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BUILDING BACK FOR RECOVERY: PERSPECTIVES ON HEALTH EQUITY, DIGITAL TRADE AND ADMINISTRATION OF JUSTICE

POLICY *Monitor*

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To provide quality public policy advice to the Government of Kenya by conducting objective research and analysis and through capacity building in order to contribute to the achievement of national development goals

Contents

Editorial

Welcome to the KIPPRA Policy Monitor, the April-June 2021 edition. The theme of this issue is *"Building Back for Recovery: Perspectives on Health Equity, Digital Trade and Administration of Justice"*. The edition focuses on three articles: Prioritizing health equity in building back better during the COVID-19 pandemic; Closing the digital divide in trade to build economic resilience during COVID-19 and beyond; and Administration of justice in the face of COVID-19: Trends and lessons.

Further, the Policy Monitor provides key highlights on recent economic developments and various activities and events undertaken by the Institute during the fourth quarter. Among the key activities highlighted include the Kenyan Think Tanks Symposium whose objective was to deliberate on the thinks tanks' role in supporting recovery from COVID-19; the signing of a Memorandum of Understanding between KIPPRA and the National Land Commission on mutual areas of collaboration; and the 4th KIPPRA Annual Regional Conference.

Finally, the Policy Monitor provides key highlights of policy news and legislative developments, and upcoming events.

On behalf of the KIPPRA family, we hope you will be greatly informed as you read this fourth edition.


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Recent Economic Developments

By James Ochieng, Daniel Omanyo and Jacob Nato

This article analyses the country's recent economic developments with a focus on four key areas: the growth of economic activities, monetary and financial policy, fiscal developments and the external sector.

Growth of Economic Activities

The growth of the economy in the third quarter of 2020 was adversely affected by the COVID-19 pandemic. The growth rate recorded was a negative 1.1 per cent. Therefore, for 2021/22, the budget statement estimated growth for the year at 0.6 per cent. The contraction for the third quarter was, however, lower than the second quarter's, which was at negative 5.5 per cent, signifying some recovery from the pandemic. However, Kenya has done well in containing and avoiding large infections of COVID-19. As a result, increase in economic activities is expected due to the resilient recovery of some sectors and the resumption of academic activities in all learning institutions. Sectors such as agriculture, construction, exports, manufacturing, and education supported the recovery of economic performance in the country. According to the Central Bank of Kenya (CBK) January 2021 Monetary Policy Committee Private Sector Market Perceptions Survey, the reopening of stalled business operation coupled with the economic stimulus programme support were highlighted as some of the reasons people have a positive outlook of the economy in the fourth quarter. The resumption of economic activities is expected to lead to increased re-engagement of employees. In terms of business conditions for private sector perceptions about the economy, the Purchasing Manager's Index (PMI) for Kenya, published by Stanbic Bank, showed an improvement in business conditions given that the PMI for June was 51, which is above the recommended score of 50. However, the score was relatively lower than the May score of 52.5.

The hospitality and accommodation sector witnessed an enhancement of economic activity as 97 per cent of hotels participating in the CBK's survey of hotels and flower farms reported to be in operation. Average bed occupancy also improved to 27 per cent in March 2021, from 26 per cent in February 2021, and 24 per cent in January 2021. The bed occupancy rates were higher in Mombasa at 35 per cent. Furthermore, the average hotel forward bookings for April, May and June were 16.0 per cent, 10.7 per cent and 9.5 per cent, respectively. Participating flower farms have fully resumed business operation, and flower exports were close to pre-COVID-19 levels. The agricultural sector continued to enjoy good weather conditions, and as a result reported positive growth rates in quarter three. There are positive prospects for the economy mainly due to the return of business confidence and the resumption of international travel.

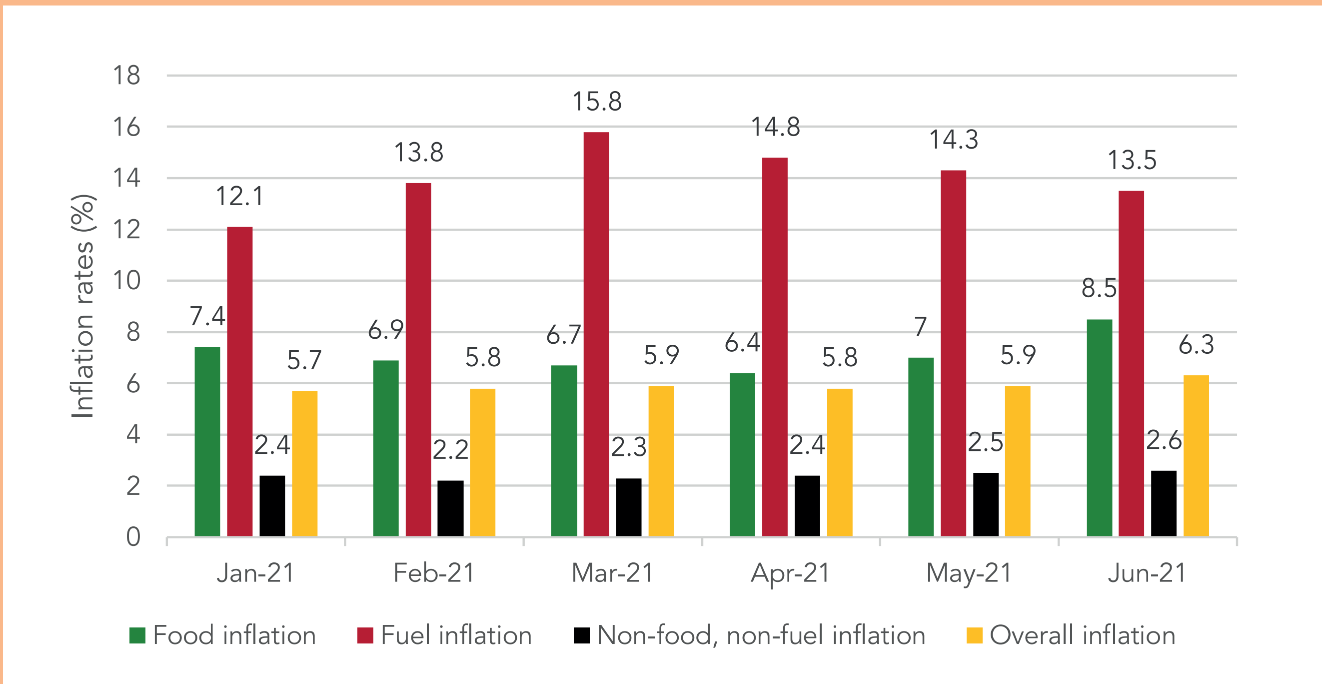
The volume of horticulture exports excelled as it grew by 27.7 per cent in 2020. Data from the Central Bank of Kenya shows that horticultural exports rose from Ksh 30.3 billion to Ksh 39.4 billion between March 2020 and March 2021, representing a 30 per cent growth. The growth in horticultural exports can be attributed to resumption of demand in international markets and the availability of adequate cargo space. Tourism also improved, with the total number of visitors arriving through Jomo Kenyatta International Airport (JKIA) and Moi International Airport (MIA) increasing from 31,875 persons in November 2020 to 47,406 persons in December 2020. According to the International Tourism Performance Report, tourist arrivals in Kenya reached 305,635 persons between January and June 2021, of which 96,003 were females and 209,632 were males. Of these, 218,992 arrivals were through JKIA and 16,054 through MIA.

Disruptions in economic activities caused by COVID-19 pandemic have continued to keep unemployment relatively high. The Kenya National Bureau of Statistics (KNBS) Quarterly Labour Force Survey shows that there was a 5.2 per cent rise in unemployment in 2020. The demographic analysis shows that individuals aged between 20 and 29 years continued to suffer the heaviest losses in employment, accounting for approximately 23.9 per cent of unemployed persons. The rate of unemployment doubled from 5.2 per cent in the first quarter to 10.4 per cent in the second quarter of 2021. There is, however, a ray of hope as data from Stanbic's PMI for June 2021 showed that there has been a marginal rise in employment as backlogs creep up.

The overall inflation rate for June 2021 was 6.32 per cent, as measured by the Consumer Price Index (CPI), up from the 5.8 per cent average that was recorded during the period January to March 2021. The average inflation rate for January to March 2020 was 6.0 per cent, and 5.2 per cent in October-December 2020. The inflation during the January-June 2021 maintained an increasing trend as shown in Figure 1, largely driven by rise in food and fuel inflation owing to increasing demands (food items and travels across the country) after the festive season. Even though food inflation declined from 7.4 per cent in January 2021 to 6.9 in February and further to 6.7 per cent in March, it averaged a decrease of 7.0 per cent down from 7.2 per cent in December 2020 and 6.1 per cent in November 2020. The overall rise in food inflation between December and January was attributed to the net effect of an increase in prices of several food items, which outweighed decreases in the prices of others. This was largely explained by the high demand experienced in December and January due to festivities and normalization of business operations. Among the most notable movers in key food items included cooking oil salad with 10.4 per cent increase in price between December 2020 and January 2021, and 3.9 per cent between January and February 2021 and cabbages that increased by 3.4 per cent and 4.4 per cent during the same period. The rising food prices weigh on households' incomes and consumption patterns due to reduced households' incomes following the adverse effects of the COVID-19 pandemic. Going forward, it is imperative for the Government to continue implementing policy measures to improve food provision, support the agriculture sector and provide cash transfers to the poor.

Fuel inflation also continued to rise, averaging 13.9 per cent in January and March 2021 compared to an average of 4.9 per cent realized during the same months of 2020 and 11.5 per cent during the October-December quarter of 2020. The significant rise was attributed to increase in petrol and diesel prices by 7.6 and 5.7 per cent, respectively, between January and February 2021, leading to an increase in the transport index by an average of 2.33 per cent in February. The Energy

Figure 1: Inflation rates (January–June 2021)



Source of data: Monthly Economic Review 2021; CBK Metadata

and Petroleum Regulatory Authority (EPRA), which sets the fuel prices, pegged the price increase to the higher landing cost of imported fuel. Average landed cost of importing a cubic metre of super petrol, diesel and kerosene rose by 20.9, 13.6 and 14.6 per cent, respectively, between December 2020 and January 2021. The increase in fuel prices further increased the cost of living from mid-February, as it not only affected the transport sector but also the production and supply chain of goods.

Monetary and Financial Policy

An accommodative monetary policy stance adopted at the beginning of the pandemic was maintained. During the CBK's Monetary Policy Committee meeting held on 29th March 2021, the Central Bank Rate (CBR) was retained at 7.0 per cent. This is expected to support the recovery of economic activity while maintaining macroeconomic stability. The interbank rate averaged 4.70 per cent between April and June 2021, recording a slight increase from an average of 4.9 per cent between January and March 2021. This was also an increase from an average of 3.7 per cent during the October-December quarter of 2020, and a slight increase from 4.3 per cent registered during the January-March 2020 period. The increase mainly causes liquidity constraints among commercial banks, hence affecting the availability of credit to citizens. Similarly, yields on government securities have been stable, attaining an average rate of 6.96 per cent in the January-March 2021 quarter for the 91-day Treasury bill. This reflects an increase of 3 percentage points compared to an average of 6.7 per cent attained during the October-December 2020 quarter.

The banking sector remained stable and resilient with strong liquidity and capital adequacy ratios. Growth in private sector credit averaged 9.7 per cent during the January-March 2021 quarter compared to an average of 8.07 per cent in the October-December 2020 period, representing an increase in growth of 1.63 per cent. Private sector credit stood at Ksh 2,864 billion in April 2021, down from Ksh 2,865.2 billion in March 2021. Therefore, annual growth rate in private sector credit declined from 7.7 per cent in March 2021 to 6.7 per cent in April 2021. Strong credit growth was observed in manufacturing (15.8%), transport and communications (19.0%), agriculture (13.4%), real estate (8.8%) and consumer durables (20.3%). Following the easing of COVID-19 containment measures announced on 1st May and the roll-out of a vaccination programme, it is expected that there will be improved economic activity across all sectors.

The banking sector remained resilient despite the slight increase in the ratio of Non-Performing Loans (NPLs). The ratio of gross NPLs to gross loans stood at 14.5 per cent in February 2021 compared to an average of 13.8 per cent during the previous quarter (October-December 2020). The value of non-performing loans in April 2021 stood at Ksh 438.3 billion, recording an improvement from the January to March quarter where NPLs averaged Ksh 439.5 billion.

NPLs rose in sectors such as agriculture, restaurants, and hotels, personal and household, real estate, tourism, and manufacturing. This could be attributed to the adverse effects of the COVID-19 pandemic on these critical sectors.

Restructuring of loans amounting to Ksh 1.7 trillion was done on 2nd March 2021 to provide relief to borrowers. By the end of February 2021, the total restructured loans amounted to Ksh 569.3 billion, which is 19 per cent of total gross loans.

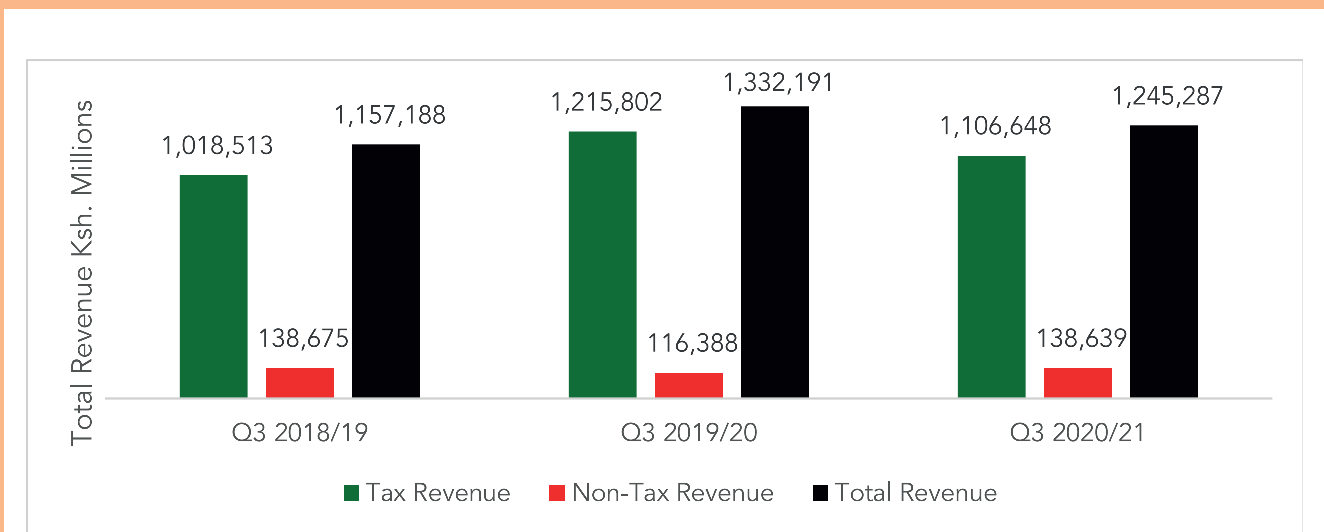
Fiscal Developments

At the closure of the third quarter of 2020/21, the cumulative amount of total revenue was Ksh 1,245,287 million compared to Ksh 1,332,191 million collected over the same period in 2019/20. This represents a 6.5 per cent decline in total revenue collection. This was occasioned by slowdown in economic activity following the outbreak of COVID-19 and the partial lockdowns that interrupted demand and supply across economic sectors.

The sharp decline in total revenue collection was mostly pronounced by the slowed performance of tax revenue, which declined from Ksh 1,215,802 million in the third quarter of 2019/20 to Ksh 1,106,648 million in the same quarter in 2020/21, representing Ksh 109,154 million or 9.0 per cent decline.

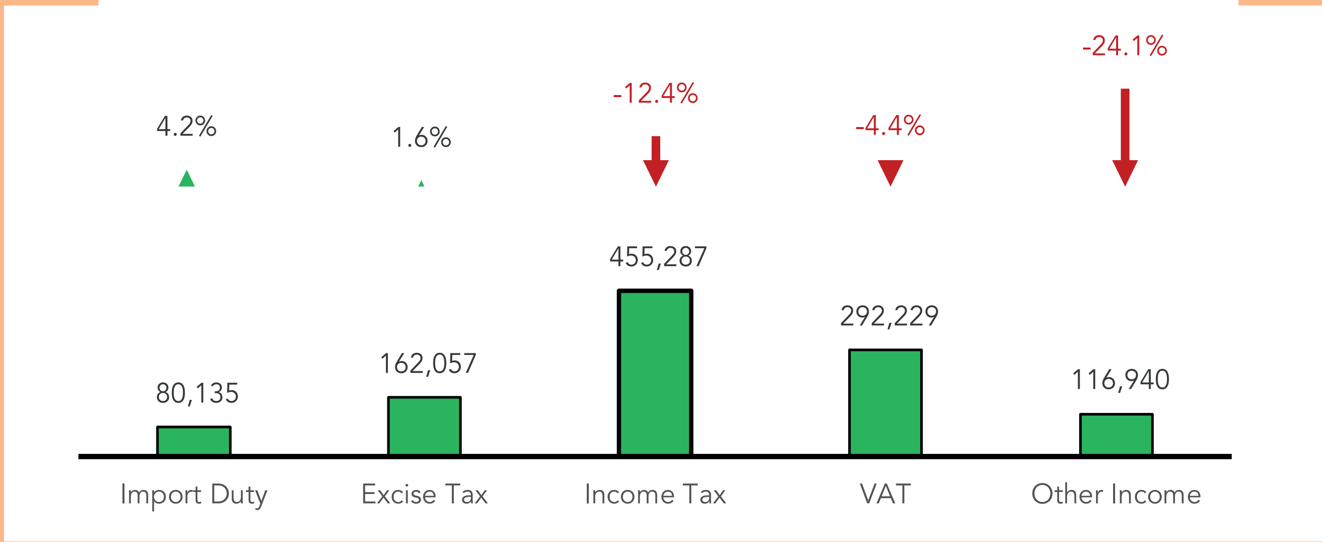
> "The overall inflation rate for June 2021 was 6.32 per cent, as measured by the consumer price index, up from the 5.8 per cent average that was recorded during the period January to March 2021."

Figure 2: Total revenue performance for third quarter of 2019/20 and 2020/21



Data Source: The National Treasury

Figure 3: Actual third quarter of 2020/21 tax revenues and variance from third quarter of 2019/20 (Ksh million)



Data Source: The National Treasury

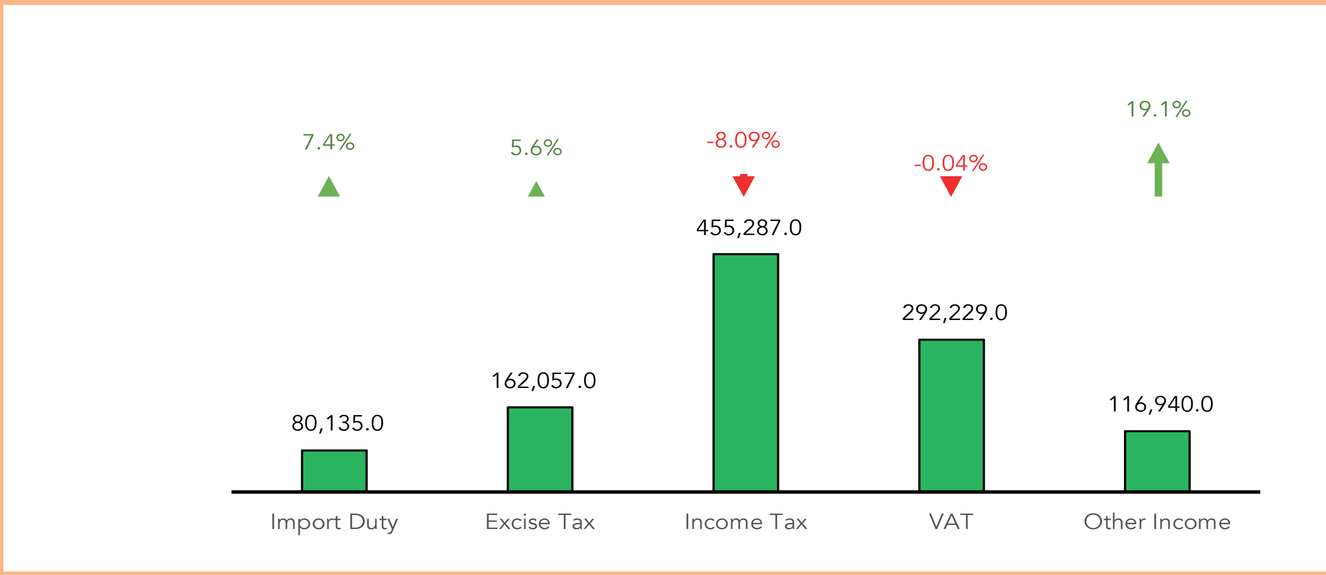
The major tax heads slowed in the third quarter of 2020/21 compared to the same period in 2019/20, save for receipts from import duty and excise duty, which registered an increase of 4.2 per cent and 1.2 per cent, respectively, as presented in Figure 3. This was on account of increased importation of manufactured and chemical goods, which make up intermediate inputs. Other income declined by 24.1 per cent due to reduced collections from rent on land/buildings, fines and forfeitures, other taxes, loan interest receipt reimbursements and other fund contributions, fees, and miscellaneous revenue owing to the difficult operating environment posed by the pandemic.

Income tax and VAT suffered a decline of 12.4 per cent and 4.4 per cent, respectively. This was on account of the fiscal measures put in place by the Government during the first three waves of COVID-19 contagion that included reduction of VAT on most goods and services from 16.0 per cent to 14.0 per cent; 100 per cent tax relief for persons earning gross monthly income of up to Ksh 24,000; reduction of resident Personal Income Tax Rate (Pay-As-You-Earn) top rate from 30.0 per cent to 25.0 per cent; reduction in corporate tax from 30.0 per cent to 25.0 per cent for residents and reduction in turnover tax from 3.0 per cent to 1.0 per cent with taxable turnover thresholds increased from an income of between Ksh 1.0 million to Ksh 50.0 million for micro, small and medium enterprises (MSMEs). These measures were, however, annulled in January 2021, but this has not resulted into substantial revenue improvement due to job losses and reduced incomes by corporations.

Notwithstanding the removal of tax measures to cushion firms and households from the negative effects of COVID-19, both income tax and VAT registered shortfalls against the target for the period (Figure 4). Income tax fell short by 8.09 per cent while VAT fell short by 0.04 per cent, representing Ksh 40,075 million and Ksh 127 million, respectively. Import duty, excise duty and other incomes surpassed their targets by 7.4 per cent, 5.6 per cent and 19.1 per cent, respectively, on account of slight opening up of the economy and slow recovery, and opening up of international boundaries due to vaccination abroad, and to some extent locally.

The total expenditure during the period under review amounted to Ksh 1,820,682 million compared to Ksh 1,644,389 million recorded in the same period during 2019/20. The resultant increased spending was mainly attributed to increased absorption recorded in expenditure by both levels of Government. Recurrent expenditure amounted to Ksh 416,341 million compared to Ksh 411,664 million in the third quarter of 2019/20 (Table 1).

Figure 4: Actual third quarter of 2020/21 tax revenue and variance from target (Ksh million)



Source: The National Treasury

The under expenditure in development category was mainly due to heightened expenditure on operations and maintenance, attributed to up-scaling of operations of the Government in combating COVID-19 pandemic. Overall, the effects of the pandemic are clear as the ensuing lockdown, job losses and slowed economic performance have resulted into revenue shortfalls, while efforts to combat the pandemic, such as through social protection transfers, have seen increased expenditure operations.

External Sector

The Kenya Shilling marginally appreciated against the US dollar between April 2021 and June 2021 but depreciated against other currencies. In June 2021, the Kenya Shilling exchanged at an average of Ksh 107.81 against the dollar compared to an average of Ksh 107.95 in April 2021, representing an appreciation rate of 0.13 per cent. However, the Kenya Shilling depreciated by 1.43 per cent and 0.83 per cent against the Sterling Pound and the Euro, respectively, in the same period; that is, the Kenya Shilling exchanged at an average of Ksh 151.45 and 130.07 against the Sterling Pound and Euro, respectively, in June 2021 from an average of Ksh 149.32 and 129.0, respectively, in April 2021.

The foreign exchange reserves remained adequate and stood at 4.7 months of import cover in April and June 2021. The stock of official reserves increased by 0.43 per cent between April 2021 and June 2021.

Table1: Recurrent and development expenditure 2019/20 and 2020/21 (Ksh millions)

	Domestic Interest	Foreign Interest	Wages & Salaries	Pensions	Other	Total Recurrent	County Transfers	Development	Total expenditure
Q3 19/20	193,339	80,050	318,063	50,727	411,664	1,053,843	205,630	384,916	1,644,389
Q3 20/21	286,106	80,183	352,075	82,672	416,341	1,217,376	209,871	369,948	1,820,682
Deviation	92,767	133	34,012	31,945	4,678	163,533	4,241	- 14,968	176,293
% total 19/20	11.8%	4.9%	19.3%	3.1%	25.0%	64.1%	12.5%	23.4%	100.0%
% total 20/21	15.7%	4.4%	19.3%	4.5%	22.9%	66.9%	11.5%	20.3%	100.0%

Data Source: The National Treasury

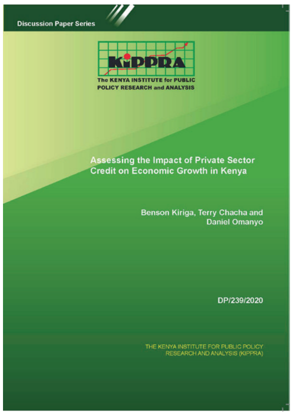
> "In June 2021, the Kenya Shilling exchanged at an average of Ksh 107.81 against the dollar compared to an average of Ksh 107.95 in April 2021, representing an appreciation rate of 0.13 per cent."

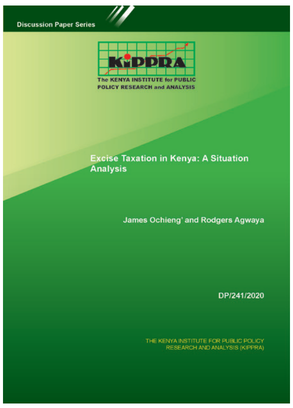
The reserves stood at US$ 7,618.0 (4.7 months of import cover) in April 2021 but increased to US$ 7,651 (4.7 months of import cover) in June 2021. The reserves are still within the statutory requirement of at least four (4) months of import cover and the East African Community's (EAC) convergence criteria of 4.5 months of import cover.

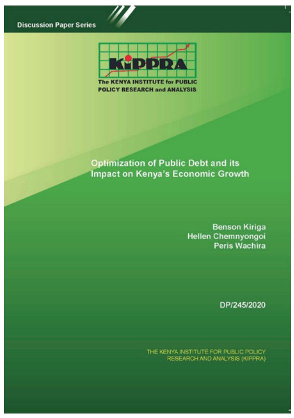
Total diaspora remittances recorded a 22.0 per cent growth year on year in the second quarter of 2021. Total diaspora remittances increased from a total US$ 754.9 million in the second quarter of 2020 to a total of US$ 921.0 million in the same quarter of 2021, representing a 22.0 per cent increase. This was mainly driven by increase in remittances from North America, which recorded a 35.9 per cent rise from US$ 412.0 million in the second quarter of 2020 to US$ 560.0 million in a similar quarter of 2021. Remittances from North America accounted for 60.8 per cent of total remittances in the second quarter of 2021. Similarly, remittances from Europe grew by 61.6 per cent from US$ 121.4 million in the second quarter of 2020 to US$ 196.2 million in the same quarter of 2021. The increase was driven by easing of various containment measures across Europe. However, during the same period, diaspora remittances from the rest of the world declined by 25.6 per cent from US$ 221.6 million in the second quarter of 2020 to US$ 164.9 million in a similar quarter in 2021.

The total value of tea and coffee significantly dropped in the month of April 2021 compared to the same period in 2020. The value of tea exports declined by 12.3 per cent from Ksh 13.2 billion in April 2020 to Ksh 11.6 billion in April 2021. Similarly, the value of coffee exports declined by 7.4 per cent from Ksh 2.6 billion in April 2020 to Ksh 2.4 billion in April 2021. The decline in the value of tea and coffee exports reflects, in part, a decline in the volume of tea and coffee by 10.4 per cent and 21.3 per cent, respectively, in the same period. However, the value of horticultural exports recorded a 40.8 per cent growth in the same period under review. This was mainly on account of increased volume of horticultural exports that grew by 52.6 per cent in the same period.

New Publications







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Prioritizing Health Equity in Building Back Better during the COVID-19 Pandemic

Miriam Mwiti, Grace Muriithi and Eldah Onsomu

Introduction

The Sustainable Development Goal (SDG) target 3.8 on Universal Health Coverage (UHC) advocates for equal access to quality health services with protection from financial risk for all. However, the COVID-19 pandemic has disrupted efforts to attain the stipulated targets across the globe. For Kenya, UHC aligns to Article 43 (1) (a) of the Constitution of Kenya, which provides that every person has the right to the highest attainable standard of health. Similarly, UHC is one of the key pillars under the "Big Four" agenda. Although achievement of equity in health and access to healthcare have been among the key policy priorities for the Government since independence, inequities exist across all levels of the health system. According to the Kenya Demographic and Household Survey (2014), inequities in access to health care services mainly arise from regional disparities, poverty levels, education levels, gender and age.

a) Access to in-patient and out-patient health services

At the county level, there are distinct disparities in terms of essential health package, health financing, health facilities and health workers that result in inequity in use of health services. One of the key indicators in health service delivery is the health facility density, which primarily is an indicator of access to outpatient services. Another one is the hospital bed density, which is used to indicate the availability of inpatient services. The national health facility density stands at 2.2 per 10,000 population, slightly above the World Health Organization (WHO) target of 2 per 10,000 (Kenya Health Master Facility List – KHMFL, 2018). However, as at 2018, 30 per cent of the counties had a health facility density below the global target. Counties below the threshold include: Bomet, Bungoma, Busia, Kakamega, Kisii, Kwale, Mandera, Nairobi, Nandi, Narok, Trans Nzoia, Uasin Gishu,Vihiga and Wajir (Figure 5).

To address the inequities in access to health in rural areas within the counties, the Government adopted the primary healthcare delivery system with community healthcare approach that targets to promote and improve equity of access and use of health services by those in hard-to-reach areas and among traditionally under-served groups. Community Health Workers (CHWs) undertake house-to-house visits and link the health facilities with the households. However, the

Figure 5: Health facility density per 10,000 population in Kenya 2018

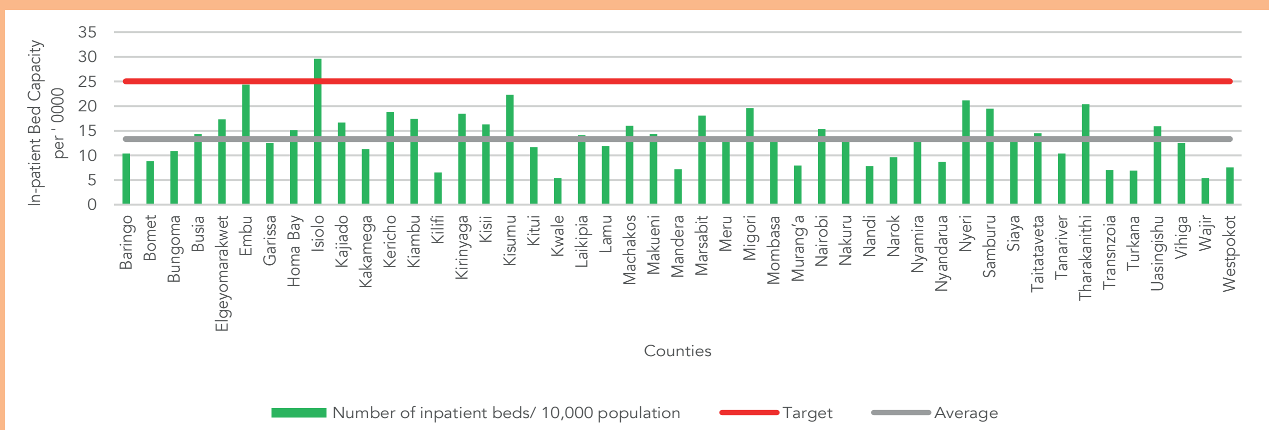
Source: Kenya Harmonized Health Facility Assessment, 2018

primary care services only include provision of outpatient services for common health conditions, but complex cases are managed at higher levels. The COVID-19 outbreak has brought out the existence of inequities in the provision of mainly the primary healthcare services in the counties. This is because COVID-19 patients require immediate medical attention and use of vital equipment such as ventilators, of which the few health facilities in remote areas experienced shortages. The inaccessibility and insufficiency of specialized health facilities prompted some counties to use facilities in learning institutions, such as Kenya Medical Training Colleges (KMTCs), high schools and universities as isolation and COVID-19 management centres.

Kenya's average inpatient bed density is at 13.3 beds per 10,000 population, which is below the WHO target of 25 beds per 10,000 population with only Isiolo County attaining the target (Figure 6).

Moreover, disparities in availability of inpatient services are evident across counties, with the majority (49%) below the country's average bed density. Further, before COVID-19, only 22 out of 47 counties had at least one Intensive Care Unit (ICU). To improve equity of access and use of inpatient services, the Government had planned, through UHC targets for 2017-2022, to construct 21 additional hospitals with surgical theatres, install radiology and dialysis equipment and construct 10 referral

Figure 6: In-patient bed density per 10,000 population in Kenya 2018



Source: Kenya Harmonized Health Facility Assessment (KHFA) hospitals. However, the plans were halted because of the COVID-19 outbreak. The pandemic further aggravated the existing inequities in access to inpatient services as it caused an acute increase in demand for hospital bed, leading to a substantial variation in surge across counties. The rising need to increase the bed density in health facilities necessitated immediate intervention measures by both the counties and the National Government. However, though there has been an increase in bed capacity in all the 47 counties, including new and increased investments in High Dependency Units (HDUs) and Intensive Care Units (ICUs), there was constrained oxygen supply for the new hospital beds.

> "Kenya's average inpatient bed density is at 13.3 beds per 10,000 population, which is below the WHO target of 25 beds per 10,000 population with only Isiolo County attaining the target"

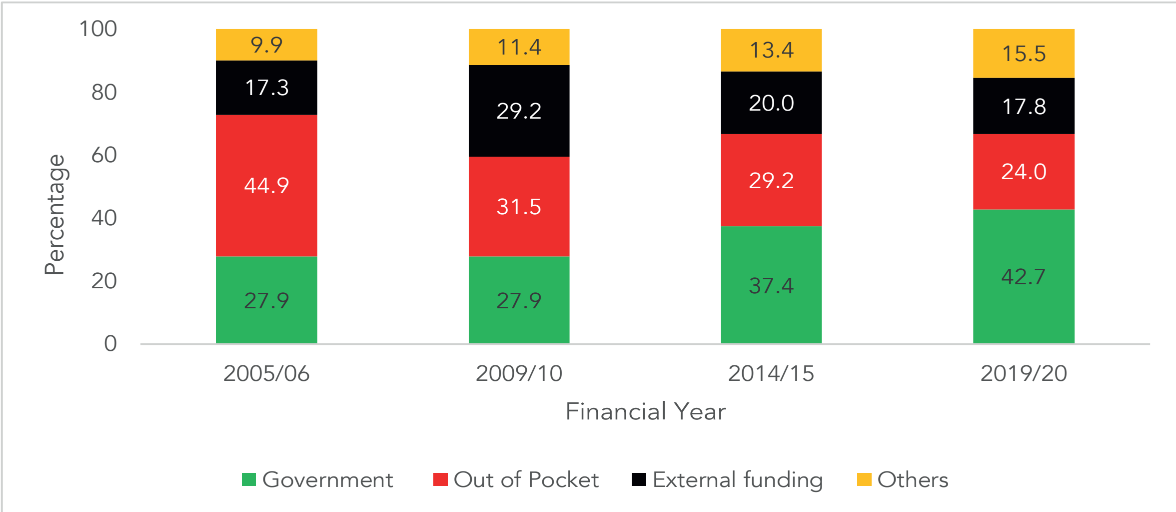
b) Health financing at household level

The poor and the vulnerable in communities are likely to suffer the health financial burden than the well off in the society. Poverty reduces the probability of an individual visiting a health care provider. The price of obtaining health care includes the direct price paid for treatment and indirect prices such as travel costs and opportunity costs. A shortage of health budget allocation leads to households incurring out-of-pocket expenditure to access health services. According to the National Health Insurance Fund (NHIF, 2020), only 19 per cent of Kenyans have a health insurance cover, leaving out most of the population (81%) without any form of health cover. Therefore, most Kenyans access health care through out-of-pocket payments, which means that many of them will avoid going to the hospital unless they are in advanced stages of the disease. The COVID-19 pandemic exacerbated the problem of out-of-pocket expenditure because of loss of income and livelihoods due to loss of jobs and businesses. Initially, insurance covers were not offsetting any COVID-19-related costs and expenses for members and dependents. Therefore, there was an increase in direct and indirect out-of-pocket health expenditures during the pandemic by households affected by COVID-19 due to the initial cost associated with household testing, isolation and containment measures. According to WHO (2021), about 930 million people worldwide are at risk of falling into poverty due to out-of-pocket health spending of 10 per cent or more of their household budget.

In Kenya, the Government's health allocation, which is an average of 6.5 per cent of the annual budget in 2020/21, falls short of the Abuja Declaration on African countries' commitment to allocate 15 per cent of the total annual budgets on the health sector. The General Government Health Expenditure (GGHE) as a proportion of GDP is at 2 per cent, which is also less than half of the WHO recommended threshold of 5 per cent. The National Government health expenditure per capita increased from Ksh 928 in 2005 to Ksh 3,531 in 2019, which is way below the recommended Ksh 9,288. As a result of low Government investment in health, some of the immediate effects are increased burden of health expenditure on households through increased out-of-pocket expenditure, pushing many into impoverishment, more so the poor and vulnerable groups.

Nonetheless, these expenditures have been reducing in Kenya as a share of total health financing budget. This may be attributed to the various Government interventions to reduce health inequities associated with financial hardships among the poor and the

Figure 7: Sources of funds for health financing in Kenya



Source: Kenya Community Health Strategy (2020-2025)

vulnerable, such as the introduction of free maternity services and removal of user fees in primary health facilities and dispensaries in 2013; the *Linda Mama* Programme, which is a health insurance cover for expectant mothers and their newborn children with no other form of insurance. Others include the Health Insurance Subsidy Programme (HISP) for the poor, which was introduced in 2014 to improve access to health (inpatient and outpatient) and protection from financial risk to the poorest households and the EduAfya, which is a free and comprehensive health cover for all public secondary school students. A major challenge for the Government has been the continued user fees charges at primary healthcare facilities despite the abolition. This undermines the Government's efforts of reducing the financial burden on households. In terms of successes, these programmes have reduced some of the financial barriers to health and improved access to health services, which the poor would have previously gone without due to inability to pay. With the outbreak of the pandemic, budgetary interventions helped reduce the out-of-pocket expenditure related to COVID-19, with the Government offering free/subsidized testing and isolation services in most public institutions. As witnessed in the fight against the COVID-19 pandemic, increasing health budget allocations and timely disbursement of funds will go a long way in reducing out-of-pocket expenditures, hence eliminating health finance-related inequities.

c) Number and distribution of health workforce

The national core health workforce density is at 16 per 10,000 population, which is below the WHO set target of 23 per 10,000. This indicates a shortage in the health workforce that has considerably constrained the achievement of sustainable and equitable health systems that help to improve health outcomes. The imbalances are dire at the county level where the health workforce density for most (87%) of the counties is below the set target of 23 health workers per 10,000 population (KHFA, 2019). Only six counties (Kajiado, Lamu, Tharaka Nithi, Nyeri, Uasin Gishu and Nairobi) have surpassed the global target. This shortage has affected the available health workers within the counties, hence compromising the delivery of health services in these regions.

Further, the distribution of skilled health workers as per the area of residence is disproportionate, with most of the highly skilled workers concentrated in urban areas while rural areas are under-served. In 2018, the country had at least 9 health workers per facility, with more than half of them

(52.7%) serving in urban centres. In addition, 83.9 per cent of doctors are serving in urban areas compared to 16 per cent in rural areas (Table 2). The skewness in the distribution of healthcare providers in Kenya can be attributed to lack of supporting infrastructure and opportunities for both staff and their families, and the high concentration of hospitals in urban areas. Although most of the health facilities are publicly-owned, majority of the medical doctors (62%) are mainly found in private hospitals. These disparities are an indication of the inequity in access to health services given that majority (68.9%) of the population lives in rural areas and is mainly served by public hospitals with inadequate health specialists.

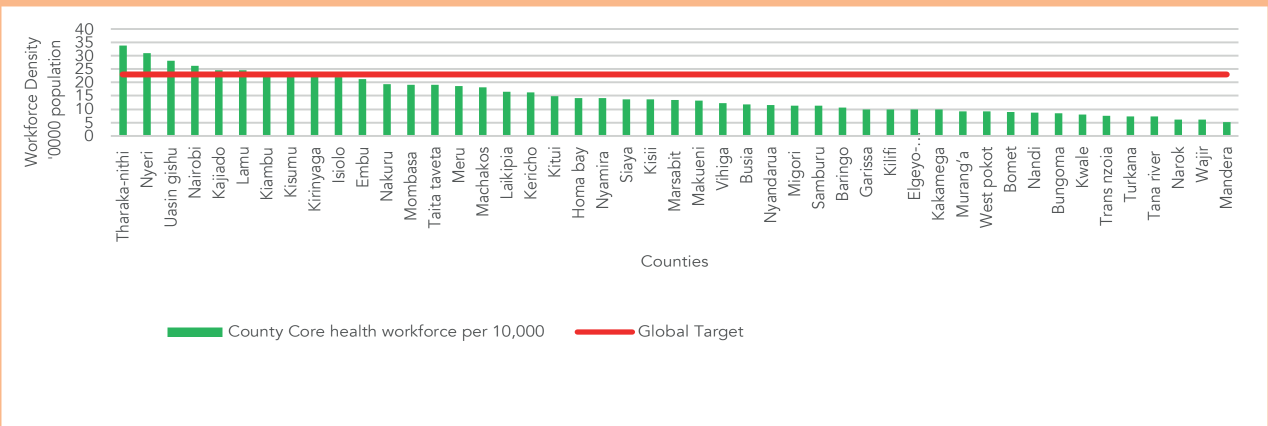
The Ministry of Health recognizes that shortages and uneven distribution of health workers between urban and rural areas is a critical impediment to equal health service delivery and ultimately the national health outcomes. In that regard, long-term strategies are being undertaken to address the human resource development and management constraints to improve efficiency of health service delivery. As a result, there has been a general increase in the number of registered health personnel in Kenya. Further, more health workers have been hired and deployed to various counties to prepare for roll-out of the UHC programme.

However, the recent outbreak of COVID-19 has emphasized the importance of having adequate and skilled health workers for equitable delivery of quality healthcare service. With limited health personnel against the surge on caseload, the immediate response by the Ministry of Health was to reassign staff working in the area of non-communicable diseases, laboratory officers, programme coordinators and disease surveillance to partially or fully support the management of COVID-19. This led to disruption of delivery of other health services such as prevention and treatment services for non-communicable diseases. The rapid spread of COVID-19, combined with inadequate preparedness and shortage of the workforce further led to increase in workload, stress and burnout of the health workers. This led to low productivity and ineffectiveness, decreased job satisfaction and commitment that led to industrial action by health workers. This in turn led to poor quality of health care services, hence risking the safety of the patients.

Policy recommendations

To address inequities in financing of health, there is need to have continuous focus on the vulnerable population across and within counties by the Government through targeted health financial interventions such as the HISP. This will ensure that the poor and other vulnerable groups are never left behind in accessing UHC. Additionally, there

Figure 8: Health workforce per '0000 population for counties in Kenya



Source: Kenya Harmonized Health Facility Assessment (KHFA)

Table 2: Health workforce in Kenya

	Kenya	Public	Private	Urban	Rural
Number of health staff per facility	8.5	9.1	7.7	13.7	6.0
Doctors %	9.9	37.4	62.6	83.9	16.1
Clinical Officers %	21.0	52.5	47.5	52.1	47.9
Nurses %	69.1	62.8	37.2	48.4	51.6
Total %	100.0	58.1	41.9	52.7	47.3

Source: Kenya Health Service Delivery Indicator Survey

is need to ensure policy coherence between the national and county governments, such as adherence to government policies and guidelines on abolition of user fees in all primary healthcare centres. This also includes ensuring that policies speak to each other for more collaboration and coordination between national and county levels. Further, uneven distribution of health workers threatens equitable delivery of health services to people living in rural areas who are often less educated, poorer and with a higher disease burden. Therefore, both the National and County Governments should provide appropriate support and incentives to increase recruitment and subsequent retention of health professionals in these areas. Providing appropriate equipment and supplies to health facilities and having supportive supervision and mentoring programmes for health workers in rural areas would create a good and conducive working environment, hence making these rural health opportunities professionally attractive. Additionally, investing in infrastructure and services such as sanitation, electricity, telecommunications, and schools to improve the living conditions for health workers and their families will influence a health worker's decision to relocate to and remain in rural areas.

Building back to a more equitable health sector will require full adoption of health systems towards a primary healthcare approach; progressive investment towards human resources for health; investment on additional skilled health workforce and interventions that increase their productivity; and uptake of technology to increase access to service delivery and aid in prompt decision-making. This will spur more innovations around health that could accelerate health equity across all counties. For example, locally manufactured beds could help bridge the gap of inpatient bed capacity in some counties. Achieving an equitable health sector will also require more engagement with the private sector to complement Government initiatives in health service delivery; finalization and adoption of the UHC policy to guide with implementation of the programme; promotion of public-private partnerships, which include collaboration to increase access to health services by leveraging on the use of technology such as provision of telemedicine and medical education through e-learning; and more focus on preventative measures through initiatives such as sensitization and awareness campaigns.

Finally, as the country gears towards building back the economy, it is important to incorporate a building back framework for health, considering the historical inequities and the new or magnified levels of health inequities across the country because of the COVID-19 outbreak. Additionally, COVID-19 mitigation measures put in place by the Government, such as increase in bed capacity, will greatly support the endeavor of ensuring equitable access to healthcare. Devolution of the health sector has given the County Governments the power to determine which services to prioritize as per the county needs to be informed directly by the community through public participation. Therefore, counties should use such avenues to address health inequities in the respective counties.

Closing the Digital Divide in Trade to Build Economic Resilience during COVID-19 and Beyond

By Martin Wafula and Kenneth Malot

Introduction

The COVID-19 pandemic has disrupted global value chains and increased economic uncertainties across countries. From its pronouncement in early 2020, the pandemic has negatively affected the global economy with heterogeneous effects across sectors and countries. Several countries instituted stimulus measures to cushion their economies against the negative effects of the pandemic. Despite these policy response efforts intended to support each country's economic resilience, the effect of COVID-19 led to contraction of the global economy in 2020, with a large negative effect on global trade[1]. In Sub-Saharan Africa (SSA), the number of confirmed cases remains low at 2.3 per cent of the total global confirmed cases. However, the effect of the pandemic has been severe, with regional economic growth contracting from 3.2 per cent in 2019 to -1.9 per cent in 2020. Kenya has not been an exception as

[1] *The World Bank (2020). COVID-19 and trade in Sub-Saharan Africa: Impact and policy response.*

the GDP growth contracted from 5.3 per cent in 2019 to -0.1 per cent in 2020 as the pandemic effect surged and unemployment increased from 5 per cent in the last quarter in 2019 to 16 per cent between May and June 2020 [2] .

From a trade perspective, the United Nations Conference on Trade and Development UNCTAD (2021) shows that global trade in goods and services shrunk by 9 per cent and 15 per cent in 2019 and 2020, respectively. Similarly, evidence suggests that COVID-19 negatively affected trade between January-June 2020. However, several initiatives to narrow the digital divide resulted in an uptake of digital services that played a crucial role of reversing the negative effect of the first half of 2020. Additionally, a World Bank survey shows that the pandemic has negatively affected the flow of trade volumes, with a fall in firms demand by 62 per cent while 9 out of 10 firms faced a decline in sales. In response, 49 per cent of firms increased their uptake of the use of digital platforms and 13 per cent invested in digitization of their services, respectively.

The present COVID-19 has unmasked the global economy's unpreparedness to respond to external shocks. As such, the countries' unpreparedness has underscored the need for economies such as Kenya to narrow the digital divide, which will in turn increase Internet access and provision of other related infrastructure at an affordable cost. Further, coping with COVID-19 restrictions, particularly meeting work-related deliverables, requires a well-developed infrastructure in form of digital enablers. These digital enablers - Information, Communication and Technology (ICT) - for example, computers and smartphones, have played a vital role in alleviating the social and economic consequences of COVID-19 restrictions. Similarly, they have played a pivotal role in enhancing trade in form of online transactions and, thus, cushioning the country and economy against the effects of the pandemic. To this end, many firms were not left behind as they shifted their trading channels towards online platforms to cope with increasing demand for goods and services, thus facilitating growth of digital trade within and across the countries[3] . For example, as the pandemic spreads and more restrictions are imposed in Kenya, 49 per cent of firms increased their use of digital platforms while 13 per cent and 18 per cent invested in digital services and repackaged their products in line with the health restrictions, [4] respectively.

> "According to World Bank (2020), approximately 56.2 per cent of the global population live in urban areas, and this figure is projected to increase to 66 per cent in 2050."

Digital Divide and Trade in Kenya

Trade plays an important role in improving economic growth, creating employment opportunities and improving the welfare of the society. The increasing dynamics in the global economy have resulted to countries devising ways of enhancing trade, both domestic and international through digital services. This has led to the emergence of digital trade as a channel of enhancing trade within and outside the country. To this end, digital trade in goods and services has grown at a phenomenal rate in the global economy. For Kenya, the Government has developed infrastructure to enhance these services, such as the Digital Economy Blueprint. Importantly, through various initiatives such as e-government, the Government has strengthened and improved the business environment. The use of mobile services has been scaled up and as of now, about

[2] *The World Bank (2021), Socio-economic impacts of COVID-19 in Kenya on households, available on: https://openknowledge.worldbank.org/bitstream/handle/10986/35173/Socioeconomic-Impacts-of-COVID-19-in-Kenya-on-Households-Rapid-Response-Phone-Survey-Round-One.pdf?sequence=1&isAllowed=y. Last accessed in May 2021.*

[3] *In this section, we adopt the OECD definition of digital trade to refer to all digitally (Internet) enabled transactions in goods and services that are digitally or physically delivered. Further, we define digital divide as the gap in relation to access and use of ICT services.*

[4] *World Bank (2021), Socio-economic impact of COVID-19 in Kenya on households: Rapid response phone survey.*

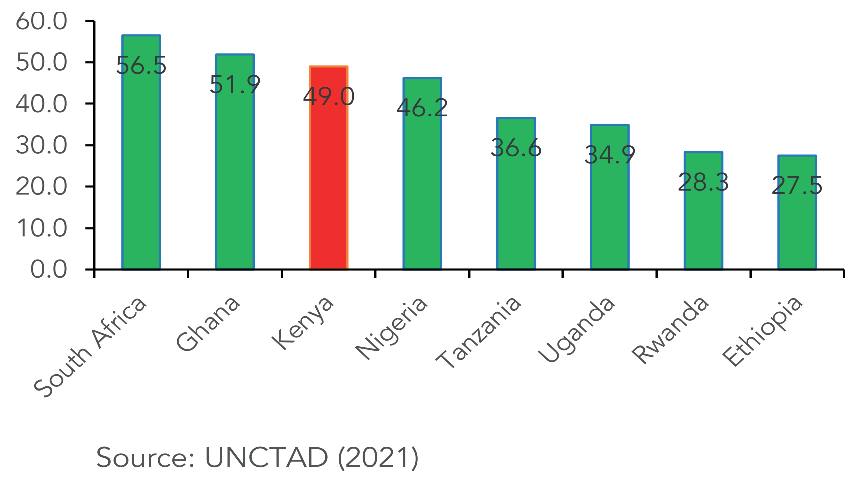
91 per cent of the Kenyan population have access to mobile services with amplified usage on mobile money transactions (Central Bank of Kenya, 2020).

However, central in the Government's concerns has been the rate of digital divide. Although developed countries have a higher rate of ICT, penetration and Internet access in developing countries such as Kenya remains extremely low. For example, as shown in Table 3, there are only 22.6 per cent of persons with access to Internet in Kenya, with great digital divide between male and female at 25 per cent and 20 per cent, respectively. As such, the use of e-commerce services becomes increasingly difficult. Despite challenges to scale up e-commerce services during the COVID-19 period from March 2020 to June 2021, online services were still able to play an important role in advancing messages for social distancing and online transactions to reduce movement of persons. Further, the various measures implemented by the Government through the Central Bank increased the traffic of online payments through M-Pesa and other payment platforms. On a year-to-year comparison, the growth rate of M-Pesa transactions increased, on average, from 0.5 per cent in 2019 to 4.3 per cent in 2020. Further, the number of registered mobile users increased from 52 million in May 2019 to 67 million in May 2021, signalling the economic resilience of the mobile sector to cushion the country against shocks. Additionally, the online delivery and payments played a significant role of retaining jobs in the retail sector as the pandemic ravaged the country.

As noted earlier, the COVID-19 pandemic has resulted in reduction in global trade, and despite this negative shock, e-commerce share in global retail trade increased from 14 per cent in 2019 to 17 per cent in 2020. The increase in e-commerce transaction signals the positive effect of digital transformation to accelerate trade and build resilience in the global economy. As such, the prevailing digital divide requires attention to help economies absorb the negative shocks to accelerate economic development. This will require significant investment in ICT infrastructure, legislative framework to accommodate cross border trade challenges and a conducive business working environment to increase uptake in e-commerce.

More effort is required to enhance e-commerce as a channel of increased trade to mitigate the digital divide and build economic resilience in Kenya. For example, the country ranked 88 (out of 152 countries) with an e-commerce index of 49 performing better relative to other East Africa regional countries, but emerging third in Sub-Saharan Africa behind South Africa and Ghana (Figure 9). Further, e-commerce can play a crucial role of women empowerment in Africa. According to UNCTAD 2021 report, Jumia, the largest online trading platform in Africa, reported that 51 per cent of firms using the platform are owned by women. However, the report notes that the pandemic had a disproportionate impact as firms owned by women closed while male-owned firms increased in 2020 during the pandemic.

Figure 9: E-Commerce index for selected countries in 2020



Source: UNCTAD (2021)

Table 3: Internet usage in trade transactions

Country	Individuals using internet (% of population)	Goods export (% of total goods exports)	Goods import (% of total goods imports)	Services export (% of total services exports)
Kenya	22.6	0.4	3.8	10.2
Uganda	23.7	0.4	4	2.4
Tanzania	25.0	4.2	3.1	0.4
Ethiopia	18.6	2.4	2.8	2.2
South Africa	56.2	0.9	8.0	4.2
Nigeria	42.0	0.0	3.7	5.8
Morocco	74.0	2.4	4.0	8.6
Sub-Saharan Africa	25.1	0.4	5.3	4.4
World	51.1	11.5	12.9	10.4

Source: World Bank (2021), World Development Indicators. Notes: All data used are for the year 2019 except for service exports, which is for 2017

A key enabler of narrowing the digital divide is access to Internet and deepening of ICT services in the country. However, Internet usage in Kenya, which is central to narrowing this divide, is still low relative to the country's comparator countries. For example, only 22.6 per cent use Internet in Kenya compared to South Africa at 56.2 per cent, Nigeria at 42 per cent and the country performs even below Uganda and Tanzania (Table 3). For Kenya to bridge the digital divide, more effort will be required to ensure that the remaining 77 per cent of population has access to Internet services. Moreover, Kenya's export and import of goods through the Internet channel performed below South Africa, Morocco and the World. However, the East African Community (EAC) countries such as Uganda and Tanzania out-perform Kenya in goods exported through Internet usage. Interestingly, Kenya out-performs the selected group of countries, including SSA, and marginally below the world in service exports through Internet usage.

As shown above, the digital divide over the years has been a critical barrier particularly to the population and firms with no or partial Internet connectivity and access to mobile technology. In Kenya, 44.4 per cent of the population for persons of age between 25 and 34 years reported to have used Internet in the last three months (KNBS, 2019), a percentage below its potential given the country is considered a digital hub in Sub-Saharan Africa. The youth in Kenya represent about three quarters of the total population and are a great potential for accelerating growth due to their active engagement in economic activities. Accordingly, the youth are more active in online platforms than the older generation and can help narrow the digital divide in the country (World Bank, 2019). Notably, the COVID-19 pandemic has shed light on the inequalities in access to the Internet and digital technologies globally. The presence of inequality to access the Internet and related digital services shows the digital gap across age, gender and location. Interestingly, only 22 per cent and 37 per cent of female youths and male youths use Internet in Africa, respectively. Further, only 17 per cent and 2 per cent of the population in urban and rural areas have access to Internet in Africa. The measures put in place by countries have not only made the digital divide visible, but also amplified the threat on the livelihood of the people.

Policy and Legislative Interventions to Bridge the Digital Divide

The Government has recognized the need to improve digital inclusion in the country as it has the potential to accelerate economic growth and sectoral development. This recognition has been captured in several policies and legislations with a view to advancing the country's development agenda.

The Kenya Vision 2030 envisages that the Information Communication Technology (ICT) sector will play a crucial role in enhancing development through creation of digital villages and development of e-commerce to accelerate innovation and entrepreneurial skills for optimal returns through selling online products. In line with the ICT framework as outlined in the Kenya Vision

2030, the number of digital villages has increased, and e-commerce master plan and policies have been developed.

Relatedly, the development of Digital Economy Blueprint for Kenya offers a great opportunity for advancing the three pillars of digital economy that include digital trade, digital financial services and digital content. For example, the Kenya Finance Bill of 2021 that came into effect in July 2021 has provided for a digital services tax (DST) at 1.5 per cent for all services offered through a digital marketplace. The provision of this tax offers an opportunity to enhance the country's resource envelop in the face of constrained fiscal space.

Challenges to Narrowing the Digital Divide and Enhancing Resilience

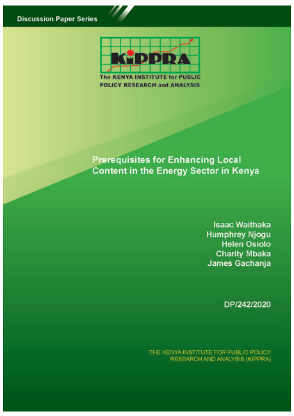
Several challenges affect the Government's efforts to enhance digital inclusion and build resilience of the economy to absorb shocks. Central to this problem is the rural-urban divide where access to Internet services stands at 44 per cent in urban areas and 17 per cent in rural areas. This problem is exacerbated by inadequate infrastructure in rural areas to permit accessibility and deepening of digital services. For example, lack of electricity or reliable power services deters investments in rural areas. Further, digital literacy plays a leading role in increasing digital divide in the country.

Conclusion and Policy Recommendations

The current global pandemic has exposed the inequalities in provision of digital services, a crucial channel in advancing domestic and foreign trade. Although the pandemic showed the unpreparedness of countries such as Kenya to mitigate the effects of COVID-19, it has also resulted to an uptake of digital services. To this end, there is need to sustain this momentum and offer a conducive environment of narrowing the digital divide to build economic resilience and absorb future shocks.

This will require developing and strengthening policies and legislation that supports digital inclusion and digital trade. At the international level, there is need to strengthen trade facilitation efforts to support digital trade through enhanced infrastructure such as roads, railways and custom borders. Although digital infrastructure within the EAC customs union has been enhanced currently, there is need to map with the customs union infrastructure to mitigate border delays and other related transactional costs. Additionally, the ongoing phase two of African Continental Free Trade Agreement negotiations on e-commerce will help enhance digital trade and payment systems among regional member countries. Moreover, diversification in the use of digital services, for example exports and imports, should be undertaken in a digital framework to enhance quick transactions and delivery of goods within the country and the region.

New Publications



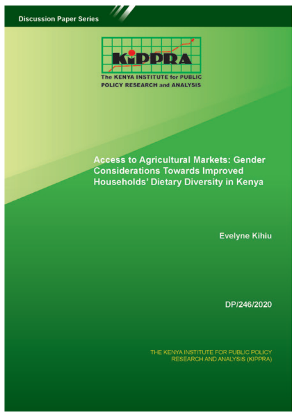


image: Freepik.com

Administration of Justice in the Face of COVID-19

Douglas Kivoi, Maureen Wanyonyi and Cecilia Naeku

Introduction

The administration of justice and dispute resolution structures across the globe are among the sectors that have been hard hit by the COVID-19 pandemic. Immediately the first case of the virus was detected in the country in early 2020, the Government put in place a raft of public health measures, key among them the indefinite suspension of all public gatherings, such as weddings, funerals, and religious meetings. All learning institutions were ordered to close indefinitely, and a nationwide curfew was imposed. The National Police Service was tasked with the enforcement of most of these measures through the Public Health Act (CAP. 242, Revision 2012) and Public Order Act (CAP. 56).

The emergence of COVID-19 has presented a myriad of complex choices in the administration of justice, protection of public safety, and protection of the health of those under control of the criminal justice system and those working in it. The biggest concern by justice agencies such as the Judiciary, National Police Service, corrective facilities and other agencies has been that their facilities are hotspots for spreading the COVID-19 virus. Justice agencies have been torn between arresting law breakers, remanding them or releasing them back into the community on bail or on probation.

Additionally, during the first six months of 2020, which was the lockdown period of COVID-19, gender-based violence and crimes against children increased in Kenya by 92 per cent. The economic impact due to COVID-19 also hampered strict adherence to business contracts, giving rise to new disputes. These emerging issues exacerbated the challenges facing the justice system that was already struggling to operate optimally within the COVID-19 restrictions. The enforcement of curfew laws and other COVID-19 restrictions also created new dilemmas for the police and citizens, with cases of police using excessive force being reported. Despite the challenges, COVID-19 has been a catalyst for innovative responses in the justice system and has accelerated critical reforms within the correctional system.

The Justice System During the COVID-19 Pandemic Period

COVID-19 and the resultant restrictions to curb the spread of the virus caused serious threats in terms of access to justice. This is because physical court appearance and manual filing of cases characterized the Kenya justice system. Kenya's justice sector, therefore, adopted proactive responses to the COVID-19 pandemic to ensure access to justice.

a) Judiciary

Heightened Alternative Dispute Resolution and use of digital technology

All in-person court proceedings were scaled down when the first case of COVID-19 was announced on 13th March 2020. Only urgent matters and cases that could otherwise not be administered in the online sessions were held. With the scaling down of open court sessions, the use of Alternative Dispute Resolution (ADR) was encouraged by the courts. Alternative dispute resolution became even critical due to the rise of conflicts over contract violations. The Kenya Revenue Authority, which started implementing ADR in 2015, experienced 109 per cent increase in number of cases in financial year 2020/2021 compared with 2019/2020.

With the COVID-19 restrictions, innovative solutions such as online mediation and alternative dispute resolution towards access to legal services and legal documentation were encouraged. Access to online dispute resolution mechanisms was required to ensure it does not deprive victims' justice and truth, and function in accordance with international human rights law. The adoption of digital technology not only ensured access to dispute resolution during the pandemic, but it also helped reduce the time taken to resolve the disputes. The Kenya Revenue Authority (KRA), for instance, reported that with the use of virtual platforms, the average time taken to resolve disputes reduced from 89 days to 42 days. With the uncertainties that COVID-19 presents, increased use of online dispute resolution (ODR) as a form of alternative dispute resolution mechanisms is projected to continue.

Use of Information and Communication Technology in courts

Given the protracted nature of the COVID-19 pandemic, the Judiciary embraced the use of technology to scale up court services. This technology has not only been used in delivery of rulings and judgments, but also in the conduct of other judicial processes. Towards this end, the High Court and Court of Appeal stations in Nairobi and across the republic have embraced the use of Skype, Zoom and Microsoft Teams video conferencing platforms for mentions and hearings. Almost all the courts in Nairobi have embraced technology in conducting their judicial proceedings with the electronic case management system roll out. Approximately 32 courts countrywide are using digital court recording and transcription system.

The Judiciary has increased its use of Information and Communication Technology (ICT) to enable judges and magistrates to dispose off cases, including e-filing of judgments, video conference remand hearings for prisoners in custody, and the delivery of court judgments through video conferencing.

The use of virtual platforms by the Judiciary in the dispensation of justice and conflict resolution is, indeed, a trend and a game-changer in litigation of cases in court. Even in the post-pandemic era, there is likelihood that physical court attendance will be scaled down significantly, especially for non-contentious mentions and court call-overs.

The National Council for the Administration of Justice (NCAJ) on 15th March 2020 published an Administrative and Contingency Management Plan to mitigate COVID-19 in the Kenyan justice sector. This was followed by gazettement of the Electronic Case Management Practice Directions (ECMPD) 2020 on 20th March 2020, which sought to fundamentally change litigation practice in Kenya. The ECMPD 2020 currently continues to serve as a guide for integrating ICT in judicial proceedings and specifically for electronic filing and electronic service of court documents; electronic case search; electronic diary; electronic case tracking system; electronic payment and receipting; electronic signature and electronic stamping; exchange of electronic documents, including pleadings and statements; and use of technology in case registration and digital recording of proceedings for expeditious resolution of cases.

Through implementation of the ECMPD, the Judiciary has facilitated judicial officers to work from home as a safety precaution against COVID-19. Some courts across the country have been operating temporary open-air courts in strategic places where social distancing can be observed.

The Office of the Director of Public Prosecution (ODPP) also launched the Uadilifu case management system in July 2020, which was integrated with the Judiciary e-filing system to enhance efficiency in the criminal justice system. The system allows prosecutors to file charge sheets, track and monitor the status files, electronic file pleadings and disclose evidence.

b) Policing agencies

In August 2020, the Digital Police Service Occurrence Book (OB) was launched to allow for reduction in loss of crime and incidents. The digitization of the police OB will make work easy if there is need to produce electronic evidence in court and reduce incidences of corruption and police brutality reported to be rampant at the point of arrest across the country. The digital OB will require police officers to take suspects' photos before they go into the cells and also give a description of their state at the time of arrest, allowing the Inspector General (IG) to monitor reported cases and who the investigating officer is. The digital OB is part of the digital reforms at the National Police Service that enhance provision of policing services in line with the COVID-19 preventative protocols.

The National Police Service, through the office of the Inspector General of Police and in consultation with the National Council on Administration of Justice (NCAJ) also provided guidelines for the disposal of criminal matters at police stations, except for serious matters that must be taken to court. Policing agencies were advised to avoid congesting detention facilities for fear of spreading COVID-19. The NCAJ directed the police not to hold petty and traffic offenders for more than 24 hours but should release them on cash bails or free police bonds. This is aimed at reducing the number of pretrial detentions to prevent COVID-19 infection and at the same time ensuring that citizens access justice.

c) Correction facilities

The chronic overcrowding in Kenya's penal institutions meant that prisoners faced higher risks of COVID-19 infections. To curb this, the Government released over 12,000 inmates in a five-month period since the onset of COVID-19 as part of the ongoing programme to decongest prisons with upsurge in COVID-19 cases in the country. Two thousand (2,000) prisoners were released between August 2020 and April 2021. The laws and policies to decongest prisons have been in place since 2002 when the prisons reform agenda was rolled out, but effective implementation has been slow. However, the prevailing COVID-19 crisis accelerated implementation of these reforms. According to the NCAJ, as at the end of 2019, Kenyan prisons had a population of 53,348 inmates. This number fell sharply to 41,155 by August 2020 after the decongestion efforts. The inmates released mostly constituted petty offenders who were jailed for less than six (6) months or had less than six months to complete their jail terms.

Emerging Challenges

Although the move towards digitalizing court sessions is positive, it may present challenges to the criminal justice system. Adequate cross-examination of accused persons through observation of non-verbal cues (e.g., signs of torture and intimidation) is not possible when using videoconferencing. Another challenge is the digital gap that is still persistent in the country. The cost of Internet is still high for most of the citizens and Internet connectivity is not evenly distributed. This, coupled with cases of lack of connection to the power grid, may leave out a significant portion of the population, especially those in rural areas. Litigants and judicial officers also need continuous capacity building on the use of digital technologies to enhance seamless administration of justice.

Although there is a shift from manual to digital recording of occurrences at the police stations, the move has not been nationalized. The shift was implemented initially in Nairobi alone with desk top computers installed at police stations and posts within Nairobi County while iPads have also been issued to police officers in the city alone. To enable greater use of technology, it is paramount for the Ministry of Information, Communication and Technology and telecommunication companies to consider national Internet connectivity to all stations. This allows for evidence-based access to justice, from the onset to the end within the policing agencies.

The correction services have people coming from across the country everyday upon sentencing, increasing the risk of introduction of infection in the cells. Inmates live in close confinement, sharing all basic amenities including during meals, and making social distancing to minimize transmission of COVID-19 virtually impossible. Despite the efforts to decongest penal institutions, the prison population of 40,000 is still high when compared to the capacity of 30,000, hence prisons remain at higher risk for COVID-19 infection and rapid spread. There have not been any targeted vaccination efforts to the prisoners, which poses a higher risk especially for the older detainees who are a majority serving longer sentences.

Recommendations

The Judiciary needs to fully digitize the court management system. This needs to be backed up by a robust electronic filing and court management system for judicial staff and litigants. Such a system ought to be user-friendly to self-represented citizens seeking justice. There is need for capacity building to litigants and judicial officers on the use of the e-filing system.

Kenya not only needs necessary laws and regulations but also a stable reliable ICT infrastructure that can guarantee cyber security given the rise in cyber-crime. The justice sector in Kenya also requires institutional capacity to monitor its use by litigants, the Judiciary and the Public Prosecution Office.

Moreover, correctional facilities need to continue with the decongestion initiatives in conjunction with the Judiciary and the Ministry of Health to reduce the risks of COVID-19 infections among vulnerable populations. The Judiciary should partner with correctional services and consider structural reforms that will significantly reduce the number of inmates in these facilities.

A. ACTS OF PARLIAMENT

1) ***Business Laws (Amendment) No. 2 Act, 2021*** was gazetted on 31st March 2021. It amended various statutes to facilitate the ease of doing business in Kenya. The key amendments are:

   a) It amended the Law of Contract Act by changing the definition of the term *"sign"* to align it with the Companies Act.

   b) Industrial Training Act amended by providing that the industrial training levy shall be remitted at the end of the financial year but not later than the ninth day of the month following end of the financial year.

   c) Stamp Duty Act amended to exempt payment of fixed stamp duty of Ksh 100 on contracts to be chargeable as conveyances on sale.

   d) National Hospital Insurance Fund Act and National Social Security Fund Act amended to require an employer/person to pay contribution on the ninth day of each month.

   e) Companies Act amended to provide for the conduct of virtual or hybrid meetings.

   f) Insolvency Act amended to introduce a pre-insolvency moratorium period to prevent creditors from taking an enforcement action while a company considers its option for rescue.

   g) Small Claims Courts Act amended to make provision to fast-track procedure for small claims by providing a sixty-day timeline for adjudication of small claims.

2) ***Employment (Amendment) Act, 2021*** was gazetted on 1st April 2021 and amended the Employment Act. It included the definition of an exit certificate as a written authority given by a registered adoption society to a prospective adoptive parent to take the child from the custody of the adoptive society. It also introduced pre-adoptive leave of one month with full pay where a child is placed in the continuous care and control of an employee.

3) ***The Early Childhood Education Act*** was gazetted on 26th March 2021 and the date of commencement was 9th April 2021. The Act provides a framework for the establishment of systems for the administration of early childhood education within a County and for connected purposes.

4) ***The Supplementary Appropriation Act, 2021*** was gazetted on 31st March 2021. It authorizes the issue of certain sums of money out of the Consolidated Fund and their application towards the service of the year ending 30th June 2021 and to appropriate those sums for certain public services and purposes. It authorized the sum of one hundred twenty-five billion, one hundred seventy-seven million, three hundred fifty-two thousand one hundred and twenty-one shillings out of the Consolidated Fund to be applied towards the supply granted for the service of the year ending on the 30th June, 2021.

5) ***The Supplementary Appropriations (No. 2) Act, 2021*** was gazetted on 30th June 2021. It authorized issuance of the sum of twenty-two billion eight hundred fifty-six million three hundred eighty seven thousand seven hundred twenty six shillings out of the Consolidated Fund to be applied towards the supply granted for the service of the year ending on the 30th June, 2021.

6) ***The Appropriation Act, 2021*** was gazetted on 30th June 2021. It authorized the issuance out of the Consolidated Fund to apply towards the supply granted for the service of the year ending on the 30th June, 2022, the sum of Kenya shillings one trillion four hundred ninety-five billion seven hundred eighty-four million seven hundred ninety thousand eight hundred twenty-two, which sum shall be deemed to have been appropriated as from 1st July, 2021, for the services and purposes specified thereunder.

7) ***The Finance Act, 2021*** was gazetted on 30th June 2021. It amends the law relating to various taxes and duties, particularly the Income Tax Act, Value Added Tax Act, Excise Duty Act, Tax Procedures Act of 2015, the Stamp Duty Act, the Capital Markets Act, the Insurance Act, the Kenya Revenue Authority Act, the Retirement Benefits Act and Central Depositories Act.

8) ***The County Allocation of Revenue Act, 2021*** was gazetted on 30th June 2021. It provides for the equitable allocation of revenue raised nationally among the county governments for the 2021/2022 financial year; the responsibilities of national and county governments pursuant to such allocation; and for connected purposes.

B. NATIONAL ASSEMBLY BILLS

1) ***Central Bank of Kenya (Amendment) Bill, 2021)*** was gazetted for introduction into the National Assembly on 6th April 2021. The principal object of the Bill is to amend the Central Bank of Kenya Act to provide for licensing of digital credit service providers who are not regulated under any other law. Under the amendment, the Central Bank of Kenya will have an obligation to ensure there is a fair and non-discriminatory.

2) ***The Computer Misuse and Cybercrimes (Amendment) Bill, 2021)*** was gazetted for introduction into the National Assembly on 16th April 2021. The principal object of this Bill is to amend the Computer Misuse and Cybercrimes Act, No. 5 of 2018 to provide for the prohibition against the sharing of pornography through the Internet. The Bill further seeks to prohibit the use of electronic mediums to promote terrorism, extreme religious or cult activities. The Bill also seeks to provide an additional function of the National Computer and Cybercrimes Co-ordination Committee, which is to recommend websites that may be rendered inaccessible within the country.

3) ***The Irrigation (Amendment) Bill, 2021*** was gazetted for introduction into the National Assembly on 16th April 2021. The principal object of the Bill is to make amendments to the Irrigation Act, 2019 by expanding the administration of irrigation matter to include management and regulation of irrigation matters; provide for the appointing and nominating authorities in line with the Constitution; harmonize the provision of the Irrigation Act, Water Act and Water Resources Management Rules, 2007; taking into account the already existing legislative and regulatory structures when prescribing administrative and regulatory framework on water storage; and to enable the Cabinet Secretary to make regulations to provide for the development of irrigation, including infrastructure and water storage, and to provide for multi-government agencies consultation and collaboration, among others.

4) ***The Kenya Roads (Amendment) Bill, 2021*** was gazetted for introduction into the National Assembly on 30th April 2021. The principal object of the Bill is to amend the Kenya Roads Act (No. 2 of 2007) to align the Act with the provisions of the Constitution regarding the auditing functions of the Office of the Auditor-General. The Bill further seeks to amend the term of office of and the qualification for the Director-General of the Kenya Roads Board appointed under the Act.

5) ***The Health (Amendment) Bill, 2021)*** was gazetted for introduction into the National Assembly on 30th April 2021. The principal object of this Bill is to amend the Health Act, No. 21 of 2017 to

provide that the national government and county governments shall, in consultation through the existing inter-governmental relations mechanisms, establish regional cancer centres. The Bill also seeks to amend the principal Act to make it an offence for a person in-charge of a public health facility to demand or permit demands of payment of advance medical fees as a pre-condition to provision of medical services. The Bill also seeks to amend the principal Act to provide that it shall be an offence for a person in charge of public health facility to detain the body of a deceased person as a means of enforcing settlement of outstanding medical bills. Further, the Bill seeks to amend the principal Act to provide for the regulation of the levying of charges for the practice of conventional medicine.

6) ***The Coffee Bill, 2021*** was gazetted for introduction into the National Assembly on 30th April 2021. The principal object of this Bill is to provide for the development, regulation and promotion of the coffee industry, to provide for establishment, powers and functions of the Coffee Board of Kenya.

7) ***The Livestock Bill, 2021*** was gazetted for introduction into the National Assembly on 30th April 2021. The object of the Bill is to provide for the development and regulation of livestock and livestock products, research and capacity building in the livestock sector and the establishment of livestock agencies.

8) ***The National Electronic Single Window System Bill, 2021*** was gazetted for introduction into the National Assembly on 30th April 2021. The principal object of the Bill is to facilitate trade and commerce using the National Electronic Single Window System. This is done through the establishment of the National Electronic Single Window System and prescribing a framework for its operations.

9) ***The Finance Bill, 2021*** was gazetted for introduction into the National Assembly on 5th May 2021. This Bill was submitted by the Cabinet Secretary for the National Treasury and Planning and formulates the proposals announced in the Budget for 2021/2022 relating to liability to, and collection of taxes, and for matters incidental thereto. It sought to amend the Capital Markets Act, Insurance Act, Kenya Revenue Authority Act and Central Depositories Act.

10) ***The Tax Appeals Tribunals (Amendment) Bill, 2021)*** was gazetted for introduction into the National Assembly on 5th May 2021. The purpose of the Bill is to amend the Tax Appeals Tribunal Act, 2013 to address the challenges affecting the performance of the Tax Appeals Tribunal to facilitate the expedition of tax disputes in the country.

11) ***The Community Groups Registration Bill, 2021*** was gazetted for introduction into the National Assembly on 5th May 2021. The Bill is intended to provide a regulatory framework for the mobilization, registration, co-ordination and regulation of community groups, and for connected purposes.

12) ***The National Hospital Insurance Fund (Amendment) Bill, 2021*** was gazetted for introduction into the National Assembly on 11th May 2021. The Object of the Bill is to amend the National Hospital Insurance Fund Act, 1998 to establish the National Health Scheme and to enhance the mandate and capacity of the National Hospital Insurance Fund to facilitate and deliver Universal Health Coverage.

13) ***The Perpetuities and Accumulations (Amendment) Bill, 2021)*** was gazetted for introduction into the National Assembly on 12th May 2021. The Object of the Bill is to limit the application of the Act to dispositions relating to immovable property and allow for the accumulation of the income of a trust so that it can benefit multiple generations of beneficiaries, particularly in a family trust. The intention is to create an enabling legal framework for preservation of generational wealth.

14) ***The Trustees (Perpetual Succession) (Amendment) Bill, 2021*** was gazetted for introduction into the National Assembly on 12th May 2021. The principal object of the Bill is to enable accumulation of generational wealth for the benefit of multiple generations. It makes provision for and defines the various types of trusts, including charitable trusts and non-charitable purpose trusts. Additionally, the Bill makes new provisions for enforcers of a trust. The Bill also proposes to amend provisions on incorporation of trustees to recognize that trusts are registered with the Principal Registrar of Documents and not the Minister.

15) ***The Certified Managers Bill, 2021*** was gazetted for introduction into the National Assembly on 13th May 2021. The principal object of the Bill is to establish the Institute of Certified Managers and to provide for a legal framework for the registration and regulation of the standards and practice of the profession and for connected purposes.

16) ***The Public Service Internship Bill, 2021*** was gazetted for introduction into the National Assembly on 13th May 2021. The principle object of the Bill is to establish a legal framework for the regulation of internship programmes within the public service. The Bill seeks to ensure the provision of a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the internship programme.

17) ***The National Disaster Risk Management Bill, 2021*** was gazetted for introduction into the National Assembly on 18th May 2021. This Bill seeks to establish the Intergovernmental Council on Disaster Risk Management and the National Disaster Risk Management Authority to ensure that there is co-ordination of disaster risk management issues at the national and county level. The Bill further seeks to establish County Disaster Risk Management Committees in each of the counties as the role of disaster risk management is a shared function between the national and county governments under the Fourth Schedule to the Constitution. To this end, the Bill proposes to bring together the staff of the National Disaster Operations Centre, and the National Disaster Risk Management Unit to undertake National Disaster Risk Management. The main premise of the Bill is to approach disaster risk management in a manner that seeks first to respond effectively and in a timely manner to any disaster or risk of disaster, and to prevent the adverse effects of a disaster, recover, as far as may be possible, the livelihood of communities affected by a disaster. The enactment of the Bill will assist in the efficient and effective management of disasters across the country.

18) ***The Asian Widows' and Orphans' Pensions (Repeal) Bill, 2021*** was gazetted for introduction into the National Assembly on 18th June 2021. The principal object of the Bill is to repeal the Asian Widows' and Orphans' Pensions Act in light of the enactment of the Public Finance Management Act, 2012.

19) ***The Provident Fund (Repeal) Bill, 2021*** was gazetted for introduction into the National Assembly on 18th June 2021. The principal object of the Bill is to repeal the Provident Fund Act in light of the enactment of the Public Finance Management Act, 2012.

20) ***The Appropriation Bill, 2021*** was gazetted for introduction into the National Assembly on 21st June 2021. It provides for the issue out of the Consolidated Fund to apply towards the supply granted for the service of the year ending on the 30th June, 2022, the sum of Kenya Shillings one trillion four hundred ninety-five billion seven hundred eighty-four million seven hundred ninety thousand eight hundred twenty-two, and that sum shall be deemed to have been appropriated as from 1st July, 2021, for the services and purposes specified thereunder.

21) ***The Supplementary Appropriation (No. 2) Bill, 2021*** was gazetted for introduction into the National Assembly on 25th June 2021. It provides for the issue of the sum of seven billion five hundred twelve million seventy-seven thousand seven hundred forty-one shillings out of the Consolidated Fund to apply towards the supply granted for the service of the year ended on 30th June 2021.

C. SENATE BILLS

1) ***The County Hall of Fame Bill, 2021*** was gazetted for introduction into the Senate on 8th March 2021. The Bill seeks to establish a county hall of fame in each county as an avenue through which the County Governments shall bestow honour on individuals within their respective counties acclaimed as being outstanding, exceptional or illustrious in any profession or activity; provide a framework for the preservation of the history, heritage and culture of counties; and for connected purposes.

2) ***Disaster Risk Management Bill, 2021*** was gazetted for introduction into the Senate on 12th March 2021. The Bill seeks to establish the National Disaster Risk Management Authority and County Disaster Risk Management Committees; and to provide a legal framework for the coordination of disaster risk management activities and for connected purposes.

3) ***The Kenyan Sign Language Bill, 2021*** was gazetted for introduction into the Senate on 8th March 2021. The Bill seeks to give effect to Article 7(3)(b) of the Constitution on the promotion and development of the use of Kenya Sign language; to give effect to Article 54(1)(d); to provide for the inclusion of sign language in education curriculum; to provide the use of sign language in legal proceedings; and for connected purposes.

4) ***The Law of Succession (Amendment) Bill, 2021)*** was gazetted for introduction into the Senate on 12th March 2021. The principal object of the Bill is to amend the Law of Succession Act to provide for gender equity in succession matters. The Bill in amending the Law of Succession Act seeks to ensure that the Act provides for gender equity with regard to succession matters. The Bill thus ensures that the widow and widower lose their life interest in the whole of the remainder of the net intestate estate once they re-marry. The Bill further seeks to exclude community land from the ambit of succession.

5) ***The Office of the County Printer Bill, 2021*** was gazetted for introduction into the Senate on 12th March 2021. The Bill seeks to establish the office of the county printer in each county; to provide for the functions, mandate, management and administration of the office; and for connected purposes.

6) ***The Prompt Payment Bill, 2021*** was gazetted for introduction into the Senate on 12th March 2021. The principal object of this Bill is to put in place a legal framework to facilitate prompt payment for supply of goods, works and services procured by government entities both at the national and county level.

7) ***The Treaty Making and Ratification (Amendment) Bill, 2021)*** was gazetted for introduction into the Senate on 22nd March 2021. The purpose of the Bill is to amend the Treaty Making and Ratification Act, No. 45 of 2012, to set out the role of the Senate in the treaty making and ratification process. The proposed amendments to the Treaty Making and Ratification Act are therefore intended to bring the provisions of the Act into conformity with the letter and spirit of the Constitution.

8) ***The County Oversight and Accountability Bill, 2021*** was gazetted for introduction into the Senate on 22nd March 2021. The principal object of the Bill is to provide a framework for the effective oversight over the County Government by the Senate. It proposes to provide a mechanism on how oversight over the county budgets can be carried out. It also designates the roles of the responsible bodies and officers in the oversight and public participation processes.

9) ***The National Cohesion and Peace Building Bill, 2021*** was gazetted for introduction into the Senate on 22nd March 2021. The principal object of this Bill is to repeal the National Cohesion and Integration Act (No.12 of 2008). The main aim is to provide for a coordinated structure for peace building and cohesion in Kenya. The Bill in amending the National Cohesion and Integration Act seeks to create the National Cohesion and Peace Building Commission. It will be charged with ensuring the formulation of strategies, plans and programmes for the promotion of national unity.

10) ***The County Boundaries Bill, 2021*** was gazetted for introduction into the Senate on 23rd March 2021. The Bill mainly seeks to—(1) define the boundaries of the counties of Kenya; (2) provide for the resolution of county boundary disputes through the establishment of a county boundaries mediation committee; and (3) to give effect to Article 188 of the Constitution on the alteration of county boundaries.

11) ***The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill, 2021*** was gazetted for introduction into the Senate on 23rd March 2021. The principal object of the Bill is to give effect to Article 43 of the Constitution to ensure the preservation of human dignity as set out under Article 19 of the Constitution. Article 43 of the Constitution guarantees economic and social rights for all persons. The Bill also seeks to establish a framework for national monitoring, benchmarking and evaluation of progress made in fulfilling economic and social rights by all actors in the Republic.

12) ***The Heritage and Museums Bill, 2021*** was gazetted for introduction into the Senate on 15th April 2021. The principal object of the Bill is to give effect to the Fourth Schedule to the Constitution. The Bill proposes to retain the National Museums of Kenya already established under the National Museums and Heritage Act, 2006, to provide for national and county museums; the preservation, protection and management of cultural and natural heritage at National and County levels of Government; and to repeal the National Museums and Heritage Act, 2006.

13) ***The Coconut Industry Development Bill, 2021*** was gazetted for introduction into the Senate on 16th April 2021. The principal object of this Bill is to establish the Coconut Industry Development Board with the aim of saving the coconut industry by revamping the policy and institutional framework and strengthening the institutional framework within which the industry operates. It proposes to provide an avenue for appreciating the medicinal, aesthetic, touristic and artistic value of coconut by encouraging value addition in the processing of coconut and its products. The Bill therefore establishes the Coconut Industry Development Board. It further provides for research and development to cultivate a culture of scientific excellence and professionalism in coconut farming and industrial development.

14) ***The County Allocation of Revenue Bill, 2021*** was gazetted for introduction into the Senate on 30th April 2021. The principal object of the Bill is to make provision for the allocation of revenue raised nationally among the county governments for the financial year 2021/22.

15) ***The Irrigation (Amendment) Bill, 2021*** was gazetted for introduction into the Senate on 30th April 2021. The principal object of the Bill is to make amendments to the Irrigation Act, 2019 to better enhance the Act and harmonize the various structures and entities within the Ministry relating to water and water services.

16) ***The Public Procurement and Asset Disposal (Amendment) Bill, 2021*** was gazetted for introduction into the Senate on 30th April 2021. The purpose of the Bill is to amend the Public Procurement and Asset Disposal Act to, among others, address the training and capacity development for professionals involved in the supply chain management services cadre at national level; to address the training lacuna for non-procurement professionals involved in procurement, such as user departments, disposal and contract implementation teams, suppliers, etc; to assign the Director-General the responsibility to institute investigations; to give the Authority the power, when conducting investigations, inspections, assessments and reviews relating to contracts, procurement and asset disposal proceedings, to enter premises of a procuring entity to make any inquiries that may be necessary for the collection of information; to allow the head of procurement to delegate the secretarial function; to amend section 139 of the Act to allow

variations in terms of quantity which might be occasioned due to unforeseen circumstances within a period less than twelve months; and to amend section 167 of the Act to reduce the duration for procurement process from 14 days to 7 days.

17) ***The Sustainable Waste Management Bill, 2021*** was gazetted for introduction into the Senate on 30th April 2021. The principal object of the Bill is to establish the legal and institutional framework for the sustainable management of waste, the realization of the constitutional provision on the right to a clean and health environment.

18) ***The Community Groups Registration Bill, 2021*** was gazetted for introduction into the Senate on 30th April 2021. The Bill is intended to provide a regulatory framework for the mobilization, registration coordination and regulation of community groups and for connected purposes.

19) ***The Statutory Instruments (Amendment) Bill, 2021)*** was gazetted for introduction into the Senate on 12th May 2021. The principal object of this Bill is to make provision for the procedure of consideration of Statutory Instruments by County Assemblies. Subsidiary legislation is key in the running of County Governments. The Bill seeks to provide a legal mechanism by which County Assemblies will scrutinize statutory instruments.

20) ***The Kenya Citizenship and Immigration (Amendment) Bill, 2021)*** was gazetted for introduction into the Senate on 12th May 2021. The principal purpose of the Bill is to put in place mechanisms for the protection of the interests of Kenyans living abroad and to ensure their active participation in the socio-economic development of the country. The collective community of Kenyans living abroad play an important role in the development agenda of the country. For instance, foreign remittances account for a substantial percentage of the Gross Domestic Product. The Bill seeks to enhance these contributions while simultaneously tapping into the skills and expertise of Kenyans living abroad.

21) ***The Alternative Dispute Resolution Bill, 2021*** was gazetted for introduction into the Senate on 12th May 2021. The principal object of the Bill is to put in place a legal framework for the settlement of certain civil disputes by conciliation, mediation and traditional dispute resolution. Resolution of disputes forms part and parcel of everyday life in any given society. Therefore, effective dispute resolution mechanisms in a country will guarantee peace, an enabler of trade and investment, and contribute to economic, social and political development of the country.

22) ***The County Governments Grants Bill, 2021*** was gazetted for introduction into the Senate on 25th May 2021. The principal object of this Bill is to make provision for the transfer of conditional

allocations from national governments share of revenue and from development partners to the county governments for the financial year 2021/22.

23) ***The Lifestyle Audit Bill, 2021*** was gazetted for introduction into the Senate on 27th May 2021. The principal purpose of the Bill is to provide a legal framework for the carrying out of a lifestyle audit on public officers. The Bill seeks to incorporate the values and principles of governance under Article 10 of the Constitution into the public or state officers' public work.

24) ***The Intergovernmental Relations (Amendment) Bill, 2021*** was gazetted for introduction into the Senate on 27th May 2021. The principal objective of this Bill is to amend the provisions of the Intergovernmental Relations Act 2012 to provide a comprehensive framework on the transfer of powers, functions or competences by either National or County governments. The Bill seeks to address the following issues that are not provided for in the Intergovernmental Relations Act, 2012 — (a) the belated involvement of Parliament or the County Assemblies in the transfer of functions processes; (b) lack of an elaborate framework for public participation in the entire process of transfer of functions; and (c) lack of a clear process of costing of the transferred functions. The Bill therefore proposes amendments on — (a) financing of the functions that have been transferred including the appropriation of funds; (b) the involvement of the Senate and the respective County Assembly in the transfer of functions of County Governments; (c) the involvement of the National Assembly in the transfer of functions of the National Government; and (d) the general conduct of public participation during the transfer of functions.

25) ***The County Governments (Amendment) Bill, 2021)*** was gazetted for introduction into the Senate on 27th May 2021. The principal purpose of the Bill is to amend the County Governments Act, 2012 to provide clarity in the operations of the County Assembly Service Board in instances where the office of a Speaker becomes vacant. Section 12(3) of the County Governments Act provides that the Speaker of the county assembly shall serve as the chairperson of the Board, with a vice-chairperson being elected by the Board from the members. Further, the Bill seeks to provide a framework for consultation between members of Parliament, the county executive, county assembly and the national executive. The Bill proposes a platform through which leaders at the two levels of government can meet and deliberate on the legislative and development agenda of the respective county government. The Bill is also a fulfillment of Article 189 of the Constitution, which requires national and county governments to consult, coordinate and cooperate in the performance of their respective functions.

1) Kenya and Uganda have agreed to abolish the trade barriers that have led to a sour relationship between the two neighbouring countries which saw various goods subjected to taxes against the East African Community (EAC) Customs Union Protocol. A delegation from Kenya led by Trade Secretary Betty Maina has been in Uganda to deliberate on the matter after Kampala raised concerns over Nairobi's imposition of taxes on goods coming in from Uganda and banning milk and poultry products. Ms Maina met with her Ugandan counterpart Amelia Kyambadde as well as President Yoweri Museveni and it was agreed that both countries do away with the punitive taxes. For instance, Kenya will scrap the 35 per cent duty that is imposed on gas cylinders that are manufactured in Uganda. On the other hand, Uganda has agreed to scrap the 13 per cent duty that it has imposed on Kenya's juices, malted beer and spirits, which it noted that it goes against the spirit of the EAC Customs Union Protocol.

2) Resolution of existing trade barriers between Kenya and Tanzania may take longer than expected due to bureaucracy. The directive by Presidents Samia Hassan and Uhuru Kenyatta that government officials waive work permit fees and clear maize imports from Tanzania took effect almost immediately, but Kenyan small-scale traders say they are waiting for a similar gesture from Tanzania. Kenya's Agriculture Cabinet Secretary, Peter Munya, toured Namanga border post on 7th May and oversaw the release of trucks transporting maize. Kenya had in March banned the importation of maize from Uganda and Tanzania over rising concerns about aflatoxin levels in the grains and imposed stringent measures to ensure compliance. John Keriah ole Mankina, an official of an association of small cross-border traders, raised concerns that Tanzania was still levying fees on Kenyan goods. Johnson Weru, Kenya's Principal Secretary in the State Department for Trade and Enterprise Development is spearheading an initiative to resolve the issues, soonest possible.

The African Continental Free Trade Area (AfCFTA) promises to unlock the potential for African women to move to macro businesses. For decades, African women have been trapped in poverty cycles due to several underlying factors, including unequal access to education, factors of production, and trade facilities; inequitable labour-saving technologies; underpaid or unpaid labour; harmful cultural practices; and limited legal protection from gender inequality practices entrenched in society. To break the cycle of poverty and inequalities, the African Union continues to advocate for the development and implementation of policies and legal; frameworks that will create a wider array of opportunities for women, and which will lead to their economic empowerment at the national and regional levels and ensure that the development envisaged for Africa is inclusive and sustainable. With the launch of trading under the AfCFTA in January 2021, the expectations are high as relates to the expanded business prospects for women-led businesses, which will unlock the potential for African women to grow their businesses from micro to macro enterprises.

.AfCFTA.
AFRICAN CONTINENTAL FREE TRADE AREA
Creating One African Market

The KENYA INSTITUTE for PUBLIC POLICY RESEARCH and ANALYSIS

A. Demand-Driven Projects

A market and advocacy analysis of various core products in the Eastern and Central Africa

KIPPRA undertook a consultancy study for Fairtrade Africa, an independent non-profit organization representing members who are certified producers in Africa with over 1,083,139 members across 28 countries in Africa. The main purpose of this study was to identify and document country and regional level advocacy and policy that influence priorities for Fairtrade core products such as coffee in Kenya, Uganda, Rwanda, Tanzania and Ethiopia; tea in Kenya, Tanzania, Rwanda and Uganda; and flowers in Kenya, Uganda and Ethiopia. The goal was to provide Fairtrade Africa with the best practices that have been proved to produce best results locally and globally with an aim to accelerate delivery of producer support services and advocacy interventions for socio-economic development in East and Central Africa Network region (ECAN).

The Kenya National Quality Infrastructure Policy

KIPPRA supported development of a Kenya National Quality Infrastructure Policy for State Department for Industrialization, Ministry of Industrialization, Trade and Enterprise Development. This was driven by need for a policy governing the quality infrastructure ecosystem in the country to further support the ongoing Kenya-US Free Trade Agreement (FTA) and operationalization of the African Continental Free Trade Area (AfCFTA). Once completed, the policy will address the challenges that undermine products destined for the Kenyan market or manufactured locally. Some of the major challenges that the policy seeks to cure include, but not limited to, conflicting or inexistent legislations and lack of coordination and synergies between national quality infrastructure institutions, thereby leading to time lag in sharing of technical information with respect to technical regulations and standards, overlaps across agencies and Ministries involved in National Quality Infrastructure implementation, lengthy and costly transaction times, conflict, inefficiencies and waste of resources.

Assessment of Structures and Profitability of Milk Distribution and Retailing in Kenya

The Kenya Dairy Board commissioned KIPPRA to undertake an Assessment of Structures and Profitability of Milk Distribution and Retailing in Kenya. The study sought to identify structures (pathways) and profitability margins for the various stakeholders involved in distribution and retailing of milk in Kenya. The main objective is to assess the structures and profitability in distribution and retailing of processed milk in Kenya. Additionally, the study covered the distribution and retailing network, between the factory and presentation of products to the consumer at retail level. This will cover UHT and pasteurized milk in major urban centres of Nairobi, Mombasa, Nakuru, Kisumu and Eldoret.

Designing Development of an Integrated Demand Forecasting Tool for Petroleum Products

KIPPRA supported the development of an integrated demand-forecasting tool for petroleum products for Energy and Petroleum Regulatory Authority (EPRA). The tool is expected to forecast the consumption of regulated petroleum products in Kenya in the short and long term, including that of Liquefied Petroleum Gas (LPG). The oil price forecasts will play an important role in assessing the future developments of pipelines, storage facilities, common user petroleum and gas facilities, among others, and also other economic activities in Kenya and its trading partners, with implications for country's terms of trade.

Kenya National Leather Policy

KIPPRA supported the Kenya Leather Development Council (KLDC) and the Ministry of Agriculture, Livestock, Fisheries and Cooperatives to develop the first Kenya National Leather Policy, now ready for validation by the stakeholders. The formulation of the policy was evidence-based, including review of past and existing interventions to appreciate historical development of the sector with the aim of identifying constraints and opportunities. Insights to inform the policy are also drawn from players and leather experts. The policy process was also informed by analysis of the sector relevant data and review of experiences from other countries that have successfully transformed the leather sector into a major source of employment, exports, and income generation. The analysis of policy actors and their roles will also guide in identifying constraints and opportunities, and clear responsibilities for implementation of the policy interventions once approved. This policy is critical in informing the realization of Kenya's Vision 2030 and the "Big Four" Agenda, which aims to increase Kenya's manufacturing contribution to GDP from 9.2 per cent in 2016 to 15 per cent in 2022 with focus on sectors such as textiles and apparel, leather processing and construction materials.

B. Collaborative Projects

Children Sensitive Planning and Budgeting, Public Finance for Children (PF4C): From Evidence to Policy Project

Since the inception of the UNICEF supported Child Sensitive Planning and Budgeting programme in 2017, the Institute has produced various outputs. These include training of trainers, training of county staff, and dissemination of county budget briefs, and county poverty profiles. The purpose of PFM4C: From evidence to policy is to offer: (i) Technical assistance to county governments to implement recommendations of the budget briefs, Public Expenditure and Financial Accountability (PEFA) and poverty profiles for improved service delivery; (ii) Transitioning UNICEF County level support to be fully reflected on plans and budgets.

The programme is being implemented under the Joint Devolution Programme (JDP) support for counties and through National Level activities that will impact all the 47 counties and relevant child sensitive sectors. The focus sectors include: 1) National Public Finance Management; 2) Health; 3) Education; 4) Water sanitation and Hygiene (WASH); 5) Child Protection; 6) Social protection; 7) Nutrition.

The Domestic Savings Shortfall in Sub-Saharan Africa: What Can Be Done About It?

KIPPRA in collaboration with UNU-WIDER is working on a book on savings titled *"The Domestic Savings Shortfall in Sub-Saharan Africa: What Can Be Done About It?"* This is motivated by the need to increase domestic savings' rates in Sub-Saharan Africa for economic growth to be realized. The book intends to close a gap in knowledge about: drivers of domestic savings rates in Sub-Saharan Africa; whether alternative approaches, such as pension funds or fintech, could provide new solutions to increase domestic savings; and lessons learnt from the experiences so far in different countries in Sub-Saharan Africa and other regions that have been more successful in raising savings rates. The findings of the research will be in tandem to the Addis Ababa action agenda of the United Nations on financing for development, which provides a new global framework for financing sustainable development by aligning all financing flows and policies with economic, social and environmental priorities.

Prospective Collaborative Work with Brookings Institute on Cities

KIPPRA, in collaboration with Africa Growth Initiative at Brookings Institution, is conducting research on Urban Economic Growth in Africa: A case study of Nairobi city. The study is at the inception stage and aims at addressing the challenges faced by the urban population in Nairobi, including lack of productive jobs, inadequate housing, low levels of accessibility, and high costs relative to development. The study will develop a framework detailing the primary constraints to Nairobi city's ability to benefit from agglomeration and generate productive jobs-accessibility, business environment, and public sector governance.

Kenya Think Tanks hold a Symposium to Deliberate on their Role in Supporting Recovery from COVID-19

KIPPRA, in partnership with Kenya Think Tanks, held the 2nd Kenya Think Tanks Symposium on 15th April 2021. The successful virtual symposium brought together representatives of more than 50 Kenyan think tanks, government officials and representatives from research and learning institutions.

The event was graced by the National Treasury and Planning Chief Administrative Secretary Hon. Eric Wafukho who represented the Cabinet Secretary, National Treasury and Planning, Hon. Ukur Yatani. KIPPRA Board of Directors also actively participated in various sessions of the symposium, led by the Chairperson Dr Linda Musumba.

The symposium, whose theme was *Building Back Better: The Role of Think Tanks in Supporting Recovery from COVID-19,* gave an opportunity for think tanks to reflect on their role in supporting recovery from COVID-19 pandemic. Among the topics of discussion at the symposium were: conducting adaptive policy research in times of crises; capacity development and knowledge management in the COVID-19 era; communication, lobbying and advocacy during COVID-19 era; and reforming public policy and legislation during COVID-19 era.

To effectively play a key role in supporting recovery from COVID-19 pandemic, Think Tanks were urged not to work in silos and instead embrace partnerships and cross-sectoral collaboration.

In his keynote address, Hon. Wafukho appreciated think tanks for their tireless work in generating evidence necessary for policy making and reaffirmed the government's commitment to evidence-based policy making as a sure way to drive the development agenda.

On her part, the KIPPRA Executive Director, Dr Rose Ngugi, explained the importance of the symposium as a platform that helps think tanks to synergize in supporting policy makers with ideas and evidence gathered.

The event also saw the launch of a book titled: The Future of Think Tanks and Policy Advice Around the World. Dr. Ngugi contributed a chapter to the book.

The 4th KIPPRA Annual Regional Conference, 23rd-25th June 2021

KIPPRA hosted the 4th KIPPRA Annual Regional Conference from 23rd to 25th June 2021. The hybrid conference themed *"Science, Technology, and Innovation (ST&I) in Enhancing Delivery of Big Four Development Agenda"* took place at the Bomas of Kenya, with most participants joining virtually in adherence to COVID-19 protocols. KIPPRA hosted the conference in collaboration with other key stakeholders, including the National Commission for Science Technology and Innovation (NACOSTI) alongside delegates comprising officials from national and county governments, representative of national authorities from regional economic blocs, regional think tanks, and development partners, civil society, persons with disability and other interests groups.

The conference brought together stakeholders to exchange views on policy options and measures pertaining the role of ST&I in guiding the country's transition to a knowledge driven economy that supports the realization of the "Big Four" agenda. There was also a youth side event which brought together youth and stakeholders to discuss how to harness the contribution of youth in Science, Technology and Innovation.

The conference was graced by CAS The National Treasury and Planning, Hon. Eric Wafukho, CAS Ministry of Education Dr Sara Ruto, Secretary, Housing Mr Patrick Bucha, Economic Planning Secretary at the State Department of Planning Ms Katherine Muoki, KIPPRA Board Chairperson Dr Linda Musumba, KIPPRA Board Directors and KIPPRA Executive Director Dr Rose Ngugi. The CAS The National Treasury and Planning, Hon. Eric Wafukho, in his keynote address noted that the recommendations of the 4th KIPPRA Annual Regional Conference would inform government policy and future plans. The CAS Dr Sara Ruto stated that the Ministry of Education has developed policy to help align human capital development to the Kenya Vision 2030 and the constitution. KIPPRA Board Chairperson Dr Linda Musumba reiterated KIPPRA's commitment to undertake quality public policy research and analysis while Dr Ngugi, on her part, thanked partners and delegates for making the 4th KIPPRA Annual Regional Conference a success. The conference covered eight (8) thematic areas on Science, Technology and Innovation, namely: Status of ST&I in Kenya; policy, institutional and legislative framework; development of human capital; building a strong innovation system; infrastructure (access to ICT, roads, energy and water as enablers of ST&I) cross cutting issues (availability and use of ST&I statistics, gender perspective in technology and innovation, technologies to able the PWDs) building resilience with ST&I; industrialization and ST&I. The conference was officially closed on 25th June 2021 by Hon. Eric Wafukho.

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Delegates follow the proceedings of 4th KIPPRA Annual Regional Conference

A panel discussion on Gender, Youth and PWDs at the 4th KIPPRA Annual Regional Conference

CAS, The National Treasury and Planning Hon.Eric Wafukho addresses delegates at the 4th KIPPRA Annual Regional Conference

CAS, Ministry of Education Dr Sara Ruto gives her keynote address at the 4th KIPPRA Annual Regional Conference

Ms Katherine Muoki , Economic Planning Secretary at State Department of Planning addresses delegates at the 4th KIPPRA Annual Regional Conference

KIPPRA Board Chairperson Dr Linda Musumba, chairs a plenary session on Agriculture at the 4th KIPPRA Annual Regional Conference

KIPPRA Executive Director Dr Rose Ngugi addresses delegates at the 4th KIPPRA Annual Regional Conference

KIPPRA Recognized for Exemplary Performance in Compliance with 2020/21 PC Guidelines on National Cohesion and Values

KIPPRA was awarded a certificate by the Directorate of National Cohesion and Values in recognition for the exemplary performance in compliance with the 2020/21 performance contracting guidelines. The award of certificate ceremony took place on 17th June 2021 at the KIPPRA offices and was attended by KIPPRA Executive Director, Dr Rose Ngugi and Secretary, National Cohesion and Values, Mr Josiah Musili.

KIPPRA was ranked the best in the State Corporations category. Mr Josiah Musili congratulated KIPPRA and urged the Institute to continue upholding the national values and principles of governance. Dr Ngugi, on her part, reiterated KIPPRA's commitment to upholding the national values and principles of governance and promised to continue collaborating with the Directorate of National Cohesion and Values.

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KIPPPRA Executive Director Dr Rose Ngugi and Secretary, National Cohesion and Values Mr Josiah Musili pose for a group photo with KIPPRA National Values Committee Members

KIPPRA Executive Director Dr Rose Ngugi and Secretary, National Cohesion and Values Mr Josiah Musili pose for a group photo

KIPPPRA Executive Director Dr Rose Ngugi and Secretary, National Cohesion and Values Mr Josiah Musili pose for a group photo with KIPPRA National Values Committee Members.

KIPPRA Carries out Capacity Building Needs Assessment of the counties, 8th-17th June, 2021

KIPPRA undertook capacity building needs assessment of the counties from 8th June to 17th June 2021. The exercise brought together officers from all the 47 counties and gave KIPPRA an opportunity to understand the capacity building needs of the counties. This exercise is in line with KIPPRA's mandate of developing capacities in public policy research and analysis, and assisting the Government policy formulation and implementation.

Participants engage in a group discussion at Capacity Building Needs Assessment exercise in Machakos

Participants engage in group discussion at the Capacity Building Needs Assessment exercise in Machakos

KIPPRA's Dr Nancy Nafula addresses participants at the Capacity Building Needs Assessment exercise in Kakamega

KIPPRA EVENTS

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Partnerships

KIPPRA Signs MoU with National Land Commission on Mutual Areas of Collaboration

KIPPRA signed a Memorandum of Understanding (MoU) with the National Land Commission on 4th May 2021. The MoU defines areas of collaboration between the two institutions, which include undertaking joint research, capacity building for members of staff, joint publications on areas of mutual interest, responding to calls for joint research and engagement for policy influence, among others.

The signing ceremony of the MoU was attended by KIPPRA Executive Director, Dr Rose Ngugi, National Land Commission Ag. CEO Ms Kabale Tache, and National Land Commission Commissioner, Hon. Esther Murugi.

KIPPRA Executive Director Dr Rose Ngugi (right) and National Land Commission Ag. CEO sign the MOU

KIPPRA Executive Director Dr Rose Ngugi (right) NLC Commissioner Hon Esther Murugi (centre) and NLC Ag. CEO pose for a group photo with members of staff from both institutions after the signing of the MOU

KIPPRA Executive Director Dr Rose Ngugi (right) hands over some of KIPPRA's publications to NLC Commissioner Hon Esther Murugi (centre) and NLC Ag.CEO Ms Kabale Tache.

KIPPRA EVENTS

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KIPPRA, NSSF Sign MoU on Areas of Collaboration

KIPPRA and the National Social Security Fund (NSSF) signed an MoU defining areas of collaboration between the two institutions, which include undertaking joint research on areas of mutual interest, undertaking both human and institutional capacity building, plan and hold joint policy seminars and conferences, holding of joint research workshops to disseminate research findings, and development of various policies, among others.

The signing ceremony of the MoU was attended by KIPPRA Executive Dr Rose Ngugi and NSSF CEO/ Managing Trustee Dr Antony Omerikwa. Dr Rose Ngugi, in her remarks, noted that KIPPRA was committed to its mandate of developing capacities in public policy research and analysis and assisting the Government in policy formulation and implementation and would continue to collaborate with different institutions with the main aim of promoting achievement of national development goals. Dr Omerikwa, on his part, welcomed the signing of the MoU and reiterated NSSF's commitment to making the collaboration a success.

Upcoming Events

Industries without smokestacks (IWOSS) dissemination workshop, 27th July,2021.

ABOUT KIPPRA

The Kenya Institute for Public Policy Research and Analysis (KIPPRA) is an autonomous institute whose primary mission is to conduct public policy research leading to policy advice. KIPPRA's mission is to produce consistently high-quality analysis of key issues of public policy and to contribute to the achievement of national long-term development objectives by positively influencing the decision making process. These goals are met through effective dissemination of recommendations resulting from analysis and by training policy analysts in the public and private sectors. KIPPRA therefore produces a body of well-researched and documented information on public policy, and in the process assists in formulating long-term strategic perspectives. KIPPRA serves as a centralized source from which the Government and the private sector may obtain information and advice on public policy issues.

KIPPRA acknowledges generous support from the Government of Kenya and the Think Tank Initiative (TTI) of IDRC. The TTI is a collaborative initiative of Hewlett Foundation, International Development Research Centre (IDRC) and other partners. Other organizations are welcome to contribute to KIPPRA research either as core support, or support to specific projects, by contacting the Executive Director, KIPPRA.

Send to us your comments on the articles published in this newsletter and any other aspects that may help to make the *KIPPRA Policy Monitor* useful to you. This may include policy issues you would like KIPPRA to prioritize.

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