

Weekly THE Review

For the Thinking Pers

'DAY NATION'



RAILA EXILE FILES

In the heat of the agitation for a return to multiparty democracy, Odinga fled Kenya to Uganda, from where he sought to go to either America or Germany. Newly declassified documents reveal the back and forth that surrounded his search for asylum

kenya lens

■ RUNNING AWAY FROM THE MOI REGIME, RAILA HAD SOUGHT ASYLUM FROM GERMAN, AMERICAN GOVERNMENTS

RAILA, THE 'UNWANTED' EXILE

Western governments were afraid of antagonising the 'friendly' Daniel arap Moi government, while Uganda under Yoweri Museveni was keen to avoid a diplomatic dispute with its neighbour



Father and son seem lost for words at their first meeting at the elder Odinga's Bondo home since his son Raila was detained five years ago. But Raila's arm, and the look in their eyes express all the emotions of the moment. Raila travelled to Bondo soon after his release from detention. FILE | INATION



Birds of a feather? FORD Kenya's Raissa Odinga (left) listens to Koigi wa Wamwere at the All Saints Cathedral where they met for the Release Political Prisoners Cultural Week. FILE | INATION



Chief Inspector Ikonya of the Nairobi Central Police Station, Nairobi, explains to members and supporters of the Release Political Prisoners pressure group, who included FORD Kenya's Langata MP Raissa Odinga (left) why they were not allowed to plant trees at Freedom Corner to commemorate Political Prisoners Day. Others were Murugi Kariuki, Victor Wachira, Kang'ethe Mungai, Karimi Nduthu, Kitur arap Tirop, Geoffrey Kuria Kariuki, Rumba Kinuthia, Labour Democratic Party chairman Noor Mohamed and physician Lukas Munyua. FILE | INATION

● BY ODHIAMBO LEVIN
OPIYO

Recently declassified documents in London have for the first time revealed the full extent of efforts by the United Nations High Commission for Refugees (UNHCR) to secure safe passage for opposition leader Raila Odinga, who had fled to Uganda on October 26, 1991 fearing for his life, and the reluctance of big Western powers to give him political asylum.

Mr Odinga, a serial political detainee who was at the time a leading campaigner for multiparty democracy and prominent opponent of President Daniel Moi's autocratic regime, had crossed into Uganda through Lake Victoria disguised in religious gab. With rumours spreading about his whereabouts, a Ugandan government official hurriedly convened a press conference and confirmed to reporters that Mr Odinga was indeed in Uganda, but his request for asylum had been rejected.

The government of President Yoweri Museveni, well aware of the annoyance Mr Odinga's presence in Kampala would cause the Moi administration and possibly result in a diplomatic row, reacted swiftly by passing him on to the UNHCR.

According to the British government documents, on October 28, 1991, just two days after Mr Odinga's arrival in Kam-

pal, the UNHCR representative, only referred to as Mr Farah, requested an urgent meeting with the British High Commissioner to Uganda Charles Cullimore.

"Farah, the UNHCR representative, called to see me this afternoon at his urgent request accompanied by his assistant," Mr Cullimore wrote in a priority telegram.

During the meeting, Farah informed Mr Cullimore in strict confidence that before fleeing Kenya Mr Odinga had made asylum enquiries with American and German diplomats in Nairobi. The UNHCR representative further revealed to the Brit-

ish High Commissioner that Mr Odinga's first option was Germany, which they were "pursuing vigorously".

Farah's aim was to put Mr Odinga on a flight to Brussels, Belgium, the following day, after which he would board a connecting flight to Germany. But the plan was being delayed by the Germans' indecisiveness on the asylum request.

Even though a similar request had been made to Norway and the United States, Farah sought to know from Mr Cullimore whether the UK would be willing to take in Mr Odinga in case other options failed.

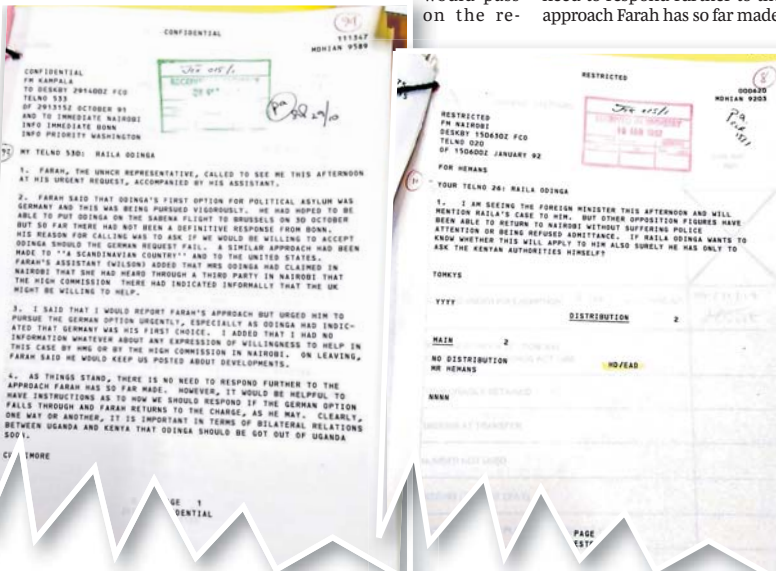
The British High Commissioner, while assuring Farah that he would pass on the re-

quest to London, urged him to continue pursuing the German route. He further pointed out that he was not aware of any willingness by Her Majesty's Government and the High Commission in Nairobi to assist Mr Odinga with his asylum case.

The meeting ended with Farah promising to update the High Commissioner about any development.

Following the meeting, the diplomat telegraphed London, seeking advice on how to respond to the request. The telegram marked "confidential" was also copied to the British Embassy in Bonn, Germany.

"As things stand there is no need to respond further to the approach Farah has so far made.



However, it would be helpful to have instructions on how we should respond if the German option falls through and Farah returns to us," he wrote.

He was however of the opinion that one way or another, Mr Odinga should be out of Uganda as soon as possible since it was "important in terms of bilateral relations between Uganda and Kenya".

Track movement

It was clear from the records that the British and Americans were hesitant to offer Mr Odinga asylum.

This could be explained in the context of Cold War, which was at its tail end. The Odingas and other political agitators were considered a threat to Western interests by antagonising Moi, who was seen as a safe pair of hands.

In one file marked "confidential", covering the 1980s and early 1990s, Koigi wa Wamwere and Prof Ngugi wa Thiong'o were described as "enemies of Kenya" who should not be given a safe landing in Britain. In fact, Prof Thiong'o only got his indefinite leave to remain in Britain after an immigration officer made a mistake and endorsed his passport, the documents reveal.

The Foreign Office was so much angered by the error that it wrote a protest letter to the Home Of-

fice stating: "We are very concerned at the proposal that the error in Ngugi's Ghanaian passport should in effect be legitimised. Ngugi is the enemy of Kenya number one. I am also disturbed by the fact that Ngugi appears to have two passports, one Ghanaian and the other Kenyan. We also seem to be having problems keeping a track of Ngugi's movement (Something we had agreed we should do), can things be tightened up?"

Such was the dilemma of many of those who fled to the West during that period. Nonetheless, Mr Odinga was eventually offered asylum in Norway where he remained for a couple of months.

While he was away freezing in the biting Norwegian winter, back home Moi, had yielded ground following persistent pressure and announced the return of multiparty politics in December 1991. With the clamour for change at its peak, Mr Odinga was not ready to remain in exile for long. He was particularly keen on attending the first rally of the newly formed political party—Forum for Restoration of Democracy (Ford)—which was to be held at Kamukunji. The only problem was that he didn't have a Kenyan passport and his Norwegian one was not valid for travel to Kenya.

To navigate this logistical challenge, according to the declassified documents, he approached Lord David Steel, a former leader of the British Liberal Democratic Party, to intercede for him so that he could get his passport back.

British High Commissioner to Kenya Roger Tomkys of Raissa Odinga's request for assistance to get back his Kenyan passport

kenya lens

■ AZIMIO WELCOMES FORMATION OF COMMISSION AND DEMANDS INCLUSION

● BY MOSES NYAMORI

Under “Ending State Capture” in his manifesto, President William Ruto promised to establish, “within 30 days, a quasi-judicial public inquiry to establish the extent of cronyism and state capture in the nation and make recommendations”.

During the August 2022 General Election campaigns, President Ruto accused the Jubilee government—which he had been a part of until his falling out in 2018 with then President Uhuru Kenyatta—of being beholden to cartels, fraudsters and economic saboteurs, whom he blamed for the rising cost of living.

But since he assumed office in September last year, Dr Ruto and his allies went cold on the matter, only reviving it when stung by Mr Kenyatta’s public utterances and now in the wake of the current criticism of the government-to-government fuel deal and the Sh17 billion oil saga.

Last weekend, during a church function in Kitui County, Mr Kenyatta lashed out at President Ruto and his allies for perpetually blaming his administration for their failure to deliver on their pre-election promises.

“I don’t have to say anything but so that my silence is not misconstrued to mean that I am afraid of speaking up my mind, it is now clear to Kenyans that some people have failed in their job,” he said. “Nowadays, I’ve gotten used to being blamed for anything and everything. Each time someone fails to do their job, they blame the previous government. Even when somebody’s wife fails to conceive, they blame Uhuru.”

This triggered a series of reactions from Kenya Kwanza Alliance politicians, including a renewed push to form a commission of inquiry to probe state capture during Mr Kenyatta’s 10-year tenure.

Deputy President Rigathi Gachagua said that the country was facing hard economic times because of a borrowing spree and state capture under the previous administration. He promised to release details of the alleged state capture soon.

In a hole

“Those debts must be paid and they will be paid by the people of Kenya. What we agreed under the leadership of William Ruto is that we found ourselves in a hole and what you do if you are an intelligent person is you first empty it and figure out how to get out and that’s what we have done; tightening revenue collection, sealing leakages, making sure that every cent is collected to pay public debt,” said Mr Gachagua on Tuesday.

In April, Mr Gachagua blamed the financial challenges facing the national carrier Kenya Airways on state capture. He claimed that Mr Kenyatta’s regime made the airline sign questionable contracts.

“I think the state capture fellows were very clever; they did it in such a way that even if there is a change of government, to get out of those contracts, the penalties are extremely heavy,” he said.

National Assembly Majority Leader Kimani Ichung’wah this week indicated that Kenya Kwanza would proceed

STATE CAPTURE

President promised a commission to probe state capture within 30 days of taking office, but a year later, he is yet to act



National Assembly Majority Leader Kimani Ichung’wah during an interview in his office April. FILE | NATION

with establishing the commission as promised during the campaigns.

“The state capture commission will guide the country not to ever repeat past economic mistakes and private business inspired policies as we forge ahead,” said Mr Ichung’wah.

He added: “It will as well end the impunity as public officers use their offices to loot the country. It will help us repatriate all the loot stashed in safe havens.”

Azimio la Umoja One Kenya Coalition, which is led by Mr Raila Odinga and which Mr Kenyatta says he is still a member of, welcomed establishment of such a commission, but insisted that the inquiry has to cover both the current and previous administrations.

The opposition also said that such a commission should be composed of individuals from both the ruling alliance and Azimio to avoid possible cover up and victimisation. It added that some of the individuals in the current regime held powerful positions in the previous regime.

Although he was sidelined in the last term of Mr Kenyatta, President Ruto served as the country’s second in command for the 10 years. Mr Ichung’wah served as the National Assembly’s Budget and Appropriations Committee chairperson for close to seven years—the committee plays a big role in the passing and implementation of the country’s budgets. Current Defence Cabinet Secretary Aden Duale served as the National Assembly Majority Leader for about eight years.

“We welcome it, but it should not be used for intimidation. They cannot be talking of state capture only when the former President challenges them. If they are serious about it, let it be formed in a similar manner like the

National Dialogue Committee; the opposition must be equally represented for any truth to be known,” said Jubilee Secretary-General Jeremiah Kioni.

“The real state capture is under this regime. Kenyans want to know why appointment letters in the public service are now being dishied by Kenya Kwanza politicians,” said Mr Kioni.

He added: “If this probe is to not become another cover for their inadequacies, we want the commission to also inquire into why corruption cases touching on Kenyan Kwanza politicians have all been dropped.”

Explain away their failure

ODM chairman John Mbadi said the renewed push to probe the alleged state capture was yet another tactic by Kenya Kwanza to explain away their failure to deliver on their pre-election pledges, more than a year since they came into office.

Mr Mbadi said such a commission should have been formed in the current administration’s first month in office if they were serious about it.

“The cartels who were in the previous administration have been replaced by another group of cartels. This government is even borrowing more than the previous administration,” said Mr Mbadi.

The nominated MP said some of the loans President Ruto is blaming Mr Kenyatta for were taken during Jubilee’s first term in office.

“Ruto literally ran the first term of Jubilee in office. He has said it himself. Will he be subject to the commission of inquiry?” he asked.

Narok Senator Ledama Olekima said: “While at it, let us bring out our income statements. Of interest will be the income statement of the following

departments: Office of the President, State Department of Trade and Industrialisation, State Department of Energy and State Department of Transport.”

Prof David Monda, a lecturer at City University of New York, said it would be problematic for President Ruto to address the state capture issue since it is ingrained in the fabric of both the current and previous administration.

“I think the problem lies with lack of political will to deal with state capture at the highest levels of government. Institutions like the DCI (Directorate of Criminal Investigations), DPP (Director of Public Prosecutions) and EACC (Ethics and Anti-Corruption Commission) are deliberately led by political appointees that pay lip service to dealing with state capture and malignant corruption,” said Prof Monda.

“In a nutshell, I’m not very optimistic this administration will address state capture. Particularly now with the government being broke and unable to pay its bills. Kenyans have become used to the President promising to fight corruption with few prosecutions of suspects and even fewer convictions,” he added.

Some insiders in the Ruto administration, who spoke in confidence, said a full commission of inquiry, like the one against former South African President Jacob Zuma, poses the risk of unintended political consequences or embarrassing revelations for the government.

A preferred route could be to release bits of information on alleged state capture targeting specific sectors. These could then be pursued by Parliament or investigative agencies.

mnyamori@ke.nationmedia.com

Lord Steel, who later served as the presiding officer of the Scottish Parliament, had spent part of his boyhood in Kenya.

Lord Steel’s father, the Rev David Steel, was the minister of St Andrews Church Nairobi in 1949, and was known for his criticism of colonialism in Kenya. This put him at odds with the Governor of Kenya and some of his congregants.

Just like his father, Lord Steel was an acclaimed campaigner for social equality. “I have been conscious from my earliest days.

There are interrelations between one’s personal belief and attitude to social questions.” Perhaps this explains his early association with liberation figures and movements in Africa.

In 2007, for example, he backed Mr Odinga’s bid for the Presidency, stating that the opposition politician and his father Jaramogi Oginga Odinga “have always been guided by a moral code whose cornerstones are truth, nationalism, democracy and social justice. Driven by powerful consciences, both men always remained true to the cause of justice for all and freedom from tyranny”.

The British Conservative magazine, *Spectator*, in its January 2008 issue, stated: “It is a little known fact that though Raila Odinga was a socialist firebrand who named his son Fidel Castro, his mentor was the former Liberal Party leader Lord Steel.”

It is therefore not surprising that Mr Odinga chose to approach him in 1992 to help him get his Kenyan passport back. Following the request, Lord Steel raised the issue with an official of the East African Department (EAD) in the Foreign Office, who then informed the British High Commissioner in Nairobi: “Sir David Steel has been approached by Raila Odinga who is now living in Norway about the possibility of getting his passport back.”

The official went on to say that he had intended to raise the matter with Dr Sally Kosgei, the Kenyan High Commissioner to the UK, but was not able to secure an appointment because the Kenyan diplomat was operating between Nairobi and London.

“I wanted to make clear to her that I was not lobbying on Raila Odinga’s behalf as such but rather concerned with the level playing field aspects of the pre-electoral situation.”

In concluding his telegram, the official requested the British High Commissioner: “If you are seeing Kosgei could you perhaps feed this in and let me know what reaction you get”.

The following day, the official sent another telegram to the High Commissioner in Nairobi asking him to do everything possible to talk to the Kenyan government about Mr Odinga’s passport.

“Raila Odinga is due in London on 20 January for a meeting with Sir David Steel. Apparently, the FORD meeting in Nairobi has been put off in the hope that Raila Odinga will be able to be there, but it cannot be put off much beyond the last few days of January,” he wrote. “Grateful therefore any-

kenya lens

■ HE HAS HAD SEVERAL ALTERCATIONS WITH THE POLICE AND TURNED THEM TO HIS ADVANTAGE

THE RETURN OF MAINA NJENGA**The former Mungiki sect leader is on a mission to change perception about him; he has been doing rounds in media stations and during his court appearance in Nakuru last week, he led the crowd in a Christian prayer—a symbolic show of moderation and image building**

● BY JOHN KAMAU

When he held a well-attended meeting in Kenol, Murang'a County, on October 7, former Mungiki leader Maina Njenga appeared to be making his mark within the Mt Kenya region.

Besides what was dubbed the Kikuyu Men's Conference, Njenga has recently been on a say-nothing TV publicity drive during prime-time news and has scared the Central Kenya politicians aligned with Deputy President Rigathi Gachagua.

Njenga, 54, is a survivor—he has been shot at, kidnapped, jailed and remanded for long—and even claims to have died and resurrected. The man used to dine with former President Daniel Moi, graced Uhuru Kenyatta's campaigns, hobnobbed with former Prime Minister Raila Odinga, and always gets a front seat at any political rally he attends.

As the Mount Kenya region goes through transition politics, Njenga has been positioning himself as an alternative force—his past notwithstanding—and has been offering some shine to the lacklustre Azimio la Umoja One Kenya Mt Kenya leaders Jeremiah Kioni and Martha Karua. More so, he seems to target the Deputy President, the most senior political figure in the region because of his current position.

As an astute mobiliser, Njenga is sending shivers within the region in what appears to be a well-organised plot to either dethrone Mr Gachagua, create power paralysis in the region, or solidify the fragmentation of the region's politics.

While post-Ruto politics are now in full throttle, the Njenga positioning can only complicate Gachagua's rise unless he commands the entire Central Kenya vote. Any division would leave him vulnerable and create space for the likes of Musalia Mudavadi, the Prime Cabinet Secretary.

This week, women MPs from the region protested Njenga's return to the centre-stage of the region's politics and asked Interior Cabinet Secretary Kithure Kindiki to stem Mungiki's return. But there was more to it than the subtle fear of Mungiki.

That Mungiki was never vanquished has been an open secret within Mt Kenya, where it has operated with a triple identity: part traditional sect, part self-help group, and part criminal mafia. While it has dropped the symbolic dreadlocks, it has various offshoots independent of Njenga's former extortionist gang that was sent underground by the late John Michuki, former President Mwai Kibaki's Internal Security minister.

Like UDA, which targeted the marginalised, Njenga speaks to the same group. However, he adds revolutionary change and echoes of Mau Mau to his mobilisation strategies.

Though the group is outlawed, its ability

Former Mungiki leader Maina Njenga in the dock at the Nakuru law courts during the hearing of his criminal case on Wednesday. WILFRED NYANGARESI | NATION



to mobilise has always shocked the security apparatus, coupled with the ethno-nationalism that drives its agenda. At one point, it operated its tax-collection system, allocated land and controlled real estate development in the regions it operated in.

Though he has never been elected to any political position, Njenga operates best as a power broker. He is always in the company of top politicians and bodyguards, and lives like a rock star with separate homes in Laikipia, Nyahuru, Nakuru, Kajiado and Nairobi. His supporters call him "Mr Chairman", an odd title for a man who evades questions on how he made his multi-million-shillings fortune. It is with this fortune that he bankrolls politics.

In 2017, Njenga had wanted to run for the Laikipia senatorial seat on a Jubilee Party ticket, but the party secretariat rejected his papers, citing integrity issues. Though he filed an appeal before the Political Parties Disputes Tribunal and



The public follows proceedings on screens during the hearing of a case against former Mungiki leader Maina Njenga in the parking area of the Nakuru Law Courts on November 22. BONIFACE MWANGI | NATION



Maina Njenga campaigns for the Laikipia County senatorial seat in Karendi, Nyahururu on January 26, 2022. EVANS HABIL NATION

claimed to have used Sh120 million to popularise the party. Njenga also blamed then party leader Uhuru Kenyatta and his then deputy William Ruto for his predicament. The party asked him to clear his name with the Directorate of Criminal Investigations. "Many issues have been brought to our attention about him and as a matter of procedure, he must clear his name and satisfy us that he has nothing to do with the criminal gang," the party's then director for campaign communication, Albert Memusi, was quoted saying.

This week, police in Nakuru created more publicity for Njenga as they mobilised the riot squad ahead of his court appearance, where he is charged—for the ninth time—for being a member of the Mungiki sect, the quasi-political gang that terrorised non-adherents and sustained itself through extortion.

The Nakuru court ordered the proceedings to be beamed on screens outside the courtroom after police attempted to block Njenga's followers from the court precincts.

By deploying police with every appearance of Njenga in court, the police have made Njenga into an alternative symbol of power. And the man loves the altercations with police, for it throws him at the centre of attention, but more importantly, he uses them to rebuild his image as a peaceful man.

The rise of Njenga, or his promotion as an alternative leader of the Mt Kenya proletariat, has turned political as the region is caught in a political divide between Mr Kenyatta, Mr Gachagua and the search for an alternative. That search has led Ms Karua and Mr Kiomi to launch what they call "Kamwene caucus"—an inward-looking community mobilisation strategy disguised as the search for an Mt Kenya kingpin.

Already, Njenga has announced that there will be a leadership handover on December 31, 2023. But Kenyatta's supporters have thrown cold water on the announcement, fearing it could edge out the former President from the Mt Kenya politics.

In the last General Election, the Mt Kenya region made a protest vote against Mr Kenyatta and voted for President Ruto against. In essence, the voting pattern shifted the control of Mt Kenya pol-

itics, with Dr Ruto proclaiming himself the region's kingpin.

But after the victory, Mr Gachagua started mobilising the region for political unity by shepherding the MPs elected on the Jubilee Party ticket towards Kenota Kwanza. This move led to a coup within Jubilee, in which Mr Kenyatta's group almost lost control. The weakening of Jubilee has, ironically, created space for Njenga—just in case Mr Kenyatta leaves that void.

How Njenga will manipulate the Mt Kenya politics will depend on who is backing his bid to edge Mr Gachagua out. It also depends on whether Mr Kenyatta is interested in managing local politics, or prefers to fade into oblivion.

While appearing at the Nakuru court, Njenga's lawyers pointed fingers at the deputy president over their client's troubles. It was a clear indicator of his target.

Njenga rose to fame in the 1990s by manipulating ethnic tensions, with his Mungiki group being mentioned alongside Taliban and Kamjesh gangs that were linked to the complex confrontational politics of the Nyayo era. It also represented Kikuyu nationalism—its meetings today are spiced with Mau Mau insurgency songs.

Interestingly, Njenga has dropped his traditional sect norms of "facing Mount Kenya" and in Nakuru last week, he led the crowd in a Christian prayer—a symbolic show of moderation and image building. That they no longer openly call for a return to "traditional" religious beliefs and practices does not mean that they have abandoned that past.

While Njenga has successfully crafted his image from traditionalist to "born-again" Christian, the same cannot be said of his politics.

Whatever political games are being played, Mt Kenya politics is being reconfigured. The various ethno-nationalist groupings in the area are also divided, and Njenga complicates an already complex situation.

While the disillusionment over UDA's promises has left a bitter feeling in the region, Njenga's past sends shivers across the terrain, and lack of another alternative leaves Mt Kenya facing political abyss.

jkamau@ke.nationmedia.com, @johnkamau1

■ COUNTRY MOVING TO NARCOTICS CONSUMER FROM TRANSIT HUB

CRIME ON THE RISE

New Africa crime index paints a grim picture for Kenya, with most forms of crime recording increased activity

● BY DOMINIC WABALA

Human trafficking, arms trafficking, environmental crime, drug trafficking and cybercrime have placed Kenya at the top in the region's crime index.

According to the Africa Organised Crime Index 2023 by Global Initiative-Transnational Organised Crime (GI-TOC), which was funded by the European Union (EU), there is increasing criminality and growing vulnerability of societies owing to the evolving nature of the crimes.

Research data revealed that Kenya scores 7.02 in the criminality index, leading the nine Eastern Africa region states and fourth among the 54 nations on the continent. The score is 0.07 points higher than the previous year's.

In the resilience score, which indicates ability to fight the criminality, Kenya scored 5.33, up 0.13 points from last year, showing that there have been continued efforts to combat the problem in the country.

Most of the noted crimes are being executed in collusion with senior public officials and corrupt politicians, making it harder for law enforcement to intervene.

According to the report, human trafficking, arms trafficking, cannabis trade, financial crimes and cybercrimes showed a notable increase. Electoral tension, political instability and conflict, the Kenya report noted, have significantly contributed to the increased criminality in the country. It further indicates that the gap between criminality and ability to combat it has greatly increased.

Kenya, Nigeria and South Africa, which are some of the continent's biggest economies, bore the brunt of increased criminality following elections.

According to EU Deputy Head of Delegation to Kenya Ondrej Simek, the impact of the increasing criminality on security and governance is profound.

"In Africa, we don't really see anything get-



ting better because the criminal actors seem to have a special affinity for the continent. The EU has been committed to supporting resilience efforts, and organised crime is a priority for intervention in line with the EU's roadmap in fighting drug and human trafficking. EU will continue to support African efforts in combating effects of organised crime," Mr Simek said.

GI-TOC Director Mark Shaw revealed that criminal actors are embedded in the private sector and noted that criminal spheres have grown from last year's 10 to the current 15, turning the region into the criminals' playground.

The report reveals that criminal gangs and corrupt public officials in Kenya largely operate with impunity and offer protection to drug lords and corrupt politicians.

Kenya scored high for human trafficking aimed at forced labour and sexual exploitation because of its geographical position, which is favoured by traffickers.

New hotspots have emerged around the country in recent years, with the human smugglers transporting illegal immigrants from Somali, Eritrea, Uganda and Tanzania to the Gulf States and Middle East.

Because of its porous borders and regional position, Kenya has also become a hub for arms trafficking, which has exacerbated cattle theft.

"Decades long armed violence in neighbouring Somalia has exacerbated the arms trafficking market in Kenya. In 2021, increased insecurity in Ethiopia resulted in an uptick in the number of firearms crossing the border. High level political and government officials are reportedly linked with trafficking arms to warring factions," the report reveals.

There is also a noted increase in trade in counterfeit goods, especially car spare parts, electronics, luxury goods, fashion clothes and computer accessories, leading to billion shilling losses annually.

Illicit logging and harvesting of protected species also had a noted increase as the country's forest cover dwindles. Wildlife trafficking between Kenya and Asia has remained prevalent. Trade in lion, rhino, hippo, sea cucumbers, turtle products, lobsters and donkey skins to China has risen to concerning levels. These illicit goods from the East African region are transported through the Port of Mombasa.

Minerals from the Democratic Republic of Congo are smuggled through Kenya to legitimise them, before they are sold to other countries as Kenyan products. These mineral smugglers, the report indicates, have association with Kenyan politicians.

It further notes that although Kenya remains a transit point for drug trafficking, there has been significant rise in abuse of cocaine and heroin in the country. There is also growing domestic expansion of the use of synthetic drugs.

"Kenya is a transit country for heroin trafficked from Afghanistan and the Arabian Gulf to Europe, the Americas and other parts of Africa. Currently, there is a large domestic heroin and cocaine abuse problem, particularly along the coast. The heroin market is quite profitable and competitive and no special criminal group controls the trade.

"Authorities have pointed out that Kenyan drugs traffickers are now importing narcotics mainly for the local market, which if the trend continues, would transform Kenya from a drug transit hub to a consumption hub," the report reveals.

Cybercrimes such as data breaches and ransomware have doubled in Kenya, the report shows, targeting insurance firms, schools, government organisations, public infrastructure, utility service providers and financial institutions.

The index also shows that there has been an increase in financial crime across public and private sectors and civil society, with high levels of corruption among government officials and executive office holders leading to financial fraud, embezzlement and misuse of funds.



A pile of illicit firearms on fire at the Regional Police Traffic Training Centre in Ngong, Kajiado County, on June 9, 2021. FILE | NATION

mayodom@gmail.com

opinion

Democracy wanes on the back of government failure

A close reading of elections across the world shows the emergence of right-wing and populist leaders even in countries that took pride in defence of radical democratic ideals.

Voters in Europe and America have thrown caution to the wind. They prefer politicians who speak to their hearts. Former US President Donald Trump is one such leader. Therefore, it will not be a surprise if he wins the presidential race next year.

The strongholds of these right-wing politicians appear to be areas where citizens are dissatisfied with the performance of their governments in addressing what some consider the “wave of immigrants”.

These developments have led to a general decline of democracy in Europe and America. Very soon, some of these countries will lose the moral authority to support democratic causes in the Global South because of this.

In much of Africa, a close reading of elections also shows that people are dissatisfied with the performance of their governments. This is reflected in data by *Afrobarometer* research over the years.

In the last 12 years, satisfaction with how democracy works in Africa has de-

clined from about 50 per cent in 2011 to 39 per cent. A significant number of people are also dissatisfied with how elections work.

On average, about 45 per cent of people in Africa are of the view that elections are not effective in holding their leaders to account. Only 14 per cent in Gabon, 16 per cent in Eswatini, 20 per cent in Nigeria and 28 per cent in South Africa feel elections help them to hold their leaders to account. Many countries in West Africa’s “military coup belt” also have low numbers of people who have confidence in elections.

Kenya fares much better than the Africa average in terms of number of citizens who have confidence in elections. But only 55 per cent of Kenyans, compared to Africa’s average of 45 per cent, have confidence in elections.

Ghana leads the continent in terms of number of citizens who have confidence in elections as tool for holding leaders accountable. Eighty per cent of those in Ghana, 70 per cent in Uganda and 61 per cent in Tanzania say elections work well in enabling voters to remove non-performing leaders from office.

But 61 per cent of citizens in Kenya feel that elections do not ensure that those elected to Parliament represent the



KARUTI KANYINGA

views of voters. They feel their leaders are disconnected from them. They are of the view that elected leaders alienate themselves from voters after elections. This is in contrast to countries like Tanzania and Ghana where over 70 per cent feel their leaders represent them well.

Kenyans still prefer elections as a means of choosing leaders, with close to 80 per cent of them perceiving elections as a good means of choosing leaders.

Even more interesting, as many as 80 per cent of Kenyans say they vote without fearing intimidation. They are able to choose who to vote for without feeling pressured by anyone.

And in relation to freeness and fairness of elections, only 54 per cent of Kenyans (below Africa average of 59 per cent) think the elections they last voted in were free and fair.

Topping the list of countries where people say their last elections were free and fair are Tanzania, Liberia and Zambia. At the bottom of the list, that is countries whose citizens say their last elections were not free and fair, are Gabon, Sudan, Morocco, Guinea, Mali and Zimbabwe.

Slow progress on development explains dissatisfaction

Why are people in Kenya not satisfied with how democracy works? Why do many people have reservations about elections as a means of holding leaders

to account?

First, it is about slow progress in improving the well-being of citizens. While per capita income has increased over the years, this has not translated into steady reduction of poverty.

About nine million Kenyans or about 16.1 per cent of the population are living in extreme poverty. The number of those living in poverty is even higher if we adjust the measurements above the \$1.9 per day—over 27 per cent are below the poverty line of \$2.15.

Unfortunately, from the time of independence, successive governments have campaigned on a platform of eliminating poverty, ignorance and disease, but these remain a challenge.

Secondly, the 2010 constitution was meant to address these issues. It is transformative in form and content but lacks effectiveness and spirit of implementation.

All candidates, whether at national or county level, have been campaigning on a platform of the 2010 constitution and in particular; the need to address poverty and transform the country. But standards of living have not changed for many people. The gap between the rich and the poor continues to widen. The income disparities continue to be a mark of the Kenyan society. This challenge continues to fuel class conflicts of the type seen in the days preceding the 2022 elections.

How to improve people’s confidence in government

Public confidence in government and leaders will improve only when the government manages the economy in a manner that will lead to improvement of the wellbeing of a majority of citizens. This will require focused attention to the revival of industries, particularly the manufacturing sector, where many jobs can be created and various products made for the regional markets.

Tied to the above is the need to consistently implement policies aimed at lowering the cost of food. This requires giving attention to agricultural development. But successive national and county governments have approached agriculture, including livestock development, in a very inconsistent and casual manner.

Building a fertiliser factory has been talked about since the late 1960s. Value addition in agriculture has been a campaign talking point and government promise in Kenya for many decades, but little progress has been made. Kenya continues to import wheat, rice and maize when there is plenty of land to irrigate and produce more.

In trade, Uganda has been Kenya’s largest export market. But the focus of our foreign policies has not been sensitive to this.

Improving the well-being of Kenyans requires leaders who work on a vision to transform the country in a period of one generation. Unfortunately, the vision of a majority of leaders in Kenya—national and county—is focused on winning an election every five years.

Prof Kanyinga is based at the Institute for Development Studies, University of Nairobi, karutik@gmail.com, @karutikk.

President must see to the full implementation of devolution

The circus emerging between the national government and county governments on handling the effects of the ongoing El Nino rains brings to the fore the urgent need to fully devolve functions and resources as envisioned in the constitution.

On August 16, President William Ruto expressed his commitment to transferring all devolved functions and the attendant resources that are still being held by the national government, 10 years since the new constitution came into effect. He assured that the process would be concluded within 60 days. That promise is far from being fulfilled.

Further, President Ruto recognised that the delay in disbursement of constitutionally set equitable revenue share funds to the counties has had negative impacts on service delivery, leading to poor outcomes. Regrettably, in the quarterly economic and budgetary review report for the period ending September in the current financial year, transfers to the county governments were below target by Sh62.5 billion. This is another broken promise.

The group of governors and senators who have served in the last 10 years cannot escape responsibility for this unjustifiable failed transfer of the all devolved exclusive and concurrent functions and corresponding resources. They have been complacent and complicit. They have



NDUNG’U WAINAINA

spent most of the time engaging in meaningless bickering and childish supremacy fights.

The current group of governors and senators are no better. They are steeped in politics and praising of the Presidency rather than firmly demanding the national government abide by the constitution.

Devolution is the core promise of the 2010 Constitution of Kenya. It is the engine for revolutionising and transforming governance and services, and creating inclusive development in the country. While the constitution requires the two levels of government to engage in cooperation, coordination and consultation, this is only possible after the national government has surrendered all devolved functions and resources.

The national government is legally required to provide technical support and capacity development to county governments to ensure they satisfactorily deliver on their constitutional mandate. Rather than fulfilling this legal demand, the na-

tional government has been hindering, obstructing and systematically clawing back devolution.

The transfer of all devolved functions including exclusive and concurrent and resources was supposed to have been completed in seven years and upon ensuring that all county governments can perform their mandates optimally. Yet there are still exclusive functions that are yet to be fully operationalised in the counties.

It is unacceptable that the national government’s ministries, departments and agencies are still heavily performing some county exclusive functions or certain aspects of them. This is most evident in the functions of health, housing, agriculture, roads, water, sanitation and education, among others.

The recent detailed report released by the Inter-Governmental Relations Technical Committee (IGRTC) confirms this fact. The report revealed that the national government is holding devolved functions and assets valued at more than Sh400 billion are yet to be transferred to

county governments, with some ministries performing large elements of devolved functions. Elements of devolved functions still held by ministries include: agriculture (41), health (45), education (52), water (18), roads (51) and trade (37). Others ministries holding large elements of devolved functions are energy, tourism and environment.

Further, the precise mode of making concurrent functions operational has not been resolved in all sectors. The exact levels of responsibility and accountability of each level of government concerning most of the concurrent functions remain indeterminate.

Functions overlaps and duplications persist. The two levels of government do not adhere to their respective roles and levels of responsibility. Their planning and budgeting still captures functions that are legally outside their jurisdictions. The functions of state corporations and parastatals largely remain unbundled, a process which is a necessary precursor to transferring any component of their functions that should be performed by county governments.

It is evident that there is a need to expedite the establishment of new policies and review of existing ones, laws and institutional frameworks to ensure they facilitate improved governance and service delivery which can only be attained if the respective levels of government adequately carry out their responsibilities as

spelt out in the constitution.

There exists consensus on three key things—devolution has changed lives, services and power dynamics across the country; devolution has played a critical role in politically stabilising the country; and the underpinning social contract and cornerstones of the 2010 constitution are devolution, public finance, social and economic rights and public expenditure that promotes equitable development. Counties are the new frontiers of inclusive wealth and job creation.

President Ruto must walk the talk in implementing devolution. He must retrace and correct missteps that happened after the 2013 General Election, including failure to: implement fundamental structural reforms, and restructure and align political and economic governance, services and public sector functions. The net effect of this has been to put the country on the disastrous economic and financial meltdown being witnessed. It is time for radical governance and economic changes.

This is a national dialogue on social and economic rights, quality public and social services, local economies and production, jobs and incomes, unleashing people’s potential and creativity, dignity and human freedoms. President Ruto must deliver this 2010 constitution vision.

Mr Wainaina is a Transitional Justice and Human Security Fellow, @NdunguWainaina

people, power and politics

■ The squatters can negotiate with the family, but that should not encourage land invasions

Lessons from Grogan, State House Girls, Kirima land

Watching Alice Wahome, the Cabinet Secretary for Lands, abandon the squatters who had built on Gerishon Kirima's land in Nairobi reminded me of the story of Ewart Grogan and the European Nairobi Hospital, now the administration block of State House Girls School in Nairobi.

There are history lessons we can learn if we care to look. We can learn that an illegality doesn't have to end with a demolition. If it had, House Girls High School would not have started.

Grogan was one of the first white settlers in Nairobi, having acquired more than 113 acres in Chiromo, the land on which State House Girls school stands, and parts of the Nairobi River.

Having built his residential house in Chiromo after hiring the Indian *fundis* who had decided to stay after completing the Uganda railway, Grogan wanted to develop his Nairobi property. But he was surprised one afternoon when approaching Chiromo from Hospital Hill to realise there was construction at his farm.

That could be the same feeling Kirima had as he watched squatters invade his Njiru Farm and start building. Kirima was also one of the first African real estate entrepreneurs in post-independent Nairobi, having bought his land from an exiting settler.

After Grogan saw the construction on his farm, he would later narrate later, he enquired from the colonial government surveyor what was happening.

"We are building a hospital," the surveyor informed him, and Grogan, who was said to be one of the jocund characters in the colony, quipped: "Oh. How interesting, Nairobi does need a hospital."

He then left for Chiromo. It is not clear what was going on in his mind, but he constantly clashed with the government and had a low opinion of its of-



JOHN
KAMAU

ficers or what he called: "Those human silverfish feeding on their files."

To digress, Grogan once had a row with government officials for being stopped from making bricks from the clay at the current junction of Globe Cinema and Kijabe Street.

He was asked to take a prospecting licence since clay was considered a mineral. Grogan took the permit and then started digging holes along Government Road and staking a claim on the clay. He vowed to dig many other holes in all towns until the ridiculous law declaring mud to be a mineral was changed. The mining commissioner, Charles Hobley, was made to remove clay from the list of minerals.

It is still one of the legacies of Grogan's fight with the government.

Back to the hospital project, according to Grogan's biographer Ledda Farrant, "weeks passed and indeed the projected European Nairobi Hospital was taking shape."

It was by then clear that part of it was on Grogan's land. Interestingly, Grogan did not intervene and watched the hospital take shape. All he did was confirm that this was to be the European Nairobi Hospital.

As construction was approaching completion, Grogan visited the project and met the engineer: "How very nice of the government to build me a hospital," he said.

Farrant tells us that the engineer "was not amused and informed Grogan that he was mistaken. The hospital was a government project on government land."

Grogan looked at the government official.

"Better have your surveyor work out his figures again," Grogan said.

"You'll find that part of the land you are building on is actually my land."

Interestingly, the government, like the Kirima squatters, continued constructing the European Nairobi Hospital.

Later, government officials started getting furious after realising that Grogan was right and that most of the European Nairobi Hospital sat on Groganville – the name he had given to his land, which included parts of Westlands.

They then started blaming Grogan for the mess they had found themselves in.

"If you knew from the beginning that we were building on your land, why did you wait until we started building before pointing out the mistake? There is nothing we can do about it now," they told Grogan.

"Yes, there is," he told them. "Just take down that end of it."

With the law on Grogan's side, the government decided to negotiate and gave him an offer. And that is how the modern-day administration block of State House Girls School became European Hospital – before a new European Hospital was built later on in the present-day Nairobi Hospital in 1950s.

It is the same position that the people who built on Kirima's land are finding themselves in. They may have to pull down their structures or negotiate with the modern-day "Grogan."

Having missed a chance to own a hospital on his land, Grogan would, later,

build another hospital – but this time in memory of his wife Gertrude, who had died of a heart attack in July 1943 and was buried at Nairobi Forest Road Cemetery.

In her honour, Grogan had considered turning Gertrude's 17-acre home in Muthaiga into a home for "war orphans".

A Nairobi doctor, Gerald Neville, who was fundraising to build a children's hospital, heard of Grogan's project and went to see him. When Neville expressed interest in the orphan's project, Grogan cut him short: "Are you an orphan?"

That is how he convinced Grogan that the children's hospital was better.

But Neville wanted the hospital to be on "the other side of town where other hospitals were."

"Grogan fixed me with his steely blue eyes," Neville would later say. "And he said: 'young man, you are given a gift and you accept it gratefully.'"

That is how Gertrude Garden's Children Hospital in Muthaiga, Nairobi, was born to accommodate 20 children initially.

It is said that after Kenya gained independence and the colonial empire and its symbols started collapsing, the staff at Gertrude would cover the African children up, fearing Grogan would object their presence.

According to his biographer, "Grogan discovered the trick and every time he went to the hospital, he made straight for the African children's beds and played with them, as he did with the others".

The transition from a settler colony appears to have been slow-motioned.

Before he died, he told Edward Rodwell, one of Kenya's longest-running columnists: "The Lord is very good to me; he had made me almost blind and very deaf."

He had taken room at Muthaiga Club where he told those who cared to listen that he was "waiting to die".

Then Grogan, much to the chagrin of his friends, disappeared with Mrs Towers. He was a great friend to Humphrey Slade, the Speaker of National Assembly: "We knew nothing until they had left. Grogan's friends were upset when he vanished. We were sad because he wouldn't have liked to be anywhere else."

The end of empire was also ending in untimely exits. The more significant lesson from Grogan and the State House Girls is that demolition of structures can be evaded by negotiations.

But that does not mean squatters invade people's land and negotiate from within. Nay. But the owners have a responsibility not to watch like Grogan and Kirima and make a move after buildings have been completed.

kamau@ke.nationmedia.com @johnkamau1



The European Hospital in Nairobi. FILE | NATION

OBIT

'Nation' humour writer Loughran takes final bow

● ELVIS ONDIEKI

From the tender age of 17, the late Gerard "Gerry" Loughran chose journalism, and that would be his profession for 48 years, and about a quarter of that career was spent in Kenya.

Gerry, who died on Wednesday, was born in 1935 in Newcastle upon Tyne in northern England.

He started off as a junior reporter with The Northern Echo, a newspaper founded in 1870 and which is based in Darlington, northern England. He later had an editing stint with the Newcastle Evening Chronicle.

He first came to Kenya in 1960, the same year NMG was launched in Kenya by His Highness the Aga Khan.

He was an editor at NMG for four years before leaving. He would later return to hold various senior editorial positions for at least seven years. His second stint at NMG also involved reporting from Uganda, South Africa, Zambia and Tanzania.

After NMG, he moved into the international press, which could be his berth for 18 years. The bulk of that time was spent with the United Press International (UPI), an American wire service.

He was UPI's bureau chief in Beirut, Paris and Moscow before being appointed head of international news in New York. He took up the New York job in 1976, according to a biography of Gerry's on the Henshaw Press website. It adds that while he was the bureau chief for UPI, he was once taken hostage by Palestinian guerilla movements.

Afterwards, he was asked by the Aga Khan to return to Europe and establish a service providing news of the little-reported developing nations. It was called Compass News Features and it operated in from Luxembourg and later London, according to

"Prior to retirement, Gerry wrote a history of the Nation Media Group to mark its 50th anniversary in 2010. Birth of a Nation: The Story of a Newspaper in Kenya was widely hailed as an honest and accurate assessment of the newspapers and the nation of Kenya, both born in the same year," adds the Henshaw Press biography.

When he retired, he returned to his hometown, Newcastle upon Tyne, from where he did most of his articles for the "Letter from London" column.

"He pens the occasional short story and quaffs the occasional single malt whisky," says a bio of Gerry's on 96thoctober.com.

One of the short story titles Gerry wrote is available on Amazon. It is titled The Leopard's Reward: Short Stories from Near and Far. This book was "prompted by his African experiences" as stated in his bio on Amazon that accompanies his titles being sold there.

Gerry also co-authored The Man Who Killed Apartheid, a biography of Dimitri Tsafendas.

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