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ELEVENTH PARLIAMENT – FOURTH SESSION

CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE
(CIOC)

REPORT OF THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT
COMMITTEE (CIOC) ON CONSIDERATION OF EXTENSION OF THE TRANSITION
PERIOD AND THE TERM OF THE TRANSITION AUTHORITY (TA)

Clerk's Chambers,
National Assembly
Parliament Buildings
NAIROBI-KENYA

FEBRUARY, 2016

Constitutional Implementation Oversight Committee

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LIST OF ABBREVIATIONS

AG	Attorney-General
CIC	Commission for the Implementation of the Constitution
CIOC	Constitutional Implementation Oversight Committee
CoG	Council of Governors
IGRA	Intergovernmental Relations Act
IGRTC	Inter-Governmental Relations Technical Committee
TA	Transition Authority,
TDGA	Transition to Devolved Government Act

Executive Summary

Mr. Speaker Sir,

The Constitutional Implementation Oversight Committee (CIOC) is a Select Committee of the National Assembly of Kenya mandated with among other things to overseeing the implementation of the Constitution and in particular the preparation of the legislation required pursuant to Article 261(1) and the Fifth Schedule to the Constitution of Kenya, 2010; receiving regular reports on the implementation of the Constitution of Kenya, 2010 with regard to the preparation of the legislation required by the Constitution and any challenges in that regard; the process of establishing the new commissions; the process of establishing the infrastructure necessary for the proper operation of each county including progress on locating offices and assemblies and establishment and transfers of staff; and reports on the devolution of powers and functions to the counties under the legislation contemplated in section 15 of the sixth Schedule to the Constitution. The Committee also considers report on any impediments to the process of implementing the Constitution and thereby taking appropriate action on such impediments.

Mr. Speaker Sir, as Members would note, the implementation of the Constitution is still ongoing. Further, as you are aware, the Committee is alive to the fact that the term of Transition Authority is coming to an end on 4th March, 2016. Members would note that the Authority is established under section 4 of the Transition to Devolved Government Act and its functions are set out under section 7 of the Act.

Mr. Speaker Sir, a critical question that arises from a reading of section 37 is - **Can the life of the Authority be extended beyond March 05, 2016?** This Mr. Speaker Sir, forms the basis of this Report. In its attempt to address this question, the Committee has met with the Transition Authority, the Cabinet Secretary for Devolution and Planning and the Inter-Governmental Relations Committee who all appeared before the Committee and gave their opinion on whether an extension is permissible or not permissible in light of the provisions of Law. The Committee also did an analysis of the provisions of the Constitution, the Transition to Devolved Government Act and the Intergovernmental Relations Act with a view of determining whether or not the law permits the extension of the life of the Authority.

The Committee examined the provisions of section 15(1) of the Sixth Schedule to the Constitution as read with section 7 of the Act. Section 15(1) of the Sixth Schedule clearly indicates that the phased transfer of functions should be over a period of not more than three years from the date of the first election of county assemblies, from the national government to county governments of the functions assigned to them under Article 185. The principal role of the Authority under section 7(1) of the Act is to facilitate and co-ordinate the transition to the devolved system of government. Section 7(2) of the Act also outlines the functions of the Authority that are related to the phased transfer of the functions.

In this regard therefore, the life of the Authority as regards its key role of facilitating and co-ordinating the transition to the devolved system of government cannot be extended beyond the period set by section 15(1) of the Sixth Schedule to the Constitution which ends in March, 2016. In view of the foregoing, the Committee observed that sections 7 and 37 as read with section 15(1) of the Sixth Schedule to the Constitution illustrates that the term of the Authority cannot be extended beyond **three years from the date of the first election of county assemblies** without amending the Constitution.

Mr. Speaker, it is however important to note that upon the dissolution of the Transition Authority, there will exist no lacuna. Indeed, section 12(b) of the Intergovernmental Relations Act provides that the Intergovernmental Relations Technical Committee (IGRTC) shall take over the residual functions of the transition entity established under the law relating to transition to devolved government after dissolution of such entity. In this regard therefore, once the Authority is dissolved the Intergovernmental Relations Technical Committee shall take over its residual functions. It is therefore the view of CIOC that the term of TA should not be extended and its residual functions should be taken up by the Intergovernmental Relations Technical Committee upon expiry of its term.

Mr. Speaker, Sir, On behalf of the Committee, It is therefore my pleasant duty and privilege, on behalf of the Committee, to present this Report to the House for consideration and approval.

Signed 

THE HON. NJOROGE BAIYA, MP,
CHAIRPERSON, CONSTITUTIONAL IMPLEMENTATION OVERSIGHT
COMMITTEE

Date:

1.1 Introduction

The Constitutional Implementation Oversight Committee (CIOC) is a constitutional parliamentary Select Committee constituted under section 4 of the Sixth Schedule to the Constitution. The Committee is responsible for overseeing the implementation of this Constitution and which, among other things, the Committee is obligated to consider regular reports from the Commission on the Implementation of the Constitution on the implementation of the Constitution. The Committee also gets reports from the Commission on the preparation of the legislation required by the Constitution and any challenges in that regard; the process of establishing the new commissions; the process of establishing the infrastructure necessary for the proper operation of each county including progress on locating offices and assemblies and establishment and transfers of staff; the devolution of powers and functions to the counties under the legislation contemplated in section 15 of this Sixth Schedule to the Constitution; and, on any impediments to the process of implementing this Constitution.

In discharging this mandate, the Committee coordinates with the Office of the Attorney-General, the Commission on the Implementation of the Constitution (now defunct), Kenya Law Reform Commission, concerned Ministries and state Agencies and relevant parliamentary committees to ensure the timely introduction and passage of the legislation required by the Constitution within the specified constitutional time frame. The Committee also takes appropriate action on the reports including addressing any problems in the implementation of the Constitution.

1.2 Committee Membership

The current Constitutional Implementation Oversight Committee was constituted by the House on Thursday, 2nd May, 2013. Currently, the Membership of the Committee is as follows:-

1. Hon. Njoroge Baiya, MP, - **Chairperson**
2. Hon. Moitalel Ole Kenta, MP - **Vice Chairperson**
3. Hon. Ababu Namwamba EGH, MP
4. Hon. Samuel K. Chepkonga, MP
5. Hon. Sabina Wanjiru Chege, MP
6. Hon. Manson Nyamweya, MP
7. Hon. Benson M. Kangara, MP
8. Hon. Omulele Christopher, MP

9. Hon. Grace Jemutai Kiptui, MP
10. Hon. Rose Rwamba Mitaru, MP
11. Hon. David Kangogo Bowen, MP
12. Hon. Protus Akuja, M.P.
13. Hon. Sakwa J. Bunyasi, MP
14. Hon. Abdul Rahim Dawood, MP
15. Hon. Peter N. Gitau, MP
16. Hon. Humphrey K. Njuguna, MP
17. Hon. James Lomenen, MP
18. Hon. Mahamud, M. Maalim, MP
19. Hon. Shakila Abdalla, MP
20. Hon. Joe M. Mutambu, MP
21. Hon. Alice Muthoni Wahome, MP
22. Hon. (Dr.) Dahir Duale Mohammed, MP
23. Hon. Boniface O. Otsiula, MP
24. Hon. Mary Wambui Menene, M.P
25. Hon. Aramat Lemanken, MP
26. Hon David Gikaria, MP
27. Hon. John Lodepe Nakara, MP
28. Hon. Steven Kariuki, MP

1.3 Problem Statement

The Committee is concerned that the term of Transition Authority is coming to an end on 4th March, 2016 and without any stringent measures put in place to carry out the core functions of TA, the gains made in realizing devolution may be lost. Consequently, a critical incidental question that arises is whether the law allows for the extension of the life of the Transition Authority.

1.4 Objectives of the Report

The Committee did set out the following objectives of the Report:

- a. To assess the need for the extension of the term of the Transition Authority.

- b. To make recommendations to the House on the appropriate measures to be taken with regard to the management of devolution after the exit of the Transition Authority.

1.5 Justification

In view of the foregoing, there is therefore need to determine whether or not the term of TA should be extended. Although there has been great progress made towards providing a legal and institutional framework for a co-ordinated transition to the devolved system of government; providing for policy and operational mechanisms for the transfer of functions from the national and county levels of governments; the Committee is of the view that the management of the transfer of assets and liabilities; human resources; pensions and other staff benefits of employees of the government and local authorities have not been implemented in full. The issue of capacity is also still wanting. The adoption of the Report is also justified by the fact that an exit of TA without the implementation of majority of the core functions, the numerous achievements realized through the new constitutional order would be lost.

1.6 Extending the Term of Transition Authority- Does the Law Permit?

The Committee was guided by the provisions of the Constitution, the Transition to Devolved Government Act and the Intergovernmental Relations Act with a view of determining whether or not the law permits the extension of the life of the Authority.

The Authority is established under section 4 of the Act and is mandated under section 7 of the Act to-

Functions of the Authority

(1)The Authority shall facilitate and co-ordinate the transition to the devolved system of government as provided under section 15 of the Sixth Schedule to the Constitution.

(2)Despite the generality of subsection (1), the Authority shall—

(a)facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the national and county governments;

(b)determine the resource requirements for each of the functions;

(c) develop a framework for the comprehensive and effective transfer of functions as provided for under section 15 of the Sixth Schedule to the Constitution;

(d) co-ordinate with the relevant State organ or public entity in order to—

(i) facilitate the development of the budget for county governments during Phase One of the transition period;

(ii) establish the status of ongoing reform processes, development programmes and projects and make recommendations on the management, reallocation or transfer to either level of government during the transition period; and

(iii) ensure the successful transition to the devolved system of government;

(e) prepare and validate an inventory of all the existing assets and liabilities of government, other public entities and local authorities;

(f) make recommendations for the effective management of assets of the national and county governments;

(g) provide mechanisms for the transfer of assets which may include vetting the transfer of assets during the transitional period;

(h) pursuant to section 15(2)(b) of the Sixth Schedule to the Constitution, develop the criteria as may be necessary to determine the transfer of functions from the national to county governments, including—

(i) such criteria as may be necessary to guide the transfer of functions to county governments; and

(ii) the criteria to determine the transfer of previously shared assets, liabilities and staff of the government and local authorities;

(i) carry out an audit of the existing human resource of the Government and local authorities;

(j) assess the capacity needs of national and county governments;

(k) recommend the necessary measures required to ensure that the national and county governments have adequate capacity during the transition period to enable them undertake their assigned functions;

(l) co-ordinate and facilitate the provision of support and assistance to national and county governments in building their capacity to govern and provide services effectively;

(m) advise on the effective and efficient rationalization and deployment of the human resource to either level of government;

(n) submit monthly reports to the Commission for the Implementation of the Constitution and the Commission on Revenue Allocation on the progress in the implementation of the transition to the devolved system of government;

(o) perform any other function as may be assigned by national legislation.

(3) The Authority shall, while undertaking its functions as specified under subsection (2), carry out the activities specified in respect of Phase One and Phase Two in the Fourth Schedule to this Act.

Section 15(1) of the Sixth Schedule to the Constitution provides as follows-

(1) Parliament shall, by legislation, make provision for the phased transfer, over a period of not more than three years from the date of the first election of county assemblies, from the national government to county governments of the functions assigned to them under Article 185.

Further, section 37(1) of the Act provides that "the Authority shall stand dissolved three years after the first general elections under the Constitution or upon the full transition to county governments, whichever is the earlier".

Analysis of the Law

A close reading of section 37 of the Act indeed reveals that the life of the Authority ends three years after the first general elections under the Constitution or upon the full transition to county governments, whichever is the earlier in this case the earlier being three years after the general elections which is March, 2016. A question that arises from a reading of section 37 is therefore *can the life of the Authority be extended beyond March, 2016 in this case by way of amending*

the Act to provide for an extension of the life of the Authority? An attempt to answer this question requires one to examine section 15(1) of the Sixth Schedule to the Constitution as read with section 7 of the Act. Section 15(1) of the Sixth Schedule clearly indicates that the phased transfer of functions should be **over a period of not more than three years from the date of the first election of county assemblies**, from the national government to county governments of the functions assigned to them under Article 185. The principal role of the Authority under section 7(1) of the Act is to facilitate and co-ordinate the transition to the devolved system of government. Section 7(2) of the Act also outlines the functions of the Authority that are related to the phased transfer of the functions. In this regard therefore, the life of the Authority as regards its key role of facilitating and co-ordinating the transition to the devolved system of government cannot be extended beyond the period set by section 15(1) of the Sixth Schedule to the Constitution which ends in March, 2016.

View of the Committee

In view of the above, we observe that sections 7 and 37 as read with section 15(1) of the Sixth Schedule to the Constitution illustrates that the term of the Authority cannot be extended beyond **three years from the date of the first election of county assemblies**. It is however important to note that upon the dissolution of the Authority, there will exist no lacuna. Indeed, section 12(b) of the Intergovernmental Relations Act Cap. 5G provides that the Intergovernmental Relations Technical Committee shall take over the residual functions of the transition entity established under the law relating to transition to devolved government after dissolution of such entity. In this regard therefore, once the Authority is dissolved the Intergovernmental Relations Technical Committee shall take over its residual functions.

1.7 Meeting of the CIOC with the TA

The Committee met with the TA on Tuesday, 9th February, 2016, to discuss the expiry of the term of the Authority. The Committee was informed that, TA was set up with the following specific functions:

- a) develop framework and facilitate, analysis, costing and phased transfer of functions to County Government;
- b) prepare an inventory and audit assets and liabilities of National Government, defunct Local Authorities and other public entities develop mechanisms for sharing and transfer to the relevant level of Government and effective management of public assets;

- c) audit Human Resources of the defunct Local Authorities and National Government and advise on effective deployment, management, pension and benefits, staff development and rationalization;
- d) facilitate the development of the initial county budgets, County development profiles and advise on a financial management system;
- e) assess capacity of the national and county governments and recommend the necessary measures to ensure that national and county governments have adequate capacity to perform the assigned functions;
- f) establish the status of on-going reform processes, development programs and projects and make recommendations on the coordinated management, re-allocation or transfer to either level of Governments;
- g) a and classify urban areas and cities;
- h) provide mechanism for closure and transfer of public records and information; and,
- i) facilitate civic education and ensure it is commenced and coordinated.

The Authority took the Committee through their core mandates as follows:

- a) Facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the National and County Governments.
- b) Facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the National and County Governments.
- c) Develop a framework for the comprehensive and effective transfer of functions as provided for under section 15 of the Sixth Schedule.
- d) Determine the resource requirements for each of the functions.
- e) Make recommendations for effective management of assets of national and county governments.
- f) Prepare and validate an inventory of all existing assets and liabilities of Government, other public entities and Local Authorities.
- g) Provide for policy and operational mechanism during the transition period for transfer to the national and county government of (ii) human resource; (iv) pensions and other staff benefits of employees and any other connected matters.
- h) Carry out an audit of the existing human resource of the government and defunct local authorities.

- i) Recommend the necessary measures required to ensure that the national and county governments have adequate capacity during the transition period to enable them undertake their assigned functions.
- j) Advise on the effective and efficient rationalization and deployment of human resource to either level of government.
- k) Provide for policy and operational mechanism during the transition for closure and transfer of public records.
- l) Assessment and classification of urban areas as per Section 54 of the Urban Areas and Cities Act, (UACA) 2011.
- m) Facilitate civic education to ensure civic education on devolution is commenced and coordinated.

TABLE I : Accomplishments of TA's core mandates

Mandate	Accomplishments
1. Facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the National and County Governments.	<ul style="list-style-type: none"> • Unbundled the functions of part 2 of the Fourth Schedule and some of the functions in part 1 of the Fourth Schedule to the CoK 2010 • Unbundled functions of parastatals in <ul style="list-style-type: none"> ✓ Agriculture, Livestock and fisheries ✓ Sports, culture and the arts ✓ Regional Development Authorities ✓ Water Service Boards, Water regulatory institutions and other bodies in the sector
2. Facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the National and County Governments.	Conducted Phased transfer of functions to the county Governments: <ul style="list-style-type: none"> ✓ Phase 1: Legal Notice No. 16 of Feb 2013 ✓ Phase 2: Legal Notices No. 137-183 of 9th Aug 2013 ✓ Phase 3: Legal Notice No. 33 march 17 2014, ✓ Phase 4: Legal Notice No. 24 of 22nd Jan, 2016.
3. Develop a framework for the comprehensive and effective transfer of functions as provided for under section 15 of the Sixth Schedule.	<ul style="list-style-type: none"> • Developed a framework for functional analysis and transfer of functions. • Development of a framework for analysis and performance of concurrent functions ongoing
4. Determine the resource requirements for each of the functions.	<ul style="list-style-type: none"> • Historical cost for the performance of the defunct local authorities functions determined before initial transfer. • Cost for the performance of transferred functions identified for the FY 2013/2014. • Realistic costing of functions of 5 sectors done: These are functions of

Mandate	Accomplishments
	<ul style="list-style-type: none"> • Agriculture, Fisheries and Livestock; Environment, Water and Natural Resources; Health; Transport and Infrastructure and Foreign Affairs. Report ready for dissemination
5. Make recommendations for effective management of assets of national and county governments	<ul style="list-style-type: none"> • Developed and facilitated the frame work for the handing/taking over of assets and liabilities of the defunct local authorities by the county governments and from national government to county governments. • Developed Mechanism and Criteria for Transfer of Public Assets and Liabilities during the transition period and shared it with all the stakeholders including Senate. • Facilitated the transfer and sharing of equipment held under the Mechanical and Transport Fund (MTF) to county governments. • Developed Guidelines for Transfer of Agricultural Training Centres and Agricultural Mechanization stations to County Governments.
6. Prepare and validate an inventory of all existing assets and liabilities of Government, other public entities and Local Authorities.	<ul style="list-style-type: none"> • Collected data on assets and liabilities of the defunct local authorities and shared with all the County Governments after they assumed office. • Nationwide physical verification of assets and liabilities of all 175 defunct local authorities conducted and prepared unaudited inventory. • Issued advisories and publicized the moratorium on transfer of assets and liabilities for effective control of assets and liabilities during the transition period. • Developed guidelines and granted approvals for disposal of obsolete/boarded public assets.
7. Provide for policy and operational mechanism during the transition period for transfer to the national and county government of (ii) human resource; (iv) pensions and other staff benefits of employees and any other connected matters.	<ul style="list-style-type: none"> • Issued Guidelines for Transition of Staff to the Counties (Gazette Notice no.825 of 7th February, 2014). • Prepared a Report on Establishment of County Staff Pension Scheme (January, 2014) through an Inter-Agency Technical Committee to facilitate transfer of service. • Facilitated limited deployment and transfer of staff. • Prepared and proposed a County Governments Retirement scheme Bill, 2015.
8. Carry out an audit of the existing human resource of the government and defunct local authorities.	<ul style="list-style-type: none"> • Audited and prepared a report on staff of defunct Local Authorities and staff performing devolved functions (December 2013). The report gave numbers in terms of gender, age, educational qualification, and ethnicity. Report shared with the national and county governments
9. Recommend the necessary measures required to ensure that the national	<ul style="list-style-type: none"> • Developed a National Capacity Building Framework (NCBF) which was adopted by the Devolution Sector Working Group.

Mandate	Accomplishments
and county governments have adequate capacity during the transition period to enable them undertake their assigned functions.	<ul style="list-style-type: none"> • Facilitated the establishment of County Governments and capacity building in various areas: PFM, payroll management, legislative drafting, planning among others.
10. Advise on the effective and efficient rationalization and deployment of human resource to either level of government.	<ul style="list-style-type: none"> • Coordination of the Capacity Assessment and Rationalization of the Public Service (CARPS) Programme through the Inter-Agency Framework aimed at recommending measures for rationalization and deployment of staff & workload analysis • CARPS reports finalized awaiting summit approval and implementation • Facilitated preparation of the Scheme of Service for the staff working in County Assemblies
11. Provide for policy and operational mechanism during the transition for closure and transfer of public records	<ul style="list-style-type: none"> • Survey on status of public records in the 47 counties undertaken and reports prepared and shared with county governments. • Finalization of the mechanism for closure and transfer of public records is ongoing.
12. Assessment and classification of urban areas as per Section 54 of the Urban Areas and Cities Act, (UACA) 2011	<ul style="list-style-type: none"> • Collected data on services in the 1st Schedule of UACA, 2011 from all the urban areas in collaboration with the Former Ministry of Planning and analyzed. • No urban area qualified to be a city, municipality or town except the three saved by UACA • Draft amendments to the (UACA) 2011 Forwarded to CS, Ministry of Lands, Housing and Urban Development and Parliament
13. Facilitate civic education to ensure civic education on devolution is commenced and coordinated	<ul style="list-style-type: none"> • Established coordination mechanism for Civic Education delivery. • Minimal Sensitization of the public and public officers on devolution through media, public fora and opportunistic events . • Curriculum and training manual finalised and submitted to MODP to publish, launch and roll out. • Database for active Civic Educators in all counties

The Committee observed that TA had the following pending work which the Authority claims to be core and not residual:

- a) Audit and transfer of asset and liabilities
- b) Facilitation of implementation CARPS Programme- deployment and rationalization of staff.
- c) Finalizing the mechanism for closure and transfer of public records and information.

- d) Facilitation of implementation of the County Pension Scheme
- e) Facilitation of transfer of services
- f) Unbundling and transfer the functions of state corporations functions
- g) Realistic Costing of functions of the remaining thirteen Ministries/Sectors and departments.
- h) Facilitation the development of Public Participation and civic education frameworks.
- i) Publishing and disseminating civic education materials: curriculum, Training Manual, IEC.
- j) Verification, Validation and Audit of all existing assets and liabilities of all MDAs.
- k) Public participation on the developed mechanism and criteria for transfer and or sharing of public assets and liabilities before its implementation.
- l) Handing over/ Taking over of assets and liabilities of the defunct local authorities to County Governments in the remaining sixteen (16) Counties.
- m) Transfer of all existing public assets and liabilities to the correct entity to bear responsibility and benefit thereof.
- n) Finalization of amendments to the Urban Areas and Cities Act,2011 and Regulations to the Act.
- o) Assessment and classification Urban areas and cities.
- p) Publication and dissemination of urban areas and cities Regulations.

The Committee also heard that, despite the success achieved in implementing devolution, a number of challenges have been encountered that have hindered the full implementation of said process of devolution namely:-

- (a) Inadequate funding to achieve the TA mandate. TA vote was removed and placed under Ministry of Devolution and Planning contrary to section 28(2)(3) of TDGA;
- (b) Unavailability and slow response from Ministries to provide requisite data for TA to undertake its functions especially information on assets, liabilities and devolved functions;
- (c) Duplication and overlapping mandates between TA and Ministry of Devolution and Planning;
- (d) Political interference especially during the clamour for transfer of functions;
- (e) Inadequate capacity: Due to limited resources, TA was only able to bring on board technical officers in June 2013, almost a year after the Authority was established;

- (f) The 'Big Bang approach to devolution' and the time allocated for transiting power, functions and resources remained a big challenge to the Authority;
- (g) Absence of sectoral norms and standards affected analysis and costing of functions.
- (h) Delay by Parliament to enact some laws to facilitate transition activities, e.g. county pension law, amendment to Urban Areas and Cities Act 2011 and review of existing laws to align them with the constitution; and,
- (i) Numerous litigation and judicial proceedings.

Observation of the Committee.

The Committee observed that there was need to hear the views of other stakeholders involved in the subject matter. The Committee agreed to get the views of the Council of Governors, the Attorney-General and the Cabinet Secretary responsible for Devolution.

1.8 Consultative Forum with the Chairperson of various Select Committee of the National Assembly with Transition Authority

The Transition Authority hosted a consultative Forum with of various Select Committees of the National Assembly from 11th to 14th February, 2016, at Sarova, Whitesands Resort, Mombasa.

The objective of the forum was to:

- (a) update the National Assembly on the status of transition to devolved system of government in Kenya.
- (b) discuss the TA's mandate, program implementation, challenges and opportunities.
- (c) examine the expected accomplishments, status, pending activities, risks, time frame for completion of pending activities under TA and the emerging issues from the transition process and recommend a way-forward.

Participants were drawn from the National Assembly Committees and the Secretariat, as well as from the Transition Authority the Members and Staff. The Consultative Forum was attended by the Parliamentary Leadership, Parliamentary Committees Chairs, Vice Chairs and Committee Members and the leadership, management and staff of the Transition Authority. The forum was officially opened by the Hon. (Dr.) Naomi Shaaban, EGH, MP, the Deputy Majority Leader, National Assembly.

The Authority informed the forum that the Transition Authority (TA) is established under Section 4 of the Transition to Devolved Government Act (TDGA), 2012 pursuant to Section 15 of the Sixth Schedule to the Constitution with the core statutory mandate of facilitating and coordinating the transition to devolved system of government. Section 7 of TDGA, 2012 outlines the specific functions of the TA.

The forum also heard that the TDGA Act lapses on March 4, 2016 marking the end of the life of Transition Authority and all protections prohibiting the disposal of assets and the maintenance of former local authority staff. While great progress has been made, some key functions remain incomplete as a result of the massive effort required to complete all mandates, lack of adequate funding and political conflicts at all levels. While many challenges existed along the way, the TA has completed significant components of their constitutional mandate. The pending functions create risks that have implications for the future of devolution.

1.8.1 Challenges Facing Devolution:

The forum heard that, the following are some of the challenges facing devolution:

- a) Failure by parliament to enact devolution laws;
- b) Inadequate capacity e.g., in formulation of county policies and laws;
- c) Intergovernmental/Intra-governmental relations – e.g. delays in release of county funds by the National Treasury, supremacy wars between the County Executive and County Assembly;
- d) Human Resource Management issues e.g., patronage in the recruitment of County staff;
- e) Inadequate Civic Education;
- f) Corruption; and,
- g) Political interference.

1.8.2 Challenges Faced by TA in Execution of Its Mandate:

The TA informed the Forum that they were facing the following challenges:-

- (a) Inadequate funding to achieve the TA mandate. TA vote was removed and placed under Ministry of Devolution and Planning contrary to section 28(2)(3) of TDGA;

- (b) Unavailability and slow response from Ministries to provide requisite data for TA to undertake its functions especially information on assets, liabilities and devolved functions;
- (c) Duplication and overlapping mandates between TA and Ministry of Devolution and Planning;
- (d) Political interference especially during the clamour for transfer of functions;
- (e) Inadequate capacity: Due to limited resources, TA was only able to bring on board technical officers in June 2013, almost a year after the Authority was established;
- (f) The 'Big Bang approach to devolution' and the time allocated for transiting power, function and resources remained a big challenge to the Authority;
- (g) Absence of sectoral norms and standards affected analysis and costing of functions;
- (h) Delay by Parliament to enact some laws to facilitate transition activities, e.g., county pension law, an amendment to Urban Areas and Cities Act 2011 and review of existing laws to align them with the constitution; and,
- (i) Numerous litigation and judicial proceedings.

1.8.3 Implementation Status of the Activities Of TA

The forum was taken through the following expected accomplishments, and pending activities to be completed within the time frame indicated:

TABLE II: IMPLEMENTATION STATUS OF THE ACTIVITIES OF TA

EXPECTED ACCOMPLISHMENTS	STATUS	PENDING ACTIVITIES	TIME FRAME FOR PENDING WORK	ESTIMATED BUDGET FOR PENDING ISSUES
Function 1: Develop a framework and facilitate, analysis, costing and phased transfer of functions to County Government				
(a) Develop a framework for phased transfer of functions to County Government	Framework developed and applied	Development of Framework for analysis of concurrent and residual functions	To be completed by 1 March, 2016	30 Million
(b) Analysis of functions	All functions the Fourth schedule (national and	State corporations and National	One year	50 Million

EXPECTED ACCOMPLISHMENTS	STATUS	PENDING ACTIVITIES	TIME FRAME FOR PENDING WORK	ESTIMATED BUDGET FOR PENDING ISSUES
assigned in the Fourth Schedule to the COK 2010	County Governments) and Regional Development Authorities and Water Service Boards	Government		
(c) Costing of functions	<ul style="list-style-type: none"> o costing of devolved functions using historical budget allocation o Costed functions for five (5) sectors of national government. Agriculture, health, infrastructure, environment and foreign affairs 	Thirteen (13) sectors are yet to be costed	One year	125 Million
(d) Phased transfer of functions to County Government	All the fourteen functions transferred in four phase	Transfer / clarification of devolved functions performed by State corporations to County Government and National Government	Two years	45 Million
Function2: Prepare an inventory and audit assets and liabilities of National Government, defunct Local Authorities and Other Public Entities, develop mechanisms for sharing and transfer to the relevant level of Government and effective management of public assets				
Prepare an inventory and audit assets and liabilities of <ul style="list-style-type: none"> o National Government 	data collection of twenty five of forty one state departments has been completed	Sixteen state departments are remaining	Six months	50 Million
o Local Authorities	inventories of all 175 defunct local authorities prepared	None	None	0
o Other Public Entities / State Corporations	Data collected for one hundred and thirty eight (138))	One hundred and fifty nine (159) remaining	One year	30 Million
o audit assets and liabilities	None of the inventories discussed above have been audited	<ul style="list-style-type: none"> o forty one state departments o 175 defunct local authorities o two hundred and ninety seven (297) 	Two Years	1.8 billion

EXPECTED ACCOMPLISHMENTS	STATUS	PENDING ACTIVITIES	TIME FRAME FOR PENDING WORK	ESTIMATED BUDGET FOR PENDING ISSUES
<ul style="list-style-type: none"> ○ mechanisms for sharing transfer to the relevant level of Government and effective management of public assets 	<ul style="list-style-type: none"> ○ asset management information system has been operationalized ○ Mechanisms developed and operational ○ Developed regulations on management and transfer of assets and liabilities 	<p>Development of policy and legislation on national and County asset and liabilities management framework</p> <p>Parliament to fast track Legislation</p> <p>Gazetment of regulations on management and transfer of assets and liabilities</p>	<p>One year</p> <p>Six months</p> <p>One month</p>	100 Million
Moratorium on transfer of assets during transition period	<ul style="list-style-type: none"> ○ Publicised the moratorium to and developed mechanisms for seeking approvals for transfers ○ Approved requests for transfer of obsolete/ boarded and unserviceable goods ○ 	Extension of the effective life period of the Moratorium to secure assets and liabilities	Three months	Parliament
Function3: Audit Human Resources of the Local Authority and National Government and advise on effective deployment, management, pension and benefits, staff development and rationalization				
Audit Human Resources of the (a) Local Authority	Audited, final report disseminated	None	--	-
(b) National Government	Audited and reports submitted to the National and County Government Coordinating Summit	<ul style="list-style-type: none"> ○ State Corporations and Other Public Entities ○ And consolidation of any work done by individual institutions 	One Year	30
advise on	Advisory Guidelines for		None	0

EXPECTED ACCOMPLISHMENTS	STATUS	PENDING ACTIVITIES	TIME FRAME FOR PENDING WORK	ESTIMATED BUDGET FOR PENDING ISSUES
effective deployment and rationalization of staff	transition of staff to the Counties Gazetted and disseminated	None		
	<ul style="list-style-type: none"> ○ Facilitated and coordinated capacity assessment ○ Developed a capacity assessment and rationalization of public service -(CARPS) Framework ○ Related program and institutional arrangements 	Implementation of CARPS	Two years	210 Million
Advise on staff pension and benefits for County Governments	In close collaboration with relevant agencies i.e. RBA, Treasury, SRC , County Governments etc. prepared report on the establishment of a County Staff Pension Scheme	Implementation of the recommendations of the report	Two years	150 Million
	prepared and submitted to Senate the County Government Pension Scheme Bill	Enactment of the County Government Pension Scheme Bill / Parliament	Six months	
Function 4: Facilitate the development of the initial county budgets, County development profiles and a financial management system				
Facilitate the development of the initial county budgets	Necessary laws enacted and County budget prepared	None	None	--
County development profiles	County development profiles developed and disseminated guidelines for preparation of county integrated development plans (CIDPS) and spatial plans.	None	--	--
Facilitated development of a financial management	Transition Public Finance Management Law enacted and implemented	None	--	0
	Coordinated the initial roll-	○ Implementation	Two Years	100

EXPECTED ACCOMPLISHMENTS	STATUS	PENDING ACTIVITIES	TIME FRAME FOR PENDING WORK	ESTIMATED BUDGET FOR PENDING ISSUES
system in the counties	out of IFMIS	of all IFMIS Modules ○ Set up of IFMIS infrastructure ○ Capacity building of staff on IFMIS usage		
	Trained County Staff on Planning, budgeting and Public Finance Management	Deepened, monitored and sustained capacity building and tools	Two Years	
Function 5: Assess capacity of the National and county governments and recommend the necessary measures to ensure that national and county governments have adequate capacity to perform the assigned functions				
Assess capacity of the national and county governments to perform the assigned functions	Functions Readiness assessment conducted and report disseminated	Transition period end term assessment on uptake of functions and capacity needs (in progress)	March 2016	0
	Status and allocation of interim County Offices to accommodate County Governments	Conduct assessment of County Offices status	Two Months	0
	National Capacity building Framework for results developed	To be reviewed and implemented in light of lessons learned and emerging issues	Two years	TA to lead the Implementation during the Transition Period 20 Million
National and County Results Readiness	Concept note developed but not executed	Integrated Performance Management and Accountability Framework for results	One year	Parliament, 300 Million
		Assessment of status of devolution and its impact on service delivery improvement and social economic transformation	One Year	

EXPECTED ACCOMPLISHMENTS	STATUS	PENDING ACTIVITIES	TIME FRAME FOR PENDING WORK	ESTIMATED BUDGET FOR PENDING ISSUES
		Assessment and capacity building of Citizen engagement and social-accountability mechanisms in/ for devolved system of Government	Two years	
Public Service Values, Standards and Norms	Issued Advisories to County Governments	Facilitate and ensure Public Service Values, Standards and Norms are developed and operationalized	One Year	Parliament to enact laws 30 million
Function 6: Establish the status of on-going reform processes, development programs and projects and make recommendations on the coordinated management, re-allocation or transfer to either level of Governments				
Establish the status of on-going reform processes, development programs and projects	assessment of on-going reform processes, development programs and projects is on-going	Completion of the assessment Make recommendation on coordination and delivery mechanisms	Six months	30 Million
---	---	re-allocation or transfer to either level of Governments	Two Years	30 Million
Function 7: Assess and classify urban areas and cities				
Initial Assessment of urban areas and cities using the criteria of Urban Areas and Cities Act 2011	Assessment completed and no urban area qualified as city, municipality or town except the cities saved by the Act (Nairobi, Kisumu and Mombasa)	None	---	---
	Drafted Amendment to the Law and forwarded it to the Ministry of Lands, Housing and Urban Development and Parliament	Enactment of the Amendment to the Act	Six Months	Delayed by Parliament

EXPECTED ACCOMPLISHMENTS	STATUS	PENDING ACTIVITIES	TIME FRAME FOR PENDING WORK	ESTIMATED BUDGET FOR PENDING ISSUES
Upon Enactment of the Amendment to the Act	----	Assessment and classification of urban centres	One and a half years	300 million
Function 8: Provide mechanism for closure and transfer of public records and information				
Provide for policy and operational mechanism for closure and transfer of public records and information	Guidelines on closure and transfer of public records and information developed and disseminated to both levels of Governments	None	--	---
	Regulations and implementation Mechanisms developed and sent to AG for review	Validation and gazettelement of the Regulations and delivery mechanisms	Three Months	10 million
	Survey on the status of public records and information conducted in the 47 Counties and reports disseminated to the County Governments Conducted survey of the status of public records and information of National Government Records in the 47 Counties	Facilitation of Implementation of the recommendations of the County Surveys Complete Status survey of the status National Government Ministries at Headquarters and Other Public Entities	One Year	100 million
Facilitate Closure and Transfer of records and information	Staff records on devolved functions have been transferred to County Governments	Sector specific program management records Appraisal of records and information to facilitate closure and transfer	One Year	100 million
Function 9: Facilitate civic education for citizen engagement and participation to ensure civic education is commenced and coordinated				
Coordination of civic education	During Phase 1 of transition the Kenya National Integrated	The program ended in June	--	0

EXPECTED ACCOMPLISHMENTS	STATUS	PENDING ACTIVITIES	TIME FRAME FOR PENDING WORK	ESTIMATED BUDGET FOR PENDING ISSUES
	Civic Education Program provided coordination platform	2013		
	Term of reference developed for institutional framework for coordinating and delivery Civic Education and handed over to Devolution and Planning in November 2014	Development of an institutional framework for coordinating and delivery Civic Education yet to be completed	One Year	30 million
Civic Education Curriculum and delivery	Civic education curriculum, training manual and information, education and communication (IEC) materials developed, validated and ready for implementation	Printing of all the said documents Program roll-out	Two years	50 million
	Minimal civic education targeting public officers and general public	Deepen and scale up to the whole country	Two Years	100 million
	Printed and disseminated limited Information, education and communication (IEC) materials			30 million
	Developed and disseminated to the County Governments a data base of civic education capacity building institutions	Information, education and communication (IEC) strategy	Two Years	50 million

1.8.4 Pending TA Mandated Activities

In a summary, the following are the pending activities under TA:-

- a) Audit and transfer of asset and liabilities
- b) Facilitation of implementation CARPS Programme- deployment and rationalization of staff.
- c) Finalizing the mechanism for closure and transfer of public records and information.
- d) Facilitation of implementation of the County Pension Scheme
- e) Facilitation of transfer of services
- f) Unbundling and transfer the functions of state corporations functions
- g) Realistic Costing of functions of the remaining thirteen Ministries/Sectors and departments.

- h) Facilitation the development of Public Participation and civic education frameworks.
- i) Publishing and disseminating civic education materials: curriculum, Training Manual, IEC.
- j) Verification, Validation and Audit of all existing assets and liabilities of all MDAs.
- k) Public participation on the developed mechanism and criteria for transfer and or sharing of public assets and liabilities before its implementation.
- l) Handing over/ Taking over of assets and liabilities of the defunct local authorities to County Governments in the remaining sixteen (16) Counties.
- m) Transfer of all existing public assets and liabilities to the correct entity to bear responsibility and benefit thereof.
- n) Finalization of amendments to the Urban Areas and Cities Act,2011 and Regulations to the Act.
- o) Assessment and classification Urban areas and cities.
- p) Publication and dissemination of urban areas and cities Regulations.

Resolution of the Forum

The Consultative Forum resolved as follows:

1. **THAT**, there is need to extend the transition period and the mandate for the Transition Authority to sustain the momentum of the gains made toward successful realization of the devolved system of government and to mitigate the identified risks to the country if TA's mandate and term lapses.
2. **THAT**, the National Assembly should provide the necessary support, enabling legislative environment, protection and resources to ensure that the Transition Authority accomplishes the following key priority transitional functions:
 - a) Public Service values, standards, and norms which cuts across national and county governments;
 - b) Audit of public assets and their transfer to the relevant level of government;
 - c) Rationalization and deployment of human resources;
 - d) Unbundling of the state corporations and parastatals;
 - e) Facilitating capacity building for both levels of government;
 - f) Costing of functions of the remaining sectors;
 - g) Assessment and classification of urban areas and cities;
 - h) Appraisal, closure and transfer of public records; and,

- i) Civic Education.

1.9 Meeting of the CIOC with the Cabinet Secretary for Devolution and Planning.

The Committee met with the Cabinet Secretary for Devolution and Planning on Tuesday, 16th February, 2016, to discuss the expiry of the term of the Authority. The Cabinet Secretary for Devolution and Planning, Hon. Mwangi Kiunjuri accompanied by technical Officers and the Chairman of the Inter-Governmental Relations Technical Committee (IGRTC) took the Committee through the following functional areas of the TA:-

a) **Auditing of Public Assets and Liabilities of the Defunct Local Authorities**

The Cabinet Secretary informed the meeting that TA had compiled a comprehensive list of assets and liabilities and what was remaining was the verification, validation and transfer which could be carried out by the Office of Auditor-General and other relevant state agencies.

b) **Analysis and Transfer of Pending Functions as per the Fourth Schedule to the Constitution**

The Cabinet Secretary informed the meeting that during the National and County Government Coordinating Summit meeting held on 10th and 11th February, 2016 at Sagana State Lodge, TA confirmed to the Summit that it had transferred all the functions and none were pending. The remaining functions had been transferred under the Special Gazette of 22nd January, 2016.

c) **Establishment of the County Pension Scheme to safeguard staff benefits and facilitate transfer of service**

The Cabinet Secretary informed the meeting that the Draft County Pension Scheme Bill was being reviewed by the major stakeholders and that the Inter-Governmental Relations Technical Committee would follow up on the issue.

d) **Assessment and Classification of Urban Areas and Cities**

The Cabinet Secretary also informed the meeting that amendments to the Urban Areas and Cities Act, 2011 and Regulations under the Act had been drafted and were before Parliament.

e) **Rationalization and Deployment of Staff**

He informed the meeting that the matter was comprehensively under the Capacity Assessment and Rationalization of the Public Service CARPS Programme and that TA had given their input on the Report of CARPS which was later adopted by Summit in February, 2016

f) **Implementation of the Civic Education Curriculum on Devolution**

The Cabinet Secretary also informed the meeting that they hold the view that, civic education is a continuous activity and not a transition issue.

g) **Facilitation of Closure of Public Records and Information**

The Cabinet Secretary also informed the meeting that personnel records kept by the National Government had been successfully transferred to the County Governments and in any case this was the mandate of Government Ministries supervised by Ministry of Public Service Public Service Commission and the Technical Committee.

h) **Capacity Building for National and County Governments**

The Cabinet Secretary was of the view that, capacity building is a function of the National Government and not the County Governments.

i) **Establishment of the Status of Ongoing Reform Processes, Projects and Programmes**

The cabinet Secretary noted that, this is not a function of the Transition Authority.

In view of the foregoing, the Cabinet Secretary made following recommendations to the Committee:

1. The Inter-Governmental Relations Technical Committee and the Transition Authority agreed to work together to ensure a seamless handover to the Technical Committee in a meeting held on 13th January, 2016;
2. Seven (7) out of the sixteen (16) members of TA are Principal Secretaries and as such, the expertise and institutional memory of the TA will be retained by the National Government hence ensuring continuity.
3. Most of the technical staff of the TA were on secondment from the National Government and would be available if required by the Technical Committee.

4. An "Independent Audit Committee" should be set up to objectively assess and evaluate the work of the TA with a view of ascertaining the magnitude of the pending work and the time frame it would require to finalize it.

On the legality of extending the term of the Transition Authority, the Cabinet Secretary submitted that the advisory opinion of CIC had opined that a Bill purporting to extend the term of the Authority would be unconstitutional.

The Committee inquired from the Cabinet Secretary on whether or not the term of the TA should be extended but the Cabinet Secretary submitted that the question of determining whether or not to extend the term of TA is in the purview of both the Senate and the National Assembly. However, on being asked about the issue of the constitutional Bill in the Senate seeking to amend section 15(1) of the Sixth Schedule, the Cabinet Secretary noted that the Ministry was not aware of the existence of such a Bill.

1.10 Meeting with the Chairperson, Inter-Governmental Relations Technical Committee

The Committee enquired from the Chairperson of the Intergovernmental Relations Technical Committee whether IGRTC had the capacity to carry on with the pending work of TA and if it was ready. The Chairperson of the IGRTC informed the meeting as follows:-

- a) Section 15(1) of the Sixth Schedule to the Constitution does not allow for extension beyond three years;
- b) The framers of the Constitution did not envisage the TA serving beyond three years and as such Parliament should not extend the three years;
- c) The Technical Committee is well enabled to take up the functions of the TA once it is dissolved as it has technical and qualified persons to take up the functions;
- d) The Technical Committee is also independent as the members of the Committee are competitively recruited and appointed by the Summit and unlike the TA which has seven Principal Secretaries, the Committee has only one Principal Secretary as a member. As such it is autonomous and independent.
- e) The question of determining whether or not to extend the term of TA is in the purview of both the Senate and the National Assembly.

Recommendation of the Committee:

Having heard the submissions of the Cabinet Secretary for Devolution and Planning, and from the Chairperson of the Inter-Governmental Relations Technical Committee, the Committee resolved to meet on 18/2/2016 for an in-house meeting for determining the issue of the expiry of the Transition Authority.

~~The Committee also agreed that there was no need to invite the views of the Attorney General as the submission by the Cabinet Secretary was succinct.~~

1.7 Findings of the Committee.

During its 23rd sitting held on Thursday, 18th February, 2016, the Committee noted that, TA had the following outstanding activities:

- (a) Auditing of public assets and liabilities for the defunct Local Authorities, for the devolved functions, Ministries, Departments and Agencies (MDAs).
- (b) Validation of the inventory of the public assets and liabilities for the devolved functions, and those of MDAs.
- (c) Transfer of the assets and liabilities to the relevant levels of government.
- (d) Analysis and classification transferred functions as per the Fourth Schedule to the Constitution and those performed by state corporations including Regional Development Authorities and Water Service Boards.
- (e) Determination of the resource requirements (costing) for functions for the remaining sectors.
- (f) Management of emerging issues from transfer and implementation of functions.
- (g) Establishment of the County Pension Scheme to safeguard staff benefits and facilitate transfer of service.
- (h) Assessment and classification of urban areas and cities.
- (i) Rationalization and redeployment of staff.
- (j) Establishment of the status of on-going reform processes, projects and programs and recommending on transfer and management to either levels of government.
- (k) Implementation of the civic education curriculum on devolution.
- (l) Facilitation of closure and transfer of public records and information to either level of Government.
- (m) Capacity building of national and county governments.

The Committee found out that the submission by the Cabinet Secretary addressed all these activities and TA had cleared with most of them. The Committee also found out that, the outstanding activities were residual and would therefore be taken over by the Inter-Governmental Relations Technical Committee.

1.8 Recommendations of the Committee

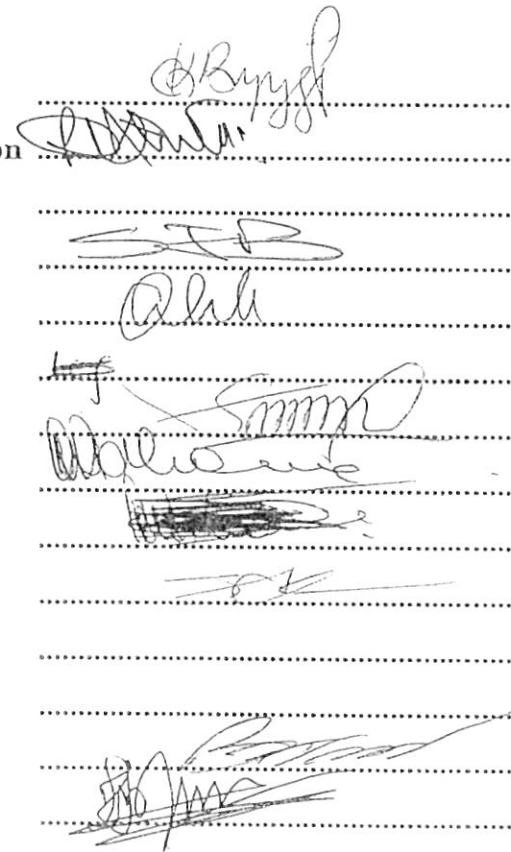
In view of the Constitutional provisions, the provisions of the Transition to Devolved Governments Act and the Intergovernmental Relations Act, the Constitutional Implementation Oversight Committee (CIOOC) recommends to the National Assembly that:

- a) the life of the Transition Authority should not be extended beyond March 05, 2016.
- b) in light of paragraph (a) and in accordance with the Inter-Governmental Relations Act, the Inter-Governmental Relations Technical Committee should take up the residual functions of the Transition Authority effectively on March 06, 2016.

1.9 Adoption of the Report by Members the Committee.

At its 39th sitting held on Thursday, 18th February, 2016, the following members of the Committee appended their signatures against their names as an indication of their agreement with the contents of this report and agreed with its tabling before the National Assembly consideration and adoption.

1. The Hon. Njoroge Baiya, MP, Chairperson
2. The Hon. Moitalel Ole Kenta, MP, Vice Chairperson
3. The Hon. Ababu Namwamba EGH, MP
4. The Hon. Sakwa J. Bunyasi, MP
5. The Hon. Omulele Christopher, MP
6. ~~The Hon. Joe M. Mutambu, MP~~
7. The Hon. Grace Jemutai Kiptui, MP
8. The Hon. Alice Muthoni Wahome, MP
9. The Hon. Sabina W. Chege, MP
10. The Hon. Steven Kariuki, MP
11. The Hon. Humphrey K. Njuguna, MP
12. The Hon. Rose Rwamba Mitaru, MP
13. The Hon. Benson M. Kangara, MP
14. The Hon. James Lomenen, MP

Handwritten signatures of committee members corresponding to the list on the left. The signatures are written in black ink on a white background with horizontal dotted lines. The signatures are: 1. Njoroge Baiya, 2. Moitalel Ole Kenta, 3. Ababu Namwamba, 4. Sakwa J. Bunyasi, 5. Omulele Christopher, 6. (crossed out), 7. Grace Jemutai Kiptui, 8. Alice Muthoni Wahome, 9. Sabina W. Chege, 10. Steven Kariuki, 11. Humphrey K. Njuguna, 12. Rose Rwamba Mitaru, 13. Benson M. Kangara, 14. James Lomenen.

- 15. The Hon. John Lodepe Nakara, MP
- 16. The Hon. Aramat Lemanken, MP
- 17. The Hon. Mary Wambui, MP
- 18. The Hon. Mahamud, M. Maalim, MP
- 19. The Hon. Manson Nyamweya, MP
- 20. The Hon David Gikaria, MP
- 21. The Hon. Boniface O. Otsiula, MP
- 22. The Hon. Bowen, David Kangogo, MP
- 23. The Hon. Shakila Abdalla, MP
- 24. The Hon. Protus Akuja, MP
- 25. The Hon. (Dr.) Dahir Duale Mohammed, MP
- 26. The Hon. Peter N. Gitau, MP
- 27. The Hon. Abdul Rahim Dawood, MP
- 28. The Hon. Samuel K. Chepkonga, MP

[Handwritten signatures and scribbles on dotted lines]

MINUTES OF THE 39TH SITTING OF THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE HELD ON THURSDAY, 18TH FEBRUARY, 2016 AT THE 2ND FLOOR CONTINENTAL BOARD ROOM, PARLIAMENT BUILDING, AT 10.00 AM

PRESENT

1. The Hon. Njoroge Baiya, MP - Chairperson
2. The Hon. Moitalel Ole Kenta, MP - Vice Chairperson
3. The Hon. Benson M. Kangara, MP
4. The Hon. Protus Akuja, M.P.
5. The Hon. Mary Wambui, M.P
6. The Hon. Steven Kariuki, MP
7. The Hon. Omulele Christopher, MP
8. The Hon David Gikaria, MP
9. The Hon. Alice Muthoni Wahome, MP
10. The Hon. Grace Jemutai Kiptui, MP
11. The Hon. John Lodepe Nakara, MP
12. The Hon. Sakwa J. Bunyasi, MP
13. The Hon. Boniface O. Otsiula, MP
14. The Hon. Abdul Rahim Dawood, MP
15. The Hon. Shakila Abdalla, MP
16. The Hon. Aramat Lemanken, MP
17. The Hon. James Lomenen, MP
18. The Hon. Peter N. Gitau, MP

ABSENT WITH APOLOGY

1. The Hon. Humphrey K. Njuguna, MP
2. The Hon. Bowen, David Kangogo, MP
3. The Hon. Rose Rwamba Mitaru, MP
4. The Hon. Samuel K. Chepkonga, MP
5. The Hon. Sabina Chege, MP
6. The Hon. (Dr.) Dahir Duale Mohammed, MP
7. The Hon. Ababu Namwamba EGH, MP
8. The Hon. Mahamud, M. Maalim, MP
9. The Hon. Manson Nyamweya, MP

IN-ATTENDANCE

1. Mr. John Mutega
2. Mr. Nebert Ikai Lomechu
3. Mr. Alex Mutuku

NATIONAL ASSEMBLY

- Principal Clerk Assistant II
- Clerk Assistant III
- Sergeant at Arms

MIN.NO.172/18/02/2016:

PRELIMINARIES

The meeting was called to order at 10.30am and commenced with a word of prayer from the Chairperson.

MIN.NO. 173/18/02/2016:

CONFIRMATION OF MINUTES

The Minutes of the 35th sitting held on 1st December, 2015, were confirmed as a true record of the proceedings of that meeting and signed by the Chairperson after being proposed by Hon. Moitalel Ole Kenta, MP and seconded by Hon. Peter N. Gitau, MP.

The Minutes of the 36th sitting held on 1st December, 2015, were confirmed as a true record of the proceedings of that meeting and signed by the Chairperson after being proposed by Hon. Moitalel Ole Kenta, MP and seconded by Hon. Peter N. Gitau, MP.

The Minutes of the 37th sitting held on 9th February, 2016, were confirmed as a true record of the proceedings of that meeting and signed by the Chairperson after being proposed by Hon. Moitalel Ole Kenta, MP and seconded by Hon. Benson Kang'ara, MP.

The Minutes of the 38th sitting held on 16th February, 2016, were confirmed as a true record of the proceedings of that meeting and signed by the Chairperson after being proposed by Hon. Abdul Rahim Dawood, MP and seconded by Hon. Benson Kang'ara, MP.

MIN.NO. 174/18/02/2016:

CONSIDERATION OF THE REPORT ON THE EXPIRY OF THE TERM OF THE TRANSITION AUTHORITY

The Committee considered a draft report on the above matter and agreed that:

- a) the life of the Transition Authority should not be extended beyond March 05, 2016.
- b) in light of paragraph (a) and in accordance with the Inter-Governmental Relations Act, the Inter-Governmental Relations Technical Committee should take up the residual functions of the Transition Authority effectively on March 06, 2016.

MIN.NO.175/18/02/2016:

ADOPTION OF THE REPORT ON THE EXPIRY OF THE TERM OF THE TRANSITION AUTHORITY

The report was adopted was unanimously adopted by the Members present. The Members went ahead to append their signatures on the Report as an indication of their concurrence with the content of the Report and resolved that the Report be tabled before the National Assembly as soon as practicable.

MIN.NO.176/18/02/2016:

ADJOURNMENT

There being no any other business the meeting adjourned Thirty minutes past at Eleven O'clock.

SIGN..... DATE

CHAIRPERSON.....

MINUTES OF THE 38TH SITTING OF THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE HELD ON TUESDAY, 16TH FEBRUARY, 2016 AT THE 4TH FLOOR CONTINENTAL BOARD ROOM, PARLIAMENT BUILDING, AT 10.00 AM

PRESENT

1. The Hon. Njoroge Baiya, MP - Chairperson
2. The Hon. Moitalel Ole Kenta, MP - Vice Chairperson
3. The Hon. Benson M. Kangara, MP
4. The Hon. Protus Akuja, M.P.
5. The Hon. Rose Rwamba Mitaru, MP
6. The Hon. Mary Wambui, M.P
7. The Hon. Steven Kariuki, MP
8. The Hon. Omulele Christopher, MP
9. The Hon David Gikaria, MP
10. The Hon. Bowen, David Kangogo, MP
11. The Hon. Humphrey K. Njuguna, MP
12. The Hon. Grace Jemutai Kiptui, MP
13. The Hon. John Lodepe Nakara, MP
14. The Hon. Sakwa J. Bunyasi, MP
15. The Hon. Boniface O. Otsiula, MP
16. The Hon. Abdul Rahim Dawood, MP
17. The Hon. Aramat Lemanken, MP

ABSENT WITH APOLOGY

1. The Hon. Peter N. Gitau, MP
2. The Hon. Samuel K. Chepkonga, MP
3. The Hon. Sabina Chege, MP
4. The Hon. (Dr.) Dahir Duale Mohammed, MP
5. The Hon. Ababu Namwamba EGH, MP
6. The Hon. James Lomenen, MP
7. The Hon. Mahamud, M. Maalim, MP
8. The Hon. Joel M. Mutambu, MP
9. The Hon. Manson Nyamweya, MP
10. The Hon. Shakila Abdalla, MP
11. The Hon. Alice Muthoni Wahome, MP

IN-ATTENDANCE

MINISTRY OF DEVOLUTION AND PLANNING

1. Hon. Awangi Kiunjuri, MGH- Cabinet Secretary for Devolution and Planning
2. Amb Phillip Owade - State Department for Devolution

IN-ATTENDANCE

INTERGOVERNMENTAL RELATIONS

TECHNICAL COMMITTEE

1. Prof. Karega Mutahi - Chairperson
2. Dr. Francis K. Fondo - Member,

1. Mr. Jean Mutega -Principal Clerk Assistant II
2. Ms. Jemimah Waigwa - Legal Counsel
3. Mr. Nebert Ikai Lomechu - Clerk Assistant III
4. Mr. Donald Manyala - Research Officer
5. Mr. Alex Mutuku - Sergeant at Arms

MIN.NO.168/16/02/2016: PRELIMINARIES

The meeting was called to order at 10.30am and commenced with a word of prayer from the Chairperson.

MIN.NO.168/16/02/2016: MEETING WITH THE CABINET SECRETARY, DEVOLUTION AND PLANNING ON THE EXPIRY OF THE TERM OF THE TRANSITION AUTHORITY

After round of introductions, the Chairperson invited the Cabinet Secretary to brief the Committee on the extension of the term of the Transition Authority which is set to end on 4th March, 2016. The Cabinet Secretary informed the Committee as follows on the pending work of the Transition Authority:

1. Auditing of Public Assets and Liabilities of the Defunct Local Authorities

The Cabinet Secretary informed the meeting that TA had compiled a comprehensive list of assets and liabilities and what was remaining was the verification, validation and transfer which could be carried out by the Office of Auditor-General and other relevant state agencies.

2. Analysis and Transfer of Pending Functions as per the Fourth Schedule to the Constitution

The Cabinet Secretary informed the meeting that during the National and County Government Coordinating Summit meeting held on 10th and 11th February, 2016 at Sgana State Lodge, TA confirmed to the Summit that it had transferred all the functions and none were pending. The remaining functions had been transferred under the Special Gazette of 22nd January, 2016.

3. Establishment of the County Pension Scheme to safeguard staff benefits and facilitate transfer of service

The Cabinet Secretary informed the meeting that the Draft County Pension Scheme Bill was being reviewed by the major stakeholders and that the Inter-Governmental Relations Technical Committee would follow up on the issue.

4. Assessment and Classification of Urban Areas and Cities

The Cabinet Secretary also informed the meeting that amendments to the Urban Areas and Cities Act, 2011 and Regulations under the Act had been drafted and were before Parliament.

5. Rationalization and Deployment of Staff

He informed the meeting that the matter was comprehensively under the Capacity Assessment and Rationalization of the Public Service CARPS Programme and that TA had given their input on the Report of CARPS which was later adopted by Summit in February, 2016

6. Implementation of the Civic Education Curriculum on Devolution

The Cabinet Secretary also informed the meeting that they hold the view that, civic education is a continuous activity and not a transition issue.

7. Facilitation of Closure of Public Records and Information

The Cabinet Secretary also informed the meeting that personnel records kept by the National Government had been successfully transferred to the County Governments and in any case this was the mandate of Government Ministries supervised by Ministry of Public Service Public Service Commission and the Technical Committee.

8. Capacity Building for National and County Governments

The Cabinet Secretary was of the view that, capacity building is a function of the National Government and not the County Governments.

9. Establishment of the Status of Ongoing Reform Processes, Projects and Programmes

The cabinet secretary noted that, this is not a function of the Transition Authority.

In view of the foregoing, the Cabinet Secretary made following recommendations to the Committee:

1. The Inter-Governmental Relations Technical Committee and the Transition Authority agreed to work together to ensure a seamless handover to the Technical Committee in a meeting held on 13th January, 2016;
2. Seven (7) out of the sixteen (16) members of TA are Principal Secretaries and as such, the expertise and institutional memory of the TA will be retained by the National Government hence ensuring continuity.
3. Most of the technical staff of the TA were on secondment from the National Government and would be available if required by the Technical Committee.
4. An "Independent Audit Committee" should be set up to objectively assess and evaluate the work of the TA with a view of ascertaining the magnitude of the pending work and the time frame it would require to finalize it.

On the legality of extending the term of the Transition Authority, the Cabinet Secretary submitted that the advisory opinion of CIC had opined that a Bill purporting to extend the term of the Authority would be unconstitutional.

The Committee inquired from the Cabinet Secretary on whether or not the term of the TA should be extended but the Cabinet Secretary submitted that the question of determining whether or not to extend the term of TA is in the purview of both the Senate and the National Assembly. However, on being asked about the issue of the constitutional Bill in the Senate seeking to amend section 15(1) of the Sixth Schedule, the Cabinet Secretary noted that the Ministry was not aware of the existence of such a Bill.

MIN.NO.16/16/02/2016: MEETING WITH THE CHAIRPERSON
INTERGOVERNMENTAL RELATIONS
TECHNICAL COMMITTEE

The Chairperson of the Intergovernmental Relations Technical Committee informed the meeting as follows on the expiry of the life of the Transition Authority -

1. Section 15(1) of the Sixth Schedule to the Constitution does not allow for extension beyond three years;
2. Framers of the Constitution did not envisage the Transition Authority serving beyond three years as such Parliament should not extend beyond the three years;
3. The Technical Committee is well enabled to take up the functions of the TA once it is dissolved as it has technical and qualified persons to take up the functions;
4. The Technical Committee is also independent as the members of the Committee are competitively recruited and appointed by the Summit and unlike the TA which has seven Principal Secretaries, the Committee has only one Principal Secretary as a member. As such it is autonomous and independent.
5. The question of determining whether or not to extend the term of TA is in the purview of both the Senate and the National Assembly.

MIN.NO.17/16/02/2016: WAY FORWARD

Having heard the submissions of the Cabinet Secretary and the Chairperson of the Intergovernmental Relations Technical Committee, the Committee resolved to meet on 18/2/2016 for an in-house meeting for determining the issue of the expiry of the Transition Authority. The Committee also agreed not to invite the views of the Attorney-General and Council of Governors as the matter had been made more succinct following its meeting with the Cabinet Secretary.

MIN.NO.17/16/02/2016: ADJOURNMENT

There being no any other business the meeting adjourned at thirty minutes past Twelve O'clock.

SIGN..........
CHAIRPERSON.....

DATE 18/02/2016

MINUTES OF THE 37TH SITTING OF THE CONSTITUTIONAL
IMPLEMENTATION OVERSIGHT COMMITTEE HELD ON TUESDAY, 9TH
FEBRUARY, 2016 AT THE 4TH FLOOR CONTINENTAL BOARD ROOM,
PARLIAMENT BUILDING, AT 10.30 AM

PRESENT

1. The Hon. Njoroge Baiya, MP - Chairperson
2. The Hon. Moitalel Ole Kenta, MP - Vice Chairperson
3. The Hon. Benson M. Kangara, MP
4. The Hon. Rotus Akuja, M.P.
5. The Hon. Peter N. Gitau, MP
6. The Hon. Rose Rwamba Mitaru, MP
7. The Hon. Sabina Chege, MP
8. The Hon. (Dr.) Dahir Duale Mohammed, MP
9. The Hon. Mary Wambui, M.P
10. The Hon. Steven Kariuki, MP
11. The Hon. Gwulele Christopher, MP
12. The Hon David Gikaria, MP
13. The Hon. Bowen, David Kangogo, MP
14. The Hon. Humphrey K. Njuguna, MP

ABSENT WITH APOLOGY

1. The Hon. Aramat Lemanken, MP
2. The Hon. Samuel K. Chepkonga, MP
3. The Hon. Ababu Namwamba EGH, MP
4. The Hon. James Lomenen, MP
5. The Hon. Mahamud, M. Maalim, MP
6. The Hon. Joel M. Mutambu, MP
7. The Hon. Manson Nyamweya, MP
8. The Hon. Sakila Abdalla, MP
9. The Hon. Alice Muthoni Wahome, MP
10. The Hon. Sakwa J. Bunyasi, MP
11. The Hon. Eoniface O. Otsiula, MP
12. The Hon. Abdul Rahim Dawood, MP
13. The Hon. Grace Jemutai Kiptui, MP
14. The Hon. John Lodepe Nakara, MP

IN ATTENDANCE

1. Mr. Kinuthia Wamwangi - Chairman
2. Mrs. Mary Adeto - Member
3. Ms. Sofia Abdi - Member

TRANSITION AUTHORITY

IN ATTENDANCE:

NATIONAL ASSEMBLY

- | | |
|---------------------------|--------------------------------|
| 1. Mr. Denis Abisai | - Principal Legal Counsel |
| 2. Mr. John Mutega | - Principal Clerk Assistant II |
| 3. Ms. Jemimah Waigwa | - Legal Counsel II |
| 4. Mr. Nebertikai Lomechu | - Clerk Assistant III |
| 5. Ms. Winne Kiziah | - Media Relations Officer |
| 6. Mr. Alex Mutuku | - Sergeant at Arms |

MIN.NO.164/9/02/2016:

PRELIMINARIES

The meeting was called to order at 10.30am and commenced with a word of prayer from the Chairperson.

MIN.NO.165/9/02/2016:

MEETING WITH TRANSITION AUTHORITY
OVER EXPIRY OF THEIR TERM

After a round of introductions the Chairperson invited the Chair for the Transition Authority (TA) to brief the Committee on their achievements, what was pending and any reasons that would warrant an extension of their term.

The Committee was informed that, TA was set up with the following specific functions:

- a) develop framework and facilitate, analysis, costing and phased transfer of functions to County Government;
- b) prepare an inventory and audit assets and liabilities of National Government, defunct Local Authorities and other public entities develop mechanisms for sharing and transfer to the relevant level of Government and effective management of public assets;
- c) audit Human Resources of the defunct Local Authorities and National Government and advise on effective deployment, management, pension and benefits, staff development and rationalization;
- d) facilitate the development of the initial county budgets, County development profiles and advise on a financial management system;
- e) assess capacity of the national and county governments and recommend the necessary measures to ensure that national and county governments have adequate capacity to perform the assigned functions;
- f) establish the status of on-going reform processes, development programs and projects and make recommendations on the coordinated management, re-allocation or transfer to either level of Governments;
- g) a and classify urban areas and cities;
- h) provide mechanism for closure and transfer of public records and information; and,
- i) facilitate civic education and ensure it is commenced and coordinated.

The Authority took the Committee through their core mandates as follows:

- a) Facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the National and County Governments.

- b) Facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the National and County Governments.
- c) Develop a framework for the comprehensive and effective transfer of functions as provided for under section 15 of the Sixth Schedule.
- d) Determine the resource requirements for each of the functions.
- e) Make recommendations for effective management of assets of national and county governments.
- f) Prepare and validate an inventory of all existing assets and liabilities of Government, other public entities and Local Authorities.
- g) Provide for policy and operational mechanism during the transition period for transfer to the national and county government of (ii) human resource; (iv) pensions and other staff benefits of employees and any other connected matters.
- h) Carry out an audit of the existing human resource of the government and defunct local authorities.
- i) Recommend the necessary measures required to ensure that the national and county governments have adequate capacity during the transition period to enable them undertake their assigned functions.
- j) Advise on the effective and efficient rationalization and deployment of human resource to either level of government.
- k) Provide for policy and operational mechanism during the transition for closure and transfer of public records.
- l) Assessment and classification of urban areas as per Section 54 of the Urban Areas and Cities Act, (UACA) 2011.
- m) Facilitate civic education to ensure civic education on devolution is commenced and coordinated.

The Committee was also taken through the following accomplishments by TA:

Mandate	Accomplishments
1. Facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the National and County Governments.	<ul style="list-style-type: none"> • Unbundled the functions of part 2 of the Fourth Schedule and some of the functions in part 1 of the Fourth Schedule to the CoK 2010 • Unbundled functions of parastatals in <ul style="list-style-type: none"> ✓ Agriculture, Livestock and fisheries ✓ Sports, culture and the arts ✓ Regional Development Authorities ✓ Water Service Boards, Water regulatory institutions and other bodies in the sector
2. Facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the National and County Governments.	Conducted Phased transfer of functions to the county Governments: <ul style="list-style-type: none"> ✓ Phase 1: Legal Notice No. 16 of Feb 2013 ✓ Phase 2: Legal Notices No. 137-183 of 9th Aug 2013 ✓ Phase 3: Legal Notice No. 33 march 17 2014, ✓ Phase 4: Legal Notice No. 24 of 22nd Jan, 2016.
3. Develop a framework for	<ul style="list-style-type: none"> • Developed a framework for functional analysis and

Mandate	Accomplishments
the comprehensive and effective transfer of functions as provided for under section 14 of the Sixth Schedule.	<p>transfer of functions.</p> <ul style="list-style-type: none"> • Development of a framework for analysis and performance of concurrent functions ongoing
4. Determine the resource requirements for each of the functions.	<ul style="list-style-type: none"> • Historical cost for the performance of the defunct local authorities functions determined before initial transfer. • Cost for the performance of transferred functions identified for the FY 2013/2014. • Realistic costing of functions of 5 sectors done: These are functions of • Agriculture, Fisheries and Livestock; Environment, Water and Natural Resources; Health; Transport and Infrastructure and Foreign Affairs. Report ready for dissemination
5. Make recommendations for effective management of assets of national and county governments.	<ul style="list-style-type: none"> • Developed and facilitated the frame work for the handing/taking over of assets and liabilities of the defunct local authorities by the county governments and from national government to county governments. • Developed Mechanism and Criteria for Transfer of Public Assets and Liabilities during the transition period and shared it with all the stakeholders including Senate. • Facilitated the transfer and sharing of equipment held under the Mechanical and Transport Fund (MTF) to county governments. • Developed Guidelines for Transfer of Agricultural Training Centres and Agricultural Mechanization stations to County Governments.
6. Prepare and validate an inventory of all existing assets and liabilities of Government, other public entities and Local Authorities.	<ul style="list-style-type: none"> • Collected data on assets and liabilities of the defunct local authorities and shared with all the County Governments after they assumed office. • Nationwide physical verification of assets and liabilities of all 175 defunct local authorities conducted and prepared unaudited inventory. • Issued advisories and publicized the moratorium on transfer of assets and liabilities for effective control of assets and liabilities during the transition period. • Developed guidelines and granted approvals for disposal of obsolete/boarded public assets.
7. Provide for policy and operational mechanism during the transition period for transfer to the national and county	<ul style="list-style-type: none"> • Issued Guidelines for Transition of Staff to the Counties (Gazette Notice no.825 of 7th February, 2014). • Prepared a Report on Establishment of County Staff Pension Scheme (January, 2014) through an Inter-Agency

Mandate	Accomplishments
government of (iii) human resource; (iv) pensions and other staff benefits of employees and any other connected matters.	<p>Technical Committee to facilitate transfer of service.</p> <ul style="list-style-type: none"> • Facilitated limited deployment and transfer of staff. • Prepared and proposed a County Governments Retirement scheme Bill, 2015.
8. Carry out an audit of the existing human resource of the government and defunct local authorities.	<ul style="list-style-type: none"> • Audited and prepared a report on staff of defunct Local Authorities and staff performing devolved functions (December 2013). The report gave numbers in terms of gender, age, educational qualification, and ethnicity. Report shared with the national and county governments
9. Recommend the necessary measures required to ensure that the national and county governments have adequate capacity during the transition period to enable them undertake their assigned functions.	<ul style="list-style-type: none"> • Developed a National Capacity Building Framework (NCBF) which was adopted by the Devolution Sector Working Group. • Facilitated the establishment of County Governments and capacity building in various areas: PFM, payroll management, legislative drafting, planning among others.
10. Advise on the effective and efficient rationalization and deployment of human resource to either level of government.	<ul style="list-style-type: none"> • Coordination of the Capacity Assessment and Rationalization of the Public Service (CARPS) Programme through the Inter-Agency Framework aimed at recommending measures for rationalization and deployment of staff & workload analysis • CARPS reports finalized awaiting summit approval and implementation • Facilitated preparation of the Scheme of Service for the staff working in County Assemblies
11. Provide for policy and operational mechanism during the transition for closure and transfer of public records	<ul style="list-style-type: none"> • Survey on status of public records in the 47 counties undertaken and reports prepared and shared with county governments. • Finalization of the mechanism for closure and transfer of public records is ongoing.
12. Assessment and classification of urban areas as per Section 54 of the Urban Areas and Cities Act, (UACA) 2011	<ul style="list-style-type: none"> • Collected data on services in the 1st Schedule of UACA, 2011 from all the urban areas in collaboration with the Former Ministry of Planning and analyzed. • No urban area qualified to be a city, municipality or town except the three saved by UACA • Draft amendments to the (UACA) 2011 Forwarded to CS, Ministry of Lands, Housing and Urban Development and Parliament
13. Facilitate civic education to ensure civic education	<ul style="list-style-type: none"> • Established coordination mechanism for Civic Education delivery.

Mandate	Accomplishments
on devolution is commenced and coordinated	<ul style="list-style-type: none"> • Minimal Sensitization of the public and public officers on devolution through media, public fora and opportunistic events . • Curriculum and training manual finalised and submitted to MODP to publish, launch and roll out. • Database for active Civic Educators in all counties

TA also informed the Committee that they had the following pending work which to them was core and NOT residual:

- a) Audit and transfer of asset and liabilities
- b) Facilitation of implementation CARPS Programme- deployment and rationalization of staff.
- c) Finalizing the mechanism for closure and transfer of public records and information.
- d) Facilitation of implementation of the County Pension Scheme
- e) Facilitation of transfer of services
- f) Unbundling and transfer the functions of state corporations functions
- g) Realistic Costing of functions of the remaining thirteen Ministries/Sectors and departments.
- h) Facilitation the development of Public Participation and civic education frameworks.
- i) Publishing and disseminating civic education materials: curriculum, Training Manual, EC.
- j) Verification, Validation and Audit of all existing assets and liabilities of all MDAs.
- k) Public participation on the developed mechanism and criteria for transfer and or sharing of public assets and liabilities before its implementation.
- l) Handing over/ Taking over of assets and liabilities of the defunct local authorities to County Governments in the remaining sixteen (16) Counties.
- m) Transfer of all existing public assets and liabilities to the correct entity to bear responsibility and benefit thereof.
- n) Finalization of amendments to the Urban Areas and Cities Act,2011 and Regulations to the Act.
- o) Assessment and classification Urban areas and cities.
- p) Publication and dissemination of urban areas and cities Regulations.

TA also outlined a number of challenges that they had faced as an Authority namely:-

- (a) Inadequate funding;
- (b) Unavailability and slow response from Ministries to provide requisite data for TA to undertake its functions especially information on assets, liabilities and devolved functions
- (c) Duplication and overlapping mandates between TA and Ministry of Devolution and Planning;
- (d) Political interference especially on transfer of functions;
- (e) Inadequate capacity;

- (f) The 'Big Bang approach to devolution' and the time allocated for transiting power, functions and resources remained a big challenge to the Authority;
- (g) Absence of sectoral norms and standards affected analysis and costing of functions;
- (h) Delay by Parliament to enact some laws to facilitate transition activities, e.g. county pension law, amendment to Urban Areas and Cities Act 2011 and review of existing laws to align them with the constitution; and,
- (i) Numerous litigation and judicial proceedings.

Observation of the Committee.

The Committee observed that there was need to hear the views of other stakeholders involved in the subject matter. The Committee agreed to get the views of the Council of Governors, the Attorney-General and the Cabinet Secretary responsible for Devolution.

Way Forward by the Committee

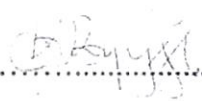
The Committee resolved to invite the Council of Governors, the Attorney General and the Cabinet Secretary, Ministry of Devolution and Special Programs to hear their views on the same.

MIN.NO.166/9/02/2016:

ADJOURNMENT

There being no another business the meeting adjourned at 12.00pm.

SIGN.....
CHAIRPERSON



DATE 17/02/2016

