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THE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION

REPORT ON COUNTY VISITS TO EMBU, THARAKA NITHI AND MERU
COUNTIES (29TH OCTOBER TO 1ST NOVEMBER, 2015)

Clerk's Chambers,
First Floor,
Parliament Buildings,
NAIROBI.

NOVEMBER, 2015

Tabled on the
Table of the Senate
by Sen. S. Sang on
31/12/2015
LH
02/12/15

COS
Endorsed for
Tabling
02/12/15



Hon. Speaker
You may approve
for tabling.
03/12/15

Approved
M. M. M. M. M.
3/12/2015

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ABBREVIATIONS

CEC	-	County Executive Committee
MCA	-	Member of County Assembly
PwDs	-	Person with Disabilities
SO	-	Standing Orders

PREFACE

Mr. Speaker Sir,

The Sessional Committee on Delegated Legislation is established pursuant to the Senate Standing Order 214 which states:-

- 1) There shall be a select Committee to be known as the Committee on Delegated Legislation.
- 2) Whenever a statutory instrument is submitted to the Senate pursuant to the Constitution, any law or these Standing Orders, the statutory instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the Senate by the Chair of the Senate Committee on Delegated Legislation and thereafter stand referred to the Committee.
- 3) The Committee shall consider in respect of any statutory instrument whether the statutory instrument:-
 - a) is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
 - b) infringes on fundamental rights and freedoms of the public;
 - c) contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
 - d) directly or indirectly bars the jurisdiction of the courts;
 - e) gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
 - f) involves expenditure from the Consolidated Fund or other public revenues;
 - g) is defective in its drafting or for any reason, the form or purport of the statutory instrument calls for any elucidation;
 - h) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
 - i) appears to have had unjustifiable delay in its publication or laying before Parliament;

- j) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- k) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- l) inappropriately delegates legislative powers;
- m) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- n) appears for any reason to infringe on the rule of law;
- o) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
- p) accords to any other reason that the Committee considers fit to examine.

(4) If the Committee-

- a) resolves that the statutory instrument, be acceded to, the Clerk shall convey that resolution to the relevant state department or the authority that published the statutory instrument;
- b) does not accede to the statutory instrument, or part of a statutory instrument, the Committee may recommend to the Senate that the Senate resolves that all or any part of the statutory instrument, as the case may be, be annulled.

(5) If the Senate-

- a) fails to agree to the recommendation of the Committee under paragraph (4)(b), the statutory instrument shall be deemed to have been approved by Parliament;
- b) resolves to annul a statutory, or part of a statutory instrument, the resolution shall, within seven days of the passage of the resolution, be referred to the National Assembly for concurrence.

Membership of the Committee

The Membership of the Committee is as follows:-

- | | | |
|-----------------------------|---|------------------|
| 1. Sen. Stephen Sang | - | Chairperson |
| 2. Sen. Judith Sijeny | - | Vice-Chairperson |
| 3. Sen. (Dr.) Boni Khalwale | - | Member |
| 4. Sen. Emma Mbura | - | Member |
| 5. Sen. Daniel Karaba | - | Member |
| 6. Sen. Liza Chelule | - | Member |
| 7. Sen. Godliver Omondi | - | Member |
| 8. Sen. Joy Gwendu | - | Member |
| 9. Sen. Boy Juma Boy | - | Member |

Delegation's composition

The delegation of the visit to Embu, Meru and Tharaka Nithi Counties comprised of the following Members:

- | | | |
|-------------------------|---|--------|
| 1. Sen. Boy Juma Boy | - | Member |
| 2. Sen. Daniel Karaba | - | Member |
| 3. Sen. Liza Chelule | - | Member |
| 4. Sen. Godliver Omondi | - | Member |

Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate in facilitating visits to Embu, Meru and Tharaka Nithi Counties by the Sessional Committee on Delegated Legislation.

Mr. Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 214, to present the Report of the Sessional Committee on Delegated Legislation on County Visits to Embu, Meru and Tharaka Nithi Counties.

Signed.....



Date.....

2/12/15

SEN. STEPHEN SANG,

CHAIRPERSON,

SESSIONAL COMMITTEE ON DELEGATED LEGISLATION.

EXECUTIVE SUMMARY

This report documents the visit by the Senate Sessional Committee on Delegated Legislation to Embu, Meru and Tharaka Nithi Counties between 29th October and 1st November, 2015.

Chapter one of this report gives a background to the visits which was as a result of a resolution of the Senate Sessional Committee on Delegated Legislation at its 20th Sitting held on 30th September, 2015. The visits were undertaken in fulfillment of the Constitutional role of the Senate under Article 96 of the Constitution and in accordance with the Committee's annual work plan 2014/2015 which includes monitoring of counties, among other activities.

Chapter two documents activities undertaken by the Committee during the visit to Embu County. The Committee made a courtesy Call on the Speaker of the County Assembly of Embu, Hon. Kariuki Mate. The Committee then held meetings with the Members of its counterpart committee of the County Assembly of Embu.

Chapter three documents activities undertaken by the Committee during the visit to Tharaka Nithi County. The Committee held a meeting Members of its counterpart Committee of the County Assembly of Tharaka Nithi County.

Chapter four documents activities undertaken by the Committee during the visit to Meru County. The Committee made a courtesy Call on the Speaker of the County Assembly of Meru, Hon. Joseph Kaberia. The Committee then held meetings with the Members of its counterpart committee of the County Assembly of Meru.

Chapter four contains observations and recommendations made by the Committee as follows:

- 1. Lack of commitment by the County Executive**

There is lack commitment from the County Executive Committee (CEC) Members in formulating regulations. The CECs are also not fully aware of their responsibilities in the formulation of county regulations.

2. Delays in scrutinising statutory instruments

The County Assembly of Embu fails to scrutinize statutory instruments within the twenty (20) day time limit set by the Standing Orders (SO) of the County Assembly of Embu. This is also due to the late referral of regulations to the Committee. This challenge has resulted in some regulations coming into force without going through Committee scrutiny as per the Standing Orders.

3. Lack of capacity

The Committee lacks capacity on scrutiny of statutory instruments. In addition, they do not have networks with other legal bodies such as Kenya Law Reform (KLR), and the Centre for Parliamentary Studies and Training (CPST) for training.

4. Overlap of duties between the national and county governments

There is no synergy between the national government and county governments in some roles therefore resulting in the overlapping of duties within the county.

5. Impeachment of CECs

The County Assemblies requested the Senate to look into the matter of impeachment of CECs by the County Assemblies. They complained that it is difficult to impeach CECs who are incompetent in their duties. It has been stated that this has been contributed by a court ruling in Bungoma that stated that MCAs could not impeach CECs, thus hampering the oversight role of the County Assemblies.

6. County benchmarking

Some counties such as the County Assembly of Nyandarua have assisted other counties in capacity building on the mandate of the Committee on Delegated Legislation. This has been done through benchmarking visits.

7. Requests to visit the Senate

The counties requested to be invited to Parliament to visit the Senate Committee on Delegated Legislation and also witness Senate proceedings. This is to build their capacity and give them practical experiences on procedural and legislative issues.

8. Sensitization of the County Executive

The Committee observed that there is a serious need to sensitize the County Executive on statutory instruments. This is because the Executive has failed to transmit statutory instruments to the County Assemblies for scrutiny. Further, some CECs have been coming up with rules/orders that are not anchored in any provision of the law.

9. Accessibility for persons with disabilities

Some of the counties visited had made great progress in facilitating PwDs e.g. through building of ramps for ease of accessibility to the Assembly chamber and other facilities.

Recommendations

The Committee makes the following recommendations based on observations made during its visit to Embu, Meru and Tharaka Nithi Counties:

1. County Assemblies were advised to amend provisions of their Standing Orders which set stringent time limits for the scrutiny of statutory instruments. This will provide the Committee with ample time to adequately scrutinize subsidiary legislation and to report back to the House.
2. The County Assemblies should budget for disability programmes during their budgeting making process.
3. Counties have unique challenges and were therefore requested to legislate on the problems affecting the county and its people rather than duplicate legislations passed in other counties.

4. The counterpart committees of the counties should write letters to the CECs to notify them on the provisions of the law in relation to regulations.
5. The counterpart committees should carry out an audit of Acts passed by the respective County Assemblies and especially sections that give the CECs powers to make regulations and notify the County Executive on the provisions of the law that require the development of regulations and their transmission to the legislature.
6. The committee clerks of the County Assemblies should interact with the Senate Committee staffers for further consultations and exchanges on the mandate of the committee as well as procedural issues relating to the scrutiny of Regulations. This would greatly assist counterpart committees that were experiencing challenges on the same.
7. The Senate Committee on Delegated Legislation should have greater interaction with the counterpart committees through county visits and meetings in the Senate to assist in the capacity building of Members of the counterpart committees at the county level.
8. The County Assembly should legislate for PwDs and their projects and also raise issues on the progress on budgets for PwDs with the County Executive.

CHAPTER ONE

INTRODUCTION

The Senate Sessional Committee on Delegated Legislation is established pursuant to Standing Order 214 of the Senate Standing Orders and is mandated to scrutinize statutory instruments laid before the House to ensure that they are consistent with the provisions of the Statutory Instruments Act, 2013.

In the exercise of this mandate and in fulfilment of the Constitutional role of the Senate as provided for under Article 96 of the Constitution, the Committee in its Annual Work Plan 2015/2016 committed to undertake visits to various counties.

At its 20th Sitting held on 30th September, 2015, the Committee resolved to undertake county visits to Embu, Meru and Tharaka Nithi Counties between 28th October and 1st November, 2015. The specific objectives of the meetings with Governors were to establish the following:

1. whether or not the County Government Committee is aware of the provisions of the Statutory Instruments Act, 2013;
2. the subsidiary legislations which have been made by the County Government;
3. the number of subsidiary legislations which have been transmitted to the County Assembly for scrutiny;
4. when and how public participation is done on the subsidiary legislations made by the County Government; and
5. the process of publication of the subsidiary legislations;

The Committee was scheduled to meet with the Governor, County Government of Tharaka Nithi; however, due to exigencies of duty, the Governor was unable to attend the meeting.

The specific objective of the meetings with the counterpart committees was to build the capacity of the Committee Members and to receive their submissions on the challenges faced and achievements made so far in the execution of their mandate.

CHAPTER TWO

EMBU COUNTY

Embu County is one of the counties in the Eastern region of Kenya. Its county headquarters is in Embu town. The county has a population of 543,221 persons. The county borders Kirinyaga to the West, Kitui to the East, Tharaka Nithi to the North, and Machakos to the South and occupies an area of 2,818 km². It is divided into four constituencies namely; Manyatta, Runyenjes, Mbeere North and Mbeere South. The County wards include Blue Valley, Itabua, Kamiu, Kangaru, Majengo, Matakari and Njukiri

2.1 Courtesy Call on the Speaker of the County Assembly of Embu

In his opening remarks to the Senate Committee on Delegated Legislation, the Speaker, Hon. Kariuki Mate, welcomed the Senators. He stated that the Assembly had high expectations to learn from the Senate and its workings noting that it would also be an opportunity for the Senate to learn from the county. He further informed the meeting that the County had a vibrant media, and was a peaceful county. He thanked the Senators for visiting the county.

Sen. Karaba thanked the Speaker for the warm reception. He informed the meeting that the visit was by the Senate Sessional Committee on Delegated Legislation which comprised of nine Members; however some were unable to travel due to exigencies of duty including the Special Committee investigating the impeachment of Governor Mwangi Wa Iria of Murang'a County. He stated that the purpose of the visit was to oversight the progress of the mandate of the counterpart committee on delegated legislation in the execution of its mandate.

2.2 Meeting with the Counterpart Committee on Delegated Legislation

The Speaker opened the session and welcomed Senators and MCAs to the meeting. He noted that there had been some confusion in understanding the scope and mandate of the committee at the beginning. Frameworks for the Committee were much needed because

of the limitation of Statutory Instruments. He stated that the visit by the Senate was welcome in order to provide oversight the County Assembly duties as their guardians.

Remarks by the Chairperson of the Counterpart Committee on Delegated Legislation

The Chairperson, of the County Assembly Committee on Delegated Legislation Hon. Rose Ndwiga welcomed the Senators and made the following remarks:

1. The Committee was formed in October 2013; however it had challenges in starting out because its Members as the Committee did not receive any regulations and was therefore not busy.
2. Over time, the members of the Committee have been undergoing training and understand its mandate.
3. Some of their achievements include training from the Clerk of the National Assembly, scrutiny of the Alcoholic Drinks Act, 2014 and benchmarking trips to Nakuru, Kericho, and Laikipia among others.
4. Three (3) Regulations have been transmitted to the County Assembly for scrutiny. These include-
 - a) The Embu County Alcoholic Drinks Control Regulations, 2014;
 - b) The Embu County Youth Trust Fund Regulations, 2015; and
 - c) The Embu County Education Support Fund Regulations, 2015.
5. Some of the challenges encountered by the Committee include:
 - a) Slow commitment from the County Executive Committee (CEC) Members to make regulations. The CECs are also not well aware of their responsibilities in the formulation of county regulations.
 - b) The failure to scrutinize county regulations on time. This is due to the late referral of regulations to the Committee whereas the Standing Orders (SO) of the County Assembly of Embu has a stipulated timeline of twenty (20) days for the scrutiny of regulations. This challenge has resulted in some regulations coming into force without going through Committee scrutiny as per the Standing Orders.

- c) There has been a clear lack of strategy from the Committee on how to tackle statutory instruments. In addition, the Members and staff require capacity building and the Committee has not networked with other legal bodies such as Kenya Law Reform (KLR), and the Centre for Parliamentary Studies and Training (CPST) for training.

The counterpart committee on Delegated Legislation sought to know the following:

1. The definition of statutory instruments; this because the CECs were coming up with rules/orders that were not anchored in any Act.
2. How many legislations the Senate Committee had reviewed to actualize devolution, for example, water services at county level because companies have to apply for rates to charge for water. In addition, roads, i.e. national government has put in place institutions to perform county duties etc.
3. There was no synergy between the national government and county governments in some roles therefore resulting in the overlapping of duties within the county. How can this be addressed?

Remarks by the Leader of Delegation of the Senate Sessional Committee on Delegated Legislation, Sen. Daniel Karaba

The leader of Delegation appreciated the warm welcome by the County Assembly. He proceeded to highlight the mandate of the Senate Committee of Delegated Legislation explaining precisely with examples how the Committee delivered through their mandate.

In his remarks he stated that:

1. The success of the counties and devolution was the success of the country;
2. The media presence and freedom was to be commended in the County together with the facilities of the County Assembly that are accessible to PwDs;
3. The intention for the meeting was to support the county assembly in carrying out its mandate on regulations. The counterpart committee on delegated legislation

was also encouraged to benchmark with counterpart committees from other counties.

4. The Committee would extend an invitation to the counterpart Committee of the County Assembly to visit to the Senate for further interactions and sharing of experiences. This would also provide an opportunity to the Members to witness Senate proceedings.

The accompanying Senators also contributed with the following:

1. The County Assembly was commended for their great working environment and would be used as an example to other counties. They would be used as a benchmark on its facilities for PwDs. However, they needed to improve on accessibility to the Speaker's gallery for the county constituents with disabilities.
2. The role of the Committee on Delegated Legislation was to scrutinize regulations and not Bills;
3. The County Assembly was advised to amend their Standing Orders to give time to adequately scrutinize regulations transmitted to the Assembly. As pioneers of the Committee, they were advised to set the precedence for the members who would join the committee after them. It was noted that restricting themselves to timelines in looking at the regulations could affect the quality of output on the regulations they looked into.
4. The County Assembly was requested to budget for disability programmes during their budget making process.

In response to the concerns of the counterpart committee on delegated legislation, the Senate highlighted the following:

1. Devolution still has its teething problems and the county assembly was urged to work hand in hand with the Senate.
2. Regulations touching on devolution that the Senate Committee on Delegated Legislation had scrutinised included the following-

- a) The Public Finance Management (National Government) Regulations, 2015;
- b) The Public Finance Management (County Government) Regulations, 2015;
- c) Legal Notice for the Declaration of the National Government Entities (State Organs)

The role of those regulations was to harmonize and standardize the application throughout government service in controlling and managing the finances.

3. Counties have unique challenges and should therefore legislate on the problems affecting their people rather than duplicate legislations passed by other counties.

CHAPTER THREE THARAKA NITHI COUNTY

Tharaka-Nithi County is one of the counties located in Kenya's Eastern Province. The county has an area of 2409 km² and had a population of 365,330 as of the 2009 census. The county headquarters is at Kathwana, a site that is at the intersection of the three constituencies (Maara, Tharaka and Chuka/Igamba-ngo'mbe. Tharaka Nithi County presently has 3 constituencies and they are Maara, Chuka/Igambang'ombe and Tharaka.

The primary economic activities in Tharaka-Nithi County are tea and coffee planting, subsistence dairy farming, as well as keeping of other livestock such as goats and sheep. Although Tharaka Nithi County lies in the semi-arid area of the larger Meru region, agriculture is the major economic activity for locals. There is small scale production of different crops including millet, sorghum, cowpeas, maize, cassava and vegetables. There is commercial trout fish farming sponsored by the Tharaka Fisheries initiative. Tharaka Nithi is also known for the community power generation scheme located at the Kamanyaki Great Falls Dam.

3.1 Meeting with the Counterpart Committee on Delegated Legislation in the County Assembly of Tharaka Nithi

Hon. Julius Mwenda, a Member of the Speaker's Panel of the County Assembly of Tharaka Nithi welcomed the Senators to Tharaka Nithi. He then invited the Deputy Governor, Mr. Mati Mureithi to make his opening remarks.

In his remarks, the Deputy Governor noted that the county was new having been created under the Constitution of Kenya, 2010. He highlighted the serious need for infrastructure finances as they were a new county and urged for the support of the Senate. In addition, the County Assembly facilities were temporary and were in need of a site to build their offices. He informed the meeting that the County Executive was preparing to present a petition to the Senate on boundaries with Meru County, urging for the support of the

Senate in this matter. He appreciated the visit by the Senate to share knowledge and experiences with the Assembly Members.

Hon. Julius Mwenda then invited the Senate Leader of Delegation, Sen. Daniel Karaba, to make his remarks. Sen. Karaba took the counterpart committee on delegated legislation through the mandate of the Senate Committee.

Contributions by the Members of the Counterpart Committee on Delegated Legislation

The Chairperson of the County Assembly Committee on Delegated Legislation appreciated the information on the role of the Senate Sessional Committee on Delegated Legislation.

However, they had concerns such as:

1. How many times does the Senate Committee meet?
2. If the County Executives declare “verbal regulations” that are not writing, are they valid?
3. How many days are required to scrutinize regulations?
4. Some CECs and County Assembly Members may not be knowledgeable on their roles therefore pushing the county backwards
5. The committee is very dormant.

In response to the concerns of the counterpart committee on delegated legislation, the Senate highlighted the following:

1. Meetings depend on the Committee business but the Committee meets once or twice a week. The Senate Standing Order 190 provides that a Committee shall meet at least once in two months;
2. Regulations come from the Executive as stated in the Statutory Instruments Act, section 11. In the Senate’s case, they emanate from the Cabinet Secretaries;
3. On the issue of verbal and written rules or orders by the County Executives, it was stressed that if regulations do not follow procedures laid down in the Statutory

Instruments Act, 2013 then they are not valid. It was highlighted that the Committee on Delegated Legislation only scrutinizes regulations that have been forwarded and published by the Executive;

4. The County MCAs were asked to write letters to the CECs to notify them on the provisions of the law in relation to regulations in order to get Committee business;
5. The County Assembly Committee on Delegated Legislation was encouraged to look for Committee business by looking through Acts they have passed, and especially looking at sections that give powers to the CECs to make regulations; and notify the CECs on the provisions. They would then be required to transmit these regulations to the Assembly and they would be later committed to the Committee on Delegated Legislation after tabling in the Assembly;
6. The Committee clerks of the County Assembly and the Senate staffers should interact further on the role of delegated legislation and procedures for scrutiny of regulations;
7. The Senate Committee would extend an invitation to the counterpart committee to visit the Senate for further interactions and exchanges.

CHAPTER FOUR MERU COUNTY

Meru County is located in the former Eastern Province with the county headquarters being in Meru town. It borders Isiolo County to the North and North East, Tharaka County to the South, Nyeri County to the South West, and Laikipia County to the West.

The county is made up of 15 education divisions and zones. Staffing is inadequate for both teachers and education officers. Majority of the students are attending government institutions at the schooling levels except for professionals and vocational training where private institutions absorb most students.

The county has a number of factories which add value to agricultural products. These are mainly owned by the various tea and coffee cooperatives societies. There are also factories processing livestock products such as milk, owned by farmer's cooperatives. There are other factories in the county producing bread and animal feeds. These are in small scale and mainly found in Meru town.

Mining is the exploration and extraction of valuable minerals or other geological materials from the earth for economic interest to the miner. In the county this economic activity has not been fully exploited.

4.1 Courtesy Call on the Speaker in the County Assembly of Meru

In his opening remarks to the Senate Committee on Delegated Legislation, the Speaker, Hon. Joseph Kaberia, welcomed the Senators. He informed the meeting of the following:

1. The County Assembly was currently located at temporary offices due to renovations being done in their County Assembly premises in Meru town;
2. The County Assembly has a challenge of resources for benchmarking visits to the Senate and that the Senate Committee on Delegated Legislation was the first ever Committee to visit the Assembly;
3. The Assembly also included PwDs whose welfare was catered for. They have been provided with personal assistants, and have looked into special washrooms

and infrastructure facilities to facilitate PwDs. He added that there is one member with a disability and for the gender top-up they included a woman with a disability into the Assembly.

In response to the welcoming remarks by the Speaker, the Senators responded by highlighting that:

1. They appreciated the warm reception and the Speaker's and MCAs attendance despite the meeting being held on a Saturday;
2. The visit was intended for the interaction between the Senate Committee and counterpart committee on delegated legislation at the county level in order to build capacity and share experiences;
3. Senate is a protector of the counties and as such there exist exchange programmes where counties could come and learn from the Senate;
4. The Senators commended the County Assembly on their progress in facilitating PwDs. The County Assembly members were encouraged to legislate for PwDs and their projects and were informed that they had a duty to raise issues on progress on budgets for PwDs. Further, it was stated that the Executive had a role to create projects for PwDs and the County Assembly has the role to oversight those projects.

4.2 Meeting with the Counterpart Committee on Delegated Legislation in the County Assembly of Meru

The Speaker welcomed the Senators to the County Assembly premises. He appreciated the presence of MCAs with particular appreciation for the presence of the County Assembly Committee on Delegated Legislation noting that it comprised of twenty-one members.

The Speaker informed the Senators that they faced challenges in regards to the mandate of the Committee therefore much had not been accomplished; although they had tried to do their part by looking for regulations to be brought to the Committee. This challenge was mostly attributed to lack of capacity of the Committee Members.

In the oversight of County Executives, the Speaker added that it was difficult to impeach CECs that were incompetent in their duties. This had been contributed by a court ruling in Bungoma that stated County Assembly Members could not impeach CECs, hampering the work of County Assemblies. Therefore, he stated that County Assemblies need to be given power to impeach CECs

The Senators were informed that timelines for considering regulations were not adhered to because of non-cooperation from CECs. This was because regulations were being brought in too late for consideration to the County Assembly.

Remarks by the Clerk of the County Assembly

He started his remarks by appreciating the presence of the Senators in the County Assembly and also mentioned his appreciation in the review of the budget ceilings because they gave them capacity in employing.

In addition, he informed the members that the roles of the County Assembly Members were impaired because they can't oversight. He also mentioned that they were looking into the regulation of the PFM Act and had sent memorandum on the same to be looked at. In conclusion, he appreciated the exchange between the Senate and the County Assembly members of the Committee on delegated legislation.

Remarks by the Chairperson of the Counterpart Committee on Delegated Legislation

He began his remarks by appreciating the presence of the Senators in the County Assembly and informed them that they too wanted to be invited to visit the Senate Committee.

In his remarks he highlighted the following:

1. The Nyandarua County Assembly had assisted the Committee in understanding its mandate.
2. He urged the Senate to look into the matter of the Bungoma Case where the County Assembly was barred from impeaching a CEC.
3. He requested for the County Assembly of Nyandarua to be invited to visit the Senate Committee at Parliament together with the County Assembly of Meru.

Contributions by the Senate Committee on Delegated Legislation

In their response to the contributions made by various participants of the County Assembly of Meru, the Senators stated the following:

1. Delegated Legislation is important, should be the busiest and its members should be active. They have to work hard in making themselves visible. They were encouraged to fight for their space and make themselves visible for the purposes of enabling devolution to work.
2. The Committee Members should stand together to ensure they always work from the same page.
3. Issues of disability should be on their agenda. This was because issues of funding PwDs had arisen that their provisions had not been devolved yet, and this was not factual information. The rights of the disabled were being abused, for example, being taken into a jail cell without being facilitated. This therefore, called for the MCAs to take into consideration the people they were representing.
4. Money goes to the Governor, therefore the MCAs should voice to which people the money should be allocated. They should be able to make laws on allocation percentages to the different people they represent in their wards. This could be done through the Ward Development Fund. In determining allocations for the PwDs, it would be advisable to engage them in consultative forums to decide on

the projects they would like to engage in in turn helping with their economic empowerment and development.

5. In addition, the Committee members were asked to scrutinize regulations that would help the people because delegated legislations cut across all areas.
6. In the division of the budget, the Committee members were also encouraged to ensure that involved groups had the right information and that it catered for their needs.

During Committee meetings with the Members of the County Assemblies, the Committee observed the following:

1. Lack of commitment by the County Executive

There is lack commitment from the County Executive Committee (CEC) Members in formulating regulations. The CECs are also not fully aware of their responsibilities in the formulation of county regulations.

2. Delays in scrutinising statutory instruments

The County Assembly of Embu fails to scrutinize statutory instruments within the twenty (20) day time limit set by the Standing Orders (SO) of the County Assembly of Embu. This is also due to the late referral of regulations to the Committee. This challenge has resulted in some regulations coming into force without going through Committee scrutiny as per the Standing Orders.

3. Lack of capacity

The Committee lacks capacity on scrutiny of statutory instruments. In addition, they do not have networks with other legal bodies such as Kenya Law Reform (KLR), and the Centre for Parliamentary Studies and Training (CPST) for training.

4. Overlap of duties between the national and county governments

There is no synergy between the national government and county governments in some roles therefore resulting in the overlapping of duties within the county.

5. Impeachment of CECs

The County Assemblies requested the Senate to look into the matter of impeachment of CECs by the County Assemblies. They complained that it is difficult to impeach CECs who are incompetent in their duties. It has been stated that this has been contributed by a court ruling in Bungoma that stated that MCAs could not impeach CECs, thus hampering the oversight role of the County Assemblies.

6. County benchmarking

Some counties such as the County Assembly of Nyandarua have assisted other counties in capacity building on the mandate of the Committee on Delegated Legislation. This has been done through benchmarking visits.

7. Requests to visit the Senate

The counties requested to be invited to Parliament to visit the Senate Committee on Delegated Legislation and also witness Senate proceedings. This is to build their capacity and give them practical experiences on procedural and legislative issues.

8. Sensitization of the County Executive

The Committee observed that there is a serious need to sensitize the County Executive on statutory instruments. This is because the Executive has failed to transmit statutory instruments to the County Assemblies for scrutiny. Further, some CECs have been coming up with rules/orders that are not anchored in any provision of the law.

9. Accessibility for persons with disabilities

Some of the counties visited had made great progress in facilitating PwDs e.g. through building of ramps for ease of accessibility to the Assembly chamber and other facilities.

Recommendations

The Committee made the following recommendations:

1. County Assemblies were advised to amend provisions of their Standing Orders which set stringent time limits for the scrutiny of statutory instruments. This will provide the Committee with ample time to adequately scrutinize subsidiary legislation and to report back to the House.
2. The County Assemblies should budget for disability programmes during their budgeting making process.

3. Counties have unique challenges and were therefore requested to legislate on the problems affecting the county and its people rather than duplicate legislations passed in other counties.
4. The counterpart committees of the counties should write letters to the CECs to notify them on the provisions of the law in relation to regulations.
5. The counterpart committees should carry out an audit of Acts passed by the respective County Assemblies and especially sections that give the CECs powers to make regulations and notify the County Executive on the provisions of the law that require the development of regulations and their transmission to the legislature.
6. The committee clerks of the County Assemblies should interact with the Senate Committee staffers for further consultations and exchanges on the mandate of the committee as well as procedural issues relating to the scrutiny of Regulations. This would greatly assist counterpart committees that were experiencing challenges on the same.
7. The Senate Committee on Delegated Legislation should have greater interaction with the counterpart committees through county visits and meetings in the Senate to assist in the capacity building of Members of the counterpart committees at the county level.
8. The County Assembly should legislate for PwDs and their projects and also raise issues on the progress on budgets for PwDs with the County Executive.

APPENDICES

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

THE SENATE

SESSIONAL COMMITTEE ON DELEGATED LEGISLATION
VISITS TO EMBU, MERU AND THARAKA NITHI COUNTIES
THURSDAY 29TH OCTOBER TO SUNDAY 1ST NOVEMBER, 2015

PROGRAMME

**The Clerk's Chambers,
Parliament Buildings,
Nairobi, Kenya**

OCTOBER, 2015

Day 1: THURSDAY 29TH OCTOBER, 2015

4.00 p.m.	Departure for Embu County
7.00 p.m.	Check in at the Hotel, Embu County

Day 2: FRIDAY 30TH OCTOBER, 2015

8.45 a.m.	Departure from hotel
9.00 - 10.30 a.m.	Meeting with the counterpart Committee of the County Assembly of Embu
10.45 a.m.	Departure for Tharaka Nithi County
12.30 – 1.45 p.m.	Arrival and Lunch
2.00 – 3.30 p.m.	Meeting with the Governor, Tharaka Nithi County
3.30 – 5.00 p.m	Meeting with the counterpart Committee of the County Assembly of Tharaka Nithi
5.00 p.m.	Departure for Meru
7.00 p.m.	Check in at the Alba Hotel, Meru

Day 3: SATURDAY 31ST OCTOBER, 2015

8.45 a.m.	Departure from Hotel
9.00 a.m. - 10.45 a.m.	Meeting with the Governor, Meru County
12.30 – 2.00 p.m.	Lunch
2.00 p.m. – 3.30 p.m	Meeting with the counterpart Committee of the County Assembly of Meru

Day 4: SUNDAY 1ST NOVEMBER, 2015

Departure for Nairobi
END OF PROGRAMME

Programme Coordinator:
Ms. Carol Namunyak – Clerk Assistant - 0717488917
Rapporteur:
Ms. Grace Wahu – Research Officer - 0711591359

MINUTES OF THE 20TH SITTING OF THE SENATE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION HELD ON WEDNESDAY, 30TH SEPTEMBER, 2015 AT 10.00 A.M. IN THE 2ND FLOOR BOARDROOM, KICC

PRESENT

1. Sen. Stephen Sang - Chairperson
2. Sen. Godliver Omondi
3. Sen. Daniel Karaba
4. Sen. Emma Mbura
5. Sen. Boy Juma Boy
6. Sen. Liza Chelule

ABSENT WITH APOLOGY

1. Sen. Judith Sijeny - Vice-Chairperson
2. Sen. (Dr.) Boni Khalwale
3. Sen. Joy Gwendu

IN ATTENDANCE

SENATE

- | | |
|----------------------|------------------------|
| 1. Ms. Joyce Aluoch | - Committee Supervisor |
| 2. Ms. Carol Kirorei | - Committee Clerk |
| 3. Ms. Grace Wahu | - Research Officer |

MIN. NO. 143/2015

- PRELIMINARIES

The Chairperson called the meeting to order at 10.10 a.m. followed by a word of prayer.

MIN. NO. 144/2015

- ADOPTION OF THE AGENDA

The agenda of the sitting was adopted as presented having been proposed by Sen. Godliver Omondi and seconded by Sen. Emma Mbura.

MIN. NO. 145/2015**-CONFIRMATION OF PREVIOUS MINUTES**

- i. The minutes of the 18th sitting were confirmed as a true record of the proceedings after being proposed by Sen. Daniel Karaba and seconded by Sen. Godliver Omondi.
- ii. The minutes of the 19th sitting were confirmed as a true record of the proceedings after being proposed by Sen. Godliver Omondi and seconded by Sen. Daniel Karaba.

MIN. NO. 146/2015**-MATTER ARISING****a) Under Min. No. 140/2015**

Members were informed that the scheduled County Visits to Kiambu, Embu, Tharaka Nithi and Meru Counties did not take off due to the Speaker's directive that all Committee business be suspended to allow Members to attend the Senate Select Committee on Constitutional and Legal Review Workshop which was held on 27th August, 2015.

MIN. NO. 147/2015**-HOUSEKEEPING****1. Request for benchmarking by Turkana and Wajir Counties**

Members were informed of requests for benchmarking by Turkana and Wajir Counties. The Committee resolved to meet the counties on **Thursday, 22nd October, 2015**. Further, the Committee resolved to also invite the following counties to the meeting-

- a) West Pokot County
- b) Vihiga County
- c) Nyamira County

2. Proposed County Visits Programme

Members were taken through the proposed County Visit Programme to Embu, Tharaka Nithi and Meru counties scheduled to be undertaken between 15th and 17th October, 2015. The Committee adopted the County Visits Programme as presented.

MIN. NO. 148/2015

-ANY OTHER BUSINESS

1. Foreign Visits

Members requested for an update on the status of proposed foreign visits. They were updated as follows-

- a) The Ministry of Foreign Affairs and International Trade had communicated that the proposed visit to Trinidad and Tobago would pose a challenge as there is no Kenyan Mission accredited to the Republic of Trinidad and Tobago; and
- b) The proposed visits to Ghana, Botswana and New Zealand were pending response and confirmation from the Ministry of Foreign Affairs.

MIN. NO. 149/2015

-DATE OF NEXT MEETING

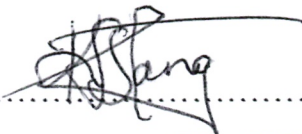
The next meeting would be held on 1st October, 2015 at 9.45 a.m.

MIN. NO. 150/2015

-ADJOURNMENT

The meeting was adjourned at 10.42 a.m.

SIGNED:



(CHAIRPERSON)

DATE:

8/10/15

**MINUTES OF THE SENATE SESSIONAL COMMITTEE ON DELEGATED
LEGISLATION HELD ON FRIDAY, 30th OCTOBER, 2015 IN EMBU COUNTY
ASSEMBLY AT 11:40A.M.**

PRESENT

1. Sen. Daniel Karaba - Ag. Chairperson
2. Sen. Godliver Omondi

ABSENT WITH APOLOGY

1. Sen. Stephen Sang - Chairperson
2. Sen. Judith Sijeny - Vice-Chairperson
3. Sen. Boy Juma Boy
4. Sen. (Dr.) Boni Khalwale
5. Sen. Liz Chelule
6. Sen. Emma Mbura
7. Sen. Joy Gwendu

SECRETARIAT

1. Ms. Carol Kiorei - Clerk Assistant
2. Ms. Grace Wahu - Research Officer
3. Mr. John Pere - Sergeant at Arms
4. Mr. Daniel Kipruto - Media Officer
5. Mr. Caleb Yupe - Intern

IN ATTENDANCE

1. Hon. Kariuki Mate - Speaker of the County Assembly of Embu
2. Hon. Rose Ndwiga - Chairperson, Committee on Delegated County Legislation
3. Hon. Peter Njeru - Vice-Chair Delegated County Legislation
4. Hon. Kanjogu Njiru - Member
5. Hon. Martin Nyaga - Member
6. Hon. Salesio Njeru - Member
7. Hon. Anthony Mugeru - Member

- | | |
|-------------------------|----------|
| 8. Hon. Rosemary Muturi | - Member |
| 9. Hon. James Kathendo | - Member |
| 10. Hon. Steve Mugendi | - Member |
| 11. Hon. Robert Ileri | - Member |

MIN. NO. 001/CV/2015

PRELIMINARIES

The meeting was called to order at 11:30 a.m. followed by a word of prayer. The Speaker of the County Assembly of Embu welcomed the Senate Sessional Committee on Delegated Legislation to Embu County. He then led in a self-introductory session of Members present.

MIN. NO.002/CV/2015

**MEETING WITH THE COUNTERPART
COMMITTEE OF THE COUNTY ASSEMBLY OF
EMBU**

The Hon. Speaker invited the Chair of the committee to make a few remarks and touch on the committee's aim of the visit.

The aim for the visit was for-

- Capacity building purposes;
- Provide an equal ground for Counties to perform benchmarking and;
- Deliberate and bring about clarification on the issues that may be an obstruction to the functional duties of the County Assembly counterpart committees on Delegated Legislation.

The Chair through the Speaker called upon the chairperson of the counterpart committee to make a brief presentation on both the achievements and challenges faced, that were noted as follows:-

The *challenges* included-

- i. Slow commitment of statutory instruments from the respective CEC Members to the Assembly.
- ii. Failure to scrutinize regulations forwarded to the committee due to short time frames and other unforeseen interruptions. I.e. Regulations have been effected without first having been scrutinized by the committee.

- iii. Lack of synergy between other sectorial committees and the committee on Delegated County Legislation on matters concerning regulations and other statutory instruments.
- iv. The committee has not interacted with other legislative bodies on matters concerning training and capacity building e.g. Kenya Law Reform Commission (KLRC), Centre for Parliamentary studies, Senate and training (CPST) among others.

The *achievements* included;-

- i. Scrutiny of the Alcoholic Drinks and Control Bill Act, 2014 Regulations.
- ii. Conducted a benchmarking tour in four County Assemblies in Kenya, i.e. Nakuru, Kericho, Nyandarua and Laikipia County Assemblies.
- iii. The committee received training in October, 2013, facilitated by the speaker, thereby sensitizing the committee on their mandate and scope of functions as a Delegated County Legislation.

The Senate sessional committee recommendation's and clarifications on issues raised were as follows;-

- i. On the issue raised on the mandate; a Delegated legislation committee is mandated to scrutinize statutory instruments laid before the House to ensure that they are consistent with the provisions of the Statutory Instruments Acts, 2013.
- ii. Failure to scrutinize Regulations due to short time frames as the time limit for the scrutiny process is 20 days. The committee recommended that; *Under Article 190 (4) (b) of the Statutory Instruments Act, 2013* – if a committee does not accede to the Statutory Instruments, The committee may recommend to the County Assembly, that the County Assembly resolves all or any part of the Statutory Instrument be annulled and if a resolution is passed by the County Assembly within 20 days on which it next sits after the Instrument laid before it under Section (2) that all or part of the Statutory Instrument be annulled, the Instrument or part therefore shall henceforth stand annulled.
- iii. The mandate of the delegated county legislation committee is to scrutinize regulations and not bills or laws as they had been present confusion on the function of scrutiny.
- iv. On the definition of Statutory Instruments as defined by the Statutory Instruments Act, 2013 as any rule, order, regulation, direction, form, tariff of costs or fees, letters patent,

commission, warrant, proclamation, by-law, resolution, guideline or other Statutory instrument issued, made or established in the execution of a power conferred by or under an Act of Parliament under which that statutory instrument or subsidiary legislation is expressly authorized to be issued.

MIN. NO. 003/CV/2015

ANY OTHER BUSINESS

The committee concluded the meeting with some prepositions that were highlighted accordingly-

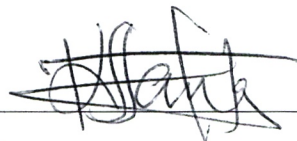
- ✓ The counterpart committee and any other committee in the County Assembly may petition the Senate on any matter of great importance as the Senate is willing to provide assistance.
- ✓ The committee proposed that County should allocate an adequate budget to the disability programs; as it has been noted that persons with disability are down the pecking order when it comes to budget allocation.
- ✓ The committee proposed the County Assembly should come up with laws and regulation's relating to matters affecting Embu County and not directly copy as issues affecting Counties vary.

MIN.NO. 004/CV/2015

ADJOURNMENT

The time being 1:00 pm the Acting Chair adjourned the meeting.

Signature: _____



(Chairperson)

Date: _____

25/11/15

**MINUTES OF THE SENATE SESSIONAL COMMITTEE ON DELEGATED
LEGISLATION HELD IN THARAKA NITHI COUNTY, AT SAMMERTON HOTEL
CONFERENCE ROOM ON FRIDAY, 30th OCTOBER, 2015 AT 15:05PM**

PRESENT

1. Sen. Daniel Karaba - Acting *Chair*
2. Sen. Godliver Omondi

APOLOGY

1. Sen. Stephen Sang - Chairperson
2. Sen. Judith Sijeny - Vice-Chairperson
3. Sen. Boy Juma Boy
4. Sen. (Dr) Boni Khalwale
5. Sen. Liz Chelule
6. Sen. Emma Mbura
7. Sen. Joy Gwendu

SECRETARIAT

1. Ms. Carol Kirorei - Clerk Assistant
2. Ms. Grace Wahu - Research Officer
3. Mr. John Pere - Sergeant at Arms
4. Mr. Daniel Kipruto - Media Officer
5. Mr. Caleb Yupe - Intern

IN ATTENDANCE

1. Hon. Mati Mureithi - Deputy Governor
2. Hon. Julius Mwenda - Member of the Speaker's Panel
3. Hon. Agostino Ngako - Chairperson of the Committee
4. Hon. Erastus Kinyua - Member
5. Hon. Mwenda Gataya - Member
6. Hon. Rayford Muchiri - Member
7. Hon. Stephanina Ciamati - Member

MIN NO. 005/CV/2015**PRELIMINARIES**

The meeting was called to order at 15:05 pm and started with a word of prayer, thereafter the Speaker of the County Assembly made a few remarks and then proceeded to welcome the Committee on Delegated Legislation and its secretariat to Tharaka Nithi County.

MIN NO. 006/CV/2015**MEETING WITH THE COUNTERPART
COMMITTEE OF THE COUNTY ASSEMBLY OF
THARAKA NITHI**

Hon. Julius Mwenda, a Member of the Speaker's Panel of the County Assembly of Tharaka Nithi welcomed the Senate Sessional Committee on Delegated Legislation to the meeting. He then led in a self-introductory session. He then invited the Leader of the Senate Delegation, Sen. Daniel Karaba to make his remarks.

Sen. Karaba to the Committee thanked the hosts for the warm reception the delegation had received. He proceeded to describe the Senate's structure and composition and further explained that the main purpose of the visit was to-

- ✓ get acquainted with the progress of Counties ;
- ✓ Share experiences and note challenges faced by Committees in execution of their mandate;
- ✓ Provide an equal ground for Counties to perform benchmarking.

Remarks by the Deputy Governor

The Deputy Governor pointed out the following-

1. The County received a delegation from the Senate Adhoc Committee chaired by Sen. (Eng.) Muriuki Karue;
2. It was a privilege for the County to be frequented by the Senate as it was an avenue to share experiences and to capacity build;

The Members of the counterpart committee raised the following queries-

1. How many times does the Senate Committee meet?

2. If the County Executives declare “verbal regulations” that are not writing, are they valid?
3. How many days are required to scrutinize regulations?
4. Some CECs and County Assembly Members may not be knowledgeable on their roles therefore pushing the county backwards
5. The committee is very dormant.

In response to the concerns of the counterpart committee on delegated legislation, the Senate highlighted the following:

1. Meetings depend on the Committee business but the Committee meets once or twice a week. The Senate Standing Order 190 provides that a Committee shall meet at least once in two months;
2. Regulations come from the Executive as stated in the Statutory Instruments Act, section 11. In the Senate’s case, they emanate from the Cabinet Secretaries;
3. On the issue of verbal and written rules or orders by the County Executives, it was stressed that if regulations do not follow procedures laid down in the Statutory Instruments Act, 2013 then they are not valid. It was highlighted that the Committee on Delegated Legislation only scrutinizes regulations that have been forwarded and published by the Executive;
4. The County MCAs were asked to write letters to the CECs to notify them on the provisions of the law in relation to regulations in order to get Committee business;
5. The County Assembly Committee on Delegated Legislation was encouraged to look for Committee business by looking through Acts they have passed, and especially looking at sections that give powers to the CECs to make regulations; and notify the CECs on the provisions. They would then be required to transmit these regulations to the Assembly and they would be later committed to the Committee on Delegated Legislation after tabling in the Assembly;
6. The Committee clerks of the County Assembly and the Senate staffers should interact further on the role of delegated legislation and procedures for scrutiny of regulations;

7. They Senate Committee would extend an invitation to the counterpart committee to visit the Senate for further interactions and exchanges.

MIN NO. 007/CV/2015

ANY OTHER BUSINESS

The Committee noted some concerns raised by the Deputy Governor of Tharaka Nithi County, that he had shared during his remarks, they are as follows;-

- ✓ The need for infrastructural finances, where he urged the Senate to look into that matter; as he mentioned that the County Assembly started off in a tent in its first , 6 months and therefore they have been facing challenges due to lack of offices.
- ✓ Concerns on matters to do with boundaries as it has raised conflicts in the past with neighboring Counties such as Meru County

MIN NO. 008/CV/2015

ADJOURNMENT

The meeting was adjourned at 4.00 p.m.

Signature: _____
(Chairperson)

Date: _____ 28/11/15

**MINUTES OF THE SENATE SESSIONAL COMMITTEE ON DELEGATED
LEGISLATION HELD IN THE COUNTY ASSEMBLY BUILDING, MERU COUNTY
ON SATURDAY, 31st OCTOBER, 2015 AT 10:35AM**

PRESENT

1. Sen. Daniel Karaba - Acting *Chair*
2. Sen. Godliver Omondi
3. Sen. Boy Juma Boy
4. Sen. Liz Chelule

APOLOGY

1. Sen. Stephen Sang - Chairperson
2. Sen. Judith Sijeny - Vice-Chairperson
3. Sen. (Dr) Boni Khalwale
4. Sen. Emma Mbura
5. Sen. Joy Gwendo

SECRETARIAT

1. Ms. Carol Kirotei - Clerk Assistant
2. Ms. Grace Wahu - Research Officer
3. Mr. John Pere - Sergeant at Arms
4. Mr. Daniel Kipruto - Media Officer
5. Mr. Caleb Yupe - Intern

IN ATTENDANCE

**MEMBERS OF THE COUNTY ASSEMBLY OF
MERU**

1. Hon. Joseph Kaberia - Speaker of the County Assembly of Meru County
2. Hon. Samson Thuranira - Chairperson of Delegated County Legislation
3. Hon. Irene Mutwiri - Member
4. Hon. Eunice Karema - Member
5. Hon. Joan Gacheri - Member
6. Hon. Duncan Kangwana - Member
7. Hon. Jackson Muriiki - Member
8. Hon. Nelly Mukami - Member

- | | |
|-----------------------------|----------|
| 9. Hon. Phylis Kanyuru | - Member |
| 10. Hon. Jeniffer Murogucho | - Member |
| 11. Hon. John Ntongai | - Member |
| 12. Hon. Geoffrey Kinoti | - Member |
| 13. Hon. Nahasim Mriti | - Member |
| 14. Hon. Moses Gichuki | - Member |
| 15. Hon. Janet Mwoburi | - Member |
| 16. Hon. Irene Makena | - Member |

SECRETARIAT

- | | |
|---------------------------|--|
| 1. Mr. Justus Arithi | - Clerk of the <i>County Assembly Meru</i> |
| 2. Mr. Baptista Muriiki | - Committee Clerk on <i>Delegated County Legislation</i> |
| 3. Ms. Susan Muthoni | |
| 4. Ms. Gatwiri Ndege | |
| 5. Mr. Gideon Ruciaka | |
| 6. Mr. Eric Mwenda | |
| 7. Mr. Nicholas Baariu | |
| 8. Ms. Jacinta Karimi | |
| 9. Ms. Emily Kendi | |
| 10. Mr. Launi Murithi | |
| 11. Mr. Edward Karundu | |
| 12. Ms. Christine Gatwiri | |

MIN NO. 009/CV/2015

PRELIMINARIES

The meeting was called to order at 11:05 a.m. followed by a word of prayer. The Speaker then proceeded to welcome the Senate Committee on Delegated Legislation and its secretariat to Meru County.

The Speaker of the Meru County Assembly expressed his gratitude towards the Senate Committee on Delegated Legislation for visiting the Meru County noting that it was the first delegation from the Senate to meet with the Assembly. He then invited the Leader of the Senate Delegation, Sen. Daniel Karaba to make his remarks.

The Chairperson thanked the Speaker for the warm reception the delegation had received; in his remarks he mentioned that the Committee had made a decision to visit counties for capacity building and to share experiences. He added that the Committee has hosted a number of Counties at meetings in the Senate to share experiences and challenges in the execution of the mandate of the Committee e.g. on 22nd October, 2015 a total of 4 Counties attended the meeting. He urged Meru County to visit the Senate to further build their capacity.

The Speaker of the County Assembly stated the following-

1. The County Assembly is comprised of 69 Members; 45 elected; 24 nominated and 76 members of staff.
2. The Delegated County Legislation Committee has a total of 21 Members.

Remarks by the Chairperson of the counterpart Committee of the County Assembly of Meru

The Chair of the Delegated County Legislation Committee welcomed the Senate to Meru County. He then proceeded to explain that the Assembly wanted to scrap the Committee as they did not understand the mandate of the Delegated Legislation.

The Chair of the Senate Committee took over to clarify a number of issues raised following deliberations-

- i. The Committee on Delegated Legislation is mandated to scrutinize statutory instruments laid before the House to ensure that they are consistent with the provisions of the Statutory Instruments Acts, 2013.
- ii. The Committee is mandated to scrutinize regulations and not Bills or laws.
- iii. The definition of statutory instruments as provided under section 2 of the Statutory Instruments Act, 2013 is "*as any rule, order, regulation, direction, form, tariff of costs or*

fees, letters patent, commission, warrant, proclamation, by-law, resolution, guideline or other Statutory instrument issued, made or established in the execution of a power conferred by or under an Act of Parliament under which that statutory instrument or subsidiary legislation is expressly authorized to be issued."

MIN NO. 011/CV/2015

ANY OTHER BUSINESS

Following deliberations on other matters, it was agreed as follows-

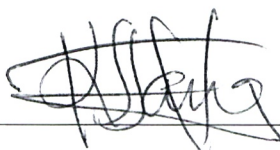
- ✓ There is need for infrastructural finances, as the Assembly was facing a challenge of housing the Assembly i.e. offices
- ✓ The welfare of Members of the County Assembly with disabilities should be addressed i.e. providing them with personal assistants, putting in place ramps and special washrooms, and the type of budget put in place for persons with disabilities within the County.
- ✓ The Senate to look into the matter of impeachment of CECs by the County Assemblies. They complained that it is difficult to impeach CECs who are incompetent in their duties. It has been stated that this has been contributed by a court ruling in Bungoma that stated that MCAs could not impeach CECs, thus hampering the oversight role of the County Assemblies.
- ✓ That the counterpart committee of the County Assembly of Nyandarua be invited alongside the counterpart County Assembly of Meru to the Senate to build their capacity and share experiences.

MIN NO. 012/CV/2015

ADJOURNMENT

The meeting was adjourned at 1:00 p.m.

Signature: _____


(Chairperson)

Date: _____

25/11/15

MINUTES OF THE 30TH SITTING OF THE SENATE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION HELD ON WEDNESDAY, 25TH NOVEMBER, 2015 AT 12.00 NOON IN THE 2ND FLOOR BOARDROOM, KICC

PRESENT

1. Sen. Judith Sijeny - Vice-Chairperson
2. Sen. Godliver Omondi
3. Sen. Boy Juma Boy
4. Sen. Liza Chelule
5. Sen. Joy Gwendu

ABSENT WITH APOLOGY

1. Sen. Stephen Sang - Chairperson
2. Sen. Daniel Karaba
3. Sen. Emma Mbura
4. Sen. (Dr.) Boni Khalwale

IN ATTENDANCE

SENATE

1. Ms. Josephine Kusinyi - Legal Counsel
2. Ms. Carol Kirorei - Committee Clerk

MIN. NO. 200/2015 - PRELIMINARIES

The Vice-Chairperson called the meeting to order at 12.15 p.m. followed by a word of prayer.

MIN. NO. 201/2015 - ADOPTION OF THE AGENDA

The agenda of the sitting was adopted as presented having been proposed by Sen. Daniel Godliver Omondi and seconded by Sen. Judith Sijeny.

MIN. NO. 202/2015 - CONFIRMATION OF PREVIOUS MINUTES

- i. The minutes of the 28th sitting were confirmed as a true record of the proceedings after being proposed by Sen. Boy Juma Boy and seconded by Sen. Judith Sijeny.
- ii. The minutes of the 29th sitting were confirmed as a true record of the proceedings after being proposed by Sen. Godliver Omondi and seconded by Sen. Judith Sijeny.

MIN. NO. 203/2015

**- CONSIDERATION AND ADOPTION OF
REPORTS**

Members were taken through the following Reports-

1. Report on County Visits to Embu, Meru and Tharaka Nithi Counties; and
2. Report on Meetings with Counterpart Committees of the County Assemblies of Kwale, Siaya, Elgeyo Marakwet, Turkana, Wajir, West Pokot, Nyamira, Vihiga, Kilifi, Bungoma, Embu, Meru and Tharaka Nithi.

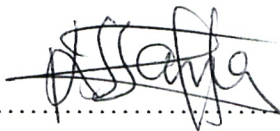
Members adopted the Reports as presented.

MIN. NO. 204/2015

-ADJOURNMENT

The meeting was adjourned at 12.50 p.m.

SIGNED:



.....
(CHAIRPERSON)

DATE:

2nd/12/2015
.....