Muslims and Party Politics and Electoral Campaigns in Kenya

Hassan Ndzovu

BUFFETT CENTER

Muslims and Party Politics and Electoral Campaigns in Kenya

Hassan Ndzovu

Abstract

This essay analyzes the historical struggle of the Muslim community to have a voice in Kenyan politics and the Islamic topics that have surfaced during electoral periods. A minority group in Kenya, Muslims have faced political marginalization more on the basis of race and ethnicity than religion. The pre-independence period saw the development of racially-based Muslim organizations made up of Arabs and Asians. The colonial regime, which viewed its subjects in racial rather than religious terms, accorded Arabs and Asians privileges of representation which they did not extend to Africans. This influenced the shape of Muslim political activity after independence. The first president, Jomo Kenyatta, primarily concerned with ethno-regional balancing, coopted individual Muslims in the governments, but these Muslims did not stress their religious affiliation. With the 1990s shift to multi-party politics, Muslims tried to form their own political party (the Islamic Party of Kenya or IPK). However, the government banned the IPK on the grounds that it was discriminatory, and tried to split the Muslim constituency along racial lines by creating its own party (United Muslims of Africa). Since 1990, Kenyan Muslims have managed to coalesce around perceived attempts at marginalization or discrimination, such as their reaction to the succession act of 1981 (which Muslims considered contrary to Islamic law) and Moi's singling out of Somali Muslims to carry additional identification. While Muslims won concessions on both issues, the author contends that these were acts of appeasement by the government to win Muslim votes. He concludes that Muslim political unity is being more clearly articulated now than anytime since the IPK period; at the same time, however, race and ethnicity continue to be divisive factors.

Hassan Ndzovu is a religious studies scholar who teaches in the Department of Philosophy and Religious Studies, Moi University, Eldoret, Kenya.

Introduction

The Muslim community in Kenya has been a large and an active constituent of the country's politics for a long time, but Muslim politics has never been a monolithic phenomenon. Racial and ethnic antagonism contributed to the emergence of different Muslim political associations that were almost racially based. These cleavages were exacerbated by colonial preference for Indians and Arabs over Africans, whether Muslims or not. This divergence is not only reflected in the characteristics of the various Muslim political groupings or associations, but also in their ideological differences. Despite significant differences, Muslim political movements shared certain underlying views, objectives, and causes for their emergence. The greatest unifying factor was the demand for justice and political autonomy.

The upcountry-Christian majority tends to portray Muslims as being politically unengaged, whereas this essay will reveal that Muslims have long participated in the country's political process, in both its democratic and non-democratic aspects, and are accorded recognition within the Kenyan system. They have in distinct capacities represented various political parties during parliamentary elections conducted in the country since independence in 1963. The political engagement of Kenyan Muslims has also changed since political reforms in the 1990s introduced multi-party democratic process, making Islam in politics more visible. Prior to these political reforms, the Kenya African National Union (KANU) had been the only political party for all Kenyans including Muslims. Complaining that KANU has paid inadequate attention to the development challenges specific to Muslims, they have withdrawn their support for the party, and subsequently founded the Islamic Party of Kenya (IPK) with the hope that a Muslim party would give priority to the particular development problems facing Muslims in Kenya.

Beginning from the colonial era, this essay explores how ethnic and racial antagonism among Muslims contributed to the emergence of different Muslim political associations that were racially based. Similarly, the essay shows that in the early 1990s, the same dynamic of racial and ethnic divisions appeared in the background leading to the formation of the IPK. The essay then examines the role of certain Islamic topics that usually emerge during election periods in Kenya.

The Emergence of Muslim Party Politics in Pre-independence Kenya

Until 1921 the only Arab-Muslims within the government were the *liwali, kadhi* and *mudir,* and all were civil servants who could not question the colonial authority of which they were a part. A need arose for an independent voice to articulate their grievances; hence the Coast Arab Association (CAA) appeared on the political scene in 1921. The association believed that Arab-Muslims had been taken for granted through inadequate representation in the Legislative Council responsible to the community.[1] It therefore demanded elected representation to raise Arab-Muslims' status. Although CAA suggests Arab-Muslims' lack of confidence in government appointees' representation of the community, its views were responsible and reasonable without any extremism.[2] On January 1922, the CAA held a public meeting at Mombasa where it resolved to request the government to grant Arab-Muslims two seats on the Executive and four seats on the Legislative Council.[3] The meeting also resolved that these seats should be reserved exclusively for Arab-Muslims. These requests show that the Arab-Muslims did not want

---

[1]Ahmed I. Salim, A *Swahili Speaking Peoples of Kenya's Coast, 1895*-1945. (Nairobi: East Africa Publishing House, 1973), p. 180.
[2]Ibid.
[3]See 'Africa Muslim Representation', OP/1/497 Kenya National Archives (KNA).

to be left behind in the struggle for communal interests dominating the politics of the time. Their pressure yielded positive results, though the British agreed to offer the community only two seats on the Legislative Council.

However, the election of an Arab-Muslim to the Legislative Council caused a serious split when in 1927 the Arabs refused to allow Swahili Muslims to vote for the reserved seat on the Legislative Council because the Arabs considered the Swahili Muslims as Africans and therefore not legally acceptable to vote for an Arab franchise seat. This argument was frequently used when deciding who had the right to vote for the Legislative Council seat. The blame for exclusion of Swahili Muslims was placed on some influential Arab-Muslims who had embraced the government's classification of Muslims as two distinct groups that should be treated differently,[4] thereby revealing that racial identity was stronger than the shared Islamic identity, even though this was inconsistent with the egalitarian principles of Islam.[5] The reluctance of Arab-Muslims to concede equality to Africans (both Muslim and non-Muslim) explains the antipathy and resentment that African-Muslims developed for Arabs, reflected in later nationalistic politics.

Confronted by rejection from Arabs, the Swahili Muslims together with other African communities formed their own Afro-Asian Association (AAA). It labelled the CAA as a racist association, against which the AAA was opposed. The formation of the AAA meant that two rival Muslim bodies were now in existence. The AAA members especially the Tisa and Thelatha Taifa—collectively known as the Twelve Tribes—strove for access to the voter's roll, while Arab-Muslims continued to resist any amendments. In particular, members of the Twelve Tribes tirelessly campaigned to be recognized as Arabs based on (a) alleged genealogical proof of Arab origin, and (b) possession of various letters, treaties and proclamations from sultans of Zanzibar recognizing them as owning the status of Arabs.[6] Their efforts did not yield immediate positive results because of the complicated issues surrounding the status of the Twelve Tribes. The Arab-Muslims insisted that the contentious seat in the Legislative Council had always been regarded as 'Franchise for Arabs.' In response to this issue, the colonial government informed the AAA that their demand depended on the approval of Arab-Muslims since the seat was reserved for Arabs.

This response was based on the notion that all along the government had viewed the protectorate as an Arab state. The colonial authorities were adamant that they would not change their policy of appointing Arabs to both religious and political positions. Unless the law was changed, there was no hope of bringing the two factions together. And because the division among the Muslim communities was serving the colonialist political interests, the British were not inclined to change the law. However, as a result of new political developments later, Swahili were granted franchise as Arabs in 1952, thereby enabling the Swahili Muslims to register as Arabs for both the 1957 and 1961 national elections.[7]

Meanwhile, African-Muslims did not feature in the scheme of the colonial administration, resulting in their exclusion from both administrative and elective posts reserved for Arab Muslims. In 1958, the officials of the recently established African Muslim Society (AMS) sent a petition to Governor Evelyn Baring against the exclusion of African-Muslims from representation in Kenya Legislative Council. The petition,

---

[4] Salim *Swahili Speaking Peoples of Kenya's Coast*; and Hyder Kindy, *Life and Politics in Mombasa*, (East African Publishing House, 1972).

[5] August H. Nimtz, Jr, *Islam and Politics in East Africa: The Sufi Order in Tanzania*. (Minneapolis: University of Minnesota Press, 1980), p.34.

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

[7] Kindy, Op.Cit. p. xii

signed by the president of the AMS, A.A. Omar, observes that apart from African Muslims, all races in Kenya are represented on the Legislative Council either on tribal or religious basis. Furthermore, the petition argues that although the Arab and Asian Muslims on the Legislative Council could well serve the religious interests of African Muslims in all the vital problems affecting their shared faith, "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."[8]

In response, F.R. Wilson, Private Secretary to the Governor, attempted to downplay the genuine concerns raised by the African Muslims. Wilson remarks that with the sole exception of Asian Muslims after the creation of India and Pakistan, representation in the Legislative Council was based on racial basis, and that religion was never recognized as "a proper basis for affording representation on the Legislative Council." He suggested that African Muslims should contest elections in any constituency where they think they can obtain a majority. According to Wilson, the colonial policy in selecting candidates for appointment to the government backbenches "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."[9]

The point that emerges clearly from Wilson's letter is that the colonial administration did not have a clear policy on how to deal with the religious factor. The colonial authority was keener to emphasize racial differences, but the religious card indirectly influenced some of its policies. Allowing Muslim and non-Muslim Asians to have separate representation in the Legislative Council illustrates that the religious basis of the formation of India and Pakistan was employed in colonial Kenya. It shows the involvement of both Islamic and international politics in the pre-independent politics of Kenya. While the Islamic factor had been acknowledged through recognition of Arabs and Asian Muslims, the same privilege was denied to African-Muslims who were rated low in the racial hierarchy. Wilson's claim that the colonial authority wanted to do anything within its power to discourage separate representation based on religious affiliation was belied by the influence of religion in determining European, Asian and Arab representations. The refusal to extend the religious representation to African Muslims on the Legislative Council remained their big concern as Kenya approached independence.

Muslim and Party Politics in Independent Kenya
The relationship between religion and politics in post-independent Kenya has been varied. If religious affiliation of the political leadership is pronounced, then the influence of religion in policy formulation would be evident. During the reign of the first President Jomo Kenyatta, religion played a more indifferent role in the politics of initiating development projects to aid the young nation. When Daniel arap Moi succeeded Kenyatta, religion gradually took a more critical role in the development policies and programs of the Kenyan state. President Moi clamped down on the civil society when religious and professional bodies became avenues for expressing dissent against the state. In this context the Catholic Church, the Anglican Church of Kenya and the Presbyterian Church of East Africa, as well as Islamic Party of Kenya sided with the opposition to counter the excesses of the Moi regime.

Since independence, the political system in Kenya has been largely exclusionary, characterized by single party rule under a dictatorial president that did not tolerate any

---

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

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

opposition to its rule.[10] This institutional context changed in 1990, when anti-government demonstrations, riots and pressures from the international community forced President Moi to accept political and institutional reforms introducing multi-party elections in the country.[11] The most significant reform was the right to form political parties challenging the monopoly of KANU as the sole political party. As a result of the tremendous desire across the country, Kenyans formed several political parties to articulate and champion their needs better than KANU. In January 1992, Kenyan Muslims formed the IPK as a political body that will advance the cause of all Kenyans, but more specifically that of Muslims because of the perception that as a minority, Muslims have for a long time suffered discrimination. A potent mixture of ethnic, economic and religious concerns made Islam a unifying force during this multiparty era that also saw a heightened sense of religious nationalism fuelled by the frustrations arising from Muslims' status as minority.[12]

The IPK joined the national voices for democracy and liberation. It 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.[13] 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.[14] However, the party was not given the opportunity to participate in the elections. The government of President Moi denied the appeals to register the IPK as a political party. 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. Through this office, the Moi government vetted opposition parties, refusing to register some, including the Green African Party, the Kenya Nationalist People's Democratic Party and, the Islamic Party of Kenya. Under the leadership of Khalifa Mohamed, IPK was refused registration on the grounds that it was discriminatory, requiring specific religious beliefs of its members. This practice of the government vetoing political organizations remained a real constraint on Kenyan's freedom to organize politically.

This brings us to an important question: did the Kenyan Muslims have a case in demanding 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 my conviction that even political parties based on religious values should be allowed provided they are committed to the democratic process. As long as their policies and manifestos respect the rights of all humanity, then it would be undemocratic to deny them registration. Political parties founded on religious basis would not be peculiar to Kenya, since Christian Democrats have their political parties registered in Germany

---

[10]See part of a speech attributed to Moi indicating his dislike for opposition and demanding for blind obedience, in Galia Sabara, *Church, State and Society in Kenya: From Mediation to Opposition, 1963-1993.* (London: Frank Cass, 2002), p. 188.

[11]D. P. Ahluwalia, *Post-Colonialism and Politics of Kenya.* (New York: Nova Science Publishers, 1996), p. 182.

[12]Jeff Haynes, *Religion and Politics in Africa.* (Nairobi: East African Educational Publishers Ltd, 1996), p. 165.

[13]Interviews with *Sheikh* Khalifa Mohamed, chairman IPK, on 27th July, 2004, Mombasa; Khalid Balala on 16th September, 2004, Mombasa.

[14]Interviews with sheikh Khalifa Mohamed, Chairman IPK, on 27th July, 2004, Mombasa; Khalid Balala, on 16th September, 2004, Mombasa.

(Christlich Demokratische Union) and Italy (Democrazia Christiana),[15] and in Russia there is the Islamic Party of Russia. [16]

It is therefore possible to argue that the main reason for the rejection of IPK by Moi's government was to stifle the political ambitions of a united Muslim community. Moi's party, KANU, foresaw the possibility of losing support in the predominantly Muslim provinces on the Coast and in the North East once IPK was permitted to compete in the elections.[17] The government insisted that no political organization should employ religious symbols and names. As a result of this decree, it was argued that the word 'Islamic' on the party's name could be interpreted as exhibiting Islamic political ambitions and also restricting the party to Muslims only. This strategy to deny IPK official registration was a clear suppression of the Muslims' political ambition in Kenya, severely weakening Islamic oriented politics in Kenya.

At this point I would like to raise another significant question: Why did its founders decide to name the party, 'Islamic Party of Kenya'? My investigations revealed that there was debate amongst its founders as to whether to use the word Islam in the party's name, with some leaders arguing such a name would give the impression that the party was not inclusive, while supporters wanted Muslims to be associated with the party of their own, arguing that Islam would make the party more appealing to Muslims though its wide intention was to fight for the rights of all Kenyans.[18] According to *Sheikh* Khalifa Mohamed, IPK was a secular party, adding that IPK's constitution mentions Islam only in its name, but not anywhere else in its content.[19]

However, IPK possessed an undoubtedly Islamic face, evident in its methods of mobilizing support and spreading its political views to Kenyans, as well as in the role of the party's main activist, Khalid Balala, a conspicuously charismatic Islamic preacher. In his preaching he would criticize the government of Moi and call for the support of IPK. He also used a network of mosques that had *imams* loyal to him in spreading the party's political programmes.[20] These *imams* facilitated mosque discussions on issues affecting Muslims such as police injustice, wearing of *hijab* in public schools, discrimination at the immigration office, etc. Friday prayers provided the most effective *en masse* publicity among worshippers, who heard overtly political sermons critical of the state and 'enemies' of Islam. IPK leadership organized demonstrations on Fridays after the main prayers, a crucial timing for easily mobilizing thousands of supporters, thereby attracting the attention of the Moi government.

As IPK was becoming popular among sections of Muslims, Moi's government engineered the formation of United Muslims of Africa (UMA), aiming to draw most of its support from Muslims of African background, thereby splitting the Muslim constituency along racial lines in order to diminish its political impact. According to Emanuel Karisa Maitha's testimony before the Akiwumi Commission, Mr Joshua Kulei (a personal assistant to the President Moi) and Mr Rashid Sajjad (a member of

---

[15]Ali Mazrui, 'Human Rights, Constitution-Making and Comparative Terrorism: The View from Kenya', delivered under the auspices of Muslims for Human Rights and Kenya Human Rights Commission, in Mombasa, Kenya, July 18, 2005, p. 5. According to Mazrui the Democrazia Christiana (DC) of Italy has ruled the country for more than forty years, while the Christlich Demokratische Union (CDU) in Germany is in power (2005) through coalition with Social Democratic Party (SPD).

[16]Robert Bruce Ware, 'The Islamic Party of Russia'. This article was published by REF/RL, 27 February, 2003.

[17] Bakari, 'A Place at the Table: The Political Integration of Kenyan Muslims 1992-2003.' A paper presented at the international conference at St. Anthony's College, Oxford, June 2004, p. 7.

[18]Interview with *Sheikh* Khalifa Mohamed, Chairman IPK, on 27th July, 2004, Mombasa.

[19]Several efforts by me to get a copy of the constitution from the Chairman, *Sheikh* Khalifa Mohamed and other officials were not successful. It appeared to me that the document is secretly guarded.

[20]Bakari, 'A Place at the Table," p. 6.

parliament) were responsible for channelling money through state security agencies to suppress IPK activities in Mombasa and the Coast.[21] Maitha was responsible for recruiting Omar Masumbuko to lead the government backed UMA. Masumbuko is a Muslim of African descent, who recruited to rally African Muslims against IPK, which was viewed as a party of Muslims of both Arab and Asian descent. UMA was created not to fulfil aspirations of African Muslims but to sabotage the IPK by "various operations which included petrol bombing of targeted areas, fighting, invasion of Old Town [a neighbourhood in Mombasa] and hijacking of Khalid Balala and others." Maitha also testified that UMA was disbanded following "instructions from State House, where most of the youths and their leaders were paid or some employed for good jobs they had done," and in 1993, he was again asked to reassemble the UMA youth who were now already trained for political sabotage under the new name of the Coast Protective Group (CPG). Although Maitha stated that Kulei and Sajjad were his paymasters, he later recanted his testimony.[22]

Still, these explosive charges were more credible than the subsequent denials, especially in light of the claims by UMA that IPK was not a true representative of all Muslims in Kenya, and Black Muslims have been discriminated against and sidelined by Arab and Asian Muslims in Kenya. Whether sponsored by the Moi government or not, it is clear that the UMA rekindled the old racial divisions among Muslims, from which President Moi derived maximum advantage to guarantee his clinging to power. Unity among Muslims could threaten Moi's political survival; hence he would seek means to divide them. The alleged financing of UMA by a Muslim nominated Member of Parliament (Rashid Sajjad) suggests that some Muslim politicians were unwilling to lose their influence and power cultivated during the Moi era. Most incumbent Muslim politicians feared that if the IPK euphoria was not checked, they may lose their influence and power within the state—as manifested in the strong opposition that Shariff Nassir, Member of Parliament for Mvita constituency, mounted against IPK. Moi's plan to split Muslims succeeded as violence erupted between supporters of UMA and IKP during the electoral campaigns.

Selected Islamic Topics in Election Period
Muslim issues acquired electoral saliency during the Moi presidency, though this development can be traced to 1967 when the late President Jomo Kenyatta established a commission to reform the Succession Laws in Kenya. The commission was charged with reforming the inheritance laws in Kenya, bringing Islamic Law and African customary laws into harmony with English Common Law with the aim of establishing equality and justice in inheritance among members of a deceased's family.[23] From the moment of the

---

[21]Akiwumi Commission Official Transcript, October 12, 1998, pp. 4-10, 20, and 31 as quoted by Human Rights Watch, *Playing with Fire: Weapons Proliferation, Political Violence, and Human Rights in Kenya*. (New York: Human Rights Watch, 2000), 37. In August 8, 1997 statement allegedly made by Maitha who charged that was fabricated by police was read loud in its entirety at the Akiwumi hearing by the officer who recorded it and who testified as to its authenticity.

[22] Akiwumi Commission Official Transcript, October 12, 1998, pp. 6-10 as quoted by Human Rights Watch, *Playing with Fire: Weapons Proliferation, Political Violence, and Human Rights in Kenya*. (New York: Human Rights Watch, 2000), p. 38. Maitha repudiated the statement and its contents, saying he had never been involved with UMA or Masumbuku. Sajjad denied he had financed UMA, and also denied that Kulei had been linked to Maitha. However, a statement by Masumbuko does not support these denials and instead confirms the Maitha's testimony of high level political involvement in the violent UMA campaign.

[23] Mohammed Bakari, 'Muslims and Politics of Change in Kenya', in Mohammed Bakari and Saad S. Yahya (editors), *Islam in Kenya*. (Nairobi: Signal Press Limited, 1995), p. 240; Janet Kabeberi Macharia, *Women, Laws, Customs and Practices in East Arica*. (Nairobi: WLEA Publications, 1995), 95. Ahmed I. Salim, 'The Impact of Social, Political and Cultural Changes on Kenya's Muslims - With Special Reference to Arab-

commission's inception, Muslims took great exception to any attempts to tamper with what they considered Divine Law of Islam. After the commission had accomplished its work, a bill was drafted in 1972 to grant equal the rights of inheritance between men and women, which was hailed as a milestone in ensuring equality between sexes.[24] However, because the bill touched on issues sensitive to both Muslims and followers of African traditional religions, a coalition of the two groups lobbied against the reforms through various petitions that prevented passage of the bill by parliament during Kenyatta's life-time. Kenyatta thought it prudent not to hurt Muslim sensibilities and also those of many Africans who, in matters of personal status, were often governed by African customary law. It is believed that President Kenyatta and many of the parliamentarians during his time were polygamous and that was why they were reluctant to adopt the Bill.[25]

However, in July 1981, during Moi's tenure as the second President of Kenya, the Law of Succession Act was passed despite strong Muslim protest. Muslims contended that the law was unconstitutional as it compromised their freedom of religion and worship as embodied in section 78 of the constitution. They also argued that imposing the new law on them was tantamount to making them renounce Islam.[26] In one united voice, Muslims emphasized that the Act was in direct conflict with succession laws laid out in the Qur'an. They protested until a concessional amendment was added in 1990 excluding Muslims from the Law of Succession.

The political context and timing of this amendment suggest that it was not intended to redress the long existing problem of the law. Moi's intervention and direction to the parliament to amend the controversial Law of Succession to accommodate the wishes of Muslims was driven by the desire to seek Muslim support. This was the period when Kenyans were advocating for multiparty democracy. The political climate had changed and there was stiff opposition against Moi's government. At that moment in Kenya's political history, Moi was willing to accede to Muslims' wishes with the hope of winning their political support, assuring them that their freedom of conscience would always be safeguarded in the constitution.

By the end of Moi's tenure in 2002, his government had singled out the Somali Muslims as the only group whose members were required to carry an additional form of identification to prove that they were citizens. They were required to produce upon demand their national identification card and a second identification card which has been screened and verified. Somali Muslims were required to submit both forms of identification when applying for passport.[27] This policy did not augur well for Muslims, who regarded it as illegal and racist in nature.[28] Alamin M. Mazrui and Ibrahim Noor Shariff argue against this policy by asserting that "the presence of refugees from the predominantly Muslim Somali has sometimes been used to justify this unconstitutional practice. The same treatment, however, has never been extended to Christian Kenyans on account of refugees from predominantly Christian regions of Africa" such as Uganda and southern Sudan. Mazrui and Shariff contend that immigration policies and practices

---

Swahili.' A paper presented at a conference organized by the Center for the Study of World Religions, Harvard University, and the School of Oriental and African Studies, London, April 1991.

[24] Macharia, Op.Cit. p. 96.

[25] Bakari, 'Muslims and Politics of Change in Kenya', p. 241.

[26] Patricia K. Mbote, *The Law of Succession in Kenya*. (Nairobi: WLEA Publications, 1995), 23; Salim, 'The Impact of Social, Political and Cultural Changes on Kenya's Muslims."

[27] See 'Kenya' in US Department of State, at http://www.state.gov/g/drl/rls/irf/2004/35363.htm, on 6th December 2005; *An Africa Watch Report, Kenya: Taking Liberties*. Human Rights Watch, July 1991, pp. 298-311.

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

of the Kenyan government are more favourable to Christians, "allowing them to take their Kenyan citizenship for granted to a greater extent than Muslim Kenyans."[29]In August 2002, President Moi announced that his government had stopped screening the ethnic Somalis. He clarified that the government would instead rely on local leaders to determine the citizenship of ethnic Somalis.[30] This policy revision came only four months before the general elections in that year. This timing suggests that the policy revision was Moi's gesture to appease the Muslims and win their votes.

In the background preparations for the 2007 general elections, two key issues of particular concerns to Muslims were the Anti-Terrorism Bill (2003) and the acrimonious debate over the *kadhi* courts. Kenya's Attorney-General published the Suppression of Terrorism Bill, 2003, to be discussed in Parliament, as part of the effort by the Kenyan government to combat terrorism. Even before presentation to the Parliament for discussion, the Bill raised wide criticisms from a cross section of Kenyans, including lawyers, human rights activists, the parliamentary legal committee, and Muslim leaders; all described the Suppression of Terrorism Bill as draconian and oppressive.[31] The Kenyan public believed that the US government had influenced the drafting of this Bill, given the many similarities with the USA Patriot Act.[32] The opponents of the Bill held demonstrations, vocally accusing the US government, and venting their anger in other ways. In July 2003 demonstrations organized by human rights lobbies and student organizations witnessed the burning of US flags as protesters marched to Sheria House to present their memorandum to the Justice and Constitutional Affairs minister.[33]

Kenyan Muslims strongly believe that apart from the Bill infringing on individual freedom and privacy, it is also anti-Muslim, and charged that that already the government was applying the provisions of the Bill against them even before it has been enacted into law. An official of the Council of Imams and Preachers of Kenya (CIPK) remarked that "over thirty Muslims have been arrested and others are facing trial on allegations of being terrorists," adding that the "government has targeted the Terrorism Bill on Muslims only."[34] This Muslims' wariness that the Bill is targeting them more than any other community in Kenya is reinforced by a section 12 (1) of the draft Bill:

> A person who in a public place, (a) wears an item of clothing; or (b) wears, carries or displays an article in such a way or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a declared terrorist organization shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine or both.[35]

---

[29]Alamin M. Mazrui and Ibrahim Noor Shariff, *The Swahili Idioms and Identity of an African People.* (New Jersey: Africa World Press, 1994), p. 158.

[30] See 'Kenya' in US Department of State, at http://www.state.gov/g/drl/rls/irf/2004/35363.htm, on 6th December 2005; *An Africa Watch Report, Kenya: Taking Liberties.* Human Rights Watch, July 1991, p. 299.

[31]*Daily Nation, Friday*, July 4, 2003; *Sunday Nation*, August 31, 2003. See also 'Kenya's Terror Bill Rejected', at http://news.bbc.co.uk/2/hi/africa/3069211.stm, on 7th November, 2005.

[32]See the 'Big Issue' of *East African Standard*, Monday July 14, 2003; *Daily Nation*, Tuesday, November 18, 2003; Bakari, "A Place at the Table," p. 21.

[33]*Daily Nation*, Wednesday, July 16, 2003.

[34]The Friday Bulletin, *The Muslim News Update*, July 02, 2004.). See also Abdulghafur H.S. Elbusaidy, 'Islam in Kenya', in Hussein Solomon, *Islam in the 21st Century: Perspectives and Challenges.* (Pretoria: Centre for International Political Studies, 2005), p. 34.

[35]See *The Suppression of Terrorism Bill, 2003.* (Nairobi: Government Printers, 2003), p. 455.

Muslims fear that the police could arbitrarily use the powers invested in them by the Bill to arrest Muslims and charged them for dressing like certain declared terrorists or terrorist groups. Already there is concern among Muslims about the war on terror. A disproportionate number of Muslims have been harassed by police and some arrested on suspicion of terrorist activities without evidence.[36] Some of the questions asked while in custody were related to their dress code. Their interrogators want to know why they wore the robe (*kanzu*), the Islamic cap and kept long beards.[37] Against this background, Muslim leaders insisted that the government should withdraw the proposed law completely, and called on Muslims to reject it.[38] The leaders vowed that they would urge the community not to support the government in the 2007 election if the bill was not withdrawn.

The entrenchment of the *kadhi* courts in the proposed new constitution has emerged as one of the contentious issues in Kenya almost polarizing the nation into Christian and Muslim camps. While Muslims insisted on having the *kadhi* courts entrenched in the constitution, Christians opposed it and wanted the entire institution of *kadhi* courts removed from the constitution.[39] Leading this opposition is a group of Church clergies identify themselves under the banner of "The Federation of Churches in Kenya" or simply "The Kenya Churches," and who based their demand for removing Muslim courts from the constitution on the following provisions in the Bomas Draft Bill, providing that 1) State and religion shall be separate; 2) there shall be no state religion; and 3) the state shall treat all religions equally. Leaders of the Kenya Churches contend that retaining the *kadhi* courts in the Bomas Draft Constitution violates these provisions when it provided for Islam to be a source of Muslim personal laws in Kenya since Islamic laws are religious laws. They further argued that the Bomas Draft Constitution has created a parallel judicial system for Muslims, which was tantamount to favouring one religion and contravenes the principle that the State should treat all religions equally. This line of argument reappeared many times during the debate on the Bomas draft constitution. Therefore, for any political party to win Muslims' votes it has to promise the community that the present status quo of the *kadhi* courts will be retained in the new constitution. As the *kadhi* courts play an important role in the preservation of Muslims' identity, it was bound to feature in the electioneering campaigns.

Conclusion

In pre-independence Kenya there were significant Muslim political associations with members from the various segments of the Muslim community, who were not satisfied with the benefits accruing to the community from the British colonial administration. This was a sort of a revolt against a traditional authority which the colonial government had worked hard to perpetuate. After Kenya attained independence, the political environment in the country appeared to presage the emergence of Muslim party politics.

---

[36]Around seventy people have so far been arrested on charges of terrorism and coincidently are all of them are Muslims. There is yet no evidence to link them with terrorist activities witnessed in Kenya, according to the interview with *Sheikh* Mohamed Dor, Secretary, Council of Imam and Preachers of Kenya, on 26th January 2005, Mombasa. Also two of the four suspects 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 for lack of evidence to incriminate them. See *East African Standard*, Tuesday, June 14, 2005.

[37]Interview with Sheikh Dor. See also the 'Big Issue' in *East African Standard*, Monday, July 14, 2003.

[38]This view was also emphasized by Sheikh Dor, Secretary, Council of Imams and Preachers of Kenya, during an interview with him on 26th January 2005, Mombasa.; See also Abdulghafur H.S Elbusaidy, 'Islam in Kenya', in Hussein *Islam in the 21st Century*, p.34.

[39]*Daily Nation*, Monday, September 15, 2003, p. 15.

President Moi's political interaction with Muslims in most cases was for mutual convenience, the President timing his concessions to Muslim demands to coincide with election campaigns as a strategy to woo Muslims voters. Despite the setback of denying IPK official registration as a political party, Muslims' political activity is still an important oppositional force in Kenya. Muslims will continue to be a minority in the years to come, but their impact on politics at the national level cannot be ignored,[40] even though Kenyan Muslims could not avoid the deep cleavage along ethnic, class, and racial bases. This will remain so in light of the fact that political parties in Kenya are often if not always polarized along ethnic lines, even if none of the parties had ever developed an explicitly ethnic ideology. Like other communities, Muslims in Kenya experienced this ethnicization of politics, with the additional complication of racial cleavage as evidenced, for example, in the split between IPK associated with Asian-Arab Muslims and the UMA identified with African Muslims. This ethnic polarization remains the main predicament not only of Muslims but also of Kenyans. The unprecedented violence following the disputed elections in late 2007 reveals the potential catastrophe of the deeply entrenched ethnicization of politics. It would take a lot of effort and time for Muslim and non-Muslim Kenyans to overcome the colossal damage that ethnic and racial divisions have inflicted on every citizen of Kenya.[41]

---

[40]Shaheen Ayubi and Sakina Mohyuddin, 'Muslims in Kenya: An Overview', in *Journal of Institute of Muslim Minority Affairs*, Vol. 15, No. 1, January 1994, p. 154.

[41]Today, Muslims are divided on the fate of IPK with some supporting and others opposing its registration as a political party. The opposition is is represented by Supreme Council of Kenya Muslims (SUPKEM) chairman, Mombasa Branch, Sheikh Juma Ngao. According to him IPK has no national outlook and proper structures to be a strong political party. He argues that for IPK to be accorded official recognition by the government it has to be reorganized and its name changed from a religious one to a neutral one to cater for all communities. These views by Ngao should be seen within the context of competition for supremacy among Muslim bodies. A political party with an Islamic name will undermine the popularity of SUPKEM as the mouthpiece of Muslims. Ngao's sentiments could also be analyzed as not official position of SUPKEM, but his own personal opinion intended for personal gains from the state. In most cases the government is quick to work with those Muslim officials who are perceived as accommodative and cooperative.

References

Books

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

Ayubi, Shaheen and Mohyuddin, Sakina 'Muslims in Kenya: An Overview,' in
    Journal of Institute of Muslim Minority Affairs, 15(1), 1994:144-156.

Bakari, Mohammed, 'Muslims and Politics of Change in Kenya', in Mohammed
    Bakari, "A Place at the Table: The Political Integration of Kenyan Muslims
    1992-2003." A paper presented at the International conference, St. Anthony's
    college, Oxford, June 2004.

Bakari and Saad S. Yahya (editors), *Islam in Kenya.* Nairobi: Signal Press Limited, 1995.

BBC. 'Kenya's Terror Bill Rejected', at
    http://news.bbc.co.uk/2/hi/africa/3069211.stm, on 7th November, 2005.

Department of State. 'Kenya' in US Department of State, at
    http://www.state.gov/g/drl/rls/irf/2004/35363.htm, on 6th December 2005.

Elbusaidy, Abdulghafur H.S. 'Islam in Kenya', in Solomon, Hussein *Islam in the 21st*
    Century: Perspectives and Challenges. Pretoria: Centre for International Political
    Studies, 2005.

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

Human Rights Watch. *An Africa Watch Report, Kenya: Taking Liberties.* New York:
    Human Rights Watch. July: 1991.

_____. *Playing with Fire: Weapons Proliferation, Political Violence, and Human Rights in*
Kenya. New York: Human Rights Watch. 2000.

Kenya. *The Suppression of Terrorism Bill.* Nairobi: Government Printers, 2003.

Kindy, Hyder. *Life and Politics in Mombasa.* Nairobi: East African Publishing House, 1972.

Kenya. 'Africa Muslim Representation', OP/1/497 Kenya National Archives (KNA),
    1958.

_____. 'Legislative Council', PC/COAST/2/3/7 Kenya National Archives (KNA),
1928.

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

Macharia, Janet Kabeberi. *Women, Laws, Customs and Practices in East Arica.* Nairobi:
    WLEA Publications, 1995.

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

Mazrui, Ali, "Human Rights, Constitution-Making and Comparative Terrorism: The
    View from Kenya," delivered under the auspices of Muslims for Human Rights
    and Kenya Human Rights Commission, in Mombasa, Kenya, July 18, 2005.

Mazrui, Alamin M. and Ibrahim Noor Shariff. *The Swahili Idioms and Identity of an*
    African People. New Jersey: Africa World Press, 1994.

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

Pouwels, Randall Lee. *Islam and Islamic Leadership in the Coastal Communities of Eastern*
Africa, 1700 to 1914. London: University Microfilms International, 1979.

Sabara, Galia. *Church, State and Society in Kenya: From Mediation to Opposition, 1963 1993.*
London: Frank Cass, 2002.

Salim, Ahmed Idha. 'The Impact of Social, Political and Cultural Changes on Kenya's Muslims - With Special Reference to Arab-Swahili." A paper presented at a conference organized by the center for the study of World Religions, Harvard University, and the School of Oriental and African Studies, London, April 1991.

_____. A *Swahili Speaking Peoples of Kenya's Coast, 1895*-1945. Nairobi: East Africa Publishing House, 1973.

Ware, Robert Bruce. 'The Islamic Party of Russia.' REF/RL, 27 February, 2003. http://www.religioscope.info/article_87.shtml

Newspapers

Daily Nation, Friday, July 4, 2003.

Daily Nation, Wednesday, July 16, 2003.

Daily Nation, "The Kenya Church: The Federation of Churches in Kenya," Monday, September 15, 2003, p.15.

Daily Nation, Tuesday, November 18, 2003.

East African Standard, Athman Amran, "Terror Suspects Recount Ordeal at the Hands of Interrogators," June 14 Tuesday, 2005, p 3.

East African Standard, Dauti Kahuri et al "The Big Issue," Tuesday, July 14, 2003, pp18.

Sunday Nation, August 31, 2003.

The Friday Bulletin, *The Muslim News Update*, July 02, 2004.