

BBI: Liberation or Fraud?

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BBI - Historical Background



August 2017 elections were hotly contested. Jubilee's Kenyatta was declared winner, Nasa's Odinga went to the Supreme court.

The Supreme Court ruled in favour of Odinga, nullifying the elections, after IEBC failed to open up the servers containing the election results.

A rerun in October 2017 was boycotted by Nasa's Odinga, Uhuru won with a landslide (98.3% of the vote).

The handshake



Uhuru's presidency lacks legitimacy, Raila goes around the country proclaiming he is the people's president, and swears himself as president on 31st Jan 2018

There is lots of tension in the country, with Uhuru's brigade calling for the arrest of Raila and charging him with treason. Raila's team on the other hand dares the president to arrest the 'people's president'...

The tension is diffused on 9th March 2018, when President Kenyatta and Opposition Leader 'Shake hands'.

The BBI

The 2 principals came up with a communique documenting 9 agenda items that they felt were holding Kenya's back. The process of addressing these 9 items is what came to be known as Building Bridges to a United Kenya.

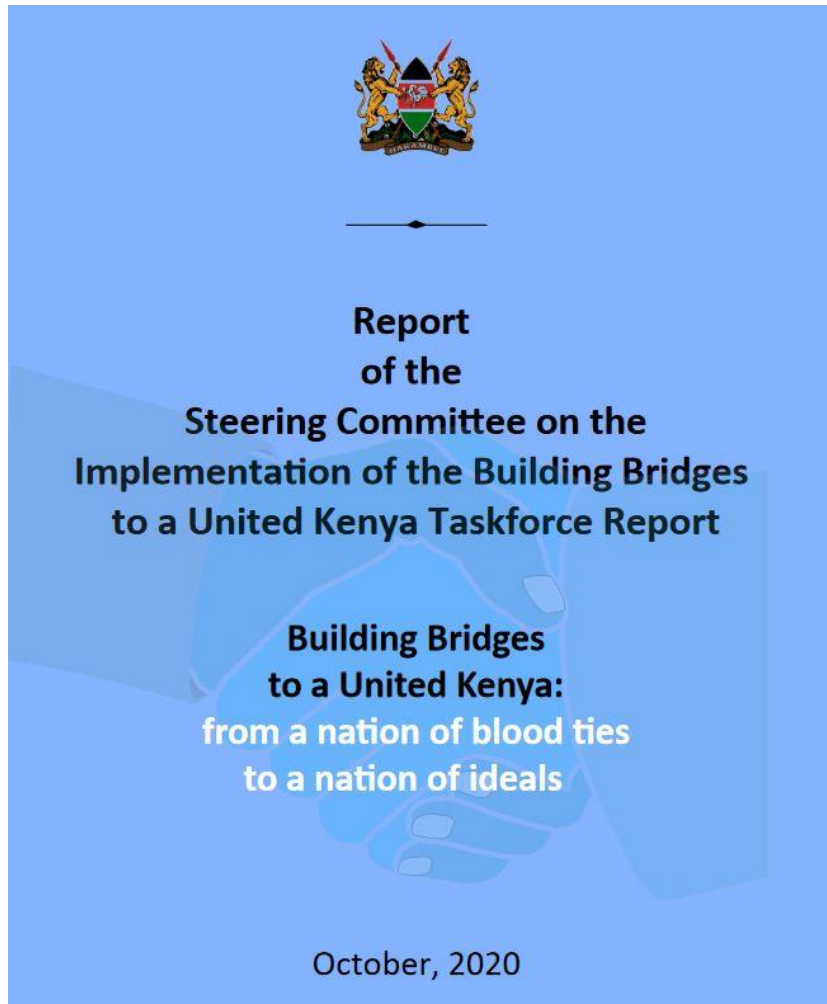
The principals appointed a taskforce to look into the 9 agenda items and recommend possible solutions.

The taskforce submitted its report in October 2019 with recommendations on how the 9 issues should be addressed.

A steering committee was appointed to steer the implementation of the recommendations. The committee submitted its report in October 2020.

The steering committee proposed: Policy Reforms, Administrative Actions, Legislative Reforms and Constitutional Reforms

9 POINT AGENDA



1. *Lack of a National Ethos*
2. *Responsibilities and rights of citizenship*
3. *Ethnic antagonism and competition*
4. *Divisive elections*
5. *Inclusivity*
6. *Shared prosperity*
7. *Corruption*
8. *Devolution*
9. *Security*

Other issues

Kenya is running out of time

Young people feel left out

Kenya has a trust deficit

Kenyans disrespect the law at all levels

In Kenya there is no tomorrow, only today

The Kenyan family is in crisis

Kenyans feel let down by their leaders in all spheres of life

What is in the BBI?



The BBI report comprises of:

- Main report on the 9 issues
- Policy reforms
- Legislative reforms
- Administrative reforms
- Constitutional reforms

Policy reforms

A policy is a set of ideas or a plan for action by the Government. The Government needs to create policies to help it make decisions and to guide planning of activities.

Policies do not need legislative amendments and can be acted upon by Government whether the Referendum succeeds or not.

The BBI report highlights 12 policies as urgent and propose their development within 2 years.

Proposed Policies

1. National Heritage and History
2. National Ethos and Responsible Citizenship
3. Citizen Education
4. Productivity and Shared Prosperity
5. Health and Wellness
6. Clean and Effective Government
7. Combatting Impunity
8. Justice
9. Public Participation
10. National Security and Safety
11. National Security and Safety
12. Tax Policy

Legislative proposals

Legislative proposals are subject to a parliamentary process and there will be need for advocacy to push for their enactment. These too can be enacted whether the referendum succeeds or not.

- **1. The Prompt Payment Bill**
- **2. The Public Finance Laws (Amendment) Bill, 2020**
- **3. Micro and Small Enterprises Act**
- **4. The Ethics and Integrity Laws (Amendment) Bill, 2020**
- **5. Election Laws (Amendment) Bill, 2020**

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- 6. The Anti-Corruption and Economic Crimes Act**
 - 7. The Contribution to Charity Bill**
 - 8. The Devolution Laws (Amendment) Bill, 2020**
 - 9. Public Participation Act**
 - 10. National Economic and Social Council Bill, 2020**
 - 11. Health Bill**
 - 12. The Statute Law (Miscellaneous Amendment) Bill, 2020**

Administrative Proposals

Administrative action should be undertaken by those in authority to secure a better life and environment for citizens.

Most administrative action does not need any legal proclamations and draw from policies and laws to translate into effective service delivery in servant leadership.

The Government should therefore be able to put these proposals into action immediately.

Factors impeding implementation of administrative action

- i. Negative attitude/lethargy/poor behaviour within the public service.
- ii. Systems that are created to fail.
- iii. Inadequate funding.
- iv. Lack of timely release of funding.
- v. Lack of political goodwill.
- vi. Duplication or overlapping of functions.
- vii. Too much bureaucracy (inconsistent flow of authority/indiscipline/nepotism/parallel chain of loyalty where a junior enjoys patronage of his/her boss).

- i. Lack of information by the public.
- ii. Lack of skills mapping and matching in the public service.
- iii. Low uptake of ICT to reduce human interaction in service delivery in the public service.
- iv. Lack of ethical standards.
- v. Lack of accountability.
- vi. Lack of responsible citizenship.
- vii. Lack of nationhood (people are not driven by public interest).

principles and guidelines

- i. High standards of professional ethics.
- ii. Efficient, effective and economic use of resources.
- iii. Responsive, prompt, effective, impartial and equitable provision of services.
- iv. Transparency and provision to the public of timely, accurate information.
- v. Accountability for administrative acts.
- vi. Fair competition and merit as the basis of appointments and promotions.

Proposed Constitutional Amendments

Chapter 2: The Republic



Introduction of 2 new articles:

Article 10A: Regional Integration and Cohesion

Article 11A: Economy and Shared Prosperity

-These articles seek to address regional, integration, cohesion, shared prosperity and centrality of the economy. This in order to harness regional trade, investment and people-to-people links to increase our prosperity, opportunities for investment and enhance our security.

Chapter 3: Citizenship

Introduces new article: **Article 18A: Responsibilities of a citizen**

This article seeks to strengthen national ethos by outlining the responsibilities of citizens.

These responsibilities include:

1. Cultivate national unity,
2. Promote and protect the family (respect for elderly);
3. Ethical conduct and combat corruption
4. Parental responsibility
5. Respect private property etc.
6. Pay taxes and dues to the government



Chapter 4: Bill of Rights



Proposes a constitutional underpinning for the privacy of citizens' personal data as an emerging area in human rights owing to significant technological developments in this area.

Chapter 6: Leadership and Integrity



Attempts to strengthen the fight against corruption. Law to provide for expeditious investigations, prosecution and trial of cases relating to corruption.

Chapter 7: Representation

To address issues of divisive elections:

Political parties to facilitate the actualization of gender rule in the electoral process
(Article 82 (1) (f))

Bars persons who have in the past 5 years been President, DP, Governor, DG, or MP
from being members of the IEBC. **(Article 88 (2) (i))**

Increase the number of constituencies from 290 to 360, to actualise equality of the
vote principle **(Article 89 (1)).**

Chapter 8: Legislature

Remodel the Parliamentary system by bringing the Government back into the House, including the Prime Minister, Deputy Prime Ministers, Cabinet Ministers, the Attorney-General and the Leader of the Official Opposition (**Article 107A**)

Role of the senate: proposed expansion of mandate to include oversight on matters relating to all county revenue and expenditure.



Membership of the National Assembly:

- 360 elected members
- 4 members (PWDs,)
- 2 members (Youth)
- Special seats necessary to meet 2/3 gender rule.
- NOTE: special seats lapse after the next 3 general elections

Membership of the Senate

94 members, with each county represented by a man and a woman.

Chapter 9: The Executive

Proposes to expand the national executive in order to promote greater inclusivity, and mitigate the drawbacks of the winner-take-all electoral formula.

Proposes the establishment of the office of the Prime Minister, 2 deputies and cabinet ministers to be appointed from parliament.

The Prime Minister:

The PM shall be the leader of government business in the national assembly.

The PM shall be the leader of the largest party/coalition of parties in the national assembly.

The PM may be dismissed by the president.

Deputy PMs shall be appointed from among ministers.

Chapter 9: The Executive

Cabinet

Cabinet shall be drawn from within and without the national assembly; and shall include the PM and DPMs.

Establishment of Deputy Cabinet Ministers

Appointment of Cabinet Ministers, Deputies, Principal Secretaries, and Secretary to the Cabinet, will not be subjected to vetting.

Chapter 10: Judiciary



‘To enhance judicial accountability to the people of Kenya’ –
Introduction of the office of Judiciary Ombudsman.

Judiciary Ombudsman

Nominated by president, approved by senate.

Shall be a member of the JSC

Shall receive and investigate complaints against
judicial officers.

Can initiate process to remove a judge

Chapter 11: Devolved Governments



Membership of Assemblies:

Nomination to be based on votes received not seats won.

County Executive Committees (CECs)

Governor can appoint from MCAs as CEC

CECs do not lose their jobs if the Governor seat becomes vacant. Governor may reassign or dismiss CECs

Election of governor

Nominee may consider gender in picking running mate.

Chapter 12: Public Finance



Equalization fund lifespan increased to 30 years 2010.

County allocation raised to 35% of national revenue. Average allocation per person should not be more than 3 times.

Establishment of the CDF, and WDF. WDF shall be at least 5% of County Revenue.

Annual Division and Allocation of Revenue Bills – Where there is delay, counties can draw upto 50% of the minimum amount of equitable share.

Chapter 13: The Public Service



National security organs removed from the purview of the public service,

Establishment of a Youth Commission to promote and implement the rights of the youth under as provided under article 55

Chapter 14: National Security



PM included as a member of the National Security Council.

The DCI included as a third arm of the NPS (others – Kenya Police, Admin. Police)

Police under the IG, the DCI will be headed by a Deputy IG.

The mandate of NPSC to ‘determine promotions and transfers’ has been given to the IG