

COUNTY ASSEMBLY OF BOMET

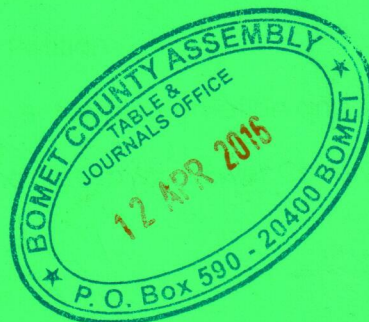
FIRST ASSEMBLY- FOURTH SESSION

BUDGET & APPROPRIATION COMMITTEE

8TH REPORT

ON THE PETITION NO.3 OF 2015 (BCA/P/03/2015)

APRIL 2016



Filed on 12/4/2016
Ag. [Signature]

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PREFACE

1 BACKGROUND

Mr. Speaker Sir,

On behalf of the Members of the Budget Committee and as required under standing order No. 190, I take this opportunity to present to the House, the Committee's Report on The Petition No. 3 of 2015 as submitted by Dominic Yegon on behalf of the Bomet County Anti-Corruption Crusaders.

Mr. Speaker sir,

The Budget and Appropriation committee as currently constituted comprises of the following Honorable members:

1. Hon. Benard Ngeno – Chairperson
2. Hon. Reuben Langat V. Chair
3. Hon. Robert Serbai
4. Hon. Josphat Kirui
5. Hon. Samwel Bor
6. Hon. Philip Siele
7. Hon. Leonard Kirui
8. Hon. Wilson Keter
9. Hon. John Molel
10. Hon. Samson Towett
11. Hon. Leah Kirui
12. Hon. Julius Korir
13. Hon. Andrew Maritim

1.1 Mandate of the Committee

The standing order No. 190 establishes the Budget and Appropriation Committee with specific mandate to:

- a) Investigate, inquire into and report on all matters related to coordination, control and monitoring of the County Budget.**
- b) Discuss and review the estimates and make recommendations to the County Assembly.**
- c) Examine the County Fiscal Strategy Paper presented to the County Assembly;**

- d) Examine Bills related to the County budget, including Appropriations Bills; and**
- e) Evaluate tax estimates, economic and budgetary policies and programmes with direct budget outlays.**

1.2 Examination of the Petition

Mr. Speaker sir,

In reviewing the petition number 3 of 2015, the committee invited the petitioner to clarify a number of issues raised. The committee also wrote to the C.E.C for Finance via a letter reference BCA/GOV.FEP/13/6/15 dated 17th November 2016 to seek for his comments on the petition. However, the C.E.C never responded to the letter.

1.3 Acknowledgement

Mr. Speaker sir,

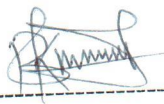
I wish to thank the members of Budget and Appropriation Committee for dedicating their time and energy to prepare this report. The Committee is also grateful to the Assembly technical staff for their input.

1.4 Affirmation and approval

Mr. Speaker sir,

It is therefore my pleasant duty and privilege, on behalf of the Budget and Appropriation Committee to table this Report on The Petition No.3 of 2015.

Signed





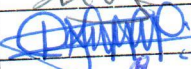







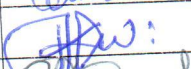


THE HON. BENARD NGENO

CHAIRPERSON, BUDGET AND APPROPRIATION COMMITTEE

Date

5/4/16.

We, honourable members of the Budget and Appropriation Committee, do hereby affix our signatures to this report to affirm our approval and confirm its accuracy, validity and authenticity:-

No.	Name	Position	Signature
1.	Hon. Benard Ngeno	Chairperson	
2.	Hon. Reuben Langat	Vice Chairperson	
3.	Hon. Leonard Kirui	Member	
4.	Hon. Samwel Bor	Member	
5.	Hon. Josphat Kirui	Member	
6.	Hon. Philip Siele	Member	
7.	Hon. Wilson Keter	Member	
8.	Hon. John Molel	Member	
9.	Hon. Leah Kirui	Member	
10.	Hon. Samson Towett	Member	
11.	Hon. Julius Korir	Member	
12.	Hon. Robert Serbai	Member	
13.	Hon. Andrew Maritim	Member	

2 BACKGROUND OF THE PETITION

2.1 ADHERENCE TO THE LEGAL FRAMEWORK

Section 15 (1) of the County Government Act 2012 states that,

“A person has a right to petition a county assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.”

Furthermore, section 198. (1) of the standing orders states that

A petition to the County Assembly shall be-

- (a) submitted to the Clerk by the petitioner and reported to the County Assembly by the Speaker; or
- (b) presented by a Member on behalf of a petitioner, with the consent of the Speaker.

The petition stated that statistics indicate that Bomet County does not have equal geographical economic development. It also states that the poverty index varies from one region to another and that certain regions of the county were benefiting more at the expense of other areas within the county. It further states that it was the desire of the Bomet County residents that County's revenue ought to be distributed via a well-defined formula such as the one used by Commission for Revenue Allocation (CRA) so as to avoid haphazard and erroneous distribution of resources.

These issues raised in the petition **Mr. Speaker Sir**, generally resonates with what most of the Members of this house have raised.

2.2 Petition prayers

Mr. Speaker Sir,

The petitioner prays that the County Assembly critically looks into the issue and as a matter of priority;

- i. Enact an equalization bill to address cases of inequality in the county.*
- ii. Ensure that the Budget documents such as the fiscal strategy paper, annual development plan are strictly adhered to.*
- iii. Ensure that there is adequate public participation (including enacting legislation thereof) on public finance matters which will guarantee equitable and transparent distribution of resources in the county.*
- iv. Ensure that there are no conditional allocations unless supported by proper legislation.*

3 COMMITTEE FINDINGS AND OBSERVATIONS

Mr. Speaker Sir,

In order to arrive at an informed judgment and decision making, the committee analyzed the genesis of equalization fund in the constitution as well as similar cases in Uasingishu and Elgeyo-Marakwet County and made the following findings;

3.1 Case Studies

3.1.1 Equalization Fund in the Constitution

Mr. Speaker Sir,

Article 204 of the constitution states as follows;

“(1) There is established an Equalisation Fund into which shall be paid one half per cent of all the revenues collected by the national government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

(2) The national government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of those services

in those areas to the level generally enjoyed by the rest of the nation so far as possible.

(3) The national government may use the Equalisation Fund--

- (a) only to the extent that the expenditure of those funds has been approved in an Appropriation Bill enacted by Parliament; and
- (b) either directly, or indirectly through conditional grants to counties in which marginalised communities exist.

(4) The Commission on Revenue Allocation shall be consulted and its recommendations considered before Parliament passes any Bill appropriating money out of the Equalisation Fund.

(5) Any unexpended money in the Equalisation Fund at the end of a particular financial year shall remain in that Fund for use in accordance with clauses (2) and (3) during any subsequent financial year.

(6) This Article lapses twenty years after the effective date, subject to clause (7).

(7) Parliament may enact legislation suspending the effect of clause (6) for a further fixed period of years, subject to clause (8)

(8) Legislation under clause (7) shall be supported by more than half of all the members of the National Assembly, and more than half of all the county delegations in the Senate.

(9) Money shall not be withdrawn from the Equalisation Fund unless the Controller of Budget has approved the withdrawal."

3.1.2 Case of Uasingishu County

Pursuant to Article 176 (2) and 185 and Schedule IV of the constitution, Uasingishu County Assembly enacted a **Project Implementation and Management Act 2014** (Annex II) to provide for establishment of county project management and implementation units and for connected purposes.

The object and purpose of the Act was to provide for a legal framework for further devolution of the County Government functions, establishing project implementation and management committees, and to—

- i. ensure harmony between county and sub-county spatial project management requirements;
- ii. facilitate the participation of local communities in the implementation of county development projects.
- iii. ensure efficient and effective service delivery across the county;
- iv. provide a platform to harmonize and ensure equity in the implementation of county development projects and services;
- v. ensure effective project implementation at integrated areas of economic and social activity;
- vi. provide for management of county projects in a manner that ensures reduction of bureaucracy in procurement and availability of funds;
- vii. Provide a framework that allows direct funding of county development projects on need basis.
- viii. To further devolve the functions and resources of the County Government and to ensure participation and involvement of the county citizenry in management of its affairs.

3.1.3 Case of Elgeyo-Marakwet County

As a result of its research, the committee established that Elgeyo Marakwet County enacted “**The Elgeyo Marakwet County Equitable Development Act, 2015**” (Annex III) to address among others;

- i. equitable allocation of funds in the wards,
- ii. minimum development standards,
- iii. public participation,
- iv. alignment of projects to development plans and
- v. ward development committees.

The committee acknowledged that some wards have lagged behind in development possibly due to skewed distribution of resources and non-adherence to approved planning documents including County Integrated

Development Plan. The committee however holds the opinion, opinion it believes to be sound, that the affected wards have not yet attained a stage of marginalization to warrant an equalization fund Act. However, to address the issue of skewed distribution of resources and potential marginalization, the committee acknowledges a need for establishment of a robust structure and legal framework to ensure equitable distribution of resources in the County.

A close scrutiny of the two Acts enacted by the mentioned County Assemblies reveals that the Elgeyo Marakwet County Equitable Development Act, 2015 meets the prayers being sought by the petitioner.

4 RECOMMENDATIONS

Mr. Speaker Sir,

Based on the findings and observations the committee proposed the following raft of recommendations in response to each of the prayers sought;

i. *Enactment of an equalization bill to address cases of inequality in the county.*

*The committee recommends that the County Assembly should enact **County Equitable Development Act** similar to the one enacted by Elgeyo-Marakwet County Assembly to address the issue of skewed and haphazard distribution of resources.*

ii. *Ensuring that the Budget documents such as the fiscal strategy paper, annual development plan are strictly adhered to.*

*The committee recommends that the controller of Budget should **only** release funds in accordance with the approved planning documents as per the provisions of the law. The committee further recommends that the county executive should ensure consistent and timely submission of*

quarterly expenditure reports in order for proper review and interrogation by the County Assembly.

- iii. Ensuring that there is adequate public participation (including enacting legislation thereof) on public finance matters which will guarantee equitable and transparent distribution of resources in the county.**

The committee recommends that the county Assembly should fast track enactment of public participation bill which should be passed before end of May 2016. The committee further recommends that the County Assembly and executive should conduct a robust and meaningful public participation on all matters dealing with public finance at the lowest unit of devolution (ward level).

- iv. Ensuring that there are no conditional allocations unless supported by proper legislation.**

The committee recommends that the County Assembly and Executive should always allocate resources in accordance with approved planning, policy and budget documents such as County Integrated Development Plan, County Annual Development Plan, County Fiscal Strategy Paper and budget estimates in line with the provisions of the law.

In conclusion **Mr. Speaker Sir**, the committee applauds Mr. Dominic Yegon, a resident of this county, for coming up with such meaningful petition to the Assembly. The right to petition, though often overlooked, is nonetheless a very significant right that we have in this country. I therefore wish to call upon the members of the public to exploit such opportunities granted by our constitution and remind them that the right to petition grants them not only the freedom to stand up and speak out against injustices, causes or actions they feel are occurring, but also grants them the power to help change them.