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DIPLOMACY

Clearing the air on US-Kenya relations

Has the Government abandoned Western partners, done nothing to promote Kenyan trade, and is actually making regional security worse by participating in peace-keeping initiatives in the country?

It is a mark of how disconnected some of the conversation in the media has become that we often see it asserted as plain truth.

In the aftermath of the recent US-Africa summit, (the holding of which amounted to an unprecedented recognition of Africa's new importance) some of these thoughts must be put to bed.

In particular, the summit and its aftermath saw distinct gains in trade, regional security and foreign affairs - gains which ought to make clear the bankruptcy of the claims so often made by ill-informed critics.

President Uhuru Kenyatta set the mood, when he said Kenya and the United States, as well as other Western countries, shared unbreakable bonds.

The facts, he said, showed that the long collaboration between the US and Kenya had been exceptionally fruitful - from the airlifts that took the best and brightest of Kenyans to the US to prepare them to serve the independent republic, to the recent massive support given to Kenya's inaugural Eurobond by American investors.

And the relationship is not just based on exchange, as he pointed out, but also on values: it was the United States which gave crucial

support for Kenya's independence, believing, as it did, that the days of empire were long gone.

The support was made concrete in several ways, not least by the arrival of Thurgood Marshall to assist in the drafting of the Independence Constitution.

It is precisely because this relationship remains intact despite new opportunities and new partners, that the braying of the critics is both misguided and could as well be ignored.

It is true, however, that we in Kenya have often underestimated and under-utilised the opportunities available in our partnership with the Americans.

In particular, we have not done enough to benefit from the African Growth and Opportunity Act (Agoa).

That must, and will, change; and we have already begun to deepen our engagement with the programme.

That was evident at the summit. Cabinet Secretary Adan Mohammed was part of Africa's ministerial team that led negotiations for the extension of Agoa that advocated for a 15-year extension to promote investment in textiles.

This fits into the Government's identification of the textile sector as a priority for the current financial year. President Obama was optimistic that Congress would approve the arrangements discussed.

The Cabinet Secretary also met senior representatives of both



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Philips Van Heusen (the second largest apparel importers in the US) and Jones Apparel.

They gave an indicative value of potential investment in the East African region of \$1 billion.

We were happy to encourage them, since it is clear that this sort of new investment, especially in textiles, leather and agro-processing translates directly into wealth and jobs for Kenyans.

The global players, GAP and Walmart, also pledged to follow through on proposed supply-chain investments in Kenya.

In the near term, this means we expect increased orders for apparel from Kenyan manufacturers in the coming months, with knock-on effects for jobs and Government revenue.

In regional security, it was agreed at the summit that Kenya would be one of six countries to join President Obama's Security Governance Initiative.

The programme, worth \$64 million annually for 3 to 5 years, will strengthen our ties with the US in the provision of security.

Under its terms, the US and Kenya will conduct a joint assessment of the security threats and opportunities; before developing a strategic plan to guide investments in the area; and then applying US technical expertise and other resources to advance the plan.

It was notable, in this connection, that President Obama very publicly committed US support

to the continuing fight against terror, and to the region's stability.

It was even more notable that John Kerry, the US Secretary of State, made clear that he shared substantial parts of Kenya's own assessment of the security situation in the region.

And, in the aftermath of the summit, Kenya's push for sound international relations continued.

With the recent reshuffle and reorganisation of Government, and in particular, the nomination of ambassadors, Kenya will soon have full representation in all key centres: in China, the US, the UK, India, Brazil, Angola, Nigeria, S Africa, and a number of other important countries, both inside and outside the continent.

It is clear that our economic diplomacy is poised to take off.

The facts, then, speak for themselves. Even before the summit, the narrative of withdrawal from the world was false, as was the story told that we were out of touch with the region.

In the wake of the summit, it has become clear, no doubt to the dismay of critics, that Kenya is fully engaged with the world, and ready to make the most of the opportunities that now present themselves.

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Palaver

Kenya's medical experts have gone to West Africa to study Ebola? God help us! Have they heard, even with one ear, about trained medical experts and proper doctors from America who have contracted the disease while treating patients? These Kenyan experts are playing with fire! Meanwhile, Ministry of Health has made a requisition for Sh671 million as contingency fund to fight Ebola, which has not even landed in Kenya yet. What a cheek!

Ababu Namwamba, the youthful, obstinate Member of Parliament for Budalang'i, who in 2008 took the oath of office by swearing by Baba's name, has been accused by Baba's brother of going to bed with the Jubilee coalition (aka, the enemy).

Preposterous! How things change. Ababu wants to be the secretary general of the Orange Democratic Party but Baba has other ideas, or so Ababu thinks and wonders loudly why Baba is so obstinate. Ababu, consult Jakoyo Midiwo, he might have an answer for you! And be sure to avoid the pugilist, he is spoiling for a fight!

What nonsense is this about there being no food in Kenya, wonders Kenya's Cabinet Secretary for Agriculture. The man is adamant there is enough food in the country; people are dying because they are poor, and food is not the issue, period! Food for thought: Would you rather that people die than empty your overflowing stores?

Amateurs! Amateurs! Yeees, yeees, yeees! That is what county governments are as far as health services are concerned, says Francis Atwoli, the secretary general of the Central Organization of Trade Unions. Mr Atwoli was reacting to claims by governors that he was being used to fight devolution. Of course, Mr Atwoli is right, health is not for amateurs, and bungling governors and boisterous MCA's are definitely not professionals! Yeees, give Atwoli a break!

Some legislators are interesting, nay, boring individuals who would do or say anything, in fact nothing, just to be heard! Now, some Member of Parliament has sensationally claimed that governors are using public funds to bribe people to get signatures for their referendum, when the exercise has not even begun! A little simple math here; Mr MP, if you use Sh500 shillings to bribe 1,000,000 people, you need Sh500,000,000. Can governors misappropriate that much and get away with it? Are they so daft? Give us a break!

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OTIENDE AMOLLO Ombudsman's role as a constitutional office

Lawyer Pravin Bowry's article, "Spare the courts and use alternatives" (The Standard, August 13, 2014) raised a fundamental issue that could potentially address the backlog of cases in courts, as well as speed up delivery of justice.

Some of the positions fronted in the article are, however, not factual.

The first inaccuracy is with respect to the status of the Commission on Administrative Justice (CAJ), also known as the office of the Ombudsman.

CAJ is a Constitutional Commission established under Article 59 (4) and Chapter 15 of the Constitution, and the Commission on Administrative Justice Act, 2011.

It is not a Statutory Commission.

Article 59 (4) of the Constitution gives Parliament powers to restructure the Kenya National Human Rights and Equality Commission into two or more Commissions.

Indeed, Parliament did restructure the Commission leading to the establishment of the Kenya National Commission on Human Rights, the Commission on Administrative Justice and the Gender and Equality Commis-

sion.

The three are commonly referred to as Article 59 Commissions.

Presently, there is no entity called Kenya National Human Rights and Equality Commission.

Whenever one reads Kenya National Human Rights and Equality Commission, they need to substitute it with the Article 59 Commissions.

It is important to note that the Constitution is clear that each successor Commission shall have the status and powers of a Commission under Chapter 15, with the full array of protections and safeguards under that chapter.

The Ethics and Anti-Corruption Commission (EACC) falls under the same category as specified in Article 79.

Because of the role they play, these Commissions enjoy the protection of the Constitution.

To disband or abolish any would require a Constitutional Amendment.

The second inaccuracy relates to the argument that a Statutory Commission may not investigate a constitutional body.

This reasoning is not entirely correct both in law and practice.

Nothing stops a statutory body from exercising jurisdiction over a constitutional body or State organ.

Indeed, there are a number of statutory institutions that exist and have jurisdiction over all public bodies, constitutional or otherwise.

The National Cohesion and Integration Commission is one such body.

The defunct Kenya Anti-Corruption Commission (KACC) too was a statutory body which had and exercised jurisdiction over all offices and persons in Kenya.

It is true that all Constitutional Commissions and Independent Offices have a residual mandate on alternative dispute resolution at a primary level under Article 252 (1).

Further quasi-judicial powers are granted under Article 252 (3) to a few Commissions whose core mandate is to receive complaints.

These include the Commission on Administrative Justice {Article 59 (2) (f-j)}, the Judicial Service Commission {Article 172 (1) (c)}, and the National Land Commission {Article 67 (2) (e)}.

To fully operationalise its mandate in respect of complaints

The Commission has a complementary jurisdiction on integrity to investigate complaints on improper conduct, abuse of power or misbehaviour in any sphere of Government