

THE THIRD ANNUAL  
**DEVOLUTION  
CONFERENCE** | 2016  
**REPORT**

**“CELEBRATING DEVOLUTION”**

**“The Promise of Devolution: Consolidating the Gains after Transition and Looking into the Future”**

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19<sup>TH</sup> -23<sup>RD</sup> APRIL, 2016  
MERU NATIONAL POLYTECHNIC, MERU COUNTY



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## ACRONYMS

<b>ACT</b>	Acceleration of Care and Treatment
<b>AHADI</b>	Agile and Harmonized Assistance for Devolved Institutions
<b>a.i</b>	ad interim
<b>ART</b>	Anti-Retroviral Therapy
<b>ASAL</b>	Arid and Semi-Arid Lands
<b>CAF</b>	County Assemblies Forum
<b>CIC</b>	Commission for the Implementation of the Constitution
<b>CIDPs</b>	County Integrated Development Plans
<b>CLGF</b>	Commonwealth Local Government Forum
<b>CoB</b>	Controller of Budget
<b>CoG</b>	Council of Governors
<b>CPSBs</b>	County Public Service Boards
<b>CRA</b>	Commission on Revenue Allocation
<b>CSOs</b>	Civil Society Organizations
<b>CSUDP</b>	Civil Society Urban Development Platform
<b>DANIDA</b>	Danish International Development Agency
<b>DfID</b>	Department for International Development
<b>DPF</b>	Development Partners Forum
<b>DoR</b>	Division of Revenue
<b>DSWG</b>	Devolution Sector Working Group
<b>EACC</b>	Ethics and Anti-Corruption Commission
<b>EALGF</b>	East African Local Governments Forum
<b>ECDE</b>	Early Childhood Development and Education
<b>FAO</b>	Food and Agriculture Organization of United Nations
<b>FDI</b>	Foreign Direct Investments
<b>FDRE</b>	Federal Democratic Republic of Ethiopia
<b>GoEs</b>	Government-owned Entities
<b>H.E.</b>	His Excellency
<b>HIV</b>	Human Immuno-deficiency Virus
<b>HR</b>	Human Resources
<b>IBEC</b>	Intergovernmental Budget and Economic Council
<b>ICT</b>	Information and Communication Technology
<b>IDLO</b>	International Development Law Organization
<b>IEBC</b>	Independent Electoral and Boundaries Commission
<b>IFMIS</b>	Integrated Financial Management Information System



<b>IGRTC</b>	Intergovernmental Relations Technical Committee
<b>IRI</b>	International Republican Institute
<b>I.T</b>	Information Technology
<b>KEMSA</b>	Kenya Medical Supplies Agency
<b>KERRA</b>	Kenya Rural Roads Authority
<b>KCC</b>	Kenya Cooperative Creameries
<b>KDHS</b>	Kenya Demographic and Health Survey
<b>KLRC</b>	Kenya Law Reform Commission
<b>KNCCI</b>	Kenya National Chamber of Commerce and Industry
<b>KURA</b>	Kenya Urban Roads Authority
<b>KVDA</b>	Kerio Valley Development Authority
<b>LBDA</b>	Lake Basin Development Authority
<b>MCAs</b>	Members of the County Assemblies
<b>MDGs</b>	Millennium Development Goals
<b>MoH</b>	Ministry of Health
<b>NGEC</b>	National Gender and Equality Commission
<b>NLC</b>	National Land Commission
<b>NCAJ</b>	National Council on the Administration of Justice
<b>PFM</b>	Public Finance Management
<b>PLHIV</b>	People Living with HIV
<b>PPPs</b>	Public Private Partnerships
<b>PWD</b>	Persons with Disabilities
<b>RDAs</b>	Regional Development Authorities
<b>SALAR</b>	Swedish Association of Local Authorities and Regions
<b>SC</b>	State Corporations
<b>SDGs</b>	Sustainable Development Goals
<b>TA</b>	Transition Authority
<b>TARDA</b>	Tana and Athi Rivers Development Authority
<b>UNDP</b>	United Nations Development Programme
<b>UNFPA</b>	United Nations Population Fund
<b>DPF</b>	Development Partners Forum



## FOREWORD



Efficient delivery of public service in Africa and other developing regions has for a long time been hindered by highly centralized government bureaucracies. The agitation for a new constitution by the people of Kenya was clearly an indication of a move and efforts towards reducing these unnecessary layers of government in order to make service provision to the populace more effective. Together with this was an urge to enable the people at the lowest level of government to get more involved in their own development through public participation in decision making processes.

The Kenyan people, in ensuring that what they needed was effected, voted for a devolved system of governance: Devolution, which is clearly the true measure of decentralization since it encompasses transfer of political, fiscal and administrative responsibilities and powers from the central Government to sub-national levels. 66.9% of Kenyans endorsed this view when they voted for the new Constitution in 2010. Devolution allows us to reach the lowest level of the households in service delivery. It must therefore remain our strategic objective to ensure that all programmes are initiated based on consensus arising from inclusive consultation with all stakeholders to ensure high impact and demand-driven interventions that are central to inclusive growth.

Article 174 of the Constitution provides for the objects of devolution: to promote democratic and accountable exercise of power; to foster national unity by recognizing diversity; to promote public participation and self-governance; to protect the rights of minorities and the marginalized communities; to ensure that basic services are accessible to all Kenyans; to ensure equitable sharing of resources; and to enhance checks and balances in governance. This year's Devolution Conference, just like the others, has embraced a theme and subthemes that provide a guide to dialogue and discussions around successes of devolution and the challenges that the County Governments have faced in implementation of devolution. It is my hope that these discussions will also provide a clear way forward on actions that will need to be undertaken to address pertinent issues that may be raised in the conference.

This Third Annual Devolution conference was held against a backdrop of the end of the three-year transition period in which the National Government through the Transition Authority envisioned to devolve functions to County Governments. What this means is that all functions assigned to County Governments under the Fourth Schedule of the Constitution are now squarely with the County Governments. Given the experiences and successes of the last three years, it is evident that County Governments are very ready to take up and efficiently execute their functions fully. We expect therefore, that all County Government functions will now be adequately financially resourced in the spirit of the principle that 'funds follow functions'. Further, we envisage that funds flow systems for conditional grants and donor funds will be established in a manner that respects the principles of



functional integrity and ensures seamless intergovernmental and fiscal relations for both levels of government. Finally, we expect that State Corporations and Regional Development Authorities will be restructured to align to the devolved system of governance.

The Conference is a confirmation that for the last three years County Governments have played a key role in efficient delivery of vital services, developing local economies, giving communities a voice through robust public participation and helping them shape the environment within which they live. County Governments have brought health services closer to the people and provided affordable medical care. They have given every child an opportunity to benefit from pre-primary (basic) education and childcare facilities. Further, there has been marked development of social and physical infrastructure, reduction in child mortality, advancement in ECDE, improved agricultural productivity including increased food production and value addition and integration of technology. There is commitment to revise and improve the labor system so that our young people are equipped with competent skills to join the workforce through self-employment, and to prepare them for the competitive global market. With devolution, farmers have been protected from cartels and unscrupulous agents and there is provision of subsidized farm inputs throughout the 47 County Governments. Indeed it is the unique and individual strength of all the County Governments that will deliver that coveted promise of change to every Kenyan.

However, challenges persist, including inadequate resource allocation and retention of devolved functions by National Government entities, a situation that needs to be urgently addressed. Nevertheless, the progress and milestones we have achieved can now be celebrated realistically because there is only progress and no regression; where we have failed to take off, we know why and we remain alive to the fact that there can be no celebration without reflection on shortcomings. The gains of devolution cannot just be described in words but can be witnessed all over the country. Today as we move towards the close of our third year in office, we acknowledge and celebrate our conquests and successes, even as we confront the challenges and take stock of our responsibilities.

H.E. Peter G. Munya  
**Chairman, Council of Governors &  
Governor, Meru County**

## REMARKS BY THE CHAIRMAN, DEVOLUTION CONFERENCE STEERING COMMITTEE



**H. E. Salim Mvurya**, Vice Chairman Council of Governors, Chairman Devolution Conference Steering Committee and Governor, Kwale County

Since the year 2013, the Council of Governors together with the Ministry of Devolution and Planning and the Senate in collaboration with other stakeholders has organized the Annual Devolution Conference. The First Annual Devolution Conference was held in Kwale County in April 2014; the Second Annual Devolution Conference was held in Kisumu in April 2015; and this Third Annual Devolution Conference was hosted by Meru County in April 2016.

During the First Annual Devolution Conference held in Kwale County in April 2014, participants expressed commitment to delivery of services, full implementation of devolution through good governance, inter- and intra-county coordination, and enhanced accountability and cooperation with County and National Governments. Key among the 22- point conference communique was that the conference will be held annually. Two years down the line, devolution stakeholders converged in Kisumu County for the Second Annual Devolution Conference, which delivered a 31-point resolution outlining the action points for each aspect. Whereas the Kwale Conference reflected on the highlights of the first year of devolution, the Kisumu conference looked at appreciating and strengthening devolved governance while working together to realize the objectives of devolution.

This Third Annual Devolution Conference brings together over 6,000 participants including Excellency Governors and Deputy Governors, representatives from the National Government, Members of the National Assembly (Parliament and Senate), Members of the County Assemblies, Development Partners, Civil Society Organizations, county community leaders and other players in devolution. The conference was preceded by the pre-devolution County Ministers (County Executive Committee Members) Conference at Pride Inn-Paradise Hotel, Mombasa County that brought together a total of 448 County Chief Executive Officers (151 female and 297 male), devolution actors, Development Partners, civil society organizations and other partners. The pre-conference issued a Joint Communique which was considered in the plenary discussion of the main conference.

It was also the first widely representative and transnational conference noting the presence of the Prime Minister of Namibia, Ethiopian Foreign Affairs Minister, Burundi East African Cooperation Minister, Republic of Slovakia Representatives, 10 Ambassadors, Retired Prime Minister of Kenya, The Chief Justice of Kenya, The Speaker of the Senate, 3 Cabinet Secretaries, 47 Governors (male), 47 Deputy Governors (38 male and 9 female), 20 Senators (18 female and 2 male), 3 MPs, 1450 Elected MCAs (1370 male, 80 female), and 772 Nominated MCAs (97 male, 675 female). It was the invaluable contribution of these actors that led to



the adoption of 21 point resolutions to be implemented by the various devolution actors under the theme: *“The Promise of Devolution: Consolidating the gains and looking into the future”*, with the following sub-themes:

1. Managing the territory, guaranteeing sustainable policies: Achieving Unity in diversity.
2. The place of State Corporations and Regional Development Authorities and their effectiveness in our devolved system of government.
3. Resourcing County Governments to ensure sustainability of Devolved functions.
4. Progress on devolved functions and interventions for emerging challenges (health and agriculture).
5. Sustainable Urbanization for transformative development.
6. Civic Education and its role in effective public participation.
7. Information and Communication Technology as an enabler for economic growth and development.
8. Mainstreaming of Sustainable Development Goals (SDGs).
9. Corruption in Kenya: Measures to entrench integrity in public and private offices.

Several key recommendations have come out in this conference to address the challenges experienced in implementing devolution. These include: The need for an enhanced inter-governmental and intra-governmental harmony and cooperative governance; the need to have all devolved functions transferred as per the constitutional time frames while respecting the principle that resources follow functions; the two houses of Parliament must work with clarity of purpose to ensure full implementation of devolution and resolve their disputes within the framework envisaged by the Constitution; the need to have a clear framework for disbursement of funds to County Governments, which should be spearheaded by the Senate and Independent Commissions; initiatives by the County Governments to establish regional development blocs should be based on a clear framework that engages all stakeholders in the County and have clear objectives; and the need for a human resource policy framework that provides a clear rationalization of County Government structures.

H.E. Salim Mvurya

**Vice Chairman, CoG; Chairman, Devolution Conference Planning Committee & Governor, Kwale County**

## ACKNOWLEDGEMENT



On behalf of the Multi Agency Stakeholder Devolution Conference Planning Committee, I wish to convey my greatest appreciation to all devolution stakeholders who made the Third Annual Devolution Conference 2016 a remarkable success. With just three years of implementing devolution, we are happy to confirm that this support has elevated the profile of the Annual Devolution Conference to an international level for sharing experiences and knowledge on devolution. This was demonstrated by the attendance of participants from Burundi, Ethiopia and Slovakia.

The leadership provided by the Devolution Conference Steering Committee under the stewardship of H.E. Salim Mvurya, the Vice Chairman of the Council of Governors was key in providing critical guidance.

Special mention goes to our development partners and sponsors: USAID, AHADI, UN Women UNDP, IDLO, IRI, UNFPA, CPF, KNCHR, KCB, Safaricom, DT Dobie, Water Services Trust Fund, GOtV, DStv National Bank, Cordaid, Royal Media Services (Citizen TV), Airtel, Deloitte, Cooperative Bank, Kenya Revenue Authority, ORACLE for their substantial technical and financial support to the Conference.

The services of the Kenya National Police Service in providing round the clock security is highly appreciated. We also thank all the delegates and exhibitors for their participation and in providing valuable feedback to the organizing committee to inform the next devolution conference.

We also take this opportunity to appreciate the proactive role of the Kenyan Media in raising the profile of the event prior, during and even after the Conference.

Lastly, we are indebted to the management and staff of Meru National Polytechnic and our service providers for their warm hospitality and service during in the course of the conference.

Jacqueline Mogeni  
**Chief Executive Officer, Council of Governors**



## EXECUTIVE SUMMARY

The Council of Governors (CoG) together with the Ministry of Devolution and Planning, in collaboration with other stakeholders hosted the Third Annual Devolution Conference at the Meru National Polytechnic from April 19<sup>th</sup> to 23<sup>rd</sup>, 2016. The overall Annual Devolution conference call was “Celebrating Devolution”, with the theme “*The Promise of Devolution: Consolidating the Gains after Transition and Looking into the Future*”. The devolution conference aimed at assessing the three-year transition period. Further, the conference sought to document the achievements made by each level of government as against the expectations set out for each of them. The objectives of the conference were:

- i) To take stock of the accomplishments made in the transition period and establish pending work (if any) and make recommendations on how to handle what was/ should have been accomplished but was not;
- ii) To celebrate and share the emerging lessons and best practices by both levels of government;
- iii) To examine approaches that have been used to empower citizens while delivering on the devolution promise;
- iv) To share experiences, challenges and solutions from countries that have a similar or near-similar model of devolution, including those that may be considering adopting one but which may already have important experiences with other types of devolution, decentralization, or federation;
- v) To identify opportunities for technical cooperation in strengthening institutional capacity for devolution.

The conference adopted 9 sub-thematic areas that guided the panelists and plenum discussions as follows:

### Day One

**Sub-thematic Area 1:** *Managing the territory, guaranteeing sustainable policies: Achieving unity in diversity.*

This sub-theme focused on highlighting the gains of devolution in the last three years, comparative analysis with other regions, and also looked at mechanisms for strengthening devolved systems through sound policy formulation.

**Sub-thematic Area 2:** *The place of state corporations and regional development authorities and their effectiveness in a devolved system of government.*

This sub - theme focused on the role of State Corporations (SCs) and Regional Development Agencies (RDAs) that are still executing functions that have already been transferred to County Governments. One of the major recommendations from this session was that State Corporations performing County functions should be fully restructured, while those that share roles with County Governments or with the National Government should be harmonized through the Inter-Governmental Relations Technical Committee.

**Sub-thematic Area 3:** *Resourcing County Governments to ensure sustainability of devolved functions.*

This sub-theme examined constitutional provisions for funding of the counties, noting that for effective delivery of devolved functions, funds must follow functions. This section also examined mechanisms through which Development Partners can fund specific functions within counties.

### **Day Two**

**Sub-thematic Area 4:** *Progress on devolved functions and interventions for emerging challenges.* This sub-theme highlighted the progress and impact devolution has had on health and agricultural services within counties. Provision of health services has improved significantly, while agricultural production has reduced or stagnated.

**Sub-thematic Area 5:** *Sustainable urbanization for transformative development.*

This sub- theme examined how devolution has promoted the growth of urban centres within counties. However, poor planning and lack of a proper urbanization policy framework have made it difficult for counties to make the most of this wave of urban growth.

**Sub-thematic Area 6:** *Civic education and its role in effective public participation.*

This sub-theme examined the effectiveness of current civic education platforms, and whether they were contributing to effective public participation. It emerged that lack of an effective civic education framework, curriculum, and indicators had hindered structured civic education, and by extension, public participation.

### **Day Three**

**Sub-thematic Area 7:** *ICT as an enabler for economic growth and development.*

This sub theme examined how ICT can be used to enhance economic growth and development in the counties. Nakuru County was featured as an example where ICT had enhanced revenue collection, access to information, and ICT literacy. It was recommended that ICT should be prioritized in allocation of resources by counties.

**Sub-thematic Area 8:** *Mainstreaming of Sustainable Development Goals (SDGs).*

This theme looked at how SDGs were in line with objectives of Kenya Vision 2030, and the UN Vision 2030 Agenda on elimination of poverty and disease. It was agreed that periodic monitoring forums between the National and County Governments, in conjunction with the private sector and Civil Society should be established to keep both levels of government accountable on SDGs.

**Sub-thematic Area 9:** *Corruption in Kenya: Measures to entrench integrity in public and private offices.*

This sub theme examined the threat that corruption poses to effective service delivery in the devolved governments. It was recommended that stiffer penalties should be meted



out on corrupt public officials. Equally, robust capacity-building on ethics and integrity is needed at both levels of government.

The keynote address was delivered by Right Hon. Dr. Saara Kuugongelwa-Amadhila (Prime Minister of the Republic of Namibia). In her remarks, Dr. Kuugongelwa-Amadhila noted that devolved governance was at the heart of the African Union Agenda 2063 that speaks to the aspiration and desire to enhance shared prosperity, well-being, unity and integration of citizens where the full potential of women and youth will be realized. However, she cautioned that devolving authorities and resources to local governments could lead to waste or misuse of public funds, if the objectives, function, authority and responsibilities of devolution were not well articulated or cushioned from corruption and political interference.

His Excellency President Uhuru Kenyatta, CGH, Commander-in-chief of the Kenya Defence Forces, through a speech that was delivered by the Cabinet Secretary Hon. Mwangi Kiunjuri (Ministry of Devolution and Planning) indicated that devolution was important to the aspirations of Kenyans, and should be protected. He challenged counties to ensure that devolution works for every Kenyan. His Excellency the President highlighted the importance of including women in governance and decision making.

In offering his closing remarks, the Rt. Hon. Raila Odinga (former Prime Minister of Kenya) equally affirmed that devolution carried the hopes of Kenyans for a better, prosperous life. He noted that in only three years, devolution had achieved more than could have been imagined. However, he acknowledged that devolution still faced several challenges such as incompletely devolved functions, corruption and increasing national debt. Finally, closing remarks by the H.E the Deputy President, Mr. William Ruto were delivered by the Cabinet Secretary for Water, Hon. Eugene Wamalwa. In his speech, the Deputy President remarked that devolution had transformed the lives of Kenyans, the way Kenyans are governed, and how services are delivered to the people. The Deputy President further re-affirmed the National Government's commitment to fostering harmonious and consultative intergovernmental relations that will ensure the cause of devolution succeeds. The full text of the opening and closing speeches as well as the presentations made at the conference can be accessed on the CoG website: <https://www.cog.go.ke>.

In conclusion, H.E Governor Mvurya of Kwale County presented the eighteen conference resolutions, which were endorsed by acclamation by all participants.



## 1.0 INTRODUCTION

### 1.1 Background

The promulgation of the Constitution of Kenya 2010 marked an important turning point in Kenya's history by introducing devolution as the new system of governance. By voting overwhelmingly for a devolved system of government Kenyans sought to have power, resources and responsibility away from the centre and closer to the people. This was to ensure service delivery was taken to the *mwananchi* to spur socio-economic development, ensure resources were shared equitably and promote better governance. Devolution promised a new Kenya. The choice of a new style of governance was bold and resolute and with it came the hope that it would deliver massive gains if implemented properly, in accordance with both the spirit and the letter of the new Constitution. The drafters of the Constitution envisioned a three-year transition period in which the National Government through the Transition Authority (the organ created to mid-wife the process) would devolve functions to County Governments.

Since the year 2013, The Council of Governors (CoG) together with the Ministry of Devolution and Planning in collaboration with other stakeholders has organized the devolution conference on an annual basis. The First Annual Devolution Conference was held in Kwale County in April 2014, the Second Annual Devolution Conference was held in Kisumu in April 2015 and the Third Annual Devolution Conference was held in Meru County in April 2016. The annual devolution conference has become a critical event in the annual devolution calendar, bringing together all stakeholders who use the conference time to discuss matters of concern with regard to the implementation of the devolved system of government. The conference participants included representatives from both levels of government, independent commissions, academia, policy practitioners, civil society and the media, amongst others. Participants at the conference got an opportunity to deliberate on the successes as well as challenges that the new system of government is faced with and how to take advantage of the emerging opportunities presented by devolution.

The overall annual devolution conference call for 2016 was “*Celebrating Devolution*”, with the theme “*The Promise of Devolution: Consolidating the Gains after Transition and Looking into the Future*”. The devolution conference aimed at assessing the three-year transition period. Further, the conference sought to document the achievements made by each level of government given the expectations set out for each of them.

### 1.2 Conference Objectives

The overall purpose of the conference was to enhance the understanding and appreciation of the transition period and what has been achieved so far. The conference was guided by the following objectives:

- i) To take stock of the accomplishments made in the transition period and establish pending work (if any) and make recommendation of how to handle what should have been accomplished but was not;
- ii) To celebrate and share the emerging lessons and best practice by both levels of government;



- iii) To examine approaches that have been used to empower citizens while delivering the devolution promise;
- iv) To share experiences, challenges and solutions from countries that have a similar or near-similar model of devolution, including those that may be considering adopting one, but which may already have important experiences with other types of devolution, decentralization, or federation;
- v) To identify opportunities for technical cooperation in strengthening institutional capacity for devolution.

The conference adopted 9 sub thematic areas that guided the panel and plenary discussions as follows:

**Sub-thematic Area 1:** Managing the territory, guaranteeing sustainable policies: Achieving unity in diversity

**Sub-thematic Area 2:** The place of state corporations and regional development authorities and their effectiveness in our devolved system of government

**Sub-thematic Area 3:** Resourcing County Governments to ensure sustainability of devolved functions

**Sub-thematic Area 4:** Progress on devolved functions and interventions for emerging challenges

**Sub-thematic Area 5:** Sustainable urbanization for transformative development

**Sub-thematic Area 6:** Civic education and its role in effective public participation

**Sub-thematic Area 7:** ICT as an enabler for economic growth and development

**Sub-thematic Area 8:** Mainstreaming of Sustainable Development Goals (SDGs)

**Sub-thematic Area 9:** Corruption in Kenya: Measures to entrench integrity in public and private offices



H.E. Amb. Ukur Yatani (Governor Marsabit County and CoG Chief Whip)

## 1.3 Opening Ceremony - Remarks

### Welcome Remarks

The welcome remarks were delivered by H.E. Amb. Ukur Yatani (Governor of Marsabit County and Chief Whip, Council of Governors). In his remarks the Governor noted that the Annual Devolution Conference had become one of the most important events in the devolution calendar in Kenya. As such, the conference provided the National and County Governments as well as stakeholders including academia, private sector, Development Partners, media, civil society groups and high profile international guests the opportunity to reflect on the gains in the implementation of devolution and to celebrate with County Governments the major milestones while reflecting on the challenges and discussing emerging opportunities under devolution.

He noted that the three years of devolved governance have brought significant socio-economic and political progress in Kenya. Amongst the most notable gains include devolved resources and participatory decision making, the existence of fully functional institutional structures in the counties, infrastructural development, improved service delivery in health, Early Childhood Development Education (ECDE), agricultural and trade development and youth empowerment. As such, the CoG has continued to provide guidance, stewardship and capacity building for the County Governments which has resulted in enhanced and effective service delivery to the citizens. While the implementation of devolution still faces numerous challenges, there is no doubt that devolution is on course to deliver an all-inclusive participatory government by enhancing democracy, transparent decision-making, and better utilization of resources based on local realities.

### The Status on Action Points from the Second Annual Devolution Conference

The status on action points from the Second Annual Devolution Conference was delivered by H.E Governor Salim Mvurya (Governor of Kwale County, Vice Chairperson, CoG and Chairperson, Devolution Conference Steering Committee). In his remarks, H.E. Governor Mvurya noted that tremendous strides had been made on resolutions from the Second Annual Devolution Conference. He noted that some of the accomplishments include the following;

- i. The CoG managed to hold a total of 12 meetings including an Executive Leadership meeting of Deputy Governors on management of county affairs.
- ii. The CoG managed to participate in two Summit meetings and two Intergovernmental Budget and Economic Council (IBEC) meetings. It also held a Development Partners Forum (DPF) meeting and a meeting with the National Council on the Administration of Justice (NCAJ).
- iii. The CoG also held over one hundred (100) Sectoral Meetings, bringing together County Executives across 18 sectoral committees for consultations on legislative, policy and capacity building matters at the county level.
- iv. The Intergovernmental Sectoral Forum meeting was also held on April 4-8, 2016, bringing together ten sectors namely: Education; Science and Technology; ICT; Water and Irrigation; Lands, Housing and Urban Development; Health; Agriculture, Livestock and Fisheries; Environment and Natural Resources, Sports, Culture and Arts, and; the Public Service to foster intergovernmental working relations and dialogue on mechanisms for efficient service delivery to citizens.



*H.E. Salim Mvurya (Governor of Kwale County, Vice Chairperson CoG and Chairperson of the Devolution Conference Steering Committee).*

- v. Regarding Resolution Ten (10) of the Second Devolution Conference on fulfilling of the one-third gender principle, FIDA-Kenya in conjunction with the National Gender and Equality Commission (NGEC) and the Office of Registrar of Political Parties, organized a retreat with the Political Parties Secretary Generals from 27 -30 May, 2015 to deliberate and advise political parties on mechanisms for enhancing the achievement of the one-third gender principle.
- vi. On the need for resolution of the county boundary conflicts, a conflict resolution committee was formed, to be spearheaded by the IEBC. At the same time, the Senate republished the County Boundaries Bill to help enhance dispute resolution mechanisms for boundary disputes.

It was noted that in as much as the CoG has achieved most of the resolutions stated in the Second Annual Devolution Conference, it faced several challenges, particularly due to lack of operationalization of key policy and legislative frameworks.

### **Ethiopian Experience on Decentralization of Federal Government**

Remarks on the Ethiopian experience on decentralization of Federal Government were delivered by Hon. Kassa Teklebrhan, Minister for Federal and Pastoral Development Affairs, the Federal Democratic Republic of Ethiopia (FDRE). Hon. Teklebrhan noted that decentralization in Ethiopia was driven by Article 39 of the Ethiopian constitution.

Ethiopian decentralization has encompassed political, fiscal, and administrative decentralization. The main objective of the Ethiopian form of decentralization was to create democratic systems, where power is exercised through public participation and inclusiveness of the people.

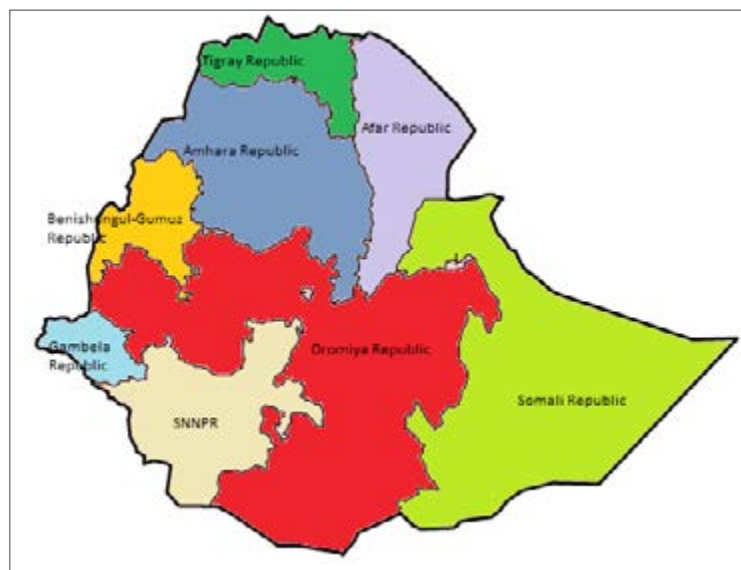
Currently, the Federal Government of Ethiopia has constituted nine (9) Regional States; two (2) autonomous City Councils; seventy five (75) Sub-regions; eight hundred (800) Districts; and fifteen thousand (15, 000) Rural and Urban Centres, the lowest administration tier of the Federal Government that is close to local communities. Regional States have authority

and powers to select representatives to the House of Federation (HF), the upper chamber of the Parliament. District Councils meet once every three months to approve budgets and review work of different sectors and executive branches. The Ethiopian decentralization system has allowed local people to participate in how they are governed and to influence the development agenda. In as much as Regional States are neither autonomous nor semi-autonomous, delegation of power and authority has enabled Regional States, Districts, and Rural and Urban Centres to make tremendous development strides in provision of water, health, education, and agricultural extension services.



*Hon. Kassa Teklebrhan, Minister (Ministry of Federal and Pastoral Development Affairs), Federal Democratic Republic of Ethiopia*

Equally, the decentralized system has enhanced administration of justice, collection of revenue, and equitable distribution of wealth. As a result, poverty levels have reduced from 54% to 23%; provision of primary education increased from 17% to 94%; health coverage has reached 90%; safe drinking water coverage has reached 84%; protection of natural resources increased from 3% to 15%; and asphalt road coverage increased from 18, 000 kms to 110, 410kms. Thus, decentralization has contributed towards achievement of double digit economic growth, peace, increased Foreign Direct Investments (FDIs), and enhanced tourism.



Map of Ethiopia

### **Burundian Experience on Decentralization of Federal Government**

Remarks on the Burundian experience on decentralization of National Government services and administration were delivered by Hon. Mme. Jeannette Kagayo (Minister for Communal Development of the Republic of Burundi and the Chairperson of the East Africa Local Governments Forum - EALGF). In her submission, Hon. Kagayo noted that decentralization was not only essential for good governance, but also for effective governance. Burundi has a decentralized form of government, where the central government has decentralized administrative authority and power to regional units.



Hon. Ms. Jeannette Kagayo (Minister for Communal Development- Burundi; Chairperson EALGF)

Burundi has seventeen (17) Provinces and 131 Communes (Districts), which are subdivided into 2,639 Collines (administrative, de-concentrated units), and 8,731 Sous-collines (local units), which have an elected council but no autonomy or budget.



Map of Burundi

It was highlighted that decentralization of administrative units in Burundi has enhanced service delivery to local communities. As such, the concept of citizen participation has been and continues to be exercised through election of representatives to community and district councils, and also to the national Parliament. Citizen participation ensures that delivery of public goods and services are consistent with voter preferences and public sector accountability. Thus, the involvement of locals in planning and decision-making processes has improved the governments' capacity for efficient and effective service delivery.

#### 1.4 Key Note Address

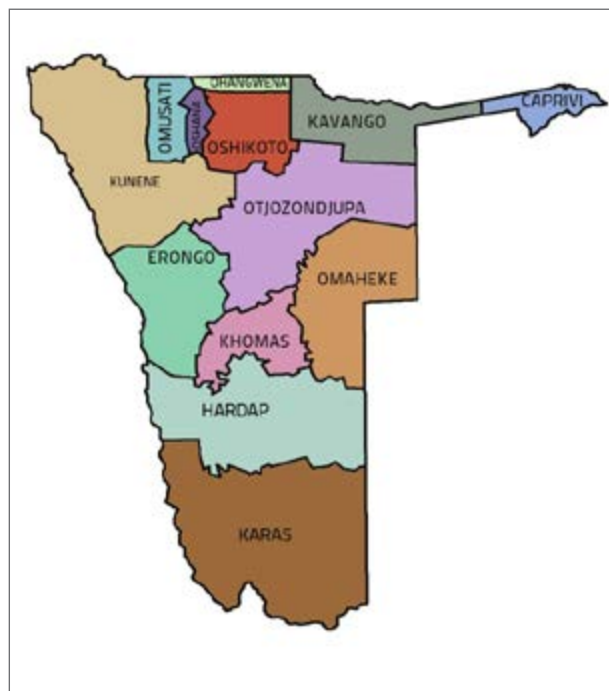
The Keynote Address was delivered by Rt. Hon. Dr. Saara Kuugongelwa-Amadhila (Prime Minister of the Republic of Namibia). The Rt. Hon. Kuugongelwa-Amadhila started her remarks by noting that devolved governance was at the heart of the African Union's Agenda 2063<sup>1</sup> that speaks to the aspirations and desire to enhance shared prosperity, well-being, unity and integration of citizens where the full potential of women and youth will be realized, while at the same time, creating a citizenry free from fear, disease and want. She further noted that one of the key successes of devolved government is citizens' participation in decision making and in how they are governed. Citizen participation ensures that public goods and services delivery is consistent, efficient and effective. This is exercised through empowerment of citizens with mechanisms through which they can hold the public sector accountable.

<sup>1</sup> Agenda 2063: The Africa we want, Available at <http://archive.au.int/assets/images/agenda2063.pdf>



Hon. Dr. Saara Kuugongelwa-Amadhila (Prime Minister – Namibia)

However, Rt. Hon. Kuugongelwa-Amadhila cautioned that devolving power and resources to local units could lead to waste or misuse of public funds, if the objectives, function, authority and responsibilities of devolution were not cushioned from corruption and political interference. Further, she noted that devolved governments could not reach their full potential if women and the youth were not fully empowered to participate in governance and decision making. In Namibia, Chapter 12 of the Constitution provides the basis for decentralized system of government, with National Government, Regional and Local Administrations (Councils). Article 102 (1) of the Namibian Constitution provides for structures of Regional and Local Governments. The official Decentralization Policy of



Map of Namibia



Namibia was launched in 1998<sup>2</sup>. It was preceded in 1992 by the passing of the Regional Councils Act, 1992 (No. 22 of 1992); the Traditional Authorities Act, 1995 (No. 17 of 1995) and the Local Authorities Act (No. 23 of 1992), which provided the legislative framework for the institutionalization of the decentralized government.

The Namibian model of decentralization is not full devolution, but rather delegation of power, resources, and decision making from National Government to local units. In this model, funds follow functions. Some of the decentralized functions include rural water development and management, primary health care, primary education, physical and economic planning (including infrastructure) and resettlement, rehabilitation and housing. Regional governors in each region serve as a link between regional councils and the central government. Finally, Rt. Hon. Kuugongelwa-Amadhila noted that in Namibia, local councils are elected through a party list system of proportional representation, and the statutory law provides that 50% of the candidates on the party list must be women. At the moment, women make up 42% of the National Assembly, 27% of the National Council, 23% of Regional Councils, 42% of Local Authority Councils and 55% of Village Councils. As such, Namibia has continued to experience economic growth and development as a result of decentralization, and hopes to enhance these gains through sustainable inclusive government of the people.

## 1.5 Official Opening

Hon. Mwangi Kiunjuri, EGH (Cabinet Secretary, Ministry of Devolution and Planning) delivered the official opening speech on behalf of His Excellency President Uhuru Kenyatta, CGH, and Commander-in-chief of the Kenya Defence Forces. In his speech, the President indicated that devolution was important, and must be protected. Kenyans want to make decisions on how they are governed; they also want unity and security. Under the past centralized government, decisions were made at national level with very little input from Kenyans at every level. As a result, Kenyans were not active participants in how they were governed, or in decisions on national and local development. Devolution has changed all this.

Devolution has not only brought governance to the people, but also resources. The President noted that by the end of the 2016/17 financial year, a total of one trillion shillings will have been transferred to 47 counties, with Ksh. 168 billion going to the arid and semi-arid regions. Further, the Commission for the Implementation of the Constitution 2013 report indicated that all 47 counties had put in place institutional and administrative structures needed to govern.

His Excellency the President further noted that in as much as we were celebrating the gains of devolution, there was need to recognize that too many Kenyans are still excluded from governance, decision making, and equal opportunities. The task for counties is thus to ensure that devolution works for every Kenyan. The President highlighted the importance of including women in governance and decision making. To this end, he noted that in the 2012 elections, 95% of elected Members of County Assemblies were male, while only 5% were female. Parties had to nominate 572 women to ensure compliance with the one-third gender rule. Significantly, no single woman governor was elected, while at the same time, slightly more than two thirds of the members of County Executive Committees (CECs) are

<sup>2</sup> Adapted from CLGF: Local Government System in Namibia (sine anno).[http://www.clgf.org.uk/userfiles/CLGF/File/2008\\_Country\\_Files/NAMIBIA.pdf](http://www.clgf.org.uk/userfiles/CLGF/File/2008_Country_Files/NAMIBIA.pdf). Accessed 21.6.2016.



*Hon. Mwangi Kiunjuri, EGH (Cabinet Secretary, Ministry of Devolution and Planning)*

men. Therefore, County Governments were advised to do more to ensure that women and the marginalized groups have full representation in all structures and levels of County governance.

Equally, His Excellency the President indicated that corruption, mismanagement of resources, and infighting were great threats to the viability of devolution. To this end, County Government officials who are involved in corruption will be treated as criminals. On the issue of advancing democracy, the President noted that County Governments have to learn how to dialogue through disagreements for the common good of Kenyans. In this regard, he cited the County of Makueni, where he declined to dissolve the County Government, giving the leaders an opportunity to find a common cause and ground for reconciliation.

Finally, the President noted that as Kenyans approach the 2017 elections, some of the fiercest political contests will be experienced in the counties. Therefore, there is need to ensure that no Kenyan loses his/her life or property in the heat of political contest. It is the duty of every Kenyan to choose leaders peacefully and without strife, hatred, or anger, he concluded.

## 2.0 MANAGING THE TERRITORY, GUARANTEEING SUSTAINABLE POLICIES: ACHIEVING UNITY IN DIVERSITY

The objective of this session was to examine the means through which both levels of government can optimize on the uniqueness of counties in order to achieve national goals. This session was not represented by a panel, but rather comprised statements from Mr. Michel Balima (UNDP Resident Representative, a.i); Dr. Willy Mutunga, D.Jur, SC, EGH (Chief Justice and President of the Supreme Court); Sen. Ekwee Ethuro, EGH, EBS (Speaker of the Senate); and H.E Governor Peter Munya (Chairperson, CoG).

### 2.1 Remarks by the Chairperson of Devolution Donor Working Group

The Chairperson of the Devolution Sector Working Group (DSWG) Michel Balima, (UNDP Resident Representative, a.i) noted that Kenya had gone through transformation and rebirth with the promulgation of the Constitution of Kenya, 2010, which introduced the devolved system of government. Mr. Balima noted that devolution was formulated in a quest for change, which requires enormous effort, teamwork, and willingness to tackle difficult governance issues. Thus, efficient service delivery, equitable sharing of resources, proper planning, budgeting, and timely execution of functions are the hallmarks of devolution.



Mr. Michel Balima, (UNDP Resident Representative, a.i and Chairperson DSWG)

Further, Mr. Balima highlighted the significance of inclusivity in ensuring that all communities achieved social, political, and economic development. Mr. Balima noted that Development Partners had provided training to County Governments on planning, budgeting, equitable service delivery and even disaster risk reduction mechanisms. Further, Development Partners had committed to continue working with County Governments to integrate Sustainable Development Goals (SDGs) into county development planning and service delivery. In quoting the charter of the United Nations, “*there is no peace without development... no development without peace... and no peace and development without human rights*”, Mr.



Balima noted that devolution should endeavor to create development opportunities for all, while at the same time upholding human dignity and human rights.

Finally, Mr. Balima urged County Governments to put women and the youth at the heart of sustainable development. He noted that 65% of the population of Kenya was below 35 years. He cautioned that if youth are sidelined in the development agenda, they can easily become agents of social unrest. The success of devolution therefore hinges on social, political, economic and development inclusion for all, while at the same time ensuring proper fiduciary control, transparency and accountability in execution of devolved functions and utilization of funds.

## 2.2 Remarks by the Chief Justice and President of the Supreme Court of Kenya

Dr. Willy Mutunga, D.Jur, SC, EGH (The Chief Justice and President of the Supreme Court of Kenya) opened his remarks by noting that devolution had helped in realization of the dictum, “government of the people, for the people and by the people”<sup>3</sup>. He further noted that devolution had transformed government and citizens’ relationship from government being perceived as ‘an agency of force’ (*serikali*) to ‘an agency of development’ (*maendeleo*). Dr. Mutunga highlighted that the Judiciary had been a good partner for devolution both in terms of institutional expansion, as well as articulation of its jurisprudence on devolution. For instance, the courts had made judicial determinations and pronouncements that affirmed and defended devolution.



Dr. Willy Mutunga, D.Jur, SC, EGH (The Chief Justice and President of the Supreme Court of Kenya)

Under devolved government, the Judiciary had expanded access to justice by increasing the number of judicial officers and Kadhis to the counties. High Court stations have also been increased from 17 to 34. Equally, the Court of Appeal has been decentralized to Malindi, Kisumu, and Nyeri, and will soon be moving to Eldoret and Nakuru. As a result, hearing of civil cases in Nairobi Appeals Court has reduced from 9 years to 3 years and in the outer stations to 1 year while, in Malindi, the hearing is already in real time. County Governments

<sup>3</sup> Abraham Lincoln’s Gettysburg Address (1863).

have supported the Judiciary by donating land for construction of courts as was the case in Busia, Meru, Nyandarua, Makueni, Machakos, Kajiado and Laikipia Counties. In Kajiado County, the Governor had donated 1.3 acres for construction of a High Court, in addition to a further donation of 1.4 acres for construction of Judiciary staff houses.

Of significance also, Dr. Mutunga posited that the construction of 100 courts is currently in progress across different counties while, at the same time, the number of mobile courts has increased from 19 to 52. The piloting of alternative justice systems is also ongoing and will go a long way in ensuring expeditious access to justice. The Judiciary had also settled questions on emerging matters such as the Division of Revenue Bill and the mandate of County Governments, laid down correct procedures for the removal of Governors, stipulated the law on the transfer of health services to County Governments, clarified inter-governmental relations, and settled the question of removal of members of County Public Service Boards and classification of roads, among others.

Dr. Mutunga indicated that the National Council on the Administration of Justice (NCAJ) and CoG had signed a Working Document on Comprehensive Collaboration Framework on the Administration of Justice within the context of devolution to help enhance collaboration mechanisms. Finally, Dr. Mutunga offered a plea to the President, the CoG, and the Cabinet Secretary, Ministry of Devolution and Planning to defend the gains the country had made under devolution. He noted that devolution was the constitutional device that Kenyans had created to cure inequality, underdevelopment, marginalization and exclusion, and therefore it must be protected.

### 2.3 Remarks by the Speaker of the Senate

Sen. Ekwee Ethuro, EGH, EBS (Speaker of the Senate) started off his remarks by indicating that devolution was one of the key pillars of the Constitution of Kenya (2010). Devolution ensures that public participation is at the heart of governance, thus placing the destiny of Kenyans in their own hands. Sen. Ethuro equally highlighted the following as among the key gains of devolution:



Sen. Ekwee Ethuro, EGH, EBS (Speaker of the Senate)



1. Devolution had enabled significant enhancement of human and capital resources for developmental purposes over the last 3-4 years;
2. Devolution had created diverse and massive opportunities for collaboration and partnership hence expanding investment possibilities;
3. Devolution had enhanced working relationships between County Governments and the people, and the relationship between County Governments and National Government.

However, Sen. Ethuro noted that devolution was still in its infancy, and faced numerous challenges that are yet to be resolved. These challenges include: lack of capacitated personnel, turf wars between the County Executives and Legislatures, misappropriation of funds, misplaced priorities, and lack of public participation, among others.



*H.E. Governor Peter Munya, Chairperson - CoG*

## 2.4 Remarks by the Chairperson, Council of Governors

In his remarks on devolution gains, H.E. Governor Peter Munya (Chairperson, CoG) started by thanking the Judiciary, Development Partners, the Ministry of Devolution and Planning, the Senate, Constitutional Commissions and other partners who had collaborated with CoG in ensuring that the gains made by devolution in the last three years are safeguarded. H.E. Governor Munya further highlighted that devolution was the cornerstone of the social contract entered into between the sovereign people of Kenya and their governments (National and County). He endorsed the devolution system of government as a way of settling 50 years of conflict, social disharmony, inequality, and marginalization.

H.E. Governor Munya indicated that devolution has provided several guarantees including: equitable sharing of national and local resources; empowerment of communities to manage their own development; protection of interests and rights of minorities and/or the marginalized; enhanced participation of the people in decision-making and facilitating effective service delivery to all.

H.E. Governor Munya highlighted the following gains as a result of devolution over the last three years:

## 1. Provision of water and sanitation

- a) Isiolo County launched the Garba-Tulla sub-county water project that has benefitted 6,000 residents, in particular women, who previously had to walk for 30 kilometres or more in search of water.
- b) Makueni County has built the Kaiti sand dam; six 30-acre earth dams with four of them already completed; and at least three other smaller dams of 50,000 cubic metres in each of the 30 wards. At the end of the 2016/2017 financial year, the County will have built at least 84 dams.
- c) Meru County has installed 90 tanks with a capacity of 225,000 cubic metres.

## 2. Roads and infrastructure

- a) Over 7,000 kilometres of roads have been completed and more are under construction by various County Governments. Previously dilapidated link roads in major urban centres have also undergone upgrade, repair and rehabilitation.

## 3. Education and technology

- b) Kwale County has constructed over 200 ECDE classrooms and will build another 120 in the 2016/17 financial year.
- c) Garissa County has constructed more than 130 modern and fully-equipped ECDE centres and employed more than 170 ECDE assistants.
- d) Kitui County has constructed a total of 89 ECDE classrooms across its 40 Wards.

## 4. Health sector transformation

- a) In the last three years, the number of Dispensaries in the Counties have grown by 21%; Health Centres by 15%; and Hospitals by 12%.
- b) Additionally, Marsabit County has bought 21 ambulances; the Trans-Nzoia Referral Hospital, which will serve a population of 1 million, is under construction; while Nyandarua County has constructed a 60-bed maternity hospital in Kinangop sub-county.
- c) An increase in human resource capacity was also reported with nurses increasing from 9,816 to 15,000; while the number of doctors now stand at 3,786.
- d) Procurement of drugs increased by 40%, and an increase in access to specialized medical care for diabetes and renal care was also reported.

## 5. Agriculture

In Agriculture, counties had facilitated provision of advanced animal breeds and subsidized artificial insemination services. Counties also invested in youth venturing into agribusiness as highlighted in the following examples:

- a) Wajir County had established several irrigation projects and 15 greenhouses in each of its 6 sub-counties.
- b) Murang'a County had installed 35 milk coolant plants.

## 6. Cooperatives

- a) Several counties had developed mechanisms to increase accessibility to affordable credit e.g. Kakamega and Murang'a Counties.



## 2.5 Challenges in Managing Devolution Territory and Guaranteeing Sustainable Policies

Despite numerous gains made under devolution over the last three years, several challenges remain, which pose a threat to the sustainability of devolution. These challenges include the following:

- i. Funds transferred to counties are not based on previous years' total collected revenues.
- ii. Delayed disbursements to counties by the National Treasury has posed serious challenges to implementation of development projects.
- iii. Development and maintenance of county roads is still affected by the challenges posed by National Government agencies, KURA and KERRA, which discharge devolved County functions, causing conflict.
- iv. The timeline allocated for the complete transfer of all functions assigned to County Governments lapsed in March 2016, yet all functions have not been fully transferred. County planning and development for electricity and gas reticulation, energy regulation and cultural activities, for instance public entertainment and public amenities such as libraries, have not been fully transferred.
- v. State corporations and Regional Development Authorities (RDAs) such as Tana and Athi Rivers Development Authority (TARDA), Kerio Valley Development Authority (KVDA), Lake Basin Development Authority (LBDA) and others continue to perform County Government functions.
- vi. The Intergovernmental Relations Technical Committee (IGRTC) that was mandated to finalize residual functions of the Transitional Authority, whose term ended, does not have a functional secretariat yet.

### Way Forward/Recommendations

The session proposed that:

1. A comprehensive finance policy should be developed to guide disbursement and sharing of resources.
2. Residual roles of the TA should be fully adopted by IGRTC to enable it facilitate intergovernmental relations functions between CoG and the National Government.
3. CoG should write a memorandum articulating to the National Government areas of devolved functions in contestation, and propose a way forward.
4. CoG should continue to advocate for sharing of devolved funds from 15% to 45%; while timely disbursement of funds should be anchored in law.
5. State corporations performing County Government functions should be abolished.



### 3.0 THE PLACE OF STATE CORPORATIONS AND REGIONAL DEVELOPMENT AUTHORITIES AND THEIR EFFECTIVENESS IN OUR DEVOLVED SYSTEM OF GOVERNMENT

The objective of this session was to examine the continued relevance of State Corporations and Regional Development Agencies in the devolved system. This session was chaired by H.E. Governor Moses Akaranga (Chairperson, CoG Intergovernmental Relations Committee), and moderated by Mr. Eric Latif. The panelists included H.E. Governor William Kabogo (Governor, Kiambu County); H.E. Governor Amason Kingi (Member, CoG Legal Affairs and Human Rights Committee); Deputy Governor Joash Maangi (Kisii County); Mr. Njee Muturi (Solicitor-General); Ms. Anne Githinji (Speaker, Kirinyaga County); Mr. Mbage Ng'ang'a (Chair, Kenya Law Reform Commission); Hon. Abdikadir Mohammed (Senior Advisor, Executive Office of the President); Mr. Ismail Shaiye (Chief Executive Officer, Water Services Trust Fund); Mr. Simon Indimuli (State Corporations Advisory Committee); Hon. Martha Karua, EGH (Narc Kenya Party Leader) and Waikwa Wanyoike (Executive Director, Katiba Institute).

#### 3.1 State Corporations and Regional Development Agencies

Dr. Mutakha Kangu (Devolution Expert) delivered the statement on the place of State Corporations (SCs) and Regional Development Agencies (RDAs) in the devolved system of government. Dr. Kangu noted that previously, the Central Government used State Corporations and Regional Development Authorities to address regional imbalances. However, State Corporations and RDAs mutated into national entities used to reward politicians, their family members, and fellow tribesmen based on their political inclination. With the implementation of Kenya Constitution (2010), most State Corporations and RDAs' functions were devolved to County Governments. However, these functions of the State Corporations and RDAs have not been transferred to County Governments, causing confusion on their viability and role in the devolved system of government. Transition to the devolved system of government required that State Corporations and RDAs are deconstructed and reconstructed, while those that no longer had a role to play were to be abolished.

#### 3.2 State Corporations and RDAs in Devolved Government

The discussions by the conference panelists revealed that the performance of State Corporations and RDAs had been a matter of on-going concern, since most of the SCs and RDAs' functions were fully transferred to County Governments. The following are some of the issues that were raised in the discussion panel:

1. *Lack of clarity on the role that State Corporations should play in the economy.*
2. *Poor linkage of State Corporations' activity with the County development plans and goals;*



The Panel Discussion on State Corporations and RDAs in Devolved Government

3. *Conflicting definitions* of what a State Corporation is in the Kenyan context, compounded by multiple legal and regulatory regimes, thus creating significant ownership and oversight challenges;
4. *Inadequate policy frameworks* owing to poor definition of mandates, leading to conflicts. This has occasioned resource loss and needlessly burdened the public purse, including through a multitude of legal and institutional frameworks that generate multiple reporting and accountability lines, thus compounding the challenge of effectiveness of County Governments;
5. *Abuse of due process* in the establishment and dissolution of Government-owned Entities (GoEs), making it difficult to maintain an accurate database on the number of State Corporations;
6. *An inadequate performance management framework* that does not effectively link performance of State Corporations to County development plans and goals;
7. The Inter-Governmental Relations Technical Committee (IGRTC) that was supposed to take over the residual functions of the Transition Authority, does not have functional, administrative or financial capacity to carry out its functions and help clarify the role of state functions;
8. It was also noted that agreements made during the Intergovernmental Summit meetings are not implemented in a timely and effective manner;
9. It was also noted that the Council of Governors (CoG) was not involved in the current policy review on State Corporations, making it difficult to fully address sectoral challenges on duplication of roles, resources, and personnel; and
10. The Affirmative Action Social Development Fund has no relevance in the devolved government system, other than creating a parallel structure designed to undermine devolution.

## Way Forward/Recommendations

Based on the discussions of the place of SCs and RDAs, the following recommendations were advanced:

1. *Review of legislation to streamline functions to the Fourth Schedule:* There should be harmonization of legislation and policies on State Corporations and Regional Development Agencies to align them to the Fourth Schedule of the Constitution. The proposed Government Owned Entities (GOE) Bill, which is expected to repeal the State Corporations Act Cap 446 and provide clear and consistent rules on definition, and the National Sovereign Wealth Fund Bill should be fast-tracked by the Implementation Committee and AG's Office and submitted to Parliament.
2. *Alignment of National and County Government development plans:* There should be a strong and direct link between the National Development Agenda as espoused in Kenya Vision 2030 and the Medium Term Plan and all County Integrated Development Plans (CIDPs).
3. In addition, since the term of the former Transition Authority (TA) and the former Commission for the Implementation of the Constitution (CIC) had already lapsed, the Senate, KLRC, and the AG's Office should consult and agree on modalities to spearhead the review process of pending Bills required for full implementation of devolved functions.
4. Every county should have an inter-governmental forum consisting of heads of all National Government departments offering services in the county, and members of the County Executive Committee. These forums should act as a liaison between the County and National Governments in harmonization of services and the co-ordination of development activities and functions.
5. County Public Works should be transferred to the counties as per constitutional requirements.
6. *Formulation of a framework for collaboration between County Governments and State Corporations:* State corporations and RDAs should be re-engineered to align to the priorities of the counties, especially through integrated regional development planning for projects cutting across counties within their areas of jurisdiction. This could be done through the establishment of inter-county steering committees with County Government representatives to prioritize development projects in the regions.

## 4.0 RESOURCING COUNTY GOVERNMENTS TO ENSURE SUSTAINABILITY OF DEVOLVED FUNCTIONS

The objective of this session was to examine the challenges related to revenue allocation and existing financial management systems and identify interventions to existing challenges. This session was chaired by H.E. Governor Joseph Ndathi, and moderated by Mr. Duncan Okello. The panelists for the session included: H.E. Governor Wycliffe Oparanya (Governor of Kakamega County and Chair, CoG Finance Committee), H.E. Governor Hon. Ahmed Abdullahi (Chair, CoG Resource Mobilization Committee); FCPA Agnes Odhiambo (Controller of Budget); Mr. Edward Ouko (Auditor-General); Mr. Philip K. B. Kinisu (Chair, Ethics and Anti-Corruption Commission); Ms. Rose Osoro (Commissioner, Commission on Revenue Allocation) and Mr. John Ponsonby (Deloitte).



*The Panel Discussion on Resourcing County Governments to Ensure Sustainability of Devolved Functions*

### 4.1 Statement on Resourcing County Governments for Sustainability

Mr. Wachira Maina (Constitutional Lawyer) was charged with presenting the statement on resourcing County Governments to ensure sustainability of devolved functions. In his opening remarks, Mr. Maina presented his working position as follows: If devolution fails, the Constitution will fail; if devolution fails, it will fail in its financing elements, and finally, mismanagement of the fiscal elements of the Constitution is the most serious threat to the sustainability of County Governments. He further noted that by 2017, the transition to devolved government should be complete to allow the focus to shift to the consolidation phase. However, he noted that some devolved institutions were not fully functional; a few had been established only in name, while others were yet to receive disbursements from the Equalization Fund. Similarly, there was a lack of mechanisms to deal with devolution challenges, inherited liabilities, and hand-over of central government personnel. In other cases, there was a transfer of functions without the requisite transfer of resources, defying the principle that resources should follow functions.

Another challenge raised was the absence of a comprehensive devolution policy within an appropriate long-term financing framework. In some cases, draft policies have poor problem articulation, visioning or even alignment with existing principles, institutions and objectives of devolution. There was also a concern that County fiscal needs could not be sustained through the 15% equitable share of national revenues. In as much as the National Government has increased the equitable shareable revenue, more needs to be done. For instance, own revenues would give counties the most fiscal flexibility. However, it was noted that counties have not done a good job of collecting own revenues. This was attributed to political constraints, lack of political will, and limited scope for revenue collection.

Mr. Maina also raised the issue of misalignment between the constitutional objectives for devolution and the National Treasury objectives. For instance, Governance and Democracy is ranked first in devolution objectives; however, in funding, it is ranked third. Conversely, Public Finance is ranked third in devolution objectives, while, in funding, it is ranked first. In addition, the Equalization Fund is not sufficient to equalize previously marginalized areas, but rather, a one-off special purpose vehicle, domestic marshal plan, or a special Infrastructure Fund with appropriate sunset clauses. Mr. Maina also noted the need to prospect for more natural resources as well as to develop a comprehensive devolution financing policy.

## 4.2 Discussions on Resourcing County Governments for Sustainability

The following issues were noted:

1. *Slow disbursements of funds for the discharge of county functions* means that counties cannot provide effective and efficient service delivery to citizens.
2. *Most counties lack austerity measures.* For instance, lack of automation of services; controlling expenditure on foreign travel; poor internal audit capacity, and lack of effective whistle blowing policy on corruption.
3. *The National Government still spends about KShs. 70 billion of revenues that are due to County Governments in Health, Agriculture, and Roads.* This leads to duplication of services being offered by the National Government and the County Governments.
4. *Under the current funding frameworks, the County Governments are not permitted to borrow from foreign entities, yet the National Government keeps borrowing, and passing the repayment of the loans to County Governments.*
5. There was also a concern that the current revenue sharing formula is not sufficient and needs to be reviewed.
6. Concern was also raised on the extent to which the Integrated Finance Management Information System (IFMIS) can enhance county revenues. It was noted that the IFMIS software lacks the capability to enhance County Governments' revenue collections, projections, and risk management.
7. It was noted that counties were not in a position to articulate assets and liabilities due to them. *The aspect of verifying and validating assets and giving them value has not been done mainly due to:* i) Lack of financial resources to conduct the exercise; ii) Most counties are not sure what assets are due to them, since the National Government



has not fully transferred State Corporations and Regional Development Authorities' functions; and iii) Lack of proper records from the defunct local authorities, which also makes it difficult to ascertain assets due to County Governments.

- 8) *The role of the private sector in contributing towards efficiency and sustainability of County Government functions has not been clearly articulated.* There is no Public Private Partnerships (PPPs) policy framework to guide mutual engagement. As such, most private organizations are engaging in an unstructured manner that doesn't add needed value, for instance in technical capacity building of the counties.

### Way Forward/ Recommendations

1. *There is need to have automated disbursements from the Treasury in line with the gazetted schedule of disbursements developed by the Senate.*
2. *There is need to automate revenue collection at County Government level.* The innovative use of ICT will reduce revenue leakages and address other gaps in the revenue collection and management systems of the devolved County Governments. These applications will integrate the counties to the National Government.
3. There is need to have experienced staff from the Auditor-General's Office to be seconded to the counties to help strengthen counties' internal audit capabilities.
4. *There is need to nurture, facilitate and coordinate inter-county collaborative development initiatives.* Different counties are undertaking and laying out massive infrastructure projects that could benefit from concurrent efforts from neighboring counties. Support of small and micro enterprises by regional development banks and joint promotion of tourism are also some of the ventures that can be explored jointly to enhance counties' revenue base.
5. *Development of land resources.* Many counties have invested heavily in acquiring heavy machinery such as tractors and earth moving equipment as county assets. What should follow is proper maintenance and utilization of the same to cultivate and develop their territories.
6. *The Central Bank Act should be amended to provide mechanisms through which County Governments can access funding for specific capital infrastructure projects.*
7. The role of the private sector through enabling regulatory PPP frameworks should be streamlined and enhanced for capacity building of staff at the county level and enhanced revenue-raising, among others.
- 8) *The role of the private sector in contributing towards efficiency and sustainability of County Government functions has not been clearly articulated.* There is no Public Private Partnerships (PPPs) policy framework to guide mutual engagement. As such, most private organizations are engaging in a piecemeal manner that doesn't add needed value, for instance in technical capacity building of the counties.

## Day One Pictorials



Rt. Hon. Dr. Saara Kuugongelwa-Amadhila (Prime Minister – Namibia) Planting a tree



Turkana County Expo Stand



Hon. Mme. Jeannette Kagayo (Minister for Communal Development- Burundi) signing the Guest Book



Participants following panel discussions



(From left) Ms. Mwanamaka Mabruki, Hon. Mwangi Kiunjuri, Hon. Ms. Jeannette Kagayo, Hon. Dr. Saara Kuugogelwa, H.E Peter Munya, Hon. Kassa Teklebrhan, H.E Salim Mvurya, H.E Ukur Yatani and Sen.Ekwee Ethuro



Excellency Governors during the CoG dinner

## 5.0 PROGRESS ON DEVOLVED FUNCTIONS AND INTERVENTIONS FOR EMERGING CHALLENGES

The objective of this session was to deliberate on the progress made in the performance of key devolved functions and how challenges therein can be addressed. The session was divided into two: the first session dealt with devolved health interventions and challenges, while the second session dealt with interventions and challenges in agriculture.

### 5.1 Health

The session was chaired by H.E. Governor Isaac Ruto (Bomet County) and moderated by H.E. Deputy Governor Evelyn Aruasa (Narok County). The panelists for the session included H.E. Governor Jack Ranguma (Chair, CoG Health Committee); Sen. (Dr.) Zipporah Kittony, MBS, OGW (Vice-Chairperson, Senate Health Committee); Dr. Cleopa Mailu, EBS (Cabinet Secretary, Ministry of Health); Prof. Karega Mutahi (Chair, Intergovernmental Relations Technical Committee); Mr. Siddharth Chatterjee (UN Resident Coordinator a.i. and United Nations Population Fund (UNFPA) Representative in Kenya); Dr. Pirkko Heinonen (UNICEF); and Ms. Catherine Mumma (former CIC Commissioner responsible for Health).



*The Panel Discussion on Resourcing County Governments to Ensure Sustainability of Devolved Functions*

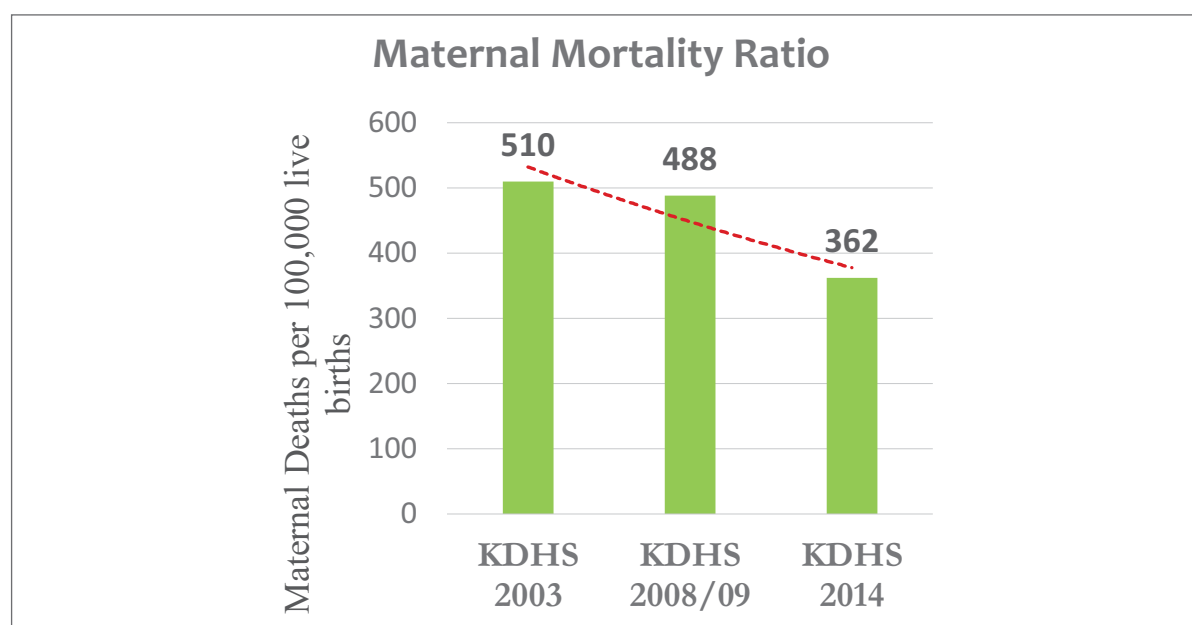
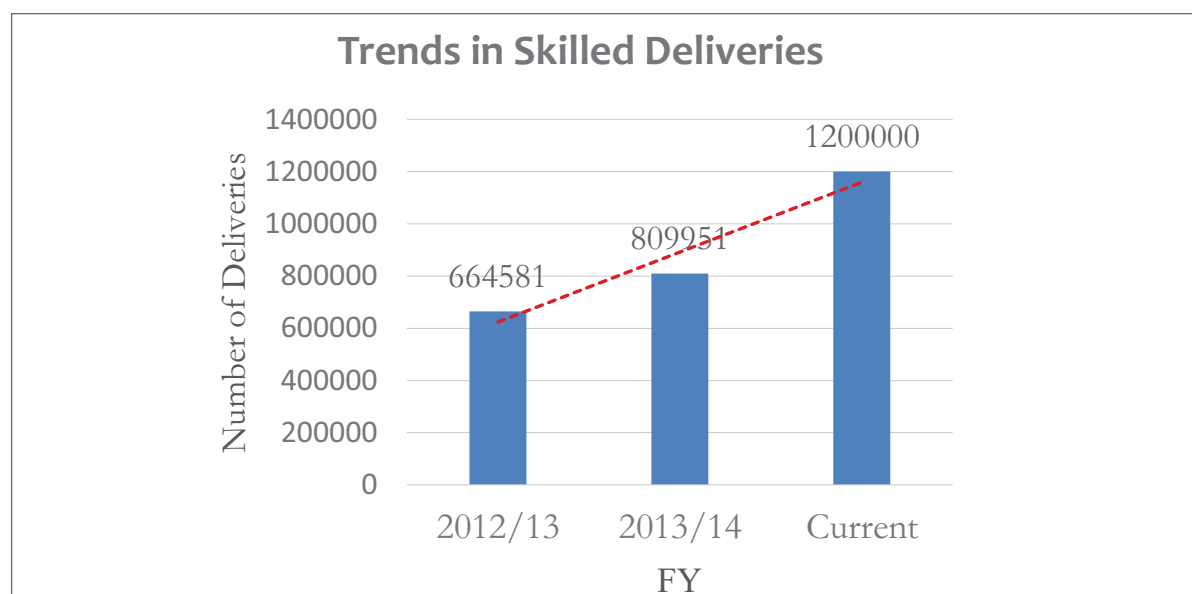
### 5.2 Health and Devolution

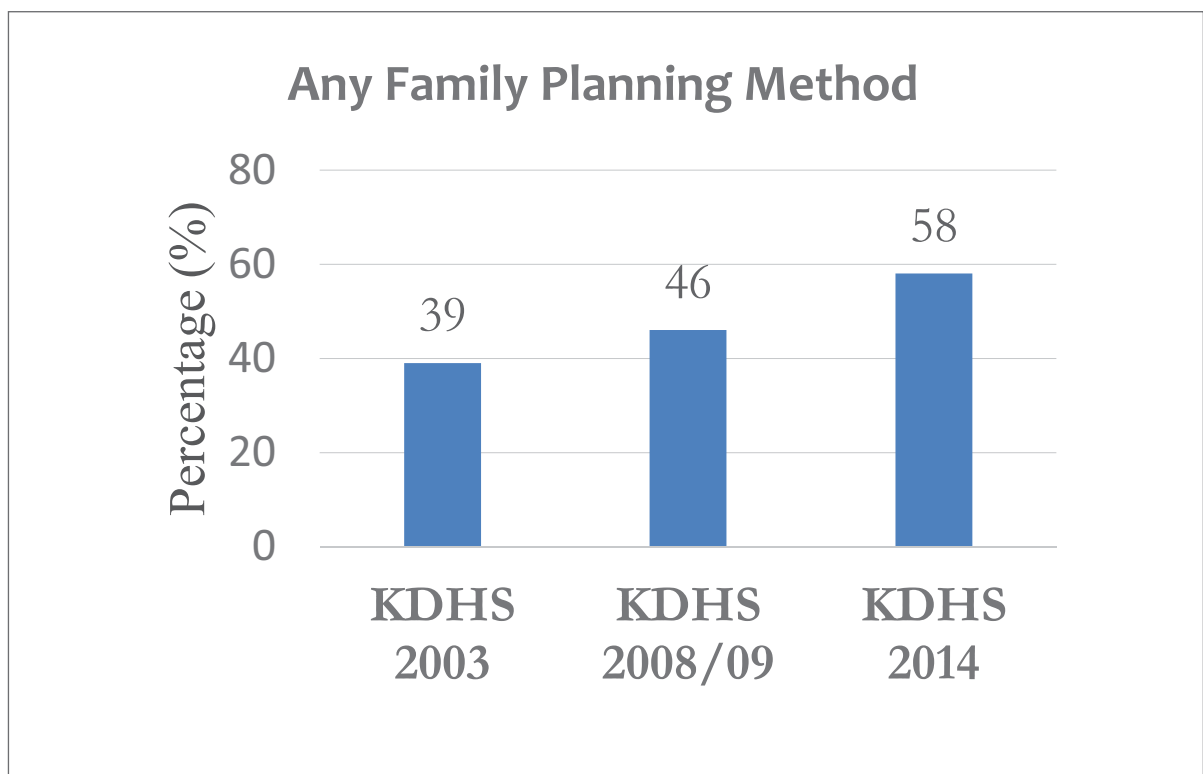
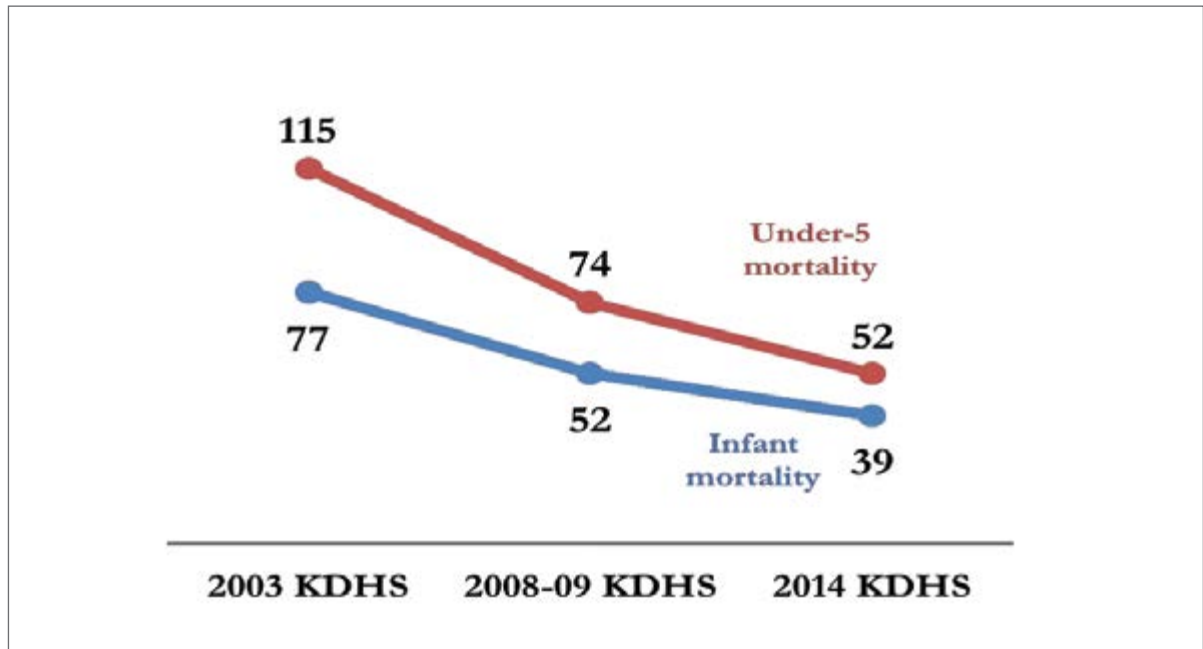
The Statement on Health and Devolution was delivered by Mr. Lars Bredal (Deputy Head of Mission, DANIDA). Mr. Bredal noted that the Danish International Development Agency (DANIDA) had committed to supporting the Government of Kenya in delivering primary health care services to citizens most in need. However, in 2006 DANIDA noted that the health indicators for health services being provided were still poor, mostly as a result of lack of social amenities such as water and electricity in health centers. As a result, DANIDA changed its strategy to direct intervention by paying for water and electricity for the hospitals, health centres and dispensaries.



In 2013, DANIDA became the first development partner to send funds directly to the counties. Providing support for water and electricity increased health indicators in the counties tremendously. The funds are channeled through the National Treasury and accounted for through IFMIS. However, Mr. Bredal noted that there have been challenges with accounting for the funding the hospitals are receiving from DANIDA, since most of the health centres, dispensaries and Level IV hospitals are not utilizing IFMIS to account for funds. Regardless of the challenges, the health sector under devolved government had registered significant improvements. For instance, skilled delivery increased by 535, 419 from 664,581 in 2012/2013 to 1,200,000 in 2013/2014, while the maternal mortality ratio dropped from 510 in 2003 to 362/100, 000 births in 2014 as indicated below.

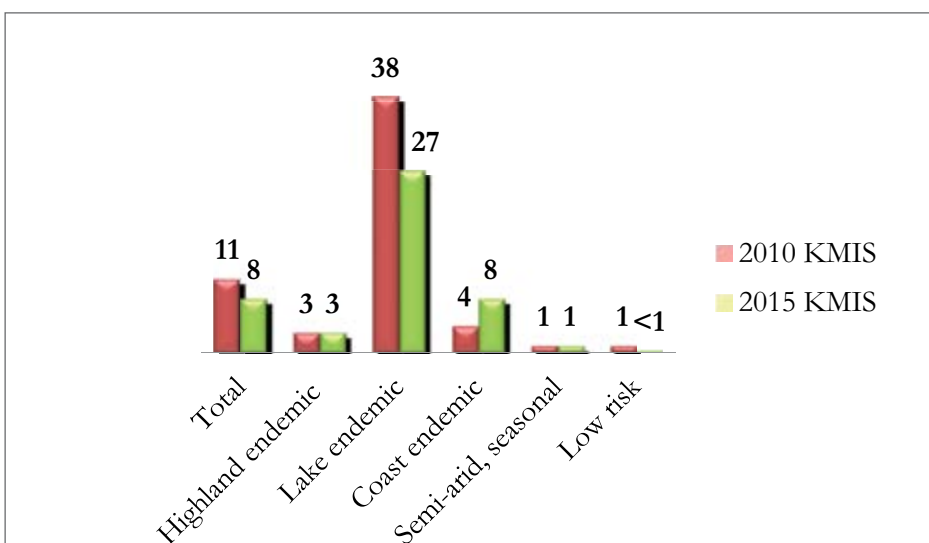
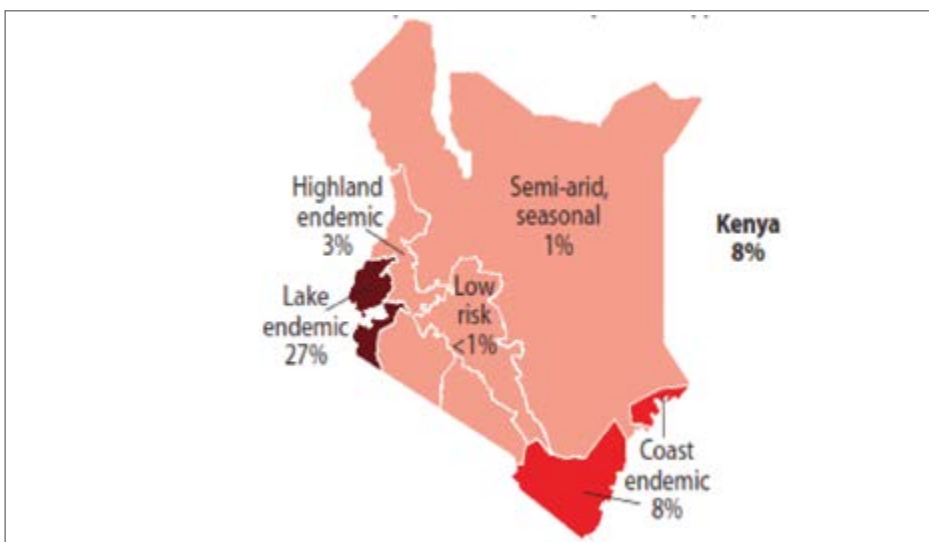
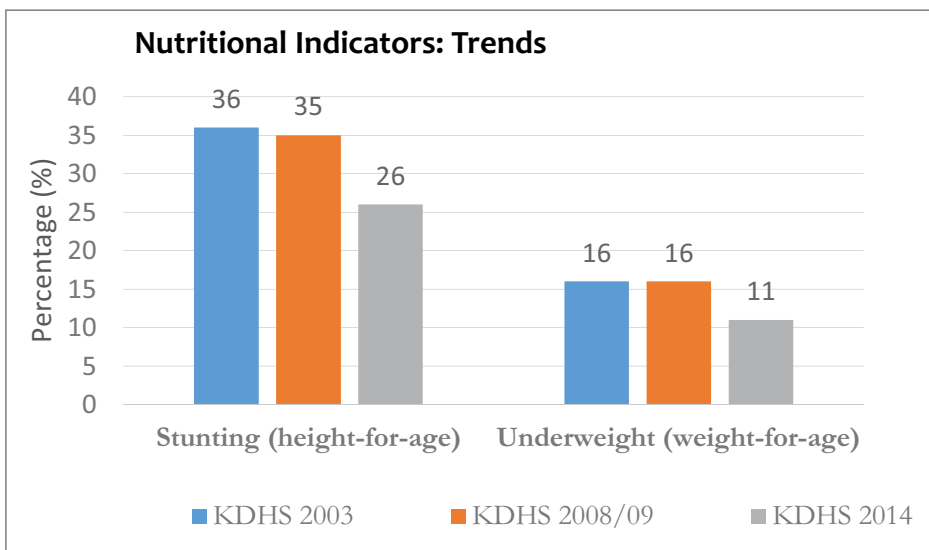
Equally, adoption and use of family planning methods increased from 39% in to 58%, while infant mortality dropped from 77 to 39, and under 5 mortality dropped from 115 to 52 per 1, 000 live births between 2003 and 2014 as indicated in figures below.





Further, nutrition indicators under devolution provide evidence that stunted growth dropped from 36% in 2003 to 26% in 2014 as indicated below.

It was also reported that HIV prevalence declined from 13% (2000) to 6.0 % (2014), while care and treatment increased by 897,000 PLHIV on ART due to the launch of Acceleration of Care and Treatment (ACT) plan. On malaria, prevalence was reported to be highest in the Lake endemic zone where 27% of children tested positive for malaria, while it was lowest in the Low risk zone, where less than 1% of children tested positive for malaria as highlighted below.



At the same time, County Governments also received conditional health sector grants from the National government as highlighted in the table below:

### Conditional health sector grants received by County Governments from the National Government

Grant		Purpose of grant	2015/16 Budgetary allocation
1.	Free Maternal Services Program	To reimburse public health facilities for maternity services provided	KShs 4.298 billion
2.	Grants to Level 5 Hospitals	To support the operations of designated Level 5 hospitals in the provision of inter-county referral services, specialized care and medical training	KShs 3.8 billion
3.	User fees refund	To compensate public health centers and dispensaries for lost revenue on abolishment of user fees	KShs 900 million
4.	Results Based Financing (World Bank)	To incentivize health workers in ASALs to perform and deliver results for realization of Sustainable Development Goals (SDGs)	KShs 508 million
5.	Health facility operations and maintenance (DANIDA)	To provide additional funding for operations and maintenance of public health centers and dispensaries country-wide	KShs 844 million

### 5.3 Health: Challenges and Interventions

The panel discussion on county health services indicated that health was the most important of all the devolved functions. It was reported that about 90% of all health services are provided by County Governments while, about 95% of health care workers countrywide are attributable to the County Governments. In accordance with the National Health Policy, County Governments had allocated more than 15% of their budgets to provision of health services. Noticeably, many counties have acquired advanced medical equipment such as kidney dialysis machines and other diagnostic and treatment equipment. Similarly, most counties have significantly improved maternal and child health indicators, by enhancing health infrastructure, referral services, and ambulance services. Mandera County, for instance, had managed to recruit and train 93% of its current health care workers after the exodus of previous health workers following the terrorist attack in 2013. According to KDHS (2014)<sup>4</sup>, child mortality indicators have greatly improved under devolution: most women now get to deliver in hospitals, and more children are sleeping under mosquito nets. Despite the major gains in devolved health, however, counties still face numerous challenges. Some of the challenges that were discussed by the panelists include the following:

1. *Some of the hospitals inherited from the central government were in dilapidated condition.* In some cases, hospitals and health centres didn't have water supply, beds, and medical staff.
2. In as much as maternal health had improved significantly under county health services, *reimbursements for maternity costs* from the Ministry of Health remains a tedious and long-winding process.

<sup>4</sup> Available at: <http://www.knbs.or.ke/kenya-demographic-and-health-survey-2014>

3. *Allocations to counties on health have been reduced on the pretext that the National Government is offering those services directly.* For instance, the National Government introduced the County Health Coordinators who are in charge of immunization. Funds for immunization are sent directly into the health coordinators' account.
4. *Political interference also affects health service delivery;* for instance, there are reported cases where medical officers that were posted to certain counties were rejected on the basis of their tribe.
5. Devolution of health was accompanied by limited administrative capacity to enable County Governments run the health function effectively, and on minimum budget.
6. *Lack of political goodwill:* The Constitution of Kenya (2010) did not specify whether National Government or County Governments would manage the PGHs or how the counties would procure pharmaceutical products. However, the National Government insisted that all procurement of drugs should be done through the Kenya Medical Supplies Agency (KEMSA). As such, contestation on the role of the National Government on health as a devolved function is still ongoing.
7. *Human Resource Management:* Although the major issues regarding human resource management in the health sector had already been resolved, issues such as personnel transfer, salary payment, and terms of service still linger. These questions highlight ongoing conflicts among three major interests—MoH civil servants, county political leadership, and health workers, each of whom would like to retain and expand their influence over the health system. Counties seek the authority to hire, release, and set standards for health workers, in order to maximize both power and autonomy.
8. A UNFPA study found that 15 out of 47 counties in Kenya contribute to 95% of all maternal mortality in Kenya. This is due to challenges in capacity building in the communities and the health sector in these counties.

### Way Forward/ Recommendations

1. There is need to develop a National Health Policy that is in line with health as a devolved function, which will provide an operationalization framework for County health services.
2. There is need for a special purpose funding vehicle through which funds from Development Partners can be channeled directly to counties without going through the Ministry of Health.
3. There is need to enhance health funding from the National Government, and to institute and implement expeditious mechanisms for reimbursing counties for maternity services provided in good time.
4. More health care workers should be employed at the primary health care and dispensary level at the counties. This can be done by adopting the Ethiopian model of delivering health care to the communities. Ethiopia recruits and trains community health workers for a mandatory period of one year, with a possibility of advancement, before allowing them into community health care centres to offer services.
5. The position of the County Health Coordinators should be abolished and the immunization role transferred to County Governments.

6. The Senate should push for enhanced funding allocations to the health sector.
7. IGRTC should spearhead coordination meetings between CoG, County Assemblies Forum (CAF), and the Ministry of Health.
8. A joint program or framework on community health should be developed among Development Partners, County Governments and the National Government.

## 5.4 Agriculture

This session was chaired by H.E. Governor Okoth Obado (Migori County) and moderated by Prof. Margaret Kamar. The panelists for the session included H.E. Governor Jackson Mandago (Vice-Chair, CoG Agriculture Committee); H.E. Governor John Nyagarama (Nyamira County); Mr. Willy Bett (Cabinet Secretary, Ministry of Agriculture, Livestock and Fisheries); H.E. Governor Patrick Khaemba (Trans-Nzoia County and Member, CoG Agriculture Committee); Mr. Robert Allport (FAO Representative, a.i) and Prof. Wanjiku Kabira (University of Nairobi).

## 5.5 Statement on Agriculture and Devolution

The Statement on Devolved Agriculture was presented Mr. Stanley Mbagathi (CAADP Facilitator) and Hon. Willy Bett (Cabinet Secretary, Ministry of Agriculture, Livestock and Fisheries). In his remarks, Mr. Mbagathi indicated that Kenya had not lived up to the Maputo Declaration that required African states to raise their budgets on Agriculture to a minimum of 10%. On the contrary, since 2010, agricultural budgetary allocations had continued to decline from 4% to 3%. There are four studies that have been conducted on the agriculture sector in Kenya; this include CAADP; USAID-AL study; FAO-Kenya study on assessment of enabling environment for achievement of food and nutrition security, and FAO-Kenya study on coordination structures for food, nutrition and drought management. All the four studies indicated similar challenges facing the agriculture sector in Kenya. These challenges included: lack of a framework for policy reform; inadequate sector coordination; limited inclusivity of the private sector and Civil Society Organizations (CSOs); lack of evidence-based decision making; insufficient funding and poor planning, and finally, poor mutual support and accountability.



The Panel Discussion on Devolved Agriculture

However, Mr. Mbagathi noted that with proper systems, coherent policies, inclusive coordination approaches (value chains), good governance and evidence-based decision-making, agriculture can be sustainable at the county level. Equally, use of smart technology in breeding and soil management could have a significant impact on agricultural development. Hon. Bett noted that a strong intergovernmental forum had been set to chart the way forward on harmonization of contentious issues between National Government and County Governments. However, as Hon. Bett noted, in as much as agricultural investments at the national level was low, the County Governments had not done any better either, as County agricultural budgets are also below 10%. As indicated in the table below, only Lamu and Tharaka Nithi's budgetary allocation to agriculture were above 10%.

To address the challenges that counties still face in enhancing agriculture, Hon. Bett further noted that the policy on Agriculture, Livestock and Fisheries was ready, and in the final stages of being adopted. However, he acknowledged the conflict that exists in agricultural roles, particularly between agricultural State Corporations and devolved functions at the county level. He emphasized the need for dialogue and synchronization of roles to ensure Kenyans realize the benefits of agriculture.

### County Governments Budget allocations on Agriculture

Top Five				Bottom Five			
County	Total Expenditure	Agric.	% of total	County	Total Expenditure	Agric.	% of total
Lamu	1953	276	14.1	Nairobi	25101	50	0.2
T/Nithi	2519	312.8	12.4	Nyandarua	3591	16.743	0.5
Nyamira	3382	292.126	8.6	Tana River	3206	32.274	1.0
Vihiga	3229	276.325	8.6	Kiambu	12631	136	1.1
Turkana	8246	705	8.5	West Pokot	3623	43.517	1.2

## 5.6 Agriculture, Challenges, and Interventions

According to the Commission for the Implementation of the Constitution (CIC) August 2015 Report, only about 5 out of the 47 counties had so far passed legislations on Agriculture to enhance the sector in their counties. These were: Kakamega - County Abattoir Act 2014; Kiambu - County Abattoir Act 2014; Kirinyaga - County Agricultural Mechanization Services Station Act 2014 and Kamweti Agricultural Training Centre Act 2014; Machakos - County Agricultural Development Fund Act 2014; and finally Nyamira - Animal Disease Control Act 2015. Most other counties are still in the process of developing agriculture legislation. Equally, members noted that the National Government was frustrating efforts to fully devolve agriculture, by usurping the powers of the County Governments. For instance, there is a matter before the High Court where Senator Prof. Anyang' Nyong'o and Gem MP Hon. Jakoyo Midiwo have sued the National Government for establishing a Privatization Commission to sell-off sugar companies including Nzoia, South Nyanza, Chemelil, Muhoroni



and Miwani. Similarly, there is the case of privatization of Kenya Cooperative Creameries (KCC) without involvement of the counties, yet the farmers who supply milk to KCC are supposed to be protected by the County Governments.

Other challenges highlighted by the discussion panel included the following:

1. *Current Agriculture sector frameworks provided by the National Government only allow for funding to go through the Ministry of Agriculture, instead of going directly to the counties. As a result, county-specific agricultural needs are not realized. Most often, the funds released by the Ministry of Agriculture are not in alignment with County-specific needs.*
2. *Kenya has been experiencing low productivity in the agriculture sector, and at the same time, pervasive high costs of production.*
3. *Poor uptake of mechanization of farming and use of technology has significantly contributed to poor agricultural production.*
4. *At the same time, continuous fragmentation of productive agricultural land means that large scale farming tools, technology, and mechanization cannot be used. As a result, farmers cannot utilize economies of scale to produce at lower costs therefore they cannot compete with other large- scale farmers.*
5. *Most counties have not adopted drip irrigation, extension services, and other advanced agricultural techniques to enhance productivity.*
6. *Mono-cropping and poor use of fertilizers in farming has continued unabated, leading to low and falling yields. To tackle this challenge, most County Governments were taking measures to test soil for acidity and also to introduce other crops of viable economic value.*
7. *Lack of an over-arching policy on agriculture impedes collaborations with Development Partners, most of which focus on areas of malnutrition and related interventions that hold huge potential for increasing productivity for food sustainability.*
8. *A study conducted by KDHS and the University of Nairobi in 2013 found that 18% of Kenyans go to bed hungry, and further, that none of the 47 counties were food- secure.*
9. *Lack of concerted policy frameworks on inclusion of women and youth in decision making in agricultural production, ownership of factors of production such as land, and financial resources are major challenges facing counties in implementing agriculture.*
10. *Allocation of devolved funds on agriculture are not sufficient to realize the objective of food sustainability at county and national levels.*
11. *High agricultural levies imposed on farmers; for instance tea and coffee sectors have a 20% government levy. These levies reduce farming profitability, and at times discourage farmers from engaging in farming.*



## Way Forward/ Recommendations

1. There is need to *collapse the myriad of agriculture policies into a few broad- based policies*. There is also a need to rationalize the policy formulation process.
2. *Counties should develop proper farming techniques and smart use of technologies and mechanization of farming*, while at the same time encourage farmers not to fragment agriculturally-productive lands.
3. *County Governments should develop county-level agriculture sector strategies linked to overall agriculture and fisheries policy at the national level*.
4. On land, there needs to be a clear policy on classification of land and usage.
5. Marketing of agricultural produce should institutionalize mechanisms that do away with middlemen to cushion farmers from levies, charges and other fees associated with them.
6. There is need to *emulate/adopt Ethiopia's agriculture frameworks* that have resulted in reduction of people living below the poverty line from 54% to 27%.
7. Brazil's model for providing farmers in the rural areas with subsidies for crops should be considered as a way of empowering grassroots communities.
8. *Women and youth should be placed at the center of policy formulation on agricultural production*, by providing them with resources and decision-making opportunities at all levels of agriculture.
9. There is need for County Governments to increase their expertise and capacity for storage of food and water as a way of enhancing food sustainability and production.
10. Investments in agricultural extension services should be enhanced.
11. *Agriculture committee meetings should not be held in the Cabinet Secretary's office, but rather in the IGRTC offices* that are mandated under the law to host intergovernmental forums.

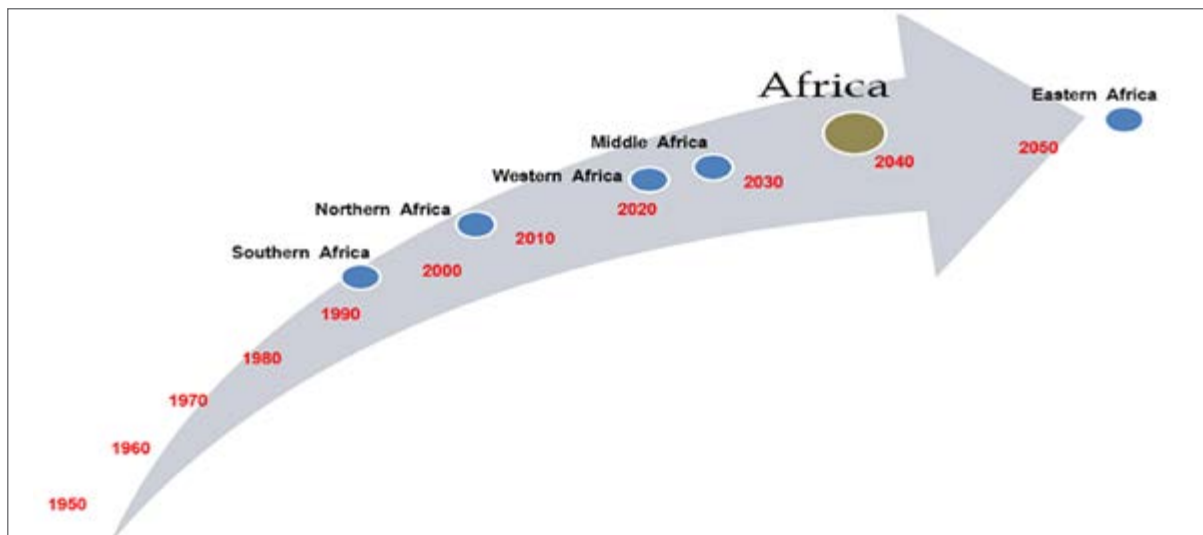


## 6.0 SUSTAINABLE URBANIZATION FOR TRANSFORMATIVE DEVELOPMENT

The objective of this session was to examine how inclusive, safe, resilient and sustainable the urban space has become in counties since the inception of devolution and how the urban space can be an engine for socio-economic growth. This session was chaired by H.E. Governor Josphat Nanok (Turkana County) and moderated by Mr. George Wasonga, (Coordinator, Civil Society Urban Development Platform, CSUDP). The panelists for the session included: H.E. Governor Dr. Julius Malombe (Chair, CoG Land, Physical Planning and Urban Development Committee); Hon. Sen. Abdirhaman Ali, MP; Prof. Muhammed Swazuri (Chair, National Land Commission) and Prof. Winnie V. Mitullah (Director, Institute of Development Studies, University of Nairobi).

### 6.1 Sustainable Urbanization

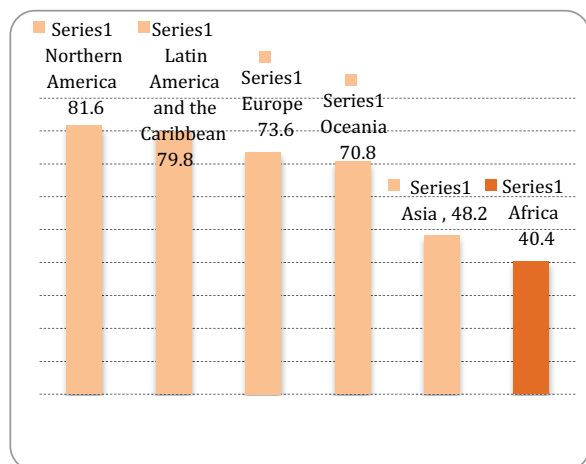
The statement on urbanization was presented by Prof. Banji Oyelaran-Oyeyinka, PhD (Director, Regional Office for Africa (ROAf) -UN-Habitat). Prof. Banji defined urbanization as the process where there exists a gradual movement from labor intensive agriculture, to skill intensive industrial sector. Urbanization of cities is a key element in structural transformation of counties. Further, he noted that Southern and North Africa passed the “urban tipping point” in mid-90s and late 2000s, respectively. However, Eastern Africa will not have reached the urban transition by 2050 as indicated in the urban transition in Africa trajectory in the figure below.



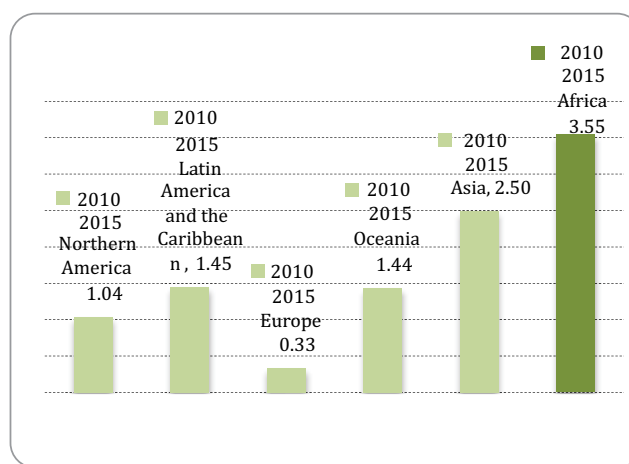
*The urban transition in Africa*

In Africa, growth in urbanization has led to a decline in agricultural productivity. However, Prof. Banji noted that gradual movement to urban centres in Africa has not necessarily led to employment or related opportunities for those migrating. In most cases, those migrating are leaving labour intensive agriculture, with no skills or knowledge to engage in service sectors in urban centres. As a result, in most African cities, instead of enhancing transformation, the migrants are contributing to the mushrooming of slums. As indicated in the table below, in comparison to other continents, Africa remains the least urbanized, but it has the highest rates of urbanization.

Urbanization Levels, 2015 ( percent)



Urban Growth Rates, 2010-2015 ( percent)

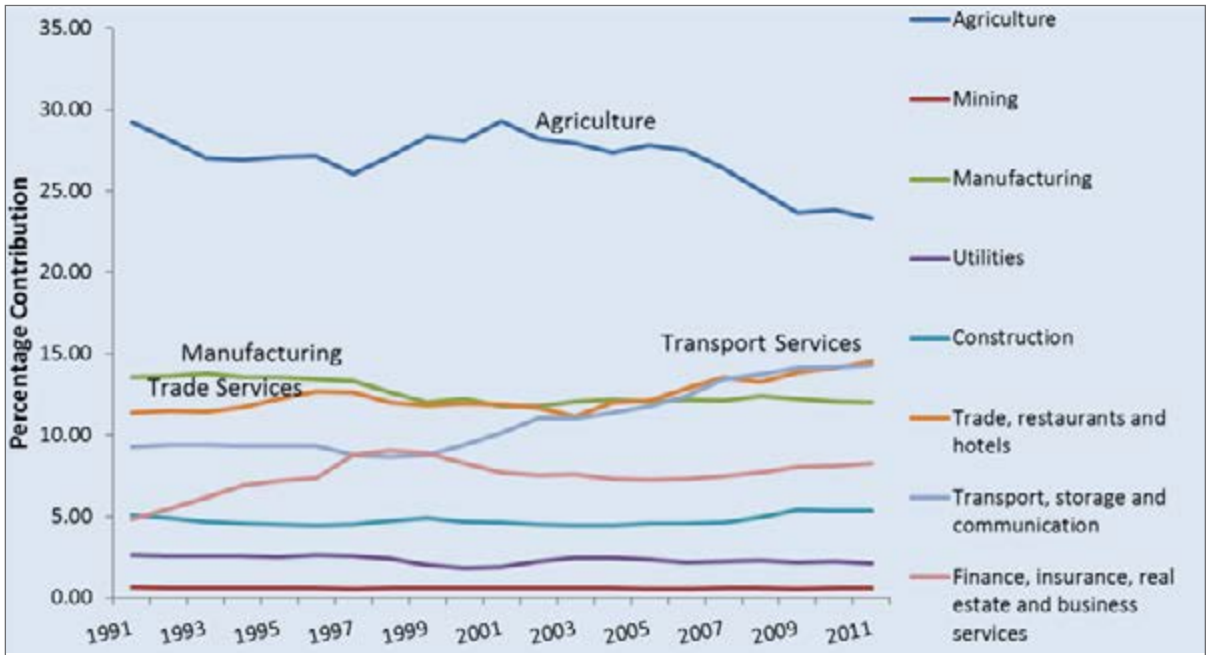


In urban planning, County Governments' mandate includes: transportation and roads; water supply and sewerage; and social and community services including primary education, sports, welfare, recreation and library services. Equally, the County Government Act (2012) and Urban Areas and Cities Act 2011 enable counties to allocate land and enforce development control and planning. However, poor planning, lack of adequately delimited city boundaries, non-existent sewerage and water systems, and unplanned structures are some of the major challenges that County Governments have to deal with to realize transformative development. The Abuja Declaration on urban development recommended that African cities should harness the potential of urbanization to accelerate structural transformation for inclusive and sustainable growth; enhance people-centered urban and human settlements; strengthen institutions and systems for promoting transformative change in human settlements; enhance the contribution of urban and human settlements development to continental integration; and enhance environmental sustainability, resilience and effective responses to climate change in cities and human settlements. County Governments still have challenges in planning, and therefore still lack the technical capacity to realize the objectives of the Abuja Declaration.

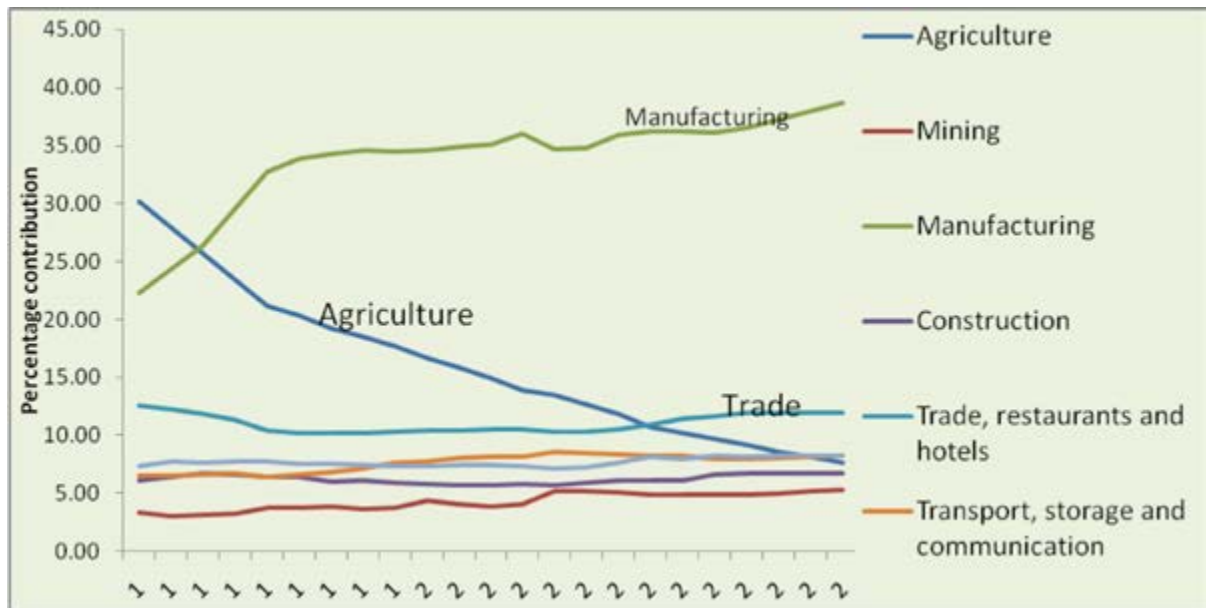
As highlighted by Prof. Banji, some of the challenges facing urbanization in Kenya include the following:

- Only 31% of Kenya's urban population has access to improved sanitation, while 52% of Kenya's urban population is poor.
- Urban areas in Kenya contribute 65% of Gross National Income, yet only 27% have access to safe water.

Other challenges facing Kenya in enhancing sustainable urbanization is the unconventional structural changes as a result of urbanization as illustrated in the following comparative graphs between Kenya and China. Whereas in China, manufacturing has significantly increased, in Kenya, manufacturing and agriculture have decreased drastically. This is depicted in the two figures that follow.



Structural Changes in Kenya Urbanization Model (Unconventional)



Structural Changes in China Urbanization Model (Conventional)

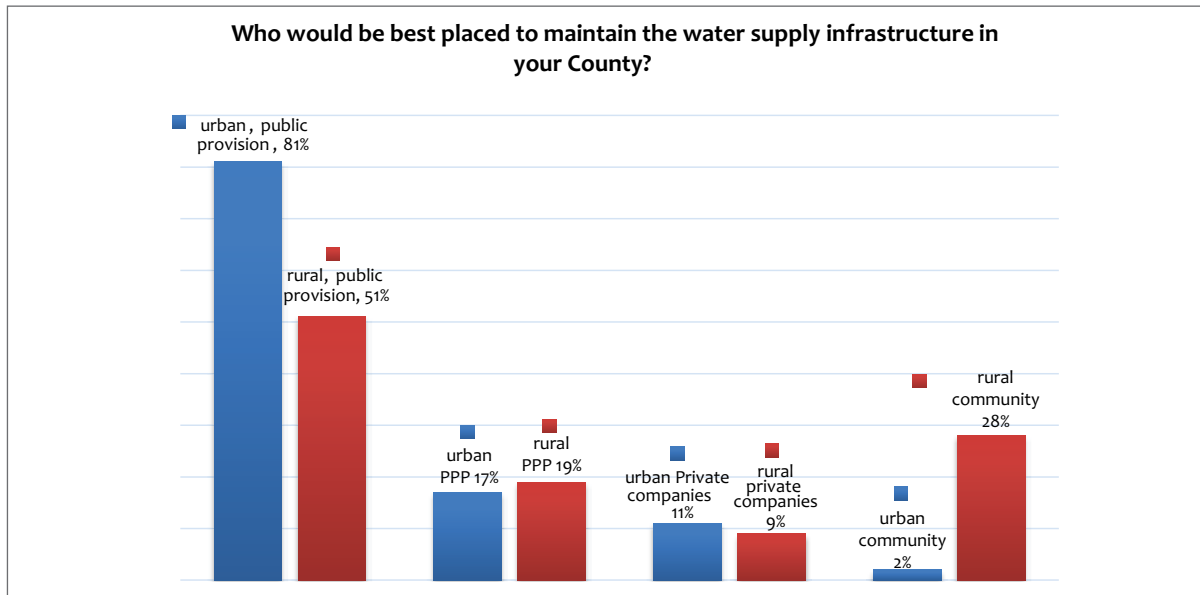
## 6.2 Sustainable Urbanization and Transformative Development



*Panel Discussion on Sustainable Urbanization and Transformative Development*

In the plenary discussions, it emerged that the Physical Planning Act (Cap 286) was still in force, yet it is inconsistent with the letter and spirit of devolved governance. As provided for in the Constitution of Kenya (2010), urban planning is a fully-devolved function assigned to County Governments. One of the major challenges facing devolution is implementation of Schedule V (Urban Areas and Cities). The Urban Areas and Cities Act was supposed to be enacted within one year following the promulgation of the Kenya Constitution (2010), but this has not been done. Another major issue that emerged was the disposition of land presently owned by the National Government within county cities. The National Government has been reluctant to transfer such parcels of land to the respective County Governments, yet it does not have demonstrable intentions of developing the land.

On the issue of providing clean and safe water for urban dwellers within different counties, a study conducted by Johanna Koehler (University of Oxford) highlighted that only six counties (12.8%) currently have a County Water Act. However, by the end of 2015, 21 counties (44.7%) had a County Water Bill pending in the County Assembly. According to the study, public provision of water by County Governments was the preferred choice for both urban (81%) and rural areas (51%), with 28% still considering community management as the best arrangement for rural water service provision. Private sector involvement through either PPPs or fully private companies was preferred by 28% of the counties for both urban and rural areas. On water regulation, 80.9% consider the National Government as responsible for regulation and 7% consider it a shared function with County Governments, while 11.1% attributed water service regulation to County Governments. These findings are illustrated as follows:



In addition, other challenges on sustainable urbanization and transformative development that were discussed included the following:

1. *Urbanization is happening faster than the County Governments had planned for. Consequentially, the cities that are coming up in various counties lack adequate water drainage, parking, and sewerage systems among other essential amenities.*
2. *There is a lack of legally-constituted task forces to deal with urbanization since the Urban Areas and Cities Act is not yet finalized at the Senate.*
3. *Presently, there is lack of institutional framework to help operationalize urban development since the National Urban Development Policy has not been finalized.*
4. *Urban immigration mostly doesn't help the cause of urbanization, as it is a major cause of the proliferation of slums in the counties.*
5. *There is lack of integrated urban development plans for each county.*

### Way Forward/ Recommendations

1. Development and operationalization of the National Urban Development Policy should be expedited to enable the establishment of updated development frameworks that will guide county urban development.
2. An Urban Areas and Cities Development Fund should be established by the Senate to help County Governments finance urban development.
3. There is need for inclusivity and integration of people with disabilities in urban planning.
4. In their current budgets, County Governments should allocate more funds to urban planning - i.e. water, sewerage, street lights, and housing.
5. County Governments should institute appropriate incentives for the private sector to be involved in urban development at the county level.
6. The CoG in conjunction with the National Lands Commission (NLC) should engage in dialogue with the National Government on how to deal with National Government land within County Government towns and cities.

Following the panel discussion forum, SymbioCity Kenya was launched. The Council of Governors (CoG) and the Swedish Association of Local Authorities and Regions (SALAR), and its subsidiary, SKL International, partnered to work towards more sustainable development in the cCounties in Kenya. The program will be funded by the Swedish Embassy in Kenya. The pilot phase is geared to commence in seven counties, and counties will be allowed to openly compete to participate in the pilot. SymbioCity is designed to facilitate strong and functioning urban government platforms in which County Governments and urban citizens as well as other interested groups can develop and nurture a transparent and participatory decision-making tradition for sustainable growth and equitable development.



*The Launch of Symbio City Programme by H.E. Peter Munya, Chairperson – CoG*



## 7.0 CIVIC EDUCATION AND ITS ROLE IN EFFECTIVE PUBLIC PARTICIPATION

The objective of this session was to examine the role of civic education and citizen participation in enforcing integrity, transparency and accountability in governance. The session was chaired by H.E. Governor Salim Mvurya (Vice-Chair, CoG) and Sen. (Prof) Wilfred Lesan, MP (Chair, Senate Devolved Government Committee) and moderated by Mr. Wambua Kituku (UNDP). The panelists included: H.E. Governor Prof. Kivutha Kibwana (Makueni County and Chair, CoG Legal Affairs and Human Rights Committee); H.E. Deputy Governor Fatuma Achani (Kwale County); Sen. (Dr.) Agnes Zani, MP; H.E. Governor Amb. Hussein Dado (Tana River County); Hon. Ms. Mwanamaka Mabruki (Principal Secretary, Ministry of Devolution and Planning); Dr. Ludeki Chweya (Director, Kenya School of Government); Ms. Grace Maingi (Executive Director, Uraia Trust) and Ms. Zebib Kavuma (Country Director UN Women – Kenya).

### 7.1 Civic Education and its Role in Effective Public Participation

The Statement on Civic Education was presented by Mr. Pavol Demes (Public Participation Expert, Slovakia), and Ms. Mwanamaka Mabruki (*Principal Secretary, Ministry of Devolution*). In his submissions, Mr. Demes noted that the success of devolution is always dependent upon effective civic education and participation of citizens. Citizens must be engaged, trained, and empowered to ensure that they are adequately capacitated to make informed decisions, particularly in the electoral processes. Mr. Demes further noted that NGOs play a critical role in helping educate citizens on key issues concerning governance, development, transparency, and mechanisms of holding the government accountable. As such, there often exists an antagonistic relationship between the NGOs and governments. NGOs help transform citizens from passive participants into active engaged participants, giving them the capacity to take the government to task on matters of accountability and transparency. NGOs also play an important role in championing civic education in the devolution process.

In some cases, Mr. Demes noted, what government refers to as ‘civic education and public participation’ is usually ‘tokenism’ – a situation where government does not fully engage the public in formulation of policies and decisions, but only in endorsing the government’s decisions. Citizens are given just piece-meal information, which is not sufficient to fully engage the government. For devolution to work, there has to be full, comprehensive engagement of citizens in decision-making. The importance of civic education is to educate, inform, and create awareness and engagement, while public participation is concerned with involvement in decision-making processes.

Ms. Mabruki also highlighted the present status of civic education as an aspect of devolution. First, she noted that the Ministry of Devolution had established devolution working papers on civic education that were being implemented in various counties. Secondly, she noted that the citizens’ curriculum on civic education had been finalized and was ready for launch on 27<sup>th</sup> April, 2016. Further, Ms. Mabruki noted that knowledge-sharing practices had been developed to support peer-to-peer learning among counties. The County Government Act (2012) provides for civic education under three principles namely: *empowerment and enlightenment of citizens and government; continual and systemic engagement of citizens*



and government, and; values and principles of devolution. Additionally, Ms. Mabruki indicated that the purpose of civic education as articulated in Section 99 of the County Government Act (2012) was to have an informed citizenry that actively participates in governance affairs of society on the basis of enhanced knowledge, understanding and ownership of the Constitution.

## 7.2 Civic Education for Effective Public Participation

During the panel discussions, it was noted that civic education is critical in helping produce an informed, educated and empowered citizenry. The right of citizens to participate in decision-making was guaranteed specifically under Articles 118(1) (b) and 196(1) (b) of the Constitution, which directs the national and county legislatures to respectively “facilitate public participation”. Additionally, effective public participation would require not only a good constitutional foundation, but political goodwill as well. As such, civic education is a critical tool for enhancing public participation. Thus, it was noted that civic education should focus on skills required by the public for informed, effective, and responsible participation in the political and governance processes. Some of the issues that emerged under the plenary discussions included the following:



*Panel Discussion on Civic Education for Effective Public Participation*

- 1) *Lack of sustainable and inclusive civic education:* Public participation can only be a reality if it is accompanied by an extensive civic education program that is geared towards building citizen capacity. Currently, civic education has been sporadic and unstructured, as different civil societies and Development Partners engage citizens on different awareness platforms.
- 2) *Lack of robust frameworks for public participation* – The Ministry of Devolution has not yet operationalized the requisite frameworks for civic education, 3 years after devolution was established. While the County Government Act provides for a clear process that will institutionalize public participation in the devolved system, there is a lack of specific modalities for citizen participation. This has resulted in a haphazard approach in entrenching this key component of good governance.



- 3) *Poor linkages between civic education and voter registration* – Most of the civic education that has been going on has not established a direct link with voter registration. As such, voter apathy is a major challenge in voter registration and political participation of the citizenry as has been evidenced by the low voter registration figures.
- 4) *The role of state actors in civic education has not been properly articulated.* It seems that government has abdicated its responsibility, both at National and County levels, to the civil society bodies such as *Uraia* to carry out its civic education mandate.
- 5) *Lack of mechanisms to verify the level of accountability in civic education.* As such, there are no frameworks or mechanisms to verify, or quantify, whether effective civic education has been carried out.
- 6) *Lack of inclusivity.* Women and the youth, as well as Persons with Disabilities (PWDs) most often are not prioritized in civic education, yet together they form more than 50% of Kenya's population. As such, this group lacks the capacity to actively engage County Governments on governance and development issues.
- 7) *Public demands for payment for attending civic education forums.* It has become increasingly difficult to conduct civic education without members of the public demanding to be paid. As such, the objectives of civic education are obscured at both the National and County levels.
- 8) *In most instances, politics has always preceded civic education.* It becomes difficult to undo different myths, innuendos, and faulty and erroneous information that politicians have given the public while politicking.

### Way Forward/ Recommendations

- 1) Parliament and County Governments should move with speed to provide sustainable frameworks for inclusive civic education and the establishment of civic education units as provided for in the County Governments Act, including providing the minimum standards and model for the Counties. At the same time, the policy framework should articulate the content, role, objectives and goals of civic education.
- 2) There is need to institute and nurture collaborative partnerships between Development Partners, civil society organizations, and County Governments.
- 3) There is need for CoG to develop monitoring and evaluation indicators for civic education programs.
- 4) There is need to strengthen Government Training Institutes (GTI) and scale them up at the county level.
- 5) There is need to harmonize/develop a mechanism to guide CoG working relationships with MCAs, MPs and Senators, in order to ensure that successive CoG conferences achieve a wider participation.
- 6) There is need to enhance mechanisms for ensuring that women, youth and Persons with Disabilities are included in civic education programs.



## Day Two Pictorials



Governors and Deputy Governors following DEVCON 2016 discussions



Symbio City Team with Excellency Governors after their launch



H.E. Josphat Nanok speaking during a question-answer session



H.E. Ukur Yatani and his County Representatives representing Marsabit County at the Devolution Conference



USAID-AHADI Expo Stand



H.E. Peter Munya welcoming guests to the dinner and to Meru County



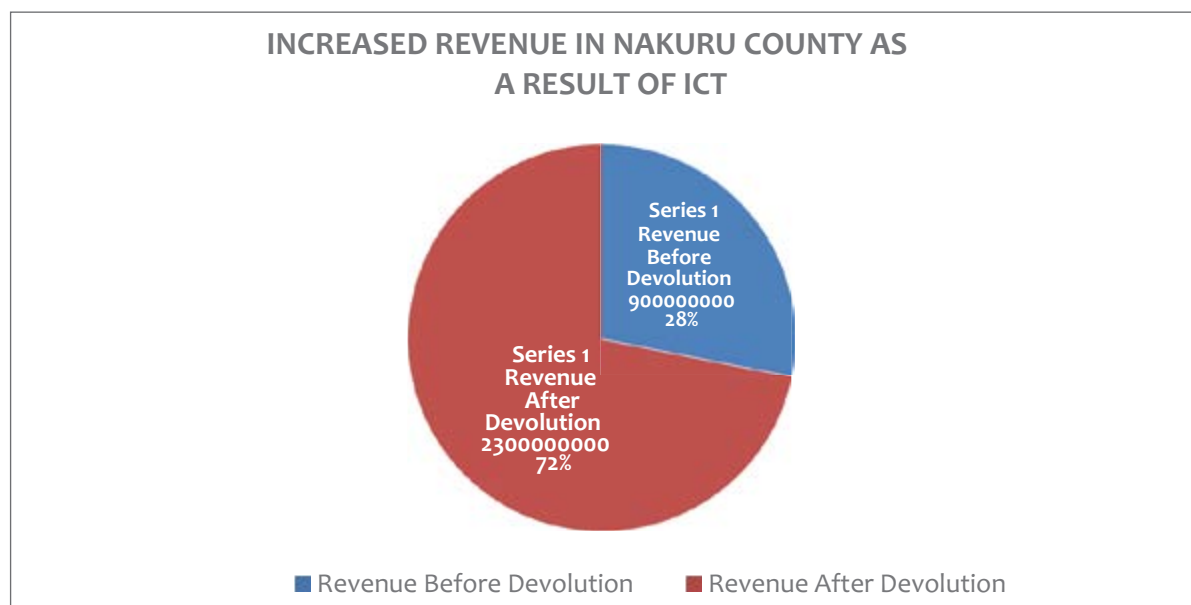
## 8.0 INFORMATION AND COMMUNICATION TECHNOLOGY AS AN ENABLER OF ECONOMIC GROWTH AND DEVELOPMENT

The objective of this session was to examine approaches and innovations in Information and Communications Technology that County Governments can adopt for wealth creation, youth employment and economic growth. The session was chaired by H.E. Governor Kenneth Lusaka (Bungoma County) while Mr. Kiprono Kittony (Chair, Kenya National Chamber of Commerce and Industry – KNCCI) was the session moderator. Panelists for this session included: Mr. Joe Mucheru, MBS (Cabinet Secretary, Ministry of Information and Communications); H.E. Governor Cpt. Ali Roba (Mandera County); H.E. Deputy Governor Jonathan Mueke (Nairobi City County); Mr. Joseph Kaberia (Speaker, Meru County Assembly); Mr. Jerome Ochieng (Director, IFMIS) and Ms. Alice Munyua (Special AU Advisor on ICT).

### 8.1 Role of ICT in Economic Development

The statement on the role of ICT in economic development was delivered by H.E. Governor Kinuthia Mbugua, OGW, CBS (Nakuru County). In his opening remarks, H.E. Governor Mbugua noted that ICT can enhance economic development in counties in multiple ways. For instance, ICT can be used to enhance expeditious delivery of services through automation of service delivery points, provision of innovative solutions, and facilitating real-time communication between the County Government and residents through social media. At the same time, ICT has expanded employment opportunities for the youth, particularly through M-Pesa shops. In addition, H.E. Governor Mbugua noted that ICT was a vital instrument in bridging the digital divide between the youth and the elderly, especially through implementation of mobile money transfer. ICT had also augmented public awareness on county development projects, since residents of any given county were able to access updated information on these projects through websites and social networking platforms.

In Nakuru County, the ICT department in conjunction with that of Finance and Economic Planning had automated revenue collection through electronic platforms to accept all forms of electronic payments such as smart cards and mobile money. As a result, revenue collection in Nakuru County had increased from Ksh. 900 million to more than Ksh. 2.3 billion. This is depicted in the figure below.



## 8.2 ICT as an Enabler of Economic Growth and Development



*Panel Discussion on ICT as an Enabler of Economic Growth and Development*

During the discussion panel on ICT as an enabler of economic growth and development, members noted that ICT, in particular high-speed internet, had revolutionized the way companies were doing business, transforming public service delivery and widening the scope for citizen participation in innovation. Further, ICT had provided economic opportunities to both urban and rural populations, for instance, easy accessibility of market information that enabled businesses to make adequate timely decisions. According to the 2015 Economic Survey, the Kenyan ICT sector was worth Ksh. 138 billion in 2014, making Kenya the second highest in Africa relative to total yearly production. However, Kenya did not have a comprehensive ICT policy that is aligned with devolved governance. The National ICT Policy (2006) is still under review, in attempts to align it with devolution and the technological changes that are happening globally.



It was also noted that public-private partnerships for regional connectivity had been recognized as powerful vehicles that could reduce the cost of international bandwidth and increase the affordability of high-speed internet and, as such, foster more trade. ICT had also enabled the development of business incubation programs for young entrepreneurs, particularly in software development and other innovative applications, increasing employment opportunities in the counties. Members also noted that ICT had improved inventory management, enabled better flow control and better integration between sales and production, and as a result, enhanced management of public funds. ICT was reported to have enabled the expansion of social development projects, yielding tremendous benefits in healthcare, education, and environmental preservation. Notably, the uptake of ICT in the public sector had improved efficiency in decision-making, transparency and accountability in the use of public resources.

However, despite the gains, the ICT sector still faced some challenges. These include the following:

1. *Poor Internet and Mobile connectivity in some regions*, which still hinders access to market information, financial services, education and health services.
2. *Limitations of the existing telecom infrastructure in counties*, which remains the principal constraint in adopting and using ICT applications, in addition to lack of capacity to assess returns and costs of using ICT, and a shortage of and inability to retain ICT-skilled labor.
3. *Budget constraints* - most counties still allocate less than 1% of their budgets to ICT, yet it carries great potential for innovation, employment creation, and economic growth.
4. *Lack of a National Policy on ICT*. This makes it difficult for counties to link their policies to the overall national policy framework on economic growth and development using ICT.
5. *Connectivity gaps at international, regional, national and rural levels* that make it difficult to reap the full benefits of a highly functional and effective ICT sector. They also prevent the region from capitalizing on innovative applications to improve service delivery in both the public and private sectors.

## Way Forward/ Recommendations

1. There is need to set up a high-speed, government-wide communications network connecting key ministries, departments and agencies; establish a shared portal infrastructure for key agencies; and develop electronic applications for the priority revenue-generating agencies in the country.
2. *County Governments should invest more funds in ICT.* This will enable robust development of ICT infrastructure, worker skills training, and enhanced partnerships with the private sector.
3. There is need for a comprehensive National ICT policy framework that is aligned to devolution.
4. ICT planning and implementation should be closely linked to the country's overall economic development and poverty reduction strategy.
5. County Governments should pursue integration of ICT in the public sector with private sector investment for enhanced capacity development and transfer of technical expertise.
6. County Governments should ensure inclusion of women, youth, and Persons with Disabilities in ICT policy decisions, procurement, and related development agenda.



## 9.0 MAINSTREAMING OF SUSTAINABLE DEVELOPMENT GOALS (SDGS)

The objective of this session was to deliberate on the role of the two levels of government in actualizing the Sustainable Development Goals (SDGs). The session was chaired by H.E. Governor Josphat Nanok (Turkana County) and moderated by H.E. Deputy Governor Mohamed Guleid (Isiolo County). The session panelists included: H.E. Governor Benjamin Cheboi, EBS (Chair, CoG Natural Resources Management Committee); Hon. Mwangi Kiunjuri, EGH (Cabinet Secretary, Ministry of Devolution and Planning); H.E. Governor Nathif Jama (Chair, CoG Trade, Industry and Investment Committee); H.E. Deputy Governor Raphael Muriungi (Meru County); H.E. Governor Samuel Ragwa (Tharaka-Nithi County); Ms. Enid Muthoni (Country Director, International Development Law Organization- IDLO); Dr. Josephine Kibaru-Mbae (Director General, National Council for Population Development) and Mr. Bradley Austin (Resident Country Director, International Republican Institute - IRI).

### 9.1 Mainstreaming of Sustainable Development Goals (SDGs)

The statement on Mainstreaming of Sustainable Development Goals (SDGs) was presented by Mr. Siddharth Chatterjee (UN Resident Coordinator a.i. and UNFPA Representative in Kenya). In his opening remarks Mr. Chatterjee noted that, in September 2015, world leaders came together to sign the SDGs, whose goals were about people, the planet and prosperity, all in the pursuit of strengthening universal peace and larger freedoms.

The SDGs are designed around collaborative partnerships for the 2030 Agenda which is to eradicate poverty and achieve a better life for the people. Sustainable Development Goals (SDGs) has 17 goals that are at the heart of Africa and Kenya's development. However, the benefits of development will not be realized if women are not emancipated and allowed to take full part in decision-making and nation-building. In the centralized governments across Africa, women were most often marginalized from development opportunities. It is therefore essential that County Governments, Civil Society Organizations (CSOs), and the private sector address the underlying biases and social norms that permit women and girls to be treated as lesser beings relative to men and boys in education and economic development. Mr. Chatterjee noted that to ensure effective county development, concerted efforts should be made beyond the one-third gender principle, to fully include girls and women in the development agenda. Further, Mr. Chatterjee opined that informed and educated youth will form the foundation upon which gender equality and economic empowerment will be realized.





*Panel Discussion on Mainstreaming of Sustainable Development Goals*

## 9.2 Mainstreaming of Sustainable Development Goals (SDGs)

During plenary discussions, it emerged that the threat to SDGs was competing interests affecting their implementation. Corruption was also highlighted as one of the major threats to mainstreaming SDGs, since most of the resources that are meant for the programs are embezzled by corrupt public officials. It was noted that prior to SDGs, the Kenya Government had not yet realized the Millennium Development Goals (MDGs). However, significant strides had been made in reducing maternal and child mortality, and increasing access to universal primary education. Members noted that in as much as there has been a transition to SDGs, it was still important to address the pending issues of the MDGs. To this end, it was recommended that the National Government and County Governments should develop a functional committee that can advise on strategies to implement pending MDGs issues.

It was also reported that poor management of resources affects the implementation of Kenya Vision 2030 and the SDGs. Therefore, to realize the SDGs, the National and County Governments must keep track of the implementation process through a well-established and shared framework that will ensure that interventions are undertaken in a timely, consistent and efficient manner. The heads of governments, deputies, as well as Cabinet Secretaries should be empowered to provide quick response to emerging issues as well as provide for smooth interaction between interventions and resources. Periodic reviews should also be instituted to ensure that counties and the National Government adhere to the laid out frameworks on realization of SDGs. Participants also concurred on the need for the periodic meetings to involve all the stakeholders, including members of the public.



## Way Forward/ Recommendations

To ensure the successful realization of Kenya Vision 2030 and SDGs, the following recommendations were advanced:

1. County Governments should explore and activate initiatives to expand investments in critical infrastructure, particularly in education and health.
2. The CoG should foster relationships with the private sector actors as a way of enhancing diversification of economic investments in counties.
3. County Governments need to establish mechanisms for nurturing human capital investment in youth, women and persons with disabilities.
4. Both the National Government and County Governments should partner with the private sector to ensure that SDGs are embraced at all levels of economic development.
5. The National Government in conjunction with County Governments should enhance working relationships by forming a joint forum against corruption in the public sector that endangers the gains already made on previous MDGs and current SDGs.

## 10.0 CORRUPTION IN KENYA: MEASURES TO ENTRENCH INTEGRITY IN PUBLIC AND PRIVATE OFFICES

The objective of this session was to interrogate the responsibility of public and private officers and the measures they can adopt to fight graft. The session was chaired by H.E. Governor Moses Akaranga (Vihiga County) while Ms. Kagwiria Mbogori (Chair, Kenya National Commission on Human Rights) was the moderator. The panelists for this session included: H.E. Governor Isaac Ruto (Bomet County); Mr. Njee Muturi (Solicitor-General); Ms. Hellen Obande (Lecturer, Institute of Gender Studies, Egerton University, Nairobi-Campus) and Ms. Njeri Kabeberi (formerly CEO, Centre for Multiparty Democracy Kenya- CMD-K).

### 10.1 Entrenching Integrity in the Public and Private Sector

Mr. Amos Gathecha delivered the statement on how to entrench integrity in public and private sector on behalf of Hon. Maj Gen (Rtrd) Joseph Nkaissery, EGH, CBS (Cabinet Secretary for Internal Security). In the opening remarks, he indicated that devolution had enhanced service delivery to Kenyans. While there was need to celebrate the gains made by devolution, Hon. Maj Gen (Rtrd) Nkaissery stressed the importance of having transparency and accountability frameworks in county governance. In Kenya, the Leadership and Integrity Act (2012) enacted pursuant to Article 80 of the Constitution operationalized Chapter Six of the Constitution as relates to leadership and integrity. The Act, along with other laws, establishes procedures and mechanisms to ensure that State Officers uphold and respect the values, principles and requirements of the Constitution while discharging public duty. Further, the Act requires that State Officers should act with integrity and also refrain from conflicts of interest, dishonesty and other unethical behaviors.

To this end, he noted that integrity was an essential component not only for good governance, but also for enhancing trust and building relationships between County Governments and citizens as well as with the National Government, Development Partners, private sector, and other stakeholders. However, he also noted that lack of comprehensive and consistent integrity frameworks at the national and county levels meant that the fight against graft becomes compromised. It is therefore important that counties develop benchmarks and indicators for assessing county officials' compliance with professional standards of service.

### 10.2 Discussions on Entrenching Integrity in Public and Private Sector

The session discussants noted that corruption continues to be the major cause of public resources mismanagement in Kenya. It is often responsible for increased costs of goods and services. In most cases, public resources are usually siphoned off through wasteful high profile projects at the expense of delivery of schools, hospitals and roads, and provision of clean water. In other cases, corruption is exercised through diversion and misallocation of public wealth to private and personal property. In Kenya, just like other African states, large scale corruption has placed a huge burden on the economy, constricting factors of production. The following are some of challenges that were discussed during the session:



Discussion Panel on Entrenching Integrity in Public and Private Sectors

- 1) *Selective application of the Law* – selective application of the law at both the national and county levels in Kenya is a major impediment in the fight against corruption. When senior officers in government are caught in corruption, they are hardly ever prosecuted and convicted.
- 2) *Lack of political will* - There seems to be lack of political will to fight corruption. When leaders talk about fighting corruption, it is usually for political reasons, and as such, paragons of corruption continue to siphon resources knowing they will never be held accountable. Despite the President declaring corruption a national threat, little has been done to fight the vice.
- 3) *National institutions charged with the mandate of fighting corruption are ineffective due to political interference.* Senior officers at the Ethics and Anti-Corruption Commission are political appointees; hence they lack the will to pursue the fight against their masters.
- 4) *Professionals have done little to eradicate the vice of corruption* since they are also implicated, making it difficult to rely on them for assistance.
- 5) Corruption has reduced citizens' interest in political participation, and thus reduced their ability to hold National Government and County Governments accountable.

### Way Forward/ Recommendations

1. Adherence to rule of law to identify and report areas and institutions where corruption take place.
2. There should be a concerted effort in automation of all revenue collection points in the counties and other public institutions as a way of minimizing corruption at the county level.
3. There is need to establish a clear legal framework on procurement processes at the County level.
4. There is need for more robust citizen participation to keep both levels of government accountable. At the same time, stiff penalties should be meted on public officials engaged in corruption.
5. All counties should publish financial reports as mandated by law to encourage transparency.

6. Citizens should be encouraged to demand regular progress reports on all major public procurement processes from their leaders.
7. Wealth Declaration should be mandatory for all leaders and heads of institutions to encourage transparency and minimize corruption.
8. The youth should be targeted and educated on good ethics and morals.



## 11.0 CLOSING CEREMONY

### **H.E. Governor Salim Mvurya (Vice Chair, CoG)**

H.E. Governor Mvurya expressed gratitude towards all participants who had taken their time to attend the 3<sup>rd</sup> Annual Devolution Conference. Further, he thanked all panelists whose expertise in various aspects of devolution had greatly enriched discussions and made it possible to have meaningful and sober engagements with the view of not only celebrating, but also enriching devolution moving forward. Finally, H.E. Governor Mvurya expressed gratitude to Rt. Hon. Raila Odinga for finding time to participate in the conference.

### **Hon. Mwangi Kiunjuri (Cabinet Secretary for Devolution and Planning)**

In his closing remarks, Hon. Kiunjuri noted that the engagements during the three days had demonstrated that Kenya was on course to deliver on the promise of devolution. After three years, there was reason to celebrate what devolution has achieved. Hon. Kiunjuri promised that the Ministry of Devolution and Planning will do its best to reach out to CoG and other stakeholders on devolution to ensure that the gains that are made are sustainable in the long term. Finally, Hon. Kiunjuri indicated that the National Government was committed to devolution, arguing that in as much as there had been a few challenges in the implementation process, the hopes and achievements of devolution shone as bright as ever.

### **H.E. Governor Peter Munya (Chairperson, CoG)**

On his part, H.E. Governor Munya thanked participants for gracing the occasion and making the conference a great success. He reminded participants of the importance of implementing recommendations that had come out of conference, as a way of defending and advancing the gains of devolution. Equally, he stressed the significance of County Governments rededicating themselves to the objectives, obligations and duties bestowed on them by the Constitution. H.E. Governor Munya also highlighted the importance of cooperation between the National Government, the Senate, and County Governments in ensuring that devolution works for every Kenyan. Finally, he thanked the CoG secretariat, Governors, Senators, Members of Parliament, County Assembly Members, Development Partners and other stakeholders for making the conference a success.

### **Remarks by Rt. Hon. Raila Odinga, EGH**

In offering his closing remarks, Hon. Odinga began by affirming that devolution carried the hopes of Kenyans for a better and prosperous life. In just three years, devolution had achieved more than could ever have been imagined. However, he noted that devolution was still faced with several challenges. For example, he pointed out that the National Government continued to hold on to devolved functions and the resources for their implementation. Also, counties were still inconvenienced by delayed and inadequate disbursement of funds by the National Government, which had particularly affected the delivery of health services. He challenged the National Government to fully and ungrudgingly let go of devolved functions. He posited that the National Government must make its budgets reflect the goals, ideals and aspirations of devolution.



*Rt. Hon. Raila Odinga, EGH (Former Prime Minister- Republic of Kenya)*

Despite all these challenges, he argued that devolution was on course to transform Kenya. Rt. Hon. Odinga further noted that the National Government's uncontrolled external borrowing was a dangerous endeavor that would put counties at great disadvantage since Kenya will be spending most of its revenues servicing external debts. Similarly, Rt. Hon. Odinga noted with concern the rate at which corruption had permeated the National Government and called for quick and firm action to have all those implicated prosecuted. Finally, the former Prime Minister noted that the salvation and the union of the people of Kenya lies in strengthening of devolved government, by having all county functions fully transferred to the County Governments with full funding as per the provisions of the Constitution.

### **Remarks by Hon. Eugene Wamalwa (Cabinet Secretary for Water)**

Closing remarks for the Deputy President, H.E. William Ruto, were read by the Cabinet Secretary for Water, Hon. Eugene Wamalwa. In the speech, The Deputy President observed that devolution has transformed the way Kenyans are governed, and how services are delivered to the people.



*Cabinet Secretary for Water, Hon. Eugene Wamalwa*



Further, he noted that three years was sufficient time to identify what was working and what was not, so as to make corrective measures. Further, the Deputy President noted that in as much as devolution may be a new concept, its purpose for effective delivery of services to the people of Kenya was noble and timely. The Deputy President further re-affirmed the National Government's commitment to fostering harmonious and consultative intergovernmental relations that will ensure the cause of devolution succeeds. He commended the cordial working relations that existed between the National Government and County Governments, and hoped that both parties will build on the same. Finally, The Deputy President commended participants for the candid discussions at the Third Annual Devolution Conference, while expressing the confidence that implementation of the recommendations of the conference will go a long way in ensuring that the aspirations of Kenyans in choosing the devolved system of government are achieved.

### **Conclusion of the Conference**

H.E. Governor Salim Mvurya presented the eighteen-point conference communique, which was endorsed by acclamation by all participants.



## Day Three Pictorials



Rt. Hon. Raila Odinga, EGH (Former Prime Minister- Republic of Kenya) signing the Guest Book



Excellency Governors watching the 2016 Devolution Conference Documentary



Rt. Hon. Raila Odinga, EGH (Former Prime Minister- Republic of Kenya) conferring with H.E Governor Peter Munya (Chairperson CoG), and H.E Governor Salim Mvurya (Deputy Chair, CoG)



Rt. Hon. Raila Odinga, EGH (Former Prime Minister- Republic of Kenya) with Excellencies.



Hon. Eugene Wamalwa (Cabinet Secretary for Water) being received upon arrival for the DEVCON 2016 Closing Session.



Rt. Hon. Raila Odinga, EGH (Former Prime Minister- Republic of Kenya) signing the visitors book at the Kajiado County Exhibition Booth



## ANNEX I: COMMUNIQUÉ



### COUNCIL OF GOVERNORS AND MINISTRY OF DEVOLUTION AND PLANNING

#### COMMUNIQUÉ AT THE END OF THE THIRD ANNUAL DEVOLUTION CONFERENCE HELD ON APRIL 19<sup>TH</sup> — 23<sup>RD</sup> 2016 AT MERU NATIONAL POLYTECHNIC, MERU COUNTY

The Third Annual Devolution Conference was held between 19<sup>th</sup> and 23<sup>rd</sup> April, 2016 at Meru National Polytechnic, Meru County. The devolution conference assessed the progress in implementation and the challenges faced by each level of government. The conference provided a platform for the National Government, County Governments, the private sector, civil society and Development Partners to interact and share lessons on devolution. The conference participants made the following observations and call to action in line with the theme of the conference.

The conference resolved and recommended;

1. **THAT** devolution gains should be safeguarded through fiduciary, functional, policy and legislative interventions and ethical practices.  
**ACTION:** Council of Governors, Senate, Auditor General, County Assemblies, National Treasury, Parliament, Ministry of Devolution and Planning, Controller of Budget, The Presidency.
2. **THAT** County Governments embrace electronic platforms for revenue collection and financial management.  
**ACTION:** Council of Governors, National Treasury, IBEC, The Presidency, The Summit.
3. **THAT** Equitable shareable revenue to County Governments should be increased;  
**ACTION:** Council of Governors, Summit, Commission of Revenue Allocation IBEC, Parliament, National Treasury.
4. **THAT** the National Treasury should put in place mechanisms for expeditious disbursements of funds to County Governments for devolved functions to ensure uninterrupted service delivery.  
**ACTION:** IBEC, Council of Governors, Senate, National Treasury, Office of the Controller of Budget.
5. **THAT** criteria for division of revenue under Article 203 of the constitution should be clarified with regard to national interest and obligations.  
**ACTION:** Council of Governors, IBEC, Parliament, National Treasury KLRC, The Summit, The Presidency.

6. **THAT** there should be deliberate steps and measures for inclusion of women, youth and persons with disabilities in policy formulation and decision-making in critical sectors such as agriculture and health.  
**ACTION:** Council of Governors, IBEC, Ministry of Devolution and Planning County Governments and County Assemblies, The Presidency, The Summit.
7. **THAT** all state corporations be restructured to align with the devolved system of government.  
**ACTION:** Inter-Governmental Relations Technical Committee, Council of Governors, Ministry of Devolution and Planning, Attorney General, The Presidency, The Summit.
8. **THAT** there is need for review of agreements on transfer of functions between National Government and County Governments, particularly with regards to Immunization.  
**ACTION:** Ministry of Health, Inter-Governmental Relations Technical Committee Council of Governors, Ministry of Devolution and Planning, The Attorney General, The Summit.
9. **THAT** there is need to strengthen the technical and financial capacity of Inter-Governmental Relations Technical Committee (IGRTC) to perform its functions and complete the residual functions of the Transition Authority.  
**ACTION:** Ministry of Devolution and Planning, Council of Governors, Inter-Governmental Relations Technical Committee (IGRTC), The Presidency, The Summit.
10. **THAT** County government frameworks for civic education and public participation should be aligned with the National Government framework for civic education and public participation.  
**ACTION:** Council of Governors, National Council of NGOs, Ministry of Devolution and Planning
11. **THAT** the National Government and County governments should increase resource allocation for ICT and partner with the private sector in order to reap the full benefits of ICT, including employment opportunities and service delivery.  
**ACTION:** Council of Governors, Ministry of Information, Communication & Technology, The National Treasury, County Governments, Kenya National Chamber of Commerce and Industry, The Summit.
12. **THAT** social inequalities in the counties should be addressed through targeted allocations of funds to relevant sectors in line with the Sustainable Development Goals (SDGs) in order to reap the demographic dividend and accelerate economic growth.  
**ACTION:** Council of Governors, Ministry of Devolution and Planning, National Treasury, County Governments, The Summit, Parliament.
13. **THAT** all stakeholders engage proactively in the fight against corruption.  
**ACTION:** Ethics and Anti-Corruption Commission (EACC), The Summit.
14. **THAT** all County functions by operation of the law are now devolved.  
**ACTION:** Council of Governors, the Summit, the National Government.



15. **THAT** Kenya Medical Supplies Agency should become an Inter-County entity; after all it purchases drugs for counties.

**ACTION:** The Council of Governors, the Ministry of Health, the Summit.

16. **THAT** there should be a committee to audit the parastatals and laws that handle their functions.


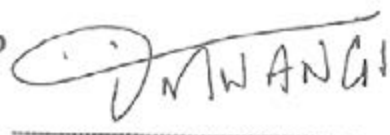
**ACTION:** Intergovernmental Relations Technical Committee, The Summit, The Presidency, Council of Governors.

17. **THAT** the automation of Controller of Budget function be addressed in consultation with The Council of Governors.

**ACTION:** Council of Governors, Controller of Budget, The National Treasury.

18. **THAT** long term devolution sustainability funding frameworks and mechanisms should be established.

**ACTION:** Council of Governors, IBEC, Senate.

 **SIGNED**   
22/4/2016 **DATE** 22-04-2016

## ANNEX II: OPENING SPEECHES



### REMARKS BY H.E. PETER MUNYA, CHAIRMAN, COUNCIL OF GOVERNORS AND GOVERNOR MERU COUNTY

#### 3<sup>RD</sup> ANNUAL DEVOLUTION CONFERENCE MERU NATIONAL POLYTECHNIC 19<sup>TH</sup>- 23<sup>RD</sup> APRIL, 2016

Your Excellency Honorable Uhuru Kenyatta, the President of the Republic of Kenya,  
Her Excellency Right Hon. Dr. Saara Kuugogelwa-Amadhila, the Prime Minister of Namibia  
Excellency Governors,  
H.E. Amb. Robert Godec, US Amb. to Kenya  
The Hon. Dr. Willy Mutunga, Chief Justice/ President of the Supreme Court of Kenya,  
Hon. Ekwee Ethuro, Speaker of the Senate  
Hon. Mwangi Kiunjuri, Cabinet Secretary, Ministry of Devolution & Planning,  
The Permanent Secretaries,  
Heads of Missions,  
Members of the County Assemblies,  
Other National Government Representatives,  
County Government Representatives,

Distinguished Ladies and Gentlemen:

May I welcome your Excellency the President, the Prime Minister of Namibia and all other distinguished foreign and national dignitaries to the Third Devolution Conference, aptly themed: *The promise of devolution: Consolidating the gains after transition and looking into the future*. The conference is aimed at celebrating the milestones achieved during the three-year transition to a devolved system of government, identifying the challenges with a view to collectively addressing them and looking into the future with a determination to make the promise of devolution work for the long term stability, cohesiveness and economic prosperity of our country.

For devolution is the cornerstone of the social contract entered into between the sovereign people of Kenya (in their diversity) and their governments in 2010 to settle 50 years of conflict, social disharmony, inequality, and marginalization and hitherto failed attempts at economic take-off.

Indeed, your Excellency very well captured this underlying theme of social contract in our governance structure in your recent address to the national Parliament. Devolution has been equated to a second independence for our country. Rightly so because as enshrined



in Article 174 of the Constitution, devolution aims at equitable sharing of national and local resources throughout Kenya; empowering communities to manage their own affairs and further their development; protection of interests and rights of minorities and/or marginalized; enhancing participation of the people in decision-making and facilitating effective service delivery.

Your Excellency,

As we celebrate three years into devolution, we cannot fail to recognize the remarkable strides the pioneer County Governments have made in service delivery despite many challenges. These include the following:

***Provision of water and sanitation***

- Isiolo County launched the Garba-Tulla sub-county project that has benefitted 6000 residents and in particular women who previously would walk for 30 km;
- Makueni County has built the Kaiti sand dam; six 30-acre earth dams with four of them already completed; and at least three other smaller dams of 50,000 cubic metres in each of the 30 wards. At the end of the 2016/2017 financial year, the County will have done at least 84 dams;
- Meru County has installed 90 tanks with a total combined capacity of 225,000 cubic metres, to name but a few.

***Roads and infrastructure***

- Over 7,000 kilometres of roads have been completed and more are under construction;
- Previously dilapidated link roads in major urban centers have undergone upgrades, repair and rehabilitation;
- New cheaper and more affordable road construction technology has been implemented in Embu, Samburu and Meru Counties.

***Education and technology***

- Kwale County has constructed over 200 ECDE classrooms and will build another 120 in this financial year;
- Garissa County has constructed more than 130 fully-equipped modern ECDE centers and employed more than 170 ECDE assistants;
- Kitui County has constructed a total of 89 ECDE classrooms across the 40 Wards.

***Health sector transformation***

- Dispensaries grew by 21 percent;
- Health Centres grew by 15 percent;
- Hospitals grew by 12 percent;

***Examples:***

- Marsabit County has bought 21 ambulances;
- Trans-Nzoia Referral Hospital under construction to serve a population of 1 million;
- Nyandarua County has constructed a 60-bed maternity hospital at Kinangop sub-county facility;

- There is an increase in human resource; nurses from 9,816 to 15,000, doctors now at 3,786;
- Expenditure for procurement of drugs has increased by 40 percent and there has been an increase in accessibility to specialized medical care for diabetes and renal care.

#### *Agriculture*

- Counties have facilitated provision of advanced breeds and subsidized A.I. services.
- Counties also invested in the youth for agribusiness

#### *Examples:*

- Wajir County has established several irrigation projects, and 15 greenhouses in each of the 6 sub-counties;
- Muranga County has installed 35 milk coolant plants.

#### *Cooperatives*

- Counties have improved accessibility to affordable credit e.g. in Kakamega, Murang'a, etc.

I could go on setting out the milestones that County Governments have made. But these have not been without challenges. Despite the annual resource allocation to County Governments having increased since the 2013/14 financial year, we still insist that the increment should be formally anchored in law to reflect unconditional transfers of 45% of the previous year's collected total revenues. County Governments are the focal points for service delivery and require sufficient resources to perform their functions effectively. Delayed disbursements to counties by the National Treasury have also posed serious challenges to implementation of development projects.

I also note that there are functions that are yet to be transferred. These are: County roads; County planning and development, including—electricity and gas reticulation and energy regulation; cultural activities; public entertainment, and; public amenities including-libraries. These functions have not yet been transferred and they are contained in a draft Gazette Notice that is yet to be published by the Attorney-General's Office.

The timeline that had been allocated for the complete transfer of all functions assigned to County Governments lapsed in March 2016. The limited transfer of functions to County Governments will inevitably culminate into a constitutional crisis if not immediately and urgently remedied. The Constitution had called for the restructuring of the Provincial Administration to align to the devolved system of government, but this is yet to be done.

On the same breadth, it is worth highlighting that there still exists State Corporations and Regional Development Authorities (RDAs) that continue to perform County Government functions. In every financial year, these state institutions and agencies continue to benefit from colossal budgetary allocations which ideally should form part of the County share of revenue. To illustrate: in the 2015/16 budget, ongoing road construction and maintenance has been allocated KES 85.2 billion. These monies will fund state actors like the Kenya Urban Roads Authority (KURA) and the Kenya Rural Roads Authority (KeRRA), which continue to award contracts for County Roads—a County Government function. The same budget allocated a sum of KES 79.7 billion for agriculture, specifically irrigation projects, fisheries

and livestock, yet under the Fourth Schedule of the Constitution, Agriculture is a fully devolved function and the National Government's mandate extends only to agricultural policy. Regional Development Authorities like the Tana & Athi River Development Authority (TARDA), Kerio Valley Development Authority, Lake Basin Development Basin and others, also continue to receive a share of the national budget only for these monies to be utilized for projects related to devolved functions.

The unconstitutionality of the status quo cannot be downplayed. It was anticipated that by the lapse of the transition period, state corporations and regional development authorities would have been restructured to conform to the devolved system, or phased out where their mandate would be proved redundant. Despite this, state corporations and regional development authorities have continued to engage in long-term financial commitments, in complete disregard of the underlying unconstitutionality.

As we discuss finances, the funds flow system for conditional grants and donor funds cannot fail to feature. A draft document on the administration and reporting of conditional grants has been generated but not yet adopted. It is essential in this discourse though that we differentiate between conditional grants and donor funds. Where donor funds are related to county functions, they should be disbursed to the counties, not held at national ministries. The National Government should set up a unit at the National Treasury to manage conditional grants. The use of National Government agencies to hold funds for county functions undermines devolution.

On legislation, I am aware that there is critical legislation required to facilitate the transition, which is yet to be finalized. The Attorney-General must take quick action and consultatively identify a body that will fill the gap now that the Commission for the Implementation of the Constitution (CIC) term did come to an end.

On the National and County Government Coordinating Summit (the Summit), it must be strengthened and properly institutionalized for it to become effective. This is the apex intergovernmental relations body, bringing together the County Governments and the National Government. It is capable of being the clearing house for most sector and policy issues that sometimes end up in the courts or unresolved. The Intergovernmental Relations Technical Committee (IGRTC), which is meant to serve as the implementer of Summit resolutions, must be fully capacitated to fulfill this mandate.

I will also not shy away from mentioning recent events targeted at the Governors. In several instances, we have seen the Office of the Governor, the Chief Executive of the County, belittled through undue harassment. Our Constitution is very elaborate in Chapter Six on Leadership and Integrity that State authority must be exercised with respect, honor, dignity and such authority must promote public confidence in the integrity of the office and is given with the sole aim that the officer serves the people, rather than rule over them. Clearly, this has been ignored and blatantly violated. State power must not be exercised to serve the interests of particular individuals or for the preservation of political patronage. Indeed if we take this route as a nation, we must be ready to be labeled as a country falling into anarchy.

Allow me now to laud those who have walked this journey with us. First, the Judiciary. It is one of the key institutions in our new dispensation that has kept its fidelity to the Constitution and ensured the objects and principles of devolution are implemented. The



Judiciary has been instrumental in continually reminding us to adhere to Chapter Eleven on Devolved Government and has emphasized the need for respect for the cardinal principle of separation of powers in its pronouncements.

Second, our Development Partners. I recognize the partnerships you have established with County Governments and the Council of Governors. Whether it is through development projects, technical support or capacity building, your presence has been felt. However, I call on you to align your priorities with those of counties so that your support can be meaningful and contribute to the achievement of county goals.

Third, the Ministry of Devolution and Planning, the Senate, constitutional commissions and other partners with whom we have collaborated in the last three years. It is through all our efforts that devolution is transforming this nation. I will not also forget the citizens of Kenya. Their industrious spirit, resilience, and positivity incentivizes us leaders to work even harder so that your lives and those of your children can be improved.

As I conclude, I pass this message: our call is to serve. That is what our Constitution contemplates. As we dispense public duty, we are in service to the people of Kenya. We must therefore fulfil this duty diligently and faithfully. We should work together since we are all accountable to the same electorate. Let us work towards the success of devolution. Our partnerships and tenacity will lead us to a Tiger economy and we will prosper not only as counties, but also as a nation and the continent at large.

Your Excellency the President, it is now my pleasure to invite you to officially open the Third Annual Devolution Conference.

Thank you and God bless you all!

**H.E. PETER MUNYA**  
CHAIRMAN, COUNCIL OF GOVERNORS AND  
GOVERNOR, MERU COUNTY



## COUNCIL OF GOVERNORS

**WELCOME REMARKS BY H.E. AMB. UKUR YATANI  
CHIEF WHIP, COUNCIL OF GOVERNORS, AND  
GOVERNOR, MARSABIT COUNTY  
DURING THE OFFICIAL OPENING OF THE 3<sup>ND</sup> ANNUAL DEVOLUTION CONFERENCE  
HELD AT MERU COUNTY  
20<sup>TH</sup> APRIL 2016**

Your Excellency Hon. Uhuru Kenyatta CGH - President and Commander-in-Chief of the Defense Forces of the Republic of Kenya,  
The Right Honorable, Prime Minister of Namibia  
Your Excellency, the Prime Minister of Ethiopia,  
Dr. Willy Mutunga, the Chief Justice and the President of the Supreme Court of Kenya  
Senator Ekwee Ethuro, the Speaker of the Senate,  
Excellency Governors,  
Cabinet Secretaries,  
Honorable Senators,  
Honorable Members of Parliament,  
Hon. Members of the County Assemblies,  
Distinguished Guests,  
Ladies and Gentlemen,

Good Morning!  
*Mugeni!*

It gives me great pleasure to welcome you to the Third Annual Devolution Conference here in Meru, a splendid scenic town on the eastern slope of Mt. Kenya that has rich socio-economic history in our country Kenya.

As I warmly welcome you on behalf of the Council, I take this early opportunity in earnest to mention that the Council of Governors, in collaboration with other stakeholders spearheads the planning of the devolution conference every year since the country adopted a devolved system of government. The First two conferences were successfully held in Kwale and Kisumu Counties in April 2014 and April 2015 respectively. This year's conference is coincidentally hosted in Meru County, where the current Chairman of the Council of Governors' H.E. Peter

Munya is also the Governor. The Overall theme of this year's conference is: *“Celebrating Devolution: Consolidating the Gains after Transition and Looking into the Future”*.

Your Excellences,

The Annual Devolution Conference has become one of the most important events in the devolution calendar in Kenya. The conference not only provides opportunity for the National and County Governments to reflect on the gains in the implementation of devolution, but equally provides key stakeholders including the academia, private sector, Development Partners, media, civil society groups and high profile international guests particularly this year with the chance to celebrate with us major milestones, reflect on challenges, constructively critique, and discuss emerging opportunities under devolution.

**Your Excellences,**

With the lapse of the constitutionally-provided three-year transition period and fold-up of the Transition Authority that was mandated to mid-wife the same, it's imperative that we carry out deeper and sober reflection and document the achievements made by each level of government:

- The National Government, which is mandated by the Constitution to undertake certain functions to facilitate devolution under the Sixth Schedule of the Constitution;
- Parliament, which was required to make provisions for the phased transfer of functions to county governments for assigned devolved functions;
- The County Governments, which are expected to provide services to the citizens, put in place systems of governance for their smooth functioning, enactment of enabling laws and alignment of appropriate policies and frameworks with the Constitution of Kenya 2010 and national legislations and policies.

**Your Excellences,**

As the Council of Governors, looking back at the three years of devolved governance, with pride and satisfaction we can confidently say that as a country we have made significant socio-economic and political progress. Notable among the gains that Kenyans are celebrating today are devolved resources and decision making, the existence of fully functional institutional structures at the counties, transfer of devolved functions, infrastructural development, improved service delivery in health, ECDE, agricultural and trade development and youth empowerment among many others.

Additionally, the County Governments despite the initial attendant capacity challenges have within the said period demonstrated ability to take on and implement their planned development priorities with great success. It's noteworthy to mention that the Council of Governors during the period has continued to provide stewardship in the areas of capacity building for the county governments which has resulted to enhanced and effective service delivery to the citizens.

**Your Excellences,**

During the first year of devolution, counties worked to create structures for devolved governance by giving it life and a course. The second year was spent on getting the structures



working to ensure proper and efficient service delivery to citizens. This year, the counties strive to establish accountability structures, put in place performance management systems, address structural challenges, strengthen assembly oversights and enhance involvement of all stakeholders in governance through effective citizen participation in public affairs including development planning and implementation.

**Your Excellences, Ladies and Gentlemen,**

I wish to reiterate that this year's Devolution Conference will not only provide a platform to share experiences on what we have achieved so far as county governments but also highlight the challenges faced over the time with a view to devising ways of tackling the same so as to fully operationalize the devolved structures and general governance. Among critical implementation challenges that have been identified across most counties are in the area of enactment of key enabling legislation and frameworks without which certain key functions could not be undertaken by the County Governments.

**Your Excellences,**

While there still exist numerous challenges in implementing devolution, no doubt, the devolution promise to Kenyans is awake, alive and on course. The two levels of government have been working together cordially, but there's still need for better understanding, cooperation and deeper collaboration for optimal operations and efficient and effective service delivery to citizenry.

To realize and nurture the objects and promise of devolution, there exists need to create continuous synergy and complementarity as opposed to perceived competition and mistrust between the two levels of government. Incessant politicking occasionally witnessed between various players will only derail our development trajectory and the attainment of the noble goals of our Kenya Vision 2030 and should be avoided at all times.

I thank you for gracing this occasion and I wish you constructive dialogue and a wonderful stay here in Meru County.

*Karibu Sana!!*

**H.E. AMB. UKUR YATANI**

CHIEF WHIP, COUNCIL OF GOVERNORS, AND  
GOVERNOR, MARSABIT COUNTY

**REPUBLIC OF KENYA****THE SENATE****OPENING CEREMONY REMARKS BY RT. HON. SEN. EKWEE ETHURO, EGH, SPEAKER  
OF THE SENATE OF THE REPUBLIC OF KENYA DURING THE 3<sup>RD</sup> ANNUAL DEVOLUTION  
CONFERENCE ON APRIL 19 - 23, 2016****AT THE TECHNICAL TRAINING INSTITUTE, MERU COUNTY**

H.E. The President of The Republic of Kenya, Uhuru Kenyatta;  
H.E. The Prime Minister of the Republic of Namibia, Right Hon. Dr.Saara Kuugogelwa-Amadhila;  
The Minister for Federal Affairs and Pastoral Area Development of Ethiopia, H.E. Kassa Tekle Berhan;  
H.E. The Deputy President, Hon. William Ruto;  
The Cabinet Secretary for Devolution and Planning, Mwangi Kiunjuri;  
The Chairman of the Council of Governors, Governor Peter Munya;  
The Chief Justice and President of the Supreme Court , Dr. Willy Mutunga;  
The Chairman of the Devolution Conference Steering Committee, Gov. Salim Mvurya;  
Hon. Senators;  
Honorable Governors;  
Distinguished guests, Ladies and Gentlemen:

**Good Morning, Hamjambo Sana, Mugaa Munoo;**

It is with the greatest pleasure that I join my fellow Kenyans and our distinguished visitors in this very scenic and beautiful County of Meru to attend and participate in the Third Annual Devolution Conference. This place of great scenic beauty on planet earth includes our famous Mount Kenya, spectacular waterfalls, lush terrain and wildlife. The Kenyans in Meru are people of a warm and generous spirit. The hospitality of the Ameru is legendary.

**Your Excellency,**

We are extremely humbled and honored with your attendance to this conference, which is in support of devolution processes of governance in our country. Your participation will doubtless greatly enrich our deliberations and resolutions.



We greatly welcome and appreciate the presence of our most distinguished guests: H.E. The Prime Minister of the Republic of Namibia, Right Hon. Dr. Saara Kuugogelwa-Amadhila and The Minister for Federal Affairs and Pastoral Area Development of Ethiopia, H.E. Kassa Tekle Berhan. We look forward to learning and sharing a lot from them. We say to your Excellencies – that Kenya is your home away from home.

**Your Excellency, Distinguished Ladies and Gentlemen,**

Permit me to briefly share with you the substance of our two eminent statesmen and leaders of African states in our midst today.

Let me start with The Prime Minister of the Republic of Namibia, Right Hon. Dr. Saara Kuugogelwa-Amadhila. She is Namibia's first woman Prime Minister. Previously she served as the Minister for Finance. A graduate of Bachelor of Science in Economics from Lincoln University, USA, she began her career as a Desk Officer in 1995 before becoming the Director General at the National Planning Commission. She was appointed as the Minister for Finance in 2003 and achieved the distinguished milestone of presenting the country's first ever budget surplus in FY 2006/07 and 2007/08 – quite a remarkable achievement in Africa, and indeed globally.

**Ladies and Gentlemen; moving to our next eminent leader,**

The Minister for Federal Affairs and Pastoral Area Development of Ethiopia, H.E. Kassa Tekle Berhan, who is ably representing the Ethiopian Prime Minister Dessalegn, is the former Speaker of the House of Federation. He has extensive experience in the federal political system and is a staunch supporter of the decentralized system. Ethiopia has well defined federal development programmes. This system of devolution of development and political power is well set in the constitution of the Federal Republic of Ethiopia. For the past three decades, Ethiopians have worked amidst great difficulties to make devolution a living and vibrant process and reality which Ethiopian people can and have utilized to rise from an undesirable socio-economic situation into modernization for sustainable development.

Federalism been a very engaging process, always redefining itself as it becomes a key part of the Ethiopian development process. Indeed it has faced complicated national, regional and local challenges that Ethiopia, as well Ethiopia's neighbours should benefit from. The Ethiopian experience is another rich load of devolved governance model from which we can draw many lessons, as Africa endeavours to self-develop from the rural settings upwards to its national and regional levels. The Turkana County, from where I originate, shares common ecologies, natural resource endowments, cultures and now expectations of development via devolution with Ethiopia. We hence look forward to his insights.

This is the type of experience Africa must learn and draw lessons from. Our distinguished Guest Speakers and African Leaders have the requisite reservoir of relevant knowledge and diverse experiences from which the Conference will draw useful lessons and on which Africa's construction in these new times stand to duly benefit from.

I also wish to heartily commend and applaud the organizing team and all the conference participants.

## **Your Excellency,**

This Third Devolution Annual Conference follows up on the First and Second Devolution Conferences held in Kwale and Kisumu Counties in 2014 and 2015 respectively.

The previous conferences passionately interrogated, and candidly examined our country's devolution system of governance in its network of operations in the county, the larger national and regional context within which it operates. Emerging issues were identified, debated and resolutions proposed. The conferences brought together representatives from both the county and national levels of government, Independent Commissions, Academia, Policy Practitioners, Civil society and the Media. We therefore intend to build up on the positive results of the two conferences and take pertinent lessons from them to help us set the Agenda for the next Annual Conference of 2017.

The overall theme of this conference i.e 'Celebrating Devolution' and the guiding theme 'The Promise of Devolution: Consolidating the Gains after Transition and Looking Into the Future' aptly captures the fact that the Devolution train has left the station and is on full steam and gathering speed hurtling ahead.

The sure and steady hands of captains of the devolution train are gathered here today to review and fine-tune the route map of this train. It is my hope and desire that during this conference we will further deliberate on the vexatious hurdles that may threaten devolution and come up with sustainable and concrete solutions. Ours is a journey of a thousand miles and we have just but taken the few tentative steps.

## **Ladies and Gentlemen,**

We definitely all know that devolution is one of the foremost key pillars of our Constitution and future prosperity, if not the most important. But even more fundamental, is that it is a complementary developmental process for our county. It seeks to harness the immense human and natural resources found in all our counties. By directly including *wananchi* at every level of crucial decision making, devolution system ensures that all efforts count.

We must have the audacity and congratulate ourselves as a country for taking a bold move by adopting this novel, all-inclusive, participatory and transformative developmental system.

I can confidently aver that the New Constitution and devolution system in particular are the most important matters of state and public affairs to have happened in Kenya after independence. Devolution has raised a lot of hope for our communities in Kenya that felt left out by the former overly centralist-top-down system of governance.

The architecture of this governance model is provided for in the Constitution and its implementation processes must therefore be all-inclusive and not separatist or stand-alone governance processes. As there is no ready-made formula in place to shepherd the process, there is need for creative, innovative and accommodating leadership in managing how it unfolds.

We are all tasked with finding our feet in this novel process and must hence keep on improving and re-designing how we operate to continually improve the system. Indeed, what we are doing today is akin to the launching of a rocket towards a point of rendezvous



that will help us plan for an engagement to help uplift our country to higher levels of development.

Today, we can say without any fear of contradiction that fundamentally, devolution;-

1. Has not only guaranteed but ensured that our 47 counties have significantly enhanced their human and capital resource bases for developmental purposes over the last 3-4 years;
2. Created diverse and massive opportunities for collaboration and partnership hence expanding their investment possibilities;
3. Established appreciation and created the need for working together thereby strengthening mutual and beneficial relationship between our country's two (2) levels of government.

### **Ladies and Gentlemen,**

It is imperative to appreciate that the bulk of development is currently shifting to the devolved units/counties. We must hence work for more inclusive programs and if necessary set new priorities, to be able to synchronize our developmental and service efforts and energies, at all levels of governance. These efforts should not in any way be construed to be in contradiction with Vision 2030. We are in effect, trying to expedite the process of actualizing Vision 2030. The leadership at both levels of government know our challenges and constraints, which often necessitate us to reach out to our friends and Development Partners to complement our efforts.

The involvement of all of us is a clear testimony that the devolution processes are cross-cutting in all the sectors both at the county and national Levels. Ultimately, I hope this conference and subsequent ones should be able to achieve the requisite generation of dynamic agenda and engagement approaches that have meaning, relevance and value to all Kenyans. It is hence imperative that we actively engage and make this Conference as open and participatory as possible.

### **Ladies and Gentlemen,**

The Kenya devolved system of governance though still in its infancy has captured the attention of the world as evidenced by the many delegations that come to study it.

We still however, have a long way to go to realize full fruition in terms of development outputs and quality service delivery in the implementation of devolution processes. Our successes and failures will be judged by both the gains we make and those we fail to achieve.

Devolution has empowered the people at the grassroots of our country in multiple ways. It is a process which has enabled majority of Kenyans to hold their destinies in their hands. Networks of new infrastructure have been put up in all the 47 counties. Bursaries which are meant ensure that all children attend schools with adequate learning tools have been enhanced. Formal and informal employment has shot up in the counties. Local and national security systems are being better built, intensified and finessed.



We have transitioned to devolution from a very stupefying centralist and monolithic governance system that literally sucked dry the will, dreams, aspirations and ambitions of Kenyans. We are moving from dependent thinking and planning to an independent system in a quantum leap!

As you are aware, the Transition Authority (TA) was primarily established to oversee the seamless transfer of devolved functions. It has endeavoured to do so successfully, and at the expiry of its term, over 90% of the functions specified in the Fourth Schedule of the 2010 Constitution have been transferred. However, there are still a number of technical assessment processes and critical functions that are yet to be finalized or devolved fully or have been partially devolved.

The successor of TA, the Inter-Governmental Relations Technical Committee (IGRTC), is already established to re-examine and vigorously undertake the outstanding transfer of functions, such as transfer of Counties' Assets and Liabilities. Towards this end, the Senate is fully supportive and will ensure that the enabling legislative and administrative interventions are taken expeditiously.

#### **Ladies and Gentlemen,**

The many challenges that remain unresolved and are affecting effective implementation of devolution shall have to be faced and addressed, such as:- lack of capacitated personnel, turf wars between the county executives and legislatures, misappropriation of funds, misplaced priorities, lack of public participation among others. Our people stand resolved to deal with them as devolution gets effectively achieved.

While the Senate can claim devolution as its baby, we are very much willing to nurse it communally in keeping with our African traditions of nurturing the young in common and universally.

It is my sincere hope and wish that this Conference will achieve and perhaps surpass its set agenda.

#### **Your Excellences, Ladies and Gentlemen,**

As I conclude I am proud to be associated with devolution which is a novel democratic and world-acclaimed governance system. It is a game-changer and perhaps the only effective way to mount inclusive development of countries. Very few countries afford their citizenry such generous latitude.

Kenya feels proud as one of the pioneer countries in adopting devolution. We have with us in this journey now other countries such as the Federal Republic of Ethiopia, the Republic of South Sudan and others in West Africa, etc.

Let me beseech you all to tirelessly join minds and bodies for Team Kenya.

In the devolution process, let us put Kenyans first. Leaders come and go, but Kenya will always remain. Your legacy as a leader will be what you help achieve for Kenya rather than what Kenya achieves for you.



Lao-Tzu, a Chinese philosopher aptly captured this idea best, when he wrote:

As for the best leaders, the people do not notice their existence. The next best, the people honour and praise. The next, the people fear, and the next the people hate. When the best leader's work is done, the people say, 'we did it ourselves!'

GOD BLESS YOU ALL. GOD BLESS KENYA.

GOD BLESS AFRICA.

I THANK YOU ALL

**RT. HON EKWEE ETHURO, MP**  
THE SPEAKER OF THE SENATE



**2016 DEVOLUTION CONFERENCE  
STATEMENT BY:  
MR. MICHEL BALIMA  
RESIDENT REPRESENTATIVE A.I.  
UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)  
CHAIR - DEVOLUTION DONOR WORKING GROUP**

**MERU COUNTY  
APRIL 19-23, 2016**

Your Excellency, the Honourable President of the Republic of Kenya;  
The Right Honourable Prime Minister of the Republic of Namibia;  
Honourable Chief Justice and President of the Supreme Court;  
The Honourable Speaker of the Senate;  
Our generous host, H.E. the Governor of Meru and Chair of the Council of Governors and the Vice Chair, H.E. Governor of Kwale County;  
Your Excellences, the Governors present;  
The Chairman of the Council of Governors;  
Cabinet Secretaries;  
Ambassadors; and all dignitaries present;  
People of the Republic of Kenya;

UNDP, as Chair of the Devolution Donor Working Group, is pleased to make remarks on behalf of Development Partners, many of whom are present here today.

Let me first begin with very heartfelt congratulations. Kenya may have achieved its independence in 1963 but it has been reborn through the Constitution of 2010; perhaps the most progressive constitution in the world and out of this constitution, Kenya's devolved system of governance was created. No other country I can think of has gone through so much transformation in the way it governs itself, and in such a short time. This massive transformation has come about with minimal disruption and with great benefit to the people of Kenya. I am honoured to be in a room with those who took the lead in making this change happen. Indeed, you deserve huge congratulations. *Hongera!*

Of course, there is a lot that still needs to be done and many challenges to overcome. Devolution is about change and change does not come easy. It requires enormous effort, teamwork, and, at times, a fighting spirit and willingness to tackle the most difficult of issues.



For devolution to be felt and have development impact, efficient service delivery is critical. This is what ordinary citizens care about. The delivery of equitable and efficient services requires proper planning, budgeting, and timely execution. An evidence-based approach is therefore needed to ensure that targeted communities are reached. This applies to all areas of development, social, political and economic – from infrastructure, water and sanitation, to emergency preparedness, food security, and nutrition – all sectors require better planning.

We see this today with ongoing cholera emergencies that will be unmanageable if proper planning for this and other future risk is not undertaken. Development Partners have provided training to counties on this and will be providing future planning and budgeting support for better and more equitable service delivery, including disaster risk reduction. Indeed let us remember that it is at the county level that SDG's will be implemented and achieved. As Development Partners, we will continue to work with County Governments to help the integration of SDGs into their planning and delivery.

Your Excellences, distinguished guests, the charter of the United Nations to which we have all subscribed, reflects three simple but critical truths: there is 'no peace without development' –there is 'no development without peace' – and there is 'no peace and development without human rights'. These are not slogans; they are realities whose interrelatedness has been demonstrated over the years. We have seen these realities played out in Kenya. Devolution creates opportunities for local indigenous conflict detection, prevention, and mediation mechanisms to flourish. Development Partners are working with various stakeholders at the national and county levels on conflict prevention and strengthening early warning mechanisms to stem cross and intra-county conflicts but more needs to be done, particularly as we prepare for the upcoming elections.

Elections are a special moment in the life of any country. Elections are foundational in deepening democracy and entrenching a country's development trajectory. This is exam time for politicians, where past policies, priorities and their delivery are tested. This is when citizens exercise their ultimate civic and political rights through public participation in a democratic governance space. The 2017 elections will also be a litmus test for devolution. These elections must be carried out peacefully and with integrity from all stakeholders at all levels, from the national to the counties. Development Partners are supporting many aspects of the electoral process, from addressing technical issues to promoting greater participation and the involvement of more women.

The involvement of women is something we should all be concerned about, as this goes beyond elections and representation. Just as there is no development without peace, there is no development without women and the inclusion of gender issues in development. Guaranteeing equitable access to services for all women and children, regardless of their location, is important for sustainable human development. Development Partners are working at county and national levels to help implement the preference and reservations dimensions in the public procurement and disposal act. This works towards advancing affirmative action in government procurement, ensuring opportunities for youth, women and persons with disabilities.

Investing resources to reduce gender inequalities is an opportunity for counties to realize the SDGs and County Integrated Development Plans. This includes reducing maternal mortality, improving education outcomes, reducing, HIV/AIDS infections, and reducing gender based violence. Better planning for all citizens can be realized by adopting gender responsive budgeting. Ultimately, all of this will contribute to driving inclusive economic growth in counties.

Kenya is now home to the largest youth population witnessed in its history. With about 65% of the population of Kenya below 35 years, both a great opportunity and a serious liability exists. Youth are a critical agent for positive socioeconomic change. Appropriate investments must be made to harness and unleash their power to innovate and become productive citizens; this could turn counties into economic powerhouses. However, youth can be agents of social unrest if uneducated, unskilled, unhealthy, and without skills for job creation and employment. As committed Development Partners, we look to deepen our engagement with counties in this important area.

Bringing governance closer to the people is what devolution is all about. Entrenching a democratic culture in counties through continuous civic education and public participation will promote inclusive governance. It will entrench the rule of law. It will promote respect for human rights. Together, this will create a sustainable foundation for devolution's long-term success and act as an enabler for greater social and economic empowerment.

In conclusion, distinguished delegates, all the achievements that devolution has already brought to the people of Kenya, and all of devolution's future promises, must be safeguarded. Key to this is the exercise of proper fiduciary control and the exercise of spending in an accountable, transparent and appropriate manner. Without this, citizens will lose faith in devolution.

As a UN Representative and Development Partner, I am proud of the role that the UN and other Development Partners have played in supporting devolution. I am impressed by the strength, intelligence, and perseverance shown by so many in this room in bringing Kenya's progressive constitution to life and taking on the challenge of creating an entirely new system of governance.

Devolution has brought great hope to the people of Kenya, hope for a better future through devolved governance. Development Partners stand willing and able to partner with counties and the National Government to address devolution's challenges and issues and ensure that the hopes and aspirations of Kenyans are realized.

***Asanteni sana.***

**MR. MICHEL BALIMA**

RESIDENT REPRESENTATIVE A.I.

UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)

CHAIR - DEVOLUTION DONOR WORKING GROUP



## ANNEX III: CLOSING REMARKS

### REPUBLIC OF KENYA



#### CLOSING REMARKS BY H.E. WILLIAM RUTO, DEPUTY PRESIDENT OF THE REPUBLIC OF KENYA DURING THE THIRD ANNUAL CONFERENCE ON DEVOLUTION ON 19<sup>th</sup> – 23<sup>rd</sup> APRIL 2016 IN MERU COUNTY

Governors,  
Cabinet Secretaries,  
Honorable Members of Parliament,  
Members of County Assemblies,  
Distinguished Guests,  
Ladies and Gentlemen:

I am honoured and privileged to address the Third Annual Devolution Conference, a platform for stakeholders in devolution to dialogue on critical issues concerning Kenya's devolved system.

Many countries across the world have decentralized power and resources but few have done it with such speed and alacrity as we have. It seems difficult to comprehend now, but slightly over three years ago, there were no Governors, County Executives, Senators, Senate, County Assemblies or MCAs. Today, they are an integral part of our political and administrative infrastructure.

Three years is sufficient time to identify what is working and what is not; it is sufficient time to gauge whether Devolution has been faithful to the aspirations of the people. Devolution may be new but its purpose is not. Devolution is about serving the people of this country better and faster and if we were to keep this principle front and center, little would go wrong.

There are success stories in this room—County Governments and leaders who have and continue to make a real and positive difference to their citizens. They provide proof of the concept.

But the truth is there are also painful stories in this room—County Governments and leaders who are doing a big disservice to the idea of devolution and trampling on the hopes of the people. There are manifestations of corruption and incompetence and we need to admit that these issues exist.

Devolution matters to the people of the country—this is a fact. They want devolution to work and we must deliver or they will get people who can. Delivery is the name of the game my

friends and while some hide behind political showmanship and big talk you cannot avoid facing the test of delivery.

The Constitution in Article 6 (2) provides that governments at both levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation. Further Article 189 (1) provides that the government at either level shall perform its functions, and exercise its powers, in a manner that respects the functional and institutional integrity of other levels

However, the Constitution, in its preamble, reiterates that Kenya remains one indivisible whole, thus our devolution is not based on the principle of absolute autonomy but on inter-dependence and cooperation. This is another principle that should guide us in what we do.

The end result of this combination is a cooperative system of government. The thrust of this principle is that both levels of government must function as a cohesive whole in order to achieve the aspirations of our people.

We have come a long way since the election; devolution has come a long way. We are here to ensure that it is even more successful and goes even further towards meeting the needs of Kenyans at the grassroots.

Let me re-affirm the commitment of the National Government to devolution and to fostering harmonious and consultative intergovernmental relations and capacity building at both levels of government for a better Kenya as enshrined in Article 6 of the Constitution.

Section 15 (2)(a) of the Sixth Schedule to the Constitution mandates the National Government to facilitate the devolution of power; and to assist and support County Governments in building their capacity to govern effectively and to provide public services. Section 121 of the County Governments Act 2012 provides for the National Government ministry or department responsible for matters relating to intergovernmental relations to provide support to County Governments to enable them to perform their functions effectively.

The National Government has lived true to this provision. It has done its part.

In this regard, may I take this opportunity to commend the cordial working relations between the National and County Governments. The spirit of engagement that exists between the National and County Governments is a prerequisite for faster social, political and economic development for this country.

Confrontation has no place in the relationship between the national and county levels of government; it is an unwelcome distraction.

### **Ladies and Gentlemen,**

I understand that many speakers have hailed the development dividend of Devolution witnessed so far. Counties are the new frontiers of development and economic growth. Devolving fiscal power has enabled local economies to grow in many ways. To begin with, County Governments now have additional staff, earning monthly salaries that are consumed locally, thereby increasing the volume of trade in every part of the country.



Secondly, under the devolved framework, counties now have the power to determine their own commercial policies as articulated in the County Integrated Development Plans, in which they can exploit their comparative advantages. County Governments are also statutorily required to allocate at least 30% of their annual budget to development expenditure.

In other words, each county is at liberty to determine its own destiny and define its own path of development. With devolution, counties have inched closer and closer towards prosperity that creates opportunities for participation across all demographics.

**Ladies and Gentlemen,**

Despite this notable progress, the implementation of the devolution process has not been devoid of challenges. Despite constitutional clarity on most issues, institutional stakeholders have been at odds with each other, particularly because of functions, mandates and even resources.

We have witnessed these contestations between the National Government and County Government; between the Senate and National Assembly; between County Executives and County Assemblies; between County Governments and Senate; and even between the various independent bodies with a mandate in devolution.

The contestation though a normal process of repositioning in a transition, can at times be misconstrued for instability and confusion. It is for this reason that we gather in forums like this to listen to each other and to seek solutions. This is in appreciation that although disputes may be unavoidable, the trick is how to resolve them: through consultation and cooperation.

I do acknowledge and appreciate that given the openness with which issues have been discussed here in Meru, the Third Devolution Conference will go a long way in fostering further dialogue between the two levels of government and all other key players.

**Ladies and Gentlemen,**

The primary role of government is to put in place infrastructural facilities, to promote a liberal environment, to encourage private initiatives, to establish a positive investment climate, to provide appropriate regulatory, legislative and policy environments and a fair, equitable and efficient tax regime. This is what the National Government has set out to do. As a Government we have also played a key role in shaping the development agenda of the country and by extension of the counties.

His Excellency the President has continuously demonstrated in word and deed the commitment of his Government to the success of devolution.

**Ladies and Gentlemen,**

The progress we have made in devolution so far as demonstrated by this conference's outcomes, and the progress I see here today, is an indication that we are moving together in the spirit of cooperation as well as partnership that will create more synergy amongst the two levels of government.





Renowned writer Stephen R. Covey wrote: “synergy is the outcome of a group collectively agreeing to subordinate old scripts and to write a new one.” Let us write a new script for devolution and the people to whom it matters most—the citizens of the Republic of Kenya.

Thank you and God Bless Kenya.

**H.E. WILLIAM RUTO**

DEPUTY PRESIDENT OF THE REPUBLIC OF KENYA

**REPUBLIC OF KENYA****CLOSING REMARKS BY HON MWANGI KIUNJURI****MINISTER FOR DEVOLUTION**

Hon. Ms. Jeannette Kagayo, Minister for Communal Development of the Republic of Burundi  
and the chair of the East Africa Local Governments Forum  
My Cabinet Colleague, Hon. Eugene Wamalwa  
Former Prime Minister, Hon. Raila Odinga  
Governors present,  
Senators,  
Our Development Partners  
Members of Diplomatic Corps,  
Members of County Assemblies, and the County Executive Members  
Distinguished Guests,  
Ladies and Gentlemen:

Mine is very brief. The presentations and the engagement throughout the three days have been great in demonstrating where we are as a country on delivering devolution.

After three years, we have reason to celebrate what we have achieved. My Ministry will do its best to reach out more and with determination to all players and key actors in devolution. I assure you once again that the National Government remains committed to devolution.

It is important for us to celebrate our achievements. Every journey has its challenges. These should not dim our achievements. Criticizing ourselves while useful must not become our major preoccupation.

I urge all of us to accommodate each other a lot more to deliver for Kenyans.

**HON MWANGI KIUNJURI**  
MINISTER FOR DEVOLUTION

**REMARKS OF RT. HON RAILA ODINGA; EGH AT THE CLOSE OF THE THIRD ANNUAL  
DEVOLUTION CONFERENCE  
21ST APRIL 2016**

**DEVOLUTION IS HERE TO STAY:**

Council of Governors Chairman H.E. Peter Munya;  
H.E. the Governors present,  
Members of County Assemblies,  
Members of the Houses of Parliament,

Let me begin with two assurances:

First, I am an unapologetic believer in devolution and I am proud of it.

Next, I want to assure all of you that devolution is here to stay.

Devolution is a baby we have to nurse and babysit to maturity despite its deformities.

We started down this new road only three years ago. It still has much to be done. It has many rough parts to be smoothed. It has many problems yet to be solved. But I have an enduring faith, and I urge you to share this enduring faith, that this devolution road is the right road.

It is the road to the future. It serves the interest of harmony. It is the road ahead to a better, more equal and more prosperous Kenya for all Kenyans. Any other road takes us only to the past.

Devolution carries our nation's prospects for a life in which citizens develop and pursue their aims, potential and ambitions to the fullest, without the constant interference and domination of big brother government in Nairobi.

But devolution is facing internal and external challenges.

County Governments must put their fiscal houses in order. They must reign in corruption and deal with the perception that they are the new centres of graft. According to the Auditor-General, counties are losing billions of much needed money through careless spending and disregard for procurement regulations. If reports by the Ethics and Anti-Corruption Commission are to be believed, almost every county has flouted tender rules and violated staffing guidelines. A number of counties are accused of favoritism, nepotism, tribalism and marginalization of regions or clans in recruitment and service delivery.

These are luxuries we cannot afford if the promise of devolution is to be fully realized. They are the reasons Kenyans asked to be released from the suffocating grip of centralized government. They must be left with the National Government where they currently have a cozy home.



But counties are not the sole authors of their problems. Nearly all counties are victims of the acts of omission and commission by the National Government. The National Government continues to hold onto devolved functions and the resources for implementing those functions. That is why the budgets of the National Government remain bigger than the combined budgets of the 47 counties in sectors that are already devolved.

The National Government continues to deploy its members as procurement officers for counties in contravention of the law. This is motivated by the need to continue with the old habits of using the procurement process to enrich a few people. It is possible that the corruption that has gripped county procurement processes is a carry-over from the National Government. Counties must be allowed to train and deploy their own procurement officers.

Counties are still inconvenienced by delayed and inadequate disbursement of funds by the National government. In some cases, County Governments are simply conduits for the National Government to steal money from Kenyans.

The procuring of equipment for health facilities is one such project. It was fronted as a project that was to be funded by the National Government. By the time the National Government approached County Governments it had already signed an agreement with suppliers for the lease of equipment for seven years. County Governments were then threatened into signing MOUs to accept this equipment. The public was fed with a lot of propaganda on how Governors were refusing to take free equipment for the county health facilities. Among the equipment that has been leased under this contract are scissors, trays, trolleys, tongs and similar tools that would be cheaper if they were purchased.

Come 2016, counties are now being forced to surrender Ksh 95 million to be deducted from their share of funds annually for seven years as the payment for the lease of these equipment.

Kenyans in every County have therefore been forced to lease equipment for Ksh665 million over 7 years; funds that they would never have elected to spend in this manner. This scheme is definitely a scandal.

The contract needs to be made public. A forensic audit of the process for budgeting and procuring this equipment needs to be done including the determination of the value for money.

To date, many counties have not fully received the billions that were allocated to fight El Nino last year. Here again, counties were used as conduits of the National Government.

Delays by the National Government to disburse funds to counties have particularly affected delivery of health services. But it is the Governors taking the blame.

I want to challenge the National Government to fully and ungrudgingly let go of devolved functions. The National Government must make its budgets reflect the goals, ideals and aspirations of devolution. The refusal by the National Government to let go of State Corporations whose functions have been devolved is frustrating County Governments. For instance, although agriculture is fully devolved, nearly all its parastatals remain in the hands of the National Government. The same applies in the health sector.

Institutions that ought to have died like the Provincial Administration are being revived and rebooted to compete and confuse the County Governments. The National Government is busy rebranding the old order instead of dismantling it. The money that the National Government is using to sustain duplicated functions could easily finance the operations of devolved units and ensure efficient, adequate and timely delivery of services by counties.

Despite these unending roadblocks, counties have made tremendous and unimaginable impact on our people.

Agriculture, a devolved function, has reemerged as the driver of the economy in the last two years. Healthcare, another devolved function, has recorded tremendous progress despite funding and staffing problems.

Even the National Government cannot deny that health care services were in shambles when counties took them over.

Everywhere there were too few hospitals and no drugs, no bedding and no beds. Some counties were able to construct and equip up to 20 hospitals, dispensaries and health centres within the first year. Ambulance services are now taken for granted in parts of the country where none existed for the last fifty years. The number of doctors has increased from about 3,000 three years ago to over 4,500 today.

With increased and predictable funding, agriculture and health sectors could easily meet and surpass expectations. Increased and predictable funding could easily see counties provide universal health insurance whose absence is confining many of our people to early graves because of unaffordable costs. Anybody saying that County Governments have done nothing is stuck in a regrettable past and wants to make Kenyans miss the future.

To help secure this future, I wish to appeal to our Senators who are the custodians of devolution, together with members of County Assemblies and the governors to end the unhealthy competition between them and work together to secure devolution.

The Senate must stand true to its role as the protector of devolution. Governors and Senators must extend hands of friendship and show unity of purpose for the remainder of their terms, even if they are going to run against each other in 2017. The National Assembly must join in friendship to enhance the new order instead of fighting it.

The National Government must also end its unhealthy war with County Governments. It is time the National Government gave Governors their rightful roles in the new Kenya.

We must accept Governors as the constitutional Chief Executives of the counties. The Chief Executive of the National Government, H.E. the President must accept this reality and forge and nurture a culture of consultation and not confrontation with Governors for the good of the nation. The National Government must stop seeing Governors as enemies to be subdued but as partners in the struggle for a better Kenya.

Finally, I wish to address a matter that is going to choke everyone if not tackled urgently and soberly; our uncontrolled borrowing.



In the 2015/2016 Financial Year, the National Treasury allocated Kshs 362 billion for debt repayment. This figure has risen to Kshs 433 billion in 2016/2017, an increase of Kshs 71 billion or 20 per cent in one year. At this rate, in five years, the country will be spending all the tax revenue on repaying public debts with nothing left for capital and recurrent expenditures. Sooner rather than later, debt service will take priority. This will mean less revenue share for counties and more trouble for devolution. Counties will suffer, yet they are not getting any shares of the borrowed money. Let's join hands and raise the alarm now. We have been flirting with disaster and we now seem to be embracing it in the name of debts.

Our salvation lies in strengthening the counties and making them an effective bulwark between the people and an ever-encroaching National Government that is determined to gather more power unto itself and to minimize and emasculate the functions of other organs and other levels of government.

Together, we have scored significant victories for devolution in the last three years.

But we must not live in the fading memory of those victories.

Let us join hands one more time, in this coming year and look ahead and anticipate successive new victories for devolution.

Let us not allow the fire we lit in 2010 to flicker and die.

Let us nurture the flames and ensure the future generations find not its ashes but its hope and promises.

Thank you all.

**RT. HON RAILA ODINGA, EGH**  
FORMER PRIME MINISTER, REPUBLIC OF KENYA

## ANNEX IV: CONFERENCE EVALUATION QUESTIONNAIRE



### COUNCIL OF GOVERNORS

#### POST EVALUATION OF THE THIRD ANNUAL DEVOLUTION CONFERENCE

#### QUESTIONNAIRE

The Council of Governors, the Ministry of Devolution and Planning, the Senate and other stakeholders are grateful for your participation in the Third Annual Devolution Conference. Kindly give us your feedback to help us on future planning.

### A. OVERALL SATISFACTION

#### 1. Was the conference useful to you?

Yes	
No	

#### 2. Please give an overall assessment of this conference.

	1	2	3	4	5
	Poor	Not Good	Good	Very Good	Excellent
Rating					

### B. GENERAL ASSESSMENT OF THE CONFERENCE

#### 1. What is your assessment on the following plenary discussions:

		1	2	3	4	5
		Highly Irrelevant	Irrelevant	Neutral	Relevant	Highly Relevant
Subtheme 1	Managing the territory, guaranteeing sustainable policies: Achieving unity in diversity					



Subtheme 2	The place of state corporations and regional development authorities and their effectiveness in our devolved system of government					
Subtheme 3	Resourcing County Governments to ensure sustainability of devolved functions					
Plenum 4	Progress on devolved functions and interventions for emerging challenges (Health, Agriculture)					
Plenum 5	Sustainable urbanization for transformative development					
Subtheme 6	Civic Education and its role in effective public participation					
Subtheme 7	Information and Communication Technology as an enabler for economic growth and development					
Subtheme 8	Mainstreaming of Sustainable Development Goals (SDGs)					
Subtheme 9	Corruption in Kenya: Measures to entrench integrity in public and private offices					

**2. a) Are you satisfied with the plenary approach? (Tick appropriate)**

Yes	
No	





**b) If NO which other approach would you recommend?**

**3. What is your assessment on the following aspects :**

		Poor	Fair	Good	Very Good	Excellent
a.	Facilitators					
b.	Moderators					
c.	Speakers					
d.	Time Management					
e.	Program Content					

**4. Who were your favourite facilitators/moderators/speakers/panelists?**

**5. Do you have any other ideas or suggestions on how to improve future conferences?**

**6. How did you hear about this year's conference?**

I.	Invitation Letter	
II.	Website	
III.	Newspaper Advertisement	
IV.	Radio Advertisement	
V.	TV Advertisement	
VI.	Social Media	
VII.	Other (specify)	

**THANK YOU FOR COMPLETING THIS QUESTIONNAIRE**



## ANNEX V: CONFERENCE EVALUATION RESULTS



### COUNCIL OF GOVERNORS

#### POST EVALUATION OF THE THIRD ANNUAL DEVOLUTION CONFERENCE

#### EVALUATION RESULTS

### BACKGROUND

The Council of Governors (CoG) in collaboration with the Ministry of Devolution, the Senate and other stakeholders hosted the 3rd Annual Devolution Conference from the 19<sup>th</sup> to 23<sup>rd</sup> April 2016 at the Meru National Polytechnic in Meru County. The main objective of the Annual Devolution Conference was to take stock of the progress made during the three years of transition. The overall theme was “Celebrating Devolution” with the guiding theme being “The Promise of Devolution: Consolidating the Gains after Transition and Looking into the Future”. This evaluation was conducted as part of the documentation of the conference to ensure ongoing improvement.

### INTRODUCTION

The evaluation results outlined here represent the views obtained from a sample of 152 participants, comprising 2.5% of all conference participants and thus representative of the estimated 6,000 attendants. This gives the margin of error for the responses to be 7.90% with a 95 % level of confidence. This is consequential from the following formula, where the sample size  $n$  and margin of error  $E$  are given as:

$$x = Z(c/100)^2 r(100-r)$$

$$n = N x / ((N-1)E^2 + x)$$

$$E = \text{Sqrt} \left[ \frac{(N-n)x}{n(N-1)} \right]$$

Where  $N$  is the population size (6,000),  $r$  is the fraction of responses that you are interested in, and  $Z(c/100)$  is the critical value.

This calculation is based on the assumption of Normal Distribution and non-bias in the distribution of the questionnaires and response from the participants.

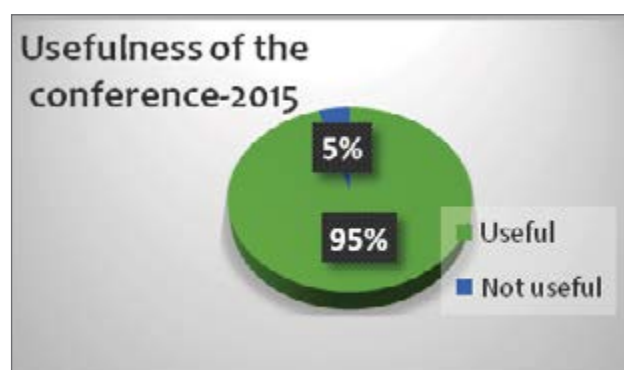
#### A. Overall Satisfaction

The aim of the evaluation exercise was to capture the perception levels of the participants in terms of their day-to-day experience during the conference and general rating based on all aspects of a successful event of that stature.

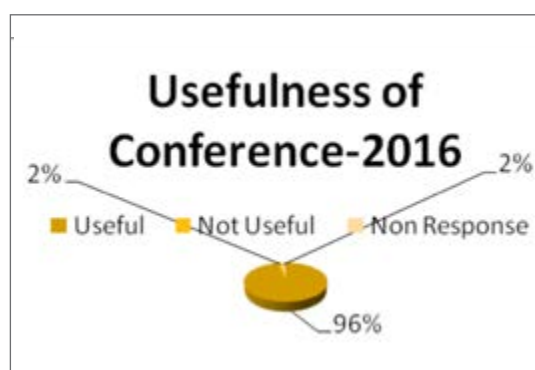
Ideally, the conference was to serve as a forum to take stock of the milestones that have been achieved thus far in the devolution transition period and establish pending work (if any), as well as to make recommendations on how to handle what should have been accomplished but was not. At the same time, the Conference was meant to provide a good opportunity for appreciating the challenges that have confronted the devolution process.

The conference afforded a forum for the National and County Governments to create a platform for constructive engagement, identify key challenges and jointly develop mechanisms for remedial action. At the same time, the conference provided an opportunity for exchanging learning experiences from other countries with sub regional governments, including Slovakia, Namibia, Ethiopia and Burundi. The vision was for an informative conference that builds shared experiences and thus culminates in the development and reinforcement of the values and principles of devolution among the participants.

Based on the foregoing parameters, 96% of the participants were in agreement that the conference had been useful to them. This is a 1% improvement on the previous conference response. This can be attributed to various aspects such as reduction in number of plenary sessions from 12 to 9 as well as distribution of a more detailed programme (with speakers' profiles), documentation of myths and facts, publication of a conference magazine and increased involvement of international participants. These aspects were not captured as well in previous conferences.



2015 Response



2016 Response

The overall conference rating was at 3.69 points, marking a 0.04 point drop from the previous conference rating of 3.73 points. In spite of the drop, this is still an indicator of a successful conference right from planning to actualization. However mitigation on aspects that contributed to the overall drop in the conference rating is needed. Such measures may be taken in the areas of:

- relevance of information to needs of participants,
- presentation quality of panelists and speakers,
- contribution from the audience on deliberations,
- subject matter knowledge of speakers,
- conference facilities, and
- the overall coordination of the workshop.

## B. General Assessment of the Conference

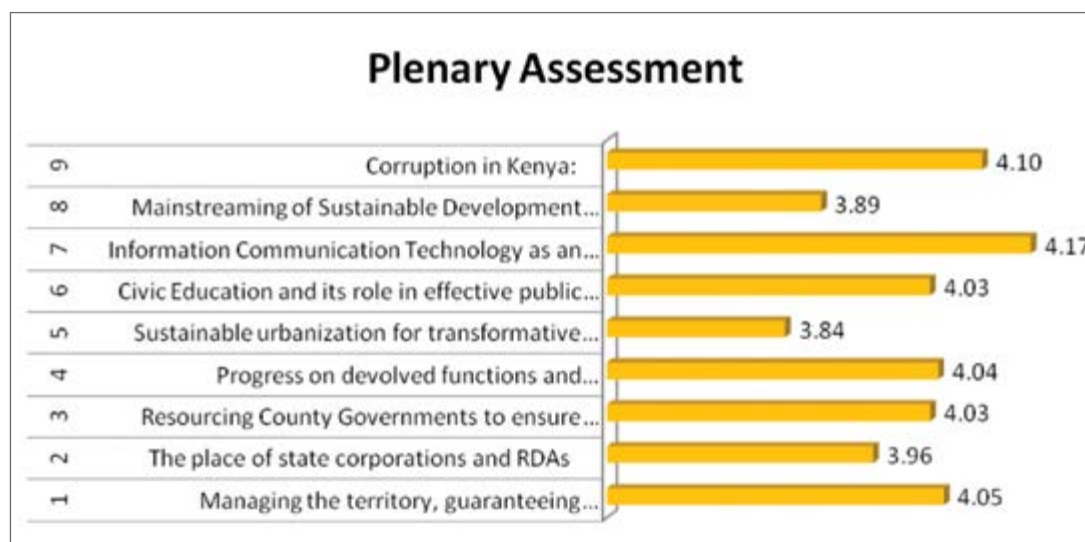
The following were objectives of the conference:

1. To take stock of the accomplishments made in the transition period and establish pending work (if any) and make recommendation of how to handle what was should have been accomplished but was not;
2. To celebrate and share the emerging lessons and best practice by both levels of government.
3. Examine approaches that were used to empower citizens while delivering the devolution promise;
4. Share experiences, challenges and solutions from countries that have a similar or near-similar model of devolution, including those that may be considering one, and have important experiences with other types of devolution, decentralization or federation;
5. To identify opportunities for technical cooperation in strengthening institutional capacity for devolution.

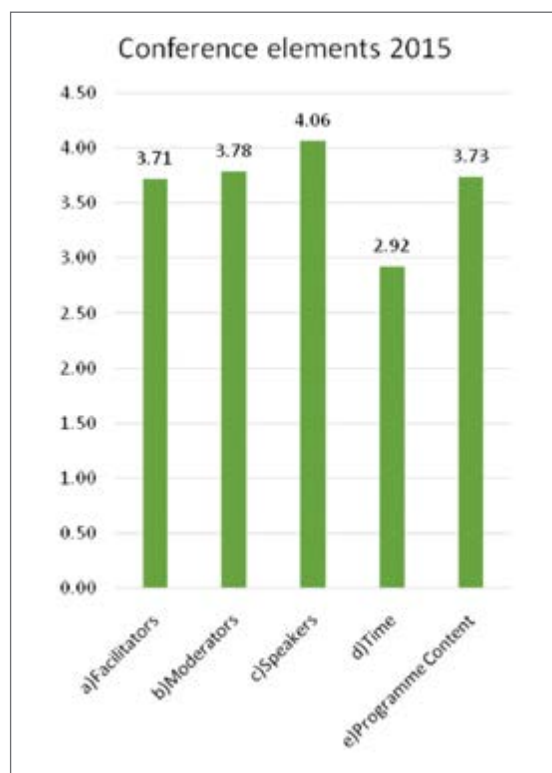
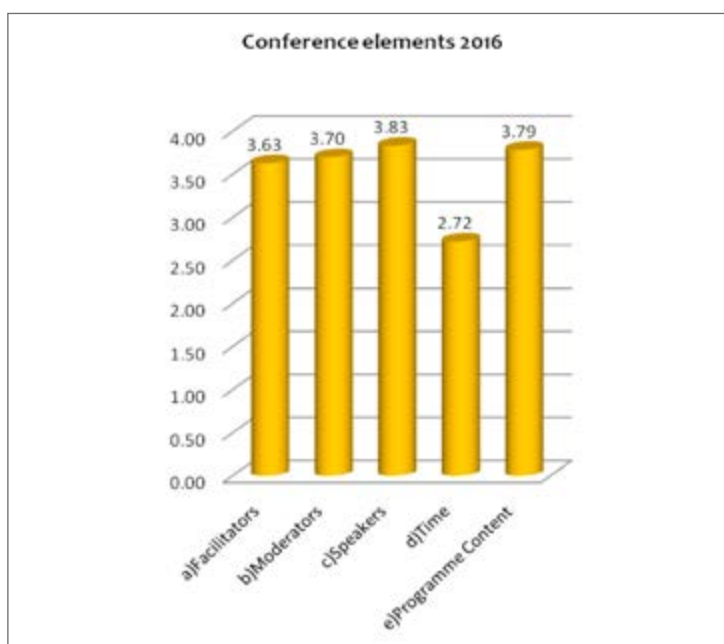
These were to be achieved based on a plenary approach which involved:

- A speaker with technical knowledge on the specific area to guide the trail of discussion.
- Panelists who were guided by the moderator to answer questions on the different aspects in the plenum.
- Questions to the panelists from the audience.
- Input of the recommendations from the plenary sessions to the overall conference communique.

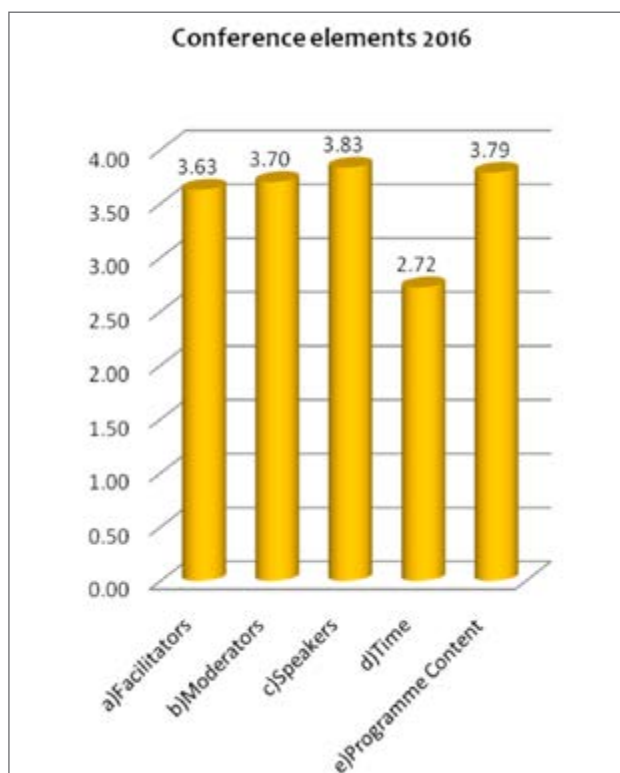
Out of the 9 plenary sessions, 8 took place as envisioned. This was an improvement from the previous conference where only 12 subthemes were actually discussed out of the expected 14. However it is imperative to note that the one plenary that was left out: *Managing the territory, guaranteeing sustainable policies: Achieving unity in Diversity* was captured in the remarks by the participants in both the opening and closing ceremonies.



An assessment of the plenary sessions indicates that Information Communication Technology had the highest rating at 4.17 followed by *Dialogue on Corruption in Kenya* at 4.10. This was followed closely by *Managing the territory, guaranteeing sustainable policies: Achieving unity in Diversity* at 4.05, while *Sustainable Urbanization* had the lowest rating at 3.84. Largely the participants felt that all plenary sessions were relevant and the approach was favoured by 83% of the participants, with only a few preferring parallel breakout sessions. This was an improvement from the previous conference where 77% of the participants had favoured the plenary approach.

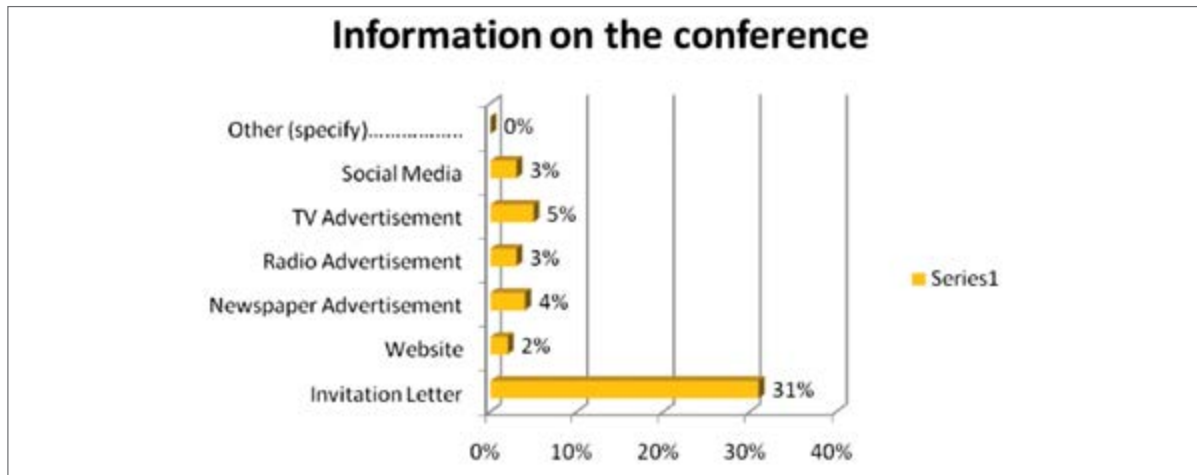


2015 Rating



2016 Rating

There was generally a good rating across all the conference elements: Facilitators, Moderators, Speakers and Programme Content. Time registered the lowest rating at 2.72 with Speakers having the highest rating at 3.83. However there was a general drop in the rating of all the conference elements compared to last year.



31% of the participants acknowledged receipt of an invitation letter as being key to access to information on the progress and resulting attendance, a further 5% accessed information through TV advertisement and 4% through newspaper advertisement. From the outlying trend of responses, it is clear that a coordinated combination of approaches is essential for publicity and creation of awareness about the conference.

### Way Forward/ Recommendations

The following were some of the key suggestions from the conference:

- There is need for improvement in coordination of registration with participants suggesting that this should be done by the CoG Secretariat in collaboration with the respective County Governments.
- There is need for allocation of sufficient conference materials, including bags, notebooks, pens, etc.
- There is need for greater involvement of all stakeholders particularly from the National Government to respond to sectoral issues and also Senators, MPs, MCAs and the general public.
- There should be greater inclusion of topics touching on Youth and Climate Change, among other emerging issues.
- There is need for an interactive session with the public to enable the free airing of views. At the same time, more time should be allocated for intensive discussions and audience interaction.
- There is need for the conference venue to consider a County with better developed hospitality and conference infrastructure to ensure adequate accommodation and catering for the delegates.

### Conclusion

From the responses analyzed, it is evident that the participants benefitted from the conference. The plenary approach is well appreciated and should continue. However, it is imperative that the suggestions outlined be taken into account in the organization of upcoming conferences.

## ANNEX VI: CONFERENCE COMMITTEE MEMBERS

	NAME	COUNTY/ ORGANIZATION
1.	Jacqueline Mogeni	Council of Governors
2.	Judy Oduma	Council of Governors
3.	Mukami Mbogo	IRI
4.	Jack Muriuki	Ministry of Devolution and Planning
5.	Sharon Makena	Council of Governors
6.	Isaac Githui	Ministry of Devolution and Planning
7.	Laura Chao	Council of Governors
8.	Nkatha Koronya	Council of Governors
9.	Yvonne Ogwang	Council of Governors
10.	David Wanjohi	Council of Governors
11.	Elizabeth Wambui	Council of Governors
12.	Samuel Mulu Mutisya	Council of Governors
13.	Meboh Abuor	Council of Governors
14.	Victor Odanga	Council of Governors
15.	Hilda Were	Council of Governors
16.	Atuti Martin	Council of Governors
17.	Solomon Mpapale	Office of the President State Functions
18.	Jerry Muma	Council of Governors
19.	Duncan Kibani	Council of Governors
20.	Ambasa Oketch	Council of Governors
21.	Phanuel Ojwaya	Council of Governors
22.	Ronald Ng'eno	Commission of Revenue Allocation
23.	Anne Mukii	Real image
24.	Dominic Kisavi	Kenya Police
25.	Luther Chepkwony	Ministry of Devolution and Planning
26.	Judith Jepkemei	Council of Governors
27.	Barbara Kawira	IDLO
28.	Stella Ondimu	Council of Governors
29.	Feisal Rashid	Council of Governors
30.	James Kamau	Council of Governors
31.	Luther Chepkwony	Ministry of Devolution and Planning
32.	Kavata Musyoka	Senate
33.	Mercy Mutemi	Senate
34.	Musa Guya	Council of Governors
35.	Sylvia Kerubo	Council of Governors
36.	Rosemary Njaramba	Council of Governors
37.	Christine Sagini	Senate
38.	Festus Omariba	Council of Governors



	<b>NAME</b>	<b>COUNTY/ ORGANIZATION</b>
39	Robert Kiteme	Council of Governors
40	Gladwell Gachina	Council of Governors
41	Livingstone Mukosi	Council of Governors
42	Dora Wawuda	Council of Governors
43	Sharon Kirgiren	Council of Governors

## ANNEX VII: CONFERENCE SECRETARIAT

<b>NO</b>	<b>NAME</b>	<b>ROLE</b>
1	Prof. Karuti Kanyinga	Conference Facilitator
2	Prof. Patricia Kameri-Mbote	Conference Facilitator
3	Gabriel Ndung'u	Secretariat Member
4	Maureen Gitonga	Secretariat Member
5	David Wanjohi	Secretariat Member
6	Judy Oduma	Secretariat Member
7	Mulubi Asiligwa	Rapporteur
8	Migide Jacquie	Rapporteur
9	Barbara Shiko	Rapporteur
10	Florence Akello	Rapporteur



## ANNEX VIII: CONFERENCE PARTNERS



COG | MODP | SENATE



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FOR DEVOLVED INSTITUTIONS



