

The Clerk of the National Assembly

Parliament Buildings

P.O. Box 41842 – 00100.

NAIROBI

Email: clerk@parliament.go.ke



**RE: PETITION BY UNIVERSITY STUDENTS REPRESENTATIVES TO THE
NATIONAL ASSEMBLY CONCERNING SCHOOL OPENING.**

We, the undersigned,

Citizen of the Republic of Kenya, and resident of Nairobi

DRAW the attention of the National Assembly to the following:

- 1). **THAT**, there is an indefinite situation in the country's education sector that needs urgent attention and redress.

- 2). **THAT**, there is a particular violation of Article 27(4), Article 43 (1) (f) & Article 53(2), of Constitution of Kenya, following the unconstitutional closing down of schools due to Novel Corona Virus(Covid-19 Disease), the ministry of education has been unable to effectively give guidance to the country on schools opening formulae despite fundamental changes in circumstances. An evaluation of the ministry's decisions and pronouncements thus far reveals a clear lack of consistency and predictability which poses a greater danger to the school-going population and their future, arguably more than Covid-19 disease.

- 3). **THAT**, on the 7th Day of July 2020, the Education CS, Prof. Magoha declared that "The 2020 school calendar year will be considered lost due to Covid-19 restrictions." The impacts of this

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decision cannot be understated. However, it could be well understood within the prevailing circumstances then. There was also a further pronouncement that colleges and universities would open in September subject to abidance to the guidelines set. Days later, the ministry overhauled this decision and the current status quo is that there are no definite dates/timelines for reopening of schools. The CS for education Prof. Magoha is on record saying that Schools might not reopen in January after all, leaving the decision to reopen in the Hands of President Uhuru Kenyatta. This is in what the CS terms as; 'the President is the one who can decide whether he can take the risk.'

4). **THAT**, this wavering trajectory taken by the Ministry of education, coupled up by Prof. Magoha's admission that the situation is out of his hands hence deferring it to the President demonstrates a worrying trend that is unfortunate for the country. We acknowledge that the initial measures taken to close down schools as well as the earlier decisions on reopening were well informed based on the prevailing circumstances then. However, it is public knowledge that the circumstances have since changed. There have been immense positive steps in understanding the nature of the virus, its spread as well as its combating. More importantly, has been the positive steps made in enacting measures that have enabled the business to go on within the new normal. Notably, the president himself has initiated a phased reopening of the country. This has seen churches as well as other businesses going back to normalcy within the prescribed guidelines. Such tremendous gains demonstrate one crucial thing; that it can be done in the education sector.

5). **THAT**, both the current as well as future impact of staying at home to students is absurd. UNICEF has noted increased violence against children with reduced nutrition rates as more than 10 million is missing school meals. The WHO also points out that the impact of an extended

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education disruption is significant and stretches beyond learning institutions into homes. The WHO specifically highlights poor nutrition, stress, increased exposure to violence and exploitation, childhood pregnancies, and overall challenges in the mental development of children due to reduced interaction as some of the negative impacts of schools close down. The WHO has thus urged the safe reopening of schools with proper measures to prevent learners from getting infected with the viral disease. Furthermore, the future impacts are also gross. This follows the fact that no matter the circumstances, there will be living in the new normal. There is a big risk to prospects for the self-advancement of affected children. Kenya is not immune to the negative impacts of indefinite school close down. In fact, there have been media reports showing the unprintable deplorable situation within which the Kenyan Children have found themselves in.

6). **THAT**, One cannot rationally claim and justify the closure of schools on the ostensible risk of the children being exposed to Corona virus, neither can you stand a more vulnerable position in this COVID-19 than children in Sweden, Japan, UK, Taiwan, Germany, France, Italy, Ivory Coast, Tanzania, DRC, Netherlands, Denmark, Uruguay, and some states in the USA have promoted a safe reopening of schools. In Africa alone, learning institutions are closed in 14 countries and partially open in 19 others for examination purposes with, 12 countries planning to resume classroom learning in September.

7). **THAT**, the Cabinet secretary notes that, Kenya cannot gamble reopening schools, Kenya should also not gamble on the prospects of students as well as on the risks of exposing them to the above negative impacts stated. What needs to be drawn is the thin line on the best cause of action henceforth. From our view, this thin line points towards a phased reopening of schools in Kenya as the soonest moment possible. For instance, strict health protocols can be put in place as

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was the case in Japan. These include no sharing of reading materials, no talking, no overcrowding, putting on face masks, and attending classes in shifts.

8). **THAT**, Opening of schools can be done within the global guidelines of the WHO, UNICEF, and the International Federation of Red Cross on Covid-19 prevention and control in schools.

The guide recommends wearing masks, discouraging unnecessary touching, canceling school events that create crowding, spacing desks when possible, providing handwashing facilities, having a different schedule for the beginning and end of the school day, and ensuring sick students and teachers stay at home. Additionally, regular hand washing, environmental cleaning, and decontamination putting up basic water, sanitation, and waste management facilities, as well as daily disinfection and cleaning of surfaces.

9). **THAT**, Following such measures will ensure there are the safety and well-being of learners, teachers and non-teaching staff in the school system; equitable access to education for all learners; and sustaining the quality of our education system.

10). **THAT**, we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.

11). **THAT**, none of these issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.



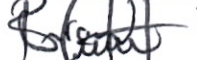




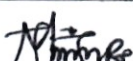


WHEREFORE, we the humble petitioners pray that the National Assembly-

1. Investigate and table report in the National Assembly on the said matter.
2. Establish whether protection has been offered by the Government to learners as per Kenyan constitution and recommend any action to be taken to safeguard learners' rights.

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3. Summon the Education Cabinet secretary and the Attorney General.

Dated this 26th day of August, 2020.

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NATIONAL ASSEMBLY
MEMO

DL 8P
Approved for
tabling
8.
14/10

TO: THE SENIOR DEPUTY CLERK OF THE NATIONAL ASSEMBLY

THRO': THE DIRECTOR, LEGAL SERVICES—NATIONAL ASSEMBLY

Forwarded, the petition may be
tabled for consideration

THRO': SENIOR LEGAL COUNSEL

Forwarded, the petition meets the requirements
under the Act and the Standing Orders and may
be tabled @ 13/10/2020

DATE: 13th OCTOBER, 2020

RE: PETITION BY UNIVERSITY STUDENTS REPRESENTATIVES CONCERNING
RE-OPENING OF SCHOOLS

The above matter refers.


We refer to your instructions to the Directorate of Legal Services to peruse the petition by Albert Maloba and others and determine whether it complies with the Constitution, the Petitions to Parliament (Procedure) Act, No. 22 of 2012 and the National Assembly Standing Orders.

We have perused the Constitution, the Petitions to Parliament (Procedure) Act (hereinafter referred to as "the Act" and the National Assembly Standing Orders (hereinafter referred to as "Standing Orders") and wish to advise that the petition meets the requirements of the Act and the Standing Orders.

In the circumstances, the petition may be forwarded to the Speaker of the National Assembly for tabling in the House.

Forwarded for directions, if you approve.


Peter Mwaura

FM
please proceed

15/10/2020