

Appendix One

Country Survey: Kenya

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1. Introduction

On 11 March 2020, the World Health Organisation (WHO) declared the coronavirus disease (COVID-19) a global pandemic.¹ Kenya recorded its first COVID-19 case on 12 March 2020, but prior to that, on 28 February 2020, the government established the National Emergency Response Committee on Coronavirus (NERC) to guide the country's response.² A number of measures to control the spread of the virus have since been implemented.³ This report provides an overview of the Kenyan government's response to the COVID-19 pandemic for the period March 2020 to February 2021.

2. Available constitutional mechanisms to respond to COVID-19

The declaration of a State of Emergency (SOE) is provided for in Kenya's Constitution. Only the President⁴ can declare an SOE and only when the State is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency.⁵ In addition, an SOE can only be declared if it is necessary to address the circumstances for which the emergency is declared.⁶ Rights limiting legislation invoked during an SOE are only permissible if strictly required by the emergency⁷ and when the limitation is 'reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom'.⁸

The country also has a National Policy for Disaster Management which can be invoked to prepare, prevent and respond to natural and man-made disasters.⁹

¹ 'WHO Director-General's opening remarks at the media briefing on COVID-19' (2020) *World Health Organisation* 11 March 2020 <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (Accessed 16 March 2021).

² 'First Case of Coronavirus Disease Confirmed in Kenya' (2020) *Kenya Ministry of Health* 12 March 2020 <https://www.health.go.ke/first-case-of-coronavirus-disease-confirmed-in-kenya/> (Accessed 16 March 2021).

³ Executive Order No 2 of 2020: 'National Emergency Response Committee on Coronavirus' (2020) Executive Office of the President.

⁴ Article 58, Article 132 4(a), Kenya Constitution (2010).

⁵ Article 58 (1)(a), Kenya Constitution.

⁶ Article 58 (1)(b), Kenya Constitution.

⁷ Article 58(6), Kenya Constitution.

⁸ Article 24, Kenya Constitution.

⁹ *National Policy for Disaster Management* (2009); Kenya Ministry of State for Special Programmes Office of The President <https://www.ifrc.org/docs/idrl/1058EN.pdf> (Accessed 28 March 2021).

In response to COVID-19, the government invoked neither the National Policy for Disaster Management nor declared a State of Emergency. In the case of the former, COVID-19 does not fall within the ambit of a man-made or natural disaster, such as adverse weather or seismological activity. While the severity of COVID-19 is sufficient justification for an SOE, the government avoided to declare it as such.¹⁰ It was probably argued that an SOE would be too drastic, requires Parliamentary oversight and is of short duration (requiring regular renewal). Most importantly, perhaps the government considered that a strict lockdown over an extended period would deprive the majority of Kenyans of an income.¹¹

3. Relevant legislative provisions invoked

Instead of declaring an SOE, the government invoked two pieces of legislation, being the Public Order Act (POA)¹² and the Public Health Act (PHA).¹³ The former governs issues relating to the maintenance of public order, including the imposition of curfews¹⁴ and the latter governs public health issues.¹⁵

Provisions of the POA were invoked by the Minister of Interior and Co-ordination of National Government who issued a Curfew Order. The Order restricted movement for 30 days between the hours of 19h00 to 05h00 with effect from 27 March 2020.¹⁶ Failure to observe the curfew attracts a penalty of either a fine of up to KSh 10 000 (approximately \$91), imprisonment for up to three months, or both.¹⁷

The POA was invoked together with provisions of the Public Health Act which provides for a wide array of powers to the Cabinet Secretary for Health whenever any part of Kenya appears to be threatened

¹⁰ Article 58(1)(a), Kenya Constitution.

¹¹ Article 58 (a)(b), and Section 132 4(d), Kenya Constitution.

¹² Public Order Act of 2009.

¹³ Public Health Act of 2012.

¹⁴ Section 8(1) and 9, Public Order Act.

¹⁵ Public Health Act of 2012.

¹⁶ Legal Notice 36 of 2020, Public Order (State Curfew) Order 2020.

¹⁷ Legal Notice 36 of 2020, Public Order (State Curfew) Order 2020.

by any formidable epidemic, endemic or infectious disease.¹⁸ The PHA provides for a declaration of an infectious disease as a “notifiable infectious disease” or a “formidable epidemic, endemic or infectious disease,” and also makes rules for the prevention, control or suppression of such infectious disease. On 3 April 2020, the Cabinet Secretary of Health issued an order to declare COVID-19 a formidable epidemic disease¹⁹ and issued two sets of rules detailing the necessary preventive and suppression measures to fight the disease and restrict the movement of people.²⁰

4. Procedure, legality and constitutionality of rights-limiting measures

The Curfew Order was issued under the Public Order Act; and under the Public Health Act, two main health rules were issued:

- the Public Health Act (Prevention, Control and Suppression of Covid-19) Rules which provides the Cabinet Secretary on Health the power to declare any place an infected area and stipulates preventive and suppressive measures regarding the virus. The Rules also set out reporting obligations, power of search and provisions for the removal and disposal of bodies.²¹
- the Public Health Act (COVID-19 Restriction of Movement of Persons and Related Measures) Rules stipulates movement and transportation restrictions.²²

Both the Curfew Order and Public Health Rules restricted and limited constitutionally guaranteed freedoms, such as the freedom of movement, association, assembly, the right to work and access to justice.²³ However, the enforcement of the Curfew Order resulted in increased reports of police brutality and the use of deadly force, especially in low-income areas.²⁴ The constitutionality and

¹⁸ Section 36, Public Health Act.

¹⁹ Legal Notice 37 of 2020; Public Health (Declaration of Formidable Epidemic Disease) Order, 2020.

²⁰ Public Health (Prevention, Control and Suppression of COVID-19) Rules of 2020; Public Health (Restriction of Movement of Persons and Related Measures) Rules of 2020.

²¹ Legal Notice No.49; Public Health Act Public Health Act (Prevention, Control and Suppression of Covid-19) Rules 2020.

²² Legal Notice No.50; Public Health (COVID-19) Restriction of Movement of Persons and Related Measures) Rules, 2020; Section 36, Public Health Act.

²³ Article 2(6), Kenya Constitution.

²⁴ J Namu and T Riley ‘Nine weeks of bloodshed: how brutal policing of Kenya’s Covid curfew left 15 dead’ The Guardian 23 October 2020 <https://www.theguardian.com/global-development/2020/oct/23/brutal-policing-kenyas-covid-curfew-left-15-dead> (Accessed 7 June 2021).

legality of the Curfew Order and the Public Health Rules were challenged at the Kenya High Court and this is further explained below.

5. Stakeholder and public engagement

There is evidence of a multi-sectoral approach in Kenya's response to the pandemic. However, the extent of stakeholder consultation with the different arms of government, civil society, the academic community and the broader public is not clearly defined. Below is a summary of the limited documented stakeholder consultations.

5.1. Senate

In March 2020 the Senate passed a resolution to establish the *Ad-Hoc Committee on the COVID-19 Situation in Kenya*.²⁵ The committee's mandate was to oversee actions and measures taken by the national and county governments in addressing the spread and effects of COVID-19 in Kenya.²⁶ The committee engaged with various stakeholders on legislative, policy and other interventions that the government should consider when addressing the pandemic, and submitted progress reports with recommendations to the Senate and NERC.²⁷ The work of the committee covered five main areas: health; economy and finances; social; public order and human rights issues; access to food, water and other basic commodities; support services and cross-cutting issues.²⁸

5.2. Public engagement

In compliance with constitutional provisions on public participation,²⁹ the *Ad-Hoc Committee* invited civil society organisations and members of the public to make written submissions regarding legislative, policy and other interventions on the COVID-19 situation. Some 88 submissions were received by 8 April 2020 and summarised recommendations referred to the Senate and NERC.³⁰

²⁵ p.2, Senate Ad-Hoc Committee on COVID-19 (2020) *First Progress Report*, 7 April 2020

²⁶ p.24, Senate Ad-Hoc Committee on the COVID-19 situation in Kenya (2020) *Third Progress Report*, 28 April 2020 <http://parliament.go.ke/sites/default/files/2020-05/Senate%20Ad%20Hoc%20Committee%20on%20COVID19%20-%203rd%20Progress%20Report.pdf> (Accessed 28 March 2021).

²⁷ Parliament of Kenya <https://www.facebook.com/ParliamentKE/posts/the-senate-ad-hoc-committee-on-covid-19-pandemic-chaired-by-nairobi-senator-john/1558688134312398/> (Accessed 28 March 2021).

²⁸ p.3, Senate Ad Hoc Committee on COVID-19 (2020) *First Progress Report*.

²⁹ Article 118, Kenya Constitution.

³⁰ p.10, Senate Ad Hoc Committee on COVID-19 (2020) *First Progress Report*.

Further consultations were held with various government entities, employers and various civil society stakeholder groups.³¹

Besides the efforts of the *Ad-Hoc Committee* on public engagement, there have been very few opportunities for the broader public to influence the content of COVID-19 regulations. To a limited extent, social media enabled informal engagements between the Inspector General of Police and the public. The hashtag #EngageTheIG was used on Twitter to engage regarding human rights issues and the reported excessive use of force by law enforcement officials.³² An April 2020 survey on citizen perceptions of the government's response to COVID-19 found that 80% of citizens approved of the government's response with 49% strongly approving, and only 15% disagreeing. The survey indicated that 82% of citizens trust the government to make the right decisions in the future with regards to COVID-19.³³ The survey was administered shortly after the curfew was implemented and it is highly likely that perceptions have since changed.

5.3. Civil Society

A wide range of stakeholder engagements took place between civil society organisations, state actors and private bodies with the aim of providing socio-economic relief to citizens.³⁴

5.4. Oversight agencies

There is no evidence of efforts to engage oversight bodies in the country's response to COVID-19. There have been reported cases of the brutal enforcement of curfew regulations which the Kenya Human Rights Commission has condemned.³⁵

³¹ p.3, Senate Ad-Hoc Committee (2020) *Fourth Progress Report*, 5 May 2020.

<http://www.parliament.go.ke/sites/default/files/2020-05/Senate%20Ad%20Hoc%20Committee%20on%20COVID19%20-%204th%20Progress%20Report.pdf> (Accessed 28 March 2021).

³² Kabira, N and Kiburi, R (2020) 'Saving the soul of an African constitution: Learning from Kenya's experience with constitutionalism during COVID-19' *African Human Rights Law Journal*, Vol 20, p.451.

³³ 'COVID-19 in Kenya: The complex policy challenges facing the government' (2020) *Kantar* <https://www.kantar.com/inspiration/politics/nine-in-ten-in-kenya-report-income-loss-due-to-covid-19> (Accessed 7 June 2021).

³⁴ F Kamau (2020) 'Essential Role of Government in Combating the Covid-19 Pandemic' *ACAL Consulting* <https://www.acalconsulting.co.ke/essential-role-of-government-in-combating-the-covid-19-pandemic.html> (Accessed 28 March 2021); 'Covid-19: Tracking Government Response in Kenya' (2020) *Bowmans Law*, p.7 <https://www.bowmanslaw.com/wp-content/uploads/2020/12/Bowmans-Kenya-Government-Response-Tracker.pdf> (Accessed 28 March 2021).

³⁵ Kenya National Commission on Human Rights (2020) *Pain and Pandemic: Unmasking the State of Human Rights in Kenya in Containment of the COVID -19 Pandemic*

5.5. Judiciary and criminal justice system

In March 2020 the National Council on the Administration of Justice (NCAJ), convened and resolved to scale down all face-to-face interactions.³⁶ A number of directives were issued relating to the handling of criminal matters (police bond, plea taking and decongestion of prisons), civil matters (filing of urgent matters and pleadings, judgements and rulings) and the safety of staff and litigants during the curfew. Subsequent decisions were then made to release some 4800 prisoners serving short sentences and those who are close to sentence expiry date.³⁷

6. Body in charge of COVID-19 decision making process

Two bodies have been central in the COVID-19-response decision-making process, the National Emergency Response Committee on Coronavirus (NERC) and the National Security Council (NSC) (see Appendices 1 and 2 for a detailed list of their functions).

On 28 February 2020 President Kenyatta established a temporary body (NERC) through an Executive Order to advise him on the evolving threat of the virus and appropriate public health measures to undertake.³⁸ The Committee is chaired by the Cabinet Secretary for Health and comprises of 19 members. It is tasked with coordinating Kenya's preparedness, prevention and response to COVID-19 and its functions include conducting economic impact assessments and organising the preparation of national, county and private isolation and treatment facilities.³⁹

The National Security Council which is established by the Constitution and chaired by the President and consists of eight other members.⁴⁰ The Council exercises supervisory control over national security organs and performs any other functions prescribed by national legislation.⁴¹ This includes reviewing and making recommendations on policies and matters relating to national security; assessing and

<https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1104/Pain-and-Pandemic-Unmasking-the-State-of-Human-Rights-in-Kenya-in-Containment-of-the-COVID-19-Pandemic> (Accessed 28 March 2021).

³⁶ 'Statement on justice sector operations in the wake of the COVID-19 pandemic' (2020) National Council on the Administration of Justice <https://ncaj.go.ke/statement-on-justice-sector-operations-in-the-wake-of-the-covid-19-pandemic/> Accessed 28 March 2021, NCAJ members held a virtual meeting attended by, amongst others, the Director of Public Prosecutions, the Chief Executive Officer of the Ethics and Anti-Corruption Commission, the Inspector General of Police, the Commissioner General of Prisons, the President of the Law Society of Kenya (LSK), as well as the Chairman of the Law Society of Kenya Nairobi Branch.

³⁷ 'Public Legal Information on Kenya's Response to COVID-19' (2020) *Kenya Law* <http://kenyalaw.org/kenyalawblog/kenyas-response-to-covid-19/> (Accessed 28 April 2021).

³⁸ Executive Office of the President State House Registry (2020), Executive Order No. 2 of 2020.

³⁹ Executive Office of the President State House Registry (2020), Executive Order No. 2 of 2020.

⁴⁰ Article 240, Kenya Constitution.

⁴¹ Article 240(3), Kenya Constitution.

appraising the objectives, as well as discussing risks to the Republic in respect of actual and potential national security capabilities.⁴²

The recommendations proposed by the NERC to the President, (i.e. cessation orders on the movement in counties), requires execution by national security organs such as the Defence Force, Police Service and National Intelligence Service, which form part of the NSC. It is for this reason that these two bodies have jointly been in charge of the decision-making process in the country's response.

7. Procedure for making on-going changes to COVID-19 regulations

There is no fixed rubric or criteria by which decisions to extend, remove or limit regulations in particular areas in Kenya are made. However, it is probable that the situational assessments conducted by the NERC regarding infection rates have been deciding factors to extend, remove or limit a curfew in a particular area.

For example, during the 2020 Easter period the country recorded a spike in infections in Nairobi and surrounding counties. The NERC recommended tighter movement restrictions for four 'highly infected' counties.⁴³ This decision was motivated by the fear that Easter-weekend travellers would carry the virus to other parts of the country, resulting in more infections.⁴⁴ The cessation of movement imposed in these four areas blocked travel for three weeks and subsequently extended twice for 21 days at a time.⁴⁵ The restrictions were ultimately lifted on 7 July 2020 when it was reported that the infection rate in these areas had decreased.⁴⁶

⁴² Section 4, National Security Council Act.

⁴³ Nairobi Metropolitan Area, Mombasa, Kilifi, and Kwale Legal Notice No.54 (Public Health Act), Order 2020.

⁴⁴ Kenya: Authorities announce 21-day movement ban in Nairobi and three counties' (2020) *Garda World* 6 April 2020
<https://www.garda.com/crisis24/news-alerts/329806/kenya-authorities-announce-21-day-movement-ban-in-nairobi-and-three-counties-april-6-update-12> (Accessed 28 April 2021).

⁴⁵ 'COVID-19: Kenya bans travel in and out of Nairobi, other areas' (2020) *Al Jazeera*
<https://www.aljazeera.com/news/2020/4/6/covid-19-kenya-bans-travel-in-and-out-of-nairobi-other-areas> (Accessed 28 April 2021).

⁴⁶ 'Kenya lifts ban on travel amid surge in COVID-19 cases' (2020) *Anadolu Agency* 6 June 2020
<https://www.aa.com.tr/en/africa/kenya-lifts-ban-on-travel-amid-surge-in-covid-19-cases/1901447> (Accessed 28 March 2021).

8. Summary of COVID-19 regulations

The main regulations passed by the Kenyan government included the mandatory wearing of masks, screening and hand-sanitation, the suspension of public gatherings and the establishment of a dusk-to-dawn curfew. In the criminal justice system, a number of restrictions were placed relating to court hearings, the suspension of execution of civil orders and decrees, the delivery of judgements in open courts, and the release of some 4800 prisoners serving short sentences and those who are close to sentence expiry date.⁴⁷ A table highlighting significant regulations and updates is attached as Appendix 3.

9. Legal challenges

There have been a number of legal challenges relating directly or indirectly to the government's response to COVID-19. These are listed below.

Case name	Key issues
<i>Law Society of Kenya v Hillary Mutyambai, Inspector General National Police Service & 4 others; Kenya National Commission on Human Rights & 2 others (Interested Parties)</i> [2020] eKLR.	The case challenged the constitutionality of the Curfew Order on the grounds that it was “illegal, illegitimate and unproportionate” and ‘blanket in scope and indefinite in length’. The Court upheld the legality of the curfew within the mandate of the State. ⁴⁸ However, the Court found that the text of the Curfew Order did not fully comply with the requirements of the POA because the Order did not specify the period of the curfew; ⁴⁹ nor the authority or person to grant written permit for persons who for good reason cannot remain indoors during the curfew hours. ⁵⁰ The Court declared the Police’s unreasonable use of force in enforcing the Public Order (State Curfew) Order, 2020, unconstitutional. ⁵¹ The Court further ordered

⁴⁷ ‘Public Legal Information on Kenya’s Response to COVID-19’ (2020) *Kenya Law* <http://kenyalaw.org/kenyalawblog/kenyas-response-to-covid-19/> (Accessed 28 March 2021).

⁴⁸ *Law Society of Kenya v Hillary Mutyambai, Inspector General National Police Service & 4 others; Kenya National Commission on Human Rights & 2 others (Interested Parties)* [2020] eKLR, para.127. (*Law Society of Kenya* hereafter)

⁴⁹ para. 119, *Law Society of Kenya v Hillary Mutyambai, Inspector General National Police Service & 4 others*

⁵⁰ para. 120, *Law Society of Kenya v Hillary Mutyambai, Inspector General National Police Service & 4 others*

⁵¹ para. 154(a), *Law Society of Kenya v Hillary Mutyambai, Inspector General National Police Service & 4 others*.

	that an order of <i>mandamus</i> be issued compelling the Cabinet Secretary for Interior and Coordination of National Government to amend the Schedule to the Public Order (State Curfew) Order, 2020.
<i>Constitutional Petition No. 132 of 2020 Law Society of Kenya v the Hon. Attorney General & Cabinet Secretary for Health.</i>	<p>The case dealt with the constitutionality of the Public Health Rules (<i>COVID-19 Restriction of Movement of Persons and Related Measures Rules, 2020</i>) issued by the Cabinet Secretary for Health. The argument was that the regulations were vague, discriminatory, enacted without any public participation, and failed to comply with the provisions of the Statutory Instruments Act.⁵²</p> <p>The Court found that given the gravity of the COVID-19 situation, it is reasonable and justifiable that extensive public participation did not take place. The Court held that the Rules are neither discriminatory nor disadvantageous to any person; but are reasonable, proportionate and constitutional as they are reflective of the steps taken the world over in the fight against COVID-19.⁵³</p>
<i>Kituo cha Sheria and Others v Inspector General of Police & 3 Others [2020] (filed petition)</i>	In September 2020 a group of human rights organisations filed a class suit “on behalf of victims of police brutality” seeking legal reforms and compensation from the State as a result of brutal enforcement of curfew regulations by police who acted in excessive, disproportionate, unreasonable, reckless, negligent, cruel and inhuman and in complete disregard of the rights and fundamental freedom. ⁵⁴ This case is still in progress.
<i>Petition 81 of 2020: Okioma, Nelima, Owalla and Others v Cabinet Secretary for Health and others (filed)</i>	A petition was filed in the High Court in Nairobi regarding the failure of various State and public entities to provide timely and accurate information during the COVID-19 health pandemic. ⁵⁵ The Petitioners seek a number of reliefs, of which the primary is a declaration that

⁵² para. 1(a), *Constitutional Petition No. 132 of 2020 Law Society of Kenya VS the Hon. Attorney General & Cabinet Secretary for Health.*

⁵³ para.124, *Constitutional Petition No. 132 of 2020 Law Society of Kenya VS the Hon. Attorney General & Cabinet Secretary for Health.*

⁵⁴ ‘Class suit - police brutality’ (2020) *Amnesty International-Kenya* 23 September 2020 <https://www.amnestykenya.org/class-suit-police-brutality/> (Accessed 28 March 2021).

⁵⁵ *Petition 218 of 2020 on the Right of Access to Information as guaranteed under Article 35 of the Constitution of Kenya, 2010.*

<i>petition regarding access to public health information on COVID-19)</i>	the State’s failure to proactively publish and publicize important information about the COVID-19 pandemic violates the right to access to information. ⁵⁶ This case is still in progress.
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10. Conclusion

In Kenya, as in many other countries, a balance has not been struck between protecting health, minimising economic and social disruption, and respecting human rights while implementing special public health measures.⁵⁷ This is evident by the brutal enforcement of regulations as documented in a report by the Kenya National Commission of Human Rights.⁵⁸ Between the period of 17 March and 6 June 2020, 10 deaths and 87 varied cases of inhuman and degrading treatment have been attributed to law enforcement officers.⁵⁹

Even though a State of Emergency or full lockdown was not imposed, many poor and marginalised populations have still been disadvantaged. The question of 'life versus livelihood' has been the reality of many citizens who, due to the restrictions on movement and government’s failure to provide timeous social relief, have had to weigh the cost of going out for survival and being arrested, while also attempting to protect themselves from contracting the virus.

The Senate has recently drafted and adopted the Pandemic Response and Management Bill, which is a legal framework for coordinating and managing responses, activities and temporary measures and relief during future pandemics.⁶⁰ From a preliminary reading, it appears that the Bill proposes several justifiable provisions on disaster response and economic relief during a pandemic. However, other provisions provide the government a blank slate to limit fundamental rights and freedoms for an indefinite and unspecified duration.⁶¹ Ultimately, it is imperative that, irrespective of the context of

⁵⁶ para. 133(a), Petition 218 of 2020.

⁵⁷ ‘WHO Director-General's opening remarks at the media briefing on COVID-19’ (2020) *World Health Organization* 11 March 2020 <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (Accessed 28 May 2021).

⁵⁸ Kenya National Commission on Human Rights (2020) *Pain and Pandemic: Unmasking the State of Human Rights in Kenya in Containment of the COVID -19 Pandemic* <https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1104/Pain-and-Pandemic-Unmasking-the-State-of-Human-Rights-in-Kenya-in-Containment-of-the-COVID-19-Pandemic> (Accessed 28 May 2021).

⁵⁹ p.27, Kenya National Commission on Human Rights (2020).

⁶⁰ Kenya Pandemic Response and Management Bill, 2020.

⁶¹ Article 39(2)(b), Pandemic Response and Management Bill, 2020.

future pandemics, the upholding, promoting and advancing of human rights should be a central focus of all government endeavours.⁶²

⁶² 'Kenya: Measures to tackle Covid-19 pandemic must not violate human rights' (2020) *Article 19* 19 January 2021 <https://www.article19.org/resources/kenya-measures-covid-19-must-not-violate-human-rights/> (Accessed 28 May 2021).

11. Appendices

Appendix 1: National Emergency Response Committee on Coronavirus (NERC)

Members:

Cabinet Secretary of Foreign Affairs, Cabinet Secretary of Transport, Infrastructure, Housing, Urban Development, & Public Works, Cabinet Secretary for Defence, Cabinet Secretary ICT, Innovation and Youth Affairs, Chairperson Health Committee, Council of Governors, Principal Secretary, Interior and Citizen Services, Chief of Staff, Office of the President, Principal Administrative Secretary, Office of the President, Principal Secretary, Health, Principal Secretary, the National Treasury, Principal Secretary, Foreign Affairs, Principal Secretary, Transport, Principal Secretary, Telecommunications and Broadcasting, Director General, Medical Services, Director General, Kenya Civil Aviation Authority, Director General, Kenya Airports Authority, Director, Immigration, Director of Medical Services, Kenya Defence Forces

Functions:

(a) Coordinate Kenya's preparedness, prevention, and response to COVID-19, (b) Coordinate capacity building for medical personnel and other professionals, (c) Enhance surveillance at all entry points in Kenya including ports, (d) Coordinate the preparation of national, county and private isolation and treatment facilities, (e) Coordinate the supply of testing kits, critical medical supplies, masks and other protective gear, (f) Conduct Economic Impact assessments and develop mitigation strategies with regard to COVID-19, (g) Coordinate both local and international technical, financial and human resource assistance efforts with development partners and key stakeholders, (h) Formulating, enforcing and reviewing of processes that regulate the entry into Kenya from individuals or groups of people known or suspected to have travelled from COVID-19, (i) Conduct any other matter ancillary to or in furtherance of any of the foregoing terms of reference, (j) The Committee may co-opt any other persons as may be required to assist in the discharge of its functions.

Appendix 2: National Security Council

Members:

President, the Deputy President; the Cabinet Secretary responsible for Defence; the Cabinet Secretary responsible for Foreign Affairs; the Cabinet Secretary responsible for Internal Security; the Attorney-General; the Chief of Kenya Defence Forces; the Director-General of the National Intelligence Service; and the Inspector-General of the National Police Service.

Functions:

(a) integrate the domestic, foreign and military policies relating to national security in order to enable the national security organs to co-operate and function effectively; and

(b) assess and appraise the objectives, commitments and risks to the Republic in respect of actual and potential national security capabilities.

(c) The Council shall report annually to Parliament on the state of the security of Kenya.

(d) The Council may, with the approval of Parliament--

(i) deploy national forces outside Kenya for--

(ii) regional or international peace support operations; or

(iii) other support operations; and

(iv) approve the deployment of foreign forces in Kenya.

Appendix 3: Summary of COVID-19 Regulations

Date	Regulation(s) Updates
12 March 2020	<p>Kenya records first COVID-19 case. The Cabinet Ministry of Health announces the following protocols:</p> <ol style="list-style-type: none"> 1. Health protocols: Regular hand-washing, social distancing of at least 1 meter (5 feet), maintenance of good respiratory hygiene (i.e., covering your mouth and nose while coughing and sneezing with a handkerchief, tissue, or into flexed elbow.) 2. Suspension of all public gatherings including meetings, religious crusades, games events etc. Normal church services can go on provided they provide sanitizing/and hand washing. Public transport providers are directed to provide hand sanitizers for their clients and regular cleaning of the vehicles. 3. Temporary suspension of prison visits for 30 days. 4. Kenyans must not abuse social media platforms or indulge in spreading misinformation that can cause fear and panic. 5. Travel restrictions outside the country unless absolutely necessary and no travel to disease epicentre countries.
15 March 2020	<p>In the first official national address, President Kenyatta announced a raft of measures in addition to the above; including the restriction on travel, closing of schools, government people to work from home except for essential services and prison visits.</p>
25 March 2020	<p>In addition to previous measures, a curfew is announced and is effective from 7pm – 5am. Starting date is 27 March 2020. Only essential workers are excluded from curfew.</p>
2 April 2020	<p>The Judiciary announces the release of about 4,800 prisoners serving sentences for petty offences to help contain the spread of the novel coronavirus.</p>
3 April 2020	<p>Public Health (Prevention, Control and Suppression of COVID-19) Rules, 2020 (the Rules) issued. In general, the Rules place an obligation on every owner, occupier of premises and head of a household who suspects that any person who is residing at his or her premises is suffering from COVID-19 to notify a medical officer, public health officer or medical practitioner or take that person to a health facility for treatment.</p>

6 April 2020	In addition to above, the Public Health (Covid-19 Restriction of movement of persons and Related Measures) 2020 Rules are issued and Nairobi Metropolitan area and the counties of Kilifi, Kwale and Mombasa as COVID-19 are declared infected areas. The Rules detail the restriction of movement of persons and transport services, hygiene conditions.
15 April 2020	National Council on the Administration of Justice (NCAJ) announces a raft of measures regarding the operation of the judiciary and delivery of justice.
25 April 2020	National curfew and cessation of movement into and out of Nairobi Metropolitan Area, Mombasa, Kilifi and Kwale counties are extended for 21 days.
16 May 2020	Further extension of national curfew and cessation of movement in and out of Nairobi Metropolitan Area, Mombasa, Kilifi and Kwale counties for 21 days. Cessation of movement of persons and any passenger ferrying automobiles and vehicles into and out of the territory of Kenya through the Kenya- Somali and the Kenya-Tanzania borders.
6 July 2020	Inter-county cessation of movement in and out of Nairobi, Mombasa and Mandera is lifted effective 7 July 2020. Nationwide curfew extended for further 30 days. Times change to between 21h00 and 04h00. Congregational worship re-opened with a maximum of 100 participants. Local air travel within the Kenyan territory to re-open from July 15 and International air travel from 1 August 2020.
26 August 2020	Further 30-day extension of nationwide curfew. Increase in the number of people allowed to attend funerals and weddings to 100.
28 September 2020	Further 60-day extension of nationwide curfew. Time changes to 23h00 – 04h00. The permitted maximum size of religious gatherings is increased to one third of its normal sitting capacity. The permitted maximum number of persons attending funerals and weddings is reviewed upwards from 100 to 200.

<p>4 November 2020</p>	<p>Announcement is made that schools will resume in January 2021.</p> <p>All political gatherings and rallies are suspended for a period of 60 days. Anyone wishing to hold such meetings to do so in town halls and limit the attendees to one-third seating capacity of the hall.</p> <p>The nationwide curfew is extended to 3 January 2021 and to be enforced between 22h00 and 04h00. Any indoor religious gathering other than for a wedding or funeral shall have no more than one third of its normal seating capacity.</p>
<p>3 January 2021</p>	<p>Nationwide curfew extended to 12 March 2021 with effect from 22:00-04:00.</p> <p>60-day ban on all public gatherings except funerals and weddings of up to 150 people.</p> <p>Religious services may take place.</p> <p>Public transport is limited to 60% capacity.</p> <p>Protective face coverings/masks must be worn in public areas, including in private vehicles and while using public transportation.</p> <p>Schools to re-open on 4 January 2021 with strict health measures.</p> <p>Bars, restaurants, and other establishments open to the public must close at 21:00 daily.</p> <p>Restrictions to be reviewed in 60 days.</p>