

# THE PROFESSIONAL

JOURNAL OF THE ASSOCIATION OF PROFESSIONAL SOCIETIES IN EAST AFRICA | 1<sup>ST</sup> EDITION JULY, 2020

## PROFESSIONALS AT THE FOREFRONT OF COVID-19 PANDEMIC



SOCIO-ECONOMIC EFFECTS OF COVID-19 PANDEMIC IN KENYA



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
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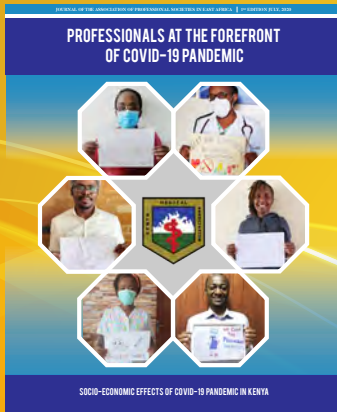
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The Professional Magazine is published biannually by the Association of Professional Societies in East Africa (APSEA) to provide a platform for Kenyan professionals and the country at large to reflect and ventilate on the most important issues impacting on best practices in professional practice in Kenya.

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## MESSAGE FROM THE APSEA CHAIRMAN

On behalf of the Council of the Association of Professional Societies in East Africa (APSEA), Officers of Council and on my behalf, I wish to most sincerely welcome you reader to this edition of our growing and authoritative Magazine *"The Professional"*. APSEA is currently made up of twenty-eight and over 100,000 corporate and individual members respectively. These are drawn from diverse professional disciplines including Accounting, Agriculture, Arbitration, Architecture, Banking, Clerks of Works, Dentistry, Engineering, Food science and technology, Financial Analysts, Geology, Insurance and Law. Others are from Medicine, Meteorologists, Pharmacy, Physiotherapy, Planning, Procurement and Supplies, Quantity Surveyors, Radiology, Radiography, Corporate Secretaries, Surveyors and Veterinary science.

APSEA has in the past worked and continues to engage closely with the government in nominating professionals to public offices. APSEA is recognized by the Constitution of Kenya 2010 Article 230 (2)(C) (iii) and several Acts of Parliament, and we are mandated to nominate Professionals to the interviewing Selection Panels of Various Constitutional Commissions. APSEA intends to use its participation in such panels to ensure the highest standards in selection and probity are adhered to.

Our mission is to promote high professional and ethical standards; create strategic alliances, and safeguard the interest of professional societies. Our mandate is to maintain, advance and advocate for the highest professional standards and ethics in public interest, and to promote the interest of our members both regionally and internationally.

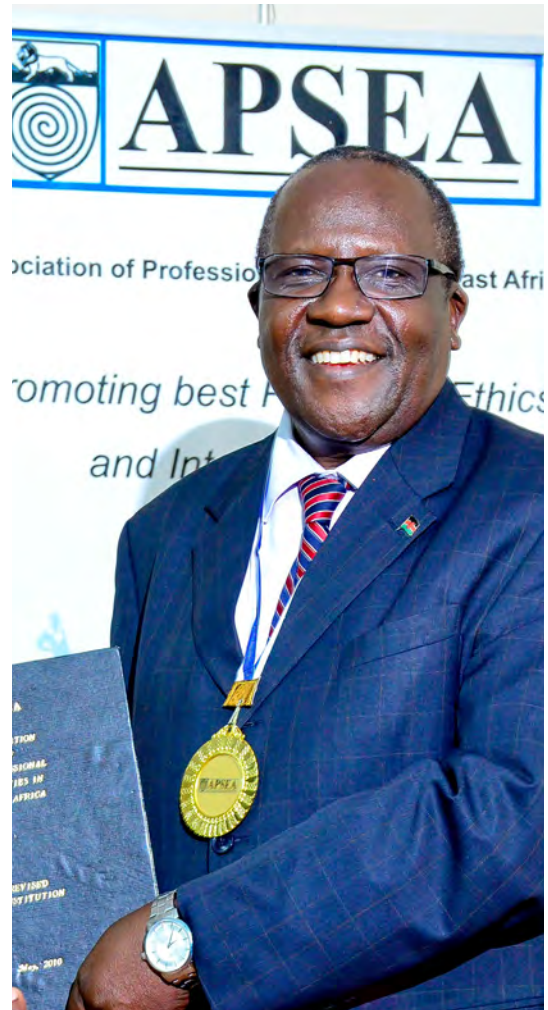
This magazine is the newest communication tool designed by professionals to encourage high professional standards. I hope you will enjoy reading the articles in this first issue.

Last and not least, I would like to appreciate and sincerely thank the Council, Committees, Secretariat and the authors who volunteered to kick-start this important project. The theme of this edition is "The Professionals at the Forefront of COVID-19 Pandemic". *The Professional* welcomes all contributions, suggestions, and feedback.

I am also excited to reach out to all members and ask for feedback on your expectations of APSEA, and any comments and suggestions you may have for us to serve the professional sector better. By working together, we will create effective and purposeful professional bodies.

God bless APSEA and the entire professional sector for many more years to come.

**FELIX O. OKATCH**  
Chairman, APSEA





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# KENYA MEDICAL ASSOCIATION AT THE FOREFRONT OF COVID-19 PANDEMIC

ON APRIL 3, 2020, KMA FORMED A COVID-19 RESPONSE ADVISORY COMMITTEE (CRAC) TO PROVIDE PROFESSIONAL LEADERSHIP AND DIRECTION DURING THIS CRISIS.

DR SIMON KIGONDU



## PART 1

### ROLE OF KENYA MEDICAL ASSOCIATION (KMA) IN COVID-19 PANDEMIC

The Kenya Medical Association is a membership organization representing medical and dental practitioners registered to practice in Kenya, with a twin mission of championing the welfare of doctors and advocating for the provision of quality healthcare for all. KMA is a member of and major contributor to Association of Professional Societies in East Africa (APSEA), Coalition of National Medical Associations of Africa (CANMA), Commonwealth Medical Association, and the World Medical Association (WMA).

KMA has continued to support national and county government efforts to stop the spread of COVID-19, and manage those that are infected. At the national level, KMA participated as a member of the Ministry of Health Taskforce on COVID-19 that is implementing

the government's emergency response. KMA is a key contributor in, but not limited to, the committees on Human Resources for Health, Case definition and Clinical Management, Training and

“KMA is a key contributor in, but not limited to, the committees on Human Resources for Health, Case definition and Clinical Management, Training and Resource mobilization.”

Resource mobilization. At the county level, our KMA divisions have been incorporated into the county response committees of various counties, and have made significant contribution to

mitigating spread of COVID-19 and managing suspected cases.

On April 3, 2020, KMA formed a COVID-19 Response Advisory Committee (CRAC) to provide professional leadership and direction during this crisis. The Committee reviews and generates the evidence and guidance necessary for health workers to fight this pandemic to the best of their abilities. KMA CRAC has since held several meetings, and has advised on various issues.

A summary of some of the issues are deliberated on and resolutions made are as follows:

### Personal Protective Equipment

The shortage of personal protective equipment continued to put the lives of the frontline health workers at risk. KMA was gratified that local manufacturers had joined the effort to manufacture and supply these indispensable items. KMA, via its representation in Kenya Bureau of



Standards (KEBS), continues to ensure that the PPEs meet the required standards. KMA advised its members to familiarize themselves with the proper and rational use of PPEs, and to ensure that they are always properly protected when handling patients suspected or confirmed to have COVID-19.

### Training on COVID-19

KMA has recorded and made available on its online platforms, training modules on COVID-19 management. KMA also got its members trained as trainers of trainers (TOTs) in COVID-19. KMA TOTs continue to train other health workers on management of COVID-19 at national and county levels. KMA thus has a pool of TOTs ready for deployment for training on COVID-19. Training material and data on COVID-19 are accessible on [www.kma.co.ke](http://www.kma.co.ke)

### On the use of medical or surgical masks by members of the public

KMA advised that medical masks should be worn only by health workers in the clinical areas, persons with respiratory illness, and by caregivers of persons with COVID-19. Mask use may reduce the risk of illness by blocking direct aerosol or droplet inhalation. Cloth mask recommendations have been made by the Ministry of Health following consultation with the KEBS technical committee on medical textile products.

### On psychological support for health workers

The KMA Physicians Health Committee is on standby to refer affected members to psychological care. At the hospital level, KMA recommended that mental health and psychological support teams be available to support frontline workers as they deal with COVID-19. KMA

runs an online discussion every Tuesday on psychological support for health workforce during COVID-19.

### On coordination of the COVID-19 response

KMA urged the government to let the infectious disease experts, epidemiologists, and other health experts to lead the teams deciding what interventions should be prioritized.

### On role of members of the public

KMA encouraged all members of the public to continue observing the guidelines issued by the World Health Organisation (WHO), and the Ministry of Health concerning physical distancing, washing hands with soap and water, avoiding open coughing or sneezing, contacting the COVID-19 hotline should there be symptoms, and staying at home as much as is possible.

### On testing for COVID 19

KMA urged the government to scale up testing for COVID-19 to enable Kenya to get more accurate understanding of the true picture of the spread of infection.

### Health Service Commission (HSC)

KMA continued to advocate for establishment of a health service commission for efficient coordination of health personnel, and improve quality of healthcare equitably across the country. The HSC would continue investing in human resources for health, enabling the government to enhance readiness for improved healthcare for Kenyans, and for future pandemics.

### Continuation of essential services even in COVID-19

KMA recommended that government ensure that all essential health services

such as HIV care and treatment, reproductive health services, mental health and other non-communicable disease care and treatment continue. This would avoid unnecessary patient suffering as focus shifts to COVID-19 at the expense of other medical services. KMA advised government to set up or dedicate specific COVID-19 hospitals for this pandemic, and leave the other health facilities to continue with usual care for patients with other conditions without putting patients and staff at risk.

### Quarantine facilities

KMA advised county and national governments to ensure that the chosen quarantine sites met the required standards. At the very minimum, quarantine facilities should allow for each person to be held in their own room to reduce the risk of transmission in those facilities. KMA advised that quarantine facilities should never be used as jails.

## PART 2.

### MEDICAL PERSPECTIVE OF COVID-19

Coronaviruses are a large family of viruses known to cause illness, ranging from the common cold to more severe diseases such as Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS). Some coronaviruses that are found in animals can infect humans (zoonotic diseases). **COVID-19** stands for Corona Virus Disease 2019.

It is a novel (new) coronavirus that emerged in 2019 reportedly in Wuhan, China, that has become a pandemic. The first case of COVID-19 was reported in December 12, 2019. It was linked to a Seafood Market in Wuhan City, China. On January 30, 2020, the

WHO Director-General declared that the ongoing outbreak of COVID-19 constitutes a public health emergency of international concern (PHEIC).

The main mode of human to human **spread** is by droplet transmission. Others are via touching a surface or object that has the virus on it, and then touching the mouth, nose, or eyes. Majority (80-85%) of COVID-19 infections are mild. Approximately 15-20 per cent of those infected may have severe disease. The mortality rate is estimated at 2 per cent. The mortality rate among hospitalized patients varies, but can be up to 15 per cent. Currently, there is no definite clinical management of a COVID-19 patient. Care is supportive. No vaccine or specific treatment for COVID-19 is available.

In **Kenya** the first reported case was of a Kenyan lady who had returned to Kenya from USA via London on March 5, 2020. The test was done by the National Public Health Laboratory of Ministry of Health. On 26th March, 2020, a 66-year-old Nairobi businessman was reported as the first Kenyan to die from COVID-19. It was suspected that he contracted COVID-19 in South Africa. As of May 5, 2020, Kenya had 465 positive tests, 167 recoveries and 24 deaths from COVID-19.

Several factors had put Kenya at **risk** for COVID-19 outbreak. There has been brisk trade and business between Kenya and China and other COVID-19 affected countries. This trade involved movement of humans and goods. There is also a large Chinese community settled in several parts of the country, who also receive visitors from China. There is also a large Kenyan community in China that includes students. Socio-cultural practices such as handshaking and

hugging increase the risk of contracting COVID-19.

Poor health seeking behavior is another risk factor. Mombasa has one of the

“ On risk communication, residents in the affected areas must be taught to avoid high-risk behaviors during the outbreak. These include observing cough etiquette by use of mask, tissue or cough to a flexed elbow, avoiding close contacts with those who may be unwell, hand hygiene, and avoiding unnecessary contacts with animals. ”

largest seaports in East Africa where many goods and humans pass through daily. Movement of goods from this port to inland Kenya and other East African countries via trucks also increase the risk. Fourteen counties were initially considered to be at high risk as they have international airports, are tourist destinations, have seaports, have major land border crossings, or have a high Chinese population.

In preparation for COVID-19, Kenya developed a National COVID-19 Contingency plan. Laboratories continue confirming positive cases in Kenya. At Points of Entry (POEs), a directive was issued to screen all travelers entering Kenya for COVID-19, and each POE should have a designated health facility where suspected cases are referred for specimen collection. Use of multilayered screening approach at POEs, and training and sensitization for health workers in both public and private health facilities and at POEs was initiated. Isolation facilities to isolate suspected and confirmed cases were set up at Kenyatta National Hospital, Mbagathi District Hospital and Kenyatta University Teaching and Referral Hospital.

Counties were directed to identify and prepare isolation units. Personal Protective Equipment sets were to be mobilized. Indicator and event based surveillance that was also ongoing was enhanced along with training of health workers, detection of suspected cases via routine surveillance, working case definitions and signals, contact tracing and follow-up with documentation, prompt notification and data management. Despite these measures local transmission has now been identified.

**Diagnosis** of COVID-19 is done using case definition and laboratory testing. The case definition is continuously updated at the Ministry of Health level.

The initial case definition identified a suspect case as:

Any person with any acute respiratory illness (fever or cough or difficulty in breathing)

AND at least one of the following:



- A history of travel to or residence in China /other countries with COVID-19 in the 14 days prior to symptom onset, or
- Close contact\* with a confirmed or probable case of COVID-19 in the 14 days prior to illness onset, or
- Close contact\* with an individual with a history of respiratory illness and travel to China within the last 30 days, or
- Worked or attended a health care facility in the 14 days prior to onset of symptoms where patients with hospital-associated COVID-19 infections have been reported.

Laboratory testing is done on Oral-pharyngeal swab and Naso-pharyngeal swab and some Serum samples. A positive case is one that tests positive for COVID-19 on laboratory test.

Quarantine is separating and restricting the movement of people who are considered exposed to a contagious disease and monitoring them over a period. Contacts of COVID-19 cases SHOULD be quarantined. Two models of quarantine exist—self-quarantine and supervised quarantine.

For those under quarantine, their body temperature is monitored, and their symptoms are observed at least once daily for 14 days from LAST date of contact. Should they become symptomatic, they are evaluated immediately by a clinician doing contact-tracing. Anybody with fever ( $\geq 38.0^{\circ}\text{C}$ ) or respiratory signs MUST be considered a suspected case and ISOLATED.

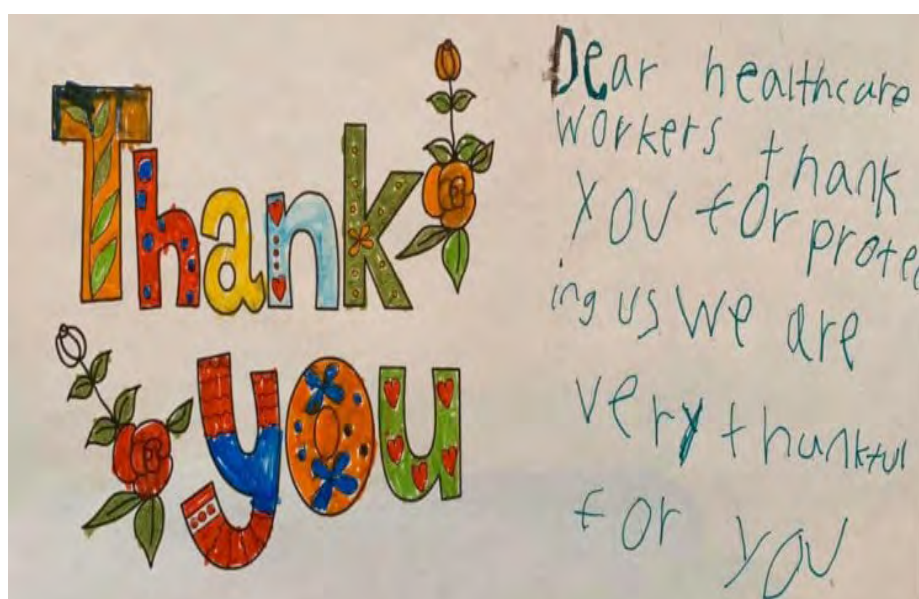
On **risk communication**, residents in the affected areas must be taught to avoid high-risk behaviors during the outbreak. These include observing cough etiquette by use of mask, tissue or cough to a flexed elbow, avoiding close contacts with those who may be unwell, hand hygiene, and avoiding unnecessary contacts with animals.

An alert desk (command center) should be established at the national, county and healthcare facility levels, with a dedicated telephone line, and manned by a trained team. The dedicated numbers should be widely disseminated. Communities should also be urged to report any suspect case immediately to the nearest HF or to the command center.

**Infection prevention** (IPC) practices and procedures applied consistently in health care settings prevent or reduce the risk of transmission of microorganisms to health care providers, clients, residents and visitors. IPC strategies associated with health care for suspected COVID-19 infection include: ensuring triage—early recognition, and source control thus isolating patients with suspected COVID-19 infection; applying standard precautions for all patients; implementing empiric additional precautions (droplet and contact and airborne precautions) for suspected cases of COVID-19 infection; implementing administrative controls; and using environmental and engineering controls.

**Dr Simon M. Kigundu**, an Obstetrician Gynaecologist with Hercules Healthcare, is the Secretary General of the Kenya Medical Association (KMA)

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# SOCIO-ECONOMIC EFFECTS OF COVID-19 PANDEMIC IN KENYA

WORLDWIDE, THERE HAVE BEEN MANY DISEASE EPIDEMICS THAT HAVE CAUSED WIDESPREAD DEATHS AND UNTOLD INJURY TO MANKIND IN THE PAST.

FELIX OWAGA OKATCH



The current epidemic, named COVID-19 which started in Wuhan, a city of about 11 million people in China, has caused widespread injury and deaths in the world. It started by the end of 2019 and has spread very fast globally. The incidence of the virus is very high; the same applies to death rate. However incidences of recovery have been higher than the death rate.

Worldwide, there have been many disease epidemics that have caused widespread deaths and untold injury to mankind in the past. In history, worse epidemics and pandemics have been many. They include Cisca, many Plagues, Black deaths (1346-1353), Cocoliztli (1545-1548), American Plague of 16th Century, Yellow Fever, Flu Pandemic (1889-1890), Polio, Spanish Flu (1918-1920), Asian Flu (1957-1958), and Acquired Immune Deficiency Syndrome (AIDs) pandemic (1981 to present).

Other epidemics in recent years include the H1N1 Swine Flu pandemic

(2009-2010), West African Ebola epidemic (2014-2016), Zika Virus Epidemic (2015- present) and now COVID-19 (2019- present).

“On revisiting history and epidemics literature, a French author, Albert Camus, in his book "The Plague", categorizes human problems into (i) disease, (ii) natural calamities, and (iii) man's inhumanity to another man.”

In the course of all these epidemics and pandemics, man has always developed medicine to overcome them after tragic

injuries. Science and advancements in medical research has always reduced morbidity and mortality.

On revisiting history and epidemics literature, a French author, Albert Camus (1913-1960), who won Nobel Prize in Literature 1957 [1] , in his book 'The Plague', he wrote this as a consequence of absurdity in life, "Life is absurd."

This made him conclude that human problems can be categorized as into three major concerns. He summarized human problem into three major categories. These are (i) diseases, (ii) natural calamities and (iii) man's inhumanity to another man.

On disease burden, Camus wrote that man has suffered immensely. Diseases of whatever nature cause major physical and mental injury to humanity. In some instances, diseases have disoriented existence of mankind. This has led to many injuries and tragedies.

Presently, the major global disease burden, which has caused injury to mankind, are many. In Kenya, according to the Kenya National Bureau of Statistics (KNBS) Economic Survey

2019, the major disease types that injure citizens are diseases of respiratory system, malaria, diseases of skin, diarrhea, urinary infections, pneumonia, accidents (including fractures, burns

etc), rheumatism (joint pains), intestinal worms, eye infections and many more.[2]

*Table 1: Disease incidence reported in health facilities in Kenya 2018*

	Numbers	%
Disease of the respiratory system	21,818,368	39.3
Malaria	10,777,679	19.4
Diseases of the skin	4,373,406	7.9
Diarrhea	3,068,142	5.5
Urinary tract infection	2,186,207	3.9
Pneumonia	1,774,931	3.2
Accidents (inc. fractures, burns)	1,562,951	2.8
Rheumatism, joint pains etc	1,824,038	3.3
Intestinal worms	1,181,492	2.1
Eye infection conditions	939,414	1.7
All other diseases	6,012,172	10.8
<b>Total</b>	<b>55,518,800</b>	<b>100</b>

**Source:** KNBS, Economic Survey 2019 (page 254) [2]

After human suffering due to diseases, natural calamities have equally caused untold injury to mankind. Kenya is not an exception. The recent natural calamities which have been tragic in Kenya include floods of Solai Dam, the perennial floods of Kano plains, Budalangi and many more. They have caused human suffering and death during the rainy seasons.

On other natural calamities, Kenya has not suffered incidences of volcanic eruptions like those in South East

Asia and Andes Mountains in Chile region of South America. The Sumatra earthquake and Tsunami of 2004 and Port-au-Prince earthquakes are considered as the most tragic human calamities in recent times. Also Italy suffered some tragic earthquakes in recent history.

The third problem of humanity that mankind faces according to Albert Camus is man's inhumanity to other men. People have decimated one another a lot in past and in recent history. There have been World wars, Bosnian wars in

Europe, and many more in Asia. As for Africa, there have been wars caused by political and ethnic differences in countries like Rwanda, Liberia, Sudan and many more.

In Kenya, we are no exception. We had the Mau Mau wars, post-election violence and occasional tribal clashes among local communities. All these are problems of man's inhumanity to other men.



The COVID-19 pandemic has occurred at a time when humanity is more interconnected than in the past. Technology, aviation, and global travelling have made the world a truly global village. Mankind now travels around the globe more than ever before. Tourism, trade and business services have made man visit many parts of the globe more than the past, according to data published by World Trade Organization, (WTO) 1995.[3] Therefore, the outbreak of COVID-19 in Wuhan, China, crossed the world in a very short time, unlike the other epidemics and pandemics experienced in the past [4].

This COVID-19 virus has no cure as per the date of the publication of this article. However, due to modern science, researchers are continuously undertaking medical studies to find a cure for the pandemic. As there is no known medical cure, the current prophylaxis is attempted by testing, isolating, quarantine and tracing affected patients for management.

The Kenya government, like all countries in the world, is getting technical and financial support from World Health Organization (WHO) and other philanthropic foundations. This assistance is on efforts to reduce transmission among citizens and the country's borders.

The technical and medical advice from WHO include guidelines to combat outbreak of COVID-19. They involve matters concerning rights, roles and responsibilities of health workers, including key considerations for

occupational safety and health. In Kenya, the washing of hands with sanitizers, keeping social distance and supply of face masks, among others, are being encouraged despite many challenges. These include continuous need to isolate, test, and quarantine and trace contacts of suspected COVID-19 infected individuals.

“  
The horticulture sector which is Kenya's main export earner closed due to non exports to Europe.

Europe and other export destinations for Kenyan products are also affected by this global COVID-19 pandemic and are now not importing goods from Kenya.

”  
This COVID-19 has caused social and economic burden to Kenya. On social aspects, the freedom which Kenyans had from the Kenya Constitution 2010, Bill of Rights Chapter four [5] has been

diluted. The government has imposed curfew and limited people's freedom. Many citizens live in trepidation and some have been isolated and pending being put in quarantine camps. This is so due to effort to combat the epidemic.

Still on social injury, the police in Kenya have caused more deaths and injury to Kenyans than those who have died of COVID-19. The ones who have died of COVID-19 related cases had underlying diseases, so scientifically it is not easy to infer their deaths to COVID-19. This is tragically sad.

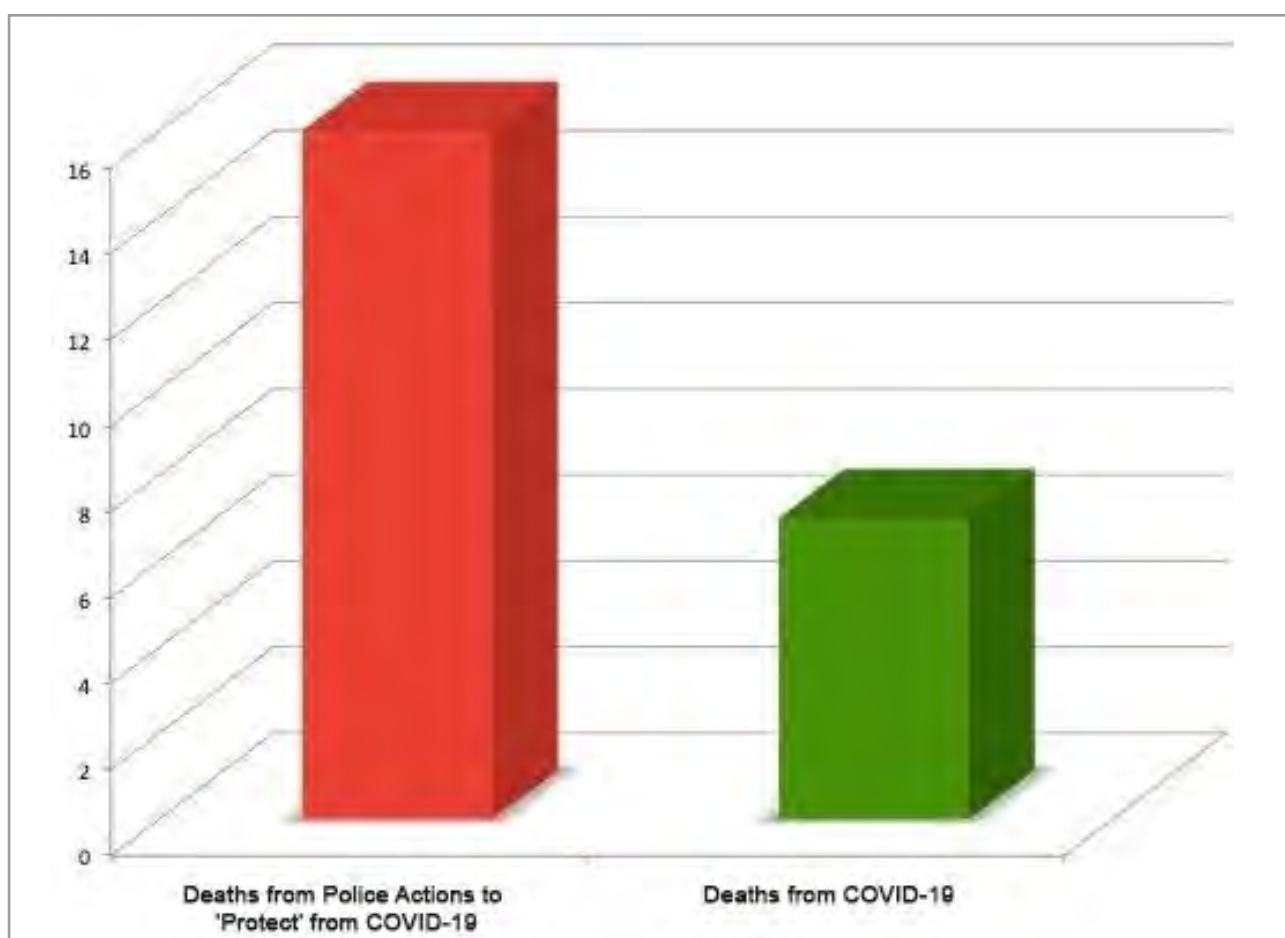
The other socio economic problems that the small traders face is reported case of burglaries. Press reports are awash with retail shops and kiosks being broken into by robbers and property of the small traders lost. Most of these small traders do not have insurance protection.

This means that the losses that they incur put them out of business completely. There are also instances where the hawkers of vegetables and fruits vendors lose their stocks in trade, as security personnel chase them away in all directions. From socio economic perspectives, these individuals are being pushed into more poverty.

As for those who have been injured by these security operations, they now have to borrow from their already poor relatives in order to get medical treatment. As for some, they use their meager savings for medical treatment due to physical injury and many more.



*Number of deaths reported in local press as caused by Police Brutality versus COVID-19 as at 11-4-2020*



Source: From Kenyan press reports by 11th April 2020

Other social problems caused by this pandemic includes gender violence against women due to spouses being at home because of government imposed curfew. Men who perform casual jobs in the informal sectors have been laid off from work.

As for those who manage to get manual jobs on daily basis, the employers now work with limited capacity and can only employ a few of them temporarily and pay them less. This has generally increased frustration in homes and has led to unexpected intolerable situations in houses and domestic violence. Such situations can also lead to social unrest and crimes. The incidences of corruption and police brutality have increased social injury to most Kenyans.

On the economic front, the loss to the economy is devastating. The curfew which was imposed by the government has resulted in unintended consequences like police brutality, crime, corruption and many more. This also will lead to food shortages, high transport costs and other unintended economic losses. Fraudsters have also taken advantage at the expense of poor citizens. Corruption which is prevalent in Kenya could take another dimension and cause more economic losses to the country.

The economic sectors like construction, agriculture, manufacturing, trade and many more are now operating at lower capacity due to this government imposed curfew. The horticulture sector which is Kenya's main export earner

closed due to non exports to Europe. Europe and other export destinations for Kenyan products are also affected by this global COVID-19 pandemic and are now not importing goods from Kenya. This has reduced the country's earning and Gross Domestic Product.

On the medical front, the challenges are worse. The hospitals now spend more time and scarce resources to treat Kenyans who are injured by police instead of tackling COVID-19 pandemic. This COVID-19 has compromised the already poorly funded health system in Kenya. The medical personnel are fewer, relative to recommended ratio per population [6]. This is illustrated below;

*Table 2: Registered health personnel by cadre 2018*

	Number	Number per 100,000 population
Medical officers	11,667	24
Dentists	1,270	3
Pharmacists	3,582	7
Pharmaceutical technologists	10,126	21
BSC nurses	4,974	10
Registered nurses	52,587	110
Enrolled nurses	23,112	48
Clinical officers	22,626	47
Public health officers	14,875	31
Public health technicians	7,239	15
Laboratory technologists	11,688	24
Laboratory technicians	3,622	8
Nutritionists and dieticians	3,066	6
Nutrition and dietetic technologists	4,430	9
Nutrition and dietetic technicians	813	2
<b>Total</b>	<b>175,681</b>	<b>368</b>

Source: KNBS, Economic Survey 2019 [6]

Medical protective equipments, masks and supplies are also not adequate. The medical Personal Protective Equipments (PPEs) and laboratory testing facilities are inadequate relative to demand and number of patients. They are in short supply. This adds more burden of disease to poor citizens in urban and rural areas of Kenya.

In Kenya, over 48 percent of the population is youth. Article 260 of The Kenya

Constitution 2010 defines youth as all individuals in the Republic who have attained the age of eighteen years and have not attained the age of thirty five years. That is those in the age bracket below 35 years. [6]. Most of them earn income from informal activities which are retailing, construction, transport and many more. As for their residences, they live in crowded slums. They do not have enough water and in some cases have open unhygienic sewers. To

apply the World Health Organization (WHO) recommended distance of 1.5 metre per person is impossible [4] in the urban slums of Mathare, Mukuru Kayaba, Kibera and many more in the case of Nairobi city. The other cities like Mombasa and Kisumu have similar slums as well.

In conclusion, man will overcome this pandemic burden just as he has overcome many in the past. It is a pity that



many have died as consequences of this virus and we need to console their families. As for Kenya, the social problems of corruption, greed, and outright theft will make the situation worse. We need to manage the crisis with good governance. This calls for duty of care, oversight and fiduciary responsibilities.

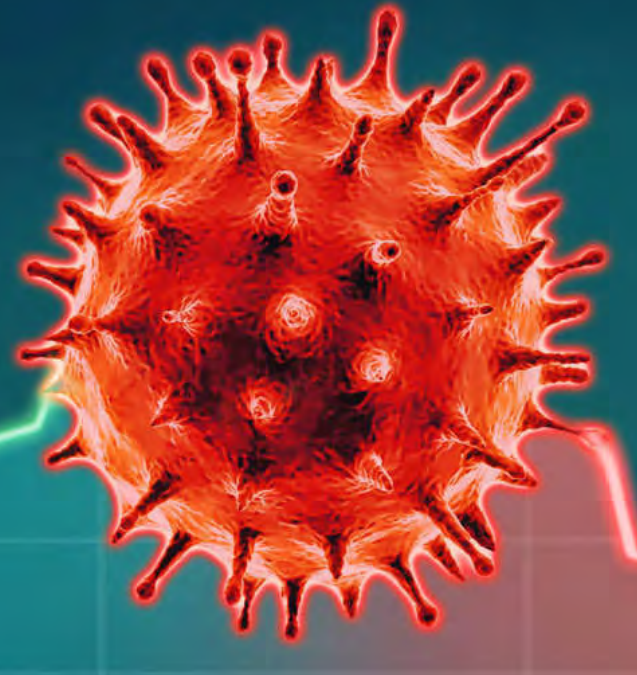
We need to use the donor and grant funds providently and proficiently for the benefit of the poor. This calls for providing support by paying health workers in time, motivating them and equipping primary health centres across the country. The moratorium of debt relief from International Monetary Fund (IMF) should release the scarce resources to fight this COVID-19 pandemic [7]. All parties need to be involved in deciding how to save mankind. Failure of taking evidence based action now will make all of us

be overcome by the pandemic. Otherwise we shall all perish. This COVID-19 affects everybody in the planet. It has no known cure. God save Kenya and mankind.

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**To reverse the curve  
All hands  
should be on deck**



# LEVERAGING NON-PHARMACEUTICAL INSTRUMENTS TO PREVENT, CONTROL AND SUPPRESS COVID-19 IN KENYA

APPLICATION OF PROVEN STANDARDS IS AN EFFECTIVE WAY OF PREVENTING, CONTROLLING AND SUPPRESSING COVID-19. THE COMMON STANDARD RECOMMENDED IS SOCIAL DISTANCING (KEEPING DISTANCE OF AT LEAST 1M) APART.

ISAAC MAMBOH NYAMWENO



This article endeavours to provide insights about the dreaded COVID-19 which has become a public health emergency issue of global concern since it broke out in China's Central Wuhan City in December 2019. All countries have responded in various ways to the pandemic which has caused havoc across the globe, and Kenya is no exception. The non-pharmaceutical instruments being employed by the government of Kenya and her partners to prevent, control and suppress COVID-19 form the thrust of this article.

## Background to COVID-19

A virus is a sub-microscopic infectious agent that replicates only inside the living cells of an organism. Coronavirus is the common name for Coronaviridae and Orthocoronavirinae, also called Coronavirinae. Coronaviruses cause diseases in mammals and birds. In humans, the viruses cause respiratory infections, including the common cold,

Severe Acute Respiratory Syndrome (SARS) and Middle East Respiratory Syndrome (MERS), among others.

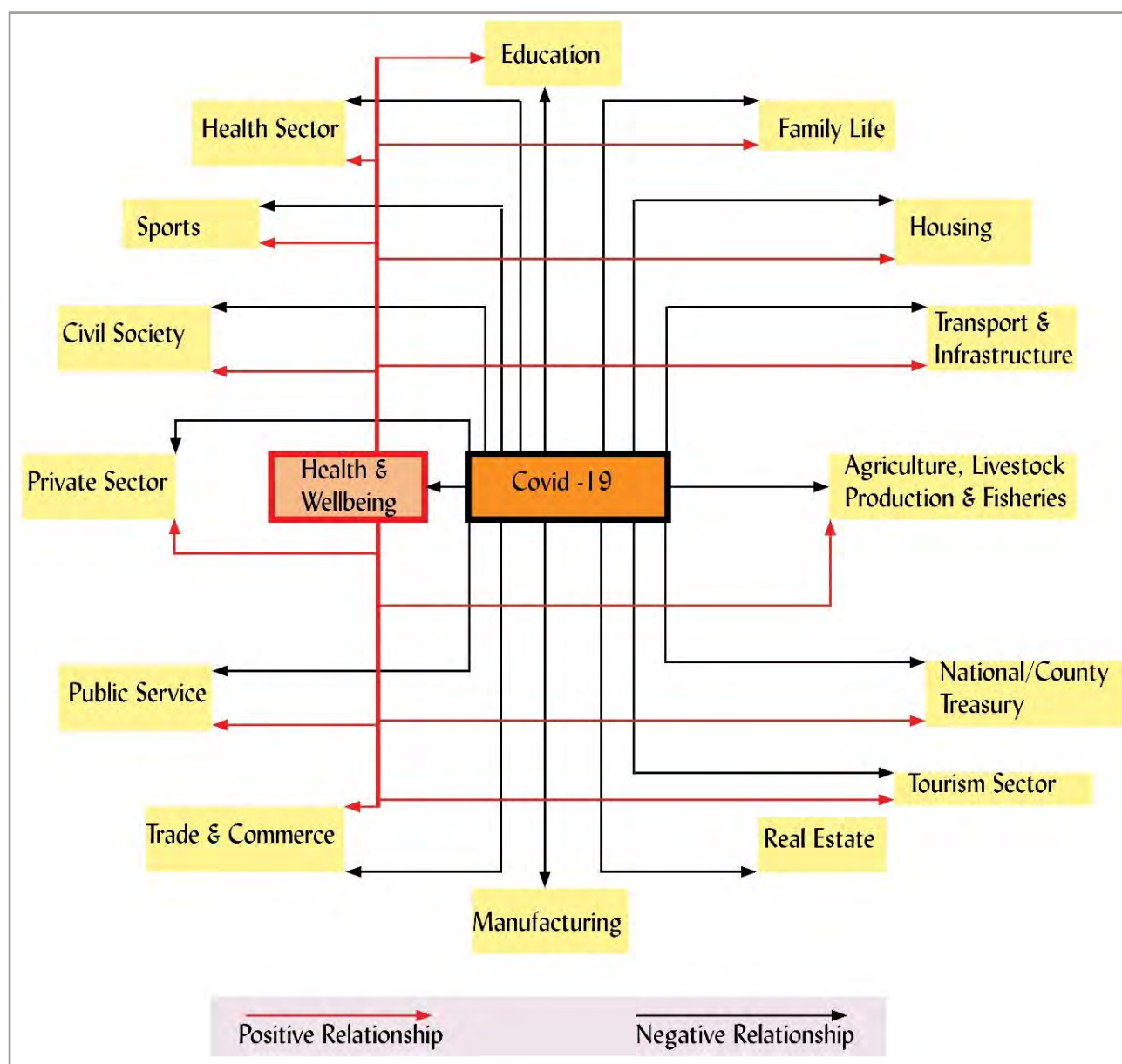
COVID-19 is a highly infectious zoonotic disease (transmitted from animals to human beings) that interferes with the respiratory system (viral pneumonia), and may lead to death within a short period of time. Symptoms of COVID-19 include fever, dry cough and shortness of breath. Symptoms of COVID-19 may manifest themselves between two to fourteen days. However, some people may be asymptomatic while maintaining ability to infect others.

Although most people with COVID-19 have mild to moderate symptoms, the disease can cause severe medical complications and lead to death in some people. COVID-19, which started from the China's Central City of Wuhan in December 2019, has quickly spread across the globe mainly due to

globalization, a complex phenomenon described as "a trend towards greater economic, cultural, political and technological interdependence among national institutions and economies". The rapid spread of the disease across the globe has been made possible due to advance technology especially in international transportation. The World Health Organization (WHO) on March 11, 2020, declared the novel coronavirus (COVID-19) outbreak a global pandemic.

## and wellbeing and Consequences of Disease and illness

COVID-19 has literally shaken the entire world and comes with innumerable consequences. Figure 1 below is a mind diagram that shows how good health and well-being impacts all sectors of the economy positively, and how diseases such as COVID-19 impact various sectors of the economy negatively.



**Figure 1: Negative impacts of COVID-19 and Positive impacts of Health and well-being**

Figure 1 above shows there is positive relationship between good health and all sectors of the economy. The figure also shows negative relationship between COVID-19 and all sectors of the economy. The disease has caused havoc in virtually all sectors of the economy globally including, but not limited to, closure of businesses and

manufacturing; abrupt collapse of tourism industry; loss of jobs and means of livelihood; closure of learning institutions and social places; losses in agriculture, livestock production and fisheries; loss of lives and productive

labour, among others. Other challenges associated with COVID-19 include: increase in domestic violence (especially violence against female gender), insecurity (perhaps due to loss of livelihood), food insecurity, among others.



**Table 1: Status of COVID-19 in Kenya and the World as per 26<sup>th</sup> June, 2020**

	Confirmed (COVID-19 Positive)	Deaths
Kenya	5,553	137
World	9,760,000	493,000

Source: Ministry of Health, Kenya

### Cure for COVID-19

COVID-19 has no cure so far. However, scientists across the globe are working round the clock to come up with a vaccine for the same.

### Interventions by the Government of Kenya

Like responsible governments across the globe, the government of Kenya has demonstrated its total commitment to prevent, control and suppress COVID-19. The Kenya National Emergency Response Committee on Coronavirus in its update dated 30<sup>th</sup> March, 2020, confirmed that the spread of the COVID-19 in Kenya had moved to community level and, therefore, more complicated to manage. To manage the situation, the government indicated that it was considering additional measures, in addition to travel bans that were already in place, school closures and the enforcement of curfew. Most of these measures will have far reaching legal implications.

The non-pharmaceutical instruments applied by the government of Kenya and her partners are discussed here.

### Legal Instruments

The Public Health (Prevention, Control and Suppression of COVID-19) Rules, 2020.

The Public Health (Prevention, Control and Suppression of COVID-19) rules were gazetted in Kenya Subsidiary

Legislation of 2020. The Public Health rules passed by National Parliament and Assented by the President are meant to prevent, control and suppress COVID-19 in Kenya

The rules state that:

- i. Every owner, person in charge of, or occupier of premises, and every employer and head of a household, who suspects that any person who is residing at his or her premises or who is in his or her employment, is suffering from COVID-19, shall notify a medical officer, public health officer, a medical practitioner, and or the nearest administrator, or take that person to a medical officer
- ii. Every medical officer of health, public health officer or Medical officer or medical practitioner who attends to, or who is called to visit a patient, shall immediately, on becoming aware or suspecting that the patient is suffering from COVID-19, transfer the patient to the nearest health facility.
- iii. Every medical officer of health, public health officer or medical practitioner who becomes aware, by post-mortem examination or otherwise, that any person has died of COVID-19, shall immediately inform the head of the household, or the occupier of the premises, or any person who has been in attendance

on or contact with the deceased person, of the infectious nature of COVID-19 and of the precautions to be taken to prevent its transmission to other persons.

- iv. Where any case of COVID-19 is transferred to a health facility, the medical officer of health or public health officer shall immediately visit and inspect the premises where that person resides
- v. A medical officer of health, public health officer or a health inspector, or other person acting on the written instructions of a medical officer of health, may enter any premises in order to search for any case of COVID-19, or to inquire whether there is or has been on the premises, any case of COVID-19.
- vi. Where a building, premises or conveyance has signs of contamination with COVID-19, or where a medical officer of health has information of contamination of a building, premises or conveyance, the medical officer of health may decontaminate or cause the decontamination of the affected building, premises or conveyance

The rules further clearly state the procedure to be followed while removing and disposing of bodies of persons who die from COVID-19. The procedure for receiving and handling persons suspected to be suffering from COVID-19 is also detailed in the subsidiary legislation.

Isolation is one of the public health measures recommended to prevent, control and suppress COVID-19. The subsidiary legislation states provide a procedure for dealing with persons who escape from isolation or quarantine

centres. The Medical Officer in-charge is expected to report such incidents to the police who will take action as per the enabling legislation.

### **The Public Order (State Curfew) Order, 2020 of 25 March 2020**

The Public Order (State Curfew) was issued by the Cabinet Secretary for Interior, Dr. Fred Matiangi via Legal Notice No.36 in accordance with the powers conferred on him by Section 8(1) of the Public Order Act. The Order which apply to the entire territory of Kenya states that:

- i. "This Order shall apply during the hours of darkness between seven o'clock in the evening and five o'clock in the morning with effect from the 27th March, 2020 and shall remain in effect for a period of thirty days thereof"
- ii. "Under this Order, there shall be no public gatherings, processions or movement either alone or as a group during the period of the curfew except as shall be permitted, in writing, by a police officer in charge of the police in a county or a police officer in charge of a police division"
- iii. "Notwithstanding the provisions of this Order, the Order shall not apply to the services, personnel or workers specified in the Schedule hereto". The Schedule specifies 22 essential services that are exempted from the Public Order.

The Public Order (State Curfew) is meant to significantly reduce the population of people mingling irresponsibly especially in social places which are major points for the spread of COVID-19.

### **The Value Added Tax (Amendment of The Rate Of Tax) Order, 2020**

The National Parliament passed the above stated amendment to the VAT Order which was then assented by the President to cushion the people of Kenya from the harsh economic realities during the COVID-19 pandemic. The VAT (Amendment of the Rate of Tax) Order, was issued by the Cabinet Secretary for the National Treasury and Planning, Ukur Yatani, via Legal Notice No.35 of 26 May, 2020. The amendment reduced VAT from 16 to 14 effective from 1st April, 2020.

### **Law Enforcement**

Enforcement of the law is the core function of the Ministry of Interior. Law enforcement officers are responsible for ensuring that the laws/rules relating to the prevention, control and suppression of COVID-19 are complied with by all people residing in Kenya. Some law enforcement officers have been accused of applying excessive force especially when it comes to observance of the Public Order (State Curfew) Order.

### **Application of Recommended Standards**

Application of proven standards is an effective way of preventing, controlling and suppressing COVID-19. The common standard recommended is social distancing (keeping distance of at least 1M) away. Others include use of face masks that are approved by the Kenya Bureau of Standards (KBS).

### **Testing for COVID-19**

Truck drivers who must transport essential commodities and especially those who deal with transit goods must undergo testing for COVID-19. COVID-Free persons are allowed to travel, while those found to be positive are quarantined and treated.

### **Enforcement of Isolation and Quarantine measures**

Isolation and quarantine are public health practices used to protect the public by preventing exposure to people who have or may have a contagious disease. Isolation in the context of COVID-19 involves separation of sick or suspected cases of COVID-19 that must not come into contact with others for at least 14 days.

Such people are tested before they can be allowed to interact freely with others. Self-isolation is highly recommended for people who may have been predisposed to coronavirus especially those with history of travelling. Quarantine on the other hand involves separation and restriction of the movement of people who were exposed to a contagious disease to see if they become sick. These people may have been exposed to a disease and do not know it, or they may have the disease but do not show symptoms.

### **Ban on international travel**

International travels (by road, rail, air or water) are perhaps the most important means through which contagious diseases are spread across the globe. Ban on international travels is, therefore, an effective strategy for preventing, controlling and suppressing COVID-19. The government of Kenya banned all outbound and inbound travels except for cargo flights, with a view to stopping entry of people who may be COVID-19 positive. This was occasioned by evidence that COVID-19 spread to Kenya through international arrivals from countries that were already experiencing the disease.

### **Enforcement of Lockdown measures**

Lockdown is an emergency measure or condition in which people are

temporarily prevented from entering or leaving a restricted area or building (such as a school) during a threat of danger. COVID-19 is the greatest danger the world is facing currently, and most countries have applied this strategy with a view to preventing, controlling and suppressing the pandemic. The President of Kenya, H.E Uhuru Kenyatta, announced a partial lockdown especially targeting the epicentres of COVID-19 including Nairobi, Mombasa, Kilifi and Kwale.

### Other Public Health Measures

Other public health measures employed include: promotion of personal and public hygiene through practices such as hand washing (8 stages), sanitizing, use of face masks, and social distancing among others.

### Conclusion

While the government has employed the above internationally tested practices to prevent, control and suppress

COVID-19, compliance by members of the public is of utmost importance.

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## Stay Safe





# ALTERNATIVE DISPUTE RESOLUTION BEST MECHANISM TO RESOLVE INEVITABLE RESOURCE CONFLICTS

BLUE ECONOMY NEXT FRONTIER FOR GLOBAL  
DEVELOPMENT AND ADVANCEMENT

JACKTON OLACHI



**T**he Blue Economy Conference held in Nairobi in November 2018 sought to explore fresh ideas on how to use rivers, lakes and oceans for greater economic benefit, while conserving it for future generations. These economic benefits abound in tourism, maritime transport, renewable energy, fisheries, waste management and climate change.

Dubbed the Sustainable Blue Economy Conference (SBEC) and co-hosted by Kenya, Japan and Canada, it sought new ways of using these natural resources while addressing the challenges of their exhaustion or destruction.

The Blue Economy, that comprises all water resources, is emerging as the next frontier for global development and advancement as extractive industries continue to diminish or collapse altogether. Sustainable use of marine resources can make a significant contribution to economic and social development. Investments in the Blue Economy can reduce poverty, enhance food security, create jobs, expand and

“  
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diversify economic output and exports. Further, scaling up fish processing, tourism, marine transport and other economic activities around the Indian Ocean, Lake Victoria, other lakes and rivers, would improve equity in income distribution.

Oceans contain 80 per cent of the earth's life, and produce more than half the oxygen we breathe. They moderate the planet's climate by absorbing about 90 per cent of the heat trapped in the ever thickening atmosphere.

Generally, oceans provide livelihoods to over 3 billion people who depend on marine and coastal areas including: Fishing, Tourism, Trade, Transport and Energy. Further, oceans determine weather patterns and temperatures, and serve as highways for seaborne international trade, besides mitigating the impact of climate change.

Further, they provide “Blue Energy” and a diversity of energy sources in the form of wind, wave, tidal, thermal and biomass to ease the growing demand on fossil fuels globally. They will also help to diversify our output and export base. The export sector is in urgent need of high growth and high value products to reduce the rising international trade imbalance that continues to stress foreign exchange reserves and payment obligations.

The Conference confirmed that humanity has realized that the Blue Economy holds immense potential that has not been fully exploited. It is also an acknowledgement that the world's rivers, lakes, seas and oceans face various challenges that compromise their sustainability, such as climate change, pollution and over – exploitation.

The conference also focused on new technologies and innovations relating to economic use of oceans, seas, rivers and lakes, as well as the challenges, opportunities, priorities and partnerships.

Overall, the conference fits well in Africa's Agenda 2063, which sees the Blue Economy contributing heavily towards Africa's Economic Transformation. The key agenda was to work together in formulating solutions that keep marine and aquatic resources safe from harm. Concrete commitments and practical actions that can be taken to help the world transition to the Blue Economy were also discussed.

Due to the vast spread of the location of the resources, security will be a major factor to the success of this noble endeavor. Towards this end, the National Government has since formed a Coast Guard Service for enforcing maritime security and safety, pollution control and sanitation. On many occasions, our fishermen in Lake Victoria have been harassed by Ugandan authorities. This will soon come to an end as each country will be expected to operate within its international boundaries.

The local communities who are the immediate beneficiaries of the water resources must be sensitized on the impact of climate change, pollution, and depletion of the same resources.

The Government must forge collaborative partnerships and alliances that will lead to new regulations, and policies as well as scientific research that contribute to new knowledge on Blue Economy. The Government must also ensure comprehensive community inclusion and participation in the Blue Economy sector for optimal success. Sensitization and inclusion of local communities will play a key role in ensuring sustainability, which is among the vital components of the Blue Economy. The Government must also take the lead in formulating policy reforms, such as the protection of key marine ecosystems, and the role of the local communities in conservation of the same.

Both foreign and local investors are going to engage Government in seeking partnerships and alliances, in order to harness our Blue Economy. It is imperative that the Government plays above board by ensuring the participation of all stakeholders. Any investor who will seek to break domestic laws due to any kind of perceived political connections should be shunned. Any licenses issued to investors in contravention of our Kenyan laws should not be respected. Corruption and bribery should not be allowed to rear their ugly heads.

Like any other emerging investment opportunity, conflict and misunderstandings will arise among the major stakeholders. The national government, county governments, foreign investors and local communities, will all want a piece of the pie. Issues of Licensing, Revenue Sharing, Compensation to Displaced Communities, and Environmental Conservation will all arise.

To avoid strife and conflict, all negotiations, contracts and deals agreed

upon must be above board. It will be to the benefit of all the stakeholders that all negotiated and concluded contracts have watertight Alternative Dispute Resolution (ADR<sup>2</sup>) clauses to aid in dispute resolution. Anything short of this will entail lengthy and costly court cases to the detriment of all the aggrieved parties. It is, therefore, imperative that close attention is paid to the ensuing Dispute Resolution Mechanism.

Recently, two different rulings by international arbitration centers and a Kenyan court saved Kenyan taxpayers from forking out a whooping Ksh. 290 Billion in compensation to several entities. The claims filed against the Kenya Government by Cortec Mining Kenya<sup>3</sup>, Businessman Kamlesh Patni and World Duty Free Company Ltd,<sup>4</sup> were all decided in the Government's favor. This is a wake up call to both Government and prospective investors that all dealings must be transacted within the laid down procedures.

Let us make the 21st Century synonymous with prosperity, inclusivity and sustainability by pushing the Blue Economy forward.

**Mr Jackton Olachi, the C.E.O. of Munami Properties, is an arbitrator and mediator**

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# MEDIATION A GROWING TREND IN RESOLVING WORKPLACE DISPUTES

COMPANIES MUST TRAIN STAFF  
PROPERLY TO ACHIEVE BEST RESULTS  
FROM ALTERNATIVE DISPUTE RESOLUTION

SHAFIQ TAIBJEE



Imagine a scenario where you have staff of various qualifications and backgrounds whose only goal in life is to make a living by doing their jobs, and are all working in perfect harmony in the workplace. Their focus is simply to achieve the company's goals. This is every CEO's dream come true.

But the reality is that no such company exists, and conflict in the workplace is an every day occurrence. Companies have deployed various tools through their human resource managers and consultants to deal with workplace conflict with varying levels of success.

But the new method that is gaining increasing prominence in dealing with workplace conflict is mediation and arbitration, also known as alternative dispute resolution (ADR). ADR mechanisms are now a normal part of employment contracts, while trainers and training institutions are reaping big from training on ADR as the ultimate method of resolving conflicts, instead of resorting to litigation, or getting embroiled in engagement with unions.

*What exactly is mediation and arbitration?*

## Mediation

Mediation can be defined as the attempt to settle a legal dispute through active participation of a third party (mediator), who works to find points of agreement and make those in conflict agree on a fair result.

## Arbitration

Arbitration is a legal technique for the resolution of disputes outside the courts, wherein the parties to a dispute refer it to one or more persons (the "arbitrators", or "arbitral tribunal"), by whose decision (the "award") they agree to be bound.

However, mediation and arbitration will not be successful if companies do not implement it the correct way.

One of the biggest hindrances to success is the practice by many companies, even well established ones, of sending a couple of senior staff for training in mediation and arbitration, with a belief that this training will solve all the problems of conflict at the workplace. Some of these companies might

find a modicum of success, but for the rest, nothing changes, and it is just business as usual. The person who attended the training can now to update their curriculum vitae.

Resolving workplace conflicts cannot be done by simply training a couple of staff, and it will take a transformation in company culture to bring an overall change in the employee-employer attitude and behavior to find some harmony. There are many deep-rooted reasons why conflicts arise in the workplace, and these may be rooted in religion, culture, race, education, physical age and so on.

The basic principles of arbitration and mediation is the neutrality, fairness, confidentiality of the process, quick resolution, positive solutions for the future, dialogue compared to antagonism, and, overall, it brings out a win-win solution. From then, both parties to the conflict can move forward.

At any workplace, there is always politics and there is always an alignment either to the management or towards the staff.

Therefore, there is always a perception within the ranks as to where each person is aligned. In situations like this, the process of arbitration and mediation becomes challenging, and it would be recommended that the companies use a mediator or arbitrator who is not part of the staff, but an individual professional who is fully dedicated to the practice, and can be available on regular intervals to resolve conflicts and mediate areas of contention.

### Challenges of In-House Training of Staff (Adult Learning)

The definition of an adult for the purposes of this article is any person who is at a legal working age, and is responsible, autonomous and self-directed in their lives.

We will define learning as a process in which individuals acquire knowledge, skills and attitude through experience, reflection, study or instruction. It is a relative permanent change in behavior resulting from instruction or stimulation from external sources, from one's own practical experiences and from insight arising from reflection. Just like everyone cannot be an engineer, lawyer or a doctor, it would be difficult to train the entire staff and make them understand the intricacies of mediation or arbitration. It is professionals who are in practice that are best suited and are fully motivated that will be able to achieve the company's goals of conflict resolution.

Workers must be motivated to learn so as to achieve a personal goal, realize the need to change the current situation and be ready to change their behavior in a positive way.

For older workers and those not highly educated, retention of knowledge also becomes a challenge. Consequently, what amount of information is disseminated becomes essential, and information overload will simply frustrate any effort to

resolve conflict where the process may be too complicated for them to grasp.

Learning, understanding and transferring this information so as to create a change in the workplace environment for laymen to implement a technical process, is not an easy task. Converting people from diverse backgrounds and levels of exposure to undergo a process, acquire and adopt new skills, and move from what they know to the unknown for a new positive change, is a huge challenge.

Time constraints and work pressure makes learning very challenging at the workplace. There is considerable distraction due to production deadlines and other tasks hence divided attention of the learner.

Those who are able to focus and graduate, face the challenge to be confidential, its of the process. Many are not willing to take the risks.

There are examples in the USA where the staff were forced to sign arbitration agreements, regarding conduct of sexual advances made by senior staff on their colleagues. All these cases are now being challenged in the court. In Kenya, criminal offences cannot be negotiated between the parties.

The above few things mentioned are by no means exhaustive, and there are a myriad of challenges that will be experienced. The whole spectrum of the challenges cannot be covered in one article.

There are different kinds of mediations and arbitration that parties can engage in, just to mention a few in brief:

a. **Court Mandated Mediation:** At times the courts do get involved when the issues are about getting a cost effective and speedy end to a matter. Then the matter is referred to mediation.

- b. **Evaluative Mediation:** Where mediators are likely to make recommendations or suggestions or express opinions. They help the parties assess the situation for the party's benefits.
- c. **Facilitative Mediation:** this is the direct opposite of evaluative mediation and it's the most common form. The mediator facilitates the parties to arrive to an agreement.
- d. **Med-Arb:** This is a hybrid version of the two methods of dispute resolution. The parties agree to the terms of the process and to be bound by the eventual result.
- e. **Transformative Mediation:** the disputing parties are made to be cognizant of each parties interests and needs and basically it the parties acquiring the skills to make the constructive change.

### Conclusion:

Every company should endeavor to train and elevate the status of the level of education for their staff. It's a good investment in the employee. What, however, is important for every human resource manager is, what kind of training is imparted, and what difference will it make towards a better environment in the company?

It must be a win-win and only then will the results show. There are some core issues the company cannot outsource, for example, marketing, as this is the integral part of the company, and its entire brand capital will hinge on this.

There is a simple business line that most clever CEO's use. Shareholders take care of the employees, employees take care of the customers, and the customers take care of the shareholders.

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# THE CRISIS OF ETHICS IN THE PRIVATE SECTOR- CEOs MUST CONFRONT TOUGH CHOICES

IF THE PRIVATE SECTOR IS GOING TO RESTORE ETHICAL STANDARDS  
IN THE SOCIETY, THEN IT MUST BE WILLING TO GET ITS HANDS DIRTY

DR KENNETH WAYNE MUTUMA



The pervasive nature of corruption in Kenya continues to receive wide coverage within the media, sparking intense debate around what measures should be taken to arrest this trend.<sup>1</sup> From what is in the public domain, it appears that every sector of society is facing a crisis of ethics in some way or the other.<sup>2</sup>

All components of government have been implicated in massive corruption episodes.<sup>3</sup> The Executive and the various departments falling under its ministries continue to attract negative publicity with regard to scandals that range from petty to institutional corruption.<sup>4</sup> Parliament's legitimacy is increasingly being questioned, following revelations of the bribery of legislators charged with the critical function of oversight on behalf of Kenyan citizens. Courts have been accused of being the weak link in the fight against corruption, with cases of judicial officers whose integrity and ethics have been compromised.

“Am I doing the right thing? Am I doing it the right way? Am I doing it for the right reason? It is clear when one reflects upon these questions that what is ethical may go beyond what is legal.”

While the predominant attention has been centred on unethical practices in the public sector, the private sector has not escaped scrutiny. Recent media coverage around tax evasion by established and leading corporate

entities suggests that the crisis of ethics is not confined to the public sector, but is equally and intensely prevalent in the private sector.<sup>5</sup>

As these recent reports indicated, there is often a relationship between the spread of unethical practices across both sectors. Not only does this highlight the importance of paying equal attention to the development of ethical practices in the private sector, but how such development could be used as a leverage to adjust the socio-cultural dynamic in both private and public spaces as far as ethics is concerned.

This article discusses what needs to be done to imbibe a culture of ethics in the private sector in this regard. To do this, a general understanding of what is ethics and its location in the Kenya society is essential before one discusses what can be done to inculcate an ethical culture in the private sector.

1 Nzau Musau, 'Where is the weak link in Kenya's fight against corruption?' Daily Nation 13 November 2016.

2 Dindi, Adeline M. Munala, Gerryshom, Alkizim, Ahamad, Kivaa, Titus Prof. Gichure, Christine, 'Ethics as a solution to Corruption: a case study of the construction industry in Kenya,' Strathmore University, School of Humanities and Social Sciences, Research Publication

3 Rahab Mbiriti, '6.6 Trillion Shillings Looted as Corruption Balloons in Kenya,' Soko Directory 22 March 2019

4 ibid

5 Richard Munguti & Vincent Achuka, 'Keroche Breweries owners charged with tax evasion,' Daily Nation 23 August 2019.

'Ethics' comes from the Greek ethos, which means character.<sup>6</sup> In this sense, ethics refers to the science of right conduct and character.<sup>7</sup> It is a set of principles that prescribe moral obligations on how persons ought to behave in relation to others.<sup>8</sup> Essentially ethics is about a moral compass and entails asking oneself three main questions: Am I doing the right thing? Am I doing it the right way? Am I doing it for the right reason? It is clear when one reflects upon these questions that what is ethical may go beyond what is legal.<sup>9</sup>

This is an important distinction in the effort to grow an ethical culture. This is because while the advent of the new legal dispensation under the Constitution of Kenya 2010 led to a discourse around the 'right to', the question of ethics suggests that society equally reflects upon whether or not our actions are 'right'. To this end, several reference points have formed the basis of the sense of what is right and wrong, including culture and religion, and the countless stories that have been shared across generations in order to communicate important values and ethos.

While certain commonalities exist across the diverse segments of society, it is apparent that this diversity is likely to translate to differences in perspectives around what is or is not ethical. Fortunately, the Constitution lays the basis for a common understanding by outlining in Article 10 what are the national values and principles of Kenyan society. Note that these values and principles

bind all persons, including the private sector, and not just those in leadership or the public sector.

In furtherance to the aspirations of the Constitution, the public sector has sought to integrate ethics through Mwongozo, a governance framework, which includes a code of ethics aimed at state corporations that emphasis the adherence to key principles such as conflict of interest, corporate reputation, and social responsibility amongst other things.<sup>10</sup> Similarly, the private sector initiatives have come up with various initiatives at multiple levels (through umbrella associations, specific professional associations, and individual companies) to achieve similar outcomes. For example, the Kenya Private Sector Alliance (KEPSA), has in place a Code of Ethics for Business (the Code) that ensures that all members subscribe and promote ethical conduct, and sanction misconduct.<sup>11</sup>

The Code is an initiative aligned to the UN Global Compact, and outlines the need for ethical practices that are in conformity to labour, environmental and anti-corruption standards.<sup>12</sup> In this sense, it complements individual corporate codes in their commitment to respect and comply with ethical practices. Adherence to the Code determines interaction with all other stakeholders including shareholders/investors, customers, suppliers, the environment, and most importantly, the government.<sup>13</sup> This link with government indicates the prospects with which adherence to ethical practices by

the private sector has the potential to influence the public sector.<sup>14</sup>

For example, firm respect and compliance with ethical values when engaging the State restates the fundamental principle of the rule of law. Similarly, taking strong measures against ethical malpractices such as bribery of state officials can have an enormous impact on corruption prevention.

With all the efforts in developing codes of ethical codes of conduct, why is the media awash with numerous examples of unethical practices? Why are companies that were thought of as the epitome of success out of step with basic ethical values that they were meant to espouse?<sup>15</sup> Part of the reason may lie in the fact that adherence to these values is that of lip service, and not based upon a true recognition of the importance of ethical conduct as a parameter of success. It is time that private sector came to terms with numerous research findings, which point at the correlation between an ethical reputation and long term growing investment.<sup>16</sup> The more we understand the micro and macro implications of ethical conduct upon the business environment, the more likely the private sector will start to engage the subject critically.<sup>17</sup> Adherence to ethical standards will improve transparency and accountability, lead to prudent utilization of resources, and ultimately, greater performance. This is essential for companies that are interested not only in short term gains, but also in the long term impact, in the societies.

6 BBC, 'Ethics Guide: A General Introduction', available on [http://www.bbc.co.uk/ethics/introduction/intro\\_1.shtml](http://www.bbc.co.uk/ethics/introduction/intro_1.shtml) accessed on 4th September 2019

7 Manuel Velasquez, Claire Andre, Thomas Shanks, S.J., and Michael J. Meyer, 'What is Ethics?' Markkula Center for Applied Ethics, Santa Clara University available on <https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/what-is-ethics/> accessed on 4th September 2019.

8 Ibid

9 'Why Ethical Responsibilities Go Beyond Legal Compliance', Bartleby Research Essay, 21 January 2013 available on <https://www.bartleby.com/essay/Why-Ethical-Responsibilities-Go-Beyond-Legal-Compliance-P3J3SDE3VC> accessed on 4th September 2019.

10 'Mwongozo: The Code of Governance for State Corporations', issued jointly by the Public Service Commission and the State Corporations Advisory Committee, January 2015.

11 Richard Murithi, 'Using the Code of Ethics for Business in Kenya to fight corruption', Hapa Kenya available on <https://www.youtube.com/watch?v=6jsQl62mpzg&t=295s> accessed on 4th September 2019.

12 Ibid.

13 Ibid.

14 Ibid.

15 Ibid n5.

16 Ifzal Ahmad, Waheed Ali Umrani, 'The impact of ethical leadership style on job satisfaction', Leadership & Organization Development Journal 8 July 2019.

17 Principles of Sociological Inquiry: Qualitative and Quantitative Methods: Ethics at Micro, Meso, and Macro Levels' GitHub Pages available at [https://saylordotorg.github.io/text\\_principles-of-sociological-inquiry-qualitative-and-quantitative-methods/s06-03-ethics-at-micro-meso-and-macro.html](https://saylordotorg.github.io/text_principles-of-sociological-inquiry-qualitative-and-quantitative-methods/s06-03-ethics-at-micro-meso-and-macro.html) accessed on 4th September 2019.

Many corporates do not engage in malpractices because of a knowledge gap. Neither do they do so because they are inherently corrupt. The root of many malpractices in the private sector is tied in understanding 'why good people do bad things'.

One explanation is the overriding influence of self-interest coupled with the lack of self-control, for instance, where there is a conflict of interest such as whether to pay taxes or post profits, bribe officials or comply with national environmental regulations etc. This is compounded by the traditional corporate behaviour that emphasizes maximization of profit above other equally important considerations e.g. environment and labour practices. Another explanation relevant to our context relates to the apparent resignation to culture of corruption. The private sector is a part of a society where repetitive incidents of corruption have crystallized and are accepted as the state of affairs.

Few corporates are willing to challenge the *status quo*. Instead they capitulate, often motivated by self-preservation in the face of potential threats relating to loss of business. This may be true of the growing number of entrepreneurs whose rapid ascent and wealth is linked to government contracts obtained in questionable ways.<sup>18</sup> This scenario is illustrative of a unique form that the crisis of ethics facing the country takes: the amalgamation of public and private interests as evidenced by the involvement of politicians in private business.

If the private sector is going to restore ethical business conduct, then it must be willing to get its hands dirty. This is in stark contrast with the approach that it has dominated in the past when faced with the colossal scale of the problem. Many corporates in these circumstances have elected to exit the discussions on the vital role they can play, opting

to shield themselves from ethical probity. Others have either paid lip service to the issue, or worse, accepted to function in the terrain as 'loyal' subjects, irrespective of the unethical practices.

What is needed of the private sector at this time is leadership both at an institutional level, and among the heads of corporate entities themselves. Nothing has the potential to adjust values and practices than the example provided by leaders. This leadership should be evident in the measures that the private sector takes internally in order to nurture ethical conduct in business.

Two approaches may be relevant in this regard. The first is that of establishing a compliance-based ethics management with mandatory prescriptive and proscriptive rules, controls and penalties. The second entails setting up a cultural environment based upon integrity based management that incentivises and rewards ethical behaviour, while at the same time supporting employees in their desire to conduct business in a more ethical manner. Both approaches are required, but with the right balance.

Restoring ethical values in society will turn on the quality individuals that lead the corporate sector and the values that they espouse. In the words of Peter Drucker: 'What executives do, what they believe and value, and what they reward and whom, are watched, seen, and minutely interpreted throughout the whole organisations. And nothing is noticed more quickly – and considered more significantly – than a discrepancy between what executives preach and what they expect their associates to practice.'<sup>19</sup> This suggests that more important than establishing rules and regulations, is the conduct of individual leaders. Such leaders should be at the forefront of establishing a hierarchy of values (beyond lip service compliance), which they

effectively communicate to both internal and external stakeholders.

Their conduct should demonstrate an intolerance of unethical behaviour, while being proactive in setting up a complaints friendly environment with an open and safe space where such behaviour can be reported. Ultimately, the journey of becoming an ethical leader is a personal one, where the individual must reflect upon their own values and how they prioritise these across the different spaces they interact. Corporate leaders striving to make an impact in this area must be willing to ask of themselves difficult and intrusive questions such as: 'Am I the same person in the organisations as I am at home or in the community? How does the time I spend point to my values?' If the adequate support is provided to stimulate such conversations within the internal space, leaders in the private sector will emerge with the courage to live out ethical values amidst the current pressure to compromise and rationalise malpractices.

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<sup>18</sup> 'From Rags to Riches: A story of NYS Air Supplier,' Daily Nation Available at <https://www.nation.co.ke/news/From-rags-to-riches—A-story-of-NYS-air-supplier-Ngirita/1056-4578778-112tuyw/index.html> accessed on 4th September 2019.

<sup>19</sup> Donna J Popow, 'Ethical Leadership and Organizational Culture in Claims,' CLM, available on <http://clmmag.theclm.org/home/article/ethical-leadership-and-organizational-culture-in-claims> accessed on 4th September 2019.

# TOWARDS ETHICAL COMPLIANCE BY CORPORATES

EVERY ACT OF ORGANIZATIONAL FRAUD OR UNETHICAL PRACTICE IS PROBABLY COMMITTED BY A PROFESSIONAL WHO AFFILIATES WITH A CERTAIN PROFESSIONAL BODY WITH ACCLAIMED CODE OF CONDUCT

**ATELA SOLOMON**



Corporate governance has gained prominence in organizational theory and practice. However, in the last decade, failures of the once dominant global companies and brands due to unethical business practices is the stark reality. Organizational leadership/management finds itself at crossroads in dealing with emerging ethical issues vis-a-vis corporate performance especially at senior levels of management.

Ethical decisions begin with individual choices, thus inherently personal, and, therefore, organizational management is constrained in the extent of its control. This situation is aggravated by the apparent overemphasis on the 'bottom-line' by most business organizations, evidenced by cost-cutting and profit optimization strategies.

There is an unwritten feeling and dogma within the corporate world that, 'the end justifies the means', especially in this era of corporate jungle games. It should never escape the mind and heart of corporate leadership that the influence of ethical compliance on corporate

“ Corporate professionalism and excellence without individual professionalism is a mirage, and a sure way to incremental corporate collapse. ”

success or failure cannot be understated, if the numerous corporate scandals in the 21st Century were to be mitigated.

In a dynamic business environment with volatile, uncertain, complex and ambiguous trends, organizational leadership and management is constantly bombarded with how best to achieve sustainable business performance. Desired leadership characteristics in fluid and complex scenarios that deliver results remains a subject of debate.

However, corporate strategists tend to converge on the need to identify and shift to sources of competitive advantage and performance based on those organizational capabilities that are valuable, rare, inimitable, and non-transferable. These resource capabilities are unique to an organization, and apparently found in intangible assets: the domain of tacit and explicit knowledge management.

Corporate professionalism and excellence without individual professionalism is a mirage, and a sure way to incremental corporate collapse. Individual members of a corporate entity would make decisions based on their ethical values: sense of integrity, with profound effects on professional and corporate outcomes. Such individual choices should inform corporate policy and strategy deliberations to avoid being caught napping. Personal professionalism is created and built on the foundation of individual ethical beliefs, norms and values. As a distinctive capability, professional ethics should be nurtured, configured and aligned to other organizational resources, to



deliver competitive advantage and superior performance.

Time is ripe for corporate organizations to focus more on the place and role of professional ethics in corporate performance. Karen (2014) suggests that professional ethics can be institutionalized and supported within an organization through: laws and regulations; codes of ethics and conduct; internal policies and procedures; ethics reporting program; ethical leadership; and equitable reward and punishment system.

## Professional Ethics

Ethics defines the degree to which an individual knows and is committed to doing what is right all the time. Professional ethics is defined as professionally accepted standards of personal and business behavior, values and guiding principles. Ethics is a sublime indicator of professional integrity. Members of a professional body are expected to consistently adhere to the codes of professional ethics in the performance of their duties and behaviour. However, as social beings, people often tend to bend the rule of law for personal convenience, often without much thinking through. Though taken for granted by organizational leadership, professional ethics remains an invaluable determinant of performance and sustainability. The dilemma is in how to address the inevitable gap between individual behaviour and desired corporate ethics and conduct. It is argued that professional codes and civic values counteract the effects of individualism in unfettered markets ( Durkheim, 2018).

Integrity is a foundational basis for professional, organizational and societal ethics. The Federation of European Accountants: Discussion Paper (2009) describes integrity as being

straightforward and honest in professional and business relationships; fair dealing and truthfulness; not being associated with information that contains materially false or misleading statements or information furnished recklessly. Therefore, professional ethics is both a corporate and individual responsibility to which utmost accountability is required. Corporate institutions would be better if an integrated integrity framework: systems, strategies and structures, were created and built around ethical values and commitment. Such a framework behooves and inspires all in an organization to strive towards higher values of honesty, truthfulness, honor, dependability, and trustworthiness. These values become indispensable ingredients of an enviable ethical climate that fosters integrity, a key pillar of good corporate governance.

Good corporate governance practice is increasingly threatened by malpractices due to abuse of power and discretion. Such corporate malpractices are attributed to ethical lapses at corporate board rooms due to individual choices that tend to involuntarily percolate through corporate processes, compromising responsiveness, accountability, fairness and transparency. Klitgaard (1998) observes that, in an environment of weak accountability, monopoly of power and discretion in decision making, given an opportunity, corruption and unethical practices will likely thrive. Organizations should, therefore, strive to enhance internal accountability mechanisms to avoid the tendency to misuse power and discretion arising from unfettered positional authority. Nature abhors a vacuum, thus in the absence of individual and professional ethical persuasion and commitment, the slightest of opportunity is open for disguised professional abuse.

Without the risk of micro managing organizations, effective corporate leadership prides in building an environment where individuals find it honorable to exercise professionalism for the interest of all key stakeholders. The innate objective is for individuals in position to act as responsible agents of the company and its stakeholders. The wisdom of Gandhi, that 'the world has enough for everyone's need but not greed' remains a guiding light in every service with dignity, honour and integrity. The oil of integrity has to keep the flames of ethics burning through the journey of a devout professional. Eriksen (2015) argues that professional integrity, as a basis for professional ethics, should not be reduced to bureaucratic rule following or mere responsiveness to client or patient requests.

## Ethical Compliance

Individual decisions at whichever level portend consequences that will either foster or negate corporate core values. It should never be lost in the corporate mindset that the unit of analysis for ethical compliance is first and foremost the individual. Ethics is a proactive focus while compliance tends to be reactive. Therefore, it is entirely possible to be compliant without being ethical. The efficacy of corporate compliance is highly predicated on the levels of professional and individual compliance.

Compliance describes a situation where necessary policies, procedures and processes are put in place to enable staff and the company comply with relevant laws and regulations: internal and external. All over the globe, the government requires corporate compliance, and it's up to corporate boards and directors to get all employees to comply. However, most corporate organizations tend to be strong on legal compliance but weak on ethical compliance.

Ethical compliance describes systems and processes that value ethical practices based on clear standards and shared values

which influence individual and corporate behaviour. It can be construed that the most visible corporate abuses are due to lapses in legal compliance, whose root cause could be underlying unethical practices. It is easier to implement and measure legal compliance through risk assessments, reviews and training than ethical compliance. Notably, sustainable corporate performance should ensure a strong integrated legal compliance and ethical framework as complementary programmes.

Professional integrity is espoused in ethical behaviour which is a critical requirement for individual self-awareness. Self-awareness enables a person of integrity to accept, learn, and correct any situation, therein gaining the trust and confidence of co-workers and employer. It is therefore necessary for the country and professional bodies to intentionally shift emphasis from legal compliance to ethical compliance as the epitome of good corporate behaviour. Staff, individually, become the focal point of responsibility and accountability, helping shape organizational, professional and societal behaviour.

## Ethical Leadership

Ethical leadership is transformative, relational and authentic. Such a leadership values both the growth and development of the individual and organization, lifting all to levels and heights never reached before. Ethical leadership embodies the ethic of care: building community, honesty, respect for others, and service to others and trustworthiness. Corporate leadership and staff are agents of stakeholders, thus stewards of entrusted resources. There is no greater value creation and delivery to corporate stakeholders than ethical corporate practices premised on commitment to values of servitude.

Ethical leaders lend assurance and exhibit fidelity to organizational and professional values, especially when there is conflict of

interest. The influence of the 'tone at the top' can never be silenced if corporate efficacy and efficiency were to be achieved. During hard economic times, the tendency to sacrifice ethical behaviour for short-term gains puts to test the commitment of corporate leadership to ethical practices.

## Codes of Ethics and Conduct

Every act of organizational fraud or unethical practice is probably committed by a professional who subscribes to a certain professional body with acclaimed code of conduct. Individual ethical practices are a fundamental precursor to professional, corporate and societal ethics. Codes of ethics and conduct are a codification of desired organizational values and principles to help individuals align and integrate personal behaviour to desired organizational dictates. Professional ethics, though a critical component in shaping organizational and individual ethics, remains a weak link in strengthening corporate governance due to the perceived 'grey areas' in the ethics-legal discussion.

In Kenya, the demand for professional reference from professional bodies by employers is quickly turning into a ritual rather than a best corporate practice. The tendency for cartel-like behavior among professional bodies in defending one of their own whenever issues of professional malpractice arise is a familiar encounter within the corporate governance challenges in Kenya. A code of ethics means nothing to those who are not aware about it; little if it is not subscribed to; and it may have no significance if it is not enforced.

## Ethical climate

Studies indicate that employees' mostly value the consistency in policies and actions, fairness, ethical leadership and openness within an organization's cultural climate. Zipparo (1998) suggests that the ability to behave ethically in a workplace may be

related more to aspects of the organization than to attributes of the individual, thus an organization's ethical culture has a powerful influence over an individual's behaviour and, specifically, that people are more likely to be unethical where their managers are unethical.

Organization leadership must invest in cultural re-engineering to bring back into place shared values as the springboard for superior performance. Corporate team building and process re-engineering initiatives only bear fruits if they are value-driven beyond changing attitude and behaviour. A positive organizational culture is institutionalized if individual psyche is aligned with the corporate psyche at all levels of corporate governance. Internal policies and procedures are effective to the extent of the operating environment. This process should go beyond the buzz of core values to intentional efforts aimed at building an institutional framework of integrity and ethics.

An ethics and compliance framework facilitates clear and continuous communication of every aspect of the corporate culture to stakeholders so as to reinforce an ethical culture in every aspect of the organization. The management of compliance and ethics issues allows institutionalization of an effective compliance and ethics program. Once a choice has been made, neither the individual nor the corporate entity has control over the consequences. These choices have nothing to do with idealism, but the courage to continuously learn and develop. Intentional efforts to mainstream ethics into the fabric of the organization through training, role-modelling, coaching and messaging are essential to provide a healthy ethical and compliance climate.

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# SECURING YOUR LIFESTYLE WELL INTO RETIREMENT

IT'S CRITICAL TO WORK WITH PENSION EXPERTS  
TO AVOID FALLING INTO DESTITUTION  
UPON RETIREMENT

HOSEA KILI



Until now, your retirement planning has probably revolved around saving as much money as you can, buying some property, and investing in the stock market among other ad hoc plans. You are probably cognizant of the fact that the closer you get to retirement, the more you need to plan your income needs. Unless you intend to work through your retirement years, you are aware that you will not have a paycheck to provide for your needs and lifestyle.

Social Security will contribute some. Perhaps you have a pension, an employer retirement plan and some personal savings. Still, many people may end up with a deficit between what they need, and what their current savings can do towards sustaining their needs in retirement. Generally, statistics indicate that you need at least 70 per cent income replacement in retirement to be able to sustain your current lifestyle.

A recent study by the World Bank group, in collaboration with the International Poverty Centre (IPC), established that,

“Statistics indicate that you will need at least 70% income replacement in retirement to sustain your current lifestyle.”

in the Kenyan context, the poverty rate among older people is greater than that in the population at large, and appears to be increasing. The severity and depth of poverty is also greater amongst the elderly. Moreover, the study also established that only about 3 per cent of the elderly population receive any pension income, and that the current system provides benefits mainly to better educated and higher income groups. Additionally, the study states, belonging to a household with a pension recipient reduces the probability of being poor

in elderly-headed households by 17-20 percent.

As populations continue to grow and live longer than ever before, it has never been more important to make correct and informed choices about how our assets will last the course. It's no secret that state pension arrangements are not sufficient to cover most people's plans for their retirement years. The push on the need for private savings, and the introduction of work-place pension in light of these ever-increasing age statistics have further heightened the pressure on working people to get their finances in order.

The good news is, it is never too late to start putting the wheels in motion to build a portfolio of assets designed to meet your future financial needs, while also ensuring loved ones are protected should the worst happen. All too often, however, people entering retirement do not place enough emphasis on personal financial planning to ensure they maximize their opportunities.



Having a comprehensive and formal retirement plan with a clear strategy to deliver to your retirement needs is key to understanding the best way to maximize your pension freedom. A new car, a new house or a vacation may seem like a fantastic idea within the first week of your new-found retired lifestyle, but in many cases, your pension pot will have to last for almost as many years as it took to save it and a purchase like this may put too much strain on your pot to meet your needs for the remainder of your lifetime. This is why the distinction between Pension Arrangements and other forms of retirement plans becomes very important.

While a pension plan guarantees you a monthly or regular payment throughout your life post retirement, other plans such as gratuity or provident funds have proven not so effective as retirement plans. This is because a one-off lumpsum, given to someone who was used to drawing a monthly salary for the past so many years, only tends to precipitate chaos in such an individual's life.

The excitement, the perceived ability to 'manage their financial affairs', enticing investment offers into risky ventures, among other risks, are real. More often than not, such a lumpsum payment runs out within the first year of retirement. The individual is left destitute

with no recourse, and no monthly pension to fall back to.

The easiest way to protect your funds and cut through the confusion is to seek expert financial advice – it is the best way to understand when you can retire with confidence, while also ensuring your assets are structured suitably and invested in a risk-managed strategy designed to maximize potential returns.

At CPF Financial Services, we spend time with retirees and those hoping to retire in a fulfilled manner, discussing what is important to them in life, establishing their goals and aspirations for the future, and learning about the important things they wish to plan for. Creating a clear vision for your retirement is the most solid route to understanding what is possible with the money you have saved.

It is also important to note that when planning for our future, the 'what ifs' still need to be taken seriously, and a rainy-day fund is essential. Gone are the days when one would rely on their children for elderly long-term care. With people living way into their 80s and 90s; the cost of private health care, medication, and elderly long-term care must be accounted for within a financial plan. Currently, Kenya's per capita expenditure on health stands at \$169 (Ksh17,

000) compared to the Netherlands; often touted as one of the countries with the best healthcare—at \$5,202 (Ksh 520, 400).

Although financial planning and retirement planning are essentially two separate entities, they must be weaved together to provide the lifestyle you want. Getting down into the granular detail of your finances as you approach retirement is the best way to assess what actions are needed to maximize your assets. Seeking expert help both throughout our working lives and way before you get the retirement date is a sure way to take the dreaded stress and worry off our shoulders when you hit our 60s.

As we strive to save, invest and grow our assets over the course of our working lives, the transition to withdrawing and living off those funds may seem a terrifying concept. But through solid advice and good decision making, you can guarantee financial freedom throughout your golden years.

**Mr Hosea Kili** is the Group Managing Director/CEO of CPF Financial Services; an organization with interests in Retirement Benefits Solutions, Scheme Administration and related Financial Services.

*What do you call  
a person happy on Monday?*

— RETIRED —





# LET JUSTICE BE OUR SHIELD AND DEFENDER

PROFESSIONALS MUST BE  
WARRIORS IN UPHOLDING  
AND ENFORCING JUSTICE

MBETI MICHUKI



A national anthem, as a national symbol, arouses a sense of patriotism and speaks to the aspirations, dreams, and hopes of a nation. A just society can only be realised where its individuals engage in just practices. The words of our national anthem, which were judiciously and poetically drafted 55 years ago, are often sang with zest, but our obligation to live by these words and uphold their meaning is barely realised.

The third line of the first verse, 'Justice Be Our Shield and Defender' is typically understood in a legal sense and often disregards the individual responsibility of citizens. We are called to uphold the justice as doing what is just, right and fair in all spheres of our lives; in the public or private domain, as well as in our livelihoods.

Everything we do should be geared towards nation-building. Thus in our work, as professionals, we are required to uphold justice and to certain standards if we are to be the shield and defender of the people of Kenya.

“As every Kenyan is called to nation-building, professionals must base their practice on the national values and principles of governance if they are to achieve their highest potential and offer citizens the best from their profession.”

A profession is set apart from any other work based on the specialised education and training that is undergone to offer the specialised skill. Every profession ensures specific training to inculcate certain principles to the individual,

which are reflected in their future practice. Professional engagement continues with one obtaining certification that grants the person legitimacy to engage in the trade. For instance, a graduate engineer undergoes an apprenticeship for several years before attaining accreditation to the Engineering Board of Kenya. The same applies to accountants, financial investors, architects, surveyors, lawyers, doctors and many other professions who must undertake a series of specialized courses or examinations to obtain accreditation from their respective professional board.

Professional bodies regulate their members conduct through regulations and codes of conduct. By being a member of a certain body, one's professional conduct is regulated both in the private and the public domain. Professional bodies provide redress mechanisms through which colleagues and citizens may seek resolution of disputes that arise from misconduct or mismanagement of the citizens' matters. These mechanisms provide disciplinary

measures for errant members and maintain the standard of the profession.

As every Kenyan is called to nation-building, professionals must base their practice on the national values and principles of governance if they are to achieve their highest potential, and offer citizens the best from their profession. A person shows patriotism in their profession when they seek to uphold, uphold and protect human rights and preserve human dignity. Patriotism dictates that one's practise upholds transparency, integrity and accountability.

For instance, does a member in the construction sector develop the most cost-effective design for their client or one that is sure to require constant management and cost to the client? Do surveyors hold each other accountable when one is aware of an erroneous report that satisfies the client's needs? Are financial analysts providing accurate forecasts to their client or making pacts behind their back for their benefit? The consistency in doing what is just, right and fair promotes social justice and good governance.

Every citizen is expected to be a defender of the nation through use of their expertise and knowledge. Legislation, policies, guidelines and manuals ought to be developed by those who understand the intricacies of implementation to strengthen the overall nation-building process. This should be at the heart of everything we do, whether in the public or private sector. For instance, the prevalence of government appointments that are not merit-based has created fertile ground for disruption in service delivery and corruption. Corruption is a scourge in the country, with some calling for it to be declared a national disaster. If individuals were to remain true to the nation and professional

calling, they would ensure they provide services in line with stipulated regulations for the benefit of the citizens.

### **Professionals stand to uphold and enforce justice**

The allegory in shielding and defending involves a shield and a spear; the shield as an armour for protection against attacks and the spear for attacking the adversary. Professionals must consider themselves as warriors in protecting and defending the country. An unprepared warrior is as good as a non-existent warrior. The education and training one undergoes to be admitted into a profession forms the training ground for the warrior; learning the tools of trade and using them in diverse scenarios to protect the interests of the citizens that they serve. For instance, programmes such as judicial attachment and participation in legal clinics for those in the legal profession provide students with practical experience of skills taught in class and an introduction to their clientele.

In addition to this knowledge, the individual must be cognisant of the role they play in nation building; the position a warrior takes to protect their community. It is upon appreciating the powerful influence one holds in shaping the nation through their profession that they will become more concerned with generating wealth for the nation, which is also their wealth. The constant feature of industrial strikes by professionals ought to be addressed as a collective problem, and not isolated to any specific profession. The phrase 'not my monkey' should never be tolerated by professional bodies.

As a warrior, a professional should take their role to speak up against irregular practices both within and without their

profession. From establishing development think tanks, legislation and policy drafting, to implementing blueprints generated from the think tanks, ensuring quality assurance and compliance, all professionals have a vital part to play in nation building and delivery of justice.

Professional bodies exist to uphold the standards of the practice. It is foolhardy for a profession to claim its right of practice in the absence of regulatory standards, dispute resolution mechanisms and an awarding mechanism. These institutions provide guidance and direction to their professionals to promoting good practice, seeking emerging practice areas and ensuring observance of the regulations and codes of conduct. Professional bodies should encourage peer monitoring, transparency and accountability to ensure just provision of service to the public. They should award practitioners who uphold the national values and principles of good governance and discipline those who do not. It is prudent for the leaders of these bodies to reflect the values the association upholds, first in their own practice, and then in their leadership.

As chief warriors, it is incumbent for professional bodies to promote relevancy and growth of practice through developing meaningful professional advancement courses. These courses should reflect current issues, for instance, infrastructure building, consumer protection in the age of false advertising and marketing, participation in global markets while preserving local markets all the while ensuring the preservation of the citizens' rights. Professional bodies need to submit their members to robust training that seeks to endorse nation-building. These courses should equally apply to professions working in the government to ensure countrywide

standardisation of the profession. Regularisation will shield citizens from lax service delivery by some state officials who may stand to be disciplined, and ultimately, deregistered for unscrupulous behaviour.

It is considered honourable for a warrior to sustain injuries as they defend their community. Professionals are called to defend their profession from insiders who do not uphold the integrity of the practice and citizens who seek favours and bending of regulations for their benefit. For instance, medical negligence and malpractice should be dutifully investigated, and action taken where such investigations reveal misconduct by the medical staff. The desire to uphold standards should be greater than that of maintaining the peace.

Most important, professionals are to defend citizens from government policies and practices that do not nurture

sustainable development within their practice.

Defending human rights places one in a position of danger because it disrupts the profit margins of a few individuals at the expense of the entire nation. While citizens are often not privy to discussions concerning government decisions, professionals within government departments have a centre seat in these proceedings. Such individuals must valiantly defend the rights of citizens of Kenya. Defending the rights of citizens may call on reliance on professional bodies to engage the government and end projects that are not in favour of the citizens of Kenya, and ensure continuous engagement with the government for realisation of transparency and accountability

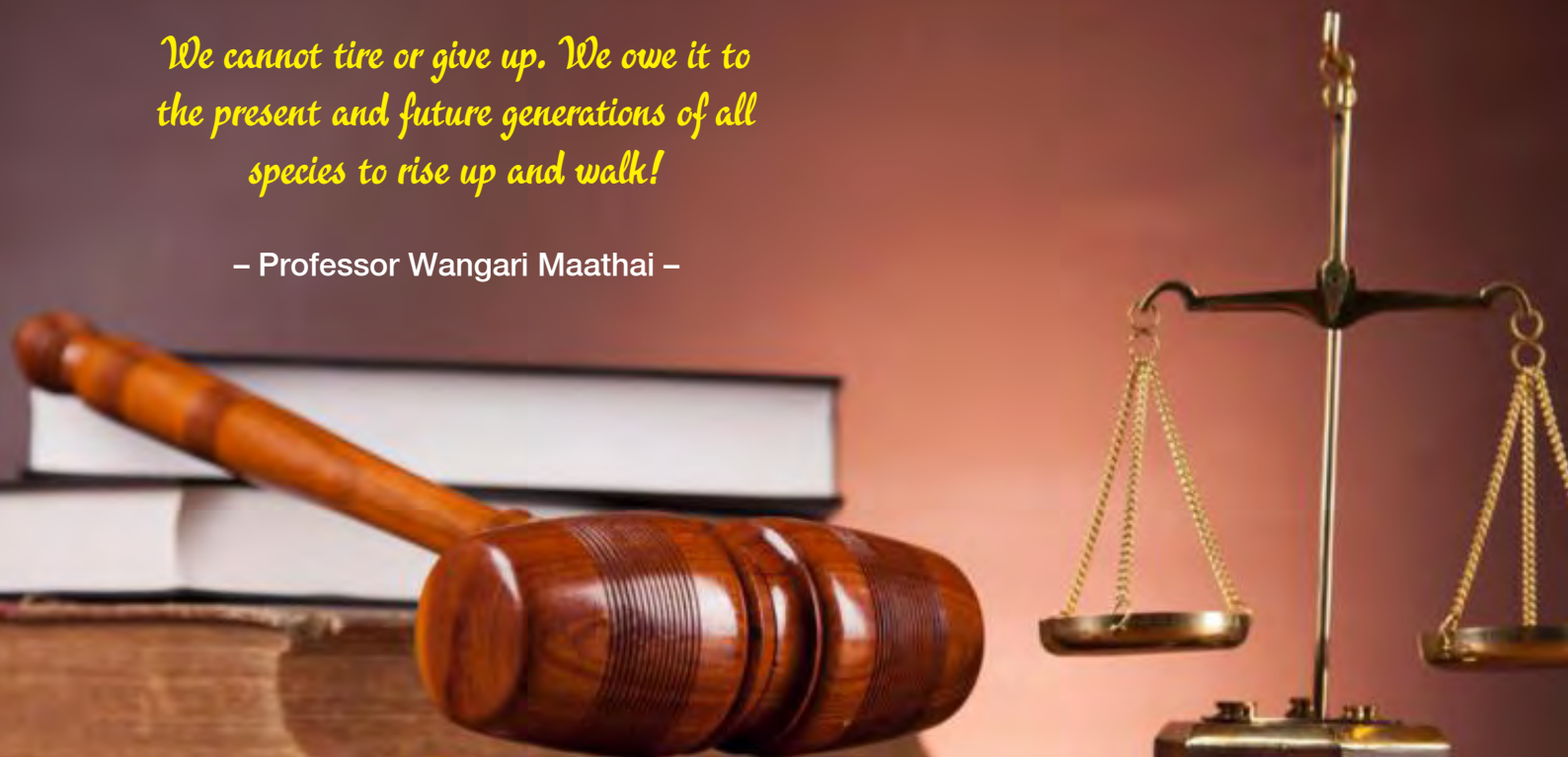
'Let One With All Accord, In Common Bond United, Build This Our Nation Together,... The words of the 3rd verse of the National Anthem is a clarion call

to all professionals to come together under the bond of unity and commitment to build our country. Professional bodies ought to partner together and seek ways of developing the country. Through working in such collaborations, professional bodies stand to gain more audience with both the government and the public in advancing nation building and fulfilment of the words of the National Anthem. Each member of a professional body should reflect on their purpose- is it in sole pursuit of their professional development or development of the community and the nation at large? Professionals are called to be loyal to Kenya, her countrymen and uphold standards that realize justice as our shield and defender.

**Mbeti Michuki** is an advocate, mediator and human rights consultant. She may be reached on [mbeti@michukiandassociates.co.ke](mailto:mbeti@michukiandassociates.co.ke)

*We cannot tire or give up. We owe it to the present and future generations of all species to rise up and walk!*

– Professor Wangari Maathai –





# PROMOTING EXCELLENCE IN THE BUILT ENVIRONMENT

THE AAK HAS ESTABLISHED A STRONG RESEARCH AND ADVOCACY FUNCTION IN RECENT YEARS WITH THE KEY PURPOSE OF DRIVING POLICY CONVERSATIONS BASED ON FACTUAL AND EMPIRICAL DATA.

ARCH. MUGURE NJENDU



PROMOTING EXCELLENCE  
IN THE BUILT ENVIRONMENT



The Architectural Association of Kenya (AAK) was established in 1967, and is Kenya's leading professional society for Architects, Quantity Surveyors, Town Planners, Engineers, Landscape Architects, Environmental Design Consultants, and Construction Project Managers. As an umbrella Association for professionals in the built and natural environment, our Association draws its 2,500 plus strong membership from practitioners, National Government, County Governments, Private Sector, and Academia. The Association also acts as the link between professionals and stakeholders in the building and construction industry including policymakers, manufacturers, real estate developers, financial institutions, and so on.

The AAK has established a strong research and advocacy function in the recent years with the key purpose of driving policy conversations based on factual and empirical data. Key among the research and advocacy programmes undertaken by the association includes;

“The AAK has established a strong research and advocacy function in the recent years with the key purpose of driving policy conversations based on factual and empirical data.”

## Automation of Development Control Processes

The AAK through a collaborative effort with IFC/World Bank has been at the forefront in automating development, control with the initial Kiambu, Nairobi, Kisumu and Mombasa Counties having installed fully automated

systems. Recently, Kajiado and Kilifi signed agreements to allow for automation of the respective county development control functions. Some of the benefits of the electronic system include: Improved Speeds of Permit Issuance – the automated system will reduce the amount of time needed to review and approve a building proposal through features including electronic transmission, concurrent evaluation etc., Increased Transparency – The system has communication features that update (electronically) the applicants on the status of their applications, eliminating the need for physical visits, Increased Efficiency by the local authority, including management oversight. Increased accountability of the construction permitting system

## Regulation for Built Environment Professionals

The Architectural Association of Kenya has been keen on establishing regulatory mechanisms for all built environment professionals. Key among the achievements so far is the formation of the Coalition of Built Environment



Professionals that brings together all related professional associations such as the Architectural Association of Kenya (AAK), Institute of Quantity Surveyors of Kenya (IQSK), Kenya Institute of Planners (KIP), Town and Country Planners Association of Kenya (TCPAK), Institute of Engineers of Kenya (IEK), Project Managers Institute of Kenya (PMI-K) among others. A research study on Developing Stronger and Effective Regulation of Built Environment Professionals in Kenya was also undertaken by the Coalition through a consultant, Prof. Alfred Omenya. This effort is leading toward transforming the regulatory regime toward self-regulation of the built environment professions.

### Land Use and Physical Planning Act 2019

In 2017, the AAK, through the Research and Advocacy Committee, engaged a consultant, Mr. Kiragu Wachira, who assisted in reviewing the initial Physical Planning Bill 2017, and prepared a report and detailed memorandum in response to the Bill. AAK presented its concerns through the memorandum before a Speakers Round Table held in November 2018 at the Leisure Lodge Hotel in Diani. The Bill was later amended into the Land Use and Physical Planning Act 2019, after which it received presidential assent.

### Information on Construction Permit Approval

In 2018, AAK engaged a consultant, Ecoplan Management Ltd, to undertake

a research on the Construction Permit and Development Approval Processes in 10 counties in Kenya: Kajiado, Nakuru, Nairobi, Machakos, Kisumu, Kiambu, Mombasa, Kakamega, Nyeri and Uasin Gishu counties. From the output of the research, AAK developed a database of processes for building permits and planning applications in these counties, with aim of making it easier for the public to access such information, as processes and fees for each county was found to be different. The database, which is hosted on the AAK website as a portal, is dubbed 'BuildHub' and can be accessed at [buildhub.aak.or.ke](http://buildhub.aak.or.ke)

This data has not been presented in the public domain, and it is our hope that this will increase transparency as well as providing data as provided in the Access to Information Act.

### Status of the Built Environment

Since 2017, AAK has been publishing the Status of the Built Environment Report bi-annually. The report analyses the various aspects of the Built Environment Sector from perspectives of Land, Real Estate, Financing, Urban Planning and Development, Infrastructure, Investor and Developer Scenes among other.

### Je Una Mjengo? Clinic

AAK launched a public awareness campaign dubbed 'Je, Una Mjengo?' in the year 2017. The campaign aims to enlighten the general public, who make up owners of buildings in the country,

on the processes and best practice in the industry. The main aim of this campaign, therefore, was to create public awareness on the building and construction processes and best practices to avert collapse of buildings within the country. The campaign targets the general public with an aim of achieving public education amongst the masses on the correct processes to follow to get building approvals, or even the roles that the different professionals undertake in the processes and the industry as whole.

### Affordable Housing/Big s4 Agenda and Local Content Policy

The Research and Advocacy Committee has been deliberate on policy advocacy geared towards ensuring proper delivery of the Affordable Housing Agenda including proposals on subjects relating to Holistic Housing, Empowerment of Local Consultants and contractors through the Local Content Policy, Ease of Doing Business and the Building Code. The Association has been part of several discussions keen to discuss the delivery of the affordable housing agenda with both the Government and other private sector players in Kenya and beyond. It is our position that there should be significant input by local players (consultancy and materials provision) through an effective 80-20% local content policy.



## THE AAK ANNUAL CONVENTION

The AAK Convention is an annual event of the AAK which brings together its membership as well as other built

industry practitioners and stakeholders for deliberation on themes of common concern. It is the Association's premier

Continuous Professional Development (CPD) event that sharpens our members' professional and business

acumen by exposing them to discussions on pertinent issues in the industry.

Last year, the convention took place on 14th to 16th August 2019 at the Sarova Whitesands Hotel, Mombasa, under the theme, Building blocks and the Built Environment. During the event, our Association hosted the Commonwealth Association of Architects (CAA) General Assembly, and the Robert Matthew Award alongside the Convention.

The theme 'Building blocks and the Built Environment' focused on building for industrialization. The theme was broken into the following sub-themes:

- Product innovation for building: Industrial design of buildings
- The design of industrial parks: How the Built Environment plugs in to the design and delivery of Industrial Park design.
- Building the machinery for Agenda 4 delivery: Agenda 4 has lofty goals, what policy and processes need to be streamlined to ensure that the environment for Manufacturing is done locally and builds local capacity.
- Building manufacturing for climate sustainability: Manufacturing processes in the built environment

and their impact on climate. Strategies for mitigation. In tandem, the effect of the built environment on manufacturing.

- The role of education in manufacturing and industrialization: The role that our universities handle in research and development with regards to the built and natural environment.

As a professional Association, we will continue to work tirelessly toward promoting excellence in the built environment.

**Arch.Mugure Njendu** is the President of the Architectural Association of Kenya

*We shape our buildings  
there after  
they shape us*

– Helon Habila–



# PICTORIAL



APSEA Meeting with Hon. Jude Njomo, MP to discuss the Banking(Amendment) Act no. 25 of 2016.



Dr Nicholas Letting (left) congratulates Mr Felix Okatch on the election as APSEA Chairman



APSEA Secretariat with the new Chairman



APSEA new Chairman, Mr. Felix Okatch, and Outgoing Chairman, Mrs. Irene Wanyoike



Mrs. Irene Wanyoike and the new office holders



APSEA Council members pose for a photo after Chairman's press release



APSEA Council Meeting 2019



Kenya Professional Development Fund (KPDF) Stakeholders Forum.



APSEA chairman, Mr Felix Okatch, welcoming the guest of honor, Solicitor General, Kennedy N Ogeto, EBS, at the APSEA gala dinner 2019.



Kenya Professional Development Fund strategic plan retreat



APSEA and CPF Trust Fund sign partnership MOU



APSEA chairman, Mr Felix Okatch, with GIZ Kenya team during the launch of review of code of conduct

# APSEA MEMBERS DIRECTORY

Currently APSEA Kenya has a membership of twenty-eight as listed below:

NAME	INITIALS	LOGO	ADDRESS AND CONTACT DETAILS
Architectural Association of Kenya	AAK		Architectural Association of Kenya, Blue Violet Plaza, P.O Box 44258-00100, Nairobi, Kenya. 0721 691337
The Association of Consulting Engineers of Kenya	ACEK		Association of Consulting Engineers of Kenya, Commodore Suites, Kindaruma rd, Ng rd. Cell: 0717 191593
The Chartered Institute of Arbitrators Kenya Branch	CI Arb		Chartered Institute of Arbitrators (Kenya branch), Nicholson Drive, Off Ngong Road, P.O Box 50163-00200, Nairobi. 0722200496
Geological Society of Kenya	GSK		Geological Society of Kenya, Utumishi hse, 2nd floor.Mamlaka Road P.O Box 60199-00200, Nairobi, Kenya.
Institute of Certified Public Accountants of Kenya	ICPAK		Institute of Certified Public Accountants of Kenya, CPA Centre, Ruaraka, Thika Road, P. O. Box 59963-00200 Nairobi, Kenya. 0727531006, 0719074136
Institute of Certified Secretaries	ICS		Institute of Certified Public Secretaries of Kenya, CPS Governance Centre, Upper Hill, Kilimanjaro Road, P. O. Box 46935-00100, Nairobi, Kenya. 0770159631



NAME	INITIALS	LOGO	ADDRESS AND CONTACT DETAILS
Institute of Clerk of Works of Kenya	ICWK		Institute of Clerk of Works, Kenya, P.O. Box 927-00600, Nairobi, Kenya. The Secretary -0721870610
Institute Of Certified Investments and Financial Analysts	ICIFA		Institute of Certified Investments and Financial Analysts, Kasneb Towers, Upper hill P.O. Box 48250-00100, Nairobi, Kenya Telephone: +254(020) 712640/2712828 0726498698
Insurance Institute of Kenya	IIK		Insurance Institute of Kenya, P.O. Box 1200-00200, Nairobi, Kenya. 0735350450,0727231861
Institute of Quantity Surveyors of Kenya	IQSK		Institute of Quantity Surveyors of Kenya, Blue Violet Plaza, Nairobi, Kenya. 0721676823
Institution of Surveyors of Kenya	ISK		Institution of Surveyors of Kenya, P.O. Box 40707-00100, Nairobi, Kenya. 0737929737,020 313490
Kenya Association of Radiologists	KAR		Kenya Association of Radiologists, Nairobi, Kenya. 0722 627740
Kenya Institute of Bankers	KIB		Kenya Institute of Bankers, National Bank house, harambee avenue, 20th floor P.O. Box 73530 – 00200 Nairobi, Kenya. 020 2160317/020 8076614

NAME	INITIALS	LOGO	ADDRESS AND CONTACT DETAILS
Kenya Institute of Food Science and Technology	KIFST		Kenya Institute of Food Science and Technology, Nairobi, Kenya. 0202229962, Sheila- 0726 817629
Kenya Institute of Management	KIM		Kenya Institute of Management, P.O Box 43706-00100, Nairobi, Kenya. 0719054101
Kenya Institute of Planners	KIP		Kenya Institute of Planners, NSSF Building, Community, Nairobi, Kenya. 0728315288
Kenya Institute of Supplies Management	KISM		Kenya Institute of Supplies Management, P.O. Box 30400-00100, Nairobi, Kenya. 0721244828
Kenya Chemical Society	KCS		Kenya Chemical Society Chemistry Department, Technical University of Kenya. 0724 626204
Kenya Dental Association	KDA		Kenya Dental Association, P.O Box 20069-00200, Nairobi, Kenya. 0710856304

NAME	INITIALS	LOGO	ADDRESS AND CONTACT DETAILS
Kenya Medical Association	KMA		Kenya Medical Association, P.O Box 20069-00200, Nairobi, Kenya. 0710856304
Kenya Meteorological Society	KMS		Kenya Meteorological Society, P.O. BOX 41959-00100, Nairobi 0202147770
Kenya Society for Agricultural Professionals	KESAP		Kenya Society of Agriculture Professionals, P.O. Box 8419-00200, Nairobi, Kenya. Mr. Mbuni- 0733396892,0722269119
Kenya Society of Physiotherapists	KSP		Kenya Society of Physiotherapists, P.O Box 20768-00202, Nairobi, Kenya. +254 020 888999.
Law Society of Kenya	LSK		Law Society of Kenya, Lavington, opp. Valley Arcade, P.O Box 72219 – 00200, Nairobi, Kenya. 0720904983,0208155295
Pharmaceutical Society of Kenya	PSK		Pharmaceutical Society of Kenya, Jabavu Road, PCEA Foundation Block C2-Hurlingham . P.O. Box 44290 -00100, Nairobi, Kenya. 0722817264

NAME	INITIALS	LOGO	ADDRESS AND CONTACT DETAILS
Society of Radiography of Kenya	SORK		Society of Radiography of Kenya, P.O. Box 30401-00100, Nairobi. 0718244911
The Institution of Engineers of Kenya	IEK		The Institution of Engineers of Kenya, P.O. Box 41346-00100, Nairobi, Kenya. 0721729363
The Kenya Veterinary Association	KVA		Kenya Veterinary Association, P.O. Box 29089, Nairobi, Kenya. 0727680022

## MAGAZINE RATE CARD (VAT EXCLUSIVE)

OUTSIDE BACK COVER	250,000
INSIDE BACK COVER	230,000
INSIDE FRONT COVER	200,000
FULL PAGE	100,000
HALF PAGE	75,000
QUARTER PAGE	40,000
CENTRE SPREAD	180,000



# ROOM HIRE AND CONFERENCE FACILITIES



## The physical location

The Professional Centre offers Room hire for meetings and conference facilities at discounted rates. We have 50 seater and 100 seater rooms for use by corporate institutions and individuals. In addition we also have set up discounted rates for Corporate Institutions and Individuals convening their meetings between 8am to 3pm.

The Professional Centre building has a strategic Location in the Central Business District, enjoying ample security, being a corner plot on Parliament road, near key government offices including the Parliament of Kenya. The building plays hosts to offices, a restaurant and has conference/meeting room facilities, which are open for use by the public. For clients interested in the space please contact us for further information and site visit.

P. O. Box 72643 – 00200,  
City Square, Nairobi, Kenya  
The Professional Centre,  
Parliament Road, Nairobi.  
Email: [apsea@apsea.or.ke](mailto:apsea@apsea.or.ke),  
Web: [www.apsea.or.ke](http://www.apsea.or.ke)





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## CPF Trust Fund

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We seek to provide a measure of comfort knowing that you have a plan in place to help provide for the safe and accountable management of your assets and to direct their use in accordance with your wishes, goals and objectives.

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Nairobi | Mombasa | Kisumu | Eldoret | Meru | Nakuru | Garissa | Nyeri | Bungoma