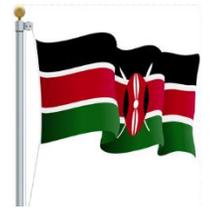




## **Recommendations to the Building Bridges Initiative (BBI) by The Diaspora National Assembly (DNA) and Kenya Patriotic Movement (KEPAM)**



**These proposals to the Building Bridges Initiative (BBI) were collated from Members of two Diaspora lobbies- The Diaspora National Assembly (DNA) and Kenya Patriotic Movement (KEPAM) whose members are domiciled in Europe, Asia, Africa, Oceania, South and North America.**

Our attention is drawn to the ongoing efforts to amend the 2010 Constitution of Kenya through the Building Bridges Initiative (BBI).

As Kenyans in the Diaspora, it is our strong conviction that the recommendations (inputs) the BBI will gather from Wananchi to pave the way for a Constitutional amendment bill and thereafter a referendum, should come from Kenyans of diverse backgrounds including the Diaspora.

Our Constitution should represent not only who we are, but the best of who we could become. The interests of all Kenyans, therefore, is paramount and **MUST** be considered irrespective of where they reside, their creed, social, political or status in the society.

The Kenyan Diaspora community feels that this process has not been inclusive enough and that the implementation of the recommendation thus captured in the current BBI report fail to adequately capture and address the main concerns of those in the Diaspora.

It is imperative that any efforts geared towards benefitting all Kenyans should factor the views of the Diaspora community whose contribution to the development of Kenya is unsurpassed.

While the BBI team's mandate has been extended and officially gazetted to begin its second leg of gathering views through citizen participation, the diaspora is not amused with its composition since not even a single representative from the Kenyan diaspora sits in the panel to represent the views of Kenyan domiciled abroad.

The first phase of the BBI Report completely failed to clearly spell out Diaspora concerns and how they would be addressed as partly highlighted in the existing Diaspora 2030 development policy that is yet to be effected.

It is against this backdrop that the Diaspora National Assembly (DNA) a consultative body that mirrors the Kenyan National Assembly, whose representation spurns across the United States , Europe , Canada and Asia and whose main objective is to deliberate on

issues affecting its members living abroad, hereby presents preliminary but not final proposals for consideration by the Committee of Experts as they modify and draft a revised BBI report.

The DNA stands ready to actively engage in this process by collating and sharing diaspora concerns and inputs on issues that affect all of us including corruption, service delivery, unemployment among many others. Besides, the issue of duo citizenship needs to be clear since many Kenyans have taken up citizenship of different countries where they are domiciled.

It's our humble opinion that we feel the country is not headed in the right direction; In order to avert an imminent collapse of the systems that once worked perfectly well, we are pleased to provide our inputs and suggestions on how to improve the situation.

We believe that this is work in progress. Kindly receive the initial collective views of the DNA and other diaspora affiliate organizations. We entreat you to consider the issues highlighted hereunder as you begin the second leg of relooking at the BBI Report.

### **What are the principal concerns of the DIASPORA community that should be considered in the BBI process?**

Excerpts of the BBI report page #10 regarding the existential threat of ethnic antagonism and competition to the country's success its continuity. The Taskforce calls for the country to do away with a winner-take-all model for the Presidency and opt for a more consociational model that works best for ethnically divided societies.

### **OUR VIEWS**



- We are greatly concerned with recommendations for a Grand Coalition-style government as it has the inherent potential to weaken and ruin opposition party politics. The existing Presidential system can be retained so long as measures are put in place to ensure that the key ministerial decision-making processes and personnel represent the true face of Kenya. Considering that all these clauses are accommodated in the 2010 Constitution, all that is needed is to strengthen and enact the necessary Laws make them operational.



- We agree that all political parties should also be compelled to reflect the Face of Kenya in ethnic, religious, regional, and gender terms. Individual Kenyans should be educated, exposed, and incentivized to respect ethnic and religious diversity, and this principle should be reflected in the Public Service.



- In addition, the per capita share of national resources for every Kenyan should be carefully balanced to account for every Kenyan being treated equal and fairly, as the Constitution makes it clear, while ensuring that those who have been marginalized in the past, or are being marginalized presently, be given extra help where they need it. We strongly believe that an effective Devolution form of Governance is needed; and one that would address the problem of marginalization. Individuals charged with the responsibility of managing county



funds should be subjected to stringent oversight to ensure that the funds benefit those who are at the grassroots (Mashinani).



- BBI states that Regional integration should be accelerated to change the ethnic calculus of our politics with the East African Community (EAC) project to achieve political federation following confederation being accelerated. The Diaspora view is that, EAC integration can only be realized after each and every member state puts their house in order. As Kenyans, we still have a monumental task of creating trust and harmonious coexistence amongst different ethnic communities.



- The taskforce talks of deepening our unity, and recommends that the President, as the symbol of national unity, should benefit from the private advice of eminent, experienced, and honorable citizens serving in a Council of Advisors on a non-salaried basis. We strongly feel that this should not be the case because as a democracy, political parties form government and a party in power typically has a manifesto that stipulates a set of beliefs and policy statement that differentiates it from the opposing party. So, the idea of creating a council of advisors in the constitution has a potential to hinder the efficient implementation of the government policies already set up. In short, this seems like a creation of additional layer of bureaucracy in government, it is ill-advised and should be eliminated in the final draft.



***Besides the foregoing observations, the Kenyan Diaspora hereby provide our most urgent needs that ought to be included and clearly specified in the BBI final draft.***



- 1) Create a Diaspora Constituency as a way of empowering the diaspora community politically in recognition of their financial contribution to the Republic. Eliminate the Clause in the 2010 Constitution that bars holders of dual citizenship from running for a public office. Compelling a dual citizenship holder to renounce citizenship of an adopted country is a violation of one's democratic rights i.e. freedom of association and travels.



- 2) Create the Ministry of Diaspora Affairs as is the case with many newly industrialized nations, including the Asian Tigers, Israel and India. The function of such a ministry would include deepening Kenyan culture abroad and extending government services to the diaspora community. It is strongly recommended that individuals with firsthand diaspora experience be appointed to head the Ministry.



- 3) To stem brain drain, the Government should give priority to qualified members of the diaspora that may wish to serve in relevant public offices, including as managers and technical experts in parastatal bodies.



- 4) On Diaspora remittances and returnees, we recommend the scaling down of remittance fee along with creating incentives for the diaspora to save and invest back home. We also suggest that the government Fastracks cargo clearance at the port of Mombasa as well as scrapping custom duty on items Kenyan returnees are bringing into the country like vehicles and other personal items.



- 5) Eliminate redundant and dysfunctional county ministries that do not address the main needs of their counties. For instance, there is little value for Nairobi and Mombasa counties to have the Ministries of Agriculture, Livestock and Fisheries. Counties should only have ministries that are connected to functions that are partially or fully devolved.



- 6) Replace CDF with Ward Development Fund under the oversight of ward managers and ward development committees.



- 7) On the fight against graft, all appointed and elected officials charged with corruption should step aside pending conclusion of cases in court. On the other hand, the Kenyan diaspora proposes that all elected or Appointed public servants found guilty by a court of law, to have illegally acquired property belonging to another Kenyan by virtue of their positions (assumed or political power or influence) should be barred from holding any elective or appointive public office.



- 8) A bachelor's degree from a reputable institution of higher learning should be the minimum requirement for county and national Cabinet Secretaries and Members of County Assemblies.



- 9) Prime Minister Shall not be a nominated Member of parliament but an elected member of Parliament. Must be of the opposite gender to that of the President.

- 10) For purposes of accountability and efficiency in the national assembly, members of Parliament should clock in and out and paid based on the hours worked. This will reduce untidiness and enhance accountability.

- 11) **Right to Citizenship for those in Diaspora.** The Constitution of Kenya 2010, Chapter 3 (14) (1) provides that a person is a Citizen if at the time of birth either parent was Kenyan. The Diaspora is glad to observe that Dr. Miguna Miguna became the Citizen of another country before promulgation of the 2010 Constitution and lost his Kenyan Citizenship. However, on 14 December 2018, the High court of Kenya ruled that the state has grossly violated Dr. Miguna's constitutional and fundamental rights such as his right to citizenship by birth, which it ruled he did not lose, and the state could not terminate.

**12)The Voting Rights of those in Diaspora.** According to Section 38 (3) (a), every adult Citizen has a right to be registered as a voter and to vote in any election or referendum. The government has continued to deny us our right to vote by not facilitating our registration as voters and by not coming up with a system through which we can participate in the electoral process.



**13)Candidacy for Public Office.** Section 38 (3) (b) gives all citizens rights to be candidates for public offices. This includes those of us in the Diaspora. We should pressure the government to make this a reality. In fact, Section 83 (3) states, “administrative arrangements for the registration of voters and the conduct of elections shall be designed to facilitate, and shall not deny, an eligible citizen the right to vote or stand for election.” The continued denial by the current administration of right to vote and/or stand for election is in violation to the Supreme law.



**14)Right to Fair Administration.** Section 47 (1) guarantees us the freedom to Fair administration action. It states: “every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.” We and our children have continued to be subjected to unfair administration by being made to travel all the way to Washington DC to be able to access basic services like ID, passport, etc. They also make it difficult even to apply online because they put a requirement that we must have a Kenyan phone number to transact.



**15)While members of Parliament and any other constitutional bodies may wish to raise their salaries and allowances, include a clause that says such increases can only be realized by the next Parliament. This will deter greed and selfishness, as is the case with the US Congress and State Assemblies.**



**16)The Kenyan Diaspora recommends that the BBI consider we reduce over-representation to address the bloated wage burden, which affects the funding of development projects at the national and county governments. Our country has a bloated legislature. There is no logic why a nation of less than 50 million people should have 358 Members of Parliament and 67 Senators. Constituencies with less population should be merged. Radical as it may sound, it will be ideal to reduce the number of constituencies by fusing small ones. We also need to consider abolishing all nominations slots for MCAs, MPs, Senators, and the position of women representatives.**





***“One of the benefits of a properly functioning democracy is  
Minority rights and majority rule.” Noam Chomsky***

**Prepared and compiled by the following officials of the Diaspora National Assembly  
(DNA) and Kenya Patriotic Movement (KEPAM)**

1. Dr. Isaac Kinungu Gitau - President – DNA
2. Mr. Joseph Lister Nyaringo - President -KEPAM
3. Prof. Luke Nyakiti – Member- DNA
4. Mr. Albert Musasia Chief Whip- DNA - SG- KEPAM
5. Mr. Mutuma Kaliiba – Member-DNA
6. Prof. Frankline Onchiri-Chief Advisor-KEPAM
7. Ms. Edith Kariuki – Member- DNA
8. Mary Jacinta- Member-KEPAM-Germany
9. Mr. Samuel Njuguna – Member- DNA
10. Mr. Kuira wa Kabiru -Member -DNA
11. Mr. Joseph Opiyo- Representative-KEPAM-Europe

**Contacts of The Technical Team**

Dr. Kinungu Gitau

+1 (404) 966-8550

[DNA254@gmail.com](mailto:DNA254@gmail.com)

Albert Musasia

+1 (832) 284-5812

[ma\\_obulukhu@yahoo.com](mailto:ma_obulukhu@yahoo.com)

Joseph Lister Nyaringo

+(182)-215-8744

[speak4all@gmail.com](mailto:speak4all@gmail.com)