



COUNCIL OF GOVERNORS

REMARKS BY

H.E. HON. DR. FCPA WYCLIFFE AMBETSA OPARANYA, EGH, CGJ

HANDOVER LUNCHEON AT MOVENPICK HOTEL

29TH JANUARY, 2021

**Excellency Governors and Deputy Governors present,
Hon. Eugene Wamalwa, Cabinet Secretary, Ministry of Devolution and
ASALs,
Hon. Justice Philomena Mwilu, Ag. Chief Justice and the President of
the Supreme Court,
Mr. Henrik Larsen, Deputy Ambassador, Denmark, representing
Chairperson, Devolution Donor Working Group,
H.E. Simon Mordue, European Union Ambassador to Kenya,
Mr. Walid Badawi, the UNDP Resident Representative,
Chairpersons of Constitutional Commissions and members, led by Mrs
Lyn Cherop Mengich, the Chairperson of SRC,
Representatives of Independent Offices**

***Representatives from the Private Sector,
Other Development Partners present,
Distinguished Guests,
Ladies and Gentlemen,***

Good Afternoon!

1. It is with immense gratitude that I address you today.
2. You will forgive me if I talk for a bit too long. Indulge me since this is the last time I will address you as the Chairman of the Council of Governors.

3. I have been honored to serve as the Chairman of the Council for the last two (2) years. I appreciate the immeasurable support my fellow Governors have accorded me since I assumed the office of Chairperson in January 2019.

4. It has been a privilege, an honor and a humbling experience to serve the Council of Governors. The job had its highs and its lows. Two of my lowest moments while serving as Chairman were when we lost the late H.E. Dr. Joyce Laboso in 2019 and H.E. John Nyagarama last month in December 2020. They were

dedicated servants of their Counties and we at the Council remember our departed sister and brother fondly.

5. During my tenure, we have admitted three (3) new members into the Council after we lost two more members in 2020 due to impeachment- former Governors Hon. Waititu and Hon. Sonko. I admit that these changes were unexpected. But I appreciate the courtesy with which my colleagues accommodated the new Governors and supported them as they settled in their new leadership roles.

6. Despite these changes at the Council, we remained united in defending devolution. I salute all Governors for their constant encouragement, constructive criticism, teamwork and commitment towards the work of the Council. The Council has shown Kenyans that despite our different political backgrounds, we can work together for the good of devolution.

Ladies and Gentlemen,

7. When I took over the Chairmanship of the Council in 2019, I had purposed to:

- i. Ensure that the Council remained vigilant in order to guarantee that any policies and laws generated by the National Government did not undermine devolution;
- ii. Improve relations amongst the County Governments, with the National Government, with development partners, with private sector and devolution stakeholders;
- iii. Continue lobbying, through negotiations with the National Government, National Assembly and the Senate, for adequate resourcing of the County Governments so that they can ably discharge their mandate; and
- iv. Increase visibility for the Council nationally, regionally and globally.

8. I am happy about the engagements and achievements the Council has made since I became Chair, as has been shown in the video.

Ladies and Gentlemen,

9. I served the Council of Governors at a time when devolution was under heavy attack especially on the issue of resources. You all remember the attempts to reduce the equitable share to County Governments in the Financial Year of 2019/2020. The Council remained firm and made strong submissions at the Intergovernmental Budget Economic Council (IBEC) and the Senate opposing the reduction. After intense lobbying, the

Council emerged victorious by securing back the KES 9 billion for the County Governments.

10. Additionally, the National Treasury has on several occasions failed to release funds to County Governments on time. As I hand over today, twenty-six (26) Counties are yet to receive their November 2020 allocations and no County has received its December 2020 and January 2021 allocations. You also recall that severally, the Office of the Controller of Budget has created administrative obstacles at the approval stage of release of funds. The struggle therefore continues.

11. On borrowing by County Governments, two issues come to mind. One, the Council has differed with the National Government in cases of borrowing to perform County functions, and thereafter the monies released as conditional grants to County Governments. Second, the borrowing framework is so stringent that County Governments cannot borrow and this has affected the execution of flagship County projects. To date, no County Government has managed to borrow despite having bankable projects so again, the struggle is still on.

12. Another resource related issue is IFMIS. This system has been a source of concern for County Governments since inception. It is

frequently turned off without prior notice to the Counties and this affects delivery of services for prolonged days, weeks and even months.

13. The perennial disputes between the National Government and the County Governments on resources compelled the Council in August 2019, to lodge a Supreme Court Reference after the country was treated to a protracted legislative process between the National Assembly and the Senate on the Division of Revenue Bill (DORB). I was personally very happy when we received a favorable Supreme Court Advisory. One of the significant wins was the declaration that the adoption of Budget

Estimates by the National Assembly before the passing of the DORB was unconstitutional. The guidelines set out by the Supreme Court on the division of revenue process will go a long way in ensuring that legislative processes do not disadvantage County Governments.

14. In September 2020, during another impasse at the Senate on the revenue sharing formula, I was forced to issue a notice of shutdown for all County Governments' operations. The notice prompted the Senate to adopt a resolution on the revenue sharing formula and consequently this led to the passing of the County Allocation of Revenue Act.

15. To the new team, the struggle for adequate resourcing for County functions and timely release of monies to the County Governments is an ongoing tussle. Do not lower your guard-remain vigilant. All the devolved functions have to be well resourced to enable County Governments optimally deliver services to Kenyans. Devolution cannot work without adequate and timely release of resources. After all, the Constitution states that County Governments must be adequately resourced so that they are able to perform the functions assigned to them.

Distinguished Guests,

16. It is during my tenure as the Chairman of the Council of Governors that a global pandemic reached Kenya. Since the announcement of the first case of COVID-19 in March 2020, County Governments have been at the frontline in concerted effort towards COVID-19 prevention, response and recovery. Surprisingly, the pandemic became a catalyst for deeper collaboration and cooperation with the National Government. As the saying goes, every cloud has a silver lining. A record four (4) Summit meetings were held between March 2020 and October 2020. I urge the new team to keep this momentum so that relations between the National Government and the

County Governments continue to be strengthened. The COVID-19 pandemic has taught us that when both levels of government work together, in good faith, mutual respect and open communication, the result is that services are offered seamlessly and efficiently.

17. County Governments, through the Council of Governors, and in collaboration with KIPPRA, developed the County Socio-Economic Reengineering and Recovery Strategy and individual County Recovery Strategies. The County Recovery Strategy was launched by the President of the Republic of Kenya, H.E. Uhuru Kenyatta on 4th December, 2020.

This will remain one of my proudest moments as the Chairman of the Council. This Recovery Strategy will inform County Governments on socio-economic interventions that can be adopted in order to recover from the COVID-19 impact and build resilience for the future. Development partners and private sector are keen to work with the Council and the County Governments in the implementation of the Recovery Strategies. To the new team, I implore you to take up this task keenly and ensure that each County implements its Recovery Strategy.

Ladies and Gentlemen,

18. I could not have managed the onerous task of leading the Council of Governors for two (2) years without a supportive staff team and our partners. I thank the staff team at the Council for their commitment and dedicated service to devolution. I urge the new leadership to continue pushing for the anchoring of the Council Secretariat in law.

19. To our partners and friends who have continued to offer support to the Council of Governors- we appreciate you and thank you. When we called upon you, you showed up. The Council remains grateful for your generosity and zeal to see

devolution succeed. I cannot mention all of you by name but please note that we sincerely thank you for your honest feedback and in-kind and financial support.

20. And I cannot fail to mention the judiciary's support to devolution. The Judiciary has been consistent and unwavering in its commitment to defend devolution. The courts have remained steadfast in protecting the rule of law by ensuring that constitutional principles and objects of devolution remain unviolated. When we were right, the courts exonerated us, and when we were wrong, the courts boldly told us so. We can indeed count on the Judiciary to hold the country together.

21. My speech would be incomplete if I failed to mention two issues:

- i. On corruption. I speak of this with a heavy heart. Both levels of government have failed Kenyans. The Council therefore affirms that it will continue to support oversight bodies spearheading the fight to rid Kenya of corruption and unethical practices. Corrupt individuals who are bleeding Kenya's resources must be named, shamed and prosecuted. I will not delve into specificities but the Council

will also continue to support the President in doing all it takes to eradicate corruption.

- ii. On the Building Bridges Initiative (BBI). A key gain for devolution in the BBI is the increase of the minimum allocation to County Governments from 15% to 35%. My remarks have largely been centered on resourcing of County Governments. As I handover the leadership of the Council, I trust that the incoming team will ensure that the County Governments gain big from the BBI process so that devolution is strengthened.

Distinguished Guests,

22. As I conclude, I take this opportunity to wish the incoming team the very best as they take on the baton of defending devolution. I am happy that I leave the Council in its rightful place and in the right hands. I will remain an ardent advocate and Ambassador of the Governors and County Governments. I, therefore, assure you of my continued service to the Council.

Thank you and May God bless us all.

H.E. Hon. Dr. FCPA Wycliffe Oparanya EGH, CGJ
Chairman Emeritus, Council of Governors