

Statement from Kenyan Christian Leaders

The Memorandum by the
Kenyan Christian Leaders
Presented to the
Members of the Kenya National Assembly

Preamble

We Leaders of all the Christian Churches in Kenya believe that the state, politicians, and the organs of the review have consistently ignored the views of the Christian Community in Kenya with the aim of scuttling the process and ensuring the draft is rejected at the referendum.

However, we have discussed this process and the progress made so far and are pleased to make the following recommendations for consideration by the National Assembly as they debate the Proposed New Constitution:

CHAPTER ONE – SOVEREIGNTY OF THE PEOPLE AND THE SUPREMACY OF THE CONSTITUTION

Article 8 provides that “There shall be no state religion”. However, previous draft constitutions had two important principles: One, “That state and religion shall be separate”; and, Two, “That the state shall treat all religions equally”. These provisions were deleted mischievously to accommodate parochial and sectarian interests in the draft constitution. We propose that Art 8 be amended to read as follows:

- 8 (1) State and religion shall be separate.
- (2) There shall be no State religion.
- (3) The State shall treat all religions equally.

CHAPTER FOUR – THE BILL OF RIGHTS

Article 24 (4) provides that the Provisions of the Bill of Rights shall not apply to persons who profess the Muslim religion. The Church believes that no person should be denied or exempted from the provisions of the Bill of Rights whatsoever. We propose that Art 24 (4) is deleted.

Right To Life

We recommend that Article 25 on the Right to life should be revised to read:

- (1) Every person has the right to life
- (2) The life of a person begins at conception and ends at natural death
- (3) Abortion is not permitted
- (4) There shall be no capital punishment

- (5) There shall be no euthanasia

Article 32 provides for the right to religion and opinion. However, it has omitted the right to propagate one's religion and the right to convert from one religion to another. We propose that a new Art 32(5) is inserted to read as follows:

"(5) Everyone has a right to propagate their religion or convert from one religion to another".

Art 32 (3) provides for the right to access to any institution or facility without any discrimination on the basis of ones religion. We take great exception to these provisions particularly with regard to institutions and facilities established for the purpose of propagating a religion or faith. We propose that a new clause (6) is inserted immediately after clause (5) to read as follows:

- (6) Clause (3) shall not apply to institutions and facilities that are established solely or partly for religious purposes.

CHAPTER 10 - JUDICIARY

Art 169 (b) provides that subordinate courts include Kadhis Courts. This is unacceptable. If the Proposed Constitution shall contain any reference to Kadhis Courts, we shall REJECT the draft in total. To avoid another rejection of the draft constitution at the referendum, we propose that Art 169 (b) be deleted. Providing for Kadhis Courts alone in a multi-religious society is a recipe for chaos, is repugnant to justice. In the interest of justice for all Kenyans and in consideration of the need for the Kenya to get a new constitution, the Church extends an olive branch with regard to the Kadhis Court.

In this regard, we propose that a new Article 160 (3) and (4) be inserted to read as follows:

(3) The constitution shall recognize the jurisdiction of religious courts in matters relating to personal status, marriage, divorce and inheritance where all parties subscribe to the same religion and agree to submit to the jurisdiction of such courts.

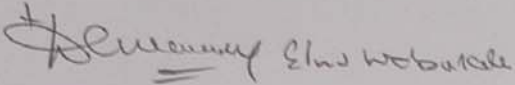
(4) No state resources shall be used for the establishment or the operation of any religious courts.

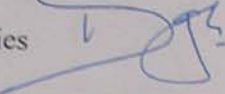
Art 170 provides for the jurisdiction of the Kadhis Court. We propose that Art 170 is deleted.

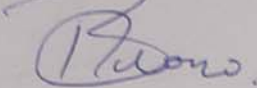
Conclusion

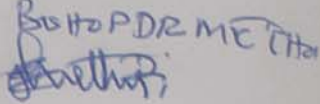
We consider these proposals as fundamental to for the Christian community in Kenya in order to accept and endorse the draft constitution at the referendum.


Signed at the Holy Family Basilica, Nairobi on this 18th day of March 2010

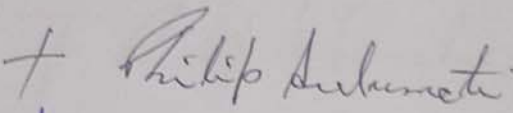
Anglican Church of Kenya 


Christ is the Answer Ministries 

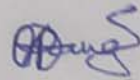
Evangelical Alliance of Kenya 

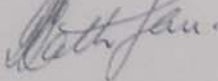
Federation of Evangelical and Indigenous Christian Churches of Kenya 

Kenya Assemblies of God - Bishop Peter G. W. NJIRI - 

Kenya Episcopal Conference + Philip Akumu 

Methodist Church in Kenya 

National Council of Churches of Kenya 

Presbyterian Church of East Africa 

United Christian Churches of Kenya 