



The Tribesman's Dread Of Fighting Corruption - A Kikuyu Conundrum

By John Githongo



Kenya's elite is founded primarily on corruption and conflict of interest. Some observers claim that this is not unusual at this stage of our development where the government is the largest business in town and all the significant private sector players must interact with it. The line between where the public ends and the private begins can at times become blurred, and so, for our elite, a serious anti-corruption drive is akin to suicide.

In Kenya, a sort of consensus has held sway among the elite since independence: during his tenure, the president's tribe "eats" more than the others while they await their turn. A similar informal arrangement holds in Nigeria where the presidency shifts from North to South, giving each amalgam of ethnic groups their turn to "eat" in this oil rich country that now has [more people living in poverty](#) than India. These informal arrangements often have greater currency than formal governance institutions. The police can arrest someone for an offence but ultimate punishment is entirely dependent on the complex and constantly shifting web of relationships that dictate who can steal, how much and for how long. The tribe "in power"—even if not in office—has the greatest access to economic opportunity and justice.

Millennial Hope

An important caveat at this point is that Kenya's millennial generation—particularly urbanites—has started to shake off some of these links. It is a slow process that is expressed primarily by that generation's rate of inter-tribal marriage, the highest since independence. They rage on social media against the incompetence and greed of all the previous generations that have left them to face the complexities of today's rapidly changing society, economy and politics without the benefit of preparation from wiser elders.

Throughout the 1990s, the most articulate and forceful opposition to President Moi's authoritarian and corrupt regime came from the Kikuyu and the Luo communities. The Kikuyu middle class in the church, civil society and the media was vocal and relentless against the "corrupt dictatorship of Daniel arap Moi". Unfortunately for Moi, the Cold War ended in 1991 and his Western allies dumped him almost as quickly as they dumped Mobutu Sese Seko in Zaire. The local pro-democracy energy dissipated immediately a Kikuyu, Mwai Kibaki, became President in 2002 and did not return with the election of Uhuru Kenyatta, another Kikuyu.

The President's ethnic mobilisation has been so thorough that even as the economy now flounders under the weight of Jubilee's graft and incompetence, well-off Kikuyus are nervously whispering "what next?" to each other as Uhuru serves out his final constitutionally mandated term.

The lengths to which educated, reasonably sensible people will go to rationalise the excesses of the current regime is astounding. A commonly touted narrative is that President Kenyatta's failure has been caused by a constitution that tied his hands behind his back and made it a nightmare for him to expeditiously solve Kenya's most pressing problems. This gobbledygook is self-reinforcing as people do all they can to convince themselves that the absurd is normal. This social reengineering has been accompanied by a retreat to the church; as the rationalisations fail to gain traction, they are rendered, through a variety of crusades and fellowships, by all manner of bishops, prophets, prelates, brothers and other holy men and women, into a realm where to question the absurd is to sin.

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I'm fairly certain that if a non-Kikuyu replaces Kenyatta, the Kikuyu middle class will be back starting NGOs, weaponising the media along tribal lines, establishing think-tanks and waxing eloquent on corruption, transparency, accountability and human rights. But this time, more than at any other since independence, the mood among the other communities will likely be cynical if not outright hostile.

Indeed, it was quickly clear that when Uhuru Kenyatta became president in 2013 he was sensitive to these powerful ethnic sentiments. While also working to preserve his family's legacy, Uhuru spoke often and persuasively about the evils of graft and what he intended to do about it. In an ethnically polarised contest it is dangerous for a tribal kingpin to relinquish power in the midst of an economic meltdown, political confusion and a fragmented elite and so, Kenyatta's anti-corruption drive now has three clear phases impelled in part by these realities.

The Age of Speeches and Plunder

In the first phase, between 2013 and 2014, the government's energies were concentrated on fighting off the International Criminal Court (ICC) and it was during this period that the most permissive environment for corruption in Kenya's history was created. (By the end of 2014 the ICC had been tackled to the ground.) This phase was also undergirded by the flaccid narrative that "the president is too rich already to need to steal any more". However, many of the most egregious scandals ostensibly being investigated today were cooked up then; the government went on a borrowing spree and public officials on a looting one. It was breathtaking—the Standard Gauge Railway, Eurobond and National Youth Service scandals will be the subject of academic scrutiny for many years to come. Ironically, this was also the period during which the president's penchant for eloquent articulation against corruption was at its peak; it was the age of speeches and plunder.

A False Start

During the second phase, 2015 to 2017, and with the ICC cases out of the way, President Kenyatta injected new vigour into the fight against corruption. For the Kenyatta family, the end of the ICC cases also presented an opportunity to disentangle themselves from the increasingly odious partnership with William Ruto and restore relations with the West unencumbered. But while Uhuru desired to burnish his image and keep some of the promises he'd made regarding governance and the fight against corruption, it wasn't clear how he would effect the grand shift short of physically exterminating his deputy. Still, relations with the West changed for the better and a number of investigative and development agencies from the United States, the United Kingdom, Switzerland and other Western nations threw their weight behind the change by providing resources and personnel on the ground.

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After his State of the Nation address in 2015, Kenyatta presented a "[list of shame](#)" to parliament, a lineup of senior officials who were under investigation by the Ethics and Anti-Corruption Commission (EACC). While it was a dramatic move and excellent fodder for the press, seasoned investigators were aghast that the head of state had essentially handed over to parliament—in which some of the very officials mentioned in the report sat—a list that was a work-in-progress, an operational report prepared by the EACC. The EACC's reputation has never really recovered from the effects of Uhuru's action and although some senior officials did "step aside to facilitate investigations", no successful prosecutions ever resulted from these investigations. Four months later, in a sign of the dramatic thawing of relations with the West, former President Obama visited Kenya and signed with Kenyatta a unique document of [cooperation](#) around the issue of corruption. In the meantime, the opposition was having a field day with all the scandals emanating from within the Jubilee government.

For some, the 2015 "list of shame" was the beginning of a determined weaponisation of the fight against corruption in Kenya, with the President's aides using it to take on the Deputy President in increasingly direct attacks while the two sides continued to smile politically for the cameras. These new efforts failed to capture the public imagination although the narrative that "William S. Ruto is Kenya's corruption problem" was touted with great conviction and energy by the president's allies. However, it quickly became clear that in matters of public accountability at the elite level, William Ruto wields veto power over many of the government's efforts in this area. By 2016, preparations for the 2017 general election were well underway and the anti-corruption drive was put on the back

burner.

The Legacy Crusade

Following the shambolic 2017 election process that saw Kenyatta and Ruto re-elected but dramatically delegitimised politically, the president changed tack. In this third phase, the war against corruption was reinvigorated and the targeting of the deputy president and his allies became far more vigorous. A multi-agency anti-corruption team headed by the Attorney General and reporting directly to the president was set up and critical new appointments were made, with Noordin Haji named to head the office of the Director of Public Prosecutions (DPP), while George Kinoti was put in charge of the Directorate of Criminal Investigations (DCI). The EACC seemed to have lost the president's favour after the "list of shame" blunder and the Attorney General, the head of the DPP and the DCI boss were now the energetic new anti-corruption triumvirate.

At the start of 2018 the President orchestrated a political peace treaty—dubbed the handshake—with his political arch-rival Raila Odinga. This consequential but not clearly articulated move had an immediate effect: it demobilised the opposition and brought another energetic ally on-board the Kenyatta family's attempts to redeem its legacy and deal with William Ruto. It split Jubilee down the middle, with those backing Kenyatta baptised *Kieleweke* and those behind Ruto nicknamed *Tanga Tanga*. The handshake, as well as other changes, reinvigorated Kenyatta's anti-corruption drive which was perceived to be many things at once: an effort to roll back the most corrupt regime in Kenya's history and redeem some sort of legacy from it for the Kenyatta family while simultaneously isolating William Ruto, constitutionally the best positioned to succeed Kenyatta in the approach to the 2022 elections. Ironically, precisely because the post-2013 looting had been so widespread and so politically "inclusive", by the beginning of this year, the president himself had in a sense become Kenya's Anti-Corruption Czar; he had to sit there giving the nod— "prosecute that one, leave out that name, go slow on this one, go after that one".

Liberal use was made of the media to "expose corruption scandals". No sooner did one associated with Ruto's *Tanga Tanga* camp hit the headlines—such as the Arror-Kimwarer dams scandal—than another associated with Kenyatta's *Kieleweke* faction would make the front pages—the Ministry of Health ICU equipment scandal comes to mind. I believe though that this strategy of the heavy use of the media backfired; the scandals spilled out onto the front pages faster than even the government of a developed country could have dealt with. And even with the best will in the world, the multi-agency anti-corruption taskforce lacks the capacity to deal conclusively with even just 10 per cent of the scandals presented to it. For many, this failure has ironically served to confirm suspicions that the entire exercise was nothing but a PR stunt that was from inception programmed to fail. The many massive scandals are now having macroeconomic consequences and have served to increase despondency and anger, particularly among the youth, and as the complaints have intensified, blame has been redirected at the Judiciary, with a vicious whispering campaign deployed against the Chief Justice in particular.

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Ultimately, it has become clear that the lack of a political strategy has undermined the little credibility the anti-corruption fight enjoyed amongst Kenyans. The police and prosecutors are busier than they've ever been but Kenyans don't seem to believe that the fight is serious. For Kenyatta's *Kieleweke* faction, as well as for Odinga, this also fostered the generally hostile response that their

handshake initiative—the Building Bridges report—elicited from the public; it was ultimately meant to be an instrument of legitimation and the engineering of a political succession but it has failed in this respect.

And so, even as the elite compete to “eat”, and no matter the ferocity of this competition, there is an unspoken understanding that they are all ultimately “eating” together. Elements of the elite will compete for particular deals, often using media exposés to claim corruption and the flouting of tendering rules, internal fallouts that are fodder for the media.

There is no distinction between personal commercial interests and the public interest in the conduct of national affairs and I believe this conflict-of-interest gene is deeply embedded in the Kenyatta family DNA. This is the reason why, despite all the hullabaloo about “not stopping the reggae” when bulldozers were knocking down illegally constructed properties in Nairobi, this captivating initiative died a quick death. The failure to distinguish between personal/political and national interests is now popularly referred to as “state capture”, where governance institutions are “repurposed” to serve these personalised interests. In Kenya’s case, however, “state capture” was built into the very design of Imperial British East Africa ((IBEA), the forerunner of what was to become Kenya; the entire political ecosystem is designed to serve the corrupt purposes of the elite.

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It is clear, given Jubilee’s approach since 2013, that managing the Kenyatta succession—fixing an increasingly broken economy, soothing our polarised politics in time for the next general election, dealing with corruption comprehensively enough that Kenyatta can walk into the sunset with something of a legacy—makes for too many governance balls in the air for even the best of political jugglers. Much as Kenyatta is an experienced and skilful political performer, some balls are definitely going to drop.

Interestingly, given the divisions that appeared within the Jubilee alliance almost from the beginning, Kenyatta has been forced to hand over political problems to bureaucrats. (He is most partial to securocrats and intelligence officers.) Moreover, although the BBI initiative emerged out of a handshake between two politicians, as the BBI team set about its work, it became clear that the bureaucrats were managing the process on a day-to-day basis—a reading of the BBI report leaves one with this impression. But the conundrum in our kind of system is that bureaucrats will first act to preserve themselves, especially after all the looting that has happened and which implicates almost every minister and cabinet secretary. As a senior politician explained it to me as he tried to enlighten me on all the infighting and scandals within Jubilee, “The most powerful bureaucrats are doing the scheming for the Kenyatta succession, but bureaucrats are like ticks on a cow’s back—they hang on for dear life even if the cow is nearing its end.”

(Additional research by Salma Mwangola)

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