

**Making Public Money Count by Enforcing
Accountability**

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Abstract

I intend to argue in this paper that a country has the levels of public accountability that it deserves, for the time being. Every nation has the leaders that it deserves and deserves the leaders that it has. If public accountability is poor, it is because the people do not collectively demand higher standards, although they may privately yearn for them. I am also going to argue that quite often, even reasonable and well educated people will sacrifice what is good for them – as individuals and as a nation – at the altar of narrow emotional attachment to a spurious group identity, often without such identity delivering anything substantive to anybody, except to those who exercise political power. The power barons will appeal to group solidarity to sustain themselves in power and to entrench their rape of public resources. I conclude that in order for a people to make public money count through enforcement of accountability, there is need to take a fresh look at a people's sense of nationhood as a critical predicate to holding our leaders to account.

Introduction

Richard Heeks, a probity governance scholar, says that effective design and implementation processes will enable gap closures and improve the likelihood of success in efforts to make public money count through increased public accountability. However, beyond such enablers, it is the politics of the situation that determine the drivers to anti corruption successes.¹

Enablers and gap closures may include such interventions as creating what are expected to be powerful anti-corruption authorities, police reforms, strengthening of public prosecution processes, tightening procurement processes, reforming the Judiciary, reforming public auditing standards, and the like. Yet, ultimately, it is the politics of the situation that will eventually determine the rate of success or failure.

¹Heeks, Richard. "Understanding Success and Failure of Anti Corruption Initiatives. Bergen:

Among the very first things that the Mwai Kibaki government did soon after it came to power in December 2002 was to reorganize the procurement function in the Public Service. All serving officers were disengaged and advised to reapply for their jobs. The new Minister in charge of the National Treasury, Daudi Mwiraria, explained that this was the first step in fighting corruption in the Public Service. The Kibaki government had come to power pledging to end corruption in the Public Service.

In his inaugural address on 31 December 2002, President Kibaki had promised the nation that there was going to be stringent public accountability. There would be zero tolerance to corruption. Up to this moment, the country had been treated to repeated waves of allegations of high-level corruption. The Goldenberg Scandal of 1991 – 1992 was the mother of all scams in Public Service in the country.

The Kibaki government had hardly been in power for a few months when Kenyans began hearing of another

Goldenberg-kind-of-scam, the Anglo Leasing Scandal. A prominent minister in the Kibaki government would later brazenly refer to Anglo Leasing as “the scandal that never was.” A Permanent Secretary who had been specifically hired to lead the onslaught against corruption would flee the country and later on resign in exile. He said that the cancer of corruption had found its way into the heart of the Kibaki government. There was no will in the government to fight corruption, he said.

At the heart of this harsh indictment was the “scandal that never was” minister. This minister is cited in the famous book by Michela Wrong, *Our Turn To Eat*, as having asked the permanent secretary, John Githongo, to “go easy on this government, it is our turn to eat.” Ever since, the story of public sleaze and scandal has become the most common coin of government. Kenyans are treated to one appalling disclosure of high-level corruption, after the other. It has become the rhyme and rhythm of our life; a part of our national character, almost to the extent that it does not seem to matter anymore.

Today we have a national budget of 3.6 trillion Kenya shillings. The corruption narratives that we have heard about NYS, Eurobond, Afya House and assorted scams, amount to about 1.3 trillion shillings, collectively. About half of the national budget easily goes towards sponsoring corruption in National Government. This is to say nothing of what is happening in County Government across the country. Even the political Opposition, that enjoys casting itself in the mould of crusaders against corruption, shockingly remains silent whenever governors who belong to Opposition parties are fingered in corrupt deals. The message is simple, "Corruption is bad so long as someone else is involved. But when it is one of our own, we should not lift a finger." Besides, we have not yet touched on public wastage both in National and County Government. And when someone is identified with corruption, or poor use of public funds, s/he gets ready defenders in the ethnic community.

The defence may be from the tribe – if the issue is happening at the National level – or the clan, when the matters are at the County level. Corruption is accordingly alive and well in our country. If you have what is considered to be “a good job,” in government and even in the Private Sector, you are considered to be “a fool” if you do not steal by virtue of your office. “You have no brains.” It is, therefore, almost something of a shock when someone asks us to address a gathering such as this on making public money count and seeking accountability in public finance.

Where does this malady begin? How could we possibly arrest it and bring it to an end? How do we begin being accountable to ourselves? These are the fundamental questions before us. To answer them, we need to reflect on our philosophy of government and why people vehemently seek to go into government. In the end, it boils down to our attitude and beliefs about public finance, public procurement and public audit.

Public finance, procurement and audit as political incentives

Corruption in government in Kenya gravitates around the three disciplines of public finance, public procurement and public audit. If you can capture and take hostage of the three functions and soundly have them under your armpit, you can steal from public coffers with untrammelled impunity. Charles Hornsby has discussed this phenomenon in Kenya in his great work titled *Kenya, A History of Since Independence*. Under the heading “Corruption and Prebendalism” Hornsby recalls how in the 1980s the Kenyan economy was booming. “The State had control over large and valuable assets,”² he says.

Regrettably, Hornsby observes, most of these assets were left “vulnerable to exploitation by those holding the levers of political power.” Hornsby observes further, “Access to the resources that the State commanded and the ability to direct them for personal gain and political purposes was

² Hornsby Charles, *Kenya: A History Since Independence* (London & New York, I.B. Tauris, 2013), p. 369.

in fact a fundamental driver for competitive politics.”³ This is the essence of prebendalism. Those who occupy powerful political office consider the opportunity for misappropriation of public funds to be part of their legitimate entitlement and benefits. The public, too, seems to quietly agree with them that this is their entitlement. You, therefore, occupy public office not so that you can serve, but so that you can become rich. This is Kenya’s present philosophy of government. Even the daily Press describes government ministries in terms of “lucrative” and “non lucrative” ministries. The question that is not asked is, “Lucrative to whom, for what purpose?”

Corruption is hence a benefit of being in power. The instruments and institutions of public accountability may be well in place. Those in power want to remain there so that they can continue to reap this benefit. Those outside want to get in so that they can take over, thus the notion of “It’s our turn to eat.” You are unhappy not because the people in power are corrupt, but because you are not part

³ Ibid.

of the eating team. That is why in Kenya we have heard it said, “We are eating succulent meat while you salivate.”

In the European Medieval Age (5th to 15th Centuries AD), it was common for powerful church leaders to convert some of the church funds to private personal use, as a matter of illicit entitlement. These holy people sat in special places during the church service. They were called prebendaries, sitting in prebendal stalls, usually behind the choir. The benefice paid to them was called a prebend. Hence the notion of prebendalism as institutionalized corruption.

In social science, the prebendalist State understands clearly that its primary objective is to bleed government of as much money as it possibly could do during its tenure. To do this effectively, the State must fill up all strategic positions in public finance, procurement and audit with the right people. These will be loyal people from the same ethnic group, with a smattering of loyal friends from outside the common breed. The leadership must also promote a leadership philosophy that gives it instant –

even unsolicited – support from a critical segment of society deceiving itself that it is a part of the eating community.

Accordingly, the prebendalist State takes on the face of a tribe, a clan, a religious group, a race, or even a family. Take the example of Liberia under President William Tolbert (1971 – 1980) David Lamb has captured this snugly in the volume titled *The Africans*.⁴ Lamb recalls, “Tolbert’s brother, Frank, was president *pro tempore* of the Senate. His brother Stephen was the minister of finance. His sister Maria was the mayor of Bentol City. His son A.B. was ambassador at large. His daughter Wilhelmina was the presidential physician. His daughter Christine was the deputy minister of education. His niece Tula was the presidential dietician. His three nephews were (each) assistant minister of presidential affairs, agricultural attaché to Rome and vice governor of the National Bank. His four sons in law occupied the positions of minister of defence, deputy minister of public works, commissioner for immigration and board member

⁴ Lamb, David, 1987. *The Africans* (London, Vintage, pp. 9 – 10).

of Air Liberia. One brother in law was ambassador to Guinea, another one was in the Liberian Senate, a third was mayor of Monrovia.”⁵

We can call it nepotism, tribalism, or whatever other –ism. The bottom line is that this is the foundation of making public finance not count. These people have been put in power basically to siphon funds out of the public coffers. It is not enough to be from the right tribe or clan. You must also be politically correct. This means that you do not question anything. But apart from not questioning, you must also be ready to stand with the tribal leader all the time. The correctness or wrongness of anything is predicated upon the tribes that are involved and the position that they have taken. Everything else is immaterial. When the tribal leader is out of government you stand with him in condemning the government of the day both for real and imagined offences against the people. When he is in power, you agree with him even when things are blatantly wrong.

⁵ Ibid.

Has Kenya taken this prebendalist road? When any matter comes before the two houses of Parliament in the country, it is easy to tell who will take what position. It all depends on whether they belong to tribes that consider the government of the day to be their government, or whether they are from the Opposition. Hence the Opposition fights everything from the government because this is not their government. The converse is also true. Everything from government is acceptable to those from tribes that consider the government to be theirs.

If we are looking for accountability in public finance, we are a terribly long shot away, for even the organs that should watch over this in Parliament have become zombified. They no longer have conscientious leaders who interrogate issues and vote on the basis of merit and conscience. They are, instead, voting zombies. The only thing that matters to them is their tribe. We have since coined the grotesque notion of the “tyranny of numbers.” This is to say that the side that has more zombies will

carry the day. Never mind that the notion of tyranny and that of parliamentary democracy ought to be mutually exclusive, at all times.

Now whole tribes will flow in this stream of ethnic zombification. It does not matter that they are professionals, or that they belong to the class of our spiritual superiors. We have learnt to hate people who do not belong to our tribes more than we love ourselves and our children. We would rather have a thief from our midst being in charge of government than an honest man from some other tribe. If we loved ourselves more than we hated others, public accountability would not be so elusive.

In about a hundred days' time, Kenyans will go out to vote in the general elections. Indications so far are that the elections will not be based on any ideological agenda, except the ideology of negative ethnicity. The lie that is negative ethnicity is the most portent force against making public finance count. Politicians know that their tribesmen

will vote for them, regardless of any other consideration. For the time being, it does not matter how much any one individual plunders the public coffers. When he or she goes back to the tribe, or the clan, they will support him or her. And s/he will use the same ill-gotten wealth to buy his or her way back to power.

Inefficiency and impunity

A systemic and organic challenge to making public finance count exists beyond the trinity of public finance, procurement and audit. It assumes the shape of a nexus that makes mockery of all pretext to public accountability. The auditing function has often not cooperated with the public finance and procurement in the conspiracy to raid public coffers.

Historically, the Auditor General has made mindboggling disclosures about abuse of public finance by people in high places. Regrettably, no action has ever been taken against the offenders. These may be people whom we have cause to believe that they have stolen, or they may be

people who have been negligent with public finance. The disclosures against them never go beyond the value of temporary shock to the taxpaying public. They are forgotten after a few days. Life goes on, until when the next wave of appalling disclosures comes around. Even the media is quick to drop its interest in the heist, as it follows one political red herring after the other.

That nothing happens after the Auditor General's report is good enough assurance and motivation for the stealing class to go on with the business of stealing. For they know that nothing will happen to them. This is impunity at its best. Next to this, they know that there will always be a tribal crowd out there to shout out in their support.

Following strained relations between the Kenya Government and the development partners' world in the 1990s, Kenya was arm-twisted into putting in place an anticorruption parastatal in 1991. The Kenya Anti Corruption Authority went on to become the Kenya Anti

corruption Commission and now we have the Ethics and Anti Corruption Commission.

Put together with the Directorate of Public Prosecutions, the Criminal Investigations Department and the Kenya Police generally, Kenya has what should be a formidable army against theft from public coffers. Besides, these authorities have the back up of the Public Accounts Committee of Parliament and other oversight entities that make ours one of the most policed public services anywhere in the world.

Yet, conversely, Kenya remains highly ranked among the corrupt countries in the world. Last year (2016) February, a PriceWaterhouseCoopers survey indicated that Kenya was the third most corrupt country in the world, after South Africa and France.⁶ This report came two days after President Uhuru Kenyatta told Kenyans in Israel that Kenyans were only good at stealing, tribalism and grumbling.⁷

⁶ East African Standard, 27 February 2016, pg. 1.

⁷ Ibid.

A Few weeks earlier, the Chief Justice Dr. Willy Mutunga had described the Kenyan economy as “a bandit economy.” This was the cry of a frustrated head of the Judiciary. For in a country such as ours even a non-compromised Judiciary cannot do much. If the investigative and prosecutorial processes are flawed, they will never deliver to the Judiciary a case that can survive on the weighing scales of justice. We are in the end caught up in the spider web of debilitating corruption.

Turning the Tide, Making Public Finance Count

The situation need not remain this grim in perpetuity. We can begin turning the while and the tides of time against this sorry picture. A number of prerequisites are necessary in this regard.

- 1. Redefine our sense of nationhood and priorities in the war against corruption:** Here it is of the essence that we all think of ourselves as Kenyans first and as all other identities afterwards. If we do this, we will recognize thieves as thieves first and last. We will not

see them as people from our tribes and who need, therefore, protection by the tribe. It will not matter that the thief is a senior person in government, who wants us to believe that that the government belongs to our tribe and that, therefore, our tribe must protect our government by protecting him. For the government will be seen as the government of all Kenyans, the way it is supposed to be. This is the first step towards making public finance count.

2. **Reeducate the educated class:** There is need to reeducate the educated professional class in Kenya. The educated intelligentsia must begin learning to maintain a certain professional aristocratic distance from the thieves in their tribe. The intelligentsia is an agenda setting class. This is the latter day Patrician community. When it coughs, the Plebs catch the cold. This class cannot afford to worship in empty tribal shrines if the country's public finance is expected to begin counting and making a difference.
3. **Stigmatize and ostracize thieves:** Part of our challenge is that we have learnt to accept and even

gentrify thieves. Even the use of the name “corruption” deodorizes stealing. We readily mingle with these people and even treat them with reverence. In 2003 saw school children and their teachers taking autographs from the architects of Goldenberg, at the Kenyatta International Convention Centre. The message was that these were heroes and role models. Thieves must be shunned and be made to feel very lonely and uncomfortable amidst their ill-gotten wealth. Social stigma is a very powerful weapon that Kenyans have not employed. We have seen public looters across the political divide occupying special seats in houses of prayer and being greeted with supported hands by curtsying priests. Even such churches and priests should be ostracized. We must be able to tell some people, “Your money stinks, *pesa zako zinanuka*.”

4. **Love ourselves:** We need to focus more on love for ourselves and less on hate for others in order to make the necessary breakthroughs. Anti corruption successes from places like Singapore tell of countries

whose people and leaders have focused more on love for themselves and for their country than on their dislike for other people.

5. **Government Openness:** This has worked very well in countries such as Denmark, Finland, New Zealand and Sweden. Such openness goes hand in glove with media freedom and toleration for civil society probity into government. Lessons from emerging European democracies like Serbia, Croatia, Macedonia and Montenegro also show that declaration of wealth, where it is genuine, will also help. It is instructive, however, that in this openness, the citizens focus on issues rather than on regionalism and ethnicity. For governments that enjoy ethnic protection are not known for their openness to public probity.⁸

⁸ Transparency International Helpdesk, "Successful Anti-Corruption Reforms, 30 April, 2015.