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The Move to Regulate Churches Is Suspicious

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The speed in which the government seized the moment of one Victor Kanyari's expose to streamline churches and mosques is suspicious. It's a double *entendre* whose other meaning may be hidden in a move against freedoms guaranteed under the supreme law of land. The move is ill-advised and will do little to stem the alleged illicit activities by certain religious institutions they are geared to tame.

The state has an unprecedented appetite for regulations. When it is not streamlining the media, it is on NGOs and now guns are on religious association. There is no doubt that the government was planning some kind of regulation before. The excuse that suspending registration of all religious organizations to weed out those who want to commercialize churches and stop mosques from being used as breeding grounds for radicalization is quite convenient.

If we need regulations to protect the public against criminals, one wonders, what is the relevance of having written law? What then is the purpose of the Penal Code? We have sufficient laws in place to deal with those who peddle falsehoods for gain. The Penal Code dedicates 10 sections to all manner of trickery, including fortune telling. So why is the Director

of Public Prosecutions slow in taking action? Perhaps those involved for conscience reasons will not come forward. He might not get witnesses for a strong prosecution case against Kanyari. Kenyans are experts in pulling out as witnesses?

Under Kenyan law the Attorney General does not have prosecutorial powers. This is the preserve of the DPP." He can come up with his malicious regulations but he has no power under law to prosecute. His is to safeguard public policy and advise government." By not pursuing this as a criminal case, and going full throttle to invite all religious organizations to a meeting on Friday to discuss draft regulations drawn up by his office, the AG raised more than an eyebrow.

Going by the present constitution bill of rights, it would be impossible to create regulations without denting the Bill of Rights. The state is restrained by the constitution in as far as the freedom of conscience is concerned, and, therefore religion, freedom of speech and freedom of association as well. These are already violated by Tuesday's action suspending registration of new religious groups. One expected the state to use existing laws to address the malpractices, which are not new, without this level of hysteria.

In this dispensation of liberal democracy, the state's attempt to regulate religious groups is an even greater challenge. Today people are free to exercise their religion as their conscience dictates. The free exercise clause prohibits the state, in most instances, from interfering with a person's practice of their religion. When no one makes an official complaint, it will remain a huge task to institute any case, however juicy it may seem.

In early 18th century, John Locke propounded the theory of keeping state apart from religion. Locke argued that the government lacked authority in the realm of individual conscience, as this was something rational people could not cede to the government for it or others to control. For Locke, this created a natural right in the liberty of conscience, which he argued must therefore remain protected from any government authority. Failure to observe this would plunge them back into religious intolerance, from which there is no fleeing.

As long as the problems for which people seek miracles or breakthroughs persist, there will be no end to illegal innovation and the ilk of Kanyari. Unfortunately that's our context. We live in a country where health services are

desperately wanting. It is out of desperation that citizens seek prayers for their ailments instead of medical care. Anyone who claims to offer alternative solutions will never cease to find clients. Unemployment and poverty has made many gamble the little resources they have in the hope of getting more and living their dreams. The lure to 'plant a seed' and the gain of a huge harvest they never planted will always make these preachers flourish.

It will, however, be simplistic to say only the poor and the unemployed get trapped. Greed and desire to move up to the next level seem to have bewitched even educated people. Can the state succeed in regulating these groups without first doing something about the demand factor being addressed? Scoundrels will at best be driven underground. I suggest we should be very restrained in our attempt to make regulations by the state, but deal with the demand factors more.

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