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## **PRESS STATEMENT**

### **WE LAUD THE COURT OF APPEAL FOR UPHOLDING THE HIGH COURT DECISION ON THE BUILDING BRIDGES INITIATIVE**

Fellow Countrymen, on 23<sup>rd</sup> October, 2020 the United Green Movement Party set out 13 reasons why Kenyans should reject the Building Bridges Initiative(BBI). These included amongst others:

#### **One**

BBI mischievously bundled a Constitutional (Amendment) bill 2020, together with amendments of 12 other Acts and proposed new laws as though the two were dependent on each other. **They were not.** The bundling and timing of the proposed laws amounted to political conmanship.

#### **Two**

The BBI report correctly diagnosed Kenya's problems. It highlighted the lack of inclusivity, equity, equality and equal opportunities as part of the issues that need urgent attention. Unfortunately, the report then proceeded to give the wrong prescription. What Kenya needs is inclusive institutions; of a free and independent Judiciary, like what the Court of Appeal through its majority judgement on the Building Bridges Initiative has affirmed. We know however, that we have an extractive Parliament where corruption reigns supreme and an Executive that is autocratic and no longer respects the rule of law. Those are some of the things we urgently need to fix.

#### **Three**

The BBI was offensively re-creating an imperial, unchecked, unaccountable presidency that has total control of the Legislature and the Judiciary. This would have taken away the key democratic and accountability gains that Kenyans made under the current Constitution by compromising the system of checks and balances of the 3 Arms of Government.

The Presidency under the BBI amendment would have appointed and dismissed the Prime Minister, Cabinet Secretary and Principal Secretary without any Parliamentary oversight, unlike now, when the Parliament checks the presidential nominees by approving or rejecting his appointments. This BBI proposal was taking us back to the dark KANU days of a presidential dictatorship that Kenyans shed blood to get out of. Why would anyone have wanted to goad us back there?

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#### **Four**

The BBI Constitutional amendment created the Judiciary Ombudsman, appointed by the President, to hear specific complaints against the Judiciary and hand over the report to the President. This was a direct threat to the independence of the Judiciary. There are mechanisms that exist under the current Constitution for the Judiciary to check itself internally, and then externally by both the President and the Parliament.

#### **Five**

It is the considered view of the United Green Movement Party that a Parliamentary System of Government would be best for Kenya. And whereas it is true a Parliamentary System of Government is headed by a Prime Minister, what the BBI amendment was proposing was an unclear unstable political mongrel. It was neither a Presidential System, nor was it a Parliamentary System. It created a Prime Minister whose selection merit was questionable. It would have been a recipe for frivolous motions of impeachment which would make the Parliament unstable. The Constitutional architecture of checks and balances amongst the Executive, judiciary and the Legislature would be wiped out.

#### **Six**

The United Green Movement Party believe that Kenya's election system should be one of proportional representation as opposed to a first past-the-post system. There was an attempt to introduce proportional representation to pick Persons with Disabilities, Youth and Women for purposes of Article 97 of the Constitution under the BBI. The proposal of how to effect this proportional representation was unclear, and it was also used to take away the gains of the women, persons with disability and the youth that are current gains in the Constitution 2010.

#### **Seven**

The United Green Movement Party is an equality political party, with our leadership being a 50-50 representation of female and male. However, equality is not just about ticking the boxes for the numbers, it also needs to meet form. The BBI Constitutional amendment proposed 47 female senators and 47 male senators but did not keep in mind that the senate seeks to represent the counties. That the senators per county ought to vote as one unit! What would happen in the case of divergent opinions of senators from a county on a vote before the senate, what if the two senators in a given county are from two different political parties or have two different political persuasions? The BBI amendment did not reflect upon this. For them, it was to provide for the numbers and bingo!

Fellow Countrymen, these amongst other issues, are the reasons that we as the United Green Movement Party had requested Kenyans to reject the Building Bridges Initiative, since it was not a constitutional amendment but a Constitutional dismemberment ill-conceived and wrongly thought through. We welcomed the High Court Judges when they found the Building Bridges Initiative as being Constitutionally unsustainable and therefore null and void ab initio.

We would also on this 21<sup>st</sup> Day of August 2021, like to laud and congratulate the Court of Appeal Judges who in majority decision upheld the High Court decision, for the various reasons that they canvassed in their judgement.

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We would like to urge the Parliament of Kenya and the Presidency of Kenya, to emulate the good manners of the Judiciary in respecting the Constitution, abiding by the rule of law and Constitutionalism. We would also like to remind the Parliament and the Executive of Kenya, that the Constitution of Kenya 2010 makes the Kenyan people supreme, and that the power that the Executive and the Parliament exercise is delegated within the meaning of Article 2 of the Constitution of Kenya 2010.

As the United Green Movement party, we would like to promise Kenyans, now that BBI is behind us, that we shall continue to advocate for the full and faithful implementation of the Constitution of Kenya 2010; the agenda 4 issues on youth (un)employment, land reform, national cohesion and unity; the Kreiglar Commission; the Ndungu Commission; the Truth, Justice & Reconciliation Commission Reports as the best way forward, so that we can realize the Kenyan Dream of our founding fathers - A Kenya for all. And as we plan for the General elections in 2022, let us do it in a manner that is peaceful, elect and put in place men and women who would protect and defend the Constitution. Men and Women who will espouse the spirit of Constitutionalism and rule of law, since then and only then, will we move Kenya to where prosperity is found within our borders.

Long live the Judiciary of Kenya, long live the United Green Movement Party, long live the Nation of Kenya.

Signed this 21<sup>st</sup> Day of August, 2021

Hamisa Maalim Zaja

Co- Secretary General

The United Green Movement Party

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