The Institute for Social Accountability

For people centred development

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Memorandum on the Draft Budget Policy Statement 2015

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The BPS outlines a strong vision for growth and macroeconomic stability. It identifies critical pillars for Kenya's transformation which are well articulated. It proposes extensive measures for finance reform in fiscal, expenditure and revenue terms. Financial education and literacy. Whereas we support the overall objectives of the BPS, we wish to make the following observations which may serve to undermine the realisation of its ambitious goals.

1. **Transition Matters are overlooked**

The BPS fundamentally fails to acknowledge or address pending transition issues that mar the ability of county governments to perform effectively such as:

- Costing of functions- the BPS proposes to use the BPS 2014/15 as the baseline cost for the present. This in turn was based on historical costs used in previous budgeting processes. The weakness in this approach is that service delivery standards have been very low in Kenya, in some part due to inadequate and misplaced investment. Using historical data in this manner, the service delivery allocations may continue to undermine the ability of county governments to deliver services on par or at improved standards. This undermines the governments stated intention to deliver a healthy Kenya.
- Land reform. Whereas the national government proactively seeks to implement an integrated digital platform for land and other critical functions, there is not mention

made of revising property rates, addressing historical land rate defaulters, liabilities, stolen land assets and other reforms needed to enable county governments generate adequate revenue to support their development needs

- Wage bill- the BPS mentions high wage bill as a possible deterrent to success of the BPS, achievement but fails to allocate money for the rationalizing of county staff inherited from the previous administrations
- Liabilities – the BPS fails to acknowledge the and provide for the resolution of historic liabilities inherited by county governments particularly odious debt which is proving a strain on county development expenditures

2. Inadequate Intergovernmental Focus

The BPS fails to address the intergovernmental component in delivery on its key pillars and programs. This is particularly so in the

- Financial sector reforms for conducive business environment.

The proposed reforms do not take account of the role and impacts on county enterprise development.

- Security for sustained growth and employment-

Whereas community involvement is recognized, the inter-governmental role of county government in security is not. Further, in the plan to expand policy housing the BPS on silent on if this constitutes national or county infrastructure. Further the slum upgrading and NYS initiatives are strictly county functions and these are attributed solely to the Ministry of Devolution and Planning.

- Agricultural Transformation

The BPS expounds on noble initiatives most of which fall in the functional role of county governments but does not make any mention of the intergovernmental mechanisms through which these will be implemented.

- Manufacturing and employment creation

In this case the BPS focuses on the creation of industrial parks without addressing support which is needed by county governments in this regard.

- Building a Healthier Kenya

It is noteworthy that the national government has actively supported maternal health care and immunizations and intends to continue doing so. But the BPS makes not make mention of supporting county health priorities towards the realization of the national goal.

3. National Government Wage bill

The wage bill of national government has continued to increase year after year, even after devolution of functions. This indicates that the national government has not rationalized itself in line with its new functions and is instead growing. These points to national government inefficiency

4. Management of Natural resources

The recent discovery of strategic and economically viable natural resources came with raised community expectations. Although great strides have been made with the enactment of income tax regime for the extractive industry in 2014, with promise of expanding the tax base of the country, these expectations have yet to be managed as sharing of benefits is yet to be understood[1]. Over the medium term, the BPS will focus on further deepening tax reforms in order to broaden the tax base, reduce compliance cost, facilitate private sector growth and enhance revenue yield as part of measures to strengthen revenue effort. There is however greater need to focus on remedying the challenges facing the sector including;

- Access to information still remains a barrier with the need of centralized data base on natural resource which has hindered investments and development in the sector[2].
- The sharing of benefits is still misunderstood by the communities especially in the rural areas; there is also need for civic intervention on the extractives sector.
- There is low youth participation due to in the sector, leaving the elderly population to be the predominant participants thus affecting overall productivity. The Youth represent a large proportion of the Kenyan population and the future generation of the country and although the BPS has prioritized employment creation. As such, the youth provide a great potential in environmental conservation activities due to their large numbers and energies. The sector needs to provide a forum for youth

[1] GoK. Environment Protection, Water and Natural Resources Sector Report. 2014
[2] GoK. Environment Protection, Water and Natural Resources Sector Report. 2014

participation in environmental conservation activities. Involving the youth will enhance environmental awareness and encourage good environmental practices for the future generations.

- High poverty level especially in the rural areas has led to cash handouts resulting in general degradation of capitalism thus compromising the national pillars of raising efficiency and productivity in the economy, and in turn, accelerate and sustain inclusive growth, create opportunities for productive jobs, and secure livelihoods of all Kenyans[3]

5. Enhancing Security for Sustained Growth and Employment

- The BPS identifies continued investment in security infrastructure covering housing, offices, security installations and training facilities with the Government developing by end-May 2015, in partnership with county governments, standards and guidelines for installation of integrated closed-circuit television (CCTV) systems in all urban buildings. In 2013/14, the Last financial year, the policing services programme attributed the lack of implementation of installing CCTV in major cities inadequate funds. In the FY 2014/15 the funding level of the programme is almost 30 billion less than what the ODPP had initially required during the sector consultations[4]. With this slow progress in installing 100 CCTVs over the last two financial years, what is the government going to do different to ensure implementation for a more stable environment for political, social and economic development of the country
- The BPS 2015 proposes establishing of a Security Integrated Infrastructure Development Fund will be established before end-March, 2015 to finance the housing, office blocks and installation infrastructure for the National Police Service and other uniformed officers. This is a welcomed proposal to ensuring those who serve to protect us are capacitated to do so. However, given the gaps in policy and legislation, it has been difficult to hold anyone fully accountable for the misuse of such funds. It is not clear the extent to which their governance structures conform to constitutional requirements. There is need for a unified governance structure to measure the impact of these funds in accordance to Articles 201 and 203 of the constitution before setting up this fund.

6. Scaling up Social Protection

[3] GoK. BPS, 2015

[4] TISA Performance review of 2013/14 programmes and priorities as per the 2014/15 GJLOS sector report

As outlined in the BPS 2014, Government social protection initiatives will be expanded to cover the elderly persons, persons with disability, orphaned and vulnerable children, and those living in extreme poverty. This year, the government intends to scale-up budgetary allocation toward the National Safety Net Program covering: (i) Cash Transfer to Orphans and Vulnerable Children; (ii) Cash Transfer to Older Persons; (iii) Cash Transfer to persons with Severe Disabilities; (iv)Urban Food Subsidity (Nairobi and Mombasa).

There are currently a large number of funds that draw from national government's allocations either directly or indirectly in Kenya[5]. Although they are created to address a specific need in society which requires special focus and must endeavor to do so using the share of national resources allocated to them, of concern is the lack transparency and accountability in reporting as well as operation. A study by the Parliamentary Budget Office revealed that in most of these funds, some expenditures and cash balances cannot be accounted for and there is continued failure in submitting documentary evidence on various transactions for audit purposes in consecutive years. There is need for a unified governance structure to measure the impact of these funds in accordance to Articles 201 and 203 of the constitution and opening up the process to transparency and accountability before scaling up budgetary allocations this year.

7. Conditional grants

The BPS proposes several conditional grants. It fails to address the framework for their effective management. These grants however well conceived my ultimately undermine devolution as they do not meet most of the following best practices.

For transfers/grants to succeed in meeting their objectives, they need to;

i. be guided by clear policy goals and objectives
ii. respect autonomy of the recipient county to manage
iii. ensure adequacy and affordability, to both levels, on initial costs and operations, so that the grant is enough to fund the target commitments, while recipients have capacity to operate the investment alone or jointly

[5] These funds include: The Local Authorities Transfer Fund (LATF) launched in 1999 pursuant to the passing of the LATF Act in 1998; the Roads Maintenance Levy Fund (RMLF) which started in 1993; the Constituency HIV/AIDS Transfer Fund which started in 2003; the District Bursary Fund which started in 1993/94, and the Constituency Development Fund (CDF), established by an Act of Parliament in 2003 and subsequently amended in 2005, 2007 and 2013. Others include the Secondary Education Bursary Fund (SEBF), the Free Primary Education Fund (FPE) and the Rural Electrification Levy Fund (RELF).Recent additions include the Equalization Fund of 0.5% of national revenue to be shared by the marginalized counties on the criteria identified by the Commission on Revenue Allocation (CRA), and the UWEZO fund targeting the youth

iv. transparency and predictability; the fund arrangements should be clear, open and predictable, especially when project covers several years
v. be efficiently implemented; the recipient county should have capacity to implement the programs or projects efficiently
vi. in-build incentives; grants need to be based on clear incentives for effective implementation
vii. ensure responsiveness and needs based; the target funding should be based on expressed needs and clear outputs or outcomes, in order to generate local support
viii. ensure flexibility; this is critical to coping with ever changing environment and needs
ix. be based on clearly understood and jointly owned channels of accountability
x. have clear coordination and collaboration mechanism between the key players, especially the two levels of government, this is critical to avoiding policy conflicts

We propose additional conditional grants for

- URBAN AREAS: the BPS does not address urban areas which are a key avenue for growth.
- ASAL infrastructure: it is not clear to which extent the government is investing in opening up ASAL areas through infrastructure investment
- CDF: it is high time national government took over the CDF from legislators and used it to invest in infrastructure of educational facilities through an appropriate intergovernmental framework;

8. Further entrenching devolution

The BPS 2015 strategizes to further entrench devolution by strengthening institutions and capacity to link inter-governmental fiscal transfers with revenue raising capacity of the county government.

One a half years after devolution, Low levels of awareness of the devolved system of governance in both the public sector and the general public is and still remains one of the major challenges around transition.

Of concern is a review of the 2014 and 2015 Budget Policy Statements (BPS) reveal that the civic education programmes are yet to be incorporated as strategic interventions. '**The**

general citizenry and key stakeholders need to be fully sensitized on devolution with a view to enhancing their knowledge and support to the Kenyan devolution process. The civic education programmes will aim at empowering citizens and public sector employees on principles and values of devolution[6]'

9. Capacity development

The BPS stresses on capacity building of county government in finance management. It fails to recognize that all arms of county government need capacity building especially county oversight mechanisms. The capacity building framework is presently not meeting county needs.

10. Delete biased point

Point 127 '**pressures and inefficiencies in devolved units may limit continued funding for development expenditure'** should be deleted due to the aforementioned transitional burdens which have forced county governments to shoulder unsustainable wage burdens.

Conclusion

Despite its noble intentions, the BPS is unfortunately centrist and may be in breach of Articles 6(2), 187 and schedule 4 on many counts.

The failure to approach shared development from an intergovernmental perspective will continue to escalate the cost of delivering services as Kenyans shoulder the burden of supporting parallel structures of government. It also creates an unhealthy competition between national and county government for resources.

There is a risk that the large infrastructure spending of national government is contributing towards underfunding of service delivery and will diminish access to quality services for Kenyans and unequal development.

[6] GoK. Medium Term Plan 2013 -2017