

## COUNTY GOVERNMENT OF KISUMU



### COUNTY ASSEMBLY OF KISUMU

### **THE HANSARD**

*Official Report*

### SECOND ASSEMBLY – FIFTH SESSION

Tuesday, 09<sup>th</sup> February, 2021

**House met in the Main Chamber at 02:30 p.m.**

**(The Speaker (Hon. Elisha Jack Oraro) in the Chair)**

### PRAYERS

**The Speaker** (Hon. Oraro): Mr. Clerk take us through the Order Paper of the day.

**The Speaker** (Hon. Oraro): Next order!

### COMMUNICATION FROM THE CHAIR

**The Speaker** (Hon. Oraro): Honourable Members, I wish to make communication that today is an official resumption of the Members to this House from the long recess but as we agreed earlier that we were to dispense off with the matter of the Kenya Constitutional Amendment Bill, 2020 today. I would also wish to take this opportunity to welcome you back from the long recess. It will be a privilege to us to be part of the history as we discuss the Kenya Constitutional Amendment Bill, 2020 today.

On the same note, may I communicate that we were expecting the Governor to be here and I have just received a call from him and he might be here sooner or later after the debate but he has said he is part of you in the debate and reminded me to tell you that for him you understand his position on this matter. The last communication that I want to make is that, when we did present the Bill to the Assembly, the 1<sup>st</sup> Reading was done but I want to bring to your attention that there are two

ways in which the Kenya Constitutional Amendment Bill, 2020 can be discussed. First of all it can be presented to the House as a public Bill where it goes through the 1<sup>st</sup> Reading, committed to a committee, subjected for public participation and a report is brought to this House. When the report is adopted, it goes to the Committee of the Whole House and the said report is presented in the plenary and we have the 3<sup>rd</sup> Reading.

Option two is that the Bill can be presented as a motion which if seconded can be debated and if majority of the Members feel that it can be adopted then we proceed directly to voting. After consultation, we have opted to do the hybrid which means that I want to direct as per Standing Order No. 1 that when we presented the Kenya Constitutional Amendment Bill, 2020 to the Administration, Law, Justice, Legal Affairs and Good Governance Committee for public participation, we will have to expunge the 1<sup>st</sup> Reading from our last plenary and I want to direct that today we will take the second option where we will have a report from the relevant committee on the public participation report and it shall be discussed alongside the approval or rejection of the Kenya Constitutional (Amendment) Bill, 2020 and after that I shall put a question. So, I direct.

Lastly, we shall not be having our online Zoom session but I want to confirm from the records I have, 90% of the Members are present and therefore, we have enough quorum to proceed with the discussion.

### PAPERS LAID

**The Speaker** (Hon. Oraro): Yes Hon. Seth Okumu.

**Hon. Okumu:** Pursuant to Article 275 of the Constitution of Kenya 2010, I wish to lay today Tuesday 9<sup>th</sup> February, 2021 the report on the Kenya Constitutional Amendment Bill, 2020.

**The Speaker** (Hon. Oraro): Honourable Members, I confirm the receipt of the sectoral committee of Administration, Law, Justice, Legal Affairs and Good Governance report on the Kenya Constitutional Amendment Bill, 2020 as presented by the Chairperson, Hon. Seth Okumu. I believe it is the same report that by the indulgence of the House business Committee we had agreed that we shall dispense off with it today.

**The Speaker** (Hon. Oraro): Yes Hon. Leader of Majority.

**Leader of Majority** (Hon. Onyango): Thank you Mr. Speaker. Pursuant to Section 5 of the Kisumu County Attorney Act 2018, I wish table today Tuesday 9<sup>th</sup> February, 2021, the nomination of the County Attorney. Thank you.

**The Speaker** (Hon. Oraro): Honourable Members, I confirm the receipt of the letter from the County Secretary of Kisumu County on the nomination of the Kisumu County Attorney as per the Kisumu County Attorney Act 2018. I want to commit this nomination to the Administration, Law,

Justice, Legal Affairs, Good Governance and Security Committee to carry out the vetting and report back to the House within 14 days.

**The Speaker** (Hon. Oraro): Yes, Leader of Majority.

**Leader of Majority** (Hon. Onyango): Thank you once more Mr. Speaker. Pursuant to Section 45 of the County Government Act, I wish to lay today Tuesday 9<sup>th</sup> February, 2021 the appointment of Chief Officer Tourism, Culture, Arts and Sports. Thank you.

**The Speaker** (Hon. Oraro): Honourable Members, I confirm the receipt of the letter from the County Secretary of Kisumu County on the appointment of Chief Officer of Tourism, Culture, Arts and Sports. I hereby commit this appointment to the Committee of Sports and Tourism for vetting and report back to the House within 14 days.

**The Speaker** (Hon. Oraro): Yes, Leader of Majority.

**Leader of Majority** (Hon. Onyango): Thank you Mr. Speaker. Pursuant to Section 59 (1) (d) of the County Government Act No. 17 of 2012, I wish to lay today Tuesday 9<sup>th</sup> February, 2021 the submission of the Kisumu County Public Service Board Annual Report for the Year 2019/2020. Thank you.

**The Speaker** (Hon. Oraro): Honourable Members, I confirm the receipt of the Kisumu County Public Service Board Annual Report for the Year 2019/2020. I hereby commit this report to the Labour and Social Welfare for consideration and I direct you report back to the House within 14 days.

Yes, Leader of Majority.

**Leader of Majority** (Hon. Onyango): Thank you Mr. Speaker. Pursuant to Section 220 (1) of the Public Finance Management Act, I wish to table today Tuesday 9<sup>th</sup> February, 2021 the Amended report and Financial Statement for the County Government of Kisumu for the FY ended 30<sup>th</sup> June, 2020. Thank you.

**The Speaker** (Hon. Oraro): Honourable Members, I confirm the receipt of the 2021 the Amended report and Financial Statement for the County Government of Kisumu for the FY ended 30<sup>th</sup> June, 2020. I want to commit this to Finance Committee and they should report back to the House within a period of three weeks.

**The Speaker** (Hon. Oraro): Yes, Leader of Majority.

**Leader of Majority** (Hon. Onyango): Thank you Mr. Speaker for that correction. I think it must have been a typo. Lastly, pursuant to the Section 220 (1) of the Public Finance Management Act, I wish to table today Tuesday 9<sup>th</sup> February, 2021 the Quarter ending 31<sup>st</sup> December, 2020. Thank you.

**The Speaker** (Hon. Oraro): Honourable Members, I confirm the receipt of the Financial Statement for the County Government of Kisumu for the Quarter ending 31<sup>st</sup> December, 2020. I want to commit this Statement to Finance Committee and they should report back to the House within a month. Four weeks from today you have to report back to this House on your deliberations on the same.

Hon. Members, I want to confirm that you have witnessed that there is a lot to be done but I want to remind you of one very important thing. We have overdue and pending reports as we commence this fifth session and I will go very fast even though it has been shared on our WhatsApp platform.

One, an Ad hoc Committee on Land Taskforce was constituted on the 13<sup>th</sup> August, 2020. I gave a ruling that we get a Report from the Ad hoc Committee within fourteen days which means that you ought to have reported back to this house by the 27<sup>th</sup> of August, 2020. I want to inform the Committee that the report is long overdue. The Committee which was being chaired by Hon. Beatrice Odongo, please, we need that report.

Two, the Standing Committee of Water, Environment and Natural Resources on the Status of Drainage Channels along Sije-Carwash Road. The Chairperson, Hon. Samson Ameso, that report was due by 14<sup>th</sup> October, 2020. When I state that you know that, if you cannot do it, then, there is a way we can do it

Three, the Standing Committee of Water, Environment and Natural Resources Report on the Alleged Pollution of Water Towers and Streams top Kisumu Residents by KIWASCO. The Chairperson, Hon. Samson Ameso, the report was due by 21<sup>st</sup> October, 2020.

Four, the same Standing Committee of Water, Environment and Natural Resources, you undertook a Benchmarking Exercise with Nairobi City County Assembly. The House is yet to receive this report and the report was due on 26<sup>th</sup> October, 2020.

Five, the Standing Committee of Administration of Law, Justice, Constitutional Affairs, Good Governance and Security. There is a Report on Access to Policy Training and committee mandate. The Chairperson, Hon. Seth Okumu, this report is long overdue.

Sixth, the Standing Committee of Co-operative, Finance, Trade and Enterprise Development. A report on the County Government of Kisumu Financial Statement for the year ending 30<sup>th</sup> June, 2020. The same report has been recommitted to you after amendments have been done by the County Government. I directed that you report back to this House within three weeks.

Seventh, the Standing Committee of Tourism, Wildlife Heritage, Arts and Sports. A report on a Benchmarking Exercise with your sister Committee of the County Assembly of Siaya. The Chairperson, Hon. Habil; Nyasuna, that report ought to have been brought to this House by 31<sup>st</sup> November, 2020. It is long overdue.

Eighth, the Standing Committee of Education and Vocational Training. The committee undertook a Benchmarking Exercise with your sister Committee of the County Assembly of Migori. This report ought to have been brought to the House by 27<sup>th</sup> November, 2020. It is long overdue.

Ninth, the Standing Committee of Public Works, Roads and Transport. The committee undertook a Benchmarking Exercise with your sister Committee of the County Assembly of Bungoma. The Committee ought to have reported back to this House by 08<sup>th</sup> December, 2020. I am aware that Hon. Members were on their Long Recess. It is therefore your time to present this report for discussion and consideration.

Tenth, the Standing Committee of Ward Development. The committee undertook a Benchmarking Exercise with the National Government Constituency Development Fund (N-CDF) in their office in Nairobi. The Chairperson, Hon. Joseph Olale, you ought to have brought this report to the House on the 08<sup>th</sup> December, 2020. Equally, I am aware that we were on the Long Recess, this is the opportune time to bring this report.

Eleventh, the Standing Committee of Planning, Industrialization and ICT. The committee undertook a Benchmarking Exercise with your sister Committee of the County Assembly of Nairobi City. You ought to have brought a report on the 15<sup>th</sup> December, 2020. It is long overdue. I am aware that this is over the long Recess and this is the opportune time to bring this report.

Twelfth, the Standing Committee of Labour and Social Welfare. The committee undertook a Benchmarking Exercise with your sister Committee of the County Assembly of Nyandarua. You ought to have brought a report on the 15<sup>th</sup> December, 2020. It is long overdue.

Thirteenth, the Standing Committee of Welfare and Equal Opportunities. The Chairperson, Hon. Pamela Odhiambo. You undertook a Benchmarking Exercise with your sister Committee of the County Assembly of Siaya. You ought to have brought a report on the 05<sup>th</sup> January, 2021. It is due for submission.

Fourteenth, the Standing Committee of Health, Housing and Sanitation. . You undertook a Benchmarking Exercise with your sister Committee of the County Assembly of Kakamega. This report is supposed to be presented to this House by 21<sup>st</sup> January, 2021. Therefore, it is due for submission.

Fifteenth, the Select Committee of Budget and Appropriations. I believe that, this was combined with that of the General Oversight Committee. The report on the County Budget Review and Outlook Paper (CBROP) which was held in Nairobi, at the Pride Inn Hotel is due for presentation. So, please submit it to the House.

Sixteenth, the Select Committee of Budget and Appropriations. A report on the Kisumu County Valuation Roll which was active in fourteen working days from 23<sup>rd</sup> December, 2020 is due for submission.

Seventeenth, the Select Committee of Budget and Appropriations. A Report on the Kisumu County Social Economic Re-engineering and Recovery Strategy. That report is due for submission.

Eighteenth, the Select Committee of Budget and Appropriations. Report on the Kisumu County COVID-19 Social Economic Re-engineering and Recovery Strategy. I have repeated this that is due for submission. Hon. Members, what I was trying to convey is that, there is no House Committee or no Member, because all the House Committees that I have presented each and every Member belongs to these Committees. So, there is a lot of work to be done and there are pending works and there are a lot of reports that are to be presented to this House. Please, I implore you, all those reports are long overdue and I do direct that you present them to the House Business Committee for scheduling for debate and resolutions made as appropriate.

Hon. Members, I am still wondering what we will do for the House Committees that have not submitted their reports yet we have just resumed from the Long Recess. I believe that you know what I mean but I believe that we will discuss and agree on the best way forward.

Hon. Members, before we go to the next business, I want to recognize the presence of Professor Ayiecho Olweny, the Chairperson, County Coordinating Committee for Orange Democratic Movement (ODM). Please feel welcome.

Again, Hon. Members, I also want to recognize the presence of Mzee Samuel Nyabinda, Secretary, for Orange Democratic Movement (ODM), Kisumu Central Sub-county.

Hon. Members, I also want to recognize the presence of the Fourth Estate and any other Member in the Public Gallery. Please feel welcome.

**The Speaker** (Hon. Oraro): Next order!

### NOTICE OF MOTION

**The Speaker** (Hon. Oraro): Hon. Okumu.

**Hon. Okumu:** Thank you Mr. Speaker. Pursuant to the provisions of the County Assembly Standing Orders No. 45, I wish to give a Notice of Motion on the Report on the Constitution of Kenya (Amendment) Bill, 2020. Thank you.

**The Speaker** (Hon. Oraro): Next order!

### STATEMENTS

**The Speaker** (Hon. Oraro): Hon. Agolla, Chairperson, Committee on Implementation.

**Hon. Agolla:** Thank you Mr. Speaker. Foremost, allow me to thank the Almighty God for bringing us this far. We have been on a Long Recess and we must thank God because we are all alive despite the challenges that we have encountered during the Long Recess.

Mr. Speaker, please allow me while citing the provisions of Standing Orders No. 41 (2) (b) to seek for a Statement?

**The Speaker** (Hon. Oraro): Granted. I affirm that I am in possession of your Statement.

**Hon. Agolla:** Thank you. Mr. Speaker, pursuant to the provisions of Standing Orders No. 41 (2) (b) of the County Assembly Standing Orders, I wish to seek for a Statement from the Chairperson, Standing Committee of Agriculture, Livestock and Fisheries. Mr. Speaker, this is with regards to the death of Nile Perch Species that died in their natural habitat, which is in Lake Victoria which is a fresh water lake in this republic and the world.

Mr. Speaker and Hon. Members, in this republic, it is in the public domain that, the mentioned above has been affected in the entire country and County in various ways.

Mr. Speaker and Hon. Members, under the Fourth Schedule of the Constitution of Kenya, 2010, Fisheries is a devolved function. However, the Research entities which is KEMFRI is still under the ambit of the National Government. Therefore, this is to request the Chairperson to inquire, investigate and report to this Hon. House on the following three thematic areas;

- Why the Nile Perch Species is dying at its Natural habitat?
- What are the findings of the KEMFRI with regards to the death of Nile Perch in Lake Victoria?
- Measures have the National and County Government has put in place to alleviate the crisis?

Mr. Speaker, in addition to that, I represent a Ward which I believe is almost 90% dependent on Lake Victoria and its fishing in particular. My constituents have been affected by this calamity. So, I want to beseech the Hon. Chairperson to move with haste and report back so that we chart the way forward before the matters of this lake are unsalvageable. Mr. Speaker, without much ado, that is my Statement.

Mr. Speaker, again if you allow me I have Statement under Standing Order No. 42.

**The Speaker** (Hon. Oraro): Hon. Agolla, I only have one statement.

**Hon. Agolla:** Mr. Speaker, the other Statement that I want to seek is under Orders No. 42.

**The Speaker** (Hon. Oraro): Please allow me make a ruling on the first one. Hon. Members, I confirm receipt of the statement sought by Hon. Agolla. I want to commit it to the Standing Committee of Agriculture, Livestock, Fisheries and Irrigation. I do direct that Hon. Otura you

dispense off with this matter within a fortnight. I am being corrected that in accordance to our Standing Order we have the Standing Committee of Agriculture, Livestock and Fisheries.

**The Speaker** (Hon. Oraro): Hon. Guya, what is it?

**Hon. Guya:** Thank you Mr. Speaker. I was just reminding you that this Standing Committee also looks at Food Security as part of its mandate.

**The Speaker** (Hon. Oraro): Yes, you are right. I believe that we are dealing with the issues of Fish and I had mentioned it. Hon. Otura is aware that even if I say the Committee of Agriculture, he should know where it is domiciled.

**The Speaker** (Hon. Oraro): Hon. Agolla, you said that you had two Statements because I am seeing senior Members Hon. Okiri and Hon Khan on their feet. Will it be overtaken by events?

**Hon. Agolla:** Mr. Speaker, please proceed.

**The Speaker** (Hon. Oraro): Thank you. Senior Member Hon. Khan.

**Hon. Okiri:** Thank you Mr. Speaker...

*(Laughter)*

**The Speaker** (Hon. Oraro): Hon. Okiri, I have given Hon. Khan.

**Hon. Okiri:** Mr. Speaker, please be aware that, I am more senior than Hon. Khan...

**The Speaker** (Hon. Oraro): Hon. Okiri, I have noticed Hon. Khan.

**Hon. Okiri:** Okay thank you.

**Hon. Khan:** Thank you Mr. Speaker, there is no issue of seniority...

**The Speaker** (Hon. Oraro): Hon. Member, I have looked at the age factor and I know that you are more senior than Hon. Okiri.

**Hon. Khan:** Mr. Speaker, and apart from the experience that I have acquired in politics. Thank you Mr. Speaker. I rise while citing the provisions of Standing Order No. 42 on Personal Statements.

**The Speaker** (Hon. Oraro): Proceed.

**Hon. Khan:** Thank you Mr. Speaker. Foremost, let me take this opportunity to thank the administration of the County Assembly for keeping us in this situation whereby I feel cozy today and I would like to do my best to ensure that at least when I am deliberating, I am not in a hot sun and I am not in a position where I am censored not to talk because of the weather situation. Mr.

Speaker, today I can witness that the House is fitted with Air Conditioners (ACs) and now we can have total business because in the last years we have been suffering. Thank you.

Secondly, the Statement that I would like to make is on the representation of Minority which is a Topical Issue if you may allow me. Mr. Speaker, I want to raise my personal retrospection in the way that the Nubian Community were mishandled by the Kenya Railways Corporations during the evictions of land that they have stayed for over eighty-three years. Mr. Speaker, the most painful bit has been the issue of demolishing a very special and spiritual place of worship that is the Mosque. Mr. Speaker, an issue can be taken on the same without giving adequate notice and especially to demolish a Mosque/Church or Temple is really not good in our position because we are guaranteed the freedom of worship. Therefore, this one, I will bring it up as a Substantive Motion to make sure that, we as the minorities in Kisumu County are dissatisfied and to discourage this acts of barbaric in the strongest term possible and address this issue and equally thank the Member of the County Assembly of this area, the Leader of Majority, Hon. Kenneth Onyango and all the other people and say that we have been in a quagmire on the same issue. Thank you.

**Hon. Agolla:** On a Point of Order. Mr. Speaker, I know Hon. Khan as a staunch supporter of this Government and as a robust supporter of ODM. Mr. Speaker, I have not heard him support or praising or applauding the Governor for having made the effort and measure to restore what has been lost by the Community as a result of the demolitions that took place. Thank you.

**The Speaker** (Hon. Oraro): Hon. Khan, you have been mentioned and I am giving you one minutes to respond.

**Hon. Khan:** Thank you Mr. Speaker. In fact, I have been adversely mentioned. Sincerely speaking, the issue here is that I mentioned the Kenya Railways Corporations. I want to bring all these issues to the County Government for their quick intervention. Therefore, I take this opportunity as has been advised to sincerely thank the County Governor Peter Anyang' Nyong'o who visited the people including the City Manager to sympathize with the affected people and also the ODM as a party to come up with the right decision to ensure that these citizens are guaranteed their place of stay, including the allocation of land that is going to be executed by the County Government of Kisumu. Thank you.

**The Speaker** (Hon. Oraro): Hon. Members, I had earlier noticed Hon. Okiri. Or has it been overtaken by events?

**Hon. Okiri:** Thank you Mr. Speaker. The issue that I wanted to raise has been overtaken by events because it was closely related to what Hon. Agolla raised. Mr. Speaker, if you allow me, for which I am aware that the Standing Orders don't permit because his statement was a global one and when we are talking about Kenya Forestry Research Institute (KEFRI) that directs it to the national government hence I am resuming my seat based on the fact that his statement has been overtaken by events.

**The Speaker** (Hon. Oraro): Thank you Hon. Paul Okiri but kindly note that as a representative of the people of Kisumu County you can as well talk to the national government and report back to the assembly on the inquiries made. Yes Hon. Leader of Majority.

**The Leader of Majority** (Hon. Onyango): Thank you Mr. Speaker kindly let me first applaud the development that's happening in the assembly currently and Members have complained for a long time about unfavorable temperature even in the chambers but we have also seen the installation of the ACs. I was only surprised that Hon. Ogutu did not know that when you have the AC on then you don't need to open the windows.

*(Laughter)*

**Hon Ogutu:** A point of order Mr. Speaker. I have been mentioned.

**The Speaker** (Hon. Oraro): Hon. Ogutu I have not given you time to speak, it is still the Leader of Majority's time. I am aware you have been mentioned therefore I will give you time to respond.

**The Leader of Majority** (Hon. Onyango): Mr. Speaker, we are all in a learning process hence it is not a very big issue my brother. The AC installation has really made the environment very cool and hence we aren't so much inconvenienced.

Secondly, we had a meeting at Ciala Resort here in Kisumu yesterday and the discussion was on the BBI bill, which we are yet to pass. The next step should be civic education on the same and we would want to implore that we resume...

*(Loud consultations)*

**The Speaker** (Hon. Oraro): Honorable Leader of Majority and Hon. Seth resume your seats. Honorable Members I want to direct as follow; that normally when we resume we could probably have statements then we adjourn for purposes of reconstituting the House business committee but I gave the opportunity that when we formed the previous committee we could lay some papers. However, the main purpose for having business today is because it is a special motion on the Kenya constitution amendment bill 2020. I want to request the Leader of majority to hold his statement as well any other Member and I will give each one to air their submissions on statements.

**The Speaker** (Hon. Oraro): Next Order Mr. Clerk

**Clerk at the table** (Pst. David Ochieng): Mr. Speaker and Hon. Members,

#### MOTION

REPORT AND APPROVAL ON THE APPROVAL OF THE CONSTITUTION OF KENYA  
(AMENDMENT) BILL, 2020

PRESENTED BY:

## HON. SETH OKUMU CHAIRPERSON

THE STANDING COMMITTEE ON ADMINISTRATION OF LAW, JUSTICE,  
CONSTITUTIONAL AFFAIRS, GOOD GOVERNANCE AND SECURITY.

**The Speaker** (Hon. Oraro): Yes Hon. Seth Okumu.

**Hon. Okumu:** Thank you Mr. Speaker, I rise to move a motion on the adoption of a report from the public participation on the Kenya constitution amendment bill, 2020 that will ultimately help us in the approval of the bill.

## PREAMBLE

Mr. Speaker and Hon. Members, pursuant to Article 257 (5) of the Constitution of Kenya, 2010, the Independent Electoral and Boundaries Commission submitted the Constitution of Kenya (Amendment) Bill, 2020 on 28<sup>th</sup> January, 2021, to the County Assembly of Kisumu for consideration.

Following a special sitting of the Assembly as per the gazette Notice No. 654, the Committee on The Administration of Law, Justice and Constitutional Affairs, Good Governance and Security on 2<sup>nd</sup> February, 2021 was notified of a committal of the Constitution of Kenya (Amendment) Bill, 2020 pursuant to Standing Order No. 123 (3) read together with Standing Order No. 193 (Second Schedule) of the Kisumu County Assembly Standing Orders for purposes of facilitating public participation on the Bill as per Article 196 of the Constitution of Kenya.

Establishment and Mandate of the Committee.

Mr. Speaker and Hon. Members, the Sectoral Committee on The Administration of Law, Justice and Constitutional Affairs, Good Governance and Security is established under Standing Order No. 193 of the Kisumu County Assembly Standing Orders, whose mandates, pursuant to the Standing Order No. 193 (Second Schedule) are as follows;

*All matters relating to referendum, further Devolution in the County, issues of Integrity, Ethics and Conflicts of Interests including Anti-corruption and Human Rights; ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations in governance at the local level and assisting communities and locations to develop administrative capacity for the effective exercise of the functions and powers and participation in governance at the local levels; administration of law and justice, including working and collaborating with national government operatives within the County especially on security matters.*

The Subject matter of the Sectoral Committee on The Administration of Law, Justice and Constitutional Affairs, Good Governance and Security subject to this report are as stated in the Second Schedule of the Kisumu County Assembly Standing Orders No. 193 and are as follows: All Matters related to a referendum, furtherance of Devolution, Good Governance and the Administration of Law and Justice.

Composition.

The committee as currently constituted comprises the following Honourable Members:

NAME	POSITION
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1. Hon. Seth Okumu	Chairperson
2. Hon. Beatrice Pamela	Vice Chairperson
3. Hon. Jacktone Ogendo	Member
4. Hon. David Arao	Member
5. Hon. Erick Agolla	Member
6. Hon. Julius Genga	Member
7. Hon. Sally Okudo	Member
8. Hon. Ken Ooko	Member
9. Hon. Johnson Guyah	Member
10. Hon. Philemon Ojuok	Member
11. Hon. Joachim Oketch	Member
12. Hon. Roy Samo	Member
13. Hon. Caleb Omoro	Member
14. Hon. Vitalis Otura	Member
15. Hon. Paul Okiri	Member

#### Committee Secretariat.

1. Owen Ojuok - Clerk of the Assembly
2. Harman Moses - Committee Clerk
3. Bill Otieno - Legal Counsel
4. Denis Ogolla - Hansard
5. Kennedy Okise - Serjeant-at-arm

#### ACKNOWLEDGEMENTS.

Mr. Speaker and Hon. Members, I would like to express my special thanks of gratitude to all Members of the Committee on The Administration of Law, Justice and Constitutional Affairs, Good Governance and Security for their valuable contributions during this public participation exercise that ensured the success of the exercise.

I also wish to extend my sincere gratitude to the Members of the County Assembly, the Office of the Speaker and Clerk of the Assembly for their support during the public participation.

I therefore humbly submit this Report for consideration by the House on behalf of the Committee.

#### BACKGROUND INFORMATION

Mr. Speaker and Honourable Members, the purpose of the Constitution of Kenya (Amendment) Bill, 2020 is to amend the Constitution of Kenya to address issues arising from its implementation including the need to:

- (a) resolve issues of divisive elections arising from electoral processes;

- (b) strengthen the structure of devolution and increase resources allocated to the counties;
- (c) strengthen and harmonise specified roles and functions of the bicameral legislature;
- (d) implement economic and social rights under Article 43 of the Constitution;
- (e) strengthen the national ethos by specifying the responsibilities of citizens; and
- (f) promote inclusivity and gender equity in governance.

The proposed constitutional reforms originated from the views of citizens expressed through the Building Bridges Initiative (the BBI). Through the BBI, citizens from all corners of the country shared their concerns and views on issues ranging from their responsibilities and rights, national ethos and responsible citizenship, corruption, productivity and shared prosperity, devolution, divisive elections, ethnic antagonism, inclusivity and security, among others. The Bill focuses on these issues with an objective of promoting a cohesive society and to further the ideals of a united, prosperous and just nation.

Mr. Speaker and Hon. Members, as a matter of procedure, a Bill after the First Reading in the House, and pursuant to the provisions of Article 196 of the Constitution of Kenya read together with Section 87 of the County Government Act, 2012 and the County Assembly Standing Orders No. 123, it is the mandate of the respective Committee to undertake Public Participation so that the views and input of the public are taken into account.

Public participation is both a key promise and provision of the Constitution of Kenya and is instilled in the national values and principles of governance stipulated in article 10.

The provisions of Article 174 (c) of the Constitution Kenyan 2010, provides that one object of devolution is: “to give powers of self-governance to the people and enhance their participation in the exercise of the powers of the State and in making decisions affecting them”. The Constitution assigns the responsibility to ensure, facilitate and build capacity of the public to participate in the governance to the county government through function 14 (Schedule 4 Part 2). As such, county governments are required to:

- a) Create mechanisms of engagement by ensuring and coordinating the participation of communities and locations in governance; and
- b) Build capacity by assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers.

**LEGAL FRAMEWORK UNDERPINNING PUBLIC PARTICIPATION.**

Mr. Speaker and Hon. Members, public participation is a principle that has been given prominence in the Constitution of Kenya, 2010. Article 10 (2) provides that public participation is a national value and a principle of governance. Similarly, Article 174 of the Constitution gives the powers of self- governance to the people and enhances participation of the people in the exercise of the powers of the state and in making decisions affecting them. The principle of public participation holds that those who are affected by a decision have a right to be involved in the decision-making process

The following Articles further buttress the right to public participation: Article 118 (1); 196 (1); and 232 (1) among others. National legislation giving effect to public participation at the County governance include the County Government Act, 2012; Public Finance Management Act, 2012; and, Urban Areas and Cities Act, 2011.

**TERMS OF REFERENCE**

Mr. Speaker and Hon. Members, following the committal of the Bill to the Committee, in accordance with Standing Orders No. 123 (3), the Public Participation exercise on the Constitution of Kenya (Amendment) Bill, 2020 was initiated by the County Assembly in accordance with an advertisement placed in the local dailies, the Star Newspaper and the Daily Nation on 4<sup>th</sup> February, 2020. The advertisement placed in the Local Dailies informed the Public of the intended time and venue for the exercise (see Annex 2).

Article 118 of the Constitution of Kenya, 2010, states that parliament shall;

- (a) Conduct its business in an open manner, and its sittings and those of its committees shall be open to the public and,
- (b) Facilitate public participation and involvement in legislative and other business of parliament and its committees.

The provisions of Section 87 of the County Government Act, 2012 also compels the County Assembly to involve stakeholders in decision that involve them and their input taken into account.

**PUBLIC PARTICIPATION HEARING**

Mr. Speaker and Hon. Members, the Sectoral Committee on the Administration of Law, Justice, Constitutional Affairs and Good Governance and Security in tandem with its mandate as stipulated in Standing Orders No. 193 read together with Standing Orders No. 123 undertook Public Participation on the Constitution of Kenya (Amendment) Bill, 2020. The object of this exercise was to enable the public own

the Bill and also gather views and ensure that public opinion determines the decisions of the Assembly concerning the Bill. In attendance at the Public Hearing were:

1. Members of the Public
2. Civil Society Groups
3. Members of the Fourth Estate

The Objective of Public Participation:

- Informing the public and gaining their views, concerns and values while taking account of their inputs in decision making.
- Obtaining local knowledge and increasing public confidence and enhancing and improving transparency and accountability in decision-making of the County Assembly whose end result is to actualize representation of the people through the Assembly deliberations.

#### MODALITIES AND RULES OF ENGAGEMENT

Mr. Speaker and Hon. Members, the exercise commenced at 10.00am on 5<sup>th</sup> February, 2021 and informed that the public participation exercise would be conducted at the County Assembly in accordance with the Ministry of Health Covid-19 protocols (See Annex ii for Advert). The public was furnished with a copy of the Constitution (Amendment) Bill, 2020 which was the source document for reference upon accessing the venue and in the Assembly's Website.

The rules of engagement were set by Hon. Seth Okumu; Chairperson of the Committee who was also the master of the ceremony.

#### OBSERVATIONS AND FINDINGS

Mr. Speaker and Honorable Members, pursuant to Article 10 (2) of the Constitution of Kenya which provides for public participation as a national value and a principle of governance, the Committee created a program in accordance with the advertisement placed in the Local dailies on 4<sup>th</sup> February, 2021 that defined the time and venue for the public participation exercise.

The Committee in its analysis of the public opinion gathered during the exercise made the following observations and Findings:

##### General Observations

Mr. Speaker and Honorable Members

Members of the public made the following major observations

- i. THAT there is need for prior access of any document for public participation to allow the public have an earlier perusal and retention of the documents subject to public participation.

- ii. THAT the Bill was a positive attempt towards ensuring that developments within the County reaches the common man through the proposal of Ward Development Fund.

#### FINDINGS

Mr. Speaker and Hon. Members

The Committee made the following findings;

1. That the public submitted their approval on the need for a strengthened devolution and that they are in agreement with an increase of revenue allocation to 35% as proposed by the Amendment Bill, 2020 to spearhead rapid development within the Counties.
2. That the solution to problems related to gender equity proposed by the Bill are in order and should be approved without amendment.
3. The public was also in approval of the creation of Ward Development Fund which would be 5% of the County's Annual Budget as this would improve developments closer to the common *mwananchi*.

It was the prayer of the people of Kisumu County that the County Assembly should consider the approval of the Constitution of Kenya (Amendment) Bill, 2020 for onward action by the National Assembly and the Senate.

#### RECOMMENDATIONS

Mr. Speaker and Honorable Members

Following the Committee's interaction with the members of the public and consequent analysis of the public opinion on the matter of the Constitution of Kenya (Amendment) Bill, 2020, the Committee hereby recommends as follows;

- i THAT this Honorable House resolve to approve the Constitution of Kenya (Amendment) Bill, 2020.
- ii THAT the Hon. Speaker pursuant to Article 257 (6) of the Constitution of Kenya cause delivery of the certification of the approval of this Honorable House on the matter of the Constitution of Kenya (Amendment) Bill, 2020 to the Speakers of the National Assembly and the Senate Assembly.

#### CONCLUSION

It is therefore my honor and privilege, on behalf of the Committee on the Administration of Law, Justice, Constitutional Affairs, Good Governance and Security to move a motion of the Report and Approval of the Constitution of Kenya (Amendment) Bill, 2020 before this Honorable House for consideration.

I would like to call upon Hon. Beatrice Pamela to second.

Thank you Mr. Speaker and Hon. Members.

**The Speaker** (Hon. Oraro): Yes Hon. Beatrice Pamela.

**Hon. Beatrice Pamela:** Thank you Mr. Speaker. On behalf of the committee on Administration of Law, justice, constitutional affairs, good governance and security, the draft bill that was presented to this County is a good deal for the people of Kisumu and the country in totality. Mr. Speaker, I believe that everyone has been taken care of in the draft. Other than that, there is cost cutting that is going to be done even in the leadership at the national government. In the current Constitution, we have a situation where the cabinet secretaries are technocrats who are outside of parliament but from the BBI draft Mr. Speaker, we are going to have technocrats who are part of the parliament. In that regard, there will be a reduced overspending on salaries for extra people hence they will be earning just as MPs and cabinet secretaries.

Mr. Speaker, on the issue of gender, which I am quite passionate about, the BBI draft, is already taking care of the issue of mainstreaming gender. The draft is also giving autonomy to county assemblies' fund and this will enable the county assemblies to do their oversight without fear as they will be having their own kitty without depending on the county Executive to transfer funds to them. Mr. Speaker, the kitty is also good to our county because we are going to have a situation where development is brought to the lowest level with the ward development fund. So there will be no reason to hear the outcries of poor infrastructure in various wards. Without much ado, I take this opportunity to second.

**The Speaker** (Hon. Oraro): Honorable Members, now that the motion on the report and approval of the Kenya constitution amendment bill, 2020 has been presented by the Chairperson of the committee on Administration of Law, justice, constitutional affairs, good governance and security, Hon. Seth Okumu and seconded by the Vice chairperson of the same committee, Hon. Beatrice Pamela, I want to propose a question that the report for approval of the bill is open for debate.

**The Speaker** (Hon. Oraro): Yes, Liaison Chairperson, Hon. Joachim Oketch.

**Hon. Oketch:** Thank you Mr. Speaker, I want to first acknowledge the committee's good and prompt effort on the report and it is very clear in the report amid the recommendations what members of the public wanted to include in the draft. Mr. Speaker, the notion that is going round claiming that MCAs haven't read the document is quite untrue as Members are intellectuals and we are conversant with the draft as well as what is at stake. I want to urge our members that it would be lethal not to pass this bill because the fruits of this bill are quite numerous and as an MCA hailing from an area that has been affected by violence in every election year, I want to register my full support of this document.

Mr. Speaker, a clique of people outside here have been identified to oppose this document and it is known that some of these people are often sponsors of violence and have been charged by the High Court and others charged at the Hague to defend themselves against sponsoring violence that killed innocent Kenyans. Mr. Speaker, I want to warn them that this time we are going for peace and that is why our party leader Rit. Hon. Raila Odinga came together with the President Uhuru Kenyatta hence the conception of BBI.

I want to appeal to this honorable House that if BBI was conceived through handshake then I am volunteering to babysit this baby because of the suffering we have witnessed overtime in our area. Mr. Speaker, I want to mention a few fruits that we will receive from this BBI bill; as a youth, there is a provision for the youth commission, which is a fruit for all the young people in this country. What I am going through is whether they consider the tough economic times as well as the meagre salaries that we get. I want to urge our youth to take this because the tax holiday that we are getting and the relief and paying the HELB loan from up to 4 year after graduation is something that they should hold on to.

Mr. Speaker, the two-third gender rule to our women, as I am one passionate person about our women and I love them hence I want to appeal to them that their needs have been factored in thus urging them to take up the bill. Lastly, I want to urge our Members that we should make it reasonable if you don't support BBI because it is for peace. Recently I was in Murang'a and the kind of reception I received was amazing and for that I want to commend our party leader for having chosen peace, otherwise thank you.

**The Speaker** (Hon. Oraro): Yes Hon. Pamela Odhiambo followed by Hon. Aslam Khan.

**Hon. Pamela Odhiambo:** Thank you Mr. Speaker, I stand to support the report brought forth and my reason is majorly because I am a fruit of devolution. When our party Leader Hon. Raila Odinga came up with devolution, so many people opposed his agenda but its idea actually made women rise to power and even be able to legislate as myself. Secondly, the allocation that will be coming to counties that is 35% is going to do greatly transform counties because if we initially we had only 15%, which has worked fairly well in matters of ward development. I want to remind us that the two-third gender rule doesn't only refer to women but both sexes and the narrative should not push the men to vulnerability.

Mr. Speaker, the PLWDs too will be elected and the current chance of nomination of only one PLWD will be increased to 2 people and urge them to support this bill. On the issues of implementation Mr. Speaker, we are having major challenges; and it is similar to a scenario of women waiting for their husbands to come back home with money for food. However, with the BBI we will be having money to budget with.

**The Speaker** (Hon. Oraro): Yes Hon. Aslam Khan. Honorable Members I know that we ought to have agreed on time but because we did not do so I want to request that we limit ourselves to 2 minutes each so that all of us get a chance to contribute. Is it in order?

**Hon. Khan:** Thank you Mr. Speaker, I rise to support the report on the Kenya constitution amendment bill, 2020 because we are going to have regional integration under the new Article of 10a. Consequently, we are going to have the issue of economy and shared prosperity under part 11a which shall be new. In addition, the same second economy supports industrialization and small micro enterprises so that our people can come up with the same. When we are empowering our

people, we need to avoid handouts and work with the nation ethos of ‘One Kenya, one nation’ which will ensure the spirit of oneness where article under 18a will be put into action. The issue of two-third gender rule has been talked about hence we are going to amend article 82 of the same which will give us a competitive election which can make them get to the senate. This amendment will cure the issue of women just ending up in the national assembly but not in the senate.

The equalization fund which will be under Amendment Article No. 204 to increase the lifespan from 20 to 30 years; I believe we have wasted the 10 years that were supposed to be effected on the equalization funds so that all the counties within the country can benefit from the same. And on the County Assembly fund which is the Amendment Article No. 207 will give the Assembly the autonomy and will go a long way to ensure the Assembly does not go to bed with the executive in order to receive funding.

Finally on the youth, the proposed establishment of the youth commission will ensure the youth are empowered so that they are not misused to cause political violence or forced to rely on handouts for survival. Thank you, I support.

**The Speaker** (Hon. Oraro): Hon. Gard Olima.

**Hon. Olima:** Thank you Mr. Speaker. I wish to support the motion. We all know that in the world over, Constitutional making is a work in progress. There is no single day that we will stop and say that we have a perfect Constitution. I therefore want to urge the naysayers that this is just a step – we will do this again and again until we get to where we are mature politically and democratically that we can stand with a single document called the Constitution.

Development needs vary from ward to ward. The needs of Market Milimani ward can be completely different from South West Nyakach ward where I represent. With the coming of the Ward Development Fund, the people of South West Nyakach ward can decide by themselves on what and when and how to do their projects for their own development.

We should look at the main reason why this proposed Constitutional amendment came into being in Kenya. We have had a nation divided right in the middle yet some people are still pushing that agenda. That is why I urge that we nurture this Bill. From here we should begin active civic education for the people to understand what is in this document. Otherwise, I support.

**The Speaker** (Hon. Oraro): Hon. Senior Member, Prisca Misachi.

**Hon. Misachi:** Thank you Mr. Speaker. I was born near the lake. When I look at BBI, the blue economy is now going to be captured in the Constitution of Kenya. That will benefit our fishermen and the entire sub sector. Once included in the Constitution, the national and the county government will now take care of the lake to ensure it is clean and friendly for businesses.

We have been so divided that if we think of elections then we imagine of running battles around Kondele and other parts of the country. BBI proposes to cure this trend of electoral violence. That is why I urge Members to ensure we pass this document immediately. Thank you Mr. Speaker.

**The Speaker** (Hon. Oraro): Leader of Majority.

**Leader of Majority** (Hon. Onyango): Thank you Mr. Speaker. I know Members would have wanted me to speak last but it is also important that I add my voice when there is still time. First, I want to thank the committee that did all the procedural work to ensure this Bill reaches here on time. I also want to thank the party officials who have come to witness as we pass this Bill.

We all recall that before the handshake, this country was on a precipice. Just a little prodding would see us go the Somali way. So I want to thank our party leader and the President who saw the wisdom to come together to save the country.

I support this Bill because it has very useful issues. The increase of the counties' allocations from 15 percent to 35 percent of the GDP will help realize phenomenal growth in our counties. At the ward level, there is now an allocation which is prescribed by the law. It will now not matter whether a Member is pro the governor or not - the development in our wards will be safeguarded by the law. Another important thing in the document is the independence that is going to be there between the executive and the Assembly. Today, the Assembly relies on the executive so much even on simple issues like the cash transfer the Assembly is supposed to use. The independence of the Assembly will strengthen its oversight role which is very critical for the development of this county.

I therefore want to urge my colleagues to pass this Bill and mobilize our people through civic education so that when a referendum comes, we can pass it resoundingly. That is why at this time, I think we should review the Assembly 'Mashinani' that stopped because of Covid because the Assembly Mashinani will give us an opportunity to visit all our wards and interact with our electorates so that we can provide civic education for them. Thank you.

**The Speaker** (Hon. Oraro): let me now go by regions. Kisumu West, let me give Hon. Jagongo.

**Hon. Jagongo:** Thank you Mr. Speaker. I support the adoption of this report. In Kisumu County we have been having a lot of issues. Our people lack employment. With 35 per cent allocations to the counties, I am sure we are going to get job opportunities because there will be enough money to employ our people. The 5 per cent going to the wards will further create employment at the ward level. On the youth commission, managing youth has been a problem in this country. The youth commission will help assist the youth. The seven year tax holidays will also help assist the youth. Thank you Mr. Speaker, I support.

**The Speaker** (Hon. Oraro): Kisumu East, Hon. Steve Owiti.

**Hon. Owiti:** Thank you Mr. Speaker. I support the adoption of this Bill. I urge those opposing the Bill to join the reform team that wants a better country. In the Constitution 2010, there was the introduction of the devolved system of governance which is the Devolution Act. We have faced a lot of challenges in trying to implement the Act. This Bill proposes to strengthen devolution and boost regional economies. I support the creation of the County Assembly Fund which will give the Assemblies the autonomy to do their oversight role. Second is the introduction of Article 207 (a) which is creating the Ward Development Fund. Having been the Chair of the Budget Committee in this Assembly, we have had serious issues to do with the budgeting process and one of the issues has been negotiations and renegotiations of the ward development kitty. Now that that the Bill captures this allocation, I don't think it is something any sane Kenyan would want to oppose. Thank you, Mr. Speaker.

**The Speaker** (Hon. Oraro): Nyando, I give Minority Leader Benny Pete Oiko.

**Hon. Oiko:** Thank you Mr. Speaker. The BBI is a good document and there is no reason somebody would want to oppose it. They are talking of corruption; they want to curtail corruption in Kenya. In this line, how is the BBI going to fight graft? On procurement, the Bill proposes that you only procure when you have the money allocated; when there is no money, you don't procure. And when you procure and you don't pay the money that was allocated for it, then you will be in for it. Accountants are also being warned to spend the money appropriated carefully because in case of any misappropriation, they will be held liable. This will control the issue of pending bills...

**The Speaker** (Hon. Oraro): Hon. Paul Okiri who do you want to inform?

**Hon. Okiri:** I want to inform the House.

**The Speaker** (Hon. Oraro): Proceed.

**Hon. Okiri:** Mr. Speaker, with your kind ruling, you did mention that we will be using two minutes...

**The Speaker** (Hon. Oraro): I am actually timing, Hon. Okiri. You are the one taking the time for Hon. Oiko.

**Hon. Oiko:** Hon. Paul, the position of the Leader of Minority is equal to the position of the Leader of Majority.

*(Applause)*

**Hon. Oiko:** Mr. Speaker, there are only two issues raised in this document. The Constitutional offices have had problems in this country. When the former Chief Justice Dr. Willy Mutunga was retiring, he retired slightly early to give the country time to start looking for another Chief Justice. Justice Maraga decided to finish his term. When former Chief Justice Mr. David Maraga wanted to hand over the power to his Deputy Chief Justice, there was absolutely nothing. We are now

being told that we have a loophole here when it is specific that in the constitutional offices, the replacement starts six months after the retirement of the instrument. That is very specific and there is no need of beating around the bush.

On the oversight role of the Assembly, we have always assumed and I do not want to ask some other executive officials. It will be seen like we are going overboard. We are being told that the Governor will be accountable to the Assemblies. The oversight of the Assemblies is enhanced...

**The Speaker** (Hon. Oraro): To the Leader of Minority, you have to conclude.

**Hon. Pete:** Thank you Mr. Speaker sir. I think I have aired my view.

**The Speaker** (Hon. Oraro): Thank you let me now consider gender by giving a chance to Hon. Otiang.’

**Hon. Otiang’:** Thank you Mr. Speaker sir. I am so elated today and I think I am one of the happiest Hon. Member to serve in the current regime, because, we are going to pass a very important document of the Constitution of the Country Kenya. Independence is very good. When you want to do an oversight role and you are given independency, you will have a feeling of doing your work very well. I think this document is going to give us a lot of freedom and positivity to do our oversight role.

I want to thank God because of the wisdom of coming together between the President of the Republic of Kenya His Excellency Hon. Uhuru Muigai Kenyatta and the Right Hon. Raila Amollo Odinga; our beloved president in waiting. It came at the right time. We as members of the Kisumu County Assembly are the people who are going to enjoy doing businesses in this country. We will be coming up with the leadership position very strongly. Our oversight role is going to be enhanced in this.

I want to echo on what Hon. Steve said, that there are people in this country whose main agenda is to oppose. Even the good gains that we have, they want to oppose without a reason. They do not want to come out strongly and say that we are opposing this so that we have a NO and a YES. When we dare them to say NO, they do not want to say NO, instead, they just say that the document is bad. They have not even read the document because after reading this document, you will surely say that it is a good one.

In terms of gender, it is really going to upgrade the gender parity but at least we are not going to have gender issues again. And as a woman, I am going to urge fellow women in Kenya specifically from Kisumu County to come up and fight for these positions. It is now clear that you can fight and get a chance to be elected and in turn become a good representative. Otherwise I stand to support and thank you for the chance.

**The Speaker** (Hon. Oraro): Let me given Hon. Olale.

**Hon. Olale:** thank you Mr. Speaker...

**The Speaker** (Hon. Oraro): To Hon. Olale, before you precede, Hon Ogutu, I will give you a chance to speak by considering the disability issue.

*(Laughter)*

**Hon. Olale:** Mr. Speaker, first of all, I would like to congratulate the Administration of Law, Justice, Constitutional Affairs and Good Governance and Security Committee by coming up with a comprehensive and good report. Mr. Speaker I would also wish to thank the general public who came for public participation. The public participation that was conducted was done by very young people of Kisumu County meaning that the youths are in support Mr. Speaker.

Mr. Speaker I want to support this document because, the youths from my ward (Nyalenda B), Kondele ward, Nyalenda A ward and Obunga (Railways Ward) are victims of circumstances; After every five years, during an election period. The young people from the named wards tend to suffer by being either killed having bullets logged in their bodies. But, when we have unity whereby there is no violence after an election, it is going to boost the youths who are being affected by post-election violence.

Mr. Speaker, we have a lot of intermarriages but after every five years, people tend to go back to their region because of being from a particular tribe. But, this document unites everybody whereby nobody will go back to their region during election.

The MCAs of Kenya tend to be innocent victims of circumstances. What do I mean by that? You tend to be blamed of either awarding tender which you were not even in the Tender Awarding Committee. You are blamed of the shoddy project whereby you, yourself are not doing the projects. This time round, we are going to oversee these projects within our wards and the money is going to be allocated to these projects. I give my 100% support for this document, thank you Mr. Speaker.

**The Speaker** (Hon. Oraro): Hon. George Ogutu!

**Hon. Ogutu:** Thank you Mr. Speaker...

**The Speaker** (Hon. Oraro): Hon. Erick Agolla you know we need to balance the debate of this House. If I give a chance to Hon. Ogutu, you should understand, but I have noticed your intention to speak.

**Hon. Ogutu:** Thank you Mr. Speaker sir for recognizing people with disability in this Honourable House. I think this is one of the pillars in Building Bridges Initiative Report (BBI). For that recognition, I want to thank you very much on behalf of the people with disability.

Mr. Speaker today is a very important day and I think the Leader of Majority focused on a nonsensical issue of opening a window. Mr. Speaker, this is your ward and that has been said severally. But, I am not surprised because I am seeing you having Project Management Committees (PMCs) lead by Hon. Leader of Majority whom is very happy.

Having said that let me go back to the issue at hand. If it is anything to go by, then it is the people living with disability who are very happy with this document once it is adopted. It has been echoed by some Hon. Members here that there will be specific seats for the disabled people. Now I am not worried because I will vie for the seat for the people with disability. It is therefore very important for us to pass this document.

If 30% of the budget allocation can come to the County and eventually each ward to get 5%, I believe we are going to change our wards. Even if I am elected as people living with disability, or elected normally the way I was, I believe I am going to develop my ward (West Nyakach) in a very good way.

There is a section which talks about the youths. Our youths are well taken care of in this document. I do not want to waste time because other Hon. Members also wants to contribute on this motion concerning this very important issue. With those few remarks, I support this document to be passed like yesterday, thank you Mr. Speaker sir.

**The Speaker** (Hon. Oraro): Let me go to Seme Sub County and give a chance to Hon. Samson Ameso.

**Hon. Ameso:** Thank you Hon. Speaker. First and foremost I want to appreciate my brother; the chairperson for the committee for a good job done.

On behalf of North Seme Ward and Seme Sub County in particular, I want to say that we are in support of this Bill. Most of the problems that have been happening in our wards and the county at large have been echoed and assumption is in this document, and that is why I stand to support this document.

One of the things that has been lagging behind and also damaging the economy of this Country is corruption which is well captured here; how the procedure of handling the economic crime and those who will engage in corruption is well taken care of here Mr. Speaker. I believe that the loss of Kshs 2 billion in a day will be something of the past.

I want to believe that we will be having another Europe in other wards as we are witnessing here in the Kisumu CBD. It will be extended in the wards because of the proposals in the document. If there is something worth celebrating, is this document. I want to plead with the Hon. Members not only here in Kisumu County Assembly, so that we achieve the above 24 Counties in support of the document. With those few remarks Mr. Speaker, I support.

**The Speaker** (Hon. Oraro): Hon. Bishop Atieno.

**Hon. Atieno:** Thank you Mr. Speaker sir, I just want to narrow myself to one area that really affects the MCAs and our wards Mr. Speaker sir. If you go to the statistics of how many MCAs were re-elected you will be amazed. Same applies to the MPs. We are the innocent victims of circumstantial exposure to a very bad constitution. In African context, you cannot elect a leader and fail to give him the resources to serve his people. If you go to our wards and ask anybody the CEC for roads, no one will mention for you the name. But, if you ask them the name of their MCA, all of them knows.

So, when the roads are bad, it is us, when the water is not available for the community, it is us and everything bad happening at the ground, it is the MCA. So, according to them, it is us whom are having the resources to do development for them at the grass root level. Unfortunately, the constitution of Kenya 2010 rendered us to mere spectators of the distribution of the resources. We do not have any voice when it comes to the distribution of the resources.

**The Speaker** (Hon. Oraro): Conclude.

**Hon. Atieno:** I believe that by the ward development fund that is envisaged in the BBI, most of us are going to make it back because we have been empowered and that is what our electorates expects from us because the people known as CECs are not known by them rather than us the MCAs. So, this issue of electing people who serve for one term and then voted out is going to be a thing of the past.

**The Speaker** (Hon. Oraro): Conclude

**Hon. Atieno:** Thank you Mr. Speaker sir, I just wanted to dwell on that so that the whole world may know that we have never gotten the opportunity have the ward development fund.

**The Speaker** (Hon. Oraro): Hon. Agolla.

**Hon. Agolla:** Thank you Mr. Speaker because finally you have recognized me. As a member of the committee which was entrusted by the Bill to do public participation and compile a report. I want to thank my able chairperson Hon. Seth Okumu and for the interest of time, allow me to say one or two points.

Mr. Speaker, this nation was bleeding and we have not forgotten that. Because of the handshake which has resulted into the amendment of the constitution of Kenya 2010. This House is a product of a constitution amendment and that is why we are here as legislators. I want to say this because I believe that the same architecture, the same author who brought to us the constitution of 2010 is the same person bringing us this amendment Bill 2020. The only thing I and the Kisumu south west people whom I represent fully support in this amendment is that we have been crying foul of lack of resources. It has been a challenge when it comes to the resources that has been devolved

and partially is at the central government. The BBI is going to ensure that after the flow of resources and functions from 15-35 % of the national budget, definitely leaders are going to get easy time.

Finally, as we speak, we are crucifying hon. David Arao as the chairperson of ECD, Adult Education and Vocational Training. He seeks answer from the executive. The BBI is proposing that we are going to have 50% of CEC members from these members. We would be able to get answers effectively for our oversight role. Without much ado, I want to join other Kenyans in support of the constitution amendment, thank you.

**The Speaker** (Hon. Oraro): Hon. Arao, senior member, I have noticed you but I was trying to balance the region. I have given Hon. Arao.

Hon. Arao: Thank you Mr. Speaker, I also as a member of the committee I want to thank the chairperson for the report that has been brought to this House. I believe that many counties will pass this document.

When you concentrate on our contributions, I just want to make sure that the world captures what we are talking about are not hearsay. Clause 53 of the Bill proposes to amend Article 207 (Revenue Funds for County Government). To provide for an Act of Government to establish “a county assembly funds” as one of the funds in a county. Mr. Speaker, Clause 54 of the Bill proposes to insert new Article 207A (Ward Development Fund) and this is what the majority of the MCAs were talking about. Finally, Clause 50 of the Bill proposes to amend Article 203 which further increases the funds allocated to the County Government FROM 15-35%.

Mr. Speaker this shows the world that we are not just supporting the document without having read accordingly.

And therefore without repetition, I would like to tell the president of Kenya and the entire nation that Rt. Hon. Raila Odinga cannot do the donkey job for the opposers to come and enjoy. We are sure that this document is going to pass and the only person who can implement it is none but him. Therefore, after it has been passed, let those who opposed it to take the opposition side, thank you and may God bless you.

**The Speaker** (Hon. Oraro): Let me give Hon. Olwal then Hon. Seth Kanga. Senior Member, I have notice you.

**Hon. Olwal:** Thank you Mr. Speaker for giving me this chance at long last. I was a friend of the committee and this motion interest me so much the most being that I represent the most metropolitan wards in kolwa (Kolwa Central). We have small ethnic communities around that place including the Nubians. In as much as the Nubians come from Miwani in Muhoroni. Most of them are my voters and most of my allocations go to them. This Bill that we are about to approve will give us as a Nation the opportunity to have a National cohesion and inclusivity. I was one of

the victims of 2007 post elections violence. I experienced the violence in Isebania and fled to Kisumu and unfortunately my wife's ID name was Anne Wairumu and so we were again chased from Kisumu. I believe that this Bill will give Kenyans the National cohesion that we have always desired and I wish that when I go home today I will be comfortably calling my wife Wairimu.

Mr. Speaker, of most importance is that I was elected on an ODM ticket based on the values of ODM as entrenched in the Constitution in section 4 (3) (1) especially on social and economic justice freedom with responsibilities that this same draft Constitution Amendment gives the citizens more responsibilities than just a Bill of Right. Thank you.

**The Speaker** (Hon. Oraro): I had committed to give Hon. Kanga.

**Hon. Kanga:** Thank you Mr. Speaker. First of all I want to congratulate my friend Hon. Seth Okumu for taking us through the document in this House and associate myself with the sentiments of the Hon. Members in this House. We have been taken through this document in different fora especially last week when we attended the ODM MCAs meeting at the Bomas of Kenya and yesterday when we attended the lower Nyanza leaders' consultative meeting. It was witnessed as ODM fraternity it is the wish of the party that we pass this document because it is a document which is good for the country. You remember in 2010 when we were campaigning for this document with the party leader and the former President Kibaki it was said that there was some parts of the 2010 Constitution which were poisonous and Raila did say that let us pass the document, experiment it then we will do amendments or Constitutional changes where necessary.

We have indeed experimented it and now it is time to amend it to conform to the challenges that we have faced. Going by the contributions of the Hon. Members it is evident that we are going to pass this document and my plea is very simple starting with you as you sit in the Speakers' forum; as the arbitrator of different Houses I would like to urge you to talk with your counterparts so that they stir this process. We have the Majority Leaders' forum where the Majority Leaders do hold meetings; they should use their connections so that we as the Assemblies pass this document as many as possible. The same goes to the Leader of Minority, the Majority whip. We also have our Members who represent us in the County Assembly forum where Hon. Ageng'o and Hon. Okudo representing us there. We should use those for a to lobby Members in different County Assemblies so that this document is passed in the 47 County Assemblies so that it is seen that all County Assemblies are in conformity with this Constitutional amendment. Otherwise I don't have much to say but wanted to add my voice towards this document so that I may go in history as a representative of Market Milimani who contributed in the process of amending the Constitution. Thank you.

**The Speaker** (Hon. Oraro): I am seeing the numbers increasing. Hon. Okiri has stood for a long time and he is a senior Member then I will give Hon. Ngeta thereafter Hon. Olang'o. Yes Hon. Okiri.

**Hon. Okiri:** Thank you very much Mr. Speaker. As you can see the mood of the House West Kisumu, Seme Sub-County, Kisumu Central, Nyakach, Nyando and Muhoroni have all spoken and in this regard may I call the mover to reply.

**The Speaker** (Hon. Oraro): What is it Hon. Kanga?

Hon. Kanga: Mr. Speaker we have to go by the traditions of the House. Hon. Okiri has contributed towards this matter so it will be prudent to call another Member...

**The Speaker** (Hon. Oraro): Hon. Kanga, I rule you out of order, Hon. Okiri has not contributed but he only made his statement. I think I don't need to make reference on that because I am very keen that he has not contributed but again going by what I have seen when Hon. Okiri raised that matter I think it is only important when I go by the demands of the Members and call upon the mover of the motion to reply.

**Hon. Seth Okumu:** Thank you Mr. Speaker. Kisumu County Assembly is going on History for making recommendations on changing the Constitution today. Mr. Speaker I want to remind and encourage them that no Constitution in the World has been made once and they have gotten it right. I was reading that the Constitution of the USA which we consider to be the top most in democracy has been changed 27 times; the one for France has been changed 23 times and even South Africa that started their Constitution in 1994 have done 17 amendments by 2013. It is not unique that Members are agreeing that we need Constitution amendment and they are agreeing and they can articulate so well without even our report.

Mr. Speaker, anybody who doubted the reason why Kisumu County Assembly will approve the Bill will listen to the contributions of the Hon. Members in this House as you bring it there and why you feel that these amendments are necessary. It is not time for us that after passing this Bill to go and sit free but it is time for us to go and talk to those Counties who have not passed it so that they can equally pass it because you know so well that we need 24 Counties for us to have a referendum on this amendment Bill, 2020 of the Constitution. I want to request the Hon. Members that as you pass this one today and I believe that you are going to please leave this House knowing that we have to leave and reach the other Counties who are supposed to pass this Bill so that our dreams can become a reality. Otherwise Hon. Speaker and Hon. Members I want to thank everyone that have contributed and request that as you put the question that they pass the Bill so that we become the second County after Siaya County in passing the Kenya Constitution Amendment Bill, 2020. Thank you.

**The Speaker** (Hon. Oraro): Hon. Members I want to provide that the process that started early this month of February 2021 when the Constitution Amendment Bill, 2020 was laid in this House during a special sitting vied gazette Notice No. 654 with commitment to the committee of law, Justice, Constitutional Affairs, Good Governance and Security followed by numerous public participation. One held here at the Assembly precincts and another one being regional at Ciala

resort yesterday 8<sup>th</sup> February 2021 where over 200 delegates from 4 Counties that is Kisumu, Siaya, Homabay and Migori attended and today 9<sup>th</sup> February 2021 whereby the indulgence of the House the report on public participation was tabled, notice given, motion on adoption of the report and approval of the Constitution Amendment Bill, 2020, presented by the motion being proposed by Hon. Seth Okumu the Chairperson of the committee of Administration of law, Justice, Constitutional Affairs, Good Governance and Security, seconded by Hon. Beatrice Pamela, debated and therefore it is time that I put a question on the adoption and approval of the report on the Kenya Constitutional amendment Bill, 2020.

*(Question put and agreed to)*

**The Speaker** (Hon. Oraro): The Constitution Amendment Bill, 2020 is hereby approved by the Kisumu County Assembly today 9<sup>th</sup> February 2021 at 1711 hours. Pursuant to the provisions of article 257 of the Constitution I shall course the certification of the same to the Speaker of the National Assembly and the Senate as appropriate. I want to direct the Clerk to kindly ensure that the Hansard report is ready as soon as possible so that we convey the same to the National Assembly and Senate for further action.

**The Speaker** (Hon. Oraro): Next Order!

**ADJOURNMENT**

**The Speaker** (Hon. Oraro): There being no any other business to transact I want to refer ourselves to Standing Orders No. 154 (2) which states that;

*‘(2) The County Assembly Business Committee shall be appointed within seven days on assembly of a new County Assembly.’*

In this case we consider the new session for new Members of House Business committee and in that regard the House stands adjourned to Tuesday 16<sup>th</sup> February 2021 at 2.30 p.m. kindly note that we are having a press conference immediately after this session.

*(House rose at 5.19 p.m.)*

*Addendum*

**Hansard Reporters**

<i>Zablon Otiende</i>	-	<i>In-charge, Reporter</i>
<i>Edward Odanga</i>	-	<i>Reporter</i>
<i>Patrick Okoyo</i>	-	<i>Reporter</i>
<i>Jackline Otieno</i>	-	<i>Reporter</i>
<i>Fanuel Okode</i>	-	<i>Reporter</i>
<i>Jesca Otieno</i>	-	<i>Reporter</i>
<i>Dennis Ogolla</i>	-	<i>Reporter</i>

