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BARINGO COUNTY BILLS, 2022

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**THE BARINGO COUNTY GENDER BASED VIOLENCE BILL,
2022**

A Bill for

AN ACT of the County Assembly of Baringo to create the Gender Based Violence Management Committee, the Gender Technical Working Groups, Gender Based Violence Recovery Centres, Safe Houses, to protect the rights of victims of Sexual and Gender Based Violence within the County and for connected purposes

ENACTED by the County Assembly of Baringo, as follows—

PART I — PRELIMINARY

Short title

1. This Act may be cited as the Baringo County Gender Based Violence Act, 2022.

Interpretation

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

“Centre” means Sexual and Gender Based Recovery Centre;

“Chief Officer” means an officer of the County Government established within the County Government Act (No. 17 of 2012);

“County Government” means the devolved government within as established under the constitution;

“Department” has the meaning assigned to it in the County Government Act (No. 17 of 2012);

“Gender Based Violence Recovery Centres” means a centre established under section 24 of the Act’;

“Gender violence” has the meaning assigned to it in the Protection Against Domestic Violence Act (No. 2 of 2015);

“Mangement committee” means the Gender based violence Mangement committee established under section 3;

“medical practitioner" has the meaning assigned to it in the Medical Practitioners and Dentists Act [Cap. 253];

“One stop Centre” means a Gender Based Violence Recovery centre which offers medical, security, legal and psychosocial services aimed at responding victims, survivors and perpetrators of sexual and gender based violence;

“probation officer” has the meaning assigned to it in section 2 of the Probation of Offenders Act [Cap. 6];

“rehabilitation” has the meaning assigned to it in the Victim Protection Act, 2014;

“Safe House” means a facility established under section 27 of the Act;

“sexual abuse” has the meaning assigned to it in the Sexual Offences Act, 2006;

“sexual violence” has the meaning assigned to it in the Sexual Offences Act, 2006;

“survivor” means a survivor of gender based violence;

“victim” means a victim of gender based violence;

“Vulnerable Victim” has the meaning assigned to it in the Victims Protection Act, 2014;

“Working Group” Gender Technical Working Group established under part IV of the Act; and

“Management committee has the meaning assigned under part II of this Act.

PART II —THE GENDER BASED VIOLENCE MANAGEMENT COMMITTEE

Establishment of the Gender Based ViolenceMangement Committee

3. (1) There is established a mangement committee to be known as the Gender Based Violence Mangement Committee.

(2) The Mangement committee is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) (taking, purchasing or otherwise acquiring, holding, charging or
- (c) disposing of movable and immovable property;
- (d) borrowing money or making investments;
- (e) entering into contracts; and
- (f) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

Composition of the Mangement Committee

4. (1) The Mangement committee shall consist of—
- (a) Chairperson who shall be the County Executive Committee Member in charge of Gender affairs in the County;
 - (b) Chief Officer from the Department of gender affairs;
 - (c) Chief Officer from the Department of Health Services;
 - (d) Representative from the office of the County Commissioner nominated by the County Commisioner;
 - (e) Representative from the National Police Service;
 - (f) Representative from the office of the County Attorney;
 - (g) Two representatives from faith based organizations in the County;
 - (h) Two representatives from the County Assembly who are committee clerks;1 from the budget and appropriations committee and 1 from the committee on gender and culture;
 - (i) Two representatives from civil society dealing with matters relating to sexual and gender based violence; and
 - (j) Director of gender and social services who shall be the secretary to the management committee.

(2) The Members under subsection (1) (f) and (g) shall hold office for a term of three years, which may be renewed for a final term of three years.

(3) The Secretariat shall be appointed by the Mangement committee and shall have representatives from the County Assembly and County Executive.

(4) The Secretariat of the Mangement committee shall reside at the Department responsible for matters relating gender.

(5) The Mangement committee shall be remunerated as per the Salaries and Remuneration Commision Circular.

Functions of the Mangement Committee

5. The Mangement committee shall —
- (a) advise the County Executive Committee Member responsible for gender on inter-agency activities aimed at protecting victims of sexual and gender based violence and the implementation of preventive, protective and rehabilitative programmes for the victims within the County;

- (b) implement the national and county policies relation to the sexual and gender based violence within the County;
- (c) oversight all sexual and gender based violence institutions within the County;
- (d) oversight all sexual and gender based violence protection institutions within the County;
- (e) work closely with County Executive Committee to ensure sufficient budgetary allocation to the Mangement committee and institutions involved in protection of sexual and gender based violence victims within the county;
- (f) receive reports from sub-county institutions working on sexual and gender based violence response and prevention;
- (g) develop and implement a multi-sectoral monitoring and evaluation framework towards the prevention of and response to sexual and gender based violence likely to be committed within the County for implementation by the County Government;
- (h) in consultation with other government departments, determine and prescribe training requirements for government officers expected to play a role in the implementation this Act.;
- (i) support Traditional Dispute Resolution mechanisms aimed at facilitating resolution of disputes between the perpetrators and survivors of sexual and gender based violence within the county;
- (j) train the traditional dispute resolution mechanisms within the counties on the disputes that may be handled within the traditional setting and those that ought to be handled within the formal dispute resolution mechamism;
- (k) co-ordinate mechanisms between county government and traditional dispute resolution institutions aimed at creating awareness around response to and prevention of sexual and gender based violence within the County;
- (l) support the research units including through funding for purposes of collecting data and provide statistics necessary for planning and in the implementation of the Mangement committee's functions ; and
- (m) develop modalities for sexual and gender based violence victims and survivors' compensation.

Mandate of the Mangement Committee

6. The Mangement committee shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, theMangement committee shall have power to—

- (a) enter into contracts;
- (b) manage, control and administer its assets in such manner and for such purposes as best promote the purpose for which the Mangement committee is established;
- (c) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Mangement committee;
- (d) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (e) enter into association with such other bodies or organizations within or outside county as it may consider desirable or appropriate and infurtherance of the purposes for which the Mangement committee is established;
- (f) open such banking accounts for its funds as may be necessary and as authorised by the Chief Executive Committee Member in charge of Finance as per the Public Finance Management Act of 2012;
- (g) work with other relevant agencies to provide technical and other support services aimed at implementing this Act;
- (h) invest any funds of the Mangement committee not immediately required for itspurposes; and
- (i) undertake any activity necessary for the fulfilment of any of its functions.

Meetings of the Management Committee

7. (1)The Mangement committee shall meet at least every two months and report to the County Executive Committee Member every six months on the progress made in response to the elimination of victimisation in accordance to this Act.

(2) The Mangement committee may regulate its own procedure.

Delegation by the Mangement Committee

8. The Mangement committee may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Mangement committee, the exercise of any of the

powers or the performance of any of the functions or duties of the Mangement committee under this Act or under any other written law.

Protection from personal liability

9. (1) No matter or thing done by a member of the Mangement committee or by any officer, member of staff, or agent of the Mangement committee shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Mangement committee under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(2) Any expenses incurred by any person in any suit or prosecution brought against them in any court, in respect of any act which is done or purported to be done by them under the direction of the Mangement committee, shall, if the court holds that such act was done *bona fide*, be paid out of the general funds of the Mangement committee, unless such expenses are recovered by them in such suit or prosecution.

Liability for damages

10. The provisions of section 12 shall not relieve the Mangement committee of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

PART III — FINANCIAL PROVISIONS

Funds of the Mangement Committee

11. The funds and assets of the Mangement committee shall consist of—

- (a) monies appropriated by the County Government;
- (b) monies received by the Fund as grants, donations or gifts from non-governmental or non-public sources; and
- (c) all moneys from any other lawful source provided, donated or lent to the Mangement committee.

Financial year

12. The financial year of the Mangement committee shall be the period of twelve months ending on the thirteenth June in each year.

Annual estimates

13. (1) At least three months before the commencement of each financial year, the Mangement committee shall cause to be prepared

estimates of the revenue and expenditure of the Mangement committee for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Mangement committee for the financial year and in particular, the estimates shall provide for the—

- (a) allocation to and establish and sustain other institutions provided within the act;
- (b) payment of allowances and other charges in respect of members and secretariat of the Mangement committee.

(3) The annual estimates shall be approved by the Mangement committee before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.

(4) No expenditure shall be incurred for the purposes of the Mangement committee except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Mangement committee given with prior written approval of the Cabinet Secretary.

Accounts and Audit

14. (1) The Mangement committee shall cause to be kept proper books and records of accounts of the income, expenditure and assets of the Mangement committee.

(2) Within a period of three months after the end of each financial year, the Mangement committee shall submit to the Auditor-General, the accounts of the Mangement committee together with —

- (a) a statement of the income and expenditure of the Mangement committee during that year; and
- (b) a balance sheet of the Mangement committee on the last day of that year.

(3) The accounts of the Mangement committee shall be audited and reported upon in accordance with the provisions of the Public Audit Act (Cap. 412B).

Investment of funds

15. (1) The Mangement committee may invest any of its funds in securities in which for the time being trustees may by law invest trust funds, or in any other securities or banks which the Treasury may, from time to time, approve for that purpose.

(2) The Management committee may place on deposit, with such bank or banks as it may determine, any moneys not immediately required for the purpose of the Management committee.

**PART IV—THE BARINGO COUNTY GENDER BASED
VIOLENCE TECHNICAL WORKING GROUPS**

Established the Baringo County Gender Based Violence Technical Working Groups

16. (1) There are established the Baringo County Gender Based Violence Technical Working Groups to be based within the County and Cascaded to Sub County levels.

Composition of the Gender Based Violence Technical Working Group

17. (1) The Technical Working Group shall comprise—
- (a) county Director of Administration;
 - (b) two representatives from National Government Administration
 - (c) three representatives from County Assembly involved in matters of Gender Based Violence i.e. Chairperson in charge of Gender and Culture, clerk to the committee on Gender and Culture and Legal Officer;
 - (d) county Director in charge of gender and social services who shall be the secretary;
 - (e) one representative of the Judiciary ;
 - (f) county probation officer;
 - (g) two Representatives from the education sector; 1 from the County Directorate of Education and 1 from the Ministry of Education;
 - (h) one representative from the Office of the Director of Public Prosecutions;
 - (i) one representative from the Children Department;
 - (j) two representatives from Health Department; Director of preventive and promotive services and the County reproductive health coordinator;
 - (k) two representatives of the national police services in the County who are in charge of gender affairs;
 - (l) two representatives of community opinion leaders and elders;
 - (m) one male and one female who are members of Court Users Committee;

- (n) two religious leaders nominated by the interfaith group in the County;
- (o) two representatives of the civil society organization, 1 male and 1 female working within the County on matters of Gender Based Violence nominated by the Baringo County Civil Society Organization (Bascof);
- (p) a representative of the persons living with disability in the County nominated by their association.

(2) The Technical Working Group may co-opt any other relevant stakeholders as may be deemed necessary in response to and prevention of gender violence.

(3) The Chairperson of the Group shall be elected from amongst the Members and shall serve for a period of two years.

(4) The Working Group shall ensure that not more than two-thirds of its members are of the same gender.

(5) The Working Group shall ensure that youth and persons with disabilities are represented.

Decentralized services

18. The Technical Working Group shall progressively decentralise its operations to the ward and village levels by appointing members of the society as representatives to facilitate access to protective mechanism by all victims of domestic violence regardless of their location in the county.

Functions of the Technical Working Group

19. The Working Group shall—

- (a) coordinate response to and prevention of victimization such as sexual and Gender based violence;
- (b) implement the policies of the Management committee;
- (c) be in charge of and support the Sexual and Gender based Violence Recovery Centre;
- (d) prepare a semi-annual report for presentation to the Management committee on the progress made in the implementation of its mandate;
- (e) act as the first point of reference for victims and potential victims of abuse;
- (f) act as a link between victims and the justice system;

- (g) advise the Mangement committee on suitability of victims to be declared vulnerable victims in need of special care and protection; and
- (h) conduct advocacy and encourage victims to come out and fight for justice.

Funding to the Technical Working Group

- 20.** Tecnical Working Group shall receive funding from —
- (a) monies appropriated by the the Mangement committee; and
 - (b) monies received by the Fund as grants, donations or gifts from non-governmental or non-public sources.

PART V—SEXUAL AND GENDER BASED VIOLENCE RECOVERY CENTRES

Sexual and Gender Based Violence Recovery Centres

21. (1) The Mangement committee in conjunction with the National Government’s Ministry responsible for Health, shall establish Centres to be known as Sexual and Gender Based Violence Recovery Centres.

(2) The Centres shall be established in all County and sub-county referral Hospitals within the County.

(3) In addition to clause (1) above, the Mangement committee shall in coodination with the management of private hospitals within the sub counties, establish the centres within their hospitals

Functions of the Gender Based Violence Recovery Centre

- 22.** The Centres shall—
- (a) be a one-stop centre which offers medical, security, legal and psychosocial services;
 - (b) offer specialized free and comprehensive gender based violence medical treatment;
 - (c) offer psychosocial support to survivors of gender based violence within the county;
 - (d) engage the public in advocacy issues and primary prevention of abuse;
 - (e) create awareness on the existence of free gender based violence services and the 72 hour campaign through Community Health Workers;

- (f) create awareness through community, male engagement and School Outreach programs to facilitate behavior change, equipping diverse stakeholders with skill and knowledge;
- (g) offer mandatory community-friendly complaint and feedback platform to enable accountability in health care service provision;
- (h) equipping diverse stakeholders with skill and knowledge; and
- (i) have a working referral system for specialized cases that need further management.

Management of Sexual and Gender Based Violence Recovery Centre

23. The Centres shall be managed by trained clinical and mental health practitioners with special expertise on dealing with victims of gender based violence prevalent within the region.

PART VI— SAFE HOUSES

Establishment of Safe Houses

24. (1) The Mangement committee shall facilitate the establishment by the County Government at least one Safe House per sub-county

(2) The safe houses may be provided in any form including but not limited to—

- (a) designated premises;
- (b) temporary locations;
- (c) adapted community facilities; and
- (d) mobile facilities.

Functions of the Safe Houses

25. The safe houses shall—

- (a) offer temporary stay to victims of sexual and gender based violence;
- (b) offer psychosocial support to survivors to enhance rehabilitation and reintegration back into the community;
- (c) provide post-trauma care facilities for survivors of Sexual and gender based violence who qualify to be declared as vulnerable victims in accordance to Section 17 of the Victims Protection Act;
- (d) provide immediate response after violence has occurred to address the short term consequences of violence;

- (e) decrease prevalence of early signs of violence upon victims and survivors of sexual and gender based violence;
- (f) offer long term responses after violence has occurred to enable victims and survivors deal with consequences of violence;
- (g) have a working referral system database containing all partners within the county in the gender based violence sector within the county for specialized cases that need further management.

PART VII— MISCELLANEOUS PROVISIONS

Provision on delegated powers

26. (1) The County Executive Committee Member for the time being responsible for gender shall make rules to regulate any matter of practice or procedure under this Act.

(2) Without prejudice to the generality of subsection (1), such rules may prescribe—

- (a) the procedure to be followed and the forms to be used under this Act;
- (b) the time within which documents are to be filed and served under this Act; and
- (c) the contents of orders to be issued under this Act.

Savings

27. (1) Notwithstanding provisions of the Act—

- (a) any Sexual and Gender Based Recovery Centres and safe houses already established by County Governments shall continue to operate upon coming into force of this Act;
- (b) any function carried out by the the institutions under subsection (1) during the transition period shall be deemed to have been carried out under this Act;
- (c) all assets and liabilities which immediately before the commencement of this Act were vested within the Sexual and Gender Based Recovery Centres and safe houses under subsection (1) or the County Government shall vest in the Mangement committee;
- (d) all rights, powers and duties, whether arising under any written law or otherwise which immediately before the coming into operation of this Act were vested in any Institution equivalent to an instituion created under this Act shall be transferred to, vested,

imposed on, or be enforceable by or against the Mangement committee; and

- (e) all actions, suits or legal proceedings by or against any Institution equivalent to an Institution created under this Act shall be carried out on, prosecuted by or against the Mangement committee and no such suit, action or legal proceedings shall abate or be affected by the coming into operation of this Act.

(2) Notwithstanding section 20, the persons who were members of the Working Group operating before the commencement of this Act, shall become members of the Working Group upon the commencement of this Act for their unexpired term.

MEMORANDUM OF OBJECTS AND REASONS

The objective of the Bill is to provide legal framework for the protection of victims of Sexual and Gender based violence within the County and for connected purposes, create the Baringo County Gender Based Violence Management Committee, the Gender Technical Working Group, and Gender Based Violence Recovery Centers.

This Bill is premised on Article 189 of the Constitution of Kenya which emphasizes on cooperation between county and national governments to the implementation of national and county legislations, procedures and policies

This Bill recognizes:

- (a) National Institutions including National Gender and Equality Commission (NGEC) and State Department of Gender Affairs (SDGA) whose core mandates are promoting gender equality and freedom from discrimination among: women, youth, children, the elderly, persons with disabilities, minorities and marginalized groups;
- (b) That the National Government has already taken legislative, policy and other institutional initiatives to ensure prevention and response to cases of sexual and gender-based violence as well to ensure protection of women, girls, men and boys from sexual and gender-based violence; and
- (c) The devolved governments and institutions offers a unique opportunity for the implementation of the national laws, policies, strategies and frameworks through coordination among key stakeholders at the community level.

This Bill therefore, intends to:

- (a) provide a framework for coordination among key national, county and community actors to advance the prevention and response to sexual and gender-based violence;
- (b) enhance service delivery and justice to victims of sexual and gender-based violence;
- (c) ensure awareness among community members and other stakeholders to enhance sustainable response, prevention and protection of victims.

SAPHINA CHELAGAT,
*Chairperson, Committee on Culture,
Gender and Community Services.*