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THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION

REPORT OF THE DEPARTMENTAL COMMITTEE ON SOCIAL
PROTECTION ON ITS CONSIDERATION OF
THE BREASTFEEDING MOTHERS BILL, 2024,
(NATIONAL ASSEMBLY BILL NO. 8 OF 2024)

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| TABLED BY: | Hon. Alice Ng'ang'a, CBS, MP Chairperson, DC on Social Protection | | |
| THE TABLE: | Vivian Kambui | | |

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
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NAIROBI

November 2024

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LIST OF ABBREVIATIONS AND ACRONYMS

| | |
|--------|--|
| BMS | Breast Milk Substitutes |
| CAMFEB | Career Mothers for Exclusive Breastfeeding |
| CD | Certified-Birth Doula |
| CLC | Certified Lactation Counsellor |
| DONA | DONA International |
| KAB | Kenya Association for Breastfeeding |
| KBA | Kenya Bankers Association |
| KDHS | Kenya Demographic and Health Survey |
| KEPSA | Kenya Private Sector Alliance |
| LCCE | Lamaze-Certified Childbirth Educator |
| LEC | Lactation Education Consultants |
| UCDP | Uhuru Community Development Project |
| UoN | The University of Nairobi |

LIST OF ANNEXURES

- 1 Report Adoption Schedule
2. Committee Minutes
3. Copy of the newspaper advertisement on public participation
- 4 Letters inviting stakeholders to meetings with the Committee
- 5 Stakeholders' submissions

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Social Protection on its consideration of the Breastfeeding Mothers Bill, 2024 (National Assembly Bill No. 8 of 2024), a Bill sponsored by the Hon. Sabina Chege, MP. The Bill underwent First Reading on 2nd May 2024 and was thereafter committed to the Departmental Committee on Social Protection for consideration and reporting to the House pursuant to the provision of Standing Order 127(1).

The Bill seeks to make provision for breastfeeding mothers; to provide for employers' obligations towards breastfeeding working mothers in the workplace; to provide for baby changing facilities for use by the public and for connected purposes.

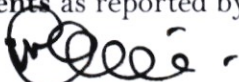
Following placement of advertisements in the print media on 16th May 2024 seeking public and stakeholders' views on the Bill pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Departmental Committee on Social Protection received memoranda from Ms. Esther Kimani who is a lactation professional Dr. Walter Owen Omony, the Kenya Association for Breastfeeding, the Career Mothers for Exclusive Breastfeeding, the Kenya Private Sector Alliance, Dr. Davies Okombo of the Uhuru Community Development Project, Professor Ali Abdirahman Maalim, the African Women Studies Research Centre of the University of Nairobi, Mr. Collins Michael N of Policy and Governance Kenya, the Care Network, the Kenya Bankers Association, the Ministry of Labour and Social Protection

The Committee also held physical meetings with the Kenya Association for Breastfeeding, the Career Mothers for Exclusive Breastfeeding, Hon. Sabina Chege, MP, as well as the Ministry of Labour and Social Protection.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank the Principal Secretary, State Department for Social Protection and Senior Citizens Affairs and the Mover of the Bill, Hon. Sabina Chege who made their respective submissions on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made valuable input during consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Social Protection and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of The Breastfeeding Mothers Bill, 2024.

I thus wish to table this Report on The Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024) in this Honourable House, with the recommendation that the Bill **be approved with amendments** as reported by the Committee, which are contained in this Report.



The Hon. Alice Wambui Ng'ang'a, CBS, M.P.
Chairperson, Departmental Committee on Social Protection

PART ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Social Protection is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
- iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. ***To study and review all the legislation referred to it;***
- v. *To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on appointments);*
- viii. *To examine treaties, agreements and conventions;*
- ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider, social welfare and security, pension matters, gender affairs, equality and affirmative action, affairs of children, youth, persons with disability and senior citizens.
3. In executing its mandate, the Committee oversees the following State departments and Commission;
 - i. The State Department for Social Protection and Senior Citizen Affairs
 - ii. The State Department for Gender and Affirmative Action
 - iii. The State Department for Youth Affairs and Creative Economy
 - iv. The State Department for Public Service (NYS)
 - v. The National Gender and Equality Commission (NGEC)

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Social Protection was constituted by the House on 27th October 2022 and comprises of the following Honourable Members:

Chairperson

Hon. Alice Wambui Ng'ang'a, CBS, MP
Thika Town Constituency

UDA Party

Vice-Chairperson

Hon. Hillary Kiplang'at Koskei, MP
Kipkelion West Constituency

UDA Party

Hon. (Dr.) James Wambura Nyikal, MP
Seme Constituency

ODM Party

Hon. Sulekha Hulbale Harun, MP
Nominated Member

UDM Party

Hon. Timothy Wanyonyi Wetangula, MP
Westlands Constituency

ODM Party

Hon. Amina Abdullahi Dika, MP
Tana River County

KANU PARTY

Hon. (Dr.) Lilian Achieng Gogo, MP
Rangwe Constituency

ODM Party

Hon. Hussein Abdi Barre, MP
Tarbaj Constituency

UDA Party

Hon. Mark Ogolla Nyamita, MP
Uriri Constituency

ODM Party

Hon. Susan Nduyo Ngugi, MP
Tharaka Nithi County

TSP PARTY

Hon. Edith Vethi Nyenze, MP
Kitui West Constituency

WDM-K PARTY

Hon. Agnes Mantaine Pareiyo, MP
Narok North Constituency

JUBILEE PARTY

Hon. Betty Njeri Maina, MP
Murang'a County

UDA PARTY

Hon. Linet T. Chepkorir, MP
Bomet County

UDA PARTY

Hon. Michael Wambugu Wainaina, MP
Othaya Constituency

UDA Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following staff:

Mr. Finlay Muriuki
Lead Clerk/ Head of Secretariat

Mr. Ahmednoor Hassan
Clerk Assistant III

Ms. Jemimah Waigwa
Legal Counsel

Mr. Adan Ahmed Abdi
Fiscal Analyst II

Ms. Grace Maneno
Research Officer III

Mr. Benjamin Ochutsi
Hansard Officer III

Ms. Naomi Onsomu
Public Communications Officer

Mr. Derrick Kathurima
Media Relations Officer

Mr. Cosmas Akhonya
Audio Recording Officer

Ms. Eva Kaare
Serjeant-At-Arms

Ms. Fiona Musili
Research Officer

PART TWO

3 OVERVIEW OF THE BREASTFEEDING BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 8 OF 2024)

3.1 INTRODUCTION

6. The Breastfeeding Bill, 2024 (National Assembly Bill No. 8 of 2024) is a Bill sponsored by Hon. Sabina Chege, MP and was committed to the Committee for public participation in accordance with Standing Order 127.
7. The Bill, which was read a First Time on 2nd May 2024, seeks to make provision for breastfeeding mothers; to provide for employers' obligations towards breastfeeding working mothers in the workplace; to provide for baby changing facilities for use by the public; and for connected purposes.
8. The following is a summary of the Bill as proposed by the Hon. Member:

Clause 1 of the Bill is the short title and provides that the Act may be cited as the Breastfeeding Mothers Act, 2024 and shall come into operation upon the expiry of one year from the date of its publication.

Clause 2 of the Bill provides for the definition clause. Clause 2 defines various terms including:

"lactation place" which means private, clean, sanitary, and well ventilated rooms or areas in the workplace or public places where breastfeeding mothers can wash up, breastfeed or express their milk comfortably;

"workplace" which means work premises, whether private enterprises or government agencies, including their subdivisions;

Clause 3 of the Bill provides for breastfeeding at work and stipulates that a woman who has a baby may breastfeed or express breast milk at a lactation place in the work place.

Clause 4 of the Bill provides for the lactation place. The clause stipulates that every employer shall establish a lactation place in the manner prescribed under the Act. The clause further provides that a lactation place shall—

- (a) be shielded from view and be free from intrusion from co-workers;
- (b) be clean, quiet, private and warm;
- (c) not be a bathroom or toilet;
- (d) have a lockable door;
- (e) have a wash basin;
- (f) have a fridge for storing expressed milk;
- (g) have a provision for an electric outlet and lighting; and
- (h) have a chair, table and a clean space to store equipment.

The clause further obligates the employers to provide a physical environment that is safe for the baby that meets the requirements under the relevant law; and provide appropriate programs that develop a baby's cognitive, emotional, social and language abilities.

The clause also creates an offence against employers who fail to comply with the Act by providing that any employer who does not comply with the section commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to an imprisonment for a term not exceeding one year, or to both.

Clause 5 of the Bill provides for breastfeeding time. The clause stipulates that a breastfeeding mother shall only use the lactation place during working hours for breastfeeding or expressing milk. The clause further provides that an employer shall provide a reasonable break time to a breastfeeding mother for purposes of breastfeeding the baby or expressing breast milk for the baby. The break time provided for breastfeeding and expressing milk under subsection (2) shall—

- (a) be considered within working hours; and
- (b) not exceed forty minutes in every four hours worked.

Where circumstances require a baby to be breastfed for a long period exceeding the time prescribed under this Act, the mother may with the written instructions from a registered medical practitioner breastfeed the baby for a longer period.

Clause 6 of the Bill provides for flexible working hours. The clause provides a breastfeeding mother may in the prescribed manner apply for a flexible work arrangement from the employer for the purposes of breastfeeding or expressing breast milk for the baby. The flexible work arrangement under subsection (1) shall stipulate—

- (a) the number of hours the employee is to work;
- (b) the type and number of work assignments; and
- (c) the exact location of where the employee is to work.

The clause further provides for applications for flexible working arrangements to be made by breastfeeding mothers to the employers. The clause also stipulates that where the employer rejects the application, the employer shall give a written statement. A flexible working arrangement may be revoked where—

- (a) there is abuse of the terms of the agreement; or
- (b) either party decision to terminate the agreement.

A revocation of grant of a flexible working arrangement shall be in writing.

Clause 7 of the Bill provides for freedom from discrimination against women. The clause provides that a person shall not discriminate a woman on any ground including pregnancy, childbirth, breastfeeding, or any other maternity related condition, in accessing employment opportunities or benefits.

Clause 8 of the Bill provides for baby changing facilities and stipulates that a person who owns, leases, or rents a public or private building accessible to the public, which has a minimum occupancy capacity of fifty persons, shall install a baby changing facility.

Clause 9 of the Bill provides for the right of every woman to breastfeed in public. The Bill provides that a woman may breastfeed her child in public and the act of a woman breastfeeding child in public shall not be construed to amount to an indecent act.

Clause 10 of the Bill provides for the general penalty. The clause stipulates that a person convicted of an offence under the Act shall, on conviction, be liable to a fine not exceeding one million shillings or to an imprisonment for a term not exceeding one year, or to both.

Where an offence is a continuing offence, the person convicted shall, in addition to the penalty prescribed, be liable to a fine of ten thousand shillings for each day during which the offence continues.

Clause 11 of the Bill prescribes the power of the Cabinet Secretary for Labour in consultation with the Ministry of Health to make regulations generally for the better carrying out of the provisions of the Act including by prescribing the requisite standards and contents of the rooms or buildings contemplated under the Act and the manner and conduct of promoting the public awareness on breastfeeding mothers at the workplace.

PART THREE

4 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

9. Following the call for memoranda from the public through placement of adverts in the print media on 14th May 2024 and vide letters dated 1st November 2024 inviting stakeholders for meetings, the Committee received memoranda from the following stakeholders:
- i. The Kenya Association for Breastfeeding
 - ii. Career Mothers for Exclusive Breastfeeding;
 - iii. Ms. Esther Kimani (CLC; CD(DONA) LCCE Lactation Professional ;
 - iv. Mr. Collins Michael N. of Policy and Governance Kenya;
 - v. The Care Network comprised of Oxfam, Youth Alive Kenya, Association of Women in Agriculture, Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA), Teenseed Africa, Bunge Mashinani and other organizations advancing the principles of Unpaid Care and Domestic Work (UCDW);
 - vi. The State Department for Social Protection and Senior Citizens Affairs;
 - vii. Dr. Walter Owen Ogony;
 - viii. Dr. Davies Okombo;
 - ix. The Kenya Association of Bankers;
 - x. Professor Ali Abdirahman Maalim;
 - xi. The University of Nairobi's African Women's Studies Research Centre -Women's Economic Empowerment Hub;
 - xii. Hon. Sabina Chege.
 - xiii. The Journal of Nutrition Community and International Nutrition "*Access to workplace supports is positively associated with exclusive breastfeeding*" was also submitted to the Committee.
10. Further, the Committee held meetings with the Kenya Association for Breastfeeding and the Career Mothers for Exclusive Breastfeeding on 7th November 2024 as well as with Hon. Sabina Chege, MP and the Ministry of Labour and Social Protection on 14th November 2024. The analysis of the submissions made by the stakeholders are contained hereunder.

4.1 Submissions by the Stakeholders

Submissions by Dr. Walter Owen Ogony

11. Noting the country has poor public transport, poor garbage collection structures and the possible additional costs to employers, the most feasible approach is for employers to give flexible working times to enable mothers to breastfeed from home until the end of 6 months after delivery.
12. The Committee took note of Dr. Ogony's submissions, which were progressive despite the implementation constraint therein.

Submissions by Dr. Davies Okombo

13. The title of the Bill should be inclusive to enhance gender equality, and include men who may be directly responsible for feeding the babies in the absence or death of the mothers. They they should enjoy the rights contemplated herein.
14. In Part II, Section 4, sub section 2 insert the following clauses:

- (i) have an electric kettle
 - (j) have no CCTV surveillance
15. Further, in Part II Section 5, delete the sub-section. The break time provided for breastfeeding and expressing milk under subsection (2) shall be prescribed by the Cabinet Secretary in regulations and insert the following: The break time provided for breastfeeding and expressing milk under subsection (2) shall be 30 minutes twice or 1 hour a day.
 16. In Part II, Section 6, delete sub section 2(a) the number of hours the employee is to work and insert the following: the number of hours the employee is to work without pay loss.
 17. In Part II, Section 8 insert the following sub sections:
 - (e) shall be free of charge
 - (f) shall have baby diapers and wipes

The Committee took note of Dr. Okombo's submissions, which were progressive particularly in barring use of CCTV surveillance despite the implementation constraint therein with regard to some of the proposals.

Submissions by the Career Mothers for Exclusive Breastfeeding (CAMFEB), led by Ms. Martha Mugi

Section 4: Employer Requirement to Provide Lactation Facilities

18. Current Provision: Section 4 (1) Every employer shall establish a lactation place in the manner prescribed under this Act;

Proposed Amendment: CAMFEB recommends that this section explicitly allow for flexible or mobile lactation solutions as a viable alternative for workplaces with limited space or resources. Many organizations, particularly in smaller offices or rural settings, may face challenges in establishing a permanent lactation room. Mobile lactation pods/units, such as those designed by CAMFEB, offer a cost-effective and accessible solution that can be moved as needed, providing privacy and functionality in compliance with lactation support standards.

Rationale: Integrating mobile solutions will broaden the accessibility of lactation support, particularly for employers in underserved areas, enhancing compliance with minimal infrastructural constraints.

Section 4: Reasonable Proximity of Lactation Rooms

19. Current Provision: Section 4 (i) Every employer shall establish a lactation place in a manner prescribed under this Act (i) have any other requirement as may prescribed by the Cabinet Secretary in regulations.

Proposed Amendment: CAMFEB recommends that Section 4 include a provision specifying that lactation rooms should be located within the same building as the primary work area of breastfeeding employees whenever possible. This addition would ensure that the lactation space is

reasonably accessible to encourage regular use and avoid time constraints for breastfeeding employees.

Rationale: Having the lactation room within the same building makes it more convenient and accessible for breastfeeding employees, which is essential for the timely expression of milk. Close proximity will also reduce the time required to access the facility, allowing breastfeeding mothers to better manage their work responsibilities and breastfeeding needs. This approach not only supports mothers but promotes a positive workplace culture that values family- friendly practices and the well-being of employees.

Section 5 & 6: Flexibility in Work Arrangements for Breastfeeding Mothers

20. Current Provision: Section 5(1) & 6 (1) (2) (a,b,c) 5. (1) A breastfeeding mother shall only use the Breastfeeding lactation place during working hours for breastfeeding or expressing milk. Section 6. (1) A breastfeeding mother may, in the prescribed manner, apply for a flexible work arrangement from the employer for the purposes of breastfeeding or expressing breast milk for the baby. (2) The flexible work arrangement under subsection (1) shall specify— (a) the number of hours the employee is to work; (b) the type and number of work assignments; and (c) the exact location of where the employee is to work.

Proposed Amendment: CAMFEB supports this provision but recommends additional language clarifying the process and timeframe for employees to request flexible work arrangements, including options for remote work where feasible.

Rationale: Clearer guidance will benefit both employers and employees, providing a standardized process for requesting and approving flexible arrangements, reducing administrative burdens, and ensuring that mothers receive timely support.

Section 8: Baby-Changing and Lactation Facilities in Public Spaces.

21. Current Provision: Section 8 (1) A person who owns, leases or rents a public or private building accessible to the public, which has a minimum occupancy capacity of fifty persons, shall install a baby changing facility.

Proposed Amendment: CAMFEB proposes including an allowance for portable lactation pods as an alternative for public facilities facing space or structural constraints.

Rationale: Portable lactation pods meet the privacy, sanitation, and accessibility needs of mothers expressing breastmilk and can be quickly deployed in public locations such as shopping centers, transportation hubs, and healthcare facilities, ensuring mothers have reliable spaces to express milk.

Section 11: Public Education on Breastfeeding Rights

22. Current Provision 11 (2) (d): Without prejudice to the generality of subsection (1), the Cabinet Secretary, in consultation with the Ministry of Health may, make regulations prescribing— (d) the manner and conduct of promoting the public awareness on breastfeeding mothers at the workplace;

Proposed Amendment: CAMFEB recommends incorporating collaboration with breastfeeding advocacy organizations like CAMFEB in public education initiatives, which would help strengthen the reach and impact of these campaigns through established networks and resources.

Rationale: By partnering with organizations dedicated to breastfeeding support, public awareness efforts will benefit from expert insights and increased outreach, fostering a culture that fully supports breastfeeding.

Section 11: Inspection and Certification of Lactation Rooms as Mother-Baby Friendly

23. Current Provision Summary: Section 11 (2) (g) Without prejudice to the generality of subsection (1), the Cabinet Secretary, in consultation with the Ministry of Health may, make regulations prescribing - (g) the manner and conduct of inspection and certification of lactation rooms as mother baby friendly.

Proposed Amendment: CAMFEB proposes the establishment of a dedicated certifying body responsible for the inspection and certification of lactation rooms across workplaces and public facilities. This body should comprise representatives from relevant government agencies, healthcare professionals, breastfeeding advocacy organizations, and stakeholders from both private and public sectors. CAMFEB recommends that the body be tasked with developing and regularly updating guidelines and standards for mother-baby-friendly facilities, providing inspections, and issuing certifications.

Rationale: A dedicated certifying body would ensure consistent standards and quality control across all lactation rooms, improving the reliability and accessibility of these facilities. With representatives from diverse backgrounds, this body could draw on expertise from breastfeeding advocacy, healthcare, and industry to adapt certification guidelines to various workplace and public facility contexts.

Additional Recommendations

24. Compliance Support and Resources: CAMFEB proposes that the Bill include a section on compliance support for small and medium enterprises (SMEs) and resource-constrained organizations. CAMFEB is prepared to collaborate on guidance documents, resources, and training to help these employers meet the Bill's requirements.
25. Monitoring and Accountability: CAMFEB recommends establishing an accountability mechanism that involves regular audits of employer compliance, with a focus on workplace support of breastfeeding mothers.
26. The Committee agreed with a number of CAMFEB's proposals, while others were deemed as having implementation constraints.
27. CAMFEB proposed two lactation designs as illustrated hereinunder:

Mobile Lactation Spaces Options:

Option 1: Lactation Pod - Size: 16 Square ft by 7 feet

Cost of this mobile lactation unit is Shs175,000



Lactation pod proposed by Career Mothers for Exclusive Breastfeeding (CAMFEB)



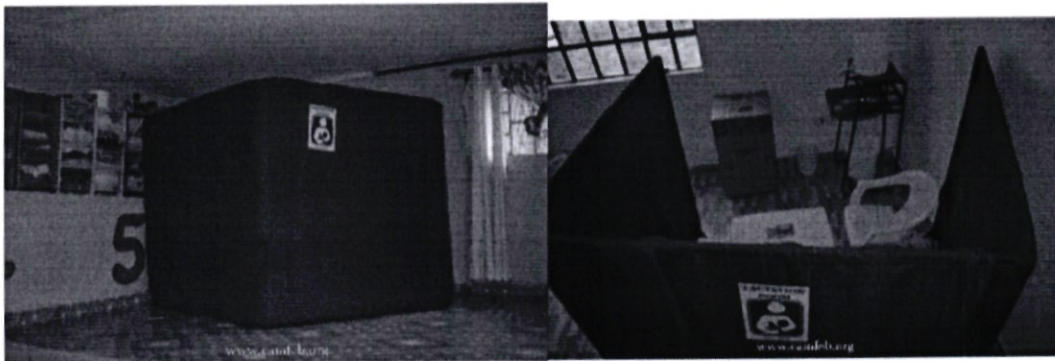
CAMFEB
CAREER MOTHERS FOR
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www.camfeb.org 🌐

Option 2: Mobile Lactation Unit – 3-Fold screen

Size: 5 Feet by 5 Feet by 5 Feet

Cost per unit is Shs75,000



Mobile Lactation Unit proposed by the Career Women for Exclusive Breastfeeding (CAMFEB)

Submissions by Ms. Esther Kimani (CLC; CD(DONA) LCCE Lactation Professional

28. A breastfeeding-friendly policy with clear operating guidelines in the workplace is critical to sustaining breastfeeding. The Bill should be passed in its entirety to further protect the rights of children and our mothers and provide a clear legal framework on how this can be done in the Republic of Kenya.
29. The Committee agreed with the views by Ms. Kimani.

Submissions by the Kenya Association for Breastfeeding, led by Ms. Josphine Munene, Executive Committee Member

30. The Bill will provide numerous benefits, including: Improved Maternal and Child Health: Enhanced breastfeeding duration can lead to better health outcomes for mothers, including lower risk of ovarian and breast cancer amongst other non-communicable diseases; and in children prolonged breastfeeding lowers the rates of infections and chronic conditions.
31. Employee Retention and Satisfaction: Supporting breastfeeding mothers can lead to higher job satisfaction and lower turnover rates.
32. Economic Benefits: Reduced absenteeism and healthcare costs associated with healthier infants and mothers.

Legal and Financial Implications:

33. The Bill will require employers and relevant stakeholders to allocate resources for lactation rooms and break times. However, these costs can be offset by the aforementioned benefits such as improved employee morale and reduced healthcare costs. We also suggest offering financial incentives or tax benefits to employers who comply with these requirements.

Proposed Amendments to the Bill to Enhance Feasibility, Impact and Sustainability:

34. Prohibition of Promotion, Marketing or Selling of Breast Milk Substitutes (BMS):
35. Include a clause in Section 4 similar to Section 71 (3) of the Health Act 2017, preventing any promotion, marketing or selling of infant formula and designated BMS products within lactation spaces. Additionally, lactation spaces should not be funded by BMS manufacturers.

Flexibility in Physical Environment Requirements:

36. Amend Sections 4(3) (a) and 4(3) (b) to make physical environments and programs like crèches optional based on employee needs. Although the intention of the section is to minimize the separation of lactating employees from their babies during working hours, it might not be feasible for employers whose lactating employees are not permanently based at a single location.
37. Encourage partnerships with registered daycare centres near workplaces. Current research conducted in Kenya suggests that lactating employees who have access to daycares at or near workplaces are more likely to practice exclusive breastfeeding compared to those who do not have a daycare in proximity or those who use community or home-based childcare.

Breastfeeding Workplace Policies:

38. Include a clause compelling employers to develop policies that address the needs of lactating employees, including facilities, protected and compensable time, evidence-based information, and

professional breastfeeding support in line with the 'Guidelines for Securing a Breastfeeding Friendly Environment at the Workplace' (MoH, 2018).

Protected Break Time:

39. Clarify that break time referred to in Section 5(2) and 5(3) is additional to regular breaks and is protected and compensable.
40. Ensure the minimum time allocated for breastfeeding or expressing aligns with Section 72 (2) of the Health Act 2017 thus allowing lactating employees to breastfeed or express milk every 3 – 4 hours.

Lactation Spaces in Multi-tenant Buildings and Tertiary Education Institutions:

41. Amend Section 8 to mandate lactation spaces in multi-tenant buildings to support employees working for micro and small enterprises, and self-employed women. Data from the KDHS 2022 report indicates that 21% and 26% of women work in service/shops/sales and elementary occupations respectively, which is a significant proportion of the female workforce. Building owners/landlords can use the service charge collected to set up and maintain the lactation rooms in their buildings.

Designated Lactation Spaces by County Governments:

42. Amend Section 9 to include designated lactation spaces in public areas, provided for by County governments, particularly for women in elementary occupations who need to express their breast milk regularly and do not have access to private, hygienic physical spaces.
- 43.



Ms. Josephine Munene of the Kenya Association for Breastfeeding (KAB) and Ms. Martha Mugi of the Career Mothers for Exclusive Breastfeeding (CAMFEB) making submissions before the Social Protection Committee on November 7, 2024

The Committee agreed with most of the Association's proposals, and resolved to consider their implementation feasibility.

Submissions by the Kenya Association of Bankers

44. Based on the objects of the Act, it appears that the provisions of the Breastfeeding Mothers Bill should be incorporated into the Employment Act under the rights and duties in employment which include, the basic minimum conditions of employment such as working hours, annual leave, maternity, leave, paternity leave, sick leave, pre- adoptive leave, housing, water, food, and medical attention.
45. The long title infringes on Art. 31 & 40 of the Constitution on the right to privacy and enjoy property acquired by allowing the public to access and use private property.
46. The definition of a baby is inelegantly done. 'within' should be replaced by 'between.'
47. Section 4(3) which provides that an employer, who establishes a lactation place for breastfeeding purposes, should be deleted. This may not be practical for most workplaces given the likelihood of dangerous substances among other occupational hazards. The provision of these services goes beyond the scope of the parties' employment relationship i.e., exchange of labour for a wage/salary.
48. The current mandatory 3 months paid maternity in addition to annual leave is already costly for most employers, this provision will create additional costs and increase the cost of doing business.
49. It is ambiguous and may pose a risk because it will be subject to interpretation. Section (b) imposes an additional burden to employers to have day cares. There is need to make consideration for organizations that have Hybrid working arrangements. The Economy is struggling, and business are closing.
50. Sections 4, 5 and 6 are similar to the provisions in Sections 71 & 72 of the Health Act which are under the Cabinet Secretary (CS) responsible for matters relating to health. For good order, the provisions should be under the ambit of one Cabinet Secretary for good order and effective implementation.
51. Section 4(4) which provides that any employer who does not comply with the section commits an offence. This section is punitive to employers and there is no rationale why the fine and sentence are that severe. It must be considered that the mother is an employee already earning a salary from the employer and that what the bill proposes is an additional benefit to an employee. It will be double tragedy to an employer to suffer penalties for not providing an additional benefit to existing employees.
52. Section 5(1) which provides that a breastfeeding mother shall only use the lactation place during working hours for breastfeeding or expressing milk should be amended to remove the words "for breastfeeding or". The inclusion of the term breastfeeding means that babies will be allowed in the workplace, which may not be conducive for babies for various reasons e.g., Safety, biohazards etc.
53. Section 5(3) which provides for the breaktime provided for breastfeeding or expressing milk will limit the employer's power to set out working hours.
54. On flexible working arrangements, there is a possibility that having a child so close could be distracting, a mother's frequent visits can impact work productivity and concentration.
55. Clause 7 which provides for freedom from discrimination will influence employment of female gender more so in times of AI and mechanization. Demographic effect on female gender as

employers will prefer to employ female past childbearing age and comply with gender rule. The implementation of these provisions is as of right.

56. Clause 8 which provides that a person who owns, leases or rents a public or private building accessible to the public shall install baby changing facilities should be deleted. The clause has implications on employers because it requires them to incur the expense of redesigning their work premises to include baby changing facilities.
57. On clause 11 on regulations making powers of the Cabinet Secretary, there is need for employers to develop a policy on breastfeeding. Further, the penalties provided for in the Bill are too punitive.
58. The Committee agreed with some of Kenya Bankers' Associations' proposals.

Submissions by Prof. Ali Abdirahman Maalim

59. If a child survives and the mum dies in a hospital the infant should be allowed to be breast fed by any woman who had a child in a nearby hospital. The Cabinet Secretary, National Treasury should pay a wage through the relevant ministry to such mothers until the child can be looked after by their blood relatives for a period of six to one year. The wage will cease when the child stops breast feeding. This is for the purpose building a strong immune system for the young republican. However, if the child needs to be adopted then the social services will have to look after the child through the procedure in place already.
60. Prof. Maalim's proposals were viewed as logical and progressive by the Committee.

Submissions by the State Department for Social Protection

Clause 1 on short title and commencement

61. Delete "...and shall come into operation upon the expiry of one year from the date of its publication." Operationalization of the Act should not form part of the short title as Article 116(2) of the Constitution of Kenya, 2010 declares that an Act comes into force on the 14th day after its publication in the Gazette, unless the Act stipulates a different date on or time at which it will come into force. Such a date/time is captured as the commencement date and not under the short title.

Clause 2 on definition of baby Extend the period to 36 months of age.

62. Article 43(1)(c) of the Constitution of Kenya guarantees the right to be free from hunger and to have adequate food of acceptable quality. On the strength of this provision of the Constitution, the State Department in conjunction with the Ministry of Health have developed a policy on Early Childhood Development which has taken an evidence-based approach demonstrating that the first 1000 days of a child's life are the most critical in its development. It entails exclusive breastfeeding for the first 6 months and proper nutrition/diet for the breastfeeding mother.

Clause 2 on definition of Breastfeeding

63. There are mothers who cannot produce milk hence rely on baby formulas. Such mothers may be locked out of the flexible working arrangement as defined in Clause 2.
64. In the circumstances, it is proposed that a definition on feeding/baby feeding be provided to cater for such instances.

Clause 3 on breastfeeding at work.

65. Introduce a clause to include: “any breastfeeding woman seeking service in the workplace, both private and public, shall be allowed to access the lactation place at the workplace.”
66. This will consider breastfeeding mothers who are not necessarily employees but are in need of such services.

Clause 4(3) on lactation place

67. Introduce clause 4(3)(c) to provide a caregiver at the facility to provide care for the children kept at the lactation place. This provision will ensure that a breastfeeding mother who is an employee is able to actively participate in the work activities as the baby is in the hands of a caregiver.

Clause 7 on freedom from discrimination

68. Amend to read: “A person shall not discriminate a breastfeeding mother in accessing employment opportunities or benefits.” The provision under Clause 7 as is goes beyond the object of the Bill which is on breastfeeding mothers.

Clause 11(2)(g) on Regulations

69. Amend to read: “The manner and conduct of inspection, certification and monitoring of lactation rooms as mother baby friendly; and The Children Act (Cap 141) Laws of Kenya, addresses child safety primarily through general provisions related to child protection, welfare, and safeguarding, often in the context of family, custody, and care environments. The Bill on the other hand focuses on specific issues such as breastfeeding in safe public or workplace environments, which can contribute to a broader understanding of safety by ensuring that children and mothers are not exposed to discomfort or harm in those settings.

General recommendations

70. The provisions of the Bill focus on formal employment to the disadvantage of mothers who work in the informal sector and hence may not benefit from certain provisions such as the lactation place and baby changing facility.
71. The Bill should make consideration for child minders/caregivers so that mothers with infants under 6 months can actively ensure that their performance in the work place is not affected.
72. The Bill should include a provision for foster mothers, adoptive parents, guardians and single fathers who care for children under the age of 24 months.
73. The Committee agreed with most of the State Department’s submissions.

Submissions by the University of Nairobi African Women’s Studies Research Centre - Women’s Economic Empowerment Hub.

74. The long title of the Bill be amended to read “Breastfeeding and Substitute Feeding of Babies by Mothers in the Workplace Act, 2019’ and shall come into force..... This incorporates the modern idea of feeding of babies through other means other than directly from the breast.
75. The definition of the term “Lactation place” be redefined to mean private, clean, sanitary, and well-ventilated rooms or areas in the workplace or public places where mothers can: breastfeed or cup-

- feed their babies; wash up; or express milk comfortably and hygienically preserve it. The definition includes mothers who cup feed their babies.
76. Redefine the term “workplace” to mean any premise or site where a contract of service is undertaken. Expands the restricted sense in which the word workplace as used connotes i.e., formal workspaces. Most women work in the informal sector in Kenya.
 77. The Bill has not defined the term breast milk. Introduce a new definition to define breast milk as milk developed within the mammary glands of a female following gestation and made available to an infant whether directly through breastfeeding or indirectly through cup-feeding of expressed breast milk. has not been implemented. Expands the idea of breast milk away from only that produced by a specific mother to her specific child to that which may be obtained through cup-feeding from another mother or milk bank provided it emanated from the human breast.
 78. Introduce the definition of the term feeding a baby to mean feeding a baby with milk directly from the mother’s breast OR cup feeding of expressed breast milk OR feeding a baby with nonhuman milk. This definition considers the various ways in which a baby can access milk rather than only directly from the breast or from human beings. Does not define ‘Substitute Milk’ Substitute Milk has the meaning of milk suitable for babies and derived from non-human breast sources. (Includes animal milk and infant formula which despite discouragement of its use is still the only option available to some mothers).
 79. Define the term substitute milk. Substitute Milk has the meaning of milk suitable for babies and derived from non-human breast sources. (Includes animal milk and infant formula which despite discouragement of its use is still the only option available to some mothers). This definition factors in babies who take non-breast derived milk for various reasons.
 80. The Bill does not define the term ‘mother’. Define the term to mean the biological or adoptive mother. This definition expands the meaning of the word to include non-biological adoptive mothers.
 81. The Bill does not define mother’s assistant which means the individual authorized by the mother to bring her baby to the work place for feeding purposes in the absence of there being a creche that is well staffed with persons to look after infants while the mother is at work. A mother of a baby will require assistance with her baby being brought to work or remaining at work in an appropriate room.
 82. Amend the Bill to make provision made for the mother’s assistant. An employer shall facilitate the entry of a mother’s assistant with the baby into the workplace with ease for the purpose of accessing the baby care room. Need to make provision for mother’s assistant to access the work place during working hours in order to give the baby to the mother for the purposes of feeding.
 83. The Bill does not define ‘Baby Care Room’. Amend to define ‘Baby care room’ as a comfortable designated space for mothers’ assistants’ to hand over babies to their mothers for the purpose of feeding and for purposes connected to ensuring the comfort and soothing of babies as well as changing of babies’ diapers.

84. The Bill does not define 'Protected time'. Include a definition as follows: 'Protected time' means the period prescribed for a mother to feed her baby in the workplace or other circumstance without consequence to her status, including remuneration, other lawful breaks, or any other benefit due to the mother. Buttresses the compensable time a mother takes to feed her baby and which ought not to invite any consequences to her.
85. For the proper administration of the Bill it is essential that a Directorate under a relevant Ministry be set up to superintend employers with respect to the Act to ensure compliance and/or progressive implementation.
86. Define "flexible working arrangement" to mean a modification of an employee's terms and conditions of employment to facilitate the responsibilities of breastfeeding. This includes changes in work hours, duties, or work location to support the breastfeeding needs of the employee. Revising the "flexible working arrangement" definition aims to enhance clarity and understanding. The revised definition provides a more transparent and straightforward explanation, ensuring that employers and employees understand the term precisely.
87. Define the term "Lactation place" to mean private, clean, sanitary, and well-ventilated rooms or designated areas within the workplace or public places. The proposed amendment to the "lactation place" definition aims to enhance clarity and ensure explicit requirements for such spaces.
88. Define the term "firm". A firm's definition encompasses private and public sector employers and is subject to labour laws and regulations governing the treatment, rights, and obligations of employees and employers.
89. Amend the Bill to provide that a woman with a baby has the right to breastfeed or express breast milk at a designated Crechê lactation place in the workplace. Framing this provision as a right provides clear legal protection for breastfeeding mothers.
90. Delete provision 5 (a) as employers might exploit these arrangements by making unreasonable demands or altering work expectations to their disadvantage.
91. Amend clause 6(1) to read: A breastfeeding mother shall in the prescribed manner, apply for a flexible work arrangement from the employer for the purposes of breastfeeding or expressing breast milk for the baby, and the employer shall reasonably accommodate such requests, taking into consideration the needs of the mother and the operational requirements of the business.
92. The proposed amendment to allow breastfeeding mothers to apply for flexible work arrangements is justified as it supports maternal health, promotes gender equality, enhances employee satisfaction and retention, improves workplace productivity, ensures legal compliance, creates a family-friendly work environment, and aligns with public health recommendations.
93. Amend clause 6(6) to read as follows: A revocation of the grant of a flexible working arrangement shall be in writing and must adhere to the following requirements to ensure a fair and lawful process:
- (a) The employer shall provide a written notice of the revocation at least 15 days prior to the effective date.
 - (b) The written notice must include a clear and detailed explanation of the reasons for the revocation, citing specific instances or patterns of abuse of the terms of the agreement.

- (c) The notice must inform the employee of their right to appeal the decision, including the timeframe for submitting an appeal and the procedure for its review.
 - (d) Prior to revocation, the employer must engage in a consultation process with the employee to discuss the concerns and seek mutually agreeable solutions.
 - (e) Documentation of this consultation must be included in the written notice.
 - (f) The revocation must be applied consistently and not in a discriminatory manner, ensuring all employees are treated equally under similar circumstances.
 - (g) The process must comply with all relevant labour laws and regulations to protect the rights of protect both the employer and the employee.
94. The amendment to clause 6(6) is necessary to establish a fair and lawful process for the revocation of flexible working arrangements, ensuring transparency, consistency, and protection of employee rights.
95. Amend clause 7 to provide as follows: "A person or firm shall not discriminate against a woman on any ground, including pregnancy, childbirth, breastfeeding, or another maternity-related condition, in accessing employment opportunities or benefits". It is more inclusive by explicitly extending the non-discrimination mandate to all types of business entities, ensuring broader coverage across various employment contexts.
- The Committee would consider the feasibility of including the various definitions as proposed by the stakeholder.

Submissions by the Sponsor of the Bill (Hon. Sabina Chege, MP)

96. The principal object of this Bill is to provide a legal framework on mothers who may wish to breastfeed their children at the work place. The Bill provides for the right of a mother to breastfeed freely or express milk for her infant. The Bill further requires employers to provide breastfeeding employees with lactation rooms to either breast feed or express their milk for their children.
97. Breastfeeding is the first preventive health measure that can be given to a child at birth and it also enhances mother infant relationship. It is nature's first immunization, enabling the infant to fight potential serious infection and it contains growth factors that enhance the maturation of an infant's organ systems. Kenya is a signatory to treaties that provide for the right of an infant to exclusive breastfeeding for six months.
98. The government should therefore promote and encourage breastfeeding and provide the specific measures that would present opportunities for working mothers to continue expressing their milk and breastfeeding their infant or young child. Furthermore, the practice of breastfeeding may save the country's valuable foreign exchange that may otherwise be used for milk importation.
99. Presently, female employees exit the work force or stop breastfeeding in order to secure their job security. No woman should be forced to compromise the health of her child in order to make a living.
100. Part I (Clauses 1-2) of the Bill provides for preliminary matters including the title of the Bill and the interpretation of terms used in the proposed Act.
101. Part II (Clauses 3-10) of the Bill provides for the f u n d a m e n t a l principles and rights at work for a breastfeeding mother. It provides for the right to freely breast feed or express one's milk for the baby . It also places an obligation on the employers to provide breastfeeding working mothers with rooms to either breastfeed or express their milk . It also provides for the standards of such

- rooms. The Bill further provides for baby changing tables. This is important because the greater majority (public) finds it unsanitary to change a baby in a public setting such as a restaurant.
102. This provision will also cater for persons who are travelling long distances in the accompaniment of babies, ensuring that in each public restroom a baby changing facility is provided. This part also provides for a general for offences under the Act.
103. Part III (Clause 11-12) of the Bill provides for the power of the Cabinet Secretary to make regulations for the better carrying out of the proposed Act.



Submissions by the Principal Secretary for the State Department for Social Protection and Senior Citizens Affairs, Mr. Joseph Motari, MBS, on the Bill



Submissions by Hon. Sabina Chege, MP, the Sponsor of the Breastfeeding Mothers Bill, 2024

Submissions by Mr. Collins Michael N. of Policy and Governance Kenya

104. The Bill should emphasize creating a supportive environment for breastfeeding mothers in all public and private spaces, including workplaces, educational institutions and healthcare facilities.
105. There should be provisions for public awareness campaigns to educate the public about the benefits of breastfeeding and the rights of breastfeeding mothers.
106. Section 5: Right to Breastfeed: This section should ensure that that breastfeeding mothers have the right to breastfeed their children in any public or private location without discrimination or harassment.
107. Section 10: Workplace Support: Employers should be required to provide adequate facilities and time for breastfeeding mothers to express milk or breastfeed during working hours. This should include a private, hygienic space and sufficient breaks.
108. Section 15: Healthcare Support: Healthcare facilities should be mandated to provide breastfeeding support and counselling to new mothers. This should include training healthcare workers on breastfeeding techniques and benefits.
109. Section 20: Enforcements and Penalties: There should be clear enforcement mechanisms and penalties for non-compliance with the provisions of the bill to ensure that the rights of breastfeeding mothers are protected.
110. The Committee noted that the submissions by Mr. Michael were primarily policy guidelines and not specific amendments, but nonetheless appreciated his memoranda.

Submissions by The Care Network comprised of Oxfam, Youth Alive Kenya, Association of Women in Agriculture, Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA), Teenseed, Bunge Mashinani and other organizations advancing the principles of Unpaid Care and Domestic Work (UCDW), as submitted by Mr. Lawrence Gatenjwa;

| <i>Sec.</i> | <i>Current Provision</i> | <i>Proposals for Amendment</i> |
|-------------|---|---|
| Sec .2 | None | Introduce a definition of “public transport” to mean transportation by respective vessels through road, rail, water and air |
| | This Act may be cited as the Breastfeeding Mothers Act, 2024 and shall come into force.... | This Act may be cited as the ‘Breastfeeding and Substitute Feeding of Babies by Mothers in the Workplace Act, 2024’ |
| | Definition of “workplace”- Means work premises, whether private enterprises or government agencies, including their subdivisions. | “Workplace” means any premise or site where contract of service is undertaken. |
| | Does not define ‘mother’ | Mother means biological or adoptive mother. |

| | | |
|-----------|--|---|
| Sec. 4(2) | Sec. 4(1) Every employer shall establish a Lactation place in the manner prescribed under this Act. (2) A lactation place shall _____ | Sec. 4(1) Every employer shall establish a Lactation place in the manner prescribed in this Act. (2) A Lactation place shall _____ (j) be friendly and accessible to persons with disability |
| Sec. 4 | None | Confer a duty to national and county governments to set up lactation units in all public facilities. |
| Sec. 4(3) | Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in addition to the requirements provided for under subsection (2)____ | Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in addition to the requirements provided for under subsection (2)____ (c) Provide a caregiver or daycare services. |
| Sec. 4(3) | Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in addition to the requirements provided for under subsection (2)____ | Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in addition to the requirements provided for under subsection (2) _____ (d) Have a well-equipped first aid kit. |
| Sec. 5(2) | Sec. 5(2) An employer shall provide a reasonable break time to a breastfeeding mother for purposes of breastfeeding the baby or expressing breast milk for the baby. | Sec. 5(2) An employer shall provide a reasonable break time to a breastfeeding mother for purposes of breastfeeding the baby or expressing breast milk for the baby. The time so allocated should not interfere with the breastfeeding mother's normal official break time enjoyed by all other employees. |
| Sec. 6(3) | Sec. 6(3) Where an application is made under subsection (1), the employer shall respond in writing within fourteen days of receipt of such application. | Sec. 6(3) Where an application is made under subsection (1), the employer shall respond in writing within seven days of receipt of such application. |
| Sec. 9 | Sec. 9(1) A woman may breastfeed her child in public. (2) The Act of a woman Breastfeeding in public shall not be construed to amount to an indecent act. | Sec. 9(1) A woman may breastfeed her child in public. (2) The Act of a woman Breastfeeding in public shall not be construed to amount to an indecent act. (3) Long distance public transport operators shall ensure that there are baby changing facilities in their stop-over offices to cater to the needs of the |

111. The Committee noted that the submissions by the Care Network, and, notwithstanding the implementation technicalities and other policy considerations regarding some of the proposals, took up a number of the amendments on board.

Observations

112. The object of the Bill is limited to making provision for breastfeeding mothers; to provide for employers' obligations towards breastfeeding working mothers in the workplace; to provide for baby changing facilities for use by the public; and for connected purposes. The Bill does not cover other gender considerations including foster mothers, adoptive parents, guardians and single fathers who care for children under the age of 24 months. However, the Committee noted that noting the provisions of Standing Order 133, the amendments to effect the same would expand the scope of the Bill and further offend the public participation requirements.
113. The definition of the term workplace includes persons working both in public and private sector.
114. Clause 4(2)(i) of the Bill provides for inclusion of other requirements that may be necessary for a lactation place including its location and other related matters, as may be prescribed through regulations. Clause 11 further provides that the Cabinet Secretary shall prescribe in regulations the requisite standards and contents of the rooms or buildings contemplated under the Act.
115. The breacktime to be given to a breast-feeding mother (clause 5(2) and (3)) are to be prescribed in regulations to allow flexibility.
116. Clauses 6 and 8(2) provide clarity on the flexible working arrangements and standards of a baby changing facility. Provision of diapers and wipes should not be an obligation of the employer.
117. Clause 9 of the Bill provides for the right of a woman to breast feed a child in public.
118. There is need to amend the definition of the term baby to mean a child between zero and thirty-six months of age.
119. On the issue of promoting public awareness on breastfeeding mothers at the workplace, clause 11 of the Bill provides that the Cabinet Secretary shall prescribe regulations on the manner and conduct of promoting public awareness.
120. The Ministries of Labour and Health are the implementing Ministries and hence there is no need to create a different body to oversee the implementation of the Act. Additionally, the Cabinet Secretary is mandated to prescribe through regulations the manner and conduct of inspection and certification of lactation rooms as mother baby friendly.
121. On the concerns that the Bill is punitive to employers and will encourage discrimination against female employees, the Committee observed noting the significance of breastfeeding to a child at birth, there was need to create legislative safeguards to promote exclusive breastfeeding. The Committee further noted that the Bill allow flexible working arrangements to be agreed upon an employer and employee on reasonable standards. The freedom from discrimination is already a fundamental human right under Article 27 of the Constitution and hence the Bill further ringfences this under clause 7 to guard against any form of discrimination on grounds of pregnancy or breast feeding. The offences created under the Bill prescribed penalties based on the gravity of the offences and are geared towards ensuring compliance with the Bill.

122. Clause 4(3) of the Bill which described the lactation place should be amended to obligate employers to a caregiver at the facility to provide care for the children kept at the lactation place.
123. The Bill has defined with clarity the terms flexible working arrangements, workplace, employer and breastfeeding.
124. Noting the amendments for provision of a care giver there is no need for amendments on mother assistants and baby care rooms.
125. Clause 11(2)(f) provides that the Cabinet Secretary shall prescribe regulations on the conduct and obligations of an employer at the workplace. This may include the obligations of an employer in revoking a working arrangement. Additionally, clause 6 of the Bill already obligates the employers to respond in writing on an application for a working arrangement and further to provide written statement stating reasons for any rejection.
126. Clause 1 of the Bill on the short title aligns with the provisions of Article 116 of the Constitution and is geared towards creating a transitional period of one year to allow employers to comply with the provisions of the Act. There is thus no need to amend it.
127. Whereas the Committee appreciates all the submissions made by the different stakeholders, it was acknowledged that not all the proposals could be effected or incorporated into the Bill due to constraints of resources, practicality, possibility of extending the scope of the Bill, policy framework, existence of other provisions in law, or general feasibility. This notwithstanding, these and other proposals will inform future improvements on the law, if enacted, particularly after the one year of compliance grace-period, and also serve as source material for policy guidelines and the attendant Regulations that shall emanate from the Breastfeeding Mothers Act upon enactment.

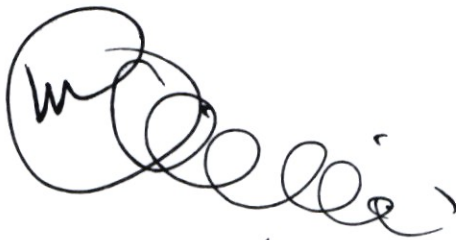


The Chairperson, Vice Chairperson and Members of the Social Protection Committee undertaking consideration of the Breastfeeding Mothers Bill, 2024

PART FIVE

COMMITTEE RECOMMENDATION

Pursuant to Standing Order 127, the Committee recommends that the National Assembly **APPROVES** the Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024) **with amendments as proposed in the Schedule of Amendments under Part Six of this Report.**




28/11/2024

SIGNED: DATE.....

HON. ALICE WAMBUI NG'ANG'A, CBS, M.P.

(CHAIRPERSON, DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION)

| | |
|---|--|
|  THE NATIONAL ASSEMBLY PAPERS LAID | |
| DATE: 28 NOV 2024 | |
| DAY: Thur | |
| TABLED BY: | Hon. Alice Ng'ang'a, CBS, MP Chairperson, DC on Social Protection |
| CLERK-AT THE-TABLE: | Vivian Wambui |

PART SIX

SCHEDULE OF AMENDMENTS

The Committee proposes the following amendments to be considered by the National Assembly in the Committee of the Whole House stage:

CLAUSE 2

THAT, clause 2 of the Bill be amended in the definition of the term baby **by deleting the words “within zero to twenty-four months” and substitute therefore the words “within zero to thirty-six months”**.

Justification

Article 43(1)(c) of the Constitution of Kenya guarantees the right to be free from hunger and to have adequate food of acceptable quality. On the strength of this provision of the Constitution, the State Department in conjunction with the Ministry of Health have developed a policy on Early Childhood Development which has taken an evidence-based approach demonstrating that the first 1000 days of a child's life are the most critical in its development. It entails exclusive breastfeeding for the first 6 months and proper nutrition/diet for the breastfeeding mother. hence the need to extend the baby's age definition to 3 years (that is, 36 months)

CLAUSE 4

THAT, clause 4(3) of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)—

(c) provide for a care giver to take care babies at the lactation place;

Justification

This provision will ensure that a breastfeeding mother who is an employee is able to actively participate in her regular work activities as her baby is in the hands of a caregiver.

CLAUSE 11

THAT, clause 11(2)(g) of the Bill be amended by **deleting the words “and certification” and substituting therefor the words “certification and monitoring”**.

Justification

The Regulations by the Cabinet Secretary responsible for Labour ought to include monitoring of lactations rooms, in addition to inspection and certification



THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT-THIRD SESSION-2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION

MINUTES OF THE 64TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION HELD ON WEDNESDAY, 27TH NOVEMBER, 2024 IN BUNGE TOWER, 3RD FLOOR, COMMITTEE ROOM 17, AT 1.15PM

PRESENT

1. Hon. Alice Wambui Ng'ang'a, C.B.S M.P. - Chairperson
2. Hon. Hilary Kiplang'at Koskei, M.P - Vice Chairperson
3. Hon. Edith Nyenze, M.P
4. Hon. Betty Njeri Maina, M.P
5. Hon. Susan Ngugi, M.P
6. Hon. Michael Wambugu, M.P
7. Hon. Mark Ogolla Nyamita, M.P
8. Hon. Linet Chepkorir, M.P
9. Hon. Agnes Pareyio, M.P
10. Hon. Suleka Hulbale Harun, M.P
11. Hon. Barre Hussein Abdi, M.P

APOLOGIES

1. Hon. (Dr.) James Nyikal, M.P
2. Hon. Wetangula Timothy Wanyonyi, M.P
3. Hon. Amina Abdullahi Dika, M.P
4. Hon. (Dr.) Lilian Gogo, M.P

COMMITTEE SECRETARIAT

1. Mr. Finlay Muriuki -Committee Lead Clerk
2. Mr. Ahmednoor Hassan -Clerk Assistant III

- | | |
|-----------------------|--------------------------------------|
| 3. Ms. Jemimah Waigwa | -Senior Legal Counsel |
| 4. Ms. Naomi Onsomu | -Protocol Officer |
| 5. Ms. Judy Losuron | -Intern, Social Protection Committee |
| 6. Ms. Ruth Keere | -Intern, Audio Services |

AGENDA

1. Prayers
2. Preliminaries/Introductions
 - a. Adoption of the Agenda
 - b. Remarks by the Chairperson.
3. Confirmation of Minutes/ Matters Arising
4. **Consideration and Adoption of Committee Report on The Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024)**
5. Any Other Business
6. Adjournment /Date of the Next Meeting

MIN. NO. NA/DC-SP/2024/372: PRAYERS/PRELIMINARIES

The Chairperson called the meeting to order with a word of prayer at 1:15 p.m.

MIN. NO. NA/DC-SP/2024/373: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Hon. Mark Nyamita, M.P. and seconded by Hon. Agnes Pareyio, M.P.

MIN. NO. NA/DC-SP/2024/374: CONFIRMATION OF PREVIOUS MINUTES

The order was deferred.

MIN. NO. NA/DC-SP/2024/375: CONSIDERATION AND ADOPTION OF THE REPORT ON COMMITTEE REPORT ON THE BREASTFEEDINGS MOTHERS BILL (NATIONAL ASSEMBLY BILL NO. 8 OF 2024)

The Committee, through the guidance of the Committee Secretariat, considered the Draft Report on the Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024) as follows:

Submissions by the Stakeholders

Submissions by Dr. Walter Owen Ogony

- 1) Noting the country has poor public transport, poor garbage collection structures and the possible additional costs to employers, the most feasible approach is for employers to give flexible working times to enable mothers to breastfeed from home until the end of 6 months after delivery.
- 2) The Committee took note of Dr. Ogony's submissions, which were progressive despite the implementation constraint therein.

Submissions by Dr. Davies Okombo

- 3) The title of the Bill should be inclusive to enhance gender equality, and include men who may be directly responsible for feeding the babies in the absence or death of the mothers. They they should enjoy the rights contemplated herein.
- 4) In Part II, Section 4, sub section 2 insert the following clauses:
 - (a) have an electric kettle
 - (b) have no CCTV surveillance
- 5) Further, in Part II Section 5, delete the sub-section. The break time provided for breastfeeding and expressing milk under subsection (2) shall be prescribed by the Cabinet Secretary in regulations and insert the following: The break time provided for breastfeeding and expressing milk under subsection (2) shall be 30 minutes twice or 1 hour a day.
- 6) In Part II, Section 6, delete sub section 2(a) the number of hours the employee is to work and insert the following: the number of hours the employee is to work without pay loss.
- 7) In Part II, Section 8 insert the following sub sections:
 - (a) shall be free of charge
 - (b) shall have baby diapers and wipes
- 8) The Committee took note of Dr. Okombo's submissions, which were progressive particularly in barring use of CCTV surveillance despite the implementation constraint therein with regard to some of the proposals.

Submissions by the Career Mothers for Exclusive Breastfeeding (CAMFEB), led by Ms. Martha Mugi

9) Section 4: Employer Requirement to Provide Lactation Facilities

Proposed Amendment: CAMFEB recommends that this section explicitly allow for flexible or mobile lactation solutions as a viable alternative for workplaces with limited space or resources. Many organizations, particularly in smaller offices or rural settings, may face challenges in establishing a permanent lactation room. Mobile lactation pods/units, such as those designed by CAMFEB, offer a cost-effective and accessible solution that can be moved as needed, providing privacy and functionality in compliance with lactation support standards.

10) Section 4: Reasonable Proximity of Lactation Rooms

Proposed Amendment: CAMFEB recommends that Section 4 include a provision specifying that lactation rooms should be located within the same building as the primary work area of breastfeeding employees whenever possible. This addition would ensure that the lactation space is reasonably accessible to encourage regular use and avoid time constraints for breastfeeding employees.

11) Section 5 & 6: Flexibility in Work Arrangements for Breastfeeding Mothers

Proposed Amendment: CAMFEB supports this provision but recommends additional language clarifying the process and timeframe for employees to request flexible work arrangements, including options for remote work where feasible.

12) Section 8: Baby-Changing and Lactation Facilities in Public Spaces.

Proposed Amendment: CAMFEB proposes including an allowance for portable lactation pods as an alternative for public facilities facing space or structural constraints.

13) Section 11: Public Education on Breastfeeding Rights

Proposed Amendment: CAMFEB recommends incorporating collaboration with breastfeeding advocacy organizations like CAMFEB in public education initiatives, which would help strengthen the reach and impact of these campaigns through established networks and resources.

14) Section 11: Inspection and Certification of Lactation Rooms as Mother-Baby Friendly

Proposed Amendment: CAMFEB proposes the establishment of a dedicated certifying body responsible for the inspection and certification of lactation rooms across workplaces and public facilities. This body should comprise representatives from relevant government agencies, healthcare professionals, breastfeeding advocacy organizations, and stakeholders from both private and public sectors. CAMFEB recommends that the body be tasked with developing and regularly updating guidelines and standards for mother-baby-friendly facilities, providing inspections, and issuing certifications.

Additional Recommendations

- 15) Compliance Support and Resources: CAMFEB proposes that the Bill include a section on compliance support for small and medium enterprises (SMEs) and resource-constrained organizations. CAMFEB is prepared to collaborate on guidance documents, resources, and training to help these employers meet the Bill's requirements.
- 16) Monitoring and Accountability: CAMFEB recommends establishing an accountability mechanism that involves regular audits of employer compliance, with a focus on workplace support of breastfeeding mothers.
- 17) The Committee agreed with a number of CAMFEB's proposals, while others were deemed as having implementation constraints.

Submissions by Ms. Esther Kimani (CLC; CD(DONA) LCCE Lactation Professional

- 18) A breastfeeding-friendly policy with clear operating guidelines in the workplace is critical to sustaining breastfeeding. The Bill should be passed in its entirety to further protect the rights of children and our mothers and provide a clear legal framework on how this can be done in the Republic of Kenya.
- 19) The Committee agreed with the views by Ms. Kimani.

Submissions by the Kenya Association for Breastfeeding, led by Ms. Josphine Munene, Executive Committee Member

- 20) The Bill will provide numerous benefits, including: Improved Maternal and Child Health: Enhanced breastfeeding duration can lead to better health outcomes for mothers, including lower risk of ovarian and breast cancer

amongst other non-communicable diseases; and in children prolonged breastfeeding lowers the rates of infections and chronic conditions.

- 21) Employee Retention and Satisfaction: Supporting breastfeeding mothers can lead to higher job satisfaction and lower turnover rates.
- 22) Economic Benefits: Reduced absenteeism and healthcare costs associated with healthier infants and mothers.
- 23) The Bill will require employers and relevant stakeholders to allocate resources for lactation rooms and break times. However, these costs can be offset by the aforementioned benefits such as improved employee morale and reduced healthcare costs. We also suggest offering financial incentives or tax benefits to employers who comply with these requirements.

Proposed Amendments to the Bill to Enhance Feasibility, Impact and Sustainability include:

- 24) Prohibition of Promotion, Marketing or Selling of Breast Milk Substitutes (BMS): Include a clause in Section 4 similar to Section 71 (3) of the Health Act 2017, preventing any promotion, marketing or selling of infant formula and designated BMS products within lactation spaces. Additionally, lactation spaces should not be funded by BMS manufacturers.
- 25) Amend Sections 4(3) (a) and 4(3) (b) to make physical environments and programs like crèches optional based on employee needs. Although the intention of the section is to minimize the separation of lactating employees from their babies during working hours, it might not be feasible for employers whose lactating employees are not permanently based at a single location.
- 26) Encourage partnerships with registered daycare centres near workplaces. Current research conducted in Kenya suggests that lactating employees who have access to daycares at or near workplaces are more likely to practice exclusive breastfeeding compared to those who do not have a daycare in proximity or those who use community or home-based childcare.
- 27) Include a clause compelling employers to develop policies that address the needs of lactating employees, including facilities, protected and compensable time, evidence-based information, and professional breastfeeding support in line with the *'Guidelines for Securing a Breastfeeding Friendly Environment at the Workplace'*.

- 28) Clarify that break time referred to in Section 5(2) and 5(3) is additional to regular breaks and is protected and compensable.
- 29) Ensure the minimum time allocated for breastfeeding or expressing aligns with Section 72 (2) of the Health Act 2017 thus allowing lactating employees to breastfeed or express milk every 3 – 4 hours.
- 30) Amend Section 8 to mandate lactation spaces in multi-tenant buildings to support employees working for micro and small enterprises, and self-employed women. Data from the KDHS 2022 report indicates that 21% and 26% of women work in service/shops/sales and elementary occupations respectively, which is a significant proportion of the female workforce. Building owners/landlords can use the service charge collected to set up and maintain the lactation rooms in their buildings.
- 31) Amend Section 9 to include designated lactation spaces in public areas, provided for by County governments, particularly for women in elementary occupations who need to express their breast milk regularly and do not have access to private, hygienic physical spaces.
- 32) The Committee agreed with most of the Association's proposals, and resolved to consider their implementation feasibility.

Submissions by the Kenya Association of Bankers

- 33) Based on the objects of the Act, it appears that the provisions of the Breastfeeding Mothers Bill should be incorporated into the Employment Act under the rights and duties in employment which include, the basic minimum conditions of employment such as working hours, annual leave, maternity, leave, paternity leave, sick leave, pre-adoptive leave, housing, water, food, and medical attention.
- 34) The long title infringes on Articles 31 and 40 of the Constitution on the right to privacy and enjoy property acquired by allowing the public to access and use private property.
- 35) The definition of a baby is inelegantly done. 'within' should be replaced by 'between.'
- 36) Section 4(3) which provides that an employer, who establishes a lactation place for breastfeeding purposes, should be deleted. This may not be practical for most workplaces given the likelihood of dangerous substances among other occupational hazards. The provision of these services goes beyond the

scope of the parties' employment relationship i.e., exchange of labour for a wage/salary.

- 37) The current mandatory 3 months paid maternity in addition to annual leave is already costly for most employers, this provision will create additional costs and increase the cost of doing business.
- 38) It is ambiguous and may pose a risk because it will be subject to interpretation. Section (b) imposes an additional burden to employers to have day cares. There is need to make consideration for organizations that have Hybrid working arrangements. The Economy is struggling, and business are closing.
- 39) Sections 4, 5 and 6 are similar to the provisions in Sections 71 & 72 of the Health Act which are under the Cabinet Secretary (CS) responsible for matters relating to health. For good order, the provisions should be under the ambit of one Cabinet Secretary for good order and effective implementation.
- 40) Section 4(4) which provides that any employer who does not comply with the section commits an offence. This section is punitive to employers and there is no rationale why the fine and sentence are that severe. It must be considered that the mother is an employee already earning a salary from the employer and that what the bill proposes is an additional benefit to an employee. It will be double tragedy to an employer to suffer penalties for not providing an additional benefit to existing employees.
- 41) Section 5(1) which provides that a breastfeeding mother shall only use the lactation place during working hours for breastfeeding or expressing milk should be amended to remove the words "for breastfeeding or". The inclusion of the term breastfeeding means that babies will be allowed in the workplace, which may not be conducive for babies for various reasons e.g., Safety, biohazards etc.
- 42) Section 5(3) which provides for the breaktime provided for breastfeeding or expressing milk will limit the employer's power to set out working hours.
- 43) On flexible working arrangements, there is a possibility that having a child so close could be distracting, a mother's frequent visits can impact work productivity and concentration.
- 44) Clause 7 which provides for freedom from discrimination will influence employment of female gender more so in times of AI and mechanization. Demographic effect on female gender as employers will prefer to employ

female past childbearing age and comply with gender rule. The implementation of these provisions is as of right.

- 45) Clause 8 which provides that a person who owns, leases or rents a public or private building accessible to the public shall install baby changing facilities should be deleted. The clause has implications on employers because it requires them to incur the expense of redesigning their work premises to include baby changing facilities.
- 46) On clause 11 on regulations making powers of the Cabinet Secretary, there is need for employers to develop a policy on breastfeeding. Further, the penalties provided for in the Bill are too punitive.
- 47) The Committee agreed with some of Kenya Bankers' Associations' proposals.

Submissions by Prof. Ali Abdirahman Maalim

- 48) If a child survives and the mum dies in a hospital the infant should be allowed to be breast fed by any woman who had a child in a nearby hospital. The Cabinet Secretary, National Treasury should pay a wage through the relevant ministry to such mothers until the child can be looked after by their blood relatives for a period of six to one year. The wage will cease when the child stops breast feeding. This is for the purpose building a strong immune system for the young republican. However, if the child needs to be adopted then the social services will have to look after the child through the procedure in place already.
- 49) Prof. Maalim's proposals were viewed as logical and progressive by the Committee.

Submissions by the State Department for Social Protection

- 50) Clause 1 on short title and commencement; Delete "...and shall come into operation upon the expiry of one year from the date of its publication." Operationalization of the Act should not form part of the short title as Article 116(2) of the Constitution of Kenya, 2010 declares that an Act comes into force on the 14th day after its publication in the Gazette, unless the Act stipulates a different date on or time at which it will come into force. Such a date/time is captured as the commencement date and not under the short title.
- 51) Clause 2 on definition of baby Extend the period to 36 months of age: Article 43(1)(c) of the Constitution of Kenya guarantees the right to be free from

hunger and to have adequate food of acceptable quality. On the strength of this provision of the Constitution, the State Department in conjunction with the Ministry of Health have developed a policy on Early Childhood Development which has taken an evidence-based approach demonstrating that the first 1000 days of a child's life are the most critical in its development. It entails exclusive breastfeeding for the first 6 months and proper nutrition/diet for the breastfeeding mother.

- 52) Clause 2 on definition of Breastfeeding: There are mothers who cannot produce milk hence rely on baby formulas. Such mothers may be locked out of the flexible working arrangement as defined in Clause 2.
- 53) In the circumstances, it is proposed that a definition on feeding/baby feeding be provided to cater for such instances.
- 54) Clause 3 on breastfeeding at work: Introduce a clause to include: "any breastfeeding woman seeking service in the workplace, both private and public, shall be allowed to access the lactation place at the workplace." This will consider breastfeeding mothers who are not necessarily employees but are in need of such services.
- 55) Clause 4(3) on lactation place: Introduce clause 4(3)(c) to provide a caregiver at the facility to provide care for the children kept at the lactation place. This provision will ensure that a breastfeeding mother who is an employee is able to actively participate in the work activities as the baby is in the hands of a caregiver.
- 56) Clause 7 on freedom from discrimination: Amend to read: "A person shall not discriminate a breastfeeding mother in accessing employment opportunities or benefits." The provision under Clause 7 as is goes beyond the object of the Bill which is on breastfeeding mothers.
- 57) Clause 11(2)(g) on Regulations: Amend to read: "The manner and conduct of inspection, certification and monitoring of lactation rooms as mother baby friendly; and The Children Act (Cap 141) Laws of Kenya, addresses child safety primarily through general provisions related to child protection, welfare, and safeguarding, often in the context of family, custody, and care environments. The Bill on the other hand focuses on specific issues such as breastfeeding in safe public or workplace environments, which can contribute to a broader understanding of safety by ensuring that children and mothers are not exposed to discomfort or harm in those settings.

- 58) The provisions of the Bill focus on formal employment to the disadvantage of mothers who work in the informal sector and hence may not benefit from certain provisions such as the lactation place and baby changing facility.
- 59) The Bill should make consideration for child minders/caregivers so that mothers with infants under 6 months can actively ensure that their performance in the work place is not affected.
- 60) The Bill should include a provision for foster mothers, adoptive parents, guardians and single fathers who care for children under the age of 24 months.
- 61) The Committee agreed with most of the State Department's submissions.

Submissions by the University of Nairobi African Women's Studies Research Centre - Women's Economic Empowerment Hub.

- 62) The long title of the Bill be amended to read "Breastfeeding and Substitute Feeding of Babies by Mothers in the Workplace Act, 2019" and shall come into force..... This incorporates the modern idea of feeding of babies through other means other than directly from the breast.
- 63) The definition of the term "Lactation place" be redefined to mean private, clean, sanitary, and well-ventilated rooms or areas in the workplace or public places where mothers can: breastfeed or cup-feed their babies; wash up; or express milk comfortably and hygienically preserve it. The definition includes mothers who cup feed their babies.
- 64) Redefine the term "workplace" to mean any premise or site where a contract of service is undertaken. Expands the restricted sense in which the word workplace as used connotes i.e., formal workspaces. Most women work in the informal sector in Kenya.
- 65) The Bill has not defined the term breast milk. Introduce a new definition to define breast milk as milk developed within the mammary glands of a female following gestation and made available to an infant whether directly through breastfeeding or indirectly through cup-feeding of expressed breast milk. has not been implemented. Expands the idea of breast milk away from only that produced by a specific mother to her specific child to that which may be obtained through cup-feeding from another mother or milk bank provided it emanated from the human breast.

- 66) Introduce the definition of the term feeding a baby to mean feeding a baby with milk directly from the mother's breast OR cup feeding of expressed breast milk OR feeding a baby with nonhuman milk. This definition considers the various ways in which a baby can access milk rather than only directly from the breast or from human beings. Does not define 'Substitute Milk' Substitute Milk has the meaning of milk suitable for babies and derived from non-human breast sources. (Includes animal milk and infant formula which despite discouragement of its use is still the only option available to some mothers).
- 67) Define the term substitute milk. Substitute Milk has the meaning of milk suitable for babies and derived from non-human breast sources. (Includes animal milk and infant formula which despite discouragement of its use is still the only option available to some mothers). This definition factors in babies who take non-breast derived milk for various reasons.
- 68) The Bill does not define the term 'mother'. Define the term to mean the biological or adoptive mother. This definition expands the meaning of the word to include non-biological adoptive mothers.
- 69) The Bill does not define mother's assistant which means the individual authorized by the mother to bring her baby to the work place for feeding purposes in the absence of there being a creche that is well staffed with persons to look after infants while the mother is at work. A mother of a baby will require assistance with her baby being brought to work or remaining at work in an appropriate room.
- 70) Amend the Bill to make provision made for the mother's assistant. An employer shall facilitate the entry of a mother's assistant with the baby into the workplace with ease for the purpose of accessing the baby care room. Need to make provision for mother's assistant to access the work place during working hours in order to give the baby to the mother for the purposes of feeding.
- 71) The Bill does not define 'Baby Care Room'. Amend to define 'Baby care room' as a comfortable designated space for mothers' assistants' to hand over babies to their mothers for the purpose of feeding and for purposes connected to ensuring the comfort and soothing of babies as well as changing of babies' diapers.
- 72) The Bill does not define 'Protected time'. Include a definition as follows: 'Protected time' means the period prescribed for a mother to feed her baby in

the workplace or other circumstance without consequence to her status, including remuneration, other lawful breaks, or any other benefit due to the mother. Buttresses the compensable time a mother takes to feed her baby and which ought not to invite any consequences to her.

- 73) For the proper administration of the Bill it is essential that a Directorate under a relevant Ministry be set up to superintend employers with respect to the Act to ensure compliance and/or progressive implementation.
- 74) Define "flexible working arrangement" to mean a modification of an employee's terms and conditions of employment to facilitate the responsibilities of breastfeeding. This includes changes in work hours, duties, or work location to support the breastfeeding needs of the employee. Revising the "flexible working arrangement" definition aims to enhance clarity and understanding. The revised definition provides a more transparent and straightforward explanation, ensuring that employers and employees understand the term precisely.
- 75) Define the term "Lactation place" to mean private, clean, sanitary, and well-ventilated rooms or designated areas within the workplace or public places. The proposed amendment to the "lactation place" definition aims to enhance clarity and ensure explicit requirements for such spaces.
- 76) Define the term "firm". A firm's definition encompasses private and public sector employers and is subject to labour laws and regulations governing the treatment, rights, and obligations of employees and employers.
- 77) Amend the Bill to provide that a woman with a baby has the right to breastfeed or express breast milk at a designated Crechê lactation place in the workplace. Framing this provision as a right provides clear legal protection for breastfeeding mothers.
- 78) Delete provision 5 (a) as employers might exploit these arrangements by making unreasonable demands or altering work expectations to their disadvantage.
- 79) Amend clause 6(1) to read: A breastfeeding mother shall in the prescribed manner, apply for a flexible work arrangement from the employer for the purposes of breastfeeding or expressing breast milk for the baby, and the employer shall reasonably accommodate such requests, taking into consideration the needs of the mother and the operational requirements of the business.

- 80) The proposed amendment to allow breastfeeding mothers to apply for flexible work arrangements is justified as it supports maternal health, promotes gender equality, enhances employee satisfaction and retention, improves workplace productivity, ensures legal compliance, creates a family-friendly work environment, and aligns with public health recommendations.
- 81) Amend clause 6(6) to read as follows: A revocation of the grant of a flexible working arrangement shall be in writing and must adhere to the following requirements to ensure a fair and lawful process:
- a. The employer shall provide a written notice of the revocation at least 15 days prior to the effective date.
 - b. The written notice must include a clear and detailed explanation of the reasons for the revocation, citing specific instances or patterns of abuse of the terms of the agreement.
 - c. The notice must inform the employee of their right to appeal the decision, including the timeframe for submitting an appeal and the procedure for its review.
 - d. Prior to revocation, the employer must engage in a consultation process with the employee to discuss the concerns and seek mutually agreeable solutions.
 - e. Documentation of this consultation must be included in the written notice.
 - f. The revocation must be applied consistently and not in a discriminatory manner, ensuring all employees are treated equally under similar circumstances.
 - g. The process must comply with all relevant labour laws and regulations to protect the rights of protect both the employer and the employee.
- 82) The amendment to clause 6(6) is necessary to establish a fair and lawful process for the revocation of flexible working arrangements, ensuring transparency, consistency, and protection of employee rights.
- 83) Amend clause 7 to provide as follows: "A person or firm shall not discriminate against a woman on any ground, including pregnancy, childbirth, breastfeeding, or another maternity-related condition, in accessing employment opportunities or benefits". It is more inclusive by explicitly

extending the non-discrimination mandate to all types of business entities, ensuring broader coverage across various employment contexts.

84) The Committee would consider the feasibility of including the various definitions as proposed by the stakeholder.

Submissions by the Sponsor of the Bill (Hon. Sabina Chege, MP)

85) The principal object of this Bill is to provide a legal framework on mothers who may wish to breastfeed their children at the work place. The Bill provides for the right of a mother to breastfeed freely or express milk for her infant. The Bill further requires employers to provide breastfeeding employees with lactation rooms to either breast feed or express their milk for their children.

86) Breastfeeding is the first preventive health measure that can be given to a child at birth and it also enhances mother infant relationship. It is nature's first immunization, enabling the infant to fight potential serious infection and it contains growth factors that enhance the maturation of an infant's organ systems. Kenya is a signatory to treaties that provide for the right of an infant to exclusive breastfeeding for six months.

87) The government should therefore promote and encourage breastfeeding and provide the specific measures that would present opportunities for working mothers to continue expressing their milk and breastfeeding their infant or young child. Furthermore, the practice of breastfeeding may save the country's valuable foreign exchange that may otherwise be used for milk importation.

88) Presently, female employees exit the work force or stop breastfeeding in order to secure their job security. No woman should be forced to compromise the health of her child in order to make a living.

89) Part I (Clauses 1-2) of the Bill provides for preliminary matters including the title of the Bill and the interpretation of terms used in the proposed Act.

90) Part II (Clauses 3-10) of the Bill provides for the fundamental principles and rights at work for a breastfeeding mother. It provides for the right to freely breast feed or express one's milk for the baby. It also places an obligation on the employers to provide breastfeeding working mothers with rooms to either breastfeed or express their milk. It also provides for the standards of such rooms. The Bill further provides for baby changing tables.

This is important because the greater majority (public) finds it unsanitary to change a baby in a public setting such as a restaurant.

- 91) This provision will also cater for persons who are travelling long distances in the accompaniment of babies, ensuring that in each public restroom a baby changing facility is provided. This part also provides for a general for offences under the Act.

Submissions by Mr. Collins Michael N. of Policy and Governance Kenya

- 92) The Bill should emphasize creating a supportive environment for breastfeeding mothers in all public and private spaces, including workplaces, educational institutions and healthcare facilities.
- 93) There should be provisions for public awareness campaigns to educate the public about the benefits of breastfeeding and the rights of breastfeeding mothers.
- 94) Section 5: Right to Breastfeed: This section should ensure that that breastfeeding mothers have the right to breastfeed their children in any public or private location without discrimination or harassment.
- 95) Section 10: Workplace Support: Employers should be required to provide adequate facilities and time for breastfeeding mothers to express milk or breastfeed during working hours. This should include a private, hygienic space and sufficient breaks.
- 96) Section 15: Healthcare Support: Healthcare facilities should be mandated to provide breastfeeding support and counselling to new mothers. This should include training healthcare workers on breastfeeding techniques and benefits.
- 97) Section 20: Enforcements and Penalties: There should be clear enforcement mechanisms and penalties for non-compliance with the provisions of the bill to ensure that the rights of breastfeeding mothers are protected.
- 98) The Committee noted that the submissions by Mr. Michael were primarily policy guidelines and not specific amendments, but nonetheless appreciated his memoranda.

Submissions by The Care Network comprised of Oxfam, Youth Alive Kenya, Association of Women in Agriculture, Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA), Teenseed Africa, Bunge Mashinani and other organizations advancing the principles of Unpaid Care and Domestic Work (UCDW), as submitted by Mr. Lawrence Gatenjwa;

| <i>Sec.</i> | <i>Current Provision</i> | <i>Proposals for Amendment</i> |
|-------------|---|---|
| Sec .2 | None | Introduce a definition of “public transport” to mean transportation by respective vessels through road, rail, water and air |
| | This Act may be cited as the Breastfeeding Mothers Act, 2024 and shall come into force.... | This Act may be cited as the ‘Breastfeeding and Substitute Feeding of Babies by Mothers in the Workplace Act, 2024’ |
| | Definition of “workplace”- Means work premises, whether private enterprises or government agencies, including their subdivisions. | “Workplace” means any premise or site where contract of service is undertaken. |
| | Does not define ‘mother’ | Mother means biological or adoptive mother. |
| Sec. 4(2) | Sec. 4(1) Every employer shall establish a Lactation place in the manner prescribed under this Act. (2) A lactation place shall _____ | Sec. 4(1) Every employer shall establish a Lactation place in the manner prescribed in this Act. (2) A Lactation place shall _____ (j) be friendly and accessible to persons with disability |
| Sec. 4 | None | Confer a duty to national and county governments to set up lactation units in all public facilities. |
| Sec. 4(3) | Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in | Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in |

| | | |
|-----------|--|--|
| | addition to the requirements provided for under subsection (2)____ | addition to the requirements provided for under subsection (2)____ (c) Provide a caregiver or daycare services. |
| Sec. 4(3) | Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in addition to the requirements provided for under subsection (2)____ | Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in addition to the requirements provided for under subsection (2)____ (d) Have a well-equipped first aid kit. |
| Sec. 5(2) | Sec. 5(2) An employer shall provide a reasonable break time to a breastfeeding mother for purposes of breastfeeding the baby or expressing breast milk for the baby. | Sec. 5(2) An employer shall provide a reasonable break time to a breastfeeding mother for purposes of breastfeeding the baby or expressing breast milk for the baby. The time so allocated should not interfere with the breastfeeding mother's normal official break time enjoyed by all other employees. |
| Sec. 6(3) | Sec. 6(3) Where an application is made under subsection (1), the employer shall respond in writing within fourteen days of receipt of such application. | Sec. 6(3) Where an application is made under subsection (1), the employer shall respond in writing within seven days of receipt of such application. |
| Sec. 9 | Sec. 9(1) A woman may breastfeed her child in public. (2) The Act of a woman Breastfeeding in public shall not | Sec. 9(1) A woman may breastfeed her child in public. (2) The Act of a woman Breastfeeding in public shall not be |

| | | |
|--|--|---|
| | be construed to amount to an indecent act. | construed to amount to an indecent act. (3) Long distance public transport operators shall ensure that there are baby changing facilities in their stop-over offices to cater to the needs of the breastfeeding mothers. |
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99) The Committee noted that the submissions by the Care Network, and, notwithstanding the implementation technicalities and other policy considerations regarding some of the proposals, took up a number of the amendments on board.

Committee Observations

- 1) The object of the Bill is limited to making provision for breastfeeding mothers; to provide for employers' obligations towards breastfeeding working mothers in the workplace; to provide for baby changing facilities for use by the public; and for connected purposes. The Bill does not cover other gender considerations including foster mothers, adoptive parents, guardians and single fathers who care for children under the age of 24 months. However, the Committee noted that noting the provisions of Standing Order 133, the amendments to effect the same would expand the scope of the Bill and further offend the public participation requirements.
- 2) The definition of the term workplace includes persons working both in public and private sector.
- 3) Clause 4(2)(i) of the Bill provides for inclusion of other requirements that may be necessary for a lactation place including its location and other related matters, as may be prescribed through regulations. Clause 11 further provides that the Cabinet Secretary shall prescribe in regulations the requisite standards and contents of the rooms or buildings contemplated under the Act.
- 4) The breaktime to be given to a breast-feeding mother (clause 5(2) and (3)) are to be prescribed in regulations to allow flexibility.
- 5) Clauses 6 and 8(2) provide clarity on the flexible working arrangements and standards of a baby changing facility. Provision of diapers and wipes should not be an obligation of the employer.

- 6) Clause 9 of the Bill provides for the right of a woman to breast feed a child in public.
- 7) There is need to amend the definition of the term baby to mean a child between zero and thirty-six months of age.
- 8) On the issue of promoting public awareness on breastfeeding mothers at the workplace, clause 11 of the Bill provides that the Cabinet Secretary shall prescribe regulations on the manner and conduct of promoting public awareness.
- 9) The Ministries of Labour and Health are the implementing Ministries and hence there is no need to create a different body to oversee the implementation of the Act. Additionally, the Cabinet Secretary is mandated to prescribe through regulations the manner and conduct of inspection and certification of lactation rooms as mother baby friendly.
- 10) On the concerns that the Bill is punitive to employers and will encourage discrimination against female employees, the Committee observed noting the significance of breastfeeding to a child at birth, there was need to create legislative safeguards to promote exclusive breastfeeding. The Committee further noted that the Bill allow flexible working arrangements to be agreed upon an employer and employee on reasonable standards. The freedom from discrimination is already a fundamental human right under Article 27 of the Constitution and hence the Bill further ringfences this under clause 7 to guard against any form of discrimination on grounds of pregnancy or breast feeding. The offences created under the Bill prescribed penalties based on the gravity of the offences and are geared towards ensuring compliance with the Bill.
- 11) Clause 4(3) of the Bill which described the lactation place should be amended to obligate employers to a caregiver at the facility to provide care for the children kept at the lactation place.
- 12) The Bill has defined with clarity the terms flexible working arrangements, workplace, employer and breastfeeding.
- 13) Noting the amendments for provision of a care giver there is no need for amendments on mother assistants and baby care rooms.
- 14) Clause 11(2)(f) provides that the Cabinet Secretary shall prescribe regulations on the conduct and obligations of an employer at the workplace. This may include the obligations of an employer in revoking a working arrangement. Additionally, clause 6 of the Bill already obligates the employers to respond in writing on an application for a working arrangement and further to provide written statement stating reasons for any rejection.

- 15) Clause 1 of the Bill on the short title aligns with the provisions of Article 116 of the Constitution and is geared towards creating a transitional period of one year to allow employers to comply with the provisions of the Act. There is thus no need to amend it.

Committee Recommendations

Pursuant to Standing Order 127, the Committee resolved that the Bill does proceed for Second Reading subject to the following amendments:

- 1) Clause 2: Clause 2 of the Bill be amended in the definition of the term baby by deleting the words “within zero to twenty-four months” and substitute therefore the words “within zero to thirty-six months”. The rationale here was that Article 43(1)(c) of the Constitution of Kenya guarantees the right to be free from hunger and to have adequate food of acceptable quality. On the strength of this provision of the Constitution, the State Department in conjunction with the Ministry of Health have developed a policy on Early Childhood Development which has taken an evidence-based approach demonstrating that the first 1000 days of a child’s life are the most critical in its development. It entails exclusive breastfeeding for the first 6 months and proper nutrition/diet for the breastfeeding mother. hence the need to extend the baby’s age definition to 3 years (that is, 36 months)

- 2) Clause 4(3) of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)—

(c) provide for a care giver to take care babies at the lactation place;

The rationale was that this provision would ensure that a breastfeeding mother who is an employee is able to actively participate in her regular work activities as her baby is in the hands of a caregiver.

- 3) Clause 11(2)(g) of the Bill be amended by deleting the words “and certification” and substituting therefor the words “certification and monitoring”. The rationale here was that the Regulations by the Cabinet Secretary responsible for Labour ought to include monitoring of lactations rooms, in addition to inspection and certification

MIN. NO. NA/DC-SP/2024/376: ADJOURNMENT/DATE OF THE NEXT MEETING

The meeting was adjourned at 2:10pm. The next meeting will be held on Friday, 29th November 2024 at 2.30pm.



27/11/2024

Signed..... Date.....

HON. ALICE WAMBUI NGÁNGÁ, C.B.S, M.P.

(Chairperson)



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION - 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION

ADOPTION SCHEDULE: REPORT ON THE BREASTFEEDING MOTHERS BILL (NATIONAL ASSEMBLY BILL NO. 8 of 2024)

DATE: 27TH November, 2024

| NO. | NAME | SIGNATURE |
|-----|---|-----------|
| 1. | Hon. Alice Wambui Ng'ang'a, CBS, MP. - Chairperson | |
| 2. | Hon. Kosgei Hilary Kiplangat, MP. - Vice Chairperson | |
| 3. | Hon. Wetangula Timothy Wanyonyi, MP. | |
| 4. | Hon. (Dr.) James Wambura Nyikal, MP. | |
| 5. | Hon. Pareyio, Agnes Mantaine, MP. | |
| 6. | Hon. Nyenze Edith Vethi, MP. | |
| 7. | Hon. (Dr.) Gogo Lilian Achieng', MP. | |
| 8. | Hon. Maina Betty Njeri, MP. | |
| 9. | Hon. Mark Ogolla Nyamita, MP. | |
| 10. | Hon. Linet Chepkorir, MP. | |
| 11. | Hon. Suleka Hulbale Harun, MP. | |
| 12. | Hon. Wainaina Michael, Wambugu, MP. | |
| 13. | Hon. Barre Hussein Abdi, MP. | |
| 14. | Hon. Nduyo Susan Ngugi, MP. | |
| 15. | Hon. Abdullahi Amina Dika, MP. | |



REPUBLIC OF KENYA
13TH PARLIAMENT- THIRD SESSION (2024)
THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION
AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:

1. THE PUBLIC RELATIONS AND COMMUNICATION MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2024);
2. THE BREASTFEEDING MOTHERS BILL (NATIONAL ASSEMBLY BILL NO. 8 OF 2024);

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and that the National Assembly Standing Order 127(3) requires House Committees considering Bills to facilitate public participation;

AND WHEREAS the Public Relations and Communication Management Bill (National Assembly Bill No. 17 of 2024); the Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024); was Read a First Time on 25th April 2024 and 2nd May 2024 respectively and thereafter referred to the relevant Departmental Committees for consideration and reporting back to the House;

IT IS NOTIFIED THAT:

1. **The Public Relations and Communication Management Bill (National Assembly Bill No. 17 of 2024)** is a Bill sponsored by the **Leader of Majority, Hon. Kimani Ichung'wah, EGH, MP** that seeks to provide a legal framework for the promotion, development and regulation of the public relations and communication management profession. The Bill seeks to promote professionalism within the public relations and communication management sector and to provide mechanism for training, registration and licensing.
2. **The Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024)** is a Bill sponsored by the **Hon. Sabina Chege, MP** that seeks to provide a legal framework on mothers who may wish to breastfeed their children at the work place. The Bill provides for the right of a mother to breastfeed freely or express milk for her infant. The Bill further requires employers to provide breastfeeding employees with lactation rooms to either breastfeed or express their milk for their children.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the respective Departmental Committees as listed below:

| NO. | BILL | COMMITTEE |
|-----|---|---|
| 1. | The Public Relations and Communication Management Bill (National Assembly Bill No. 17 of 2024) | Communication, Information and Innovation |
| 2. | The Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024) | Social Protection |

* Copies of the Bill are available at the National Assembly Table Office, Main Parliament Buildings and on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842- 00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi** or emailed to cna@parliament.go.ke to be received on or before **Monday 27th May, 2024** at **5.00 p.m.**

S. NJORGE
CLERK OF THE NATIONAL ASSEMBLY
16th May 2024

"For the Welfare of Society and the just Government of the People"



REPUBLIC OF KENYA

MINISTRY OF LABOUR AND SOCIAL PROTECTION

STATE DEPARTMENT FOR SOCIAL PROTECTION AND SENIOR CITIZEN AFFAIRS

OFFICE OF THE PRINCIPAL SECRETARY

Telephone: Nairobi +254(0)2729800

Fax: 2726222

Email: ps@socialprotection.go.ke

When replying please quote

Social Security House, Bishops Road

P.O. BOX 40326 - 00100

NAIROBI

KENYA

Ref: ML&SP/SP/37/5

Date: November 13, 2024

Clerk of the National Assembly

Parliament Buildings,

P.O Box 41842-00100

NAIROBI

copy by e-mail: cna@parliament.go.ke /

finlay.muriuki@parliament.go.ke /

ahmednoor.hassan@parliament.go.ke

Attn: Jeremiah W. Ndombi, MBS

**RE: INVITATION TO A MEETING WITH THE DEPARTMENTAL COMMITTEE ON
SOCIAL PROTECTION FOR SUBMISSIONS OF MEMORANDUM ON THE
BREASTFEEDING MOTHERS BILL, 2024**

Reference is made to your letter dated 5th November 2024 under Ref.NA/DDC/SP/CORR/2024/109 regarding the above subject matter.

Attached is our written submissions on the Breastfeeding Mothers Bill, 2024.

Joseph M. Motari, MBS

PRINCIPAL SECRETARY

Copy to: Dr. Alfred N. Mutua, EGH
CABINET SECRETARY



REPUBLIC OF KENYA

MINISTRY OF LABOUR AND SOCIAL PROTECTION

STATE DEPARTMENT FOR SOCIAL PROTECTION & SENIOR CITIZEN AFFAIRS

The following is the position of the State Department for Social Protection and Senior Citizen Affairs on the Breastfeeding Mothers Bill, 2024(*National Assembly bill No.8 of 2024*) (hereinafter “the Bill”) as sponsored by Hon. Sabina W.Chege, MP.

A. GENERAL COMMENTS

1. The Children Act (Cap 141) Laws of Kenya, addresses child safety primarily through general provisions related to child protection, welfare, and safeguarding, often in the context of family, custody, and care environments. The Bill on the other hand focuses on specific issues such as breastfeeding in safe public or workplace environments, which can contribute to a broader understanding of safety by ensuring that children and mothers are not exposed to discomfort or harm in those settings.
2. The provisions of the Bill focus on formal employment to the disadvantage of mothers who work in the informal sector and hence may not benefit from certain provisions such as the lactation place and baby changing facility.
3. The Bill should make consideration for child minders/caregivers so that mothers with infants under 6 months can actively ensure that their performance in the work place is not affected.
4. The Bill should include a provision for foster mothers, adoptive parents, guardians and single fathers who care for children under the age of 24 months.

B. SPECIFIC COMMENTS

| S/No. | Provision in the Bill | Input and justification |
|-------|--|--|
| 1. | Clause 1 on short title and commencement | <p>Delete "...and shall come into operation upon the expiry of one year from the date of its publication."</p> <p>Operationalization of the Act should not from part of the short title as Article 116(2) of the Constitution of Kenya,2010 declares that an Act comes into force on the 14th day after its publication in the Gazette, unless the Act stipulates a different date on or time at which it will come into force.</p> <p>Such a date/time is captured as the commencement date and not under the short title.</p> |
| 2. | Clause 2 on definition of baby | <p>Extend the period to 36 months of age.</p> <p>Article 43(1)(c) of the Constitution of Kenya guarantees the right to be free from hunger and to have adequate food of acceptable quality.</p> <p>On the strength of this provision of the Constitution, the State Department in conjunction with the Ministry of Health have developed a policy on Early Childhood Development which has taken an evidence-based approach demonstrating that the first 1000 days of a child's life are the most critical in its development. It entails exclusive breastfeeding for the first 6 months and proper nutrition/diet for the breastfeeding mother.</p> |
| 3. | Clause 2 on definition of Breastfeeding | <p>There are mothers who cannot produce milk hence rely on baby formulas. Such mothers may be locked out of the flexible working arrangement as defined in Clause 2.</p> <p>In the circumstances, it is proposed that a definition on feeding/baby feeding be provided to cater for such instances.</p> |
| 4. | Clause 3 on breastfeeding at work. | <p>Introduce a clause to include:</p> <p><i>"any breastfeeding woman seeking service in the workplace, both private and public, shall be allowed to access the lactation place at the workplace."</i></p> |

| | | |
|----|---|---|
| | | This will consider breastfeeding mothers who are not necessarily employees but are in need of such services. |
| 5. | Clause 4(3) on lactation place | Introduce clause 4(3)(c) to provide a caregiver at the facility to provide care for the children kept at the lactation place. This provision will ensure that a breastfeeding mother who is an employee is able to actively participate in the work activities as the baby is in the hands of a caregiver. |
| 6. | Clause 7 on freedom from discrimination | Amend to read: <i>"A person shall not discriminate a breastfeeding mother in accessing employment opportunities or benefits."</i> The provision under Clause 7 as is goes beyond the object of the Bill which is on breastfeeding mothers. |
| 7. | Clause 11(2)(g) on Regulations | Amend to read: <i>"The manner and conduct of inspection, certification and monitoring of lactation rooms as mother baby friendly; and</i> |

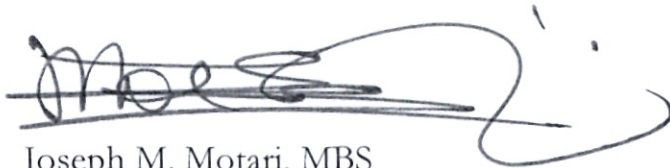
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 → Create a Room
 → Consider Room
 → ICT Send to Social Protection
 and (g) → parliament
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mfroni.wangya@parliament

C. CONCLUSION

It is our considered view that the proposals are constructive. In the circumstances, the State Department for Social Protection and Senior Citizen Affairs, taking into consideration our submissions, has no objection to the proposals as contained in the Breastfeeding Mothers Bill, 2024

Submissions By



Joseph M. Motari, MBS
PRINCIPAL SECRETARY



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MEMORANDUM

TO: CLERK OF THE NATIONAL ASSEMBLY

FROM: CAREER MOTHERS FOR EXCLUSIVE BREASTFEEDING

SUBJECT: THE BREASTFEEDING MOTHERS BILL (NATIONAL ASSEMBLY BILL NO. 8 OF 2024)

DATE: 29TH MAY, 2024

At Career Mothers for Exclusive Breastfeeding (CAMFEB), our vision is to create a nation where every child thrives with the nourishment and love of exclusive breastfeeding. We envision a society where breastfeeding is celebrated, supported, and recognized as a fundamental right for every mother and child.

CAMFEB wishes to make the following recommendations to the Breastfeeding Mothers Bill 2024.

- Section 4. (1) AMEND to include every commercial building new and existing the owner shall create a space where a lactation is to be set up in each floor, this is commercial buildings where you find small office that will not exceed 50 employees.
- Section 4. (4) AMEND to include time frame of implementation of the lactation rooms for employers and building owners
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Additional:

- We recommend support to mothers in breastfeeding their premature babies, maternity leave should commence when the baby is nine months old or discharged from the hospital. This ensures the baby receives the necessary care and follow-ups to reach crucial milestones.
- We recommend that paternity leave for fathers of premature babies start on the day of the child's hospital discharge. To provide psychosocial support to the mother and baby, fathers should be given an extended paternity leave of four weeks.
- We recommend that mothers on pregnancy-related bed rest receive full maternity leave from delivery, with bed rest considered sick leave. This will support and promote breastfeeding.
- We recommend that after the initial three months of full-day maternity leave, mothers be given an additional three months of half-day maternity leave, with full pay.

We believe that the enactment of the Breastfeeding Mothers Bill 2024 is a critical move in the right direction and will help to strengthen the efforts targeted towards the protection, promotion and support for exclusive breastfeeding for babies up to six months of life and the continuation of breastfeeding with supplementary feeding beyond the six months.



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It is in this regard, as we know, the stress of leaving a recovering premature baby in the hands of a stranger contributes to milk loss. Premature babies depend on this milk to support their delicate immune systems and mothers who have had bed rest need to be supported to breastfeed and have time with their young one therefore, we urge you to consider supporting parents of these children to achieve exclusive breastfeeding for their babies from birth to six months of age, with continued breastfeeding after complementary foods are introduced, until the recommended age of two (2) years.



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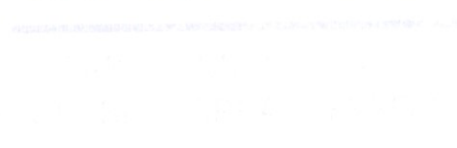
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CAREER MOTHERS FOR
EXCLUSIVE BREASTFEEDING*

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MEMORANDUM

TO: CLERK OF THE NATIONAL ASSEMBLY

FROM: CAREER MOTHERS FOR EXCLUSIVE BREASTFEEDING

SUBJECT: THE BREASTFEEDING MOTHERS BILL (NATIONAL ASSEMBLY BILL NO. 8 OF 2024)

DATE: 29TH MAY, 2024

At Career Mothers for Exclusive Breastfeeding (CAMFEB), our vision is to create a nation where every child thrives with the nourishment and love of exclusive breastfeeding. We envision a society where breastfeeding is celebrated, supported, and recognized as a fundamental right for every mother and child.

CAMFEB wishes to make the following recommendations to the Breastfeeding Mothers Bill 2024.

- Section 4. (1) AMEND to include every commercial building new and existing the owner shall create a space where a lactation is to be set up in each floor, this is commercial buildings where you find small office that will not exceed 50 employees.
- Section 4. (4) AMEND to include time frame of implementation of the lactation rooms for employers and building owners
- Section 8: (1) AMEND to include every commercial building new and existing that offers office space to small businesses, the owner shall create a space where a lactation space is to be set up in each floor, these are commercial buildings where you find small offices that will not exceed 50 employees.

Additional:


- We recommend support to mothers in breastfeeding their premature babies, maternity leave should commence when the baby is nine months old or discharged from the hospital. This ensures the baby receives the necessary care and follow-ups to reach crucial milestones.
- We recommend that paternity leave for fathers of premature babies start on the day of the child's hospital discharge. To provide psychosocial support to the mother and baby, fathers should be given an extended paternity leave of four weeks.
- We recommend that mothers on pregnancy-related bed rest receive full maternity leave from delivery, with bed rest considered sick leave. This will support and promote breastfeeding.
- We recommend that after the initial three months of full-day maternity leave, mothers be given an additional three months of half-day maternity leave, with full pay.

We believe that the enactment of the Breastfeeding Mothers Bill 2024 is a critical move in the right direction and will help to strengthen the efforts targeted towards the protection, promotion and support for exclusive breastfeeding for babies up to six months of life and the continuation of breastfeeding with supplementary feeding beyond the six months.



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CAMFEB was founded in 2015 by Martha Mugi, a mother who was on bed rest for four months due to pregnancy related issues, who had to go back to work, two months after delivery of her baby, leaving her child in the hands of a nanny at only two months.

It is in this regard, as we know, the stress of leaving a recovering premature baby in the hands of a stranger contributes to milk loss. Premature babies depend on this milk to support their delicate immune systems and mothers who have had bed rest need to be supported to breastfeed and have time with their young one therefore, we urge you to consider supporting parents of these children to achieve exclusive breastfeeding for their babies from birth to six months of age, with continued breastfeeding after complementary foods are introduced, until the recommended age of two (2) years.



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Access to Workplace Supports is Positively Associated with Exclusive Breastfeeding among Formally Employed Mothers in Kenya

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ABSTRACT

Background: Mothers in low-income settings who work in agricultural employment are challenged to meet breastfeeding (BF) recommendations. Recent legislation in Kenya mandates maternity leave and workplace supports, yet the relation of these benefits with BF practices is poorly understood.

Objectives: We evaluated the associations with workplace-provided BF supports and BF practices among formally employed mothers in Kenya. The availability of supports was hypothesized to be associated with a higher prevalence and greater odds of exclusive breastfeeding (EBF).

Methods: We conducted repeated cross-sectional surveys among formally employed mothers at 1–4 d and 6, 14, and 36 wk (to estimate 24 wk) postpartum in Naivasha, Kenya. We used logistic regression adjusted for maternal age, education, physical burden of work, HIV status, and income to evaluate associations between workplace supports and EBF practices.

Results: Among formally employed mothers ($n = 564$), those who used onsite workplace childcare were more likely to practice EBF than those who used community- or home-based childcare at both 6 wk (95.7% compared with 82.4%, $P = 0.030$) and 14 wk (60.6% compared with 22.2%, $P < 0.001$; adjusted OR: 5.11; 95% CI: 2.3, 11.7). Likewise, at 14 wk among mothers who currently used daycare centers, a higher proportion of mothers who visited daycare centers at or near workplaces practiced EBF (70.0%) than of those not visiting daycare centers (34.7%, $P = 0.005$). EBF prevalence was higher among mothers with access to workplace private lactation spaces than among mothers without such spaces (84.6% compared with 55.6%, $P = 0.037$), and among mothers who lived in workplace housing than those without onsite housing (adjusted OR: 2.06, 95% CI: 1.25, 3.41).

Conclusions: Formally employed mothers in Kenya who have access to and use workplace-provided BF supports were more likely to practice EBF than mothers who lacked these supports. As the Kenya Health Act is implemented, lactation rooms, onsite housing and daycare, and transportation to visit children can all support BF and EBF among employed mothers. *J Nutr* 2022;152:2888–2897.

Keywords: breastfeeding, maternal employment, East Africa, workplace breastfeeding supports, childcare, lactation rooms

Introduction

Exclusive breastfeeding (EBF) for the first 6 mo of life is a critical health behavior for child survival, growth, and cognitive development, as well as maternal health through improved bonding with infants, weight control, and reduction in breast cancer risk (1, 2, 3). However, only 41% of infants are

exclusively breastfed through 6 mo worldwide, a proportion far below the WHO target of 70% by 2030 (4). There are numerous barriers to practicing EBF (5). In addition to shifting sociocultural factors, aggressive formula marketing, inadequate maternal nutrition, time stress, and other challenges related to maternal employment impair the practice of EBF through the recommended 6 mo (5–8).

In sub-Saharan Africa, a growing percentage of women of child-bearing age are employed in formally compensated labor (9). In Kenya, the proportion of women who work “paid employment jobs” rose from 19.8% in 1999 to 42.8% in 2019 (9). Based on a more general categorization of labor force participation that includes informal work, 62.9% of women in Kenya are economically active—seeking or engaged in paid or self-employment [World Bank, 2019 (9)]. In several low- and middle-income countries (LMICs), formalized maternal employment—work that involves regular pay, fixed hours, and contracts—is associated with a reduced likelihood of EBF (10, 11). Reasons for the BF deficit among formally employed mothers include extended separation from their children due to difficulty visiting home and childcare during the workday (8) and limited support for expressing breastmilk at the workplace (12–14). Within the formally employed sector, the demands of certain types of work, such as commercial agriculture, may pose added challenges to BF due to physical demands, working hours, and long commutes (7). Therefore, identifying strategies to protect and promote EBF for working mothers is critical for supporting maternal and child health and sustaining women’s workforce participation.

In recent decades, policies to support EBF among employed and nonemployed mothers have been scaled at the community and national levels. For example, the Baby-Friendly Community Initiative (BFCI) is a health facility-led, comprehensive BF support system at the community level (15). The goal of the BFCI is to expand recognition of and provide support structures for BF beyond the health facility and into the community to support EBF effectively. In Kenya and other LMICs, governments and the Ministry of Health have supported BFCI implementation (16).

In addition to community and workplace initiatives, nationally mandated supports promote EBF by setting consistent standards and enforcing compliance across industries (17). Only 63 of 192 countries (32.8%) surveyed in the 2020 Global Nutrition Report have national policies to promote EBF in infants aged >5 mo (18). Currently, maternity leave is the most prominent legal support for BF. A recent survey of 307 businesses across 14 low- to high-income countries revealed that 86% of their female employees have access to maternity leave at their jobs (19). However, only 11% of countries meet the International Labor Organization’s recommendations that women receive 18 wk of paid maternity leave (4).

Although less universally available, additional maternity support mandates include flexible work schedules to support nursing breaks, onsite lactation rooms, childcare supports, and employer-provided healthcare. Globally, most countries (75%) mandate the provision of either paid or unpaid BF breaks (20). Among all African countries, 79% of nations offer either paid or unpaid nursing breaks, with a trend toward

compensating flexible time for BF (20). Laws vary by country in terms of duration, frequency, and financing of these breaks, but most mandated breaks must be ≥ 1 h/d, divided into 2 shorter breaks during the workday (21). The prevalence of national mandates on providing onsite lactation rooms is lower than the prevalence of national mandates for BF breaks. Only 50 countries (31%), including 18 from Africa, mandate the provision of lactation rooms (20). Government involvement in mandating or subsidizing childcare facilities at or near workplace sites is much less common (19).

Only a few middle- or high-income countries have incentive programs to promote employer-based subsidies for lactation support (20). Some companies also offer access to healthcare, which could increase knowledge of EBF in mothers due to increased attendance at antenatal visits (22). Workplaces may also establish comprehensive lactation support programs and provide flexibility beyond that mandated by law (23, 24). Many of these supports lack a solid evidence base in LMIC contexts, for which some governments have initiated policies to support lactation at workplaces (20).

The Kenya Ministry of Health is implementing legislation that requires paid maternity leave for 12 wk, access to 1 h of compensable lactation time for every 8 h worked for nursing mothers, and an onsite lactation room for companies with >50 employees (25). The policy was passed in May 2017, and the implementation period was ongoing at the time of the study.

From 2018 to 2019, we conducted a cross-sectional study that evaluated the association between formal employment and BF outcomes among formally employed mothers in Kenya, many of whom worked in commercial horticulture farms (14). In the present study, we analyzed this dataset to evaluate the availability of workplace BF supports and the associations between these supports and BF practices. We hypothesized that greater availability of supports would be associated with a higher prevalence and greater odds of EBF at several points during the first 6 mo of infancy.

Methods

Overview

We conducted repeat cross-sectional surveys between September 2018 and October 2019 at 4 postpartum time points to investigate the relationship between maternal employment, maternity policies and workplace supports, and BF practices in Naivasha, Kenya. The first objective was to evaluate the association between maternal employment and BF practices (14). The second objective was to evaluate the hypothesis that workplace supports for BF would be associated with a higher prevalence and increased odds of exclusive BF at each time point and across each indicator (EBF at 0, 6, 14, and 24 wk).

Study setting

Located in Kenya’s Great Rift Valley, Naivasha has a population of ~314,000 (26). This area contains the largest concentration of commercial flower farms in the country, which serve as the primary source of employment in the region and employ ~50,000 people, more than one-half of whom are women (27). We estimate that we sampled mothers from 35 different farms in this survey, and estimate ~50 farms in Naivasha, for an estimated representation of ~70% of commercial farms in Naivasha. All commercial farms in Naivasha have a labor force of >50 employees. Most commercial farm employees live in a few densely populated periurban informal settlements, with inadequate sanitation services and limited access to electricity. In Naivasha, some commercial flower farms and other employers provide onsite childcare and employee housing resources. Daycare centers, which are primarily

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Supplementary Figure 1, Online Supporting Material, and Supplementary Table 1 are available from the “Supplementary data” link in the online posting of the article and from the same link in the online table of contents at <https://academic.oup.com/jrv/>.

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Abbreviations used: aOR, adjusted OR; BF, breastfeeding; BFCI, Baby-Friendly Community Initiative; DHS, Demographic Health Survey; EBF, exclusive breastfeeding; IYCF, Infant and Young Child Feeding; LMIC, low- and middle-income countries.

informal and unregistered, provide childcare services for the children of employed mothers (7).

Study participants and recruitment

The research team recruited mothers at health facilities who were either 1–4 d postpartum or presenting for routine infant immunization visits at 6, 14, and 36 wk postpartum. Recruitment sites included 2 public facilities—the Naivasha Sub-County Referral Hospital and the Karagita Dispensary—and 1 private facility that serves farmworkers—the South Lake Medical Center, which is subsidized by a local floriculture company. All postpartum women admitted to the maternity wards with a live birth or presenting for immunizations to the health facilities on recruitment days were screened for eligibility in the parent survey. Only mothers classified as formally employed were included in the present study. Mothers whose children were 1–4 d, 5–7 wk, 13–15 wk, or 9 mo (± 1 wk) postpartum were eligible regardless of past or present child morbidity. A team of 5 trained research staff, all fluent in Swahili and members of the Naivasha community, recruited mothers by announcing the study purpose and opportunity to participate to all mothers present in the immunization clinic and maternity ward. Health center staff also assisted in recruitment by introducing eligible mothers to the research team. We obtained written, informed consent from all participants before beginning the survey. Surveys were administered verbally in Swahili or English using paper questionnaires. Mothers were eligible to participate once in the cross-sectional survey. The Kenya Medical Research Institute Scientific Ethical Review Unit (study number KEMRI/SERU/CCR/0112/3712) and the Wheaton College Institutional Review Board (study number 3712) approved the study procedures.

Data collection tools

The survey was used to collect information in the following 5 domains: 1) household assets and demographics, 2) employment status and benefits, 3) Infant and Young Child Feeding (IYCF) practices, 4) access to reproductive and other health services, and 5) health status of the child and the mother.

Household assets and demographics.

We adapted questions from the Demographic and Health Survey to collect information about participant household assets (house material composition, vehicle, television, mobile phone) and demographics (educational attainment, household income, marital status, household size, parity, religion, and tribe) (28).

Employment status and benefits.

We asked mothers for the details surrounding their employment status, which they self-reported through a series of questions.

Mothers were first questioned about their current employment status and then asked about the type of occupation, the number of hours worked per week, and the existence of a contract to be further classified as formally or informally employed or self-employed. Employment was classified as formal if women worked for a registered employer (e.g., a commercial farm, business, company, school, or healthcare facility), worked ≥ 20 h/wk, and received regular compensation. For mothers currently on maternity leave (recruited at 0 and 6 wk), we considered the type of work before delivery to categorize their employment type.

IYCF practices.

We assessed IYCF practices using standardized questions from the Demographic Health Survey (DHS) and WHO Indicators (28, 29). The liquid, semisolid, and solid foods given during the previous day and the number of BF and other feeding episodes were recorded based on a 24-h list-based recall.

Access to reproductive and other health services.

Using DHS questions, we queried mothers as to their antenatal care utilization, delivery setting, type of delivery, and whether a skilled attendant was present for their child's birth (28).

Health status of the child and the mother.

We asked mothers to report if, in the past 2 wk, their child had symptoms or a diagnosis of any of 5 common illnesses and symptoms: diarrhea, pneumonia, fever, malaria, and cough. Maternal HIV status was determined through self-report.

The survey also assessed the availability of workplace support for BF through questions on maternity leave benefits and the availability and use of employer-supported lactation rooms, childcare, and housing. We examined missing data and replaced missing values by recontacting mothers by phone.

Sample size

We enrolled 564 formally employed mothers across 4 infant age points: ($n = 128$, 0 mo; $n = 134$, 6 wk; $n = 144$, 14 wk; $n = 158$, 36 wk). This sample allowed us to detect a 40% difference in EBF prevalence at each time point between mothers with and those without access to onsite daycare, with 80% power and $\alpha = 0.05$, using a 2-sided test. This support was selected for the power analysis as it was moderately available among formally employed mothers relative to more common (e.g., maternity leave) or less available (e.g., lactation room) supports.

Primary independent variable

To assess workplace benefits and supports for BF, we queried mothers about the availability and use of maternity leave, healthcare, onsite housing, onsite and community-based childcare, private lactation rooms at work, and milk expression.

Primary dependent variables

EBF at 6, 14, and 24 wk postpartum served as a dependent variable (29). In alignment with the WHO recommendation, we defined EBF as feeding breastmilk only with no other liquids or solids (29) since childbirth through the time point of data collection. We defined EBF duration as the number of weeks of EBF reported, measured retrospectively by mothers recruited at 36 wk. These children were considered EBF at 6 mo if only breastmilk was fed through 24 wk of age. To establish conservative estimates of BF status, we modified the WHO method to determine BF status. Using a 2-question method, we determined BF status by IYCF practices based on 24-h recall and by assessing the last week when mothers reported giving breastmilk exclusively. Both questions needed to meet the definition of EBF for a child to be classified as EBF. Vitamin or mineral supplements were not assessed.

Minimizing bias

One strategy to minimize bias was the inclusion of multiple questions about BF duration and exclusivity. The assessment of EBF duration, along with the week at which other foods and drinks were first consumed and the child diet during the 24 h preceding the survey using the validated IYCF feeding practices tool (29), mitigated against recall bias or social desirability in participants responses. We sought to minimize temporal changes in BF practices by completing study recruitment over 13 mo. The research team recruited women without prior knowledge of their social or economic status from 3 consistent health facilities that represented varying tiers of the healthcare system. This recruitment strategy was implemented to reduce the chance of selection bias. While a single 24-h recall is generally not appropriate for estimating the usual dietary intake in an individual, we used a single measure to estimate EBF at each time point as EBF status is likely stable, and mothers who discontinue EBF are not likely to resume EBF. Further, we used additional questions to confirm EBF status for the timepoint in question beyond the IYCF indicator, including the date of the last EBF and the week of introducing complementary liquids and foods.

Additionally, when recruiting mothers, we explained that the goal was to support mothers by identifying opportunities to support them in EBF by better understanding the challenges they face and to mitigate the reporting bias mothers may feel regarding employment status. We did not promote the study as an employment study. All team members completed training on responsible conduct of research, survey procedures, and anthropometric assessment.

Statistical analysis

Confounders.

We developed a directed acyclic graph to identify confounding variables in our analysis (Supplementary Figure 1). This causal diagram illustrates the relation between variables that influence the primary independent (workplace supports) and the dependent variables (BF status) and are not on the causal pathway (30). Based on existing literature of workplace support and BF literature and influences of EBF in the study context, models controlled for maternal age, maternal education, physical burden of work (as measured by time spent sitting), HIV status, and household income.

We assessed the linearity of continuous variables (maternal age, maternal education) with outcomes by specifying disjoint indicator variables. We employed separate multivariable logistic regression models to test the association between workplace supports and exclusive and predominant BF.

In our primary analyses, α was set to 0.05. STATA version 14.1 (StataCorp LP) was used to conduct all analyses. We performed the study with adherence to STROBE guidance (Online Supporting Material) (31).

RESULTS

Table 1 reports the demographic and workplace BF supports of the study sample. In the initial survey, we recruited 1198 mothers, of whom 12 refused participation. Time constraints were cited by 9 of the 12 refusals, and 3 provided no reason. Based on the inclusion criteria of formal employment, 564 of the enrolled 1186 mothers were included in the analysis. The mean \pm SE age of the mothers was 28.3 ± 0.22 y, and most (84.4%) were married, had 2 to 4 children (69.7%), and earned \leq \$150 per mo (59.2%). The majority of the mothers (69.5%) had attended some secondary education, and the sample represented various tribal groups. Mothers had near-universal access to electricity in their homes (96.1%) and more than one-third had access to drinking water on the premises of their homes (39.2%). Commercial farms employed most mothers (70.6%).

As previously reported, nearly all mothers practiced EBF at 1–4 d postpartum (97.0%) (Ickes et al., 2021a) (14). The prevalence of EBF was lower with each successive timepoint. By 14 wk, fewer than half (48.6%) of mothers reported practicing EBF, while only 17.7% practiced EBF at 24 wk. Among the subset of formally employed mothers who worked in commercial agriculture, the prevalence of EBF was lower at 14 and 24 wk: 36.6% practiced EBF at 14 wk, and 16.7% practiced EBF at 24 wk.

Most mothers received maternity leave (92.9%, of which 75.0% was paid), with a mean \pm SEM leave length of 6.5 ± 0.2 mo. Nearly all women were full-time, year-round employees (87.9%). Most women (95.7%) reported a high physical burden of work, spending <3 h/d seated during a full-time shift of at ≥ 8 h. Supplementary Table 1 reports demographic and workplace supports by child age. Several characteristics differed by age: compared to mothers of children at 0, 6, and 14-wk, mothers of children at the 36-wk timepoint reported higher incomes. A lower proportion of mothers of children at the 36-wk timepoint reported receiving and using maternity leave. A higher proportion of these mothers were separated from their children for ≥ 8 h/d and used childcare. To account for these differences, models involving maternity leave only applied to mothers of children aged <12 wk (the duration of the national maternity policy). Other results were pooled into a single sample of 564 mother–child dyads.

Few formally employed mothers reported access to private lactation rooms (2.3%) at their workplace. Over half (59.8%) of formally employed women reported employer-provided healthcare, of which 46% was provided onsite at their workplace. Nearly one-third (31.0%) of all mothers and 48.3% of mothers with children aged ≥ 14 wk used some type of childcare. However, only 14.4% of these mothers reported that their childcare center was located “near” to their homes, and 9.2% reported that childcare was available at their workplace. Among those who reported using childcare, most (87.4%) report using community-based rather than workplace-provided childcare (12.6%). Only 24.5% of mothers with onsite childcare at the workplace reported visiting their children during the workday.

Among mothers with children aged 14 or 24 wk ($n = 302$), 50.3% reported separation from their children for >8 h in the previous month. Of these mothers, only 2.0% reported expressing breastmilk to feed their child in their absence.

Table 2 reports the prevalence of EBF according to the availability of workplace supports at each time point and for the combined sample of children through 24 wk postpartum. Differences in EBF prevalence by workplace supports were noted most frequently at 14 wk postpartum. Mothers who used community-based childcare were less likely to practice EBF than mothers who did not use childcare at every point, except at 1–4 d postpartum. For example, at 14 wk, mothers who reported using community-based childcare were less likely to practice EBF (22.2%) than mothers who did not use community-based childcare (60.6%) ($P < 0.001$).

Mothers who reported visiting a childcare center during the workday were more likely to practice EBF (70.0%) than those who did not visit a childcare center (34.7%) at 14 wk postpartum ($P = 0.005$). For the commercial farmworker subset, the magnitude of percentage difference in EBF practice among those visiting a childcare center during the workday was 63.6% compared with 25.5% at 14 wk and 100% compared with 16.4% at 24 wk. The difference was significant only at 14 wk ($P = 0.014$).

Among the pooled sample of all mothers, those who reported visiting a childcare center during the workday were more likely to practice EBF (72.6%) than those who did not report visiting a childcare center (47.5%, $P = 0.001$).

Statistical power for comparing the association of private lactation spaces and EBF was limited due to the small number of mothers ($n = 11$) with access to this benefit. However, 100% of commercial farmworkers with access to lactation rooms practiced EBF compared with 29.4% without access to lactation rooms at work ($P = 0.032$). Among the pooled sample, 84.6% of mothers with access to private lactation spaces practiced EBF compared with 55.6% of those without private lactation spaces ($P = 0.037$).

Mothers who reported access to onsite housing reported a higher prevalence of EBF (72.6%) than those who did not report access to onsite housing (59.7%, $P = 0.018$).

Mothers who used community-based childcare were less likely to practice EBF than mothers who used home-based or workplace care at 6 wk (82.4% compared with 95.7%, $P = 0.030$) and 14 wk (22.2% compared with 60.6%, $P < 0.001$).

A higher prevalence of mothers who did not have employer-provided healthcare reported practicing EBF (60.00%) than mothers who did have access (41.7%, $P = 0.042$) at 14 wk. The difference remains significant among the pooled sample (56.7% with access compared with 66.3% without access, $P = 0.029$). However, almost no difference was detected

TABLE 1 Workplace characteristics and benefits of cross-sectional survey sample among formally employed mothers¹

| | Number (%) |
|--|-------------|
| Distance to maternal workplace among formally employed mothers, km (<i>n</i> = 564) | |
| <1 | 100 (17.7%) |
| ≥1 to 5 | 96 (17.0%) |
| >5 to 10 | 286 (50.7%) |
| >10 km | 82 (14.5%) |
| Employment duration | |
| Seasonal | 21 (3.72%) |
| Fulltime | 543 (96.3%) |
| Monthly maternal income | |
| ≤\$50 | 11 (1.9%) |
| \$51 to \$150 | 179 (31.2%) |
| \$151 to \$400 | 310 (55.0%) |
| >\$400 | 64 (11.9%) |
| Onsite housing at workplace | |
| Formally employed (<i>n</i> = 564) | 95 (16.9%) |
| Among commercial farmworkers (<i>n</i> = 398) ² | 69 (17.3%) |
| Received maternity leave | |
| Yes | 524 (92.9%) |
| No | 29 (7.1%) |
| Used maternity leave | |
| Yes | 523 (92.7%) |
| No, or not provided | 41 (7.3%) |
| House helper | |
| Yes, paid | 59 (10.5%) |
| Yes, unpaid | 38 (6.7%) |
| No | 467 (82.8%) |
| Separation from child for >8 h (among ages 14 and 24 wk) ³ | |
| Formally employed (<i>n</i> = 302) | 152 (50.3%) |
| Among commercial farmworkers (<i>n</i> = 231) | 130 (56.3%) |
| Use of any childcare | |
| Formally employed (<i>n</i> = 564) | 175 (31.0%) |
| Among commercial farmworkers (<i>n</i> = 398) | 154 (38.7%) |
| Use of Community-Based Childcare ⁴ | |
| Formally employed who use childcare (<i>n</i> = 175) | 153 (87.4%) |
| Among commercial farmworkers who use childcare (<i>n</i> = 154) | 133 (86.4%) |
| Use of Workplace-Provided Childcare ⁵ | |
| Formally employed who use childcare (<i>n</i> = 175) | 22 (12.6%) |
| Among commercial farmworkers who use childcare (<i>n</i> = 154) | 21 (13.6%) |
| Availability of childcare at workplace ^{6,7} | |
| Formally employed (<i>n</i> = 564) | 52 (9.2%) |
| Among commercial farmworkers (<i>n</i> = 398) | 43 (10.8%) |
| Visit onsite childcare during work | |
| Formally employed (<i>n</i> = 564) | 51 (9.0%) |
| Among commercial farmworkers (<i>n</i> = 398) | 22 (5.5%) |
| Availability of childcare near workplace ^{6,7} | |
| Formally employed (<i>n</i> = 564) | 81 (14.4%) |
| Among commercial farmworkers (<i>n</i> = 398) | 483 (85.6%) |
| Physical intensity of work | |
| Sitting ≥3 h/d | 24 (4.2%) |
| Sitting 1-3 h/d | 540 (95.7%) |
| Availability of private lactation rooms at workplace ^{7,8} | |
| Formally employed (<i>n</i> = 564) | 13 (2.3%) |
| Among Commercial farmworkers (<i>n</i> = 398) | 7 (1.7%) |
| Availability of employer-provided healthcare ⁷ | |
| Formally employed (<i>n</i> = 564) | 337 (59.8%) |
| Among commercial farmworkers (<i>n</i> = 398) | 294 (73.9%) |

¹Commercial farmworkers are a subset of formally employed mothers (*n* = 398).²Separation from child variable was reported for mothers of children 14 or 24 wk, based on the most common period to return to full-time work.³Mothers who reported using childcare that was not workplace-provided.⁴Mothers who reported using childcare at or near the workplace provided by the employer.⁵Availability of employer provided childcare at or near the workplace.⁶Based on mother's self-report.⁷"Near" is defined as within a reasonable walking distance.⁸Availability of employer-provided clean and private spaces for women to express milk at the workplace.

TABLE 2 Comparison of proportions of EBF based on access to workplace supports¹

| | 1-4 d | | | 6 wk | | | 14 wk | | | 24 wy | | | All participants | | |
|---|-------------|----------------|---------|-------------|----------------|---------|-------------|----------------|---------|-------------|----------------|------------------|------------------|----------------|---------|
| | EBF benefit | No EBF benefit | P value | EBF benefit | No EBF benefit | P value | EBF benefit | No EBF benefit | P value | EBF benefit | No EBF benefit | P value | EBF benefit | No EBF benefit | P value |
| | (n = 564) | (n = 398) | | (n = 564) | (n = 398) | | (n = 564) | (n = 398) | | (n = 564) | (n = 398) | | (n = 564) | (n = 398) | |
| Onsite housing at workplace | | | | | | | | | | | | | | | |
| Formally employed | 28 (100) | 97 (97.0) | 0.354 | 23 (100) | 103 (92.8) | 0.184 | 13 (56.5) | 57 (47.1) | 0.408 | 5 (23.8) | 23 (16.8) | 0.433 | 69 (72.6) | 280 (59.7) | 0.018 |
| Among commercial farmworkers (n = 398) | 23 (100) | 59.0 (95.2) | 0.283 | 16 (100) | 59 (89.4) | 0.173 | 6 (46.2) | 34 (86.6) | 0.504 | 3 (17.7) | 18 (16.7) | 0.920 | 48 (69.6) | 170 (51.7) | 0.007 |
| Use of community-based childcare ² | | | | | | | | | | | | | | | |
| Formally employed | 10 (100) | 115 (97.5) | 0.610 | 14 (82.4) | 112 (95.7) | 0.030 | 10 (22.2) | 60 (60.6) | 0.000 | 14 (17.3) | 14 (18.2) | 0.883 | 48 (31.4) | 301 (73.2) | 0.000 |
| Among commercial farmworkers (n = 398) | 7 (100) | 75 (96.2) | 0.597 | 10 (76.9) | 65 (94.2) | 0.041 | 9 (22.0) | 31 (47.7) | 0.008 | 14 (19.4) | 7 (13.2) | 0.357 | 40 (30.1) | 178 (67.2) | 0.000 |
| Availability of childcare at workplace | | | | | | | | | | | | | | | |
| Formally employed | 11 (100) | 114 (97.4) | 0.591 | 11 (91.7) | 115 (94.3) | 0.717 | 6 (42.9) | 64 (49.2) | 0.650 | 2 (12.5) | 26 (18.3) | 0.564 | 30 (56.6) | 319 (62.4) | 0.406 |
| Among commercial farmworkers (n = 398) | 11 (100) | 71 (96.0) | 0.497 | 6 (85.7) | 69 (92.0) | 0.569 | 4 (40.0) | 36 (37.5) | 0.877 | 2 (12.5) | 19 (17.4) | 0.622 | 23 (52.3) | 195 (55.1) | 0.724 |
| Visit onsite childcare during work ³ | | | | | | | | | | | | | | | |
| Formally employed | 10 (100) | 49 (99.0) | 0.652 | 11 (100) | 44 (91.7) | 0.321 | 14 (70.0) | 25 (84.7) | 0.005 | 2 (20.0) | 22 (17.6) | 0.849 | 37 (72.6) | 140 (47.5) | 0.001 |
| Among commercial farmworkers (n = 249) | 5 (100) | 33 (97.1) | 0.698 | 3 (100) | 28 (90.3) | 0.573 | 7 (63.6) | 15 (25.9) | 0.014 | 3 (100) | 17 (16.4) | 0.445 | 15 (68.2) | 93 (41.0) | 0.014 |
| Availability of childcare near workplace ⁴ | | | | | | | | | | | | | | | |
| Formally employed | 10 (100) | 115 (97.5) | 0.610 | 16 (100) | 110 (93.2) | 0.283 | 10 (47.6) | 60 (48.9) | 0.923 | 7 (20.6) | 21 (16.9) | 0.612 | 43 (53.1) | 306 (63.4) | 0.078 |
| Among commercial farmworkers (n = 398) | 7 (100) | 75 (96.2) | 0.597 | 9 (100) | 66 (90.4) | 0.331 | 5 (31.3) | 35 (88.9) | 0.561 | 6 (20.7) | 15 (15.6) | 0.523 | 27 (44.3) | 191 (56.7) | 0.073 |
| Availability of private lactation rooms at workplace | | | | | | | | | | | | | | | |
| Formally employed | 5 (100) | 87 (97.8) | 0.735 | 2 (100) | 96 (93.2) | 0.703 | 4 (66.7) | 45 (89.1) | 0.180 | 0 | 27 (17.8) | N/A ⁴ | 11 (84.6) | 255 (55.6) | 0.037 |
| Among commercial farmworkers (n = 344) | 4 (100) | 59 (96.7) | 0.713 | 1 (100) | 57 (90.5) | 0.746 | 2 (100) | 27 (29.4) | 0.032 | 0 | 20 (16.5) | N/A ⁴ | 7 (100) | 163 (48.4) | 0.007 |
| Maternity leave | | | | | | | | | | | | | | | |
| Formally employed | 155 (97.5) | 8 (100) | 0.651 | 122 (83.9) | 3 (100) | 0.0659 | 67 (48.2) | 2 (50.0) | 0.955 | 19 (13.9) | 3 (60.0) | 0.012 | 333 (61.2) | 16 (80.0) | 0.089 |
| Among commercial farmworkers (n = 398) | 79 (96.3) | 3 (100) | 0.736 | 73 (91.3) | 2 (100) | 0.662 | 37 (36.6) | 2 (50.0) | 0.606 | 12 (11.2) | 3 (100) | 0.000 | 208 (53.9) | 10 (83.3) | 0.044 |

(Continued)

TABLE 2 (Continued)

| | 1–4 d | | | 6 wk | | | 14 wk | | | 24 wy | | | All participants | | |
|---|-------------|----------------|---------|-------------|----------------|---------|-------------|----------------|---------|-------------|----------------|---------|------------------|----------------|---------|
| | EBF benefit | No EBF benefit | P value | EBF benefit | No EBF benefit | P value | EBF benefit | No EBF benefit | P value | EBF benefit | No EBF benefit | P value | EBF benefit | No EBF benefit | P value |
| Employer-provided healthcare | | | | | | | | | | | | | | | |
| Formally employed (n = 530) | 70 (97.2) | 39 (97.5) | 0.931 | 67 (94.4) | 54 (93.1) | 0.767 | 40 (41.7) | 27 (60.0) | 0.042 | 14 (14.3) | 8 (16.0) | 0.782 | 191 (56.7) | 128 (66.3) | 0.029 |
| Among commercial farmworkers (n = 378) | 59 (96.7) | 14 (93.3) | 0.546 | 58 (93.6) | 16 (84.2) | 0.205 | 29 (34.9) | 10 (45.5) | 0.364 | 11 (12.5) | 4 (14.3) | 0.806 | 157 (53.4) | 44 (52.4) | 0.869 |

¹Values are presented as number (%) of participants unless otherwise indicated. EBF, exclusive breastfeeding.

²Mothers who reported using childcare that was not workplace-provided.

³Mothers who reported visiting the onsite childcare during their working hours, calculated among a subset of mothers who currently use childcare.

⁴Availability of employer-provided childcare at or near the workplace.

⁵No mothers reported access to this benefit.

⁶Smaller sample size due to missing data from "I don't know." or "Missing." responses from 96 mothers.

among the commercial farmworker subset (53.4% with access compared with 52.4% without access, $P = 0.869$).

The adjusted associations between workplace supports and EBF prevalence at each timepoint are reported in Table 3.

Among mothers who used childcare in the community, the odds of EBF at 14 wk were 78% lower than those for mothers who kept children home or who used workplace childcare (OR: 0.22; 95% CI: 0.09, 0.53), and 84% lower for all children <6 mo of age (OR: 0.16; 95% CI: 0.10, 0.25). Mothers who visited onsite childcare during work were more likely to practice EBF at 14 wk than mothers who did not (OR: 3.4; 95% CI: 1.02, 11.39).

The availability of onsite housing was associated with higher odds of EBF among all children under 6 mo: mothers with access to onsite housing were 2 times more likely to practice EBF at 6 mo than mothers who did not have access to onsite housing (OR: 2.06; 95% CI: 1.24, 3.41).

DISCUSSION

To our knowledge, this is one of the first studies to examine how the availability of workplace supports is associated with BF practices among a population of low-wage, formally employed mothers in sub-Saharan Africa, where the proportion of women engaged in the formal labor sector is rapidly growing (9). Our results indicate that access to recommended and mandated workplace supports is low. For example, <5% of mothers reported access to a lactation space at work, and <10% of mothers have a daycare facility available at their workplace. Other supports, such as maternity leave, were widely available to mothers.

Several characteristics of the study setting were important in interpreting these results. First, this population practices a high level of BF initiation and exclusivity prior to 3 mo postpartum (14). Second, mothers earned low wages, with a median monthly income between \$150 and \$400 USD. Third, women reported relatively long commuting distances and often utilized company-sponsored transportation, which likely affected the feasibility of visiting children to BF during the workday. Fourth, the predominant employment for mothers was in commercial agriculture, particularly in the floriculture industry. This industry has been described to have unique barriers to BF during the workday, including concern over chemical exposure during work and some distrust with the caregiver practices of community-based daycare centers, which may reduce willingness to leave stored breastmilk with childcare providers (7). Fifth, mothers in this population commonly used some form of childcare during the workday. Notably, the use of community-based childcare was associated with a lower likelihood of EBF. Mothers who visited childcare, had access to lactation spaces, and resided in company-owned, onsite housing all had a greater likelihood of practicing EBF during the first 6 mo of their child's infancy. Finally, the population represented in the study was well educated and had relatively high access to electricity in their homes compared with populations of many semirural communities in East Africa.

Comparison with other studies

Workplace initiatives to increase BF supports, largely implemented in high-income countries (HIC), have been shown to be positively correlated with improved BF practices (24, 32). While the evidence base for the efficacy of strategies such as lactation breaks, flexible working schedules, and

TABLE 3 Logistic regression results of workplace benefits and supports and EBF at 14 wk, 24 wk, and among all children younger than 6 mo¹

| | EBF at 14 wk | EBF at 24 wk | EBF among all children under 6 mo |
|--|---------------------|--------------------|-----------------------------------|
| Onsite housing at workplace | 1.09 (0.42, 2.81) | 1.91 (0.59, 6.17) | 2.06 (1.24, 3.41)* |
| Use of community-based childcare | 0.22 (0.09, 0.53)* | 0.85 (0.34, 2.10) | 0.16 (0.10, 0.25)* |
| Availability of childcare at workplace | 0.58 (0.17, 1.91) | 0.60 (0.13, 2.88) | 0.77 (0.43, 1.37) |
| Visit onsite childcare during work | 3.40 (1.02, 11.39)* | 1.17 (0.22, 6.26) | 2.79 (1.42, 5.47)* |
| Availability of childcare near workplace | 0.80 (0.30, 2.11) | 1.16 (0.43, 3.15) | 0.68 (0.42, 1.11) |
| Availability of private lactation rooms at workplace | 2.59 (0.44, 15.35) | Omit | 4.52 (0.97, 21.03) |
| Maternity leave | 0.65 (0.08, 5.23) | 0.10 (0.02, 0.71)* | 0.48 (0.16, 1.51) |
| Employer-provided healthcare | 0.54 (0.25, 1.17) | 0.69 (0.24, 2.01) | 0.70 (0.48, 1.02) |

¹Values²>are presented as ORs (95% CIs). Results control for maternal age (≥ 25 y compared with < 25 y), maternal income ($< \$150$ /mo compared with $\geq \$150$ /mo), maternal education ($< \text{secondary}$ compared with $\geq \text{secondary}$), time spent sitting during work (≥ 3 h compared with < 3 h), and HIV status (positive compared with not). EBF, exclusive breastfeeding.³Result was omitted as outcome was predicted perfectly.*Result was significant, $P < 0.05$, 95% CI does not include 1.0.

comprehensive lactation support programs is strongest in HIC, less evidence for the impact of formal workplace policies exists in LMICs, where the nature of employment and feasibility of supports may differ (8, 33). Neither community-integrated initiatives nor national policies have been well described in the literature that pertains to LMIC contexts (16). Many LMICs do not have the resources to support such policies and may hesitate to endorse mandates, citing concerns of discrimination against hiring women and creating an unintended side effect of placing additional costs on companies (20). Notably, of companies from countries of all income brackets, providing childcare through employer-funded support was reported by only 2% and through subsidies or stipends by 24% of companies (19).

Results from this study are most relevant to formalized employment economies where women have the potential to receive employment-related benefits and supports for BF. Recent evidence suggests that efforts to provide onsite daycare may be underutilized in some contexts, due to lack of trust in company administration or preference for children to be cared for by other relatives (e.g., grandmothers) during the workday (34). Thus, while this employer-provided support was associated with positive BF practices in this context, additional efforts may be needed to establish trust and rapport with daycare providers to increase utilization. A recent baby-friendly workplace support intervention among female formally employed agricultural workers in the Kenyan tea sector demonstrated that employees who were provided with access to company-based daycare near the workplace, a lactation room at the daycare, and paid breaks to visit the daycare facility during shifts were 4 times more likely to practice EBF between birth and 6 mo postpartum. Among children between 3 and 5.9 mo old, mothers in the treated group were 8 times more likely to practice EBF than mothers in the control group (35). A mixed-methods study among women across employment sectors identified that long distances between workplaces and BF supports deterred mothers from visiting children to nurse during the workday, whereas working closer to their homes encouraged daytime nursing (36). The presence of onsite lactation rooms in Mexico was associated with a 2.5-mo increase in BF duration ($P < 0.001$) and a 1.8-mo increase in EBF ($P = 0.005$) compared with the control group (37). Similarly, in Malaysia, a lack of onsite lactation spaces among urban working women was associated with earlier BF cessation (13).

Though national policies help promote and protect EBF among working mothers, advocacy efforts and tailored trainings may be necessary to provide additional support for BF among working mothers. Policy enforcement is also critical and was lacking in the study context at the time of data collection. Qualitative studies among formally employed mothers in LMICs identify the importance of understanding the mechanisms behind the success or failure of BF policies to result in improved EBF outcomes (38, 7). For example, UNICEF provides educational briefs, training, and video resources for companies to develop supportive workplace environments (39), as professional and peer support has been a mediator of success for workplace BF interventions (38). Locally, the Kenyan advocacy group Career Mothers for Exclusive Breastfeeding (CAMFEB) advocates for baby friendly laws and policies in workplace, hospital, and community settings (40). These services include promotion of and technical assistance for implementing workplace lactation rooms. This grassroots organization represents a nongovernmental partnership with the private sector to achieve BF goals and support policy implementation. Characteristics of the study context are expected to influence the impact of various supports on BF, and settings with different employment characteristics may observe different impacts on BF due to workplace supports. For example, a community-based daycare center might lead to better BF outcomes if mothers did not commute long distances. Alternatively, workplaces without chemical exposure, such as in the garment industry, may observe a more substantial impact of lactation rooms because there would be less hesitation to express breastmilk.

Strengths and limitations

Our study was limited by several factors. First, the cross-sectional design limits causal inference and does not rule out the possibility of reverse causality. We mitigated this possibility through use of a directed acyclic graph to inform models. Second, the small numbers of women with access to certain benefits (e.g., lactation rooms at work) limited statistical power to evaluate these associations. This limitation may have led to an underreporting of potentially beneficial supports so that the study was underpowered to detect. Third, we relied on recall of mothers to assess exposures—mothers who may not even have been aware of supports that exist—so the problem could be lack of supports or lack of knowledge or access to

supports. The expected direction of this potential information bias may have led to a slight overestimation of the association between a support and BF practices, assuming that mothers who were aware of BF supports were more likely to BF than mothers who lacked knowledge about support availability. These design limitations do not allow our results to elucidate the mechanism for how the availability and use of a particular support influences BF practices.

On the other hand, study strengths included a large sample size with large representation of workers at flower farms and other industries, and timing of data collection soon after the passage of a national workplace lactation support policy that was still in the early stages of implementation at the time of the data collection.

Implications and recommendations

The use of childcare is a necessary accommodation for many working mothers in LMIC contexts. Of the different childcare options available to mothers, onsite childcare is associated with the best BF practices—a resource identified by mothers as a top priority for improving their BF opportunities and feasibility of EBF (7). As more baby friendly workplace supports are anticipated in Kenya in the coming years, policymakers should consider an expansion of resources for onsite childcare in industries where long-commuting distances make visiting community-based childcare impractical. Governments may also consider tax incentives for employers to encourage company-funded baby friendly workplace supports, similar to what is offered in some settings for employers who provide maternity leave to employees. Based on findings from the present study, we recommend longitudinal and experimental studies to strengthen the evidence base for these initiatives in LMIC, where such designs are lacking and where minimal evidence has been produced in the past decade (41, 42). These studies should include impact pathway analysis and assessments of maternal experiences with various BF supports.

In conclusion, access to and use of workplace BF supports improves the likelihood of EBF among employed mothers in low-wage labor jobs. The scaling up of baby friendly workplaces and community initiatives—such as on-site daycare and lactation rooms—in the horticulture industry in LMICs is needed to protect and promote BF among employed mothers to accelerate global progress on reducing child morbidity and mortality.

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Dear Mr. Samuel Njoroge, CBS

KENYA BANKERS ASSOCIATION SUBMISSIONS ON THE BREASTFEEDING MOTHERS BILL 2024

The Kenya Bankers Association has reviewed the Breastfeeding Mothers Bill, 2024. We have consolidated feedback from our members on the above Bill as highlighted below for your kind consideration and adoption.

| Section of Bill | Comment/ Proposal | Justification |
|--|---|--|
| <p>Interpretation & Breastfeeding at work</p> | <p>This Act, if passed, applies to mothers who are feeding babies between zero to twenty-four (24) months in the workplace. It imposes obligations on Employers, as defined under the Employment Act, to provide adequate facilities to allow the mothers to lactate or express their milk in a private, clean, sanitary, and well-ventilated place within the work premises.</p> | <p>Based on the objects of the Act, it appears that the provisions of the Breastfeeding Mothers Bill should be incorporated into the Employment Act under the rights and duties in employment which include, the basic minimum conditions of employment such as working hours, annual leave, maternity leave, paternity leave, sick leave, pre-adoptive leave, housing, water, food, and medical attention. The introduction in the Employment Act of the provisions in the Bill can be introduced as an amendment to the Act.</p> |



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| <p>reamble:for use by ne public; and for onnected purposes</p> | <p>Introducing public to private places use. This will interfere with privacy rights.</p> | <p>Infringes on Art. 31 & 40 of the Constitution on the right to privacy and enjoy property acquired by allowing the public to access and use private property.</p> |
| <p>ection 2- Definition of a aby</p> | <p>'within' should be replaced by 'between'.</p> | <p>The definition of a baby is inelegantly done. 'within' should be replaced by 'between.'</p> |
| <p>ection 4(3) n employer, who stablishes a lactation place r breastfeeding purposes, hall in addition to the requirements provided for nder subsection (2) above - 1) provide a physical nvironment that is safe for e baby that meets the requirements under the relevant law; and 2) provide appropriate rograms that develop a aby's cognitive, emotional, ocial and language bilities.</p> | <p>Remove</p> | <ol style="list-style-type: none"> 1. This may not be practical for most workplaces given the likelihood of dangerous substances among other occupational hazards. 2. The provision of these services goes beyond the scope of the parties' employment relationship i.e., exchange of labour for a wage/salary. 3. The current mandatory 3 months paid maternity in addition to annual leave is already costly for most employers, this provision will create additional costs and increase the cost of doing business. 4. It is ambiguous and may pose a risk because it will be subject to interpretation. Under relevant law means any regulator may decide to look for compliance by employers to any statute that touches on occupancy, safety, and use of buildings e.g. NEMA, physical and land use planning act, tenancy laws, |



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zoning, and construction laws etc. to find that an employer has not provided a safe environment for the baby and thus impose fault, liability and penalties which are dire under the bill.

5. Section (b) imposes an additional burden to employers to have day cares which will be nurseries in essence because the requirement is that they should provide programs for development of the babies. This will interfere with the regulatory requirements for the outlook of the premises of Financial institutions which will amount to a breach.
6. There is need to make consideration for organisations that have Hybrid working arrangements. Section 26 of the Employment Act provides for basic minimum conditions of employment which does not include discretionary or benefits an employer can award its employee. Most banks have embraced a hybrid work arrangement where employees have the option to work from home as well as flexible working hours for new mothers.
7. The Economy is struggling, and business are closing. Redundancies are looming. No tax incentive for



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| | | <p>companies to comply with the law. Space and financial obligations not attainable for both small and big companies.</p> <p>-The main drawback of workplace daycare is the cost. Building the facility, staffing it, and licensing and ensuring it is costly. In the case of a Bank, its core business is providing financial services and not childcare services.</p> |
| <p>Sections 4, 5 & 6</p> | <p>These sections in the proposed Bill are similar to the provisions in Sections 71 & 72 of the Health Act which are under the Cabinet Secretary (CS) responsible for matters relating to health; whilst the proposed bill provisions are under the CS responsible for matters relating to labour. Both ministries are at liberty to prescribe any other regulations/ requirements that may be deemed necessary from time to time</p> | <p>Recommend that the provisions are under the ambit of one CS for good order and effective implementation</p> |
| <p>Section 4-Lactation Place (4) Any employer who does not comply with this section commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.</p> | | <p>This section is punitive to employers and there is no rationale why the fine and sentence are that severe. It must be considered that the mother is an employee already earning a salary from the employer and that what the bill proposes is an additional benefit to an employee. It will be double tragedy to an employer to suffer penalties for not providing an additional benefit to existing employees</p> |



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| Section 4 | | <p>Hazardous substances can enter the milk and pose a risk to the baby, some work environments are also polluted by way of noise, air, water etc. Children's immunities are low from birth to the proposed 2 years, spread of infectious illnesses amongst themselves would be expected.</p> <ul style="list-style-type: none">- They could also get injured by regular accidents, in the event of such happenings, who would be liable for such risks? What is the reasonable measure to be taken by the employees to reduce or prevent such. The liability on the business in case something happens to a child can be devastating.- Logistically, if a company opens a "childcare service", they are liable for every child in the premises. From children's allergies to any potential injuries. The business is responsible for any unfortunate event on its premises. |
| Section 5(1) A breastfeeding mother shall only use the lactation place during working hours for breastfeeding or expressing milk | Remove the words "for breastfeeding or" | The inclusion of the term breastfeeding means that babies will be allowed in the workplace, which may not be conducive for babies for various reasons e.g., Safety, biohazards etc. |
| Section 5(3) The breaktime provided for breastfeeding or expressing milk under subsection (2) | Remove | This will limit the employer's power to set out working hours. Section 5(2) already provides for the employer to give reasonable time. A prescribed time may not consider the |



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| <p>shall be prescribed by the Cabinet Secretary in regulation</p> | | <p>diverse nature of business. This should be left to be addressed administratively between the employer and employee in enforcing the employment contract as opposed to being a prerogative of the CS.</p> |
| <p>ec. 6- —Flexible work arrangement.</p> | <p>Productivity & Concentration: What constitutes reasonable break time, against the fact that each woman has different needs for milk expression or breastfeeding?</p> | <p>There is a possibility that having a child so close could be distracting, a mother's frequent visits can impact work productivity and concentration. Having kids nearby could also create disruptions and distractions for the rest of the employees especially if the kids are not well managed.</p> |
| <p>ec. 7 (2) Freedom from discrimination</p> | <p>Employment of female gender Freedom from discrimination is enshrined in Article 27 of the Constitution of Kenya, 2010 and in section 5 of the Employment Act.</p> | <p>It will influence employment of female gender more so in times of AI and mechanization. -Demographic effect on female gender as employers will prefer to employ female past childbearing age and comply with gender rule. The implementation of these provisions are as of right.</p> |
| <p>ection 8 in whole</p> | <p>Remove</p> | <p>This clause has implications on employers because it requires them to incur the expense of redesigning their work premises to include baby changing facilities. This means that employers have less space to conduct their businesses and can lead to breach of the existing regulatory requirements on the outlook of premises for financial institutions.</p> |



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| Section 8 (1) – Baby changing facility | Most organisations have entered into lease arrangement and in most cases the commons areas are shared by all tenants and their customers. There is need to make a clear distinction of such facilities and the requirement to provide a baby changing facility to be borne by the landlord. | The right to make any changes in a leased property where common areas are shared falls in the purview of the Landlord. |
| Part 11 | Need for employers to develop a policy on breastfeeding | To provide an implementation framework |
| Penalty | The 2024 Bill has striking similarities to the 2019 Bill the only key distinction being the penalty for not providing a lactation place in compliance with the Act has been increased from Kshs. 500,000.00 to now Kshs. 1,000,000.00. Further, the Bill provides that where there is a continuing offence the person convicted shall in addition to the prescribed penalty be liable to a fine of ten thousand Shillings (Kshs. 10,000) for each day the offence continues. | These penalties are too punitive. It is necessary to incentivise establishments to put in place these facilities through either having lower penalties or providing certain incentives such as tax incentives to employers. |

Dated this 8th Day of April 2024

Raimond Molenje

Ag. Chief Executive Officer

KENYA BANKERS ASSOCIATION

To Clerk
National Assembly
Kenya

MEMORANDUM IN SUPPORT OF THE BREASTFEEDING MOTHERS BILL (NATIONAL ASSEMBLY BILL NO.8 OF 2024)

The benefits of breastfeeding for infants, mothers, the family and society as a whole are widespread. Breastfeeding protects infants against life-threatening infections, supports healthy brain development in children, and prevents chronic childhood and maternal illness, reducing health care costs and enabling a better generation for the future.

As a Lactation Specialist and Consultant, I support mothers through their breastfeeding journey and one of the most common calls I get is about reduced breast milk production once a mother resumes work. Breast milk production is based on the rule of supply and demand and so once the baby and mother are separated for an extended amount of time during a work day then production quickly dwindles. To be able to keep up supply the mother needs to

- a. Either have an arrangement where she is able to keep breastfeeding her baby whilst she works or
- b. Have ample time to express the breast milk to imitate the breast removal action of the baby.

Breastfeeding is one of the most accessible care policies that can be applied at the workplace. It is a clear measure to help women transition back to work after giving birth. This bill would mandates all establishments, public or private, whether operating for profit or not, to support breastfeeding in the workplace. Recognizing

the importance of this gender equality and health promoting practice for working women, paid nursing breaks, flexible arrangements and workplace lactation spaces and nursing facilities still remain untapped resources for the large majority of women. The protection to support exclusive and continued breastfeeding is a universal but unfulfilled human and labour right. Paid and job-protected maternity leave and adequate maternal and child healthcare are essential to the life, health, safety and economic fulfilment of women and their children.

In conclusion, a breastfeeding-friendly policy with clear operating guidelines in the workplace is critical to sustaining breastfeeding. It is my hope that this bill will be passed in its entirety to further protect the rights of children and our mothers and provide a clear legal framework on how this can be done in the Republic of Kenya.

Signed



**Esther Kimani (CLC; CD(DONA) LCCE
Lactation Professional
Kenya**

MEMORANDUM

THE BREAKFEEDING MOTHERS BILL

(National Assembly Bill No. 8 of 2024)

COMMITTEE ON SOCIAL PROTECTION

The Health Act requires mothers to breastfeed infants appropriately for the first 6 months after delivery.

My submission is:

A. BREASTFEEDING AT THE WORKPLACE

1. The mother must travel with the infant to and from work every working day.
2. Most workers use public transport to go to work. Only those privileged have private transport.
The country's public transport is poor.
3. The inconvenience of travelling with the infant to and from work predisposes the infant to communicable diseases; more so in public transport but the same cannot be ruled out in private transport.
4. The infant will be placed in the breastfeeding room (crèche) under a care giver as the mother works and comes to breastfeed at intervals.
5. The care giver shall travel from the house with the mother and infant.
6. This will require additional cost of employment and transport to the mother.
7. If the care giver is provided by the employer, it is additional cost of employment to the employer.
8. If there is more than one infant in the crèche, there will be inevitable mingling between the infant and others and care givers as well.
9. This will further predispose to infections conditions among them.
10. There shall be required disposal of sanitary wear (diapers and pampers) from the crèche and workplace by the relevant authorities to avoid the dangers of bad hygiene and risk of communicable diseases.
11. Garbage collection and disposal is a challenge to most county governments.
12. There must be constant running water and ablutions in the crèche and the workplace.
13. Good and proper infrastructure is required at the workplace for the mothers, infants and care givers. What about those who don't have it like most government institutions (prisons, police, schools among others).
14. What about manufacturing industries where there is risk of polluted environment? Is it safe to carry the infant to work?
15. The cost effectiveness of this bill depends on the numbers to be catered for; the more the better.
16. Most of the Kenyan workers are in the informal sector.

B. ROOMS TO EXPRESS MILK

This is to enable mothers to express milk from the breast, store it and give it the infant when they go back to the house.

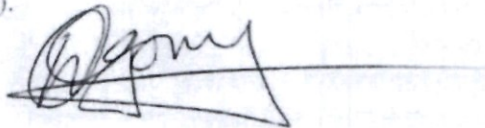
1. It requires a clean, secure and hygienic environment to enable the mothers express the breast milk and store it safely.
2. It requires constant running water and ablutions in the facility.
3. It requires a refrigerator with uninterrupted power supply to run it.
It must be mechanically maintained also.

C. CONCLUSION:

1. This is a bill whose time has not come.
2. The country has very poor public transport.
3. There is poor garbage collection, disposal and hygiene.
4. The country is not yet economically endowed for such undertaking.
5. It has additional costs to the employers. Can the government afford it?
6. Most of the workers are in the informal sector.

D. OPINION.

The most feasible approach is for employers to give flexible working times to enable mothers to breastfeed from the house until the end of the required 6 months after delivery (inclusive of maternity leave).



DR. WALTER OWEN OGONY



REPUBLIC OF KENYA
13TH PARLIAMENT- THIRD SESSION (2024)
THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION
AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:

1. THE PUBLIC RELATIONS AND COMMUNICATION MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2024);
2. THE BREASTFEEDING MOTHERS BILL (NATIONAL ASSEMBLY BILL NO. 8 OF 2024);

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and that the National Assembly Standing Order 127(3) requires House Committees considering Bills to facilitate public participation;

AND WHEREAS the Public Relations and Communication Management Bill (National Assembly Bill No. 17 of 2024); the Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024); was Read a First Time on 25th April 2024 and 2nd May 2024 respectively and thereafter referred to the relevant Departmental Committees for consideration and reporting back to the House;

IT IS NOTIFIED THAT:

1. **The Public Relations and Communication Management Bill (National Assembly Bill No. 17 of 2024)** is a Bill sponsored by the **Leader of Majority, Hon. Kimani Ichung'wah, EGH, MP** that seeks to provide a legal framework for the promotion, development and regulation of the public relations and communication management profession. The Bill seeks to promote professionalism within the public relations and communication management sector and to provide mechanism for training, registration and licensing.
2. **The Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024)** is a Bill sponsored by the **Hon. Sabina Chege, MP** that seeks to provide a legal framework on mothers who may wish to breastfeed their children at the work place. The Bill provides for the right of a mother to breastfeed freely or express milk for her infant. The Bill further requires employers to provide breastfeeding employees with lactation rooms to either breastfeed or express their milk for their children.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the respective Departmental Committees as listed below:

| NO. | BILL | COMMITTEE |
|-----|---|---|
| 1. | The Public Relations and Communication Management Bill (National Assembly Bill No. 17 of 2024) | Communication, Information and Innovation |
| 2. | The Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024) | Social Protection |

*Copies of the Bill are available at the National Assembly Table Office, Main Parliament Buildings and on www.parliament.go.ke/the-national-assembly/house-business/bills.


The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842- 00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi** or emailed to cna@parliament.go.ke to be received on or before **Monday 27th May, 2024 at 5.00 p.m.**

S. NJORGE
CLERK OF THE NATIONAL ASSEMBLY
16th May 2024

"For the Welfare of Society and the just Government of the People"



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Date: 29th May 2024

To: The Clerk of the National Assembly

From: Career Mothers For Exclusive Breastfeeding (CAMFEB)

Subject: The Breastfeeding Mothers Bill, 2024 (National Assembly Bill No. 8 of 2024)

1. Overview of CAMFEB's Support for the Breastfeeding Mothers Bill, 2024

CAMFEB, an organization committed to enhancing breastfeeding support in workplaces and public spaces, strongly supports the initiative behind the **Breastfeeding Mothers Bill, 2024**. We commend the Bill's goals to protect and promote the rights of breastfeeding mothers, facilitate the establishment of breastfeeding-friendly environments, and ensure that both private and public spaces accommodate lactating mothers' needs. In line with our experience and expertise, we offer the following recommendations to further strengthen the Bill, particularly regarding the provision of mobile lactation solutions to address resource and space constraints.

2. Suggested Amendments and Recommendations

Section 4: Employer Requirement to Provide Lactation Facilities


- **Current Provision: Section 4 (1)** Every employer shall establish a lactation place in the manner prescribed under this Act;

- **Suggested Amendment:** CAMFEB recommends that this section explicitly allow for **flexible or mobile lactation solutions** as a viable alternative for workplaces with limited space or resources. Many organizations, particularly in smaller offices or rural settings, may face challenges in establishing a permanent lactation room. Mobile lactation pods/units, such as those designed by CAMFEB, offer a cost-effective and accessible solution that can be moved as needed, providing privacy and functionality in compliance with lactation support standards.

- **Rationale:** Integrating mobile solutions will broaden the accessibility of lactation support, particularly for employers in underserved areas, enhancing compliance with minimal infrastructural constraints.



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Section 4: Reasonable Proximity of Lactation Rooms

Current Provision: Section 4 (i) Every employer shall establish a lactation place in a manner prescribed under this Act (i) have any other requirement as may prescribed by the Cabinet Secretary in regulations.

Suggested Amendment: CAMFEB recommends that Section 4 include a provision specifying that lactation rooms should be located within the same building as the primary work area of breastfeeding employees whenever possible. This addition would ensure that the lactation space is reasonably accessible to encourage regular use and avoid time constraints for breastfeeding employees.

Rationale: Having the lactation room within the same building makes it more convenient and accessible for breastfeeding employees, which is essential for the timely expression of milk. Close proximity will also reduce the time required to access the facility, allowing breastfeeding mothers to better manage their work responsibilities and breastfeeding needs. This approach not only supports mothers but promotes a positive workplace culture that values family-friendly practices and the well-being of employees.

Section 5 & 6: Flexibility in Work Arrangements for Breastfeeding Mothers

- **Current Provision: Section 5(1) & 6 (1) (2) (a,b,c)**

5. (1) A breastfeeding mother shall only use the Breastfeeding lactation place during working hours for breastfeeding or expressing milk.

6. (1) A breastfeeding mother may, in the prescribed manner, apply for a flexible work arrangement from the employer for the purposes of breastfeeding or expressing breast milk for the baby.

(2) The flexible work arrangement under subsection (1) shall specify— (a) the number of hours the employee is to work; (b) the type and number of work assignments; and (c) the exact location of where the employee is to work.

- **Suggested Amendment:** CAMFEB supports this provision but recommends additional language clarifying the process and timeframe for employees to request flexible work arrangements, including options for remote work where feasible.

- **Rationale:** Clearer guidance will benefit both employers and employees, providing a standardized process for requesting and approving flexible arrangements, reducing administrative burdens, and ensuring that mothers receive timely support.



Section 8: Baby-Changing and Lactation Facilities in Public Spaces

- **Current Provision: Section 8 (1)** A person who owns, leases or rents a public or private building accessible to the public, which has a minimum occupancy capacity of fifty persons, shall install a baby changing facility.

- **Suggested Amendment:** CAMFEB proposes including an allowance for **portable lactation pods** as an alternative for public facilities facing space or structural constraints.

- **Rationale:** Portable lactation pods meet the privacy, sanitation, and accessibility needs of mothers expressing breastmilk and can be quickly deployed in public locations such as shopping centers, transportation hubs, and healthcare facilities, ensuring mothers have reliable spaces to express milk.

Section 11: Public Education on Breastfeeding Rights

- **Current Provision 11 (2) (d):** Without prejudice to the generality of subsection (1), the Cabinet Secretary, in consultation with the Ministry of Health may, make regulations prescribing— (d) the manner and conduct of promoting the public awareness on breastfeeding mothers at the workplace;

- **Suggested Amendment:** CAMFEB recommends incorporating collaboration with **breastfeeding advocacy organizations** like CAMFEB in public education initiatives, which would help strengthen the reach and impact of these campaigns through established networks and resources.

- **Rationale:** By partnering with organizations dedicated to breastfeeding support, public awareness efforts will benefit from expert insights and increased outreach, fostering a culture that fully supports breastfeeding.

Section 11: Inspection and Certification of Lactation Rooms as Mother-Baby Friendly


- **Current Provision Summary: Section 11 (2) (g)** Without prejudice to the generality of subsection (1), the Cabinet Secretary, in consultation with the Ministry of Health may, make regulations prescribing - (g) the manner and conduct of inspection and certification of lactation rooms as mother baby friendly; and

- **Suggested Amendment:** CAMFEB proposes the establishment of a **dedicated certifying body** responsible for the inspection and certification of lactation rooms across workplaces and public facilities. This body should comprise representatives from relevant government agencies, healthcare professionals, breastfeeding advocacy organizations, and stakeholders from both private and public sectors. CAMFEB recommends that the body be tasked with



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developing and regularly updating guidelines and standards for mother-baby-friendly facilities, providing inspections, and issuing certifications.

- **Rationale:** A dedicated certifying body would ensure consistent standards and quality control across all lactation rooms, improving the reliability and accessibility of these facilities. With representatives from diverse backgrounds, this body could draw on expertise from breastfeeding advocacy, healthcare, and industry to adapt certification guidelines to various workplace and public facility contexts.

3. Additional Recommendations

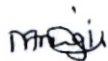
- **Compliance Support and Resources:** CAMFEB proposes that the Bill include a section on compliance support for small and medium enterprises (SMEs) and resource-constrained organizations. CAMFEB is prepared to collaborate on guidance documents, resources, and training to help these employers meet the Bill's requirements.

- **Monitoring and Accountability:** CAMFEB recommends establishing an accountability mechanism that involves regular audits of employer compliance, with a focus on workplace support for breastfeeding mothers.

4. Conclusion

CAMFEB is committed to supporting the implementation of the **Breastfeeding Mothers Bill, 2024** and contributing to the creation of breastfeeding-friendly environments across Kenya. We welcome the opportunity to collaborate on the Bill's finalization and to offer our expertise in implementing lactation-friendly initiatives, including mobile lactation stations. We thank the Committee for considering our input and look forward to supporting this important step toward protecting breastfeeding rights in Kenya.

Submitted by:



Martha Mugi,

Executive Director & Founder

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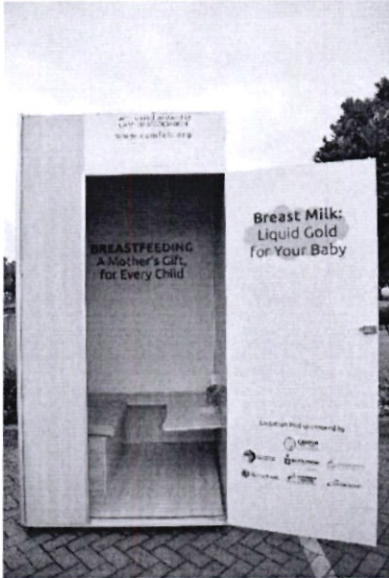
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Mobile Lactation Spaces Options:

Option 1: Lactation Pod - Size: 16 Square ft by 7 feet

Cost of this mobile lactation unit is Shs175,000





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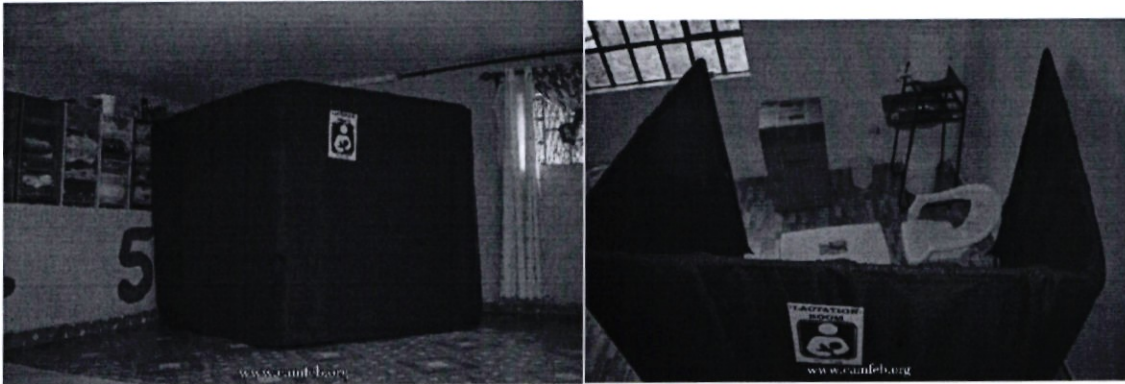
info@camfeb.org

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Option 2: Mobile Lactation Unit – 3-Fold screen

Size: 5 Feet by 5 Feet by 5 Feet

Cost per unit is Shs75,000





REPUBLIC OF KENYA

MINISTRY OF LABOUR AND SOCIAL PROTECTION

STATE DEPARTMENT FOR SOCIAL PROTECTION AND SENIOR CITIZEN AFFAIRS

OFFICE OF THE PRINCIPAL SECRETARY

Telephone: Nairobi +254(0)2729800

Fax: 2726222

Email: ps@socialprotection.go.ke

When replying please quote

Social Security House, Bishops Road

P.O. BOX 40326 - 00100

NAIROBI

KENYA

Ref: ML&SP/SP/37/5

Date: November 13, 2024

Clerk of the National Assembly

Parliament Buildings,

P.O Box 41842-00100

NAIROBI

copy by e-mail: cna@parliament.go.ke /

finlay.muriuki@parliament.go.ke /

ahmednoor.hassan@parliament.go.ke

Attn: Jeremiah W. Ndombi, MBS

**RE: INVITATION TO A MEETING WITH THE DEPARTMENTAL COMMITTEE ON
SOCIAL PROTECTION FOR SUBMISSIONS OF MEMORANDUM ON THE
BREASTFEEDING MOTHERS BILL, 2024**

Reference is made to your letter dated 5th November 2024 under Ref.NA/DDC/SP/CORR/2024/109 regarding the above subject matter.

Attached is our written submissions on the Breastfeeding Mothers Bill, 2024.

Joseph M. Motari, MBS

PRINCIPAL SECRETARY

Copy to: Dr. Alfred N. Mutua, EGH
CABINET SECRETARY



REPUBLIC OF KENYA

MINISTRY OF LABOUR AND SOCIAL PROTECTION

STATE DEPARTMENT FOR SOCIAL PROTECTION & SENIOR CITIZEN AFFAIRS

The following is the position of the State Department for Social Protection and Senior Citizen Affairs on the Breastfeeding Mothers Bill, 2024 (*National Assembly bill No.8 of 2024*) (hereinafter “the Bill”) as sponsored by Hon. Sabina W.Chege, MP.

A. GENERAL COMMENTS

1. The Children Act (Cap 141) Laws of Kenya, addresses child safety primarily through general provisions related to child protection, welfare, and safeguarding, often in the context of family, custody, and care environments. The Bill on the other hand focuses on specific issues such as breastfeeding in safe public or workplace environments, which can contribute to a broader understanding of safety by ensuring that children and mothers are not exposed to discomfort or harm in those settings.
2. The provisions of the Bill focus on formal employment to the disadvantage of mothers who work in the informal sector and hence may not benefit from certain provisions such as the lactation place and baby changing facility.
3. The Bill should make consideration for child minders/caregivers so that mothers with infants under 6 months can actively ensure that their performance in the work place is not affected.
4. The Bill should include a provision for foster mothers, adoptive parents, guardians and single fathers who care for children under the age of 24 months.

B. SPECIFIC COMMENTS

| S/No. | Provision in the Bill | Input and justification |
|-------|--|--|
| 1. | Clause 1 on short title and commencement | <p>Delete "...and shall come into operation upon the expiry of one year from the date of its publication."</p> <p>Operationalization of the Act should not form part of the short title as Article 116(2) of the Constitution of Kenya, 2010 declares that an Act comes into force on the 14th day after its publication in the Gazette, unless the Act stipulates a different date or time at which it will come into force.</p> <p>Such a date/time is captured as the commencement date and not under the short title.</p> |
| 2. | Clause 2 on definition of baby | <p>Extend the period to 36 months of age.</p> <p>Article 43(1)(c) of the Constitution of Kenya guarantees the right to be free from hunger and to have adequate food of acceptable quality.</p> <p>On the strength of this provision of the Constitution, the State Department in conjunction with the Ministry of Health have developed a policy on Early Childhood Development which has taken an evidence-based approach demonstrating that the first 1000 days of a child's life are the most critical in its development. It entails exclusive breastfeeding for the first 6 months and proper nutrition/diet for the breastfeeding mother.</p> |
| 3. | Clause 2 on definition of Breastfeeding | <p>There are mothers who cannot produce milk hence rely on baby formulas. Such mothers may be locked out of the flexible working arrangement as defined in Clause 2.</p> <p>In the circumstances, it is proposed that a definition on feeding/baby feeding be provided to cater for such instances.</p> |
| 4. | Clause 3 on breastfeeding at work. | <p>Introduce a clause to include:</p> <p><i>"any breastfeeding woman seeking service in the workplace, both private and public, shall be allowed to access the lactation place at the workplace."</i></p> |

| | | |
|----|---|---|
| | | This will consider breastfeeding mothers who are not necessarily employees but are in need of such services. |
| 5. | Clause 4(3) on lactation place | Introduce clause 4(3)(c) to provide a caregiver at the facility to provide care for the children kept at the lactation place. This provision will ensure that a breastfeeding mother who is an employee is able to actively participate in the work activities as the baby is in the hands of a caregiver. |
| 6. | Clause 7 on freedom from discrimination | Amend to read: <i>"A person shall not discriminate a breastfeeding mother in accessing employment opportunities or benefits."</i> The provision under Clause 7 as is goes beyond the object of the Bill which is on breastfeeding mothers. |
| 7. | Clause 11(2)(g) on Regulations | Amend to read: <i>"The manner and conduct of inspection, certification and monitoring of lactation rooms as mother baby friendly; and"</i> |

C. CONCLUSION

It is our considered view that the proposals are constructive. In the circumstances, the State Department for Social Protection and Senior Citizen Affairs, taking into consideration our submissions, has no objection to the proposals as contained in the Breastfeeding Mothers Bill, 2024

Submissions By



Joseph M. Motari, MBS
PRINCIPAL SECRETARY

From: Davies <davies.okombo@uhuru-ev.de>

To: cna <cna@parliament.go.ke>

Date: Thursday, 23 May 2024 12:43 PM EAT

Subject: Submission of comments on the Breastfeeding Mothers Bill, 2024

CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Dear Hon. Clerk of the National Assembly,

Thank you for your invitation to comment on the Bill herein.

We are pleased to propose the following amendments to the Bill herein, and we are further happy to orally defend these amendments if necessary:

The title of the Bill should be inclusive to enhance gender equality, and include men who may be directly responsible for feeding the babies in the absence or death of the mothers. In our view, they should enjoy the rights contemplated herein.

In Part II, Section 4, sub section 2 insert the following clauses:

- (i) have an electric kettle
- (j) have no CCTV surveillance

Further, in Part II Section 5, delete this sub section "The break time provided for breastfeeding and expressing milk under subsection (2) shall be prescribed by the Cabinet Secretary in regulations" and insert the following: The break time provided for breastfeeding and expressing milk under subsection (2) shall be 30 minutes twice or 1 hour a day.

In Part II, Section 6, delete the sub section 2(a) the number of hours the employee is to work and insert the following: the number of hours the employee is to work without pay loss.

In Part II, Section 8 insert the following sub sections:

- 2 (e) shall be free of charge
- 2(f) shall have baby diapers and wipes

We would be very pleased to orally defend the proposals herein if accorded an opportunity.

Best regards,

Mit freundlichen grüßen,

Dr. Davies Okombo

Executive Director

Uhuru Community Development Project (UCDP)

P.O Box 19568 -40123

Kisumu, Kenya

davies.okombo@uhuru-ev.de

+254736694452

0800730017 Child HelpLine

+491789379841(WhatsApp)

www.uhuru-ev.de

Executive Director

UHURU Lesotho (UL)

2023 Civil Society 7 Japan Presidency Sub Coordinator, SOGIESC Issues and Equity Working Group

2022 Women 7 German Presidency Co-Chair, W7 Accountability Mechanisms Working Group

2017 Civil 7 German Presidency CO-Chair, Inequalities & Social Protection Working Group

From: Abdirahman <maalimu27@gmail.com>

To: cna <cna@parliament.go.ke>; clerk <clerk.senate@parliament.go.ke>; Benjamin <benjamin.magut@parliament.go.ke>; info <info@treasury.go.ke>

Date: Monday, 22 January 2024 1:29 PM EAT

Subject: Breastfeeding

From

Professor Ali Abdirahman Maalim

Just an issue to be raised which is emergency.

If a child survives and the mum dies in a hospital the infant should be allowed to be breast fed by any woman who had a child in a nearby hospital. The CS Treasury should pay a wage through the relevant ministry to such mothers until the child can be looked after by their blood relatives for a period of six to one year. The wage will cease when the child stops breast feeding. This is for the purpose of building a strong immune system for the young republican. However, if the child needs to be adopted then the social services will have to look after the child through the procedure in place already.

Boys and girls of the houses please support this Bill

Thank you

Mr Maalim



**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**

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Nairobi, Kenya
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When replying, please quote:

REF: NA/DDC/SP/CORR/2024/113

5th November, 2024

Mr. Joseph Mogosi Motari, MBS
Principal Secretary

State Department for Social Protection and Senior Citizens Affairs
Ministry of Labour and Social Protection
Social Security House, Bishops Road
NAIROBI

Mr. Shadrack Mwangolo Mwandime, EBS
Principal Secretary

State Department for Labour and Skills Development
Ministry of Labour and Social Protection
Social Security House, Bishops Road
NAIROBI

Dear *Mr. Mwandime*

**RE: INVITATION TO A MEETING WITH THE DEPARTMENTAL COMMITTEE
ON SOCIAL PROTECTION FOR SUBMISSION OF MEMORANDA ON
THE BREASTFEEDING MOTHERS BILL, 2024**

The Departmental Committee on Social Protection is established under National Assembly Standing Order 216 which mandates it to amongst others "*study and review all legislation referred to it*".

The Breastfeeding Mothers Bill (*National Assembly Bill No. 8 of 2024*) sponsored by the Hon. Sabina Chege, MP is before the Committee for review and reporting to the House. The Bill seeks to provide a legal framework for mothers who may wish to breastfeed their children at the workplace. The Bill further provides for the right of a mother to breastfeed freely or express milk for her infant, and additionally requires employers to provide breastfeeding employees with lactation rooms to either breastfeed or express milk for their children.

Article 118(1)(b) of the constitution of Kenya requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees. Further, National Assembly Standing Order 127(3) requires House Committees considering Bills to facilitate public participation and involvement.

To this end, therefore, you are hereby invited to make and present your submissions on the Bill (copy enclosed herewith) before the Committee on **Thursday, 14th November, 2024, at 12.00 noon**. The meeting will be held at **Parliament Buildings**, the exact venue of which will be communicated in due course.

You are requested to appear before the Committee during the meeting with twenty (20) hard copies for reference and email soft copies of the submissions to the Office of the Clerk of the National Assembly through cna@parliament.go.ke, copied to the undersigned officers on or before **Wednesday, 13th November, 2024 at 5.00 pm.**

The officers overseeing this activity are **Mr. Finlay Muriuki** who may be contacted on **Tel. No. 0722 687468** or email: finlay.muriuki@parliament.go.ke and **Mr. Ahmednoor Hassan**, **Tel. No. 0748 993663** or email: ahmednoor.hassan@parliament.go.ke.

Yours



JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Dr. Alfred Mutua, EGH**
Cabinet Secretary
Ministry of Labour and Social Protection
Social Security House
Bishops Road
NAIROBI

Hon. Sabina Chege, MP
Honourable Nominated Member
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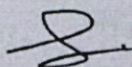
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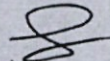
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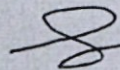
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MEMORANDUM

TO: CLERK OF THE NATIONAL ASSEMBLY
FROM: KENYA ASSOCIATION FOR BREASTFEEDING (SOC 75122)
SUBJECT: THE BREASTFEEDING MOTHERS BILL (NATIONAL ASSEMBLY BILL NO. 8) OF 2024
DATE: 29TH MAY 2024

The Kenya Association for Breastfeeding (henceforth referred to as KAB) would like to express its support for the Breastfeeding Mothers Bill 2024 (henceforth referred to as the Bill).

KAB was founded by trained and certified Lactation Support Professionals, who are passionate about supporting mothers and families in their breastfeeding journey. One of KAB's primary objectives is to enable mothers to exclusively breastfeed their babies from birth to six months, with continued breastfeeding alongside complementary foods until the age of two and beyond.

If enacted, the Bill would build upon and further reinforce the provisions made in Sections 71 and 72 of the Health Act 2017 that require all employers to establish lactation rooms in the workplace and to grant all their lactating employees break intervals to breastfeed or express their breast milk.

Evidence and Data:

Current and relevant research shows that breastfeeding has significant health benefits for both infants and mothers. According to the World Health Organisation (WHO), exclusive breastfeeding for six months reduces infant mortality rates and provides essential nutrients that contribute to cognitive development¹.

Unfortunately, data from the KDHS 2022 report indicates that exclusive breastfeeding rates by age fall from 77% at 1 month to 38% at 4-5 months. This sharp decrease can be attributed to the coincidence of returning to work after paid maternity leave, hence highlighting work as a key factor in the infant feeding choices a lactating employee must make.

The 'Cost of Not Breastfeeding Tool'² indicates that not breastfeeding according to the WHO recommendations results in annual global economic losses of approximately **USD507 Billion** (0.6% of Gross Global Income).

In Kenya, at the current exclusive breastfeeding rate of 60% for 0-5 months (KDHS 2022), **the cost of not breastfeeding is USD 737.6 M** (0.67% of Gross National Income) and **the cost of breast milk substitutes is 40.4% of the average wages** earned by the parent. It is therefore imperative to mitigate these costs by improving exclusive breastfeeding rates and the overall duration of breastfeeding.

¹ <https://www.who.int/health-topics/breastfeeding>

² <https://www.aliveandthrive.org/en/the-new-cost-of-not-breastfeeding-tool>



Benefits of the Bill:

The Bill will provide numerous benefits, including:

- Improved Maternal and Child Health: Enhanced breastfeeding duration can lead to better health outcomes for mothers, including lower risk of ovarian and breast cancer amongst other non-communicable diseases; and in children prolonged breastfeeding lowers the rates of infections and chronic conditions.
- Employee Retention and Satisfaction: Supporting breastfeeding mothers can lead to higher job satisfaction and lower turnover rates.
- Economic Benefits: Reduced absenteeism and healthcare costs associated with healthier infants and mothers.

Legal and Financial Implications:

The Bill will require employers and relevant stakeholders to allocate resources for lactation rooms and break times. However, these costs can be offset by the aforementioned benefits such as improved employee morale and reduced healthcare costs³. We also suggest offering financial incentives or tax benefits to employers who comply with these requirements⁴.

Suggested Amendments to the Bill to Enhance Feasibility, Impact and Sustainability:

1. Prohibition of Promotion, Marketing or Selling of Breast Milk Substitutes (BMS):

- Include a clause in Section 4 similar to Section 71 (3) of the Health Act 2017, preventing any promotion, marketing or selling of infant formula and designated BMS products within lactation spaces. Additionally, lactation spaces should not be funded by BMS manufacturers.

2. Flexibility in Physical Environment Requirements:

- Amend Sections 4(3) (a) and 4(3) (b) to make physical environments and programs like crèches optional based on employee needs. Although the intention of the Section is to minimise the separation of lactating employees from their babies during working hours, it might not be feasible for employers whose lactating employees are not permanently based at a single location.
- Encourage partnerships with registered daycare centres near workplaces. Current research conducted in Kenya suggests that lactating employees who have access to daycares at or near workplaces are more likely to practice exclusive breastfeeding compared to those who do not have a daycare in proximity or those who use community or home-based childcare.⁵

³ <https://www.unicef.org/media/94081/file/Field-Report-Nutrition-Kenya-Final.pdf>

⁴ Heymann J, Raub A, Earle A. Breastfeeding Policy: A Globally Comparative Analysis. *Bull World Health Organ*. 2013; 91(6):398-406

⁵ Ickes SB, Adam JN, Sanders HK, Kinyua J, Lemein HS, DennoDM, et al. Access to Workplace Supports is Positively Associated with Exclusive Breastfeeding Among Formally Employed Mothers in Kenya. *The Journal of Nutrition*. 2022; 152. 10.1093/jn/nxac160.

3. Breastfeeding Workplace Policies:

- Include a clause compelling employers to develop policies that address the needs of lactating employees, including facilities, protected and compensable time, evidence-based information, and professional breastfeeding support in line with the 'Guidelines for Securing a Breastfeeding Friendly Environment At The Workplace' (MoH, 2018).

4. Protected Break Time:

- Clarify that break time referred to in Section 5(2) and 5(3) is additional to regular breaks and is protected and compensable.

- Ensure the minimum time allocated for breastfeeding or expressing aligns with Section 72 (2) of the Health Act 2017 thus allowing lactating employees to breastfeed or express milk every 3 – 4 hours.

5. Lactation Spaces in Multi-tenant Buildings and Tertiary Education Institutions:

- Amend Section 8 to mandate lactation spaces in multi-tenant buildings to support employees working for micro and small enterprises, and self-employed women. Data from the KDHS 2022 report indicates that 21% and 26% of women work in service/shops/sales and elementary occupations respectively, which is a significant proportion of the female workforce. Building owners/landlords can use the service charge collected to set up and maintain the lactation rooms in their buildings.

- Include tertiary education institutions (polytechnics, colleges and universities) in the mandate to provide accessible breastfeeding-friendly facilities for their students, teaching and auxiliary staff. Approximately half of women of childbearing age give birth for the first time after the age of 20, with the median age at 20.7 years, which is also when they are pursuing further education (KDHS, 2022). Furthermore, current research indicates that student-mothers who have designated lactation spaces within the teaching facilities or daycare centres in proximity are able to continue with their studies without cessation of breastfeeding or sending their babies to live with trusted caregivers who are far away^{6 7}.

6. Designated Lactation Spaces by County Governments:

- Amend Section 9 to include designated lactation spaces in public areas, provided for by County governments, particularly for women in elementary occupations who need to express their breast milk regularly and do not have access to private, hygienic physical spaces.

Conclusion:

The enactment of the Bill would be a significant step towards protecting, promoting, and supporting breastfeeding in Kenya. We urge the legislative bodies to consider these suggestions to ensure the Bill effectively supports breastfeeding mothers across Kenya.

⁶ <https://news.scienceafrica.co.ke/breastfeeding-daycare-facilities-a-welcome-relief-to-young-mothers-at-rongo-university/>

⁷ Gbagbo, F.Y., Nkrumah, J. Breastfeeding-friendly policies and programs in three public Universities in Ghana. *Int Breastfeed J* 17, 29 (2022). <https://doi.org/10.1186/s13006-022-00468-7>



REPUBLIC OF KENYA

MINISTRY OF LABOUR AND SOCIAL PROTECTION
STATE DEPARTMENT FOR SOCIAL PROTECTION & SENIOR CITIZEN AFFAIRS

The following is the position of the State Department for Social Protection and Senior Citizen Affairs on the Breastfeeding Mothers Bill, 2024 (*National Assembly bill No.8 of 2024*) (hereinafter “the Bill”) as sponsored by Hon. Sabina W.Chege, MP.

A. GENERAL COMMENTS

1. The Children Act (Cap 141) Laws of Kenya, addresses child safety primarily through general provisions related to child protection, welfare, and safeguarding, often in the context of family, custody, and care environments. The Bill on the other hand focuses on specific issues such as breastfeeding in safe public or workplace environments, which can contribute to a broader understanding of safety by ensuring that children and mothers are not exposed to discomfort or harm in those settings.
2. The provisions of the Bill focus on formal employment to the disadvantage of mothers who work in the informal sector and hence may not benefit from certain provisions such as the lactation place and baby changing facility.
3. The Bill should make consideration for child minders/caregivers so that mothers with infants under 6 months can actively ensure that their performance in the work place is not affected.
4. The Bill should include a provision for foster mothers, adoptive parents, guardians and single fathers who care for children under the age of 24 months.

B. SPECIFIC COMMENTS

| S/No. | Provision in the Bill | Input and justification |
|-------|--|--|
| 1. | Clause 1 on short title and commencement | <p>Delete “...and shall come into operation upon the expiry of one year from the date of its publication.”</p> <p>Operationalization of the Act should not form part of the short title as Article 116(2) of the Constitution of Kenya, 2010 declares that an Act comes into force on the 14th day after its publication in the Gazette, unless the Act stipulates a different date on or time at which it will come into force.</p> <p>Such a date/time is captured as the commencement date and not under the short title.</p> |
| 2. | Clause 2 on definition of baby | <p>Extend the period to 36 months of age.</p> <p>Article 43(1)(c) of the Constitution of Kenya guarantees the right to be free from hunger and to have adequate food of acceptable quality.</p> <p>On the strength of this provision of the Constitution, the State Department in conjunction with the Ministry of Health have developed a policy on Early Childhood Development which has taken an evidence-based approach demonstrating that the first 1000 days of a child’s life are the most critical in its development. It entails exclusive breastfeeding for the first 6 months and proper nutrition/diet for the breastfeeding mother.</p> |
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C. CONCLUSION

It is our considered view that the proposals are constructive. In the circumstances, the State Department for Social Protection and Senior Citizen Affairs, taking into consideration our submissions, has no objection to the proposals as contained in the Breastfeeding Mothers Bill,2024

Submissions By

Joseph M. Motari, MBS
PRINCIPAL SECRETARY

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LAW REPORTING
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SPECIAL ISSUE

Kenya Gazette Supplement No. 34 (National Assembly Bills No. 8)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2024

NAIROBI, 16th February, 2024

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THE BREASTFEEDING MOTHERS BILL, 2024
ARRANGEMENT OF CLAUSES

Clause

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THE BREASTFEEDING MOTHERS BILL, 2024**A Bill for**

AN ACT of Parliament to make provision for breastfeeding mothers; to provide for employers' obligations towards breastfeeding working mothers in the workplace; to provide for baby changing facilities for use by the public; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I – PRELIMINARY

1. This Act may be cited as the Breastfeeding Mothers Act, 2024 and shall come into operation upon the expiry of one year from the date of its publication.

Short title and commencement.

2. In this Act, unless the context otherwise requires—

Interpretation.

“baby” means a child within zero to twenty four months of age;

“breastfeeding” means the act of feeding an infant directly from the mother’s breast;

Cap. 226.

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to labour;

“employer” has the meaning assigned to it under the Employment Act;

“expressing milk” means the act of extracting human milk from the breast by hand or by pump into a container;

“flexible working arrangement” means the change of an employer’s terms and conditions of employment that provides ease in assisting the employee’s responsibilities of breastfeeding the baby;

“lactation place” means private, clean, sanitary, and well ventilated rooms or areas in the workplace or public places where breastfeeding mothers can wash up, breastfeed or express their milk comfortably;

“workplace” means work premises, whether private enterprises or government agencies, including their subdivisions;

PART II – PROVISIONS RELATED TO BREASTFEEDING MOTHERS

3. A woman who has a baby may breastfeed or express breast milk at a lactation place in the work place.

Breastfeeding at work.

4. (1) Every employer shall establish a lactation place in the manner prescribed under this Act. Lactation place.

(2) A lactation place shall—

- (a) be shielded from view and be free from intrusion from co-workers;
- (b) be clean, quiet, private and warm;
- (c) not be a bathroom or toilet;
- (d) have a lockable door;
- (e) have a wash basin;
- (f) have a fridge for storing expressed milk;
- (g) have a provision for an electric outlet and lighting;
- (h) have a chair, table and a clean space to store equipment; and
- (i) have any other requirements as may be prescribed by the Cabinet Secretary in regulations.

(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in addition to the requirements provided for under subsection (2)—

- (a) provide a physical environment that is safe for the baby that meets the requirements under the relevant law; and
- (b) provide appropriate programs that develop a baby's cognitive, emotional, social and language abilities.

(4) Any employer who does not comply with this section commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

5. (1) A breastfeeding mother shall only use the lactation place during working hours for breastfeeding or expressing milk. Breastfeeding time.

(2) An employer shall provide a reasonable break time to a breastfeeding mother for purposes of breastfeeding the baby or expressing breast milk for the baby.

(3) The break time provided for breastfeeding and expressing milk under subsection (2) shall be prescribed by the Cabinet Secretary in regulations.

(4) Where circumstances require a baby to be breastfed for a long period exceeding the time prescribed by regulations, the mother may with the written instructions from a registered medical practitioner, breastfeed the baby for a longer period.

6. (1) A breastfeeding mother may, in the prescribed manner, apply for a flexible work arrangement from the employer for the purposes of breastfeeding or expressing breast milk for the baby.

Flexible work arrangement.

(2) The flexible work arrangement under subsection (1) shall specify—

- (a) the number of hours the employee is to work;
- (b) the type and number of work assignments; and
- (c) the exact location of where the employee is to work.

(3) Where an application is made under subsection (1), the employer shall respond in writing within fourteen days of receipt of such application.

(4) Where the employer rejects the application, the employer shall provide a written statement stating reasons for such rejection.

(5) A flexible working arrangement may be revoked where—

- (a) there is abuse of the terms of the agreement; or
- (b) either party decide to terminate the agreement.

(6) A revocation of grant of a flexible working arrangement shall be in writing.

7. A person shall not discriminate a woman on any ground including pregnancy, childbirth, breastfeeding, or any other maternity related condition, in accessing employment opportunities or benefits.

Freedom from discrimination.

8. (1) A person who owns, leases or rents a public or private building accessible to the public, which has a

Baby changing facility.

minimum occupancy capacity of fifty persons, shall install a baby changing facility.

(2) A facility contemplated under subsection (1) shall—

- (a) be clean and private;
- (b) have a baby changing table;
- (c) have a waste bucket; and
- (d) have signs indicating its location.

(3) A person who is accompanied by a baby in public may use any baby changing facility within reasonable distance for the purposes of cleaning and changing the baby.

9. (1) A woman may breastfeed her child in public.

Right to breastfeed in public.

(2) The act of a woman breastfeeding a child in public shall not be construed to amount to an indecent act.

10. (1) A person convicted of an offence under this Act for which no penalty is provided shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

General penalty.

(2) Where an offence is a continuing offence, the person convicted shall, in addition to the penalty prescribed, be liable to a fine of ten thousand shillings for each day during which the offence continues.

PART III—PROVISIONS ON DELEGATED POWERS

11. (1) The Cabinet Secretary may make regulations for the better carrying into effect the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary, in consultation with the Ministry of Health may, make regulations prescribing—

- (a) the requisite standards and contents of the rooms or buildings contemplated under this Act;
- (b) any other requirements for lactating area;
- (c) break periods for breastfeeding or expressing milk;
- (d) the manner and conduct of promoting the public awareness on breastfeeding mothers at the workplace;

- (e) the standards of safety for the breastfeeding mother and the baby at the work place;
- (f) the conduct and obligations of an employer at the workplace with respect to a breastfeeding mother;
- (g) the manner and conduct of inspection and certification of lactation rooms as mother baby friendly; and
- (h) the forms to be used in application for the flexible work arrangement.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to provide a legal framework on mothers who may wish to breastfeed their children at the work place.

The Bill provides for the right of a mother to breastfeed freely or express milk for her infant. The Bill further requires employers to provide breastfeeding employees with lactation rooms to either breastfeed or express their milk for their children.

Breastfeeding is the first preventive health measure that can be given to a child at birth and it also enhances mother-infant relationship. It is nature's first immunization, enabling the infant to fight potential serious infection and it contains growth factors that enhance the maturation of an infant's organ systems.

Kenya is a signatory to treaties that provide for the right of an infant to exclusive breastfeeding for six months. The government should therefore promote and encourage breastfeeding and provide the specific measures that would present opportunities for working mothers to continue expressing their milk and breastfeeding their infant or young child. Furthermore, the practice of breastfeeding may save the country's valuable foreign exchange that may otherwise be used for milk importation.

Presently, female employees exit the work force or stop breastfeeding in order to secure their job security. No woman should be forced to compromise the health of her child in order to make a living.

Part I (Clauses 1-2) of the Bill provides for preliminary matters including the title of the Bill and the interpretation of terms used in the proposed Act.

Part II (Clauses 3-10) of the Bill provides for the fundamental principles and rights at work for a breastfeeding mother. It provides for the right to freely breast feed or express one's milk for the baby. It also places an obligation on the employers to provide breastfeeding working mothers with rooms to either breastfeed or express their milk. It also provides for the standards of such rooms. The Bill further provides for baby changing tables. This is important because the greater majority (public) finds it unsanitary to change a baby in a public setting such as a restaurant. This provision will also cater for persons who are travelling long distances in the accompaniment of babies, ensuring that in each public restroom a baby changing facility is provided. This part also provides for a general for offences under the Act.

Part III (Clause 11-12) of the Bill provides for the power of the Cabinet Secretary to make regulations for the better carrying out of the proposed Act.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedom

The Bill delegates legislative powers to the Cabinet Secretary. It does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

This Bill is a Bill affecting counties and is an ordinary Bill.

Statement on whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may occasion additional expenditure of public funds to be provided through the estimates.

Dated the 8th January, 2024.

SABINA W. CHEGE,
Member of Parliament.