

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

THURSDAY, 7TH NOVEMBER, 2024

Afternoon Sitting

3rd County Assembly

3rd Session

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COUNTY ASSEMBLY OF BUNGOMA

THE DAILY HANSARD

THURSDAY, 7TH NOVEMBER, 2024

The House met at the County Assembly Chamber at 2:30 p.m.

(Mr. Speaker [Hon. Emmanuel Situma] in the Chair)

PRAYER

COMMUNICATION FROM THE CHAIR

Hon. Members, I have the following communications to make from the Majority and Minority Whips. The first is about the discharge and placement of Hon. Members from committees; reference is made to the Standing Order 178 (1) (a) the following Members have been discharged and placed as below;

1. Hon. Ali Machani Mutoka discharged from Public Accounts and Investments Committee and moved to Powers and Privileges Committee
2. Hon. Evelyn Mutiembu discharged from Implementation Committee and moved to Public Accounts and Investments Committee and moved to Powers and Privileges Committee
3. Hon. Jeremiah Kuloba discharge and Industrialization Committee, Hon. Cornelius Makhanu discharged from Powers and Privileges and moved to the Committee of Trade, Energy and Industrialization and Implementation Committee respectively.

Thank you in advance for understanding and cooperation in this matter. Signed by Hon. Milliah Masungo Minority Whip

For the Majority side on discharge and placement of Members from Committees. The above matter refers to; reference to Standing Order 178 (1) (a) the following Members have been discharged and placed as below;

1. Hon. Maurine Khanjila Katila has been discharged from Committee on Powers and Privileges and replaced by Hon. James Barasa Mukhongo and moved to the Committee on Delegated County Legislation. Thanks in advance for your understanding and cooperation in this matter. Signed by Hon. Meshack Museveni Majority Whip..

PETITIONS

PROGRESS REPORT ON MILIMA AND KAPKATENY WARD OFFICES PETITIONS

Hon. Jacob Psero (Chairperson Justice): Progress report on Milima and Kapkateny Petitions. Hon. Speaker the petitions on Kapkateny and Milima Wards were tabled on 19th September

2024 and committed to the Committee on Justice, Cohesion and Legal Affairs to be processed within 60 calendar days in compliance with Standing Order 225 (2).

The Committee has been faced with challenges including the CASA games hence requests for more time to process the petitions and report back to this House.

Pursuant to the provisions of Standing Order 202 (2) of Bungoma County Assembly Standing Orders, I hereby seek leave of the House for the extension of 14 Days from the date it lapses on 18th November 2024 to enable the Committee interrogate the CECM, Chief Officer and others responds in respect to Kapkateny and Milima Petitions. It is signed by Hon. George Maruga Psero, Chairperson Committee on Justice, Cohesion and Legal Affairs.

Mr. Speaker: Hon. Psero, from your progress report, there is no indication for time frame. Aware that the House is going for a short recess up to 18th and we will resume on 19th November to 5th of December and break for long holiday from 5th December to 14th of February Kindly gives us the exact date?

Hon. Jacob Psero: I had indicated 2 weeks but let me now increase to 3 weeks because of the changes Mr. Speaker.

Mr. Speaker: We will allow you the three weeks because of the short recess and make sure when you resume from 19th before we adjourn for long recess on 5th December we have the feedback in the House. In between 19th November to 5th December, we must have your report. The extension of time by three weeks is granted.

HON. Jacob Psero: Thank you, Mr. Speaker. I oblige.

MOTION

REPORT BY POWERS AND PRIVILEGES COMMITTEE ON THE INTEGRITY FRAMEWORK FOR BUNGOMA COUNTY ASSEMBLY

Hon. Tony Barasa (Member): Thank you, Hon. Speaker. Report on Integrity Framework for Bungoma County Assembly

Preface

The objectives of the report are:

- To assess the current integrity framework in the Bungoma County Assembly
- To identify challenges and areas for improvement
- To recommend strategies to strengthen integrity and ethical conduct among MCA's

Establishment and Mandate of the Committee

The County Assembly Committee of Powers and Privileges is established under Section 15(1) of the County Assemblies Powers and Privileges Act, 2017 (CAPPA) and the County Assembly of Bungoma Standing Order 215

Membership

The Committee as currently constituted comprises of the following members:

NAME		DESIGNATION
1. Hon. Emmanuel	Situma	Chairperson/Speaker
2. Hon. Brigid	Katasi	Vice Chairperson
3. Hon. Ali	Machani	Member
4. Hon. Milliah	Masungo	Member
5. Hon. Vitalis	Wangila	Member
6. Hon. Jack	Kawa	Member
7. Hon. Benard	Kikechi	Member
8. Hon. Tony	Barasa	Member
9. Hon. Moureen	Wafula	Member
10. Hon. Orize	Kundu	Member
11. Hon. Eunice	Kirui	Member

Mandate of the Committee

The Committee of Powers and privileges derives its mandate from the Constitution of Kenya 2010; the County Assemblies Powers and Privileges Act, 2017; the Leadership and Integrity Act, 2012; The Public Officer Ethics Act, 2003 and the County Assembly of Bungoma Standing Orders.

Acknowledgement

I wish to most sincerely thank the Office of the Speaker and the Clerk of the County Assembly for the invaluable support accorded to the committee in the discharge of its mandate.

On behalf of the committee of Powers and Privileges, it is my pleasure and duty to present to the House, the committee's Report on the Integrity Framework for Bungoma County Assembly

Report signed Hon. Emmanuel Situma Speaker of the County Assembly

Introduction

Integrity is a fundamental value that underpins the effectiveness and credibility of any legislative body. This report outlines the current state of integrity within the Bungoma County Assembly, highlights challenges, and proposes measures to enhance ethical conduct and transparency among Members of the County Assembly (MCAs).

Objectives

- To assess the current integrity framework in the Bungoma County Assembly.
- To identify challenges and areas for improvement.

- To recommend strategies to strengthen integrity and ethical conduct among MCAs.

Current Integrity Framework

a) Code of conduct as an integrity framework

A **Code of Conduct** is a formal set of guidelines and ethical standards that govern the behavior and responsibilities of Members in their official capacity. **Article 75**, which covers "Conduct of State Officers," emphasize that a state officer should not act in a way that conflicts with their duties or compromises the integrity of their office. The code ensures that MCAs act in the best interests of the public, maintain high ethical standards, and uphold the integrity of their office.

Bungoma County Assembly operates under the legal framework that includes the Constitution of Kenya, the Public Officer Ethics Act, the Speaker's Rule, and relevant standing Orders. The following guidelines, grounded in Chapter Six of the Constitution and the Public Officer Ethics Act, 2003, are established to ensure that State officers adhere to these standards:

1. Exercise of Authority

- a) Public Trust (Chapter Six, Article 73(1)): Authority assigned to a State officer is a public trust that must be exercised in a manner consistent with the purposes and objects of the Constitution. This includes:
 - Constitutional Consistency: Ensuring that all actions and decisions align with constitutional mandates, reflecting the core values of the Republic.
 - Respect for the People: Demonstrating respect for the citizens by serving with humility, fairness, and consideration, as emphasized in Article 73(1) (a) (ii).
 - Dignity and Honor: Conducting oneself in a way that brings honor to the nation, upholds the dignity of the office, and promotes public confidence in the integrity of the role, as stated in Article 73(1) (a)(iii) and (iv).
 - Service over Power (Chapter Six, Article 73(1) (b)): The authority vested in a State officer carries the responsibility to serve the people rather than to rule them. This principle mandates that State officers prioritize public service over personal gain.

2. Guiding Principles of Leadership and Integrity

- a. Selection and Merit (Chapter Six, Article 73(2)(a)): State officers must be selected on the basis of personal integrity, competence, and suitability for the role, or through free and fair elections. This ensures that those in positions of authority are both qualified and morally sound.

b. Objectivity and Impartiality:

Impartial Decision-Making (Public Officer Ethics Act, Section 10): Decisions must be made objectively and impartially, free from influences such as nepotism, favouritism, or corrupt practices, in line with Article 73(2)(b) of the Constitution. Public officers are expected to make decisions based solely on merit and the public good.

- c. Selfless Service (Chapter Six, Article 73(2)(c)):

Conflict of Interest (Public Officer Ethics Act, Section 12): State officers must demonstrate selfless service by acting with honesty and transparency in the execution of public duties. This includes declaring any personal interests that may conflict with public responsibilities, in accordance with Article 73(2) (c)(ii) of the Constitution.

d. Accountability (Chapter Six, Article 73(2)(d)):

Public Accountability (Public Officer Ethics Act, Section 11): State officers are accountable to the public for their decisions and actions. They must be open to scrutiny and willing to explain and justify their conduct and decisions, ensuring transparency and maintaining public trust.

e. Discipline and Commitment (Chapter Six, Article 73(2)(e)):

Commitment to Service (Public Officer Ethics Act, Section 4): A high level of discipline and commitment to serving the people is essential. State officers must perform their duties with diligence, adhering to the highest standards of discipline as expected by both the Constitution and the Public Officer Ethics Act.

3. Compliance with Procedural Rules

Speaker's Rules: All State officers and members of the County Assembly are required to comply with the Speaker's Rules, which provide guidelines on conduct, decorum, and the management of debates and proceedings. The rules ensure that officers act within the confines of the law and maintain the dignity of their office during public and official engagements.

Bungoma County Assembly Standing Orders: Members of the Bungoma County Assembly must adhere to the Standing Orders, which govern the conduct of business within the Assembly. The Standing Orders provide a framework for maintaining order, ensuring fairness, and promoting the effective and efficient conduct of Assembly proceedings. State officers are expected to respect these orders and act in a manner that upholds the integrity and functionality of the Assembly.

4. Financial Probity of State Officers

In accordance with established ethical guidelines and the principles of financial probity, it is imperative that State officers uphold the highest standards of integrity in their conduct, particularly in matters involving financial transactions and the receipt of gifts or donations. The following provisions are set forth to guide the behavior of State officers:

i. Handling of Gifts and Donations:

Under Section 76(1), any gift or donation received by a State officer in the course of public or official duties is considered a gift or donation to the Republic. Such gifts or donations must be promptly delivered to the State unless an exemption is provided under an Act of Parliament. This ensures that personal interests do not conflict with public duties and maintains the transparency and accountability of State officers.

ii. Acceptance of Personal Loans and Benefits:

As per Section 2(b), State officers are prohibited from seeking or accepting personal loans or benefits that may compromise their integrity. This provision is essential to prevent conflicts of interest and maintain public trust in the impartiality and objectivity of State officers. Any financial transactions or benefits that could potentially undermine the officer's ability to perform their duties with integrity must be strictly avoided.

b) Oversight mechanism as an integrity framework

Oversight mechanisms play a crucial role in maintaining integrity, accountability, and transparency within the Bungoma County Assembly. These mechanisms are designed to ensure that public officers, elected representatives, and the Assembly itself operate in accordance with the law and ethical standards, thereby fostering public trust and good governance. The following discusses key oversight mechanisms in place within the Bungoma County Assembly, alongside the relevant legal provisions:

1. Committees of the County Assembly

Public Accounts and Investment Committee (PAIC): The PAIC examines the accounts of the County Government and its agencies, scrutinizing expenditures to ensure public funds are used appropriately and in line with budgetary allocations. This is mandated by **Article 185(3)** of the Constitution of Kenya 2010, which gives the County assembly oversight powers and section 14 of the county government Act 2012, which provides the establishment of the committees. PIC oversees management of public investment by the county government reviewing and performance of county owned enterprises to ensure efficient resource management. This role is supported by section 39 of the county government Act 2012 which mandates the county assembly to monitor resource management.

3. Committee on Implementation- this committee monitors the execution of resolution and legislation passed by the county assembly ensuring that the county executive implements policies and programs as intended. The committees work is crucial in holding the execution accountable as per section 149 of the Public Finance Management Act 2012 which requires regular financial reporting to the county assembly.

4. Powers and privileges committee- the committee's key element in Bungoma County Assembly's integrity framework reinforcing its oversight capabilities by ensuring that all members adhere to higher standards of the conduct and governance.

5. Sectoral committees- these committees oversee specific sectors like health, education and infrastructure, scrutinizing policies programs and projects within their jurisdiction to ensure alignment with the county's development goals and ethical standards.

2. Ethics and Anti-Corruption Commission EACC.

The EACC has the mandate to investigate and recommend action on matters of corruption and unethical conduct and other integrity issues within the county. The commission operates under the Ethics and Anti- Corruption Commission Act 2011, section 11, which details its functions under leadership and integrity and Act 2012, section 12, which outlines ethical obligations of the public officers.

3. Internal Audit Function

The internal audit function within the county government of Bungoma ensures that internal controls are effective and that financial management practices adhere to regulations. This function is established under Public Finance Management Act 2012 section 155-157, which mandates internal audits to ensure accountability and transparency.

4. Public Participation and Accountability, Public Fora.

The county assembly organizes public fora where citizens can provide input on issues like budgetary allocation and legislative proposals, ensuring decisions reflect public needs and promotes transparency. This is supported by article 196, 1b of the constitution of Kenya 2010 which mandates public participation in county assembly's business and section 87 of the County Government Act 2012 which requires mechanisms of its citizen's engagement.

Feedback mechanisms- channels for the public to report concerns about public officers or misuse of resources enhance its citizen engagement these are further reinforced by the Public Participation Act of Bungoma County 2014 which establishes the legal framework for public participation in county governance.

5. Oversight by the Office of Auditor General

The auditor general's audits and reports on financial operation of the county government providing dependency oversight, this role is enshrined in article 229,6 of the constitution of Kenya 2010 which empowers the auditor general to audit public entities and the public audit Act 2015 section 31 which specifies the auditor general's powers to report findings to the county assembly.

6. Standing Orders and Speakers Rules

County Assembly Standing Orders- the standing orders of bungoma county assembly provides procedural rules for conduct of business ensuring the best motion decisions are conducted transparently and within legal bounds this orders are grounded in the County Government Act 2012 and in article 185 of the constitution of Kenya

Speaker's Rules- the speaker's rules govern the conduct of members during assembly sessions ensuring discipline and adherence to ethical standards as provided for in the Leadership and Integrity Act 2012.

7. Role of the Media and Civil Society

The media and civil society organization act as watch dogs, monitoring the activities of the county assembly and reporting any irregularities. The freedom of the media is granted by the article 34 of the constitution of Kenya 2010 and access to information act 2016 provides the public with the right to access information held by public entities enhancing transparency.

C. Disclosure Requirement as Integrity Framework

Harvard law school defines conflict of interest as a situation where an individual's personal interest or interests of a related party might interfere with their ability to make objective and fair decisions.

Documents in reference to conflict of interest:

1. Leadership and integrity Act 2012.

Section 16 outlines that a state officer or public officer shall use the best efforts to avoid being in a situation where personal interests conflict or appear to conflict with the state officers or public officer's official duties.

Section 32 of the Act states that: a state officer shall conduct private affairs in a manner that maintains public confidence in the integrity of the office.

2. Public officer ethics act 2003.

Section 12, 1, states that a public officer shall use his best efforts to avoid being in a position in which his personal interests conflicts with his official duties. A public officer whose personal interests conflicts with his official duties shall declare the personal interest to his superior or other appropriate body and comply with any directives to avoid the conflict and refrain from participating in any deliberation with respect to the matter.

Section 26, 1, states that every public officer shall one every two years prescribed by section 27 describes when the declaration shall be made December every second year and submit to the responsible commission for the public officer a declaration of income assets liabilities of himself or herself his spouse or spouses and his dependent children under the age of 18.

3. Ethics and anti-corruption commission (EACC) Act 2011, section 3 states that among many, if a member employee personal interest conflict with their official duties they must:

1. Declare their personal interest in writing to their superior or to the relevant authorities.
2. Follow any directive given to mitigate or avoid conflict
3. They must refrain from participating in any discussion or decision related to the matter

Types of Conflict

- Material personal conflict

- Financial conflict
- Organizational conflict- under organization conflicts individuals in senior roles within an organization might face conflicts of their decisions affected this they are affiliated with either through direct financial ties or organizational relationships.

Comparative studies

South Africa

In South Africa conflict of interest among public officials has been addressed by the constitution, as a supreme law of the land and relevant statute section 195, 1, of the constitution of the republic of south Africa 196 sets out that basic values and principles that govern public administration and stipulates that services must be provided impartially fairly equitably and without bias and the public administration must be accountable. The values and principles of public administration apply to administration in every sphere of government organs of state and public enterprises.

Canada

Unlike Kenya and South Africa, Canada has a place and a conflict of interest act which establishes clear conflict of interest and post-employment rules of public office holders. Minimizes the possibility of conflict arising between the private industries interests and public duties of public office holders and provides for resolution of those conflicts in the public interest shall they arise. The act establishes the conflict of interest and ethics commission whose mandate is to determine the measures necessary to avoid conflicts of interest and to determine whether contravention of the act has occurred.

UK (United Kingdom)

The UK conflict of interest by public officials especially members of parliament are addressed by encouraging transparency rather than creating numerous restrictions or regulations on the activities of the parliamentarians. As such, parliamentarians can engage in outside employment or in remunerated activity but they have to disclose their private interests in writing under a registration system provided for and make oral declarations of any conflicts of interest at the onset of parliamentary proceedings. The registers on written private interests and of oral declarations on conflicts of interests are both available for public inspection.

Challenges to Conflict of Interest

a) Identification and Disclosure

Individuals often have multiple, overlapping interests that can be challenging to fully disclose, identifying all potential conflicts can be complex. Individuals may not always recognize when a conflict of interest exists, leading to unintentional non-disclosure.

b) Dynamic Nature of Interests

Personal or financial interests can evolve over time, requiring ongoing assessment and management of conflict of interest. New conflicts may arise as situations change necessitating continual vigilance and adaptation of policies.

c) Bias and Objectivity

Even the appearance of a conflict of interest can undermine trust in decision-making processes, regardless of whether actual bias occurs. The perception of bias can be just as damaging as actual bias.

d) Confidentiality Concerns:

Disclosure of personal interests or financial information may involve sensitive data raising privacy concerns for potential misuse of personal information.

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

Committee Observations

1. **THAT** there exists integrity framework in the County Assembly of Bungoma
2. **THAT** the Public Accounts Committee (PAIC), Committee on Implementation and Sectoral Committees are generally effective in their roles, although some of the recommendations in the reports are not followed up to the latter.
3. **THAT** there is a conflict of interest register where both MCAs and staff do register and document instances of conflict of interest prior to their recusal.

Committee Recommendations

1. **THAT** there is need to have frequent trainings and sensitization of available integrity measures and more importantly the preventive measures
2. **THAT** budgetary allocation should be increased for oversight committees, including staffing, training, and financial resources, to improve their efficiency and effectiveness in monitoring and reporting.
3. **THAT** the Assembly should implement monitoring mechanisms to ensure recusal from discussions and decisions where there is a potential conflict of interest.

Adoption schedule

We the undersigned members of Powers and Privileges committee affix our signatures adopting this report with the contents therein.

NAME	DESIGNATION
1. Hon. Emmanuel	Situma
2. Hon. Brigid	Katasi
3. Hon. Ali	Machani
4. Hon. Milliah	Masungo
5. Hon. Vitalis	Wangila
6. Hon. Jack	Kawa
7. Hon. Bernard	Kikechi
8. Hon. Tony	Barasa
9. Hon. Maureen	Wafula
10. Hon. Orize	Kundu
11. Hon. Eunice	Kirui

Hon. Speaker, you will allow me have Hon. Jack Kawa to second the report!

Mr. Speaker: Yes Hon. Kawa, you have the honour of seconding the report.

Hon. Jack Kawa: Thank you, Hon. Speaker. First, allow me applaud the mover of the report Hon. Tony Khaoya Barasa MCA Lwandanyi Ward.

Secondly, I also want to echo what he has said to appreciate our secretariat and you as our Chair for coming up to make sure we come up with this report.

When the mover was very eloquent and the report is self-explanatory; that we should behave well either in public or private entities, you must know how to behave and it has also talked about our code of conduct as Hon. Members of this House. That we must also know how to address our staff as much as they are our juniors but it's very important that we must also know how to talk to them because they need us and we also need them.

It has talked about the EACC and filing our returns; it's very important as a Hon. Member to file our returns on time so that we cannot be harassed as much as we are Hon. Members.

Finally, this now goes to our able leadership of this House that we should find time so that we go for a retreat as a whole House so that we take the Hon. Members through, so that at the end of the day, the usefulness will be ours. Without much ado, I second the report

(Applause)

Mr. Speaker: Thank you Hon. Jack Kawa for seconding the report by the Committee on Powers and Privileges.

(Question proposed)

Hon. Joseph Nyongesa: Thank you, Mr. Speaker. First, allow me appreciate the mover and the seconder of this report. I want to say I support it because I have gone through the whole of it. The only thing that I am worried off which I have never done but I am seeing is in the act is the issue of declaration of wealth and it's becoming clear that when declaring, we should be able to declare with the assets of our spouses which I have never seen, so I do not know if it could turn against us but the Chairman will tell us because I am seeing it for the first time. This is the only worry that I am seeing in this report. Otherwise, I support.

Mr. Speaker: Thank you, Hon. Joseph Nyongesa. Hon. George Makari, please proceed!

Hon. George Makari: Thank you, Mr. Speaker. I want to support the report as it is and thank Hon. Tony for putting it across so well. On page 9, on handling of gifts and donations, it says under section 76(1), *any gift or donation received by a state officer in the cause of public or official duty is considered a gift or a donation to the republic*. Not to you, but to the republic. *Such gifts or donations must be promptly delivered to the state unless an exemption is provided under an Act of Parliament. This ensures that personal interests do not conflict with public duties and maintains the transparency and accountability of state officers*. How many of us have ever received a gift and surrendered to the Republic of Kenya? I receive bananas and chicken. Anytime I go to do a *harambee* in a church, they escort me away by putting bananas and chicken in the boot of my car. Am I supposed to walk to the nearest Government office and hand over because it's a donation or a gift? Maybe when the mover of the motion is replying, he should be able to clarify if that is construed as a gift or there are any other gifts that this act is saying. Otherwise, I support.

Mr. Speaker: Thank you, Hon. Makari. Hon. Luseneka, you proceed!

Hon. Antony Luseneka: Thank you, Hon. Speaker. I also rise to support the motion and arising from the sentiments of the seconder Hon. Jack Kawa, I think we also need training as an Assembly because we have laws which are changing day and night and ignorance of the law is no defense. So I request that through your leadership, you organize for us training to go through this report and any other law that has come up, especially those touching on our welfare; we have the SHA and SHIF, most members don't know what they are supposed to do. This Declaration of Wealth, as the Leader of Majority has said, I think we need an update on this new legislation. We will appreciate.

Otherwise, we don't want our members here to be affected, saying that maybe they are not aware of these rules and procedures. So I rise to support.

Mr. Speaker: Hon. Tony, reply to the motion. Sorry, you will use the microphone!

Hon. Tony Barasa: Thank you, Hon. Speaker. I want to thank my colleagues for supporting and for the sentiments. Learning process and so are the laws of this County Assembly and the laws of Kenya. We need to have so many trainings so that we can be at par. As it is, Hon. George Makari should be somewhere near maybe the center of Kenya, because maybe of the omissions

which he didn't know but going with the recommendation, if it's going to be adopted, because so many members of the County Assembly may be not knowing, including some of us.

I have a privilege that now I'm in Committee of Powers and Privileges, whereby I have been taken through but if the members are going to adopt this report, it has given express recommendation that the way Hon. Kawa and Luseneka have said, that with the passage of this recommendation, we are supposed to go for frequent trainings so that members can be at par, so that our Majority Leader can also know that after every two years in December, when you are declaring your assets, you must also include that one of your spouses.

If you have more than two, the way you are, *Mheshimiwa* Majority, or a number of, you must declare them after every two years in December. So I want to beseech this Hon. House to adopt the report and other things will follow.

Mr. Speaker: Thank you. Hon. Tony. Let me agree with Hon. Luseneka and Kawa that some of the issues here require a training because I'm seeing the Majority is very worried that he has to declare the properties that includes the spouses that he has. So, that's where the fear is coming from. So I think from the member's sentiments, we require to have a training with the Whole House over these issues and I think when we're discussing such issues, I will urge Members that avail yourself in large numbers so that you don't miss what is important, now that Kawa is saying that he's now worried about declaring other items that he told me.

(Question put and agreed to)

The ayes have it.

Next item please,

You are off HANSARD!

MOTION

REPORT BY JUSTICE, COHESION AND LEGAL AFFAIRS COMMITTEE ON THE SCRUTINY OF ETHNIC AND DIVERSITY AUDIT OF THE GOVERNMENT PUBLIC SERVICE

Mr. Speaker: Hon. Chikati, you proceed.

Hon. Timothy Chikati: Thank you, Hon. Speaker.

Mr. Speaker: Hon. Chikati, I'm seeing members are laughing, that you are very lost until am seeing Hon. Kawa and Christine Laughing. Meet them after the session behind the tent; they have missed you for so long. Proceed please!

Hon. Timothy Chikati: Hon. Kawa is just like that, Hon. Speaker, I rise to move a motion for the Committee of Justice, Cohesion and Legal Affairs report on the Scrutiny of Ethnic and Diversity Audit of the County Public Service 2023.

On page two we have the table of contents. Allow me to jump to page three, the Executive Summary.

Executive Summary

Diversity describes the empowerment and representation of different cultures, genders, religions, ethnicities, disabilities, educational backgrounds, and sexual orientations, and how these different forms of identity interact with each other. Every individual has their own unique sense of self that stems from these different aspects of diversity. Gathering together a diverse group of individuals brings new perspectives and experiences, allowing innovation, connectivity, and encouraging a wider mindset.

Diversity is important both in society and in various contexts such as the workplace, education, and communities. Some of the reasons why we need to promote diversity include; Enhances creativity and innovation, Better decision-making, encourages learning and personal growth, Reflects and serves the needs of diverse populations, fosters inclusivity and promotes Social justice and equity.

Diversity and inclusion can bring many benefits such as higher performance, greater innovation, and a more positive environment for both employees and other associates or customers. This is why diversity and inclusion is important for a Country as a whole and all stakeholders in various sectors of the economy are tasked to promote and embrace this phenomenon in their operations.

The Objectives of the report are:

- To identify legal framework for diversity
- To analyze the diversity status among county public service in Kenya
- To outline efforts to improve diversity in Bungoma County

By the time we were doing this report, the committee membership was constituted with the following members.

1. Hon. Jacob Psero	Chairperson
2. Hon. Everlyne Anyango	Vice chair person
3. Hon. George Makari	Member
4. Hon. Francis Chemion	Member
5. Hon. Everlyne Mutiembu	Member
6. Hon. Jeremiah Kuloba	Member
7. Hon. Timothy Chikati	Member
8. Hon. Edwin Opwora	Member

9. Hon. Sheila Sifuma	Member
10. Hon. Idd Owongo	Member
11. Hon. Linda Kharakha	Member

Acknowledgement

I would like to take this opportunity to extend my gratitude to the offices of the Speaker and the Clerk of the County Assembly for their invaluable logistical support, which greatly contributed to the successful completion of the report.

It is now my distinct privilege, on behalf of the Committee on Justice, Cohesion & Legal Affairs, to present this report to the County Assembly for its consideration and adoption.

Report signed by Hon. Jacob Psero Chairperson Justice and Legal Affairs Committee

LEGAL FRAMEWORK ON DIVERSITY

This Chapter explores the relevant international, regional and national legal and policy guidelines governing employment within the county public service while enhancing ethnic diversity.

International and Regional Policy and Legal Frameworks

Kenya has demonstrated its commitment to promoting diversity and equal access to economic resources and employment for all by ratifying and becoming a party to various international and regional frameworks including:

Protocol to the African Charter on Human and People's Rights

Ratified in 1992, the protocol to the African Charter on Human and People's Rights in Article 2 enshrines the principle of non-discrimination on the grounds of race, ethnic group, color, sex, language, religion, political, or any other opinion, national and social origin, fortune, birth or other status.

ILO Discrimination (Employment and Occupation) Convention (No.111)

The Discrimination Convention (No. 111) was formally adopted in 1958 and entered into force by Kenya in 2001. The Convention lays out a definition for discrimination and forbids distinction, exclusion or preference based on race, color, sex, religion, political opinion, national extraction, or social origin. Parties to the Convention are required to set up and align national policies to guarantee equality of treatment and opportunity

International Covenant on Economic, Social and Cultural Rights

Kenya is one of the states that have ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 6 (1) of the convention recognizes the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely

chooses or accepts, and the state will take appropriate steps to safeguard this right. Article 6 (2) states the steps to be taken by a State to achieve the full realization of this right including technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

The Framework Convention for the Protection of National Minorities

The Framework Convention for the Protection of National Minorities (FCNM) is a multilateral treaty of the Council of Europe aimed at protecting the rights of minorities. It came into effect in 1998 and by 2009; it had been ratified by 39 member states including Kenya. The state is obligated to ensure equal participation and access of minority groups to national resources including employment opportunities.

National Policy and Legal Frameworks

The Constitution of Kenya 2010

Chapter 11 of the Constitution of Kenya, 2010 specifically provides for the setting up of the County Governments. Article 174(b) of the Constitution outlines one of the objectives of devolution is to foster national unity by recognizing diversity. Furthermore, Article 174(g) of the Constitution avers that devolution should ensure equitable sharing of national and local resources. One can identify three types of resources, infrastructural, human and financial resources. Employment (human resource) is one of the public resources now localized through the establishment of the County public service vide Article 235 of the Constitution which requires each county to have its own public service.

Public Service (Values and Principles) Act

The Public Service (Values and Principles) Act, 2015 gives effect to Article 232 of the Constitution. The Act allows public institutions, for purposes of ensuring representation of men and women, persons with disabilities and members of all ethnic communities, not to unduly rely on merit in making appointments.

National Cohesion and Integration Act

The NCI Act, 2008 prohibits a single community from occupying more than a third of employment positions in State-owned firms. Section 7(1) and (2) of the Act states that all offices shall seek to represent the diversity of the people of Kenya in the employment of staff, and that no public institution shall have more than one-third of its staff from the same community. Section 11(1) (2) proscribes discrimination in access to and distribution of public resources.

(1) Public resources shall be distributed equitably as far as is practicable geographically to take into account Kenya's diversity population and poverty index

(2) It shall be unlawful for any public officer, while in charge of public resources and without justification, to distribute resources in an ethnically inequitable manner

Diversity Policy for the Public Service

Diversity Policy for the Public Service, 2016 requires every public service institution shall foster, cultivate and preserve a culture of respect for diversity by embracing and encouraging an inclusive workforce in terms of age, color, minority and marginalized, disability, ethnicity, family or marital status, gender, language, physical and mental ability, race, religion.

Employment Act, 2007

The Employment Act, 2007 demands that employers promote equal opportunity in order to eliminate discrimination in employment policies and practice. Direct or indirect discrimination with regards to recruitment, training, promotion, terms and conditions of service, and other matters arising out of employment is prohibited. The Act further clarifies that taking affirmative action measures consistent with promotion of equality or elimination of discrimination at the workplace is not discrimination

Public Officer Ethics Act

The Public Officer Ethics Act, 2003 seeks to create an environment that nurtures respect for diversity and call on a public officer to discharge his or her duties in a professional manner and to treat the public and fellow public officers with courtesy and respect.

Establishment of the County Public Service (CPS)

Article 260, defines public service to mean the collectivity of all individuals, other than State officers, performing a function within a State organ. Similarly, public office is defined to include offices in the county governments. Article 235 of the Constitution establishes the county public service and gives it the responsibility to establish and abolish offices in its public service; appoint persons to hold or act in those offices, and confirm appointments; and exercise disciplinary control over and remove persons holding or acting in those offices. By the provisions of Article 1(3) of the Constitution, a County Assembly and a County Executive are State Organs, which constitute a County Government. The County Government exercises powers and authority delegated by the sovereign; i.e. the people of Kenya.

County Government Act 2012

Section 55 of the County Governments Act, sets the objectives of the County Public Service as follows:

(a) To provide for institutions, systems and mechanisms for human resource utilization and development in a manner that best enhances service delivery by county public service institutions;

- (b) To provide a framework of uniform norms and standards to be applied in all counties;
- (c) To provide for the promotion of the values and principles set out in Articles 10 and 232 of the Constitution in the county public service

Employment at County Level

As guided by the County Governments Act, the three organs charged with the mandate to employ are;

- 1) The Governor,
- 2) the County Public Service Board,
- 3) the County Assembly Service Board

Governor

The executive arm of the county comprises of the Governor, the Deputy Governor and the executive committee of not more than ten members. Article 179(4) of the Constitution states that the governor is the chief executive officer of the county; He/she is mandated to appoint the County Executive Committee members, the County Public Service Board members and County Chief Officers.

Section 30 (1d) of the County Government Act gives the Governor the mandate to appoint, the County Executive Committee with the approval of the County Assembly, in accordance with Article 179 (2b) of the Constitution.

Section 45 of the County Government Act provides the Governor with the powers to nominate qualified and experienced County Chief Officers from persons competitively sourced and recommended by the County Public Service Board and appoint them with the approval of the county assembly.

Section 58(1) of the Act establishes the public service board, which should comprise of not less than three but not more than five other members nominated and appointed by the governor, with the approval of the County Assembly. There should also be a certified public secretary of good professional standing nominated and appointed by the governor, with the approval of the County Assembly.

In performing his/her functions, Section 35(1&2) requires the governor to promote democracy, good governance, unity and cohesion as well as peace and order. When nominating members of the executive committee, he/she is to ensure the composition of the executive committee reflects the community and cultural diversity of the county; takes into account the principles of affirmative action as provided for in the Constitution. As a matter of fact, the county assembly is not to approve nominations for appointment to the executive committee that do not take into account —

- (a) Not more than two thirds of either gender;

(b) Representation of the minorities, marginalized groups and communities; and (c) community and cultural diversity within the county.

County Assembly

The legislative arm comprises members of the County Assembly elected from wards and representation from the special interest groups. Each County Assembly has a Speaker who presides over the proceedings of the assembly.

Among key roles of the County Assembly provided in Section 8(1a) of the County Government Act is to vet and approve nominees for appointment to county public offices as provided for in the Act or any other law. Section 35(2) of CGA also obligates the County Assembly not to approve any nominations for appointment if they do not take into account representation of the minorities, marginalized groups and communities. Additionally, Section 12 (7) of the CGA specifies that constituting offices, appointing and supervising office holders in the County Assembly Service is vested on the County Assembly Service Board.

County Public Service Board

The biggest mandate in regard to employment in the counties is vested on the County Public Service Board, which is established under section 58 of the County Government Act. Section 59 (1) sets out the functions of the board which include the establishment and abolishment of offices in the county public service and the appointment of persons to hold or act in offices of the county public service including in the boards of cities and urban areas within the county and to confirm appointments. Section 65(1) Matters to take into account during appointments, etc. (1) In selecting candidates for appointment, the County Public Service Board shall consider—

- (a) the standards, values and principles set out in Articles 10, 27(4), 56(c) and 232(1) of the Constitution;
- (e) the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county; and

(2) In determining whether an appointment, promotion or re-designation has been undertaken in a fair and transparent manner, the overriding factors shall be merit, fair competition and representation of the diversity of the county.

Further (Section 65 (1)(e) of the County Governments Act requires the board to ensure that at least 30% of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

Further, section 3(3) of the Employment Act presupposes that both levels of government are under an obligation to promote equality in access to employment opportunities. Under Section 5, the minister for Labour is particularly charged with the promotion of equality of opportunity in employment in order to eliminate discrimination.

This notwithstanding, Article 234(2i) of the Constitution stipulates that the Public Service Commission should among other functions, hear and determine appeals in respect of county governments' public service. The Constitution as well as the County Governments Act 2012, has placed the responsibility of ensuring equitable distribution of employment in all organs of the county. It is therefore the responsibility of the County Public Service Board to undertake audits on the status of ethnic diversity in the county public service. The board should therefore record information on all employees within the county whether recruited by it or not.

Ethnic Diversity in County Public Service Employment

a)Compliance Levels within the County Public Service

The County Governments Act (CGA) of 2012 mandates county governments to foster inclusivity in public resource distribution and public service employment. Specifically, Section 65(1)(e) of the Act requires that county public service (CPS) employment organs ensure that not more than 70% of their workforce is from a single ethnic community. , they must reserve at least 30% of entry-level positions for individuals from non-dominant communities within the county.

From the study conducted the data shows a significant discrepancy in compliance with the inclusivity provisions outlined in the CGA 2012. The fact that only 28% of counties are meeting the requirement highlights a substantial gap in the implementation of diversity and inclusivity policies. This non-compliance could potentially affect the equitable distribution of public resources and opportunities among different communities within the counties.

b) Exclusion of Minority Communities in the County Public Service

Diversity in the workplace is a powerful driver of organizational success. The benefit of having diverse team extends beyond just compliance with legal requirements; they significantly enhance organizational performance and resilience.

The study reveals top 10 ethnic groups collectively dominate CPS employment, which reflects a significant concentration of positions among a few communities. This dominance can limit opportunities for other groups and undermine the principles of diversity and inclusivity mandated by the County Governments Act (CGA) of 2012.

c) Inter-ethnic Interaction in the County Public Service

On employment of other ethnic groups the study revealed that 32 counties (68%) have employed more than 20 ethnic groups, with Nairobi (38), Nakuru (32), Mombasa (31), Kilifi (31), and Marsabit (30) employing more than 30 ethnic groups. Counties that are more inter-ethnically

interactive are more likely to comply with legal requirements related to ethnic inclusivity and diversity.

d) PWD Representation in the County Public Service

Persons with Disabilities (PWDs) are significantly underrepresented in the County Public Service, with only 1.14% representation compared to the 5% minimum threshold set by the policy. This gap highlights a critical need for enhanced enforcement and advocacy efforts to improve compliance with the Constitution of Kenya and the PWD Act 2003.

e) Distribution of gender in the County Public Service

The study indicates that the majority of the County Public Service employees are female, with 53.4% representation, suggesting that, overall, the County Government is largely in compliance with the two-thirds gender rule. This is a positive development, especially considering the ongoing challenges faced by many institutions in achieving gender parity.

However, the fact that three counties fall short of this standard highlights specific areas where improvements are needed: Wajir: 32.2% Women, Kiambu: 30.9% Men and Mandera: 23.2% Women.

f) New Appointments from 2016 to Date

Total Appointments and Legal Contraventions

Since 2016, there have been 98,299 new appointments across 47 counties. Out of these, 34 counties have allocated over 30% of entry-level vacancies to individuals from ethnic groups that are not dominant in those regions, which might be against the legal requirements or principles of equitable representation.

a) Ethnic Representation Among New Employees

Dominant ethnic groups are significantly overrepresented in the new hires: Kikuyu: 15.9%, Kalenjin: 14.1%, Luhya: 13.8%, Kamba: 8.64% Luo: 8.54% and Kisii: 6.54%. Minority communities, in contrast, have less than 1% representation among new hires.

Impact on Employment Practices

The skewed appointments perpetuate ethnic imbalances and continue to marginalize minority communities. This pattern suggests a systemic issue where dominant ethnic groups are favored, which undermines efforts toward equitable and fair employment practices.

Bungoma County

Bungoma County, located in the western part of Kenya, it's a diverse region with both cultural and geographical significance.

- **Location:** Bungoma County is bordered by Uganda to the northwest, Trans Nzoia County to the northeast, Kakamega County to the east and southeast, and Busia County to the west and southwest.
- **Population:** As of the 2019 Census, the county has a population of approximately 1,670,570.
- **Area:** It covers an area of 2,069 square kilometers.
- **Sub-Counties:** The county is administratively divided into nine sub-counties: Bumula ,Kanduyi ,Sirisia, Kabuchai, Kimilili, Tongaren Webuye West, Webuye East and Mt Elgon

The County has 6,477 staff out of which 56.85% (3,682) are female and 43.15% (2,795) are male. The representation of persons with disability is at 0.99% (64).

General Ethnic Distribution of the Bungoma CPS

No. Ethnic Group		Number	
	Percentage		
1.	Luhya	542	83.
		5	76
2.	Kalenjin	694	10.
			71
3	Teso	110	1.7
4	Luo	81	1.2
			5
5	Kisii	52	0.8
6	Kikuyu	51	0.7
			9
7	Kamba	23	0.3
			6
8	Meru	12	0.1
			9
9	Mijikenda	5	0.0

No. Ethnic Group		Number	
	Percentage		
1	Kuria	3	0.05
2			
1	Kenyan-Arab	2	0.03
3			
1	Maasai	2	0.03
4			
1	Turkana	2	0.03
5			
1	Bajun	1	0.02
6			
1	Dorobo	1	0.02
7			
1	Embu	1	0.02
8			
1	Pokomo	1	0.02
9			
2	Samburu	1	0.02

			8				
10	Somali	4	0.0	2	Suba	1	0.02
			6	1			
11	Kenyan Asian	3	0.0		Taita	1	0.02
			5			Tharaka	1
						Total	6,477
							100

The Luhya ethnic group forms the majority of its employees at 83.76% (5,425). The remaining 16.29% (1,052) employees represent 22 other ethnic groups as listed. The County is in contravention with the provisions of section 65 1 (e) of CGA 2012. It is worth noting that the county has employed 15 persons from minority communities namely the Maasai, Turkana, Somali, Tharaka, Kenyan-Asian, Dorobo and Kenyan Arab.

EEthnic Distribution of CECMs, CCOs and CPSB Members in Bungoma County

No.	Ethnic Group	Numbe r	Percent age
1.	Luhya	29	82.86
2.	Kalenjin	4	11.43
3	Teso	2	5.71
	Total	35	100

Three ethnic groups make up the 35 employees, with the Luhya ethnic group taking up the lion share at 82.86% (29) employees, whilst the remaining 17.14% (6) are distributed between the Kalenjin and Teso, ethnic groups.

The County Chief Officers, CECM and CPSB members in Bungoma are from three ethnic communities

- The Luhya ethnic group holds a predominant share of positions in all key areas, with significant overrepresentation compared to other ethnic groups.
- The representation of Kalenjin and Teso communities is minimal, indicating a lack of ethnic diversity and inclusivity in county governance and administration.
- The disproportionate representation suggests potential issues with equitable distribution of opportunities and adherence to diversity and inclusivity policies.

County Assembly Staff

Bungoma County Assembly has 125 members of staff as presented below:

Ethnic Distribution of County Assembly Staff in Bungoma County

No.	Ethnic Group	Number	Percent age
1	Luhya	102	81.6
2	Kalenjin	14	11.2
3	Luo	3	2.4
4	Kamba	2	1.6
5	Teso	2	1.6
6	Kisii	1	0.8
7	Mijikenda	1	0.8
	Total	125	100

The Luhya and Kalenjin community still dominate the County Assembly at 81.60% (102) and 11.2% (14) employees respectively with the remaining 7.2% (9) being shared five ethnic communities.

Ethnic Composition of New Appointments (2016-2023)

The ethnic composition of new employees since 2016 is presented in the table below:

Ethnic Distribution of New Appointments in Bungoma County

No.	Ethnic Group	Number	Percent age
1	Luhya	3421	85. 21
2	Kalenjin	460	11. 46
3	Teso	69	1.7 2
4	Luo	27	0.6 7
5	Kikuyu	13	0.3 2
6	Kisii	11	0.2

			7
7	Kamba	6	0.1 5
8	Mijikenda	2	0.0 5
9	Dorobo	1	0.0 2
10	Kenyan-Arab	1	0.0 2
11	Kuria	1	0.0 2
12	Maasai	1	0.0 2
13	Meru	1	0.0 2
14	Suba	1	0.0 2
	Total	4,015	100

The County has employed 4,015 staff from 2016 to date. The County is in contravention of the CGA 2012 section 65 1 (e) with employment being skewed towards the Luhya and Kalenjin communities at 85.21% (3421) and 11.46% (460) respectively. The County needs to improve in compliance by increasing the numbers of the minority ethnic groups into its public service.

- The Luhya community's representation decreased by 5% from 2016 to 2023, suggesting some progress towards diversifying the work force. Despite the decrease, community still represents 83.8% of the workforce, which indicates that significant dominance still persists.
- The number of represented ethnic groups increased from 9 in 2016 to 23 in 2023. This shows a positive effort towards inclusivity and diversity.
- The inclusion of minority groups such as Maasai, Turkana, Somali, Tharaka, Kenyan-Asian, and Kenyan Arab indicates efforts to broaden representation beyond the major ethnic groups.
- The county remains in violation of the CGA 2012 provisions, which require ethnic representation to reflect the diversity of the population.

Ethnic Distribution across Job Cadres

The ethnic composition of all employees in Bungoma County Public Service across the three job cadres namely; Senior Level (Job Group P and above), Middle Level (Job Group

L, M, N) and Entry Level (Job Group K and below) shows that the senior management of Bungoma County is dominated by the Luhya at 79.38% (127) and the remaining 11 communities take up 20.62%.

Efforts to Improve Diversity in Bungoma County

1. Diversity Policy for the County Public Service

The County has in place diversity policy that outlines the County's commitment to diversity and inclusion. The policy sets clear goals and expectations for achieving diversity at different levels namely, Youth, People living with Disabilities, Gender and Ethnicity.

2. Inclusive Recruitment and Hiring Practices

The County should use multiple channels to source candidates from diverse backgrounds, including partnerships with minority-focused organizations, job boards, and educational institutions. Hiring boards should be diverse to reduce biases in the selection process.

3. Affirmative Action and Equal Opportunity

The County should develop and implement affirmative action plans to address disparities in representation and ensure fair opportunities for underrepresented groups. Ensure that all hiring, promotion, and compensation practices are fair and equitable, providing equal opportunities for advancement.

4. Training and Education

Provide mandatory diversity and inclusion training for all employees to raise awareness and educate them about unconscious bias, cultural competence, and inclusive behaviors .Offer specialized training for leaders and managers on how to foster an inclusive workplace and handle diversity-related issues effectively.

5. Improve Work Environment and Accessibility

Ensure that workplace facilities and technologies are accessible to all employees, including those with disabilities. Implement policies that support work-life balance, such as flexible work arrangements and parental leave, to accommodate diverse needs.

6. Continuous Improvement and Feedback

Create channels for employees to provide feedback on diversity and inclusion initiatives and address any concerns or suggestions they may have. Periodically review and update diversity policies and practices based on feedback and changing needs.

Committee Observations and Recommendations

Committee Observations

4. **THAT** there exist legal frameworks for ethnic diversity.
5. **THAT** the County Government of Bungoma is in contravention with the provisions of section 65 (1) (e) of CGA 2012
6. **THAT** there are efforts to improve diversity through the recently enacted Bungoma County diversity policy

Committee Recommendations

4. **THAT** there is need to have frequent trainings and sensitization of available diversity measures by the recruiting boards.
5. **THAT** efforts should be made to ensure that at least thirty per cent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county in compliance with section 65(1)(e) of CGA.
6. **THAT** the County Government of Bungoma should implement monitoring, evaluation and reporting mechanisms to ensure the diversity policy for the County Public Service is actualized.

We do have the adoption schedule signed by honorable members. At this juncture allow me to call the member for Musikoma Ward, Hon. George Makari to second the report. Thank you.

(Applause)

Mr. Speaker: Hon. Makari you have been called upon by Hon. Chikati to second the report. Kindly you proceed and make your submissions.

Hon. George Makari: Thank you, Hon. Speaker. I want to rise and second the motion. I want to congratulate Hon. Chikati I didn't know he will take record time to finish the presentation but he did so well. I think Chair next time he can continue reading and reading again.

I want to laud the move by the Justice Committee to delve into this idea of ethnic diversity. From the outlay, you can see that even in our own assembly we only have two Tesos; this is Hon. Ipara...No, Hon. Ipara is not an employee but on employees.

(Laughter)

I don't want to name names but only two but we the Luyhas are taking a very commanding lead in over 100 as per the Bungoma County-Assembly Employment and..

Mr. Speaker: It is Luyha and Kalenjin as per the report.

Hon. George Makari: Luhya and Kalenjin they are taking the biggest slots. You find that Luhya are 102. Kalenjin are coming around 11 or 14. So you see with such this ethnic balkanization, I can call it balkanization because according to the act of the law no community is supposed to occupy more than 31% of the slots at any given time but however, there are counties in Kenya I can tell you for free that Bungoma County has done tremendously well.

You can go in other counties you will not even find a Luyha in those counties completely or you may not even find a Teso in those counties completely and they cannot even they will employ on the basis of ethnicity. If they find that you are coming from Mt. Elgon and you have come to look for work in a county which I don't want to name Hon. Speaker I know you know.

(Loud Consultations)

They will base their qualifications on where you come from. This person is coming from where and this county is predominantly domiciled by which people so they will deny you that employment on the basis of where you come from but Bungoma County I can laud I have seen even a Majikenda in our County Assembly and even there is another tribe in the executive region I have never known. If you look at the diversity employment in the executive, there is another person whom I have never known such a tribe existed. So that tells you that Bungoma County have done so well. So I want to support the motion and I want to second it. Thank you.

(Applause)

Mr. Speaker: Thank you, Hon. George Makari, our Commissioner Emeritus. Just allow me Hon. Members to be able to proceed and propose a motion for debate before the House.

(Question proposed)

Mr. Speaker: Thank you, Hon. Members. Sorry Majority Leader, I have seen you want to say something.

Hon. Joseph Nyongesa: Thank you, Mr. Speaker. First, allow me to appreciate the members of that committee and especially the Mover Hon. Chikati. I have only stood on one thing that the legal framework on the issue of diversity. As we appreciate Bungoma County we have done

well. Does it only affect counties or even National government, because I am thinking about how the Cabinet was constituted, Parastatals heads, so does this framework only affect the Counties or can also maybe affect the National Government? Otherwise, I support the report.

Mr. Speaker: Thank you, Hon. Chikati. Having allowed the majority to speak, right of reply Hon. Chikati, you reply to the motion in a way you want

(Laughter)

Hon. Chikati what is happening in sign language? I am told that I have missed you so much. Yes, so proceed.

Hon. Timothy Chikati: Thank you, Hon. Speaker and thank you Hon. Majority Leader for raising that concern. That's something that we need to do a research on it, so that we can give you a comprehensive answer.

(Applause)

For now, I request the House to adopt the motion.

Mr. Speaker: Thank you, Hon. Chikati. CPA Nganga, you arrived and I say the lunch you ate is what I am wondering.

(Question put and agreed to)

Ayes have it.

(Applause)

The report, its observation and recommendations are hereby adopted by the House accordingly.

Hon. Members, what they want to do is an illegality. If your statement is called and you are absent and it is referred to HBC then it ends there. That is the position HBC will give it a date. When you have a statement before us and you come late, it is called in your absence and nobody is there to hold brief for you it goes that way. It is on HANSARD already. It has been referred back to HBC, it is not a motion, let them try after the short recess. That is not me, that is the practice all over the country.

ADJOURNMENT

Mr. Speaker: So Hon. Members, just to confirm once again we are back to our calendar of the sitting of the House. We will adjourn for today being the 7th of November, 2024 and resume our sittings on 19th of November, 2024 in our regular sittings. In the meantime the leadership of the House and the Service Board is working out on the modalities of the committee's activities during the recess.

So you will be given updates accordingly by the leadership of the House of what we have planned for the committees accordingly but I will urge members that as we are doing so, make

sure that there is attendance of the committees. I think they will be shared on our individual committees, the liaison team has prepared the internal committee sittings and the equally the retreat committee sittings, so that we are able to attend but I am urging members to attend because I have been in some of the committees the attendance is wanting.

We were able to break when we went for games. We took the machines for servicing, so they are working well. They are back in use in our committee sittings. We are adjourned accordingly.

The House rose at 4:00 p.m.