

Black Votes Don't Matter: The Shrinking Civic Space of African Immigrants in the US

The United States of America has excelled in projecting an extraordinary image of itself as a free nation with a thriving democracy, where anyone can come and work their way towards a better life through civic participation. However, what the past few years in particular have peeled away betrays a somewhat different truth: that voting in the United States is hard and getting steadily more so. And there's one group of people who face a particular set of difficulties when seeking to cast their ballot: African immigrants.

Some historic context is needed regarding voting issues within the US. First and foremost, there is a historic precedent of voter suppression in the US that is unequalled within the modern Western world. Much of the targeting of such efforts has directly affected African Americans and people of colour. After slavery was abolished, states would go to incredible lengths to suppress the black vote, including implementing taxes on voting, forcing black people to produce extraneous forms of personal and family identification and making would-be black voters pass vaguely worded and lengthy "literacy tests" in order to cast their ballot. These systems, a part of the infamous Jim Crow laws, were struck down as illegal in 1965 when the country passed the Voting Rights Act.

In the years that followed, those who sought to seek the vote sought out ways to circumvent the law and keep the voter turnout low. Since the latter half of the 20th century, high voter turnout translated to a more liberal result. Take, for example, that a Republican presidential candidate has won the popular vote once since 1988 (George W. Bush in 2004). In the cases of the victories of Donald J. Trump in 2016 and George W. Bush, they skated to victory through the electoral college; a system that traces its roots to suppress the popular vote.

When looking at US politics, it isn't as much a matter of high voter turnout as it is *who* comprise the voters that are showing up to vote. The most telling demographic, the group with the highest disparity of aligning with Democrats over Republicans, is African Americans. Hillary Clinton carried the black vote by

an 80 point margin - 88 per cent to 8 per cent over Trump in the 2016 election. This margin, coupled with the United States becoming more, not less, diverse has left those seeking to suppress the vote scrambling for answers.

In 2013, efforts to suppress voters gained a major boost when the US Supreme Court overturned section 4(b) of the Voting Rights Act, which outlined that states and districts that had previously been involved in voting discrimination needed pre-clearance of the validity of their electoral processes. The conservative judges ruled this as unconstitutional, that the section “punished” states for past mistakes, not for possible future successes. Justice Ruth Bader Ginsberg dissented strongly, stating that “throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”

The Voting Rights Act had been brought before court in the wake of a series of issues across the US, primarily having to do with controversial voting ID laws, reports of voter suppression and other forms of disenfranchisement. In a theme that runs across America’s election process, the black community was disproportionately affected.

This brings the issue to focus on African immigrants in the United States. The issue of immigration in the United States has currently brought the federal government to a shutdown for over a month. There is constant rhetoric from the Trump administration targeting illegal immigrants as a major obstacle to the security and economic future of the United States. The issues of building a border wall with Mexico and continuing to provide guaranteed safeties (such as the Deferred Action for Childhood Arrivals programme, which offers protections to the children of illegal immigrants into the US) are being used as bargaining chips at the government level.

A difficult time

It is a difficult time to be an immigrant in the US. For those of African descent, theirs is a rare combination of challenges, not only in becoming part of a new nation, but also in carrying the baggage that comes with being black in America.

African immigrants in the US are a small but rapidly rising group. The increase has been marked since 1970, especially amongst sub-Saharan Africans. According to the Pew Research Center, the number of African-born individuals heading to

the US increased nearly 250 per cent between 2000 and 2015, from 881,000 up to 2,060,000. Africans are also the fastest growing demographic among black immigrants, increasing by 137 per cent between 2000 and 2013.

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In the US, a major aspect of any voting rights issue is where in the US you're living. Different states hold different standards, different regulations and varying requirements. When examining how voting standards impacts African immigrants, there needs to be a brief examination of where African immigrants live.

The five states with the highest African immigrant population are California, New York, Texas, Maryland and Virginia. Cities such as Atlanta, Georgia and Minneapolis also have high numbers of such migrants. This is where context becomes even more important; California and New York are known as more immigrant-friendly destinations, and their major metropolitan areas are regarded as "sanctuary cities" for illegal immigrants. New York and Minnesota don't require a photo ID whereas California may require one for a first-time voter (newly-naturalised US citizens are always first-time voters). Maryland holds a similar policy.

Texas, Virginia and Georgia, on the other hand, are a different matter entirely. Virginia requires a valid photo ID in order for an individual to vote in person. Texas and Georgia are both mired in controversy over the stringent regulations put in place regarding the standards for voter IDs. The state of Texas is currently mired in litigation over the voter ID laws, with opponents arguing that it disproportionately impacts minorities.

In Georgia, where over 70,000 African immigrants reside in the Atlanta metropolitan area, the man who was presiding as the Secretary of State (the office which controls the conducting of elections, a possible conflict of interest) won narrowly and controversially over Stacey Abrams, who would have been the first black woman elected to be a state governor in the US. Abrams repeatedly made claims that there was voter interference, particularly amongst black precincts, where electronic voting was in disarray and reports of voter

suppression were rampant. These claims had much of their basis in and around Atlanta, Georgia.

Why does voter ID matter and how does it affect Africans living in America? For starters, the path to US citizenship (which is needed to vote in America) is extremely arduous, long and difficult. The paperwork hoops to jump through are staggering. On average, it takes an immigrant a minimum of five years of continuous residency to become a naturalised US citizen. In cases that need further legal counsel, it can take even longer as the legal side of American immigration courts have become steadily more choked and congested in the new millennium.

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For immigrants, the issues surrounding voter ID can often be much murkier. For instance, immigrants can gain driver's licenses within the United States, which is one of the key forms of identification needed in states with more stringent regulations. This doesn't mean that immigrants have the appropriate information explained to them regarding the IDs being obtained. The African Advocacy Network of California notes that although driver's licenses are applied for successfully by immigrants who aren't naturalised, the fact that they are still unable to vote due to their status isn't explained to them. This can lead to immigrants attempting to vote, unknowingly engaging in an illegal act of fraud. The penalties for such fraud in the US are harsh. Both illegal and legal immigrants can face deportation if found to be involved in fraudulent voting. Cases of actual voter fraud involving illegal immigrants are incredibly rare, but that doesn't stop Trump from repeatedly claiming that Hillary Clinton won the popular vote because of millions of "illegals" somehow managing to cast ballots.

Illegal immigrants in Trump's America

The Obama administration was noted for its strict approach to illegal immigration, deporting hundreds of thousands between 2009 and 2017. That same administration, however, did focus on expanding a programme called the H1-B visa, which encouraged workers from outside of the United States to enter the country to work. Many prominent corporations, including Amazon, Google and

Microsoft, heavily leaned on the programme as it eased the transition for professionals to gain a foothold in the US workforce. In addition, the H1-B programme made the path to a Green Card visa (an initial step towards US citizenship) markedly smoother, encouraging immigrants to engage in the process of becoming a citizen.

The Trump administration, on the other hand, has taken a significantly different approach. The current White House passed an executive order titled “Buy American, Hire American” that directly encourages American companies to hire only the most skilled workers from outside of the United States. This will have a long-term impact on the number of H-1B applicants who can head down the path of gaining citizenship.

The Obama administration had an unfortunate track record of harshness regarding immigration, including reopening and examining case files of naturalised citizens (immigrants who gained their citizenship in the US). The Trump White House has, of course, seized on this idea and expanded it. Under this administration, the U.S. Citizenship and Immigration Service (U.S.C.I.S.) has created a new task force to look into cases and possibly “denaturalise” citizens for often muddled reasons, such as making a clerical mistake on a form. In essence, this leaves millions of naturalised United States citizens’ status at the discretion of officials appointed under the Trump administration, one noted for its blatantly anti-immigrant rhetoric.

A prominent path to Green Card visas for African immigrants is the Diversity Lottery programme, which grants visas to citizens from all over the world. Given the administration’s track record, it comes as little surprise that the White House has looked repeatedly into cutting the programme entirely. As egregious as this is, perhaps the repeated ransom holding of the so-called “dreamers” (children of illegal immigrants born in the United States and granted legal protections) is even more insidious. Trump has made a repeated talking point of ending protections for the dreamers, even going so far as to offer continued protection as a bargaining chip for \$5.7 billion of funding for a border wall in January of this year.

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So how does this apply to African immigrants, specifically? The numbers indicate that immigrants from sub-Saharan Africa are the fastest growing group, and that the vast majority of this immigration has occurred after 1960. This translates into African immigrants having less of an established civic network than other immigrant groups in the US.

Less civic engagement

Less network means less community engagement and less protection for Africans now calling the US their home. This, in turn, translates into issues surrounding social integration facing Africans in America. Those in questionable status are likely to eschew anything to do with getting on the record, including engaging in civic discourse. One example saw the city of San Francisco engaging with members of the African immigrant community to get involved with the local school board elections, despite many holding illegal immigrant status. Illegal immigrants worry about what will happen to their information and whether it will end up in the hands of Immigration and Customs Enforcement (ICE).

This is compounded by the constant shifting and swirling of regulations surrounding immigration within the US. Frankly put, in America, things currently seem extremely uncertain. Those who would have gained the path to citizenship by being granted immigration visas are suddenly on the outside looking in. Immigrants from Libya, Sudan and Somalia (the three African nations affected under the Trump administration's travel ban targeting Muslim-majority nations) are suddenly unsure of their status.

Noticeably, despite all of his talk of walls and increased military presence, Trump has not issued a travel ban to a Latin American country. The current administration is seemingly preoccupied with all things immigration, how to stop it, how to grandstand from it, how to flex political muscle by stopping it. In fact, in 2017, despite overall numbers of deportations falling, ICE deported a record number of African immigrants, more than double of the total from 2016. There were reported instances of poor treatment and abuse of deportees by ICE agents. While the numbers are comparatively small, increases in deportation can push African immigrant communities even farther outside of the democratic process. What was the number one country for African immigrant deportations from the

US? Somalia.

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Ilhan Omar, herself a Somali immigrant to the US, is now a first-term Congresswoman from Minneapolis, Minnesota. Her election is an indication of a potential future of US politics: that African immigrants can find a voice in politics, in part due to the rallying of their communities. She's become an outspoken advocate for the Somali community in Minnesota while continually deriding the Trump administration's anti-immigration policies.

Since her election, Omar has been a frequent target of scathing criticism from the conservative media and the Republican Party, who have even claimed that some of her pro-Palestine comments are blatantly anti-Semitic. While her election to the US Congress is historically significant (she's the first African-born refugee in the history of the United States Congress), Omar is still just one member of Congress, one voice for an ever-growing population that seems ever-more targeted by executive orders of the Trump administration. Think of it this way: Omar wouldn't be able to enter the US under the travel ban of Muslim majority countries passed down by Trump.

In essence, this message to newcomers to the US is: DON'T BOTHER GETTING ENGAGED BECAUSE THE CONSEQUENCES COULD OUTWEIGH YOUR EFFORTS. To those emigrating to the US from Africa, this messaging can appear even more insidious, as Adoubou Traore (who himself emigrated from the Ivory Coast), the director of the African Advocacy Network in San Francisco outlines: "Many Africans have inherent doubts about the legitimacy of elections, they're a headache, their experience makes them not believe that their voices matter. When there is no guarantee that their information won't be subject to being exploited, from their view: what's the point?" There isn't much that would prevent them from holding such views in America. It becomes a community question of why organise if doing so can only lead to more headache?

With issues surrounding racism against black people in America being dissected

and moved further towards prominence in national dialogue, it would, at least on the surface, seem as though the communities of African Americans would provide a steady ally for Africans adjusting to life in America. Unfortunately, this is often not the case. There is a noted divide between Africans and black Americans, one that many coming to the US find difficult to bridge. Some of this gap is historically entrenched, some of it is due to the truly lacking breadth of coverage in the US education system regarding African history and culture. The awkward truth is: Africa as a topic in the US is regarded as a monolithic punch line to a bad joke, and is hardly rendered an after-thought in terms of democratic engagement.

In terms of vulnerability to less-than-democratic interests, there are myriad of groups in the United States that could use additional legal and outreach protections. Practically anywhere in America that can't be categorised as white and suburban finds itself victim to voter suppression efforts. In the US context, the black community is systematically targeted the most.

Laws are seemingly rolled out in force yearly in dozens of states, implementing further restrictions and using scare tactics, lies and intimidation to influence local and national elections with a conservative slant.

The unavoidable truth is that Africans in the US find themselves at an ugly modern crossroads: the centuries of subversive efforts to reduce the so-called "urban" vote at a crossroads with the modern iteration of all-American xenophobic fervour. Though growing fast in population, the democratic influence has not kept stride.

Death in Vienna: The Death of Erich Rebasso

In the last days of 2008, Erich Rebasso, an Austrian lawyer, sent a letter to the main Vienna headquarters of the Federal Criminal Police, the country's top law enforcement agency.

Its purpose was unusual — the father of four young children was blowing the whistle on himself.

“I deeply regret having been used for criminal purposes and I am willing to submit the matter to the required criminal review,” Rebasso’s five-page confession concluded.

But it had all come apart. Rebasso admitted he had been used to launder tens of millions of dollars. He explained that, for over a year, he had been accepting payments from Russian criminals and had sent the funds to other bank accounts at their instruction. Then 45, Rebasso specialized in advising Russian clients on how to do business in the West. He had an excellent reputation as a fast, reliable, and discreet partner, and he spoke Russian fluently.

As it turns out, those criminals were using companies that were part of the Troika Laundromat. The massive financial scheme revealed in [OCCRP’s latest Laundromat investigation](#) had been put together by Troika Dialog, then Russia’s largest private investment bank. Some of the accounts Rebasso wired to belonged to two of the system’s core offshore companies: Industrial Trade Corp. and Nixford Capital Corp.

Between December 2006 and February 2008, Rebasso used 150 individual transactions to send almost US\$ 96 million to laundromat accounts at Ukio Bankas, a Lithuanian bank.

Many of the reasons specified for the transfers made little sense for a law firm. Along with trades involving “fruits and vegetables,” “consumer goods,” and “electronic goods,” Rebasso is even listed as buying “frozen herring” from companies with Ukio bank accounts. More likely, the description was a red herring aimed at Ukio’s compliance department.

Rebasso’s own Austrian bank accounts were held at Raiffeisenlandesbank Niederösterreich-Wien (RLB). Though the bank investigated his large transfers, it appeared to take no further action for two years — at which point it finally pressed him to stop.

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Rebasso's confessional letter had little effect. While police looked into the matter, it was two years later when they informed him that they had stopped the proceedings because they believed any potential crime had happened outside their jurisdiction and been committed by foreigners.

Two years after that, Rebasso was dead.

The Sheremetyevo Fraud

According to his statement, Rebasso's involvement in the money laundering scheme began on a visit to Moscow in November 2006 where he was introduced to Viatcheslav Dremin, a Russian businessman. Dremin told him that he provided financial services to Russians who needed to transfer funds abroad. But the official system for sending money across borders was very bureaucratic, he said, and he needed to speed up the process. He wanted Rebasso to act as his trustee in Vienna to help him move the money faster.

The lawyer accepted. Soon, two Vienna bank accounts belonging to his Austrian company, Schulhof Investigation (later renamed Sostegno), began receiving large sums from companies Dremin represented, along with instructions on where to send them. In every instance, he received his directions via an anonymized email address.

Rebasso worked on behalf of three insurance companies registered in Dagestan, a troubled North Caucasus republic within the Russian Federation.

At least some of the money appeared to be of criminal origin.

One of the companies Dremin represented, National Insurance, was directed by Russian businessman Maxim Vedenin. In 2011, Vedenin would be sentenced to 19 years in prison for robbery and the murders of two prostitutes.

Prior to that, Vedenin's company had received money from a widely-known fraudulent scheme involving fuel at Moscow's Sheremetyevo airport that OCCRP uncovered in 2012.

Between 2003 and 2008, Moscow's busiest airport bought fuel through a long chain of intermediaries that grossly inflated its cost. According to court documents, phantom companies earned at least \$200 million in unnecessary markups in 2006 and 2007 alone. The Russian government lost more than 1

billion rubles (\$40 million) in tax revenue from the scheme. The higher fuel costs also meant higher airplane ticket prices for the travelling public.

A portion of the money generated by the scheme was laundered through the Troika Laundromat. Vedenin's company, National Insurance, received some of the proceeds, and then sent them on to Rebasso's company.

The Austrian lawyer then sent the funds into the Troika Laundromat, using it as a money laundering system. Over the same period, between December 2006 and March 2007, he sent \$19.4 million to the accounts of Nixford and Industrial Trade Corp. To justify the transfers to the bank, he provided false invoices indicating he had bought "consumer goods" from the Troika Laundromat companies, or was simply paying "for bills."

All but one of Dremin's companies have been dissolved, and he couldn't be reached for comment.

Raiffeisen Looks In

Despite Rebasso's efforts to mask his money transfers as legitimate trade deals, his own bank began to investigate the financial activity in the spring of 2007.

On March 15, Rebasso's office received a letter from his bank's legal department inquiring about a "sharp increase in transaction amounts" on one of his accounts. The bank wanted to know on whose behalf Rebasso was acting.

A few days later, Rebasso responded in a letter, explaining that he was handling "foreign payments" for three Russian insurance companies. He also provided their names, their information from the Russian commercial register, and evidence of his business relationship with them.

The bank appears to have been satisfied with Rebasso's explanation, because afterward, his transfers continued.

(A representative of RLB said the bank could not comment on its clients and that it had complied with all anti-money-laundering obligations.)

A Last Client

In mid-2007, Rebasso's statement to police says, Alfis Mirgunov, one of the

Russian partners in his arrangement with Dremin, got in touch. Mirgunov planned to start his own financial enterprise and wanted Rebasso to open bank accounts in Austria on his behalf. Once again, the lawyer agreed.

He opened three new RLB accounts for his company, Schulhof, to handle the anticipated load. The accounts were denominated in U.S. dollars, euros, and Russian rubles and soon, more money started to pour in. Once again, Rebasso received his instructions from an anonymous e-mail address, this time identified only by a sequence of digits.

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Over two months near the beginning of 2008, Rebasso wired \$68.3 million in 106 individual transfers to a bank account owned by Vantrel Invest Ltd., a New Zealand-registered shelf company.

Vantrel doesn't appear to be a Troika Laundromat company; rather it is an intermediary that sent millions on to the Laundromat. (Vantrel's bank account was held at Ukio Bankas, where many Laundromat companies held their accounts.) Documents related to the transactions said they were to buy mobile phones, though this explanation is almost certainly another fiction.

In his confessional letter, Rebasso told the Austrian police that he stopped working for the Russians in 2008. It isn't known how much money he took for his services.

"I ended this activity at the end of February," he wrote. "Among other reasons, primarily because the scope overwhelmed my control options."

His hesitation appeared to be only part of the truth.

In fact, that month, Rebasso's Austrian bank, RLB, had had enough. His transactions had apparently triggered another serious review, and senior executives told Rebasso he would need his own banking license to continue such large transfers.

The Finlist Fraud

Though he had stopped working with his Russian partners, Rebasso's troubles were just beginning. He appeared to have become an unwitting facilitator of a fraudulent investment scheme.

According to his letter, in June 2008, Rebasso started receiving emailed complaints from ordinary Russians who said their savings had been stolen.

Rebasso described the correspondents as "rather simple-minded, not very wealthy people who were baited with internet ads."

Apparently, the victims of the scheme had been offered what appeared to be lucrative investment opportunities through a platform called Finlist Forex Found. Then, without Rebasso's knowledge, they were instructed to send their money to the accounts of his Austrian company, Sostegno.

Rebasso said the Russian fraudsters provided the investors with fake documents bearing his forged signature (some of these were shared with him by the angry correspondents). When the money arrived in his accounts, Rebasso sent it on without being aware of its origins.

Now the victims were furious, demanding repayment of money he had already sent on to the Laundromat.

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Rebasso got in touch with Mirgunov and asked what was happening. The Russian told him he would fix the problem and reimburse anyone who had lost money. But he never did, and by the end of the year, Rebasso sent his letter to the Federal Criminal police.

The Beginning of the End

The police forwarded the case to the public prosecutor's office in Vienna. Nothing appeared to happen. On Dec. 3, 2010, two years after his complaint, Rebasso was notified that police had ended their case. It had been dismissed because the

public prosecutor decided the case was outside Austrian jurisdiction. “Foreign acts of foreigners,” the statement read.

Rebasso’s own story was nearing its end.

In late July 2012, as he walked from his office to his Mercedes SUV in an underground parking lot, he was ambushed by two men. His car was later found empty in a different location, and shortly after his disappearance, his family received a demand: The kidnappers wanted a 435,000-euro ransom. After no deal was reached, Rebasso’s body was found three weeks later in a forest near Vienna. Austrian authorities concluded that he had been suffocated, probably while he was taken into a headlock.

Soon afterward, two former Moscow police officers were arrested and charged in connection with the ransom demand — but not for Rebasso’s kidnapping and murder. They were sentenced to eight and nine years in prison, respectively.

It’s still unclear who ordered Rebasso’s murder and why, though media and police speculated that victims of the investment fraud had hired the officers to recover the money.

More than six years later, the exact circumstances of Rebasso’s death are still unclear.

The Troika Laundromat: How Vast Offshore Network Moved Billions With Help From Major Russian Bank

At first blush, Ruben Vardanyan and Armen Ustyan have nothing in common beyond their Armenian roots.

Vardanyan is a wealthy Russian banker who once led Troika Dialog, the country's largest private investment bank. He's spoken at the World Economic Forum in Davos and spent tens of millions of dollars on philanthropic projects in his native Armenia. Ustyan is a seasonal construction worker who shares a chilly apartment with his wife and parents in northern Armenia when he isn't renovating flats in Moscow.

Ustyan's name and a copy of his passport appear in the bank documents for an offshore shell company that played a role in Troika's system. The company was one of at least 75 that formed the complex financial web, which functioned from 2006 to early 2013. Over that period, Troika enabled the flow of US\$ 4.6 billion into the system and directed the flow of \$4.8 billion out. Among the counterparties on these transactions were major Western banks such as Citigroup Inc., Raiffeisen, and Deutsche Bank. The dozens of companies in the system also generated \$8.8 billion of internal transactions to obscure the origin of the cash. But Ustyan's signatures on documents he says he's never seen draw a direct line to Troika — and to a financial Laundromat that shuffled billions of dollars through offshore companies on behalf of the bank's clients, many of whom were members of Russia's elite. The system enabled people to channel money out of Russia, sidestep restrictions in place at the time, hide their assets abroad, and launder money. It also supplied cash to Russian President Vladimir Putin's friends and powerful oligarchs, and enabled criminals to mask the illicit origins of their cash.

(Citigroup didn't respond to a request for comment on this story; Raiffeisen declined to comment, citing client confidentiality; and Deutsche Bank said it had "limited access" to information about Troika client transactions and couldn't comment on specific businesses for legal reasons.)

At the time, Vardanyan was Troika's president, chief executive officer, and principal partner. He enjoyed a reputation as a Western-friendly representative of Russian capitalism, known for working to improve the country's business environment and for co-founding the Moscow School of Management Skolko

As with the previous Laundromats, many of the large transactions were made on the back of fictitious trade deals. The bogus deals were invoiced variously as "goods," "food goods," "metal goods," "bills," and "auto parts." All the invoices included in the leak were signed by proxies and sent from Troika.ru email

addresses. Meanwhile, employees at Troika were setting up the opaque financial system — dubbed here the Troika Laundromat because of its resemblance to previous money laundering schemes uncovered by OCCRP.

This portrait of the operation emerges from a trove of leaked banking transactions and other documents obtained by OCCRP and the Lithuanian news site 15min.lt, and shared with 21 media partners.

As a whole, the data set includes over 1.3 million banking transactions from 238,000 companies and people, as well as thousands of emails, contracts, and company registration forms. This analysis of Troika's network is based on a subset of the data.

In an interview, Vardanyan said his bank did nothing wrong and that it acted as other investment banks did at the time. He stressed that he couldn't have known about every deal his enormous bank facilitated for its clients. Reporters found no evidence that he was ever investigated or accused of any wrongdoing by authorities. His signature was found on only one document in the entire scheme, in which he gives a loan to a Troika Laundromat company.

Vardanyan described the system as a private wealth management service.

Referring to the constellation of offshore companies that comprised the Laundromat, he said: "Those are technical service companies of Troika Dialog clients, among them, mine."

"It could be called a 'multi-family office,'" he said. "A similar practice still exists at foreign banks. Most of their clients work through international companies. I repeat: We always acted according to the rules of the world financial market of that time ... Obviously, rules change, but measuring a market in the past by today's laws is like applying modern compliance standards to the time of the Great Depression. You'll agree that this distorts the true situation."

Asked about the fictitious trade deals, Vardanyan said Troika Dialog's revenue topped 2 trillion rubles from 2006–2010 (\$63–85 billion, depending on currency fluctuations) and that he "couldn't possibly know about all the deals in a company of this size."

Though such practices were considered business as usual in Russia at the time,

specialists note that systems like the Troika Laundromat can have serious repercussions.

The schemes stunt national economic development, undermine human security, and diminish the quality of life for people left behind, said Louise Shelley, director and founder of George Mason University's Terrorism, Transnational Crime, and Corruption Center and author of the book "Dark Commerce."

"Money laundering countries, particularly in the developing world, are losing enormous amounts of capital that are needed for infrastructure development, education, health, [and] the development of new businesses, of entrepreneurship," Shelley said. "With this much money lying overseas, you can do all sorts of malicious things. You can interfere in electoral processes. You can help pay for fake news."

Criminal Services

The Laundromat wasn't just a money laundering system. It was also a hidden investment vehicle, a slush fund, a tax evasion scheme, and much more.

Troika's clients also used it to buy properties in Great Britain, Spain, and Montenegro; to acquire luxury yachts and artwork; to pay for medical services and World Cup tickets; to cover tuition at prestigious Western schools for their children, and even to make donations to churches.

In addition, the Troika Laundromat enabled organized criminal groups and fraudsters to launder the proceeds of their crimes. OCCRP and partners have identified several high-level frauds perpetrated in Russia that used Laundromat companies to hide the origins of their money.

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One of these schemes, known as the [Sheremetyevo Airport fuel fraud](#), took place from 2003 to 2008 and artificially inflated aviation fuel prices while depriving the Russian state of more than \$40 million in tax revenue. The scheme led to a hike in plane ticket prices. More than \$27 million was sent by companies involved in the

fraud to Troika Laundromat accounts. Vardanyan has not been implicated in the scheme and said he had no knowledge of it. In 2010, two years after the fraud ended, Troika Dialog began consulting for the airport along with Credit Suisse.

A second significant criminal inquiry tied to the Laundromat, from which \$17 million ended up in the system, involves a tax avoidance scheme allegedly perpetrated by several Russian insurance companies. A man named Sergei Tikhomirov was accused of concluding false service contracts with the insurers as a pretext for having them send him large sums of money, which his accusers say he cycled through several accounts before depositing it abroad or cashing in. A portion of the money ended up in the Laundromat. (Tikhomirov did not respond to phone calls seeking comment.)

Roldugin didn't respond to an email requesting comment, and Vardanyan said that he knew of the cellist, but was not aware that he had any business dealings with Troika. In a third case, at least \$69 million went to companies associated with Sergei Roldugin, a Russian cellist and one of Putin's best friends, who became famous after his vast unexplained wealth [was revealed by OCCRP](#), the International Consortium of Investigative Journalists, and other media partners in the Panama Papers project. Some of the money that Roldugin's companies received from the Laundromat originated in a massive Russian tax fraud exposed by Sergei Magnitsky, a Russian lawyer who died in jail after revealing it.

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Companies involved in the fraud exposed by Magnitsky moved more than \$130 million through the Troika Laundromat. In fact, hundreds of millions of dollars went into and out of the Laundromat for unknown purposes.

Vardanyan said he was not aware of any of these transactions.

"Understand, I'm no angel," he said. "In Russia, you have three paths: Be a revolutionary, leave the country, or be a conformist. So I'm a conformist. But I have my own internal restraints: I never participated in loans-for-shares schemes, I never worked with criminals, I'm not a member of any political party. That's

why, even in the '90s, I went around with no security guards. ... I'm trying to preserve myself and my principles."

Vardanyan and his family were among those who received money from the Laundromat. More than \$3.2 million was used to pay for his American Express card, went to accounts belonging to his wife and family, and paid school fees for his three children in Great Britain.

Asked about these sums, Vardanyan said the offshore companies Troika created serviced his own companies in addition to the bank's clients.

Troika as Capstone

The Troika Laundromat is unique among the Laundromats that have been uncovered in recent years in that it was created by a prestigious financial institution.

Like all investment banks, Troika handled stock and bond issuance, initial public offerings, and acted as an underwriting agent. It also had a strong relationship with the local office of Citibank Inc., with up to 20 percent of Troika's new investors coming via the American behemoth. That made New York-based Citibank Troika's biggest "external agent," according to a 2006 interview with Troika co-founder Pavel Teplukhin. (Citibank didn't respond to requests for comment.) Established in the early 1990s, Troika Dialog became Russia's largest private investment bank. It operated under Vardanyan's leadership until 2012, when it was purchased by Sberbank, the nation's largest state-owned lender.

The Troika Laundromat is unique among the Laundromats that have been uncovered in recent years in that it was created by a prestigious financial institution.

Other major international banks, including Credit Suisse and Standard Bank Group, did significant business with Troika as well.

Starting in 2006, Troika employees began putting together the pieces of the Troika Laundromat.

Four essential elements are needed to build a functioning Laundromat: a bank with low anti-money laundering compliance standards; a maze of secretive

offshore companies to hold accounts at the bank; proxy directors and shareholders for both the companies and the accounts; and the so-called formation agents that can quickly create, maintain, and dissolve the offshore companies as needed.

The bank orchestrated all of these components of the Troika Laundromat, in addition to directing the money flows and fake trade deals that made up its operations.

The pivotal mechanism was based on trade: Shell companies created bogus invoices for non-existent goods and services to be purchased by other companies in the system. The practice provides a fig leaf of legitimate economic activity that makes the transactions appear less suspicious to regulators.

Al-Qaida founder Osama bin Laden used a similar system to move money around the Middle East, she said. "You're disguising an illegal payment by pretending that it is linked to a shipment of goods," said Shelley, the George Mason corruption expert. "The trade-based system is one of the most central parts of money laundering in the world today."

If Troika was the capstone of the Laundromat, its cornerstones were three British Virgin Islands-based shell companies: Brightwell Capital Inc., Gotland Industrial Inc., and Quantus Division Ltd. Brightwell's first known transaction was on April 12, 2005. Gotland was established on Feb. 17, 2006, and Quantus followed six months later on Aug. 23.

An analysis of these companies' banking records reveals how they put the Laundromat together: Starting in 2006, they made numerous small payments to a formation agent called IOS Group Inc. to create the dozens of companies that comprised the complete Laundromat. IOS didn't respond to requests for comment.

The three cornerstone companies then continued making payments to IOS ranging from 40 to almost 5,000 euros over almost six years to keep the entire network operating. Over that span, the total reached over 143,000 euros.

Quantus, for example, paid formation and maintenance fees for the British Virgin Islands-based Kentway SA. This company was later used, among many others, to send millions of dollars to Sandalwood Continental Ltd., a company connected to

Sergei Roldugin, the cellist, and one of Vladimir Putin's oldest friends.

Quantus' involvement with Kentway demonstrates the many ways in which the Laundromat companies were interconnected. In this case, after first helping establish Kentway, Quantus then funded it with money that Kentway forwarded to Roldugin's company.

The Bank

To direct the flow of funds through the Laundromat, Troika needed a commercial bank to host accounts for the companies involved. And it needed that bank to avoid looking too closely at the contracts and trades Laundromat businesses used to justify moving money from one offshore company to another.

Troika chose Lithuania's Utkio Bankas for the job. (The Lithuanian lender would later be seized by the country's National Bank in 2013 for engaging in risky deals and failing to follow regulators' orders.) Utkio is known to have set up accounts for 35 companies used in the Troika Laundromat, and likely more.

Because Lithuania wasn't yet using the euro, Utkio needed correspondent accounts at European banks, such as the Austrian Raiffeisen or the German Commerzbank AG, to handle euro-denominated transactions. Those two lenders and many other large European and U.S. financial institutions accepted Laundromat money, though they did sporadically inquire about the nature of some transactions. After prodding by one of the correspondent banks, for example, some Utkio compliance officers made inquiries about Laundromat payments that didn't make commercial sense.

"What is the essence of this transaction? We have a contract (attached), but to be honest, I don't really get what's happening," one officer wrote, adding an unhappy face, in relation to a payment that went to a company associated with Roldugin.

By this point, the money had already left Utkio's accounts.

Asked why Utkio was chosen as the banker for the offshore companies Troika created, Vardanyan said it was just one of about 20 banks Troika used around the world.

The Armenian Proxies

A central figure in many of the transactions involving the Laundromat companies was Armen Ustyan. Far from being an investment banker, Ustyan, 34, works seasonally as a construction worker in Moscow.

Ustyan said he had never heard of Dino Capital SA, the Panama-based Laundromat company whose Ukio bank account was registered using his signature. A copy of his passport was attached, but Ustyan insisted he had no idea how it got there. Ustyan's signature can be found on contracts and banking paperwork in the Troika Laundromat along with those of a few other Armenians. Wearing an old military jacket and hat, he sat down with reporters this January in his cold living room to answer questions about high finance.

At his mother's request, he wrote his signature on a piece of paper and concluded that the one associated with Dino Capital had probably been forged.

The Armenian said he knew none of this, though he did recall a slim connection to Troika Dialog: While in Moscow looking for work, Ustyan stayed with a Russian Armenian whose brother he said worked for the investment bank and helped him find employment. In addition to having his signature associated with Dino Capital's bank account, Ustyan is also listed as an attorney authorized to sign contracts on the company's behalf, and his signature appears on at least \$70 million worth of financial agreements.

The Moscow address is indeed that of Nerses Vagradyan, a Russian citizen of Armenian descent. Nerses' brother, Samvel Vagradyan, is a director of a Russian company that received millions of dollars from Brightwell, a core Laundromat company. A Samvel Vagradyan is also mentioned on Vardanyan's website as a donor to the banker's charitable causes. It's unknown whether Samvel really worked for Troika.

Neither of the Vagradyan brothers could be reached for comment. Ustyan said he doesn't believe they used his identity.

Another Armenian front man in the Laundromat appears to be Edik Yeritsyan. His identity was used to register an account at Ukio for the Cyprus-based Popat Holdings Ltd. This company was involved in Laundromat transactions worth millions of dollars.

Yeritsyan told OCCRP that he lost his memory three years ago after a car accident and doesn't remember some parts of his life. However, Ustyan said that he and Yeritsyan lived together in the same flat they were renovating in Moscow.

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Not My Brother's Keeper: Forces That Have Kept the Luyia People Apart

The Luyia community has produced more vice presidents than any other Kenyan community. Musalia Mudavadi was appointed vice president in 2002 for 90 days, Wamalwa Kijana in 2003 for seven months and Moody Awori was also Mwai Kibaki's vice president between 2003 and 2007. But has this ever translated into any political clout or force? That has always been the big question of the day.

Luyias have never been able to take advantage of their numbers to gain or forge strong, collective political mileage. They have been unable to put their eggs in one basket to negotiate for their community. To understand the story of the Luyias of Kenya, one has to analyse their history from pre-colonial days to date, and particularly the impact of colonial events, ideology and administration.

Before the Luyia nation was cobbled together as a political necessity in 1943, several Luyia clans, such as the Bukusu, Banyala, Batsotso, Idakho, Isukha Kisa, Marama and Wanga, were originally Luo, Kalenjin or Masaai. In fact, a whole community like the Tachoni was originally part of the highland Nilotes who were incorporated through inter-marriage with the Bantu. This history does not make any of the clans less Luyia. Indeed, the entire community is an amalgamation of Bantu and Nilotic genealogy, bound by a common linguistic and cultural orientation acquired through adoption or assimilation. There are more than 800 Luyia clans to date, existing as units with fluid boundaries, joined together by a

thin mosaic band of cultural and linguistic similarities.

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The political union between these clans has eluded them since the formation of the word “Abaluyia” in 1943. In essence, Luyia ethnicity did not exist before then. British ethnographers called all tribes in western Kenya “Kavirondos”, a pejorative term resented by the Luyia, Luo, Kalenjin, Kisii, Kuria, and Teso. The fight by these communities to redeem their respective ethnic pride was somewhat achieved when the name Kavirondo was expunged from official use and replaced by “Nyanza”, which in some Luyia dialects means “a large water body”. What we refer to as Western Kenya was then called North Nyanza.

Most of these clans that shared closely related ethnic polity did not have a centralised system of traditional governance. Around the Second World War, traditional leaders in pre-colonial Kenya realised the world had changed, and with it political parameters. Only organised societies with definite ethnic identities could survive and possibly benefit politically by bandying together. The so-called Luyia communities were not spared the effects of this political idea.

According to Encyclopedia Britannica, the word Luyia was first proposed by the local African Mutual Assistance Association in 1930 and adopted by the North Kavirondo Central Association in 1935, although some sub-communities’ elders rejected it. Their opposition gradually waned and the name started gaining currency.

In 1940, the Abaluyia Welfare Association was born, partly to popularise the name “Abaluyia” as a first step to creating a super ethnic identity. Shortly afterwards, a language committee was formed, and following its recommendations in 1943, the Luyia nation was born. It was formally adopted to describe a federation of lexically- related Bantu sub-tribes as a distinct tribal group living in the western part of Kenya.

According to Shadrack Bulimo, a Kenya-born ethnographer based in Edmonton

Canada, “midwifing the super tribe was the easy bit; nurturing and developing socio-cultural institutions to anchor an impregnable system with national ethos, has evaded Abaluyia tribesmen for three generations. Over the years, talk of Luyia unity has waxed and waned depending on prevailing political temperatures, in a cyclical pattern that continues even today especially during electioneering.”

“Luyia unity is a favourite subject among politicians whenever elections are looming, but the same leaders are unwilling to jump into one political vehicle to harmonise the region’s socio-economic interests,” Bulimo argues.

Origins

The word Luyia is derived from *Oluyia* (the variation being *Oluhya*), which generically means a fireplace or hearth. It is believed that in pre-colonial Luyialand, members of a family, lineage or clan congregated around a bonfire in the evening to exchange the day’s news, or simply tell stories about war or clan matters. If a stranger joined them, they would ask, “Which *Oluyia* do you belong to?” to establish where the person was from in order to guard against threatening strangers or enemy infiltration.

Besides a family hearth, each clan had a common village gathering place where elders assembled to honour a village summon. This way, *Oluyia* also served as a village court where important matters were discussed, argued and adjudicated. It derived a different meaning but for a similar purpose. The village’s largest tree replaced the individual family’s hearth and became the focal point of *Oluyia* during the day. Gradually, when people said they were going for a meeting at *Oluyia* they meant the village common ground, rather than the literal fireplace. (Note the spelling of the word “*Oluyia*” without the “h”. The first Arabs encountered by Luyias are to blame for being unable to pronounce the word “Luyia” hence corrupting it by adding the letter “h” in their writing. Eventually, the new spelling came to be and was gradually adopted by scholars.)

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The other meaning of *Oluyia* is both micro and macro. Those who share a fireplace as a lineage or clan belong to the same *Oluyia* (micro meaning). Thus when a group of clans come together they form *Aba-luyia* (sub-tribe) or *Aba-luyia* (macro-tribe). Nowadays the Abaluyia or Luhya generally means people who speak any of the closely-related 18 dialects found in Busia, Kakamega, Bungoma and Vihiga counties.

However, this group of 18 related nations have had distinct experiences under colonialism, and specifically under the various Christian missions. The missionary church played a huge role in the politics of the Luyia community and in the developments and cleavages of Luyia identity.

The Kenya-Uganda Railway reached Kisumu (then known as Port Florence) in 1901. Two years later, the Quakers (Friends Mission) started a mission hospital and primary school at Kaimosi in Tiriki. The Quakers would quickly become dominant in the area because, apart from evangelising, they introduced vocational training that imparted employable skills like carpentry, tailoring, masonry and machining to the natives.

A defining moment in the political history of Luyias had just been established. And somehow, the seed of discord among the community had also been sowed.

In the early 20th century, the various missionary societies active in the area concluded that competition for native souls was unhealthy and confusing, so they agreed to carve out spheres of jurisdiction in the region, just like during the "Scramble for Africa" when European powers did the same.

Under this pact, the Church Missionary Society - later called Church of the Province of Kenya (CPK) and today the Anglican Church of Kenya (ACK) - was assigned to evangelise among the Luo and the Marama. The Church of God was assigned Bunyore, Kisa and Butso. Friends African Mission (Quakers), with its headquarters in Kaimosi, was assigned Maragoli, Bukusu and Tiriki. Catholics were to concentrate on Wanga, Isukha and Idakho; the Mill Hill Fathers - also Catholic - anchored their mission at Mukumu in Isukha. The Pentecostal Assemblies of God (PAG) from Ontario, Canada, through Otto Keller, later established the mission at Nyangori. (Nyang'ori is located about 15km from Kisumu at the confluence of Nyanza, Rift Valley and Western Province.) Keller soon became very popular because he introduced drumming, which attracted

locals to his church and annoyed Quakers who were already dominant in the area.

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The Church Missionary Society (Anglicans) started a mission at Maseno, led by James Jamieson Willis and Hugh Saville, to preach to the Luo people. Maseno School later developed into one of the best centres of academic excellence in Kenya. Having been established at a borderline, many neighbouring Luyia boys were enrolled into the mission alongside Luos. After all, inter-marriage between the Luo and Luyia had existed along the Maseno borderline.

The British appointed Nabongo Mumia as paramount chief of the region in 1913. Nabongo Mumia acquired the first bicycle in 1910, making him the first Luyia to do so, and since then, the item has remained a precious possession amongst the Luyias. Mumia was also the first Luyia to own a motor car. He retired in 1926 and died in 1949 aged 100 years, and was buried at Itokho in Mumias. The first sewing machine was introduced in 1916 by the Singer Company, which sold it to the Irish CMS Missionary at Butere. Modernity or “civilization” had arrived in Luyialand.

The Bukusu were the only Luyia community to openly resist the colonialists in 1895. They built Chetambe Fort in Webuye to reinforce their battle with the white man. The British fought back their warriors in 1895, ending the Bukusu resistance. To date, Bukusús perceive themselves as brave warriors.

The Quakers and their mission

Islam was also present in Luyialand, and was brought to Wanga by Arab traders en route to Buganda in 1902. Beyond Wanga, there was little success in spreading the religion to the rest of Luyialand. Since Swahilis raided Bukusús for slaves, they met stiff resistance and hence few Bukusu converted to Islam. In Nabongo Mumia’s court, the Swahili occupied an envious position in the colonial administration. They were employed as tax collectors, informers and circumcisers of Wanga Muslims converttees, despite being associated with cunningness and corrupt practices. Today many Luyias refer to Abawanga as *Abaswahili* (implying

cunning and untrustworthy people).

But it was the American Quakers Mission, which was dominant in the area, that became the site of major social transformation. The mission at Kaimosi was situated on a hill called Hill of Vision, which the locals referred to as *Javujilachi* (holy hill). The Quakers' vision was premised on four pillars: education, health, industry and evangelism. Their arrival marked a radical approach that was different from that of earlier evangelists who only preached the gospel without investing in vocational and educational infrastructure.

Kaimosi was established in Tiriki where believers did not initially resist the American missionaries. (They especially enjoyed and appreciated the health facilities.) Yet things took a turn for the worse when the Quakers began to question the traditional Tiriki way of life. The backlash was so severe that by 1910, only eleven Tirikis remained as converts. With time, the missionary efforts were combined with other colonial instruments like schooling, waged labour, taxation, property laws and urbanisation. Christianity disrupted traditional social practices like marriage and circumcision.

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The Tirikis found themselves in a deep quagmire when their land was forcefully acquired by the missionaries, and when their culture was maligned and disrupted. They coexisted as uneasy neighbours with the Quakers, who they now disliked for their stand on polygamy and traditional culture. It meant that other Luyia communities gradually found refuge at the Kaimosi mission. Girls who sought refuge after running away from forceful suitors arrived at Kaimosi. Another sticking point was the presence of many non-Tiriki, especially Maragoli, as workers to the missionaries. This fostered the feeling that the mission favoured "outsiders".

Where the Tiriki lost, the Maragoli gained. With a huge population occupying a small area, they migrated in droves to live among the Tiriki in Kaimosi, becoming a sizeable minority. As early as 1904, the Maragoli made up the majority labour force at Kaimosi, a trend that has continued to date.

At this point, Kaimosi was the only intermediate school in Luyialand where the rest of the sub-clans had to go for education past Standard 3. On arrival, they came face to face with the perceived Maragoli dominance at the mission, which caused resentment. Led by the Bukusu, the other communities felt that they were “there to be seen and not to be heard”. Most of the leading schools in Luyialand were either established or affiliated to Quakers; these included the Musingu, Kaimosi and Lugulu schools. However, the first government school (Kakamega High School) was built in 1932.

In any case, the Maragoli were the first Luyia to take advantage of the new economic and social opportunities presented by colonialism. They were among the first to join schools, so the Quakers found it easier to work with them as opposed to the Tiriki. Consequently, the Quakers, led by Emory Rees and his wife Deborah, arrived at Vihiga from South Africa, and between 1903 and 1926 they learnt the Maragoli language and translated the Bible and school texts. This made conversion to Christianity among the Maragoli much easier. To date, most Christian hymnals among the Luyia are written and sung in their language.

The Maragoli started drifting from their traditional ways after 1910 with the arrival and influence of the Quakers. They for instance gradually started to drift from traditional circumcision ceremonies altogether, preferring western medical practices. Their purview of customary belief systems also changed dramatically. Conversion to Christianity or adoption of Western values had no negative social backlash among them. Maragolis, hence, became the first amongst equals in the eyes of the missionaries and other Luyias.

In Kaimosi, the Quakers mission would gain even more prominence in 1927 when it was the centre of a Pentecostal revivalist rebellion led by native Africans. The discontent simmered until the missionaries met with rebels and they had no choice but to expel some members who went ahead to establish the African Spiritual Church (*Dini Ya Roho*). In 1942, Daudi Zakayo Kivuli also founded his own church: The African Israel Nineveh Church. He installed his wife Rebecca as the High Priestess and when she died in 1983, her grandson John Mweresa Kivuli, took over as the current High Priest. Their followers are noted for wearing white turbans.

In 1946, Dini Ya Musambwa (Religion of Ancestral Spirits) was established by Elijah Masinde as a protest movement against Christian churches, which

preached against ancestral sacrifices and polygamy. The Bukusu revere him as a prophet (*omung'osi*). In 1957 another splinter group led by Saulo Chabuga formed the African Divine Church in Maragoli. By 2008 they had around 25,000 churches spread out in Kenya, Uganda and Tanzania.

After several misunderstandings and clamour for autonomy, the Kaimosi Quakers transferred the boys' school from the Tiriki and Maragoli to the Bukusu, renaming it Friends School Kamusinga in the heart of Bukusuland in Kimilili. The seeds of future disunity were planted by that simple action. Bukusus started seeing themselves as equal to Maragolis, at least on the education (read civilisation) front.

Meanwhile, the Catholic missionaries tolerated local customs like polygamy, drinking alcohol and dancing at funerals. Locals in Isukha and Idakho who wanted to continue with this way of life found refuge amongst the Catholics, who did not condemn these practices too loudly. When they tried to replicate their success in Maragoli, they met stiff resistance - the Maragoli were already firmly embedded with the Quakers. The only Catholic mission arrived in the form of Maragoli Girls' Secondary School at Mbale set up by Mill Hill Missionaries, and this was as late as 1971.

The Tiriki resistance to Christianity was finally broken when Chief Paul Amiani joined the Salvation Army in 1932, and by the sheer force of his personality built strong followers, offering the much-needed alternative to Quaker dominance. Through him, the Tiriki elders accepted their youth to undergo both Christian and traditional initiation ceremonies. They also embraced education as an engine for personal and economic development. But as they did this, the horse (read Maragoli) had already bolted with the diadem of "modernity".

In fact, when the idea of forming an "Abaluyia" identity was mooted in 1943, resistance came from the Maragoli community, who made it known to all and sundry that the Maragoli were not part of the Luyia nation - they were simply Maragoli. Nevertheless, the Maragoli never formally or officially asked for the name to be expunged from the list of communities that form the Luyia nation, leaving them firmly included.

Pulling apart

Culturally, attempts to have what is often referred to as spoken standard Luyia

have often hit a snag because no single dialect is understood by all sub-communities. Still, those who live in close geographical proximity tend to understand each other more easily, creating a pattern which can be sub-divided into four cluster areas: Cluster one - Logooli, Nyole, Tiriki; Cluster two - Isukha, Idakho, Kisa, Wang'a, Batsotso and Marama; Cluster three - Bukusu, Tachoni, Kabras, Abanyala (Kakamega); and Cluster four - Samia, Marachi, Abakhayo, Abanyala (Busia). According to scholar Abraham Mirimo, "all Luyia dialects share a core lexical structure and only minor inflection in suffixation and prefixation divided them".

Talk of Luyia unity and two groups strongly come to mind - the Bukusu and the Maragoli, who are always believed to be pulling apart. Is it a coincidence that they are also the most migratory and daring of all Luyia sub-nations? Sample this. The Bukusu are mainly found in Bungoma and Trans-Nzoia. They are the most populous of the Luyia sub-nations, forming about 20 per cent of the estimated six million Luyia population. (The name Bungoma is derived from Bongamek, a Kalenjin tribe that originally occupied the territory.) In the 10th Parliament, they had seven MPs representing their domiciled interest in Kanduyi, Bumula, Webuye, Sirisia, Kimilili, Tongaren, Kwanza and Saboti. Their presence is spread out and overlaps into Trans-Nzoia, Kakamega and Uasin Gishu counties.

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Maragolis are also found beyond the boundaries of Vihiga County. In 1927 they ventured into Uriri in Migori County. The international language encyclopedia *Ethnologue*, Issue no.16, even lists the Maragoli as a tribe in Tanzania, across the border from Migori. A contingent of Maragoli immigrants settled in Bunyoro, Uganda in 1958 following an agreement between the British colonial government and the Kingdom of Bunyoro. Now estimated at around 35,000, the Maragoli were even allocated land at Kigumba in Kiryandogo district but are now spread to Ntoma and Masindi. They have an unofficial pressure group led by one Eliakimu Adola pushing for their official recognition as a fully-fledged Ugandan tribe, having settled there for over half a century.

Masinde Muliro, a Bukusu, proved quite a principled and fair leader who earned respect across the community. Born at Matili near Kimilili in 1920, he was among the founders of the FORD party, which struggled against President Daniel arap Moi's one-party tyranny. Muliro instantly became the quintessential Luyia leader and is immortalised by a university in Kakamega, the Masinde Muliro University of Science and Technology (MMUST). On August 27, 2011, the government declared him a national hero.

Muliro came from the Bakokho clan, and his political defining moment came in 1975, when he voted against a government report into the murder of JM Kariuki. He was the only cabinet minister to do so. Peter Kibisu, an Assistant Minister for Labour and MP for Vihiga, also voted against the report. An angry President Jomo Kenyatta sacked both Muliro and Kibisu, tossing them into the political wilderness. Once again the Bukusu and Maragoli had proved their political mettle within the Luyia nation.

After Muliro's sacking, Moses Substone Budamba Mudavadi stepped into his large shoes. By virtue of his close association with President Moi, Mudavadi - a Maragoli - wielded immense power that was felt across Luyialand and beyond. Wycliffe Musalia Mudavadi has followed as a titular Luyia leader, but his "gentle" mien attracted detractors who until today feel he lacks "fire in his belly". Musalia, though, proved them all wrong in 2007, when under the ODM party he delivered 18 seats as the party's torch bearer. So far he has cut his own apron strings by launching the Amani National Congress (ANC).

Another leader who earned respect across the Luyia community was the late Michael Christopher Kijana Wamalwa. Though raised a Bukusu, his roots can be traced to the Sabaot. Wamalwa's father, Senator William Chemayek Ngeywo, was a Sabaot who changed his name to Wamalwa to get a missionary education as the Sabaot suffered discrimination in those days. ("Chemayek" in the Sabaot and indeed Kalenjin language is "alcohol" and its equivalent in naming is "Wamalwa" in Lu-bukusu.) Michael's mother, Esther Nekesa, however, was a Bukusu from the Baengele clan. His Sabaot roots did not matter as he was raised Bukusu, underscoring that the Luyia nation is a confluence of Kalenjin, Maasai, Luo and Bantu ethnicities

Although political unity has been a slippery path for Luyias, their most astounding success has occurred outside politics. The Abaluyia United Football Club (AFC

Leopards) was formed in 1964. All teams under the sub-tribal banners agreed to merge and form one team. You can be sure everything was smooth until the Maragolis opted to remain autonomous by keeping their Maragoli United Football Club. Still, the club remains the only veritable symbol of Luyia unity where leading personalities have always sought to be elected chairman or patron. Player unity on the pitch helped it to succeed in the East African region.

The Luyia have adequate social tools to unify them into one coherent force: inter-marriages, esikuti dance, Ingwe (leopard) as a tribal totem and other symbols. However, that all Luyias actually found themselves conjoined by colonialists makes it very difficult to lump them socio-culturally, politically and economically. They actually came from different directions and met within the boundaries of the so-called Western Province. Since they do not trace their lineage to one ancestor, like the Gikuyu with Mumbi or the Luos with Ramogi as their patriarch, it was arguably a convergence for convenience.

The Bukusu and Maragolis are undoubtedly great achievers among the Luyia sub-nations. Compared to other Luyia sub-nations, they know how to position themselves politically. Whereas Bukusos consider themselves warriors, Maragolis carry themselves as the elites of Luyialand who were the first to “see the light” when others were still in darkness. The two communities are also perceived to be haughty and domineering, a trait that repels both Maragolis and Bukusos from other Luyias. They have nowadays morphed into two great, conjoined siblings and none is ready to let go.

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Indeed none is ready to be seen as subordinate to the other. They both have produced Vice Presidents in Kijana Wamalwa and Musalia Mudavadi, and in community leaders Masinde Muliro and Moses Mudavadi, and it appears as if they are always on a permanent ‘check-mate alert mode’. The recognition of Muliro in the naming of the biggest university in Luyialand located in Kakamega the headquarters of Luyias was perceived to be a scoop of sorts for the Bukusos.

In addition, the biggest public park that convenes political rallies - Muliro Gardens - *'the biggest Oluyia'* was also named after the great son of Bukusuland.

After all these years of push and pull based on historical and post-independent seeds of discord, it is clear that the elusive Luyia unity is still a long shot.

My friend James Wasike says, "as long as the Maragoli are always on standby to throw a spanner in the Bukusu works and vice-versa, Luyia unity will still remain a mirage". Alternatively, as long as the Bukusu still harbour the Kaimosi grudge, where they were looked down upon by the Maragoli who are in any case their historical competitors, the Luyia nation will not be able to truly say: 'I am my brother's keeper'.

The Invisible Clan: Is Somalia Ready for a Women's Revolution?

*To my daughter I will say,
'When the men come, set yourself on fire'.*

-Warsan Shire

The gang rape and murder of 12-year-old Aisha Ilyas Adan, whose body was found outside her family's house in the town of Galkayo in central Somalia last month, has galvanised Somali women to fight against a vice that has often been described as a "normalised" epidemic. Under the hashtag #WeAreNotSafe, Somali activists are demanding that the authorities take rape cases more seriously.

Rape is one of the unspoken taboos in war-torn Somali society that few in the international development community, and Somalis themselves, have been reluctant to confront - even though it has become a constant feature of Somali women's lives since the collapse of the Somali state in 1991. Anarchy and lawlessness have embedded a culture of violence that allow men to rape with impunity.

Women paid a double price during Somalia's civil war: not only were they expected to become breadwinners, they also became casualties of conflicts as clans fought each other for supremacy and as the country's institutions collapsed. Rape was often used as a weapon of war. A survey by Trust Law, a project of the Thomson Reuters Foundation, has stated that Somalia is one of the worst places in the world to be a woman.

Most rapes in Somalia go unreported and unpunished. The few women who dare to report their cases to the authorities face a hostile audience. There have been cases of women being ostracised and even killed when they report being raped.

Women and children living in camps for internally displaced people are particularly vulnerable. In 2013, the United Nations reported nearly 800 cases of sexual and gender-based violence in Mogadishu's IDP camps within the space of just 6 months. While human rights organisations have been documenting an alarming number of rape cases in camps for refugees and IDPs, rapes in the wider Somali society go largely unrecorded. In reported cases, clan elders resort to customary law (known as *xeer*) to dispense justice, which often involves the perpetrator paying a fine or the victim being forced to marry her attacker. Now women are demanding that customary law not be applied to rape cases and that there should be laws to bring rapists to justice.

How the clan system affects women

The clan system, Somali society's main organising institution - which gained traction during the civil war when law and order broke down and when public institutions collapsed - represent a nightmare for women, say researchers Judith Gardner and Judy El-Bushra in their study titled "The Impact of War on Somali Men and its Effects on the Family, Women and Children". The corollary of this clan-centred siege mentality is an extreme imbalance in the power relations between Somali men and women.

Somali women enjoy few rights in a society where clan identity is passed down through male lineage. A woman who marries a man from another clan, for example, cannot pass down her clan identity to her children. It is for this reason that Somali women's rights activists often refer to Somali women as the invisible "fifth clan". (There are four major clans in Somalia - Darod, Hawiye, Diir and Rahanweyne.)

Yet it is this “invisible clan” that has sustained Somali society during the nearly three decades of civil war. While much emphasis has been placed on harmful practices endured by Somali women and girls, such as female genital mutilation (FGM), which is widespread in Somalia (it is estimated that 98 per cent of women aged between 15 and 49 in Somalia have undergone the procedure), little attention is given to Somali women’s role in feeding and protecting their families during the civil wars years and beyond.

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During the conflict, women developed a deep resilience and a practical business acumen, partly because they had no other choice, and also because they could more easily cross and access enemy territories than men, and therefore, were more likely than men to be able to trade and do business across clan lines. Woman-headed households in Somalia’s war-torn society, and even in the diaspora, became more common, mainly because physical and social disruptions caused by the conflict had eroded men’s gender roles as providers and protectors. Women became the main breadwinners during a conflict where battles between clans and “revenge killings” had decimated the male population. In cities such as Mogadishu and Hargeisa, it is common to see small-scale female traders selling *khat*, vegetables and even petrol.

However, while women have been running businesses and holding their families together, they still do not have decision-making powers, which are largely in the hands of clan elders and men. Somali women are expected to be strong and resilient, yet they do not enjoy the same rights as men, nor do they have real economic power even though the civil war forced women to take on a more important economic roles within the family. In the context of civil war, gender roles became confused and distorted, with women taking on greater financial responsibilities but with little authority within the family.

Gardner and El-Bushra found no evidence that the dominant patriarchal ideology underpinning Somali society has been substantially damaged by the civil war or

state collapse, despite the increasingly important economic role of women. However, they note that not all clans in Somalia have similar attitudes towards women. Obedience to a wife is valued among the largely agriculturalist “Bantu” clans, for instance, but considered anathema amongst pastoralists.

Absentee fathers

While much attention has been focused on the impact of the civil war on Somali women, particularly their changing gender roles as breadwinners, the impact of the war on Somali men has not been investigated as much. Ironically, United Nations and international NGO interventions to empower Somali women might have ended up disempowering Somali men, who are not only denied services (such as welfare benefits in which only female heads of households qualify as recipients) but who are less likely than women to seek psychological treatment or social support services, which are crucial for people dealing with trauma.

Somali women were literally left holding the baby. In Somalia’s urban centres, men tend to while away their time in coffee and tea shops (a phenomenon I have also witnessed in coffee shops in Nairobi) while their wives and daughters go off to work and take care of their families. A phenomenon observed among Somali communities living in places such as London and Minnesota is that of jobless or absentee fathers; they say that Somali women adjust better to their new environments in Europe and America, and are, therefore, more easily absorbed in the labour market. Men, especially those who held high positions in Somalia or who hold advanced degrees, find it much harder to adjust to working in low-paid or low-status jobs that are available to refugees or new immigrants. Hence, many remain jobless or resign to becoming recipients of the welfare state. The resulting marital discord has led to high divorce rates, particularly among Somalis in the diaspora.

Others desert their families out of shameful pride, leaving their wives to take care of the children. Researchers have found that the most common absentee fathers are those who may remain married but who are not physically present in their children’s lives, those who abandon their families by re-marrying or those who are so addicted to *khat* that they become completely dependent on their wives.

Khat addiction and mental illnesses emerge both as causes and effects of male failure to fulfil family responsibilities. *Khat* dens are full of young married men

who can't find jobs or who have simply become addicted to the habit. Medium- and long-term use of *khat*, the mild stimulant that is widely consumed in the Horn of Africa and the Arabian Peninsula, has been associated with depression, aggression, paranoia, insomnia and mouth cancers; it has also contributed to parental absenteeism.

Khat has also been known to deaden emotions, such as guilt or shame. Some observers claim that it could have even contributed to prolonging the civil war in Somalia and might be a factor in the alarming cases of sexual violence. The negative social consequences of *khat* on Somali families and societies have not been widely acknowledged but they are gaining prominence, which has forced an increasing number of European countries to ban its importation.

'Bravery and dry eyes'

Most Somali men will not admit to being addicts or emotionally traumatised, even by war, as "bravery and dry eyes" are considered crucial markers of a Somali man. Admitting that one is suffering from post-traumatic stress disorder or mental illness is one of the biggest taboos in Somali society, as I came to learn. Most Somalis don't talk about or openly admit that they might be suffering from trauma, yet, as any psychologist or medical doctor would tell you, it is not possible for people who have endured prolonged conflict and forced displacement to not exhibit the anxieties and psychoses that sustained violence breed.

"When instability and conflict and mayhem have gone on for as long as they have in Somalia, not only is everyone suffering from some sort of mental illness, mostly chronic post-traumatic disorder, but there are certain habits that people develop as a result of the events," says Mulki Ali, a Swedish Somali blogger. Among these habits and attitudes are feelings of powerlessness, cynicism and a learned helplessness, also known as "victim mentality". Violence thus becomes a "self-fulfilling prophecy" and rape is normalised. In such a scenario, says Ali, traumatised young men and boys become susceptible to "cults" like Al Shabaab, which provide a sense of belonging and restore "manhood" among youth who feel otherwise powerless to change their situation.

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The civil war eroded and distorted men’s *raganimo* (roughly translated as “manhood”), which in a highly patriarchal society, can be devastating for male self-esteem and dignity. In their inception study, Gardner and El-Bushra found that the definition of *raganimo* in Somali society is inextricably linked to men’s ability to not just protect the family, but the clan as well:

“Boys from pastoral clans are taught at a young age to show fearlessness and never publicly cry or show other signs of emotional weakness. To do otherwise is un-manly and humiliating, for the individual and by extension for his clansmen and women. A male’s raganimo is enhanced if he survives an attempt to humiliate or intimidate him without showing fear... Findings also make clear that a ‘real man’...is one who excels in fulfilling both his family and clan responsibilities...How successfully an individual is able to attain and sustain his manhood depends on many factors but two conditions stand out as critical: his access to livestock or other forms of wealth, and being married with children, particularly sons.”

Inability to fulfil one’s family or clan responsibilities deepens frustration, exacerbates trauma and can lead to depression and violent behaviour.

Women’s resistance

However, as researchers are quick to point out, even with women’s relatively new status as breadwinners, the basic values attached to gender identity among Somalis remain unchanged; in Somalia’s deeply patriarchal society, women are still believed to be inferior to men in all aspects, particularly in the political sphere, where women are discouraged from participating in public affairs.

Some younger Somali women, particularly those living in Western countries, are beginning to question Somali society’s deeply patriarchal clan structures, and becoming more vocal about sexism. New female voices, such as the UK-based poet Warsan Shire and the writer Nadifa Mohamed, are redefining Somali literature with a female-centric slant. Others are openly questioning traditional

practices that impact women's sexuality, a taboo subject among most Somalis. The prominent Somalilander, Edna Aden Ismail, for instance, has gained global recognition for establishing a maternity hospital in Hargeisa that treats women and girls who suffer from FGM-related ailments or who have been victims of sexual violence.

Yasmin Maydhane, a London-based human rights advocate, among others, are particularly critical of FGM, which is often portrayed as a Somali or Islamic practice, even though it has its roots in the pre-Islamic Egypt of the Pharaohs. While all religions are about controlling women's sexuality, she says, in Somalia "men use religion to police our vaginas, to control what it looks like, what it feels like and who is allowed to access it...Our brand of patriarchy is built around sexual control...Everything and everyone is silenced with deference to 'God's plan', a phrase that indicates that we are done thinking and talking," wrote Maydhane in a July 2015 edition of *Media Diversified*.

Yet many forget that before the civil war, Somali women enjoyed more freedoms than they do today. President Siad Barre enlarged women's rights; women were not expected to stay at home or to cover their bodies from head to toe. During his "secularist" dictatorship (which he claimed was a form of "scientific socialism"), women held important positions in public life and as professionals. Until the full-body veil for women was introduced to Somalia in the early 1990s - when the deeply conservative Wahhabism imported from Saudi Arabia gained more influence - Somali women wore their veil "lightly"; they only partially covered their heads with scarves and wore long colourful skirts and blouses.

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Imported Wahhabism also entrenched a Sharia-focused mentality that shunned secular institutions. Al Shabaab, which purports to be carrying out an Islamic jihad in Somalia, has not made women's lives any easier; its strict code of conduct in the areas the group controls has significantly curtailed women's freedom and

choices.

However, with growing resistance to a male-centric society, it is possible that a nascent women's movement will emerge in Somalia in the near future. Many Somali women have privately expressed to me their frustration with dealing with male-dominated politics in Somalia that is focused on political power rather than on addressing the many challenges the country faces, including high levels of illiteracy and alarming rates of maternal mortality. One woman told me, "Since our men have made such a mess of our country, maybe it's time for women to take over."

Somali women may finally get their #MeToo moment, which may encourage more women to demand the rights that they have been denied for so long, and to forcefully reject the notion that gender-based violence is "normal". Aisha Ilyas Adan's brutal rape and murder might just be the trigger that ignites this revolution.

Brexit: A Raw Deal for Uganda?

With the rejection of the Tory government's Brexit proposals by Parliament, a no-deal Brexit looks more likely than not. The immediate effect of a no-deal or "hard" Brexit would be an increase in Britain's balance of payments deficit.

Now that it is confirmed that post-Brexit Britain will no longer benefit from the preferential trade terms offered under the Economic Partnership Agreements (EPAs) between the European Union (EU) and Africa and the Caribbean and Pacific countries (ACPs), Britain will have to strike out on its own and seek trade agreements with those countries. Under those new agreements, Britain will be looking to increase her exports and obtain favourable import terms in order to maintain her standard of living. (Britain only produces half the food she consumes and imports 40 per cent of the rest from the EU.)

In order to maintain normal supplies during a potentially messy aftermath before new trade agreements have been reached with EU and other countries, the

Health Secretary has instructed pharmaceutical companies to [stockpile pharmaceuticals](#) and is willing to pay the storage costs. Furthermore, the military is putting in place plans to help distribute emergency supplies should it become necessary.

Since 2017, members of the House of Lords have been making efforts to transform the crisis into an opportunity for British businesses. Members of the House of Lords, led by Lord Popat, have been engaged in a fishing expedition, seeking to open new export markets in the old Commonwealth. That relationship, always unequal in terms of power and benefits derived, finally fizzled out when Britain joined the EU in 1973.

However in 2017, Lord Popat, opening the debate on [Exports: Africa and the Commonwealth debate](#) said: “Before I delve into the economic potential of Africa and the Commonwealth, I will briefly explain why this debate is so important. Britain has run a balance of payments deficit for decades. Quite simply, we do not export enough to pay for our imports. Possibly the greatest victim of our insular approach has been the great continent of Africa. Only a few decades ago, Britain could boast of having 25% of total trade with Africa; now it is barely 4% [...] it is clear to me in hindsight that our membership of the European Union was detrimental to the Commonwealth.” (Lord Popat, Hansard)

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There are difficulties ahead for Britain. Lord Popat’s delegation to Uganda won a contract to build Kibaale International Airport to serve newly discovered oilfields. UK firms were shortlisted to build an oil pipeline worth 700 million. These projects would be financed by a loan to Uganda under the UK Export Finance programme (UKEF).

However, they are not the only projects for which Uganda needs credit; Uganda will have to prioritise projects if it is to be granted another package of loans on concessional terms by the International Monetary Fund (IMF). So far Uganda has been unwilling to concede to pre-conditions set by the IMF and the pipeline may not become a reality.

A senior Ugandan official states that the government is not able to comply with the IMF's terms regarding suspending or cancelling infrastructure projects. It is unlikely that Western countries will undermine the IMF's authority by offering concessional credit. The IMF would like the proposed pipeline and oil refinery dropped. It would like a moratorium on non-concessional loans of the type offered by China and domestic banks. The electricity grid to distribute power from newly completed hydro-electricity plant at Isimba may get the green light but Karuma hydro-plant was finally put on hold in late 2018, and the standard gauge railway (SGR) was quietly shelved in 2017. There is also the road network in the Buliisa oilfields, all of which have yet to attract investors. Preferential loans from Britain and even the EU are unlikely to go ahead without IMF approval.

Even if Uganda did secure funding for British-financed projects, her ability to repay is undermined by the fact that existing loans have taken the debt-to-revenue ratio over the historically sustainable limit of 40 per cent to a precarious 54 per cent. Much of it is in the form of non-concessional loans from China and also from domestic commercial banks. By 2020, when many external loans become payable, repayments will require 65 per cent of projected revenue collections. Sovereign default has been considered as an option and will likely be discussed again in 2020.

From Uganda's point of view, the expiry of the EPAs with the EU in 2020, together with Brexit, represent an opportunity to hold out for better terms of trade, including facilitation of the export of processed goods rather than cheap raw materials. Although a stated goal of EPAs is to "contribute, through trade and investment, to sustainable development and poverty reduction", there was an admission in the House of Lords debate that existing terms of trade under current EPAs are highly unfavourable to ACP countries.

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None of Uganda's post-independence governments responsible for signing poor trade agreements have attempted to fulfil the independence goal of

industrialisation. The National Resistance Movement (NRM) government led by Yoweri Museveni is currently promoting urbanisation and employment in the services sector, especially tourism. Employment in foreign-owned factories (when they are eventually built) is also held out as a possibility for the youth, the majority of whom are currently unemployed. As the president said in the 2018 comments on the budget, low cost of labour (read poverty) is an economic strategy. In short, Uganda is being transformed from a nation predominantly of smallholders to a tourist destination with some large foreign commercial farms growing food for export, a sprinkling of factories and the export of oil.

Poor governance (lack of public oversight) on Uganda's part and exploitative trade practices on the part of development partners and investors is the underlying reason for perpetually poor trade treaties. "[Honest Accounts 2017 - How the world profits from Africa's wealth](#)" by Mark Curtis and Tim Jones illustrates how sharp practice has undermined development. The trend is likely to continue; an examination of the British firms being promoted by the House of Lords in the Commonwealth shows that these firms are serial offenders in bribing foreign officials for commercial favours and have been penalised in the past. An official from BP was charged with 19 counts of receiving bribes in return for business in March 2017. Petrofac is undergoing a corruption probe by Britain's Serious Fraud Office. Rolls Royce paid penalties of US\$800 million for bribery in Angola, Nigeria and South Africa, as well as in Azerbaijan, Brazil, India, China, Indonesia, Iran, Iraq, Kazakhstan and Saudi Arabia. BAE Systems was fined US\$400 million by the Serious Fraud Office in 2010 for bribery charges in Tanzania and Saudi Arabia. (See [The Revival of the Commonwealth: an Opportunity for Further Exploitation or a Time to Correct Past Wrongs?, Counterpunch, December 22, 2017](#)). As Museveni's government approaches its end in 2022, his circle of family and friends is likely to continue and even accelerate taking bribes from investors such as these.

If the NRM government is unwilling or unable to wrest better trading terms for Uganda from Britain, the People Power movement can - by demanding all new trade agreements and investments be subject to public scrutiny. Lord Chidgey notes the lack of public debate in negotiating trade deals and the lack of competence of public service negotiators. A senior Ugandan official confirms the lack of competence stating, typically, a Ugandan delegation of say four generalists will travel to China to be confronted by a roomful of Chinese experts,

including specialists representing key economic sectors.

“Apparently, EPA deals had been struck behind closed doors by professional and highly skilled negotiators from the EU, which the best efforts of their African counterparts just could not match. There was *little or no input from the Parliaments they were dealing with, and no public debate*. Apparently, the conditions imposed in the EPAs were not scrutinised, and there was no analysis of the long-term impact that their restrictions would have on the economies of the countries they were dealing with.” ([Lord Chidgey](#), Hansard).

However, as the 2021 general elections approach, heightened tension discourages open discussion. Alternative policy formulation by the opposition is being actively prevented by the Government of Uganda. Opposition politicians and activists require police permission for gatherings of more than four people. Since the Directorate of Crime Intelligence circulated a memo, reading in part, [“You are instructed to compile and submit reports of all events, functions and ceremonies in your A.O.R \(area of responsibility\) from January to July 2019. Reports should reach this headquarters not later than January 18, 2019”](#), gatherings of all kinds are under police surveillance. Meetings and demonstrations, the very stuff of political discourse, are routinely broken up and the threat of or actual state violence is ever-present.

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As long as Britain continues to support repression with grants to and training for rogue regimes and their armed forces, the status quo will remain. In turn, Britain will be able to balance its books. In this way their austerity will continue to be exported to Uganda and other African countries characterised by weak public administration, little public oversight of government, and a widespread culture of bribe-taking in international commerce - all underpinned by repression. Any reversal of this position, in place since 1893 in Uganda, would require legislation to enable citizens to audit existing debt and to oversee both the debt creation process and negotiations for international trade agreements.

Building Bridges to Nowhere: Some Reflections One Year After 'The Handshake'

A year ago this month, an unexpected political commotion jolted unsuspecting Kenyans who were still reeling from the effects of two presidential elections that had taken place in a space of just 79 days. These elections had openly split the country into ethnic fault lines that were now threatening to plunge the country into an abyss of anarchy and civil strife.

The 9 March 2018 “handshake” between President Uhuru Kenyatta and opposition leader Raila Odinga - pejoratively referred to as “the handcheque” by cynics and Raila’s former front line and hard core supporters, who see the détente between the president and his main rival as the ultimate betrayal - took place against a backdrop of four months of palpable ethnic rivalry and tension that had been simmering since the 26 October 2017 presidential poll, in which Uhuru had essentially run against himself.

When he was sworn in on 28 November 2017, it was evident that President Uhuru did not seem to savour his presidential victory: In the first general election of 8 August, half of the total registered voters of 19.6 million people who cast their votes had voted against him, even as claims of rigging by the opposition outfit, the National Super Alliance (NASA) were rife. On 1 September, the Supreme Court of Kenya overruled the Jubilee Party win, and sued for a fresh presidential election in 60 days - a decision that to date rankles and startles President Uhuru, said a Jubilee Party MP from Central Kenya.

“In a country where the judiciary has always been malleable and at the beck and call of the executive since 1963, it was unheard of that a court would dare rule against the president’s wish,” observed the MP. “It had never happened, hence Uhuru was secure in the knowledge that the court wouldn’t ever dream of ruling against him, just like it hadn’t in 2013. And because African presidents don’t lose

elections, at least not through the courts, he did not expect to lose his.”

So, when the Supreme Court ruled in favour of a repeat election, Uhuru Kenyatta hit the roof and swore against the court’s judges, threatening to “revisit the issue”.

In the repeat October election, Uhuru Kenyatta garnered far less votes than in the August election. Seven and half million people supposedly voted, a figure the MP, now with the knowledge of hindsight, told me was cooked. A majority of Raila’s supporters had boycotted the October election and apathy, fatigue and a don’t-care attitude among Uhuru’s support base ensured that the October election was even less credible than the August one.

The question that has been boggling many Kenyans minds is: What exactly led to President Uhuru Kenyatta and Raila Odinga, two of the bitterest of political rivals, who had left nothing to chance – as one fought to keep the coveted seat of the presidency to himself, while the other hoped to snatch it from the incumbent – to suddenly make peace? Was this a spontaneous reaction of two leaders who had suddenly been imbued with desire to save their country, which was on the verge of ethnic and geographical fragmentation?

The politics of handshakes is not exactly a new phenomenon in Kenya, so this was not a first. Ten years ago, almost to the month, on 28 February 2008, President Mwai Kibaki and his chief political nemesis, Raila Odinga, shook hands on the steps of Harambee House to the great relief of many Kenyans. The 2008 handshake had been occasioned by a hotly disputed presidential vote between Kibaki and Raila, which had driven the country on the precipice of ethnic warfare that had flared in the Rift Valley and in several other parts of the country.

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The truce between Kibaki and Raila was a negotiated peace settlement: both politicians had been encouraged by the chief negotiator, Kofi Annan, and his team to form their own respective negotiators, who then for weeks discussed the

modalities of how they would accommodate each other in a government of national unity. And so it came to pass that a government of national unity with Raila Odinga as a non-executive Prime Minister was formed. The process was transparent and Kenyans were kept abreast of the proceeding by the media.

The economic boycott and demands for secession

Fast forward to March 2018. The handshake between President Uhuru and Raila is mired in mystery and subterfuge. Days after the handshake on the steps of Harambee House, a working committee was formed on 24 March to cement the newly found rapprochement, thenceforth referred to as the Building the Bridges to Unity Advisory Task Force, also known as the Building Bridges Initiative (BBI).

The alleged behind-the-scenes secret talks, political manoeuvres and familial visits soon after Uhuru assumed his second term are as intriguing and interesting as they are revealing. Through wide-ranging interviews conducted through President Uhuru Kenyatta's intermediaries, Raila's close confidantes, Deputy President William Ruto's associates and bosom buddies, Central Kenya and North Rift Jubilee MPs and through my own investigations, I culled an array of information that suggested a presidency in crisis, trapped in a paradoxical pyrrhic victory and a withering state. Then there was a defeated opposition leader who for the very first time in his political career was caught between the devil and the deep blue sea, and was faced with the devil's alternative of either quitting politics altogether or re-engineering his ebbing political career. Add to this scenario a scheming deputy president who had already trained his guns on 2022 no sooner had his Jubilee Party won the presidential elections.

Looking back to one year ago, it is as if the clock was ticking and time was not on all of the three protagonists' side. As one of Raila's aides said to me: "Raila had come to the late realisation that he would never win the presidential elections as long as the Kikuyus were counting the votes. True, he would force them to spend billions of shillings, but that was just about it. It was about time he recalibrated his political career if he intended to keep it going."

"Nothing had scared President Uhuru like the NASA's economic boycott programme and secession talk," confided one of the president's friends. Like the Americans would say, Uhuru and his family were "scared shitless" of these two ideas. After opting out of the 26 October fresh presidential election, Raila and his

team had come up with a raft of options that were meant to force President Uhuru and his Jubilee Party mandarins to listen to NASA. NASA supporters' boycott of products made by certain companies associated with the Jubilee Party and resurgent demands for secession by some opposition politicians, particularly at the coast, threatened to tear the country apart - literally.

The most potentially lethal of NASA's projects was the economic boycott, in which Kenyans of oppositional goodwill were asked to keep away from the Kenyatta family's businesses and any companies that were either associated with them, or had, in one way or another, presumed to have abetted President Uhuru's contested win. So, in addition to the family's large business empire, Safaricom, the largest mobile network company in this part of the world, was on NASA's radar of companies whose products were to be avoided. The second tier to the economic boycott was a proposal, through the creation of county assemblies in opposition strongholds, for people to decide, whether indeed they wanted to be part of Kenya.

The family business

The biggest Kenyatta family business visible on a daily basis in Kenyan homes is the Brookside Dairy Company. Plutocrats, as well as mainly urban proletariats, use one or more of the several milk products sold under the Brookside label.

Milky tea is consumed widely in Kenyan homes. Drinking a cup of tea is a habit so ingrained in Kenyans' psyche that it has become second nature for Kenyan families to round off their supper with a steaming cup of tea. It is a habit they picked from the British colonialists, who encouraged tea growing as a cash crop.

With the onset of the boycott, Brookside, a market leader in processed milk, suddenly suffered a steep slump, so much so that Christina Pratt, President Uhuru's sister, took to visiting various supermarkets, especially in Nairobi, to gauge the daily sales of Brookside products. (I confirmed this in December 2017 when I also did my own survey to measure to what extent the boycott was biting. The French consortium, Danone, had in 2014 acquired a 40 per cent stake in the milk conglomerate through the holding company Brookside Africa Holding Ltd, while Abraaj Group, the Dubai-based private equity firm, had staked a 10 per cent ownership in 2009. Danone is supposed to push Brookside products abroad, hence globalising the Kenyatta family's business and leveraging its merchandise

in a world of cut-throat competition.

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“The boycott was a dangerously crippling idea as a political tool, because the Kenyattas’ best-known flagship was going down the drain, right in front of their eyes...something had to be done fast...and done very fast,” said my friend, who works for the Brookside Dairy Company in Ruiru, off the Thika Superhighway. “Let us cut to the chase,” added my friend. “Uhuru Kenyatta is not concerned with the Kenyan nation’s legacy but with the Kenyatta family’s legacy.”

“The family business had to be protected by all means, by any means necessary,” said a Central Kenya MP who is close to President Uhuru. “Instructions from the matriarch, Mama Ngina, to Uhuru and family was that the cardinal rule was to protect the business and not politics per se. In other words, use politics to shield your businesses from external interference or collapse.”

The other issue that terribly worried President Uhuru and his close-knit political cabal was the talk about secession. “It became a terrifying waking nightmare to them, that a section of Kenyans would even contemplate the thought of slicing off the country because of political dissatisfaction,” said the MP. “These were a different type of angry Kenyans, separate from the Kenyans who even when their votes had been stolen in past elections never contemplated going their own way.”

Apart from the Kenyatta family’s business agonies, Safaricom, which NASA and its opposition supporters countrywide had accused of providing servers to the Independent Electoral and Boundaries Commission (IEBC) - servers the election commission to date has refused to open for public scrutiny - was seriously looking to the possible end of its close to two decades of mobile telephony monopoly. Kenyans allied to NASA were furiously opting for Safaricom’s competitor, Airtel. “The Safaricom management team was wailing in its boardroom, wondering what to do, as scores of Kenyans daily migrated to Airtel,” said a Safaricom senior manager to me. “The team called Raila and asked him why he was hell-bent on collapsing the company. Similarly, the team was also piqued by President Uhuru

because he seemed impotent in the wake of the economic boycott. They were peeing in their pants, in a manner of speaking.”

The economic boycott, the threats of secession, a withering state, and pressure from Western governments became the push factors that drove the Kenyatta family to initiate a political rapprochement with Raila Odinga, confided an aide to President Uhuru.

The people’s president

Raila, on the other hand, was also undergoing his own political catharsis. “Wherever he went, the people become cantankerous and difficult to calm down: “*Hapana...hapana...kula Bible kwanza, kabla hujaongea na sisi*” (Swear by the Bible first before talking to us), roared the crowds. Critically, his political career was on the cards, observed one of his aides recently in an interview. “The masses had run ahead of Raila and they were demanding he become their president, failure to which they would abandon him.”

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The NASA brigade had decreed that in the light of the contested presidential elections, Raila Odinga would be publicly sworn in as “the Peoples’ President”. He had postponed this once on Jamhuri (Independence) Day on 12 December 2017, and the backlash from his supporters was unmistakable. “If he postponed it again, they were going to have him for supper and that would have been the end of his illustrious political career,” reminisced one of Raila’s aides. “On 30 January 2018, a reluctant Raila was publicly sworn in at Uhuru Park as the Peoples’ President to great aplomb by the throngs of the masses who attended the rally.”

Western countries’ ambassadors and like-minded envoys told Raila point black: “You’ve been appointed the peoples’ president, but know that you’re all alone.” They reminded him of his political stature as one of the country’s leading politicians, his international reputation, and his input of many years in national and global political arenas. They asked him whether he was willing to see all that credibility washed away because of his recalcitrant stance. “Separately, therefore,

Raila Odinga was also having his moments of exorcising his demons and coming to terms with the political realities of the day,” observed the aide.

Although the same Western envoys did not rebuke President Uhuru, they nonetheless asked him to map out ways of accommodating and working with Raila. “It was a veiled threat because they let him know that if he failed to do so, they would institute economic sanctions on his regime and make his life as a president keen on a legacy difficult,” confided a foreign diplomat friend who works for the European Union (EU).

Raila Amolo Odinga has paid a huge price for dabbling in national politics: He has been detained for close to a decade by the state. In the 2007 general elections, he saw his presidential victory snatched. In recent times, he has also experienced personal traumas: His first-born son Fidel died in 2015; his daughter Rosemary is recovering from a debilitating sickness (both of these two calamitous situations have been energy-sapping, friends of Raila tell me); and real threats had been made on his life. At 75, Raila is also no longer the youthful adrenaline-driven politician who could pack public rallies and indoor meetings into 18 hours and still spare four hours of just enough sleep to see him through the next day’s political onslaught.

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Amid all this, his dutiful wife, Ida, has borne the brunt of his oppositional politics. While Raila politicked, she held the family together, ensuring that politics did not come in the way of the family’s private lives. “But the 2017 presidential elections, his swearing-in ceremony on January 30, and threats on his life had tested her great patience and worn her down,” said a friend close to the Odingas.

Impeccable political folklore has it that it was the Kenyattas who approached the Odinga family for a candid sit-down, said a Central Kenya MP. “With the ongoing threats to their businesses, a wobbly economy and a hollow electoral win, the Kenyattas were in a bad place: they had to reach out to Raila, but only through

Ida,” said a source who was privy to the on- goings.

“Before the actual handshake on the material day, President Uhuru and Raila had met for several hours, haggling and going over issues of mutual convergence and interest,” revealed an MP from Central Kenya. BBI has nine points that President Uhuru and Raila agreed to work on. They are: ethnic antagonism and competition, lack of a national ethos, inclusivity, devolution, divisive elections, safety and security, corruption, shared prosperity, responsibilities and rights.

“I remember President Uhuru telling his deputy William Ruto: ‘We’ve to bring on board Raila Odinga, if we don’t, we’ll not be able to govern this country,’” said my source, who is known to both of them. “The only thing that Ruto was not told was when and where the handshake would take place.”

Ruto had run the country between 2013 and 2017, quipped the Central Kenya MP, “and it had been a disastrous affair. Yet both Uhuru and Ruto share blame for running the country down.”

BBI and the Kikuyu-Kalenjin rift

In 2014, a year after Uhuru and Ruto formed the Jubilee government, President Uhuru summoned all Kikuyu MPs to State House and told them that if they needed anything, they should go to the Deputy President. “We must ensure our people trust the DP...you know our people are conservative,” the President is purported to have told the MPs. The two had campaigned on a platform of being the victims of the International Criminal Court (ICC) and therefore had been “joined at the hip” as they canvassed for votes from Kenyans who had been ethnically and emotionally whipped to vote for them.

“In that meeting, Esther Murugi (former Nyeri Town MP) disagreed with the president,” recounted the MP. “‘In Nyeri, we’ve had IDPs [internally displaced people] at Kinoru. Mwai Kibaki [Kenya’s third President] ruled with these people [the Kalenjin] because he feared them,’” said Murugi to President Uhuru. “This is simply untenable.” Three years down the line, Esther Murugi was one of the first Central Kenya MPs to fail to recapture her seat because she did not get the Jubilee nomination.

“Ruto is very vindictive,” the Central Kenya MP reminded me. “He doesn’t forgive: all those people he suspects of having implicated him in the ICC case

must be punished.” The MP told me that some of the MPs who failed to bag the Jubilee Party nomination tickets and eventually “lost” in 2017 elections are suspected by Ruto’s people of helping to compile part of the report that incriminated him and sent him to the ICC.

2014 was not the last time that President Uhuru summoned MPs to State House. In August 2017, he met with newly elected Jubilee Party MPs. “He was soaking drunk and he lectured us, as a headmaster would his pupils,” said a first-time MP from North Rift. “Rookie MPs who had never been to State House were excited to be called for the breakfast meeting. But when they were lectured by a drunk president, who was allegedly banging tables, cursing and swearing, they were dumbfounded.”

“Ruto is very vindictive,” the Central Kenya MP reminded me. “He doesn’t forgive: all those people he suspects of having implicated him in the ICC case must be punished.” The MP told me that some of the MPs who failed to bag the Jubilee Party nomination tickets and eventually “lost” in 2017 elections are suspected by Ruto’s people of helping to compile part of the report that incriminated him and sent him to the ICC.

“Don’t joke with a president who’s not seeking a second term,” President Uhuru is reported to have told the MPs. “I dare anyone who will not do as I say to walk through that door,” he hollered to the now cowed MPs. “Why he was angry, we don’t know. When he finished ranting, the MPs stood up and instead of heading to the laid out breakfast tables, they hastily walked to their waiting cars, and drove off in a huff.”

As fate would it, a few days after that tense meeting, the Supreme Court nullified the election on September 1. “Uhuru once again quickly summoned us to State House: ‘You’ve seen what the court has done to our win’” said a now mellow and pliant president. ‘We need to put our heads together and strategise on how to win the presidential seat again.’ He was now speaking to us in collegial terms – ‘our win’ – the insults and threats had gone, he wanted our help so badly...that’s our President Uhuru.”

“A year later, BBI has not communicated the handshake properly to Kenyans,” said my Central Kenya MP friend. “There hasn’t been enough awareness about its real and true agenda and intentions.”

Unlike the handshake of 2008, which was witnessed by, among others, Tanzanian leaders, Benjamin William Mkapa and Jakaya Mrisho Kikwete, and the Ghanaian statesman Kofi Annan, the 2018 handshake did little to reduce mistrust or to help build confidence and lend credence to the rapprochement. On the contrary, the 2018 handshake is shrouded in suspicion; many Kenyans believe it has an insidious agenda and most are hard put to explain what it means.

One of the very first things President Uhuru and Raila, now under the auspices of BBI, had planned to do was to visit Central Kenya, as the first entry point of selling the BBI agenda, said the Central Kenya MP. "It was a natural and obvious consequence that BBI seeks to build trust and confidence among these two warring communities, but the visit has remained on the cards, postponed several times." The MP said Central Kenya has not been in the mood to welcome President Uhuru Kenyatta. "Right now, they don't feel him, they feel let down by a leader who seem impervious to their economic tribulations. This is what the intelligence reports relayed to the president have been saying."

But, said the MP, this could all be hot air: "Right now, it's true they are angry and bitter with *muthamaki*, so, to project their anger they become emotional and end up saying irrational things like, 'We'll vote for William Ruto.' Kikuyus are the most ethnocentric community in Kenya, and all this bottled-up anger melts on the D-Day [election day]. When they say they'll vote for Ruto, they mean they'll vote for him from their houses. No Kikuyu will troop to the ballot booth to line up and vote for a non-Kikuyu presidential candidate - Ruto included."

Paul Mwangi, one of the joint secretaries (the other is Martin Kimani) to BBI, disputes the assertion that there has been a planned Central Kenya visit from the two leaders that has failed to materialise. "It is not true that the two leaders have been planning to visit Central Kenya. Remember BBI has been holding town hall meetings across the country and it wouldn't be a great idea to start the visits. For two reasons: one, fear of raising political temperatures and two, fear of misinterpretation of BBI's work by some MPs, who would want to hijack the BBI's agenda for their own gain."

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Mwangi said BBI had already conducted 18 town hall meetings. “There 29 more to go, it is obvious we’ll not beat the stipulated one year deadline. We’re going to ask for more time from the principals.”

Even with less than half of the counties visited, the emerging theme in these meetings has been - *punda amechoka...punguza mzigo* (The donkey is overloaded and therefore fatigued...let’s lessen its weight). That is the literal translation. The interpretation is that the voter feels burdened and therefore fatigued by the seemingly overwhelming extra political seats created by the new constitution promulgated in August 2010.

With a ballooning wage bill, and mounting domestic and external debts that have apparently overwhelmed the government, the state has sometimes inadvertently been giving the impression that it cannot deliver development and services to the people because it is having to spend a lot of money paying political leaders.

Be that as it may, “BBI is nothing but an entrenched political cabal’s way of controlling national politics and state power so that they remain with the people who have always controlled the two. But more importantly, it is the cabal’s way of ensuring that state power does not land in the ‘wrong hands’”, said a Jubilee MP, who is a friend to both President Uhuru and his deputy. “The Kenyatta family would like to have a political stranglehold on Kenya, the way the Bongo family in Gabon has done.” (Ali Bongo, who has ruled Gabon since 2009, took over from his father, Omar Bongo, who was president for 42 uninterrupted years.)

“BBI’s town hall meetings are supposed to culminate in a referendum and this is where the catch is - it’ll not be by popular vote, but by delegates voting by acclamation,” opined the Jubilee MP. “All these supposed town hall meetings are a ruse: BBI knows what it wants, how it wants it...these meetings are dress rehearsals that are supposed to dupe the people to believe that their voices matter. Carefully selected delegates from 24 counties will be assembled at the Bomas of Kenya for a convention in which they will all unanimously agree to pass the tabled resolutions. That’s how it shall come to be.”

Yet, in a carefully worded rejoinder, Mwangi retorted to the contrary: “BBI has no position on whether or not there’ll be a referendum, that’s a matter that will be dependent on the solutions that BBI will recommend to the principals and where the holding of the referendum will take place will be part of those resolutions.”

The referendum is a must, my sources from Raila's quarters said to me matter-of-factly. "Raila has indicated there'll be a referendum this year, it must happen, if it could happen before the population census, the better and he is not bluffing...if it doesn't take place, he walks away...it is a very serious matter to him." (The Kenya population census is slated for August this year.)

"We welcome the referendum," said a North Rift Jubilee MP and one of the DP's close associates. "We're not afraid of it. We are going to frame the question differently and better and we'll be asking Kenyans - *kama kweli punda amechoka*, (if truly the people are overwhelmed, hence, the demand for a reduction of the constitutional stipulated seats), why then expand the executive? This not our first referendum to engage in...we have been there before and we know how to play the game."

The Ruto factor

The MP observed that the machinations against Ruto by the so-called "Kiambu mafia" will not work. "Ruto is a hardened and seasoned politician, he has passed through many political tribulations and overcome them. Even this one, he's going to overcome it."

The MP pointed out to me that during the August 2010 referendum on the new constitution, in which the Greens supported the new constitution, while the Reds opposed it (with Ruto in the Red corner), "Ruto, even without having money to wage a proper campaign, still gave his antagonists a run for their money."

Recently, William Ruto's think tank has advised him to travel abroad and seduce Western countries' audiences. At a Chatham House lecture on 8 February this year, he supposedly talked tough and even alluded to Raila as a professional perennial presidential loser. These presidential losers are the people who cause trouble in Africa, he is said to have told the audience. After the Chatham House engagement, on 12 February, he dropped by at the BBC's London offices for the first of his planned media charm offensives - an interview with BBC Hard Talk host Stephen Sackur. Sackur was typically blunt and probing, even suggesting that Ruto was known to be among Kenya's most corrupt people. The charm offensive obviously failed as Ruto struggled to make his case.

But BBI is not the only juggernaut the DP will have to contend with. "Ruto rigged many of the Central and Mount Kenya Jubilee Party MPs that he felt were not on

his side, or would be difficult to control, or influence,” said the MP. “He ensured all loyal MPs from his side were handed the certificates easily. That was not the arrangement he had with Uhuru when he was tasked to take charge of the party nomination affairs after the fiasco of the first countrywide nominations trials.”

The MP said that all the former MPs who lost their seats and who are still smarting from their loss loathe Ruto, and are just waiting for the opportune time to strike back. “Yes, they also rail against President Uhuru privately; ‘the man has never been in control of anything.’ They, therefore, have sworn to not support any venture by Ruto. They are adamant they won’t stop saying Ruto rigged them out.”

Among the most hurt of the Mount Kenya politicians who accuse Ruto of rigging them out are: Cecily Mbarire (who ran for the Embu governor seat); Kabando wa Kabando (former MP, Mukurwe-ini in Nyeri County); Martha Karua (who ran for the Kirinyaga County governor’s seat); Mutahi Kagwe (who ran for the senator’s seat in Nyeri County); Ndung’u Gethenji (the former MP for Tetu, Nyeri County); Peter Kenneth (who ran for the Nairobi County governor’s seat); Peter Munya (who ran for the Meru County governor’s seat); Rachel Shebesh (who ran for Women Representative in Nairobi County); and William Kabogo (who ran for the Kiambu County governor’s seat). “Kagwe, Kenneth and Munya are still so angry with Ruto, they won’t even talk to him,” said the MP.

Some of these politicians ran as independents after forming the Kenya Association of Independent Candidates (KAIC) led by Kabogo and deputised by Gethenji. “These are the people who will form the bulwark of opposition to Ruto in the Mount Kenya region. Take it from me, the Jubilee Party, as currently constituted, will not be there in 2022,” said the MP. Hardly surprising in a country where political parties are vehicles for convenience and conveyance and where new parties are formed during every election season.

The Mount Kenya MPs are not only privately accusing President Uhuru of political inaction, “they are also nervous and suspicious of him,” said the MP. “They know President Uhuru, on his own, cannot out-think both Raila and Ruto. They therefore cannot hitch their wagon in his current party. They are also scared of voters’ backlash: it cannot be that the country must be ruled by two communities, passing the presidential race baton to each other, back and forth...that at some point must stop, because it’s unacceptable by all standards.”

A Lost Opportunity: Can the National Land Commission Reclaim Its Original Mandate and Regain the Public's Trust?

On 19th February 2019, the term of office of officials of the National Land Commission ended. A new set of Commissioners will have to be appointed. This seems like a good moment to reflect on the commission's record and to remind ourselves of how much hope we citizens had invested in this constitutionally mandated independent commission.

Let us begin by reminding ourselves of the origins of the commission and the mischiefs we had hoped it would address. Institutional change in the land arena was a key aim of the new Constitution when it was inaugurated in 2010. The hope was that a new architecture of land governance would solve Kenya's long-standing land problems, including massive and worsening inequalities in access to land, the concentration of land in a despotic executive, widespread land grabbing, the irregular and illegal use of land as a patronage resource, and continuing conflicts over who is and who is not entitled to occupy land.

The National Land Commission was envisaged as an independent constitutional commission that would stand apart from existing institutions associated with facilitating a multitude of wrongs, including corruption. The path to the creation of the National Land Commission was by no means easy. Although there was powerful advocacy for it at the start of the constitutional review process, it also encountered its opponents. It was hoped that creating a strong land commission undergirded by constitutional guarantees of its independence would mark the beginning of a new land order for Kenya. It would put into effect Chapter Five of the Constitution that emphasises the importance of land being "held, used and managed in a manner that is equitable, efficient, productive and sustainable". And it would be guided by the principles of land policy inscribed in the new

Constitution and by its national values, including those of participation, consultation and transparency, all of which had entered the Constitution after concerted debate and struggle.

In spite of these aspirations, what we have witnessed in the short life of the National Land Commission is concerted resistance to the changes it might have brought about. The national government has fought hard to retain its control over key land functions, including land registration. There has been a powerful centralising effort by a state determined not to lose control of management of and access to land, including regional and central land registries.

The Ministry of Lands, Housing and Urban Development has been the prime actor in this struggle for control. An incumbent institution with vast experience, it has worked hard to keep the new National Land Commission in check. The short life of the Commission has been riddled with infighting and uncertainty. Those who wished to maintain the status quo sought to make the commission an appendage of the executive. The land commission quickly assumed a subordinate role to the land ministry. It struggled to take on new and distinct responsibilities. It absorbed administrative officials from the ministry. Located in the Ministry of Lands, Housing and Urban Development's headquarters at Ardhi House, it was essentially a tenant at the will the ministry.

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The Supreme Court's Advisory Opinion

In 2014, with much of the business of county land administration at a standstill, the Supreme Court was asked to provide an Advisory Opinion on what should be the relationship between the two bodies in light of the Constitution and the relevant land laws. Advisory Opinions are a judicial mechanism that enable the Supreme Court to provide "authoritative and impartial interpretation of the Constitution" (s. 3 Supreme Court Act 2011). Resorting to the court for its guidance was a clear indication that two bodies with responsibilities on land had

reached a stalemate. The country's highest court was being asked to rule on a key question: what are the responsibilities and duties of the institutions envisaged by Kenya's new legal framework for land governance?

The Supreme Court is charged by legislation with being a guardian of the Constitution and its values. Section 3 of the Supreme Court Act 2011 provides that the objectives of the court "enable important constitutional and other legal matters, especially matters on transition to the new Constitution be determined with due regard to the circumstances, history and cultures of the people". The Supreme Court's ruling in this matter is extremely detailed (it runs to sixty-two pages). It is perhaps one of the best considerations of Kenya's land history and of the connections between land reform and constitutional transformations currently in existence. But the Advisory Opinion fails to provide, as the amicus curiae submission of the Katiba Institute urged, detailed guidance on the meaning of land administration and management. Despite its keen sense of the history of land in Kenya and its stated commitment to constitutional transformation, including the role of the land commission in this, the court did not provide the direct and forthright judicial support the commission needed at this critical stage of the commission's infancy.

Particularly in relation to titling responsibilities, the court failed to grasp how the case presented a unique jurisprudential opportunity. The court might have developed in its judgment reasoning that had the effect of "locking in" a public law perspective on land issues. What was being asked of it was an interpretation of public functions, essentially administrative law. It should have provided robust and detailed guidance on the powers and responsibilities of institutions and individuals in the land arena.

Instead, the court relied rather too much on a view of the case as predominantly based on land law, and specifically private law. This is evidenced by its reading of the function of registration of title. Its reasoning here was that the legislature cannot have envisaged a fragmentation of the role of land title issuance between the ministry and the commission because that would be bad for land markets and lead to uncertainty. This emphasis by the court on the need to avoid fragmentation in a key area of land dealings shows a private law interpretive inclination. The court prioritised a private law view of land as a tradeable asset. It failed to see that the task of breathing life into terms such as "land management" and "land administration" is essentially an elaboration of public law. Such a

stance might have led the court to reason differently. Its own account of constitutional and land history in the judgment should have led it to that point. Aware of the mischief, which a new dispensation in land was developed to address, the court should instead have provided jurisprudential backing for a strongly protected constitutional commission rooted in administrative law.

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The Advisory Opinion falls short of issuing specific detail of how to resolve the problems between the land ministry and the land commission that had come to characterise the years since the new land laws were enacted. The judgment leaves this for the two bodies to work out. Given the strains of the past few years, and the impasse at which they found themselves on the eve of the Advisory Opinion, it is hard to see how this order could be an effective one. The judgment provides everything needed for a historically informed jurisprudence. The court knows why there is a need to guarantee the independence of the National Land Commission, but it does not build a sturdy and enduring architecture with detailed and carefully elaborated roles specifically set out.

The outcome of the judgment is that the role of the land commission is truncated. The roles it remains with are: the conduct of research on land issues and on natural resources; initiating inquiries into historical land grievances and recommending redress; and promoting traditional methods of resolving land conflict. The mandate of the commission is succinctly summed up by the court as “a brains-trust mandate in relation to land grievances, with functions that are in nature consultative, advisory, and safeguard-oriented”. Thinker, but not doer, the resultant land commission is a far cry from that envisaged by the Constitution and the National Land Policy.

Successes and challenges

Despite the numerous challenges that it has been faced with, the commission has had some successes. Staff at the commission have demonstrated an ability to make progress in spite of the difficult context. For instance, through its Research Directorate, the commission has partnered with civil society organisations,

academics and practitioners. The commission has also undertaken the process of review of grants and dispositions on public land.

The [Shule Yangu initiative](#) represents an important success. The issuance of title deeds to public schools has guaranteed the protection of land owned by schools. The commission has worked hard to recover public land allocated to various state agencies, including the Water Ministry, the National Youth Service, the Kenya Prisons Department, Kenya Ports Authority and the Kenya Maritime Authority, which was subsequently grabbed by private developers. (See, for example, the Makupa Causeway and Kitale Museum cases.)

Although our focus in this article has not been on rehashing graft narratives, it is important to acknowledge how much harm has been done to the commission's independence and non-partisanship by recent scandals. Allegations of impropriety and of corruption have become commonplace. The commission's credibility has been called into question since the loss of data on compensation payments for land which it was holding on an internal computer. It has been embroiled in land compensation scandals. Serious doubts have been cast over the integrity of some commissioners.

The commission has not only lost the public's trust, it has also lost its status as an independent guardian of the Constitution in the land arena and has become associated instead with the sorts of land wrongs for which the land ministry is infamous. Most recently, by allowing the regularisation of title to the land on which Weston Hotel sits, the commission caused much upset. Why, asked Kenyans, did it not give the same opportunity to the many properties that were demolished after it was established that they were sitting on public or riparian land? Differential treatment of this sort casts doubt on the commission's independence in discharging its mandate.

The coming years

In discharging their responsibilities, the new land commissioners must have at the front of their minds the public and administrative law framework that should govern their work. Unlike other independent commissions, the land commission has a unique and symbiotic relationship with the executive in the form of the Ministry of Lands. Negotiating this relationship has not been easy but a renewed National Land Commission will reconnect with constitutional history and with the

long-standing demands of Kenyans for an accountable and independent institution in charge of land.

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The public law model we have suggested emphasises administrative duties, restraint of public officials and accountability. These are the constitutional values with which the land commission was inaugurated. Since then, a private land law model has been allowed to predominate, including in the landmark Supreme Court ruling on the relationship between the land ministry and the land commission and in the analyses of most commentators on land matters. A public law model retrieves Kenyans' hopes for a different and better way to manage and administer land as the commission enters its next phase.

The Gay Debate: Decriminalising Homosexuality in Kenya

Private consensual sexual conduct between adults of the same sex is criminalised in Kenya and 32 other African countries. How did private consensual sexual conduct between adults become the subject of criminal laws in Kenya and most of these African countries? How does the secrecy surrounding matters related to sex and sexuality influence the implementation of these laws? Let's take a journey through Kenya.

According to legal historians, what is today known as Kenya started off as the

British East Africa Protectorate in 1896. The protectorate was ruled under British law; prior to that period, no formal legal structure existed. Further, the name Kenya did not exist until it was named so as a colony in 1920 and as a country in 1963 (upon independence). Criminalisation of same sex relations in Kenya dates back to between 1897 and 1902, when the British colonial authorities applied the Indian Penal Code that had been drafted by the British and which criminalised same sex relations. The Indian Penal Code was a novel colonisation project aimed at using legislation to model British values and common law to govern British protectorates and colonies abroad.

Research by Dr. Nancy Baraza characterises the history and rationale of the criminalisation of homosexuality as part of the disguise to civilize “natives”, stop slavery and spread Christianity. She found that it led to social coercion into British moral and Christian religious values whose aim was to standardise divergent ethnic sexualities for ease of ruling and colonising them. Dr. Baraza found that these colonial laws that policed sexuality and gender were closely tied to Judeo-Christian religious beliefs that gradually displaced African customary laws that recognised the harmony of gender, sexuality and spirituality.

Upon Kenya’s independence in 1963, the pre-colonial Penal Code was adopted by the post-colonial state without substantive changes, save for the renamed title of the statute to reflect promulgation by the newly created sovereign Parliament of Kenya. Kenya, therefore, remained among those African countries that mete varying punishments for same sex relations. The death penalty is imposed for homosexual sex in Sudan, Nigeria (12 northern states), Somalia and Mauritania. Life sentences are prescribed by penal law in Tanzania, Uganda and Sierra Leone. Kenya imposes a fourteen-year imprisonment term. To prove the crime of homosexual sex, forced anal examinations are used to in Tanzania, Cameroon, Egypt, Tunisia and Uganda. (Kenya’s Court of Appeal banned the practice in 2018.) Attempts to commit homosexual sex are also punished in Kenya, including indecent acts between males. The crime of homosexual sex is framed as an “unnatural” offence, carnal knowledge against the order of nature, or indecent acts between adults.

The legal challenges

The African Commission on Human and Peoples Rights (ACHPR) has noted that individuals in Africa continue to face infractions due to real or imputed sexual

orientation and/or gender identity. According to the ACHPR, common infractions include “corrective” rape, physical assaults, torture, murder, arbitrary arrests, detentions, extrajudicial killings and executions, forced disappearances, extortion and blackmail. In a 2014 resolution against violence on ground of sexual orientation or gender identity in Africa (resolution 275), the African Commission called on African states to take preventative actions and redress these violations, including through legal reform.

This history of an imposed legal system in relation to criminalisation of same sex conduct in Kenya was slightly altered through Act No 5 of 2003 when section 162 of the penal code was amended to remove corporal punishment, which had existed as a supplementary punishment to the prison sentence of fourteen years for homosexual sex. This amendment also distinguished punishment for consensual unnatural offences (14 years) and non-consensual (sodomy) unnatural offences (21 years). Removal of corporal punishment for unnatural offences was part of general penal reforms to align Kenya’s laws to international obligations against torture and cruel, degrading or inhumane treatment and punishment.

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By the time the nation was debating a new constitution, discrimination on the basis of sexual orientation was being discussed inconclusively by constituent assemblies, including at the subsequent 2010 referendum. The new 2010 Constitution entrenches an elaborate Bills of Rights that affords constitutional protection from discrimination. Article 27 states: “The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.” While being inclusive, Article 27 does not explicitly list sexual orientation or gender identity. On the contrary, the Constitution recognises only heterosexual unions in Article 45, which states that “every adult has the right to marry a person of the opposite sex, based on the free consent of the parties”.

In addition, Section 158 of the Children's Act of Kenya explicitly prohibits adoption of children by homosexuals. In brief, Kenya's legal system is generally hostile to gays, lesbians, bisexuals and queer persons. The law is also vague on the constitutional protection from discrimination on the basis of sexual orientation and gender identity. There is no comprehensive or specific equality legislation to guarantee protection from sexual orientation and gender identity discrimination, particularly in employment, health, housing and other social economic spheres.

In 2012, a Kenya National Commission on Human Rights (KNCHR) report on sexual and reproductive health rights in Kenya recommended decriminalisation of same sex relations. This was in order to ensure the realisation of the right to the highest attainable standard of health, including reproductive healthcare, as enshrined in article 43 of the Constitution 2010.

Studies have shown that gay men suffer discrimination when they access health services in Kenya and taboos around homosexuality prevent many others from seeking health services. Similar findings on the effects of criminalisation on state health policies and recommendations on their decriminalisation have been made by the Kenyan Ministry of Health in its HIV and AIDS Strategic Plan (2009/10-2012/13 as well as the 2014-2019). The justification of the health ministry and the KNCHR is that decriminalisation will remove structural barriers that impede access to the provision of the highest attainable standard of health care to all, which is a constitutional right in Kenya. KNCHR and the ministry have been consistent every year on their recommendations on decriminalising homosexuality, including through supporting civil society and individuals working on this reform issue. These empirical findings and recommendations by the health and the state human rights institution stand in contrast with active prosecutions against suspected homosexuals in Kenya by the police and the Director of Public Prosecutions.

Religion and politics

The most common rhetoric against same sex relations in Kenya has been coming from the religious and political elite who often characterise homosexuality as being against African tradition and biblical teachings. Studies have found that this charge of homosexuality being exogenous to Africa is politically designed to erode the legitimacy of same sex sexualities in Africa and to assert a homogenous "cultural identity". This makes the public dependent upon political and religious

leaders for “a communal sense of self”. It reminds the public what the government is – that it is in charge, in power and working or aspires to work for their best interests and survival, including protecting the most vulnerable (especially children) from “recruitment” and securing the future of the nation (by securing reproduction). The law under study therefore becomes political bait, an attractive instrument to regenerate political power domestically and internationally. This is made possible when arguments intersect with popular religious doctrine and social anxieties over reproduction, marriage and the future.

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The public discourse becomes more difficult when homosexuality is politicised with religious doctrines whose nature hardly allows deliberations, which are necessary for democratic progress. This politicisation of religion is conflated with social anxieties over reproduction and social security.

Studies have found that economic inequalities give such political rhetoric traction. In this power analysis of law, the inflation of claims (such as saving the morality of the country) work to displace desires and failures within society and fix them on minority human objects who are generalised and whose presence or distinguishing factor (such as sexual orientation, in this case) is not distinctive or new to Kenya.

We are a developing country that is struggling with poverty and a high population growth rate. Poverty, religious doctrine that does not allow reasoning or deliberations, and an education system whose compulsory curriculum teaches homosexuality to be a moral/social deviance can be seen as part of the key social economic factors involved in shaping the public posture against homosexuality.

A convenient distraction

Activists have argued that the political capital invested by the Kenyan state on homophobia is a tactic to distract the public from pressing economic issues, such

as rampant corruption. Studies show that after the end of colonialism, arbitrary governments in most post-colonial African states “latched onto anti-homosexuality laws as ammunition in a battle for power”. Such political rhetoric has also been found to thrive more in countries with weak institutions, inadequate basic equality statutes, poor participatory rights and social protection law, increasing inequalities, high unemployment amongst youth, and a general restrictive civic space. Studies have also established that compared to full democracies, authoritarian regimes and flawed democracies have a higher propensity to criminalise homosexuality

There are findings that support the need for reform on this issue. Research by the World Bank shows that a country’s economic growth is inversely correlated with the level of discrimination against ethnic, religious and sexual minorities under the law. The study found that criminalisation of homosexuality is connected with economic development with multiple links and that criminalisation costs as much as 1.7 per cent of a country’s GDP. Other studies have argued that criminalisation of homosexuality is “irreconcilable with good governance” because it hinders progress within a country, particularly in regard to democracy, the rule of law, human rights, public health, and economic development

The economic benefits of ending discrimination using the rule of law, therefore, resonate with many aspirations of middle- and low-income African countries. Continued discrimination against sexual and gender minorities through law is a grave economic concern in emerging African economies such as Kenya, which is currently working to achieve inclusive development.

In the social-cultural sphere, Kenya’s creative/arts scene has increasingly become a mirror of the diversity in Kenya’s gender and sexuality fluidity. Notable among them are the films *Stories of Our Lives* and *Rafiki*, whose same sex themes have been banned locally but have spiked local and international demand. Art galleries and cultural centres in Kenya have in recent years been hosting Lesbian Gay Bisexual Trans Intersex and Queer (LGBTIQ) art and cultural events without state sanction. Reputed artists, such as Michael Soi, with his provocative paintings on sexuality and Kawira Mwirichia, with her Kanga love art, also continue to highlight the changing social landscape on matters sexuality and gender in Kenya. Although the education curriculum in primary and secondary schools still teaches that homosexuality is a social deviance, many public universities and colleges have been pushing back with a much more inclusive curriculum, especially in law

schools. In addition, student-led bodies in universities and colleges have been engaging in research, internships, moot courts and other public service partnerships with civil society organisations dealing with LGBTIQ equality in Kenya.

Enforcement of gay laws

The existing laws against homosexual offences are actively enforced in Kenya. In 2015, a “Ministerial statement on non-enforcement of anti-gay laws in Kenya” indicated that between 2010 and 2014, the Kenya Police had prosecuted 595 cases of homosexuality across Kenya. An independent due diligence report of this police report found gross errors and conflation of homosexuality with bestiality and defilement charges. The conflation was either deliberate or was meant to increase social opprobrium towards homosexuality (by conflating consensual private adult same sex intimacy with bestiality and defilement). It could also be due to mistakes due to poor record-keeping by the police whose documentation remains largely manual.

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In addition, civil society organisations continue to document human rights violations based on sexual orientation and gender identity. In 2010, the Kenya Human Rights Commission (KHRC) found that LGBTIQ persons in Kenya are routinely harassed by police, evicted from housing by landlords, fired from jobs, denied access to healthcare and cut off from families, religious groups and social support structures. The National Gay and Lesbian Human Rights Commission (NGLHRC) has since 2012 been responding to and documenting violations against LGBTIQ persons. Annual legal aid reports from NGLHRC indicate that recurrent violations include “corrective” rape, physical assaults, arbitrary arrests, detentions, extrajudicial killings and executions, forced disappearances, extortion and blackmail, entrapment, among others. NGLHRC has been litigating on some of these violations, including challenging the use of forced anal examination to

prove sexual orientation, forced evictions by landlords, dismissals from work, denial of government services and documents, etc.

Interpreting anti-homosexuality laws

Be that as it may, Kenya's judicial jurisprudence on this issue demonstrates a compelling state interest to extinguish legal discrimination on the basis of sexual orientation and gender identity that is often justified and excused by the existence of criminal sanctions against LGBTQ persons. In Petition 440/2013 that sought to register the National Gay and Lesbian Human Rights Commission with the NGO Board, Justices Lenaola Odunga and Mumbi Ngugi ruled unanimously that sexual orientation was constitutionally protected from discrimination in Kenya and allowed the registration of the NGO. In February 2018, the Court of Appeal struck down the use of anal examination to prove homosexual orientation after the NGLHRC challenged anal examination, which had been performed on two suspected gay men at the Coast General Hospital. In the Baby A case, the court found that intersex persons in Kenya have the right to be recognised as persons before the law and went further to task the relevant state organs to develop relevant policy to secure recognition of intersex persons as persons before the law.

Courts in Kenya have also allowed the registration of transgender groups and the change of gender markers on official documents issued by the government to transgender persons. The first stream is an internal analysis of the legal system using Kenyan law jurisprudence from which finds that there is arbitrary interpretation and application of the criminal rule under study which is inconsistent with the rule of law. The courts have become aware of this inconsistency and framed it as a constitutional issue, thereby triggering public discourse. The second stream is external in that it makes observations "outside" of the law on the performance of this criminal rule and characterises the performance of this law as political instrumentalisation of arbitrariness. This arbitrariness is more instrumentalised by the democratic branch of government through inflated paternalistic moral and religious claims within the domestic and international public spheres. I conclude by predicting how the criminal rule under study is under imminent foreclosure through court action under a rule of law analysis.

Moving towards a less homophobic society

I predict that criminalisation of homosexuality will grow into an exceptional doctrine in criminal law and will incrementally be foreclosed by courts as erroneous and excluded within the general domain of law. Criminal law is meant to prevent harm to society and enhance harmony and order within persons. To achieve order, the law can regulate how humans relate by way of justifiable legal stipulations and legal constraints. Over time, equality and non-discrimination will become the dominant theories in the transformation of the law in Kenya, but the foreclosure of the criminalisation described in this essay is a necessary first step.

Claims against the negative effects of criminalisation of homosexual conduct will continue to sharpen the consciousness of the courts on the structure, meaning and effects of this law. The claims will allow the courts to be the public repository of accounts of discrimination on the basis of sexual orientation. The critical studies movement has taught us that we can reform our legal practice to deliver legal justice without breaking legality. This reformed legality supports the foreclosure of criminalisation with the aim of protecting the constitutional/immunity rights of persons affected by this law because these rights already exist in our constitutional texts.

The ongoing litigation work by LGBTIQ individuals are therefore democratic efforts by citizens and organised groups to instill the rule of law, human rights and good governance in Kenya. Such efforts fulfill the civic duty that individuals and social movements have in promoting the democratic values of their communities and the country through institutional enforcement of their rights in courts. It is also a follow-up from constitutional drafting conferences that appreciated the issue as contentious but offered no closure to the affected. Individuals and social movements are using the judiciary to communicate and document their discriminatory lived experiences. By framing these claims as constitutional breaches, individuals are building public value of human rights as an essential part of their democracy and societal values. Courts therefore become entry points of building human rights and democratic values into social and political pillars of society.

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repository of accounts of discrimination on the basis of sexual orientation.

The fact that these cases are being entertained, processed and resolved without dismissals due to technicalities and despite the fact that there are existing laws that criminalise homosexuality are green shoots and omens that suggest that access to justice is being realised in Kenya, which is a score for our democracy. It shows that the courts in Kenya are rooting for the rule of law and the constitutional constraints in the law's predictability.

Because the Constitution of Kenya 2010 was promulgated through a public referendum, courts enjoy sole curatorship of the Constitution, arguably raising the public acceptance of their decisions and the democratic pedigree of their legitimacy. Their decisions, therefore, play a leading role in public discourse.

Foreclosure through decriminalisation will, however, need enforcement. This might translate to a reduction of arrests and prosecutions of suspected homosexuals as well as reduced social and economic exclusion. It is possible that LGBTIQ persons have begun to value their constitutional rights and will take more chances for equal protection within the civic commons. It is also possible that sexuality, citizenship and belonging will remain a live constitutional issue for judges in Kenya for the next decade as the cases move to the appellate stages through the courts.

Regardless of the outcome of these cases, Kenya's legal consciousness on how continued criminalisation of homosexuality undermines our constitutional principles and goals has already been established by courts, individuals, movements, state human rights organs and government health agencies. By litigating towards decriminalisation of homosexuality, activists are implementing evidence-based recommendations of state agencies as well as upholding the constitutional promise of non-discrimination, including equal benefit and equal protection under the law. The day may finally come when homosexuality in Kenya will truly be a "non-issue", as President Uhuru Kenyatta recently stated in a televised interview.

A Perfect Storm: Why the DRC Remains the Epicentre of the Ebola Epidemic

The Democratic Republic of the Congo (DRC) is facing the worst Ebola outbreak in the history of this country. Nearly 400 people have died since August last year and the situation is only getting worse. Shortly after the elections last month, violence spiked, leading hundreds of refugees to flood bordering nations and many international health workers to withdraw from the country. Armed conflict threatened the safety of many healthcare professionals, forcing them to suspend their work and allowing the virus to spread. Once again, the government of the DRC answered to this crisis by shutting down the country's Internet service, [making things even worse](#).

But what is Ebola, and what's the history behind this horrific disease? What are the numbers of the current outbreak and the risks for the neighbouring regions associated with this unmanaged crisis? How did the other African countries and the international community plan to deal with this humanitarian catastrophe?

What is Ebola and how does it work?

The [Ebola Virus Disease \(EVD\) is a rare and often fatal haemorrhagic fever](#). An animal-borne illness, Ebola spreads in the human population through human-to-human transmission. Much less contagious than many people think, the infection occurs only through direct contact with bodily fluids or secretions (blood, urine, semen, stool, saliva) of a sick or recently dead person. A healthy person needs to come in contact with infected body fluids or contaminated items (such as syringes, bed linen or soiled clothing) for the virus to be able to get in through broken skin or mucous membranes (nose, eyes, mouth). Sexual contact with a diseased individual can also transmit the virus.

People who are most at risk during an outbreak are health workers, people who are in close contact with infected individuals (such as relatives, close friends, and spouses/partners), and mourners who have direct contact with bodies. For example, during the 2014-2015 West Africa outbreak, [74 per cent of transmissions occurred among family members](#).

The incubation period ranges from 2 to 21 days during which the individual is not contagious. Early symptoms (dry phase) include intense weakness, sudden onset of high fever, joint and muscle pain, sore throat, headache, and stomach pain. As the virus spreads through the body, the host's immune system is damaged, and [other symptoms become manifest](#), including diarrhoea, skin rash, uncontrollable internal and external bleeding, and impaired liver and kidney function (wet phase). As the levels of blood-clotting cells drop, the patient may start bleeding from the mouth, eyes, ears, nose, and rectum.

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Currently, there's still no official cure for Ebola, other than some experimental antiviral drugs that may stop the virus from replicating. Treatment is usually only supportive, and aimed at keeping the patient alive while his body fights the infection. Doctors manage the symptoms of Ebola with basic interventions to improve the chances of survival, such as providing intravenous fluids and electrolytes, administering oxygen therapy and medications to improve blood pressure and reduce fluid loss caused by vomit and diarrhoea. Patients can also receive blood transfusions and additional treatment to deal with secondary infections.

The average [mortality rate associated with Ebola is slightly below 50 per cent](#). However, in some instances, fatality rates have reached up to 90 per cent in past outbreaks. Those who survive may experience several side effects during their long convalescence period, including weakness, vision and hearing impairment, and digestion problems. Survivors often face social stigma when they re-enter their communities.

The first outbreak

[Ebola first appeared in 1976](#) when two consecutive outbreaks of fatal haemorrhagic fever occurred in South Sudan and in the Democratic Republic of the Congo (formerly Zaire), approximately within 850 km of each other. The latter outbreak occurred in Yambuku, near the Ebola River, which gave the virus its

name. However, researchers found that the virus existed long before these recorded outbreaks occurred, suggesting that encroachment into forested areas and increased interaction with infected wildlife may have caused the initial epidemics.

The genus *Ebolavirus* is a group of viruses that include several subtypes, of which only four are known to cause disease in humans. The other forms can infect other animals such as pigs, apes and duikers. The four viruses that infect humans (Ebola, Taï Forest, Sudan, and Bundibugyo) also affect non-human primates such as chimpanzees, gorillas, and monkeys, and fruit bats of the *Pteropodidae* family that help spread the infection to the general population. In fact, bats carrying the virus are the most likely source that transmitted it to apes and humans. However, the main reason why the virus spread so quickly during the initial outbreaks was the lack of proper hygienic measures taken to contain the contagion. The Yambuku mission hospital was underequipped and understaffed, and [nurses reportedly re-used the same five syringes](#) for roughly half a thousand patients a day even if they were contaminated.

2014: Ebola becomes a global threat

On March 23, 2014, a new EVD epidemic started spreading from a rural region of southeastern Guinea after a young boy from a small village was infected by bats. More cases of fatal haemorrhagic diarrhoea occurred in that area as the virus kept spreading rapidly toward nearby urban areas. Within weeks, the contagion had reached the bordering countries of Sierra Leone and Liberia, and in just a few months the epidemic became global, marking the beginning of the largest Ebola epidemic in history.

As the virus reached the more densely populated urban centres, the situation started deteriorating rapidly, and the World Health Organization [declared a Public Health Emergency of International Concern \(PHEIC\)](#). EVD crossed the borders of the African continent, reaching other countries such as the United States, the United Kingdom, Italy, and Spain. The poor public health infrastructure vastly contributed to the inability of the local authorities to contain the outbreak. Scientists and public health officials had only a vague idea how the virus spread, and the local community was never educated on how to prevent contagion. Many prevailing traditional and cultural practices related to mourning and burial provided additional opportunities for transmission.

Eventually, a careful implementation of health policies and infection prevention and control practices at the national and global level allowed the international community to curb the epidemic. Community engagement was critical in controlling the outbreak, especially when local leaders assisted with prevention programmes and the adoption of safe burial practices. Liberia and Sierra Leone were declared Ebola-free in early 2016, two and a half years after the first case was discovered. The aftermath, however, was tremendous; 11,325 people out of a total of 28,639 confirmed cases lost their lives to the infection. To put things in perspective, there were 2,427 reported cases and 1,597 deaths in [all other known cases and outbreaks of Ebola combined](#).

The outbreak had also a tremendous impact on the healthcare sector of the countries affected; there were 513 confirmed deaths of health workers reported in Guinea, Sierra Leone and Liberia. Sierra Leone and Liberia lost 7 per cent and 8 per cent of their doctors, nurses, and midwives to Ebola, respectively. The epidemic caused a total loss of \$2.2 billion in the gross domestic product of the three countries, and their growth was stunted due to food security concerns that negatively affected agricultural exports and cross-border trade restrictions.

The role of conflict in Ebola epidemics

Currently the DRC is fighting another devastating Ebola outbreak. Since the first four patients tested positive for the Ebola virus on 1 August 2018, a total of [608 cases have been reported, with 368 deaths confirmed](#), a fatality rate of about 60 per cent. Despite the lessons learned during the last epidemic of 2014, the death count keeps rising every day. The virus has already started moving from the North Kivu province where it originated, and reached the neighbouring Ituri province. If the crisis is not contained quickly, the three bordering nations, Rwanda, Uganda, and South Sudan, are endangered as well.

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Since the first outbreak in 1976, 10 of the more than 30 known Ebola epidemics occurred in the DRC, the current one starting just weeks after the previous one

was declared over. Congolese health officials have a lot of experience responding to Ebola cases in the DRC. But why is the second-largest Ebola outbreak in history ravaging a country which should be much more prepared than other countries? The answer is simple yet complicated at the same time. But it can be summed up in one word: conflict.

The history of the previous outbreak taught us all a very important lesson: that disorganisation is the most effective force to help the virus multiply and spread unobstructed. Anything that hinders treatment and prevention efforts places an unbearable burden on the already stressed health system, especially when hospitals and facilities must deal with the aggravated health problems associated with military conflict. War puts the civilian population under unnecessary distress, paving the way to what the WHO's Deputy Director-General for Emergency Preparedness and Response [already described as "the perfect storm"](#). A closer look at the data from the aftermath of the outbreak in Liberia and Sierra Leone shows how much the difficulties associated with local conflict can turn a tragedy into a catastrophe.

Liberia and Sierra Leone were already devastated by a decade of civil war that resulted in half a million deaths and over 200,000 refugees. Population displacement and military struggles increase the risk for an infectious disease to spread unhindered. Civilians may be forced to survive through marginal subsistence strategies when crops are collaterally or deliberately destroyed. This increases their vulnerability to disease. All the medications in the world are useless when the human body is already weak due to lack of food and water. Soldiers and armed groups, on the other hand, may face additional exposure during forced marches, advances, and reconnaissance missions in densely forested areas.

All the prevention and control strategies needed to contain an outbreak cannot be employed in a country [facing the many challenges of an ongoing conflict](#). War brings insecurity, and when combatants keep carrying out deadly attacks on civilians, the entire country is paralysed and the body count keeps rising, exposing people to further contagion. Help from the international community must be temporarily halted, all crisis response strategies are slowed down to a crawl, and critical supplies end up being pinned down or seized by the military forces. Key communication channels may be hindered or severed when dictators or other governmental authorities try to muzzle dissidents by restricting freedom

of speech.

The current situation in the DRC

Violence is rampant in the DRC right now, with rebel armed groups engaged in a constant state of warfare with government forces, and over a million refugees travelling out of the country. A lot of “red zones” are too dangerous for health responders to reach and help the infected. [Mistrust is causing resistance among the local population](#) who refuses experimental vaccines and take care of their sick relatives at home at a time when they’re most contagious. The constant state of uncertainty is causing widespread fear among the Congolese population, which is fleeing the country *en masse*, trying to cross the border towards the neighbouring Uganda. Many of these refugees will try to sneak through by avoiding patrols, and who knows how many of them could be infected?

Crooked politics and corruption are the norm, and the situation is very volatile. In December, the government of Joseph Kabila even resorted to using the Ebola epidemic as an excuse to [disenfranchise a million voters](#) and postpone the presidential election in the areas most affected by the disease. Protesters didn’t take this decision well, and took out their anger and frustration on the hotspot city of Beni, the site of one of the few Ebola-testing facilities available. During the riot, a few tents got burned. What’s worse, a few people panicked and fled the assessment centre. Some of them could be infected. Oh, and an epidemic of malaria has also likely broken in the region.

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Local politicians are also spreading abominable rumours that Ebola was created by the national government to exterminate the Nande population. They think that they’re boosting their popularity, but in their foolish madness they do not understand how much they’re endangering the lives of their own citizens (and of countless other people). People are now angry with health workers because they think these absurd rumours are true, and are unleashing their fury on the same

persons who helped them in the beginning. Much of the international staff from the Centers for Disease Control and Prevention (CDC) had to be moved to more secure locations when their safety has been threatened. The DRC has been deprived of the fundamental help of highly-qualified professionals who have unmatched expertise dealing with Ebola.

Ebola as a political rather than just a medical problem

Does the international community care about Ebola? To some extent, yes, it does. After all, if this lethal disease is not confined within the borders of these African countries, it may become a threat to the other, richer, more industrialised countries. It may kill rich people, which is something that neither the CDC nor the United Nations want to even think about. But as long as [Ebola keeps killing poor people](#), there's no need to redouble their efforts. To put things in perspective, during the devastating crisis of 2014, Germany spent on Ebola less than half of what it spent on a single football stadium during the 2006 World Cup. Many of the promises made in the past have not been kept, and it's no secret that [most of the Western aid is nothing but charity](#) - useful to appease an immense mass of hypocrites, but not to make the West African health system stronger, more efficient, or more organised.

The Western reaction to the contagion is, once again, a deeply colonial one. The more enlightened and civilized countries of the Old Continent (and the New one as well) are patronising impoverished African countries who keep paying the price of their own underdevelopment. This epidemic just confirms the underlying narrative engineered by centuries of oppressive politics - that this disease is the result of a "plagued" environment where even animals and the forces of nature carry some form of sickness - a sickness whose eradication is part of [the "civilizing" mission of Western countries](#). Except morals are always set aside every time it becomes clear how this mission is just an excuse for the economic exploitation of peoples and lands. Who else if not the American tyre company Firestone helped Charles Taylor [establish a cruel dictatorship in Liberia](#) - a country where Ebola caused nearly 5,000 deaths? But hey, Firestone protected its own workes so well that it was [commended by the WHO for its timely and well-organised response](#). Great job, indeed.

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Drawing a line

The current Ebola crisis is an international one that goes well beyond the scope of the citizens of the DRC. Politics are a curtain behind which the Western countries hide their double standards about global security. Yet, they cannot deny their responsibility in shaping the country in its current form. After all, [the history of the DRC is still deeply intertwined with its colonial past](#), and its current political instability and the disastrous conditions of its healthcare system are the most obvious consequences.

For the Congolese health officials and the international community to be successful at containing the epidemic, a vaccine or treatment may not be sufficient. Patients must be reached, they must accept the therapy, and the health facilities where they recover must survive the onslaught.

To prevent this "perfect storm" from becoming a true cataclysm, conflict must be stopped, and a more radical approach to rebuilding the DRC's health infrastructure is needed. If this is not done, everybody will pay a steep price - because a virus doesn't understand nor does it care about politics.