

Wanjiku and her cake: The Bill Of Rights

Written by Duncan Ogaro Mikae

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Our Constitution did not only bring us the working plan of great counties under representative government. There is embedded in it also the vital pillar of liberty and personal responsibility. That pillar is based upon certain inalienable freedoms and protections which not even the government may infringe and which we call the Bill of Rights. It does not require a lawyer to interpret those provisions.



They are as clear as the Ten Commandments. Among others the freedom of worship, freedom of speech and of the press, the right of peaceable assembly, equality before the law, just trial for crime, freedom from unreasonable search, and security from being deprived of life, liberty, or property without due process of law, are the principles which distinguish our civilization. Herein are the invisible sentinels which guard the door of every home from invasion of coercion, of intimidation and fear as has been in the past by several state engineered mercenaries. Herein is the expression of the spirit of a people who would be forever free.

These rights were not brought by the committee of experts, neither were they a discovery by our politicians, nor over-night Naivasha or Kilifi deliberations. They were established by decades of struggle in which men died fighting bitterly for the inclusion of the majority in leadership, this was long before the constitution was amended to allow future constitutional advances. Our forefathers suffered in the hands of the British, many of whom died as they tried to question oppression, some of them have lived till today,

"when you hear of Martin Shikuku give that Old man respect, when Raila Odinga speaks Listen to Him, When Wangare Mathai Cries heed her,"

today we have a group of leaders who boldly extended these struggles long after the first republic had been achieved. Before the Constitution could be ratified patriotic men who feared a return to tyranny, whose chains had been thrown off only after years of toil and tireless struggles, kept the spirit, they never left the common man alone, they stood by us and made sure that their hard-won freedom was incorporated to ensure that no Kenyan should suffer in future as they did, this gave birth to the widely acclaimed chapter on Bill of Rights.



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Before the ratification of the Constitution in the August 4 referendum, many enemies of reform had tried to shortchange us once again, I felt helpless whenever I would see my village men walking with red cards hanging from their necks, these were the few who still had been given false promises of economic security or property security as opposed to the wish by the majority to have an overhaul of our laws. I felt helpless because even through my persuasions they were rigidly never allowing change. Whether theirs who an innocent following of some Kenyan Land grabber who feared the new laws, or a lack of understanding the benefits that were to come with the new laws, the result is the same. Every day they grew to become the enemies of our independence. These in my little understanding didn't appreciate what happened in the years of struggle when Freedom of worship was denied, freedom of speech was suppressed when the press was censored and distorted with propaganda when the right of criticism was denied and Men went to jail or Nyati house for honest opinions, when men and women spoke public affairs only in whispers.

In them lies a spiritual right of men. Behind them is the conception which is the highest development of the Christian faith "that is why for it to be accepted as freedom for all some applications of the Muslim faith had to be catered for, they had been there since independence any way, yet some people chose to be blind to this fact" this is what I call the conception of individual freedom with brotherhood. From them is the fullest flowering of individual human personality.



we have amended the Constitution many times in the past to meet the problems of growing civilization. Right now we have one of the best chapter on Bill of Rights in Africa, although we will no doubt have amendments in future. Always groups of audacious men in government or out will attempt to consolidate privilege against their fellows. New inventions and new ideas require the constant remolding of our civilization. The functions of government must be readjusted from time to time to restrain the strong and protect the weak. That is the preservation of liberty itself. We at times interpret some provisions of the Bill of Rights so that they override others.

"That was seen before the referendum as church leaders and some political leaders selectively interpreted the Bill of Rights."

They indeed jostle each other in course of changing national life, but their respective domains can be defined by virtue, by reason, and by law. And the freedom of men is not possible without virtue, reason and law.

I call upon all my fellow country men, to stand up and be counted as to be the group of selfless patriots who stood up when Kenya needed them to, I call upon all of you to be keen in making sure that we realize this true transformation and enjoy the Bill of rights as is in our long sought constitution, I challenge you to walk with the constitution if need be, just in case you feel you are ill equipped to demand what is yours,

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I call upon the true reformers to stick with us in this period, the ratification and promulgation of the constitution was only but the beginning, the real nation building is just starting.

I rest my case.