



Here are the broad strokes why the church is saying No

1. Article 2 (6) - The provision that International Conventions and protocols ratified by Kenya form part of the constitution under this constitution is mischievous. We must have a constitution that provides for domestication so that the Kenyan people, through parliament, have a chance to agree with international proposals, or to reject them. We cannot entrust the whole countries law making to one delegation of some international meet. Domestication of all international conventions, protocols and treaties must be maintained.

1. Article 8 - the problem with this section is what has been deleted, rather than what has been written. The deletion of "State and Religions shall be separate" as well as "All Religions shall be equal" makes things so hazy, where clarity is possible. why would the constitution not clearly state that all religions are equal, unless of course, it is because there are some religions that deserve better treatment than others, or other religions that really

do not matter, and can be put down. The principle of separation of State and Religion is primarily for the protection of religion from the interference by the State. However, in recent times, tables have turned to see Religion infiltrating State, leading to religious standards being imposed on society, whether or not they ascribe to the faith. This is one provision that MUST be unequivocally stated.

1. Article 14 (4) - Today, Kenyan children cannot do their KCPE without birth certificates. More and more children are registered at birth, and the rate is increasing. For a constitution for posterity, it is curious to find out for whom this provision is made. The UNHCR estimates Kenya has over 340,000/= refugees. There are more who are not registered with the UNHCR but are present in the country. It is their children who are unlikely to be unknown. The use of the word "Nationality" in that sub-article is a dead giveaway. It means, even when physically the child resembles people of a certain nationality, the assumption will still hold. The granting of "citizenship by birth" is also suspect, since it is irrevocable. We recommend if this article must remain it be only for "citizenship by registration" which is revocable if fraud is found, rather than by birth, which is irrevocable.

1. Article 24 (4) - the exemption of one section of society from protection from discrimination simply because of faith in an unconstitutional provision. When the sources of law of Kenya are listed, all the laws are subjected to the constitutionality test, meaning, if they are inconsistent with the constitution, to the extent of the inconsistency, they are null and void. *Sharia* is not recognized as one of the sources of law of Kenya; however, there are exceptions to provisions of equality. With society moving towards making society more open for everyone, it is curious that the MOTHER LAW of Kenya advocates for sections of society to be openly discriminated against on the basis of religion.

1. Article 26 (4) - Dubbed the Abortion Clause. This Article should deal with everyone's right to life, including that of the unborn. Yet it goes to put the circumstances when an abortion is permissible. It begins by relaxing the caliber of those who can offer abortions to any health professionals who may include nurses, midwives, community health workers,

clinical officers. The delicate procedure of an abortion to be entrusted to anyone is preposterous! It will definitely see an increase in maternal death, not a decrease. Secondly, the provisions of saving the life or health of the mother are deceptive. In Kenya today, women who are at risk of life threatening miscarriages, Rhesus factor affected pregnancies; ectopic pregnancies are saved without the life of the child taking precedence. However, when the health of the mother is a consideration, we find mischief. By definition, pregnancy is a very unhealthy experience for the mother, and child birth is actually life threatening. With Article 26(3) in the event in future if society accepts abortion, it may be legislated under that section. See <http://www.plannedparenthood.org/about-us/international-program/kenya-country-program> to further understand why abortion is even in our constitution to begin with.

1. Article 32 - Freedom of conscience has been whittled down to merely believing and manifesting ones beliefs. The freedom for one to change their religion and to propagate their religion has been removed. Moreover, the freedom to establish institutions fully sponsored by religious groups with one of the aims being the propagation of their religion has also been removed. The provisions for institutions to be able to restrict access to employment and to admissions in their institutions for the primary benefit of their religious faithful has also been removed. Why was section 78 of the current constitution not copied verbatim into this new constitution?

1. Article 170 - *Kadhi* Courts have been ruled by the constitutional court to be discriminatory. A reading of section 170 reveals that they are religious courts, not judicial ones, and so they ought to be left out of the constitution. The officers of these courts can only be Muslims, and no amount of study of Islamic *sharia* can make a lawyer qualify as a Kadhi unless he first profess the Islamic faith. All other Kenyans are served by an able judiciary in all personal matters. There is no reason why the constitution should discriminate against all Kenyans in favor of one faith, and even for those in the faith, discriminate against those who submit to *kadhi's* courts in light of Article 24(4).

1. Article 257 - Amendment of the constitution by popular vote is not only an unnecessarily long process, it is actually super-expensive in terms of time and money. Further to that, it is in the hands of the *wananchi* only for the purposes of collecting signatures. After that, the process is handed back to the Electoral Commission, and then is sent to the politicians. Amendment by popular vote should be the million signatures; a bill drafted, and is sent straight to a referendum. NO SINGLE politician should have a say as to whether it passes or not, it should be people driven all along! If politicians want to change the constitution, they should do it as per Article 255 and 256.

1. Article 34 - this brand new fundamental "right" dubbed freedom of the media is preposterous. It leaves Government with no control over media at all, even in events of National Security. The only role of the State is in licensing the airwaves, after that the media is left up to its own devices. With the role media plays in setting the agenda and in information dissemination, this is a provision that can be abused way too easily. It also explains why the media houses are also leaning on the passing of this proposed constitution. The Media Owners Association is one of Kenya's biggest and well concealed Cartels, and should be subjected to the provisions the Restrictive Trade practices and Monopolies law.

1. On a spiritual note, the inability of the church to PROPAGATE religion and the lack of protection for those who choose to CHANGE their religion means that the church will be emasculated. Christianity is the only religion that grows by convincing people to leave their old ways and follow Christ. Even our children have to make their own decisions to follow Christ, by saying the sinner's prayer, or by taking Communion or Eucharist, or be baptized. Christianity will be the most affected by the removal of these provisions, since without the Great Commission, the church is ineffective and useless, salt that has lost its saltiness. Secondly, if as a society we open the door for abortions, we as a society will pay a price for it. God will require of us the blood of those children who perish innocently, since we know that the blood of Abel still speaks to this day of the injustice of Cain's Murder. We are God's people, we must blow the trumpet to warn the nation of the danger of shedding

innocent blood.

These are part of the ten reasons why the church is saying NO to the proposed constitution.

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