



# The Saturday Standard

## EDITORIAL

## Rally behind our road racers in action this week

Tomorrow is a big day in world's athletics calendar. Eliud Kipchoge, the world marathon record holder, will lead 11 Kenyans in the chase for the 49th Berlin Marathon title.

Sheila Chepkirui will be Kenya's sole women representative. The powerful valve of sports will unite our nation again. We expect an impressive result from Kipchoge, who has broken two world records in the German flagship race.

Sunday next week is another big day for Kenya. The global stage will be watching our athletes compete at the inaugural World Athletics Road Running Championships in Riga, Latvia.

The global showpiece will coincide with the Eldoret City Marathon – one of the continents highest paying 42km race. Standard Group is the media sponsor.

The Riga showpiece has attracted 347 athletes from 57 teams featuring Olympic and world champions, who will be chasing global titles in the road mile, 5km and half marathon. We boast the best athletes in this competition.

Three-time world 1500m champion Faith Kipyegon leads the pack. We hope Kipyegon will impress as she makes her debut in road running in One Mile race and close the 2023 season as one of the greatest for any athlete.

Kipyegon, the two-time Olympic 1500m champion, has already set world records in the 1500m, One Mile and 5000m on the track this season and she could add the road mile to her impressive CV in Riga.

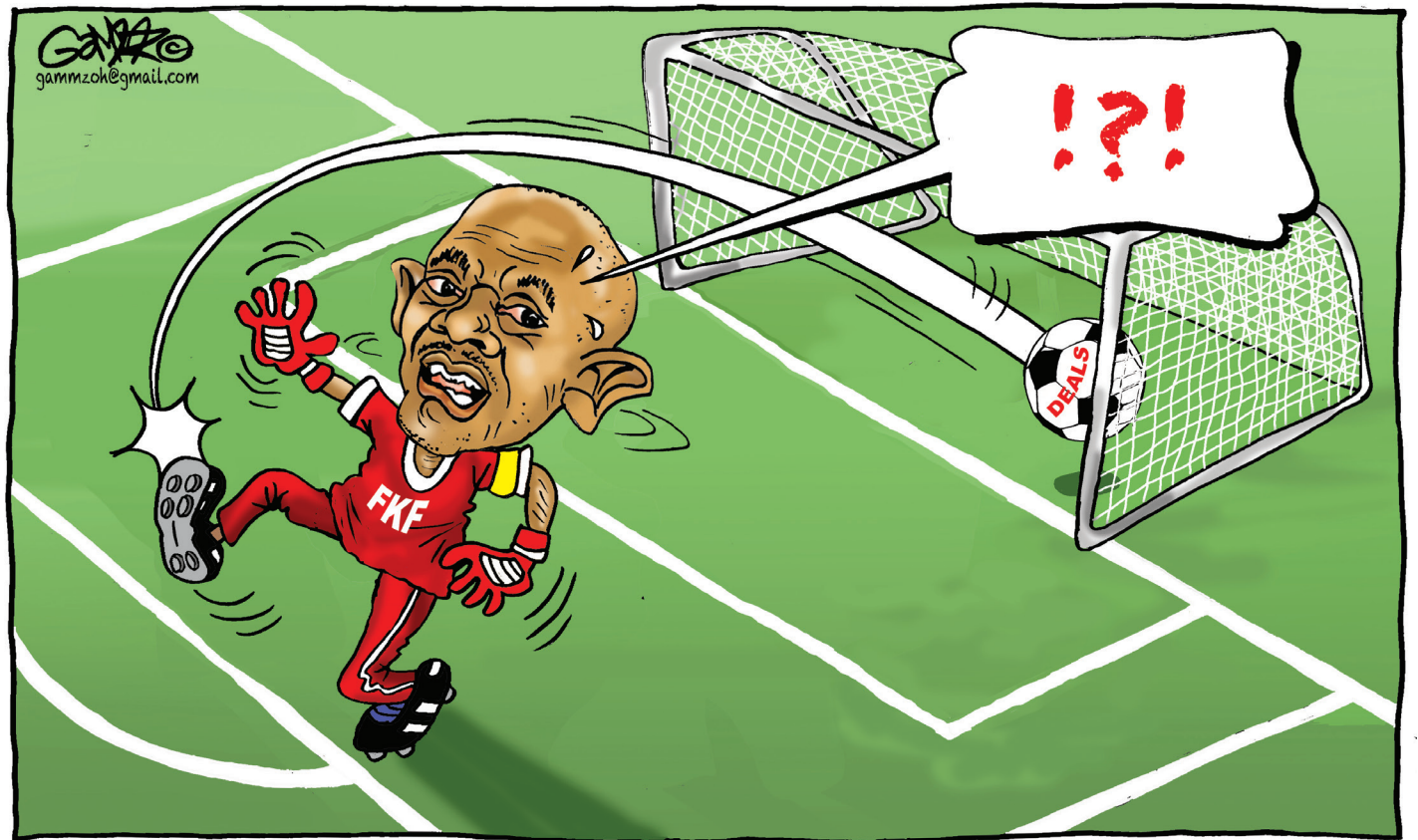
She will battle Ethiopia's world 1500m silver medalist Diribe Welteji, her compatriot Freweny Hailu and Australia's Jess Hull, both ranked in the top eight all-time in the mile on the track and world 3000m steeplechase record-holder Beatrice Chepkoech.

Then there is world under 1500m champion Reynold Kipkorir and Kyumbe Munguti who will lead the Kenyan men onslaught against a star-studded field that has US's Sam Prakel and Ethiopia's Tedese Lemi.

We also bank on Beatrice Chebet, fresh from bagging bronze in 5000m at the World Championships in Budapest and the winning the world cross country title in Bathurst in February, who longs to win a world title in a field that also features 5km mixed race world record-holder Ejgayehu Taye, Olympic 3000m steeplechase champion Peruth Chemutai and Japan's Nozomi Tanaka, who is entered to double with the Mile.

It will be a spectacular sight to watch three of the four fastest men in history clash in the men's 5km that features Ethiopia's world record-holder Berihu Aregawi, compatriot Yomif Kejelcha and Kenya's Nicholas Kipkorir battling it out.

In the half marathon, women-only world marathon record holder Peres Jepchirchir will fly our flag alongside Irene Jepchumba Kimais. With such huge talents, we must rally behind our road racers in action this week.



## FACE FACTS

## Are independent commissions a burden or play a critical role?

**KAMOTHO WAIGANJO**



Several reports on the performance of South Africa's Chapter 9 institutions should make us reflect on the performance of Kenya's equivalent institutions, our Chapter 15 commissions.

The South African and Kenyan institutions were formed out of a recognition that the existing institutions to hold government accountable, were not sufficient.

The 12 institutions formed by our Constitution were mandated, in Article 249, to protect the sovereignty of the people, ensure observance of democratic principles by state organs and promote constitutionalism. In the minds of the framers of both the Kenyan and South Africa constitutions, these bodies would be watchdogs on behalf of the public. To facilitate their performance, they are independent at several levels. Their members, once appointed, have security of tenure. They cannot be removed without an elaborate process that involves a formal tribunal. Their remuneration is a charge on the consolidated fund.

They are funded through a direct vote, not through line ministries. They are not directed by any person in the performance of their constitutional functions.

Despite these laudable expectations, the reports from South Africa indicate that one factor has determined how effectively these institutions operate; the character of persons appointed to head them. The most vis-

ible demonstration of this reality has been the differences between the tenure of Lawrence Mushwana, the first Public Protector, the equivalent of our Ombudsman, and his successor, Thuli Madonsela.

Mushwana's tenure indicates laxity in performance, which led the public to lodge few complaints. In 2009 for instance, only 12,000 complaints of maladministration were lodged compared to 2013 where a staggering 40,000 complaints were submitted when Madonsela took over.

In Mushwana's term, even the Supreme Court criticised the Public Protector for political management of investigations. The performance of Kenyan institutions is not any different. The first commissions appointed after the promulgation of the constitutions showed tremendous promise.

The Constitution Implementation Commission rubbed the government of the day wrong on many occasions as it fought for faithful implementation of the Constitution. The Ombudsman, led by current Rarieda MP Otiende Amollo, pursued numerous cases of maladministration against government departments and issued countless advisories to guide government agencies.

The Human Rights Commission and the Gender and Equality Commission were noticeable in the diligent manner they sought to accomplish their mandates. Ten years later, these institutions pale in comparison to these inaugural commissions.

Doubtless, the success of these first institutions, which resulted in numerous skirmishes between them and the Executive, must have prompted the Executive to rethink the nature of individuals who would oversee these bodies.

Consequently, many of the persons appointed to the critical commissions after the expiry of the first terms have emanated from the political establishment, aware of their benefactors. While they are all eminently qualified and have performed their technical roles effectively, most have completely shied away from any actions that would make government unhappy. Parliament has also used funding to these institutions as a carrot or stick to manage those that may be tempted to play the independent card too strongly. It is no wonder that when human rights abuses have occurred there has been silence from the concerned agencies. The gender equality agenda pursued relentlessly in the days of Winfred Lichuma has long been left to civil society.

Of the National Land Commission, the less said the better. To many Kenyans the solution is to abolish these institutions as they are an unnecessary drain on the public purse. I however believe that in countries like Kenya where the opposition is weak and appears more invested in becoming part of government than holding it accountable, these institutions are still critical. The question is how to ensure the persons appointed thereto are not extensions of government but truly independently minded. Every prudent government recognises that it is in its interest to have structured and institutionalised accountability mechanisms, a matter President William Ruto has mentioned in his support for a strong leader of opposition. One hopes in the next appointments of members of commissions, we shall see people who truly and faithfully reflect the spirit of Article 249.

*-The writer is an advocate of the High Court of Kenya.*

The Standard is printed and published by the proprietors,

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