



TRANSITION AUTHORITY

**Report of the Consultative Forum
between
Transition Authority and the Senate**

Theme:

***DEVOLUTION: TAKING STOCK OF THE MILESTONES AND
ADDRESSING THE EMERGING CHALLENGES***

**Serena Beach Hotel, Mombasa
19th and 20th June, 2015**



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Figure 1: Senate and TA Retreat on 19th TO 20th June 2015 in Serena Beach Hotel, Mombasa



Figure 2: Senator Prof. Kithure Kindiki reading Communiqué of the Senate at the end of the retreat

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EXECUTIVE SUMMARY

This report captures the deliberations and discussions of a two-day forum between the Senate and the Transition Authority held at the Serena Beach Hotel, Mombasa, on 19th and 20th June, 2015. The main objective of the forum was to assess and take stock of the progress as pertains to the transition process to devolved governance. The Constitution of Kenya 2010 and the Transition to Devolved Government Act provide for a three-year period of transition to county governance. During this period, the Transition Authority was mandated to take various measures to facilitate the smooth transition to devolved governance. With less than a year to go for the set transition period, it was necessary to examine the progress and have a realistic plan and way forward regarding the transition to devolved government.

At the forum, there was consensus that the Transition Authority had made remarkable progress in the execution of its mandate. The main achievements included facilitating the governors to assume office, undertaking an analysis and unbundling of most of the devolved functions, Gazettement and transfer of functions, putting in place systems and measures to transfer assets and liabilities, developing tools and materials for civic education, among other successes.

However, it was also clear that there were many pending issues that needed to be tackled before devolution can be completed. These include the costing of functions to facilitate the national and county budgeting process, transfer of remaining functions to county governments, enactment of critical pending legislation to facilitate county governance, completion of the process of rationalisation of national and county human resource, among other major pending issues.

The forum, therefore, provided a platform through which the Senate and the Transition Authority could review the progress thus far and chart a way forward on the transition to devolved governance. During the two day forum, it also emerged that there were various challenges facing the implementation of devolution. Devolution had come under threat from both internal and external forces hence the need to strengthen institutions mandated to protect devolution to enable them address these challenges.

At the end of the consultative forum, the Senate and the TA came up with several action points on various issues which can be classified into six areas—

- (a) Measures to strengthen the role and effectiveness of the Senate.
- (b) Measures to strengthen governance and accountability at the county level.
- (c) Measures to strengthen links between the Senate and the counties.

- (d) The way forward on civic education and public participation.
- (e) Strengthening the role and effectiveness of the Transition Authority.

A. Measures to strengthen the role of the Senate

At the end of the deliberations, the forum resolved that:

- (a) The Senate will, in accordance with its recent resolution, set up a select committee that will study and recommend ways in which its role in protecting devolution can be enhanced.
- (b) The Senate will explore the possibility of amending the Constitution to expand its legislative role as pertains to all Bills tabled in Parliament.
- (c) The Senate will also clarify the nature and extent of its oversight mandate over resources that have been allocated to the counties.
- (d) The Senate will take measures to strengthen its secretariat in order to ensure scrutiny of policy documents and Bills from the Executive and proper engagements by its respective committees on matters of devolved governance.
- (e) The Senate will initiate an assessment of the impact of devolved funds at the ward level across the country and this will form the basis of recommendations to strengthen the effectiveness of funds allocated to counties for service delivery and development.

B. Measures to strengthen governance and accountability at the county level

It was resolved that the Senate will:

- (a) Consider further measures that will strengthen the County Assemblies to perform their oversight functions over the county executive.
- (b) Consider the reintroduction of legislation to improve on the qualifications of MCAs with a view to improving the quality of people elected to the offices in the 47 county assemblies. This will improve quality of debates and passage of Bills in County Assemblies.
- (c) Approach existing watchdog agencies to check on the corruption issues at the county government level including the possibility of legislation on lifestyle audit as a means of ensuring accountability.
- (d) Ensure that there is ethnic diversity in the recruitment of county staff, in line with the requirement that counties should employ at least 30 percent of staff from outside the regions to ensure integration.
- (e) The Senate together with relevant institutions should develop measures to ensure accountability in the manner in which revenue raised locally by counties is utilised.

C. Relationship between senate and counties

The forum resolved that:

- (a) The Senate and the Transition Authority will convene a forum that brings together the Council of Governors, Senate and County Assemblies to deliberate on ways of ensuring effective consultation and cooperation.
- (b) The Senate together with the Transition Authority will carefully consider and analyse the debt portfolio with respect to allocations to county governments and make appropriate proposals regarding debts that were incurred by the former local authorities.
- (c) The Senate and Transition Authority will conduct an audit on the implementation of IFMIS in all counties as a measure to curb corruption and misuse of funds and improve efficiency in financial management.
- (d) The Senate will follow up with relevant national institutions to ensure prompt and timely transfer of funds for service delivery and development to the counties.

D. Civic education and public participation

The forum noted that there is a dire need to roll out civic education on devolution in order to ensure effective public participation in devolved governance. In this regard, it was resolved that:

- (a) The Transition Authority and Senate should provide leadership in developing and implementing civic education on devolved governance.
- (b) The materials prepared by the TA should inform the content of civic education and should be disseminated.
- (c) Civic education should be carried out in a manner that is objective and should not be hijacked for purposes of partisan political campaigns.
- (d) The Public Participation Bill which is with the Legal and Human Rights Committee of the Senate will play a critical role in ensuring effective citizen involvement and should be fast-tracked.

E. The role of the Transition Authority

The forum noted that there are many pending critical tasks that the Transition Authority is yet to undertake and the time remaining may not be adequate to address all the issues. It was therefore resolved that:

- (a) The Senate should consider the way forward regarding the pending tasks of the Transition Authority vis-à-vis the remaining period and take

measures which may include extending the mandate of the Transition Authority.

- (b) The Senate will summon Cabinet secretaries for the Ministry of Devolution and Planning and the National Treasury to follow up the funding needs for the Transition Authority.
- (c) All reports of the Transition Authority should be tabled before Senate including those tabled at the Serena Beach forum.

F. Other transition questions

The forum discussed other relevant issues of devolution and resolved that:

- (a) The Senate, through its Devolution Committee, will summon the Cabinet Secretary in charge of Devolution to get a brief on the status of the devolution policy.
- (b) The Senate, together with the Transition Authority, will review the national government budget estimates with a view to establishing the functions and funds that are devolved under the Constitution but still held at the national level.
- (c) The Transition Authority will forward to the Senate individual county reports on assets and liabilities for further follow up in the respective counties.
- (d) The Senate and the TA will consult with relevant national government agencies to ensure that there is a comprehensive process of capacity building that has been put in place.
- (e) Senate, through the Devolved Government Committee, should fast-track the publication and passage of the Urban Areas and Cities (Amendment) Bill, 2015.
- (f) Senate should ensure hiring of staff is carried out in such a way that there is correct job placement for better service delivery in counties.
- (g) Senate should establish the status of the guidelines for the abolition of the provincial administration.
- (h) Senate should pursue the restructuring of Parastatals to ensure they operate as arms of county governments where relevant given their budgetary allocations.

CHAPTER ONE

DAY ONE PROCEEDINGS

1.1 Introduction and Opening Remarks

Prof. Margaret Kamar (Consultant) started by setting out the broad objectives of the forum. The two-day forum was meant to take stock of milestones and emerging issues regarding constitutional implementation. She noted that there were many challenges that were emerging regarding the implementation of the Constitution that needed to be discussed. She noted that stock-taking activities should be frequent as the country was midstream in the period given to implement the Constitution fully, yet there were many challenges so far witnessed. The forum was to help highlight the challenges and the pending work ahead of dissolution of Transition Authority (TA) in March, 2016. Ultimately, it would be the Senate to decide TA's fate, she said.

1.2 Remarks by Mr. Kinuthia Wamwangi, Chairman, TA

At the forum, the TA was to update Senate on the devolved functions and discuss emerging issues to ensure that the implementation process was more focused. The forum also provided a platform to analyse the lessons and experiences on devolution shared and seek a concrete way forward for the remaining period.

In his opening speech, Mr. Kinuthia Wamwangi (TA Chairman) requested Senators to give adequate attention to the consultative forum so it could achieve the set objectives. Over the two years, Mr Kinuthia said, TA had struggled to midwife transition together with other stakeholders as per law and dictation of circumstances. He highlighted some of the efforts made such as: the first meeting with women legislators in 2013, which provided input to find out how TA could work together with them to steer devolution and TA and Senate meetings on various aspects of devolved governance. The Serena Beach meeting, although it had objectives similar to the Kwale forum held on 24th – 27th October, 2013, came at a different era when there were new challenges to devolution, including inadequacy of technical people. He said the new challenges had posed a threat but observed that there was public confidence in devolution by government. He said there had been great government efforts to support devolution although there were major challenges on the way. These called for efforts from all stakeholders. The chairman noted that the Senate was one of the vocal institutions against the disbandment of the TA when the proposal was tabled in Parliament.

1.3 Remarks by Mr. Jeremiah Nyegenye, Clerk of the Senate

In his opening remarks, Mr Jeremiah Nyegenye welcomed everyone to the two-day forum and noted that it provided an opportunity to review progress and most importantly, to chart the way forward given the remaining period of the transition. There are challenges to the implementation of devolution including anti-devolution forces that seek to frustrate its implementation. He said, the Senate has stood up firmly against such forces and had sought to protect devolution against such forces. In this regard, the Senate had worked well with the TA in ensuring that the transition is smooth. The Clerk noted that the meeting was the second forum of its kind after the first that was held between the TA and the Senate in October 2013. The Clerk said that the Senate had, at an institutional level, contributed to the development of the capacity and effectiveness of county assemblies. The Senate had sent part of its staff to various counties to assist in setting up effective administrative processes for the county assemblies. Specifically, there were staff members of the Senate who were serving as clerks to the various county assemblies as part of legislative support. The Clerk promised to continue working with the TA and other relevant organisations to promote the achievement of the objectives of devolved government.

1.4 Remarks by Sen. Mutula Kilonzo

Sen. Mutula Kilonzo, representing the Senate Minority Leader (Sen. Moses Wetangula), made his opening remarks touching on a variety of issues. The good news from the TA, he said, was that devolution was here to stay but there were enemies of devolution who had regrouped. The enemies were undermining institutions with a mandate to protect devolution such as the TA and the Senate.

He said the decision to deny senators the KShs. 1 billion meant for oversight was part of the ploy to undermine and defeat devolution. There are many functions which have been devolved to counties but were still being performed by national government institutions. Article 187 of the Constitution requires functions to be transferred together with accompanying funds. He said the TA needed to voice its concerns regarding resources that were yet to be transferred to the county governments. Senators were individually and collectively committed to fight for devolution and the long term responsibility to safeguard devolution lay with the Senate. The Senator ended his speech with a quote from Abraham Lincoln on slavery in 1858: *"A house divided against itself cannot stand. . . . I do not expect the Union to be dissolved; I do not expect the house to fall; but I do expect it will cease to be divided. It will become all one thing or all the other. . . ."*

1.5 Remarks by Sen. Prof. Kithure Kindiki

Sen. Prof. Kithure Kindiki, the Senate Majority Leader, started his opening remarks by noting that the public was asking whether the vision they had has

been realised or abandoned. We, therefore, need to ask ourselves the extent to which the vision Kenyans had has been realised. We need to further ask ourselves who were the people responsible for torpedoing the vision and what can be done to keep on track with the implementation of the vision. We need to be clear on specific issues and challenges such as the critical issues regarding the transfer of functions and misinformation and excuses given for delaying such a critical process.

The detractors need to realise that the vision set by Kenyans cannot be renegotiated. The Majority Leader cited the example of attempts to reverse health functions to the national government as one of the challenges and resistance to devolution. Instead of thinking about taking back what had been devolved, he said, we need to ask what more functions can go to the counties because “we can only negotiate further devolution” and not reversals. Counties are spending money to pay staff transferred from previous governments without an evaluation of the human resource needs for the counties, he said. There was need for the costing and analysis of functions and to determine whether counties have funds to perform the functions devolved to them. A lot of resources were being held at the national level by the national government which needed to be devolved to the counties.

Prof. Kindiki said the freeze on the disposal of assets and liabilities that was issued by the TA was not obeyed by government institutions. There was also a need for a thorough audit of the assets and liabilities of county governments. The Senate and other relevant institutions should also assess and review Chapter 11 of the Constitution in order to determine whether the required legislative framework has been put in place.

Noting that Kenya today was at crossroads, the Senator said the country was looking for leadership. What started as a transformation in terms of reordering transition has been hijacked by two major threats. The first threat was from centralists (those who advocate centralised resource allocation and powers) and the second was an emerging threat from people who misappropriate resources that have been allocated to county governments. The role of the Senate was to be a watchdog to protect devolution against both the external and internal threats. The Senate should lay its emphasis on oversight of resources that are allocated to county governments. The Senate should supplement the efforts of members of county assemblies and other institutions that are mandated to ensure accountability in the use of public resources.

1.6 Remarks by Hon. Ekwe Ethuro

Hon. Ekwe Ethuro, the Speaker of the Senate, made his key note address and recognised the efforts that went into organising the forum. He appreciated the high attendance of the Senators and noted it demonstrated the seriousness with which the Senate took its duties. The Senate identified with the concerns that were raised regarding devolution. However, the speaker also noted that this was

a call on the TA, Senate and other institutions to work and put more effort to protect devolution. The Speaker assured the TA that the Senate will give support to the TA in the performance of its work.

He said the issue of transfer of functions was very critical to the work of the House. Senate visited counties and made various reports and recommendations regarding the devolution of functions. It was important to have follow-up mechanisms to ensure that the recommendations were implemented by the concerned state agencies. The cost of functions that were devolved should also be evaluated as well as the staff restructuring that is necessary in order to ensure effective performance of functions.

The issue of disputed county boundaries was also a major concern to the Senate. The Senate will assess the counties with boundary disputes and recommend appropriate action. Many members of the Senate are devolution experts and can provide advice in all of these critical areas.

The Speaker raised concerns regarding the trivialisation of issues by the media such as the fight against corruption. While there is emphasis that the Senate and governors should work together, there is a need to ensure proper accountability and the Senate should play its proper role on this matter. In this regard, a monitoring and evaluation process, similar to that of the Constituency Development Fund (CDF) should be put in place to evaluate the use of national resources that are allocated to county governments. The Senate was ready to consult with all the relevant institutions to ensure accountability and overall effectiveness in devolved governance.

CHAPTER TWO

PRESENTATIONS AND DISCUSSIONS

2.1 Devolution under the 2010 Constitution—Vision, Reality and Lessons Learnt

Dr. Mutakha Kangu, a constitutional law and devolution expert, started by making a clarification that his presentation was to focus on the role of the Senate since the forum had the representation and participation of the Senate. Dr. Kangu commenced his presentation by noting that devolution was a major aspect of the Constitution and devolved governance was perceived as a centre piece and the most transformative aspect of the Constitution. Two years down the line, there were good strikes made including the fact that the people of Kenya have owned the system. It will be difficult to roll back the gains. While Kenyans may have set their expectations too high, the tilting of the balance of power - if nothing else is achieved - will still be a big accomplishment.

Devolution was put in place to promote democracy and accountability, development and service delivery, equity and inclusiveness, etc. Although the system is transformative, it is also complex and contentious. There are many people and institutions that are involved in its implementation but against a controversial history. Main challenges include:

- Ensuring that there is a common understanding of the design and functioning of the system by everyone;
- Change from an adversarial way of carrying out business to the cooperative way that is envisaged in the Constitution;
- Mutual understanding and respect of the role and place of other institutions;
- Understanding and respecting the functional distribution;
- Understanding and respecting the fiscal and financial system; and
- The management of human resources during transition.

Distribution of resources is relevant to the Senate since the Senate has a critical role to play. The determination of revenue that is shared nationally should be broad-based and should encompass all resources including money that have been obtained through government borrowing. The *Commission on Revenue Allocation Act* should, thus, be reviewed to reflect this arrangement.

The Senate's legislative role is focused on laws that affect counties and this can be widely interpreted to cover most laws in Parliament and the Senate can participate in almost all the Bills brought before the National Assembly. In this regard, the Senate needs a strong secretariat support to enable it scrutinise

legislation and determine the role of the Senate. There is, therefore, no basis for the ministries to exclude the Senate and present Bills sponsored by the executive to the National Assembly only.

The Senate plays a critical role in oversight. While the Senate's powers and functions relate mostly to county governments, its oversight role should also be focused on national government. For instance, there are many decisions that are made by bodies such as the TA and the CRA but which national ministries ignore. The Senate can also ensure that funds allocated to county governments are promptly remitted to the counties.

While the Senate has a general oversight power under Article 96 (3), there is likelihood of conflict with that of county assemblies. The Senate should, therefore, use its oversight power to strengthen county governments and this means that its oversight work should mainly concern national institutions whose core functions impact on county government functioning.

Since the Senate carries out important functions that have an impact on counties, it is important that the Senate and county governments have mechanisms of cooperation and consultation. While the County Development Boards could have provided this forum, their constitutionality was challenged before courts of law. There is need to explore other mechanisms of cooperation and consultation in order to ensure productive linkages between the Senate and counties.

2.2 Independent Evaluation of Status of Devolution

Prof. Margaret Kamar started her presentation by reiterating the objective of the meeting which was to take stock of the process as well as the challenges facing implementation of devolution. The Kenyan public has expectations regarding devolved government and this enjoins institutions to work in cohesion to ensure devolution succeeds. The Senate has demonstrated willingness to promote the effective implementation of devolution and is ready to assist with some of the challenges facing counties. The Senate should take interest in the quality of governance and processes at the county level. While resources should accompany functions, the Senate must have an oversight role over funds that have been allocated to counties for performance of functions in accordance with the Constitution.

Prof. Kamar pointed that beyond the counties, the Senate has a duty to support the Transition Authority to enable it to perform its functions. The TA has faced challenges in the performance of its functions and the Senate has not been effectively supporting the cause of TA. After her presentation Prof. Kamar, the lead facilitator opened the floor for discussion.

2.3 Plenary Discussions

Sen. George Khaniri reiterated that the Senate has been steadfast in its role and has not waived at any point in time. He queried Dr. Kangu's opinion about the

County Development Boards whose constitutionality was challenged in the courts.

Sen. Zipporah Kittony thanked Dr. Kangu whom she noted was well known through his participation in the constitutional review process. The Senator noted that Senators were already “converted” and Dr Kangu’s message should be directed to other players who were resisting implementation. She noted that devolution was here to stay and that the TA should be facilitated to continue with its functions.

Sen. Onesimus Kipchumba Murkomen noted that Dr. Kangu played a central role in the designing of the institution of Senate. However, he had a different view from that of Dr. Kangu on the nature and extent of the oversight role of the Senate over counties. The Senator was of the view that Senators had a direct role to play in the oversight of county governments. Senate has grown and understood the process and was ready to make contributions.

Sen. Prof. Anyang Nyong’o referred participants to the publications by the TA that were distributed to the forum. He made reference to one report that has explained the status of transfer of functions and which should be used as a basis for further action plans on devolution. The Senator requested the TA to develop an instrument that senators can use to oversight the impact of county budgeting on the ward level. How does the money transform wards as the smallest units of development? While the village level is the lowest level below wards, only the ward level is intended to have service delivery capacity. Accordingly, a ward level assessment will be more appropriate for an assessment. Such a survey will assist the Senate in its oversight work over revenue allocated to counties.

Sen. Paul Sang also had a different view on the nature and extent of the oversight role of the Senate. He stated that senators had a role of oversight on the manner in which governors use funds allocated to county governments. He posed a question on whether the oversight role includes impact assessment.

Sen. Paul Njoroge raised concern on the pace of transfer of assets and liabilities to county governments. He noted that the Senate had requested for funds to carry out oversight on counties and the National Assembly did not approve the funds. In his view the TA has not been very vocal on the frustrations that the Senate has faced from other institutions.

Sen. Beatrice Elachi asked what the relationship with the Intergovernmental Relations Technical Committee would be like now that it was intended to take up the role of the TA in the first place. The Senator noted that the Committee seemed to enjoy better relations with the counties. While the Senate is keen to help the TA on budgetary allocations, the Senator noted that the Senate does not play a direct role in budget development. According to the Senator there is a need for broader consultation on budget issues between the entire Parliament,

ministers and independent institutions and offices in order to address the challenges facing the TA.

Sen. Ole Ndiema said that there has not been strong and effective cooperation between the TA and the Senate. The Senator, for instance, noted that the TA had not formally approached the Senate to raise concerns regarding resource constraints to perform its functions.

Sen. Prof. Kithure Kindiki noted that despite the correct and intellectually sound methods of oversight given by the presenter, there was an urgent need to oversee the management of county funds. The Senator cautioned that senators can sit aside and watch the plunder of resources in their home counties. While MCAs have the role of oversight at the county level, they have not developed the capacity to play an oversight role on the governors. There is no infrastructure for MCAs to oversee and hold the governors to account. In the circumstances, only the Senate has the “political muscle” to deal with “errant” governors. There are numerous internal threats to devolution and the Senate, as the protector or devolved governance, has to speak up.

Speaker Ekwe Ethuro said the objectivity shown in Dr. Kangu’s presentation should be placed in scholarly debates. The Speaker pointed out the two Houses are required to jointly resolve issues of legislation before the law is tabled to the Houses.

2.3.1 Response by the Presenter, Dr. Kangu

Dr. Kangu started by noting that he was with many of the Senators during the constitutional review process. The vision that he had for the institution of Senate back then has not been “diluted”. The challenges facing the Senate had roots in the struggle for a new constitutional dispensation. He reiterated the need for county governors and senators to work together as opposed to being adversaries as this was not in the spirit of cooperative government.

On the issue of County Development Boards, Dr. Kangu noted that while this could have formed a forum for consultation between governors and senators, there was a perception that the boards were similar to the Constituency Development Fund (CDF). The boards were a subject of court challenge and were therefore not an appropriate forum for cooperation and consultation between the counties and the Senate.

There is a need to think broadly about the oversight role of the Senate. The Senate should have budgetary independence to enable it plan for its powers and functions. For instance, the one billion Kenya shillings that were requested for oversight by the Senate should have been planned and budgeted for in a separate budget. The Senate should think about a separate commission for the Senate and a strong secretariat to perform its functions.

Dr. Kangu agreed that county assemblies are currently weak and may not provide the level of oversight that they are expected to provide at the county level. However, there is a need to put in place long-term measures that will ensure effective oversight by county assemblies. In the meantime, the Senate could have greater involvement in the oversight process at the county level. The public at the county level can play an additional oversight role by checking the county government at various stages: planning, pre-budget, during budget preparation and post-budget oversight.

2.4 General Overview of Status of Devolution: Achievements, Pending Activities and Challenges

The presentation focused on what the TA had so far achieved in discharging its mandate. The presentation was delivered by Mr. Bakari Omara, Member, TA. The TA facilitated the analysis and transfer of powers and functions to national and county governments. The functions have so far been transferred through three legal notices. A comprehensive framework for the transfer of powers and functions has also been completed. The transfer of some assets has happened without a comprehensive audit and assessment of the same. A framework for the transfer of assets has been developed and some of the assets (agricultural mechanisation) have been transferred to county governments.

There is an on-going assessment of the assets and liabilities of the defunct 175 local authorities. The Transition Authority was able to procure and operate an Assets Management Information System (AMIS) to be used by county governments. The TA has also developed a mechanism for the transfer of assets. There are guidelines on how government officers can move between the levels of government.

The TA facilitated assumption of offices of counties, posted interim staff and participated in the development of the national capacity building framework. The TA also assisted in the preparation of budgets for county governments for the financial year 2012/2013. The county development profiles for the 47 counties that were developed by the TA in collaboration with the former Ministry of Planning, National Development and Vision 203 (MOPND), assisted the counties in the preparation of the County Development Profile. In addition, in collaboration with the MOPND prepared and disseminated to the counties guidelines for preparation of county integrated development plans (CIDPs). In collaboration with the Ministry of Lands, Housing and Urban Development (MOLHUD) prepared and disseminated to the counties guidelines for preparation of County spatial development plans (CSPs). The TA spearheaded the amendments to the *Urban Areas and Cities Act (UACA), 2012* and drafted the Urban Areas and Cities (Amendment) Bill, 2015 which was submitted to the CS/Ministry of Lands, Housing and Urban Development with copies to the Senate and National Assembly on 16th February, 2015.

The presenter identified challenges that were specifically facing the TA in the performance of its functions and challenges which were facing the implementation of devolution generally. The general challenges identified included: inadequate capacity in the in formulation of county policies and laws, delays and wrangles between institutions at the national and county levels and even between the county-level institutions, political patronage in the recruitment of human resources at the county level leading to compromise of quality delivery of services, lack of political goodwill to support civic education, corruption, insecurity, etc.

Challenges that specifically faced the TA in the execution of its functions included: financial constraints; slow response from ministries, non-provision of norms and standards by national government ministries, political challenges, numerous litigations and judicial proceedings, overlapping of mandates with those of the Ministry of Devolution and Planning e.g. capacity building, civic education, Human Resource Management (HRM), etc.

There are many pending activities that need to be concluded. Mr Bakari urged the participants to deliberate and come up with ways of addressing these challenges in order to effectively complete the pending tasks. The pending tasks include: unbundling the functions of state corporations/Regional Development Authorities, developing a framework to guide the analysis and performance of concurrent functions and the costing of the functions in remaining thirteen ministries/departments/ agencies. The TA also intends to finalise the mechanism for closure and transfer of public records and information, facilitate the implementation of the County Pension Scheme and implementation of the recommendations of the CARPS Programme.

The TA also intends to facilitate the development of public participation and civic education frameworks and the dissemination of materials for civic education that it has developed. The TA also intends to complete the verification, validation and audit of all existing assets and liabilities of all MDAs and the handing over of liabilities and assets in the 16 counties where the exercise has not been completed.

The TA asked the Senate to intervene in a number of areas in order to ensure effective transition to county governance. The presenter specifically asked the Senate to step in and assist in the finalisation of pending national laws and policies to facilitate devolved governance. Among the laws and policies that need to be put in place include: rationalisation of human resources at the national and county levels, transfer of assets and liabilities, development of County Government Act Regulations, and capacity development for national and county public services. The presenter asked the Senate to prevail upon the National government to provide service norms and standards and to enact a law to operationalize the Mechanism and Criteria for the Transfer of Public Asset

and Liabilities. The TA has also been having resource constraints and asked for the Senate's intervention.

2.5 Progress in the Transfer and Costing of Functions

The presentation was done by Dr. Abdi D. Maalim. The Constitution allocates powers and functions between the two levels of government and requires county governments to work towards achievement of the objectives of devolution. However, the functions that have been allocated under the Fourth Schedule of CoK require further analysis and interpretation in order to clarify the powers that are allocated to the two levels of government. The TA identified principles that guided it in the unbundling of functions and these included: constitutionality, subsidiarity, aligning capital and recurrent expenditure, concurrency, spill-overs, transferability of functions (no permanency) in order to allow for flexibility in the shifting of powers between the two levels of government. The TA also has to keep in mind the regulatory and standard-setting role of the national government with regard to county governments.

The process of analysis was divided into two main parts: function analysis and assignment, and function transfer. The first entailed ascertainment of the function and the participation of institutions performing the functions and this ended with the assignment through gazette. The second part of the process entailed the actual transfer of the functions and this could take up to three years.

The TA issued a total of three legal notices: Legal Notice No. 16 of 1st February, 2013, Kenya Gazette Supplement No. 116 (Legal Notices No. 137 – 183) of 9th August, 2013 and Legal Notice No. 33 of 17th March, 2014. Counties appealed to the Senate against the decision by TA for transfer of more functions. The Senate approved the appeal. The functions that the counties applied for included: county roads, county energy planning, county energy regulation, county energy development and libraries. Following the decision of the Senate, the TA prepared and submitted a draft gazette notice to transfer the functions appealed for by the counties. However, the National Assembly raised concerns on the classification of roads and the matter is pending.

The TA is also required to cost national and county functions. In this regard, the TA in collaboration with CRA, UNDP has engaged a consultant (University of Nairobi Enterprises and Services Ltd. (UNES) to undertake realistic costing of five sectors: Agriculture, Fisheries and Livestock; Environment, Water and Natural Resources; Health; Transport and Infrastructure and Foreign Affairs. The cost of the exercise has necessitated the exercise to be limited to the selected sectors.

The process of analysing and unbundling functions is a gradual one and entails negotiating and renegotiating process. All parties should be aware of this and have patience and understanding that it is not a one-off process.

2.6 Update on Capacity Assessment and Rationalisation of Public Service

Ms Mary Ndeto, member of TA, gave an update of the progress with the CARPS. The process of CARPS started in June 2014 pursuant to a resolution of the Summit in June 2013. The actual process started with data collection between June 2014 – June 2015 for both national and county levels of government. The objectives of CARPS were to ascertain the existing human resource capacity at both of levels of government and review and recommend appropriate public service structures for both levels of government. The CARPS programme is to be undertaken in three phases: programming/data collection (June 2014-June 2015), rationalisation and deployment of staff (July 2015-June 2016), and reengineering and capacity building (2016-2017).

The process is however not yet complete and there are on-going challenges which hinder the achievement of the objectives of CARPS which include: continued recruitment by both levels of government, recruitment of unqualified and inexperienced staff, duplication of structures and rejection of assumed seconded staff by counties. Litigation and strikes by workers have also hampered the smooth transition in national and county public service. The TA asked the Senate to propose amendments to the CGA that will ensure that seconded staff will remain permanently within county public service and there should be specific legislation to guide the redeployment of staff in accordance with the broad objectives of CARPS. The TA also called upon the Senate to ensure that all counties participate in the CARPS process.

2.7 Update on the Status of County Umbrella Retirement Scheme

Mrs. Mary Ndeto presented that in January 2014, the TA, through an Inter-Agency Technical Committee, recommended the formation of an umbrella county pension scheme that will cater for transferred staff and those of defunct local authorities. However, not much progress has been made towards the establishment of the pension scheme. There is a stalemate in the county pension scheme due to various conflicting interests. Institutions such as the Council of Governors and the Senate have different and conflicting interests on this issue.

2.8 Update on Planning, Budgeting and Finance for County Governments

Mr Simon Pkiyach, member of the TA, started his presentation by noting that resources should follow functions. The programme-based budgeting has shown that there is a duplication of resources between the two levels of government and this can be eliminated or dealt with through harmonised planning. There is need for further decentralisation from the county headquarters in order to avoid collapse or decline in delivery of services e.g. Kapsowar in Elgeyo Marakwet County and Kilgoris in Narok County. Revenue collections streams have shrunk

with devolution and there is need to enhance the local revenue collection, reduce leakages and create potential of county government revenue base.

2.8.1 Plenary Discussions

Sen. Mutula Kilonzo Jnr. led the discussions after the two presentations. The Senator sought clarity from the TA on the nature of the framework that was needed in order to facilitate the transfer of assets and liabilities. The Senator also inquired from the TA whether the monthly reports on progress with the transition required under the TDGA to be submitted to the Senate, Parliament, and CIC were actually submitted. The Senator also sought clarity on the funds that were utilised towards the development of the mechanism of assets and liabilities and why there was no presentation on the finances to the Senate Committee on Finance. The Senator also sought clarity on the specific phase of transition that the TA was at.

Sen. Murkomen, the second discussant, queried why a devolution policy had not been tabled in Parliament. The devolution policy would have provided broad guidance on how the transition process should be implemented. He asked whether the TA is involved in the development of the devolution policy. The Senator also noted that the relevant Senate committees should be more active on issues such as the leasing of medical equipment to county governments. Decisions have been made on major issues such as the classification of roads without policy documents to guide such classification. Every Senate committee should push for a policy in its sector and ensure that there is a defined approach to the transition.

The Senator also queried whether the TA has ever taken action on any of the recommendations by the Parastatal Reform Taskforce and advised on the transition process. The Senator also wanted to know whether there are any critical laws that are pending and need to be fast tracked in order to ensure a smooth transition. Most of the laws that have been initiated in Senate are through private members. Most of the government Bills (with the exception of the County Allocation of Revenue Bill) are submitted to the National Assembly.

The Senator informed participants that the Senate carried out an assessment on the transfer of assets and liabilities and allowed the transfer of functions. He pointed out that this needs to be followed by an assessment of the progress with the transfer of functions and funds. He emphasised that the functions carried out by ministries and national agencies should be assessed vis-à-vis the functions of county governments in order to determine the portion of functions and funds that still need to be transferred to counties. This will provide a rationale and basis for the call for the transfer of more funds to the counties. According to the Senator the assessment should include an analysis of the human resource requirements at the national and county levels and the TA should lead in this process and recommend a way forward.

Sen. Fatuma Dulo raised the question of hiring of staff. She accused counties for hiring many persons that are not qualified for the offices that they are hired for and thus compromising on service delivery. The senator inquired if there is anything the TA could do to address this emerging challenge.

The Senator also raised concern regarding accountability of the revenue collected by county governments that have game reserves. Revenue collected from the game reserves is rarely audited and accounted for by the county governments that have assumed control over the game reserves.

Sen. Ole Ndiema suggested that there are some sensitive categories of services and employees that should be managed nationally, that include the deployment and management of medical doctors. The Senator also expressed the need for effective public participation in the prioritisation of the use of county government resources.

Sen. Munyes called for the unity of action by all senators in defending decisions that have been taken collectively by the Senate. The Senator also noted that there has been ethnic marginalisation in employment at the county level with county-level monitories being left out of employment. He called for equity in county employment and in the utilisation of resources allocated to counties.

Sen. Priscah Chelule asked that the controversy around the use of titles such as "Excellency", "Minister" etc. should be resolved in order to stop the confusion in use of titles.

Sen. Chris Obure noted that it appeared that various players in the devolution, including the public, do not understand their roles. Poor and ineffective public participation was as a result of lack of civic education. He pointed out that the institution responsible for civic education should be identified and given resources to do so in order to facilitate the public participation in the governance process. He said that it appeared that there was a lot of work that needs to be done and yet the TA's mandate is coming to an end. He queried whether it will be possible for the TA to complete the pending tasks within the period remaining. He hinted that the TA should remain in operation to ensure that all gaps in the transition process are adequately addressed.

Sen. Prof. Anyang Nyong'o suggested that the Senate should begin working for renewal of the term of the TA up to 2017 to enable it to complete the remaining tasks. The Senator suggested that civic education should not be carried out by any of the two levels of government but should be carried out by an independent institution such as the TA. On the issue of devolution policy, the Senator suggested that the Cabinet Secretary in charge of the Ministry of Devolution and Planning should be summoned by the Senate Devolution Committee to explain the status of the Sessional Paper on Devolution. Furthermore, he pointed out that the Senate also needs to assess the functions and cost of parastatals in view of the current constitutional dispensation. It is too costly to spend KShs. 538

billion on parastatals and yet some of these resources could be directed to development.

Sen. Zipporah Kitonny emphasised the need to ensure equity in county employment and noted that the diversity of counties should be reflected in the county public service. She also pointed out the need to put in place measures to curb the misappropriation of funds at the county level. She supported the idea of undertaking a lifestyle audit for persons serving in public office.

Sen. Mutula Kilonzo Jnr. pointed out that there was no need for an amendment of Section 138 of the County Government Act. He advised that the TA and the PSC can consult and develop a framework for rationalisation of human resource at the national and county levels.

Sen. Beatrice Elachi asked whether there was a clear plan for the management of assets that are jointly owned by counties.

Sen. Ruth Sijeny noted that there was need for clear framework for accountability within county governments. The Senator queried whether the IFMIS is connected to all counties and whether it could be used to enhance transparency.

Sen. Njoroge noted that while there was a clear need for the extension of the mandate of the TA, the TA had not made it clear whether they were interested in the extension of a mandate.

2.8.2 Response by Presenters

While some of the Senators were of the view that the current laws are adequate to facilitate the transfer of functions, **Mr Garise Omara** noted that the mechanism needed an explicit force of law in order for it to be effectively implemented. Turning the mechanism of transfer to legislation will give it a force of law in order to compel implementation.

The presenter also clarified that Phase 1 ended in March 2013 after the election and that the TA is currently in Phase 2 as provided for in the TDGA. However, the TA came on board very late and the delay in its establishment has contributed to the delay in the execution of its mandate. The TA started its operations a few months to the elections and spent the first whole year with no dedicated funds. The proposal to disband the TA also crippled some of the functions that it was carrying out. With regard to the transfer of assets and liabilities, Mr Bakari noted that data on assets and liabilities of the former local authorities had been collected and verified.

Dr. Dabar Maalim noted that the TA had been complying with the statutory requirements to submit quarterly reports and the reports had been submitted as required. The process of finalising the devolution policy is on and is steered by the Ministry of Devolution and Planning. There is an on-going audit of national and county functions and the results of the same will be provided later.

Ms Mary Ndeto noted that the TA had issued various advisories and generic structures of county public service which counties ignored. There is lack of common norms and standards in hiring of staff and it is difficult to achieve this with the county governments. There is no policy to guide inter-county transfers and the national government which is supposed to come up with these policies has not done so. Section 138 of the County Government Act should be amended to provide that seconded officers are permanent staff of counties, in order to avoid the release of seconded officers back to the national level.

Mr Simon Pkiyach clarified that the IFMIS is connected to all counties but to the county treasuries only. He noted that the system should be expanded to levels below the county and to the county assembly in order to enhance efficiency. He also supported the need to have a lifestyle audit in order to ensure accountability in the use of public funds.

In closing remarks, the chairman of TA Mr Kinuthia Wamwangi made a number of observations from the discussions of the day. While he saw the rationale in suggesting that management of doctors should be taken to the national level, the Chairman noted that the Constitution required the management of health professionals be devolved to the counties. He also noted that counties are required to hire 30 per cent of its workforce from outside the county to ensure integration and the TA is contemplating going to court to ensure the implementation of the 30 per cent rule on county employment.

The TA had issued an advisory on the use of titles and general government protocol. The chair also clarified that the functions of parastatals have not been unbundled and this needs to be done. The chair suggested that civic education should be coordinated by the TA which is an independent institution. While the MDP is keen on carrying out civic education, it is a national government institution and this may raise perceptions of one-sided civic education.

The chair noted that the TA had an independent mandate from that of the IGRTC and that there were important differences in the structure, composition, and mandate of the IGRTC and that of the TA. The Senate needs to provide support to the TA to enable it complete the pending tasks.

In the day's closing remark, Speaker Ethuuro noted that the Senate will stand in support of the activities of the TA. More specifically, the Senate will seek to ensure that adequate funds are allocated to the TA to enable it to complete the remaining tasks ahead of the transition period.

CHAPTER THREE

DAY TWO PROCEEDINGS

3.1 Update on Progress of Audit and Transfer of Public Assets and Liabilities

The day started with an update on the progress in the transfer of assets and liabilities. The presentation was done Mr. Bakari Omara. The mandate of TA is to prepare and validate an inventory and provide mechanism and criteria for transfer of assets. The TA developed the AMIS and was populated with the relevant data. A strategy for the transfer of assets was developed and there exists a zero draft of the same. Field visits were made to all the 47 counties in order to ascertain and verify the assets and liabilities. Thereafter, the TA gazetted the transfer of some of the assets.

Among the steps that the TA has made in this regards include—

- (i) The Gazettement of an inter-agency committee;
- (ii) Installation of the AMIS;
- (iii) Development of the mechanism used to transfer assets to counties; and
- (iv) Documentation of the entire process and development of a guide.

The TA carried out an assessment of the assets and liabilities of the defunct 175 local authorities. The process entailed: data collection, analysis and reporting, public participation, records and archives. This formed the basis of a summary of assets and liabilities that were produced for each county. County teams were trained on how to go and capture the data on the defunct local authorities and most of the teams were drawn from the ground. County commissioners who were supposed to be part of the verification teams were recalled from the trainings. The public liabilities common to all the authorities included: loans, unpaid emoluments and statutory deductions, and creditors. Assets of the former local authorities included: property rates and rents, others are staff debtors, and other small claims. Through the exercise, the TA was able to verify 40,815 parcels of land across the country; 7,741 buildings; 2,462 vehicles and KSh. 143,274,235,533.33 of current assets. Commercial loans that totalled KSh. 62,508,562,920.48 were the highest category of liabilities of the defunct local authorities.

There are some challenges despite the steps that have been covered. As at 12th June, 2015, some 54 per cent of state agencies had not submitted a list of their inventories to the TA. The Ministry of Interior which is in charge of the defunct Provincial Administration is among the institutions that have not submitted the list of inventories. Only 31 counties signed handing over reports when the

governors came into office. The assets and liabilities handed over were of the former local authorities.

The report of the Presidential Taskforce on Parastatal Reform recommended the state corporations and there is need to have critical data and detailed information to enable this to be carried out. Meanwhile, the TA had issued a moratorium on the transfer of assets and liabilities and it is not clear that all public agencies followed this directive. The pending tasks include populating the AMIS with data and the immediate transfer of identified assets and liabilities to the counties.

3.2 Rollout of Civic Education

The presenter (Ms. Safia Abdi) explained the mandate of the TA with regard to civic education both for the government and the citizens. She detailed the Constitutional and legal provisions and pointed out that section 99 of CGA provides for the purpose of civic education.

The achievements include:

- (a) Development of civic education coordination and implementation framework.
- (b) Development of curriculum and framework for civic education: with other stakeholders developed curriculum on devolution and public participation; three programmes (for general public, youth and state/public officers) developed curriculum support materials; curriculum and training manual was validated by county governments.
- (c) Executive curriculum has been piloted in five counties targeting public officers (Nakuru, Meru, Garissa, Kitui and Tana River).
- (d) Curriculum for general public is being piloted by Uraia Trust- CSO.
- (e) National Civic education implementation framework - TOR to develop national civic education framework has been developed and is being resourced.
- (f) Delivery of civic education on devolution targeting public officers and general public in two phases:
 - (i) First phase of transition - by TA, MOLG, KNICE through public fora, mass media – more activities,
 - (ii) Second phase- less activities and mainly opportunistic.
- (g) Database of civic education providers has developed and shared with county governments.
- (h) Development of public participation framework:
 - (i) Model law developed and some counties have adapted it

- (ii) Draft public participation guidelines have been developed (led by MODP) validated and is being finalized.
- (iii) Policy development process underway- by office of the Attorney General and Department of Justice.

The TA future plan is to finalize the preparation of curriculum and support materials, training of trainers, capacity building of county governments and development of nation civic education implementation framework by national government. Thereafter, dependent on resource allocation, there will be a roll out of civic education by counties and national government and development of a national public participation framework by the national government.

The county governments have established civic education departments but those departments have not been provided with funds.

The challenges experienced with regard to civic education include:

- (a) Delayed adoption of a policy on public participation.
- (b) Lack of political goodwill by both the national and county governments.
- (c) National and county governments have not budgeted for nor funds allocating for civic education.

The TA expects the Senate to ensure that the national frameworks for public participation and civic education are developed. The Senate also expected to ensure that both level of government budget for civic education and in help creating sustained political goodwill for civic education. In addition, the Senate should prevail upon the National and County Governments to operationalize Sections 98-101 of the County Government Act to realise the objects and principles of civic education.

3.2.1 Plenary Discussions

Sen. Anyang Nyong'o noted that the coordination and implementation of public civic education programmes should be coordinated and led by the Senate and the Transition Authority.

Sen. Beatrice Elachi asked how well the TA prepared for the governors' assumption of office after the elections. The Senator also asked whether the information on county governments was with the Senate. She noted that the Senate is a neutral party on assets and liabilities and could assist settle some of the transition questions.

Sen. Paul Sang suggested that discussions on assets and liabilities should be tied to functional analysis. He pointed out that the history behind some of the loans and liabilities of counties should be traced and apportioned appropriately. It may be the case that some of the loans belong to the national government, she said.

The Senator also suggested that civic education and public participation should be integrated into specific and practical areas such as budgeting.

Sen. Agnes Zani noted the need to look around the world for innovative ways in which decentralisation to levels below counties can be managed. In Norway for instance, she averred, the local government level is a third tier of government and the Urban Areas and Cities Act provides for and can be used to implement such a system for local urban areas. She was of the view that the absorption rate for development funds can be enhanced if the local level is made active. The Senator pointed out that the system for civic education should be clarified and that civic education should target local communities as this is where accountability will spring from.

Senator Isaac Melly reminded the participants of the resolution the Senate made to the effect that, all debts of the defunct local authorities should be borne by the national government. The Senator also noted that the national government has the duty to build the capacity of county governments to perform their functions effectively.

Sen. Anyang Nyong'o called for the formal presentation of county reports on assets and liabilities to the respective senators for follow up. The Senate will take up the request for moneys to be used for the audit of assets and liabilities at the county level. The Senator pointed out that the audit is important because officials in the county assembly may suppress information on local assets and liabilities that belonged to the former local authorities. He wondered how come that the Cabinet Secretary in charge of Devolution and Planning wrote to the National Treasury requesting for funds to carry out the audit but there has been no response. He pointed that while the first phase focused on the defunct local authorities, the second should focus on costing of functions and the third focus on the national government.

Sen. Kipchumba Murkomen called for the interrogation of the issue of civic education, especially, the content and target of the civic education. He noted that civic education could easily be turned into political campaigns as opposed to objective information. He noted the example of civic education in Makueni where all public information that was given was geared towards the disbandment of the county. He also called on the media to play a positive role in the passing of public information.

Sen. Ongoro noted that a number of assets may have been lost during the transition period and that there is need to verify the accurate number of assets and liabilities. There is need to go back to the former town clerks of the now defunct local authorities to get as much information and data as possible. The Senator asked for a common approach to civic education to ensure that the public receives uniform and reliable information during the civic education process.

Sen. Ole Ndiema warned against civic education being left to the national government. He asked for an objective and independent way that civic education will be carried out. He also noted that civic education and effective public participation will enable communities to make inputs to the development projects that counties are coming up with at the county level.

Sen. Machage challenged the TA to come up with specific information on misappropriation of assets so that the Senate can act on the same.

Sen. Nyong'o suggested a number of follow-ups on issues which came up during the discussions. The Senator suggested that Senate Committees of Finance, Public Accounts, and Devolved Government should summon the CSs of National Treasury and Devolution and Planning to find out the status of funding for civic education and audit of assets and liabilities. The Public Participation Bill in the Legal Affairs Committee should be fast-tracked in order to facilitate public involvement. The Senator also asked the TA to ensure that all its reports are tabled on the floor of the Senate and submitted to the relevant committees for deliberations and discussion. The TA should also get records of the leaders of the defunct local authorities (mayors and clerks) and the respective time periods when they served. This information should also be tabled in the Senate.

3.2.2 Response by Presenters

Mr Omara noted that the TA gave reports to Governors during the handing over ceremonies in the counties. The county secretary signed for all the documents (CDs) for them to know the number of assets and liabilities for the county. For clerks to the defunct local authorities, some gave information but some did not sign. Only 31 counties signed for the list of assets and liabilities. In some counties, governors took over the physical offices of the former clerks of the defunct local authorities. Some of the county governments absorbed the officers who were posted by the TA as part of County Transition Teams while others recruited fresh teams.

Ms Safia Abdi noted that the materials that have been developed for civic education have objective and adequate content. These materials should be finalised and used as the basis for all civic education. However, institutions performing specific functions can also educate the public on their roles.

3.3 Presentation on Status on Closure and Transfer of Public Records

In her introduction, Ms Ndeto said that, following the promulgation of the Constitution in 2010 and the resultant abolition of local government and provincial administration systems, it was imperative that records of these institutions be closed and transferred to the successor institutions or to the Kenya National Archives for safe custody and continuity in service delivery.

She outlines the progress and achievements made in this area, including the fact that TA had conducted a survey of records and prepared guidelines on closure and transfer of records, appraisal, transfer to Kenya National Archives, destruction and capacity building. The TA had also, in conjunction with other stakeholders, including Kenya National Archives and Documentation Services (KNADS) conducted a survey of records in all 47 counties during the month of January and March 2015 to facilitate a mechanism for closure and transfer of public records. The process entailed the development of a mechanism for closure and transfer of public records and establishment of the status of records management, categories of records, formats, and identification of vital records. The TA is also carrying out capacity assessment of counties to ascertain the capacity of counties to manage records in terms of human resources, infrastructure, processes and systems.

The survey revealed that the infrastructure (space and equipment) for record-keeping purposes is grossly inadequate in the counties. Furthermore, most counties face severe shortages of qualified records management officers to handle records in the counties. Counties have also moved records of the defunct local authorities while other precious records have been deliberately destroyed or dumped in areas where they are not safe. The counties do not have systematic filing systems due to inadequate skills by the staff managing the records.

She said the TA will finalise the guidelines for closure and transfer of records, conduct rapid results initiatives to salvage the dumped records, conduct an appraisal of records and digitisation among others. The presenter noted that counties still require a lot of capacity building, technical and financial support. They also need to budget for record management including recruitment of qualified staff, training of staff and construction of registries.

3.4 Presentation on Review of Pending Legislation

Dr. Maalim's presentation focused on pending legislation in the roads, health and water sectors. The presenter also touched on on-going court cases that have affected the transfer of functions. For the roads sector, counties had appealed to the Senate against the decision of the TA to delay the transfer of functions and the Senate authorised the transfer. The TA prepared a gazette notice to approve the transfer of the roads in accordance with the directions from the Senate and the gazette notice is pending at the Attorney General's office. However, the National Assembly has written to the AG's Office to halt the gazette notice after which the AG complied and failed to publish. The Council of Governors has also taken the matter to court and the same is awaiting determination.

On the Health Bill, Dr. Dabar Maalim said the proposed law is currently under public participation. The TA reviewed the Bill and made several observations and comments. The TA noted that the power to create and abolish offices at the

county level lies with the County Public Service Board of each county. Provisions in the Bill which purport to shift this power elsewhere are contradiction of the Constitution and should be expunged from the Bill. Clause 24 of the Bill provides further grounds to be considered before the management and operations of health facilities is transferred to counties. The TA recommends that the criteria provided for under section 24 of the Transition to Devolved Government should be incorporated and applied to the process of transferring health functions and services to counties.

Clause 37 (1) of the Bill also provides that the procurement for the public health services of health products and technologies shall be undertaken in line with the *Public Procurement and Disposal Act* as well as the inter-governmental arrangements for medicine and medical products agreed upon. The Bill then goes further to state, under Clause 37 Sub-clause (3) of that KEMSA may be the point of first call for procurement of health products at the county and shall endeavour to establish branches within each county at such locations as it may determine. The Bill is therefore defective in this regard, in so far as no intergovernmental arrangements have been made to this effect.

The Bill outlines the levels of hospitals from level 1- 6 and provides that Level 5 and 6 shall be National Referral Hospitals. This provision claws back on the progress made in devolving Level 5 health facilities to counties by purporting to reverse county facilities to the national government and should thus be expunged. The presenter further noted that the Bill creates several overarching institutions whose roles can ably be carried out by existing offices such as the Kenya Health Professions Oversight Authority under Clause 27, for instance, is mandated to oversight counties in total disregard of the law. The current Health Bill requires a number of amendments before it can be finalised and enacted into law.

On the issue of Betting Lotteries and Gaming Act, 2014, Dr. Dabar Maalim pointed out that the Association of Gaming Operators-Kenya (AGOK) had filed the suit on grounds that Nairobi City County Government informed its members that they would not be authorised to do business in 2015 unless they first applied for a permit under the Nairobi County Betting Lotteries and Gaming Act, 2014. AGOK contends that its members are issued with licenses by the Betting Control and Licensing Board, as established under the *Betting Control and Licensing Act*, CAP 131, which licenses expire in June 2015. The matter was in court for judgment on the 29th May, 2015 which was however not delivered.

In the water sector, Dr. Dabar Maalim informed participants that the Water Bill was currently pending in Parliament and had gone through the three reading stages. Currently, it was at the committee stage awaiting passage into law. The Senate was urged to look at the Bill as it concerns county governments.

Dr. Dabar Maalim expressed concern that there were many pending bills which required finalisation and it was important that the Senate calls for finalisation of most of the laws. More importantly, the Senate needs to review the proposed laws to ensure that the laws affecting counties conform to the letter and spirit of the Constitution. There is need for speedy resolution of court cases on county functions in order to facilitate a smooth transition.

3.5 Proposed Amendments to the Urban Areas and Cities Act, 2011

Mr. Erastus Rweria, Member, TA started his presentation by providing a background that upon its establishment, TA, in collaboration with the former Ministry of Planning, National Development and Vision 2030 commenced collection of data on capacity by urban areas to effectively and efficiently deliver essential services to its residents as provided for in the First Schedule of UACA. The TA analysed the data and information based on the criteria required in Sections 4, 9 and 10 and the First Schedule of the Act.

He pointed out that, the shocking finding of the analysis was that, based on the criteria provided for in the Act, except for the three cities created by the Act (Nairobi, Mombasa and Kisumu), no urban area qualifies for classification. Among other findings were that the Act does not provide for who and how boundaries of urban areas will be determined or how they will be delineated. Furthermore, the Act is weak on governance.

He said that the TA constituted a Technical Committee in collaboration with Ministry of Lands, Housing and Urban Development; UN-Habitat; University of Nairobi; State Law Office; Kenya Law Reform Commission; among other stakeholders, and held several workshops and consultative meetings. The committee prepared a report on assessment and classification of urban areas and cities based on the criteria set out in the *Urban Areas and Cities Act, 2011* and made recommendations. The same team has worked on the amendments.

Mr Rweria said that some of the general findings of the process were that, except for Nairobi, Mombasa and Kisumu which were declared cities by the Act, all other urban areas have to be assessed and classified in accordance with the criteria laid down in the Act. The presenter noted that none of the other urban areas (previously known as municipal or town councils) before the promulgation of the new Constitution can be classified as a city, municipality and town because, most of them meet only the population criteria but fail on the rest of the criteria. Assessment based on the population threshold alone will result in a drastic reduction in the number of urban areas in Kenya. If only population criterion is used, 38 former municipal councils would be downgraded to townships, nine former town councils will be downgraded to unclassified urban areas, and 36 formerly unclassified urban areas would qualify for classification as township.

Other problems with the Act include: lack of provisions for the appointment of the secretary, who would be the city/municipal board manager or town administrator. There is no specification of the number of members of town committees. Furthermore, there are no criteria for setting of boundaries of urban areas and cities. The Act does not define resident population and neighbourhood associations. While the Act provides for removal of the chairman of Board and Committee, it does not have provide for the removal of vice-chairperson and member. The population threshold given in the Act applies uniformly across the country and does not recognise the dynamics in areas such as the North Eastern Kenya which have lower population densities.

The technical committee made recommendations on the Act which included: reduction of resident population to flexible and practical thresholds, provide criteria for delimiting boundaries of urban areas and cities, review of the urban services in the First Schedule to the Act and more detail on the hierarchy and management of different categories of urban areas. The technical committee also recommended that all county headquarters should be classified as municipalities regardless of whether they meet the specified criteria. Table 1 below presents the resident population thresholds in the Act and those proposed in the Bill.

Table 1: Proposed Resident Population Thresholds

Type	Using UACA, 2011	After Amendments
City	500,000 and above	250,000 and above
Municipality	250,000 – 499,999	50,000 – 249,999
Town	10,000 – 249,999	10,000 – 49,999
Market Centre		2,000 – 9,999

If the proposed amendments are passed the urban situation in Kenya will be as shown in the Table 2 below.

Table 2: Future Urban Situation in Kenya

Category	Past System	Using UACA, 2011	Using Amendments
Cities	3	3	5
Municipalities	41	2	77
Town	63	130	55
Unclassified/Market Centres	116	80	79
Total	223	215	216

The following counties do not have municipality:

Baringo	Makueni
Elgeyo Marakwet	Marsabit
Samburu	Muranga
Isiolo	Siaya
Kajiado	Tana River
Kirinyaga	Tharaka Nithi
Lamu	

If the Urban Areas and Cities (Amendment) Bill, 2015, is passed the urban areas shown below will become municipalities by virtue of being county headquarters.

Table 3: Urban areas which will become municipalities by virtue of being county headquarters

	Urban Area	County	Without Consideration
1	Kabanet	Baringo	Town
2	Iten	Elgeyo-Marakwet	Town
3	Isiolo	Isiolo	Town
4	Kajiado	Kajiado	Town
5	Kerugoya	Kirinyaga	Town
6	Lamu	Lamu	Town
7	Wote	Makueni	Market centre
8	Marsabit	Marsabit	Town
9	Muranga	Muranga	Town
10	Maralal	Samburu	Town
11	Bondo	Siaya	Town
12	Hola	Tana River	Town
13	Kathwana	Tharaka-Nithi	Unclassified

The Technical Committee completed the proposed amendments on UACA in October 2014 and submitted its report to the Ministry of Land, Housing and Urban Development who made further proposals: the Composition of Urban Areas Boundaries Committee and a proposal to include establishment of Urban Areas and Cities Development Fund (URCDC). The Committee also worked on the Urban Areas and Cities Act Regulations and received further input from the Ministry and Council of Governors. The TA re-submitted the amendments to the CS on 16th February, 2015 and copied the same to Clerks of Senate and National Assembly. The Clerk of Senate in a letter of 17th February, 2015 informed TA that the Bill had been submitted to the Committee on Devolved Government for consideration and action.

In May 2015, the Technical committee briefed the Acting CS on the amendments and Hon. Dan Kazungu, Member of National Assembly for

Malindi tabled a private members Bill for the amendments and the office of the Attorney General enquired on the progress of the amendments by the Ministry and TA. The Senate could assist in fast tracking the amendments to URC (Amendment) Bill, 2015 and asking for the finalisation of the National Urban Development Policy. The Senate should also follow up on completion of draft Metropolitan Areas Act and operationalisation of Cities and Municipal Boards by county governments. In its oversight work, the Senate could require county Governments to adhere to PFMA and UACA with respect to their urban areas - especially on financial matters and also demand that the CS/National Treasury reinstate the budgetary vote for TA.

3.5.1 Plenary Session

Sen. Murkomen on Urban Areas Cities Act, 2011 he commented TA's proposals on urban areas and cities and supported the proposal to have UACA reviewed. He said that the proposed amendments were pushing for the classification of 77 municipalities without providing sections that address management of the municipalities. He also noted that some of the urban areas proposed for upgrading need not be upgraded and can be managed directly by the county governments.

Sen. Murkomen on the Health Bill advised that the Bill should not progress before the Senate has had occasion to discussing the Health Policy. The Senator also noted that there is a need to have a policy on gambling that will inform and regulate the sector in a manner that balances the roles and interests of the two levels of government. The Senator also noted that there is a need to review the Water Bill, 2014 so as to secure the powers and functions of counties in the water and sanitation sector.

Sen. Chris Obure called for the strengthening of the autonomy of TA and reiterated that, the TA should not be treated like a department of the Ministry of Devolution and Planning. He pointed out that the TA should have guaranteed resources and autonomy to use the resources to pursue its mandate.

Sen. Mutula Kilonzo Jnr. noted that the dispute in Makueni County was over money for civic education. It is important that civic education by counties is well managed as there is a risk that it will become a political campaign tool. The senator also raised concerns that precious records and archives of the defunct local authorities are being mishandled and deliberately destroyed by counties and this needs to be addressed.

Sen. H. Ole Ndiema was of the view that the proposed amendments were creating too many urban areas to be classified which are too small.

Sen. Hassan Omar raised the concern that the TA had waited for too long before presenting its challenges to the Senate. He said that the TA's approach to devolution should involve other institutions such as the Commission on Revenue Allocation, Salaries and Remuneration Commission and others in order

to ensure a broad-based approach to the realisation of the devolution objectives in the Constitution.

3.5.2 Responses by Presenters

Mr. Rweria responded on the issue of the amendments to the Urban Areas and Cities Act, 2011 creating many urban areas to be classified, of which some are too small. He pointed out that section 36(3) of the UACA require a county government to initiate an urban planning process for every settlement with a population of at least two thousand residents. That is what guided the technical team in designating urban areas with a population ranging from two thousand to nine thousand, nine hundred and ninety nine (2,000 – 9,999) as market centres which will be directly managed by a county. On the issue of management of urban areas and cities Mr. Rweria explained that the amendments will cure the weaknesses in the UACA.

Mr. Rweria informed the senators that even before the Act is amended there is concerted resistance by governors to bring about any devolution/decentralization to levels below the county. He pointed out that in validation forums some governors and their county executive committees voiced their opposition to creation of city/municipal boards and town committees. Mr. Rweria gave the example of Kisumu County which, despite of the Governor being advised by TA as early as June 2013 to appoint a City Board for Kisumu, he appointed a City Manager but he is yet to constitute a city board. Governors do not want county units which are autonomous or semi-autonomous.

CHAPTER FOUR

FORUM CLOSING REMARKS

In remarks to close the forum, Senator Wilfred Machage who represented the Speaker to the Senate, Hon. Ekwe Ethuuro thanked all the participants at the meeting. He then outlined the key highlights and recommendations that had emerged at the meeting including the need to:

1. Explore the possibility of amending the Constitution to empower the Senate to consider all Bills.
2. Re-engineer the Secretariat to scrutinise policy documents and Bills from the Executive that provide for performance of county governments.
3. Strengthen the County Assemblies to perform their oversight functions.
4. Reintroduce legislation to improve the qualifications for MCAs with a view to improving the quality of members in the 47 county assemblies. This will emphasise on the quality of debate and passage of Bills.
5. Establish mechanisms for the Senate to oversight the devolved funds at the Ward level with respect to county budgeting, that is, how much money has been used at the ward level to fund functions at the ward level.
6. Help clarify if the oversight function entails the process of monitoring and evaluation, including assessing the impact of devolved funds.
7. Convene a forum that brings together the Council of Governors, Senate and County Assemblies to discuss on the issue of devolution.
8. Consider the debt portfolio with respect to allocations to county governments.
9. Ensure the County Development Board has a structure that is obligatory with respect to the parties in the board.
10. Pursue full autonomy for the Senate and make it independent of the National Assembly in all ways except with respect to the core functions of Parliament.
11. Give priority to public outreach and civic education to the public.
12. Ensure committees take up their mandate and propose a policy framework within its mandate.

13. Convene a meeting with all Cabinet Secretaries to discuss policy formation for the functions that have been devolved.
14. Ensure Senate reviews the national budget estimates with a view to establishing the level of funding for functions that have been devolved and the functions that the national government has not performed.
15. Ensure hiring of staff is carried out in such a way that there is correct job placement for better service delivery in counties.
16. Establish mechanisms for auditing and oversight of revenue collected.
17. Ensure timely planning and reallocation of funds in county governments.
18. Consider whether the time remaining for TA is enough to handle all remaining issues in its mandate.
19. Ensure that there is proper civic education by the Senate, TA and other relevant bodies, which must not include the provincial administration.
20. Establish the status of the guidelines for the abolition of the provincial administration.
21. Pursue the restructuring of parastatals to operate as arms of county governments where relevant given their budgetary allocations.
22. The Senate Committee on Devolved Government will meet with the TA Technical Committee for UACA amendments to chart the way forward with the fast tracking.

ANNEXTURES

ANNEX 1 —PRESS STATEMENT BY THE SENATE

COMMUNIQUÉ OF THE SENATE FOLLOWING THE CONSULTATIVE FORUM ON STATUS OF TRANSITION TO DEVOLVED GOVERNMENT

(Serena Beach Hotel, Mombasa, 20th June, 2015)

Following a two day consultative workshop held at the Serena Beach Hotel, Mombasa on 19th and 20th June, 2015, the Senate is pleased to communicate as follows:

1. Following the resolution of the Senate last week, a Select Committee shall be formed on Tuesday, 23rd June, 2015 to prepare and submit a report, and a Bill to the Senate on legal and constitutional amendments to safeguard institutions critical to the success of devolution including the Senate and county governments from internal and external threats.
2. The Senate has taken note of consistent attempts to undermine institutions charged with implementing devolution and assures the people of Kenya that it will resist such attempts and will use all means necessary to ensure that these institutions are protected in order to perform their roles without interference or intimidation from any quarters whatsoever.
3. The Senate appreciates the efforts and progress that the Transition Authority has made towards the full transition to the system of devolved government notwithstanding being starved of financial resources by the Treasury and the National Assembly, and being interfered with, intimidated and disrespected by the same institutions.
4. The Senate recognises that a lot more still needs to be done to ensure effective transition to devolved government. While there has been significant progress in the transition, there are critical pending matters that still need to be addressed to ensure the success of devolved government. The pending issues include:
 - (a) The need to expeditiously carry out and conclude the audit and transfer of assets and liabilities.
 - (b) An analysis of functions and resources that are still held by national government and state corporations and require to be transferred to county governments.
 - (c) An urgent need to develop a framework for civic education and provide adequate funding for implementation.
 - (d) Capacity building for county governments in the execution of their functions.

- (e) Inadequate funding to the Transition Authority to carry out the costing of functions which is important to facilitate the proper allocation of resources between the two levels government.
- 5. The Senate recognises the urgent need to engage the national government on the financing of the Transition Authority to enable it complete the pending tasks as mandated by law.
- 6. The Senate Committees on Devolved Government; Finance Commerce and Budget, and Legal Affairs and Human Rights will call for a meeting with the Ministry of Devolution and Planning and the National Treasury, to discuss the issues raised by the Transition Authority, particularly financing of the Transition Authority and the way forward.

ANNEX 2—PROGRAMME



**TRANSITION AUTHORITY
SENATE**

**CONSULTATIVE FORUM BETWEEN TRANSITION AUTHORITY
AND THE SENATE**

VENUE: SERENA BEACH HOTEL, MOMBASA, 18th -21st June 2015

**THEME: DEVOLUTION: TAKING STOCK OF THE MILESTONES
AND ADDRESSING THE EMERGING CHALLENGES.**

TIME	ACTIVITY	PRESENTER	SESSION CHAIRPERSONS
DAY ONE: THURSDAY 18TH JUNE, 2015			
ARRIVAL OF THE PARTICIPANTS AT SERENA BEACH HOTEL, MOMBASA			SECRETARIAT
DAY TWO: FRIDAY 19 JUNE, 2015			
08.30 am –09.00 am	Registration	Secretariat/TA/Se nate	Mrs. Angeline Hongo MBS V/Chair, TA
09.00 am - 10.30 am	Introductions and objectives	Stephen Makori, CEO, TA	
	Remarks by the Senator – Mombasa County	Sen. Hassan Omar	

TIME	ACTIVITY	PRESENTER	SESSION CHAIRPERSONS
	Remarks by the UNDP representative	TBA	
	Remarks by the Clerk of the Senate	Mr Jeremiah Nyegenye, CBS	
	Remarks by the Chairman – TA	Mr. Kinuthia Wamwangi, EBS	
	Remarks by the Minority Leader – Senate	Sen. Moses Wetangula, EGH	
	Remarks by the Majority Leader – Senate	Sen. (Prof) Kithure Kindiki, EGH	
	Key Note Address by Speaker of the Senate	Sen. Ekwe Ethuro, EGH, EBS	
10.30 am – 11.00 am	PHOTO SESSION AND TEA BREAK		
11.00 am – 12.00 pm	Devolution under the Constitution of Kenya, 2010: Vision, Reality & Lessons Learnt	Dr. Mutakha Kangu	Sen. Ekwe Ethuro
12.00 pm – 12.30 pm	General Overview of Status of Devolution: Achievements, Pending Activities & Challenges	Presenter: MrBakari Omara, Member, TA	
12.30 pm – 12.45 pm	Independent Evaluation of the Status of Devolution	Prof. Margaret Kamar	
12.45 pm – 01.30 pm	Plenary Session		

TIME	ACTIVITY	PRESENTER	SESSION CHAIRPERSONS
01.30 pm – 02.30 pm	LUNCH BREAK		
02.30 pm – 03.00 pm	<p>Progress on transfer of County Functions:</p> <p>i. Update on Transfer and Costing of Functions</p> <p>ii. Examining performance of concurrent functions and functions yet to be transferred.</p>	<p>Presenter: Dr. Dabar Abdi, Member, TA</p> <p>Discussants: Sen. Kipchumba Murkomen, <i>Chairperson, Senate Sessional Committee on Devolved Government</i></p> <p>Sen. Billow Kerrow, <i>Chairperson, Senate Standing Committee on Finance, Commerce and Budget</i></p>	Sen. (Prof) Kithure Kindiki
03.00 pm – 03.30 pm	<p>Update on:</p> <p>i. Capacity Assessment and Rationalization of Public Service (CARPS)</p> <p>ii. Status on Human Resource Deployment in the Public Service</p> <p>iii. County Umbrella Retirement Scheme</p>	<p>Presenter: Mrs. Mary Ndeto, HSC, Member, TA</p> <p>Discussant: Sen. Stewart Madzayo, <i>Vice-Chairperson, Standing Committee on Labour & Social Welfare</i></p>	

TIME	ACTIVITY	PRESENTER	SESSION CHAIRPERSONS
03.30 pm – 04.00 pm	Update on planning, budgeting and finance for County Governments: i. Accountability ii. Revenues Collection iii. Linking plans with Budgets	Presenter: Mr Simeon Pkiyach, Member, TA Discussant: Sen. Amos Wako, FCI, Arb, SC, <i>Chairperson, Senate Standing Committee on Legal Affairs and Human Rights</i>	
04.00 pm – 05.30 pm	PLENARY		
07.00 pm – 10.00 pm	SPEAKER'S COCKTAIL		
DAY TWO: SATURDAY 20TH JUNE, 2015			
08.30 am – 09.00 am	Registration	Secretariat/TA/Senate	Sen. Moses Wetangula
09.00 am – 09.30 am	Update on progress of audit and transfer of public assets and liabilities	Presenter: Mr Bakari Omara, Member TA Discussant: Sen. Kipchumba Murkomen, <i>Chairperson, Senate Committee on Devolved Government</i>	

TIME	ACTIVITY	PRESENTER	SESSION CHAIRPERSONS
09.30 am – 10.30 am	Examining achievements, challenges and current status on the rollout of civic education.	Presenter: Ms Safia Abdi, Member, TA Discussant: Sen. Amos Wako, FCI, Arb, SC, <i>Chairperson, Senate Standing Committee on Legal Affairs and Human Rights</i>	
10.30 am-11.30 am	PLENARY		
11.30 am – 12.00 pm	TEA BREAK		
12.00 pm – 12.30 pm	Update on Transfer and Closure of Public Records and Information	Presenter: TA Discussant: Sen. Naisula Lesuuda, OGW, <i>Vice-Chairperson, Senate Committee on Devolved Government</i>	Mr Kinuthia Wamwangi
12.30 pm – 1.30 pm	Review of critical pending legislation: i. Urban Areas and Cities Amendment Act ii. Classification of	Presenter: Erastus Rweria, Member, TA Dr. Dabar Abdi, Member TA	

TIME	ACTIVITY	PRESENTER	SESSION CHAIRPERSONS
	Roads Bill iii. Health Bill iv. Gambling v. Water Bill	Discussants: Sen. Abu Chiaba, <i>Chairperson, Senate Standing Committee on Roads and Transportation</i> Sen. Zipporah Kittony, <i>Vice-Chairperson, Senate Standing Committee on Health</i> Sen. Kipchumba Murkomen, <i>Chairperson, Senate Committee on Devolved Government</i>	
1.30pm – 2.30 pm	PLENARY		
2.30 pm – 3.00 pm	Joint Communiqué/Way Forward	TA/SENATE	
3.00 pm – 3.30 pm	Closing Remarks by the Speaker of the Senate		
3.30 pm	LUNCH BREAK AND END OF CONSULTATIVE FORUM		

Overall Coordinators:

- i. Transition Authority— Ms. Joy Bigambo – 0723-281964**
- ii. Senate, County Liaison Office Coordinator: Ms. Brenda Ogembo—0723-919494**

ANNEX 3: LIST OF PARTICIPANTS

	Name	Organization
Senators		
1	Sen. Ekwe Ethuro	Senate Speaker
2	Sen. Kithure Kindiki	Senate Majority Leader
3	Sen. Moses Wetangula	Senate Minority Leader
4	Sen. Boy Juma B.	Senate
5	Sen. Catherine Mukute	Senate
6	Sen. Fatuma Dullo	Senate
7	Sen. David Musila	Senate
8	Sen. Mutia Mshenga	Senate
9	Sen. Dr. Wildred Machage	Senate
10	Sen. John Munyes	Senate
11	Sen. Stephen Sang	Senate
12	Sen. George Khaniri	Senate
13	Sen. H. Ole Ndiema	Senate
14	Sen. Paul Njoroge	Senate
15	Sen. Halima Mohamud	Senate
16	Sen. Kipchumba Murkomen	Senate
17	Sen. Mutula Kilonzo Junior	Senate
18	Sen. Abu Chiaba	Senate
19	Sen. Emma Mbure	Senate
20	Sen. Anyang' Nyong'o	Senate
21	Sen. Chris M. Obure	Senate
22	Sen. Judith Sijeny	Senate
23	Sen. Billow Kerrow	Senate
24	Sen. Janet Ong'era	Senate

	Name	Organization
25	Sen. Johnson Muthama	Senate
26	Sen. Lenny Kivuti	Senate
27	Sen. Zipporah Kittony	Senate
28	Sen. Hassan Omar	Senate
29	Sen. Beatrice Elachi	Senate
30	Sen. Holime	Senate
31	Sen. Ali A. Abdi	Senate
32	Sen. Agnes Zan	Senate
33	Liza Ateluca	Senate
34	Sen. Godliver Omondi	Senate
35	Sen. Masha Elizabeth Ongoro	Senate
36	Sen. Melly Isaac	Senate
37	Sen. Priscah Chelule	Senate
TA Commissioners		
38	Kinuthia Wamwangi, EBS	TA, Chairman
39	Mrs Angeline Hongo, MBS	TA, V/Chair
40	Mrs Mary Ndeto	TA, Member
41	Simeon Pkiyach	TA, Member
42	Erastus B.I.N. Rweria, MBS	TA, Member
43	Ms Safia Abdi	TA, Member
44	Bakari Omara	TA, Member
45	Dr. Dabar Abdi Maalim	TA, Member
46	Stephen K. Makori	TA, CEO
Staff of Secretariats of Senate and Transition Authority		
47	Jeremiah Nyegenye	Clerk to Senate
48	Ms Brenda Ogembo	Senate

	Name	Organization
49	Eunice Nyaga	Senate
50	Esther Kariuki	Senate
51	Ronald Lumumba	Senate
52	Stephen Gikonyo	Senate
53	Ibrahim Leruk	Senate
54	Mary Chesire	Senate
55	Ahmed Odhwa	Senate
56	Deborah Gichuki	Senate
57	Elizabeth Muthoni	Senate
58	Sarah Rukwaro	Senate
59	Kavata Musyoka	Senate
60	Carol N. Kirorei	Senate
61	David Barasa	Senate
62	Njuguna S. N	Senate
63	Wanyoike John	Senate
64	Bett Victor	Senate
65	Daniel Chania	Senate
66	Sophie Salamba	Senate
67	Marya Adijobodou	Senate
68	Abel T. Kachu	Senate
69	Mutinda Kavemba	Senate
70	Derick Koli	Senate
71	Christopher Gitonga	Senate
72	Edward Edung	Senate
73	Martin Mutua	Senate
74	Joseph Mwangi	Senate
75	Gabriel Nyongesa	Senate

	Name	Organization
76	Consolata Munga	Senate
77	J. M. Nyegenye	Senate
78	Peter Mulesi	Senate
79	Jacinta Kata	Senate
80	Joyce Aluoch	Senate
81	Josephine Okoth	Senate
82	Susan Odhiambo	Senate
83	B.L. Lenairoshi	Senate
84	Peter O. Adika	Senate
85	Grace Mutung'u	Senate
86	Johnson Okello (Dr.)	Senate
87	M.A. Mohamed	Senate
88	Margaret Ndegwa	Senate
89	Wilson Bosmet	Senate
90	Martin Mutua	Senate
91	P. Muchira	Senate
92	Fridah Mwau	Senate
93	Farida Kinyua	Senate
94	David Esuron	Senate
95	S. K. Sorobit	Senate
96	Amita Thurania	Senate
97	Chris Mandu	Senate
98	Yussuf Shimoli	Senate
99	Mwanate Shaban	Senate
100	Crispus Njogu	Senate
101	Emmy Chepkwony	Senate
102	S. Kioko	Senate

	Name	Organization
103	Pamela Odhia	Senate
104	Clare Jerotich	Senate
105	Charles Ngatia	Senate
106	Lucianne Limo	Senate
107	Gloria Wawira	Senate
108	Johnson Okello (Dr.)	Senate
109	Marya Adjibodou	Senate
110	James Ngusye	Senate
111	Mulei Muia	TA
112	Lucy Kuria	TA/CTC
113	Emmy M'mbwanga	TA
114	Grace Kimitei	TA
115	Owanga Sebastian	TA/CTC
116	Margaret Kiema	TA
117	Joy Bigambo	TA
118	Richard Mwarema	TA/CTC
119	Joyce K. Kariuki	TA
120	Karhayu Deye	TA/CTC
121	Polycarp Oduol	TA
122	Maggy Mwangangi	TA
123	Juliet A. Otieno	TA
124	John Awuor	TA
125	Agnes Philip	TA
126	E. Kanini	TA
127	Joyce Omariba	TA
128	Margaret Chebii	TA
129	Prof. Margaret Kamar	Consultant

	Name	Organization
130	Dr. Mutakha Kangu	Consultant
131	Dr. Samuel Siringi	Consultant
132	Dr. C. Bosire	Consultant
133	Hellena Kithinji	Consultant

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