

GOVERNMENT OF NAIROBI CITY COUNTY

Paper laid on  
21/07/2020  
By: Hon. Charles Mwangi  
*[Signature]*



THE NAIROBI CITY COUNTY ASSEMBLY

Approved  
Blalini  
21/7/2020

OFFICE OF THE CLERK

SECOND ASSEMBLY-FOURTH SESSION

NCCA/T&J/2020 / (42)

21<sup>st</sup> July, 2020

PAPER LAID

Pursuant to Standing Order 191, I beg to lay the following Paper on the Table of the Assembly, today Tuesday, 21<sup>st</sup> July, 2020.

THE REPORT OF THE SELECT COMMITTEE ON DELEGATED COUNTY LEGISLATION  
ON WORKSHOP HELD FROM 19<sup>TH</sup> TO 24<sup>TH</sup> DECEMBER 2020.

*(Chairperson, Select Committee on Delegated County Legislation)*

Copies to:  
The Speaker  
The Clerk  
Hansard Editor  
Hansard Reporters  
The Press





Approved  
Blalini  
21/7/2020

**NAIROBI CITY COUNTY ASSEMBLY**

**SECOND ASSEMBLY - FORTH SESSION**

**REPORT OF THE SELECT COMMITTEE ON DELEGATED COUNTY  
LEGISLATION**

**ON**

**COMMITTEE RETREAT HELD AT WINDSOR GOLF CLUB, KIAMBU COUNTY**

**19<sup>TH</sup> DECEMBER TO 24<sup>TH</sup> DECEMBER 2019.**

Office of the Clerk,  
Nairobi City County Assembly  
City Hall Building  
NAIROBI.

July, 2020

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## 1.0. EXECUTIVE SUMMARY

- A workshop for the Select Committee on Delegated County Legislation was held at the Windsor Golf club, in Kiambu County from 19<sup>th</sup> to 24<sup>th</sup> December, 2019. The workshop was meant to familiarize Members of the Committee with the mandate of the Committee.
- The workshop was specifically designed to address the substantive work of the Committee and its oversight function on delegated County legislation.
- The workshop was held over a four-day period to allow sufficient time to thrash out and understand the challenges and opportunities of oversight and representation under the devolved system of governance. The workshop sessions were chaired by various Members of the Committee.
- Presentations were made by the Hon Peter Wahinya (The Chairperson to the Committee) and Mr. Guyo Sankala and Ms. Rose Edna Kanana, the Committee Clerks respectively.
- Participants included Members of the Committee from the Nairobi City County Assembly and Clerk Assistants.

## 2.0. BACKGROUND

### **Establishment of the Committee on Delegated County Legislation**

The Select Committee on Delegated County Legislation is established under Standing Order 202 which states:

- (1) There shall be a select Committee to be known as the Committee on Delegated County Legislation
- (2) Whenever a statutory instrument is submitted to the County Assembly pursuant to the constitution, any Law or these Standing Orders, the instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the County Assembly by the Chair of the relevant Sectoral Committee, or any other member and shall thereafter referred to the Committee on Delegated County Legislation..
- (3) The Committee shall consider in respect of any statutory instrument whether it-
  - a. is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
  - b. infringes on fundamental rights and freedoms of the public;
  - c. contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
  - d. contains imposition of taxation;

- e. directly or indirectly bars the jurisdiction of the Courts;
  - f. gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
  - g. involves expenditure from the Consolidated Fund or other public revenues;
  - h. is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
  - i. appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
  - j. appears to have had unjustifiable delay in its publication or laying before the County Assembly;
  - k. makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
  - l. makes rights, liberties or obligations unduly dependent upon non-renewable decisions;
  - m. inappropriately delegates legislative powers;
  - n. imposes a fine imprisonment or other penalty without express authority having been provided for in the enabling legislation;
  - o. appears for any reason to infringe` on the rule of law;
  - p. inadequately subjects the exercise of legislative power to County Assembly Scrutiny; and
  - q. Accords to any other reason that the Committee considers fit to examine.
- (4) If the Committee –

- a) Resolves that the statutory instrument, be acceded to, the Clerk shall convey that resolution to the relevant county department or the authority that published the statutory instrument.
- b) Does not accede to the statutory instrument, the Committee may recommend to the County Assembly that the County Assembly resolves that all or any part of the statutory instrument be annulled and if the resolution is passed by the County Assembly within twenty days on which it next sits after the instrument laid before it under paragraph (2), that all or part of the statutory instrument or part thereof shall henceforth stand annulled.

It is important to understand the clarification of a statutory instrument pursuant to Standing Order 202(5) which states that: -

*“Statutory instrument” means any rule, order, regulation ,direction, form, tariff of costs or fees, letter patent, commission, warrant ,proclamation, by-law, resolution, guideline or other instrument issued, made or established in the execution of a power conferred by or*



*under an Act of the County Assembly under which that statutory instrument or subsidiary legislation is expressly authorized to be issued"*

## 2.1. Membership of the Committee on Delegated County Legislation

The Membership of the Committee is as follows:

- |                                |                   |
|--------------------------------|-------------------|
| 1. Hon. Peter Wahinya, MCA     | Chairperson       |
| 2. Hon. Kariuki Wanjiru, MCA   | Vice- Chairperson |
| 3. Hon. Mwangi Njihia, MCA     |                   |
| 4. Hon. Jeremiah Themendu, MCA |                   |
| 5. Hon. Benson Mwangi, MCA     |                   |
| 6. Hon. Stephen Gikonyo, MCA   |                   |
| 7. Hon. Wilson Ochola, MCA     |                   |
| 8. Hon. Geoffrey Nganga, MCA   |                   |
| 9. Hon. Solomon Magembe, MCA   |                   |
| 10. Hon. Osman Adow, MCA       |                   |
| 11. Hon. Ruth Ndumi, MCA       |                   |
| 12. Hon. Asli Mohamed, MCA     |                   |
| 13. Hon. Rose Masitsa, MCA     |                   |
| 14. Hon. Jairus Omay, MCA      |                   |
| 15. Hon. David Mbithi, MCA     |                   |
| 16. Hon. Sylvia Moseiya, MCA   |                   |
| 17. Hon. Joseph Ndonji, MCA    |                   |
| 18. Hon. Omar Nimo Hajji, MCA  |                   |
| 19. Hon. Emapet Kemunto, MCA   |                   |
| 20. Hon. Jane Muasya, MCA      |                   |
| 21. Hon. Hussein Fuad, MCA     |                   |

## 2.2. Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Assembly for the support extended to it.

**Madam Speaker,**

It is my pleasant duty, pursuant to Section 17 of the Statutory Instruments Act, 2014 and Standing Order 196(7), to present the Report of the select Committee on Delegated County Legislation on the **Committee Retreat Held at Windsor Golf Club, Kiambu County from 19<sup>th</sup> to 24<sup>th</sup> December 2019.**

Signed..........Date.....10/03/2020.....

**Hon. Wahinya Kimuhu, Chairperson**  
**Select Committee on Delegated County Legislation.**

### **3.0. PROCEEDINGS OF THE WORKSHOP**

#### **3.1. OPENING OF THE WORKSHOP**

The Hon. Peter Wahinya, Chairperson of the Committee on Delegated County Legislation, officially opened the Workshop. He welcomed and thanked the participants for making time to attend the workshop. In his remarks, he noted that the workshop was an important meeting that has come at a time when the County Assembly had adopted changes in the membership of the Committees following a procedural motion by the Assembly Parties. Thus, it was justifiable that the new members of the select Committee on Delegated County Legislation be taken through the powers and Mandates of the Committee pursuant to provisions of the Standing orders and Statutory Instruments Act, 2013.

He further reiterated that the workshop was specifically meant to familiarize Honorable Members with their mandate and how they can work with the County Government and stakeholders in realizing the devolution agenda.

He encouraged Honorable Members present to identify ways that the work and mandate of the Committee can be taken forward as they work closely with other key stakeholders.

He concluded by noting that there is need to develop resolutions and recommendations that would go a long way in strengthening delegated county legislation.

#### **3.2. OBJECTIVES OF THE WORKSHOP**

The Hon. Peter Wahinya, Chair of the Delegated County Legislation Committee, briefed the participants on the objectives of the Workshop. He indicated that the workshop had several immediate objectives:-

- I. Firstly, it was an avenue for participants to share and learn, a fact he noted as significant in executing the wide mandate of the Committee;
- II. He indicated that the workshop was primarily meant to bring the participants up to speed with matters relating to delegated County legislation and challenges impeding implementation of the same, and how to manage the different challenges;
- III. It was also an opportunity to learn from each other, how to manage the challenges of delegated county legislation in the face of devolution; and
- IV. Lastly, to develop technical capacity for Members of the Committee in the execution of their mandate as regards delegated County legislation.



#### **4.0. THE WORKSHOP SESSIONS**

The Workshop sessions, Morning and Afternoon, were chaired by the Hon. Wahinya Peter, Chairperson of the Committee, as well as other Members of the Committee, and proceeded as follows: -

##### **4.1. LINKING THE DEVOLUTION PROCESS WITH EFFECTIVE LEGISLATION AT COUNTY LEVEL**

The first session was opened with a presentation by Hon. Wahinya Peter, who led the session through the Concept of devolution, the Devolution process and role of National Government in support of devolution, linking devolution process and legislation at county level.

Members and participants were taken through the devolution process, with an overview of its constitutional underpinnings and execution of its implementation thus far.

Highlights of the presentation included the following: -

- a) County governments have the legal mandate to manage and develop their own affairs while fostering, social, economic and political development
- b) The Constitution and other statutes relating to devolution provide the legal framework for the operations of the county governments. The law elaborates on the functions that have been assigned to each level of government. Article 186 States that the functions and powers of the national government and the county governments, respectively, are as set out in the Fourth Schedule.
- c) The Transition Authority has transferred to the counties most of the functions stipulated in schedule four of the Constitution pursuant to Section 7 of the Transition to Devolved Government Act which requires it to facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the national and county governments.
- d) The county governments have been established and they have created the necessary structures and systems for their operations. The two arms of government i.e. County Assembly and County Executive in place. County Public Service Boards and County Assembly Service Boards were also established. Devolved power is exercise through these institutions.
- e) The National Treasury has periodically and consistently disbursed the county share of national revenues. This is critical as it allows county governments to plan and implement their programmes and projects without hindrance.

**Mr. Guyo took the session through Linking devolution process with effective legislation at county level, including that;**

- a. County governments are required to provide legal support for the operations of the transferred functions. Indeed, Section 24 of the Transition to Devolved Government Act states that one criterion to be considered while deciding whether to transfer a function to the counties, is the existence of legislation relating to the function applied for.
- b. This is important because one reason for intervention by the National Government in counties is inability to perform functions. Article 190(3)
- c. Article 185 of the Constitution gives power to a county assembly to make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.
- d. County assemblies therefore have an obligation to ensure that there is a legal framework for all functions assigned to their respective county governments.
- e. Effective legislation is ordinarily a process that involves development of a policy that analyses all aspects of the subject matter and proceeds to propose interventions. The interventions may be administrative or legislative.
- f. Where the intervention needed is legislative, it may be initiated by either the executive or private members motion.
- g. The need for capacity building and technical assistance to both arms is vital
- h. The constitutional and legislative requirements of public participation in both the policy and legislative development must be adhered to.
- i. It is important that the objective of the proposed legislation be clearly set out. There is a danger that a legislation may be in place but the problem that was to be addressed still persists.
- j. Section 116 of the county government Act makes obligatory for counties to observe the following principles when delivering services; equity, efficiency, accessibility, non-discrimination, transparency, accountability, sharing of data and information, and subsidiarity. These should be considered in the process of legislation
- k. proposed legislation may also incorporate other ideals e.g, affirmative action and/or fostering, social, economic and political development.



## 4.2. OVERVIEW TO THE ORIGIN AND DEVELOPMENT OF THE SESSIONAL COMMITTEE ON DELEGATED COUNTY LEGISLATION

The second presentation of the Morning Workshop Sessions commenced with an overview of the origin and development of the Sessional Committee on Delegated Legislation. Hon Wahinya Kimuhu, the Chairperson to the Committee, led the session. Participants were taken through legal underpinnings that necessitated the need for the Committee on Delegated Legislation at the County level.

### 4.2.1. Highlights of his presentation included:

- ✓ Section 2 “statutory instrument” means:- any rule, order, regulation, direction, form, tariff of costs or fees, letters patent, commission, warrant, proclamation, by-law, resolution, guideline or other statutory instrument issued, made or established in the execution of a power conferred by or under an Act of Parliament under which that statutory instrument or subsidiary legislation is expressly authorized to be issued.
- ✓ Delegated laws are made by a person or body to whom parliament has expressly delegated part of its law-making power by an act of parliament. The laws go by many names-regulations, ordinances, statutory instruments, secondary legislation, by-laws and proclamations, to name just a few.
- ✓ It would be idle to pretend that parliamentary control of delegated legislation is a burning issue in the community or that most voters would even know what delegated legislation is. For these reasons it is difficult to find many members of Parliament prepared to take much interest in the matter
- ✓ There is no doubt that delegated legislation is necessary. Passing an act through County Assembly, unless there are exceptional circumstances, is a lengthy and usually tedious business. Complex details, but not principles, are best left to experts to draft and amend, particularly if the legislation is in a field where there may be a need for urgent amendment at a time when County Assembly is not sitting.
- ✓ Delegated legislation can be extremely complex. It was recently pointed out in the House of Lords that:
  - *“the Lord’s Prayer contains 56 words...the Ten Commandments comprise 197 words; the American Declaration of Independence has 304 words; but the European Community Directive on the import of caramel and caramel products comprises 26911 words”*
- ✓ Nevertheless, it is of great importance to control how executive makes and implements delegated legislation, for uncontrolled delegated legislation offers a



fertile field for government despotism and bossy interference by bureaucrats. Delegated laws sometimes have much more impact on the lives of ordinary citizens than do most acts of parliament.

#### **4.3. PARLIAMENTARY SCRUTINY OF STATUTORY INSTRUMENTS ACT, 2013**

Mr. Guyo Sama, Clerk to the committee, lead in the third presentation. He took participants through the Committee's background and mandate. He raised the following issues as the key ones the Committee ought to be keen on.

##### **Stages in the Making of a Statutory Instrument: -**

- Pre- Publication
- Publication
- Tabling in the County Assembly
- Scrutiny by the Committee
- Approval/ Annulment
- Executive
- Coming into effect

##### **4.3.1. Pre-Publication Stage**

The Stage involves Consultation before making statutory instruments and Regulatory impact statements.

##### Consultation before making statutory instruments

At pre-publication scrutiny before a regulation making authority makes a statutory instrument, and in particular, where the proposed statutory instrument is likely have a direct, or a substantial indirect effect on business or restrict competition, the regulation-making authority is obliged to make appropriate consultations with persons who are likely to be affected by the proposed instrument. In this the RMA through a letter invites the major stakeholders including the Sectoral Committee to a meeting to a joint meeting in order to enrich the draft regulation. Therefore the RMA during carry out nature of consultation which must;-

- ✦ involve notification, either directly or by advertisement, of bodies that, or of organizations representative of persons who, are likely to be affected by the proposed instrument; or
- ✦ invite submissions to be made by a specified date or might invite participation in public hearings to be held concerning the proposed instrument.

He also took participants through the process of laying and tabling of statutory instruments as follows ☐

#### 4.3.2. Laying and tabling of statutory instruments before Assembly

Every County Executive Committee Member responsible for a Regulation-Making Authority shall within seven (7) sitting days after publication of an statutory instrument, ensure that a copy of the statutory instrument is transmitted to the responsible Assembly Clerk for tabling before Assembly. The instruments should be tabled together with a document known as "Explanatory memorandum."

**Explanatory Memorandum means a statement that-**

- a) is prepared by a regulation-making authority;
- b) explains the purpose and operation of the statutory instrument;
- c) if any documents are incorporated in the statutory instrument by reference, contains a description of the documents so incorporated and indicates how they may be obtained;
- d) if consultation was undertaken before the statutory instrument was made, contains-
  - ✦ a brief statement of the way the consultation was carried out;
  - ✦ an outline of the results of the consultation; and
  - ✦ a brief explanation of any changes made to the legislation as a result of the consultation.
- e) if no such consultation was undertaken, explains why no such consultation was undertaken; and
- f) Contains such other information as is prescribed on the notes as set out in the Schedule.

While deliberating on regulatory impact statement, the Committee observed the following:-

- Preparation of a regulatory impact statement for proposed statutory instrument shall be notified in the gazette and in a newspaper likely to be read by people particularly affected by the proposed legislation;
- The notice shall allow at least twenty eight days from publication of the notice for the making of comments; and
- A copy of the regulatory impact statement shall be available free, or on payment of a reasonable price, at the place, or each of the places, stated in the notice

#### 4.3.3. Consequence of not tabling

If a statutory instrument that is required to be laid before Assembly is not so laid, the statutory instrument shall cease to have effect immediately after the last day for it to be



so laid without prejudice to any act done under the statutory instrument before it became void.

#### **4.3.4. Publication**

Every statutory instrument shall be published in the *Kenya Gazette* and shall be assigned a serial number as of the year in which it is made which shall be printed on the face of the instrument.

#### **4.3.5. Referral to the Committee**

The statutory instrument is tabled before the Assembly by the Chairperson of the Committee on Delegated Legislation. However, the Committee observed that in the past the Leader of the Majority tables the statutory instrument before the Assembly. Once tabled, the statutory instrument stand referred to the Committee for scrutiny by the Committee. The Committee can also scrutinize statutory instruments previously published before the commencement of this Act. The provisions of the Act shall not apply to any rules, regulations and orders emanating from a court of competent jurisdiction in Kenya.

#### **4.3.6. Scrutiny by the Committee-relevant considerations**

In carrying out its scrutiny of any statutory instrument or published Act be guided by the principles of good governance, rule of law and shall in particular consider whether the statutory instrument-

- r. is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
- s. infringes on fundamental rights and freedoms of the public;
- t. contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
- u. contains imposition of taxation;
- v. directly or indirectly bars the jurisdiction of the Courts;
- w. gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- x. involves expenditure from the Consolidated Fund or other public revenues;
- y. is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
- z. appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- aa. appears to have had unjustifiable delay in its publication or laying before the County Assembly;
- bb. makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;



- cc. makes rights, liberties or obligations unduly dependent upon non-renewable decisions;
- dd. inappropriately delegates legislative powers;
- ee. imposes a fine imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- ff. appears for any reason to infringe on the rule of law;
- gg. inadequately subjects the exercise of legislative power to County Assembly Scrutiny; and
- hh. Accords to any other reason that the Committee considers fit to examine.

#### **4.3.7. Annulment and revocation**

When a report on a statutory instrument is tabled in Assembly, the statutory instrument shall be deemed to be annulled if Assembly passes a resolution to that effect. On the other hand, where Assembly has adopted a report or a resolution that a statutory instrument be revoked, the instrument shall stand revoked and the regulation making authority shall publish the revocation within fourteen days.

### **5.0. RECAP ON THE MANDATES OF THE COMMITTEE ON DELEGATED COUNTY LEGISLATION**

#### **5.1. Establishment of the Committee on Delegated County Legislation**

The Fourth presentation was led by Mr. Guyo, who took the Committee through the the establishment and Mandates of the Committee pursuant the standing Order 202 and Statutory Instrument Act, 2013.

The Select Committee on Delegated County Legislation is established under Standing Order 202 that states *"There shall be a select Committee to be known as the Committee on Delegated County Legislation. Whenever a statutory instrument is submitted to the County Assembly pursuant to the constitution, any Law or these Standing Orders, the instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the County Assembly by the Chair of the relevant Sectoral Committee, or any other member and shall thereafter referred to the Committee on Delegated County Legislation."*

The Committee shall consider in respect of any statutory instrument whether it-

- a) is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
- b) infringes on fundamental rights and freedoms of the public;
- c) contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
- d) contains imposition of taxation;

- e) directly or indirectly bars the jurisdiction of the Courts;
- f) gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- g) involves expenditure from the Consolidated Fund or other public revenues;
- h) is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
- i) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- j) appears to have had unjustifiable delay in its publication or laying before the County Assembly;
- k) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- l) makes rights, liberties or obligations unduly dependent upon non-renewable decisions;
- m) inappropriately delegates legislative powers;
- n) imposes a fine imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o) appears for any reason to infringe on the rule of law;
- p) inadequately subjects the exercise of legislative power to County Assembly Scrutiny; and
- q) Accords to any other reason that the Committee considers fit to examine.

## 5.2. What happens after committee?

If the Committee –

- a) Resolves that the statutory instrument, be acceded to, the Clerk shall convey that resolution to the relevant county department or the authority that published the statutory instrument.
- b) Does not accede to the statutory instrument, the Committee may recommend to the County Assembly that the County Assembly resolves that all or any part of the statutory instrument be annulled and if the resolution is passed by the County Assembly within twenty days on which it next sits after the instrument laid before it under paragraph (2), that all or part of the statutory instrument or part thereof shall henceforth stand annulled.

## 5.3. Opportunities for the Committee on Delegated County Legislation

The Facilitator invoked Article 94(5), which states:

*"No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation."*

He further noted that the Committee can best serve through: -

- ✓ Effective control by the Assembly Legislation.
- ✓ Effective scrutiny of Bills



- ✓ Effective oversight.
- ✓ Prudent use and utilization of public funds and resources
- ✓ Adherent to the rule of law
- ✓ Adherent to the principle of separation of powers
- ✓ Respect for the human and people's rights.
- ✓ Enhancing governance
- ✓ Create a culture of consultation before making of any Statutory instrument.
- ✓ Encourage public participation in governance
- ✓ Reduce unnecessary litigation

#### **5.4. Reflections and Proposed Way Forward for the Committee (Plenary Discussions)**

The plenary discussions were chaired by the Hon. Adow Osman, Member, Committee on Delegated County Legislation. The Member allowed five questions at a time from the plenary, and answers to the five from the relevant presenters. Participants raised several questions and concerns regarding a variety of issues traversed during the presentations. Concerns were raised on the nature of delegated county legislation and how the Assembly can play its role effectively.

Participants also expressed concern on at what point the committee comes in when developing delegated county legislation. It was noted that the committee only comes in after the principal law has been passed. Whereas some participants felt that the committee ought to come before laws are passed, it was clarified that the work of the committee is specific to delegated county legislation.

Participants sought to understand the role of the committee in scrutiny of statutory instruments.

#### **6.0. OBSERVATIONS AND LESSONS LEARNT**

There were a number of items learned by members during the workshop. However, during the workshop the following are learning areas especially for the new members:

- a) The Constitution gives the Committee same powers and privileges just like the national Parliament Delegated Committee;
- b) Need to engage the Senate Committee on delegated legislations and have the Statutory Instruments Act, to be amended to include the county assemblies in the scrutiny of the bye-laws and other statutory instruments;
- c) Continued co-operation between the Committee and the relevant County Executive is vital;



- d) In order to demystify delegated legislations, all actors in the County Government should encourage public participation;
- e) Important to clean up the image of the county at the devolved county units;
- f) Need for the Committee to stand firm; and
- g) The Committee must at all times act in a bi-partisan manner and must not allow itself to be dominated by the majority party manifesto.

### 6.1. Challenges in handling Pending Regulations

While deliberating on pending businesses, the Committee found out that there were a number of pending Regulations yet to be submitted by the County Executive. It was also observed in the meeting that one of the challenges facing the County Government overtime was lack of adequate County Regulations despite the County Assembly having adopted quite a number of laws. Hence, this has negatively impacted in terms of effective service delivery to the people of Nairobi simply because operationalization of the most of the laws passed has taken the precarious course.

The following are the pending Regulations the various sectors of the County Executive have yet to submit:-

- i. Regulations on the Nairobi City County Disaster and Emergency Management Act, 2015;
- ii. Regulations on the Nairobi City County Betting, Lotteries and Gaming Act, 2014
- iii. Regulations on the Nairobi City County Public Participation Act, 2015
- iv. Regulations on the Nairobi City County Child Care Facilities Act, 2017
- v. Regulations on the Nairobi City County Sports Management Act, 2017
- vi. Regulations on the Nairobi City County Cultural Heritage Act, 2017
- vii. Regulations on the Nairobi City County Early Childhood Education Act, 2017
- viii. Regulations on the Nairobi City County Persons with Disabilities Act, 2015
- ix. Nairobi City County Bursary and Scholarship Fund Regulations, 2016
- x. Regulations on the Nairobi City County Office of the County Attorney Act, 2017
- xi. Regulations on the Nairobi City County Inspectorate Service act, 2017
- xii. Regulations on the Nairobi City County Regularization of Developments Act, 2015
- xiii. Regulations on the Nairobi City County Neighborhood Associations Engagement Act, 2016
- xiv. Regulations on the Nairobi City County Flag and Other Symbols Act, 2013
- xv. Regulations on the Nairobi City County Solid Waste Management Act, 2015
- xvi. Regulations on the Nairobi City County Urban Agriculture Promotion and Regulation Act, 2015
- xvii. Nairobi City County Dog and Welfare Regulations

- xviii. Regulations on the Nairobi City County Alcoholic Drinks Control and Licensing Act, 2014;

## **7.0. RECOMMENDATIONS**

After lengthy and rigorous deliberations, the Workshop ended with the following resolutions:-

- a) The Assembly should continuously engage with the Senate Committee on delegated legislations and have the Statutory Instruments Act 2013, amended to include the county assemblies in the scrutiny of the bye-laws and other statutory instruments;
- b) The Committee should recall all the by-laws and have them revised before they are reintroduced and adopted by the County Assembly.
- c) The Committee should ensure continued co-operation with the relevant County Executive in order to ensure that all pending regulations are submitted for Committee's scrutiny;
- d) The County Executive Member must ensure that the Nairobi City County Bursary Regulations and Nairobi City County Public Participation Regulations are published;

## **8.0. CONCLUSION**

The Hon. Peter Wahinya officially closed the workshop. Members of the Committee and presenters also made brief closing remarks. The Chair thanked participants and the Committee members for making time to meet and appreciate their mandate and find ways to remove bottlenecks to effective oversight over delegated county legislation. Participants were encouraged to trust in their ability and creativity to find better ways to promote effective oversight.

## **9.0. ANNEX**

Minutes of Adoption

