COMMENTS ON
PETER KAGWANJA’S AND TOM WOLF’S CHAPTERS
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I

Peter Kagwanja and Tom Wolf, uniquely positioned as “insiders”, use their “insight” to make telling statements on the politics of the International Criminal Court, the ICC. They, in their different ways, show how the master states, or the Western Powers, misuse and turn the ICC into a perceived organ of postmodern colonialism. Kagwanja is a prolific columnist and media personality with unusual access to various corridors of power. He is a self-confessed policy advisor to governments, especially that of Mwai Kibaki and Uhuru Kenyatta. Wolf is a self-confessed pollster and has shaped what people think of the ICC and Kenyan politics. Seemingly representing Euro interests, meaning the interests of Western Powers, he probably has access to the corridors of power at Euro embassies and institutions in and out of Nairobi.

II

The two men are in agreement that the ICC was externally calibrated to stop Uhuru and Ruto from participating in the electoral process and they portray the master states as seemingly believing in their own geopolitical wishes. Western Powers and their local backers, Kagwanja observes, choreographed the ICC politically and “were in a great hurry to intervene.” They wanted to achieve geopolitical objectives which had little to do with objectivity. The Euros refused to be objective and pushed their geopolitical agenda so hard that it boomeranged and helped Kenya to rally other African countries in what appeared like a revival of the Pan-Africanist spirit. Kagwanja, however, fails to say what it is that was in it for other African countries in deciding to support Uhuru. Was it just solidarity with a victim of Euro political chicanery, or something else? Exactly what is that something else?
Stopping Uhuru and Ruto, Wolf wrote, is what “the ICC indictments were clearly intended to achieve” and the strategy was to portray them as “sinners” who are not fit to hold public office. “Initially,” he noted, the ICC indictment was “considered a fatal liability” but Uhuru and Ruto managed to transform themselves from “sinners” to “saints” and shocked their way into the presidency. He first gives the impression that Uhuru and Ruto were crafty political manipulators who fixed the Euros by portraying themselves to the voters as “saints” instead of the “sinners” they were meant to be. His title, however, has problems in that it lacks clarity as to who believed that these two politicians were “sinners”. Since many of their voters never considered them to be “sinners”, they could not have been transformed. The transformation therefore must have been in the eyes of the Euros who wanted to believe that the two were “sinners”. Is this what happened Tom? In any case, Wolf makes the Euros appear like confused victims of the UhuRuto political cleverness.

Wolf then undermines his UhuRuto cleverness argument by asserting that the political cleverness actually came from British advisors. Tom, are these two gentlemen clever political manipulators or are they just pawns in a Euro PR gamesmanship of a geopolitical nature? They probably were clever enough to know the value of hiring Britons to dismantle what seemed like a British led Euro scheme to keep them on Kenya’s political sideline. It had happened before, in the 1950s, when British lawyer Dennis Pritt helped to discredit the Kapenguria Trials where another Kenyatta was a victim of British machinations. In many ways, The Hague in the 21st Century resembled and still resembles the Kapenguria of the 1950s. It is postmodern Kapenguria.

By concentrating on US Assistant Secretary of State for African Affairs Johnnie Carson’s warning to Kenyans not to elect Uhuru and Ruto because “choices have consequences”, Kagwanja and Wolf appear to privilege the Americans over the Europeans in the Kenyan ICC saga. Kagwanja even claims that the Europeans
“amplified” Carson’s sentiments, which effectively relegates the British and other Europeans to second the tier of the Euro project to fix Kenya. The geopolitical reality, however, was different. Christian Turner, for instance, was captain in a geopolitical premier league rather than a player in a second division team. As Director of the Middle East and North Africa Office in London, he orchestrated British operations in the Arab Spring and thus had practical experience directing geopolitical games. Awarded “Order of Saint Michael and Saint George, CMG,” he was then posted to Kenya.

This self-assured British star in geopolitical games landed in Nairobi in June 2012, seemingly eager to make clear the British position on who should be elected. He made a lot of noise about Britain having only “essential contacts” should Uhuru and Ruto win. Now, since Turner’s warning on “essential contacts” actually preceded Carson’s “choices have consequences” by roughly a month, the Europeans could not have “amplified” America’s warning. The US was actually playing catch up in the art of lecturing Kenyans; it was simply following UK’s lead. Kagwanja seemingly missed part of this geopolitical dynamics in the build up to the 2013 elections.

Similarly, Wolf also underplayed Turner’s ability to arouse Kenyan anger. Just like Edward Clay before him, Turner seemed committed to forceful promotion of British interests even if it annoyed the host. In his enthusiasm for advancing London’s interests, Clay had given the impression that he was unhappy because, in the perceived “battle of Land Cruisers and Land Rovers” in the Kenyan market, Britain’s Land Rovers appeared to be losing to Japan’s Land Cruisers. In the reaction to the perceived British losses, Clay had acquired notoriety by twice accusing Kenyans of vomiting on his shoes. He had also tried to instruct Kenyans on how to behave if they wanted to have “civilized relations” with the Euros. In trying to guide Kenyans on how to vote, therefore, Turner appeared like a younger version of Clay; only a little more sophisticated. Kenyans resented the implied “colonialist” demands for subservience. Do you agree Tom?
In addition, Kagwanja and Wolf could have addressed the ICC’s methodological blunder. ICC was, former prosecutor Luis Moreno Ocampo admitted, under *Euro* pressure to block certain politicians. ICC officials, probably being in a hurry to indict particular individuals, then seemingly ignored simple procedures. The normal procedure is to collect, as much as is possible, all the evidence and let the evidence lead to the conclusion. The ICC seemingly reversed the order, started with politically predetermined conclusions, and then went out looking for the evidence, some of it not being in existence. Judge Hans-Peter Kaul noticed the weaknesses and made it clear that the ICC was making a serious mistake since the matter did not belong there.

And then there is the reported flawed witness procurement which Kagwanja, and to some extent Wolf, could have examined. The reported witness procurement anomaly was probably part of the geopolitical game to fix the targeted. With the Assembly of States Party saying that witness procurement should be audited, the outcome is likely to be a smelly can of global judicial worms. An audit might reveal additional geopolitical skullduggery in the whole Kenyan ICC saga. The possible skullduggery casts additional aspersion on the credibility of the ICC.

They could also look into at least four other thorny issues. First is the influence of extraneous forces, if any, on the United Nations and ICC decision making. Several people and groups “volunteered” and made effort to “guide” the ICC and the United Nations. I do not know how much influence Anyang Nyong’o’s powerful letter had on the UN and the ICC but he at least gets credit for trying and probably succeeding. Since Senator Nyong’o is here, he can probably tell us what he believes the impact of his letter was. It is, however, up to Kagwanja and Wolf to assess the influence of extraneous forces on the whole Kenya ICC saga.
Second is the deliberate conditioning of people to accept a *terminological* cover up. This is by using the acronym PEV to mean “post-election violence” rather than “pre-election violence” whose effect is to ignore the violence and atrocities that were committed before the elections. The acceptance of this mental conditioning is pervasive across the board and virtually condemns the victims of pre-election violence into conceptual oblivion. This way, policy makers, media, intellectuals, and even the judiciary sweep the fact that makeshift election stations had to be created in 2007 because voters had already been evicted from their homes under the carpet of convenience. Kagwanja and Wolf should probably look into this terminological cover up of the 2007 election crisis in Kenya.

Third, Kagwanja and Wolf are silent on the *bogey* of “justice for victims” slogan which has become an excuse to excuse some people while pursuing others with or without evidence. This *bogey* rests on the faulty logic that justice for victims is achieved by accusing “somebody” but not necessarily finding the actual perpetrator of the offense. Targeting “somebody” actually insults real victims who watch some favoured perpetrators being “compensated” supposedly for being “victims”. Some of the people who pursue this bogey with gusto might be implicated in the audit of the “witness procurement” saga. May be Kagwanja and Wolf can shed some light on this peculiarity.

Fourth is the likelihood that the ICC inadvertently became an agent of promoting impunity. The suspected skullduggery, if it was the norm, made the ICC a tool for fixing and exonerating the selected. The exonerated, knowing how to escape and shift blames, are well positioned to repeat the acts because they know how to escape and shift the blame. They tend have protection of the *master states* who fund and largely staff the ICC. By engaging in political targeting, and conducting selective accusations seemingly as guided by the *master states*, the ICC gives the impression that it is a tool of *postmodern colonialism* and qualifies to be an agent of promoting impunity. Are Kagwanja and Wolf ready to explore this likely angle of ICC shortcoming?