

Wednesday, 3rd February, 2021 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF SIAYA

THE HANSARD

Second County Assembly – Fourth Session

SPECIAL SITTING

Wednesday, 3rd February, 2021

The House met at the County Assembly Chamber at 9.30 a.m.

[The Speaker (Hon. George Okode) in the Chair]

PRAYER

COMMUNICATION FROM THE CHAIR

1. BUILDING BRIDGES INITIATIVE (AMENDMENT) BILL, 2020
2. COUNTY FINANCE BILL, 2020
3. BURSARY FORMS

Hon. Speaker: Hon. Members, we welcome you to this special Sitting of the County Assembly that has been duly gazetted in the Kenya Gazette for the consideration of the Building Bridges Initiative (Constitutional Amendment) Bill, No. 2020 and the County Finance Bill, 2020 which we shall just get a report on the progress report through the Chair of the Committee but it will not be discussed in depth.

I also want to make some communications that the County Executive has notified the House of the intention to launch the 2nd batch of development projects for FY 2020/2021. A Notice will be shared by through the Office of the Clerk, kindly make time to participate in the launching of those projects because they were identified by the people and you are their representatives. Work hand in hand with the Executive because those are County Government projects.

I have equally been notified that bursary forms are already out and some are within the House, ensure that you get copies and you liaise with the Committee on Education and the Department of Education on how to manage those particular forms.

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I have noticed that we have with us the Governor of Siaya County Government, His Excellency Governor Cornell Rasanga Amoth, I want you to welcome him in a special way.

(Applause)

I have equally been notified that we have the Deputy Governor, His Excellency James Okumbe will we welcome him!

(Applause)

In that entourage is the County Attorney, Owade, will we welcome him!

(Applause)

I have equally seen the County Secretary, Joseph Ogutu, kindly welcome him!

(Applause)

And the rest of the Members of the Executive, will you welcome them!

(Applause)

At this juncture I want to acknowledge the partnership that we had with the Executive in processing the BBI amendment Bill 2020. We did it in collaboration and we are very grateful for their support. I direct that the officers sitting in the Speaker's gallery be provided with a copy of the report. Next order!

PAPER

BUILDING BRIDGES INITIATIVE (CONSTITUTIONAL AMENDMENT) BILL, 2020

Hon. Otiato: Thank you, Mr. Speaker. Allow me to lay on the Table, Committee on Justice and Legal Affairs report on the (Constitutional Amendment) Bill, 2020.

(Paper is laid on the Table)

Hon. Speaker: The report is properly laid before the House. Next order!

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NOTICE OF MOTION
BUILDING BRIDGES INITIATIVE
(CONSTITUTIONAL AMENDMENT) BILL, 2020

Hon. Otiato: Thank you, Mr. Speaker. Pursuant to Article 257(5) and (6) of the Constitution of Kenya, allow me to give a Notice of Motion on consideration of Building Bridges (Constitutional Amendments) Bill, 2020

Hon. Speaker: The House is properly informed that we shall be considering the Constitutional Amendment Bill 2020, in this morning sitting. Next order!

MOTION
THE SIAYA COUNTY FINANCE BILL, 2020

Hon. Speaker: Chairman, what is the status of the Finance Bill?

Hon. Oduor: Thank you, Mr. Speaker. My Committee received the Finance Bill and we have undergone the necessary steps, we went for public participation, we have written the report and now we are supposed to bring it to the Assembly as soon as possible when we reconvene. Thank you.

Hon. Speaker: The reconsideration of that Bill is long overdue, hon. Chairman. I direct that as soon as we reconvene next week that will be part of the first items in our agenda so that we clear with it otherwise we will be doing taxation outside the law. Because that is the instrument that directs how much we are getting from which revenue stream. Next order!

MOTION
BUILDING BRIDGES INITIATIVE
(CONSTITUTIONAL AMENDMENT) BILL, 2020

Hon. Otiato: Thank you, Mr. Speaker. Allow me to move the Motion as follows; the quest for good governance in Kenya has been a journey of correcting past mistakes and embracing a strong and more stable political environment. In order for us to maintain a stable Country following the hotly contested 2017 presidential elections, there was a famous Handshake on 9th March, 2018, between Hon. Raila Amolo Odinga and His Excellency the President, Uhuru Muigai Kenyatta with a main aim of uniting the Country for our stability.

In line with that, a steering Committee was formed that led to the BBI process and on 26th January, 2021, the County Assembly of Siaya, among other County Assemblies, received correspondence from the IEBC regarding the BBI (Constitutional Amendment) Bill, 2020.

Having received the Bill in line with the Constitutional requirements, on Thursday the 28th of January, 2021, during the Special Sitting vide Gazette No. 494, through Communication

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from the Chair, the Bill was committed to the Justice and Legal Committee which I am the Chair, for consideration and reporting back to the House within the timelines as you had given.

We did move and made adverts in the newspapers for the Public Participation and relying on various authorities: Odunga J, in the case of Robert N. Gakuru & Others vs Governor Kiambu County & 3 others in defining what Public Participation entails in line with Judge Lenaola in Nairobi Metropolitan PSV Saccos Union Limited and 25 others vs County of Nairobi Government among other legal authorities. We did conduct our Public Participation and part of it other than calling for memorandums that were communicated out through newspapers and online media.

You did make a representation to radio live interviews to discuss the issues with BBI to which our Hansard were part and parcel of doing the recordings for public concerns where radio Mayienga was part of it with Festus Amimo who highlighted the content of the BBI. We also had other radio channels like Lolwe, Ratego radio among others. That is between 28th January to 1st February, 2021. Not forgetting the NTV, KTN interviews and so on.

We concluded the Public Participation by involving public one on one on various dates in each sub county. Alego Sub County, we had a venue at ACK hall in Siaya where a meeting started from 9.00 a.m. to 12.00 noon. In Gem Sub County, ACK Hall Sawagongo from 2.00 p.m. to 5.00 p.m. Bondo Sub County, Sub County CDF Hall. In Rarienda we had a meeting at Ruma Women Group Hall. In Ugunja we had a meeting at Ugunja Sub County Hall and in Ugenya we had a meeting at Ukwala Sub County Hall.

Having looked at the document, having talked to the people and going by the initial interest of this particular document, one of the key objectives was to resolve the issues of divisive elections. We were to look at strengthening of structures of devolution and increase resource allocation to the Counties.

Harmonize certain roles and functions of biohemiral legislature, strengthen national ethos patriotism by specifying responsibilities of expected citizenship. Strengthen mechanism that will enable citizens benefit equitable opportunities and equal economic growth, promote inclusivity and gender equity in governance.

Going by those specific objectives, our role and what we were doing in line with the constitution considering this particular document, we talked to the people and majorly we were to look at whether the objectives which are aimed at to be achieved by the Building Bridges Initiative, a product of the handshake was addressing those key components. I want to say that while we were going round, the people were happy with the inclusion of Article 10(a).

Now that we have been having some other responsibilities as Kenyans that we want to be bestowed some responsibilities as Kenyans, you know we walk around and ask for the governments to take care of us but we are not saying that the Constitution is not giving us our own responsibilities.

BBI is introducing responsibilities specifically to individuals and yesterday when I was talking to some of my Members during the participation that now we are entrenching even the issue of taking care of your children, as a responsibility in the Constitution and we had cases

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even some of us politicians having problems of child upkeep running into court time and again. This being included in the Constitution it becomes part and parcel of breach of the Constitution that may let you to be removed from an office.

We know amendment of Article 31 on privacy that, yes, we have got the data outside there, what is this data being used for? We know there are rules and laws that have been there guarding the protection of data that is generated both electronically and through any other media, either stored by the National Government or any other agency.

The privacy to this particular information, you know the supreme law is the Constitution and now we are making it that our rights privacy is protected by this particular Act. The problem that we have had, today we hear about bad roads, the other day somebody was asking me during the Public Participation that why do we expect or how do we see some other Counties doing better than others? Why do we have cases pending before courts for long?

This possibly is part of the problem why some of us are technically know the contents of the BBI will be fighting it on the ground that the BBI is establishing a quick investigation mechanisms, prosecution and trial of cases relating to corruption and integrity so that we have timeline to these cases.

You are aware that we are having situations where we have been having cases from 2013 to date! Some cases have dragged on for over 18 years or so. We are getting timelines (in the proposed BBI amendment) and the speedy investigations is being given by the BBI. If this possibly is wrong, I don't know, it's for the interest of other people that those arguments that we have been having, that we didn't know how these were procured. We didn't know how this was done.

These commissioners will be the watch dogs to the political parties in those particular commissions. The Bill proposes amendments of article 87, the electoral disputes, which puts a way of settling disputes relating to nominations and the IEBC political party tribunals. In all these as we continue, the Bill also tells us about the service. I want to take this particularly to the Siaya people who are here.

We have had situations even in the last elections where serving is an issue. We have got court orders but then how do we serve it? If I have won an election, or maybe gotten a seat and I don't want a service I go and lock myself outside there for a period of time, so that the time expires before I am seen.

The amendment is made to allow electronic services, so people were very happy with this. I do give an example, when we were having a petition here on the matters of women rep, and one of the judgments that was a very critical area was that 'how was the service? Did you serve the right person? So we are given a lee way with this particular part. So with me, going by what the people I represent have told me, this is the right thing for this Country to allow transparency for the electoral process.

Article 88 is being amended, so that officials who have served as MPs, deputy presidents, presidents or even senators with 5 years preceding an election, be barred from being members of the IEBC. As it is today, our president can be the member of IEBC or today having failed as a Member of Parliament can become an IEBC Member.

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We are amending this so that we can take care of that, so that there would be no conflict of interest, that today I've lost, tomorrow I come back as a member so that I make sure I come back and deal with the other opponent.

I know the debate is still on about the 290 and 360 Constituencies being created. This is an area of discussion, and our people were very happy because even in Siaya we are beneficiaries. There are a lot of other issues that have been captured that I want to talk about, more so of the youth tax waivers, HELB waivers, and we also have the ombudsman, with the leadership being an outsider.

As things are today, when we want to expedite the prosecution on corrupt officials or any other judicial process, a judicial officer to be heading a tribunal or JSC, which is sitting on the complaint, then we cannot get a good result. I happen to have served as a police officer, but then again surely, if I am a police officer and the police officers are involved, I will always serve in favour of my officers to protect them, because these are the people I work with.

It is the same scenario that we will see in the judiciary. So with a proposal of the Ombudsman with a leadership from the outside, it is a good thing for us, unless someone is telling us something from the outside that we don't know, I think it is good for us.

I conclude by saying, that among other provisions which are here, is the adjustments to the allocations, we are saying one of the aspirations of the handshake and the BBI is to strengthen devolution. While doing this, we are increasing these levels from 15% to 35%. That is the minimum. They say at least 15% to 35 %.

Somebody was asking whether if we have not been able to get the 15% how do we get the 35 %, and I did ask a question, is there any county claiming not to have gotten their 15%? There might be delays, but we have no records of a County saying to date the Government has not given them the 15%. So when we are setting at 35%, we will be adding more resources, and pegged to the more resources coming to the County, we have got the Wards that are getting 5%.

From the last Assembly, the County Assembly of Siaya has really struggled to develop the Ward Development Fund. It is majorly said that these people, your role is to oversight. You don't have anything to do with this. The provisions of the law today in the Constitution gives us a lee way today that immediately we are done with this, we are going to set another minimum now based on the law.

We have been told that it will only be illegal if you allocate money to the Wards, less than 5%. Anything above that will still be within the confines of the law, and therefore with this Hon. Members, I do plead with you, going by what we have even learnt from the ground, let us not be persuaded by self-interest from other quarters. Let us discuss the BBI with the proposals given.

I urge you to support this document and we pass it as Assembly, not because of what we think ought to be on the BBI and is not there. Let us base ourselves on the objectives of BBI, what it intends to achieve and what is here, that is presented to us here by the IEBC. I ask Hon. Madialo to second.

Hon. Madialo: Thank you, Mr. Speaker. May I be pleased to second? This report is self-explanatory and I wish to urge my sisters and brothers that it gets unanimous approval, in the shortest time possible during this session. The Constitutional journey that Kenya has walked is long and winding, but looking at that journey, starting with the Lancaster Constitution, coming

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down to the Tom Mboya amendment, Section 1(a) amendment that banned multi-partysm, and coming back to the 1992 Moi amendment that repealed section 1(a) of the Constitution to re-introduce multi partysm.

It is only the 2010 Constitutional amendment and now the Building Bridges Initiative that has involved the people actively as contractees between persons who are going to be ruled ad their designated rulers.

For that reason alone, given that this initiative has been provoked, by signatures from our citizens, I would urge that we support. Looking at this through the prism of reasoning, not political considerations, the narrative that this Constitutional amendment seeks to expand the executive positions for specific individuals can never be further a lie than it already is.

A reading of the proposed amendments reveals that there is proposed an introduction of the positions of a Prime minister and two deputy prime ministers. It goes ahead to prescribe who becomes the Prime minister and who becomes the deputy prime minister, and before you occupy those two offices you have to be a Member of Parliament.

In other words this amendment does not create other positions. It seeks to create additional responsibility on persons who are going to be in parliament, but who will then be given additional responsibility of supervising and coordinating Government functions. It does not expand the Executive.

Even going downwards, if you look at what it suggests that at both levels of Government, the President and the Governor would be at liberty to come into their legislatures and appoint part of their Executive and assign roles from Members of those legislative bodies. That contrasted with the fact today in which all of us are aware of.

Let us take the example of member of security who sits down and comes up with a program, which programs are subject to approval by the parliament, but the Committee the other side and its Counter parts the other side is allowed the leeway to change that program. So that we get ourselves in a scenario where we have one function even being done by two persons. That happens even at this level.

When Ministers are appointed within the legislative body and we are saying that the parliamentarians are going to be the ministers, you are not expanding the Executive, you are not creating new jobs, and you are giving additional duties, additional roles to members of parliament.

An argument that the Executive would be an additional burden to the citizenry is a lie and cannot be reason to argue with the proposed amendment of our people, we suggest and pray and plead that we pass it; I know we are going to pass it and our people will vote for it.

Inside the proposed amendment there are two proposals. Proposal number 1; The Ministers will be answerable to parliament, not the president, and if you go down to article 179, it says that the CECs shall be responsible and answerable to the County Assembly not the Governor.

Parliamentarians and MCAs are being checked by elaborate provisions on how they can be recalled. There are three arms of Government in Kenya, Legislature, Judiciary and Executive. Legislatures are being checked through the provisions that they can be recalled by the people. The Executive is being checked through the provisions that they shall be answerable to the Parliament and the County Assemblies, the two levels of Government. Judicial officers do not

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come from heaven. Judicial officers are human beings who are appointed through interviews here, by persons who are also able to make mistakes.

The ombudsman's position, that is specific to the judiciary, besides those roles of prosecution and all those, is a measure of checking the judiciary. It would be a sad day to suggest that we should have mechanisms of checking the Assembly, checking parliament and checking the Senate and that we should have mechanisms of checking the Executive and that the Judiciary should be given a free hand to operate and in fact even appoint their own ombudsman, have control on how they get their own ombudsman.

One of the reasons why that ombudsman must be appointed from elsewhere is because Judicial Service Commission is made of judges, is made of judicial officers in the first place. So an argument that they will have their own mechanism of checking 100% their own excesses does not really hold.

The chair of the judicial service commission is the Chief Justice, and then the representation is by Judge of Appeal who is elected by the judges of Appeal, a high court judge who is elected by judges, a magistrate who is elected by magistrates. The only way of ensuring that the public is taken care of appropriately here is by giving them the mandate to get the ombudsman from outside.

I urge my brothers and sisters that we do not talk about the ombudsman in the manner in which people are talking about it in public rallies and funerals. The ombudsman is there to protect Mwananchi and not for the purposes of the judicial officers.

When we come to the County Governments, we are faced with hurdles of preparing on time or accurately, our Fiscal instruments of the Financial Years, but because of one of the provisions is that we await the division of the revenue Bill, Parliament before we determine how we appropriate or allocate money through budget.

That has been a presumption that money that is used to budget for different functions, must as a matter of course be money that is appropriated through division of revenue and allocations Bill, because for those counties that are endowed and we pray that we are also well endowed with time, you may be able to appropriate money through your own resources without having to wait for the revenue allocation Bill, and it is a happy moment that the proposed amendment seeks to remove that requirement as the County Governments await the revenue allocation Bill before they appropriate for their functions.

The Controller of Budget is a person who generally oversees how our Budgets are executed. The control, appointment and approval of the Controller of Budget have been in the hands of the National Government through the National Assembly. That has been a misnomer, because if the Controller of Budget is supposed to be over sighting how we execute Budgets at County levels, then it is only prudent that that person is answerable and is approved and is appointed through a process that goes through the Senate that has got the responsibility at County level.

It is a happy moment that this Bill moves the exercise of the appointment of the controller of Budget and donates it to the Senate. The fellow takes you to the Political Parties Dispute Tribunal then you win or lose then the cheekiness goes on. From that point they are able to go to the normal courts. One week before elections, issues have not been resolved, they were campaigning and they fear it might be nullified.

We have to amend no. 6 to cure this problem, it states that *the Political Parties Dispute Tribunal shall deal with political parties' nominations* and will be final so that we are able to deal with those disputes when they are there and be able to allow the candidates time and opportunity to campaign.

One narrative that the youth have been fed there is a way of putting money in their pockets; that if you fail the BBI the youth will get money and if you pass BBI you are putting priorities upside down and denying the youth money.

This amendment seeks to specifically address youth affairs; it is a dangerous phenomenon that we have youth that are largely unemployed but there is another problem with us leaders both up and down. We are telling them that we owe them jobs that you just go to school/college then somebody owes you a job.

That you don't have to undertake your own initiative to make yourself useful to yourself. That the elderly have the jobs and the youths are supposed to be given. A commission that will be dealing with youths represented adequately and which addresses their issues when they present them and which will look on how to give them advantage so that they advance their ambitions has been proposed in this document.

It is in the interest of the youth that this amendment does pass; where we are seated here today only one person is exempt from paying certain levels of taxes but we are in a situation through this amendment where certain taxes are going to be waived from the youths. That enhances business opportunity; some have finished school but still are unable to repay their loans that perhaps were advanced to enable them to go to school.

The amendments seek to encourage our youths to take initiative, take charge of their own future and proceed with their life so that when they come to our age when they are no longer youth they don't blame other persons for their failure.

Mr. Speaker, Sir; I wish to state that the amendment seeks to give us opportunity to be equal to walk together at par with the Executive. I want to rest my persuasion by saying that this Constitution seeks to address a very important factor in this County. It is common knowledge that in terms of this demography, Nations, Country and our Country is one state which is like a pot in which different cultures, different tribes, different creeds, different religions are being boiled together. We are mixed there to make one unit.

Unless some affirmative action is taken then some demography have got advantage of numbers to do what they might wish to do; numbers to rule us forever if they like to do so. This is being addressed through introducing leadership in what is being named as expansive but through representation in Parliament through representation in Assemblies.

We cannot afford in a scenario where communities which are so small are so small that you can just ignore them. There are some communities that are so remote and poor that you can just close your eyes to their interests. Talking of numbers which is addressed and (*incoherent*) the Executive into Parliament shows the fact that there are communities amongst us whose vote whips the weight of their votes is naturally suppressed because of their numbers. Thank you, I support.

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Hon. Speaker: Hon. Members, I will then propose the question which is that pursuant to Article 257 Sub Article 5 and 6 of the Constitution of Kenya, 2010 this House approves the Report of the Building Bridges Initiative Constitutional amendment Bill no. 12 of 2020.

Members as I will be giving you time to talk our appointed time expires in the next 30 minutes so try as much as possible not to be repetitious.

Hon. Oriaro: Thank you, Mr. Speaker, Sir; on behalf of Central Alego public and of course Alego Usonga sub County with whom we had a credible and objective engagement on this Bill where we had resounding node, I want to say that I am in the House to ensure that this Bill is enacted courtesy of Article 3 of the Constitution out of influence.

Somebody quoted the gazette that the President was bribing others to pass this. We are donated power by Article 3 of the Constitution and Article 2 also donates it but takes us to a point where it is the public to reign because in the organogram of planned existence it is God that is first and our 2010 Constitution also extols that then it is the people and the third one is the Constitution and we are the fourth.

Article 255 of the Constitution and squarely combined with Article 267 takes us to a popular initiative of dealing with the Constitution. We never had that during the monolithic system where it was KANU and that's why we still hail the enigma, the Former Prime Minister Raila Omollo Odinga because the monolithic Constitution is a dead one. The one we are having is a live one because it is capable of change and that's why we are here.

Articles 255 and 267 extol what we have in the direct exercise of democracy that is Article 2 of the Constitution. We have got no power over this but we want to pave away so that ultimately it is the people to decide the fate of Kenya in terms of having good laws. We know the World currently talks of planned development but planned development is only understood on empirical context of good governance which is purely a locus of good laws which is the Constitution. We are here to give the people the power to having the Constitutional tools and the statutory tools to see to it that they get the democratic goods.

We are left with no option to ensuring that because we already know that the Country is divided into two and I want also to talk about that, it is a war between that other wing which will oppose the Constitution; the hustler movement and us who are pure without any nomenclature attached to us.

The other wing is borrowed from Kal marxist class ideology which is a very dangerous one. Ruto is so smart to substitute the dynasty with the hustlers, we must adopt this to help Kenyans go and negate that advance because an ideology cannot just fight without justifiable cause. This would be a quantum way forward in finding a way thus the establishment shall counter them but if we don't do it Siaya is going to do it and other Counties as well.

Later on beyond this we shall expect our President to come out because the Ruto thing is not a simple one. We may defeat it with the passage of this Bill but consequently you cannot aimlessly fight an ideology. I want to appeal to the President to be like the Pharaoh during the time of Joseph in the 17BC, to help him coin better slogans...

Hon. Adala: I rise to support this Report; let me commend in a special way this team that moved around. In deed we were a team of six that visited all the six sub counties and the ideas and the views that have been well explained by the Chairperson is what we really got on the

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ground. The people are ripe for change; laws are made for man but man was never made for law. When there is an exercise to this then we must all come out strongly and support.

Mr. Speaker, Sir; sitting in this Assembly I serve the Youth of this County and for the first time we are having a youth commission that will safe guard the interest of the youth. As we sit we are never very certain of the role of youths. With the adoption of this Report and subsequent changes of the Constitution, that shall be addressed.

While on the field the citizens yearned for more resources being sent down the grass roots. The revenue that is sent here is very limited and at times I really sympathize with the CECMs for example when we invite them to share what they really want to do in a Financial Year.

You realize we have got very big dreams vis-a-vi very limited resources; if this BBI Report will lead to more resources being sent down here, then any sober and right thinking person should not look elsewhere but should come out very strongly and support. I want it to go on record that as Siaya we are going to pass this Report, judging from your mood nobody is going to oppose it.

We are going to pass this Bill today not because somebody somewhere has sat down with us like it is being rumored out there. It should go on record that whereas we are sitting here nobody has bought us to pass this Report. We are passing it because it is a duty that we have and we have looked at the benefits that is going to serve the big people of Kenya.

Hon. E. Odawa: Thank you so much, Mr. Speaker, Sir; while I rise to support this Bill I must state clearly that we must realize that the Constitution is a means to an end and not an end in itself. By this Bill I believe that the drafters had some intentions. Equally we must realize that the Constitution is a living document which changes with time in need of the people of the Republic of Kenya hence the need for the various Assemblies in the Counties and the need of the National Assembly, the need for the Senate so as to modify our Constitution regularly to serve our people.

As pass this Bill we as a people need to ask ourselves if Kenya is in a crisis! I say we, yes we are in a crisis; we are in a crisis of tribalism where people think in terms of tribe and tribal loyalties. We are in a situation where the winner takes it all which is sorted out by the Executive where all members of all communities will feel well represented and their interests taken care of.

There is the issue of marginalization and exclusion of the various communities in Kenya who have not been given equal share to participate or even to enjoy the National cake which has generally been skewed to generally favour a few people.

The tensions that we are witnessing right now, the political intolerance and the chances of civil strife and instability which this Bill seeks to sort out. We must look back and see what is happening in our Country; the other day you saw what happened in Githurai and we again saw what happened in Kisii.

A very unfortunate situation where legislators turned physical and if leaders could turn that physical that tells you where the Country is going. Unless this Bill is passed which will be able to caution the Country from unnecessary turmoil, I think we have to be weary.

I support this Bill because we as Members in this Assembly; you realize that the issue of the Ward fund be included from at least anchoring the Constitution whereby a minimum of 5%

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will come to the Ward and increased allocations to the Counties from 15% to 35%. This will be a major milestone because as you realize in Siaya County we have been able to achieve quite a lot with the 15%.

Imagine what we will be able to achieve with 35% the moment that we as the Members of the Assembly have allocation of 5% that means that we will no longer have to go begging the Executive to get projects in our Wards but will be able to have a rightful share and get our 5% and even legislate on increasing it to even 20% so that we are able to deliver directly to our people because you have realized that most of the projects in our Wards have really been a success of what the people have been able to come up with from Public Participation in the Wards up to the implementation stage.

At this juncture, I don't want to take more time; I just want to take the opportunity to thank our President Uhuru Mwigai Kenyatta and H.E. the right Hon. Prime Minister Raila Amollo Odinga for taking a bold step of the handshake to bring peace, to bring tranquility, to bring sense and order to this Country, I beg that we support, thank you.

Hon. Booker: Thank you very much, Mr. Speaker, Sir; allow me to take this opportunity to thank the almighty God for having kept me alive up to today so that I become part of history in the passage of this Bill. This morning when I was coming from Uyoma to Siaya, people of North Uyoma told me to come and pass this Bill on their behalf. I want to jog your minds back to the Government of Liberia.

When Serjeant Samuel Doe overturned the government of Liberia; only seven guards guarding a State House in Liberia were there and that is why I am telling this Hon. House to guard against social degradation, political exploitation and voicelessness that will lead to immorality. Serjeant Doe envisaged the formation of the Government of Liberia and he saw that there was inclusivity in the Government of Liberia and he decided to call all the ministers and killed them all.

If it is because of inclusivity I support this Bill, I also remind you that before I joined this Hon. House as a politician, I worked in the army for 30years. I know what war is and I also know what it means to be peaceful. I have had several opportunities to visit many places in the world, I went to former Yugoslavia just to keep peace. I want to tell this House that Constitutions are not made during peace time, they are made after a war.

Let us pray that God gives Hon. Raila Odinga life and H. E. Uhuru Kenyatta and if the Hon. Governor will also decide to give me Kshs. 30 million and I add to the other Kshs. 30 million, people of North Uyoma will be happy. That is the reason they sent me to come and pass this Bill.

Another reason why I am supporting this Bill and given that I was a soldier there is a saying in the military "that you should not question the General." The General is always right and if you want to know that the General is always right, refer to chapter one which says that the General is always right. Do not question Hon. Raila Odinga and the President, His Excellency Uhuru Kenyatta because they are right my friends.

Thank you.

(Applause)

Hon. Speaker: Yes, Hon. Truphosa. One minute please and be brief.

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Hon. Odinga: Thank you, Mr. Speaker, Sir. Allow me to first and foremost thank the two key principals behind the BBI: His Excellency Uhuru Kenyatta and the Right Hon. Raila Amollo Odinga.

BBI is not just a good initiative but it is also going to help the ordinary people outside there and I. The 5% Ward Development Fund, which will be there automatically, will make the work of MCAs very easy unlike before where MCAs used to lobby hard to get money to help them develop their Wards.

There is also the issue of 2/3 gender rule which failed to pass for many years. BBI is here providing more elective posts to meet the 2/3 Constitutional gender requirement. This has put us in a good position as women. Therefore, BBI in my opinion should be embraced and passed unconditionally by all MCAs in Kenya.

The car grant issue should not be pegged on BBI. This is a totally different issue, as much as we need the car grant, I feel we should not be selfish to give terms and conditions at the expense of BBI and its good benefits to the people. As much as I, Hon. Osewe, need this car grant more than any MCA in Kenya, I feel it's all about sacrifice...

Hon. Speaker: What is it Hon. Adalla?

Hon. Adalla: Mr. Speaker Sir, I have purposed to read the report before us and have not seen where they talk about car grants.

Hon. Speaker: Okay. Take your seat. Hon. Osewe, focus yourself on the business and you only have one minute. Our appointed time I told you is about to expire and because this is a contentious issue we do not want people to run to court to annul our decisions having performed our functions outside the legal time frames.

Hon. Odinga: I therefore rest my case.

Hon. Speaker: Thank you. Hon. Omwende please.

Hon. Omwende: Thank you, Mr. Speaker, Sir. I know we are many here therefore; I cannot take for granted the special opportunity you have given me, thank you.

Power belongs to the people and I appreciate that this Bill has already been taken to the six sub counties, which is very important because the people have spoken their minds. I as Andrew cannot go against that.

Straight to what I want to say. We passed the 2010 Constitution and it is now 10 years down the line, so if someone suggests that we amend it I think it is worth it. Moreover, for that reason I must say that years ago there was an Act of Parliament that was passed in 2003 on issues of persons living with disabilities.

The implementation of that Act is still a problem on the issues of employment, accessibility and representation. However, when I read the issues of Persons with disability in the BBI, I was impressed, more so on representation in the Senate where we have four slots meant for Persons living with disability. What a gain!

Another very important issue to us and in fact there is a saying in Kiswahili that says, "Heri nusu shari kuliko shari kamili." This simply means that there is something we can smile about especially by coming up with electoral colleges where people living with disabilities will get their own slot on how to expect how those they want to represent will be chosen from those electoral colleges. I am a very happy man for that. Thank you.

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Hon. Oyuago: Thank you, Mr. Speaker, Sir. I will be within exactly one minute because most of the things have already been said.

Constitutional journey is not a one off thing. This is why the Right Hon. Raila Amollo Odinga saw it wise through Handshake that they come up with this amendment. What I would like to put across is that on 26th October when they were launching BBI at BOMAS of Kenya the President said clearly, do not talk of what you do not know. Pick the document, read, and I am urging the opposition, led by the Deputy President Ruto to pick the document and read.

This document is so nice and even in 2010 the Deputy President opposed the Constitution review, which was done in 2010. If you check the first part of the BBI amendment Bill it resolves issues of divisive election and this confirms that Ruto was behind the Kiamba killings.

Hon. Speaker: Hon. Member, you are out of Order! Yes, Hon. Nick. One minute please or I will discontinue you if you exceed one minute.

Hon. Ochola: Thank you, Mr. Speaker, Sir. Let me thank you for allowing me to go in the records of History for contributing to this debate. My colleagues have said as much and the seconder. I want to thank the team. I am only pointing out at matters financial which are being addressed in this document, which I think is a very good thing to go by.

There is a lot of documented and undocumented cases where we have had people who owing to the fact that Devolution was brought to the Country their living standards improved because of doing business with the County as well as increased employment. However, in the reverse we have also had cases where because of delay in allocation of revenue then you have cases of people who have been auctioned by courts etc. due to delay (in payments) or Counties not getting their allocation on time.

I have perused through the document and there is a legislation which is being proposed that within 30 days after issuing of invoice either to Government or County Government then this person is entitled to payment. Therefore, there is a prompt payment Bill that is coming up after the enactment of this Bill, which I think, is very commendable.

I am not going to repeat on the 35 percent but...

Hon. Speaker: Keep time. Please do not repeat yourself.

Hon. Ochola: Okay, sorry. But I am only putting it literally that this Bill in view of the simulated schedule that we have been given here, we are having an allocation, a new introduction of Kshs. 5 Billion coming into Siaya County based on the allocation we are having. Therefore, if we are having Kshs. 5 Billion, running to Kshs. 6 Billion and we are introducing 50% of that increase then I am looking at where we are going to have double development compared to what we currently have. I would have wished to...

Hon. Speaker: Order, Order, Hon. Member!

Hon. Omoro, quickly please. I am only going to consider only two more Members: Hon, Lorna and Hon. Mboha.

Hon. Omoro: Thank you, Mr. Speaker, Sir. I also rise to support the Bill because we are all aware that Constitution is a political document and also for prosperity not just today but for tomorrow, day after tomorrow and for our children.

We have always had wrangles during and even after elections in terms of sharing revenues, sharing of political positions and as we are aware, politics is about sharing of resources

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and values. This document properly captures the general idea of the public on how to share resources by increasing 15% to 35%.

At the same time it also addresses the 2/3 gender rule by making sure that both male and female gender are well represented in the House. The Bill also converses well the Ward Fund, which has been a stale mate between the Executive and us, and therefore, there will be pegged 5% for developing the Wards.

The Bicameral system of Government will expand the legislative organ by making sure that we have the Ministers appointed within the MPs that have been elected. There is also the technocrat part of it that will also comprise part of the Cabinet...

Hon. Speaker: Your time is up. Please conclude.

Hon. Omoro: Thank you, with the few remarks I support by saying that it is a good report and let us support it.

Hon. Speaker: Thank you. Hon. Lorna, North Sakwa please, back to Hon. Mboha then we conclude.

Hon. Adida: Thank you, Mr. Speaker, Sir. Allow me to add my voice in saying that and if you allow me, it is important to translate the word BBI in our vernacular that says "(Ber Biro Ira/ Ber Biro Iri/Ber Biro Irwa.) I think it is important to note that it is a key thing that is going to bring many benefits to Kenya as a whole.

It is also important to note that if this Bill passes we will have an opportunity as the women of Kenya to get a space such that if a woman becomes the president she can appoint a man as her Deputy and vice versa.

If the Bill also passes, it will also be good for us as a County because it will be upon the County Government to nominate the Members of the County Assembly who will be elected at that time to be CECMs of the County Government. I think through this it will also be a reduction to the Wage bill.

Thank you.

Hon. Speaker: Order! Hon. Mboha, please.

Hon. Mboha: Thank you, Mr. Speaker, Sir. I want to take this opportunity to also have a say on this particular document. I support this Bill and I think most of the issues have been highlighted and I think the most important thing is not to look at this document with 2022 lenses. That needs to be out there to the public, that we look at the document holistically.

It is equally important, as a young person on the issue of doing away with the penalties for HELB loan is very important because currently they charge Kshs. 60,000 annually if you do not pay. Therefore, we need to make the youth understand that by just passing the document we are saving them around Kshs. 60,000 every year from the HELB office.

Generally just as my colleagues have said it is a good document and we need to talk to fellow colleagues in other Counties and enlighten them to pass the document as it is.

Hon. Speaker: Mover, will you reply in half a second.

Hon. Otiato: Thank you, Mr. Speaker, Sir. As I reply let me take this opportunity to first of all thank all our Members for their continued support as well as your good office for availing resources for us to move around without forgetting the Governor's office for being with us here as well as supporting us through other medias.

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Going by what we have heard from the ground, I personally will not say much but passing this to the other Assemblies as well as the World at large. Allow me only one minute to say this; that as County Assemblies should we reject the Youth Commission that is provided for because one person thinks that by passing this Law, a section allowing and amending coalitions to form opposition leadership will not allow him to be even an opposition leader after losing an election?

Will we allow the problem that we have had with People Living with Disability especially when it comes to the issue of their nominations? Will we avoid allowing them having Electoral College so that they have their four representatives at the Senate or the National Assembly? No!

There is black mail going on and I would urge other fellow Members in the Counties that we are aware of orchestrated issues here around the perennial opposers of the Constitution. In the last 2010 Constitution the major opposition and point of focus was that when the Counties are created you will need a passport to move from One County to another.

Now it is a new thing being created by the same people who made that same statement and we must be weary. Even the efforts being made to black mail MCAs over the Kshs. 2 million; when did CAS start discussing the issue of Car grants with the Government? It is not yesterday, it is an issue that has existed for long.

(Applause)

Therefore, the black mails that are coming from the perennial opposers of the Constitutions to make the Assemblies feel they are passing this because of the Kshs. 2 million is all nonsense. That particular MP is having an allowance of Kshs. 7 million, what of Kshs. 2 million to the MCAs? This document is leaving here to both the Senate and National Assembly so will they pass it because of the Kshs. 7 million!

I conclude by saying that yesterday I heard a statement made by a strong ‘Tanga Tanga movement’ supporter on a question that when he looked at the BBI he never saw anything written Mama Mboga or Boda Boda. I want to put it clear that there was an opportunity for you to make a Memorandum. Where did you make a step even after Bomas 1 and presented anything concerning that Mama Mboga you talk about? When did you realize that you represent Boda Boda people when there was an opportunity that you never used?

I want to thank Hon.Ekuru Aukot that the other day he made an effort to change the Constitution, but ODM has made a move. If you think you have anything to do for Boda Boda other than telling us to wright Boda Boda with nothing, come up with another move, there is an opportunity.

Hon. Speaker: Thank you.

(Question put and agreed to)

Hon. Speaker: Hon. Members, I then give direction as follows:
Under the same provision of the Law, once upon approval by the County Assembly a draft Bill to amend the Constitution by popular initiative, the Speaker of County Assembly shall notify the

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Speakers of the two Houses of Parliament of the approval of the draft Bill by the County Assembly by delivering to each Speaker during official hours the following;

1. A copy of the draft Bill.
2. A certificate on the approval and by extension the report.

Therefore, Hon. Members when we are done here we will go out there and have a press conference where the Governor and his team will join us so that we talk to the public.

MOTION

ADJOURNMENT

Hon. Speaker: Hon. Members, would we be upstanding for adjournment. Hon. Members, there being no other business this House stands adjourned until next week Tuesday, 9th February, 2021 at 2.30 p.m. in the chamber.

The House rose at 12.48 p.m.