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BITING BULLETS & THROWING DICE

The Deputy President's dilemma makes the days ahead politically interesting

President Uhuru Kenyatta this week bit the bullet and implemented sweeping changes in Jubilee Party's leadership in the Senate, provoking a storm as the disgruntled senators allied to Deputy President William Ruto headed to court.

Later in the week, it was reported that Raila Odinga had ordered his troops in the National Assembly to follow the same route, even as rumours swirled that the next Jubilee Party purge would be in the same House.
The Deputy President appears to have chosen to stay quiet, letting his troops show that it is business as usual for him, this time in donating food to vulnerable members of the community.

It will be interesting to see the strategy he chooses to implement as the President has thrown the gauntlet at his feet by using all means available to remove the leadership at the Senate and forge closer ties with Kanu.
It will be interesting because the Deputy President's approach has been to remain behind the President while actively courting Central Kenya, whose support would be crucial if he is to ascend to the top seat as planned.

The President's actions are bound to change the political alignments ahead of the next elections, as the Deputy President has a long-standing grudge with both Gideon Moi, the Kanu boss, and Mr Odinga.

Things become more complicated for him as the remaining options would be to court the smaller communities and small parties like the Amani National Congress, and Wiper, which has lost steam.

The Deputy President's dilemma makes the days ahead politically interesting because MPs have entered the phase in the parliamentary term where they are looking to position themselves for the next election.
MPs are at this point torn between pursuing their duties in Parliament, and maintaining a national presence, and going back to the constituencies to shore up support.

For many in Central Kenya, choosing to either remain behind the President or to back the Deputy President is a gamble that will determine whether they remain politically relevant post-2022.

How that plays out for all parties involved will likely determine how they behave over the next 18 months.

SPECIAL FEATURE

THE 2020/2021 BUDGET IN CONTEXT

Budgeting is an important tool for planning and resource allocation. During a time of crisis, budgeting becomes more important as a response and mitigation tool.

The COVID-19 pandemic is arguably the single most important parameter for personal, corporate, national and even global budgeting this year. The pandemic has the capacity to significantly and adversely affect economic performance and the outlook of various economic indicators.

Since the first case was reported in the country, the disease has emerged as a health crisis that is quickly morphing into an economic crisis, and a humanitarian crisis. The policy framework of the 2020/2021 budget should be anchored on a national response strategy that comprehensively addresses these three facets. It is possible that the economic crisis may outstrip the health crisis as hopelessness grips those who lose their jobs, lack food and shelter with nowhere to run in the face of restriction of movement lockdowns.

Treasury failures

The Executive and particularly National Treasury is on the receiving end of parliamentary dissatisfaction with regard to the 2020/21 budget. The budget as submitted to parliament seems insensitive to the realities and potential long term effects of the COVID pandemic. It was prepared in an ordinary manner with no extra-ordinary measures to take care of citizen vulnerabilities resulting from the inescapable effects of COVID.

The challenge facing drafting of the 2020/2021 budget is trying to provide a comprehensive response to the COVID crisis when the depth of the crisis is still unknown. What is evident is that both globally and domestically, economic activities have been significantly disrupted leading to uncertainty and instability affecting economic performance, tax collections, public and private investment, current account balance, personal incomes and employment.

The ripple effect of the health pandemic on the Kenyan economy has been visible in terms of reduced export earnings, fewer business operations, increased unemployment levels and declining consumer demand. Indeed, the immense revenue loss occasioned by these developments within the first quarter of year 2020 resulted in a second supplementary budget for financial year 2019/2020 which was submitted to the National Assembly on 14th April 2020. Though the 2019/20 Supplementary II budget attempted to address COVID-19 related expenditures, the interventions were not very comprehensive probably due to unavailability of resources (revenue shortfall) as well as the little time left before the financial year elapses.

Given the crisis at hand, the ideal response strategy, drawing from emerging international trends, is to introduce an economic reform package that not only addresses immediate health and income needs but also proposes a roadmap for the next phase of recovery. However, the 2020/2021 budget falls short in this aspect. Immediate national needs entail boosting the capacity of the health system to respond to disaster as well as providing an income safety net to deal with hunger and other needs particularly for the urban poor who are the hardest hit. Massive effort, beyond current measures, should have been seen towards recruitment of additional health workers, revamping of health facilities particularly the referral hospitals and acquisition of medical equipment.

The budget doesn't seem to prioritize these needs at all.

- Indeed, except for a Kshs.2.6 billion allocations towards mass testing of COVID patients under the Kenya COVID-19 Emergency Response Project, the health budget remains more or less the same with only slight upward adjustments probably to cater for inflationary trends.
- There are no significant changes made towards revamping referral hospitals or to boost research in KEMRI or for mass recruitment of healthcare workers.
- Health being a county responsibility, more money could have been allocated through conditional grants to counties to cater for health needs.
- With regard to hunger/safety nets, it would have been useful to have a strategy for direct cash support for those who have lost livelihoods, particularly the urban poor but this is not provided.
- Most of the ongoing COVID mitigation responses are being done outside of the budget framework, that is, through the COVID-19 Emergency Response Fund which is mostly financed through donations and well-wishers and is managed separately from the Consolidated Fund. Though the COVID-19 Fund is an important intervention particularly with regard to raising resources, it may not be sustainable and should not be relied on solely to mitigate the impact of the crisis. The national budget must play its part. It is time for an economic stimulus through the budget.

We need More than just Conventional Monetary and Fiscal policies

Due to the nature of the crisis, conventional monetary and fiscal policy may not be adequate enough to facilitate an economic comeback especially if the crisis is prolonged.

The ongoing crisis is not due to a failure in the natural interaction between the forces of supply and demand. Both demand and supply have collapsed largely due to COVID containment measures. As a result, the government has to intervene significantly in order to mitigate the crisis.

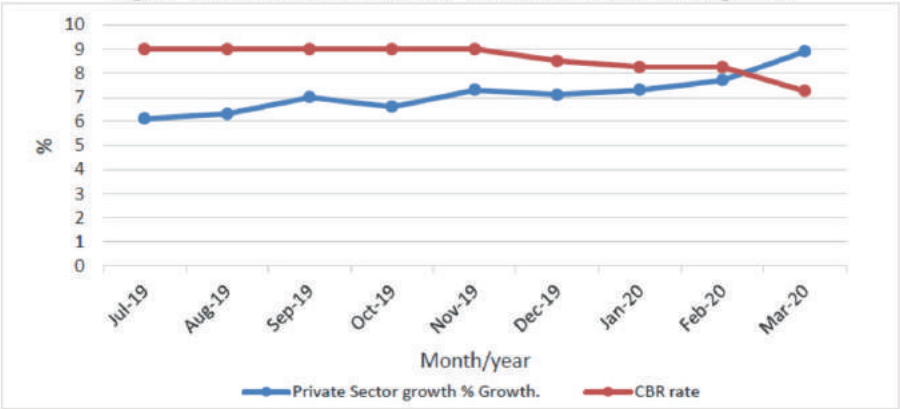
- For the next phase of recovery, the 2020/2021 budget should have also included measures to jumpstart the economy as the health crisis wears off rather than leaving the recovery to market dynamics.
- One of the most crucial measures would have been to protect businesses particularly the MSMEs who are the hardest hit.
- Some businesses may never recover from this crisis, especially if the crisis persists into the third quarter.

Central Bank Interventions

The Central Bank (CBK) has been lowering the CBR rate since January 2020 but the impact on private sector credit remains muted due to weak economic activities which have adversely affected the ability of MSMEs to seek credit from banks.

In addition the government is also in the market seeking for resources through domestic borrowing.

Figure 1: Movement of CBR Rate vs. Private sector credit growth



Data source: CBK

In recent months, the moderate increase in credit to the private sector has mostly been channeled to the manufacturing sector. This can probably be attributed to the fact that some manufacturing businesses may have been able to adapt to meet gaps in the supply chain for intermediate goods as well as engage in production of PPEs.

However, many businesses especially the micro and small enterprises that lack substantial assets, may not be able to access credit financing at all. To protect these businesses, provision of concessional financial support through Kenya Industrial Estates as well as the Micro and Small Enterprise Authority, and government credit guarantees through the banking system would help the business maintain their payrolls and sustain their businesses through the crisis.

It should be noted also that the state department for industrialization budget shows no clear government support to businesses that are manufacturing PPEs as well as those with the capacity to engage in import substitution. Without a clear economic recovery strategy, the economic and humanitarian effects of COVID may continue being felt long after the health crisis has ended.

Real GDP growth:
In light of the recent developments, the projected growth for 2020 has been revised downwards to 2.5% from an initial projection of 6.1% in the 2020 Budget Policy Statement.

In terms of fiscal years, real GDP growth is projected at 4.2% in 2020/2021 but is expected to rebound to 5.8% over the medium term.
According to the National Treasury, this growth outlook for 2020/21 will to a large extent be supported by:

- ongoing public and private investments especially government investments in the Big Four Agenda.
- a stable macroeconomic environment with inflation remaining within the target range,
- increased private consumption and
- an expanded export base once the world borders re-open.

The challenge of this growth premise is that it doesn't seem to adequately incorporate the impact of the COVID crisis and the post COVID economic recovery strategy remains unclear.

If we treat this disease normally, it will treat us abnormally
The tone of the 2020/2021 budget remains 'business as usual' despite the highly unusual environment the country is currently operating in.

The current Government strategy appears to be **'leverage on past investment decisions,'** specifically the Big Four related projects, in order to move the economy forward. It should however be noted that over the past two years, the Big Four projects have struggled to take shape and many of the targets are yet to be achieved.

It is notable that the Supplementary II budget for 2019/2020 removed resources allocated to meet some manufacturing agenda targets including reduction of allocations for critical infrastructure at the proposed Naivasha Industrial Park and Kenanie Leather Park.

Similarly, the food security agenda faces challenges in various fronts, including: the ongoing locust infestation, weak marketing strategies, and weak input subsidy systems.

Indeed, slow implementation of government projects continues to be a major hindrance to the country's development agenda and may therefore not be a reliable driver of economic growth in the coming financial year.

Private Consumption and Exports might not save us
Private consumption and an expanded export base are also highly unlikely to be significant drivers of economic growth.

Given the economic uncertainty and the loss of income in many households, private consumption is likely to decline significantly especially if the crisis is not resolved by end of second quarter.

Exports have also declined sharply and the impact is likely to be felt through 2020.

Depending on how long the crisis lasts, the outcome could be worse and the negative effects may take long to resolve, even after the pandemic has ended. Indeed, the country could experience negative growth in Q2 and Q3 of 2020 due to significant dampening of economic activity.

Government needs to focus
Given the ongoing crisis, the primary target of the 2020/2021 budget should have been to put in place mechanisms that will enhance our capacity to cope with and ensure a speedy resolution to the current crisis.

Indeed, effective control of the virus spread and resumption of normalcy is the key determinant of how fast the economy recovers and how it will perform thereafter. In this respect, a feasible strategy comprises of measures to save consumption demand and private investment from collapse by:

- supplementing incomes of those who have lost jobs and the poor;
- keeping supply chains open; and
- accelerating investment in sectors likely to thrive during the crisis among them agriculture, health, mobile telephony and essential goods manufacturing.
- For enterprises which would not operate through the crisis (hospitality and tourism related firms), then the strategy would be to keep them on life support via temporary aid for their overheads including rental and wage bill support.

It is clear from the Government budget estimates that there is no specific budgetary allocation seeking to address these factors in a coordinated manner.

Ideally, the government should have considered at least two macroeconomic scenarios with distinct assumptions regarding the depth and duration of the pandemic.

Developing a budget in the current context is undoubtedly a challenge because the fluidity of the situation makes it difficult to make accurate macroeconomic predictions. Scenario setting can give clarity to the government on how to structure its responses in the budget in order to mitigate the impact of the crisis on the economy. Immediate needs include expansion of health infrastructure and direct relief to vulnerable households.

Further along, there may be need to provide concessional loans to businesses among other needs which may arise depending on how long the crisis lasts.

Given the current economic dynamics and the muted response by the government to the economic aspect of the crisis, the Budget Policy Office of Parliament projects that GDP growth is likely to average -1.5% to 1% in 2020 with a slow pick up in 2021

SO WHERE IS THE MONEY GOING

SECTOR	CURRENT ESTIMATES	CAPITAL	TOTAL	% OF NATIONAL GOV BUDGET
Education	480,616,628,320	20,883,600,000	501,500,228,320	28%
Health	64,932,476,233	49,591,983,849	186,572,762,948	10%
National Security	145,323,956,500	9,208,594,305	154,532,550,805	9%
Energy, Infrastructure & ICT	145,736,201,500	202,384,630,604	407,804,326,191	23%
Governance, Justice, Law & Order	175,983,166,701	4,702,110,000	198,122,066,701	11%
Judiciary	15,397,000,000	3,701,800,000	19,098,800,000	1%
Parliament	37,078,100,000	2,067,550,000	39,145,650,000	2%
Other Sectors	154,835,988,001	297,545,467,750	359,826,868,798	20%
TOTAL	**1,219,903,517,255**	**590,085,736,508**	**1,809,989,253,763**	**100%**

Pertinent observations:

- It is indicated that the 2020/2021 budget is aimed at prioritizing:
- employment creation,
- youth empowerment,
- supporting manufacturing activities,
- enhancing health coverage,
- improving food security and
- enhancing living conditions through affordable housing.

However, the budget allocation trend does not appear to support this claim.

- The biggest portion of the budget is allocated to the education sector to cater for operational costs of the Teachers Service Commission.
- Other highly funded programmes are the road transport and defence programmes.
- The health budget has not adequately addressed the challenges that threaten to hinder the attainment of Universal Health coverage particularly with regard to human resources inadequacies and poor health infrastructure;
- The manufacturing and food security are among the least funded sections of the budget; and
- the allocation to key big four housing projects has been significantly scaled down with programs such as construction of social housing receiving no allocation for FY 2020/2021.

It should be noted however that some counties have made significant effort towards revamping their hospitals and equipping them particularly to deal with the COVID-19 pandemic. However, a lot more still needs to be done to improve the status of healthcare. Coordination between the two levels of government is therefore paramount.

Some more Scrutiny revealing government priorities

In the recurrent budget, major expenditures are proposed for:

- the Teachers Service Commission (Kshs.264 billion),
- state department for Interior (Kshs.128 billion),
- Ministry of Defence (Kshs.106.2 billion) and
- the State Department for University Education Kshs.107 billion.

These expenditures represent 52% of the total recurrent budget of the national executive.

In the development budget, major expenditures include;

- the state department for Infrastructure Kshs.121.6 billion,
- the State Department for Water and Sanitation Kshs.69.7 billion,
- Ministry of Energy Kshs.67 billion and
- the ministry of Health Kshs.49 billion.

The expenditures represent 52% of the total development budget.

Need for further budget adjustments

As earlier indicated, the 2020/2021 budget has been adjusted downwards in light of the COVID pandemic. However, there is no extensive analysis of how existing program targets have been affected by these expenditure adjustments.

The development budget in particular, has been reduced by Kshs.27.8 billion from the BPS level. It is apparent that the development budget has been spread too thin, accounting for only 33% of total ministerial budget and this is likely to lead to delay in project completion.

Given resource constraints, only the very important projects should be prioritized. Unfortunately, project prioritization has not borne fruit despite the creation of the PIMS unit in the National Treasury.

Funds earmarked for certain activities in line with legal provisions have been adjusted. For instance, the NG-CDF has been reduced by Kshs.10 billion from the 2019/20 baseline.

Some sectors have set quite unrealistic targets. For instance:

- the state department for Tourism targets to collect Kshs.3.8 billion into the Tourism fund against a target of Kshs. 3.6 billion in the current financial year. This is unlikely to be achieved due to near collapse of the hotel industry that collects the catering levy into the fund.
- The sports department has also set a target of Kshs.14 billion to be collected into the sports fund. This is also unlikely to be realized given the fact that there are no activities happening in the sports industry, betting and lotteries which is the source of the levies into the fund.

A further analysis of the list of projects to be financed by the budget reveals that some projects have been allocated resources despite having been finalized.

No regard for public input

Public participation is under threat. We note the lack of public participation in the budget formulation process, including the failure by treasury to publish the citizen budget on its website for public consumption.

This is an issue Treasury needs to fix.

DIGITAL SERVICE TAX:
A TURN OVER TAX FOR THE ONINE WORLD

In the wake of the COVID-19 pandemic the Kenyan economy is experience reduced growth. In fact, it is projected that the growth rate initially pegged at 5.6% will be revised downwards to about -1.5% to 3%. The impact of the pandemic is also reflected in the revenues to be raised by Government with ordinary revenues having been revised downwards by KES 33.4 billion. Kenya expects to raise KES. 1.78 trillion.

Government in dire straits

With the above in mind, there are concerns over how the Government will meet its obligations with regard to both re-current and development expenditure.

The Government is looking to new ways to raise funds beyond the traditional tax payers. The need to expand the tax base and bridge the gap as much as possible is felt more acutely in the wake of the economic effects of the COVID pandemic. The abolishment of previous tax exemptions has caused fears of overburdening an already exasperating cadre of tax payers.

It was bound to happen

It is no surprise that one of the new Government tax proposals in the Finance Bill 2020 seeks to amend the Income Tax Act by introducing a 1.5% Digital Service Tax (DST) to be charged on the gross transaction value on the provision of services derived from or accrued in Kenya through a digital market place. The tax will be due at the time of the transfer of payment or the service to the service provider.

In the case of a resident person or a non-resident person with a permanent establishment in Kenya, such tax shall be treated as an advance tax to be offset against the final tax liability.

This new tax has been met with a lot of anxiety and uncertainty by those working in the digital space. Anxiety and uncertainty is caused by the fact that concerns that the Kenyan digital ecosystem is still a growing industry as well as fears of duplicity and multiplicity of tax which would lead to a complete disruption of the budding sector.

Getting everyone to the table

To understand the rationale informing the policy proposal, Oxygene MCL in collaboration with the Kenya Private Sector Alliance (KEPSA) and Article 19 held a virtual meeting with Members of Parliament from the National Assembly Departmental Committee for Communication, Information and Innovation led by the Chairperson Hon. William Kisang and the Kenya Revenue Authority represented by the Deputy Commissioner, Corporate Policy Unit Mr. Michael Oray on Friday 15th May, 2020.

The Ministry of ICT was also represented by Eng. Daniel Obam, National Communications Secretariat ICT Sector Policy advisor.

The scope of the discussions was largely around the Principles of fairness for digital taxation and the issues and impact of the DST legislative proposal.

In the presentation, it was noted that there was ambiguity in the definition with regard to the scope of DST application. As it drafted, the proposal is not clear on:

how the tax will be collected and remitted;

the due dates for the payment have not been defined;

needed amendments to Sections 10, 34, 35 and the Third Schedule of the Income Tax Act in respect to taxation of non-residents, which DST would affect.

DST proposal follows recent expansion of tax base

The DST proposal comes after the recent enactment of the Tax Laws Amendment Act (2020) which included an amendment to the Income Tax Act expanding the services subject to withholding tax to include marketing, sales promotion and advertising services provided by non-resident companies at 20%.

This could potentially mean that advertisers on non-resident platforms would be required to withhold 20% of income owed to the said advertising platforms and pay that amount directly to the Government. This immediately raises concerns on

the ability of users to comply,

the implications on the nascent digital economy in Kenya and

the efficiency of such a tax.

Is Government killing the digital economy?

There is a sense that the digital economy landscape is still at infancy and requires time and resource allocation to facilitate growth and development as opposed to burdening it with more taxes.

Arguments presented included the fact operators in the digital space are already paying other taxes. It would therefore be unfair to apply any other additional tax requirement uniformly (without due consideration of residence, size and capacity to comply). This would create an unconducive business environment, and potentially an unfair competitive advantage to non-resident companies not paying the same type of taxes for transactions carried out in Kenya.

In making their submissions, non-resident companies in attendance made reference to the Organisation for Economic Co-operation and Development (OECD) process underscoring the need for a tax system that is widely recognized, legitimate, principled, robust, and appropriate.

The OECD has been working on an Inclusive Framework for Taxation through its Task Force on the Digital Economy since 2017.

On 9th October 2019 the OECD published for public consultation a document with a proposal for a unified approach toward digital services related taxes under pillar One of Base Erosion of Profits Sharing consultation. The Interim Report of the OECD Task Force and the subsequent policy notes proposed approach focuses on consumer-facing businesses, and

it largely depends upon sales, not physical presence.

What is fairness in taxation?

Another major concern raised was in relation to the potential for duplicity of taxation. The unilateral DST proposal would see Kenya claim income currently due in another country. For instance, for some US technology companies like Uber and Bolt offering services to people in Kenya. This income is taxed in the US and/or Ireland.

Proposed alternatives: shifting burden from business to consumers

To address these concerns, the non-resident companies proposed an Extra-territorial VAT as an alternative that is in line with the OECD recommendations which include an option for a registration regime for non-resident suppliers of digital services, in particular for B2C supplies. This would in theory allow nonresident enterprises subject to this extraterritorial obligation to comply with the requirements of each jurisdiction with the fewest modifications to their existing compliance systems.

KRA's Take

In response to the issues raised, the Kenya Revenue Authority noted the fact that the proposed DST was not unique to Kenya.

In fact, the rate proposed is the lowest globally at 1.5% in comparison to other countries such as Nigeria and the UK currently at 3% and India at 6% according to KRA.

Notably, KRA emphasized the fact that the they are open to receiving suggestions on how best to provide clarity and avoid the ambiguities highlighted by members of the private sector. KRA is currently in the process of drafting simplified VAT registration regulations which will be open for public participation once completed.

Parliament's Take

In furthering the discussions, the Members of Parliament present at the webinar agreed with the proposal to have more investments being made by Government to facilitate the growth of the digital economy sector.

In this regard, reference was made to an economic stimulus package of KES. 25 Billion to be availed post COVID-19, part of which could be re-directed to develop enabling infrastructure that spurs the digital economy.

Further, the Honorable Members present highlighted their willingness to receive clear proposals for incentives needed to further the growth and development of the digital economy.

Call for submissions

Moving forward, it was agreed that members of the private sector would present submissions on the issues raised as well as clear alternative proposals with justifications for the proposed changes to the National Assembly via the Finance and Planning Committee and the Information and Innovation Committee for consideration by Parliament.

FINANCIAL SERVICES AND TRADE SECTOR ROUND UP

KENYA

Central Bank of Kenya:Monetary Policy Committee (MPC) Meeting

The next meeting of the Monetary Policy Committee (MPC) will be held on Wednesday, May 27, 2020.

Sameer Africa focus on Real Estate

Sameer Africa will henceforth focus on its real estate business after shutting down its tyre distribution unit, the Nairobi Securities Exchange-listed firm has told its investors. The company projects that it will now return to profitability after exiting the tyre business that saw it make losses for years despite efforts to cut costs, including outsourcing production to India and China.

Nairobi Metropolitan Service disbands Nairobi County's Planning and Technical Committee

The newly installed Nairobi Metropolitan Service has disbanded City Hall's planning and technical committee and suspended processing of applications for residential and commercial building plans. The committee made up of the county's planning and technical officers has the sole mandate of recommending development plans for approval.

TANZANIA

Bank of Tanzania: Monetary Policy Committee (MPC) Meeting

The Monetary Policy Committee (MPC) met on 8 May 2020 to approve measures to cushion the economy from adverse effects of COVID-19.

The approved policy measures are:

1. Bank of Tanzania has lowered the Statutory Minimum Reserves to 6% from 7% so as to provide additional liquidity to banks.
2. Bank of Tanzania has reduced the discount rate from 7% to 5%so as to enable banks to borrow from the Bank of Tanzania at a lower cost.
3. Bank of Tanzania has reduced haircuts on government securities from 10% to 5% of Treasury Bills and from 40% to 20% of Treasury Bonds with effect from 12 May 2020.
4. Banks are supposed to to discuss with their clients the restructuring of loans and loan rescheduling on a case by case basis.
5. To encourage the use of digital payement platforms for transactions, mobile money operators are to increase their daily transaction limit to customers from TZS3,000,000 to TZS 5,000,000 and daily balance from TZS5,000,000 to TZS10,000,000.

The Bank of Tanzania stated that they will continue to monitor the impact of COVID-19 on the economy and will take any necessary policy actions to limit the impact of COVID-19.

RWANDA

Parliament approves energy loan

Rwanda Parliament yesterday approved an International Development Association credit worth EUR 91.4 million (approx. USD 98.8 million) to finance Rwanda's energy sector supplemental development policy financing. The credit will be reimbursed at an interest rate of 0.75 percent over a period of thirty-two years, after a grace period of six years.

Nots Solar Lamps to build factory in Rwanda

The Government of Rwanda has recently concluded an agreement with the Dutch company Nots Solar Lamps, a supplier of electricity using an African-made "Mutimax" solar system, to build a local factory for the assembly of solar systems. The company will inject more than EUR 64.5 million (approx. USD 69.7 million), into the project.

UGANDA

NSSF advices against payouts

The National Social Security Fund (NSSF) has said paying out at least 20 percent of members' savings as it has been proposed by a section of the public will hurt the economy yet it seeks to benefit just a few Ugandans. Speaking in an interview yesterday, Mr Richard Byarugaba, the NSSF managing director, said the proposal has more negatives than positives and would have far reaching implications on the larger economy.

KENYA GAZETTE REVIEW

LEGISLATIVE SUPPLEMENTS

The Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) (Eastleigh Area) Order, 2020
The Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) (Mombasa Old Town) Order, 2020
The Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) (Mandera County) Order, 2020

National Assembly Bills
- The Referendum Bill, 2020

PUBLIC SECTOR

Appointments
President Uhuru Kenyatta has appointed Agnes N. Odhiambo to be the Chairperson of the Board of the National Transport and Safety Authority.
President Uhuru Kenyatta has appointed Prof.Mabel Imbuga to be the Chairperson of the National Authority for the Campaign against Alcohol and Drug Abuse Board.
The Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works has appointed Prof. Bulitia Godrick Mathews to be a member of the Board of the National Construction Authority

Public Notices
The Public Service Commission has gazetted a list of all Applicants and Shortlisted Candidates for the Position of the Auditor - General
The Public Service Commission invites applications from suitably qualified candidates to fill the positions of Registrar of Political Parties and Assistant Registrar of Political Parties.

Completion of Part Development Plan
- PDP No. CKR/ I 52119101—Existing Site for a Commercial Plot.
- PDP No. KSI13712020101—Proposed Si;e for Cancer Center

Environmental Impact Assessment Study Report
- **The Proposed Waste Oil Handling Facility on Plot No. Fr. 343/73, Miritini Area, Mombasa County.**
  Wang-Tech Petroleum Limited proposes to construct and operate a waste oil handling facility.
- **The Proposed Kamwamba Multi-community Irrigation Project In Gatundu North Sub-county, Kiambu County**
  Kamwamba Irrigation Project (KIP) consist of three major components which include: Irrigation Infrastructure Development, Sustainable Land Management (SLM) and Formation of Irrigation Water User Association
- **The Proposed 120 Metres Instream Works Through Training of Unnamed Tributary (Seasonal Stream)** Of Rui Ruaka, on L.R. Number 21/1/22, Opposite Two Rivers Mall, Limuru Road, Nairobi City County
  Lone Tree Limited got an approval from Nairobi City County and NEMA to construct a high end office block along Limuru Road on L.R. 21/1/22, Westland Sub-county in 2016.
- **Proposed Installation And Operation Of Industrial And Biomedical Incineration Plant** Located On Plot No. Mitaboni/Ngelani/5/98/99 In Lukenya Area, Mavoko Sub-county, Machakos County
  Sureflame Incinerators Limited, is proposing to install and operate an industrial and biomedical waste incineration plant.
- **The Proposed Keben Dam and Water Supply Project, Nandi County**
  Lake Victoria North Water Works Development Agency, is proposing to construct Keben Dam and water supply which will supply water to Lessos, Sochoi, Keben, Kapchorwa, Mogobich, Arwos, Kaptildil, Himaki, Chperit, Baraton, Chemundu, Nandi Hills town.
- **The Proposed Makutano Sewerage Project In Murang'a County**
  Athi Water Works Development Agency is proposing to undertake the construction of Makutano Sewerage Project.

TRADE AND MANUFACTURING SECTOR

Public Notices
- The Commissioner of Customs and Border Control has gazetted a list of goods that will not be warehoused at the expiry of 90 days.
- Energy and Petroleum Regulatory Authority Schedule for Electricity Tariffs for all meter readings to be taken in May, 2020.
- -A fuel energy cost charge of +240 Kenya cents per kWh
- -A foreign exchange fluctuation adjustment of +1428 Kenyan cents per kWh
- -A Water Resource Management Authority (WRMA) levy of + 2.06Kenya cents per kWh
- The Registrar of the Physical Planners Registration Board has gazetted the list of registered Physical Planners.
- The Managing Director of KEPHIS has gazetted a list of varieties that have been released for commercialization by the National Variety Release Committee.
- The Registrar of Companies has gazetted a list of Companies that will be struck off the register in 90 days.
- The Registrar of Companies has gazetted a list of Companies that have been struck off the register of Companies.
- The National Biosafety Authority has received an Application for consideration for a possible environmental release (open cultivation) and placing on the market of genetically modified cassava that is resistant to Cassava Brown Streak Disease (CBSD).

FINANCIAL SERVICES SECTOR
The Unclaimed Financial Assets Authority has gazetted a list of persons claiming as administrators of the estates of deceased persons who lay claim over several unclaimed assets. If no objection to the claims is lodged at the offices of the Authority within 30 days, payment will be made to the gazetted persons.

KEEPING YOUR FINGER ON THE PULSE

CURRENT STATISTICS

QUICK FACTS

781
confirmed Corona Cases in Kenya

284
Recoveries

45
deaths

As at 15/05/2020

It is understood that data represented here on Covid-19 is rapidly fluid and data may have changed at the time of its publication

SPECIAL FEATURE

CS MAGOHA TAKES ACTION

LAUNCH OF COVID-19 NATIONAL EDUCATION RESPONSE COMMITTEE

Last week, the Ministry of Education was put to task by parliament to come up with measures to mitigate the effects of COVID-19 in the education sector. Due to COVID19, His Excellency President Uhuru Kenyatta ordered the closure of all schools and other learning institutions on March 15th, 2020 as part of the measures to control the spread of the virus. Although schools were expected to resume learning on May 4th, 2020, the Government extended the reopening date for one month to scale up national efforts to fight the spread of COVID-19. CS Magoha thereafter caused confusion when the Ministry of Education launched online learning efforts stating that learning should continue and students need to prepare for National examinations at the end of this year, COVID disruptions notwithstanding.

The National Assembly Departmental Committee on Education to summoned CS Magoha seeking clarity on whether education is ongoing or if schools are closed, as well as why exams cannot be postponed and what measures the Ministry has put in place to ensure safety of children as they plan for national examinations. CS Magoha, struggled through the meeting with parliamentarians last week. The scrutiny from parliament seems to have born some fruit.

At this point, it is clear that the effects of the pandemic have hurt the basic education sector, negatively affecting the rights of children and threatening to wipe out the gains made to stabilise the academic calendar. In a bid to reverse the negative tide, the Ministry of Education has appointed a NINE-member committee to take charge of the process of exploring the best possible strategies of restoring functionality of the education subsector.

The Kenya Institute for Curriculum Development Chairperson Dr. Sarah Ruto will chair the COVID-19 Education Response Committee whose work starts with immediate effect. Education Cabinet Secretary Prof. George Magoha launched the team at the KICD, Nairobi on 12th May 2020. Members of the Committee are:

- Mr. Indimuli Kahi Chairman, Kenya Secondary Schools Heads Association
- Mr. Nicholas Gathemia Chairman, Kenya Primary Schools Heads Association
- Mr. Peter Ndoro CEO, Kenya Private Schools Association
- Mr. Nicholas Maiyo Chairman, Kenya Parents Association
- Ms. Augustine Muthigani Kenya Conference of Catholic Bishops
- Ms. Jane Mwangi Kenya Association for Independent International Schools
- Dr. Nelson Makanda National
- Sheikh Munawar Khan Muslim Education Council
- Mr Peter Sitienei Chairman, Kenya Special Schools Heads Association

Ex Officio members

- Ms. Ruth Mugambi Kenya Institute for Curriculum Development
- Mr. Patrick Ochich Kenya National Examinations Council
- Mr. Gabriel Mathenge Teachers Service Commission
- Mr. Paul Kibet Director, Secondary Education, MoE
- Ms. Anne Gachoya Directorate of Policy, Partnerships and EAC
- Dr. Loice Ombajo Ministry of Health/University of Nairobi

The terms of reference of the COVID-19 Education Response Committee are to:

Advise the Cabinet Secretary on the reopening of Basic Education institutions (Pre-Primary. Primary, Secondary Schools, Teacher Training Colleges and Adult Education Institutions.)

Review and reorganise the school calendar as part of the COVID-19 postrecovery strategy.

Advise the Cabinet Secretary on ways of onboarding students/pupils when the schools re-open.

Document all COVID-19 related matters, lessons learnt and recommendations for future preparedness.

Advise the Cabinet Secretary on the impact of the COVID-19 pandemic on the demand for education by poor households and suggest mitigation measures.

Advise the Cabinet Secretary on the Health and Safety measures to be put in place for the pupils/students, teachers and e ntire school community.

Identify institutions that may have been adversely affected by COVID-19 and advise on mitigation and recovery measures.

Submit regular reports to the Cabinet Secretary on the implementation progress of COVID-19 related programmes.

Any other related duty that may be assigned by the Cabinet Secretary.

The Committee's Secretariat will be located at the Kenya Institute of Curriculum Development.

Absa Bank Kenya PLC to support acquisition of e-learning infrastructure for schools and parents

Meanwhile, the Ministry of Education got one more partner in the efforts to re-stabilize education. On 14th May 2020, Absa Bank Kenya PLC has announced a new funding line for learning institutions and parents who need to obtain the necessary equipment to enable their children access lessons on the available e-learning platforms.

The COVID-19 pandemic has led to suspension of physical learning requiring schools to find alternative means to continue teaching. The government has recommended adoption of virtual learning, but this has been hindered by lack of the supporting infrastructure including laptops, tablets or smartphones for teachers and students. Through this new initiative, Absa Bank will support schools to procure e-learning infrastructure including the hardware and software required to enable e-learning during this period. In addition, the bank will provide finances for parents who may need to purchase laptops for their school-going children.

The effort was announcement on 14th May 2020.

The bank has also reviewed its credit terms and is offering various relief options to cushion schools against the financial difficulties presented by COVID-19. These options include:

- Restructuring of existing loan repayments- Schools can now request to restructure existing facilities in line with their expected cash flows. Under this option, affected institutions can get a loan repayment holiday or reduce their monthly repayment.
- Recurrent business expenditure loan- The bank is offering a short-term financing option to help schools cater for their recurrent expenses such as salaries. Under this arrangement, schools can access up to KES10 million in unsecured overdrafts and short-term loans.
- Investment accounts
  a. Call deposit account- This account earns interest on deposits while the deposits remain available for withdrawal without prior notice or penalty.
  b. Term deposit account- This account allows one to lock their deposit for a fixed term ranging from one month to one year at a competitive rate.
- Credit cards- Parents can pay school fees using their Absa credit card and clear the outstanding credit card balance in equal monthly instalments of up to 12 months.

PARLIAMENTARY ROUND UP

DIVISION OF REVENUE IMPASSE: THE SUPREME COURT SPEAKS

Today, the Supreme Court of Kenya issued an advisory opinion on a dispute between the National Assembly and Senate, regarding the Division of Revenue Bill for the Financial Year 2019/2020.

The Division of Revenue Bill for the Financial Year 2019/2020 was not enacted into law, in accordance with the Constitution and the Supreme Court Advisory Reference No. 2 of 2013. Following this, the Council of County Governors and all the 47 County Governments, as Applicants filed a Reference under Certificate of Urgency at the Supreme Court seeking an Advisory Opinion pursuant to Article 163(6) of the Constitution.

Other parties to the request for opinion were the Honourable Attorney General, the Speaker of the National Assembly, the Cabinet Secretary, National Treasury and the Commission on Revenue Allocation. Katiba Institute, Institute For Social Accountability and the Law Society of Kenya were friends of the court (Amicus Curiae).

Problems in parliament

The County Governments initially sought an opinion on 25 issues, which were later reframed and reduced to four, after the intervention of the Supreme Court. The four issues which the Supreme Court delineated for its Advisory Opinion were:

- Whether the recommendation by the Commission on Revenue Allocation, is binding upon both Houses during deliberations concerning the Division of Revenue Bill and the Appropriation Bill;
- What happens when the National Assembly and the Senate fail to agree on a Division of Revenue Bill, triggering an impasse?;
- Whether there should be timelines within which the National Government should release the equitable share of revenue to County Governments;
- Whether the National Assembly can enact an Appropriation Act prior to the enactment of a Division of Revenue Act?

Supreme Court findings

The Supreme Court Justices held that:

- The recommendations of the Commission on Revenue Allocation are not binding on Parliament;
- In the event of an Impasse over the Division of Revenue Bill, the percentage of money to be withdrawn be based on the equitable allocation to counties in the Division of Revenue Act of the preceding Financial year;
- The percentage of money to be withdrawn shall not be more than 50% of the equitable allocation to counties in the Division of Revenue Act of the preceding Financial year;
- Where 50% of the equitable allocation to counties in the Division of Revenue Act of the preceding Financial year exceeds the total equitable share proposed in the Division of Revenue Bill subject to parliamentary impasse, the percentage to be withdrawn from the consolidated fund shall not be less than 15% of all revenue collected by National Government.
- The Supreme Court or any other court for that matter, is not the appropriate forum for setting timelines as to when the National Treasury must transfer the equitable share of revenue to counties; and
- Parliament cannot enact the Appropriation Act before the enactment of the Division of Revenue Act.

Justice Njoki Ndungu did not agree with the majority finding that Parliament cannot enact the Appropriation Act before the enactment of the Division of Revenue Act. She issued a dissenting opinion on this.

One final warning

The Supreme Court reminded parliament that the Advisory Opinion is not a "mere advice or opinion". It has the same binding effect as a Judgment of the Supreme Court. Failure to comply would amount to contempt.

Progress

The advice from the Supreme Court will help counties to provide services to their residents despite any disagreements on division of revenue between Senate and National Assembly. The clarity provided by the Supreme Court is particularly welcome in this season as health services fall under the functions of County Government.

NATIONAL ASSEMBLY ROUND UP

The National Assembly is on recess.

SENATE ROUND UP

Messages

- The Representation of Special Interest Groups Laws (Amendment) Bill was referred to the Senate for consideration.

Papers Laid

- The Fifth Progress Report of the Ad HocCommittee on Committee on COVID-19 Situation in Kenya.
- The Report of the Standing Committee on Land, Environment and Natural Resources on the Sectional properties Bill (National Assembly Bills No. 23 of 2019).
- The Report of the Standing Committee on Land, Environment and Natural Resources on The National Drought Management Authority (Amendment) (National Assembly Bills No. 26 of 2019).

First Reading

- The Livestock And Livestock Products Marketing Board Bill(National Assembly Bill No.2 of 2019)
- The Representation of Special Interest Groups Laws(Amendment) Bill (National Assembly Bills No.52 of 2019)

Second Reading

- The Pandemic Response and Management Bill (Senate Bills No.6 of 2020)

Changes In Majority Leadership Positions

The Speaker announced the changes to the Majority leadership positions as follows:

i. Senate Majority Leader –Sen. Samuel Poghisio
ii. Senate Majority Whip –Sen. Irungu Kang'ata
iii. Senate Deputy Majority Whip –Sen. Haji Farhiya
iv. Sen. Aden Dullo Fatuma, continues to serve as the Senate Deputy Majority Leader

COUNTY ROUNDUP

amref health africa

KEEPING RESIDENTS OF KIBERA HEALTHY DURING THE COVID-19 PANDEMIC

Lydia Kuria A nurse and Facility incharge at Amref Kibera Health Centre

It is difficult to live in one of Africa's largest slums. It is even more difficult to live in this setting during a global pandemic that is changing the way the world works, lives and interacts.

On 13th March, 2020 Kenya confirmed its first case of the COVID-19 disease marking a turning point for many families. Margaret Achuongo, a 26-year-old mother of four and a resident of Soweto in Kibera, has seen the first-hand effects of living in the unique setting of an informal settlement while trying to stay safe and protected from the COVID-19 disease.

Since the emergence of COVID-19, Margaret and her family have had to adjust their lives drastically. As a small food vendor, she explains that people no longer buy her food because they are wary of the virus. The stringent measures currently in place to avert the spread of the virus such as restrictions on movement and the dusk to dawn curfew do not help either.

"I fully understand the Coronavirus is here with us. With the curfew, we have to close our businesses very early. My husband is a welder, and his work has also been greatly affected. With the closedown of schools, our children are at home and looking to us. It is difficult!"

She would like each member of her household to have a mask, but the cost is a factor.

"Sometimes, I have only Kshs 50 (half a dollar), and I do not have food. I choose to buy vegetables instead of a mask," she says.

Amidst all these hurdles, every day, Margaret ensures that her family adheres to hand hygiene measures by washing their hands with soap and water.

"I have no option! I have to protect my family and to kill the virus; I ensure my family washes hands frequently and thoroughly using soap and water," she adds.

The informal settlement of Kibera is characterised by a population with low income and high levels of unemployment. The residents lack access to basic facilities which include clean water supply, proper waste management, housing and other infrastructure.

The World Health Organisation (WHO) recommends one metre (3 feet) distance between yourself and anyone who is coughing or sneezing. Considering that Margaret lives with her family of four in a small room, it is nearly impossible to practice the recommended measures of social distancing or self-isolation if a family member develops symptoms of the disease.

A glimmer of hope

At the Amref Kibera Community Health Centre, Margaret can access a range of health services as well as education on how to protect herself and her family from the disease. The Health Centre is a static facility that provides outpatient services to children and adults and a 24-hour inpatient maternity service.

Lydia Kuria is the nurse in charge of running the Amref Kibera Health Centre. Her leadership is crucial, especially at this time of utmost need and crisis. "We are doing everything to make sure we bring down community spread of COVID-19, and our Community Health Workers are helping us greatly in this. It is not easy to navigate a new disease. We are learning every day," says Lydia.

The health centre has placed handwashing facilities and hygiene suppliers at the gate and stocked alcohol-based sanitisers at all service points of care. Every patient's temperature is checked before entering the premises.

"Here, I have received a lot of useful information about COVID-19. Before you enter the health facility, you are required to wash your hands with soap and water. We are also advised by the community health workers to use a sanitiser in the absence of soap and water," says Margaret.

Exposure to COVID-19 is a possibility for health care workers and clients seeking services at

> "We do not want a situation where health workers withdraw from work because of the lack of PPE
> *- Lydia Kuria*

Images: ©Amref Health Africa/Kelvin Gitonga.

health facilities. The protection of health care workers and service providers is critical in ensuring the continuity of routine services and to the COVID-19 response.

"We know that the disease is spreading quickly and as of 27 April 2020, five of the national cases reported in Kenya by the Ministry of Health were from Kibera. Our goal is to reduce the risk of disease transmission at the facility while serving our patients," says Lydia.

Lydia notes that health workers are at a greater risk of contracting the disease from infected patients.

"I am particularly concerned about our health workers. We need to serve patients while maintaining our safety," she says.

Lydia is hopeful that the cases identified in the country, especially in the slums will not, at some point, overwhelm health systems as this will present a unique set of challenges.

"In a day, we see about 150 patients, and therefore we need to have adequate and effective supplies of Personal Protective Equipment (PPE). We do not want a situation where health workers withdraw from work because of the lack of PPE," she says.

Margaret Achungo and her 2 months old baby Gael Gayo at Amref Kibera Health Centre

The facility has one isolation room set aside for any suspected COVID-19 patient. However, the room does not have adequate supplies to handle a suspected case.

"We would like to have a complete set of supplies so that we can effectively handle a suspected case. We have a few PPEs, which are not the complete set," says Lydia.

Ensuring Continuity of Health Services

As efforts to reduce the spread of COVID-19 continue, there is a need to ensure that other essential and routine health services are not interrupted. Amref Health Africa's model is that of integrated primary health care, with doors open to all in the community presenting with acute and chronic illnesses in addition to the provision of maternal and child health services. The Kibera Community Health Centre and seven other supported facilities continue to provide essential health services to vulnerable populations in the informal settlements of Kibera and Eastleigh areas of Nairobi.

Even during the pandemic, Margaret has ensured that her two-month-old baby, Gael, does not miss any of the routine vaccinations.

"My baby is very healthy! I have always loved this health facility, and I have given birth to all my children here," says Margaret while waiting at the triage area during her son's recent check-up at the facility.

Despite facing challenges, Margaret remains hopeful. "I know that if we adhere to what we have been told by the health workers, we will be safe from this disease," she says.

> **"I know that if we adhere to what we have been told by the health workers, we will be safe from this disease**
> *- Margaret Achungo*

Handwashing facility at Amref Kibera Community Health Centre

Images: ©Amref Health Africa/Kelvin Gitonga.

COUNTY ROUNDUP

TAITA TAVETA	The Governor has revoked the appointment of Arch. Martin Tairo Maseghe and Eric Mwangecho Mlati as Special Mwatate Municipal Board Members.
KAJIADO	Members of the Kajiado County Assembly are notified of a special sitting that willl be held at the Kajiado County Assembly Chambers, on Wednesday, 20th May, 2020 at 10.00 a.m. and 2.30 p.m.
THARAKA NITHI	The Speaker of the County Assembly has called for a special sitting on Wednesday, 20th May, 2020, in the Assembly Chamber at Kathwana, at 930 a.m.
MANDERA	The County Governor of Mandera County grants the Municipality of Elwak its Municipal Charter
NYAMIRA	The Governor, Nyamira County has reappointed Alfred Nyaboga Kore to carry out duties as per the Part II section 6 of Nyamira County Education Support Fund Act, 2016.

Vellum Weekly

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