

rights, some contributions fail to properly address salient issues relating to these institutions.

Another concern is that the book repeats some of its content. By including summaries of the papers presented at the workshop, parts one and two each includes a chapter which reproduces the other chapters in those parts of the book. This increases the size of the book unnecessarily.

Considering that the book relates mostly to a draft bill of rights proposed for the EAC, a regional economic community with no actual human rights competence, it is not clear why the book does not engage with doctrinal and theoretical issues around the exercise of human rights in that framework. Throughout the book there seems to be an assumption that the EACJ is a human rights court and that national human rights commissions need to find their role within the work of the EACJ. Related to this, there is a sense that the EACJ is equated to the European Court of Human Rights which has a clear human rights mandate. Similarly, the book fails to address theoretical issues relating to the draft bill of rights, especially in view of the fact that the draft bill was not commissioned by the EAC or any of its organs.

Despite its shortcomings, the historical overview of national human rights institutions in the region, the discussion of national bills of rights, the identification of challenges faced by these institutions and the recommendations made to enhance the work of various national human rights institutions represented make the book relevant for anyone interested in the work of these institutions. The book's recommendation of greater roles for national human rights institutions in the realisation of economic, social and cultural rights is useful in prompting interest in this regard. The annexure is also an important collation of the national bills of rights of member states of the EAC.

D Ngaruri Kenney & P Schrag *Asylum denied: A refugee's struggle for safety in America*

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Asylum denied: A refugee's struggle for safety in America tells the story of David Ngaruri Kenney, a Kenyan tea farmer who led a boycott by tea farmers during the administration of President Daniel arap Moi. He was

forced to flee to the United States of America (USA) to seek asylum after experiencing torture and other inhuman treatment from Kenyan state operatives. The book narrates the hurdles Kenney had to overcome in his ten-year quest for asylum in the USA in the words of Kenney and Philip G Schrag, a lawyer who worked with him through his asylum process.

The introduction gives the reader insight into the American asylum system, beginning with the story of the denial of entry to seek asylum in the USA to 929 Jews fleeing Hitler's Germany on board the cruise ship *St Louis* and the eventual death of more than half of that group in the Holocaust. It touches on the USA Refugee Act of 1980, which provided a better framework for the granting of asylum in the US to tens of thousands of refugees from around the world, the steady amendment of the asylum legislations until and post-September 11, 2001, and the tightening of the USA asylum procedure to avoid exploitation by potential terrorists.

It introduces the protagonist, David ('Jeff') Ngaruri Kenney and the persecution he suffered at the hands of a human rights-abusing regime before escaping to the USA in search of refuge. It also introduces his relationship with the authors and sets out their decision to write the book which 'chronicles his [Kenney's] long struggle with many of the bureaucracies that regulate immigration' and 'reveals how the asylum system often works in practice and how difficult it is for individuals to obtain refuge through that system' (p 6) with the aim of moving some of their 'readers to insist that the United States improve its laws and institutions that are intended to protect the men and women who are victims of human rights violations throughout the world' (p 8).

The first chapter begins and ends with Kenney's detention in a torture water cell where for about a week he is subjected to exceptionally dehumanising treatment. His offence is that he led a boycott by tea farmers in the Central Province of Kenya against the government's economic oppression. In between, the chapter tells the story of his birth into a family of four siblings, an emotionally unstable mother and a father who was at best indifferent to the dreadful treatment Kenney received constantly from his older siblings and his mother. The story regarding his lack of filial and fraternal love is tempered only by the birth of his twin siblings upon whom he bestowed his devotion (a devotion which is portrayed throughout the book) and the hospitality of an aunt who temporarily gave him and the twins shelter when they were run off their father's land by his older brothers.

The chapter portrays Kenney as a victim, first of his family's ill-treatment and then of the Kenyan government. The second part of the chapter separates these two eras of victimisation with a stint of courage and heroism where, out of frustration from the ill-treatment of tea farmers by the government-controlled Kenya Tea Development Agency (KTDA), Kenney led a boycott by tea growers in his village. The boycott culminated in a 30 000-strong peaceful march of farmers at

which Kenney pressed home the demands for a representative KTDA, an increase in the market price of tea purchased from the farmers or permission to sell their tea in the open market and a call on the government to resign and make room for a democratic government if it could not meet the needs of the people. This speech precipitates problems with the government which leads to his detention, near-execution and eventual consignment to the cold water torture chambers.

After months in solitary confinement and repeated interrogations, Kenney is eventually brought before a judge and charged with treason. The judge ordered his release for want of evidence, but he is re-arraigned a few days later and charged with being a threat to public peace. Kenney is released on a one million Kenyan shilling bond which is posted by a co-operative of tea farmers and which prohibited him, among others, from meeting with more than three Kenyans at a time. Around the time of his release, he met a number of USA Peace Corps volunteers working within and around his region, and who had heard about the boycott. Since the bond condition prohibited him from meeting with 'Kenyans', he found companionship in the company of the American Peace Corps volunteers. The rest of the second chapter tells of their friendship and it is in their company that the idea of going to study in the USA on a basketball scholarship is first discussed. Sheer determination and personal discipline saw Kenney, a secondary school drop-out who had never seen a basketball, study for and pass the USA pre-university assessment test (SAT) as well as acquire enough basketball skills to earn him a scholarship to study in the USA.

His Peace Corps friends and the families of grateful tea farmers arranged for his flight ticket, passport and a student visa. Kenney introduces the issue of bribery in the second chapter, which he encounters while trying to get the necessary official documents to process his visa. He generalises about bribery and 'Africa' throughout the book, while portraying himself as the unfortunate anti-bribery crusader who is left with no choice but to pay bribes while dealing with African government officials. The chapter ends with a farewell dinner in Nairobi with his mother and his favourite siblings, the twins Lucy and Njoka, before he boards an airplane for the first time in his life, heading across the Atlantic Ocean.

Chapter three narrates Kenney's experiences upon his arrival at Chicago airport in the USA; his culture shock as he is introduced to a different way of life; his quest to get an education and basketball scholarships to support his education; as well as his first experiences of racism. Aptly titled 'Temporary safety', the chapter chronicles what seems like the only period of safety that Kenney experiences; a period characterised by the financial generosity of friends, his introduction to a wealthy industrialist who became his benefactor, marked educational progress and financial success at the stock market. However, as seems to be the trend in the book, this moment of bliss is harshly interrupted by the accusation of and detention for rape of Kenney's younger sibling,

the twin Njoka, orchestrated by their older brother. The unjust sentencing of Njoka to an eight-year prison term is more than Kenney can bear. Having experienced the horrors of a Kenyan jail, Kenney is determined that his brother would not suffer as he did and, risking personal harm, he returns to Kenya to intervene in his brother's case. This course of action would subsequently cost him his chance of asylum in the USA. He successfully hires a lawyer, secures his brother's release from jail and returns to his studies in the USA.

Upon the expiry of his student visa, Kenney is faced with the risk of returning to Kenya and to a government whose persecution he had fled. He states in the book that the only alternative at that point was for him to get married to either of two Americans whom he had dated, but whom he 'did not love'. In his words, 'I feared returning to Kenya but marrying for the sake of remaining in America was morally wrong.' Ironically, it is indeed marriage that eventually proved to be the key to his remaining in America. In May 2000, he decided to seek asylum in the USA. Without any legal assistance, he obtained and completed an asylum application and attended an asylum interview. An asylum interview is often a harrowing experience, because the asylum seeker is expected to convince the asylum officer of the persecution he or she fled from and the specific circumstances thereof through a process that seeks more to find reasons to deny asylum than grant it. The consequence is as damaging to the asylum application as having an unprepared key witness cross-examined in court in the absence of his or her lawyer. Not surprisingly, Kenney's asylum application was denied because the asylum officer did not believe his testimony. In her opinion, there were inconsistencies in Kenney's testimony and there was insufficient documentation to support his claim. Subsequently, Kenney visited the Georgetown University Law Centre which ran a clinic that dealt with asylum cases, and it was there that he met Professor Philip Schrag who was the co-ordinator of the clinic.

Subsequent chapters chronicle the efforts of Schrag and his team to appeal the decision to deny Kenney asylum. The journey takes them from the immigration court to the Board of Immigration Appeals, to the US Court of Appeals for the Fourth Circuit, and each time the decision to deny him asylum was affirmed. A major issue that these tribunals dwelt on was Kenney's brief return to Kenya to rescue his younger brother who had been unjustly sentenced to jail and the effect this had on his claim of a well-founded fear of persecution in Kenya if he was denied asylum in the USA and forced to return home. His appeal having failed, Kenney is compelled to leave the USA for Madagascar and then Tanzania, as he could not return to Kenya for fear of persecution. Somewhere in the middle of his appeal, Kenney won the US Diversity Visa lottery, but was denied the visa because he could not produce documents to corroborate his illegal detention in a Kenyan prison. Also during this period he met, fell in love with, dated and married Melissa Kenney, whose surname he took on as she did his. Melissa

is an American and a fellow student at the Catholic University, and their marriage became key to Kenney's return to the USA about ten years after he had first sought safety there. This process was not without the hurdles and challenges that characterised the earlier asylum application processes.

The book ends with 'The lawyer's epilogue' and 'The client's epilogue'. In the former, co-author Schrag outlines some recommendations for improving the American asylum system.

Asylum denied, through the experience of David Ngaruri Kenney and the Herculean task of navigating the USA asylum system, especially after September 11 2001, resonates with the stories of millions of asylum seekers around the world.

Although asylum systems differ from country to country, the effects on the asylum seeker are often similar. The experience of re-living the trauma experienced in their home country during asylum interviews; the effects of cross-cultural communication; the asylum seekers' inability often to accurately recount their story; the dearth of documentary evidence to corroborate the asylum seeker's claim, especially in situations of state-sponsored torture and persecution; the indigence of the asylum seeker and its consequent restriction on obtaining legal representation are aspects of Kenney's experience that most refugees and asylum seekers can identify with.

It is difficult to negatively criticise the book, since it is a narration of an individual experience. However, as an African reader who has travelled the continent, it is difficult not to be offended at the manner in which Kenney generalises corruption and seems to portray it as a solely African malady. Similarly, the treatment he receives from his family is one not many Africans will regard as characteristic. In a subtle way, the book may serve to reinforce negative stereotypes about Africa to a reader who is not familiar with the continent and its diverse cultures. Furthermore, Kenney's experience highlights the paranoia which many victims of state-sponsored torture experience and which, as alluded to in the book, is often the basis of a fear to return than is the actual risk of further persecution in their home country. It is impossible to tell if this was the case with Kenney. This book also highlights the necessity of *pro bono* legal aid to indigent persons, especially asylum seekers for whom this may mean the difference between safety in the country of asylum and return to a country where they face the risk of persecution and torture. Nonetheless, this book is an informative read and certainly will help readers appreciate the plight of one of the most vulnerable groups — asylum seekers. It is also an invaluable tool for practitioners of refugee, asylum and immigration law as it will, hopefully, move some to insist that their jurisdictions (not just the USA, as envisaged by the authors) improve their laws and institutions intended to protect the men and women who are victims of human rights violations throughout the world.