

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Tuesday, 4th May 2021

The House met at 7.00 p.m.

*[The Temporary Deputy Speaker
(Hon. Christopher Omulele) in the Chair]*

PRAYERS

MOTION

FURTHER ALTERATION OF CALENDAR OF THE HOUSE FOR FIFTH SESSION

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move;

THAT, pursuant to the provisions of Standing Order 28(4), this House further alters its Calendar for the Fifth Session ((Regular Sessions)) and resolves as follows-

- (i) That, the Sittings of the House for First Part of the Session terminate on Thursday, 13th May, 2021 instead of 6th May, 2021;
- (ii) That, the Sittings of the House for the second week of May, 2021 be accorded with the resolution of the House of 10th February 2021 with respect to the sitting days and times and prioritisation of business;
- (iii) That, the business to be transacted during the Morning Sittings of Thursday, 6th May, 2021 and Thursday, 13th May, 2021 be exempted from the resolution of the House of 10th February 2021 (Approval of the Calendar of the National Assembly (Regular Sessions) for the Fifth Session (2021)) being days allocated for business not sponsored by the Majority Party or Minority Party or business sponsored by a Committee; and,
- (iv) That, the House proceeds for its recess from Friday, 14th May, 2021 (instead of 7th May, 2021) to accord committees time to consider Estimates of Revenue and Expenditure for the National Government, Judiciary and Parliament for the Financial Year 2021/2022 and resumes on Tuesday, 8th June, 2021 to commence the Second Part of the Session.

As Members would be aware, if you look at the Calendar of the House, this first part of the sittings is scheduled to end this Thursday based on the Calendar as approved. We considered this matter in the House Business Committee (HBC) and there is still lots of business pending. You may also remember that when COVID-19 hit hard, and we had to take a break, we also took part of the recess that was supposed to be starting at the end of this week in advance. However, the Calendar is still intact. Looking at the business that we needed to transact, the most urgent is what

we did today, the approval of the Principal Secretary for the State Department for Implementation of Curriculum Reforms and I want to thank Members for that.

Last week, we received the Printed Estimates from the National Treasury. We have also received the Finance Bill. This requires public participation in line with our Constitution. That public participation cannot take place because the Budget and Appropriations Committee will need to go out there and conduct public participation, the Finance Committee will need to be out there and all the chairs of committees will need to call for people to come and discuss things within the respective committees. Hence, it will become impossible to continue business in the House while Members are out there in committees. Since the Houses of Parliament are created for the vital job of the appropriation of money and determining the taxation of the people, it is an exercise that we need to do with concentration. We need those three weeks for that exercise, so that it can never be challenged that there was no adequate participation because we were in the House.

That is the long and short of why we are reorganising the Calendar. This now means that instead of going home this week and we have just come back, we take the break on 14th May and run up to 8th June. Most importantly, we had already made a decision that in the first part of this Calendar, we will be having two sessions on Tuesday which is the afternoon and the evening session, and then on Thursday, we have three sessions, namely, one in the morning, one in the afternoon and one in the evening. So between this and next week, we will have ten sessions and we are maintaining that. When we come back, it will be a second part, we will bring in a Motion to decide how we go on to do business depending on the advice we get from the MOH and the business that will be in the House.

I know we had also agreed that Thursday Morning sessions had been dedicated to Private Members Bills. We are, therefore, asking that for this Thursday and next Thursday, we do not carry out Private Members Bills or Motions, so that we can conclude debate on this constitutional matter. We can use the sittings to do some of the urgent business that we would want to complete by next week. When we come back, we will allocate more time for private Members as we process the financial Bills and all that. It is something that we considered extensively within the HBC. So it is for the convenience of the House that we do things this way and I hope the Members will take the opportunity to complete their engagement with the Treasury and ministries, departments and agencies (MDAs) that they are oversighting by the time we come to complete the budget process, which hopefully, we would have finished in June, so that the Cabinet Secretary in charge of the Treasury can come and give proposals for the year, by way of budget speech. We will then take our break again in July. We will communicate that later on.

With those few remarks, I beg to move and request Hon. Wangwe, who is also a Member of the HBC to second.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wangwe, you have the Floor.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second this Motion by the Leader of the Majority Party on the alteration of the Calendar. I am just interested in highlighting the points that he has put forward in terms of the reasons of approving the alteration of Calendar. Point No.4 is a very key issue when it comes to alteration of the Calendar of the House. It talks about the Calendar leading into a recess which is a working recess. It should not be called a recess *per se*.

We want to indulge Members so that they meet the various semi-autonomous Government agencies (SAGAs). In line with the ruling that the Speaker made today on public participation, that is one of the key components. Public participation is not cosmetic, but it goes to the root of

legislation. Therefore, it should be done properly. If the House approves this re-organisation of the Calendar, it will help the Budget and Appropriations Committee and the Departmental Committee on Finance and National Planning. There are documents that were delivered here. There are various legislations that the Cabinet Secretary for the National Treasury has proposed which need public participation. Therefore, I plead with my colleagues to support this Motion by the Leader of the Majority Party, so that we alter the Calendar of the House.

Thank you, Hon. Temporary Deputy Speaker. I second the Motion.

(Question proposed)

Hon. Members: Put the Question!

The Temporary Deputy Speaker (Hon. Christopher Omulele): Is it the mood of the House that we put the Question?

Hon. Members: Yes!

(Question put and agreed to)

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wanyonyi, what is out of order?

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): I want to take this opportunity to inform the leadership of this House that as we start a very intensive programme, there is a shortcoming. I want to draw the attention of the House leadership. We invite members of the Executive to attend committee meetings, but they do not come sometimes. We need to take this seriously. We have that problem. I am sure it is a cross section, particularly in the Departmental Committee on Agriculture and Livestock where I am a Member. This will be intensive work and yet we call the members of the Executive, but they do not appear before the Committee.

Take note of that.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wanyonyi, that is okay. It is important for the members of the Executive to come when the Committee requires them to do so. You are properly within your rights.

Hon. Members, we will move on to the next business.

BILL

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) BILL

(Hon. Amos Kimunya on 28.4.2021-Afternoon Sitting)

(Resumption of Debate interrupted on 4.5.2021- Afternoon Sitting)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, you are well aware of the directions on how to proceed with this particular business. We shall strictly

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follow the Order as it is here. The substantive Speaker had already ruled on this. So, I do not expect any Member to deviate from his directions. If you had keyed in, just sit pretty and you will speak. The person with priority is Hon. Alice Wahome, who was on her feet when the House adjourned the last time. Hon. Alice, proceed. She has a balance of 15 minutes. She had not said anything.

Hon. (Ms.) Alice Wahome (Kandara, JP): Thank you very much, Hon. Temporary Deputy Speaker. I rise to oppose the Constitution of Kenya (Amendment) Bill, 2020. I will proceed to give the reasons.

The first reason that I feel that this Bill should not be supported is the fact that there is a proposal to remove 47 women Members of the counties. I am the Member for Kandara Constituency and I have listened to various arguments. Some Members said that the women who were elected in the constituencies should not support the 47 women representatives. On the contrary, this is an affirmative action position. By virtue of Clause 11 of the Constitution of Kenya (Amendment) Bill, 2020, 47 women from the counties who sit in this House will not be here. We will create another 70 constituencies which, in all certainties, are likely to be occupied by men. There is the trend. Therefore, we have 47 women Members of Parliament who do not know right now which constituency they will vie for because where they are will be scrapped.

The argument that they will move to the Senate is also not proper because they sit in the Kenya National Assembly. It is my humble view that they will not do that willingly. It is because this Bill is here. I want Kenyans to know that as this House debates and votes for this Bill, whether it is a yes or no, those who are interested in it will vote for it. That is one aspect of this process.

Kenyans have a big say in this process. Members of Parliament are not debating in vain. What we say will influence the Kenyan public going forward for the referendum. I have listened to the Speaker's ruling. I am also mindful of Article 257 of the Constitution.

My other reason is that I am looking at how we shall fill in the positions of the nominated. It is said that they will be nominated by their political parties. There are gatekeepers in most political parties. The gatekeepers are normally men. Women placement in those positions will be determined by the number of votes you will have in a situation where you have lost. I do not think that is necessarily a good thing. Why should women who had a gain by way of that position, be left to start struggling. I will proceed to the next.

Hon. Temporary Deputy Speaker, I have looked at the positions of the Prime Minister. Article 151 (28) proposes the functions of the Prime Minister. One of those functions is that he will chair Cabinet meetings as assigned by the President. I do not know how that will be sitting *vis a vis* the Office of the Deputy President. I do not mean the current Office of the Deputy President because I have seen that these provisions of the Executive will obviously take effect after the next General Election. It was the arrangement that in the absence of the President, the assignment of such duties would be to the office of the Deputy President. That for me - I want Members to listen - is a likely area of conflict between the Deputy President and the Prime Minister. I will then proceed to the other reason.

After the Prime Minister, there will be a Cabinet selected or appointed from Members of the National Assembly. Obviously, we shall be in breach of the principle of separation of powers. There is the case that it would be easy to hold them to account. But being honest, as Members of the National Assembly, there is not going to be a proper and serious separation of powers between the Legislature and the Executive. Of course, Members of Parliament (MPs) must be very honest that they are happy with this. As the MP for Kandara, I do not mind being the Deputy President, the Prime Minister, the Deputy Prime Minister or a Cabinet Minister. Those are some of the reasons that we must tell Kenyans that are being looked out by this House for purpose of

occupying. Of course, let us then see how that plays out. Obviously, as MPs we have a conflict of interest. So, we cannot be objective.

Hon. Temporary Deputy Speaker, there is a huge cost that we are creating by the proposed various seats. The three extra positions in the Executive, plus those of deputy ministers are areas that were not necessary considering we have a Minister and a Principal Secretary.

The saddest part for me is that, this House, by agreeing that this Bill should proceed also accepts that they will no longer vet the Cabinet Secretaries. Of course, we may not want to vet ourselves. So, I am arguing that the vetting process was created to allow checks and balances. It was created so that the public can also be able to participate in the vetting process of the Cabinet Secretaries and the Principal Secretaries. We will be scrapping all that by the amendment proposals we are bringing forward. That is not a good thing and Kenyans must know. I thought that ourselves as the Members of Parliament we are the peoples' representatives and we should not be allowing provisions where a Cabinet Secretary takes a job without being vetted by the National Assembly which represents the people of Kenya.

Hon. Temporary Deputy Speaker, the other area I have big concerns with is the Judiciary and the creation of the Ombudsman. Member here have spoken to it. We cannot speak in futility. We cannot speak by way of lamentations. We must tell Kenyans. For me, the creation of the Judiciary Ombudsman in the manner proposed here creates another area of conflict between the office of the Ombudsman and the Judicial Service Commission (JSC) that is headed by the Chief Justice of the Republic of Kenya.

Why do I say so? If you look at the functions assigned by this Bill under Clause 44 to the Office of the Ombudsman, they are similar functions assigned to the current JSC. How will they then not conflict? Many times, we have seen conflict between the Office of the Directorate of Criminal Investigation (DCI) and the Office the Director of Public Prosecution (DPP). What we are creating here is a similar scenario where you have duplicated functions of the JSC and those of the Ombudsman. Is it necessary?

Again, how will an Ombudsman who has been given permission to receive complaints of members of the public against judges and magistrate, come and sit as an *ex officio* member in the JSC which also recruits the members of the Judiciary? This is the employer. In simple language, you cannot sit as an employer and on the other side you are the one disciplining and receiving complaints. We are losing it. Clearly, there is a problem and the Ombudsman is appointed by the Executive. So, you are bringing the Executive right into the Judiciary yet the essence of an independent Judiciary is that they should be independent from the Executive and from the Legislature. The particular provisions completely make nonsense of the independence of the Judiciary.

Going forward, from Parliament, there are cases pending in court. Are courts supposed to give a blind eye to some of these provisions that may make their work very difficult? I say no. I do not think it is possible for them to give a blind eye. We have a duty as MPs to provide a structure of governance from Judiciary, Legislature and the Executive; and ensure that those institutions work without conflicting. At no time is conflict important.

Hon. Temporary Deputy Speaker, according to Article 230 the Salary and Remuneration Commission (SRC) has representatives who sit in it from the Teachers Service Commission (TSC), the JSC, the Parliamentary Service Commission (PSC), the National Police Service (NPS), the Defense Council and the Senate on behalf of the counties. All these bodies have been scrapped by our proposals. Hon. Members, as the Member for Kandara, I do not want to be part of the people who weakened the SRC. I do not want to be part of the people who weakened it without saying

anything because of political hostility and lack of care for the country. I believe it is very reckless if we allow such provisions. Speaking and saying that you do not support and then stand and say: that you support the Bill, you can argue that these are not good provisions, but eventually, we must say something and guide the country. We are in a very special position.

The last one and I know was noted by the Speaker in the Ruling is that we are suspending the Constitution by provisions of, I think Clause 89. This suspends the Constitution of Kenya by saying that we shall proceed with these constituencies irrespective of the fact that there would be no 12 months at the time the constituencies are created. It is not possible to suspend the Constitution whatever way we do it. We can suspend application of the constituencies by the time they are ready, but we cannot propose to suspend the provisions of the Constitution through a referendum. What is constitutionalism? That is one of the very reckless provision of this.

The National Police Service is also under threat. The Inspector-General and the trigger happy police cannot be the ones who are now affected by some of the provisions. We should be protecting even the Police Service. We changed it from a force to a service, but we see the Commission is not necessary and we are taking all the powers to the Inspector-General. I thought Members of Parliament...

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Member for Kandara, you have exhausted your allocated time. Thank you.

The Hon. Nguna Ngusya, Member for Mwingi West, you have the Floor.

Hon. Charles Nguna (Mwingi West, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for the earliest opportunity you have given me this evening to strongly support the Bill. The people of Mwingi West will support it 100 per cent. I will be very economical with the time bearing in mind that very many Members are queueing since the afternoon and they will still be queuing on Thursday. So, I will not waste the 15 minutes you have allocated me.

Let me take this opportunity to thank the Speaker for the best Ruling I have ever heard since I joined this august House and one of the longest I have ever witnessed so far. He has allayed all the fears that were created and generated by the media over the weekend and during this morning when many media houses questioned the timing and constitutionality of the Building Bridges Initiative (BBI).

Many people have congratulated the President, but let me take this opportunity to congratulate one of my best political fathers that I have always followed, the Hon. Raila Odinga, for the immense work he has done to this nation.

(Applause)

I do not want to get emotional, but all Kenyans across the political divide know what Hon. Raila Odinga has gone through saving this nation. So, for that matter, I bow for him for what he has done to the nation.

(Applause)

I also take this opportunity, because I went through the BBI process at the rallies and in other places, to congratulate the party leaders who have wooed their communities and Kenyans across the divide to make sure that the BBI goes through. I will not forget my party leader, Hon. Stephen Kalonzo Musyoka.

(Applause)

We have done public participation in Machakos and in Kitui and our people are informed about the issues of the BBI. I will not forget the rest of the party leaders like Charity Ngilu, Moses Wetangula, Mudavadi and all those who participated across the divide and my good colleague here, the Leader of the Minority Party, Hon. John Mbadi, and our Whip of the Minority Party.

Based on that, the ostensible objective of the BBI was to settle all the perennial challenges we face as a country. I begin by saying that one of the worst, and it will go to the books of record, is corruption, which has dogged our country.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Ngusya, could you kindly put on your mask, if you do not mind?

Hon. Charles Nguna (Mwingi West, WDM-K): It is difficult, Hon. Temporary Deputy Speaker, but I will try. I obey your order.

I will start with the ostensible goal of the BBI that is to settle the perennial challenges this country has been facing for too long. I will start by dissecting them and before I do that, let me remind Members of Parliament and Kenyans across the divide that I have gone through this process which was followed by the BBI taskforce and I can confirm that there is no constitutional illegality on the process followed. If you check, we have been popularising the initiative which, of course, over four million Kenyans appended signatures on. We printed the draft which was distributed across the country. We did verification of signatures which over four million Kenyans witnessed. We have had the Bill considered in county assemblies. We took the BBI to counties and 46 out of 47 accepted the Bill. The Bill was introduced here, and apparently, it will go through on Thursday, the way I see the mood of Parliament both the Senate and the National Assembly.

So, what was the objective of coming up with the Bill? There are many gains. There is no Constitution which can sort out all the issues or challenges we have in the country, but if the BBI or the amendment is properly implemented, we are going to sort out almost 70 per cent of the things we have been perennially facing.

I will start with ethnic antagonism and unfair competition. Most of the time, we find certain people fighting. One of the key contributors of the fighting is lack of shared prosperity. Most of the time, if you come from marginalised area, the only thing you can do is to fight for the little you have. But if we spread development across our country, we will beat the issue. I need Hon. Alice Wahome, who spoke, to agree with me on this.

The other issue is shared prosperity. I come from Kitui County where we had the only B Class road that had never been tarmacked, and I think it is the last one in the country. Right now, let me take this opportunity to congratulate our President. He has tarmacked the 194 kilometres road plus 34 going on. That is what we call shared prosperity. If the Bill goes through, we will not need to go through the hardship we have faced in Kitui of the leadership lobbying and intense lobbying. We will be distributing our resources equally and encouraging the Government to invest where it has not. This will close the gap between the rich and the poor and close the gap between the areas which are not developed and those less developed.

The other issue is inclusivity. The Prime Minister will represent a certain community and the President another community. The Deputy President will also be there and many other positions that we have just created. This inclusivity is the talk of our country. Every time we fight for the few senior Government positions that we have. If at all we are going to have this, then we are going to have what we call inclusivity.

The Bill proposes to include the Leader of the Official Opposition in this part. This person is supposed to be empowered even more than the President to check the misdoings that will be going on in the Government. So, the creation of the office of the Official Opposition is very critical towards overseeing the Government.

We always say that we have a right to do this and that, but do you have a responsibility as a citizen to guard what is already on the table? This Bill has clearly listed all the responsibilities that a citizen of this country will be executing. That is why I laud the BBI. On the issue of natural disasters and manmade disasters, the BBI has proposed several measures to ensure safety and security for Kenyans. There is also the issue of devolution, which is the biggest gainer if properly implemented. We have seen the way devolution can work wonders if we elect the right governors and the right members of county assemblies (MCAs).

Allocating 35 per cent of the sharable national revenue, down from 30 per cent, to the counties will ensure that even the smallest villages in this country will benefit from those resources. Creation of the Ward Development Fund will ensure that there is equitable distribution of revenue. Developing the counties will ease congestion in major cities and people will start migrating back to their respective counties to work in there.

We have talked of lack of national ethos. When will Kenyans think like Kenyans instead of thinking like, for instance, a Kamba, Luo, Luhya and Borana, to mention just a few of the 42 ethnic groups in Kenya? We need to emphasise the importance of developing national ethos to make sure that we nature our families and small children to think as Kenyans and not as Kalenjin, Kamba, Luhya or any other ethnic community so that once they take responsibility as responsible citizens, we can have a very prosperous country.

Another win for the BBI Bill is the creation of the Youth Commission. We have been told that the youth are future leaders. So, the time to empower the youths is now and not tomorrow. It is today. We have seen that most of the time, the majority of our university students always complete their studies and start struggling to get employed. We also force them to pay the loans they borrowed from the Higher Education Loans Board (HELB). The proposed holiday of four years is a plus for the BBI. I will be the first one to mobilise the youths in my constituency to vote for it overwhelmingly.

There is also the issue of tax holiday for our young people in businesses. They strain very much. The Youth Enterprise Development Fund (YEDF) does not serve the intended parties. Giving the youths the funds and exempting them from paying tax in what we call “[tax holiday]” is crucial. We are going to witness employment and a lot of measures to curb unemployment.

Hon. Temporary Deputy Speaker, I can see the red light is almost going on. On the issue of delimitation of constituencies, I cannot imagine that Kitui County, which is one of the biggest counties, is not going to get a constituency. So, I besiege the Independent Electoral and Boundary Commission to consider the issue of “population per square kilometre” and the issue of one man one vote one shilling. If we combine the two methods, we are going to have a better Parliament composed of the best number of Members of Parliament and also have equitable distribution of the National Government Constituency Development Fund.

With those few remarks, Mwingi West and I support the BBI.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well, Hon. CNN. We shall have Hon. Odhiambo Akoth. I am sorry, it is Hon. Limo. They had already keyed in. The next one will be Hon. Odhiambo after you.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Temporary Deputy Speaker. I was really surprised because I already had the microphone. I thank you for giving me an

opportunity to contribute to this important Bill. This is a House of reason and debate. It is a House which all Kenyans look upon to tell them the truth and only the truth will set this country free.

When we are here, we should not appear as Members of Parliament who are only rallied around to support or to oppose. We must have reasons for taking one position or the other. Many Members have contributed. However, very few of them have talked about the cost to be incurred so that the people can decide. It is this House which will guide the country. The country is listening to us and they are looking at how we are contributing to this Bill so that the people in the villages will then make informed decisions because, tomorrow, all the people in the country will look back and ask whether we guided them properly.

There are reasons why the BBI was started. One of the reasons which started this was the issue of violence after elections. So, we have to look at whether the BBI has really come up with a solution. Beyond that, we have to also guide the country on the most important thing; how much this process will cost us.

I have been working around finances for a long time. I want to say that there will be two issues on cost. First, there is the immediate cost, which is short-term, which people have been talking about. People have been talking about the cost of the referendum. The cost of the referendum is not important because it will be a one-off cost. What is important is the long-term cost that will be incurred as a result of the new structures that are coming up. More offices will be created once the BBI Bill is passed. The long-term cost is two-fold. The first one is in respect of an expanded Executive. We have been told that the new Executive will not be costly because, for instance, the Prime Minister will be sitting in this House and will earn a salary as a Member of Parliament, which is not true. It is a lie. Other than the salary, there will be a lot of other costs because the Prime Minister will almost be equivalent to the President. It will be just a lower version of a president.

Another thing worth noting is that we are not very clear about the powers the Prime Minister will have. The Bill should have been clear that the Prime Minister will have some independence to enable him discharge his or her duties without intimidation or much direction from the President. Anyway, it has come that way, but it will come with a lot of cost. There will be many people who will be working below the Prime Minister and the budget of that office will not be less than Kshs30 billion annually.

There is also an expanded Parliament. Parliament will be very big. Let us tell Kenyans the truth. Let us tell the country the truth that this Parliament is too big. We joined this Parliament...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Just hold on. Hon. Limo, the Hon. Wangwe seems to have a point of order. Just hold your horses for a little while.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. He has really mentioned some personal figures. He respects numbers the way we do. He has mentioned a figure, that the office of the prime minister shall cost not less than Kshs30 billion. This is a House of record. I would want the Member to simplify and give us a make-up of the Kshs30 billion.

Hon. Joseph Limo (Kipkelion East, JP): I thank the Member. It also good to be listening and open your mind properly. I said the expanded Executive which includes the prime minister and all other expanded structures below the prime minister will be a big chunk of offices. Therefore, I will ask the Member to have a sitting with me after this so that I can show him the details. However, I am talking about the Executive as it is proposed now, an expanded Executive. It will not cost less than Kshs30 billion. That is what I have said. The cost of running Parliament is Kshs40 billion. But with the expanded Parliament, we will have almost close to 200 more

Members. Almost 50 per cent coming to this House, assuming that we will not achieve the two-thirds principle. That is the truth.

As we are talking, most of the Members here, let us say the truth, since 2013, have been hovelling around in this town in terms of infrastructure. We do not have offices. That is the truth. Even the Members who have offices here are actually having corridors. Very few have windows. You know. In fact, with the COVID-19 period, our offices are not proper. So, it will actually cost another close to between Kshs15 billion and Kshs20 billion if you want a good Parliament. You must also be ready to build another office block other than the one that is coming up. So, I am talking about cost. It will be costly. Let us not bury our heads in the sand and say that we are supporting. It is not enough for me to support or to oppose. But the truth is, that it is going to cost this country a lot. You know the people we are calling Wanjiku, Odhiambo, Chebet or Aden are not experts. They do not understand. So, they think it will be very cheap. That is why we are telling them it will not be costly.

The biggest reason the BBI was started, when the President, Uhuru Kenyatta, and the Rt. Hon. Raila Odinga, met and had a handshake, is that we had been having fights and we want to kill the fights, so that we will not be fighting. Therefore, when they met, they said the reason we have been fighting is because winner-takes-it-all. If we are running an election and we have around two or three competitors and one wins, assuming that we have this structure, the President will have all the people below the President, the prime minister and all sorts of people will take positions. What remains, number two, will only have one option which is to become head of opposition, which is okay. Right now, at least, there is a place. Previously, there was nowhere. You would just go to the streets and disappear. There was no space for number two to come to this House. Now we have the head of opposition.

However, the right thing to have been done is to strengthen that office. Other than the person who is number two having issues, all the supporters who will be helping to campaign all over the country will not have positions to share. What the BBI should have provided was a serious shadow cabinet, so that when there is a cabinet which is appointed by the person who has won, there will be a serious cabinet appointed by the head of the opposition and it is fully funded. It will reduce the pain of losing. There is a very serious pain of losing an election. Right now, the reason we are not focusing on that office of the head of opposition is that all of us are believing that we are going to win. The truth is that one candidate will win, with the whole team. They will take all the positions. Will the winner-takes-it-all have been resolved? No. It will not. So, the best should have been to strengthen that office of the head of opposition so that they will have fully funded shadow cabinet ministers. Then, competition will reduce and the pain will be reduced because they will be paid. It will be a good thing for this country. That will be a reality. But the fact that we believe that we are going to win, and I am going to lose, is actually preparing another big problem for this country.

On representation, the current Constitution had made a lot of ground. It was one of the best and progressive constitutions in the world, in terms of affirmative action for women. All over the world, there is no other country which was really moving in the right direction than Kenya. The 47 Woman Representatives who were elected into this House was the right system to build capacity for our women. Once you were elected as a woman and you came here, it was the right thing to do so that we can build capacity. Therefore, they are prepared to even run for governorship. Why? Because they were elected all over the counties. In fact, there was even suggestion that if we want more women to come to the National Assembly, the best thing was to introduce another position for a woman member of county assembly to be elected across the constituency, so that capacity is

built across the constituency for that lady to run for a Member of Parliament. But we have cancelled all the 47 slots. So, all the women in this country to come to this National Assembly will start from zero. We were starting at 47. If you have to nominate women to come to this House, we were to start at 48. We were sure of 47. Now, we are back to zero. Whoever will be nominated to this House, you know the equation of nomination, will not be dealt the same respect as the Woman Representatives who are fully elected command in this House. So, the right thing should have been to retain the 47. If we wanted to move to 70, the extra 23 or thereabout should have been shared among the other constituencies that are more deserving in terms of representation.

So, I really have a lot of reservation on this. In terms of Article 89, the issues of the IEBC, the IEBC has a role to play. Other than considering the population, there are too many other issues which were being considered by the IEBC in sharing constituencies. If you only consider the number of people, the population, we will lose it. In terms of costing or implementing projects, for those of us from rural constituencies, you realise that to implement a project like water or electricity distribution, you will find that the constituencies in the rural or the ones which are sparsely populated are the most expensive in implementation. Therefore, if you only concentrate on population and bring all the constituencies in town, they will not have a lot of work to do. Other than maybe bursaries, there will be no schools to build because there is nowhere to build schools. Therefore, we need to look at that matter.

Finally, there is a serious threat to commissions. The 2010 Constitution ensured that most commissions are independent and until now, they are operating well. Introducing an ombudsman to the Judicial Service Commission will be a form of interference and moving most powers to the Inspector-General of Police will interfere with the National Police Service (NPS). The SRC is the most affected as commissioners will be appointed by the President and we will not have the other representatives. I want to go on record to oppose the Bill.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Member for Suba North, Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I want to request you to allow me to remove my mask because it is very difficult to use it with glasses.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Your positioning may allow you to do so.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I want to pick up from where Hon. Limo has said that he opposes the Bill, and state that I support the BBI. It is very beautiful to stand and stay consistent on principle. I was seeing some people running ahead to read my thought. *The Standard* Newspaper went ahead to think for me but I want to urge them to hire people who can think ahead because if you listened to the questions that I raised with the Speaker, you should have known where my thought is if you are smart enough. I want to thank the Speaker for a very seasoned ruling that answered a lot of issues that I had raised. If I get time at the end, I might trace them. Originally, I had wanted to speak at length about constitutional legal issues but following the ruling by the Speaker, I might just focus on the content.

On the two-thirds gender issue that most Members have spoken to and opposed, I want to state that I was a Member of the Parliamentary Select Committee that worked on the Constitution. At that time, we had just come from the post-election violence and many people thought that the Committee was bringing a solution to this country. When we went to Naivasha, people were

waiting for the proverbial white smoke because, if we did not get it right, the country was going down the drain. People expected that we would weigh in very substantive issues; devolution, system of governance, human rights, amongst a myriad of issues. We passed Chapter 1 on the first day, Chapter 2 on the second day and Chapter 3 on the third day. We stopped when it came to the issue of women representation. If you look at the original draft, we had a bigger number of women that we wanted, but our male colleagues from Parliament, and not even the group of experts, refused. We had to reduce the over 140 women Members of Parliament to 47. I used to be a hardliner on women issues and still I am but to some degree, I have softened. I had refused and stated that we were not moving forward, but Hon. Martha Karua called me aside and told me that in the constitutional-making process, it is about giving and taking. She told me that you will not always get what you want, but it is okay if you get the substantive things that you want. I will speak selfishly as Hon. Millie Odhiambo, a woman leader who came to Parliament on affirmative action to represent a minority of the Subas in Suba North. I can say that we got what we want and I will support the BBI.

Hon. Temporary Deputy Speaker, we have struggled as Parliament to ensure that the two-thirds gender rule is effected, but we have failed miserably. Our male colleagues here have asked us to buy them breakfast, lunch and dinner, dance, sit, jump and frog-march but, when it comes to voting, we do not even get the numbers. We are getting an opportunity to pig-ride on BBI and I want to ask women who are committed to women issues to support the BBI because the Senate will give us the numbers. I find it curious when Members talk about a bloated Parliament and it only comes up when we are discussing women issues. I do not hear people talking about a bloated Parliament when it comes to 70 extra constituencies but, everybody is complaining why their constituencies have not been divided. This means that we will be happy if we are 600 Members as long as our constituencies have been divided and we can go back to our counties to tell them that we have added them more constituencies.

Hon. Temporary Deputy Speaker, I have heard other Members saying that we are not doing the right thing for women by removing the women representatives' position. That is the farthest from the truth. I walked in and I think I was smartly dressed because people were telling me that this is a beautiful dress and I will come with another design tomorrow. How you love my dress is a matter of choice but in the end, I am well dressed and covered. That is what we are saying of women. Are you covered or not? The process does not matter. We are getting women empowered. I came here on affirmative action and people were saying that we will not be regarded. It is part of what you must deal with in politics because there are always highs and lows. Hon. Amollo was up to a few minutes ago, the Vice-Chair of JLAC but he is no longer there and it is part of politics. You must learn to live with it.

(A phone rung)

Is that my phone?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Millie, that must be your phone.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Speaker, I am sorry about that. This is somebody from Urianda in my constituency. I just want to say that even for women, they must remember that they will get challenges, but it does not mean they are any lower. You are supposed to come in to learn politics. If you are going to face those challenges, you are learning politics. I learnt politics the hard way and I have been elected two times and I will

be elected the third time by God's grace and mercy, having come here on affirmative action. I support the two-thirds gender rule.

I support 35 per cent allocation to counties. While in the Select Committee, I supported 40 per cent allocation. Some of these things are not about whether they are wrong or right. The Deputy President, William Samoei Ruto, pushed the percentage to counties down and the *Hansard* can bear me right. It was originally 40 per cent. I pushed and supported the 40 per cent and I would still prefer that, but I am okay with 35 per cent given that it is up from 15 per cent.

I have heard people saying that the NG-CDF is not of help, but you can only say so if you are a stranger from Jerusalem. The case is different for us who have always been in opposition and money was not being received in our areas. I can now afford to call the President names because I know we have the NG-CDF. We are giving a problem to our ward representatives because it is not entrenched. Some counties have them while others do not and it is because we have left it at the whims of the governors. When the Bill on Ward Development Fund came here, it was dropped in record time of two minutes. We will not pass it unless it is constitutional. I want to encourage Members not to fear the MCAs because once we have the oversight for Ward Development Fund and MPs have oversight of NG-CDF, we will all be happy. We will oversee whatever is linked to us.

I am using my words carefully. I am talking of oversight. I am happy that it provides for party primaries which have been a thorny issue. I will not go into it. Again, I am amazed hearing lawyers saying that providing for Cabinet Secretaries (CSs) to be part of the membership of this House is unconstitutional. Please, they should go back to their first-year notes. That is called parliamentary system. It is not unconstitutional. When I came to this House, we had that governance system. It is the best system that we can have. It is the system that was in place when we threw out Hon. Kimunya. I have heard people ask how we will oversee the Executive. We oversaw Hon. Kimunya out of his position. Right now, if there is one thing that I find horrendous is that, instead of sitting in this House and dealing with our issues as Members of Parliament, you find Members lining up at Ministry Headquarters soliciting for water or road projects for their constituencies. If Cabinet Secretaries sit in this House, we will ask them directly. If they joke with us, we will throw them out just as we previously said: "Kimunya must go!" We will make such declarations against non-performing CSs since they will be MPs with us. They will listen to us.

How many minutes do I have?

The Temporary Deputy Speaker. (Hon. Christopher Omulele): You have four minutes.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): That is unfortunate. I wanted to raise some constitutional legal issues but because of time, let me try to rush. I know that the Speaker has spoken at length to some constitutional legal issues, but I want to add one or two things because of posterity. I want us to look at Article 2 (3) of the Constitution that says:

"The validity or legality of this Constitution is not subject to challenge by or before any court or other state organ."

That is food for thought. Article 2 (5) of the Constitution says:

"The general rules of international law shall form part of the law of Kenya."

What are the general rules of the international law? The general rules of the international law are the laws that are respected or accepted by civilised nations. In Latin terms, we call them *jus cogens* principles. I am glad my dear brother is not here because last time he said he could not understand me. Those are the only principles that you can test the Constitution against for unconstitutionality or identity. I will cite a few examples like the right to self-determination, prohibition of acquisition of territory, genocide, slavery, torture, piracy and racial or ethnic

discrimination. If the BBI had any of those provisions, then it would raise what is called *erga omnes* obligations. These are obligations towards everyone. That means it is not only the Parliament of Kenya that will have the obligation to make sure they are removed, but the entire world. The international community will not allow you to have such a standard. Otherwise, for every other thing, it is up to us based on the supremacy of the people of Kenya. Actually, this is one of the questions that I asked the Speaker to make a ruling on. The Speaker did not mention it in his ruling because he had a plethora of issues.

Can we provide for system that is *sui generis* and unique to Kenya? Yes, the people of Kenya can do so. I want to give you an example of the issue of the NG-CDF. I have heard people say that there is conflict on the separation of powers on it. First, we are overseeing the NG-CDF but, should we decide, as the people of Kenya, to have a fourth responsibility for MPs, so be it. Currently, we have three responsibilities – legislation, representation and oversight. Kenyans have given us a fourth mandate, which is development that involves contributing to *Harambees* and funerals. Should we then as Kenya decide to add development, then it will be up to us to bring a system that is *sui generis* to Kenya. This is not the Bible. The only thing that I am told I cannot change or amend is the Bible. We can come up with a system that the entire world can emulate based on the situation and circumstances of Kenya.

What we can look at is the issue of governance but, because of lack of time, I will not speak to that. However, people have alluded to the low governance standards. I will speak to that in relation to Article 2 (6) of the Constitution. I have looked at the treaties that Kenya has ratified and we are not, under the BBI Bill, in violation of those treaties.

I can see that my time has run out. Finally, the problem we have is not an expanded Executive or Legislature. It is corruption and the BBI Bill talks about dealing with corruption.

Based on that, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): You are absolutely right, Hon. Millie. The sovereignty of the people of Kenya can never be doubted. They can provide for whatever they wish in terms of how to govern. I agree with you. Hon. Shabbir, Member for Kisumu East.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Temporary Deputy Speaker. First, let me confirm that I support the BBI Bill that resulted from the sacrifice and dedication that the two principles had to make to bring peace to us after the divisive elections of 2017. I was in the Constitution of Kenya Review Commission (CKRC) and my number was 406. We were fighting to put together a new Constitution. I can remember how we worked. At one time we sang: “*Yote yawezekana bila Moi.*” We came up with a zero draft. That draft was taken to Naivasha and it was butchered. That draft had a hybrid system that had a President and a Prime Minister. Today, I have heard from my dear friend, Hon. Millie Odhiambo, that she was one of the Members who butchered it. So, what they did is that they took us back. The BBI Bill is here to bring back sanity. Over 600 people sat for two years in the CKRC to work out a way forward. We talked and some of us suffered. We have been inhaling tear gas since 1992. So, when I hear from Millie Odhiambo say that she went and butchered the CKRC...

(Hon. (Ms.) Millie-Odhiambo interjected)

I do not know but you were there and you did not support. There are certain people I saw there. Our President was there, Ruto was there, Orenge was there and Amos Wako was there. They butchered our Draft Zero of the Constitution.

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Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker. (Hon. Christopher Omulele): Hon. Shakeel, just hold on. Hon. Millie, what is out of order?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. Since this is a House of records, we need to have our record clear. I was not making a constitution alone. I have gone on record to say that I opposed the amendments because I had given my position. So, it is not about me butchering the Zero Draft. It is actually victimising the victim. It is not me. I opposed. I am happy that the same things I wanted in Naivasha are coming back. So, I think the record is clear.

The Temporary Deputy Speaker. (Hon. Christopher Omulele): Proceed, Hon. Shakeel.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, but you were there. So, you can tell me who were there. We had all of them there. Uhuru Kenyatta, Ruto, Amos Wako, Orengo, Kimunya and many others were there. They destroyed the issue of the Senate. Anyway, it is good that those who sacrificed and went through the two to three years of sitting every day at CKRC are now seeing progress. I want to remember my friend, Dr. Mbai. We now see where we came from. It is the issue that the BBI Bill is coming to handle. It is the content. Our Constitution covers it all. It is all there. However, the aspirations of the people and the needs of *wananchi* have not been satisfied and so BBI has had to come in. President Uhuru Kenyatta and the former Prime Minister have had to compromise to bring peace to this country. That compromise has been respected and honoured by the people of Kenya. Over 3.5 million people signed in support of the BBI Bill. This is the sovereignty of the people. Our needs and aspirations are covered in this Bill in simple language so that we can know what put us where we were and the problems we have had. As I said, public participation is very important. Some of us feel that it is a good thing that BBI has come to bring sanity to this discussion. We have been talking about the implementation of the Constitution since 2010. The issue of women representation has been talked about since 2010. I wanted to address Hon. Millie Odhiambo. It is not that men did not want women to come to this House. We do. After all, my mother is a woman. We want women to come. We want them to be supportive. We want them to be part and parcel of the process. That is what we call inclusiveness. They are the ones who make sense.

One of the major reasons that I support BBI is because it has brought peace. I have been to many places in this world up to the corners of the Atlantic further than Fiji, where people respect and know what NG-CDF is. They respect and know who Raila Amolo Odinga is. The people of this world know Raila Amolo Odinga and the sacrifices that he has made for Kenya. You can go to any corner in this world and you will find that the people know that. I was in Nigeria one time when Goodluck Jonathan was the President and the first question he asked me was not: "How is your President?" He asked about Raila Amolo Odinga. What I am trying to suggest is that, sometimes, a person like that is not recognised, acknowledged, accepted or appreciated in his or her own country. It needs somebody else to bring him in. That is why I have great respect for President Uhuru Kenyatta, because he has seen him as a brother and taken him in and said: "Listen, Raila. You are doing the right thing and I am going to join forces with you and we are going to bring peace to this country that has had a lot of problems."

I chair the African Parliamentarians Network against Corruption. One of the major problems that have been identified as the pandemic in Kenya is corruption. That is one of the nine points that are covered very well in the BBI Report. The only point is implementation. What are we going to do about it? If somebody is corrupt, let us take immediate action. That is what the

people want. The President should not come and tell us that he is powerless because the system has tied his hands. I think that is why he is asking that the BBI Bill becomes a simple document that people can understand.

Everybody knows about ethnic antagonism. We know we have been tribal. How it came about, we do not know. But we must say, let us go and accentuate the positive. There are very many positive issues in tribes and ethnicities. There was a time a Kenyan was loved. When you went abroad and said you are a Kenyan, they said: "You are the friendliest people in the world. The friendliest people in Africa, the most intelligent people, the ones that speak great English, you are understanding, loving and very honest." We used to go to Dubai and when shopkeepers saw a Nigerian, they would run away. If they saw a Kenyan, they would welcome her. It was all over the world. We have lost the ethos. We have lost that respect. We have lost the integrity. We need to regain it. Everywhere in the world we hear Kenya is number 7 or 10 in corruption. What is it? Why are we losing this? Our athlete Kipchoge is the first man in the world to run the marathon in less than two hours. There is a person who broke the three-mile race record. Good God, that was 1950 - something they are talking about up to today. If others can recognise us, we need our ethos back. We want inclusivity. We want the political systems to involve the people.

My colleague Hon. Limo opposed the Bill, but he said a good thing - that we want to have official Opposition. I have been sitting on the Opposition side now for three terms. I have been here. The year 2007 was the only time that I saw the Opposition making some efforts. Now we want the leader of official Opposition to sit in this House so that he can bring us together. We do not want to deal with simple issues; we want to deal with major issues.

We have lost hope. We, the people of Kisumu East, support BBI. We had lost hope in Kisumu. We had never seen those waterways that we see now. We had never seen some of these things that we get now. So, hope has come. When Kisumu was elevated to city status by Moi, he asked me: "So, *kijana, umepatiwa* city. How is it going to help you get *unga*?" I said: "No! It has given us self-respect." That is what we are saying. BBI is ours. I want to thank Raila Amolo Odinga, the President and all those who have been behind this project. Let us not use little mistakes to cause a problem. Let us not throw the baby out with the bathwater.

With those few remarks, I wholly and fully support the BBI Bill. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Njiru Muchangi, Member for Runyenjes.

Hon. Eric Njiru (Runyenjes, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity so that I may contribute on this very important matter in this House.

This Bill to amend the Constitution of Kenya comes at a time when we have a very serious pandemic. Many people have lost jobs and businesses between last year and now because of COVID-19. I was doing some small businesses around Kenyatta University before coming to this House. I toured the area the other day for a few things and was shocked to see that in the entire market; almost half of the shops are closed. Upon inquiry, I got to learn that all those people had closed down their businesses because of the hard economic times we are in. It is only a thriving economy that can create jobs for our people. When the economy is not doing well, we do not expect our people to have jobs.

It is estimated that approximately 1.7 million Kenyans are now jobless. Whenever the positivity rate goes up, those that have jobs are told that they can work from home. It is good to know that not everybody can stay at home and get something to eat. Some people must go out and find food for their families so that they can stay alive.

The BBI is not a priority now. Whatever good thing is in the BBI can wait for a later date. In BBI, it is proposed that we will have 94 Senators. We now have 47 elected and 20 nominated Senators. In total, they come to 67 Senators. You rarely see them in their constituencies because their mandate is to oversee the county governments. They are not very busy. I am left wondering, when we increase the number to 94, are we not just increasing the wage Bill?

Listening to many Kenyans, most of our people now want a lean Government and not a bloated one. The BBI proposes that we shall have the Office of the Prime Minister with two deputies. That definitely, will come along with other officers and offices. That will then, cost the taxpayers more.

When I reflect at the situation that is in many of our hospitals, I can confirm to this House that they are in dire need of resources. Many of them are without medicine, beds and very important facilities. The lives of our people are more important than any other thing. I urge and request the Government to consider taking care of these issues before BBI.

Finally, we do not require BBI to help our young people. We have enough laws in this country that can help young people. In the Departmental Committee on Education and Research, we have a Bill that proposes to have five years break for the people leaving higher institutions of learning and funded by Higher Education Loans Board, so that they can pay their loans after five years. Some things do not necessarily require a referendum. We require implementation of the existing policies and laws to help our young people.

We have a Ministry in charge of public service and gender affairs. Whatever is proposed in BBI concerning the young people can be done by the Ministry. We have CS in place. All the good things that we are being told would be done through BBI can be through that Ministry.

Hon. Temporary Deputy Speaker, I represent a constituency that is populous. I make many trips across the constituency. This Government has a lot of work to do before BBI. I know of a project in my constituency that has stalled for five years. There is the Kieni-Karurumo-Kathanjuri Road which is only 10 Kilometers and fully funded by the European Union. I have made numerous trips to the Office of the CS, PS, raised a Statement and a Question here but, unfortunately, that project has not gotten the attention of the Government. Whenever I go to those people, they remind me of their stalled project and several others that need to be done by this Government.

I have clear instructions from my people, and a majority of them reject the proposed changes.

I, therefore, oppose. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Victor Munyaka, kindly, have the Floor.

(Hon. (Ms.) Maison Leshoomo consulted loudly)

Hon. Leshoomo, what is out of order?

Hon. (Ms.) Maison Leshoomo (Samburu CWR, KANU): *On a point of order.* Naibu Spika wa Muda, hakika, kuna majina na orodha pale.

Ukiangalia, utakuta hata yule amekuwa nyuma yako ameshapata nafasi ya kuuchangia huu Mswada. Niko na uhakika kwamba nilikuwa nyuma ya Mhe. Munyaka.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Leshoomo, kindly, resume your seat. You are out of order.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Thank you, Hon. Temporary Deputy Speaker.

I want to confirm to Hon. Leshoomo that I was here at 1.45 p.m. and that is when I logged in my card. Once in a while, you can be forced to go out and come back, but the card remains in its place.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Munyaka, you do not have to apologise to Hon. Leshoomo. She is out of order. In fact, she is next on this list. I do not even know what is eating her up. I have not given anybody priority over anybody else. I am the fairest man sitting on this seat. You will have the next opportunity.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Speaker, I can confirm that you are very fair.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Munyaka, proceed.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): At the outset, I would like to thank our JLAC together with the Senate Committee on Justice and Legal Affairs for the Report. They did a lot of work. Constitutions are usually made and can be amended anywhere in the world, depending on the circumstances.

The most important thing is to ensure that the process of changing the Constitution is fair and inclusive such that there is no discrimination or cases of punishment, especially to the people perceived to be opposing it. This is because at the end of everything this Constitution will be for all of us as Kenyans.

Hon. Temporary Deputy Speaker, I also want to state as an observation which I have noted during the process that apart from intimidation, there is also some schemes of trying to buy support for this particular Bill and especially when it went to the county assemblies where MCAs had to be given goodies so that they can accept. I do not think that is a good precedent as a country to bribe so that people can actually participate in making any law. When it comes to the issues of public participation, when I go to my constituency and many other parts of Kenya, what is disappointing to know is that many members of the public have not even gotten the copies of this Bill. Many do not even know the contents of the Bill and even those who signed were actually mobilised by the administration so that they can just sign without knowing the content. I do not think that is good. We need to be doing proper civic education so that the public is actually carried on board and so that they can know whatever they are signing or whatever they are going to be voting during the referendum.

I listened to the ruling by the Speaker. What I am not actually very convinced is the issue of this Parliament not having the opportunity to amend this Bill. The Joint Committee met some public and got 63 submissions and presentations from members of the public. This House is the only House which can deal with those presentations so that, at least, since public participation is part of the popular initiative, their input can be taken onboard.

Hon. Temporary Deputy Speaker, when I see what is happening, I remember the 2010 review of the Constitution because I was actually a Member of Parliament at that time and Parliament was used as a rubber stamp. I can remember we had 133 proposed amendments during that time. In fact, I have got the Order Paper for 1st April 2010 and there are 133 proposed amendments. However, what happened because of the pressure from the principals and the civil society outside there was a scheme within Parliament to let every part of the Constitution pass the way it is and then... I think I am finishing very fast.

Therefore, what I am saying is that we should be able to use...

Hon. Chachu Ganya (North Horr, FAP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Hon. Chachu, what is out of order?

Hon. Chachu Ganya (North Horr, FAP): Hon. Temporary Deputy Speaker, I really do not want to cut my....

The Temporary Deputy Speaker (Hon. Christopher Omulele): Give Hon. Chachu the microphone.

Hon. Chachu Ganya (North Horr, FAP): Thank you, Hon. Temporary Deputy Speaker. I really do not want to take the time of my very good friend Hon. Munyaka.

However, this being the House of records, is he in order to really say in 2010 Parliament was actually taken as a rubber stamp when I actually sat in the House with Millie Odhiambo and many others and we actually made serious decisions about the governance of this country? It is true the plenary had issues. However, key decisions were made by a select committee in Naivasha and I was one of them. Is it in order?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Chachu, you have made your point. Hon. Munyaka, you know you are a seasoned Member.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Yes, Hon. Temporary Deputy Speaker. You know I am talking from a point of information because I have got the Order Paper of 1st April 2010 where we had a proposed amendment.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Munyaka, we may actually ask you to table that rubber stamp you are talking about.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Yes! I am going to table it.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The rubber stamp?

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Yes. Yes.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Please do. Proceed.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): The Order Paper?

The Temporary Deputy Speaker (Hon. Christopher Omulele): No! Where you are saying that Parliament was used as a rubber stamp.

(Hon. (Dr.) Victor Munyaka laughed)

You may want to withdraw that one.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Okay, I withdraw and rephrase it to mean that Parliament had an opportunity to amend the draft and there were 133 proposed amendments. However, because of some schemes and pressure from outside, Members of Parliament denied the House an opportunity to get a quorum. This is because we were required to have two-thirds for you to make any...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Munyaka, you are tying yourself into knots that you do not need to. As a seasoned Member, you know how this House works. Sometimes, Members will... Denying the House quorum is part of parliamentary practice. Therefore, you cannot castigate the House for doing exactly what it can do within its Standing Orders.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Hon. Temporary Deputy Speaker, I am aware about that. I was just reminding Members what happens during that time when we could not even amend a single part of the amendments which were proposed. It was just for that information. I was actually wishing that we could have the opportunity to amend any part of this proposed Bill now rather than correcting it in future.

Hon. Speaker, when you look at the Kenyan situation in five years, we are going to have four elections. In 2017, we had two elections. This year, there is a proposed referendum and next year there is the general elections. I think elections are very expensive and also Kenya will take a long time to recover from that. I even think that we have not recovered from the effects of 2017 elections as a country. We are still struggling to recover. Not forgetting the issues of COVID-19 which we may take more than five years to recover as a country.

Therefore, I think it is ill-timed and especially when we have to do the referendum this year and the general elections next year. I also want to take issue with the issue of representation; bloated National Assembly and Senate. For a country of 47 million people having more than 500 members of Senate and National Assembly, I think that is over-representation. This is considering that a country like USA, which has 330 million people, has got 100 senators and 435 congress people. That is with their rich economy of US\$21trillion GDP against our Kshs10 trillion GDP. Therefore, I think as a country we should be able to check our economy so that we do not blow our public debt. After implementing the new Constitution in 2012, our public debt was at Kshs1.6 trillion. Now, eight years later, due to the implementation of that particular Constitution, our public debt has grown by almost Kshs6 trillion to Kshs8 trillion. Therefore, I think this BBI should actually have addressed that part of public debt. In fact, we should have proposed reduction of elective posts, leadership positions and commissions. This is so that we can save Kenyans the problem we are facing of public debt.

Hon. Temporary Deputy Speaker, I want to thank you very much for giving me this opportunity, I pray that some miracle happens so that we are given the opportunity to really amend this draft. There are still many good things in this Bill. That way, we can carry everybody on board and pass it when it is okay.

I thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Munyaka, what will you do about the sovereignty of the people? Just think about that.

Hon. Leshoomo, you are next. I do not know why you are protesting.

Hon. David Gikaria (Nakuru Town East, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Gikaria, what is out of order?

Hon. David Gikaria (Nakuru Town East, JP): Hon. Temporary Deputy Speaker, I may need some guidance from you. Last Thursday, the session ended when I was number four on the queue. Today, I am ending as number five and tomorrow, we will start another queue.

Hon. Temporary Deputy Speaker, because you have been here for long, can you please rule that whoever is left for today's business appears tomorrow as amongst the first ones to contribute? I came here at 1.30 p.m. I found over 30 Members and I have been waiting patiently. Last Thursday, I was number four. Today I was number 52. I do not know what will happen on Thursday when we report back.

Hon. Temporary Deputy Speaker, as you were walking in today, I was telling people that this is the best Speaker that...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Gikaria, you are out of order.

Hon. David Gikaria (Nakuru Town East, JP): We are just pleading with you that you rule that the requests list, as it is today, starts off on Thursday morning. Just imagine some of us have

been here since 1.00 p.m. Today we have not contributed. I beg that you use Standing Order 1 as you consider our request because our requested is not provided for in any of our Standing Orders.

My dear sister, you will continue. We are just pleading that we be considered. I was number four on Thursday after waiting the whole afternoon. Again, today, I know I am around number five on your list. I will have to start from number sixty something on Thursday. I know you are a good man and a good lawyer. I know you will make a very good decision.

Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Gikaria, you are out of order because you know how this House works. It is true, I saw you on Thursday and I was here when we started the whole of this process. Members, you have my sympathy about all this. I know all of us would like to speak to this Bill. However, we are the ones who resolved that Members would speak for 15 minutes

Hon. Members: No!

The Temporary Deputy Speaker (Hon. Christopher Omulele): It was a resolution of the House. So, my hands are tied. You know that the moment this session is over, I have no control over the session that will take place on Thursday. I would have loved to sit here. If I had been allowed by this House, I would sit here until midnight so that I clear the people who are, at least, here. However, my hands are tied. The rules of the House are there.

Hon. Leshoomo, I understand why you are agitated, but all of us are in this spot together. So, have a go at it please.

Hon. (Ms.) Maison Leshoomo (Samburu CWR, KANU): Ahsante sana Mheshimiwa Naibu Spika wa Muda. Naomba kusema kuwa mimi ni mmoja wa wanakamati wa BBI. Ingekuwa muhimu kama wenzangu wangekuwa hapa kunisikiliza na kuelewa kile tumepata kutoka Kaunti 47. Kama Rais Uhuru na Waziri Mkuu wa zamani, Mhe. Raila Odinga, hawangechukua jukumu la kuelewana, nchi hii ingekuwa na matatizo mengi sana. Lakini walikubaliana na tukapewa jukumu la kuzitembelea kaunti 47 kuchukua maoni ya wananchi. Viongozi wa Kenya wako kule mashinani pia. Tunasema hivyo kwa sababu haya maoni ambayo yako katika BBI ni ya wananchi. Kile wananchi walitamuka ndicho kiko katika BBI. Hakuna watu walioenda kujitengenezea maoni yao katika BBI. Ningependa kuwaambia wenzangu kama wangekuwa hapa waunge BBI mkono tena sana. Hii ni kwa sababu tunataka wananchi wapate *handshake*. Kama tulikuwa tunapigana ama kuzozana, tumesahau kwa sababu ya *handshake*.

Wananchi wana maoni na akili nyingi kushinda sisi tuliochaguliwa hapa. *Leaders* wako mashinani na wanaendesha Kenya vizuri inavyotakikana. Ningependa kuwaambia wenzangu kwamba tulitembea katika Kaunti 47 na maoni ya BBI ni ya wananchi na wanataka Kenya iwe kitu kimoja. Maoni yao yalikuwa kwamba kama cheo cha rais ndicho peke yake kinaleta vita katika Kenya, tugawanye viti ndiyo kila mtu atosheke. Haya ni maoni ya wananchi na sio ya President Uhuru ama Raila.

Wananchi walisema wanataka Mbunge wa Bunge la Kaunti (MCA) awe na keki yake ndiyo wamuulize maswali kwa sababu wanaketi naye huko mashinani. Sisi tuko Nairobi na yule MCA aliyechaguliwa mashinani wanataka awe na keki yake huko, na haya ndiyo maoni yao. Wananchi walisema wanataka Waziri wa Serikali Kuu atoke ndani ya hii Nyumba yetu. Hayo sio maoni ya wakubwa, lakini ni ya wananchi. Kama ningekuwa na nafasi ya kuongea, ningewaelezea wenzangu maoni mengi ya wananchi. Ukija hapa kusema unapinga, jua unapinga wananchi sio sisi. Wenzangu, ningetaka kusema kwamba tumeona wananchi wako na macho. Unajua kama kitu ni kizuri na unataka kukipinga, utakipinga hata kama ni kizuri.

Nataka kuwaambia wenzangu ambao wanapinga kwamba hawapingi hii Nyumba ama wakubwa, wanapinga wananchi ambao wametoa maoni yao katika BBI. Kawa hivyo, tuheshimu maoni ya wananchi kwa sababu wameongea na tuko na rekodi zote. Kama asilimia thelathini ya wananchi walikuwa wanasema hawataki wanawake katika Bunge kama waakilishi wa wanawake wa kaunti, lazima tukubali. Wananchi walisema vitu vingi virekebishwe na tuweke vingine.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Mhe. Leshoomo, tafadhali tumefika wakati wa kukomesha. Uko na dakika nane za kuongea na, kwa hivyo, utakuwa wa kwanza wakati hii Hoja italetwa tena.

Hon. (Ms.) Maison Leshoomo (Samburu CWR, KANU): Ahsante Mhe. Naibu Spika wa Muda. Nimechukua amri yako. Lakini ningekuomba uwaangalie walioketi mpaka saa tatu, ili kuwe na njia ya kuwapa nafasi kwa sababu wamengoja sana.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Ni kweli nakubaliana na wewe Mhe. Leshoomo kwa sababu Bunge ni letu sisi wote na ndiyo kazi yetu.

Hon. Wanjiru, Member for Murang'a, what is out of order?

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Mhe. Naibu Spika wa Muda, Hoja yangu ya nidhamu ni kwa mama Leshoomo ambaye namheshimu sana. Labda katika hizo dakika nane amebakisha, ningetaka akizungumza katika hii Nyumba atuambie kama anazungumza kama mama ambaye ametembea Samburu ama aliyekuwa katika Kamati ya BBI. Hii ni kwa sababu ameninongónezea vile wananchi walisema. Wenzetu wamezungumza kwa niaba ya wananchi na amesahau walitumwa na wao.

Kwa hivyo, katika hizo dakika zingine nane ahimize anazungumza vile alisikia kutoka kwa wananchi kwa sababu wako na nguvu na walituchagua na kutupatia Katiba ya Kenya, 2010. Pia ametupatia...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Member for Murang'a, what is out of order?

Hon. (Ms.) Sabina Chege (Muranga CWR, JP): Mhe. Leshoomo atuambie kama anazungumza kama mwanakamati wa BBI au kama mama wa Samburu.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Member for Murang'a, you are out of order. Sit down.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, the time being 9.00 p.m., this House stands adjourned until Thursday, 6th May 2021, at 10.00 a.m.

Hon. Members, just before you take off, I would like to remind you that there is a Special Sitting tomorrow at 2.30 p.m. So, the House will have a Special Sitting tomorrow at 2.30 p.m. Have a good evening, Hon. Members.

The House rose at 9.00 p.m.