

THE KILIFI COUNTY ANTI-PORNOGRAPHY BILL, 2016
ARRANGEMENT OF CLAUSES

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**THE KILIFI COUNTY ANTI-PORNOGRAPHY
BILL, 2016**

A Bill for

AN ACT of County Assembly to prohibit and penalize the production, printing, publication ,importation, sale, distribution and exhibition of obscene and pornographic materials and for connected purposes.

ENACTED by the County Assembly of Kilifi as follows—

1. This Act may be cited as the Anti-Pornography Act, 2016.

Shorttitle

2. In this Act, unless the context otherwise requires—
“Executive Member” means the county executive committee member responsible for matters relating to Culture and Social Services in the county;

Interpretation

“Person” includes a company, association or other body whether incorporated or unincorporated.

“pornographic material” includes any public display in print, audio, visual, electronic or other similar medium that describes or exhibits obscenity.

3. In fulfilling the Act’s mandate, the executive member must act in accordance with the values and principles set out in the Constitution and any other written law.

Guiding principle

4. A person who—

Prohibition of pornography

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has possession of any obscene book, pamphlet, paper, drawing, writing, painting, art, representation, cinematography films or figure or any other obscene object that tends to corrupt morals or which depicts the image of a person; or

(b) imports, exports or conveys any obscene object for any of the purposes specified in subsection(a),or knowingly or having reason to believe that such object will be sold, hired out, distributed or publicly exhibited or in any manner put into circulation; or

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- (c) stages or participates in a public performance or act which is obscene in nature and in contravention with acceptable norms of public morality; or
- (d) takes part in or receives profits from any business in the course of which the person knows or has reason to believe that the obscene objects are, for any of the purposes specifically in this section, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation; or
- (e) advertises or makes known by any means that a person is engaged in or is ready to engage in any act which is an offence under this section, or that any such obscene object can be produced from or through any person; or
- (f) offends or attempts to do any act which is an offence under this section, commits the offence of pornography and upon conviction is liable to—
 - (i) imprisonment for a term of not less than six years or to a fine of not less than five hundred thousand shillings or to both; and
 - (ii) Upon subsequent conviction, to imprisonment for a term of not less than seven years without the option of a fine.

5. (1) A Enforcement Officer may, without a warrant—

Powers of the
Enforcement Officer

- (a) enter and search any premises, vehicle, aircraft or ship which the Enforcement Officer has reasonable ground to believe is being used or has been used or involved in the production of pornographic material or in commission of any other offence under this Act;
- (b) seize any device, equipment or material which the Enforcement Officer has reason to believe has been used in the production of pornographic material or in the commission of any other offence under this Act.
- (c) Arrest any person whom the Enforcement Officer has reasonable ground to believe has committed an offence in this Act

(2) Upon conviction under subsection (1) (b), that device, equipment or material must be forfeited to and disposed off by the county government.

6. A person who—

Protection of the
Enforcement Officers

(a) assaults, obstructs, resists, delays, refuses entry or search or fails to take all reasonable measures to ensure the safety of or otherwise interferes with a Enforcement Officer in the performance of the Enforcement Officers officer's duties; or

(b) Fails to comply with any lawful order, requirement or request of a Enforcement Officers, commits an offence.

7. A person who contravenes a provision in this Act for which a penalty has not been provided for, commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both. General penalty

8. The executive member may make regulations for the proper administration of this Act. Regulations

MEMORANDUM OF OBJECTS AND REASONS

The Anti-Pornography Bill, 2016 makes provisions to prohibit and penalize the production, printing, publication, importation, sale, distribution and exhibition of obscene and pornographic materials and for connected purposes.

The Bill mandates the Executive Committee in charge of issues related to Culture and Social Services committee the power to make Regulations for the better carrying out of the provisions of the Act. The Regulations are to be made with the approval of Kilifi County Assembly before they are gazetted. The Bill does not limit any fundamental rights and freedoms.

Dated the....., 2016.

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Elina Stephen Mbaru
Chairperson Youth
Culture and
Community Services
Committee