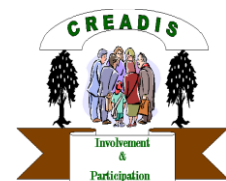


Expanding the Scope for Public Benefit Organizations (PBOs) and Citizens to Engage with Electoral and Governance Reforms



Nyeri Regional Forum: Bring it On, Leteni hiyo BBI Tuiangushe!

Westwood Hotel
November 19, 2020



1. Introduction

a) Opening

Session started with a word of prayer and welcome remarks from the Convener, Nyeri following which the moderator, Patrick Ochieng introduced the project objectives and scope of the scenarios study.

b) Levelling of Expectations

Participants each had a chance to introduce themselves and make a brief reflection on BBI.

- As a participant I envisage a situation where as a community we can deliberate on the discrimination we have suffered and come up with a position on BBI that represents views of the community not just the leaders
- Would like to know what the alternative voice/position to BBI might be and what is in the BBI that is not in the constitution.
- Do the BBI proposals as they stand now amount to a Bill to enable signature collection?
- Does the process involve everybody?
- I feel the BBI process has a participation deficit
- I had ideas on health during the collection of views but am not sure those views on insurance were considered. i.e. inclusivity in insurance, cancers, effects of pesticides etc.
- Is it possible for us to become ambassadors to inform our people?
- Would like to know more about BBI beyond media reports and what politicians are saying both of which don't seem to tally
- Can we get copies of the BBI report? Does it speak to universal health coverage?
- What are the gains for women in BBI? How are they included on matter governance?
- How is land, environment and climate dealt with?
- What is the big deal with BBI that they are not intent on having us read it before signing? How does BBI relate to PEN?
- How best can PBOs/CSOs engage their leaders on controversial issues in BBI?
- What is the impact of BBI on the most vulnerable in the community? Why now with COVID-19?
- Where are the sober platforms for us to unpack these issues/reforms?
- How are CSOs surviving in this era of COVID-19 and dwindling resources?
- Is BBI the priority?

c) Background/Objectives and Outcomes of the Project: Patrick Ochieng

With support from USAID's Safeguarding Democratic Space in Kenya (SADES-K) project funded through FHI 360, the CSRG/PEN Consortium has been implementing the project whose thrust is *Expanding the scope for PBOs and citizens to engage with the BBI Report for the continued*

transformation of Kenya's economic, political and institutional governance. The objectives of the project are:

- i. To build the momentum for the continued electoral, economic and institutional reforms and expand the choices available to Kenyans
- ii. To hold political leaders, government and the BUI reform initiative to account

Expanding the scope for PBOs and citizens to engage with the BBI Report for the continued transformation of Kenya's economic, political and institutional governance is an extension of the first project *Strengthening Civic and Democratic Space through the Implementation of the Public Benefits Organizations Act (2013)*. Whereas this latter project sought to secure a more robust and facilitative policy, regulatory and operational environment in which citizens and their organizations can become proactive actors in the ongoing efforts to bring about **fundamental transformation of Kenya's democratic infrastructure**, protect human rights, strengthen democracy and build prosperity for all in the country, its extension was focused on multi-sectoral engagement in which Civil Society targets key actors and institutions such as Parliament, IEBC, Political Parties, State Law Office, BBI Steering Committee among others to engage with electoral and governance reforms.

The scenarios project seeks to prepare Kenyans for different scenarios that may occur in lead up to the elections and inform them on how to build the momentum for continuing **electoral**, **economic** and **institutional/governance** reforms as well as enhance CSO accountability mechanisms on electoral and governance reforms including the BBI initiative. The main project facilitated dialogue between PBOs and government stakeholders to develop rules and regulations for the PBO Act, prepared PBOs for the new PBO regime through modelling and scaled up advocacy on commencement of the Act. All this was taking place on the back of the Building Bridges Initiative that was proposing amendments to the Constitution following the handshake between the President and the opposition leader his challenger in the controversial 2017 election. Given the dilemma the country has faced every time there is an election the project team found it useful to engage an external scenarios study consultant to undertake such a study as possibilities of a divisive referendum, a troubling transition election and the unprecedented impact of COVID that had hit the world presented a worrying future. The consultant would be accompanied by a reference group of select stakeholders to backstop the process and the project team would organize 7 regional scenarios workshops to get the pulse of what different regions feel about BBI and the proposed referendum. This is the second regional forum targeting select stakeholders from the Counties of the Central region.

d) Brief Remarks from Michael Orwa the Consultant

- Orwa noted the development that folks were beginning to ask the right questions based on the expectation sharing.

- It finally appears the people may not follow their leader who they agree let them down but that they want to put somebody in purely to score a point doesn't make sense.
- It is conceivable that historical prejudice may change to issue oriented political choices
- It is also accurate to say that civic education does not bring value in our context
- There is a group that just wants to vote against BBI not that they have read but to punish some enemy.

2. Forum Proceedings:

a) BBI sharing by Network Convener, Joseph Otieno/Wanja

Two network members who have interacted with Uraia took the participants through some highlights of the BBI content

- The report as read has ignored the land question which say a lot about the proponents of BBI
- Responsibilities of citizens are proposed to be added to the bill of rights
- Privacy is likely to be eroded by the data requirements
- Eligibility for appointment as Commissioners to exclude politicians
- IEBC to have a 7-member Commission with a 4 year term to be selected by political parties
- IEBC not to handle disputes
- Nomination slots to be removed
- Parliament to have 360 members up from 290
- Women representatives to be taken to the Senate.
- MCAs to be eligible for election as MPs
- 12 laws proposed under BBI

b) Unearthing knowledge on BBI

- The concept of sovereignty gives power to the people especially to make amendments to the Constitution. Why is this power being usurped by two people?
- Are we not inviting imperial presidency once again?
- The two handshake brothers seem interested only in reconstituting IEBC through the BBI process

c) Mindsets and Prejudices towards BBI

- This is a historical moment but if missed we may live to regret because the amendments proposed appear to attack the essence of our constitution and its key pillars.
- We must wear thicker lenses to prevent this selfish agenda
- Our actions must be guided by separating good from bad
- The fear narrative that the BBI front is pushing may influence the voting to be one against rather than for as has been experienced in the past.

- People are now learning that it is not right to just vote out of populism and there is a trend where people are now asking questions about specific issues that are affecting them

d) **Some narratives from Nyeri**

- *This is all politics framed as Constitutional reforms:* Politicians have succeeded in making their talk about things that resonate with the public pass as truth and reality but do little to have the promises achieved. So each electoral cycle they moot much of the same debates for electoral campaigns. The political discourse keep the public/citizens distracted from critically examining the issues that matter such as those that concern farmers, land and why it was left out of BBI and questions regarding the state and its inability to fully implement the Constitution. Uhuru may get back to power as a powerful PM through BBI
- *We the people have been left out:* Many people are saying ‘leta BBI tuangushe’ because they feel disenfranchised and left out as only two people seem to be driving BBI rather than citizens. A lot more people feel that issues they raised during the consultations have not been captured and therefore the BBI Report is “their” document not ‘ours. This process is akin to re-writing the Constitution
- *The Mountain might reject BBI:* Along the binaries of the hustler vs BBI supporters the region seems to be finding with the anti-BBI forces. For some the hustler narrative is the beginning of issue based politics and the madness in the region is only comparable to that experienced in 2015. Those who hold this view do not however explain how the anger and the issues that informed it were dropped in 2017.
- *If we can't stop reggae where can we meet reggae?* What should citizens do to sustain issue-based politics? If the 2010 Constitution has not been fully implemented despite the overwhelming public support who will implement BBI? If the citizens feel powerless, is there need for them to discuss anything? Can we negotiate the bloated wage bill that an expanded executive adds to the tax payer? On the tax relief, could we simply have the SMEs pay some taxes because the revenue is needed? Can the state allow CSOs to thrive and have a role in governance and politics?

3. ASSUMPTIONS SURROUNDING BBI

It is the year 2025. We are gathered at Westwood Hotel to reflect what happened between 2020 and 2025. Discuss what you think happened in the following areas.

YES	Issue		Opportunities	Threats
1	BBI Referendum		Reinforcement of PwDs at the political party level	<ul style="list-style-type: none"> Imperial presidency Jobs may be given to cronies CSs being MPs will reduce oversight Role of senate will be compromised
2	Electoral System and 2022 Elections		More positions	Conflict of interest as MPs become Ministers
3	State of the Economy		<ul style="list-style-type: none"> More job opportunities due to the new positions being created Youth will be exempted from tax 	<ul style="list-style-type: none"> Revenue level falls with tax reliefs Increased wage bill Liquidity in the economy Wealth will lie with only a few
4	State of Institutions	IEBC	There will be consensus/Less petitions	<ul style="list-style-type: none"> Control of independent offices IEBC incl. Compromised/manipulable IEBC
		County Governments	<ul style="list-style-type: none"> More funding to the counties WDF More job opportunities at the county level Increased opportunity for either gender at the top leadership with the different genders at the Governor and Deputy Governor positions 	Weak senate will compromise oversight
		Judiciary	<ul style="list-style-type: none"> Harmonized judicial system Reduced corruption in the judiciary 	Controlled judiciary via the ombudsman
		Anti-Corruption	Expediting of corruption cases	
		Security Agencies	Less rogue police thus strengthen policing	Partisan police
NO	Issue		Opportunities	Threats
1	BBI Referendum		We will have time to reflect and chat a way forward for the country	<ul style="list-style-type: none"> Feeling of revisiting the areas that voted No in the referendum in case the yes side wins both referendum and 2022 elections thus divisive politics Wastage of resources in case the referendum fails. What has been used in the BBI process and referendum will already be massive

2	Electoral System and 2022 Elections		<ul style="list-style-type: none"> Those in power will interfere with IEBC by removing the commissioners and having those sympathetic to them as commissioners Status quo will remain at the IEBC 	<ul style="list-style-type: none"> 2022 elections will not be trusted to conduct the 2022 elections Several and lengthy political elections Attempts at the two-third gender rule shall have failed and thus an illegitimate parliament
3	State of the Economy		Wage bill will remain the same as concerns parliament	<p>There will be marginalization of some blocks that voted No in the referendum</p> <p>Opportunities lost for the tax holiday for MSMEs</p>
4	State of Institutions	IEBC	<ul style="list-style-type: none"> Status quo will be maintained in these institutions These institution will continue developing and thriving 	<p>Lost opportunity to receive 'at least 35%' for county functions with central government potentially sticking to 15%</p>
		County Governments		
		Judiciary		
		Anti-Corruption		
		Security Agencies		

4. Closing Remarks

In closing participants observed that a NO vote will ensure that institutions remain the same including Counties. This has advantages and disadvantages. One advantage is that this will allow institutions to grow stronger. It is however impossible to believe that the dominant sentiment in the meeting is what will come to pass as one member in the plenary noted, this may be so only because the President has not done a tour of the region. The speed with which signatures have been collected confirms that what Kenyans say does not match with the ultimate decisions that they make.



Nyeri Participants Listen during the Discussions

PROGRAMME**Regional CSO Dialogue Forum - Nyeri****Activity Agenda**Date: 19th November 2020.

Venue: Westwood Hotel, Nyeri

Time	Activity	Person in charge
9.00 – 9.30	Arrival and registration	Faith Alukwe
9.30 – 10.00	Welcome and Introductions	Ludivicus Omollo
10.00 – 10.15	<ul style="list-style-type: none"> • Opening remarks • Background and objectives of the project • Intended outcomes of the meeting 	Michael Orwa Patrick Ochieng
10.15 – 11.15	Discussants on the Reform Agenda including BBI Report	Joseph Otieno/Lucy
11:15 – 11:30	Tea Break	
11:30 – 13:00	Plenary Discussions on the Reform Agenda	Patrick Ochieng
13:00 – 14:00	Lunch	
14.00 – 14.20	Breakout sessions	Patrick Ochieng
14:20 – 14:50	Reporting on Breakout sessions	
14:50 – 15:00	Wrap-Up	Patrick Ochieng

LIST OF PARTICIPANTS

NAME	SEX	COUNTY	CONTACT
Tirus Ndegwa Njoroge	Male	Nyeri	725400825
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Johnson Ritho	Male	Nyeri	722666380
Joseph Otieno Sing'ienda	Male	Nyeri	724459429
Charles Wambugu Mutitu	Male	Nyeri	723772761
Edwin Nderitu Kamau	Male	Nyeri	792321575
Regina Mwangi	Female	Nyeri	721412555
Susan Muthoni Kamau	Female	Nyeri	725206239
David Nderitu	Male	Nyeri	723935597
Muthoni Wanjau	Female	Nyeri	722917828
Grace Ngatia	Female	Nyeri	728592415
Justus Kyalo Mutuku	Male	Nyeri	727619141
Isaac Njoroge	Male	Nyeri	723633664
Timothy Kariuki	Male	Nyeri	722604734
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Michael Ndegwa	Male	Nyeri	723932539
Beatrice Muthoni Njeru	Female	Nyeri	700814051
Jane Kamwaga	Female	Nyeri	722693864
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Alukwe Faith	Female	Nyeri	722129233
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