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RELIGION AND INTEREST ARTICULATION IN KENYA: THE CASE OF ISLAM
(1963-2008)

BY

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DECLARATION

This Project is my original work and has not been submitted for award of a degree in any other university.

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DEDICATION

This work is dedicated to my beloved family to whom I owe everything.
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I acknowledge that the limitations of this work are entirely mine and cannot be attributed to any of other person.
ABSTRACT

It has been argued by many liberal thinkers that the role of religion in politics is counter-productive and that faith should be ideally limited to the private space. In the context of Kenya, religion far from being confined to the private realm, actively engages and shapes opinions in public discourse. The involvement of religious actors in Kenyan politics dates back to the pre-colonial era. This study examines the role of one such actor-Muslim religious organizations and their articulation of Muslim interest in Kenya. The study is based on the premise that in articulating Muslim interest in Kenya, de jure and de facto discrimination and marginalization of the Muslim minority by successive post-independence governments has informed the advocacy agenda of Muslim religious organizations. While their advocacy seeks to ameliorate the welfare of the Muslim ummah, the study shows that this is limited by a confluence of factors. These include the lack of a political will on the part of policy makers and on the part of Muslim religious organizations, the lack of requisite experience, expertise and high levels of institutionalization which are the sine quo non for effective interest articulation.

In terms of methodology, the study utilised both primary and secondary data. While primary data was generated through interviews, secondary data was obtained from books, journals, magazines and official publications by government and religious organizations. The study focused on four Muslim faith-based organizations namely Supreme Council of Kenya Muslims (SUPKEM), National Muslim Leaders Forum (NAMLEF), the Council of Imams and Preachers of Kenya (CIPK), and Muslim Human Rights Forum (MHRF). Their selection was purposive and justified by
their extensive grassroot presence in the two Muslim provinces of Coast and North Eastern.

Furthermore, two non-faith secular organizations engaged in development issues and service provision at the district level were purposively selected with a view to providing an independent assessment of the relevance and achievements of faith-based Muslim organizations. The study utilised non-probability sampling technique in selecting suitable persons for the interviews.

In terms of theory, unconventional partners and popular strain theories were utilised. While the unconventional partners theory illuminated the mutually supportive roles of religion and politics, popular strain theory emphasised the role of religious-based groups in generating popular participation in politics.
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ABBREVIATIONS

AIC - African Inland Church
ASAL - Arid and Semi-Arid Lands
ATPU - Anti-Terror Police Unit
CDF - Constituency Development Fund
CIPK - Council of Imams and Preachers of Kenya
CPK - Church of the Province of Kenya
CRE - Christian Religious Education
DDC - District Development Committee
DLB - District Land Control Board
DMA - Drought Management Authority
E.U - European Union
ID - Identification Card
IRE - Islamic Religious Education
KCPE - Kenya Certificate of Primary Education
KCSE - Kenya Certificate of Secondary Education
LDP - Liberal Democratic Party
MEWA - Muslim Education and Welfare Association
MHRF - Muslim Human Rights Forum
MOU - Memorandum of Understanding
MP - Member of Parliament
MUHURI - Muslims for Human Rights
NAK - National Alliance Party of Kenya
NAMLEF - National Muslim Leaders Forum
NCCK - National Council of Churches of Kenya
NEP- North Eastern Province
NFD- Northern Frontier Districts
NGO - Non-Governmental Organization
NUKEM- National Muslim Union of Kenya
ODM - Orange Democratic Movement
PCEA- Presbyterian Church of East Africa
SDGT - Specially Designated Global Terrorist
SID- Society for International Development
SUPKEM - Supreme Council of Kenya Muslims
TBT- Truth Be Told Network
UN- United Nations
US - United States
YMA - Young Muslim Association

1.1: Introduction

The involvement of religion in public discourse in Kenya has a long history dating back to the period before the advent of colonial rule. As was the case in most African traditional societies, religion was seen as a critical component of social order and the ethnic group, its rulers and institutions extensively employed religion as a legitimising tool. Moreover, traditional African leadership practices emphasised, *inter alia*, moral rectitude, selflessness, perseverance and wisdom.

With the advent of colonialism, there was a shift from religious to military power as a basis for political authority. The colonialist used their superior military, technological, economic and administrative power in perpetuating their rule. In the fight for independence, religious-based ideologies and organizations played an active role in mobilizing the masses for nationalist struggles. Religion was a potent force in sustaining the unity of the people against colonial oppression.

With the demise of colonialism, religious groups and organizations have continued to entrench themselves within the national arena in successive post-colonial governments, with involvement in different spheres such as education, health-care, social welfare, and economic development. Because of their engagement in virtually every social and economic sphere, some religious organizations like the Supreme Council of Kenya Muslims (SUPKEM) and the National Council of Churches in Kenya (NCCK) have developed an extensive network of structures that give them insights into the needs and mood of the people as well as affording them the means to disseminate their moral doctrines,
and social and political views. The network of structures has helped in the task of articulating their interest. It has also been observed that their intensive social involvement is the central foundation of their power.

During the days of one-party rule, the clergy and religious organizations, in the absence of an alternative force (opposition political parties) to check excesses of state power, declared that the unrestricted exercise of state power was an infringement of morality. They clothed their criticism in moral imperatives framed in the language of good versus evil, of Muslim and Christian obligations to speak against repression and torture, of social justice and compassion. With the repeal of section 2A of the constitution, the quest for a new political dispensation anchored on the principles of democracy began in earnest. The change from a de jure single-party to multi-party system has accorded political parties the opportunity to contest for power and present an alternative policy platform for the people of Kenya. Civil society, as an arena for the expression of diverse interests, has also gained in stature and prominence.

In the different historical epochs highlighted in the foregoing, Muslim religious organizations have been involved in the national arena by engaging extensively in different spheres including education, health-care, and social welfare. Given their network of structures and insights into the needs of the Muslim ummah, they have advocated a number of issues including an equitable resource distribution and development of the Muslim-dominated Coastal and North Eastern Provinces, adequate political representation for Muslims, and an end to marginalization in education. They have also advocated against the discrimination in citizenship and issuance of identification cards and passports for Muslims,
protection of Muslim rights and the entrenchment of Kadhi's court in a new democratic constitution. It is in this historical context, beginning from the period of independence, that this study will analyse the role of Muslim religious organizations in the articulation and representation of the Muslim interest and concerns in Kenya.

1.2: Statement of the Research Problem

The study of the complexities and intrigues of Kenyan politics has been a concern for many students of politics. The political system has been an arena where diverse interests articulate and channel their concerns with a view to impacting positively on decision makers.

Attempts to analyse the character and conduct of interest articulation by the myriad of actors involved has largely revolved around issues of ethnicity and class. The endurance of negative ethnicity in Kenyan society and its pervasiveness and adverse consequences for democracy, political stability and national cohesion has generated abundant literature (Rothchild 1969, Oyugi 1997, Ndgewa 1997, Chege 1998, Klopp 2001, and Lynch 2006).

However, the inclusion of religion as an explanatory variable has not been accorded the attention it deserves, more so the role of Islam in the articulation of Muslim interest in Kenya. Constantin (1995) observes that few scholars have shown interest in research in the development and role of national Muslim organisations. The analysis of Islam offered by Tringham (1964), and Kritzeck and Lewis (1969) concentrates on the spread and features of Islam in sub-Saharan Africa and offers no discussion on Muslim religious organizations. Ranger (1986) focuses on Christian
religious movements while Sabar-Friedman (1997) limits his analysis of the role of religious organizations in the national arena to the National Council of Churches of Kenya.

The cursory examination notwithstanding, the involvement of Muslim religious organisations and in general the role of religion in the organisation of politics has been evident. For example, in the 2007 general elections, religious groups publicly backed different political parties, and the faith of presidential candidates was brought into the political arena. Muslim organizations, on their part, have articulated a number of issues of paramount concern to the followers of the Islamic faith in Kenya, some of which were outlined in party manifestos. National Muslim Leaders Forum (NAMLEF), for instance, signed a Memorandum of Understanding (MOU) with the Orange Democratic Movement (ODM) in the run up to the 2007 general elections. The MOU was a source of much public debate and controversy. Moreover, there has been a trend in the build up to the 2007 general election to categorise Muslims as a bloc that ought to be courted by political parties and their candidates.

While Muslims have been courted by different political parties, they too have their own agenda and have articulated a set of issues which they want addressed. This study seeks to analyse the role that Muslim religious organizations play in the articulation of Muslim interest in the national arena. It also examines the modes and mechanisms of interest articulation that they employ and the extent to which they embrace democratic and legitimate means of channelling their grievances and seeking redress.
1.3: The Objectives of the Study

The overall objective of the study is to examine the role of Muslim religious organizations in the articulation and representation of Muslim interest in the national political arena. The specific objectives include:

A. To assess the effectiveness of their interest articulation and representation of Muslims.

B. To evaluate the modes and mechanisms employed by Muslim religious organizations in the articulation and representation of Muslim interest and concerns in the national political arena.

1.4: Justification of the Proposed Research

This research undertaking is motivated by both academic and policy considerations. On the academic front, there is a superficial attention that has been accorded to Muslim religious organizations: The lack of academic interest is evidenced by the fact while there are a number of Muslim religious organizations in existence, their involvement and contributions to Muslim interest articulation have not been studied. They include the Supreme Council of Kenya Muslims (SUPKEM), The Council of Imams and Preachers of Kenya (CIPK), The National Muslim Leaders Forum (NAMLEF), Muslim Human Rights Forum (MHRF), the Ummah Foundation, and Young Muslim Association. By focusing on Muslim religious organizations that have hitherto not been a subject of much academic interest, this study has the potential to furnish important information and provide useful literature.

On the policy front, this study will help policy makers and Muslim religious organizations come up with policies and solutions on Muslim grievances and concerns and thus contribute to the improvement of Muslim welfare in Kenya.
1.5: Definition of Concepts

1. Advocacy- The act or process of supporting a cause or proposal (Britannica Encyclopedia). As used in this study, it refers to the process of supporting and recommending policies that seek to bring an end to the marginalization of Muslims in the economic, social and political spheres of life in Kenyan society.

2. Institutionalization- Having the character of an institution, that is a structured and highly formalized system (Britannica Encyclopedia). In this study, institutionalization refers to the extent to which Muslim religious organizations are formalized (following a standard practice) and how they translate their code of conduct, mission, objectives and strategic plans into action guidelines applicable to the daily activities of their officers and other employees.

3. Marginalization - Refers to the relegation to unimportant or powerless position within a society or a group (Britannica Encyclopedia). In the context of this study, it refers to the relegation of Muslim community to the periphery of Kenyan society and the underdevelopment of Muslim-dominated regions in Kenya. In measuring levels of marginalization, this study will analyze indicators of development and inclusion (economic, social and political indicators) in Muslim regions relative to other regions of the country.

4. Civil Society- The term civil society refers to the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interest and values of their members (The World Bank). As used in this study, it refers to the intermediate
domain between governmental structures and the people and it connotes voluntary social, cultural, economic and religious organizations and their activities (Sabar-Friedman, 1997).

5. Islamism - A reform movement that advocates the reordering of government and society in accordance with laws prescribed by Islam (Britannica Encyclopedia). Also referred to as Political Islam, Islamic activism, Islamic fundamentalism, Islamic revivalism et cetera, it refers to the revival and return to the fundamentals of the Islamic faith. Islamism seeks the introduction of Islam in politics and society with the objective of creating a modern Islamic state (Ousman, 2004).

6. Ummah - Arabic word meaning people or community (Oxford Dictionary). In the context of Islam, and as used in this study, the term is used to mean 'Community of Believers' (www.en.wikipedia.org).

7. Imam - Religious teacher

8. Interest - Having a stake in something or being affected by something (Mc Kay, 1973). As used in this study, interests are not only material and economic but also political, social and moral.

9. Interest articulation - Refers to the process by which individuals and groups make demands upon political decision makers (Almond and Powell, 1966). In this study, it refers to the process by which Muslim religious organizations make demands upon the political leadership and policy makers for improved Muslim welfare.
10. Unit of analysis - The unit of analysis (the major entity that is been studied) are Muslim religious organizations and their role in Muslim interest articulation in Kenya.

11. Muslim Religious Organizations - The term 'Muslim religious organizations' as used in this study is limited to four faith-based organizations namely Supreme Council of Kenya Muslims (SUPKEM), Council of Imams and Preachers of Kenya (CIPK), National Muslim Leaders Forum (NAMLEF) and Muslim Human Rights Forum (MHRF).

12. Measurement of the impact of Muslim religious organizations - The impact of the interest articulation by Muslim religious organizations will be evaluated by examining their involvement in agenda setting processes at the national political arena, their access to decision making arenas, and their achievement of favorable legislations and policies for Muslims in Kenya.

1.6: Literature Review

The subject of religion and politics has preoccupied a number of scholars and this has generated a substantial literature. There is a polarization of views on the role and place of religion in politics and scholars have differed markedly. One theoretical denomination asserts that the two should be kept separate, while another is of the view that the separation holds only in theory and that to separate the two is simply an illusion.

The secularists, to begin with, view religion as disposed towards extremism as soon as it abandons it's 'proper modernist role as a matter of private faith and is
allowed to intrude upon public space". Falk observes that some secularists even adopt fundamentalist canons of belief and view religious affiliation as intrinsically evil. The opposing theoretical denomination contends that without passing politics and issues of governance on the dictates of religious doctrine and values, the inevitable result will be 'decadence, decline and impotence'. Likewise, Moyo observes that religion permeates all aspects of African life and the importance of religion in any attempt to understand the African life in all its social, economic and political aspects cannot be overemphasised, and that Mbiti's observation that African people are 'notoriously religious' is still true of a large majority of African people.

Okullu too asserts that the separation of church (religion) and state is institutional only, and that at the value level, 'the two are bound together in the realm of ethics by owing their origin to God, and that both are established for the service of God'. To put the foregoing in context, the separation of religion and state is informed by the European Enlightenment which was rooted in a particular set of historical circumstances in Europe- the religious wars that marked the split of Christendom- at the time of the formation of the modern state system. During the colonial period, the notion of the separation of religion and state were transplanted to Africa.

2 Ibid, Falk pg 184.
3 Ibid, Falk pg 184.
The contestations regarding the role of religion in politics notwithstanding, a number of writers have sought to grapple with the subject of religion and politics not only in Africa, but in the United States, Canada, Europe, and in Asia. In the case of the United States, Fowler and Hertzke\(^7\) observe that it would be hard to understand American politics without understanding American religion for the United States was borne out of religious zeal. They argue that religion in America flourishes with pluralism and vitality amid contrasting secular forces. Despite its heavy involvement in society, religion in America exercises limited political influence. Fowler and Hertzke attribute this to the absence of religious unanimity on most issues and the nature of the American political system which has been designed to 'disperse, fragment and check power'\(^8\).

In Canada, Uslaner\(^9\) notes that the Canadians, like the Americans are religious people, considerably more religious than Europeans. He notes that churches in Canada are hierarchical and legitimized by the state through direct funding and support to religious schools. In Europe, Wood\(^10\) contends that the majority of the European Union (EU), who are either non-religious or do not actively practise any religion, are becoming increasingly disadvantaged in the political process because of increasing religious influence in EU institutions. Woods observes that there are about sixty religious missions to the E.U but only one non-religious, the *European

\(^8\) Ibid, Fowler and Hertzke, pg 5.
In discussing the role of religion in Europe, Hurd examines the cultural and religious dimensions of the European debate over the Turkish accession. She argues that cultural and religiously-based doubts about Turkish accession resonate with a larger proportion of the European population who want to defend the idea of 'a Christian Europe'.

Religion has also played an important role in politics throughout Asia. The Iranian revolution of 1979 marked the decisive appearance of religion in global politics in the contemporary world. Haynes, in part, examines the consequences of political interaction involving the state and religious actors in Christian, Muslim and Judaist contexts in Europe, the Middle East and North Africa. His basic premise is that religious actors pose various challenges for citizenship, democracy, and secularization in Europe, the Middle East and North Africa.

Looking at the role of religion in Africa, and in particular the role of Islam, Kritzeck and Lewis discuss history of the spread of the Islamic faith south of the Sahara at 'a moment when the entire continent was confronted with the dual imperatives to build nations and modernize'. Their focus is on the penetration of Islam in places like Sudan, Northern Nigeria, Congo Republic, Mozambique, Mauritania, Ethiopia, Somalia, Uganda, and Tanzania. While offering some insights to the spread of Islam in Tropical Africa, it doesn’t account for the rapid changes that have taken place in Africa south of the Sahara since 1969 when the book was

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published. In addition, though there are two chapters on Islam in Uganda and Tanzania, there is no discussion of the role of Islam in Kenya.

Trimingham\textsuperscript{15} has also written on the subject of Islam. He divides Africa into seven cultural areas according to the penetration of Islam. They include the Egyptian, the Maghreb (North African Mediterranean culture), Western Sudan, North-Eastern Hamitic (Eritrea, Ethiopia and Somalia, the Islam of the nomads of the plains of the Eastern Horn), and Coastal East African, among others. Trimingham’s analysis concentrates on the features of East African Islam. Like Kritzeck and Lewis, Trimingham wrote about Islam at a time ‘when the nomadic pastoralists Somali of Northern Frontier District of Kenya were about 120,000 mainly Darod (Ogaden clan) and Hawiye’ and ‘the Coastal Muslims had no direct relations with the interior’\textsuperscript{16}. This work, like the one before it, is not particularly helpful in the contemporary setting since it only discusses Islam in the 1960s.

Ranger\textsuperscript{17} examines the role of religious movements in the politics of Sub-Saharan Africa. He points out that the assumption that religious movements are in themselves peculiar expressions that have emerged in contrast and opposition to colonial religious institutions is flawed. He contends that colonialism is not the sole causative and explanatory factor in expressions of political antagonism by religious movements. He asserts that African religious movements must be seen as movements of religions and focus should be upon the religious dimension itself. Ranger however doesn’t review the literature on Islam in Sub-Saharan Africa and admits that leaving out Islam ‘deprives his analysis of traditional and Christian

\textsuperscript{15} Trimingham, J. 1964. \textit{Islam in East Africa}. Oxford University Press. London. pg 1
\textsuperscript{16} Ibid, Trimingham, 1964, pp 51-54.
movements of an invaluable comparative and historical context\textsuperscript{18} for Islam has competed with Christianity in most of West Africa and along the East African Coast, it was not the religion of the colonial power nor of western education and has its own particular formulations of the relations of sacred and secular power.

Hansen and Twaddle\textsuperscript{19} work on religion and politics has analysed the attempts to create Muslim national organizations in Kenya, Uganda and Tanzania; Muslim and Christian contribution to public policy, and Muslim-Christian relations. This volume deals with politico-religious history of East Africa between 1960 and 1995. It contends that while the three East African states may have a great deal in common, for instance, having a large Christian majorities and small Muslim minorities, the shape of their political histories and religious identities is remarkably different. On the religious side, there is a multiplicity of churches in Kenya, while in Uganda there is a predominant Catholic/Anglican duality. Tanzania has a far larger Muslim population than Kenya and Uganda. Hansen and Twaddle offer a comprehensive discussion of how mainline churches have frequently critiqued the authoritarian and corrupt practices of the state. However, the politico-religious issues concerning Islam lie outside the core of this volume. It also ignores the churches outside the mainstream, ‘particularly the new Pentecostal churches which have claimed members from the mainline churches and have also played an important role in opposing political reforms by supporting oppressive regimes’\textsuperscript{20}.

\textsuperscript{18} Op Cit, Ranger, T. 1968. pp 1-5.
In discussing the role of religion in advocating for democratization, Sabar-Friedman\(^{21}\), in a detailed article, examines the activities of a major religious umbrella organization, the National Council of Churches of Kenya and its involvement in the democratization process between 1986 and 1992. He advances the thesis that 'the debate between officialdom and the church over the very definition of politics and the meaning of political involvement not only sustained the national discourse on democracy but also spawned demands for the democratization of the church structures themselves\(^{22}\).

He focuses his discussion on three churches namely the Anglican Church (Church of the Province of Kenya, CPK), the Catholic Church and the Presbyterian Church of East Africa (PCEA). These churches were, he notes, financially independent to a large extent and together with their international organisational connections, had a greater immunity from governmental control. He observes that some churches, mainly those belonging to the African independent churches were not part of the democratisation process. On the contrary, he argues some of them, mainly African Inland Church (AIC) and Legio Maria church, were in the 'game of suppressing any call for change'\(^{23}\). The writer doesn’t make any mention, even in passing, of the role of Muslim organizations either in helping the course of democratization like the NCCK or hampering it as was the case with African Inland Church or Legio Maria.


Another contribution to the literature on Islam comes from Bakari and Yahya\textsuperscript{24}. Their work is a compilation of papers presented in a national seminar on contemporary Islam. They argue that it is “because of basic concerns about the misconception of Muslims by their compatriots and the lack of basic data about Muslims in general that the national seminar on Islam in Kenya was convened”\textsuperscript{25}. The book details the history of the Muslim community in Kenya profiling the Ismaili Community, and Islamization in the interior; it focuses on the perception of Muslims from a global perspective, which informs much of the rest of the world’s perceptions of Muslims, as well as a grassroot perceptions of Muslims by the Mijikenda; it looks at the impact of Islam on Swahili culture; it examines the economic underdevelopment of large sections of the Muslim society and investigates the factors responsible for poor educational performance in Muslim dominated provinces of Coast and North Eastern.

The essays presented in this volume offer a holistic view of various aspects of Islam in Kenya and provide meaningful insights into the nature of Islam in Kenya. That notwithstanding, the analysis offered in this book doesn’t cover interest articulation by Muslim religious organizations. The closest to such an analysis is offered by Mwakikamo\textsuperscript{26} in a critical piece that evaluates the role of Muslim Non-Governmental Organizations in community development.

Oded's contribution on Islam and politics in Kenya stands out in sharp contrast to a number of works that preceded it that dealt with the topic because of its currency and its focus which is altogether on Islam and politics in Kenya. He assesses the importance of Muslims in Kenyan politics and their concerns with issues of the state, the law and education. On Muslim-State relations, he focuses so much on government attempts to placate Muslims such that continuous Muslim agitations begin to appear unreasonable. The writer seems to be oblivious to the motive of political expediency rather than genuine sympathy in Moi's government responses to Muslims. Oded also examines the global complexities and the impact on Islam in Kenya, and much of his discussion on 'Arab' activities in the Muslim constituency of Kenya focuses on the non-Arab state of Iran. His attempt to situate Islam in Kenya within the larger global context is illuminating, but even towards this end, the author does not maintain objectivity which is the hallmark of a scholarly undertaking. In the words of Mirzelar, 'he does not look Kenya's Muslims as ordinary Kenyans whose actions, like those of other Kenyans from diverse ethnic and religious backgrounds, are at some point dictated by their search for democracy and good governance, not simply by 'violence', 'radicalism', 'extremism' and 'hostility'. In addition, the author's research and analysis are informed by his loyalty to Israel and by his unconscious bias regarding the security concerns of Israel in relation to the Muslims and the Arab world. Oded served as an Interest Officer in Kenya in the 1970s and as an ambassador between 1992 and 1995.

Gecaga\textsuperscript{30}, in an informative piece, evaluates the role of religious movements in the political process of democratization. She outlines the cultural and religious beliefs and practices that informed the development of Mungiki and situates the emergence of Mungiki movement within the context of poor economic performance, ineffectual provision of basic services, the collapse of social infrastructure, and unbridled accumulation of power by the political elite. Though illuminating on the Mungiki movement, her focus is primarily on the intersection between Christian religious groupings and the Mungiki Movement. It doesn’t deal with the role of religion in general - the Islamic faith included - in the democratization process.

An analysis of one of the recent publications on Kenya’s transition politics also reveals the dearth of interest in the role that religion has played in the transition process and in advocating for a just and open political system. Prof. Wanyande, \textit{et al} argues that although neither change nor transition has taken place in the socio-political landscape of Kenya, there are recognisable movements away from the conservative past. The book contends that governance problems in Kenya are a function of the prevailing ideology, lack of core values, and quality of leadership. There is the absence of any discussion of the role of religion in the book save for Oloo\textsuperscript{31} who examines, in part, the religious minorities in Kenya like Muslims, Hindus and several indigenous faiths and their concerns.

The cursory attention given to religion in general and the Islamic faith in particular, is indicative of the neglect of the role of religious organizations in


representing the voice of the people. This study seeks to address the evident neglect of Islamic religious organization and their role in articulating Muslim concerns in Kenya.

1.7: Theoretical Framework

A theory, to begin with, is a synonym for thoughts, conjectures or ideas\textsuperscript{32}. It is used to designate a conjecture about casual relationships or about the most effective way of promoting a given end\textsuperscript{33}. Meehan\textsuperscript{34} conceptualises theories as explanatory devices that bring together isolated observable phenomena and relate them systematically. According to Hempel\textsuperscript{35}, theories seek to afford a deeper and more accurate understanding of the phenomena in question.

In light of the centrality of theories to scientific inquiry, a number of theoretical frameworks that seek to account for the role of religion in politics have been assessed. The theories paint an overall picture of the relations between religion and politics and help us put into meaningful context the discussion of the subject.

One theoretical perspective that seeks to explain the phenomena of religion and politics is the secularization theory. The proponents of secularization theory which include Karl Marx (1818-1883), Emile Durkheim (1857-1917), and Max Weber (1864-1920) argued that religion would decline in the world as secularization advances. They contend that this development is an inescapable part of modernity. Weber, for instance, believed that ‘with modernity came mighty forces

\textsuperscript{32} Van-Dyke, V. 1960. \textit{Political Science: A Philosophical Analysis}. Stanford University Press. California, pg 95.
\textsuperscript{33} Ibid, Van-Dyke, 1960, pg 90.
of rationalism and bureaucratization that would defeat religion; if not entirely eliminate the religious. Casanova argues that the ‘core and the central thesis of the theory of secularization is the conceptualization of the process of societal modernization as a process of functional differentiation and emancipation of the secular spheres - primarily the state, the economy, and science - from the religious sphere and the concomitant differentiation and specialization of religion within its own newly found religious sphere.' The theory also suggests that in modern societies, rational scientific approaches dominate whereas in traditional societies religious worldviews govern life.

The secularization theory is not without its shortcomings. This theory has lost its lustre in large part because of the resilience of religious faiths in the face of secular forces. Norris and Inglehart observe that secularization and the thesis of slow and steady death of religion has come under growing criticism in the face of multiple indicators of religious health and vitality ranging from the evangelical revival sweeping through Latin America, the emergence of religious parties in the Muslim world, and the upsurge in ethno-religious conflict in international affairs. In light of its shortcoming and the fact that it downplays the role of religion and religious organizations in the face of increased religious involvement, makes the adoption of secularization as the theory of choice for this study difficult.

A second theory that seeks to account for the relationship between religion and politics is the Unconventional Partners theory which sees religion as providing

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36 Op Cit, Fowler and Hertzke, pg 239.
assistance to people’s culture and politics, and in turn culture and politics greatly assist religion. The central thesis of this theory is that religion and politics are mutually supportive of each other. Fowler and Hertzke observe that religion helps to sustain America’s individualistic political culture and its governmental institution by ‘offering a source of meaning, morality, grounding for values and community relationship that government cannot provide’\textsuperscript{40}. The American government on its part assists religion in many ways ‘despite the illusion that church and state are separate in America’ for instance the generous protection of free exercise that main branches of religion enjoy as well as protection from the courts for minority and controversial religions\textsuperscript{41}. The conception of religion as offering a source of meaning and grounding for values, and in assisting individuals in their relations with government is very much in line with the objectives of this study.

Popular Strain theory seeks to account for the role of religious-based popular movements in generating religious participation in politics. In the case of the U.S, Fowler and Hertzke observe the political mobilization of the black church as one of the most prominent examples of religious participation in politics. From the civil rights movement of the 1950s and the 1960s, to the two presidential campaigns of Jesse Jackson in 1984 and 1988, the black churches, they argue, have provided most of the organizing base, leadership cadre, money, and moral support for African-American political mobilization.

\textsuperscript{40} Op Cit Fowler and Hertzke, p246.
\textsuperscript{41} Op Cit, Fowler and Hertzke, pp 247-248.
In the context of Kenya, religious organizations have played an equally crucial role in generating religious involvement in politics. Sabar-Friedman demonstrates how the network of bodies and organizations has afforded the church the means for advocating and disseminating its political views during the struggles for multipartyism. Muslim organizations, on their part, have also generated religious participation in politics. SUPKEM, for instance, has been instrumental in arranging symposiums for Muslim Members of Parliament in order to prepare them whenever bills of particular interest to Muslims are being debated. Muslim religious organizations have also offered a platform through which some of their top leadership have joined government in an attempt to change the system from within and advocate for Muslims rights. For instance, Sheikh Mohammed Dor, the Secretary General of the Council of Imams and Preachers of Kenya, became the first Imam in Kenya’s parliament after he was nominated by Orange Democratic Movement (ODM) in the tenth parliament.

Given the centrality of charismatic leaders in mobilising religious involvement in politics, critics of the popular strain theory question whether such leaders reflect or in fact create popular concerns. In the case of U.S, critics have asserted that the likes of Jesse Jackson and Pat Robertson exhibit a tendency to conflate their own ego needs with the aspirations of the communities that they claim to represent.

Of the theories discussed, the unconventional partners and popular strain theories best serve to illuminate the relationship between religion and politics in view of the objectives of this study. They may not explain everything for the
subject of religion and politics is dynamic, one that defies any theoretical attempt to capture its relation fully. But the two theories are useful in giving us perspective and at the same time emphasize the focus of the study.

1.8: Scope and Limitation

The objective of this study was to examine the role of Muslim religious organizations in articulating Muslim interest in Kenya. In the course of conducting this study, one of the limitations was in area of data collection. One of the organizations namely NAMLEF wasn't willing to cooperate either through interviews or filling of questionnaires. In addition, most senior officials of the four organizations were unavailable for interviews despite numerous appointments. To overcome these limitations, official publications, where available, and internet sites were used in obtaining the relevant information pertaining to these organizations. There was also inadequate information and records of the activities of the organizations.

In terms of geographical scope, this study was located in Nairobi, the main headquarter of the organizations and Coast (Mombasa in particular) and North Eastern Provinces (Wajir).

1.9: Research Hypotheses

Hypothesis 1:

The greater the level of marginalization of Muslims, the greater the involvement of Muslim organizations in the articulation of Muslim concerns.
Hypothesis 2:

The higher the level of institutionalization of Muslim religious organizations, the greater their effectiveness in interest articulation.

1.10: Methodology

1.10.1: Study Area

In the conduct of this study, locations visited include offices of the four organizations in Nairobi and Mombasa, as well as offices of local non-faith organizations in Mombasa and Wajir.

1.10.2: Sampling Technique

In this study, non-probability sampling technique was used in selecting Muslim organizations and the geographical area of focus. The study also used non-probability sampling technique in selecting suitable persons for the interviews. Non-probability is a type of sampling technique where a researcher uses his own expert judgement and purpose to decide whom to select into his sampling frame. The study focused on four Muslim religious organizations namely Supreme Council of Kenya Muslims (SUPKEM), the Council of Imams and Preachers of Kenya (CIPK), National Muslim Leaders Forum (NAMLEF), and Muslim Human Rights Forum (MHRF).

The selection of these four organizations was purposive. Two criteria informed their selection, namely their extensive grassroot structure in the districts of the two provinces of Coast and North Eastern that are dominated by Muslims.

and their prominence in representing the Muslim voice at the national political arena.

1.10.3: Data Collection Techniques

In terms of data collection, this study utilised both primary and secondary sources of data. However, the bulk of the information was obtained through secondary sources while using information obtained through interviews and questionnaires to complement the secondary data. Secondary data was sourced from books, academic journals, newspaper articles, magazines, and publications by Muslim organizations and the internet.

1.10.4: Data Analysis

In the absence of data analysis, data collection in itself would be an exercise in futility. Given that the analysis was largely qualitative, the study was restricted to the nominal level of measurement. Simple response categories such as 'Yes' and 'No' were used. Where appropriate, tables were also used. Data obtained was presented in a descriptive manner.

1.11: Chapter Outline

Chapter one of this study encompasses the introduction, the problem statement, and the objectives of the study, justification, and definition of concepts. It also includes the literature review, theoretical framework, research hypotheses and methodology.

Chapter two gives a historical overview of the role of Muslim religious organizations in articulating and representing Muslim interest in Kenya. The chapter also expounds on various themes/issues of interest articulation by Muslim
religious organizations. These include political representation, economic development, education, Islamic law, citizenship and Muslim rights issues.

In chapter three of the study, the modes and mechanisms of interest articulation employed by Muslim religious organizations and the extent to which they are peaceful and consistent with democratic norms and ideals are examined. It also evaluates the impact and efficacy of their interest articulation. The chapter will also look at the role of Islam globally and the extent to which it informs the agenda of Muslim organizations in as far as interest articulation is concerned.

Chapter four, which is the last chapter, entails the conclusion of this study and gives recommendations aimed at improving the welfare of Muslims to policy makers. It will also make recommendations to Muslim religious organizations on ways of improving the effectiveness of their interest articulation so as to enhance the achievement of favourable outcomes for Muslims.
CHAPTER 2: MUSLIM RELIGIOUS ORGANIZATIONS AND INTEREST ARTICULATION IN KENYA: A HISTORICAL OVERVIEW

2.1: Introduction

The chapter analyses the concept of interest articulation and underscores its centrality in the political and decision making processes. It offers a historical perspective to the study. It analyses the role Muslim religious organizations have played in advocating for Muslim demand for, *inter alia*, adequate political representation, and equitable distribution of resources. The chapter argues that the systematic discrimination and marginalization of Muslims in Kenya, which began during the colonial period, has formed the basis for Muslim religious organizations to identify and articulate themes of Muslim advocacy.

Interest articulation is the first step in the political conversation process, and given that political decisions involve advantage or disadvantage for the various individuals and groups in the society, the process of articulating interest is considered to be crucial. It is a particularly important process because if groups within the society do not find open channels to express their interest and needs, their demands are likely to remain unsatisfied and the resulting dissatisfaction may erupt into violence or may require suppression by the elites.

There are a myriad of specialized institutions that are deployed for purposes of interest articulation such as political parties, bureaucracies, trade unions,

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religious associations, and civic groups. Interest articulation can also take the form of anomic behaviour like riots, demonstrations and other violent means.

2.2: The Genesis of Muslim Religious Organizations in Kenya

One of the actors involved in the articulation of interest in Kenya are Muslim religious organizations. Their involvement in interest articulation dates back to the period before independence. A number of Muslim organizations, under the guise of welfare organizations, petitioned the colonial authorities for the better treatment of Muslims. They include Kenya-African Muslim Welfare Association and Afro-Asian Society. These organizations fought for the rights of Muslims at a time when Christian missionaries undertook the evangelization of the up-country peoples and the development of the interior\(^{46}\).

The formation of the colonial state in Africa was disastrous for the continent. The colonial state in Africa was forged by the use of force. As observed by Mamdani\(^{47}\), the state was founded on the coercion of indigenous people. Central to its organization and re-organization was the ‘native question’.

How the colonialist approached the native question, Mamdani argues, reproduced ‘a bifurcated state’ - a state for the citizens (i.e. the colonised living in scheduled areas) and a state for the subjects (the natives who were confined to the reserves). While in the scheduled areas, the state was state-was organized on the principle of clear separation of powers, in the native reserves customary power was transformed to act as an agent of the colonial state. The chief as the head of the colonial customary authority had unchecked powers. His authority was like ‘a clinched fist’

without limit of power. The development of all the phases of the colonial state was marked by expropriation, extra-economic coercion, oppression and repression of the peasantry. In agreement with Mamdani, Berman and Lonsdale observe that the colonial conquest of Kenya was the work of force. The British employed violence on 'a locally unprecedented scale and their colonial rule rested on force and the new imperial ideology of progress'.

In the context of the colonial state, Muslims in Kenya were relegated to the periphery. The colonial period didn't only hamper the development of Islam but was also disastrous for Muslims at the two peripheral areas of Coast and the then Northern Frontier Districts (NFD). Economic development of Kenya under colonial rule concentrated in the white highlands and around Nairobi. Christian missionaries provided for the education of the national elite and much of the mass to the disadvantage of Muslims, who for fear of proselytization chose not to take their children to mission schools.

The NFD was declared a security risk and isolated from the rest of the country. The Outlying District Ordinance of 1902 prohibited movement in and out of the NFD. This isolationist policy was the beginning of the systematic marginalization that has epitomized the history of Northern Kenya and that of

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53 The Outlying Districts Acts, Chapter 104 Laws of Kenya (Now Repealed)
Muslims in general. Given their predicament, some Muslims joined the agitation for social, economic and political equity.

With the prospects for independence becoming real, Muslims in Kenya had the hope of attaining a separate autonomous status. Muslims at the Coast, through the *Mwambao* Movement, demanded for some kind of political autonomy for a coastal state. The Somalis in the then Northern Frontier District also sought to join their kinsmen in Somalia. Though Muslims, the political agenda of the Somalis was ethnic, rather than religious. They didn't perceive their struggle in religious terms although religious differences with the Christian majority in Kenya may have had indirect impact. A legacy of mistrust on the part of central government has followed the Somali aspiration for secession and the Mwambao’s demand for coastal autonomy.

An organised Muslim response to the predicament of marginality first emerged in 1968 with the establishment of the first national Muslim organization in post-independent Kenya, the National Muslim Union of Kenya (NUKEM). NUKEM presented itself as the only effective voice for the Muslims of the coast putting the Muslim position to government on such contentious issues as the law of succession, education, land *et cetera*. The objective for the establishment of NUKEM was to unify all Muslims in Kenya and especially those at the coast, and articulate their concerns and grievances to policy makers.

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55 Op Cit, Bakari, pg 239.
56 Op Cit, O'Brien, pp 202-205.
57 Op Cit, O'Brien, pg 203.
The first truly national Muslim organization established in Kenya was the Supreme Council of Kenya Muslims (SUPKEM). Formed in 1973, SUPKEM is an umbrella body of Muslim organizations, societies, mosque committees and groups in Kenya. It was formed with a view to bringing a common approach to issues and problems of Muslims in Kenya and coordinating the activities of the groups engaged in the promotion of Muslim welfare. Its stated vision is to bring about ‘a united and therefore a strong Muslim community, a community with clear, strong and established links with the Kenya government and with the outside world’.

In the aftermath of its formation, a multitude of other Muslim organizations were established with a view to improving the status of Muslims in Kenya. They include the Council of Imams and Preachers of Kenya (CIPK), National Muslim Leaders Forum (NAMLEF), Muslim Human Rights Forum (MHRF), Muslim Education and Welfare Association (MEWA), Young Muslim Association (YMA), Muslims for Human Rights (MUHURI), Majlis Ulamaa (The National Council of Muslim Scholars), Ummah Foundation, and Ansar Muslim Youth, among others. The subsequent sections will interrogate how SUPKEM, NAMLEF, CIPK and MHRF have articulated the key themes of Muslim advocacy in Kenya.

2.3: Political Representation

Representation has both political and non-political connotations. According to Birch, there are three ways in which the term representation is used. It is used to denote the state or condition of serving as an agent or spokesman, or to indicate...

that a person shares some of the characteristics of a class of persons or to indicate that a person symbolizes the identity or qualities of a class of persons.

Pitkin argues that to represent is simply to “make present again”. In this definition, political representation is the activity of making citizens’ voices, opinions, and perspectives “present” in the public policy making processes. Political representation occurs when political actors speak, advocate, symbolize, and act on behalf of others in the political arena.

The controversies over political representations have revolved around the choice and functions of elected members of a representative assembly. What representatives do or do not has been the subject of innumerable studies. The delegate conception of representation, for instance, postulates that representatives should follow their constituent’s preferences. James Madison is one of the leading historical figures who articulated a delegate conception of representation.

The trustee conception requires representatives to follow their own judgment about the proper course of action. Edmund Burke and John Stuart Mill are some of the leading advocates of this perspective. Mill (cited in Thompson, 1976) argues that ‘a representative chosen for his greater political knowledge and superior character should be free to act independently of his constituents’ wishes’.

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A discussion of the concept of representation largely focuses on formalistic representation. More often than not, discussions on representation collapse into discussion of elections and democracies. In Kenya, basic political representation is via direct election to the national assembly and to district and town councils.

A central theme in Muslims' advocacy has been the quest for adequate representation in the Kenyan political system. According to the 2009 Kenya Population and Housing Census results, the Muslim population in the country stands at 4,304,798 out of a total population of 38,610,097, representing 11.1 per cent. Muslim leaders have disputed the census figures, arguing that the results were 'doctored and meant to serve the interest of forces intent on diminishing the influence of Muslims in the country'. They argue that Muslims account for thirty per cent of Kenyans. Despite the disputes over Muslim population, Muslims have contested that their representation in key decision making structures is not commensurate with their numbers.

The legislature is one of many governmental institutions where Muslims have sought fair representation. Other institutions include the executive, the judiciary, bureaucracy, local governments, political parties and public enterprises. Under the Kenyatta regime (1963-1978), Muslims were nominated to parliament and were given positions as junior ministers e.g. Sheikh Salim Balala, Jah Mohammed and Kassim Bakari Mwamzandi.


Under Kenyatta, religion never became a national factor despite the fact that his entire cabinet, with the exception of himself, professed Christianity publicly. Muslims at the NFD had not been integrated within the political process during Kenyatta’s time. The Somalis in the NFD opted to struggle militarily for secession. According to the report of the Northern Frontier District Commission, the people of the NFD almost unanimously favored the secession from Kenya with the object of ultimately joining Somali Republic as a self-governing unit. The armed struggle, which came to be known as the ‘Shifta war’, led to their further marginalization at all levels - political, social and economic. Consequently, the wave of development activities that swept through the national slogan of self-reliance did not have the slightest impact in North Eastern province.

Muslim representation in the civil bureaucracy during the Kenyatta reign was also not conspicuous. In underscoring the significance of bureaucracy, Barkan et al argue that being the chief implementer of policy, bureaucracy is a major source of specific resource allocations. They observe that it is with the bureaucracy that the legislators intervene to perform constituency duties. Muslims’ suspicions towards western education, however, cost them dearly as positions within the civil service were filled by national elites educated at missionary schools. The Muslim alternative of Madrasa saw the spiritual development of Muslims with their basic curriculum centered on literacy in Arabic, Islamic history, basic fiqh or jurisprudence. This system of education, though ensuring the spiritual

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69 Op Cit, Bakari, pp 239-240.
development of Muslims, did not prepare them to compete for positions in
government.

Under Moi, for the first time in Kenya’s two decades of independence, a
Muslim was appointed to a cabinet post. The appointment of Hussein Maalim
Mohamed in 1983 came against the backdrop of the 1982 abortive coup and the
role that his elder brother General Mohamud played in suppressing the coup. Under
Moi, religion became a factor in national politics, but much to his own advantage.
Through his personal example of weekly attendance of church, he brought religion
to the fore and religion (Christianity) took a more critical role in the development
policies and programs of the Kenyan state. In a political system plagued by
patronage and ethnic lobbying, the Moi regime alienated Muslims who were
marginalized by his politics of privileging both ethnicity and religion (Christianity).
Muslims expressed communal and regional frustrations at post-colonial politics that
favored, first the Kikuyu under Kenyatta and later the Kalenjin under Moi.

The representation of Muslims at the national assembly under Moi and Kibaki
administrations has also been an issue that Muslims have sought to be addressed.
Given that Members of Parliament (MPs) act as transmitters of constituency
problems and desires, and intercede with government on behalf of constituents,

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1 Mwakimako, H. 1992. *Muslim NGOs and Community Development: The Kenyan Experience* in Bakari, M and
   Publications. Mombasa.


4 Chande, A. 2008. *Muslim-State Relations in East Africa Under Conditions of Military and Civilian or One-Party
Muslim organizations in Kenya have articulated the need for more constituency seats for Muslims at NEP and Coast.

In a major report on inequalities in Kenya, Society for International Development (SID)\(^1\) notes that to the extent that an MP represents the views of people in his/her constituency and articulates their views in parliament, then there are wide disparities in representation in Kenya. While an MP from North Eastern represents a constituency with the average size of 11,648 Sq Km, his counterpart in Nairobi province represents a constituency with the average size of 87 Sq Km. The average size of a constituency in central is 456 Sq Km\(^6\). There are also discrepancies in terms of the number of people a Member of Parliament represents. Embakasi in Nairobi, which covers a total area of 208 Sq Km, and has a population of 434,884 is represented in parliament by one MP just like Lamu East in Coast which has a population of 16,794, spread over an area of 1,663 square kilometres\(^7\).


### Table 1: Representation in Parliament by Province

<table>
<thead>
<tr>
<th>Province</th>
<th>No. of Constituencies</th>
<th>Population per Constituency/MP</th>
<th>Average Size of constituencies (in Sq Kms)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nairobi</td>
<td>8</td>
<td>267,906</td>
<td>87</td>
</tr>
<tr>
<td>Central</td>
<td>29</td>
<td>128,419</td>
<td>456</td>
</tr>
<tr>
<td>Coast</td>
<td>21</td>
<td>118,441</td>
<td>3,944</td>
</tr>
<tr>
<td>Eastern</td>
<td>36</td>
<td>128,661</td>
<td>4,263</td>
</tr>
<tr>
<td>N.Eastern</td>
<td>11</td>
<td>87,468</td>
<td>11,648</td>
</tr>
<tr>
<td>Nyanza</td>
<td>32</td>
<td>137,256</td>
<td>392</td>
</tr>
<tr>
<td>Rift Valley</td>
<td>49</td>
<td>142,593</td>
<td>3,725</td>
</tr>
<tr>
<td>Western</td>
<td>24</td>
<td>139,949</td>
<td>344</td>
</tr>
<tr>
<td></td>
<td><strong>210</strong></td>
<td><strong>136,603</strong></td>
<td><strong>2,770.</strong></td>
</tr>
</tbody>
</table>

**Source:** Electoral Commission of Kenya, Population and Housing Census 1999.

The data presented in Table 1 above reveals that despite the geographical expanse of North Eastern Province (the average size of a constituency is 11,648 Square Kilometers), the province has the least (11) numbers of constituencies. Coast province, which happens to be the third largest province in terms of geographical size of constituencies, has 21 constituencies.

In the demarcation of parliamentary constituencies, the legal criteria underlie, *inter alia*, community interests, geographical expanse, population size, communication and geographical features. However, evidence shows that size of
population appears to have been the most dominant criteria for application. As shown in table 1 above, densely populated regions have more constituencies than the sparsely populated ones. This proves the dominance of the population criterion over geographical expanse in the demarcation of constituencies, a situation that has seriously disadvantaged Muslims in Kenya who are numerically small but occupy vast geographical space.

Discrimination and marginalization of Muslims is also common in political and administrative appointments. The Presidential Special Action Committee report on specific concerns of the Muslim community in regards to discrimination in the application of the law shows that there is inadequate representation of Muslims in public appointments and especially at decision making level. It also points to inadequate sometimes zero representation of Muslims in commissions and committees set up by government. The Kenya Law Reform Commission is a glaring example of a significant statutory body that has been without any Muslim representation at the commissioners’ level for a long period. After years of agitations and advocacy, Muslims are now represented by two commissioners, lawyers Mohammed Nyaoga and Ahmednasir Abdullahi, out of the eight commissioners.

The Presidential report also notes that in areas where Muslims are a minority, there exists no representation in decision making bodies at the local level. These include the Constituency Development Fund (CDF), District Development...
Committee (DDC), District Land Control Board (DLB), local authorities, bursary committees, School Management Committees, and Board of Governors et cetera.

The issue of a fair political representation in Kenya has been marred by the ethnicization of the economy and politics. In discussing the evolution of the Kenyan political system and its relation to inequalities in the composition of governance structures and institutions, Kanyinga\(^8\) observes that the ethnic elite consolidated political power by staffing governance institutions with elite from their own ethnic communities. They mobilise political support on ethnic basis and the notion of 'it is our turn to eat' has been the organising principle of national politics. He notes that as a result of ethnic-based politics, regions from which the governing elite came had better access to development resources than others. SUPEKEM\(^8\), NAMLEF\(^8\) and CIPK\(^8\) have been very prominent in articulating for improved Muslim representation, and in challenging the ethnic-based politics that denies minority groups such as Muslims access to development resources.

2.4: Economic Development

Another critical theme of Muslim advocacy has been the issue of economic development of Coast and North Eastern provinces. At independence, Kenya inherited a nation characterized by disparities in regional economic development, income distribution and economic well-being as measured by standard indicators.

such as life expectancy, infant and maternal mortality, and literacy levels among others.

The colonial mode of rule evolved inequalities along ethnic and regional lines with some groups having better access to opportunities. The colonial state deliberately attributed sectoral opportunities on the basis of stereotypes crafted to cement divisions between different groups.

The Kenyatta government articulated its commitment to address these disparities in the Sessional Paper No. 10 of 1965 on African Socialism and Its Application to Economic Planning in Kenya. The paper sought to ensure freedom from want, disease and exploitation. It sought to ensure equal opportunities for all citizens. In practice, however, the government did not pursue policies tailored to achieve equal opportunities for all regions of the republic. The paper advocated for the channeling of resources to areas of high returns in order to achieve rapid economic growth and in the hope that such growth will trickle down to the rest of society.

The Muslim-dominated regions of North-Eastern and Coast are the most under-developed regions of the country. An analysis of key development areas such as infrastructure, access to basic social services like education, health, water, electricity et cetera reveals the extent of under-development and marginalization.

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87 The dichotomy between high and low potential is contestable. In Kenya, this categorization presupposes that the former is better land than the latter and that there are no viable practices that can be based on arid and semi-arid regions of Kenya.
2.4.1: Infrastructural Development

Development is, to all intents and purposes, a measure of inclusion. Northern Kenya has the poorest infrastructure in the country. It is widely acknowledged that the development of physical infrastructure i.e. roads, railway, airports- plays a pivotal role in economic development of a country, particularly in the longer term. Inadequate existence of infrastructure has the effect of hampering the release of economic potential.

A key concern for Muslims in Kenya has been the lack of basic infrastructure, more so the road network in Northern Kenya. Despite forming about two thirds of the entire country, Northern Kenya is isolated from the rest of the country by its lack of tarmac roads. NEP, for instance, is entirely cut off from the rest of the country whenever there are heavy rains. As a result of the lack of tarmac roads and inadequate public transport, it is common for people of the region to hire a place on a truck transporting goods and livestock.

National Muslim Leaders Forum and Supreme Council of Kenya Muslims have articulated the need to tarmac the Garissa-Wajir-Mandera highway and the Isiolo-Moyale road that connects Kenya to landlocked Ethiopia. The development of such basic infrastructure will improve the socio-economic situation of the region and open up the vast and remote region to the rest of Kenya. The development of the Great North Road of Africa will greatly improve the flow of trade between Kenya and Ethiopia.

\[89\] Interview with SUPKEM Secretary General
2.4.2: Education

The role of education in the attainment of self-fulfilment and national development is acknowledged universally. The educational system of a nation is critical in defining and guiding its cultural, social, economic, and political dynamics. When well designed and effectively implemented, education has the capacity to bring about socio-economic equity in a society. Kenya upholds education as a fundamental human right and endeavours to address issues of access, equity, quality and relevance of education.

The acknowledgement and commitment notwithstanding, Muslims in Kenya are beset with a multitude of challenges with respect to accessing quality education. According to Sifuna, since independence in 1963, Northern Kenya has continued to exhibit extensively lower access, participation, completion and achievement rates.

To understand the trajectory of low educational standards of Muslims in Kenya, it is important to revisit the colonial period. Under colonial rule, western education was introduced by Christian missionaries with the ultimate aim of evangelization and proselytization. Maina observes that missionary education was by and large evangelical in nature, as was the case in the provision of medical services, where, missionaries preached to the people first before offering medical services. In agreement with Maina, Bakari contends that schools were used as conduits for evangelization and this had the impact of alienating Muslims by...
forcing them to adopt a negative attitude towards western education which was equated with Christianity.

Though the poor state of education among Muslims in Kenya has its genesis in colonialism, Muslims-dominated provinces of NEP and Coast still lag behind significantly in their access, participation, completion and achievement of education in post-independence Kenya. Statistics gathered by this study from the national examination council reveals a dismal picture of educational performance of NEP and Coast. The two provinces are perennial under-achievers, NEP being the worst of the two.

An analysis of the past KCSE examinations results reveals that the best KCSE pupil from NEP is below every other 100th candidate in the rest of the country. In other words, the best-ranked pupil from NEP cannot feature in the list of 100 best students of the other seven provinces in the republic as shown in the table below.

Table 2: Performance in 2009 KCSE Examination

<table>
<thead>
<tr>
<th>Province</th>
<th>Mark obtained by Top Pupil</th>
<th>Mark Obtained by the 100th Pupil</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nairobi</td>
<td>87.22</td>
<td>86.64</td>
</tr>
<tr>
<td>Rift Valley</td>
<td>87.19</td>
<td>86.63</td>
</tr>
<tr>
<td>Central</td>
<td>87.26</td>
<td>86.77</td>
</tr>
<tr>
<td>Western</td>
<td>87.16</td>
<td>79.43</td>
</tr>
<tr>
<td>Nyanza</td>
<td>87.25</td>
<td>86.47</td>
</tr>
<tr>
<td>Eastern</td>
<td>87.15</td>
<td>79.42</td>
</tr>
<tr>
<td>Coast</td>
<td>87.06</td>
<td>79.07</td>
</tr>
<tr>
<td>NEP</td>
<td>79.00</td>
<td>57.08</td>
</tr>
</tbody>
</table>

Source: Kenya National Examination Council, Order of Merit for the Year 2009 KCSE Examination
A study on the inequities in primary schools in Kenya undertaken by Bagaka⁹⁶ also reveals that the four districts of NEP namely Garissa, Wajir, Mandera and Ijara have the lowest KCPE performance rates in the country and are included in the 10 worst performing in the KCPE national examinations between the years 2001 to 2007.

The education system in Kenya is plagued by regional inequalities. Access to quality education depends on relative economic and political power. Amutabi contends that political interests tend to play a prominent role in educational decision making in Kenya to the extent that he concludes politics had either ‘derailed or “hijacked” the education system in Kenya’⁹⁵. In such context, politicians channel educational opportunities to regions with the requisite economic and political power. Thus instead of bringing about socio-economic equity, education continues to contribute towards magnifying the gap between the rich and the poor, and between regions.

The magnitude of the educational inequalities in Kenya is captured in a major report by Society for International Development (SID) and the Ministry of National Planning. The report acknowledges that there are wide disparities in education indicators across the provinces. In Central province, for instance, gross enrolment rates in primary school in 2000 was 106% compared to only 18% in North Eastern Province. What this means is that practically every child attends school in Central province while in NEP its one in every five that makes it to school. The corresponding figures for secondary education for the two regions are about 38% and 5%, respectively as shown in the table below.

Table 3: Gross enrolment in primary and secondary schools by province for the year 2000

<table>
<thead>
<tr>
<th>Province</th>
<th>Primary</th>
<th>Secondary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central</td>
<td>106</td>
<td>38</td>
</tr>
<tr>
<td>Eastern</td>
<td>97</td>
<td>23</td>
</tr>
<tr>
<td>Nyanza</td>
<td>94</td>
<td>94</td>
</tr>
<tr>
<td>Western</td>
<td>93</td>
<td>25</td>
</tr>
<tr>
<td>Rift Valley</td>
<td>88</td>
<td>18</td>
</tr>
<tr>
<td>Coast</td>
<td>72</td>
<td>14</td>
</tr>
<tr>
<td>Nairobi</td>
<td>52</td>
<td>12</td>
</tr>
<tr>
<td>N. Eastern</td>
<td>18</td>
<td>5</td>
</tr>
</tbody>
</table>


Table 4: Gross Enrollment in Primary, Secondary and Tertiary institutions for the year 2001.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>NBI</th>
<th>Central</th>
<th>Coast</th>
<th>RV</th>
<th>Nyanza</th>
<th>NEP</th>
<th>Western</th>
<th>Eastern</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enrollment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Primary</td>
<td>51.1</td>
<td>106.6</td>
<td>72.3</td>
<td>86.0</td>
<td>93.5</td>
<td>9.8</td>
<td>85.1</td>
<td>89.9</td>
</tr>
<tr>
<td>Secondary</td>
<td>25.8</td>
<td>31.1</td>
<td>17.0</td>
<td>21.5</td>
<td>31.4</td>
<td>4.8</td>
<td>28.0</td>
<td>13.3</td>
</tr>
<tr>
<td>Tertiary</td>
<td>5.1</td>
<td>4.8</td>
<td>3.2</td>
<td>3.9</td>
<td>4.9</td>
<td>1.3</td>
<td>4.7</td>
<td>4.4</td>
</tr>
<tr>
<td>Literacy Rates</td>
<td>82.2</td>
<td>83.9</td>
<td>62.8</td>
<td>72.6</td>
<td>70.9</td>
<td>64.2</td>
<td>74.6</td>
<td>66.5</td>
</tr>
</tbody>
</table>

Source: Ministry of Education, 2001
Literacy levels also indicate regional disparities. For instance, while 91.8% of the female in the Nairobi are literate, only 6.4% are literate in North Eastern Province. About 93% of women in North Eastern province have no education at all.\(^{97}\)

An analysis conducted by Kenya National Bureau of Statistics to map schooling levels of all persons aged 6 and above indicates that only 32.3% in NEP have ever enrolled in school against a national average of 76.8%. Furthermore, only 3% (and only 0.5% women) in NEP have attended secondary schools, against a national average of 8.7%.\(^{98}\) The population in NEP that has attended any post-secondary institutions stands at only 0.6%.\(^{99}\)

\(^{97}\) Op Cit, Society for International Development, pg 22.
Table 5: Districts with Lowest Number of Persons (age 6+) who ever Attended School

<table>
<thead>
<tr>
<th>District</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mandera</td>
<td>28.5</td>
<td>2</td>
<td>15.2</td>
</tr>
<tr>
<td>Turkana</td>
<td>26.6</td>
<td>6</td>
<td>16.3</td>
</tr>
<tr>
<td>Marsabit</td>
<td>20.5</td>
<td>14.6</td>
<td>17.6</td>
</tr>
<tr>
<td>Garissa</td>
<td>29.8</td>
<td>7.8</td>
<td>19.5</td>
</tr>
<tr>
<td>Wajir</td>
<td>35.5</td>
<td>7.1</td>
<td>21.2</td>
</tr>
<tr>
<td>Samburu</td>
<td>41</td>
<td>21.2</td>
<td>30.7</td>
</tr>
<tr>
<td>Tana River</td>
<td>38.5</td>
<td>23.4</td>
<td>30.8</td>
</tr>
<tr>
<td>Moyale</td>
<td>48.4</td>
<td>26</td>
<td>37.7</td>
</tr>
<tr>
<td>Isiolo</td>
<td>46.7</td>
<td>27.5</td>
<td>37.8</td>
</tr>
<tr>
<td>Average</td>
<td>35.1</td>
<td>15.1</td>
<td>25.3</td>
</tr>
<tr>
<td>National</td>
<td>82.5</td>
<td>71.2</td>
<td>76.8</td>
</tr>
</tbody>
</table>


Statistical analysis also reveals that Northern Kenya is the worst performing in all aspects of enrolment, retention, participation, completion and achievement.

While acknowledging that the educational system in place today doesn’t champion the cause of one religion at the expense of the other, Muslims religious organizations in Kenya have voiced their concern with regards to the poor state of education for Muslims in Kenya. Other issues of concern affecting the Muslim population in the education sector include registration of Islamic institutions of higher learning, the lack of a single national school in both NEP and Coast province, lack of university in both provinces, the use of Islamic attire (Hijab) for
Muslim female students\textsuperscript{100}, freedom of worship in schools and institutions of higher learning\textsuperscript{101}, teaching Muslim students Christian Religious Education (CRE), and inadequate Islamic Religious Education (IRE) teachers\textsuperscript{102}.

Apart from the disparities in political representation, economic development and access to quality education, a cursory examination of access to other social amenities like health facilities, access to water, electricity, also reveal the extent of marginalization and underdevelopment of Muslims in Kenya and the stark differences in development opportunities and outcomes between regions.

With reference to health indicators, statistics reveal that 20,000 people in Central province share one doctor, while in North Eastern Province one doctor is shared by 120,000 people\textsuperscript{103}. Statistics from the Kenya National Bureau of Statistics also reveal that 95% of children in NEP are born at home against a national average of 69.5%, and only 11.8% of infants in this province have an immunization cards against a national average of 63.7%\textsuperscript{104}. There are also wide disparities in terms of distribution of health facilities and personnel.

Differences in access to water and electricity are also stark. Only about 1% of households in North Eastern Province have piped water to their houses compared to about 12% in Central and 33% in Nairobi. More than 50% draw water from unprotected wells or hand-dug water catchments. Only 22% of women have access to reasonable near water supplies, while the rest have to walk long distances to

\textsuperscript{101} See Jamia Masjid Committee. 2007. Protest over Kenyatta University Order to stop Masjid construction. Friday Bulletin: The Weekly Muslim News Update, Issue No. 236. 02\textsuperscript{nd} November, pp 1-6.
\textsuperscript{103} Op Cit, Society for International Development, pg 25
fetch it\textsuperscript{105}. While there are wide disparities, it is imperative to acknowledge that on the overall water access is low in Kenya with only 7.6% of households having access to piped water\textsuperscript{106}. Electricity access, on the other hand, has a wide urban-rural gap in Kenya and besides, North Eastern Province is the only province in the country which is not linked on the national electricity supply grid\textsuperscript{107}.

In sum, the evidence gathered in the course of this study shows that NEP and Coast appear in general terms to be worse off in terms of access to basic services than other provinces. As observed by Kanyinga\textsuperscript{108}, given that these provinces are home to numerically insignificant ethnic groups, they lack adequate access to state power and resources and are more marginalised than those occupied by large groups. Their religious identity (the Islamic faith) only helps to complicate matters for them.

2.5: Islamic Family Law and Institution of Kadhi Courts

In articulating Muslim interest in Kenya, the themes of practising Islamic family law and protection of institutions of Kadhi’s courts in a Christian-dominated, multi-religious and a supposedly secular Kenyan state have been central to the advocacy campaigns of Muslim religious organizations.

The institutions of Kadhi courts have a long history in Kenya. Kadhi’s courts have been in existence for centuries under a comprehensive Islamic judicial system that was present along the East African coast. Prior to the entry of the British colonialists in the late 19\textsuperscript{th} Century, the ten-mile coastal strip was under the

\textsuperscript{106} Op Cit, Society for International Development and Ministry of Planning, pp 8-16.
\textsuperscript{107} Op Cit, Society for International Development and Ministry of Planning, pg 23.
\textsuperscript{108} Op Cit, Kanyinga, 2006, pp 365-368
jurisdiction of the Sultanate of Zanzibar. In 1895, the Sultan transferred his administration over the strip subject on condition that the Kadhi’s courts will remain in place.

During the Lancaster House Constitutional talks in 1961, the status and fate of the coastal strip came up for determination. A joint commission appointed by the British Government and Sultan of Zanzibar headed by James R Robertson recommended that the area be joined with Kenya subject to the Kenya Government guaranteeing to respect the existence of the Kadhis' Courts.

In a letter dated October 5, 1963, addressed to the Prime Minister of Zanzibar Muhammad Shamte, Jomo Kenyatta bound his government to respect this undertaking. The letter stated, in part, that “The Jurisdiction of Chief Kadhi and all other Kadhis will at all times be preserved and will extend to the determination of questions of Muslim law relating to personal status in proceedings in which all parties profess the Muslim faith”. Kenyatta dutifully respected this agreement and this was seen in the courts being enshrined in the 1963 independence constitution. Successive governments have also respected this agreement which saw the number of Kadhis rising from three at Independence to the current 17 Kadhis spread across the country.

The extent of the application of Islamic law has undergone changes in Kenya. Prior to 1923, the scope of Kadhi’s courts were not limited to civil matters (divorce, succession and marriage) but also adjudicated criminal cases. Islamic law of evidence, procedure and criminal were in force in their entirety among Muslims in the protectorate (the coast of Kenya) until 1923 when the British Subordinate Court Order and Zanzibar Courts decree were promulgated adversely reducing the extent of the application of the Sheria. However, during the same period the
application of Sheria law in the colony of Kenya (the interior) was limited to matters related to divorce, succession and marriage\textsuperscript{109}.

The Kadhi’s courts have played a significant role in safeguarding the interest of Muslims by adjudicating over personal matters such as marriage, divorce, inheritance for Muslims in a manner consistent with their faith. In the absence of a high court in NEP, and with only three subordinate courts that are 300 kilometres apart, the Kadhi’s court are central to the dispensation of justice in matters falling under their jurisdiction.

Independent Kenya adopted the 1920 ‘Muhammedan\textsuperscript{110} Marriage, Divorce and Succession Ordinance’ to form the current ‘Muhammedan Marriage, Divorce and Succession Act, CAP 156 of the Laws of Kenya’. This act governs Muslims in personal status law in relation to matters of marriage, divorce and succession. The Kadhi’s courts apply the Islamic law where all parties profess the Islamic faith. The constitution explicitly provides for the application of the Sheria in personal status law through section 66 (5).

The institution of Kadhi courts have not been without a challenge in independent Kenya. The first episode that caused concern among Muslims was the setting up of two related commissions in 1967, the first to be set up was the Succession Commission followed, in the span of two weeks, by the Commission on the Laws of Marriage, Divorce and Status of Women.

Chaired by Sir Humphrey Slade, a one-time speaker of the National Assembly, the Succession Commission was charged with the responsibility of reforming the

\textsuperscript{109} Op Cit, Mwangi, K. 1995, pp 252-255.

\textsuperscript{110} Muslims have voiced objections to the title of the Act, and have advocated for the use of the term ‘Islamic’ instead of ‘Muhammedan’. The term ‘Mohammedan’ is not acceptable to Muslims as it denotes worship of Prophet Muhammed (Peace Be Upon Him).
inheritance laws of Kenya and to bring Islamic law and other customary laws in line with English Common Law\textsuperscript{111}. It’s terms of reference were ‘to consider the existing laws on succession to property on death, the making and proving of wills, and to make recommendations for a new law providing a comprehensive and, so far as may be applicable, uniform code applicable to all persons in Kenya’\textsuperscript{112}.

The Commission on Laws of Marriage, Divorce and Status of Women was chaired by Justice Spry of the then Court of Appeal for Eastern Africa and was to ‘consider the existing laws relating to marriage, divorce, and matters relating thereto, and to make recommendations for a new law providing a comprehensive, so far as may be applicable, uniform law of marriage and divorce applicable to all persons in Kenya, which will replace the existing law on the subject comprising customary law, Islamic law, Hindu law and the relevant acts of parliament and to prepare a draft of the new law’\textsuperscript{113}.

The then Attorney General Charles Njonjo had argued that different statutes and laws made different provisions with regard to such matters as age requirement, the giving of consent, registration of marriages and the grounds for divorce. The existence within Kenya of a variety of marriage and succession laws, he contented, created numerous problems of conflict and administration\textsuperscript{114}.

Muslims took exceptions to attempts that tamper with what they considered divine law. Muslims had the support of the defenders of traditional African Customary Laws (a lobby from the University of Nairobi’s Law Faculty, led by Dr Ojwang and Dr Gibson Kamau Kuria advocated for African Customary Law) and

\textsuperscript{111} Op Cit, Bakari, 1995. pp 240-245.
\textsuperscript{113} Ibid, Commission on the Laws of Marriage and Succession in Kenya, pg 3.
\textsuperscript{114} Ibid, Commission on the Laws of Marriage and Succession in Kenya, pg 4.
followers of Hindu faith who were governed on matters of succession and marriage by the Hindu Succession Act and the Hindu Marriage and Divorce Act.

Writing in the Journal of African Law some thirty years after the publication of the two reports, Eugene Cotran¹¹⁵, who served as a member and secretary to both commissions, observes that there have been several attempts to introduce a bill drafted by the Marriage and Divorce Commission but all failed owing to opposition in parliament. Members of parliament have rejected on the basis that it was ‘un-African, copied from English Law, and takes no account of African customs and traditions’¹¹⁶. He also argues that attempts to introduce the bill drafted by the Succession Commission in parliament in 1970 also failed, principally due to Muslim opposition. It however passed in 1972, and was followed by a Muslim furore. After sending a series of delegation to the president, the Law of Succession was disapplied to Muslims in 1990 in relation to testate and intestate succession¹¹⁷. Even with its dis-application, Muslims have continued with their opposition and have suggested through such avenues as the Law Reform Commission of 1982, the reform of the Law of Succession Acts¹¹⁸.

On the question of uniformity of laws, Cotran observes that both commissions felt that they couldn’t at that stage of development in Kenya (1967) recommend a uniform act of national application to the exclusion of personal law (i.e. customary, Islamic and Hindu laws). What the commissions did instead was to recommend that the national act be uniform in matters considered to be of

¹¹⁷ Ibdi, Cotran, E. 1996. pp 194-204.
national importance e.g. for instance the recommendation that all forms of marriage - civil, customary or religious be registered and that marriage should be consensual and that there is a minimum age of 18 for men and 16 for women.

Cotran acknowledges that the reform of family law presented not merely technical problems but complex daunting obstacles in the form of deeply held religious beliefs and widely divergent views as to the proper course of social development combined with the great lack of specific knowledge about social patterns, emotional attitudes and other human factors.

Another source of challenge to the institution of Kadhi courts emanated from the constitution review process with a section of the Christian clergy advocating against its inclusion in a new constitutional dispensation. In the Bomas Constitutional Conference of 2004, evangelical groups were vocal in their campaigns against the Kadhi Courts' arguing that its inclusion amounts to discrimination in favour of Muslims as a religious community. Muslims on their part have argued that the courts have been operating in Kenya since independence and prior to it, and that they have not been an issue of concern to non-Muslims in the country. In addition, Muslims have argued that the courts serve a minority group of Kenyan taxpayers and that the courts fulfil a need that cannot be adequately addressed by the ordinary courts. While an understanding to retain the courts was reached at Bomas, the courts were downgraded and provided for within the rubric of religious courts in the final draft Constitution (Wako Draft) that was subjected to the 2005 referendum and which was ultimately rejected by Kenyans.

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119 Op Cit, Cotran, 1996, pg 194
Muslim religious organizations have vehemently advocated for the retention of the Kadhi's courts in the constitution, firm in the belief that once enshrined in the constitution, their abolishment would be no easy task. They have contended that if Kadhi's courts were to be established by an act of parliament, they would become vulnerable since any decision to abolish them would require a simple majority of the Members of Parliament (under the current standing orders, house quorum is 30, 16 MPs constitute a simple majority).

The constitution review process has itself been a source of immense interest for Muslim religious organizations as they sought to embed Muslim interest and concerns firmly in the drafting of a new constitution. Civil society organizations—Muslim organizations included—laboured to defend their collective gains. As observed by Mute\textsuperscript{121}, while the interest of the political elite is clear, what is not clear is whether the interest of the majority of Kenyans is properly defined. It is as a result of the need to clearly define and protect Muslim interest that Muslim organizations joined other civil society actors that represented diverse interest.

It has been observed by many analysts that the constitution-making process in Kenya has been captured by political elites whose political and capital bases demand the execution of self interest policies and legislations rather than ensuring the legislation of the wishes of the masses\textsuperscript{122}. In the Bomas Constitutional Conference of 2004-2005 for instance, MPs who were the largest block, used the conference as an alternative arena for their internecine wars whose origin was the pre-election Memorandum of Understanding (MOU) signed between Liberal

\textsuperscript{122} Ibid, Mute, L. 2007, pg 2.
Democratic Party (LDP) and National Alliance Party of Kenya (NAK). While LDP focused on using the review process to realise the pre-election power sharing pact, NAK was set on securing the narrow gains by not allowing encroachment on the powers of the presidency.

One of the common assumptions underlying the constitution-making process in Kenya has been the belief that the constitution is supposed to deliver Kenyans from their situations of want. Odhiambo argues that there is a sense in which Kenyans believe that a new constitution, apart from removing the structures of imperial presidency and providing a better human rights framework, will also solve their breed and butter problems.

Muslim religious organizations have viewed participation in the constitution-making process as central to the enhancement of Muslim welfare in Kenya. Apart from the protection of Kadhi’s courts, Muslims have sought for the recognition of minority rights, implementation of legal frameworks for the enhancement of human rights and furtherance of economic, and socio-cultural rights of Muslims.

2.6: Citizenship

The definition of the concept citizenship is a precarious one. It is a concept that is not subject to a single, universally acceptable definition. The concept has evolved with social, economic, and political developments. According to

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Idowu\textsuperscript{127}, citizenship consists of three essential and central propositions: the notion of individual and human rights, the idea of political participation and the principle of socio-economic welfare. Marshall defines citizenship as ‘a status bestowed on those who are full members of a community. All those who possess the status are equal with respect to the rights and duties with which the status is endowed’\textsuperscript{128}.

The term citizenship indicates different types of belonging to a political community and the rights that such belonging brings with it\textsuperscript{129}. Citizenship entails an identity and identity can be defined in multiple terms. It may be defined as a member of a nation-state, a member of an ethnic group, religion, or a member of a region within the state. Liberal definition of the term is centred on the legal conditions of belonging to a state and the rights and responsibilities of individuals. Within the wider non-liberal Western political philosophy, citizenship refers not only to a legal status but also a normative ideal that the governed should be full and equal participants in the political process\textsuperscript{130}. Critiquing the liberal view of citizenship whose focus is on rights, Mamdani argues that the crisis of democratic citizenship in Africa will not be solved by an exclusive rights-based discourse, but a form of citizenship that is capable of negotiating both rights and ethnic identities\textsuperscript{131}.

Adejumobi\textsuperscript{132} contends that the concept of citizenship is central to the idea of modern states. He observes that citizenship refers to the idea or the fact of

\textsuperscript{128} Ibid, Idowu, pp 81-82.
\textsuperscript{131} Ibid, Lieres-Von, pp 142-145.
belonging to a state and the institution of citizenship is that political artefact through which the state constitutes and perpetually reproduces itself as a form of social organization. It is the means through which the modern nation-state made of various nationalities seeks to forge a common identity and collective experience for its people.

In the context of Africa, the concept of national citizenship of equal rights, benefits and duties for all citizens has been attenuated or bifurcated, with the state sunk in a cesspool of inter-group struggles and conflicts over the distribution of public goods. The claims of marginalization, domination, and social injustice by groups and individuals are manifestations of a deep-seated problem of citizenship in different national contexts.

In Kenya, as in many other African countries, citizenship has developed in ways that reflect both the colonial heritage and the hasty transition to post-colonial state-society relations. As observed by Mamdani, the nature of the African state under colonial rule was Janus-faced, bifurcated. While urban power spoke the language of civil society and civil rights, in rural areas customary power claimed to protect custom, tradition and communal rights. The two forms of power existed under a single hegemonic authority. Colonialism created two categories of people in the public sphere: citizens and subjects or native and citizen. The natives or the colonised were subjects and therefore not entitled to citizenship rights and benefits.

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133 Ibid, Adejumobi, pg 78.
Colonial political structures and state formation witnessed no radical or qualitative transformation in the post-colonial era in most African states beyond the change of personnel. According to Mamdani\textsuperscript{136}, the state was de-racialised but not democratised. Rather than democratization, the state tended towards the institutionalization of ethnic entitlements, rights and privileges which created differentiated and unequal status of citizenship.

Given the colonial heritage and the lack of radical departure from the colonial political structures, the problems of unequal citizenship status and deprivation of rights and privileges of citizenship is deep-rooted in Kenya. Two trends have generally characterised citizenship in Kenya: The duality of citizenship that individuals hold in ethnic communities and in the nation-state, and the conflictive relations that the dual citizenship engenders, especially in the context of electoral politics\textsuperscript{137}. The dual citizenship differs in the balance of rights and obligations that each type grants the individual. While ethnic citizenship takes a civic-republican form that subordinates individual rights and demands activism in the public arena, the nation-state grants a liberal citizenship that emphasises individual rights and doesn’t or is unable to extract obligations\textsuperscript{138}.

The enjoyment of citizenship rights and privileges in the context of such duality has been a challenge especially for minority groups. Compounding the problem further is the identity of religion (Islam) for the Muslim minority in Kenya. Muslims have maintained that as a minority (in terms of both ethnic and religious identities), their enjoyment of the rights and privileges of citizenship have been

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\textsuperscript{136} Op Cit, Mamdani, 1996. pg 23
circumscribed through systematic state engineered policy of discrimination and are treated as second class citizens.

Bakari argues that as a result of the harassment and intimidation that Muslims face with respect to obtaining identification documents, Muslim politicians spend half their parliamentary lives getting identification papers for their constituents. National identity cards are critical to the process of applying for a Kenyan passport and in terms of accessing a wide range of opportunities including employment and educational. Muslim religious organizations such as SUPKEM, CIPK and NAMLEF have been prominent in pointing out the discriminations that Muslims face in accessing these vital documents, and in calling the authorities to put an end to official discrimination and segregation of Muslims.

2.7: Muslim Rights

Related to the concept of citizenship is the issue of human rights. The struggle for respect of human rights has been a key feature of the fight for constitutionalism in Kenya. The struggle for recognition of the centrality of human rights, and the implementation of legal frameworks for enhancement of human rights friendly legislation have all been important elements of the fight for constitutionalism.

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139 Op Cit, Bakari, 1995, pg 244
142 Op Cit, Mute, 2007, pg 53.
The protection and promotion of Muslim human rights in Kenya has been a central plank in the advocacy campaigns of Muslim religious organizations. Before the return to multi-party politics in 1992, state repression blocked the formation of civil society organizations. However with the switch to multi-party politics, there was a proliferation of civil society organizations including many advocacy groups. Press\textsuperscript{143} observes that with the onset of multi-party politics, individual activism gave way to organizational activism and civil society that had been hitherto weak became active.

An examination of the history of human rights for Muslims in Kenya reveals a bleak picture of systematic human rights violations, first under colonial rule and in successive post-independence governments. The promulgation of colonial rules like the Outlying District Ordinance, the Stock Theft and Produce Ordinance, the North Eastern Province Poll Tax, the Vagrancy Ordinance, and the Special Districts Administration Ordinance, had the impact of not only cutting off and isolating Muslims from the rest of the country, but also giving colonial administrators extensive powers of arrest, restraint, detention, and seizure of properties of tribes considered hostile. These legislations turned the Muslim region into an arena where violations of rights were perpetrated with impunity.

The situation in much of post-independence Kenya shows little if any significant improvements. Aukot\textsuperscript{144} notes that the Muslim-dominated region of Northern Kenya is a crucible of human rights violations. The application of the emergency laws, contained in North Eastern Province Contiguous Regulations of


1966, had serious implications for fundamental human rights and had created two separate legal systems, one applied exclusively to Northern Kenya and the other to the rest of the country\textsuperscript{145}. Security personnel breached every fundamental tenet of human rights, the Bill of Rights under the Kenyan constitution and international human rights and humanitarian law\textsuperscript{146}. Under these regulations, repealed in 1991, possession of firearm or harbouring someone with a firearm was punishable by death. The regulations gave enormous powers of search, arrest, restriction and detention to the members of the armed forces.

The net impact of the emergency laws was gross violation of human rights including mass murder. Some of the prominent examples include the Wagalla Massacre of February, 1984 in which the security forces launched an operation in Wajir targeting the Degodia sub-clan of the Somali. While official figures indicate 57 deaths, human right groups e.g. Truth Be Told (TBT) Network, Wajir Human Rights Network and others estimate that more than 3,000 people were rounded up and summarily executed after days of incarceration in the open fields of Wagalla airstrip. Other atrocities committed on a mass scale include the Bula Kartasi massacre of 1980, which followed the killings of six government officials in Garissa town, and the Malka-Mari massacre in Mandera. Cases of extra-judicial killings, rape, arbitrary arrest and detention without trial, and illegal confiscation and theft of properties are all too common human right violations perpetrated by the security forces in Northern Kenya.

The passing of the Indemnity Act in 1970, which completed the constitutional and legislative framework for the application of the emergency laws, had
contributed immensely to the culture of impunity and lack of respect for fundamental human rights as it indemnified government agents and members of the security forces working in the Northern region against claims on account of any loss or damage occasioned by their actions. It also continues to be an impediment to justice for victims of security forces’ brutality.\textsuperscript{147}

The human rights situation of Muslims in Kenya has worsened in the aftermath of United States’ declaration of the War on Terror. The Presidential Special Action Committee report observes that in the fight against terrorism, the country has witnessed a ‘persistent, deliberate and unwarranted erosion of fundamental human rights of the Muslim community that are guaranteed in the Kenyan constitution and international human rights instruments to which Kenya is a signatory\textsuperscript{148}. These instruments include International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the African Charter on Human and Peoples’ Rights.

The report argues that the Anti-Terror Police Unit (ATPU), a special division of Kenya Police Service formed in 2003, has been collaborating with foreign agents in subjecting Muslims to prolonged arbitrary confinements, custodial interrogation without access to lawyers or family members, detention without trial, torture and physical and mental abuse.

The heavy-handedness of ATPU in its security operations and raids of Muslim residences has been a common occurrence. Human right groups like Muslim Human

\textsuperscript{147} Op Cit, Hassan, A. 2008.
Rights Forum (MHRF) argue that the unit 'operates outside any identifiable parameters of law and its agents act with complete impunity'\textsuperscript{149}.

Rendition of terrorist suspects has also been one of the serious complaints of the Muslim community. Amnesty International defines rendition as 'a variety of practices by the U.S authorities involving transfer of individuals from one country to another without any form of judicial or administrative process e.g. extradition'\textsuperscript{150}. Critics define rendition as 'torture by proxy'. The Presidential Special Action Committee report notes that it has received credible evidence of the rendition of at least 19 Kenyans to Ethiopia, Somalia, and Guantanamo Bay, Cuba. The report also shows that about 80 people aboard chartered planes have been renditioned to Somalia's capital Mogadishu and the town of Baidoa.

The report also documents the utter disregard for \textit{Habeas Corpus} orders issued by the high court to ATPU. \textit{Habeas Corpus} is a legal procedure by which courts can inquire into any unlawful restrictions on the liberty of an individual, and if necessary, order the person in question to be produced in court or be set free\textsuperscript{151}. The report observes that of 34 \textit{Habeas Corpus} orders filled by Muslim Human Rights Forum and granted by the high court in Nairobi and Mombasa, the police\textsuperscript{152} defied the orders and only released two individuals and renditioned the rest to foreign jurisdictions\textsuperscript{153}.

In a report titled \textit{'Horn of Terror'}, MHRF chronicles a trail of arbitrary arrests, detention without trial, torture and illegal deportations of suspected

terrorists by ATPU and foreign agents. The report contends that the Kenyan
government is responsible for the human rights violations of terrorist suspects and
for the disregard of both national and international law. It also holds that the
government of the United States of America (USA), Ethiopia and the Transitional
Federal Government of Somalia culpable for violations of human and legal rights,
and for the illegal incarceration, torture and deportations of the suspects.

The rendition of terrorist suspects constitutes a violation by Kenya of its
obligations under International Covenant on Civil and Political Rights which in
Article 2 (1) states that ‘Each party to the present covenant undertakes to respect
and ensure that all individuals within its territory and subject to its jurisdiction
that their rights are recognised without distinction of any kind such as race,
colour, sex, language, religion, political or other opinion, national or social origin,
property, birth or other status’.

The findings of MHRF are corroborated by the other human right groups such
as REDRESS and REPRIEVE, and Amnesty International. In a major report on the
impact of anti-terrorism operations on human rights in Kenya, Amnesty
International argues that the Kenyan authorities have failed to act in compliance
with international human rights laws and standards and the Kenyan law in their
counter-terrorism operations. It argues that the failure to respect the rule of
law and to comply with international human right standards is evident on the
numerous reports of ‘incommunicado detention, detention without charge,

torture, cruel, inhuman or degrading treatment or punishment and harassment of family members and relatives of those suspected of terrorism.\textsuperscript{157}

Amnesty International contends that anti-terrorism measures in Kenya have generated fears among certain communities, especially those in the coast, in view of the arbitrary arrests and detentions. It also observes that there is a ‘disturbing level of secrecy surrounding the arrests and detention of those suspected of terrorism’.\textsuperscript{158} The lack of information and secrecy surrounding detentions have prevented detainees from being able to challenge the lawfulness of their arrest.

In ‘Kenya and Counter-Terrorism: A Time for Change’, REDRESS and REPRIEVE, two British human rights organizations, conclude that ‘arbitrary detentions in Kenya and transfers to Somalia, Ethiopia and Guantanamo Bay violate a range of Kenya’s obligation under international law including the absolute prohibition of torture and other cruel, inhuman or degrading treatment, the absolute principle of non-refoulement, the absolute prohibition of enforced disappearance, the right to liberty and security of the person, the right to consular access and the right to due process’.\textsuperscript{159} The report further observes that Kenya continues to fail to meet its obligation to conduct a full, independent and impartial investigation capable of identifying and punishing those responsible for the detentions and renditions, to provide an effective remedy and full and adequate reparation to those released, and to reform its law and practice to ensure that similar detentions and removals do not take place in the future.

\textsuperscript{157} Op Cit, Amnesty International. 2005, pg 2.
\textsuperscript{159} REDRESS and REPRIEVE. 2009. Kenya and Counter-Terrorism: A Time for Change, pg 1.
Muslim Human Rights Forum (MHRF)\textsuperscript{160} and National Muslim Leaders Forum (NAMLEF)\textsuperscript{161} have been the most prominent Muslim organizations in articulating Muslim rights issues and in the struggle for the protection and promotion of Muslim rights in Kenya which continues to be a key challenge. The predicament of marginality is not only affecting the Muslim minority, but also has adverse implications for other minority groups in the country, whose rights have been violated right from definitional questions of who constitutes a minority, to a violation of their basic human rights either through omission or commission\textsuperscript{162}.

2.8: Conclusion

In examining the various themes of Muslim advocacy in Kenya, discrimination, both \textit{de jure} and \textit{de facto}, and marginalization within the nation-state by successive post-independence governments against the Muslim minority is evident. It is this that has informed the agenda of Muslim religious organizations in presenting Muslim concerns and grievances to policy makers, and in championing for improved economic development, equitable political representation, increased access to social service delivery, and improved protection of Muslim rights.

Having highlighted the various themes of Muslim advocacy, this study now turns to the modes and mechanisms employed by Muslim religious organizations for purposes of interest articulation.


\textsuperscript{162} Op Cit, Oloo, A. pp 180-181.
CHAPTER 3: MODES AND MECHANISMS OF INTEREST ARTICULATION

3.1: Introduction

This chapter examines the modes and mechanisms employed by Muslim religious organizations in the articulation of Muslim interest in Kenya and the extent to which they are peaceful and consistent with democratic norms and ideals. It evaluates the impact and efficacy of their interest articulation and looks at the role of Islam globally and the extent to which it informs the agenda of Muslim faith-based organizations in as far as interest articulation is concerned.

It is argued that while the mechanisms of interest articulation are by and large peaceful and consistent with democratic norms and ideals, Muslim religious organizations lack the requisite human and financial resources, sophistication and systematic organization that are the essential ingredients for effective interest articulation. An overview of their advocacy strategies and tools reveals that their capacity is at best rudimentary and their comprehension of the art of interest articulation is elementary.

There are two broad approaches that are used in the articulation of interest by Muslims namely collaborative and confrontational approaches. Collaborative approaches take the form of cooperation, negotiation, persuasion, information sharing and joint action, while confrontational approaches to interest articulation can take the form of demonstrations, riot, boycotts and hunger strikes. The confrontational approach, and the tools associated with it, is usually considered as the last option of advocacy.

Muslim public advocacy initiatives in Kenya have used various tools to mobilise public support and influence policy makers. Common tools of faith-based
Muslim organizations include the use of the mass media, the judiciary and litigation, lobbying, awareness campaigns, and mass mobilisation of Muslims for demonstrations. The use of these tools involve specific processes, conditions of use, and strategy which any advocacy initiator must be familiar with a view to maximising on the intended impact

While Muslim means of interest articulation seldom employs high tech tools e.g. the net, their means of advocacy have largely been peaceful save for the activities of Somali-speaking Muslim irredentist in the early sixties, the violent clashes in Mombasa and Lamu in the early nineties that followed the aftermath of the creation of the Islamic party of Kenya (IPK), and against the backdrop of deteriorating socio-economic conditions. It is observed by Twaddle, Throup and Benson that the principal forms of politico-religious conflict in Kenya have concerned Christians rather than Muslims.

The analysis of the role and influence of any advocacy organization has to contend with methodological challenges and abstract debates detached from strong empirical research. The lack of systematic data, the challenge of conceptualising influence and accounting for additional explanatory factors and rival theories are challenges that hamper the assessment of the influence and impact of advocacy organizations.

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3.2: Assessing the impact of Muslim Interest Articulation

In assessing the impact and effectiveness of the interest articulation by Muslim religious organizations, this study examines three key areas namely their involvement in national agenda setting processes, their access to decision making arenas, and their achievement of favourable legislations and policies for Muslims in Kenya. While the achievement of favourable legislations and policies is the most visible indicator of impact, advocacy analysts observe that involvement in agenda setting and access to decision making arenas are critical in achieving the desired outcome.

3.2.1: Involvement in National Agenda Setting Processes

Muslim religious organizations enjoy a visible presence in the agenda setting processes especially when issues of importance to Muslims are been debated. Through educational campaigns, lobbying of decision makers, raising awareness and use of disruptive tactics like demonstrations; Muslim religious organizations create urgency around issues of concern to Muslims. In agenda setting, the mass media is an important institution that shapes agenda setting processes. Professionally run advocacy groups seek to influence policy discussions by ensuring adequate and positive media coverage for their position and strive to win public opinion.

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166 See Andrews and Edwards, 2004 (pp 492-495) for the strongest basis for examining the influence and impact of advocacy organizations.
While voicing concerns over the negative portrayal of Muslims by the media\textsuperscript{171}, it is nonetheless common place to see Muslim religious organizations placing a paid-up advertisement stating their position on important matters concerning Muslims for instance on constitutional review\textsuperscript{172}, proposed legislations such as the Suppression of Terrorism Bill (2003)\textsuperscript{173}, and the Marriage Bill (2007)\textsuperscript{174} which Muslims were vehemently opposed to. On constitutional review, for instance, SUPKEM, NAMLEF and CIPK leaders, together with Muslim MPs, presented Muslim position and endorsed the passage of the draft constitution on account of its strength especially on representation, bills of rights and Kadhi Courts\textsuperscript{175}.

On the marriage bill, Muslim’s opposition was also articulated through the media, with SUPKEM presenting a memorandum to the Kenya Law Reform Commission outlining Muslim’s views and recommendations\textsuperscript{176}. SUPKEM strongly opposed the marriage bill arguing that it interfered with Muslims’ freedom of worship as entrenched in the constitution. It also pointed out various discrepancies


in the marriage bill, which among other issues, sought to introduce Christian marriage concepts to be used by all Kenyans regardless of their religious affiliations. These included the introduction of marriage notice (banns) and the proposal that marriages be conducted by ministers.

With respect to the Suppression of Terrorism Bill (2003), Muslims argue that the draft bill discriminates against them and will erode their fundamental rights if passed. Leading the campaign against the bill, SUPKEM and MHRF threatened to mobilise Kenyans to hold peaceful demonstrations against the bill and accused the government of targeting the Muslims for harassment, and illegal arrests and detention.

3.2.2: Access to Decision-Making Arenas

An assessment of the impact of Muslim religious organizations' interest articulation can also be done by looking at the access they enjoy to decision-making arenas. It is observed that direct participation in decision making arenas indicates a level of legitimacy and recognition. Muslim religious organizations participate in the national political arena and in forums organised by the civil society where issues of national significance are discussed. Supreme Council of Kenya Muslims happens to be the only Muslim organization that enjoys direct representation in important local decision making arenas like in District Development Committees. Their participation in such forums is however limited.

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181 Interview with SUPKEM Official, Nairobi.
to districts that are overwhelmingly Muslim. Such representation is an indication of the acceptance of the legitimacy of SUPKEM by decision makers.

The nomination of Sheikh Mohammed Dor, who is the Secretary General of the Council of Imams and Preachers of Kenya (CIPK), and also the Imam of Mbaruk Mosque in Mombasa, to an important legislation-making arena (the National Assembly) can also be seen as an important milestone in the recognition of the role of Muslim religious organizations and in the furtherance of Muslim concerns in Kenya\textsuperscript{182}. While his nomination by Orange Democratic Movement (ODM) was not a constitutional requirement, Sheikh Mohamed Dor’s, together with Sophia Abdi, the Executive Director of Womankind Kenya, a Garissa-based non-governmental organization, ‘entry to parliament was part of the implementation of a Memorandum of Understanding reached between ODM and NAMLEF, which among other provisions, promised to give Muslims an equitable representations in appointments’\textsuperscript{183}. The sheikh has been prominent in voicing Muslim concerns and grievances and has set up complaint desk to attend to Muslim grievances\textsuperscript{184}. Sheikh Dor has been vocal in presenting Muslim leaders support for the draft constitution\textsuperscript{185}, in the fight for Muslim rights in light of the war against terrorism\textsuperscript{186} and has been vocal in the war against the drug menace at the Coast province\textsuperscript{187}.

\textsuperscript{182} Interview with CIPK National Coordinator in Mombasa. Also See Peter Mwai. 2010. Muslim Leaders Say ‘Yes’ to Draft Law’. [Online]. Daily Nation. 10\textsuperscript{th} April. Available at: http://allafrica.com/stories/201004120276.html. Accessed Date: 10\textsuperscript{th} July, 2010 (Sheikh Dor presents Muslim leaders views in supporting the draft constitution).


\textsuperscript{185} Op Cit, Mwai. 2010.

3.2.3: Achievement of Favourable Legislations and Policies

The most visible indicator of impact is the achievement of landmark legislations and favourable policies\textsuperscript{188}. Muslim religious organizations lay claim to the attainment or rejection of a wide range of policies and legislations that directly concern Muslim interest in Kenya. These include the rejection of the Marriage Bill\textsuperscript{189}, the rejection of the Suppression of Terrorism Bill\textsuperscript{190}, the attainment of improved representation for Muslims in the tenth parliament\textsuperscript{191}, and nomination of one of their colleague Sheikh Mohamed Dor to the parliament.

On human rights front, for instance, Muslim religious organizations point to the role they have played in the rejection of the Suppression of Terrorism Bill which they saw as having the potential for eroding human rights gains of the Muslim community in Kenya\textsuperscript{192}. They, also point to their advocacy for the establishment of a credible Truth, Justice and Reconciliation Commission that can address the past historical injustices perpetrated against the Muslim ummah, chief among them the Wagalla massacre of February 1984\textsuperscript{193}.

Muslim religious organizations have also advocated for the repeal of the Indemnity Act of 1970 which had contributed immensely to the culture of impunity.


\textsuperscript{188} Op Cit, Andrews and Edwards, pg 499.


\textsuperscript{190} Op Cit, Nation Correspondent. 2003. Pressure Mounts on Anti-Terror Bill. (Online). Daily Nation. 4\textsuperscript{th} July.

\textsuperscript{191} The number of Muslim MPs in parliament now stands at record 33.


\textsuperscript{193} Interview with MHRF Official, Nairobi.
and lack of respect for human rights\textsuperscript{194}. This act is however yet to be repealed. The act gives blanket immunity to government agents and members of the security forces that worked in the Northern region against claims on account of any loss or damage occasioned by their actions.

With regards to matters constitutional, Muslim religious organizations such as National Muslim Leaders Forum (NAMLEF) emphasize the role they have played in mobilising the Muslim vote in the rejection of the proposed constitution that was put to the referendum in 2005 and which was ultimately rejected by Kenyans\textsuperscript{195}. One of the grounds for the mobilization of the Muslim community in rejecting the proposed constitution was the manner in which Kadhi’s courts was handled. The Kadhi courts did not enjoy adequate constitutional protection and were subsumed under the rubric of religious courts.

Muslim religious organizations also point to the establishment of the Ministry of State for Northern and Arid Lands Development as a recognition of the marginalization of Muslims of Northern Kenya. The establishment of a ministry to coordinate and act as a focal point for government efforts in alleviating the predicament of marginality and its attendant underdevelopment is seen as being, in part, a positive impact of Muslim advocacy for greater governmental concern for the welfare of the Muslim citizen. Established in April 2008, the Ministry is mandated to play a key role in the overall strategic planning and implementation


\textsuperscript{195} Interview with NAMLEF National Coordinator, Nairobi. Also see NAMLEF. 2008. NAMLEF Constitutional Review (Online). Available at: www.namlef.org/operations. Accessed Date: 11th March, 2009, for NAMLEF’s involvement in constitutional review and the 2005 constitutional referendum.
of socio-economic development of the region, key among them infrastructural development, livestock development, water supply, mineral resources exploration and development\textsuperscript{196}.

Despite limited budgetary allocations\textsuperscript{197}, the Ministry is implementing a number of projects including Wajir, Marsabit and Maralal Water Supply projects, Wajir Sewerage Project, Arid Lands Resource Management Project, Mobile Schools Project in Isiolo and Moyale and Hunger Safety Net project. The Ministry spends about Ksh 237 million annually in capacity building of local communities in Arid and Semi-Arid lands (ASAL)\textsuperscript{198}. To ensure effective discharge of its mandate, the Ministry is also in the process of establishing a number of institutions key among them Drought Management Authority (DMA) and National Drought Contingency Fund, Livestock Marketing Board, National Commission on Nomadic Education, Northern Kenya Medication Trust, and Northern Kenya Investment Fund\textsuperscript{199}.

On citizenship, Muslim religious organizations such as SUPKEM, NAMLEF and CIPK\textsuperscript{200} have sought to improve access to identification and travel papers for Muslims without having to fulfil special demands and conditions\textsuperscript{201}. Evidence gathered through this study reveals systematic discrimination against Muslims in the issuance of birth and death certificates, national identity cards and passports.

\textsuperscript{197} The ministry was allocated Ksh. 2.62 billion in 2008/2009 financial year, Ksh 3 billion in 2009/2010 financial year, and Ksh. 3.09 billion for 2010/2011 financial year.
\textsuperscript{199} Interview with Ministry Official, Bazaar Building.
\textsuperscript{201} See NAMLEF’s citizenship advocacy program whose aims are to promote public participation, monitoring and evaluation of governance and social service delivery processes at www.namlef.org/content/view.
It is a cumbersome process for Muslims to acquire birth certificates, identity cards, or passports as they are required to produce additional documents which are not asked for from Kenyans of other religions. Hitherto, for a Kenyan Somali to get a national identity card, one had to produce a Certificate of Verification (Kenyan Somali Registration- Pink Card) issued by the Special Kenyan-Somali Registration Unit. In the event of a loss of identity card or expiry of passport, the Certificate of Verification, also referred to as the screening card, had to be produced before a replacement was issued.

For the issuance of passports, additional documents required of Muslims include birth/death certificates of grandparents, birth/death certificates of their parents, and must also be interviewed to assess their claim to citizenship. Passports issued to Muslims intending to perform Hajj were hitherto limited to one year and could only be used to travel to Middle-East countries. This was in sharp contrast to passports issued to other Kenyans of other faiths that were valid for five years and could be used to travel to any country in the world. Other discriminatory practices include scrutiny of identification cards of persons with Muslim surnames. Kenyans of Somali origin, for instance, travelling from Northern Kenya are required to produce their identification cards for scrutiny at various police checkpoints before entering what the locals refer to as ‘Down Kenya’. At the Tana River bridge in Garissa, for instance, all passengers are ordered by the police to disembark from buses in a single file and produce their identity cards. It is at this bridge where one is presumed to be crossing into Kenya.


Persons travelling from NEP are required to produce their IDs at no less than four police checkpoints scattered between Garissa and Mwingi towns. ‘Down Kenya’ to the inhabitants of NEP refers to the rest of Kenya with the exclusion of NEP.
This has reinforced a sense of 'otherness' and discrimination against peoples of Northern Kenya. The use of pejorative terms like 'Waria', 'Refugee' have also been devised to underscore the 'otherness' of peoples of Northern Kenya.

On the citizenship front, the advocacies of Muslim religious organizations have resulted in the establishment of a Hajj Desk to fast track and hasten the issuance of passports to Muslims intending to perform the Hajj pilgrimage. While the screening of Muslims and the interviewing process is still intact, the lifting of restrictions on Muslim passports that were hitherto limited to Middle Eastern states and the issuance of a passport with a validity of ten years period is a positive development for the Muslim citizen that comes in the wake of years of agitation and advocacy.

On the issuance of national identity cards, governmental policy of stringent vetting process imposed on the Muslim community continues to be in place with CIPK and other Muslim religious organizations and Muslim MPs calling for the abolishment of vetting on the basis of ethnicity and religion, and the adoption of uniform and friendly registration process.

On the theme of education, the establishment of private secondary schools owned by Muslims such as Sheikh Khalifa Bin Zayed An-Nahyan Technical and High School, Abu Hureira Academy, WAMY High School, Darul Ulum School and Young

204 At the height of 2005 referendum campaign, the then Justice and Constitutional Affairs Minister Martha Karua was quoted referring to people of NEP as 'refugees', to whom they (The Banana team - proponents of 2005 proposed constitution) could not sell the ideas of Banana.
Muslim High School have contributed to the improvement of the educational standards among Muslims. Sheikh Khalifa, for instance, was the fifth best school in the private school category in 2007 Kenya Certificate of Secondary Education (KCSE) examinations, Abu Hureira Academy was the best in Coast province in 2005 secondary exams,\textsuperscript{207} while Young Muslim High School was the second best school in the district category in the 2007 KCSE examinations\textsuperscript{208}. Despite progress being made, Muslim underperformance continues to be a perennial problem while the advocacy for more educational resources and facilities is being waged by advocates of Muslim interest in Kenya, including Muslim religious organizations.

3.2.4: Levels of Institutionalization and its Implications for Interest Articulation

Impacting on how Muslim religious organizations influence decision makers and their achievement of favourable outcomes for Muslims is their core characteristics and their extent of institutionalization. Of significance here is the nature of organizational leadership, quality of human resource, membership and participation, and organizational resources\textsuperscript{209}. Leadership is relevant in ensuring effectiveness in organizations and in managing change. Effective leadership concerns itself with setting direction, building commitment and creating alignment\textsuperscript{210}.

\textsuperscript{207} Jamia Masjid Committee. 2007. \textit{KCSE: Muslim Schools Shine}. Friday Bulletin: The Weekly Muslim News Update. Issue No. 201. 02\textsuperscript{nd} March, pg 1.


\textsuperscript{209} Op Cit, Andrews and Edwards, pg 487.

The nature of the leadership of Muslim religious organizations has been scrutinised by many scholars. It has been observed by Mwakimako\textsuperscript{211} that in the absence of effective and selfless leadership, organizations become instruments for individual prestige and power, leading to failure in the performance of their statutory duties. The institutionalist approach contends that established rules, norms and behaviours offer authoritative guidelines for organizations, its leadership included, in the conduct of their affairs\textsuperscript{212}.

The leadership of Muslim religious organizations, in particular SUPKEM has been dominated for a long time by cabinet ministers and senior civil servants. The late Ahmed Khalif and Ahmed Abdalla - the first Muslim permanent secretary in the Kenyatta government, and later a long serving deputy governor of Central bank - are some of the prominent examples of leaders who served SUPKEM. Such leadership has often been unable to articulate the needs, aspirations and grievances of Muslims for fear of prejudicing their positions within the political and civil establishments\textsuperscript{213}. The domination of the leadership of SUPKEM by senior government officials until recently has reinforced the perception that the creation of national Muslim organizations is part of a general policy of social control initiated by government and that these organizations serve as useful tools for controlling Muslims given the absence of hierarchical power in Islam\textsuperscript{214}.

\textsuperscript{211} Op Cit, Mwakimako, 1995, pp 225 – 228.
\textsuperscript{213} Op Cit, Mwakimako, 1995, pg 225.
In analysing the structure of leadership in Muslim organizations, Mwakimako\textsuperscript{216} observes that the leadership of most Muslim organizations revolves around an inner circle of friends and where elections are held they are used as a camouflage to avoid criticism. He also adds that they are mostly run and managed single-handedly. Extended leadership, which is common in faith-based Muslim organizations, has always led to patronage and lack of adherence to organizational rules and formal procedures\textsuperscript{216}. The prevalence of such extended leadership is thus one of the factors that explains the low levels of institutionalization of faith-based Muslim organizations.

Relevant to the discussion on the levels of institutionalization of Muslim religious organizations is the extent of the development of their staff and their academic and professional qualifications. An analysis of the responses from the primary sources reveals low levels of qualifications and a mundane understanding of the art of interest articulation. Corroborating this is the argument by Mwakimako that ‘an analysis of the officers of most religious organizations (in Kenya) may lead one to believe that Islam does not have respect for training and expertise\textsuperscript{217}. What is given prominence is what he refers to as the ‘phenomena of Sheikhism’ i.e. religious sincerity and piety.

Organizational membership and resources are critical elements in examining the level of institutionalization of an organization. Studies on membership among interest articulation groups focus on motivations for participation and influence of
organizational incentives on recruitment and retention of members. There is a range of membership strategies used by interest articulation groups for instance individual membership, organizational membership or a mix of both.

In the context of Muslim religious organizations in Kenya, both strategies are employed. SUPKEM, for instance, has corporate membership while NAMLEF draws its membership from individual Muslim leaders. What is significant in the membership issue is that an organization should enjoy broad-based support from its members and creates channels of participation through which the membership can evaluate the performance of officials. Given the oligarchic nature of the leadership of Muslim organizations, the degree of formal influence of members is limited.

Muslim religious organizations, like other faith-based and secular organizations operate in an environment of resource shortage. While acknowledging that resource availability does not necessarily enhance collective action and the attainment of desired goals, Andrew and Edwards argue that the availability of financial and human resources is crucial in organizational maintenance and career development of personnel. Muslim religious organizations lack the requisite resources for doing effective interest articulation and service delivery functions. The scarcity of resources has meant that their capacity for attracting qualified professionals is limited, instead relying on personnel with limited education and expertise, most of whom, they argue, work as volunteers.

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219 Op Cit, Andrews and Edwards, pp 489
Given the centrality of resources for organizational maintenance and effectiveness, Muslim religious organizations often rely on two principal means of gaining access to resources: lobbying for governmental projects and funding, and seeking partnerships with Islamic governments and Islamic international charity organizations. Reliance on governmental sources of funding has raised vital questions of patronage, co-option and control, and the neutralization of Muslim religious organizations as an independent powerbase; while dependence on Islamic governments and organizations raises concerns about the relevance of their development projects and programmes as well as their advocacy themes.

3.2.5: Muslim Religious Organizations and the Middle East World: The Connection

It is on the partnership between Muslim religious organizations in Kenya and Islamic governments and Islamic international charity organizations that the role of the Islamic faith and the international link with the Middle Eastern world becomes evident. The involvement of Islamic governments and organizations in the affairs of Muslim religious organizations is most visible in the channelling of Arab financial aid to development and humanitarian undertakings of Muslim religious organizations.

Prior to the 1998 terrorist bombings of Nairobi and Dar es Salaam, there was a wide range of involvement of Islamic international organizations like Al-Haramain Foundation, Mercy Relief International, Help African People; International Islamic Relief Organization, and Ibrahim Bin Aba Al-Aziz Foundation. These organizations, which have been banned in the aftermath of the 1998 bombing to the chagrin of
the Muslim ummah, have been instrumental in the establishment and sponsorship of educational and care centres in Muslim areas. Their contribution was also visible at times of drought and famine in North Eastern Province where the distribution of food donations from the Arab world was a common occurrence.

Apart from their contribution to development and humanitarian spheres, these organizations, through their close partnerships with Muslim religious organizations, have also served as instruments for propagating Islamic teachings and Arab influence. The most visible indicator of this has been the number of u’lama (Islamic scholars) that have completed their religious studies at leading Islamic institutions like Al-Azhar and Madina universities, in Egypt and Saudi Arabia respectively.

These U’lama have returned to Kenya and have come to play an important role in furthering the teachings of Islam and in shaping the destiny of the Muslim community. A number of scholars (Bakari and Yahya (1995), Mwakimako (1995), Hunwick (1996) and Chande220 (2008) have observed and acknowledged the role of the new U’lama in accounting for the increased activism of Muslims in Kenya and elsewhere in sub-Sahara Africa221. Unlike the traditional u’lama, the new breed of U’lama, educated mostly through scholarships offered by Islamic governments and Islamic institutions, focus on the socio-economic conditions of Muslims in their sermons, much as they engage in the spiritual development of the Muslim community. It has also been observed that the new U’lama have a more pan-

\[\text{footnote}{220} \text{Op Cit, Chande, 2008, pg 97.} \]
Islamic or global outlook to Islam than traditional U’lama. Their global outlook has meant heightened awareness on the part of Muslims in Kenya with regards to happenings elsewhere in the Muslim world, and in particular the Middle East. Muslims’ reaction to the Middle East conflict has been, in part, informed by their Islamic faith and their identification with fellow coreligionists in those parts of the world.

Through their funding, Islamic governments and international organizations exercise considerable influence over Muslim religious organizations engaged both in Muslim advocacy and in the provision of education, health, water and other socio-economic services. It has been argued that the bulk of development assistance channelled through Muslim religious organizations by Arab governments and institutions have focused on the spiritual needs of the Ummah e.g. the building of Mosques and Madrasas. Development programmes and projects undertaken by Muslim organizations until very recently viewed development as the promotion of spiritual needs of Muslims. The emphasis on spiritual needs has resulted in a situation in which the material needs of the Ummah are neglected because of the influence of the donor.

In addition, the receipt of financial aid from rich Muslim countries has created dependence which is detrimental to the long term effectiveness of Muslim religious organizations in their articulation of Muslim interest in Kenya. Given the dependence syndrome, it has also been argued that Muslim religious organizations

222 Op Cit, Chande, 2008, pg 98.
ignore the potential that exists locally, and are unable to deal with donor
arrogance\textsuperscript{225}.

The involvement of Islamic charity organizations in Muslim development
activities in Kenya has been negatively affected by the events of August 1998
terrorist bombings of U.S embassies in Nairobi and Dar es Salaam. A number of
international Islamic organizations like Al-Haramain Foundation have been banned
in the aftermath of the bombing of U.S embassy in Kenya. The September eleven
2001 bombing of U.S and the war on terror campaigns which has followed brought
the activities of international and local Muslim organizations under sharp scrutiny
with suspicion of involvement in terrorism activities.

The subject terrorism and conceptions of its definition has been a subject of
immense debate among scholars. The principal view of terrorism in the Western
world has been informed by the mainstream/standard perspective. Scholars under
this perspective (White and Hellerich 2003, Walter Laqueur 1987, cited in Butko
2009) focus on personalities and deviants who are driven to inhuman actions. The
U.S. Department of State defines terrorism to be ‘premeditated politically-
motivated violence perpetrated against non-combatant targets by sub-national
groups or clandestine agents, usually intended to influence an audience’\textsuperscript{226}. In its
2010 National Security Strategy, the U.S argues that it is ‘waging a global war, not
against a tactic or a religion (Islam) but against Al Qaida and its affiliates with a
view to disrupting, dismantling and defeating Al Qaida and its affiliates\textsuperscript{227}.

\textsuperscript{225} Op Cit, Mwakimako, 1995, pp 229-230.
Accessed at 05-03-2011.
Butko\textsuperscript{228} observes that the principal view of terrorism in the United States, and the Western World in general, does not explain what motivates certain actors or the socio-economic roots of terrorism, but seeks to ‘project a stereotyped image of evil religious fanatics violently lashing out at a passive, sleeping giant of a democratic power’\textsuperscript{229}.

The radical perspective on terrorism represented by Noam Chomsky (2003) and Carl Boggs (2002) posit that while the events of 9/11 are tragic and unfortunate, the United States has been and remains the most prominent terrorist state in the world. Chomsky\textsuperscript{230} argues that if terrorism is defined as the killing of unarmed civilians, no any other country has as much innocent blood on its hands as the U.S. The radicals contend that the media, the politician and the ordinary citizen and vast majority of intellectuals are more consumed with moral outrage than with a search for explanations that would open the discussion to issues concerning motives and intentionality.

The constructivists (Jackson 2005, Tuman 2003 and Oliverio 1998 cited in Butko 2009) argue that definitions and conceptions of terrorism are not objective and impartial but ultimately constructed to reflect the ideas, beliefs and most importantly geo-political interests of the most dominant hegemonic power\textsuperscript{231}. The constructivists argue that radical Islamic groups and individuals that are opposed to U.S geo-strategic interests have been ‘constructed’ as the principal terrorists of

\textsuperscript{229} Ibid, Butko, 2009, pg 186.
\textsuperscript{230} Op Cit, Butko, 2009, pg 187.
\textsuperscript{231} Op Cit, Butko, 2009, pg 191.
the contemporary era notes that as of 2003, of the 447 entities identified as Specially Designated Global Terrorists (SDGT), eighty percent of the entire list had Islamic surnames and affiliations.

The theoretical contestations apart, the War on Terror has complicated matters for Muslims in Kenya with persistent problems of religious profiling and harassment by law enforcement agencies in the pursuit of terrorist suspects. It has occasioned increased scrutiny of not only individual Muslims, and Muslim scholars but also of Muslim organizations and their cooperation with Muslim donors outside Kenya.

Accounting for the phenomenon of Islamism in Muslim countries, observes that the impact of globalization process and the dehumanising conditions of abject poverty in many Muslim countries have left far-reaching consequences and bear a good deal of responsibility in the recurrence of contemporary Islamic movements. He argues that Islamic movements are fashioned by their social and political environment and their local challenges, obstacle and community interests.
In the context of Africa, the failure of the post-colonial state to provide adequate solutions to economic problems, to fight corruption, to prevent violations and abuses of human rights by both its civilian as well as military officials, to organize dissents and resolve disputes through political channels, the unconditional support of some Western countries to unpopular despotic regimes together with the obstinate implementation of Western values and institutions without taking into account the legitimate aspiration of its different religious communities or, in some cases, creating socio-economic disparities between Muslims and Christians, have all contributed to the rise of Islamism in sub-Saharan Africa\textsuperscript{240}.

In assessing the potential of extremism and terrorism in Kenya, Ousman\textsuperscript{241} observes that Islam has been associated with the country close to a millennium, and that despite tensions over the entrenchment of Islamic courts, he contends the ‘development of religious extremism, at any time in the future is distant’. Given their minority status, Muslims in Kenya, as is the case with other Muslim minorities elsewhere, focus primarily on proselytism or Da’wa and on realising socio-economic gains. He argues that in countries with remarkable Muslim majorities, the focus is on realizing political gains.

3.2.6: Conclusion

On the overall, Muslim religious organizations though affected by their Arab donors, have considerably advocated for the improvement of the Muslim welfare in Kenya on the basis of Muslim marginalization. As demonstrated in chapter two of

\textsuperscript{240} Op Cit, Ousman, 2004, pg 75.
\textsuperscript{241} Op Cit, Ousman, 2004, pg 78.
This study, Muslim dominated regions lag behind in all aspects of development and it is the underdevelopment and marginalization of Muslims that has formed the basis of interest articulation by Muslim religious organizations.

This chapter reveals that an examination of their mechanisms of interest articulation are peaceful and consistent with democratic norms and ideals. Muslim religious organizations are centri-petal, gravitating towards the center and seeking change within the established system. They, however, lack human and financial resources as well as systematic organization which are essential ingredients for effective interest articulation. Interest articulation without sophistication, direction, and the realization of how the political and legislative sectors operate would be ineffectual. To achieve efficacy in interest articulation, professionals with the skills and knowledge of advocacy and their means of presentations to policy makers are indispensable.

Muslim religious organizations lack such professionals and are generally characterised by low level of institutionalization, coupled with resource shortages. The latter has occasioned reliance on government which has brought about concerns over co-option and control. The alternative has been to seek partnership with Islamic governments and organizations, and this too has occasioned loss of control over prioritization of developmental projects and dependence on external donors. The efficacy of Muslim interest articulation is thus negatively affected by their reliance on government and external donors, and their inability to attract qualified professionals skilled in the art of interest articulation.
CHAPTER 4: CONCLUSIONS, SUMMARY OF FINDINGS AND RECOMMENDATIONS

4.1: Introduction

This chapter presents the conclusions, summary of findings and recommendation of the study. The major objective of this study was to examine the role of Muslim religious organizations in the articulation and representation of Muslim interest and concerns in Kenya. As one of the actors involved in Muslim interest articulation, it has been observed that their involvement in interest articulation dates back to the period of colonial rule and runs through successive post-independence governments.

In the conduct of this study, Unconventional Partners and Popular Strain theories were used. While the unconventional partners theory illuminated the mutually supportive roles of religion and politics, popular strain theory emphasised the role of religious-based groups in generating popular participation in politics. The two theories have been useful to this study in demonstrating the relationship between religion and politics, and in accounting for the involvement of Muslim advocacy groups in the national political arena. In assessing the impact and efficacy of Muslim interest articulation, a model developed by Andrews and Edwards\textsuperscript{242} that examines organization’s involvement in national agenda setting processes, access to decision making arenas, and the achievement of favourable legislations and policies was adopted for this study.

In their articulation of interest, Muslim religious organizations have addressed a number of issues of concern to Muslims in Kenya such as the issue of adequate and equitable political representation, economic development,

citizenship issues, Muslim rights and the practise of Islamic family laws through the institution of Kadhi courts.

4.2: Summary of Findings

We observe the following as the summary of findings emanating from this study.

1. This study has illustrated that, the dearth of academic interest notwithstanding, Muslim faith-based organizations have been involved in the articulation and representation of Muslim interest from the period of colonial rule to post-independent Kenya. Acknowledging that they do not have a monopoly in the representation of Muslims, and in the generation of popular participation of Muslims in politics, Muslim religious organizations have nonetheless articulated with a degree of legitimacy the concerns, fears, and aspirations of Kenyan Muslims.

2. This study demonstrates that systematic marginalization and discrimination by colonial and post-independence governments have informed the agenda of Muslim religious organizations in their articulation of Muslim interest in Kenya. During the colonial period, for instance, the promulgation of such colonial laws like the Outlying District Ordinance, the Stock Theft and Produce Ordinance, the Special Districts Administration Ordinances marked the beginning of systematic policy of isolation and marginalization of Muslims in Kenya. With the attainment of independence, the situation did not improve for Muslims as their clamour for secession and autonomy for Northern Kenya and the Coastal region created a legacy of mistrust on the part of the central government and a continuation of the
marginalization that was being experienced during colonial rule. In the case of Northern Kenya, the declaration of a state of emergency immediately after independence, and the application of the emergency laws as contained in North Eastern Province Contiguous Regulations of 1966, had serious implications for the development agenda of the region and the enjoyment of fundamental human rights.

3. Despite the articulation of Muslim interest by a myriad of actors including Muslim religious organizations, high levels of marginalization of Muslims under Kenyatta, Moi and Kibaki governments are easily evidenced by the relative underdevelopment of Muslim-dominated regions of North Eastern and Coast. This study demonstrated that Muslims significantly lag behind in key development areas such as infrastructure development, educational achievements, access to social amenities like health services, water, electricity et cetera. With respect to political representation, Muslims in the vast but sparsely populated Northern Kenya are under-represented with the dominant criterion for demarcation of constituency being the population factor.

4. This study demonstrates that there is a systematic discrimination against the Muslim minority in the issuance of national identity cards and passports. Indeed there exist a special vetting committee for Muslim passport applicants at the headquarters of the Ministry of State for Immigration and Registration of Persons in Nairobi. The discrimination of the Kenyan-Somali community and Muslims in
general is extended to registration and citizenship where they undergo ‘unprecedented rigours of screening’.43

5. Despite Muslim advocacy for the respect and promotion of their human rights, evidence gathered in the course of this study points to systematic human rights violations against Muslims in Kenya. Initially, the use of the rhetoric of ‘nation building’ saw the use by the Kenya government of massive force to subdue attempts by the Somali community to secede from Kenya and join Somalia. Both legal and economic means of repression were employed against the Somali. Cases of massive human rights violations perpetrated against Kenyan Muslims include the Wagalla massacre, the Bula Kartasi massacre and the Malka Mari massacre. This study also demonstrates that in light of the war on terror, the operations of state security agents, and especially the Anti-Terror Police Unit, have seriously undermined the enjoyment of fundamental human rights by Muslims. Cases of torture, arbitrary arrests, illegal detentions and renditions to foreign lands carried out by state security agents against Muslims under the guise of ‘fighting’ terrorism are all too well documented.44

6. Having presented the key themes of Muslim advocacy and the relative underdevelopment and marginalization of Muslims in Kenya, this study has also demonstrated progress being achieved by Muslim religious organizations as a result of their interest articulation efforts. These include the entrenchment of Muslim interest (especially the Kadhi courts, adequate bill of rights and devolution) in a new constitutional dispensation, the rejection of the Suppression of Terrorism Bill

and the Marriage Bill, the establishment of a Ministry to coordinate development efforts for Northern Kenya and other arid lands, and the establishment of a hajj desk to fast track the issuance of Passports to Muslim applicants.

7. The study has also demonstrated that the modes and mechanisms of interest articulation by Muslim religious organizations are peaceful and consistent with democratic norms. With the exception of Somali secessionists in the 1960s and the riots in Mombasa and Lamu at the height of the struggle for multi-partyism in the early 1990's and the formation of Islamic Party of Kenya, the history of Muslim religious organizations, and Muslims in general, has been one characterised by more of cooperation than conflict with the central government. The principal forms of politico-religious conflict in Kenya have instead concerned Christians rather than Muslims.245

8. Though their mechanisms of interest articulation are peaceful, an analysis of their modes and mechanisms reveals that their tools of interest articulation are relatively underdeveloped. Apart from the use of the media, litigation mechanisms and creation of awareness among Muslims, Muslim religious organizations seldom employ modern tools like the internet to articulate their positions and disseminate their views on various issues of significance to Muslims. Only NAMLEF and SUPKEM run organizational websites, while the MHRF and CIPK have no websites of their own. Even where official organizational websites are available, issues of currency and national significance are hardly captured in a routine manner thus reflecting a lack of professionalism in web content management.

9. Regarding the level of institutionalization of Muslim religious organizations, this study has shown that the lack of systematic organization and adherence to established procedures coupled with the problem of extended leadership has negatively impacted on the capacity of Muslim religious organizations in the realization of their organizational goals and objectives and consequently on their articulation of Muslim interest in Kenya. Where decisions are made on *ad hoc* basis and the running of the affairs of the organizations is monopolised by few individuals who lack adequate understanding of the intricacies of the political system and decision making processes, the net impact will be loss of legitimacy and failure to address Muslim concerns to policy makers.

Furthermore, the lack of adequate resources has also hampered the ability of Muslim religious organizations to effectively and independently articulate Muslim interest in Kenya. Given the resource scarcity that they face, Muslim religious organizations solicit for government projects and this has raised fundamental questions of governmental control and co-option. The alternative which has largely taken the form of forging partnerships with Islamic governments and international Islamic charity institutions has raised questions of dependence on foreign assistance and loss of control over local development agenda.

The implications of governmental control and foreign dependence are severe for Muslim religious organizations since they can’t independently formulate and articulate Muslim concerns without external meddling. Moreover, the lack of resources means that they cannot attract qualified human resource to run their advocacy and service delivery programmes in a manner that is professional.
10. While systematic organization and resources are an essential *sine qua non* for effective interest articulation, this study acknowledges that the possession of requisite interest articulation skills, knowledge of the workings of the political system and adequate resources alone are not sufficient for specific interest to be addressed. Other factors weigh in, key among them political will of decision makers.

11. There is a lack of effective coordination between faith-based organizations in their articulation of Muslim interest. While low levels of institutionalization and leadership rows\(^246\) hamper meaningful coordination, it is evident that the lack of effective coordination has negative implications for the attainment of desired outcomes. Effective coordination enhances the articulation and presentation of Muslim interest to decision makers by bringing together the expertise of different organizations in addressing issues of mutual concern for the benefit of Muslims.

12. With respect to the impact and efficacy of Muslim interest articulation, this study has revealed that despite the progress being made, the impact of their interest articulation is low and hampered by a confluence of factors, including their low levels of institutionalization and lack of adequate resources to undertake sustained interest articulation. Other factors emanating from the external milieu and of significant implication include the lack of political will by decision makers to address the predicament of Muslim marginality. While evidence points to the fact that government does possess relevant statistics and reports on Muslims and

their grievances, there appears to be little if any political will to seriously acknowledge and tackle Muslim concerns.

In a nutshell, the study has confirmed the hypothesis that the levels of marginalization of Muslims has greatly impacted on the involvement of Muslim faith-based organizations in their articulation of Muslim interest in Kenya. High levels of marginalization of Kenyan Muslims have occasioned a greater involvement of Muslim faith-based organizations in Muslim interest articulation with a view to improving the welfare of the Ummah.

4.3: Recommendations

In light of its findings, this study has a number of recommendations for governmental action as well as recommendations for Muslim religious organizations.

4.3.1: Recommendations for governmental action

1. Despite the evidence indicating high levels of marginalization of Muslims, a great deal of focus has not gone into overcoming the predicament of marginalization and in the integration of the Muslim community into the mainstream Kenyan society. To address the systematic legal and economic means of discrimination of Kenyan Muslims by the state, it is recommended that affirmative action be adopted as a way of addressing the exclusion of the past. Areas of priority for equalisation measures should include representation in key decision making organs of the state and local authorities, as well as education.

247 The last such report is The Presidential Action Committee Report that was chaired by Eng. Sharawe.
infrastructure and especially the tarmacking of Garissa-Wajir-Mandera road and employment opportunities for the youth.

2. With respect to education, this study recommends that the government should, as a matter of urgency, set aside adequate budgetary allocations for the uplifting of educational standards in Muslim areas. It should invest in the posting of qualified teachers and improving the educational facilities in Muslim areas. In addition, the government should expedite the registration of Muslim institutions of higher learning e.g. Mombasa Islamic University so as to improve the educational standards in Muslim areas. Furthermore, the government should establish a university and national schools in Coast and North Eastern Provinces which as of now do not have a single university or national school. It’s also recommended that the constitutional rights to freedom of worship for pupils of Islamic faith be respected and that the government should provide adequate Islamic Religious Education teachers with a view to integrating the teaching of Islamic studies in school curriculum.

3. There is need for policy makers to engage the Muslim community in coming up with measures that can help Kenyan Muslims acquire identity cards and passports like Kenyans of other faiths. The rigours of screening have occasioned a deep sense of ‘otherness’ and does not certainly inculcate feelings of belongingness and nationhood. The measures in place currently make it difficult for genuine Kenyan Muslims to acquire identification papers while at the same time foreigners can easily acquire Kenyan citizenship by corrupting Immigration officials, an issue that pose a grave national security threat.
It is recommended that the vetting committee for Kenyan Muslims at Nyayo House, the Immigration head office, and identity cards vetting committees in Muslim areas should be abolished with immediate effect. The checking of identity cards at the exit of North Eastern Province especially at the Tana River Bridge is an outright discriminatory practice that should also be abolished as a matter of urgency. The government instead should put more resources in securing the porous border with Somalia and in tackling corruption.

4. Human rights violations and mass murders perpetrated by the security forces against the Muslim community should be probed with a view to bringing justice and closure for victims of state brutality. The memories of Wagalla, Bula Kartasi and Malka Mari massacres are fresh in the minds of Kenyan Somalis. There is need for policy makers to establish a credible Truth, Justice and Reconciliation Commission for purposes of looking into historical injustices and with a view to bringing justice to victims of state brutality.

A major impediment to the realization of justice for victims of human rights violations by state security apparatus in Northern Kenya is the continued relevance of the Indemnity Act. Passed in 1972, the act gives blanket immunity to security forces who participated against the secessionist Shifta war between 1963 and 1967. The act restricts legal proceedings against members of the armed forces, effectively barring Kenyans in the affected areas\(^\text{248}\) whose rights were grossly violated from expressing their grievances and seeking any form of compensation before a court of law or before any tribunal\(^\text{249}\). There is need for law makers to

\(^{248}\) The affected areas are the entire North Eastern Province, Isiolo, Marsabit, Tana River and Lamu districts

\(^{249}\) The Indemnity Act, Chapter 44 of Laws of Kenya, 1972.
support the Indemnity (Repeal) Act, 2010 sponsored by Nominated Member of Parliament Hon. Mohamed A. Affey to enable aggrieved Kenyans to seek redress in a court of law or with any other relevant body.

5. In light of the war on terror, the operations of the security agents should respect the law and due process should be adhered to avoid the further erosion of Muslim rights. The Anti-Terror Police Unit whose hallmarks have been the systematic profiling and violations of Muslim fundamental rights should be disbanded. In its place, the government should establish a new unit that is based on clearly established procedures and coherent guidelines and should have both parliamentary and civilian oversight to ensure state security agents do not act with impunity.

4.3.2: Recommendations for Muslim Religious Organizations

1. It is imperative that deliberate effort should be made by the leadership of Muslim religious organizations to foster strong coordination between faith-based organizations with a view to harnessing their energies towards the realization of greater governmental concern for Muslim welfare. Furthermore, it is crucial that coordination mechanisms should extend to other non-faith, civil and political actors that are also involved in the articulation and representation of Muslim interest in Kenya.

2. On a wider scale, there is also need for the leadership of Muslim religious organizations to form alliances with other disadvantaged minority groups that have experienced marginalization and official discrimination. This will better serve the
cause of Kenyan Muslims as such alliances are better instruments for presenting concerns that Muslim share with other disadvantaged minority groups.

3. Faith-based Muslim organizations should adopt rigorous staff training as an indispensable tool for the capacity building of the personnel who man their programmes and projects. As has been observed, an essential requirement for effective interest articulation is an understanding of the subject matter and the workings of the political system. This therefore necessitates that the human resource of an organization be fully equipped with the requisite knowledge and skills so as to meet the challenges and effectively represent Muslim interest and concerns.

4. It is also important for Muslim religious organizations to diversify their sources of finances for project development and implementation. Governmental and external Arab donors have presented challenges that can be mitigated by undertaking grassroot membership drives and the mobilization of the Muslim business community in the improvement of Muslim welfare.
BIBLIOGRAPHY


**REPORTS**


Conference Papers


Internet Sources


Magazines


Online Newspaper Articles


APPENDICES

Appendix 1: Interview Guide for Executive Directors/Chairmen/Secretary Generals of Muslim Religious Organizations


Introduction:

Name: Mohamud Maalim, M.A Student

Institution: University of Nairobi, Department of Political Science and Public Administration.

Aim of the Interview: To obtain valuable first-hand data on the role Muslim religious organizations in the articulating of Muslim interest in Kenya with a view to enhancing a better understanding of their role as well as contributing to improved Muslim welfare in Kenya.

1. Body:

Topic: General Information about your organization

A. Date of registration

B. Its objectives

C. Organizational structure

D. Number of employees

E. Membership (Individual or corporate?)

(Transition to Topic 2: With those few questions pertaining to your organization, let us now look at religion and advocacy)
Topic 2: Religion and Interest Articulation

A) Do you think religion in general and the Islamic faith in particular plays a role in the articulation of interest in Kenya?

Yes: .................. No..........................

B) If yes, can you please give a general overview of the role that Islam has played in the articulation of Muslim interest in Kenya since independence?

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C) What specific role do you think your organization has played in advocating for Muslim rights and concerns?

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D) How has your organization approached/articulated the following themes of Muslim advocacy?

1. The Issue of political representation in government

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2. Economic development of the Muslim-dominated provinces of North Eastern and Coast

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3. Education( Improved access to university education for Muslim students)

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4. Law and Constitution-making (The issue of Kadhi’s courts)

5. Citizenship and issuance of Identification papers for Muslims (IDs and Passports).

6. Issue of Muslim rights.

(Transition to Topic 3: Having discussed the approach of your organization to the various themes of Muslim advocacy, let us now look at the modes and mechanisms you employ and the extent of the impact and efficacy of your advocacy)

Topic 3: Modes and mechanisms of articulating Muslim interest.

A. What are the modes and mechanisms of interest articulation used by your organization?

B. Do you think your mechanisms of interest articulation are consistent with democratic principles?

Yes: .................. No: ....................................................

C. What do you do think is the impact of your advocacy?

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D. Does marginalization of Muslims in Kenya influence your articulation of Muslim interest in Kenya?

Yes: .................. No: ..........................

E. If yes, to what extent does it help or hinder your articulation of Muslim interest in Kenya?

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F. Do you think external actors in the Muslim world influence the agenda of your organization in as far as articulation of Muslim interest in Kenya is concerned?

Yes: .................. No: ..........................

G. If yes, to what extent?

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H. What are the challenges you face in articulating Muslim interest in Kenya?

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I. What is your opinion on the prospects of improved Muslim welfare in Kenya?

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Thank You.
Appendix 2: Questionnaire for Officials of Muslim Religious Organizations


Questionnaire No: ...

Name of your organization: .................................................................................

Introduction.

My names are Mohamud Maalim Hassan, M.A Student, University of Nairobi, Department of Political Science and Public Administration. I am conducting a study on the role of Muslim religious organizations in articulating Muslim interest in Kenya. The purpose of the study is to generate valuable first-hand data on the role of Muslim religious organizations in advocacy with a view to contributing to increased understanding of their role and to also contribute to improved Muslim welfare in Kenya.

General Information.

1. Gender: Male: ............ Female: ............

2. Age in Years: ............

3. Level of education (Please tick where appropriate)
   A. Primary: ............
   B. Secondary: ............
   C. College: ............
   D. University: Degree: ............ Post-Graduate Degree: ............
E. Please list any other qualification(s) specific to your job? (for instance professional courses on capacity development)

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____________________________________________________________________________________________________

____________________________________________________________________________________________________

4. Are your terms of employment permanent?
Yes: ...................  No: ..........................

5. Have you undergone training in your organization?
Yes: .............  No: ...................................

6. If yes what type of training have you undergone? (Please list them down)
____________________________________________________________________________________________________

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____________________________________________________________________________________________________

7. Do you think religion in general and the Islamic faith in particular plays a role in the articulation of interest in Kenya?
Yes: ...................  No..........................

8. If yes, can you please give a general overview of the role that Islam has played in the articulation of Muslim interest in Kenya since independence?
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9. What specific role do you think your organization has played in advocating for Muslim rights and concerns?
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10. How has your organization approached/articulated the following themes of Muslim advocacy?

A. The Issue of political representation in government

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B. Economic development of the Muslim-dominated provinces of North Eastern and Coast

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C. Education (Improved access to university education for Muslim students)

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D. Law and Constitution-making (The issue of Kadhi’s courts)

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E. Citizenship and Issuance of Identification papers for Muslims (Ids and Passports).

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F. Issue of Muslim rights.

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11. Does marginalization of Muslims in Kenya influence your articulation/advocacy of Muslim interest in Kenya?

Yes: .................. No: ......................

12. If yes, to what extent does it help or hinder your articulation of Muslim interest in Kenya?

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13. What are the mechanisms that your organization employs in articulating the interest of Muslims in Kenya? Please list them.

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14. Are your mechanisms of interest articulation consistent with democratic principles?

Yes: ...................... No: ......................

15. Do you think external actors in the Muslim world influence the agenda of your organization in as far as articulation of Muslim interest in Kenya is concerned?

Yes: ...................... No: ......................
16. If yes, to what extent?

17. What do you think is the impact of your advocacy? (please give an outline of what your organization has achieved for Muslims through its advocacy with specific reference to the various themes of Muslim advocacy e.g. Political representation, economic development, education, constitution making, human rights et cetera)

18. Please state the challenges facing your organization in advocating for Muslim rights in Kenya.

19. Give a brief comment on the prospects of improved Muslim welfare in Kenya.

Thank You.
Appendix 3: Questionnaire for Officials of Non-faith Organizations in Wajir and Mombasa Districts engaged in community development.


Questionnaire No: ...

Name of your organization: ..............................................................

Introduction

My names are Mohamud Maalim Hassan, M.A Student, University of Nairobi, Department of Political Science and Public Administration. I am conducting a study on the role of Muslim religious organizations in the articulating Muslim interest in Kenya. The purpose of the study is to generate valuable first-hand data on the role of Muslim religious organizations in advocacy. The objective of administering this questionnaire to non-faith based organizations is to obtain their assessment of how religious organizations have fared in the articulation of Muslim interest in Kenya.

General Information

1. Name of your organization: ..............................................

2. Gender: Male: ......... Female: .........

3. Age in Years: ............

4. What is your view on the role of faith-based Muslim organizations e.g. SUPKEM, CIPK, NAMLEF in articulating and representing Muslim interest?
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5. Do you think they have handled Muslim concerns in a manner that is professional?

Yes: .................................. No: ..................................

6. One of the themes of Muslim advocacy is adequate political representation in government. What is your view on their articulation of this issue?

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7. Do you think they have approached the question of economic development of the Muslim-dominated provinces of North Eastern and Coast competently?

Yes: .............. No: ....................... 

8. Are you of the opinion that they are improving access to university education for Muslim students in Kenya?

Yes: ...................... No: ...........................

9. Have they articulated issues of constitution-making and the Kadhi’s courts in a professional and satisfactory manner?

Yes: ...................... No: ...........................

10. To what extent have they successfully advocated for equal citizenship rights and issuance of identification papers for Muslims in Kenya (IDs and Passports)?

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11. What is your view on their handling of Muslim rights concerns in Kenya?


12. What is your assessment of the modes and mechanism of interest articulation employed by Muslim religious organizations?


13. Do you think their mechanisms of interest articulation are consistent with democratic principles?

Yes: ...................... No: ....................................


14. What is your view on the impact of interest articulation/advocacy of Muslim religious organizations?


15. In your opinion, what are prospects of improved Muslim welfare in Kenya


Thank You.
CONCITIONS

1. You must report to the District Commissioner and the District Education Officer of the area before embarking on your research. Failure to do that may lead to the cancellation of your permit.

2. Government Officers will not be interviewed without prior appointment.

3. No questionnaire will be used unless it has been approved.

4. Excavation, filming and collection of biological specimens are subject to further permission from the relevant Government Ministries.

5. You are required to submit at least two(2)/four(4) bound copies of your final report for Kenyans and non-Kenyans respectively.

6. The Government of Kenya reserves the right to modify the conditions of this permit including its cancellation without notice.

GPK 6055-3m-10/2009

(REPUBLIC OF KENYA)

(RESEARCH CLEARANCE PERMIT)

NCST/5/002/R/802

Date of Issue 24.08.2009

Fee received SHS 1000

Research Permit No.

LOCATION:

WAJIR AND MOMBASA

DISTRICT:

EASTERN AND COAST

PROVINCE:

IN KENYA: THE CASE OF ISLAM

for a period ending 30TH OCTOBER, 2009

Applicant's Signature

Secretary National Council for Science and Technology