

To: Hon. Justin Muturi,  
Speaker of the National Assembly

Hon. Kenneth Lusaka,  
Speaker of the Senate

Hon. Amb. Ukur Yatani  
Cabinet Secretary Finance

Hon. Johnson Sakaja  
Chair Senate Ad hoc Committee on COVID-19

Henry M. Rithaa  
Chief Executive Officer (CEO)  
Micro and Small Enterprises Authority (MSEA)

9<sup>TH</sup> APRIL, 2020.

**RE: CALL TO THE GOVERNMENT OF KENYA TO TAKE URGENT AND IMMEDIATE MEASURES TO ENSURE THE FULL PROTECTION OF ECONOMIC AND SOCIAL RIGHTS OF THE INFORMAL SECTOR IN THE CONTEXT OF COVID-19 PANDEMIC**

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#### ABOUT KENASVIT

KENASVIT (Kenya National Alliance of Street Vendors and Informal Traders) is a network of Micro and Small Enterprises in Kenya and derives its membership from the four sub-sectors i.e. Manufacturing, Agri-business, Trade and Service. The organization was brought about by the desire to improve and secure the socio-economic position of the entrepreneurs through pooling of strengths.

The organization's origin is traced to a 2002-2004 study conducted by the Institute for Development Studies (IDS) of the University of Nairobi that identified the need for Street Vendors and Informal Traders *to come together in order to enhance their bargaining power with an array of stakeholders including the government, local authorities, and even development partners in order to mainstream their issues in the development process. The formation of member-based but professionally managed organization was recommended as part of the strategy for ensuring effectiveness.*

KENASVIT was registered in the 2006 under the Societies' Act of 1968. The organization represents 400,000 Informal entrepreneurs in 24 counties: Nairobi, Nakuru, Eldoret, Kisumu, Migori, Mombasa, Kitale, Machakos, Busia, Kakamega, Nyeri, Kisii, Thika, Embu Bondo and Voi chapters/urban alliances among others.

#### STATEMENT ON COVID 19 RESPONSE IN THE INFORMAL SECTOR

KENASVIT (*Kenya National Alliance of Street Vendors and Informal Traders*) lauds and welcomes

the government's rapid response efforts to put in place measures and mechanisms to cushion Small scale and medium enterprises traders in the informal sector during this difficult times as result of **COVID 19** menace , as announced by His Excellency the President. We strongly support the government efforts in curbing the spread of the **COVID-19** pandemic and we pledge to help stem the virus in our country.

As we rally in the fight against the spread of the **COVID 19** disease, we should take note of the social and economic impact of the disease to the informal sector. It is evident that the country's highest source of employment is the informal sector. According to Kenya's Economic Survey 2015 indicated that the informal sector employed 11.8 million people in 2014 against 2.4 million in the modern or formal sector. It is also worth to acknowledge that Kenya has the highest rate of informal sector employment at 77.9% in comparison to other countries in the East African region (**UNECA, 2015**).

In spite of this, informal traders face very limited recognition and are more often looked upon with disdain and mistrust by the public authorities and members of the upper classes in society. Vendors face harassment, confiscation of goods, evictions and are forced to pay both bribes and fines. Media reports have shown experiences of vendors being killed by public servants who have gone Scott Free. All these challenges are exacerbated by inadequacies in spatial planning policy, insufficiencies in delivery of public goods and services and unresponsive social policies. Vulnerability in the informal sector is a manifestation of decades of neglect and failed social and economic policy.

While **KENASVIT** acknowledges that the current extraordinary times call for extraordinary emergency response strategies and unity of purpose to mitigate the effects of the **COVID-19** virus, **KENASVIT** wishes to bring to the fore the following:

1. **THAT** according to our constitution sovereign power belongs to the people and it is to be exercised in accordance with the Constitution. This means that any policy measure put into place by the government to fight against COVID 19 disease must be in the best interest of Kenya citizens.
2. **THAT** in employing the aforesaid measures, all duty bearers, both in public and private sectors, must observe a human rights-based approach. This means that any directive, policy or mechanism must be in tandem with human dignity, non-discrimination, inclusive and protection of the marginalised.
3. **THAT** the needs of informal sector being the largest source of employment for majority of Kenyans must be considered to safeguard social and economic rights of the traders as their source of livelihood.
4. **THAT** the informal sector despite being a key pillar to our economy has been ignored by successive government regimes hence leaving them exposed and vulnerable to all manner of abuses by both the local government -county askaris and the police.
5. **THAT** the government failure to safeguard the informal sector in the past predisposes the traders to all possible threats resulting from **COVID 19**. This means that informal traders are most disadvantaged by measures already in place to contain the virus which threaten their daily survival. **KENASVIT** particularly wish to highlight on the following: -

- i. The economic impact on the ban of importation of secondhand clothes commonly referred to as “Mitumba”. High number of street vendors depend on the mitumba business as a source of livelihood.
  - ii. Social distancing in informal trade settings is very difficult and impractical due to the prevailing congested work arrangements. Lack of trading spaces exposes the traders and can easily act as medium of transmission of COVID 19
  - iii. Closure of open markets. Majority of informal traders’ live hand to mouth hence cannot stay at home. Equally, Urban household depend on fresh produce of informal markets and so shutting them down negatively impact on food security in urban households.
  - iv. Government’s measures on social protection (NHIF, cash transfers for PwDs, or affirmative action programmes) has considerably failed to protect traders in the informal sector
  
6. **THAT** whilst it is understood that in cases of life-threatening circumstances, certain rights may be limited, **KENASVIT** wishes to reiterate that certain rights are non-derogable under national and international human rights obligations. These include the right to life, freedom from torture, inhuman and degrading treatment, freedom from slavery, fair trial, and *habeas corpus*. It has been noted with a lot of concern that Informal traders are the highest victims of the ongoing governments directive 7:00pm to 5am curfew. Law enforcers have been using excess force while enforcing the directive. It worth noting, Any restrictions should meet the standards of necessity and proportionality and in line with Article 24 of the Constitution on limitation of fundamental rights and freedoms and international human rights imperatives.
  
7. **THAT** In view of the need to contain the spread of the **COVID-19** disease and secure lives while at the same time upholding the dignity and human rights of all Kenyans, **KENASVIT** therefore **CALLS UPON:**
  - i. The government to uphold and respect constitutional principle on public participation when forming any agency, committee or body mandated to oversee the operations in the fight against the COVID 19 disease. For example, the recent gazetted Emergency board committee is not reflective of the all sectors in the country especially the informal sector has been excluded.
  - ii. The government to put in place measures to cushion traders in the Mitumba business. ALSO; engage stakeholders in the sector to help develop long-term solution even as the government begins the roll out plan to ban importation of secondhand clothes in the country in line with government’s move of promoting local manufacturing industries “*Buy Kenya Build Kenya*”.
  - iii. The government to Support the informal traders with provision of sanitizers, masks and gloves for purposes of public safety.

- iv. Longer term, the government and urban planners to plan cities with building designs that cater for traders, artisans and peasants. These facilities should include adequate room size for work, storage and display. There should also be a good supply of clean water, electricity and garbage collection.
- v. Identification and subsequent support of the needy cases in the informal sector should be done through the Micro and a small enterprise authority (MSEA ) which is a legal structure under Micro and Small Enterprises Act of 2010.
- vi. The national assembly to expedite enactment of various subsidiary legislation to allow for various tax relief as directed by the president of republic of Kenya; e.g. Reduction of turnover tax from 3% to 1%, VAT from 16% to 14% and finally suspension of Credit Reference Bureau penalties (CRB) listing during the pandemic period.

**For further information, please contact us through:**

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