



COUNCIL OF GOVERNORS

OPENING REMARKS BY H.E HON PETER MUNYA
CHAIRMAN OF THE COUNCIL OF GOVERNORS
AND
GOVERNOR MERU COUNTY

NATIONAL COUNCIL ON THE ADMINISTRATION OF JUSTICE (NCAJ) AND
COUNCIL OF GOVERNORS CONFERENCE
10TH -11TH MARCH 2015

Excellency Governors present,
The Chief Justice, Hon. Willy Mutunga
The Attorney-General, Hon. Prof. Githu Muigai
The Director of Public Prosecutions, Mr Keriako Tobiko
Members of the Judiciary
Representatives of the National Police Service and Correctional Services
Representatives from the Constitutional Commissions
Representatives from Civil Society

1. I am pleased to welcome you to this second Annual Conference for the Council of Governors and the National Council on the Administration of Justice. We at the Council appreciate the cooperative spirit that has been witnessed between ourselves, the Judiciary, and its partner agencies. Even though judicial services are significantly vested at the national level, the reality we must face is that administration of justice is a collective responsibility noting the many facets it

embodies. With the new dispensation, we have a fresh opportunity to set this country on a new course of stability and to build the just society most of us here aspire for. Having a judicial system that cooperates all the way from the National architecture and trickling down to the County Governments would not only ensure that order is maintained but that potential conflicts are minimized.

2. The Constitution constructed a fairly political, administrative and independent Judiciary to without prejudice, implement and defend the Constitution; and it remains a core institution in adjudicating the legality, constitutionality, and the exercise of state power. It is the same Constitution that has empowered and strengthened the Judiciary to enable it perform its functions by reinforcing its independence and guarding the institution against the influence and manipulation of other organs of the two levels of government.
3. I am mindful of the obligation of the Judiciary to uphold the rule of law and to foster and maintain public trust and confidence at all legitimate institutions in our society. The discharge of that obligation is not restricted to the issuing of judgments and rulings, but sometimes requires comment on matters of national interest and, where necessary, speaking truth to power. As we transitioned from a centralist to a devolved system of government, many radical shifts were taken, be it politically, legislatively or even administratively. The changes transformed, and they continue to do so, an entire 50 year regime whose loyalists remained threatened on the loss of status quo. So we have had intergovernmental differences between the two levels, some of which have required the intervention of the courts.
4. I appreciate the pivotal role the judiciary has played in defending devolution. From the Advisory Opinion No. 2 of 2013 which affirmed the place of the Senate in the new constitutional dispensation; the High Court declaration that the Constituency Development Fund is unconstitutional; the judgment that reinforced that outdoor advertising is a County Government function; and the recent pronouncement calling for the immediate transfer of County roads to

Counties. My challenge to you is that you continue to remain faithful to our Constitution.

5. We as the Council acknowledge that owing to consultations between the Judiciary and the Council, a separate registry has been designated at the municipal courts to handle county legislation. This is commendable progress. Importantly though, and as noted in previous discussions, the two institutions must fast track the formation of the proposed Joint Committee which will be tasked with developing a legislative framework for the transitioning of city and municipal courts to county courts. We must also be alive to the fact that not all Counties have such courts and it remains undoubted that each County must have courts that can handle their respective body of law.
6. I take cognizance of the other agencies in this room, whose roles are critical in the administration of justice in this country. For Article 48 of the Constitution to be realized, we must all work together, and collaboratively develop strategies that are geared towards restoring public trust and confidence in all our institutions. Most importantly, the goodwill and hope extended to us by our people must never be betrayed or squandered. And that is why am happy that there is a proposed framework of engagement amongst our institutions.
7. In last year's conference, we made progressive resolutions which I hope we will be able to take stock of in the next two days. We will examine whether with respect to discharge of prosecution services at the county level, the gazettelement of special prosecutors has been hastened so that the enforcement of county laws is not slowed down. We had proposed for the establishment of County Prosecution Office in each County, and as we interrogate the Comprehensive Framework on the Administration of Justice, we must look at such proposals and explore how they can be actualized.
8. I also note that we have representatives from the Probation and Aftercare services who have initiated community service programmes aimed at

rehabilitating young offenders. We would like to see this replicated in all Counties. For the correctional services, County Governments are ready to work with you to ensure that proper rehabilitation is provided for offenders and that steps are taken to reduce prison population in the country.

9. My plea to all of us is that we leave here with a clear roadmap, leaving no stone unturned, with every institution understanding its place and its responsibility in the administration of justice in our devolved system of governance. I would also like to see, markedly, that we recommend mechanisms of accountability amongst concerned institutions in the implementation of the proposed framework.

10. The challenges we face as a nation require the full measure of Kenyan brains and brawn and the best initiatives and innovations each County and each partner has to offer. Our success depends largely on our ability to overcome divisiveness and form unprecedented partnerships, which will lead us to unlimited possibilities. A greater partnership between the National Government and the County Governments is essential to create prosperity, opportunity and security for the next generation of Kenyans. No less was done for us by those who preceded us, and we need that vision—that commitment—now, more than ever.

11. I wish you all a successful conference.