

COUNCIL OF GOVERNORS

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THE COUNCIL OF GOVERNORS

ANNUAL REPORT

— 2016 - 2017 —

OUR VISION

Prosperous and Democratic Counties delivering services to every Kenyan.

OUR MISSION

To be a global benchmark of excellence in Devolution that is non-partisan; providing a supporting pillar for County Government as a platform for consultation, information sharing, capacity building, performance management and dispute resolution.

OUR VALUES

Professionalism
Independence
Equality and Equity
Cooperation
Visionary

OUR MOTTO

48 Governments, 1 Nation.

CONTENT



Foreword from the Chairman	vii
Note from the Chief Executive Officer	ix
Council of Governors Secretariat	xi
Acknowledgements	xi
1.0 CHAPTER ONE	1
1.1 Background	1
1.2 Mandate of the Council of Governors	2
1.3 The Structure of the Council	2
2.0 CHAPTER TWO: THE COUNCIL ACTIVITIES FOR FY 2016/17	4
2.1 KEY CONFERENCES	4
2.1.1 Children's Conference	4
2.1.2 Annual Devolution Conference	6
2.1.3 County Executive Committee Members (CECs) Conference	8
2.1.4 County Attorney's Conference	9
2.1.5 Innovation Conference	10
2.2 MAARIFA CENTER	12
2.3 COUNTY PERFORMANCE MANAGEMENT SYSTEMS	12
2.4 INTERGOVERNMENTAL CONSULTATIONS	12
2.4.1 National and County Government Coordinating Summit	12
2.4.2 Meeting between the Council, the Joint Parliamentary Select Committee and the Independent Electoral and Boundaries Commission	13
2.4.3 Engagements on the County Government (Amendment) Bill 2015	14
2.4.4 Intergovernmental Budget and Economic Council (IBEC)	14
2.4.5 Intergovernmental Forum on Gender	15
2.5 INTERNATIONAL ENGAGEMENTS	15
2.5.1 Second Kenya Trade and Investment Summit, South Africa (1 st to 2 nd September, 2016)	15
2.5.2 Cities Alliance Africa Strategy Workshop, Accra, Ghana (13 th – 16 th September, 2016)	15
2.5.3 Visit to the AMB Ecosteryl Plant in Mons, Belgium	16
2.5.4 Participated in the 61 st Commission on the Status of Women (CSW) Session in New York, USA.	17

2.6	COMMITTEE REPORTS	17
2.6.1	Infrastructure and Energy Committee	17
2.6.2	Natural Resource Management Committee	18
2.6.3	Tourism and Wildlife Committee	18
2.6.4	Land, Planning and Urban Development Committee	19
2.6.5	Agriculture Committee	20
2.6.6	Arid and Semi-Arid Lands Committee	20
2.6.7	Trade, Industry and Investment Committee	21
2.6.8	Education, Gender, Youth, Children, Sports, Culture and Social Services Committee	21
2.6.9	Health Committee	23
2.6.10	Human Resource, Labour and Social Welfare Committee	26
2.6.11	Finance and Economic Affairs Committee	28
2.6.12	Legal Affairs and Human Rights Committee	30
2.6.13	Intergovernmental Relations Committee	31
2.6.14	Security and Foreign Affairs Committee	32
2.6.15	Information, Communication and Technology Committee	32
2.6.16	Resource Mobilisation Committee	32
2.7	PARLIAMENTARY AFFAIRS	33
3.0 CHAPTER THREE: THE COUNCIL SECRETARIAT		34
3.1.	Finance	34
3.2.	Public Participation Activities	35
4.0 CHAPTER FOUR: CHALLENGES AND RECOMMENDATIONS		36
4.1.	Challenges	36
4.2.	Recommendations	37
ANNEXURES		38
Annex 1:	Critical Bills passed by Parliament and assented to by the President	38
Annex 2:	Status of litigation matters involving the Council of Governors	39
Annex 3:	Resolutions for the publication of county laws meeting held at the Council of Governors boardroom on 19 th April 2017 at 2.30pm.	42

ABBREVIATIONS & ACRONYMS

ADR	Alternative Dispute Resolution
APHRC	Africa Population and Research Council
AHAD	Agile and Harmonized Assistance for Devolved Institutions
CAF	County Assembly Forum
CALCs	County Assets and Liabilities Committees
CARPS	Capacity Assessment and Rationalization of the Public Service
CBA	Collective Bargaining Agreement
CBK	Central Bank of Kenya
CBS	Chief of the Order of the Burning Spear
CDF	Constituency Development Fund
CEC	County Executive Committee
CGA	County Government Act
CRA	Commission on Revenue Allocation
CSO	Civil Society Organization
CoG	Council of Governors
CoK	Constitution of Kenya
DRM	Disaster Risk Management
DRR	Disaster Risk Reduction
DORB	Division of Revenue Bill
ECDE	Early Childhood Development Education
ELRC	Employment and Labour Relation Court
EMCA	Environmental Management and Co-ordination Act
ESP	Economic Stimulus Programme
FDI	Foreign Direct Investment
FY	Financial Year
GIS	Geographic Information Systems
IEBC	Independent Electoral and Boundaries Committee
IBEC	Intergovernmental Budget and Economic Council
IATC	Inter-Agency Technical Committee
IAS	Inter-Agency Secretariat
IATF	Inter-Agency Technical Team
IFMIS	Integrated Financial Management Information System
IGRA	Intergovernmental Relations Act
IGRTC	Intergovernmental Governmental Relations Technical Committee
IGFs	Intergovernmental Forums

IATT	Inter-Agency Technical Team
JPSC	Joint Parliamentary Select Committee
JPSC	Joint Parliamentary Select Committee
KCM	Kenya Coordinating Mechanisms
KMPDU	Kenya Medical Practitioners and Dentists Union
KNUN	Kenya National Union of Nurses
KCSAP	Kenya Climate Smart Agriculture Project
KCM	Kenya Country Coordinating Mechanisms
KNAIP	Kenya National Agriculture Investment Plan
KeRRA	Kenya Rural Roads Authority
KURA	Kenya Urban Roads Authority
KWSTI	Kenya Wildlife Service Training Institute
KeNHA	Kenya National Highways Authority
KICOSA	Kenya Inter-County Sports and Culture Association
KTDA	Kenya Tea Development Agency
MoDP	Ministry of Devolution and Planning
MoH	Ministry of Health
MoU	Memorandum of Understanding
NARIGP	National Rural Inclusive Growth Project
NCAJ	National Council on Administration of Justice
OECD	Organization for Economic Cooperation and Development
PDF	Portable Document Format
PFMA	Public Finance Management Act
PMF	Performance Management Framework
PHC	Primary Health Care
RA	Recognition Agreement
RTWF	Return to Work Formula
RSSH	Resilient, Sustainable Health Systems for Health interventions
SRC	Salaries and Remuneration Commission
SOCOA	Society of Crop and Agribusiness Advisors of Kenya
TA	Transition Authority
THS-UC	Transforming Health Systems for Universal Care
TISA	The Institute of Social Accountability
UDC	Urban Development Committee
UCLGA	United Cities and Local Governments of Africa
UNDP	United Nations Development Programme

FOREWORD

FROM THE CHAIRMAN



*.....It is my
desire that the
Council shall
transition
seamlessly*

In 2013, the country ushered in its first generation of County Governments after the promulgation of the 2010 Constitution of Kenya. The devolved system of government, whose main aim among others is to bring government and services closer to the common citizen, has had a tremendous impact on the lives of all Kenyans.

The 2016-2017 financial year marks the final year of the pioneer County Governments. The year 2017 is also when Kenyans will go back to the ballot and elect their political leaders in both levels of government. So, 2017 is a year of transition. Indeed, this is the opportune and perfect moment for the Council of Governors (the Council) and the country as a whole to evaluate the strides made and to take stock of the challenges faced throughout the past four years of implementing devolution.

County Governments have made significant milestones in essential sectors like agriculture, health, water, roads and Early Childhood Development Education (ECDE). It is evident that devolution has been a catalyst for better distribution of resources to the lowliest levels of the country. There is no going back. We can only move forward, armed with sustainable solutions to teething problems that the devolved system of governance has faced over the last four (4) years. And these hurdles must not be magnified. With change, resistance is inevitable. What we must do now as the Council is to foster cooperation and collaboration with other stakeholders - whether in the National Government, independent commissions, civil society and professional groups- in the implementation of devolution.

I must mention that the Council has been a visible mouthpiece for County Governments' interests. Through its secretariat, the Council has been strategic in providing a forum for consultation amongst County Governments, sharing best practices, discussing issues of common interest to Counties and providing capacity building to Governors. These activities have markedly assisted Counties to effectively implement their functions and exercise their powers. The Council's active presence in intergovernmental forums cannot go unnoticed. This must be encouraged so that County interests can continue to be aggressively addressed. I am truly honoured to chair this institution.

During the year under review, the Council managed to usher in a new Chairman and whip. I do appreciate and commend my fellow Brothers for the unwavering support they have accorded the new team. It has been truly humbling. I extend a special message of gratitude to our partners who have steadily walked with the Council and the Counties in this devolution journey - the judiciary, development partners, community based groups and private sector. Their work and partnerships have been valuable.

As the next regime comes in August 2017, it is my desire that the Council shall transition seamlessly. In the event we receive new members, my hope is that they will blend with the old team and that their experience and expertise will be an asset in the achievement of our mandate as envisaged in Section 20 of the Intergovernmental Relations Act. We look forward to the continued prosperity of the nation through devolution.

H.E. Josphat Koli Nanok
Chairman, Council of Governors

NOTE

FROM THE CHIEF EXECUTIVE OFFICER



“ I would like to convey my deep appreciation to the partners who have walked with us. ”

Excellency Governors,

First, I take this opportunity to congratulate you for the collective and individual achievements in the last four (4) years since the inception of County Governments in March 2013. I have witnessed your passion for devolution. You have led your Counties with zeal. You have gracefully surmounted the challenges. As you prepare for a transition this coming August, I have the pleasure of wishing you all great success in that period and after.

The year under review July 2016 - June 2017 was the final year for the pioneer County Governments. Being as such, the Council was engaged in a myriad of activities. The Council, through the Secretariat, was part of the team that developed the Framework for the Assumption of the Office of Governor. These guidelines were developed in collaboration with the Ministry of Devolution and Planning and other stakeholders. I hope that the Senate will, moving forward, finalize the parent law on the assumption of office and that the final draft will take into consideration the emerging issues in this area.

In the period 2016/17, the health sector faced several industrial strikes from doctors, nurses and other health professionals and the Council did get embroiled in several court matters on the same. But the Council rose to the occasion and managed to bring all parties together to resolve the stalemates. I am proud of the team at the Secretariat for supporting the doctors' process to its conclusion- all Counties have signed Recognition Agreements and many have also signed the Collective Bargaining Agreements. For the nurses, all Counties have signed the Recognition Agreements and the Human Resource Committee together with my team at the Secretariat are working extra hard to ensure that the current deadlock and uncertainty between the nurses and the County Governments is resolved with haste.

On other fronts, the Council managed to convene County Executive Committee Members and County Attorneys to review policies and laws which affect the functions of County Governments. From such consultations, the Council in collaboration with the Kenya Law Reform Commission, has commissioned a legal audit that will

examine national legislation to analyze their compliance with the devolved system of governance; and also look at County legislation with a view to examining to what extent these have complied with the Constitution. This audit will inform policy and legislative reforms that will enable devolution to thrive.

In the period under review, the Council managed to achieve its statutory threshold of holding at least two meetings per year. The Council held four (4) meetings. It is however important to note that the National and County Government Coordinating Summit (the Summit) was not convened in the year. As the curtain falls on the pioneer County Governments in August, the strides they have made will remain embedded in history books. You were the 'firsts' in every aspect of the implementation of devolution, and for this, you have a revered special place in the devolution story.

New members may join the Council after 8th August, 2017. My desire is that the Council will continue to speak in one united voice as it has always done in matters devolution. In the last four (4) years, Governors made decisions solely on the basis of this one question 'will it benefit the Counties and strengthen devolution?'. I pray that this spirit continues to manifest itself in the event that new Governors join the Council.

As I conclude, I would like to convey my deep appreciation for the partners who have walked with us. These include United Nations Development Programme (UNDP); USAID- AHADI; UN-WOMEN; and Symbiocity-Kenya. We sincerely thank you for your readiness to support the programmes at the Council. To our National Government partners, independent commissions, civil society, media and private sector- we thank you.

Here at the Secretariat, we look forward to another year of service to devolution, of service to County Governments and service to Kenyans.

Jacqueline Mogeni
Chief Executive Officer,
Council of Governors Secretariat.

ACKNOWLEDGEMENTS

The Council would like to extend its deepest gratitude to H.E Governors, County Governments, the National Government and Development Partners for the support they have given us throughout the year. The various activities reported herein were made possible through their continued collaboration, guidance, financing and intervention.

The Council would like to thank in a special way, the Council secretariat staff for their effort in the preparation of this report. Special recognition is given to members of the Legal Department comprising of Rosemary Njaramba (Ag. Director Legal), Eva Sawe, Barbara Awuor, Benson Loktari, Felix Masita and Alison Ndikwe for compiling the report as well as Ruth Chitwa of the Communications Department and Zipporah Muthama from the Legal Department for editing the report. The Council also extends appreciation to the procurement department for their involvement. To the Management of the secretariat, your invaluable input in enriching this report is appreciated.

Council of Governors

01. CHAPTER ONE

1.1 Background

This report contains the activities carried out by the Council of Governors during the Financial Year 2016 - 17 (FY 16/17) running between, July 2016 to June 2017. It is the final report for the first Council of Governors. The mandate of the Council and the day to day activities of the Council are administered by the Secretariat of the Council which is the technical arm of the Council. It is comprised of both technical and support staff. The Executive team of the Council, the respective Committee Chairs and the full Council provide policy and strategic guidance to the Secretariat. The Council works through its eighteen (18) committees.

Over the last four (4) years, the functions of the Secretariat have been as follows:

1. To implement the decisions of the Council and the Committees;
2. To constantly share information with the Counties;
3. To process requests from Counties and offer policy advise where necessary;
4. To convene, in every quarter, County Executive Committee Members so that they develop positions on legislative and policy issues that affect County Governments;
5. To convene other officers such as Chief Officers, County Attorneys and Directors also for deliberation of matters affecting County Governments;
6. To coordinate capacity building initiatives for Governors, County Executive Committee Members, Chief Officers, County Attorneys, Chiefs of Staff, County Secretaries and other County officials;
7. To rigorously protect the interests of Counties at policy level by for instance participating in inter-agency meetings, committees and taskforces;
8. To ensure that County resources are safeguarded in all negotiations on upcoming projects;
9. To coordinate sectoral intergovernmental forums between the Counties and the National Government;
10. To receive and document best practice to promote learning between the Counties; and
11. To support and link with the office of the Deputy Governors.

The activities documented herein have been spearheaded by the Council's secretariat and others implemented jointly with the support of national government and its agencies as well as development

partners. With the August 2017 General Elections set to usher in the second generation of county governors, this report will come in handy as a reference point by the next Governors to pick up on the ongoing activities as well as to understand the operations of the Council of Governors.

1.2 Mandate of the Council of Governors

The Council of Governors is a statutory body established under section 19 of the Intergovernmental Relations Act (IGRA). The Council provides a forum for:

- a) consultation amongst County Governments;
- b) sharing of information on the performance of the counties in the execution of their functions with the objective of learning and promotion of best practice and where necessary, initiating preventive or corrective action;
- c) considering matters of common interest to County Governments;
- d) dispute resolution between counties within the framework provided under the IGRA;
- e) facilitating capacity building for governors;
- f) receiving reports and monitoring the implementation of inter-county agreements on inter-county projects;
- g) consideration of matters referred to the Council by a member of the public;
- h) consideration of reports from other intergovernmental forums on matters affecting national and county interests or relating to the performance of counties; and
- i) performing any other function as may be conferred on it by this Act or any other legislation or that it may consider necessary or appropriate.

1.3 The Structure of the Council

The Council is headed by an Executive team comprising of: the Chairperson; Vice-Chairperson; and Whip, who are elected from amongst the members. The Executive serves for a term of one (1) year and are eligible for re-election for one further term of one (1) year.

As mentioned earlier, the Council works through eighteen (18) committees as indicated below. The Committees are both of a sectoral and operational nature. The Rules and Business Committee is constituted by all the Chairpersons of all the Committees. This Committee is responsible for assisting the Council Chairman in decision-making by coordinating, supporting and guiding the i) management and operations of the Council's Secretariat and ii) the operations, policies and mandates of all Committees.

Each committee consists of a chair, a vice chair and committee members who give guidance on policy and legal issues relating to their committee. These Committees are as follows:

1. Agriculture
2. Arid & Semi-Arid Land (ASAL)
3. Cooperatives & Enterprise Development
4. Education, Youth, Sports, Culture & Social Service.
5. Finance, Commerce & Economic Affairs
6. Health
7. Human Resources, Labour & Social Welfare
8. Information, Technology & Communication
9. Infrastructure & Energy



10. Resource Mobilization
11. Intergovernmental Relations.
12. Legal Affairs & Human Rights
13. Rules and Business.
14. Security & Foreign Affairs.
15. Tourism & Wildlife.
16. Trade, Industry & Investment.
17. Land, Planning and Urban Development
18. Water, Forestry & Mining

Technical staff at the Secretariat provide support for the specific committees. The Secretariat also has the following departments to manage its operations: Administration; Protocol; Finance; Procurement; Information & Technology (IT); and Human Resource. The Secretariat is headed by the Chief Executive Officer who is the accounting officer.

02. CHAPTER TWO

THE COUNCIL ACTIVITIES FOR FY 2016/17

2.1 Key Conferences

During the period under review, the Council of Governors undertook the following initiatives:

2.1.1 Children's Conference

The first Children's Devolution Conference bringing together approximately three hundred (300) children from all the forty-seven (47) Counties of Kenya was successfully held on 27th - 28th February, 2017, in Nairobi, Kenya. The meeting was organized jointly by the Council, UNICEF and other partners who gave the children of Kenya an opportunity to tell their story of devolution. The Children of Kenya as rights holders, had an opportunity to celebrate the successes of devolution through interaction with the duty bearers on the children agenda.

The conference was aimed at sharing information and generating recommendations that will assist Counties and other stakeholders to implement the devolved system of governance while bearing in mind children's rights.

The children called for the following:-

1. **Child Protection and Participation:** Establishment of children rescue homes and centres; and regular interactions between County officials and children representatives.
2. **Peace, Values and Cohesion:** County Governments to take actions that enhance children dialogue and education on peace, national values and cohesion during the election 2017 and beyond; and political leaders to create harmony and promote peace without inciting their constituents to violence.
3. **Education:** County Governments to support education programs at the grass root level that are inclusive, especially for the vulnerable children with disabilities and those from marginalized areas; and provide more ECDE and vocational training centers with better facilities and more teachers.
4. **Health:** County Governments to facilitate public education on health, employ more health professionals, provide affordable assistive devices and aids for children



living with disabilities, and provide Kenyan Sign Language and other accessibility assistance to improve access to primary health care; and provide and ensure access to emergency services such as ambulances in rural areas.

5. **Energy and Infrastructure:** Use of solar and wind energy as alternative sources of energy to assist in improving learning; and construction of more roads and bridges to ensure greater rural accessibility and markets to facilitate better prices for agricultural goods.
6. **Environment:** County Governments to ensure afforestation and tree planting; and recycle waste, especially plastics, and facilitate, in collaboration with children, county cleaning days.
7. **Fight against Corruption:** County Governments, especially Governors, to take responsibility and address issues of corruption in the County.
8. **Protection Rights of Children with Disability and Special interest Groups:** County Governments to recognize that rights of these groups and undertake programs aimed at taking affirmative action to ensure equal access to services offered by County Governments.



H.E. Peter Munya addressing the participants at the Children's Conference held on 27th-28th February, 2017 at Nairobi Primary School.



Children entertaining guests in song and dance during the Children's Conference.



Children listening keenly and asking questions.

2.1.2 Annual Devolution Conference

Successive Annual Devolution Conferences since 2014 have noted the enthusiasm with which Kenyans have embraced devolution. This was affirmed during the 4th Annual Devolution Conference 2017 held on 6th - 9th March 2017 at the Kenya Wildlife Service Training Institute (KWSTI), Naivasha, and Nakuru County.

The clarion call for the conference was *“The Devolution Transformation”*, and the theme: *“Devolution- Transforming lives: Tell your story!”* It marked an important milestone in the devolution story in Kenya. It was the 4th Annual Devolution Conference and the last Annual Devolution Conference for the Pioneer Sub-national Level of Devolved Units. The conference brought together a total of 4020 conference delegates (M=2653 (66%) and F=1367 (34%).

The delegates included: H.E President Uhuru Kenyatta of Kenya, Indian Minister for Finance representing the Indian Prime Minister, 12 Ambassadors, Former Vice President of Kenya, The Deputy Chief Justice, the Speaker of the Senate, 3 Cabinet Secretaries, 47 Governors (male), 47 Deputy Governors (38 male and 9 female), 67 Senators (47 members directly elected by their Counties, 16 women nominated by the political parties, 2 youth, 2 representing persons with disabilities), 5 Members of Parliament, 1450 Elected Members of the County Assemblies (1370 male, 80 female), 772 Nominated MCAs (97 male, 675 female) and 1613 participants consisting of; National government representatives, other County representatives, Development Partners, Civil Society Organizations (CSO), private sector, and other partners. The conference also attracted about 108 exhibitors.

The overall objective of the conference was to safeguard the gains, enhance the understanding and appreciation of devolution as a system of governance that focuses on public accountability and learning new ways of socio-economic development and delivering services.

The conference had the following objectives:

1. To review the socio-economic impact of devolution over the past four years.
2. To discuss how devolution has been a tool for socio-economic integration in the country in promoting equity and inclusivity.
3. To demonstrate the achievements in adopting the “Big Bang” Devolution implementation approach over the past four (4) years.
4. To identify opportunities for change, growth and enhanced cooperation in changing perspectives, changing the narrative and entrenching devolution in Kenya.
5. Review the financial burden in applying two thirds gender principle as opposed to an inclusive policy in an electoral system.

The conference adopted the form of dialogue through panel discussions where for the first time the ‘Mwananchi’ was invited to share their views and comments on topical issues related to devolution. This was thereafter followed by plenary engagements. The conference was organized into (ten) 10 sub-themes for discussion with an overall documentary and sub sector snapshots which told a citizen centred devolution story.



H.E. The President, H.E. Governors with panelists and invited guests during the 4th annual Devolution conference that was held in Naivasha (Nakuru County) at Kenya Wildlife Service Training Institute.



Chairman of the Council of Governors H.E Governor Peter Munya – Meru County, Hon. Kalonzo Musyoka and other participants following the proceedings during the 4th annual Devolution Conference.

In a colourful gala ceremony, during this conference, the Council honoured various devolution supporters in the Inaugural Devolution Warrior Awards. The goal of the award was to recognize the work of individuals and institutions who have played a crucial role in ensuring that Devolution remained on course in the period leading to April 2017.

The feted winners were:

1. The Devolution Warrior of the year-former Chief Justice, Dr. Willy Mutunga
2. The Service Delivery Award- Beyond Zero Campaign
3. The Public Participation Award-The Institute of Social Accountability (TISA)
4. The Knowledge Management Award-Commission on Revenue Allocation (CRA)
5. The Gender Award-Ms. Mary Muthoni, Kenya National Chamber of Commerce and Industry
6. The Peace Award -Stephen Ogutu
7. The Media Award-The Standard Media Group

A thirty-six (36) point communique was adopted for implementation by the various devolution actors during and after the transition in August 2017.

This final pioneer devolution conference emphasized that *“the perspectives have changed, the narrative favors devolution 100% as the style of governance in Kenya and the incoming governments have only one choice – to entrench devolution”* as the way of political, social and economic inclusiveness for Kenyans.

The citizen centered Conference also expressed the need to strengthen long term devolution sustainability funding frameworks and mechanisms over the transition period. At the end of the conference, the participants emphatically declared that *“Devolution is working; where it is not working, we will make it work!”*

2.1.3 County Executive Committee Members (CECs) Conference

On 5th and 6th December 2016, CECs, representatives of National Government, Development Partners, Civil Society Organizations, Private Sector and Members of the public convened in Kericho to reflect on the gains and challenges in delivering the promise of devolution as a precursor to the Fourth Annual Devolution Conference which had been scheduled for early 2017.

From the presentations, testimonies and debates, the conference concluded that devolution is working. Key among the recommendations arising from the conference was that in order to increase commitment to devolution, the Council needs to continue to push for the streamlining and restructuring of functions that are performed by institutions at both levels of government and intensify efforts for enhancing intergovernmental relations through dialogue and consultations to resolve disputes that relate to devolved functions.

Recommendations emanating from the CECs conference were summarized into a joint communique for dissemination during the anticipated Fourth Annual Devolution conference in early 2017.



Participants during the CECs conference held at Paradise Convention Centre.

2.1.4 County Attorneys Conference

The County Attorney's Forum comprises of all the county attorneys from the forty-seven (47) Counties and it was established in the year 2013 under the guidance of the Council. This association exists as a forum that brings together all legal advisors of the Counties and is a platform for engagement on legal issues affecting County Governments, exchange of information and capacity building.

The Council with support from the Agile and Harmonized Assistance for Devolved Institutions (AHADI)/ USAID organized the third County Lawyers Forum from 22nd – 23rd August 2016 at the Jacaranda Hotel in Kwale County. The objective of the meeting was to examine the salient issues that inform the success of devolution as well as share experiences in service delivery, rule of law and proper governance in Kenya among other issues.

On top of the agenda were - the role of the County legal departments in protecting devolution; and implementation of County legislation. The conference further interrogated the role of the National Land Commission and County land management boards in disposition of public and private land in the Counties; the enforcement of the gender rule; and the place/role of the judiciary and the National Council on Administration of Justice (NCAJ) in the devolved system of governance.

By the end of the Conference, participants were in agreement that similar forums will be held on a quarterly basis for sharing of information and experiences. As a result, both the Council and the County Attorneys Forum Committee were advised to meet on a quarterly basis and bring on board more stakeholders who are instrumental in implementation of devolution.

The Attorneys also called for fast tracking of the enactment of the County Attorneys Bill, 2014 in order to provide a legal framework for the establishment of the County Attorney's office.



H.E Governor (Prof) Kivutha Kibwana – Makueni County and Chairman of the Legal Affairs and Human Rights Committee pose for a photo with County Attorneys.

2.1.5 Innovation Conference

Counties have made substantial progress in delivering investments and services to their citizens including agriculture, primary health care, pre-primary education, urban services, County roads and public works. In the process, Counties have come up with innovative solutions, overcome implementation barriers and instituted new ways to deliver services to Kenya's citizens. It is against this backdrop that the Council with support from the World Bank & Africa Lead organised the first Innovation and Learning Forum for Counties.

The innovation and learning forum was held on 15th and 16th June 2017 at the KCB Leadership Centre, Nairobi with the objective of facilitating peer learning, replication and dissemination of experiences from successful innovations through knowledge exchange. The theme of the Forum was *"Sharing innovations for improved services and livelihoods"*.

The learning forum was premised on the fact that these experiences are valuable, should be captured and shared so that Counties can benefit from each other's experiences and solutions. Innovations show-cased cut across four (4) sectors, sub sectors or fields:-

1. Agriculture and livestock – innovations that provide improved technology, extension services and market access for the rural producers;
2. Youth development – methods that result in greater awareness amongst the youth for new skills and connecting youth to opportunities for private sector employment and skills enhancement;
3. Use of ICT/technology in agriculture/livelihoods as well as improving governance; and
4. Service delivery – innovations that can facilitate effectiveness for major devolved services such as agriculture, health, water, etc. especially how the community institutions are used as the last mile service delivery and connected to the County Governments.

The learning forum was attended by 235 delegates. At least 65 innovations and best practices were shared by Counties, national level institutions, social enterprises, private sector and regional and global innovators.

Some of the innovations successfully documented include:-

- Kiambu County's solid waste management project which uses semi-aerobic landfill for solid waste management, the first ever sanitary landfill in Africa. This has enhanced protection of public health, safety and environmental quality.
- EjijiPay a digital revenue collection platform by Nairobi County. It is a mobile payment system that allows Nairobi motorists to use their mobile phones to pay for parking across the city. The cashless payment system technology has increased revenue collection by the County and enhanced service delivery.
- Universal Health Care Plan implemented by Makueni County. At a registration fee of Ksh. 500 resident citizens are able to access laboratory and radiology services, consultation for in and outpatient services, theatre services, cancer screening, medical drugs, nutrition services ambulance referral services, counselling, rehabilitative services, and family planning services at six (6) sub-county hospitals and at Makueni County Referral Hospital at no cost.
- Bomet County's participatory cooperative society model all over its twenty-five (25) wards. Each ward has a multipurpose cooperative which then has member sub-groups with the top, being the Bomet cooperative union. The County has provided a revolving fund and business advice. One needs to become a member of the multipurpose cooperative and receive the provisions of revolving fund and business advisory. The approach has led to production of potato value addition industry.

Counties appreciate the value of peer learning and are willing to replicate the peer learning model at County level. At the end of the learning forum, each County selected priority innovations to pilot, adopt or scale up. It is envisioned that in the next Financial Year, each County will translate the priority innovations and best practices to concept notes, pilots, concrete projects, programmes or enterprises in various value chains.



Participants at the innovation conference held at KCB Leadership Center.

2.2 MAARIFA CENTER

The Maarifa Centre is a knowledge sharing and learning platform for capturing lessons and experiences from the forty-seven (47) County Governments. The vision of the Centre is “to be Kenya’s premier knowledge sharing and learning platform for effective governance and service delivery for sustainable development”.

It is through Maarifa Centre that the Council collates, shares and promotes the application of best practices, experiences, lessons and innovations from all Counties in Kenya and from other Countries, for the purpose of improving service delivery and influencing policies that promote devolution and welfare of citizens. Maarifa Centre is therefore the one stop shop for sharing information and knowledge on devolution, innovations and best practices from Counties.

The unit also seeks to promote peer-to-peer learning amongst Counties. One of the key areas of research undertaken was through a strategic partnership with Big Win Philanthropy. The objective of this collaboration is to develop a system that generates and analyses data. This data can thereafter be used to inform development planning and budgeting and also assist Counties to achieve ‘big wins’ in human capital investments for children, women and youth.

The first phase of the project involved data mapping in nine (9) pilot Counties (Kakamega, Kisumu, Kitui, Makueni, Meru, Trans Nzoia, Turkana, Vihiga and Wajir). The technical lead for this was Africa Population and Research Council (APHRC). The County data mapping exercise was based on the data life cycle, which describes how data flows from collection to processing, dissemination and use, and how each step in this process informs the next in a continuous cycle.

The key recommendation was adoption of a customized County Data System which will be implemented through a tracking tool (A County Dashboard for Demographic Dividend). There are discussions underway to scale up the next phase of the Project to all the Counties.

2.3 COUNTY PERFORMANCE MANAGEMENT SYSTEMS

In the period under review, the Council spearheaded the development of the County Performance Management Guidelines which are now contained in a detailed handbook. The underlying objective of a County performance management framework is to promote accountability in service delivery by ensuring that tasks are performed efficiently, effectively and economically. Also, a performance framework provides a mechanism for citizen to engage and evaluate the performance of their County Government.

The County Performance Management Framework (PMF) was formulated through a multi-stakeholder approach involving both levels of Government, development partners and the private sector.

2.4 INTERGOVERNMENTAL CONSULTATIONS

One of the core functions of the Council is to facilitate consultations amongst County Governments as espoused in Section 20(1) of the IGRA. In line with the aforementioned provision, the Council continues to offer a platform for consultation and coordination between the County and National Government, and amongst County Governments in matters devolution.

2.4.1 National and County Government Coordinating Summit

The Summit is the highest body for intergovernmental consultations. This is the forum where the Governors and the President sit to discuss high level policy issues affecting devolution. The Summit has a Secretariat, the IGRTC. In the FY 2016/17 the Summit failed to fulfil its statutory threshold of holding at least two meetings every year. No Summit meeting was held in the period under review. This has been a key challenge in intergovernmental relations. Many policy issues that

could have been resolved at this level remain in abeyance. Further, slow implementation of Summit decisions has weakened the Summit.

2.4.2 Meeting between the Council, the Joint Parliamentary Select Committee and the Independent Electoral and Boundaries Commission

In view of the preparations for the 2017 General Elections, the Council of Governors, represented by H.E. Peter Munya, H.E. John Mruttu, H.E. Prof. Kivutha Kibwana and H.E. Kinuthia Mbugua on 22nd July, 2016, appeared before the Joint Parliamentary Select Committee (JPSC) and made submissions on matters of electoral reforms.

To improve the electoral systems and processes, the Council made the following recommendations on the necessary legal, policy and institutional reforms:

1. The National Government should ease the process of issuance of identity cards, and IEBC should allow people with waiting cards to vote.
2. In the long term, the National Government's policy should be such that only one state department, i.e. the National Registration Bureau, should be responsible for all aspects of registration of persons (Births & Deaths register; ID registration; voter registration; and driving license). In addition to saving public funds, such a streamlined system would allow other state organs to concentrate on their core mandates.
3. The IEBC, in collaboration with County Governments, should develop an integrated voter education curriculum and undertake rigorous civic engagement on elections.
4. That the IEBC should develop the Campaign Financing Regulations.
5. That polling stations should have not more than 500 voters per station.
6. That the IEBC should adopt open balloting while selecting election officials (the returning office presiding officers) and this should be done in the presence of party representatives.
7. That the Constituency should be the focal point for electoral results declaration.
8. That necessary legislation should be tabled and enacted to actualize the two-third gender principle.

The Council further reiterated on the need for urgent legal, policy and institutional reforms to guarantee peaceful, free and fair elections. The Council of Governors noted that there was need to move with haste to ensure that the country is well prepared for the 2017 elections.



Council of Governors, Chairman H.E. Peter Munya, H.E. John Mruttu, H.E. Prof. Kivutha Kibwana and H.E. Kinuthia Mbugua appearing before the Joint Parliamentary Select Committee (JPSC).

2.4.3 Engagements on the County Government (Amendment) Bill 2015

The Council of Governors on July 13th, 2016 held a consultative meeting with sub-county, ward and village administrators, to discuss the County Government (Amendment) Bill 2015. This Bill that was sponsored by the Senate seeking to amend Sections 50, 51 and 52 of the County Governments Act, 2012 by allowing that the term of the administrators be consistent with the term of the Governor. The Council opposed this Bill citing its discriminatory nature to the County administrators and a memorandum against the Bill was developed from this meeting and shared with the Senate. The Bill failed to sail through the Senate.

2.4.4 Intergovernmental Budget and Economic Council (IBEC)

As stipulated in the Public Finance Management Act (PFMA), IBEC is a forum for consultation and cooperation between National and County Government on matters relating to finances. During the year under review, the Deputy President H.E. William Ruto hosted IBEC at his residence in Karen on 28th September 2016.

The Council was represented by the Chairman of the Council, H.E. Peter Munya, the Chair of the Finance Committee of the Council, H.E. Wycliffe Oparanya accompanied by H.E. Prof. Kivutha Kibwana, H.E. Isaac Ruto, H.E. Sospeter Ojaamong, H.E. William Kabogo, H.E. Moses Lenolkulal and H.E. Alex Tolgos. Following the approval of the borrowing guidelines by IBEC, County Governments will henceforth have access to overdrafts at Central Bank of Kenya (CBK) with guarantee from the National Treasury. Borrowing was pegged at 5% of the last audited County revenues and payable within a year. Repayment terms for these loans were to be similar to those provided to the National Government. An equally positive milestone was the approval of County Government Expenditure Ceilings. Its implementation however was subject to confirmation from the Attorney General on the amendment of the PFMA.



H.E. Deputy President William Ruto and Chairman of the Council, H.E. Peter Munya, the Chair of the Finance Committee of the Council, H.E. Wycliffe Oparanya at the IBEC meeting.

2.4.5 Intergovernmental Forum on Gender

The Ministry of Public Service, Youth and Gender Affairs and the Council of Governors jointly organized two Intergovernmental Forums on Gender held from 24th - 25th October 2016 at Elementaita. The same was also held from 6th - 7th June, 2017 at Enashipai Resort and Spa, Naivasha. The forum was aimed at addressing issues of policy, legislative, programs/projects and coordination mechanisms.

The key resolution of the meeting was the adoption of a Joint Gender Intergovernmental Structure in strengthening of partnership through the implementation of the proposed National and County Government Framework. The structure will include a structure at the County that feeds into the national level structure, the Development partners to be part of the structure especially at the Forum level and that the structure must be simple. There is still ongoing consultations between the Council and State Department of Gender Affairs to finalize the structure. It was agreed that an Intergovernmental Forum on Youth to be held as soon as possible. This will ensure better coordination between national and county government's staff in charge of Gender and Youth dockets.



H.E Governor (Prof) Paul Chepkwony, Chair of the Education, Youth, Sports and Gender Committee, Cabinet Secretary Sicily K. Kariuki, (Mrs), CBS, Ministry of Public Service, Youth and Gender Affairs and other participants pose for a photo during the Intergovernmental Forums on Gender held at the Enashipai Resort and Spa.

2.5. INTERNATIONAL ENGAGEMENTS

2.5.1 Second Kenya Trade and Investment Summit, South Africa (1st to 2nd September, 2016)

This conference brought together Government ministries, relevant Government departments and agencies, private trade and investment sector stakeholders both from Kenya and South Africa that created an understanding of doing business in Kenya, how to strengthen business to business engagements and increasing Foreign Direct Investment (FDI). The Council was represented by H.E. Jack Ranguma as one of the panelists in the Health sector investment session. The Council also had the opportunity to showcase what various Counties are offering in terms of investment opportunities.

2.5.2 Cities Alliance Africa Strategy Workshop, Accra, Ghana (13th - 16th September, 2016)

The Cities Alliance is a global partnership promoting the role of cities in sustainable development. The workshop held on 13th to 16th September, 2016 provided a platform for Cities Alliance members and partners to debate on key issues that will inform future

action in support of cities and urban transition in Africa. A delegation from the Council attended the workshop to learn the best global trends in dealing with urban challenges which have been a drawback to development in Counties. They also gained concrete knowledge to enable the Council to guide the implementation of current and future urban programmes, with a strong focus on resilience and climate change.

The Council requested to become member of cities alliance to enable them enjoy full benefits of the network which include sharing of best practices, funding for urban related programmes.

The delegation visited Shomasi informal settlements in Old Accra town and learned on some of the best practices that can be applied in slums to upgrade the living standards of the dwellers. Countries represented included: Burkina Faso, Ethiopia, Ghana, Liberia, Mozambique, Tunisia and Uganda.

2.5.3 Visit to the AMB Ecosteryl Plant in Mons, Belgium

The Kenyan delegation, in which the Council was a part of, made a visit to the AMB Ecosteryl Plant in Mons, Belgium from 24th to 28th April 2017. The main objective of the visit was to discuss the financial aspects of phase II of the medical waste management project. The project seeks to equip hospitals across the Country with medical waste treatment which was set to be carried out in phases. In phase I, AMB Ecosteryl manufactured and through Vidapharma Company shipped four (4) microwave units to Kenya. The hospitals that benefited from this phase were; Kenyatta National Hospital, Machakos level 5 hospital, Nakuru level 5 hospital and Kisii Level 6 hospital.

With regards to the funding of phase II of the medical waste management project, Kenya is eligible for tied aid under the form of Official Development Assistance (ODA) as governed by the Organization for Economic Cooperation and Development (OECD). A commercial agreement for phase II of the project shall be signed between AMB Ecosteryl and the Council while the credit agreement shall be between the National treasury and the Fortis Paribas bank. The AMB team shall travel to Kenya in order to review the progress of phase I of the medical waste treatment project. This shall include site visits to the respective Counties.



H.E Wycliffe Oparanya – Governor Kakamega County presents a gift to the head of delegation of the AMB Ecosteryl Plant with H.E Abdullahi Ahmed Mohamad – Governor, Wajir county, Jacqueline Mogeni – CEO Council of Governors and Abala Wanga – Health Advisor.

2.5.4 Participated in the 61st Commission on the Status of Women (CSW) Session in New York, USA.

The Council with Ministry of Public Service, Youth and Gender Affairs - State Department for Gender Affairs jointly coordinated and hosted two international side events titled: *Harnessing Efforts in Addressing Gender Based Violence in the changing World of Work and Financial Inclusion – Innovative Ways on Empowering Women*. It was noted that it is clear that Devolution is working and is geared towards women empowerment and inclusion. So much has been achieved in the counties in the last four years. The voices of the women are being heard in the story of devolution.



Delegates during the 61st Commission on the Status of Women (CSW) Session held in New York, USA.



H.E Governor (Prof) Paul Chepkwony - Chair of the Education, Youth, Sports and Gender Committee , Cabinet Secretary Sicily K. Kariuki, (Mrs), CBS, Ministry of Public Service, Youth and Gender Affairs and other delegates during the 61st Commission on the Status of Women (CSW) Session held in New York, USA.

2.6 COMMITTEE REPORTS

2.6.1 Infrastructure and Energy Committee

1. In the period under review, the Committee in collaboration with the Ministry of Energy developed a draft County Energy Planning Framework that seeks to guide energy use and highlight the energy resources available in each County. The framework

- is premised on the Energy Bill, 2015 and is yet to be adopted once the Bill is enacted.
2. The Committee also submitted a written Memorandum to Senate on the Kenya Roads Bill, 2015. The Council proposed that the Bill ought to strengthen cooperation and consultation as required by Article 6(2) and 189 of the Constitution. In this vein, it was proposed that the Bill should contain a specific clause that empowers the Cabinet Secretary responsible for infrastructure to convene a road sector forum to deliberate and agree on pertinent issues in the sector.
 3. Kenya Off-Grid Solar Access Project: The Committee together with the Ministry of Energy and World Bank came up with the Kenya Off-Grid Solar Access Project whose main aim is to increase access to energy services in underserved Counties of Kenya. The project beneficiaries include; households, businesses, community and public facilities, and farmers located in the fourteen (14) target Counties.
 4. The Committee is also working with NETFUND in conjunction with other key stakeholders in the renewable energy sector to organize a workshop for Chief Officers in charge of energy and environment to lobby and build the capacity of County Governments to integrate renewable energy technologies in the County CIDPS. The workshop will result in key priority actions from County Governments which will allow them to access technical and financial assistance from development partners in the sector.

2.6.2 Natural Resource Management Committee

1. In the period under review, the Committee reviewed the Water Act and shared its memorandum with Parliament.
2. The Committee organized for a Water Sector Consultative meeting with the CECs –Environment to discuss the implication of the Water Act 2016 on the County Governments in the provision of water and sanitation services.



CECs discussing the water act during a consultative meeting held at the council.

2.6.3 Tourism and Wildlife Committee

1. The Council supported the Miss Tourism Kenya 2016 initiative.
2. The committee also provided a platform for Counties to share their information which formed the basis of quick adoption of the best practices in tourism and wildlife sector.

3. During the period in review, the committee in collaboration with County Governments and other agencies collected crucial tourism development data and information which was used to compile the Annual Tourism Status Reports. The reports analyzed the performance of the Kenyan tourism sector and provided an assessment of the future outlook in the medium term.



Contestants for the Miss Tourism for Counties, 2016 at the Council of Governors offices.

2.6.4 Land, Planning and Urban Development Committee

1. The Committee effectively participated in the formulation process of the National Housing Policy.
2. The Committee instituted a Court case on behalf of Counties for the suspension of parts of the Community Land Act.
3. The Committee in partnership with UNDP through the Kenya Devolution Support Programme, spearheaded the institutionalization of the County Spatial Planning, ensuring mainstreaming of Climate Change (adaptation and mitigation) and Disaster Risk Reduction (DRR) priorities and opportunities. The objective was to support the Council to prepare a harmonized version of a Council of Governors Spatial Planning Technical Manual and its Implementation Plan. This also aimed at supporting the Counties to identify concise opportunities for mainstreaming climate change (adaptation and mitigation) and DRR across the County spatial planning framework. This is expected to be the principle instrument that will support harmonious delivery of County spatial plans.
4. The Committee further conducted a Geographic Information Systems (GIS) needs assessment in relation to spatial planning in Kenya. This involved assessment of current GIS needs (hardware, software, human resources and data) in the Counties in order to inform suitable interventions to enhance spatial planning activities. The assessment covered thirty (30) sampled Counties.
5. The Committee also participated in the negotiations of the new Urban Agenda in October 2016 in Quito Ecuador. The New world Urban Agenda was adopted during the Habitat III conference. The agenda is to be implemented by both the National and

County Governments. The agenda mainly focuses on Urban and Regional Planning, Urban Infrastructure, Environmentally Sustainable and resilient Urban and Human Settlements, and Urban Governance.

2.6.5 Agriculture Committee

1. During the 2016/17 financial year, the Committee participated in negotiations and drafting of Memorandum of Understanding (MoU) between the National and County Governments on funds flow and project institutional framework. The negotiations came up with an agreed funds flow to the Counties for the following projects:
 - i. Kenya Climate Smart Agriculture Project (KCSAP) which encompasses the following sectors; Agriculture, Rural development and Natural Resource Management being implemented in twenty-four (24) Counties.
 - ii. Agricultural Sector Development Support Programme (ASDSP) implemented in the forty-seven (47) Counties.
 - iii. The National Rural Inclusive Growth Project (NARIGP) being implemented in twenty-one (21) Counties.
 - iv. The Kenya Cereal Enhancement Program-Communities Resilient Agricultural Livelihoods (KCEP-CRAL) implemented in eight (8) Counties.
 - v. The Small Scale Irrigation and Value Addition Project (SIVAP) which focuses on Agriculture, Trade and water being implemented in eleven (11) Counties.
2. The Committee in collaboration with the Ministry of Agriculture, Livestock and Fisheries held various consultative meetings which culminated to the establishment and designing of the Joint Agriculture Secretariat, an intergovernmental Secretariat responsible for coordinating the implementation of decisions of the Joint Agriculture Sector Steering Committee drawing membership from both levels of Government. Consequently, the Committee held a Technical meeting to discuss the JASCOM regulations held as from 13th to 17th March 2017. The meeting resulted in development of a draft Legal Notice which will legalize the joint committees in terms of section 23 of the Intergovernmental Relations Act, 2012. Further, the Committee held various consultative meetings.
3. The Committee also participated in the Launch of the Kenya National Agriculture Investment Plan (KNAIP) Appraisal and Formulation Process in the context of Comprehensive Africa Agriculture Development Programme (CAADP) – Malabo Declaration held in December, 2016.
4. Additionally, the Committee reviewed and made submissions on the Warehouse Receipt Bill before the Senate standing Committee highlighting the County Governments position, this was held on 23rd November 2016.

2.6.6 Arid and Semi-Arid Lands Committee

1. In the 2016/2017 financial year the Committee participated in the El Nino climate risk study held as from 2nd to 6th May, 2017. The study made several recommendations which include, inter-alia; the need to strengthen the coordination of Disaster Risk Management (DRM) between the County Governments and other stakeholders; and the need to build both the technical capacity and the institutional capacity of



- the County Governments in order to infuse sustainability and strengthen the early warning-early action systems in the County.
2. In view of the prevailing outbreak of fall army worms in the Country within the month of April, 2017, the Committee in collaboration with the Ministry of Agriculture developed a multi-institutional technical team to develop strategic interventions and budgets to finance interventions against Fall Armyworms outbreak. This was accompanied with several County sensitization meetings on the interventions against Fall Armyworms.
 3. The Committee prepared a position paper on food crisis and strategies that can be exploited to contain the situation in the Country. They called upon the National Government to involve Counties in solving the food situation in the Country.
 4. The Committee participated actively in the consultative meeting on the Dryland Resilience project development.

2.6.7 Trade, Industry and Investment Committee

1. During the 2016/17 financial year, the Committee held consultative meetings, reviewed and submitted memorandums incorporating the County Governments proposals to the following policies: National Trade Policy, 2017, Draft Kenya Investment Policy, 2017 and National Cooperative Development Policy.
2. The National Trade Policy identified a number of interventions to promote local trade and development of International Trade. One of the strategies to achieve this aspect was through an E-Trade Portal with the aim of providing the investors both locally and internationally with the prerequisite knowledge on trade issues in the Country both at the National and County Governments. The Trade Committee is instrumental in the process and has since participated in a number of meetings on operationalization of the e-trade portal and collection of data for use and development of the system.
3. The Committee participated in the Annual East Africa Chamber of Commerce Conference 2016 in Dallas, Texas between 24th September, 2016 to 4th October, 2016. The conference examined avenues of enhancing business opportunities both locally and internationally. The conference also brought out the following issues: strategies for resource mobilization for the Counties to meet citizen needs; useful tools to increase tax (revenue) collection within the Counties; and best practices to adopt in order to encourage investment in Counties.

2.6.8 Education, Gender, Youth, Children, Sports, Culture and Social Services Committee

During the period under review, the Committee managed to undertake the following:

1. Meetings with County Executive Committee Members and Chief Officers

The Committee held various consultative meetings with senior county officials throughout the year. These meetings aimed at developing a common position for various legal and policy frameworks in the seven (7) sectors. These include: The Basic Education Bill (now an Act) and The Village Polytechnics and Training Bill among others. The consultative meetings also aimed at reviewing policies such as the National Policy on Gender Development and the scheme of service for ECDE teachers.

2. *Capacity Building*

The Committee embarked on capacity building at the secretariat level as well as the County level for the mainstreaming of gender in the Council secretariat committees and development of the Council's Gender Policy. At the County level, the committee facilitated a training for County Government procuring entities on the uptake of the 30% public procurement preservation and reservation scheme for women, youth and persons with disabilities.

3. *The Third Medium Term Plan (MTP III) and Gender Mainstreaming Guidance Note*

The Committee was actively involved in the medium term planning process for the Gender and HIV/AIDS sectors. This involvement also reached out to the Counties to give input and influence the content of the plan within these sectors. On the HIV/AIDS sector, the County Governments were consulted through clustered workshops to agree on flagship projects in the MTP III. During the consultations of the gender sector, a gender chapter for the MTP III was agreed upon. The County Governments were also consulted and agreed on the flagship projects for the gender chapter that includes: gender mainstreaming, prevention and response to Gender Based Violence, financial/market inclusion and coordination. This also included the development and dissemination of the Gender Mainstreaming Guidance Note as a tool for planning officers at the County to use for ensuring that the plans are gender mainstreamed. This is a tool that will be applied both at the national and county level during the planning process.

4. *Education Conditional grant for Vocational Education and Training*

The Council of Governors and Ministry of Education – Directorate for Vocational Education and Training held several consultative meetings following the directive of IBEC. The consultations were held at the highest level of Chair of the Education Committee and Principal Secretary for Vocational Education and Training to address challenges faced by County Vocational Training Centres including issues of accessibility, quality and policy. As a result, Kshs. 2 Billion was allocated for the financial year 2017/2018 as a conditional grant for Vocational Training Centres to enhance accessibility and quality of the trainings. This fund will be used to construct and expand infrastructure including support to tuition and better learning materials and equipment.



Education, Gender, Youth, Children, Sports, Culture and Social Services County Executive Committee Members and Chief Officers meeting.

2.6.9 Health Committee

The following were the key activities for the Health Committee for FY 2016/17:

1. Intergovernmental Forums

The health committee has participated in all the four quarterly Health Sector Intergovernmental Forums (IGFs). The health committee has also coordinated the involvement of CEC Members in charge of Health in the Health Sector IGFs. The Council participation enhanced follow up on resolutions and action points from the IGF.

2. Meetings with CECs and Chief Officers

The Health Committee convened a health retreat for CECs, Chief Officers, Directors and Health stakeholders in Naivasha on 23rd February 2017 to discuss issues related to human resource on health, health financing, the Health Bill, National Hospital Insurance Fund (NHIF) and Community Health.

3. Capacity building

Through the support of the World Bank funded Transforming Health Systems for Universal Care (THS-UC) project, at least three representatives drawn from the health and finance departments in all Counties were trained on proposal writing. This was aimed at equipping them with relevant skills with a view to enabling them develop quality and sound proposals that can secure funding from development partners for innovative health projects. The representatives who included County Directors of Health, County Health Records and Information Officers, Accountants and Budget Officers from forty-three (43) Counties were trained at Kenya School of Government (KSG) in June 2017.

4. Resource Mobilization

- i. DANIDA: In the Financial Year 2015/2016, a total amount of KES 663,660,000 was disbursed to the forty-seven (47) Counties by DANIDA.
- ii. THS-UC Project: This is the new World Bank funded project using the Global Financing Facility Framework. The project's developmental objective is to improve utilization and quality of Primary Health Care (PHC) services with a focus on reproductive, maternal, newborn, child and adolescent health services in the country. The project seeks to achieve the objective by;
 - a) Improving access to and demand for quality of PHC services;
 - b) Strengthening institutional capacity in selected key areas to improve utilization and quality of PHC services; and
 - c) Supporting cross-country and intergovernmental collaboration in the devolved Kenyan health system.

The project places strong focus on results by allocating resources to each County based on their improved coverage and quality of essential PHC services that are directly linked to the PDO and other factors including equity. The project will run for five years, effective from 1st October, 2016 to 30th September, 2021. The total project fund is KES 19.1 Billion over 5 years out of which KES 13 Billion will be sent to Counties to support PHC activities as outlined in the County Health Departmental Annual Work Plans. The project will also fund the procurement of strategic health commodities worth KES 2 Billion.



Mr. Julius Korir, CBS Principal Secretary, Ministry of Health flags off THS-UC project vehicles funded by the World Bank at Afya House.

iii. Global Fund

The Council has been involved in the negotiations for the Global Fund project. The Council has been instrumental in ensuring that County Governments are ably represented in the initial stages of the project development and resource mobilization. The Council wrote to the Global Fund and the Kenya Coordinating Mechanisms (KCM) to request for the equal involvement of County Governments who are the implementers of the activities targeted by the grant. The KCM is the Global Funds' highest decision making body in the country.

County Governments have been involved in Global Fund proposal writing retreats organized by the Global Fund writing Secretariat. However, the input, comments and recommendations made by the County officers in these retreats were not captured in the final requests. However, Counties will now be factored as sub recipients in the next grant. The County health Management teams and the chief officers for finance teams from all the Counties took part in the clustered forums that were held between the 13th and 15th of June 2017.

5. Inter-County activities

The Lake Region Economic Bloc held a health workshop at Kisii University grounds on 29th and 30th March 2017. The Council played a role in organizing the event through dissemination of information and creating linkages with development partners.

6. Legislation

- i. Health Act: The Health Bill was signed into law to become an Act of Parliament. While a Bill, the Council had submitted a written memorandum that was submitted to the Senate and the National Assembly.

- ii. The Health Committee was also involved in the review of the Narcotic Drugs and Psychotropic substances (Control) (Amendment) Bill, 2016 organized by the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA).

7. *Linda Mama Project*

Linda Mama is a National Government initiative to offer maternity insurance cover to all women. It is an extension of the previous free maternity services project. Expectant women will now be able to access post-natal and antenatal clinics, as well as one year long child health services in public and selected private hospitals under the costs of NHIF. The Council prepared and submitted a memorandum that proposed the amendment of the NHIF Act in order to allow the inclusion of County representatives in the NHIF board since most components of health services are devolved. NHIF is yet to revert in response to the Council's proposal.

8. *Status of the Community Health Policy*

The Council engaged the Ministry of Health (MoH) and UNICEF in the formulation of a draft Community Health Policy that seeks to improve healthcare by setting standards for the operationalization of primary healthcare strategies.

9. *Partnerships with development partners- USAID Health Information Systems Strengthening Project:*

The USAID through the Health Informatics Governance and Data Analytics (HIGDA) project seconded an officer to the Council to support the Health Committee as well as the Monitoring and Evaluation department. The seconded officer not only provides technical assistance to the Council on matters health informatics and data but also serves as a link between the Council and MoH Monitoring and Evaluation department.

10. *Immunization*

The corruption allegations that arose from misappropriation of immunization monies amounting to about KES 160 million and donated by donors such as GAVI Vaccine Alliance prompted the Council to write to the MoH requesting that the immunization function be returned back to Counties.

11. *MoU with AMREF*

An MoU was signed between the Council and AMREF on 27th July 2016. The agreement highlighted the areas for collaboration between the two institutions. However, the Health Committee noted that the absence of clear guidelines on the implementation of the MoU would hamper the fulfillment of the same. In this regard, the two institutions planned to review the MoU and develop a workplan for its implementation.

12. *Funds Flow*

Funds flow for conditional grants and development partner funds emerged as a source of controversy between the two levels of government in the first regime of devolved governance. DANIDA adopted a model wherein funds are released directly to the County Revenue Fund accounts. The Council has remained emphatic that this system has to be adopted for all conditional, unconditional grants and development partner funds.

13. *Best Practice Sharing*

The innovation conference held in Karen on 15th to 16th June, 2017 at the Kenya Commercial Bank Leadership Center formed a platform for Counties to conduct peer review and share best practices from each other. It was at this conference that the Health Committee also displayed innovations from the different Counties. The renewed focus on data quality encouraged cross County peer reviews and data audits.

14. *Participation in Conferences*

The Health Committee participated in the Fourth Annual Devolution Conference which was held at the Kenya Wildlife Services Training Institute, Naivasha during which the main agenda for the health plenum was human resources for health, healthcare financing as well as cooperation between the two levels of government in matters health. During this conference, the health committee organized and executed the launch of the World Bank funded THS UC Project.

2.6.10. **Human Resource, Labour and Social Welfare Committee**

1. In the last financial year, the health sector has been faced with industrial strife between the employees and the County Governments. In fulfillment of its mandate as a platform for considering matters of interest to County Governments, the Council played a significant role as a coordinating body for negotiations between the employees and the various offices at the County level like the County Public Service Boards (CPSBs) and Directors of Human Resource. The Council acted as the joint mechanism for negotiations on matters remuneration and benefits between the Unions and the County Governments.

2. *Doctors Strike*

The Doctors strike commenced on 5th December, 2016. Owing to the decision of 16th October, 2016 by the Employment and Labour Relations Court declaring the strike illegal, and further owing to the mediation processes initiated by various institutions, the doctors reviewed their positions and agreed to sign a Return to Work Formula (RTWF) on 14th March, 2017.

The signing of the RTWF paved way for the parties to draw and negotiate both the Recognition Agreement (RA) and subsequently the Collective Bargaining Agreement (CBA).

3. *Doctors CBA Negotiations*

A team comprising of the CPSBs, the Kenya Medical Practitioners and Dentists Union (KMPDU), the Council and an Independent Chairperson was constituted to facilitate the finalization of the doctors' RA and CBA.

4. *Clinical Officers*

The MoH in conjunction with the Council agreed and signed an MoU with the Health Workers on 22nd February, 2017. In the negotiations it was agreed that the Health Workers be awarded Health Workers Allowance of Kshs. 7, 500 for those in Job Group 'D' to 'F', Kshs. 20,000 for those in Job Group 'G' to 'L', and Kshs. 15,000 for those in Job Group 'M' and above. It was further agreed that the payments shall be effected in two (2) phases, the first phase of 60% to be implemented with

effect from 1st January, 2017 and the second phase of 40% from July, 2017. The Emergency Call Allowance was effected in full in January, 2017.

5. *Nurses' strike*

- i. The Kenya National Union of Nurses (KNUN) first issued a twenty-one (21) day strike notice on 14th November 2016. The Union's demand was that County Governments proceed to finalize and sign the RAs and CBAs. Through the Council, the MoH and County Governments agreed on a RTWF and awarded Nursing Service Allowance of KES 20,000 for Job Group G-L and KES 15,000 for Job Group M and above. This increment cost the County Governments a total of KES 5,793,360,000 per annum. Both the RTWF and the RAs were signed on 14th December, 2016.
- ii. It was further agreed that a CBA covering the period 2017-2021 would be negotiated between the KNUN and the County Governments. On 30th January 2017, a team of five (5) Chairs of CPSBs was constituted by the Council to undertake the CBA negotiations. The CBA negotiations commenced on 2nd February, 2017.
- iii. It is worth noting that County Governments maintained that they can only sustain allowances approved by the SRC. This precipitated the nurses to abandon the negotiations prematurely and engage in an unprotected strike. The Council convened several meetings to bring together the negotiating teams from both the County Governments and the KNUN in order to find a solution to the stalemate. The Council was also involved in job re-evaluation and re-grading of nurses.

6. *Capacity Assessment and Rationalization of the Public Service (CARPS)*

- i. CARPS is a joint initiative between the National and County Governments whose overall objective is to ensure government functions are properly structured and capacity built to facilitate transformation of the Public Service for efficient and effective service delivery both at the National and County Governments.
- ii. The full implementation of the CARPS Programme is designed to be delivered in 3 Phases over a medium term framework: **Phase 1:** CARPS Programming (2015); **Phase 2:** Rationalization and Redeployment (2016); and **Phase 3:** Reengineering and Capacity Building (2017-2019).
- iii. CARPS program is being implemented through an inter-agency participatory approach.

7. *Legislation*

In the FY 2016/17, the Council, in consultation with the County Government officers in charge of human resource, reviewed the County Pension Scheme Bill, 2016. A legislative memorandum was submitted to the Senate on the same. The Bill was passed at the Senate therefore awaiting consideration in the National Assembly. Further, the Council, through the Human Resource, Labour and Social Welfare Committee appeared before the Constitutional Implementation Oversight Committee (CIOC) to make oral submissions on the status of the pensions issues.

2.6.11 Finance and Economic Affairs Committee

In the FY 2016/17, the Committee's activities were as follows:

1. *Legislation and Policy*

- i. The Council was part of the inter-agency team (others were National Treasury, CRA and IBEC) that developed the Intergovernmental conditional grants guidelines. These have been finalized in March 2017 and are awaiting adoption at the Summit and thereafter implementation of the same.
- ii. The Council was also involved in the development of the County Own Source Revenue Policy. This has been finalized and is awaiting validation and rollout.
- iii. The Council reviewed the Budget Policy Statement, 2017 and submitted its memorandum to Parliament on the same. The Council, through the Finance and Economic Affairs Committee, also appeared before the Senate to make oral submissions on the Budget Policy Statement.
- iv. The Council reviewed the Division of Revenue Bill, (DoRB) 2017 and submitted its legislative memorandum to Parliament. The Finance Committee also facilitated the Council appearance (on 12th June, 2017) before the Senate to make oral submissions on the DoRB. Since the DoRB was subjected to a mediation committee, on 3rd May 2017, the Council appeared again to follow up with the Senate on the mediation talks on the DoRB.
- v. County Governments received additional allocations as equitable share from the originally proposed KES 291 billion by the National Assembly to an agreed KES 302 billion.
- vi. A new revenue sharing formula was also approved by the Senate.
- vii. The Finance Committee developed a circular encompassing Guidelines for County Governments to Access Short Term Borrowing (Overdraft Facility). The circular was shared with the CECs Finance.
- viii. In recognition of Article 10 (2) (a) that includes public participation of the people as a national value and principle, the Council reviewed the Senate Public Participation Bill, 2016 and submitted a legislative memorandum that recognized the existing County public participation guidelines 2016 and the need to align the draft National Legislation with the same including the Constitution of Kenya, 2010, the County Governments Act 2012, Public Finance Management Act 2015 and the Standing Orders.

2. *Assets and Liabilities*

- i. The defunct Transition Authority (TA) had been mandated to prepare and validate an inventory of all existing assets and liabilities of government, other public entities and local authorities. Since this was never finalized during the term of the TA, the IGRTC took over this mandate to finalize the identification, verification and validation of the defunct local authorities' assets and liabilities.
- ii. During the IBEC meeting held on 28th September, 2016, it was resolved that there was need to fast-track the process of identification, verification and validation of the defunct local authorities' assets and liabilities. A gazette Notice No 2701 dated 24th March, 2017 was published establishing the following:
 - a) Coordinating Agency (IGRTC);

- b) Inter-Agency Technical Team (IATT)- the Council is a member of the IATT; and
 - c) The County Assets and Liabilities Committees (CALCs) for each of the forty-seven (47) Counties.
 - iii. IATT prepared guidelines for the identification, verification and validation of the assets and liabilities of the defunct local authorities and went further to develop principles, appeals, and monitoring and control mechanisms.
 - iv. IATT subsequently undertook induction for the forty-seven (47) CALC members between 24th - 28th April, 2017 after which the County teams started the work of identification, verification and validation of the assets and liabilities.
 - v. So far, forty-six (46) Counties have established the CALCs as per the legal notice. The exercise was meant to be finalized by June 30th 2017 however as of July 20th 2017, only eleven (11) Counties had submitted their final reports.
 - vi. The Council's role in this exercise was to coordinate the establishment of the CALCs as well as participate in the development of required guidelines and trainings of the County officers meant to undertake the exercise.
 - vii. Some of the challenges experienced by the Counties in the process include:-
 - a) Work plans and budgets to facilitate the exercise that had not been approved by the Governor.
 - b) Work had not been started due to the short-timelines.
 - c) CALC members who were not County employees like the County Commissioners were not being facilitated by the Counties.
3. *Capacity Building:*
- i. In the last FY, the Finance Committee coordinated the Sensitization of County Finance officials on Public Expenditure and Financial Accountability (PEFA) assessment. Training was held on 6th October, 2016 for all the forty-seven (47) Chief Officers in charge of Finance.
 - ii. Over the last five years, County Governments have focused on operationalizing the provisions of the Constitution and supportive legal framework on transparency and public participation into practical and effective mechanisms. Counties have made considerable progress in implementing the policy, legal and regulatory frameworks but with varied success and significant challenges.
 - iii. In the last Financial Year, the Finance Committee also coordinated the documentation of these progresses, innovations and challenges. The documentation speaks to the Council mandate of sharing information on the performance of Counties in the execution of its functions and leverage on some County success stories to encourage other counties through peer to peer learning. It also serves in identifying priorities for existing capacity building efforts by the National Government, donor partners and other key stakeholders in public participation.
4. *Regional Economic Blocs*
- i. With the growing appreciation amongst the County Governments that regional integration can provide the critical leverage necessary to realize exponential

economic growth, Counties within close geographic proximity have come together to establish economic blocs. These will provide important platforms for exploiting opportunities that will accelerate inclusive economic growth; optimize on regional comparative advantage and economies of scale; create harmonious enabling environments that attract and promote investment; nurture regional and local economies and trade; and facilitate the development, management and utilization of cross boundary economic resources and infrastructure.

- ii. On this premise, the Council sought assistance from USAID to conduct an analysis on the establishment, operations and management of the regional blocs which would assist to develop a strategy setting out possible legal, policy and institutional frameworks for the blocs' operationalization.

2.6.12 Legal Affairs and Human Rights Committee

In the FY 2016/17, the Legal Committee facilitated the following activities:

1. Coordinated the full Council meetings. In the period under review, the full Council held four (4) meetings.
2. Organized, prepared and coordinated the County Attorneys Conference in August 2016.
3. Reviewed and developed memoranda on various draft policies and Bills.
4. Coordinated presentation of oral submissions before Parliament.
5. Representation of the Council in litigation matters. Annexed is a list of all the matters that the Council is involved in. This report also highlights some of the key judgments and rulings that the courts have issued in favor of County Governments.
6. Meeting to discuss publication of County Laws: This was held on 19th April, 2017 between the Council legal officers; County Attorneys; representatives of the IGRTC; officers from the Society of Clerks At The Table (SOCATT); representatives from the office of the Controller of Budget; and representatives from County Assemblies Forum (CAF). The meeting's main objective was to discuss a way forward with regard to the publication of County legislation. The resolution of this meeting are annexed herewith for information.
7. The Committee developed the Intergovernmental Relations Act amendments which seek to anchor the Council secretariat into law. The Committee is now working together with the Intergovernmental Relations Committee to lobby the 12th Parliament to consider the amendments.
8. *Legal Audit:*
The Committee commissioned the Legal Audit on National and County Policy and Legislation. The Council, through the Legal Affairs and Human Rights Committee, is collaborating with the KLRC to spearhead the project whose objectives are:
 - i. To conduct an audit of County policy and legislation as per the thematic areas enumerated hereinafter, with a view to analysing and confirming their compliance with the Constitution;
 - ii. To conduct an audit of all National policy and legislation as per the thematic areas enumerated hereinafter, with a view to examining and confirming to what extent they conform to the devolved system of governance; and
 - iii. To identify the gaps and challenges in the above and propose remedies available

for harmonization and alignment with the devolved system of governance and the Constitution.

The Legal Audit seeks to focus on the following thematic areas: Public Finance Management; Agriculture; Health Services; Trade and investment; Land, Housing and Physical Planning; Urban Development; and Natural Resource Management- water, forestry and mining. This exercise is ongoing and it is expected that once the report is ready, the same shall be presented to Parliament, MoDP, IGRTC and Summit.

9. The Legal Affairs Committee had a representative in the team that developed the Framework of the Assumption of Office of the Governor which was published vide a Gazette Notice 6409 in Kenya Gazette dated 7th July, 2017. In the absence of legislation to guide the transition of one Governor to another, these guidelines proved instrumental as they set out the procedure for assumption of office in the Counties.
10. The Legal Committee also had a representative in the multi-agency Steering Committee that developed the curriculum for the training of County Secretaries and Clerks of the County Assemblies. This training was aimed at equipping these County officers with knowledge on matters pertaining to the transition. The curriculum which was developed in collaboration with KSG, IGRTC, Centre for Parliamentary Studies and Training (CPST), MoDP, Office of the Auditor-General and County Secretaries covered the following modules:
 - a) Creating Stability in County Governments During Transitions;
 - b) Continued Service Delivery During the Transition; and
 - c) Safeguarding County Government Assets and Liabilities.
11. The Council, through the Legal Affairs and Human Rights Committee, is being represented in the Steering Committee on Alternative Dispute Resolution (ADR) Mechanisms Regulations. The expected regulations/guidelines will provide guidance on the processes and structures for resolving intergovernmental disputes. In the last four (4) years, both levels of government have referred matters to court for judicial intervention due to lack of a clear framework for ADR.

2.6.13 Intergovernmental Relations Committee

In the period under review, the Committee facilitated the following activities:

1. *Membership into the United Cities and Local Governments of Africa (UCLGA).*
 - i. The Council became a member of the UCLGA.
 - ii. The UCLGA is the umbrella organization and the united voice and representative of local governments in Africa. It was noted that the forum resulted from the unification of the three pre-existing continental groupings of local governments, namely the African Union of Local Authorities (AULA), the Union des Villes Africaines (UVA) and the Africa Chapter of the Unao dos Ciudades y Capitaes Lusofono Africana, (UCCL AFRICA). It was highlighted that UCLGA is an institution that gathers 40 national associations of local governments from all regions of Africa as well as the 2, 000 cities that have more than 100,000 inhabitants.

2. *Delegation by the Somali Government*

The Council, through the Intergovernmental Committee hosted on 16th May, 2017 senior officials from the Republic of Somalia who were in Kenya for an experience sharing visit. The Chair of the Security Committee, H.E. Hussein Dado, received the delegation. The delegation comprised of officials from the Ministry of Interior and Federal Affairs, Federal Member States, Office of the Prime Minister, Boundaries and Federalism Commission and representatives from key level ministries like Ministry of Finance, Justice, Internal Security, Planning, Constitutional Affairs, Education and Health. The delegation was led by the Permanent Secretary of Somalia's Ministry of Interior and Federal Affairs, Dr. Yahye Ali Ibrahim. The visit's main objective was to enhance the delegation's understanding on intergovernmental relations. This knowledge would assist the Republic of Somalia in setting up their intergovernmental fora.

2.6.14 **Security and Foreign Affairs Committee**

1. In the FY 2016/17, the Committee engaged with the National Crime Research Center on setting priorities for research. The Council, through the Security Committee, submitted its proposals on strategic research areas that the center should focus on.
2. The Committee also coordinated a meeting between the Executive Office of the President and Governors to discuss matters security.

2.6.15 **Information, Communication and Technology Committee**

The ICT committee has been instrumental in creating awareness on various issues affecting the Council as well as County Governments. It has also participated in the training of County Communication Directors on the publicity plans for the devolution conference as well as documentation of the gains and fruits of devolution through the Voices of Devolution magazine and the Devolution Conference Documentary.

2.6.16 **Resource Mobilisation Committee**

Some of the achievements of the committee in the past financial year include:

1. *Support to the 4th Annual Devolution Conference*

The Committee met with various development partners to mobilize support for the 4th Annual Devolution Conference which was held in March 2017. The total amount mobilized was Kshs. 40,000,000 against a budget of ksh.200, 000,000.

2. *Donor-Funded Programs*

The Committee has enhanced resource mobilization for counties through various donor programs. These programs include: Kenya Devolution Support Program the program will provide USD 160,000,000 to the 47 Counties, EU IDEAS (Instruments for Devolution Advise and Support) which will provide 15,000,000 Euros benefiting fifteen (15) Counties. Kenya Climate Smart Agriculture program (USD 27,000,000) which will benefit twenty-four (24) Counties among other projects.

3. *Intergovernmental Activities*

The Committee has also represented the Council as well as County Governments in intergovernmental working groups and steering Committees this include the Devolution Sector Working Group with USAID, DFID, World Bank Group, UNDP, EU, IGRTC, KSG, CRA and MODP.

2.7 PARLIAMENTARY AFFAIRS

The Council is constantly monitoring the business of Parliament. This allows the Council to be informed of the Bills and Reports emanating from Parliament and the Council is able to advice the Counties accordingly.

1. *Legislative Monitoring*

- i. The Legal Affairs and Human Rights Committee provided a comprehensive Legislative monitoring through daily updates of the Parliamentary Order Papers, Hansard Reports, Bill Trackers and Gazette Notices for the period covering 1st July, 2016 to 15th June, 2017. This provided important updates of all the activities of the Parliament in regards to Bills and policies concerning the functions of County Governments.
- ii. Consequently, this informed the drafting of the legislative memorandums highlighting some of the key amendments the Council proposed to the various legislations in order to ensure that they are in tandem with the devolved system of governance. The weekly update on the Bill Trackers also allowed Committees to know and track the various Bills before Parliament.

2. *Submission of Written Legislative Memorandums*

The Council submitted written legislative memorandums to both the National Assembly and Senate to approximately 23 Bills suggesting the necessary amendments for proper discharge of their devolved functions by the County Governments and avoid the recentralization of those functions.

3. *Oral submissions of memorandums before the various Parliamentary Committees*

The various committees of the Council appeared before the Parliamentary Committees, and presented oral and written legislative memorandums highlighting the position of the County Governments in ensuring that the legislations passed respect Chapter 11 of the Constitution of Kenya, 2010 to the following Bills:

- The Division of Revenue Bill (N.A. Bill No. 2 of 2017)
- The Election Laws (Amendment) Bill (NA Bill No. 37 of 2016)
- The Community Land Bill (NA Bill No. 45 of 2015)
- The Land Laws (Amendment) Bill (NA Bill No. 55 of 2015)
- The Election Laws (Amendment) (No.3) Bill (N.A. Bill No. 63 of 2015)
- The Kenya Roads Bill (N.A. Bill No. 26 of 2016)
- The Warehouse Receipts System Bill (N.A. Bill No. 12 of 2015)
- The County Pension Scheme Bill (Senate Bill No.20 of 2016)
- The Assumption of Office of Governor Bill (Senate Bill No. 10 of 2016)

03. CHAPTER THREE

THE COUNCIL SECRETARIAT

3.1. Finance

The key role of the finance department is to coordinate and ensure proper and efficient use of resources given to the Council Secretariat.

In the FY 2016/17, the Council did receive support from the National Treasury through the Ministry of Devolution. The Secretariat did also receive financial support from development partners, private sector and County Governments. Notably, the Swedish Embassy, USAID, AHADI, UNDP, UNICEF, UNFPA, UNWOMEN, WORLD BANK and Big Win Philanthropy were among the key partners that walked with the Council in the year under review.

Below is a summary of the receipts and payments.

	Note	2016-7 KShs	
Receipts for Operating Income			
Transfer From County Governments			367,204,680
Proceeds From Domestic & Foreign Grants			65,431,446
Grants From Ministry of Devolution	7		101,193,624
SymbioCity Project			300,000
Donations In-Kind			73,538,602
PAYMENTS			
Compensation of Employees	3	95,705,586	29,422,841
Use of Goods and Service	4	572,527,498	587,427,855
Acquisition of Non-Financial Assets	5	11,737,753	50,187,929
Payments In-Kind		-	67,093,870

3.2. Public Participation Activities

The Council, in accordance with its mandate under Section 20 of the IGRA, is expected to consider matters referred to it by the public. In this regard, the Council engaged in the following activities:

1. *Live tweets*
 - i. Every Friday, 8am - 9am the Council Secretariat engages the public in a live tweet session. The session is an open “forum” to engage the public on topical issues that directly affect the Council and on a broader spectrum, devolution in Kenya.
 - ii. The Live tweet sessions are informed by the daily newspaper review that highlights on issues that have the widest coverage in media. The topic of discussion can also be informed by the weekly topics on social media and electronic media (Television and Radio).

2. *E-newsletter*

The “Council E-Newsletter is a monthly online publication that is shared with the Council partners and devolution stakeholders to keep them abreast with Council activities. The newsletters gives a highlight of the Council event and meetings and their outcomes. It is distributed monthly to stakeholders. The publication is equally available via the Council website (www.cog.go.ke).

3. *Press Releases and Statements*

In the period under review, the Council issued many press statements and releases on matters related to devolution.

4. *Partnership with religious institutions*

In the period under review, the Council of Governors partnered with Parklands Baptist Church in the following ways:

 - i. The Council donated its County flags for use in a prayer event; and
 - ii. The Church allowed the Council of Governors’ secretariat to use its playing ground for the preparations of Justice Cup which was being hosted by the Law Society of Kenya.

5. *Strategic Plan 2017-2022*

The Strategic Plan 2014-2017 expired thereby necessitating the Council to review progress of the same and develop the Strategic Plan for 2017-2022. The latter was finalized and published. The pillars for the new strategic plan are: Good governance; Adequate resourcing for devolved functions; Build a strong Council; Knowledge driven performance; and Sustainable intergovernmental relations.

04. CHAPTER FOUR

CHALLENGES AND RECOMMENDATIONS

4.1 Challenges

In fulfilling its mandate under the IGRA, the following challenges were experienced in the period under review:

- 1. Underfunding of the Secretariat.*
Lack of adequate funding means that some planned activities do not get implemented and the Council is not able to support Counties fully in a manner that is desired.
- 2. Lack of a proper legal framework for alternative dispute resolution*
One of the mandates of the Council is dispute resolution between Counties. With the absence of a legal framework to do this, the Council has not been able to adequately undertake this function.
- 3. Poor intergovernmental consultations*
The two levels of government are expected to cooperate, consult and collaborate in the performance of their functions and exercise of their powers. Where this has failed to be practiced, the Council has instituted court matters to have certain policy and legislative issues resolved.
- 4. Slow implementation of Summit decisions*
The Summit, being the apex intergovernmental relations body, makes important policy decisions on matters affecting the running of County Governments. But the slow implementation of these decisions has led to conflict between the two levels, prompting judicial intervention in some cases.
- 5. Anti-devolution legislation*
In the period under review, the Council still witnessed Parliament table and discuss Bills that undermined devolution. For instance, the County Governments Amendment Bill that sought to interfere with the tenure of County administrators; the Water Bill; the Health Bill; and the Kenya Roads Bill. Such legislation have sought to infringe on the functions of County Governments. The Council has had to institute court cases in order to restrain operationalization of such legislation.

4.2 Recommendations

1. The Secretariat of the Council needs to be anchored in law so that they can receive funding directly from the Exchequer.
2. The development of the ADR Regulations by the Ministry of Devolution and Planning must be concluded with haste to allow both the Council and the IGRTC carry out organized dispute resolution.
3. The two levels of government must respect the Constitution and consult on all matters. This will mitigate conflicts.
4. The Summit must endeavour to meet at least twice a year, in accordance with the provisions of the IGRA.
5. On matters legislation, Parliament must ensure that they consult the Council on legislation that affects County Governments. This engagement must be meaningful and qualitative.

ANNEXURES

Annex 1: Critical Bills passed by Parliament and assented to by the President

During the financial year, the Parliament of Kenya enacted the following legislations:

- The Division of Revenue Act No. 16 of 2017
- The Election Laws (Amendment) Act, 2016
- The Community Land Bill (NA Bill No. 45 of 2015)
- The Land Laws (Amendment) Bill (NA Bill No. 55 of 2015)
- The Election Laws (Amendment) (No.3) Bill (N.A. Bill No. 63 of 2015)
- The County Governments (Amendment) Act, 2017.
- The Health Act, 2017
- The Forest Conservation and Management Act No. 34 of 2016.
- The Natural Resources (Classes of Transactions subject to Ratification) Act No. 41 of 2016
- The Fisheries Management and Development Act No. 35 of 2016
- The Water Act No. 43 of 2016
- The Basic Education (Amendment) Act, 2017

Annex 2: Status of litigation matters involving the Council of Governors

CASE NUMBER	CASE STATUS
High Court of Kenya at Nairobi:- Petition No. 489 of 2014: Council of Governors & Others vs The County Assembly of Makueni & Others.	The petition filed concerns County Assembly removal proceedings against County Executive Committee Members of Makueni. Submissions are on record.
Impeachment Proceedings against Makueni Governor, H.E. Kivutha Kibwana: Constitutional Petition No. 500 of 2014.	The petition concerns impeachment of the Makueni Governor H.E Kivutha Kibwana.
High Court of Kenya at Nairobi Petition No 124 of 2015, Okiya Omtatah & Anor V Council of Governors & 2 Others	This Petition was filed seeking a declaration that 'Executive Order No. 6 of 2015 issued by the President is Constitutionally valid and binds all public officials irrespective of whether they are elected or appointed.
Supreme Court No 2 of 2017 Council of Governors vs Attorney General and 7 others Supreme Court case on Intergovernmental contributions.	The Council of Governors is seeking for an interpretation at the supreme court on whether the intergovernmental contribution to the Council by counties is legal.
Petition 272 of 2016: COG vs AG & 2 others Equalization Fund.	The matter was filed to seek court orders declaring the guidelines on the administration of the Equalization Fund unconstitutional and an order prohibiting the Controller of Budget from approving any withdrawals from the Equalization Fund before the Cabinet Secretary of Finance consults the affected counties.
Labour Cause No. 387 of 2015: KNUN -V- CS, Ministry of Labour, Social Security and Services, AG, Union of Kenya Civil Servants & Council of Governors,	The Memorandum of Claim was filed by the KNUN seeking orders that the Council of Governors and the 4th Respondent – Union of Kenya Civil Servants, should not implement the Kenya Gazette Supplement No. 19 dated 20th February 2015 upon members of the Claimant Union.
Petition No 1025 of 2015 KNUN Vs CS, Ministry of Health, Council of Governors & 3 others.	The memorandum of claim was filed seeking an order directing the 1 st , 2 nd , 3 rd & 4 th Respondents namely; CS, Ministry of Health, NHIF Board of Management, Council of Governors, CS Ministry of Devolution & AG respectively to stop implementing the new NHIF contributions inter alia.
J.R Misc Application No 8 Of 2017 Dr Kahinda Teddy And 4 Others Vs Council of Governors And 4 Others, KMPDU as Interested Party	This case involves a group of doctors who acquired interim orders to stop the Government from hiring foreign medical practitioners and dentists to be deployed to the Kenya Public medical facilities.

CASE NUMBER	CASE STATUS
Employment and Labour Relations Court (ELRC) Civil Constitutional Petition No. 53 of 2015 (previously High Court of Kenya at Nairobi:- Petition No. 599 of 2014: Evans Wafula Makokha & Juvanalis Odongo Orai vs Council of Governors & 6 Others)	This matter was lodged by the petitioners on matters of pensions.
Industrial Cause No. 107 of 2015, Evans Wafula Makokha & Anr vs Council of Governors & 2 others	The suit was filed by the same petitioners in Petition number 599 of 2014. The legal issues being the same, the matter was consolidated with Petition 53 of 2015.
ELRC Petition No. 62 of 2015 PSC, Ministry of Labour, Social Services & Others vs Trade Union Congress of Kenya & Others	The Council was enjoined as an interested party in this suit where National Government is seeking injunctive orders restraining the unions from striking over increment of NHIF rates.
Kericho Petition No. 18 of 2014: The Governor Kericho County vs KTDA & 27 others	The case involves the KTDA and the Tea Directorate, and the petitioners are seeking to stop these two agencies from collecting agricultural cess from farmers since Agriculture is fully devolved.
Petition 119 of 2016: Council of Governors Vs. Privatization Commission (now Consolidated Petition 187 of 2016)	The Petition challenges the constitutionality of the privatization of the five sugar companies.
Constitutional Petition no. 418 of 2015: Rowlands Ndegwa & Others -Versus- County Government of Nyeri & Others.	This Petition was filed in the High Court at Nairobi seeking inter alia declarations that the licensing of scheduled crops (coffee) is the mandate of the national government and that county governments have no licensing power with regards to scheduled crops such as coffee, and accordingly the purported issuance of a license with respect to scheduled crops by a county government is null and void.
The Omnibus Petitions. (PT 552 of 2015- COG v AFFA and 13 Others: Agriculture Petition)	The proposed Petition seeks to sue over 73 state corporations that are funded to undertake devolved work with a view to declare the underlying legal framework unconstitutional.
Petition 178 of 2016 Wanjiru Gikonyo & Cornelius Oduor Opuot vs National Assembly & Others	The Petition is challenging the allocation of funds to NGCDF as contemplated by the Division of Revenue Bill, 2016. The Application is seeking to bar the Cabinet Secretary Treasury from releasing funds allocated to NGCDF for the Financial Year 2016-2017.
High Court of Kenya:- Petition No. 328 of 2016 Council of Governors Vs Salaries and Remuneration Commission	The suit challenges the Salaries and Remuneration Commission for excluding the Deputy Governors from receiving housing allowances.
Petition 252 of 2016: Council of Governors vs Attorney-General- Division of Revenue suit	The Petition challenges the division of Revenue between the National and County Governments and seeks for a constitutional interpretation on the definition of 'national interest' and 'conditional grant'.

CASE NUMBER	CASE STATUS
ELC Petition 598 of 2016: Council of Governors vs. Cabinet Secretary, Lands Ministry	The Petition challenges the constitutionality of the powers of the land control boards and indeed the entire Land Control Act itself.
Constitutional Petition No. 447 of 2016 Samuel Kahiu and 242 others versus the Betting Control & Licensing Board, Ministry for Interior and Co-ordination of National Government, the Inspector General of Police, hon. Attorney general, Director of Public Prosecutions and two others	The Petition contends that on account of assignment of functions under the Fourth Schedule of the Constitution, the Betting Control and Licensing Board has no powers or authority over the betting activities falling within the jurisdiction of County Governments.
Employment and labour relations Cause No. 1927 of 2016 Amon Githae Ndungu, Ann Mugure, John Gikuini Gichuki, Beatrice Wangari (Suing on their own behalf and as representatives of 88 others) versus County Public Service Board (CPSB) of Kiambu County and Council of Governors	The claimants are seeking to have their terms of employment improved from contractual to permanent and pensionable. The claimants were appointed by the 1st respondent – CPSB of Kiambu, on a three year contract through the Economic Stimulus Programme (ESP) and on secondment from the National Government.
High Court of Kenya Constitutional Petition No. 523 of 2016: Council of Governors v The Attorney General & Another (Constitutionality of the Water Act, 2016)	This is a Petition challenging the constitutionality of the Water Act, 2016.
Petition No 35 of 2017: Kelly Malenya vs The AG& CS Lands , CoG Interested Party	This is a Petition challenging the constitutionality of the Land Laws (Amendment) Act.
Petition No 32 of 2017: Kelly Malenya vs The AG& CS Lands , CoG & National Lands Commission, 1st & 2nd Interested Parties	This is a Petition challenging the constitutionality of the Community Land Act 2016.
Omnibus Petition Nairobi Constitutional Petition No. 277 of 2017 Council of Governors VS Water Resources Authority & 16 others	This matter involves water management between the National Government and the County Governments.
Omnibus Petition Nairobi Constitutional Petition No. 278 of 2017, Council of Governor VS Ministry of sports & 19 others	This matter involves the assignment of the function of culture, trade and planning from the National Government to the County Governments.
Omnibus Petition Nairobi Constitutional Petition No. 279 of 2017 Council of Governors VS Energy Regulatory Commission & 7 others	This matter challenges the functions related to the energy sector.
Omnibus Petition Nairobi Constitutional Petition No. 280 of 2017 Council of Governors VS National Environmental Management Authority & 6 others.	This matter challenges the functions relating to the environment sector.
Omnibus Petition Nairobi Constitutional Petition No.281 of 2017 Council of Governors VS Ministry of Health & 3 others.	This matter challenges the functions relating to the health sector.

CASE NUMBER

Misc. Civil App No. 69/2017 Dr. Evans Kedogo & Another Vs Salaries & Remuneration Commission & 4 others

CASE STATUS

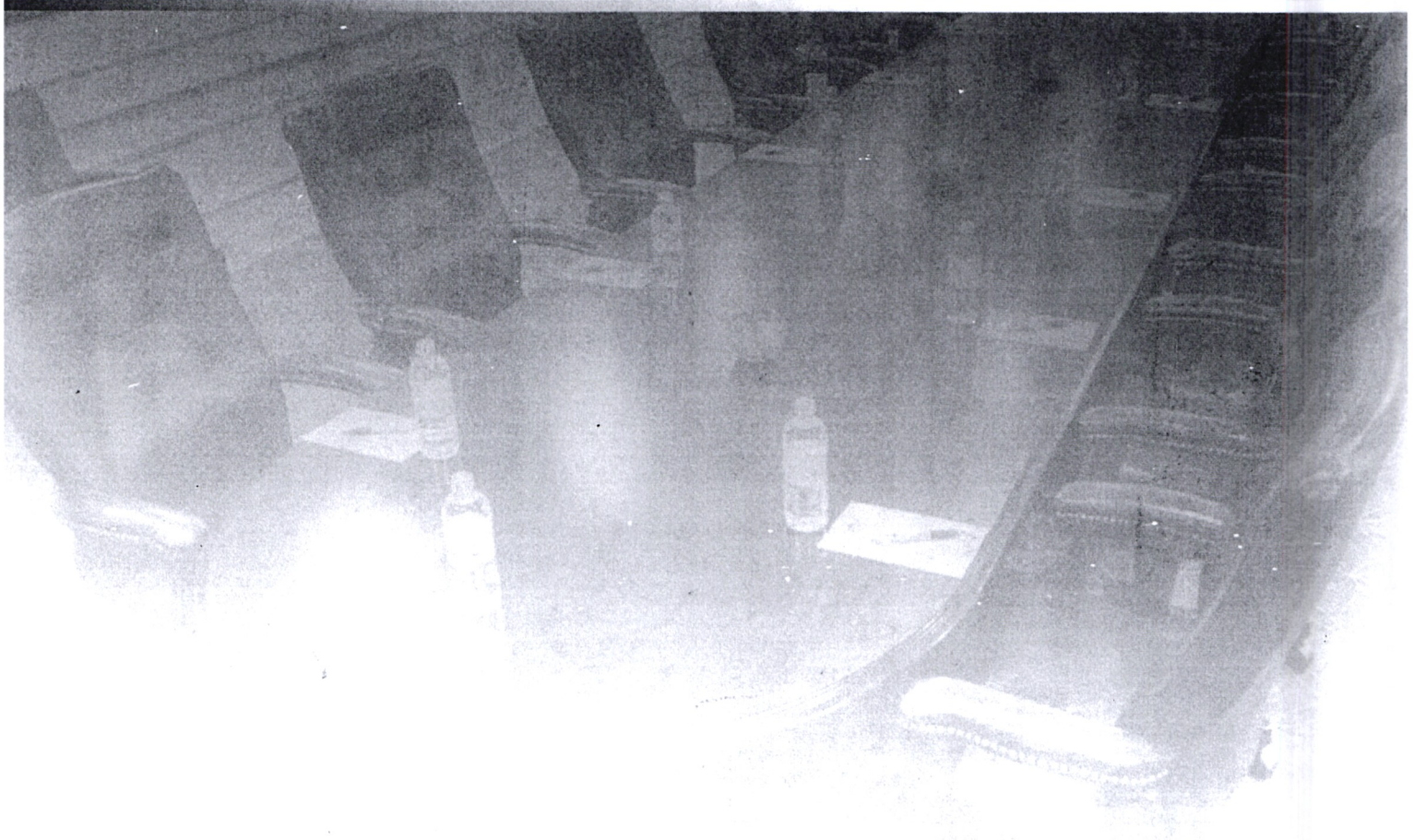
The Applicants through chamber summons applied to the Employment and Labour relations Court seeking that the doctor's allowance in the 14th March, 2017 RTWF with emergency call allowance (ECA) to the detriment of the Applicants be quashed and the decision in the circular directing the National and County Governments to exclude doctors not serving in hospitals from being paid ECA as contained in the RTWF be quashed.

Annex 3: Resolutions for the publication of county laws meeting held at the Council of Governors boardroom on 19th April 2017 at 2.30pm.

Following the meeting held to discuss the way forward with regards to the publication of county legislation in conformity to the High Court order and to discuss the circular from the Office of the Controller of Budget concerning appropriation of funds to the county, the resolutions below were unanimously agreed upon;

Resolutions

1. The Government Press to prescribe an appropriate format in terms of numbering for the publication of County Legislation. This is after discussions with the Attorney General.
2. The Government Press to immediately publish all County laws in line with Article 99 of the Constitution.
3. That the Ministry of Interior Affairs and the Attorney General's Office have no supervisory role over publication of County legislation, therefore consent from them is not required. This applies to other agents of the National Government. Counties are only required to provide an authentic velum.
4. Until any amendments are made to Section 25 of the County Government Act, Counties should comply with the requirement for publication in both the National and County Gazette.
5. Counties are to bear the cost of re-publishing previous County legislation in the form prescribed by the Government Press. To minimize the cost of publication, the Government Press can publish County Legislation in Portable Document Format (PDF) format after ensuring that the legislation is in the prescribed format.
6. For republication, Counties to provide the Government Press with both hard and soft copies of previous legislation.
7. That it is upon the Counties to ensure due diligence to ascertain that the legislation published by the Government Press has not been altered in the process of publication.
8. For the purpose of County Appropriation Bills and Acts, the Counties should submit hard copies of the published legislation as proof of publication, to the Office of the Controller of Budget for funds to be released to them.
9. The establishment of an online repository for County legislation be fast-tracked in order to make the various County legislations available to the public and other interested parties such as the Office of the Controller of Budget. The PDF version can also be published on the various County government websites as well as the Kenya Law Reports website.
10. That there be a Summit resolution to have a County Unit at the Government Press.
11. That all parties shall implement these resolutions as a sign of good faith towards complying with the High Court orders.



THE COUNCIL OF GOVERNORS

ANNUAL REPORT

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