THE BUILDING BRIDGES INITIATIVE (BBI) PROPOSALS: A SYNOPSIS
Perspectives and Implications for Maa-Speaking Counties in Kenya

Indigenous Livelihoods Enhanced Partners (ILEPA)
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By Kimaren Ole Riamit
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The Building Bridges Initiative (BBI) Proposals: A Synopsis. Perspectives and Implications for Maa-Speaking Counties in Kenya is a Booklet born out of the ILEPA’s desire to engage with, and explore opportunities and shortcomings of the Building Bridges Initiative with respect to aspirations of the Maa-Speaking communities in the country. Ultimately, the lessons will be shared with the Maa-speaking residents of Narok County.

The BBI promoters had fashioned the initiative as a pathway and instrument towards equity and social inclusion for all Kenyans, for an ultimately united and thriving Nation. The stated aspirations resonated well with the Maa-speaking communities’ long-documented quest for redress of historical land-related injustices, and associated economic exclusion of both their lifeways (pastoralism and indigenous knowledge), and their minimal access to basic infrastructure for essential services, such as health, water, education, and water.

The relatively low literacy levels in the context of a highly elitist BBI process and resulting document – the BBI Report -, made direct engagement with it by “Nayau Esupat” (ordinary Citizens) rather difficult, if not impractical. It therefore became incumbent upon few schooled members of the community and institutions working with/among them such as the Indigenous Livelihoods Enhanced Partners (ILEPA), to help unpack and communicate messages of the BBI process and report, including capturing concerns and perspective of the citizenry on the same in a more popular version booklet.

The booklet therefore summarizes proposals from the Maa-speaking community groups, put forward to the BBI Taskforce, and assesses the extent to which the said proposals are reflected/or not in the Taskforce reports. It also responds to the all-important question - ‘what is in the BBI Report for all Kenyans, and particularly for the Maa-speaking community groups?’
Part 1

Background
Kenya’s 2017 national general elections raised political controversy in the country to another level. They pitted the Jubilee Alliance against the National Super Alliance (NASA), an opposition coalition formed in 2017. The Jubilee Alliance was established to support the joint presidential election ticket of Uhuru Kenyatta and William Ruto in the 2013 general elections, and in 2016 all 11 Alliance members merged to form the Jubilee Party. NASA was therefore created specifically to oppose the Jubilee Alliance.

Ultimately, the country went through an unprecedented roller coaster experience that included a record two presidential elections in less than two years. The first election was nullified by the Supreme Court of Kenya, headed by Chief Justice David Magara, following the success of a case put forward by the NASA opposition coalition. A repeat election was thus ordered.

The opposition party and leader boycotted the repeat presidential election and took an oath in public as a ‘People’s President’, while the Jubilee Party presidential candidate was sworn into office by the State electoral machinery as the bona fide Country’s President Elect. These unique incidences divided the Country in the middle and threats for political violence and unrests reached fever pitch.

In a dramatic twist of events on March 9th 2018, the two protagonists – President Elect and “People’s President” - did the now famous (if not infamous, to some) handshake. The symbolic handshake was soon translated into a Building Bridges Initiative (BBI), whose aspiration is to transform Kenya from a geographical patch-up of disaffected indigenous people groups, to a symphony of thriving nationhood – a country of blood ties to a country of shared ideals!

The Building Bridges Initiative was to facilitate a dialogue among Kenyans on issues identified by the two Handshake Principals as the underlying drivers of animosity and discontent among Kenyans, as well as requirements for national synergy. These interrelated issues were summarized in a nine-point
agenda document, which included: Ethnic Antagonism and Competition; Inclusivity, Shared prosperity, Divisive Elections; Devolution; Safety and Security; Corruption; Lack of National Ethos; and Citizens Responsibilities & Rights.

A Building Bridges Initiative (BBI) Taskforce bringing together representatives of the two main political blocs in the Country was set up. The Taskforce collected and collated views nationally from Kenyans of all political persuasions and walks of life, through written submissions, town-hall conversations, and public rallies.

The BBI proposals are categorized into administrative, policy, legislative and constitutional amendment elements for consideration and possible endorsement by the Kenyan public. Two iterations of the BBI report were produced with the second version presented to the 47 County Assemblies for consideration and adoption. Only four of the 47 Counties did not endorse the BBI report.

The report is then submitted to parliament for its consideration, with the policy and legislative proposals adopted here, and thereafter, the constitutional amendment proposals presented to Kenyans through referendum, as prescribed by the Constitution of Kenya, under the popular initiative constitutional amendment provisions.

It is critical that Kenyans of all walks of life, appreciate and engage with the provisions and import of the BBI proposals, as the changes will certainly impact their rights and lives, in one way or other.
Part 2

The Maa Speaking Nation’s Proposals for the Building Bridges Initiative Agenda
The Maa Speaking Nation’s Proposals for the Building Bridges Initiative Agenda

The Maa Nation, made up of nine (9) Maa-speaking groups in Kenya, was not to be left behind regarding its engagement with this critical national agenda. The Maa-speaking groups from all corners of the country chose to submit unified proposals on each of the nine points in the BBI Agenda. The political mobilization of the Maa speakers was strengthened by the two handshake Principals’ appointment of the Kajiado County Governor, His Excellency Joseph ole Lenku, as Coordinator of the Maa-speaking communities in regards to the BBI agenda.

While the Maa-Speaking nation shared concerns related to corruption, divisive elections, and national ethos and devolution with the rest of Kenyans, the community had unique and specific concerns they wished to be deliberately addressed under the BBI including:

a) Shared Prosperity
   • A focus on land, natural resources and the environment, where the community proposed the establishment of a sufficiently resourced, time-bound Commission on Historical Land Injustices & Contested Communal Land Claims.
   • Calls for reversal to original owners of land formerly leased out for 99 years to non-indigenous communities, once these leases expire.
   • Calls for fast-tracking and supporting registration of former Trust Lands and group ranches (now communal lands) in the name of the specific community, as provided under the Community Land Act, No. 27 of 2016.
   • Focus on the livestock economy, particularly pastoralism, and a call to establish a National Livestock (Pastoralism) Development, Marketing and Insurance Authority, to stabilize the pastoral economy, and cushion it against intensified climate related shocks.

1Narok, Laikipia, Kajiado, Nakuru (Naivasha), Isiolo (Laparau), Nairobi, Marsabit (Laisamis & Loyangalani), Samburu and Ilchamus (Baringo)
A call for all national parks currently managed by the National Government, to be transferred back to their original Game Reserve status, and to be hosted, controlled, and managed by County Governments, as well as the establishment of mechanisms that ensure sustainability in nature conservation and the fair distribution of associated benefits.

A call for the implementation of the Report of the Prime Minister’s Task Force on the Conservation of the Mau Forests Complex (2009); legal protection of all community forests and water catchment areas listed in the Community Land Act, No. 27 of 2016; and the establishment of a National Environmental Emergency Response Authority to deal with emerging environmental challenges in pastoral areas e.g. Oltiameletei, the invasive and poisonous Mathenge tree, and Mau Forest Deforestation. The Mathenge (prosopis juliflora) and Oltiameletei (Ipomea) are both invasive plant species threatening to take-over pasturelands and waterways, including poisoning of livestock within Baringo and Kajiado rangelands respectively. The Ipomea, for example is already preventing grass from growing across large swathes of land.

The establishment of a National Wildlife Compensation Fund, to address issues of human-wildlife conflict and ensure direct wildlife benefits to reach the Maa Nation. Additionally, the revenue generated from exploitation of natural resources in the counties, should be allocated on a ratio of 25: 35: 40 to host communities, the County Government, and the National Government, respectively.

c) Enabling Fair and Direct Political Representation of Minorities

Sections of the Maa nation such as Ilchamus, who are geographically disconnected from the counties predominantly occupied by fellow Maa, have endured violence and political exclusion from non-Maa neighbours. This calls for the establishment of an Ilchamus Community Jurisdiction as per the court ruling of Civil App. No. 305 of 2004, and in tandem with aspirations of the Kenyan Constitution, 2010, Act. 100

b) Employment Opportunities within the National Public Sector

A call for 25% of employment opportunities within the public sector, specifically at the national level, to be reserved for indigenous communities. At county level, public and private sector employment opportunities should be shared on a ratio of 75:25 to indigenous people, and other communities respectively.
A call for the establishment of a legitimate mechanism that secures the interests and rights of indigenous communities, and ensures their political representations at all levels of government, thereby curbing political domination by, and assimilation into nationally dominant ethic groups - a scenario that has historically triggered conflict.

d) Safety and Security

- An establishment of permanent and well-resourced police posts in conflict hot-spots in pastoralist counties, and to establish a mechanism for implementing the community policing guidelines.
- The State should effectively control illegal firearms in the banditry-prone pastoral regions, and fairly and justly disarm those with illegal firearms.
- Create a special Fund to enable timely compensation of victims of military operations, and human-wildlife conflict
- Remove all unexploded landmines and other military explosive remnants.

e) Cultural Heritage

- The establishment of mechanisms to enable protection, practice and promotion of Maa cultural identity.
- Support for research and documentation of indigenous Maa cultural heritage, knowledge and innovation, and, establishment of County cultural information centers and museums. This is because, the Maa culture is an iconic indigenous brand that is recognized nationally and globally, with most of its elements commodified and commercialized by outsiders. In addition, the State should pro-actively enliven the recent recognition by UNESCO of Enkipaata, Eunoto and Ol Ng'esherr longstanding Maasai rites of passage, as part of the World's cultural heritage.
Part

A Synopsis of the BBI Taskforce Recommendations
Overall, the above-enumerated aspirations and recommendation of the Maa-speaking Nation in Kenya, with respect to shared prosperity, particularly those touching on land, natural resources and environmental conservation, have yet to see the light of day.

There were also a range of broad proposals by the Maa-speaking Nation, affecting Kenyans in general, including:

- **Ethnic Antagonism and Competition, Corruption, Inclusivity and National Ethos.** The BBI recommendations on these emotive issues seek to strengthen existing legislation and institutions, and to enhance programmatic solutions. The remedies provided appear to address the symptoms, and fall short of confronting the underlying causes of the issues, which are historical and largely related to land and natural resources.

While the BBI report acknowledges the substantive value of recommendations of previous commissions of inquiries and taskforces reports, including the Truth, Justice and Reconciliation Commission (TJRC) Report, and the need to address historical injustices and land reforms on underlying drivers of ethnic antagonism, lack of inclusivity, divisive and violent elections, the reports falls short of providing concrete actionable proposals.

- One of the proposed solutions for *ethnic antagonism and divisive elections* characterized by the winner-take-all system operating in Kenya presently, is the expansion of the structure of the executive arm of the National Government. This arm is expanded to comprise a Prime Minister and two deputies with creation of the Office of the Leader of the Official Opposition, among other proposals. It however remains unclear and unconvincing how the addition of four political seats will facilitate the inclusion of representatives from 47 distinct ethnic groups in a way that is objective, fair and equitable.
• **On divisive elections**, though the report re-affirms the country’s commitment to an electoral system that is transparent, accountable, and democratic, and that promotes the will of the people, with measures to support the affirmations, such as specific National Government Funds supporting women, youth and persons with disability. However, the proposals fail to mention the fate of indigenous communities as another specific group to consider for such funding.

• **On ethnic antagonism and competition**, principles of national unity, equity and social inclusion, and character and cohesion are integrated into a national education curriculum, and considered in the admission of students into public learning institutions, as well as in staffing selection, to reflect the face of Kenya. In addition, hate-speech is criminalized and calls made for the implementation of past commission and taskforce reports and land reforms.

• **On inclusivity of marginalized communities, persons with disability (PWDs), youth and women**, the report calls for strengthening and implementation of existing affirmative action legislation including the allotment of a 5% of the elective and appointive for PWDs within public bodies; the actualization of the 30% of national public procurement opportunities for women and youth, up to county and ward levels, to support small and medium enterprises (SMEs); and the implementation of the Two-Thirds Gender Rule in Parliament.

• **On citizen participation and access to information**, the BBI Report provides a mechanism to enhance and support actualization of constitutional provisions. A specific Bill proposes enabling robust public participation at all levels of administration, with clear timelines, guiding principles of engagement, and the requisite institutional framework to support it, including the creation of a Public Participation Registry and office of Registrar.

• **On devolution and healthcare provision**, a National Health Services Commission is established; Wards are designated the lowest foundational unit for development planning and practice with 5% of county resources allocated to wards; and regional economic blocks are anchored into law.

• A raft of measures promotes shared prosperity for all Kenyans. On youth for example a seven-year tax holiday for youth-owned businesses is proposed; college graduates are granted a 4-year Higher Education Loans Boards’ (HELB) repayment break after graduation; and business
incubation centres for business start-ups will be created and promoted. The proposals advocate for bottom-up approaches to development, with wards being the lowest level of development. The report also calls for affordable and reliable access to digital platforms at ward level, to facilitate e-commerce.

- The BBI report considers pastoralism a sustainable livelihoods production system that the State commits to support (Clause 11A Constitutional Amendment Bill, 2020).

- **On Safety and Security**, the BBI recommendations commit the country to the development of a proactive, preventive, pre-emptive, and comprehensive National Security Strategy with locally based and people-centred agencies. The Strategy will be enabled by strengthening county and community participation in security issues; providing equal distribution of policing resources; ensuring just prosecution for all people; and enabling equitable and adequate crime prevention in all regions.

- On Corruption, the BBI proposals call for speedy prosecutions and conclusion of cases involving corruption and criminal wastage of public resources; stiffer sentences and punitive fines; protection of whistleblowers; aggressive recovery of stolen public resources; restriction of public officers from running private business; digitization of government services; and implementation of the Bribery Act, 2016, amongst others.

- Of critical interest to Indigenous and marginalized communities is the fact that the BBI Constitution of Kenya (Amendment) Bill, 2020 proposes to amend Article 204 (Equalization Fund) to increase the life span of the Fund from 20 to 30 years. This is important, as close to, 7 Years of the initial 20 of accessing the Fund are already passed; lost in needless politics of administration and impeded access.

- The BBI proposes amendment of articles 90 and 97 of the Kenya Constitution, 2010 to provide for inclusion of 4 persons with disabilities comprising 2 men and 2 women. In addition, no more than two-thirds of special seats in Parliament are allotted to one gender and such seats are only filled, for a term of fifteen (15) by successfully elected members from each constituency who received the most votes.

- The BBI Framework increases people’s representation in parliament by 70 seats, resulting in a new total of 360 parliamentarians. The additional
constituencies emanate from a review of 28 county boundaries. The Interim Electoral Boundaries Commission (IEBC) is charged with undertaking this exercise within six months upon adoption of the Framework through a national referendum. The rationale behind the creation of additional constituencies lies in the need for fair and equal representation in the National Assembly especially for currently underrepresented communities. Narok County is one of the Maa counties that will benefit from an additional three (3) constituencies.

- Serious debate is rife among Kenyans on the preeminence placed on population quota as a factor in determining political representation, at the expense of other critical and much-needed considerations including: historical exclusion, preferential access to basic services and skewed levels of development to favour certain communities, among other inequalities.

- The BBI Framework includes an amendment of Act. 98 of the Kenya Constitution, 2020 to allow for 94 Senate seats, with a ratio of 50:50 men to women of the members elected by registered voters.

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2Mombasa (3); Kwale (3); Kilifi (4); Mandera (1); Meru (2); Embu (1); Machakos (3); Maukeni (1); Kirinyaga (1); Murang’a (1); Kiambu (6); Turkana (1); West Pokot (1); Trans Nzoia (2); Uasin Gishu (3); Nandi (1); Laikipia (1); Nakuru (5); Narok (3); Kajiado (3); Kericho (1); Bomet (2); Kakamega (2); Bungoma (3); Siaya (1); Kisumu (2); Nyamira (1); Nairobi City (12)
Part 4
Implementation
Arrangements
In moving from proposals and recommendations to actions, the BBI report categorizes requisite actions into:

- **Administrative measures** - Action Plans to implement the BBI Taskforce recommendations (Annex c in BBI Report)
- **Legislative measures** - Bills (amendments or new laws) to address the most urgent concerns of Kenyans (Annex D in BBI Report)
- **Policy measures** - Guidelines to outlive successive administrations and shape policymaking (Annex A in BBI report)
- **Constitutional measures** - A Bill to address constitutional issues (Annex b in BBI Report).

The BBI reports presents a number of proposed constitutional amendments including: entrenchment of regional integration; cohesion and shared prosperity; provision of citizen responsibilities to promote national ethos; respect of citizens’ data privacy according to the Chapter 4: Bill of Rights in the Kenya Constitution, 2010; anti-corruption institutional strengthening; Improvement of the electoral system to enhance fairness, competition based on ideas, and gender equity in governance, and fair representation based on population quota.

In addition, the Prime Minister, his deputies and some ministers are reintroduced into parliament by the Report, and the Executive is expanded to include positions of Prime Ministers and deputies, as well as an office for Implementation Arrangements.

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Chap. 2 of the CoK, 2010  
Chap. 3 of the CoK, 2010  
Chap. 4 of the CoK, 2010 (Bill of Rights)  
Chap. 6 of the CoK, 2010 (Leadership and Integrity)  
Chap. 7 of the CoK, 2010 (Representation of the People)  
ibid Articles 81(d) and 89(7) (b) of the Constitution,  
Chap. 9 of the CoK, 2010 (Legislature)
the Leader of the Official Opposition\textsuperscript{10}. There will also be an independent office of the Judiciary Ombudsman to check the Judiciary\textsuperscript{11}.

On devolution, a County Ward Development Fund is created and resources to counties are increased from the current 15\% of the national budget, to at least 35\%. Moreover, economic and social rights (access to health, education, food security water) monitoring and reporting, are all made part of President's State of the Nation Address, and included in the budgeting process.\textsuperscript{12}

Furthermore, attention on allocation of public finance to actualize the rights guaranteed under the Kenya Constitution, 2010, Article 43 is reiterated. Ethical conduct, accountability and transparency within the public service, national security agencies and commissions and independent offices are enhanced\textsuperscript{14} with definition of new terms introduced\textsuperscript{15}.

The requisite threshold of County Assemblies (over 50\% endorsement) have approved the BBI report, and after discussion in the Parliament and Senate, it is anticipated that the BBI Report will be subjected to a National referendum for citizen's consideration and vote.

\textsuperscript{10}Chap. 9 of the CoK, 2010 (Executive)
\textsuperscript{11}Chap. 10 of the CoK, 2010 (Judiciary)
\textsuperscript{12}Chap. 11 of the CoK, 2010 (Devolution)
\textsuperscript{13}Chap. 12 of the CoK, 2010 (Public Finance)
\textsuperscript{14}Chap. 13, 14 and 15 of the CoK, 2010
\textsuperscript{15}Chap. 16 of the CoK, 2010 (General Provisions)
Part 5

Looking Ahead
Regarding the BBI Report and its implications specifically for the Maa-speaking Nation, there is urgent need for the following:

• *Continued familiarization with the BBI Report and its potential implication on specific constituencies and people groups.* Evidently, political representation in Parliament and the Senate will increase substantially as the Two-Third Gender Rule is achieved. Important to note, is the fact that political party nomination is pegged on a candidate’s performance in the national electoral process. Further, political parties are incentivized to proactively include and engage women in their governance structures, as well as to list candidates who have been endorsed to vie for seats as the total number of aspirants will determine the party’s access to funds. Women aspirants must therefore organize and tap into these opportunities.

• *Appreciating the policy, legislation and constitutional proposals and positioning the constituency to engage.* The BBI proposals – administrative, policy and legislative - have a bearing (positive and/or negative) on constituencies. Each interest group must map-out and strategically engage with the proposals to maximize gains and mitigate against negative impacts.

• *Prioritizing constituency-specific elements* (for example, the additional constituencies/boundaries, the Two-Third Gender Rule, and the Equalization Fund). Indigenous Narok County residents, for example, should strategically prepare a unified proposal on the new constituencies to ensure direct representation and effective voice regarding access to resources, development planning, and practice.

• *Creatively push and lobby for the actualization of the BBI Report.* The Maa-speaking Nation must strongly advocate for the promotion of pastoralism as a sustainable livelihood production system in the country, and push for the implementation of former commissions and taskforces reports related to land and natural resources, such as the Truth Justice and Reconciliation Commission (TJRC) and the Ndungu Report on land grabbing in Kenya.
**Kimaren ole Riamit**

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Ole Riamit is interested in the anthropology of development, human rights, governance, and indigenous knowledge systems. He is primarily interested in the discourses and praxis of development, development institutions, how development is affecting grassroots communities in Africa, and social movements that are challenging prevailing flawed development pathways, from an indigenous Peoples Perspective. Specifically, how property, rights to land and natural resources, and decision making interact to safeguard or impede the survival rights of basic indigenous people.

**Sponsors**

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