

GOVERNMENT OF NAIROBI CITY COUNTY



*Paper laid by
D/Majority Leader
PLA
23/09/2021*

THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

**SECOND ASSEMBLY
(FIFTH SESSION)**

NCCA/TJ/PL/2021(27)

23rd September 2021

PAPER LAID

Hon. Speaker, Pursuant to Standing Order 131(4), I beg to lay the following Paper on the Table of the Assembly today, Thursday 23rd September 2021:

- **THE REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON THE CONSIDERATION OF THE NAIROBI CITY COUNTY SEXUAL AND GENDER BASED VIOLENCE MANAGEMENT AND CONTROL BILL, 2019.**

(Chairperson, Sectoral Committee on Labour and Social Welfare)

Copies to:
The Speaker
The Clerk
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COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY
SECOND ASSEMBLY
(FIFTH SESSION)

MEMO

TO: AG. CLERK
FROM: SENIOR LEGAL COUNSEL
DATE: 14TH SEPTEMBER, 2021

RE: COMMITTEE STAGE AMENDMENT REPORT FOR THE SEXUAL & GENDER
BASED VIOLENCE CONTROL BILL, 2019

Attached, please find the Committee Stage Amendment Report that duly captures the amendments as agreed upon by the Committee and the Legal Counsel.

The document has been signed (in triplicate) by the Chairperson and is hereby forwarded for your approval and further direction.


DAISY KARIUKI
SENIOR LEGAL COUNSEL

II. CLS - Laban
Pls take appropriate measures per 50(14) and report back.
Daisy
PCA CO3
15/9/21

II AG PCA (C)
Expedite the process and ensure that the advice by AG Clerk is taken care of.
D.K. Mwangi
DLS
15/9/2021

ID/L.S.
Kindly deal pursuant to s10 141 and in consultation with the sponsor of the Bill and the Chairperson of the Committee.
Attorney
AG Clerk
14/9/21

The Acting Clerk
Nairobi City County Assembly
NAIROBI.

RE: COMMITTEE STAGE AMENDMENTS TO THE NAIROBI CITY COUNTY SEXUAL
AND GENDER BASED VIOLENCE MANAGEMENT AND CONTROL BILL, 2019

NOTICE is given that the Chairperson of the Sectoral Committee on Labour and Social Welfare intends to move the following amendments to the Nairobi City County Sexual and Gender Based Violence Management and Control Bill, 2019, at the Committee Stage.

ARRANGEMENT OF CLAUSES

THAT the arrangement of clauses be amended: -

- i. In Part III by deleting the title entirely and replacing therefor the following new title:

‘County Sexual and Gender Based Violence Advisory Committee’

- ii. In the subtitle of clause 6 by deleting it in its entirety and replacing therefor the following new subtitle-

‘Establishment of the County Sexual and Gender Based Violence Advisory Committee’

- iii. In the subtitle of clause 8 by deleting the word ‘Management’ and replacing therefor the word ‘Advisory’
- iv. In the subtitle of clause 9 by deleting it in its entirety and replacing therefor the subtitle “Vacancy of Office’
- v. By adding a new Clause (20) with the subtitle ‘Regulations’

LONG TITLE

THAT Long Title of the Bill be amended -

- i. By deleting the word ‘of’ appearing immediately after the word victims and replacing therefor the words ‘reintegration back to the community’

SHORT TITLE (CLAUSE 1)

THAT Short Title of the Bill be amended; -

- i. By deleting the word 'Management' and replacing therefor the words 'prevention and response'

CLAUSE 2

THAT Clause 2 of the Bill be amended:

- i. By deleting the definition of the word 'gender-based violence' and replacing therefor the following definition;

“any act of violence visited upon a person and results in, or is likely to result in, physical, sexual or psychological harm or suffering to the person including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life and shall include physical, sexual, verbal, emotional, and psychological abuse, threats, coercion, and economic or educational deprivation, whether occurring in public or private life including rape, domestic violence, stalking, sexual slavery, incest, sexual harassment, acid throwing, reproductive coercion, female infanticide, prenatal sex selection, obstetric violence, and mob violence; as well as harmful customary or traditional practices such as honor killings, dowry violence, genital mutilation, virginity testing, widow cleansing”

- ii. In the definition of the phrase 'minimum package of healthcare services' by deleting the word 'minimum' and replacing therefor the word 'essential'
- iii. By inserting the following new definitions in their proper alphabetical sequence:

“Community Based Organization” means any non-profit organization incorporated for the purpose of providing services or other assistance to economically or socially disadvantaged persons within its designated community.

“Temporary Stay” means period of stay in a safe house for the victim of gender based violence for a period not exceeding six months.

“self interest groups” means persons with disabilities, children, youth and women.

CLAUSE 3

THAT Clause 3 of the Bill be amended; -

- (i) By deleting paragraph (b) sub-paragraph (iii) in its entirety and replacing therefor the following:
‘Ensure protection and the maintenance of confidentiality for victims’
- (ii) In paragraph (b) sub paragraph (iv) by deleting the word ‘minimum’ and replacing therefor the word ‘essential’
- (iii) In paragraph (b) sub paragraph (vi) by deleting the word ‘guaranteeing’ and replacing therefor the word ‘ensuring’
- (iv) In paragraph (b) sub paragraph (vii) by deleting the word ‘providing’ and replacing therefor the word ‘assist victims access’
- (v) In paragraph (d) by deleting the word ‘ethnicity’ appearing immediately after the word ‘sex’
- (vi) By inserting a new sub paragraph immediately after sub paragraph (vii) as follows:

(Viia) Assist victims reintegrate back to society
- (vii) By inserting new sub-clauses immediately after sub-clause (e) as follows:

(ea) Prevention and response to trafficking of persons for purposes of sexual exploitation and or forced labour.

(eb) Promoting safe working environment for employees free from discrimination and harassment on the basis of gender.

CLAUSE 4

THAT Clause 4 of the Bill be amended:

- (i) In sub-clause (4) by inserting the words ‘perspective of intersex person’s rights’ immediately after the word ‘violence’.

CLAUSE 6

THAT Clause 6 of the Bill be amended; -

- (i) In sub-clause by deleting it in its entirety and substituting therefor the following sub clause:
'There is hereby established the County Sexual and Gender Based Violence Advisory Committee which shall consist of members appointed by the Governor with the approval of the County Assembly as follow: -'
- (ii) In sub-clause (1) paragraph (a) by deleting it in its entirety and substituting therefor the following sub clause:
'a chairperson who shall a person having more than ten years' experience in gender affairs and not an employee of the County Government nominated by the Governor and approved by the County Assembly'.
- (iii) by deleting sub-clause (1) paragraph (b) in its entirety and substituting therefor the following sub-clause
'a representative from the civil society'
- (iv) by deleting sub-clause (1) paragraph (f) in its entirety and replacing therefor the following sub clause
'A representative from the Law Society of Kenya'
- (v) In sub-clause (1) paragraph (g) by deleting the words **'Two representatives'** appearing before the word **'from'** and substituting therefor the words **'One representative'**
- (vi) In sub-clause (1) paragraph (h) by deleting the words **'Two people'** and substituting therefor the words **'One person'** and deleting the words **'female'** and **'male'**.
- (vii) In sub-clause (1) paragraph (j) by deleting it in its entirety.
- (viii) In sub-clause (2) by inserting the words **"as well as compliance with Chapter 6 of the Constitution 2010"** immediately after the word **"inclusion"**
- (ix) By inserting a new paragraph immediately after sub-clause (1) paragraph (a) as follows:

(aa) The secretary of the committee shall be the Director Social Services Department

(x) By inserting new sub-clauses immediately after sub-clause (3) as follows:

(3a) Remuneration of the committee shall be in accordance with the Salaries and Remuneration Commission guidelines

(3b) A person shall be eligible for appointment as the chairperson of the committee if the person—

- (a) possesses a university degree;
- (b) has at least 10 years working experience in gender based violence issues;
- (c) is a person of integrity and meets the requirements of Chapter 6 of the Constitution of Kenya;
- (d) is not convicted of any criminal offence whose penalty does not exceed six (6) months.

CLAUSE 7

THAT Clause 7 of the Bill be amended

- I. By deleting the word 'Management' appearing immediately after the word 'Violence' and substituting therefor the word 'Advisory'

CLAUSE 8

THAT Clause 8 of the Bill be amended;

- i. In paragraph (a) by adding the words "prevention and response activities" immediately after the word 'all'.
- ii. In paragraph (c) by deleting the words 'Chief Officer responsible for Gender and Youth Affairs' appearing after the word 'advice' and substituting therefor the words 'County Executive Committee Member on policy implementation, prevention and response strategies'
- iii. In paragraph (d) by deleting the words 'and procedures' appearing immediately after the word 'training'
- iv. By deleting paragraph (e) in its entirety.
- v. In paragraph (i) by adding the words 'County Executive Committee Member and an annual report to the' immediately after the word 'the.'

- vi. In paragraph (j) by adding the words ‘sexual and gender based violence prevention and response’ immediately after the word ‘County’.
- vii. By deleting the word ‘management’ wherever it appears and substituting it with ‘Advisory’

CLAUSE 9

THAT Clause 9 of the Bill be amended; -

- (i) In the marginal notes by deleting the words ‘Removal from Office’ and substituting therefor the words ‘Vacancy of Office’
- (ii) In sub clause 1 by deleting the word ‘body’ appearing immediately after the word ‘Management’ and replacing therefor the word ‘Committee’
- (iii) In paragraph (g) by deleting the word ‘not’ appearing immediately after the word ‘of’.

CLAUSE 10

THAT Clause 10 of the Bill be amended: -

- i. In sub-clause (1) by deleting it in its entirety and replacing therefor the following sub-clause:

“The County Executive Committee Member through multi-sectoral approaches shall promote periodic public awareness campaigns about the causes, impacts, consequences, means of prevention and response to sexual and gender based violence through a comprehensive countywide educational and information campaign in collaboration with relevant state and non-state departments, agencies and stakeholders ”

CLAUSE 12

THAT Clause 12 of the Bill be amended: -

- I. In sub-clause (3) by adding the words ‘procedures on how to’ immediately after the word ‘treatment’.
- II. By inserting a new sub-clause immediately after sub-clause (3) as follows:

(3a) quality services provision and response, including their role and availability in courts as expert witnesses

CLAUSE 13

THAT Clause 13 of the Bill be amended: -

- i. In sub-clause (1) by deleting the words 'County Government' appearing immediately after the word 'The' and substituting therefor the word 'Committee'.
- ii. In sub-clause (3) by deleting it in its entirety and substituting therefor the following sub-clause-
'The Committee shall assist county sectors develop sector-specific sexual and gender based violence prevention and response policies within the work place to address the problem in the County'

CLAUSE 14

THAT Clause 14 of the Bill be amended: -

- i. In sub-clause (1) by deleting the words 'County Government' appearing immediately after the word 'The' and substituting therefor the word 'committee'.

CLAUSE 15

THAT Clause 15 of the Bill be amended: -

- i. In sub-clause (2) by adding the words 'and collaborate with relevant National Government agencies in' immediately after the word 'facilitate'.
- ii. In sub-clause (3) by inserting the word 'post' immediately after the word 'essential'

CLAUSE 16

THAT Clause 16 of the Bill be amended: -

- i. By deleting the words 'County Government' and substituting therefor the word 'Committee' wherever it appears in this clause.
- ii. In sub-clause (2) by deleting the words 'at affordable prices' appearing after the word 'services' and substituting therefor the words 'for victims within the safe house'

CLAUSE 17

THAT Clause 17 of the Bill be amended: -

- (i) In paragraph (b) by deleting suit in its entirety and substituting therefor the following paragraph-

‘Coordinate with relevant county sectors and departments and shall provide the most effective and efficient services in the most appropriate manner and by a multidisciplinary team where necessary’

(ii) In paragraph (c) by deleting it in its entirety

(iii) In paragraph (e) by deleting it in its entirety and substituting therefor the following paragraph-

‘Take consideration of the context of the community environment in terms of culture, sex, religion, disability, mental health.’

CLAUSE 18

THAT Clause 18 of the Bill be amended: -

- i. In sub-clause (1) by deleting the word ‘Governor’ appearing after the word ‘The’ and substituting therefor the words ‘County Executive Committee Member’

CLAUSE 19

THAT Clause 19 of the Bill be amended: -

- (i) By deleting the words “the County Government” wherever it appears in this clause and substituting therefor the words “the County Executive Committee Member in charge of Finance”

- (ii) In sub-clause (3) by adding the words ‘prevention and response’ immediately after the word ‘violence’

- (iii) By inserting a new Clause immediately after Clause 19 as follows:

(19A) The County Executive Committee member may make regulations for the better carrying out of the purposes and provisions of this Act and without prejudice to the generality of the foregoing, such regulations may provide for: -

- a) Management of safe houses, shelters and safe spaces
- b) Registration and inspection of safe houses
- c) Procedures for dealing with evidence from survivors of sexual and gender based violence
- d) Preparation of annual action plans for the prevention and response to sexual and gender based violence

e) Funding for Sexual and Gender based Violence programmes

iv) By inserting a schedule immediately after the new clause 20 as follows:

FIRST SCHEDULE

FIRST SCHEDULE Provision for the conduct of business affairs of the Committee

- Meetings
1. (i) The Committee may meet at such place in Kenya as the chairperson may determine and the meetings will be convened by the Chairperson.
 - i. The Committee shall have at least four meetings in every financial year and not more than three months shall lapse between one meeting and the next meeting
 - ii. Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member by the Secretary of the Committee
 - iii. The Chairperson may at his discretion or at the written request made by at least half of the members of the Committee and within seven days of the request convene an extraordinary meeting at such time and place as he may appoint.
 - iv. The chairperson shall preside over all Meetings however, in his or her absence, the vice-chairperson shall preside over the meetings.
 - v. The members of the Committee shall elect a vice-chairperson from among themselves-
 - (a) at the first sitting of the Committee and,
 - (b) whenever it is necessary to fill the vacancy in the office of the vice-chairperson
 - vi. Where the chairperson or vice chairperson is absent, the members shall appoint from among themselves, a person to chair the meeting of the Committee.
 - vii. The Committee may invite any person to attend any of its meetings and to participate in the deliberations, but such person shall not have a vote in any decision of the Committee.
- Conflict of interest
2. (i) If any person has a personal or fiduciary interest in deliberations regarding any deliberations and is present at a meeting of the Committee, at which any matter is the subject of consideration, that person shall at soon as practicable after the commencement of the meeting declare such interest and shall not take part in any

consideration or discussion of or vote on any question touching such matter.

- (ii) A disclosure of interest under (1) above shall be recorded in the minutes of the meeting at which it is made.

Quorum

3. (i) Subject to sub-paragraph (2) above, the quorum of the meeting shall not be less than half of the appointed members of the Committee.
(ii) where the persons present at a meeting of the Committee do not constitute the quorum necessary to hold a meeting under this act, or where by reason of the exclusion of a member from the meeting, the number of members fall below the quorum necessary to hold a meeting, the committee shall postpone the consideration of the matter in question until there is a quorum.

Voting

4. A question before the Committee shall be decided by simple majority of the members present and voting and the chairperson shall, in the case of any equality of votes, have a casting vote.

Rules

of Procedure
and minutes

5. The Committee shall –
(i) determine rules of procedure for the conduct of its business; and
(ii) keep minutes of its proceedings and decisions

Dated this 14th day of Sep 2021

Signed A. J.

Paps land by D/Manager Leads @ PUA 23/9/2021

THE NAIROBI CITY COUNTY GOVERNMENT



THE NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY – FIFTH SESSION

THE REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL
WELFARE

ON
THE CONSIDERATION OF THE NAIROBI CITY COUNTY SEXUAL AND GENDER
BASED VIOLENCE MANAGEMENT AND CONTROL BILL, 2019

Clerk's Chambers,
CITY HALL,
NAIROBI.

SEPT, 2021

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PREFACE

1.1. Committee Mandate

Hon. Speaker,

The Sectoral Committee on Labour and Social Welfare is established under Standing Order No. 203 (1). Its mandate pursuant to Standing Order 203 (6) is to: -

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- b) study the programme and policy objectives of departments and the effectiveness of the implementation;
- c) study and review all county legislation referred to it;
- d) study, assess and analyse the relative success of the departments as measured by the results obtained as compared with its stated objectives;
- e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- f) vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 196(Committee on Appointments); and
- g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

1.2. Membership

The Committee comprises the following Members: -

- 1. The Hon. Anthony Ngaruiya, MCA -Chairperson**
- 2. The Hon. Rose Ogonda, MCA -Deputy Chairperson**
3. The Hon. Peter Wanyoike, MCA
4. The Hon. Imapet Kemunto, MCA
5. The Hon. Wilson Ochola, MCA
6. The Hon. Peter Wahinya Kimuhu, MCA
7. The Hon. Fredrick Njogu, MCA
8. The Hon. Stephen Gikonyo, MCA

10. The Hon. Paul Ndung'u, MCA
11. The Hon. Joyce Muthoni, MCA
12. The Hon. Esther Nyangweso, MCA
13. The Hon. Fredrick Okeyo, MCA
14. The Hon. David Okello Ruogo, MCA
15. The Hon. Jared Akama, MCA
16. The Hon. Samuel Mwangi, MCA
17. The Hon. Evans Otiso, MCA
18. The Hon. Julius Maina Njoka, MCA
19. The Hon. Beatrice Gakuru, MCA
20. The Hon. Susan Makungu, MCA
21. The Hon. Solomon Magembe, MCA
22. The Hon. Joseph Ndonji, MCA
23. The Hon. Jairus Omayo, MCA
24. The Hon. Fredrick Omondi, MCA
25. The Hon. Eve Malenya, MCA

Hon. Speaker,

The County Assembly Committees are extensions of the Assembly established under the County Assembly Standing Orders and in accordance with Section 14 of the County Governments Act, 2012. The Committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary.

In accordance with the Third Schedule of the Standing Orders, the Sectoral Committee exercises its oversight role on all matters relating to labour, trade union relations, manpower or human resource planning: County Public Service; gender and Social Welfare, youth,

Executive Summary

Hon. Speaker,

Pursuant to Section 23 of the County Governments Act, 2012, the Nairobi City County Sexual and Gender Based Violence Management and Control BILL, 2019, was published in the special issue of the Nairobi City County Gazette Supplement No. 10 on 22nd July, 2019. The Nairobi City County Sexual and Gender Based Violence Management and Control BILL, 2019 was read a First Time on 12th September 2019. On 26th November, 2019, the Bill sponsored by Hon. Wanjiru Kariuki, MCA, was read a First Time and thereafter committed to the Sectoral Committee on Labour and Social Welfares for scrutiny, public participation and reporting to the Assembly pursuant to Standing Order 131.

Article 196(b) of the Constitution requires the County Assemblies to facilitate public participation and involvement in the legislative and other business of the Assembly and its Committees.

Hon. Speaker,

Upon committal of the said Bill, the Committee placed a notice in the local dailies on 24th July, 2019 calling for representations and proposals for amendments from the public pursuant to Article 196(b) of the Constitution of Kenya, 2010 and the Nairobi City County Standing Orders 131 (3) which require public participation in the legislative and other business of the County Assembly and its Committees. The Committee also identified the following key stakeholders to the Bill and invited them to submit commends, reviews and propose amendments to the Bill;

- a) The Nairobi City County Sector of Gender, Youth Affairs & Social Services;
- b) Coalition on Violence Against Women (COVAW)
- c) Kenya National Commission on Human Rights (KNCHR)

Hon. Speaker,

The Committee held a public participation forum on Wednesday, 13th March, 2019 at Charter Hall, City Building. Following the notice and the public participation, the Committee received written memoranda from the following stakeholders: -

- a) The Nairobi City County Sector of Gender, Youth Affairs & Social Services;

- c) Kenya National Commission on Human Rights (KNCHR)

Hon. Speaker,

The Committee held a total of ten meetings to consider the Bill and all representations received from stakeholders. All stakeholders while supporting the Bill in principle, proposed amendments on some of the provisions of the proposed law.

Hon. Speaker,

The committee finds this bill to be a right step towards promotion of public awareness on the causes, impacts and consequences and means of prevention of sexual and gender based violence and protection of those subjected to Nairobi City county and for connected purposes.

Hon. Speaker,

The Committee considered the submissions by stakeholders as provided for in the Standing Order and had proposed amendment to the Bill in Long Title, Clauses 2,3,4,6,7,8,9,13, 14, 15, 16, 17 and 19. The Committee further proposed new clauses, sub-clauses and new paragraphs to be included in the proposed law. Some of the amendments are editorial while others are aimed at ensuring that the Bill is consistent with the Constitution and also cater for the concerns of the stakeholders.

1.3. Acknowledgement

Hon. Speaker, I wish to acknowledge with gratitude the offices of the Speaker and the Clerk of the County Assembly for the logistical and technical support accorded to the members of the Committee to enable them consider the Nairobi City County Sexual and Gender Based Violence Management and Control BILL, 2019.

Appreciation is also extended to the sponsor of the Bill and the stakeholders for their immense contribution.

I am grateful for the Members of the Committee whose support and commitment enabled the Committee to accomplish this task. Special thanks to the Secretariat for their support at all times.

On behalf of the Committee and pursuant to Standing Order 131 (3), I now have the honour and pleasure to present this Report on the consideration of the Nairobi City County Sexual and Gender Based Violence Management and Control BILL, 2019.

SIGNED 

HON. ANTHONY NGARUIYA, MCA
(CHAIRMAN, LABOUR AND SOCIAL WELFARE COMMITTEE)

Dated this 23rd day of Sept, 2021

2.0. INTRODUCTION

Pursuant to Article 185 of the Constitution of Kenya, 2010, the legislative authority of a County is vested and exercised and the County Assembly. Pursuant to Section 23 of the County Governments Act, 2012, the Nairobi City County Sexual and Gender Based Violence Management and Control BILL, 2019, was published in the special issue of the Nairobi City County Gazette Supplement No. 10 on 22nd July, 2019. The Nairobi City County Sexual and Gender Based Violence Management and Control BILL, 2019 was read a First Time on 12th September 2019. On 26th November, 2019, the Bill sponsored by Hon. Wanjiru Kariuki, MCA, was read a First Time and thereafter committed to the Sectoral Committee on Labour and Social Welfares for scrutiny, public participation and reporting to the Assembly pursuant to Standing Order 131.

Article 196(b) of the Constitution requires the County Assemblies to facilitate public participation and involvement in the legislative and other business of the Assembly and its Committees.

3.0. CONSIDERATION OF THE NAIROBI CITY COUNTY SEXUAL AND GENDER BASED VIOLENCE MANAGEMENT AND CONTROL BILL, 2019

1. While examining the Bill, the Committee noted the following;

i. Objective of the Bill

The principle objective of the Bill is to promote public awareness on causes, impact consequences, means of prevention and response to sexual and gender based violence and protection of those subjected to in Nairobi City County, and for connected purposes in line with existing laws and regulations which address sexual and gender based violence.

The bill also positively addresses and seek to address conditions that aggravate sexual and gender based violence by promoting and advocating for social justice.

The Committee observed that since the Bill seeks to provide protection to victims of gender based violence in the County in line with existing laws and regulations which address sexual and gender based violence, it will help in prohibiting harmful cultural and traditional practices, outlawing gender discrimination in all its forms and subtleties & providing witness protection. In addition, the Bill will support and facilitate the gathering of desegregated data (by age, sex, ethnicity and disability), establish a clear reporting and referral system to enable victims of and witnesses to sexual and in line with existing laws and regulations which address sexual and gender based violence know to whom they should report.

ii. Part I: Preliminary Provisions

Part I of the Bill sets out the preliminary matters with respect to the Bill. Clause 1 sets out the short title of the Bill. Clause 2 provides for definition and interpretation of terms as used in the Bill while Clause 3 gives object and purpose of the act and summary of the scope of application of the proposed law. Clause 4 provides for coordinated multi-sectoral approaches to sexual and gender based violence.

Clause 5 provides for determination of sexual and gender based violence coordination mechanism. Clause 6 provides for establishment of sexual and gender based violence county management committee. Clause 7 provides for term of office. Clause 8 provides for functions of county sexual and gender based violence management committee. Clause 9 provides for removal from office. Clause 10 provides for county sexual and gender based violence and information.

Clause 11 provides for county sexual and gender based violence education and information. Clause 12 provides for county sexual and gender based violence education in institutions of learning. Clause 12 provides for county sexual and gender based violence education as a health care service. Clause 13 provides for county sexual and gender based violence education in the workplace.

communities. Clause 15 provides for access to health care services. Clause 16 provides for establishment of safe houses/ shelter. Clause 17 provides for functions of safe houses/ shelter. Clause 18 provides for management of safe houses/ shelter. Clause 19 provides for funding.

On the short Title some stakeholders who commented on the Bill raised concerns on the definition of the title. For instance, the Kenya National Commission on Human Rights(KNCHR) argued that the title was misleading therefore should be renamed “The Nairobi City County Sexual and Gender Based Violence Prevention and Response Bill, 2019.”

The Committee agreed with the proposal amendment to the short title of the Bill to as the content of the Bill is on Sexual and Gender Based Violence Prevention and Response mechanism. Prevention and Response cover a wide scope of service to the victims of gender based violence.

On Clause 3, various stakeholders who commented on the Bill were concerned with widening the scope of the bill. For instance, the Coalition On Violence Against Women (COVAW) proposed adding a new sub- clause 3 for **Prevention and response to trafficking of persons for purposes of sexual exploitation and or forced labour’** and ‘Promoting safe working environment for employees free from discrimination and harassment on the basis of gender’

iii. Part II: Administration of justice

Part II of the Bill contains the provisions relating to coordinated multi -sectoral approaches to sexual and gender based violence.

On Clause 4(4), KNCHR proposed to include the ‘perspective of intersex persons rights’ after the word ‘violence’ as most intersex persons face SGBV due to their vulnerability. The Committee agreed with the proposal amendment in order to avoid any form of lacuna in law.

iv Part III: Sexual and gender based violence County Management Committee

Part III of the Bill contains the provisions relating to establishment of sexual and gender based violence County Management Committee.

v. Part Iv: Sexual and gender based violence education and information

Part Iv of the Bill contains the provisions relating to county sexual and gender based violence education and information.

On Clause 6(1), stakeholders proposed to add a representation from the Civil Society of Kenya as CSO's representatives working with SGBV will enhance their effectiveness. The Committee proposed the need to agree on the maximum number of the committee which we propose a minimum of seven and maximum of nine members.

On Clause 6(1)(a), the County Executive proposed that the chair should not be a county staff member and Should be a person with experience on gender issues. The Committee in concurring with the County Executive was of the opinion that the CEC with the approval of the County Assembly to appoint a person with experience on gender issues to be the chairperson.

On Clause 6(1)(b), the County Executive proposed to Include a secretary to the Sexual and Gender Based Violence County Management committee. The Committee in concurring with the County Executive was of the opinion that the Director, social services department to be the secretary to the committee.

On Clause 6(1)(e), the County Executive proposed to include the specialized skills on gender which should be specifically from gender section of social services and the secretary of the committee. The Committee disagreed and proposed that the Director social services to be the secretary to the committee.

On Clause 6(1)(g), the County Executive proposed to remove the representatives from the Inter-Religious Council of Kenya. The Committee disagreed with the proposed amendment stating no reason given for their removal.

On Clause 6(2), KNCHR proposed to add; '**as well as compliance with Chapter 6 requirements of the constitution**' after the word 'inclusion' as it's a constitutional responsibility. The Committee agreed to the proposed amendment as Chapter 6 deals with leadership and integrity.

of the committee members. The Committee agreed to include remuneration to be in accordance with the SRC guidelines.

On new sub-clause 6, KNCHR proposed to Include a new clause on reporting requirements by the advisory committee. The Committee agreed to enhance oversight and stock taking of various intervention undertaken to implement the law and identify the challenges and areas that require improvements.

On Clause 8(d), the County Executive proposed to include the accounting officer to be able to facilitate trainings. The Committee disagreed with the County Executive proposal to avoid repetition as trainings are already captured under clause 8(d).

The Committee disagreed with the County Executive proposal to remove **Clause 8 (e)** citing importance of the management Committee's meeting regularly with the Chief Officer in charge of gender and social services.

On Clause 9(A-H), stakeholders proposed to Make it more comprehensive to ensure sustainability. The Committee agreed to the proposed amendment as It caters for vacancy that may arise as a result of death, legal processes etc and to Include, when one dies, resign from office,

On Clause 10 (3), various stakeholders who commented on the Bill proposed to Remove participation of sexual offenders. The Committee argued that sexual offenders need to be educated too so that they cannot repeat the same offences. The Committee agreed to the proposed amendment to Include persons with disability, children, youth, the intersex persons and women in the education and information as these are the most vulnerable groups.

On Clause 11(3) COVAW proposed to Include universities, schools and colleges both private and public. The Committee argued that this was outside the mandate of the County Government.

On Clause 12, the Committee agreed to add the quality services provision and response, including their role and availability in courts as expert witnesses for clarity purposes.

On Clause 13, the Committee agreed to Include the perpetrators and cases after the word violence so as to include the mechanisms of reporting both the perpetrators and victims at the work place

vi. Part v: Access to Health Care Services

Part v of the Bill contains the provisions relating to access to healthcare services.

On Clause 15, the Committee agreed to the Proposal that all the major health centers to have Gender Violence Recovery Centre If funds are available, no harm in having a GVRC. The Committee disagreed with the stakeholders' proposed amendment to define "unnecessary impediments" as the word is clear, defining it will limit its interpretation.

Vii. Part vi: Safe Houses/ shelter

Part vi of the Bill contains the provisions relating to safe houses/ shelter.

On Sub-Clause 16(2) and (4), the Committee agreed that the sub-clauses were misplaced and Should be placed under part V as they address issues of access to health care.

On Sub-Clause 17, the Committee agreed to define the word '**temporary stay**' In the interpretation section, include the period to be between 0-6 months.

Viii. Part vii: Funding

Part vii of the Bill contains the provisions relating to funding.

On Sub-Clause 19 the Committee agreed to Add 'and response' and the word 'prevention' and delete the words 'control and management' for clarity purposes.

'Remuneration of the committee shall be in accordance with the Salaries and Remuneration Commission guidelines'

2. The Committee deliberated on the Bill as follows: -

- Short Title - Proposed amendment
- Clause 2 - Proposed amendments
- Clause 3 - Proposed amendments
- Clause 4 - Proposed amendments
- Clause 5 - Agreed to
- Clause 6 - Proposed amendments
- Clause 7 - Proposed amendments
- Clause 8 - Proposed amendments
- Clause 9 - Proposed amendments
- Clause 10 - Proposed amendments
- Clause 11 - Agreed to
- Clause 12 - Proposed amendments
- Clause 13 - Proposed amendments

- Clause 15 - Proposed amendments
- Clause 16 - Proposed amendments
- Clause 17 - Proposed amendments
- Clause 18 - Proposed amendments
- Clause 19 - Proposed amendments

4.0 RECOMMENDATIONS

Mr. Speaker sir,

The Committee recommends that in accordance with Section 8(1) (e) of the County Governments Act, 2012 and provisions of Standing Order 191(6): - that;

This Assembly approves the Nairobi City County Sexual and Gender Based Violence Management and Control BILL, 2019 with the following recommendations; -

1. That past, present and future ventures in regards to Nairobi City County Sexual and Gender Based Violence Management and Control Bill, 2019 be done within the framework of the Nairobi City County Sexual and Gender Based Violence Management and Control BILL, 2019 and the recommendations of this report;
2. That the County government submits to the Assembly within 60 days of adopting this report, a Regulation on the same, amongst other proposal contained in the Bill; and
3. That the Bill be amended as proposed by various stakeholders captured

5.0 PROPOSED COMMITTEE STAGE AMENDMENTS

NOTICE is given that the Chairperson of the Sectorial Committee on Labour and Social Welfare intends to move the following amendments to the Nairobi City County Gender Based Violence Management and Control Bill, 2019, at the Committee Stage.

ARRANGEMENT OF CLAUSES

THAT the arrangement of clauses be amended: -

- i. In Part III by deleting the title entirely and replacing therefor the following new title:

‘County Sexual and Gender Based Violence Advisory Committee’

- ii. In the subtitle of clause 6 by deleting it in its entirety and replacing therefor the following new subtitle-

‘Establishment of the County Sexual and Gender Based Violence Advisory Committee’

- iii. In the subtitle of clause 8 by deleting the word ‘**Management**’ and replacing therefor the word ‘**Advisory**’
- iv. In the subtitle of clause 9 by deleting it in its entirety and replacing therefor the subtitle “**Vacancy of Office**’
- v. By adding a new Clause (20) with the subtitle ‘**Regulations**’

LONG TITLE

THAT Long Title of the Bill be amended -

- i. By deleting the word ‘**of**’ appearing immediately after the word victims and replacing therefor the words ‘**reintegration back to the community**’

SHORT TITLE (CLAUSE 1)

THAT Short Title of the Bill be amended; -

- i. By deleting the word ‘**Management**’ and replacing therefor the words ‘**prevention and response**’

CLAUSE 2

THAT Clause 2 of the Bill be amended:

- i. By deleting the definition of the word ‘**gender-based violence**’ and replacing therefor the following definition;

“any act of violence visited upon a person and results in, or is likely to result in, physical, sexual or psychological harm or suffering to the person including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life and shall include physical, sexual, verbal, emotional, and psychological abuse, threats, coercion, and economic or educational deprivation, whether occurring in public or private life including rape, domestic violence, stalking, sexual slavery, incest, sexual harassment, acid throwing, reproductive

mob violence; as well as harmful customary or traditional practices such as honor killings, dowry violence, genital mutilation, virginity testing, widow cleansing"

- ii. In the definition of the phrase '**minimum package of healthcare services**' by deleting the word '**minimum**' and replacing therefor the word '**essential**'
- iii. By inserting the following new definitions in their proper alphabetical sequence:

"Community Based Organization" means any non-profit organization incorporated for the purpose of providing services or other assistance to economically or socially disadvantaged persons within its designated community.

'Temporary Stay' means period of stay in a safe house for the victim of gender based violence for a period not exceeding six months.

"self interest groups" means persons with disabilities, children, youth and women.

CLAUSE 3

THAT Clause 3 of the Bill be amended; -

- (i) By deleting paragraph (b) sub-paragraph (iii) in its entirety and replacing therefor the following:
'Ensure protection and the maintenance of confidentiality for victims'
- (ii) In paragraph (b) sub paragraph (iv) by deleting the word '**minimum**' and replacing therefor the word '**essential**'
- (iii) In paragraph (b) sub paragraph (vi) by deleting the word '**guaranteeing**' and replacing therefor the word '**ensuring**'
- (iv) In paragraph (b) sub paragraph (vii) by deleting the word '**providing**' and replacing therefor the word '**assist victims access**'
- (v) In paragraph (d) by deleting the word '**ethnicity**' appearing immediately after the word '**sex**'
- (vi) By inserting a new sub paragraph immediately after sub paragraph (vii) as follows:

(Viia) Assist victims reintegrate back to society

(vii) By inserting new sub-clauses immediately after sub-clause (e) as follows:

(ea) Prevention and response to trafficking of persons for purposes of sexual exploitation and or forced labour.

(eb) Promoting safe working environment for employees free from discrimination and harassment on the basis of gender.

CLAUSE 4

THAT Clause 4 of the Bill be amended:

- (i) In sub-clause (4) by inserting the words **'perspective of intersex person's rights'** immediately after the word **'violence'**.

CLAUSE 6

THAT Clause 6 of the Bill be amended; -

- (i) In sub-clause by deleting it in its entirety and substituting therefor the following sub clause:

'There is hereby established the County Sexual and Gender Based Violence Advisory Committee which shall consist of members appointed by the Governor with the approval of the County Assembly'

- (ii) In sub-clause (1) paragraph (a) by deleting it in its entirety and substituting therefor the following sub clause:

'a chairperson who shall a person having more than ten years' experience in gender affairs and not an employee of the County Government nominated by the Governor and approved by the County Assembly'.

- (iii) by deleting sub-clause (1) paragraph (b) in its entirety and substituting therefor the following sub-clause

'a representative from the civil society'

- (iv) by deleting sub-clause (1) paragraph (f) in its entirety and replacing therefor the following sub clause

'A representative from the Law Society of Kenya'

appearing before the word **'from'** and substituting therefor the words **'One representative'**

- (vi) In sub-clause (1) paragraph (h) by deleting the words **'Two people'** and substituting therefor the words **'One person'** and deleting the words **'female'** and **'male'**.
- (vii) In sub-clause (1) paragraph (j) by deleting it in its entirety.
- (viii) In sub-clause (2) by inserting the words **"as well as compliance with Chapter 6 of the Constitution 2010"** immediately after the word **"inclusion"**
- (ix) By inserting a new paragraph immediately after sub-clause (1) paragraph (a) as follows:
 - (aa) **The secretary of the committee shall be the Director Social Services Department**
- (x) By inserting new sub-clauses immediately after sub-clause (3) as follows:
 - (3a) **Remuneration of the committee shall be in accordance with the Salaries and Remuneration Commission guidelines**
 - (3b) **A person shall be eligible for appointment as the chairperson of the committee if the person –**
 - (a) **possesses a university degree;**
 - (b) **has at least 10 years working experience in gender based violence issues;**
 - (c) **is a person of integrity and meets the requirements of Chapter 6 of the Constitution of Kenya;**
 - (d) **is not convicted of any criminal offence whose penalty does not exceed six (6) months.**

CLAUSE 7

THAT Clause 7 of the Bill be amended

- I. By deleting the word **'Management'** appearing immediately after the word **'Violence'** and substituting therefor the word **'Advisory'**

CLAUSE 8

THAT Clause 8 of the Bill be amended;

- i. In paragraph (a) by adding the words **"prevention and response activities"** immediately after the word **'all'**.
- ii. In paragraph (c) by deleting the words **'Chief Officer responsible for Gender and Youth Affairs'** appearing after the word **'advice'** and

substituting therefor the words **'the County Executive Committee Member on policy implementation, prevention and response strategies'**

- iii. In paragraph (d) by deleting the words **'and procedures'** appearing immediately after the word **'training'**
- iv. By deleting paragraph (e) in its entirety.
- v. In paragraph (i) by adding the words **'County Executive Committee Member and an annual report to the'** immediately after the word **'the'**.
- vi. In paragraph (j) by adding the words **'sexual and gender based violence prevention and response'** immediately after the word **'County'**.
- vii. By deleting the word **'management'** wherever it appears and substituting it with **'Advisory'**

CLAUSE 9

THAT Clause 9 of the Bill be amended; -

- (i) In the marginal notes by deleting the words **'Removal from Office'** and substituting therefor the words **'Vacancy of Office'**
- (ii) In sub clause 1 by deleting the word **'body'** appearing immediately after the word **'Management'** and replacing therefor the word **'Committee'**
- (iii) In paragraph (g) by deleting the word **'not'** appearing immediately after the word **'of'**.

CLAUSE 10

THAT Clause 10 of the Bill be amended: -

- i. In sub-clause (1) by deleting it in its entirety and replacing therefor the following sub-clause:

"The County Executive Committee Member through multi-sectoral approaches shall promote periodic public awareness campaigns about the causes, impacts, consequences, means of prevention and response to sexual and gender based violence through a comprehensive countywide educational and information campaign in collaboration with relevant state and non-state departments, agencies and stakeholders"

CLAUSE 12

THAT Clause 12 of the Bill be amended: -

word **'treatment**.

II. By inserting a new sub-clause immediately after sub-clause (3) as follows:

(3a) quality services provision and response, including their role and availability in courts as expert witnesses

CLAUSE 13

THAT Clause 13 of the Bill be amended: -

- I. In sub-clause (1) by deleting the words **'County Government'** appearing immediately after the word **'The'** and substituting therefor the word **'Committee'**.
- ii. In sub-clause (3) by deleting it in its entirety and substituting therefor the following sub-clause-
'The Committee shall assist county sectors develop sector-specific sexual and gender based violence prevention and response policies within the work place to address the problem in the County'

CLAUSE 14

THAT Clause 14 of the Bill be amended: -

- i. In sub-clause (1) by deleting the words **'County Government'** appearing immediately after the word **'The'** and substituting therefor the word **'committee'**.

CLAUSE 15

THAT Clause 15 of the Bill be amended: -

- i. In sub-clause (2) by adding the words **'and collaborate with relevant National Government agencies in'** immediately after the word **'facilitate'**.
- ii. In sub-clause (3) by inserting the word **'post'** immediately after the word **'essential'**

CLAUSE 16

THAT Clause 16 of the Bill be amended: -

- i. By deleting the words **'County Government'** and substituting therefor the word **'Committee'** wherever it appears in this clause.

11. In sub-clause (2) by deleting the words '**at affordable prices**' appearing after the word '**services**' and substituting therefor the words '**for victims within the safe house**'

CLAUSE 17

THAT Clause 17 of the Bill be amended: -

- (i) In paragraph (b) by deleting suit in its entirety and substituting therefor the following paragraph-
'Coordinate with relevant county sectors and departments and shall provide the most effective and efficient services in the most appropriate manner and by a multidisciplinary team where necessary'
- (ii) In paragraph (c) by deleting it in its entirety
- (iii) In paragraph (e) by deleting it in its entirety and substituting therefor the following paragraph-

'Take consideration of the context of the community environment in terms of culture, sex, religion, disability, mental health.'

CLAUSE 18

THAT Clause 18 of the Bill be amended: -

- i. In sub-clause (1) by deleting the word '**Governor**' appearing after the word '**The**' and substituting therefor the words '**County Executive Committee Member**'

CLAUSE 19

THAT Clause 19 of the Bill be amended: -

- (i) By deleting the words "**the County Government**" wherever it appears in this clause and substituting therefor the words "**the County Executive Committee Member in charge of Finance**"
- (ii) In sub-clause (3) by adding the words '**prevention and response**' immediately after the word '**violence**'
- (iii) By inserting a new Clause immediately after Clause 19 as follows:
(19A) The County Executive Committee member may make regulations for the better carrying out of the purposes and provisions of this Act and without prejudice to the generality of the foregoing, such regulations may provide for: -
 - a) **Management of safe houses, shelters and safe spaces**

- c) Procedures for dealing with evidence from survivors of sexual and gender based violence
- d) Preparation of annual action plans for the prevention and response to sexual and gender based violence
- e) Funding for Sexual and Gender based Violence programmes

iv) By inserting a schedule immediately after the new clause 20 as follows:

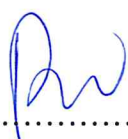
FIRST SCHEDULE

FIRST SCHEDULE Provision for the conduct of business affairs of the Committee

- Meetings
1. (i) The Committee may meet at such place in Kenya as the chairperson may determine and the meetings will be convened by the Chairperson.
 - (1) The Committee shall have at least four meetings in every financial year and not more than three months than three months shall lapse between one meeting and the nest meeting
 - (2) Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member by the Secretary of the Committee
 - (3) The Chairperson may at his discretion or at the written request made by at least half of the members of the Committee and within seven days of the request convene an extraordinary meeting at such time and place as he may appoint.
 - (4) The chairperson shall preside over all Meetings however, in his or her absence, the vice-chairperson shall preside over the meetings.
 - (5) The members of the Committee shall elect a vice-chairperson from among themselves-
 - (a) at the first sitting of the Committee and,
 - (b) whenever it is necessary to fill the vacancy in the office of the vice-chairperson
 - (6) Where the chairperson or vice chairperson is absent, the members shall appoint from among themselves, a person to chair the meeting of the Committee.
 - (7) The Committee may invite any person to attend any of its meetings and to participate in the deliberations, but such person shall not have a vote in any decision of the Committee.

- Conflict of interest 2. (1) If any person has a personal or fiduciary interest in deliberations regarding any deliberations and is present at a meeting of the Committee, at which any matter is the subject of consideration, that person shall at soon as practicable after the commencement of the meeting declare such interest and shall not take part in any consideration or discussion of or vote on any question touching such matter.
- (ii) A disclosure of interest under (1) above shall be recorded in the minutes of the meeting at which it is made.
- Quorum 3. (i) Subject to sub-paragraph (2) above, the quorum of the meeting shall not be less than half of the appointed members of the Committee.
- (ii) where the persons present at a meeting of the Committee do not constitute the quorum necessary to hold a meeting under this act, or where by reason of the exclusion of a member from the meeting, the number of members fall below the quorum necessary to hold a meeting, the committee shall postpone the consideration of the matter in question until there is a quorum.
- Voting 4. A question before the Committee shall be decided by simple majority of the members present and voting and the chairperson shall, in the case of any equality of votes, have a casting vote.
- Rules of Procedure and minutes 5. The Committee shall –
- (i) determine rules of procedure for the conduct of its business; and
- (ii) keep minutes of its proceedings and decisions

Dated this.....^{23rd}..... day of^{Sept}..... 2021

Signed..........

