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NAIROBI CITY COUNTY BILLS, 2021

CONTENT

Bill for Introduction into the County Assembly of Nairobi City County-
PAGE

The Nairobi City County Prevention of Violent Extremism Bill, 2021....1

**THE NAIROBI CITY COUNTY PREVENTION OF VIOLENT EXTREMISM BILL,
2021**

ARRANGEMENT OF CLAUSES

Clauses

PART I—PRELIMINARY

- 1—Short title and commencement
- 2—Interpretation
- 3—Application
- 4—Objects and purpose of the Act

PART II— ADMINISTRATION

- 5—Establishment of the Prevention of Violent Extremism Committee
- 6—Functions of the Committee
- 7—Vacancy in the Committee
- 8—Conduct of business and affairs of the Committee
- 9—Remuneration

PART III— FINANCIAL PROVISIONS

- 10— Funds
- 11—Application of the funds

**PART IV— PREVENTION AND CONTROL OF VIOLENT
EXTREMISM**

- 12— Implementation of National Strategy and County Action Plan
- 13— General prohibition
- 14— General duty of the County Government
- 15—Coordination between law enforcement agencies and community structures

PART V— OFFENCES

- 16—Radicalisation
- 17—Recruitment of youth
- 18—Arrangement of meetings to radicalise
- 19—Promotion of offences under this Act
- 20—General penalty

PART VI— MISCELLANEOUS

21—Regulations

FIRST SCHEDULE

**THE NAIROBI CITY COUNTY PREVENTION OF VIOLENT EXTREMISM BILL,
2021**

AN ACT of the Nairobi City County Assembly to provide measures for the prevention of radicalization; recruitment into violent extremism and enhance the participation of communities in the prevention of radicalisation and recruitment into violent extremism in Nairobi City County; and for connected purposes.

ENACTED by the Nairobi City County Assembly as follows—

PART 1—PRELIMINARY

Short title and
Commencement

- 1.** This Act may be cited as the Nairobi City County Prevention of Violent Extremism Bill, 2021 and shall come into operation on a date appointed by the Executive Committee Member but in any case not earlier than the 2022-2023 Financial Year. .

Interpretation

- 2.** In this Act, unless the context otherwise requires—

“At-risk individuals” means individuals or group of individuals susceptible or vulnerable to radicalisation and recruitment into violent extremism and includes persons living within informal settlements and the youth;

“Chief Officer” means the Chief Officer for the time being responsible for Security and Compliance in the Nairobi City County;

“Committee” means the Committee established under section 5 of the Act;

“County” means the Nairobi City County;

“County Executive Committee Member” means the Executive Committee Member for the time being responsible for matters related to Education, in the Nairobi City County;

“Extremist groups” means radicalised individuals who are prepared to engage in, or actively support, acts of violence in furtherance of radically illiberal, undemocratic political systems or ideologies;

“Facilitate” means advocating, promoting, funding or advising with intent to commit a terrorist Act.

“Nairobi County Action Plan” means the Nairobi County Action Plan for Preventing and Countering Violent Extremism;

“National Strategy” means the National Strategy on Countering Violent Extremism as implemented through the county action plan at the County Level;

“Person” includes a company, industry, association or other body of persons whether incorporated or unincorporated;

“Radicalisation” means the adoption or promotion of an extreme belief system for the purpose of facilitating ideologically based violence to advance political, religious or social change;

“Rehabilitation” means a purposeful intervention and set of planned activities targeting individual victims, survivors or offenders with an aim to positively impact changes in attitudes, cognitive skills and behaviours, personality or mental health issues believed to be the cause of the individual’s criminal behaviours, through social, educational and/or vocational skills acquisition with the intention to reduce the chance that the individual will experience recidivism;

“Violent extremism” refers to an ideology that accepts the use of violence for the pursuit of goals that are generally social, racial, economic religious or political in nature;

“Youth empowerment” means creating and supporting the enabling conditions under which youth can act on their own behalf and on their terms, rather than the direction of others;

“Youth” has the meaning assigned in article 260 of the Constitution of Kenya 2010;

Application of this Act

3. This Act shall apply to-

- (a) any person who acquires, uses, occupies or permits the use of a premise for educational, religious, political, business, rehabilitation, industrial or trade purposes, whether or not the premises are prescribed in the Act;
- (b) any person involved in national, county or local political activities within the County;
- (c) all county departments or agencies, programs and activities;
- (d) any person involved with youth empowerment and programming within the County;
- (e) all businesses including those in the informal sector;
- (f) all savings and credit cooperative organisations within the County;
- (g) all institutions, premises, persons or places to which the provisions of the Act and Regulations made thereunder apply; and
- (h) any other premises, persons, institutions or places that may by order be specified by the County Executive Committee Member in the Kenya Gazette.

Objects and purpose of the Act

- 4.** The objects and purpose of this Act is to-
- (a) protect vulnerable people from radicalization, and recruitment into violent extremism in the County;
 - (b) mainstream measures aimed at the prevention of violent extremism within all county departments or agencies, programs and activities;
 - (c) give effect to Paragraph 14 of Part 2, of the Fourth Schedule of The Constitution of Kenya and Part VI of The Prevention of Terrorism Act, No. 30 of 2012, and enhance the participation of communities and locations in the prevention of radicalization and recruitment into violent extremism;
 - (d) establish County institutions to provide linkages between national law enforcement agencies and community security structures in the prevention of violent extremism within the County;
 - (e) enhance security within the County by identifying violent extremist groups; and
 - (f) promote gender equality and youth empowerment including the development of feasible economic and social development programmes in the County.

PART II—ADMINISTRATION

Establishment of the Committee

- 5.** (1) There is established a Committee to be known as Nairobi City County Prevention of Violent Extremism Committee which shall consist of—
- (a) a non-executive chairperson knowledgeable in matters of security and prevention of violent extremism appointed by the Governor;
 - (b) the County Executive Committee Member responsible for matters related to Education
 - (c) the Nairobi County Commissioner or his/her representative;
 - (d) a representative of the youth from recognized youth organisations working within the County on Prevention of Violent Extremism;
 - (e) A representative of the business community and informal sector operating within the County;
 - (f) one representative elected by civil society organisations working on prevention of violent extremism in the County;
 - (g) A representative of the inter-faith religious organisations within the County;
 - (h) one representative of persons living with disability from the County; and
 - (i) The Chief Officer responsible for matters related to Education, who shall be the Secretary.

- (2) The Governor shall appoint the Chairperson in accordance with the recommendation of the County Public Service Board, and subject to the approval of the County Assembly.
- (3) In the appointment of the chairperson and members under this Section, the appointing authority shall ensure regional balance, gender parity.
- (4) The appointment of the chairperson and members appointed under subsection (1) (a), (d) to (i) shall be by notice in the *Kenya Gazette* by the County Executive Committee Member responsible for matters related to Education..
- (5) The chairperson and members of the Committee appointed under subsection (1) (d) and (h) shall hold office for a term of three years and shall be eligible for re-appointment for one further term.
- (6) The qualifications of the chairperson and members of the Committee appointed under subsection (1) (d) to (i) shall be set out in the Regulations.

Functions of the
Committee

6. (1) The Committee shall—
 - (a) promote the implementation of national and county policies, strategies, laws and norms in relation to the prevention of violent extremism in the County;
 - (b) coordinate and proactively mainstream measures on prevention of violent extremism within existing county programs and activities;
 - (c) develop economic programmes to enhance access to, capitalization on and protection of livelihood options for at-risk persons and reduce their vulnerability to violent extremism and radicalization in the County;
 - (d) provide a platform for intra-and inter-faith dialogue and discussions for promoting tolerance and understanding within the County;
 - (e) convene sub-county and local dialogues on prevention of violent extremism;
 - (f) promote the use of alternative justice systems and alternative dispute resolution mechanisms in resolving conflicts and achieve sustainable peace within the County;
 - (g) establish youth platforms for participation in wider political processes including by establishing youth barazas;
 - (h) ensure access to education, training, mentorship programmes or vocational courses to enhance job prospects and employment creation;

- (i) foster trust between decision makers and the youth especially through intergenerational dialogue and youth-adult confidence-building activities and training;
- (j) allocate funding towards projects that enable communities develop resilience and strengthen their participation in the prevention of violent extremism;
- (k) put measures to identify individuals at risk of becoming radicalized and offer psycho-social support; and
- (l) perform such additional functions as may be prescribed by the Governor in writing

(2) In performing its functions, the Committee shall table annual reports before the County Assembly detailing implementation of its activities and financial accounts on how the committee has spent the annual funds allocated under Section 10 of this Act.

Vacancy in the Committee

7. (1) The office of the chairperson or a member of the Committee appointed under subsection (1) (d) to (i) shall become vacant if the holder—

- (a) dies;
- (b) resigns from office by notice in writing to the Governor;
- (c) is convicted of an offence and is sentenced to imprisonment for a term exceeding six (6) months;
- (d) has been absent from three consecutive meetings of the Committee without a notice to the chairperson; or
- (e) is removed in accordance with subsection (2).

(2) A member of the Committee may be removed from office for—

- (a) violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the member’s or office holder’s functions or otherwise;
- (c) physical or mental incapacity to perform the functions of the office;
- (d) incompetence; or
- (e) bankruptcy.

(3) The County Executive Committee Member shall ensure that where a vacancy occurs in the Committee, it is filled as soon as is practicable in accordance with the provisions of the Act.

Conduct of business and affairs of the Committee

8. The procedure of conduct of business and affairs of the Committee shall be conducted in accordance with the First Schedule, but subject thereto, the Committee may regulate its own procedure.

Remuneration **9.** The Chairperson and members of the Committee shall be paid such remuneration or allowances as the County Executive Committee Member, may, on the advice of the Salaries and Remuneration Commission determine.

PART III FINANCIAL PROVISIONS

Funds **10.** The Funds for financing the implementation of this Act shall consist of-

- (a) such monies as shall be appropriated by the County Assembly in each financial year;
- (b) such grants or transfers as may be received from any lawful source;
- (c) grants and donations received from development partners; or
- (d) such other monies received from national government as conditional or non-conditional grants in accordance with the established system.

Application of the funds **11.** All moneys from time to time forming part of the funds, shall be applied as follows—

- (1) for the payment of all costs, charges and expenses incurred by the Committee in the performance of its functions under this Act;
- (2) for the payment of any other sums properly payable out of the funds for the purposes of this Act or any rules made thereunder.

PART IV PREVENTION AND CONTROL OF VIOLENT EXTREMISM

Implementation of national and county action plan **12.** The Committee shall roll out measures to implement the National Strategy to Counter Violent Extremism and the Nairobi County Action Plan.

General prohibition **13.** (1) Subject to the provisions of this Act, no person shall support, encourage, promote or facilitate the radicalization or recruitment of persons into violent extremist groups.

(2) An owner or occupier of any institution or premises as specified in the Regulations, including that which is not subject to any conditions or control measures on preventing violent extremism shall, on or before twelve (12) months from the date on which this Act comes into operation, take such measures as may be necessary to comply with the requirements of this Act.

- (3) The provisions of this Act shall be in addition to other requirements imposed by or under the Regulations or any other written law.
- (4) Notwithstanding sub section (2) herein, where there is a justified complaint or evidence of radicalisation or involvement in activities that promote violent extremism, and upon the recommendations of the Committee, the Chief Officer Security and Compliance may serve upon the person, institution, owner or occupier of the existing premises a notice in writing requiring compliance within such shorter reasonable period as the Chief Officer may direct or otherwise as may be necessary.
- (5) Failure to comply with the provisions of this section shall constitute an offence.

General duty of the County Government

14. (1) In the application of this Act, the County Government shall establish appropriate mechanisms, processes and measures to prevent violent extremism within the County and shall-

- (a) support the implementation of the National Strategy on countering violent extremism and the Nairobi County Action Plan;
- (b) mainstream measures towards the prevention of violent extremism within County departments or agencies and existing programs and activities;
- (c) establish sustainable development programmes to engender youth empowerment, inclusion, tolerance and sense of belonging among the youth in the County;
- (d) eliminate opportunities for violent extremist groups to recruit and operate within the County; and,
- (e) rally social, economic, political, religious and other sectors in the County to comply with the requirements of this Act.

(2) Notwithstanding subsection (1), each member of the County Executive committee shall promote and facilitate the incorporation of measures towards prevention of violent extremism within programs and activities of that member.

Coordination between law enforcement agencies and community structures

15. (1) The Committee shall ensure compliance with the requirements of this Act through adoption of a multiagency approach in the prevention of violent extremism within the County.

(2) In discharging its mandate, the Committee shall coordinate and collaborate with national enforcement agencies, non-state actors and

community structures in the prevention of violent extremism within the County.

- (3) In collaboration with the County administration, the Committee shall also promote and support coordination, communication and reporting within all County departments and agencies.

PART V OFFENCES

- Radicalisation
- 16.** A person who adopts or promotes an extreme belief system for the purpose of facilitating ideologically based violence to advance political, religious or social change commits an offence and is liable on conviction, to imprisonment for a term not exceeding thirty years.
- Recruitment of youth
- 17.** Any person who knowingly recruits or facilitates the recruitment of a youth, individuals at-risk or any individual within the county—
- (a) to be a member of a violent extremist group; or
 - (b) to participate in the advancement of violent extremism, commits an offence and is liable, on conviction, to imprisonment for a term not exceeding thirty years.
- Arrangement of meetings to radicalize
- 18.** A person who organises, facilitates or assists in organising or facilitating a meeting whether physical or virtual within the County knowing or having reason to believe the agenda of the meeting to be—
- (a) the support of violent extremist groups; or
 - (b) the furtherance of the activities of a violent extremist group; or
 - (c) to radicalize; or
 - (d) that the meeting shall be addressed by a person who belongs or professes to belong to an extremist group, commits an offence and is liable, on conviction, to imprisonment for a term not exceeding twenty years.
- Promotion of offences under this Act
- 19.** A person who-
- (a) being the owner, occupier, lessee or in charge of any building, premises or place, authorizes a meeting of persons to be held in that building, premises or place; or
 - (b) being the owner, charterer, lessee, operator, agent or master or pilot of a vessel or aircraft authorizes the use of that vessel or aircraft,
- for the purpose of committing an offence or organizing or facilitating the commission of an offence under this Act commits an offence and is liable on conviction, to imprisonment for a term not exceeding twenty years.

General penalty **20.** Any person who contravenes or fails to comply with any provisions of this Act, whose fines have not been specified, shall be guilty of an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding thirty years.

PART VI—MISCELLANEOUS

Regulations **21.** (1) The County Executive Committee Member in charge of Education shall, upon consultations with the relevant stakeholders, prescribe Regulations for the better carrying into effect and enforcement of the provisions of this Act.

(2) Notwithstanding the generality of subsection (1) the County Executive Committee Member shall make Regulations on—

- (a) the qualifications of Chairperson and members of the Committee;
- (b) the requirements for compliance by the various sectors affected by this Act;
- (c) the allocation of funds by the Committee;
- (d) the mechanisms to ensure coordination between the County and national government agencies under this Act; and
- (e) programs to be rolled out under this Act including youth programs.

FIRST SCHEDULE
THE CONDUCT OF BUSINESS AND AFFAIRS OF THE
COMMITTEE

(1) Meetings

The Committee shall meet as often as may be necessary for the dispatch of its business but there shall be at least four meetings of the Committee in any financial year.

(2) Election of Vice Chairperson

At the first meeting, the Committee shall elect a vice-chairperson amongst their number and regard shall be taken to ensure that the chairperson and vice-chairperson shall be of opposite gender.

(3) Time and place of meetings

A meeting of the Committee shall be held on such date and at such time and place as the Committee may determine.

(4) Special meetings

The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Committee.

(5) Quorum

The quorum for the conduct of business at a meeting of the Committee shall be three members excluding ex-officio members of the Committee.

(6) Voting

The Chairperson shall preside at every meeting of the Committee at which he or she is present and in the absence of the chairperson at a meeting, the vice-chairperson, shall preside and in the absence of both the chairperson and the vice-chairperson, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted in that meeting, have all the powers of the chairperson.

(7) Decisions of the Committee

Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by concurrence of a majority of all the members present and voting at the meeting.

(8) Validity of proceedings

Subject to paragraph 5, no proceedings of the Committee shall be invalid by reason only of a vacancy among the members thereof.

(9) Signification of instruments and decisions of the Committee

Unless otherwise provided by or under any law, all instruments made by and decisions of the Committee shall be signified under the hand of the Chairperson.

MEMORANDUM OF OBJECTS AND REASONS

Pursuant to Standing Order 124, I hereby wish to present the following Statements.

The principal purpose and objectives of this Bill is to establish an act of the Nairobi City County Assembly providing for the prevention, eradication and administration of funds in countering the recruitment of the youth by violent extremist groups and in particular ensuring and coordinating the participation of communities and locations in governance at the local level; Also granting control of funds to administer and counter the activities of the extremist groups.

The Structure of the Bill is as follows:

Part I of the bill provides for preliminary matters including the short title to the Bill, the interpretation of words and expressions used in the Bill, the objects, purpose and application of the Bill.

Part II of the Bill deals with Administration of the Bill including establishment of a Committee, the composition of the Committee, qualifications for membership and the functions of the Committee to deal with all matters relating to prevention, eradication and recruitment of members into violent extremist groups.

Part III of the Bill makes provisions on control and regulation in eradication of extremist groups and the use of the funds allocated for administration of the fund. This also makes provisions on the context and extend to which the funds will be used in achieving the objectives of the Bill.

Part IV of the Bill provides for offences and punishments under the Bill.

Part V of the Bill contains general provisions on delegated powers to make regulations for administration of the fund.

Statement on Delegated Powers to Legislate

The County Executive Committee Member responsible for Education, Children, Social Service, Gender and Youth Affairs to make necessary regulations for the better functioning of various provisions of the Act.

Statement of financial implication

After a thorough understanding of the objects, The Bill will have financial implications to the county. However, it is worth noting that the County will benefit in the long run.

Further, the implementation of the Bill, once passed and assented, should be factored in the budget making process for the Financial year 2022/2023.

Dated the.....day of..... 2021

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HON. ESTHER WAITHERA CHEGE

Member of County Assembly of Nairobi