[133] On behalf of the Kenyan government, Kenyatta stated,

> 1) The free exercise of any creed or religion will at all times be safeguarded and, in particular, His Highness's present subjects who are of the Muslim faith and their descendants will at all times be ensured of complete freedom of worship and the preservation of their own religious buildings and institutions.
> 2) The jurisdiction of the Chief Kadhi and of all the other Kadhis will at all times be preserved and will extend to the determination of questions of Muslim law relating to personal status (for example, marriage, divorce and inheritance) in proceedings in which all parties profess the Muslim religion.[134]

This agreement was recognized by the United Nations as a pact between two sovereign states and embedded under the pacts of international treaty. It is this arrangement that Muslims sometimes revisit when they come into conflict with either the state or their non-Muslim compatriots in relation to the *Kadhi* courts.

The Pan-Somalia State and Kenyan Somalis' Secession Program

The Somalis, on the other hand, believed that they were part of the greater Somalia before they were scattered into five different territories. The main political discourse of Somali Muslims from 1952 to independence centered on 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 endeavored to achieve.[135] The authorities in Mogadishu supported the idea of pan-Somalia state, which incorporated

the Italian Somalia, the British Somaliland, Djibouti on the French side, the NFD in Kenya, and the Ogaden in Ethiopia as extolled by the five-pointed star in their new flag.[136] Though the idea of secession originally appeared to have been nurtured by politicians from the Republic of Somalia, it found acceptance among Somalis of the NFD. To realize this goal, various political parties were formed by Somalis in the region.

The most effective party was the Northern Province Peoples Party (NPPP) led by Wako Happi. As a result of its campaigns, the NPPP succeeded in gaining more support among both Somali- and non-Somali-speaking people (especially among the Boran and Rendille) than any earlier political movement in the region. The party was able to bring together Kenyan Somalis in terms of membership, geographic locations, and status within community. With the creation of the new state of the Republic of Somalia, the NPPP and its secessionist partners requested that the colonial administration conduct a referendum in the region to resolve the destiny of the NFD. To indicate their determination not to be part of independent Kenya, the Somali resorted to boycotting the 1960 electoral registration and to abstaining from any involvement in the movement toward independence in Kenya.[137] Through such strategies, the Somali hoped that their union with Somalia would be accomplished. The reality that upcountry Christian politicians were bound to take over the leadership of the country did not augur well with the Somali Muslims. They hated the idea of being under a government dominated by people they "disliked and despised."[138] As a result, the party actively championed the agenda that the NFD should be part of the Republic of Somalia, at independence, with whom they shared a common culture and religion.

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 argued that the area they represented (the districts of Isiolo, Garissa, Mandera, Marsabit, Moyale, and Wajir) should be granted autonomy as territory independent of Kenya. This arrangement would enable the region to enter into an Act of Union with the Somali republic when Kenya attained independence.[139] They emphasized that they had more in common with the people of Somalia than those of Kenya in terms of culture and religion. This explained their desire for an administration that would respect them as a community, which they saw in the Republic of Somalia. They believed that the Republic of Somalia would uplift their colonial status and offer them prosperity because they considered its administration to be consistent with their way of life and beliefs.[140]

This view was utterly rejected by KADU and KANU members present at the Lancaster conference. As the future Kenya's political parties, KANU and KADU were strongly opposed to the idea of the secession of the NFD.[141] The

leaders of these parties 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 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. Since discussions on the future of NFD had reached a stalemate, the British position was highlighted in the 1962 Kenya Constitutional Conference report:

> The Secretary of State informed the Conference that Her Majesty's Government had given very careful consideration to the views which had been put forward by the [NFD] Delegation and by KADU and KANU. They had come to the conclusion that an investigation should be undertaken in order to ascertain public opinion in the area regarding its future. Accordingly, the Secretary of State proposed to arrange for an independent Commission to be appointed, with appropriate terms of reference, to investigate this matter and report to him . . . Meanwhile, there would be no change in the status of the Northern Frontier District or in the arrangements for its administration.[142]

Arguably, the British government gave the secessionist Somalis a ray of hope when the NFD Commission and the Regional Boundaries Commission were formed to gather views and opinions—between December 1962 and March 1963—of the residents in deciding the fate of the NFD. Upon completion of gathering views, the commissions recommended the creation of an administrative unit of the NFD that would have local autonomy similarly to those accorded to the other regions in the country. Supposedly, the commissions' recommendations were inconsistent with the colonial administration's assurance to pro-secessionist Somalis to consider their concerns. Disillusioned with the outcome, the Republic of Somalia severed diplomatic ties with the British government, while the "Kenyan Somalis rioted and engaged in political violence across the NFD and, to a lesser extent, in Nairobi."[143] Consequently, when Somalis declined to participate in the 1963 elections, the stage was set for antagonism between the Kenyan government and its defiant Somali residents.

By the end of the Lancaster conference, the issue of Somali secession had not been resolved. In its final effort to determine the issue of the NFD, the British government arranged for a conference in Rome, on August 1963. Invited to the conference were the Somalia republic, Kenya, and Britain. The Kenyan 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 was led by 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."[144] However, the inability to resolve the issue before independence meant that the demand for secession continued in the initial years of independent Kenya.

It is important to understand that in both regions, the *mwambao* and the Northern Frontier District, the aspiration to autonomy was strong where intentions to unite an otherwise heterogeneous population, divided by language, class, religion, and sects were witnessed. But as a result of numerous negotiations between the pro-secessionists and pro-unitary Kenyans, an assurance was given to the Arabs and the Somalis about their welfare in postcolonial Kenya. Though the Arabs and the Somalis have reconciled themselves to the loss of being governed from Zanzibar and Somalia, respectively, they have not abandoned the *majimbo* (federalism) ideal. There are occasions when the issue of separatism reemerges, finding its expression in the sometimes unpopular federalism (*majimbo*) debate.[145]

Shortly after the integration of the coast, 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 qualifications.[146] The change of status meant better opportunities for 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, Arabs were accorded fairly good positions in the independence government. However, the ostracism of Kenyan Somalis evident in the colonial period—socially, economically, and politically—continued in the earliest years of postcolonial period due to their enhanced adherence to an irredentist pan-Somalia cause, "their religious position within Kenyan society (Islam being a minority)," and their terrestrial isolation and distinct pastoral lifestyle, which was attributed to an arid environment.[147] After Kenya's independence and the Somalis' resort to armed insurgency that soured their relations with the government, Kenyan Somalis ceased to play a visible role in national politics.

Significantly, though Muslims widely believe that the ascendancy of upcountry Christian hegemony in the postcolonial period has contributed to their perceived marginalization, this should not be seen as the only factor in their predicament. Ethnic and racial considerations that were encouraged by the colonial administration have adversely affected Muslims' efforts to present a united political voice for the community, influencing the upcountry politicians' relation with them. Certainly, the upcountry Christian politicians continued to divide the Muslim community, or to take advantage of the existing divisions, in order to prevent the emergence of a united Muslim political front, as will be demonstrated in the subsequent chapters.

CHAPTER TWO

Postcolonial Kenyan Attitudes Toward Religion and the Predicament of Muslims

Religio-Political Relations in the Postcolonial Period

Upon attaining independence, efforts were launched to shape the population that 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, Kenya. Citizens were expected to develop a Kenyan national identity so as to enhance their attachment to the political community. This required the sultan's subjects on the coast to adjust and accept 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 recognized in the Kenyan laws as a criterion for membership in the political community. The rise of the Kenyan state as a form of collectivity with which people identify demonstrates that the nationalists' determinations were successful in redefining the nature of the political community. Contrary to Islamic political thought that views all believers as belonging to a collective unit, thereby a political community founded on a religious base, the nationalists' ideology took the nation as the appropriate unit on which to build the political community. This trend has progressively 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.

With the establishment of colonial structures, it paved the way for the transformation of the political system in Kenya. Once the postcolonial Kenyan leaders inherited the instruments of power from the colonial administration, their primary concern was to build a nation out of the motley 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 Article 78 (1) of the Independence Constitution will reveal the nature of the secular state that obtains in Kenya. The article is pertinent in this respect:

> 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.

Henceforth, the basis of political legitimacy in Kenya is the secular system, even though the foregoing constitutional provision together with Article 1 of the Independence Constitution that describes Kenya as "a sovereign Republic" does not specifically stipulate Kenya as a secular state. However, it is clear that Kenya is a secular country given the characteristics it exhibits. It should not be presumed that this secularization of the state diminished the relevance of religious factors to politics. To the contrary, the form of secularism observed in Kenya is not antireligious, as religion is persistently an integral factor in Kenyan politics, especially during the leadership of leadership of Daniel arap Moi (1978–2002) and Mwai Kibaki (2003–13).

As indicated in Article 78, the Independence Constitution provides for freedom of religion to all citizens. In terms of this article, the state is not allowed to interfere in or control religious affairs. The policy of the state is to accord equal treatment to all religious denominations. 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, thereby confirming the secular policy of religion propounded by Carl F. Hallencreutz and David Westerlund.[1] Such a model allows the Kenyan state to separate religion as much as possible from the politics of the country, emphasizing that "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." This constitutional provision implied that religion is considered as an exclusively private matter outside the scope of state legislation or policy. It is regarded as a violation of the constitution if the state supports the religious activities of a particular group.

Nevertheless, in Kenya attempts by the state to separate religion and politics have not been entirely successful. Secularization of the state did not marginalize religion to the extent that it ceases to have an impact on the country's politics. References to God are embedded in the national fabric, and 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 God. The opening ceremony of every parliamentary session is always preceded by prayers offered by representatives of the religious groups who are invited to the chamber. Also when the president, members of parliament, judges, and other senior government officials take the oath of office, they customarily hold the Bible or the Quran depending on their religious affiliation, and add at the end of the oath "so help me God." The Independence Constitution had stipulated in Article 78 (4) that "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." Therefore, what Hallencreutz and Westerlund observed about the secular policy of religion is manifest within the Kenyan context. From the preceding examples, religion in Kenya plays a significant role in the country's politics. John Voll 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."[2] This is true of the Kenyan situation because despite the claim that Kenya is a secular state, one would not fail to notice the presence of religion in its political life.

Though the relationship between religion and politics in Kenya generally varies in the three earlier postcolonial political phases, the religious sector has had a privileged and cordial relationship with the state, lending credence to Kenya's reputation as a nation that respects the religious beliefs of its citizens. This variance implied that religion's profound political impact depended 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 (1963–78), religion played a more indifferent role in politics. Kenyatta was focused on initiating development projects to aid the emerging nation, and as a result the country prospered due to increased agricultural production, a flourishing tourist industry, emphasized macroeconomic policies, extensive investments in infrastructure, and education. "From 1963 to 1978, the economy grew at a rate of 5 to 8 percent in every year," Joel D. Barkan observed.[3] Although Kenya became a single-party state as early as 1964, Kenyatta's authoritarian rule was relatively benevolent as there was no inflation or economic hardship. When Moi and later Kibaki took power after Kenyatta, religious representatives increasingly took a more critical stance against the state. During their tenure, whenever religious leaders considered their actions as wrong, they condemned them and described the general "community of politicians" as the "greatest threat to peace and prosperity." Like Kenyatta whose regime was dominated by members of his ethnic group, the Kikuyu, "Moi sought to redress this imbalance, pursuing a set of redistributive policies that favored his own ethnic group—the Kalenjin—and other disadvantaged tribes in the Rift valley."[4]

Although Moi's policies were initially popular, they triggered a failed coup attempt in 1982, after which he became increasingly oppressive. He demanded absolute loyalty to his rule, rewarding submissive members of parliament with ministerial positions and expelling from the ruling party, KANU, anyone who criticized his policies. Consequently, the press and civil society were suppressed, and political opponents detained, destroying any opposition to his rule. Rampant cases of human rights violations, including torture, were reported, whereas corruption became the mechanism for regime maintenance leading to the decline of the economy. Basic social services and infrastructure, particularly roads, gradually decayed while the civil service, the parliament, and the judiciary became powerless, acting as mere rubber stamps for Moi's repressive policies.[5] With the absence of a credible opposition, the religious sector and some professional bodies became avenues for dissent against the state. During the Kibaki presidency, the mutual relationship displayed between the church and the state continued, but was sometimes marked by moments of tension and conflict. The most conspicuous moment was the contestation between his government and the "church" led opposition over the constitution making. The following sections examine the interplay of religion and politics in the various postindependence periods.

The Kenyatta Era and the Indifferent Role of Religion in Politics

During Kenyatta's term, the influence of religion on politics was reduced to insignificance. In his interaction with the public, Kenyatta was cautious not to show an open predisposition toward a particular religion. This interaction is aptly described by Mohamed Bakari:

> Kenyatta never adopted sectarian positions as the Head of State. 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.[6]

Though Kenyatta appeared not concerned himself with religion, this does not exclude the possibility that he understood the power of religion and its vigor in Kenyan politics. This is exemplified by a statement Kenyatta made in 1964 where he praised the various religious bodies for their role in developing the country and requested that they continue acting as a unifying force for the nation.[7] 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 and national celebration days.[8] More so, various religious groups responded to Kenyatta's call to assist in development and nation building. His

appeal was consistent with the development projects of some of these religious bodies. The religious sector continued providing education, health, and other services as it had done under the colonial administration.[9] At the same time, Kenyatta realized that it was not prudent to allow the religious bodies to provide services in all spheres of development. He was aware that if their influence was not checked, it could impede his efforts to consolidate power. Consequently, he began to limit their influence by declaring in his party's (KANU's) manifesto:

> 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.[10]

It is clear that the field of education is a very sensitive one and Kenyatta wanted to limit the involvement of religious groups 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 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 could also be attributed to the fact that Kenyatta was at the height of his popularity when he was perceived not only as a political leader, but also as the father of the nation,[11] *baba wa taifa*.

The Evangelical Churches' Support of Moi's Leadership

When Moi came to power after the death of Kenyatta, the religious sector was already an integral part of the social life in Kenya. Its wide network of educational, health care, 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 the public domain. But as soon as he ascended to the presidency, Moi assumed a religious posture. This portrayal is clarified in the words of 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.[12]

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 right for a president of a secular state and a multireligious society to use state television to portray himself in a religious posture. Partly because of Moi's personality, during his leadership religion became more pronounced in the political sphere. It was not difficult in Moi's tenure to realize the preponderance of religious behavior among the political elite. Moi sought to cultivate his personal image as a devout Christian, and this is why 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. However, attempts to establish 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.

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 secret ballot voting and replaced it with a queuing system of election. Even after the establishment of a 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 an election method. The queuing system required each voter to queue behind a candidate thereby allowing Moi to detect party loyalists and expel those perceived as dissidents. The system became unpopular and was widely criticized. Leading the protest against the new structure introduced by Moi were the church leaders. However, government loyalists condemned the critics as unpatriotic and acting on behalf of foreign nations. The pattern of conflict that ensued during this period of political crisis had a lasting impact on the relationship between religious and political leaders. Nevertheless, opposition to Moi's government by church leaders was not unanimous; although the main church bodies opposed certain governmental policies, the evangelical churches supported the state. It was during this moment of wavering support that Moi found solace with the evangelical churches. There is no doubt that clergy in the evangelical churches hoped to gain privileges from the state by backing the Moi regime, thereby becoming an alternative support base loyal to his regime.

According to Paul Gifford, most of the evangelical churches in Africa have resolutely refused to challenge government authorities on their poor record. Their principle is not to engage in any social analysis of political structures. These churches include the Pentecostal and the U.S.-influenced churches.[13] Though their numbers have grown over time, in Kenya they include the Redeemed Gospel Church, African Church of Holy Spirit, Seventh-day Adven-

tist Church, African Inland Church, and the American-influenced churches under the umbrella of the United Evangelical Churches of Kenya (UECK).[14] As other religious groups were condemning the government's unpopular policies, the evangelical churches refused to join the protest, claiming that it would lead to political polarization, which would ultimately undermine national unity. Their approach to politics managed to divert attention away from the government deficiencies, and as a result Moi embraced them in his bid to continue to stay in power. At a time when the Moi regime was under pressure to become more accountable, the evangelical churches offered their political support. For instance, after the allegedly rigged elections of 1988, Bonnke's magazine described Kenya as privileged to be ruled by a born-again head of state.[15]

This courtship between religion and politics in Moi's reign was also demonstrated by the visit made by the international president of the SDA Church. During his 1991 visit to Kenya, the SDA president had a meeting with Moi, and in their discussion Moi applauded the SDA Church's role in proselytizing the gospel and for missionary success in the country. It appears Moi was willing to praise a religious body that did not indulge in politics and, specifically, in criticism of his government. In response, the church leader extolled Moi, describing him as a defender of religious freedom, and assuring him that the SDA Church would continue to be reliable supporter of the government.[16]

Under Moi, Kenya's leadership had become characterized by corruption and maladministration to a magnitude that external benefactors refused to give further aid, awaiting the introduction of a system of accountability. Not contented with the government's response to their economic and political remedies, donors deferred aid payments in 1991.[17] In the midst of widespread agitation for multiparty democracy as part of political reforms that Moi was resisting, an official of Potter's House (an American denominational organization) came to his support, as reported in a newspaper: "A Pastor said yesterday that Christians should be praying for the government instead of criticizing it. [He 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.'"[18] The pastor added that Kenya was a developing country that was growing fast due to the good leadership of Moi. With such praises, Moi became steadfast in his opposition to multiparty politics. On several occasions he repeated the same sentiments echoed by the pastor that Kenya was not ready for multiparty politics, claiming that the one-party system was the ideal for Africa. Aware of the role religion played in the country, Moi began manipulating religious symbolism in order to present himself as a believing Christian president and neutralize religious critics. This courtship of the church and state did not stop Kenyans from continuing the demand for a leadership that was accountable. At this particular moment when the government was under sustained criti-

cism from several sources, the African Church of the Holy Spirit held a special service in Nairobi to pray for the government. During the service several members of the church led by their leader declared themselves to be KANU members. This act was an indication that the church had resolved to support the ruling party, under Moi leadership.[19] Clearly, these actions of the church leaders were opportunistic and meant to solicit favor from the ruling regime.

While discussing the influential role of a minority group in a country's politics, Omari H. Kokole shows how the Nubi Muslims became very prominent in Ugandan politics during Idi Amin's reign (1971–79).[20] According to Kokole, Amin sought to widen his political support by identifying himself with the wider Muslim community. This strategy allowed Amin to expand the base of his political supporters beyond his small Kakwa community, whose pro-Islam policy also benefitted the Nubi Muslims. There is a parallel between this policy by Amin and that of President Moi of Kenya. Having come from one of the smallest communities in Kenya, the Tugen, Moi expanded his political base by embracing and favoring the Kalenjin group, and by portraying himself as a staunch Christian adherent. This strategy assured Moi of political supporters outside his Tugen ethnic group, but nevertheless, did not stop other church leaders from criticizing his unpopular policies.

Despite support from the evangelical churches, Moi eventually gave in, allowing multiparty politics, due to both local and international pressure that had made his leadership difficult. In 1991, Moi's government proclaimed that Kenya would now allow new political parties to register. This marked the beginning of a new chapter for Kenya, although Moi insisted that the system would not work. As the first multiparty election of 1992 approached, the United Evangelical Churches of Kenya (UECK) joined the group of supporters of Moi's leadership. The head of the parent body (United Evangelical Churches of America) led a delegation to Kenya for a convention that occurred a month before the general elections. Before the convention, the delegation met President Moi who advised the church officials to have no antipathy to the state, and to stay out of politics. Moi's patronage was not lost on the UECK, as the ensuing convention turned into the elevation of Moi, leading to a statement signed by UECK leaders challenging the critical remarks from other churches.[21] It was at this point that the Protestant NCCK, the Catholic Church, and a section of Muslims (through IPK) made critical statements on his regime. Nevertheless, Moi was able to win the 1992 presidential election, which was flawed by voting irregularities. As the opposition and NCCK were consulting about whether they should challenge the results, the UECK leaders appeared again censuring the NCCK and urging the opposition to accept the results.

In March 1993, Pastor Paul Yonggi Cho of Yoido Full Gospel Church of Seoul (Korea) came to Kenya for a "crusade." He had a publicized reception with Moi at the state house, where Moi referred to his preaching as a "bless-

ing" for Kenya. In his last "crusade," which Moi attended, Cho called for Kenyans to have devotion to God in order to be delivered from the economic predicament facing the country, adding that "Kenya was a blessed country because it had a God fearing leader."[22] The South Korean preacher further urged Kenyans to trust in Jesus in order to prosper. Like other evangelical churches, Cho's preaching had a political message. At a time when the foreign and local press were pointing out that the cause of Kenya's economic retardation was state-sanctioned corruption, Cho was preaching that Moi was ruling with wisdom bestowed by God. The media had reported that Kenya's economy had been plundered by Moi together with his acquaintances, thereby adversely affecting the country's development.[23] But according to Cho, Kenyans were unable to prosper because of a lack of commitment to God. The preaching by Cho is what Bruce described as the power of religion to create order and stability in society by promising the pious poor rewards if they believed in God. This power reconciles the poor followers to their fate in this world by discouraging them from rebelling against the political authority.[24]

The Cross and the Crown Duel in Constitution Making in the Kibaki Presidency

After the removal of Moi's political party from power in the 2002 election, the role of religion as the conscience of society against the state attracted mixed results. The churches that had earlier leaned toward opposition shifted to be less politicized during Kibaki's first term (2003–7) in office as the president of Kenya. The first evidence of a critical voice against 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 (see chapter four). For the main churches, the election of Kibaki brought a dilemma during his first term. These churches had been partners of opposition against the leadership of Moi. With the opposition in power, the mainstream churches had to resolve the dilemma of how to cooperate with the state without compromising their critical role against it. The campaign for the reelection of Kibaki (2007) further divided the church with the NCCK supporting his candidacy, which a number of protestant denominations opposed.[25] After the postelection violence that overwhelmed the country in the early months of 2008, the church was accused of encouraging election violence by preaching ethnic hatred. Aware that their credibility as an institution had suffered, a section of church leaders embarked on a journey of redemption by declaring a political contest with the government over the 2010 Proposed Constitution of Kenya.

For a long time, Kenyan politicians have been blamed for frustrating reforms and constitutional review. But amid the politicians' frustrations were

some church leaders who posed an emotive threat. The experience of the 2010 constitutional referendum showed that the clergy used the pulpit to advance their political agenda, the same way the politicians used rallies. The 2010 Proposed Constitution of Kenya emerged as a duel between the church and the Kibaki administration. The government found itself in a conflict with a section of church leaders in contestation for making a "perfect" constitution. Leading the church opposition to the proposed constitution were Cardinal John Njue (Catholic Church), Reverend Peter Karanja (National Council of Churches of Kenya, NCCK), Bishop Stephen Kewasis (Anglican Church of Kenya, ACK), Reverend Patrice Chumba (African Inland Church, AIC, North Rift), and Reverend Geoffrey Songok (Reformed Church of East Africa).[26] The clerics threatened to mobilize their followers to vote against the proposed constitution because they were unhappy with the two provisions: one permitting abortion in exceptional circumstances and the other retaining the *Kadhi* courts. Though there was a convergence of views that the 2010 Proposed Constitution of Kenya was better than the Independence Constitution, there was still strong opposition by some church leaders.

In April 2010, parliament successfully debated and passed the proposed constitution, but the opposing church leaders maintained their disagreement. The clergy vowed to campaign against the draft to ensure that the country overwhelmingly voted against it at the referendum. The president for his part called on Kenyans to support the proposed constitution of Kenya, saying:

> I am sure that Kenyans will get a new constitution soon after the referendum. I urge you all to support the document . . . You will have a chance to pass the new constitution at the referendum. Please support the constitutional dispensation.[27]

At this point, it is clear that this was a contest between the church and the state. In its determination not to appear to have ignored the religious sector, the government invited the opposing church representatives to talks to resolve the impasse. However, the talks failed as both sides were unwilling to compromise. Efforts by the state to convince the opposing church leaders to support the proposed draft were not successful.[28] Although the church was an important player that advocated for reforms in Kenya, its position on the 2010 Proposed Constitution of Kenya was viewed by some Kenyans as a betrayal. Some analysts viewed the persistent opposition by the church leaders as an attempt to impose their position on Kenyans when the sources of discord were issues that could be tolerated. They instead advised the opposing church leaders, rather than engaging in confrontation with the state, to be tolerant of other peoples' views.[29]

The NCCK insisted that the Committee of Experts and the Parliamentary Select Committee did not include its view while writing the proposed constitution and vowed to rally Christians to reject it.[30] The same argument was reiterated by Reverend Silas Yego of the AIC who said: "The Parliamentary Select Committee (PSC) still went on to ratify the draft constitution with the sticky issues we had proposed be changed, but later endorsed by parliament. We are going to advise our members to vote against it."[31]According to this section of the clergy, the inclusion of the *Kadhi* courts in the 2010 Proposed Constitution of Kenya amounted to the elevation of Islam over other religions in Kenya, which is a secular state.[32] The church leaders claimed that the entire constitutional review process had been skewed to favor Muslims and as a result they will "not endorse a draft that marginalizes Christianity."[33] Probably to instill fear in the Christian majority, propaganda was employed to attack the *Kadhi* courts. It was alleged that if allowed, the *Kadhi* courtswould be used to introduce *sharia* and to expand the Muslim population and Islamic influence in the country.[34] Such rhetoric brought to fore the nature of Christian-Muslim relations in Kenya, how they perceived and related to each other.

In religious matters, relations between Muslims and Christians are characterized by misunderstanding, prejudice, misinterpretation, stereotype, and discrimination. These are manifested in some church-sponsored schools, sermons by Christian religious leaders, and statements attributed to senior church clergy and political leaders of Christian background—all perceived by Muslims as attack against their religion.[35] There are also occasions when the Christians are on the receiving end, as is demonstrated by numerous onslaughts directed at their places of worship. In late 1997, three churches were burned down at Kikoneni in the Kwale area, and the blame for the incident was placed on the Digo (read also Muslims) marauders of Kaya Bombo forest who were perpetrating terror in Likoni and some parts of Kwale in the coast region.[36] The timing of the assault was suspect, and the main targets of the Kaya Bombo attackers were upcountry Christians, who were displaced and prevented from participating in the 1997 election. Analysts have argued that the violence was politically instigated and intended to favor a certain political party. Despite the motive of the marauders being political, arguably, religion was unofficially dragged into the violence to serve partisan interests. Toward the end of 2000, a Catholic church was burned by Muslims in Nairobi, South "B" area, in retaliation for the burning of a mosque by a group of Christian traders after they quarreled with Muslims over ownership of a plot. In July 2012, a church was attacked in Garissa and seventeen Christian worshippers killed, which was blamed on the al-Shabaab movement in Somalia following the Kenya Defense Forces pursuit of the group into their country. Around four churches were burned

and destroyed in Mombasa after the assassination of Sheikh Aboud Rogo in August 2012 as numerous conspiracy theories emerged explaining his death. Such incidents have intensified hatred and mistrust among the members of the two main religions in Kenya.

Despite the barrage of attacks on the *Kadhi* courts, Reverend Timothy Njoya held a contradicting view arguing that the opposing church leaders' views on the *Kadhi* courts were wrong, and it was necessary for them to reassess their position if they were serious about building "a united and democratic country."[37] This position of a clergyman implied that a constitution should be inclusive of the various segments of the population. It is necessary for a constitution to protect the rights of every citizen including the minority and the vulnerable ones. The extension of the campaign against the *Kadhi* courts into a broader religious contest risked turning the referendum into a clash between Muslims and Christians as evident by the enormous amount of hate mail that circulated on the Internet. There was a magnitude of intolerance from some Christians that informed their opposition against the Muslim courts. Efforts by experts to educate the opposing clergy on the history, nature, and importance of the *Kadhi* courts to Muslims were rejected. Whenever such exertions were made, the opposing group of church leaders retaliated by insisting that "it was a mistake in the first place to include kadhis's courts in the constitution. The fact that they have been in existence is no reason for the mistake to continue."[38] Turning to abortion, the church leaders were opposed to Article 26 (4) of the proposed constitution on the right to life, which reads: "Abortion is not permitted unless, in the opinion of a trained health professional, there is need for emergency treatment, or the life or health of the mother is in danger, or if permitted by any other written law."[39]

The article empowered doctors to end pregnancy if it endangers the woman's life or if she needs emergency treatment. Some church leaders wanted this clause deleted alleging that it touched on beliefs and teachings of their faiths apart from allowing the possibility of legalizing abortion.[40] However, even if abortion is wrong according to Christian belief, I would like to argue that there is no need for the same to be emphasized in the constitution in order to convince people that it is immoral and discourage them from it. A test of one's commitment to God's law would be the individual's willingness to follow it even when a constitutional law does not permit it. Rather than the church leaders campaigning for the adherence to biblical teachings through the constitution, they should endeavor to instill moral values to their congregants. The clergy should realize that it is not the law of the state that made people righteous; it is the moral teachings whose success does not depend on legislation, but on the internalization of the teachings.

Analysts have argued that the church's doctrine recognizes two types of abortion: direct and indirect abortion. While the church outlaws direct abor-

tion outright, it does not show opposition to indirect abortion, which occurs when trying to save a mother's life endangered by pregnancy.[41] This view was also echoed by Anglican Archbishop David Gitari, who posited:

> History has proved the Church wrong in various incidences. Even the issue of abortion the Church should not be quick to pronounce judgment, especially where the lives of the two are in danger. Instead of letting both die we can save one.[42]

Within Islam, the issue of abortion also has its own controversies and has been debated widely given that there is no Quranic injunction that deals openly with the subject. Generally, the Quran upholds the sanctity of life, and its destruction through either the termination of pregnancy or any other means is prohibited.[43] However, most Muslim jurists unanimously agree that there is justification for ending the pregnancy if it is medically shown that its continuation would essentially endanger the life of the mother. Under such a circumstance, in accordance with the spirit of the Quran, the jurists argue that abortion is unavoidable. This position is based on the affirmation that the mother is the source of the fetus, and already has duties and responsibilities in the society. Therefore, it would not be prudent "to sacrifice her life" for that of a fetus that "has not yet acquired a personality" and responsibilities.[44] It is this indirect abortion, and the saving of the life of the mother, that is found in the 2010 Proposed Constitution of Kenya. In fact, experts in constitutional law have argued that the abortion clause in the proposed constitution was an improvement over Section 240 of the Penal Code in the Independence Constitution, which allows a medical specialist to save the life of a mother.[45]

The controversy over the 2010 Proposed Constitution of Kenya caused divisions within the ranks of church leaders. The position by the mainstream and evangelical churches to oppose the proposed new constitution provided a major "unity test" for them. While it was the first time for the Catholics, Protestants, and a number of evangelical churches to unite and take a common political view, voices of disapproval with the church leadership were prominent. There was a group of clergy who did not support the views held by their colleagues on the proposed constitution. A section of Catholic, ACK, AIC, and Pentecostal bishops differed with their respective church leadership and supported the proposed constitution. They included Bishop Titus Kamal of the Cornerstone Ministries Church;[46] Father Ambrose Kimutai of Kericho Catholic Church;[47] ACK bishop of Southern Nyanza Diocese, Kenneth Ochiel;[48] and Bishop John Okinda of Pentecostal Evangelism Fellowship of Africa Church, among others.[49] The leader of the Church of Christ was more categorical in dismissing the view of the opposing church leaders against the *Kadhi* courts, stating:

> It is misleading to insinuate all Church leaders are against the inclusion of Kadhis courts in the Proposed Constitution. I am a Church leader and I don't think the courts warrant the resistance that threatens to derail the quest for new constitution. Kadhis' courts have been in existence since independence and have never affected those who do not profess Muslim faith.[50]

On their part, the Seventh-day Adventist (SDA) Church refused to take a definite position on whether to support or not to support the proposed constitution. The SDA Church reasoned it will let its faithful vote with their conscience. While addressing the press, the president of the East African Union of SDA Church, Reverend Paul Muasya, argued: "We will not make any official stand as a church on the draft constitution. We know our members hold different views and it will be unfair to decide for all of them. As leaders we will guide them on the religious and moral issues involved and we expect them to also read it and make informed decisions."[51]

It was official that the SDA called on its members to read the proposed constitution and make an informed choice at the referendum. This position of the SDA was similar to the one held by the Kenyan church leadership five years earlier when they accorded their followers the freedom to vote during the constitutional referendum. During the 2005 constitutional referendum, the entire church leadership in Kenya decided not to impose their views on their members, instead leaving it to the flock to vote with their conscience. To some critics, it appears inconsistent for the church leadership—with the exception of the SDA Church—to accord their followers liberty to vote in the 2005 referendum and deny them the same privilege for the 2010 constitutional referendum. The foregoing is a testimony that not all the church leaders were united in opposition to the proposed constitution of Kenya. With the unfolding events, it is clear that the clergy—not the church—was in support of the proposed constitution. The outcome of the struggle pitted clergy against politicians to determine whether the Kenyan Christians will be loyal to their religious leaders for political direction.

In this clash between the church and the state, Muslims were urged by their leaders to be tolerant and avoid confrontation with their Christian compatriots despite attacks on the *Kadhi* courts by some of the church leaders. The tolerance and patience exhibited by Muslims is summed up in the words of one commentator: "In this clash of egos [church and state], it is Muslims that have carried themselves with a great deal of decorum. Muslims have remained composed in the face of provocation by some extremist Church leaders. Muslims preachers have remained humble even as some Christian clergy rant with the haughtiness of the majority."[52] Rather, a passionate appeal was made to Muslims to support the 2010 Proposed Constitution of Kenya because it guaranteed a better country for all citizens, in addition to providing for the *Kadhi* courts.

In August, 2010, Kenyans participated in a referendum to determine the fate of the proposed constitution. The final results released by the Interim Independent Electoral Commission (IIEC) showed that the majority of Kenyans had endorsed the proposed constitution with 67 percent approval. The church thought that it could influence a number of their followers to deliver a "No" vote in the referendum poll, but this was not realized. In a statement released after the final tally was announced, it appeared the clergy interpreted differently the referendum results. The Catholics maintained that the vote was "not about numbers but the truth," which the church will continue to uphold.[53] This was an indication that the Catholic Church had accepted the poll verdict. However, the reaction by the NCCK secretary general was different. He claimed:

> We are saddened by the fact that the pre-referendum process was marked by malpractices and irregularities which continued right into the balloting and tallying phases. This calls into question the validity of the process and its outcome.[54]

What emerged from the debate over constitution making is that the church has strongly argued for the separation of religion and the state in its opposition to the *Kadhi* courts in the Kenyan constitution. However, when it came to the question of abortion and of when life begins, the same church wanted to have its religious views in the constitution. The clergy demanded that the 2010 Proposed Constitution of Kenya should be categorical that life begins at conception. This belief is contrary to the Muslim jurists' definition that life does not start at conception, but 120 days after the formation has taken place.[55] According to Imam al-Ghazzali, there are several stages of existence before a child is born beginning with "the settling of the semen in the womb and its mixing with the secretions of the woman."[56] Thereafter, the gestational stage comes after 120 days when the fetus receives life.[57] Therefore, the church leaders' insistence that life begins at conception failed to show how contrary beliefs of non-Christians could be accommodated in the proposed constitution. This lobbying to include in the 2010 Proposed Constitution of Kenya views that emphasize Christian beliefs contradicted the church's position that there must be a separation of religion and politics. The denunciation of the two issues was viewed as a campaign against a new constitution. Ironically, had the voters rejected the proposed constitution, they would have been left with the Independence Constitution that had provisions for the *Kadhi* courts and did not explicitly bar abortion for reasons other than medical emergency.

The Shifting Fortunes of Muslims in Kenya's Changing Politics

Though it was clear that the *Kadhi* courts' opposition was fronted by a section of church leaders, it served to reinforce Muslims' feeling of marginalization

and discrimination that they have held over the years. A brief comment by a Muslim politician sums up Muslims' perception of postcolonial Kenya's attitude toward the community:

> 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.[58]

Many Muslims would agree with the narrative describing the situation of the community in the country. Though treatment of Muslims has been varied, there is a widely held belief that the various regimes of postcolonial Kenya have neglected the welfare of Muslims. If you engage Muslims in a discussion, many would respond with stories of injustice and continued "marginalization" of the community. Although there are local variations in emphasis of this perceived marginalization, the most cited grievances would be poor education facilities, difficulties in acquiring national documents, exclusion from government employment, and the human rights abuses associated with the "war on terror." According to Muslims from the northeastern region, the human rights abuses during and after the *shifta* campaign add to the list of oppression committed against the community.[59] For some Muslims on the coast, the loss of land is regarded as a continuation of injustice against Muslims.[60] These have been some of the repeated complaints of Muslims for many years. One will not fail to capture this feeling of "marginalization" in informal discussions, in mosque lectures, in radio debates, and in letters addressed to various newspapers. Nevertheless, oppression and discrimination by the state have not been peculiar to Muslims. There are also other Kenyans, regardless of their religious affiliation who have suffered injustice at the hands of the state. It is likely that by identifying their suffering as a result of their faith, Muslims are attempting to place their own experience in the context of the global challenges and injustices confronting Muslims worldwide.

When Kenya attained independence, it was expected that a mutual working relationship between Muslim leaders and government authorities was to continue into the postcolonial era.[61] 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 government authority of the day. Throughout its contemporary history, Kenya has experienced three civilian presidential regimes. The period related to these regimes covers the Kenyatta leadership from 1963 to 1978, the Moi presidency from 1978 to 2002, and Kibaki's government (2003–13). All three governments have indirectly encouraged Islamic tendencies to some extent; for instance, 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, and the various administrations in Kenya have strived to protect this right. As a result of the provision, Islamic religious rituals are observed without any restrictions. At the moment, there are several Muslim radio stations operating in the country, which include Iqra FM (established 1999), Radio Rahma (established 2004), Star FM (established 2005), Salaam FM (established 2006), and Frontier FM (established 2006).[62] By the nature of FM broadcasting, the reach of these stations is localized, but radio Rahma has developed a considerable influence in those parts of the country where it can be heard.[63] When it comes to political appointments of Muslims to serve in the three governments, one will realize that it has 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 government minister. In 2009, while describing the political appointments of Muslims (during the Kibaki tenure), a government minister observed that "we have been recognized as a potential force to be reckoned with. We now have five ministers, eight assistant ministers and several permanent secretaries."[64] Such are the changing political fortunes of Muslims in postcolonial Kenya.

Clearly demonstrated in this chapter is the changing position of Muslims on secession. Regionalism greatly influenced the supporters of secession to give up their political cause and accept integration, which diluted their fears of being dominated by non-Muslim upcountry politicians. Coastal Muslims—who in the earliest years of postcolonial Kenya did not support the continuation of the Somali cause of secession, even referring to it as a "jihad" against the regime of Kenyatta—were the first to be reconciled. Historically, development of the northeastern region (formerly the NFD) was neglected by the colonial administrations, heightening the demand for secession as the country approached independence. When this demand was not granted, the pro-secessionists of the NFD resorted to armed resistance, hoping to change the political fate of the region by sabotaging the government of Kenyatta.[65] The government of Kenyatta allegedly responded with excessive force against the Somalis to ensure that centralization was imposed on the region, since it was not willing to lose that part of the country. In 1976, after the Somali sub-

jugation, another "jihad" was declared by President Amin of Uganda against the Kenyatta regime, which also lacked Muslim support. Though Muslims in both the coastal and northeastern regions had been in favor of secession, the usage of Islamic symbols (jihads) failed to mobilize them in their quest for secession, illustrating Muslims' willingness to be identified as Kenyans.

However, the postcolonial regimes have witnessed varying responses by Muslims to events that I will refer to in this chapter as the "Islamic factor." The Islamic factors become a basis of unity when they affect all Muslims, irrespective of their ethnic and racial background. But whenever the concern raised is seen not to upset all Muslims, even alleged cases of discrimination by some Muslims has failed to evoke passion within the entire community. This reflects the significant role of ethnicity among Kenyan Muslims. Significantly, the Islamic factor featured differently in all the postcolonial governments because they were inspired by specific events of that time. It is these events associated with Muslims that have shaped the government's attitudes toward the community. In Kenyatta's period, the Islamic factor manifested itself in the continued campaign of Kenyan Somalis to secede and join Somalia. I have shown in the preceding chapter that this campaign was inspired by the desire to build the greater Somaliland. There was also the 1972 Succession Act—discussed in detail below—which was contested by Muslims until a concessional amendment excluding them 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 flowing through the country influenced these trends. This period also saw the rejection of the Marriage Bill (1985) and the Equality Bill (2002) by Muslims. In Kibaki's presidency, the Islamic factor was evident in the issue of the *Kadhi* courts in the constitutional debate, 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 (see the discussion in chapter 4). There have also been claims of renditions of Muslims to foreign countries on accusations of engaging in terrorist activities. All these scenarios inform the role of the Islamic factor in the country's politics. In the following section, I will focus on Muslims' endeavors for parity in Kenya within the context of the Kenyatta and Moi regimes.

Muslims Under the Kenyatta Regime

There is a general view among the Kenyan public that Kenyatta was an agnostic, and as a result of this background, he had an indifferent attitude toward religion. There is no evidence that Kenyatta had a tendency to favor one

religious group to the detriment of the others. In dealing with the various religious groups, Kenyatta was considered balanced, respecting all the faiths, and in recognition of his commitment to them, his state funeral was officiated by a Catholic, a Protestant, a Muslim, and a representative of African religion.[66] In his public conduct, he did not exhibit any religious inclinations, 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 his policies, Kenyatta was more interested in ethnic balance than in religious equilibrium.[67] He was willing to enter into political partnership with any group including Muslims, but through their ethnic background. The political culture Kenyatta initiated was intended to make the government appear inclusive in the public's view. In this regard, ethnic, racial, and regional criteria became important considerations in the formation of his government. The concern of Kenyatta's government was ethno-regional balancing to the exclusion of other criteria. The politics of symbolism, where appointment to a national office signified political inclusion, became institutionalized during the Kenyatta leadership. It was in this context that some of the Muslim members of parliament such as Sheikh Salim Balala, Mohammed Jahazi, Mohammed Alamoody, Noormohamed Janhohamed, and Kassim Bakari Mwamzandi were appointed assistant ministers.

However, Muslims came to view the appointments of their coreligionists in religious terms by now regarding themselves as part of the Kenyan society. They viewed Kenyatta's decision as an act of honor to the community, yet Bakari has commented that in terms of appointments of Muslims the Kenyatta regime was unremarkable. This is because during the Kenyatta era, no Muslim occupied a ministerial position nor were a sizeable number of them appointed to substantive administrative positions. This situation has been attributed to the lack of higher education of Muslim members of parliament as there were none who had a university degree during this period.[68] This educational deficiency was a major drawback for Muslim politicians that pushed them to the periphery rather than "the centre of power," Bakari observed.[69] Despite their loyalty and close proximity to the president, they failed to lobby for the benefit of Muslims. Their inferiority in education made them satisfied with the small gains the community had made. As a result of their loyalty to the state, Kenyatta's government acceded to the Muslims' request to declare *Idd-ul-Fitr* a national public holiday in 1971.[70]

It is important to mention that during Kenyatta's period a significant Islamic factor manifested itself in the form of a continuation of the campaign by Somalis to secede. When this demand was not granted, the Somalis resorted to armed resistance to sabotage the Kenyatta leadership.[71] As a result, the Kenyan government declared a state of emergency in the Northeastern Province (previously the NFD). Although the idea of Somali nationalism propelled

Kenyan Somalis' agitation for secession and self-determination, the Islamic factor also mobilized the Northern Frontier District (NFD) residents to the Somali cause. This is because the campaign for secession also gained considerable support among Muslims of non-Somali background such as the Boran and the Rendille living in the NFD. In rallying Muslims behind their cause, the Somalis called for jihad against the Kenyatta government.[72] These developments demonstrated the significance of the role of Islam in the Somali politics of secession. The reference to the Somali cause as jihad was an example of the politicization of Islam. The usage of Islamic symbols was intended to create sympathy for the Somali campaign by rallying other Muslims behind their cause.

The Somali uprising, which came to be known as the *shifta* insurgency, was fought in sporadic ways throughout the region by employing a guerrilla tactic of warfare that concentrated on ambushing government convoys and personnel.[73] Their intention was to make the region ungovernable so that Kenyatta would relinquish the region to the Republic of Somalia. The *shifta* rebellion demonstrated the desire for Somalis to resort to violence for attaining political goals. Since intelligence reports confirmed that the Somali *shifta* were obtaining weaponry and logistic support from the Republic of Somalia, the Kenyatta government detached diplomatic dealings with Somalia. Kenyatta's new government, with backing from British forces, engaged in a counterinsurgency campaign against the *shifta,* ensuring that centralization was imposed on the region, since it was not willing to lose that part of the country. To downplay the Somalis' struggle for secession, the Kenyatta administration branded the Somalis' armed struggle as *shifta* skirmishes.[74] The term *shifta* was used to portray the struggle as a banditry problem, and to invalidate its political rationale.[75] The armed conflict between the Somalis and the Kenyatta administration led to further social, economic, and political marginalization of the community. For many years, the Somalis lagged behind the rest of the country in terms of development.[76] Yet, in spite of the prevailing challenges, the Somali community has succeeded in securing a place for themselves in Kenya. Two decades later, after centralization of the region was attained, the Somalis have reconciled to being Kenyan citizens as conditions in the country are better than in Somalia. Their reconciliation is illustrated by the unified response of the Kenyan Somali political elite to the pronouncement made by a Somali warlord, Husayn Mohammed Aidid. In 2002, Aidid was reported to have declared that his organization would also ensure that the Somalis in Ethiopia and Kenya were brought under the one nation of Somalia. The Kenyan Somali political elites criticized Aidid, reiterating that the Northeastern Province is Kenya's territory and the Somali community in the country does not support his idea.[77] In contrast to the earliest year after independence, there emerged a Kenyan Somali political voice that publicly challenges a cause that at one time was embraced by the community.

Even with their battle cry for jihad, Muslims from other parts of the country did not support the Somali cause. This is because when the Somali guerilla activities spilled over to the 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 in the country assured President Kenyatta that they supported the government's effort to subdue the *shifta* menace and bring peace to the region.[78] Consequently, through military action and diplomatic efforts, the Kenyatta government managed to keep the Northeastern Province in Kenya, bringing to an end the Somalis' agitation for self-determination. With counterinsurgency policies and international mediation, the *shifta* threat ultimately faded in the late 1960s, but sporadic guerrilla activities were patent in the 1970s, demonstrating that the desire for secession was still held by a section of the Somali community in Kenya.

Another episode that caused concern among Muslims about their relationship 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 harmony with English common law.[79] The aim of Kenyatta's 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.[80] 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 lifetime. Kenyatta thought it prudent not to offend Muslim sensibilities as well as 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 that 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.[81]

However, in July 1981, during Moi's tenure as the 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 free-

dom of religion and worship as embodied in Section 78 of the Independence Constitution, arguing that imposing the new law on them was tantamount to making them renounce Islam.[82] In one united voice, Muslims emphasized that the act was in direct conflict with succession laws laid out in the Quran. Specifically, Muslims quoted the Quranic injunction expounding, "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."[83] This injunction formed the basis of the Muslims' rejection of the law.

Muslim protests continued until a concessional amendment was added in 1990, still during Moi's tenure, excluding them from the law. Considering the political context and timing of this amendment, there is reason to believe that it was not intended to redress the long-standing 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 Muslims' support at the time when Kenyans were advocating for a 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 winning their political support. And to attain this, Moi wanted to assure Muslims that their freedom of worship would always be safeguarded in the constitution.

In 1976, the Palestinian cause and another call for jihad put Kenyan Muslims' loyality 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 Israeli government. This angered Amin, and in his wrath he called for a jihad against the regime of Kenyatta.[84] In their response, Kenyan Muslims, represented by Supreme Council of Kenyan Muslims (SUPKEM), came out in support of Kenyatta and strongly condemned Amin's move. The statements by Muslim leaders criticized Amin's military regime, which had massacred large numbers of innocent Kenyan and Ugandan citizens. For that matter, they accused Amin of not being a sincere Muslim because, contrary to Quranic tenets, he 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.[85] This stance taken by Muslim leaders illustrated the community's loyalty to the Kenyan state. Even the Palestinian cause that has radiated strong passion among Muslims all over the world was not enough to rally Kenyan Muslims against the government of Kenyatta.

Muslims Under the Moi Regime

Following the death of the first president, Kenyatta, on August 22, 1978, his longest serving (1967–78) vice president, Moi, ascended to the presidency in accordance with a stipulation in the Independence Constitution, which states:

> **Article 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.[86]

Therefore, according to the constitution, following Kenyatta's death, Moi was to assume power for a period of ninety days. Moi's automatic accession to power was objected to by a certain section 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.[87] As a result, the issue of succession became a major political debate during the last years of Kenyatta's rule. The first political leader 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.[88]

Following Kenyatta's death and Moi's accession, 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 allegiance to Moi, urging the need for continuity and stability.[89] Following this cue, in December 1978 a delegation from the Muslim community led by SUPKEM met the president and expressed their loyalty.[90] Therefore, as Moi was ascending to leadership he already had loyalists among Muslims who distinguished themselves as staunch supporters of his regime. For instance, the 1982 coup attempt against his 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 toward Somalis and Muslims in general. After the failed coup attempt, for the first time in Kenya, a Muslim, who happened to be Mahmoud's brother, was appointed as a cabinet minister

in the Moi administration.[91] Mahmoud was later to occupy the office of the chief of general staff in the Kenya Armed Forces, with analysts interpreting Moi's gesture as a form of payback to the general.[92] Again as a strong ally of Moi, Nassir is alleged to have spoken out at a KANU Special Delegates Congress in December 1991 against permitting the registration of opposition political parties.

Based on this background, Moi became sympathetic to individual Muslims who had supported him at various crucial moments in his political career. This attitude by Moi toward Muslims should not be perceived as being favorable to Islam; but maintaining power was the relevant policy. In cases where Muslims have felt discriminated against, this cannot be regarded as anti-Islamic policy per se, though he did not see much use in making alliances with Muslims as a community. However, the politics of inclusion that Moi exercised was received positively by a section of the Muslim population who came to believe that his regime had been more considerate to the community in terms of appointments than the previous government.[93]

However, there are other Muslims who hold the view that Moi's interaction with his Muslim compatriots was pragmatic and for mutual convenience. His critics claim that Moi entertained Muslims only as a strategy for political survival, as demonstrated by the concessional amendment that was added to the Laws of Succession in the 1990s. The critics wonder why, despite supporting the ruling party, KANU, and Moi's government in particular, Muslims' conditions have deteriorated instead of improving.[94] This explains why during his tenure, Muslims demanded justice and equal treatment, alleging that his regime favored Christianity over Islam. Muslims cite the example of his government's provincial officers' sanctioning a major address by Reverend Bonnke of Germany in the town of Mombasa, while preventing Muslim preachers from Tanzania from addressing Muslims of the same town. This apparent callousness on the part of the government led to Muslim demonstrations in October 1989.[95] These demonstrations were indications of the community's frustrations and their determination to be treated equally as the country's citizens.

One area where Muslims alleged discrimination was 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, claimed to be the most discriminated group during the presidency of Moi.[96] By the end of Moi's tenure in 2002, these Muslim groups were required to produce extra documentary evidence of citizenship when applying for these national documents. The policy was meant to identify genuine Kenyan citizens who deserved these important citizenship documents. Further, Moi's government singled out 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 to be produced by any of them applying for passport, a policy that Muslims termed as illegal.[97]

Moi's government claimed that the screening policy was necessary during the 1990s to curb the influx of illegal immigrants from the neighboring collapsed Somali state, but this reasoning was faulted by some analysts arguing:

> 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. 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.[98]

The screening procedure of ethnic Somalis in the country was proposed to run for three weeks but instead continued, despite temporary suspensions and complaints. Protest from Muslims, led to Moi, in August 2002, directing the cessation of Somali screening, clarifying that his government would instead rely on local leaders to determine the citizenship of the Somalis.[99] This put into question the timing of the recession of his government policy on the Somalis. It was an election year, and five months before the polls Moi wanted to assure the Somalis 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 abused and genuine Kenyans were denied their rights. Given that corruption is rampant in Kenya, the policy was abused and served as an opportunity to extort money from Muslims of Somali and Arab descent or to reject their applications if they refused to "cooperate."

It is because of this discrimination that some Muslims have taken the attorney general to court for violating their constitutional rights by denying them passports.[100] Closely related to this issue is the incident where the Moi administration revoked Balala's passport while he was in Germany, from April 1995 to July 1997, on the pretext that he was not a Kenyan citizen.[101] The government revoked Balala's passport while he was renewing it on the claim that he was holding a Yemenite citizenship. However, it appears that the real reason was his criticism of the political establishment. Apparently, Moi's government wanted to prevent Balala from reentering 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 whether they were Muslims or not.

It happens that the majority of Muslims in Kenya are poor,[102] a fact aggravated by lack of "secular" education. As Muslims were shunning Western education, their non-Muslim compatriots embraced it, placing them in a better position than the Muslims. Constantin has asserted that

> 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.[103]

For many years before the 1980s, many Muslims emphasized acquiring the religious education offered in the *madrasas* (Islamic religious schools) to enable them to comprehend and practice their faith in accordance with the religion. With teaching varying for doctrinal reasons, generally the *madrasas* emphasize instructing children to read the Quran in Arabic, to understand the life history of the Prophet Muhammad, and for more advanced students to master the principles of exegesis and jurisprudence. Due to early exposure in religious education and with no other qualifications, some students from these *madrasas* joined universities in other Muslim countries (i.e., Saudi Arabia, Yemen, and Pakistan) to advance their religious studies. Despite returning home with degrees from these universities, the graduates did not get employment in the formal sector, a trend that Muslims have termed to be discrimination. This is how the gap between Muslims and secular education, or between Muslims and employment, in Kenya partly came into being. For the non-Muslims, the situation was different, and they took advantage of the education that was initially introduced to them by the church missionaries. Having had an earlier start than Muslims, Christians are well educated and better placed to take the most rewarding jobs in the country. Because of their higher incomes, they are able to build more schools, equip those already in existence, and improve their living standard. Thus, a vicious cycle is established. But 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 higher standard of living. Like the rest of Kenyans, Muslims embarked on building their own educational institutions through the spirit of *harambee* (people putting their resources together to realize a specific project) and foreign assistance to cater for the growing demand.

These efforts by Muslims were sometimes allegedly frustrated by the Moi government. For instance, 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 College. It is a policy of the Kenyan government that private institutions must apply for registration before they begin operating. Accordingly, Muslims complied and applied for official recognition of the institution by the government. On its part, the Ministry of Education under Moi's administration refused to offer the institution official registration. This decision outraged Muslims, and it took their strong condemnation of the government to eventually allow the institution to operate through a presidential order.[104] At a time when almost all the private universities in Kenya are religiously sponsored, Muslims as a community did not have even a single university during Moi's tenure.[105] 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.[106] This allegation has been criticized as it does not conform to the current scholastic practice even in the so-called Western and secular nations. If the fear of Islam was to be extended to academic circles, one would have expected other secular countries in the world to adopt such a policy. As if to suggest that Moi's government was an obstacle to Muslims' ownership of higher institutions of academic learning, when his leadership came to an end in 2002, Kenya's Commission for University Education granted the Umma University interim authority to offer various degree and diploma courses in July 2013. Coming after the Islamic University in Uganda that was established in 1988, the Umma University is owned and managed by some of the Muslim institutions in Kenya.

From the preceding, it is clear there is no uniform policy for the interaction of religion and politics in the various postcolonial regimes, which was influenced by the personality of the political leadership and the prevailing conditions. This explains why Muslims' fortunes in the country shifted depending on the political authority of that time. Nevertheless, the primary legacy of the postcolonial government 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 politicians and professionals. This condition of domination of Muslims in all sectors is what Alamin Mazrui has described as "internal colonization."[107] 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.[108] During the colonial period, the British order combined both paternalism and institutionalized segregation in its relations toward all its subjects. After independence, ushering in the era of Kenyatta and Moi, an unconscious shift from a British model of colonialism to a French model can be observed.

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 high in France, while the group to which they belonged still remained subordinate in the total French hierarchy.[109] Could Kenyan Muslims have entered a neocolonial status based on the French model in the postcolonial period? From the available evidence, it can be argued that Muslims in Kenya are experiencing the French style of colonialism. Individual Muslims may have risen to become chief of general staff, commissioner of police, ministers, directors of government firms, permanent secretaries, or education officers, while the general Muslim community is alleged to be least educated, most unemployed, and most discriminated against.

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 favor one particular religion, unlike Moi who was out to give the impression that Kenya was a Christian country. Moi's interaction with Muslims in most cases was for mutual convenience. The timing of the president's accession to Muslims' demands on various occasions has been perceived as a preelection campaign strategy to woo Muslim 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 a principle, which maintains the separation of religion and politics, that the protection of minority religious groups like the Muslims of Kenya can be guaranteed.

On the surface, Muslims appear to be united group, but beneath it is a community that, like others, experiences conflicts, division, and suspicion among themselves. For various reasons Kenyan Muslims are divided, having allowed narrow sectarian-mindedness to come between them. Beginning from the colonial era and continuing to the postcolonial period, it is possible to find Muslims split along lines of black Muslims versus Arab Muslims and even coastal Muslims versus Somalis or upcountry Muslims. Such divisions ensure that Kenyan Muslim politics are not monolithic, despite efforts to unify Muslims' voices. It is this bid to establish a united Muslim front that is addressed in the next chapter.

CHAPTER THREE

The Development of Muslim Civic Associations and Political Parties

The Creation of SUPKEM and the Need to Unify Muslims' Efforts

Many Muslims believe that the ascendancy of upcountry (*wabara*) Christian hegemony is responsible for the perceived marginalization and discrimination against Muslims in Kenya.[1] Although the predicament of Muslims predated colonialism, postcolonial politics is blamed for not reversing the situation. Instead, postcolonial governments have 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. The perception of upcountry Christian domination 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 sociopolitical goals. This development of using Islam 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]

In Kenya, as elsewhere, the place of Islam in the political process has been redefined as a means of dealing with new political realities. Since the 1990s, things have changed from Muslims protesting against perceived discrimination by the government to Muslims seeking to shape the direction of Kenya's politics. Several Muslim organizations have been established in Kenya, and their impact is felt in the religious as well as the political field.

The formation of Muslim associations during the colonial period reflected ethnic and racial antagonism among Muslims of Arab, Indian, and indigenous African backgrounds, which continued to be politically significant after independence. To divide the Muslim community, the colonial authority granted Arabs and Indian Muslims political favors over indigenous African Muslims as reflected in the composition of the Legislative Council. In 1920, the council had one nominated Arab member. Following agitation for *elected* rather than *nominated* representation by the Coast Arab Association formed in 1921, the British granted the Arabs two elected seats on the council in 1923. The development increased the factional rivalries among Muslims, leading the Afro-Asian Muslims to form their own association in 1927.[4] I discussed the political divisions of Muslims along racial lines during the colonial era in chapter 1. There were several ethnically based Muslim associations, which acted as a lobby for the interests of a particular community.[5] The result was the emergence of many Muslim associations, which failed to develop a nationalistic and unified Muslim approach on important issues. This fragmentation of Muslim interests across a variety of associational activities led to a diffusion of any significant Muslim impact in Kenya, which was of great value to postcolonial regimes.[6]

After independence, an important aspect was evident among Muslims. Muslims came to the realization that their efforts in uplifting their welfare had been weakened by the prevailing fragmentation along ethnic and racial lines. Muslims determined it was time to have an umbrella body that could articulate the demands of the community rather than having several factional ethnic associations. This led to the creation of the Supreme Council of Kenyan Muslims (SUPKEM) in 1973. Since the issue of cleavage emanates in different forms among Kenyan Muslims, in this chapter I examine to what extent the national Muslim organization SUPKEM has succeeded in uniting Muslims. Thus, I endeavor to assess its contribution to partisan politics in Kenya as the main umbrella body for Muslims. However, more important was that the creation of a postcolonial state required Muslims to be unified into a centralized body for social control.[7] This became clear by the beginning of 1970s as clarified by Bakari:

> 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 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]

Though creating a national Muslim association was part of a general policy of social control initiated by the postcolonial government, Muslims were also involved in this bureaucratization process. The need to have a unifying body for all Muslims was the inspiration behind the formation of a national organization. Both Muslim politicians and religious leaders were engaged in the process that culminated in the creation of SUPKEM in May 1973. The council activities are conducted from its secretariat in Nairobi, which has staff implementing the decisions of the National Executive Committee. The committee is mandated to appoint professionals to assist in the activities of the organization. Due to financial constraints, the committee works on a voluntary basis, and it is only the small secretariat that is paid.

According to Bakari, the creation of this organization could not have succeeded without the approval of the government. As a form of political control, postcolonial government encouraged the formation of religious organizations of national reach among the party loyalists. This explains why some of the Muslim senior government officials in the Kenyatta administration were also representatives of SUPKEM. This was the case of Assistant Minister Kassim Mwamzandi, who was also the chairman of SUPKEM; Assistant Minister Mohammed Salim Balala 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.[9] According to Mwamzandi, the reason for incorporating government members as officials of SUPKEM was to give the organization influence in its endeavor to serve the Muslim community. He is strongly convinced that government's representation helped the organization to earn recognition, especially in its international dealings.[10]

Mwamzandi does not agree that it is possible to have a conflict of interest in situations where one is a government minister and at the same time representing a Muslim body. As a result, the formation of SUPKEM enjoyed political blessings. Arguably, the creation of SUPKEM was also meant to check potentially disruptive tendencies among Muslims. Prior to the introduction of multiparty politics, the council was anticipated to be in harmony with the political leadership of the day. The government presumed that the council leaders would control Muslims for the benefit of the state where open disagreement with the state was to be avoided. In return for their loyalty, Muslims found themselves rewarded in different ways. Their religious leaders were allowed to participate in state functions, while some Muslim politicians

were appointed government ministers, and a few Muslims were promoted to substantive administrative positions. The cost that Muslims had to incur to have access to these privileges was political conformism.

In essence, however, SUPKEM was set up as an umbrella body to unite all Muslim organizations, societies, mosque committees, and groups in Kenya. According to its vision statement, SUPKEM's desire was to provide a single channel of communication with the government and the rest of the world on all matters concerning Muslims in Kenya.[11] Therefore, the organization acted as an intermediary because it created new structures through which the government could deal with the Muslim population. This recognition presents the supreme council as both an institutionalized interest group and an adviser to the government on matters concerning Muslims. This official close relationship of SUPKEM and the state has sometimes been condemned by other Muslims with the allegation that the organization is always hesitant to criticize the government.

The "Failure" of SUPKEM in the Political Arena

In principle, all Muslim associations are required to be under SUPKEM. However, some Muslim associations have no links with SUPKEM and remain independent registered bodies. The Kenya authority has not banned these rival bodies except when they are suspected of opposing the government or supporting subversive activities deemed dangerous to the security of the state. For instance, after the August 1998 bombing of the U.S. embassy in Kenya, the government decided to ban five Islamic nongovernmental organizations (NGOs), which included 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 Kenya's security.[12] Nevertheless, there are other popular Muslim organizations like the Council of Imams and Preachers of Kenya (CIPK) and the National Muslim Leaders Forum (NAMLEF), which are not affiliated with SUPKEM. Their existences have challenged SUPKEM as the sole voice speaking on behalf of Kenyan Muslims.

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. Usually, 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 instances such cases are handled by the *Kadhi* courts established by the government. This demonstrates that the leadership of the supreme council is limited. Further, intraparty wrangling has severely damaged the reputation of the organization,

where contradicting statements made by officials of the organization have left Muslims in confusion. For instance, in 2004, the SUPKEM vice chairman, Munir Mazrui (Arab descent), issued a press statement that the organization had decided to support a Muslim, Hassan Omar Sarai (mixed ethnic parentage), in the Kisauni by-election that year. Juma Ngao (Mijikenda descent), SUPKEM chairman Mombasa branch, released a statement refuting the endorsement of the candidate by SUPKEM.[13]

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

> *Jumapili ndio siku ninayo kujibu rasmi. Inshallah nitaona mimi na wewe ninani msemaji na yupi siye hapa pwani. Nasikuheshimu 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 *na mimi ni* Kenya Muslim. *Utaonga na* Dor *wako.*[14]

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 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.[15]

This incident illustrates in-fighting within SUPKEM that is sometimes influenced by ethnic antagonism. But more remarkably, the occurrence demonstrates the underlying tension among the various sections of the Muslim population, which was a product of Arab racial domination in the precolonial and colonial era. For Ngao, a candidate of Mijikenda background, previously perceived as *washenzi*, was more important than a Muslim of another ethnic group, while for Mazrui both the "Swahili" and Islamic factors were significant. As I have shown, the Swahili had in a confused way perceived themselves as both Africans and Arabs where a person's racial personality altered

according to prevailing circumstances. When they wanted to benefit from the aristocratic arrangements of the Arab elites, the Swahili considered themselves part of the composite group, the *waungwana* (civilized), denouncing being clustered with the *washenzi*. It is clear from the Ngao-Mazrui confrontation how politics of racial (or ethnic) competition and domination of some parts of the coastal region is still a strong factor among Muslims. 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 as merely an instrument for individual prestige and power rather than a serious body serving the community. The organization is alleged to have failed to deliver substantial services to Muslims.[16] In its self-defense, SUPKEM claims to have accomplished several projects, mostly on education.[17] According to the national chairman:

> 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.[18]

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 efficient and transparent. The emergence of organizations such as the unregistered Islamic Party of Kenya (IPK), the CIPK, and NAMLEF 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 divided group. It was out of this recognized national organization that Muslim leaders lobbied for Muslims' personal affairs (e.g., the issue of the 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.[19] Confronted with numerous Muslim associations competing with one another for attention, one national Muslim association acting on behalf of the community should enable it to overcome the problems of leadership in a pluralist and complex group.

Though SUPKEM is expected to coordinate Muslim activities, the organization is accused of failing to play an active political role for the community. There is a perception among Muslims that SUPKEM has been

compromised by the government and that is why the state is comfortable to work with the organization. This accusation is based on the notion that whenever an alternative Muslim voice emerges, the government quickly employs SUPKEM to diffuse the emerging voice.[20] This political weakness of 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, SUPKEM suspended its secretary general, Ahmed Khalif, 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 that required Kenyan Somalis to have special identity cards.[21] It was also clear that during the early 1990s SUPKEM was not keen to support the IPK because of its opposition to Moi's leadership. Arguably, the condemnations by Khalif and the emergence of the IPK were interpreted as antiestablishment, which angered the political authority. For fear of government retribution, SUPKEM distances itself from such individuals or groups. This explains why later in the early 1990s, after the formation of the Forum for the Restoration of Democracy (FORD) in 1991 as a lobby championing for multiparty democracy, its founders sought distinguished personalities to represent the party in various parts of the country. Accordingly, FORD sought to recruit Khalif as its representative for the Northeastern Province, but he declined the offer because he did not want to embarrass his colleagues in SUPKEM.[22] Since SUPKEM has a close mutual relationship with the state, its member joining an opposition party was viewed as a humiliation to both the state and SUPKEM during this period.

This perceived political failure of SUPKEM could be traced to one of its mission statements, which is "to refrain from being partisan" in political issues. During its inception, political objectives were not among the reasons for the formation of SUPKEM, implying that a great deal of caution should be exercised when engaging in political matters. Its leadership carefully avoids adopting a political approach that will be viewed as antagonizing toward the government. It is this cautious engagement of SUPKEM in politics that has led to its image as a quasi-government body. However, a national official of the organization has a different view regarding SUPKEM's engagement in politics. First, he views politics as "being aware of one's rights," and to that effect, he is of the opinion that SUPKEM has strived to make Muslims aware of their rights, adding:

> The council has always mobilized and advised Muslim Members of Parliament by arranging seminars to prepare them whenever Bills of 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 been firm on political issues affecting Muslims.[23]

It is evident that officials of the organization vehemently refute the allegation that SUPKEM is a government organ and thereby ineffective. According to the body, whenever the rights of Muslims have been infringed, SUPKEM has not hesitated to condemn the government. Despite the officials' defense of SUPKEM, it is clear that political objectives are not among its goals and it becomes difficult for the organization to engage in partisan politics. It is against this background that Muslims formed a political party as an alternative voice, which will be examined in the following section.

Muslim Political Opposition from the 1990s Through the Formation of an Islamic Party

Before the 1990s, SUPKEM was the main channel through which Muslims negotiated with the government. Whenever there were major political decisions to be made that affected the Muslim and state relationship, a delegation from 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 recognized by the government. Despite this acknowledgment, there were other Muslims who were not satisfied with the leadership of SUPKEM, especially its alleged uncritical role toward the government.

Consequently, in 1992 in an atmosphere of political liberalization, the IPK was founded. Despite the prevalence of several Muslim organizations in postcolonial Kenya, the only one that had clear political ambitions was the IPK. The extension of political space in the early 1990s allowed for criticism of the country's leadership and political competition that had previously been unacceptable. The emerging opposition parties to challenge the ruling party, KANU, were mostly dominated by upcountry Christian politicians. A section of Muslims noticed the void and formed the IPK to articulate community grievances that they considered to be neglected. After its formation, the IPK found a strong base of supporters among the urban coastal Muslims, especially those of Mombasa, Malindi, and Lamu. Its primary appeal was as a party that did not propagate a narrow ethnic agenda, which was displayed by the diverse background of its national officials. Within its leadership were Muslim scholars (imams/*ulama*/sheikhs) who are traditionally trained and professionals educated in the "secular-formal" institutions.[24] Rather than campaigning via ethnic propaganda, IPK focused on Muslim grievances that stemmed from perceived marginalization, discrimination, and injustice by the various postcolonial regimes.

With the IPK, Kenya for the first time after independence witnessed an

Islamic political body. Unlike SUPKEM, IPK wanted to make a more direct political impact in the context of the unfolding new opposition politics spurred by demands for multiparty democracy. The party 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.[25] It wanted to be recognized like any other political party in Kenya so that it could participate in elections, to make the system more open and honest rather than demolishing the existing system. This agenda can hardly be described as Islamist.[26] For this reason, it is appropriate to describe the party as a political lobby for the interests of Muslims, rather than as a means for Islamist political objectives.

The criticism of the state formed a common ground between IPK and the emerging opposition parties. 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, IPK was primarily seeking reform and improvement of public institutions 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 IPK.[27] However, it is also possible that the formation of the IPK implied that the party was set up for contesting political power. In democratic societies, political parties compete in elections for the purpose of attaining power and controlling the resources of the state. It is when a political party wins an election that it can control the state and resources of the government either individually or in a coalition with other political parties. This is the objective that all political parties strive to attain. Therefore, a Muslim political party like IPK was not different from other political parties, which were set to attain this political objective.

The Muslim political movement played a substantial role in the development of the politics of opposition in the country. Between 1992 and 1997, IPK made common cause with some churches and opposition political parties to Moi's government, identifying restrictions and discriminatory treatment of Muslims. Vocal preachers such as Khalid Balala in Mombasa used mosques to criticize the ruling party, KANU, and to call for change.[28] The appearance of the IPK as an alternative political voice, and its mix of Islam and politics, attracted the attention of the country. The political leadership feared that the party would dominate Muslim politics. To counter IPK's popularity, the Kenyan government refused to register the party, which increased anxiety among its supporters and led to violent antigovernment demonstrations. 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. The government, through this office, had the power to vet opposition parties. Several were refused registration, including the Green African

Party, the Kenya Nationalist People's Democratic Party, and the Islamic Party of Kenya. IPK was refused registration on the grounds that it was discriminatory, requiring specific religious beliefs of its members. This practice of government veto against political organizations remained a real constraint on Kenyan's freedom to organize politically.

This leads me to an important question: did Kenyan Muslims have a case in demanding the registration of 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 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 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 a religious basis. There are Christian Democrat 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 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."[32] On that basis, it was officially registered in May 2001. Provided that these parties based on religion show respect for the human and civil rights of others, and comply with the democratic process, they have the right to compete in democratic politics.

It is clear that the main reason for the rejection of 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 on the coast and in the northeastern regions, which are predominately Muslim, once IPK is permitted to compete in elections.[33] The refusal to register the IPK apparently reflected the political leadership's fear that the Muslim community could become a coherent political force in opposition to KANU. Thereby, 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. This strategy to deny IPK registration was a clear suppression of the Muslims' political ambitions in Kenya. It severely weakened Islamic-oriented politics in Kenya.

Despite being denied registration, the party did not immediately disappear, though the action angered its officials and supporters. By contrast, the country's Muslim political leaders continued to maintain good relations with the government. The result was a bitter conflict in Mombasa between a section of supporters of IPK and KANU, which led to widespread violence, destruction of property and vehicles, mass arrests, and sporadic street fighting. The situation got worse when six days before the elections, Balala was arrested and remanded to prison, which led to a violent clash erupting between IPK supporters and police.[34] As a result of the confrontation, several cases of human rights violations were reported.[35] Violence against IPK was manifested through putting some of its activists in custody and harassment of its officials. This led to some of its supporters fleeing the country to seek political asylum abroad.[36]

Unable to field its own parliamentary and local government candidates, the IPK leadership decided to form an alliance with Forum for the Restoration of Democracy-Kenya (FORD-Kenya), but not without some IPK members protesting the action, arguing that it would undermine the party's core goal.[37] Though the goal of the alliance with FORD-Kenya was to increase IPK's influence in national politics, a Lamu IPK branch official rejected the idea of working with "any secular political party." In the memorandum of understanding, FORD-Kenya agreed to nominate IPK members as its parliamentary candidates in areas where it had a following. This arrangement was well illustrated in all the Mombasa constituencies. The IPK believed that FORD-Kenya best represented the "original" forum's ideology for political reform.[38] However, it later emerged that IPK activists in Lamu preferred to work with the Democratic Party (DP), which 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 IPK leaders and activists had different visions, which resulted in disorganization and adversely affected the party's unity. Such developments reveal Muslims' divisions with regard to their political articulations.

In Mombasa, where the party was believed to be strong, its most intense election campaign took place in the Mvita constituency. This had been the seat of Shariff Nassir who had been a staunch Moi loyalist and a strong opponent of multiparty politics. Facing him for IPK (under the banner of FORD-Kenya) was *maalim* Omar Mwinyi who had a strong following among the constituency's disenchanted Muslim youths. Apart from these two strong contenders, the FORD-Asili (another splinter of the original FORD) standard-bearer was its national organizing secretary, Ahmed Salim Bamahriz, who was one of FORD's six initial founders. Bamahriz conducted a strong, highly visible campaign, but was marginalized by the IPK-KANU conflict. The DP candidate, Ismail Yunis, was also a well-known and powerful local figure. All four candidates were Muslims and all had money, though none could match

Nassir's wealth.[39] Since 2002, money had become a major factor in assisting a contestant to win an election. Those who did not have much money were unlikely to win an election.[40] The outcome of the election was that KANU won Mvita, FORD-Kenya won Likoni and Kisauni, and DP took the Changamwe seat, while FORD-Asili won nothing. Apart from the fissure in IPK that undermined its strength, it is evident that the party's political appeal was limited to Mombasa.

Other challenges confronted by the IPK included the difficulty of uniting Kenyan Muslims into a single political block and overcoming underlying ethnic differences. Some leaders of the Muslim community in the Kilifi area condemned the pronouncement of Mombasa as an IPK Muslim voting zone and appealed to the community to rally behind the ruling party. Elsewhere, especially among the largely Muslim Digo population of Kwale, Bajuni in Lamu and the Somalis in the northeastern region, support for KANU remained solid. Voters overwhelmingly supported KANU, which was secular in orientation. It was clear that despite the IPK's efforts, it was unable to mobilize most of the Muslim population on the basis of their religious identity. Two interpretations could be sieved from the unfolding scenario. One, it demonstrated that the Digos, the Bajunis, and the Somalis identified themselves in their ethnic categories first and as Muslims later. And, two, the IPK euphoria and support was an urban phenomena and weak in the rural areas, a factor aggravated by propaganda and misinformation directed at the rural residents. Despite the IPK failing to make significant inroads among the Muslim population, there is no doubt that the party marked the beginning of politicization of Islam in Kenya. Muslims are a persistent and important oppositional force to political leadership in the country. Given the political disturbances and violence between the government and IPK sympathizers, the influence of Islam in national politics cannot be underestimated. Its assertiveness in presenting a politicized Islamic opposition in Kenya deepens the already widespread fractures along ethnic competition.

Toward the Politicization of Islam in Kenya: The Local Factor

With the expansion of political association and freedom of expression, politicization of Islam came to the fore. "Free Balala," "IPK," "Kill Moi," "We are fed up. We want change."—these were some of the graffiti slogans that were sprayed on the walls of houses and shops on streets of Old Town, Mombasa, in 1992. What could be deduced from these slogans is Muslims' opposition to the government and the emergence of a politicized Islam as symbolized by the formation of the IPK. Though the founders of the party had intended to capture the entire Muslim vote in the country, the party was only strong and popular in the coastal town of Mombasa. A significant number of both the young and the old in the area identified with the party's aspirations. There-

fore, an important question needs to be asked: what are the underlying factors that explain the politicization of Islam in Kenya? In this study, I found that local factors played a vital role in the politicization of Islam in the country. My analysis does not focus on the international factors because Oded has already examined this aspect in his book.[41] Oded's major weakness is that of failing to situate Kenyan Muslim politics within the larger historical context. Instead, he 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 overstate the importance of such influences. Therefore, in this book I have paid little attention to outside influences on the politicization of Islam in Kenya, arguing that Kenyan Muslims are more concerned with national and local issues.

Abdel Salam Sidahmed has described the internal factors as particularities of each society, which are significant in shaping the nature of debate on Islam and politics.[42] Kenya also has its own internal particularities that have contributed to the politicization of Islam in the country. The political crisis evident in Moi's tenure increased tension between his regime and Muslims, intensifying the latter's sense of religious identity. After the IPK was denied official recognition by the government, a group of youths in the party steered the organization toward its militant direction. This direction radicalized a section of the IPK supporters with respect to the state. The behavior of the IPK sympathizers could be explained as a reaction of a group suffering from rejection complex that often drives a minority-based movement to adopt violent means, as observed by Mohammed M. Hafez. Hafez argues that because accessibility to a political system plays a vital role in influencing the tactical response of an opposition movement, an exclusionary and repressive political atmosphere forces Islamists toward radicalization.[43] According to Hafez, a political system is accessible to a movement when the state grants it the opportunity to influence policy making through government institutions; 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 against forming parties, competing in elections, lobbying state officials, holding public office, engaging in policy formulation, and so on.

Conversely, completely inaccessible systems make illegal any attempt by movements to engage in formal policy making and instead opt to repress them. I build upon these insights to analyze the sporadic violent activities of Kenyan Muslims in the early 1990s as the consequences of earlier policies of exclusion and marginalization. During Moi's reign, the political system was exclusionary, characterized by intolerance of criticism. This is exemplified by his government's refusal to register the IPK, denying it an opportunity to participate in elections, which was a clear case of a system that is closed. Hafez

noted that repression could include proscription on a group's campaigning against the government, mass arrest of their supporters, and secret abduction of their members.[44] These descriptions accord with what the IPK encountered, thereby heightening the politicization of Islam. However, it is important to understand that this strategy was part of how Moi silenced his critics; it should not be interpreted as a deliberate policy to undermine Muslims. Even leaders of some churches and other nonreligious bodies who had criticized Moi's policy suffered the same consequences.

Significantly, however, the formation of the party indicated Muslims' efforts to pursue a constitutional path in advocating for their rights. Like other political groups in Kenya, some of the IPK supporters resorted to violence when legal means were frustrated. In this, they were pursuing the same means as other political opposition groups in pressing for their demands. The rise of political violence was due to the intransigence of the political elite of the KANU regime. At this point, I would like to raise another significant question: why did its founders decide to name the party the Islamic Party of Kenya? My investigations revealed that there was debate among its founders regarding the usage of the word *Islam* in the party's name. One of the officials of the party 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 a 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.[45]

According to the party official, the usage of the word *Islam* did not imply that the IPK was a religious party, but rather it was a secular one. He argued that the IPK constitution only bore the name Islam in its title and does not mention *Islam* anywhere else in its content. I was unable to verify this assertion because my efforts to get a copy of the constitution from the IPK officials were not successful, leading one to wonder why the document is guarded as if it were secret. Nevertheless, the intention of retaining the name Islam was to ensure that Muslims also have their own party that caters to their interests. The party was not geared toward introducing a new political order based on an Islamic political model, but to compete in a democratic election that is secularly oriented. Therefore, under the leadership of the IPK, Muslims had not attempted to enter the political arena as propagators of Islamic religious agenda, that is, implementation of sharia, creation of an Islamic state, forcing women to wear *hijab*, among other things. Its role in Kenya's ethnicized

politics resembles that of a "tribe" laying claim to its own share of the national resources.

The ethnicization of Kenyan politics is attributed to having been buttressed by the institution of colonialism, which created a system that influenced how people related to each other. The colonial administrative boundaries created an impression of "a people's own area," and enhanced ethnic self-identity, which gradually created a sense of exclusiveness that manifested itself in the rejection of "outsiders." Accordingly, the development strategies devised by the colonial administration tended to benefit some groups at the expense of others. Areas with more missionary stations received relatively better education than certain areas, which later proved crucial as a criterion of accessing gainful employment.[46] Pastoral communities and other religious groups like the Muslims did not significantly benefit from this arrangement and continued to be neglected for most of the colonial period. By the time Kenya was attaining independence, there were some ethnic groups who believed that they were not treated favorably by the colonial regime. The leadership of the various postcolonial regimes has also been accused of practicing favoritism toward a certain ethnic group. During Kenyatta's leadership, it is alleged that the Kikuyu benefited from state patronage in terms of resource allocation and appointments. This trend was reversed and tilted to favor the Kalenjin ethnic group when Moi succeeded Kenyatta. This is why during the multiparty presidential elections of 1992 and 1997, which Moi contested, the Kalenjin voted overwhelmingly in support of Moi. Clearly, this expresses that in an ethnically plural society like Kenya, presidential elections are seen as an opportunity to compete for the control of the state because of the discriminatory use to which the state is put by the group that controls it. The formation of the IPK was, therefore, intended to bring the Muslims together as a community, who are numerically disadvantaged ethnically, and champion their political cause under the banner of Islam rather than tribe.

There is no doubt that the IPK possessed an Islamic face. This was demonstrated by its method of mobilizing support and spreading its political views to its supporters. Conspicuously, the party's activists used a network of specific mosques that had imams who were sympathetic to the IPK in spreading the party's political programs.[47] Discussions were facilitated in mosques where debates on political topics were encouraged by imams of these mosques. These discussions vocalized issues that affected Muslims such as alleged police injustice, wearing of *hijab* in public schools, and alleged discrimination at the immigration office, among others. Most effective in terms of publicity were the Friday prayers where IPK supporters attended for both worshipping and for raising political consciousness. The sermons in the mosques 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 postcolonial politics. In Kenya the politics of ethnicity are regarded as another source of power. All the major political parties in Kenya are based on an ethnic constituency. After political parties are formed, there is a tendency for those parties to have a strong base in certain parts of the country. Since it is easy to identify tribes with regions in Kenya, those parties that are strong in certain areas are associated with specific tribes. And once a political 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. In past elections, the national presidential voting pattern has been ethnically influenced, a trend that has been encouraged by politicians who insistently appealed for ethnic backing. A list of political parties in the early 1990s together with their support base will illustrate the point: FORD-Kenya under Jaramogi Oginga (a Luo) was viewed as a Luo party; the DP of Mwai Kibaki (a Kikuyu) was seen as Kikuyu party together with FORD-Asili of Kenneth Matiba (a Kikuyu); while KANU under Moi (a Tugen) was associated with the Kalenjin community.[48] The rest of the ethnic groups are absorbed in any of the dominant 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 political alliances are formed among the various parties, the balance always tilts in favor of non-Muslims. This could be because the support base for the major political parties could be traced among the upcountry tribes that are non-Muslims. There is a belief 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 among the Muslim population across the various ethnic communities. This expectation gave birth to the formation of the IPK.

And when the party officials realized that they would not be able to participate in the 1992 elections, the leadership of the IPK sought a political solution to the crisis. They decided to enter into an 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 an established alliance. However, this development was to some extent a handicap to the IPK as it was not able to nominate its candidates independently. 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 Kenya's political arena. This scenario indicates that the prevailing local circumstances shaped the growth and development of politicized Islam.

Ethnicized Muslims and the Future of Islamic Party Politics in Kenya

Having examined the factors that led to the development of politicized Islam in Kenya, I wish to explore the second question: why was the Muslim opposition through the IPK short-lived? In less than a decade, the presence of IPK had already been wiped off the political landscape of Kenya. The failure of the IPK to sustain a protracted opposition against the state has been attributed to Muslims' lack of a united front. To some extent, the lack of solidarity among Muslims has been attributed to the ethnic and racial dialectic within the community.[49] The endemic leadership struggle within the community, which goes back to both the precolonial and colonial eras, has been the community's major weakness. Throughout Kenya's history, different political regimes have exploited the ethnic and racial difference among Muslims for political survival when necessary. It is as a result of the racial fissures that the government sponsored a Muslim movement, the United Muslims of Africa (UMA), to counter the IPK, when it began getting strong and popular among Muslims.[50]

Generally, political parties in Kenya embody polarization along ethnic lines. Ethnicity is increasingly the relevant reference point for political alignment, even if none of the parties have developed an ethnic ideology. The numbers within ethnic groupings are politicized as they have the potential to assist in determining the political leadership of the country. Muslims' political movement in Kenya has experienced both ethnicization and racialization where the split exists between the IPK and the United Muslims of Africa (UMA)—specifically, a growing racial polarization between Arabs (IPK) and African (UMA) Muslims. The UMA party, founded in 1993 and suspected to be supported by African Muslims, embarked on making announcements critical of the so-called Arab Muslims, stressing its African identity before Islamic solidarity. It is alleged that Moi's government engineered the formation of the UMA on the presumption that it would draw its support from Muslims of African descent. The aim 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, a non-Muslim, strongly denied, 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 [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.[51]

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 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.[52]

From the quotations, it is clear that the formation of the UMA as a rival movement to the IPK was believed to have had the backing of Moi's government. Once it was formed, the UMA directed its criticism against the IPK arguing that creation of political parties is un-Islamic and contradicts the Prophet's tradition because Muhammad did not form one to advance the interests of the Muslims in Mecca. During its existence, it positioned itself as a KANU wing, by asserting that it was interested in political ambition, an indication that there were other forces behind its establishment. Though it presented the impression that its intention was not to divide "Muslims on racial lines," it claimed (*a*) IPK was not a true representative of Muslims in Kenya and (*b*) Black Muslims have been discriminated against and sidelined by Arabs

and Asian Muslims in Kenya.[53] It is this division among Muslims that Moi allegedly utilized to divide them politically. He capitalized on the schism and manipulated Muslim leaders to derive maximum advantage that would guarantee his clinging to power. Unity among Muslims threatened Moi's political survival; hence he sought the means to divide them. Racial difference has pitted Muslims against each other, as is evident in the IPK-UMA saga. Among Kenyan Muslims, it is common for "Africans" to perceive a political party formed by "Arabs" as automatically having an "Arab"—and sometimes an Islamist—agenda, while on the other hand when "Africans" establish a party, "Arabs" ignore it as insignificant for their aspirations.

The recruitment of Omar Masumbuko, a Muslim of African descent, was to rally African Muslims against the IPK, which was viewed as a party of Muslims of Arab origin. While both groups were bonded with the same Islamic identity, they did not necessarily share the same political interest. This antagonistic relationship between the two is influenced by the pre-independence history where Arabs were privileged over the majority African population. Ironically, UMA was allegedly financed by a Muslim-nominated member of parliament, Rashid Sajjad, who is of Asian descent.[54] Sajjad's contribution to the UMA indicates that the role of race or the ethnic factor in politics is not always unanimous; it is bound to be contradicted by individual interests. The alleged involvement of Sajjad explains the willingness of some Muslim politicians to work with the political establishment. Most incumbent Muslim politicians had feared that if the IPK euphoria was not checked, there was a possibility of them losing the power given to them by the state. Therefore, the alleged plan was to split the Muslims' strength, which succeeded as violent campaigns between the two sides emerged.

Another incident to illustrate Moi's efforts to counter a 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 elections. The party is believed to have its political base among the Digo Muslims who viewed the party as a *kaya* party.[55] The scheme was intended to channel the community's political support into ethnic solidarity and to weaken Muslim political alliances that were based on religion. During its campaign, the party paid greater attention to the suffering of the Digo during and after the 1997 Kaya Bombo violence. In 1997, an orgy of violence spearheaded by some Digo youths who had taken oaths while in the forest of Kaya Bombo was witnessed against the upcountry people in the Likoni and Kwale areas. The government responded with brutality in its effort to contain the violence, and this is why the SPK platform in 1997 focused on the anguish and agony the local people endured at the hands of the security agents. Arguably, the timing of its registration has been viewed as a strategy by the ruling party, KANU, to "ensure that the Digo did not vote for the opposition," on the one hand, and also sealing "the fate of coastal unity on the

basis of religion and regionalism," on the other.[56] Therefore, its sudden registration could be interpreted as government efforts to ethnicize Digo politics and to counteract any possibility of religious alliance with the IPK that had drastically been weakened by that time. And this is why one can argue that a major obstacle that came in the way of the Muslims' 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 SUPKEM. While the IPK chose to oppose the state, SUPKEM cooperated with the state in undermining the IPK's strategy, as demonstrated by the SUPKEM visit to the state house that was publicized by the media. 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. Arguably, both SUPKEM and the incumbent KANU Muslim politicians were intent on acting as the sole guardians of Muslim affairs in the country and felt challenged by the IPK, and as a result they ceased to show their solidarity with the party. The refusal by some Muslim politicians to support the IPK implied that they viewed the community to have performed better under the Moi leadership. This is because it was during Moi's tenure that more Muslims were appointed to cabinet and senior positions in government.[57] Accordingly, this constituency allegedly scuttled the antistate Muslim efforts of the IPK. 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.

Today, Muslims are divided concerning the fate of the IPK between those who are supporting and those who are opposing its recognition. The voice opposed to the registration of IPK as a political party is represented by an official of the Kenya Muslim National Advisory Council (KMNAC). According to the official, the 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 to all communities. These views 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 an association like KMNAC as the representative of the community.[58] Such a challenge is not in the interest of Muslim individuals seeking personal political gains from the state. In most cases, the government is eager to work with those Muslims who are perceived as accommodative and cooperative.

The views of those advocating for an Islamic political party should only be seen as an attempt to have a lobbying platform rather than an Islamist political agenda as discussed earlier. Despite the politicization of Islam in the country, there is no future for an Islamist agenda whose objective is to establish an Islamic political model, sanctioned by the sharia. I have argued in this book that the intention of IPK was to participate in Kenya's politics to make the

system more open, rather than demolishing it. This agenda can hardly be described as Islamist, and therefore, IPK was not Islamist in outlook.[59] The realization of the Islamist objective is unattainable due to the peculiar case of Kenya because 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 been associated with its politics and ideology greatly differs from those in Egypt, Sudan, and Nigeria, among others; and (*b*) the reality and complexity of today's Kenya as a multireligious country with a Christian majority makes the quest for an Islamist program impractical. As a result of these varied processes, the Muslim political approach is distinct from the ones witnessed in other parts of the Muslim world. But even with the unlikelihood of IPK being revived, Muslims in Kenya have not stopped searching for a political platform to raise their visibility.

Nonetheless, the IPK's goal was to provide a forum for the articulation of a national Muslim political awareness. The existence of the party stunned the country's political leadership, increasing a national consciousness of Muslims' political influence. For the first time in the history of the country, Muslims had an explicit political identity that articulated their aspirations. However, the failure of the party to gain national support among Muslims in other parts of the country confirms that there are internal divisions in the community apart from Islamic identity. Despite the community appearing united by Islam, a section of Muslims did not view the IPK as a suitable advocate for their welfare. In addition to the government's refusal to register the party, different aspirations and competition among party members also weakened the political force of the IPK.

In Search of a Political Platform: The Transformation of Ulama

In postcolonial Kenya, there have been numerous competing efforts in the creation of institutions that could be viewed as representative of Kenyan Muslims and better placed to articulate the concerns of the community. The repeated use of words like *Kenya* or *National* in the titles of these organizations illustrates their efforts to be involved in the national political discourse. Though SUPKEM presents itself as the Muslim body recognized by the government, it is alleged to have failed to chart the desired political course for the community. Its alleged failure to challenge the political authority has resulted in skepticism among the people it is supposed to serve. This has inspired the formation of other organizations that are vocal and critical of the state policies viewed as unfavorable to Muslims. One critic of SUPKEM argued, "basically the reality is that a lot of Muslims have lost confidence with SUPKEM. This was as a result of them toeing the position of the government, whether they were doing justice or injustice to Muslims."[60]

The alleged failure of SUPKEM to guide the political direction of the community has led to the creation of other Muslim organizations that have taken a strong interest in religio-political activism. This is the case of *ulama* organizations such as the Council of Imams and Preachers of Kenya (CIPK) and the National Muslim Leaders Forum (NAMLEF). Their appearance is evidence of a vote of no confidence in SUPKEM's ability to give the Muslims direction in political affairs. This created a kind of leadership vacuum that different players emerged to fill, including the CIPK and NAMLEF, who demonstrate the transformation of *ulamas*/imams in the Muslim public sphere as the interlocutors of the community in various issues including politics. The emerging "*ulama* mouthpieces" are challenging the view that modernization would render traditionally educated religious scholars redundant, with nothing significant to contribute to contemporary Muslim society. Their religio-political activism in articulating Muslim interests gives a clear picture of the face of Muslim politics in Kenya. Though initially formed as civic associations, the CIPK and NAMLEF have become consistent and assertive in articulating political matters that affect Muslims in the country. Arguably, the CIPK and NAMLEF were willing to strike at Kenya's political scene. Unlike SUPKEM, the CIPK and NAMLEF embodied a devotion to engage in the country's politics and to be part of a political discussion.

The CIPK is a faith-based nonprofit and charitable organization that brings together respected imams and Muslim preachers across Kenya, from which it seeks its mandate. It was conceptualized and registered in 1997 and has since grown into a strong Kenyan Muslim network. Its name was possibly chosen to deliberately evoke the memory of the unregistered IPK, which represented Muslim activism in the early 1990s. The CIPK network facilitates processes and operations aimed at representing the welfare of Muslims and the general Kenyan public. However, according to the CIPK officials, the organization was formed with the intention of addressing the welfare of imams and preachers in Kenya. Its objective was to find ways to uplift the status and lives of both the imams and preachers.[61] Over a period of time the organization adopted other tasks given the leadership vacuum evident among Muslims.[62] Among its primary objectives, the organization focuses on the promotion of social justice, human and basic rights, good governance, and equitable socioeconomic growth and development for all Kenyans. To understand more clearly the operations of CIPK, its mission statement explains:

> CIPK is endeavored to sustain a strong network of Islamic religious leaders and professionals who will foster processes that address, pursue and safe guard the fundamental rights of Muslims and the community at large. The network seeks to alleviate marginalization and suffering through initiatives that enhance local capacities and

> promote community based, people driven solutions to needs and problems. It is also geared towards offering hope for all Muslims in recognition of their noble role as part of a functioning stable community and to enrich their lives with dignity and fulfillment.[63]

Though the CIPK intends to focus on the Muslim community, the organization provides a forum in which Islamic religious scholars make a significant contribution in addressing important issues affecting the general Kenyan society. It provides an opportunity for positive engagement, dialogue, and interaction with other institutions, religions, and the government. The organization has gradually grown and developed into a national organization with its headquarters in Mombasa. As a result of its wide network, the organization boasts several branches throughout the country. The national secretary attributes this wide network to the popularity of the organization among Muslims, claiming:

> Since mosques are scattered throughout the country, it is possible to find an imam even in the remote parts 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.[64]

It is true that, while CIPK's leadership insists on its national credentials, it is most prominent on the coast, with local officials working hard to make themselves visible through lectures at mosques and in some places through implementing projects for donors that guarantee CIPK resources. This is most evident in Lamu, where the local CIPK branch is an implementing agent for the U.S. Agency for International Development (USAID) APHIA II (AIDS, Population, and Health Integrated Assistance) project, which supplies an office, computer equipment, and a full-time employee. The usefulness of these donor links allows the CIPK to be involved in a range of activities from AIDS awareness to citizenship training. While it had initial reputation for "radicalism," CIPK has been increasingly drawn into the language and organizational practices of the NGO world, a trend epitomized in their strategic plan.[65]

This CIPK transformation could be attributed to scarce resources. Like other civic associations in Kenya, and especially Muslim organizations, the CIPK faces the problem of funding. Since 2001, funding from donors in the Muslim world has become challenging to access because of restrictions motivated by the United States since 9/11. This created problems in the provision of funding for Muslims' developmental projects. In these conditions, the alternative for the Muslim organizations to obtain resources for the

execution of their programs is through Western donors. Those who accept funding from Western donors are aware that it is given with the intention of changing their operating method, and they resent such efforts. However, the strategy does change their approach, moving them to embrace an NGO culture that is focused on Kenyan issues. In their aggrieved criticism of this Western donor scheme, the leaders provide an opportunity for others to denounce their organizations (those accepting Western donor funds) and to create new ones.

Therefore, the emergence of CIPK has to some extent undermined SUPKEM's claim as the sole mouthpiece of Muslims, thereby limiting its authority. CIPK provides an alternative unified voice for Muslims in Kenya, and in the recent past the organization has experienced needs that directly require interventions. For instance, after the allegedly rigged 2007 general elections, CIPK conducted peaceful demonstrations in Mombasa to force President Kibaki's party to accept that the elections were marred with malpractices and a political solution has to be sought.[66] Following the emergence of the piracy problem along the coast of Somalia, the international community signed an agreement with Kenya to have the captured pirates prosecuted in the country. This development has been opposed by CIPK, which alleges that Kenya is being misused by the international community to serve as another "Guantanamo Bay" in Africa.[67] More forcefully, the CIPK is among the agencies in the forefront confronting the drug problem in some of the coastal towns. Their enthusiasm in combating the menace has led them to organize workshops with members of the judiciary urging stiff penalties for the drug traffickers, whom they allege are always being protected by senior government officials.[68]

CIPK is vocal in politics because it has in its ranks individuals who had been associated with political activism in the past. Among the national officials of the CIPK is Sheikh Mohammed Khalifa who was formerly an official of the unregistered IPK, which provided strong Muslim activism against the state. Failure of the government to provide IPK with registration has forced some of its members to seek a platform where they could articulate political issues among other matters. This platform is provided by the CIPK, which is focused on politics, and like other civil organizations, is critical of the machinations of the country's leadership. With its own structures, the CIPK is becoming more popular and assertive in political matters than SUPKEM.[69]

Another prominent Muslim organization nationally is NAMLEF, which was founded in 2003, during the constitution-making debates. NAMLEF claims to be an umbrella Kenyan Muslim body with fifty-three organizations under its affiliation. Its position is to act as a national platform of leaders (imams/sheikhs) of Muslim organizations.[70] NAMLEF is another perfect example of traditional sheikhs and imams uniting in a single body to "empower Muslims in Kenya for the attainment of decent lives and real social, econom-

ic and spiritual freedom through principled, consultative, representative and Islamic leadership."[71] By effectively addressing the various social problems that have confronted Kenyan Muslims for a long period, NAMLEF is gradually carving a niche for itself as a Muslim organization that is more consistent in articulating positions on national issues significant to the community.

Though NAMLEF is registered as a Muslim civil society, it has assumed a political language in its engagement. The organization is striving to ensure that Kenya is governed justly by upholding good governance, constitutionalism, and the rule of the law. As a Muslim lobby group, NAMLEF has engaged in various activities that have political implications.[72] For instance, during the constitution-making debate, NAMLEF took political position and made its intentions clear. While SUPKEM carefully avoided expressing absolute political opinions, NAMLEF advocated consistently for a devolution system of government, as well as for the entrenchment of the *kadhi* courts in the constitution. With their political activism, NAMLEF has outshone SUPKEM and transformed into an alternative Muslim political voice. The most notable political engagement NAMLEF undertook was the highly debated 2007 "MOU" between its leader, Abdullahi Abdi, and Raila Odinga, the Orange Democratic Movement (ODM) presidential aspirant. In part the MOU reads:

> This Memorandum of Understanding (MOU) is made between Honorable Raila Amolo Odinga on one hand and the National Muslim Leaders Forum (NAMLEF) on the other hand. At the time of execution of this MOU, on one hand, Hon. Raila Odinga has declared to vie for the presidency of Kenya during the 2007 General Elections. He has sought the support of NAMLEF in getting the backing of the Muslim community in Kenya to back him for presidency. On the other hand, NAMLEF a national umbrella platform of all leaders of Muslim organizations desires to see our country Kenya as a just, harmonious, peaceful and a prosperous nation based on good governance, constitutionalism and the rule of law, pro-poor policies, enhanced democratic space and where Kenyans effectively participate in shaping their destiny and the positive upliftment of the status and welfare of Muslims in Kenya and the correction of historical and structural injustices and marginalization meted on the Muslim through deliberate policies and programmes. In entering into this agreement, NAMLEF and the Muslim community in Kenya recognize the fact that president Mwai Kibaki's government has meted out calculated, deliberate, unprecedented discrimination, intimidation and harassment of sections of Kenyans, including the Muslims. NAMLEF and the Muslim community in Kenya desire to see an end to this. After due consultations, NAMLEF has arrived at a decision to support the candidature of Hon. Raila Odinga for Presidency during 2007.[73]

According to this version of the MOU, NAMLEF promised to mobilize the Muslim constituency to support Odinga's candidacy for presidency and declared not to support any other candidate for the presidency during the 2007 elections. On his part, Odinga promised, if elected president of Kenya, to initiate deliberate policies and programs to redress historical, current, and structural marginalization and injustices meted against Muslims in Kenya. More so, Odinga also agreed to ensure that there is equitable representation of Muslims in public appointments in the country.

The MOU generated public debate with a section of church leaders condemning the alliance. The church leaders cautioned religious groups against forging alliance with presidential candidates during elections claiming that it promotes divisive politics. A section of church leaders together with Odinga's political opponents published another copy of the MOU in which Odinga had allegedly promised to recognize Islam as the only religion.[74] The allegedly fabricated MOU as presented by the evangelicals enumerates various issues that resonate with Muslims in Kenya and are of great concern to the community. It presented issues that Muslims are passionate about in terms of safeguarding their faith, which included establishing sharia courts in all Kenyan divisional headquarters and proscribing consumption of products regarded as *haram* (forbidden) in areas where Muslims are the majority. It was also alleged that Odinga had agreed to recognize Islam by according it the utmost favor that will ensure its expansion. After the publication of the "fabricated" MOU for the Kenyan public, the body of *ulama* (NAMLEF) together with Odinga refuted the claims in the "fabricated" version of the MOU, which they referred to as mere propaganda.

Obviously, Odinga's opponents wanted to damage his image before the Christian majority and portray him as a person who was pro-Islam thereby undermining Christianity. Despite the political intrigues, the MOU showed the willingness of Kenyan politicians to enter into political pacts with Muslims to support their candidacy, signifying the recognition of Muslim votes. In fact as a result of the MOU, the ODM party nominated the national secretary of CIPK (and also National Executive Committee member of NAMLEF), Sheikh Mohammed Dor, as a member of parliament.[75] His nomination was hailed as a milestone by Muslims as it witnessed the first imam (sheikh) in the Kenyan parliament. The intensive lobbying by NAMLEF is credited with this achievement.

Therefore, the political environment in Kenya appears to presage the continuation of politicized Islam, and given the experience of political disturbances and violence between government's security agents and some members of the IPK, the influence of Muslims in national politics should not be underestimated. Although the Muslims will continue to be a minority in Kenya, their impact on national politics cannot be ignored. More so, through a politicized Islamic form of opposition, Kenyan Muslims have deepened the

already prevalent fissures in the country along ethnic competition. Though an Islamic political party in Kenya is not guaranteed, this should not be interpreted to imply that the future of Muslims' civic associations is oblique. There would be more attempts by Muslims in the future to establish associations they regard to be representative and better placed in advocating the concerns of the community. Future Muslim civic organizations will continue using the terms *Kenya* or *National* in their titles to demonstrate their "commitment to engage in Kenyan politics, and to be part of a national political discourse."[76]

Despite elusive political unity, there are occasions when Muslims have been able to front a united voice overcoming their racial, ethnic, and sectarian differences, especially when they are convinced that it is their religion that is at stake. It is these instances that succeeded in rallying Kenyan Muslims together as a single cohesive voice and that I will examine in the next chapter.

CHAPTER FOUR

Muslim Politics in the Legislative, Judicial, and Constitutional Arenas

The Equality Bill 2002: Women's Emancipation in Kenya

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. In this chapter, I focus on the constitutional debate and public laws that were politicized by Muslims and thereby became the subject of a religio-political conflict. Kenya has a significant record of legislation that has been met with strong Muslim opposition: the Succession Act (1972), the Marriage Bill (1985), the Equality Bill (2002), and the Anti-Terrorism Bill (2003) together with the *Kadhi* courts as entrenched in the Independence Constitution and recommended in the Bomas Draft Constitution. These are particularly significant issues for Kenyan Muslims, since they determine their development in the country. Reasons for their rejection varied, with some of the legislation viewed as a direct affront to their religious beliefs or interfering with their individual liberty as Kenyan citizens.

More recently (from 2003), the controversy surrounding the relationship between Muslims and politics in Kenya has come to focus on the centrality of the sharia 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 secular 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 with 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.

The Equality Bill was drafted in early 2000 as a response to the Beijing gender conference. The conference addressed gender equality issues in many

areas, followed with a declaration that called for action to promote gender equality in human rights, domestic responsibility sharing, participation in public life and decision making, access to health services and education, and the eradication of poverty and all forms of violence against women.[1] The Attorney General's Office in conjunction with Federation of Kenya Women Lawyers (FIDA), introduced the bill to parliament, which intended to promote "the welfare of all Kenyans and to outlaw discrimination based on gender, race, ethnicity, citizenship, creed, marital status, disability, family status, sex, age or colour."[2] Despite this broader scope of the bill, its main focus was to protect Kenyan women against discrimination. Ever since it was proposed in 1999, the bill had caused political and religious controversy. In support of the bill were the civil and human rights groups, women's organizations, donors, and opposition politicians. While President Moi and some churches were opposed to the bill, the strongest reaction to the document came from sections of Kenyan Muslims, precipitating a religio-political conflict.[3] Though the bill was intended to promote gender equality, Muslims rejected it as soon as it was published. Their objections centered primarily on the marriage, divorce, and inheritance clauses of Part II, Section 4, of the bill that states:

> Every person is entitled to equality with respect to the following without discrimination:
> 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.[4]

Despite stating a diversity of reasons for the rejection of the bill, the main grounds for the rejection of the Equality Bill was that it was a gross abuse of the fundamental right of Muslims in Kenya to be guided by the Islamic legal code on matters of personal law.[5] While this was the case, some Muslims charged that the bill intends to "make men and women the same," which according to them is contrary to Islamic teachings.[6] 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 the opposing Muslims as the reason for their objection to the Equality Bill. According to them, they did not need new laws since the sharia was enough as it has stipulated proper guidance for Muslims.[7] As a result, most Muslims, both male and female, denounced the

Equality Bill as irrelevant for the community and, consequently, appealed to the government not to include them in the bill. They argued that if included, it would violate their fundamental rights to be guided by the sharia on matters of personal law. Their position generally strengthened the customs of conservative religious society arguing that Muslim women do not need to be liberated by the bill because the sharia has clear stipulations to safeguard the interests of both sexes. Such a view does not critique the social provisions that place women within the Islamic tradition in a subordinate position. It emerged that most of the Muslims irrespective of their sex were advocates and not opponents of the existing Islamic social system. Clearly, this request by Muslims ran counter to the spirit of the bill, which sought to remove exclusion and discrimination. To show their dissatisfaction, protest marches were held in both Nairobi (October 2000) and Mombasa (November 2000), where Muslim women presented a memorandum of objection to the bill. Their rejection of the bill portrayed the concept of gender equality as foreign and a blind imitation of other cultures that are not in harmony with the stipulations of their faith.

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? This question was interpreted differently by the respondents. There are those who understood "equality" to mean "sameness," and they responded in the negative because to them Islam does make a distinction between men and women.[8] This position is supported by a Muslim scholar who argues that "from the Islamic point of view, the question of the equality of men and women is meaningless" because "men and women are not the same"; rather, "Islam envisages their roles in society not as competing but as complementary."[9] Amin Wadud has criticized this notion of complementary roles that places "a man to be on a vertical line vis-à-vis the woman," which goes against the spirit of reciprocity as envisaged in the Quran. She contends that both the man and the woman are "equally essential in creation" and consequently "reciprocally responsible for [their] relations with others."[10]

To avoid such an understanding of the Islamic viewpoint on the issue of equality, Muslims need to interpret various Islamic texts in a dynamic and not static way. More so, the "equality" intended by the bill is equality in rights and duties, and not "sameness." This is why those who answered in the affirmative interpreted the issue of equality to mean justice and fairness in Islam. According to them, Islam does not prefer men over women, but both have equal roles, obligations, and rights that are stipulated in the Quran.[11] The defense for this interpretation is traced to Quran 33:35, which exhorts both men and women to do good and promises them the same reward, thereby often cited as proof of equality between men and women in Islam.

At this juncture, it is significant to understand that most Muslim *ulama* supports polygyny, invests the unilateral power of divorce in man, and sanctions the unequal sharing of inherited wealth between the sexes. Therefore, Muslim opponents of the bill regard parts of it to be in contravention of the widely held views of many Muslims on marriage, divorce, and succession as provided in Kenyan law under the Mohammedan Marriage, Divorce and Succession Act. I will now return to these three issues (marriage, divorce, and inheritance), which influenced Muslims' opposition and find out if the Equality Bill could be related to the spirit of the Quran.

Polygynous Marriage in Islam

Marriage is an important institution in Islam, and unlike in Christianity where it is considered as a sacrament, in most understandings of Muslim *ulama*, it can easily be regarded as a matter of social contract even though it is fully invested with all the religious meanings. At one level, marriage sanctions relations between human beings, while at another it symbolizes interaction between human beings and God. According to the views of many Muslim *ulama*, it is through marriage that men and women are able to guard themselves against indecency, reproduce children for maintaining humanity, and satisfy their sexual urges. Under certain circumstances, the Quran allows a man to marry up to four wives at the same time. Despite providing conditions under which a man can marry additional wives, indulgence in multiple marriages is one of the most abused practices by Muslim men worldwide.[12] Polygyny is observed by some Muslim men with lust rather than family welfare as their overriding motive. This is contrary to the Quranic position on the issue that is reflected in the 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, or that which your right hands possess. That will be more suitable, to prevent you from doing injustice."[13] This 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 a man can indulge in a polygynous marriage. The polygynous man is expected by the Quran to deal justly and equitably with all his partners in all aspects of their marital life.

The debate over the issue of polygyny among Muslims in various parts of the world is whether practices explicitly declared acceptable by the Quran can be considered erroneous and subjected to alteration. Several postcolonial Muslim states in Africa like Tunisia, Egypt, and Sudan embarked on reforming the Islamic family law in their respective countries in the early twentieth century. In these countries, some parts of Islamic family law were more easily compliant to legal change than other sections. On the issue of polygynous relations, Tunisia was the only country that candidly abolished the practice

and imposed a penalty on individuals found engaging in it. Apart from being confined to feminist discourse, the abolition of polygyny in Sudan has not occupied the plan for legal reform in the country. In Egypt, the debate on restricting the number of partners in a marriage has been approached with prudence, divulging the sensitive nature of the matter. Though the debate on whether to abolish, restrict, or retain polygyny appears symbolic, the popularity of this form of marriage is noted to be waning in all these three countries.[14]

With regard to the Quranic condition on polygyny, it is the position of some analysts like Alamin M. Mazrui that maintaining comprehensive equality and justice between one's spouses is an impossible task.[15] Given the limitation of human beings, it will be difficult for man to treat all his partners with equity without showing some hints of favoring a certain side. It is clear that the spirit of the Quran has been inclined toward monogamous relationships, and on the basis of the Quran 4:3, one can argue that Islam does not require polygyny. Its permissibility under strict conditions is an implication that the practice is a limited freedom for men and not a duty. Perhaps some Muslims in Kenya have come to this realization. A study on a section of the Muslim population, the Digo, indicated that monogamous marriage is the widely practiced form of marriage among the group despite the permissibility of polygyny in Islam. A number of women involved in that study stated their unwillingness to stay in a polygamous marriage for various reasons, whereas most of the males "cited lack of adequate financial ability (*uwezo*) as the main reason for not engaging in polygamy."[16] Since the Equality Bill was advocating monogamy, it could be argued that it was in accord with the spirit of the Quran.

Divorce by Repudiation

Like polygyny, divorce is also one of the most abused practices by Muslim men.[17] Though permitted in Islam, divorce is an act detested 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 compulsion to show cause for the action, is entirely endowed in man.[18] Arguably, it is as a result of this provision of unilateral right to divorce by repudiation that the frequency of divorce cases is reported to be high in the contemporary Digo society.[19] A study conducted among the Digo Muslims observed:

> The most widespread type of divorce in Digo society is repudiation (*talaka*) pronounced or written by a husband. A Digo man may repudiate his wife by telling her "*nkakuricha siwe mchetu wangu*" (I have released you, you are no longer my wife) or "*nkakuricha phiya kaya*" (I have released you, go back to your home). A man does not have to state the reason for the divorce nor is the presence of the

> wife necessary. Indeed, it is common for a husband to send a written divorce deed to his estranged wife when she is already back with her relatives.[20]

On the other hand, a woman who seeks divorce must acquire a judicial pronouncement from the *Kadhi* (Islamic judge). Muslim women have to appear before a *Kadhi* and request the court to grant a divorce under one of the several available categories.[21] These classifications 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 merit the dissolution of the marriage. In the process, the woman would be required to submit valid reasons for seeking the termination of the marriage. Before I make any conclusions, let's examine the position of the Quran 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.[22]

It is clear 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.[23] From the premise of Mazrui's position, only a court of law as an independent party can determine whether the terms of divorce are genuinely equitable. Against the backdrop of the Quran 2:231, one 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 Quranic spirit of promoting equitability of terms at the point of divorce.

The Law of Succession

I have shown in chapter 3 that the Islamic law of succession is the most sensitive area when it comes to reforms. Muslims in Kenya were against efforts to reform the Islamic laws of succession during the early 1970s. Muslims' reaction is attributed to the formula laid out in the Quran that can be used in settling matters of inheritance. In simple terms, the Quran enjoins:

> Allah commands you regarding (the inheritance for) your children: To the male, a portion equal to that of two females: If only daughters, two or more, their share is two-thirds of the inheritance; If only one, her share is half. . . . For parents a sixth of the inheritance to each, if the deceased left children; If no children, and the parents are the (only) heirs, the mother has a third; If the deceased left brothers (or sisters), the mother has a sixth. (The distributions in all cases is) after the payment of legacies or debts. You know not, which of them, whether your parents or your children are nearest to you in benefit. These are the portions settled by Allah; And Allah is ever All Knowing, All Wise.[24]
>
> In that which your wives leave, your share is a half, if they leave no child; But if they have a child, you get a fourth of what they leave; After payment of legacies or debts. In that which you leave, their share is a fourth, if you leave no child; If you leave a child, they get an eighth; After payment of legacies and debts. If the man or a woman whose inheritance is in question, has left a brother or a sister, each one of the two gets a sixth; But if more than two, they share in a third; After payment of legacies or debts; So that no loss is caused (to anyone). It is thus ordained by Allah; And Allah is Always All Knowing, Most Forbearing.[25]

Generally, the mathematical formula illustrated in the Quran has been perceived to be "inequitable" where it apportions less to women than to men. The two verses explicitly show that when it comes to distribution of inheritance 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 many Muslim *ulama*. Its defenders have argued that in an ideal Islamic family the responsibility of earning a livelihood is exclusively placed on men, in this case the father. In the absence of the father, the brother takes the responsibility for the 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 acquires over the years is exclusively hers, while what belongs to the man is shared with the woman.[26] It is against this reasoning that the lower proportion of women's inheritance has been justified. Such an interpretation would again be argued to be a static and not a dynamic understanding of the Islamic law.

Emerging realities among Kenyan Muslims today call for reevaluation 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 Quran. 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 impossible for men to be the sole family providers.

In his call to Kenyan Muslims to reflect on the emerging situations and thereby move toward reforming the Islamic law of inheritance within the spirit of the Quran, 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.[27]

As a result of the developing new economic environment, there is a need for Muslims in Kenya to reformulate the law of inheritance so as to uphold justice and equality, which is the foundation of the Quran. The Equality Bill took these changes into consideration, which necessitated the distribution of inheritance to be equitable. Despite the Equality Bill being consistent with the Quran, it is clear that most of the Kenyan Muslim religious leaders do not subscribe to the modernist and liberal interpretation of the Quran. They believe that such an interpretation is contrary to the Islamic doctrine, and this is why their opposition was uncompromising. As a result of the Muslims' opposition and other sections of the Kenyan population, the bill was not enacted into law. The outcome of the debate on the bill favored Muslims because the political leadership was also against the bill.[28]

The Suppression of Terrorism Bill 2003: Legislating Against Terrorism

The international community recognizes that terrorism constitutes a global threat, and it has 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.[29] In solidarity with the international community against terrorism, Kenya 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 of Terrorism.[30] These international resolutions implied that the global community was bound to create strategies to fight terrorism. It was against this background that after the terrorist attacks of 9/11 and the subsequent international resolution on terrorism, the U.S. government passed antiterror legislation, the U.S. Patriot Act, to combat terrorism.[31] Thereafter, many countries taking a

cue from the U.S. government passed antiterror legislation such as the Anti-Terrorism Crime and Security Act (Britain),[32] Prevention of Terrorism Act 2002 (India),[33] Anti-Terrorism Act 2002 (Uganda),[34] and Prevention of Terrorism Act 2002 (Tanzania).[35] According to Ali Mazrui, African countries like Uganda, South Africa, Tanzania, and Kenya were under American pressure to pass their own antiterrorist legislation, intended to control their Muslim populations and potential al-Qaeda infiltrators.[36] Due to the purported pressure, Uganda and Tanzania were among the earliest countries in Africa to have antiterror legislation.

In 2003, Kenya's attorney general published the Suppression of Terrorism Bill, which was part of the effort by the government to combat terrorism. Before the bill had the opportunity to be taken to parliament for discussion, it raised wide criticism from a cross-section of Kenyans. This included lawyers, human rights activists, and parliamentary legal committee and Muslim leaders who had all described the bill as draconian and oppressive.[37] The Kenyan public believed that the U.S. government had influenced the drafting of the bill because there were many similarities between it and the U.S. Patriot Act.[38] This explains why some of the antibill marches were also vocal against the U.S. government, as witnessed in the July 2003 demonstrations organized by human rights lobbies and student organizations, where protesters burned American flags.[39] Although the Suppression of Terrorism Bill was connected to the global event of September 11, 2001, the Kenyan debate focused on the local implications of this new legislation.

The opponents of the bill feared that if adopted it would undermine civil liberties and human rights and infringe on citizens' privacy and freedom. This is because the proposed law empowered the government to open and read private letters, download e-mails, and confiscate computers. All it would take were suspicions by a police officer that a person might be engaging in terrorist activities. The powers of investigation under the bill were also immense. The proposed law allowed the police to use "necessary force" instead of "reasonable force" on suspects, and while all this happens the police would not be liable for any damage they inflict on a suspect in implementing this law. This raised the fears that if the proposed legislation was adopted it would legitimize excessive police violence against a suspect, a culture of impunity and routine torture in the name of "state security."[40]

The bill also criminalized any association with any member of an organization that has been declared "terrorist." Directors of banks that offer financial services to the organization or its members, property managers who lease their premises to them, lawyers who arrange for trustee or nominee ownership of any property belonging to the organization or its members would be subject to long-term imprisonment. The onus of proof of innocence in most of these offenses would rest with the accused person. All the prosecution would have

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.[41] Apart from the bill infringing on individual freedom and privacy, Kenyan Muslims strongly believed that it was also anti-Muslim. Muslims asserted that the government was already applying the provisions of the bill against them even before it had been enacted into law. One official of a Muslim organization claimed that "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."[42]

Muslims' wariness that the bill was targeting them more than any other community in Kenya was reinforced by Section 12 (1) of the proposed legislation that said:

> 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.[43]

If the proposed law was influenced by the U.S. counterterrorism measures against al-Qaeda and radical Muslims worldwide, then its repercussion would be felt by Kenyan Muslims. The media regularly relays images of al-Qaeda and alleged Muslim terrorists in flowing robes and long beards. 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 was based on the fear that the police could arbitrarily use the powers invested in them to arrest Muslims on the ground that they were dressing like certain declared terrorists or terrorist groups. Already there was concern among Muslims about the war on terror because it was seen "as a war on Islam and Muslims."[44] A disproportionate number of Muslims have allegedly been harassed by police and some arrested on suspicion of terrorist activities without evidence.[45] Some of the alleged questions asked while in custody were related to their dress code. Their interrogators want to know why they wear the *kanzu*, the *kofia*, and *ndevu*.[46] When the Kenyan government resolved to support the U.S.-led global war on terror, it implied "counter-terrorism co-operation, including enhanced military-to-military relations and a renewed focus on the neighbouring failed state of Somalia" among other issues.[47] With historical experiences of prejudice and marginalization, the Somali community—and the Muslim community in general—became a potential security threat in the country, due to their

religious attachment. For Muslims, particularly of Somali and Arab descent, their aspirations as Kenyans continue to be hindered by ethno-religious biases.

Therefore, before the bill was tabled in parliament, some of its opponents mandated the Law Society of Kenya (LSK) to set up a special team to review the proposed law and present a new draft to the government.[48] After a thorough review, in April 2003, the LSK came up with a new draft where articles that Muslims and human rights groups objected to were revised. The LSK claimed to have removed 70 percent of clauses in the bill that were seen as targeting Muslims. However, Muslim leaders insisted that the government should withdraw the proposed law completely thereby calling Muslims to reject the amended version.[49] This response could be attributed to the immense mistrust and fear on the part of Muslims. It is evident that the Suppression of Terrorism Bill is not acceptable to most Kenyans, particularly Muslims. In 2006, the government made another attempt and presented an Anti-Terrorism Bill, which like the previous proposed law was strongly opposed by Muslim human rights groups and the civil society as undermining civil liberties. Nonetheless, in 2012 the state succeeded in passing the Prevention of Terrorism Bill into law after convincing particularly Muslim leaders that the proposed legislation was not targeting the community, but only terrorists.

Like the earlier two proposed laws that sought to provide measures for detecting and prevention of terrorist activities, the enactment of the Prevention of Terrorism Act 2012 faced similar opposition from Muslim leaders and human rights civil societies in its initial stages of debate. Responses from Muslim leaders and bodies were numerous and focused on diverse issues. A section of them reasoned that the Constitution of Kenya 2010 had sufficient provisions for preventing various crimes including terrorism offenses, but in reality the legislation in the constitution did not stipulate terrorism and penalties for individuals convicted of involvement in terrorist activities, making it challenging for security agents to combat terrorism. While others referred to the proposed law as a Western agenda imposed on the country, there were those who commended it as an improvement over the prior bills but maintained that there were still numerous flaws in it that needed to be amended.

Significantly, the Muslim leaders were concerned with Section IV of the bill that sought to give police officers immense powers when investigating suspects, including allowing them to intercept communications and submit them to court as evidence without verification of their admissibility.[50] They insisted that there is need for the security agents to seek permission from the court to determine the necessity of intercepting communications as a way of controlling abuse and infringement of one's rights by the officers while performing their duty. To avoid the proposed law being sabotaged and failing to be passed into law, the state amended the contentious clauses to accommodate the various concerns raised by stakeholders. From varying events that I will demonstrate in the next section, there is no doubt that Kenya needed a

strong antiterror legislation. Terrorism is no longer just an international problem, but a reality in the country, and Muslim leaders can no longer ignore this fact. Clearly, a good law is required to help in dealing with the problem decisively. At this juncture an important question needs to be asked: is Kenya under threat of international terrorism? I will now examine the challenges of terrorism in Kenya.

The Challenge of International Terrorism in Kenya

International terrorism in Kenya, attributed to extremist Muslim groups such as al-Qaeda and more recently the al-Shabaab, poses a daunting political challenge to Kenyan authorities. The terrorist onslaughts of December 1980 (in Nairobi), August 1998 (in Nairobi), and November 2002 (in Mombasa), coupled with the arrests of several alleged indigenous terror accomplices, indicate that Kenya has entered the global arena of terrorist operations. 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. Recently, in September 2013 (in Nairobi), four gunmen affiliated to al-Shabaab attacked and took hostage a shopping mall for three days and killing around sixty-seven and injuring not less than one hundred people. This incident confirmed that an international terrorism network is active in Kenya and willing to strike at any given opportunity. These occurrences compel the government to take a firm stand against terrorists and their supporters.

The first terror offensive was a bomb explosion in 1980 in the Nairobi Norfolk Hotel owned by an Israeli.[51] The Popular Front for the Liberation of Palestine (PFLP), which claimed responsibility for the hotel attack, retorted that it was retaliating against Kenya's supportive role in the Israel rescue of its airline hijacked by Palestinians in Uganda in 1979.[52] On August 1998, eighteen years later, the U.S. embassy in Nairobi was attacked, claiming twelve American 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.

On the first anniversary of the devastating strike, August 7, 1999, the SUPKEM chairman 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 defamations of Islam by the media, politicians, and church representatives; and a ban on not less than five Islamic nongovernmental organizations (NGOs) accused of threatening domestic security.[53] It was reported that while addressing mourners after the bomb blast

in Nairobi, President Moi remarked that those behind the bombing "could not have been Christians." This statement attributed to Moi could have insinuated Muslims were complicit in the atrocity. The remarks by the president were criticized by Muslim leaders who argued that their religion was being wrongly associated with violence. Such statements show that Muslims in Kenya are aware of the negative impact of terrorist attacks that are carried out in the name of Islam. For many, this is a sufficient reason to condemn and reject such violent actions.

Though a section of Muslim leaders have been critical of the banning of some Muslim NGOs, intelligence reports confirmed that the al-Qaeda group had established a terrorist cell in Kenya in 1993 masquerading as investors and charity workers as they plotted attacking the U.S. embassy. As a cover-up, the planners in the Kenyan cell, Mohammed Sadiq Odeh and Wadih El-Haji, operated fish and precious stone dealings in Mombasa and Nairobi, respectively. The two also facilitated the registration of an NGO—Help Africa People—which the al-Qaeda cell used to camouflage its activities in the country. The charity organization had also links with other NGOs—Mercy International Relief Agency and the Haramayn Foundation—which, as officials of the charity organizations, allowed the al-Qaeda cell leaders to move between Nairobi, Khartoum, and Mogadishu with no difficulties using a *miraa/khat* aircraft haulage arrangement. With this network, they were able to circulate funds within the cell on the pretext that the NGOs were delivering emergency humanitarian support to affected people.[54] The revelation prompted the government to act swiftly, proscribing their activities in the country.

In an interview, Sheikh Ali Shee was asked what Kenyan Muslims thought of Osama bin Laden, and he replied, "He is a hero."[55] However, Shee disclosed to me during this study that his position was quoted out of context. He clarified his comment by explaining:

> 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.[56]

Such ambiguous positions of Muslim leaders in Kenya and majority Muslims in the country vis-à-vis the terrorists acts of bin Laden are evident. In spite of Shee's clarification, it is clear that he is tacitly sympathetic to the al-Qaeda cause, having established himself as one of the vocal critics of the West and also a staunch proponent of anti-Americanism.[57] This growing

anti-Americanism was evident during the demonstrations that were held in Mombasa and Nairobi following the fateful events of September 11. These demonstrations were a reaction against the U.S. bombing of Afghanistan and the Kenyan government's pledge of support for the American cause. In one of the protests, people marched shouting "down, down, USA," and at the same time praising bin Laden. These marches were an expression of their sympathy with al-Qaeda because attacks on Muslims whether in Palestine, Kashmir, Bosnia, or Afghanistan are viewed as attacks on all Muslims. These demonstrations illustrated Kenyan Muslims' perception of the 9/11 attack on the United States, which arguably 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 against an Israeli jet taking off from Mombasa's international airport. The remnants of the al-Qaeda cell responsible for the embassy attack were blamed for the onslaught. 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.[58] At almost the same time at the airport in Mombasa, a missile was fired at an Israeli Arkia airplane that had just taken off with 261 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 U.S. government spokesman suggested that the Somali organization al-Ittihad al-Islami, which is linked to al-Qaeda, might be responsible for the attacks.[59] However, further investigations showed that the same cell established by Odeh was responsible for the two attacks.[60] In 1976, similar efforts by a Beirut-based PFLP to shoot down an EL-AL airplane in Nairobi were thwarted by Israel's and Kenya's secret service. The planned attacks of Israeli passenger planes in both Nairobi and Mombasa airports might be the result of the groups' inability to infiltrate Western-Europe airports due to stringent security measures.

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.[61]

The SUPKEM official declaration was intended to present an impression that though bin Laden may have gained admiration, he had not won sympathy

among Muslims. This view is doubtful as shown by the statements of condemnation by the Muslim organization during the U.S. embassy bomb blast anniversary and the twin attacks in Mombasa, which are not categorically critical of the al-Qaeda activities. Despite investigations showing that the al-Qaeda was responsible for the terror attacks, Muslim leaders were cautious with their statements and did not want to antagonize al-Qaeda.

Another terror incident followed 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. The incident confirms that members of the al-Qaeda network were still in Kenya and willing to strike at any given opportunity. Thereafter, investigators found at a house used by Nassor a cache of ammunition that included five SAM-7 missiles similar to those used in the failed attempt to shoot down the Israeli airline taking off from Mombasa, a hand grenade, and six AK-47 assault rifle magazines. Despite this major breakthrough by the Kenya Anti-Terrorism Police Unit (ATPU), Nassor's accomplices managed to evade arrest.[62] Such occurrences reinforce the perception that terrorists are still living amid Kenyan Muslims. This situation has been made worse by the Muslims themselves because their leaders have not been consistent in condemning terrorist actions. Rather, apart from not unequivocally reproaching terrorist acts, some of the Muslim leaders have embraced a defensive approach as illustrated by a protest letter from the CIPK officials:

> We, the Muslim inhabitants, do not believe that among us is a terrorist . . . In other words, they do not exist here. Unless America and Britain and their allies make another fool of the world and plant one in our country like how Osama Bin Laden has been planted. He is of course, nowhere to be found. What we are going to request from you, do come openly to us and point out in order to ascertain.[63]

Clearly, this demonstrates the ambiguous position of Kenyan Muslim leaders and the majority of Muslims in the country vis-à-vis the terrorist acts attributed to Islamist groups. Even with evidence indicating that terrorism and particularly al-Qaeda activities are a reality in Kenya, a section of Muslim leaders present this truth as baseless and mere U.S. propaganda. But the foregoing examples of incidents reveal that there are terrorists living among Kenyan Muslims, who have accepted to play host to the terrorists as they plan their activities. There is no doubt that Kenyans have not established al-Qaeda cells, but they host al-Qaeda operatives. What is not clear yet is how many Kenyans have directly been involved in the terrorist acts perpetrated in the country.

Al-Shabaab's Challenge to Kenyan Security

In October 2010, the Kenyan government outlawed thirty-three criminal groups in the country including the Somalia's al-Shabaab.[64]Al-Shabaab—along with other Islamist groups—is blamed for instability in Somalia since the ousting of Siad Barre from power and condemnation by the Kenyan authority is an indication of the danger it poses to the state. After Siad Barre's twenty-two-year rule ended in 1991, Somalia became lawless, with warlords using militias to control different strongholds. Following many years of restlessness, Abdullahi Yusuf was elected, on October 14, 2004, as the president of Somalia in Nairobi, Kenya. However, due to the clan factor in Somalia's politics, Abdullahi Yusuf was not able to get the support of the other warlords.[65] Siad Barre's government is alleged to have been dominated by people from his Darood clan. As a result of Barre's nepotism, members of the Hawiye, Isaaq, and other non-Darood clans were marginalized and plotted for his removal. Later when Abdullahi Yusuf, a Darood, was elected president in 2004, the Hawiye and other non-Darood opposed him because they viewed Abdullahi Yusuf's administration as the reemergence of the Darood hegemony. Consequently, Abdullahi Yusuf's government lacked the support of other Somali clans. This explains why Abdullahi Yusuf's administration could not operate from Mogadishu as it was under the control of the Hawiye clan. After the downfall of Abdullahi Yusuf's (a Darood) government, came Sheikh Sharif Ahmed's (a Hawiye) administration in 2009. Analysts argued that Sheikh Sharif Ahmed faced the challenge of pacifying the long-standing animosity between his Hawiye clan and the former ruling Darood clan. The Darood were blaming the Hawiye for sabotaging Abdullahi Yusuf's government. And now that a Hawiye is in power, it is possible that majority of the Darood were reluctant to recognize Sheikh Sharif Ahmed's regime. This opened up another front of conflict despite efforts by Sheikh Sharif Ahmed to incorporate the Darood into the highest governing council.[66]

This rendered Yusuf's administration ineffective and contributed to its collapse. In 2006, the country came under the control of the Islamic Courts Union (ICU) who were subsequently removed from power through the efforts of Ethiopian forces and the fragile interim government. The presence of the Ethiopians became unpopular, and several Islamist groups emerged to oust them, culminating in the Ethiopian army pulling out of Somalia in January 2009. Their withdrawal made way for the Somalia Transitional Federal Government (TFG) led by a former ICU leader, Sheikh Sharif Ahmed, in 2009. With the installation of Sharif to the presidency, another Islamist group, al-Shabaab, initially an armed wing of the ICU, came into prominence to challenge the TFG.[67] Led by Sharif's former ally Sheikh Hassan Dahir Aweys, al-Shabaab challenged the legitimacy of the TFG. With its leadership in Eritrea, al-Shabaab viewed Sharif as a traitor because

of his approach of encouraging reconciliation with the other various factions in Somalia.[68]

In an effort to dislodge Sharif from power, fighting erupted between the Islamist al-Shabaab and the TFG troops leading to displacement of thousands of Somalis, most of them fleeing to Kenya. As they enter Kenya, some of these fleeing Somalis would find their way to the various urban centers in the country. This has created a security concern in Kenya, as the influx of Somali immigrants reveals that some of them carry weapons with them.[69] In one incident, according to a Kenyan police report, nine youths from Somalia were arrested with a rocket launcher, two rocket propelled grenades, seven AK-47 rifles, a Tokerlev pistol, seven ammunition pouches, and 361 rounds of ammunition.[70] There were also reports of militia suspected to be members of al-Shabaab raiding certain border towns in the northern Kenya region and causing mayhem. As a result, several international NGOs closed operations after the government failed to ensure their security.[71] Furthermore, according to intelligence investigations, the al-Shabaab and other militia groups fighting in Somalia had also been conducting military recruitments in Kenya.[72] The unsuspecting youths were lured with promises of jobs, offering salaries as high as U.S.$ 2,500, according to some of the recruits arrested.[73]

Apart from al-Shabaab's recruitment, the Kenyan government has also been accused of recruiting youths from among the Somali community, as mercenaries for the fragile Somali TFG of Sheikh Sharif Ahmed. Over three hundred youths were confirmed to be undergoing military training in the country with a promise of U.S.$600 as a monthly salary. This raised the concerns of the Kenya National Commission on Human Rights, Muslim religious leaders, and politicians. Particularly, the officials of NAMLEF were concerned that upon accomplishing their mission in Somalia, the youth would pose a security threat to the country with their experience in combat. The NAMLEF officials feared that the enlisted youths could engage in activities of lawlessness considering that most of them would be unemployed when they return from their mercenary work.[74] While the government denied involvement in the scheme, a parliamentary defense committee asserted that the report on the Somalia mission was credible.

Before the arrival of the U.S. secretary of state in 2009, the ATPU arrested Muhidin Gelle, suspected to be an al-Shabaab member and accused of planning a terror attack in Nairobi during the secretary's visit in the country. After interrogation, Gelle was released and later arrested in Denmark for attempting to assassinate the Danish cartoonist Kurt Westergaard for his portrayal of the Prophet Muhammad in a 2005 Danish newspaper.[75] An official of the antiterrorism unit claimed that Gelle's stay in the country had been "well facilitated by notorious logisticians who continue to operate with impunity, taking full advantage of the fact that Kenya has no anti-terrorism legislation" at that time.[76]

A demonstration called by the Muslim Human Rights Forum in Nairobi, on January 15, 2010, in protest of the release of a Jamaican Muslim preacher, Sheikh Abdullah al-Faisal, from a Kenyan cell, turned violent. Al-Faisal was arrested by Kenyan officials when they realized that he was on the international terror watch list. The ATPU claimed that during his brief stay in the country the cleric was encouraging Muslim youths to join the al-Shabaab militia.[77] In the violence that ensued during the demonstration, two demonstrators were killed, six police officers were injured, and properties worth millions were destroyed. The government alleged that sympathizers of the al-Shabaab militia group took part in the protest with the intention to cause mayhem, a view utterly rejected by Muslim leaders.[78] It is reported that during the demonstration some protesters were clad in military fatigue and black balaclava to avoid identification. Throughout the procession some youths were waving flags similar to those used by the al-Shabaab. Such developments heightened the state's concern that intelligence reports had been accurate; the protest would be infiltrated by individuals sympathetic to the al-Shabaab.[79] In its effort to infiltrate the Kenyan Muslim community, there is no doubt that the group has sympathizers among the country's Muslims.

The concern for the al-Shabaab menace continued, as the group's chain of kidnappings and intrusions into Kenya threatened security and the tourism industry in the country. As the end of 2011 was approaching, several security concerns—like that of abduction of two foreigners and the killing of another in a Kenyan coastal resort hotel, the kidnapping of two aid workers from a local refugee camp, and the sporadic onslaught against security officers—were now on the rise. Consequently, the Kenyan government decided to declare war against al-Shabaab, prompting the Kenya Defence Forces' (KDF's) invasion of Somalia—in October 2011—in a campaign expected to neutralize al-Shabaab at their operational base. But even after the KDF incursion, there was still a series of terrorist attacks—from October 17, 2011, to September 21, 2013—targeted against civilians, government officers, security agents, and Christian churches that were blamed on al-Shabaab. Clearly, the organization presents a serious security challenge to the country that needs to be addressed with urgency.

Despite earlier objections to the antiterror law from Muslims and human rights activists in Kenya, there is no doubt that the country requires an effective antiterrorism law—but an important question is, will the government be able to confront international terrorism without being seen as antagonizing its Muslim population?

The War on Terror and Growing Anti-Americanism Among Kenyan Muslims

The rejection of terrorist violence among Kenyan Muslims has not stemmed the tide of growing anti-Americanism. The anti-Americanism expressed by

sections of the Muslim population has been heightened by the American lead on the war on terror, which has come up with policies viewed to be discriminatory by Muslims in different parts of the world. This war has not been well received by some Muslims who view it as a war against Islam and Muslims all over the world. The suffering by Kenyan Muslims as a result of the war on terror has been aptly expressed by one commentator:

> For the last six years, Kenyan Muslim regrettably, have till to date been victims of this American inspired terror campaign. While the US champions the values of human rights, democracy and respect to the rule of the law, US missions in the country have been active participants in promoting illegal acts against Muslims in the country. American envoys have publicly lauded the arrests of Muslims detained on allegation of terrorism involvement and the US is known to provide substantial support to the Anti-Terrorism Police Unit—the main vehicle for perpetuating these abuses.[80]

Though the above view expressed by Muslims is a bit anecdotal, it demonstrates the conflicting relation between the U.S. government and the Kenyan Muslims. Earlier in the 1990s, there were no outbursts of anti-American sentiments because the relation between Kenyan Muslims and U.S. government was that of mutual trust. In fact, in 1991, the American envoy had forged a special relationship with Muslims in the country. During that time, the U.S. diplomat provided physical protection to some of the IPK sympathizers who were being hounded by the police, a gesture that strengthened Muslims' trust toward America.[81] Therefore, the recent change of attitude of some Kenyan Muslims toward America has raised concerns within ranks of the U.S. government, prompting them to search for solutions. In order to tackle the problem of mounting anti-Americanism, the U.S. government has pursued a two-pronged approach in Kenya since 9/11. On one level, the United States has intensified its intelligence operations, with the Kenyan authority allowing the U.S. intelligence agents to conduct their operations in the country to monitor terrorism activities in the region.[82] Some of the surveillance intelligence activities are camouflaged under the guise of sociocultural and economic projects in certain Muslim-populated areas in the country.

Already identified for these U.S. projects are the Islands of Lamu, Pate, and Faza, believed to have hosted some of the most-wanted terrorists like Odeh, Saleh Ali Seleh Nabhan, and Fazul Abdallah Mohammed who are responsible for various terrorist activities in the country.[83] To gain the support and trust of the local communities in these areas, American marines are engaging in community projects intended to alleviate poverty among the locals.[84] Despite initiating significant projects, suspicion remains high about U.S. motives with some imams opposed to the presence of the U.S. forces, claiming it is a

scheme to counter Islamic influence in these areas. This action of the imams reflects an interpretation of the U.S. 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.

On another level, the United States has sought ways to counter the negative image that Kenyan Muslims have about its policies. The U.S. government embarked on an image-lifting strategy to address anti-Americanism, but it is unlikely to succeed given that the activities of the Federal Bureau of Investigation (FBI) and Central Intelligence Agency (CIA) continue to stir mistrust among Kenyan Muslims.[85] 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 U.S. embassy in Nairobi assumed a leading role in this strategy, emphasizing that America's measures are not targeting Islam, but terrorist groups that manipulate Islam for their evil actions.[86] At the same time, the U.S. Agency for International Development (USAID) has established contacts with Muslim charity organizations, in order to explore the possibility of cooperation 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 program hoped to strengthen school management committees, train teachers, and develop curriculum and learning materials. In addition, the organization developed a proposal to fund Islamic religious schools (*madrasas*) in the country.[87] The funding was to be used in the payment of the *madrasa* teachers' salaries and for developing a unified curriculum.

However, this offer was rejected by some Muslim religious leaders who doubted the United States' "sincerity in supporting Islamic schools," suspecting the effort to be a ploy to influence the curriculum of the *madrasas* as part of the war on terror.[88] Critics of the proposal argue that the U.S. interest in the *madrasas* is based on the suspicion that terrorist organizations have infiltrated the religious schools, and that this is why America wants to control them. They saw the offer as part of Washington's global antiterrorism campaign to win over Muslims' support. There is a widely held public opinion among Muslims that the U.S. government is striving toward controlling the *madrasas*' curriculum, which is considered an "ideological infrastructure of [Islamists] terrorism" in the world.[89] This allegation was denied by the U.S. envoy, arguing that the offer to assist the *madrasas* was not linked to antiterrorism campaigns and pointing out that some Muslim organizations had sought the assistance of the USAID, which led to negotiations for providing financial support to the *madrasas*.[90] Critics of the proposal argue that the U.S. interest in the *madrasas* is based on the suspicion that terrorist organizations have infiltrated the religious schools, and this is why America wants to control them.

Virtually all Muslims irrespective of their status have had an opportunity to go through a *madrasa*, which have been in existence in Kenya for many years. There are probably thousands of these *madrasas* in Kenya, and this is why the greatest challenge to the *madrasa* system of education is the lack of standardization (uniformity). It is believed that the standardization would improve the quality of *madrasa* education together with regularizing progression for those who wish to further their Islamic study. There is at present an initiative by the National Muslim Educational Trust to standardize the *madrasa* system. These efforts by Kenyan Muslims to improve the *madrasa* illustrate the community's willingness to develop the *madrasa* education without the initiative and assistance of the United States.

The "Wanjiku Constitution" and the Politics of the Kadhi Courts

After around forty years of independence, Kenya began a search for a new 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 the feeling by most people that the laws in the Independence Constitution were similar to those used by the colonial government to oppress Kenyans and were no longer relevant in postcolonial Kenya. Despite the numerous amendments to the Independence Constitution, it attracted increasing calls to completely overhaul it.[91] As the clamor for constitutional reform reached a climax, the government insisted that the drafting of such an important document was a task that would be done by foreign experts.[92] However, reform advocates disagreed with the government, arguing that foreign experts could not offer solutions to local problems, thereby demanding that the process be people driven for it to be valid.

This is the constitution whose 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. Consequently, in 1998, the Constitution of Kenya Review Commission was established and charged with the responsibility of collecting and collating the views of Kenyans on what they would want reflected in the new constitution. This was why the commission endeavored to hear as many voices as possible to ensure that the recommendations they made were as representative of the common person as possible. On September 27, 2002, the CKRC published a draft bill that came to be popularly known as the Ghai Draft Constitution. After the draft bill of the CKRC was published, a group of churches highlighted

a number of issues that were of concern to them, most notably the entrenchment of *Kadhi* courts, abortion, and same-sex marriage in the constitution.[93]

I would now want to focus on the *Kadhi* courts, where the debate was centered on whether to entrench or retrench them.

To Entrench or Retrench the *Kadhi* Courts?

The row over the *Kadhi* courts revolves around the question of whether or not the courts should be entrenched in the Kenyan constitution. Opponents of the *Kadhi* courts, chiefly a section of church leaders, claim to have embraced the ideal of the secular state against the adoption of religious laws. On the other hand, supporters of the *Kadhi* courts—mostly Muslims—are oblivious to the implications of religious laws in the national context characterized by pluralism and freedom of expression. This tension is the predictable outcome of a national minority negotiating with a dominant majority in both religion and politics (parliamentary representation). I have already observed in chapter 1 that after the colonialists successfully imposed their regime, they introduced numerous 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 establish the *Kadhi* courts. The status of the *Kadhi* courts in the Independence Constitution could be traced to Article 66 (1) to (5), which provides for the establishment of these courts. Some of the *Kadhi* court articles in the Independence Constitution read as follows:

> **Article 66 (1)**
> There shall be a Chief Kadhi and such number, not being less than three, of other Kadhis as may be prescribed by or under an Act of Parliament.
>
> **Article 66 (5)**
> The jurisdiction of a Kadhi's court shall extend to the determination of questions of Muslim law relating to personal status, marriage, divorce or inheritance in proceedings in which all the parties profess the Muslim religion.

At independence, the *Kadhi* courts were three, but in 1967, the Kadhi Courts Act allowed the establishment of the courts in other parts of the country, and as a result, the number of the courts subsequently increased. Today, the *Kadhi* courts are scattered and can be found in all the major towns in the country. According to the Independence Constitution, these courts are supposed to be presided over by either a chief *Kadhi* or a *Kadhi* appointed by the Judicial Services Commission. It also outlined the jurisdiction of the

courts in addressing issues related to personal status, which included marriage, divorce, and inheritance in proceedings where the individuals practice the Islamic faith.

In the proposed Bomas draft, the *Kadhi* courts were retained and additional changes incorporated based on Muslims' recommendations. This is how the *Kadhi* courts appeared in some of the sections of the Ghai Draft Constitution:

> *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 court 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.

According to the *Kadhi* courts sections of the Ghai Draft Constitution, Muslims had recommended that the existing *Kadhi* courts be reformed and made efficient. Some of the recommendations that were incorporated into the Bomas draft, as in Article 202, included the *Kadhis* being 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 out that only after these appeals have passed through the *Kadhi* Court of Appeal would cases from the lower *Kadhi* courts be heard in the national High Court of Appeal. And lastly,

the Ghai Draft Constitution recommended that the jurisdiction of the *Kadhi* courts be expanded to hear minor commercial disputes among Muslims.

When these recommendations were published in the draft bill of the CKRC, they raised concerns among Christians, particularly those 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 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 the *Kadhi* courts removed from the Bomas draft.[94]

Leading this opposition was a group of church clergies who identified 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 Ghai Draft Constitution:

> State and Religion
> **Article 9**
> (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 Ghai draft had provided that Islamic personal laws would be a source of laws in Kenya despite the provisions in Article 9. They argued that Islamic laws are religious laws and thereby contradict the three provisions stated in Article 9. They further pointed out that the Ghai draft had created a parallel judicial system for Muslims, which was tantamount to favoring 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 the *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 jurisdiction.[95] Consequently, the proposed provision by the opposing churches would allow parliament to establish sub-

ordinate 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 according to Islamic law. This implied that the provision entrenching the *Kadhi* courts in the Ghai draft was retained in the Bomas Draft Constitution to the dissatisfaction of the opposing churches. And as a result, in July 2004, twenty-six applicants representing a group of Kenyan churches went to the high court over the entrenchment of the *Kadhi* courts in the Independence Constitution and the Bomas draft proposal.[96] The federation argued that the historical reasons for which the *Kadhi* courts were given constitutional protection are no longer tenable. They claimed that after several years of independence, the former "subjects" of the sultan of Zanzibar should no longer require any constitutional protection as Kenya is now a unified sovereign state where all enjoy equality irrespective of race, gender, or religion.[97]

They contend that the entrenchment of the *Kadhi* courts in the Bomas draft and the Independence Constitution was a step toward the introduction of sharia in Kenya, which was unacceptable. They also pointed that any financial maintenance of the *Kadhi* courts from the public resources was unjust and amounted to support of one religion. They interpreted this practice as Islam being declared a state religion, contradicting one of the three provisions in Article 9 that there shall be no state religion. Therefore, they wanted Section 66 of the Independence Constitution, which introduces and entrenches the *Kadhi* courts, to be declared unconstitutional and expunged from the Bomas draft.[98] In responding to some of the arguments raised by the Federation of Churches of Kenya, the Muslims insisted that the inclusion of the *Kadhi* courts in the Independence Constitution was not because the beneficiaries were merely "subjects" of the sultan of Zanzibar, but because the courts are a core institution in the practice of Islam. Muslims' claim that the laws, rules, and regulations applied by the *Kadhi* courts are not a creation of the sultan of Zanzibar, but a product of the teachings of Islam. It is against this background that the Muslims feel insulted by the claim that the courts are outdated and have no place in a modern constitution.[99]

Apart from the objection to the *Kadhi* courts, the Federation of Churches of Kenya had other objections to the Bomas draft proposals. Among other issues, the federation outlined the following as being of great concern to its members: the supremacy of God and the separation of religion and state. As for the supremacy of God, the federation argued that Kenyans are an extremely religious community who recognize God as the supreme authority

in their affairs, and therefore this should be reflected in the preamble of the constitution. This led to the federation drafting their suggestion that reflected its vision of the 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 for 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.[100]

The federation suggested:

> Kenya is founded on the supremacy of God, and shall be governed in accordance with the constitution and rule of law.[101]

These recommendations by the federation indicate that the churches are not advocating a clear separation of religion and politics per se because their views over the separation of religion and state are contradicted by the demand for the inclusion of the supremacy of God in the constitution. Their suggestions show that they are willing to allow an aspect of religion to pervade Kenya's constitution. Once people use a constitution to acknowledge that God is the supreme authority in all their affairs, it becomes difficult for them to separate matters of state from religion. The action of the churches was summarized by 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.[102] It is clear that these churches are not keen to recognize the Islamic religious symbols in relation to the state.

On their part, Muslims accepted the retention of the courts in the status exemplified in the Independence Constitution. As the *Kadhi* courts play an important role in the preservation of Muslim identity, they insisted that the courts should be entrenched in the Bomas draft, 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 Father Gabriel Dolan of the 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, 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.[103]

On his part, the chairman of the CKRC thought it would have been a good faith gesture by the Christian majority to accept the entrenchment of the *Kadhi* courts in the Bomas Draft Constitution. Removing these courts, the chairman argued, would appear to Muslims as an act of vindictiveness, which was "regrettable to see the Church indulging in."[104] The views expressed by the chairman of CKRC and a church leader implied that entrenching the *Kadhi* courts in the Bomas draft 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. Since the constitution is usually made for both the majority and minority, it is important that the voices of all are heard so that they can all own the constitution that will bind them together. Since Muslims constitute a minority group, the CKRC felt it was significant to entrench their rights in the constitution rather than leaving them to the mercy of parliament.

Most Muslim leaders perceived opposition to the *Kadhi* courts as externally inspired. They suspect that it forms part of the Western agenda to fight proxy wars with Muslims all over the world since 9/11. The U.S. government and the American evangelical churches were 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 centuries.[105] This could be affirmed in an editorial comment from a Muslim bulletin:

> Opposition to the courts first emerged during the Bomas constitution conference when some evangelical delegates launched a campaign to oppose their inclusion in the constitution. Behind this group was an American evangelist . . . who orchestrated a campaign against the inclusion of the courts. The preacher was at Bomas as an observer where he circulated literature opposing the existence of the courts.[106]

However, according to some senior U.S. officials, they claim that it has not been the policy of their government to involve itself in the *Kadhi* issue, but it was possible that there could be some American churches involved in the whole saga.

The High Court's Verdict on the Legality of the Kadhi Courts

I mentioned in the previous section that in 2004 twenty-six applicants had sought several declarations with regard to the entrenchment of the *Kadhi* courts in the Kenyan constitution. The case was presided over by Judges Roselyn P. Wendoh, Joseph J. Nyamu, and Anyara J. Emukule, who in May 2010 declared the *Kadhi* courts to be illegal and unconstitutional. In one section of their verdict, the judges concluded:

> We grant the declarations sought in prayer 1 limited to declaring that Section 66 is inconsistent with sections 65 and 82 and in respect of Section 82 is discriminatory to the applicants in its effect. As regards to paragraph 2 of the prayers, we find and hold that sections 66 and 82 are inconsistent with each other, and that Section 66 is superfluous but it is not the court's role to expunge it. It is the role of Parliament and the citizenry in a referendum. As regards prayer 3, we hold and declare that any provision similar to Section 66 in any other draft of a constitution in word or effect is not ripe for determination. The enactment and the application of the Kadhi courts to areas beyond the 10 miles coastal strip of the Protectorate is unconstitutional.[107]

Following the constitutional court verdict on the *Kadhi* courts, their judgment was received differently and widely debated by various sections of the Kenyan population. On their part, the church leaders welcomed the ruling and urged the government to implement it.[108] The government through the attorney general termed the verdict unconstitutional and appealed to the high court challenging the ruling.[109] And for the Muslims, a section of the community went to court to challenge the ruling declaring the *Kadhi* courts illegal and unconstitutional. The petitioners were aggrieved by the decision of the court, claiming their constitutional rights had been violated. They argued that the *Kadhi* courts provided an essential dispute resolution mechanism, without which a vacuum would be created in administering justice. Through their lawyer the Muslims argued:

> If the effect of the judgment would be to disband Kadhi Courts, which is a section of the judiciary established by the Constitution of Kenya, it would disrupt their proceedings thus creating a sense of insecurity and disillusionment with the administration of justice for a large sector of the population.[110]

Muslim leaders rejected the view that the *Kadhi* courts are discriminatory on the basis of Section 62 of the constitution. They claimed that the ruling was faulty and that the judges had ignored the provisions of the same section

they had quoted, which says that issues of divorce, adoption, marriage, and inheritance are excluded from the definition of discrimination.[111] According to Section 66 of the constitution of Kenya, the *Kadhi* courts have been given the jurisdiction to deal with issues of marriage, divorce, and inheritance among Muslims.

The main foundation of the judges' ruling was that Section 66 of the constitution (which allows for the creation of the *Kadhi* courts) is inconsistent with Section 65 (which gives parliament the power to establish courts subordinate to the high court) and Section 82 (which outlaws discrimination in lawmaking) thereby declaring Section 66 to be superfluous. Despite making the correct conclusion that the role of the court is to interpret and declare the law, and not that of amending it, their verdict was the opposite of this conclusion. They made categorical pronouncements that declared a section of the Kenyan constitution illegal. For instance, they granted the request that had sought for Section 66 to be declared discriminatory, oppressive, unconstitutional, and null and void.

However, the attorney general argued that the constitutional court had no jurisdiction to declare Section 66 of the constitution as being unconstitutional. His position was that Section 66 of the constitution was an existing provision and could not be struck out on the basis that there is no provision of the constitution that is superior or inferior to the other. For the constitutional court to nullify any provision of the constitution would itself be unconstitutional. According to the attorney general, the court's jurisdiction would be to strike out a law (an act of parliament) other than a provision of the constitution.[112] Consequently, it was wrong to declare the *Kadhi* courts illegal if the country's constitution provides for them. In their pronouncement, the judges emphasized in their verdict that they have granted a declaration that any form of religious courts should not form part of the judiciary as it offends the doctrine of separation of state and religion.

The reading of the judges' verdict was faulted as to whether it was professionally acceptable for them to express their opinion on a matter for which they admitted they had no constitutional role. For the three judges to argue that religious courts should not form part of the judiciary in Kenya because it is against the principle of separation of religion and state was outside their role. The subject on the interaction of religion and politics is a long one, and it has been widely debated by scholars. There is no indication that a definite position on the subject has been reached. The judges dealt with the issue as if there is a conclusive position in the international law. There is no internationally accepted constitutional doctrine that governs cases involving the interaction of religion and politics. Countries that allow the interaction of religion and politics have embraced different approaches peculiar to their unique situations. Due to the realization that it is difficult to have a complete separation of religion and politics, these countries have been grappling with

the question of the extent that this interaction should be accepted. Therefore, the *Kadhi* courts were provided in the Kenyan constitution under the peculiar historical circumstances of the moment, which its defenders have argued should be put into consideration when debating about them.

The three judges also held that the enactment and application of the *Kadhi* courts beyond the Ten-Mile Coastal Strip specified during their establishment was unconstitutional. This judgment attempted to limit the *Kadhi* courts whose expansion outside the strip was sanctioned by an act of parliament. Based on this awareness, the constitutional court knew they had the jurisdiction to strike down any law made by an act of parliament if it is in conflict or inconsistent with the constitutional provision. Nevertheless, analysts argued that it was necessary for the judges before giving such a verdict to examine the history and circumstances under which Kenya accepted the courts. Though the courts have mostly been associated with the coastal region, during the colonial period the British had recognized the importance of this institution and extended it outside the Ten-Mile Coastal Strip. This was illustrated by the British appointing the first state-funded *Kadhi* for the Somali Muslims of the Northern Frontier District (NFD) in 1927.[113]

During the early years of the Kenyatta era, among other issues, the expansion of the *Kadhi* courts to the Somalis of the NFD was used in ending the Shifta war. As part of the peace agreement brokered in Arusha by Zambia's President Kenneth Kaunda in 1967, the government of Kenya accepted the expansion of the *kadhi* courts to the residents of the NFD.[114] This is an important background that should have informed the decision of the judges. Other analysts argued that at minimum, the expansion of the *Kadhi* courts should have been informed by the justification that "Kenya is not a federal state and that it will be wrong to expect a citizen to enjoy a right in Mombasa and not have the same right in other parts of the country."[115] This view implies that Muslims in Kenya also live outside the Ten-Mile Coastal Strip and it is the responsibility of the government to ensure that they continue enjoying their rights as Muslims wherever they choose to live. On the issue regarding financial maintenance of the *Kadhi* courts by the government, the constitutional court declared that it is discriminatory and sectarian. Such a conclusion was informed by perceiving the *Kadhi* courts as religious courts and not part of the judiciary. According to the Kenyan constitution the *Kadhi* courts form an integral part of the official judiciary, and this is why the public coffers are used in funding and maintaining them, its proponents hold. There is no doubt that the ruling by the three bench judges against the *Kadhi* courts set off a religious tension threatening Muslim-Christian relations in Kenya.

Nevertheless, the *Kadhi* courts saga was resolved when, in August 2010, Kenyans voted for a new constitution that entrenches the *Kadhi* courts as part of the judicial system. The passing of the 2010 Constitution of Kenya in the

referendum illustrated support for the *Kadhi* courts by most Kenyans. Amid opposition from a section of church leaders, the referendum results showed that there was acceptance of the *Kadhi* courts in the country. Section 170 of the promulgated constitution reads:

> (1) There shall be a Chief Kadhi and such number, being not fewer than three, of other Kadhis as may be prescribed under an Act of Parliament.
> (2) A person shall not be qualified to be appointed to hold or act in the office of Kadhi unless the person—
> (a) Profess the Muslim religion; and
> (b) Possesses such knowledge of the Muslim law applicable to any sects of Muslims as qualifies the person, in the opinion of the Judicial Service Commission, to hold a Kadhi's court.
> (3) Parliament shall establish Kadhi's court, each of which shall have the jurisdiction and powers conferred on it by legislation, subject to clause (5).
> (4) The Chief Kadhi and the other Kadhis, or the Chief Kadhi and such of the other Kadhis (not being fewer than three in number) as may be prescribed under an Act of Parliament, shall each be empowered to hold a Kadhi's court having jurisdiction within Kenya.
> (5) The jurisdiction of a Kadhis' court shall be limited to the determination of questions of Muslim law relating to personal status, marriage, divorce or inheritance in proceedings which all the parties profess the Muslim religion and submit to the jurisdiction of the Kadhi's court.[116]

Therefore, according to the new constitutional provision, the *Kadhi* courts are recognized as subordinate courts under the legal system. This is significant as it would debar any argument that these courts are religious courts and thereby favoring Kenyan Muslims. There is need for more public awareness about the *Kadhi* courts to guard against future opposition to them and possible challenges to the nature of the secular state in Kenya.

It is clear from the discussions expounded in this book that Muslims' politics of legislation and constitution are different from their politics of associations and political parties. The politics of legislation and constitution have always brought Kenyan Muslims together with a united voice to demand what they regard to be rightfully theirs. Muslims in Kenya have succeeded in marshaling the community's support in rejecting certain legislation they regard as inimical to allowing them to observe their lives in accordance with the principles of Islam. When it comes to politics of associations and political parties, however, unity on this level has not been forthcoming. Whenever Muslims

feel that the impending issue is not directly related to their collective marginalization, they retreat back to their ethnic and racial enclaves, jeopardizing any form of desired unity. It is against this background that the Kenyan Muslims have not been able to stage a cohesive unity on the political front. Like other groups in Kenya, Muslims politics is also strongly ethnically influenced.

CHAPTER FIVE

The Controversial "MOU" and Muslim Topics in an Election Period

The sacking of Najib Balala in March 2012 as a government minister and the angry reaction from a section of Muslim clerics who cited faith as the reason for his firing introduced once again the issue of religion in Muslim politics. The religious card has been played often in Muslim politics since the early 1990s, culminating in the formation of the unregistered Islamic Party of Kenya (IPK) to articulate the interests of the community for alleged marginalization. Leading the condemnation, the National Muslim Leaders Forum (NAMLEF) referred to Balala's removal as a "betrayal" of the Muslims and thereby nullified the 2007 controversial memorandum of understanding (MOU) that Raila Odinga signed with the Muslim community.[1] Consequently, they threatened to mobilize Muslims all over the country not to vote for Odinga as the next president of Kenya in the forthcoming 2013 general elections, which eventually Odinga lost to Uhuru Kenyatta (Kenya's current president).[2] According to Abdullahi Abdi, the NAMLEF chairman, the MOU reached between his organization and Odinga was undertaken to preserve the welfare of Muslims and act as a barricade against injustice toward the community. Explaining the reasons behind the agreement, the NAMLEF chairman argued that the MOU was made after wide consultations among more than twenty Muslim organizations within its membership across the country with the aim of ending "the years of injustice and discrimination perpetrated against the community since independence."[3]

Speaking in an interview with Radio Salaam in Mombasa, the NAMLEF leader clarified that the pact was arrived at with Odinga in his individual capacity and not as the Orange Democratic Movement (ODM) leader, giving his firm commitment that he would abide by the agreement. Their decision to support Odinga's presidential bid in the 2007 elections was based on his record of championing the rights of Kenyans, including condemning vehe-

mently the abuse of Muslims in the so-called war on terror and their rendition to foreign countries like Somalia and Ethiopia.[4] While Muslims supposedly lived up to their side of the negotiation by overwhelmingly voting for Odinga in the 2007 elections, some Muslim leaders expressed the concern that Odinga failed to fulfill his promise. Despite his failure to attain the presidency, the disputed 2007 presidential election results gave way to the creation of a coalition government that established the prime minister's office to share powers with the president. With the appointment of Odinga as the prime minister, some Muslim leaders were optimistic that he would use his office to influence policies that favored the community. Muslims voted for him with the understanding that he would ensure that Muslims were no longer discriminated against, but he allegedly failed to realize this expectation as a number of injustices continued being perpetrated against the community. In fact, Muslims are bitter that the person (read Odinga) they had trusted in correcting injustices against the community was now referring to the "Muslims who were renditioned to Uganda as terrorists."[5] Because of this experience with Raila, the NAMLEF leader retorted that in the future Muslims would not make agreements with any presidential candidates to support their bid for the country's leadership. Instead, the NAMLEF official suggested that the community should form their own political party, which they could use in negotiating coalition agreements with other parties.[6] Such sentiments would influence Muslims' campaign themes as they sought for a new political direction in the 2013 elections.

The Muslim clerics supporting Balala interpreted the dismissal as backpeddling on the controversial MOU in which Odinga supposedly committed to ensuring that the Muslims constituted 20 percent of public appointments. Confirming this view the organizing secretary of NAMLEF complained that "the sacking of Mr Balala from the Cabinet is a breach of the agreement signed between the National Muslim Leaders Forum and Mr. Odinga to safeguard the interests of the Muslim community."[7] At the beginning of the coalition government in early 2008 due to the disputed presidential elections of December 2007, around eleven ministerial appointments were held by Muslims and only Adan Duale, Mohamud Muhammad Ali, and Najib Balala had been sacked from their positions.[8] The removal of these Muslim politicians from their government positions by their ODM leader was interpreted by some Muslim leaders as going against the spirit of the agreement. But the anger exhibited by NAMLEF and a section of the CIPK leadership in view of Balala's dismissal portrayed the Muslim leadership's collective conscience as something that can be manipulated for narrow and individualistic political gain.

A number of questions were raised during the debate related to Balala's discharge debacle, but the most striking one was, was Balala's removal from

office politically influenced or religiously inspired? Some analysts have argued that it is normal for members of a political party to differ and fall out. And when this happens, political appointees would consider it a matter of principle to resign from their government positions alluding to either personal reasons or differences over policy matters and ideologies. But in Kenya, even when politicians disagree "with their party leaders" they will continue to "cling to their government portfolios."[9] In an emotional statement after his release from the cabinet, Balala struck out at his party leader, Odinga, as a "dictator that Kenyans do not deserve as their next president."[10] He attributed his fall out with his party leader to exercising his independence of mind and standing by his principles, including speaking against lack of democracy in the ODM.[11] Despite his dissatisfaction with the ODM leadership, Balala did not find it honorable and principled to resign and seek a fresh mandate from another party, a paradox exhibited by most politicians in the country. It is obvious that the three Muslim MPs' devotion to ODM was their qualification for the ministerial dockets and after showing disloyalty to their party, their sacking should not be used to instill religious tensions among Kenyans. Party politics demands solidarity, and when a minister unequivocally disowns his party it is not rational to persist in representing the party in the government. Suggesting that the three Muslim MPs' removal was a betrayal of the Muslim community, and by extension portraying Odinga as an enemy of Islam, demonstrates how a section of Muslims could use the Islamic factor for their own political interests in the country. It is clear that there are some Muslim leaders who would manipulate the religion of Islam and the Muslim community to pursue their political goals. NAMLEF's and the CIPK leadership's condemnation demonstrate their attempt to influence the Muslim community to vote against Odinga as the president of Kenya in the 2013 general elections by presenting him as an enemy of the Muslims. Indeed there were a number of Muslims serving in influential positions in the country, including the heads of both the constitutional reforms and defense–foreign relations parliamentary committees, the deputy speaker of the National Assembly, and the chairman of the Independent Electoral and Boundaries Commission, among others.

However, Balala's perceived Muslim support base was divided on the interpretation regarding his sacking. Another group of Muslim clerics together with the entire coastal ODM MPs supported his dismissal for openly contradicting his party leader on a variety of issues.[12] While commenting on the Balala fiasco, a representative of SUPKEM argued that in politics it is typical for members to be reprimanded whenever they disrespected their party leadership. And whenever this happens, it would be wrong to allege that an entire religious community is being targeted because of the "sins" of an individual. In an interview, SUPKEM official Hussein Adan Somo remarked:

> It is unfortunate that some people who were appointed to different positions never lived [up] to the expectations of their party and the Muslim community at large and therefore should not cry foul when their misdeeds come to haunt them.[13]

Similar views were expressed by a CIPK official, Sheikh Amir Hamisi Banda, who added that the 2007 MOU clearly stipulated nomination of Muslim clerics as MPs and councilors by the ODM party, and said nothing about ministers' appointments and their retention in the cabinet.[14] In defense of Odinga, Banda argued that he was personally involved in the signing of the 2007 agreement, and he does not concur that the ODM leader had breached it. In a statement that contradicted his colleagues in the CIPK Banda posited:

> This [MOU] was a political deal and had nothing to do with the appointment of Balala to the Cabinet. The deal was about the nomination of Muslims as MPs and councilors, which the PM [prime minister] honoured to the letter.[15]

In fact, Sheikh Mohammed Dor, who also protested and saw a religious angle in Balala's removal from office, was nominated to parliament as a result of the MOU. Clearly, the Balala fiasco divided the Muslim community, which went against the interests of their common political agenda.

The appointment of non-Muslim politicians to replace Balala and Duale in their ministerial duties was received with a lot of dismay by opposing Muslim leaders. Arguably, the issue was not about Duale's and Balala's discharge, but about Muslim leaders feeling that the community is being taken for granted and Odinga's failure as the prime minister to ensure equitable appointments of Muslims in government positions. The apprehension of the Muslim leaders was that the removal of Duale and Balala, and their replacement by non-Muslim politicians, had reduced the Muslims' numbers in the government cabinet, which they perceived as an insult to the community. While expressing their disillusionment with Balala's removal, the leaders lamented that all the "political leaders representing" the "constituencies in Mombasa county are Muslims" capable of discharging ministerial roles.[16] Such public statements were intended to reinforce the idea that, like other past regimes, Odinga too did not take into consideration the well-being of the Muslims in the country.

The emerging scenario could be viewed within the context that the country was preparing for the 2013 elections and various groups in the political arena were tactically realigning themselves for the purpose of capturing the running of the state machinery. In the shifting political landscape, the Muslims were gradually and strategically attempting to negotiate their political destiny ahead of the 2013 elections. This was significant to the Muslims as

the changing political alignment would similarly have an effect on all the different groups in the country. Like other Kenyans, the community has a considerable role to play in shaping the country's political future, and since the introduction of multiparty politics their voices have been heard in the political domain. Muslims' remarkable participation in national politics was evident in both the 2007 elections and 2010 referendum exercise that captured the attention of the country. Both Muslim leaders and organizations played a historical and momentous role by successfully mobilizing Muslims to take a certain political direction dictated by the prevailing events. Therefore, the Balala saga demonstrates the Muslims' efforts to keep and maintain the momentum of their participation in national politics.

It is common in Kenya for politicians to give in to the demands of various groups during election periods in order to win support. Muslims have capitalized on this trend and always come up with demands during this period as a condition for their support. In chapter 2, I have shown that certain Muslim issues acquired electoral saliency during Moi's tenure as the president of Kenya, in particular the issues of the law of succession and the screening of Somali Muslims to ascertain their citizenship. In both matters, I have shown how President Moi ceded to Muslims' demands to appease them in an election period. This behavior by the political leadership to pacify certain sections of the population for the purpose of winning elections is common in the country.

In preparation for the 2007 general elections, two issues of particular concern to Muslims were the Anti-Terrorism Bill of 2006 (after the failed Suppression of Terrorism Bill 2003) and the debate over the *Kadhi* courts. As discussed in chapter 4, the proposed antiterrorism legislation was widely criticized by Muslim leaders, who vowed to mobilize the community against the government (read President Kibaki reelection) in the impending 2007 elections if the bill was not withdrawn. Also in chapter 4, I have shown how the debate on the entrenchment of the *Kadhi* courts in the Kenyan constitution emerged to be an emotional issue between Christians and Muslims in the country. Following the spiteful termination of deliberations on the Bomas Draft Constitution, the government took over the process. In August 2005, Attorney General Amos Wako produced another draft of the constitution, which came to be popularly known as the "Wako Draft." The government appeared determined to appease the Christian opposition through the Wako Draft by substituting a religious courts section for the *Kadhi* court clause in the Independence Constitution. The section on religious courts found in article 195(1) of the Wako Draft stated that "there are established Christian courts, Kadhi Courts and Hindu courts."[17] The removal of any reference to *Kadhi* courts was interpreted by Muslims as an insult; they felt that the provision for religious courts had curtailed the prestige of the *Kadhi* courts held in the Independence Constitution. The Wako Draft's intention was to indirectly retain the *Kadhi* courts while pacifying—mostly—the Christians with the opportu-

nity to establish religious courts. No consideration was given to the question of whether the community wanted the courts, much less whether such a court even existed within the Christian tradition in Kenya. When a referendum was held in November 2005 on the Wako Draft, the results indicted a rejection of the proposed law. Although there could be other reasons that contributed to the defeat of the Wako Draft, Muslim leaders' vigorous campaign against the proposed law certainly aided its denunciation by the community. With 2007 elections approaching, Muslim leaders picked the two issues most critical to them to demonstrate government insensitivity to Muslims' interest. In a charged presidential election campaign, the 2007 MOU came into existence, in which Muslim leaders set out to mobilize the community against Kibaki's reelection. The outcome of the 2007 presidential election was controversial and led to the 2008 postelection violence, which culminated in a peace agreement that forced Kibaki to share power with his archrival, Odinga.

Among the important topics concerning Muslims that featured in the 2013 election period was the war on terror. A section of Muslim leaders, especially the clerics, strongly harbor the notion that Muslims have for a long time been mistreated and discriminated against in the fight on terrorism. Numerous calls have been made by these leaders to the government to consciously reverse this trend by ensuring that the law is adhered to and human rights principles are respected when dealing with suspects of terrorism. Prominently featured in the war on terror narrative was the demand for the return of Muslims who are held in Uganda for their alleged role in the July 2010 Kampala bombings.[18] There is a widely held perception among Muslim human rights activists that the government is not committed to the plight of the seven Muslims who were detained in Uganda after their arrest in the country and subsequent deportation. This government decision to extradite its own citizens to another country has been challenged by some Muslim leaders as illegal and a violation of the suspects' rights.[19] Similarly, Muslim human rights activists are irked by the detention of another Muslim, Muhammad Abdulmalik, in the Guantanamo Bay camp supposedly without judicial process of the law. While the Obama administration is purportedly eager to facilitate the prisoners' return to their respective home countries as a precursor to ultimately closing down the facility, "Kenya remains among the few countries" that "have not shown interest in taking back its citizen."[20] Therefore, it is likely that Muslim leaders insisted from the various presidential candidates seeking the community's support reassurance that Muslims' rights would not be violated in pursuit of the war on terror.

In October 2011 the Kenya Defence Forces moved into Somalia to engage the al-Shabaab militia accused of continued hostility that risked undermining Kenya's economic and security interests. In the face of deliberate infringement of its territorial sovereignty and national economy by the al-Shabaab, the government resolved to pursue the terror group inside Somalia.

However, the military operation into Somalia has remained a sensitive issue that informed Kenyan Muslims' political campaign themes. Amid the continuing war in Somalia, the government embarked on a diplomatic assignment to solicit support for the operation. Among the foreign countries that endorsed Kenya's storming into Somalia was the state of Israel. In addition to approving the war on al-Shabaab, Israel supposedly pledged to assist in eliminating the "danger of fundamentalism in the region."[21] While there is appreciation among Muslims for the need to have allies for the success of the military mission, they are apprehensive about incorporating Israel's assistance into the campaign. The Muslim leaders are critical of Israel's backing, claiming that many Muslims in the world regard this state to hold policies considered to be anti-Islamic. Therefore, according to them, it would be incongruous for the Kenyan government to declare that the "al-Shabaab is a threat to regional peace," but incorporate Israel in its mission, which is "considered by many Muslims" to be the "biggest threat to peace and stability in the Middle East."[22] The leaders suggested that the government should follow the example of the United States, which during the Gulf War, despite the need for partners to advance its campaign against Iraq, decided to exclude Israel, whose presence would have hurt Muslim sensibilities. Arguably, in its effort against terrorism in the country, Israel is alleged to play a behind-the-scenes role, particularly in its "brutal interrogation procedures and torture of individuals detained on terrorism activities."[23] The Muslims' concern is that Israel's involvement would encourage violation of Muslims' human rights in the country on the pretext of "supporting the war on terrorism and fundamentalism."[24] To dispel such mistrust, the Muslim leaders suggested to the government the need to have an adviser on Muslim affairs. This is because occasionally the Kenyan government has undertaken measures done for the interest of the country but which turned out to raise suspicion among Muslims. Such unpopular measures have increased Muslims' resentment toward the state.

The intent of this book is to trace the political history of the Muslim community in Kenya and situate it in the present unfolding political scenarios in the country. To that effect, several issues related to Muslim politics were examined, but gender empowerment and security concerns appear problematic matters that call for investigation. The presence of religion in public affairs cannot be ignored because on a daily basis the media provides statements by religious leaders that have a continuing relevance to the political realm. Due to perceived proximity of religious leaders to people, they believe that they are capable of influencing and determining grassroots political directions. This is why during the 2010 referendum on the proposed constitution of Kenya, the religious sector held different views, with each religious body entrenching their followers in a specific position.

It is clear that Kenyan Muslims have been a large and an active constituent of Kenyan politics for a long time, participating in the country's political process, in both its democratic and nondemocratic aspects. Muslims have in distinct capacities represented various political parties in Kenya during both the colonial and postcolonial periods. Since the rekindling of democratic process in the 1990s, the political engagement of Kenyan Muslims has also undergone much transformation. With the transition to competitive politics in the 1990s, the role of politicized Islam has become more visible, posing challenges to Kenya's political structures. The development has also challenged the Muslim community, with new identities driven by racial, ethnic, and sometimes party loyalty appearing in the Muslim political scene. The emerging various Muslim identities have hampered their ability to create a united political voice, making it difficult to overcome their perceived marginalization and discrimination. Therefore, this book has demonstrated how the "marginalization" theme and the intra-Muslim divisions have been major factors of Muslim politics in Kenya.

The creation of SUPKEM in early 1970s was an attempt by Muslims to resolve their internal differences and unify their efforts for the benefit of the community. But even the founding of SUPKEM did not provide a significant change in the relationship between Muslims and the state, as SUPKEM tended to side with government authorities whenever Muslims' political interests conflicted with those of the state. So far the most serious attempt to unite Kenyan Muslims politically was witnessed after the introduction of multipartism in early 1990s with the formation of the IPK. However, ethnic and racial differences of Muslims weakened their efforts to present a united political voice. Allegedly, the various postcolonial regimes have exploited these differences through clandestine support of competing Muslim groups as evident in the foundation of the UMA, perceived as the authentic voice of the "African" Muslims, as opposed to the "Arab" element purportedly dominating the IPK, and also the unexpected official recognition of the Shirikisho Party, held to be a Digo Muslim political organization. It is this division among Muslims that some of the postcolonial administrations utilized to weaken the community politically. This situation would not have arisen if Muslims in Kenya had been a united monolithic political voice, but due to ethnic and racial binaries it has been difficult to attain this unity. Although Muslim leadership presents itself as the custodian of Muslim interests and dedicated to rendering services to the entire community, ethnic and racial identities have weakened this aspiration. Despite energetic efforts to portray the community as united, most Muslim leaders in Kenya have more ethnic and racial interests at heart than religious concerns.

Nevertheless, there are moments that Muslims are united irrespective of their race or ethnicity when they feel that their right to observe their religion is threatened. The case studies of selected legislation opposed by Muslims

support 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 restrictive policy of issuing national documents to sections of the Muslim population increases the sense of marginalization among Muslims, but does not have the same effect of enhancing Muslim unity. It is clear that when it comes to pursuing objectives that are not related to the entire community, Muslims tend to abandon their Islamic identity and appear divided along racial and ethnic lines. The contours of this dialectics show Muslims' complex engagement in national politics, which is not always a monolithic phenomenon. There have been variant Muslim political voices throughout Kenya's history influenced primarily by ethnic and racial considerations, as indicated by the different Muslim political parties and associations.

The recurring "marginalization" theme among Kenyan Muslims is linked to the important role education plays in society. The introduction of formal secular education in Kenya is attributed to the efforts of Christian missionaries who established the earliest mission school at a coastal village of Rabai in 1846. Their education was closely bound with missionary work that intended to spread Christianity to as many Africans as possible. Later, as a result of the partnership between the colonial administration and the various missionary groups, many Kenyans were exposed to formal education. In spite of the integration of some Muslims into the British administration of indirect rule, Muslims did not capitalize on their privileged position, particularly on the coast. 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. Presently, there is a degree of regretful self-criticism within the community, as many Muslims lament the unwillingness of an earlier generation to send their children to missionary schools where they feared being corrupted by secular education. There is now a growing demand for secular education among Muslims as indicated by the increasing number of schools in virtually every place where there is a significant population of Muslims.

Even with the growing demand for secular education, there is concern among Muslims that they have continued to lag behind in their performance in the national examinations compared to other groups in Kenya.[25] This led to the creation of the Muslim Education and Welfare Association (MEWA) in the 1980s to find ways of improving the education of Muslims. Since its inception, MEWA has done steady work, providing scholarships despite its limited budget. Their work is, however, largely restricted to Mombasa, not covering other parts of the country. Perhaps because of its limited scope, in the 1990s the Malindi Education and Development Association (MEDA), though not formally a Muslim body, has come into prominence pursuing

a similar model. Through raising funds partly from the Muslim community and partly from external donors for specific projects, the organization is in the forefront of empowering Muslims educationally by emphasizing the value of secular education. The consequence of these efforts has been a steady growth in the number of Muslim graduates and professionals in Kenya. But while many Muslims now share the general Kenyan belief that secular school education is the panacea for almost all problems, the problem of how to combine secular study with religious education remains fundamental.[26]

With accessibility to education, an increasing number of Muslim women have capitalized on the opportunity to be educated, enabling them to hold important positions in both the corporate and government sector, making their contribution to the money economy visible. Equipped with intellectual power, a set of Muslim women has been appearing on the Kenyan political stage since the 1990s, sometimes taking their campaigns to the mosque. Though their appearance is not attributed to their faith, their presence in Kenya's political space illustrates their desire to gain access to participation in public life. The actions of this group of educated Muslim women are challenging both Kenyan society and their respective Muslim communities, both of which are patriarchal. Because of educational empowerment, these Muslim women have challenged the male superiority that is dominant in their community.

In Kenya, there is a widely held belief that most Muslim women seek legal redress on various issues related to their personal affairs in the *Kadhi* courts, leading to these courts being branded as "women's courts." It is through the *Kadhi* courts that Muslim women have received rulings in their favor. Though Muslims in Kenya successfully lobbied for the entrenchment of the courts in the country's constitution, there is need to reform the courts to make them more advantageous to women. Despite being frequently visited by women, these courts are male dominated as there is no single Muslim woman judge in their ranks. With opportunities of education, soon Kenyan Muslims will notice the rise of Muslim women demanding more rights and fundamental changes in the sharia, which would influence reforms in the *Kadhi* courts. It is through comprehensive reforms that Muslim women in Kenya will be able to occupy the office of the *Kadhi* courts as judges.

I have also shown in this study that international terrorism attributed to al-Qaeda and al-Shabaab movements poses a security challenge to Kenya. Apart from al-Shabaab conducting military recruitment in the country, reports indicate that the Kenyan government had also recruited youths among the Kenyan Somalis, as mercenaries for the fragile Somalia TFG. The government strongly refuted the allegations, denying any involvement in a scheme that is preparing Kenyan youths for the Somalia mission. However, according to the report, several youths received military training in various camps in the

country, raising the concerns of the Kenya National Commission on Human Rights and Muslim leaders that upon accomplishing their mission, the youth would return and a pose a security threat given their training and experience in the war zone.[27] It is likely that the enlisted youths would engage in activities of lawlessness considering that most of them would be jobless upon return. This is cited as a long-term repercussion such an exercise would have on the country.

Due to the porous nature of the Kenyan borders, members of terrorist movements have easily moved in and out of the country undetected, finding sanctuaries with the local Muslim communities from which they have succeeded in planning their destructive activities. This has led to occasional police raids in certain neighborhoods to round up illegal foreigners in the country. For instance, in Nairobi such police raids are conducted in mostly Somali neighborhoods, leading to arrests of hundreds of illegal immigrants. Though the target is to apprehend non-Kenyan Somalis, there are cases of Kenyan Somalis also being arrested in the process. This is due to lack of proper scrutiny by law enforcement agents, which has been perceived by some Somali leaders as discrimination and further "marginalization" of Muslims.[28] As a result, "Muslims feel they have been vilified as aliens, 'terrorist sympathizers' and collectively punished through arrests and intimidation."[29] But before condemning the actions of the law enforcers as discriminatory, it is important to examine the difficulties they face in distinguishing a genuine Somali Kenyan citizen from an illegal Somali immigrant. Through bribery and forgery, a number of illegal Somali immigrants have acquired Kenyan national documents, a crime abetted by government officials "who give false witness claiming that the foreigners are Kenyans," thereby complicating the search efforts.[30]

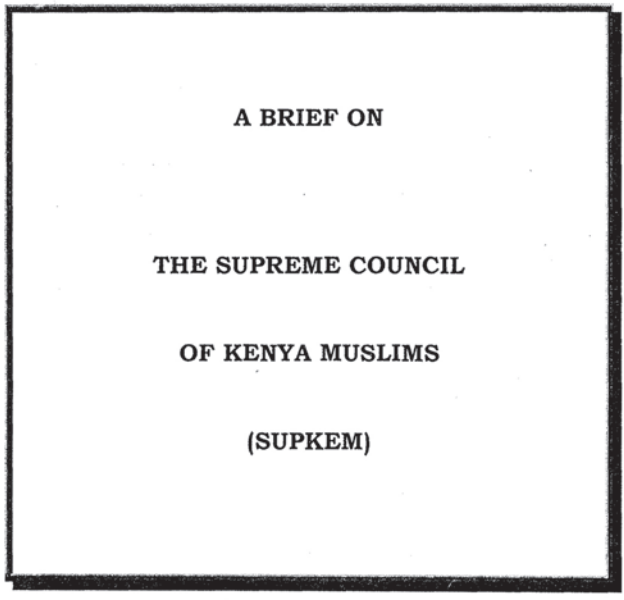
Such claims of collective oppression by some local Muslim activists conflate valid security issues with religious ones, misinterpreting legitimate law enforcement to mean generalized discrimination against Muslims. However, there are cases when Muslims have genuine concerns to complain and protest, including instances where police invade the privacy of Muslim homes in offensive ways. Rather than regarding the raids as religious discrimination, Muslim leaders could identify specific instances where transgressions have occurred and endeavor to resolve the mistreatment with the law enforcement hierarchy. Certainly, there are other Kenyans who would not accept ignoring the security threat of the country because the culprits are associated with a particular faith. There is no doubt that the recurrence of terrorist attacks in the country raises concern and calls for stiff measures against terrorism. The Kenyan government needs to be vigilant and take drastic action against terrorists because if left unchecked they will wreak havoc on the already vulnerable security and religious relations.

The book shows that a major contributory factor to the politicization of Islam in Kenya has been the failure of the government to recognize the political role of Muslims in the country. This has created a sense of marginalization among Muslims, which has enhanced their resolve to resort to politicized Islam. Since Kenya is a democratic state, it should allow individuals and religious groups to enjoy constitutional guarantees with regard to their relation with the state. This includes 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.

Though this book is about Muslim politics in Kenya, the field study did not extensively cover all the regions principally inhabited by Muslims in the country. 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 present study may therefore not claim to represent the entire Muslim population of Kenya, it can nevertheless reveal the most prominent trends and positions. Further research will be able to reflect the views of Muslims in the grass roots. Due to this limitation, there are events and statements that I may have overlooked. The task of refining and improving this understanding will lie with other researchers. It is my hope that scholars with interest in Muslim politics in Kenya will be able to expand 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. Also, like most women in Kenya, many Muslim women continue to be passive recipients of social change despite being forced by the changing global economy to enter the wage-earning public sector, which is still defined along the lines of the privileged male. Therefore, future research could examine the political participation of Muslim women in Kenya in the context of a minority within the minority Muslim community, so as to provide insight on how the women have successfully engaged in politics despite obstacles within their community.

APPENDIX A

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 are 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 (IDB), 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 IDB while the Mosque was put up by Africa Muslim Agency).
- Eldoret Islamic Centre built with funds from the IDB and at present used as a secondary school for Boys with sponsorship from African Muslim Agency
- The Maragua Muslim Girls Secondary School built by IDB. 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 placings.
- 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 IDB 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)

APPENDIX B

The Original MOU between NAMLEF and ODM

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is made between **Honourable Raila Amolo Odinga (Hon Raila Odinga)** on one hand and the **National Muslim Leaders Forum (NAMLEF)** on the other.

At the time of execution of this MOU, on the one hand, **Hon Raila Odinga** has declared his intention to vie for the Presidency of Kenya during the 2007 General Elections. He has sought the support of **NAMLEF** in getting the backing of the Muslim community in Kenya to back him for the Presidency.

In this MOU reference to **Hon Raila Odinga** is intended to include and bind all such persons working for him with his authority during the campaign period, and thereafter will refer to his government.

On the other hand, **NAMLEF** a national umbrella platform of leaders of Muslim organisations desires to see our country Kenya as **a just, harmonious, peaceful and prosperous nation based on good governance, constitutionalism and the rule of law, pro-poor policies, enhanced democratic space** and where Kenyans effectively participate in shaping their destiny and the positive upliftment of the status and welfare of Muslims in Kenya and the correction of historical and structural injustices and marginalisation meted on Muslims through deliberate policies and programmes.

In entering into this agreement, **NAMLEF** and the Muslim community in Kenya recognise the fact that President Mwai Kibaki's government has meted out calculated, deliberate, unprecedented discrimination, intimidation and harassment of sections of Kenyans, including Muslims. **NAMLEF** and the Muslim community in Kenya desire to see an end to this.

After due consultation, **NAMLEF** has arrived at a decision **to support the candidature of Hon. Raila Odinga for presidency during 2007.**

In this MOU reference to **NAMLEF** is intended to include and bind all such persons who have authority to commit **NAMLEF** or work under its authority.

This MOU therefore declares and commits **Hon Raila Odinga** and **NAMLEF** as follows:
That:

A. **Hon Raila Odinga** and **NAMLEF agree to this MOU** to take effect forthwith upon its signing.
B. This MOU is made to **secure and cement solidarity and partnership** between **Hon Raila Odinga** and **NAMLEF** constituency based on values of mutual trust, honesty, integrity, transparency and good governance.
C. This MOU is made in **utmost good faith and trust** between **Hon Raila Odinga,** and **NAMLEF** with the common objective of transforming our country Kenya into a proud, prosperous and just nation, where all Kenyans live in harmony realising their full potential without discrimination, subjugation or fear.
D. **NAMLEF** shall:
    a. Declare public support for **Hon Raila Odinga's** candidature for Presidency.
    b. Support **no other candidate** for the Presidency for the 2007 General Elections.
    c. **Mobilise the Muslim constituency** countrywide to support **Hon Raila Odinga's** candidature for Presidency.
    d. Provide **Hon Raila Odinga's** Presidency with **support and wise counsel**.
    e. **Maintain open links of communication** during the Presidency of **Hon Raila Odinga.**
E. **Hon Raila Odinga** shall:

RO/NAMLEF Agreement

a. Embrace **NAMLEF** totally **as his partner of choice** in seeking the backing of the Muslim community, including access to and representation on all his Presidential Campaign organs.
b. Upon successful election and serving as the President of Kenya:
    i. Continue to embrace **NAMLEF as his partner of choice**, providing support and sustain relations with it and the Muslim community.
    ii. Accord NAMLEF both an **advisory and partner** role in his government on all Muslim affairs.
    iii. Embark on the **radical transformation of Kenya** to be a just, harmonious, peaceful and prosperous nation based on good governance, constitutionalism and the rule of law, pro-poor policies, enhanced democratic space and where Kenyans effectively participate in shaping their destiny through **a genuinely devolved government.**
    iv. Initiate, within the first year, **deliberate policies and programmes to redress historical, current and structural marginalisation and injustices on Muslims in Kenya**. This will include the entrenchment in the Kenyan constitution provisions that will outlaw the targeting and profiling of any Kenyan community (including Muslims) and subjecting them to human rights abuses, violations and discrimination under any guise whatsoever, as has specifically been witnessed by the Muslim community in the past. Specific action will include the setting up of a commission to inquire on deliberate schemes and actions of government, its agencies or officers, to target or interfere with welfare and social well being of Muslims in Kenya as citizens including renditioning of Kenyans to Somalia, Ethiopia and Guantamano Bay. Such schemes and actions **will be put to an end** and public officers responsible for the same named **and held to account**..
    v. Accord immediately, within the first two years, Northern Kenya and the Coast Province and other neglected areas **budgetary priority** for infrastructural development in the sectors of road and telecommunications, water, housing, education and health, amongst others.
    vi. Ensure **equitable representation of Muslims in all public appointments.**

F. **NAMLEF** as a credible national Muslim institution and **Hon. Raila Odinga** as a credible national leader known for consistency, valour and statesmanship and vying for the highest position in Kenya commit themselves to this MOU.

Signed by: **Honourable Raila Amolo Odinga**:

.....Date...29/08/07.

Signed on behalf of the **National Muslim Leaders Forum**) by:

Sheikh Abdullahi Abdi
(Chairman):.....Date.....29/08/07.....

RD/NAMLEF Agreement

Witnessed by:

NAMLEF side

1. Mohamed Barour Adam Signature.....

Date. 29/08/07

2. Said Athman Mtwana..... Signature.....

Date. 29th August 2007

Hon. Raila Odinga's side

1. Hon. Najib Balala Signature.....

Date. 29/08/07

APPENDIX C

The Controversial MOU between NAMLEF and ODM

In the name of Allah, the Most Gracious, the Most Merciful

All praise be to Allah, the Cherisher and Sustainer of the Worlds.
The Most Beneficent, the Most Merciful.
Master of the Day of Judgment.
Thee (alone) we worship; of Thee (alone) we seek help.
Show us the straight path.
The path of those whom Thou hast favored;
Not (the path) of those who earn Thine anger nor of those who go astray.
A'meen

MEMORANDUM OF UNDERSTANDING
BETWEEN
HON. RAILA AMOLO ODINGA REPRESENTING THE ORANGE DEMOCRATIC MOVEMENT (ODM)
AND
NATIONAL MUSLIM LEADERS FORUM (NAMLEF)

PURPOSE: To establish a lasting relationship between **Hon. Raila Amolo Odinga,** hereinafter referred to as The Candidate, and the **National Muslim Leaders,** hereinafter referred to as The Leaders.

This MOU states as follows:

WHEREAS The Candidate – who recognizes Islam as the only true religion – is seeking to become the next President of the Republic of Kenya;

WHEREAS The Leaders recognize The Candidate as the only presidential candidate who has the interests of the Kenyan Muslim community at heart;

WHEREAS The Candidate has pledged to fully reinstate and protect the rights of the Kenyan Muslims when, **InshaAllah,** he becomes the 4th President of the Republic of Kenya;

WHEREAS The Leaders represent a peaceful and God-fearing Kenyan community that has been oppressed and discriminated against by the current and previous governments, and

WHEREAS The Candidate freely acknowledges that, indeed, the current and previous governments have failed to recognize and protect the rights of the Kenyan Muslim community;

The Parties agree as follows:

(i) That The Leaders forthwith endorse The Candidate as the official 2007 Presidential candidate of the Kenyan Muslim community.

(ii) That The Leaders will campaign vigorously for The Candidate to ensure his resounding victory in the 2007 presidential election.

(iii) That The Leaders will work hard to ensure that all (or at least the majority) of Kenyan Muslim faithful vote overwhelmingly for The Candidate at the 2007 General

Election.

(iv) That The Leaders will deploy all resources at their disposal to support The Candidate's campaigns throughout the country.

(v) That The Candidate, when, **InshaAllah**, he becomes President of Kenya will:

a) Ensure that the Coast Province shall henceforth be known as JIMBO LA PWANI and shall have full autonomy in Governance in all matters apart from National Defence and International Accreditation. In addition, while freedom of worship will be upheld at the JIMBO LA PWANI, the Council of Islamic leaders shall be permitted to have an oversight role to monitor activities of ALL other religions and any applications for religious activities and institutions will require their approval. They shall have the right to deny approval to cults and other evil practices.

b) Within 6 months re-write the Constitution of Kenya to recognize Shariah as the only true law sanctioned by the Holy Quran for Muslim declared regions.

c) With immediate effect dismiss the Commissioner of Police who has allowed himself to be used by heathens and Zionists to oppress the Kenyan Muslim community.

d) Disband the imperialist Anti-Terror Police Unit (ATPU) that was set up for the sole purpose of terrorizing, harassing, intimidating and deporting innocent Kenyan Muslims to Guantanamo Bay.

e) Ensure THAT ALL MUSLIMS residing within the Republic of Kenya, and especially those who reside in the North Eastern Province shall be granted full National Identity Cards, and thereafter, North Eastern Province shall also be granted majimbo status no less favourable and on similar terms with JIMBO LA PWANI, within SIX MONTHS of Raila Amollo Odinga being sworn in as President.

f) No Muslim residing in Kenya whether a citizen, visitor or relative of any of the above shall be subjected to any process involving the laws of a foreign country and in particular any Muslim arrested for or suspected of Terrorism or any other International crime shall only be tried within the boarders of Kenya and shall be granted a competent lawyer of his/her choice at the expense of the Government.

g) Within 1 year facilitate the establishment of a Shariah court in every Kenyan divisional headquarters.

h) Popularize Islam, the only true religion, in the Coast and North Eastern Regions by ordering every primary school in Kenya in the regions to conduct daily *Madrassa* classes.

i) Impose a total ban on open-air gospel crusades by worshippers of the cross in the Coast and North Eastern regions .

j) Outlaw gospel programs (preaching, purported faith healing, etc) on KBC, the National Broadcaster.

k) Impose a total ban on the public consumption of alcoholic beverages in the Coast and North Eastern Regions and their towns of Mombasa, Malindi, Lamu, Garissa, Wajir, Mandera, Kwale, Vanga, Lunga Lunga, and all other muslim populated urban centres of Kenya whose population is at least 40% (forty percent) Muslim.

l) Quash the recent legalization of mnazi, busaa, muratina, kaluvu, and all other *haram* beverages.

m) Close down Farmer's Choice in Jimbo La Pwani and Jimbo la Kaskazini Mashariki and other factories that process and package swine and other *haram* products in regions populated by Muslims including the Coast and North Eastern regions

n) Impose an immediate ban on women's public dressing styles that are considered immoral and offensive to the Muslim faith in the Muslim regions of the Coastal and North Eastern

Regions. This ban will apply to Muslims and non-Muslims alike, in these regions and will include all visitors whether domestic or foreign tourists.

vi) In consideration for the above and to enable and assist ODM and The Candidate win the National Elections and the Presidency of the Republic of Kenya, NAMLEF and its affiliate organizations hereby undertake to fully support the ODM as a party and Raila Amollo Odinga as a presidential candidate in all ways, and to mobilize all Muslims for this cause.

vii) In furtherance of the above, and within a maximum of Seven (7) days hereof, NAMLEF and its affiliate organizations shall issue a joint statement declaring that all Muslims should support and vote for Raila Amollo Odinga and ODM.

viii) In addition, NAMLEF have impressed upon Najib Balala who is present herein that he should step down in favour of Raila Odinga in the Presidential nomination exercise within ODM, due to the fact that Raila Amolo Odinga has confirmed his support for all the aspirations of the JIMBO LA PWANI and the Kenyan Muslim community.

ix) THAT subsequently, NAMLEF and its affiliate organizations shall engage in active campaigns for Raila Amollo Odinga and ODM throughout the Republic and impress upon Muslims, publicly and emphatically, the requirement to vote for ODM and Raila Amollo Odinga.

Dated this ..29th..day of August 2007, Mombasa, Kenya.

SIGNED

ON BEHALF OF THE NATIONAL MUSLIM LEADERS FORUM (NAMLEF)

.....
ABDULLAHI ABDI (CHAIRMAN)

ON BEHALF OF THE ORANGE DEMOCRATIC MOVEMENT (ODM)

.....
HON. ENG. RAILA AMOLLO ODINGA

.....
HON. NAJIB BALALA

NOTES

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12. Glassman, *Feasts and Riots: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888* (Heinemann: James Currey Ltd., 1995), 150.

13. Ibid.

14. Glassman, *War of Words, War of Stones: Racial Thought and Violence in Colonial Zanzibar*, 42.

15. Ibid., 23.

16. Carl F. Hallencreutz and David Westerlund, "Anti Secularist Policies of Religion," in *Questioning the Secular State: The World Wide Resurgence of Religion in Politics*, ed. David Westerlund (New York: St. Martin's Press, 1996), 2–3.

17. Ilter Turan, "Religion and Political Culture in Turkey," in *Islam in Modern Turkey: Religion, Politics and Literature in a Secular State*, ed. Richard Tapper (London: I. B. Tauris and Company Ltd., 1991), 36.

18. Glassman, *War of Words, War of Stones: Racial Thought and Violence in Colonial Zanzibar*, 40.

19. Mazrui, "The Triple Heritage of the State in Africa," 137–39.

20. Glassman, *Feasts and Riots: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888*, 223.

21. See "The Kenya Coastal Strip" (Report of the Commissioner, December 1961), 11–12.

22. Donal B. Cruise O'Brien, "Coping with the Christians: The Muslim Predicament in Kenya," in *Religion and Politics in East Africa*, ed. Holger B. Hansen and Michael Twaddle (London: James Currey, 1995), 204.

23. "The Kenya Coastal Strip" (Report of the Commissioner, December 1961), 13.

24. PC/COAST/1/1/178, Kenya National Archives.

25. Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa, 1700 to 1914*, 396.

26. On the historical racial issues among Muslims, see Kindy, *Life and Politics of Mombasa*.

27. Hassan A. Mwakimako, "Politics, Ethnicity and Jostling for Power: The Evolution of Institutions of Muslim Leadership and Kadhiship in Colonial Kenya, 1895–1963" (Ph.D. diss., University of Cape Town, 2003), 54.

28. Glassman, *Feasts and Riots: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888*, 235.

29. Ibid.

30. Ibid., 8.

31. David C. Sperling, "The Historical Development of Islam in East Africa" (seminar paper presented at the University of Nairobi, 1970), 9.

32. Jeff Haynes, *Religion and Politics in Africa* (Nairobi: East African Educational Publishers Ltd., 1996), 40.

33. As quoted by Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa, 1700 to 1914*, 537.

34. "Administrative Relations Between Arab Officials and Headmen," PC/COAST/1/22/22, Kenya National Archives.

35. Glassman, *Feasts and Riots: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888*, 9.

36. 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 *Islam in Kenya*, ed. Mohamed Bakari and Saad S. Yahya (Nairobi: Signal Press Ltd., 1995); Yusuf A. Nzibo, "Islamization in the Interior of Kenya: A General Overview," in *Islam in Kenya*, ed. Bakari and Yahya.

37. This view is also shared by Kindy, *Life and Politics in Mombasa*.

38. "The Kenya Coastal Strip" (Report of the Commissioner, December 1961), 3.

39. Ibid., 4.

40. Ibid., 5.

41. Ibid., 6.

42. Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa,1700 to 1914*, 518.

43. "Hamid" bin Thuwain has also been spelled "Hamed" and "Hamad" in different sources. For consistency, "Hamid" will be used throughout this book.

44. See the "The 1895 Agreement Between Great Britain and Zanzibar" (made on December 14, 1895).

45. Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa, 1700 to 1914*, 92.

46. Glassman, *Feasts and Riots: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888*, 236.

47. Ahmed Idha Salim, "The Impact of Colonialism upon Muslim Life in Kenya," *Journal Institute of Muslim Minority Affairs* 1, no. 1 (May 1979): 62–63; see also Kindy, *Life and Politics in Mombasa*, 52, 185.

48. "Administrative Relations Between Arab Officials and Headmen," PC/COAST/1/22/22, Kenya National Archives.

49. Ibid.

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

51. For the British collaboration with certain notable families on the coast, see Ahmed Idha Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945* (Nairobi: East Africa Publishing House, 1973).

52. "Administrative Relations Between Arab Officials and Headmen."

53. See the earlier quotation attributed to Sir Arthur H. Hardinge.

54. Glassman, *War of Words, War of Stones: Racial Thought and Violence in Colonial Zanzibar*, 49.

55. 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 (ca. 1932)," in *The Global Worlds of the Swahili*, ed. Roman Loimeir and Rüdiger Seesemann (Hamburg: LIT Verlag, 2006), 293–94.

56. "The Kenya Coastal Strip" (Report of the Commissioner, December 1961), 6.

57. T. Carmichael, "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* 17, no. 2 (1987): 296.

58. Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa, 1700 to 1914*, 516–73.

59. Mombasa has been the homeland of Islam in Kenya since the precolonial era. The large presence of a Muslim population has made it appear like a part of the Muslim world.

60. Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa, 1700 to 1914*, 523, 538.

61. The term White Highlands describes an area in upland Kenya in which several Europeans settled during the colonial period.

62. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 79.

63. Ibid., 78.

64. "Administrative Relation Between Arab Officials and Headmen," PC/COAST/1/22/22, Kenya National Archives.

65. Kindy, *Life and Politics in Mombasa*, 26.

66. Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa, 1700 to 1914*, 536.

67. "Administrative Relation Between Arab Officials and Headmen," PC/COAST/1/22/22, Kenya National Archives.

68. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 71–93; Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa, 1700 to 1914*, 538.

69. For more discussion on the remuneration of Muslim officials, see Mwakimako, "Politics, Ethnicity and the Jostling for Power: The Evolution of Institutions of Muslim Leadership and Kadhiship in Colonial Kenya, 1895–1965."

70. Haynes, *Religion and Politics in Africa*, 2.

71. Pouwels, *Islam and Islamic Leadership in the Coastal Communities of Eastern Africa, 1700 to 1914*, 538.

72. Ibid., 550.

73. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 91.

74. "Administrative Relations Between Arab Officials and Headmen," PC/COAST/7/22/22, Kenya National Archives.

75. See report of Education Commission of EAI, 1919.

76. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 193.

77. Ibid., 173.

78. "Administrative Relations Between Arab Officials and Headmen," PC/COAST/1/22/22, Kenya National Archives.

79. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 180.

80. Ibid.

81. "Africa Muslim Representation," OP/1/497, Kenya National Archives.

82. Glassman, *Feasts and Riots: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888*, 236. See also Glassman, *War of Words, War of Stones: Racial Thought and Violence in Colonial Zanzibar*, 27.

83. Glassman, *Feasts and Riots: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888*, 237.

84. Ibid., 25.

85. Glassman, *Feasts and Riots: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888*, 25; see also Glassman, *War of Words, War of Stones: Racial Thought and Violence in Colonial Zanzibar*, 36.

86. Glassman, *War of Words, War of Stones: Racial Thought and Violence in Colonial Zanzibar*, 36.

87. Kindy, *Life and Politics in Mombasa*.

88. Nimtz, *Islam and Politics in East Africa: The Sufi Order in Tanzania*, 34.

89. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*.

90. The Tisa and Thelatha Taifa are collectively known as the Twelve Tribes, which are Swahili groups that include the Wa-Mvita, Wa-Kilifi, Wa-Mtwapa, Wa-pate, Wa-Shaka, Wa-Gunya, Wa-Katwa, Wa-Faza, Wa-Jomvu, Wa-Kilindini, Wa-Changamwe, and Wa-Tangana.

91. "Legislative Council," PC/COAST/2/3/7, Kenya National Archives.

92. Kindy, *Life and Politics in Mombasa*, xii.

93. "Africa Muslim Representation," OP/1/497, Kenya National Archives.

94. Ibid.

95. "Status of Arabs," PC/COAST/1/3/164, Kenya National Archives.

96. AP/1/504, Kenya National Archives.

97. As quoted by Mwakimako, "Politics, Ethnicity and the Jostling for Power: The Evolution of Institutions of Muslim Leadership and Kadhiship in Colonial Kenya, 1895–1965," 68.

98. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 200.

99. Yetman, *Majority and Minority: The Dynamics of Race and Ethnicity in American Life*, 1.

100. Otomar J. Bartos and Paul Wehr, *Using Conflict Theory* (Cambridge: Cambridge University Press, 2002), 13.

101. Joseph Makokha, "The Islamic Factor in Somali Irredentism: Towards Rationalizing the Kenya Government's Stand Against Islamic Political Association," in *Islam in Kenya*, ed. Bakari and Yahya, 87; Marc-Antoine Perouse de Montclos, "Elections Among the Kenya Somali: A Conservative but Marginalized Vote," in *Out for the Count: The 1997 General Elections and Prospects for Democracy in Kenya*, ed. Marcel Rutten et al. (Kampala: Fountain Publishers Ltd., 2001), 298.

102. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*.

103. Ibid., 266.

104. DC/MSA/2/1/93, Kenya National Archives.

105. Ibid.

106. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 228.

107. "The Kenya Coastal Strip" (Report of the Commissioner, December 1961), 6.

108. The Bajunis is one of the Swahili groups living on the Lamu Island.

109. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 230.

110. Ibid., 231.

111. DC/MSA/2/1/93, Kenya National Archives.

112. Ibid.

113. "Kwale District Annual Report," 1958, KWL/XLV, Kenya National Archives.

114. DC/MSA/2/1/91, Kenya National Archives.

115. 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.

116. DC/MSA/2/1/105, Kenya National Archives.

117. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 33.

118. CG/2/60, Kenya National Archives.

119. Glassman, *Feasts and Riots: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888*, 202.

120. CG/2/60, Kenya National Archives.

121. Glassman, *Feasts and Riots: Revelry, Rebellion, and Popular Consciousness on the Swahili Coast, 1856–1888*, 22.

122. DC/MSA/2/1/93, Kenya National Archives.

123. Ibid.

124. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 234.

125. "Kwale District Annual Report 1952," KWL/XLV, Kenya National Archives.

126. "Kwale District Annual Report 1953," KWL/XLV, Kenya National Archives.

127. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 234.

128. As quoted by Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 224.

129. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 235.

130. Ibid., 224.

131. Ibid., 242.

132. Ibid., 243.

133. "A Right for Muslims to Chart Their Destiny If Kadhis' Courts Not Retained," in *The Friday Bulletin: The Weekly Muslim News Update*, December 18, 2009, 2.

134. See the "Kenya Coastal Strip." Agreement Between the Government of the United Kingdom, His Highness the Sultan of Zanzibar, the Government of Kenya and the Government of Zanzibar, Presented to Parliament by the Secretary of State for the Colonies by Command of Her Majesty, October 1963.

135. Makokha, "The Islamic Factor in Somali Irredentism: Towards Rationalizing the Kenya Government's Stand against Islamic Political Association," 82.

136. De Montclos, "Elections Among the Kenya Somali: A Conservative but Marginalized Vote," 298.

137. Makokha, "The Islamic Factor in Somali Irredentism: Towards Rationalizing the Kenya Government's Stand Against Islamic Political Association," 86; de Montclos, "Elections Among the Kenya Somali: A Conservative but Marginalized Vote," 298.

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

139. "Report of the Kenya Constitutional Conference, 1962" (April 1962), 11.

140. Makokha, "The Islamic Factor in Somali Irredentism: Towards Rationalizing the Kenya Government's Stand against Islamic Political Association," 89.

141. De Montclos, "Elections Among the Kenya Somali: A Conservative but Marginalized Vote," 299.

142. "Report of the Kenya Constitutional Conference, 1962" (April 1962), 11.

143. Donovan C. Chau, "An Examination of the Influence of Kenyan Somalis in Somalia," in *Somalia: State Collapse, Terrorism and Piracy*, ed. Brian Hesse (New York: Routledge, 2011), 51.

144. Makokha, "The Islamic Factor in Somali Irredentism: Towards Rationalizing the Kenya Government's Stand against Islamic Political Association," 91.

145. For the debate on *majimboism*, see *Saturday Nation*, November 17, 2001, 1–2; *Sunday Standard*, November 18, (2001), 8; *Daily Nation*, November 19, 2001, 6; *Sunday Nation*, August 30, 2001, 8–9, among others.

146. Salim, *Swahili Speaking Peoples of Kenya's Coast, 1895–1945*, 244.

147. Chau, "An Examination of the Influence of Kenyan Somalis in Somalia," 52.

Chapter Two

1. Carl F. Hallencreutz and David Westerlund, "Anti Secularist Policies of Religion," in *Questioning the Secular State: The World Wide Resurgence of Religion in Politics*, ed. David Westerlund (New York: St. Martin's Press, 1996), 2–3.

2. John O. Voll, *Islam, Continuity and Change in Modern World* (Essex: Essex Press, 1982), 276.

3. Joel D. Barkan, "Kenya After Moi," *Foreign Affairs* 83, no. 1 (January–February 2004): 88.

4. Barkan, "Kenya After Moi," 88.

5. Ibid., 89.

6. Mohamed Bakari, "A Place at the Table: The Political Integration of Kenyan Muslims, 1992–2003" (paper presented at the International Conference, St. Anthony's College, Oxford, June 2004), 14.

7. Galla Sabar, *Church State and Society in Kenya: From Mediation to Opposition, 1963–1993* (London: Frank Cass, 2002), 66.

8. Ibid.

9. Ibid., 70.

10. Ibid., 69.

11. Ibid., 72.

12. Bakari, "A Place at the Table: The Political Integration of Kenyan Muslims, 1992–2003," 2.

13. Paul Gifford, "Christian Fundamentalism, State and Politics in Black Africa," in *Questioning the Secular State: The Worldwide Resurgence of Religion in Politics*, ed. Westerlund, 198–215.

14. This is an umbrella body of about sixty churches most of which are affiliated with the United Evangelical Churches of America.

15. Gifford, "Christian Fundamentalism, State and Politics in Black Africa," 198–215.

16. *Kenya Times*, December 1, 1990, 2.

17. B. Harden, *Africa: Dispatches from a Fragile Continent* (London: Harper Collins, 1991), 248–68.

18. *Daily Nation*, July 2, 1991, 3.

19. *East Africa Standard*, March 30, 1992, 4.

20. Omari H. Kokole, "Idi Amin 'the Nubi' and Islam in Ugandan Politics," in *Religion and Politics in East Africa*, ed. Holger B. Hansen and Michael Twaddle (London: James Currey, 1995), 45–55.

21. Gifford, "Christian Fundamentalism, State and Politics in Black Africa," 207.

22. *Daily Nation*, April 1, 1993, 26.

23. *Financial Times*, March 24, 1993, 6.

24. Steve Bruce, *Politics and Religion* (Cambridge: Polity Press, 2003), 9–10.

25. Juma Kwayera, "Religion No Longer Alternative Voice," *Sunday Standard*, May 25, 2008, 9.

26. Dedan Okanga and Elizabeth Mwai, "Law Review: Church Leaders Rejects Draft," *Standard*, April 3, 2010, 7.

27. Ibid.

28. "Church Adamant on NO Vote in New Law," *Daily Nation*, April 6, 2010, 1.

29. "Faiths Leaders Should Show More Tolerance," *Daily Nation*, April 6, 2010, 10.

30. "Clerics Under Pressure to Drop Campaign Against the Draft Laws," *Daily Nation*, April 5, 2010, 4.

31. "AIC, NCCK Join Catholic Opposition," *Standard*, April 8, 2010, 6.

32. Okanga and Mwai, "Law Review: Church Leaders Rejects Draft," 7; "Clerics Under Pressure to Drop Campaign Against the Draft Laws," *Daily Nation*, April 5, 2010, 4.

33. Standard Team, "Draft: State and Church Talks on New Law Collapse," *Standard*, April 29, 2010, 6.

34. Beverline Ongaro, "Religious Leaders' Abhorrence to Kadhi Courts Is Perpetuation of Inequalities," *Standard*, May 2, 2010, 17.

35. Maina N. Kahumbi, "Christian-Muslim Relations in Kenya," in *Islam in Kenya*, ed. Mohamed Bakari and Saad S. Yahya (Nairobi: Signal Press Ltd., 1995), 116–41.

36. See *Daily Nation*, or *Standard Newspaper*, September 1997.

37. "Clerics Under Pressure to Drop Campaign Against the Draft Laws," 4.

38. John Makeni, "Don't Favour Islam, Says New Church Head," *Sunday Nation*, May 2, 2010, 22.

39. *The Proposed Constitution of Kenya* (Nairobi: Government Printer, 2010), 25.

40. "Clerics Under Pressure to Drop Campaign Against the Draft Laws," 4.

41. Joseph Omole, "Religious Leaders Are Hypocritical," *Sunday Nation*, April 11, 2010, 24.

42. Peter Orengo, "Tread Carefully, Gitari Tells Church," *Standard*, April 19, 2010, 7.

43. See Quran 17:31, 32.

44. See "Fatwas: Abortion," in *Islam in Transition: Muslim Perspectives*, ed. John J. Donohue and John L. Esposito (Oxford: Oxford University Press, 2007), 227.

45. Oliver Mathenge, "Why State Is Not in a Hurry to Ditch the Clergy," *Sunday Nation*, May 2, 2010, 26.

46. "Clerics Under Pressure to Drop Campaign Against the Draft Laws," 4.

47. "Churches Split over Clauses in New Law," *Daily Nation*, April 6, 2010, 6.

48. Okech Kendo, "Consider the Lives of Mothers as Well," *Standard*, April 8, 2010, 15.

49. "AIC, NCCK Join Catholic Opposition," *Standard*, April 8, 2010, 6.

50. Murtin Muliro, Churches of Christ, Kamukuywa, letter to the editor, "Not All Clerics Oppose Islamic Kadhis' Courts," *Standard*, May 1, 2010, 16.

51. James Ratemo, "SDA Distances Itself from 'No' Campaign Rally," *Standard*, May 4, 2010, 8.

52. Okech Kendo, "Lay Rules for Cross vs. Crown Draft Duel," *Standard*, May 6, 2010, 15.

53. Standard Team, "Its Time Church Leadership Unites Country," *Standard*, August 8, 2010, 14.

54. Ibid.

55. George W. Braswell Jr., *Islam: Its Prophet, Peoples, Politics and Power* (Nashville: Broadman & Holman Publishers, 1996), 137.

56. "Fatwas: Abortion," 227.

57. Braswell, *Islam: Its Prophet, Peoples, Politics and Power*, 137.

58. These assertions were made by Billow Kerrow, former member of parliament for Mandera Central. See Billow Kerrow, "Which Way Forward for Muslims?," *Sunday Nation*, January 4, 2004, 9.

59. *Shifta* is the name given to the guerrilla warfare that was being led by the Somalis of the northeastern region in their bid to secede.

60. See the research report by Hassan Mwakimako, Justin Willis, and Hassan Ndzovu, "Trends in Kenyan Islam," 2009, funded by the British High Commission, Kenya.

61. Muslim leaders here refer to individual people and organizations representing the Muslim community, irrespective of their ethnic, racial, and sectarian background.

62. Christian-owned broadcasting stations in Kenya include *Baraka* FM (interdenominational Christian), *Biblia Husema*, Family FM (interdenominational), Hope FM (Pentecostal), *Imani* FM, *Sayare* FM (interdenominational), and *Waumini* FM (Catholic).

63. See Mwakimako, Willis, and Ndzovu, "Trends in Kenyan Islam."

64. "Appeal for Unity at Pumwani Mosque Harambee," in *The Friday Bulletin*: *The Weekly Muslim News Update*, September 18, 2009, 1; Najib Balala was the minister for tourism in President Kibaki's administration.

65. See Joseph Makokha, "Islamic Factor in Somali Irredentism—Towards Rationalising the Kenya Government's Stand Against Islamic Political Association," in *Islam in Kenya*, ed. Bakari and Yahya, 87; Marc-Antoine Perouse de Montclos, "Elections Among the Kenya Somali: A Conservative but Marginalised Vote," in *Out for the Count: The 1997 General Elections and Prospects for Democracy in Kenya*, ed. Marcel Rutten et al. (Kampala: Fountain Publishers, Ltd., 2001), 297–301; *An Africa Watch Report, Kenya: Taking Liberties*. Human Rights Watch, July 1991, 269–322.

66. Mohamed Bakari, "The Secularization of Kenyan Muslims" (paper presented in a conference, University of Bayreuth, 2003), 1; Bakari, "A Place at the Table: The Political Integration of Kenyan Muslims, 1992–2003," 2.

67. Bakari, "The Secularization of Kenyan Muslims," 2.

68. Bakari, "Muslims and Politics of Change in Kenya," in *Islam in Kenya*, ed. Mohamed Bakari and Saad S. Yahya (Nairobi: Signal Press Ltd., 1995), 244.

69. Bakari, "Muslims and Politics of Change in Kenya," 245.

70. On Idd-ul-Fitr and Idd-ul-Hajj as a public holiday in Kenya, see United States Department of State, Bureau of Democracy, Human Rights, and Labor, "International Religious Freedom Report 2004: Kenya." Accessed December 6, 2005. http://www.state.gov/g/drl/rls/irf/2004/35363.htm.

71. Joseph Makokha, "Islamic Factor in Somali Irredentism—Towards Rationalising the Kenya Government's Stand Against Islamic Political Association," in *Islam in Kenya*, ed. Bakari and Yahya, 87; Marc-Antoine Perouse de Montclos, "Elections Among the Kenya Somali: A Conservative but Marginalised Vote," in *Out for the Count: The 1997 General Elections and Prospects for Democracy in Kenya*, ed. Marcel

Rutten et al. (Kampala: Fountain Publishers, Ltd., 2001), 297–301; "An Africa Watch Report, Kenya: Taking Liberties," *Human Rights Watch*, July 1991, 269–322.

72. Hyder Kindy, *Life and Politics in Mombasa*, 128.

73. "An Africa Watch Report, Kenya: Taking Liberties," 284.

74. The term *shifta* is originally an Amharic word meaning "bandit."

75. "An Africa Watch Report, Kenya: Taking Liberties," 284.

76. Bakari, "Muslims and Politics of Change in Kenya," 240.

77. Donovan C. Chau, "An Examination of the Influence of Kenyan Somalis in Somalia," in *Somalia: State Collapse, Terrorism and Piracy*, ed. Brian Hesse (New York: Routledge, 2011), 58.

78. Kindy, *Life and Politics in Mombasa*, 126.

79. Bakari, "Muslims and Politics of Change in Kenya," 240; Janet Kabeberi Macharia, *Women, Laws, Customs and Practices in East Africa* (Nairobi: WLEA Publications, 1995), 95.

80. Macharia, *Women, Laws, Customs and Practices in East Africa*, 96.

81. Bakari, "Muslims and Politics of Change in Kenya," 241.

82. Patricia Kameri Mbote, *The Law of Succession in Kenya* (Nairobi: WLEA Publications, 1995), 23.

83. Quran 4:11.

84. Arye Oded, *Islam and Politics in Kenya* (London: Lynne Rienner Publisher, 2000), 38.

85. Ibid., 39.

86. *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.

87. D. Pal Ahluwalia, *Post-Colonialism and the Politics of Kenya* (New York: Nova Science Publishers, 1996), 81.

88. Ibid., 87.

89. Ibid., 108.

90. Oded, *Islam and Politics in Kenya*, 23.

91. Bakari, "Muslims and Politics of Change in Kenya," 240; Oded, *Islam and Politics in Kenya*, 30.

92. Bakari, "A Place at the Table: The Political Integration of Kenyan Muslims, 1992–2003," 3.

93. Ibid., 13–14.

94. 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.

95. Alamin M. Mazrui and Ibrahim Noor Shariff, *The Swahili Idiom and Identity of an African People* (Trenton, NJ: Africa World Press, 1994), 145.

96. Interview with Sheikh Juma M. Ngao, former chairman SUPKEM Mombasa branch, at Mombasa, on March 7; Ahmad Awadh Yafie of MUHURI at Mombasa on August 2, 2004.

97. "An Africa Watch Report, Kenya: Taking Liberties," *Human Rights Watch*, July 1991, 298–311. Interview with Khelef Khalifa at Nairobi on September 29, 2004; see the protest letter written by Khelef Khalifa to the Provincial Commission, Coast Province, dated on June 4, 2001, where he referred to the policy as illegal.

98. Mazrui and Shariff, *The Swahili Idiom and Identity of an African People*, 158.

99. "An Africa Watch Report, Kenya: Taking Liberties," 299.

100. Interview with Khelef Khalifa at Nairobi on September 29, 2004.

101. Interview with Khalid Balala at Mombasa on September 16, 2004. See also Waweru Mugo and Ismail Mwadham, "Muslim Youths Stage Protests Against Israel," *Sunday Nation*, September 8, 2001, 2.

102. Shaheen Ayubi and Sakina Mohyuddin, "Muslims in Kenya: An Overview," *Journal Institute of Muslim Minority Affairs* 15, nos. 1 &2 (January and July 1994): 151.

103. Francois Constantin, "Leadership, Muslim Identities and East African Politics," in *Muslim Identities and Social Change in Sub-Saharan Africa*, ed. Louis Brenner (London: Horst and Company, 1983), 41.

104. Oded, *Islam and Politics in Kenya*, 154.

105. In Kenya most of the private universities are sponsored by Christian religious organizations. 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.

106. Mohamed Hyder, "Islamic University in Kenya: Is There a Case for It?" in *Islam in Kenya*, ed. Bakari and Yahya, 278.

107. Alamin M. Mazrui and Ibrahim Noor Shariff, *The Swahili Idiom and Identity of an African People* (Trenton, NJ: Africa World Press, 1994), 152.

108. This idea of British and French colonial models is borrowed from Ali A. Mazrui. See his article in Alamin M. Mazrui, ed., *Black Reparations in the Era of Globalization* (New York: Institute of Global Cultural Studies Global Publications, 2002), 76–77.

109. Mazrui, *Black Reparations in the Era of Globalization*, 77.

Chapter Three

1. Abdin Chande, "Radicalism and Reform in East Africa," in *The History of Islam in Africa*, ed. Nehemia Levtzion and Randall L. Pouwels (Athens, OH: Ohio University Press, 2000).

2. Alamin Mazrui, "Ethnicity and Pluralism: The Politicization of Religion in Kenya," *Journal of Muslim Affairs*. 14, nos. 1 and 2 (January and July 1993).

3. Louis Brenner, "Muslim Representations and Unity and Difference in the African Discourse," in *Muslim Identities and Social Change in Sub-Saharan Africa*, ed. Louis Brenner (London: Hurst and Company, 1983), 1.

4. Hassan A. Mwakimako, "Politics, Ethnicity and Jostling for Power: The Evolution of Institutions of Muslim Leadership and Kadhiship in Colonial Kenya, 1895–1963" (Ph.D. diss., 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 the 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.

6. Jeff Haynes, *Religion and Politics in Africa* (Nairobi: East Africa Educational Publishers Ltd., 1996), 41.

7. Mohamed Bakari, "A Place at the Table: The Political Integration of Kenyan Muslims, 1992–2003" (paper presented at the International Conference, St. Anthony's College, Oxford, June 2004), 16.

8. Ibid.

9. Arey Oded, *Islam and Politics in Kenya* (London: Lynne Rienner Publishers, 2000).

10. Interview with Kassim Bakari Mwamzandi, former member of parliament for Msambweni from 1963 to 1997, at Msambweni, on September 15, 2004.

11. According to SUPKEM's brief prepared by the national chairman, Abdulghafur Al-Busaidy. See appendix A.

12. M. A. Mohamed Salih. "Islamic NGOs in Africa: The Promise and Peril of Islamic Voluntarism," in *Islamism and Its Enemies in the Horn of Africa*, ed. Alex De Waal (London: Hurst and Company), 175.

13. Interview with Munir Mazrui, SUPKEM, vice chairman, national office, in-charge of Coast Province, at Mombasa, on January 26, 2005.

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

15. The translation is mine.

16. These were the views of most people interviewed during the research.

17. According to SUPKEM's brief. See appendix A.

18. Abdulghafur H. S. El-Busaidy, "Islam in Kenya," in *Islam in the 21st Century: Perspectives and Challenges*, ed. Hussein Solomon (Pretoria: Centre for International Political Studies, 2005), 35.

19. Interview with Abdulghafur El-Busaidy, national chairman, SUPKEM, at Nairobi, on September 30, 2004.

20. Interviews with Khalid Balala at Mombasa on September 16, 2004; Khelef Khalifa, commissioner, Kenya National Commission of Human Rights, at Nairobi on September 29, 2004; and Abdulrahaman at Jamia mosques, Nairobi, on September 29, 2004.

21. Marc-Antoine Perouse de Montclos, "Elections Among the Kenyan Somali: A Conservative but Marginalised Vote," in *Out for the Count: The 1997 General Elections and Prospects for Democracy in Kenya*, ed. Marcel Rutten et al. (Kampala: Fountain Publishers, Ltd., 2001), 304.

22. David Throup and Charles Hornsby, *Multiparty Politics in Kenya* (Oxford: James Currey Ltd., 1998), 78.

23. Interview with Abdulghafur El-Busaidy, national chairman, SUPKEM, at Nairobi, on September 30, 2004.

24. For detailed study on the IPK regarding the formation, structure, and leading personalities, see Oded, *Islam and Politics in Kenya*, 135–62; see also O'Brien, "Coping with the Christians: The Muslim Predicament in Kenya," 213–15; John Chesworth, "The Church and Islam: Vyama Vingi (Multipartyism) and the Ufungamano Talks," in *Religion and Politics in Kenya: Essay in Honor of a Meddlesome Priest*, ed. Ben Knighton (New York: Palgrave Macmillan, 2009), 158–63.

25. Interviews with Sheikh Khalifa Mohamed, chairman, IPK, at Mombasa, on July 27, 2004; Khalid Balala at Mombasa on September 16, 2004.

26. For views on Islamism, see Olivier Roy, "Has Islamism a Future in Afghanistan?," in *Fundamentalism Reborn? Afghanistan and the Taliban*, ed. William Maley (London: Hurst and Company, 1998), 199; Alex De Waal, *Islamism and Its Enemies in the Horn of Africa* (London: Hurst and Company, 2004).

27. Interviews with Sheikh Khalifa Mohamed, chairman, IPK, at Mombasa, on July 27, 2004; and Khalid Balala at Mombasa on September 16, 2004.

28. Many scholars and newspapers writers have been referring to Khalid Balala with the title of sheikh. But during my discussion with him, Balala indicated that while in Saudi Arabia he never enrolled in 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 to him. Based on this information, I have decided not to use the title of the sheikh in reference to Balala.

29. For the Christian Democrat parties in Germany and Italy, see Ali Mazrui, "Human Rights, Constitution-Making and Comparative Terrorism: The View from Kenya," (paper delivered under the auspices of Muslims for Human Rights and Kenya Human Rights Commission, Mombasa, July 18, 2005), 5.

30. Britain has a Christian political party, the Christian People's Alliance (CPA), which was launched in April 2005. "Christian Peoples Alliance (CPA)," Official website, accessed March 10, 2014, http://www.cpaparty.org.uk/.

31. Robert Bruce Ware, "The Islamic Party of Russia," Religioscope (February 27, 2003), accessed March 7, 2014, http://www.religioscope.info/article_87.shtml.

32. Ibid.

33. Ibid.

34. Throup and Hornsby, *Multiparty Politics in Kenya*, 502.

35. Bakari, "A Place at the Table: The Political Integration of Kenyan Muslims, 1992–2003," 8.

36. Interview with Sheikh Omar Salimin, at Junda mosque, Mombasa, on February 22, 2005, confirming the allegation of IPK supporters seeking asylum abroad.

37. Due to leadership crisis within the original FORD, it split into the two factions of FORD-Kenya and FORD-Asili, led by Jaramongi Oginga Odinga and Kenneth Matiba, respectively.

38. Peter Mwangi Kagwanja, "Politics of Marionettes: Extra-Legal Violence and the 1997 Elections in Kenya," in *Out for the Count: The 1997 General Elections and Prospects for Democracy in Kenya*, ed. Rutten et al., 90.

39. Throup and Hornsby, *Multiparty Politics in Kenya*, 504.

40. Bakari, "A Place at the Table: The Political Integration of Kenyan Muslims, 1992–2003," 4.

41. Oded, *Islam and Politics in Kenya*.

42. Abdel Salam Sidahmed, *Politics and Islam in Contemporary Sudan* (Surrey: Curzon Press, 1997).

43. Mohammed M. Hafez, *Why Muslims Rebel: Repression and Resistance in the Islamic World* (London: Lynne Rienner Publishers, 2003), 22.

44. Ibid., 28.

45. Interview with Sheikh Khalifa Mohamed, chairman, IPK, at Mombasa, on July 27, 2004.

46. Walter O. Oyugi, "Ethnicity in the Electoral Process: The 1992 General Elections in Kenya," *African Journal of Political Science* 2, no. 1 (1997): 42–43.

47. Bakari, "A Place at the Table: The Political Integration of Kenyan Muslims, 1992–2003," 6.

48. This was the situation during the 1990s. There have been shifting changes as new alliances keep on being formed in Kenya's politics.

49. About religion and ethnic tension in modern Kenya, see Janet McIntosh, *The Edge of Islam: Power, Personhood and Ethno-Religious Boundaries in Kenyan Coast* (Durham: Duke University Press, 2009).

50. Both parties were not officially registered with the government, but they had supporters and in a short while they had succeeded in instilling political and racial tension in the country. Also see Oded's book for a discussion on the UMA.

51. Akiwumi Commission Official Transcript, October 12, 1998, 4–10, 20, 31, as quoted in the 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 Maitha, who charged that it was fabricated by police, was read aloud in its entirety at the Akiwumi hearing by the officer who recorded it and who testified as to its authenticity.

52. Ibid., 38. Maitha repudiated the statement and its contents, saying he had never been involved with UMA or Masumbuko. 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.

53. Interviews with Sheikh Khalifa Mohamed, chairman, IPK, at Mombasa, on July 27, 2004. See also "United Muslims of Africa (UMA)," *Standard*, May 25, 1993, 11.

54. Interview with Sheikh Omar Salimin at Junda mosque, Mombasa, on February 22, 2005.

55. *Kaya* is a Digo word that is commonly used to refer to the ancestral homes, which were fortified villages in the midst of certain forests.

56. Kagwanja, "Politics of Marionettes: Extra-Legal Violence and the 1997 Elections in Kenya," 92.

57. Bakari, "A Place at the Table: The Political Integration of Kenyan Muslims, 1992–2003," 13.

58. During the interview, Juma Ngao was the SUPKEM chairman, Mombasa Branch, and presently he is the chairman of Kenya Muslim National Advisory Council where he also engages as a Party of National Unity (PNU) activist.

59. On views on Islamism, see Olivier Roy, "Has Islamism a Future in Afghanistan?" in *Fundamentalism Reborn?: Afghanistan and the Taliban*, ed. William Maley (Lon-

don: Hurst and Company, 1998), 199; and Alex De Waal, *Islamism and Its Enemies in the Horn of Africa* (London: Hurst and Company, 2004).

60. See the research report compiled by Hassan Mwakimako, Justin Willis, and Hassan Ndzovu, *Trends in Kenya Islam: A Study of Current Influences and Debates*, 2009.

61. Interview with Sheikh Mohammed Dor, secretary, Council of Imams and Preachers of Kenya, at Mbaruk mosque, Mombasa, on January 31, 2005.

62. 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 recommends them to donors and 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).

63. "Council of Imams and Preachers of Kenya (CIPK)," *Islam in Africa Watch*, accessed March 17, 2010, http://islaminafrica.wordpress.com/category/local-islamic-associations-and-organizations/cipk-the-council-of-imams-and-preachers-of-kenya-c-i-p-k/.

64. Interview with Sheikh Mohammed Dor, secretary, Council of Imams and Preachers of Kenya, at Mbaruk mosque, Mombasa, on January 31, 2005.

65. These view could be found in a research report compiled by Mwakimako, Willis, and Ndzovu, *Trends in Kenya Islam: A Study of Current Influences and Debates.*

66. Brian-Vincent, Ikejiaku, and Dauda Jubril, "African Union, Conflict and Conflict Resolution in Africa: A Comparative Analysis of the Recent Kenya and Zimbabwe Conflicts," *International Journal of Development and Conflict* 1, no. 1 (2011): 61–68.

67. Celestine Achieng, "U.S. Navy Hands over 17 Pirates to Kenya," Reuters, June 10, 2009, accessed March 10, 2014, http://www.reuters.com/article/2009/06/10/idUSLA1052558.

68. Patrick Beja, "Drug Addicts Devise Ways to Get High," *Standard Digital News*, January 27, 2010, accessed March 17, 2010. http://www.hiv-network.com/index.php/component/content/article/1-latest-news/1318-drug-addicts-devise-ways-to-get-high.

69. National officials of the CIPK are chairman, Sheikh/imam Mohammed Idris; secretary, Sheikh/imam Mohammed Dor; treasurer, Sheikh Hassan Omar; and organizing secretary, Sheikh Khalifa Mohammed.

70. NAMLEF National Executive Committee includes Sheikh Abdullahi Abdi, chairman; Sheikh Al-Hajj Yussuf Murigu, vice chairman; Shahid Amin, national coordinator; Sheikh Muhammad Warfa, Sheikh Farouk Adam, Sheikh Ali Hussein, Sheikh Said Athman, Sheikh Muhammad Idris, Sheikh Ibrahim Yussuf, Sheikh Muhammad Dor, Sheikh Ali El-Maawy, and Sheikh Khalifa Muhammad.

71. See the NAMLEF official site on http://namlef.org/.

72. Ibid.

73. Abdullahi Abdi and Raila Odinga, "Memorandum of Understanding between Honourable Raila Amolo Odinga and the National Muslim Leaders Forum (NAMLEF)," signed August 29, 2007, accessed March 7, 2014, http://download.cabledrum.net/wikileaks_archive/file/kenya-renditions-and-raila-odinga-mou-2007/secret-mou-between-raila-odinga-and-national-muslim-leaders-forum-august-29-2007.pdf. This document was alleged to be the authentic version of the MOU by the Muslim leaders.

74. For the detailed MOU, see the appendix C. This MOU was posted by the

Evangelical churches (under Evangelical alliance of Kenya) on their website; see Abdullahi Abdi and Raila Odinga, "Memorandum of Understanding between Hon. Raila Amolo Odinga Representing the Orange Democratic Movement (ODM) and National Muslim Leaders Forum (NAMLEF)," signed August 27, 2007, accessed March 16, 2010, http://www.eakenya.org/AAEAKUpdate/Raila_Muslim_MOU.pdf (site discontinued).

75. CIPK is a member of NAMLEF.

76. Mwakimako, Willis, and Ndzovu, *Trends in Kenya Islam: A Study of Current Influences and Debates*, 3.

Chapter Four

1. Ministry of Foreign Affairs of the People's Republic of China, "The Fourth World Conference on Women Met in Beijing in September 1995," November 2000, accessed April 20, 2011, http://www.fmprc.gov.cn/eng/ziliao/3602/3604/t18026.htm.

2. *The Equality Bill, 2002* (Nairobi: Government Printers, 2002), 1810.

3. While there were some Christians who were opposed to the proposed bill, its main opposition came from the Muslim community. See Africa Online News, "Women's Equality Bill Causes Controversy in Kenya," February 15, 2001, accessed November 7, 2005, http://www.afrol.com/News2001/ken001_equality_bill.htm.

4. *The Equality Bill, 2002*, 1815–16.

5. Abdulrahman M. Wandati, "The Equality Bill 2000: What Does It Portend to the Muslim Community in Kenya?" (paper presented at the FIDA Consultative Workshop, Nairobi, September 29, 2000).

6. Interview with Hussein Khalid, program coordinator, Muslims for Human Rights, at Mombasa, on September 15, 2005.

7. Interview with Mbarak Abdulkadir, education officer, Fort Jesus, at Mombasa, on July 14, 2005; Saady Rashid, education officer, Fort Jesus, at Mombasa, on July 14, 2005; Fatma Muslim, School for International Training, at Mombasa, on September 16, 2005.

8. For instance, this was the view of Hussein Khalid, program coordinator, Muslims for Human Rights, who was interviewed at Mombasa on September 15, 2005. Other Muslims who were involved in informal discussions held the same view.

9. Maryam Jameelah, *Islam and Western Society* (Lahore, Pakistan: Mohammed Yusuf Khan, 1976), 109.

10. Juliane Hammer, *American Muslim Women, Religious Authority, and Activism: More Than a Prayer* (Austin: University of Texas Press, 2012), 27.

11. Interview with Masad M. Omar, program officer, Muslim Civic Education Trust, at Mombasa, on August 3, 2005; Mbarak Abdulkadir, education officer, Fort Jesus, at Mombasa, on July 14, 2005; Saady Rashid, education officer, Fort Jesus, at Mombasa, on July 14, 2005; Fatma Muslim, School for International Training, at Mombasa, on September 16, 2005.

12. John R. Bowen, "Sharia, State and Social Norms in France and Indonesia" (ISIM Publication, 2001), 8; Betha Baron, "The Making and Breaking of Marital Bonds in Modern Egypt," in *Women in Middle Eastern History: Shifting Boundaries in Sex and Gender*, ed. Nikki R. Keddie and Betha Baron (New Haven: Yale University Press, 1991), 283.

13. Quran 4:3.

14. Carolyn Fluehr-Lobban, *Islamic Societies in Practice* (Gainesville: University Press of Florida, 2004), 175–90.

15. See Alamin M. Mazrui, "The Equality Bill 2000: An Alternative Islamic Perspective" (paper presented under the auspices of Muslims for Human Rights and Kenya Human Rights Commission, 2000).

16. Mohamed Suleiman Mraja, *Islamic Impacts on Marriage and Divorce Among the Digo of Southern Kenya* (Wurzburg: Ergon Verlag, 2007), 218.

17. See Bowen, "Sharia, State and Social Norms in France and Indonesia," 8–9; Baron, "The Making and Breaking of Marital Bonds in Modern Egypt," in *Women in Middle Eastern History*, ed. Nikki R. Keddie and Betha Baron, 284–87.

18. Mazrui, "The Equality Bill 2000: An Alternative Islamic Perspective," 4.

19. Mraja, *Islamic Impacts on Marriage and Divorce Among the Digo of Southern Kenya*, 240.

20. Ibid., 256.

21. Bowen, "Sharia, State and Social Norms in France and Indonesia," 9.

22. Quran 2:231.

23. Mazrui, "The Equality Bill 2000: An Alternative Islamic Perspective," 4.

24. Quran 4:11. See Syed Vickar Ahamed, *The English Translation of the Message of the Quran* (Lombard: Book of Signs Foundation, 2006), 41.

25. Quran 4:12. See Ahamed, *The English Translation of the Message of the Quran*, 41.

26. This is the view of most of the sheikhs and imams with whom I had informal discussions on the subject.

27. Mazrui, "The Equality Bill 2000: An Alternative Islamic Perspective," 5.

28. Africa Online News, "Women's Equality Bill Causes Controversy in Kenya," February 15, 2001, accessed November 7, 2005, http://www.afrol.com/News2001/ken001_equality_bill.htm. During the era of President Moi, when he opposed an issue it then was expected that the government would follow suit and withdraw its support on the issue.

29. Ali A. Mazrui, "Human Rights, Constitutional-Making and Comparative Terrorism: The View from Kenya" (paper delivered under the auspices of Muslims for Human Rights and Kenya Human Rights Commission, Mombasa, July 18, 2005), 1.

30. *Daily Nation*, Tuesday, November 18, 2003.

31. Ali A. Mazrui, "Terrorism and the Global Image of Islam: Power, Passion and Piety" (lecture presented under the auspices of Muslim Consultative Council and the Young Muslim Association, in Nairobi, July 13, 2003), 8.

32. The British Parliament voted 300 to 299 for the bill to go through on November 2, 2005. This voting pattern shows that there is strong opposition to the bill in Britain. See Colin Nicholls, "The UK Anti-Terrorism Crime and Security Act 2001: Too Much . . . Too Soon," *CHRI News* 9, no. 1 (February 2002), Accessed March 10, 2014, http://www.humanrightsinitiative.org/publications/nl/articles/uk/uk_anti_terrorism_crime_security_act_2001.pdf.

33. The act came into force after the president of India gave his assent. See "The Prevention of Terrorism Act 2002," accessed March 10, 2014, http://www.icrc.org/ihlnat.nsf/0/70885ebca6462000c125770400454b71/$FILE/THE%20PREVENTION%20OF%20TERRORISM%20ACT,%202002.pdf.

34. Simon Amajuru, "Uganda," in "Human Rights and the War on Terror, Second Edition," *Human Rights and Human Welfare* (University of Denver) (2005): 203–12, accessed March 10, 2014, https://www.du.edu/korbel/hrhw/researchdigest/terror/uganda.pdf.

35. United States Department of State, "Africa Overview," *Patterns of Global Terrorism 2003* (Washington, D.C.: 2004), accessed March 10, 2014, http://www.state.gov/documents/organization/31936.pdf.

36. Mazrui, "Terrorism and the Global Image of Islam: Power, Passion and Piety," 7.

37. *Daily Nation*, July 4, 2003; *Sunday Nation*, August 31, 2003. See also "Kenya's Terror Bill Rejected," accessed on November 7, 2005, http://news.bbc.co.uk/2/hi/africa/3069211.stm.

38. "Big Issue," *East African Standard*, July 14, 2003; *Daily Nation*, November 18, 2003.

39. *Daily Nation*, July 16, 2003.

40. See Part I, Sections 4 and 5, Part V, Sections 25 and 26 of *The Suppression of Terrorism Bill, 2003* (Nairobi: Government Printers, 2003).

41. See Part III, Section 11 (2) of *The Suppression of Terrorism Bill, 2003*.

42. *Friday Bulletin: The Muslim News Update*, July 2, 2004; see also Abdulghafur H. S. Elbusaidy, "Islam in Kenya," in *Islam in the 21st Century: Perspectives and Challenges*, ed. Hussein Solomon (Pretoria: Centre for International Political Studies, 2005), 34.

43. *The Suppression of Terrorism Bill, 2003*, 455.

44. "No Sincerity in US Engagement with Muslims," *Friday Bulletin: The Weekly Muslim News Update*, September 4, 2009, 2.

45. 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 January 26, 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 cleared by the court after lack of evidence to incriminate them. See *East African Standard*, June 14, 2005.

46. Interview with Sheikh Dor, secretary, Council of Imams and Preachers of Kenya, at Mombasa, on January 26, 2005.

47. Donovan C. Chau, "An Examination of the Influence of Kenyan Somalis in Somalia," in *Somalia: State Collapse, Terrorism and Piracy*, ed. Brian Hesse (New York: Routledge, 2011), 53.

48. *Daily Nation*, July 4, 2003.

49. This view was also emphasized by Sheikh Dor, secretary, Council of Imams and Preachers of Kenya, during an interview with him at Mombasa on January 26, 2005.

50. *The Prevention of Terrorism Bill 2012* (Nairobi: Government Printers, 2012).

51. Arye Oded, *Islam and Politics in Kenya* (London: Lynne Rienner Publishers, 2000), 130.

52. Dennis Onyango, "Kenya's Stake in War Against Terrorism," *Sunday Nation*, September 23, 2001, 15; John Kamau, "How Mossad Threw Kenya into the Line of

Terrorist Fire," available on http://www.nation.co.ke/lifestyle/saturday/How-Mossad-threw-Kenya-into-the-line-of-terrosrist-fire/-/1216/2150206/-/cnwilfz/-/index.html.

53. *Daily Nation*, August 7, 1999; see M. A. Mohamed Salih, "Islamic N.G.O.s in Africa: The Promise and Peril of Islamic Voluntarism," in *Islamism and Its Enemies in the Horn of Africa*, ed. Alex de Waal (London: Hurst and Company, 2004), 175.

54. Kamau, "How Al-Qaeda Agents Brought Terror to Kenya."

55. Ruediger Seesemann, "East African Muslims After 9/11," Bayreuth African Studies Working Papers No. 3 (12 pp.). Available at http://www.uni-bayreuth.de/sfbs/sfb-fk560/index-publikationen.html.

56. Interview with Sheikh Ali Shee at Junda mosque, Mombasa, on February 24, 2005.

57. Sheikh Dor is another strong critic of the Kenyan government and American policies.

58. Mazrui, "Human Rights, Constitution-Making and Comparative Terrorism: The View from Kenya," 5; Mazrui, "Terrorism and the Global Image of Islam: Power, Passion and Piety"; though the identity of the three perpetrators is not known, there has emerged an allegation that Mossad plotted the attack to assist Ariel Sharon to win nomination for the elections that were to be held in 2003. For more information on this report, see Gesamba Antikristo, "Mossad Plotted Kikambala Bomb Attack to Win Poll," *Dispatched Weekly*, July 11, 2004, 11.

59. Alex de Waal and A. H. Abdel Salam, "Africa, Islamism and America's War on Terror," in *Islamism and Its Enemies in the Horn of Africa*, ed. de Waal, 247.

60. Kamau, "How Mossad Threw Kenya into the Line of Terrorist Fire."

61. "Council of Imams and Preachers of Kenya (CIPK)," *Islam in Africa Watch*, accessed March 17, 2010, http://islaminafrica.wordpress.com/category/local-islamic-associations-and-organizations/cipk-the-council-of-imams-and-preachers-of-kenya-c-i-p-k/.

62. Onesmus Kilonzo and Karim Rajan, "Five Terrorist Missiles Were All Ready to Fire," *Daily Nation*, August 13, 2004, 1, 11.

63. Protest letter from the officials of CIPK to the U.S. ambassador Johnie Carson, dated June 21, 2003.

64. Cyrus Ombati, "State Outlaws 33 Criminal Gangs," *Standard*, October 20, 2010.

65. "Tough Task Ahead for the Somali's New Leader," *The New Dawn*, February 1–March 2009, 15–16.

66. Ibid.

67. "Genesis of a Lawless Nation," *Daily Nation*, October 7, 2009.

68. "Tough Task Ahead for the Somali's New Leader," 15–16.

69. "Police Arrest 35 Aliens Heading to Capital," *Daily Nation*, December 9, 2009.

70. Ibid.

71. "Gunmen Stage Yet Another Raid in Kenyan Town," *Saturday Nation*, January 9, 2010.

72. "Somalia War: Kenya on the Spot over Secret Enlisting," *Daily Nation*, October 7, 2009.

73. "NGO Officials on the Run over Terror Probe," *Sunday Nation*, August 16, 2009; "Somalia War: Kenya on the Spot over Secret Enlisting."

74. Achieng, Celestine. "U.S. Navy Hands over 17 Pirates to Kenya." Reuters, June 10, 2009. Accessed March 10, 2014. http://www.reuters.com/article/2009/06/10/idUSLA1052558.

75. "Terror Suspect Had Jumped Bail in Kenya," *Saturday Nation*, January 9, 2010.

76. Ibid.

77. "Police Ordered to Explain Al-Faisal's 'Fake' Court Order," *Standard*, February 4, 2010.

78. "Deadly Protest," *Saturday Nation*, January 16, 2009; "Riots: Saitoti Blames Al-Shabaab Group," *Sunday Nation*, January 17, 2010.

79. "Riots: Saitoti Blames Al-Shabaab Group."

80. "No Sincerity in US Engagement with Muslims," *Friday Bulletin: The Weekly Muslim News Update*, September 4, 2009, 2.

81. Interview with Mohamed Hyder, at MCET offices, Mombasa, on March 12, 2005.

82. Seesemann, "East African Muslims After 9/11."

83. *Sunday Standard*, March 7, 2004, 11.

84. Ibid., 12.

85. The U.S. secret agent operations harassed not only those people alleged to have planned 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," 21.

86. Seesemann, "East African Muslims After 9/11."

87. "Reaching the Marginalized: Program Targets Underserved Children in East Africa," accessed on November 7, 2005, http://www.afr_sd.org/Publications/AEI.NewSpring05rev4.pdf; *East African*, February 23–29, 2004, 1, 52.

88. *East African*, February 23–29, 2004, 1, 52.

89. Hassan Mwakimako, "Christian-Muslim Relations in Kenya: A Catalogue of Events and Meanings," *Islam and Christian-Muslim Relations*, Vol. 18, No. 2, April 2007, 306.

90. *East African*, February 23–29, 2004, 1, 52.

91. P. H. Okondo, A *Commentary on the Constitution of Kenya* (Nairobi: Phoenix Publishers, 1995).

92. Rose Lukalo Owino, "Whose Constitution Will It Be, Finally?," *Daily Nation*, December 11, 2003, 5.

93. Patrick Musibi, "How the Kenya Church Got Involved in the Constitutional Process," *Eagle*, August 2004, 8.

94. *Daily Nation*, September 15, 2003, 15.

95. Ibid.; *Eagle*, August 2004, 8.

96. Nyakundi Nyamboga, "Clerics Sue over Kadhis' Courts," *East African Standard*, Thursday, July 15, 2004, 11.

97. "Constitution Review: Experts Should Be Honest to Issues Agreed upon in the Previous Process," *New Dawn*, June 1–July 1, 2009, 4.

98. Nyamboga, "Clerics Sue over Kadhis' Courts," 11.

99. "Constitution Review: Experts Should Be Honest to Issues Agreed upon in the Previous Process," 7.

100. See the Bomas Draft Constitution.

101. Abdulkader Tayob, "The Demand for Shariah in African Democratisation Pro-

cesses: Pitfalls or Opportunities?," in *Comparative Perspectives on Shariah in Nigeria*, ed. Franz Kogelmann et al. (Ibadan: Spectrum Books Ltd., 2005), 41.

102. Ibid.

103. *East African Standard*, Tuesday, October 5, 2004.

104. "Why Ufungamano Draft Can't Work," *Daily Nation*, January 19, 2004, 11.

105. See *East African Standard*, April 8, 2004, 16, for the sentiments of U.S. influence, which were echoed by Rev. Timothy Njoya during a National Convention Executive Council conference in Mombasa (NCEC). Others who also see American interference in the *kadhi* saga are Sheikh Mohamed Dor, secretary, Council of Imams and preacher of Kenya, interviewed at Mombasa on January 26, 2005; Munir Mazrui, interviewed at Mombasa on January 26, 2005.

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Chapter Five

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GLOSSARY

Bomas Draft Constitution The proposed constitution that came out as a result of the constitutional conference at Bomas.

Coast The region of Kenya that was formerly under the sultan of Zanzibar.

ethnic Refers to the more than forty-two tribes living in Kenya; *tribe* and *ethnic* will be used synonymously.

ethno-religious Refers to the identity of ethnic groups with a specific religion; for example, Digo are Muslim, Luo are Christian, etc.

Ghai Draft Constitution The proposed bill to amend the Kenyan Constitution prepared by the CKRC.

Independence Constitution The constitution that had been in operation in Kenya from 1963 to 2010.

Majority A dominant and numerically superior group.

Minority A subordinate and numerically inferior group.

Racial Used to designate the three races mentioned in the discussion of this study, namely, African, European, and Arab.

Religious sector Refers to religion-based groups and organizations.

Sheikh A person who is traditionally trained in matters of Islamic theology.

Upcountry The region of Kenya that was formerly a British colony.

Upcountry Christian An individual of Christian background living in the inland of present-day Kenya.

Wako Draft The proposed constitution that resulted from deliberations conducted by Attorney General Amos Wako.

Wanjiku constitution A constitution that reflects the type of government preferred by ordinary citizens of the country.

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