

# Who's behind plot to annex our borders

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There are times when Kenya appears like a country of episodes, captures a bit of imagination, and then disappears from public discussions. This makes public attention episodic and incapable of making demands on policy makers not to agree to dubious deals. After spectacular episodes, like the DusitD2 terror attack, the public relapses back into the “normalcy” of not caring.

That appears to be what happened as extra-continental interests, using Somalia as the proxy, tried to snatch Kenya's maritime wealth by provoking a border dispute. They encourage a new form of Somali irredentism, into the sea.

## Whose dispute is it?

The timing of the provocation fitted global political dynamics in which the Euros made Kenya a pariah because the election results of the 2013 elections did not go the Euro desired way. There then were strange coincidences starting with powerful politicians in Europe involved in new oil companies that prospected near the Kenya Somali border.

In the following year, 2014, bankrupt and fragmented Somalia found funds and energy to abandon a 2009 border agreement with Kenya and run to the International Court of Justice, ICJ, to claim Kenyan waters.

Running to the ICJ was probably informed by the reality of the ICJ as constituted, seemingly being against Kenya.

A retinue of global political coincidences targeting Kenya and involving Euro-powers and the ICJ raise eyebrows. By then, Abdulqawi Ahmed Yusuf, a Somali national had joined the ICJ as a judge in 2009. He was elevated to the position of ICJ Deputy President in 2015, serving under President Ronny Abraham of France.

He replaced Abraham as ICJ president in January 2018. It was Abraham, as ICJ president, who in February 2017 delivered the judgement, in an 11 to 4 split decision, rejecting the value of the 2009 Kenya-Somali agreement on the border. There was, and there is, not a Kenyan judge in the ICJ.

Abraham's statement that Somalia's violation of a treaty did not invalidate its position at the court, gave the impression that the entire happening was shrouded in geopolitical chicanery with Somalia and the ICJ as proxies.

The impression that the ICJ saga is part of extra-continental geopolitical power to fix Kenya has given rise to debates as to what Kenya should do. One group wants Kenya to admit that the issue and threat to Kenya's interests is international power play and that Somalia is just a proxy for giant external forces that want to control the East African coast using fragmented Somalia.

## Divided loyalty

The fact that top Somali government officials owe primary loyalty to extra-continental powers as dual citizens and were or are employees of particular oil companies with deep tentacles in political power centres in Europe lends additional credence to the claim that Somali officials are mere tools in international power play. Since the Euro virtually control the ICJ, the entire thing is political and should be handled politically by pointing out those powers perceived to be trying to undercut Kenya.

Another group tends to be legalistic, pessimistic, and reluctant to look at the politics of the ICJ. Members argue whether ICJ decisions are advisory or binding and whether they can be enforced; the ICJ does not have an enforcement mechanism of its own. Some insist that the procedure is binding even if parties to the dispute agree to withdraw and negotiate. All that Kenya can do, they argue, is to present the best legal case. **Mutahi Ngunyi's shocking admission about Raila Odinga sparks hot debate online**

In practice, examples that big powers set are that decisions are advisory the perceived national interests, especially national security.

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The United States, for instance, ignored the 1986 decision on Nicaragua and on not executing a Mexican in 2013.

In 2016, China also showed ability to ignore the ICJ decision on the South China Sea. Russia, in 2017 and 2018, ignored ICJ when it came to Crimea and Ukraine. And in March 2019, Britain rejected ICJ ruling, in late February 2019, on the Chagos/Diago Garcia Islands in the Indian Ocean as being part of Mauritius. For Britain, the strategic islands are part of British Indian Ocean Territory (BIOT), period. The message that comes through is that ICJ rulings are at best advisory and discretionary but not binding.

In that mind-frame, ICJ rulings cannot be allowed to threaten the security of the party concerned. Since the Somali irredentism into the sea, egged on by Euro powers, dragged Kenya to ICJ, Kenya should make its position clear politically and in the ICJ legal engagements. It is a combined legal and political fight for Kenya's national interests, particularly national security.

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