



Prior to the 2013 general election in Kenya, presidential aspirant Uhuru Kenyatta and his running mate William Ruto employed a clever (and highly cynical) strategy that used to their “advantage” the fact that they were both indicted by the International Criminal Court (ICC) for crimes against humanity committed after the 2007 election. In a campaign that shocked much of the world - and left many dumbfounded - the duo presented themselves as “victims” of a flawed and racist international justice system and painted the election as “a referendum against the ICC”. Thanks to a well-oiled PR machinery (that included the likes of the controversial firm Cambridge Analytica), they were declared the winners of the election (albeit by a small margin that was contested by the opposition) *because*, not *in spite*, of the fact that they were indicted.

The UhuRuto election campaign also castigated non-governmental organisations (NGOs) - also known as civil society organisations (CSOs) - and the Western donors that funded them as “evil society”. Prior to the election, the United States Assistant Secretary of State, Johnny Carson, had warned of “consequences” if Kenyatta and Ruto vied for the presidency and the then British High Commissioner to Kenya, Christian Turner, had stated that if the two candidates’ Jubilee Alliance coalition party won the elections, his government would only maintain “essential contact” with its top officials. (This would all change after Uhuru Kenyatta became the president, but I will come to that later.)

Underlying the anti-West rhetoric was a sub-text that cast Western donors and the NGOs they funded as imperialists. Prominent NGOs that had questioned the legitimacy of ICC indictees running for the presidency were labelled as foreign stooges intent on disrupting the peace and on undermining the country’s sovereignty. (The attack on NGOs as imperialist lackeys seemed disingenuous and hypocritical, considering that Kenyatta’s family has vast business interests that are linked to Western capital and that he had even hired a British PR firm, BTP Advisers, to manage his 2013 presidential campaign and public relations. As professor Horace Campbell noted, the “pseudo anti-imperialism” of Kenyatta was so layered that it would have required a high level of sophistication to grasp the game-playing that was going on.)

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This sense of betrayal was evident in Professor Makau Mutua’s weekly column in the *Sunday Nation* of 21 April 2013, in which he described the deep loss that he and his fellow



civil society activists felt as “an existential moment”. Fearful that NGOs might not survive a Kenyatta government, Mutua, the chair and founder of the Kenya Human Rights Commission, stated that civil society activists felt “betrayed by a population they’ve always fought for”, adding that “engaging” and “dialoguing” with the new government would only serve to legitimise it, a notion he found hard to stomach.

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Now, more than five years after it castigated Western donors and the ICC as racist imperialists and donor-funded Kenyan NGOs as the “evil society”, the Jubilee government, it seems, has not only mended fences with the West, but Western donors are falling over themselves to impress the government, perhaps in an attempt to secure lucrative infrastructure and other deals and to ensure their geopolitical interests in the region. After threatening all manner of “consequences”, including sanctions and “minimal contact” if the two candidates were elected, donor countries, notably Britain and the United States, have recanted their earlier positions. Given that Britain and the United States, in particular, have huge security and economic interests in the country and in the Horn of Africa, it is likely that their relationship with the Kenyan government is set to flourish. There is no more talk of Kenyatta’s and Ruto’s cases at the ICC (which were dropped due insufficient evidence, witness intimidation and state non-cooperation). Instead Western donors are working overtime to lend support to Jubilee’s development agenda - perhaps in an attempt to counter the increasing influence of China on the Kenyan government’s policies and programmes.

NGOs have thus been relegated to the back burner, making many civil society activists wonder whether all the talk by Western donors about good governance, accountability and human rights was mere rhetoric and not a desired or expected outcome of the donors’ engagement with them. And Western donors are back in the government’s saddle, much to the activists’ amazement and disbelief. They have not only gone on a charm offensive with the Jubilee government but they have also remained largely silent in the face of major corruption scandals that have characterised the Jubilee administration since it took power. NGOs that would have been more vocal about a mismanaged economy or human rights abuses are now struggling to get Western donors’ attention.



Meanwhile, high profile civil society activists who have been vocal critics of both Kenyatta and Ruto are slowly fading into the distance. Some NGOs have even been threatened with closure by the NGO Coordination Board, which has come up with spurious charges against them, an indicator that the space for civil society is likely to shrink further.

## **Mating ritual**

But then why are we surprised by this turn of events? This “mating ritual”, as *The Economist* once described the relationship between Kenya and its Western donors, is hardly new. The government-donor relationship has undergone several incarnations, ranging from passive-aggressive non-cooperation to grudging accommodation to deliberate re-alignment. The mating ritual’s steps, to quote *The Economist* article published in August 1998, are as follows:

*“One, Kenya wins its yearly pledges of foreign aid. Two, the government begins to misbehave, backtracking on economic reform and behaving in an authoritarian manner. Three, a new meeting of donor countries looms with exasperated foreign governments preparing their sharp rebukes. Four, Kenya pulls a placatory rabbit out of the hat. Five, the donors are mollified and the aid is pledged. The whole dance then starts again.”*

In his book *Liberal Democracy and the Emergence of a Constitutionally Failed State in Kenya*, the Kenyan scholar Abdalla Bujra says that Western donors’ emphasis on “good governance” - and their funding of NGO activities that advance this agenda - is not so much premised on the idea that governments have to be democratic, accountable and participatory, but is “to ensure that foreign investors and large corporations conduct business quickly and efficiently in Kenya as well as to ensure that these investors and foreign companies get their maximum profit without having to share it with local elite through corruption”. (Could it be that one of the “rabbits” that Jubilee pulled out of its hat to placate the US government was the awarding of a large multi-billion-dollar contract to a US company to build a six-lane highway between Nairobi and Mombasa?)

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Because some foreign aid is channelled to NGOs (ostensibly to exert the donor country's "soft power"), NGOs in Kenya became inextricably linked to the "good governance" agenda advocated by Western donors and international financial institutions. Kenya's "second liberation" from Moi's autocratic rule was partly the result of donor-funded activities that allowed NGOs and their leaders to push forward their demands. As the Kenyan constitutional lawyer Wachira Maina has noted, "the extent to which local politics is often mediated by donors is remarkable". Donors, Western donors, in particular, he says, "are the first organised group that the opposition in Kenya speaks to when it has an idea to sell".

Donors thus, in effect, become "embedded" within Kenyan civil society, thereby indirectly exerting influence on the political landscape. Their support also ensured that NGOs promoted the kind of neoliberalism and democracy favoured by Western governments, which emphasises individual, rather than collective, rights, and repudiates notions of "popular power" based on the sovereignty of the people. (It is important to note, however, that the bulk of bilateral donor aid to Kenya goes to the government; only a small proportion is channelled to NGOs, a fact that successive Kenyan governments have deliberately played down.)

In order to understand how the mating rituals between the Kenyan government and Western donors and between Western donors and NGOs work, it is important to look at how the government-donor-NGO relationship in Kenya evolved.

### **The evolution of the Kenyan NGO**

The role of NGOs in Kenya has changed significantly since colonial times, when they were mainly philanthropic organisations focused on social welfare issues. While some aligned themselves with the anti-colonial struggle, and went on to form political parties and movements, by and large they remained apolitical. (In fact, many NGOs are required to remain non-partisan and apolitical to be eligible for donor funding.)

After independence in 1963, NGOs continued to do charity work, often working hand-in-hand with the government and the private sector in the spirit of *harambee* (self-help) popularised by the founding president Jomo Kenyatta. Rural communities, in particular, were encouraged to pool together their own resources to build schools, hospitals and other infrastructure - which in essence meant that the state abdicated its responsibility towards these communities and expected them to use their own money and labour to bring about "development". The concept of "harambee" (which means to pull together) also got corrupted in later years as politicians fund-raised for and gave money to harambee projects in order to buy votes and influence constituencies.



However, in the early 1980s, when President Daniel arap Moi tightened his grip on the country after declaring the country a *de jure* one-party state, a number of underground organisations and advocacy groups emerged to oppose his leadership and to fight for the enlargement of the democratic space. This led to the growth of movements such as the proscribed Mwakenya and other pro-reform groups led by faith-based organisations and individual politicians.

The government's antagonistic relationship with NGOs has its roots in this period when reformist politicians, intellectuals and activists began demanding greater freedoms and more democratic space. The Moi regime fought their demands by instituting draconian laws, arresting and torturing protesters and activists and disbanding or coopting social movements, such as farmers unions and women's groups, including Maendeleo Ya Wanawake, the largest grassroots women's group in the country. Some of these activists went on to form NGOs that later become leading voices in the human rights and democracy movement.

Ironically, the 1980s also coincided with a time when both the government and NGOs started to attract more donor funding, particularly after the Kenyan state began reducing investments in the social sector as required by the World Bank-International Monetary Fund-initiated structural adjustment programmes (SAPs). In an essay titled "The Depoliticisation of Poverty", Firoze Manji says that the hardships precipitated by SAPs led to some serious re-thinking by official aid agencies and multilaterals on how to present their austerity programmes with "a human face". Funds were set aside to "mitigate the social dimensions of adjustment". In the late 1980s, therefore, official aid to Kenya began increasing, rising from \$394 million in 1980 to \$1.18 billion by 1990. Some of this funding went to the rapidly growing NGO sector, which was seen as more cost-effective, less bureaucratic and more efficient than the state.

SAPs thus enlarged the role and scope of NGOs. Privatisation and the reduced role of the state in service delivery led to a significant rise in the number of Kenyans who were "unserved". NGOs and faith-based organisations tried to fill the void left by the state - which did not necessarily lead to improved or expanded service delivery to the masses, but did give rise to many NGOs that focused on delivering basic services, such as health and education.

However, the austerity imposed by SAPs led to a rise in civil unrest and protests by leading opposition leaders, which triggered a backlash against the Moi regime in the early and mid-1990s. The country's economy was in shambles and hardships imposed by SAPs were fermenting increased dissatisfaction.



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By the late 1990s, Western donors’ relationship with the Moi government had also begun deteriorating. In order to pressurise Moi to institute political and economic reforms, donors began reducing the amount of aid given to the country. Figures for Kenya compiled by the World Bank show that official aid to Kenya increased dramatically in the late 1980s and early 1990s, but then began dropping in the mid-1990s. By 1999, official bilateral aid to Kenya had dropped to just \$310 million, the lowest in two decades.

After Moi’s Kanu party was ousted in the 2002 election by a coalition led by Mwai Kibaki, some NGOs began focusing on issues that the Moi government had failed to tackle or had actually hindered, such as reparation for the victims of historical injustices and the creation of a progressive new constitution. On their part, Western donors, encouraged by the opening of the democratic space and the promise of political and economic reforms, began increasing funding to the Kibaki government and to NGOs; official development assistance (ODA) rose from \$525 million in 2003 to \$1.3 billion in 2007. This period also saw a rapid rise in the number of NGOs in Kenya, from just 125 in 1974 to more than 6,000 by 2008.

The post-Moi period also saw the co-option of prominent civil society activists and leading lights in the NGO sector into the Kibaki administration; many among them found themselves working for the new government either as elected members of parliament, senior civil servants or advisers. For once it seemed that civil society, NGOs, donors and the government were all on the same page.

However, the cosy relationship between NGOs and the government would change after the disputed 2007 election and its violent aftermath. NGOs dealing with civic education and advocacy found a new calling - that of promoting peace and reconciliation in a country that had become deeply polarised along ethnic lines. Corruption scandals in Kibaki’s first term had also re-energised NGOs that promoted good governance and transparency. The post-election period saw some NGOs and opposition groups intensifying their efforts to advocate for a new constitution (which Kibaki appeared reluctant to implement) that would address historical injustices and safeguard fundamental human rights. (After a lot of back-and-forth, a new constitution was eventually promulgated in 2010 through a nation-wide referendum.)



However, Kibaki's stated "Look East" policy when it came to development finance, especially for infrastructure, threatened to topple the comfortable paternalistic relationship traditional Western donors enjoyed with the country's leaders. The appeal of China was irresistible, not only because China did not impose stiff conditionalities on the loans it gave the country, but China's engagement with Kenya, appeared (on the surface at least) to be mutually beneficial.

This "Look East" policy was further cemented by Uhuru Kenyatta, who barely three weeks after being inaugurated as president in April 2013, made an official visit to China to sign a \$3.8 billion deal, most of it in the form of loans for infrastructure projects. (No one wondered how a deal of such magnitude and with so many implications for Kenya's economy could have been made just days after Kenyatta assumed the presidency, given that bilateral deals of this nature often take months to negotiate.)

Kenya's love affair with China has blossomed under Kenyatta, much to the detriment of the ordinary Kenyan citizen who is burdened with huge Chinese debts and excessive taxation to service these debts.

The Chinese Communist Party, it seems, has also infected the Jubilee government with an intolerance for dissenting voices. Several NGOs have been threatened with closure, and activists who criticise the government have been vilified on social media by an army of bloggers operating from State House.

The Kenyatta government, like its Chinese counterpart, is also clamping down on the media. In January this year, three TV stations were shut down for almost a week after they aired the "parallel" inauguration ceremony of opposition leader Raila Odinga as "the People's President". The Jubilee government is also financially starving media houses by depriving them of advertising: the government's new MyGov portal that carries all government advertising has deprived many media houses of up to 30 per cent of their advertising revenue. Some newspaper editors have decided to toe the government's line; there is a feeling that many editorial and management decisions are being made at State House. In March this year, eight columnists working for the Nation Media Group (including myself) resigned due to what we described as "state capture" of the media house.

### **Intellectual and financial dependency**

Some of the problems that NGOs face in the current hostile environment are of their own making. Over-reliance on foreign (mostly Western) donors has created fault lines within the NGO sector which the Jubilee government has fully exploited. Data from the Kenya National



Coordination Board shows that more than 90 per cent of Kenyan NGOs' funding comes from international sources, with only 1 per cent derived from the government. This fact, argues Shadrack W. Nasong'o, raises questions regarding Kenyan NGOs' independence:

*“The reliance of CSOs on external sources of financial support forces them to strive to win the approval of Western donors, lenders, nations and international monitors, rather than the loyalty and support of domestic constituencies, turning them into programmatic appendages of international funding agencies. Given this reality, most of these organisations are unable to effectively counter accusations that they are in the service of foreign rather than local interests. The organisations' external linkages directly impinge on their agendas and performance.”*

Also, as mentioned earlier, NGOs only get the crumbs from the donors' table: the largest proportion of bilateral donor aid to Kenya has always gone to the state – after all, that is the *raison d'être* of international development assistance. Given that donor priorities change with the changing priorities of their governments, over-reliance on foreign donor funding can leave NGOs cash-strapped when they least expect it.

Nasang'o further says that NGOs' contribution to democratisation and popular participation may just be “incidental” rather than “fundamental” because they lack grassroots support; most NGOs are Nairobi-based and speak the “language of donors”, which may not necessarily reflect the needs and desires of social movements and grassroots organisations, such as cooperatives and farmers' unions. Having no popular grassroots support, many of these NGOs die when their primary funding source vanishes or when donor priorities shift to other areas.

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Moreover, because they are heavily dependent of Western donors, who come with their own biases and agendas, few of these NGOs are able to assert their independence on the kinds of projects they want to implement. By succumbing to the “language of the donors”, they lose their intellectual independence, as the constitutional lawyer Wachira Maina highlighted in an article published in 1998:



*“The language of political reform in Africa is a language generated by donors. Terms like ‘empowerment’ and ‘aid-re-engineering’ are part of the lexicon of the aid business, this language figures prominently in the proposals of local NGOs and in their presentations at seminars. One wonders whether this language can be used among civil society groups in rural Kenya. Even more worrying are suspicions that this dependency on donor language is perhaps part of a larger intellectual dependency...In this regard, it is revealing that key actors in civil society in Kenya, such as cooperatives, farmers and informal groups, hardly ever figure in the reform debate in spite of their obvious power and influence. More remarkably, even when they demonstrate their power to extract concessions from the State in a manner that the more donor-friendly organisations are unable to accomplish, they remain outside the mainstream”*

Further, the “professionalisation” of the NGO sector may have hindered the growth of grassroots “Arab Spring” movements made up of ordinary citizens. As Maina has noted, NGOs often reproduce the cleavages in their society; many of the disenfranchising power structures and corrupt practices of government are replicated in the NGO sector because many NGOs’ main aim is not to bring about a fundamental change in society but to ensure their own survival.

In addition, donors’ and NGOs’ focus on “development”, rather than on social justice, ends up “depoliticising” the root causes of poverty and underdevelopment , as Firoze Manji explains:

*“Far from helping to overturn the social relations that reproduced injustice and impoverishment, the main focus of development was to discover and implement solutions that would enable the victims to cope with, or find ‘sustainable’ solutions for living with impoverishment...Central to this paradigm was to cast ‘poverty’, rather than social justice, as the main problem facing ‘developing countries’. The victims of years of injustices, whose livelihoods had been destroyed by years of colonial rule, were now defined as ‘the problem’, and once so defined, provided the stage set for the entry of the development NGO to participate in the process of depoliticising poverty.”*

Manji says that NGOs face a stark choice: either they reinforce the social relations that reproduce poverty, injustice and conflict or they play a positive role in overturning those relations by empowering (for lack of a better word) and giving a voice to those who remain unheard and by helping the poor and the marginalised to accurately diagnose the causes of their poverty and underdevelopment. The latter choice could give rise to a true people’s movement aimed at liberating entire societies from the clutches of retrogressive and authoritarian structures and unjust social and economic systems.



However, the reality is that any hope of a people's movement has been severely diminished by the "handshake" between Kenyatta and the opposition leader Raila Odinga in March this year. This so-called rapprochement has taken the steam out of many NGOs and opposition groups. For those who spent the better part of the last five years fighting a government they feel is both illegitimate and unethical, the handshake was like a slap in the face. There is a feeling that the handshake was not about ending hostilities between the government and the opposition but about the sharing of state goodies between the president and opposition leader. What deal was struck between the two leaders remains a mystery.

Western donors, on the other hand, perceive the handshake as a mark of success - a shining example of how warring parties in Africa can achieve peace and reconciliation through dialogue. (Note: the "dialogue" that took place between Kenyatta and Odinga was private, was not made public and civil society was not invited to participate in the discussions.) Donors are back in the business of "development" - and government contracts for infrastructure and other projects (including arms deals) that benefit the donor country. Security and the "war on terror" are also likely to remain priority funding areas in the near and distant future.

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With donors no longer interested in actively promoting the good governance and human rights agenda, it is likely that many NGOs will struggle to remain relevant. It is also possible that the nature of the donor-NGO relationship will shift, focusing more on basic needs and service delivery, rather than human rights and governance issues, as it did in the 1990s. With a new set of austerity measures in place, including punitive new taxes (courtesy of the IMF) NGOs may once again be called upon to be the "human face" of hardship.

The idea of having "People's Assemblies", and more participatory forms of governance, as proposed by the opposition's strategist David Ndi, has also died as a result of the handshake between Odinga and Kenyatta. Moreover, the concept that people should be allowed to make decisions about their own welfare - a key principle of devolution that led to the formation of 47 counties - has been tarnished by incompetent and corrupt county



governments that are replicating the dysfunctions of the national government. The return of Moi-ism in a different - and perhaps more lethal - garb has set the country back by several decades. However, unlike in the Moi era, NGOs working on issues related to human rights, democracy and good governance are today not likely to find a friendly face at a Western embassy.

### **Enter social media**

The good news is that citizen activism is growing. Tired of opposition politicians who are increasingly being viewed as self-centred and opportunistic and lacking in moral fibre and conviction, the 1.5 million Kenyans on Twitter (KOT) and 5 million Kenyan Facebook users may be the ones who bring about much-needed social change. Kenya's mobile penetration is nearly 90 per cent, which means a large proportion of the population has access to the Internet via smartphones.

Many campaigns, such as the one to switch off Kenya Power, the country's only electricity supplier, have been initiated using the social media platform, sometimes with positive results. Kenyan social media users have been credited with spearheading the campaign to release the Ugandan politician and musician Bobi Wine from detention. KOT have highlighted issues to do with corruption in government, exorbitant or illegal taxes, and incompetent county governments, among others. Such digital movements may still be urban-based and English-speaking, but they do point to a future where ordinary citizens are becoming more vocal and visible about what they want from their government - that is, if the government does not implement draconian laws to stop their voices from being heard (which it has tried to do through at least three laws, but which the courts have rejected on the grounds that they curtail freedom of expression guaranteed by the constitution).

Other environmental and community-led groups, such as those opposed to the building of a coal-powered plant in Lamu, and fact-checking "digital warriors" who monitor or counter false government propaganda or hate speech, are also emerging. Such individuals and groups no longer feel the need to be mediated by NGOs, which is a good thing as it could eventually lead to a groundswell of grassroots social justice movements across the country.

### **Note:**

Civil society organisations are generally defined as formal or informal groups that operate in the realm between the individual and the state, and include non-governmental organisations (NGOs), community-based groups, neighbourhood associations, trade unions, charities and faith-based organisations. For the purposes of this article, I have used the



term non-governmental organisations (NGOs), which are formal, registered entities that have a national public interest, developmental, social welfare or advocacy function, and which operate largely outside the state, and quite often, in opposition to it. I am not referring to networks, movements or associations that operate informally or outside the law, or which are deemed illegal by the state. Nor am I referring to community-based organisations (CBOs) whose activities are focused at the local community level.