The Influential

A Bulletin of the Global Centre for Policy and Strategy

2nd Issue | April - May 2021

Domestic and Regional Conversations Shaping Kenya's National Interests

Covid-19 vaccine & organised crime

Social media & political disinformation

Lifestyle audit

Kenya's energy policies

Ethiopia's hydro-imperialism

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TABLE OF CONTENTS

Pg. 1

Pg. 15

Pg. 27

Pg. 42

Pg. 49

ABOUT US

The Global Centre for Policy and Strategy (GLOCEPS) is a non-profit organisation based in Nairobi, Kenya. The Centre was founded in 2020 and has an overarching vision of being a leading global centre of excellence in action research, policy influence and strategy formulation. It is a pioneer institution of excellence that provides a strategic link between experience and inter-disciplinary research on one end and policy formulation and action on the other.

In pursuit of this vision, GLOCEPS achieves research excellence through partnerships with like-minded organisations, experts and practitioners. The Centre prides itself in its diversity of expertise that combines seasoned public policy experts and researchers with veteran practitioners and experienced academicians. In doing so, we remain open to new ideas and innovation.

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WELCOME NOTE

The Global Centre for Policy and Strategy (GLOCEPS) is once again pleased to welcome you to read our **2nd Issue** of **The Influential Bulletin**. This publication contains papers written by our research team. The content is derived from the following research pillars of the Centre: Defence and Security; Diplomacy and Foreign Policy; Strategic Interests and Transnational Crimes; Public Policy, Ethics and Governance; and Development. In line with our vision, these papers define our interdisciplinary research orientation that is bound to influence policy actions and strategies.

This Special Issue is organised around conversations necessary for protecting livelihoods and spurring socio-economic prosperity in Kenya while looking out on the impact of geopolitical factors on Kenya's future. The objective of the papers is to ignite discussions on key issues related to development, security and diplomacy, which can be pursued for further research.

For making this publication a reality, we would like to acknowledge the input of all at GLOCEPS: the Board of Directors and administrative team for their leadership, planning and support roles; research teams for their deep inquests into the subject area; and the editorial team for peer reviewing and finalising the bulletin.

We welcome you to be part of our exploratory journey to inspire the globe with new insight.

Warm regards.

BRIG (RTD) C M KANG'ETHE, EBS
EXECUTIVE DIRECTOR

EDITOR'S NOTE

We invite you to read our **2nd Issue** of **The Influential Bulletin.** This is part of our April-May 2021 periodical and it contains papers centered on the need to amplify domestic conversations on Kenya's national interests while keeping watch on regional discourses.

Each paper is futuristic in orientation and examines key issues on internal security, transnational crimes, diplomacy, development and governance. The intuitions fused from the discussions advance key debates on the need to strengthen the policy agenda on governance of institutions; confront the Covid-19 pandemic and its environment; protect the cyberspace ahead of Kenya's 2022 electioneering period; and reaffirm Kenya's leverage in the Horn of Africa. In the end, recommendations are offered on how to deal with the emerging issues. We are looking forward to receiving your feedback or comments.

Feel free to reach us on email at
info@gloceps.org.
Kind regards.

DR K O ASEMBO OGW, HSC
EDITOR-IN-CHIEF

INTRODUCTION

This publication contains research discussions themed on amplifying domestic conversations on Kenya's prosperity while keeping watch on regional discourses. The five research papers advance scholarly and policy debates focusing on the Covid-19 pandemic; social media adaptations; escalating cost of energy in Kenya; anti-corruption legislation; and Ethiopia's hegemonic ambitions in the Horn of Africa. Each paper analyses the implications of the issues on Kenya's future. They contain practical recommendations for various publics including governments, regional organisations and inter-governmental bodies.

The first paper by Ida Gathoni presents a case for safeguarding Covid-19 vaccine from organized crime adaptations in Kenya. The discussion emphasises that the pandemic has drastically slowed down activities of organised criminal groups (OCGs) worldwide and substantially reduced their incomes, thereby provoking adaptations and exploitation of new frontiers, among them Covid-19 vaccine and its environment. It recommends strict management of Covid-19 vaccine by government health agencies with a strict criteria for involvement of the private sector.

The second paper by Dr John Mwangi argues that Facebook's and Twitters' move to block political disinformation on their platforms is bound to render the social media environment to adaptation mechanisms. The paper concludes that use of alternative social media applications in the run-up to Kenya's 2022 General elections has the potential to negatively impact the country's national security, hence the need for policy makers to develop new strategies to counter disinformation.

The third paper by Stephen Nduvi argues that lukewarm implementation of the lifestyle audit law downgrades the ongoing anti-corruption efforts and remains a challenge in taming the runaway corruption in Kenya. It concludes that the existing situation offers a graft holiday for corrupt officials, thus the need to actively engage the lifestyle audit law in identifying, exposing and rooting out corrupt public officers.

The fourth paper by Michael Owuor discusses contextual issues and regulatory weaknesses within the context of optimising Kenya's energy resources. It argues that legal loopholes and policy gaps in Kenya's energy sector present a lucrative ground for exploitation by cartels. It concludes that development and implementation of progressive, competitive and transparent energy sector policies remain the most viable avenue for the delivery of affordable and reliable energy.

The fifth paper by Janet Kiguru argues that Ethiopia is using her strategic water endowment to build alliances, dominate neighbours and subdue regional powers. The paper projects that the next war in the Horn of Africa is likely to be based on water resources. It subsequently presents a case for the need for African states to develop frameworks for sharing transboundary water resources.

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Protecting Covid-19 vaccine in Kenya from organised crime adaptations

Ida Gathoni

Abstract

This paper argues that the supply and distribution of the highly demanded Covid-19 vaccine presents a lucrative opportunity for Organized Criminal Groups (OCGs) in Kenya as the Corona virus pandemic intensifies, hence, the need for its fortification. The pandemic has drastically slowed down activities of OCGs worldwide and substantially reduced their incomes thereby provoking adaptations and exploitation of new frontiers, among them Covid-19 vaccine and its environment. The modus operandi include exploitation of bureaucratic indemnities and legal loopholes, diversification into alternative illicit activities, exploitation of the cyber space, philanthropic initiatives, production and distribution of counterfeit and substandard goods, diversification into legitimate trade, illicit diversion of shipments, and fraud. This paper recommends strict management of Covid-19 vaccine by government health agencies, with a strict criteria for involvement of the private sector, in order to safeguard infiltration by OCGs.

Photo credit: International Disability Alliance

Introduction

Kenya confirmed its first case of Covid-19 on 13th March 2020. This necessitated the government to initiate a number of non-pharmacological interventions to control the spread internally. The measures included school closures, quarantines, night curfews, suspension of international flights, closure of international borders, partial lockdown of non-essential businesses and restriction of movement out of Nairobi, Mombasa, Kilifi, Kwale and Mandera counties. The efforts by the government of Kenya are part of those administered globally to contain the pandemic, which has killed more than 3 million people worldwide and has no cure yet. Consequently, pharmaceuticals are developing vaccines which are already being administered under emergency authorisation.

Photocredit: news.usd.edu

The context

The pandemic and its measures to control movement have displaced activities of OCGs not just in Kenya but across the world. These have been manifested in reduction in homicides, robberies and car theft in Bosnia; the arrest of a long-hunted mafia boss – Cesare Cordi of the Ndrangheta in Italy; reduction of Chinese exports to the rest of the world; a drop in production of methamphetamines and fentanyl by Mexican cartels due to difficulties in procuring imports of the precursor chemicals from China. Other manifestations are diminishing human smuggling activities in the Sahel region, particularly Libya, Egypt, Niger and Nigeria due to fear of the virus and blockage of smuggling routes; decreased purity and increasing price of heroin in Eastern and Southern Africa due to difficulties experienced in smuggling and a decrease in demand. Consequently, criminal enterprises have diversified into exploiting opportunities in the Covid-19 medical supplies industry, among them substandard Personal Protective Equipment (PPE) (Global Initiative Against Transnational Organized Crime, 2020). The adaptations have the potential to negatively affect the supply and distribution of the highly demanded Covid-19 vaccine worldwide.

At the core of vaccination programs of most countries is the diminishing supply of the vaccines amidst increasing demand. While vaccination strategies continue to prioritise frontline workers and at-risk groups as first beneficiaries, the high demand for the vaccine is prompting a potential vacuum being exploited by OCGs. Kenya has already received 1.02 million doses of AstraZeneca-Oxford Covid-19 vaccine and has established a Covid-19 Vaccine Task-Force to manage the vaccination process. So far, more than 900,000 vaccines have been administered.

Susceptibility of Covid-19 vaccine to OCGs in Kenya remains a key concern in this discourse due to the ongoing investigations into the procurement of Health Products and Technologies (HPTs) by the Kenya Medical Supplies Agency (KEMSA). The agency already lost more than Ksh. 2 billion (USD 18 Million) to OCGs in the process of procuring Covid-19 PPEs (Chelagat,

Photo Credit: Voice of America

2020). The private sector has featured prominently in the alleged fraud. Among the companies under investigation are Kilig, Shop n' Buy, Regal Freighters and La Miguela, among others.

A parliamentary Report by the Departmental Committee on Health, Kenya, affirms possible fraud in the tender awarding process. It underscores the fact that majority of the companies that won the tenders to supply the HPTs were neither prequalified nor in the pharmaceutical business. The Report further found that KEMSA unprocedurally exceeded its allocated budget for the financial year by Ksh 3 Billion (USD 30 Million) allegedly funneled towards purchase of HPTs (Republic of Kenya, 2020). The existing evidence points to possible infiltration of government systems by OCGs. This paper, therefore, looks at the adaptation mechanisms of organised criminal enterprises in the wake of Covid-19 pandemic and implications on protecting Covid-19 vaccine in Kenya.

Organised crime adaptation mechanisms and implications on management of Covid-19 vaccine in Kenya

The following discussions highlight the various adaptations of OCGs in the wake of the Covid-19 pandemic and how they are likely to impact on the supply, distribution and administration of the vaccine in Kenya.

Exploitation of bureaucratic indemnities and legal loopholes

Protections offered by governments on measures to manage the pandemic and the legal vacuums caused by the virus continue to be exploited by OCGs to energise the latter's criminal enterprises. Collusion with bureaucrats to exploit emergency measures imposed to manage the pandemic has been a major adaptation. This has been amplified by corruption, complicity and threats to public officers, particularly in Guinea-Bissau. Lockdown measures in the country have been used to silence whistleblowers and allow drug traffickers to move with increased impunity. Moreover, relaxation of maritime and airport cargo oversight measures have allowed cocaine to be shipped from Latin America for distribution both locally and transnationally to the north and west of Africa (Turshen, 2020).

Exploitation of legal loopholes occasioned by the pandemic, particularly in government procurement procedures has characterised the pandemic situation in Kenya. Gaps in the 2018 Executive Order issued by President Uhuru Kenyatta on procurement of public goods have emboldened the activities of the OCGs. The order exempts procurement arising from the declaration of a national emergency from publication and this creates opportunity for concealment (Nyabira & Olotch, 2020). Unlike other governments across the world, Kenya's new procurement procedures have only focused on physical distancing and how to curb virus spread rather than tightening regulations on procuring Covid-19 goods. This has further bolstered the OCGs to continue abusing the existing procedural loopholes. The situation has become the basis of fraud and misconduct by contracting agencies, suppliers and service providers.

The implications of these occurrences on the distribution and supply of Covid-19 vaccine in Kenya include continued exploitation of the relaxed regulations on procurement by OCGs due to their ability to infiltrate government tendering systems. There is also continued abuse of single sourcing of the vaccine suppliers and its distributors since the President's Executive Order will still be used to cushion emergency procurements from public scrutiny. This will further affect import oversight procedures, including consignment inspections. This situation is likely to allow dumping of sub-standard vaccines into the country.

Photo Credit: Logistics Update Africa

Diversification into alternative illicit activities

The disruptions caused by the pandemic have activated OCGs to diversify into alternative illicit activities. It is estimated that a total of USD 2.2 trillion was lost globally due to diversions of illicit trade funds in 2020 (Albamonte, 2020). Evidence points to escalation in transnational crimes, particularly trafficking in persons, smuggling of goods and counterfeiting in Argentina, Venezuela, Paraguay, Uganda and Colombia.

These occurrences are attributed to sanctions on movement imposed by the authorities to control the spread of Covid-19. The measures have affected transit of illegal products across the borders, hence the rise of alternative illicit means. Within this situation, the possibility of OCGs adapting to alternative ventures such as counterfeiting of vaccines to stay afloat remains high. Interpol has already warned of a potential surge in falsification of the vaccines. Moreover, the OCGs are likely to resort to using alternative means of transport exempt from government scrutiny such as ambulances to deliver illicit vaccines to their customers (Delgado, 2020). The closing of Colombia border with Venezuela, for instance, has encouraged the OCGs to switch to trafficking in persons trying to flee to Colombia (International Crisis Group, 2020).

A similar situation was witnessed in Kenya where smuggling of persons in and out of Nairobi City was at its peak when the government imposed restrictions on movement of people to control the spread of Covid-19. Similarly, in Honduras, human traffickers have hiked their trafficking prices to facilitate illegal movement of goods and people in and out of the country (Eligh, 2020b). Elsewhere, in Uganda, the OCGs have resorted to illegal wildlife trade as the demand for wildlife products such as pangolin scales and elephant penises continue to escalate in Asian countries (Maverick, 2021).

Photo Credit: International Monetary Fund

Exploitation of the cyber space

OCGs have increased socially engineered attacks against organisations and individuals during the pandemic. They have taken advantage of the 'work from home' policies instituted by a majority of organisations to distribute malware and gain access to organisations' systems (Europol, 2020). As the pandemic progresses, illicit online markets are on the rise (Eligh, 2020a). The desperation to purchase the prophylactics such as face masks and sanitisers, compounded by the fear of leaving homes to purchase these products have enabled fake online sites to creep up and lure unsuspecting shoppers. In reality, these sites are often bait clicks used to access bank accounts of the customers while others peddle fake products.

Hospitals in developed nations have been victims of extortions, ransom hackings. The intention of the hackers, in particular, has been to steal confidential patient information and proceed to use this information to access personal accounts and sites (Ditcham, 2020).

Exploitation of Kenya's cyberspace is critical in this discussion due to Kenya's Internet penetration of 87.2% (Internet World Stats, 2020). Currently, 17% of Kenyans are actively engaged in the cyberspace making them potential targets of OCGs. The pandemic period has seen incidents of phishing where messages promising every citizen Covid-19 relief funds have been targeting unsuspecting individuals for personal banking information.

These scams are bound to penetrate the supply and distribution of Covid-19 vaccine in Kenya. Already, online scammers in Europe are targeting individuals with false vaccination messages. The motive is to gain personal information such as bank details or spread a malicious malware when victims fall prey to their schemes. The FBI and Interpol have equally warned on the prospect of OCGs using the Internet to enter the Covid-19 vaccine market and cautioned people to be cautious when opening e-mails and texts from unidentified sources (Interpol, 2020).

The protection of Covid-19 vaccination data from online scammers remains a key concern in Kenya since the Ministry of Health has already unveiled a new digital immunisation records platform for its vaccination programme. The platform has the capability of registering those who have been vaccinated and notifying them on when they should take the next dose (Itimu, 2021).

Exploitation of charity initiatives

Use of charity initiatives to win over the vulnerable population through delivery of aid is another adaptation. The OCGs have set up informal welfare schemes within communities experiencing economic crises occasioned by the pandemic but unable to get help from the authorities.

Donations of food and PPEs to communities by OCGs have been witnessed in Kenya, South Africa, Mexico, Japan and Italy. In other developments, the Government of Brazil encouraged local officials to work with OCGs to help stop the spread of the disease (Fajardo, 2020). The Hayat Tahrir al-Sham militia in Syria have distributed health information on the corona virus while the Taliban terror group have deployed health professionals to remote parts of Afghanistan. Similarly, the Al-Shabaab violent extremists have gone a step further to create Covid-19 treatment centers in Somalia (UNODC, 2020b).

These activities have allowed OCGs to gain further control of their territories, create conducive business environments and recruit with ease. The gestures have made them appear amenable to the community, solidify their positions and cast aspersions on the capabilities of existing authorities. The fake charities often solicit fraudulent donations and always pick a name that sounds close to a genuine and well-known charity.

Other scammers have pretended to offer fake home-test kits and miracle vaccines in an attempt to steal personal information. This adaptation is consistent with the FBI warning that unverified Covid-19 vaccine charity donations are likely to be scams. The scammers are destined to pose as patients of Covid-19 or will most likely solicit for donations on behalf of a friend or relative. Others may claim to be in distress in a far country and ask individuals to send them money urgently for vaccination before they travel. As the pandemic intensifies, philanthropic efforts of the OCGs have the potential of using the Kenyan population as 'guinea pigs' for trial vaccines and other medication still under development. The likelihood of other obsolete vaccines and medication getting into the Kenyan market under the guise of Covid-19 donations to third world countries remains large.

Photo Credit: Light for the World


Photo credit: Voice of America

Distribution of counterfeit Covid-19 vaccines and related products

Lucrative opportunity for OCGs has been presented in the production and distribution of substandard Covid-19 Medical supplies and related products (UNODC, 2020a). The World Health Organisation (WHO) has already issued a warning on the proliferation of several unregulated online vendors selling substandard and counterfeit medical products.

The adaptation has witnessed seizures of false Covid-19 vaccines and other related illegal medicinal products in USA, Brazil, Italy, Spain and United Kingdom, Bosnia, Herzegovina, and Serbia, China and South Africa. (Interpol, 2021; Global Initiative Against Transnational Organized Crime, 2020; Reuters, 2020). These incidences have been linked to criminal syndicates in the private sector which are politically connected (UNODC, 2020b).

The scenario in Kenya may not be different as the huge demand for HPTs and the fear of Covid-19 have limited the government's capacity to conduct sufficient quality checks on the products. As the pandemic intensifies, the situation may replicate itself in the distribution of fake Covid-19 vaccines in the country, since the genuine one is already in short supply.It is further expected that the OCGs will seek to obtain vaccines formula to be able to replicate them for black market distribution. The potential travel bans on non-vaccinated individuals will create a market for falsified vaccine certificates to enable international travel.

Diversification into legitimate trade

The pandemic has opened opportunities for OCGs to acquire control of legitimate business organisations. This has been driven by the shortfalls many organisations experienced in liquidity and capital, rendering them unable to produce goods and services. Such struggling businesses are likely to seek support from OCGs in order to obtain liquidity, thereby creating an opening for entry of OCGs into legitimate markets.

The scheme is to rely on their ties with government officials, focusing on countries with high level corruption. In particular, OCGs such as the Sicilian Cosa Nostra, the Calabrian 'Ndrangheta', the Russian Mafia, the Triads in Hong Kong and Macau, and the Japanese Yakuza are conniving to swindle legal economies and exploit funds made available by governments (UNODC, 2020).

Due to reduced use of cash across the globe, a number of OCGs have resorted to using cryptocurrencies, like bitcoin, to stockpile their financial assets. The essential services industry has emerged as a major investment potential for OCGs. Over time, OCGs have ventured into sectors that have been in high demand during Covid-19, such as cleaning companies, food industry and funeral homes (Acosta, 2020).

They have also engaged in provision of health emergency services such as ambulances and selling of pharmaceutical and medical devices (Stephany et al., 2020). The logistics, e-commerce and pharmaceutical sectors have remained popular with OCGs because of increased demand for logistical support brought about by lockdown measures. This has made available new avenues for money laundering that could be applied in the vaccination programs.

In Kenya, the pandemic has decapitated a significant number of money laundering channels which in most cases relied on cash transactions. In particular, the shift to electronic cash transfers and other cashless transactions during the pandemic has reduced opportunities for placing illegal money into the financial system (Central Bank of Kenya, 2020).

These restrictions have occasioned OCGs to stockpile cash as they wait for the economy to fully reopen. The phenomenon underlies the rapid mushrooming of companies in Kenya for PPE distribution tenders and the flouting of public procurement rules to award tenders (Igunza, 2020)

Photo Credit: Ephraim Mc Dowell Health

Photo Credit: The Official Microsoft Blog

Fraud

Fraud schemes facilitated by OCGs during the pandemic have included supply and decontamination scams. Major targets have been Covid-19 prophylactics such as masks and sanitisers and people seeking to buy medical supplies off the Internet and afraid to leave their homes.

Popular scams have included phishing and stealing of money and delicate information. Extended scams where people receive messages telling them that they would be fined heavily for leaving their houses more than once have been noted in the United Kingdom. These schemes have vastly capitalised on anxieties and fears of the public (Limam, 2020). Other are impersonation of representatives of public authorities and targeting of the vulnerable, commercial properties and medical facilities for organised burglaries (Europol, 2020).

Mismanagement of Covid-19 funds and donations have been evidenced in the fraud schemes in Kenya. For instance, part of the medical supply donations by Chinese Billionaire Jack Ma to assist in the management of Covid-19 could not be accounted for (Di Biasio, 2020). Other fraudulent schemes include the gross mismanagement of the Ksh. 1.3 billion (USD 11 Million) which had been donated by the World Bank to aid in the fight against the coronavirus pandemic (BBC, 2020). Majority of the companies involved in the fraud are in the private sector.

Photo Credit: DW News

This pattern foreshadows recurrence of fraud in the supply and distribution of Covid-19 vaccine, mostly in the area of identification fraud as individuals falsely receive vaccinations. The opportunity for OCGs lies in surreptitious activities for identify theft, exploiting legal loopholes in citizen registration and stealing of identification cards. This has already been experienced widely in the United Kingdom where individuals are using loopholes in the IT systems to bypass frontline workers for vaccination (Sleigh & Dunne, 2020). The country is fronting for vaccine passports targeting use of technology connected to its National Health Service (NHS). Similarly, the wider European Union is also contemplating the use of various methods of certification. Denmark and Sweden are working to develop a vaccination passport, while Germany and France are equally considering certifying Covid-19 status without discrimination. Beyond governments, private entities such as airlines, stadiums, schools, and locations prone to mass gatherings are bound to adapt these certification processes as a measure of safety for all those who interact within their brands (Balasubramanian, 2021).

The Ministry of Health, Kenya, is collaborating with African Union and Africa CDC on certified verification of a negative Covid-19 test for international travelers. This is in line with the Africa CDC Trusted Traveler (TT) initiative, an online system designed to authenticate and verify travelers' Covid-19 certificates. The directive puts a demand on all Kenyan laboratories to strictly issue Covid-19 certificates with Trusted Travel codes (Ministry of Health Kenya, 2021).

While the intention of the initiative is to prevent forgery of Covid-19 certificates by OCGs, the involvement of PanaBIOS Consortium and Econet Group, a bio-surveillance and bio-screening technology system as the authorised verification system, continues to raise a number of questions on the extent to which Kenya's Covid-19 data is protected from OCGs. Is Kenya safe sharing her Covid-19 data with PanaBios? What is the role of Kenya's National Data Centre in this? Who pays PanaBios for the verification? What makes it difficult for a verified vaccine certificate to be issued based on someone else's results? By virtue of being online-reliant in its operations, the PanaBios platform is not secure and may therefore be prone to hacks by cyber criminals for personal data. There remains clear loopholes for OCGs to exploit until the government issues clear procedures on the verification processes for incoming travelers.

Just as it happened to the PPEs, the OCGs will capitalise on prevailing panic and desperation across the world to acquire the vaccine. Their involvement is likely to cause interruption and delays in the distribution chain to increase anxiety and justify market for the vaccine counterfeits. The cost of human life will go up because of these delays as well as the use of counterfeited vaccines on unsuspecting victims. Given the indicated fragility of the vaccine, interrupting the distribution chain will reduce its effectiveness. Therefore, if reinfection or virus mutations occur, the vaccination process will be extended, and consequently, the crime too.

Illegal diversion of shipments

Illicit diversion of legitimate vaccines to sell to other markets both locally and regionally presents a lucrative opportunity for OCGs in Kenya. Cases of COVID-19 vaccine being stolen have already been reported in Florida, New York and Pennsylvania (Jercich, 2021). There are fears among medical professionals that the closer the vaccine get to the patient, the easier it is to steal. Illegal diversion of COVID-19 vaccine shipments remains a possibility since one of Kenya's airports has previously featured in an investigation involving disappearance of around 6 million face masks destined for Germany.

With Eritrea and Burundi not keen on COVID-19 shots, the East African black market for the vaccine looms large.The situation is further catalysed by the existence of 'weak governance' structures in poorer countries to prevent diversion of vaccines by cartels (UNODC,2020a). Theft and robberies of vaccines on transit as well as distribution bases are imminent. The potential for shipments to be intercepted and vaccines counterfeited to increase sales in the black market looms large.

Corruption cartels in most of the world's public health systems remains a big problem, thereby raising concerns in the Covid-19 transport and distribution channels. Cartels in health authorities have created optimal opportunities for the OCGs to divert publicly owned and funded medical products in supply chains and hospitals to illicit markets (UNODC, 2020b).Given that the first world has had the privilege of first hand access to Covid-19 vaccine, there exists possibility of longer waits in poorer countries (Mueller & Stevis-Gridneff, 2021). This situation, therefore, presents opportunity for OCGs to divert vaccines produced in developed nations to the seemingly desperate situation in the developing nations, Kenya included.

Photo Credit: Logistics Update Africa

Conclusion

The increasing demand for the vaccine is an avenue for adaptation of OCGs into more profitable ventures, both legal and illegal, in order to remain serviceable amidst the pandemic. Therefore, the potential of OCGs to infiltrate the Covid-19 vaccine supply, distribution and vaccination chain for profit exists. With the current world population in need of at least 15.6 billion doses of the vaccine, intellectual knowledge on vaccine production and brokerage of vaccine supply and distribution process will be prime products in the black market locally and globally. More specifically, channels already established in the trafficking of Covid-19 prophylactics and other related crimes will be put to full effect.

If the vaccine management chain is not properly secured, the aggregate socio-economic defects are enormous. These include huge loss of lives and livelihoods as the economy continues to melt down. It therefore calls for effective policies and their enforcement. This should incorporate intensified use of technology in the end to end supply chain databases of the vaccines.

Recommendations

The following recommendations are offered in safeguarding the supply and distribution of Covid-19 vaccines in Kenya.

The government of Kenya should:

a) Restrict the supply and distribution of Covid-19 vaccine to majorly government health agencies only and develop clear guidelines on involvement of the private sector to safeguard infiltration by OCGs.

b) Tighten regulations governing the sourcing, distribution and administration of Covid-19 vaccine to ensure free and safe management of the vaccination process.

c) Intensify surveillance and activate whistleblower channels for hoarding, counterfeiting and illegal vaccine administration channels.

d) Build up strategic communication on vaccine distribution and administration to safeguard misinformation and disinformation by OCGs on the vaccination process.

e) Escalate mapping of crime data and relaying information related to Covid-19 pandemic. These include geographical hotspots, transnational illegal shipment routes, corruption cartels, and online domains or websites with a reputation for various types of fraud related to covid-19.

f) Strengthen security of shipping manifests and bills of lading to prevent the possibile contamination and diversion of the vaccines.

g) Amplify online monitoring of cyberspace and block websites that might be used to perpetrate fraud in the distribution chain.

h) Upgrade security of vaccine stores at distribution and administration centers.

i) Enhance use of technology to enable accurate distribution and administration of the vaccine. This could involve proper information dissemination and use of analytics and block-chain technology to track the vaccine processes including shipments, diversion and legal or illegal sales.

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De-platforming political disinformation in social media: adaptation mechanisms ahead of Kenya's 2022 electioneering period

Dr John Mwangi

Abstract

Facebook's and Twitters' move to block political disinformation on their platforms is bound to render the social media environment to adaptation mechanisms. The de-platforming of key political figures is likely to embolden the rapid rise of new social media applications such as Fire Chat, Signal, Xender and Lantern while boosting the utilisation of the virtual private networks (VPNs) in political disinformation campaigns. The use of alternative social media applications in the run-up to Kenya's 2022 general elections has the potential to negatively impact on the country's national security and cohesion. There is need for policy makers to develop new strategies to counter disinformation and engage in counter-messaging.

Photo Credit: grupoioe.es

Introduction

Political disinformation via social media applications has been a constant feature of the past three Kenyan elections (2007, 2013 & 2017). It can be argued that the use of social media for propaganda and disinformation is not new in election cycles in Kenya (Maweu, 2019). Nonetheless, it is the fluidity of new media applications that is at stake.

The phenomenon involves the use of propaganda, falsehoods and rumors to mislead the electorate and undermine national security. Historically, the phenomenon had been applied in the World War II and the Cold War era majorly through use of fake news spread via clandestine radio stations, newspapers and other media to deceive publics and governments (Shu *et al.*, 2020).

Social media applications have been used to disseminate hate speech and to mobilise political violence in previous electoral cycles (Mutahi & Kimari, 2020). In the 2017 general elections, Facebook, WhatsApp and Twitter were used to spread fake news, especially to create political tensions, persuade voters, and to discredit institutions such as the Judiciary and the Independent Electoral and Boundaries Commission. These strategies worked through 'digital warriors' on both sides of the political divide (Mutahi & Kimari, 2020).

Disinformation through the use of social media especially around electoral cycles remains a critical national security issue. This is further complicated by external actors who may choose to capitalise on internal tensions to launch fake news so as to influence public opinion (Levush, 2020). These impact directly on electoral integrity and trust in democratic institutions. This paper analyses the various adaptations social media users are likely to assume in the wake of tight platform policies and their implications on 2022 electioneering period in Kenya.

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The context

Photo Credit: securityboulevard.com

Prior to the 2017 general elections, the Communications Authority of Kenya (CA) together with the National Cohesion and Integration Commission (NCIC) issued guidelines for political messaging on social media platforms. These guidelines emphasised proper language and tone devoid of hate speech, incitement, including truth and accuracy in the messaging (CA & NCIC, 2017). Nonetheless, the guidelines were hardly enforced.

Since March 2020, the Internet landscape has seen extensive changes amidst the COVID-19 pandemic in Kenya. With policies such as working from home, and the rapid demand for virtual meetings, internet penetration has significantly improved mostly due to Kenya growing youth bulge that is tech savvy and with access to the Internet. Data from the Communications Authority of Kenya, the industry regulator, indicates that in the 2018/19 period mobile data/Internet subscription stood at 49,532,380. Out of these 99% were mobile phone subscriptions, with only 1% being fixed Internet subscriptions (CA, 2020). With the 2019 census indicating that youth aged (18-34) comprises 13,777,600 people, there exists a significant demographic that can be easily mobilised for disinformation.

This analysis projects an expanding mobile Internet penetration rate for the country. In addition, the rise of new social media outlets such as FireChat, Signal, Xender, and Lantern will likely to be used in the 2022 general elections for disinformation given their relative abilities to circumvent government regulations. The possibilities of the uptake of VPN networks also mean that disinformation could spread devoid of government control.

Managing political disinformation through the use of social media is emerging as the new normal in the global political arena. Key social media applications (SMAs), Facebook and Twitter, have banned former US-President Trump from their platforms for posts that encouraged violence at the United States Capitol on January 6, 2021. In March 2020, false posts about the Coronavirus from Brazil's president Jair Bolsonaro and Venezuela's president Nicolás Maduro were pulled down. Similarly, an account linked to Iran's supreme leader, Ayatollah Ali Khamenei, was banned after he posted threats to avenge the assassination of former Iranian Military General, Qasem Soleimani. In the run-up to 2021 general elections in Uganda, Facebook removed a network of accounts and pages in Uganda that engaged in what they termed as coordinated inauthentic behavior to target public debate ahead of the election. This move made Uganda to shutdown Facebook, Twitter and WhatsApp indefinitely ahead of the contentious elections thereby offloading the social-media thirsty public to alternative platforms.

Even though evidence points to significant reduction in disinformation as a result of the bans, 100% success has not been achieved since the environment is rapidly adapting to circumvent the new normal. These applications could be used to spread disinformation during the electioneering period since technological advancements catalyse the spread of propaganda (Vasu et al., 2018).

Fake News

This paper projects four adaptation strategies that are likely to be used for disinformation; the rise of alternative social media applications, the use of virtual private networks (VPNs), silent penetration of existing social media applications and new media applications. The paper projects that these adaptation mechanisms present several internal security threats ahead of the 2022 General elections. Thereafter, several recommendations on legal and policy interventions are offered.

The rise of alternative social media applications

The build up to 2022 General elections in Kenya is likely to witness an increase in the use of alternative social media applications as major SMAs tighten their policies on political disinformation campaigns. These applications have the potential to bypass government and private sector led ICT service regulations. They include FireChat, Signal, Xender, and Lantern. Fire Chat in particular is turning to be a popular application in cases of Internet shutdown. It is a peer to peer chat app that does not require Internet connection and works within a radius as enabled by Bluetooth and WI-FI direct. These new media apps have been used most predominantly in organising social protests globally such as in Hong Kong and Myanmar, when governments and service providers have suspended or effected total Internet shutdowns.

The applications are evolving to counter the influence of the more popular apps such as Facebook, Twitter, WhatsApp, and Snapchat, which can be disrupted by Internet shut-downs. The shutdowns are interventions applied

Fake News

Photo Credit: Nairobi Business Monthly

but has slowed on the intervention owing to confusion and dissatisfaction among its users to control information spread and also to counter disinformation around sensitive periods such as electoral cycles or social media protests. As of the begining of 2021, Signal has been positioning itself to counter the likely migration of users from the popular WhatsApp, which is effecting changes to its platform in May 2021 to enable the sharing of personal data that would also be linked to Facebook accounts and thus erode user privacy. It had earlier communicated that it would effect these changes by February 2021 .

Unlike traditional media such as the use of newspapers and television, where ideally facts can be checked, social media is influenced by friendship networks and thus creating possibilities for disinformation. Complicating this space further is the possibility of 'deep fakes' where fake videos of politicians could be created to skew public opinion in a particular direction. While there is a growing awareness and growth of fact checking organisations, fake content can easily be spread on social media platforms.

Governments in different parts of the world engage in Internet shutdowns to safeguard national security. These have been justified on the basis of a need to counter disinformation or neutralise organizing of protests. Examples include the 2020 shutdown of Tigray Region in Ethiopia and the Internet shutdown during general elections in Uganda in January 2021. The new recurring question then is, how do social media users adapt to policy controls on applications and the internet in the wake of political disinformation? What are the implications of these adaptations on national security in Kenya?

Photo Credit: Africa Check

The use and exploitation of virtual private networks (VPNs): The case of TOR

A key adaptation strategy likely to be in use for disinformation campaigns is the virtual private networks. VPNs works by encrypting a user's Internet traffic over a dedicated server and which in part overcomes online Internet censorship. This mode can overcome security surveillance. VPNs only require the setting up of a paid account with a VPN service provider. An added layer of complexity is the option of paying for a VPN service anonymously such as the use of Bitcoin.

Another strategy has been to use a VPN provider that is unlikely to pass on data to security agencies. On the overall, given that data is channeled through a central server, it is not a full guarantee that this data may be confidential.

There is a possibility that backdoor access of this data could be channeled to security agencies as the Edward Snowden leaks demonstrated.One of the strategies to overcome infiltration and disruption through VPN networks has been the rapid adoption of Tor, an anonymous web browser that is censorship free. Tor emerged in 2003, and covers Internet traffic with layers of privacy (Eaton, 2015).

Once a user connects over Tor, the identifying information is lost, with data being encrypted and privatised before launching into the web. This stripping of identifying information means the Internet traffic such as its origin, is nearly impossible to track (Hodge, 2020). This software is free to download, counters security agencies surveillance and remains anonymous. The downside to this browser are slow speeds, and the need for continuous updates to circumvent security vulnerabilities (Eaton, 2015).

While VPNs are considered secure means of communication, they remain vulnerable to attacks. VPN traffic can be intercepted and modified through malware. One of the weaknesses is that of username enumeration vulnerability. This is when a username/password responds differently to an invalid username/password. If an attacker finds that the username exists, they can perform an offline hacking to access the password given that the VPN is no longer encrypted. Other vulnerabilities of a VPN network include an unsecured password storage, the lack of account lockout, and poor default configurations (Rahimi & Zargham, 2018).

While governments' globally have the capacity and surveillance tactics to counter the disinformation space through the use of total or partial Internet shutdowns, the uncharted path remains the use of VPNs. Social media activists, citizens and politicians alike may exploit a variety of strategies and continue with their propaganda and disinformation tactics (Eaton, 2015). Internet censorship works in at least three ways: one is through the domain name system (DNS), where a country can intervene in its local servers by deleting a blocked website Internet protocol (IP) address; the other option is port blocking, where a country creates a firewall between its citizens and an online platform, making it inaccessible; the third approach is deep packet inspection, where specific Internet sites and or search words can be blocked (Eaton, 2015).

Globally, governments maintain some form of Internet censorship to keep dissidents at bay. China in particular is a notable world leader in Internet censorship. It uses technology to identify and curtail the organisation of public assemblies and demonstrations while simultaneously using it to gauge public opinion (Jost et al, 2018).

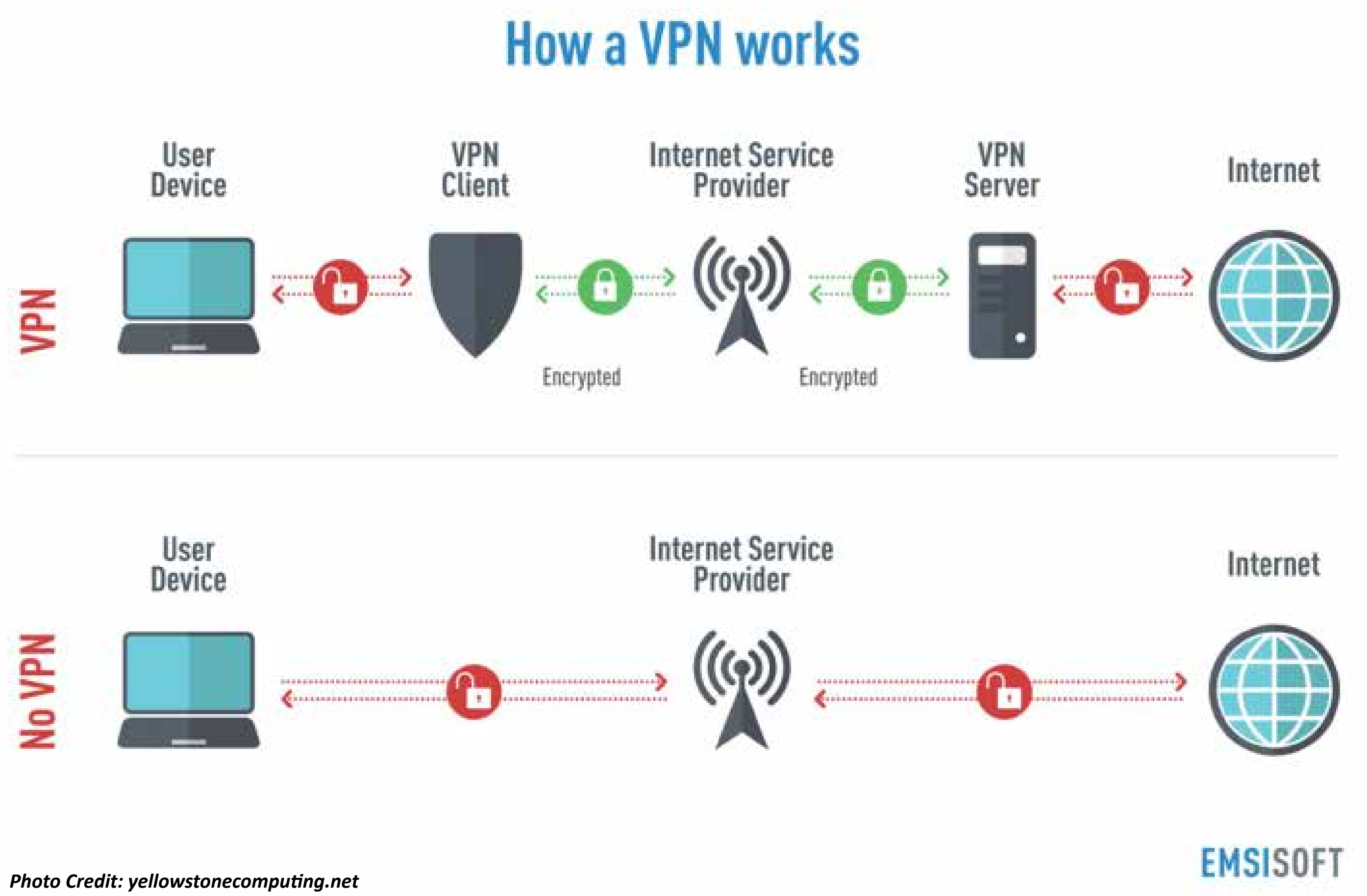

Photo Credit: yellowstonecomputing.net

Silent Penetration of Existing Social Media Applications

Another adaptation strategy in use is the silent penetration of existing social media platforms to evade detection. The Islamic State group (ISIS), a social movement with violent extremist leanings, has rapidly adopted this strategy. This occurs in a context where social media platforms are fast to flag and delete inappropriate content on their platforms.

This strategy is a possible disinformation option ahead of the 2022 electioneering period. ISIS is reported to mix its content with that of real news outlets such as recorded television news, including BBC themed music. It also has the ability to hijack actual Facebook accounts to support its propaganda. This in the past included targeting the walls of public figures such as former US President Trump's Facebook page (Corera, 2020). Another possible disinformation campaign strategy ahead of the 2022 elections that could be applied is breaking up or use of strange punctuation marks to curtail the use of search words. ISIS has perfected the scheme. This could be accompanied by time lags before a disinformation item is flagged and removed. Moreover, social media applications are sometimes reluctant to remove content for its financial gain.

It is further possible that alternative links could be provided even as accounts in mainstream social media are shut. Individuals could be directed to newer social media pages or in encrypted outlets such as Telegram (Corera, 2020). Social media users can further be willing spreaders even when aware the content they are disseminating is fake. This action could be on account that they agree with the views spread (Margolin, 2020). Of interest is the fact that individuals with higher digital literacy rates are likely to spread disinformation (Crest, 2020).

Development of New Social Media Applications

Another possible scenario for disinformation is the possibility of developing new social media applications. These could be further linked to existing applications by way of targeted invitation such as Telegram, Gap, and Parler. As a strategy to circumvent surveillance, opening invite only or other closed groups on social media platforms remains a possibility.

An additional layer of strategy that could be adopted is the constant migration or creation of multiple sites that would include fake accounts to further continue with disinformation.This analysis is not far-fetched. President Trump in the last days of his presidency already hinted at the possibility of creating his own social media platform in response to a ban on his personal Twitter account.This ban came on claims of using his handle to spread disinformation. Additionally, the January 6, 2021 insurrection at the Capitol including future possibilities to incite violence informed the ban. Facebook responded in a similar manner by suspending Trump's account (Rawler, 2021). With a technology savvy population, creation of new media applications for disinformation remains a probable scenario.

Parler, a platform launched in 2018 and largely associated with American right wing users has resurfaced after a month long absence following the January 6, 2021 US Capitol insurrection. This App arose to counter content rules on mainstream media outlets (CNBC, 2021). There are possibilities that new applications outside of the mainstream could become a reality.

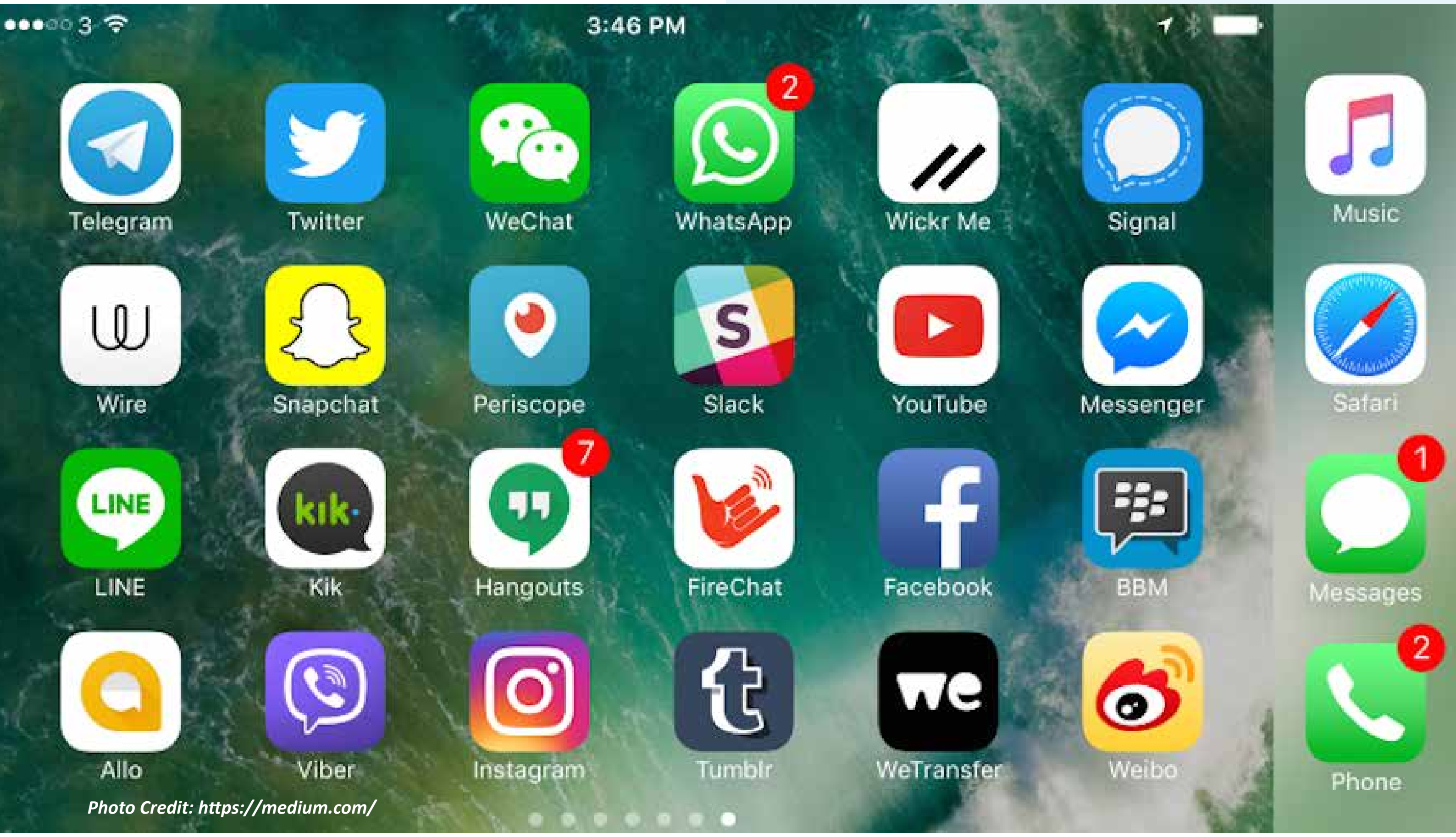

Photo Credit: https://medium.com/

Conclusion

This paper concludes that to minimise the use of disinformation in the run up to 2022 general elections, policy makers have a window of opportunity to tighten legislation, create media literacy, and innovate co-regulation with social media platforms. The paper suggests the creation of a multi-agency social media monitoring unit to counter disinformation and engage in counter-messaging.

Recommendations

a) The National Assembly to fast track Information and Communications Amendment Bill of 2019 to offer more deterrence for the misuse of social media platforms. The current provision of a fine not exceeding two hundred thousand shillings and or a jail term not exceeding one year is less punitive and should be enhanced. There is need for strict enforcement of related legislation such as the Public Security Act (revised 2012), the Data Protection Act of 2019, and relevant provisions of the Penal Code.

b) The Ministry of Interior to create of a multi-agency social media monitoring unit that would be responsible for monitoring disinformation on social media and engagement in counter-messaging. The staffing of this unit would include government-agencies such as the National Intelligence Service (NIS), Kenya Defence Forces, National Police Service, Ministry of ICT, Youth and Innovations. It would be responsible for research, policy recommendations, and mapping patterns and trends on disinformation online.

c) The Ministry of ICT, Innovation & Youth Affairs' should lead an awareness campaign on the negative side of social media applications. Media literacy and critical thinking is an important strategy to create awareness on fake news phenomenon. Civic education, including creating awareness through school systems, could be an additional strategy to sensitise and counter disinformation.

d) The Ministry of Interior to take lead in the development of a voluntary code of conduct for co-regulation between government and social media platforms. This would cover self-regulation guidelines and also be responsive to public interests around disinformation. It will account for social media platforms internal regulatory mechanisms. This is suggested on the basis that legislation is unable to keep abreast of the changing social media landscape. Social media platforms in addition have their own regulatory mechanisms to bring down content that violates policies such as hate speech, fake news, and incitement. Some of the platforms work with fact checking organisations and have prioritised policies to curb fake news in electoral cycles.

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Lukewarm implementation of the life style audit law perpetuates indifference in the anti-corruption campaign platform in Kenya

Stephen Nduvi

Abstract

Corruption remains one of the greatest impediments to economic growth as Kenya loses one third of her national budget to it annually. Even though the fight against corruption is ongoing through a number of legislations, the lukewarm implementation of the Lifestyle Audit Act No.2 (2019) (LSAA) downgrades the efforts and remains a challenge in taming the vice in Kenya. This paper argues that the existing anti-corruption campaigns may continue to preserve the status quo since they are not backed up by a more robust assessment of the lifestyles of public and state officers. It concludes that the lackluster approach to LSAA offers a graft holiday for corrupt public officials, hence the need to actively engage the legislation in identifying, exposing and rooting out corrupt public officers before they crumble the economy. The strengthening of lifestyle audit multi-agency framework to effectively coordinate lifestyle audits for better outcomes in the fight against graft remains vital.

Photo credit: International Disability Alliance

Introduction

Globally, Kenya is ranked 137 out 180 countries in the corruption perception index. The country's Auditor General's Report reveals that approximately 1 trillion shillings is lost to corruption every year. The perception index 2019 indicates that Kenya scored 28% globally, much below the average score of 43% and the sub Saharan score of 32%. This depicts slow progress in efforts to curb corruption activities in Kenya. Similarly, it underscores the need to actively engage the lifestyle audit law for better outcomes in corruption prevention and eradication.

The LSAA was enacted by the National Assembly in September 2019 to provide a legal framework for combatting corruption in Kenya through lifestyle checks on public and state officers. Section 4(1) of the LSAA underscores circumstances under which a lifestyle audit may be carried out against a public/state officer. These include situations where a public officer is living beyond the lawfully obtained and reported income; is unable to account for their source of income; and has misappropriated funds under the officer's care or trust.

Efforts to curb corruption in public sector has been doubtful over the years despite lifestyle audit being solidly anchored in various articles of the 2010 Constitution of Kenya (CoK, 2010). Chapter six of the constitution forms the foundation for undertaking lifestyle audit for both public and state officers as it provides for values of integrity, transparency, accountability and principles of public service (CoK, 2010).

Photo Credit: Voice of America

Photo Credit: Nation

Lifestyle audit

Lifestyle audit refers to reviewing and verifying information contained in income, assets and liabilities declarations, as well as consideration of facts obtained from open sources that testify to discrepancies in the lifestyle observable and items declared by an individual (LSAA, 2019).

The process involves background investigations as a method to profile an individual suspected of being involved in corrupt or illicit activities. Background investigations form a key component of lifestyle audits and is a useful way to discreetly obtain information without the suspected individuals noticing that they are on the radar.

Lifestyle audit has been lauded by many as one of the most feasible anti-corruption mechanisms. It has been championed by many sectors, both private and public as a necessary mechanism to expose fraud and corruption (Gillespie, 2014). It helps to identify and isolate corrupt officials for investigations immediately their lifestyles start showing that they are living beyond their legitimate income or means. The audits are championed for being speedy in unravelling corruption incidences and have low cost implications to carry out since they do not require lengthy investigations (Hiddleston, 2016).

Pillars of life style audits and implications in taming corruption

There are no international standards mandating how income, assets and liabilities should be declared and monitored but there are core principles that form the foundation of any legal framework. They include scope of the contents to be declared; exact values of the contents to be declared; specific coverage of officers; frequency of declaration and; the possibility of a monitoring and evaluation agency collecting, verifying, investigating, prosecuting and sanctioning those who fail to comply (Richard, 2009). Ukraine and Rwanda are classic examples of how capitalising on the core principles to fight graft generates impressive outcomes.

A lifestyle audit relies on a wealth declaration and verification regime to establish a baseline for benchmarking the standard of living. In this effect, asset verification procedure may foresee use of publicly available digital mapping service to determine location of declared property, while lifestyle audit could crosscheck with data bases to find if any wealth found in the field is registered in the specific individual's name or those of his/her family members.

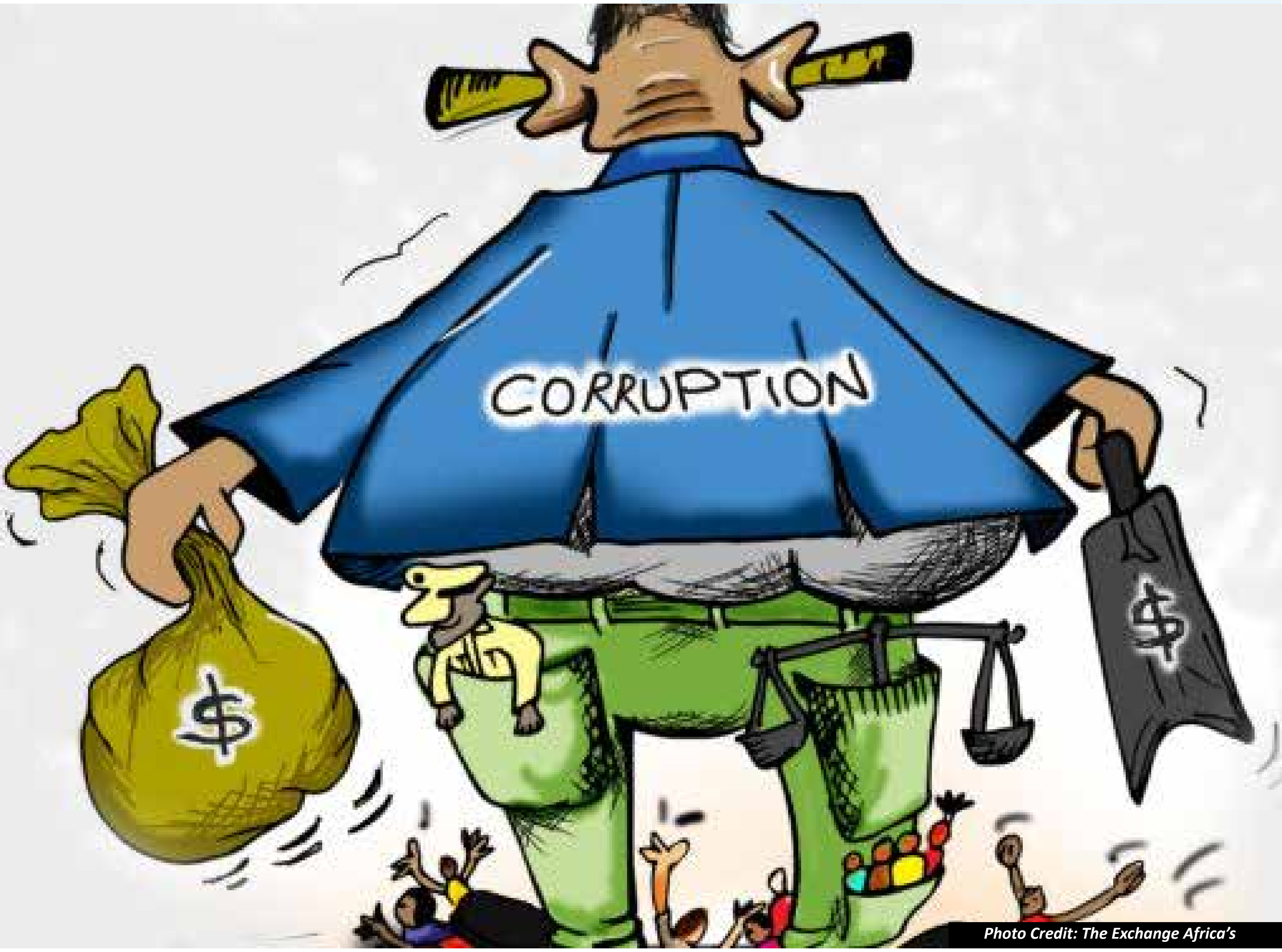

Photo Credit: The Exchange Africa's

Photo Credit: KBIA

The lifestyle audit act, 2019

The Lifestyle Audit Act No. 2 of 2019 seeks to entrench integrity in the public service and offer guidelines on vetting state officers suspected to be living beyond their known income. The Act also seeks to remove restrictions on Kenyans seeking to access information on income, assets and liabilities of persons holding public offices as part of efforts to fight endemic corruption in Kenya (LSAA, 2019).It puts the wealth of state officers/public officers such as the President, the deputy president, cabinet secretaries, senators, members of parliament, top county officials, executives in government parastatals and senior civil servants to public scrutiny. Kenyans will be able to scrutinise what a public officer had before being appointed into a public office and what they have accumulated after the appointment and raise a red flag on illicit enrichment (LSAA, 2019).The lifestyle audit law also acts as a one-stop-centre in the war against graft as the Ethics and Anti-Corruption Commission (EACC) will host unrestricted database or a website of the wealth declaration forms and other information on wealth of public officers, their spouses and dependent children. Previously, public officers submitted wealth declaration information to various commissions in charge of their welfare but the information was not available to the public.

Further, the law provides for multiagency coordination in investigation bringing together KRA, EACC and DCI while conducting a lifestyle audit on any profiled public officer (LSAA, 2019).


Photo Credit: Global Risk Insights

Application in anti-corruption campaign

Various anti-corruption agencies have made efforts to fight graft in Kenya especially in investigating and prosecuting high profile graft cases such as the Arror and Kimwarer dams scandals and the KEMSA scandal on procurement of personal protective equipment (PPEs). However, there is a general public feeling that there has been a lackluster implementation of graft laws in Kenya. This is demonstrated in the manner in which previous graft cases have been pursued. For instance, if the accused has established a personal relationship with the executive, political class, media and is charismatic enough to appeal to ethnic loyalties and gain public sympathy, they can scuttle efforts by the agencies to hold them accountable.

Although EACC and DPP have made progress in investigating, charging and prosecuting former governors such as Mike Sonko (Nairobi), and Ferdinand Waititu (Kiambu), and current governors such as Moses Lenolkulal (Samburu), and Anne Waiguru (Kirinyaga), among others, with economic crimes and abuse of office charges, none has been convicted of the alleged economic crimes. This may be attributed incomprehensive lifestyle audits which have been incapable of producing adequate evidence for the economic crimes. There is also the fear of damages induced by section 14(5) of the law on malicious acts of the investigators such as unlawful freezing of accounts in the process of carrying out investigations. Consequently, most of the accused public officers continue to execute their functions due to the gaps in implementation of the LSAA and this casts doubt on the competence of the various institutions that fight graft in Kenya. While it is arguable that the principle of due process demands that corruption suspects enjoy the right to remain innocent until proven guilty, the anti-corruption crime prevention perspective should demand that handling of economic crimes be given priority in the execution of justice to get culprits behind bars as quickly as possible.

Lifestyle audits as a mechanism to vet accumulation of wealth by public officers holding key offices should be guided by the following key questions in profiling corrupt individuals in public offices for prosecution and charging in a court of law:-

i. What were the assets, income and liabilities of the suspected individual before being appointed into public office?
ii. What are the current assets, incomes and liabilities of the suspected public officers now that they are in government? and
iii. How much taxes have the suspected individual paid based on their income?

Challenges facing implementation

Institutional inefficiencies such as inadequate personnel, skills and resources to expedite corruption cases within reasonable time are key challenges. For instance, advancement in technology may be an obstacle in undertaking lifestyle audit on bank transactions since collusion between bank staff and corruption perpetrators may distort data on existing bank transactions.

Lack of transparency and accountability mechanisms on how proceeds of crime are utilised or injected back into the economy also negates the essence of undertaking assets recovery of the proceeds of corruption. This casts doubt on whether the recovered proceeds are channeled to other corrupt individuals or are used to benefit the public through provision of basic services.

Other key challenges may be attributed to overlap of functions by the various anti-corruption agencies tasked with responsibilities of implementing the law; vested political interests and lack of goodwill from the political class; system design failure due to lack of cooperation between different state agents; and multiplicity of anti-corruption statutes that support lifestyle audits which are subject to different interpretation by legal scholars and practitioners.

Photo Credit: News Feed

Implications on national values

Selective implementation of the lifestyle audit law implies subjecting individuals suspected of graft activities to different lenses of the graft law. This is likely to pose danger to the country as it may be a recipe for chaos in the anti-corruption campaigns platform due to selective application of justice (Laila, 2016). John Locke in his Theory of Social Contract, argues that the purpose of the government and law is to "uphold and protect the natural rights of men and the law ceases to be binding when a government fails to fulfil this purpose".

In Locke's view, unlimited sovereignty is contrary to natural law (Laila, 2016).Consequently, inability of any regime to control corruption may lead to instability. This can be through increased protests by citizens leading to state failure. Failing to speedily prosecute and punish corrupt individuals using the proposed law is also likely to make corruption a norm in Kenya. Yet the LSAA clearly eliminates all the hurdles or restrictions to access information on income, assets and liabilities of persons holding public offices and hold them accountable of their corrupt activities.

The proposed law empowers the DPP to enter into deferred prosecution agreements with suspects who cooperate during the lifestyle audit process. It is anticipated that if the suspect agrees to pay a given amount or return certain assets to the DPP, then their prosecution can be deferred (LSAA, 2019).

Photo Credit: Voice of America

Conclusion

This paper concludes that even though the lifestyle audit law grants a window for Kenya to root out corruption at the initial stages with minimal resources, its dreary implementation offers a graft holiday to corrupt public officers and this undermines the governments' anti-corruption clarion call. This is detrimental to the prospects of turning around the already struggling Kenyan economy.

Recommendations

This policy paper recommends the following;

a) The Ethics and Anti-Corruption Commission to strengthen the lifestyle audit multi-agency framework to effectively coordinate lifestyle audits for better outcomes in the fight against graft.

b) The National Assembly to amend the existing law on lifestyle audits to seal loopholes in time lags in declaring wealth, scope of wealth declared, weak coordination of various agencies, and address conflicting legislations on lifestyle audits by bundling them together for coherence, verification and monitoring of lifestyle audits in Kenya.

c) The Central Bank of Kenya to establish a collaboration framework between the NIS, FRC, and banks in vetting employees that are vested with providing supervisory, oversight and compliance roles in the financial sector to enhance integrity and honesty.

d) The Kenyan Executive to embrace political goodwill in supporting the implementation of the lifestyle audit law to ensure elected and appointed leaders declare their wealth as required by law to achieve better outcomes on the war on graft.

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Policy review critical for provision of affordable energy in Kenya

Michael Owuor

Abstract

This paper argues that legal loopholes and policy gaps in Kenya's energy sector present a lucrative ground for exploitation by cartels. It discusses contextual issues and regulatory weaknesses around optimising Kenya's energy resources. It points out the challenges to enhanced uptake by potential rural customers. These are associated with the high cost arising from issues of governance and accountability. It concludes that development and implementation of progressive, competitive and transparent energy policies remain the most viable avenue to the delivery of affordable and reliable energy.

Photo Credit: kahawatungu

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Introduction

The Energy Act (2019), Petroleum Act (2019) and the National Energy Policy (2018) provide the crux of Kenya's energy sector's legal framework. They inform policy development and implementation, including the establishment of various power utilities, regulatory bodies and their mandates (RoK, 2019a; RoK, 2019b; MoE, 2018). This is critical in the delivery of affordable and reliable energy (MoE, 2004; IEA, 2015; KPLC; 2020).

Under Kenya's energy framework, power utility firms like Kenya Electricity Generation Company (KenGen), Geothermal Development Company Limited and Independent Power Producers (IPPs) are responsible for building, owning and operating all public and private power generating facilities. These utilities sell their electricity in bulk to Kenya Power and Lighting Company (KPLC), the on-grid monopoly off-taker mandated to distribute and retail power. On the other hand, the Ministries of Energy and Petroleum formulates policies, while the Energy and Petroleum Regulatory Authority (EPRA) regulates the energy sector. EPRA's mandate includes the review of electricity tariffs, enforcement of safety and environmental regulations, and safeguarding the interests of energy consumers (RoK, 2019a; RoK, 2019b; KPLC; 2020). EPRA has the additional mandate of licensing the generation, exportation, importation, transmission, distribution and retailing of electricity within Kenya (Richter, 2019).

Despite the framework, the sector faces numerous challenges, putting it at crossroads. For instance Kenya's energy cost remains among the highest in Africa even with the abundance of energy resources (GPP, 2020). This is attributed to poor fundamentals including policy gaps, prevalence of costly "take-or-pay" Power Purchase Agreements (PPAs) with IPPs and an inefficient transmission and distribution infrastructure (MOE, 2004; Escribano, Guasch, & Pena 2008; Trimble, Kojima, Arroyo & Mohammadzadeh, 2016). These fundamentals impede local and foreign investment into the manufacturing sector. The resultant high energy cost continues to influence the flight of investments and jobs from Kenya to cheaper and more competitive destinations such as Ethiopia, Egypt and South Africa (IEA, 2015; Muchira, 2018; Arlet, 2017).

The above challenges and inefficiencies contribute to between 20% and 30% loss in productivity which accounts for 1% to 4% reduction in the Gross Domestic Product (GDP). This reduction is estimated to range between Ksh 500 billion to 2 trillion (MoE, 2004; Foster & Briceño-Garmendia 2010; Central Bank of Kenya, 2020). This necessitates action by energy sector policy makers to mitigate the costly trend.

Contextual Analysis

The paper analyses the policy and contextual issues that curtail the quest for affordable energy and the optimisation of Kenya's energy resources. Analysis evolves around energy policy gaps; lack of infrastructural development for power transmission and distribution; non-professionalism and inefficiencies in the management of power utilities; and lack of transparency in Power Purchase Agreement (PPAs). These issues inspire migration of energy consumers from the on-grid system to alternative, reliable and affordable off-grid power solutions.

Kenya's energy sector policy gaps

The legal and policy framework has been harmonised into the Energy and Petroleum Laws of 2019, Finance Acts of 2018, 2019 and 2020, and the National Energy Policy of 2018, in compliance with the 2010 Constitution of Kenya. The framework is geared towards the sustainable, competitive and reliable energy supply at minimal costs (MoE, 2018; Mokveld & von Eije, 2018).

An analysis of Kenya's energy policies indicates gaps that contribute to unsustainable high cost of energy. These gaps are illustrated in Table 1 below.

Table 1: Gaps in Kenya Energy Policies Impeding the Drive to Affordable Energy

Policy	Implementation Framework	Gaps
National Energy Policy of 2018 Promoting coal utilization for power generation	This is the mandate of the national government including competitive bidding of strategic investors and licensing.	a) Promotion of coal utilisation is counterproductive to realization of affordable energy. b) Cost of coal energy is expensive compared to cost of renewable energy sources. c) Promotion of coal negates the advocacy on use of renewable energy sources to forestall climate change.
National Energy Policy of 2018 Promotion of Renewable Energy (Solar and Wind)	Implemented by the Rural Electrification and Renewable Energy Corporation (REREC)	a) Uncoordinated approach in policy implementation and promotion of solar energy projects. b) Inefficient project management coupled with corruption and cartels preying on clients. c) Policy is silent on distinct pricing between off-grid and on-grid consumers. Similar taxation policies leads to costly pricing to rural clientele. Low uptake by rural clientele creates an underutilization scenario. d) Most of the renewable energy projects are off-grid. This is despite their increasingly attractiveness due to inconsistency and interruptions of on-grid supply. e) Policy gaps on power generation with concurrent development of transmission lines to grid and load centers. This has lead to penalties and payment for deemed capacity.

Policy	Implementation Framework	Gaps
Finance Act 2020 Reintroduction of 14% value added tax (VAT) on solar products.	Treasury and Kenya Revenue Authority (KRA) leads the formulating and implementing of taxation policy and collection. Kenya National Assembly approves taxation policy.	a) Lack of harmonisation between taxation policies and the government's promise to deliver affordable energy. The VAT increases the cost of renewable energy products which is counterproductive to the increased uptake of affordable off-grid power solutions. This negates the tax exemption passed in the Finance Act of 2019 to encourage the adoption of renewable (solar) energy.
National Energy Policy of 2018 Bulk tariffs and power purchase agreements.	Approval of energy purchase agreements (including PPAs) as well as network service and common user facility contracts is the mandate of the national government, through the off-taker (KPLC) and EPRA.	a) Multiple players negotiating for bulk tariffs between producers (IPPs) and KPLC. Bids from IPPs can be requested by numerous power utilities, government ministries and agencies leading to inefficient allocation of energy projects and power oversupply. b) PPAs are subject to approval by EPRA whose board membership comprises actors who can accept energy project bids and review energy tariffs. This represents conflict of interest. c) Harmonised framework for engagement of IPPs, renegotiations and regularisation of PPAs from "take-or-pay" model to "take-and-pay" model is lacking.
National Energy Policy of 2018 Energy tariffs management.	Review and adjustment of energy tariffs and tariff structures is the mandate of the national government through EPRA. Parliament approves laws related to power tarrifs.	a) Lack of off-grid pricing and taxation policy. Off-grid sites are also subject to EPRA's pricing structures and statutory charges which leads to costly pricing as KPLC's.
National Energy Policy of 2018 Energy sector prosecution of offences	Prosecution of offences created under the Energy Act 2019 (section 166) is the mandate of the national government.	a) Poor framework to implement the penalty provision. b) Overlap of responsibilities such as contained in the PPAs where KPLC pays for penalties for omissions like lack of high voltage transmission lines to the national grid. This is the mandate of KETRACO not KPLC.
National Energy Policy of 2018 Policy Implementation, Monitoring and Evaluation	Ministry of Energy mandate	a) Inefficient monitoring and evaluation framework for energy policies, programs and projects. This has contributed to non-completion of energy projects and missed targets.
National Energy Policy of 2018 Data Management and Dissemination	Ministry of Energy mandate	a) Absence of an integrated mechanism for data management and dissemination on energy policies and programs. This inhibits evidence based decision-making in the energy sector.

The sum total of the policy gaps is occasioned by administrative and structural inefficiencies. The administrative gaps are manifested in the conflicting and overlapping roles of the power utilities, weaknesses in policy implementation, monitoring and evaluation. On the other hand, structural inefficiencies exist where the energy sector policies negate the delivery of affordable energy in Kenya. The promotion of coal for power production, reintroduction of value added tax on green energy products and projects, negotiation of "take or pay" PPAs, and uniformity of tariffs for both on and off-grid power systems are examples of structural incompatibilities. Lastly, is the question of unmotivated staff who opt for extortion and rent seeking from potential customers for services. The resultant effect is expensive electricity whose costs are cascaded to individual and industrial energy consumers.

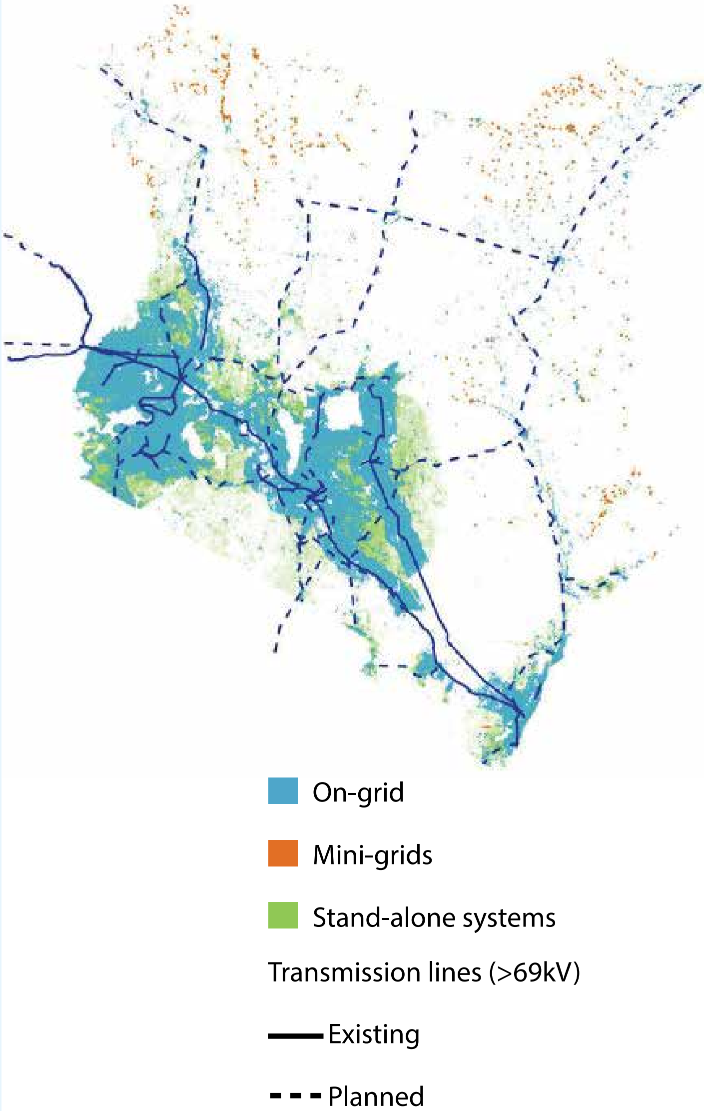
Deficiency in infrastructural development for power transmission and distribution

One third of Kenyans lack access to electricity (World Bank, 2018) while large power investments like the Turkana Wind Plant and Garissa Solar projects are not fully linked to the national power grid as illustrated in Figure 1.

The national energy policy fails to make it mandatory for new energy projects to be fully linked to the national grid or end consumers. The low investment in transmission and distribution infrastructure impedes connections to the grid and usage by consumers. This leads to loss of 20-30% of generated power. This loss is paid by KPLC as it pays for underutilised capacity of these power projects. These payments are often passed to industrial and individual consumers in form of high energy bills (Kamau, 2019).

There is need for policy action that mandates the development of energy projects to be undertaken concurrently with construction of transmission and distribution lines. Opening distribution to other players could ameliorate the situation leading to efficient supply to clients.

Figure 1: Kenya's Existing and Projected Electricity Connections by 2030.



Source: IEA https://www.iea.org/articles/kenya-energy-outlook

Photo Credit: Construction Review Online

Partisan interests in the leadership of Kenya energy utilities

The leadership of Kenya's power utilities relies on patronage. Appointments to governance and decision-making positions are informed largely by partisan considerations rather than competency, knowledge and experience (Ngugi, 2020; Kisero, 2020).

The appointees are loyal to their sponsors to the detriment of public welfare and investors whom the power utilities are geared to serve. This contributes to mismanagement of energy utilities and misdirection of resources as most of the appointees seek to appease their sponsors (Anyanzwa, 2020).

Further, appointments to EPRA board, which regulates the sector, comprises actors who accept bids for energy projects. This represents a conflict of interest. Their decision-making and actions are partisan driven rather than based on evidence. An example of a partisan motivated energy project is the Last-Mile Connectivity Project which left KPLC with a Ksh 10 billion loss in revenue (Wafula & Achuka, 2018). The ambitious strategy, which was premised on international good practice and experience, was heavily undermined by integrity issues. Installation of new but substandard transformers were disastrous. Nevertheless, the resultant losses accruing from these actions are passed to consumers in form of high power bills.

Equally, the overarching partisan inclinations inform collusion between the energy regulator and KPLC in setting energy tariffs (Muchira, 2019). The unfavorable, opaque and overpriced PPA contracts with IPPs (Kamau, 2020; Okoth, 2020) are influenced by political interests rather than sound management and economic fundamentals. As a result, power supply appears to outstrip demand due to inefficient and inadequate distribution infrastructure.

Photo Credit: kahawatungu

Lack of transparency in power purchase agreements (PPA)

The contracts for electricity investments (PPAs) are often bid for, negotiated, signed and implemented without public knowledge or participation (EFG, 2020). Conflicts of interest and corruption in this process are therefore rampant as investors are obligated to pay kickbacks of up to 20% to get operating licenses.

These inefficiencies are factored in the PPAs leading to high energy costs. The end result of these poorly negotiated non-transparent contracts contribute to the costly over-capacity of power generation, financial loss, high investment and governance risks. The audited financial reports for the year ending 30th June 2020 show that KPLC made a post-tax loss of Ksh 0.94 billion compared to post-tax profit of Ksh 0.26 billion the previous year. The post-tax loss took into account a tax credit of Kshs 6.103 billion (KPLC, 2021). Conversely, IPPs who rely on all their revenue from KPLC registered profits. KenGen posted increased profitability of Ksh 10.5 billion (Kamau, 2020b) while the Lake Turkana Wind Power (LTWP) project is owed Ksh 14.5 billion in form of penalty by KPLC. This was linked to the delayed construction of the high voltage line, which is the mandate of KETRACO and not KPLC (Alushula, 2020b; Brufal, Curall & Davies, 2019; Anjarwalla & Khanna, 2017).

On the policy front, there is lack of a framework for negotiating PPAs in Kenya. In most cases, these gaps influence conflict and even collusion between KPLC and the regulator, EPRA (Okoth, 2020b). The PPAs are typically based on the "take-or-pay" model. They are long-term in nature and skewed against the off-taker who guarantees to bear most of the risks and penalties. In 2019 alone, KPLC saw a Ksh 18 billion surge in the payment of partial power generation.

The total payment by KPLC for partial power generation was Ksh 70.8 billion (Okutoyi, 2020). As such, the PPAs make it virtually impossible for IPPs to lose money while energy consumers are left with expensive power bills (Brufal, Curall & Davies, 2019; Mokveld & von Eije, 2018; Muchira, 2018; Muchira, 2019; Alushula, 2020a).

The net effect of the overpriced PPAs are to the general detriment of Kenya's economy. It affects the actualisation of the 24-hour economy, employment creation, taxation and development. For policy makers, this presents the problem of wastage of energy resources and investments. Further, it has the potential to increase white elephant projects in the energy sector due to assured lucrative returns for investors (Hankins, 2019).


Photo Credit: Nairobi News

Increased transition of consumers to alternative off-grid power solutions

Policy inaction and inefficiencies in the energy sector encourages energy consumers to progressively transit to off-grid solutions like solar photovoltaic (PV) technology. This is illustrated in Table 2. As of 2021, total installed solar energy capacity in Kenya stood at about 52 megawatts (MW). This represents 6.5% of installed geothermal capacity of 699MW and 1.8% of Kenya's annual electricity production capacity of 2819 MW. Though marginal to Kenya's total electricity production capacity, solar PV is projected for a 15% annual increase due to PV technology becoming more competitive.

The motivation for electricity autonomy and an affordable power source compared to on-grid-power solutions informs solar PV popularity (EPRA, 2021; Samoita et al, 2020). Over the last decade, capital expenditure for alternative off-grid installations has decreased by 65%. While protectionist policies for power utilities may slow down the migration to alternative off-grid power solution, this approach will ultimately be an exercise in futility (Kazeem, 2020).

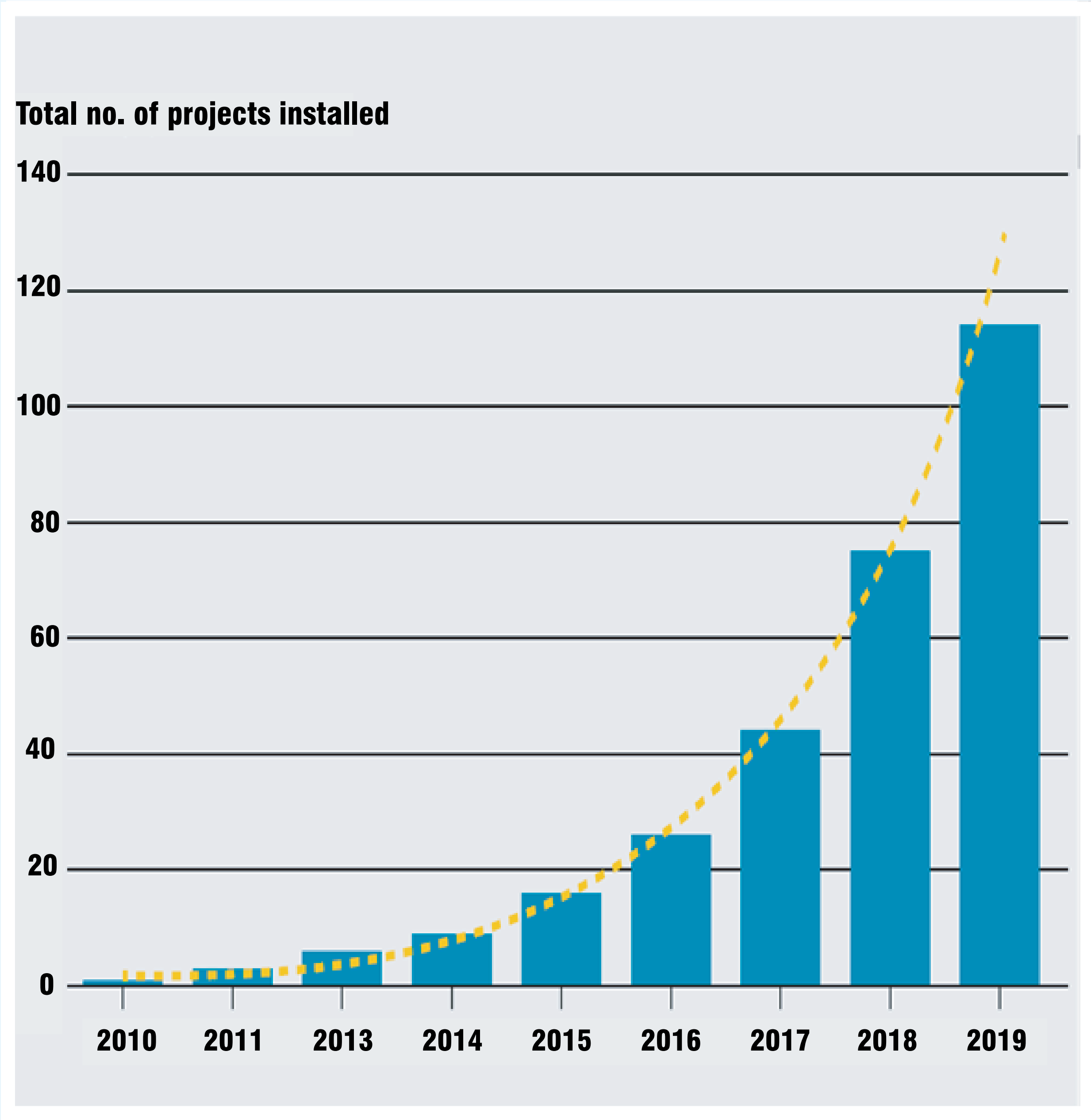
A yearly migration to off-grid (as illustrated in Figure 2) mostly by industrial manufacturers will impact on KPLC and other power utilities bottom-line (Bhamidipati & Ellen-Gregersen, 2020) since industrial consumers account for 50-60% of KPLC revenue (Hankins, 2019)

Table 2: Selected Embedded Solar PV Projects in Kenya

Embedded Solar Power Projects	Capacity MW	Year
Kapa Oil Refinery Ltd	1.5	2021
Mombasa Cement	1.5	2021
Mitchell Cotts Kenya Limited	0.35	2021
Konza Building, Konza Technopolis	0.08	2020
Oserian Development Company	1.0	2019
Dormans Coffee, Tatu City	1.0	2019
Galleria Mall	0.56	2019
Africa Logistics Properties (ALP)	0.506	2018
Mombasa International Airport	0.5	2018
Kenyatta University, Thika	0.1	2018
Bidco Thika	1.2	2017
Swissport JKIA	0.1	2017
Waridi Flowers	0.22	2017
Penta Flowers	0.25	2017
Kilaguni Serena	0.3	2017
London Distillers	0.92	2017
International School of Kenya	0.15	2016
Two Rivers Mall	1.3	2016
ICIPE Solar	1.2	2016
Garden City Mall	0.86	2015
Williamson Tea	1.0	2014
Strathmore University	0.6	2014

Source: Synthesised from Hankins (2019)

Figure 2: Year- on-Year Cumulative Solar PV Installations in Kenya



Source: Bhamidipati & Ellen Gregersen,2020

Conclusion

The contextual analysis points to the prevalence of policy and structural inefficiencies emanating from the practices of ministries and agencies in the energy sector which consequently lead to high cost of energy. It is evident that these inefficiencies hamper economic activities, promote wastage, and encourage capital and jobs flights from Kenya to the detriment of the government's Big Four Agenda and Vision 2030. Moreover, the overlaps in management and decision-making in key utilities and regulators in the sector, particularly EPRA, REREC, KPLC, KenGen and KETRACO present opportunity for conflict of interest and lack of transparency in negotiations with IPPs on PPAs. The paper advocates for the deliberate pursuit of market-led efficiency as key to realization of competitively priced and reliable energy.

Recommendations

a) National Assembly and Senate to amend the Energy Act of 2019 to restrict the role of the Ministry of Energy and Ministry of Finance to regulation of the sector rather than energy production, transmission, distribution and negotiation of PPAs.

b) The National Assembly and Senate to amend the Finance Act of 2019 to provide for tax exemption for green energy projects and tariff differentiation for on- and off-grid consumers.

c) The Ministry of Energy, Ministry of Finance and the Attorney General to spearhead transparent renegotiations of all PPAs with IPPs from 'take-or-pay' to 'take-and-pay' model.

d) Ministry of Energy and Ministry of Finance to consolidate the powers to negotiate PPAs on the basis of need, cost-benefit analysis and demand and supply forces in a singular agency.

e) Ministry of Energy to amend regulation to mandate all power projects to be linked to the national grid or end-consumers.

f) Ministry of Energy, Ministry of Finance and the Attorney General to renegotiate termination of all coal power projects to protect the government from litigation.

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Ethiopia's hydro-imperialism provoking instability and realignments in The Horn of Africa

Janet Kiguru

Abstract

Ethiopia is using her strategic water endowment to build alliances, dominate neighbours and subdue regional powers. This is triggering regional realignments and provoking instability as she pursues unilateral actions meant to elevate her position in The Horn of Africa (HoA). So far, her dam projects have destabilised fragile ecosystems, caused famine and threatened the hydro-investments of downstream states. This paper argues that the use of water as a tool of soft power and foreign policy will expose the region to resource-based conflicts which will embolden the activities of non-state actors such as the Al-Shabaab. The discussion projects that the next war in The Horn is likely to be based on water resources, hence, the need for African states to develop frameworks for sharing transboundary water resources.

Photo Credit Middle East Monitor

Introduction

Prospects of Ethiopia using her comparative advantage as the 'water tower of Africa' to become the 'power house of Africa' remains real. This will tilt the balance of power to her favor, threaten stability in the volatile Horn of Africa (HoA) region and set the stage for new regional realignments. Ethiopia's dam projects are part of her 25-year master plan that will substantially change the ecology, conflict dynamics, cooperation and stability in the HoA (Gritzner, 2008). She has acted and continues to act unilaterally, oblivious of the interests of her downstream neighbours: Kenya, Sudan, Egypt, Somalia, Eritrea, Djibouti, and South Sudan.

The hydro-politics continues to disadvantage Egypt and Sudan through the Grand Ethiopian Renaissance Dam (GERD) on the River Nile; Kenya, through the Gilgel Gibe I-V dams on the Omo river basin; Somalia through the Melka Wakena, Genale Dawa III and IV dams that drain water from Jubba and Shebelle rivers; and South Sudan through the Baro I and II dams on the Baro-Sobat river. These dams are strategically built on basins that sustain entire states or regions thus exposing them to political and socio-economic instability. Ninety percent of Egypt's economic activities are based on River Nile while 70% of Somalia's agriculture depend on Jubba and Shebelle rivers. Similarly, River Omo provides 90% of water flowing into Kenya's Lake Turkana. The hydrological future of these nations rests with Ethiopia since without water they are almost uninhabitable. To the north-west, Eritrea and Djibouti's power and water needs are equally at the mercy of Ethiopia.

This paper argues that 'water is life' and the dams are a first step by Ethiopia to subtly control the life of states in The HoA. It concludes that the establishment of an African hydro-resources cooperation agreement within the ambit of United Nations (UN) is urgently needed to tame Ethiopia's hydro-imperialist ambitions.


Photo Credit: thetrumpet.com

Impact on The Horn of Africa Relations

Ethiopia's master plan

Ethiopia is capable of using hydro-politics to propel her foreign policy and develop stronger regional influence, a situation that is likely to provoke instability and realignments in the HOA (Bayeh, 2014; Nasr & Neef, 2016; Verhoeven, 2011). Her initial proposal was to use the dams to improve her weak energy position. However, she has gained the potential to meet most of the hydro-electric demands of sub-Saharan Africa (Verhoeven, 2011). She intends to use this advantage to nurture a dynamic manufacturing sector. With cheaper and reliable power, she will continue to attract investors, as she attempts to displace competitors, especially Kenya, who is the presumed economic power hub in East Africa.

Since the beginning of the GERD construction, foreign direct investment in Ethiopia has spiked (Nasr & Neef, 2016). She has already attracted the Dangote Cement which abandoned Kenya due to high energy costs. It is estimated that industrial power in Kenya costs $0.17 per kWh while Ethiopia's is $0.09 per kWh (The East African, 2016). To Kenya, in particular, this strategic displacement by Ethiopia has the potential to reduce economic growth and increase unemployment in an already strained economy.

At the heart of the hydro-politics is Ethiopia's intention to export hydropower to the East (Djibouti, Somaliland), South (Kenya, Uganda), West (Sudan) and North (Egypt, Eritrea) (Bayeh, 2014; Verhoeven, 2011). This is because being a hydropower imperial will transform her image from that of a poor country, dependent on external assistance, to that of a leading state with resources that are valuable to the entire region. Former rivals will be tied to Addis through hydropower flows. To this end, she has leveraged Kenya's support with the hope that Kenya will import her surplus electricity (Embassy of Ethiopia, 2017; Waititu, 2009). Kenya has already signed a Memorandum of Understanding to purchase the power despite having her own untapped hydropower potential. Therefore, she risks propelling Ethiopia to a regional hegemon.

Ethiopia has strategically positioned herself as the 'Corridor of Light,' having gained recognition as the anchor of the Horn of Africa Cooperation (HoAC) which brings together Somalia and Eritrea. This affords her more leverage as she attempts to sell the GERD as a symbol of renaissance and bountiful dividends of cooperation in Africa. Beyond Africa, the Ethiopian government is leveraging the dams using the 'green' developmental discourse to strengthen political ties with Washington, Beijing, Brussels and Rome (Verhoeven, 2011).

The financing of her contentious projects such as the GERD and Gibe III is solely through taxes, diaspora donations, government bonds, crowd funding and private donations. On the GERD, the Ethiopian government has spent over US$ 3.2 billion while the Chinese government gave a grant of US$1.8 billion (Abtew, W., & Dessu, 2019; Ighobor & Bafana, 2014). The Chinese assistance allows Ethiopia to bypass other development partners allied to Egypt, such as United States (US), who have expressed dissatisfaction

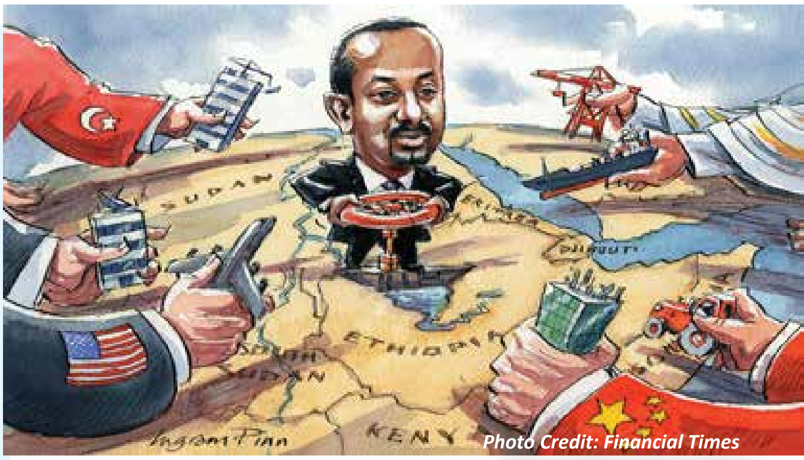


Photo Credit: Financial Times

with GERD. This unquestionable tact allows these projects to proceed without proper evaluation of the selfish interests and disastrous impacts they will have on downstream states. In 2020, the US cut off funding assistance to pressure Ethiopia to cooperate on negotiations on the GERD. However, this has only 'unified' Ethiopia more with her diaspora remitting more money for the GERD. When the African Development Bank withheld Ethiopia's loan on Gibe III due to concerns on the impact on Lake Turkana, Ethiopia went ahead and financed it herself. Through these dams, she is positioning herself as a self-sufficient African hegemon that is no longer dependent on donor support (Ighobor & Bafana, 2014). Thus, questions on Ethiopia's conduct on her hydropower dam construction are largely ignored and external pressure cannot sway her into abandoning her projects.

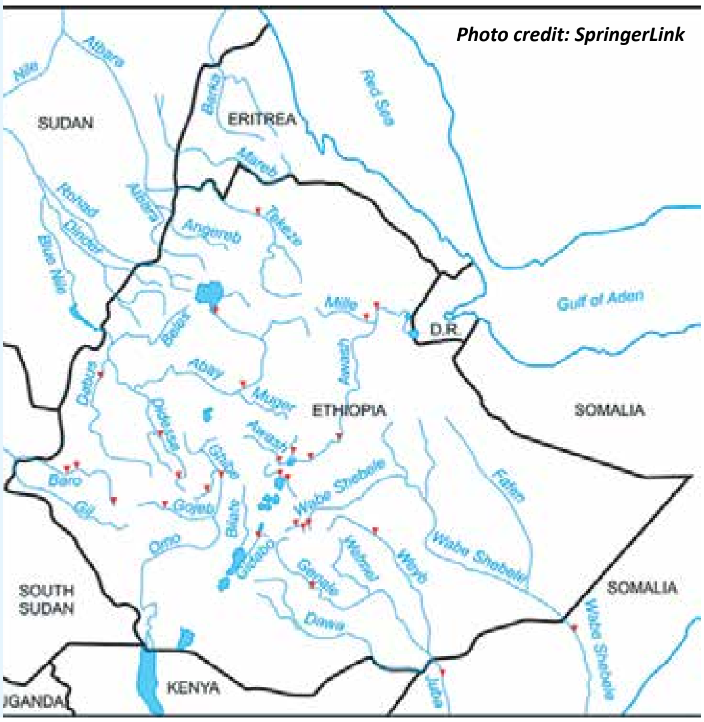
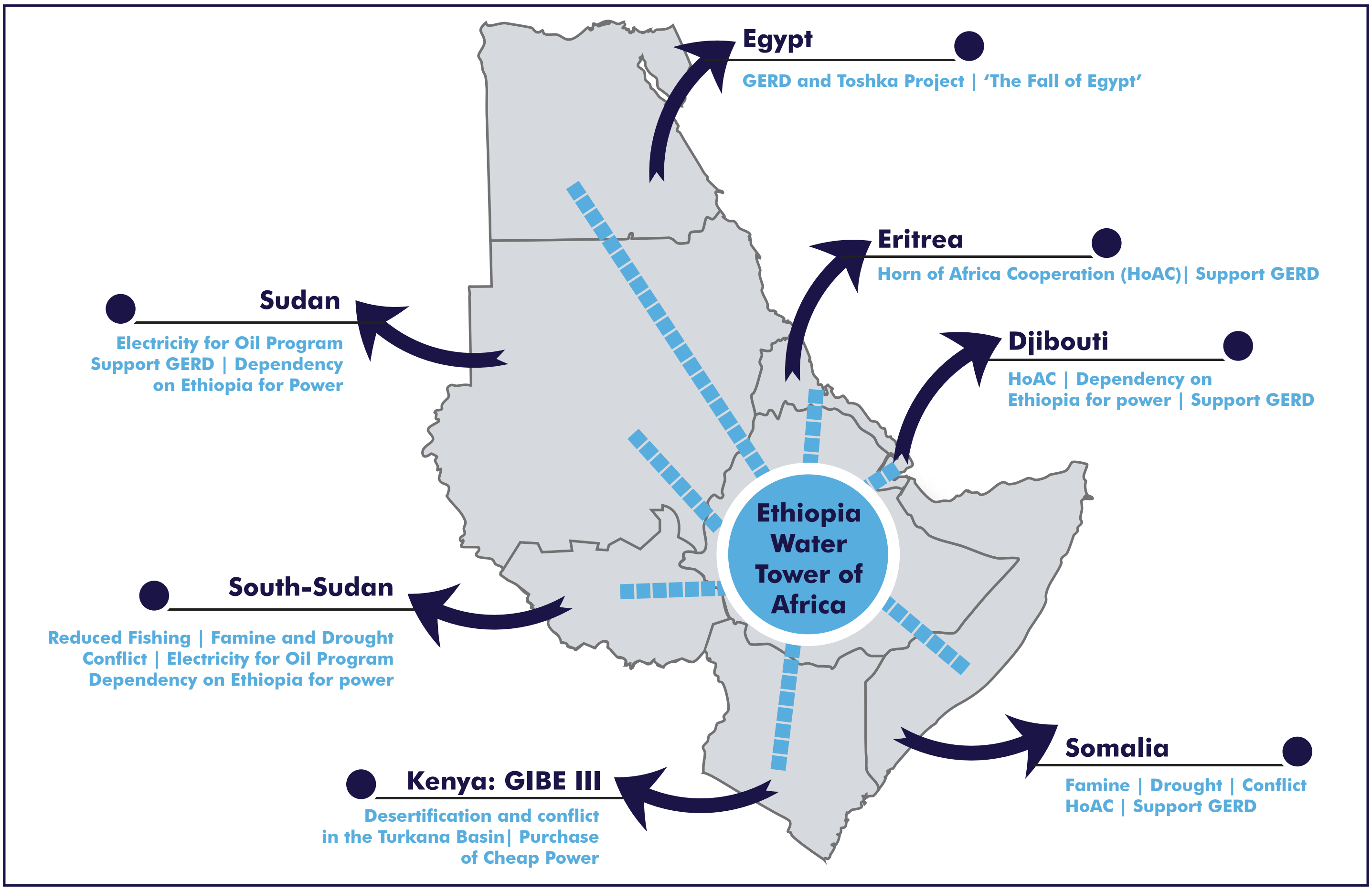


Photo credit: SpringerLink

The dams will not only produce electricity, but will also fuel her agricultural projects. These will cushion her from climate change fragility, human-induced resource degradation, population growth, extreme droughts and famine that is the reality of The HoA (Kitissou, 2004). Though internal peace is still elusive, Ethiopia hopes that with reliable agricultural production and food security, the government can increase the support of the masses (Verhoeven, 2011) and with the domestic bliss, she can focus on gaining power regionally and globally.

The absence of a resource sharing agreement has emboldened Ethiopia to adopt hydro-hegemonic behaviours. In 1997, she protested Egypt's proposal to build Toshka project which was to divert water from the Nile River. Again in 1998, she objected to Somalia's proposal to build the Baardheere dam on Jubba river. In both cases, she claimed that both Egypt and-Somalia were preempting her right to harness the waters from Nile and Jubba Rivers, respectively, and were foreclosing the future. While refuting the Egyptian proposal, she protested that the Toshka project would be the basis of Egypt asserting newly acquired rights on the Nile founded in the 'established use' argument. She further warned that she would not forgo projects of her own in order to protect Egypt's user rights in the New Valley or Sinai (Salman, 2010). In response to Somalia's projects, she argued that the dam would cause appreciable harm to her interests and further threatened that she had the potential to impound all river discharges (Salman, 2010). It is therefore evident that the Ethiopia's hydro-imperialistic strategy to control the HoA had long been crafted. This is elaborated in figure 1.

Figure 1: Ethiopia's Blueprint on the future of Balance of Power in the HOA



The Grand Ethiopian Renaissance Dam (GERD) and Ethiopia-Egypt power play

The controversial GERD has exposed Ethiopia's aggressiveness and power play with shared water resources. The GERD pits Egypt—a waning hegemony against Ethiopia—a rising hegemony (Nasr & Neef, 2016). Both countries have threatened war against each other to safeguard their water resources. Ethiopia has taken advantage of this crisis to build up her political muscle with the backing of her less prominent neighbors and former foes such as Eritrea, Somalia, South Sudan and Djibouti.

The US has attempted to mediate and de-escalate the GERD crisis. Equally, African states and Kenya, especially, have pushed for African solutions for African problems in order to protect the region from unwanted external interference on the issue (Krampe et al., 2020). Egypt has sought the support of Kenya as she seeks to craft a deal on the Nile which she considers a national security issue. At the moment, Ethiopia and Egypt are both eyeing African Union (AU) mediation process to resolve the tension between them.

Ethiopia is particularly warming up to Kenya, which is an observer state given that the Nile drains from Lake Victoria (The Presidency, 2020). However, she has skipped negotiation meetings organised by the US and AU. In July 2020, she began filling up the dam even as her

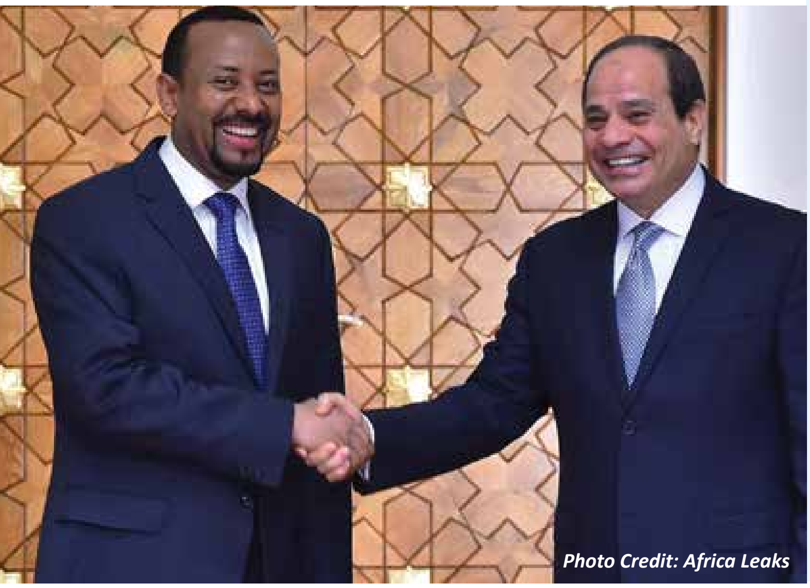


Photo Credit: Africa Leaks

Photo Credit: Twitter

neighbors such as Kenya warned her against unilateral decisions on the GERD. She remains adamant that she will not be pressured to back track even with America's withdrawal of economic assistance.

Ethiopia's defiance risks provoking a full-blown war with Egypt, who had already warned in 1998 that her next war would be over the waters of the Nile (Kitissou, 2004). Egypt's air combat is unrivalled by any Nile-riparian state and has already purchased new fighter jets from France in what seems to be a preparation for war. Previously, she had held intentions of blowing up the dam, an option that was backed by the US-Trump administration (Kitissou, 2004; Demerew, 2020). Diplomatically, Egypt is trying to win over Nile Basin states on the eventuality of a confrontation with Ethiopia. She has already signed a security and intelligence sharing deal with Uganda and Burundi as both countries reckoned that they have shared security interests especially on the GERD. The other option for Egypt is to support the simmering internal civil war in Tigray in a bid to derail Ethiopia from the GERD.

An escalated conflict in The HoA would destabilize the region and further dent her recovery from the South Sudan and Somalia civil wars. This will create an opportunity for violent extremists from the Maghreb to move their activities downwards as they take advantage of the spoils. Kenya's peaceful prospects in the region will be under undue pressure to host refugees from the war-torn regions. Moreover, if Egypt opts to back Ogaden irredentists in Ethiopia, in an alternative scenario, then Kenya faces the possibility of a new threat emanating from the suspended 1963 Kenyan-Somali irredentist struggle.

Ethiopia-Somalia hydro-politics power play

Ethiopias' hydro-imperialism has continued to load over Somalia's hydro-projects. At the center of Ethiopia-Somalia hydro-politics are Melka Wakena, Genale Dawa III and Genale Dawa IV hydro-projects. These dams have been built by Ethiopia along Jubba and Shebelle rivers, shared by Ethiopia, Kenya and Somalia. Ninety per cent (90%) of their flows originate from Ethiopia (Mohammed, 2013). River Jubba and Shebelle are important to Somalia because they serve Somalia's rice bowl and other irrigation projects such as the Jubba sugarcane, Mugaambo rice, Arare banana and Mandera irrigation projects.

Ethiopia has previously warned Somalia of her potential to impound all river discharges when Somalia attempted to build the Baardheere Dam on Jubba river in 1998, (Salman, 2010). She has made real her threat in her new master-plan by building the Genale-Dawa Dams on River Jubba and the Melka Wakena Dam on River Shebelle. Between 2010 and 2035, Ethiopia is planning to build several other dams on these two rivers. These dams will obviate any plans Somalia has for the Baardheere Dam (Mohammed, 2013). Ethiopia has not bothered to give any notifications to Somalia on the projects, yet Somalia will be the most affected downstream riparian state. She has further taken advantage of the fact that there are no agreements between them on sharing river waters. It is estimated that the sum of the existing uses in Somalia and planned ones in Ethiopia will exceed available water resources in the rivers.


Photo credit: Britanica Dams and Reservoirs


Photo Credit: Middle East Online

The potential of conflict arising over the shared rivers looms large (Mohammed, 2013; Sebhat & Wenninger, 2014).The unilateral major water projects will have substantial adverse impacts on Somalia and beyond. The depletion of these shared resources is likely to escalate inter-clan tensions among pastoralists and farmers in Somalia. This will destabilize the government and give Al-Shabaab more leeway to undermine the ongoing stabilisation efforts. If Al-Shabaab is re-energised, the security dynamics of HoA, the East African region and Kenya will be affected. If famine and drought persists, the influx of Somalia refugees to Kenya and Ethiopia will cause more insecurity and humanitarian crises.

The upstream advantage, therefore, affords Ethiopia a leverage to control the socio-economic and political life of downstream Somalia. Within this context, Ethiopia will continue to diplomatically bully Somalia to submission in order to gain competitive advantage regionally and internationally. This is already in play as she has been giving Somalia unfettered political and military support in the wake of deteriorating Kenya-Somalia relations. In return, Kenya has strengthened ties with the internationally unrecognised Republic of Somaliland as realignment of relations in the HOA heats up. Egypt too has chosen to align with Somaliland and is actually building a military base there. The efforts by Ethiopia, Kenya and Egypt to outflank each other's strategic positions adds to an already explosive mix in the Horn.

Photo Credit: Twitter

Gibe III and the entrapment of Kenya

Kenya appears to have been set up in the hydro-politics and is bound to dance the Ethiopian tune. Ethiopia has been building upstream dams, diverting water from the Omo River northward, away from the Kenya-Ethiopia border. The cascading five dams, Gibe I to Gibe V, are built along the Omo River Basin that is the source of 90% of Lake Turkana's bordering the two countries.

While Kenya is vocal on the GERD, she has been astoundingly silent on Ethiopia's unilateral and selfish use of Omo water resources. Since 2007, Ethiopia's dam on the Omo River, Gibe III has contributed to the continued desertification of the region (Gritzner, 2008; Human Rights Watch, 2017; United States Department of Agriculture, 2020). Water levels have alarmingly dwindled, with data showing the lake's water level dropping to 363 metres from 365 metres in 2016, when Gibe III opened (United States Department of Agriculture, 2020).

This has increased salinity in Lake Turkana to a level that may no longer be safe for consumption or sustainable for fish species. Nevertheless, the rains around Mount Elgon in Kenya have enabled the Kerio and Turkwell rivers which contribute the remaining 10% of Lake Turkana's water to temporarily salvage the situation. But is it sustainable in the long run?

Lake Turkana supports hoteliers, pastoralists, fishermen, and the indigenous communities who rely on irrigation or tourism for their survival (Reuters, 2020). Experts have warned that upstream activities in Gibe III will lead to mass starvation in the famine-prone Omo and Turkana basins, sparking major armed conflict over the scarce natural resources. This is likely to cause a humanitarian catastrophe and major cross-border armed conflicts (Gritzner, 2008).

Ethiopia's master plan is likely to derail Kenya's oil exploration activities in Turkana, Northern Kenya. If cross-border conflicts erupt, extremists could easily take advantage of perceptions of the North-Rift region marginalisation in order to destabilise this oil rich area. Resistance among Turkana communities to the Gibe III dam has been met with increased security operations by the Kenyan government.

Activists have been warned against protesting over government policies (Carr, 2017). The region already exists as a 'quasi-governed space' with the presence of national government and security apparatus not felt in most areas. Proliferation of small arms and light weapons is on the rise and is inextricably linked with survival and even livelihoods. Communities have historical grievances against the state and there is a weak sense of national identity (Mkutu, 2014). This situation, coupled with the flow of illegal arms from unstable states such as South Sudan is likely to create protracted conflict over the natural resources in the area. General discontent and conflict in an oil-rich region is an equation that the Kenyan government is not prepared to deal with.

The indifference of the Kenyan government to Ethiopia's provocations is due to her interest in the electricity that will be generated for a 'power deficit' nation. Thus, Ethiopia has successfully entrapped Kenya into supporting its hydro-politics despite the fact that Kenya risks losing her regional clout in the HOA and being domestically destabilised.

To this end, Kenya has initiated a dialogue with Ethiopia aimed at establishing a joint cooperative framework agreement on Lake Turkana, River Omo and Dawa Basin Commission. But Ethiopia's response has been slow, with arguments that she will consider the proposal after studying the rivers.

Ethiopia seems to be reluctant to agree on river cooperation (Mohammed, 2013) and is sending signals that she does not recognise Kenya's stronghold in the region. Kenya's ambivalence and laidback strategy in handling Ethiopia's soft and hard-balancing is perhaps due to her conservative foreign policy that does not preempt that any country in the region could radically depart from the status quo. Hence, the caution and self-restraint.

Photo Credit: Twitter


Photo credit: Foreign Policy

Ethiopia-Sudan hydro-politics power play

Sudan was initially not opposed to Ethiopia's actions despite the fact that she is a downstream state likely to be affected by the GERD project. She was a very vocal proponent of AU-led tripartite mediation on the GERD. During the Tigray Crisis, she even arrested a senior leader of Tigray Peoples Liberation Front (TPLF) who was in conflict with Ethiopia. However, she has changed her position after a border dispute with Ethiopia at the al-Fashqa area. She has now proposed that the European Union, the United States, and the United Nations should be co-mediators of the AU in the GERD talks. Egypt accepted the proposal but Ethiopia rejected it insisting that AU should be the sole mediator.

Even though Sudan has been a traditional ally of Egypt, her turnabout appears to have been emboldened by the delisting of her status from the US-terror blacklist. Sudan is no longer a pariah state and is slated to receive billions from international financial institutions having had the US clear her loans at the World Bank and International Monetary Fund. This will give her the muscle to pursue self-sustaining developmental projects, including stalled hydro-power projects such as the Shereyk Power Station.

Ethiopia is likely to use her hydro-relations to bring Sudan, to secure support her dam projects (Bayeh, 2014; Verhoeven, 2011). Since 2010, Ethiopia has been exporting surplus electricity to Sudan, which Khartoum has been in dire need of as the urban demand for electricity far outstrips supply. This will in the medium-term be detrimental to Sudan's economic growth as she experiences power cuts for 12 hours a day (BBC, 2021). The land-locked country has further baited Khartoum by purchasing Sudan's oil (black gold) and pursuing inter-linked infrastructural development (Bayeh, 2014; Verhoeven, 2011). Sudan's view is that Ethiopia's production of electric power (blue gold) will be mutually important for both countries (Bayeh, 2014).

Ethiopia boasts of a regional comparative advantage, ecologically, and economically and is not shy to use this advantage to her favor. She buys Sudan's oil below the global market rate in a tactfully negotiated 'electricity-for-oil' deal. In reality, Sudan has come to terms with the fact that she is at the mercy of Ethiopia who has the option of diverting and opting out of Khartoum's oil deal, even if it will be at a higher price. This has become a national security issue since any decision by Ethiopia to switch off the lights on Khartoum will leave Sudan at the mercy of Addis (Verhoeven, 2011). Such a move by Addis on Khartoum is likely to escalate the tensions on the GERD and may set the stage for a possible altercation in The HoA security-nexus.

Ethiopia-Djibouti hydro-politics relations

Djibouti has a strategic coastline but Ethiopia is endowed with abundant water resources and electricity which the former needs for her economic growth. She has an arid desert landscape, with no fresh water. This forces her to import water and food from Ethiopia (Allison, 2020). Most of her electricity comes from Ethiopia too. In 2017, Ethiopia offered to Djibouti free water for the next 30 years. The water pipeline system, currently under construction by the Chinese will transport 103,000 cubic meters of water daily from Hadagalla in Ethiopia to Djibouti's key towns of Ali-Sabieh, Dikhil, Arta, and the Capital Djibouti (Elmahly & Sun, 2018; Tekalign, 2019). This will solve Djibouti's water crisis making her beholden to Ethiopia's kindness.

Djibouti is currently far more dependent on Ethiopia than before. Addis can literally pull the plug on Djibouti, generating acute vulnerability if the current leaders and alliances were to shift dramatically (Styan, 2016). Djibouti has been relying on oil-fired generators whose high cost of electricity has hindered its economic prospects. The Ethiopia-Djibouti Power Interconnection Project was the first in the region. After her connection to Ethiopia's electricity grid in 2011,


Photo Credit: Middle East Monitor

Djibouti is now getting cheap powersupply and has witnessed domestic improvements, especially in reducing inflation and the cost of imported oil. Ethiopia needs Djibouti's port and her hydropolitics plays a great role in facilitating socio-economic and political relations of the two countries as well as the larger HoA (Bayeh, 2014). Ethiopia's cheap hydroelectric power supply has dramatically reduced Djibouti's total dependence on oil and diesel by up to 70%. Ironically, Ethiopia's national access to electricity is the lowest in Africa. This implies that her quest for electrical energy dominance is more of a regional power play strategy rather than a national–development agenda (Tekalign, 2019).

This regional strategy saw Ethiopia back Djibouti in the competition for the United Nations Securit Council (UNSC). This was a clear message to the region that the balance of power is quickly tilting. Djibouti's sustained stand depicted that the HoA states no longer respect the dominance of Kenya and that Ethiopia will be seeking to spread her spheres of influence even in global forums. In fact, the land-locked nation has begun re-establishing her navy which is going to be based in Djibouti. This will increase the influence of Addis in maritime security in the HOA.


Photo credit: KBC

Ethiopia-Eritrea hydro-political relations

Ethiopia has managed to whip up Eritrea into submission and gained her support on the GERD. She has built the Tekeze Dam on the Tekeze River that flows into Eritrea. This dam will facilitate power exports to Sudan and transmission lines between Bahr Dar and Metema, connecting the Ethiopian and Sudanese power grids which are already in place. Eritrea's interest in buying cheap and reliable hydro-electric power could also explain why she is warming up to Ethiopia. At some point, Eritrea considered indirectly buying Ethiopia's energy through Sudan. Though this would have been an expensive purchase, it was the only option since she heavily relies on two oil–based power plants and only the major cities have access to electricity. Her options are limited since she has no proven reserves of crude oil, natural gas or coal. Therefore, access to Ethiopia's electricity is crucial for her development.

The newly established Ethio-Eritrea relations has weakened Egypt's diplomatic moves on how to galvanise the HOA to support Egypt in the dispute. In October 2020, Eritrea's President Isaias Afwerki visited the GERD, months after Ethiopia began filling the dams. Afwerki, who had always expressed negative stances on the dam has radically changed his position and loyalties. Previously, Eritrea was an ardent supporter of Egypt positions against the GERD. Since Eritrea's independence, Ethiopia has always accused Cairo of funding Asmara to

Photo credit: The New Yorker

Photo credit: Voice of America

destabilise Addis. In 2016, Afwerki accused Ethiopia of using the dams for political goals and to arm-twist other states rather than for power generation and development for her people. He likened Ethiopia's agenda to what Turkey was doing with Syria and Iraq on the Tigris and Euphrates rivers (Aman, 2020).

Ethiopia is keen on making Eritrea believe in the direct benefits that will accrue from the GERD. Both states are members of the HoAC and Ethiopia is willing to leverage on their common interests. It is expected that Ethiopia will push for visits to the dam by other African leaders to drum up support for her common position with the AU, which is currently sponsoring negotiations on the GERD (Aman, 2020). Ethiopia's landlocked state is her biggest vulnerability. Being the center of gravity in the HoAC, she hopes that Eritrea will grant her access to Assab and Massawa sea ports. This relationship was cemented when Eritrea aided Ethiopia's millitary assault on the Tigray region.

Ethiopia hopes that the HoAC will cushion her from conflict, disruption and this will improve her diplomatic strategy both regionally and globally. She foresees that diversifying her reliance on Djibouti for access to the sea will make her stronger to spread her influence in The HoA. She has also negotiated a 19% stake in the development of Berbera Port in Somaliland, Mombasa and Lamu in Kenya, and ownership of Port Sudan. This is bound to boost her economic prospects significantly as she is the most advanced economy in the HoAC (Henneberg & Stapel, 2020). Eritrea equally hopes to benefit from Ethiopia by keeping open supply routes to and from Sudan. This is integral for most of the informal trade that takes place in this region (Love, 2009).


Photo credit: Middle East Online

Ethiopia-South Sudan hydro-politics power play

Ethiopia is in the process of building Gambella, Baro I and Baro II on the Baro/Sobat river system which originates from the Ethiopian highlands. The river system is shared by Ethiopia and South Sudan as the Baro, Akobo and Pibor rivers join to form the Sobat River and eventually, the White Nile. The dams on Baro River are to be used for agricultural and hydro-electric purposes. The Baro is the only navigable river in Ethiopia and the backbone of Gambella town. In the 1900s, the port Gambella provided direct access to the sea via the Nile through Khartoum. Ethiopian coffee was exported via this route, up to the 1940s. At its peak, up to 40 ships would dock at any one time (Alemayehu et al., 2016). The civil war in Sudan and in the Gambella region made this port unusable. However, this transboundary resource is of great importance to Ethiopia, South Sudan and other downstream countries. It is possible that once the Ethiopian navy is in place, this will be one of the key water resources it will seek to safeguard.

Population and irrigation pressures on the Baro River and Mashar marshes are already affecting the Baro-Sobat Basin. Environmental indicators reveal reduction in fish production could reach up to 44 % in Mashar marshes. Further, recession agriculture practiced on flood plains will be reduced by 5%. Similarly, Mashar's wetlands will be reduced by about 50% under all scenarios as a result of water regulation (Sileet et al., 2013).

This is likely to expose the region to resource-induced conflict given that the Gambella region has had a series of cross-border conflicts.

Based on Ethiopia's playbook with all her neighbors, it is expected that she will attempt to unilaterally construct dams and use the Baro River to increase her influence on South Sudan. Juba is indebted to Addis which helped them in the secession war against Khartoum (Doop, 2013). It is possible for Ethiopia to influence South Sudan to join the HoAC to counter IGAD and the EAC. If the HoAC takes on economic issues, then Kenya's Lamu Port Southern Sudan-Ethiopia Transport (LAPSSET) project with Ethiopia and South Sudan will lose significance and Kenya's influence in the region will greatly depreciate (Henneberg & Stapel, 2020).

South Sudan is an easy target for Ethiopia considering that only 1% of the country's population have access to electricity and will therefore be in need of Ethiopia's surplus energy. Addis has made an arrangement to buy South Sudan's oil and sell electricity to Juba. This is bound to make South Sudan dependent on Ethiopia in a fashion similar to Sudan's lopsided 'electricity for oil' deal.

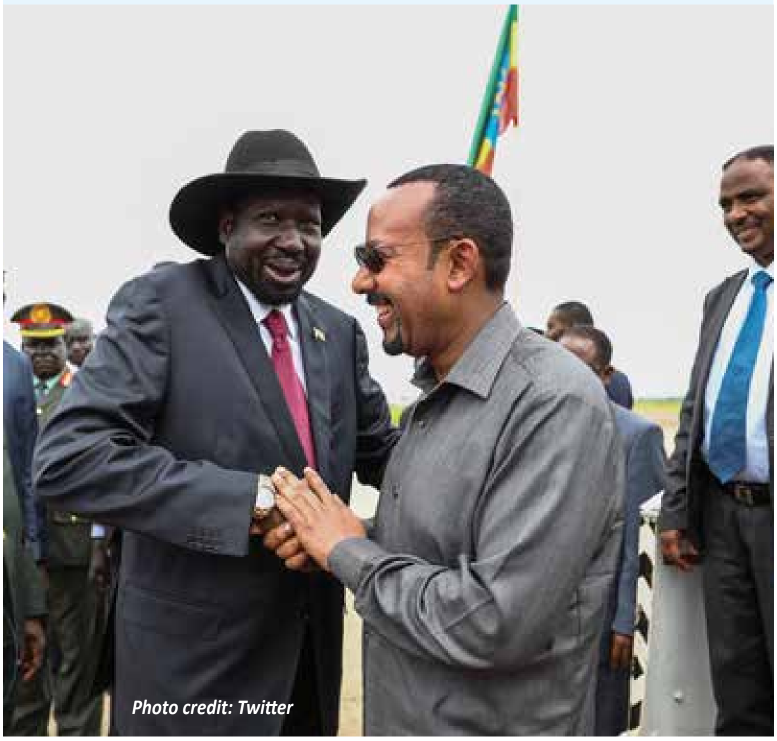


Photo credit: Twitter

Conclusion

Ethiopia's hydro-politics remains the center of gravity of her foreign policy in The HoA. Whereas it presents, at the face-value, lucrative goodies to those states she has whipped into submission, its roots portend long-term imperialistic tendencies that angle on instability and regional realignments in the conflict-ridden region. She has crafted a grand-strategy to weaken the dominance of Egypt in the North and Kenya in the East. Likewise, she has strategically subdued weaker nations such as Sudan, Djibouti, Eritrea, and Somalia. The influence of Kenya and Egypt in the global and regional politics will wane and new realignments focusing on Ethiopia will emerge. If untamed, her ambitions are likely to affect the climate, water resources and ecology of The HoA and this will affect the conflict dynamics, cooperation and political stability in the Horn.

Recommendation

Time is ripe for an African hydro-resources cooperation agreement. Within the ambit of UN, it is urgent that states negotiate on shared transboundary resources to avert the looming conflict in the region. More so, Egypt and Kenya should focus their diplomatic relations to balance Ethiopia's threats rather than pass the buck and hope that Ethiopia will back down.

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