



Where Is the BBI Headed?

By Ngala Chome



On January 3rd 2018, an [article](#) which I co-wrote with [April Zhu](#) was published on this platform. Its central premise: many years of political reform in Kenya have failed to muzzle dissent within the political establishment. Exactly three years later, Kandara Member of Parliament, Alice Wahome, seems to have [sounded](#) the alarm bells.

Rehearsing the message of her speech during the burial of Charles Rubia, a key figure in Kenya's struggle for democracy, she castigated Uhuru Kenyatta and Raila Odinga (she described Raila as Uhuru's new political mercenary for hire) as the "biggest existential threat to Kenya's declining economy and democracy". In short, Wahome was referring to the re-emergence in Kenya of a political culture of intolerance directed by the President himself. In fact, Wahome's statement, coming as it does at the beginning of the year, may set the tone for opposition politics in the run-up to the 2022 general-elections.

But it has also rekindled memories of a sermon by a young Dr Timothy Njoya at St. Andrews Church in Nairobi thirty years ago, which garnered publicity and uproar in equal measure. During that New Year's sermon, the young reverend remarked on the collapse of authoritarian regimes in Eastern Europe, and speculated about the return of multi-party politics in Kenya, a bold statement at the time. While his speculations would become a reality only two years later, he was immediately rebuked by politicians, all of whom were members of the ruling party, KANU—at the time the only political party in Kenya.

Njoya's sermon is on my mind as I watch the condemnations that Wahome is receiving for criticising the political establishment. In a political climate akin to the one in which Njoya voiced his remarks, I see the re-setting of a dangerous trend in Kenya, a re-setting whose origins can be traced back to the aftermath of the 2007-08 post-election violence, but which was re-energised by the March 2018 handshake between Uhuru and Raila.

Indeed, since the March 2018 settlement, Kenyans have become accustomed to an increasingly irritable and angry president. He demands, but is not able to command, unfettered loyalty. More often than not, he unleashes in public bitter diatribes in his mother tongue targeted at people who disagree, or poke holes in his leadership. He continues to be on the [defensive](#) regarding his under-performing and expensive mega-infrastructure projects.

The climate of intolerance that the president is creating is the public face of a deeper and much more insidious plan. It is part of a wider attempt at remarrying the forces that have preserved the political status-quo in Kenya since independence, and which the Building Bridges Initiative (BBI) process seems to be in the service of. The shouting down of Kipchumba Murkomen, the Senate Majority leader, during the launch of the BBI report at the Bomas of Kenya last November, and the recent jibes that have been thrown at Alice Wahome for criticising Uhuru, are quite revealing and instructive.

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In an insightful [piece](#) also published on this platform, Akoko Aketch contends that the BBI exercise is a crisis of how the long-standing beneficiaries of the political establishment—a distinctly Gikuyu elite—can reproduce their domination “after Uhuru Kenyatta’s disastrous economic record, and of how to avert the possibility of having a president who is hostile to this elite’s interests.” He submits that the “BBI is a revisionist project and a mock test of a political formula that has sabotaged Kenya’s democracy since independence.”

The recent [extension](#) of the term of the BBI task-force is, for instance, being perceived as a way of creating more time to introduce radical proposals, such as the creation of the position of an Executive Prime-Minister, a position that, as many have argued, Uhuru will be qualified to assume come the next general elections in 2022. This thinking is not entirely pedestrian. While Uhuru has himself stated that he is not interested in another term as president, the push to change the constitution, his public attitudes regarding opposition politics, and the ongoing re-centralisation of power by the central government (despite devolution), leave a lot of room for speculation.

One way in which the elite in Kenya has reproduced its power is by putting the blame for the country's woes squarely on the Kenyan public. In this script, underdevelopment and political violence is the work of Kenyans of poor judgement, political dissidents and their often-unemployed youthful followers, not the result of years of unaddressed injustices and skewed redistribution of power and resources. In fact, this line of thinking is one of the primary messages of the BBI report. Dr Wandia Njoya, in a [recent article](#) published on this platform, summarised the report as a “declaration of war by the political class against the people of Kenya”. In a painfully convoluted manner, the report, in its attempt to locate, or explain the lack of a national ethos, adopted a language that is not only recriminatory and accusatory, but is also regrettably informal.

Ten billion shillings later—as [rumour](#) has it—and more than twelve months after the BBI taskforce was appointed, the report that came out of the process was peppered with an embarrassing number

of typos and presented in cheap layout and low-quality typesetting. Seductive images of the nation's (supposedly egalitarian) past are constantly reproduced and projected, as a way of distracting from the realities of the impunity that has repeatedly been unleashed on the Kenyan public by the political class since the country gained independence in 1963. In a tragic misreading of how morality and communal responsibility actually works in Kenya, the BBI report went ahead to castigate Kenyans for "running away" from their culture, and for demanding rights, as opposed to responsibilities.

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This mind-set was alive and well during and after the 2013 elections, the first after the post-election violence of 2007-08. During those elections, which were haunted by the fear of a repeat of political violence, calls for peace intensified, and they immediately became disciplinary and forbidding. People were urged not to protest or question the electoral process. Even the media joined the peace bandwagon and began self-censoring.

In the end, the state regained its dominant position in directing political debate, and the political establishment precluded a potential assault on its privileged position. In fact, the only other time when fundamental reforms would have seen the light of day was during the protracted electoral process of 2017.

But if [recent](#) revelations by Dr David Ndi regarding events in the run-up to the March 2018 handshake are anything to go by, the critical part of the drama in 2017 took place off-stage, and the elections became a mere subplot. Seen in this manner, the détente between Uhuru and Raila was, in actual sense, a way of subverting fundamental transformation in Kenya and restoring the status-quo. The BBI, as Wahome has now warned, might be the "special purpose vehicle" for this mission.

The triumph of the system

While many people, including the adversaries of the BBI exercise, had expected that the report would make drastic recommendations that would fundamentally alter Kenya's political landscape, especially the pure presidential system, the ongoing proposals to create the position of a powerful (as opposed to a prefectural) Prime Minister do not offer much promise either. In fact, whether it is true or not that Uhuru plans to become Prime Minister in a post-2022 arrangement with Raila as President, any cursory analysis of how politics actually work in Kenya will reveal that power (even under a parliamentary system that is not undergirded by powerful decentralised units) will continue to be concentrated at the centre.

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All politics, power and influence will continue to revolve around the Executive branch, whose control will continue to be grounded in its ability to direct political and economic activity across the country. In fact, combined with the minimal proposals that the report has made to restructure elections, the political party from which the President and Prime Minister will come will continue to dominate all key positions in government, producing the same exclusionary effects of the winner-takes-all system that have ailed the country's politics since the return to multi-partyism in the 1990s.

As the year progresses, the BBI will prove itself to be an exercise that is merely aimed at

reproducing what David Throup and Charles Hornsby referred to as “the triumph of the system” in their seminal book, [Multi-Party Politics in Kenya](#). The first triumph was witnessed in the 1960s. Kenya, like many ex-British colonies, was bequeathed a Westminster-style parliamentary system of government when it became independent in 1963. The independence constitution also made provisions that took away power and significant functions of government from the centralised government in Nairobi, that is, a system of eight regional governments of equal status that was known in Swahili as *Majimbo*.

However, the parliamentary system through which Kenya became independent was dead by 1964. Kenya became a Republic and Jomo Kenyatta, Uhuru’s father, became its (unelected) first President. The *Majimbo* regional system, the next target, was abolished together with a post-independence Senate, at the same time as the first opposition party, the Kenya African Democratic Union (KADU), was folding itself, citing frustration from the Executive. By abolishing the Senate, the regional governments and the parliamentary system, the first post-colonial elite-pact of domination, or the first triumph of the system, had completed its mission.

As a result, the “Imperial Presidency” was born. From 1964 to 1992, the year multi-party politics resumed, the constitution had been amended over twenty times. The amendments served to empower the Executive branch of the government at the expense of Parliament and the Judiciary. At the height of this madness (in 1990), the office of the president (OP) included a staff of 43, 230, representing a ratio of 1 in 6 civil servants. The OP became a parallel government, with considerably [more executive power](#) than actual ministries. The instability that such a structure of government can introduce in a political system—where inequality and regional imbalances are rife, and where ethnicity is inexorably intertwined with how political representation and redistribution actually works—became clearer with the reintroduction of multi-party politics in 1992. Trust among the political elite became fickle, leading to the instrumentalisation of violence and ethnic identity in the political marketplace.

After many years of struggle for reforms, the structure of the “[bureaucratic-executive](#)” government, at the head of which was the President, survived with minimal alterations. The only significant structural change, many have argued, was the introduction of forty-seven devolved units. However, the mandate of county governments was significantly reduced compared to that which was allocated regional governments in the 1960s. Responsibility over land administration, education, mega-infrastructure and parastatals remained in the hands of the central government, and as such, under the direction of the presidency.

Raila Odinga, who had become the political champion of constitutional reform, especially the proposal to introduce a parliamentary system and strong devolution by 2007, gave up on these demands after the outcome of that year’s elections. At the Great Rift Valley Lodge in Naivasha, where the Parliamentary Select Committee made up of 14 Party of National Unity (PNU) members and 13 Orange Democratic Movement (ODM) members that had been selected to respond to the first harmonised draft that would become the 2010 constitution had met, people feared that the politicians would not find common ground, risking a return to conflict. Indeed, disagreement reigned but some deals were struck, of which the most important—which removed the blockage that threatened a deadlock in the discussions—was made by Raila and Uhuru (reportedly in a room at the lodge). The deal saw ODM let go of the parliamentary system altogether, in favour of the presidential system. In addition, Raila (who at the time was Prime Minister in a coalition arrangement with former President Mwai Kibaki) relaxed his demands for strong devolution, that is, a three-tier decentralised system of government in favour of the two-tier system that was favoured by PNU. As a result, the 2010 constitutional draft provided for a pure presidential system. Pure in the sense that, not only would cabinet ministers be appointed from outside of parliament, but losers of presidential elections, no matter how many votes they had garnered, would not be accorded any

public office. The draft also scrapped the regional tier of government, and fixed the number of parliamentary constituencies at 290. Nothing much changed after that.

County governments were quickly reduced by central government bureaucrats to units of administration and development, as opposed to political representation

During the parliamentary debate over the draft that took place in mid-2010, ODM MPs—notably James Orengo—continued to push for the regional governments. Raila had already hit the streets, campaigning for the draft. Orengo was left alone. The draft was eventually promulgated in August 2010, after winning the popular vote at a referendum. The powerful presidency—with slight alterations—triumphed.

Tunakula nyama: politics since 2013

County governments came into place after the 2013 general elections, but they were quickly reduced by central government bureaucrats to units of administration and development, as opposed to political representation. Feelings of exclusion and marginalisation, underpinned by unaddressed historical injustices, continued to exist, despite constitutional change. The pure presidential system that the 2010 constitution provided had worked to the disadvantage of Raila Odinga—who lost both the 2013 and 2017 elections to Uhuru.

Between the two elections, Raila held no public office, yet he continued to exercise personal influence over vast swathes of the country, where ODM, his party, had won considerable numbers of constituency and county seats. To the chagrin of many who felt unrepresented at the centre, Uhuru stated, rather arrogantly, that they—the government in power—were [eating](#) the *nyama choma* [roast meat] and that those who were in the political cold should be content only with the smell. A number of times, Raila would instigate programmes—most notably, the [Okoa Kenya](#) initiative—which, incidentally, were part of his attempts to change the 2010 constitution, but which, one could also argue, were part of his struggle to remain politically relevant.

Raila's strategy did not yield the expected results, but it had its uses. It proved that Raila was adept at combining his political fate with that of his supporters. In this way, the anger of Raila supporters that followed the announcement that he had lost the elections in 2013, and then again in 2017, could not be separated from the perception that they, also, had been excluded from the political process for many years. Following this logic, the feelings of exclusion felt by many of Raila's supporters after the 2017 elections could only be addressed if Raila himself were to become part of the Executive—very similar to the situation in 2007-08.

While it had become apparent, after the 2017 elections were concluded, that Raila was the biggest victim of a constitution that he had done much to support, his move to “shake hands” with Uhuru was more the result of defeat at challenging the political establishment over the years than it was an effort to usher in fundamental political reforms. What is more important to consider is that Raila's support of the current Presidential system in 2010 was also the result of an elite-pact with none other than Uhuru Kenyatta, his current partner in the BBI settlement nine years later.

These developments, where the political establishment that has been at the helm since the 1960s is seeking to maintain its hold on power and control, should concern Kenyans. Despite arguments to the contrary, much talk about the BBI will be about political positions, and as the current climate of political intolerance continues, fundamental questions regarding exclusion, injustice, and accountability will be glossed over, as has happened before.

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As the Building Bridges Initiative (BBI) comes to a close (the last town hall meeting is slated for July 28, 2019, in Nairobi County) the spotlight on the initiative has shifted to its mandate, and has been heightened up by a section of Kenyans who are already anticipating its probable outcome. This directed interest and anticipation of the process led to two widely circulated documents on social media on July 15, which the BBI team, led by its chairman, Senator Yusuf Haji, promptly denied. The documents, titled *BBI Technical Team Proposals* and *Proposed Changes to The Constitution* were declared “fake” by Senator Haji.

BBI was constituted after President Uhuru Kenyatta and Raila Odinga, his chief political opponent, shook hands on March 9, 2018. On May 24, 2018, BBI was gazetted and soon commenced its countrywide solicitations of public opinion.

Paul Mwangi, one of the joint secretaries to BBI (the other one is Ambassador Martin Kimani), in an [interview conducted by *The Elephant*](#), said that the BBI team was shocked to see the documents, purportedly authored by BBI, being posted on the Internet. “We were surprised to see these documents. Like everyone else, the team saw them for the first time on social media. It is to be expected that as we conclude our town hall county meetings, interest in BBI’s work has risen in all quarters of the Kenyan society,” said Mwangi. “BBI hopes to wrap up its county participation on or around August 9 and, therefore, any report purporting to second-guess the committee’s work that is not from the BBI’s team is to be disregarded.”

The initiative’s terms of reference were extended to October from May, 2019, after it fell behind its schedule. Once through with the Nairobi meeting, Mwangi said the team will immediately start compiling the deliberations with the help of a team of researchers, each of whom has been assigned the nine thematic areas: corruption, ethnic antagonism and competition, devolution, divisive elections, inclusivity, lack of national ethos, safety and security, shared prosperity, responsibilities and rights. “We should be done by October 24,” he said.

I asked Mwangi whether a referendum was one of the issues that the BBI deliberated upon, to which he quickly retorted, “I don’t wish to preempt anything at this time of the process. BBI will suggest solutions and it’s these solutions that will determine whether there will be a referendum or not.”

But an inside source, who cannot be named because he is officially not authorised to speak on behalf of BBI, said: “The issue of a referendum is a foregone conclusion – the question is not if, but when the referendum will be held. That is the climax of the process.”

The source said the town hall meetings have been a process of setting the ground for an eventual referendum. “We will not go to the next general election without a constitutional change, that is why the issue of a referendum has gripped the nation, and you can see that is what currently is preoccupying Kenyans.”

The source told me Ekuru Aukot’s referendum efforts are meant to be a distraction to BBI’s own referendum project: “Whoever is funding him wants to steal the thunder from BBI, dilute and make nonsense of the BBI’s forthcoming referendum.”

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The people behind Aukot’s referendum hope to argue “why have another referendum and there is already one at hand that is actually addressing the fundamental issues in the constitution that are troubling Kenyans?” observed the source. Nicknamed *Punguza Mzigo* (reduce the load) one of the biggest issues that the Aukot’s referendum wants to deal with is the issue of “over-representation”, hence, a need to reduce some of the political seats, such as MPs’ seats. Aukot is the party leader of The Third Way Alliance Party.

“Were Ekuru’s referendum to be held, he would only need the consent of 24 counties, as per the 2010 constitution. He would then take his finding to Parliament, which as currently constituted, is

presumably controlled by Deputy President William Ruto's supporters in the Jubilee Party," said the source. "Although Aukot's referendum issues sound right and would easily resonate with a majority of Kenyans, the proposed constitutional changes he is seeking are meant to blind Kenyans, that indeed he cares about their plight. Truth be said, those changes would be difficult to implement and in any case, they would not be implemented immediately."

As a pointer to the coming BBI referendum, Senator James Orengo, Ugunja MP Opiyo Wandayi, Alego Usonga MP Samwel Atandi and Rarieda MP Otiende Amollo, faulted the Punguza Mzigo initiative and counselled the Third Way Alliance party boss to be patient and wait for BBI, which, ostensibly according to them, will deal with all the issues pertaining to Kenyans.

Said Orengo on July 21: "We are waiting for the BBI report that has all the issues of the people. The questions in Aukot's proposal have not undergone stakeholders consultations, let's wait for October when we will have the BBI report and thereafter a referendum that will decide on the fate of Kenyans."

Succession politics

Since 1992, when the country returned to multiparty elections, no presidential succession has not been preceded by a constitutional change, said my source. "That is why the elephant in the living room of the BBI's unproclaimed core mission has been the referendum. A chronological understanding of the succession politics since 1992 to date should therefore locate the real reason behind BBI's formation, its real agenda, bearing in mind the 2022 succession political perspective and its dynamics."

Responding to Western countries' pressure to liberalise the monolithic Kanu party politics, President Daniel arap Moi, in December 1991, orchestrated a political process that culminated in the removal of Section 2A of the old constitution that made Kenya a *de jure* single party system. And although the amendment to the constitution did not immediately transform the country into a democratic polity, it allowed for the introduction of pluralistic politics. That is how FORD, before it split into two (Ford-Asili and Ford Kenya), the Democratic Party of Kenya (DP) and the Kenya Social Congress (KSC), led by firebrand politician and ex-detainee, George Anyona, came into being. So, for the first time since independence, opposition parties were allowed to participate in the December 29, 1992 general election.

Faced with another election in five years, President Moi was again confronted with demands to expand the scope of the political space, as well as to institute constitutional and legal changes. Between 1992 and 1997, there were continuous demands from the opposition and civil society organisations to effect these changes, especially to level the tilted playing field. President Moi ignored these demands until a few months before the December 29, 1997 general election. Principally, to ease off the pressure that had been building and that had threatened to forestall the elections through a boycott under the clarion call of "no reforms, no elections", he acquiesced to some minimum reforms.

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Inevitably, the question in 1997, as the country prepared for its second multiparty elections. was: Should we go to the elections with or without reforms? As the political temperatures gradually

soared, it became imperative that the country needed some facilitative reforms.

The formation of the Inter-Parties Parliamentary Group (IPPG) allowed President Moi some breathing space, and afforded the opposition some minimum reforms to go to the elections with. Just a month before the election, in November, through the IPPG, a number of constitutional, legal and administrative changes were adopted. They included enlarging the Electoral Commission of Kenya (ECK) to accommodate representatives from the opposition, repealing the Public Order Act (which President Moi used to harass and scuttle the oppositions' rallies), and allowing the registration of new political parties. At that time, the Safina Party, led by Paul Muite, was registered and more fundamentally, the Kenya Broadcasting Corporation (KBC) Act was amended to allow for more equal air time for all political parties.

Aware that the facilitative reforms had allowed President Moi to hold a largely incident-free election in which once again he trounced his opponents, civil society, led by the National Convention Executive Committee (NCEC) - which was at the forefront of demands for a new constitution, and which was opposed to piecemeal constitutional reforms - was unrelenting in its push for a new constitution. The issue of a new constitution, just like the facilitative reforms, was one that President Moi did not want to deal with and therefore kept postponing the matter.

By the late 1990s, when faced with an election that he would not participate directly in as a presidential candidate since being elected in 1978 after the death of President Jomo Kenyatta, President Moi had already started planning his exit and successor. A new constitution did not feature in his plans because his hand-picked successor, Uhuru Kenyatta, went into the elections under the old constitution, fraught as it was with risks.

To deflect the NCEC's pressure and refusing to cave in to demands for a new constitution, President Moi suspended Parliament on October 25, 2002, and announced an election timetable, all in the name of forestalling *Katiba Tuitakayo*, a proposed new constitution model by NCEC. Under the old constitution, the President was bestowed with the powers to dissolve Parliament and call elections at his pleasure, and once Parliament was dissolved, a general election had to take place within 90 days.

On November 4, 1999, at a press conference, the NCEC spokesperson Prof Kivutha Kibwana pointed out that, "Kanu has demonstrated that it is unwilling and therefore incapable of ushering in constitutional and democratic change in Kenya."

The general election was held on December 27, 2002, and President Moi's project - the candidature of Uhuru Kenyatta running on a Kanu ticket - was defeated by Mwai Kibaki, formerly of the Democratic Party, but then running under the banner of the National Rainbow Coalition (Narc). The first thing that President Kibaki promised when he was sworn in at Uhuru Park on December 31, 2002 was a new constitution within a 100 days.

To fulfil his promise, Kibaki supported the continuation of the work of the Constitution of Kenya Review Commission (CKRC), which had been constituted in November 2000 by a legal framework for reviewing the constitution. CKRC was headed by the renowned constitutional lawyer, Prof Yash Pal Ghai. After their lengthy deliberations at the Bomas of Kenya, CKRC, came up with a new draft constitution. The draft included a raft of constitutional proposals, such as a parliamentary system of government with 14 regions, and a hybrid presidential system with more or less ceremonial powers but with co-shared executive powers between the president and a prime minister. It was an experiment that borrowed from both the British (parliamentary) and the American (presidential) systems.

"But instead of presenting the Bomas Draft to Kenyans, President Kibaki gave them a 'skunk' in the

name of the Wako Draft,” said the source. “Amos Wako was the then Attorney General and instead of giving Kenyans the draft constitution that they had helped to come up with, he bastardised the Bomas Draft and edited the old constitution to cheat Kenyans that that was the new constitution that they had debated upon.”

This Wako Draft was the basis of the Orange vs Banana referendum in 2005. The Orange proponents opposed the draft, while the Banana supporters proposed the implementation of the draft. “The outcome of that referendum had not been difficult to predict,” said the source. “Clearly, what was being presented to Kenyans was not what they had proposed to CKRC and which had been adopted at Bomas of Kenya through the National Constitutional Conference (NCC).”

The Wako Draft was rejected by a majority of Kenyans and thereafter, President Kibaki fired all his cabinet ministers. Those who were aligned to the No (Orange) movement did not return to government. “Constitutional experts have always argued that it was at this point that President Kibaki ought to have resigned from government because the referendum had essentially passed a vote of no confidence in his government,” said the source.

The critics of the Bomas Draft, mainly technical people and some political elites, argued that the draft was a mongrel kind of constitution that failed to locate state power and therefore was not bold enough to differentiate between the president and the prime minister, who wielded real power. The critics pointed out that in a politically fragile country like Kenya, this was a risky venture.

“After the government was defeated in the referendum, electioneering went into high gear and that is when the Orange Democratic Party (ODM) was formed by Raila after he was sacked as a cabinet minister,” the source said. “The electorate was being prepped to go into the 2007 election without a new constitution and clearly this was a harbinger of things to come...the ominous signs were there...as sure as night follows day, there was going to be violence.”

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After the devastating election of December 2007, after which violence indeed erupted, especially in the North Rift, the country was taken back to pre-2002 scenario: the country needed to have a new constitution if it was to hold the next general election in five years time.

In 2008, Ekuru Aukot became the chief executive officer (CEO) and secretary of the Committee of Experts (CoE) that was mandated to look afresh into the matter of processing a new constitution. Nzamba Kitonga became the CoE’s chair. The CoE members included, among others, the current Supreme Court of Kenya judge Njoki Ndungú, Otiende Amollo, currently the MP for Rarieda, Atsango Chesoni, Prof Frederick Ssempebwa, a Ugandan, Chaloka Beyani, a Zambian, and Prof Christina Murrey from South Africa.

“The CoE came up with the Draft Proposed Constitution of Kenya, which it rolled out for people’s comments and opinions just like BBI is doing, only that its methods were different,” said the source. It printed the Draft in thousands, placed it as inserts in the mainstream newspapers, uploaded it online and also printed booklets which were distributed to the populace.”

After reviewing the Draft as the law required, the CoE passed the document to the Parliamentary Select Committee (PSC) on constitutional review chaired by Abdikadir Mohamed. The PSC meeting held in Naivasha made a significant change: it removed the hybrid system and replaced it with a purely presidential system, the one that Kenya has now.

The PSC Draft is what was published by Wako - "and as the law required of him, he was not to tamper with the draft, as he had done in 2005 with the Bomas Draft. The Draft was taken to Parliament as is and it was passed as a consensus document."

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"With the foregoing, it is obvious that Kenya must have, at the very least, constitutional changes, if it is to face the 2022 general election" said the source. "After the 2017 general election, in which for the first time in the history of legal jurisprudence, a presidential election win was revoked by the judiciary, to be followed by a fresh presidential election, the country for a while seemed to teeter on the precipice."

"It looks like the political elite logic has always been to play the election game of holding elections every five years, while all they do is tweak the constitution to create the impression that we have dealt with real constitutional changes. All this in the name of perpetuating themselves, putting the opposition in its place and ensuring there is no tumultuous revolt," said the source.

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It finally docked on our shores, the shores of the Nam Lolwe, on the 6th of June 2019. Unlike the old steamer, MV Alestes, it blew no loud horn to announce its arrival at the port of Kisumu to tell all within the vicinity to steer clear of the waterway and berth. Rather, it glided smoothly into Kisumu City at the end of a financial year, when government departments hurry to close the books. It crept up on the residents of the city, stealthily like a crocodile. The 35th of the expected 47 Building Bridges Initiative (BBI) “public consultation” meetings was upon us.

“I got a call from the County Commissioners about a month ago. Something like this cannot be done through an open invitation. The whole of Kisumu would have been here,” said a young man with a chuckle, his face beaming with mischief, the smirk of someone proud of his high connections and who had been let into a well-kept *siri-kali*. We were queuing for tea and snacks at the Acacia hotel, Kisumu’s high-end hotel where the BBI commissioners were holding a “consultation” meeting on how to build a new Kenya.

I, too, would have missed the meeting, had I not seen in good time a WhatsApp message from a friend who’s a Kisumu government insider. The message had been sent in the wee hours of the morning that Thursday. In keeping with the rising personality cults of Kenya’s county governors, and their penchant for frivolous publicity, the e-invitation card I got bore Professor Anyang’ Nyong’o’s picture, smiling, donning a white shirt and a red necktie, and holding a jacket flung over his left shoulder, held tenderly by his index finger. *Warwakou duto!* (All are welcome!), said the e-card.

As we sat down for tea and snacks, a clergyman wearing a white flowing robe and a red scalp cap (signifying his high position in the one of the many African-instituted Christian churches in Western Kenya) said, “I wouldn’t have known who sent me the money. I got an M-Pesa transfer of 2,028 shillings from a Samuel Otieno but I couldn’t tell who that is until the lady spoke.”

That lady he was referring to was an amiable and handsome woman dressed in a white, loose-fitting linen suit who had spoken towards the end of the meeting, shortly before the closing prayer – the ubiquitous Christian prayer that has become mandatory at public events, which always reminds one that many Kenyans, especially state and public officers, are yet to come to terms with the 2010 Constitution of Kenya, even with the shortest of its articles, Article 8, that states that “there shall be no State religion”. She told the officially invited participants that “if you check your phones, M-pesa

imeingia [the Sh2000 transport refund] plus Sh28 ya kuitoa. Usikuje kama ulikua na Fuliza, the money has been chewed."

The BBI task force is run like a tight deep state ship. But there is nothing transparent or charming about its process of public consultations. Unlike the recent commissions, whose meetings and deliberations were widely publicised, the BBI meetings are carefully and secretly organised, and their deliberations are hardly made public through the radio or the daily newspapers.

BBI has neither a known physical address nor a web page. Nor an expressly parliament-sanctioned legal existence and a budget line. It has an email address only. It works mostly as a sad reminder that despite its enormous constitutional powers, the Kenyan Parliament is yet to exercise effective control over the Office of the President, especially over the conduct of the provincial administration in midwifing political transitions such as the BBI and its latest women-only "popular movement" wing, Team Embrace.

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Although the activities of the BBI have largely escaped or studiously evaded public scrutiny, the Kisumu event gives us a glimpse into how it works. Its consultative forum was surreal. It had a creepy feeling of an odd combination of a typical District Commissioner-organised public holiday event - with all its attendant display of anxieties over the security of the VIP and crowd control - and a typical NGO seminar at a five-star hotel, but with neither the benefits of a skilled moderator nor an appropriate teaching methodology of getting the best out of the competing and conflicting views of the representative of the various groups present at the meeting.

It was an eerily odd public event. Like a typical District or Provincial Commissioner-organised event, it drew in government officials and civil servants, including the starched khaki, big silver button, crimson red epaulets, and stick-wielding types, such as high-ranking police officers and provincial administrators, who patrolled the corridors of the hotel. While the presence of baton-wielding Administration Police officers at an open-field public event, in jungle-green camouflage uniforms, standing strategically in front of a crowd of spectators, and policing the imaginary wall between the seated and sheltered elite and the sweating crowd conveyed a sense of security and control, the conspicuous presence of the AP officers armed with the G-3 rifles or AK-47 rifles sent a chill down one's spine. It evoked anxiety and fear rather than security and safety, which were amplified by the antics of an order-obsessed deputy county commander who wore a chocolate brown suit and stood like a sentry at the entrance of the second door to the conference room, alternately keeping an eye on the goings-on along the corridor and in the conference room.

Although the activities of the BBI have largely escaped or studiously evaded public scrutiny, the Kisumu event gives us a glimpse into how it works. Its consultative forum was surreal. It had a creepy feeling of an odd combination of a typical District Commissioner-organised public holiday event...and a typical NGO seminar at a five-star hotel...

Unlike a typical NGO forum, there were has no hand-written sign up sheets; the organisers simply ticked off the names of the participants on a printed list of invited participants, each sheet bearing the names of only the invited participants from each of the sub-counties of Kisumu County. Luckily,

the uninvited (those not vetted by the Provincial Administration) could also walk into the meeting and listen to the proceeding, without signing up.

But like a typical NGO or government event, the meeting was adorned with big banners, which, despite promising dialogue or debate, served more to mark the boundary between the powerful commissioners' high table and the jam-packed seminar room than to remind the commissioners of their vision and mission. Pleasantly, a female Kenyan sign language interpreter was hard at work, diligently translating the proceedings of the meeting.

The commissioners took turns to frame the problem, to ask questions, and to offer solutions and ways-forward, slicing up their audience into several categories: geographical, generational, gender, political, minority, and disability, soliciting from each participant, a solution for the evils bedeviling Kenya but barely giving the participants a chance to compose their thoughts or debate many contentious views vying for attention.

Nearly all the participants - except the governor, a Member of Parliament (Oduma Awour) and a former Member of Parliament (Prof Ayiecho Olweny) - were given less than three minutes to talk about items on the 9-item agenda, which prompted Father Samuel of the Catholic Peace and Justice Commission to say, "If the we want BBI to succeed, we need to allow people to freely express themselves, not shut down." But the Commission did not heed to his plea. "We know what has happened, we need the solution. This is not the right forum for venting," Prof. Oloo Adams responded curtly.

Except for Dr Florence Omosa's very brief experiment with the Socratic approach, which questioned, teased out the inconsistencies and tested the appropriateness of a solutions offered by the participants, most of the commissioners found a ready-made formula for the classification of problems bedeviling Kenya by categorising them into neat labels: gender, age, geography, and social exclusion (including disability). Their idea of "participation" was to have a member from each category speak about their issues, as if the problem facing them was defined purely by their gender, age, geographical location, or level of social exclusion. Diversity, when in the hands of the securocrats and the commissioners, was reduced to a convenient tool of bureaucracy, generating more controversies than debate.

In a welcome break with the previous briskly sessions, Dr Omosa intoned politely and firmly, "Why do we fight during elections? We don't trust each other, what should we do so that life goes on? What must happen so that we don't have so many baby Pensos? Give me specific recommendations."

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Not satisfied with the quick, not-well-thought-out responses, Dr Omosa observed, "I know, it's not meant to be a dialogue, but I must ask you, how can the elders be the solution [to divisive elections], yet they champion exclusive ethnic leadership?" She was responding to a participant's suggestion that a greater role for community elders in the management of elections is the solution to the tensions Kenyans experience in general elections. "Disband the IEBC [Independent Electoral and Boundaries Commission]," opined another participant.

Instead of a facilitating dialogue and debate, the meeting became a forum for contentious hard line views: "Kenya should go for a parliamentary system of government," said one participant. "The constitution of Kenya has turned Kenya into a killing field," asserted another. "Bring back the death

sentence; let the murderers be locked without bail.” “Arrest and lock up the corrupt without bail,” Prof. Ayiecho Olweny, a former Member of Parliament, pleaded passionately. “We want “Luo kit gi Timbegi” brought back to in our curriculum,” said one participant. “Send the children back home to learn Dholuo,” said another. Ms Grace Jowi Jobita from Muhoroni, paraphrasing the Bible, stated, “If it is your eye that’s causing you a problem, my first recommendation is, let them be castrated, second, let them be castrated, and third, let them be castrated.”

There was also a call to “review the social ethics and education curriculum” in order to address the dearth of ethics among Kenyan youth and the rising cases of violence against women, including rampant cases of rape and defilement. “Amend the Chief’s Act. Our society is yearning for the past order, and is uncomfortable with the recent changes,” said retired Paramount Chief Paul Odero.

Mr Mathews Owili, the Kisumu County’s deputy governor, concurred with Prof Anyang’ Nyong’o that Kenya needs a parliamentary system of government, but also asked, “If the Prime Minister can be compelled by law to form a government that reflects the face of Kenya, can the Prime Minister be compelled to treat all Kenyans as equals?”

Struck by the repeated demands for more laws that would ensure diversity in public appointments, especially at the top levels of Kenya’s state power, Senator Amos Wako, the former long-serving Attorney General, pointed out, “The law already provides for that...the constitution makes reference to the face of Kenya in more than 22 Articles. What I want is, how can we ensure that the law, the constitution is respected by whomever?”

“The problem may not be Chapter Six [on leadership and integrity], but the law to enable, enforce the chapter. Perhaps the law enacted to enable this chapter does not reflect the letter and the spirit of the constitution of Kenya, 2010,” added Senator Wako.

However, BBI commissioners stuck to their nine-point agenda, briskly running through each item on their tick-off list, even when the more discerning participants, such as Senator Amos Wako, sensed that the problem might not be more laws, as some were suggesting, but a more complicated political process i.e. the lack of good laws and constitutionalism.

Anxious that this meeting might not yield much, Sheikh Masoud pointed out that “*Kikao bila matunda ni ufisadi*,” cautioning both the commissioners and the participants at the meeting that if the BBI initiative, like past initiatives such as the Truth Justice and Reconciliation Commission (TJRC), yields nothing, then the participants at BBI public consultation meetings would be complicit in yet another act of corruption.

The TJRC report is silent on or whitewashes some critical aspects of Kenya’s evil past. For example, Volume 11 of the TJRC report airbrushes the 1969 Kisumu massacre out of Kenya’s register of post-independence political massacres. The BBI too looks like yet another lost opportunity to revisit Kenya’s evil past and exorcise the ghosts that haunt Kenya’s post-independence politics.

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The BBI’s is a lost cause because it embodies the worst carry-overs from the undemocratic provincial administration’s coercive and manipulative tendencies while pretending to promote progressive and inclusive practices. The BBI seems yet another lost opportunity because the elite have set its course,

and are championing narrow, selfish and convenient political causes that hardly go deep enough into the roots of the knotty questions of justice many Kenyans yearn for, and which were not given a fair hearing at the Kisumu forum.

Boniface Akach, a Kondele-based front-line human rights activist, who only learnt of the BBI meeting accidentally while attending a “solidarity” meeting at the same hotel, wrote the following on his Facebook account: “The on-going public participation exercise by BBI is a mockery, a waste of public resources and a rubber-stamping exercise. How can such a public exercise be taken to the Acacia Hotel, a five-star rated hotel, despite other more conducive and accessible spaces being available? The invite-only event is so restricted, with NIS and Police all over. The mobilisation across sub-counties is so well designed apart from Kisumu Central (wajuaji). Mobilisation was strictly done by the Kisumu County Commissioner. But we are not surprised, we all know that the aim the referendum is meant to settle scores as it creates opportunity for recycled, rejected political friends.”

Perhaps, as Akach points out, the perfunctory public consultation meetings, like the one held in Kisumu County, are merely an alibi for a pre-determined political course and cause. In Kisumu, there was a clear divide between the demands made by the ODM elite, on the one hand, and popular demands by the people of Kisumu County, on the other.

According to Kisumu County Governor Prof. Anyang’ Nyong’o and the ODM branch leaders, what’s at stake is a referendum to turn Kenya into a proper parliamentary system of government. However, to others, it’s the unfinished business of political violence and justice for the victims of political violence.

“We want inclusivity in compensation. We lost lives in 2007 and again in 2017. Some people were compensated, but not people from this region. We need inclusive compensation for people like baby Pendo,” said Victor Nyasaya. A representative of the National IDP network also expressed a similar concern. “The 2007 IDPs in Kisumu were paid only three thousand shillings, unlike those from Nakuru who were paid ten thousand shillings,” he lamented.

In many ways, the BBI “consultation” made a mockery of the constitution-sanctioned idea of public participation, a realisation that was not lost on many of the participants attending the Kisumu forum. It was a charade. Melania Jackie, representing the youth, lamented, “We were not involved in the process of formulating public policies. Not the Universal Health Care, not the Huduma Number, we were only given deadlines. No civic education. We don’t have a youth on the BBI high table, even a token of representation.

“Na tuna ambiwa hii sio baraza,” Michelle Otieno lamented on Facebook, adding that “the BBI team ought to have held the meeting in Kondele and not Acacia hotel. We lost lives in Kondele, Nyalenda, Manyatta, and not Acacia.”

In many ways, the BBI “consultation” made a mockery of the constitution-sanctioned idea of public participation, a realisation that was not lost on many of the participants attending the Kisumu forum.

Orengo Ben Wamaya, who represented Bunge la Mwananchi at the meeting, thundered, “Public participation is never done in a five-star hotel.”

If the TJRC report offers the residents of Kisumu an official amnesia for the 1969 massacre in exchange for the recognition of the years of economic marginalisation which followed it, then what

will the BBI report yield? Will it offer restorative justice or compensations for lost life, limb and property to the recent victims of political violence? Who will foot the bill? The perpetrators and the principal beneficiaries of political violence now occupying high offices or the Kenyan taxpayers yet again? Will it be sufficient and equitable? Will there be yet another opportunity for a trade-off between some measures of restorative justice and political support for a new political coalition, like the Uhuruto 2013 bargain? Will it offer retributive justice? Will it recommend memorialisation of the victims of past political evils or yet again endorse a tacit collective amnesia and unofficial amnesty for the perpetrators and principal beneficiaries of the past political evils?

Who decides?

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Where Is the BBI Headed?

By Ngala Chome

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BBI Team Busy At Work...

July 04 2019 GDO



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Where Is the BBI Headed?

By Ngala Chome



A year ago this month, an unexpected political commotion jolted unsuspecting Kenyans who were still reeling from the effects of two presidential elections that had taken place in a space of just 79 days. These elections had openly split the country into ethnic fault lines that were now threatening to plunge the country into an abyss of anarchy and civil strife.

The 9 March 2018 “handshake” between President Uhuru Kenyatta and opposition leader Raila Odinga – pejoratively referred to as “the handcheque” by cynics and Raila’s former front line and hard core supporters, who see the détente between the president and his main rival as the ultimate betrayal – took place against a backdrop of four months of palpable ethnic rivalry and tension that had been simmering since the 26 October 2017 presidential poll, in which Uhuru had essentially run against himself.

When he was sworn in on 28 November 2017, it was evident that President Uhuru did not seem to savour his presidential victory: In the first general election of 8 August, half of the total registered voters of 19.6 million people who cast their votes had voted against him, even as claims of rigging by

the opposition outfit, the National Super Alliance (NASA) were rife. On 1 September, the Supreme Court of Kenya overruled the Jubilee Party win, and sued for a fresh presidential election in 60 days – a decision that to date rankles and startles President Uhuru, said a Jubilee Party MP from Central Kenya.

“In a country where the judiciary has always been malleable and at the beck and call of the executive since 1963, it was unheard of that a court would dare rule against the president’s wish,” observed the MP. “It had never happened, hence Uhuru was secure in the knowledge that the court wouldn’t ever dream of ruling against him, just like it hadn’t in 2013. And because African presidents don’t lose elections, at least not through the courts, he did not expect to lose his.”

So, when the Supreme Court ruled in favour of a repeat election, Uhuru Kenyatta hit the roof and swore against the court’s judges, threatening to “revisit the issue”.

In the repeat October election, Uhuru Kenyatta garnered far less votes than in the August election. Seven and half million people supposedly voted, a figure the MP, now with the knowledge of hindsight, told me was cooked. A majority of Raila’s supporters had boycotted the October election and apathy, fatigue and a don’t-care attitude among Uhuru’s support base ensured that the October election was even less credible than the August one.

The question that has been boggling many Kenyans minds is: What exactly led to President Uhuru Kenyatta and Raila Odinga, two of the bitterest of political rivals, who had left nothing to chance – as one fought to keep the coveted seat of the presidency to himself, while the other hoped to snatch it from the incumbent – to suddenly make peace? Was this a spontaneous reaction of two leaders who had suddenly been imbued with desire to save their country, which was on the verge of ethnic and geographical fragmentation?

The politics of handshakes is not exactly a new phenomenon in Kenya, so this was not a first. Ten years ago, almost to the month, on 28 February 2008, President Mwai Kibaki and his chief political nemesis, Raila Odinga, shook hands on the steps of Harambee House to the great relief of many Kenyans. The 2008 handshake had been occasioned by a hotly disputed presidential vote between Kibaki and Raila, which had driven the country on the precipice of ethnic warfare that had flared in the Rift Valley and in several other parts of the country.

The question that has been boggling many Kenyans minds is: What exactly led to President Uhuru Kenyatta and Raila Odinga...to suddenly make peace? Was this a spontaneous reaction of two leaders who had suddenly been imbued with an undying desire to save their country, which was on the verge of ethnic and geographical fragmentation?

The truce between Kibaki and Raila was a negotiated peace settlement: both politicians had been encouraged by the chief negotiator, Kofi Annan, and his team to form their own respective negotiators, who then for weeks discussed the modalities of how they would accommodate each other in a government of national unity. And so it came to pass that a government of national unity with Raila Odinga as a non-executive Prime Minister was formed. The process was transparent and Kenyans were kept abreast of the proceeding by the media.

The economic boycott and demands for secession

Fast forward to March 2018. The handshake between President Uhuru and Raila is mired in mystery and subterfuge. Days after the handshake on the steps of Harambee House, a working committee

was formed on 24 March to cement the newly found rapprochement, thenceforth referred to as the Building the Bridges to Unity Advisory Task Force, also known as the Building Bridges Initiative (BBI).

The alleged behind-the-scenes secret talks, political manoeuvres and familial visits soon after Uhuru assumed his second term are as intriguing and interesting as they are revealing. Through wide-ranging interviews conducted through President Uhuru Kenyatta's intermediaries, Raila's close confidantes, Deputy President William Ruto's associates and bosom buddies, Central Kenya and North Rift Jubilee MPs and through my own investigations, I culled an array of information that suggested a presidency in crisis, trapped in a paradoxical pyrrhic victory and a withering state. Then there was a defeated opposition leader who for the very first time in his political career was caught between the devil and the deep blue sea, and was faced with the devil's alternative of either quitting politics altogether or re-engineering his ebbing political career. Add to this scenario a scheming deputy president who had already trained his guns on 2022 no sooner had his Jubilee Party won the presidential elections.

Looking back to one year ago, it is as if the clock was ticking and time was not on all of the three protagonists' side. As one of Raila's aides said to me: "Raila had come to the late realisation that he would never win the presidential elections as long as the Kikuyus were counting the votes. True, he would force them to spend billions of shillings, but that was just about it. It was about time he recalibrated his political career if he intended to keep it going."

"Nothing had scared President Uhuru like the NASA's economic boycott programme and secession talk," confided one of the president's friends. Like the Americans would say, Uhuru and his family were "scared shitless" of these two ideas. After opting out of the 26 October fresh presidential election, Raila and his team had come up with a raft of options that were meant to force President Uhuru and his Jubilee Party mandarins to listen to NASA. NASA supporters' boycott of products made by certain companies associated with the Jubilee Party and resurgent demands for secession by some opposition politicians, particularly at the coast, threatened to tear the country apart - literally.

The most potentially lethal of NASA's projects was the economic boycott, in which Kenyans of oppositional goodwill were asked to keep away from the Kenyatta family's businesses and any companies that were either associated with them, or had, in one way or another, presumed to have abetted President Uhuru's contested win. So, in addition to the family's large business empire, Safaricom, the largest mobile network company in this part of the world, was on NASA's radar of companies whose products were to be avoided. The second tier to the economic boycott was a proposal, through the creation of county assemblies in opposition strongholds, for people to decide, whether indeed they wanted to be part of Kenya.

The family business

The biggest Kenyatta family business visible on a daily basis in Kenyan homes is the Brookside Dairy Company. Plutocrats, as well as mainly urban proletariats, use one or more of the several milk products sold under the Brookside label.

Milky tea is consumed widely in Kenyan homes. Drinking a cup of tea is a habit so ingrained in Kenyans' psyche that it has become second nature for Kenyan families to round off their supper with a steaming cup of tea. It is a habit they picked from the British colonialists, who encouraged tea growing as a cash crop.

With the onset of the boycott, Brookside, a market leader in processed milk, suddenly suffered a

steep slump, so much so that Christina Pratt, President Uhuru's sister, took to visiting various supermarkets, especially in Nairobi, to gauge the daily sales of Brookside products. (I confirmed this in December 2017 when I also did my own survey to measure to what extent the boycott was biting. The French consortium, Danone, had in 2014 acquired a 40 per cent stake in the milk conglomerate through the holding company Brookside Africa Holding Ltd, while Abraaj Group, the Dubai-based private equity firm, had staked a 10 per cent ownership in 2009. Danone is supposed to push Brookside products abroad, hence globalising the Kenyatta family's business and leveraging its merchandise in a world of cut-throat competition.

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"The boycott was a dangerously crippling idea as a political tool, because the Kenyattas' best-known flagship was going down the drain, right in front of their eyes...something had to be done fast...and done very fast," said my friend, who works for the Brookside Dairy Company in Ruiru, off the Thika Superhighway. "Let us cut to the chase," added my friend. "Uhuru Kenyatta is not concerned with the Kenyan nation's legacy but with the Kenyatta family's legacy."

"The family business had to be protected by all means, by any means necessary," said a Central Kenya MP who is close to President Uhuru. "Instructions from the matriarch, Mama Ngina, to Uhuru and family was that the cardinal rule was to protect the business and not politics per se. In other words, use politics to shield your businesses from external interference or collapse."

The other issue that terribly worried President Uhuru and his close-knit political cabal was the talk about secession. "It became a terrifying waking nightmare to them, that a section of Kenyans would even contemplate the thought of slicing off the country because of political dissatisfaction," said the MP. "These were a different type of angry Kenyans, separate from the Kenyans who even when their votes had been stolen in past elections never contemplated going their own way."

Apart from the Kenyatta family's business agonies, Safaricom, which NASA and its opposition supporters countrywide had accused of providing servers to the Independent Electoral and Boundaries Commission (IEBC) - servers the election commission to date has refused to open for public scrutiny - was seriously looking to the possible end of its close to two decades of mobile telephony monopoly. Kenyans allied to NASA were furiously opting for Safaricom's competitor, Airtel. "The Safaricom management team was wailing in its boardroom, wondering what to do, as scores of Kenyans daily migrated to Airtel," said a Safaricom senior manager to me. "The team called Raila and asked him why he was hell-bent on collapsing the company. Similarly, the team was also piqued by President Uhuru because he seemed impotent in the wake of the economic boycott. They were peeing in their pants, in a manner of speaking."

The economic boycott, the threats of secession, a withering state, and pressure from Western governments became the push factors that drove the Kenyatta family to initiate a political rapprochement with Raila Odinga, confided an aide to President Uhuru.

The people's president

Raila, on the other hand, was also undergoing his own political catharsis. "Wherever he went, the people become cantankerous and difficult to calm down: *"Hapana...hapana...kula Bible kwanza, kabla hujaongea na sisi"* (Swear by the Bible first before talking to us), roared the crowds. Critically,

his political career was on the cards, observed one of his aides recently in an interview. “The masses had run ahead of Raila and they were demanding he become their president, failure to which they would abandon him.”

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The NASA brigade had decreed that in the light of the contested presidential elections, Raila Odinga would be publicly sworn in as “the Peoples’ President”. He had postponed this once on Jamhuri (Independence) Day on 12 December 2017, and the backlash from his supporters was unmistakable. “If he postponed it again, they were going to have him for supper and that would have been the end of his illustrious political career,” reminisced one of Raila’s aides. “On 30 January 2018, a reluctant Raila was publicly sworn in at Uhuru Park as the Peoples’ President to great aplomb by the throngs of the masses who attended the rally.”

Western countries’ ambassadors and like-minded envoys told Raila point black: “You’ve been appointed the peoples’ president, but know that you’re all alone.” They reminded him of his political stature as one of the country’s leading politicians, his international reputation, and his input of many years in national and global political arenas. They asked him whether he was willing to see all that credibility washed away because of his recalcitrant stance. “Separately, therefore, Raila Odinga was also having his moments of exorcising his demons and coming to terms with the political realities of the day,” observed the aide.

Although the same Western envoys did not rebuke President Uhuru, they nonetheless asked him to map out ways of accommodating and working with Raila. “It was a veiled threat because they let him know that if he failed to do so, they would institute economic sanctions on his regime and make his life as a president keen on a legacy difficult,” confided a foreign diplomat friend who works for the European Union (EU).

Raila Amolo Odinga has paid a huge price for dabbling in national politics: He has been detained for close to a decade by the state. In the 2007 general elections, he saw his presidential victory snatched. In recent times, he has also experienced personal traumas: His first-born son Fidel died in 2015; his daughter Rosemary is recovering from a debilitating sickness (both of these two calamitous situations have been energy-sapping, friends of Raila tell me); and real threats had been made on his life. At 75, Raila is also no longer the youthful adrenaline-driven politician who could pack public rallies and indoor meetings into 18 hours and still spare four hours of just enough sleep to see him through the next day’s political onslaught.

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Amid all this, his dutiful wife, Ida, has borne the brunt of his oppositional politics. While Raila politicked, she held the family together, ensuring that politics did not come in the way of the family’s private lives. “But the 2017 presidential elections, his swearing-in ceremony on January 30, and threats on his life had tested her great patience and worn her down,” said a friend close to the

Odingas.

Impeccable political folklore has it that it was the Kenyattas who approached the Odinga family for a candid sit-down, said a Central Kenya MP. “With the ongoing threats to their businesses, a wobbly economy and a hollow electoral win, the Kenyattas were in a bad place: they had to reach out to Raila, but only through Ida,” said a source who was privy to the on-goings.

“Before the actual handshake on the material day, President Uhuru and Raila had met for several hours, haggling and going over issues of mutual convergence and interest,” revealed an MP from Central Kenya. BBI has nine points that President Uhuru and Raila agreed to work on. They are: ethnic antagonism and competition, lack of a national ethos, inclusivity, devolution, divisive elections, safety and security, corruption, shared prosperity, responsibilities and rights.

“I remember President Uhuru telling his deputy William Ruto: ‘We’ve to bring on board Raila Odinga, if we don’t, we’ll not be able to govern this country,’” said my source, who is known to both of them. “The only thing that Ruto was not told was when and where the handshake would take place.”

Ruto had run the country between 2013 and 2017, quipped the Central Kenya MP, “and it had been a disastrous affair. Yet both Uhuru and Ruto share blame for running the country down.”

BBI and the Kikuyu-Kalenjin rift

In 2014, a year after Uhuru and Ruto formed the Jubilee government, President Uhuru summoned all Kikuyu MPs to State House and told them that if they needed anything, they should go to the Deputy President. “We must ensure our people trust the DP...you know our people are conservative,” the President is purported to have told the MPs. The two had campaigned on a platform of being the victims of the International Criminal Court (ICC) and therefore had been “joined at the hip” as they canvassed for votes from Kenyans who had been ethnically and emotionally whipped to vote for them.

“In that meeting, Esther Murugi (former Nyeri Town MP) disagreed with the president,” recounted the MP. “In Nyeri, we’ve had IDPs [internally displaced people] at Kinoru. Mwai Kibaki [Kenya’s third President] ruled with these people [the Kalenjin] because he feared them,” said Murugi to President Uhuru. “This is simply untenable.” Three years down the line, Esther Murugi was one of the first Central Kenya MPs to fail to recapture her seat because she did not get the Jubilee nomination.

“Ruto is very vindictive,” the Central Kenya MP reminded me. “He doesn’t forgive: all those people he suspects of having implicated him in the ICC case must be punished.” The MP told me that some of the MPs who failed to bag the Jubilee Party nomination tickets and eventually “lost” in 2017 elections are suspected by Ruto’s people of helping to compile part of the report that incriminated him and sent him to the ICC.

2014 was not the last time that President Uhuru summoned MPs to State House. In August 2017, he met with newly elected Jubilee Party MPs. “He was soaking drunk and he lectured us, as a headmaster would his pupils,” said a first-time MP from North Rift. “Rookie MPs who had never been to State House were excited to be called for the breakfast meeting. But when they were lectured by a drunk president, who was allegedly banging tables, cursing and swearing, they were dumbfounded.”

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“Don’t joke with a president who’s not seeking a second term,” President Uhuru is reported to have told the MPs. “I dare anyone who will not do as I say to walk through that door,” he hollered to the now cowed MPs. “Why he was angry, we don’t know. When he finished ranting, the MPs stood up and instead of heading to the laid out breakfast tables, they hastily walked to their waiting cars, and drove off in a huff.”

As fate would it, a few days after that tense meeting, the Supreme Court nullified the election on September 1. “Uhuru once again quickly summoned us to State House: ‘You’ve seen what the court has done to our win’” said a now mellow and pliant president. ‘We need to put our heads together and strategise on how to win the presidential seat again.’ He was now speaking to us in collegial terms - ‘our win’ - the insults and threats had gone, he wanted our help so badly...that’s our President Uhuru.”

“A year later, BBI has not communicated the handshake properly to Kenyans,” said my Central Kenya MP friend. “There hasn’t been enough awareness about its real and true agenda and intentions.”

Unlike the handshake of 2008, which was witnessed by, among others, Tanzanian leaders, Benjamin William Mkapa and Jakaya Mrisho Kikwete, and the Ghanaian statesman Kofi Annan, the 2018 handshake did little to reduce mistrust or to help build confidence and lend credence to the rapprochement. On the contrary, the 2018 handshake is shrouded in suspicion; many Kenyans believe it has an insidious agenda and most are hard put to explain what it means.

One of the very first things President Uhuru and Raila, now under the auspices of BBI, had planned to do was to visit Central Kenya, as the first entry point of selling the BBI agenda, said the Central Kenya MP. “It was a natural and obvious consequence that BBI seeks to build trust and confidence among these two warring communities, but the visit has remained on the cards, postponed several times.” The MP said Central Kenya has not been in the mood to welcome President Uhuru Kenyatta. “Right now, they don’t feel him, they feel let down by a leader who seem impervious to their economic tribulations. This is what the intelligence reports relayed to the president have been saying.”

But, said the MP, this could all be hot air: “Right now, it’s true they are angry and bitter with *muthamaki*, so, to project their anger they become emotional and end up saying irrational things like, ‘We’ll vote for William Ruto.’ Kikuyus are the most ethnocentric community in Kenya, and all this bottled-up anger melts on the D-Day [election day]. When they say they’ll vote for Ruto, they mean they’ll vote for him from their houses. No Kikuyu will troop to the ballot booth to line up and vote for a non-Kikuyu presidential candidate - Ruto included.”

Paul Mwangi, one of the joint secretaries (the other is Martin Kimani) to BBI, disputes the assertion that there has been a planned Central Kenya visit from the two leaders that has failed to materialise. “It is not true that the two leaders have been planning to visit Central Kenya. Remember BBI has been holding town hall meetings across the country and it wouldn’t be a great idea to start the visits. For two reasons: one, fear of raising political temperatures and two, fear of misinterpretation of BBI’s work by some MPs, who would want to hijack the BBI’s agenda for their own gain.”

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Mwangi said BBI had already conducted 18 town hall meetings. “There 29 more to go, it is obvious we’ll not beat the stipulated one year deadline. We’re going to ask for more time from the principals.”

Even with less than half of the counties visited, the emerging theme in these meetings has been – *punda amechoka...punguza mzigo* (The donkey is overloaded and therefore fatigued...let’s lessen its weight). That is the literal translation. The interpretation is that the voter feels burdened and therefore fatigued by the seemingly overwhelming extra political seats created by the new constitution promulgated in August 2010.

With a ballooning wage bill, and mounting domestic and external debts that have apparently overwhelmed the government, the state has sometimes inadvertently been giving the impression that it cannot deliver development and services to the people because it is having to spend a lot of money paying political leaders.

Be that as it may, “BBI is nothing but an entrenched political cabal’s way of controlling national politics and state power so that they remain with the people who have always controlled the two. But more importantly, it is the cabal’s way of ensuring that state power does not land in the ‘wrong hands’”, said a Jubilee MP, who is a friend to both President Uhuru and his deputy. “The Kenyatta family would like to have a political stranglehold on Kenya, the way the Bongo family in Gabon has done.” (Ali Bongo, who has ruled Gabon since 2009, took over from his father, Omar Bongo, who was president for 42 uninterrupted years.)

“BBI’s town hall meetings are supposed to culminate in a referendum and this is where the catch is – it’ll not be by popular vote, but by delegates voting by acclamation,” opined the Jubilee MP. “All these supposed town hall meetings are a ruse: BBI knows what it wants, how it wants it...these meetings are dress rehearsals that are supposed to dupe the people to believe that their voices matter. Carefully selected delegates from 24 counties will be assembled at the Bomas of Kenya for a convention in which they will all unanimously agree to pass the tabled resolutions. That’s how it shall come to be.”

Yet, in a carefully worded rejoinder, Mwangi retorted to the contrary: “BBI has no position on whether or not there’ll be a referendum, that’s a matter that will be dependent on the solutions that BBI will recommend to the principals and where the holding of the referendum will take place will be part of those resolutions.”

The referendum is a must, my sources from Raila’s quarters said to me matter-of-factly. “Raila has indicated there’ll be a referendum this year, it must happen, if it could happen before the population census, the better and he is not bluffing...if it doesn’t take place, he walks away...it is a very serious matter to him.” (The Kenya population census is slated for August this year.)

“We welcome the referendum,” said a North Rift Jubilee MP and one of the DP’s close associates. “We’re not afraid of it. We are going to frame the question differently and better and we’ll be asking Kenyans – *kama kweli punda amechoka*, (if truly the people are overwhelmed, hence, the demand for a reduction of the constitutional stipulated seats), why then expand the executive? This not our first referendum to engage in...we have been there before and we know how to play the game.”

The Ruto factor

The MP observed that the machinations against Ruto by the so-called “Kiambu mafia” will not work. “Ruto is a hardened and seasoned politician, he has passed through many political tribulations and overcome them. Even this one, he’s going to overcome it.”

The MP pointed out to me that during the August 2010 referendum on the new constitution, in which the Greens supported the new constitution, while the Reds opposed it (with Ruto in the Red corner), “Ruto, even without having money to wage a proper campaign, still gave his antagonists a run for their money.”

Recently, William Ruto’s think tank has advised him to travel abroad and seduce Western countries’ audiences. At a Chatham House lecture on 8 February this year, he supposedly talked tough and even alluded to Raila as a professional perennial presidential loser. These presidential losers are the people who cause trouble in Africa, he is said to have told the audience. After the Chatham House engagement, on 12 February, he dropped by at the BBC’s London offices for the first of his planned media charm offensives – an interview with BBC Hard Talk host Stephen Sackur. Sackur was typically blunt and probing, even suggesting that Ruto was known to be among Kenya’s most corrupt people. The charm offensive obviously failed as Ruto struggled to make his case.

But BBI is not the only juggernaut the DP will have to contend with. “Ruto rigged many of the Central and Mount Kenya Jubilee Party MPs that he felt were not on his side, or would be difficult to control, or influence,” said the MP. “He ensured all loyal MPs from his side were handed the certificates easily. That was not the arrangement he had with Uhuru when he was tasked to take charge of the party nomination affairs after the fiasco of the first countrywide nominations trials.”

The MP said that all the former MPs who lost their seats and who are still smarting from their loss loathe Ruto, and are just waiting for the opportune time to strike back. “Yes, they also rail against President Uhuru privately; ‘the man has never been in control of anything.’ They, therefore, have sworn to not support any venture by Ruto. They are adamant they won’t stop saying Ruto rigged them out.”

Among the most hurt of the Mount Kenya politicians who accuse Ruto of rigging them out are: Cecily Mbarire (who ran for the Embu governor seat); Kabando wa Kabando (former MP, Mukurwe-ini in Nyeri County); Martha Karua (who ran for the Kirinyaga County governor’s seat); Mutahi Kagwe (who ran for the senator’s seat in Nyeri County); Ndung’u Gethenji (the former MP for Tetu, Nyeri County); Peter Kenneth (who ran for the Nairobi County governor’s seat); Peter Munya (who ran for the Meru County governor’s seat); Rachel Shebesh (who ran for Women Representative in Nairobi County); and William Kabogo (who ran for the Kiambu County governor’s seat). “Kagwe, Kenneth and Munya are still so angry with Ruto, they won’t even talk to him,” said the MP.

Some of these politicians ran as independents after forming the Kenya Association of Independent Candidates (KAIC) led by Kabogo and deputised by Gethenji. “These are the people who will form the bulwark of opposition to Ruto in the Mount Kenya region. Take it from me, the Jubilee Party, as currently constituted, will not be there in 2022,” said the MP. Hardly surprising in a country where political parties are vehicles for convenience and conveyance and where new parties are formed during every election season.

The Mount Kenya MPs are not only privately accusing President Uhuru of political inaction, “they are also nervous and suspicious of him,” said the MP. “They know President Uhuru, on his own, cannot out-think both Raila and Ruto. They therefore cannot hitch their wagon in his current party. They are also scared of voters’ backlash: it cannot be that the country must be ruled by two

communities, passing the presidential race baton to each other, back and forth...that at some point must stop, because it's unacceptable by all standards."

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Where Is the BBI Headed?

By Ngala Chome



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