COUNCIL OF GOVERNORS

STATE OF DEVOLUTION ADDRESS BY H.E. PETER MUNYA, CHAIRMAN, COUNCIL OF GOVERNORS

17TH JUNE, 2016

Excellency Governors,
Fellow Kenyans,

I am honored today, on behalf of the forty-seven (47) County Governments, to appraise you on the work we have done thus far as pioneers of devolution, and especially now that the transition period has come to an end. Let me start by reiterating why we devolved. Article 174 of the Constitution is clear- that the objects of devolution are: to promote democratic and accountable exercise of power; to foster national unity by recognizing diversity; to promote public participation and self-governance; to protect the rights of minorities and the marginalized communities; to ensure that basic services are accessible to all Kenyans; to ensure equitable sharing of resources; and to enhance checks and balances in governance.

We are all privileged to be living in this dispensation of change. Adoption of the devolved system of governance brought with it a promise for transformation in the livelihoods of Kenyan communities. Sovereign power belongs to you the people of Kenya, and it is only through delegation that we exercise that power on your behalf. The Constitution is unequivocal that sovereign power of the people is exercised at the national and county levels. The responsibility bestowed upon us therefore rests heavily on our shoulders to act in your best interests, and above anything else, to secure the long term prosperity and security of this and generations to come.

For the last three years County Governments have played a key role in delivering vital services, developing local economies, giving communities a voice through robust public participation and helping them shape the environment within which they live. Contrary to what cynics might think, the work that County Governments have done for the last three years is proof that devolution is not mere window dressing. Real power, real resources and real engagement of communities came with devolution.

County Governments have brought health services closer to the people and provided affordable medical care. They have given every child an opportunity to benefit from pre-primary education and childcare facilities. There is commitment to fix the labour system so that our young people are equipped with competent skills to join the workforce through self-employment, and to prepare them for the competitive global market. With devolution, farmers have been protected from cartels and unscrupulous agents and there is provision of subsidized farm inputs. Indeed it is the unique and individual strength of all the County Governments that will deliver that coveted promise of change to every Kenyan.

The transition period ended on 4th March, 2016. What this means is that all functions assigned to County Governments under the Fourth Schedule of the Constitution, are now squarely with the County Governments. We expect that all functions belonging to County Governments will now be financially resourced. That funds flow systems for conditional grants and donor funds will be established in a manner that respects the functional integrity of both levels of government. That State Corporations and Regional Development Authorities will be restructured to align to the devolved system of governance.

Dear Kenyans,
In the past three years, the country has been threatened by a faceless enemy called terrorism. Anything that threatens the stability of our nation, threatens the political, economic and social gains we have made. We have experienced loss of life, of property and of livelihoods. I salute our selfless soldiers in Somalia, who continue to sacrifice their lives to protect our borders from terror. Our prayers and thoughts continue to be with you and your families. For the fallen heroes we have lost in this battle, we stand with you and my desire is that the children of today and tomorrow remember your valor.

Allow me to also commend His Excellency the President's announcement on the formation of a Joint Select Committee to resolve the impasse over the Independent Electoral and Boundaries Commission (IEBC). In the face of increased tensions around the country as well the loss of lives due to public protests, this is a welcome development. As the Council of Governors, we have called for dialogue and sobriety, and objective consultations across the political divides which are a key element of enhancing preparedness for the 2017 general elections.

Fellow Kenyans,
I affirm that devolution is on course. Anyone propagating a negative rhetoric on the devolved system of governance is peddling fiction. Opinion polls and assessments reveal that 60% of the population believes in devolution. Kenyans have witnessed significant strides since 2013. We have made progress. Tremendous progress. But we are also aware that we need to make greater strides.

I am truly honored to present to you a report card of the strides we have made in the last three years. It has not been an easy ride. As a matter of fact, it has been a turbulent one. Yet despite the challenges, we have remained focused on the ultimate goal of delivering the devolution promise to Kenyans.

1. Agriculture

a) Agriculture is the mainstay of the Kenyan economy, directly contributing 26% of the GDP annually valued at KES 342 billion and another 27% indirectly valued at KES 385 billion through linkages with manufacturing, distribution and other service related sectors. Agriculture is now a devolved function and Governors understand the enormous potential this sector has and that its success will contribute to the overall economic development of the country.

b) We have instituted significant reforms in Agriculture. Counties have invested in mechanization thereby reducing the cost of farm preparations and essentially leading to increased crop and animal production. 132 Value addition projects have been instituted in 34 Counties and 1,021 greenhouses installed in 36 Counties.

c) The area under irrigation has increased to 69,966 hectares substituting over reliance on rainfall for production. And agriculture provides livelihoods to many Kenyans and is a great percentage contributor to the GDP of Kenya. With climate-change interfering with rainfall patterns, Counties are taking the climate-smart route and continue to put more land under irrigation. We are scaling up such initiatives so as to strengthen food security; reduce vulnerability; and generally raise smallholder income.

d) To improve productivity, we are now covering over 541,627 farmers with extension services. 911 cattle dips have been constructed and rehabilitated in 28 Counties.

e) In the livestock sector, Counties have provided artificial insemination services to over 886,147 animals.

f) To increase access to agricultural services, Counties have purchased more than 118 milk coolers. Over 649,000 banana tissue culture seedlings have been distributed.

2. Health

a) We are aware, now that health is a devolved function, that County Governments play a critical role in health care transformation and in this regard, are leading innovative efforts to improve the quality of health care while reducing its cost. Health care is one of the single largest components of our budgets, accounting for nearly a quarter of the total. In 2012, there were 8,466 health centers and dispensaries. As I make this address, we have increased this to 10,032 health facilities.

b) We have also employed more health care givers. When we took over health in 2013, we found 874 doctors and 6,620 nurses and we now have 1,302 doctors and 8,903 nurses in our facilities.

c) As a nation, we are working towards improving our health care system to attain international standards. Eliminating infant mortality is a priority to us and this is why we have invested in incubators and brought health facilities closer to our mothers. These investments have paid off. We have witnessed a huge drop, up to 39%, in infant deaths per 1,000 live births.

d) I must also point out that since 2013, Counties have significantly increased budgets for medicinal drugs. We no longer hear that drugs have ran out in health facilities. And more importantly, Kenyans can now access healthcare more easily. The distance to health centers has been reduced. I cannot also forget to mention that revenue generated by County health facilities has increased.

3. Water services and sanitation

a) Evidence of our success in the water sector can be seen in the improvement of water coverage across the country. Household access to water has increased to over 70% and particularly, additional 600 households in each County are now connected with piped water. We are rehabilitating and constructing dams to ensure that water provision in Counties meets the needs of the people. County Governments have also initiated, supported and sustained various community water projects across the Country. Providing clean water to citizens has reduced the spread of water-borne diseases.

4. Early Childhood Education (ECD)

a) In the past three years, we have witnessed increased enrollment into ECD centers by over 20%. It is our goal every boy and girl, in the most remote villages, accesses education at an early age. In 2013, the ECD enrollment was at 1,691,286 and now, it is at 2,074,060. Additionally, 30,049 teachers and assistants have been recruited to cater for the increased enrollment.

b) County Governments have in total built over 5,951 ECD centers and equipped them with desks with a bid to ensuring that pre-school children learn in a conducive environment. Over 598 centers have been refurbished. That picture of dilapidated mud and wood classrooms is slowly, but surely, disappearing.

c) But for us to continue building on these successes, we need for the ECD function to be adequately resourced.

5. Youth Polytechnics and Empowerment Programmes

a) Counties are investing in construction of youth polytechnics to nurture the skills of young people and prepare them for the job market. Counties are on the fastlane in economic growth and critical competencies will be much needed so that we can localize opportunities. We need masons; metal workers; water, electrical and mechanical engineers; quantity surveyors; laboratory technicians; urban planners; and many more and we will continue to invest in construction and rehabilitation of youth polytechnics. For example, in Homa Bay County, six (6) new youth polytechnics have been built. In Meru County, all the workshops in all the polytechnics have been refurbished and equipped. We have seen enrollment to youth polytechnics increase substantially. I believe that Counties are capable of becoming future incubators for skilled manpower.

b) There has also been a change of curriculum for the youth polytechnics so that the courses offered can focus on employability. We want our youth to be equipped with skills that guarantee jobs after their studies.

c) Other initiatives also include the establishment of empowerment centers and empowerment funds for the youth. For instance, Bungoma County has established cottage industries for the youth; Kiambu County has successfully rolled out the Biashara Fund which provides interest free loans of KES 100,000 for individuals and KES 500,000 for groups especially the youth, women and persons with disabilities. The fund has been able to disburse KES 400 million up to date.

6. Roads and Infrastructure

a) Between 2013 and 2016, we have achieved the following in the roads sector: tarmacked roads- 379 kilometers; murammed roads- 35,934 kilometers; new roads that have been opened- 19,148 kilometers; and rehabilitated roads total to 9,572 kilometers.

b) Counties are beginning to also embrace innovative and advanced technologies like the Probase road construction technology which is cost effective, cheap, durable and easy to maintain. And I must admit, we have accomplished tremendous work in opening up the road network to increase accessibility and motorability of previously inaccessible roads despite all the resource challenges and opposition we have faced in this sector.

c) Firstly, the National Government has failed to allocate funds under the county equitable revenue share for County roads. With the end of the transition period on 4th March, 2016, County Governments received an extra 31,113 kilometers of roads making a total of 121,113 kilometers. Yet in the financial year 2016/17, no funds have been allocated to the Counties to support the additional roads. It is surprising that the National Government is handling only 39,995.1 kilometers and yet have an allocation of approximately KES 79 billion.

d) Secondly, you are aware that we instituted a suit in the High Court against Kenya Urban Roads Authority (KURA), Kenya Rural Roads Authority (KeRRA) and the Kenya National Highways Authority (KeNHA), which agencies had continued to handle County roads despite this being a County function. The court in its judgement ordered the immediate transfer of the roads by recognizing that the construction and/ or maintenance of all County roads- class D, E, and unclassified- is the responsibility of County Governments and all class A, B and C constitute National trunk roads and are therefore the responsibility of the National Government.

e) The construction and maintenance of urban and rural roads within Counties is for the benefit of you, the Kenyan people. What do good roads translate into? Faster and easier access to health centers- no woman loses her life giving life because the ambulance could not reach her in time or because it was impossible for the '*pikipiki*' to use the road. A farmer or a trader is able to transport his/her produce and supplies straight to the market no losses are incurred because goods could not reach the customers much earlier than anticipated. Actually, domestic trade increases since mobility of goods and services has been bolstered. This is my message to the Country: County Roads have to be financed. Now.

f) On other infrastructural matters, we have invested in lighting our streets. The street lighting projects are slowly transforming many towns and their environs into 24-hour economies. Businesses are remaining open past 11pm. Security has also improved. Residents admit that with street lights having been installed at pick-up and drop-off zones, there are fewer incidents of theft.

7. Trade and Investment

a) To facilitate trading activities in Counties, we have constructed new markets for locals. Before 2013, there were 362 markets across the Counties. We now have 651 markets. We believe that thriving domestic trade has the net effect of uplifting millions of livelihoods. It means that a trader can afford good housing, pay fees for the children, feed himself and the family, access healthcare when necessary and manage to save for another investment or a rainy day.

g) The Cooperative movement has grown in leaps and bounds. Cooperatives Societies have been established for the promotion of agriculture and the jua kali industry. The vibrant and dynamic cooperative movement in Kenya is the strongest in Africa and is a key player in the economy, controlling about 43% of Kenya's gross domestic product (GDP). Before devolution, we had approximately 1,396 cooperatives, and we now boast of 1,806 cooperatives with a turnover of KES 56 billion. Cooperative societies in Kenya are employing more than 300,000 people, besides providing opportunities for self-employment to many more.

8. ICT

a) To improve access to information, reignite the spirit of innovation and entrench accountable and sustainable revenue collection methods, Counties are markedly embracing and investing in ICT. We are living in a global market in which ICT can provide a platform for broadening of opportunities and narrowing the inequality gap. ICT has the capacity to open up new frontiers of economic growth; has the ability to tap into youth creativity and talent thereby guaranteeing that youth are engaged constructively; and has the potential to take public communication, access to information and public participation to a whole new level.

b) For example, in Kericho County investment in ICT has materialized into fully equipped ICT Citizens' Service Centres. Nairobi County launched Kenya's first County Government electronic payment system- e-jiji pay- which has introduced efficiency and convenience revenue collection. The system has increased accountability by minimizing cases of corruption since it has sealed revenue leakages that has for many decades cost the city millions of shillings every year.

9. Public Finance

a) Despite Counties receiving meagre allocations, so much has been achieved in the last three years. This is why we have remained insistent that the increment should be formally anchored in law to reflect unconditional transfers of 45% of the previous year's collected total revenues. We strongly believe that the optimal success of devolution, being the will of the people and further being the central pillar of the Constitution, is dependent on adequate allocation of financial resources to Counties.

b) It is therefore worrying that from the nationally raised revenue of KES 1,380,199,000,000 trillion in the 2016/17 financial year, County Governments will be receiving only 21.9% of that figure and the National Government will receive an allocation of 1.1 trillion which amounts 78.9%.

c) The disbursements of monies to Counties from the National Treasury has throughout the three years been outside the mandated time-frame as provided for in the Public Finance Management (PFM) Act which requires that the transfers be made on every 15th date of the month. This has created financial management uncertainties in County

Governments. If monies are released without delay, County Governments' rate of development and delivery of services will be enhanced. For example in the current financial year ending June 30th 2016 which is less than 10 days away, the National Government is yet to disburse cumulatively KES 59.0 Billion of equitable share to the 47 Counties, KES 2.7 billion of the maternal health care allocation representing 65% of the allocation and KES 900 million worth of level five hospital allocation. This has greatly affected County Governments' finalization of development projects.

d) The National Treasury continues to allocate KES 150 billion more every financial year to the National Government on budgetary items that are fully devolved. This forms the basis of the increased push for more allocation to Counties. Besides, the National Government has not shown any urgency to complete the audit of its accounts. The allocation to Counties in the 2016/2017 financial year is based on the approved accounts of 2013/2014 budget thus creating a basis of retaining more money with the National Government at the expense of service delivery.

e) Unchecked Borrowing: The 2016/17 budget puts all resources from external and domestic borrowing, amounting to KES 712.3 billion to support 93% of development expenditure including net lending amounting to KES 811.2 billion. The total external debt stock, including the International Sovereign Bond, stood at KES 1,615.2 billion at the period ending December 2015. Within this same period the National Government additionally borrowed KES 680 billion. Out of a budget of KES 1.3 trillion it proposes to use KES 712.1 billion to pay loans and interest thereof. The effect is that the equitable share to Counties is significantly reduced. Further, the fiscal space for County Governments to access external loans is yet to be made available thereby making the total available resources to Counties to reduce even further. There is therefore an urgent need to cap National Government borrowing and to develop an equitable revenue sharing formula that is based on costed-functions.

f) On the part of revenue collection, this year County Governments estimated to collect KES 56.65 billion from local sources. Already for the half year assessment ending December 2015, the local revenues collected by County Governments totaled KES 13.92 billion representing 24.6 percent of the annual target of KES 56.65 billion and is an increase from KES 13.08 billion generated in a similar period of FY 2014/15. Counties are projected to collect KES 22.8 billion more in the 2015/16 financial year than the 2014/15 year.

g) We attribute better revenue collection to automation and streamlining of financial systems. All the 47 County Governments are progressively shifting from the manual revenue collection systems to digitalized systems essentially sealing the loopholes that were allowing revenue leakages.

Fellow Kenyans,

Devolution has lifted the livelihoods of many Kenyans to new highs. We must build on that progress in coming years. We must, as both levels of government, put our differences aside and look for durable solutions for our nation's socio-economic problems. One of the ways to ensure that we achieve our goals collectively is through strengthening the existing intergovernmental mechanisms. The National and County Government Coordinating Summit has been functional but there have been challenges in the implementation of resolutions reached during the Summit meetings. It is our conviction though that with the establishment of the Intergovernmental Relations Technical Committee (IGRTC), the implementation of Summit resolutions will be hastened and better coordinated.

Dear Kenyans,

In the last three years, devolution has also faced immense opposition. It is not easy to accept change. The inception of the devolved system of government meant that plenty of vested interests wanted, and still want to, protect the status quo. We have seen County Government leadership antagonized through dubious impeachments meant to intimidate Governors and their executives; we have seen the fight against corruption being used as a tool for political mileage; and recently we have seen Public Accounts Committees that have been set up to frustrate and humiliate County leadership. Let us all not forget the reasons why Kenyans voted overwhelmingly for devolution- so that resources and services could move from the center to all Kenyans; to enhance participation of the people in decision making; and to protect the interests of the minorities and marginalized communities.

Yet at the moment, and despite the clear provisions in the Constitution, there are over 30 pieces of legislation, Bills before Parliament, or Acts that have been recently passed, that claw back and recentralize devolved functions. These include the Health Bill, the Water Bill, the Kenya Roads Bill, the Division of Revenue Act, 2016, the Agriculture Fisheries and Food Authority Act and the Wildlife Conservation & Management Act. All these Bills and Acts are among the many pieces of legislation with provisions that infringe and interfere with the functions of County Governments. The Division of Revenue Act 2016 blatantly disregarded the Constitution by failing to allocate resources for functions that have been obviously transferred to County Governments.

In the midst of all this, the Senate, the legislative house meant to protect the interests of Counties, has performed dismally in its mandate. The Senate has passed unconstitutional laws aimed at clawing back on devolution. The legislative amendments that had been proposed to the County Governments Act to introduce County Development Boards were not only retrogressive, but they also intended to undermine the Office of the Governor. As you are aware, we challenged the amendments in court and subsequently the court held that the Boards were indeed unconstitutional.

Additionally, a Bill has been recently introduced in the Senate to amend Sections 50, 51 and 52 of the County Governments Act in order to bind the County Public Service Board to employ sub-county administrators, ward administrators and village administrators after every general election. The Bill is ill-conceived as it ties the employment of these civil servants to the tenure to the County Government thereby politicizing the said positions. It is tantamount to proclaiming that some civil servants are more equal than others. All civil servants, whether at the national or county level, are the same. Sub-county administrators, ward administrators and village administrators are equivalent to regional commissioners, county commissioners, deputy county commissioners, sub-county commissioners and the latter have permanent tenure.

In another instance, we have had to challenge Governors' summons to the Senate since these have in several cases been abused to settle political scores. The Senate continues to usurp the powers of oversight bodies like the County Assemblies and the Office of the Auditor-General in the name of accountability. Of course public funds must be accounted for. Transparency and integrity are part and parcel of our national values and principles. But the quest to entrench fiscal responsibility must be in line with the law, that is what good governance is all about.

It is at this point that I would like to mention that the judiciary has, in several occasions, remained steadfast in protecting the devolved system of governance. The judgement declaring the Constituency Development Fund Act unconstitutional, the judgement pronouncing that County roads should be transferred to the County Governments and the judgement upholding that county outdoor advertising is indeed a County function are some of the laudable pronouncements that the judiciary has made. Further, the collaboration between the Council and the judiciary has been evident. Through dialogue between the two institutions, the judiciary has: waived court fees for County Governments; designated separate registries to handle County legislation; and increased mobile courts from 19 to 52. We have also deliberated on how to share revenue emanating from county legislation fines. The recommendation to have the same sent as conditional grants to Counties is yet to be implemented by the National Treasury.

Dear Kenyans,

As I conclude, we all want a sustainable and peaceful future for our country. But it will only happen if we work together. It will only happen if we can have rational, constructive and consultative dialogue. “We, the People of Kenya”. Our Constitution begins with those five simple words, words we’ve come to recognize mean all the people; words that insist we rise and fall together. Our unique strengths as a nation- our optimism, our spirit of innovation, our industrious nature, our diversity- these things give us everything we need to ensure prosperity and security for generations to come.

We must remain as one nation. Every leader and citizen must seek to promote cohesion and inclusiveness as we gear up to the 2017 elections.

Devolution is on course. And we affirm that we shall continue gathering more momentum to see that our Counties flourish in the way Kenyans envisaged when they voted for a new Constitution in 2010.

Thank you all.

Signed
H.E. Peter Munya
Chairman Council of Governors