Vellum Weekly

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OXYGÈNE

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Multiple rebellions at a bad time

The battle to limit the spread of the novel coronavirus entered a new, difficult phase this week with the decision to enforce a lockdown on two troublesome parts of the country – Eastleigh in Nairobi and Old Town in Mombasa.

That the matter is serious was demonstrated by Mombasa Governor Ali Hassan Joho, who first cajoled and then turned to threats in a bid to get residents of Old Town to heed social distancing.

In both areas, which are heavily populated with Muslims, the general sentiment was that members of the faith have been throwing caution to the wind when it comes to observing some rites during the Ramadhan.

The Government finds itself in a delicate dilemma as locking down areas means denying some people the opportunity to earn a living yet it cannot provide food or subsidies for them and cannot provide a living allowance to all.

There was also an apparent blunder in choosing to carry out evictions in Kariobangi in Nairobi, ostensibly for development purposes, at a time movement is constrained and the economy is slowing down.

It has given politicians and activists an opportunity to criticise the government. On Friday, Gatundu South MP Moses Kuria was mobilising his colleagues to tour the area and to make a food donation that would also give them an opportunity to rail at the government.

The move is also likely to bolster criticism of the Jubilee administration by the Tangatanga wing of the ruling party, which has resisted all attempts to have it break away and has decided to fight from the inside.

This week, Tangatanga forces helped Narok Senator Ledama Ole Kina pull off a coup within his ODM party in the elections to the powerful County Public Accounts and Investments Committee.

While the committee's effectiveness has not been proven, it enjoys powers to summon and question governors about county expenditure, which raises the profile of its chairmen.

ODM realised too late that Ole Kina had the support of the Deputy President's men and sought to remove him from the committee altogether, a process that could turn messy and give Raila Odinga a headache to handle.

In Parliament, a new political problem could be brewing for the President in the form of criticism from his newest allies, the ODM stalwarts who over the past two years have been his greatest supporters.

There was criticism of the government's actions this week, with ODM chairman John Mbadi and secretary Junet Mohammed talking about some of the actions taken by the administration.

Their criticism caught the attention of the press, with the leading dailies, the Daily Nation and The Standard, taking a similar view of the activity from the ODM.

This seeming restiveness is politically significant because the administration requires the support of the elected representatives on two main fronts – the measures to limit the spread of the coronavirus and the tax-collection changes via the Finance Bill.

The Finance Bill is the most important piece of legislation at this point in the legislative calendar and failing to get MPs on its side could cost the administration in many ways.

While the President can veto any undesirable changes to the Bill, the negative sentiment from heavy criticism of the ideas would not bode well, especially now that the country is in the middle of a slowing down of the economy.

MOODY'S RATE KENYA B2 NEGATIVE

Moody's Investors Service, often referred to as Moody's, is the bond credit rating business of Moody's Corporation, based in New York, representing the company's traditional line of business and its historical name. Moody's Investors Service provides international financial research on bonds issued by commercial and government entities. Moody's, along with Standard & Poor's and Fitch Group, is considered one of the Big Three credit rating agencies.

The company ranks the creditworthiness of borrowers using a standardized ratings scale which measures expected investor loss in the event of default. Moody's Investors Service rates debt securities in several bond market segments. These include government, municipal and corporate bonds; managed investments such as money market funds and fixed-income funds; financial institutions including banks and non-bank finance companies; and asset classes in structured finance. In Moody's Investors Service's ratings system, securities are assigned a rating from Aaa to C, with Aaa being the highest quality and C the lowest quality.

New rating

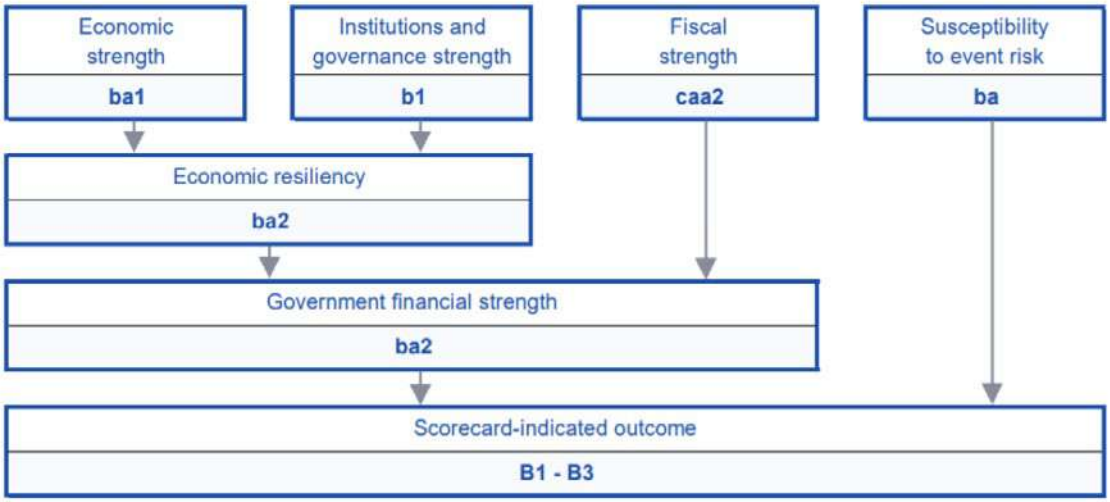
Moody's Investors Service changed Kenya's outlook rating from stable to negative to reflect rising financing risks posed by large financing needs at a time of a severe tightening of financial conditions due to the coronavirus pandemic. According to the report that was released on 7th May 2020, Kenya is at the start of a more difficult external amortization schedule while having a large stock of domestic debt that needs to be rolled over on annual basis. This coincides with a deteriorating fiscal outlook. The shock to growth and larger fiscal deficits induced by the coronavirus outbreak will increase the our already high debt and interest burdens.

According to Moody's:

- Kenya's credit profile is constrained by an elevated government debt burden and subdued revenue while fiscal policy effectiveness and credibility are weak despite high fiscal transparency.
- Kenya's diversified economy, strong growth prospects and a mature financial sector are key mitigating factors.
- persistent tightening of funding conditions as a result of the coronavirus threatens to weaken debt affordability and increase liquidity risk

Assessing Kenya's credit profile

Kenya's credit profile is determined by four factors



Source: Moody's Investors Service

The overall score of B2 means Kenya's credit profile is currently judged to have speculative elements and a significant credit risk. Our key Credit strengths include a diversified economy, with multiple sources of growth supporting resilience to shocks and a deep and mature financial sector. While our key Credit challenges include low wealth levels as well as weak government finances and large financing requirements.

Rating outlook

The negative outlook reflects the rising financing risks posed by Kenya's large gross borrowing requirements, which include amortization of external bilateral debt and the need to refinance a large stock of short-term domestic debt, at a time when the fiscal outlook is deteriorating due to the erosion of the revenue base and a debt structure that exposes Kenya's fiscal metrics to exchange rate and interest rate shocks.

While Kenya does not face acute financing pressures, the severe tightening of financial conditions will challenge the government's ability to meet larger gross financing needs without an increase in borrowing costs that would threaten medium-term fiscal consolidation efforts.

Key Indicators

Kenya	2014	2015E	2016E	2017E	2018E	2019E	2020F	2021F
Real GDP (% change)	5.4	5.7	5.9	4.8	6.3	5.4	1.0	5.5
Inflation (CPI, % change, Dec/Dec)	6.0	8.0	6.3	4.5	5.7	6.2	5.5	5.3
Gen. gov. financial balance/GDP (%)[1]	-5.9	-8.6	-7.8	-8.9	-7.0	-7.7	-8.6	-9.3
Gen. gov. primary balance/GDP (%)[1]	-3.2	-5.7	-4.5	-5.4	-3.2	-3.6	-4.2	-4.6
Gen. gov. debt/GDP (%)[2]	46.7	48.5	53.9	57.5	59.1	62.4	65.9	71.0
Gen. gov. debt/revenues (%)[2]	236.7	249.1	281.7	301.1	325.1	338.0	372.4	415.7
Gen. gov. interest payment/revenues (%)[1]	13.5	15.1	16.8	18.5	20.9	21.9	25.0	27.4
Current account balance/GDP (%)	-10.4	-6.9	-5.8	-7.2	-5.8	-5.8	-5.7	-5.8
External debt/CA receipts (%)[3]	109.3	139.2	163.1	177.7	187.4	211.9	296.3	311.8
External vulnerability indicator (EVI) [4][5]	51.8	30.9	43.0	37.7	57.3	72.7	71.3	99.0

[1] Central government; Fiscal years ending June 30, e.g. 2019 refers to fiscal year 2018/19
[2] Public and public-guaranteed debt. Fiscal years ending June 30, e.g. 2019 refers to fiscal year 2018/19
[3] Current Account Receipts
[4] (Short-Term External Debt + Currently Maturing Long-Term External Debt + Total Nonresident Deposits Over One Year)/Official Foreign Exchange Reserves
[5] Excludes total nonresident deposits over one year

Source: Moody's Investors Service

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Factors that could lead to upgraded rating

According to Moody's an upgrade in kenya's rating is unlikely in the foreseeable future given the negative outlook. The outlook would however change to stable if Moody's were to conclude that the government was likely to maintain sufficiently broad funding options to meet its larger funding needs without a significant increase in borrowing costs.

The effective implementation of structural fiscal reforms to narrow the fiscal deficit, which would stabilize and eventually reduce the debt burden, improve debt affordability, and reduce liquidity risks would support Kenya's current rating level.

Factors that could lead to a downgraded rating

As per the report, Moody's is likely to downgrade the rating if they conclude that the ongoing deterioration in Kenya's debt burden and debt affordability was likely to exacerbate liquidity risks, raising questions over the government's ability to refinance maturing debt.

While not Moody's current expectation, indications that the government was likely to participate in debt relief initiatives which Moody's concluded were likely to entail losses for private sector creditors would be negative for the rating.

In general, an increasing likelihood that Kenya may delay payments on debt owed to private sector creditors could be negative for the rating.

Recent developments

Kenya's economy to slow sharply in 2020, but will recover in 2021

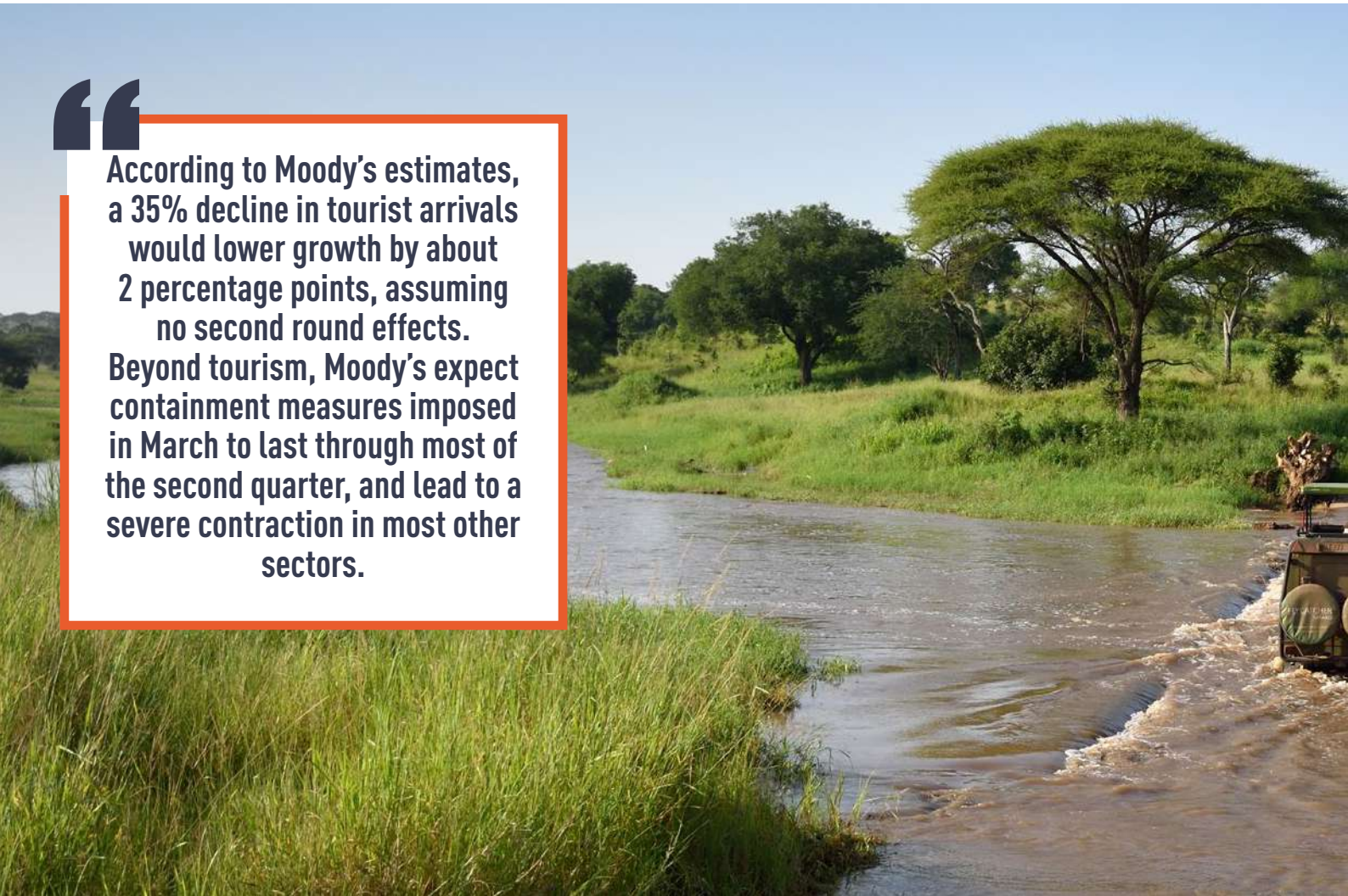
According to the Kenya National Bureau of Statistics, real GDP decelerated to 5.4% in 2019 from 6.3% in 2018. This year Moody's expects a slowdown to 1% in 2020, well below the five-year average of 5.7% due to the combined impact of the coronavirus outbreak and containment measures, which will weigh on domestic demand for the duration of the lock down. This will weigh on almost all sectors of Kenya's economy. Downside risks to the Moody forecasts remain significant given the uncertainty around the depth and length of the coronavirus pandemic.

One of the sectors that will be most affected is the tourism industry. Travel restrictions globally, and the closure of Kenya's own land and sea borders will result in almost no tourist arrivals in the second quarter of 2020. The direct and total contribution of tourism to real GDP is 4% and 10%, respectively. Moody's expects the tourism sector to remain depressed for the entire year, projecting a decline in tourist arrivals between 30-40%.

According to Moody's estimates, a 35% decline in tourist arrivals would lower growth by about 2 percentage points, assuming no second round effects. Beyond tourism, Moody's expect containment measures imposed in March to last through most of the second quarter, and lead to a severe contraction in most other sectors.

Services account for over 40% of GDP, and Moody's expects most sectors to slow significantly: real estate, construction, wholesale and retail trade, and transportation and storage are among the services sectors likely to contract or slow sharply.

Agriculture, which represented 24% of real GDP in 2018, should prove more resilient and support growth of around 1% in 2020. Although lower value added than services and manufacturing, agriculture has averaged 5% growth over the past five years, contributing 1.1 percentage points to growth on average. Some agriculture sectors, like tea production and flower sales will be affected by weaker global demand, but the more domestically-focused sectors, producing basic staples, should enjoy solid growth in 2020.



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Agriculture may even benefit from import substitution for any imported food products. The desert locust invasion could threaten Kenya's agriculture production, which would result in growth turning negative for the year.

The combined effect of containment measures, fiscal stimulus measures and slower growth will weigh on Kenya's fiscal position

On 14 April, parliament approved legislation to lower the rate of Kenya's value added tax (VAT) as part of a fiscal stimulus package to mitigate the impact of the coronavirus outbreak and lockdown measures on the economy. The package, which will also include cash transfers to vulnerable groups and cuts to the corporate and personal tax rates, will support domestic demand and offset some of the slowdown in growth that we expect in 2020. That said the focus on tax cuts rather than spending means the fiscal impact will be felt over time, and will be harder to reverse compared to one-off expenditure measures. The combined cost of these tax measures will be around 1.6% to 1.8% of GDP in lost revenue, only part of which will be offset by the elimination of certain tax exemption and tax waivers.

As a result, Moody's expects the fiscal deficit to widen to more than 8% of GDP over the next two years. Combined with a weaker exchange rate, Moody's expect the government debt burden to increase slightly above 70% of GDP.

Moody's forecast for the government debt burden to stabilize at around 70% of GDP beginning in 2022 rests on a 1.7% of GDP fiscal adjustment that brings the primary deficit in line with the debt-stabilizing primary balance. This assumes a combination of tax increases, or other measures to broaden the tax base, such as the removal of further tax exemptions, and an adjustment to spending.

The large share of development spending, which averaged 7.1% of GDP over the past five years provides some flexibility on the spending side. That said the government's commitment to the president's Big Four policy agenda and the need to invest in infrastructure will prevent a swift reduction in development spending.

Meanwhile, enacting significant spending cuts in the lead up to 2022 presidential elections will prove challenging, limiting scope for reversing the rise in government debt.

Industry trade group proposes deferral of interest payments

The Actuarial Society of Kenya has proposed that pension funds defer interest payments due on their holdings of government debt, for up to two years, in order to provide the government with additional resources to finance increased spending related to the coronavirus.

Even though the proposal comes from an industry trade group, rather than the government, it highlights the liquidity and funding stress as a result of the coronavirus outbreak.

Kenya is also eligible for debt relief under the G20 initiative designed to suspend debt-service payments owed to bilateral creditors. The full scope of these various initiatives remain unknown, as does the government's decision to participate in them.

While Moody's currently expects Kenya to meet all of its debt service commitments to private sector creditors, any debt relief initiative that requires participation of private sector creditors could carry negative implications for the country's rating.

MORE TAXATION REFORMS IN THIS COVID SEASON: FINANCE BILL, 2020 BRIEF

The Finance Bill, 2020 was tabled at the National Assembly on 06th May 2020. Its purpose is to enact proposals announced in the Budget 2020/2021 relating to liability for and collection of taxes. This is the first budget cycle of its kind, following an amendment to the Public Finance Management Act in 2019. The amendment altered the national budget making process cycle where the Finance Bill only introduced to the House in June after the reading of the national budget by CS National Treasury. The new budgeting cycle has various ramifications most importantly:

- the government can no longer collect taxes before passing the relevant law(s) for such taxation; and
- the government will be able to match revenue collection against expenditure for the year under budget. This is expected to prevent/ mitigate against deficits which adversely impact on Government project implementation.

Notably, the Bill builds on the Tax Laws (Amendment) Act, 2020 (TLAA) which was assented to approximately 10 days ago. In this regard, it was expected that the Bill would by and large mirror the changes and spirit encapsulated in the TLAA to the extent that it would cushion citizens and the private sector from the effects of COVID-19 while at the same time putting measures in place to re-ignite the economy.

The Bill seeks to amend the following laws:

- Income Tax Act
- Value Added Tax Act
- Retirement Benefits Act
- Miscellaneous Fees and Levies Act
- Kenya Revenue Act
- Tax Appeals Tribunal Act
- Among others.

We highlight specific amendments linked to the availability of funds in the economy and the impact on the day to day lives of ordinary citizens.

Possible relief for landlords

There is a proposal to increase the upper cap for residential income subject to the 10% tax rate from KES 10million to KES 15million. This builds on the TLAA which had provided for changes in tax rates for many taxpayers but did not provide any form of tax relief for landlords. If passed, this amendment would provide lower tax rates to landlords with an income between KES10 million and KES 15 million per annum.

Proposal to tax Home Ownership Savings Plans, discourage savings and encourage debt

The Bill proposes to introduce a tax to the income of Home Ownership Savings Plans (HOSPs). Specifically, the Bill proposes to delete Section 22C on Pay As You Earn (PAYE) which allows tax deduction of HOSP contributions up to a limit of KES 96,000 per year while exempting interest income earned by a depositor on such deposits up to a maximum of KES 3,000,000. This means that the income available to purchase a home will reduce significantly. If adopted, it will also discourage home ownership savings, forcing potential home

owners to shift to loans which are still eligible for mortgage relief.

Interestingly, this had been proposed in the TLAA but was later rejected by the National Assembly on the basis that it went against the Government's plan of making home ownership affordable.

Proposal to tax NSSF income, Pension, overtime and bonuses exposing both the young and elderly

Another case in point where a previously rejected proposal has been re-introduced is the proposal to tax NSSF income which will invariably reduce the retirement benefits of potential beneficiaries. Annexed to the same but not previously provided for in the TLAA is the taxation on monthly pension for persons aged 65 and above which has been exempt vide the Finance Act of 2007; as well as proposals to tax income from employment paid to employees in form of bonuses, overtime and retirement benefits which were previously exempt vide Finance Act of 2016. This will lead to a reduction of funds available to the elderly who cannot re-enter employment to earn an income amidst the prevailing harsh economic times. Should these amendments pass, it would be expected that this will increase the level of inter-generational dependency, reducing spending power and disposable income among the younger generation.

This would adversely impact businesses and industries that do not necessarily provide basic goods and services but are essential to the growth of the overall economy due to the impact the reforms will have on their business and operations. A case in point is alcoholic beverage industry.

Proposals touching on the alcoholic beverage industry

As though anticipated, the Bill has provided for a change in the excise duty coverage for alcoholic beverages as follows:

- Beer, Cider, Perry, Mead, Opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages of alcoholic strength not exceeding 8% (previously this was 10%)
- Spirits of undenatured ethyl alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 8% (previously this was 10%).

The proposal as currently read reduces the beers which are subject to excise duty while increasing the spirits subject to excise duty. Given that the excise duty on spirits is higher, the changes will increase the excise duty collections.

Moreover, per a report by the Institute of Economic Affairs (2019) dubbed **The Unintended Effect of Kenya's Alcohol Regulation Policies** it was clearly demonstrated that:

- the increases in excise duty has only led to raising the price of the product consequently reducing the overall quantity of alcohol consumed and
- the consumption of alcohol is relatively inelastic, which means consumption does not necessarily change much as the price changes.

The reason consumption of alcohol does not change as price or income shifts is that individuals simply change the mixture of alcohol consumed rather than scaling up or down the total alcohol consumed, which in this case would be a shift in illicit alcohol consumption.

Proposals to introduce a digital tax

Last year the Finance Act introduced the concept of a taxing income accrued from the 'digital market place'. And while it is still not clear what the term 'digital market place' refers to, this year, the Finance Bill seeks to amend the Income Tax Act by introducing a digital service tax.

The Bill seeks to introduce the below section to the Income Tax Act:

> *12E. (1) Notwithstanding any other provision of this Act,* ***a tax to be known as digital service tax shall be payable by a person whose income from services is derived from or accrues in Kenya through a digital market place:***
>
> *Provided that a resident person or non-resident person with a permanent establishment in Kenya shall offset the digital service tax paid against the tax payable for that year of income.*
>
> *(2) The tax payable under subsection (1) shall be due at the time of the transfer of the payment for the service to the service provider.*

The rate of tax in respect of digital service tax under section 12E is proposed at one point five per cent (1.5%)of the gross transaction value. The fact that this proposed digital tax would be offset against a company's payable annual income tax coupled with the proposed tax rate of 1.5% makes

this akin to the introduction of a turn over tax for businesses making income from the digital market place. There are several issues with this proposal, the most significant being:

- **The lack of a proper definition or consensus on what exactly digital market place means.** Industry and KRA are yet to agree. As the law stands, it is a bit hard for businesses to tell which of their products should be subject to 'digital market place' tax requirements. This is an issue inherent in the diverse nature of e-commerce, with some transactions happening completely online and others partly online and partly offline. At this point it is not clear if for example purchase of airtime off the Safaricom App or Airtel App or Telkom App being an online transaction would be subject to the 1.5% proposal.
- **Potential problems with claiming refunds.** The tax rate of 1.5% of gross value of transactions is likely to be higher than income tax payable by business particularly businesses who mainly operate off online sales/ sale of online products or technology software. This would also greatly affect the profitability of middle businesses- businesses that make profit from selling products from other businesses online (like middle men) i.e businesses that derive profit from marketing goods and getting purchasers online and not really from production of goods or sale of e-products.
- **Potential to create cash flow issues for businesses.** This would result from having to remit 1.5% of gross transaction value before deducting expenses or business costs. Most of the SMEs and personal businesses operated online, run on thin margins. This would create the same issues complained about by the informal sector in relation to the turn over tax in the sector.

Should this amendment sail through, Big tech firms and most multinationals would have to remit 1.5% of the value of the transaction that they do in Kenya to the Kenya Revenue Authority as the tax applies to non-resident persons as well. This is likely to affect cash flow and pricing of products and services.

This proposal needs to be examined in depth and the definition of digital market place needs to be clarified.

As firms and individuals begin to share views with the National Assembly via the public participation process, it will be crucial to keep in mind the fact that Government will be hard pressed to offer further concessions and incentives previously not encapsulated in the TLAA with mounting concerns over budgetary expectations and operations continuity post-COVID-19 juxtaposed against a significant decline in ordinary revenues. This is evidenced by the re-introduction of provisions rejected in the Tax Laws (Amendment) Bill, 2020 by the National Assembly. As part of the process, one must remain vigilant to ensure that the gains made in the recently enacted TLAA are not lost or watered down by the new legislative proposal.

As Government seeks to increase taxation avenues, they also need to think through the implications of all new tax measures on business and the hurdles increased taxation will create to economic recovery during and post this COVID pandemic.

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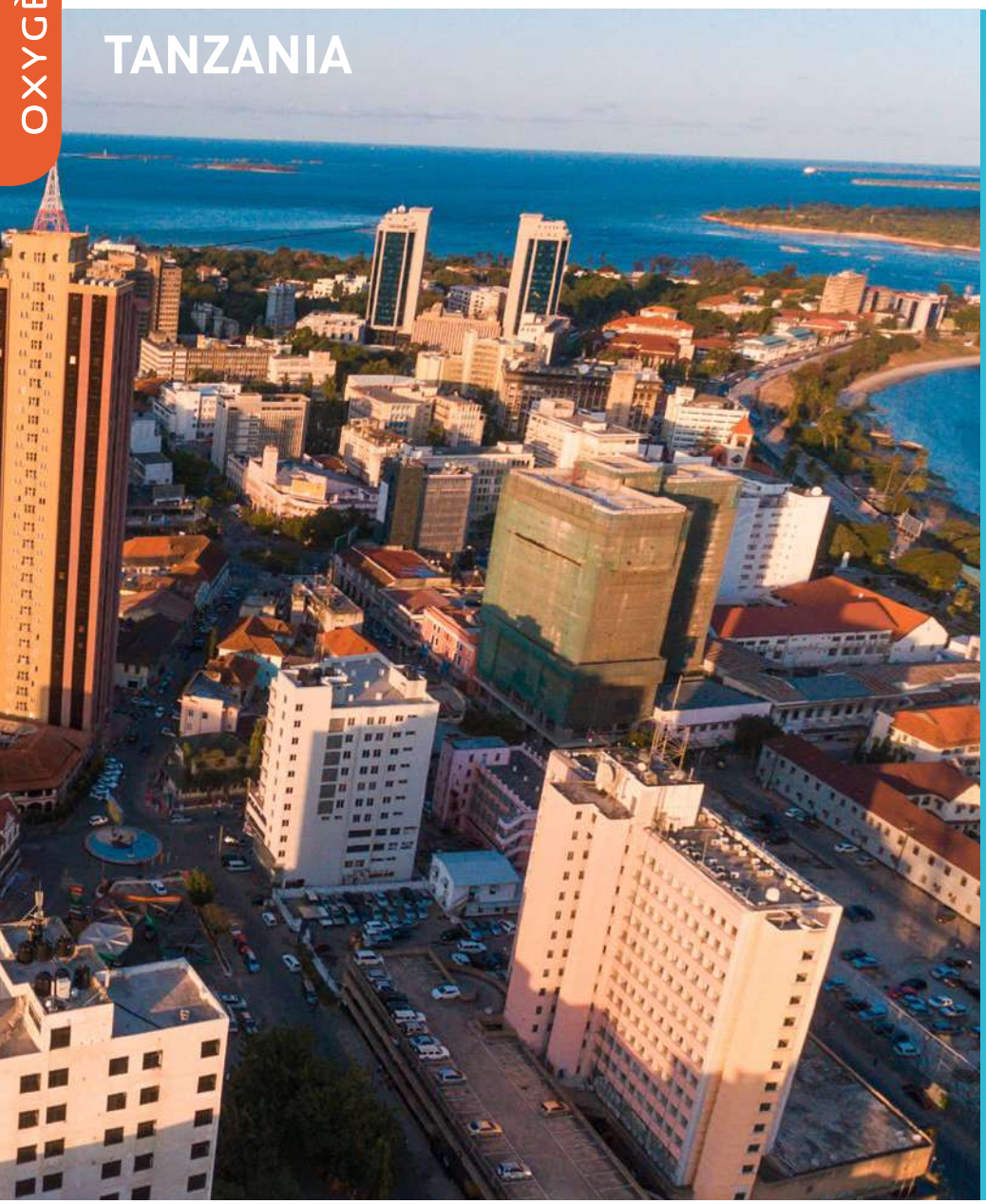
KENYA

- The Capital Markets Authority is proposing to completely transform transactions in shares and bonds into electronic or e-mobile platforms where clients use phones for registration, trading and receiving cash. This is intended to cope with situations like the current Covid-19 pandemic where many people are confined at home and have difficulty carrying out stock market transactions without meeting brokers or investment advisers.
- Pension schemes' appetite for riskier investments reduced to 22 percent in the first quarter from 39 percent reported in the previous quarter owing to the Covid-19 pandemic. The 2020 first quarter Zamara Consulting Actuaries Schemes Survey report shows schemes took the cash flight to avert loss of value by reducing stakes in listed companies.
- The Treasury has offered up to 100 percent interest and penalties waiver on taxes that have not been paid in five years in a move to encourage firms and individuals to voluntarily declare accumulated bills.
- The Transport ministry has dismissed a petition by Kenya Airways seeking to overturn a government deal allowing Ethiopian Airlines to operate passenger planes grounded by coronavirus for shipment of cargo from the Jomo Kenyatta International Airport in Nairobi to Europe and Asia.
- Kenya's private sector activity plunged in March to its lowest level since November 2017 as the global coronavirus pandemic hit consumer demand and forced businesses to shed jobs and cut back on their operations.
- The government's decision to restrict movement in and out of Nairobi's Eastleigh is set to deny businesses access to an area that serves as a key commercial hub. The blockade by the Ministry of Health is expected to further dent the operations of small and medium size enterprises already suffering from the broken supply chain owing to the Covid-19 pandemic, and the isolation of Nairobi. Eastleigh is home to dozens of busy shopping malls, hotels and restaurants. Goods sold in the shopping malls include imports from China and Dubai.
- Kenya Government ratified UN the Protocol to eliminate illicit trade in Tobacco Products amidst calls for Government to impose a ban on cigarette smoking as a measure to mitigate possible spread of COVID19

RWANDA

- Rwanda is the country most committed to the African Continental Free Trade Area agreement, a new report, dubbed, The AfCFTA Year Zero Report, has said. The report shows which countries are the most committed to the AfCFTA process, and which ones have the best implementation readiness in terms of trade-infrastructure, customs efficiency and access to credit.
- After the successful dissemination of cashless-in-public-transport-payment systems in Kigali city, the country is going to roll out the system countrywide, Rwanda Utilities Regulatory Authority has said. Rwanda has since 2015 adopted a cashless transport payment system commonly known as 'Tap&Go' in the city of Kigali where a commuter uses a smartcard system to pay bus fares.
- Rwandan youth have only two days to apply for a grant funding between USD 20,000 and USD 40,000 for solutions that will help the community recover from the coronavirus pandemic which has affected all sectors of life. The Ministry of ICT and Innovation and entrepreneurship development organizations have availed a Corona Action Rwanda funding that will be offered to individuals or organization entrepreneurial initiatives with concrete solutions that can mitigate the socio-economic impact of Covid-19.
- As countries begin to reopen after months of the coronavirus lockdown, Rwanda is pressing on with its May coffee harvest. Rwanda, which supplied 21,000 tonnes of coffee to the global market in 2019, is about the world's 30th top coffee supplier.

TANZANIA



- A new UNCTAD assessment reports that Tanzania is well-positioned to integrate into the global digital economy, thanks to its growing economy and a rapidly developing innovation ecosystem. The assessment of the country's readiness to engage in e-commerce has revealed its potential to become a leading contender in online trade in east Africa, especially on mobile finance and digital payment fronts.
- Tanzanian agri-tech company East Africa Fruits has closed a Series A funding round worth USD 3.1 million as it aims to build essential supply chain infrastructure and better transport fresh produce directly from farms to urban marketplaces. Founded by social entrepreneur Elia Timotheo in 2013, East Africa Fruits addresses food distribution challenges to improve efficiencies in the farm-to-market sector via a B2B e-commerce platform.
- The retail and wholesale prices for the petroleum products, imported through Dar es Salaam port, for May have dropped compared to prices in April 202, thanks to the fall in the world market prices according to Energy and Water Utilities Regulatory Authority.
- Market capitalisation at the Dar es Salaam Stock Exchange rallied during the first day of trading this week as investors announced dividend proposals and a further easing of lockdowns in some countries.

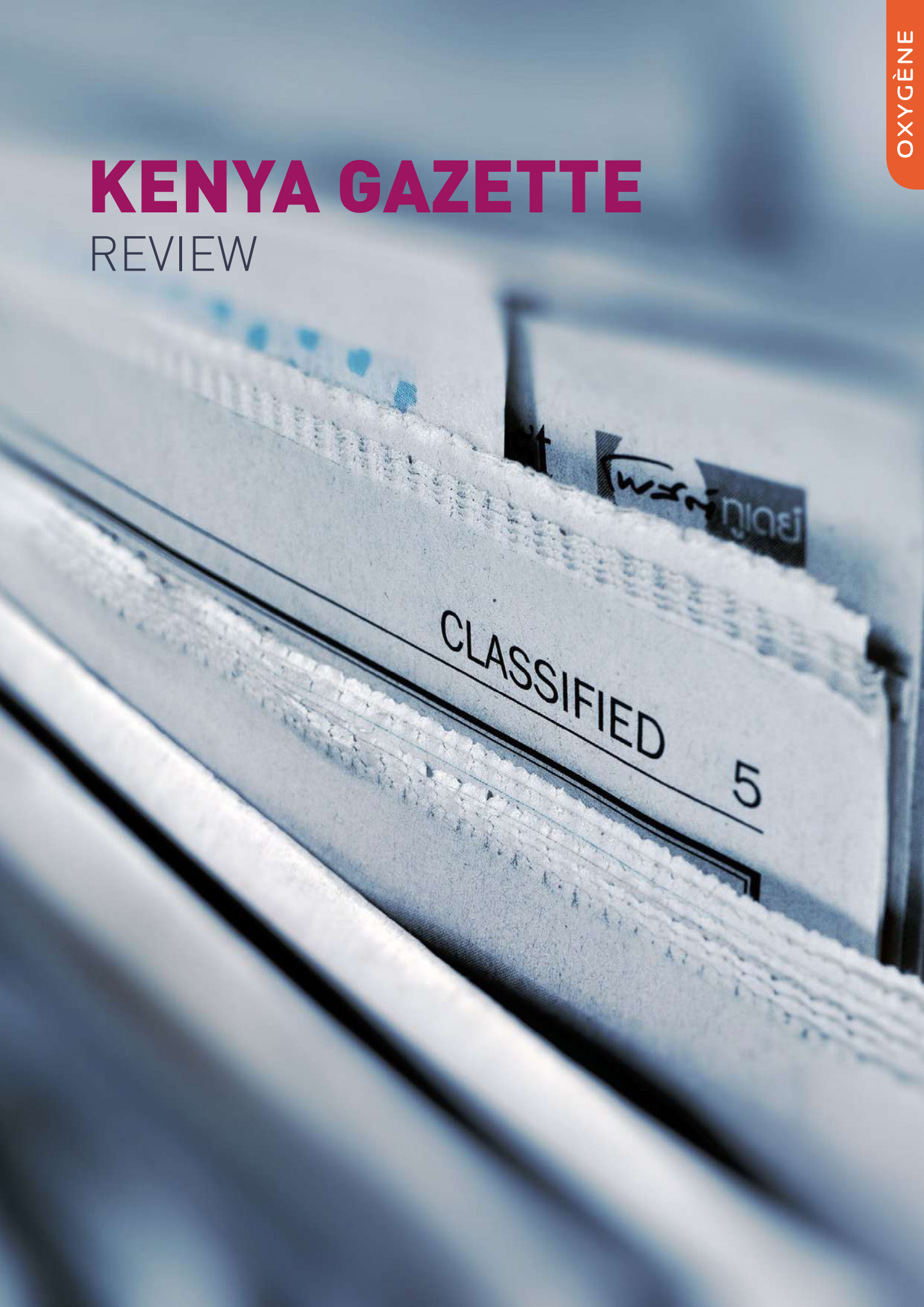
UGANDA

- Vegetables and certain roots and tubers last year cost Uganda close to USD 18 million in imports, according to details from a Ministry of Finance report. According to a Ministry of Finance report for the period ended December 2019, the country imported edible vegetables which are also locally produced such as potatoes, fresh chilled, tomatoes, fresh or chilled, onions, shallots, garlic, leeks and cabbages.
- CIPLA investors have reason for optimism after a rough ride over the past two years. The planned commencement of manufacturing new lines of medicine and new export markets are expected to shore up the company's financial streams. CIPLA which has had difficulties in its share price at Uganda Securities Exchange, is expected to incur a loss for the year ending 31 March 2020, due to delayed collection from the Zambian Government.

ETHIOPIA

Ethiopian Airlines Group is prepared to come to the rescue of stricken carriers around Africa, even as the continent's biggest airline deals with its own mounting losses and grounded planes due to the Covid-19 pandemic.

KENYA GAZETTE
REVIEW



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Legislative Supplements, 2020

- The Public Health (COVID-19 Restriction of Movement of Persons and Related Measures) (Mandera County) Order (Amendment) Rules, 2020
- The Kenya Defence Forces (South Africa Visiting Forces) Order, 2020
- The Standards (Verification of Conformity to Standards and other Applicable Regulations) Order, 2020
- The Plant Protection (Fees and Charges) (Amendment) Rules, 2020
- The Public Health (Fees) (Amendment) Rules 2020
- The Kenya Citizenship and Immigration (Amendment) Regulations, 2020
- The Sacco Societies (Non-Deposit-Taking Business) Regulations, 2020

National Assembly Bills, 2020

- The Finance Bill, 2020

PUBLIC SECTOR

Appointments

- President Uhuru Kenyatta has appointed George Opondo Ooko to be the Chairperson of the Kenyatta National Hospital Board.
- President Uhuru Kenyatta has appointed Jane Mumbi Ngige to be the Chairperson of the Warehouse Receipt System Council.
- The Cabinet Secretary for Public Service and Gender has appointed members of the Constituency Uwezo Fund Management Committee for Kimilili Constituency.
- The Cabinet Secretary for Lands and Physical Planning has extended the term of the Taskforce on Formulation of Related Regulations to Facilitate Electronic Registration, Conveyancing and Other Land Transactions in Line with Existing Land Laws, for a period of 6 weeks.
- The Cabinet Secretary for Devolution and Arid and Semi-Arid Lands has established the institutional structures to facilitate the implementation of National Government programmes and projects in counties.
- The Cabinet Secretary for Agriculture, Livestock, Fisheries and Co-operatives has appointed Board Members of the Kenya Plant Health Inspectorate Service (KEPHIS).
- The Cabinet Secretary for Defence and Chairperson of the Defence Council has gazetted the discontinuation of the deployment of the Kenya Defence Forces in West Pokot, Laikipia, Samburu, Turkana, Baringo, Marsabit and Turkana Counties.

TRADE AND MANUFACTURING SECTOR

- The Director-General of the Kenya Fisheries Service has gazetted the following Schedules:
- On reducing incidental bycatch of seabirds in longline fisheries
- Resolution 17/07 on the Prohibition to Use Large-Scale Driftnets in the Indian Ocean Tuna Commission Area
- Resolution 16/08 on the Prohibition of the Use of Aircrafts and Unmanned Aerial Vehicles as Fishing Aids
- Resolution 18/05 on Management Measures for the Conservation of the Billfishes: Striped Marlin, Black Marlin, Blue Marlin and Indo-Pacific Sailfish

- Resolution 17/05 on the Conservation of Sharks Caught in Association with Fisheries Managed by Indian Ocean Tuna Commission
- Resolution 19/04 concerning the Indian Ocean Tuna Commission Record of Vessels Authorised to Operate in the Indian Ocean Tuna Commission area of competence
- Resolution 12/09 on the Conservation of Thresher Sharks (Family Alopiidae) caught in association with fisheries in the IOTC area of competence
- Resolution 19/07 on Vessel Chartering in the Indian Ocean Tuna Commission area of competence
- Resolution 19/03 on the Conservation of Mobulid Rays Caught in Association with Fisheries in the Indian Ocean Tuna Commission area of competence
- Resolution 12/04 on the Conservation of Marine Turtles
- Resolution 16/07 on the Use of Artificial Lights to attract fish

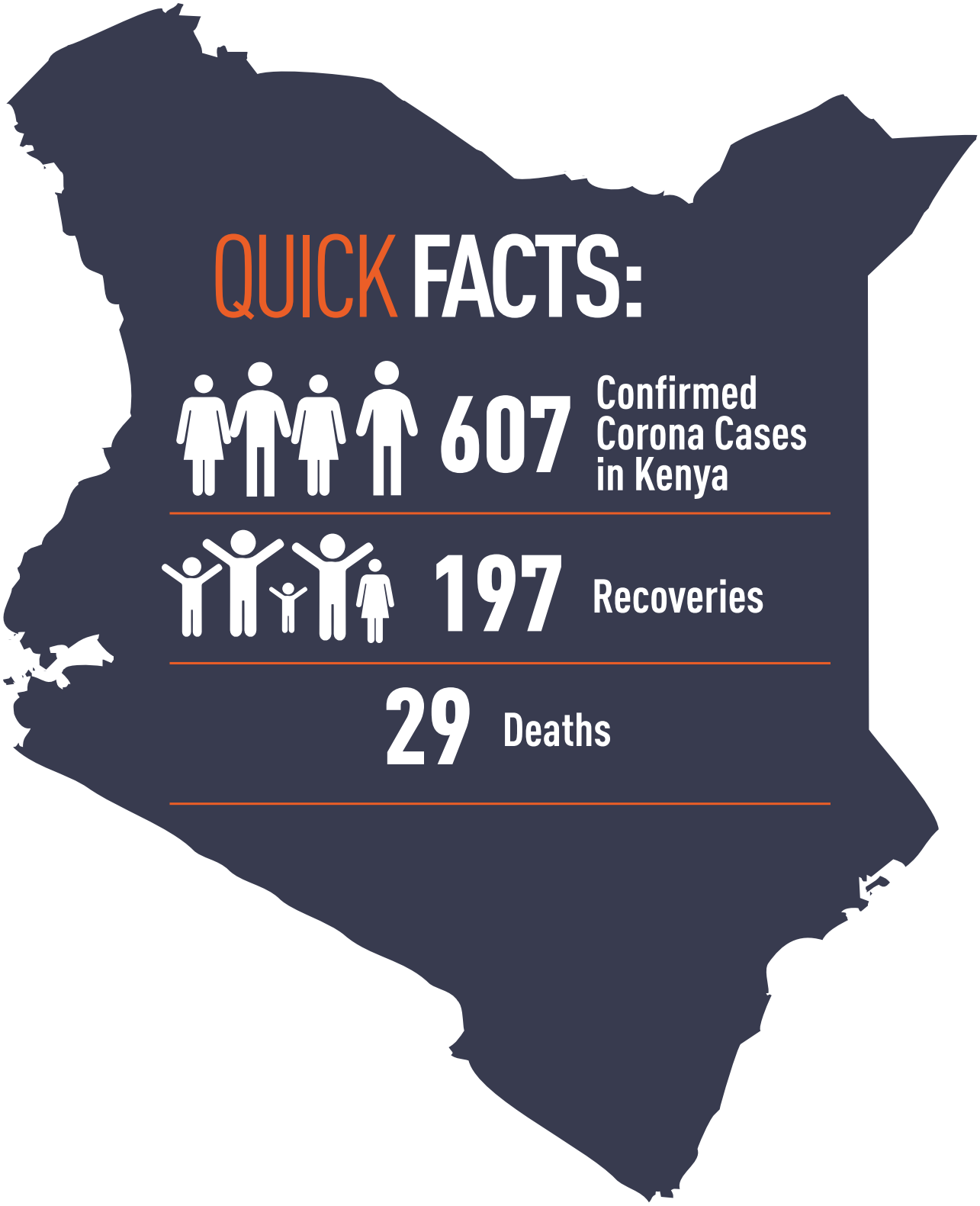
Insolvecy

- The Registrar of Companies has gazetted companies that will be struck off the Companies Register in 3 months.
- The Registrar of Companies has gazetted companies that have been struck off the Companies Register.
- The Ag. Commissioner for Co-operative Development has extended Hesbon Mbuthia Kiura's time as the liquidator of Dagoretti Nyakinyua Savings and Credit Co-operative Society Limited.
- The Ag. Commissioner for Co-operative Development has ordered an inquiry on the affairs of Tuungane Tujijenge Sacco Society Limited.

Completion of Local Physical and Land Use Development Plan

- Plan No. THAI38312017/04—Existing Site for Mutonga Primary, Proposed KMFRI and P.C.EA Church, Tharaka South.

KEEPING YOUR FINGER ON THE PULSE
CURRENT STATISTICS



PARLIAMENTARY ROUND UP

WHAT'S GOING ON C.S MAGOHA & OTHER QUESTIONS FROM PARLIAMENT

On 7th May 2020, the National Assembly Departmental Committee for Education had a meeting with CS Prof Magoha and the PS Ministry of Education(MoE). The Committee had summoned the Ministry to answer several questions including:

- What is currently going on with regard to education of students in Kenya?
- Why Government has rolled out e-learning yet the Ministry announced that children are on holiday?
- Questions surrounding the exclusion and discriminatory effect of the e-learning program considering a majority of students especially in rural Kenya do not have access to electricity, internet connectivity, and infrastructure required to benefit from Governments digital learning platforms among other queries?

In the meeting, the CS agreed with parliament that the electricity, the required infrastructure and internet connectivity is not available to all learners and though this is unfortunate, Government has no plan to stop e-learning and will continue providing digital content to those who can access and consume it. Moreover, several private schools are also continuing with education online and the Government cannot stop them. From MoE perspective, the class is half full not half empty and even though admittedly unfair to the disadvantaged, vulnerable and rural communities not able to access content, Government will provide remedial education programs and tuition to students once schools resume to help them catch up. MoE expects that once school resumes (whenever that will be) students will pick up from where they were before the pandemic break out.

In a bid to mitigate the negative effect of COVID on education in the country, MoE has been leveraging on infrastructure rolled out by KPLC recently in last mile grid connections as well as last mile internet connectivity projects spearheaded by MoICT.

Part of MoE efforts to continue education for students in Public Schools include education radio programs and roll out of digital revision material. Moving forward, the Ministry is bent towards extending more support to candidates who are still expected to sit for their exams this year COVID pandemic notwithstanding.

The Kenya education cloud (hosted at www.kec.ac.ke) in particular has proved useful for students scheduled to sit their national exams as it hosts interactive lessons, on demand radio programs and education e-books for students plus training materials for teachers. The uploading of digital content on the platform by the Kenya Institute of Curriculum Development (KICD) and external practitioners is ongoing and continuous. Access is free to all during the COVID 19 pandemic period.

As far as MoE is concerned, online and e-learning is adding value to students. This

is as per the results of a survey conducted by Quality Assurance and Standards Officers (on behalf of the Ministry) that considered the level of awareness of online programs, the quality of teaching offered by electronic media as well as the quality of supervision by teachers among other factors.

Despite CS Magoha's view that the class is half full not half empty, it was stated during the Committee Sitting that less than 10% of Kenyan students are currently benefiting from Government's e-learning programs as 90% of Kenyan children in rural Kenya do not have access to electricity, FMs stations, TVs, laptops, computers or smart phones. Parliament had asked Governemnt to consider rolling our education intitatives during this COVID season via zoning of different Kenyan areas in order to ensure all social classes benefit from digital learning efforts leaving no student behind. CS Magoha was however clear on the fact that Government does not support zoning the Country as suggested especially due to the fact that even Nairobi cannot be categorized as an elite zone because of slums. The PS for education urged the House to be patient with the Ministry and to support Government's current learning initiatives. The digital and online learning programs by Government are though not perfect are necessary coping mechanism for continuation of education during this season.

With the help of KICD, MoE is widening the scope of the reach of the Government e-learning program. The Ministry is currently using 35 community radio stations reaching various parts of the country including Lodwar, Kitale and Marakwet. The Government has a number of e-learning partners and they are still taking on new partners. Any corporates interested in assisting Government roll out e-learning are encouraged to reach out to the Ministry of Education and the National Committee on CoVID19.

The Ministry of Education will continue to engage with COVID19 taskforce and 5 COVID related Committees within Government to ensure observance of public health standards in the delivery of education as well as in the administration of national exams scheduled to take place later this year.

The Ministry urged Parliament to support it via making provision for allocation of funds to support social distancing measures when schools resume, provision of water and soap and other sanitation requirements as well as budget to meet fumigations costs of learning institutions that have been used as quarantine centers. The Ministry confirmed that the Government is using a total of 460 schools, colleges and Train Colleges as quarantine centers of which 331 are boarding schools. MoE will make sure fumigation is done before schooling sessions resume. Budgetary allocations are particularly important as a significant amount of the Education budget was redirected to COVID19 fund. Budgetary allocations would help the Ministry engage counsellors to help provide mental health care services to students as well as enable the Ministry to hire more teacher interns to increase the teacher to student ratios across the country.

Despite CS Magoha's view that the class is half full not half empty, it was stated during the Committee Sitting that less than 10% of Kenyan students are currently benefiting from Government's e-learning programs as 90% of Kenyan children in rural Kenya do not have access to electricity, FMs stations, TVs, laptops, computers or smart phones.

NATIONAL ASSEMBLY ROUND UP

Papers laid

- The Public Procurement and Asset Disposal Regulations, 2020

Questions & Statements

- Question regarding disparities in payment of bonuses to Tea farmers in Runyenjes County
- Question on tax evasion and repackaging of alcoholic beverages by Hon Francis Kajwang'
- Question regarding the lapsing of exemption of inspection of drugs being imported into the country. Lapsed on 15th April 2020
- • Question on disparities in disbursement of funds to the elderly and persons living with disabilities.

Bills

First Reading

- Finance Bill 2020

Second Reading

- Public Finance Management Amendment Bill

Committee Of The Whole House

- The Public Finance Management (Amendment) Bill (National Assembly Bill No. 2 of 2020)
- The Equalisation Fund Bill (National Assembly Bill No. 43 of 2019)
- The Tea Bill (Senate Bill No. 36 of 2018)

MOTIONS

APPROVAL OF MEDIATED VERSION OF THE COUNTY GOVERNMENT AMENDMENT BILL

Questions were raised regarding the validity of the mediated Bill due to voting procedures adopted in the Senate.

CONSIDERATION OF CERTAIN BUSINESS RECEIVED DURING THE MAY/JUNE 2020 RECESS

Notwithstanding the provisions of Standing Orders relating to conveying of Messages from the Senate and from the President or the National Executive and Standing Orders relating to Publication, Procedure upon Publication and First Reading of Bills, this House orders that, during the period of the Long Recess of the First Part of the Session (May/June 2020):

- upon receipt of any Message from the Senate, or upon receipt of any name of a person nominated for appointment to a state or public office from the President or any other office in the National Executive, the Speaker shall refer such Message to the relevant Committee for consideration, without having to recall the House;
- should a Bill be published during the period, or a published Bill becomes due for First Reading during the period, the Speaker shall, upon

lapse of seven days following the publication of the Bill, refer the Bill to the relevant Committee for consideration pursuant to the provisions of Standing Order 127 (Committal of Bills to Committees and public participation) and, upon resumption of the House, the Bill to be read a First Time and the Second Reading may be taken at the same seating, or on such other day as the House Business Committee may determine;

- should the Speaker receive a Message relating to the Senate's Amendments to a Bill originating in the National Assembly, the Speaker shall refer the Schedule of the Senate Amendments to the relevant Committee for consideration pursuant to the provisions of Standing Orders, and, upon resumption of the House, report such fact to the House; and,
- should the Speaker receive a Message from the Senate in respect of any Special Bill concerning County Governments, or a Division of Revenue (Amendment) Bill, the Speaker shall refer such Bill and the accompanying Message to the relevant Committee for consideration pursuant to the provisions of Standing Orders and, upon resumption of the House, cause the Bill to be read a First Time and the Second Reading may be taken at the same seating , or on such other day as the House Business Committee may determine.

AMENDMENTS TO THE STANDING ORDERS TO FACILITATE VIRTUAL SITTINGS OF THE HOUSE

The House adopted Amendments to the Standing Orders to Facilitate Virtual Sittings of the House and its Committees, by amending end its Standing Orders. Amendments will take effect on Monday, 18th May, 2020.

OTHER MEASURES TO ADDRESS THE EFFECTS OF THE COVID-19 PANDEMIC

Parliament resolved:

- that, the Government considers waiving charges payable by persons who are under mandatory quarantine, excluding those isolated due to violation of social distancing and curfew requirements;
- that, the Government of Kenya should urgently engage multilateral and bilateral lenders with a view to renegotiate loan obligations, with emphasis on waivers of interest and extensions on the repayment period, as well asking for total waivers on some of the loans so as to free up money to enable the Government to contain the spread of the pandemic, cushion Kenyans against its social and economic effects, and address economic impact of the pandemic;
- that, to supplement the Covid-19 Fund and other measures put in place, the Budget & Appropriation Committee reviews the proposed Annual Estimates for the FY 2020/2021 with a view to allocating funds towards cushioning the country further from the short-term and long-term effects of Covid-19, particularly allocating and ring-fencing funds for –

(i) the provision of personal protective equipment (PPE), testing and medical equipment, including adequate ventilators; and

(ii) the establishment of suitable health facilities for the treatment and management of infectious and viral diseases such the Covid-19;

ESTABLISHMENT OF AN AD-HOC COMMITTEE ON COVID-19 PREVENTION, RESPONSE AND MANAGEMENT

The House established the above committee with Membership as follows

- The Hon. M. D. Ngunjiri Wambugu, M.P.
- The Hon. (Dr.) Amos Kimunya, EGH, M.P.
- The Hon. (Dr.) Makali Mulu, M.P.
- The Hon. Yusuf Hassan, M.P.
- The Hon. Alice Wahome, M.P.
- The Hon. Florence Mutua, M.P.
- The Hon. Peris Tobiko, M.P.
- The Hon. Peter Kaluma, M.P.
- The Hon. Mishi Khamisi, M.P.
- The Hon. Beatrice Nyaga, M.P.
- The Hon. Janet Ongera, M.P.
- The Hon. (Dr.) Otiende Amollo, M.P.
- The Hon. Gathoni Wamuchomba, M.P.
- The Hon. Godfrey Osotsi, M.P.
- The Hon. Didmus Barasa, M.P.
- The Hon. Joshua Kandie, M.P.
- The Hon. (Dr.) Daniel Kamuren Tuitoek, M.P.
- The Hon. Patrick Munene, M.P.
- The Hon. Anthony Oluoch, M.P.
- The Hon. John Kiarie, M.P.
- The Hon. Abdi Omar Shurie, M.P.
- The Hon. Major (Rtd) Bashir Abdullaih, M.P.
- The Hon. Teddy Mwambire, M.P.

AMENDMENTS TO THE HOUSE STANDING ORDERS

The Standing orders were amended to

The House adopted Amendments to the Standing Orders to Facilitate Virtual Sittings of the House and its Committees, by amending end its Standing Orders. Amendments will take effect on Monday, 18th May, 2020.

cater for House sittings in "exceptional circumstance". This covers sittings during an event or occurrence as may be lawfully declared in accordance with any written law which precludes the National Assembly from conducting a physical sitting and includes the declaration of an epidemic, pandemic, extreme natural phenomena, pestilence or an act of terrorism.

The Speaker shall invoke the amendments to permit the House and its Committees to conduct sittings either—

- physically and virtually, where the House is partly precluded from conducting a physical sitting by an exceptional circumstance; or
- virtually, where the House is wholly precluded from conducting a physical sitting by an exceptional circumstance.

If invoked, the Speaker is expected to Prescribe guidelines with Support of the House Business Committee governing—

- the conduct of the proceedings;
- the manner of voting, manner of conducting a division and the ascertainment of a vote in the proceedings;
- the conduct of Members during the proceedings;
- access to the proceedings by members of public and media;
- public participation and involvement;
- etiquette; and
- such other matter as may be relevant to the conduct of the proceedings.
- The guidelines prescribed shall cease to apply upon revocation by the Speaker or the cessation of the exceptional circumstance, whichever is earlier.
- During the pendency of an exceptional circumstance—
- the House may, by resolution, vary its ordinary sittings to such a number as the circumstance permits;
- the House Business Committee shall determine and prioritize essential business to be considered by the House; and
- The Speaker may—

a) designate a place outside the chamber but within the precincts of Parliament from where Members may participate in the proceedings;

b) prescribe the number of Members who may participate in the proceedings from the chamber or any designated place outside the chamber;

c) permit a Member or any other person required to file, deliver or table any document under the Standing Orders or any written law to file or submit the document electronically for tabling;

d) where the House is wholly precluded from conducting a physical sitting, deem a document submitted, including a document submitted electronically, to have been tabled, subject to its admissibility; and

e) preclude public access to the House and committees pursuant to Standing Order 252(1).

The Speaker may, taking into account the provisions of Article 126(1) of the Constitution, prescribe an appropriate information and communications technology platform for the conduct of the virtual proceedings. The platform prescribed under paragraph (1) shall—

- incorporate video and audio or text;
- allow the participation of Members in the proceedings in real-time and the broadcast of the proceedings;
- facilitate the proceedings to be recorded and transcribed under Standing Order 248; and,
- where the House is wholly precluded from conducting a physical sitting, incorporate a system that allows Members to vote.

The voting system incorporated for virtually conducted proceedings shall be simple, accurate, verifiable, secure, accountable, transparent and facilitate the prompt declaration of the result of each vote taken. The Clerk is required to facilitate the participation of Members in virtual proceedings through the use of standard electronic devices specifically configured for the proceedings.

NOTIFICATION OF RECESS (MAY 07, 2020 – JUNE01, 2020)

The House is on recess, regular sittings will resume on Tuesday, June 02, 2020 at 2:30 p.m

SENATE ROUND UP

Message

- The Livestock and Livestock Products Marketing Board Bill
- The Livestock and Livestock Products Marketing Board Bill (National Assembly Bill No.2 of 2019) was refer the said Bill to the Senate for consideration from the National Assembly

Papers

- The Public Procurement and Asset Disposal Regulations, 2020.
- The Fourth Progress Report of the AdHocCommittee on Covid-19 situation in Kenya.
- Report on the Standing Committee on Finance and Budget on Consideration of the County Allocation of Revenue Bill Senate Bills No. 7 of 2020.
- Report of the Standing Committee on Agriculture, Livestock and Fisheries on the Fisheries Management and Development (Amendment) Bill (Senate Bills No. 22 of 2019).

Notice of Motions

Alteration of the hours of meeting of the Senate

- The Senate resolved to hold additional Sittings every Tuesday morning, starting from 10.00 a.m and ending at 12.30 pm, commencing from Tuesday, 12th May, 2020 until Tuesday, 2nd June, 2020.
- Report Regarding the Implementation Status of the Resolution on county Governments' Infrastructure Projects

Bills

First Reading

- The Parliamentary Powers and Privileges (Amendment) Bill (Senate Bills No.4 of 2020)

Second Reading

- The Fisheries Management and Development(Amendment) Bill
- The Independent Electoral and Boundaries Commission (Amendment) (No. 3) Bill
- The County Allocation of Revenue Bill

COUNTY ROUNDUP

DEATH BY COVID, DEATH BY HUNGER, DEATH BY GOVERNMENT: A CASE OF MISPLACED PRIORITIES...

This week began with public outrage in many quarters over the demolition of houses belonging to residents of Kariobangi Sewage Estate on Monday. The residents woke up to the sound of bulldozers demolishing their houses. The demolition was conducted by the Nairobi City Water and Sewerage Company and left more than 5,000 families homeless at the worst possible time in view of the COVID pandemic, Nairobi Lock-down, the 7pm to 5am curfew and the often heavy rains.

The water firm said it was reclaiming land which allegedly belongs to them and had been encroached on by Kariobangi residents. Many Kenyans are enraged by the exercise as it is deemed cruel and inhumane action on the part of Government as well as an affront to human dignity.

Today morning, many *mama mbogas* made their daily 4am journey to Korokocho market or Koch as it is called for a new round of fresh vegetable supplies, only to find tractors. No tomatoes or onions or carrots just tractors, demolishing the market with no forewarning. The market is being demolished on grounds that it is located on riparian land.

All this is happening amidst rising discontent and threats to reverse the transfer of functions from Nairobi County Government to National Government. The credibility of National Government and the Nairobi Metropolitan Authority(NaMATA) has been questioned throughout this week due to the above decision. The lack of humanitarian intervention by the Executive is raising questions about the quality of leadership and Governance in this Nation. Even Parliament condemns the displacement of Kenyans in this season as this issue dominated debate in the Senate on Tuesday with subsequent discussions in the National Assembly, all of Kenya is watching.

It was stated that the Kariobangi Sewage evictions are meant to clear the land to set up sewage disposal for an ambitious forthcoming Ultra-Modern City project. But in the words of Hon Moses Kuria "for crying out loud it's not that the Ultra-Modern City project is being built tomorrow." A good number of Kenyans and Parliamentarians are not amenable to such evictions and displacements being conducted in this season.

The demolitions by Government are uncalled for and insensitive to the current state of affairs in the county of Nairobi. The demolitions paint a picture of a Government exposing and condemning citizens to death. These issues were raised in Parliament. Many words were said in Senate as parliamentarians responded to a request for a statement tabled by Hon Sakaja and the hours of discussions can be summarized as: The Government is exposing its citizens to death. Death by COVID, death by Hunger... death by Government.

We are in the middle of a pandemic. Social distancing and staying home are the new rules of life. Demolishing homes of vulnerable and lower income households takes away the ability of the affected citizens to abide by Government guidelines to curb the spread of COVID 19. The affected families are unable to social distance, unable to stay home or even adhere to curfew orders.

Demolition of the Koch market exposes families living on food and proceeds from that market to hunger. It also destabilizes the Nairobi food supply chain, robs small traders of income generating opportunities and affects availability of food, a problem not needed in this already hard economic times.

Death caused by spending state resources on ill-timed evictions as opposed to preserving and protecting vulnerable, needy and lower income populations is in many ways death by Government.

We need to reverse this tide. National Government and NaMATA need to get their house in order and:

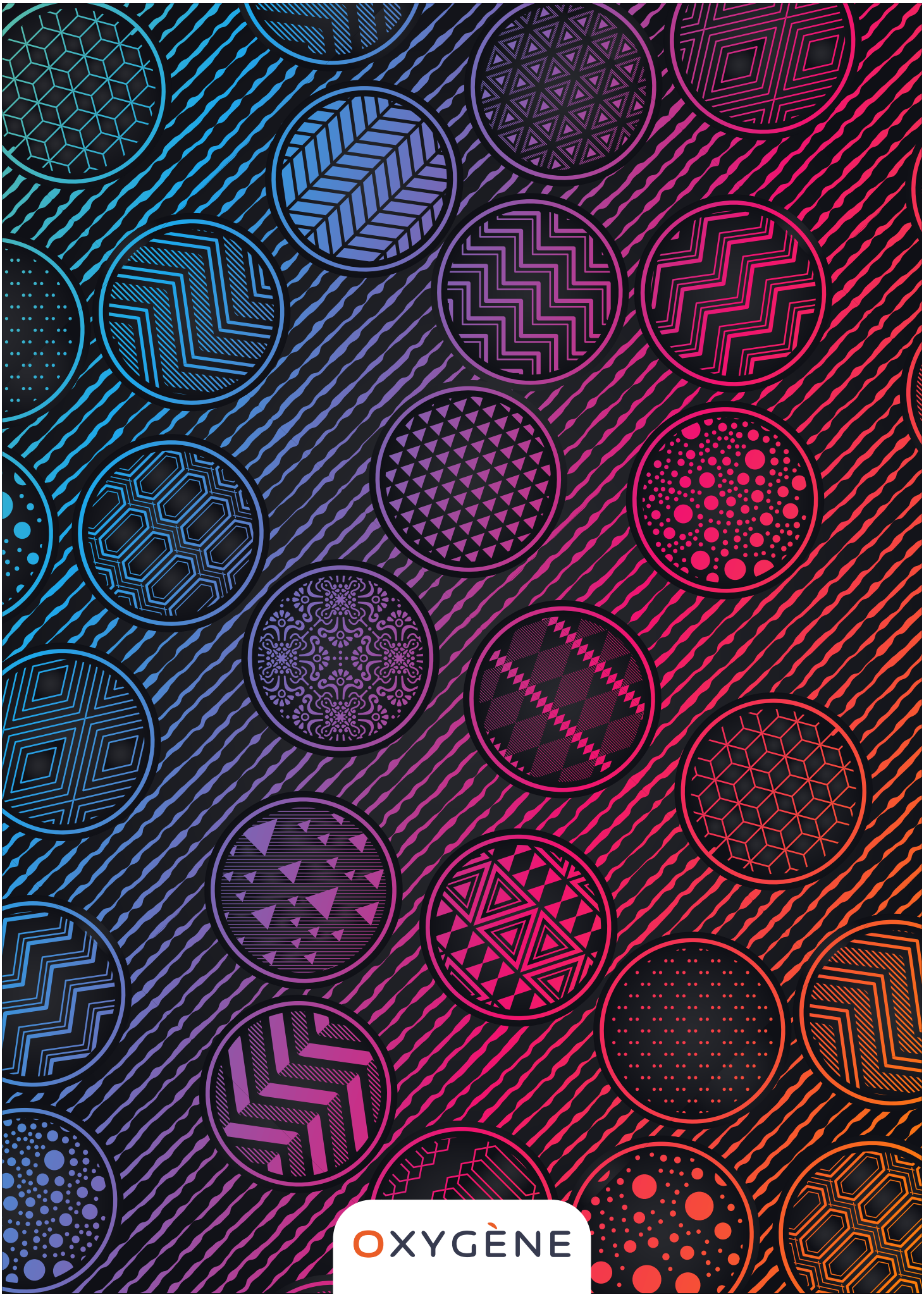
- Stop evictions and demolitions during the pandemic period;
- Provide food and shelter for the people affected by these demolitions; and
- Allocate land for Koch market to protect the livelihoods of citizens' dependent on the Koch food supply chain.

Parliament should supervise mitigation action by Government and allocate funds if needed.

Death caused by spending state resources on ill-timed evictions as opposed to preserving and protecting vulnerable, needy and lower income populations is in many ways death by Government.

We need to reverse this tide.

MANDERA	• The Governor has appointed Members of the Mandera Municipality Board. • The Governor has appointed the Chair and members of the Mandera County Pending Bills Committee.
KISII	The Governor has appointed members of Kisii County Budget and Economic Forum.
KITUI	The County Assembly of Kitui shall have special sittings on Tuesday, 12th May, 2020 at 9.30 a.m. and 2.30 p.m. and Wednesday, 13th May, 2020 at 9.30 a.m. and 2.30 p.m. at the County Assembly Chambers, County Assembly Buildings, in Kitui Town.
LAIKIPIA	The County Assembly at the Assembly Chambers, at Nanyuki Town on Tuesday, 12th May, 2020 at 10110 a.m. and 2.30 p.m.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