

**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**

**OFFICIAL REPORT**

**Tuesday, 23<sup>rd</sup> February, 2021**

The House met at 10.03 a.m.

*[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]*

**PRAYERS**

**Hon. Speaker:** I want us to start the business for today. Can I see the extended chamber?

*(The Assembly Broadcasting Unit (ABU) camera showed the extended Chamber)*

Thank you. So we can start our business in the morning.

**PAPER LAID**

REPORT ON CONSIDERATION OF CONSTITUTION  
OF KENYA (AMENDMENT) BILL, 2020

**Hon. Speaker:** Hon. Members, under this Order, we have one business by Hon. Moffat Maitha.

**Hon. Maitha:** Hon. Speaker, I wish to lay the following Paper on the Table of the Assembly today, Tuesday 23<sup>rd</sup> day of February, 2021; the committee report on Justice and Legal Affairs on consideration of the Constitution of Kenya Amendment Bill, 2020. Thank you, Hon. Speaker.

*(Hon. Maitha laid on the Paper on the Table)*

**Hon. Speaker:** Thank you, Hon. Maitha; the Paper is signed.

**NOTICE OF MOTION**

REPORT ON CONSIDERATION OF CONSTITUTION  
OF KENYA (AMENDMENT) BILL, 2020

**Hon. Speaker:** Hon. Members, under this Order, we have again one business by Hon. Maitha.

**Moffat Maitha:**

Hon. Speaker, that aware that the preamble to the Kenya Constitution, 2010 recognizes that the Kenyan people adopted, enacted and gave the constitution to themselves and to their future generations;

Aware that Article 1(1),(2) and (4)(a) and (b) of the Constitution recognizes that all sovereign power belongs to the Kenyan people and can only be exercised directly or through democratically elected representative at the National level or at the County level;

Aware that Article 257 of the Constitution provides for the amendment of the Constitution through popular initiative;

Further aware that on 28th January, 2021, the County Assembly of Machakos received a correspondence from the Independent Electoral and Boundaries Commissions (IEBC) pursuant to the provisions of Article 257(5) of the Constitution in relation to the draft bill on the Constitution of Kenya (Amendment) Bill, 2020;

Acknowledging that the draft Bill was committed to the Sectoral Committee on Justice and Legal Affairs on 9<sup>th</sup> February, 2021 for consideration;

Further, aware that the object of the Bill is to amend the Constitution of Kenya to address issues arising from its implementation, specifically the need to resolve issues of divisive elections and promote gender equity in governance, strengthen the structure of devolution and increase resource allocation to the counties among other key objectives;

Hon. Speaker, I wish to give notice of motion that the County Assembly notes the report of the Justice and Legal Affairs Committee on its consideration of the Constitution of Kenya (Amendment) Bill, 2020 laid on the Table of the Assembly on 23<sup>rd</sup> February, 2021 and, pursuant to Article 257 (6) of the Constitution of Kenya approves the Constitution of Kenya (Amendment) Bill, 2020.

Thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Maitha.

### STATEMENT

BUSINESS FOR THE HOUSE FOR 23<sup>RD</sup> FEBRUARY, 2021  
TO 2<sup>ND</sup> MARCH, 2021

**Hon. Speaker:** Hon. Members, under this Order, we have one business by the Hon. Majority Leader on the report of the House business committee on balloted business for the House.

**Hon. Muendo:** Hon. Speaker, the House Business Committee met on Monday, 22<sup>nd</sup> February, 2021 to prioritize business for the House as forwarded by Committees and Hon. Members pursuant to the provisions of the Standing Order 151(5). The Committee balloted as follows:

Tuesday, 23<sup>rd</sup> February, 2021

*Morning at 10.00 a.m.*

Report of Justice and Legal Affairs Committee on consideration of Constitution of Kenya (Amendment) Bill, 2020 by Hon. Moffat Maitha, Chairperson.

*Afternoon at 2.30 p.m.*

- a. Motion on approval of Membership of Powers and Privileges Committee by Hon. Mark Muendo, Majority Leader.
- b. Report of Environment, Energy, Lands and Natural Resources Committee on Machakos County Water Policy by Hon. Robert Kisini, Chairperson.

Wednesday, 24<sup>th</sup> February, 2021

*Morning at 10.00 a.m.*

Report of the Budget and Appropriations Committee on consideration of the County Budget Review and Outlook Paper (CBROP) by Hon. Dominic Ndambuki, Chairperson.

*Afternoon at 2.30 p.m.*

Machakos County Climate Change Bill, 2020 by Hon. Robert Kisini, Chairperson of Committee on Environment, Energy, Lands and Natural Resources. Second reading

Tuesday, 2<sup>nd</sup> March, 2021

*Morning at 10.00 a.m.*

Report of Environment, Energy, Lands and Natural Resources Committee on Machakos County Water Policy by Hon. Robert Kisini, Chairperson. Continuation of Debate

*Afternoon at 2.30 p.m.*

- a. Machakos County Climate Change Bill, 2020 by Hon. Robert Kisini, Chairperson of Committee on Environment, Energy, Lands and Natural Resources. Committee of the Whole House
- b. Machakos County Climate Change Bill, 2020: by Hon. Robert Kisini, Chairperson of Committee on Environment, Energy, Lands and Natural Resources. Third Reading.

### **MOTION**

#### **REPORT ON CONSIDERATION OF CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020**

**Hon. Speaker:** Hon. Members, under this Order, we have one business again by Hon. Moffat Maitha.

**Hon. Maitha:** Thank you, Madam Speaker.

Hon. Speaker, that aware that the preamble to the Kenya Constitution, 2010 recognizes that the Kenyan people adopted, enacted and gave the constitution to themselves and to their future generations;

Aware that Article 1(1),(2) and (4)(a) and (b) of the Constitution recognizes that all sovereign power belongs to the Kenyan people and can only be exercised directly or through democratically elected representative at the National level or at the County level;

Aware that Article 257 of the Constitution provides for the amendment of the Constitution through popular initiative;

Further aware that on 28th January, 2021, the County Assembly of Machakos received a correspondence from the Independent Electoral and Boundaries Commissions (IEBC) pursuant to the provisions of Article 257(5) of the Constitution in relation to the draft Bill on the Constitution of Kenya (Amendment) Bill, 2020 which was committed to the Committee on Justice and Legal Affairs on 9<sup>th</sup> February, 2021 for consideration;

Further, aware that the object of the Bill is to amend the Constitution of Kenya to address issues arising from its implementation, specifically the need to resolve issues of divisive elections and promote gender equity in governance, strengthen the structure of devolution and increase resource allocation to the counties among other key objectives;

Hon. Speaker, I wish to move the motion that the County Assembly notes the report of the Justice and Legal Affairs Committee on its consideration of the Constitution of Kenya (Amendment) Bill, 2020 laid on the Table of the Assembly on 23<sup>rd</sup> February, 2021 and, pursuant to Article 257(6) of the Constitution of Kenya approves the Constitution of Kenya (Amendment) Bill, 2020.

Thank you, Hon. Speaker and I wish to request Hon. Jacinta Luka to second the motion.  
Thank you.

**Hon. Speaker:** Thank you, Hon. Maitha. Hon. Jacinta Luka.

**Hon. (Ms.) Luka:** Thank you, Hon. Speaker. I second the motion.

*(Applause)*

**Hon. Speaker:** Hon. Moffat Maitha.

**Hon. Maitha:** Thank you, Hon. Speaker. This is the report of Justice and Legal Affairs Committee; the Committee went through it and adopted it yesterday.

### **1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE**

The Sectoral Committee on Justice and Legal Affairs is established under Standing Order 190 of the Machakos County Assembly Standing Orders and its mandate pursuant to the Standing Order 190(5) is to:

- a. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;

- b. Study the programme and policy objectives of departments and the effectiveness of their implementation;
- c. Study and review all legislation referred to it;
- d. Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- e. Investigate and inquire into all matters relating to the assigned departments as may be deemed necessary, and as may be referred to them by the Assembly;
- f. To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 184 (*Committee on appointments*); and
- g. Make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

In accordance with the Second Schedule of the Standing Orders, the Committee is further mandated to consider matters related to constitutional affairs, the administration of law and justice, including the elections, ethics, integrity and anti- corruption and human rights.

### **1.2 COMMITTEE MEMBERSHIP**

The Committee on Justice and Legal Affairs was constituted by the House on 25<sup>th</sup> August, 2020 and comprises of the following members:

1. Hon. Moffat Maitha                      Chairperson
2. Hon. Jane Nyawira                      Vice Chairperson
3. Hon. Eric Musembi
4. Hon. Alice Nzioka
5. Hon. Dominic Ndambuki
6. Hon. Francis Kalumu
7. Hon. Mohammed Ali
8. Hon. Margaret Mbithi
9. Hon. Robert Kisini
10. Hon. Jacqueline Munyao
11. Hon. Stephen Mwanthi
12. Hon. Jacinta Luka
13. Hon. Angela Munyasya

### **1.3 Committee Secretariat**

The Committee is facilitated by the following members of the secretariat:

1. Ms. Sarah Mwanja                      - Clerk Assistant
2. Mr. Hilary Muthui                      - Head of the Legal Department
3. Ms. Mercy Ndambuki                      - Clerk Assistant
4. Ms. Mwikali Mwaniki                      - Hansard

## **2.0 CONSIDERATION OF THE BILL**

Hon. Members, remember that we were taken through this by the experts who trained us on the report when we were in Nairobi and if you look at Chapter 2, it is about the Republic. When you go to Chapter 4, it is about Bill of Rights, Chapter 6 is about Leadership and Integrity, Chapter 7 is about representation of the people.

Chapter 8 is about the legislature, Chapter 9 on Article 130 it is about the Executive, Chapter 10 is about the Judiciary, Chapter 11 is about devolved governments, Chapter 12 is about Public Finance, Chapter 13 is about the Public Service, Chapter 15 is about Commissions and Independent Offices---

**Hon. Speaker:** What you have told us Hon. Maitha is that Clause 2 of your report is dealing with the proposed amendments?

**Hon. Maitha:** Yes, Madam Speaker.

**Hon. Speaker:** Thank you. Proceed.

**Hon. Maitha:**

### **3.0 PUBLIC PARTICIPATION**

Hon. Speaker, pursuant to the provisions of Articles 10(2)(a), 174(c) and 196(1)(a) and (b) of the Constitution, Section 91 of the County Governments Act, Standing Order 120 (3) of the Standing Orders of the County Assembly of Machakos and in adherence to the guidelines issued by the National Emergency Response Committee (NERC), an advertisement was placed in the Daily Nation newspaper on 10<sup>th</sup> February, 2021 requesting members of the general public and stakeholders to submit their memoranda regarding Constitution of Kenya (Amendment) Bill, 2020 by 18<sup>th</sup> February, 2021 to the Clerk of the County Assembly and further directed them to the County Assembly of Machakos website ([www.machakosassembly.go.ke](http://www.machakosassembly.go.ke)) where they could download the Draft Bill.

### **4.0 COMMITTEE OBSERVATIONS AND FINDINGS**

On strengthening the structure of devolution and increase resources allocated to the counties, the Committee observed that it was necessary to amend the Constitution with a view to improving the performance of the Counties in delivering the requisite services to the people. This has been addressed through the following provisions in the Bill:

- a) The amendment of Article 96(3) to enhance the oversight role of the Senate on matters relating to all County revenues and their expenditures will enhance accountability of counties in matters of the public finance and enhance services delivery to the people.
- b) The amendment of Article 179 to allow for County Executive Committee members from the County Assembly enhances accountability to the people on the running of County Governments.
- c) The amendment to Article 180 to provide that the Governor to consider candidates of the opposite gender when nominating a candidate for Deputy Governorship is key in attaining gender equality in the leadership of the County.
- d) Amendment of Article 203 which proposes to expand the criteria for determining equitable share as well as increasing the percentage of funds allocated to County Governments from 15 to 35 as a way of strengthening devolution. According to the Committee, the proposed increase will definitely ensure better services are delivered to the residents of Machakos County.
- e) Amendment of Article 204 which proposes to increase the life span of the Equalization Fund from 20 to 30 years; ensures marginalized counties which are

- underdeveloped are given enough time and resources to be as per the economic development of the country.
- f) Amendment to Article 207 which proposes for the establishment of the County Assembly Fund reinforces separation of powers and financial independence of the County Assemblies. The autonomy of the County Assemblies that shall be realized, will greatly impact on their oversight role in ensuring checks and balances on the County Executive.
  - g) The creation of the Ward Fund is a major boost to the Wards which will now be guaranteed of development.
  - h) Amendment to Article 215 on Commission on Revenue Allocation which seeks to provide for two members to represent County Governors as a noble move since the Commission on Revenue Allocation, as is currently constituted, does not provide a platform where County Governors, whose Counties funds are allocated, have a say on the decisions that affects them. Providing a representative to this Commission will not only ensure that the voices of the Governor are heard, but also make the decisions of the Commission more binding to the County Governments.
  - i) The amendment to Article 218 allowing the Controller of Budget to authorize 50 per cent of the minimum amount of the equitable share in the event that Parliament delays the passing of the County Allocation Act will reduce the delays in releasing funds to Counties.

## 6.0 COMMITTEE RECOMMENDATIONS

Hon. Speaker, that considering that the enactment and implementation of the Constitution of Kenya (Amendment) Bill, 2020 has the potential to remedy what ails our country, by building a more prosperous nation capable of cohesiveness, stability and growth, the Committee on Justice and Legal Affairs recommends as follows:

1. That the County Assembly of Machakos approves the Constitution of Kenya (Amendment) Bill, 2020.

*(Applause)*

2. In line with Article 257(6) of the Constitution of Kenya, the Committee recommends that the Speaker submits the decision of this House on the Constitution of Kenya (Amendment) Bill, 2020, jointly to the Speakers of the National Assembly and the Senate.

Signed by Hon. Moffat Maitha. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Maitha.

*(Question proposed)*

Hon. Members, I invite you to debate the motion. Hon. Majority Leader Mark Muendo?

**Hon. Muendo:** Thank you, Madam Speaker. My name is Mark Muendo alias King'ang'i, the Leader of Majority in Machakos County Assembly.

*(Applause)*

Madam Speaker, let me start by applauding the committee. Indeed, Madam Speaker, under chairmanship of Hon. Moffat Maitha, the report speaks for itself. When you look at that report, it is highlighting the issues which are making this Assembly to feel they must pass this bill like yesterday. Hon. Speaker, on my side, I would like to say and thank the committee very much under your leadership also because I know you were present and tell the Kenyans that this Bill has gone through to be and now it is in the hands of the Machakos County Assembly.

As you know, Hon. Speaker, our main work in the Assembly is to pass laws, make bills and when we are outside we do oversight. Let me just quote a few things; Hon. Speaker, I have seen the Bill because I have read through. I have seen strengthening of devolution and Madam Speaker, as you know devolution is the way to go. We have seen for the last five years the development coming to our people and when we say strengthening of devolution I mean that the allocation from 15 percent to 35 percent of the equitable share, Madam Speaker, nobody can stand and say I do not want this Bill to pass.

Madam Speaker, coming to the Hon. Members this Bill Hon. Speaker, is Messiah-sent knowing where we are now today whereby our wards are developed according to how you are so close to the Governor. If you are a bit far and you are not agreeing with the Governor like myself nothing will happen in your ward. Hon. Speaker, when we pass the BBI today I will be a happy man. Even if I will not be in this House come 2022 but my ward will be having funds to develop my ward even if I will be home. I will be enjoying the services because of this BBI. Five percent is not little man by any language and we are going to pass this Bill because it is favoring our MCAs.

*(Applause)*

Hon. Speaker, we understand people who have been earlier in politics like because I was elected as a Councillor in municipality of Mavoko when I was 23 years and my salary was Ksh. 3,000 and when we talk about those years Hon. Speaker, where the ministers used to sit in the House, in the parliament, that time when you could question a minister sitting in the House; that is when we say Kenya develop well. BBI is giving us that chance again because we tried to get Hon. Members from outside the parliament and it never worked, Hon. Speaker.

That is why even today you cannot even know the minister of labor, the minister of water because they are not seen. Same Hon. Speaker, in our case here MCAs where we belong this is now where we are going to be happy because we are going to have CECs among us. Some of the CECs I propose I think they will be there is like Hon. Museku, CEC finance because he qualifies and if we are going to have a CEC of security we are going to have Hon. Kamitu. He was an Assistant Commissioner of Police.

*(Laughter)*

Let me say this is going to make things move very well because like today you know how we are going through we invite a CO or a CEC here and they do not come because they have



allegiance to the Governor. So if we have CECs among us, we will be pointing a finger. What is happening Hon. Kamitu with our security and that is going to help our *Mwananchi*, Hon. Speaker.

Let me say, the gender is well considered in the BBI. The National Assembly they have tried from 2013 up to today to achieve gender equity but it has failed because we men are too selfish. This is the only BBI which is going to bring gender equity so Hon. Members who belong to that gender equity (??) this is your time.

*(Laughter)*

This is your time to support BBI with the hands, legs and head because we also love you as we stay with you in the same homes and we love you. It is only when it comes to muscling about power; we dominate because we are selfish. Hon. Speaker, this Constitution Amendment Bill 2020 has a lot and what I would like to say because I do not want to waste a lot of time Hon. Speaker, the report of Hon. Maitha is very clear it has pointed out a lot of issues therefore with those few points, Hon. Speaker, I support.

*(Applause)*

**Hon. Speaker:** Hon. Members, I can feel the mood. So you just want to go on record or what.

*(Loud consultations)*

Alright what we are going to do is this Hon. Members, allow me. Other than just going on the HANSARD to be recorded I can feel that you are ready to pass this Bill. Isn't it?

**Hon. Members:** Yes.

**Hon. Speaker:** So can we have Hon. Minority Leader because you heard Hon. Majority Leader and then we will have Hon. Deputy Speaker.....wait you are not directing the Speaker, the Hon. DS, Hon. Ndawa, then we will have Hon. Nziva and we will have Hon. Mueni. The reason is that we need to finalize on this Bill and when you debate please do not keep on repeating what one has already said.

There is a lot on this bill that you can say that is positive. So can we have those Members and very shortly so and remember we have the extended sitting; I will go there when we are finished here. So remember the order in which I mentioned the names. Hon. Minority Leader.

**Hon. Kamitu:** Thank you very much, Madam Speaker. In fact, Madam Speaker, one thing I stand to praise and say thanks to the Committee of Justice and Legal Affairs for a job well done. Again Madam Speaker, we are very much aware as an Assembly that we went to Panari Hotel for a training which was worthy and relating to today's debate on the Constitution Amendment Bill 2020. Madam Speaker, us as an Assembly we must be proud we were elected

and in fact the Bill Madam Speaker, touches the lives of the electorate so we have no time to waste other than to support and approve this Bill as our way forward.

Madam Speaker, as you said, I do not want to repeat because one it is giving us as an Assembly the Ward Development Fund, it is a Bill that is going to strengthen devolution Madam Speaker. It is a Bill that is going to expand the determining equitable share as well as well as increasing the percentage of funds allocated to the County Government Madam Speaker. So without much ado, us as Machakos County Assembly Hon. Members, we are proud under the guidance of your leadership and under the guidance of our able Governor who is in fact supporting the BBI. I stand to say, I support and say thank you Hon. Members. There is no time to waste other than to pass this Bill. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Minority Leader. Hon. Museku Deputy Speaker.

**Hon. Museku:** Thank you, Madam, Speaker. Madam Speaker, first and foremost again I am giving credit to Hon. Moffat Maitha and his entire committee for a job well done. Madam Speaker, when you look at the report it has been prepared in such a manner that it is straight and to the point. We have been trained, we have been exposed on this Bill and we all are aware of the immense benefits which this constitutional amendment is going to do to the lives of Kenyans.

Madam Speaker, I want to emphasize on the issues raised, one of the key things which I noted personally on this is the increase, through amendment of Article 204 on the lifespan of the equalization fund from 20 to 30 years. This is something which is going to ensure that those marginalized areas get more funding of a longer period of time to enable them to equalize with those who have been developed previously.

Madam Speaker, that item will be able to address historical inequities which have come as a result of passed political alliances whereby certain regions only developed at the expense of others and therefore this equalization fund is going to go a long way in doing that.

The other item which I have pointed out here is also the amendment of Article 215 on the Commission on Revenue Allocation to include two members of the Council of Governors. If the Commission on Revenue Allocation is allocating funds to the counties and our Governors are not included in that process then their input is lacking in that process and therefore this is going to correct that and ensure that we have inclusivity in as far as that is concerned.

Finally, the Ward Development Fund; that is God come down in heaven in person and come here, that is something which is going to revolutionize development in our county. We are no longer going to be having development skewed based on the whims of anybody but our people will get their development based on the law.

*(Applause)*

That will ensure every single part of this country is developed irrespective of who is sitting where. That is what this Assembly has been fighting for that is what all of us have been aspiring for and I thank God it is going to be realized in this Amendment Bill. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Museku. Hon. Ndawa.

**Hon. Ndawa:** Thank you, Madam Speaker. Madam Speaker, I will start by congratulating the committee and the most able chairman for coming up with such an elaborate and self-explanatory report. Madam Speaker, if you look at the business before the House, this is the only business that this House is going to pass even without a single member objecting and the reason why we are passing this document without any opposition or anybody going against it is firstly as elected leaders, now like myself MCA Matuu, I will have the autonomy to meet with my people and promise we are going to construct a project here and that is going to happen.

We can take example of the MPs who have CDF kitty; whenever they make a promise they ensure that the project they promise is seen. So, this document is going to give us that power and that is a plus.

Madam Speaker, looking at the good things in this document, the good things are so many they are more than the bad things. The only part which is not is about 10, so the 90 per cent of the document is okay, so 90 per cent even if you were in examination room 90 per cent is straight-A, so we are saying this document is excellent and we need to pass it as soon as possible.

Madam Speaker, the other issue as Hon. Members of this House, we also have our own interest and we also want to serve as CECs of the County Government of Machakos. So, once we pass this document and if we have the qualification required, that means we are going to be considered so the document that we are going to pass is going to allow us to do so.

The other thing is about the increasing of the revenue that is going to the counties. Madam Speaker, if the 15 per cent we have been getting has done something in the counties, what about 35 per cent? It means now the development that we have seen using 15 per cent is going to be double.

*(Applause)*

So, I am very sure every part of Machakos County will get development without problem. So, Madam Speaker I strongly support this document 100 per cent. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Ndawa. Hon. Nziva.

**Hon. (Ms.) Nziva:** Thank you, Madam Speaker. I raise in support of this wonderful document with the following reasons. Madam Speaker, as my colleagues have said as pertains to Ward Development Fund, this is based on immediate needs of our people and really because we have been doing public participation, I believe our people will benefit a lot because we will be doing their projects as per their needs.

Madam Speaker, also this amendment Bill is also touching on our bottom-up approach in regard to wards as the lowest but the most crucial unit of development. So, devolution will be attained through the bottom-up approach, so I am very happy that it will touch on our people's needs.

BBI also empowers devolution by increasing county allocation from 15 per cent to 35 per cent of the national allocation. Madam Speaker, you realize and even Members can attest that if the county governments were doing something from 15 per cent now if the allocation will be doubled, I assure these members that and I believe that development well be attained at the highest level ever.

Also, if BBI is passed it will conclusively address the two-thirds gender crisis because we have two-third gender crisis in the National Parliament and even in counties and in everywhere even in the judicial service so, I believe that if it is approved it will address such issues. Again, Madam Speaker, this amendment Bill also empowers youth with introduction of Youth Commission and *Biashara mashinani*. So, our youths will be empowered and our youths will be economically empowered and the nation really depends on youth; our youth are the future of this country, so I believe it will empower them economically.

The only issue is that the elderly people have been receiving some revolving funds, so I tend to ask even in the National Government because the Bill will pass even in the referendum, I am very sure it will go through, I ask the National Government there is the age between 35 to 60 years and this age group is the one which---

**Hon. Speaker:** Is that part of the Bill, Hon. Nziva? Please stick to what is on the Table.

**Hon. (Ms.) Nziva:** Thank you, Madam Speaker. I am sorry. On our recommendation, because I am also a member of the Justice committee, on Part C on the recommendation, the amendment of Article 180 to provide that the Governor to consider candidate of the opposite gender when nominating a candidate for Deputy Governorship is key to attaining gender equality in the leadership of the country. So, this is straight forward and I am very sure women will also be very happy. So, I thank all that the Bill is okay and will empower our people. Thank you., Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Nziva, Hon. Mueni.

**Hon. (Ms.) Mueni:** Thank you, Madam Speaker. I support the report by Hon. Maitha and his Committee and they have done very good work and they have just given the true thing of the BBI. I support it because the members of the County Assembly will not be begging the Governor first because now, I am in the Assembly and my car cannot come here and I am just in Kenya Israel. So, I keep on asking *Mheshimiwa* Museku to make my road better but he has not done it and the Members who are here might be having a hard time because they have not been having the kitty but the members who will come 2022, will come back because they will be doing the work very clearly and they will not be going to beg for the money which is so bad.

I have been here now almost for 10 years and you know last regime all the members went home except *Mheshimiwa* Kamitu. So, I ask the Members who are here just to pass the report and pray that the people there down at home will bring the ... even the MPs they don't want this report; just know that. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Mueni, Hon. Fredrick Muthoka.

**Hon. Muthoka:** Thank you, Madam Speaker. I stand here to support this amendment Bill 2020. Being among the youthful leaders in this Assembly there is one thing which have made us to support it; we have the Youth Commission which will tackle the youth matters like employment of the youth. So, as youths we have read this document and we really support it and

we are urging our people when it comes to referendum, let them support it. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you Hon. Fredrick Muthoka. Hon. Cosmas Kieti.

**Hon. Kieti:** Thank you, Hon. Speaker. Madam Speaker, I stand to support this motion, the passing of the BBI in Machakos County Assembly. Madam Speaker, there are major issues that have been addressed by this important document and the biggest beneficiaries of this BBI is the Wanjiku, Wafula, Achieng and the Kavindu who will benefit a lot from the benefits of this document.

*(Applause)*

This document resolves issues of divisive elections that we have always observed after every five years and then we have two years following petitions in courts and running along the roads. So, I stand to support BBI because it addresses such issues. I

It strengthens the structure of devolution and increases resources to the counties hence also the creation of the Ward Development Fund which is a present to the MCAs in the future. So, Madam Speaker, I strongly support that we pass this BBI so that the future of the legislators of tomorrow can have a brighter future.

The other thing is that it enhances accountability and discipline of public officer according to the PFM Act 2012. So the public officers of tomorrow would be very much accountable according to the issues which have been addressed by the BBI. The issue about HELB which gives a window of four years for loanees or graduates who have finished the university, this is also another present to those young brains because during that time their loans will not be earning interest, they will also have time to earn and repay the loans.

At the same time there is another issue that has been addressed in the Prompt Payment Bill of 2020 which takes care of suppliers and contractors. We have observed that in the past, contractors and suppliers are given tenders and after they have worked, they take so long to be paid even up to five to 10 years and by so doing if this person had secured a loan from the bank, they end up being auctioned. So, Madam Speaker I strongly support that we pass this Bill so that the future of our nation becomes bright. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Kieti. Hon. Alice Nzioka.

**Hon. (Ms.) Nzioka:** Mimi ni mmoja wa kamati ya Haki na Sheria. Nimesimama kuunga mkono hii ripoti ambayo imeletwa leo. Bi Spika, kama vile ambavyo unavyojua wakati ukiangalia jambo ukikuta sehemu ya nusu imeenda na matakwa ya watu ambao wametuleta hapa kama kiongozi ni lazima uende na sauti ya wananchi. Bi. Spika, naunga marekebisho ya Katiba 2020 na nina sababu tatu ambazo zinafanya niunge mkono.

Bi. Spika, kama vile ambavyo unavyojua, tuna maeneo bunge 290, katiba ambayo tunairekebisha sasa imeongeza maeneo bunge 70. Sisi kama Kaunti ya Machakos tumekuwa bahati maana tumepewa maeneo bunge tatu na nikuonyesha kwamba pesa ambapo zinatumiwa kutoka bunge kuu zina tumeongezwa idadi ya pesa ya maendeleo katika Machakos.

Pili, kulisemekana mtu mmoja, kura moja, shilingi moja. Mimi nataka wale wataenda kuangalia mbele waseme kilomita moja na waangalie mambo ya *security* ndani. Nasema hivyo

kwa nini? Kuna sehemu ambazo kama kaskazini Kenya na kwengine utakuta kuna umbali kufanya maendeleo. Kwa hivyo wakirekebisha waangalie waongeze kilomita moja maana umbali utaleta pesa na pia kutakuwa na mambo ambayo yataangaliwa sana katika hizo sehemu.

Bi. Spika, tunangojea siasa mwaka 2022 na kila mtu Kenya amepatwa na kiwewe maana imekuwa ni tabia ya viongozi kura zikiisha kunakuwa vita. Marekebisho ya Katiba ambayo tunaongea juu yake yameleta usawa maana tumeambiwa acha kuwa na Raisi na mdogo wake kumetengezwa kiti cha Waziri Mkuu, manaibu wawili na hio imeonyesha kuna kiongozi wa upinzani katika bunge; hio inaonyesha kwamba kama ulikuwa hujashinda na umepata kura nyingi, uko na nafasi ya utawala Kenya.

Pia ningetaka kuambia wananchi kwamba sio eti nyadhifa zikiongezwa kuna gharama; kama ni waziri mkuu atakuwa amechaguliwa kama mbunge. Kwa hivyo tukipitisha leo tunaomba wananchi watushike mkono hili tupitisha hii katiba na itatusaidia. Asante sana.

**Hon. Speaker:** Thank you, Hon. Alice. Hon. Members, I remind you that the Speaker huge powers under Standing Order 1 to serve the Assembly in the interest of the people. So Hon. Kiteng'u can you very briefly make your submissions.

**Hon. Kiteng'u:** Thank you, Hon. Speaker. I would like to submit my issues pertaining our Constitution 2010; out there, there is a lot of confusion on this Bill because Mwananchi does not really understand. Most of the Members have read the document but members of the public have not. One issue, Madam Speaker, you understand there is the issue of the campaigns going on in the grassroots; we are encountering a lot of challenges. I would like to tell members of the public that a Constitution is a process and the 2010 Constitution if it had failed, we could not have had MCAs; like today I am an MCA from Kivaa because of the Constitution of 2010.

Hon. Speaker, the development we are encountering in our wards, for example I have done several boreholes and grading some of the roads which is being done in the entire County is because of our Constitution of 2010 which gave power to have the 47 counties. Hon. Speaker, I cannot forget to mention that 2017 I was a NASA member---

**Hon. Speaker:** Hon. Kiteng'u, please shorten your submission.

**Hon. Kiteng'u:** Yes, Madam Speaker, I remember His Excellency Uhuru Kenyatta garnered eight million votes and NASA garnered six million votes. Having members of NASA with huge number of Kenyans of six million, there was no chance to come in to the government but this Bill Hon. Speaker gives us power for number two and whoever garners four or six million votes will be a leader of opposition and will in the government. So, I urge members of the public to support the document and we will be coming to them door to door to make them understand the importance of this good document. Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Kiteng'u, Hon. Mitaa.

**Hon. Mitaa:** Thank you Hon. Speaker for the opportunity. I want to applaud the committee of Justice and Legal affairs for the report they have brought to this House. I want to pick only one point on the Ward Development Fund. The report is giving wards that fund and there is something our county has not managed to achieve for the last eight years Hon. Speaker and this report is correcting that mess.

For a while we have not had Project Management Committees which is a very essential committee whenever development is being undertaken. Through the Ward Development Fund, each will have committees to oversight the projects which will be undertaken in the wards and that is a plus for the residents because whatever we will be able to achieve will be something which will be acceptable by the residents of those areas Madam Speaker and so I support. Thank you.

**Hon. Speaker:** Thank you. Hon. Ndambuki.

**Hon. Ndambuki:** Thank you, Hon. Speaker. It goes without saying that among the biggest winners in the Constitution Amendment Bill 2020 is devolution. The 35 per cent increment from the current 15 per cent disbursement to the counties is one the biggest ways that the people of Kenya will enjoy if the amendment goes through and becomes enacted.

Madam Speaker, again the five per cent Ward Development Fund which is money that is to administered at the lowest unit of development which is the ward will empower our people. Looking at how Machakos Town for example has been before devolution and now when we have devolution working there is a big difference based on how we are having buildings coming up and that is a measure of development if we were to us that, Madam Speaker.

Now this five per cent that will be administered by people at the grassroots level; this will take money to the pockets of our people directly in that if we use this model and request our people to use locally available resources, it means devolution will ensure that people at the grass root level get money. Madam Speaker, I support this Bill based on those two proposals.

**Hon. Speaker:** Thank you. Hon. Kaloki; very briefly.

**Hon. Kaloki:** Thank you, Madam Speaker. I support the good document that has been produced by the Committee of Justice and tell them that they have done a good job. I want to say this is a historic moment for this country and also for the County Assemblies in the Republic of Kenya. This has never happened before in our Republic; it has been a long wait to see such a Bill coming to the floor of the House.

With the current constitution, I want to say that MCAs had been reduced to beggars because at some time we are being forced to dig deep into our pockets to please the members of the community using our own money simply because there are is development on the ground.

*(Applause)*

Sometimes you are forced to attend fundraisers to give money to take people to hospitals, just to calm them down from asking questions which we may not have answers to on the issues of development. Madam Speaker, I want to dwell on two points on the committee observations and findings especially on point (f) and (g) because the others have been mentioned by the other Members who have spoken before me.

On the issue of financial independence that is very key; for the last almost 10 years County Assemblies have been reduced to subordinates of the Executive. Everything you do as an Assembly you have to go begging pleading; I have seen a number of times when requisitions are made and the members of the Executive are not available to make financial decisions. It is the

high time Madam Speaker, we see monies coming straight from the treasury to the County Assemblies. This is a great milestone, Madam Speaker.

*(Applause)*

The other issue is on the Ward Development Fund, it has been mentioned by the previous contributors and I do not want to dwell so much on that but for me it is a great milestone. It is the high time we get down to business and my prayer is that this Bill is operationalized before the end of our time so that we can start enjoying the fruits of the same and also compensate within the remaining period on the glory that we had almost lost.

Madam Speaker, I want to say that this is a very good document; we support it 100 per cent and we support His Excellency the President when assenting to the same within the shortest time possible. It is the high time we put down our differences and forge ahead as one team of Machakos County Assembly. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Hon. Cosmus Masesi.

**Hon. Masesi:** Thank you, Madam Speaker. First, I would like to appreciate the Committee of Justice and Legal affairs led by the able Chairman Moffat Maitha. I want to narrow down on two points; I am foreseeing a scenario whereby in the 2022 elections we will have not less than 47 Deputy Governors who will be women and we will have more leadership in women thus promoting gender equality, Madam Speaker.

I would wish the President would move very fast and make sure that we make use of this Bill as from 2021/2022 fiscal year which begins on June this financial year. Thank you, Madam Speaker.

**Hon. Speaker:** Hon. Hellen.

**Hon. (Ms.) Ndeti:** Thank you, Madam Speaker. First, I wish to thank the Committee on Justice for a very well-written document. I want to talk about the nine BBI agendas; all the points are very important because they touch on *Mwananchi* but there is one point that I love and that is Article 80 which is talking about corruption. Members you, very well know that corruption has become a cancer in our society; people are misusing government property, there is a lot of conflicts of interests. This BBI clause is going to ensure that if there are cases pertaining corruption, there is going to be fast investigation and justice will be done without wasting a lot of time.

A lot of our money has been stolen and people are using that money to come back and plough it to us by ensuring that they bribe our voters so it is the high time that BBI is passed without wasting a lot of time. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Members. Hon. Moffat Maitha, the mover of the motion; please reply.

*(Applause)*



**Hon. Maitha:** Thank you, Hon. Speaker. I first of all want to thank Hon. Members for having supported this document which was done by the Justice and Legal affairs committee without any opposition.

*(Applause)*

Madam Speaker, this is history because normally when we have motions here you cannot fail to get dissenting opinion. This one is for the lives of the people of Machakos and the people of Kenya and I thank you so much sincerely for what you have done. I also want to thank the Speaker and The Clerk for facilitating the committee to go and do work on that document.

Hon. Speaker, if after passing this Bill, those who will be here in 2022 will have a kitty to get money for development in their wards, in fact, Madam Speaker, those people will be very lucky and they may even be elected again and again because they have something in their pockets to go at a given place and say; 'that ECDE classroom will be constructed by the end of a given time' because there is money for them.

Hon. Speaker, we shall have two senators; a male and a female here in Machakos and everywhere in Kenya. That is an achievement of this Bill which we are proposing to amend the Constitution. With those few remarks, I thank you profusely Hon. Members. Thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** Thank you very much, Hon. Maitha.

*(Question put and agreed to)*

*(Applause)*

Thank you very much, Hon. Members. I can now just thank you; you know I do not have a vote on the floor of this House but of course my spirit was with you.

*(Applause)*

I have personally read the Bill and it has a lot of good for Kenyans and I think it is the high time we put aside politics and look at what is good for the people of Kenya. A Constitution, and I am speaking as a lawyer, is a living document and it is living because you are living and it is made for you not you for the constitution.

So a time comes when you feel that you want amend the Constitution to suit your needs and 10 years down the line, Kenyans felt that they need to amend it to suit their needs. This is not the end of it, as and when the need arises, the document will continue being amended. For the time being, let us have what Kenyans have felt we need to re-look into in the constitution for the good of Kenyans. Thank you very, Hon. Members, on that.

*(Applause)*

**COMMUNICATION FROM THE CHAIR**  
VISITING DELEGATION OF STAFF FROM KAJIADO COUNTY ASSEMBLY

**Hon. Speaker:** Hon. Members, I want to communicate the presence of some members of staff from Kajiado County Assembly and they came here purposely to learn about the Assembly Broadcasting Unit (ABU) that is enabling you to debate here and in the spirit of public participation your debate is also being watched by the people you represent through the YouTube. So they came here to learn what you have done and I think that is a milestone for your Assembly.

*(Applause)*

**ADJOURNMENT**

**Hon. Speaker:** At this point, Hon. Members, the sitting is adjourned to resume on 23rd February, 2021 at 2.30 p.m. Thank you.

The House rose at 11.20 a.m.