

Push for Islamic Courts in Kenya Alarms Christians

A constitutional battle to expand the scope of Islamic courts in Kenya threatens to ignite religious tensions at a time when authorities are on high alert against Muslim extremists with ties to Somalia.

Constitutional provisions for Islamic, or Kadhis', courts have existed in Kenya since 1963, with the courts serving the country's coastal Muslim population in matters of personal status, marriage, divorce, or inheritance. Kenya's secular High Court has jurisdiction over civil and criminal matters, and even a decision in the Islamic courts can be appealed at the High Court.

The Islamic courts have functioned only in Kenya's Coast Province, but in a hotly debated draft constitution, their jurisdiction would expand across the nation and their scope would increase. The proposed constitution has gathered enough momentum that 23 leaders of churches and Christian organizations released a statement on Feb. 1 asserting their opposition to any inclusion of such religious courts.

"It is clear that the Muslim community is basically carving for itself an Islamic state within a state," the Kenyan church leaders stated. "This is a state with its own sharia [Islamic law]-compliant banking system; its own sharia-compliant insurance; its own Halaal [lawful in Islam] bureau of standards; and it is now pressing for its own judicial system."

Muslim leaders are striving to expand the scope of Islamic courts to include civil and small claims cases. They also want to upgrade the Muslim tribunals to High Court status. These demands have alarmed Christians, who make up 80 percent of the

population and defeated a similar proposal in a 2005 referendum. Muslims make up 10 percent of Kenya's 39 million people, 9 percent of the population follows indigenous religions and less than 1 percent are Hindu, Sikh and Baha'i.

The National Council of Churches of Kenya (NCCCK) said the Committee of Experts (CoE) responsible for "harmonizing" drafts from various stakeholders ignored their concerns. The committee was responsible for determining what matters would be unduly "contentious" and was charged with keeping them out of the draft.

"We wrote to them, but we have been ignored," said the Rev. Canon Peter Karanja, NCCCK general secretary. "Who told the CoE that Kadhis' courts were not contentious?"

Saying the committee ignored the crucial requirement of omitting what is "contentious," Karanja said it did little to build consensus. He said that unless the Islamic courts are stricken from the constitution, Christians might be forced to reject the document in a national referendum later this year.

Muslim leaders, just as stridently, insist that recognition of the Islamic courts does not elevate Islam over other religions, and that if the courts are removed they will shoot down the draft in the referendum.

The 2005 referendum split the country and was followed by a bitterly disputed presidential election in 2007 that sparked rioting, reportedly leaving 1,300 people dead. The election dispute was resolved with one candidate becoming president and the other prime minister, and at the heart of the proposed constitution is an attempt to transfer presidential powers to the prime minister.

Christian leaders point out that the "Harmonized Draft" of the constitution discriminates against non-Muslims and contradicts its own Article 10 (1-3), which states that there shall be no state religion, that the state shall treat all religions

equally and that state and religion shall be separate. They see the attempt to expand the scope of the Islamic courts as part of a long-term effort by Muslims to gain political, economic and judicial power.

Muslim leaders claim that inclusion of the Islamic courts in the new constitution would recognize “a basic religious right” for a minority group. Some Muslim extremists have said that if Islamic courts are removed from the draft constitution, they will demand their own state and introduce sharia.

Extremists Emerge

The constitutional issue erupted as security officials went on high alert when sympathizers of the Islamic terrorist al Shabaab militia appeared in a protest in mid-January to demand the release of radical Muslim cleric Abdullah Al-Faisal, who had entered the country on Dec. 31.

Al-Faisal, imprisoned from 2004 to 2008 after a British court convicted him of soliciting murder and inciting hatred, is on a global terrorism list. Government spokesman Alfred Mutua said Al-Faisal has been known to recruit suicide bombers and was arrested for violating terms of his tourist visa by preaching. He was reportedly deported to his native Jamaica on Jan. 21.

Eyewitnesses to the protests in Nairobi told Compass one demonstrator clad in fatigues, with his face masked by a balaclava, waved the black flag of the al-Qaeda-linked al Shabaab militia and passed his finger across his throat in a slitting gesture, taunting passersby.

Officials from the Council of Imams and Preachers of Kenya and from Muslims for Human Rights defended the demonstrations as legitimate to condemn violation of Al-Faisal's rights. At least one person died as the protests turned violent, and Internal Security Minister George Saitoti said five civilians

and six police officers were injured, with one security officer wounded from a bullet said to be shot by a demonstrator.

Al Shabaab-affiliated operatives appear to have targeted Christians in Kenya, according to an Internet threat in December by a group claiming to align itself with the Islamic extremist militia seeking to topple Somalia's Transitional Federal Government. In an e-mail message with "Fatwa for you Infidels" in the subject line to Christian and governmental leaders in Kenya, a group calling itself the Harakatul-Al-Shabaab-al Mujahidin threatened to kill Muslim converts to Christianity and those who help them.

"We are proud to be an Islamic revolutionary group, and we are honored to be affiliated with Al Qaeda, a group of honest Muslims in which we share long-term goals and the broad outlines of our ideologies, while focusing on our efforts on attacking secular and moderate governments in the Muslim world, America and Western targets of opportunity and of course Uganda, Ethiopia, Burundi and Kenya if they do not stop their assistance to the Somali fragile and apostate government," the group wrote in the e-mail. "Although we receive support for some of our operations, we function independently and generally depend on ourselves."

The group threatened to shake the Kenyan government "in minutes," calling it the "the most fragile target in the world."

The emergence of al Shabaab and its sympathizers in Kenya coincides with the swelling of the Somali population in the country to 2.4 million, according to the August 2009 census.