

JUBILEE'S BROKEN WINDOWS: A chronology of Kenya's moral collapse

The National Youth Service "Season Two" scandal, in which Ksh 9 billion might have been lost or stolen, has left many wondering whether President Uhuru Kenyatta's rather belated attempts to stamp out corruption in the country are akin to fixing a leaking ship with Elastoplast. Kenyans, including the president himself, are now admitting that corruption in the country has reached unprecedented levels, with procurement departments in government ministries attracting the largest number of thieves. Estimates of the total amount of money lost, unaccounted for or stolen since the Jubilee government assumed power in 2013 range from between \$6 billion and \$20 billion – more than the combined cost of the newly-built Standard Gauge Railway and the upcoming Nairobi-Mombasa expressway. With a new scandal emerging almost every day, it is likely that these figures are grossly underestimated.

While it is generally acknowledged that no Kenyan government since independence has had a clean record, there is something about graft under the current administration that makes the crooks in previous governments' appear tame and modest when it comes to looting. As someone commented to me recently, "At least past governments did not steal the entire country – they left some of it for the rest of us."

Things are so bad that even officials at the Kenya Bureau of Standards – the entity that is tasked with ensuring food and beverage safety standards – have been implicated in allowing and facilitating the distribution of contaminated and highly toxic imported sugar into the Kenyan market.

Corruption is quite literally, killing Kenyans.

President Uhuru Kenyatta blames rogue elements within various ministries for these daylight robberies but fails to see the role that he, his deputy William Ruto, Kenya's electoral body and voters played in opening wide the doors to corruption, dishonesty and theft. I believe the rain truly started beating Kenyans when the Independent Electoral and Boundaries Commission (IEBC) – the body mandated to vet candidates in elections and determine their suitability – ignored Chapter Six of the Constitution on Leadership and Integrity.

The IEBC gave a clean bill of health to both Kenyatta and Ruto prior to the 2013 election, even though the duo were facing charges of crimes against humanity at the International Criminal Court at the time. Rather than disqualifying them from running for the highest office in the land, the IEBC and Kenya's chauvinistic voters viewed their candidacy as a "referendum against the ICC" – the very ICC that not too long before that been perceived by a majority of Kenyans as the only court that could deliver justice to the people who were killed, maimed, raped and displaced following the disputed the 2007 election.

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I am not a big fan of the ICC, which I believe tends to deliver selective justice based on political considerations. I am also convinced that Mwai Kibaki and Raila Odinga should have borne the greatest responsibility for the post-election violence of 2007-2008, given that Kibaki controlled the government security apparatus that unleashed much of the violence and considering that his opponent Odinga did little

to quell the killings and torture, and did not even visit or mourn with the bereaved whose kith and kin had died in his name. Naming Kenyatta and Ruto (who was then a leading member of the ODM party and a staunch ally of Odinga) and four others as bearing the most responsibility for the violence smacked of disingenuousness and mischief on the part of the ICC.

Nonetheless, by ignoring Chapter 6 of the Constitution, specifically Article 73, which says that state officers should promote public confidence in the integrity of the office, and Article 75 that states that state officers should avoid any conflict between personal interests (the “personal challenge” that Kenyatta talked about when he referred to his case at the ICC during the 2013 campaigns) and public or official duties, the IEBC essentially trashed the very constitution that established it.

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The High Court further muddied the waters when the candidacy of Kenyatta and Ruto was challenged by civil society groups. The Court argued that if criminal investigations against an individual are still open or a criminal case has not been concluded, then that individual should be presumed innocent until proven guilty, and therefore, should be free to vie for political or public office. This allowed all manner of criminals and shady characters to pursue political office either because a court had not found them guilty or because their cases were still pending in Kenya's sluggish legal system. In short, people tainted with corruption and other scandals were whitewashed by the IEBC.

In addition, when the results of the election were challenged, the Supreme Court, to the surprise and dismay of at least half the country which believed that the 2013 election was rigged, determined that the election was free and fair. This judgement was a significant turning point for Kenya – the line between legality and illegality, integrity and dishonesty became irreversibly blurred. “It was like something had died, like something had been killed,” commented literary critic Keguro Macharia a few weeks after the Supreme Court ruling.

Civil society activists felt betrayed by the Supreme Court’s decision; some described Kenya’s new political dispensation as the return of dictatorship, as both Kenyatta and Ruto were associated with the repressive Daniel arap Moi regime. Ruto was plucked out of obscurity to work for the notorious Youth for Kanu team that Moi had established to garner support for his party among young voters prior to the 1992 election. Kenyatta, while less tainted, came with the baggage of being the son of the first president of Kenya, who had been linked to various historical injustices, including land grabs and political assassinations. The younger Kenyatta was also a protégé of Moi and was the flag bearer and presidential candidate of Kanu in the 2002 elections, which he lost to Kibaki.

Meanwhile, supporters of the “UhuRuto” presidency deluded themselves that the economy was safe in the hands of the same ethnic Kikuyu and Kalenjin elite that had dominated the economy since the days of Jomo Kenyatta and his successor Moi – and that Kenyatta and Ruto, unlike people who belonged to politically or economically marginalised ethnic groups, would be less tempted to steal because they had already benefited from stolen wealth.

“Although the problem is in fact of elites writ large, Kenyan corruption is traditionally viewed in terms of economic rivalry among the country’s main ethnic groups. A presidency under ethnic Luo leader contender Raila Odinga, the argument

went, back in 2013, carried the risk of unprecedented 'eating' by a long-sidelined group, hungry for the perks of office," commented British journalist Michela Wrong, whose book *Our Turn to Eat* exposed corruption during the Kibaki era. Kenyans assumed that since the Kikuyu and Kalenjin had already "eaten" when their tribesmen were in power, Kenyatta and Ruto would be less greedy while in office, an assumption, Wrong noted, that mistook the nature of human greed.

Broken windows theory

Some argue that corruption is in the DNA of Kenyans and that the entry of the Jubilee government into power has little to do with Jubilee and more to do with how Kenyans are wired. This may be so but I believe that the 2013 and 2017 elections confirmed what is known as the "Broken Windows Theory". First proposed by social scientists George L. Kelling and James Q. Wilson in 1982, this theory has been used to successfully fight crime in cities such as New York. Kelling and Wilson argued that when crime, anti-social behaviour and civil disorder are allowed to fester, it encourages further crime and disorder. The "broken windows" theory came from their observations that when a broken window in a building is not repaired, there is a tendency for vandals to break a few more of the building's windows. And if those windows are not repaired either, eventually the vandals may break into the building itself and become squatters. But if the windows are repaired immediately after they are broken, it serves as a deterrent to vandals and other criminal elements.

Similarly, as has been observed in many cities around the world, when people are allowed to litter streets, the streets soon start looking like huge rubbish dumps. People carelessly begin throwing plastic bottles, chewing gum, cigarette butts and even food without considering the health and welfare of fellow street users. But if litter is collected regularly by the authorities and litter-gathering devices, such as rubbish bins, are placed at convenient locations along streets, the

level of littering reduces significantly. In some countries, such as Singapore, littering carries heavy fines, which further serves as a powerful deterrent.

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The IEBC, and dare I say, the Supreme Court, did not repair the window that broke when Kenyatta and Ruto vied for the presidency in 2013. This allowed other windows to be broken, and unleashed the corruption that we are now witnessing in almost every government ministry and department. The IEBC gave Kenyans the licence to loot. By allowing suspected war criminals to vie for public office (regardless of whether or not they were innocent), it opened the flood gates of criminality. Some might even argue that by allowing the 2013 elections to be stolen, the IEBC set a precedent for thieves in other government and so-called independent institutions. And since no one suffered for alleged past criminal behaviour (even the ICC withdrew the cases against Kenyatta and Ruto due to lack of evidence – evidence that the ICC's chief prosecutor Fatou Bensouda believes was deliberately tampered with), the looting spree continued unabated.

Upon assuming office, Uhuru Kenyatta immediately went on a massive spending spree. His first official visit was to China where a \$5 billion "aid and investment" deal (which in reality favoured mostly China) was signed. On the domestic front, he issued a directive instructing ministries to award 30 per cent of all government tenders to youth, women and the disabled

(regardless of whether or not they were qualified for the job or whether they had a track record in delivering supplies or services to the government). This directive was construed by many as a licence to steal; shady youth and women registered fake companies for the sole purpose of looting. One relative of the president even had the audacity to say that she deserved a tender she had been awarded because she is a woman. This is also probably why so many of the faces of corruption you see in the NYS and other scandals are young females – though it has yet to be determined if their godfathers and the main beneficiaries of the loot are male and within government.

And despite their “choices have consequences” rhetoric prior to the 2013 election, Western governments, notably Britain, recanted their earlier positions. Soon after the 2013 election, British Prime Minister David Cameron invited Uhuru Kenyatta to the London Conference on Somalia. The United States took a more cautious approach; President Barack Obama skipped Kenya on his 2013 Africa tour, preferring to go to neighbouring Tanzania instead. However, he too ended up sanitising the UhuRuto presidency by making a splashy official visit to Nairobi in 2015.

Having gained the legitimacy it required, the Jubilee government felt emboldened enough to throw caution to the wind. Soon more windows began breaking. Sports officials charged with looking after our star athletes at the Rio Olympics absconded with funds meant for the athletes – and suffered no consequences. A cabinet secretary in charge of NYS funds that were stolen during her tenure (the so-called “Season One”) even got herself elected as a county governor.

Uhuru Kenyatta claims that this time he is serious about corruption – that ending corruption within government will be the legacy of his last term in office. However, as lawyer Wachira Maina commented in a recent article in the *Sunday Nation*, the president has allowed graft to seep so deep into his administration that he is now unable to undo this

“institutionalised perfidy”.

Raila Odinga's rapprochement with Uhuru Kenyatta has further legitimised the Jubilee government and has had the net effect of diluting, if not neutering, the opposition, which will make the fight against corruption even harder because by allying themselves to the government, Odinga and his party have in effect abdicated their watchdog role. That's another window broken.

The president's anti-corruption stance also appears hollow, and could go the way of other pledges and promises he made when he took office. Many of the changes he promised in his first term have never materialised. For instance, after promising far-reaching reforms in parastatals, Kenyatta ignored the recommendations of a task force he himself had commissioned, which recommended trimming the number of parastatals and bringing in people with integrity to head them. In typical African Big Man fashion, he then went on to appoint his relatives and loyal cronies in key parastatals (a trend that seems to have continued in the Raila-Uhuru 'Handshake' era, with some of Raila's loyal supporters securing key positions in various parastatals – an ominous sign that suggests that even if he would have been declared the winner in the 2013 elections, Raila might not have fixed any windows, unless public pressure forced him to do so).

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In short, since 2013, Kenya's political establishment has not just been breaking more windows, it has been occupying the

entire building, which it will no doubt cannibalise until there is nothing left to break or loot – unless, of course, a window-fixer comes along and reverses the situation.