

# **ELECTION SHENANIGANS KENYAN *HYBRID WARFARE***

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Ph.D. in Military Informatics (#OpenPhD, 2016)

***“The Magna Armis Philosophus”***

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Kenya's Elections 2017, etc, US\$500million+ Electoral Systems duped Hon. John Kerry, Cambridge Analytica, “Yugoslav or Czechslovak Divorce”? Delusion of Unity, etc...

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Dr. Nyagudi Nyagudi

# **ELECTION SHENANIGANS**

## ***KENYAN HYBRID WARFARE***

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Genre 1:

Textbooks > Political Science > Behaviour > Elections

Genre 2:

Textbooks > Military Studies > Hybrid Warfare

Genre 3:

Books > Non-Fiction > Political Thriller

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### **Dedication**

It is an obligation before YAHUEH the ALMIGHTY that you disclose the  
Truth that you have come to know, that you may be blameless  
HALLELUYAH Amen and Amen

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**Dr. Nyagudi Nyagudi alias “*The Magna Armis Philosophus*”** is a notably cited Kenyan Independent Military Informatics Researcher, Academic, and Author who has lived in Kenya for the past 46 years. Born in Nairobi, Kenya in East Africa in 1973, he has a 2016 Military Informatics Doctorate by way of an Open and Cited research work, “Lethal Autonomy of Weapons is Designed and/or Recessive”. Nyagudi, possesses a Bachelor of Science Degree in Mathematics and Physics (Nairobi, 1997), M. Sc. In Information Systems (Equivalency with full course work credits and publication credits 2013). Nyagudi also holds various other higher education academic credits. From 2010 he has taught local and international university students, at undergraduate and postgraduate levels, and co-supervised postgraduate theses/projects in the New York Film Academy in Los Angeles, USA, and Oxford Brookes University in the UK, he has also taught Forensics and Criminology related courses to undergraduate students at Egerton University in Kenya, etc. He has spent many years from childhood to present as a kin military scholar and has an in-depth grasp of many armed conflicts, in places such as the Indian Sub-continent, the Middle East, Asia, Africa, etc. He has taught members of the Kenyan Security and Military Services, Private and Public Sector Personnel, etc. on issues concerning security and professionalism. His first out-of-print book, was an info-ops manual in 2006, “*The Mystique*” – was one of the first Kenyan e-books. **“ELECTION SHENANIGANS – KENYAN HYBRID WARFARE”** is his latest work on the disruptive Kenyan style of Elections and Politics as steered by the ethnicity, and a kleptocratic heritage plus fraternities of its key competitors – the combatants deploy the state-of-the-art in informatics, weapons, kinetics, and other offensive techniques. He analyzes how since 2013, the West has sought to have Kenyan citizens believe that there is nothing objectionable about their dysfunctional political system, despite the billions of dollars that those very same, countries, have spent educating Kenyans to be one of Africa’s most discerning populations, with hundreds of thousands of Informatics, Mathematics, Law and Accounting experts, who the West would rather kept silent and let go of some of the most egregious electoral offenses, including preplanned violence – particularly affected are the Luo ethnic group members in Nairobi (The Capital City with comprehensive number recognition CCTV coverage of all its major roads and modern police service), who are always attacked by “unknown” hyper-violent hoards of the gun and, machete-wielding thugs ferried in lorries into the City, all the while when their slum dwellings are cordoned, ostensibly to prevent them from demonstrating and/or committing acts of violence. Notably, since 2007 in Kenya’s well-policed towns, these hoards of attackers have never been interdicted.

“Only the dead have seen the end of War” – *Plato*

“War is a continuation of politics by other means” – *Karl von Clausewitz*



## **Abbreviations**

3G/4G – Generation of Mobile Telephony Technology

5Y – Civilian Aircraft Registration code for Kenya

AIDS – Acquired Immunodeficiency Syndrome

BBi – Building Bridges Initiative

CORD – Coalition for Reforms and Democracy

CCTV – Closed Circuit Television

CD – Diplomatic Corps

DNA – deoxyribonucleic acid

EACC – Ethics’ and Anti-Corruption Commission

EMS – Emergency Medical Services

ETAC – Election Technology Advisory Committee

EU EOM – European Union Elections Observer Mission

EVID – Electronic Voter Identification Device

EX – Military Exercise

GEMA – Gikuyu, Embu, Meru, Alliance/bloc

GIGO – Garbage In Garbage Out

GPS – Global Positioning System

GSU – General Service Unit (Paramilitary Police in Kenya)

HIV – Human Immunodeficiency Virus

http(s) – hypertext transfer protocol (secure)

ICT – Information and Communication Technologies

ID - Identity

IEBC – Independent Electoral and Boundaries Commission

IED – Improvised Explosive Device

IP – Internet Protocol

ISBN – International Standard Book Number

KDF – Kenya Defence Forces

KIEMS – Kenya Integrated Elections Management System

KOT – Kenyans On Twitter

LRA – Lord’s Resistance Army

Ltd. – Limited Liability Company

MANPADS – Man Portable Air Defence System

MD – Medical Doctor

MP – Member of Parliament

MPESA – Safaricom Mobile Telephony

MSC. CRIM. APP. – Miscellaneous Criminal Application (A Criminal Case Filing)

Mt. - Mount

NASA – National Super Alliance

NATO – North Alliance Treaty Organization

NGO – Non-Governmental Organization

NIS – National Intelligence Service

ODM – Orange Democratic Movement

OPS – Military Operations

Plc – Public Limited Liability Company

PTSD – Post Traumatic Stress Disorder

Rt. Hon. – Right Honourable

RPO – Recovery Point Objective (Database Performance)

RTO – Recovery Time Objective (Database Performance)

RTS – Results Transmission System

SFTP – Secure File Transfer Protocol

SIM – Subscriber Identification Module

SLDF – Sabaoth Land Defence Force

SMS – Short Messaging System

SpO<sub>2</sub> – Specific Oximetry

SQL – Structured Query Language

TNT - Trinitrotoluene

UK – the United Kingdom

URL – Uniform Resource Locator

USA – the United States of America

US\$ - United States of America Dollars

UTC – Coordinated Universal Time

VPN – Virtual Private Network

www – world wide web

# ONE

## INTRODUCTION

### CHAPTER 1

#### “Poisoning the Chalice”

Ism is a pretty potent mix; tribalism, racism, ageism, sexism, nepotism, and a whole lot of other “explosively” concocted and/or perceived attributes. But none of them haunts the Republic of Kenya, more than “tribalism”, as is exemplified in its puritanical form of ethnic supremacy and chauvinism. Ethnically inspired electoral interference is the primary reason why Kenyans cannot get it right, when it comes to pluralistic electoral democracy.

Tribalism presupposes that those who have not undergone male circumcision in their childhood cannot rule “you”, they are inferior and unworthy. Tribalism denounces those who speak a different mother tongue and allows you to kill, maim, and rape them summarily, as they are not your equals or human. Whether educated in a Western Ivy-League Institution or the most remote part of Kenya, the end product of tribalism is the same – a conceited, surreptitiously violent, scheming, double-faced, and superiority complex loaded persona.

Even if one was born of test-tube experiments with the “seeds” of those far from the non-Kenyan, Arctic Circle, China, or Australia; once in the tribe, all doors begin to open. It is not that there is anything special about the tribe, that is not openly known to others from without, but more of how far one can get away while subjugating and ruling over those of other tribes, in addition to having access to and distributing all the resources that they need, by way of some kleptocratically conceived and captured governance system.

The tribe demands unquestioned loyalty of its members and makes them develop a complacent accommodation of its sinister domineering activities.

A clear analogous illustration is that a Jew or Jewess born in Israel today of in-vitro fertilization from an egg and/or sperm donation of non-Jewish ancestry, finds him or herself, no less Jewish and would feel greater entitlement to Israel than any community having dwelled there in a “zillion” years, and would promptly ask you whether your name is filed in the Ministry of Interior as a bona fide Jew before marriage [A1], [A2]. Short of the existence of such a physical registry in Kenya, your ethnicity results in access to more or fewer opportunities in the Kenyan and African context.

Yes, there are many comparisons between Kenya and Israel, the divides are there too, such as that between the Ashkenazi and Sephardi Jewry; Orthodox and more Liberal strands of Jewry; the Billionaires and the many have-nots. The social chasm, even amongst the top tier and bottom tier incomes in the major ethnic groups is stunning and gapping, in that most of the citizens share nothing in common but the national identity cards, which some may not get due to their ethnicity and some foreigners have acquired due to their wealth.

Like in Israel too, immigration at an intra-country level is an issue, where some communities immigrated to new “living room” only to have the growing population of hosting communities, demand for what was “originally theirs”. Ethnicity assumes that you cannot possibly be a loyal citizen of the State, given your ethnic “grounding”, in what is perceived as inherently rebellious tribal lineages. Loyalty to the State is not a virtuous pursuit, but rather blind and hypnotic pursuit, of ever greater subjugation of lesser beings from “accursed” ethnic lineages.

Growing up as a child, these issues are never clear to one. There is an egalitarian spin to friendships in childhood, but in many cases by the time many reach their mid-age around 30 to 40 years, many have been molded by their social environments into unrepentant ethnic supremacists and chauvinists, ready to loot, shoot and kill, for tribe and heritage. Nothing better betrays the new leaning and dispositions of your old buddies, more than their ranting and raving on Internet version 2.0 social media platforms, these are now an Information Warfare weapon of choice during Elections.

WhatsApp, Facebook, Instagram, Telegram, etc. are used to disseminate messages be they threats, hate, that are created in such a way as to evade the scrutiny of less discerning foreign observers. To up their game, social media organizations are now based in Nairobi, and have a part of their screening mechanisms, in this location. But that does not assure the enlightened Kenyan of much, since, after an email leak affecting Kenyan opposition politicians from a major Western international email service provider, its former management finds itself in government, as if it was a thank you gift for a job done well.

It need not be that way, many in Kenya today embrace the concept of positive ethnicity. Going back to their roots for positive inspiration and innovations. Solving contemporary problems with age-old ethnic philosophy and wisdom, or even giving a modern spin of continuity to the family trade. It could be the beautiful Maasai beaded attire that so many Kenyans wear while abroad. Or even the non-discriminatory pride that President Obama of the United States of America is “Kenyan”.

Many museums private and public showcase Kenyan artifacts for posterity. And as a Kenyan leads in a Marathon race be it in New York, London, Berlin or in Asia, or the 1 hour and 59 seconds Marathon run, we Kenyans never stop to ask whether it was a Luo, Kikuyu, Kalenjin, or Kamba, it is simply a matter of national pride. But something strong and insidious is slowly attempting to chew away at the roots of Kenya’s national unity and integrity, and it is evident in Kenya’s politics and elections than in any other aspect of life.

If there is the divisive, hyper-violent, kleptocratic, plutocratic, and backstabbing class of politicians, then Kenya is their full house. Either they rule you, or they bring down the roof like Samson.

If next to every successful man is a woman, if that man is a Kenyan politician, the woman need not be his wife, but is more likely to be a recently and yet to be impregnated Slay Queen. She is the kind of lady who has no qualms sinking her dirty paw into the taxpayers’ “cookie jar”, if only to scoop out some tens of millions of dollars, for her luxury cars, apartments, and imported closet of the latest fashions. The Kenyan Slay Queen must do her “thing” pretty fast,

before the curses of familiarity and wrinkles, tempt her Governmental lover to newer, more youthful prey.

It is not a gender-specific trait, it could be young man older Governmental women, where after conquering several of the female Governmental “species” and enjoying a lavish supply of gifts, sex and money, he the sugar mummy “dehydrated boy” rushes to cash in one more time, by selling his exploits to gutter press and tabloids.

The raunchy stories sold are usually accompanied by irrefutable Internet videos/audios, receipts, paparazzi photos, anatomical and habitual descriptions, that leave many a dazed Kenyan voter, wanting more, while the core functions of electoral representation, are easily eclipsed and concealed from political conscience and thought. Only to be awoken again from a difficult to recover from disaster or tragedy, such as a mass transit accident, terror attack, etc. or other international level drama, be it a North Korean weapons test, or a USA mass shooting.

To keep up with these hefty bills the Kenyan political class has evolved into an evolutionary species, adept at raising its public salaries and allowances immediately upon election into public office, and like a mouse/rat thereafter blowing the mortal financial default inviting “wound” by dishing out handouts. The Public is blown cool over five years, in the process of the political class attempting to reassure themselves of re-election.

In this tough eating and blowing rat race, getting thrown out of the gravy train that is a Public Office could translate into a matter of life and death. So all the tricks in the book must be adopted. Whether it is printing the ballot papers at your friend’s foreign press, or winning the contract for supplying the electoral information system, executing the Information Systems Manager of the Electoral Board by way of extra-judicial strangulation homicide, to allow you to cook the figures and plant figures in the Tally System, to declare yourself elected via threatened proxies in the Judiciary, Chief Justice and Electoral Board, nothing is ever left to chance.

The international level fee munching legal advisers, is never far off, to justify their masters spin of the crime in Black and White legal print, complete with descriptions and terminologies from Black’s Law Dictionary.

If there is anything that an African is good at exploiting in the current political environment in the continent, it is sensing the balance of power and gravitating towards the Center of Power for selfish personal gain. According to experienced German army commander von Lettow Vorbeck who led the German war effort in East Africa during World War 1[A3], the African (in his narrow reasoning then with its wider ramifications today) could not be trusted for that simple reason.

Let us not hesitate to brand von Lettow a racist, we must understand the context in which he was operating from was that of guerrilla warfare, that is on the whole if not partially dependent upon communal backing for logistics and intelligence. If there was ever a white European colonialist who had a trusted group of soldiers it was von Lettow and his loyal, well-chosen native African ‘askaris’ (word for soldiers, troops, or police in the Swahili language).

It is not that the colonial rulers of ages past, were right in their assessment of African communities, but the little they knew or inferred wrongly or rightly, were exploited to the maximum for reasons of divide and rule, designs of which haunt the continent of Africa and the Republic of Kenya in particular to this very day. A case in point is the Luo-Kikuyu political rift in Kenya [A4].

Over the years, politically-instigated oppression of the Luo by Kikuyu leadership, including abuses such as political detention, political assassinations, electoral fraud, etc. has only served to widen the fast-emerging chasm between the two communities. If there is a place akin to the former now disintegrated Yugoslavia in Africa, it is Kenya, where seemingly trivial ethnic rivalries, can trigger a conflict of an apocalyptic scale.

The headstrong Luo are from the ancestral River Nile area of Khush, in fact with the likes of the Dinka, Nuer, etc. they are the actual Khushites, a group that the British would later rename Nilotes, in pursuit of their racial supremacy theories, one the other hand the Somali who have other biblical names as being



from the Land of Put, were classed as Cushites because to their light complexion hence an assumed racial supremacy wrongly attributed favourable mention in the Bible.

In short, whether in politics, academia, and business, if a Luo does not agree with you, they shall confront you openly and tell you so – something that has made many of their lot prominent politicians.

In Bantu culture, however, this is slightly different, rivals are not confronted openly but are brought down by way of scheming and cold-blooded ambush, something that would seep into Kenya’s political area most extraordinarily and persistently. Bantu culture, also has a structure such that a plot, cannot be hatched before an oath is administered and all the concerned participants, take it willingly or by way of coercion.

Ethnic supremacy and/or chauvinist oaths are the greatest challenge to Kenya’s national fabric, especially oaths of the strand that commenced in the late 60s and climaxed in the late 70s and persist in the political arena to this day.

The crux of the matter is that once an oath is administered, whether one is a street vendor or Ivy-League professor, they simply cannot allow themselves to be ruled by others, even if that translates to committing electoral fraud, genocide, or any other crime to prevent the eventuality or possibility. This aspect of oaths is particularly detailed and expounded upon in the book, “Kenyatta’s [the Late President Jomo Kenyatta’s] Succession”, details of which are not specifically captured in the review by Makinda but are well expounded upon in the book [A5].

The life of Obama Senior, in Kenya, after he returned from his studies in the United States of America, may be an indication as to how your ethnicity and/or intellectual abilities can work against you in Kenya. Known for his intellectual wits in preaching against the direction that Kenya’s economy and political establishment was taking after independence, he was blacklisted and could not earn a proper living, considering his level of education that was well above that of many at that time.

Obama Senior was Luo and President Jomo Kenyatta “was” Kikuyu [A6], or so they say. As I have indicated to you, that some of these things are more subjective than objective classifications. He (Obama Senior) would live in fear of the establishment neutralizing him for the rest of his life in Kenya, and there was a specific claim made to this end [A7], [A8].

An assassination many years late that would further aggravate the feelings of the Luo masses (and not its Intelligensia many of whom many are either political dormant or avarice inspired, and unlikely to think up any effective way of protecting the society’s wider population from hyper-violent ethnic machinations of third parties) against the State(in which they mainly contributed to from the sidelines), regardless of who conducted it was that of the late Dr. Robert Ouko, a Cabinet Minister for Foreign Affairs. Dialectics and investigations aside, he was assassinated at his home in Koru or gravely wounded there and taken to be murdered elsewhere.

Though the matter has never been conclusively investigated and/or publicly reported, it is more than clear that Dr. Ouko was killed or captured by his killers when under Police guard, presumably that could only be done by someone more senior in the administrative hierarchy making the police guards stand down, to allow for his capture and killing [A9].

When the coffin bearing Ouko’s mortal remains arrived in Kisumu, the Luo community, let the Powers-that-Be know in no uncertain terms, that they felt that the Government or its officials responsible for the killing regardless of who had pulled the trigger.

With such incidents in mind, it is clear to see why the potential transition of power from a closed circle in Kenya via pluralistic democratic elections would be so contentious. There are investigations to be prevented, the commission of inquiry reports that are never to be released and if released, they are never to be acted upon, and people who are never to be questioned.

Though the author of this book is a “Luo” and much better placed than the majority of the Kikuyu masses, they would feel that their “being in power” would prevent, their “domination over” and “embarrassment” by others, since

the skeletons in the closets cannot be pulled out. It need not be verified that this is a mistaken opinion since the poverty that dominates that lives of many Kenyans has not left the Kikuyu masses unscathed, but has ravaged and incapacitated them in the socio-economic realm in equal measure.

As if things could not degenerate further in Kenya, came the rigging of the 2007 General Elections – this Author/Researcher would say with great confidence and without any hesitation, that the Presidential Election then was rigged, further widening the Kikuyu - Luo ethnic divide.

The matter of rigging the 2007 Presidential Elections, is detailed in a private prosecution case of 2008 [A10]. The violent uprising against the fraudulently installed government then was hyper-violent and spontaneous, resulting in at the very least 1,200 deaths and 600,000 internally displaced persons and property and business opportunities ranging at least in the single billion-dollar range damaged.

Kenya was never to be the same again, for it became clear that a substantial segment of the population was ready to use armed conflict as a political tool, to the extent that they knew or felt that democracy had been subverted. Before that, civil disturbances had over the years had been suppressed by way of ruthless security operations by the Government. In the 2007/8 period it became clear to the Government then and its supporters that their political mandate was non-existent and its ability to control the masses shaky or otherwise non-existent.

There was no security or military settlement to the situation and only a political settlement that got Rt. Hon. Odinga into the newly formed Office of the Prime Minister ended the crisis with his key allies getting appointed into Government Cabinet. Kofi Annan averted a civil war in Kenya by way of this Accord.

2013 General Election was also controversial, but by 2017 the Opposition had put into place a better mechanism for capturing electoral fraud, something that they were able to prove in a Supreme Court petition and have the August Election of President Uhuru Kenyatta overturned and have the fresh election. Since all the disputed issues had not been resolved, Raila Odinga and his Luo

Nyanza political constituency did not participate in the Presidential Election of 26<sup>th</sup>/10/2018 – something that they perceived to be fraudulent from the get-go and their political representatives would prove it to be as such in the Supreme Court during the first Presidential Election petition.

Why would Elections to political office prove to be the epicenter of an ethnic/national dispute? Though Kenya is a poor and developing country, it has money and a National Budget. Taxes are also collected. Some politicians, therefore, perceive publicly elected office as the platform for possession and control of national resources primarily for ulterior motives and to do as they please, thereafter. Once in office cronies are awarded family business contracts, get the kick-backs are they channeled back to the politician to re-finance their return to political office in the future, in some cases the looting is by wire fraud.

The battle for control of these national resources including Kenya’s natural resources has raised the issues as to whether Kenya is a poor country, or if politicians are looting it dry to “death”. To loot the country, you need the support of your ethnic group and related ethnic alliances because one would have to pass a budget in the legislation and allocate contracts of all kinds via the Executive arm of Government.

Politicians, therefore, keep Kenya on a 24x7x365 Election cycle, year in, year out – announcing new alliances, condemning old and new rivals, asking anything they can ask to vote them into office, including but not limited to Computer Viruses, Computer Hacking, Foreign Electoral Material Printing Presses, and last but not the least the seemingly apolitical discipline forces members, who are only too happy to help a politician in trouble, if only that would assist them to get a promotion a rank or two higher after the election, or extension of their tenure in office.

A week would never pass, without some Kenyan politician claiming to have some ace in his pack of cards and swearing that he or she shall unleash it at the right time in the future. Since the stakes are so high, the rigging of elections is also planned 24x7x365. The contractors for the electoral commission must be identified even 5 years beforehand, their cooperation sought and the regulations for the electoral commission’s procurement tenders fixed, rigging

them appropriately, to ensure that only loyal contractors shall be in place at the electoral commission during general elections to do one’s bidding.

One could be mistaken into believing that, with all the political trickery involved and a well-educated population, there should have been a revolt in the brewing. One reason why the Public is particularly easy to suppress in Kenya is that of very low gun ownership, and most of the illicit ownership is a matter hidden away from others from fear of confiscation and/or prosecution. The British established the colonial government in Nairobi in 1914.

Gun control was not introduced until the mid to late 1940s when it became clear that the African population had the ways and means to acquire firearms through purchase or contacts.

With the introduction of gun control came the first wave of confiscations, but by the end of the 1940s many Kenyans who had fought along with the British against the Germans, Italians, and Japanese in World War 2, had figured out that without firearms the British would rule them forever and ever. Enter the Mau Mau insurgency that commenced in 1952/3, with many of the fighters being skilled at arms after service with the British Army, during the Second World War.

Unknown to many, the Mau Mau Field Marshal Dedan Kimathi, was captured, tried, and executed by the British not for rising against them but for possession of a firearm during the State of Emergency [A11],[A12].

Today it is quantified that about 750,000 unlicensed firearms [A13] are the hands of a population of about 45million people. The unlicensed firearms are mainly held in the rural areas populated by Nomadic pastoralists, who are somehow detached from the political intrigues surrounding the governance of Kenya. For them as long as they can graze and sell/barter their cattle for basic needs, they care very little about everything else.

In fact, in the Northern areas of Kenya, they have coined the derogatory term for the rest of Kenya, i.e. Down Kenya, the southern side of Kenya, where most of the political skullduggery is a refined art. In 2007/8 the heavily armed

Pokot, Marakwet and Turkana communities of the Rift Valley region were not attacked by irregulars, who the State did little or nothing to interdict in the Rift Valley.

Kenya’s gun control regime under the legislation, Firearms Act (Cap. 114), Laws of Kenya, Republic of Kenya, gives the National Government, a complete and explicit form of gun control, but it has only been effective in the Southern parts of Kenya. In many northern parts of Kenya, the Public does bear automatic weapons without challenge from the State, and each time the State issues a shoot to kill on-sight orders for those seen with weapons, the Police are usually the unintended victims, who get shot upfront as if to warn the State, in “Down Kenya”.

Notably, the centralized form of gun control has primarily benefited the urban rich e.g. the political and business classes of the Kikuyu and Kalenjin communities, notably those such as the Luo have never directly controlled the regime to their benefit in a similar fashion, the main licensed open public shooting range is now only in Kiambu County of Kenya, and restricted for use only in the 9mm pistol class.

As such uprisings in Luo Nyanza and/or Nairobi due to political injustices are easily suppressed by way of armed force i.e. gunshot killings in a one-sided fashion, with irregulars to assist in the shooting and killing if it becomes too much of a messy affair.

The armed suppression of political dissent especially in the slums of Nairobi and Kisumu in Kenya, though one-side, has for many years has been apocalyptic in scale with the years 2007/8 being particularly bad and the year 2017, offering the promise of things getting worse. Masses of stone-throwing Opposition demonstrators in the Kibra/Kibera slums of Nairobi, battle the automatic weapon-wielding Police units right at the then entrance of French Ambassador’s residence obscured from immediate visibility by a tree-line. Many of the demonstrators are machine-gunned without restraint, as the International Community pretends to be oblivious of these occurrences.

Suffice it to say that a lifesaving level of wisdom, is yet to come upon the slum dwellers of Africa, to the extent that, the moment a Government official can come up with a clear, simple, and balanced reason, for not upholding the Rule of Law, the Constitution and the Universal Declaration of Human Rights as they do from time to time, so should the wise Citizen including slum dweller come up with a fair, just and equitable reason for ignoring the Firearms Act and Gun Control in general, and manufacturing what they need to save themselves from the anarchy at hand.

But arms alone do not bring anyone security without greater efforts, such as regimentation, administration, planning, etc.

The armed clashes of 2007/8 were too widespread to be ignored as they attracted the scrutiny of the Prosecutor of the International Criminal Court at The Hague after the Commission of Inquiry into Post-Election Violence in Kenya, known as the Waki Commission.

The Commission was headed by Hon. Justice Phillip Waki (who was then a Judge at the Appeal Court of Kenya) and the other members were Galvin Alistair McFadyen a former Assistant Commissioner of Police from New Zealand, and Pascal K. Kambale a Lawyer from the Democratic Republic of the Congo who was then with the Open Society Institute project for Governance, Monitoring, and Advocacy.

As the matter is now *sub judice* at the International Criminal Court at The Hague, Netherlands – open overt violence against civilians in Kenya became a bit tricky, and a new era of deploying irregular militia and vocal apparatchiks to spearhead the battle against keeping other communities from Executive political power in Kenya.

It would herald a new Era of deploying Hybrid Warfighting as a political tool for General Elections in Kenya, badly tilting the balance in favour of the *status quo*, who cannot be removed from Office by Popular vote. To neutralize the potency of those in governing Political Office in 2017/18, the Opposition came up with the concept of the People’s Republic of Kenya [A14] i.e. if they could not be considered as mainstream Kenyans, instead of shedding blood they

would rather break away and form their own country. To give their project legitimacy in the Kenyan context, they quickly established, a Peoples’ Republic of Kenya Referendum Bill. But their options for getting to their ends were anyone’s guess.

The People’s Republic of Kenya Draft Referendum Bill immediately caught the attention of the Western Ambassadors in Kenya and the Kikuyu political class, as it became clear to them that the country could cease to exist in short notice – every effort was made to hold together the country, via a new foreign donor-supported initiative the Building Bridges Initiative [A15]. The zillion dollar question is if it can detoxify Kenya’s poisoned political chalice, with something out of the box e.g. Direct Democracy, etc. There is one draft democracy proposition so far in open circulation and, it states that:

**THE REPUBLIC OF KENYA, THE CONSTITUTION OF KENYA, DIRECT DEMOCRACY (AMENDMENT BY WAY OF POPULAR INITIATIVE) BILL LEGISLATION, REGULATION, AND ADMINISTRATION BY WAY OF DIRECT DEMOCRACY**

A Bill for an ACT of Legislation to amend the Constitution of Kenya

**1. Short Title**

This Act may be cited as the Constitution of Kenya (Amendment) Act, as appropriate and shall come into force as envisioned in Article 257 of the Constitution of Kenya upon publication in the Gazette.

- This Bill concerns the Counties and the Nation (The whole Republic of Kenya ).
- This Bill does not contain any provision limiting any fundamental rights or freedoms.
- The enactment of this Bill shall occasion a variation of charges of Public Fund.

**2. Amendment to the Constitution**

AN Act of Legislation to Amend the Constitution of Kenya ENACTED in accordance with Article 257(Amendment by popular initiative) to establish a



direct democracy mechanism by inserting the following **new Article 1(5)** into the Constitution of Kenya immediately after Article 1(4) as follows:

**Article 1(5)**

We the Citizens of the Republic of Kenya, to provide more ways and means of direct Government via Direct Democracy, that we may have a more Peaceful, Stable, and Cohesive Nation, establish a more Just and Equitable way of managing and administering our National affairs, to foster a non-violent and tranquil way for the Individual Citizen to effect change and advancement in the Country, to provide a mechanism for enforceable popular consensus, and that the ALMIGHTY may favour us and our generations to come in the Republic of Kenya, assert Article 1(5) in the Constitution of Kenya. This Article provides as follows:

**(a)** That notwithstanding any other Article of this Constitution, in the Spirit of Direct Democracy, the Citizens of the Republic of Kenya possess the right to veto (veto/repeal/block/nullify/invalidate/void) Subsidiary Legislation, Executive Orders, Budgetary Allocations, State Officer Appointments and/or Regulations at any level of Government be it National and/or County levels.

Under this Article of the Constitution, Citizens of the Republic of Kenya also reserve the right to initiate and effect Subsidiary Legislation, Executive Orders, Budgetary Allocations, and/or Regulations at any level of Government be it National and/or County levels.

**(b)** An effecting initiative or process to veto (veto/repeal/block/nullify/invalidate/void) under this **Article 1(5) (a)** at any Level of Government commences if any citizen can collect 100,000[one hundred thousand] signatures of Kenyan Citizens and upon the forwarding of the same signatures together with the Referendum Bill[s] and question[s] to the Independent Electoral and Boundaries Commission.

**(c)** Upon verification of the signatures aforementioned in **Article 1(5)(b)** and publication of the Referendum Bill[s] and question[s] by the Independent Electoral and Boundaries Commission, it shall be obligated to hold a Referendum on the Matter(s) at County or National Level as appropriately defined in the Referendum Bill[s] within 90[ninety] days of signature

verification and the Bill[s] in question shall be passed by a simple majority of the voters in the Referendum – after which if it passed it shall be Gazetted within two weeks.

**(d)** Intentionally interfering with a Referendum Tally is an act of Treason and punishable as such.

Dated the 7th of January, 2018

**NYAGUDI NYAGUDI,**

**Citizen and Voter, Republic of Kenya.**

At the moment that seems all but impossible, many Kenyans are deluded to the extent that they believe that there is a functioning democratic and political system in their Country. There is only a democratic political system in Kenya, to the extent that democracy is sufficiently subverted to allow for the continuation of ethnic supremacist and chauvinist tendencies.

Would a USA style guns right provisioning of the Constitution of Kenya, facilitate for the stability of the Country. In this respect without explicitly mentioning firearms, the Constitution of Kenya has greater pro-gun provisioning if one could read between the lines, the only fear is that of the Public in urban areas, that being of violent law enforcement attacks.

The Right to Property of any Description, Right to Security, Right to Intellectual Property, Right to Academic Freedom, and Research, can, by all means, be argued to be pro-gun provisioning of the Constitution of Kenya, which this Author proudly contributed to drafting.

For this Author, he is not particularly impressed as to how Leadership of the educated and polished likes of Rt. Hon. Raila Odinga, Senator Hon. James Orengo and many others lead their supporters into each General Election since 2007, 2013, and 2017, with the false hope that Kenya’s primordial ethnic tendencies exhibited by so many in Government shall sublime and give way to Democracy. Democracy can only function for some in Kenya to the extent that they are in effective ethnic control of Government, this is more so for their

political rivals, who they hope against all false hope, shall see the light and embrace democracy and good governance norms.

Every General Election since 2007, that is the General Elections of 2013 and 2017, Opposition supporters in a country where politics is generally ethnic horse-trading, are lured to their deaths by way of the machete and automatic gunfire in numbers that if aggregated, has probably reached at least the single-digit, thousands. Opposition supporters have been left largely unprepared for what could be a cataclysmic collapse of the Kenya Political System.

They are largely untrained in self-defense and protection, are completely unregimented, and have no emergency medic skills that could save many in the future and would have saved many more in the past, there is no prepping, peaceful regimentation, or bug out training here. The current Constitution of Kenya gives a promise that has remained a false hope that politics shall not be militarized, something that has been done ten times over by those, not in Opposition.

Most Opposition supporters are unarmed, untrained, semi-literate, and deluded that they shall finally succeed in democracy, something that is more than clear not to occur now or in the future. The political system only exists to the extent that ethnic special-interests have captured it and shall not let go, without “bringing the roof down on the heads of all Kenyans”.

Those who are intelligent enough to see that there is no possible change in the way things are done have decided never to vote again. Though not voting does not and shall not protect one from the heavily armed and violent lorry transported irregulars in especially in the urban areas of Kenya. No community has borne the brunt of their activities more than the Luo community residents in the slum areas of Nairobi.

Immediately after General Elections, many Opposition politicians are none-the-wiser if they are actually in the majority, due to a captured Electoral Management Board, the “Independent Electoral and Boundaries Commission”, would settle for personal horse-trading, while trampling on the

lost lives of their hundreds and nearing thousands of dead Opposition supporters.

Appointments of Opposition Leaders to positions of personal gain immediately heats their urge for the pursuit of a functioning democratic political system and justice. A General here, an Ambassador there, a State Corporation Directorship, or so, is all that it takes for the Opposition to be blinded by the facts, falsely imagining that things shall get better and that they shall be in a position to tweak the system in their favour, while working from within. Meanwhile, their adversaries, turned new associates, view them more as caged “prey”, for future consumption and disposal.

More astounding is the stance of Western diplomats in their Joint Statement “Kenya’s Democracy is at a Crossroads” [A16], it is problematic because the very countries that want democracy in Kenya e.g. France, United States of America, etc. have the results of the Kenyan General Elections of 2017. The Results Transmission Contractor Safran Morpho provided a system whereby the Tally forms and Election Results text data were stored in a Cloud-based Server hosted by NTT on an Oracle 11g Database Management System Server.

To date, those electoral results remain unknown and concealed from the Kenyan Public, by the very Western Governments who would like Kenyans to embrace and accept democracy, yet at the same time having electoral results concealed from the Kenyan Public within their jurisdictions.

The talks that the Western diplomats called for when they released the “Kenya’s Democracy is at a Crossroads” Statement were more opaque and questionable than the talks between the Taliban, the Afghan Government, and their International allies [A17]. There is completely no publicly published agenda items, publicly published minutes, and no press releases concerning its “town hall” meetings across the country. All the while the political bigwigs have obtained some tangible results for themselves, in the way of speculative political positions.

By the time that the Building Bridges Initiative report was out, everyone had forgotten about the 2017 Presidential Election Results in the Safran Morpho

Server – all the ugly facts about past Presidential Elections had been buried with the Political Class heralding in a “New Era” probably one that shall allow them to get away with crime and so many lives lost in future General Elections.

Rt. Hon. Raila Odinga [A18] was appointed as an African Union Commission Envoy – a High Representative for Infrastructure Development in Africa, technically this is an appointment that makes him politically passive when his Leadership in the public arena is needed. His Excellency Stephen Kalonzo Musyoka [A19] has been appointed as the Government of Kenya Representative and Head to the Joint Monitoring and Evaluation Commission of the Peace Process in South Sudan.

A County Governor, had his two container freight stations up and running [B25], [B26] in Mombasa after a government “tax investigation” shut them down during the electoral period. The former and latter actions have not been explicitly linked to the Building Bridges Initiative, but the handwriting is on the wall and the fingerprints of Kenyan political horse-trading are all over them.

Thousands of Kenyans who were killed as Opposition supporters especially after 2007/8, 2013, and 2017, have their families destitute and unable to meet the day-to-day cost of living.

As Kenyans continue debating their joint future, there are ever more puzzling occurrences, the least not being the Building Bridges Initiative pushing for a government with a President and Prime Minister at the helm, in typical Kenyan fashion, it may turn out to be a 50-year political cycle with no end in sight [A20].

In Kenya that would not be a normal 5 or 7-year period but one of racking up giga-debts then refinancing them with commercial loans i.e. other giga-debts at the expense of the abject poverty stricken Kenya taxpayer [A21]. It would be 5 to 7 more years of questionable procurement scams that weigh down future generations in the jail of unexplained foreign debt. An example of the problem is the recently proposed security system for the Kenya petroleum pipeline system, for the existing fuel distribution system.

The Kenyan Treasury and Ministry of Energy battled over control of a loan facility that was to be used to install the pipeline security system [A22]. The losses from the pipeline system over several years has totaled 2 billion Kenya shillings, so to plug up those losses the Government is seeking a 30 billion Kenya shilling commercial loan for a Security system that is not only 15 times the amount of losses over several years but a system that is also not capable of preventing the losses in the first place.

The most problematic thing is that there is no way to remove those incurring these massive giga-debts from office by way of a General Election, yes the system is captured, arrested, and jailed by its kleptocratic warders.

As long as Kenyan and Foreign “projectpreneurs” can walk into any Kenya Government Ministry and propose a project straight from a dream they had while asleep after taking bottles of top vintage whiskey the previous night. This done without any real-world feasibility study, then Kenya’s democracy shall always be problematic. Once committed these high-level crimes and corruption must be covered up and more so to the extent that one is in Government and has effective control of Law Enforcement and Criminal Investigations by way of appointment of Senior high-ranking Officers.

Future generations of Kenyans for decades to come shall be repaying the same loans, as the descendants of the persons who signed the questionable deals continue to benefit, from kick-backs deposited in obscure bank account systems off-shore. These are more like forward transactions in the futures market for corruption, stealing from the next government even before it is voted into office.

One has to be in power to ensure that the outcome of Investigations and/or Inquiries into the Grand Regency, Goldenberg, etc, never see the light of day. One has to be in power to ensure that Anglo-Leasing [A23] fossilized and kept under wraps for all time to come, and tampering with democracy is a small price to pay especially since Western diplomats in Nairobi started viewing the wider Kenyan Public as a docile, gullible and largely ignorant lot, who can swallow any white lie, hook, line, and sinker.

When it comes to looting public coffers, Kenyan ingenuity is unbounded, brutal, and impulsive. Some have done it for two to three generations now, so the art has been perfected, e.g.:

- Step 1:** Start a national slogan with all the “good” sounding intention
- Step 2:** Propose a zillion-dollar project to implement the slogan
- Step 3:** Ensure that the project has no clear tangibles and/or specifications
- Step 4:** Dream up a figure in the zillion-dollar range for the project
- Step 5:** Completely ignore all public participation or call to reason
- Step 6:** Sign the deal even before it is properly assessed
- Step 7:** Get your kick-back, more so you can get it to the n-th generation if a bank loan financed the project (Stealing the Future is the Latest Fad).
- Step 8:** Ensure that you remain in office by hook or by crook to protect your ill-gotten wealth
- Step 9:** Do it again and again until it becomes normal to the extent that Western Diplomats consider you a legit business person and send invites to you for Public events, and give you the long-term visas

With intensive and extensive misappropriation of Public Resources, it should not take a Harvard University, Kennedy School of Government graduate, to see why leaving power and/or staying in power is a challenge at the very core of what ails Kenya. Though a pluralistic democracy, the institutions and “independent bodies” that are supposed to speak truth to power, are weak. Be it the Judiciary, the National Police Service Commission, The Legislature, the Ethics, and Anti-Corruption Commission, or the Police, none of them can stand up and tell the Presidency and/or Executive when it goes wrong, especially when the Presidency expresses the opinion that dissent shall not be tolerated on a particular matter including the General Elections.

An Institution whose weakness comes to the fore in these matters is the Judiciary. During Presidential Election Petitions at the Supreme Court in Nairobi since the new Constitutional dispensation in 2013 and the subsequent General Elections of 2017, the Supreme Court of Kenya Judges are known to cite all manner of authorities that are contextually irrelevant to the Kenyan condition, if only to justify the position of the Incumbent. The very same Judiciary shall be quick to use any technicality to throw out weighty affidavits on issues such as:

1. Deliberate lack and/or withdrawal of security of opposition Presidential candidates, partisan action enforced by partisan Command of the Police, thereby restricting their freedom of movement and opening them to attacks even in their homes
2. Large scale violent militia attacks by irregulars using State equipment against supporters of the Opposition especially those who dwell in the slums of Nairobi
3. Questionable procurement practices of the Electoral Management Board, the IEBC who seemingly procure items such as ballot papers, from foreign businesses that are closely aligned with the political party in power. The items are frequently single-sourced from start to finish and no amount of public outcry or judicial action ever reverses such decisions.
4. The Judiciary, especially in the second Presidential Election Petition of 2017, entertained the position of the IEBC without demanding that it first adhere to the existing court order for a KIEMS ICT audit

In these matters and more, the Judiciary would typically cite, “every legal dictionary in the UK, USA and Commonwealth at Large”, quote all manner of irrelevant and *non sequitur* Presidential Election cases of decades ago, cite all complaints, affidavits, and opinions of other countries completely immaterial and unrelated to the Kenyan circumstance and context, but only to find a way of completely ignoring the very documents filed in its registry.

The details some of which are gory, are never even mentioned in the footnotes of a Presidential Election Petition ruling, probably for fear of self-incrimination by the Judiciary. An affidavit filed in Nairobi can easily be expunged from the registry of the Supreme Court, and get no footnote mention, even of a “*what-*



*if*” scenario, while completely unrelated cases from other countries are cited, all the while that massive crime scenes created by irregulars, who seem to have upper-hand facilitation that is published in the daily newspapers, are completely ignored.

Supreme Court rulings in Kenya, will cite all manner of publications from all over the world but local relevant Kenyan publications, as of the facts on the ground during the elections. Soon after the Supreme Court Judges, put a largely unelected Government in office, they start complaining that their lives are in danger or that the Judiciary is being starved of cash. They seem to lack discernment as to real-world cause and effect. Judicial rulings published by the Supreme Court after Presidential Elections, are devoid of completeness in terms of philosophy and jurisprudence, they would make any undergraduate university student, fail a Liberal Arts or Law term essay if submitted as such.

The Judges have more than a good reason to fear for their lives, particularly because the very partisan sections of the Law Enforcement are the same outfits providing them with security, so if they start making “wrong” rulings, all manner of things about their well-being could go wrong, be it some indiscretion being published or personal safety issues arising.

Not to forget the Late Dr. Robert Ouko a whole Foreign Minister of the Republic of Kenya, was taken from his home and assassinated while he was under police guard. The Police Officers were never disciplined, demoted, retired, sacked, charged in Court, or punished in any way. They probably retired with benefits and lump sum.

After many years of practice, some members of the Judiciary have developed their new ways of coping with their tough predicament. Be it setting a pre-election case a day before the Election, then killing the same case via convenient lack of quorum e.g. failing to come to court due to transport problems, etc., in simple terms Kenya’s Judiciary in part or whole cannot safely and reliably be depended upon to safeguard its democracy, even when the questions of legislation and the Constitution are only in black and white.

The Judiciary could make any absurd or unjust Presidential Election petition ruling, purely conscious of the fact that those who oppose it even by way of peaceful demonstrations, shall be shot dead on the streets more often than not with military class infantry assault rifles, the AK-47s and G3s, with many in the Disciplined Forces wearing medals and insignia earned by way of killing the very citizens of the country engaged in political demonstrations, after electoral fraud or any other matter of national interest.

In the 2016 “IEBC Reform” demonstrations – the Luo bore the brunt of the armed force deployed in a bid to protect, Electoral Commissioners in office after questionable electoral management performance.

The Author would be mistaken on his assumptions as to the lack of probity of the Kenya Judiciary are personal, vindictive, and far-fetched, but they seem to be gaining traction even within law enforcement and government circles in other countries, such as the United States of America [A24] where the recent narcotics case plea bargain disclosures by persons extradited to the USA has implicated some in the ranks of the Kenyan Judiciary and Kenyan Law Enforcement officials as willing co-conspirators, over several generations, in a massive international narcotics smuggling ring.

Violent suppression of public demonstrations raises queries on the issue of if the political discourse and legal jurisprudence of Kenya, would be very different under the circumstance that the citizenry was largely armed with assault rifles or other modern types of guns. Could a peaceful armed demonstration and/or public rally of 1 million people carrying assault rifles be ignored? Can they be machine-gunned at will and the whole incident covered-up by Western Diplomats?

An impartial observer would find it interesting that the Committee of the Experts who drafted Kenya’s current Constitution probably knew the efficacy of armed demonstrations and regimented political organizations, they were banned outright in the Constitution as a matter of “keep the peace”. But any day, it would be better to have a peaceful demonstration of 1 million armed people, than to have a civil war, due to political repression, socio-political frustrations, and deep-felt grievances that are suppressed over many decades.

The Constitution and Laws of the Land should not be a death writ that leaves you completely vulnerable to political militia, assassination, rape, and murder, even when you know that the only way of preventing those outcomes is by way of possessing a modern firearm, obtained by any means.

If it is “illicit” guns and “contra-band” ammunition that would protect people from rape, assault, and murder during Elections, then it is incumbent upon any sensible and God-fearing person, to take up the same and become an “outlaw” of Last Resort – as Kenya’s Constitution now has provision for Right to Security. If becoming a firearm wielding “outlaw” is what it takes to protect your immediate family from being raped before your very own eyes, then so be it – at least that is sensible at personal law level if not to the wider society.

These are the underlying and challenging dialectics if Kenya is to become or otherwise to remain a Nation-State, versus being a political arrangement under which one set of ethnicities and a few of a social class exploits the others. Social class is the reason why adversarial political discourse, has never been militarized by either side of the divide.

At the end of the day, the rich businesspeople in both sides of the political divide agree on at least one thing – it is important to continue exploiting the poor and earning from government contracts, even if electoral outcomes are fraudulent, because, rocking the boat would only serve the interest of unknown yet to emerge socio-political leaders.

Would paupers in the slums wielding infantry assault weapons such as AK-47, AR-15, PKM, or G-3 spare much thought for ethnic kingpins? Would their regimented formations in large-scale serve the interest of the political armourers? This may explain why the wealthy political class in Kenya, are yet to seek the use of arms – the crowds may not be refined in their understanding of international humanitarian law, furthermore they are likely to be indisciplined and to turn their “newly acquired” arms against their old political masters, if new leadership emerges from their midst, during a major political crisis.

Armed struggles remain a low-frequency, small-scale and low-intensity option for politicians, used as a last resort. Furthermore, the crowds have pretty little or nothing in common with their leaders but for a common mother tongue, the primary marker of their ethnicity in Kenya.

But the rivals in the political class simply have too much in common e.g. they own the same businesses and sit on the same corporate boards, their sons and daughters go to the same social clubs and intermarry, they fly business class on the same aircraft, their helicopters are parked side-by-side at Wilson Airport and used by the same clients, they live in the same Nairobi suburbs of Runda, Karen, Lavington, Kileleshwa, etc.

The only real and critical difference between them is the varying and disparate political perceptions of their impoverished supporters. Without their supporters in the picture, they are pretty much the same people, with the same interests.

The awkward transformation from Kenyan commoner to Kenyan leader, complete with a dynasty in waiting, is a mission at the expense of the General Public, by way of government procurement business, outright theft of public resources without goods or services delivered, or by way of world-beating Public Office pay packages, paid by a circumstances-beaten and impoverished Public.

The stories go like this, teacher to billionaire, utility worker to a billionaire, poultry hawker to billionaire, but more often than not, tracing actual legitimate businesses of those persons is difficult if not impossible, another reason why there should never be a proper political transition by way of democratic elections – the *status quo* must be maintained and investigations suppressed.

After the Elections of 2017, it must have occurred to some in power that either they wanted to continue to be in Political Office past 2022, or that ethnic tensions had gone too far and the country was likely to split as a result. Others in the Opposition must have adopted the maxim that “If you can’t beat them, then join them”. Enter the “Building Bridges Initiative”[A25]. Was this Initiative to be the panacea to Kenya’s violent and ethnic politics or was it just

another of Kenya’s shelved reports with no solution offered. Compiling the report was said to have cost around US\$100million from some quarters, another US\$100 million was to be allocated for converting the report into legislation and US\$150 million set aside for a Referendum before the 2022 General Elections.

There are some absurd things about the Building Bridges Report that any impartial reader would not understand. Otherwise, the discerning and impartial Kenyan, who has seen so much bloodshed in the name of politics would take anything from the Political Class with a pinch of salt.

Suspect number one would turn up to be military issues, a probable root of the problems ailing Kenya. While in initial pages such as 9, it urges that Dual Citizenship should not be embraced by the Commander-in-Chief of the Kenya Defence Forces, Members of the Defence Forces, and Members of General Staff of the Kenya Defence Forces.

One would be made to believe that Kenya is a North Korea type place that needs to be protected from all these nosy foreign powers. But a casual check around Kenya, any day and you would see a foreign “consultant” riding cozy in a military vehicle.

Kenya is also wholly dependent upon foreign powers for the importation of a wide variety of military equipment/systems. Foreign military training is often viewed as the pinnacle of one’s military career. Being trained in India, the USA, UK, Israel, or the European Union is something worth showing in your military CV.

There are large contingents of British and American Forces based inside Kenyan territory. A military career is an exclusive career in Kenya, serving is a privilege for many and not a right. Kenya as a Republic does not seek to harness all its citizenry in National Defense. In fact segments of the population may be viewed by some in the Military/Security professional as regime friendly or regime hostile, and the regime hostile segments of the population are more likely to be dealt with by way of military force rather than an enemy force that makes a territorial incursion into Kenya. There remains a deep colonial

hangover on issues of military secrecy and loyalty. Notably, there are thousands of Kenyans serving in Western military forces.

Page 13 of the BBI report then goes onto contradict, the practice of military and security services secrecy, by recommending that internationally reputable brands, i.e. consulting firms/recruitment firms, to select members of the disciplined services. These are the same disciplined services that do not hire dual citizens, not turning to commercial firms, headquartered in foreign lands, and obligated by foreign law to obey the same, to recruit Kenyan citizen only disciplined services personnel.

The National Police Service and Kenya Defence Forces would then be staffed by way of the formula set out by foreign organizations, and inherently foreign governments due to the foreign domicile of such firms. Though this is recommended as a move to fight corruption, it is not aware of the fact that such international firms are obligated by laws of social orientation and equal opportunity employment, etc.

Albeit its mooted it is advised by some as a move to fight corruption, the country would be better off with some radical move like summary trial and firing squad after appeals. That for sure would put fear and consideration into many corrupt people in the Republic of Kenya.

The BBI does not envision a future scenario where a dual citizenship holding Kenyan may have an extraordinary skill or know-how that is critical for operations of the National Defence or Security. Such persons would not feel obliged to assist the Nation for reasons of discrimination against his or her person.

The Kenyan fear is that “foreign influence” may take hold and/or give out the “family silver”. Ethnicity in itself, creates a similar threat to Kenya, as a country, where a member of the Military/Security services, may put personal ethnic interests and loyalties at the fore when engaged in official decision making.

Citizenship by its very nature is not something that is “cast in stone”, some citizenships can simply be obtained by way of personal assertion/declaration – the fears of the military/security establishments would be easy to justify were it not for the fact that it is not a wholly independent organization but run by the desires of the Executive Arm of Government, as concerns its decision-making mechanisms.

Kenya’s ever-growing diversity raises critical questions concerning the matter of recruitment into the Disciplined Forces. There are Kenyans with social roots in countries that are religious or political dictatorships, their incorporation into the military would be troubling to the extent that they retain citizenship of such countries, as Kenya’s primary military allies are democracies in the Western World. That may have been the primary consideration, at the time the Constitution was being drafted, hopefully, it does not become a matter of discrimination in terms of race or foreign ethnic origin.

Delving further into the BBI Report, page 10 comes up with the purely speculative presumption that consociation-type democracy shall result in a more stable Kenya during General Elections. Nothing can be further from the truth. There would still be serious ethnic conflict during:

1. Removal of a Premier from Office
2. Removal of a President from Office
3. Stalemate in Election of the Premier
4. Tight race for Premiership by different ethnic alliances
5. Presidency and Premiership obtained by the same ethnic alliances that do not feel obliged to share out power with the wider Kenyan Public.

Whereas in a functioning democracy, political parties are policy vehicles, in Kenya they are primarily vehicles of ethnic survival, with some of them having their policies drafted by Cambridge Analytica in the UK. For example, policies that may eventually lead to the industrialization of Kenya, may not be held by members of a political party that has been tailor-made to be ethnically balanced, as per statute and Constitution. If political parties were functioning properly, Kenya would have achieved a developed country status, a long time ago.

Another false proposition in the BBI Report is that regional integration of East Africa shall be a political game-changer. The simple reason for this being objectionable is that many East African states are Dictator run quasi-democracies, the type that Kenyans would not tolerate, and would take up arms against if they were to be ruled in such fashion. Strangely, the BBI Report acknowledges this in a contradictory fashion, as on page 88, states that “We live in a Tough Neighbourhood”, a tacit admission to the fact that there is an Authoritarian streak to many a Government in the Eastern Africa region.

Regional integration would also help expand and not reduce Kenya’s ethnicity challenges, as communities such as the Luo of Kenya have their brethren in Uganda, Tanzania, South Sudan, and the Democratic Republic of the Congo. Their regional kinship links are much closer than those of the Bantu communities in Kenya and are still traceable, hence can be exploited for political gain.

An attempt to unite Kenya with the wider East Africa region by way of political integration would change Kenyan and regional ethnic calculus in favour of Communities such as the Luo, to the resentment of the Bantu political block of Kenya, eg. The GEMA – Gikuyu, Embu, Meru, Alliance, or otherwise known as the “Mount Kenya bloc”. The Kenyan Presidency can only be a symbol of national unity, not by way of ethnic balancing but only if such vacancy is filled by way of free and fair elections.

Page 10 of the BBI Report is the statement to the effect that, “all political parties should be compelled...”, - this notion underlies the fact that the Authors of the Report, are strong believers in the mechanisms of a functioning State.

But with the benefit of wisdom, knowledge, and insight acquired over the years, analyzing the Kenyan political scene, is the disturbing fact of the strong regional/local undercurrents of unregistered political and non-state actors, entities that want no less than a share of territory and the national cake therein. The case in question is that of the Al Shabaab Insurgency in Athi River, Wajir, Garissa, Kwale, Tana River, and Garissa counties of Kenya – it is an unregistered political faction, known as Al-Hijra ie the Caravan.



Al-Hijra has taken up arms against the wider nation, and it is influential, yet it does not seek incorporation into the country’s political system by way of elections and/or registration. Its preferred mechanism of operations is Armed Insurgency, the wider Nation cannot compel it to be of certain social membership, it is a religious group and it cannot also be compelled to keep the peace, by any way rather than the use of armed force.

Industrialization and economic growth if wider spread and benefits all current socio-economic strata, would enhance the stability of Kenya. But the truth is that Kenya’s Government the largest consumer of goods and services, in the economy has an insatiable appetite for consuming foreign goods, and raw resource exporting. Titanium, Petroleum, etc, that are readily mined in Kenya are shipped to China as raw material for end products that are obviously, several to hundreds of times more expensive.

At the same time, the Kenyan State has a voracious appetite when it comes to consuming foreign goods and technologies, be it computers, luxury cars, aircraft, marine/naval vessels, etc. with the overall forex flow of the country being one of a loss, no wonder so many Kenyans, including the ethnic sycophants who support their ethnic masters in power, remain poverty-stricken.

The BBI Report is notably written by people in power, for people in power, they are not capable of preaching the truth to themselves. In this respect, most major foreign procurement of aircraft, industrial plants, equipment, marine/naval vessels that lead to massive forex losses, could be cushioned by way of forex-offset components, in their procurement contracts. These would compel large foreign business concerns, who obtain major government contracts in the country, to undertake some of their manufacturing work in Kenya, and to invest certain amounts of forex in such efforts.

Without balancing the losses of forex out of the country, there shall be generations of impoverished Kenyans, who shall serve as a reservoir population for revolutionary movements and/or the militarization of political competition as is acknowledged in the BBI Report. The Report claims that Kenya is a victim

of cartel capture, unfortunately, it is not bold enough to identify the accused and specify the particulars of the offenses – issues that are common talk in the Kenyan public domain.

One of the major failings that has led to the polarization of Kenya as a country is the use of police by the political class, as an ethnic militia or personal militia, of the ruling elites. The drafters of the Constitution of Kenya tried to prevent this by way of an Independent Inspector General of the Police and his deputies, too.

But this has been subsequently watered down by way of subsidiary legislation, over the years, since the 2010 referendum. The Police were the primary mechanism of choice in the past for dispersing political meetings of the Opposition, or “assisting” political rivals of the Powers-that-be to disappear or otherwise “exit” from the scene.

The powers of the National Police and Security establishment could be diluted to some extent by providing a counter-weight of elected county sheriffs and their deputies, and elected sub-county sheriffs and their deputies. The county and sub-county sheriffs, could take up law enforcement of county and national laws, but only within their jurisdiction. They would provide a counter-weight if they are answerable to the county assemblies, via the county public safety boards.

Nothing short of the execution of National Police Officers after an expedited trial in a bid to fight corruption, and their arrest by an authority not answerable to the National Inspector General of Police system, would be a deterrent to corruption. Extreme measures but only not if you were to consider what corruption, lets through – mercury-laced sugar, vehicle-borne improvised explosive devices, etc.

In the BBI Report, there is also the false notion that a Life of a Rural Community dweller is equivalent to the Life of an Upscale Urban neighbourhood dweller – not so in a country where you have to present a 6-month weighty bank slip for firearms license application, something that is not

available to many in the lower strata of Kenyan society. So that notion in the BBI was purely speculative rubbish.

Are there Kenyan values? To the casual observer, there are none, but the Bill of Rights and Freedoms of the Constitution of Kenya is one of the most potent and frequently used drivers of both criminal and civil litigation in Kenya. Upholding the Constitution, Industrialization, Institutionalization of our Democracy, and not integrating with Dictatorships and Quasi-democracies in the region, would serve Kenyans well as National Values.

The moment we try to go beyond that, the issues of ethnicity, social strata, religion, etc. are likely to eliminate space for shared values. Unfortunately, one issue that the BBI Report does not address is its lack of a solution to Luo victims of political violence, who have not been paid reparations for harm and loss suffered in 2007, 2013, 2016, 2017.

The BBI Report fails in this respect to achieve the status of being a vehicle for ending socio-political bitterness. It does not touch on any specific triggers of political violence. For some, they are certain that President Kibaki lost elections in 2007 but for others, that is the position of “neo-colonial powers” within the country. As long as Kenyans do not come clean on their past, the “guns of political discord” remain “locked and loaded”.

Other issues that the BBI Report, ducks from dealing with are the capture of law and institutions, etc by special-interests. It does not identify those special-interests, but some of those special-interests may have been hired by the establishment to write the BBI Report, so it is safe to assume that the document in itself is flawed *ab initio*.

The BBI Panel was not sufficiently brave to save the Nation-State that is Kenya. What are the special interests that they are describing? Those that have captured the Maize Sector, the Sugar Sector, and/or the Diary Sector? Aren’t those the appointing Authorities of the BBI Panel?

Special-interests that have captured the Kenyan “System” are not of commercial type though they have wealth, they are more of ethnic extremist or

conservative origins. A case in point is the Okoa Kenya Referendum Bill of 2016 that was dismissed by the Independent Electoral and Boundaries Commission, due to “fake” signatures.

According to the Constitution of Kenya, referendum bills are not to be dismissed by the Electoral Board because of technicalities, but it did so, thereby stopping the progression of a bill to create the office of the Premier amongst other issues. The Electoral Board would later be removed from office after public demonstrations that were violently suppressed by the Police.

In the end, the lack of credibility of the Board made it impossible for their continued stay in office during the preparation of the 2017 General Elections. The Electoral Board was then purportedly captured by the ruling coalition. In fact, during the 2013 General Elections, The National Alliance Party had hosted its electoral tally server at the same service provider, the same database, configured in the same fashion, together with the Electoral Board.

The reputation of the Electoral Board then was badly damaged to the extent that their continued stay in office was equivalent to courting a potential civil war situation, not a far-fetched assumption given that Kenya, has a lot going similar to the former Yugoslavia in Europe.

Some of the constitutional amendments in the 2016 period were being pushed for by the political commentator and former Chief of Protocol of the Right Honourable Raila Odinga, Tony Gachoka(2008 – 2014). His reasons as published in newspapers then were not of national interest but more of the reason that Raila Odinga should not antagonize with the Mt. Kenya bloc of politicians.

Notably, Tony Gachoka’s previous calls for National Consensus talks is very similar to what would be the Building Bridges Initiative. The initiative is more of a “come-what-may” effort to create a new political dispensation that would sideline the newfound political adversaries and herald in an era of a third term presidency. Constitutional amendments are proposed and effected in Kenya primarily with the personal interests of the ruling President in mind. That had been the case until 2007 when there was a massive upheaval in the country in

the way of post-election violence, a problem that was only defused by way of a Constitutional Referendum in 2010 – it was a more wholesome political reform process that was effected by national consultation and review by a Committee of Experts.

For the first time, the hand of the ruling political class had been compelled, by way of past and potential imminent political violence, to enact political reforms, in favour of the wider national good. From 2007 a new and more disturbing phenomenon is the involvement of the National Security Establishment in steering electoral outcomes.

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## **Notes**

[A1] Since the formation of the State of Israel in 1948 to date, the “Orthodox” and “Ultra-orthodox” segments of the faith of Judaism in Israel, have tried to impose themselves on all Jews, as the bonafide Jewish faith. To this extent, they have sought monopoly control status on matters such as the legitimacy of marriages, ancestry, and other segments of social life. One of the practices is that a Jewish convert is only considered a Jew upon registration with the Ministry of Interior in Israel. A woman who had converted to the faith via a private Orthodox Jewish court known as Giyur K’Halacha Independent Orthodox Rabbinical Court supported by “ITIM” religious services organization, had to file litigation for her conversion to be recognized, though it did not emanate from the Public Orthodox system.

[A2] Mamzer is a person blacklisted under some strands of Jewish common law, not to be married by the wider congregation of adherents, for the reasons of birth from an incestuous or adulterous relationship, etc. There is a wider ban against marriage to people not practicing the faith, like in all other conservative faiths of the World.

[A3] Anthropological observation of General von Lettow-Vorbeck, that African grouping do not typically side with others based on principle, left to their designs they frequently take sides in disputes and conflicts by way of gravitating towards the locus of power and/or distribution of wealth. In military disputes, they will often side with the group that seems to be stronger and/or likely to carry the day – this is not something unique to Africa, as it was exploited by the Central Intelligence Agency and Special Forces of the Armed Forces of the United States of America as they sought to build alliances with local groups to battle the Taliban and al Qaida, after 2001. His further observation was that African communities did not bother who was ruling their jurisdiction but are inclined to feel like part of the ruling team to the extent that their material needs are met and that they can manipulate their rivals by way of coercive administrative mechanisms. Therefore, African communities keenly

study the power dynamics of their wider societies, intending to make immediate unprincipled exploitation of the situation.

[A4] The Colony and Protectorate of Kenya, was established almost as-is today by the British in 1914. Before the establishment of Nairobi as a town and railway station point in 1899, many of the Kenyan communities did not interact much at the social level. But the establishment of a Government in Nairobi in 1914, resulted in rural-urban migration for reasons of locals seeking manual labour jobs. Two of the groups who moved into Nairobi were the Luo and the Kikuyu. Around 1925 there used to be a disco in the place now known as Kamkunji, it was the competition and fights for women to dance with especially as provoked then by a Luo colonial household cook K'Ogot, who used to fight and beat senselessly Kikuyu men to take their female dance partners, that resulted in the initial Luo-Kikuyu rivalries. Before that, the Kikuyu “felt” more entitled to the jobs in Nairobi, because of the proximity of their rural homes to the city, as compared to the Luos who came from the “distant” shores of Lake Victoria. The 1953 assassination of prominent Luo businessman cum politician Ambrose Ofaa, particularly led to a deeper deterioration of Luo-Kikuyu relationships, a situation that the British tried to exploit to use to recruit the Luo to fight with the Kikuyu, but did not succeed at because prominent Luo politician then Jaramogi Oginga Odinga, implored the Luo then to desist from violence against their Kikuyu countrymen.

[A5] The book is currently out of print but still available at the cost of “an arm and a leg” in various international online bookstores. In Kenya in early 1980 when it was released it achieved an “impossible” feat of 10,000 copies being sold within 2 weeks of publication – something that has eluded many “top” Kenyan authors to date. It gives a deep insight into Kikuyu's socio-political oaths, something that has had a generational impact on Kenyan politics to date.

[A6] Though the Babito is a Bantu community, their rulers the Omukama were of Luo lineage. This matter was first brought into light in the lectures of eminent Luo historian Professor William Ochieng. He argued that Jomo Kenyatta had descended from the Omukama. These arguments were in great details and have now started appearing in the research work of other scholars.

But in his local political persona, Kenyatta was a Kikuyu and a strong adversary of the Luo, or so they say.

[A7] The article gives a specific instance when Barack Obama, Snr., may have been a target by way of a road accident, there were similar cases even before the gunshot assassination of the prominent politician Tom Mboya(a friend of Barack Obama Snr.), he was targeted by way of a road accident.

[A8] President Obama’s Dad, Obama Snr. was widely blacklisted from accessing many public and private sector employment opportunities by then-President Jomo Kenyatta, for reasons that many would have felt were ethnic at the time but today, it is clear that Obama Snr. Had probably sensed that the ruling political class was unprincipled and “eating” national resources inordinately for selfish reasons. This would be the theme of his 1965 research paper, the “Problem with our Socialism” in the East Africa Journal – the fallout would come about 1 or 2 years after that.

[A9] A herds body tending to goats would come across Dr. Ouko’s body, burning at a place Got Alila some 10 km from his home where he had been abducted, he would also claim he saw two unidentified people at the scene.

[A10] Julius Melli was an observer at the National Tally Centre, Kenyatta International Conference Centre 2007/8 General Elections. He was registered as a voter at Kuresoi and was an observer accredited by the now-defunct Electoral Commission of Kenya, he represented the Association of Professional Societies in East Africa. His lawyer for the case was Harun M. Ndubi. His complaint states that he had lodged a criminal complaint letter with the then Commissioner of Police, but it was not attended to. This is not strange because the Institutions are not yet strong enough, to back democracy on their own motion.

[A11] Book documents counter-insurgency operations of the British against the Mau Mau in great detail, down to the specifics of the intelligence tradecrafts and tactical operations

[A12] Case details make it clear that Field Marshal Dedan Kimathi was convicted and executed for firearms possession, nothing more and nothing less. Many Kenyans today wrongly believe that he was specifically convicted for fighting against the British.

[A13] There was an increase in ownership of illicit firearms by about 70,000 guns before the survey, probably due to access to fresh supplies of guns and ammo from South Sudan and probably because of growing awareness in rural communities as to the importance of gun ownership in matters of personal security.

[A14] The Bill sought to split the country between the Kikuyu community and other Kenyan communities, the process had been activated by way of Regional Constituent assemblies and was only on stopped by way of the Building Bridges Initiative before any of the Constituent assemblies could produce effective legislation.

[A15] An initiative of President Uhuru Kenyatta and Rt. Hon. Raila Odinga, attempting to heal the ethnic hatred and violence inflicted rift amongst the communities of Kenya after the Electoral Hybrid Warfare of 2017, unfortunately, it has also turned out to be a hybrid campaign against the Tanga Tanga faction of the ruling Jubilee Party. Given its opaque *modus operandi* i.e. its meeting agenda items are not public and it does not release information to the Kenyan Public frequently, it is likely to be a continuation of Kenya’s Electoral Hybrid Warfare by ensuring that the Opposition Leaders are kept disengaged from local politics and the political playing field remains uneven for lack of their input into the new Legal and Constitutional frameworks before the General Elections of 2021/22.

[A16] A political press release by Western diplomats in Nairobi, openly siding with the Government’s questionable electoral victory against the Opposition. Notably, it was premised on wrong geopolitical assumptions, that both the Government and the Opposition (especially) always seek legitimacy from the West and are unlikely to seek support in a prolonged power struggle from other Superpowers. Given the level of bloodshed that had occurred at the point of

time of its release, it was made in bad taste more so because there is yet to be full auditing of electoral results in Kenya. This particular statement has been to the detriment of Kenya’s democracy as unresolved issues are likely to recur in future elections.

[A17] As over 2018/11 it is very easy to get a crystal clear perception as to what the Taliban wants from their talks with the United States and International Community, e.g. Direct talks with the United States government, Withdrawal of United States Armed Forces from Afghanistan, and an end to the current Afghan government, yet, on the other hand, it is more difficult if not impossible to discover or research the proceedings of the Building Bridges Initiative, due to its opaque nature.

[A18] In general terms, Raila Odinga’s opponents would rather not have his “disruptive” interventions against their political operations, rather than it is a concern as to him living by some non-existent African ethical standard of governance.

[A19] What’s puzzling is the ease with which Kenya’s leaders in the political Opposition typically accept these offers from those in Government. The desperation for appointment to public work after election, without addressing concerns as to the impropriety of the process, is not anything new.

[B25], [B26] Check References and notes in Chapter 2

[A20] Of all the proposals that the Building Bridges Initiative could come up with, the one to extend the term of Government is the most inappropriate, more so because of the poor governance and human rights abuse the depth of which cannot be addressed by way of prolonging the terms of a government. The initiative has also failed to live up to the expectation of many communities more so the Luos of Kenya, who have died in their thousands since 2007 to 2013, in 2016 and later in 2017 often mowed down by automatic gunfire as they come out in the streets to call for electoral justice, in many a rigged Kenyan General Election – no unchallenged compensation for the deaths, losses, and injuries, that they have suffered to date. Advice to top politicians should not comprise primarily of what they want to hear, it is all about facts on the ground

and the consequences of keeping the *status quo* at the expense of reacting to reality. The Building Bridges Initiative has been more about building bridges between two politicians and one community, without reaching out to the political base of Raila Odinga.

[A21] Kenya’s precarious debt position is well summarized in this article. It is not that the debt is impossible to service but questionable projects like [A22] are always coming up. Currently, Kenya’s debt burden is around US\$50.4 billion, most of it is questionable spending. Massive giga-projects with feasibility margins that are easily wiped out for by the financing debt.

Most of the projects are not competitively contracted, and the financial terms and conditions are not of any benefit to the county in the long-term, e.g. since the discovery of crude oil/petroleum in Turkana, contracts such as a non-protective security system for the pipeline at US\$300million and contract for a new petroleum terminal at Mombasa port for around US\$330 million would, in reality, wipe out any potential future benefit of the petroleum. This being long before it is sold to the detriment of the wider Kenya public and at the benefit of a few contracting parties and their government proxies.

Kenya’s current borrowing spree spiked up around 2013, due to an ambitious project by President Uhuru Kenyatta to steer the Nation into the middle-income level, something that has not been realized due to corruption and bad governance issues. In this particular article, the journalist reports that the country was in the process of borrowing US\$1 billion via syndicated loan long-term to settle a US\$1billion syndicated loan short-term.

[A22] A deal described herein was not executed, Ministry of Energy officials in Kenya sought to commit the government to borrow US\$300 million from Bank Hapoalim – Israel, without the due authorization of the Ministry of Finance. In simple terms, the Ministry of Energy was committing itself to spend US\$300 million not budgeted for, on a project whose feasibility study was yet to be undertaken, and in any case, over the last several years the losses from the current pipeline did not exceed US\$20 million.

The deal was to be between Rafael Advanced Defense System Ltd. – Israel and the Ministry of Energy and Petroleum was signed at Nyayo House on February 15th, 2017 by the Petroleum Principal Secretary Andrew Kamau. Even if Long-Range Wireless Telemetry sensors with Satellite and/or Terrestrial Repeater after every one kilometer was implemented for a pipeline of twice the length the sensors would not cost over US\$8,210,000 so if more charges are to be included for maintenance and a central monitoring sight, plus personnel, the project would not exceed US\$15 million. Even a deal of US\$50 million for the system would be an over-kill.

[A23] A detailed account of the Anglo Leasing transactions

[A24] Kirsten Madison, the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, at the State Department – United States Government, has alluded to the fact that the criminal justice system in Kenya is crippled to some extent by way of corruption, that it is incapable of bringing many graft cases to just closure. She did not refer to a specific case but given her probable security clearance level in government, she was most probably privy to the insider details on the Akasha brothers plea bargain, which includes details of how the Kenyan criminal justice system has been impaired by corruption. Corruption she postulated, must exist to facilitate large-scale narcotics trafficking.

[A25] This Author openly declares that he is cited in the report. He further notes that the report was viewed by some segments of the Kenyan Public as a waste of public resources because it did not name culprits, or produce a solution in a way that offered for immediate implementation. It also swept under the rag issues, about political violence for the past years eg. 2007, 2013, 2016 and 2017

[A26] Article details the potentially bi-ethnic origins of the Building Bridges Initiative, explaining why the works are to the benefit of ethnic special-interests rather than the national good.



## **CHAPTER 2**

### **The Weapons**

**C**rude weapons are the choice tool for Kenya's crowds during political violence. In the southern areas of the country, the supply of automatic weapons has been restricted due to the enforcement of gun control legislation. However that does not make the country any safer, if someone wants to fight you, they shall engage in combat with you, one way or the other.

Top of the list of crude weapons deployed at this time is the machete – because a proximity attack by an experienced attacker would often prove to be lethal. In Swahili, the machete is popularly known as 'panga', probably a reference to its neatly arranged, cuts. The victim shall in most instances bleed to death, due to the severing of critical organs and/or blood vessels or suffer disfigurement or amputation.

During the repeat Presidential poll on 26<sup>th</sup>/10/2017, there was a group of about 100 youth armed with pangas/machete in the Kawangare area of Nairobi, who launched unprovoked attacks against members of ethnic communities that were assumed to be backing the political Opposition [B1].

Incidentally, machetes purchased and/or from Kenya were also the primary weapon used in the Rwanda Genocide of 1994 [B2]. Like in Rwanda, Kenya has an issue of machetes, hoes, and farm tools being deployed in political violence. Lack of firearms may only translate into the relative safety of the security services and not the Population in general. Furthermore, the Security Services have a deplorable record of violence including sexual violence, during civil disturbances, something that would not happen if the Populace was armed with guns.

Since machetes [B3] may be in limited supply during the onset of a conflict, their use in political violence is supported with other crude weapons. Stones are used in incapacitating an adversary at a distance, and if there is little or no resistance, thereafter (s)he could be "finished off" with a knife or machete. Stones have their adjunct rocks and boulders also usable in cracking open

skulls, more often than not of completely helpless persons lying on the ground in distress. Such is combat, in the streets and alleys of Kenya's slums in Nairobi, Kisumu, Siaya, etc. where many Opposition supporters reside.

It has become one-sided and predictable that many have started claiming that certain ethnic groups are only capable of throwing stones for one or two weeks when provoked. Asked, if they would prefer that guns and missiles, be deployed by Opposition supporters, one is often met with surprise, as in the perception of the Oppressor, the Oppressed cannot just go for that option – offering some insight into how far the country, has slipped back and could fall into an Abyss.

Could a couple of unexpected shipping containers or airdrops be introduced into the conflict by those who previously were only capable of throwing stones? Thus far had the arguments gone, before the Political Class, decided to introduce the Building Bridges Initiative, to stabilize and unify the country.

Rocks and boulders when strewn on the roads/highways for kilometres, have the effect of bringing all road traffic to a halt. In the political violence of 2007/8, this method was so effective such that many parts of the country were unreachable for weeks or more. Stopping on a road to clear the obstructions, opens one to ambush, and by the time that you reach an unofficial roadblock, your exit route behind is blocked with more rocks and boulders.

Unless one has very persuasive verbal skills and speaks the right ethnic language, or proper firepower by way of automatic weapons, death and/or injury is almost certain. Stones also “work better” for the crude combatant when propelled with a slingshot/catapult, or sling. The velocities achieved by slings in many instances, equal those of some range of low power bullets, with the only disadvantage being ease of use, and the accuracy of the marksman. The sling is also an anti-material weapon, effective against doors if the stone is large enough, and windows which are often made of fragile glass.

Diesel and other motor vehicle fuels are an all-time favourite of arsonists, to the extent that these fuels cannot be bought in most parts of Kenya using a container without identification. Houses are burnt down whole if “better” with the occupants inside. So common has the vice become in Kenya, such that arson has trickled down into the boarding school environment[B4], where it is

used by students to settle scores amongst themselves or between them and school administrations.

By the time the arsonists cum students graduate from high school and proceed into the world of employment and/or higher education, they are full-fledged arsonists ready to self-deploy in any National political crisis, where many are killed or maimed primarily on basis of their names or verbal accents.

A new unexpected entrant into the scope of weapons is the disappearing body bags. There was a lot of buzz of people shot in the streets during disturbances disappearing, and in 2017 it did not inspire the confidence of the public. When the Kenya Red Cross Head claimed otherwise in circumstances that the Public, especially in Kisumu City had clear physical and tangible evidence on the contrary, by way of body bags fished out from Lake Victoria by fishermen [B5].

The Molotov cocktail has not featured much in Kenya, probably because it is something that would most certainly draw a hyper-violent response from most Police Officers in the Country, who are readily armed with automatic weapons and little else in the way of protective gear. Appearing with such a device at a riot would in most case draw live automatic gunfire in Kenya. Unrestrained use of gunfire by law enforcement during a civil disturbance is more than likely to go uninvestigated.

Minds work wonders. Every so often a traditional oath and a charm could give a member of some ethnic militia, the hallucinatory impression that they have just attacked an adversary with an arsenal formidable weapons. Ethnic oaths are potent to many Kenyan minds, to the extent that they have been declared illegal under the Laws of Kenya, Oaths, and Statutory Declarations – Chapter 15 and the Witchcraft Act – Chapter 67.

Placing charms in the enemies' path may do him or her mental harm, without much exertion in some rural communities. These positions seemingly harmless become very potent when they like with capabilities such as firearms, to produce an outcome where International Humanitarian Law is the least of considerations. Witchcraft and oaths are African type Info-ops in some areas of low literacy, where their disproportionate “successes” may be a matter of concern to any modern observer.

Dogs and horses are still a preserve of the National Police Service, many an irregular would not like to be found with such a noisy and durable thing in their possession. Horses are huge and they can be shot dead, but that is unlikely to happen when the Police are deployed and use them during a civil disturbance against the Public who are largely unarmed in urban areas. However, a newly popular “militant” livestock to be found with people on the rampage in some parts of Kenya are bee swarms. Not only is the fear factor palpable when it comes to being stung to death by a swarm of bees, but more unsettling is that the agitated little creatures sting without discrimination once delivered [B6].

Flogging and whips are part of the game plan – maximum pain and humiliation. There is a notoriously painful rubber whip fashioned from the used wheels of aircraft, it comes with the capability of least effort for lashes maximum pain. Maasai itinerant traders usually move from place to place in Kenyan urban areas selling these whips which are not only the choice of night guards but also criminals, specifically because they are easy to conceal.

Rubber tyres from motor vehicles are burnt to create roadblocks, but this method has become less popular with many demonstrators. Many are now aware of the fact that their roads are destroyed by the fires, and the damage lasts long after engaging the police to the disadvantage of the residents of an area. The deadly effect of burning rubber tyres is also their incendiary harm on the human body and the toxicity of the fumes generated, at times near to the dwellings of the same demonstrators.

If the demonstrators cannot get rubber tyres, a car complete with upholstery, tyres, and fuel could do, when an unfortunate motorist had parked in the wrong place or was caught up in the running battles or at a roadblock. When effected on a large-scale, black smoke rising from different localities also has a chilling effect on those who are not involved in the conflict but trapped in the area of conflict. The more, the infernos and smoke, the more likely than not that the fighting is coming towards one’s locality, and that there may be no escape routes available.

Biohazards such as garbage, sewer, and excrement also have a deterring effect. Preventing people from meeting in an area for a schedule activity [B7], [B8]. What’s unique about the human waste biohazard approach, it is the lowest, a human being can go, in terms of uncouth behaviour.

On the part of the authorities dumping sewage; bad behaviour is a harbinger of a Government losing legitimacy and resorting to criminal means. For the impoverished members of the public dumping their excrement, you bet when they shall find guns in the future, they would be least concerned about one's wellness in the area of conflict. The dumping of human remains [B9] to intimidate the National Police Service Commissioners, was also a crude display of info-ops, against those charged with vetting all police officers in the Country.

Music is just another weapon; a tool in the battles for power. Get to tell your rivals all you think about them indirectly, pay some back-street musician to do it for you [B10]. As a musician may be perceived to be part of the problem in this kind of activity, many of them face challenges after undertaking the tasks [B11], especially if the communities that they are targeting with their music is their community of residence.

Despite a wide range of genres of political music, these are yet to be deployed as a tool to successfully and legally mislead the Opposing side as a worthy weapon. Even when derogatory, they are often in languages that cannot be understood by the perceived target audience.

Is money a weapon? Can it be deployed in unrestricted environments, such as those of Kenyan politics? It is a weapon to the extent that it can affect the ability of low-income persons to possess a vote, by way of buying out their vote credentials [B12], or by attempting to alter voter perception of certain issues based on cash hand-outs or inordinate access to mass media.

Campaign finance legislation [B13] is another explicit pointer to the effect that money has on the electorate. If campaign finance had no impact on voting patterns, then there would be enforceable regulations in Kenya, the fact that enforcement is a problem due to lack of subsidiary regulations, proves that unexplained money is valuable to Kenyan politicians.

Monetary donations can be used in Information Operations against a political rival [B14], who is facing campaign financing challenges. This somehow backfired when Jubilee supporters sending small amounts of money and mocking messages to the National Super Alliance party mobile phone fundraising platform, resulted in raising a substantial amount of money when it was aggregated [B15].

In Kenya, it does not matter where the money comes from, even if it was to be looted directly from the State coffers under closed-circuit television which is broadcast in Public and taken directly to a campaign rally or for campaign ‘spending’, that politician would carry the day.

Murder, narcotics [B16], corruption, bribes, etc. fund political campaigns in Kenya, without any threat or perception of threat for repercussions. Though Ian Henderson, thought that it was a trait attributable to one ethnic group [B17], it cuts across all ethnic groups in Kenya, a thief usually becomes a political hero, as long as he or she is not caught, election into Public Office is thereafter swift.

In a country where enforcement of legislation on voter bribery are superficially strict, Kenyan political ingenuity has come up with a new trick, paying voters travel allowance to and from political meeting venues. The travel allowance has to be inordinate on the higher side to have an impact not only on the travel of the voter but also at least impact on the political position of the recipient to the advantage of those paying. Travel allowance also comes in handy when one needs to ferry his or her supporters to a venue that would otherwise remain empty in a contested political area or at such time when people would prefer doing “more important things”.

In Kenya, the Land of Contrasts, with its snow-capped mountains, Rift Valley, lakes, deserts, rain forests, poses a challenge to any traveler traversing the country to get a pitch his or her political message. As a measure of political ability, your money is not sufficient money at the national level or in certain gubernatorial races unless you can buy helicopters or hire them on demand. Some prominent Kenyans who own helicopters are listed in [B18].

Helicopters attract crowds when they land in rural areas of Kenya, making them valuable political tools [B19], [B20]. A day before the 2013 General Elections, The National Alliance (now ruling as Jubilee coalition) arranged for several overflights of Nairobi and its environs, with helicopters branded in its colours and flying in formation.

Due to frequent use of helicopters in the political arena, there have been several tragic accidents involving prominent administrators and politicians, e.g.:

1. 2012 Police helicopter(5Y-CDF) crash, at Ngong Forest, prominent personalities lost – Interior Security Minister Hon. George Saitoti and Assistant Minister Joshua Orwa Ojode [B21]
2. 1996 Police helicopter crash at Marsabit, personalities lost – Provincial Commissioner Ishmael Chelang'a [B22]
3. 22<sup>nd</sup> October 2017 – campaign team of current Nakuru Senator Hon. Susan Kihika [B23]

There are many other incidents involving emergency landings, due to the frequent use of helicopters. Given that Kenya is a developing country, the maintenance of these complex machines cannot be done to international standards, always. However, improvements in terms of modular changes to components and better aviation technology education in Kenya has helped to improve their safety.

Nevertheless, there are inevitable challenges because Kenya's cadre of technicians and engineers in aviation replace components as specified by manufacturers, but one would expect little in terms of someone opening and inspecting the hydraulic, propulsion or transmission systems of a helicopter.

Other reasons for the Political Class resorting to helicopters as a campaign necessity? Issues such as long distances, poor roads, banditry, time and commitments, availability due to sponsors, etc., issues many of which need not be a challenge if the legislators did their work well in the first instance.

There is a disconnect, between the ability of persons involved to sense failure in other realms that result in the frequent/heavy use of helicopters and wider underdevelopment of the country. Most of the helicopters owned and used by politicians and prominent business people come from the United States of America and Europe. These are imported into the country at a great expense resulting in foreign currency losses and lower employment for most Kenyans.

If helicopters and money, are symbols of political prowess in Kenya, it follows without challenge that political disempowerment of one's rivals can be obtained by economic disempowerment. Over the decades many top Kenyan businesspeople have had the misfortune of their businesses shut down, for their "politically-incorrect" activities.

A recent case in point was the closure of a private container depot business owned by a prominent Mombasa politician, who was notable for his political activities in the ODM (Orange Democratic Movement) party and the National Super Alliance (NASA) coalition [B24]. Historically one's business under such circumstances is only allowed to operate after one prostrates him or herself and pledges loyalty, gives a "donation" or parts away with a share of the business in question [B25], [B26].

These tactics of economic disempowerment are nothing new, they are age-old political and ethnic warfare issues in Kenya. A lot of resentment and injury to the public coffers have come to Kenya that way, without the private resources of those who occasion the injury used to pay the injured. A notable businessman who has survived these battles in Samuel Macharia of Madhupaper International Limited fame, who is now the proprietor of Royal Media Group [B27].

With wealth in Kenya, comes bodyguards – and in Kenya, there is a pretty thin line between what is a bodyguard and what an armed paramilitary irregular is. By daytime, he may be shielding his boss from unwanted attention and threats. However, by night the side jobs are there, comprising anything from wringing off the necks of legitimate political opponents to safeguarding contraband transports.

Be it beating and "slicing up" political rivals or other goons at a fee, such work is simply "fair game". So much such that when the General Elections are over, there is a spike in crime in Nairobi's Central Business District [B28], something that the Police attribute to bodyguards and irregulars left destitute by politicians after the campaign period.

A natural and favourite target of many a Nairobi street mugger, whether inspired by abject poverty or pure political cash deprivation are the smartphones that many Kenyans own. One particular mugger arrested in Nairobi Central Business District confessed to having stolen at least 700 mobile phones from people in the City [B29]. And if the body can be mugged, the mind can also be mugged and robbed of its clear judgment. Enter Cambridge Analytica and the gloves are off, anything is done or said to get you the electoral victory, which you crave for especially if you can pay for it [B30].



Smartphones as a political tool have a clear impact, according to online vending system provider Jumia, Kenya ranked highest in Africa in 2017, in terms of Internet access and smartphone usage [B31]. Heavily used smartphone applications are those concerning chat – texting, video, and photo messaging, multimedia websites, etc. They provide an environment in which the battles of Kenya's Election 2017 raged with, or without guns. For the thousands of bloggers and vloggers, it was and still is a rewarding career that comes with its risks [B32].

Attacks on the individual or groups bring up the rigorous debate, as to what are the possible self-defense measures that can be undertaken. Guns and militia are the keys to protect against most violent crimes organized by groups. Coincidentally, the Garissa University Attack of 2<sup>nd</sup>/4/2015 came just weeks after the Security Amendment Act of 2014 was passed – an introduction of some of the strictest gun controls in the World, which left any terrorist completely doubtless, as to the vulnerability of the Kenyan public.

If we may refer to history, firearms control legislation was introduced into Kenya in the 1940s, when it became clear to the Colonial Government that Africans could acquire guns.

The enforcement of gun control in Kenya to date is less about law enforcement, peace, and stability, but more about control by the higher-income echelons social strata, of those in the lower-income echelons of society. It is also an instrument for control used by ethnic groups that have been in power against those perceived to be in Political Opposition.

If there are any arguments against gun control and tyrannical entities, then they apply to Kenya – a place where terrorists raid whole towns and decapitate helpless men dead all the while, filming it for Internet streaming.

If there is a form of law enforcement that has been abused in Kenya, it is gun control, many a victim of gunshot deaths would still be alive today, were they able to gain access to firearms. The prophetic Dr. Kent Hovind's [B33] lectures against gun control, is a wake-up call, for Kenya where every election year hundreds are gunned down or slashed for no reason other than the fact of their ethnicity and that they do not own guns. But one would wonder, isn't it easier to have fair elections, than to control the Public with such violence?

To what extent does the Constitution of Kenya offer one protection against extermination as was witnessed in the years 2007/8, 2013, and 2017. The first vital provision of the Constitution of Kenya is Article 3, in verbatim it states as follows: “Defence of this Constitution: (1) Every person has an obligation to respect, uphold and defend this Constitution. Taking that into cognizance, threats to the Constitution shall not come in form of a bowl or cup of ice cream, which can easily be “resolved” by use of a teaspoon – what are the options?

Threats to a Constitution are usually internal to the State, probably by way of State capture or “State” within a State, i.e. Deep State. In the United States of America, these threats are resolved by way of the Second Amendment in the Constitution of the United States, in verbatim the Second Amendment provides that, “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”.

These are the universal contexts that the Kenyan must explore during periods of instability, yes, Constitutions are not only defended by way of Court cases, they may not also be defended by way of teaspoons and are usually only sustained and defended by way organized armed force, in particular, that of the citizens if a State is not to fail as a law-abiding jurisdiction.

Is there an explicit Right to Bear Arms in the Constitution of Kenya, rather than Article 3. Which may be claimed to be implicit and unsubstantiated? Article 40 of the Constitution of Kenya, stipulates Protection of the Right to Property as (1) Subject to Article 65, every person has the right, either individually or in association with others, to acquire and own property--

- (a) of any description; and
- (b) in any part of Kenya.

Nothing in these provisions excludes all firearms including automatic firearms, from being described as property. More so, a citizen cannot possibly apply for permission from a threat to the Constitution for an Instrument to defend the Constitution, in the instance of capture by a “State” within a State

As early as 2004 before the issue of the Constitution of Kenya 2010 Referendum arose, there is a widely published and unchallenged newspaper

article [B34], describing firearms as property. To that extent, the Constitution could not possibly have a secret meaning, when people went to the polls they were 100 percent certain that firearms of which they held no less than 500,000 without any registration, were valid and legal property protected from expropriation by the State.

From Conservative biblical perspectives, there is also the issue of “gun control” raised in the Book of 1 Samuel, Chapter 13 verse 19 – i.e. The Philistines for ulterior motives of dominance and control, forbade the Israelites/Hebrews from practicing as Blacksmiths, for they feared that if the Hebrews did so, they would in all certainty manufacture swords and spears and there would be no way to control them.

Prophetically in the Book of Psalms, Chapter 2 verses 8 to 9 also in the Hebrew Bible, the World is described as being ruled by way of an Iron Scepter, which many in the Contemporary world interpret to include the barrel of a gun, amongst a host of other weapons – that the righteous must seek to possess.

Further insights discerned from the extermination of Jews in European Ghettos during World War 2, the extermination of Christians and Political dissidents in Uganda during the reign of Dictator Idi Amin Dada, etc. demonstrates that Government gun control is not always in the best interest of the public and must be adhered to only at a level of personal interest, well-being and discretion but not in the wider public interest.

Though this may seem an extreme view, the Author has witnessed extreme abuse of firearms during political violence in Kenya that has shaped his opinion and position on the issue. Human history is replete with examples of abuse of political and social power, to the extent that in many instances it would be wishful thinking that one is not in any such situation of being a victim, and that they need not demonstrate possession and ability to use arms, to a potentially abusive party.

It cannot possibly be a crime, to have the way and means to protect all that you have, which is nothing more than your life from imminent destruction by others, even if those ways and means is a gun. If someone has a gun and you have come to know that you are a potential target, it cannot be wrong to deal

with that threat at a personal level by having a capability, even if completely unknown to other members of the society and you simply hold it in reserve.

More so, the defensive capability of a gun or any similar weapon is greatly enhanced to the extent that an adversary is unaware that you possess it. For the victims of political violence in Kenya, this is a position that they cannot wish away or easily dismiss, to the extent that no one ever comes to their assistance.

In some schools of thought, Democracy, Good Governance, Human Rights including Free, Fair Transparent, and Genuine Elections for Government, can only exist in a country where the citizenry is armed. To this extent, the cost of subverting democracy becomes exorbitantly expensive and unnecessarily lethal, to those would want to rule without a mandate or by faking a mandate through a fraudulent election.

Life, liberty, and property can only be protected with arms, to the extent that a potential aggressor is a group of persons. If defending one's life, property, and liberty by way of possessing a firearm makes one an outlaw, some would prefer to be outlaws, than otherwise [B35]. The potential threat of armed force by the citizenry in a democracy, often implicitly warns leadership not to interfere with their freedoms [B35], this threat is no better personified than by all sane and well-behaved citizens owning and bearing firearms.

If there was ever a realm where Lawfare was intensively and extensively used by the Power-that-be it is that of firearms. Despite hundreds of thousands of automatic firearms in circulation, the Government has focused a lot of legislative and related regulatory efforts at ensuring that the public is unarmed, and a special emphasis has been placed on automatic weapons. This may seem normal as in many countries but it is only normal to the extent that it is legislation but widely abnormal to the extent that it has been structured and effected by a small ethnic and socio-economic segment of the society in a bid to control the wider society.

The Firearms Act Cap. 114 of the Laws of Kenya is the weapon of choice in this domain. Purportedly, firearms are all about National Security, though most buyers simply purchase them for home and personal security.

The law is always tightened to keep up with technologies, be it crossbows, laser guns, and even things that are not firearms at all e.g. body armour, night vision, etc. Abuse of weapons in security circles is often not investigated [B36], [B37] internally unless of course there is a violation too overt to be hidden away from public condemnation. With accountability at low-levels, not only slum dwellers but many others have fallen to “legally-issued” guns and bullets, thereby rendering arguments against licensing of civilian guns or otherwise “loose” licensing of civilian guns, immaterial.

During electoral periods one is more likely to die in any part of the country from the gunfire of irregular militia, even well within the City of Nairobi, than would the same person be likely to die of virulent flu. Therein the maxim of the second amendment supports in the United States becomes a reality.

If it is an illegal gun that would keep one safe from rape and murder during the electoral and post-electoral period, then everyone should embrace the reality and become an automatic weapon-wielding outlaw at the earliest opportunity possible. To that extent, even a PKM GPMG would suffice, given that breaking the law of victimization would have more than sufficient opposition.

Not only is it deadly for people in slums on a day-to-day basis, and during the elections, the one-sided ownership of firearms fuels the rape and re-rape of women during every electoral season. It cuts both ways and affects women from all ethnicities in the slums.

Gang rapes are also included in the mix, and if you thought you had seen it all in the Election 2017 season. There were many cases of men raping fellow men, courtesy of having a gun, and wearing official paramilitary uniforms. These violations have been documented [B38] in great detail, but nothing ever happens in the way of follow-up. The victims usually fail to file complaints at local police stations due to fear and/or refusal of male police officers to take down the complaints.

Even with high-quality forensic evidence e.g. children born out of rape, nothing ever happens – no reporting or reporting not accepted, no DNA sampling and matching, no public outrage i.e. one would ask, what do you expect from the offenders who are in many instances the Law Enforcement personnel, who should offer civilians protection.

Also disturbing is the fact that politicians, who are often backed by the slum dwellers, seem completely uninterested with their plight once the elections are over. Party diehards are in many instances quick to sign new political pacts with the offending adversary, to keeping things tightly under wraps, until a new genie pops the cork on the bottle that is Kenya's violent political campaign and voting periods.

A fundamental question that any intelligent and discerning person would be left to ask if he or she saw Security or Military officers approaching a slum to conduct an operation in Kenya, would be if they are to be the victims or (s)he is the one to suffer. With almost no exception and/or conjecture, either they die or get injured or the slum dweller dies or gets injured.

Issues such as International Humanitarian and Human Rights law have no place in the basic schemes of things. Such is the depraved nature of the establishment that Kenyans have to contend with on a day-to-day basis. A criminal in the being of a security/military officer capable of sexual violations, would in all certainty look the other way for a bribe or find completely no value in human life.

Critical analysis of a violent operation [B39] in the recent past would put the issue of predisposition to torture at the fore of what to expect when you are a civilian in an area, where KDF is fighting.

Combat at Mt. Elgon in 2008, demonstrated such a level of torture and brutality to the extent that when 5 years later in 2013 when Al Shabaab terrorists attacked Westgate Mall in Westlands, Nairobi, Kenya – after which operations to neutralize them was completed. It was difficult to determine whether dead bodies showing evidence of torture [B40] were the work of Al Shabaab or the work of those who conducted the operation against them.

Indeed some issues such as children killed as stuffed in fridges, fingers of victims sharpened and used to write, would in almost all certain be the work of Al Shabaab terrorists, yet crimes such as fingers cut off or noses plucked out could be the work of either side, particularly if it was the theft of wedding rings and other valuables such as studs on noses, etc.

The level of brutality in [B38], [B39], and [B40] makes it clear on what one should expect when in an area where a combat operation is being conducted by the Military or Security forces in Kenya since it is a persistent problem over the years e.g. the Pokot Massacre, which occurred almost simultaneously with the Wagalla Massacre, etc., it would take a massive education and legislative effort to prevent a recurrence, something that is unlikely to happen anytime soon.

Yes, the laws have changed several times, the Commanders have long left the scene, but there is every indication that the culture lives on – a Culture of State Supremacy and State Security Cultism, to the extent that anything and everything can be justified as long as the Country (not Nation) continues to exist at least on paper, the yardstick is International recognition via the “Geopolitics Card”.

A country existing on that basis would be pretty weak, as it would not be possible to rule out an Opponent playing the same International recognition and “Geopolitics Card”, to obtain a similar set of concessions from a different set of World Powers – with the promise of future military bases and mineral rights, weapons of all sorts could be obtained, right from pistols and tactical knives to the larger jets, submarines, and missile systems. Like in Syria or Yemen, as long as there is no proper transparency in the governance and electoral system, things could go out of hand.

Before every election, there are the primitive instincts of some taking hold of the process. Persons found with body parts missing or charms made from human body parts – these are just other low-level information operations, targeting less educated strata of the population.

Witchcraft [B41], [B42] is that such a weapon in Kenya, that there is special legislation against its practice. In Kenya though the majority do not openly proclaim it, witchcraft and other pagan practices are the mainstay of their undisclosed religious beliefs, it has an influence that percolates into every corner of the society. Witchdoctors and witches are consulted before exams, construction, business transactions, etc.

Life’s milestones are also marked with some witchcraft, e.g. deaths, births, marriages, etc. So what better way is there for one to petrify the electorate into

inaction or to mobilize them to action? It also has a role to play when it comes to administering oaths to combatants before, during, and after elections.

Violence backed by evil religious beliefs such as of the type fuelled by murder and human body parts can be no less brutal. The extreme brutality of Kenyan post-election violence during the period of 2007/8, caught the attention of the Office of the Prosecutor of the International Criminal Court [B43], although there were no convictions from the trials, the chilling details were a reminder of how far deep Kenyans are willing to sink in their quest for political power.

It is more than obvious that massive war crimes were committed during the post-election violence of 2007/8 in Kenya. What was unfortunate was the ineptitude and/or inexperience of the local and international investigators [B44] to investigate, contextualize, and report the matters they were looking into.

Power hierarchies were misread, superceded administrative chains were not considered, and the quest for “big fish” convictions was to result in more culpable low profile but large-scale offenders getting away scot-free. With the shooting of demonstrators against electoral injustice recurring in 2013 and to a large extent in 2017, one need not be a Sandhurst or Westpoint trained genius to tell what shall be the case in the 2021/22 electoral period [B45]. Though it is disturbing, it is almost safe to assume that there shall be violence from some quarters.

Massive demonstrations are deployed in Kenya’s electoral arena, short of someone proclaiming, “I have the squad”, and they are the closest thing to a military parade. In major urban demonstrations, buildings shake with “tremors” caused by the jogging crowd, as if to proclaim, “we are out here, hear what we are shouting and feel the ground shaking, our numbers are high”.

Unfortunately, Kenya’s unarmed public demonstrators are usually mercilessly clobbered and/or machine-gunned, as they go out to shout it loud and push their agenda. The Zillion dollar question is whether the demonstrators in the long-run shall perceive the Government to be an entity that works in their best interests or one that is a cocoon of ethnic special-interests. If the latter perception takes, hold, that more internal upheavals would be difficult if not impossible to impede.



With two Nobel Peace Prizes held by those of Kenyan decent notably President Barrack Obama and the Late Professor Wangari Maathai, the international community, you thought, would take more interest in the frequently deteriorating political situation in Kenya.

Beyond the realm of Democracy, the Law and the Constitution of Kenya, so often breached by the Powers-that-Be, Kenyans share very little or nothing in common, that can hold them together. They do not have a common language, they do not have common culture/traditions, and they do not have common religious beliefs – the only thing that binds them together as one is Justice, the Constitution, Democracy, and the Rule of Law. Even the name of the country Kenya is nothing in common for Kenyans, it was crafted by the 19<sup>th</sup> Century German Missionary Dr. Ludwig Krapf [B46].

If you think that you have read it all when it comes to Kenyan political weapons, consider this – Poisoning and Toxicology. That has taken the lives of many prominent players in the Kenyan political arena [B47]. Poisoning is preferred in instances where a “full-contact” assassination would be messy in most parts of the world and Kenya is no exception. All manner of people are typically a victim and the alleged victimizers may also find themselves, victim, when it comes to those involved in the wider plot covering up their tracks [B48].

Civilian Big Data Analytics is the latest entrant into the domain of weapons deployed in Kenya’s ethnopolitical hybrid wars. The use of mobile telephony and computing devices of all kinds have become ubiquitous and cutting across all age, gender, and ethnic segments of Kenya’s society.

Whereby in the 1990s your socio-political preferences could be tracked down by way of a serial number on a ballot paper, today your mobile telephony device may offer you all the utility and convenience that you need while at the same time reveal all your secrets to the State – in fact in 2017, the Government via the Communication Authority of Kenya almost achieved that feat in totality without a warrant from the Judiciary [B49], only to be stifled when the Telcos leaked the administrative order to the public.

Since around 2013, the “Digital Government” has digitized many of its services into various platforms including but not limited to E-Citizen cover issues of

passports, transport (driving licenses), identification papers, etc. There is also a digitized tax filing system i-Tax by the Kenya Revenue Authority, there are various Criminal Registries and National Security databases.

Ever greater integration of the systems both directly or otherwise, is creating a social scoring system [B50], such as that of the Peoples' Republic of China. Notably, the Jubilee Alliance had spent considerable time and effort engaging the Chinese Communist Party on how to best govern Kenya [B51]. Some of the results may have been an attempt to ban firearms in private hands [B52] and Chinese like police uniforms.

There has been a massive attempt to try to ban, confiscate and destroy as many weapons as possible from civilian hands after it was revealed [B53] that civilians own 750,000 firearms in Kenya, many being automatic assault rifles – i.e. Kenyan civilians own more firearms than the Kenyan Military and Security Forces combined. High gun ownership amongst civilians is probably the best insurance policy against repression, dictatorship, terrorism, anarchy, and violent crime.

Even seemingly, cheap and simple techniques have a large-scale effect, a point in case is the use of threatening leaflets [B54] to evict populations from certain areas of Kenya, during electoral periods. These leaflets may be photocopied, handwritten, or printed.

Usually much small than an A-4 and scattered on the ground near homes or work-places where the targeted communities can be found. In Kenya where law enforcement may not be effective at times, the effects of these leaflets may result in mass eviction, people would rather move to areas of the country where they feel safe than to second guess those who are threatening them.

Sounds remote but those who have not fully paid their Higher Education Loans Board University and College student loans are barred from taking up a wide range of public offices. There is also an increasing requirement for an opaquely issued National Security clearance for a range of Government offices – a document which is not issued to the affected party and that cannot be contested in Court, and has been issued over the years, despite its unconstitutional procedure of issue.

Another notable social scoring system parameter in Kenya is that people must disclose their ethnicity in various Government documents, as such a disproportionate number of Government employees are from the Kalenjin and Kikuyu communities of Kenya.

If terrorists use suicide bombers, then in lawfare, there are the proxies, people used to file statutory complaints and cases while providing reasonably safe distance from the action for the interested parties. One may want a law nullified while publicly proclaiming to support it or to remove someone from Public Office by way of a complaint while claiming to back them, why not use a proxy, it is the Kenyan way, more so if the proxy used against one is from one's ethnic community, it may cover up the ethnic underpinnings of a dispute.

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## **Notes**

[B1] A report by the Daily Nation newspaper website and newspaper, gave the identities of the victims and they were from the Luo community, who were attacked in cold blood, in the first wave without provocation. There are hardcopy newspaper archives in Nairobi, Kenya – most of the items reported on softcopy websites are also available on corporate hardcopy and hardcopy digital archives, at the print media headquarters of various newspaper publishers. The attack was probably a sponsored act of political hatred meant to retaliate for low voting numbers in the elections and persistent opposition litigation against the incumbent.

[B2] Accordingly to easily searchable International Humanitarian records, at least 50,000 machetes were exported from Kenya to Rwanda, during the genocide of 1994, not to mention that many a household in Rwanda already

possessed a machete, more so those who were preparing to participate in the genocide.

[B3] Contains more reports on the use of machete as a tool of political violence in Kenya, in different areas of the country.

[B4] Shortly after the nullification of the Presidential Elections of 8th/8/2018 by the Supreme Court of the Republic of Kenya, about a month after the General Elections, an arson attack occurred at the Moi Girls Nairobi School, the case is now a matter of criminal litigation.

[B5] Comments by the Head of Kenya Red Cross that there was fake news about attacks on Mathare and Dandora came at an inopportune time. Specifically, because the nights before there was a raid, that was widely documented on mass media. One of the allegations by the members of the public who reside in slums was that bodies and/or living persons were disappearing from slums. This is documented later in this book.

[B6] A motorbike taxi operator saw a beehive before the attack, a youthful politician would later be fingered on social media buzz. The matter was at the time of authoring this work still easily accessible online.

[B7] Tankers dumped raw sewage on Jacaranda Grounds, the place where National Super Alliance opposition outfit was to hold a prayer for its members killed in anti-government demonstrations and a probable parallel swearing-in ceremony for the People's President during the swearing-in of President Uhuru Kenyatta.

[B8] A rural polling station at the coastal area of Kenya was rendered unusable by way of faecal contamination on the presidential election re-run of 26th/10/2018

[B9] A freshly chopped human head and a pair of hands were delivered in a package to Luther Plaza in Nairobi, where the Chair of the National Police Service Commission had an office. It was an addressed package. It was more

like telling him, that human life meant little or nothing to those who were responsible for the delivery of the package.

[B10] An ethnic diatribe couched in music against the political/presidential ambitions of others, deemed not conducive to those of another ethnic group, the popularity of which raises issues of ethnic supremacy and chauvinism.

[B11] “Atommy Sifa” a Luo musician, was ostracized by the Luo community in Kenya, and forced to flee to self-exile in Tanzania after he participated in a song against Raila Odinga, the Opposition Leader who is Luo and has his primary support base in Luo Nyanza. So far political music did not swing the vote at the national level. When that shall occur it shall be noteworthy and a subject of further research/analysis

[B12] The thesis gives different dimensions of the issue of vote-buying which are still true to form today in Kenya. Though the parties have changed, in many instances the politicians are the same, with the same old habits, and are passing them to a generation of new youthful politicians.

[B13] There exists campaign finance control legislation in Kenya i.e. Election Campaign Financing Act. No. 42 of 2013, Laws of Kenya. It has not been enforced to date because Parliament has negligently failed to approve its subsidiary regulations. Even if such approval came, it has to be in place at least one year before any election for it to be effective.

[B14] He was a Member of the ruling Jubilee coalition, he donated 5sh. to the National Super Alliance of Kenya campaign to ridicule them. The issue prompted a great response from his Jubilee supporters on social media.

[B15] Story was widespread then and reported a lot on social media, that Jubilee supporters trying to mock the opposition party by sending them small amounts of money as a prominent politician had done, in addition to sending mocking messages to the opposition, ended up sending US\$100,000 in a day or two.

[B16] Indictment demonstrates how Narcotics trade has penetrated politics and government

[B17] Violence and thieving are considered a virtue if one attains political power by such means and does not get caught by law enforcement in the process. Kenya is replete with examples, were it not for this Author's aversion of lawsuits where avoidable, he would fill a page with examples cutting across all ethnic communities.

[B18] Article was written around January 2018

[B19] Use of helicopters to impact on the minds of the electorate.

[B20] Article covers the effect of helicopters particularly on rural crowds, during election campaigns

[B21] This particular helicopter crash irrevocably changed Kenya's political landscape regardless of its cause

[B22] At the time of his demise there was little or no separation in the activities of Administration (the Executive) and Politicians

[B23] Early morning helicopter crash, given the situation – compressor stall was a possible problem

[B24] Joho's family controls two container depots namely Portside Container Freight Station and Autoport Container Freight Station. The shutdown resulted in lost jobs and business opportunities, as well as lost tax revenues – ostensibly the move was meant to prevent loss of tax revenues. The Order was effected by the then Managing Director of Kenya Ports Authority Gichiri Ndua, after a public pronouncement by the President.

[B25], [B26] Governor Joho's freight businesses were shut down by the Government only to be reopened after his party leader Raila Odinga and Gov. Joho himself met President Uhuru Kenyatta face to face, in discussions that are not a matter of public record.

[B27] Article gives a detailed account of some of the challenges posed to Samuel Macharia's business by the then Government and Financial Institutions linked to the Government.



[B28] Cash handouts are typically given to youth during Election campaigns as attendance and transport “allowances”, or for other auxiliary services. Given their background from areas stricken by abject poverty, the end of the General Elections leaves them resorting to crime, as they have no legal skillsets to earn the amount of money they have become used to handling during elections.

[B29] Criminal suspect Victor Eshwani has lost count of the number of people he has robbed, one of the arresting officers Senior Sergeant Osoro Albert, describes him as an impulsive repeat offender who cannot be trusted. There is also market demand that feeds the habit, many people want phones that they cannot afford, so why not obtain them from the black market and overlook the fact that crime is feeding their innermost craving?

[B30] The toxic campaign advert in question was found to have been fully paid for by the Jubilee campaign team, via their long-term political consultants the now-defunct Cambridge Analytica (which is still likely to have remnants of its staff conducting similar operations). Though the company is now defunct, the people in question at Cambridge Analytica are not in prison, and must surely be conducting similar business in one form or another. They could not just have dissolved the outfit and taken up new careers. They could not have easily abandoned the business account that is Kenya either given the colossal amounts of money that they have earned therein. They are probably using other obscure business vehicles or operating the same business as individuals.

[B31] Kenya recently surpassed the 40million mobile phone subscribers’ figure, at the moment 90.4% of the population is presumed to possess a mobile phone. Notably more statistics maybe need as in urban areas, many people have two to three mobile phones, and many of them smartphones.

[B32] Blogger was active in Trade Union matters, that are intractably connected to electoral politics in Kenya, especially the Kenya National Union of Teachers.

[B33] In his seminal lecture Dr. Kent Hovind details how Gun Control is closely tied to genocide and other practices of an oppressive government. In his lecture, he states that about 60 million to 100 million Russians died during the reign of Joseph Stalin, due to gun control and their inability to resist the

evil State therein. He further postulates that registration of firearms precedes the confiscation of firearms and does not lead to the improvement of safety or security of affected populations. He gives clear examples of how a few evil and bad intentioned people with guns can control many unarmed members of the public and coopt them into structures of oppression and poor governance. He demonstrates that there is no good reason why Governments should be entrusted with gun control and gives examples such as the Armenia Genocide, the Russian Gulags, Nazi Germany, etc. In his lecture, it is estimated that no less than 56 million people worldwide have been exterminated after the imposition of gun control in their jurisdictions in the 20th century.

[B34] The article explains that firearms are part and parcel of personal property, and issues of societal structure that result in violence are not resolved by way of gun control.

[B35] The citizen warrior and character and spirit of the individual are essential for protecting the individual and wider society from dangerous fellow citizens and corrupt government authority. This is the fundamental theme captured by a Conservative reader of this research article. To that extent, it can be argued that any democracy that does not have citizenry, that is armed and law-abiding, shall be subverted by its governing authorities for self-gain, due to lack of a warning/chilling effect of an armed citizenry. This can easily explain the problems faced during the transition to power in the Gambia (2017) and Cote D'Ivoire (2010), and failed power transitions in Kenya (2007/8) and Gabon (2016), i.e. in Africa even if an election is won, power is not transferred to the winning side unless it is sufficiently menacing and detrimental not to effect such a transfer.

[B36], [B37] A compendium covering recent extrajudicial killings in Nairobi. There are three additional articles on page 17 of the same newspaper.

[B38] The rapes and beatings leave one with no doubt that such levels of savagery shall again feature in the future. Soil, bottles, etc being stuffed into women's private parts, rape of females right before the eyes of their very family

members, rape on men, the ease of submission due to low gun ownership and not so irrational fear of the police, etc., etc.

[B39] Operation “Okoka Maisha” against the brutal Sabaot Land Defence Force (SLDF) by the Kenya Defence Forces and the Kenya Police (primarily the paramilitary GSU – General Service Unit), turned out to be a large-scale horrific war crime, by the Government forces against the Sabaot in Mt. Elgon area of Kenya.

[B40] An extraordinary account on corpses found within Westgate Mall and the torture marks and/or circumstances they were found in.

[B41] In 1925 eleven years after the Colonial Government was founded in Kenya, having seen the effect that witchcraft had on people and their actions, and probably judging correctly that it was a potential threat by way of inspiring insurrection, the Colonial Government codified the witchcraft law. To this day, witchcraft is a potent control mechanism over considerable segments of the population, especially during elections.

[B42] Some articles give an insight as to the pervasive influence of witchcraft in Kenyan politics, especially during the General Elections or other crises.

[B43] The cases collapsed not only because of poor investigations but also because the Office of the Prosecutor of the International Criminal Court, did not target those who were most culpable at the time, notably the accused were not in-charge when the elections were rigged and the fighting broke out. Though this is clear in the evidence that the International Criminal Court – which mentions the people who chaired “retaliatory” massacres. Another accused Mohammed Ali was not in Command of all the Police Forces of Kenya during the period, a unified police command was only formed after the Post-Election Violence Legislative reform, before that the Administration Police was not controlled in any way by the Commissioner of Police, but had its Command and was answerable directly to the Office of the President which had at least two Permanent Secretaries dealing with Military and Security issues, its operations featured heavily before, during and after the 2007 General Elections. It is more than obvious that a redirection of the International

Criminal Court cases would have produced immediate convictions, and that remains the fact to date. The major challenge is whether Kenyans and the International Community are willing to handle such repercussions – a close reading of the indictments shows that the International Criminal Court has very tangible evidence, but if the accused are assessed by a Kenyan Expert, the indication is that other people ought to have been accused at that particular time, rather than those perceived to have “benefited” from the war crimes.

[B44] The International Criminal Court investigators were in two categories, the first being persons working for non-governmental organizations who were primarily and the second being its foreign investigators dispatched from its offices in The Hague. In both cases, the investigators did not have insider knowledge of the Kenyan Security/Military establishment, they could not obtain warrants, search Government offices, or compel real witnesses who worked therein to leave the country and testify. In reality, whether dealing with state-sponsored violence or ethnic militia, an investigation and summoning of persons involved would translate to further violence – something that the International Criminal Court, the International Community, and the local investigators did not have the “guts” to undertake, inevitably they would be some storm before the calm of criminal convictions.

[B45] You can take this to the Bank – there shall be violence, irregular militia, rape, and murder. Local institutions are still too weak and lack independence. More so, some in Kenya have become used to devouring human blood by way of endless conflicts, to remain in power, or to remain as having access to the Power-that-Be.

[B46] Interestingly, to this date German seems to be positively obsessed with the fact that one of their citizens coined the term Kenya. It was the first country to recognize Kenya at independence and its motor-vehicle number plates are labeled 1 CD\_\_\_ in acknowledgment of this fact. By the end of the 19th Century and even well into the post-independence period, there was a Middle East driven demand for slaves from Kenya. At around this time Akamba Chief and slave trader Kivoi wa Mwenda, interacted with Christian missionary, Dr. Ludwig Krapf. At some time of the interaction, Krapf asked

Kivoi the local name for the Mt. Kenya. Kivoi replied 'kimaa ki nyaa' (a mountain with ostrich), and legend has it that Krapf noted the words 'kii nyaa' as 'kiinyaa' and noted it honestly in his diaries as 'Kenia'. Kenya would then be coined from Krapf's note on Kenya. During World War 1 German Officer von Lettow-Vorbeck attempted to capture Kenya and reached the Southern outskirts of the capital city Nairobi, only to fail in his expedition due to lack of manpower and weapons. A similar attempt was made to capture Kenya from the north during World War 2, this time there were only 100 German officers, and thousands of Italians, this attempt also failed.

[B47] Phillip Mule Kilonzo former head of Kenya Police, and one of the investigators to have toured the crime scene of Dr. Robert Ouko murder died after taking a drink of beer in a Bar, before sipping the drink he complained that it smelled differently and when he sniffed it he complained that it tasted differently.

[B48] A detailed allegation of one of Kenya's darkest political episode, the assassination of Dr. Robert Ouko.

[B49] The Government via the Communications Authority of Kenya, the Kenyan regulator for Telecommunications, Broadcast Frequencies, etc. wanted to implement a system ostensibly for detecting counterfeit mobile communication devices by way of International Mobile Equipment Identifier numbers – the installation of Digital Multiplex Systems onto the infrastructure of Telkom, Airtel, and Safaricom, would have resulted in an all-out interception of mobile communications without the involvement of the Judiciary by way of intercept warrants. In simple terms, the State wanted unrestricted access to voice, text, media, and cash transaction data from mobile telephony subscribers to be relayed to it. The Government set aside about US\$2million for implementation of the communications intercept plan. To demonstrate how pressing the insidious plan was, the Government tried to schedule a "survey" visit to mobile telephony providers when it all along knew that it would attempt to install the devices and relays in the first instance.

[B50] The Communist Party of the Peoples' Republic of China has embarked on a massive Civilian Big Data Analytics programme – that is dubbed in the West as a Social Credit Scoring System. Big Data companies such as Huawei, Alibaba, etc. have chipped in to make a formidable social credit system for punishing “disloyal” citizens while rewarding those it considers loyal. Unfortunately, anti-corruption crusaders and other free minds have been injured by the system. The system feeds in Big Data records e.g. Medical, Shopping, National Security, Crime Reports, Social Work reports, Online Browsing and Activities, Marriage and Dating, Social Worker reports, etc. to come up with a social score. To further aid the system it stores fingerprints, human gait, car registration plates, genetics, voice, facial data, etc. which can easily be tracked and monitored via a National Network of CCTV cameras, telecommunications networks, etc. The end-product of the system is to restrict movement and opportunities of citizens it considers to be disloyal by way of restriction on jobs, travel (e.g. high-speed rail tickets and air tickets), etc. i.e. the socio-economic mobility of disloyal citizens becomes impaired, they cannot even get banking loans.

[B51] A series of newspaper articles over the recent past, showing the willingness of the Jubilee Party of Kenya to adopt governance methods that are utilized in the Communist Peoples' Republic of China. (a) Kenya is divided into 47 Counties, each lead by a Governor. Jubilee Party of Kenya has made an arrangement to train all its 47 county coordinators in China under the tutelage of the Chinese Communist Party. The course was attended by the said personnel in China, likewise, the Chinese Communist Party flew in 300 officials to train the Jubilee Party on organization, capacity building, and mobilization of the masses. An academic at the United States International University, Professor David Kikaya criticized the arrangement as one that would foster autocratic governance techniques that Kenya need not emulate given its new Constitution and enhanced democratic space. (b) The training session was to take one month. An area of interest for the Kenyans in the Jubilee Party was how it could perpetuate its rule for 100 years. Notably, this is typically done by way of violent concentration camps, etc., so one would wonder whether Jubilee

officials had no insight, as to how it had been achieved elsewhere or whether they were considering the deployment of such methods, etc., etc.

[B52] National Gun Owners Association sued the Interior Minister Hon. Cabinet Secretary Fred Matiang'i for revoking their firearms licenses and range licenses. The lifting of the ban on shooting range licenses was sought, as well as lifting of a non-statutory ban on service rifle gun ownership.

[B53] Geneva-based Small Arms survey assessed that there are 750,000 guns in private hands in Kenya, while the Military has 45,790 and the Police has 51,527 guns, gun ownership of around 7.5million+ would be desirable for Kenyans if held by sane, rational, and law-abiding citizens whose only offense may be to own a firearm. At that level, every armed citizen poses a challenge to anyone trying to undermine the country's democracy.

[B54] Unlike other techniques of threatening the public – leaflets are pretty effective because everyone can see them, and if they cannot read them due to literacy issues, they can ask those who understand what they mean. They are pretty cheap to manufacture distribute. They have featured in Kenya during political tense times over very many decades.

## CHAPTER 3

### Hybrid Warfighting

**H**igh impact, low signature hyper-violent escapades are the hallmark of many political warfighters in the Kenyan arena, e.g. lure a blogger to a meeting via smartphone or laptop, then bash him silly and leave him for dead; Make a law or other regulation specifically developed to impede the socio-economic progress of political adversaries; Shutdown all the Radio and TV stations, that broadcast Dr. Miguna Miguna live; Right down to the Games of Search, Hide and Find; all are deadly serious – at times complete with AR-15 totting players.

If you thought that running an Elections Management Board, was all about transparency, accountability, and openness, then think again? In Kenya, it is about hiring the dodgiest litigation teams, who are more often than not those who represent the status quo or have done so in previous cases. It is all about lawyers who can tell a white lie without blinking or twitching.

Those who can convince the very Judges who issued a Court Order, that compliance is wishful thinking rather than mandatory. More often than not the laws, rules, regulations, and policies that are the subject of the dispute, had been codified a while ago in a one-sided “take-no-prisoners”, legislative process i.e. lawfare.

For battle in the Courts of Justice, a wide range of experts are required, e.g. Forensic Handwriting Analysts, Forensic Document Examiners, Forensic Digital Photograph Analysts, Constitutional Lawyers, Criminal and Civil Litigation Lawyers, Digital Forensics Analysts, Intelligence Analysts, Private Investigators, Process Servers, Political Scientists, Statisticians, Polling Agents, Election Monitors, Crowd-Sourced Data Analysts, Data Analysis Centers – Workplaces Administration, System Administrations for Litigation and Workplace Collaboration Systems, Armed Security Guards for Offices, etc.

In the field and at office-spaces, personnel competencies required are those of Vehicle Drivers, Helicopter Pilots, Armed Guards, Irregular Fighters, Security



Guards for Offices, Man-trap Engineers, Car Trap Engineers, CCTV and Alarm Experts(especially for concealed installation), etc. There are battles in the War that is a Kenyan election, many very sharp, very short duration but also very revealing, e.g. the 2017 pepper spray attack against the ODM Director of Communications Philip Etale [C1], what's notable about it was that it is overwhelmingly probable that he was under some form of surveillance before the attack.

There have been several notable attacks against installations that were run by Opposition parties in the past, given the heavily policed nature of Nairobi, some of these raids may in all likelihood involve standing down of resources by the State, if not direct involvement of the State. Some of these raids are:

2007/9/9<sup>th</sup> – Raid against Orange Democratic Movement party offices in Nairobi [C2]

2012/12/30<sup>th</sup> – Raid against Wiper Democratic Movement party offices a member of the CORD alliance [C2 (i)]

2013/6/24<sup>th</sup> – Raid against the private office of Raila Odinga, it is located in Upper Hill, Nairobi [C2 (ii)]

2014/3/2<sup>nd</sup> – Raid against Orange Democratic Movement party offices in Nairobi [C2 (a)]

2015/11/2<sup>nd</sup> – Raid against Orange Democratic Movement party offices in Nairobi [C2 (b)]

2017/8/4<sup>th</sup> – Raid against NASA Kenya Tally Centre at General Mathenge Drive Westlands [C2 (c)]. There were other raids during the 2017 Election.

If physical raids just don't hack it then there was this remarkable piece of Lawfare by prominent Nairobi Lawyer, when he wrote to the Supreme Court Judges urging them to give a full ruling on the annulled Presidential Election of August 8<sup>th</sup> 2017 [C3], as soon as they possibly could do so – a pretty legal move, but given the weighty issues and mountains of documentation, a ruling given at the earliest possible opportunity would have been much shorter and probably less stinging.

In due course, the ruling came well within statutory timelines, but what is interesting is that physical violence that erupted before it was delivered [C4], by time which some ethnic mobilization had occurred.

If they cannot get you physically, at least they start with threatening you, enter Dr. Roselyn Akombe a Ph.D. holding Political Scientist, who went through a rigorous process to be selected and appointed as a Commissioner of the IEBC. The “problem” with “Daktari” as in the Swahili language for Doctor was that she had got too much of an independent mind and after the death of her colleague the acting IEBC Director of ICT Chris Msando, she was one of the staff most shaken by events.

What must have been disturbing to most of her detractors was that she was said to hold both Kenyan and United States dual citizenship, so that came with a certain level of protection from the United States Embassy in Nairobi. It was public grapevine that after the death of Msando, she was alleged to have been guarded by United States Marines.

To the ethnic extremists who want to rule the country forever and ever, Akombe’s dual citizenship was a sign that she had “betrayed” the country, probably by way of surveillance and in the process giving away details of any classified plot of rigging that was unfolding.

On the contrary, to the level minded Kenyan, Akombe’s United States citizenship, was well received by the many Kenyans who know that they are dealing with a captured Elections Management Board. One of the only possible solutions was and still is intervention by Western democracies who are at the moment more concerned about making a dime from Kenyans, than in the proper functioning of their democracy, an aim that shall be self-defeating in the long-run.

The talk of the town was that Dr. Akombe at the time after the Msando assassination was a beneficiary of security courtesy of the United States Embassy in Nairobi i.e. some said she was guarded by United States Marines. The then United States Ambassador in Kenya His Excellency Bob Godec, also did intervene from time to time when she was in difficult situations.

In simple terms, Dr. Akombe was too tough, too hot to handle, and too independent-minded to deal with, in Kenyan terms, so what was left was at least to make threats [C5] to make her feel uncomfortable and to lessen her effectiveness at work.

If threatening the Electoral Management Board does not yield the desired results, you can also starve them of cash, and get them crawling to you for more [C6].

After all the powers-that-be have already rigged the tenders and taken their cut because many have been paid their dues, or there some essential services that are required that without the cash the Board shall come crawling to the Establishment where a “favourable” settlement can be reached. Not only are the electoral Commissioners threatened but also the Financiers of the Opposition – this particularly affected businessman Jimmi Wanjigi in the 2017 electoral cycle [C7].

When it came to who was threatening Wanjigi, it would be problematic as the Police itself would make several attempts to get at him “physically”, for alleged “illegal” firearms possession (he possessed an AR-15 rifle and Beryl Mini Archer. Notably, he bought those firearms from a licensed firearms dealer, and holds licenses for the same issued by the Government).

The police attempt to reclaim the firearms in an abortive paramilitary commando raid on his home in Muthaiga Nairobi probably did not result in his death because he hid in a secret location in the home which the police did not locate during the raid.

They would later attempt to get to him outside his home, around Museum Hill area Nairobi ostensibly to serve a Court Order, while he was in his armoured car. They failed to gain access to him in person but pinned the Court Order on to his car screen. The arsenal of arms carried by the Police was an issue – to the casual observer, it in all certainty seemed that it would have not been safe under the circumstances, for him to disembark from his armoured car to receive the Court Order.

The search was the challenge that Jimmi Wanjigi would face before the final attempt to threaten him by way of posting a “Death/Funeral announcement”

against him in a top local daily newspaper. If threats are effective at the levels of people protected by United States Marines in Nairobi and those living in Mansions complete with bunkers and armoured cars parked nearby, then what would the effect of leaflets circulating amongst the abject poor of Kenya, have during the elections?

If the poor are told to leave their homes in areas where they are minorities, they would do so and inevitably change the electoral calculus and outcome. The threats against Opposition politicians also create the same sense of vulnerability amongst their supporters, they get to feel that if our leaders are being mishandled and they cannot do anything about it, who are we?

A civilian coup d'état [C8] can be clothed with a shred democratic credibility that is the art that many Kenyan politicians had mastered in 2007 and repeated in August 8<sup>th</sup> 2017. Manipulating the election is an easier option than storming various facilities with troops – it is pretty effective because it comes at a specific time in which the robbed winner of the elections has not established any credibility by way of getting into office, controlling government operations, and taking decisions.

Consequently, the “loser” who is truly democratic might easily succumb to an optical illusion of false, fraudulent, and manipulated results, simply because they are opened minded. However, generally, the population is not that easy to trick, and that resulted in at least 1200 lives in 2007/8, and the political Opposition claim 300 lives or thereabout in 2017.

Raids against the Opposition tallying centres in Nairobi in 2017, were an indication that the Government party then Jubilee party would not concede. The Chair of National Super Alliance (NASA) Kenya Technical Advisory Committee for the 2017 General Elections was Professor David Ndii – he headed an independent and parallel tally system.

The initial raid against an Opposition Tally Centre took place before the elections in Westlands, Nairobi in paramilitary fashion complete with masked gunmen, and the second was raided in Runda Nairobi by the Flying Squad after an undercover police officer who had infiltrated it was detained therein. These very acts would put the Police at the centre of one of Africa's most

vicious political disputes, in a way of openly supporting the Government, something that should have not happened in a democracy.

Notably, the then Inspector-General of Police was a former member of the National Intelligence Service, an organization also known for its pro-government stance in all-a-political-dispute, to the extent that Opposition members are spied on both inside and outside Kenya. That is the primary preoccupation of the Intelligence Services, not gathering foreign target data, etc.

If the Police and Intelligence Services are left out, there is also a growing body of evidence of a political faction in the Military, though it is not officially acknowledged or created. In 2017 right before the General Elections NASA, Kenya filed litigation in the Kenyan Courts alleging military support/intervention in the General Elections to aid the Government. It was the issue in Petition No. 373 of 2017 NASA Kenya vs. Kenya Defence Forces. NASA challenged the deployment of the Kenya Defence Forces before, and during the 8<sup>th</sup> August 2017 General Elections, the case was later withdrawn, something that should not have happened with the benefit of hindsight.

Some few hours, after voting the Military aka KDF/Kenya Airforce, deployed a low-flying helicopter over the slums of Kibra before the Presidential Election results were released in what seemed to be an operation to pacify and/or threaten Opposition supporters.

On January 30<sup>th</sup> 2018 during the swearing of the Opposition Leader – a symbolic but weighty demonstration of power, influence, and determination by the Opposition, the Kenya Airforce would again fly P....type unmanned air vehicles, over the city of Nairobi for almost half of the day, as it searched for violent mass demonstrations that did not materialize.

The many more forms of cryptic evidence concerning the involvement of the Military in the General Elections, as was detailed by the notorious “OPS Dumisha Utulivu” letters that were leaked. They even more demonstrated, an unwillingness of a political faction in the Military to let go of political power. This Author specifies that they were Kenya Defence Force letters because, when they were first leaked the Ministry admitted that, only to recant its admission, so the Author selects to accept the original position.

With the working assumption that the letters were authentic, an analyst would be compelled to assume that some persons in the KDF are a Hybrid Threat [C9] practicing some form of unrestricted warfare [C10], against the Political Opposition, especially during the General Elections.

A rough reading of the situation presumes that some persons in the Military who are not officially acknowledged, were interested in altering the democratic outcome of the election in the Republic of Kenya, more so to the extent that the alteration was to subvert the outcome of the exercise of the Democratic Will and Sovereign Power of the People at the ballot.

Many a political observer or analyst in Kenya, would come out to explain how the issues at hand can be resolved peacefully, via peaceful and non-violent demonstrations, nothing is farther from the truth. One would need to reside in the mud and wattle slums of Nairobi, where civilians are mowed down by automatic gunfire at the elections from 2007 to 2017, to see those peaceful methods cannot work for a “monster”, that has devoured so much human blood and is seeking to do that once again, to get the political outcomes that it desires.

What has occurred in Kenya is what military and political analysts describe as Comprehensive Coercion i.e. Authoritarian Political Warfare [C11].

Short of people in the Third World aka developing countries holding mass demonstrations in the hundreds of thousands, while jog matching in threatening regimented fashion complete with 50 cal sniper rifles, MANPADs, and anti-tank missiles, it is difficult to see how they can change the odds stacked up against them, in a non-violent way without them demonstrating any “teeth to bite with”, though this never not the best way of going about issues.

Both the Government and Opposition in developing countries are unlikely to welcome the era of such an empowered populace especially by way of armed means, more so because they both have more interests in common between them than any shared interests with the masses.

Comprehensive political coercion has other ubiquitous facets, e.g. Apologist intellectuals in and from Academia who cover-up incompetence, nepotism, and

ethnic extremism, with seemingly complex arguments including international comparative studies.

In the law enforcement realm, there is the gradual elimination of the independence of police governance which converts them into armed political henchmen rather than effective law enforcement. Security officers in developing countries are used to carry out political assassinations and to obstruct legitimate political activities by way of commissions and omissions. At the same time, military forces are gradually configured to deal mainly with internal political opponents, rather than armed external threats.

The end product of comprehensive political coercion is a super-rich political class, by way of protecting and growing assets that have been obtained using means of crony capitalism and corruption. Government procurement systems capture is a key facet of this activity.

Unjustly obtained resources are then ploughed back into special-interest groups (e.g. women, youth, etc.) to pacify the crowds and to bribe political rivals, who are typically from different ethnic backgrounds in Africa. The system of political bribery has become self-perpetuating over the years as it keeps some in and others out of real political power. It involves obtaining political rent from businesses that have obtained cash from public coffers, before expending it in silencing political dissent, in many ways.

The current disturbing shift in Kenya's security environment is the vacation of the prior Western world's position of supporting electoral/political transparency, and accountability, to that of supporting and offering "blank cheque" to any government in power, more so if it can sufficiently cover-up electoral malpractice or replace democratic by way of balancing interests of ethnic power cartels.

This was never so clearly illustrated in Kenya as in 2018 when the Western World called for the Opposition to accept the election results, even before an audit of the electoral system database that was hosted in the United States and the European Union i.e. it was within the reach of those Western Governments to conduct a deep investigation into the Kenyan General Elections.

This shift in position was predicated by several factors, some of them being:

1. Since the populace cannot comprehend there was massive electoral fraud, they better not be alerted by the West, and for those who do know, their voices are insignificant in terms of mobilization on the ground.
2. Immediate Western interests in Kenya include a pliable client regime, token democracy, access to military facilities, and access to national markets. Electoral fraud can spoil the party, so to speak.

As such it was in the interest of the Government's political supporters to wage some nature of hybrid warfare against the Opposition to the extent that it would harm their chances of winning the election, while keeping the activity below the threshold of Western Public concern, i.e. low body count, and plausible deniability.

The Government of United States of America, did not trust the Judiciary that it was advising the Kenyan Public to trust, due to its actions in the year 2011, when it released the Narcotics Kingpin List [C12] and made it clear to all those listed therein that the only way to clear one's name was by way of filing a case contesting it in the United States Government Federal Court System, under the Judiciary of the United States.

The point was further reinforced by the comments of the United States, State Department, Assistant Secretary of State for International Narcotics and Law Enforcement, to the effect that corruption and lack of accountability were choking the Kenyan Judiciary [C13]. Because the United States Drug Enforcement Agency has high-quality evidence against at least one retired Senior Police Detective, two sitting Judges, and a Prosecutor, these comments could not be taken lightly as they do have political ramifications, related to the electoral/political system.

Perhaps if Kenyans are not careful, they shall not be held together by way of a common vision for the future and common current interests but by way of exploitative socio-political relationships, targeted at emptying the public coffers in perpetuity.

Stealing the General Election outcomes using methods that are below the threshold of known international intervention, is done by way of hybrid warfare and hyper-intense political warfare. An interesting attempted Anti-Access



attack concerning lawfare was conducted in Nairobi on August 18<sup>th</sup> 2018 [C14] – when an artificially created traffic jam was deployed in an attempt to prevent the lawyers of the Opposition from filing the case of Presidential Election Petition No. 1 of 2017. The lawyers barely managed to file the case, beating the deadline by just about 18 minutes.

And the battle did not stop at the roads or in the Supreme Court, there has been a marked increase of appointments of persons from the Military and Security Services into the mainstream public service, of those appointments several have had far-reaching political ramifications e.g.:

1. Charles Mwongera Mukindia – formerly of the National Intelligence Service to the Firearms Licensing Board
2. Inspector-General of Police Joseph Boinnet formerly of the National Intelligence Service then reappointed back into the Police Service (notably, in Kenya there is cross-posting from the Police to the Intelligence Services this does not happen in most democracies because, in reality, Intelligence outfits conduct many activities that are not legal or compatible with Police oaths).
3. Alex Muteshi – former Director of Counter-Terrorism at the National Intelligence Service appointed as the Director of Immigration
4. Major-General (Rtd.) Dr. Gordon Odemo Kihlangwa climbed up the ranks of Immigration Directorate to Principal Secretary, State Department of Immigration, Border Control and Registration of Persons, he was originally appointed from the Military
5. Noordin Haji, Director of Public Prosecutions and formerly Deputy Director in-charge of Economic Crimes investigations at the National Intelligence Service
6. Etc [C15]

Kenyans have all kinds of interpretation for these appointments e.g. in the case of deportation of prominent Kenya lawyer Dr. Miguna Miguna, the Authorities have “shot first and asked questions later”, as would be expected of any Third World security operative.

Others hypothesize that it was due to the Westgate terror attack of 2013, that the political leadership of the country saw it prudent to appoint people with military and/or security experience into Public Office. This proposition would,

however, “fall flat on the face” when an abortive terrorist attack that was thwarted while attackers were en route to Nairobi, simply stopped on a dry riverbed in their medium size Mitsubishi SUV in Isiolo [C16], something that prompted the Public to call the police, on the basis that it may have looked like a stolen and/or abandoned car.

The terrorists were either resting because they were tired or required feedback on-road security conditions, from an advanced recce party ahead of them. Their equipment would have delivered an attack much heavier than the Westgate attack of 2013 and probably even at the same location since they had booked a hotel in the City with good access routes to Westlands Nairobi.

Another indication that appointing Military and Security operatives to key positions do not amount to much under some circumstances, is that of the Mingo Islands of Kenya in Lake Victoria, that has got a load of Ugandans forces occupying it, something that Kenyan Authorities have not been able to resolve to date.

The inability of the Republic of Kenya to deter adventurism and provocation in that particular respect leaves a lot to be desired when it comes to training, knowledge, experience, and military equipment procurement habits. Notably, the Luo are the main population group in the area, which is an Opposition support base that brings in the dimension of the Ugandans, taking advantage of the internal political splits in Kenya, to push their territorial agenda [C17].

There is another way of doing it in Kenya, if you cannot have it your way, why not send a threatening letter to the Western Diplomats and the Judiciary who act as “guarantors” of the democratic process. That happened in 2013 and given how the Judiciary ruled then on various issues it must have been 100% effective.

No application in litigation by civil society in the pre-election period or post-election period during the Presidential Elections Petition of 2013 referring to the threat against the Judiciary, saw the light of day.

There is also the surreptitious coercive disenfranchisement of voters, many people especially in the slums of Nairobi particularly of the Luo community have experienced so much violence, meted out on them during the elections,

believe that not voting would somehow bring them peace. This is a presumption that is not true, as they are exposed to the structural violence of bad political decisions thereafter for a continuous five year period.

Many travel upcountry to their rural homes where they have not been registered as voters, just to escape from violence by the Police and irregular militia in Nairobi and other urban centers e.g. Naivasha, Nakuru, etc.

This brings into focus the hollowness of the recent “Building Bridges Initiative” – what are the factors that aggravate the problem of ethnicity in Kenyan politics? :

1. The practice of ethnic supremacy and ethnic chauvinism in many aspects of public and private life
2. Willingness to do anything to subvert democracy and maintain the status quo
3. One-sided violence directed at ethnic groups perceived to be “Opposition” – this is done by way of the use of government forces and irregular militia. An irregular militia is usually sponsored to effect violent attacks in a way that does not draw international attention but suppresses the Democratic Will of the affected populations to engage in political activities and robs them of their Sovereign Power.
4. The marginalization of populations perceived to be Opposition, to the extent that they cannot engage in contemporary socio-economic activities to improve their lives, due to lack of education, financial capital, and social influence.
5. Hatred campaigns run by way of social media on the Internet, slighting music, hate speech, etc. that leaves the victims feeling excluded and violated
6. Unfair distribution of prime government procurement opportunities to the rich and/or politically correct, more so ethnically well-connected persons.
7. Lop-sided allocation of international positions
8. Political interventions to serve short-term stability and market access to the initiating developed countries

Since the re-introduction of competitive political pluralism to Kenya in the early '90s, electoral commissions are often represented in court by regime

lawyers. Today more than in the past i.e. electoral boards are captured institutions that operate on the behest of regime members. Electoral Commissions hardly ever act impartially or professionally, they are more often than not coerced regime appendages – ready to rubberstamp any election or referendum as dictated to by the powers-that-be. If they do not do so, their members can be found murdered, stripped naked, and dumped in a forest.

Local populations are gradually being militarized in Opposition areas by way of frequent adversarial contact with Military/security forces, these interactions in military terms result in the phenomenon known as battle inoculation. Well-equipped and armed government forces engage in questionable adversarial contact with the Public, leave even the most docile and peace-loving slum dweller with no option but to strongly consider, the issues of taking up arms and the consequences thereafter.

By the post-election violence of 2017, there were social media reports during August 8<sup>th</sup> post-poll violence of incidents of hand-to-hand combat between some residents in Kisumu, as police/paramilitary forces, conducting door-to-door operations in some neighbourhoods. It seemed to some Opposition grassroots then that if politics could not change the circumstances in the society then war though undesirable may at least protect them from the immediate humiliation and misery brought on them by the adversaries.

According to Alonzo, there are various phases in an insurgency:

Stage 1: Political oppression with no practical end in sight

Stage 2: A spontaneous outburst of anger by way of violent uprising without Leadership

Stage 3: Natural Leaders position themselves as the focal points of the uprising and gain followers simply by way of effective military operations against a perceived foe.

Stage 4: Armed resistance – only qualified natural Leadership survives and is not overrun by the Regime. Some of it hides in plain sight of the regime

Stage 5: Armed resistance becomes fully functional complete with training, regimentation, resupply, and administration

Stage 6: Formal alteration of facts on the ground by the armed resistance to the extent that it cannot be ignored by the Government i.e. they would only ignore it at their peril.

Stage 7: Political issues of armed resistance finally get resolved by a violent revolt, peace talks, and/or secession, an example being that of South Sudan.

Armed resistance is only effective to the extent that it infiltrates the Government and the People. Currently, there are two insurgencies in different parts of Kenya, i.e. Lamu and the Mt. Elgon area, the Lamu area is forested and Al Shabaab operatives in their many videos always talk about the issues of Kenyan Elections and Kenya Politics in general. The Mt. Elgon area, is also about land allocation politics gone bad.

The one that threatens to go out of control is that of Al Shabaab in Lamu as it covers ever greater areas outside Lamu e.g. Malindi, Kilifi, and further down towards Kenya's south coast areas. Though it is a religion based insurgency, they would not hesitate to take advantage of any widespread political instability in Kenya, to widen their sphere of influence at the Kenyan coast. Political instability in urban areas does not go down past Stage 2, so many of the instigators of violence from the pro-regime side i.e. pro-establishment side may currently hold the false belief that they have everything under control.

Social assimilation and/or social acceptance by way of inter-ethnic marriage is an important pillar of gaining trust and access in a regime underpinned, by its ethnic extremism of the nature that is found in Kenya. Therein the shallowness of its doctrines is exposed. A particularly strong insurgency in Kenya has been that of Al Shabaab, with the underpinnings of strong and uncompromising extremist religious doctrine.

Its members are least affected by infiltration by way of corruption, something that is the primary mode of counter-insurgency in developing nations, so as long as they are not known by non-members, they are unlikely to be caught and turned around. So stubborn has the insurgency been in Lamu that many areas have had to endure sunrise to sunset curfews. The nature of attacks by the insurgents, i.e. knowing their victims by name often points out to the fact of local grassroots involvement.

By around July 8<sup>th</sup> 2017, the attacks in Lamu had become frequent to the extent that residents whose ancestry and status is non-Islamic had started migrating from the area, thereby changing the political demographics before the General Elections. Terrorists have frequently attacked the police, communication masts, and homes of non-Muslims.

The heavily forested and swampy nature of the terrain gives them good cover to date. It is not common practice for the police or military to have well-trained trackers in hot pursuit of terrorists into the forests of Lamu, something that allows them to live to fight another day.

The terrorists who leave in the forests do come into contact with locals who say that they are a mix of Caucasians, Kenyans, Arabs, and Asians [C18], [C19]. Though there is thick forest cover, it is not of the type that can easily sustain human life living purely off the land, as such the Al Shabaab insurgents in Lamu are resupplied by people with political interests in the conflict, from areas such as Mombasa, Malindi, Kilifi, Nairobi, etc. and even Somalia.

Though to the residents of Kenya, especially the slum dwellers of Kisumu and Nairobi, there is proper knowledge that Elections on a national scale amount to a war of a kind, that knowledge seems to have escaped the mind of foreign-based IEBC Commissioner Dr. Roselyn Akombe, who would challenge NASA Kenya as to the plausibility of the elections getting rigged [C20], with the benefit of hindsight we now know that she was not only wrong but was also ignorant about local circumstances.

The elections were eventually rigged and it involved the ICT of the IEBC, there is also a growing body of evidence that some sections of Government cannot escape the blame. Furthermore, it can be stated to Dr. Akombe that the same people that threatened her and her family, are the same people who rigged the General Elections.

A conspiracy to subvert the Constitution is known as Treason and/or a Coup, depending on your school of thought and the evidence available, as to the extent to the plot. A conspiracy frequently involves planning and training. So if you would want to know how far deep that Kenya has sunk you would have to ask yourself some questions:

1. Who buys the machetes large scale for irregular attacks during elections?
2. Who would murder the Election ICT Manager who should have been provided with Government security from the get-go?
3. Why would paramilitary police hold a riot drill in the Kibra, Laini Saba area on 31<sup>st</sup>/7/2017? Did they know the outcome of the Elections by then?
4. When the joint official and open election security drills were held at Humanitarian Peace Support School run by the Kenya Defence Forces and international partners in Nairobi Kenya, there was a focus on controlling crowds primarily by way of assault rifles. That is the primary method of controlling crowds during the post-election violence, why? Why would the Police and auxiliary security services consider Kenyan civilians to be a military threat?
5. There is the general perception in Kenya due to persistent experiences over the years, concerning misconduct of security/military forces, that when they turn up at your door to conduct a search during, a civil disturbance, that one has a decision to make i.e. either be a victim or make them victims. Why should the military and security forces handle their population in such a rough manner?
6. On “Operation Dumisha Utulivu” there were two sets of the EX – Exercise and the OPS - Operation, the “Exercise” was a training exercise at the Humanitarian Peace Support School and the “Operation” described in the leaked papers was about subverting democracy. They raise a zillion dollar question – Is the Kenya Military apolitical simply because it says so? Are there political factions in the Kenyan Military? Why select regime friendly officers to carry out a normal operation? Even if the paperwork that was leaked was simply a training exercise, then planning and training for a war crime is also a war crime e.g. planning/training to cut water supplies to slums, etc. Why plan to deploy jammers yet the KIEMS kits use mobile telephony networks and civilians would require their mobile phones for emergency communications during disturbances?
7. In the case of Msando, don’t the police owe us frequent press releases as to the progress of investigations into his murder? We would be hard-pressed, to not believe that his mobile phone, eyewitnesses, etc. did not

produce information sufficient for an identification parade. Why not publish all CCTV footage in the Msando case and let the police crowdsource public knowledge on who was involved?

Bearing in mind the fact that elections in Kenya are Hybrid Wars, then IEBC Commissioners and senior staffers should have received neutral international security protection, from foreign security personnel already in the country and conversant with its internal political and security dynamics.

Al Shabaab being the patient and diligent terrorist organization that it is, could not make the mistake of missing the opportunity to attack Kenyans when they are in their most confused state of mind. It made its move in July of 2017 but were it not for vigilant Kenyan security analysts and forces, it would have caused widespread and large scale damage to the people of Lamu.

Sometime in July 2017 a substantial group of Al Shabaab fighters would cross from Somalia into the Boni Forest part of Kenya in Lamu County, their objective was probably the town of Mpeketoni, Mission was to do a Redux of the Mpeketoni raid of 2014 and to throw the Kenyan General Elections into total confusion. By then it was not legally clear if the disruption of Presidential Elections in one county of Kenya i.e. Lamu etc. would result in the nullification of the entire process.

This matter was settled in the second Presidential Election Petition of 2017 when it was determined that lack of participation of some counties does not void the entire process. Though there was social media clutter as to the presence of this group, their existence became an established and widely published fact when they attacked a bus heading to Mpeketoni town [C21].

The 2017 contingent that Al Shabaab deployed in an attack to disrupt the General Elections in Lamu county was substantial. It comprised about 300 guerrillas armed with AK-47 rifles, Rocket Propelled Grenades (RPG – 7 of Russian design), and PKM general-purpose machine guns. It deployed and operated very close to Lamu and Mpeketoni town.

If Al Shabaab, had made a more concerted deployment and only focused on Lamu Town and Mpeketoni, without revealing their presence in the locality via many smaller random attacks [C22], they might have overrun the town – that



seems to be the fundamental factor behind Al Shabaab's Jeysh Ayman strategists.

The timing of the abortive attack also considered the fact that a Mpeketoni raid repetition, would have captured international media attention, as many media organizations had increased representation in Kenya, to cover the General Elections.

All the while as foreign journalists were flying into Kenya to cover the General Elections, some people were being flown out in acts of aggression by the Government against the Opposition. More so, the ICT Managers of NASA Kenya who were an American and Ghanaians were expelled from the country. Given the nature of the expulsions especially for the American, it is overwhelmingly probable if not certain that he had been under surveillance by the security agencies for some time.

That is a notable matter because if the ICT Manager of NASA Kenya who had not reported anything to the police was under surveillance, then what of the Acting Director of ICT of IEBC Chris Msando who had filed reports with the Police, wasn't he under some form of surveillance especially when he was murdered? And if he was not under some form of surveillance or protection, then wasn't that some form of criminal negligence [C23] on the part of the Authorities?

John Aristotle Phillips of Aristotle Inc. set-up in Nairobi as a Big Data Analytics expert for the Opposition NASA Kenya sometime before the election. He was to run part of their results tallying operation. What Aristotle did not know was that he was under surveillance by Kenyan security agents who were later tasked to deport him. He was seized in Nairobi and held for some time before the Elections – he was held incommunicado at the airport for some hours, before being given access to the United States and Canadian Embassies officials.

On the way to the airport, he was kept in the boot of a hatchback vehicle, most likely of the Subaru Outback type that is used by many Kenyan security units. He claimed that on the way to the airport he was given a laptop by his captors who were security operatives and forced to watch videos of people being tortured and killed, all the while he was handcuffed [C24].

This would qualify as psychological torture, something that is forbidden under the Constitution of Kenya, Article 29 Freedom and Security of the Person, sub-article (d). The challenge is that he was captured in Nairobi by a group of at least 2 dozen armed men, something that illustrates that he was a high-value target to the security agencies.

It seems that the USA and Western countries with diplomatic representation in Nairobi, Kenya had made up their “minds”, to support the expected and artificial generated electoral outcome, regardless of the infractions involved. This is self-evident in the lack of proper and punitive United States response to issues such as the abduction and expulsion of Aristotle.

Remarkably, since after the death of Chris Msando the KIEMS kits were converted to transmit polling station results more than once. An issue also arose as to the likelihood of Polling Station officials being compromised since in the initial instance all their contacts were published on the IEBC website [C25]. Given prior reporting of threats and blackmail, it is impossible to rule out the fact that it would have been the same series of methods used to reach out directly to Electoral Officers on the ground at Polling Station, County, and Constituency level.

If the skeptics doubted themselves, they must have pinched themselves back from slumber on August 8<sup>th</sup> 2017, when an alleged government car with fake number plates KB\_\_\_84\_\_C, was captured by the Kenya Police at Banissa, Mandera complete with marked ballot papers and a KIEMS kit. At that time the credibility of Kenya’s General Elections ceased to be a fleeting dream and turned into a concrete nightmare [C26]. This is where E-voting may hold promise for Kenyans in terms of post-election audits and prevent ballot stuffing.

Electronic Voting would help Kenya, ballot stuffing always occurs to the extent that the Opposition is not financially well endowed to post their observers at every polling station. Unlike the Government side, they cannot stand down security officers for electoral irregularities to occur.

Once the results started to stream in, it became clear to informatics experts like this Author that they were not coming directly from the KIEMS kits at the polling station level. The frequency of the tally change was intermittent with

long unexplainable delays, i.e. there was some form of artificial generation and aggregation of electoral results by way of human intervention.

These server delays were puzzling, given that as then IEBC Commissioner Dr. Akombe, had stated that IEBC was working with IBM, Oracle, Telkom, Dell, Safaricom, Safran (OT) Morpho, NTT, etc who are the best in their market niches – were the best incapable of calculating simple issues such as Database Transactions per second and Internet bandwidth before the General Elections, when they had a very small sample of about 40800 datasets at all levels of the election? Even if at all levels they were 4,080,000 datasets with an ICT budget of US\$500million+ the problem was very difficult if not impossible to explain.

By 9<sup>th</sup> August, the Opposition Leader Raila Odinga produced server error logs, and alleged that they were from the IEBC, the IEBC would deny based on specifications but as it turned up the server error logs matched the system specification that they had tendered for their Datacenter.

At this point, there was a major crisis in the country as it became obvious that the General Elections were not credible at all levels, and crowds began to build up in some slum areas and along major roads. Tyres burning and blackened smoke rising, a time at which possession of a valid passport and air ticket or any other getaway game plan, would in some instances be valuable.

By around 12:07 p.m. the disturbances had reached the main road from the City to the Jomo Kenyatta International Airport, i.e. Mombasa Road, they were claims that NASA Kenya did not file a cyber-crime report, but why file a cyber-crime report with the same people who are abducting your tally center agents and raiding your offices, to destroy your equipment and mishandle your staff? The best that the Police could have done was to handle the matter on their motion and to seek warrants for searching the IEBC.

While the IEBC was beginning to withhold data, NASA Kenya, on the other hand, was dumping all it had as evidence on a Telegram social media account. IEBC took the position that made it seem, it found it more important to listen to its regime friendly lawyers than to be transparent for the sake of the integrity of the General Elections.

On August 9<sup>th</sup> the then IEBC Chief Executive Officer, Ezra Chiloba, would give a briefing at the Bomas of Kenya, where he stated that their system was using Adaptive Internet Protocol and that there were a front-end and back-end server. His comments would make many public observers believe wrongly that there was only one system as KIEMS, something we now know was not true.

In terms of informatics and legal know-how, no one with expert knowledge would have expected the IEBC to disclose that its system was hacked and/or the server error logs or other forms of results that the Opposition obtained came from its system, as that would validate the series of results and system logs that the Opposition possessed.

Given the details that the Opposition possessed during the August 8<sup>th</sup> and subsequent Presidential Elections of October 26<sup>th</sup> 2017, a validation of their document would immediately invalidate the reported election results. To this day, in all certainty, a disclosure of substantial results tampering would cause an uprising in the country, and the Population would feel justified to act in that order.

During the electoral disputes of 2017, the Ethics and Anti-Corruption Commission of Kenya (EACC) would also turn out to be a weak institution that failed to act at the right time on its motion. It did not intervene by probing the existing electoral report forms (Forms 34A and 34B), server error logs, and taking statements from witnesses, etc.

At this point in the Kenyan Game Plan, those in Government are typically keenly awaiting to see the electoral outcome before they can act to win the favour of the “strong” side and it does not matter if one is the strong side by way of rigging the election, as long as the strong side controls the military and security forces, that is what matters.

The EACC would later launch a lop-sided investigation against the Registrar of the Supreme Court Esther Nyaiyaki and attempt to confiscate evidence from Supreme Court custody after the nullification of the First Presidential Election [C27], more likely than not given the opportunity the evidence would have been removed from the premises of the Judiciary after which it would have been destroyed or it would have gone missing.

A questionable allegation was lodged against her by the EACC and a member of the Public towards this end, under the pretext that she had filed a false scrutiny report of statutory documents related to the annulled elections. The investigation did not present itself as an investigative effort by law enforcement but more as state capture of law enforcement by dark political forces, something that has not been overcome to date.

Around October 4<sup>th</sup> 2017, the Law Society of Kenya criticized the move against her [C28], notably in accordance to Kenya's Constitution she could only be probed by the Judicial Service Commission establishing a tribunal, which would be a body that is largely independent of the influence of the State security apparatus.

On August 10<sup>th</sup> 2017 around 12:54 p.m. or thereabout a Kenya Air Force (Kenya Defence Forces) Puma Utility Helicopter circled over the NASA Kenya stronghold in Kibra, which is heavily populated by members of the Luo community of Nairobi city. It is predominantly a low-income area. This action was in contravention to a promise that the military had made to the Judiciary of not being used to tamper with the Election or intimidate voters.

The flight was conducted at an altitude of around 75 metres from the ground, and it was done to produce a chilling effect of intimidation on the population therein, who are known from experience to react violently en masse to any tangible news of electoral fraud against the Opposition candidate Raila Odinga.

By the time that the helicopter was circling over Kibra, the IEBC had cooked up an election result, and transmitted the same to the other Government agencies and was preparing to announce the same. This Author witnessed the helicopter flight in an area, normally only patrolled by way of police helicopters. There would have been no other reason for the flight but to intimidate the masses as the Kenya Police possess aerial assets of their own in Nairobi including helicopters and fixed-wing aircraft.

Additionally, the Kenya Police has a network of informers on the ground, and Nairobi is well endowed with mobile telephony services. Shortly after the flight, a power blackout affected some of the areas of Kibra (there were some Kenya Power and Lighting vehicles parked near the area) but it is not certain if

it was an operational blackout as described in the Operation Dumisha Utulivu papers or just another operational hiccup, in an aging power system.

There were two different and parallel activities dubbed “Dumisha Utulivu” by the Kenya Defence Forces, the first was Exercise Dumisha Utulivu in June 2017 and the second was Operation Dumisha Utulivu in July 2017 immediately before the Elections. They were completely unrelated in that the documents that leaked were not from the Humanitarian and Peace Support School activity in June 2017.

In Litigation to refute the NASA Kenya claims the lawyers for the Kenya Defence Forces, referred to the Exercise Dumisha Utulivu as Operation Dumisha Utulivu whose nefarious operational order documents were doing rounds on social media. NASA Kenya was represented in Litigation by Jackson Awele and Paul Mwangi while the Ministry of Defence and Kenya Defence Forces were represented by Brigadier Kenneth Dindi [C28].

The reuse of the Exercise codename for the Operation codename was a stroke of the evil genius by someone in the Military Establishment – it sowed seeds of confusion during litigation and the Opposition lawyers withdrew their case none the wiser, unaware of what was to happen during, and after the Elections, as a helicopter flew over slums and mysterious militia would wreak havoc in slums of Mathare Nairobi, leaving behind bullet cartridges appropriately stamped Kenya Defence Forces from the Kenya Ordnance Factory Corporation bullet manufacturing factory in Eldoret Kenya.

The case was heard by a three-judge bench of Justices Joseph Onguto, Roseline Aburili, and Chacha Mwita. During the proceedings of the case, NASA Kenya Lawyer Paul Mwangi stated that he found the military “explanation” satisfactory, in what we now know with the benefit of hindsight was a fatal mistake, but he nevertheless made the correct decision not to withdraw the case which was no longer deemed as urgent and the Judges adjourned it.

An affidavit presented in court by two senior military officers who were purportedly monitoring KDF operations stated that its forces could only be deployed by way of military orders – which we now know from leaked KDF documents to have been issued sometime in July 2017 [C29].

By August 11<sup>th</sup> 2017 new stars were rising, one was the Amani Nation Congress Secretary-General Godfrey Osotsi who was one the first to detect vote tampering, at the same, time the IEBC would not allow TV crews to view the Backend Server screen and broadcast to the public for reasons of cyber-security, that need not be the case if it was discreetly and diligently done.

NASA Kenya agents were reporting that the forms that were being displayed were not the same as those they had handled in the field, so at this point in time, everyone in Kenya knew what was coming next i.e. that we were holding a General Selection of Leaders predetermined by the powers-that-be, and not a General Election that forms a Government of the People, by the People and for the People.

Were it in heavily armed United States of America or Switzerland, that such open electoral fraud occurred, in all certainty civilians would have turned up in the streets with their automatic weapons, before any lawyer could hear a potential litigant say “Jack Robinson, please file a case at the USA Supreme Court”.

Now the sequence of events was pacing up, one side having seized control of the National Cake, that is our taxes (and the main reason for the Hybrid Warfighting) for another 5 years, by way of holding claim to the Presidency. Kenya has also got many skeletons in the Government closet by way of unsealed Commission of Inquiry Reports and “Unresolved” crimes including assassinations, which would make holding onto power a Life or Death matter.

By August 11, 2017, a NASA Tally Centre letter data 9<sup>th</sup> was circulated on social media platforms, it was addressed to the IEBC, it was concrete proof by NASA Kenya that by the 9<sup>th</sup> it had IEBC Turnout figures and percentages – an observer would now be in a position to deduce that by way of simple comparison.

At this point, the IEBC would not have official availed the KIEMS kit and system parameters to interested parties. IEBC did not avail anything tangible up to the point of Presidential Election Petition No. 1 of 2017, by the time of the second Presidential Election petition it was more “forthcoming” with information, some of which remained questionable and incomplete and was everything short of the NTT Cloud Server KIEMS data.

Never did the IEBC avail the KIEM system for a live audit, and the Judiciary would seem to be “Wakoras” (frauds) at least in the eyes of the public, if not in the eyes of those who had earlier labelled them as such in a bid to threaten them. Outstandingly even the digital images that were from the KIEMS kits, did not have the digital properties of the devices, i.e. they were from other questionable sources.

Consequently, the facts on the ground were turning physical, many a slum dweller who are just as educated as any other university graduate in the World, knew that the Elections had been openly stolen for lack of a better word. Demonstrations were on in Kibra by August 11<sup>th</sup> 2017, and the police responded with live fire and some blanks.

There were casualties. Also circulating in social media at this time were the images of abandoned ballot boxes in the Kileleshwa area of Nairobi, the key social media outlets which served as the main sources, were Telegram Channels, Whatsapp Groups, Facebook pages, and posts.

Twitter was also doing “afterburners”, as its feeds come from multiple sources simultaneously. The 11<sup>th</sup> was eventful there was also the list of candidates who obtained 54% or thereabout of the vote in their contests, meanwhile, the foreign Election Observers were a hamstrung lot, the thrust of the complaints was not physical, the qualification requirements for digging into the fraud was in the domain of Operations Research and Informatics.

The Honourable John Kerry from the United States and His Excellency Thabo Mbeki of South Africa or their teams did not have the requisite expertise to understand properly the fraud, and to scrutinize the information systems at the IEBC.

In short order, they would rubberstamp the elections as proper. Though the Opposition did not originally want to file a case, electoral petitions often further constrict the wriggle space for future fraudulent activities and offer the Judiciary staff a minefield for destroying their careers instantly if they are persons of low integrity, as politicians may have long memories. The petitions, therefore, provide an opportunity for people in the Judiciary to trip and fall on their swords, to the extent that their previous rulings are dodgy.



For the losers in Kenya's electoral battles, the consequences are poignantly dire, businesses shutdown as the Government tries to make the owners obedient and compliant with its policies; random tax audits that take no prisoners and only produce casualties, suspension of various business licenses, and a wide range of discriminatory practices.

A loss at the ballot may lead to only a week or two of direct violence, followed by five years of unrelenting structural violence, against individuals and communities. Socio-economic structures e.g. legislation, policies, political decisions, regulations, and administrative action are specifically targeted by those in Government, to harm the direct interests of opponents, regardless of wider implications to the economy.

Till now the keyword on the lips of many was Hacking – how was the election hacked?

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## **Notes**

[C1] He had probably been under surveillance by third-parties, or had been set-up by one of the people he was eating with, at the restaurant. The attack took

place in Nairobi and involved a saloon car and several assailants, probably a “warning” type attack, meant to instil the victim with a sense of futility and insecurity. There are several other probabilities, i.e. may have been under full-time surveillance by unknown people, or may have been tracked down via social media, or mobile telephony transmission triangulation.

[C2] Raid of a focused paramilitary type, crucial information and computer hard disks stolen – gang armed with guns, a report was anticipated from the Minister of Interior in Parliament, but given the hyper-violent and fraudulent elections of 2007, the Opposition would not secure their offices better for many years to come, no proper IP CCTVs, Man-traps, Car-traps, Out of Compound CCTVs and guards, etc.

[C2 (i)] Gang stole 20 computers and crucial documents, two guards were held, hostage. The gang was armed with AK-47s and pistols. Two things to note, the first being that one would require a live feed of security communications in Nairobi to effect the raid, and there are easier computers to steal in Nairobi.

[C2 (ii)] Administration Police officer assigned to guard to the property did not react to the attack or file a report and there was no sign of forced entry, it is suspected that a master key was used.

[C2 (a)] One guard hears a commotion in the main office and goes to check and is seriously injured after an assault, he is taken to hospital in a critical condition. Gang comprises 4 men.

[C2 (b)] Raid resulted in the loss of 10 Desktop computers and 2 Laptop computers, at around 3 am one of the guards heard one raider tell the others, that it was time to leave. They were probably looking into getting as much information as possible from the building and even the possibility of installing eavesdropping equipment cannot be ruled out. If it was only the computers that they wanted, the raid should have lasted for a few minutes. Dog handler disappears after the raid, it is not clear if he was killed or was part of the conspiracy. By the time of Authoring this book, it was not possible to carry out a physical search of the records in Nairobi, as that would in all certainty be

a risky activity. At least several cars must have been involved, i.e. on stand-by and to carry the equipment and raiders away

[C2 (c)] 20 men armed with pistol and rifles raided NASA Tally Centre in Westlands Nairobi, they also had at least 10 cars, given the duration and scale of the raid it reeked of illicit police involvement. The raid lasted for almost 1 hour and they confiscated mobile phones, ID cards, and notebooks of staffers, who were mainly students. What was indicative of a long-term agenda was that they also took down the full names, residential areas, birthplace and schooling details of those who were working at the facility. The guards would later say that they wore balaclavas, and identified at least three of them as women. Later in a political rally at Uhuru park Nairobi immediately before the annulled elections of 8th August 2017, the Honourable Senator James Orengo would allege that those involved were Police officers namely Corporal Charles Ndungu, Corporal Lenard Barongo, Corporal Linton Nyaga, Sergeant Richard Serem, Chief Inspector Francis Kimemia – notably, no women were named. In the months to come, they did not sue Senator Orengo for libel or defamation, so it is safe to assume that Orengo knew precisely what he was alleging.

[C3] The issue at hand was IEBC seeking as much information as possible from the full ruling, at the earliest opportunity possible for it to prepare for a fresh Presidential Election. But given the nature of the case, a ruling even given by one hour early, was likely to have left out some material which in all certainty could make it less adverse to the IEBC. A summarily issued final judgment would have been short of many essential issues, therefore the potential tactical effect of this communication if it was effected, cannot be wished away.

[C4] A day before the ruling there were ethnic demonstrations especially in Nakuru and Limuru areas of Kenya, along the road route to Kisumu. Several cars were burnt and the witness saw people lying on the roads, as gangs emptied buses and cars in search of Luos. The eyewitness in question was an elderly Luo lady who had employed a Kikuyu driver also of considerable age, and who knew Nakuru area well enough to evade most of the gangs along the road. But their survival is attributable to prompt police action just a few minutes as they



reached the outskirts of Nakuru towards Nairobi, as there was a roadblock which was only dismantled by the Police overtaking their car on time. In Limuru area they were also heavily dependent upon the local knowledge of the driver to go off the main route.

[C5] Dr Akombe a United Nations staffer who was on a leave of absence as she served in the IEBC, had served in some of the most difficult countries e.g. Yemen, Somalia, Jordan, Iraq and Libya, to conducted security assessments, as an Under-Secretary in the Department of Political Affairs of the United Nation. Never had she felt specifically threatened, but when she started receiving threatening mobile phone messages as an IEBC Commissioner, and her brother was also receiving the same, she probably correctly concluded that she had to flee Kenya. At the same time two other IEBC Commissioners. The article discloses how other IEBC Commissioners had to resort to self-imposed curfews to reduce the risk to their personal safety, something that would, in the long run, lessen their work effectiveness, during the General/Presidential Elections, i.e. they did not feel that the Government provided security was trustworthy and/or effective. Given Kenya's history that is replete with assassinations of prominent persons who are killed by persons who should be guarding them, or otherwise handed over to their killers by their guards.

[C6] The IEBC had sought for 12.2billion Kenya shillings to conduct a fresh presidential poll on October 26th 2017, the Cabinet initially only approved an expenditure of 10billion Kenya shillings and only increased it after public complaints to the full amount.

[C7] Multi-millionaire Jimmi Wanjigi claimed that his life was in danger. Given the heavy-handed crackdown by the police at his residence a while later, even to the casual observer, his life was clearly in danger and the danger was posed by none other than the State itself. Unfortunately, when he first made the claim he requested for the Police to provide him with security, something that they were not going to provide in the first instance, given that they were later to launch several unsuccessful efforts to try to get at him, to the casual observers, those efforts would seem to have been calculated to be more than arrests. He reported the death threats and they were booked in the Gigiri Police Station

occurrence book on September 10th 2017 as OB/14/10/9/2. His close association with unarmed political Opposition could have in all certainty resulted in the threats.

[C8] Interestingly he was sufficiently confident to describe the presidential election of August 8th 2017 as a civilian *coup d'etat* in legal documents filed at the Supreme Court well before it was annulled.

[C9] A hybrid threat exhibits, conventional (military and security forces), irregular (questionable security contractors), terrorist (militia attacking civilians in slums) and criminal (fraudulent activities at the IEBC) traits. Hybrid threats have effectively captured democracy in Kenya. There is even a battle-space in the cyber-warfare domain, this being the informatics infrastructure and the IEBC and social media that Kenyan voters heavily use for news and information.

[C10] Book gives a Chinese army perspective as to how a war can be conducted, without any rules to speak of, and a justification of the same.

[C11] The book describes how authoritarian political coercion occurs e.g. via compulsion, exploitation of ethnic division, intimidation of dissent, victimization of free and independent thinking people, pacification of the public by the demonstration of the effects of brutal force, reinforcement of impractical government policies due to lack of effective political opposition, covering up of past political injustices, numbing the mind of the Public to make them not perceptive of future injustices, when they are committed by those government, and rallying the support of foreign governments to make them ignore what are obvious injustices, by granting them favours of various kinds and various levels.

[C12] Adam Szubin who was then the Director of America's Office of Foreign Assets Control, United States Department of Treasury was addressing journalists who had gathered for his teleconference at the United States Embassy in Nairobi from the United States on 28th June 2011.

[C13] Thought the Assistant Secretary did not comment directly on the Akasha case plea bargain, she is likely to be privy to confidential information on the same by her security clearance and office that she holds. Notably, the Assistant Secretary stated that transnational crime, by its very nature requires corruption of the State in which it is perpetrated, for it to flourish and take hold.

[C14] In what must have been coordinated and blessed by security agencies, and effected by their overzealous staff, government vehicles and other vehicles attempted to block access to the Supreme Court of Kenya in Nairobi, August 18th 2017 around 10 p.m., to ensure that opposition lorries that were ferrying documents for the filing of Presidential Election Petition No. 1 of 2017, did not reach the Court on time before midnight. The Opposition lawyers barely managed to file the petition, around 18 minutes before the deadline. The issue was raised during the pre-trial session, in an attempt to have some of the filings rejected but the argument did not succeed.

[C15] A more comprehensive list is given, but some of those appointments are purely on merit after competitive processes, while others require military and/or security experience. The ones that are listed in this chapter explicitly have had an extraordinary political impact in Kenya.

[C16] The equipment included one car a medium service Mitsubishi SUV, two motor-cycles, Five AK-47 rifles, 1099 rounds of ammunition and 36 fully loaded magazines, approximately 80 kg of TNT explosives, other publications included 36 grenades, 18 IEDs and 3 tactical knives.

[C17] Uganda relies upon a well-organized system of civilian-military reservists and village local defence units, and a purchase of several Russian Su-30MK jets to tip the military balance in its favour, against Kenya. Though it would not attack Kenya, there is a lack of substantive deterrence against Uganda, on the part of Kenya.

[C18] A detailed update of Al Shabaab field activities in Lamu, during that period before the General Elections 2017.

[C19] A similar detailed update of Al Shabaab field activities in Lamu, during the period before the General Elections of 2017, putting issues of the current insurgency into historical context

[C20] The question was put forth by Dr Roselyn Akombe a Kenyan who is primarily a resident of the United States, it was a demonstration of her naivety on the issue then. NASA Kenya had claimed illicit involvement of some police and military officers on matters concerning electoral politics, something that we know was confirmed as true, given the growing body of evidence.

[C21] Attack at the time when it occurred was a clear indication of an Al Shabaab unit presence, the size and equipment whose deployment could have resulted in the disruption of the electoral process. The response of the military and security forces was swift, as it prevented any large scale attacks from occurring in Lamu County, during the General Election. Close to the Election Day, all that the group could achieve was to sabotage one high tension power line pylon near Lamu.

[C22] Given that the KIEMS kits use electricity, Al Shabaab attacked a power pylon near Lamu town, with the probable intention of sabotaging the use of KIEMS kits, and causing other difficulties in tallying and communications. The attack did not achieve much, because the kits had been charged in advance, and the users had got power back-ups. Also notable was the fact that IEBC had in most instances prepared for tallying at night, even in the event of a power blackout.

[C23] There were two separate processes under the name “Dumisha Utulivu”, the first was an Exercise Code name Dumisha Utulivu being conducted at the Humanitarian and Peace Support School at the Embakasi Garrison, and the second was Operation Dumisha Utulivu, and operation with political objectives that was allegedly run inside the KDF by an unofficial political faction to subvert democracy and to suppress demonstrations, by way of war crimes, e.g. cutting the supply of water to slums etc. Notably, planning and training for a war crime is also a war crime. The exercise was opened and closed by the then Cabinet Secretary for Interior and Coordination of National

Government Maj. Gen. (Rtd.) Joseph Nkaissery (now deceased –he passed on before the General Elections of 2017). Hundreds of Kenya Government officials especially, from the Police were trained. One of the training scenarios as was reported on the website, was on how to handle a situation where key Electoral Officials were held, hostage. It is therefore clear that the State knew and/or anticipated that the security of Electoral Officials was an issue more so because Chris Msando filed a report before his abduction, but he was not provided with security, something that with hindsight can now only be equated to criminal negligence and/or complicity?

[C24] There have been changes in the security hierarchy since the General Elections of 2017, but the lack of accountability particularly in this instance, does not argue well for Kenya's future. It can all happen again, in addition to the fact that there was a further crackdown after the January 30, 2017 oath by Raila Odinga at Uhuru Park, demonstrating the alignment of many in the security services, as pertains to partisan politics.

[C25] For reasons of responsiveness to public concerns, all the contacts of IEBC officials, who were running the elections were published on its website. The downside is that in Kenya a country plagued by multi-billion dollar corruption scandals, it is difficult to rule out the fact that someone reached out to them and bribed them, or otherwise threatened them, to generate an artificial electoral outcome.

[C26] The article details that the ballot papers found were allegedly pre-marked in favour of Jubilee party, it also details the case of ballot stuffing in Lamu, and their Opposition personnel denied access to the polling stations. This is a persistent problem in Kenya that can only be resolved by way of deploying an E-Voting system, with end-to-end verification.

[C27] The bid to question her sounded more like a ploy, to pressurize her to renounce the scrutiny report that was used by the Supreme Court, to nullify the Presidential Election of August 8th 2017. If it was not that, then there were many other things and issues that could have been probed e.g. the servers, the IEBC staff, etc.

[C28] Jackson Awele a NASA Kenya lawyer in the case would refer to Articles 238(1) and 141(3) of the Constitution, as being critical to their case of non-involvement of the military in civil matters before and with the approval of Parliament.

[C29] During litigation NASA Kenya failed to capture the difference between a Military Operation and a Military Exercise, as appertains to the Code name Dumisha Utulivu.

## **CHAPTER 4**

### **The Emergency Medical Services**

**M**ost of the injuries during civil strife, are completely invisible to the human eye but very vivid to the mind. Within a few seconds, minutes, or hours after a traumatic experience, Acute Stress Disorder sets in. Its effects could be temporary, and end within those two weeks, or drag onto become what is known as Post Traumatic Stress Disorder (PTSD).

In a country where the majority are earning less than two dollars a day i.e. living in abject poverty, for many, there is no access to mental health care, on a short or long-term basis.

Consulting a psychiatrist costs US\$500 to US\$1,000 for treatment which comprises diagnosis, and therapy/prescription per visit for a problem to be diagnosed and resolved. The doctor's consultation fee before any diagnosis, and therapy or prescription cost US\$100.

The most affordable mental hospital charges US\$100 before any admission, members of the National Hospital Insurance Fund get express admission. Most consultants charge US\$30 to US\$50 per visit, and in many instances, daily visits are required. Psychologists charge at least US\$40 per visit, and short term treatment could last for 2 to 3 months.

In simple terms mental healthcare, including mental first aid is inaccessible, or non-existent for most Kenyans regardless of where they reside [D1].

Suffice it to say that mental healthcare for victims of the ongoing hybrid conflict, is not only inadequate but also essentially non-existent for many in the slums of Nairobi, and the areas outside Nairobi, such as Kisumu, Siaya, etc.

Issues such as loss, grieving, acute stress disorder, and post-traumatic stress disorder are unknown and untreated for many. Many of the poor think or correctly know that the violence is meted against them for voting, so many have been indirectly disenfranchised by way of their fear of voting in General Elections because their tormentors have never been punished.

The majority of the residents of Nairobi are slum dwellers, socially excluded from mainstream society, and there is no National consideration on how to deliver to the emergency medical services, including those related to mental healthcare. Private initiatives by Non-Governmental Organizations though well-intentioned are woefully inadequate.

The highly paid mental health/medical practitioner is of a very different social circumstance and in many instances unable to genuinely comprehend the nature of the traumatic experience that has been visited on a slum dwelling victim by thugs, paramilitary forces, or other irregular forces (who in any case could just be regular military/security forces in disguise).

Without clarity as to understanding how violent trauma occurs and the prevailing situation thereafter, it is very difficult if not impossible to offer a victim any form of effective remedy/therapy – some of these issues can and should be resolved by way of home visitations, something that would not happen when a medical practitioner has hundreds of patients to handle and the home area is a mud and wattle dwelling reeking sewer and accessible via a network of uninspected pathways and plank works that are not engineered for the job of allowing you to walk on them, with your safety in mind [D2].

Healthcare services are structurally unavailable, and the situation has not been made any better by the low investment in medical education at the university level, resulting in very high cut-off marks from secondary school and very low intake of prospective medical practitioners.

On the emergency medical services provision side, i.e. the bridge to the hospital, there are just about 2,000 emergency medical technicians and probably some 50,000 or less First Aider and Responder volunteers, many of them are not of the mindset and training to operate in what practically are combat zones, and even if they were trained they do not have the armoured ambulances, body armour, light arms, and equipment.

They are also not of the background to be in a combat zone and may be affected by other issues such as ethnicity and political affiliation. In Nairobi, even by 2018 it was still difficult to buy items such as chest seals, tourniquets, defibrillators, etc. even the first aid manuals used in the country, did not address the issue of deployment of tourniquets, for controlling extremity bleeds. The



one-sided nature of these “combat zones” would better leave them defined as murder zones – the civilian victims can hardly ever respond to the violence.

Many EMS personnel are also less inclined to use invasive life-saving techniques, due to lack of malpractice covers and explicit statutory protection – they could be trained but may fear taking responsibility without cover, e.g. professional insurance covering medical malpractice or personal accident insurance covers of an extensive nature that can be applied to work injury environments, during political instability, etc.

Responders with lower-level training in many ambulance services in the city, their main work motivation is to get injured persons to the hospital as fast as possible, therein lies the problem especially if the victim has a serious pleural cavity puncture or a gunshot condition like femoral bleeding, they shall die within 10minutes or less or may find get to the hospital only to find the Accident and Emergency crowded. Unfortunately or otherwise, Responder level personnel are the most available human resource in this realm, and many of them willing to dare to save lives during a conflict.

There are many other foreign medical organizations, but their reach is pretty limited thereby offering little help. They also would not dare deploy rescue personnel in areas where police, especially of the paramilitary type or some irregular militias, are operating, specifically because they are likely to end as victims. One would not also expect them to aid someone in a country where some gunshot victims are pursued to hospital beds, pulled out of the hospital, and executed, others are executed right before mass media and nothing ever happens [D3(a)], [D3 (b)].

The average Pre-Hospital Technician/Paramedic is often a very poorly paid person US\$160 to US\$450 per month. Most Paramedic based ambulance services do not have comprehensive itemized billing systems that take into cognizance all the skills and wherewithal deployed to a pre-hospital scene, the profession has come into existence in Kenya, barely 20 years ago.

To most Pre-Hospital Technicians it is a part-time job, but the good side of it is that for many of them saving lives is a calling despite the limitations of their organizations and the country in general, they go extraordinary lengths to save human lives and alleviate suffering.

These are personnel who work in fast-moving and dynamic operational environments in Kenya, especially to the extent that it is a City such as Nairobi and in International. They offer a promise in the realm of providing mental first aid before more definitive forms of mental healthcare. Nevertheless, responders themselves are frequently patients in need of mental health services, during turbulent times when they are psychologically burnt out and suffering from traumatic experiences occasioned on them in the line of duty.

A critical weakness in Kenya's emergency volunteer response services, especially of the medical type is that they do not take an oath to operate in all circumstances, i.e. they can use their discretion in choosing to help or not to help, this is the first barrier to public gaining access to emergency medical services. The second barrier is the issue of unwillingness to use armed force in self-defense, or gain access to and help persons in need in line with the Geneva Convention. This is a complete no-go in Kenya unlike in other countries where Paramedics carry side-arms e.g. Pistols and rifles, under some circumstances.

The main problem in the context of Kenya is that the people causing the violence are frequently alleged to be those charged with preventing it, and are therefore unlikely to entertain any other armed party or potential witnesses.

Cases of extreme direct violence witnessed in Kenya especially during the electoral period, are likely to result in post-traumatic stress disorder for the victims, weeks, or months later. The very nature of the conflict is such that during the actual outbreaks, the victims have no access to any form of medical services. Going to a shop or clinic even a few feet away from one's home becomes a matter of life and death. Reaching a major referral hospital that is well-staffed, stocked, and equipped is next to an impossibility unless helped by way of ambulance transport nothing can be done to help [D4].

In recent times there are cases of sympathetic police officers taking pregnant women and injured persons to hospital during post-election violence, a trend that should be encouraged and facilitated by way of training. This is more so because other organizations cannot access many of the areas during lockdowns and the very essence of police work is to gain and retain public trust, without which policing becomes an impossible task.

Over the years from the colonial era, police officers perceived their role to be that of taking orders from above including, executing explicitly illegal orders and asking questions later. The outcome was that their operational “finger-prints” were to be found in many incidents of political violence. However, with the actualization of the current Constitution of Kenya in 2010, there has been some fresh breath of independence for those police officers who dare exercise it, especially at the level of judicial action.

There has also been the formation of an Independent Policing Oversight Authority, to handle matters of excessive use of force and other forms of abuse of police powers. Though independent on paper the Police Services have experienced some roll-back of their administrative gains after the 2013 General Election with the Election of The National Alliance and URP parties, now operating as the Jubilee party after the 2017 General Elections [D5].

Though procurement tenders have been issued for re-equipping of the police over the last ten years, a squad car is unlikely to turn up with a gun-shot or serious injury trauma kit. There has also been talk of a digital communication system that can stream video, that was paid for but it is yet to be used in that context.

It would be an unfathomable dream of many in the Kenyan human rights community that police officers be issued with cameras on their car dashboards, bodies, or helmets, transmitting live video streams of their interactions with the public. Such a move would further constrict any room available for human rights abuses and any other undesirable activities by police officers on the beat or deployed in the field during tactical operations.

By 2018, the Directorate of Criminal Investigations Training School, which trains police officers in detective work had introduced some courses on Emergency Trauma Aid in its curriculum. There remains an unsurmountable challenge is that issues of mental health aid are yet to be fully catered for at the lowest levels, probably a cause of the many suicides and homicides amongst police households and as well as the frequent blue-on-blue hyper-violent incidents.

Empowering police officers by way of training them on issues such as identifying aversive, hyper-arousal, and intrusive symptoms of acute and post-

trauma stress should be widespread given the highly traumatic nature of police work experiences, e.g. seeing your colleagues abusing others, scenes of crime e.g. homicide, scenes of accidents and disasters, etc.

The need is great for psycho-social support, that some government institutions are now training their volunteer and internal caregivers, to supplement aid to those facing stress and other mental challenges in their organizations, and to act as auxiliaries to the medical community when it comes to giving early warnings – these efforts are to be found mainly in the prisons, public hospitals, and other public institutions.

The role of a psycho-social caregiver is to:

1. Given an accommodative ear to affected persons
2. Act as a liaison or scout for the medical community
3. Initiate the documentation of cases requiring help or, otherwise
4. Innovating new ways for delivering psychosocial care with medical direction
5. Preventing the worsening of cases deserving of care by attending to them.
6. Training and mentoring new caregivers to further increase service coverage
7. Giving the victim/patient appropriate motivational support.

Demand for the services has been high especially in Nairobi, where different groups are seeking to establish baseline norms e.g.

1. Ethics for psycho-social caregiving
2. Quality assurance in service delivery
3. Rules and regulations of practice
4. Modes of delivery of religious and motivational support

Prior strength in the knowledge of concepts relating to the religion of victim/patient and good interpersonal communication skills, would come in handy as patients are not supposed to be negatively affected by the psycho-social support group, thereby discouraging them from seeking further assistance.

They should also remain detached to the extent that they are not supposed to develop personal relationships of an intimate kind with the persons that they are helping. Psycho-social care provision is customarily something that one goes into willingly without being fainted hearted, as it is not easy to overcome the challenges therein.

An ambulance responder narrated to the Author a gripping story of how they received an emergency call from a dispatcher and went to a well-to-do home in Nairobi, when they arrived they found everyone in the household congregated in the sitting room, on inquiring as to who was ill, the family pointed to a door in the house, that door was closed and the patient was therein.

The responder proceeded to and got into the room and met the patient who was well-to-do and armed but afflicted with mental challenges closed the door, locking himself in with the responder. It took the responder a whole three hours, to talk his way out of the tense and nerve-racking situation. The responder managed to get out of the room with the patient to take him to the hospital, all this was done without any prior training.

Psychosocial work may also be addictive even at volunteer *pro-bono publico* level, so one ought to have his or her time well managed and priorities in a life well set, the provider's work-life balance is just as important as his or her work. One must be in a position to handle the patient or victim in question from a religious or secular contemporary norms perspective, in a way that keeps them engaged and seeking future visits by the specific or alternative caregivers.

That involves avoiding issues such as blasphemous jokes, insinuation, and discussion, however irresistibly funny they may be, for the person in question who requires care may only accept a religious form of intervention and may shun those who do not respect, their religious perspectives. Both patients and medical staff require psycho-social care, e.g. a medical doctor who is receiving ambulances at a hospital accident and emergency gets traumatized by his or her very work and may want someone to talk with to give them encouragement and purpose in work and life.

Psycho-social care may also be delivered by Chaplains and other Ministers of faith, as long as they are trained to conform to the norms of practice in the field. They offer the deployment of strong religious rationalizations, to the sick

and injured who need it and are only willing to receive it from the dimensions of their religious faiths.

If there is ever a time when one questions their own religious beliefs and purpose in life, it is when they are seriously ill or injured – a Chaplain without very deep wisdom, knowledge, and insight as concerns one's faith faces the task of not being in a position of interrelating with them in a way that encourages them, as that would be the first step to recovery.

A religious approach to psycho-social caregiving and support is more of a vocation than routine work taken up to earn a living, even if one ends up earning a comfortable living from the work in the long run.

In essence psycho-social support approaches to handling seriously injured persons, also have their limits, e.g.:

1. Getting a full briefing as to the disposition of the affected person if it is a patient or casualty
2. Requesting for the affected person consent to engage them
3. Not violating their trust, privacy, and confidentiality in any way
4. Caregivers overstepping their scope of practice, role and mandate without supervision and consent of a medical practitioner
5. Not showing fear, weakness, crying or other behaviour that may worry the patient – one must always be composed before patients and excuse themselves if they want to cry or feel uncomfortable, that they may not traumatize or worry the patient
6. One has to dress decently, groom themselves well e.g. their teeth, etc. to be acceptable and non-revulsive to the subject, if the subject in question has specific religious beliefs as concerns dressing or behaviour, they should not be infringed upon by the caregiver not upholding them.
7. Interaction with the subject should not cause them to strain or to be stressed.
8. Avoid touching the subject in any way of shaking their hands unless they initiate contact
9. Avoid sitting on the subject's bed, which may cause them injury or ethical issues are prohibiting.

Given that there is a projected 12 million people requiring mental healthcare from medical practitioners in Kenya, and there are only about 100 practitioners in the domain of psychiatry, the aid/assistance from the psycho-social support community as auxiliaries cannot be under-estimated.

Kenya's victims of sexual violence during electoral periods, face ever tougher challenges. There is very limited psycho-social support infrastructure and few workers dealing specifically with the trauma arising from sexual violence – something that requires more specialized training and provisioning. It may also necessitate that sessions are undertaken in more confidential settings, by people of the same gender especially if they are women are the victims.

In the recent past, especially during the 2017 post-election violence period, there were issues of men violating their fellow men sexually, crimes specifically perpetrated by armed paramilitary officers, regular police officers, and irregular militia members. Dealing with these problems of sexual violence may also be more expensive to the extent that surgical and pharmacological interventions, may be of long-term nature, thus requiring more specialized forms of psycho-social support.

Children [D7] are a more specialized group of persons, more so, because there are more strict regulations as to who can help them, and traumatic experiences in childhood do sometimes manifest itself in adulthood by way of stuttered speech and other physical impairments of motor-neuron type affecting co-ordination of movement and other physical activities, at individual and group levels.

In many instances, is no physical or pharmacological therapy to these problems, as they can only be diagnosed by way of hypnoanalysis and treated by way of specifically tailored hypnotherapy scripts, to deal with the specific cause of the problem that is embedded in one's subconscious mind.

Nairobi has only a handful of hypnotherapists/hypnotist, the Author is probably the most experienced with about 36 years of practice, and renders his services on a free of charge basis for certain classes of people who have, access to him e.g. alcoholics, smokers, people in pain/discomfort, the poor, etc.,

Even with his free services, the Author cannot interact with many subjects for reasons of time and other responsibilities. The Author otherwise attends to some poor people via hypnotherapy free of charge. Hypnosis can also be used to relieve extreme pain at the instance of injury or when assistance is being provided at the psycho-social or emergency level.

In the Kenyan cities of Nairobi and Kisumu, children go through highly traumatic situations in their lives, e.g. children exposed to the violence via their TV newscasts, occurrences of deaths and injuries that they can take note of in their neighbourhoods, and watching their parents being raped and brutalized, right before their eyes.

By the year 2014, it was estimated that Kenya with a population of about 50 million, had about 12 million [D8] people requiring some form of mental healthcare services. Before 2013 the figure of people seeking mental healthcare services at Kenyatta National Hospital was below 2500 per annum, in 2013 an election year, it more than double to 6582 according to Dr. Margaret Makanyiengo the then Head of the Mental Healthcare Department, she at the time expressed concern that many affected people live in denial and never seek mental healthcare services.

During the 2017 General Elections, an International NGO Malteser International donated a disturbing number of 200 body bags to the Police in Kisumu[D9]. The bags were received by the Nyanza Regional Coordinator for National Government Wilson Njenga, and the equipment was handed over to the then Administration Police Commander of the area Joseph Keitany.

In a country like Kenyan where the Police and irregulars are known to be Gung-ho on civilians, to many in the Opposition stronghold that was Kisumu, that looked like encouragement and incitement for police to kill and dispose of the bodies, something that would be much more difficult if they did not have body bags i.e., they would be compelled to ferry bodies to the nearest morgues.

The NGO Malteser International could have not donated such many body bags if someone did not request for them from the Security Services or a Medic in local NGO governmental organizations allied to the security services. Not only did Malteser International donate the body bags but it promised to donate more if the need arose – something that cannot be ruled out since dead bodies with



gunshot wounds, started beaching on the Kenyan side of Lake Victoria [D10], [D11].

Malteser International typically works in Kenya with several statutory NGOs that provide emergency medical services in Kenya at times of civil disturbances. It is in all certainty safe to assume that the request came from a statutory emergency response services organization in Kenya – such an organization would have to work in conjunction with the Police to pick bodies and dispose of them. It is a matter of record that the residents of Kisumu openly claimed that some of the disposals were done via helicopter flights dumping dead bodies into Lake Victoria.

Emergency Medicine may be affected by the ethnic rifts, since the people best placed to pick those corpses would have been Pre-Hospital Technicians as of at the time of collection, deaths may not be confirmed. It is a distinct possibility that ethnic animosity, has percolated into every sacred crevice of our society, now torn at its very core.

The practice of ambulance based Emergency Medicine began in Kenya around the year 2000 after the United States Embassy bombing of 1998. The concept of Emergency Medicine was introduced to Kenya, upon the Israeli and United States security communities specifically with a tactical approach on realizing that Kenya's first responder community was skilled primarily in basic first aid, and incapable of offering support and assistance of the level needed, during a complex emergency with many patients.

In 1998, the Author was very vocal within the International Community in Nairobi, Kenya in urging them to provide Paramedic Training for those who were then considered Senior First Aiders. The profession has however been slowed down in development by its dependence on seeking "recognition" from the Government and wider medical community, which is also affected by professional rivalries with nursing and other factions in Academia[D12]. In other jurisdictions, it is an adjunct to medical practice.

Government standardization and regulation in Kenya does not necessarily translate to better professional service delivery. In the context of Kenya, it more often than not translates to matters of political loyalty to the governing party and appointment of political proxies to key offices. An independent

group would be more dynamic and adaptive in responding to change and developments in emergency medicine.

In Kenya, over-reliance on Government control or direction impedes professional growth, particularly because some of its officials are probably correctly perceived by the wider public to be the perpetrators of political violence and its proxies at that. They have the claws of their unkempt hyper-violent political fists freshly and undeniably stuck on the “punching bag” that is the public in Opposition strongholds.

Responders and Technicians trained in Kenya may also not be that keen in entering a slaughter zone, to rescue and stabilize patients, in a country where adults are their parents’ social security by way of assistance and provision, no one would want to take the risk. There is also an easy-going mentality as concerns the doctrine and training for worst-case scenarios, something that most government agencies in Kenya are not used to doing.

Various initiatives have been undertaken, to develop local capacity in Emergency Medicine and related biomedical equipment. It is a critical challenge in a Country, where most medical supplies are not manufactured locally due to issues of cost, lack of investment, and ease of importation. In December 2017 the Joint Declaration of the UBORA and African Biomedical Engineering Consortium presented and signed, “The Kahawa Declaration – A Manifesto for the Democratization of Medical Technology, at the Kenyatta University in December 2017.

During the initial UBORA projects, work on an “open-source automated external defibrillator” [D13] was completed and reviewed. However, with its component importation costs around 500 euros, it is still out of reach for many Africans and their emergency organizations. The primarily electronic components are not manufactured in Africa, maybe the continent would do with a cheaper electrical defibrillator and technician expertise, at monitoring patients, during use.

In Kenya’s context of Emergency Medicine, innovation shall remain a key component in its provision, because local manufacture of most of the supplies is simply non-existent and even if they were available in some store they would be imported and expensive, making them out of reach for many independent

Pre-Hospital Medics. Even the best-stocked stores lack what would be necessary for aiding a victim of gunshot or other combat trauma, in the field.

The Author has had to come up with a type of chest seals that are very easily available in Kenya. It involves the use of duct tape/cloth tape and Sterile Tetrapak or Tetra Fino Aseptic packets that are widely used in the sale of ultra-heat treated milk, juice, and other beverages in Kenya. They have thin foil and paper layers, both covered externally with thin plastic layers that make them waterproof. They are the promise for a very cheap and widely available chest seal in Kenya and could save many lives, at times of civil strife with the deployment of ubiquitous materials for chest seals to cover sucking chest wounds.

Emergency responder aid could also be offered via the Police services, something that has not materialized to date because the public perceives them to be the transgressor, especially during civil strife. The police reply has been to attempt to better network with the grassroots, via community policing programs, to enhance their public relations, and get rid of long-held negative stereotypes.

The Political Class in power has taken every opportunity that it has to further alienate the Police from the public, by way of taking control of its appointing mechanisms [D14] and manipulating it to operate as a proxy of the ruling political party, especially during times of political campaigns, by way of using the Police, to place all manner of impediments against the Opposition by way of lopsided and oppressive law enforcement.

In the slums and other lower-class residential areas, many would not know that the Police are trained on issues of Basic Life Support due to their reputation as perpetrators of violence in the eyes of many. A police car is known to more likely carry guns than life support equipment, though the very Police officers therein are at times on the receiving end and in need of trauma care.

Offering trauma care during civil strife more often than not occurs in austere circumstances, so support services for Emergency Response staff may be unavailable, because some may simply operate in their localities and may not go out for counseling, medical attention, etc. Since the decision to help a

wounded person is a voluntary one in the civilian domain, it may be withdrawn for fear of exposure to disease/infection or that of personal harm.

For example, someone would not offer support to a wounded person for certain procedures, if he or she felt that there was a risk of HIV exposure without the availability of prophylaxis. This raises the issue of extending ethics and legality of HIV Testing outside the purview of a Medical facility – would a responder use an HIV Self-Testing Kit on Third parties, to approximate the risk of exposure without prophylaxis, before deciding on whether or not to help that person in question?

Tactical medicine is also very different from what a civilian Pre-Hospital Technician is taught. The trauma experienced in a combat theatre is often occasioned with the deliberation to cause death or the most serious forms of incapacitation or bodily harm, so the training must go a notch higher than that of ordinary emergency medicine under civil circumstances.

Stringent physical fitness regimes on an almost daily basis, if one cannot do the required press-ups, sit-ups, etc. and carry heavy loads in a gym environment, then he or she shall not perform well in a tactically challenging environment, like an outdoor slum shooting, active shooter crime in a mall complex, or civil strife.

Physical fitness regimes and exams are not part and parcel of the Pre-Hospital Technician training regime, as would be the case for Military Tactical Medics. Lack of physical fitness equates to a lack of confidence and the ability to operate in physically challenging environments. As such a good number of Emergency Medical Response personnel in Kenya, cannot render services to the needy public at times of political violence. Simply scaling office block staircases, low walls, or hiking in the fields to an aircraft crash site, is too demanding a task for many and out of the realm of possibility for many of them.

It is also notable that a very Senior Paramedic, may not be a great athlete at the ages of 50, 60, or 70+. However, such a person may be very well endowed with skills and wherewithal for directing more junior personnel, deploying complex systems and equipment, plus such persons may have permissions and experience in the use of a wide range of pharmacological tools. Age combined

with prior experience, better places one in a position to supervise the activities of younger and less experienced personnel.

Both rural and urban communities are not empowered in the domain of emergency response, the implication being that the only aid they can offer one at times of emergencies is to rush them to a hospital if they can. At the family level may people cannot stabilize a casualty in any way e.g. by ensuring continued breathing or checking circulation – basic first aid training at the community level, therefore should be a high priority.

Even stopping non-catastrophic bleeding via bandaging and tourniquet is out of scope for many, let alone starting an intravenous line for someone suffering from hypovolemic shock. Training is not the only shortcoming, Kenyan security/military forces, are not known to allow for the resuscitation of people they have shot, assaulted/clobbered, etc. any attempt at providing resuscitation and life support could result in the emergency care provider risking their lives, even if they uniformed and marked as emergency care providers.

Simple devices such as finger-tip SpO<sub>2</sub>(Specific oximetry) if widely held and the masses in the slums are well trained, would assist in the provision of more effective emergency aid. In most cases cardiac arrest on Kenyan streets would be assumed to be fainting in many instances, so the Chain of Life by way of Early Recognition, Early Cardiopulmonary resuscitation, Early Defibrillation, and Early Advanced Care [D15], are scarcely effected. That is the level of the challenge, besides the fact that the equipment for defibrillation, etc., are also hard to gain access to, due to their expensive importation prices.

As a general unwritten rule and contrary to existing regulations and legislation, people found, beaten and incapacitated with serious injuries or other dead in public should be reported directly to the Independent Policing Oversight Authority besides local law enforcement, because there is a “plague” of extrajudicial corporal punishments [D16 (a), (b)].

It may as well turn out to be reporting such matters in specific instances to the Police, could be in the realm of expecting self-incrimination from the same persons involved. That not only subverts the objective of upholding law and order, but puts the complainant in the unfortunate positions of being harmed or, otherwise murdered [D17].

Real-time data acquisition and telemetry data transfer systems would enable emergency responders to transmit data from biomedical systems they use when in the field and on transit to the hospital, thereby facilitating the planning of reception at hospitals and morgues [D18], while also relaying the information to authorities to effect behavioural change of government forces.

Most of the affordable communication systems available in Kenya can only be used if the emergency responders interrupt treatment, or have a person designated specifically for the job of communications. These kinds of situations are not the best, especially in Africa where there is a shortage of trained emergency personnel.

The bottom line is that as emergency personnel in the field attend to patients, their counterparts at hospitals, cannot easily anticipate the incoming workload. In instances where ambulance personnel were not dispatched after a distress call, but are out on a random prolonged operation, that involves situational monitoring and followed by prolonged field care.

Very few persons of the lower social strata in Kenya would dare make distress calls during political riots, because those that they perceive as having the potential to cause the greatest harm i.e. Security officers, are the ones to be called in case of distress. It is a paradox because those are typically the times of greatest needs.

Over the years, especially after the introduction of mass usage of mobile telephony systems from around the year 2000, many emergency response and security units have become dependent on cellular phones for all communications, including all work and tactical communications. The art of using tactical radios [D19] has slowly died out, and even for those organizations that have radio communication networks such as emergency responders, their equipment is specially configured to communicate on one or very limited frequencies, for which they have to apply.

Scarce is the knowledge of frequency hopping, radio wattage, software-defined radios, tactical waveforms, etc. the kind of knowledge that would be required to sustain independent communications by emergency responders during a complex humanitarian situation, when unsecured communication may be exploited by adversaries for combat intelligence. Most emergency

organizations train personnel on issues of etiquette and protocol of radio usage [D20], and since the set comes hard-wired to the frequency, they remain none-the-wiser for the whole lifecycle of the radio system.

Mobile telephony base transmission stations [D21] also have the downside of frequent attacks by terrorists, particularly in the frontier counties of Lamu, Wajir, Mandera, and Garissa. In these localities Al Shabaab operatives/insurgents seek to impose their will on the local population by way of cutting them out of mobile communication systems, something that the Police [D22] and to a lesser extent the Military have become heavily dependent on.

These transmission stations are attacked by terrorist demolition experts planting explosive charges, or otherwise by way of a large-bore recoil-less gun, fired several times from tens or hundreds of metres away.

Once destroyed or damaged, the mobile phones in the area become useless [D23], for tactical/emergency communications, not unless they are using very short distance internal WiFi and Bluetooth capabilities. These capabilities are not typically robust for the demands/rigours of rapid communication during a major crisis, but they are vital to the extent that they can be peer-to-peer mesh networked to keep many people up-to-date.

Complete dependency upon Government controlled communications [D24], is not particularly the best mode of operations and communications, particularly in the case where the persons believed to be allied to or working for Government itself are blamed for causing chaos in so many ways.

There is also the uncertainty that the Government may simply send armed personnel to Telecommunications companies to shut them down, as it does for Television broadcast stations [D25]. If there is a crisis that has been provoked by people in Government, open telecommunications gives the civilian population an advantage by way of mobilization and coordination.

Especially if shocking information about misconduct of Government personnel starts circulating online, e.g. concerning the death of key-persons [D26], death of children [D27], etc. or any other information that is verifiable

to the extent of electoral malpractice, may result in civilians pouring onto the streets, and hold spontaneous demonstrations.

Social media transmits data fast and up close especially if the recipient has a way of verifying it from other independent parties. Notable issues, that caught the Internet and spread like wildfire in the 2017/18 Electoral Dispute period, were the Body bags found floating in Lake Victoria around August 25/26, 2017.

The violent death of IEBC Director of ICT Chris Msando, whose body was found dumped in Kikuyu area, near Nairobi, Kenya. There were injuries to his neck region, and his corpse was found undressed, and only wearing underwear in photos that cannot be published.

A post-mortem report [D28] would reveal that he died by way of death via strangulation, probably a good approximation of what caused his death, as an assessment of the photos pushed in social media, then evidenced that he had a death erection [D29], as is consistent with victims of death via strangulation;

What would emergency response personnel have to train to be efficient in crises that occur in Kenya? The most common injuries are those from 7.62x51mm (SS109) NATO full metal jacket ammunition; 7.62x39mm Warsaw Pact full metal jacket ammunition; Blunt trauma from wooden truncheons and metal bars; Asphyxiation by way of smoke and teargas; Burns from arson attacks and other causes; 9mm Parabellum full metal jacket ammunition; penetrating trauma including above-listed gunshot wounds, knife stabs, poisoned arrows, deep machete cuts, etc.

Suffice it to say that short of injuries from explosions, these rank amongst the most complex cases in emergency medicine even before a casualty is delivered to a hospital, as they require skills such as pharmacological interventions, airway support, resuscitation, advanced splinting, advanced wound dressing, etc. Even personnel with a fully stocked emergency medicine trauma kit or two will be hard-pressed to assist even two patients, by way of triage and life support in a hostile and violent environment.

The most advanced life support interventions are used in combination with pharmacological interventions, and their training and licensing in developed



countries are device and pharmaceutical specific and done at least twice every year, and skills refreshed every fortnight. Failure at effecting routine training would translate to emergency response personnel, finding that they pose an additional risk to patients in the field. That fees are charged for retraining personnel in a developing country, makes it less likely that they get updated skills via refresher courses [D30].

Paediatric life support and resuscitation issues, as well as matters relating to children in a conflict zone, also came into play during the 2017/18 electoral violence period. The first notable case was the bashing of the head of Baby Samantha Pendo, by the Police in their home in Kisumu by anti-riot police, an injury that would result in death some hours later. This brings into focus the motivation of the fielded security officers, ethnic hatred cannot be ruled out in many instances, this incident occurred around August 10<sup>th</sup> 2017. In the heat of conflict, persons may wrongly assume the others, ethnic origins.

The next notable incident was the shooting to death of 9year Stephanie Moraa, in the balcony of their home in Nairobi as she was playing during some civil disturbance, that was on August 12<sup>th</sup> 2017, given the deliberation in the case of the murder of Samantha Pendo, similar deliberation cannot be ruled out in this case. October 16<sup>th</sup> Michael Omondi a high school student shoot in Kisumu after surrendering to the police, and what was notable is that in this instance probably before he was dead beyond resuscitation, the officers involved, slit his throat with a knife to remove the bullet.

October 16<sup>th</sup> 2017 Shantel Kageha was also struck by a bullet as she was playing in their yard at home but fortunately, she did not die and was later aided by way of surgery. In this particular case, it seemed to be a matter of a stray bullet in the Nyamasaria area of Kisumu. Others would be shot and wounded especially in Kibra slums of Nairobi and Luo Nyanza over the period [D31].

In the Kenyan context in which many areas evolve into combat zones during civil disturbances (by way of lethal police operations), lack of armed and armoured emergency response personnel, and appropriately equipped vehicles is a major issue of concern. Demonstrators also use weapons such as slings that have ballistic performance equivalent to some calibres of bullets – given the difficult nature of their targeting and less discriminative nature of their

launch, emergency response personnel face great risk from not only the security officers but also the civilians.

The concept of International or local protected symbols has not properly established itself in the minds of many violent demonstrators. Unarmed and unarmoured emergency response personnel cannot protect themselves or provide some form of deterrence, as they seek to extract the wounded and potentially dead. There have been cases of the dead being stripped off all manner of identification by certain actors before their corpses are dumped in morgues or taken to unknown places.

The underlying thrust of Kenya's primordial-type "law enforcement" during civil disturbances is usually to kill and maim as many members of an affected ethnic group, to the extent that their morale is vanquished and the resultant mental pain from the conflict keeps them petrified and "peaceful". This is a mentality that only creates the justification for future violent exchanges, with revenge and aggrieved parties, the prime thrust of future confrontations.

Where there is the critical objective of concealing the deaths of civilians from the glare of international scrutiny, so as not to provoke an internationally imposed political settlement or military intervention, this is achieved by way of all manner of scheming including illegal disposal of corpses of civilians killed in demonstrations.

Is the Government serious in investigating election related violence? What we have is anecdotal and circumstantial evidence, that questions their motives at being impartial at law enforcement, something that would in a long time result in the further degeneration of their situation. An interesting example is the recent hiring of the United Kingdom, International Lawyer, and Queen's Counsel Khawar Qureshi.

He was hired to help prosecute the Deputy Chief Justice Philemona Mwilu in a case of tax evasion and corruption [D32], a case that if successful would have in all certainty altered the composition of the Judicial Service Commission, the primary Government entity that appoints Judges and Magistrates, as well as change the composition of the Supreme Court of Kenya bench. She was also involved in the case that annulled the August 8<sup>th</sup> 2017 Presidential Election.

A second member of the Judicial Service Commission Professor Tom Ojienda was also prosecuted for tax evasion [D33], a case with the potential to alter the composition of the Judicial Service Commission to a great extent.

So why would Public Prosecution, hire a United Kingdom lawyer to help prosecute the Deputy Chief Justice, all the while, the same Government it is working for did not accept the assistance of a foreign lawyer, the Federal Bureau of Investigations, or the Scotland Yard [D34], to investigate the murder of the ICT Director of the IEBC Chris Msando?

This issue also raises questions into the dimension of a potentially captured law enforcement mechanism, something that is not good for the long-term stability of the country. State-initiated Lawfare is what comes into mind in very many cases involving the Government. Political violence is best resolved when a government demonstrates credible and wholesome goodwill, in tackling not only one particular instance of injustice but when a government demonstrates fair administration of justice on a broad range of disputed issues.

In the Kenyan context, unarmoured emergency response personnel would include lack of body armour including bulletproof vests, helmets, tactical shields, etc., lack of armoured ambulances, making them easy picking for anyone with a gun and grudge. This is particularly due to regulations and legislation, to the extent that no one in the emergency response community wants the inconvenience and potential resultant liabilities involved in their gear licensed by the police. This particular example may demonstrate why law enforcement and legislation ie lawfare, may tilt the “ground” against neutrals.

Emergency operations in Chemical, Biological, Radiological, and Nuclear-contaminated environments are skills that are not practically taught to pre-hospital professionals in Kenya. Due to resource constraints are not well trained and equipped to operate in contaminated environments, it is not out of the realm of possibilities that Kenya with its highly educated population, could experience the deployment of such unconventional means in political violence.

Even the use of simple old tear gas and present-day pepper sprays would cause extreme suffering to not so well equipped emergency medical personnel responding to an incident and make them instant patients, besides impeding

evacuation of initial patients i.e. gas masks or fire-resistant overgarments are not available to many responders even the highly trained.

Emergency personnel also lack standard antidotes for radiological, chemical, and biological warfare. Lack of industrialization is partly to blame. Why would one build industries in a country, if money can be made very easily by looting?

The attempted Al Shabaab attack of 2018 on Nairobi that was blocked and tackled at Isiolo, Kenya is a pointer to the fact that Al Shabaab had done an assessment and made a conclusion similar to the foregoing, and that it is now prepared to launch another Westgate style attack in Nairobi. The only difference in the planning of their operations in the abortive instance was the introduction of the use of hand grenades of which they possessed 36 dozens of improvised bobby-traps and a suicide vehicle-borne improvised explosive device.

Kenya's emergency response organization, are not equipped, to operate in tactically hostile environments and solely dependent on the goodwill, sympathy, and understanding of all parties to operate in places where there are armed conflicts. Their staff and volunteers have surreal and idealistic positions as to the protection conferred upon them by their symbols given the many uneducated or extremist combatants (ethnic or religious), in the region.

There are rarely any events that demand skills such as casualty extraction and transport on stretchers over rough terrain for considerable distances – i.e. physical fitness of many emergency personnel is low-level and their life support skills may only be suitable for those patients in very close proximity to medical facilities.

Linkages between emergency organizations with law enforcement and military establishments in the country are too close in many respects to facilitate an internal adversary or victim's appreciation of the concept that they are neutral and independent organizations.

The hybrid warfare that is a Kenyan General Election, climaxes with a complex humanitarian emergency where the public is not able to access essentials that are food, water, medicine, and other utilities. To compound the situation, irregular militia does seek to change the facts on the ground, in more often

these groups are allied to the government-side in fighting, as it would take an ugly abundance of tolerance to allow them into the City of Nairobi or even Kisumu, where the government is typically in control of the “facts on the ground” both day and night by way of:

1. Closed-circuit television
2. Emergency hotlines and notable social media portals
3. Well placed/positioned security bases and stations
4. Dominance in terms of almost sole ownership of any meaningful armoury of assault weapons
5. Access to operations and patrol vehicles
6. Access to patrols on foot and motorized platforms
7. Widespread informer networks

Irregular force is applied in a rapid and non-attributable manner, so as not to attract the attention, condemnation, and intervention of the International Community. This does not translate to fewer deaths, but destruction and illegal disposal of corpses and records that keeps track of deaths. Notably, the Country that is Kenya, is still grappling with the challenge as to how to effect the concept of Nationhood. With that in mind, the government does not confer legitimacy in all instances but is the faction that has won international recognition as such.

Before direct violence during the electoral period, the population in many instances has been disarmed. There are many ways of going about it, e.g.:

1. Lopsided regulations, rules, and law developed specifically to protect the autocratic government
2. Lack of knowledge for developing armour for protection of housing, vehicles and human bodies
3. Lack of knowledge for developing firearms, though the materials are ubiquitous, it can be claimed that there is a mode of government administration for preventing people from developing firearms or building up the unused capability for the rapid development of firearms.
4. Impoverishment via poor education and bad governance
5. Autocratic law enforcement
6. Etc., etc.

The population segments that are targeted by irregular militia are vulnerable and do not have the ways and means to protect themselves or retaliate. Additionally the affected population segments and their short-sighted political leadership, more often than not have misplaced dependence upon the non-existent goodwill and dodgy ethics of those holding positions in State. This is partly because short-term political gains overwhelm reality and common sense, especially immediately before, and after General Elections.

Their political leadership fails them by leading them unprepared into an armed conflict by participating in the political competition which practically cannot be a free, fair, open, transparent, and genuine General Election but an autocratic mandate one-way “rubber stamp” session, where dissent or open-mindedness is a death warrant.

The relationship between Government and members of the society especially of the lower economic strata, is purely adversarial in respect of political choice, when not compliant with the will of the *status quo*. As a result, there are no civil defense structures in the public realm and the population is left largely vulnerable to direct violence, as it is also a tool of coercive politics. In this setup, the ordinary public is expected to pay homage to selected leadership, without question.

Remarkably, if the population had access full-time, to food, medicine, shelter, and high-quality public services they would be resistant to direct violence, they cannot be coerced politically, hence they are usually deprived of:

1. Civil defense structures and organizations
2. Armed and elected members of localized policing organizations who are likely to act in their interests always
3. Community-based emergency responders. Statutory emergency response ambulance services are vulnerable to State manipulation e.g. in matters of disposing of corpses during civil strife.

The government has also kept and continues to further attempt to keep a wider unhealthy and stifling control of the NGOs sector. If the NGOs were to attempt to de-escalate a conflict by way of litigation, or other means, it would not succeed to the extent that the powers-that-be, exercise authority to benefit from resultant injustices.

This was witnessed in 2016 [D35] and 2017 [D36]. With these cases, there is no doubt as to what would happen to any organization that attempted to conduct rescue and investigative operations in real-time during post-election violence in Kenya, its very existence would and the safety of personnel would be jeopardized.

On January 15<sup>th</sup> 2019, around 3:28 pm a terrorist raid would take place at address 14 Riverside, opposite the Chiromo Campus of the University of Nairobi. The compound was formerly a colonial bungalow in the 1990s but was demolished and the area used for an Office and Hotel complex namely the Dusit D2 Hotel, the Cavendish, and Grosvenor Suite, etc. It was an incident that would prove definitively if none before had, that Kenya's Emergency Medical Response services were wanting.

The raid took place a few years after the Westgate attack of 2013, in the same suburb of Westlands Nairobi. The security forces had done their homework to some extent, as it took about 20 hours to overwhelm and neutralize the terrorists, in the Westgate incident it would take the police a whole 96 hours to neutralize the terrorists.

The medical teams would arrive in good time at 14 Riverside, but suffice it to say they were very poorly equipped, no body armour, no arms (as would be necessary here), no trauma packs (i.e. They were highly dependent on the contents of ambulances of the Kenya Red Cross, that donated a lot of equipment to its usual "sibling rivals"), the squads of rescue personnel did not have any form of personal radio communication for general usage.

During that last tactical thrust on the morning of January 16<sup>th</sup> 2019 to neutralize the last two terrorists, a tactical thrust was deployed on the 7<sup>th</sup> floor of Dusit D2 Hotel where they were held up. This the terrorists very much expected since it was the only option for the non-adventurous Kenyan forces, after an exchange of gunfire and some grenades, the terrorists were neutralized but not before a Kenya security officer was also wounded presumably on the left leg(femur). He was rushed out of the building in good time and almost fully conscious but from this point on everything was to go downhill.

The first emergency aid teams to take charge of him in a safe area failed or forgot to strip him and search his body properly for the extent of injuries. He

was later handed over by Statutory Emergency Responders to Private Emergency Responders without any preemptive life support measures, e.g. intra-venous fluid-like to deal with hypovolemic shock; clotting agents wound packing, tourniquets and bandaging; etc. It would be a dramatic end to the whole rescue and one that would in its essence finger the emergency response community for shoddy work.

From the 1960s to the present day in Kenya, there has been no notable mass casualty exercise. This is something that has led to non-existent or poor skill-sets to responses as they work at scenes of incident. Though there have been drills over the years, e.g. air crash, shopping malls, etc.

None of the drills has captured the essence, of what would arise if a mega-terror attack occurred. Suffice it to say that during the Dusit Hotel raid, the emergency responders were to show up at the scene, already hamstrung by many years of legislation, regulation, and incompetence that kept them from positively impacting that the scene [D37].

Incidents usually do not come cut and ready-to-fit a training manual, here are some of those issues that came up:

1. Training manuals advise responders to hand-over immediately without challenge to Doctors or Paramedics. Nevertheless what the manuals do not raise is the issue of wobble. Not all Doctors, Paramedics or Responders have the required training to handle all life support devices, and incompetence may also be an issue. So one should initiate a conversation to determine if there are coherence and competence of the more senior officer. Typically if doubts creep in, a hand-over outside the hospital should not occur. A hand-over should not simply assume seniority, because seniority may not come to all issues e.g. Experience and life support devices.
2. The question would arise that what if the more senior but incompetent officer is in command of an ambulance, or other vital supplies? They should be commandeered or requisitioned by way of police armed force and challenge, apologies can come later.
3. Some emergency response organizations waste valuable response time on incident briefings before a response. Though the brief is vital, it can be done impromptu at arrival on-site or on the way to the site, but



emergency response organization should opt more for some form of mission command, where they automatically study, the flow and know what to do when they arrive on location, more so if they have good communication systems.

4. Given the nature of terrorist attacks in this region of Africa, some of which kill about a hundred people in primary incidents and secondary entrapment incidents, key-persons should be nowhere near the incident, that is not a way to do command or co-ordination at the terrorists are also seeking body count of key persons. It is not wise for key-persons to visit the incident scene immediately when the fighting started. It was also not wise for the Opposition Leader Raila Odinga and a group of Politicians to visit the site when the incident was announced as over, because it was not against odds, that a terrorist would hide at the site and wait to exit with the cleaning crews a few days later.
5. There was a common single Commander for the Military/Security effort, but on the side of the Emergency Medical Responders, it was all chaotic and no regimentation. It would have been good for the Commander of the Military/Security effort to have some skill-sets in the domain of Pre-Hospital Trauma Life Support, or to have someone help him in making the projections on the realm of emergency medicine, as the irreversible but surreptitious processes that bring about traumatic death may not be recognized on-site and some medical knowledge is required in issues of command [D38]
6. Legislation and regulations more often than not have unintended consequences that should not be overlooked when they become clear. Apart from emergency responders turning up without body armour at 14 Riverside, all the ambulances on-site were light-skinned vehicles not suitable for working in what was a combat zone. The emergency medical community cannot be blamed for not procuring appropriate vehicles because the laws and regulations on the same are burdensome more so in the sense of local politics which results in license recalls and many endless problematic summonses.
7. For some strange reason in a country, as internetworked as Kenya, it is impossible to prevent hostages from posting details about their plight and precise location online, so the emergency response teams and

tactical teams should ensure that they exploit open social media information before the terrorists can take advantage of the same and locate more victims in the event of an active shooter incident. This falls well within the role of Mission Command and the types of social media data feeds, that should be monitored during an incident involving terrorism or other large-scale violent crime.

It is difficult and tricky to contrast into terror incidents from those of widespread political violence, because more often than not the fidelity of the very military/security officers, that the Government relies upon and even the Government itself becomes questionable or wanting thereafter when it comes to dealing decisively with violent politicians.

On the first day of the Dusit D2 incident around 5 pm to 6 pm some aerial assets were deployed namely Huey II helicopters of the Kenya Airforce, Agusta Westlands 119 Koala of the Kenya Police, fly around 14 Riverside Complex and SA 330 Puma military transport helicopter of the Kenya Airforce flew from the Northwest into the City of Nairobi carrying troops and equipment.

The way the City of Nairobi is run, there is little or no thought for issues concerning Medical Air Evacuation by way of a helicopter. For this particular incident there was a need, and there were open grounds at the University of Nairobi, which was opposite the Hotel and Office complex. Nevertheless, many hospitals were nearby e.g. the MP Shah Hospital, Avenue Hospital, Aga Khan University Hospital, Nairobi Hospital, and Kenyatta National Hospital.

If beating the traffic was an issue and the need for use of helicopter-based medical evacuation arose, the next challenge would be the number of helicopters in Nairobi configured specifically for Intensive Care type work. To the best of the Author's knowledge, none are operational even if they exist on paper, there may be other aircraft with ambulance configuration, but they would not be fit for the role of intra-city aerial evacuation for patients.

In the terror incidents of Westgate 2013, Garissa University 2015, Kapenguria Police Station 2016, and Dusit D2 of 2019, the members of the paramilitary tactical thrust who fight the terrorists in Close Quarter Battles have suffered at least one fatality per incident, something that might be reduced with hindsight

if there was proper Pre-Hospital Trauma Life Support, on-site for at least two minutes and prompt helicopter evacuation thereafter to hospital.

So the tactical thrust and members of the wider law enforcement community should do some soul searching as to, whether the fatalities were irredeemable or they were caused by wanting body armour, equipment, tactics, or the overall lack of tactical medics in the wider law enforcement community and military forces.

An additional issue on the pros and cons in the tactical realm is whether or not to jam communications in the area of operations, the issue came up for discussion during command sessions of the Dusit D2 hotel incident. Without proper planning, it would negatively affect the communications of medical response personnel in the vicinity, persons who are vital but in many instances, do not have access to robust, resilient, and versatile multi-channel tactical radio communication systems.

There was newspaper chatter on the use of remote-controlled robots to fight inside the Dusit D2 hotel complex by way of surveillance roles, but this is something that the Kenyan officials would not confirm or deny.

Over lack of tactical medics and swift evacuation of patients from Close Quarter Battle sites, though not directly linked to post-election violence. This demonstrates a weakness in tactical response, which would be further be undermined by the general widespread collapse of law and order in some areas during post-election violence periods, and a large number of patients under such circumstances.

Other notable issues observed at the Dusit D2 incident in Nairobi, was the failure to disperse properly and co-ordinate ambulances and medical personnel. A second-wave terrorist attack would have taken out a big chunk of the Kenya Emergency Medical community and News reporters clean i.e. they do not view it as a wider war and are eager to crowd vantage points at the venue forgetting that the terrorists are after body count not excluding them by any measure if possible.

The positioning of a journalist while giving news on locations such as Chiromo Campus Bridge at Riverside, also demonstrated the lack of proper

understanding that the weapons that were being used in the complex, could easily reach people on the road, which was less than a kilometre away.

There was an Incident Commander from the General Service Unit i.e. paramilitary police who had overall charge of the military and security teams in the compound, but the emergency medical responders seemed to lack any manner of coordination and were at times engaged in verbal exchanges over patients. Notable the ambulances should have been dispersed around 2 km to 5km away from the site, given the nature of Suicide Vehicle Improvised Explosive Devices that Al Shabaab is capable of making and known to use in terror attacks.

The spacing between those vehicles should have been between 100 metres to 200 metres in different locations and if the Incident Commander needed an emergency medical asset he should have contacted an overall Incident Medical Commander who would tactical call-up resources on-demand by way of first contacting their organizations, which would then activate their units and send them to the site.

Armed civilians were a force multiplier in the site and it is something that should be encouraged in Kenya. Notably, they were partly responsible for pushing and entrapping the terrorists on the 7<sup>th</sup> floor of the Dusit D2 hotel, without their initiative the terrorists would have had enough time to run a door-to-door, building-to-building campaign of slaughtering innocents.

Any day the average civilians should take charge of his own life whether during a terror attack or during a time at which political violence threatens to overrun them. Some would debate as to if the armed civilians should have handed over to the police. This Author believes that the average firearm owner in Karen, Westlands (Dusit D2), Kilimani, Muthaiga, and other upper-middle-class areas of Nairobi, has more training sessions in firearms usage and tactics, than the average police officer in those same areas.

Emergency Medical personnel in Kenya, have for too long misinterpreted the First-Do-No-Harm motto, to a stance of being unarmed and defenseless, something that does not work in this era of terror incidents and political-violence, in essence, they must be capable of defending themselves and providing for their safety before they can seek to help others.

Shooting someone who is trying to kill you and prevent you from providing medical aid, should not be considered to be harm in the domain of the oath of medics, furthermore, if the aggressors do not die they can also be assisted by way of emergency medical services.

Al Shabaab is simply not a terrorist group in Kenya, in the coast and North Eastern regions of the country, it is a political actor on the ground that seeks to alter Kenya's political calculus in those specific regions by way of violent attacks, against "non-compliant" population segments in those localities. There is every bit of evidence from its operations especially in the County of Lamu, in the Kenyan coast, that it puts a premium on austere and survival medicine, especially during its violent contacts with Kenyan forces.

This is further evidenced by what Al Shabaab has been found to abandon upon tactical contact with Kenyan forces since its operations of 2014 to present.

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## **Notes**

[D1] The article gives a shortlist of facilities and expertise, for mental healthcare in Kenya, it also states that there are about 100 mental healthcare specialists for a population that is known to be approximately 50,000,000 Kenyans.

[D2] Study states that comfort and convenience, are two main advantages of home therapy for the patient, the disadvantages of which are set out as lack of floor space for workouts e.g. for hemiplegia affected persons, lack of complete control over the sessions by professional, and a demoralizing effect of a home environment setting. The study does not, however, look at the broader lifestyle issues, that may cause and illness or impact on the rate of recovery, something that can only be determined by way of healthcare practitioners visiting homes, e.g.

1. The set-up of a home may be the cause of an ailment
2. The practices in a home may be the cause of an ailment

The health worker or doctor may only be in a position, to assist a patient by way of home visits at different times, to determine what goes on therein, and advise the patient on how life experiences, can best be improved.

[D3 (a)] Current Kenya procedure and regulations are for medical staff to report all persons seeking treatment, for gunshot wounds at their facilities. However, a number of these people who have been taken from the hospital and executed in extrajudicial circumstances upon police seeking information from medical staff, something that is unethical in practice. It is a suggestion of this Author, that a new procedure should be introduced, whereby medical staff report gunshot wounds to the Independent Police Oversight Authority, in addition to the local police jurisdiction office.

[D3 (b)] Two police officers allegedly shot dead a patient, who was at the time admitted to Mwingi Hospital.

[D4] Continuous access to anti-retroviral therapy for HIV/AIDS, may have been interrupted due to PEV, 16% of the patients at Coptic Hope Centre for

Infectious Diseases in Nairobi Kenya, had their treatment regimes interrupted by the violence, under normal circumstances of comparison only 10.2% had their treatment interrupted. The same group comprised of 2534 patients using the Centre in Nairobi, which is pretty limited because, Nairobi has the best security arrangements in the Country, and was least likely to have any major disruptions. The study also assessed the odds of treatment interruption during this period to have been around 71%. Patients depend on the functioning of civil society and public infrastructure, to access medical treatment even if it was free of charge. Treatment interruptions in the long and short-run may result in treatment failure. Notably, an interruption was considered to be at least 48 hours, after the last intake of prescribed medication. In the case of HIV/AIDS, there should be some treatment contingencies for times of violence and civil disruption, a mobile phone app with GPS tracking and security may help medics to track their patients country-wide and their treatment status. But even technology gets disrupted during disturbances, so organizations that provide emergency aid should be co-opted. At least 15,000 people displaced during the post-election violence period then, were HIV positive. Individuals traveling three or more hours to access medication were most likely to be affected by treatment interruptions. This Author can state to you authoritatively having lived in Nairobi during that period, that even Malaria, can kill you in a day or two, a few minutes away from a shop with medication, when there is instability. Worst of all is that thirst for water, during fighting especially involving indiscipline on the sides of both parties, is also likely to force one to take extraordinary and life-threatening risks, of exiting the safety of their homes.

[D5] The Police reforms creating the Independent Policing Oversight Authority, the National Police Service, and the National Police Service Commission, were work of the Retired Justice Phillip Ransley led National Task Force on Police Reforms. Kenya's Presidency traditionally does not like a Police Service that can probe its indiscretions. After the Westgate attack in 2013 and the Mpeketoni attacks of 2014, the Government including the Presidency took the opportunity of the weak and inept police responses, to roll back the independence of the Police Services, instead of pushing for more professionalism, standards, and better qualifications at the National Police

Service Commission. The most critical and detrimental of the reforms to police work was the removal of the independence of the Office of the Inspector-General of the Police and making him a Presidential Appointee, without any real job security contrary to the Constitution of Kenya. It again hypothetically reverts the Police to a “dirty-jobs” arms status of the Government, which does questionable things e.g. covering up many forms of questionable activities and cracking down on political opponents, under the guise of various perceived and unreal illegalities.

[D6] Ditto [D1]

[D7] Gives a preview of the traumatic experiences children go through during post-election violence, and the impact thereafter after in their lives.

[D8] The year 2013 which was just another violent election year, record an increase in people seeking mental health services in Nairobi. Unless there is some very drastic action by the Government to increase the intake of people studying medicine at the university level, by lowering entry points to the level of C – (C minus for normal areas of the country) and D+ (D plus for hardship areas of the country), and some courses are eliminated from Diploma Colleges and Universities to allow for the intake of more medical students, there is no end in sight for the problem of shortage of medical doctors, which more often than not works in favour of current practitioners, by enabling them to charge fees that the Public considers exorbitant. For a country with resources and facilities such as the Republic of Kenya, the Government can train 1,000 to 10,000 medical practitioners per annum, if it wanted to and had its priorities right.

[D9] Malteser International does not work on its motion during civil strife in Kenya, it works inconjunction with statutory emergency response services in Kenya, and the security forces, so it is safe to assume that a Kenyan organization closely allied to the Government (made the request for the body bags the quantity of which would be of War Crime proportions, if they were all consumed), and Malteser International irresponsibly responded to the

request in a Country that had only so recently had its top leadership feature at the International Criminal Court on War Crimes charges.

[D10] Kisumu fishermen retrieved a body from Lake Victoria, that was in a body bag with two gunshot wounds to the chest. A mortician confirmed that the body was brought into Jaramogi Oginga Odinga Hospital Morgue. By this point in time, four families had filed missing person reports in Kisumu Kenya after the post-election riots broke out, against the rigging of the 8th of August 2017 General Elections. His Excellency Governor Nyong'o of Kisumu promised to return to the hospital with forensic experts from Nairobi.

[D11] Fishermen in Kisumu had retrieved at least five body bags from Lake Victoria, and there was fear that the authorities could have summarily buried people without records at Mamboleo Cemetery in Kisumu.

[D12] The paper touches on ways that educational and training programmes, can be improved in the domain of emergency medicine in Kenya. However, some basics would include regular and more complex training sets, and fundraising for more sophisticated instruments, since most practitioners and their organizations may not be in a position to procure the best there is, in the market in terms of state-of-the-art. If they do procure sophisticated equipment, they often hesitate to deploy it in the training domain, for reasons of savings and procurement challenges.

[D13] In the African context a cheap defibrillator would be in the price range of US\$100 or less, instead of the “open-source” that goes for about US\$500 even before assembly and importation on all components. The journal paper is a brief of a thesis that requires very board knowledge, including in the domains of electronic and software engineering, to enable one to assembly of the defibrillator and to load the requisite software into the machine. By the time that such a machine is assembled given the skill-sets brought to bear, its price range is at least US\$1,000 or more. More so, the system has no electro-cardiograph, something that could have been easily implemented given that laptop and tablet devices have become common in a country such as Kenya.

For such a case a stethoscope, fingertip pulse and oxygen monitor, and good training would allow for a simple electrical defibrillator to be used instead.

[D14] The Powers of the previously independent National Police Service Commission, were reduced by way of empowering the Presidency via Parliament to appoint the Inspector-General of Police, without the rigours of a competitive process. This undermines the letter and spirit of Police reforms, undertaken after the post-election violence of 2007/8. Some members of the Police are notorious for certain partisan actions during the elections e.g. withdrawal of security details from prominent Opposition Leaders, and Presidential Candidates, dispersing of Opposition rallies and demonstrations, indiscriminately bashing and sexually assaulting slum dwellers, during door-to-door sweeps, demanding bribes, etc. It is this reputation that would make them unwelcome in many instances if they tried to offer Emergency Medical Services, though, given their ubiquity as an Institution, they would be the best-placed channel for Emergency Medical Services delivery.

[D15] An overview of basic resuscitation standards and procedures

[D16 (a), (b)] Articles provide startling examples of deliberation in the realm of extra-judicial killings by police in Nairobi.

[D17] The Lawyer engaged in criminal and human rights litigation, was allegedly abducted and later found murdered. The last persons who were to be seen with him while he was alive were police officers.

[D18] The book chapter details how communication errors in hospitals are a leading cause of death, more so in the realm of emergency medicine. It gives a figure of up to 50% of all adverse events in hospital, as being caused by inadequate or faulty communications, rather than lack of clinical skills, this was in a USA case study. Communication failures can lead to misapplication of clinical skills, in the Kenyan context the problem would be compounded by lack of clinical skill-sets, lack of frequent training, lack of equipment, and pharmaceuticals. Most of the communication problems arise, during the transition of care. Other communication problems, may result in poor functioning of the wider health system, e.g. during a road accident or other



emergency, the inability to capture motor vehicle and/or insurance details, and to file appropriate statutory notices and claims, may lead to poor function of health service provision. Other communication challenges would include a lack of knowledge, in the realm of filing for professional fees in an ethical manner, backed by records and details from field communications. In Kenya in particular, many emergency medical personnel onboard ambulances, have not developed a methodology for claiming itemized fees, for their services from casualties via the hospital bills systems. As such they are not well remunerated and motivated, in their field of work. Failed communications in the realm of emergency medicine could pertain to critical issues such as medicines and devices used, procedures undertaken and required follow-ups, etc. The Author further notes from his own experience, that there may be a Passive Communication Failure i.e. a police officer studying an emergency medical course can read the materials, but fail to contextualize them in his or her realm which is a wide mandate. An Active Communication Failure would be an immediate miscommunication or failure to communicate an unfolding situation or event. The book chapter advocates for use of sign-outs, read-backs, and digitized communication records to improve communication protocols. In the view of the author of this book, sharing of tactical level data on causes of death in real-time via media, oversight bodies, or direct links with Authorities during a crisis involving armed conflict, should be done with a view of altering undesirable tactical behaviour, that is causing traumatic deaths.

[D19] A simple example of a radio communication system policy utilized in the realm of public health/safety and emergency medical response.

[D20] A simple example of an EMS Communication System Guide

[D21] An article on just one of the many attacks that Al Shabaab has executed, against mobile telephony infrastructure in the North Eastern Region of Kenya.

[D22] Article details how the establishment of four new mobile telephony communication masts in the region of Mt. Elgon and Bungoma, is perceived to be critical on cracking down against the Sabaot Land Defence Force militia, an ethnic paramilitary group fighting for land rights in the region.

[D23] In this case a Safaricom mobile telephony mast was destroyed by Al-Shabaab militants in Kutulo area of Wajir, Kenya. Though the mast had an armed police security guard group, comprising of four officers, they offered completely no deterrence and/or resistance. The wider area did not have mobile telephony services thereafter, that allowed Al-Shabaab to conduct more raids nearby towns and also, to ensure that locals do not report the locations of their field units and movements in the wider area. Civilians too in these regions have no form of peer-to-peer radio communications independent from mobile telephony masts. Other services that are dependent on the masts are Internet services 3G/4G and MPESA payment services, a platform-dependent on mobile phones of Safaricom PLC subscribers that enables them to make e-payments for all manner of goods and services, from both individuals, and private/public sector actors. The introduction of Google Loons, in collaboration with Telkom Kenya, places 4G Internet telecommunication masts far beyond the reach of such terror attacks.

[D24] The Communications Authority of Kenya, is the statutory regulator in Kenya for Electromagnetic Spectrum Frequency allocation and enforcement. It is also has a broader mandate, of ensuring that the same is not abused by the licensees.

[D25] After Kenya's disputed Presidential Elections of 2017, the National Security Council of the Government of Kenya ordered the shutdown of local television stations, after the Opposition Leader Raila Odinga took the undefined but politically weighty oath of the Peoples' President in Uhuru Park Kenya.

[D26] The death of Chris Msando the IEBC ICT Manager, left many a keen observer of Kenyan General Elections, in no doubt that there were going to be serious irregularities in the process. It was no longer a matter of if there were going to be irregularities, but more of where the irregularities were going to be effected in the ICT system. Given the shocking nature of his murder, there is no doubt as to the fact that there were attempts to extract information from him before his violent death.

[D27] The baby was assaulted probably with a wooden truncheon, or another object by anti-riot police at their home in Kilo, Nyalenda, Kisumu. Tear gas was also used during the incident, the result was that there were probably other forms of trauma apart from the haemorrhage in her head, caused by the traumatic assault. The baby died while undergoing treatment at Aga Khan Hospital, Intensive Care Unit in Kisumu.

[D28] Post-mortem investigation was conducted by Dr. Johansen Oduor the Chief Government Pathologist and Dr. Bessie Byakika, the Pathologist for the family. According to the report Chris Msando died by way of death by strangulation. Other injuries on his body were deep scratches on his back as a probable result of dragging his body on the ground, a deep cut on the head as a result of being hit with a blunt object, and cuts to his arm.

[D29] Photo unavailable and unpublished but was easily available at the time on his death on social media, it showed his body abandoned on supine position stripped down to the underwear, a death erection was evident in the photo, circumstantial evidence of death by strangulation.

[D30] It takes about US\$1,000 to train an emergency medical technician in Kenya, that cost covers mainly the tuition fees. If other charges such as transport, personal equipment, personal training literature, personal practice sessions, and personal literature are added the cost could get to US\$1,700 or more. The training does not cover all critical devices used in emergency medicine, and there could be additional courses require for more specialized qualifications. The skill-sets could also be earned cumulatively over time by way of specialized courses. For the average Kenyan, in a country where many people earn less than US\$2/day paying, the courses are well out of reach. There less than 2,500 emergency medical technicians for a population of about 50 million. The situation could easily be remedied by developing shorter two-week courses, of the type developed by Magen David Adom in Israel, for training emergency responders. Most Kenyans who can afford the US\$1,000 course do not have the time to set aside six months, to get the training that is not modular in design.

[D31] Law enforcement officers including Police, are typically recruited and trained in mass, at times 10,000 people at a go. More often than not for such a large group of people in a Country with pretty limited resources (or otherwise abused resources). The screening of new Police officers does not include any serious form of mental checks or credibility checks such as empirically scored polygraphs. The wreckers who slip through undetected, go on to do things such as raping mothers as their families watch, shooting children and other innocent people during demonstrations, amongst a host of many other questionable forms of conduct.

[D32] London-based Queen's Counsel Khawar Qureshi was hired by the Director of Public Prosecutions, who was a former Deputy Director for Economic Crimes Intelligence, at the National Intelligence Service Noordin Haji to prosecute, the Deputy Chief Justice Lady Philomena Mwilu for tax evasion and corruption. From the public comments of President Uhuru Kenyatta during the Presidential Election Petitions of 2017, it is assumed wrongly or rightly by many members of the public, that the Deputy Chief Justice and all the other Supreme Court Judges, who annulled his Presidential Election of the 8th of August 2017, are his political rivals. More so, even if they did not intend to be so. Khawar Qureshi was appointed by the Director of Public Prosecutions Noordin Haji based on his independence and lack of emotional attachment to the Kenyan political scene, his appointment came after failing to get a suitable candidate via competitive bidding. The case against the Deputy Chief Justice revolves around issues of evading property transaction stamp duty and corruption-related offenses. Third parties were involved in some of the transactions in question. The case was later dismissed after trial.

[D 33(a)] Professor Ojienda's private office at Muthaiga Golf View Office Suites, was raided. Police had sought a warrant from the Senior Magistrate at Jomo Kenyatta International Airport, it was number MSC. CRIM. APP. No. 54 of 2018 that was obtained by a Chief Inspector Patrick Maloba. When it was obtained it did not specify which specific place was to be searched, however, it was broad to the extent that it allowed for searches of premises and

dwelling. The Police probably kept the location of the search secret, to avoid it leaking to the Lawyer. It allowed for the seizure and removal of relevant documents and recording of relevant electronic media, notably, it was executed against the office of a Prominent Lawyer, the implication was that in the process of executing the warrant, the Police were likely to violate the privacy of the other clients of the Lawyer, who had other issues that were not subject to the warrant, but had confided in him on other unrelated issues.

[D 33(b)] Professor Ojienda had a previous dispute with the Government, where the Kenya Revenue Authority had refused to give him a tax compliance certificate, a move that would have locked him out of re-election as a member of the Judicial Service Commission, he successfully contested the issue in court, and the Kenya Revenue Authority was ordered to give him the tax compliance certificate. At that time, the Kenya Revenue Authority stated that it would appeal the ruling. The Election of Members of the Judicial Service Commission was slated for February 2019 and had not occurred by the time of his initial arrest.

[D 33(c)] The issue pertains to payment of approximately US\$2million legal fees, an expense that the State claims was not incurred, by the Mumias Sugar Company.

[D34] Unlike the Dusit D2 Terror Incident the Federal Bureau of Investigations (USA) and the Scotland Yard (UK), were not allowed to investigate the murder of Chris Msando, though there was a lot of forensic evidence available when it occurred. This was notable, given the fact that his killing would have had some effect on the stability of Kenya, which is geopolitically important to the Whole World.

[D35] The Article details how the United States Agency for International Development offered to develop a Results Transmission System for the IEBC Kenya, via its Agency the International Foundation for Electoral Systems. It had readily availed 2 billion Kenya shillings, via the Kenya Electoral Assistance Programme, as a grant. Notably, elections are akin to armed conflict in Kenya, due to the opaque nature of the operations of the IEBC. This must have been

a move to pre-emptively eliminate, a cause for political violence in Kenya. During a political speech on Kenya's Independence Day on December 12th 2016, President Uhuru Kenyatta criticized foreign organizations that were contributing to Kenya's electoral process. One week after the speech Fazul Mohammed, the top-government official in-charge of NGO regulation declared the International Foundation for Electoral Systems an illegal organization and advised the Central Bank of Kenya to freeze its bank accounts. A more expensive system would later be procured from Safran-Morpho of France for 4.19 billion Kenya shillings against a budgetary allocation of 3.8 billion Kenya shillings. In the year 2017, IEBC Kenya would more than twice oppose in the Supreme Court of Kenya, any move to have the system audited. Election-related violence was also a notable feature of the 2017 Elections. Upon completion of his term as the Head of NGO Regulation, Fazul Mohammed would promptly be appointed to the position to Head the Private Security Industry Regulator, a position with potentially even more clout during an election, as he would have access to security details and secrets of the same organizations, that were victimized during his stint as the Head of NGO regulation. It is also an organization that works closely with the politicized National Intelligence Service whose disruptive "fingerprints", are all over the Kenyan political scene, and less likely to be found preemptively at a terrorist safe house in Nairobi, as ought to be the case.

[D36] The Kenya Human Rights Commission and the Africa Centre for Open Governance were subject of attempted police raids in 2017, to pre-emptively prevent their involvement in Kenya Presidential Election Petitions in 2017. Africa Centre for Open Governance is not an NGO, while the Kenya Human Rights Commission is chaired by Professor Makau Mutua, who is also the Chair of International Development Law Organization, and a Professor at the State University of New York. Fazul Mohammed the then head of the NGO sector regulator the NGO Co-ordination Board deregistered the Kenya Human Rights Commission, and wrote to the Directorate of Criminal Investigations, in an attempt to further initiate a criminal investigation against them.

[D37] The Author was tracking emergency responder updates on his mobile devices, he himself is an emergency responder

[D38] Manual gives persons the way and means of learning about the irreversible processes leading to death and how they can be prevented. An important quote on the first page of the manual: *“The fate of the wounded rests in the hands of the one who applies the first dressing.”* – Nicholas Senn, MD (1844 -1908), American Surgeon (Chicago, Illinois), Founder, Association of Military Surgeons of the United States. This quote was to echo loud and clear when the last member of the paramilitary unit that made the last tactical thrust against the terrorists at Dusit D2 was shot and seriously injured but not well attended to by the emergency response personnel on-site. Also disturbing was his chaotic transfer from a sports utility van to an ambulance near the Chiromo Foot Bridge, in the Riverside area, which was a rivalry type shouting match between a statutory emergency response group that had brought him out, and a private emergency response group that controlled the available ambulance. At least two minutes should have been spent on-site stripping and examining him and providing PHTLS measures before any attempted transport.

## **PART TWO**

# **THE INFORMATICS AND RIGGING**

### **CHAPTER 5**

### **KIEMS**

**KIEMS** is an abbreviation for Kenya Integrated Election Management System, it was more of a misnomer, as there was a hotchpotch of information systems at the IEBC offering the services of RTS (results transmission system), these systems were in no way interconnected to each other and in many instances, they did not even share the same contents as results. On the eve of the General Election of 2017 “KIEMS” was more of a theoretical propaganda response, to the statutory requirement that the results be transmitted electronically. This was achieved by way of murder, cybercrime, and deception.

The core components of what was to be KIEMS were dismantled on the eve of the General Election, after the murder of the IEBC ICT Manager Chris Msando. The system was further compromised and a concerted effort made to ensure, that there were air-gaps provisioning physical human interventions, between KIEMS components.

Some of the service providers who performed well were Safaricom, being the largest mobile telephony service provider in Kenya, it would significantly improve the mode of results transmission by way of its robust connectivity for the elections of 26<sup>th</sup> October 2017. Despite its open condemnation by many politicians, Safaricom is largely responsible for the results successfully transmitted to the Oracle 11g Database Management System on the NTT Cloud, a system that was implemented by the main KIEMS contractor Safran Morpho.

Since Safaricom claimed that it implemented a virtual private network, with encryption in the link between the KIEMS kits and NTT Cloud, it couldn't prove that results transmitted during the Elections, were the same results that were displayed by the IEBC on the Frontend System that was a web-displayed



database on Amazon Web Cloud Services. In the first Presidential Election of August 8, 2017, Safaricom would be reluctant to provide transaction data of its VPN, something it would promptly do by the fresh Presidential Elections of October 26, 2017.

To date, the contents of the Oracle 11g Database Management System on the NTT Cloud, a system that was implemented and administered by the main KIEMS contractor Safran Morpho, are the most contentious issue of the General Elections of August 8<sup>th</sup>, 2017.

Unlike during the Presidential Election of October 26<sup>th</sup> 2017 on August 8<sup>th</sup> Kenya had Elections of the President, the Governors of Counties, the Members of County Assemblies, Senators, Women Representatives, and Members of Parliament. In both instances the results transmitted from the polling stations to the Safran Morpho System have never been published, despite this disturbing fact, a Government has been “elected”, and life goes on as normal.

To understand with terse clarity the structure of the IEBC Informatics system, the first point of reference would be the LinkedIn profile of one of its staff then employed as a Business Analyst of Internal and Electoral Systems, [E1].

The profile [E1] was to read volumes as to how KIEMS functions, i.e. Could imply that data conversion, its migration, and the data handling itself, had a human intervention element on issues concerning results transmission? Business intelligence reports in the context of an Election could mean that IEBC is interested in projecting electoral results before they materialize on the Tally? Why would an Electoral Management Board require such a capability? It is not working in the office of some politician, to verify how things will go.

On the issue of data migration on the profile [E1], the implication would be that there is more than a VPN pipe between the handheld KIEMS kit at the polling station and the final display that was on the Amazon Cloud Web Services. Notably, for an Election where there is human intervention in a purportedly automated results system, there is likely to be human manipulation of the results. Suffice it to state, that this Author is not blaming or absolving the particular officer.

In March 2017, the IEBC announced that the Kenya Integrated Elections Management System tender was cancelled [E2] and alternative measures put in place, it was not clear what were the measures were, and how they had been effected, these probably included:

- The original KIEMS system based on Safran Morpho KIEMS kits transmissions to NTT Cloud
- Filezilla Secure File Transfer Protocol System
- IEBC Datacenter / Enterprise System for Results
- Probably some in-house collaboration tools e.g. by organizations such as Microsoft Sharepoint
- The Frontend of the Results Transmission System on the Amazon cloud
- Etc etc

Notably, all was not well at this time; The Elections Laws (Amendment) Act 2016 mandated that the KIEMS had to be up and running at least 4 months to the General Elections, i.e. April 2017, there was also a mandatory dry run of the system at least 60 days to the Election.

By April 19, 2017, the IEBC would nevertheless issue a statement, that it had deployed a KIEMS. It comprised a total of approximately 45,000 handheld kits. Each kit had got two apps, namely:

1. Electronic Voter Identification Device (EVID)
2. Results Transmission System (RTS)

The linkage between the three processes is however not clear i.e. the Voters Register of the Polling System, the Electronic Identification of Voters, and the Electronic Transmission of Results. It is therefore clear that an integrated system for results and other electoral functions did not exist. The devices were deployed for biometric voter verification of the register of voters – an exercise that was conducted from 10<sup>th</sup> May to 9<sup>th</sup> June 2017.

It is unclear is where the results that were routed into the Filezilla system came from, they surely did not originate from the KIEMS as set up by Safran Morpho, did not configure the system to work that way. It is overwhelmingly probable that they were a stream of results developed by political actors and

commission staffers for public consumption after a review of forms that were extracted from the Safran Morpho system.

Right to the time of Authoring this book, IEBC had not granted Third Parties access to this foreign hosted database under the pretext of security and inaccessibility, as late as the first quarter of 2020, IEBC was still posting fictitious electoral results online.

The results transmitted from the KIEMS were from two layers of VPN. The first layer of VPN was provided by the KIEMS kit itself as it encrypted the results and encapsulated them, and the second layer of VPN was provided by the Mobile Telecommunications companies in their Mobile Telephony Internet systems as they transmitted to the Safran Morpho system.

Safaricom would release a Position Statement replying to the NASA Kenya Statement of September 26<sup>th</sup> 2017, Safaricom – now this would bring into focus the informatics know-how of the IEBC Director James Muhati, it does not come out clearly in his reply affidavit, that there were two levels of two different kinds of VPN – one from the KIEMS kit provider and the other from the mobile telephony Internet provider. The data was twice encapsulated by two independent systems.

To date there has been no independent verification/audit, that determines the origin of the results that were used to call both the annulled Presidential Election of 8<sup>th</sup> August and the fresh Presidential Election of 26<sup>th</sup> October 2017. There is no proof whatsoever that the forms used to call the elections, in either case, originated from the KIEMS kits.

At this point, various conjectures can be put across as to how an election is rigged after the point of results transmission. There could be a predictive filter at an electoral management body office on a system that is taking in data migrated from the cloud system.

It could be preset to allow through data if the key preset parameters are “ok”. The parallel alphanumeric system could also be used as the basis for rejecting electoral forms and suggesting amendments to the same, if not a manual data fitting exercise can be undertaken. In the process, election forms are amended

and if necessary the ballot papers can also be amended in polling stations without observers.

Data Analytics and Collaboration tools were not scarce at the IEBC, as the aforementioned job description, includes analytics and business intelligence.

When it came to an overall understanding of how the KIEMS would function, there are subtle indications that even the then Chief Executive Officer of the IEBC Ezra Chiloba did not fully comprehend how the KIEMS kits worked. Put to task by the Press [E4] as to whether the KIEMS kit required Oracle software licenses, it was reported that he wrongly stated that they did not require Oracle software licenses.

Notably, though the KIEMS kits did not have Oracle software, they dialed into an Oracle 11 g Database Management System hosted on NTT Cloud as configured by Safran Morpho. Safran Morpho was a licensed Oracle Systems dealer via its cloud businesses.

Indications that all was not to be well with the information systems during the election came late, in late May when the ICT Director James Muhati was sent on compulsory leave [E5]. His actions were reported to have been contrary to internal audit regulations and procedures. To bolster its ICT Security credentials the IEBC as stated by its Commissioner Dr. Akombe, disclosed that it had hired the expertise of IBM, Oracle, and Dell that were contracted to help the IEBC [E6].

Notably, Oracle and Dell probably did not have full access to all of IEBC's result transmission infrastructure. And with the IBM would come in a Consultant Alex Kioni a cyber-security consultant who's Dad was alleged to be a more-than-close-to-the-establishment politician and former special-branch (intelligence) officer. As the Elections got closer the Opposition would not take kindly his appointment, and would wrongly or rightly view it as potentially hostile and a matter of subterfuge.

The Biometric Voter Registration system of IEBC also run an Oracle Database Management system, the system was commissioned in 2012 and by 2014 its Oracle License had expired, this was about a year before Muhati was hired by the Commission [E7].

Key to the functioning of the “integrated” KIEMS system was the MorphoTablet 2 also known as the KIEMS kit. It was a ruggedized handheld tablet running on Android, it has a Federal Bureau of Investigations quality fingerprint scanner and a dual micro-sim Reader allowing it to work with at least two different mobile telephony providers.

It has a Global Position System capability allowing it to tag data with specific locations. It can also verify documents, with quick reference code technology, and facilitate Internet connectivity with a database. From the perspective of this Author it was an efficient high-quality device, and in most cases where it was reported to have “failed”, it was more likely than not to have simply been kept aside to allow for over-voting [E8].

There is a repeated mentioning of database management systems in this book if a reader is not conversant with the technologies, reference [E9] is provided.

During the fresh Presidential Elections of 26<sup>th</sup> October 2017 after the annulled Presidential Elections of 8<sup>th</sup> August 2017, the role of KIEMS in results transmission and aggregation was to remain controversial, as the provider of the system seemed to be communicating to the Kenyan public via advice or instructions from the IEBC. Notably, in a newspaper article [E10], OT – Morpho made selective references to NASA Kenya even though the letter was also copied to Jubilee.

The letter was a communication from the OT Morpho Vice President and General Manager for Africa and the Middle East, Olivier Charlanes. OT-Morpho opposed the opening of the servers for a results audit before the Elections day of 26<sup>th</sup> October 2017, ostensibly for system security reason – something that cannot be taken to be true as such systems are designed with frequent if not continuous access in mind.

OT – Morpho’s position probably at the urging of IEBC staffers who were allied to or afraid of Jubilee, would work against the Opposition to the extent that the new results from the server would not be available for litigation before 26<sup>th</sup> October 2017.

Even after the 26<sup>th</sup> October Presidential polls, IEBC did not avail the OT – Morpho system for a live audit, it instead rushed to the Supreme Court with a

series of results that it claimed to have been loaded into a portable hard disk from the system. So the role and the scope of External ICT Experts embedded into the IEBC after the demands of Election Petition No. 1 of 2017 was pretty limited, because, when served with preprocessed logs, they could not tell where the data had been obtained from.

The IEBC Chairperson Chebukati had promised NASA Kenya and interested parties to a locally hosted back-up, but it was not availed to the Civil Society who filed another petition against the Elections of 26<sup>th</sup> October, this was not only a shortage of goodwill from the IEBC but an over-supply of mischief, because some Polling Station forms in the field did not end up in the final result tally. There were no such local back-ups as alleged in a later newspaper, OT-Morpho prudently routed the data to its cloud system where it could not be tampered with.

The front-end system availed by IEBC to the public as the results portal did not originate from the OT-Morpho server, it was the product of data migration and manipulation from various sources, including the contents that IEBC had obtained from the OT-Morpho Cloud.

In its communication, OT-Morpho probably correctly stated that it could not perform a dry run of the system before the 26<sup>th</sup> October elections, as the system would have required some resetting after a dry run. All said and done by the Presidential poll of 26<sup>th</sup> October 2017 OT-Morpho was not open to an external audit of its systems before the poll and OT-Morpho did not also offer the Opposition a direct display of results.

The position of OT-Morpho that it did not want to broadcast a live feed of data from the Elections, by itself probably came from the urging of IEBC staff, who wanted to manipulate data before it was displayed to the public. More so, contradicting such a position would imply that OT-Morpho would lose its contract with the IEBC, which was totaling hundreds of millions of United States of America dollars.

After Chebukati's pre-conditions and the fiasco that was the August 8<sup>th</sup> Elections, OT-Morpho rebranded to ID EMIA by around September 28<sup>th</sup>, that would probably help it to exorcise the ghosts of the 8<sup>th</sup> August elections and

position itself for future contracts in other countries, more than it would reflect its market position in the World.

Chebukati took disciplinary action against the Director of ICT James Muhati but he was overruled in a Plenary of Commissioners a week before the OT-Morpho correspondence, the margin of the vote was 4 Commissioners to 3 Commissioners.

In terms of Electoral Informatics, two European systems come close to that of the IEBC Kenya but only at a conceptual level. Those are the Electoral Results Transmission Systems of the Netherlands [E11] and Germany [E12]. Though the Kenyan Electoral System was Informatics heavy, the country had not yet adopted E-Voting by the year 2017.

For the Germany system, the vulnerabilities were caught beforehand and there is no published proof that even if the vulnerabilities persisted, they were exploited to alter the outcome of the Elections as was the case of KIEMS in Kenya. On the other hand, the Dutch system had its vulnerabilities which led to erroneous reporting of electoral results at some levels.

The analysis of the Germany system PC-Wahl version 10. There were other results transmission informatics systems also used in Germany e.g. IVU.elect and Votemanager. Votemanager would merge with PC-Wahl to form a new business concern dubbed Vote IT. The Chaos Computer Club contended that for a genuine election to occur, it cannot possibly be conducted with software that is secret and not open for scrutiny, because its operations must be traceable and transparent – this point, in particular, was not considered by the IEBC Kenya probably for devious reasons.

An Election is more for making the losers accept the fact that they have lost fairly, than for the winners to show off their victory. The basic principle is to allow persons to loose elections, that they may agree to be governed, and look forward to the promise of their victory in the future.

Without acceptance of this concept of legal Authority to be governed, elections are likely to get nowhere as in many countries the losers are a substantial minority who can fight their way to self-governance if push came to shove.

Chaos Computer Club paper, therefore, provisioned for the concept that a software system either has effective safeguards or none.

For Kenya it is the view of this Author that Safran Morpho did deploy effective safeguards against security vulnerabilities of its system, only to be subverted by the lack of deployment of the “last-mile” informatics infrastructure, a duty that was left to the IEBC Kenya and other service providers.

Though there is no evidence that the communications between the KIEMS kits and the Oracle 11g System on the NTT Cloud that was deployed by IEBC were interfered with, there was more than plenty direct and circumstantial evidence that all was not well in the KIEMS when it came to Data Migration from the NTT Cloud and use at IEBC; The operations of the IEBC Enterprise System/Datacenter; and the indirect mode of posting results onto the Amazon Cloud that acted as the front-end.

There is no use of analyzing whether an external hacker was involved, suffice it to state that IEBC Kenya staff were dishonest and opaque, in their operations to the extent that it did not require the work of any hacker to interfere with KIEMS

Notably, this book has been published within the statute of limitations for foreign and local data storage by the IEBC, giving any doubter or mischievous and scheming person more than ample time to file a Lawsuit and have the servers and all other evidence reviewed in Court. This is something that the Author does not expect and has completely no doubt that it shall not occur even in “by the time that Nuclear Scientists manage to push a whole adult African Bull Elephant through the Eye of a Needle”.

Apart from the issue of effective safeguards in an information system, there is also the issue of the credibility of its administrators and other users, if they are dishonest and know the system well enough, then they need not even hack into the system, but they can initiate a series of events outside the system, that translates to data inputs into the system and data deletions from the system to get what they want.

Internationally, Intelligence organizations are known to be quasi-criminal entities, they do anything to get the job done, be it slitting throats, cutting



corners, stealing, forging, etc. In Kenya the National Intelligence Service reports to the President, its Director-General is the National Security Advisor to the President, and given that he can be sacked (summarily dismissed) from work, there is little or no doubt about the nature of intelligence that it files with the President.

IEBC independent as it should be would only employ someone with something mysterious known as a National Intelligence Service (NIS) Security Clearance, when one applied for a job, the application even if successful would be forwarded to the President's National Security Advisor's organization for approval without the possibility of rebuttal.

To this extent, it is safe to posit that many of the persons employed at the IEBC were not only cleared by the NIS but even possibly forwarded indirectly to the IEBC as applicants, with the direct knowledge that they were the only ones to get the clearance for eventual employment. Some of the jobs in 2016 that were to be subject to NIS security clearance included:

1. Manager, Business Systems Development – Grade 4
2. Constituency Election Coordinators – Grade 5
3. Security Coordinator – Grade 5
4. Budget Officer – Grade 6
5. Senior Records Management Officer – Grade 6
6. Administrator / Caretaker – Grade 6
7. Regional ICT Officers – Grade 6
8. ICT Infrastructure and Facilities Administrator – Grade 6
9. ICT Support Analyst – Grade 6
10. Systems Developer – Grade 6
11. Compliance and Risk Officer – Grade 6
12. Logistics Officer – Grade 6
13. Service Desk Analyst – Grade 6
14. Web Design Administrator – Grade 6
15. Account Assistant – Grade 8
16. Warehouse Assistant – Grade 8
17. Constituency Administrative Assistant – Grade 8

Sources – IEBC job adverts various platforms.

Most of the employment before this time was also done by way of NIS security clearance. To that critical extent, the IEBC then did not have independence and freedom of employing the staff of its choice and there would be the likely jeopardy of NIS getting people it viewed as favourable into employment in the IEBC, if or when that occurred the IEBC would remain an Independent Electoral Management Board only on paper but in reality, it would be an extension of the very Executive, whose competitive election by the Public, it was expected to manage.

The right procedure for the acquisition of a security clearance in Kenya would be by way of the Directorate of Criminal Investigations of the National Police Service of Kenya because the applicant would be notified of the clearance and have an opportunity to contest any negative report in the Courts. Any such clearance from the NIS would be discretionary and not integrity/credibility based. So once the NIS had people it approved of at the IEBC, it would not have to hack the system to have things happen in its way.

Another issue is the requirement of the Higher Education Loans Board clearance in employment to many government bodies in Kenya. It would bar many graduates from families that were not well-to-do from a wide range of public employment opportunities. Since the government is the largest employer in Kenya, persons from affluent backgrounds would have an edge in seeking public jobs as they are likely to have no debts. Nevertheless, these are persons more than likely to have a direct vested interest in the political direction of Kenya.

Probably the most puzzling part of KIEMS was the Secure File Transfer Protocol system (SFTP), it was not populated from the KIEMS kits but also held election results. These results were likely to have been from four sources:

1. Data selectively migrated from the Oracle 11g System on the NTT Cloud i.e. the Safran Morpho KIEMS
2. Unofficial Data generated in the IEBC headquarters as well as in the field with other non-IEBC collaborators
3. Amended Data emailed to IEBC headquarters from the field
4. Data generated from the IEBC Datacenter / Enterprise system. It is not also clear which kind of equipment polled/dialed into the IEBC Datacenter.

The “SFTP” electoral results concoction was a mixture predetermined even before the election, specially fed to the public as “spectacular fireworks with effects”. Even with the over half a billion United States of America Dollars investment in informatics, IEBC could not provide the public with a live/real-time data-stream of electoral results but instead selected, manipulated, and aggregated election results, before feeding them to the public portal.

How did this Author conclude that this is indeed what occurred? The very low frequency of electoral results updates on the public portal did not reflect the speed of transmission from polling stations.

With this concept of system vulnerability in mind and staff credibility/integrity in question, there is no use to do a one million page report on the software vulnerabilities that led to the subversion of Kenya’s electoral democracy in 2017. The informatics systems of the last-mile were compromised from the get-go and the staff of the IEBC approved by the very persons who they were meant to be managing as candidates.

How secure was the IEBC “SFTP”? In basic computing courses there is the maxim, “GIGO – garbage in, garbage out”, if inappropriate data that was input into the system, there was no provision for artificial intelligence to enable it “clean-up” the data or to determine that subterfuge was underway. Unlike the German results transmission model, though data was uploaded from various sources into the IEBC “SFTP”, the system was not programmed to aggregate the results on its motion.

It is also unclear where the IEBC “SFTP” resided. Was it an independent results system, or was it at the IEBC Datacenter? Was it on a bare-metal hardware platform like a Desktop Computer? Was it hosted in some different cloud under a different arrangement? What were the potential vulnerabilities of the hardware platform and software environment where it was hosted? From its description, it seemed to have been hosted on some in-office hardware platform.

Only excerpts of its logs were presented to the Supreme Court of Kenya during Election Petition No. 1 of 2017, and the fact that its contents were willingly revealed to the Judiciary by the IEBC is a pointer to the fact that it was more of a decoy system than an effective component of IEBC results transmission.

Given that IEBC had over-hyped the quality of the VPN dialing from the KIEMS kits to the Cloud database, it is completely mysterious why there is no mention of the quality and security specification of the supporting infrastructure of IEBC “SFTP”. This aspect was not captured in Election Petition 1 of 2017, and if it was captured in the Presidential Election Petition after 26<sup>th</sup> October, the litigants did not publish the data they obtained from the IEBC. For example, it is not clear if IEBC “SFTP” was deployed on a shared host, a compromised and vulnerable host for that matter.

Also missing from IEBC “SFTP” released system details, was how the results that came to be in that system, were transmitted and displayed on the Front-end System on the Amazon cloud. Given the more than frequent human intervention in the system, it is more than like that it was not automated to the extent that its data would be displayed on the Front-end. The implication, therefore, was that users/administrators of the system would selectively upload results to the Front-end, from several sources.

Technically, there would be a lot more that would require an explanation about the RTS “SFTP”, e.g.:

1. What was its capability in terms of transactions per second from the fielded tablets to the front-end?
2. What was its capability in terms of hard disk or storage space reading and writing?
3. What measures were taken to ensure that the devices deployed to populate it was not compromised?
4. Who were the contractors of its software environment and hardware platform?
5. How many other parallel and “convenient” results transmission system did the IEBC field?
6. How come the Judiciary did not notice that the IEBC had more than two results transmission systems, every one of them was not integrated as per the statutes and regulations?
7. Why with an informatics budget of US\$500million+ would someone deploy an open-source and free file transfer system without service provider backing?

With different systems e.g. Safran Morpho KIEMS, “SFTP”, IEBC Datacenter, In-house collaboration tools, etc. it should now be clear what KIEMS – Kenya Integrated Elections Management System was a misnomer, it was anything but integrated. To this day, the IEBC has never released a system architecture diagram for KIEMS, ostensibly for cyber-security reasons.

If there is a single organization whose cyber-security “assurance” practices have irrevocably injured Kenya, it is those of the IEBC i.e. unlicensed systems, unsupported systems, questionable staffing practices, single-sourced contractors who are locked in from the very start of the procurement process, etc.

If the KIEMS kits provided by Safran Morpho which had high-quality 3G and 4G mobile Internet telephony links, could not communicate with the database onto the NTT cloud, there should have been no reason for any other system in Kenya to have a better efficiency record.

Perhaps the IEBC RTS “SFTP” was only efficient to the extent that electoral returns forms were being filled in some office in Nairobi, signed, stamped and the results scanned and uploaded into the “SFTP” for use as valid results, only that would make it a more efficient system. Notably, it is not clear which systems IEBC deployed in the dry run during pre-election tests and what were the results of the same. Which RTS was tested during the dry-run and what were the results of the pre-election dry run? Those are questions that remain unanswered.

During Presidential Election Petition No. 1 of 2017 at the Supreme Court of Kenya, the “SFTP” logs that were provided, only detailed the Candidate Representatives and IEBC staff who were logging into the system, it did not detail who had the capability of writing into the system, and when they wrote into the system – that is something that SFTP is provisioned to do, it gives more security information.

Let us assume and probably wrongly, that the IEBC is a good honest organization, its staff has high credibility and integrity scores, its systems were the best information systems that could be deployed, etc. etc. and this Author is a “Luo” who cannot accept electoral defeat of a “Luo” Presidential Candidate, and his hell-bent on tarnishing the otherwise immaculate image of

the IEBC. Having made this critical assumption, we return to analyze the IEBC RTS “SFTP”.

Our new and impartial analysis of the IEBC RTS “SFTP”, would be something like this:

Step 1: IEBC polling station staff logon to the SFTP via a secure device and link in the field

Step 2: Cognizant of Kerckhoff’s Principle [E12] they have a key for encrypting the data in the field

Without going to the “Step 3” questions would automatically arise, e.g.

1. What were the encryption and decryption keys of the data?
2. How were they generated?
3. Where they symmetric or asymmetric?
4. Where they generated on-demand by a system or were they pre-distributed?
5. There is no proof that the SFTP was populated with data encrypted with different keys – explain?
6. There is no proof that the SFTP was being used as an SFTP it was simply being used as a database for collaboration among those who had passwords – explain?
7. Software/system update log details for the SFTP system, e.g. update, date and time
8. Did the system provide for a method to allow not only for checking the integrity but also the authenticity of the result files that were stored therein?

Remarkably in the Second Presidential Election Petition after the fresh Presidential Elections of 26<sup>th</sup> October 2017 that was ordered for by the Supreme Court after the annulled Presidential Elections of 8<sup>th</sup> August 2017, the Supreme Court Judges of Kenya, blindly accept the images of the result forms from the polling station, yet the image properties demonstrated that many were not from the KIEMS kits.

The position of the Supreme Court of Kenya Judges on the matter not only raised eyebrows on matters concerning their neutrality and credibility in determining the matter (given that they had been threatened publicly and their Informatics Experts had no security that they could speak of, or count on) but the petitioners demonstrated that both the integrity together with the authenticity of the scanned forms were questionable (integrity and authenticity of a file two different concepts each of no lesser magnitude).

A file may come from the KIEMS kit but it has been edited – i.e. both its integrity and authenticity would have been compromised, or from a KIEMS kit without alteration but with fake data – yes, from the perspective of an Informatics Expert on the receiving end, the file would be authentic but additional system checks e.g. Electronic Voter Identification logs, etc. would be required to verify its integrity.

Other the other hand, a file can contain the right data or data whose authenticity cannot be questioned for lack of additional parameters, but it fails the integrity test due to a lack of proper transmission or lack of proper formatting.

Why would an analyst such as this Author, dig into the details – supposedly Kenya is a Third World Country, its citizens are not so hi-tech it is a developing country after all? The answer to that question is since the informatics budget was US\$500million+ and it is a fact by the ruling of the Supreme Court of Kenya, that the process was undermined, then the subversion must have been complex.

When it comes to government in Kenya over the 25 years or thereabouts, many government procurement scams amount to over US\$1billion+. Kenya is replete with many such scams e.g. Goldenberg, Regency, Anglo-leasing, “*Kula nyama, meza mate*” (Swahili for “eat meat” i.e. government resources; swallow saliva ie feeling jealous as “we” eat government resources, etc.,)

It is a certainty that a big shot in a crime of the billion-dollar range would go out of their way to hire the best brains to carry the day – notwithstanding any future ambitions, including but not limited to aspirations of ascending into the Presidency.

Many of the best hackers/cyber-criminals in the world simply take tens of thousands of dollars as fees. Similarly the best online bank heists criminals, end up with only a fraction of the money because they pay insiders to launder it at almost fifty percent commission – money which once looted from Kenyan public coffers is always more than readily available for shaping the political landscape in time for future looting. **There is, therefore, a direct Kleptocratic Nexus between major white-collar crime and the Political Class in Kenya. White-Collar crime finances both sides of the Political Divide.**

It is not about Nationalism, or a Nation-State in Kenya and Public Resources, more often than not, it is one well-placed ethnic warrior, “paw in the national coffers cookie jar”, further compounded by a mind lacking even an iota of empathy for the wider public interests and a “mouth jammed with more than it should chew”, as a result of an insatiable appetite for the contents of the National Treasury.

On the tail-end of things are the usual bloggers, Law Firms, and Public Relations experts, who are more than willing to see no evil, hear no evil, speak no evil as they protect, and hail the payer. Driving luxury cars and living in palatial mansions, that many of their counterparts in litigation plagued and billionaire infested Los Angeles could only dream of in a blue moon.

Their postings on social media giving publicity to their lifestyles and luxury trips would trip up the salivary glands, of many a New York investment banker to oozing loose and wet mode. Many of these giga-corruption scams often go unpunished, investigation is only revived when one makes the wrong political move. A government agency wholly dependent upon government public relations personnel would give out a contract on the same worth millions of dollars, to “convince” the Kenyan Public much about nothing, while its staff starves.

This could offer to you a simple explanation why the system selected “Filezilla” did not have encrypted passwords for its users and administrators as by the time of the Elections, if we are to examine the IEBC Experts under the microscope of deviant conduct, this would be a probable consideration in the choice of the system [E13]. Suffice it to say, that the Kenya Governance structure has been captured, “arrested” and “jailed” by special-interests [E14].



Most interesting was whether the Staff/Experts at IEBC had a good grasp of the technologies that they were handling. An affidavit [E15] detailed KIEMS the way the Commission understood it. Assume a mobile telephony Internet service provider was availing VPN access to the NTT cloud unless very detailed system parameters were provided, it would be impossible to determine if there was no interception, alteration, and subsequent relay of the same data. IEBC did not provide parties to the petition, with that level of clarity on the matters at hand.

Even in paragraph 35 of the same affidavit, where the same security measures are detailed, they were not sufficiently specified to help a reader of the document to determine which particular informatics set-up with which particular system products the affidavit was referring to and who were the service providers of the same. Paragraph 39 was also interesting to the extent that mobile Internet telephony offers their packet formats for 3G and 4G, even if they are transmitted hypertext data etc. Those are not mentioned as the protocols of the SIM cards.

The shaky comprehension of the KIEMS by IEBC is not disturbing, the most disturbing issue is the acquiescence of Western political powers when it comes to the issue of electoral malpractice/subterfuge in Kenya. Amongst a host of puzzling issues, the position of the European Union – Election Observation Mission to Kenya in its final report [E16].

It was of great importance that the KIEMS Database Management System was hosted in the United States of America and the European Union. The zeal with which the United States and the European Union were keen to prevent a proper investigation into electoral malpractice was demonstrated with extraordinary vigour.

The KIEMS its database hosted on a European Union and United States cloud service, and the Contractors domiciled in the same jurisdictions offer the European Union and the United States observers, an opportunity to probe the Kenyan Electoral outcome, using Judicial and Administrative Action in their jurisdictions that had not been captured by Kenyan corruption.

Instead of speculation with anecdotal and circumstantial evidence as to the functioning of the KIEMS, the EU EOM failed in its mandate and denigrated

its reputation, by not seeking to establish or disclose the true outcome of the Kenyan Elections by way of its independent KIEMS system audit – something that could be done with relative ease in the United States and European Union.

The most essential service that would have been offered by the European Union to the Kenyan electorate was a determination of if the election had been tampered with or not. Every other issue and analysis is purely speculative as a probable *actus reus* can be ascertained by way of a system audit, thereafter a *mens rea* if present would easily be discerned.

It must be assumed that those committing electoral fraud, have and continue to take legal advice during the process, and are conversant with any past legal rulings that may aid the furtherance of their crimes, rendering dependence on judicial precedence in litigation as questionable – unless that Judiciary is to overcome its reluctance to scrutinize the technical processes of a General Election, it cannot detect fraud, its rulings would, in fact, cover-up fraud.

That there existed multiple parallel KIEMS was not a rumour, this is admitted inadvertently in some Affidavits [E17], [E18] by persons with undergraduate and postgraduate credentials in Informatics. It is, therefore, safe to assume that what was sworn therein was technical truth.

In the 3<sup>rd</sup> Respondent's Affidavit in Reply to the Affidavit of Godfrey Osotsi (Affidavit 2) [E17], Paragraph 11 pages 2 and 3, it is described how the KIEMS kits would connect into the National Tally Centre, the Constituency Server, and the County Server, that is not something that was established by Safran Morpho – though it is in the realm of Constitution of Kenya requirements.

Safran Morpho KIEMS kits were connecting to the NTT Cloud, so what was this other system doing? Who was the Contractor who established it for the IEBC? Last but not the least was it audited during the Supreme Court ordered scrutiny of Presidential Election Petition No. 1 of 2017? No, would be the answer.

3<sup>rd</sup> Respondent's Affidavit in Reply to the Petitioners' Affidavits [E18] also give the impression of the KIEMS connecting into a local server and most notably at the National Tally Centre, in reality, no such system was produced during the Supreme Court of Kenya mandated ICT Audit of Presidential Election

Petition No. 1 of 2017, that is captured in paragraph 36 pages 8 to 9, especially 36(i). This is not to claim any wrong on the part of the deponent, as he was simply stating what was explained to him by the IEBC or so we assume, though other possibilities are not ruled out by the Author.

If there was anything that would have allowed the Electoral to determine how the KIEMS functioned conclusively, it was the Supreme Court order issued against the IEBC for disclosure during Presidential Election Petition No. 1 of 2017. Unfortunately, a Justice of the very Supreme Court that issued the Court Order and was keenly “awaiting” feedback from the IEBC openly indicated that the same was irrelevant in the matter. In the dissenting opinion of Supreme Court Lady Justice Hon. Njoki S. Ndungu.

In her quantitatively record-breaking 400 pages dissenting opinion [E19], on page 87 paragraph 140 that largely borrowed from the Affidavit of James Muhati, the Judge without detailing the technical specification including the brand of the database in question (i.e. without demonstrating extraordinary, precise, or above-average knowledge of the information systems in question), states that a Supreme Court order that was canvassed and duly issued was not relevant i.e. useless.

She makes this particular assertion in paragraph 263, while weakly lurching onto the position of Apprielle Ochoe, a then Ph.D. candidate in Cyber-security. What’s more disturbing is that at the point of issuing the Court Order the Supreme Court was unanimous and there was no dissent or reservation at bench level on the issue.

Supreme Court Lady Justice Ndungu, did not find it prudent to acknowledge that the IEBC database was unavailable – one would not want to imagine that she knew that it was available but for the reason that IEBC had failed to avail an available database during the proceedings purely for tactical reasons. So was this an issue of contempt of court for tactical reasons getting the explicit protection of a Judge of the same court? Most Kenyans would like to imagine that their Judges would not align themselves with partisan politics.

IEBC had different systems all dubbed results transmission systems. The failure of the Judiciary to detail the same in terms of flowcharts and schematics demonstrates a lack of clear understanding of the KIEMS in such a decision

that if inconsiderately rendered would in all certainty given past Kenyan history result in civil strife. This demonstrated lack of clear understanding was a situation that was exploited to the maximum by the IEBC lawyers, during the first and second Presidential Election Petitions of 2017.

To date, the IEBC KIEMS RTS can be described as both a Digital Data Black Box and a Digital Data Black Hole, as the former to the extent that it is not clear how it functioned as an Information System and as the latter to the extent that Digital Data that was Election results of the General Elections, entered into the system never to be seen again, more so due to the opaque operations of the IEBC and the intransigence of the politicians and lawyers involved in the cover-up.

The Black Box and Black Hole nature of the IEBC KIEMS RTS completely negated Kenya's democracy and concentrated the capability for determining Kenya's Government in the hands of a few lawyers, and politicians, probably less than 49 in number.

Digitization in the Kenyan case, where those handling the electoral processes were compromised, threatened or partisan, was used in projecting the final results by way of business intelligence analytics and fixing a new set of final results for public consumption, all dependent on the urges and desires of a few mischievous officials.

The unintended consequences of digitization of the results transmission are captured in a publication by Nic Cheeseman *et al* [E19], the paper details how in a compromised electoral process, the Electronic Voter Identification systems are likely to fail, giving way to over-voting if no observers are willing to uncover foul play. It cites a source to back its position.

In Kenya as in other jurisdictions, the “break-down” of Electronic Voter Identification machines is often overlooked in the “fog-of-war” that is tallying of the electoral results, to the extent that ballot stuffing and alteration of result return forms becomes an inevitable feature of an election. The introduction of new electoral results transmission technology does not prevent gerrymandering and planned political violence, as well as lop-sided administrative actions that eliminate the possibility of a genuine election.

When the RTS acts as a Digital Data Blackhole, it facilitates gerrymandering because it is used to conceal electoral results that would be additional input into election constituency boundary delimitation. Such is the case as Kenya scheduled its population Census for 2019, a process that yielded figures for a constituency boundary review. The review is scheduled to take place even without the IEBC publishing the electoral results contained in its system on the NTT Cloud.

With key Opposition politicians taking up government availed jobs after the election, that is by-and-large apportioned questionably in return for their silence and co-operation, in addition to inept, intimidated, and/or fraudulent Judicial systems, digital technologies are even more unlikely to improve the integrity of electoral processes in Africa.

Unlike in the developed Western world e.g. Switzerland, U.S.A, Finland, etc. The general populace in Africa is more so often intimidated, unarmed, and uneducated and cannot put up any significant long-term resistance challenge to a fraudulently installed government.

A good comprehension of the matter of KIEMS would be for the international observers and community, to consider that Kenyans have more than face-value knowledge of the key persons entrusted with KIEMS and the wider issue of Electoral Management, be it their Judges, the IEBC staff, and commissioners, law enforcement officers, commanders of related organizations, etc.

With this considered, the fear and/or knowledge that electoral processes and systems are not genuine, may not be a misplaced notion that is “ignorantly” initiated to the detriment of Western business interests in Kenya, but a well-founded fear of most Kenyans, that shall inevitably be a factor preventing those Western business interests that are “protected” by the *status quo*, from achieving their fullest potential and profitability.

One can vote freely and fairly, in a transparent election that has already been compromised and is fraudulent, far removing it from the realm of genuine elections. Indeed, the elections in colonial Kenya were fair, free, and transparent, but they were not genuine to the extent that they were distorted by way of racial gerrymandering – they did not provide a wholesome

mechanism for determining the democratic will of the people in the country at that time.

Given the haphazard and short-term nature of most electoral observation missions to places like Kenya, they cannot capture the essence of malpractice which is usually long-term, unless they are institutional entities, domiciled in a country of interest and conducting analysis on a day-to-day and year-to-year basis.

More disconcerting about the KIEMS is not the several parallel systems, but the fact that they were abused to produce a questionable electoral outcome. Even if the results therein were distorted, open and transparent scrutiny of the system would have produced the genuine result or clear evidence of electoral fraud – but instead, the IEBC chose to be opaque.

The Kenyan Judiciary at the Supreme Court of Kenya during the Election Petition of 1 of 2017 issued a court order that was to unravel the extent of informatics inadequacies at the IEBC, we now know that the detailed court order was drafted on the advice of Professor Elijah Omwenga an Information Systems Expert at the University of Nairobi, who was once assigned to supervise this Author's Master of Science in Information Systems Thesis, at a task that he would later recuse himself from due to academic, procedural and technical differences. The Thesis would later be published Open Access as two papers they were:

1. Post-Westgate SWAT: C4ISTAR Architectural Framework for Autonomous Network Integrated Multifaceted Warfighting Solutions 1.0: A Peer-Reviewed Monograph
2. Humanitarian Algorithms: A Codified Key Safety Switch Protocol for Lethal Autonomy

After completion of the Author's research, which came well after attainment of contact hours and examinations, the two articles though unsupported and unsupervised obtained citations e.g. for the Humanitarian Algorithms paper it was cited in Internationally at least 7 times by Researchers at Air University – USA, Harvard University – USA, Auburn University- USA, Universitas Negeri Yogyakarta – Indonesia, ISRSC – Kontes Robot Indonesia, Avances Recientes En Ciencias Computacionales – Cicomp 2016 Mexico, and the Post-

Westgate paper was cited in a Thesis for Master of Arts in International Peace and Security, Department of War Studies, King's College London: "Is There a Man in the Loop?, Identifying and Mitigating the Risks and Constraints of Increasingly Autonomous Weapon Systems", p.23 by LAUDRAIN Arthur. Supervisor: Dr. Guglielmo VERDIRAME, Professor of International Law, Affiliated Faculty in Security, Surveillance and Technologies of War, Centre for Technology, Ethics and Law in Society (TELOS), 27th – 9 – 2018

Others involved in the ICT Audit from the side of the Judiciary were Professor Joseph Sevilla, an Informatics Professor at Strathmore University, Nairobi, Kenya, and Janet Kadenyi, an ICT staffer at the Judiciary of Kenya. Understanding the positions of these three Experts, would give you an insight into why the second Presidential Election Petition after October 26, 2017, Fresh Presidential Elections could not end in another nullification.

The Informatics Experts of the Judiciary had no personal protection teams to speak of, we cannot claim that their work was purely independent-minded advice, it is overwhelmingly probable that there were other considerations in terms of long term post-election petition considerations, had their advice been used to nullify Kenya's Presidential Election of 2017 twice.

A second Judiciary decision to annul the elections, including but not limited to a second KIEMS servers audit would have turned the focus of Informatics Experts – it would be clear to those in support of any side of the political debate who was overturning the Elections, the Informatics Experts.

So when the Judiciary validated the fresh Presidential Election after October 26, 2017 – maybe some of those in the Supreme Court bench would have been rightly or wrongly perceived by the Public, as exploiting an opportunity to "purify and cleanse" the Judiciary's Informatics Experts from the claim that they were involved in repeatedly overturning Presidential Elections.

Notably, during the final hearing of the second Presidential Election Petition, the Judiciary made it clear that they were going to consult their Informatics Experts, something that must have been done to catch the attention of any elements who might have focused on them. So when the Second Presidential Elections of 2017 were upheld, the Informatics Experts had been "cleansed and purified" by their appointing Authority, at least in the view of skeptics,

who did not expect them to aggressively assess the IEBC in the second instance.

After the ruling of the Second Presidential Election Petition, the two Professors life could again resume as normal even if that was not a consideration, i.e. they could drive private cars without bodyguards, eat-in University cafeterias without any issues, walk freely and peacefully in university campuses, and life would go on as normal with no need to look over one's shoulder or rearview mirror.

It would not be farfetched and unfounded skepticism though not a categorical finding, that for the Judiciary that would be a very small price to pay and allow their "friends" to live comfortably, as they pick other battles in the future, where their chances were better. But notably, the political leanings of the Supreme Court bench was clear to many, they were divided in so many ways, that even if this argument bears any weight it did not apply to the whole bench as constituted then.

The Kenyan Supreme Court Justices achieved an almost perfect miracle of not opening the IEBC KIEMS servers for audit, in two consecutive Presidential Election Petitions, brought before them, by sticking to their primordial and archaic jurisprudence of "fishing expeditions". Why else would a Third World country with the world's poorest people, some of whom are living in its capital city in mud and wattle houses, purchase a US\$500million+ Electoral Information System, if its contents were to remain private and confidential thereafter?

Why on earth would a Judiciary entertain litigants who were in contempt of a live and active court order to audit the same system?

To understand the predicament of the Kenyan Judiciary well, one would have to revisit the case of the late Dr. Robert Ouko, Kenya's Foreign Minister who was taken from his home in the 1990s and assassinated while his home was under police guard, those guards were not sacked, reprimanded, demoted or disciplined in any way, probably an indication of who was involved.

It is a story that would not give any judicial officer, much confidence in his security detachment in Kenya. To the extent the Judiciary would have been



better served if it had its own Marshal Service, to offer its members and those it appoints as experts, armed security.

IEBC did not have one specific system at one specific location dealing with issues of electoral results reporting, so KIEMS was more of a desire than a tangible system. In that case, it would be impossible to detail operating systems, firewalls, and other configurations of the thousands of smart-phones/tablets, desktop/laptop computers, virtual machines/datacenters, and networks that were deployed for the function of results transmission.

Indeed some of the hardware platforms and software environments must have been deployed impromptu without any planning for electoral results transmission and aggregation.

So when a system is put up to Rig an Election, the focus is not on due process and transparency, the focus is on The Final Result and the already Decided Winning Candidate, as such there are no System continuity/redundancy plans, there is no password policy, and there are no penetration tests to speak of if there were then the Court Order should have been complied with.

Unfortunately, elections are meant to be sufficiently transparent to assuage the losers, not to take up arms but in the Kenyan context it is more of a predetermined rubberstamp process, and anyone who questions the probity of the “inking pad” that is the blood of many an innocent Kenyan, is viewed as an unworthy person, in the context that life must move on as if there is nothing more valuable to achieve, more beautiful to behold than our democracy, laws, and elections.

Suffice it to say at this juncture, there is no use of going into details on how the Audit was to be done because it was never to be. One could go into book after book, journal article upon article, etc. but the fact is that there was never to be an audit of the KIEMS, in the context of failed or forced to fail informatics projects in Africa, there has never been a greater white elephant – the IEBC staff could have as well reported electoral results by way of doing smartphone photos and posting them on Social Media platforms at almost no cost.

Was KIEMS worth it? For the reason that it remains unaudited and electoral results remained undisclosed the US\$500million+ expenditure on KIEMS shall have an eternal question mark.

Furthermore, a simple anti-plagiarism search on its Datacenter specifications, etc. shows that some of the specifications were plagiarized outright without any alteration – the particular document in question was the TENDER NO. IEBC/34/2017: SUPPLY, DELIVERY, INSTALLATION, TESTING, COMMISSIONING, AND SUPPORT OF THE IEBC PRIMARY AND SECONDARY DATACENTER EQUIPMENT in January 2017.

What is more puzzling about this particular specification document was that the system specified was to interact with 60,000 devices, apart from this being above the number of Kenyan polling stations which were about 40883, such as system would have not been necessary and later OT Morpho managed to safely and securely transmit the data, without the use of this local Datacenter that was established some weeks before the General Elections.

All the IEBC needed to do was to migrate the data from the NTT cloud into its offices and relay it automatically to the Amazon Cloud frontend of KIEMS. At the time of the death of the IEBC ICT Manager Chris Msando, he had configured the Datacenter to automatically conduct this operation, but it was reconfigured not to do so, on the eve of the General Election.

On page 43 Item 12 of the Datacenter specification, there was an unrealistic expectation from the ICT Expert who made the specs, i.e. the system was to have a cyber-security capability to block all media, system call back from virus infected components. Without a specification of technologies and the protocol to be used, the requirement was a tall order even items such as infected documents can initiate communications with remote computing devices/systems, one they are utilized.

Most Kenyan tenders for big public procurement are settled in high-end bars, five-star hotels, and members clubs, over a glass of whiskey, wine, and the usual bit of gourmet or buffet, in the pre-bidding meetings all tender specifications are pre-set and fixed to suit only one bidding party, at times the same party is the one having created the “need” for the goods and/or services in question.

By the time the Tender is advertised in a newspaper or government website, any “stumbling block” in the way of advocating for prudent expending or alternatives, is usually disposed of by way of mysterious gunmen or other clandestine third parties.

When systems cannot produce the electoral results as to order, then in comes “Filezilla” the open-source platform, it was the parallel and unofficial results compilation system of the IEBC. In the unofficial network topology of the IEBC, it was parallel and completely separate from the official KIEMS that was delivered by OT Morpho.

As the OT Morpho system was dealing with Real results transmission issues, the SFTP platform was generating results, as was ordered and expected by the powers that be. SFTP in this instance acted as an unofficial collaboration tool between IEBC and external parties, it was, in fact, a system that was likely to have been created and implemented almost immediately after the untimely death of the IEBC ICT Manager Chris Msando. It was a platform created in great haste and was anything but a secure information system.

By around July 13, IEBC had established a Datacentre ostensibly for use in the General Elections. The use of Virtual Machine technology on Datacenter Architecture would pose a great forensic challenge if it became the main results transmission system – any result transmission system servers created on virtual machine mode of technology can be deleted whole without leaving a trace of the system or transaction audit long on the “bare metal” server. An attempt to retrieve any such data is the preserve of a few rarely available experts.

After the death of Chris Msando, all that one needed to do was to reconfigure a new result transmission system on a new virtual server at the Datacentre.

Even if the old virtual machines were retained they could easily be configured and if/when the need arose under the pressure of litigation, they could easily be destroyed without a trace especially since searching the “bare metal” server would be a tall order, furthermore, it could have its disk space formatted or easily replaced.

A pertinent question as to the validity of the election results would be found in the German ICT-Electoral Informatics document, “Analyse einer

Wahlsoftware” version 1.1 by Thorsten Schröder, Linus Neumann, and Martin Tschirsich - the issue of a global password for all electoral devices i.e. the KIEMS kits.

The KIEMS kits all had a global password e.g. “00”, there was probably nothing to prevent fraud by way of creating a list of “valid” KIEMS kits, after the Elections, when rogue devices other than those legally assigned had written the final results. Wouldn’t an Electoral Officer presiding over a polling station be at pains to explain the unique nature of his or her transmission that is written into the Central Results database especially since it is not required of them and that they lack the requisite technical knowledge to carry out such a verification?

If the KIEMS was localized to a polling station by way of QR code scan – what was there to prevent a second KIEMS kit from utilizing the same QR code scan to lock itself into the same polling station and to generate a different set of “favourable” results for the polling station? Only in Kenya can such serious questions go unanswered.

Understanding the KIEMS kits would assist your to determine where Dr. Miguna Miguna could have obtained his August 8<sup>th</sup> Electoral Results from, I do not believe for a moment that his supporters or ODM or NASA Kenya, managed to hack the Oracle 11g Database Management System on the NTT Cloud that was being run by OT Morpho which later rebranded itself to IDMEA. In any case, IDMEA or IEBC shall not publicly concede that their system was breached.

Before the October 26<sup>th</sup> fresh Presidential Elections in Kenya IDMEA conducted a preparation of KIEMS kits at a site in Machakos, Kenya [E22 (a)]. Given that it was tens of thousands of devices being reset Kenyans must have been involved in the process as it was manual.

Part of this preparation exercise included storing August 8<sup>th</sup> Electoral Data from the KIEMS kits into a manual database – it was this database that someone in the IEBC must have accessed downloaded and handed over the NASA Kenya, an outfit that Dr. Miguna would join during the electoral dispute, he would later from the National Resistance Movement to protest electoral malpractice and proclaim himself as its General.

Given his position as a legal adviser, he is more likely than not to have been at the forefront of litigation and entitled to receive any intelligence from the political coalition's sources. These sets of results were more likely to have been shared within the IEBC than those tightly controlled by a cabal of ICT staffers and who did not permit OT Morpho to release them.

The likes of the European Union Observer Mission and the West, in general, could not have given Miguna the data which at least they made the public believe, that they did not have access to. For them their only interest in Kenya is not democracy but what expensive items that the country can buy from their economies, how they can exploit the nation geo-politically as a security and military platform.

The West also seems very interested to have leadership in place in Africa, that they have access to, both at Government and Opposition level, to do things at their beck and call.

Wider issues, such as democracy, human rights, and good governance is only vital to the West in the Kenyan context to the extent that their interests are directly affected – a far cry from their stance in the 1990s when they assisted Kenyans in their struggle for democracy from a period of autocratic rule.

In terms of attempting to play Geo-politics from a regime friendly perspective, the West is not gaining much in Kenya, at least much less than China with their easy to borrow but difficult to pay massive Infrastructure development loans for Mega Harbours [E21], Airports, Railroads, Pipelines, etc. Similarly, the original KIEMS kits and systems were just another over-priced system introduced by a non-competitive Government to Government arrangement in 2013 just before the General Elections, there was no competitive bidding for the system that was supplied by Canadian Government funding [E22 (b)].

Though originally well-intended when it was conceived in the Commission of Inquiry into the Post-Election Violence of 2007/8, the KIEMS as a whole never guaranteed the integrity of Kenya's Elections the Judiciary both in 2013 and 2017 had more than ample opportunity to audit it but refused to do so or otherwise abdicated their responsibility in protecting the Constitution of Kenya via protecting the integrity of its electoral system.

The role that the KIEMS best served was that of a “Trojan horse” through which foreign private entities and governments pile up more unpayable debts on the already overtaxed Kenyan public.

KIEMS is the World’s most expensive electoral information system given that there was the prior expenditure in 2013, if added to the US\$500million+ of 2017, it would be very close to US\$1billion in informatics for the poorest people in the World. What is more, is that it has never been audited so it serves no purpose in protecting the integrity of Kenya’s electoral system.

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## Notes

[E1] Waqo Shuke's job description online at that time gave a deep insight into how IEBC generates electoral results

[E2] The informatics system had started on the wrong footing even before the death of the acting ICT Director Chris Msando. Those handling the docket were not very clear on how things would be achieved, leading to frequent disputes between them and the independent-minded Commissioners.

[E3] Raises some questions as to his grasp of ICT

[E4] Issue of IEBC systems software licenses first comes up publicly. Notably, if the software licenses are not up to date, then not only is the software being utilized illegally but issues of vulnerabilities due to the lack of software updates arise.

[E5] It seems that at this point IEBC had called in or deployed its retained consultancy to look into the matter of software vulnerabilities, and the conclusion was that ICT Director James Muhati was not assisting in the process. The only reason why that would become an issue for an Informatics professional is their failure to get the systems in order and another issue that would arise is if the failure to get the licenses and keep the system update has something to do with intentionally leaving the system vulnerable to act.

[E6] Shortly after this point in time the acting IEBC Director of ICT Chris Msando would disappear only to be found dead. Notably, his name Msando Chege was not a classical Luo name and would initially pass as a Luhya-Kikuyu name. He would also report to his family that he had been earmarked to permanently replace the suspended director, something that would be reversed to a great extent after his death, and the suspended director reappointed.

[E7] The BVR system was installed on an in-house server, it also runs on Oracle, but this has nothing to do with the Oracle System on the NTT cloud, its system management was an internal IEBC arrangement.

[E8] In this particular affidavit a very detailed explanation is given as to how 500,000+ more people voted for the position of President in the General Election than for the position of Governor or Senator. One of the main problems is that many polling stations lacked polling agents from all parties, and even in cases where they had representation, in many instances, Opposition candidate polling agents were denied entry or expelled during the process. The affidavit also alleges partisan conduct of the Police and IEBC personnel in areas where he operated. To facilitate irregular ballot marking and subsequent ballot stuffing, some voters were issued with more than one ballot paper for Presidential candidates. This was further facilitated by irregular decisions not

to use the KIEMS kits by the IEBC and late opening of the polling stations after some voters had dispersed.

[E9] Book offers a comprehensive introduction to the technology of database management systems.

[E10] Probably at the subversive urging of IEBC Staffers and Commissioners opposed to a genuine election, OT-Morpho did not comply with the terms and conditions set forth by IEBC Chairperson Chebukati.

[E11] Details of the functioning of the Dutch Electoral Results Transmission System. The compendium was also one of the best collection of E-Voting Technology papers anywhere in the World for the year 2013

[E12] Details of the functioning of the Germany Electoral Results Transmission System and its technical vulnerabilities as discovered by members of the Chaos Computer Club.

[E13] When it comes to informatics solution providers for Elections, most of them bring in pretty hardened systems, which are difficult to hack, if not their reputation suffers. In choosing Filezilla which was a good product but open source and configured by the users/administrators, IEBC staff were left with the option of configuring it at a low level of security, vulnerable to manipulation.

[E14] Comprehensive review of issues about State Capture and its effects, including Judicial and Electoral systems.

[E15] More specific technical details on the Affidavit would have boosted the reputation of the Law Firm and the Deponent.

[E16] EU EOM in its final report failed to tackle the issue of the KIEMS and its auditing, though the European Union and the United States of America Government had far-reaching legal and administrative powers, they failed to probe Kenyan Electoral malpractice even when there was evidence on the matter within their home legal jurisdiction, by way of cloud service data storage.



[E17], [E18] Davis Kimutai Chirchir explains in his own words how he believed then that the KIEMS functioned, though we today know that it functioned otherwise. IEBC probably explained to the Jubilee Agents that KIEMS as a whole functioned in a way that was within the realm of legal and constitutional provisioning, something that we now know was not the case.

[E19] Article details what is likely to go wrong when stringent digital election systems are put in place but the integrity and credibility of those manning them are in question as was in the case in Kenya.

[E20] Book is premised on the difficult to dispute the fact that Dr. Miguna Miguna accessed and possessed a set of electoral results, which may as well be the Genuine Presidential Election results of the disputed August 8th Presidential Election in Kenya. The only way to dispute that potential fact is by way of a server audit of the IEBC KIEMS servers, something that is not likely to happen as it would reveal obvious electoral malpractice and “rock the boat” in Kenya.

[E21] China Exim Bank extended a loan facility to Kenya for the construction of a standard gauge railway. The heavy downside of the lopsided loan was an obscure Clause 17.5 that held assets such as the said railway system, the Kilindini Harbour(Mombasa Main Seaport), the Nairobi Inland Container Depot, etc. as collateral for the infrastructure being constructed by the China Roads and Bridges Corporation. More so Kenya was not only to cede those assets in case of default but it is also to cede its SOVEREIGN IMMUNITY, ie. those assets would become part and parcel of the territory of the Peoples’ Republic of China in the event of a default and their laws and administration would rule over the facilities. Many developing countries e.g. Djibouti, Sri Lanka, Zambia, etc have fallen prey to that kind of scheming and lost sovereignty over their critical infrastructure to China. The port of Mombasa is frequented by a wide range of Navies from NATO and other democratic states, e.g. United States Navy, Indian Navy, Italian Navy, Royal Navy of the United Kingdom, etc. It is not only a commercial facility of the Republic of Kenya but also a military asset and base of the Kenya Navy to the extent that some critical shipments can only be handled by the facility.

[E22 (a)] French firm IDMEA sent a letter to the IEBC whose tactical import and result was to give it more time to prepare itself for the fresh Presidential election. It succeeded to some extent with having the date set on 26th October 2017. The letter was from Oliver Charles the OT Morpho, Vice President and General Manager, Africa, and the Middle East. The letter further stated that the results transmission system could not have been hosted in Kenya before 31st October 2017, the implication of the same is that the results of the fresh Presidential Elections were also not routed via a local datacenter, Filezilla, etc. In this article, the process is described as to how OT Morpho preserved the data from the KIEMS kits election results of 8th August 2017 one by one at a facility in Machakos, Kenya. OT Morpho also reset the results transmission system and voter register per polling station, for the fresh Presidential Elections during the Machakos exercise. Data preservation at Machakos was for any future audit of electoral results – this is an exercise that was not to occur more so due to the shortsighted nature of the NASA Kenya side when it came to the “Handshake” of the Building Bridges Initiative between Uhuru Kenyatta and Raila Odinga after the dispute of the elections of 2017 and the swearing-in of Raila Odinga as the Peoples’ President at Uhuru Park in Nairobi, Kenya on 30th January 2018.

[E22 (b)] There was a Government-to-Government agreement between the Canadian Government and that of the Republic of Kenya, for the purchase of hardware and the software license for a Biometric Voter Registration system. The parties to the agreement were the Canadian Commercial Corporation and the Government of Kenya, through the Ministry of Finance and the Canadian High Commission in Nairobi, it was duly signed on 24th September 2012. It resulted in the procurement of 15000 biometric voter identification kits delivered to the IEBC between 10th October 2012 and 9th November 2012. Before the Safran Morpho system, the IEBC had a different biometric voter registration system i.e. 1500 biometric voter identification kits and 300 poll books. As a pilot electoral informatics programme, they were supplied by Code International Inc.

[EZ] Abridged research profile of Dr. Nyagudi Musandu Nyagudi

## **CHAPTER 6**

### **Social Media**

Facebook was accused of permitting a collaboration with Cambridge Analytica, that was abused by the latter to exploit massive data analytics with a view of aiding the Jubilee Party of Kenya, to carry the 2017 General Elections in Kenya [F1]. The disclosure of the involvement of Cambridge Analytica in Kenyan politics was disturbing because of its lack of any ethical or moral grounding, in its methods. However, Facebook on its part accused an Academic working with Cambridge Analytica for misleading it by not making full disclosure during a data harvesting exercise [F2].

Cambridge Analytica's research involved Data Analytics for segmenting Kenya's population as relates to political sentiment. The activity was then headed by Dr. Alex Tayler – the Chief Data Officer Cambridge Analytica during the Kenyan Election period of 2017. Social media was analyzed for political sentiment and the same channels then targeted by way of ethnic bigotry inspiring micro-advertising.

This was notable conduct in an election where the Opposition claimed [F3] that 300 to 500 people lost their lives, and even more, conservative accounts from other organizations were substantial [F4]. Cambridge Analytica would go as far as claiming to run full-scale intelligence operations against political rivals of its clients, by way of engaging the services of private intelligence services.

The unspoken hopes and fears that Cambridge Analytica claimed to have targeted included those in the realm of ethnic hatred, something that was known to the whole world as a potential for large-scale political violence in Kenya. Some Kenyan political and government leaders including those who were clients of Cambridge Analytica were under scrutiny by the Prosecutor of International Criminal Court for war crimes and crimes against humanity, and some of those cases simply remain suspended.

The organization claimed to have run the political campaign for the Government in 2013 and 2017 including but not limited to writing speeches, manifestos, strategy, political branding, etc. i.e. but included the issues

“established” to be the political and development priorities of the Government in Kenya, that was not set by the people of Kenya, but by way of hired political consultants.

A notable and disturbing incident related to Cambridge Analytica’s involvement in Kenya politics came about during the 2013, political campaign period, one of its Consultants in Nairobi Dan Muresan, son of former Romanian Minister Ioan Avram Muresan, died working in Nairobi Kenya [F5], more so, because of the way and the time that it was revealed to the public. Was this possibly an incident of the cyber-operations and real-world kinetics?

Twitter is another very popular social media platform in Kenya, with #KOT i.e. Kenyans On Twitter, leaving nothing to chance and pulling no punches away [F6]. The widespread use of twitter in Kenya makes it particularly easy to search for any breaking news, simply by the application of an appropriate keyword into the Twitter portal search box.

The resultant Twitter feed would make one know where to avoid in the event of a problem, and localities where the main political events are underway, etc. One cannot be a respectable high profile politician in Kenya, without a Twitter account, complete with the verifying tick and frequent postings.

#KOT – Kenyans On Twitter, are some of the most aggressive social media activists in the Kenyan Political Landscape. Smartphones, especially of loaded with the Android OS and affordable hardware from places such as China, have made mobile Internet easily accessible to many Kenyans.

Kenyans on Twitter when not blinded by their occasional ethnic outbursts are very aggressive at defending the country especially from what they perceive as biases in the Western media, against a “modern contemporary and highly civilized” Nation-State.

In January 2019, The New York Times published a photo after the Dusit D2 Terror Attack, the showed the dead restaurant clients at their tables, after they had been struck by an Al Shabaab suicide bomber, who had carried a bomb into the complex on his person.

Kenyans On Twitter went “hot” with “smartphones blazing” against The New York Times, and the Twitter administration blocked the photo and the account

was shut down. The New York Times would later apologize after feeling the heat from Kenyans on Twitter and sampling the brunt of their collective international advocacy. The Media Council in Kenya also took up the issue.

Social media gives any intelligent, persistent, and eloquent person, a voice in the international arena, at a very low cost, i.e. Cost of a smartphone and Internet bundles, which could be as low as US\$50 in Kenya. An easily captured local and international audience can be amplified exponentially if the subject matter in question has got high veracity and sparks off a heated debate online.

During the 2007/8 Post-Election Violence period, the dominant mode of message broadcasts in Kenya was by way of SMS (Short Messaging System)/Texts, that were propagated directly via mobile telephone networks. The SMS system was used then by those in distress to draw attention to their desperate plight. Additional use of mobile telephones then was that of incitement and organizing violence. SMS texts were sent to FM radio stations, and radio presenters, would more often than not be helpless and some would later suffer from post-traumatic stress disorder and depression.

Come the 2013 General Elections in Kenya, use of Internet version 2.0 Social Media Apps was taking hold in Kenya, by way of growing use of smartphones, and its platforms such as Twitter and Facebook began to be widely popular with Kenyans of all walks of life especially the youth [F7].

The Dark and Retrogressive forces at play in Kenyan Politics, have co-opted mainstream media, by way of ownership and subsequent editorial control. Consequently, the Public and World at-large, cannot expect fair and balanced coverage as relates to Kenyan politics. Coverage is only fair and balanced to the extent that a mass media platform may lose readers if proven otherwise.

Cartoonists who are “regime” unfriendly are sent on leave until their contracts expire, after which their contracts are not renewed – The “GADO” incident brought in question the editorial independence of the Nation Media Group, which circulates Kenya’s largest daily newspapers, namely the “Daily Nation”. “GADO” a cartoonist of international acclaim, would later get his job and editorial freedom, at the Standard Group, which circulates, Kenya’s second-largest dailies, that is “The Standard”.

Less known citizen journalists, who use social media platforms, as their primary modes of distribution, are likely to disappear outright, have their fingers chopped off, be clobbered in the streets, or during interviews. The risk comes from functionaries allied with both the Government and the Opposition. Nevertheless, the Opposition runs a disadvantage in these operations, to the extent that they do not have the mechanisms of State, to assist them in enforcing their will, and to propagate their ideals under adverse circumstances.

Though in Statute there is medium freedom, one ought to be very cautious when exercising it, as it entails risks such as loss of income/livelihood and actual harm or loss of life.

Anonymity, as can be exercised when publishing on Internet version 2.0 Social Media Platforms is limited. To open accounts on popular platforms such as Facebook and Twitter, a mobile phone or landline number is required. In many instances, those are modes of communication that provide exploitable geospatial data, as to location and movement of persons, publishing certain materials.

Even if social media platforms are owned by reputable international brands, as long as they are domiciled in Kenya, their staff can be manipulated by political functionaries, leak certain critical data about the users of the platforms. Such leaks have occurred relating to emails and other confidential political communications.

A blogger was once pulled from a public transport van by armed persons, beaten, fingers smashed, and left for dead. Only the mobile telephony companies and Special Law Enforcement units could track him down by way of mobile telephony handset geo-location. His specialization was blogging on Education matters especially activities concerning the discourse within the Teacher Trade Unions.

Interactive Internet has become ubiquitous and free of charge even in some urban areas, with various institutions offering free wifi, such that anyone conversant with the technology can send and receive messages, and review news and a wide range of materials at least once daily. Notably, the service covers people who were previously only capable of communicating with handwritten and posted letters.

Local and international electronic banking and payment systems, have proliferated to the extent that it is now not within the control of the Government to control what its citizens are paying for. These electronic payment systems, feature in the payment business models that have made it possible for many a blogger to earn a respectable living. One need not have an office, good income could come from a laptop, smartphone, tablet, or other computing devices.

Increasing income has led to a class of politically active commentators, who can afford better protection by way of armoured cars, more discrete lifestyles, and wider readership, as well as better legal representation during litigation.

Professions previously unimaginable are now viewed as respectable, e.g. Political Spoken Word rapping. An interesting exploit of a local artist in this realm was the “King Kaka – The Rabbit King” who had a YouTube video #WajingaNyinyi with video several million views within a span of a few days late in 2019 – viewership that was previously inaccessible by way of Television is now easily accessible by way of smartphone.

Odinga a Social Informatics scholar in her thesis [F7] used online analytic tools, to quantify the impact of various persons on social media such as Twitter and Facebook. The analytic tools provided visualization of analytics for hashtags, authors, and keywords, on the Kenyan political scene in 2013. Ushahidi.com launched a citizen journalism platform around 2008, it was later instrumental in covering issues about civil strife and disasters worldwide. Her thesis [F7] explores the struggle between power and counter-power in the mass media, another theatre for hybrid warfighting.

This work postulates that credibility, trust, and character are paramount issues in the determination of the outcome of political competition. The implication of this is that destruction of perceived credibility and character assassination, is political warfare and a precursor to the taking up of arms and application of armed force, to resolve a dispute. As postulated by some that the collapse of civil order begins with the initiation of deeds of bad manners, including but not limited to bad-mouthing other persons.

Internet 2.0 platforms such as Twitter have also made it very easy to verify news and to determine fake news, due to the high rate of interactive usage. The

instant monitoring capability of Twitter feeds allows for instant comparative analysis of news feeds. And if there is a news item coming up on a feed such as that of Twitter and it is a weaponized news item, then the hybrid combatant has an avenue for an immediate and far-reaching response.

Live social media feeds offer a more comprehensive situational awareness of fluid widespread situations, and more so in an era when such feeds include embedded real-time audio and video feeds. A combatant who is adept at monitoring and consuming news from social media, with time becomes far less reliant on mainstream news media.

A wide range of situational awareness tools of Internet 2.0 are coming into service. A notable example of those tools is the LRA Tracker (an Internet platform that had been specifically designed to assist in providing geo-spatial data of the violent activities of the Lord's Resistance Army in the Central African Region).

Odinga's [F7] thoughts on citizen journalism would be well appreciated by those who lived through the political violence in Kenya 2007/8 – it was not easy or possible to get wholesome reporting from the mainstream media, as some of its content was alarming at the least and threatening in the worst case.

A case in point was such as reports on Joseph Karoki's blog, January 2, 2008, on the issue of Ugandan Forces making an incursion into Kenya's Western Province of Nyanza during the post-election violence period. The mainstream media couldn't cover the story or its subsequent progression due to the military and diplomatic implications of the same. The Ugandan incursion was only covered by citizen journalists, who had lower editorial thresholds (for better or for worse).

This Author however strongly disagrees with Odinga 2013, page 16 paragraph 1 – the 2013 General Elections were not peaceful. There was simply a realignment of political factions that allowed for the Powers-that-Be to direct political violence to a different segment of the political landscape. During the 2013 General Elections, there was the shooting of demonstrators in the City of Kisumu, Raids against Opposition political party offices, and the recalling of security details guarding Opposition party Presidential Candidates.



The Chief Justice was also threatened by regime leaning “unknown” persons, before the General Elections in 2013 – it was not a simple threat but an explicit written death threat. A point worth considering is that if a Presidential Election is disputed in Kenya, the Chief Justice presides over the Supreme Court that hears the petition. The threat against the Chief Justice, given that it was not resolved via investigation is an indication that any Presidential Election Petition had been ruled against the Opposition as a matter of *fait accompli*.

To the Opposition, which remains blindly deluded by a vision of a united and democratic Kenya, the utopia yet to be experienced since 1963 – they failed to see that threat against the Chief Justice then, as a *casus belli*, something that would end in an expensive loss of lives of their supporters. Losses that they never seem to have any recollection about in the long run, apart from the fact it is a phenomenon that usually pushes them into half-baked political settlements for selfish gain.

There is no long term promise that the use of crisis/disaster informatics such as Ushahidi shall lead to the prevention or de-escalation of ethnic extremism type of conflicts, as they also offer, the promise of assisting an adversary to geospatially located and profile potential victims who are in distress and dire need of help.

Observers of events in Kenya, such as scholar Odinga [F7] may not readily or openly appreciate the fact that Kenya has ethnic extremists and that no amount of civil discourse in social media, shall resolve this issue. Similarly for the Building Bridges initiative to sit and hope that Kenya’s politics shall be non-violent is wishful thinking. What the initiative ought to have done was to come up with specific resolutions such as:

1. Greater collaboration between Kenya’s National Government and the International Criminal Court
2. Creation of an independent security arm of the Judiciary to prevent its vulnerability to explicit or implicit threats by other arms of the National Security apparatus.

About 30 million Kenyans had mobile phones in 2013, 80% of the population is rural and dependent on local vernacular language FM radio stations for news.

Kenya's General Elections were not one-time events in 2007, 2013, or 2017, but they are a continuum of a long-term ethnic power struggle that is increasingly militarized, with its underlying objective being that of retention of national Political Power by way of capitalizing on ethnic networks and alliances to seize and thereafter retain the Presidential Election victories. There are no clear political manifestos, and whenever they are some, they are more often than not drafted in New York and London, with little or no local content.

Kenya's political violence, especially in an electoral context, is as a result of long-term structural, direct, and cultural violence, by the Powers-that-Be to facilitate their ethnic groupings dominion via Government. The violence is primarily targeted against perceived Opposition segments of the society, and the problems are not just about political leadership positions at the national level, but also cover the more tangible issues of land tenure as has been distributed especially in the Rift Valley and Coast regions of Kenya, based on ethnicity to the detriment of native dwellers in some areas.

Kenyan political analysts, rarely comment on this issue. With the benefit of hindsight, it is now clear that some of those settlements and unjust land acquisition, were a matter of structural violence against the native communities – an issue that is considered as “resolved” and not worth re-evaluating.

Ethnic structural violence by those in power extends to issues such as, the inequitable distribution of socio-economic opportunities for advancement which then translate to aggressive exchanges on social media, and direct violence on the ground, especially during electoral periods, because many view the elections in themselves as inherently fraudulently activities tarnished by way of direct violence, after which there are 5 years of ethnic and social strata based structural violence.

Though in 2013 and 2017, Kenya's Political conflict was waged on social media by the middle classes, it is a tool increasingly available to all strata of the society including the poor.

Social media weaponization on its own, may not easily change the facts on the ground so to speak. Social media establishes a mindset that motivates and enables certain segments of the citizenry to change the facts on the ground upon certain trigger incidents, which may be inevitable in the local political

scene. Exploitable geospatial datasets provided by social media also give combatants who can access and use them, an advantage in the event of armed conflict.

The fact that social media posting may be socially incendiary, does not automatically equate to the fact that it is ethnic bigotry or criminal incitement, suffice it to say that at times, the truth hurts which is no compelling reason for one not to propagate it.

There are some historical injustices and persistent practices of bad governance that require to be reviewed from a human and non-Kenyan angle, even if viewed locally within Kenya as incendiary and would not be published in Kenyan mainstream media – the more, the reason for their publication to a broader international audience via social media platforms on the Internet.

Gullible ethnically indoctrinated and poorly educated audiences are most likely to lurch onto complex dialectics of local problems, with hatred and violence, but that is not sufficient reason, to keep the truth under wraps.

Russian political consultants are new entrants into the African political scene [F8]. It is reported that they have been monitoring African social media such as that of Kenya, to generate know-how on how to exploit, political discourse therein in for tangible political gain. The Russian project shall benefit the wider Russian state in two ways:

1. By exporting of electoral technologies and government information systems to friendly regimes
2. The direct impact of African Electoral Systems

Russian experts on the “African Project” are based in the City of St. Petersburg, Russia, and are focusing on Kenya, South Africa, etc. Russian experts have also developed call-centers for social media electoral intervention campaigns. The Russian projection into Africa is also known to include private military contractor capabilities in places such as the Central African Republic.

The fact that geo-spatial flash point details e.g., On platforms such as Ushahidi can be exploited by the combatant rather than the intended emergency responders, is also explored in the text Kireia et al [F9], where the position that parties to a conflict can exploit the same to get a tactical advantage by way of

locating and harming people in distress. This recurring theme of exploitation of humanitarian informatics platforms for combat is recurrent in several papers, an indication of the overwhelming probability of its occurrence.

Internet 2.0 in Kenya, has its unintended consequences. People discover who they are when they use it, you “see” that “they” are from your ethnic group, or that “they” are rich, and you are poor. They also discover that their ethnic kingpin is lying to them after serious adversarial reviews and revelations by the crowd, who in most instances one would never meet or exchange ideas with.

North of Nairobi County is the County of Kiambu, the epicenter of Kikuyu political power and intellectual wherewithal. Kiambu’s proximity to Nairobi has led to the exponential growth of its real property sector, with many residential and commercial properties coming up in places that were formerly rural communities. Notably, there are historical disputes as to the ownership of the prime plots of land.

The increasing loss of communal lifestyle in the area as the Kikuyu communities are impacted upon by growing urbanization has resulted in the low strata of that society to view wider developments in that county from an angle of discontent.

Economic growth and Gross Domestic Product figures place Kiambu, well ahead of most parts of Kenya. Critical to the stability of Nairobi, Kiambu, and Kenya-at-large is whether the foci of economic prosperity is a preserve of a few, as seems to be the case.

The arena for these discussions is social media, where the wealth and growth of Kikuyu Elite, aka “Mt. Kenya bloc” influence is widely discussed; be it that they are the beneficiaries of economic growth in the dairy sector, government procurement, or the latest deals being questioned by Kenyans on Twitter #KOT. Though the lower strata of society in Kiambu, are now very well served by mobile Internet, and it is unlikely that the youth therein shall be blinded by ethnic extremism, which thrives on the inability of masses to debate issues and verify facts.

Crony capitalism and regulatory capture of the importation sector, especially as related to dealing in fast-moving consumer goods and motor vehicles, was a

cause of discontentment amongst the middle class of Kiambu youth in 2019 – who took to social media with threats of “Revolution”, something that was not normal in Kenya where political and economic power is held by ethnic cartels.

Monopolization of the importation sector by way of regulatory capture became a theme by Kiambu middle-class youth on Internet 2.0 platforms such as Facebook, Twitter, and WhatsApp. The threats issued therein against the Authorities were only previously, imaginable by other communities. The anger of Kikuyu middle-class youth who probably have roots in the lower strata of their society came to the fore and only because of social media.

To add onto the complexity of the matter was the fact that unlike the Luo slum dwellers who are easily machine-gunned during mass demonstrations, the Powers-that-Be are unlikely to machine-gun their ethnic political base for fear of a real street-based challenge because it is these political supporters are the same groups in the society, that got them into power.

The anger of the youthful Kikuyu middle class, took the Luo political class and Luo intelligentsia by surprise, as they had opted for collaboration with the Powers-that-Be to get a share of the “political cake” – figuratively speaking. Unlike many areas of Kiambu, communal land, work, and life, is still viable in most of Luo Nyanza, hereto wrongly perceived by some Kikuyu as their life and death adversaries.

Inevitably this has led to less political pressure on Luo political class by the Luo populace. There are all forms of rumours and tales spun to keep the Luo at loggerheads with the Kikuyu. A notable one is that Luos are coup plotters. No one ever talks about the political repression in the 70s, and 80s that could have led to the coup plots in the first instance. It is not also noted with equal vigour that a good number of the soldiers and officers who took initiative to bring back President Moi to Nairobi after the 1982 coup were Luos.

Senior military officers such as retired Lieutenant General Daniel Opande was involved in suppressing the coup, the Father of the Author of this book namely Shadrack Jorim Wamari Musandu, who controlled all the foreign news telex systems, that were government property, did not participate in or support the coup, Luo soldiers guarded President Moi at State House in Nairobi after the coup. The main reason why the Luo were taken as political adversaries, was

that they benefitted a lot from pre-independence education, something that gave them and still gives them an edge in an intellectually engaging activity.

Though communal living is an austere form of existence as long as National Security and Disasters are catered for by the State, one does not need much to survive and thrive. The rapidly rising real property and land values in Kiambu, and the growth of urban communities therein, on what was previously by-and-large Kikuyu ancestral lands, that was unjustly acquired and depopulated by the colonial government, is the genesis of Kenya's current political challenge, to the extent that colonial owners sold out the land to the wealthy ruling Kikuyu political class.

To alleviate the squeeze on the Kikuyu masses, they were allocated ancestral/communal lands of other communities, e.g. In the Coast and Rift Valley regions of Kenya. The native communities in those areas would rise against those they assumed to be "immigrants" in 1992, 1997, 2007, after the population growth of local communities brought about challenges in land use for grazing and settlement. Allegations and counter-allegations are still ongoing and easily searchable on Kenyan social media.

Other residents of Kiambu have lost their family land in a scenario of urban development, the "sly" and "enterprising" family member sells out the rest of the clan into poverty and landlessness.

The first indication of Kikuyu discontentment under the current dispensation, came around April 30<sup>th</sup>, 2019 when there was an attempted demonstration at Nairobi's Uhuru Park, dubbed as "The Peoples' March". It was organized primarily by the Middle and Lower classes of Kenyans most of them from the Kikuyu ethnic community, via various Internet version 2.0 platforms aka Social Media.

There was immense pressure from the government security apparatus, ensure that the march did not take off. In the end, those who attended were tear-gassed, clubbed, and dispersed. For many in the establishment, it was just a passing cloud but for the Kenyan intellectual, it was an eye-opener, an indication that all was not well in Kiambu.

A poll conducted by Pew Research Center [F10] found that 73% of those polled believe that sensitive national information is lost through cyber-attacks, with 72% considering such attacks as a conduit for electoral system interference.

In 2007, 2013, and increasingly in 2017 social media platforms independent from the State were responsible for publishing irrefutable evidence on high-level electoral malpractice, by way of interference with electoral management information systems. These included publications on blogs, YouTube, Twitter, and Facebook that have since been verified with the benefit of hindsight.

A positive contribution of social media platforms in the Kenya electoral arena was that they empower any committed Kenyan group to build a low-cost parallel nation-wide electoral result transmission and verification system, while at the same time allowing a committed person to build a support base without moving around. Civil society in 2017 was in a position to provide evidence of electoral malpractice in audio, video, photographic, and text/dataset formats.

That was possible in 2017 when smartphone technology became widespread in Kenya due to low-cost handsets from China that were loaded with the Android OS from Google, a software environment that is provided to phone manufacturers at almost no cost. A similar advantage was unavailable to local election observer groups in 2007, and 2013 as smartphone technology was not widespread then, most of the evidence had to be transmitted via SMS text which was easily challenged by third parties upon receipt as hearsay evidence.

By the time that electoral results documentation was brought in Nairobi in 2007 and 2013, they had been readily “polished” and “corrected”, to reflect the “true will” of the Kenya people (*sic* those in power). Nevertheless, in 2017 there was comparative photographic evidence of Election Result Documents, before their transport to Nairobi from far-flung parts of the country.

Indeed, the IEBC would turn to the use of Android OS and ruggedized Tablets to build its results transmission system for 2017. However, when it came to litigation, the same Electoral Management Board would develop “cold feet” and fail to open up the same system that they had procured to scrutiny by the Judiciary at the Kenya Supreme Court.

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Journal of Information Sciences and Project Management (IAJISPM|ISSN 2519-7711), Volume 3, Issue 2, pp. 364 – 377

[F10] Obara, Valentine; (2019/1/14<sup>th</sup>), “Cyber attacks “a threat to Kenya polls security””, Daily Nation newspaper, Nation Media Group, Nairobi, Kenya, page 12

## **Notes**

[F1] Cambridge Analytica officials claim to an undercover reporter from Channel 4 News during the sting operation, that they use espionage, bribery, and sex traps against political rivals of its clients. At the time Alexander Nix was the Chief Executive of Cambridge Analytica. Given the nature of their activities, having been caught with a hand in the “cookie jar” by the investigative reporter, they dissolved their business. But they are more likely than not to be conducting those same activities either as individuals or under different business identities.

[F2] Approximately 87 million Facebook users had their data harvested by Cambridge Analytica, by way of utilizing the “This Is Your Digital Life” app to scrutinize 270,000 Facebook users who had interacted with them. The users had not permitted Facebook to trade their data for deployment in unethical political campaigns. Also notable was that the European Union and the United States of America Governments did not follow up this matter in the Kenya context, given that they had the legal and administrative powers to crack down on Cambridge Analytica, in the past the West has pretended to be guarantors of democracy in Africa, in Kenya in 2017 they openly abdicated that role.

[F3] His figures have since proven to be difficult to dispute, since there since emerged a body of incontrovertible evidence, that there was illegal disposal of bodies of persons killed in anti-Government riots.

[F4] His estimate of the death toll of Opposition supporters stands at 500

[F5] Cause of death was not established, but if there is anything to glean from the case it is that the matter was disclosed by a former Cambridge Analytica

staffer Christopher Wylie – the implication being that he did not feel safe keeping the matter to himself. Dan Muresan worked as a consultant for The National Alliance party, the political outfit for Government before the current Jubilee party. Notably, Wylie tried as much as possible to make his revelation a published matter by doing so at “Global Byline Investigates” in London at the Frontline Club, he would also have the revelation broadcasted via Facebook Live Streaming for maximum effect. Wylie might have felt that Muresan was poisoned and more so because the investigation of death was in his viewed delayed beyond reasonable time – something that is not factual but significant. Why would someone harm Dan if that would be the case? It is not a fact that his death was unnatural and the political Opposition was not aware of his presence and work in Kenya. If he ate something it was either brought to his hotel room or he ate out with someone or someone entered his room illegally and harmed him. But also in his room alone, probably, he could have died of natural causes.

[F6] Article details the soft but far-reaching power of Kenyans On Twitter and the use of Twitter in Kenyan media campaigns and politics. It highlights how Kenyans are active in criticizing Western representations of their country. Social media gives any intelligent and eloquent person whole had previously no political voice instant and international audience which could multiply exponentially if the subject matter in question sparks off a heated debate online. Twitter has primarily taken over the role of short messaging text from mobile telephones to prime line Internet portals of media stations. During the post-election violence of 2007/8 many people in distress in the Rift Valley area of Kenya were sending text messages to prime-line portals of FM radio stations, given the scale of the problem then, the Radio Presenters would more often than not be helpless under the circumstance. Kenyans on Twitter further demonstrated their international clout in January 2019, when the New York Times Twitter account was shut down after Kenyan complaints – it had posted photos of persons who had died sitting at a Restaurant in the 14 Riverside complex after a suicide bomber attack – something that if widely publicized would in all certainty “impress” many in the Al Shabaab terrorist movement, as spread far was a motive.

[F7] Thesis has content and research on social media use in the Kenyan political scene.

[F8] The complexity of Russian hybrid conflict expertise, is a new factor in the continent that may lead to more adversarial politics in Africa.

[F9] “Contribution of Social Media Platforms in Conflict Management Case of Ushahidi Platform in Kenya”

[F10] Article was based on a poll conducted by the American think tank, Pew Research Center.

## **CHAPTER 7**

### **The Hacking and Kinetics – Part 1**

Are you running for Presidency in Kenya? It is now a matter of judicial record that Massive Electoral Fraud is a reality. Aware of this fact you need to hire a wide range of experts, e.g. Campaign staff, Forensic handwriting analysts; forensic document examiners; forensic digital photograph analysts; constitutional lawyers; cyber-security systems analysts; digital forensic experts; intelligence analysts; private investigators; process servers; political science statisticians; polling agents; election monitors/observers; crowd-sourced data analysts; command centres; datacentres; systems administrators for workplace software collaborative environments; armed security guards for offices; mantrap/car-trap security engineers; CCTV, alarm and telemetry experts, etc.

They are not going to play clean with you, they are going to harass you, and in the worst-case shoot at you or strangle you outright for obstructing their path to power. That is the nature of political contest in Kenya, and if you are an entrant at the highest level of the game, you better beware. I can advise you for free to hire everyone who can protect you.

One domain where the warfighting has become an issue is that of General Elections in Kenya, and most of it boils down to Cyber-warfare, before an outraged public, pours into the streets, and engages in a physical confrontation. So large are the geo-spatial datasets, that unless your staff is well versed in Informatics, they cannot tell what is going on – they are cooking results! The hunch should come in pretty early well before the confirmation, real-time tracking of datasets, and elimination of false alarms.

NASA in its wisdom set-up irreducible [G1] minimum, hoping that the Electoral Management Board, would take up their challenge and make an open system, and the election free and fair. The IEBC would open up a bit more after the elections of August 2017, allow for more transparency concerning the KIEM System, but all in all, in the view of more than fifty percent of the voters who had boycotted the elections, a decision had been made as to who would

carry the elections and come what may, victory had to be declared apparently as specified.

In a nutshell, this is what NASA wanted:

1. That electoral result forms were to be transmitted in photographic form and not via transcribed texts
2. That only scanned images of electoral result forms were to be sent via KIEMS to Tally Centres
3. The Electoral Management Board was to proactively announce the exact number of people who had cast their votes by 5 pm on the Election Day (These announcements were to be based on the KIEMS kit data tabulations before the counting began. However, when the figures came out during the second Presidential Election of 2017, they were contradictory and heavily disputed and corrected on several occasions by the IEBC).
4. The National Tally Centre was not to display results before they were verified at the Constituency level. In this instance, the Author was able to pick cases at the polling station level not accurately tabulated at the National Level both in the first and second Presidential Elections of 2017 (Given the fact that the Results Management and Transmission were to be heavily dependent on Informatics, it is safe to assume that these discrepancies were evidence of alteration of results at regional tally centres to reflect a certain outcome at National Level Tally).
5. No results were to be displayed unless political party representatives, were given full access to databases and their transaction logs (The Electoral Management Board, did not make an all-out effort to ensure that the NASA Kenya Coalition, participated in the repeat presidential poll. Though it had without NASA Kenya Authorization listed Raila Odinga as a Presidential Candidate, it did not make an effort to ensure that his concerns and those of his political partners were fully addressed, which led to his boycott of the poll. He was on the ballot paper without his consent and this led to the diminishing credibility of the Electoral Management Board and the Presidential Election thereafter).

6. The Mass Media was not to be impeded in its efforts to proactively report electoral results, to show how National Level results were compiled.
7. Presidential Candidates were to have representation at all levels of the tally system. This would ensure that only the right electoral result forms were transmitted and received along the results reporting chain.
8. Accredited electoral observers were to be allowed access to all levels of the system.
9. Candidates were to have Informatics experts representing them and to verify the result transmission systems at all levels.
10. Candidates were to have agents monitoring all matters of electoral logistics.

NASA Kenya Coalition would go-ahead to give its demands for the electoral informatics system, the publishing of these would prove that it had not properly grasped how the system functioned in the first instance. There was no single system, but a collection of unrelated systems databases, file servers, datacentres, etc. at both local and international locations. NASA Kenya had proposed that Independent International Experts be coopted into managing the IEBC Information Systems, some level of power that IEBC was not about to share.

In NASA's demand that the Results Transmission database was to be designed on the Oracle platform, and overseen by Oracle Consulting would not have been accepted by a captured IEBC. IEBC had already lined up its consultants into the scam elections many years before, it was very easy for the IEBC to evade this demand by way hiding behind public procurement laws and tight schedule of electoral processes.

NASA would make a further demand that IEBC migrates its production databases to the environment configured by Oracle and that it further contract Oracle to directly support the databases during the elections. What was not clear to NASA, then was that the KIEMS kits were transmitting electoral results to an Oracle database abroad but that database was not being used in reporting electoral results. The results in Kenya were being reported from manipulated SQL servers and a Secure File Transfer Protocol server.

The NASA irreducible minimums also did not embrace the use of Cloud Servers for electoral results, notably, the results in the cloud server were so

accurate that the IEBC did not avail them to the Supreme Court during the First Presidential Election petition.

Eliminating the foreign cloud servers and deploying all the result databases in Kenya, would easily lead to their destruction by way of force, or manipulation of their content by way of threatening the Informatics Managers. The failure of NASA Kenya to grasp this in the first instance was an indication that they were not immediately conversant with how electoral fraud was being committed as a whole.

There would be additional demands from NASA as to how the System Administrators were to logon to the KIEM Databases, the catch was that if you do not know that a system exists then, you cannot audit it for logons if its owner is not forthcoming with information.

The IEBC did not fully disclose its electoral information systems infrastructure and used the one that produced “favourable” results to call the election. The commission Oracle database vault, audit vault, and firewall that NASA understood to exist in the irreducible minimums, had nothing to do with electoral results but was that containing confidential voter information.

The elections had been rigged from the start, down to the existence of non-gazetted polling stations, simple tinkering with informatics was not going to correct things without goodwill on the part of its planners and beneficiaries of the lopsided planning. The IEBC was not going to disclose the functions of the world-beating rigging infrastructure to all and sundry.

No computer source code, no database content, no honesty, no free and fair election, do what you want – you will just be voiceless at that. It was not about deploying Blue Chip Consulting firms or providing service transparency, the electoral outcome had been determined, and effected by shenanigans, to undermine the democratic will of Kenyans.

NASA also wanted to the IEBC to provide the physical address where the server hardware was resident and to ensure that the electoral systems were compliant to local legislation and that the data was stored within Kenyan jurisdiction.

At this point, NASA was none-the-wiser, as what was in dispute was the political leadership of Kenya, and that hosting the server physically in Kenya, would in the worst case lead to the murder of IEBC staff and a physical attack on the infrastructure. Even before the Elections, the ICT Manager Chris Msando had been murdered, in a case that would be followed up with one of the poorest homicide investigations in the World, for such a high profile killing.

Chris Msando was murdered to allow for a fundamental change in the KIEM Architecture, i.e. to allow for the disconnection of the autonomous sourcing of electoral datasets from the NTT Cloud implemented by OT Morpho Saphran. The autonomous connection was substituted by two Air-Gaps, the first was between the Local Datacenter and the NTT Cloud while the second was between the Local Datacenter and the Front-End on the Amazon Cloud Service. Those two Air Gaps were filled with Physical Meetings, Filezilla and Sharepoint Collaborations, Operation Centres, Partisan Political Entities, Academics, and Lawyers.

These Air-Gaps were asynchronous in Nature, they did not have a specific workflow due to the chaotic nature of a General Election that lacks established systematic workflows for each dataset. What was agreed upon to be convincing by those involved was immediately posted to the front-end server for public consumption? That seemed to be the *modus operandi*.

Some of the areas of interest of the NASA Kenya informatics team, included ICT infrastructure layout, a list of supporting partners, full disclosures of service offered, and other pertinent documentation. Yet again, this was another instance of NASA Kenya “chasing the wind”, in a General Election that had already been decided before the actual voting.

To bolster the reputation of the IEBC after the nullification of the Presidential Election in August 2017, there was the appointment of Albert Gogo as the ICT Manager for the rerun, he was the Commission’s South Coast Coordinator before his appointment [G2].

Given that there was another more senior ICT staff at the Commission then, his appointment was indicated that of the Chair of the Commission taking greater responsibility to ensure that the rerun Presidential Elections would not be a flop, i.e. He had people he trusted placed at the most critical offices.



Though the rerun was also heavily disputed, the strategy paid off to the extent that the figures were easier to justify than in the first run of the Presidential Elections in August.

To observers in the Political Opposition, the integrity of the Informatics Infrastructure of the Electoral Commission would remain in question leading to the resignation of James Muhati [G3] in mid-March 2020 and it remains in question to date, until the IEBC becomes transparent on the issue of operation of its informatics.

In 2017 [G4] the retraction of editorial opinions, in support of the Presidential Elections of 2017 by the New York Times, etc., shone the light of understanding against the Western perspective, that choices of political leaders in Africa, elections have no consequences – to the extent of it must always be business as usual even when there are serious allegations of electoral fraud. As long as major industrial/commercial concerns from the West continue to trade “gainfully”, electoral process integrity issues have always take a back seat in Africa.

Shortly after the disputed Presidential Election of August 2017, evidence of malpractice would start emerging from information leaked from within the IEBC itself. The most damaging would be its internal memos [G5], this raised issues concerning the access to one component of the electoral reporting systems, the Secure Fire Transfer Protocol server of the IEBC. Chebukati called for the suspension of the ICT Manager James Muhati, the ICT Co-ordinator Paul Mugo, and an ICT Officer Boniface Wamae.

According to Chebukati then, the Officers had also acquired additional system credentials and escalated the credentials that they had – these allowed them to delete files, amongst a host of other illegitimate activities on the IEBC informatics platform.

Short of declaring it, the memo illustrated that there were no security measures on the IEBC informatics platform. Apart from measures directed solely at the objective of protecting the cooked up electoral figures, planted in the information system, there was nothing proper in the way of cyber-security. Even unknown IP addresses logged into the electoral system and performed administrative activities before, during, and after the elections.

A matter of interest that the Chairperson of the Electoral Commission would raise in his secret memo then, was that the number of gazetted polling stations that failed to send results was approximately equal to the number of ungazetted polling stations that sent in their results – it would be clear that accounting for every KIEMS Tablet was at stake.

Chebukati in his secret internal memo would demand a lot in the way of technical explanations [G6] on various discrepancies, in Electoral Information Systems operations, the first issue was why up to 10,000 polling stations failed to send in scanned Forms 34A (statutory reporting forms for Presidential Election results in Kenya), to the National Tallying Center.

Also notable was the complaint on the issue raised to the effect that then ICT Manager who replaced Chris Msando, was accused of creating a “superuser” account on Electoral Information Systems in the name of the Chairperson Chebukati, the rights to the account were then assigned to two officers of the IEBC, without the knowledge and consent of the Chairperson of the Electoral body. This account was used to undertake 9,934 transactions that inevitably resulted in a fraudulent General Election outcome.

The system in question here was separate and completely distinct from that implemented by OT Morpo Safran. The system in question was not the official known platform by the multinational concern, it was, in fact, a parallel system. In the memo of the Chairperson, he questioned the intrusion detection and reporting procedures carried out on the platform.

The ICT officials had also used a server that was deployed in the day-to-day, routine work for the critical and sensitive function of reporting electoral results, this was in contravention of an IEBC plenary resolution, that a dedicated and more secure server be utilized for that purpose. The use of informatics infrastructure that was routinely accessible to a wider range of persons in the organization, inevitably compromised the security and integrity of the electoral reporting system, as its access settings were known to many other staffers.

The Commission in plenary had also resolved that read-only accounts in for the National Returning Officer/Chairperson designated as [presidential@iebc.or.ke](mailto:presidential@iebc.or.ke) and the other as [results@iebc.co.ke](mailto:results@iebc.co.ke), at no point was it

ever permitted that an account to be created in the name of the National Returning Officer.

What was more disturbing was how long the persons in question remained in office after those particular manipulations and the fact that the Electoral Commission, did not see it fit to file a criminal complaint against them on its motion, something that only pointed to its fear of the Power-That-Be or acquiescence in the illicit activity.

The internal memo would further delve into other infractions, such as:

1. Why the KIEMS tablet global positioning system geo-fencing was disabled only 3 days to the General Election, shortly after the murder of the past ICT Manager Chris Msando?
2. Lack of statutory security printing features on electoral reporting documents
3. The fact that 10,366 polling stations texted in results but did not send in statutory reporting documentation to back the same
4. 682 polling stations had an equal number of rejected votes, *vis-à-vis* the number of registered voters in those polling stations, something that would be almost impossible in Kenya, by way of probability and statistics, and computational maths.
5. Why the KIEMS system did not generate real-time data on voter turnout and identity as it was supposed to? Particularly because it generated the data but it was not broadcast by the Electoral Commission, because during Litigation in the Supreme Court, the IEBC was able to inform the Judges with precision as to whether a litigant voted or did not vote.
6. The allocation of KIEMS telecom jurisdictions to operators who did not have reliable telecoms networks, in the regions in question
7. Also raised were issues concerning the general integrity of the whole electoral process.

In an indication that the NASA Coalition did not properly comprehend how the electoral process had been rigged, its reported irreducible minimums did not make clear the fact that the Oracle Database for reporting electoral results, was owned and controlled by Safran/OT Morpho and hosted on the NTT

Cloud and had completely nothing to do with the information systems controlled directly by the IEBC.

There was the false perception in some segments of the Kenyan mass media, that the Judiciary i.e. The Supreme Court of Kenya did eventually absolve IEBC staff from allegations of electoral malpractice [G7]. That was not done, because criminal intent as demonstrated in the concept of *mens rea* and criminal activity as demonstrated as *actus reus* can only be ruled out or proven after a Forensic Investigation, only then can appropriate and consequential Judicial deliberation, scrutiny and a Jurisprudential ruling be made.

By the time of the full Judicial ruling during the Presidential Election Petition No. 1 of 2017 at the Supreme Court of Kenya, no such investigation had been undertaken by Kenyan law enforcement the public perception is that the Law Enforcement is a personalized armed civil militia of the ruling political class. This perception has further been enforced by amendments of its founding statutes after 2013, these amendments did not enhance but reversed its operations and command independence.

There have been attempts to eliminate this perception in the Constitution of Kenya, as effected in 2010, but these gains were clawed back by way of subsidiary legislation thereafter, the effect of which was to have a Police force whose topmost officers were political appointees of the Executive, and the Presidency in particular.

The informatics of the electoral process in Kenya was supported by various documents, as set out in existing statutes. “Come-what-may” and many years, before the General Election, the IEBC seems to have decided to print electoral materials at the Al Ghurair firm, and no amount of regulation, legislation, and litigation was to change that fact [G8].

By the time of the elections, the IEBC had got a two-year contract with the Al Ghurair firm in Dubai to produce most of the statutory documentation. There was the position that the firm was to introduce elaborate security features from the documents it produced down to the packaging of the same. Amongst a raft of other measures, would include the reduction of ballot papers to 50 per booklet, and ensuring that the pallets were sealed down to polling station level.

The firm was also to install an end-to-end tracking system and ensure the visibility of the same thereby ensuring the visibility of tracking parameters from the printer, to constituency warehouse, to the local polling station. No such information was availed by the IEBC and indeed the “statutory” documents filed at the Supreme Court, were more like the work of a printer from River Road in Nairobi and did not originate from Al Ghurair in Dubai.

Like all other information systems, the IEBC did not avail any such information to the Opposition, only to present to the Judiciary, documentation that was printed in some back street garage printing press in Nairobi. The approved printers also did not take any legal action against the IEBC, leaving the Public to wonder where in the first place, did the results reporting documents in question come from? And what had made the genuine result reporting forms to be disposed of.

Though the KIEMS data was downloaded and later preserved by OT Morpho Safran [G9], the same service was not available before litigation of the first Presidential Election petition, where it was part and parcel of the contractual obligation for OT Morpho Safran and the IEBC.

There were several electoral information systems, all with parallel functions and disparate results, therein. Nevertheless, when you heard IEBC officials talking on live media, you would believe that there was one single electoral information system dubbed KIEMS.

Indeed when it came to litigation, after the August 2017 Presidential Elections, the disparate KIEMS contents were obtained by the Opposition by way of Court Order and Professional Investigative Networks. This is when it became clear that there were many different result transmission systems. Interestingly, one such system dubbed “FileZilla” FTP (File Transmission Protocol) Server [G10], would turn up results in Court that openly demonstrated collaboration with persons outside and external to the personnel the IEBC in the cooking of electoral results.

If KIEMS failed [G11], it was not for some reason of the wrong technology, poor planning, lack of funding, the wrong staff, etc. KIEMS failed because those rigging the elections were determined not to have it work, come what may. A lot of time, money and effort, was put into the effort to ensure that

there was no proper functioning informatics for electoral results reporting, that was accessible to the political Opposition and the wide Kenyan public.

The scrutiny order by the Judiciary [G12] of the Electoral Informatics System was thorough, but the resultant report was hollow in content on the premise that its Experts had been denied audit information for almost all the vital information systems at the IEBC. There are some instances where the system would not work due to obvious subterfuge and in other instances, it did not work well due to poor telecoms networks as a result of poor implementation and evaluation of the system thereafter [G13].

The system described by the IEBC ICT Manager in his replying affidavit [G14], was not availed for Judicial Scrutiny in both the First and Second Presidential Election scrutiny, though some of its output was presented to the Judiciary in the second Presidential Election Petition of 2017. It was particularly impossible to verify the facts, as the IEBC and Judiciary hid behind the guise of preventing a “fishing expedition”, an argument that holds no weight in this era of informatics, where the systems gather the evidence for immediate use.

There were many people in-the-know who were interacting directly with the IEBC and they contradicted [G15] it on matters concerning the route of result transmission, the obvious implication is that there was “a procedure” which the IEBC wanted the Public to “know, understand and believe” that Electoral results were transmitted with.

However, many people in the know were privy to a plethora of different illegal and alternative methods used in results transmission. As nature has it, there is customarily no perfect crime, the thief ordinarily carries, evidence away with him or leaves it at the crime scene.

The primary litigation support and facilitation tool for all electoral cases in Kenya was the KIEMS, but the Judiciary out of its questionable and wanting wisdom, if not folly see it otherwise in so many instances. In this era of ICT you cannot spend almost half a billion the United States of America dollars, implementing an electoral informatics system, then find its contents irrelevant and make judicial rulings based on unfounded hypothesis including litigation from decades ago, a time which a telephone had spindle dial. Some parties to litigation would make equally weak arguments about the KIEMS [G16].

The Judiciary's self-contradicting and self-defeating "fishing expedition" argument, is only comparable with the refusal to issue Court Orders from the retrieval of CCTV footage from shops close to the vicinity of a crime.

Elections are not a tool for simply declaring a Leader, they are a peaceful way of convincing the rest of the population that the result is acceptable, failure to which in most parts of the World, the outcome is frequently an intractable armed conflict.

From the Republican Democracy Constitutional perspective, no person has any right to rule or to make decisions that affect peoples' lives without being elected by those same people – anything else would be questioning the knowledge and abilities of the Public on issues Military Science and Armed Conflict, in any part of the World, though the risk may not be immediate, it is typically catastrophic when it materializes, even after Centuries.

The second paragraph in [G16] alluded to the fact that the Petition in question was "computer" generated, but it equally fails to grasp the significance of this very statement, to the extent that information held by the IEBC in KIEMS belongs to all Kenyans, and the IEBC is the Agency that manages its production and storage on the behalf of all Kenyans.

IEBC does not manage the information primarily by way of refusal of access, to the extent that the legitimacy of the Government becomes a matter of implausible conjecture, in the minds of vast segments of the Kenya populace. The only private data that IEBC holds is the data on the actions of voters but not the final consequence of those actions which are anonymous, some of which it does not hold in a ballot paper-based polling environment.

The outcome in terms of future elections, given the heavy investment on a broad range of electoral management information systems, is that election petitions in the future shall be *sui generis*, heavily dependent on forensics and scientific technicalities before the eventual and yet unlikely development of *stare decesis* in this fast-changing and dynamic realm of political affairs.

The document [G16] mentioned the procurement and performance of KIEMS kits, but the same document does not disclose why it cannot be used in the Supreme Court as a litigation support tool in each instance of electoral

litigation. To avoid litigation for which the IEBC spends millions of dollars, it could also open up the systems audit trails and data, for public audit, to convince any aggrieved part that the election is free and fair, by way of simple search and verification of what is already rightfully more than public property.

Despite the hundreds of millions of United States of America dollars, spent on setting up the informatics system for managing the General Elections in Kenya, the Electoral Management Board – the Independent Electoral and Boundaries Commission, would in its approach to litigation argue that the information in those systems was private data and not to be consumed by the Public or the Judiciary.

This would only be translated as implying the IEBC had abandoned its mission as the public body charged with managing the elections, and converted itself into a private contractor, conducting the private mission of ensuring that the political *status quo* remained in place “come-what-may”.

Notably, it was represented in litigation of the Presidential Election by law firms and lawyers who were closely associated with state/government/ruling party activities and functionaries. Injustice was not only done by the IEBC by way of choice of legal representation but was also seen to be as such by a wide segment of the public who were not happy with the outcome of the General Election.

To guard the wider public interest, the same way that the IEBC would hire lawyers to defend its case, it should have hired handwriting experts and other forensic experts, to back up it’s cooked up and forged supposedly statutory result reporting documentation if that was not the case. This would be a better approach for a “custodian of public interests”, rather than a criminal suspect type litigation defense of expecting and engaging in arguments of the burden of proof.

The IEBC collected KIEMS data generated during the General Elections on behalf of every Kenyan, this electoral data is not private but public interest data. IEBC is simply the Public’s agent and manager for the collection of KIEMS data, the Judiciary is the assessor, but all Kenyans are rightful consumers of the data post-election without the need for prior consent from the Judiciary or the IEBC.



Primordial arguments about “fishing expeditions” cannot hold in this era of electronic voting and electronic tallying when the only way to verify the outcome of a decision, is to allow participants and competitors to audit their systems.

Most of the replies in the document [G17] would have been easily and amicably settled by way of allowing for access to KIEMS data since the veracity of the electoral forms was in question.

It was possible to rig the hard copy election that was electronically reported by way of KIEMS informatics, this was used to facilitate the “fitting” of results into Forms 34A and 34B simply by having the mobile phone contacts of the Polling Station Officers returning the results and having unfettered access to incoming data tally streams. This scenario explains the many “errors” at the Form 34A and 34B levels. The only strict proof in the context of a Kenyan Election includes KIEMS data.

Geofencing capabilities of the KIEMS kits were not active after the death of the IEBC ICT Manager Chris Msando, a matter that raises the question as to where the electoral results were reported from.

The complexity of matters KIEMS would keep both sides of the political divide and contractors busy for quite some time. Raila Odinga would claim that the VPN was terminating in a private cloud [G17a] though he knew the Contractor was in France, it can be discerned that he was not sure under what legal jurisdiction the server was hosted. Cloud-based computing offers multi-jurisdictional replication of records, so it can be particularly difficult to know where an electronic document is stored.

On the date (27<sup>th</sup>/9/2017) the document [G17b] had partially replied to the allegations, to the extent that though its telecommunication network was by and large, modern and highly likely to be very secure with encryption via encapsulation of telecoms packets.

The proper way for delivering a Virtual Private Networking capability to the IEBC Results Transmission System of the IEBC, would have been by way of installation of secure encryption VPN tunneling software on the KIEMS

Morpho 2 Tablets, ensuring that the data was encapsulated right from the Tablet memory through to the IEBC Cloud Server.

As the system was implemented during the General Election the Telco couldn't vouch for the veracity of its security from the end of the Tablet, as the Telco was not privy to the software environment therein, and only had limited software loaded onto the Tablets by way of Mobile Telephony SIM cards.

Immaculate Kassait's Replying Affidavit would later directly contradict an earlier public statement by the IEBC CEO Ezra Chiloba, who was recorded on video stating that Forms 34B were physically conveyed to the National Tally Centre. In her replying affidavit to Presidential Election Petition No. 1 of 2017, paragraphs 75 and 81 on pages 18, 19 Immaculate Kassait made averments on the electronic conveyancing of the Forms 34B.

Either way, you look at it, when Immaculate Kassait contradicted Ezra Chiloba under oath, the IEBC was either confused or not honest, about some of its most fundamental activities, if not it was lying to the Public outright. The categorical nature of both of these positions is a pointer to the fact that the IEBC was two-faced on the issue. The contradiction of the same fundamental issue by two senior officers cannot be rationalized and explained in a polite, friendly, or well-intentioned manner.

Paragraphs 75 of and 81 of Immaculate Kassait's replying affidavit also reinforced the position that handover notes were not statutory or regulatory requirements, as pertains to handing over electoral materials, but given the speed of processing of election results, and the huge volume of physical and virtual materials, common sense would dictate that as a matter of administrative competence, there should be hand over notes.

Likewise, though KIEMS kits and related laptops may be removed from the statute and regulation, prudent judgment demands that in the aftermath of an Election, if they were purchased and utilized, they become part and parcel of the containers of data that must be used in determining litigation concerning an Election without challenge.

Election of the political leadership of a Nation as large and as complex as Kenya should not be by way of highly sublime conjectures of mischief only

understood by the questionable “victors” (and their lawyers) of the flawed process. Elections in the simplicity of explanation, are the channel by which the general populace is convinced to accept the political leadership of their country, lack of consensus does not enhance the stability of the country thereafter.

An analogous argument would be that handover are not a mandatory statutory or regulatory requirement of the Kenya National Examination Council supervision during exams, but they are usually made and delivered as a matter of necessity and good administrative practice.

KIEMS kit data could not plausibly be mere statistics because the entry of votes *vis-a-vis* voters present was meant to prevent the practice of ballot stuffing. The only reason why KIEMS kit tablets were not brought into play in litigation was to cover-up ballot stuffing and other forms of fraudulent election result generation.

Untrue to its nature, IEBC should be a defender of the interests of the Public beyond the incumbent’s interest to say in Presidential Office. The IEBC should have therefore provided expert evidence on its own motion to disprove any forensic aspect in question instead of challenging litigants against their Institution based on the burden of proof.

Any evidence needed including the supporting forensic reports should not be an issue for IEBC to avoid by way of the burden of proof, but should be attached to IEBC affidavits, and referred to accordingly as appended documents.

African Presidential Elections are not simple exercises at determining the democratic will of the population, they are high stakes political poker games, where regulatory and state capture of not only the outcome of the process is an issue, but more about the subversive criminal capture of an entire nation and all that is its socio-economic destiny is a matter of interest to the citizenry.

The correct mindset of examining the process is by assuming that the laws, rules, regulations, procurement, administration, and outcome of a General Election has been rigged in favour of the winning party, then proving otherwise.

Ethnic and cult supremacy leaves no room for a free and fair process. If a top contender in an African Presidential Election is not a keen investigator, the process overtly becomes a powder keg. One cannot possibly get a free and fair result, without a concerted effort at monitoring and engaging in litigation, before, during, and after the Election. Western World's patience wore out on matters due process. When an incumbent can protect their special-interests be they natural resources, strategic access, procurement contracts, etc. they have completely no qualms rubberstamping even the devil himself.

In Africa when foul play is exposed, brute-force is usually the next tool brought into play, and one requires expertise, with which to discern the most likely actions and reactions. Sometimes it may entail having old colleague networks in the military, security, intelligence, and paramilitary organizations.

The act of subverting a General Election is not simply an act of political mischief or simple crime, it is an act of war in its very essence, a very *casus belli*, where the offending party openly dares the Public or a significant segment of the Public to an armed duel. In the long run, one does not expect the Judiciary who are guarded by the "security forces" loyal to the incumbent to find that democracy has been subverted, as is the case in the African context.

In Africa where security forces are by and large effective private militia of the incumbent willing to maim and kill in exchange for material or administrative favours.

In paragraph 214 of her replying affidavit, the position of Immaculate Kassait that all ballot papers contained specific security features to prevent duplication misuse, preserve privacy, prevent fraud and counterfeiting, and to impose controls, proved false by way of Judicial scrutiny when many "statutory documents" were proved to have been forgeries.

When the Electoral Management Board in your country is vouching for forgeries, what chance do you stand?

It turned out that many of the documents used to return the Presidential Election results of 8<sup>th</sup>/8/2017, were crude forgeries from a back street printer type establishment, with barcodes borrowed from other organizations.

The cheap level of the forgeries demonstrated that those who were rigging the General Election, held the Kenyan public in complete contempt, and thought as much about their levels of intelligence, more aptly stated, it ended turning to be what the Kenyan Public would come to think about them when the scam was revealed.

The IEBC in its written submissions [G19] for Petition 1 of 2017, would give a raft of administrative, regulatory, legislative, and executive activities undertaken before the General Elections of August 2017, to ensure that they would be free, fair, and transparent.

Suffice it to say that all these measures were undertaken by an already captured state and governing mechanism, and were in all ways and means beneficial to the incumbent, to be ignored by the IEBC or to be effected in such a particular way only for the disadvantage of the political Opposition. Notably, though the electronic transmission of results was covered from Paragraph 68 to Paragraph 83, the IEBC did not avail of a single KIEMS kit for review during Presidential Election Petition No. 1 of 2017.

A forensic analysis of the First and Second Presidential Election results of 2017, would demonstrate that both activities were fraudulent at the core.

Figure [G20] (next page)

Figure [G20]

BENFORD'S LAW – TEST RESULTS FOR LEADING CANDIDATE IN 8/8/017 AND 26/10/017ELECTIONS									
X DIGIT 8TH	X DIGICOUNT 8TH	X RESULT 8TH	X TYPICAL 8TH	X DIGIT 26TH	X DIGICOUNT 26TH	X RESULT 26TH	X TYPICAL 26TH		
1	70	24.14%	30.10%	1	51	19.17%	30.10%		
2	35	12.07%	17.60%	2	35	13.16%	17.60%		
3	38	13.10%	12.50%	3	38	14.29%	12.50%		
4	53	18.28%	9.70%	4	42	15.79%	9.70%		
5	23	7.93%	7.90%	5	26	9.77%	7.90%		
6	25	8.62%	6.70%	6	27	10.15%	6.70%		
7	15	5.17%	5.80%	7	18	6.77%	5.80%		
8	16	5.52%	5.10%	8	17	6.39%	5.10%		
9	15	5.17%	4.60%	9	12	4.51%	4.60%		
BENFORD'S LAW – TEST RESULTS FOR TOTAL VOTES CAST IN 8/8/017 AND 26/10/017 ELECTIONS									
T DIGIT 8TH	T DIGICOUNT 8TH	T RESULT 8TH	T TYPICAL 8TH	T DIGIT 26TH	T DIGICOUNT 26TH	T RESULT 26TH	T TYPICAL 26TH		
1	25	8.62%	30.10%	1	51	19.17%	30.10%		
2	24	8.28%	17.60%	2	34	12.78%	17.60%		
3	52	17.93%	12.50%	3	39	14.66%	12.50%		
4	65	22.41%	9.70%	4	44	16.54%	9.70%		
5	49	16.90%	7.90%	5	22	8.27%	7.90%		
6	28	9.66%	6.70%	6	24	9.02%	6.70%		
7	17	5.86%	5.80%	7	22	8.27%	5.80%		
8	17	5.86%	5.10%	8	18	6.77%	5.10%		
9	13	4.48%	4.60%	9	12	4.51%	4.60%		
N = 290 Constituencies for 8/8/017 and N = 266 Constituencies for 26/8/017									

Figure [G20]

The analysis covered the issue of the “Leading Candidate” and Total Valid Votes Cast:

- (i) For the Presidential Election of 8<sup>th</sup>/8/2017, the results clearly illustrate a major fraudulent manipulation and almost total elimination of the Benford's Law phenomena [G21] in terms of total valid votes cast and indicative major manipulative changes done against the votes of all other candidates.
- (ii) For the 27<sup>th</sup>/10/2017 Presidential Poll, there is still a pronounced anomaly in the results in administrative and managerial operations of the electoral process as well as withdrawal of a Top Contender from the process must have reduced the scope of electoral irregularities needed to call the election in favour of the Political incumbent by way of reduction of competitive political pressure.

Mebane [G22] was not a robust study given that it was without background information, as to the kind of trickery deployed by the IEBC, ever so often.

In Kenya electoral fraud occurs by way of data fitting, figures are generated to be emplaced on the Form 34C Tally, then orders issued to ensure that the 34B and 34A Tallies are derived from the 34C tally are compliant with the same. Those orders are communicated via mobile phone and collaborative work via the Internet on various platforms, and there is anecdotal evidence on this type of electoral malpractice.

The number of votes per polling station that may translate to votes, was a number sequence per dataset is between 1 to 700 the case of the study [G22], this figure is not suitable for Benford's Law Analysis, a figure of 1 to 100,000 would yield more data points. The number of counties was only 47 and Benford's Law works best for datasets of 500+.

In the study [G21] there was empirical evidence of Benford's Law analysis functioning with a dataset of N=258, therefore the study that is Figure [G20] utilizes datasets of size N datasets of size 290 and 266 respectively, with the possibility of numbers ranging from 1 to 100,000+ voters, by and large, it was a more robust and better coverage study than that of Mebane [G22].

Threat materialization for electoral data in the KIEM System did not only occur on the system itself but well before the data was stored on the system, it had been generated by non-electoral and questionable means.

According to the book [G23] a cloud database management system should have a very low failure rate that is one of the very reasons for its existence and configuration. An experienced organization such as OT Morpho ought to have known well beforehand, all possible causes of Cloud Database downtime and configured the KIEMS Database on the NTT Cloud accordingly, to balance against any possible adverse outcomes, in the Cloud Database operations. There is every indication that OT Morpho configured the Database well and that it functioned well during the General Election.

A Cloud Database system has adjustable functionality parameters, such as Recovery Time Objective (RTO) – The period within which service must recover from a disruption occasioning downtime. Oracle systems offer the option of a higher RTO setting for near-zero recovery time. Oracle Cloud Database Systems also has a setting of active enabling of active configuration between datacentres.

Last but not the least is the Oracle Cloud setting option of Recovery Point Objective (RPO) ie allowable data loss e.g. In a banking system with high-speed transactions, the allowable data loss is zero, the same applies to a Presidential Election. A different scenario would be the storage of video frames where the loss of data may not be a matter that can be recognized by human beings, due to the infinitesimal lapses of cognition and many similar datasets readily available in the sequence thereafter.

With these insights into the capability of the Oracle Cloud-Database, it is highly unlikely that the system failed to capture electoral results. It is, in fact, the contention of this Author that most of those results were captured and their form and content differed greatly with the figures tabled by the IEBC hence their refusal to open the Oracle Cloud – Database system for Judicial Scrutiny.

One would wonder where from the MS SQL platform leaked was obtained. IEBC indeed purchased VMWare to be used to simulate the desired hardware platform and software environment (MS SQL), to run a parallel and unofficial KIEM System [G24] that was fraudulently used to call the outcome of the Presidential Election, by way of manipulated data. The Datacentre was to be a system that would automatically retrieve data sets from the NTT Cloud system that had been established by OT Morpho, but this function was disabled in the eve of the General Election.

At the time at which the local datacentre/recovery site [G24] was commissioned, it is overwhelmingly probable that IEBC Commissioner Dr. Akombe falsely believed that Data would be loaded from the KIEMS kits at the Polling Station directly to the IEBC portal via this local facility, which has completely no place in the formal KIEM Systems Architecture.

The question that most observers failed to ask themselves then, was how the data i.e. electoral results, would be loaded into this Datacentre. We now know with the benefit of hindsight that after the death of the IEBC ICT Manager Chris Msando, the data was loaded into this datacentre manually and not automatically from the Oracle Cloud Database System that was established by OT Morpho on the NTT Cloud.

The effecting of a modern datacentre/recovery site was an out of context and out of ignorance implementation of the KPMG Voting Infrastructure Audit.



A simple effecting of the recommendation that there be such datacentre and data recovery system, was done without the slightest consideration that OT Morpho had delivered that total requirement in its ICT solution.

The IIBC Secretariat headed by the Chief Executive Officer and charged with the day-to-day administrative running of the IIBC seemed to exercise some large degree of autonomy from the Commissioners' Plenary. The autonomy which was deployed to a large extent in the furtherance of nefarious schemes hell-bent in rigging the General Election in favour of the incumbent. At times the Commissioners' Plenary viewed the autonomy exercised by the IIBC Secretariat as outright rebellion.

In general, the Political Opposition i.e. NASA would find that decisions taken by the captured electoral board, comprising of both Commissioners' Plenary and the administrative Secretariat were to the detriment of their political fortunes. This would be overtly denied in an Affidavit [G25] that sought to illustrate that IIBC was an impartial and effective organizer and arbiter of the General Elections.

Though the IIBC Chairperson would make an address before the fresh Presidential Elections of 26<sup>th</sup> October 2017, calling for political tolerance and exuding misplaced confidence about his organization's ability to steer the process, he as an individual and collectively with the organization he headed failed to meet the standards to carry the confidence of the vast majority of the Kenyan population – as was to be illustrated by the low turnout of that poll.

In his address, it is clearly illustrated that he felt that political dissatisfaction with the process would result in economic decline and potential loss of human life.

The Thresholds were not met during, and immediately after voting in the fresh presidential elections were for example, that provisional results were not transmitted as provided for because IIBC had provisioned the OT Morpho KIEMS kit tablets for an “infusion of legitimacy” by including the uninterested Raila Odinga, the main Opposition Leader in its system, though he had withdrawn himself from the process, to provide the fresh Presidential Election with an iota of legitimacy.

However, after litigation IEBC, ended with 8 candidates on the ballot, as such the KIEMS kit had not been configured to transmit 8 sets of data, but only 2.

This technical inadequacy translated to a lack of polling station by polling station live (real-time) tally system e.g. on TV that was transparent to public viewers.

The Commission published KIEMS kit performance records simply for show but again declined to reveal the data that the system had logged into the OT Morpho Safran Oracle – Cloud Database system that was hosted on the NTT Cloud. As a result of this action, it was again impossible for the Kenyan public to adequately and independently verify the outcome of the Kenya Presidential Poll of 2017.

The National Returning Officer of the Presidential Election who is also the Chairperson of the IEBC cannot verify the submitted Forms 34B against the Forms 34A, that would be too much of a job for a single person. 40,883 Forms 34As, cannot be handled and verified by a single individual, within the timespan of a few days. However, the National Returning Officer miserably failed the Kenyan public by objecting to their calls to access the data, and draw his attention to any anomaly or error, that they knew of or had become aware of.

The refusal by the IEBC, i.e. its Chairperson as an Individual, or as an organization of which he was a member of to avail the data can only be translated to the fact that even in the instance of the Fresh Presidential Election of October 2017, the IEBC had something to hide from the Kenyan public in the way of massive and deliberate electoral malpractice.

In litigation, the NASA Application [G27] put it bluntly that fiction, criminal, imaginary, and baseless Presidential Election results had been declared and imposed on Kenyans, and the Judiciary would later get a public and open threat against them from notable persons in the society for finding the same.

Though the application opined that data transmitted by the KIEMS kits, with the benefit of hindsight we now know data was logged onto the local system at the IEBC Datacentre in the NTT Cloud after the 8th August 2017 Elections, but that the IEBC failed to publish the same instead opting to generate a fiction

as the outcome of the General Election, and went ahead to use the same to call the Presidential Elections.

The KPMG Audit that wrongly inspired the Datacentre and Disaster Recovery site for the IEBC had its critics [G28], such as “Kura Yangu Sauti Yangu”, civil society organization. When it comes to matters National Presidential Elections, the IEBC is run more like a political power allocating secret society, rather than a National Electoral Management Board.

KPMG Audit of the Electoral System was supposed to have reviewed the legal frameworks governing the elections and the voter registration process. The voter register was plagued by issues of duplication, incomplete entries, and personal identification detail errors. The resources to facilitate this review included the registry of births and deaths, the national identity database, and the national passports records. True to its secret society nature, the IEBC had not had handed over the voter register to KPMG by 19<sup>th</sup> April 2017.

KPMG did not interact with the voters themselves for purposes of recording their user experiences related to IEBC operations. In the short, the voter register audit was a desk-based clerical work operation, largely dependent on cross-checking databases – it had little or completely nothing to do with real-world checks and verifications. Voter to list and list to voter methods of electoral system auditing methods were not used according to the report [G28].

Even after the Presidential Elections of 26<sup>th</sup> October 2017, during litigation, it was not clear as to what comprised the national voters' register. A composite collection of different and at times completely unrelated documents were assumed to be the voters' register.

On the fresh Presidential Election day, the KIEMS kit failed to give the results of their voter identification function in the counties of Nyandarua, Nakuru, and Muranga [G29] which are strongholds of the Jubilee Coalition, possibly giving it an undue advantage in its strongholds that have had previous electoral accountability issues.

The voter identification function does not require telecoms/internet links and can be resident on other back-up KIEMS kits that can be easily flown in by helicopter. It is not stretching one's imagination too far in the context of the

Kenyan Election, that these malfunctions were deliberate or not proven otherwise.

In its audit report [G30] of the Kenyan Electoral System, KPMG did not issue a detailed account as to where it had obtained prior institutional experience in auditing electoral systems audits on matters such as voter registers, and the efficacy of the same in resolving difficult political disputes, such as those experienced in Kenya during election years.

Hundreds of millions of dollars of Kenyan taxpayers' money was spent on audits, ICT, etc. The Presidential and in some respects the General Election of 8<sup>th</sup> August 2017 was bungled by the IEBC, the nullified and voided by a ruling of the Judiciary.

The voter register used in the 26<sup>th</sup> October 2017 Presidential Election would be a complex mosaic of several databases and hard copy books, bringing into question the efficacy of the KPMG Audit in the first instance. There is a marked distinction between the audit of a voter register and research on a voters register. In publicly available documents, KPMG did not give any empirical backing for its audit methods, and spent considerable energy heaping criticism on the vastly experience civil society, terming their suggested methods as research.

The audit confirmed that the register of voters database was not tested for data security by way of ethical penetration testing and that the IEBC had not done any informatics infrastructure penetration testing. During the weeks close to the Election the IEBC would offer its systems for crowd-sourced hacker testing by the Public but failed to fully disclose to the Public, what comprised its systems, and where they were located on the Internet if not physically accessible.

No incentives were offered for the ethical hacking. Given that the multi-million dollar budgetary outlays of the IEBC and its extensive informatics infrastructure, without a “bug bounty” no worthy hacker worth more than his or her weight in gold, gold would disclose a zero-day exploit to Microsoft, Dell, IBM, Oracle, etc for free.

To the “casual observer” including many who should not bear that label, like Western Diplomats in Nairobi, the IEBC arrangement for the polls went on well. IEBC would also publish various statutory notices [G31] to show that the process was on track, ie that the Biometric Voter kits had been retrofitted for voter registration, the software environments had been upgraded at both application level and operating system levels, that the system accounts were properly configured, etc. etc.

Did the KIEMS kit tablet load data onto the IEBC Filezilla Server that was presented to the Public as the KIEMS server? Absolutely no. The KIEMS kits communicated directly with the Oracle Cloud Database hosted on the NTT Cloud. Filezilla does not seem to be an integral part of the IEBC Informatics Infrastructure.

It runs on major operating systems but not Android, hence it did not have its clients loaded, installed, and configured on the KIEMS kits in the year 2017.

With the benefit of hindsight and the departure of no less than a Commissioner from the IEBC, something that now makes it impossible to alter past IEBC Plenary minutes, the Author asserts that the Filezilla server seems to have been established to facilitate fraudulent external result fixing collaborations. This was done in conjunction with pro-establishment political actors who were external to the IEBC. It is an open-source and free software platform and was not procured by the IEBC but was deployed more as a system used for convenience upon afterthought.

In its court order [G32] during Presidential Election Petition No. 1 of 2017, the Supreme Court of Kenya presided over by the Chief Justice and President of the Supreme Court of Kenya David Maraga, casts its net wide as well as fishing lines, it went on a fishing expedition knowing very well that the electorate had been cheated in one way or another but the evidence was not readily available.

The Judiciary opted to do what they have always advised the cheated citizenry not to do, i.e. it went on a fishing expedition to seek concrete and tangible evidence [G33] as to what was the electoral fraud, but ended up being taken round in circles and came out with weak or no evidence, after an effective denial of access operation by IEBC. Its final ruling was inferential to the extent

that the IEBC had not opened up for scrutiny, then it surely had something to hide.

The Judiciary ordered for all manner of systems inspections certificates, audit logs, informatics infrastructure details, internet protocol addresses, etc. Even at the time of completion of the Authoring of this book, the information about the 2017 General Elections had not been revealed to Kenya, even though the Right and Freedom of Access to information, is codified in the Kenyan Constitution and its related subsidiary legislation.

The sequence of hacking at the IEBC Datacenter in the eve of the General Election before it could have been automatically replenished with live streams of KIEMS data from the NTT Cloud was determined by way of analyzing the Server Error Logs for its MS SQL 2008 Server [G34] of the system [G35] that the IEBC had set up in its local Datacenter.

The logs revealed that on the eve of the Presidential Election, the Datacenter configuration had been configured in such a way as to prevent its proper functioning and allow for the tampering of the election results.

Though the head of the ICT Audit Prof. Elijah Omwenga did a good job in Presidential Election Petition No. 1 of 2017, one of the biggest questions on the scrutiny of both Presidential Elections of 2017, is if he i.e. Professor Elijah Omwenga was related to the Jubilee Party ICT Expert for the same sets of litigation Brian Omwenga? That is something that they owe the Kenyan public especially because the ICT component was still troublesome in the Presidential Election Petition No. 2 of 2017, where the ICT scrutiny was equally as controversial as in the first petition.

The Judiciary would allege then not to be keen on a fishing expedition, which some quarters of the Public could have as well translated into some segments of the Judiciary being uncertain as to what would “happen” to its Lead ICT Consultant if there was a second adverse ruling based on his incisive analysis. If there was ever an undisclosed relationship between the two ICT Experts [G36], it would raise questions from the realm of the digital and systems forensics not brought to bear in Presidential Election Petition No. 2 of 2017 and the ethics therein.

Though this Author is not insinuating any form of wrong, they were both employees and/or contractors of the Kenyan Government at the University of Nairobi, i.e. School of Computing and Informatics, where Professor Elijah Omwenga was or had been a Senior to Lecturer Brian Omwenga.

It is the take of this Author as a former academic at a Kenyan public university he would not expect a full-fledged adversarial confrontation in the professional sense during the Presidential Election litigation, something that is expected as a hallmark of litigation and forensic expertise brought to bear in a court battle.

A major component then of the Jubilee Government strategy was to deny the opposition coalition NASA, of the Expertise to react to its ICT mischief. This was achieved by way of deportation of ICT Experts that the NASA Coalition had hired from West and Ghana [G37], [G37a].

The ICT Experts hired by NASA were John Aristotle Phillips, Andreas Katsouris, and two Ghanaians. These experts all had valuable expertise on previous Presidential Elections in other democracies. NASA was nevertheless ably supported by Professor David Ndi, an Oxford and Nairobi educated Economics Expert who was just as skilled at data and number crunching.

There would be an attempt to abduct and maybe eliminate him thereafter the General Election, as was reported on local media. He would disappear after an arrest at the Kenyan Coast only to be produced in a court in Nairobi, after which he was spirited away from the court and only probably survived because his supporters pursued the car that took him away from court in Nairobi during a high-speed chase to Kenya's Thika Super Highway.

Confirmation about the deportation came from Aristotle's spokeswoman Ms. Travis in an interview with the Associated Press. A report on the episode was made at the Parklands Police Station OB number 31/05/08/2018. The foreign experts were training the NASA on how to run the ICT Operations Rooms tasked to trace their electoral tallies and gather evidence on any questionable calculations by the Independent Electoral and Boundaries Commission.

Their wealth of experience was critical but not irreplaceable in Kenya where there is a well-educated population in many parts of the country. Those who hired them may have had the perception, that the evidence that they would

generate would be free from local bias, more than the “fact” that they had irreplaceable expertise.

Kenya’s national vote tally systems are the weak point with which democracy is frequently sabotaged. Declaration of Presidential Election results given the opaque and secretive nature of IEBC operations, sparked off days and nights of rioting, and almost unrestricted use of live automatic gunfire to suppress the disturbances in areas such as the Kibera/Kibra slums of Nairobi [G38].

The gunfire was a good as that of any other warzone in the World, but the disturbing aspect about it was that those being shot at with automatic gunfire did not have any guns, body armour and ballistic helmets to speak of, i.e. it was simple and clear unjustified carnage.

In Nairobi military involvement in controlling events was clear when a Military Puma Helicopter overflew the slums of Kibera/Kibra on the afternoon of 10<sup>th</sup> August 2017, as a psyops warning to the residents of the slum to “behave” regardless of their political grievances or face the prospect of deployment of almost unlimited kinetic force against them, by the wider organization flying the helicopter.

That is the only explanation for the flight which then departed and flew North East of Kibra as if to return to a base which was likely to be in the direction of Eastleigh.

The IEBC had difficult questions to answer about Regulation 82 of the Election Regulations that provides a legal basis for the transmission of Provisional Results from the polling stations level to a National Preliminary Tally before the compilation of the final tally, this particular regulation was developed to make it hard to rig the tally but has never been complied with, to allow for the rigging of the National Tally, in direct contravention of a process as stipulated by Regulation 76.

This process is laid out in statute in Section 39(2) and (3) of the Election Act as was detailed in the IEBC Election Results Management Framework.

After the digital rigging of the National Tally, various kinetic operations were conducted to pacify the local population, especially in slums presumed



Opposition strongholds [G39a], [G39b]. This was done to make them accept the results for fear of outright unlimited violence.

In Kibra, for example, armed militants stormed the slum and opened fire, and the situation was only less lethal because some areas of the slums were impassible to the motor vehicles that brought in the raiders and because the areas residents had managed to obtain intelligence on the impending raid probably because they were alert as a warning must have been circulated to ethnic groups deemed to be loyal to the ruling establishment.

Residents openly claimed that the raiders came in “Police” vehicles. From this Author’s information, the attack began around 11:30 pm on Sunday.

Residents claimed that the attackers wore overgrown dreadlocks, but at the same time had operational headgear of local law enforcement. Some had tied their dreadlocks while others had let them hang loose. What was particularly disturbing was the fact that the slums of Kibra were under security siege when the raiders managed to get in. The inference to be drawn from this is that they were let in by someone in Authority.

In Mathare, there was an equally disturbing situation, but somehow the residents were more thorough at investigating what had happened in their locality. The raid in Mathare started at around 9 am, so it is safe to assume that the raiders were nearer to their home ground as it would take longer for them to travel across the city to the Kibra slums.

Mathare residents openly claimed that the raiders had “Police” vehicles with hidden number plates. Tear gas, clubs, guns, live ammunition, and beatings were the tools of choice deployed, by the private militia to “pacify” the locals. Another claim is that the spent cartridges left behind by the raiders were openly labelled Kenya Defence Forces.

Even as kinetics were being used to pacify the locals, it was obvious that the zillion dollars investments in the KIEM System, had not paid off and if it had paid off, there were acts of unexplained carelessness [G40], that did not bother the administration of the IEBC since the Presidential Election results were of their preferred outcome. A clear example was the case in question where the former area Member of Parliament Hon. Ayiedo Olweny was listed as the

ODM Candidate instead of Muhoroni Member of Parliament Onyango K'Oyoo.

Olweny's name was absent from the ballot paper but somehow his "votes" were tallied and he was leading the count from the day before by 13,000 votes, the main contender Hon K'Oyoo's name was missing from the internal portal which was a "mistake" that should have taken a few minutes to notice and rectify unless the Systems Administrators had more pressing issues such as cooking the overall electoral outcome and could not attend to obvious administrative work.

So entrenched was the intrigue and fraud, that even the observers who included the Carter Centre, The African Union, The European Union, and the British Commonwealth, did not manage to put their fingers on the problem, due to the complexity of the informatics issues, in contention and the lack of skill-sets within those observer groups.

The Kenya Defence Forces gave a promise [G41] before the Judiciary that it was not capable of keeping, it purported in court that it would not play any role in security during the Elections. NASA Leadership and Legal Teams were sufficiently and irrevocably naïve to have taken this "reassurance" at face value.

This resulted in NASA withdrawing the application in court to stop the deployment of KDF personnel to "keep the peace". High Court Judges Joseph Onguto, Chacha Mwita, and Rose Aburili endorsed the NASA decision to withdraw the prayer.

With the benefit of hindsight, NASA had correctly claimed that the Government would deploy KDF in their strongholds to scare away voters under the guise of conducting security operations, more so because the Kenyan Presidential Election allows for the undertaking of a run-off if there is no clear leader by way of certain parameters.

KDF Chief of Operations Brigadier Fredrick Lokia swore what would turn out to be a false promise that there was no directive for the military to disenfranchise Kenyan voters, something that we now know was done in Kibra slums by way of a Puma Helicopter overflight encircling the area of August 10<sup>th</sup>

2017, in the ensuing atmosphere of fear, many of its residents left Nairobi for their rural homes.

Immediately after the overflight and the accompanying persistent gunfire in the slums, many residents, especially of the Luo community, would start to flee the area for their rural ancestral homes in Luo Nyanza, in a move that would change the urban demographics had it come to a run-off. The specific timing of the overflight was a clear indication that the results for the General/Presidential Election being processed in great secrecy, would eventually come out in a disputed format.

The hacking in Kenyan General Election is not a matter of simply hacking computers and having the results declared it is also about creating an environment of fear and intimidation, undermining the confidence of the public to seek justice by way of lethal kinetic operations and administrative action.

Immediately before, and after the rigging of a General Election in Kenya, the State habitually comes out in its true colors of an East-Bloc type Communist dictatorship, more so an ethnically inspired one. Air travel is closed to Government Officials and Opposition Politicians, an obvious threat of imminent physical action if not harm, that is meant to intimidate all and sundry. Such are the kinetics behind the cyber-warfare.

IEBC Commissioner Roselyn Akombe [G42] placed into a police cell at Jomo Kenyatta International Airport, she was prevented from boarding a flight to New York on that Tuesday night. She was to leave the country at 10 pm. The United States of America Ambassador Bob Godec had to intervene to get her out of police custody, where after she was transferred to the Government Pavilion of the airport, allowing her to wait in dignity before she boarded her flight.

Akombe's desperation to leave the country then was illustrated by her use of a past government clearance letter that had Authorized her to travel to the United Arab Emirates between July 27 and July 30, 2017. She was going to New York, why would she produce a letter that was not fit for use? Her deployment of the wherewithal and clout of the Ambassador of the United States of America to Kenya was further proof that she did not trust the Kenyan Authorities then.

In professional circles word was going around that she had a United States of America marine guards instead of a Kenyan guard, something that must have drawn the anger of many an ethnic supremacists to the extent that she was untouchable. Her arrest was probably triggered by the use of the immigration PISCES Information System, which was an initiative provided to foreign countries by the Government of the United States of America, as a counter-crime initiative.

Another Informatics luminary of the NASA coalition during the Presidential Election Petition No.1 of 2017 in the ICT realm was Geoffrey Osotsi. He gave the Jubilee Coalition no breathing space, for him it was all or nothing, his bullfighting approach to litigation and resolution, was probably responsible for the Authoring of the NASA Irreducible Minimums for the fresh Presidential Elections.

Osotsi was an ICT Expert in Kenya's private sector with about 12 years of experience. He held a Bachelor of Computer Science from Egerton University, a Master's Degree in Information Technology Management from the University of Sunderland, MBA from Jomo Kenyatta University for Agriculture and Technology, and a Master of Arts degree in International Studies from the University of Nairobi – undoubtedly he was Kenya corporate pedigree.

Osotsi would only fail in one point that he was dealing with a Specific Determined Selection and not a General Election – it was not about intellectual arguments in informatics that would carry the day, but pure old brute force, crime, corruption, and ethnic extremism.

In Paragraph 7 of Geoffrey Osotsi's Affidavit, 1 [G43a] mentions Waqo Shuke, the IEBC staffer charged with "Data Migration and Business Intelligence" as per his LinkedIn profile then, notably in the business of Elections data analytics and business intelligence would inevitably translate to projecting or presenting the outcome of the elections. Waqo Shuke should, by all means, have been the person tasked to present to the Judiciary scrutiny team, information concerning the dataflows from the NTT Cloud to the Datacentre to the Amazon Frontend.

In his deposition in his first Affidavit in Paragraph 2, Osotsi asserted that on the material day results started streaming in at an almost impossible 17:15

hours, it is safe to assume that polling stations such as those at Prisons had counted votes, filled forms, and were transmitting results, therefore very little could have been deduced from this assertion unless the specific polling stations in question were given, which could only be achieved via KIEMS audit.

One of the most critical issues that Osotsi raised in Paragraph 4 of his first affidavit was that an IEBC official presumably Waqo Shuke produced some electoral results in Microsoft Excel Spreadsheet format, which was not the “resident” format of the NTT Cloud database, in all certainty a confirmation that the data from the KIEMS kits were not only undergoing format transformations but also qualitative and quantitative “polishing and fitting”. Those were not Osotsi’s words but that is how this Author who is also an Informatics Expert sees it.

Osotsi in his Affidavit 2 [G43b] gave an elaborate explanation as to the specificity of the KIEMS kit tablets to IEBC Polling Stations, but even this perspective was empty to the extent that IEBC did not offer the corresponding evidence in Presidential Petition No. 1 of 2017.

Almost 3 years after the General Elections of 2017, the IEBC was still releasing results to the Public. And the equally angry members of the Public hurling insults at the Institution meant to unify all Kenyans but had now turned to be a very reason for the potential disintegration of the country.

The issue at question is not whether the IEBC got its figures wrong or right, or whether the members of the Public were rightfully questioning it. The bottom line was even then the IEBC had not availed the KIEMS Database Data on the NTT Cloud to members of the public for scrutiny and was hell-bent on printing piecemeal reports on the outcome of the Kenyan General Elections of 2017.

Some Civil Society Organizations such as ELOG Kenya [G45] reviewed the election as largely free and fair, they did not bring in their intellectual wherewithal to scrutinize the facts. Many other non-governmental organizations found this activity to be time-consuming and dangerous and attracted armed raids from the Authorities under the guise of tax investigations.

In its civil society activities, ELOG Kenya had not taken on the Incumbency in an adversarial fashion even when the facts were readily available. Nevertheless, a notable was the observation of the missing Electronic Poll Books from some polling stations something that opens up those voting points to ballot stuffing and falsified data transmission, as there is no proper way to identify voters and verify their credentials.

“Kura Yangu Sauti Yangu” would publish a report [G46] that was hard-hitting against administrative malpractice in the General Elections of 2017, one such observation was that of discrepancies between results at the polling station level on hard copy documents and those broadcast via the IECB KIEMS Frontend ie the results portal that was available for scrutiny by the Kenyan public.

The simple inference to be drawn from this occurrence was that IECB was generating figures somehow completely independent of the electoral process and thereafter publishing them and claiming that they were the outcome of the General/Presidential Elections.

It is not impossible to understand where this data fitting was occurring, but before every General Election a huge financial allocation is provisioned for Intelligence Services, an amount for which has no accounting and subsequent accountability, in the IECB internal documentation results, were transmitted before the Election.

A structural weakness in the IECB is that the majority of its Staff is primarily reserve and part-time, and this personnel is hired primarily on a temporary contract, i.e. The organization has no consistent and periodic training for its staff on systems and procedures during five years before any Presidential/General Election. That leaves a lot of room for maneuvering by staff hell-bent on misguiding electoral officials in particular if such persons are in the IECB and have an in-depth comprehension of its systems, procedures, and regulations.

The 2013 Presidential Election Petition ruling [G47] by the Supreme Court of Kenya, was yet another piece of unrestricted wizardry, where the evidence was struck out by the Judges on technicality e.g. Deadlines, an action that is explicitly prohibited in statute, then in an absolute lack of good faith by the

Judiciary, the Petition was found to be lacking in merit – all this as the key evidence remained untested.

Though in 2013 ruling Page 76 Paragraph 706, was the ruling that “...The annulment of a Presidential Election will not necessarily vitiate the entire general election...”, notably in Presidential Election Petition No. 1 of 2017 if the prayers sought by the Petitioner were granted it would have been inevitable that there was a negative bearing of the same on the wider scope of electoral activity e.g. Elections of Governors, Members of the National Assembly, Women Representatives, Members of County Assemblies, and probably the slots of nominated legislators.

Why? Invalid procedures, invalid tallies, and ungazetted polling stations and officers, etc, presents a picture of a wider criminal enterprise within that IEBC.

In 2013 facial recognition was to be utilized for Electronic Voter Identification, but this did not work out due to poor lighting as photos of voters were taken. The situation was corrected in 2017, to the extent that biometric reading of fingerprints was utilized. If some had it their way in the Government camp the electronic verification measures would have been scrapped altogether.

In the 2013 ruling [G47] Page 89, Paragraph [246], what was offered as proof of electoral malpractice is only the apprehension that the initial election vote transmission had maintained a suspect, steady differential between two sets of tallies and that this suggested manipulation. This was because the evidence had been thrown out based on technicalities.

The Petitioner sought to introduce certain information suggesting mismatches between the contents of the then Forms 34 and 36 as used at the National Tally Centre – contrary to the position of the Judges then, this was a matter of prime significance as the systems and network architecture, as well as the informatics work, flows at the IEBC were being scrutinized.

The scrutiny of IEBC systems shall raise major issues if it is ever to be carried out, the Chief Executive Officer of East Africa Data Handlers, George Njoroge, having taken sides with the IEBC and Jubilee during Presidential Election Petition No. 1 of 2017 which the IEBC lost, should automatically disqualify himself, his business and affiliates from any future audit of the

KIEMS or IEBC systems, as such participation would be viewed by substantial segments of the Kenyan population as a conflict of interests.

In past employment advertisements of the IEBC, there was a requirement of applicants, having to obtain a clearance from the National Intelligence Service, this unjust requirement gave the Government in power, the opportunity to fill an Independent organization with persons who were its cronies, as the Director-General of the National Intelligence Service is the National Security Adviser of the President appointed by the President himself, and it would be impossible to rule out that it may be in the personal interest to such a person to ensure that his appointing Authority remains in office in exchange of future favours from the Executive.

Once the National Intelligence Service has given clearances for its favoured persons for the Administrative and Information Technology positions of the IEBC, everything had automatically gone wrong from the onset to the extent that the Intelligence Services of many countries are quasi-criminal entities involved in forgery, deception, covert operations, fake identities, etc skill-sets that come in handy in the twisted electoral arena, that Kenya has turned out to be.

Years before the Election, the results were already cast in stone, by way of a Captured IEBC.



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and President of the Supreme Court; P.K. Tunoi; M. K. Ibrahim; J. B. Ojwang; S.C. Wanjala; N.S. Ndung'u SC JJ), PETITION NO. 5 OF 2013 BETWEEN RAILA ODINGA (Petitioner) AND THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION, AHMED ISSACK HASSAN, UHURU KENYATTA, WILLIAM SAMOEI RUTO, AS CONSOLIDATED WITH PETITION NO. 3 OF 2013, BETWEEN MOSES KIARIE KURIA, DENIS NJUE ITUMBI, FLORENCE JEMATIAH SERGON (Petitioners) AND AHMED ISSACK HASSAN, THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (Respondents) AND AS CONSOLIDATED WITH PETITION NO. 4 OF 2013 BETWEEN GLADWELL WATHONI OTIENO, ZAHID RAJAN (Petitioners) AND AHMED ISSACK HASSAN, THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION, UHURU KENYATTA, WILLIAM SAMOEI RUTO (Respondents) – The Ruling.

## **Notes**

[G1] After the problems faced during the first-run of Presidential Elections in 2017 NASA Coalition had ascertained in the Supreme Court, that there was electoral fraud and that electoral malpractice, this was partly done by way of Informatics. It would then publish a list of irreducible minimums before the Elections were rerun, to ensure that Electoral fraud was not an issue. Though at first look the measures, seemed to be comprehensive, it was also clear that NASA did not have all the facts, as the Electoral Management Board, IEBC was secretive in its work.

[G2] Early September a new ICT Manager Albert Gogo, was appointed. He was to report directly to the Chair of the Commission at the time of appointment. This was a clear indication, that the IEBC Chair Chebukati was beginning to develop a healthy mistrust for his ICT officers after the Presidential Election of August 2017 was nullified.

[G3] James Muhati resigned from the IEBC months before his term ended. His professional job assessments notwithstanding prior complaints were “excellent”. His five-year term was to officially come to an end in May. During the acrimonious 2017 electoral period, the Chairperson of the IEBC Chebukati, though publicly supporting his staff, wrote a secret internal memo, accusing the ICT Manager of creating his ICT system account without his consent and went as far as demanding that the former IEBC Chief Executive Officer Ezra Chiloba take action against him. His appointment to any other State Office shall automatically raise questions about data privacy and data integrity thereafter, as he has not had any accusation against him publicly resolved.

[G4] Quick to secure their business interests in Africa, Western nations and their Media organizations are usually very quick to point out that electoral losers are sore losers, to the extent that their business interests remain “as-is” i.e. “do not decline”, it is imagined in the West that there is a core of African intelligentsia, who can secure their interests in Africa and not possible work against them in any way. The overturning of the Presidential Election in Kenya 2017 by the Supreme Court, forced the Western establishments that had bad mouthed Rt. Hon. Raila Odinga, to quickly come out and swallow their own words.

[G5] The internal memo if considered would add to the number of documents that would bring the credibility of the whole electoral process into question. Elections are not about, victories and victors, they are a peaceful way of convincing the losing party to accept the governance of the ruling/winning party – failure to do so, is usually to the detriment of the electoral process itself, as its results would become rejected by a substantial segment of the population, making governance extremely difficult, by way of non-compliance by members of that segment with the leadership in question.

[G6] Gives additional details of the conflict between the IEBC Chairperson and some of his Senior ICT Officers

[G7] Author explains why Judges could not have absolved IEBC personnel involved in Electoral malpractice during the 2017 General Elections.

[G8] Elaborates on the dispute over the production of the statutory documents that would be used to execute the functions informatics system for the elections. Come what may, no matter what legislation, litigation or other action was undertaken in the IEBC seemed hell-bent in its determination to print all its documents at the Al Ghurair

[G9] Explains another aspect/level of the electoral reporting system that was not brought to bear.

[G10] FileZilla was not the statutory KIEMS database, it was a FileZilla that facilitated collaboration between IEBC staffers and political actors on the side of the ruling party. Though IEBC systems were designed to use predetermined institutional IP (Internet Protocol) Addresses, FileZilla has external IP addresses logging into it eg 41.60.238.....(Liquid Telecom) and 41.212.16.248 (Wananchi Network), these IP addresses dialing in were indicative of the fact that this particular FTP server was not the official results transmission system, yet its contents were used to call multiple levels of the General Elections. The fact that these IP addresses were not static, is indicative of the fact that the FileZilla system was easily accessible to a wider range of actors, including political actors on the side of Government.

[G11] Hare goes into detail giving the success and failure rates for ICT projects, from his data, he postulates, that 25% of ICT projects are irredeemable failures, 20% - 25% end up loss-making for those who implement them, 50% require serious upgrading, 54% of ICT failures are a matter of poor project management, and that only 3% of the failures can be directly attributed to technical malfunctions or obsolete technology. If the KIEMS did not work in 2017, the main reason of it to fail, was the capture of the IEBC by political actors, which left no space and time for proper informatics to be put into place, and when someone tried to put them into place, he lost his life.

[G12] Report [G10] was just one of the many components of this report. The report questioned the types, functions, and administration of system servers utilized in the electoral process. Also to furnished were details about their operating systems, hardware platforms, virtual machines, software applications.

These questions were not fully answered because the Oracle Server belonging to IEBC that is hosted on the NTT Cloud was not audited – also untouched by the audit and equally vital were the KIEMS kits and file transmission details. Amazon hosted the front-end of the electoral systems accessed by the public, these too were not audited. Additionally, the emailing and messaging servers of the Commission that probably had a lot of tangible evidence on electoral malpractice were also not audited. With the level of expenditure at IEBC would come issues such as Intrusion Detection systems that would also require auditing by the Team of Supreme Court-appointed experts, but those too were not availed for scrutiny.

IEBC had a wide range of operations that request Servers, including but not limited to Biometric Voter Registration, Biometric Voter Verification (Electronic Voter Identification), Email and Messaging, Workplace Collaboration(eg. FileZilla and Microsoft Sharepoint), Dissemination of Information to the Public (eg Amazon Web Services), KIEMS (Kenya Integrated Electronic Management system) Results Transmission System, Enterprise Resources Planning System, Human Resources Management System, and E-Slips. None of these systems was scrutinized apart from FileZilla which was not part of the official KIEMS informatics infrastructure. The refusal for scrutiny of the IEBC servers was unequivocal and daring and probably based upon a promise of protection from the Deep State apparatus.

[G13] The affidavit was strong and on point in its assertion that the National Tally Centre was broadcasting electoral results to the public that did not have Forms 34A attached, which were their instruments of verification, had the KIEMS kit been properly utilized. All in all encryption of the said information could not have been as weighty as to prevent its transmission, failure to transmit was some cases due to poor network coverage and in other instances due to subterfuge. So there was a combination of the two factors, failure to use technology in some areas of the country due to poor telecoms network coverage and in other areas due to obvious subterfuge against the democratic will of the Kenyan people.

[G14] In his replying affidavit for Presidential Election Petition No. 1 of 2017, the ICT Manager of the IEBC James Muhati would go into great detail, describing the secure informatics system used for the General Election at all levels, some of the security features include, a robust database management system, set up on clusters as a measure to ensure continuity with four levels of security namely granular role-based access control and user management. He also described the logon credentialing systems, levels and roles of users, and last-minute provision of the passwords, the only problem is that he did not submit the system in question for Judicial scrutiny and it was definitely not the FileZilla system, and that was a less complex informatics environment and was available free of charge online at the time.

[G15] In the process of explaining himself the Jubilee official gave his take as to how the KIEMS system functioned, which was different from the statutory system put in place. This was indicative of not less than two result transmission systems.

[G16] 3<sup>rd</sup> Respondent's Supplementary Written Submissions for Presidential Election Petition No. 1 of 2017

[G17] Immaculate Kassait's court papers would contradict public assertions of the IEBC CEO Ezra Chiloba, in some critical respects, eg. Mode of result transmission from the polling stations to the National Tally Centre.

[G17a] Paragraph 22

[G17b] Safaricom statement was made in good faith with nothing to hide, the only challenge therein was that the matter was complex and as such the complexity of the matter at hand would not be completely addressed by the Statement.

[G18] This statement of Ezra Chiloba would directly contradict what would later be sworn in the affidavit by Immaculate Kassait.

[G19] The document was an attempt by the IEBC to illustrate that it had prepared and run a free, fair, and transparent General Election – nothing could be further from the truth.

Figure [G20] The analysis demonstrated anomalies in the Presidential Election Results for the “Leading Candidate”, that was indicative of manipulation and/or generation of figures.

[G21] Efficacy of Benford’s Law was demonstrated in this article by way of the Example dataset that is, “Population of the World’s 258 countries, from 2011 through 2015 (Source – World Bank Group)

[G22] Mebane’s study was weak and not categorical not because he lacked knowledge or expertise in the field of Political Science and Statistics, but more because he lacked knowledge of electoral fraud in the Kenyan context.

[G23] Book contains some in-depth functionality details of the Cloud-based Oracle Database Management Systems

[G24] Though recommended in the KPMG Audit, this data centre/recovery site was not necessary upon the procurement of the Oracle-based system on the NTT Cloud. The local datacentre was the platform that runs VMWare and provided the location for the MS SQL Server that was used to generate fraudulent election results.

[G25] Replying Affidavit by then IEBC CEO Ezra Chiloba [G26] An Address “reassurance” of IEBC mainly to itself, the Judiciary and the incumbency that the Repeat Presidential Elections were going to be free and fair. More so of seeking to rubberstamp type approval from the Judiciary beforehand because the issues raised by the main Political Opposition were not addressed in the speech. After all, they could violently be suppressed after an Election, so there was a need to seek their approval or to meet them halfway. There was a tabulated document that would later accompany it.

[G27] Application against the Presidential Election of 8<sup>th</sup> August 2017

[G28] A Civil Society’s organization critique of the audit of the voters register by KPMG Kenya

[G29] These were in all certainty likely to be cases of Electronic Voter Identification Device system switch offs to allow for ballot stuffing.

[G30] The “Audit” of the Register of Voters as conducted by KPMG Kenya.

[G31] Legal publication detailing preparation for the General Election by way of informatics configuration

[G32] Judiciary cast a wide net figuratively speaking, in an attempt to get its finger on the pulse of what was a monstrous electoral fraud scheme. In its scrutiny it would focus on IEBC informatics infrastructure and order that relevant documentation and information be presented to the Judiciary, that they may assess the veracity of the final result that was published by the IEBC, in the end, it did not comply but attempted to confuse the Judiciary with unrelated but seeming relevant information.

[G33] IEBC Server Error Logs, as leaked by NASA gave a preview into the weakening of the system security by way of alteration of configurations on the eve of the General Elections. IEBC did indeed order precisely this type of system, as was evidenced in one of its procurement documents [G34]. The staffer who accessed and leaked it to NASA was able to do so because the Server Error Logs were not protected as other logs on the system, and are important only for forensics if the system itself cannot be accessed and the reviewer has got a good grounding in informatics and systems administration in particular.

[G34] Proof the IEBC had the information system in question, as the order was finally fulfilled and the Datacentre project inspected as per a newspaper report [G24].

[G35] An audit report of what IEBC ICT officials falsely claimed to be the KIEM System. The Audit Panel was not fooled by their mediocre presentation and reported them back to the Supreme Court of Kenya as non-compliant in



most aspects, leading to the nullification of the Presidential Election of August 2017.

[G36] This thesis was dedicated to Carren and John Omwenga, siblings Joseph and Arnold and girlfriend Diana

[G37] A common strategy of the Government during Kenyan General Elections, raiding or not investigating conclusive raids into Opposition party officers.

[G37a] Details of the ICT Experts who were deported and the nature of their work during the Kenya Electoral Period.

[G38] This newspaper details the nature of the confrontation between the Authorities and Opposition supporters in Nairobi immediately after the declaration of the Presidential Election results.

[G39a], [G39b] it is difficult to explain how such a prolonged raid could have taken place in a City as heavily monitored and patrolled as Nairobi, without the connivance of the Security Establishment in one way or another.

[G40] An unexplainable data entry configuration by the IEBC that could have been very easily corrected, if its staff was not transfixed on other activities such as delivering a specific outcome

[G41] The Military gave a promise that it was not capable of keeping, ie. to be independent during the General Election period. Unlike in developed democracies, the Military in Kenya and many other African countries is not an independent institution, it does not have independent prosecutorial and judicial mechanisms and all therein serve at the whim of the Executive, though that particular aspect is increasingly being challenged in litigation.

[G42] IEBC Commissioner Roselyn Akombe fled the country after pretending that she was leaving for official duty. Her flight from Kenya did not immediately materialize and her adversaries in the political class would in the long run hope that she would make the mistake or otherwise misjudgment of

returning to Kenya so that she could have been “dealt with”. She was a ranking member of an Autonomous arm of Government and the Police had completely no authority to detain her at the airport under prior directives of the Executive

[G43a], [G43b] – depositions by Geoffrey Osotsi in Presidential Election Petition No. 1 of 2017

[G45] ELOG Kenya was upbeat on the General Elections of August 2017, a process of which the Presidential Election results would be overturned by the Supreme Court, upon scrutiny of the evidence to the extent that there was widespread fraud and malpractice. In most of its activities in civil society concerning General Elections, ELOG does not have a record of challenging or otherwise scrutinizing the incumbency in an adversarial fashion.

[G46] This Civil Society organization comprises many Kenyans from different ethnicities and segments of Kenya. Its report was balanced but also hard-hitting against the IEBC, that had been caught with its “paw in the political cookie jar” figuratively speaking if not facilitating those who had been caught as such.

[G47] Ruling of the 2013 Presidential Election Petition by the Supreme Court of Kenya

## **CHAPTER 8**

### **The Hacking and Kinetics – Part 2**

By 8<sup>th</sup> August 2017, the provisional results were not streaming in from the polling stations as promised by the IEBC. They would be brought in via small chunks, after deliberation and manipulation. That was the first indication that all was not well in the General Election.

On 9<sup>th</sup> August 2017, Raila Odinga had already gone public [H1] about the matter. And given the number of times that he had lost Presidential Election Petitions in the past, he was either “crying wolf” as his opponents would put it or he had become very experienced at detecting electoral fraud due to past injuries that had been inflicted on his political career, the most notable being the General Election of 2007.

By this time the word on the street was that the IEBC Database, had been hacked. To clear the air, the Chief Executive Officer of the IEBC Ezra Chiloba would hold an unconvincing press conference that the National Tally Centre, the location this time around being Bomas of Kenya, a more isolated location that could not be overrun by supporters of political parties, most notably the Opposition, since the General Election was in the real and technical sense being stolen from them.

In the press conference, the IEBC attempted to reassure large segments of the Kenyan population about the security of the data transmission and storage systems. IEBC did not, however, offer any parallel error logs, to invalidate those that had been provided by NASA as having come from its server.

This was a significant action as MS SQL Servers delete their error logs automatically and routinely, either by default or as a preset function ie By the time of filing the Presidential Election Petition, it was to be impossible for NASA to seek to bring the MS SQL Server Error Logs from the IEBC Datacentre. IEBC would instead have a parallel document to challenge the

issue when it came up for interrogation during Presidential Election Petition No. 1 of 2017.

The IEBC denied to be the originator of the Error Logs, there was a growing body of circumstantial evidence, that they knew more than they were admitting, i.e. The fact that during a Press Conference at Bomas of Kenya, where the National Tally Centre was based, the IEBC CEO Ezra Chiloba did admit that the organization did admit the use of Adaptive Internet Protocol within the IEBC, was a pointer to the deployment of Microsoft systems and other “incompatible” software environments, that primarily interlink mainly through the protocol.

IEBC did on its motion place an order for VMware configuration of its Datacentre, and Vote ID Database Licensing issues led to the suspension of Muhati the ICT Manager, only for him to return after the death of Chris Msando.

A Top Lawyer and Politician Hon. James Orengo, named 5 police officers who were amongst the 15 raiders of the NASA ICT facilities, they were a Chief Inspector of Police, a Sergeant, and Three corporals. At one of the facilities on General Mathenge Drive in Westlands. A guard at the facility said 20 hooded men armed with rifles and pistols, forced their way in.

Their activities resulted in the capture of persons working in the facility who were primarily university students, and the logging down of their identities and specifics, this was probably done to blacklist them for life from Government employment opportunities without a right of reply.

They would become a “chew and spit out” issue for NASA especially ODM and Wiper Democratic Movement, who would immediately team up with the “Mt. Kenya” faction of Jubilee after the election without seeking compensation for injured/maimed and murdered supporters or seeking a proper probe into the happenings around the electoral period. To this day, their fate remains sealed, and “Wiper” and ODM see no evil, hear no evil or speak no evil concerning the injustices, against those who decided to work for them during the General Elections of 2017 and, before.

In Kenya, this was the Capital Offence known as Robbery with Violence. Where CCTV systems, computing platforms, and personal effects were stolen. It remains the clearest indication to date that Kenya is not a functioning democracy though more of a pretense. The details that were taken from the university students who were working at the facility would subject them to lifetime intelligence surveillance, as long as the regime remains in power.

From the brutal killing of the IEBC ICT Manager Chris Msando immediately before the General Election, one may think that he held some special password or token for logging into ICT systems of the organization.

Given the way his murderers made cuts into his body looking for chips, he is unlikely to have given them, any information of value even in the face of death and left them highly dependent on speculation, as to how to temper with the system that he had set up. This is because KIEMS was a mixture of hardware platforms and software environments, with no single entry point or common operation controls.

In this particular respect, it is difficult to believe the assertions of then the CEO of IEBC Ezra Chiloba, that were reported on the Daily Nation of the 10<sup>th</sup> of August 2017, that the “password” held by Chris Msando had been deactivated, as he did not possess the informatics skills and expertise to make such a judgment.

It was a false assertion for IEBC to claim that the Passwords were in sole possession of Morpho France, as the organization simply controlled only the system on the NTT Cloud and not the IEBC Datacentre that was in Nairobi and run by IEBC staffers. Morpho was also definitely not responsible for the poorly configured and abused FileZilla where IEBC staffers collaborated with external entities to cook up the election results. The hacking as evidenced by the MS SQL Error Logs also took place on the eve of the Election day negating this security measure.

There is a kinetic twist to the hacking of the General Election in 2017, it was probably common knowledge after the 2007 post-election violence which erupted spontaneously after the rigging of the General/Presidential

Election then, that the Kenya Public takes it is votes seriously and would not stomach the erosion of their democratic gains lightly, and would in all certain terms take to the street to violently demonstrate against the rigging that was being planned for 2017.

At this point, the Author would clearly state that he is a cited Military Expert in terms of the Eastern African theatre and has even been invited for interviews on the same by BBC World Service Radio. His analysis of the following matter is based primarily on his knowledge and experience as to what he estimates to be viable in the Kenyan political context and what he knows as possible given the captured nature of the Executive by special-interests.

A Military Officer would in the run-up to the General Elections, leak some military operations planning papers to the Political Opposition and the mass media. At first, the Government officials would admit that they were genuine and accuse those who leaked the information for being reckless. However, given the explicitly criminal nature of the contents of the documents, the Ministry of Defence and Kenya Defence Forces would later issue a denial about their validity [H4].

Based on his knowledge and experience of the Eastern African region and Kenya, this Author has made the irrevocable decision to assert that the “OPS Dumishi Utulivu” plan was not the “EX Dumishi Utuvilu” plan, and they were indeed a covert kinetic operation designed to undermine Kenya’s democracy by persons in the Executive.

The Author chooses to accept the first Government assertion that its documents had been leaked and contacts of its officers exposed and choose to reject its later denial of the documents but interpret it as an Executive and Official lifting of the Official Secrets Act, Laws of the Republic of Kenya, leading to the permission of discussion and analysis of the content in public fora all over the World, beyond Kenya.

Having safely assumed that the “OPS Dumisha Utulivu” documents were official documents, the following is an Independent analysis of the same.

There was Letter 1 Ref. No: OPS/SEC/08 dated \_ July 2017 that gave the Operation Keys for Communications, it demonstrated that those drafting the letter had a special interest in Kibra Slums and Mathare which are opposition strongholds. True to this letter the areas of Kibra and Mathare were attacked by unknown gunmen immediately after the General Election of 8<sup>th</sup> August 2017, before the announcement of the results, as if to pacify the residents.

Letter 2 was Ref. No: DHQ/OPS/03/COOPS dated \_July 2017 That gave the Programme for Formation Commanders Conference 2017 just before the General Election

Letter 3 was Ref: G/1001 which listed the 2017 Election Military Personnel Point of Contact at County Level. The counties listed were strategic in terms of voter numbers and the balance of counties required to carry the Election.

Letter 4 was Ref: OPS/SEC/1412 dated \_July 2017, it was radical in content suggesting that there were ethnic divisions and political factions in the wider Military Establishment. It was to select “regime friendly personnel chosen by way of tribe or locality”.

This was a pointer to the fact that it was known to the wider Command structure that in an organization assumed to be apolitical, yet they were entertaining ethnic and political factions. Not only was the wrong limited to entertainment, but additionally there was also the issue of exploitation of those undesirable divisions for certain political outcomes at the national level. This was mind-boggling in a country where those divisions are known to cause perennial political violence.

What made Letter 4 even more military was its requirement for new Soldiers who have not yet developed intra-organizational professional networks and are out to impress their Seniors, for a quick rise up the ranks. New soldiers are also less likely to report wrongdoing by their Superiors, for fear of reprisal. In its war crime nature, the letter contemplated a formulation for cutting utilities such as electricity supply, etc. to slum areas, by way of infiltrating the Power Supply Monopoly Company.

Letter 4 also demonstrated insider military knowledge because personnel who participated in the plot were to be given favourable postings of their own choice after the operation to subvert Kenya's democracy. They were also to be deployed by way of dispersion away from one another to ensure that they did not hatch their plots thereafter. It also instructed that they were to be paid by way of bank accounts and mobile money.

Letter 5 that was referenced as Ref: OPS/SEC/1400 gave the logistical equipment required for the operation that included Armoured Personnel Carriers, Crude weapons, Communication Jammers, etc. Notably, communication jammers were to be deployed at a time when the IEBC was engaging in electronic results transmission via mobile telephony networks while using KIEMS kit tablets.

In terms of the outlay of logistics, this Author estimates that at least 4 places were to be attacked. For those attacks to remain in the realm of plausible deniability they would have to be done at night, when the civilian population is generally at home immediately after the Elections.

The leaked letters do not disclose the full scope of operations as it is probable that the Officer who leaked them did not want to make leaks to the extent that they could be traced back to his role in the operations. It is also possible that the plotters also felt that the full scope of operations would cause unrest within the Military as an organization itself.

Letter 6 was even more loaded with more criminal mischief. It spoke of a meeting with the Representative of the Executive, and gave a Commander by the name of "Sunray" a common practice for persons who have been educated in the British Military system which is true to nature of the Kenyan Establishment, that also uses the Swahili word, "Mwangaza".

Letter 6 set a date for a planning conference and prepared the criminal acquisition for untraceable mobile phones. It also numbered the new soldiers they need at 226 and prepared the ground for cutting Electricity and Water supplies to the slums of Mathare and Kibra.



Suffice it to say that Military Establishments have constabulary systems and independent judge advocate systems to prevent criminal enterprise therein, but in the Kenyan context there is a legal lacuna to the extent that Military Constabulary and Judicial Officials cannot investigate all ranks because they are not independent entities, however, they are directly under the Chain of Command of those who they may need to investigate from time to time. To this extent, there is no proper Authority who can investigate these matters, until or unless there is a change in political power by way of a General Election.

The matter remains uninvestigated to date – a public denial is not an investigation regardless of who makes the denial. Even the person who made the denial in this context should be investigated. Given the nature of the plans, they fall well within the bracket of War Crimes in some instances, so they need not only be investigated by the Country where they were committed but they can be investigated by any other Government in the World, as infringements of International Humanitarian Law.

Military deployments were to be made where there was no military necessity. Unnecessary suffering was caused to civilians, there was no discrimination between civil and military objectives, and there was completely no proportionality due to the violence that was being deployed against civilians who were not fighting, with arms.

In this instance, some of the effects of the plan came to pass. Notably, even if they did not come to pass, planning, training, organization, and funding a war crime is a war crime, its execution need not come to pass for it to be considered a war crime. Besides in Kenya, apart from the aspect of war crimes, the matter was in its very essence a treasonable affair, regardless of how high the Authority planning it.

The Author acknowledges that it may be “juicy” to post copies of those letters in this book and analyze them, the officers named, etc. but that is a matter for an investigator who has a broader legal mandate to do so, and shall not be faced with litigation that has no backing from the wider mechanism of the State.

Suffice it to say, there was planning beyond the cyber-attack realm against the Election intending to pacify civilians. At the same time, there would be an engagement with Western Diplomatic missions who are traditional supporters of Kenya's democracy to make them go easy on the *status quo*, something which happened almost immediately after the 2017 General Elections – this was probably achieved by way of Foreign Lobbyists, etc.

The Informatics system for the General Elections was not only attacked by way of legislative, state, and regulatory capture, it was also captured by way of a series of litigation based attacks [H5], aimed at completely disabling the ability of the IEBC to use informatics, as verification to tool for its electoral processes. These attacks comprised a wider scheme of Lawfare.

Notably before the Elections, the Elections Technology Advisory Committee (ETAC) was declared unconstitutional after a petitioner filed Petition Number 127 of 2017 – this suit was not defended by the IEBC and the Public was not notified of its existence by way of public advertisement, in major print media, given the scope of its effects.

Odinga's Supporting Affidavit [H5] also asserted that the IEBC through an Advocate allied to it filed Petition No. 415 of 2016 to ensure that the electronic transmission of results was unconstitutional. IEBC was not only captured by private persons using litigation, but also by way of partisan legal advice, which it promptly and shamelessly deployed in litigation.

By way of these pieces of litigation, the “rug had been forcefully pulled from under the feet of Kenyans” figuratively speaking, leaving them to slip and fall in their bid to protect the sanctity of their votes.

The rate of US\$1 is equivalent to 100 Kenya Shillings, the bungled 2017 General Elections was one of the most expansive democratic elections in the World on a per capita basis. It costs around US\$500million, in a country of 47 million where many citizens reside in the capital city in ram-shackle mud and wattle structures, presumed to be housing. Therein open defecation and open sewerage systems are a norm. No proper social amenities, as multinational companies went laughing all the way to the bank.

The General Election of 2017 cost 50 billion shillings, according to the Treasury Security Kamau Thugge who oversaw the process, the budgetary allocation for the elections by the Treasury was 49.9 billion shillings, with 33.3 billion shillings earmarked for direct election expenses and 16.6 billion shillings earmarked for indirect election expenses. The IEBC required 10 billion shillings for repeat Presidential Elections and the Commission required an additional 3.7 billion shillings thereafter.

Lawyer's fees in 2013 cost the Commission 2 billion shillings, though there may be the issue of the taxpayer being bilked by overzealous law firms, that is what it was with the Presidential Election Petition of 4 days in 2013 costing the Commission 568 million shillings, General Election Petitions cost the Commission another 486 million shillings, 30 Law Firms were paid in the 2015/16 Financial Year 328 million shillings. In 2017 there were approximately 339 petitions filed, and so the Commission still spent millions of dollars, by the year 2020.

By September 2017, the sore loser perception against the NASA coalition would quickly fade when an IEBC internal memo [H7] was leaked by an Insider to the Press. The Chair of the IEBC was furious that an account purporting to have his credentials were created on an IEBC Server that was critical in tallying of the result and utilized to execute 9,934 transactions, without his knowledge and approval.

Other queries that the IEBC Chairperson Wafula Chebukati put out to the then CEO Ezra Chiloba, was that 595 Polling Stations had failed to send in any Presidential Election results, and 682 Polling Stations had the same number of rejected votes.

Amongst the queries, was how forms without statutory security marks, had been used to report results. An allocation of 848 million shillings was spent on satellite phones that were not fit for purpose.

Another notable infraction was the KIEMS kit tablet Global Position System and Geo-fencing features were switched off from August 5<sup>th</sup> 2017, making it possible for the election results to be reported and called from impostor devices and location that were not polling stations.

Mysteriously data started streaming into the IEBC servers on August 7<sup>th</sup> 2017 a day before the General Election, an activity that was impossible to explain. The KIEMS Electronic Voter Identification systems were also not configured in a way to prevent voters from voting twice.

There was also no proper reporting as to how many voters were allowed to vote via the Electronic Voter Identification systems *vis-a-vis* those who voted upon manual identification at the polling stations. Constituency Tally Centres did not have static internet protocol addresses again making it possible for the results to be reported from impostor devices at a higher level. Last but not least was the assertion that IEBC personnel had gained access to the informatics platforms via the unofficial procedure.

Most military forces in Africa do realize that overthrowing a civilian government is an unacceptable incident and outcome, for both the African Union and the wider International Community. To that end, ethnic extremists have devised novel ways of interfering with the democratic processes at the point of election and imposing what they perceive as “ethnically and socially favourable” outcomes, during the electoral period when there is a lot of chaos and the subterfuge is difficult if not impossible to detect, or a prolonged creeping coup against Civil Authority.

Compounding subversion of the democratic process in the ethnic quasi-religious realm operations where oathing and loyalty are not to the Nation-State but are towards ethnic structures of a State within the wider Nation-State.

Once loyalty is pledged to these structures, all other forms of common sense and any iota of sensible reasoning are vacated. Extreme ethnic interests now have their targets set at capturing National Democratic processes and configuring outcomes that are not in line with democratic norms. Those who refuse to accept imposed fraudulent outcomes, War and Violence are used to pacify them, both before and after electoral processes.

An election that is free and fair at the point of balloting and tallying does not necessarily translate to a genuine election. A free and fair election may be seriously retarded by way of structural violence beforehand, to the extent

that its results do not translate to a genuine representation of the democratic will of the population in question – such are Kenyan General Elections.

Kenyan General Elections are free and fair to some extent at the point of balloting, but the structural violence issues therein are deep-rooted. The victims of militia attacks in the slums of Nairobi during, General Elections are likely to migrate away from those areas during future elections. Presidential Candidates are not given adequate security and there are questionable procurement practices long before the General Election.

The Judiciary is openly threatened by the incumbency, furthermore a clear example would be that Judges at the Supreme Court level find it necessary to have bodyguards and security arrangements however do not warrant the same issue as important for Presidential Candidates.

Kenyan Judges also have the inexplicable habit of citing all kinds of documents and publications from all other jurisdictions, but largely ignore openly available facts and publications in Kenya, based on technicalities, even if they could alter the outcome of a General Election e.g. Physical violence goes hand-in-hand with the cyber-attacks.

Would there be a way of pulling the “rag of convenient judicial rulings” from under the feet of the Kenyan Supreme Court, during the tense moments of a Presidential Petition? Yes, Electronic voting also known as E-voting offers that promise, to the extent that the entire Electoral Process would have to be audited in a “fishing expedition” methodology, otherwise, there would be no proof of the election has taken place.

In E-voting, the entire Electoral Infrastructure would have to be opened for examination in any litigation, something that can be conveniently evaded by the Judiciary in a paper balloting scenario. E-voting systems also offer the individual voter, some method for evaluating the correctness of potentially the entire electoral process if technologies such as blockchain and other forms of collective encryption are deployed. An E-voting system can achieve this promptly and efficiently by way of end-to-end auditing.

E-voting would immediately nullify the Judicial precedence developed by the IEBC of not allowing the audit of the whole KIEMS infrastructure, for the very reason that there would be no hard copy documents.

An additional disconcerting factor was the development of an internal confidential memo by the IEBC analyzing the integrity of electoral processes. The IEBC cannot possibly have any secret correspondence to this extent, meetings such as Plenary Sessions of Commissioners, and even the health condition of its leading staff must be open to public scrutiny. The failure of IEBC to grasp this concept probably led to fertile ground for the kinds of electoral fraud witnessed in 2017 and probable instability in the future.

From Kenya's recent history of General Elections, notably 2007, 2013, and 2017 it should be clear that not disclosing "secret", "classified" or otherwise "confidential" information concerning electoral processes, has not amounted to improving the acceptability of the outcome or the outlook of National Security and Stability. Secrecy in the electoral system has undermined it to the extent of creating a hostile political environment in the country, with the possibility of a permanent breakup of the country.

What happened that the IEBC Datacentre was the kind of event that could trigger the break-up of the country, more so IEBC did not do anything to reassure Kenyans, that it had investigated the matter conclusively when it could do so.

The IEBC ICT Manager Chris Msando was probably murdered in the early morning of Saturday 29<sup>th</sup> July 2017 and a major reset of the Database at the IEBC Datacentre began around 3<sup>rd</sup> of August 2017. Notably, this was just one day after the IEBC Results Transmission Simulation Exercise that was held on 2<sup>nd</sup> August 2017. After this point in time corruption of the Results Transmission and Storage System is recorded in the Error Logs. This was the local storage system and not the system of the French Multinational Morpho.

08/03/2017 (00:37:55) based on the Author's training, knowledge, and long-term experience in ICT, this is his analysis. At this point, the IEBC

ICT Manager Chris Msando had been assassinated, and the system was for all intents and purpose being used to subvert democracy. What would follow was the nullification of the Presidential Election in Kenya by the Supreme Court of Kenya.

The IEBC Datacentre had been tested in public on August 2, and anyone in the staff of the IEBC intending to subvert democracy via tempering with Electoral Results Transmission had a good idea on the security configuration of the local system and its safeguards. Notably, this did not communicate directly with the Morpho system on the NTT Cloud but was manually loaded with Data from it, in a post-Msando reset.

At the point of this initial interaction, it would have suited the person in question to load a self-generated certificate as using one from a Certificate Authority would have resulted in cyber-security checks by a third-party. Employees at IEBC would have also become sensitive to Hypertext Transfer Protocol Secure Socket Layer “broken lock” indicators on their browsers.

The best way of desensitizing them to any indicators of subterfuge was to take control of the security certificate of the Database and probably those of any other system dealing with results transmission or tallying.

08/03/2017 (00:41:52) Notably the IEBC had a General Election budget of US\$500million so there was no shortfall of money for obtaining a genuine and secure third party Secure Socket Layer Digital Certificate from an internationally recognized certification Authority. The IEBC also definitely had the money to buy a newer more recent version of MS SQL Server than the 2008 R2 Server. So when the database option was being set to “ANSI\_PADDING” to OFF, the intention then was to ensure that the Database “IEBC\_PRESIDENTIAL 2017” unconditionally truncated trailing zeros, in newly created tables. Suffice it to say that those tables that were recreated were possibly in Opposition stronghold areas. Only that would greatly reduce the numbers of votes inserted into new tables/columns if those tables had one or more trailing zeros.

It is practical to assume that if the results were declared in binary by a function and the trailing zeros truncated the subsequent decimal number would be small on the newly formed tables and columns. It is not clear why the “ANSI\_PADDING” was set OFF however that must have resulted in data corruption as the default setting is ON. An analysis of the data corrupting processes is not possible since all the logs and all the settings/functions have not been availed to the public for scrutiny.

On 08/03/2017 (04:00:52) “MULTI\_USER” to ON for “IEBC\_KITUI\_COUNTY” was invoked. Since it is the matter of error logs being analyzed and not explicit administrative logs, inferences have to be drawn. It may imply that the persons administering the system gave third-parties access to the databases in question, other than the Authorized user.

At 08/03/2017 (04:02:19) “COMPATIBILITY LEVEL TO 100” was invoked for the database “IEBC\_NYERI\_COUNTY” probably an initial unsuccessful attempt to configure a database table used in the 2013 General Elections from an Older version of MS SQL to the level of MS SQL 2008 R2 Server, that was used by IEBC in 2017, i.e. the results database system that was being initiated for use in 2017, was not the KIEMS but an upgrade of the system from the General Elections of 2013.

At 08/08/2017 (00:38:15) by way of the command “ARITHABORT” OFF for the “IEBC\_PRESIDENTIAL\_2017” Database on MS SQL 2008 Server R2, the effect would be that aggregation calculations that would have taken less than a second would be dragged on by minutes or even hours, as new results from different polling stations come in. The overall effect would be the delay would create more time for manipulation of results, before presentation to the Public.

At 08/08/2017 (00:41:52) by effecting the setting of “IEBC\_PRESIDENTIAL\_2017” to “CONCAT\_NULL\_YIELDS\_NULL” to OFF, implies that there was no concatenation of related data strings across server boundaries e.g. if the IEBC created two parallel Result Transmission Systems, as it did.



The KIEMS Database Data that was fetched by IEBC Datacentre based on Microsoft Infrastructure, once the data was resident on the local Datacentre, there would be no reconciliation between the KIEMS Database on the NTT Cloud and that at the Datacentre, allowing for independent manual manipulation of data at the Datacentre.

This was something that the murdered ICT Manager Chris Msando, had probably configured against in the system to prevent such a fraudulent occurrence.

At 08/08/2017 (00:41:52) by the setting the “IEBC\_PRESIDENTIAL\_2017” Database to “NUMERIC\_ROUNDABORT” to OFF since it was not re-switched back on in the system, it is safe to assume that the setting was to ensure that data stored in the “IEBC\_PRESIDENTIAL\_2017” database could be amended/corrected if it was not producing the desired electoral outcome, this would be done by way of Delete, Create, Insert and Update Statements.

On 08/08/2017 (00:41:52) using the command “QUOTED\_IDENTIFIER” set to OFF for the “IEBC\_PRESIDENTIAL\_2017” database, SQL would then be in a position to write fabricated data, onto the table using double quotation marks.

On 08/08/2017(00:41:52) given that many of the parameters were changed at 00:41:52 it is an indicator that they were probably run as a single SQL script.

At 08/08/2017 (00:41:52), when “RECURSIVE\_TRIGGERS” were set to OFF on the “IEBC\_PRESIDENTIAL\_2017” database, implies that if triggers on that specific database were calling triggers from Form 34A and 34B labels, they would no longer work. Effectively that opens up a previously automated database to data entry by way of manual entry.

08/08/2017 (00:41:52) by setting “ANSI\_WARNINGS” to OFF did not help much in ensuring the data integrity of the results in the final database of the Presidential Election, more so given that prior SQL commands had rendered the system vulnerable to higher-level manual data input, which

should not have been the case once KIEMS kits at the polling stations submit data to the NTT Cloud, then the same was to be automatically drawn by the Datacentre.

The Author has to give his side of the story as he perceives it to be and given the Post-Election Violence of 2007, one would have expected every ICT measure to ensure data integrity on KIEMS by the IEBC to have been upheld. It is for those on the other side of history to attempt to debunk his analysis with the best evidence possible in their possession, which is public information held in an illicitly private manner, regardless of what the Judiciary says about the same.

Notably, the Author has raised no criticism or challenge to settings such as “AUTO\_SHRINK” to OFF in the same database, as such a setting would have been the best practice under the circumstances.

Give that most of the database changes took place (i.e. were executed) at the same time at the eve of the General Election, it was more of a demonstration of premeditation. Someone had decided to make those changes a while ago, however, the same person only managed gain access to that system for that purpose on the eve of the General Election, after the ICT Manager Chris Msando had been murdered.

On 08/08/2017 (03:54:35) when the setting “DISABLE\_BROKER” was set to ON, it should have been set to OFF so inevitably the matter had to turn up in the error logs as concerns the “IEBC\_PREIDENTIAL\_2017” database. At this instance Kenya was about an hour away from the General Elections there were some prior functions and applications that must have been using the service broker for enhancing system reliability by way of asynchronous processing.

This change was probably the clearest indicator that already functional ICT infrastructure at the IEBC was being dismantled and new infrastructure was being implemented. It is difficult to fathom how a complex datacentre with different servers in different countries and at different locations within the same country, would have functioned well with the service broker disabled.

On 08/09/2017 (02:03:45) someone attempted to logon to the Intranet account that the Datacentre in the name of the IEBC Chairperson Wafula Chebukati but the login failed because the account was disabled. Notably, the attempted login was done from a machine that was inside the IEBC facility as it was identified as such by the system. At 08/09/2017 (02:03:45) the system would identify that specific error at: 18470<c/> Severity : 14<c/> State 1. This error in particular and resultant failure is probably a pointer to the fact that the wider Database language script was being executed by an Outsider probably one of the Contractors, who was not privy to all the activities and rules at the IEBC but had substantial support from someone in the IEBC.

**Bluntly put, someone disabled the service automation that the IEBC Datacentre Infrastructure, was to use to draw election results data from the NTT Cloud, was the initial point of informatics sabotage, during the General Election in Kenya.** The cybercriminal(s) created the “Air Gap” enabling them to pump in “Hot Air” as election results. The infrastructure that had been built up for over a month by the murdered IEBC ICT Manager Chris Msando was disabled largely with one SQL command script and few other commands.

On studying closely the “IEBC\_PRESIDENTIAL\_2017” database we find that the county-level databases e.g. “IEBC\_KITUI\_COUNTY” etc. had similar command manipulations. While the “IEBC\_PRESIDENTIAL\_2017” database was to be a verification of the Form 34 C level, the County level databases were at the Form 34B level. In effect, the sole data entry staff into this system should have been the Polling Station returning officers who were operating at Form 34A level.

Once data was entered into the system at the polling station level, the rest would be a matter of automated data processing without the intervention of any other level of IEBC staffers.

Given that there has been no explicit publicly reported audit of the IEBC ICT system to date, it is difficult to specifically determine how the new configuration impacted on the final tally.

On 08/08/2017 (00:37:55) The IEBC CORE Server at the Datacentre which was only to receive data from the NTT Cloud system was ready to receive client connections. Which clients were these? KIEMS kits were dialing onto the Oracle System on the Safran Morpho configured NTT Cloud.

At 08/08/2017 (00:37:55) the combination of the Database Mirroring Protocol transport is disabled or not being configured and the Service Broker Protocol transport is disabled or not configured would amount to the fact that the database at the IEBC Datacentre as configured on 08/08/2017 was a standalone database system, and not integral to the KIEMS hosted on the NTT Cloud.

What would be the function of the “IEBC-CORE-SERVE” at the Datacentre? Given that the details on the Database table, it would be safe to assume that it was to receive data automatically from the NTT Cloud before most of its functions related to that specific operation were disabled.

After its transactional automation was disabled the “IEBC-CORE-SERVE” at the Datacentre became a standalone system and very easily manipulated at a manual data-entry level from the eve of the General Election. It must have been critical for the following reasons, to make it that way such that public sentiment could be swayed by disseminating and broadcasting fake results as to the outcome of the General Election and it also provided intelligence upon how the Forms 34A could be altered to give the desired outcome.

Consequently, the IEBC had several parallel and completely independent results transmission systems, the IEBC Datacentre running MS SQL 2008 Server R2, on Windows NT 6.1(x86) on a VMware Platform and that was separated on the last minute from the efficient IEBC Safran Morpho KIEMS Results Transmission System sending data to an Oracle System on the NTT Cloud in the USA. There were also other ramshackle arrangements such as the external political collaboration done on a FileZilla system, and accessible to both the IEBC and Jubilee Political actors.

These were some of the Informatics measures taken even before the deployment of kinetic force to supplement them. NASA would have the insight to challenge the matter concerning the kinetic operations in litigation but on the other hand lack the foresight to proceed with the litigation [H9] to its logical conclusion – an act that would potentially open up the Public to a similar spectacle in the future.

A clear precedent that had been set in Kenya from the year 2013 onwards was co-opting people and working with them or blackmailing, threatening, and cajoling them to get desired outcomes in litigation, administrative actions, and elections.

People in slums such as Kibra had accepted the circumstances and gradually formed “burial chammas” i.e. cooperative organizations for fundraising for its members in advance if they were killed in political violence. On the other hand, the Political class resorted to social assimilation and social acceptance by way of inter-ethnic marriage an important tool for extending their influence and gaining trust and access in a regime underpinned by its ethnic extremist characteristics.

Suffice it to say that, Elections that comprise of explicit military activities by both State and Non-State actors also require Military Observers, to ensure that abuses and excesses of paramilitary type are not employed to sway public confidence and sentiment.

On 10<sup>th</sup> August 2017, NASA would have its tally of results and there were interesting similarities between its figures and those of the IEBC. NASA Tally Centre projected turnout was approximately 78% for Presidential Election Result, it was a figure that was close to the IEBC projected turnout of 77.46% and counting, in terms of provisional results.

Another striking similarity was that NASA Tally Projected Turnout that was approximately 15.3 million voters for the Presidential Elections and the IEBC Turnout figure was at 14.796 million voters and counting in terms of provisional results.

By August 12, from around 11 am to 12:30 pm heavy persistent automatic gunfire broke out in Kibra, Nairobi. It was very heavy to the extent that it was above and beyond the realm of riot control to the dimension of security units actively shooting people to kill them. At this juncture, it was easier for people to be shot dead, than for the IEBC to make full and open disclosure of electoral data in its possession. This was the same locality overflowed by a Kenya Air Force/Kenya Defence Forces Puma Helicopter on August 10<sup>th</sup>.

On August 12 around 12:54 pm, there was a power blackout at the same locality. It is not clear if it was a technical or operational power blackout, but an electricity utility company vehicle was parked about 2 kilometres from the slums at Prestige Plaza, Ngong Road. On the same day around 7:44 pm there reports of hand-to-hand combat in Kisumu, guns were allegedly snatched from the Police as they conducted door-to-door operations, which are generally orgies of rape and unrestricted violence. This confrontation persisted well into October 2017.

Because of the complexity of the Kenyan Electoral landscape, additional ethical and integrity issues for IEBC Staff and Commissioners should include a declaration of family ties to politicians, by way of marriage/conjugal partners, in-laws, relatives, etc.

The gloves were off by then and cyber-operations had been set aside, as the “Victor” then a slight veil of legitimacy at least in the eyes of his supporters. On that day a 10-year-old girl was shot in Mathare area 2, and 11 others killed in Nairobi and Kisumu.

Body bags were being disposed of in Kisumu into Lake Victoria, to “keep the figures low”, lest they attract the attention of the International Criminal Court. The body count in Kibra on August 13<sup>th</sup> 2017 was at least 25 and one was a criminal homicide. Fishermen around Lake Victoria would claim that they saw a Law Enforcement helicopter dropping bodies into the lake, the body bags of decomposing corpses which they then proceeded to retrieve.

For all reasons forensic, currently, the short duration of the Kenya Presidential Election Petition before the Supreme Court is good. 14 days is

a GOLDEN HOUR when you consider the massive process that it is. All the evidence of wrongdoing can't be destroyed within a week. If this period is increased to around 30 to 45 days, the Incumbency can launch a mobilization of resources to stifle the process.

If the Presidential Election is rigged the evidence shows up within 48 hours of the process, parties to the Election must have Experts on standby for the duration of the process. If the period is extended from 30 to 45 days, witnesses and lawyers can be threatened or assassinated, locally hosted servers can be destroyed and new documentation printed and properly filled.

Calls for longer Presidential Election Petition periods in legislation, wrongly assumes that Kenya has normal and properly function State institutions, absence of State Capture, non-violent politicians and Authorities – nothing can be farther from the truth. Such calls also ignore the fact that litigants would have the compulsion to break the law and destroy evidence that is adverse, including but not limited to those who bare the evidence. These fore mentioned conditions are true for the “Kenyan gloves off” Electoral scenario.

The Level of Electoral Malpractice in Kenya 2017 General Elections was equivalent to the United States of America Supreme Court Justices, being incapable of determining 23 of the 50 Electoral College votes in litigation after a Presidential Election. It was a case similar to 40%+ of the Electoral College votes being problematic and more so in the Kenyan context, those problems were a matter of open public record.

It also raises questions on the “Fruits of the Poisonous Tree”, in the context that if there is an ungazetted polling station or polling official, how could the Election of any other County or National Official be valid? If a person is elected by ungazetted staff and polling stations it should be possible to annul those “elections” even two years later without a petition by way of a simple Constitutional application in the High Court. Some of the malpractice could probably be done away with when E-voting is instituted to the extent that the systems must be audited.

As for the case of the “OPS Dumishi Utulivu” Letters, that the Ministry of Defence and Kenya Defence Forces, could not complain or act against the Media as that would have verified as to the validity of the same. So was the case of the leaked IEBC Error Logs, the IEBC could not complain or act against NASA as that would have verified the materials.

Nothing would bring out the real character of the IEBC than on 10<sup>th</sup> October 2017, after the Presidential Election Petition No. 1 of 2017 had annulled the Presidential Election outcome of 8<sup>th</sup> August 2017, IEBC would receive and acknowledge receipt without any regrets, the Letter of Withdrawal of Candidature of Rt. Hon. Raila Odinga and Hon. Musyoka from the Presidential Election rerun of October 26<sup>th</sup> 2017.

IEBC would go further to breach its own Elections Code of Conduct, in the Elections Act No. 24 of 2011, Section 6, subsection h.

Quoted as, “refrain from offering any document or reward to any person in consideration of such person either joining or not joining any party, attending or not attending any political event, voting or not voting (either at all, or in a particular manner), or accepting, refusing or withdrawing such person’s nomination as a candidate in the election.” The coercive insertion of Raila Odinga on the October 2017 ballot despite explicit legislative stance mandating that electoral processes was to be non-coercive.

In the litigation Dr. Ekuru Aukot (Petitioner) versus Independent Electoral and Boundaries Commission (1<sup>st</sup> Respondent), Wafula Chebukati (2<sup>nd</sup> Respondent), Jubilee Party (3<sup>rd</sup> Respondent), Orange Democratic Movement (4<sup>th</sup> Respondent), there was only one valid and consenting candidate by the time of the ruling – it could not have been a retroactive ruling to include all Candidates from the initial annulled Presidential Elections.

In the rerun Presidential Election, time constraints were not the reason why KIEMS kits were not transmitting keyed in data during the October 26, 2017, Presidential Election. The IEBC had started configuring the KIEM system for only two Candidates and paid 2.4 billion shillings to Safran Morpho. Adding more Presidential candidates on the text transmission



interface after the ruling by Hon. Mativo on the matters concerning 471 of 2017, could have mean payment of an additional 2.4 billion shillings to the Contractor in question.

By 18<sup>th</sup> October 2017 IEBC Commissioner Roselyn Akombe would resign from the IEBC, she sent a statement from New York, where she worked at the United Nations before her appointment at the IEBC.

During the period to the rerun Presidential Election, there was a fatal shooting at Bobmil Mattresses Owner's home on October 21 2017. Asian Business Man Bunty Shah was shot dead at his home by masked gunmen in Westlands, Nairobi. It turned out later that the shooting was a Government operation, allegedly directed against some unknown terrorist. It was not easy to explain away as a mistake particularly because, if it was a counter-terrorism operation, the terrorist and compound in question ought to have been under surveillance long before the operation.

An armoured car was deployed in the operation, and the victim suffered a gunshot wound through the heart. The Gigiri Officer-In-Charge of Police Division confirmed the incident, however, he did not disclose any operational details to the Public. Police are also said to have arrived at the scene but left the area immediately when it became clear to them that they were dealing with other Government operatives. Police would later deny all involvement in the Operation, leaving the “cowboys” of “OPS Dumisha Utulivu” to remain the highest on the index of suspicion.

In Kisumu too around 16<sup>th</sup> October 2017, there was the disturbing incident of a student shot dead and his throat slit by the Officer quelling the demonstrations in Kondele, Kisumu to extract the bullet, the same City in which a Police Officer shot and kicked two demonstrators as they died in elections some years before.

On 27<sup>th</sup> October 2017 persons primarily from the Luo community were being removed from their houses and hacked in the area of Kawangware Nairobi, this led to retaliatory attacks from Luo youth. The attacks had been initiated by youth from Waithaka wielding machetes, and some of their victims were promptly disposed of in sewer vents. By this time it must have

become clear to many of those who had participated in the Elections that the boycott by Raila Odinga had a broad national impact and hence turning against the Luo who were perceived to be his political base.

Safran Morpho also filed a case against Opposition Leader Raila Odinga, only withdrawing it when it became clear that their server and conduct would come more under scrutiny during the case than the Politician.

A lesson that would have been drawn by all including the Judiciary after the 2017 electoral period, was that a ruling at the Supreme Court must be contextually, philosophically, and conceptually complete. Its completeness in terms of jurisprudence should not leave an opportunity for anyone to take a valid and standing affidavit/oath against it after its delivery.

By 30<sup>th</sup> January 2018, around 12:08 pm a massive “Penguin-type” UAV patrolled over Central and Western Nairobi, at an altitude of about 15000 feet, again signaling the direct interest of the Kenya Defence Forces in the political dispute that was unfolding in the City. The Oath by Rt. Hon Odinga was if anything a pointer to the fact that he could split the country physically if his political views were not taken into account by the Government.

Contrary to the views then of many Kenyan lawyers, intellectuals, Judges, and Legislators, that all was well, it was becoming clear that an irreversible Yugoslavia-type split was emerging in the country, and if there were no urgent talks to resolve the split, the situation was going to become irreversible in permanent order.

Many debated the possibilities or otherwise, nevertheless examples could be given as to how Ben Gurion established a Jewish Government in Israel and run it from his home office and obscure Potash works, when the British Colonial Government was still in place and fully functional before 1948.

In the Corporate world to there would be some changes, Africa Neurotech Systems Ltd. The Datacentre and Cloud System Provider to the IEBC during the 2017 General Elections, would later change its trading identity to Atlancis Technologies Ltd. Atlancis Technologies Ltd would present a

Memorandum to the Communication Authority on the matter of the Data Protection Bill 2018 (23<sup>rd</sup> August 2018).

Strangely the memorandum attempts to preempt the 2021/22 Election Informatics by way of presetting regulation without a proper declaration of interest in the same.

The Company rendered a vital informatics service to IEBC in 2017, however, there is no indication that it participated in the informatics audit that was ordered by the Judiciary during Presidential Election Petition No.1 of 2017.

There was an attack by unknown persons against the residence of the former Vice-President Hon. Kalonzo Musyoka, after the oath of Rt. Hon. Raila Odinga as the Peoples' President on 30<sup>th</sup> January 2018, at Uhuru Park in Nairobi.

All manner of pressure was applied by both sides of the political divide to have H.E. Kalonzo Musyoka, to “flip” to their side, as he was an Opposition Leader, second in the hierarchy and expected to take the oath. Around that time his Government allocated security would be withdrawn and a gun plus stun grenade attack stage against his home by “unknown” persons.

Jimmi Wanjigi one of NASA's sponsors, also found himself facing increasingly difficult times after the polls. He had acquired some firearms before the polls that were almost used as a pretext for harming him thereafter. A raid was conducted to recover firearms from his home, these being guns that had been licensed to him. It was an overkill of a raid at Wanjigi's home in Muthaiga, the 44<sup>th</sup> Residence close to the official Residence of the United States of America Ambassador.

So vicious and violent was the raid that it became questionable whether Wanjigi would have survived if the Paramilitary Police raiders found him. Fortunately, he hid in a secret bunker in his mansion complex and the officers were not able to locate him for three days.

Jimmi had his equally furious father Hon. Maina Wanjigi and Opposition Leader Rt. Hon. Odinga in his home to draw the attention of the media and

the World to the issue until the situation de-escalated. Security Forces would later try to get him in the “open” when he was outside his home, to “issue him with a court order”, but he was sufficiently prudent not to have disembarked from his “armoured car” to receive it.

Not so lucky were the men, women, and girls, who were sexually assaulted by errant members of the security forces during the elections. The only point of reporting the offenses were their local police stations, from which many of them were promptly turned away from by their tormentors, according to a Human Rights Watch Report [H11].

The major challenge about sexual assault by errant members of the security forces is that it is perpetrated by officers, who go door-to-door breaking into housings, beating and raping both men and women. These acts of sexual violence include anal and vaginal rape of women, touching and/or exposing genitalia, gang rapes, and more recently reported the rampant sodomization of men.

Wives and daughters are usually raped in the presence of their men kin and children, and in many instances, dreadlocked offenders were escorted in by uniformed personnel.

## **EXPLANATION**

It would good to cite thousands of more documents, give schematics about the complexity of the narrative, and spend thousands of more hours, laying about complex arguments about what is happening in Kenya. However, those arguments and explanations would not explain things in simple terms to those born in before, and after independence now living abroad who would want to understand the IEBC Servers, the violence, etc.

A simple explanation is that Kenya since 1963 has been ruled primarily on an ethnic basis, and there have been some short occasional reactions against this phenomenon but many of those who have attempted to change the situation have failed primarily for two reasons.

The first being the population is largely not educated to the level of understanding political philosophies beyond ethnicities and even for those who have managed to escape that realm by way of education, they gravitate towards it to achieve political mileage and office or otherwise because they are hardwired from “birth” as ethnic supremo “robots” of one form or the other.

Enter the 2002 General Elections, the Public comprising different ethnicities united to remove long-ruling Kenya African National Union from office – so effective was the move that it ended a ruling regime that started from 1963, but the very Politicians who had ganged up to remove KANU from office did not purge their old school mannerisms, so ethnicity would infiltrate the unified group and rear its ugly head, dismember the unified Government and become a major factor in the 2007 General Elections.

In the 2007 General Elections, most of the ethnic groups ganged up against the largest and most influential political bloc in Kenya, popularly called “The Mount Kenya” bloc or region that was then headed by President Mwai Kibaki. The ruling regime then would sense defeat and prepared very early to stay in office by way of special effects that resulted in the Post-Election Violence of 2007 when other communities rose against the regime after Electoral fraud and manhandling of political leaders was broadcast live on Television.

So vicious was the violence in its first days and weeks, that very many Kenyans from all ethnicities lost their lives and properties, though the official figure states that 1,200 people died that is likely to be an understatement.

The 2007 violence continued well through January 2008 to around May 2008 in a largely spontaneous fashion and towards the end of that month, there were organized reprisal attacks by members of the “Mount Kenya bloc”, a matter that attracted the interest of the International Criminal Court, which launched investigations and several prosecutions that did not see the light of day figuratively speaking.

The International Criminal Court investigations failed for two reasons, the first being they did not seek to prosecute the most senior person(s) in Government then, and because the investigations were primarily conducted by Non-Governmental Organizations that could not dig out the evidence and the International Criminal Court investigators were not experienced at dealing with such matters as Kenya, so they were bound to fail.

The failure of the International Criminal Court prosecutions would be an indicator to Kenyans in the establishment that political violence was acceptable during the General Elections.

The parameters for this “acceptability” were if it met certain conditions, in its planning, these being matters such as plausible deniability; that the resultant deaths should not be sufficiently high to attract international attention yet should be sufficiently violent to pacify the population and the last is that violence could not carry an election on its own so there was a complex combination of violence and other criminal activities such as hacking election system computers, forging documents, etc. in to obtain an illegitimate electoral outcome.

Though by 2013 the International Criminal Court had not completed running its Kenya cases and investigations, violence and criminal capture of the electoral system was an issue and the outcome of that General Election might have been acceptable to the political class although it was not acceptable to vast swaths of the Kenyan general Public outside the “Mount Kenya bloc”. At that time the “Mount Kenya bloc” benefitted from the combined numbers of most of the “Rift Valley bloc” that was led by William Sameoi Ruto.

The “Rift Valley bloc” would make the questionable judgment of believing that if they backed their former political rivals in 2013 and 2017, they would return the favour and they would receive all the votes of the “Mount Kenya bloc” in 2022. By July in 2020 the “Rift Valley bloc” had been completely politically marginalized and its political machinery dismembered by the Powers-that-be.

Like Ruto in 2013, Orange Democratic Movement supremo Raila Odinga was probably making the same mistake he made in 2002 when in 2018 he began working with the larger “Mount Kenya bloc” in the “hope” that he would for a long time in the future receive their political favour in return and achieve his lifelong ambition of being elected to the Office of the Presidency or a powerful Premiership in 2022. This was even after the Election of 2017 that proved to be very messy.

In 2013 many in the Establishment having seen the difficulty in winning National Elections, plans were made early to capture the so-called Independent Electoral and Boundaries Commission and make it to do their bidding in 2017. Consequently, the IEBC had already been captured before that by way of vetted employee appointment, it would further be captured by way of procurement of voting materials, systems, etc.

Come the General Elections of 2017 the mechanisms of limited political violence and calculated voter fraud had been set in place. Due to the political experience of Raila Odinga, he was largely in a position to detect the voter fraud and to carry the day with Presidential Election Petition No. 1 of 2017 by having the Presidential Elections of 8<sup>th</sup> August 2017 annulled. He would not participate in the Presidential Election of September 2017 for what he rightly perceived to be a lack of a level playing field.

Why was the Presidential Election of 2017 annulled? The IEBC had spent about US\$500 million ensuring that the Election could not be stolen in 2017, though the integrity of an organization is only as good as that of its key officials. That budgetary outlay would only prevent electoral fraud if the Informatics system was configured as the IEBC ICT Manager Chris Msando had done, to prevent fraud. However, he was promptly assassinated before the Elections and by 8<sup>th</sup> August 2017, the IEBC system had been reconfigured to allow for voter fraud.

Under the system configurations of IEBC ICT Manager before the Elections, Chris Msando, the KIEMS kits tablets would broadcast from the field to the NTT Cloud where there was a Database system, the local IEBC Datacentre would then poll into the Cloud Database System obtain the data

from the KIEMS kits and automatically post it on a Front-End webpage on the Amazon Cloud.

After the death of Chris Msando, data was obtained from the Oracle Cloud system into the IEBC manually discussed and fitted by IEBC staff and pro-establishment political actors on platforms such as Sharepoint and Filezilla, then made public at the IEBC website once it was deemed to be politically acceptable by operatives of the Establishment.

One would imagine that after the Elections the political rivalry especially of the Raila Odinga against the Establishment would be unquenchable. Nevertheless immediately after those elections, the Diplomatic community both East and West, knowing that there is wealth and opportunity to be exploited in Kenya, would quickly compel him to co-operate with the *status quo* or be blacklisted in all manner of ways. The pressure was not only international, but it was also from the local business community who quickly realized that the country was heading for a physical split due to the frequent electoral fraud.

In this respect, the Asian i.e. Indian-origin business community both in Nairobi and Kisumu were instrumental in forging the unity arrangement for the very reason that the growing political dispute after the General Elections of 2017 threatened both their social and business interests, that were facilitated by Kenya as a united country.

To an external observer, the question would arise as to why the wider political class would then immediately fall behind their Leader, especially Raila Odinga, who had lost supporters in large numbers, racked down by automatic gunfire in Nairobi, Kisumu, Siaya, and Southern Nyanza in the Elections of 2007, 2013 and 2017.

There was and still is a very simple explanation for this seemingly inexplicable trend, the Legislative and Executive salaries in Kenya are the highest in the world, higher than those of Russia, the United Kingdom, and the United States of America or those of almost all other developed countries.



The perks of political office that are bleeding the country's resources dry in kleptocratic fashion are worth the sacrifice of ignoring the loss of human life and electoral injustice. The country also has a massive donor-supported National Budget and it is common knowledge though widely denied that only or mainly politically correct entities are welcome to part-take in the feast.

With this in mind, the Political Opposition of 2017 had to quickly reconfigure and find itself in Government and present itself as more attractive than key members of the Political Alliance, dismember that Alliance and find some space on the Table.

By May 2020, Old foes were planning a political referendum, the members of the Orange Democratic Movement, Wiper Democratic Movement, and Kenya African National Union were no longer interested in first resolving the integrity issues at the Independent Electoral and Boundaries Commission, if only it could help them quickly pass a Constitutional Referendum Bill, probably again by way of its *"abracadabra"* techniques.

By May 2020, most of the political players had turned a blind eye to the malfunctioning of the electoral system if only it could serve their interests by way of "rubberstamping" a Referendum Bill.

Come March 2020, this Author would be working in the Accident and Emergency of a major national hospital in Kenya. Two people would walk in and one would be diagnosed with a bone problem. On hearing the complaint of the patient the Author being a Paramedic would diagnose the patient with pneumonia and ask that the patient return to the Medical Doctor for auscultation.

That was where the SARS nCoV 2019(Severe Acute Respiratory Syndrome novel Corona Virus 2019) that was later dubbed COVID-19(Corona Virus Infectious Disease 19) was diagnosed in Kenya, the cases would be on the rise all through March, April, May, June, and July there was no end in sight. Gatherings were banned under the Public Health Act and a curfew initially instituted from 7:00 pm to 5:00 am, and later adjusted to 9:00 pm to 4:00

pm on June 6<sup>th</sup>, which lead to a steep increase in Corona Virus Infectious Disease 19 infections

The virus would quickly put an end to political drive for a change in the Constitution, to allow for a new structure, where the most important aspect was power-sharing and not political integrity, a recipe that would in all certainty bring Kenya again to the brink, sometime in the not too distant future. Politicians would continue to push for kleptocratic greed inspired change, though the simple mechanisms of Epidemiology had put the push to a stop for at least a few months.

The Epidemiology of COVID-19 was a change in norms, it was a disease that would first go for the top-ranking members of the society before it would turn to the wider population. It was the kind of killer that would easily put an end to human life during an open-air political rally albeit not in an immediate fashion.

It compelled the Political Class to quickly improve the capabilities and service levels of local Hospitals, as there was no country to flee to if one became ill. It in many respect equalized Kenyans of all classes.

Apart from the unpredictability that COVID-19 ushered in for 2020 everything else was predictable, the first was that of the Political Class was trying to restart political activity at the grassroots, and open-air level even before the peak of the epidemic in Kenya. There was no stopping the drive to get the Constitution changed, more so as the current dispensation would inevitably lead to some form of irrevocable change in the year 2022. Some diplomats too backed the process as their country's multinationals would continue to questionably reap big in Kenya.

The Public has its fair share of the blame, to the extent that even if one is eating stones, they back politicians from their ethnic group, there is no sophisticated inquiry into the ways and means of the Nation, as long as “you” are dominating other Kenyans in terms of ethnicity in politics, “you” are doing well.

For the University Professor or skilled Technocrat, it is all about your kinsmen appointing you to Public Office, the first qualification is your ethnic background and not your academic or professional qualifications. After such an appointment your first loyalty is to your ethnic group, finding ways to assist them in “eating” by way of employment, contracts, or any other advantage.

There is also a growing trend of many members of the Military and Intelligence community being appointed to Public Office. The disadvantage to the wider Public is two-pronged, it comes across as those institutions being incapable of being able to retain, their intellectual capital as they are dispersed to other organizations upon redeployment and early retirement.

It also raises the challenge that in Kenya such persons are known for taking and executive orders first and asking questions later. Military and Intelligence officers are not known in Africa, for openly challenging the wrongdoing of their appointing Authorities.

During a political dispute, it is obvious which side that persons appointed directly from the Military or Intelligence would take, they would openly side with their appointing Authority. More so in Africa, those institutions are well known for their deployment of disproportionate force against civilians.

Having grounded the argument that political power is very heavily disputed and that it is a dispute now clearly in the realm of Hybrid Warfare, with the involvement of proper military actors and criminal elements therein, the question as to why political power is heavily disputed comes into focus.

There is unexplained wealth, murders, political assassinations, political scandals, crimes, and international crimes of all kinds committed since 1963 to present, and the only way in which one can stay safe if they benefitted in one way or the other from the same, is to remain in power. Short of that the crowds would be in the streets baying for all manner of retribution, revenge, and payback. At least when one is in office, they can be dispersed even if only for the moment. The list is long and any properly worded Internet search would come up with a wealth of information on the same.

Capitalizing on this theme are the politicians such as Dr. Miguna Miguna now in forced exile, the Author of the Peoples' President Oath of 30<sup>th</sup> January 2018. They know that many in the downtrodden Kenyan Public have a serious axe to grind, regardless of their ethnic group, if only they could be incorporated into some structure, hence him declaring himself as the General of the National Resistance Movement.

Nevertheless, for most Kenyans, there is still the benefits of Political devolution from the 2010 Constitutional dispensation, and they have chosen to overlook the injustices, at least for the moment.

There is also the school of thought of Professor David Ndii, who advises Kenyans that if all they get from the arrangement that is the Nation is ethnically laced violence and corruption, they may as well sit and discuss some form of amicable national divorce.

Such a line of thought is widely unacceptable to many who see that there shall be few corrupt opportunities to exploit in small nation-states and many of those states if they came into existence would have pretty limited resources to the extent that they may not tolerate corruption and many even entertain public execution of corrupt individuals.

There are also the idealists such as Professor Makau Mutua, Gladwell Otieno, and Okiya Omatatah, who work towards the self-healing of Kenya by using its Institutions especially the Judiciary to achieve that particular mission of wider social justice. Their perseverance and belief in the almost "Mission Impossible" is the hope of many Kenyans who would have probably resorted to more desperate measures in the absence of such luminaries.

So prompt is Okiya Omatatah in the deployment of litigation as a tool for good governance, that he has received mention by both his supporters and his rivals in Authority. His rivals, in particular, are not happy with his seemingly limitless skill-sets and resourcefulness in checking their excesses, by way of litigation.

That is a simple explanation as to why the General Election in Kenya was hacked on August 8<sup>th</sup> 2017, and the hacking enforced by an even wider range of deadly kinetic operations.

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- [H9] Petition No. 373 of 2017, NASA vs. Kenya Defence Forces

[H10] Author – Author lived through and witnessed the events, many on a first-hand basis

[H11] Human Rights Watch; (2017/12), “They Were Men in Uniform – Sexual Violence against Women and Girls in Kenya’s 2017 Elections”, Human Rights Watch. ISBN: 978-1-6231-35607

## **Notes**

[H1] By 9th August 2017, Raila Odinga was already hinting to the public that all was not well with the General/Presidential Election. How the allegations were laid out, put into question the whole election rather than the Presidential Election alone.

[H2] More details about the raid of NASA ICT Tallying facilities by the Government functionaries.

[H3] IEBC trying to address concerns that KIEMS had been tampered with

[H4] These papers gave a detailed military plan of kinetic activities against the civilian population to make them accept the outcome of the General Elections of 2017

[H5] Affidavit details some intricate aspects of the capture of the IEBC by way of litigation

[H6] A breakdown of IEBC expenses, giving the details of what was probably the most expensive democratic election per capita in the World. At the time in question, US\$1 was equivalent to 100 Kenya Shillings, and the population of Kenya was approximately 47million people at that time. The financial impact of IEBC Legal Problems was explored in this particular article.

[H7] Memo was seen by many as proof that the IEBC probe of its conduct during the 2017 General Election, had concluded that there was massive wrongdoing of which IEBC was reluctant to disclose to the public.

[H8] Error Logs contained evidence that all was not well at the IEBC Datacentre, the organization did not on its motion release any information to the contrary.

[H9] Petition No. 373 of 2017, NASA vs. Kenya Defence Forces – a fundamentally important piece of litigation in the Kenyan Electoral Context that was not pursued to its logical conclusion.

[H10] Author – Author lived through and witnessed the events, many on a first-hand basis

[H11] This report details sexual attacks against men, women, and girls during the 2017 Electoral period by members of the security forces.



## **CONCLUSION – *The “Kleptocracia”***

**H**ow would Future Kenyan General Elections and Presidential Elections turn out? As in the past, they start at about 3 to 5 years of attempting to marginalize one of the main political actors. The cake is not big enough to be shared out, and some especially those with seemingly insatiable appetites must be pushed out or pushed aside.

Marginalization is enforced using a loss of coveted political appointments in the Executive and Legislature, more so, these are the presumed roots of the tree that would underpin any political regime. It is achieved by way of Parliamentary Group votes and simple Executive ink and paper.

Like in the Former Soviet Union, this could be achieved initially by way of change of official seating arrangements during public events, if that is not possible the equally Soviet Union approach of public denouncement done, by way of political hotheads is also adopted. By the time that the denouncement is out in the open, the die has been cast, during which anything else including the “worst” can happen.

The lack of commitment by the political elite by not reforming the electoral system is particularly telling, as it is the clearest pointer to the fact that they see some immediate utility in its lack of integrity – a misjudgment that shall inevitably come back to haunt many who are now in political favour.

It does not matter if the servers shall not be opened, it does not matter if the Staff of the Electoral Management Board shall not be changed, what matters now is the IEBC’s questionable integrity provides the best mechanism for altering the Constitution of Kenya in Referendum.

For the moment no one cares how the IEBC Server is configured for the Referendum at least from the Parliamentary majority side, not at least until they lose the Referendum, only then shall the issue be raised.

The Kinetic aspect political exchanges remain to the extent that one ought to be ethnically correct to be appointed to the most critical positions of

Command when it comes to State-actors who can change and effect facts on the ground. There is no Independent Judge Advocate General, Constabulary, or another mechanism to keep this in check, maybe only the Independent Policing Oversight Authority that may not be in a position to probe the largest and most abusive deployments of kinetics.

There is also the rampant construction and registration of all or nothing ethnic political alliances, should the electoral system become just and defeat all their plans, the Kenyan public shall have nothing to celebrate, but to drink of the Poisoned Chalice of Violent suffering – at least until the Western Diplomatic community shall see their procurement and business fortunes dwindling in Kenya, then only shall they intervene to call for a sharing of the spoils that have been tightly clutched between the jaws of some despicable political injustice.

Meanwhile, the political class continues to stock up on its ownership of Glass Towers in prime areas of the City, the latest helicopters, and limousines, most of Nairobi's urban dwellers are doing mud and wattle, tin shacks, and open sewers.

Those who are completely marginalized in remote areas such as Elgon and Lamu, also have their pick of guerilla movements to join, the problem is that they more often mete out acts of terrorism against the innocent civilians they claim to fight for and have completely no respect for International Humanitarian Law. However, it is also evidently clear that both the Sabaot Land Defence Forces and Al-Hijra movements also attracted some level of intellectual membership.

Business interests have also captured the Regulatory, Legislative and Political systems, with the hope of reaping where they occasionally sow by way of bribes and campaign contributions, so dark is this angel in the Kenyan political scene more so, since it is also laced with ethnicity, of which their realm shall be unwilling to cede power as that would translate to an immediate and sudden loss of Government procurement opportunities and the loop-sided business arena created by “old boy” and “old girl” ethnic networks.

Academia too has its dark angels, contractual non-Tenured Professors, whose ilk's bidding is to protect the realm by ensuring that those who are not complying do not graduate and "excel". Independent thinking, academic freedom, intellectual rigour, and knowledgeable exertion, may translate to nothing if one does not play by the rule books of ethnicity and political correctness, such were the like of Professor Ngugi wa Thiong'o now based in the USA and Dr. Miguna Miguna now in forced exile in Canada.

No one can forget the likes of the late Professor Rok Ajulu who fled Kenya to Southern Africa, amongst a host of thousands of other academic luminaries who could not excel in Kenya for the simple fact of their "political incorrectness".

This continues to be the trend in Kenya, where the Government exercises complete control over University Education content and organizational structures, by way of the Commission for University Education, an institution that only attends to complaints of a person based on their political correctness, wealth flexed at litigation and mysterious dark academic angel networks. As such some in Academia has had a clutch over their students in such despicable ways as that of sexual contact and favours.

Universities are structured, run, and register-based primarily based on Government writ, and all their teachings and discourse have to be permitted by the same Government – so much for Intellectual and Academic Freedom explicitly provided for under the Constitution of Kenya.

If you are a student not keen on towing the line, you fail and have no way of gaining access to your scripts for a re-mark, and at times there is nothing much you can do about it, as the same dark angel networks are all over the place, from the Judiciary to the Regulator right up to the Cabinet.

The *Magna Armis Philosophus* cannot also miss the opportunity to state how gun control has come into the mix, all private shooting ranges can now only host politically correct firearms owners. Any licensed firearm owner speaks against the regime finds his gun recalled as if they cannot print a 3-D Ghost gun from the Internet.

Tighter gun controls have only left firearms in the hands of Government supporters, sympathizers, and the indifferent plus largely silent upper class. Particularly because most of these new gun control measures were instituted after 2017, is a pointer that they have a role to play in civilian population vulnerability and pacification during the 2021/22 electoral period. The gun controls are the clearest of indications to date about the unyielding nature of the Establishment that largely does not trust the civilian populace.

By and large, the areas of Northern Kenya, where the civilian population is heavily armed with automatic weapons did not witness post-election violence in 2007, more so, because residents of those areas were before the fact able to maintain a balance where their rights were not abused and if abused they could take up matters into their own hands.

On the contrary, the highly educated regions of Luo Nyanza where the citizenry is not armed, found themselves on the receiving end of political initiated automatic gunfire in the years 2007/8, 2013, and 2016/7, where hundreds if not thousands of their residents were machine-gunned, at times right before the cameras, at no consequence to the offenders.

Most of the masses in Kenya regardless of their ethnic background and political leanings, are impoverished and highly dependent on the false promises of their leadership, for a better day, sometime in the future.

This promise is only valid to the extent that every step taken up to this better future, is at the expense of their financial and physical well-being and in most instances for the personal benefit of their beloved political leaders, and their select Asset and Wealth Managers, in some obscure glass tower in Nairobi, Europe or some other offshore location.

These Wealth and Asset Managers have become skilled at handling all manner of stolen assets to the detriment of the Nation. Billions worth of United States of America Dollars in cash, securities, and tangible assets are held away from the Public who were robbed on the way to acquiring them.

It is this wealth that is deployed to tilt the very political landscape it has been stolen from in favour of those involved in the thievery. Kenyan political

campaigns during Election years would be the envy of any United States of America, Israeli, or United Kingdom politician.

The Political class complete with fleets of personal aircraft, top-line sports utility vehicles, and financial budgets that do not come from financial fundraising activities but pure theft or contributions by prospective thieves if only for the promise of a future, stakeholding in the robbery, that the budget has turned out to be in many instances.

Kenyan financial scams are the envy of any an international thief, be they the Goldenberg affair, Anglo-Leasing tragedy, or the Kilimani-Kileleshwa fake gold sales racket that are largely reliant on political protection and capture of security apparatus for their existence.

*“Kleptocracia”* is a wholehearted concept, it is the only reason why a Nation can spend US\$500 million on systems for storing and processing data on electoral results only for citizens to be denied access to the same. It is mind-boggling at the least, that the same Electoral Management Board would continue releasing results for the Elections, even 3 years after the polls, and even more perplexing that it cannot get a correct set of results, all the time – with changes of the same as frequent as a raccoon’s volatile temper.

Like is the past, it is very safe to assume that all the is going on inside the Republic of Kenya right now, including political purges in the Governing Party, the Speeches, the Building Bridges Initiative, the new Political Alliances in Government, etc. are the work of some shadowy political think tanks and consultants in the United States of America and the United Kingdom, as has been the case since 2013. When all their advice shall fail to materialize – as surely as Sunrise and Sunset the machine guns shall be deployed to mow down those with no recourse.

Tongue-in-Cheek: Don’t let ‘The Remnants @ *“Kambridgeanalytica”*’, decide for you, what to buy and read.

**THE END**

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