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*Paper laid  
By the Hon David Wore, MP,  
Chair, Labour Committee  
on Wed 2/12/15*

THE NATIONAL ASSEMBLY

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ELEVENTH PARLIAMENT- THIRD SESSION-2015

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THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON

THE STUDY VISIT TO INDIA ON ADMINISTRATION OF FOREIGN EMPLOYMENT  
AND MANAGEMENT OF LABOUR MIGRATION

---

November, 2015

Directorate of Committee Services  
Clerk's Chambers  
Parliament Buildings  
Nairobi

*J. 31*

## Table of Contents

1. Preface.....	2
2. Meetings and visits to India.....	3
3. Introduction.....	7
4. Meeting with the Ministry of Overseas Indian Affairs.....	9
5. Committee Observations.....	11
6. Committee Recommendations.....	12

## 1.0 Preface

Mr. Speakers Sir,

On behalf of the Departmental Committee on Labour and Social Welfare and pursuant to the provisions of Standing Order 199, it is my pleasant privilege and honour to present to this House the report of the Committee on the study visit to India on administration of foreign employment and management of labour migration.

## 1.1 Mandate of the Committee

The Committee is established pursuant to the provisions of Standing Order No. 216, with the following terms of reference:-

- I. 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. Study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.*
- III. Study and review all legislation referred to it.*
- IV. 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.*
- V. 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); and*
- VI. Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

## 1.2 The Committee Membership

The Departmental Committee on Labour and Social Welfare was constituted on Thursday 16<sup>th</sup> May, 2013 and comprise the following members:-

1. Hon. David Were, MP - Chairperson
2. Hon. Tiyah Galgalo, MP - Vice Chairperson
3. Hon. Janet Teyiaa, MP
4. Hon. Peris Tobiko, MP

5. Hon. John Ndirangu Kariuki, MP
6. Hon. Winnie Karimi Njuguna, MP
7. Hon. Janet Nangabo, MP
8. Hon. John Serut, MP
9. Hon. Samuel Gichigi, MP
10. Hon. Elijah Lagat, MP
11. Hon. Cornelly Serem, MP
12. Hon. Abdi Noor Ali, MP
13. Hon. Daniel Wanyama, MP
14. Hon. Regina Nyeris, MP
15. Hon. Wesley Korir, MP
16. Hon. Kinoti Gatobu, MP
17. Hon. Elijah Mosomi Moindi, MP
18. Hon. James Onyango K'Oyoo, MP
19. Hon. Omondi John Ogutu, MP
20. Hon. Aisha Jumwa Karisa, MP
21. Hon. Patrick Wangamati, MP
22. Hon. Rose Museo Mumo, MP
23. Hon. Silvanice Onyango Osele, MP
24. Hon. Mustafa Idd, MP
25. Hon. Nyasuna Gladys Wanga, MP
26. Hon. John Owuor Onyango Kobado, MP
27. Hon. Mwanyoha Hassan Mohammed, MP
28. Hon. Mlolwa Jones Mwagogo, MP
29. Hon. Ferdinand Waititu, MP

### **1.3 Meetings and visits to India**

The study visit was undertaken from 15<sup>th</sup> to 19<sup>th</sup> June, 2015. The main objective of the said benchmarking visit was to learn, consider and review the existing framework for administration of foreign employment and management of labour migration in India. The Committee was accompanied by members of the Task Force on administration of foreign employment and management of labour migration to India due to its position as one of the countries that has the largest number of labour migrants and which receives the largest amount of remittances from their Diaspora.

The delegation comprised the following:-

#### **A). Members of the Departmental Committee on labour and Social Welfare**

1. Hon. John B. Serut, MP - Leader of the Delegation

2. Hon. Mwanyoha Hassan Mohamed, MP
3. Hon. Daniel Sitati Wanyama, MP
4. Hon. Elijah Kiptarbei Lagat, MP
5. Mr. Abdirahman Gele Hassan- Delegation Secretary

#### **B). Members of the Task Force**

1. Mr. Washington Oloo - Director, Diaspora, Ministry of Foreign Affairs and International Trade
2. Mrs. Edith Okoki - Ag. Director, Employment Department, Ministry of Labour, Social Security and Services
3. Mrs. Millicent Muli - Assistant Labour Commissioner
4. Mrs. Scola Mbilo - Senior State Counsel
5. Mr. Mohamud Ahmed - Member, Task Force
6. Mrs. Khadija Asman - Member, Task Force

#### **1.4 Committee Observations and Recommendations**

Having held meetings with the Ministry of Overseas Indian Affairs and the Department of Indian Center for Migration and considered the submissions presented, the Committee made the following observations and recommendations:-

##### **1.4.1 Committee Observations**

The Committee observed that unlike what pertains in the Kenyan migrant labour administration, India has established an elaborate system in the administration of migrant labour market, an endeavor which if replicated in Kenya would rid the country of the disorganization leading to fatalities as has been witnessed especially in the Kenyan migrant workers in the Middle East. These initiatives include:-

1. India has established a Ministry in-charge of migrants which is a one-stop shop on all diaspora issues and this has led to efficiency and effectiveness in dealing with migration issues.
2. India has signed bi-lateral agreements with most of the Gulf States where their nationals are working and established Joint Working Groups to ensure implementation of the MoUs and find solutions to bilateral labour problems. As a country, Kenya has only signed one Labour Agreement with Qatar and the Joint Working Group has never met for implementation.
3. Unlike the Kenyan situation, India has established institutions for information facilitation and research. These institutions give recommendations based on research and studies conducted as per the requirements and directions of the

Ministry. They are also able to attract funding and partnerships from development partners.

4. Unlike India, Kenya does not have research institutions that would assist in informing policies on migrant issues.
5. The Indian missions abroad have contingency funds to deal with all needy cases unlike the Kenyan missions which hardly have the resources to effectively deal with migrant emergencies.
6. In Kenya, there is lack of clear provisions for mandatory travel clearance especially for the domestic and semi-skilled workers besides the normal attestation of contracts, despite the fact that these categories of workers are the most vulnerable to exploitation.
7. Unlike India, in Kenya, there is lack of integrated data system for labour migrants with database of emigrant, recruitment agent and employer.
8. India is a large country with a population of 28 million in the Diaspora but has few recruitment agencies while Kenya has more than 900 recruitment agencies.
9. There is an apparent lack of coordination of the various agencies dealing with migration issues in Kenya with roles overlapping and unclear reporting structures.

#### **1.4.2 Committee Recommendations**

The Committee recommends as follows:-

1. The Ministry of labour, Social Security and Services should fast track negotiations for Saudi Arabia and UAE where Kenya sends most of migrants and activate the Qatar Joint Working Group.
2. The Department of immigration should develop and implement mechanisms for mandatory travel clearance especially for the domestic and unskilled workers besides the normal attestation of contracts as these categories of workers are the most vulnerable to exploitation.
3. The Ministry of Foreign Affairs and International Trade in conjunction with the Ministry of Labour, Social Security and Services should deploy labour attaches to receiving countries especially in the Gulf region to deal with the various labour complaints and implement the MoU.
4. The Ministry of Labour, Social Security and Services should create linkages with research institutions like Kenya institute of Policy and Research Analysis (KIPRA)

and Universities that offer scholarships for research in migration issues to inform policy.

5. The Ministry of Labour, Social Security and Services should embark on development of an integrated data system for labour migrants with database of emigrant, recruitment agent, employer, next of kin and all relevant information for accountability and decision making.
6. The Ministry of Labour, Social Security and Services should thoroughly vet recruitment agencies and limit the numbers. It should also review regulations on the setting up of recruitment agencies and formulate a mechanism for vetting the agencies and the composition of the vetting committee should include relevant agencies dealing with migration issues.
7. The Ministry of Labour, Social Security and Services should embark on awareness creation on safe migration and set up toll free helpline for inquiries.
8. The Ministry of Labour, Social Security and Services should develop a comprehensive pre-departure training for all prospective migrants for them to be properly appraised on their rights and responsibilities before departure.
9. The Ministry of Labour, Social Security and Services in conjunction with the Treasury should establish a fund or create a levy that would facilitate provision of migrant services. The Fund should be set up in embassies with high number of distress cases especially in the Gulf region and should be adequate to allow the setting up of safe houses and other basic needs.

### **1.5 Acknowledgement**

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate.

I take this opportunity to thank all the members of the Committee for their patience, sacrifice, endurance and hard work which enabled us to complete the task within the stipulated period.

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Labour and Social Welfare, to present the report of the Committee on study visit to India on administration of foreign employment and management of labour migration to the House pursuant to the provisions of Standing Order 199.

Signed..........Date.....17/11/2015.....

Hon. John Serut, MP (Leader of the Delegation)

Departmental Committee on Labour and Social Welfare

## 2.0. Introduction

India is one of the pioneers in recognizing the importance of its overseas population and establishing an institutional framework for a sustainable and mutually beneficial engagement with its Diaspora. The experience gained from bilateral and multilateral engagement with the Diaspora over the years, and with migration related institutions has helped develop appropriate and well-calibrated institutional responses both for Diaspora engagement and migration management.

According to the international Organization of Migration's World Migration Report 2013, India is among the top four migrant sending and receiving countries after the United States, the Russian federation and Ukraine. In 2014, international migrants from India residing in the UAE were 2,001,586 and that in Saudi Arabia were 2,801,410.

A wide range of considerations shape the public discourse on international migration: the growing mobility of labour in a globalizing economy, emerging population and demographic dynamics, integration as well as enhanced security concerns. It's difficult to envision a world progressively integrating with the flow of capital, goods and services and movement of people. The question is no longer whether to allow migration, but rather how to manage migration effectively to enhance its positive aspects. The challenge is to maximize the benefits from migration and transform it into a win-all process for the countries of origin, destination and migrant themselves, yet, realities, such as internal concern and economic downturns, the barriers to the movement of people, also crop up.



In India, the migratory flows of both the skilled and unskilled have undergone changes due to the pervasive economic restructuring under globalization that creates opportunities as well as challenges. In the case of unskilled migrants, the policy responses from public administration both in the countries of origin and destination, towards safe and adequate legal protection to the migrants, continue to maintain its salience. At the same time, limiting the scope of irregular migration primarily by ensuring transparent systems and regulation for the transnational movement of people continues.

## 2.1 Terms of Reference

1. Consider the existing framework for the management and regulation of recruitment agencies and assess its effectiveness in protecting Kenyans recruited to work outside the country.
2. Analyze the possible reasons and underlying factors for the increase in migration of Kenyan workers to the Middle East and the Gulf Region, the causes and extent of the increasing number of reported cases of mistreatment of Kenyan workers and unfair labour practices in the Middle East and the Gulf Region.
3. Assess labour needs and mobility in the Diaspora.
4. Understand the challenges faced by the Kenyan migrant workers.
5. Learn good practices in foreign employment administration and labour migration management.
6. Recommend considerations to be taken into account in vetting and accreditation of recruitment agencies.
7. Recommend measures for effective co-ordination and regulation of recruitment agencies.
8. Review the existing framework and recommend how it can be strengthened to ensure effective protection of Kenyans working outside the country.

### 3.0 Meeting with the Ministry of Overseas Indian Affairs

The Delegation met Mr. T. K. Monoj Kumar and Ms. Vani Rao, Joint Secretaries Ministry of Overseas Indian Affairs who informed the Committee that India had an estimated overseas population of 28 million spread over 64 countries, the second largest in the world after China and receives the highest amount of remittances estimated at 71 billion in a year, remittances were mostly sent by the low skilled workers in the Gulf region. Recognizing the importance of its overseas population, an independent Ministry was created with the objective of establishing an institutional framework for a sustainable and mutually beneficial engagement with its Diaspora. The Ministry of Overseas Indian Affairs (MOIA) was therefore established in 2004 as a one-stop shop to address all migration issues. Some of its mandates were transferred from the Ministry of Labour and Ministry of External Affairs which include the following:-

- All matters relating to Overseas Indians comprising Persons of Indian Origin (PIO) and Non Resident Indian (NRIs).
- All emigration under the Emigration Act, 1983 from India to overseas countries and the return of emigrants.
- Setting up and administration of Centers for Overseas Indian Affairs in countries having major concentration of Overseas Indians.
- Collection and dissemination of information concerning admission of PIO/NRI students to various educational institutions.
- Scholarship to PIOs and NRIs.
- Policy regarding employment assistance to PIO/NRI.

#### A) Programmes and Activities

The Committee was informed that the Ministry of Overseas Indian Affairs has policies, programmes and schemes that seek to meet the varied expectations and needs of the diverse Overseas Indian community through the following:-

- Awareness campaigns on the risks of illegal migration
- E-governance in emigration
- India Centre for Migration
- Annual Diaspora meeting
- Know India Programme

- Scholarship Scheme for Diaspora Children
- Overseas Indian Facilitation Center
- Overseas Workers Resource Centers

## **B) Initiatives to Protect Migrant Workers**

The Committee was informed of several initiatives undertaken by the Ministry to protect the migrant worker include:-

### **I) Bilateral Memoranda of Understanding**

The Ministry has signed MoUs with all major destination countries to enlist the commitment of the host governments to ensure better protection and welfare of Indian emigrants. MoUs have been signed with most of the Gulf States namely; UAE, Kuwait and Bahrain and an agreement on labour co-operation for Domestic Service Workers with Saudi Arabia. MoU has also been signed with Malaysia.

### **II) Bi-lateral Social Security Agreements (SSA)**

The Ministry has signed Bi-lateral Social Security Agreements with most European countries namely; France, Belgium, Denmark, Norway, Switzerland, Australia, Hungary, Netherlands, Czech Republic, Sweden, Germany, Canada and Austria. The agreements are reciprocal and protect the interest of workers by exempting the posted worker from Social Security contribution under the host country legislation while the worker continues to pay at home. The agreement also provides for portability of pension in cases of those who contribute under the host country legislation. The government has also reached an agreement with South Korea.

### **III) Information Dissemination on Legal Migration**

The Overseas Workers Resource Centre (OWRC) provides information and assistance to intending emigrants, overseas workers as well as their family members relating to all aspects of overseas employment. The OWRC operates a 24/7 toll free helpline to provide need based information to emigrants and their families. Workers can also access helpline from anywhere in the world. Complaints received from the helpline are promptly acted upon and feedback provided to the complainant.

Helpline numbers are disseminated as part of the multimedia awareness campaign organized by the Ministry. The Ministry has also set up Migrant Resource Centre which performs similar functions as the OWRC.

#### **IV) E-Governance in Emigration (eMigrate) Project**

E-Migrate project intends to simplify migration process as well as curtail malpractices adopted by recruitment agents and employers. The project will provide a comprehensive and online database on emigrants, recruiting agents, foreign employers as well as fast track the process.

#### **V) India Community Welfare Fund**

The Fund is established in the embassies as a service charge levied by the Mission. The fund is used for contingencies such as legal assistance for the distressed, repatriation of the dead among others.

#### **VI) Indian Centre for Migration**

The Centre receives grants from the Ministry of Overseas Indian Affairs. It serves as a Think Tank to devise and execute strategies for promoting employment of Indians. Activities include conducting research on migration, awareness raising campaigns, legal review proposals and conducting studies on labour market potential opportunities for Indians among others.

#### **VII) Registration of Recruitment Agents**

All recruitment agencies are required to be registered as per registration requirements set out in law. They must be Indian and must obtain clearance from police. They are also supposed to hold a bachelor's degree or two year diploma and must pay registration fees.

#### **VIII) Other Protection Measures**

There is age restriction of 30 years in respect of all women emigrants. Other requirements include insurance for unskilled workers, attestation for unskilled workers, social security scheme for the unskilled and semi-skilled Overseas Indian workers, specific duties and responsibilities for agents and grievance handling procedure and legislative reforms.

#### **4.0 Committee Observations**

The Committee observed that unlike what pertains in the Kenyan migrant labour administration, India has established an elaborate system in the administration of migrant labour market, an endeavor, which when replicated in Kenya, would rid the country of the disorganization leading to fatalities as has been witnessed especially in the Kenyan migrant workers in the Middle East. These initiatives include:-

1. India has established a Ministry in-charge of migrants which is a one-stop shop on all diaspora issues and this has led to efficiency and effectiveness in dealing with migration issues.
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7. Unlike India, in Kenya, there is lack of integrated data system for labour migrants with databases of emigrant, recruitment agent or employer.
8. India is a large country with a population of 28 million in the Diaspora but has few recruitment agencies while Kenya has more than 900 recruitment agencies.
9. There is an apparent lack of coordination of the various agencies dealing with migration issues in Kenya with roles overlapping and unclear reporting structures.

## **5.0 Committee Recommendations**

The Committee recommends as follows:-

1. The Ministry of labour, Social Security and Services should fast track negotiations for Saudi Arabia and UAE where Kenya sends most of migrants and activate the Qatar Joint Working Group.

2. The Department of immigration should develop and implement mechanisms for mandatory travel clearance especially for the domestic and unskilled workers besides the normal attestation of contracts as these categories of workers are the most vulnerable to exploitation.
3. The Ministry of Foreign Affairs and International Trade in conjunction with the Ministry of Labour, Social Security and Services should deploy labour attaches to receiving countries especially in the Gulf region to deal with the various labour complaints and implement the MoU.
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9. The Ministry of Labour, Social Security and Services in conjunction with the Treasury should establish a fund or create a levy that would facilitate provision of migrant services. The Fund should be set up in embassies with high number of distress cases especially in the Gulf region and should be adequate to allow the setting up of safe houses and other basic needs.

ANNEX 1 – MINUTES

Minutes of the 46<sup>th</sup> Sitting of the Departmental Committee on Labour and Social Welfare held on Thursday 29<sup>th</sup> October, 2015 in Harambee Sacco Plaza, 9<sup>th</sup> Floor Boardroom at 10.30 a.m.

**Present**

1. Hon. David Were, MP- Chairperson
2. Hon. Tiyah Galgalo Ali, M.P. - Vice Chairperson
3. Hon. John Serut, MP
4. Hon. Samuel Gichigi, MP
5. Hon. Patrick Wangamati, MP
6. Hon. Elijah Mosomi Moindi, MP
7. Hon. James Onyango K'oyoo, MP
8. Hon. John Ndirangu Kariuki, MP
9. Hon. Kinoti Gatobu, MP
10. Hon. Winnie Karimi Njuguna, MP
11. Hon. Aisha Jumwa Karissa, MP
12. Hon. Janet Teyiaa, MP
13. Hon. Cornelly Serem, MP
14. Hon. Elijah Lagat, MP
15. Hon. Wesley Korir, MP
16. Hon. Mustafa Idd, MP
17. Hon. Janet Nangabo, MP
18. Hon. Mwanyoha Hassan Mohamed, MP
19. Hon. Jones Mlolwa, MP
20. Hon. Peris Tobiko, MP
21. Hon. Gladys Wanga, MP
22. Hon. Rose Museo Mumo, MP
23. Hon. John O. Kobado, MP
24. Hon. Abdinoor Mohamed Ali, MP

**Absent**

1. Hon. John Omondi Ogutu, MP
2. Hon. Dan Wanyama, MP
3. Hon. Regina Nyeris, MP
4. Hon. Silvance Onyango Osele, MP
5. Hon. Ferdinand Waititu, MP



In Attendance

National Assembly Secretariat

- |                               |                                    |
|-------------------------------|------------------------------------|
| 1. Mr. Erick Nyambati         | Third Clerk Assistant (Lead Clerk) |
| 2. Ms. Ella Kendi Mwenda      | Third Clerk Assistant              |
| 3. Mr. Abdirahman Gele Hassan | Third Clerk Assistant              |
| 4. Mr. Donald Manyala         | Research Officer                   |

Minute No.247/2015 Preliminaries

The meeting was called to order at 10.39 a.m. followed by a word of prayer from the Chairperson.

Minute No.248/2015 Confirmation of the minutes of the previous sitting  
Confirmation of the minutes of the previous sittings was deferred to the next sitting.

Minute No.249/2015 Consideration and adoption of reports on foreign trips

The Committee Members considered and unanimously adopted the following reports:

1. The Report on the study visit to Saudi Arabia on administration of foreign employment and management of labour migration.
2. The Report on the study visit to India on administration of foreign employment and management of labour migration.

Due to absence of the respective leaders of the delegation, the reports on the 15<sup>th</sup> World Athletics Championships held in Beijing, China and the development of inclusion and equity policies, held in Norway were deferred to the next meeting.


Minute No.250/2015 Any Other Business

The Committee resolved to invite;

- I. The Management of the National Social Security Fund to discuss the implementation of the NSSF Act No. 45 of 2013 on additional contributions to the pension.
- II. The Ministry of Devolution and Planning to apprise the members on implementation status of the specific items per programme on the 2014/2015 Financial Year and 2015/2016 First Quarter budget.
- III. The Ministry of Labour, Social Security and Services to apprise the members on the status of the Task Force Report on labour migration.

Minute No.251/2015 Adjournment

There being no other business to transact, the meeting was adjourned at 12.50 p.m.

Signature..........Date.....20-11-2015.....

Hon. David Were, MP – Chairperson  
Departmental Committee on Labour and Social Welfare

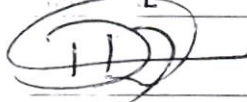
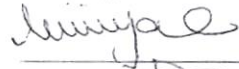
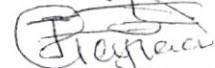
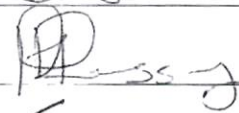




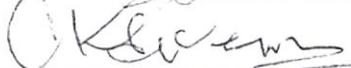
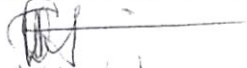
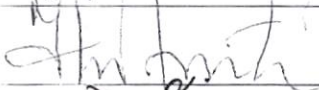

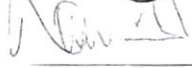

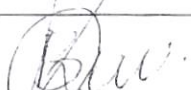
ANNEX 2 – ADOPTION LIST




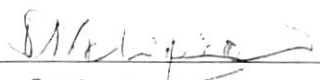
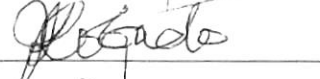






DEPARMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

Agenda: Consideration and adoption of Reports on form 100

Venue: Small Boardroom, 9<sup>th</sup> Floor, Harambee Sacco Plaza

Date: 29<sup>th</sup> October, 2015

NO.	NAME	SIGNATURE
1.	Hon David Were, MP-Chairperson	
2.	Hon. Tiyah Galgalo, MP-Vice Chairperson	
3.	Hon. Janet Teyiaa, MP	
4.	Hon. Peris Tobiko, MP	
5.	Hon. John Ndirangu Kariuki, MP	
6.	Hon. John Serut, MP	
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3.	Hon. Samuel Gichigi, Mp	
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12.	Hon. Patrick Wangamati, MP	
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6.	Hon. Wesley Korir ,MP	
7.	Hon. Kinoti Gatobu, MP	

18.	Hon. Elijah Mosomi Mwandia	
19.	Hon. James Onyango Ojiambo, MP	
20.	Hon. Omondi John Chelumu, MP	
21.	Hon. Rose Museo Mumbo, MP	
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23.	Hon. John Owuor Ombao, MP	
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25.	Hon. Mwanzyoha Hassan Mohamed, MP	
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27.	Hon. Silvanice Onyango Osele, MP	
28.	Hon. Aisha Jumwa Karissa, MP	
29.	Hon. Ferdinand Waititu, MP	

Erick Nyambati

For: Clerk of the National Assembly