

AFRICAN ASSOCIATION FOR THE STUDY OF RELIGIONS

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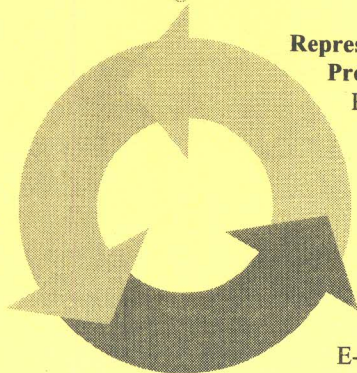
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## AN ARTICLE

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### MUSLIM-STATE RELATIONS IN KENYA AFTER THE REFERENDUM ON THE CONSTITUTION

Religio-state encounter between Muslims and the Kenyan government since independence can be traced in three phases. The first phase commenced with Muslim efforts prior to the independence to entrench their religious status in the Constitution of Kenya. These efforts culminated in securing Muslims religious courts (Kadhi Courts) and establishing them in the Kenyan Constitution. The next phase started soon after independence when the whole of East African region embarked on reforming its personal laws. Kenya, like her neighbours, established commissions to review and reform marriage and succession laws. Muslims, among others, were in the forefront in opposing these reforms. As a result of political pressures, Muslims were exempted from these reforms. The third phase was triggered by the constitution review process that started in the year 2000 and was concluded on 21<sup>st</sup> November 2005 when Kenyans went to the ballot box for the referendum on the constitution of Kenya. A majority of Kenyans, including Muslims, rejected the proposed constitution. This paper will trace the trends of these events and explore the causes and its consequences.

#### *Background to the colonial constitution making process*

Before independence, Kenya was ruled by two monarchs, the Queen of England and the Sultan of Zanzibar. The coastal strip was under the reign of the Sultan who later sought British protection. The interior of part of Kenya was a British colony. The relationship between the British and the Sultan pertaining to the coastal strip was governed by a treaty that was signed on 14<sup>th</sup> December 1895. The agreement was entitled the '1895 Agreement between Great Britain and Zanzibar respecting the possession of the Sultan of Zanzibar on the mainland and adjacent islands, exclusive of Zanzibar and Pemba'. The pact declared that the coastal strip would still belong to His Highness the Sultan, though it would be administered by the British. This in turn assured that the subjects of the Sultan in the coastal strip would enjoy prosperity and freedom of religion and worship.

In early sixties, struggle for independence was looming in Kenya and fears emanated as to the future course of the country. The British administration favoured the up-country ethnic groups which led to a shift in power towards the uplands.<sup>4</sup> This led Muslims to solicit for self-rule along the 10 mile Coastal Strip which was championed by

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<sup>4</sup> Abdin Chande 2000, 'Radicalism and Reform in East Africa', in Nehemia Levtzion & Randall L. Pouwels (eds.), 2000, *The History of Islam in Africa*. Athens: Ohio University, 350.

