

## AFRICA RISK CONSULTING

### Kenya Monthly Briefing December 2019

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#### Kenya Summary 20 December 2019

*The Building Bridges Initiative (BBI) results are underwhelming and do not recommend substantial constitutional changes. The BBI has caused divisions in the ruling Jubilee Coalition with deputy president William Ruto seeing it as a way to curb his ambitions for the presidency after Kenya's 2022 elections. President Uhuru Kenyatta (2013-present) has changed tack and is promoting protégées to be potential future presidential candidates against Ruto. Police arrest Nairobi County governor Mike Mbuvi Sonko on charges of procurement corruption, surprising many as he enjoys presidential favour. The Competition Authority of Kenya's approval of the merger between telecommunication companies Airtel Kenya and Telkom Kenya may not be sufficient for the deal to go ahead. The attorney general has called for additional due diligence into Airtel's bona fides. The merged company's prize is a new 5G licence.*

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#### Building Bridges Initiative is a damp squib....

Political activity in the last two months of the year focused around the launch of the **Building Bridges Initiative (BBI) Report**, which its authors presented on 27 November (see *ARC Briefing Kenya November 2019*).<sup>1</sup> The long awaited report suggests the creation of posts for a prime minister and an official opposition leader, among other wide-ranging reforms aimed at ending violent, divisive election cycles.

After the best part of a year in fact-finding in every county, the report turned out to be something of a damp squib and a distraction. Sources say it is just part of the back door politicking between the tiny political elite vying for power in the run up to 2022 elections. The real political activity of next year and 2021 will be around **Kenya's** traditional ethnic divides as its three main leaders, President **Uhuru Kenyatta** (2013- present), deputy president **William Ruto**, and opposition leader **Raila Odinga** square up support for, and position themselves around, the 2022 presidential polls.

President Kenyatta commissioned the research as part of the March 2018 so-called "*handshake deal*" between the ruling **Jubilee Coalition** and Raila Odinga's **Orange Democratic Movement (ODM)** to restore peace and Odinga back into the embrace of Kenya's tiny political elite. Odinga had cried foul and fraud after the 2017 presidential elections and – after boycotting the subsequent re-run of the presidential elections – had set up an alternative government. However, for Kenyatta the process also served as a useful tool to undermine the confidence of Ruto that he will have the backing of the Kenyatta family and loyalists in the 2022 presidential polls.

The report's formal launch in **Nairobi** was more an opportunity for Kenyatta to set the mood music for politicking in the year ahead. Kenyatta used this occasion to again show his closeness to Odinga and to leave Ruto isolated and brooding – causing a social media storm.

*"The launch just showed more of the same grandstanding, shadow boxing between the leaders and the political parties. It was really 'below brinkmanship'. But it is looking increasingly clear that Uhuru wants to play a role in the next dispensation, which is what this is all about. The report itself is just window-dressing. Its impact is going to be in the re-arrangements of the elites and how they sort themselves out. It is not what it contains."*<sup>2</sup>

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<sup>1</sup> Daily Nation, 26 Nov 2019.

<sup>2</sup> Kenya political analyst

The report has failed to do what it promised – carry major constitutional changes to address the ethnic conflicts or disunity that manifest themselves in every election. Nor did it carry what William Ruto had most feared – return to a **Westminster** style parliamentary system, which would have neutered his potential future presidency in favour of an executive premiership.

In true form of the Kenya political elite, Ruto sees the presidency after the 2022 elections as rightfully his. With his fears allayed, Ruto surprised his audience and social media by praising the handshake deal and the peace that it has brought, going even further and urging his political foot soldiers to support it. Tactically he doesn't want a confrontation with Kenyatta as it would break the alliance and give Kenyatta a way out of the coalition to promote himself or his own candidate. Ruto needs Kenyatta's unequivocal support to get his election bid across the line.

Local analysts, however, interpret the BBI process as a strong signal that Uhuru Kenyatta wants a formal role after his constitutional term ends.

*“If it's not himself then it will be some of his close allies. For instance this lady **Anne [Mumbi, formerly] Waiguru** – the governor of **Kirinyaga County**. Uhuru is trying to get them (his allies) lined up. He has put her into some alliance with Odinga. If that doesn't work, they may try to bring in the prime minister's role again.”<sup>3</sup>*

Anne Mumbi is a confidante of President Kenyatta and her actions serve as a proxy for his political activities. She followed the BBI launch and presentation up with an open political rally near her home to which she invited several staunchly anti-Ruto politicians, notably the interior minister, **Fred Matiang'i**, and his permanent secretary, **Karangia Kibicho**, **Mombasa County** governor **Hassan Ali Joho**, and **Nairobi MP Maina Kamanda**.<sup>4</sup>

Either way, any changes to the constitution would require a referendum or an act of parliament, which further defers action. Local analysts fear that a referendum on changes will be tacked on to a general election in 2022 and see them bounced through without sufficient debate.

### ... and corruption comes through as unpopular

One element of the BBI that might alarm those who attended the launch was a section on corruption. The political elite using their positions to win tenders is increasingly politically charged and unpopular. The BBI report effectively defines politicians doing business as corruption. In its corruption section the BBI report advises and recommends that government:

*“Ban all public officers from doing business with government. They also must not engage in business outside government unless the activities they wish to engage in are approved.”<sup>5</sup>*

In yet another high-profile move, police arrested **Nairobi County** governor **Mike Mbuvi Sonko** on charges of corruption in procurement. This is the first instance of an arrest of a governor over conspiracy to commit corruption, failure to comply with laws related to procurement, unlawful acquisition of public property and laundering the proceeds of crime.

*“He is an ethnic **Kamba** but he has been operating under the cover of the Jubilee Coalition with the President. He is a populist criminal ‘bling bling’-wearing type, flaunting his wealth. He is an ex-convict of land transactions – a very dodgy character who belongs to the narco economy. But he was popular with matatu drivers and hawkers who like his bling. What makes it interesting is that people thought he was insulated because of his links to the president.”<sup>6</sup>*

Although the political implications are interesting and suggest that the anti-corruption campaign is taking on a force of its own, ARC sources say the reverse is true:

<sup>3</sup> Source, political analyst, Nairobi

<sup>4</sup> Africa Confidential, 5 Dec 2019

<sup>5</sup> Building Bridges Initiative, 27 Nov 2019

<sup>6</sup> Source, political analyst, Nairobi

*“The whole anti corruption crusade is running out of steam because the prosecutions don’t seem to happen or carry a lot of weight. Cases don’t look as though they are well investigated. Take [former finance minister] **Henry Rotich**. He will be involved in a long court process. A court case once started in this country is the nearest thing to infinity.”*

Henry Rotich is the first senior Kenya government official to face trial for corruption and faces two counts of corruption.

Kenya is ranked 144<sup>th</sup> out of 180 countries globally in **Transparency International’s (TI) 2018 Corruption Perceptions Index**. Kenyan law criminalises various forms of corruption, but patronage, nepotism and cronyism remain endemic in all sectors of the economy and as such there is a high risk of corruption throughout the country. While Uhuru Kenyatta’s anti-corruption campaign has recently matured into a series of high-profile indictments, these are widely regarded as politically motivated. Rotich, for example, is considered to be a supporter of William Ruto and so, to Kenyatta, was dispensable from the cabinet.

### **The next big licence**

Kenya’s corruption problem centres on licences and business-to-government tenders. The big-ticket tender is the 5G licence spectrum where local sources say the political elite will be looking to profit. The **Competition Authority of Kenya** on 13 December approved a merger between **Airtel Kenya** and **Telkom Kenya** in a deal that on the surface looks set to challenge **Safaricom’s** dominance of the telecoms industry. Despite the approval, local sources suggest that the merger is not a done deal. According to ARC sources, the attorney general is asking that a full due diligence be carried out on Airtel to determine Airtel’s bona fides. ARC sources also raise concerns that

*“... it’s a complex transaction and the [attorney general] AG wants a complete due diligence on Airtel ....to determine whether they have what it takes to complete the merger. The AG wants to see the Airtel books but Airtel has not been providing information. The AG has been complaining each time he ask for the accounts – he gets a **Powerpoint** presentation. The other problem is that they are expecting that by going into a joint venture with the government – they are gong to get a licence for free – which their competitors did not get.”*

### **Looking back at 2019 and ahead to 2020 ...**

Kenya looks set to maintain its position as the regional economic powerhouse with the most diversified economy. Kenya has had a very good year after an inauspicious start to the year with an armed terrorist attack on a high-end business and hotel complex that killed 21 people. This tragedy was followed quickly by the **Ethiopian Airlines’** Boeing 737 Max 800 crash outside **Addis Ababa** that claimed the lives of 32 Kenyan nationals.

Outside the largely banal political machinations that have dogged the year, the business environment and economy are among the best on the continent and will remain so, at least until elections in 2022. Economic growth for 2018 outstripped expectations with agriculture leading all sectors in improved output. Although growth slowed in 2019 to around 5.6%, the country can look forward to 2020 and another year of steady expansion of around 6%.<sup>7</sup> This is particularly true now that Kenya has become the first **East African** nation to export petroleum. However, the rosy economic and business outlook is tempered by Kenya’s very high debt levels, which have seen the **International Monetary Fund (IMF)** urge caution.

Corruption will remain a scourge in business-to-government relations. Based on previous form, those arrested for corruption will be embroiled in long drawn-out trials which will end without any corruption convictions, further undermining President Uhuru Kenyatta’s anti-corruption credentials. However, direct business-to-business relationships are largely clear of corruption and will remain so.

<sup>7</sup> IMF World Economic Outlook, October 2019.

Finally, as a signatory to the **African Continental Free Trade Area (AfCFTA)** agreement and already a champion of regional free trade in the **East African Community (EAC)**, Kenya will be one of the AfCFTA's early beneficiaries and a boost in trade activity in the year ahead is anticipated.

### Planner

27 Jan 2020 **Nairobi (Kenya) Central Bank of Kenya** Monetary Policy Committee meeting;  
 30 Mar-3 Apr 2020 **Nairobi (Kenya)** Annual Summit on Investment Opportunities in Kenya;  
 8 Jun 2020 **The Hague (Netherlands) International Court of Justice (ICJ)** hearings for **Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)** case to begin;  
 19-21 Aug 2020 **Nairobi (Kenya)** Kenya Financial Services Conference and Expo;  
 2022 **(Kenya)** *Daily Nation*. General elections to be held;

### Chronology

17 Dec 2019 **Naivasha (Kenya)** *Daily Nation*. President **Uhuru Kenyatta** launches the **Nairobi-Naivasha Standard Gauge Railway** cargo service and an inland container depot that connects the coastal port city **Mombasa** to the capital **Nairobi**;

16 Dec 2019 **Nairobi (Kenya)** *Business Day*. **Kenya Airways** names **Allan Kilavuka**, the CEO of its subsidiary, **Jambojet**, as the new acting CEO to start on 1 January;

15 Dec 2019 **Nairobi (Kenya)** *Africanews*. Rapper **Kennedy Ombima ('King Kaka')** asks for protection following the release of his controversial song criticising politics, corruption and elections among other problems in **Kenya**;

13 Dec 2019 **Garissa (Kenya)** *Daily Nation*. President **Uhuru Kenyatta** launches a 50-megawatt solar power farm in **Garissa**, built by **China-based Jiangxi Corporation for International Economic and Technical Cooperation** and Kenya's **Rural Energy Authority**;

13 Dec 2019 **Nairobi (Kenya)** *The East African*. **Competition Authority of Kenya** approves a merger between **Airtel Kenya** and **Telkom Kenya** in a deal that could challenge market leader **Safaricom's** dominance of the telecoms industry;

6 Dec 2019 **Nairobi (Kenya)** *KFGO*. Police arrest **Nairobi County** governor **Mike Mbuvi Sonko** and his associates over conspiracy to commit corruption, failure to comply with laws related to procurement, unlawful acquisition of public property and laundering the proceeds of crime;

3 Dec 2019 **Nairobi (Kenya)** *Reuters*. Importers say authorities are forcing them to use a new **Chinese-built Mombasa-Nairobi Standard Gauge Railway**, which is ramping up costs and delivery times;

3 Dec 2019 **Nairobi (Kenya)** *The East African*. President **Uhuru Kenyatta** says **Kenyan** forces will remain part of the **African Union Mission in Somalia** for a longer term;

4 Dec 2019 **Nairobi (Kenya)** *Capital FM*. **Algeria's** ambassador to **Kenya**, **Selma Malika Haddadi**, declares her country's support for Kenya's candidature for the non-permanent seat on the **UN Security Council** in the election slated for June 2020;

29 Nov 2019 **Nairobi (Kenya)** *Daily Nation*. **Kenya Airways** chief executive **Sebastian Mikosz** says that the government must move quickly to nationalise the airline as regional competitors pour cash into their national carriers;

28 Nov 2019 **Nairobi (Kenya)** *Daily Nation*. Parliament approves \$770m in extra spending requested by the treasury in its revised budget for the 2019/20 financial year;

### About Africa Risk Consulting:

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