

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



Garissa Regional Forum

Lantern Resort, Garissa
December 9, 2020



1. Introduction

a) Opening and welcome

Session started with a word of prayer and welcome remarks from the Convener, Garissa CSOs Network followed by a round of introductions from each participant.

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

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

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

Expanding the scope for PBOs and citizens to engage with the BBI Report for the continued transformation of Kenya's economic, political and institutional governance is an extension of the first project *Strengthening Civic and Democratic Space through the Implementation of the Public Benefits Organizations Act (2013)*. Whereas this latter project sought to secure a more robust and facilitative policy, regulatory and operational environment in which citizens and their organizations can become proactive actors in the ongoing efforts to bring about **fundamental transformation of Kenya's democratic infrastructure**, protect human rights, strengthen democracy and build prosperity for all in the country, its extension was focused on multi-sectoral engagement in which Civil Society targets key actors and institutions such as Parliament, IEBC, Political Parties, State Law Office, BBI Steering Committee among others to engage with electoral and governance reforms. The scenarios project seeks to prepare Kenyans for different scenarios that may occur in lead up to the elections and inform them on how to build the momentum for continuing **electoral, economic and institutional/governance** reforms as well as enhance CSO accountability mechanisms on electoral and governance reforms including the BBI initiative. The main project facilitated dialogue between PBOs and government stakeholders to develop rules and regulations for the PBO Act, prepared PBOs for the new PBO regime through modelling and scaled up advocacy on commencement of the Act. All this was taking place on the back of the Building Bridges Initiative that was proposing amendments to the Constitution following the handshake between the President and the opposition leader his challenger in the controversial 2017 election. Given the dilemma the country has faced every time there is an election the project team found it useful to engage an external scenarios study consultant to undertake such a study as possibilities of a divisive referendum, a troubling transition election and the unprecedented impact of COVID that had

hit the world presented a worrying future. The consultant would be accompanied by a reference group of select stakeholders to backstop the process and the project team would organize 7 regional scenarios workshops to get the pulse of what different regions feel about BBI and the proposed referendum. This is the sixth regional forum targeting select stakeholders from the Counties of the Northern region.

2. Forum Proceedings:

- **A brief facilitated Conversation on BBI**

- BBI though controversial has made proposals whose intentions could be positive or negative however the versions seem to be multiple and its not really clear which one is legitimate
- Of the many proposals the increase of devolved sharable of revenue increasing from 15% to 35% stands out even though even the 15% has not been coming through. The ward fund is not practical
- The proposed 70 new constituencies seem to target only one region
- The BBI report is complicated and is undergoing changes along the way. It may be geared to reward certain persons and create opportunity for a few. With a battered economy this is not attractive.
- The document and process is dividing Kenyans instead of uniting them and the whole team appears to be against one man Ruto. He had run out of options and appears to have joined them. The dynasty vs. chicken-seller/hustler narrative is gaining currency
- Kenyans are reading too much in BBI, the positions are open to Kenyans and the winner take all can best be dealt with this way.
- Constituency delimitation is a function of the law that IEBC should undertake
- Scrapping women rep positions is a loss
- There was disagreement that Ruto is a hustler
- BBI was going to be a disaster as it would skew support for green regions at the expense of dry regions

- b) **Plenary Discussions to Unearth Narratives, knowledge, Mindsets and Prejudices towards BBI**

- *The hustler narrative is a lie:* Ruto is not a hustler, Moi held his hands followed by Raila, he was a member of YK 92, he has taken sides to enhance his chances in political competition. This has created binaries that he is using to build his clout.
- *The Reform proposals are good and bad:* The role of women in the Senate is not clear. Why scrap the nomination slots? Why increase numbers in representation? Who will pay? Some of the proposed changes undermine the 2010 constitution that we have not fully implemented.

- *Can BBI be stopped?* Not with a sleeping civil society. The horse has bolted already but we can vote all politicians out with this opportunity. Linda Katiba movement can organize the sector. Majority Kenyans are youth who are intelligent. We can stop BBI if we work together with religious leaders SUPKEM, NCCK etc. Government will force signatures out but will not control the individual vote. Like Huduma chiefs are forcing citizens to sign.
- *Can Civil Society build the 3rd force?* Should all politicians move to the YES side civil society has the best chance to reinvent itself by mobilizing for the NO campaigns. Kenyans are eventually very manipulable and politicians with their deep pockets will get whatever they want. Many Kenyans vote for tribe, ethnicity and inducements.
- *Kenyans no little about BBI:* Kenyans don't understand BBI. They know it as a political and not economic or legislative document. To them, it is about who supports it. If religious groups get involved, the BBI process may be stopped.
- *Need to rethink our priorities:* In the midst of a pandemic focus should be on PPEs and support to healthcare workers, health, corruption, intercommunity conflicts, border conflicts not signatures.

1. ASSUMPTIONS SURROUNDING BBI

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

NO	Issue	Opportunity	Threats	
1	BBI Referendum	<ul style="list-style-type: none"> Implementation of the 2010 constitution Chance to improve public participation in referendum Genuine audit of the 2010 constitution Increased civic space for CSOs 	<ul style="list-style-type: none"> Harassment from security agencies Police brutality and harassment to the public Donors with interest may pull out Shrinking of civic space for PBOs 	
2	Electoral System and 2022 Elections	<ul style="list-style-type: none"> Reformed constitution and IEBC systems Faith, credibility and recognition of the IEBC 	<ul style="list-style-type: none"> Two-thirds gender rule may be overlooked Heightened political tension Disbandment of the IEBC High chances of election rigging 	
3	State of the Economy	<ul style="list-style-type: none"> Less expenditure on recurrent budget – economic balance Less debts 	<ul style="list-style-type: none"> Deep state can overburden the country via corruption Trade and economic restriction Increased taxation 	
4	State of Institutions	IEBC	<ul style="list-style-type: none"> Reforms of IEBC Public trust in IEBC 	<ul style="list-style-type: none"> Disbandment of IEBC
		County Governments	<ul style="list-style-type: none"> Functionality of IEBC Maintenance of Governance term limits 	<ul style="list-style-type: none"> Governorship limit
		Judiciary	<ul style="list-style-type: none"> Independence of the judiciary retained Improved service delivery Compliance with court orders and rulings 	<ul style="list-style-type: none"> Denial of funds Interference from the executive Continued clogging of court cases
		Anti-Corruption	<ul style="list-style-type: none"> Increased funds to EACC Reduced corruption 	<ul style="list-style-type: none"> Interference by the deep state
		Security Agencies	<ul style="list-style-type: none"> Realization of the sector reforms 	<ul style="list-style-type: none"> Police brutality towards those who opposed the referendum Civic disorders
YES	Issue	Opportunity	Threats	
1	BBI Referendum	<ul style="list-style-type: none"> Political temperatures have subsidized 	<ul style="list-style-type: none"> Tribal clashed due to No camp 	

			<ul style="list-style-type: none"> Inclusivity has been improved Ward Fund has been established 	
2	Electoral System and 2022 Elections		<ul style="list-style-type: none"> Free and electoral process Peaceful elections 	<ul style="list-style-type: none"> Some IEBC Commissioners were sent packing
3	State of the Economy		<ul style="list-style-type: none"> Improvement of the economy after a stable election due to investors coming back Developed market for Kenyan goods 	<ul style="list-style-type: none"> Bloated wage bill due to expanded government arms
4	State of Institutions	IEBC	<ul style="list-style-type: none"> Revamped IEBC An independent IEBC fully in place 	<ul style="list-style-type: none"> Legal wars from former commissioners
		County Governments	<ul style="list-style-type: none"> More money pumped into the counties (from 15% to 30%) 	<ul style="list-style-type: none"> More corruption
		Judiciary	<ul style="list-style-type: none"> Introduction of an ombudsman Judiciary will be funded directly from the consolidated fund Independent and free from any interference 	
		Anti-Corruption	<ul style="list-style-type: none"> Given more powers to prosecute 	
		Security Agencies	<ul style="list-style-type: none"> Powers reduced and discipline increased Aps and Kenya police under one arm 	

2. Closing Remarks

The CSO Network Chairman Khalif urged CSOs to approach the BBI debate with sobriety as there was nothing wrong with amending the Constitution.



Participants Listen in during the CSO Dialogue Forum

PROGRAMME**Regional CSO Dialogue Forum - Garissa****Activity Agenda**Date: **December 9, 2020**Venue: **Lantern Resort, Garissa**

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

LIST OF PARTICIPANTS

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