

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Thursday, 6th May 2021

The House met at 10.00 a.m

[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]

PRAYERS

Hon. Deputy Speaker: Hon. Members, I must congratulate you this morning. It is very unlike a Thursday morning to have a quorum. What is more serious is that by the time we arrived in the Chamber, we already had 54 requests and eight interventions. I do not know what is out of order at this point in time. However, as soon as we take off, I will be interested to know what it is. Let us start our business.

PAPERS LAID

Hon. Deputy Speaker: Under this particular Order, the Leader of the Majority Party will table Papers.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2020 and the certificates therein:

- (i) The National Assembly;
- (ii) The Parliamentary Service Commission;
- (iii) The Parliamentary Mortgage Loan Scheme Fund;
- (iv) The Parliamentary Car Loan Scheme Fund;
- (v) The Salaries and Remuneration Commission;
- (vi) The State Department for Trade and Enterprise Development;
- (vii) The Commission on Administrative Justice;
- (viii) The Kenya Slum Upgrading Low Cost Housing and Infrastructure Trust Fund from the State Department for Housing and Urban Development;
- (ix) The Provident Fund of the National Treasury;
- (x) The Railway Development Levy Fund Operations Account for the State Department for Transport; and
- (xi) The Ministry of Defence.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. Is that the Chair of the Departmental Committee on Finance and National Planning? What happened? I have not seen anything from your end. You

have Papers to lay on the Table of the House. Proceed. I thought that you got too mixed up with what happened yesterday.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

Report of the Departmental Committee on Finance and National Planning on its Consideration of the Public Finance Management (Amendment) Bill (National Assembly Bill No. 48 of 2019); and

The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 20 of 2020).

Thank you, Hon. Deputy Speaker. I hope that I have not gone to the bottom of the queue.

Hon. Deputy Speaker: No. I have not touched anything. When I said that you got mixed up with something yesterday, I was talking about the photo session that was disrupted by the rain.

(Laughter)

I said that you needed to bring yourself back to the Chamber. What is your point of order, Hon. Gikaria?

Hon. David Gikaria (Nakuru Town East, JP): I am not the one who has pressed the intervention button.

Hon. Deputy Speaker: I have no idea who has done it. It must be the system. I will see where you are but I had not seen you.

Hon. David Gikaria (Nakuru Town East, JP): Which number am I in the queue?

Hon. Deputy Speaker: Which number were you in?

Hon. David Gikaria (Nakuru Town East, JP): I was in number 9.

(Laughter)

Hon. Deputy Speaker: There is no guesswork here. Even if you play number 9 in football, that does not mean that when you come here, your card comes in number 9. We will see where you are. I am sure we will trace where you are.

Hon. David Gikaria (Nakuru Town East, JP): I was in number 9.

Hon. Deputy Speaker: No. It is not possible. Let us go to the next Order and then I will give the opportunity to the Leader of the Majority Party.

NOTICE OF MOTION

LIMITATION OF DEBATE

Hon. Deputy Speaker: Leader of the Majority Party, you can give the Notice of Motion.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Deputy Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Standing Order No. 97(1) and notwithstanding the resolution of the House on 23rd March 2021 on the limitation of debate on Bills under Article 257 of the Constitution, this House orders that the speaking time for each Member be reduced from 15 minutes to 7 minutes.

Hon. Members: No.

Hon. Members: Yes.

(Loud consultations)

Hon. Deputy Speaker: Order Members! The Notice of Motion has been given. It will be brought forth at the right time and you will make your decision. Let us proceed.

Next Order!

(Hon. Aden Duale spoke off-record)

QUESTIONS AND STATEMENTS

Hon. Deputy Speaker: Order Members! In this particular Order, we have both Questions and requests for Statements. Let us start with the Ordinary Questions. Member for Mumias East, Hon. Washiali, proceed. Order Members!

(Hon. Kipyegon Ng'eno stood in his place)

Hon. Ng'eno, take your seat. A Notice of Motion has been given at this point in time. You are the ones who will make the decisions. Why do you expect me to make a decision on something you are supposed to do? I am not ruling on that particular one. Let us proceed.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it, Hon. Duale?

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, I have lived in this House with Hon. Kimunya starting with the 10th Parliament. It has never happened, and let us not change the rules of the game midway. Hon. Kimunya had his one hour to move this Bill. When the substantive Speaker was on the Chair, Hon. Owen Baya moved a Motion to reduce debating time for each Member from 15 minutes to 10 minutes but the Speaker ruled him out of order. The Speaker said that he should have done that when the Motion was being moved. This is an abuse to the legislative process. Why should somebody have one hour, another one 30 minutes and others 15 minutes and now you are telling us seven minutes? We will not agree to that. I will not agree to that.

Hon. Deputy Speaker: You must be speaking on behalf of the team that is opposed to it.

(Loud consultations)

Just listen. I have given you the time.

(Hon. Aden Duale consulted loudly)

Hon. Duale, I cannot give you the time to speak, then when I try to tell you what is happening here, you have a problem with it. You will be actually abusing the position I have given you. So, this is the issue; we have 63 Members and 63 requests.

(Loud consultations)

I am not in any way canvassing for anybody. I am giving you the position as it is. Once we start the process of giving Members an opportunity to contribute, I will ask Members not to come where I am here. The reason being, many of you Members come here requesting that you really want to speak. We will follow the queue as is, when that opportunity comes. The Leader of the Majority Party has given the Notice of Motion and he is going to canvass it, so, let us proceed. We are now doing Question time.

Hon. Washiali. Is he absent? Okay, Hon. Washiali requested for a deferment. Hon. Osotsi did the same. So, we ask the Member for Uriri, Hon. Mark Nyamita to ask his Question. Hon. Mark Nyamita.

Question No.131/2021

CAUSE OF INCREASE IN PRICES OF PETROLEUM PRODUCTS

(Question deferred)

Question No. 132/2021

INVESTIGATIONS OF FIRMS ASSOCIATED WITH
EMPLOYEES OF KERRA AND KENHA

(Question deferred)

Question No. 137/2021

DELAY IN DISBURSEMENT OF FREE SECONDARY EDUCATION FUNDS

(Question deferred)

Hon. Member for Tharaka-Nithi, Hon. Beatrice Nyaga.

(Loud consultations)

Order Members. I see Hon. Beatrice Nyaga in the House but she is not interested in asking the Question. Why are you not asking your question? Proceed and ask your Question, please.

Question No.152/2021

DELAY IN PAYMENT OF PENSION TO ELIPHAZ NYAGA M'RIBU

Hon. (Ms.) Beatrice Nyaga (Tharaka Nithi, JP): Hon. Deputy Speaker, I rise to ask Question No.152/2021 directed to the Chairperson of the Teachers Service Commission:

- (i) What is the status of processing and payment of pension for one Eliphaz Nyaga M`ribu of Teachers' Service Commission No.167271, Pension No. APN/PC 97785 who retired from service in 1998?

- (ii) Could the Commission undertake to fast-track the processing and payment of the said pension and give a timeline for the payment?

Thank you, Hon. Deputy Speaker for the opportunity.

(An Hon. Member stood in the aisle)

Hon. Deputy Speaker: Take your seat. You cannot come and canvass. You have an opportunity to sit there. No, please, just take your seat.

(Loud consultations)

Hon. Members, we will proceed with business and no Member will be allowed to come here. So, let us proceed. Let us have request for Statements by Hon. King'ang'i.

REQUESTS FOR STATEMENTS

EVICTION OF RESIDENTS OF NDUNGUNI CENTRE

Hon. Geoffrey Muturi (Mbeere South, JP): Hon. Deputy Speaker, pursuant to the provisions of Standing Order No.44(2)(c), I seek to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the recent evictions of residents of Ndunguni Centre in Makima Ward of Mbeere South Constituency.

On 24th April 2021, a contingent of police officers brutally evicted and displaced over 800 households in Ndunguni and demolished their residences forcing them to camp as internally displaced persons (IDPs) at Ndunguni Primary School. Further, nine journalists covering the eviction as well as 13 residents and the area Member of Parliament were brutally beaten, arrested and detained in a police cell under trumped-up charges. That also led to the confiscation of journalists' phones and media equipment.

It is on account of these urgent concerns that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

1. What circumstances led to the inhuman and extremely brutal evictions of residents and demolition of houses at Ndunguni Centre?
2. What urgent intervention measures is the Government undertaking in addressing ongoing humanitarian crisis at Ndunguni Primary School exemplified by the massive congestion devoid of sanitation and water, COVID-19 masks, food and other basic needs particularly in consideration that schools are scheduled to reopen on 10th May 2021?
3. In light of the fact that these residents are the rightful owners of the land near Masinga Dam in Kiambere where they live despite claims to the contrary by Tana and Athi River Development Authority, within what timeline shall the Government settle the IDPs, resolve the land ownership dispute and issue due compensation to the residents of these colossal losses?
4. On what basis were the journalists, residents and area Member of Parliament harassed, beaten and arrested and does the Government intend to pursue the trumped-up charges against them?

Hon. Deputy Speaker, allow me to add one comment. I am a Kenya Defence Forces (KDF) veteran and there are several veterans in this House. Brutalising and beating up a retired military officer, whether serving or not is against our military ethics and traditions. We cannot have a country where people who served this country with honour All my life I have served the country with distinction, if I may say, yet I was humiliated and beaten up like a common criminal. It is a shame and I want to say this for all to hear. I have received a lot of calls from military officers, some retired some still serving, wondering what is going on this country. The monster that is being created will come back to bite and it always does.

This week, we had the world press freedom day. None other than the Hon. Speaker exemplified the provisions of our Constitution on the freedom of the press yet journalists were bundled up, beaten and locked in for no reason. Their equipment were destroyed and they were taken to court. This must stop. I have an IDP camp in a primary school and schools are opening. This Government must tell us about the provisions it is making to resettle the IDPs, put them back in their homes and compensate them for the loses they incurred.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: We will go to the next request by Hon. Walter Owino. I am trying not to give you using this slot because you will lose out on the order of speaking in the order you had placed.

Have it there and then.

ABDUCTION OF MR. JOSEPH OMOLLO

Hon. John Owino (Awendo, ODM): Hon. Deputy Speaker, this is a request for a Statement regarding the abduction of Mr. Joseph Omollo also known as Rashid Yusuf in Migori County.

Hon. Deputy Speaker, pursuant to Standing Order No.44(2)(c), I seek to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the abduction of Mr. Joseph Omollo also known as Rashid Yusuf. All his identification documents also disappeared. He was abducted at Kokuro Junction in Awendo Constituency, Migori County.

On 6th March 2021 at around 8.00 p.m. Mr. Joseph Ochieng' alias Rashid Yusuf was abducted by unknown persons at Kokuro Junction in Awendo Constituency, who posed as customers in his Wines and Spirits Shop before accosting him and bundled him in a waiting car. They fired in the air to scare away onlookers before speeding off towards Ranen area on the main Migori-Kisii-Nairobi Road. The matter was reported to Ranen Police Post vide OB No.07/06/3/2021 and 39/06/3/2021. It is now over two months since the abduction occurred and the whereabouts of Rashid Ochieng' remain unknown.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

- (i) Could the Chairman explain the status of the investigations into the abduction and disappearance of Mr. Joseph Ochieng' Omollo alias Rashid Yusuf at Kokuro junction in Awendo Constituency in Migori County on 6th March 2021?
- (ii) What steps is the Government taking to enhance security in Awendo Constituency and further investigate, arrest and prosecute the perpetrators responsible for the abduction of the said person?

(iii) What measures has the relevant Ministry put in place to ensure that the affected family is duly compensated for the abduction of Mr. Joseph Ochieng' alias Rashid Yusuf?
Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Let us go to the next Order.

BILL

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

(Hon. Amos Kimunya on 28.4.2021)

(Resumption of Debate interrupted on 4.5.2021 – Evening Sitting)

Hon. Deputy Speaker: I actually thought there was a Procedural Motion. We have two Motions, and the one which we should be prosecuting first is the one to extend the time of the Morning Sitting. Let us start with the procedural one.

PROCEDURAL MOTION

EXTENSION OF MORNING SITTING

Hon. Amos Kimunya (Kipipiri, JP): Hon. Deputy Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order No.30 (3) (a), this House resolves to extend its Morning Sitting of Thursday, 6th May 2021 until 2.00 p.m. today.

Hon. Deputy Speaker, I held consultations with many Members and they even went to see the Speaker as early as 8.00 a.m. because since last week, most Members have been sitting here until the last minute. I have been here. So, I know.

(Applause)

I can tell the people who have been here. Towards the end, they find that they cannot speak. When they come back the next morning, log on again as No.6 or No.7 but still they do not get chance to speak. Right now, with 66 Members, we are trying to do everything possible to create time for as many Members as possible to contribute. We can do it if we increase the time. You can have your lunch at 12.00 p.m. and come back. We normally stop at 1.00 p.m. purely for the convenience of Members to go and have lunch but you can take your break at any time.

I am trying to accommodate as many Members as possible based on your request. If you approve it, then it means that we will have an extra one hour which will accommodate a few more Members to put their voice on record for future reference. This is one of the measures. I will come to the next one after we are done with this one.

I do not want to explain much on this one because I do not want to speak a lot and take more time when we should be contributing to debate.

Hon. Deputy Speaker, I beg to move and ask the Leader of the Minority Party to second.

Hon. John Mbadi (Suba South, ODM): Hon. Deputy Speaker, so that I do not spend the time of the Members who want to contribute to this Motion, I second the Motion.

(Question proposed)

Hon. Members: Put the Question.

Hon. Deputy Speaker: Hon. Members, sometimes...

(Hon. Aden Duale spoke off record)

Hon. Duale, do you want to contribute on this one?

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, it is also not in order...

(Loud consultations)

You can make noise, but I will have my say because I represent the people of Garissa Township.

This is the august House. When this Bill was being moved, it had no timeline. The substantive Speaker made a ruling on the contribution time that every Member, from the Mover to the Secunder, should have. I have been sitting here for the last three days, and I do not mind because this is where I do business. This is where I get money to feed my children, pay my electricity bills, *et cetera*. So, I will sit here until my time comes.

Hon. Deputy Speaker, I want you to be very candid to the House. Let us not treat this House like the characters in *The Animal Farm*, where some animals have more chances than others. The Standing Orders...

(Hon. Ngunjiri Wambugu spoke off-record)

I am on a point of order, unless you do not know.

The Standing Orders are very clear. There are contribution times to every Motion given to the leadership, Committee Chairpersons and Members. Why is the time being extended to 2.00 p.m.? What is wrong? The Speaker said that each and every Member of the 349 Members will speak. Even if you extend the sitting time to 2.00 p.m., I can say without any fear of contradiction that there are more than 150 Members who have not spoken to the Bill. I calculated that there are more than 150 Members who have not spoken. Why deny them a chance to contribute to a very important constitutional moment?

Hon. Deputy Speaker, I ask you that you must rise to the occasion.

Hon. Deputy Speaker: Let us have the Member for Nyeri Town, and that will be it. I will then put the Question.

Hon. Ngunjiri Wambugu (Nyeri Town, JP): Thank you, Hon. Deputy Speaker. I was raising a point of order for what Hon. Duale was saying. We are discussing a Procedural Motion to see whether we are actually going to extend this sitting to 2.00 p.m. I wanted to suggest that, as a House, we just need to make that decision. You just put the Question then we say "Yes" or "No" and then we move on.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Yes. So, Hon. Members, that is the position. The Procedural Motion has been moved and seconded. I have proposed the Question. You have asked, on public demand, that you want us to put the Question.

Hon. Members: Yes.

Hon. Deputy Speaker: Hon. Members, you will make the decision, one way or the other. I have no issue. Whatever decision you make, we will be happy with it.

(Question put and agreed to)

That is a decision that has been made by the majority. So, that is the position. You will have your time until 2.00 O'clock. Members, you will organise yourselves in such a way that you can deal with other things like lunch and so forth.

Proceed, Honourable Leader of the Majority Party, for the next Motion.

MOTION

LIMITATION OF DEBATE

Hon. Amos Kimunya (Kipipiri, JP): I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 97(1) and notwithstanding the resolution of the House on 23rd March 2021, on limitation of debate on Bills under Article 257 of the Constitution, this House orders that the speaking time for each Member be reduced from fifteen (15) minutes to seven (7) minutes.

Hon. Deputy Speaker, first of all I want to thank the House for extending the time for this Morning Sitting. Also, I just looked up, when you were speaking and saw that are 63 Members. Now there are 66 Members who have signed up. Last week we spent quite an inordinate amount of time with points of order, people seeking clarifications from the Speaker. The Speaker gave a very detailed Ruling that took over an hour to clarify most of those issues. He came up with some decisions as a result of which most Members have said, "Now that we understand our limitations, all we want is to bring in points of variation to what others have contributed". I have been sitting here since Wednesday morning. I have been listening and I know. I can tell you, 90 per cent of the Members who have spoken have actually been repeating what the others have said. So, to enrich this debate and to bring variations so that people can concentrate on other issues that need to be brought out, Members want to reduce the time to five minutes. But, I looked at it and said five minutes might be too short. Let us agree. Instead of reducing from 15 to five minutes, why do we not agree on seven?

I just thought, perhaps, that is a good compromise so that people can bring new issues rather than old ones. Most importantly, I want also to debunk this feeling that Members have that one cannot vary this time. Standing Order 97 is very clear that, between adjournment of a debate and before commencement of a debate, a Motion can be brought. Standing Order 97(3) basically says you cannot introduce this Motion in the course of a debate. But, between adjournment and commencement of a debate, you can bring the Motion. So, this is very clearly and properly before the House so that we do not end up with a situation that we are doing something to change the rules. We are doing it for the convenience of the House. Hon. Members will make a decision.

Members, I really do not want to go on about that matter because I will not want to take your time. I beg to move and ask Hon. Wangwe, the Whip of the Majority Party, to second.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Deputy Speaker. With all that good explanation from the Leader of the Majority Party, I would not want to take much of the Members' time. I second.

(Question proposed)

Hon. Deputy Speaker: The Honourable Leader of the Majority Party, I would like to have a word with you. In the meantime, just a minute.

(Hon. Amos Kimunya moved to the Chair)

Hon. Members, are there Members who want to contribute to this because we are trying to save on time so that we do not consume too much time? I could give chance to two Members.

Hon. Members: Put the Question.

Hon. Deputy Speaker: Do you want me to put the Question?

Hon. Members: Yes.

Hon. Deputy Speaker: I wanted to give two Members a chance to make brief comments.

(Loud consultations)

I see Members want us to put the Question.

(Question put and agreed to)

The intervention slot is completely full. So, I am not even able to know who is requesting. Who is that?

Hon. Kathuri Murungi (South Imenti, Independent): Thank you, Hon. Deputy Speaker. I want to advise Hon. Kaluma that I am a Meru man who is never intimidated anywhere. I have no two businesses in this House. I am here to represent the good people of South Imenti Constituency. Whether he wants to move forward, it is none of my business. I must be heard on this Floor.

Hon. Deputy Speaker: What is it?

Hon. Kathuri Murungi (South Imenti, Independent): My point of order is that I did agree with the proposal of seven minutes and that one of extending the House up to 2.00 p.m., but even if you do simple mathematics, seven minutes times 63 Members is already 7.3 hours. So, what I am requesting the Honourable Leader of the Majority Party is... There is a message that has circulated that we might vote this afternoon. That is why I am really requesting the leadership of the House to consider extending that time until all of us speak to this historic Bill.

Hon. Deputy Speaker: Okay. I am sure the Leader of the Majority Party had heard that. Let us proceed, Hon. Members. We do not need to waste more time. I will be following the list as it is. So, we will start with the Hon. Rahim Dawood, but before we go to Rahim Dawood, I am aware that the previous speaker had a balance of some minutes.

Sorry, Hon. Members. Let us move procedurally. Please, read the Order.

BILL*Second Reading*

THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020

*(Hon. Amos Kimunya on 28.4.2021)**(Resumption of Debate interrupted on 4.5.2021 – Evening Sitting)*

Hon. Deputy Speaker: We had Hon. Leshoomo on the Floor. Now, please have your time. Make it as short as possible because you seem to have slightly more time than we have just passed. So, proceed.

Hon. (Ms.) Maison Leshoomo (Samburu CWR, KANU): Asante sana Mhe. Naibu Spika kwa kunipatia nafasi hii pia mimi nichangie mambo haya ya BBI. Ninashukuru kwa sababu jana sisi ndio tulifunga Bunge tukiingoja kuzungumza. Ningependa tu kusema yale mambo niliyoyabakisha jana. Nikisimama hapa ninasimama kama Mheshimiwa wa Samburu County na pia Memba wa Kamati ya BBI. Kwa hivyo, ninaweza kuzungumza. Tafadhali niseme kile nimeona.

Mhe. Naibu Spika, mimi ni mmoja wa wale walizunguka kaunti 47. Nataka niwaambie machache Wajumbe wenzangu. Wakati tulikuwa tunatembea katika kaunti 47, maoni kuhusu BBI, tuligundua kuwa siyo ya wakubwa na siyo ya yeyote. Ni ya mwananchi. Mwananchi ametupatia maoni tofauti tofauti.

Naibu Spika, ningependa kusema machache tu. Tulipewa ajenda tisa na Rais Uhuru Kenyatta na Raila Odinga. Maoni hayo yalikuwa ya kuuliza wananchi kueleza maono yao juu ya Kenya. Maoni hayo pia yalikuwa yaeleze Wakenya jambo la vita kila wakati tunapofanya uchaguzi. Kwa sababu ya muda, ningependa kusema kuwa wananchi walitoa maoni yao.

Ningependa kuomba wenzangu waniskize kwa makini. Kwanza, walisema kuwa mambo ya siasa yanapiganiwa wakati wa uchaguzi wa urais na wala sio wakati wa uchaguzi wa magavana au Wabunge. Waliomba kuwa ikiwezekana viti vya juu vigawanywe vitoshe kila mtu ili tusiwe na vita hivyo. Wananchi walitoa maoni yao kuwa na viti vya Waziri Mkuu na naibu wake. Ningependa kueleza kuwa wawakilishi wa wadi wetu hawakupitisha BBI kwa sababu ya hiari yao lakini kwa sababu ya amri ya wananchi. Tulipokuwa tukizuru kaunti mbalimbali tulikuwa na wawakilishi wadi ndio maana walipitisha BBI kwa sababu walisikia maoni ya wananchi wao. Wananchi walisema kuwa kaunti na maeneo Bunge yasisigwe. Na pia wawakilishi wadi waangaliwe kwa sababu ndio wako mashinani.

Ningependa kuwaambia wenzangu kuwa mambo ya BBI ni ya wananchi na wala sio ya Rais Uhuru Kenyatta na Raila Odinga. Anayekataa kuunga BBI mkono amekataa maoni ya wananchi. Wananchi walitoa maoni yao na walituambia kuwa tangu uhuru, hawajawahi kuulizwa maono yao juu ya Kenya. Wananchi walifurahia “handshake” ya Rais Uhuru Kenyatta na Raila Odinga hadi wale ambao hawasikizani walianza kuongea. Ningependa kurudia kusema kuwa BBI ni maoni ya mwananchi. Tulipokuwa tunazuru nchi, wenzangu hapa walikuwa wanakataa BBI lakini ni vizuri wakumbuke kuwa hii ni maoni ya wananchi. Tupitishie BBI kwa sababu ni maoni ya wananchi.

Naibu Spika, wananchi walisema kuwa mawaziri wachaguliwe kutoka Bungeni kwa sababu Mbunge wake akipewa kiti hicho atakuwa katika Serikali ya Kitaifa.

Naibu Spika, wananchi walikataa suala la uteuzi wa wawakilishi wadi na Wabunge lakini wataalam waliangalia sheria itakayotumika kutatua suala hili. Katika Kamati yetu, tulikuwa na wakili, wazee wa dini, akina mama na wataalam wanaoelewa masuala ya Kenya.

Hon. Deputy Speaker: Your time is over. Let us have Hon. Rahim Dawood.

Hon. Nyasuna, you are next.

Hon. Rahim Dawood (North Imenti, JP): Thank you, Hon. Deputy Speaker. I want to state that I support BBI and believe it is the way to go. I want to congratulate the Judicial Service Commission (JSC) for nominating Martha Koome to be the next Chief Justice, and William Ouko as the Supreme Court Judge. The handshake between President Uhuru Kenyatta and Rt. Hon. Raila Odinga was a game changer. From 2018, the country has been running smoothly and we do not have any more issues. I was in the 2005 referendum of the bananas and oranges which gave birth to ODM. I was still leading the 2010 referendum of Yes and No in North Imenti. When His Excellency the former President Mwai Kibaki visited Meru, he told us that 20 per cent of the Constitution was not right and that we will rectify it in future. The future is now. We are now changing the 20 per cent that was not right and this will not be the last time to amend the Constitution. We will be called in future to propose more amendments to the Constitution.

Hon. Speaker, when the boundary delimitation was done in 2010 by the Andrew Ligale Commission, there was a lot of gerrymandering because we just got one constituency in Meru County whereas we should have got three. We are happy with the proposed 70 new constituencies. People are saying that Mt. Kenya has been given 42 constituencies but it is not true because we have only been given 17. We have been given those constituencies by right and not because of the gerrymandering as seen in the Ligale Commission where areas with a 100,000 population were allocated constituencies.

The Bill proposes 35 per cent allocation to counties but people are asking us: If you cannot give 15 per cent, how possible will it be for you to allocate 35 per cent? I want to state that in the Division of Revenue Bill that was passed last, the county allocation was at 30 per cent including the conditional grant. That was for the audited accounts for 2016/2017 Financial Year. The BBI is suggesting that 35 per cent will not be for audited accounts by the National Assembly but whatever will be presented by the Auditor-General even if it has not been approved by Parliament.

The Bill is also good because the NG-CDF has now been put in the Constitution and we will not have an instance where it is taken to the courts and declared null and void. There is the Ward Fund which will not be tied to a governor. When many of our colleagues go to talk shows, they say that we are increasing the membership of Parliament to 640 Members. That is untrue. When they say that we will have 640 MPs in the National Assembly, it is a misconception. If we will have 360 Members plus six nominated MPs, we will have 366 Members in the National Assembly. If we will have 94 Members in the Senate, one male and one female, we will have a total of 460 Members because there will be no nominated Members in the Senate. One third of that will be 150 Members less 47 from the Senate and less three nominated from the National Assembly being one youth and two disabled Members. That will make a total of 104 Members who have to be nominated in case gender equality will not be achieved. As we talk here today, we have female MPs who are 23 in number. So, the maximum number we will be talking about is 81 Members. If you add 81 to 366 you will get a National Assembly of 447 MPs and 94 Senators. That will make 541 Members and not 640 Members that people have been talking about. We expect to have female MPs because of the one-third gender rule that will be applicable by political parties when they nominate MPs using their party lists.

A lot of things have been said about the Prime Minister and the Deputy Prime Minister. One is that they will get more money. However, they will not be getting double salaries. They will be having allowances just as Hon. Duale was getting and Hon. Kimunya is getting. There is nothing much besides that.

The good thing with the IEBC --- (*Technical hitch*) We will not have a situation like in the previous elections where President Kibaki failed to serve President Moi his Petition, which was eventually thrown out of court. Now we have 30 days for presidential petitions.

Hon. Deputy Speaker: Your time is over. Let us now have Hon. Gladys.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Deputy Speaker. At the outset, I support unreservedly the BBI Bill. We are privileged to live through and participate in this historic moment. Building a stable and prosperous nation is an exercise that never comes to an end. Chinese philosopher Confucius said that our greatest glory is never in falling but in rising every time we fall. Nations develop by constantly probing their systems, reviewing and questioning what works and what does not work. The Constitution is a living document; it is a document for the people by the people. It is for us to decide at any given time, depending on the prevailing circumstances, to have a Constitution that works for us. The 2010 one has served us for 10 years now and we are in its 11th year. We have been able to see where the shoe pinches us. Those are the things that the BBI Bill is in the process of correcting. There is a school of thought that the BBI Bill is expensive and it is not a priority. Figures have been thrown here and there, and it was suggested that we first deal with other things before we deal with the BBI. What is the cost of peace and prosperity? Is there a price too high to pay for a peaceful, prosperous and stable nation?

There is an argument that we first fix the economy before the BBI Bill. I want to state that the economy follows politics. If politics fail economy fails. In 2008 our Gross Domestic Product dropped to 1.5 per cent from 6.9 per cent the previous year. Why? It was because of political instability. In 2017, it dropped to 4.8 per cent from 5.9 per cent the previous year. Why? It was because of political instability. Therefore, a vote for BBI Bill is a vote to strengthen our economy and build a prosperous future for our children and their children. I heard it being said on the Floor of this House that we are dealing with a dangerous document. It has been said that we are dealing with a document that is clipping the independence of the Judiciary. Nothing could be further from the truth. Independence of the Judiciary is a hallowed constitutional tenet. It is the hallmark of our democracy. So, why are we being told that we are clipping the independence of the Judiciary or that the BBI Bill is doing it? It is because Clause 43 of this Bill is amending Article 172 to give the Judicial Service Commission power to receive complaints against judges, investigate and discipline them by warning, reprimanding or suspending them. We are being told that by doing that we are clipping the independence of the Judiciary.

If we look at the context in which we had the 2010 Constitution, it was such that the 2010 Constitution provided for a vetting board for all judges. The Sharad Rao Vetting Board vetted all judges. What happened is that we had a gap. Article 168 of the Constitution provides for the removal of judges but there is nothing in between. What if a Judge's misconduct does not meet the threshold for removal but is grave enough to be investigated and action taken? The situation we currently have is that the courts gave a ruling that the JSC cannot investigate, punish or reprimand a Judge. If, for example, a Judge – we have many good judges and a few bad ones – is not writing his judgements on time, such is not a threshold for removal from office. The Judge cannot be reprimanded by the JSC.

In this Parliament, after every five years people can vote us out. We have the Powers and Privileges Committee. Parliament can review the conduct of a Member of Parliament. What is wrong with having the JSC reviewing the conduct of judges and reprimanding them in the event that a conduct does not meet the threshold for removal? Right now it is the President who forms a tribunal for the purpose of removing a judge. Why do we feel the Judiciary is more independent when the President forms a tribunal for removal of a Judge than the JSC that is constituted by the Chief Justice, Judges from the Supreme Court, the Court of Appeal, the Law Society of Kenya and magistrates reviewing their peers? These are just stories being told. The reality is that BBI Bill is strengthening the independence and accountability of the Judiciary.

On the Judiciary Ombudsman, there are many good judges who do a good job but we also know that at times there is justice for sale. Where can Wanjiku go when there is justice for sale? There must be an ombudsman to which Wanjiku can go and record her complaints.

On the issue of the two-thirds gender rule, for 50 years we have sought to have this rule. Hon. Duale brought here the Duale Bill one, Duale Bill two and Duale Bill three and Duale Bill four. We danced and went to parties trying to pass the two-third gender principal. Finally, the BBI Bill has delivered, after 50 years, the two-thirds gender principal. Even if it was for that alone, I would support BBI. I support it fully, 100 per cent, and in addition, the opposite gender rule of a 50-50 Senate.

Hon. Deputy Speaker: Your time is over. Hon. Njoroge Wamaua. Kindly have the Floor. Hon. Cheptumo, you are next in line. This is so that you can prepare.

Hon. (Ms.) Mary Njoroge (Maragwa, JP): Thank you, Hon. Deputy Speaker for giving me this chance to speak to this historic moment of the Constitution of Kenya (Amendment) Bill, 2020. I rise to support. I also want to commend all those Members who have risen in support of this Amendment Bill as proposed by the popular initiative.

It is true that we are not looking at the contents of the amendment Bill. What is being proposed is meant to make the 2010 Constitution better than what it is now. The Articles that are being amended, it is to make the Constitution of Kenya, 2010 better. All that has been proposed here is very important for it touches on the people we represent economically, politically and in all other areas. Allow me to talk about two areas. I want to start with Clause 10 of the Draft Bill which seeks to amend Article 89. It is proposing to delete the 290 constituencies and substituting them with 360 constituencies. It brings on board 70 additional constituencies. This is an area that is demonised by those who are not in support.

This will ensure a fair representation of the people in the National Assembly and also, create a balance in the sizes of our constituencies. Currently, there are extremely large constituencies which get the same resources as the small constituencies. Whenever Kenyans pay taxes, it is to support each and every person irrespective of where they come from. Last week, Hon. Kabinga Wathayo from Mwea tried to bring in the formula that was used to create the additional 70 constituencies. We want each and every vote to count in terms of representation and the sharing of resources. We are not questioning the issue of delimitation of boundaries whether it is the responsibility of IEBC.

Chapter One talks of sovereign power of the people. That is why we are subjecting all these proposed amendments to a referendum. Power is bestowed on Kenyans. They are able to decrease or increase the number of constituencies. Later on, IEBC will come in to look at delimitation of boundaries. We cannot say we cannot do this when all of us understand that the whole issue will end up with Kenyans. They will then approve or not. Let us not demonise the creation of constituencies when we know that they are looking at those areas that have many people. I give an

example of Ruiru, Kasarani and Mwea constituencies. They are large and yet they get the same NG-CDF money as the constituencies with fewer people.

Allow me to also talk about Clause 50 of the Draft Bill which seeks to amend Article 203. It proposes the expansion of the criteria for determining the equitable share. The average amount of money per person, to a county with the highest allocation, does not exceed three times the average amount of money per person allocated to a county with the lowest allocation.

The proposed amendment to Article 203 also seeks to increase the percentage of funds allocated to counties from 15 to 35 per cent. There are those who are bringing propaganda by saying that...

(Loud consultation)

Hon. Deputy Speaker, allow me to continue without interruption because my minutes are lapsing. When we talk of the national Government disbursing 35 per cent instead of 15 per cent, we are only taking money to where Wanjiku is. When this money is taken to the counties, it will increase development activities and improve service delivery, especially with regard to the devolved functions, like agriculture, which touches on the lives of our people.

Out of the 35 per cent, there is the five per cent for the Ward Development Fund. Each ward will get Kshs20 million. This adds to the NG-CDF money. All these monies will go to the common person that we represent here. I support BBI 100 per cent because of what it is going to do, especially, taking resources to the people we represent here.

Hon. Deputy Speaker: Hon. Cheptumo, kindly have the Floor.

Hon. William Cheptumo (Baringo North, JP): Thank you, Hon. Deputy Speaker for giving me a chance to also contribute to this very important Bill. At the outset, I oppose this Bill. Eleven years ago, Kenyans enacted the 2010 Constitution, which is said to be the most promising and progressive in modern Kenya. I had the privilege of participating in the process of making that Constitution as an Assistant Minister for Justice. We integrated in it, national values. It also gave Judiciary, as an institution of governance, independence. The 2010 Constitution gave Kenyans some hope, human dignity and independent institutions of governance. Kenyans expected the Kenya Constitution 2010 to be the foundation on which this country shall move in the right direction.

Under the 2010 Constitution, we have had two General Elections, that is, in 2013 and 2017 where we witnessed violence and destruction of property. The question we need to ask ourselves as a House is: if indeed, the challenges that we have as country can be resolved by having a Constitution, why then did we have violence and tribal tension after the promulgation of a promising and progressive Constitution in 2010? My humble submission to this House, and even to this country, is that our challenge as a country is not the Constitution!

The challenge - and we must agree to this - is us leaders. If the solution to our challenges is the Constitution, we could not have had street election violence in 2013. If our solution is in the Constitution *per se*, we could not have had election violence in 2017. The challenge we have today in our country is that we do not believe in the rule of law. When we lose elections, we chose the narrow path; the dangerous path of resolving disputes through violence. That is why we go to the streets to dispute outcomes of elections yet the 2010 Constitution gave us very independent institutions like the Judiciary, which should be able to resolve our issues. Prof. Okoth Ogendo, an expert in constitutional matters, in his article titled *Constitutions without Constitutionalism: an African Political Paradox* I want to quote what he said. He said that African political elite are fully

and clearly committed to the idea of a constitution. At the same time and with the same energy they categorically neglect the notion of constitutionalism. This is where the problem is.

Today, as a House we are debating our Constitution of Kenya (Amendment) Bill to amend our Constitution. We believe in the Constitution but, we do not believe in the constitutionalism in this document. If we do so, we should be able to believe in the institutions we are creating. One of the reasons why I am opposing this constitutional amendment Bill is because it is premised on a foundation that is not constitutionalism. Already, we see the impunity in this process where we say we cannot stop reggae. The process being undertaken has already faced a challenge of impunity. That is why even in this House, when Members of the august House express opposite or different views, they are punished. I also want to say that there are very fundamental provisions in this Bill which are really good like Article 4, Article 5, clause 6, and so on. Let me cite one: If you look at clause 10, there is a serious argument that Wanjiku can determine the number of constituencies. That is okay but, I want to submit that it as much as Wanjiku may have the right to increase the number of constituencies, Wanjiku does not have the power to allocate those constituencies to various counties as done under Schedule 2 of the Bill. To that extent, what is unconstitutional in the Bill is a good reason that this House should reject this Bill so that we can....

The Deputy Speaker: Your time is over. Members, kindly be looking at the three lights here. It will really guide you to summarize towards the end.

Hon. Member for Westlands.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Speaker. I also want to say from the outset that I support the BBI Bill. One of the tenets of this Bill is when the two statesmen, President Uhuru Kenyatta and the Rt. Hon. Raila Odinga, came together and shook hands in 2018 that changed the political landscape of this country. They came up with nine points that had to define the way forward from that day.

One of the issues that were addressed was the divisive elections that were held after the new Constitution; in 2013 and 2017 that ended in dispute and in court. We remember the Kriegler Report telling us that we should not let the courts determine our elections. That is one of the things that we would like to address so that we have an election that is not disputed as the past two elections.

Hon. Deputy Speaker, protect me.

The Deputy Speaker: Actually, I should protect you especially when the person standing in front of you is Hon. Tobiko.

(Laughter)

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Speaker. Our Constitution is 10 years old and is ripe for audit. We have seen that the constitution is a living document, it only works for us, and it is made for us and not us for the Constitution. We have seen the weaknesses in the Constitution that we need to address. One of the things that made the 2010 Constitution to be passed by Kenyans was the introduction of devolution. We have seen through the BBI that we are even addressing the issue of devolution, trying to strengthen them and giving more revenue to the counties, which will enable more development at grassroots level. Additionally, introduction of the Ward Development Fund, which will also boost what NG-CDF has done for the last so many years.

The other thing that the BBI addresses is strengthening of the Civil Service, national agencies and independent commissions. We have seen many times these commissions and the

Civil Service being weakened so much that it is even undermining the performance of the Government. When you look previously under the regime of President Kenyatta and President Moi, the Civil Service was very vibrant and it was the reason we never had these divisive politics. In many countries even when an election is going on, the running of government is not disrupted because we have a civil service that is intact, strong and one that can manage the running of government even without the political arm of the government. However, in this country we have seen even when we go to an election, everything comes to a standstill and so strengthening the Civil Service and other independent constitutional agencies is an important pointer.

Hon. Speaker, we have also looked at remodeling the parliamentary system by introducing or bringing back the Executive in the House. This is also going to add the confidence of the representation in this House. When we used to have ministers here, when members asked Questions they were answered and the ministers were there to face them. Today since Cabinet Secretaries are not members of the House, sometimes we ask Questions and they are not taken seriously. Sometimes we have concerns that we raise because we are the representatives of the people and we find that these issues are taken very lightly. This is one of the things that were supported by the people when the taskforce went around the country. People wanted the Cabinet Ministers to be drawn from the Members of Parliament and we know what that means. It means that the ministers were more effective when they were in the House. They were more responsive and more accountable when they were members of this august House.

Hon. Deputy Speaker, this is a document that has highlighted so many important things. We will miss the point when people just point out small weaknesses in the document and make them look like the Bill is addressing only small issues or a section of the population.

The BBI is a game changer. It will bring a lot of positive energy in the country. We shall bury some of the political differences that arise during general elections. The introduction of the official opposition in the House will also put the Government on check. Really, that is something we need to look at.

I thank you, Hon. Deputy Speaker for giving me time to contribute.

Hon. Deputy Speaker: Let us have Hon. Tobiko. You do not have to be worried because your time is well set out. I could see you were a bit anxious thinking that you are already consuming it.

Proceed.

Hon. (Ms.) Peris Tobiko (Kajiado East, JP): Thank you, Hon. Deputy Speaker for allowing me to participate in this historic moment. This is a very important time in our country in the history of constitution-making. It is a very important time in our being Members of this august House. I want to deal with only three issues because of the limited time that I have.

I have had the advantage of listening keenly to the Members who have spoken before us. I have come to the conclusion that this august House has a very interesting composition. This is where Kenya is. It is the face of Kenya at different levels. This House has Kenyans who come from developed regions, regions that have received unjust treatment in terms of development, and regions where people have suffered historical injustices. So, we hear the different views because of the inequality that has been there in this country.

When I was a student of political science, I was told that the definition of politics is the allocation of scarce resources. I was also told that politics is what determines who gets what, when and how. The various arguments I have heard in this House are by people who are worried about the Ombudsman and the Judiciary. However, our worry as a county is for resources, our basic needs and our infrastructure that is still wanting. That is where I speak from. I heard the Member

for Kandara speak about the Judiciary. My people are worried about the resources that will go to our county.

When I am told that the Constitution of Kenya will guarantee Kajiado County a share of 35 per cent of the sharable revenue, who in this Chamber can tell me to say “No” to the BBI Bill? I am told that the Constitution will give a tax relief to our young people who will be starting businesses. There is unemployment facing our people. That is enough to make me support the BBI. There is the Maslow’s theory of hierarchy of needs. There are those people who have reached another level and they are worried about democracy and institutions like the Judiciary. Some of us are worried about what our counties will get because we have never received our fair share from the national level. Out of the BBI process, Kajiado County will receive additional three constituencies. That means additional Kshs300 million for Kajiado County. That means my constituency, which is both rural and urban, and which has different needs and priorities will organise itself better because the urban part will receive its constituency while the rural part receives its constituency. So, each constituency will address the needs of its people in different ways according to their priorities.

Hon. Deputy Speaker, this is not about President Uhuru or about Hon. Raila Amollo Odinga. I have heard people say that this is not a popular initiative. We, however, have had a chance to interact with this document and even the taskforce in our counties.

I have led my people to present views to the taskforce. I have also been part of a delegation of women who appeared before the taskforce at Kenyatta International Convention Centre (KICC) to present our views. From here, this document will go to the citizens for them to vote to either endorse or reject it. Therefore, this document is not about the two people who shook hands. It is about Kenyans and Kenyans will make their decisions. I have heard people from different regions who are worried about positions. People are wondering who will take the position of Prime Minister, presidency, Deputy President or who will take the position of the leader of the official opposition. Some of us from other regions in this country have never had that kind of chance. It will be a privilege. As the big communities fight for those positions, there are those Kenyans who are only fighting for basic needs. We need water and roads.

Hon. Deputy Speaker: Your time is over. We now go to the Member of Emurua Dikirr.

Hon. Kipyegon Ng’eno (Emurua Dikirr, KANU): Thank you, Hon. Deputy Speaker for giving me this opportunity. I rise to join my colleagues, friends and the people of this Republic of Kenya in voicing my concerns and also my opinions. I am putting my voice on record so that today, tomorrow or whatever day, my position can be known on this particular document.

I stand here to express the opinions of myself, the people that I represent and love; the people of Emurua Dikirr. I want to voice my concern on this document as a document that will go down in history as the most divisive document, the most selfish and the most dangerous document that has ever been brought to this House. We have been given powers by the Constitution to make laws for this country sometimes we make laws that are derogatory and retrogressive – laws that will take back this country to the ages we came from.

Hon. Deputy Speaker, as to whether this document belongs to Wanjiku as many people stated, it is only after the referendum that we can 100 per cent say that the document belongs to the people. As of now, the document belongs to only two people. It belongs to two brothers like Sargasian and Margarian. That is what this document appears to be. As to whether this document will further the tranquillity and the cohesion in this country, my answer is “No” the reason being that the Government has abandoned the country economically, educationally and health-wise. The Government is now “killing” the Constitution.

The four pillars have completely been rendered irrelevant in this House. This Amendment Bill tries to talk to several issues, like the questions of divisive politics, ethnic antagonism, inclusivity and corruption. But when you look at all the issues choreographed here, I will tell you for a fact that none of the proposals in this document cure all the issues they are purporting to discuss.

For example, look at the question of divisive politics, which has been causing this country to be divided after every election. We all know the reason why people normally fight is because of resources. People normally have divisive elections because of stolen elections. Also, after elections there are issues because of presidential appointments. When people are going to elections, they want to see who is elected as the President of this country and the only issue is, when the President takes over the appointments he makes starting from the CSs to the lower cadres.

The President normally does appointments disregarding the law. As to whether this issue has been cured, it has not. This is because no one talked about compelling the President to make appointments not necessarily based on his region or community. As to whether we cured the question of the winner takes it all, there will be an election in this country based on democracy and there will be line-ups. Even after introducing the question of the leader of the official opposition in this House, we have the Leader of the Minority Party here who represents the opposition. As to whether this will cure the winner takes it all, obviously, the Leader of the Minority Party will be a leader of opposition and will not have any stake in Government. He or she will remain as the leader of opposition.

As to whether this Constitution of Kenya (Amendment) Bill has cured the question of divisive election, look at the introduction in Clause 22. It purports to introduce the position of a Prime Minister. I want to dwell on this because there will be a parliamentary coup in this country. Never wait for another coup in this country but wait until that day we will have a Prime Minister in this House. Looking at options, in option 1, the President appoints the Prime Minister and sends his name to Parliament and it votes to pass or reject. Option 2, Parliament sits and makes an appointment of their own Prime Minister and votes.

Look at the roles of the Prime Minister, he will be chairing a sub-committee of Cabinet. Looking at this Parliament, there will be Cabinet Members in this House, we will be making budgets and impeaching CSs. If this House votes for the position of a Prime Minister contrary to the appointment of a President, it will lead to a coup and the President will have no say. We have seen a Prime Minister sitting in this House and there were serious divisions. Look at a situation where the MPs will be appointing that Prime Minister, will the President have a say in this country. He will never have a say. The budget will be implemented in this House and the Prime Minister will lead a coup thorough the CSs who will be sitting with him in this House.

On the question of the Judicial Service Commission, I am one of the most arrested individuals in this country. The reason why I am not in a cell today is because of the independence of the courts. Otherwise, if it was for the Government, I would be behind bars today. When you try to interfere with the courts some of us will stand firm and say no. Lastly and not least, I want to go down in history and record as having opposed...

Hon. Deputy Speaker: Hon. Khamisi Mboko, Member for Likoni.

Hon. (Ms.) Mishi Mboko (Likoni, ODM): Asante sana Mhe. Naibu Spika. Nachukua nafasi hii kuunga mkono Mswada huu ambao tunaita mpango maarufu ama kwa lugha ya Kingereza *popular initiative*. Ningetaka kusema Mswada huu umekuja kwa sababu tulikuwa na machukio mengi sana katika taifa letu la Kenya. Kwanza tukiangalia ghasia nyingi za uchaguzi

zilifanya tupoteze Wakenya wengi. Pia hapa Kenya tulikuwa na ukabila mwingi sana na kumekuwa na ufisadi ambao umekidhiri.

Mswada huu unazungumzia mikakati ya kuweza kupambana na ufisadi, vipi tutaweka usawa katika taifa letu, umoja na pia kuweka uzalendo? Lakini haswa kabisa Mswada huu umezungumzia vipi tutapata huduma mashinani. Wakati tunazungumzia ugatuzi mashinani lazima pia tuzungumzie fedha mashinani. Hivyo basi, iwapo asimilia 35 itakuja mashinani, itamaanisha tutaweza kupata huduma sambamba na zile fedha zitakuja mashinani. Vile vile, zile fedha ambazo zitakuja katika wadi zitakuwa fedha ambazo zitasaidia wadi zetu kuweza kupata miradi, hata kama yule Mjumbe wa Kaunti atakuwa hasikizani na gavana, pengine hawatoki chama kimoja ama walikosana katika mambo ya uchaguzi, bado watu wa sehemu hiyo ya wadi wataweza kupata miradi yao bila kubabaishwa na jambo lolote.

Mswada huu pia umezungumzia pesa za kusawazisha, ambazo kwa Kiingereza tunaita *Equalisation Fund*. Imesema pesa hizi za kusawazisha zitaongezewa miaka kutoka 20 hadi 30. Pesa hizi zitasaidia sehemu zilizotengwa kama kaskazini mashariki, pwani na sehemu zingine katika Jamhuri yetu ya Kenya ambazo zilitengwa katika miradi kama mambo ya barabara, maji na afya. Kwa hivyo, Mswada huu umezungumzia mambo mazuri ambayo yatasaidia taifa hili. Pia, umezungumzia vipi akina mama wataboreshwa katika nyanja za uongozi na maamuzi. Hivyo basi, katika Seneti kina mama 47 watakuwa na nafasi ya kutoa maamuzi na kuangalia zile fedha katika kaunti zetu, kutoka kwa ngazi za juu katika taifa letu na hata zile ambazo kauli zimeweza kukusanya pale mashinani. Kina mama watakuwa na sauti na wanaweza kupiga kura na kufanya maamuzi.

Vile vile, pia uongozi utakuwa wa akina baba na mama sambamba, sako kwa bako iwapo gavana ni mwanamke, basi naibu wake atakuwa mwanaume. Iwapo ni mwanaume naibu atakuwa mwanamke. Sasa hivi tunaona Magufuli aliweka naibu mama Suluhu na tunaona ambavyo amejizatiti na kuweza kuongoza taifa la Tanzania kwa njia safi tena sana. Vile vile, pia Mswada huu umezungumzia tume ya vijana ambayo itawakilishwa na vijana wa kike na kiume katika njia ya usawa. Tume hii itaweza kuangalia mipango ya vijana, ratiba na sera ambazo zitazungumzia matatizo, maendeleo na vile kuboresha hali ya vijana ili kuwawezesha katika miradi ya maendeleo.

Vile vile, vijana wataweza kupata mapumziko kutokana na ulipaji wa ushuru katika biashara zao kwa muda wa miaka saba. Hili ni jambo ambalo litaweza kukuza vijana katika mambo ya vipawa, miradi ya biashara ndogo ndogo na ile mikubwa kwa wale watakuwa wamepata uwezo. Mswada huu umezungumzia ile sheria ya thuluthi-mbili ya jinsia vile itaangaliwa. Hivi sasa hatutakuwa na kizungumkuti na utata katika kujua je, hii sheria ya jinsia itatekelezwa kwa njia ngani? Itatekelezwa kwa njia ambayo Mswada huu umezungumzia.

Mswada huu pia umezungumzia kuwa tutakuwa na mawaziri watakaoteuliwa miongoni mwa Wabunge waliochaguliwa katika maeneo Bunge. Hivyo basi, iwapo tuna mswali ya kuzungumzia, mambo ya sehemu zetu ambazo tunawakilisha tutauliza hapa katika Bunge. Waziri atakuwa hapa na ataweza kukupatia jawabu. Si kama sasa ambako lazima utoe taarifa kwamba unataka Waziri fulani aje umuulize maswali haya. Waziri naye anajibu kwamba atapatikana ama hatapatikana.

Kwa hivyo, tutakuwa na wakati mwafaka wa kuweza kuwauliza maswali mumu humu Bungeni. Mswada huu pia umetupatia nguvu kiasi kwamba fedha za NG-CDF ambazo zinakuja katika eneo bunge zitawekwa katika Katiba. Hivyo basi wale wakereketwa ambao wamezoea kupinga matumizi ya pesa hizo ambazo zimemsaidia mlalahoi na yule maskini pale mashinani... Fedha hizi zitajulikana tu sawia na zile pesa ambazo zinaenda kwenye kaunti. Zitakuwa

zimewekwa katika Katiba. Hilo ni jambo zuri sana. Pia, vyama vya kisiasa, itakuwa lazima vihakikishe...

(Several Hon. Members approached the Table)

Hon. Deputy Speaker: Order, Hon. Members! Should you want to approach the Table, there is a place you approach through. What you are doing here is something that has never been seen at all. I am a bit disappointed. I would not mind one of the Members I have seen going there but I am disappointed with two who are very long serving Members of this House. I know you are coming here to take a screen shot of what is happening on the list, which is perfectly in order. Please come from the other side and take the screen shot. That is okay. You are perfectly allowed to do that but please what I have seen here is a very new phenomenon.

Proceed and actually finalise because your time is over.

Hon. (Ms.) Mishi Mboko (Likoni, ODM): Mhe. Naibu Spika, hata maseneta sasa hivi watakuwa na uwezo wa kuangazia zile fedha ambazo zimekusanywa na kaunti na si zile tu ambazo zimetoka katika ngazi ya kitaifa. Vilevile watu watateuliwa baada ya kura kupigwa na watu kuchaguliwa. Watakaoteuliwa ni wale ambao pia wamegombea na kung'ang'ana katika uchaguzi na pengine kwa bahati mbaya au nzuri wakaanguka. Wao ndio watapatiwa nafasi.

Mhe. Spika, naunga mkono Mswada huu kwa sababu ni Mswada ambao utaleta maridhiano na maelewano katika taifa. Mambo ya uchaguzi yatakuwa na imani na kutakuwa na amani katika taifa letu la Kenya. Asante, Mhe. Spika.

Hon. Deputy Speaker: Hon. Kamoti Mwamkale. Hon. Members, any Member who wants to look at the screen should come from the other side. It will be easier. Please, also keep safe distance. Do not go very close to the clerks. They can give you information there.

Hon. William Mwamkale (Rabai, ODM): Thank you, Hon. Deputy Speaker for giving me this opportunity. I disclose that I am a member of the Justice and Legal Affairs Committee which really sifted through this Constitution of Kenya (Amendment) Bill, 2020. On that note, I thank our Speaker for the ruling that he gave in this House.

Indeed, there have been doubts on this document not only in the House but even out there. It has been in the social and mainstream media that there were two versions of the document. The Speaker put it clearly that, indeed, if there are any differences then they can only be said to be typos. We were told there are two versions of this document. One of the documents cites Article 87(7) while the other one cites Article 89(7). Hon. Speaker did put it right in his ruling that indeed there is no such a thing or there is no Article 87(7). It is an article that does not exist. Go to your Constitution 2010 and look for Article 87(7). It is not there. Article 87 ends at (3). So, indeed these were typos and the ruling of the Speaker really puts this nation at peace as far as this document is concerned.

Another issue that social media capitalised on was that this was not a popular initiative document as indicated. However, I am inviting the people to look at the process and not the origin of the idea. It is the process that will determine whether this is a popular initiative or not. It is clear even in our Constitution 2010 that a popular initiative is one that is backed by the people and comes from the people. To appreciate this, people should look at the episodes before the handshake and the handshake itself. Indeed, that history will make people appreciate that we have a document that is going to solve our problems.

Hon. Deputy Speaker, these amendments address all the nine points that were identified after the handshake. The nine points were debated by members of the public. The BBI taskforce

that was formed went around the 47 counties and I am happy to report that when they were in the Coast region, the people of Rabai were invited. We sent our delegation to give input to this document. So, the report that the steering committee used to come up with the Bill – because it is the steering committee that came up with this Bill – included all the views of the people of Kenya.

So, these being views of the people of Kenya, nobody can really say that it is from the handshake brothers as I have heard it being said. These are views of the people and it does not matter who really came up with the idea. Our President and our former Prime Minister could have come up with the idea but it was taken to the people and it is the people who gave us the gist of these amendments. No document is perfect and we are amending the Constitution now. This will not be the last time this document is amended because it will not even make it perfect. I am inviting Members of Parliament and members of the public to look at the greater good and to look at the provisions that *mwananchi* has been looking for – the needs of the people of Kenya.

Hon. Deputy Speaker, I come from Rabai, which is in the Coast region. We have had a history of complaints that the national cake has not been reaching Coast province. At one time, people even suggested that *Pwani si Kenya*. However, here we have 35 per cent which is going to the counties. Some Members of this House have died because our hospitals have no oxygen facilities. We have lost Members here. If we say no to the 35 per cent allocation of revenue then even the COVID-19 issue will not be addressed by the counties. So, let us focus on the greater good of this document. Let us pass it for posterity. We should not mix it with the 2022 General Election issues. Most of us who are opposing this thing have 2022 in mind. Let us look at it in terms of prosperity.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Deputy Speaker. At the outset, I want to remind this House the oath I took when I became a Member of Parliament in 2007 and subsequently, 2013 and 2017. It says:

“In the name of Allah, I will bear true faith and allegiance to the people and the Republic of Kenya and that I will obey, respect, uphold, preserve, protect and defend this Constitution of the Republic of Kenya.

This is coming at the right time, in the last 10 days of the holy month of *Ramadhan*. I am going to speak my mind. I will not speak for any political party or any political formation but I will speak for the people of Garissa Township who brought me to this House and gave me powers to represent them under Article 1(2) of the Constitution.

There are many debates and there are many people who are telling us about inclusivity. I was a founder member of ODM. We are being told that this Bill came as a result of the 2007 Post-Election Violence (PEV). I want somebody to tell me, that by the passage of this Bill, there will be no PEV. I want somebody to look at me in the eyes and tell me that there are electoral reforms in this Bill. The ODM party and all of us asked for election reforms. I want somebody to look at me in the eye and tell me if this Bill contains any electoral reforms. I want someone to tell me if this Bill has united or divided Kenyans. Before we come to the Members of Parliament and the people of Kenya, the presidency is already divided. Constitutions are not meant for leaders. Constitutions are meant for the people to check on the leadership.

Hon. Deputy Speaker, if you allow me, during the first referendum in the 1960s, only one region took part, and it was in the northern part of Kenya called NFD. I listened to over 50 Members, everybody is speaking for their region and their communities. Without any apologies to make, I am speaking for the Somali community. Ninety-nine per cent of them voted for me. This document discriminates and does not favour them. A lot has already been said about this Bill and I am also cognizant of the fact that on Tuesday, the Speaker gave a ruling. I agree with the ruling

on the constitutional and procedural matters. However, first and foremost, I want to raise two critical issues on this Bill which I would like to go on record because in my view they are weighty constitutional issues that this House, and Kenyans outside this House must address. I want to tell our colleagues that about 30 years from now, what you do will haunt you. What Tom Mboya, Jaramogi and Mzee Jomo Kenyatta and all the leaders before us did whether negatively or positively, is haunting them today.

Clause 44 of this Bill provides that the President shall nominate and with the approval of the Senate appoint the Judicial Ombudsman. This clause further provides that the Judicial Ombudsman shall among other things, receive and conduct inquiries into complaints against judges, registrars, magistrate, other judicial officers and staff of the Judiciary. This is a very dangerous trend. As a country, over the years, we have been having an independent Judiciary under the 2010 Constitution which is devoid of interference from any arm of Government. It is free to express itself and work without being directed by anybody. One which is only guided by the Constitution. The Office of the Ombudsman shall erode all these gains.

Article 172 of the Constitution protects and defends judges and magistrates that in the event JSC finds a judge has contravened the Constitution either on integrity or otherwise, the JSC will look at it and will give the judge a fair hearing in a tribunal formed by the President. What this Ombudsman is going to do is exactly what President Moi did during his time. That judges will go to Statehouse, present a judgement to the President and they will come and read it before a court of law. Justice Madan and Justice Majid Cocker did it. You can go to the records.

The creation of the Ombudsman is creating fear and intimidation among the judges, the saviour of minorities all over the world. You know what happened after the Supreme Court nullified our elections. I want to confess and apologise to the Judiciary and the people of Kenya, I did not say but my party said that we shall revisit. With this Ombudsman, the revisiting has started. Will this not mean that judges will work under intimidation and under the whims of what the Executive tells it to do? How shall a judge work, render their judgment that is free and fair? Can judges that are likely to be intimidated by Executive ensure that justice shall be done to all Kenyans irrespective of status? The answer is no. A classic example is a Member of this House, Hon. T.J. Kajwang'. Under this system, T.J. Kajwang' would have been charged with treason because of what he did at Uhuru Park. Since we have an independent Judiciary, my colleague and friend T.J. Kajwang' sits in this House. My friend, Member for Emurua Dikirr has many pending cases.

I also want to talk about justice. Will justice not be delayed? The answer is no. Will justice be administered without undue regard to other matters and the purpose and principles of the Constitution shall be protected and promoted? The answer is no. For these reasons, let me go on record of the *Hansard* that the Office of the Judicial Ombudsman shall bring an end to the independence of the Judiciary that we fought for, for many years. If this passes, nothing will stop a judge from being told to jump and the only thing he will ask is how high. Due to intimidation, they will be asking how high they should jump. I want to ask my colleagues, let us not be emotional. What we are going to do here is going to haunt some of us.

The other issue I have a problem with is the Second Schedule. The Second Schedule of this Bill is introducing additional 70 constituencies. Somebody should tell us why 19 counties should be left out. Kakamega County has 12 constituencies and Kiambu County also has 12 constituencies. In this Bill, Kiambu County is getting over 13 constituencies while Kakamega County is getting only three. Compare this with what Ligale did. Look at North Horr; it is equivalent to the former Western, Central and Nyanza provinces combined. Somebody is telling us that North Horr does not deserve a constituency. Look at Ijara where the chair of the BBI, the

late Haji comes from. Ijara is 25000km² with a population of 300,000. Tell us what is wrong with Wajir South. Enough said.

If you allow me, I will finish with a Chinese proverb. I want the women of this House to respect me. I had no choice. I read a Chinese proverb and allow me to quote it again, it is very important for this House to hear because the Chinese proverb will tell us what we are going to do. I read a book and a Chinese proverb. We ask for consensus...

Hon. Deputy Speaker: Time is over.

(Loud consultations)

Hon. Deputy Speaker: No! The proverb is going to be yours. Hon. Maoka Maore, proceed.

(Loud consultations)

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, just the proverb.

Hon. Deputy Speaker: No. I will not expect that you digress anything. Just finish it.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, the Chinese proverb says that you will only realise the importance of dialogue, the importance of negotiation and the importance of peaceful resolution of conflict when a mosquito lands on your testicles.

Hon. Deputy Speaker: Thank you. Proceed, Hon. Maoka Maore.

Hon. Maoka Maore (Igembe North, JP): Hon. Deputy Speaker, I appreciate the moment to plead with the House that when we are given time and want to plead an addition, it is a good idea. Very quickly, it is good to respond...

(Loud consultation)

Hon. Deputy Speaker, can I have my time starting now without being disrupted by this? Thank you.

We are facing very unfortunate times in this country to the effect that we have leaders who have chosen the path of lies, distraction of the country, the path of misleading and the path of conniving. If you can recall about the handshake, it came to cool down this country. It came to help this country. It came to save this country. The unfortunate bit is that a part of that Government did not recognise the handshake as a way of healing the country, but saw the handshake as a way of being denied power. If you listen to the sentiments by Members opposed to this Bill, they are not opposing it on the basis of the content. They are basing it on the issue that they are being sidelined. They do not say by whom and how.

Hon. Deputy Speaker, the politics in this Bill are the ones we are addressing. The ones who are fighting are doing it for politics. If you hear about coffee, you hear about the prices of maize, you hear about the prices of tea, and you hear about Coronavirus... People are saying this is not the time and this is about the economy. Yes, it is about the economy. The economy is being destroyed by corruption. The economy is being addressed in the BBI. If you look at the people who have been disparaging the Bill, they are actually borrow-headed cowards. They do not want to mobilise and say they will go and move a vote of no confidence at the BBI. They have been fighting these stages on technicalities. They have been sponsoring litigation. They have been moving days and saying they want to talk. To talk about what? After five Members have talked

about the Bill, anybody coming thereafter is just repetition. So, what we need to understand is that when we are moving a country forward, there are those who do not feel comfortable when the country is being run well. For this reason, when they are cowards and do not want to vote no, they do not want to even hear people who are proposing and talking sensible things.

Hon. Deputy Speaker, I have heard somebody saying that every county should have been given a seat in the BBI. If you follow that pattern, this is what is being cured in the BBI. The counties were given seats based on population not tracts of land like the one in North Horr. That kind of lie coming out of here is going to poison the country. It is the population of Kiambu, Nakuru and Nairobi. It is the population of Meru that make it get two seats. Anybody who says that you are being denied a constituency, and that is why you should fight the Bill, do not be a liar as a leader. Look at the country and tell them the truth.

As I continue, when you say you do not remember about the ruling by the Speaker when he gave direction, a Member of this House who was here, a nearly two hour ruling by the Speaker actually took most of our debate. I will only want to raise a small point here that when we want to hear those who are advocating for tracts of land instead of population, the BBI is very clear. They want to advocate for one man one vote one shilling. It is for that reason you will find that if we are to double the revenue from 15 per cent to 35 per cent, if you go to a county like Meru, they will move from Kshs9 billion to Kshs18 billion. If you go to Nyandarua County, it will be from Kshs4.8 billion to Kshs7 billion, Nyeri County will be from Kshs5.4 billion to Kshs9.8 billion, Nairobi County will be from Kshs15.9 to Kshs31.5, Kirinyaga County will be from Kshs4.2 billion to Kshs8.3, Murang'a will be from Kshs6.3 billion to Kshs10.8 billion, Nakuru will be from Kshs10.7 billion to Kshs21 billion and Kiambu will be from Kshs9.4 billion to Kshs18.5 billion.

If you are fighting the BBI, you need to look at the people from those counties that I have mentioned and tell them that this is what you are fighting, smile at them, mock them and show them how your politics are very important. Those who say that if you were not able to deliver 15 per cent you may have a problem in delivering 35 per cent are just bold-headed liars. We are talking about the revenue collected in a specific year. That from this year onwards, if the BBI goes through, anybody, when you collect your revenue, you will share 35 per cent to the devolved units and whatever is left, you do at the national level. So, let us not use propaganda. Let us not incite the people and when you do it, be honest.

Hon. Deputy Speaker, as I have said, the rebellion or the civil war has been within the Jubilee Party, specifically within our Mt. Kenya region. When the President organised to talk to leaders on 29th January 2021, the leaders from the same region sat down and did exactly 11 pages of an insult after insult on every paragraph to the President. These are problems that we will need to handle in Mt. Kenya after the BBI and during the BBI. We want to hear leaders saying how brilliant they are by saving their people not by seeking political positions.

(Hon. Deputy Speaker left the Chair)

*(The Temporary Deputy Speaker
(Hon. Patrick Mariru) took the Chair)*

They should deliver on the promises they made for the 2017 to 2022 period and not talk about a Government that is coming in 2023. Establish a covenant and put it in writing. It is now written in the Building Bridges Initiative and not in some game reserves where lions roar and scare you like children.

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The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Martin Owino.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. First of all, allow me to thank God for the gift of life such that I can stand here today to debate on this important amendment Bill. Also, I want to thank God for the two statesmen, President Uhuru Kenyatta and my party leader, Prime Minister Raila Amolo Odinga, who have committed themselves and resolved to make this country become and remain productive and prosperous.

A word of wisdom has it that you cannot solve a problem if you do not understand it. That is what we are considering in this House. We cannot allow Kenyans to kill themselves during every election through bullets and machetes, maim themselves, some are displaced and some suffer from post-traumatic stress disorder (PTSD) for years because of elections. This amendment Bill is trying to correct that, so that we can remain peaceful even after elections.

Freedom of association is in the Constitution. I remember vividly after the 2017 Elections my party leader wanted to address concerned members of the public. We went to a field in Eastlands only to find out the whole field was pasted in faeces and human waste. You wonder when that became a security tool.

The second point I want to raise, because other Members have belaboured so many others, is that when Members will be taken from this House to serve as cabinet secretaries, accountability does not refer to them being called here like we currently do with cabinet secretaries. The first employers of every Member of Parliament are the constituents. I remember during Moi's time, there was the very famous 'one o'clock bulletin' where you could either be fired or appointed as a minister. However, if a Member was fired, he or she could thank the President because he or she stood with their conscience and did what was right. He or she would thank the President knowing very well that their employers still remained. With the new Constitution, that safety net was removed. Therefore, all cabinet secretaries and appointees work at the whims of the President. That kind of boldness died with the previous Constitution. This House will bring back that sanity. That will save a lot of resources because cabinet appointees will not be afraid. One can go back to their constituency and still stand for what they believe in. That is very important.

The third point which will help in accountability is that this House will have an empowered and operational opposition wing. The opposition will have an office and will stand tall to keep the Government in check. That is currently missing. Currently, we can only summon cabinet secretaries through our committees and sometimes they do not come or they instead send chief administrative secretaries. It is very frustrating for the House.

As I said, the problem and the time-bomb are the youth in this country. The amendment Bill clearly states that there will be a commission which will address priority-setting for the youth. It will also address career development and guidance, so that when the youth finish school, they can be employed. It will also address capacity-building, but more so, entrepreneurship, so that the youth can be guided to set up businesses. There will be a moratorium on payment of taxes so that they only do so after seven years. The time for white-collar jobs is gone. For us to help our youth, we have to embrace skill-based training and set up institutions in our rural areas.

Another important point mentioned in the Bill is the economy and shared prosperity. Currently, there is a discrepancy in development between rural and urban areas. Things are so skewed that some regions are more developed while others are not. We talk of highways which are for the national good. However, if I can drive nicely in Nairobi yet the people of Ndhiwa cannot even transport their cane from the farms to the factory, how does that help our country? The amendment Bill will bridge some of those gaps.

We talk of the Gross Domestic Product (GDP). Sometimes we are very proud that our GDP is at five or six per cent. How does that translate into household income? Some people are very poor and have nothing to eat. It is said that Seychelles is the most prosperous country because apart from the GDP, they also measure their economic gain in terms of wealth per household. That will be addressed in the Bill. More so, we cannot afford a country where some have leftovers while others go hungry, some sleep in mansions while others have no roofs over their head, some bathe in hot water and drink cold water while others travel many miles for dirty water and some have large chunks of land while others are squatters. That is what the Bill will cure so that we have equality.

Lastly, let me quote one great son of Kenya, J.M Kariuki. He said at that time that the nation consisted of 10 millionaires and tens of millions of beggars.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Kositany Caleb.

Hon. Caleb Kositany (Soy, JP): Thank you, Hon. Temporary Deputy Speaker. I rise on behalf of the people of Soy Constituency, who sent me to this House, and are my employers, to give my views on the constitutional amendment Bill.

Before I proceed, allow me to thank the three Os who sat in the Committee that came up with this Bill, namely, Otiende Amollo, Orenge and Omogeni. I congratulate them because they were appointed to that committee based on merit. Unfortunately, because they stood by the truth and the law, which they are so schooled on and understand, one of them has been removed from a parliamentary committee.

The BBI Bill is widely spoken about, but very unpopular. There is a Kiswahili saying that states that *kizuri chajiuza, kibaya chajitembeza*. I am very uncomfortable debating this Bill at a time when we have more serious priorities as a country. Other nations are discussing how to vaccinate their populations and manufacture vaccines, but we are the only country in the world which, in the midst of a pandemic, is discussing a change of the Constitution.

I am very reserved when I hear my colleagues calling this a popular initiative. As an elected Member from Uasin Gishu County, we are benefitting by getting three constituencies that we never asked for because our views were not considered. There are Members in this House who will vote yes for the Constitution of Kenya (Amendment) Bill, 2020, and yet their counties will lose. This is because of the intimidation or coercion that is going on with this Bill. From where I sit, the views of the people of Uasin Gishu County were not collected in a popular manner. When we were collecting views for the Constitution 2010, the Taskforce came to Eldoret Town Hall where there were public address systems. All the people who wanted to contribute did it. However, this time, they came and went to Nobo Hotel, and called the people who support the BBI. These are robots who were choreographed to give contributions that would favour the BBI.

The Committee's Report has observations on this Bill. They stated that additional constituencies are unconstitutional in Page 155, Paragraph 556. I said that Uasin Gishu County will benefit. We will get three constituencies which we did not ask for. As the people of Uasin Gishu County, we do not want to benefit from unconstitutional matters. We need to rectify this, so that we can move forward as a country. It is evident that there is a hurry to try and end this BBI debate. Who is in so much hurry that he does not want us to speak to this Report? When I gave a preliminary objection, Hon. Speaker made a ruling. He said that the debate shall go on as long as there are Members desirous of contributing. We have seen messages going around which say that there will be voting in the afternoon. We shall not vote in the afternoon until all Members have been heard. That is what the law says.

We are at a moment in our country....

Hon. Godfrey Osotsi (Nominated, ANC): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Kositany! Hon. Osotsi, I hope it is a point of order, but not a point of argument. What is out of order?

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Speaker, I do not want to interrupt my good friend, Hon. Kositany. However, you are aware that the Hon. Speaker made a ruling on the issue of constitutionalism.

Hon. Caleb Kositany (Soy, JP): Thank you, Hon. Temporary Deputy Speaker. You have realised that...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kositany, let Hon. Osotsi finish. Give us a minute. Let us hear from Hon. Osotsi. Give him the microphone.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Speaker, I do not want to interrupt my good friend, Hon. Kositany, who is the former Deputy Secretary-General of the Jubilee Party. However, you are aware that the Speaker gave a comprehensive ruling on the issue of constitutionality. He said that an unconstitutional matter becomes constitutional when it goes to a referendum and the people accept it. Is it in order for Hon. Kositany to mislead this House on the issue of constitutionality and Hon. Speaker made a ruling on it?

You need to be very clear. Members of *Tangatanga* political movement are engaging in irrelevancies.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order Members! Hon. Kositany, proceed.

Hon. Caleb Kositany (Soy, JP): Hon. Temporary Deputy Speaker, you will give me back my two minutes which have been interrupted.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Osotsi, that was a bit of mischief. Hon. Kositany, proceed.

Hon. Caleb Kositany (Soy, JP): Hon. Temporary Deputy Speaker, it is good to let us know whom Hon. Osotsi represents in this House. I represent the people of Soy who voted for me. Nominated Members of Parliament should respect elected Members of Parliament.

The Report has captured that 12 counties debated the correct Bill. We have 34 counties who debated a Bill which had errors. I want to congratulate the members of the county assembly of Uasin Gishu, where I come from, because they decided to abstain after they saw that this Bill had errors. What assurance are we giving Kenyans that even after passing this Bill, the correct Bill will go to the referendum? After the referendum, what assurance are we giving them that the correct Bill will be assented to, so that it may be enacted in the country?

Hon. Temporary Deputy Speaker, I am a Member of the African Inland Church (AIC). As members of AIC, we do not tell lies. There are a lot of lies in this Bill. We are being told that the Bill is going to cure electoral violence. The single denominator of electoral violence has been that whenever we have an election, some people dispute the results. Where in this Bill has the issue of electoral violence been addressed?

We are being told that this Bill is going to bring national cohesion. Where is cohesion mentioned in the Bill? We are being told that the Bill is going to give us prosperity. At the state of

our economy, how will we prosper? We are going to spend Kshs14 billion on a referendum when that money should have been put in agriculture or other functions that will help our youth.

I want to conclude by saying that the office of the ombudsman that is being introduced will interfere with the independence of the Judiciary. Therefore, as leaders, we must stand up for Kenyans. Also, the amendments on Article 230 of the Constitution will remove the constitutional mandate of the Parliamentary Service Commission, the Teachers Service Commission, and the Judicial Service Commission.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Sossion Wilson, you have the Floor.

Hon. (Prof.) Jaqueline Oduol (Nominated, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Oduol, you have been very persistent. What is it?

Hon. (Prof.) Jaqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker. I do not know whether it escaped your attention, but I wanted to draw your attention to the fact that Hon. Kositany remained standing throughout the time Hon. Osotsi was raising a point of order. Is that in order?

The Temporary Deputy Speaker (Hon. Patrick Mariru): It is not in order, but the train has left the station. He is well informed. Hon. Sossion, please, proceed.

Hon. (Prof.) Jaqueline Oduol (Nominated, ODM): It had to go on record.

Hon. Wilson Sossion (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Constitution of Kenya (Amendment) Bill, 2020 that is before this House cognisant of the fact that this is a Bill that will go to a referendum for the people of Kenya to take a decision through the vote.

There have been a lot of divergent and very emotional feelings about this process. I wish to say that this is normal. Those who hold divergent opinions about this Bill at this very moment, of course, are entitled for now. However, I wish to say that situations change and some of the hard positions we are taking at the moment, we will realise, in the long run, they were not the right ones at that time.

Therefore, in looking at this Bill, it is important to appreciate its origin. The origin of this Bill is the numerous cycles of elections that were accompanied by violence. I am speaking here on behalf of the workforce of this country; the working men and women who are every now and again affected by election violence. Because of the 1992 ethnic clashes, election violence is still fresh in the minds of voters every election period. We had election violence in 1997. In 2002, there was a resolve by Kenyans for which they were voted, globally, as the most optimistic citizens because of containing the situation at that time of coming up with a political coalition. In 2007, we lost it and we have kept losing it. Therefore, the import of this Bill, with the nine issues that are identified, should not raise a lot of emotions. We should give Kenyans a chance to take a decision on this one.

Ethnic antagonism and competition, and, of course, nepotism, has been practised by the previous governments, probably, out of fear. It is a belief that allowing this Bill to go through will make a difference. I remember in 2002, the current President, Uhuru Kenyatta, while a presidential candidate of KANU, said very clearly that this country shall not offer free education. That was the position. However, the presidential candidate of the National Rainbow Coalition (NARC) promised free education. Indeed, currently, in 2021, President Uhuru Kenyatta is a passionate supporter of free public education. So, situations change.

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Where we are at the moment, looking at the constitutional clamour of the citizens of this country and democratisation of this country, we, as Parliament, should not be an impediment to this process. Rather, we should allow the process to proceed to the next stage.

As a workforce, we have been part and parcel of the struggle for democratic governance in this country. Even in 2017, it was our earnest desire that there should be a Government of national unity prior to election. As you have seen from figures, in 2007, the economy slumped from 7 per cent to 1.6 per cent, which means jobs and lives were lost. In 2007, after the elections, I, together with my union, had an opportunity of visiting the Internally Displaced Persons (IDPs) in Nakuru and Eldoret. It is not something that we wish to see again in this country.

Therefore, as a labour movement, we are cognisant that there are many benefits and gains in this Bill that will stabilise the country and guarantee peaceful elections as well as stabilise and steady the economy. Kenya will be a middle-income country. It will be so robust with an assurance of jobs and good environment for businesses if only we tackle the issue of election violence and corruption.

The nine issues that have been placed before us by the leaders of this country should be a covenant and a commitment that must be implemented once this Bill is passed. Even as we support this, because we look at the greater gains, we know that, as a workforce, we might be losing our voice in the Salaries and Remuneration Commission (SRC). The infrastructure of the SRC in the envisaged Bill should not take away the voice of workers. Whoever will be the President of the republic should ensure that the representation of workers in the SRC is sustained.

As workers, we are losing the slot of nomination in the National Assembly. It is our belief that, moving forward, we should still be able, as a country, to ensure that workers are represented through other avenues. We even contemplate to have membership of constituent representatives in the Teachers Service Commission. This should be captured in the statute. It is our belief that the parliamentary system, the hybrid model...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. King'ola Makau.

Hon. Patrick Makau (Mavoko, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I have been waiting for this chance for long. From the outset, let me say that I am supporting the Building Bridges Initiative. Why? If you look at the journey, from the time the handshake took place between Hon. Raila Amolo Odinga and President Uhuru Muigai Kenyatta, the economy of this country has somewhat improved. It is until COVID-19 struck. From 27th March 2017, some of us were in the streets of Nairobi.

The BBI is going to be the saviour and the redeemer of the marginalised. When I speak here, I do so like the many people who are saying that they are speaking on behalf of their people. Yes, indeed, I am speaking on behalf of the people of Mavoko and Machakos County at large. It is very easy for us to understand. In fact, it is the more reason I am wondering. The opponents of the BBI are saying this is without public participation. This is a popular initiative. There are some communities, when their leaders speak, they say they do not want to read any more. In addition to Raila and Uhuru coming together, my party leaders, Dr. Stephen Kalonzo Musyoka, together with Musalia Mudavadi, Senator Gideon Moi, and Senator Wetangula, came together and warmed this relationship and the BBI is going to sail through and help people. Why am I speaking about this? Very many times, the national cake of this country has been divided through units.

When I look at the BBI, in Mavoko and Machakos, we have got some more constituencies and that is the only way we are going to ensure there is equity. When I look at my constituency of Mavoko in Mavoko Sub-county, I have more than 500,000 people yet I receive the same allocation

of the National Government Constituency Development Fund (NG-CDF) as a constituency of 50,000 or 60,000 people.

(Applause)

The BBI is giving me an extra constituency. I feel there will be adequate representation. I heard somebody speak of Kakamega and Kiambu. Indeed, those were the beneficiaries of the colonial divisions. Today, if every ward in Machakos County gets a Ward Development Fund, that means there will be development streaming down to the common mwananchi. Today, I am an embarrassed person. I border Nairobi and when you go to Syokimau, there is only one tarmac road. With increased revenues to the counties, people who live in Machakos County and Mavoko will benefit through developments. I also feel proud because I represent more than 50 Members of Parliament in this House who live in my constituency. Members, it is high time I requested you, if you want us to have more development, you should donate your KeRRA money to me so that I can make roads for you. When I hear people say that the BBI is not a good thing, I do not understand. Machakos County will get 35 per cent of the last audited accounts money. If we have walked this journey of 15 per cent, how about 35 per cent?

This should not be a political debate. I know there are opponents and proponents. I speak for the proponents. On Clause 3, I have seen what the BBI wants to cure. The SMEs may be funded through the Government and this is anchored in the Constitution. I have heard people say that the Ward Development Fund will not be there. It has been shown that it is going to be anchored in the Constitution. Time is gone when governors were mistreating MCAs who do not sing to their tune. With the introduction of the Ward Development Fund, MCAs will be doing development, not necessarily being puppets of governors. It is important for this House to listen to mostly people from marginalised areas. These are areas that have never enjoyed the national cake.

When I look at it, and it, indeed, goes ahead, Kenya will deepen and widen regional integration. It is anchored in the Constitution. I ask the Members and the opponents of the BBI to be sober, think through this document and pass it. This Constitution has been here since 2010 and for those 10 years, we have seen what it has done. In most cases, court houses have stalled for 10 years. It is funny to hear people say that there will be no independence of the Judiciary because the President will appoint an ombudsman who will check the judges. They need to be overseen just as we are checked as MPs. We cannot give a lot of freedom because someone is a judge.

Hon. Temporary Deputy Speaker, the BBI allows MPs to serve in the cabinet. That means there will be enhanced service delivery to *wananchi* because we will be dressing them down in this House. Efficiency will increase and it will not be as things are now. I am sure Members here have queued in cabinet secretaries' offices, who have no regard for MPs apart for their appointing authority. We should support the BBI like yesterday. I am sure Kalonzo will be the President of this country or the prime minister.

I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us hear Hon. Chachu Ganya.

Hon. Chachu Ganya (North Horr, FAP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Constitution of Kenya (Amendment) Bill, 2020. This is a constitutional moment. It is the first time the House is debating a Bill through a popular initiative. Everything considered, this is a good Bill that will enable our country to grow to greater heights. There are critical issues that this Bill is trying to resolve, among them, divisive politics, promotion of gender equity and governance, strengthening the structure of devolution, increasing funding to our devolved units,

and enabling sharing power to promote national unity and cohesion. It further strengthens accountability in our public resources and enables us to fight corruption. Article 11(a) on economy and shared prosperity anchors the aspiration of the new economic model based on value creation. It further provides equitable opportunities for all people, promote industrialisation and support small and micro enterprise development.

On national cohesion and inclusivity, this Bill tries to unite Kenyans to be a more inclusive society. We are a diverse society and we should celebrate it and enable further inclusion. We still recall the post-election violence of 2007/2008 when we almost lost Kenya. In 2008, the 10th Parliament that I was a Member, amended the Constitution and enabled the National Accord to become a reality. During the period of the National Accord, we had relative peace, our economy prospered and most profoundly, we ushered in a new constitutional order by promulgating the 2010 Constitution. This was after decades of struggles for a new Constitution in Kenya. This Constitution has enabled us relative peace and we have managed electoral disputes through the Supreme Court, an institution established by the 2010 Constitution. In the past, we used to solve our disputes by killing each other in the streets and through other modes of election violence.

On equitable share for the counties, the Bill proposes to amend Article 203 on equitable share and other financial laws. The amendment increases the money percentage allocated to county governments from the current 15 per cent to 35 per cent...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Chachu, I hope you are not reading word for word.

Hon. Chachu Ganya (North Horr, FAP): I am not. The new allocation will further strengthen devolution and ensure good governance in our counties. I have a serious problem with the issue of the capping principle, which reads:

“The average amount of money allocated per person to a county with the highest allocation does not exceed three times the average amount per person allocated to a county with the lowest allocation”

Hon. Temporary Deputy Speaker, this is a deliberate design by this proposal to marginalise poor counties that have been historically poor such as Mandera, Marsabit, Lamu and Isiolo, among others.

On representation, this Bill seeks to amend Chapter Seven of the Constitution on representation of the people. The goal is to ensure equity, transparency and fairness of the electoral process. The amendment is based on one man, one vote principle which is biased. We have vast constituencies like where I come from. Kenyans in these constituencies, just like other Kenyans, deserve fair representation. Effective representation means having reliable means of information and fair representative. For a vast constituency like North Horr that is 38,915 square kilometres with a diameter of 800 kilometres, the principle of one man, one vote, which does not consider other parameters such as land mass and means of communication, is unfair and will deny these Kenyans effective representation.

The amendment that increases the number of constituencies from 290 to 360 denies the people of North Horr fair representation. In terms of land mass, North Horr and Marsabit County cover vast areas. North Horr Constituency is larger than four former provinces of Western, Nyanza, Central and Nairobi combined. Once this Bill is voted by Kenyans through a referendum, these four former provinces will have 153 constituencies represented by 153 MPs having gained 30 new constituencies while North Horr will still have only one representative.

Allow me to make a case using Nairobi. In 1988, Nairobi had eight constituencies and Marsabit had only four. In 2013, Nairobi constituencies increased to 17 while Marsabit's remained

four. In 2022, after this Bill goes through, Nairobi will have 29 constituencies while Marsabit will remain with only four. From 1988 to 2022, Nairobi will have increased its constituencies from eight to 29 yet Marsabit will have four. From 1963, at Independence, Marsabit County got one constituency in 1998 when Saku was carved out of North Horr then called Marsabit North Constituency. The whole principle of equality of votes, which is based on one parameter of population quota, is discriminative and denies pastoralist Kenyans fair representation.

According to Article 89 of the Constitution, I have reservations with the BBI Bill. In the 10th Parliament, as a Member of the Constitutional Review Committee... However, if we keep denying Kenyans in these areas effective representation, they will one day demand it and that is when we will have a crisis. Kenyans in areas like Lagdera fought for this country. They even lost their lives and that is why we have a street named Wabera in Nairobi.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Chachu, your time is up. The next person is Hon. Patrick Wainaina, but I will use my discretion and give the Floor to Hon. Dennitah to speak before you.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Hon. Temporary Deputy Speaker, I thank you for the opportunity to offer my unequivocal support to the Constitution of Kenya (Amendment) Bill, 2020. I support the Bill because it has the best interest of this country. It is a Bill for the common Mwananchi. It seeks to look at the plight of marginalised persons. It ensures that when we talk about shared prosperity, communities and people who have traditionally been left behind are brought on board. It is a Bill for us MPs, Kenya, and our children's children. This is not a Bill for selfish people. I want to ask my colleagues especially the ones who are opposing to support because it speaks for Kenya.

There is nothing as good as a Bill, which long after we are gone from this Parliament, we will say we tried to put strategies to help our people.

The BBI Bill has been propelled by the President and Hon. Rt. Raila Odinga. The reason many of us and especially women are seated in this House today, is because of the efforts of Raila Odinga. Women representatives and nominated Members are efforts of Raila. He created and brought about the issue of affirmative action. That is why women of this country, both marginalised and of modest means who could otherwise not be anywhere, are seated in this House. I feel funny when I see women who have come here and are opposing a situation where the right Hon. Odinga has gone beyond looking at us and Kenya.

The BBI looks at other people. It is not about Parliament. It is about resources Mashinani so that our ward representatives right in the middle of our villages can get an allocation that they can use to develop the wards, hospitals, dispensaries and to dig boreholes to provide water for our people.

It is about the common mwananchi. I want to ask Members not to look at Members of Parliament and look at where the majority of Kenyans live which is mashinani. The Bill proposes to create a Ward Development Fund in mashinani. What Members and people should be talking about is how to strengthen the ward representatives, so that they can ensure that over Kshs20 million allocation that they get every year is going to develop the wards. The spirit of devolution is to develop mashinani. About 5 per cent of the allocation that goes to the counties will go to the ward representative.

The BBI seeks to strengthen our counties. About 35 per cent allocation to counties is going to ensure that our women are taken care of. Health care is an issue. It is devolved. I am a strong

proponent that whenever a woman carries a pregnancy to term, there must be a healthy child delivered. That is what we must be talking about.

For the first time, Members must appreciate and they are going to, that the CDF has been entrenched by the BBI. Many of us went to school through the CDF. Many of us are educated and we sit in this House through bursary allocation under the CDF. Why on earth would I not support the BBI, so that many other children become like me in this House?

It is a historical Bill. Whenever we are talking about a situation like this, that is going to help Kenyans, we should not think that the BBI is for Raila Odinga or Uhuru Kenyatta. It is for Kenya. When the proponents brought the issue of the BBI to bring equality in this country, there are people who were not supporting this idea from day one. They are the same people who are making it difficult to support the BBI.

On behalf of the people of Migori, where I come from, I want to ask that we support the BBI. I appeared before the BBI National Taskforce in Nairobi on behalf of persons living with disabilities (PWDs) and the people of Kuria Community where I come from. I represented our views. Although they were not completely captured, I am happy that PWDs are going to be represented in this House by four Members, an increase from the two that we have.

Hon. Temporary Deputy Speaker, there is the issue of the Kenyan sign language, and the issue of implementing the Persons with Disabilities Act. We must ensure that persons with disabilities are included. We cannot talk about inclusivity in this country without persons with disabilities. Inclusivity is not just about gender or tribe. We must look at the various diversities that are inclusivity. I wish to support and appreciate you for the opportunity to say that we have a lot to gain as women of this country. We will gain as youths through the proposed Youth Commission. We have a lot to gain as persons with disabilities. Our youths will also benefit.

Hon. Temporary Deputy Speaker, the issue of gender has been elusive. Gender is going to be addressed in this Bill. Moreover, we are not now going to be crying...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Jungle Patrick Wainaina you have the Floor.

Hon. Wainaina Jungle (Thika Town, Independent): Thank you, Hon. Temporary Deputy Speaker for giving me this chance. I rise to support the Constitution of Kenya (Amendment) Bill, 2020. I also want to state that I am an independent Member of Parliament. My good people of Thika have given me this chance. Therefore, I wish to prosecute this Bill very independently. I am also aware of how much interest this constitutional moment has generated amongst Kenyans. Therefore, it is time to tell them the truth. The most significant change in this Bill is the devolvement of resources to Wanjiku. We have seen what the National Government Constituency Development Fund has done for schools and security. The proposed Ward Development Fund will impact grassroots economy many times over. It will be a serious game changer. Right now, a member of county assembly (MCA) cannot even repair a road in his village if he does not bow to the governor.

Last weekend, we were treated to some drama. We witnessed a whole deputy governor in Kirinyaga repairing his village road using fork *jembes*. The introduction of the Ward Development Fund will give our MCAs voice and ability to live according to their calling. The fact that the county allocation increases to 35 per cent is a great step towards strengthening devolution. In the past, we have had the national Government losing Kshs2 billion daily through insider theft. That is not to say that the county chiefs are any better going by the Auditor-General's reports. However, I believe Wanjiku will have better oversight over her resources when they are taken closer to her. I dare add that any governor who uses the kitty prudently will turn his county into a Second World

in one term by reducing the unemployment rate to a mere 10 per cent. Yes, this can happen. It is high time our leaders stopped what we call the “living culture.” It is repulsive. It is retrogressive to say the least.

(Hon. Ole Sankok rose on a point of order)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. 001, what is out of order now? Hon. Jungle, please, have your seat. Hon. Sankok, what is it?

Hon. David Ole Sankok (Nominated, JP): Hon. Speaker, according to our Standing Orders, we should be contributing without reading. Some of these notes would have been written by strangers. Therefore, Hon. Speaker, you should...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Who is reading?

Hon. David Ole Sankok (Nominated, JP): Hon. Wainaina is reading. He is reading directly.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Jungle, you can only refer to the notes. Do not read word for word. However, you are at liberty to refer to your notes.

Hon. Wainaina Jungle (Thika Town, Independent): Thank you, Hon. Temporary Deputy Speaker. I got my notes. I am not reading. I am only referring to the points, and I believe it is allowed to do that in this House.

On the additional constituencies being created, I want to say that this House has been misled by Hon. Duale, who said that Kiambu County is going to get 13 extra constituencies. It is wrong to mislead the House. Kiambu County is getting only 6 extra constituencies. I also want to say that establishing additional constituencies is good. Thika Constituency has a bursary kitty of Kshs25 million with 10,000 applications. With those applications, I can give each student only about Kshs2,000. There are some constituencies which give bursaries ranging from Kshs50,000 to Kshs100,000 per student. So, where is fairness in this? The constituencies that have been given the least amounts of money are the ones which produce the biggest amounts of taxes.

Hon. Temporary Deputy Speaker, this is a cow that has been producing milk but if we are not careful, one day it will produce water instead of milk. I am very excited because of the change that has been proposed to take effect in the National Assembly where the Members of the National Assembly can sit in the cabinet. I want to pick an example and say that for the longest time, this relationship between MPs and the Cabinet Secretaries (CSs) has gone to the lowest level. I will give you an example. Even when a CS is visiting my constituency in Thika, they make sure they do not inform me for whatever reason. I take offense with that! There is a CS who comes to my constituency and gives instructions not to have me know of his presence. He comes to a school that I have used Ksh 4.5 million to develop just to bring 30 desks worth Ksh60,000. It is a big shame! Even then, when they bring these desks, he comes with fuel guzzlers that are costing this Government Ksh 300,000.

This CS has the guts to tell my people not to call me, the area MP. So, I just read one mischief there: this person does not want to be overseen by the area MP. Having these people sit in our House here, we can ask the hard questions and expect good answers. So, I think this will be a very good change coming with these amendments. I will just call that *madharau ndogo ndogo*” (petty politics) because it is not helping me, neither is it helping him. It is equally not helping the people of Thika nor Kenyans.

I want to use these extra minutes that I have to quickly say that any document of this sort could be having very good things and also some bad things. There are some things in the BBI that

I totally do not support. I also do not believe that our 42 communities are going to have any cohesion by appointing three people at the top. I do not see how that is going to bring peace or support anybody here in terms of integration.

So, by and large, this document has achieved 80 per cent of our expectations. I recommend that we bring money down to Wanjiku. I would like to remind our Government that COVID-19 is really spiking and we have not done much. I know countries like Israel and Botswana are almost immune because they did the right thing. They talked to the pharmaceuticals and so they have the vaccines. I therefore ask my Government to think out of the box. There are people who can pay for vaccinations. So, let the Government bother with the people who cannot pay. Let us do this within three months and vaccinate our people. We can open our economy today. What are we waiting for? God bless Kenya.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us now have Hon. Manje.

Hon. Joseph Manje (Kajiado North, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this chance to support this amendment. At the outset, I support this Constitution of Kenya (Amendment) Bill, 2020. It brings us to what we are supposed to be doing as Kenyans. We should ensure that Kenyans live together. The introduction of the Article on those in our Constitution is reminding us what we are supposed to be doing as a country in order to live together. I feel that, as Kenyans, we should share our resources equitably. We should feel Kenyan just like our forefathers sat together and created a country called Kenya. We should make sure that it works using whichever method. I think this idea of trying to change the Constitution is the right way to go.

We should also ensure that we pay taxes together as Kenyans. Not to have some people pay and others enjoying. That is why I think Clause 18(a) was introduced to remind us that our responsibility will come in handy at a particular point. Also, we should respect the rule of law if we want to make a nation we are proud of. We have to ensure that we grow and celebrate together as a country.

Clause 11(a) is very appropriate on the economy and shared prosperity. It tries to ensure that the economy of this country is properly anchored and what is realised is properly distributed. I want to comment on the amendment to Article 89 of the Constitution where the number of constituencies will be added from 290 to 360. I support this because of three or four issues. There will be equitable representation of Kenyans in various areas. I think the formula used and explained in the House, the drafters took the population of the country which is 47.6 million and divided by 360 to get approximately 133,000 people per constituency. Those who are saying they were not added more constituencies should use this formula to check if it works. I have tried it in my county and other counties and realised that if you divide the population by 360, you will find the constituencies will have equal representation in this country.

This is a very scientific way which will solve the problem of getting constituencies along political ideas the way we have been doing in this country. Also, it will enable us to equitably distribute resources, for example, through the National Government Constituencies Development Fund and the Ward Development Fund if representation is okay. I differ on this because we do not know why we do census in this country when it comes to movement of constituencies. I tend to think that one of the objectives of census like the one we did in 2019 is to assess the spatial distribution of Kenyans. It also captures urbanisation, how people migrate from rural to urban areas. I tend to think that we could not have protected some constituencies. I know there are about 12 counties with constituencies that were protected like Taita Taveta, Lamu and Nyeri. While we add constituencies, some counties will lose constituencies. We should have a fixed number of 360

which is our electoral numbers. In other words, if people move from Nairobi to Kitengela, Kajiado earns one constituency and Nairobi loses one constituency and that way, we will have a fixed number of MPs in this Parliament, just the way our brothers in the United States of America (USA) do. Always, there are some States which lose seats, for example, in their last year census, I think States like Texas, Colorado, Florida, Montana, North Carolina gained one constituency while States like Illinois, California and Michigan lost one seat each because of population migration. We believe there will always be growth and dynamics which will make people move from one area to another. So, in future, we should ensure that the constituencies remain 360 and the movement of people will make some counties lose constituencies while others gain.

I also want to mention devolution and say that I support the amendment to Article 203 of the Constitution to increase the funds going to the constituency from 15 to 35 percent. This will also anchor the NG-CDF in the Constitution and the Ward Development Fund. By doing that, it will enable us to have resources on the ground. Also, the use of the formula making sure that no Kenyan, wherever they are, will get more than three times of what another Kenyan in another county gets. That is a point that I have to mention. We should also make sure that we develop our country and join hands as Kenyans to support this document, so that we can have a good country.

I support the document.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Gitau Wairimu. Hon. Member, you must give space to Hon. Wairimu to contribute. Do not over engage her on the conversation.

Hon. (Ms.) Faith Gitau (Nyandarua CWR, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to air my views on the Constitution of Kenya (Amendment) Bill, 2020.

At the outset, I oppose this Bill with reasons. Number one, although we were told that this Bill is a popular initiative, my people in Nyandarua were not involved whatsoever and they have not even seen the whole document up to now. So, there is no way we can support something that we have not seen. Secondly, according to the BBI proponents, this amendment is to resolve the winner takes it all election system. To me, this is not convincing enough because in an election, we must have a winner and a loser, but we know the problem we have been having in this country. There are some people who never accept results. We have also been told that different county assemblies received different BBI reports. Furthermore, the report that was sent to the Senate and the one that we have here are also different. My question is: What document are we going to take to *Wanjiku* for referendum?

Hon. Temporary Deputy Speaker, politics is local. For me in Nyandarua, we have nothing to celebrate in this BBI. We have been told that Members were consulted in the creation of constituencies. We were never consulted. Let me tell you. For the people of Nyandarua to listen to what BBI has, we demand for a constituency. That is why I cannot support this Bill. I have a problem with that. My other issue is moving the county MPs from the National Assembly to the Senate. Our position has a social responsibility that has a kitty. If we are moved to the Senate, the responsibilities differ. So, that means there will be no one to look at the vulnerable in this country. Who will look after the orphans, the vulnerable and the people living with disability? This is the responsibility of the women representatives. For me, I can never support something that is removing me from this position.

My other concern is that we are in a crisis in this country. We have a pandemic in this country and we have chosen to give a deaf ear to the suffering of Kenyans and instead concentrate on issues that can wait until the pandemic is behind us. People are dying. Our hospitals are full

and here we are talking about constitutional change. I am very sure we can stop this business and think about the welfare of our people. We will have tomorrow to talk about the BBI and constitutional amendment. In addition, the Government promised that we will have vaccines accessible to all Kenyans. Up to now, we do not have vaccines. We want to see the booths distributed all over Kenya where people can walk in and be vaccinated. The schools are opening next week. We should be thinking about how teachers are going to be vaccinated. This should be an emergency for us and we should be thinking of saving lives.

Hon. Temporary Deputy Speaker, in today's newspaper, I was shocked to see that the Cabinet Secretary in charge of the Treasury is planning to add 16 per cent to the cost of bread. Can you imagine this? We are pushing our people to poverty. If the prices of bread go up, the cost of living will be so high. Our people are suffering. We should think of them. The President also said that all pending bills should be paid to suppliers and contractors. Seven years down the line, they have not been paid. Some have died and others have been auctioned. These are the things we should be thinking about as a country. We are in crisis. We should not be thinking of changing the Constitution when our people are dying.

I strongly oppose these amendments.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Oluoch.

Hon. Anthony Oluoch (Mathare, ODM): Thank you very much, Hon. Temporary Deputy Speaker. Allow me to also add my unequivocal support and those of my constituents. Let me begin by saying this: Sometimes we do not appreciate the magnitude of the handshake and the weight of it at the steps of the Harambee House on 3rd of March, two years ago. There are those who have said that this is not a popular initiative, but an initiative by two people. When that handshake was made at the steps of Harambee House, on one side of the handshake was over six million votes of the President Uhuru Muigai Kenyatta, on the other side of that handshake hand was over six million votes of His Excellency Raila Amolo Odinga, you add that to the four million that appended their signatures to the BBI, you will find that we are a total of over 16 million Kenyans behind this. So we need to dispel from the very beginning the notion that has been touted that this is an initiative of two people. It is not. Behind those hands, there are over 16 million votes including the four million people that appended their signature to this.

As I was driving here, I was reminded of the words of the late President of the United State, Barack Obama, at his first inauguration where he said that every so often, there comes a time in the history of a people that every generation finds in their time a situation in which history wants to turn. The question is: On which side of history are you going to be in?

(Hon. Kipyegon Ng'eno consulted loudly)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Ng'eno. Why are you too agitated? What is really out of order?

Hon. Kipyegon Ng'eno (Emurua Dikirr, KANU): I am shocked, Hon. Temporary Deputy Speaker, when somebody makes reference to Hon. Barack Obama as the late President of the United States of America (USA). Hon. Obama is still alive. I wish that statement could be expunged from the *Hansard*, and the Member should apologise to the family of Obama.

The Temporary Deputy Speaker (Hon. Patrick Mariru): That must have been a grave error. I did not hear him say so, but if he did, then it is an oversight. I am sure he can clarify and correct himself.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Temporary Deputy Speaker. The Hon. Member's correction is accepted. The words intended were former President of the United States.

The former President, allow me to rephrase, said that every so often there comes a time in the generation of a people when history wants to turn. He posed that question which then I pose to us today, as Parliament and as a nation: On which side of history do you want to be?

Hon. Temporary Deputy Speaker, as I spoke of the more than 16 million people that are behind this handshake, I offer a right of reply on behalf of myself and these many people to a few misconceptions that have been peddled - one of them by Hon. Aden Duale, the Member for Garissa Township. Let us remind ourselves that there are people who opposed this Constitution. The very Constitution that was the reason why one person was the very first Majority Leader post 2010. The very same Constitution that was opposed by the people who then became the very first beneficiary of the Office of the Deputy President.

I was very surprised and dutifully informed by Hon. Odhiambo-Mabona, who sat in the Committee that was looking at that Constitution then, that the reason we did not have 40 per cent to counties - a minimum was 40 per cent - was because the team led by the Deputy President refused and said that we must have a minimum of 15 per cent. So, when today we speak about bottom-up approach, what bottom-up approach when 15 per cent that was intended to be 40 per cent was by that very same Deputy President? It is important that we ask ourselves on which side of history we want to be when it turns. We know on which side of history the naysayers were. They refused to allow us to have 40 per cent. They want the Constitution to collapse so that they can go back and say: "We are the ones who have saved you with the bottom-up approach".

Having said that, I want to address one last misconception before I go to the merits. There are those who have said that there is no necessity to amend the Constitution to put in place some of the things that have been put here. Let me remind you what the Speaker explained here eloquently. When the people rise under Article 1 of the Constitution as read together with Article 257, there is nobody who can stand in their way whatever it is they want to do. Look at the Preamble to that Constitution. It says, "We, the people..." There is nothing that can stand in the way of "We, the people...", when we want to amend the Constitution. If the people decide that they want to hold a referendum to make fishing a national sport, so be it. That is their wish.

Hon. Temporary Deputy Speaker, I want to indicate two things. One of them is the question of the two-thirds gender rule. We had Duale I, we had Duale II, now we have the opportunity and the hanging against us, the direction of the former Chief Justice to dissolve this Parliament. There is the question of inclusivity. Inclusivity should be looked at in different ways. Inclusivity of the youth, inclusivity of tribes, inclusivity of women, inclusivity of minorities and everybody will sit at the table to ensure that Kenya becomes the country that we wanted it to be. So, I lend my support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Elisha Odhiambo.

Hon. Elisha Odhiambo (Gem, ODM): Thank you, Hon. Temporary Deputy Speaker, for granting me this opportunity to contribute to this debate on this historic Bill, the Constitution of Kenya (Amendment) Bill 2020.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order! Hon. Elisha Odhiambo.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Ochieng. What is out of order, Hon. Gikaria?

Hon. David Gikaria (Nakuru Town East, JP): Hon. Temporary Deputy Speaker, I seek your guidance. I was here at 8.00 a.m. Let me finish. I was here at 8.00 a.m. and put my card in to speak. Unfortunately, when Wanga wanted to speak, they gave her my microphone. I raised that

issue with the Speaker, Hon. Cheboi. *Mpaka saa hii*, I am still waiting. I went down the list. I put my card in for a second time. The Speaker ruled that I would remain in the position I had been because it was not my mistake. I want to speak in support of the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Gikaria, I will trace your issue, particularly if the Speaker pronounced himself on it. For now, let us have Hon. Ochieng.

Hon. Elisha Odhiambo (Gem, ODM): Thank you, Hon. Temporary Deputy Speaker for that small interlude.

Before I contribute to the Bill, I wish to register special accolades to His Excellency President Uhuru Muigai Kenyatta and the Right Honourable Raila Amolo Odinga for placing our country on the pedestal of reconciliation and forging a path of ethnic cohesion and national unity. Those two Kenyans placed Kenya first. I also thank the substantive Speaker who offered legal and procedural guidance to the House on the manner in which the Bill would be considered. I also wish to thank the joint committees for their comprehensive Report that has highlighted a majority of pertinent issues arising from the Building Bridges Initiative Bill.

Let me delve into the fundamental reasons as to why I and the people of Gem support the Bill. The Bill takes great steps in addressing the underlying problems that have caused divisions in this republic. Those issues are divisive elections, promotion of gender equity in governance, strengthening the structure of devolution and increasing resource allocation to our counties.

I wish to remind the Members of this House that the Bill before us is by popular initiative. Therefore, it is a very special amendment. If you want to know the weight and latitude that has been placed upon the Bill, you need to look at the provisions of Article 257(10). It states as follows.

“If either House of Parliament fails to pass the Bill, or the Bill relates to a matter mentioned in 255(1), the proposed amendment shall be submitted to the people in a referendum.”

What that means is that regardless of whether this House or the Senate supports or opposes the Bill, the Bill will get to the people of the Republic of Kenya. It is up to the people of the Republic of Kenya to say yes or no in the forthcoming referendum. This House should not act in futility by opposing an amendment which the people themselves proposed and will no doubt be part of the referendum vote.

I am aware, and I have listened to many of my colleagues who oppose the Bill. Many of those who oppose the Bill will be the beneficiaries in 2022 when the elections are called. They will be the very people who will sit in the cabinet. I ask them to search their souls so that they come to the right frame of mind.

Many people who opposed the Constitution 2010 became its benefactors. Hon. Temporary Deputy Speaker, Clause 67 of the Constitution of Kenya (Amendment) Bill, 2020, proposes to amend Article 246 of the Constitution on the National Police Service Commission. It proposes a situation where we can harmonise certain functions within the Commission with the function of centrality of command by the Inspector-General of the National Police Service. My heart goes out to one member of my constituency, Mr. Javan, who was murdered last night. If we had an efficient police system, Mr. Javan who was a great footballer in Gem, would not have died.

I support this Bill because it will anchor the NG-CDF and the Ward Development Fund in the Constitution of the Republic of Kenya. If you have a rogue governor in the county who does not want the Ward Development Fund, once we mainstream it in the Bill, he or she will not have an opportunity to remove it. Even though what has been given to the ward representatives is a meagre 5 per cent of all the county government’s revenue in each financial year, I believe that in

the years to come, the generations after us will have an opportunity to build on what we will do today.

I am also glad because Clause 16 of the Bill proposes to create the office of the leader of official opposition. I can see that many Members here are practising that role. Once that position is created, they will occupy it with a lot of grace. Clause 28 of the Bill creates the position of the prime minister which will ensure that there is inclusivity in governance in this republic. If you look at the benefits of the Bill vis-a-vis the basic losses, it is more beneficial to the people of the Republic of Kenya. If we do not pass this Bill today, we will be taken to the dustbins of...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Tum Chebet, you have the Floor.

Hon. (Dr.) Tecla Tum (Nandi (CWR), JP): Hon. Temporary Deputy Speaker, I rise to speak to the Constitution of Kenya (Amendment) Bill, 2020. Before I add my voice, I want to say that the Deputy President is not an equation in the Building Bridges Initiative. We are not discussing the Constitution 2010, but the Constitution of Kenya (Amendment) Bill, 2020.

There are some areas which I support in the Bill. We know that the youths have been given two positions, namely, one female and one male. We know that persons living with disabilities always serve as women representatives. They have been given four positions, namely, two males and two females. They wanted an electoral college like in the United States of America and Uganda where they can elect their people, so that they do not owe the allegiance to the party which nominates them. We should not take for granted the 6.5 million persons with disabilities in this nation. I know the Bill proposes to have 94 Senators, 47 women and 47 men. I want to speak to the women representative positions.

Hon. Temporary Deputy Speaker, I would not be here if I were to be competing with men from Nandi County. I am here because of affirmative action.

We are given Kshs2 billion per year. With the Kshs2 billion, we take care of people with disabilities, women and youth. In Nandi County, I have purchased 125 tents for hire. The women of Nandi get Kshs3.5 million in five days and in ten days, they get Kshs6.7 million. Who is going to support these women when we are taken to the Senate where there are no funds?

(An. Hon. Member interjected)

Give me time to talk. You talked.

We have given women gas cylinders; *mekos*. We are protecting the environment from global warming. Women have less to do because we do affirmative work. I gave out 200 cylinders. She gave out 300 and Hon. Halima gave out 300 of them. Global warming will not be an issue if the County Woman Representatives are considered here. On the issue of cabinet secretaries, the BBI provides that the President may appoint cabinet secretaries from Parliament. We will be taken to the Senate. If we are in Senate and we want to be cabinet secretaries, how are we going to end up being cabinet secretaries?

On the issue of the youth, the BBI talks about prompt payment of money owed to the youth, within 60 days. There are a number of youth right now who owe banks billions of shillings. Some people's children are lost because they cannot meet the obligations of banks. This should be done by the cabinet secretary right now so that our children are not lost. They have done things for the Government. They have done roads and quite a number of things in the counties, but they have not been paid. We need something to be done for the youth of our country.

Lastly, on the 70 constituencies to be created, my submission and prayer is that let them go to the women of Kenya because 60 of us will not come back here. If by God's grace we come here, 60 of us by 2022 will be 16 per cent. The Constitution says not more than two-thirds of either gender. One hundred and twenty women are required to be here to meet the two-thirds threshold. My prayer is that the 70 constituencies should be for women. Why? We are going to go to courts because 120 women cannot be elected. We do not have the resources to fight with men. I cannot sacrifice my job, my seat and the seat of the women of Kenya.

Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Chebet, which men are you fighting with? There isn't.

Let us hear Hon. King'ara.

Hon. Simon King'ara (Ruiru, JP): Asante sana, Mhe. Spika wa Muda kwa kunipatia mwana huu ingawaje tumengojea sana.

Kwanza kabisa, naunga mkono Mswada huu ulio mbele yetu. Ni vizuri kuwakumbusha Wabunge wenzangu kuwa wakati tulichaguliwa kwa Bunge, tuliangalia wale Wabunge wako na idadi kubwa sana ya wafuasi na nikapata kuwa ni Wabunge 80 peke yake ambao wana watu wengi katika Bunge hili. Wakati tulienda kwa Spika kujaribu kuangalia vile tunaweza kuwa na usawa, tulikuwa na changamoto kupata nafasi. Kwa hivyo, wakati tumepata nafasi ya kuhusishwa na kusema mapendekezo yetu, nimeona ni jambo la busara sana.

Ukiangalia Mswada huu na yale marekebisho yako mbele yetu, moja ya muhimu, isipokuwa inakuja kwa pole pole, ni kuwa Mswada huu unataka tuwe na uwiano kwa Afrika Mashariki na hasaa Afrika kwa jumla. Pia ni pendekezo la Mheshimiwa Suluhu wakati alikuja hapa. Aliongea vile tunaweza kuwa na usawa na maendeleo lakini maendeleo hayawezi kupatikana kama hakuna uhuru na suluhu ya maendeleo yale. Jambo moja la kufanya kutafuta suluhu ya maendeleo yale ni kuwa na usawa katika usambazaji wa rasilimali ya Serikali na vile vile usawa katika mambo ya kazi za mashinani hasaa maeneo Bunge.

Nikigusia jambo hilo, ningetaka kutambua kuwa Eneo Bunge la Ruiru ambalo ninawakilisha saa hii liko na idadi ya watu 600,000. Mwaka wa 2019, eneo Bunge hilo lilikuwa na watu 490,000 na eneo Bunge hilo liko na watu wengi kuliko zaidi ya kaunti sita ambazo nitataja. Hata hivyo, mapato huwa ninapewa kama Mbunge wa eneo Bunge linguine. Kaunti ya Samburu ina watu 300,000. Kaunti ya Tana River ina watu 300,000. Kaunti ya Taita Taveta ina watu 340,000. Kaunti ya Tharaka-Nithi ina watu 393,000 na Kaunti ya Lamu ina watu 140,000, lakini Ruiru ambalo ni eneo Bunge, lina watu 490,000. Hata hivyo, mapato ambayo ninapewa hapa ni sawa na yale maeneo Bunge ambayo yako katika kaunti hizo ambazo nimetaja na ziko na Wabunge tatu kuenda juu katika kila kaunti.

(An. Hon. Member spoke off record)

Mtu mwingine anasema eti ninadanganya. Nataka watu wapitie mastakabadhi hayo na watapata kuwa ninachosema ni kweli kabisa.

Saa hii nikisimama hapa nikichangia, wale watu wanataka *bursary* kwangu, wale ambao wamekuja kuomba *bursary* kwangu kutoka Eneo Bunge la Ruiru, ni watu 90,000. Watu 90,000 wameleta fomu kwenye meza yangu lakini pesa ambazo niko nazo ni Ksh30 milioni peke yake. Ukigawa pesa hizo, kila mtu atapata Ksh333 peke yake. Ninawakilisha nani? Usawa uko wapi katika usambazaji wa rasilimali ya Serikali?

Kwa hivyo, ombi langu ni kuwa watu wakumbuke jinsi watu kama King'ara wanakaa kule na watu hao. Haitawezekana kuwa na maendeleo mwafaka katika Eneo Bunge la Ruiru na maeneo mengine yalio na watu wengi kama hakuna usawa katika usambazaji wa rasilimali ya Serikali.

Jambo lingine ningependa kugusia ambalo linaweza kuleta maendeleo mema ni kama mawaziri watatoka katika Bunge. Mawaziri wakitoka katika Bunge, pesa za Serikali hazitatumika sana kwa sababu wengi watakuwa wamechaguliwa kutoka Bunge. Lakini changamoto ni vile imeandikwa pale eti "labda wanaweza". Ningeomba ikiwa inaweza kuwa lazima watoke katika Bunge. Ikiwa hivyo, hata ule uoga haungekuwa na sisi.

Jambo lingine ningegusia linahusu usawa wa Independent Electoral and Boundary Commission (IEBC). Ukiangalia katika utaratibu na pendekezo la IEBC, Mbunge mmoja anatakiwa kusimamia watu 133,000. Kwa hivyo, wakati unapopata suluhu ya kugawa Ruiru kwa vipande kama vitatu ili niache kuwakilisha watu 600,000 ili niwakilishe watu 160,000, ingekuwa sawa. Kwa hivyo, sioni ni kwa nini watu hawaoni haja ya kuunga mkono Mswada huu.

Vilevile, ukiangalia kama sasa na watu wako wengi namna ile na rasilimali ni kidogo, hospitali, shule, usalama na pesa za barabara ni duni halafu tunalalamika na sisi ndio tumekataa kuweka mikakati mwafaka itakayoweza kuleta uwiano katika maendeleo ya maeneo Bunge. Inaweza kuwa wawili-watatu walisema jambo la kusita na la kuumiza. Lakini, tuangalie mbali tuone ni wapi mwananchi atapata haki yake.

Katika utaratibu ule, kuna jambo lingine la maana sana la kupeleka pesa zaidi katika serikali gatuzi zetu. Kama pesa zitaenda mashinani, nimesema zitaambatana na maendeleo. Rasilimali zitafikia Wakenya wote na usawa na uwiano utapatikana katika maendeleo.

Vilevile, kuna pale pamegusiwa kuangalia maneno ya jinsia.

(Hon. (Ms.) Pamela Ochieng, Hon. (Ms.) Joyce Korir and Hon. (Ms.) Rozaah Buyu consulted loudly)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. King'ara. What is out of order?

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Thank you, Hon. Temporary Deputy Speaker. I kindly request, the consultation is too loud here. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Yes, especially the two Hon. Members. Hon. Rozaah and the Member for Migori.

Hon. King'ara, please proceed.

Hon. Simon King'ara (Ruiru, JP): Kwa unyenyekevu, muda wangu umeliwa kidogo. Naomba dakika mbili niweze kutamatisha.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You have a remainder of one minute.

Hon. Simon King'ara (Ruiru, JP): Kabla sijatamatisha, asante sana. Mambo ya jinsia ni ya maana sana. Wakati kutakuwa na usawa katika utekelezaji wa mambo, haswa ya kiserikali, hilo naunga mkono. Wakati Katiba hii imesema tukumbuke akina mama wetu au jinsia hiyo, naunga mkono. Haya ni maneno ambayo yataleta maendeleo.

Hata kama huenda Katiba isiwe mia kwa mia, kwa nini tusiiunge mkono kama imefika tisini kwa mia au sabini kwa mia?

Mimi naunga mkono.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Next is Hon. Kimani, but before you speak, Hon. Members, let me advise you because some Members are leaving the Chamber. I

appreciate that Members have been here since morning, but it will only be fair that those who have been here from morning get the slots first when we come back in the afternoon. Let me advise you. Do not log out when you are getting out. Leave your card logged in so that those who are top will be at the top in the afternoon. I appreciate the patience Members have had.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Temporary Deputy Speaker.

Just like the people's Leader of the Majority Party said, I also rise to defend the Constitution of 2010 as I swore in 2013 and in 2017, to defend and protect the Constitution of the Republic of Kenya. The BBI process is a culmination of the handshake and the BBI taskforce's work which was started in 2018 by the two presidential candidates who were there in 2017. I must be quick to mention that this document is to me a poisoned chalice anchored on treachery and loaded with deception. It is a very deceptive document right from the onset because it is billed as a popular initiative. In the strict definition of what a popular initiative is, it depicts that it is people led, a process done by the people, for the people in the interest and for the benefit of the people. However, guided by what the Hon. Speaker guided this House, that he, indeed, finds it to be a popular initiative, may I be quick to point out that it is, indeed, a popular initiative by the political class in this country. It is a popular initiative by the political class for the benefit and interest of only the political class.

In defence of the Constitution, 2010, this document closes back on the gains that we enacted with the Constitution, 2010. From a point where Members in this Assembly can vet vet Cabinet Secretaries, we are now clawing back on those powers. We are now giving unfettered powers to the President to appoint cabinet secretaries and principal secretaries without vetting. We are taking away powers from the constitutional commissions that we created. We are taking powers from the National Police Service (NPS) to the Inspector-General (IG) of Police, an individual. It is not surprising that there are already steps to abuse power by the IG and officers under his watch. We are taking powers from the JSC to an ombudsman. We are also clawing back on the independence of the Judiciary, as many people have said. I am trying not to repeat what has been said. We are taking away powers from the JSC that currently sets up a tribunal to listen to issues that touch on judicial officers and giving them unfettered powers to even discipline judicial officers. That is a clear way of clawing back on the independence of the Judiciary. The JSC, as it is constituted now, is heavily loaded with people leaning towards the Executive. At the passage of this Constitution, giving powers to the JSC to punish judicial offices will mean that they are being indirectly punished by the Executive using their stooges in the JSC.

I want to state that this document is loaded with deception. Apart from the Youth Commission, we are promising our youth that BBI will waive taxes to their companies. I want to speak to the Kenyan youth today. I wonder the number of the ordinary Kenyan hustler youth that have companies that will benefit from the tax waivers. If we intend to waive taxes for our youth, we only need to do it with the Finance Bill that is before this House. I want to tell the Kenyan youth that the deception you will be confronted with is that we will lift taxes but the companies that will benefit are the ones you saw in the covid billionaires scandal, that is, the companies that were registered and in a month they were getting tenders worth billions! We know the youth who own those companies and their families and they are the ones we are creating the tax incentives for. If we want to give our youth tax waivers, then let us do it next week with the Finance Bill. The truth is that we will be loading our Kenyan youth together with their parents, children and grandparents with heavy taxes with the Finance Bill that is coming before this House. That is the truth and not the deception in the BBI.

Hon. Temporary Deputy Speaker, we are deceiving Kenyans that we can only delimit constituencies by amending this Constitution when we clearly know that we can do that through the IEBC without amending a single article of the Constitution. The Holy Bible in the book of Mark 8:36 asks me, “What shall you profit from if you gain the whole world and lose your soul?” I stand here as a Member of Parliament from Kiambu County that is benefiting from six constituencies under this amendment but asking myself: “What shall I profit with if I lose the soul and heart of the country, our unity, just because Kiambu or Nairobi are getting more constituencies? We will lose the soul of this country, that is, our unity because of the deception in this Bill.

We are deceiving the country that it is only through the BBI that Hon. King’ara from Ruiru will get additional money at his constituency level. It is common sense and simple Standard One arithmetic that if the base of NG-CDF is not changing, then we will not have more money. Dividing Kshs360 million by 360 constituencies will only mean that the base will go lower and you will get less money. Hon. King’ara will get less money and so will you in your constituencies. With this kind of deception, I can only ask the people of Kenya that you may not have the guns or bullets to stop these people from further enslaving you, but you have your ballot. Stop them at the ballot! People of Kenya, let them not coerce and intimidate you on the ballot. Rescue yourself and stop them from further enslaving you.

(Applause)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Buyu. Hon. Gikaria I have noted your concern. Let us now have Hon. Akinyi.

Hon. (Ms.) Rozaah Buyu (Kisumu CWR, ODM): Hon. Temporary Deputy Speaker, I want to thank you for this opportunity. From the outset, I support the Constitution of Kenya (Amendment) Bill, 2020. I stand here as a woman representative of Kisumu County, one of the areas in this country that was highest hit and bore the biggest brunt of election violence. It is in Kisumu County where young people lost their lives senselessly. Kisumu County bears the brunt of having innocent children being killed while their mothers were holding them. I speak on behalf of baby Pendo who was senselessly killed while the mother was holding her just because of election violence.

I also stand to speak as a woman because during election violence, it is the women who also bear the brunt of the violence. We have heard of women being physically abused and raped during election violence. Women bury their loved children because they are senselessly killed. So, as I stand here today to speak for my constituents and I speak for the women folk at large. My mind goes back to the words of the Leader of the Majority Party when he moved the Bill in this House and said that when you think of the BBI Bill, think of peace, unity and security. Given those three adjectives, I fully support the BBI Bill considering that what Kisumu County is looking for is unity, peace and security, so that never again will we have to lose lives. Unmet expectations, heightened by our election policy where the winner takes it all, is what creates violence after every election.

We clearly saw after the 2013 elections that two regions stood to be eating meat as other 42 regions watched them in hunger. That is what the BBI Bill is trying to resolve. The Bill is bringing inclusivity through the expanded Executive so that we do not have only two tribes eating as the other 42 tribes are hungry watching and drooling. The Bill wants to cure that. What the Bill seeks to do is to encourage more regions to be included in the expanded executive. When more

regions are included, more of them get ownership of the Government of this country. As such, we will not have a situation where some people will be eating as others are drooling over their meat. I know that some people have come up to say that we are creating jobs through the expanded Executive. I dare say that the people who are going to occupy those positions are people who will have been already elected and they will be Members of this House. So, what will be enhanced is extra responsibility and not new people occupying new positions.

My mind goes back to the words of President Obama, the former president of USA, when he last visited Kenya. He quipped that you cannot have a country where only half of the players are participating. We know that in this country women make up 52 per cent of our population. However, we know that in most of the political leadership decision making positions, they have been left behind. The BBI Bill comes to solve this issue.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Akinyi! I am afraid it is 2.00 p.m. You will have two-and-a-half minutes when this debate resumes this afternoon. Hon. Members, I appreciate that you have been sitting here since morning. I urge you to leave your cards logged in so that those who are top on the list will remain on top in the afternoon. I will direct the Serjeant-At-Arms to make sure that Members' cards remain as they are so that in the afternoon, we are fair to those Members.

Hon. (Ms.) Rozaah Buyu (Kisumu CWR, ODM): Hon. Temporary Deputy Speaker, thank you.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the time being 2.00 p.m., the House stands adjourned until this afternoon, at 2.30 p.m.

The House rose at 2.00 p.m.