

**COUNTY GOVERNMENT OF BUNGOMA**

**COUNTY ASSEMBLY OF BUNGOMA**

**COUNTY ASSEMBLY DEBATES**

**THE DAILY HANSARD**

**WEDNESDAY, 6<sup>TH</sup> NOVEMBER, 2024**

**Morning Sitting**

**3<sup>rd</sup> County Assembly**

**3<sup>rd</sup> Session**

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# COUNTY ASSEMBLY OF BUNGOMA

## THE DAILY HANSARD

WEDNESDAY, 6<sup>TH</sup> NOVEMBER, 2024

The House met at the County Assembly Chamber at 9:30 a.m.

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

### PRAAYER

### MOTION

#### REPORT BY THE SECTORIAL COMMITTEE ON EDUCATION AND VOCATIONAL TRAINING ON THE STATUS OF HOME CRAFT CENTERS IN BUNGOMA COUNTY

**Hon. Johnston Ipara (Member):** Thank you, Hon. Speaker Sir. This is a report by the committee on Education and Vocational Training on the need for establishment of home craft centers in Bungoma County.

#### Preface

On behalf of the members of the Education and Vocational Training, it is my pleasure and duty to present to the House the Committee's report on the need to establish Home Craft Centers in Bungoma County.

#### Committee Membership

The Committee on Education and Vocational Training as currently constituted comprises of the following Members:-

- |                            |                  |
|----------------------------|------------------|
| 1. Hon. Benjamin Otsiula   | Chairperson      |
| 2. Hon. Stephen Kaiser     | Vice chairperson |
| 3. Hon. Joan Kiron'g       | Member           |
| 4. Hon. Ali Machani        | Member           |
| 5. Hon. John Wanyama       | Member           |
| 6. Hon. Jacob Psero        | Member           |
| 7. Hon. Okasida Ipara      | Member           |
| 8. Hon. Christine Mukhongo | Member           |

9. Hon. Abraham Obama	Member
10. Hon. Aggrey Mulongo	Member
11. Hon. Jack Kawa	Member
12. Hon. Timothy Chikati	Member
13. Hon. Angeline Rugut	Member
14. Hon. Mildred Barasa	Member
15. Hon. Allan Nyongesa	Member

### **Acknowledgement**

The Committee is thankful to the Offices of the Speaker and the Clerk of the County Assembly for the logistical support accorded to it during the report writing as it executed its mandate.

I wish to express my appreciation to the Honorable Members of the Committee for their resourceful input that informed the content of this report. My sincere gratitude also goes to the members of the Secretariat for their dedication towards compiling this report.

It is therefore my pleasant duty and privilege, on behalf of the Sectoral Committee on Education and Vocational Training to table this report on the need to establish Home Craft Centers in Bungoma County and its recommendations to the Assembly for deliberation and adoption.

Thank you.

The report is signed by Hon. Benjamin Otsiula Chairperson Sectoral Committee on Education and Vocational Training.

### **Background Information**

#### **Historical Perspective**

Similar to the initial phases of missionary education, the colonial education policy in Africa was founded on the notion that women belonged in the domestic sphere while men's roles were centered on activities beyond the home, particularly in agriculture.

Through such actions, colonial education policy aimed to restructure the existing social dynamics of production before colonization. Elementary education in African schools emphasized gender-specific handicrafts and agricultural skills, prioritizing self-sufficiency over commercial pursuits. The focus was on honing practical skills rather than solely emphasizing the sale of goods. In the early 1930s, colonial authorities envisioned a gender-specific educational program for Africa, training boys and girls for distinct socio-economic functions. Consequently, the philosophy and practice of segregation were promoted in higher

education institutions, with separate preparation for boys and girls in various socio-economic spheres.

As time has passed, numerous philosophies and scientifically supported studies have emerged, indicating that women are equally capable as men in various domains. The concept of segregating genders based on socio-economic roles has diminished, leaning more towards cultural or traditional beliefs rather than scientific evidence.

In the past decade, there has been an increasing government focus on rural development. Currently, the significance of home crafts has gained prominence on a global scale, being seen as crucial for both developing countries and overall rural development.

Governments and institutions are increasingly emphasizing rural development to counter the trend of population migration from rural regions. In regard to this, home crafts are recognized as a significant instrument for fostering local economic growth and generating employment opportunities.

### **THE SITUATION IN THE NATION AND COUNTY SETTING**

Home crafts education has seen a resurgence in popularity across the country, with communities and educational institutions recognizing its value in fostering creativity, practical skills, and a sense of cultural heritage. From urban centers to rural areas, initiatives promoting home crafts education have been implemented, aiming to empower individuals of all ages with the ability to create and appreciate handmade items. These programs often encompass a wide range of disciplines, including knitting, sewing, woodworking, pottery, and more, catering to diverse interests and skill levels.

Through channels like workshops, online tutorials, and community gathering/ events, people are given the opportunity to learn traditional techniques alongside modern innovations, bridging the gap between past traditions and contemporary design. Additionally, home crafts education not only provides individuals with valuable skills for personal enrichment but also serves as a platform for entrepreneurship, encouraging small-scale artisans to turn their passion into viable businesses. By embracing home crafts education on a national scale, communities are fostering a culture of creativity, sustainability, and self-sufficiency, enriching lives and strengthening social bonds in the process.

In Bungoma County, the education sector has witnessed legislative advancements since the onset of devolution, such as: -

1. The Bungoma County Early Childhood Education Act,2015
2. The Bungoma County Village Polytechnic Act,2015
3. The Bungoma County Education Support Regulations 2019.

The initial two legislative sessions have greatly influenced education in early childhood and village polytechnics.

Although the education sector in Bungoma County has seen significant achievements, the government has faced challenges in setting up and implementing the home craft education program, which is crucial under devolution. The CIDP plan from 2023-2027 prioritizes improving training and skill development. One major proposal is to establish five home craft centers within this framework. However, the lack of allocated funds for this initiative since the start of devolution and the absence of the program itself pose a significant setback.

Drawing from the context provided, this report explores the significance of integrating a home craft education program into the county's educational framework.

## **LEGAL FRAMEWORK**

The Kenyan Constitution delineates the responsibilities of County Governments, particularly in devolved functions outlined in Schedule 4, which includes educational mandates. Paragraph 9 of this schedule specifies County Governments' roles in overseeing pre-primary education, village polytechnics, home craft centers, and childcare facilities. This establishes the operational scope for County Governments in education matters, requiring them to formulate policies and enact laws to manage the sector effectively, tailored to their areas' unique needs.

## **COMPARATIVE ANALYSIS**

This section has outlined a comparative analysis that was carried out to explore the regulations concerning the formation of home craft centers in Busia and Kirinyaga county. These establishments were set up in line with the Busia County Vocational Training Centers Act, 2021 and the Kirinyaga County Education Act, 2016, respectively. Through this analysis, various significant resemblances and effective approaches were identified, which our county could consider incorporating.

### **1.1 Establishment of Home Craft Centers**

1. Both legislations address the establishment of home craft centers.
2. The two assign the responsibility of establishment to the Executive Committee Member.
3. That each of them underlines similar entities eligible to establish home craft centers, such as religious organizations, public benefit organizations, individuals and groups.
4. All emphasize the importance of providing home craft skills training.
5. Both aim to promote, protect, and support indigenous products.
6. Both of them seek to foster home craft entrepreneurship.
7. Each of them contains clauses prohibiting the use of home craft centers for unlawful activities.

## **1.2 Regulation of Home craft Centers**

1. Both counties, the Executive Committee Member is empowered to formulate regulations concerning the establishment and effective management of home craft centers. This setup facilitates centralized governance and supervision of these establishments.
2. Both counties outline similar areas that regulations may cover, including standards for premises, facilities, and programs, as well as provisions for administration, management, licensing, and registration. This comprehensive scope ensures that key aspects of home craft center operations are addressed.

## **1.3 Funding and Support**

Both Counties stipulate that funding for home craft centers will originate from the annual allocation to the Directorate of Vocational Education and Training. This guarantees a consistent funding stream dedicated to the operation of these centers.

## **1.4 Home craft Enterprise Services**

1. Both Counties stress the significance of furnishing essential training resources and facilities for home craft centers, demonstrating a commitment to bolstering the educational and training provisions for individuals in the home craft field.
2. Both counties underscore the importance of supplying requisite facilities and infrastructure to support home craft centers. This ensures that these establishments possess the necessary physical infrastructure for efficient operation.
3. Both acknowledge the necessity of allocating funds to cover operational expenses for the centers, indicating an understanding of the financial obligations involved in sustaining and managing these facilities.
4. Both permit home craft centers to partake in enterprise activities for revenue generation, underscoring an acknowledgment of the economic prospects within the home craft sector.

## **1.5 Contrast of the two selected counties**

The Busia Home Craft Centre allows for the possibility of home craft centers to provide industrial attachment opportunities to trainees from vocational training centers, a provision absent in Kirinyaga's legislation.

The Busia County incorporates a clause allowing the Executive Committee Member to enact regulations governing the management and utilization of funds derived specifically from enterprise services of county home craft centers. In contrast, Kirinyaga County does not clearly address regulations pertaining to funds management within this context.

## **IMPORTANCE OF HOME CRAFT EDUCATION**

In the devolved counties of Kenya, home crafts stand as pillars of both economic vitality and cultural richness. In Bungoma County shaped by Kenya's devolution, diverse communities such as the Iteso, Sabaot, Bukusu, Bongomek, Tachoni, and Batura infuse their unique crafting traditions into the fabric of local life. Through investment in these centers, the county not only celebrates the diverse heritage but also nurtures sustainable livelihoods, fosters community growth, and elevates the profile of handmade treasures for generations to come.

Craft centers are crucial for safeguarding our cultural heritage, stimulating creativity, and enhancing local economies. They act as central hubs where traditional craftsmanship intersects with contemporary innovation, offering artisans a space to exhibit their expertise and engage with customers. Investing in home craft centers within our county enables us to honor our diverse heritage while also fostering sustainable livelihoods, nurturing community growth, and advancing the visibility of distinctive, handcrafted products.

Promoting home craft education in society can indeed have numerous benefits. Here are some reasons why it's important:

### **1.6 Economic Importance**

Home crafts serve as a source of income for many families in devolved counties. Local artisans create a variety of handmade products such as baskets, pottery, beadwork, textiles, and wooden carvings. These crafts are often sold locally in markets or to tourists visiting the region, providing livelihoods for artisans and contributing to the local economy.

### **1.7 Therapeutic Benefits**

Engaging in home crafts has been shown to have therapeutic benefits, reducing stress and anxiety while promoting mindfulness and relaxation.

### **1.8 Cultural Significance**

Home crafts are deeply rooted in the cultural heritage of Kenya's diverse ethnic groups. Each community has its own traditional craft techniques and designs passed down through generations. Craft-making is not only a means of economic sustenance but also a way of preserving cultural identity and heritage.

### **1.9 Community Building**

Home craft activities can foster a sense of community by providing opportunities for people to come together, share skills, and collaborate on projects.

### **1.10 Tourism and Cultural Promotion**

Home crafts contribute to the tourism industry in devolved counties by attracting visitors interested in experiencing authentic Kenyan culture. Tourists often seek out locally made crafts as reminders, supporting local artisans and businesses. County governments may also

promote these crafts through cultural festivals and events to showcase the region's cultural richness.

### **1.11 Empowerment and Skill Development**

Home crafts offer opportunities for skill development and empowerment, particularly for women and marginalized groups. Many craft-making activities are carried out within households, allowing women to generate income while balancing family responsibilities. Additionally, initiatives supported by local governments or NGOs provide training programs to enhance craft-making skills and empower artisans to become self-reliant entrepreneurs. Furthermore, learning home crafts like knitting, sewing, or woodworking fosters valuable skills such as patience, creativity, problem-solving, and attention to detail.

### **1.12 Self-Sufficiency**

Knowing how to make things at home can lead to increased self-sufficiency, reducing reliance on mass-produced goods and empowering individuals to create their own items.

### **1.13 Economic Empowerment**

Home craft skills can open up avenues for entrepreneurship, allowing individuals to create and sell handmade products, thereby supplementing their income or even creating small businesses.

### **1.14 Environmental sustainability**

Home craft skills are essential for environmental sustainability as they involve recycling materials like old clothing, furniture, and household items, reducing the need for new resources and lessening landfill waste. By creatively repurposing these materials, home crafters not only extend their usefulness but also minimize their environmental footprint. This approach encourages wise consumption and waste reduction, fostering a more sustainable environment for the future.

## **Committee Observations and Recommendations**

### **Committee's Observations**

1. A number of counties have established home craft centers in selected youth polytechnics to assist community members acquire skills for self-employment.
2. The centers in Kirinyaga offer skills in areas such as beadwork (beadwork products such as flower vases, pen holders, serviette holders as well as leather sandals, clothes and bags) weaving (door mats, weaved lesos commonly referred as kikois) soap making, leather work, knitting and clothes making.
3. There are no prerequisite academic qualifications for anyone to join the home craft Centre.



## 1.15 COMMITTEE'S RECOMMENDATIONS

1. **That**, the Bungoma County government should consider establishing home craft centers within existing vocational training facilities to minimize the expenses of creating new ones.
2. **That**, it's imperative for the county government to prioritize budget allocation in the upcoming fiscal year to effectively fulfill the responsibilities of the devolved education sector.
3. **That**, the County Assembly should amend The Bungoma County Village Polytechnic Act, 2015 to effectively govern the operation of the home craft centers.
4. **That**, the Centers should provide training that encompasses the cultural heritage of all communities residing in the county, including Batura, Tachoni, Bongomek, Bukusu, Iteso, and Sabaot, in order to promote and preserve the cultural identity of Bungoma County.
5. **That**, the County Education Committee should aim to conduct a benchmarking exercise on leading home craft centers prior to developing a policy framework for the Center.

The adoption schedule is signed all except of two members as previously constituted. With your permission the rest are annexures of the minutes, allow me request our able chair to second this report.

**Mr. Speaker:** Thank you, Hon. Ipara. Hon. Otsiula you have the honor of seconding the committee's report

**Hon. Benjamin Otsiula:** Thank you, Hon. Speaker for the opportunity to second the report. First of all, I wish to appreciate Hon. Okasida Ipara for his eloquence and charisma in moving the motion on the floor of the House. As evidenced by this report, Bungoma County has lagged behind as far as the operationalization and giving effect to the provisions of schedule 4(9) of the constitution, home craft centers are covered under that particular section.

Looking at this report, a comparative study was carried out comparing Busia County and Kirinyaga County who are already ahead, they have given priority and one aspect some members were really confusing on is why should we have home craft centers and village polytechnics. If you look at the report the home craft centers may only center on our skills and they don't have a set out curriculum. These skills can be acquired like for example rope making and mat making. This necessarily does not mean that one is supposed to undergo a certain course for a period of maybe 2 or 3 years to be acquainted with these skills. We have old men in the society even between 50 to 60 years who have these skills and they can produce baskets and they also make very good ornaments.

The mover has been talking about bead and necklaces, these are things that can be very well be done in our Home Craft centres. Bungoma County in the Village Polytechnics Act 2015 failed or maybe they forgot to capture the Home craft Centres. Therefore, as we speak we

don't have proper legislation governing this particular issue and it will be prudent that something is urgently be done by the County Assembly to ensure that that Act is amended so that the Home craft Centres are captured.

Also these Home craft Centres as per this motion, serve a very, very important aspect. They promote our cultural aspect if for example we are talking about the Bongo make they have their culture. They can produce several items which once they are marketed; they will promote the cultural diversity of this county. The Bukusus, my Baturas with their Viula, others call them Owalos, once they are sold and taken all over the market, our county.

Therefore, this is a very, very important aspect and during our budget making process how I wish that the Education Department must make provisions so that the Act is amended and these centres, with a projection of having at least five centres in Bungoma County for a start, we believe it will give this county a head start. With those very brief remarks, I wish to second.

**Mr. Speaker:** Thank you, Hon. Otsiula for seconding the motion beforehand.

*(Question proposed)*

Hon. Caleb,

**Hon. Caleb Wanjala:** Thank you, Hon. Speaker for giving me an opportunity also to contribute on the just-read report on Education. First of all, I would like also to laud the Hon. Okasida for moving the report. As much as I am supporting the report, I think the question we need to ask ourselves is, are our VTCs a success? Are our ECDEs a success? Because our VTCs as we speak, some of them are not operational. Some of them are underfunded. I think the best thing we can do is to make sure that our VTCs are fully operational even as much as we desire to add on the craft centres.

At the same time we have what we call a cultural centres. This is where the county bought land in Sangalo and they were putting up a centre for culture. Some of these craftsmen and women besides being craftsmen are also cultural and there are those who are known to make certain goods or certain things basing on their cultures. So for me, the committee needs to put a lot of effort on the side of making sure that our VTCs are a success rather than creating another problem when we already have a problem.

Some of these VTCs don't have students but I don't know, maybe this craft centre will make people to desire joining some of our VTCs. Otherwise, it is a noble idea that can transform this county.

When you go to Machakos County they make a lot of money in craft. Majority of those curios that are bought by tourists originate from Machakos and Kitui County. We have our able men and women who have similar skills but I don't know if it should be in our culture centre or in the VTC or we come up maybe with a program where we can begin teaching these skills from maybe ECDEs.

When you go to developed countries like China, you realize that those young kids who are in kindergarten they begin developing their skills from there. Some of the toys we are using here, are some of the homework from those developed countries and that is where we need to put a lot of emphases because the modern education currently it is about practical not theory.

On the western side they have put a lot of efforts on practical and research not on theory. So this is a noble idea for the committee and I think if we can put a lot of emphasis on this and give them enough budgets, I believe this can transform this great county and it can also improve our own-source revenue.

I remember some time back we used to have a similar subject in primary schools. We used to have woodwork, metalwork, home science and people who went through the current carpenters and welders are product of that syllabus. Learners became self-reliant but not dependent and there is nothing. Some of us as Hon. Members, we find it very hard on the ground because we have people who are dependent but they are not self-reliant, simply because they don't have skills. Maybe their skills is just running after Honourable members' cars, requesting for something small but this is the way to go and this is what can be able to transform this generation. So I support this report but let us also do more on the current VTCs.

Maybe we need to do an evaluation to evaluate where are we in terms of our VTCs? What is the success story of our VTCs? Are we up to where we wanted us to be, or we are not? And if we add on the craft centres, are we going to also get success or we will still just create something that will not move? I rest my notion I support the report.

**Mr. Speaker:** Thank you, Caleb Wanjala. Hon. Chemorion,

**Hon. Martin Chemorion:** Thank you, Hon. Speaker. I just want to thank the mover of the motion for taking us through the report. Actually, the report is noble. The report is capturing things which we should have done a long time ago to promote the home crafts in our villages because most of us our parents were actually blacksmiths. They did this work and they used to get money from their home crafts to educate some of us.

I want to applaud the mover for highlighting the aspect of environment. We see the degradation of our environment because we failed to know or to remember how the environment played a big role in giving out or in deriving the raw materials towards this home craft. If I give you an example of the Agiek or the Sabaots in the Mt. Elgon region, whereby they use the bamboos to do weaving or basketry? They do it for fun and games.

The women in that community weave baskets during their free time and in most cases these baskets are not used to selling. They just beat up. It forms part of maybe their traditional items for keeping or for storing their items but with this now home craft venture being recognized within our system in Bungoma County, I know it's going to enhance the preservation of the environment.

We see the West menace, which is actually bringing a lot of issues within the county, the garbage collection and the dumping site. If we utilize the raw materials or the materials that are dumped we have the old men, even the young men, who are very innovative or creative enough. They can utilize this refuse or leftovers or these containers, the plastic to come up with items which are sellable.

So with proper regulations or policies in place we can promote this home craft enterprise within the community and also, we can create sort of a hub or a business hub for the people. You know, it deviates from the normal formal education. This is an informal way and of course the government of Kenya, through the CBC program actually they are educating our children the home craft at the young level. So when these children come of age, I know besides their formal employment, during their free time they can have a side hustle whereby they do the home craft for business and income generation. We are actually going to improve the income within the households.

I want to encourage us to fast-track the review of the Village Polytechnic Act, so that we incorporate this. So we have the Village Polytechnic doing their things and home craft centres doing also their things and of course, with proper facilitation and in terms of technical expertise and of course the marketing aspects of it because at the end of the day, we are talking about the cultural events, holding, hosting cultural events, hosting economic events.

Hosting these events without exhibition of the crafts or the wares done by our communities within the Bungoma County definitely will not be doing much. So we have to promote our home craft entrepreneurs so that we can generate. At the end of the day, of course we can even do the taxing. We can generate taxes from this home craft. I support.

**Mr. Speaker:** Thank you, Hon. Chemorion. Hon. Majority Leader, proceed.

**Hon. Joseph Nyongesa:** Thank you, Speaker. I also rise to support the report. First, let me also appreciate the mover of this report Hon. Ipara and the seconder who opened up the report so that at least members could see the value of these home craft centres.

As we champion the issue of home crafts even the current education system or syllabus in our primary schools, they are also embracing the issue of skills, so it's one way of also embracing our culture. When we were in Khasoko in our own issues and we realized that those ladies have maintained the issue of culture by dancing using *viula* and some jingles and a lot of apparatus which were really bringing a very nice tune and these things are always made in home craft centres.

If you could allow me to take you back in 2015, when we were passing the Act on Village Polytechnics, how I wish that actually we embraced this because personally I was there but this was not in my mind, but I am now seeing the sense and again, through the leadership of the Education Committee, if we can review this 2015 Act and include the issue of home craft because even the issue of calling it the County village polytechnic, nowadays it's like it was

a demeaning word for the community, so that they feel this is only meant for the villages so that at least we can add on the issue of home craft centres to improve on various issues.

Currently in our society, even the young girls ageing below 30 years, they are not able to come up with a well-organized Kuku because they are not aware because most of the families are depending on maids and if we embrace this, we shall be reshaping our community, showcasing the issues in our community.

If nowadays you could bring on board a lady of 30 years, asking her what is *aningiro*? She may not know it but by introducing this, they will be able to know what is *aningiro*, what is *kiondo*, what is *enduvi*. So such names are getting lost in our community because we are not embracing hand crafts.

Personally I say that let's embrace this issue of cultural centres to ensure that our communities will be showcasing the issues in their community so that we shall be comparing the cultural issues of Teso, Bukusus, and Kalenjins.

Lastly, recently we had also choirs. Even you see those cultural dances they are also embracing the issue of home craft, so that they can be made in our home craft centres. I support the report.

(Applause)

**Mr. Speaker:** Thank you, Hon. Majority Leader. Hon. Chemion, Proceed.

**Hon. Francis Chemion:** Thank you, Hon. Speaker. From the report, I have read something that has touched my heart on the benefits of these home craft centres and one of them apart from the economic and others is the therapeutic value of these home craft centres. If you meet the aged ladies and men when they are producing some of the items that are done at home, they are very happy. They do it happily. It keeps them busy and it reduces stress. They don't think about their near future and therefore it serves as a therapeutic thing to the old and whoever does it even if they are young, this thing gives them therapeutic benefits.

I come from a world where we have very many women producing these products, the home craft products. If you go to Chepkitale location in my ward, you will come across groups of women producing these items using bamboo. They produce very nice home craft items. They also make traditional beehives which are adaptive to that very cold environment. When we take these modern beehives to that area, bees don't survive very well but the community, under the home craft management they are making traditional beehives, which is giving a lot of honey to the people and therefore, they get economic value out of it. Those ones who are able to make those traditional beehives, make them and sell them, they get money. Those ones who make those baskets, they also make money by selling them.

It is also one of the things that we make as a community, when visitors come to our place; those are some of the items we hand over to them as presents and gifts. I remember last year

part one, there was an ambassador who came to our place and he was gifted with those home craft items and he was very happy. Therefore, we need to encourage our County Government and all of us to ensure that we invest as per the recommendation of this committee. We put some money to ensure that these home craft centres are assisted to grow. So I support the issue that has been said very well by most of the members who have spoken.

**Mr. Speaker:** Thank you, Hon. Chemion. Hon. Makari,

**Hon. George Makari:** Thank you, Hon. Speaker. I want also to entirely agree with the report and support the report wholeheartedly. My good friend Hon. Ipara, took us very well through the report. I remember when we were in primary school we could make brooms. There was a subject called Art and Craft. There was also music, but I was not a musician that is why, even in the recently ended CASA games you never saw me even cheering the music people. I was very far away from music, so we concentrated on art and craft.

We could make beads, bracelets, using beads, and even sell them to the local community but the Western culture that has crept in, has crippled this issue of handcraft and I think the earlier people realize that they can come back to this issue because you find that as much as the Western culture has neutralized it, even the *Wazungus*, when they come you find they are also coming and are really happy to purchase our handicraft items.

Not to belabour the point, I want to take recommendation number four and five, it says that the centres should provide training that encompasses the cultural heritage of all communities residing in the county. If they say all communities, as much as I support, but they say cut there.

If they say all communities, why are they again trying to name a few? Why haven't they named the Banyala community, where I come from? They are only naming Batura, Tachoni, Bongomek, Bukusu, Iteso, and Sabaot, why aren't they naming other communities? The Banyala community was very adept at making pots and I know even in your childhood, you have drunk water from a pot. So they have not named this and I can remember, in this House we only have two Banyala me and Hon. Jack Wambulwa, so you will have also given an example of all other communities.

*(Laughter)*

**Mr. Speaker:** While we appreciate the submissions, I think you are going to make Hon. Wambulwa lose some votes. Let's proceed.

**Hon. George Makari:** Then Hon. Speaker, number five.

**Mr. Speaker:** Since he has mentioned you, let me allow you to be able to give us information, Hon. Wambulwa.



**Hon. Jack Wambulwa:** Hon. Speaker, I think you need to withdraw that remark because the majority of members in Bungoma County are Banyalas, but are assimilated. Banyalas are the majority.... Basonga are Banyala and you are a relative to those Banyalas. Do you mean that you will also lose because of that?

**Mr. Speaker:** Hon. Members, let me get rid of that line of submissions because even you may end up bringing some families out there. Hon. Makari, proceed

**Hon. George Makari:** As I wind up, recommendation number five, the county educational committee should aim to conduct a benchmarking exercise on leading home craft centres prior to developing a policy. This is my very good committee. Do they need a recommendation on the floor of the House to go on the benchmark? And yet you are the leader of this House, you have allocated them a budget to do their own things. They can decide to go to Rwanda and benchmark without asking anyone but now here, they are now recommending that now they need to go and benchmark to come up with a policy. That's very funny

*(Laughter)*

I am not in the educational committee, so something that is provided for in our Standing Orders as a Committee of Education, they do not need a recommendation on the floor of the House to carry out their duty. I know they are my friends but now they should come and respond to that. Why should they need a recommendation to make them go for benchmarking I submit.

**Mr. Speaker.** Thank you, Hon. Makari. Hon. Otsiula, you are getting that. That's part of your mandate. I will have Hon. Luseneke,

**Hon. Anthony Luseneke:** Thank you, Hon. Speaker for giving me this chance to also contribute. I also want to challenge the Education Committee. For the last two years, the budget for the Education Department has reduced compared to 2021 and 2022. And most of the funds that were being allocated to education department were meant for scholarships and bursaries and now that we are doing away with this scholarship and bursary thing, I just want to challenge the committee that we should divert these funds to our core mandate which is funding the VTCs.

Yesterday, I visited one of the VTCs in my ward and I was shocked to find that it has only 12 students and initially it was hosting up to 150 students. We don't have tutors and equipment in those VTCs.. There are no learning materials and so many students are running away.

So I just want to challenge this committee that the 85 VTCs we have in this county, can they at least come up with a formula on how we are going to fund these VTCs, what they have recommended and observed in that report. Once we fund these VTCs, they will just come automatically. Once these VTCs are up and running, they have tutors, they have equipment these other courses will just come in without us even realising, so I want to request the chairperson and the committee at large to make sure that in the coming supplementary or the

main budget for next financial year let us set aside funds even if it is a million per VTC; Kshs. 85 million; will help revamp them to be up and running with more students and what they are recommending will be implemented.

**Hon. Franklin Simotwo:** Thank you, Mr. Speaker. First, allow me laud the mover of the motion Hon. Ipara and the seconder Hon. Otsiula. This is a noble idea for this county as it gives room to all people to acquire a skill. It is a program that has been overlooked but remains important because people are earning a living in this sector. If it will not be looked into the sector will collapse. Looking at the old people they had these skills and they are dyeing and the skills are equally fading away and there is need to be revived so that the young generation is aware of what old men and women did without and education.

In Chepkitala, most people as mentioned by Hon. Chemion before farming was introduced in certain areas in Mt. Elgon, old women were making baskets in exchange for food. They were moving as far as Trans Nzoia to exchange the baskets with food. It served as a great thing and I don't know how they got the knowledge of making those baskets. I think this is one of the areas Chinese have specialized and they are coming up with toys using plastics. This has been overlooked in Africa not being an important venture. Therefore, in Bungoma through the department of Education should focus on such programme to help the young generation to be innovative.

Look at those people who make robes using sisal they are making a living from the proceeds of this venture. We should impress home craft skills to create employment to the residents of this region. The Ogiek community in Mt. Elgon are strategic and they using Bamboo to make a living. Some people may argue that if such is allowed it will lead to destruction of the forest, this is not true because we have cultural practices that are geared towards conserving the environment.

I laud the Education Committee because we must fast track home craft centers not to allow such productive cultural practices to fade away. By doing so it will be a continuity of what our fore fathers did by the current and future generations as self-employment opportunities for our people. I support the motion..

**Ho. Jeremiah Kuloba:** Thank you, Mr. Speaker. First of all, I want to laud the mover of this report which is noble and should be supported by all of us to have home craft centers in our localities. In my ward if craft centers are set up, all the waste that is collected can be a source of raw materials for those centers. We should have guideline to set up these centers even by ourselves as leaders to serve as an example so that the department can allocate funds. We can set aside funds from our Ward Based projects allocation to open up these centers by acquiring land where such ventures can be established.

The craft centers are majorly manned by the youth and by supporting them then we will be dealing with the issue of unemployment. We used to have Bungoma Craft Center where



Bungoma Town School used to be; it was Bungoma Craft Center when I was a young boy which is no longer in existence.

I saw during the CASA games, one of our staff member was using the plastic bottle and bottle tops to make something out of them. Around KMTC area, you will find young boys who used to be street boys they have tried to make bangles using beads. Mine therefore, is to request my colleagues to support such centers as a way of creating employment for our people. I support the report.

**Hon. Johnston Ipara:** Thank you, Hon. Speaker. First, allow me laud all Members who have contributed to this motion in support of this programme which is long overdue that we could have taken advantage of long time ago. I thank Hon. Jeremiah for your ideas and coming out with clarity that this will offer an opportunity for self-employment.

Hon. Simotwo, we are going to make sure as a priority to make sure that we restore the culture of every community within the county. Some of us have forgotten about barter trade where people used to trade with what they have, for instance baskets were being exchanged with eighth an animal or farm produce. When we talk about craft this is an area we use informal education without the need for formal education.

If Hon. Luseneka was still in the House, I want to make an appeal to him because he sits on Budget Committee that during their next meeting, he should make sure that consideration is given to the department of Education and more money is allocated for this purpose. I want to assure the Members that in the beginning we had misplaced priorities by opting to do what is supposed to be done by the National Government in the name of scholarship. If you look at how much we are spending; when we came in 2022 the budget for that particular year was Kshs. 321 million which if divided among the over 80 VTCs we have it is sufficient to improve both infrastructure and training.

I thank Hon. Makari but one thing he fails to get when he alludes that we failed to mention all the tribes that reside in Bungoma County. The word he forgot to read is including" which means we only picked a few to emphasize on what we are communicating, Hon. Makari should be rest assured that even our brothers he referred to are our priorities.

On benchmarking, the people we are referring to is actually not this committee; it is the committee at the County Education headquarters handling these issues. You know very well that policy issues originate from the department and handed to this House for purposes of perusal, reviewing and enactment.

I thank Hon. Masai for realizing that this is an area that we forgotten for a long time and we need revive as early as yesterday. Besides what they are doing, it will also be an attraction site for tourists both local and international. It is an area that we should put a lot of emphasis.

For the Leader of Majority for saying that if you knew you could have done this long time but I say that the time to do it is today and now. Equally, I thank Hon. Martin for his noble idea. About what was said by Hon. Wanjala one thing we need to know is that VTCs focus on vocational training where certification and carrier pathways are drawn in a formal setting with a structured curriculum. It targets a set group of people in the name of the youth. On the other side home craft has no formal certification, it is flexible and community centred, and it targets every group living with the county with a rich culture.

Recently Hon. Speaker, you were the delegation leader when we paid a visit to Uganda and the purpose of the visit was to see a culture that has been sustained, preserved for years in the name of *Embalu*. That time is when I realized the difference between *Embalu* and *Bukhebi*.

In summary I say that home craft is an area where the skills are sustained and it at times acts as a hobby center. It is where cultural preservations are done for all us and you remember when Hon. Nyongesa mentioned about *eningilo*; some of our Hon. Members don't know what eningilo is. It is a small pot where sweet vegetables were cooked and when this is done helps most of us to understand what it is...

**Mr. Speaker:** Hon. Ipara, during reply to motion interference is discouraged; I appreciate your submissions but we have the English version of the same; proceed.

**Hon. John Ipara:** Hon. Speaker, I was only quoting as put by the Hon. Member. I thank you for the guidance Hon. Speaker. Therefore, it has benefits and I want to request Members that let all of us support and approve the adoption of this report.

**Mr. Speaker:** Thank you Hon. Ipara for your reply to the motion before the House.

*(Question put and agreed to)*

The ayes have it.  
Next item,

## **REPORT BY DELEGATED COUNTY LEGISLATION COMMITTEE ON ACTS PASSED BY THE COUNTY ASSEMBLY**

**Hon. Martin Chemorion:** Thank you Mr. Speaker Sir. Allow me to move a motion on the status of four acts passed by the County Assembly of Bungoma.

### **Chairperson's forward**

In line with its legislative role as provided for under the Constitution and the law, the County Assembly of Bungoma has enacted various legislations since its inception. The committee

undertook the scrutiny of the following Acts passed by the County Assembly since inception and made its observations and recommendations thereafter:

### **The Bungoma County Flag, Emblems, and Names Protection Act, 2015**

This is a legislative measure aimed at preserving the dignity and sanctity of the County symbols. This act provides a legal framework for the use, display, and protection of the County's flag, coat of arms, and other official emblems. It defines the circumstances under which these symbols can be used and establishes penalties for misuse or unauthorized use. The act seeks to foster respect and pride in the county's identity and heritage.

### **The Bungoma County Property Hire and Lease Act, 2017**

The Act outlines the procedure governing the hiring and leasing of County property. This legislation is designed to ensure transparency, efficiency, and fairness in the management of County-owned assets. It stipulates the terms and conditions for leasing County properties, including the process for application, evaluation, and approval. The act aims to optimize the use of County resources, generate revenue, and prevent misuse or underutilization of County properties.

### **The Bungoma County Agricultural Produce Cess Act, 2017**

The Act establishes a framework for levying and collecting cess tax on agricultural produce within the County. The act defines the type of produce subject to cess and the responsibilities of both the producers and the County authorities. The revenue collected from this cess is intended to support agricultural development, infrastructure, and services within the County. This act aims to enhance the agricultural sector's contribution to the local economy through cess tax.

### **The Bungoma County Transport Act, 2015**

The Act sets out a legal framework for the management and development of transport infrastructure and services in Bungoma County. This legislation covers various aspects of transport, including road maintenance, public transportation, traffic management, and safety standards. It provides guidelines for the planning and implementation of transport projects

and establishes a regulatory framework for public transport operators. The Act seeks to improve mobility, reduce congestion, and enhance the overall efficiency of the county's transport system.

### **Revenue raising legislations**

One of the key findings of the committee was that the fees and charges are not anchored in The Bungoma County Agricultural Cess Act 2017 and The Bungoma County Property, Hire and Lease Act, 2017, neither is there subsidiary legislation on the same pursuant to the Acts, cognisant of the fact that these are revenue raising legislations.

The County governments are required to enact or operationalize required legislations to underpin revenue raising measures. The practise by the National government offers guidance on how County governments should deal with revenue legislations. At the National level, the Finance Act does not impose taxes, fees and charges. The Finance Act merely alters the amount or rate of a tax or fee by amending a section in the principal law that dictates the rate. This approach is consistent with accepted revenue raising practices whereby sector specific legislations impose taxes, fees and charges hence providing for easier financial regulation of each sector.

Having scrutinised the above stated Acts passed by the County Assembly since its inception, the committee made the following recommendations:

1. **THAT** the relevant Select committees, in exercise of their oversight mandate pursuant to Article 185(3) of the Constitution should inquire from the concerned departments on the implementation status of these Acts. For instance:
  - with regard to The Bungoma County Transport Act 2015; measures put in place to regulate non-motorised vehicles and taxis/cabs
2. With regard to The Bungoma County Agricultural Produce Cess Act, 2017 and The Bungoma County Property Hire and Lease Act, 2017:
  - i. **THAT** the department of Finance should provide for fees and charges either in the parent Act or subsidiary legislation subject to public participation and consideration and approval by the County Assembly. This will inform the amendment of these legislations in the Finance Act where necessary, forming the basis for revenue raising measures.
  - ii. **THAT** the relevant County Executive Committee Member contemplated under section 2 of the Bungoma County Property Hire and Lease Act, 2017

to make the application form for hire or lease of any property or item as stipulated under section 5 of the Act and any other form to be prescribed under the Act and submit it to the County Assembly for consideration as a subsidiary legislation.

3. With regard to The Bungoma County Flag, Emblems and Names Protection Act, 2015, the County Executive Committee Member responsible for matters public administration should fast track the enactment of the Regulations and in particular, those prescribed under section 12 of the Act since they are necessary for operationalization of the Act.

### **1.1. Establishment of the Committee on Delegated County Legislation**

The Committee on Delegated County Legislation is established pursuant to the County Assembly Standing Order No. 214 and is mandated to consider statutory instruments submitted to the County Assembly. Standing Order number 214 states as follows:

- 1) There shall be a select Committee to be known as the Committee on Delegated County Legislation.
- 2) The Committee shall comprise of a chairperson and not more than ten other members.

### **Committee Membership**

The committee as currently constituted comprises of:-

- |     |                           |                  |
|-----|---------------------------|------------------|
| 1.  | Hon. George Kwemoi Tendet | Chairperson      |
| 2.  | Hon. Ndasaba Dorcas       | Vice chairperson |
| 3.  | Hon. Job Mukoyandali      | Member           |
| 4.  | Hon. Godfrey Wanyama      | Member           |
| 5.  | Hon. Martin Chemorion     | Member           |
| 6.  | Hon. Angeline Rugut       | Member           |
| 7.  | Hon. Aggrey Bosire        | Member           |
| 8.  | Hon. Jeremiah Kuloba      | Member           |
| 9.  | Hon. Metrine Wilson       | Member           |
| 10. | Hon. Wafula Waiti         | Member           |
| 11. | Hon. Allan Nyongesa       | Member           |

### **ACKNOWLEDGEMENT**

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

I would also like to sincerely thank the Hon. Members of the Committee on Delegated County Legislation for the commitment exhibited during the analyses of various Acts passed by the County Assembly and compiling of this report.

Finally, it is now my pleasure, on behalf of the Committee to present this report in accordance with Standing Order number 202(7).

Report signed by Hon. George Kwemoi Tendet Chairperson, Committee on Delegated County Legislation

**Mr. Speaker:** Hon. Chemorion, kindly move to Chapter three.

**Hon. Martin Chemorion:** Thank you Mr. Speaker for your guidance.

### **Scrutiny of the legislations enacted**

In line with its legislative role as provided for under the Constitution and the law, the County Assembly of Bungoma has enacted various legislations since its inception. From the foregoing, the committee undertook the scrutiny of the following Acts passed by the County Assembly since inception and made its observations and recommendations thereafter.

#### **The Bungoma County Transport Act, 2015**

The Act was enacted pursuant to Part 2 paragraph 5 of the fourth schedule to the Constitution which states county transport as a function under the County Government and it includes;

- (a) County roads
- (b) Street lighting
- (c) Traffic and parking
- (d) Public roads and transport
- (e) Ferries and harbours, excluding the regulation of international and national shipping and matters related thereto.

Under paragraph 11, the county function includes county public works and services.

### **Summary of Bungoma County Transport Act, 2015**

The purpose of this Act is to provide a harmonized, efficient and effective legal and regulatory framework for the development and regulation of county transport matters. County Government institutions and officials have the mandate to observe the overriding objects of the Act.

In the exercise of the powers or the performance of functions under this Act, the relevant County Officers are guided by the principles outlined in Chapter ten of the Constitution. The relevant County Officer is required to create collaborative links with National government to ensure a coordinated implementation and master planning of the transport sector.

The Act establishes the Directorate of Transport. The functions of the directorate includes: ensuring the implementation of an efficient and sustainable transport system in the County; undertaking studies and analysis of transport problems; implementation of collaborative linkages with National government institutions and transport departments of neighbouring Counties; operation and maintenance of County roads, parking facilities, bridges and related infrastructure. In the exercise of its duties, the directorate is bound by the values and provisions of the Constitution and other national laws and is required to be non-partisan and non-political and adhere to any performance targets.

In enforcing the provisions of this Act, an authorised officer is mandated to inspect a public transport facility and inquiries thereon. Any person who unlawfully prevents an authorized officer from undertaking his/her duties commits an offence punishable under this Act.

Operating a licence on a public road must meet the conditions set out by the Act, and any contrary action will amount to an offence. No person will be prevented from using public transport vehicle or preventing the driver from taking passengers. Any contrary to these provisions constitute an offence herein.

A person in charge of a public transport vehicle is prohibited from conveying any person or thing when the same is prohibited or has a contagious disease, and any contrary actions to this provision will constitute an offence. All persons are prohibited from boarding a public transport vehicle until all persons desiring to disembark from such vehicle have done so; where the number of passengers would be in excess; alight or attempt to board or disembark from any public transport vehicle whilst such a vehicle is in motion.

A queue should be erected where all passengers intending to enter any public transport vehicle at an established ranking facility or stopping place and they must comply with all the instructions given by a public transport conductor. Passengers should pay the prescribed fare



for the use of a public transport motor vehicle. Passengers have the right to disembark from any defective vehicle and upon that, they will be entitled to refund of their fare. Smoking, playing offensive or excessively loud music, using obscene or offensive language, interfering with the comfort of another passenger, damaging anything and interfering with the equipment of the public transport vehicle are prohibited on a public transport vehicle.

Passenger's property left in the vehicle should be delivered to the owner or the property office designated by the relevant officer. Private vehicles are prohibited to park in a stopping place designed for public transport vehicles or traverse a pedestrian crossing, when stopping to enable passengers to be picked up or dropped off. Pedestrians should enjoy the traffic rights provided for by the Act.

Any person in control of the vehicle is prohibited from using a communication device while driving. The County will install street lighting with special attention to all the designated areas in the Act which will be maintained by the relevant County Officer. Section 26 of the Act prohibits parking in a public road.

Parking on public roads and other designated areas is prohibited. However, the directorate may make provisions to cause movable signs to be posted on or near a public road indicating "No parking", or "street maintenance", and when so posted, such signs to take precedence over all other traffic control devices. A vehicle parked contrary to these provisions may be towed away and the relevant Officer may not be responsible for that. Parking on alleys is prohibited unless traffic control device otherwise permits. Parking on private property is also not allowed unless with the permission of the owner. Parking of trailers upon public roads is prohibited unless the said trailer is attached to a vehicle by which it may be propelled or as the Act stipulates.

Cab or Boda Boda operations will only be allowed when one belongs to a formed taxi associations as a precondition of doing cab/tax/boda business in Bungoma County. Vehicles are prohibited from parking in certain designated areas for taxi cabs unless with permission pursuant to the provision for compliance of this Act by taxi cabs. Guidelines on parallel parking and on angle parking when no parking signs are visible are provided for by the Act. Parking of heavy commercial vehicles in the Central Business District is prohibited by the Act except when offloading goods in designated warehouses located in such areas as may be prescribed.

The directorate may develop light railway works in the County and may maintain, improve or repair the light railway and has power to enter and inspect and survey the land and make any inquiry, investigation to ascertain whether or not the land is suitable for the purposes of construction of a light railway. Trespassing or use of a vehicle on a light railway is prohibited.

Anyone who obstructs or interferes with or assists a person to obstruct or interfere with any person in the performance of a function conferred on that person under this Act commits an offence.



An annual report should be prepared for each financial year detailing description of the activities of the directorate .The directorate should then submit the report to the County Executive Committee Member for transmission to the County Assembly. Similarly, the directorate is required to develop a transport plan and submit it to the County Assembly for approval before being implemented.

The County Executive Committee Member may make regulations generally for the better carrying into effect the provisions of this Act.

### **COMMITTEE OBSERVATIONS**

- 1) The Act allows the County Executive Committee Member to make Regulations for the better carrying into effect the provisions of this Act under section 47. For instance, in respect to:
  - a) Recognition and modes of dealing with cabs/taxi associations
  - b) Development and recognition of non-motorised means of transport.
- 2) Section 5 of the Act establishes a directorate of transport headed by a director appointed by the County Public Service Board through a competitive and transparent recruitment process;
  - a) The directorate is mandated to develop and periodically review a transport plan for Bungoma County.
  - b) The directorate is required to submit to the County Assembly the transport plan before being implemented.
- 3) Section 24 obligates the County Government to install street lighting with special attention to all the designated areas; major traffic routes, high crime urban areas, town centres, pedestrian crossing, pedestrian subways, bus stop, market places, flyovers, narrow bridges, tunnels and institutions

### **Committee Recommendations**

1. The CECM for roads and infrastructure to make regulations for the better carrying into effect the provisions of this Act
2. The directorate of transport should develop a transport plan and submit it to the county assembly for consideration and approval within 60 days in compliance with section 44 of the Act.
3. The Act needs revision in order to align with emerging issues in the transport sector.

### **The Bungoma County Agricultural Produce CESS Act 2017 and the Bungoma County Property Hire and Lease Act 2017**

The aforementioned Acts are revenue raising legislations. Article 174 of the Constitution states objects and principles of devolved government to include;

(f). promotion of social and economic development and the provision of proximate, easily accessible services throughout Kenya.

(g). ensuring equitable sharing of national and local resources throughout Kenya

Pursuant to Article 175 (b), County Governments should have reliable sources of revenue to enable them to govern and deliver services effectively. The County Government performance should be measured against their economic growth, food security, creation of employment and increased connectivity.

Under Article 209 of the Constitution:

(4) The national and county governments may impose charges for services.

(5) The taxation and other revenue raising powers of a County shall not be exercised in a way that prejudices national and economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour.

Article 210 (1) provides that no tax or licensing fee may be imposed, waived or varied except as provided by legislation

## **SUMMARY OF BUNGOMA COUNTY AGRICULTURAL PRODUCE CESS ACT 2017**

This is an Act of the county assembly of Bungoma to provide for the imposition of CESS tax on any kind of agricultural produce or animal produce within the county as highlighted in the schedule.

Section 3 of the Act provides for object and purpose of the Act which is to impose tax and levies on crop and animal produce grown in or on transit within the county pursuant to the provisions of Article 209, 3, of the constitution.

Section 4 provides the CECM with the approval of the county assembly will determine the chargeable amount with regard to the scheduled produce. Tax on agricultural produce will be levied according to the categories of crops as prescribed here in Section 5 of the Act, provides that Agricultural produce shall not be levied or imposed on agricultural produce that is declared to be an essential produce under this Act.

Under section 6, in any event the cess remains unpaid when due, it shall be recovered in court as a debt due owing to the county. The receiver of the revenue on behalf of the county will sue the defaulter upon producing a signed certificate as evidence, certifying the amount due to the county.

Section 7 provides for the County Cess Committee. The committee will serve for a term of three years, and no member may be appointed to represent an agricultural sector for more

than two terms.

Section 8 provides for the functions of the County Cess Committee which includes: to oversee and enhance collection of cess; facilitate enforcement of Agricultural cess legislation; Planning and implementation of programmes; Monitoring and Evaluation of the programmes and; Reporting biannually to the County Executive Committee Members of Agriculture and Finance and Economic Planning on the progress made.

Under Section 9, Persons conducting business in the County without a valid trading licence will attract a penalty prescribed herein.

Section 10(1) provides that all payments to the County Government by agricultural producers will be deducted and paid by individuals where the agricultural produce is produced or supplied or stored, which will be remitted to the county revenue account by the authorized officer. The County Executive Committee Member is obligated to determine and publish all county exit points from which cess should be collected.

Section 11 provides that an authorised officer shall ensure that cess on agricultural produce on transit out of the county is collected at barriers set up at county exit points.

Pursuant to Section 12, 90% of the money collected as cess from all agricultural produce shall be used in maintaining agricultural infrastructure and provide other services related to agriculture in areas where the agricultural produce are produced in the County and three per cent (3%) deposited in the county revenue account to be used for the cess committee's administrative purposes while the remaining seven per cent (7%) to be credited to the county Revenue account.

Section 13 and 14 s makes provision for offences by Agricultural producer or non-natural person and an authorized Officer and the penalties.

Section 15 provides that the relevant County Officer may waive the Cess payable under this Act with reasons to any agricultural producer, persons or group of persons to whom this Act applies for a period not exceeding one year. The County Executive Committee Member should give reasons for such waiver and table before the County Assembly the list of persons to whom payment of cess is waived and the reasons thereof. The same can also be overturned if the County Assembly is of the view that no sufficient grounds exist for the waiver of the cess as made by the County Executive Committee Member.

Section 16 provides for fees and charges payable pursuant to the provisions of the Act.

Section 17 provides that the County Executive Committee Member may make Regulations for the better carrying into effect the provisions of the Act..

### **Committee Observations**

- 1) Section 7 of the Act makes provision for the establishment of a County Cess Committee whose function is stipulated under section 8 of the Act:
  - a) To oversee the agricultural cess programmes in the County.
  - b) To enhance collection of cess in the County.
  - c) To facilitate enforcement of agricultural cess legislation
  - d) Planning and implementation of programmes under the Agricultural Cess Fund.

- 2) Section 4(1) requires the County Executive Committee Member responsible for matters finance, with the approval of the County Assembly to determine the cess chargeable on scheduled produce within the county, the schedule is not part of the Act
- 3) The fees and charges payable pursuant to the provision of this Act shall be determined each year by the County Assembly in the County Finance Act.
- 4) Section 12 of the Act stipulates that ninety per cent (90) of all monies collected as cess from agricultural produce or products should be used in maintaining agricultural infrastructure and provide other services related to agriculture in areas where the agricultural produce are produced in the county.
- 5) Section 11(1) of the Act requires an authorised officer to ensure that cess on agricultural produce on transit out of the county is collected at barriers set up at county exit points. In addition, under subsection (4), the County Executive Committee Member for finance should determine and publish all county exit points from which cess should be collected
- 6) Under section 5, the Act exempts imposition or levy of agricultural produce cess on agricultural produce declared as essential produce in the Act. However, the Act does not specify which these essential produce are.
- 7) Section 17 of the Act allows the County Executive Committee Member responsible for matters Finance to make Regulations for the better carrying into effect the provisions of this Act.

### **Committee Recommendations**

1. The County Executive Committee Member for Finance should propose the amendment to the Act to include schedule for fees and charges and submit the proposed amendments to the County Assembly for consideration and approval subject to public participation.
2. The department of finance should ensure barriers exist at county exit points for purposes of collecting cess on agricultural produce on transit out of the county in compliance with section 11 (1) of the Act. In addition, the County Executive Committee Member for finance should determine and publish all county exit points from which cess should be collected in compliance with section 11(4) of the Act.
3. The department of finance should ensure that ninety(90) per cent of all monies collected as cess from agricultural produce or products are used in maintaining Agricultural infrastructure and provision of other services related to agriculture in areas where agricultural produce are produced in the county in compliance with section 12 of the Act.
4. The department of Finance to make provision in the Act citing essential produce to be exempted from agricultural produce levy as contemplated under section 5 of the Act subject to public participation and approval by the County Assembly.

5. For better implementation of the Act, the County Executive Committee Member responsible for matters Finance to make Regulations for the better carrying into effect the provisions of this Act.

### **Summary of the Bungoma County Property Hire and Lease Act, 2017**

Section 3 of the Act provides for the purpose and object of the Act which includes control of the hiring and leasing of the public properties and services belonging to the County government of Bungoma in order to better the livelihoods of its residents.

Section 4 stipulates the available properties for hire or lease which includes: any of its property; open grounds in rural and urban areas; any of its equipment or other machinery; motor vehicles; public amenities; labour; and such other property, item, facility or services as may be prescribed.

Section 5 provides for the threshold to be met before one hires or leases a property; an interested person will make an application to the relevant County Officer in the prescribed form upon payment of prescribed fee. The applicant will thereupon be notified in writing after seven days of the availability of the property or service requested, then later called upon to sign the contract.

Under Section 6, 7, 8 and 9, a contract for hire or lease is in a prescribed form and is signed by the relevant County Executive Committee Member. The contract entails the normal terms and conditions just like any other contract, i.e. terms of payment, duration for lease, maintenance and so forth. The County Executive Committee Member responsible will keep the records of the hired or leased items which will thereafter be submitted to the County Assembly within 90 days from the end of each financial year.

Section 10 provides for regular inspection with unrestricted access to the leased or hired item by the authorised officer to ascertain the condition of the item, who may also where necessary require the lessee to take reasonable measures to restore the item to its proper condition.

Pursuant to Section 11, 12 and 13, leasing or hiring of the county item will not confer ownership to any individual, and neither will such arrangement (for ownership) under this Act pass by way of adverse possession. The leased item will only be sub-let with prior approval of the relevant County Executive Committee Member, failure to which will constitute an offence attracting a prescribed penalty therein. Under Section 14, the County Government may at any point institute recovery proceedings whenever the lessee contravenes the terms of the contract.

According to Section 15, it's an offence to voluntarily damage the hired facility or item, or failing to return the item upon expiration of the terms of the contract. The net effect of such actions will constitute an offence with a prescribed penalty forthwith.

Under Section 16, fees and charges payable pursuant to the Act shall be determined each year by the County Assembly in the Finance Act.

Section 17 provides for regulations in the Act.

## **Committee Observations**

- 1) Section 5 of the Act requires a person who intends to hire or lease any of the property or other items to make an application to the relevant County Executive Committee Member in the prescribed form accompanied by the prescribed fee and such other information as may be prescribed.
- 2) Section 9(2) of the Act obligates the County Executive Committee Member responsible to maintain records of hired and leased items and submit the copies of these records to the County Assembly not later than 90 days from the end of the financial year.
- 3) The fees and charges payable pursuant to the provision of this Act shall be determined each year by the County Assembly in the County Finance Act.
- 4) Section 17 of the Act allows the County Executive Committee Member responsible to make Regulations for the better carrying into effect the provisions of this Act.

## **Committee Recommendations**

1. The department of finance should ensure that taxes, fees and charges are anchored in the Act subject to public participation and consideration and approval by the County Assembly.
2. The County Executive Committee Member responsible should make the application form under section 5 of the Act and any other form to be prescribed under the Act and submit it to the County Assembly for approval as a Statutory Instrument.
3. The Executive Committee Member responsible should submit to the County Assembly records of hired and leased items not later than 90 days from the end of each financial year in compliance with section 9(2) of the Act.

## **Summary of the Bungoma County Flag, Emblems and names Protection Act, 2015**

The purpose of the Act is to provide a legal regime to prevent the improper use of the County Flag, the County Emblem, and title of the Governor for professional and commercial purposes and to prohibit the display of certain flags.

Pursuant to Section 4, the design and description, Seal and Coat of Arms of the flag of Bungoma County are set out in Parts I, II and III of the Second Schedule to this Act respectively.

Under Section 5, any form of disrespect, in speech, manner or writing, to a County Government emblem will constitute an offence punishable under the Act.

Section 6 provides that a person will not be allowed (except with permission of the Executive Committee Member) to use any specified emblem, specified name or specified likeness, or display the same as an advertisement for, any trade or business or in any trade mark or manufacture. Failure to comply with these provisions will be in contravention of the Act and will attract a penalty. However, this will not apply to the publication of a bona fide news item.



The only officers allowed to fly the County Flag are; the Governor, Deputy Governor and the Speaker of the County Assembly as provided for under Section 8. The relevant County Executive Committee Member shall prescribe the manner in which the County Flag may be flown or displayed subject to the approval of the County Assembly.

Section 9 provides that the County flag will be hoisted in the following places and occasions: at all official functions that are attended by the governor, the deputy governor and the Speaker of the County Assembly; at the headquarters of the county government; at the head offices of sub-counties, wards and villages; all institutions of learning; and at the county assembly.

Under Section 10, the Chief Officer will be the custodian of the County flag, emblems, coat of arms and all other symbols protected by this Act.

Section 11 and 12 states that Member of the Executive Committee may amend the first schedule and make regulations pertaining all other matters related to the County Flag, Emblems and Names protection and which will then be approved by the County Executive Committee and the County Assembly before they take effect.

### **Committee Observations**

1. Section 12 of the Act allows the County Executive Committee Member responsible for matters Public administration to make Regulations for the better carrying into effect this Act. Without prejudice to the generality of section 12, the County Executive Committee Member responsible for matters public administration may make the following Regulations:
  - i. prescribing other occasions upon which, other persons by whom and the manner in which the County Flag may be flown or displayed, as the case may be;
  - ii. prescribing the days and the times during which the County flag shall be flown;
  - iii. without detracting from the general design depicted in the Second Schedule, prescribe the standard sizes, dimensions, proportions, and colours of the County Flag for all or any purposes or in all or any circumstances;
  - iv. on the conduct and the etiquette to be followed in the flying or other use of the County Flag;
  - v. prohibiting, controlling or restricting the use of any specified emblem, specified likeness or specified name;
  - vi. Regulating the manner in which application may be made to the office of the Member of the Executive Committee for permission under section 6 of this Act.
  - vii. prescribing the form of any licence by which such permission may be given and fixing any fee for such application and licence;
  - viii. on the introduction of documents requiring the official use of the protected symbols;

## Committee Recommendations

The County Executive Committee Member responsible for Public administration to make Regulations for the better carrying into effect the provisions of this Act. In particular, provision detailing the manner in which the County flag may be flown or displayed and submit it to the County Assembly for consideration

## Committee General Observations

- a) The Statutory Instruments Act, 2013 provides for the making, scrutiny, publication and operation of Statutory Instruments and for matters connected therewith. In particular, section 11 of the Act outlines the laying of Statutory Instruments before County Assembly whereby the regulation making authority is required within 7 sitting days after publication of a Statutory Instrument to submit it to the Clerk for tabling before the County Assembly. Based on the records of the House, no subsidiary legislation pursuant to the Acts scrutinised have been submitted to the House for consideration.
- b) The County governments are required to enact or operationalize required legislation to underpin revenue raising measures. The practise by the National government offers guidance on how County governments should deal with revenue legislations. At the National level, the Finance Act does not impose taxes, fees and charges. The Finance Act merely alters the amount or rate of a tax or fee by amending a section in the principal law that dictates the rate. This approach is consistent with accepted revenue raising practices whereby sector specific legislations impose taxes, fees and charges hence providing for easier financial regulation of each sector.

Thus, the County government is required to develop principle revenue legislation to anchor its taxes, fees and charges. This is in line with Article 210(1) of the Constitution and section 132 of the Public Finance Management Act (No.18 of 2012).

From the foregoing, the fees and charges are not anchored in the Bungoma County Agricultural Cess Act ;2017 or the Bungoma County Property, Hire and Lease Act,2017,neither is there subsidiary legislation on the same pursuant to the Acts, cognisant of the fact that these are revenue raising legislations.

## Committee General Recommendations

- 1) **THAT**, the relevant Select committees, in exercise of their oversight mandate pursuant to Article 185(3) of the Constitution should inquire from the concerned departments on the implementation status of these Acts. For instance:
  - with regard to The Bungoma County Transport Act 2015; measures put in place to regulate non-motorised vehicles and taxis/cabs
- 2) With regard to The Bungoma County Agricultural Produce Cess Act, 2017 and The Bungoma County Property Hire and Lease Act,2017:
  - i. **THAT** the department of Finance should provide for fees and charges either in the parent Act or subsidiary legislation subject to public participation and



consideration and approval by the County Assembly. This will inform the amendment of these legislations in the Finance Act where necessary, forming the basis for revenue raising measures.

- ii. **THAT** the relevant County Executive Committee Member contemplated under section 2 of the Bungoma County Property Hire and Lease Act, 2017 to make the application form for hire or lease of any property or item as stipulated under section 5 of the Act and any other form to be prescribed under the Act and submit it to the County Assembly for consideration as subsidiary legislation.
- 3) With regard to The Bungoma County Flag, Emblems and Names Protection Act, 2015, the County Executive Committee Member responsible for matters Public administration should fast track the enactment of the Regulations and in particular, those prescribed under section 12 of the Act since they are necessary for operationalization of the Act.

### **Adoption schedule**

Hon. Speaker, we the undersigned members of Delegated County Legislation committee affixed our signatures adopting this report with the contents herein. All members have signed.

We have the annexures; Adoption schedule, Adoption minutes, Bungoma County Flag, Emblems and Names Protection Act 2015, Bungoma County Transport Act 2015, Bungoma County Agricultural Produce CESS Act 2017 and the Bungoma County Property Hire and Lease Act.

I ask Hon. Mukoyandali to second the motion.

**Mr. Speaker:** Thank you, Hon. Martin Chemorion for moving the report. You asked Hon. Job to second the report. I am not seeing you Hon. Mukoyandali. Are you hiding? I'm now able to see you proceed please.

**Hon. Job Mukoyandali:** Thank you, Hon. Speaker. First, let me laud the mover of the motion for eloquently and very fast going through the motion. This report seeks to increase revenue collection within the county. So many times we've been talking about the issue of raising revenue and for a long time we've not been hitting our targets on revenue collection within the county. As part of the remedy so that we are able at least to improve if not hit their targets this report is so clear on how we can improve on our revenue collection. You look at the Acts we are looking at, most of them lack regulations and now that they lack regulations the report has been so clear giving direction on how on the people who are supposed to come up with those regulations.

We are also talking about the Transport Act where most of the time in this town there are a lot of serious street jams. You see in the evening you can you cannot move. For a long time in Bungoma County we do not have the street lighting to control the movement of vehicles.

The report has put very clearly that for us to be efficient in our movements at the designated places, we are supposed to put that street lighting to control the movement of vehicles and it has also designated the officers to be there to help in the movement of vehicles.

It's talking about the issues of parking most of the time people just park anyhow within the town and the report has come up very clearly on what should be done so that actually we reduce the issue of people just parking at any particular place anywhere without knowing what to do. The report has put it very clearly and if those designated parking places are considered and put in implementation we will not have vehicles within the town littering everywhere.

We are talking about the CESS Act on the agriculture produce. Most of the time we have the sugar companies which operate within Bungoma County, Bungoma being a sugar cane producing area and among others crops like coffee, you will find most of the time there are vehicles moving on our roads carrying sugar cane and at the end of the day we do not have an Act put in place specifying on how much is supposed to be given in form of CESS. Most of the time our roads get spoiled by these companies but the only things we can do as a County is enter into local MOUs with these companies because we do not have regulations which govern our operation with these companies in relation to the collection of CESS and how that CESS money is supposed to be used. Also, when you look at our produce, most of it will go outside our county.

We produce sugar cane from Bungoma County and it is sold in Sugar companies in another County i.e. Mumias and Butali yet these vehicles just move freely, you know we do not have a clear record. The Act has provided that the CEC Finance should gazette areas where this CESS should be collected and when any collection of our food produce is moving out of our county to another County.

This will help us raise revenue and not just raising revenue but it will also help us in maintenance of our road infrastructure among other things. As I finish, we have actually talked about our Flag and Emblems Act of 2015. On several occasions you will just see any person putting on his vehicle our flags.

These flags are of different sizes. The county flags that we raise are of different sizes. A team will sit down and decide on which kind of flag to buy and rise at a certain institution.

The committee sat down and has given direction that the size should be determined, so that the entire county look uniform and at any particular time when you have a flag on your vehicle, you must be registered under the Act. Those people who are allowed to do that must be registered under the Act. So the report is so good as it can help this county actually raise a lot of revenue and I want to actually second this report and ask this house to adopt this report.

**Mr. Speaker:** Thank you, Hon. Job for seconding the committee report.

*(Question proposed)*

Hon. Members, I will proceed and be able to put a question to the said motion. Hon. Martin, it means basically there's nothing to reply to because there's no contribution of the same.

*(Question put and agreed to)*

The Ayes have it.

## **ADJOURNMENT**

That was the last motion this morning, so we will adjourn and resume Wednesday 6<sup>th</sup> of November, 2024 at 2:30 p.m.

*The House rose at 11:47a.m.*