



THE DEVOLUTION FORUM (TDF) PRESS STATEMENT ON THE EMERGING DEVOLUTION ISSUES

HILTON HOTEL, FRIDAY, 20TH MARCH 2015

The Devolution Forum (TDF) is a multi-sectoral alliance convened by civil society, to bring together like-minded networks, organizations and individuals united for the promotion and protection of devolution and its implementation as enshrined in the Constitution of Kenya 2010.

We note that despite a myriad of challenges in the implementation of devolution, a majority of Kenyans have confidence in the devolved system. An opinion poll by Ipsos Synovate in November 2014 found that 73% of Kenyans support Devolution and appreciate the challenges of its implementation.

The Afro barometer report launched this month also found that a majority of Kenyans have confidence in their county leadership and approve of their performance. **Whereas we appreciate the collective efforts of all actors towards the implementation of devolution**, we note several continued threats to the successful implementation of devolution.

1. The Budget Policy Statement (BPS) 2015/16 undermines devolution

We strongly condemn national governments continued attempts to usurp county government functions. We condemn proposals in the BPS that are blatantly unconstitutional and which threaten to disrupt service delivery by provoking yet another intergovernmental standoff. For instance, the Cabinet Secretary for Health has been sued for the procurement of health equipment without an intergovernmental agreement stalling the process.

We note the BPS has proposed to allocate funds to the construction of 15,000 housing units for the National Police Service in 2015/16. There is lack of clarity on if this project falls under local infrastructure assigned to county governments, who will be responsible for the project and how intergovernmental aspects will be handled.

The BPS proposes to establish an Agri-Business Fund in 2015/16 to support alternative agricultural initiatives amongst small holder farmers, expand agri-business ventures and support crop specific value addition initiatives. It however does not address the role of county governments which are responsible for agriculture.

The failure to approach shared development from an intergovernmental perspective will continue to escalate the cost of delivering services as Kenyans shoulder the burden of supporting parallel structures of government. It also creates an unhealthy competition between national and county government for resources.

We welcome the establishment of the Intergovernmental Technical Relations Committee (IGTRC) which should take over the functions of the Transition Authority as it approaches its final year. We look forward to its decisive management of intergovernmental relations in the protection of devolution and urge its chair to advise the National Government accordingly.

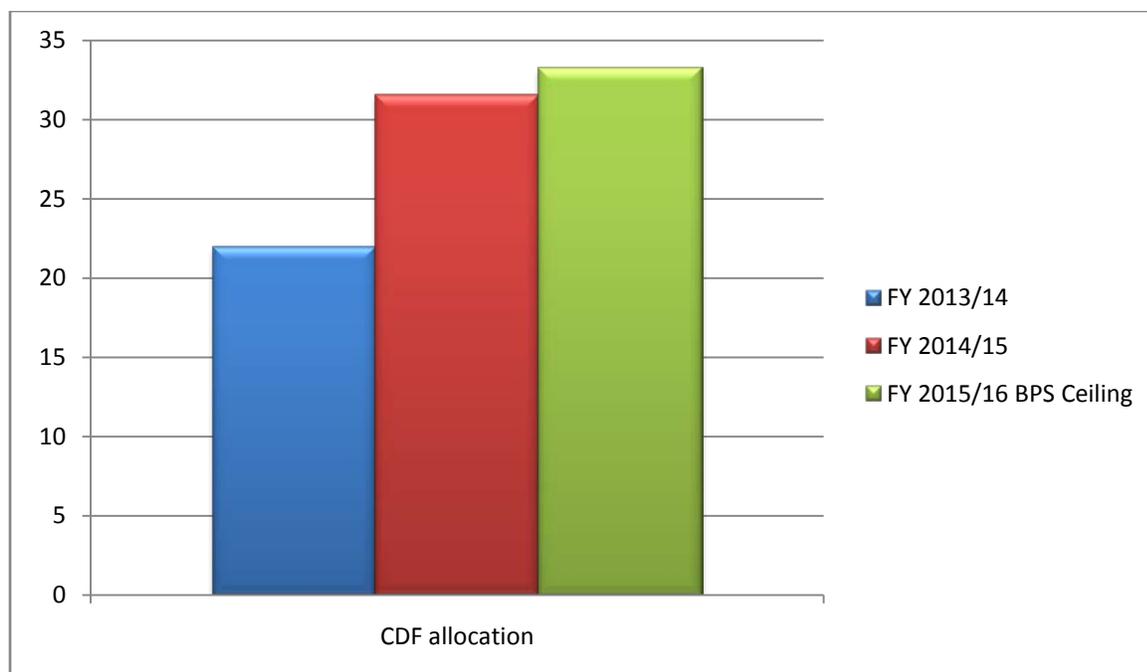
2. CDF Court Ruling Ignored

Despite a court ruling declaring the CDF unconstitutional and directing a 12 month window for the reform of CDF, we note that Parliament proposes to increase the allocation to CDF at the expense of other crucial funds.

The proposal to increase the CDF from Ksh 21.97(2013/14), Kshs. 31.54 billion (2014/15) to 33.27 billion (2015/16), will be at the expense of the Uwezo fund which will reduce from Kshs.5.34 billion to only Kshs. 1.96 billion.

Parliament also fails to provide for any transitional guidelines for the reform of CDF as directed by the High Court. Once again parliament is exhibiting a blatant disregard for the supreme law of the land.

We also note the national government has failed to provide a conditional grants policy and framework resulting in the ad hoc creation of funds often for political mileage rather than development.



3. Spending Priorities

It is of grave concern that for the national government wage bill continues to grow at a time when its service delivery functions have reduced drastically. We note that the national government has not intervened to ease the inherited liabilities of the county government. We note that counties continue to register low development spending. We are however concerned with the proposal to cap county recurrent expenditure without due consideration of the recurrent needs of county governments as service delivery units. For instance, press reports indicate that over 1,800 doctors have quit the county public sector citing low salaries at a time when recurrent expenditure is wasted on unnecessary travel and dubious sitting allowances. We note inefficiency at both levels of spending and decreased investment in operations and maintenance which undermines the sustainability of development.

4. Public participation

One of the goals of devolution is the self governance of the people. We commend the Ministry of Devolution and Planning for the development of county public participation guidelines and a curriculum for civic education. However, the recent Afrobarometer report found that 80% of Kenyans find it difficult to participate in key county activities and to access information on county budgets, legislation, and project plans so a lot more needs to be done, to prevent the recentralisation of power into the hands of county governments.

5. Change of Accounting Officer

The reported decision by the Public Service Commission (PSC) to cede its constitutional mandate of oversight in matters relating to Human Resource and/or personnel management in public service to Cabinet Secretaries is in our view unconstitutional.

This decision flagrantly violates Article 10 on ***National Values and Principles (separation of powers)***, Chapter Six on ***Leadership and Integrity***, specifically Article 73 (2) (a) to (e); Articles 232 on ***Values and Principles of Public Service***; 234 on ***Functions and Powers of the Public Service Commission*** and 236 on ***Protection of Public Officers***.

It constitutes conflict of interest, undermines the principle of separation of powers, neutrality and perpetual succession of the public service, fair and competitive recruitment in the public service, does not guarantee protection of public officers in the service of the republic of Kenya and is likely to be abused as already experienced in the haphazard employment of staff in recent times at both county and national government levels.

It will further make it extremely difficult to apply universal norms and standards in the Human Resource and/or personnel management in the public service.

Finally, there is every danger of discriminative employment, disciplinary actions inspired by personal vendetta and witch hunt and further bloating of the public service with attendant bloated wage bill.