

# KENYA DEVOLUTION CIVIL SOCIETY ORGANISATIONS WORKING GROUP (KDCWG)

Communique from the KDCWG on July 15<sup>th</sup> 2024

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Kenya Devolution Civil Society Organisations (CSOs) Working Group (KDCWG) is a national umbrella forum of the Kenyan civil society with a focus on strengthening devolution. The forum provides civil society and Kenyan citizens with a common platform for advocating and voicing their priorities and concerns on the implementation of devolution and for learning and experience sharing. The objective of the KDCWG is to contribute to the effectiveness of the implementation of devolution in Kenya for the realisation of the devolution promise.

Since March 2024, Kenya has been going through national discussions on the country's leadership and their commitment to good governance, accountability and service to the people. In June 2024, a national change process was suddenly instigated by the Generation Z led peaceful demonstrations countrywide that was triggered by the proposed Finance Bill 2024 that was passed by the National Assembly. The Bill contained a raft of tax proposals which sought to increase revenue for the 2024/2025 financial year, but which majority of the citizens and stakeholders opposed on the grounds that the proposals would strain the already overburdened Kenya populace. The peaceful protests have however been met with police brutality that resulted to dozens of deaths<sup>1</sup> while many others are yet to be traced. The peaceful protests have been infiltrated by hired goons who serve the selfish interests of the proponents of status quo and also destroyed property in different parts of the country. We join other Kenyans of goodwill in condoling with the families who have lost their loved ones and condemn in the strongest terms possible this blatant human rights violation.

In recognition that devolution matters have not received much traction in this process, the KDCWG held meetings on July 3<sup>rd</sup> and 5<sup>th</sup>, 2024, which reflected on the ongoing developments and adopted the action plan below as the road map for strengthening devolved governance in our nation. As the KDCWG, we hereby wish to reaffirm our commitment to ensure that both the national and county governments deliver on the promise of devolution, good governance and active involvement of all citizens in the country's governance as envisioned in the Kenya Constitution (2010). We join all Kenyans of goodwill in raising the issues below that MUST be included in the ongoing national discourse and reflections.

## **I) Transfer of Functions and Financing Functions of County Governments**

- a. Expediently finalise the transfer of all pending constitutionally devolved functions to County Governments together with the attendant resources e.g. the functions that are still performed by National Government Ministries and semi-autonomous

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<sup>1</sup> According to the Kenya National Commission on Human Rights, 39 people had been killed by 1<sup>st</sup> July 2024.

government agencies. We are concerned that past commitments by the President during his swearing in September 2022 and August 2023 during Devolution Conference are yet to be fulfilled. We look forward to completion of this process **within thirty days** to enable county governments function optimally in delivering their constitutional functions.

- b. The National Treasury should ensure timely disbursement of the equitable share of nationally raised revenue to County Governments as stipulated in the Public Finance Management Act without failure to avoid disruption to service delivery.
- c. The National Assembly should expedite approval of the most recent Audited Accounts to inform the baseline for the Division of Revenue process, which approved reports must be no less than two years late.
- d. The National Assembly to reject the President's proposal for budget cuts to the County Governments as a mitigation measure to the withdrawal of the Finance Bill 2024. We equally condemn the tendency to have County Governments bearing the brunt of shortfalls in the national revenue. Need we say devolution is the lifeline for the citizens of Kenya.
- e. Similarly, the Senate and National Assembly to reject the President's proposals to amend the County Allocation of Revenue Bill 2024 and the Bill should be assented to forthwith to facilitate the transfer of funds to County Governments.
- f. County Governments should focus on their constitutional functions and forthwith stop spending on functions of National Government e.g. bursary while compromising the quality of devolved services.

## **2) Cooperation, Coordination and Consultations Between National and County Governments**

- a. Operationalise, strengthen and adequately finance the intergovernmental structures, forums and institutions for improved Cooperation, Coordination and Consultations between the two levels of government for enhanced service delivery.

## **3) Accountability and Public Finance Management**

- a. County and National Governments MUST enforce constitutional standards on accountability without compromise to curb the misuse of public resources and corrupt practices including, publicising budget implementation reports in time as outlined in the Constitution of Kenya 2010, Public Finance Management Act, 2012 and the Access to Information Act, 2016; and ensure enforcement of strict penalties for non-compliance with these standards.
- b. Ensure expeditious prosecution of corruption cases and full implementation of the recommendations of the Auditor General's reports for County Governments and National Government Ministries, Departments and Agencies.
- c. Any person in public service who does not meet the provisions of chapter six of the Constitution of Kenya 2010 should be relieved of their duties and investigated forthwith.
- d. All public institutions responsible for enforcing accountability and justice that include the Ethics and Anti-Corruption Commission, the Judiciary, Auditor General's Office, Office of the Controller of Budget, Kenya National Commission on Human Rights, Commission on Administrative Justice and National Gender and Equality Commission should be strengthened and funded adequately to perform their functions optimally.

- e. Hold County Governors and Speakers Accountable for bad governance in the Counties including mismanagement at the county level, delays in payment of Pending Bills that have had devastating effects on the lives of Kenyans and the lack of adherence to the constitution on recruitment in the public service.
- f. The National Debt Register should be and publicised for public scrutiny, and the debt should be audited and those responsible for mismanagement prosecuted expeditiously irrespective of their stature in the society.
- g. To ensure meaningful and uniformity in public participation across the country, the national policies and laws on public participation and civic education should be passed on a priority basis and adequate resources should be allocated and ring-fenced for public participation and civic education by both levels of government.
- h. Both levels of government must rationalize the recurrent and development expenditure for optimum service delivery by ensuring that the wage bill remains below 35% of the annual revenue as provided for in the Public Finance Management Act 2012 and the related regulations.
- i. Commercial accounts by County Governments which are conduits for corruption and which have been flagged by the Auditor General in the audited reports of County Governments should be closed immediately and the Governors should ensure forthwith that all revenue collected by County Governments are deposited to the County Revenue Funds.

**4) Adherence to the Doctrine of Separation of Powers**

- a. Members of Parliament and County Assemblies must forthwith focus on their constitutional roles on legislation, oversight and representation.
- b. Unconstitutional funds like the National Government Affirmative Action Fund (NGAAF) and National Government Constituency Development Fund (NG-CDF) to be abolished immediately and the resources allocated to the county governments to enhance service delivery.

**END**

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**Convenor, Kenya Devolution CSOs Working Group**

**Approved by the Steering Committee members on behalf of the KDCWG**

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02	Benedine Kipruto	North Rift Region Economic Bloc
03	Michael Mburu	Central Region Economic Bloc

04	Sherry Muthaura	Central Region Economic Bloc
05	Abdulahi Mohamed	Northern Frontier Council Counties
06	Fatuma Yusuf	Northern Frontier Council Counties
07	Chris Owalla	Lake Region Economic Bloc
08	Fridah Jausiku	Lake Region Economic Bloc
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