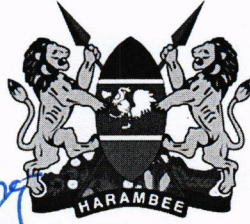


REPUBLIC OF KENYA

*Approved*

*Hon. Speaker*  
*Recommended for*  
*approval for tabling*



*[Signature]*  
*02/11/21*

*02/11/21*

THE SENATE

TWELFTH PARLIAMENT – FIFTH SESSION

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON LABOUR MIGRATION, SENATE STUDY VISIT TO THE MIDDLE  
EAST AND POLICY IMPLICATIONS



*Paper laid on*  
*2/11/21*  
*by Chair - Labour*  
*W. Kijibon*

Clerk's Chambers,  
The Senate,  
Parliament Buildings,  
NAIROBI

OCTOBER, 2021

## TABLE OF CONTENTS

APPENDICES .....	3
ABBREVIATION AND ACROYONMS.....	4
PREFACE .....	5
CHAPTER ONE: BACKGROUND.....	10
1.1 Labour Migration: Highlights of Migrant Issues .....	10
1.2 Labour Migration: Scope of the Report.....	11
CHAPTER TWO: INTRODUCTION .....	12
2.1 Unpacking Labour Migration: Broad Perspective.....	12
2.2 Unpacking Labour Migration: National Trends and Contributions to GDP.....	12
CHAPTER THREE: DELEGATION PROCEEDINGS: STUDY VISIT AND COMMITTEE ENGAGEMENT WITH STAKEHOLDERS IN LABOUR MIGRATION.....	14
3.1 Delegation Proceedings during the Study Visit to the Kingdom of Saudi Arabia .....	14
3.1.1 <i>Brief Background of the Kingdom of Saudi Arabia</i> .....	14
3.1.2 <i>Brief Background of the Dubai</i> .....	14
3.2 Courtesy Call at the Embassy of Kenya, Riyadh .....	15
3.3 Meeting with the Council of Mega Recruitment Companies.....	15
3.4 Meeting with the Maharah Human Resources Company. ....	17
3.5 Delegation Visit to Rahat Alosra Recruitment Company and Call Centre.....	17
3.6 Visit to Al Mawarid Manpower Solutions Company .....	17
3.7 Meeting with the Ministry of Labour Officials, Kingdom of Saudi Arabia .....	18
3.8 Delegation Visit to United Arab Emirates (Dubai) .....	19
3.8.1 Courtesy call at the Kenya Consulate in Dubai .....	19
CHAPTER 4: COMMITTEE INQUIRY ON LABOUR MIGRATION .....	21
4.1 Meeting with the Ministry of Labour and Social Protection, National Employment Authority and Recruitment Agencies (8 <sup>th</sup> July, 2021) .....	21
4.1.1 Presentation by Association of Skilled Migrant Agencies of Kenya (ASMAK) .....	22
4.1.2 Presentation by Kenya Association Private Employment Agencies (KAPEA) .....	23
4.1.3 Presentation by Kenya Association Private Employment Agencies (KAPEA) .....	23
4.2 Meeting with the Ministry of Labour and Social Protection, Ministry of Foreign Affairs, Ministry of Interior – State Department of Immigration, the National Employment Authority and Recruitment Agencies (19 <sup>th</sup> July, 2021) .....	24
4.2.1 Presentation by the Ministry of Labour and Social Protection .....	24
CHAPTER FIVE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS .....	27
5.1 Committee Observations.....	27
5.2 Committee Recommendations.....	28

## **APPENDICES**

1. Program of Senate's Study visit to the Middle East
2. Report on the Status of Kenyans in the Diaspora following the outbreak of COVID19 by the Ministry of Foreign Affairs
3. Presentation by the Kenya Association of Private Employment Agencies
4. Presentation by the Association of Skilled Migrants of Kenya
5. Minutes of the Committee on the Enquiry

## **ABBREVIATION AND ACROYONMS**

KSA - Kingdom of Saudi Arabia

UAE - United Arab Emirates

BLAs - Bilateral Labour Agreements

MFA - Ministry of Foreign Affairs

ASMAK - Association of Skilled Migrant Agencies of Kenya

KAPEA - Kenya Association of Private Employment Agencies

NEA - National Employment Authority

SA - South Africa

TVET - Technical and Vocational Education and Training

## PREFACE

### Mr. Speaker, Sir

The Standing Committee on Labour and Social Welfare was constituted in December, 2017 during the first session of the twelfth (12<sup>th</sup>) Parliament pursuant to the provisions of Senate Standing Order 187. The Committee is mandated to consider all matters related to: *manpower and human resources planning, pension, gender, culture and social welfare, youth, National Youth Service, children's welfare; national heritage, betting, lotteries and sports, public entertainment, public amenities and recreation.* In executing its mandate, the Committee oversees the Ministry of Labour and Social Protection; the Ministry of Public Service, Youth and Gender Affairs; and the Ministry of Sports Culture and the Arts. The membership of the Committee includes:

- 1) Sen. Sakaja Johnson Arthur, CBS, MP -Chairperson
- 2) Sen. Mwaruma Johnes, MP -Vice Chairperson
- 3) Sen. Madzayo Stewart Mwachiru, MP -Member
- 4) Sen. Mwangi Paul Githiomi, MP -Member
- 5) Sen. Kihika Susan Wakarura, MP -Member
- 6) Sen. Makori Beatrice Kwamboka, MP -Member
- 7) Sen. (Dr.) Mwaura Isaac, CBS, MP -Member
- 8) Sen. (Dr.) Milgo Alice Chepkorir, MP -Member
- 9) Sen. Masitsa Naomi Shiyonga, MP -Member

### Mr. Speaker, Sir

Global labour migration is an old phenomenon and a key contributor to the increasing global labor market. Kenyan migrant workers, both skilled and unskilled continue to transcend borders in search of better opportunities around the world. Youth unemployment is one of the drivers to the increasing numbers of Kenyans seeking employment in other major cities.

The Kingdom of Saudi Arabia (KSA), Qatar and United Arab Emirates (UAE) are documented as key labour destinations for Kenya's semi and unskilled migrant workers. According to reports by the Ministry of Labour, at least 80,000 Kenyan live and work in the KSA with majority serving as domestic workers. While labour migration is viewed positively given its contribution to development through skills transfer and remittances, there is an urgent need to streamline processes and governance to guarantee, secure and protect the constitutional rights and wellbeing of all Kenyans.

It is needless to say that in the last three years, with the rising numbers of Kenyans leaving the country for domestic jobs in the Middle East, there has been a corresponding increase in distress calls by those alleging torture and mistreatment by their employers. For instance, as at 2021 the Ministry of Labour reported that at least some ninety-three (93) Kenyans died in the Middle East, attributing the death to diseases, accidents and suicides. Further, as representatives of the people, parliamentarians continue to encounter and receive distress calls, appeals from constituents for

assistance in repatriating relatives and friends back home. Indeed, media reports both mainstream and social media is awash with these headlines of Kenya's domestic migrant workers experiencing difficult working conditions in the course of their work.

**Mr. Speaker, Sir**

It is, therefore, against the foregoing background, that the Committee in undertaking its oversight and legislative roles in the case of labour migration issues was part of the Kenyan delegation alongside the Ministry of Labour for a visit to the Gulf region. The study visit took place between 10<sup>th</sup> and 20<sup>th</sup> April 2021. The goal of the visit was to review the Bilateral Labour Agreements (BLAs) for domestic workers and to establish firsthand the goings on in key migrant destinations. The target countries were the strategic labour destinations like the Kingdom of Saudi Arabia, Qatar, Abu Dhabi and Dubai. However, due to travel restrictions associated with the Covid 19 pandemic the delegations' focus was KSA and Dubai.

The delegation was a joint committee comprising of members of the Standing Committee on Education and the Standing Committee on Labour Social Welfare. Its membership was as follows:-

1. Sen. Sakaja Johnson Arthur, CBS - Chairperson, Standing Committee on Labour and Social Welfare
2. Sen. Mwaruma Johnes - Vice Chairperson, Standing Committee on Labour and Social Welfare
3. Sen.(Dr.) Milgo Alice Chepkorir - Member, Standing Committee on Labour and Social Welfare and Chairperson, Standing Committee on Education
4. Sen. (Dr.) Agnes Zani - Vice Chairperson, Standing Committee on Education
5. Sen. Mwangi Paul Githiomi - Member, Standing Committee on Labour and Social Welfare/
6. Sen. Kihika Susan Wakarura - Member, Standing Committee on Labour and Social Welfare/ Member of the Sanding Committee on Education
7. Sen. Makori Beatrice Kwamboka - Member, Standing Committee on Labour and Social Welfare
8. Sen. Masitsa Naomi Shiyonga - Member, Standing Committee on Labour and Social Welfare

In view of the fact that the issues of labour migration are within the purview of the Committee, further, considering the numerous complains, incidents and claims linked to unskilled migration to the Arab countries and aware of the economic contribution of labour migration to the economy, the Committee upon its return, resolved to escalate the investigations. Specifically, the Committee sought to –

- (a) Review existing opportunities and assess obstacles for improved processes and labour migration governance; and
- (b) Provide practical policy, legislative and/ or administrative solutions to these processes.

**Mr. Speaker, Sir**

In engaging with the stakeholders, the Committee held sessions with the following government ministries and agencies on various dates as a follow up to the emerging issues from the visit.

- (a) Ministry of Labour and Social Protection (*currently the Ministry of Labour*);
- (b) Ministry of Foreign Affairs (MFA);
- (c) Ministry of interior and National Co-ordination of Government (State Department of Immigration);
- (d) National Employment Authority;
- (e) Recruitment agencies;
- (f) Association of Skilled Migrant Agencies of Kenya (ASMAK); and
- (g) Kenya Association of Private Employment Agencies (KAPEA)

**Mr. Speaker, Sir**

The Committee made the following observations -

1. The country lacks a comprehensive policy and legal framework useful to guide, govern and create stability in the migration processes and therefore Labour migration to key labour destination in the Middle East has been ongoing in the absence of formal agreement or memorandum of understanding (MoUs).
2. With the growing numbers of migrants to the Middle East, as a matter of priority, there is need to streamline key prerequisite processes for effective governance. For example, recruitment processes and recruitment agencies, pre-departure training, migrants legal identification and registration, screening, assessments and referrals; and enhancement and formalization of linkages between our respective Ministries and the destination's government ministries.
4. Migrant workers lack formal mechanisms including requisite consular assistance useful for self-improvement, wellbeing and protecting their rights.
5. While the Committee acknowledged the Ministry's commitment in implementing some specific activities between earmarked for August 2021 to June 2022 and whose objective is to enhance the labour migration processes and governance, the Committee is concerned about the deteriorating conditions of migrant workers in the KSA. The Committee opines that the processes likely to protect life and the welfare and migrants supersedes all others and therefore must be prioritized.

**Mr. Speaker Sir,**

In view of the above, the Committee therefore recommends that –

**ALL** Labour Migration of domestic workers from Kenya to the Kingdom of Saudi Arabia be **immediately suspended** until the Executive demonstrates that the following basic minimums have been put in place -

- (a) The establishment of the status of all Kenyans currently in Malaz Prison in Riyadh, Tarhil deportation Centre in Riyadh, and all/any other prisons and deportation centers within the Kingdom of Saudi Arabia with the aim of repatriating them back into the country;
- (b) The establishment of the current status of all domestic workers in the Kingdom of Saudi Arabia, their contacts and places of work and set up a database and lines of communication between them and the Labour offices at the embassy;
- (c) The return to Kenya of **all** current and former domestic workers who are currently in distress and stuck in the Kingdom of Saudi Arabia;
- (d) The investigation and submission of a report to The Senate of the cases Kenyan migrant workers whose deaths have occurred in Saudi Arabia. This report must among other things demonstrate the linkages between the Labour Attaches and the recruitment agencies in handling of distress calls and other complaints by migrant workers;
- (e) The establishment of fully fledged labour offices and **safe houses** in Jeddah and Riyadh in Saudi Arabia accessible to any Kenyan in distress;
- (f) Formal re-recognition of the welfare associations of Kenyans in Saudi Arabia e.g. The Kenyan Jaaliat Group (KJSA) with the aim of liaising with them in responding to distress calls by Kenyans;
- (g) Fresh vetting and registration of **ALL** the local recruitment agencies with the vetting standards to be determined by the Ministry of Labour through the National Employment Authority. To this end, no entity will be allowed to recruit Kenya migrant workers unless the entity is registered and regulated in Kenya; and
- (h) Review of the regulations of private employment agencies including the determination of a minimum deposit to ensure swift repatriation of any domestic worker in distress.

**Honorable Speaker Sir,**

The Committee has also made some general recommendations on matters Labour migration which include fast tracking of pre-departure processes which include documentation like identity cards and passports; medical checkups and pre-departure training.

Other recommendations include the reviewing of BLAs with existing countries and finalization of BLAs especially on skilled migrant workers with prospective countries.

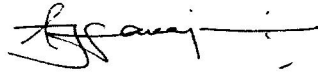
**ACKNOWLEDGEMENT**

**Mr. Speaker Sir,**

The Senate delegation to the Middle East acknowledges the support and assistance from the Offices of the Speaker and the Clerk of the Senate in facilitating the Committee's to participate in the activity. The Committee wishes to acknowledge the time and considerable effort made by all parties. The Committee also wishes to recognize the Members for their full participation on the matter and their contributions. The recommendations will go a long way in protecting the rights of migrant workers while at the same time place Kenya at the highest pedestal both as a source of labour in a fast growing global world.

**Mr. Speaker Sir,**

It is now my pleasant duty, pursuant to Standing Order 213 (6) to table the report of the Standing Committees of Labour and Social Welfare on the inquiry into Labour migration issues and possible ramifications; Senate Delegation's study visit to the Middle East.



**SIGNATURE.....**

**(CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS)  
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE**

**DATE: Thursday, 28<sup>th</sup> October, 2021.**

## CHAPTER ONE: BACKGROUND

### 1.1 Labour Migration: Highlights of Migrant Issues

Global labour migration is not a new phenomenon but remains a key contributor to the increasing global labor market. Needless to say, Kenyan migrant workers, both skilled and unskilled transcend borders in search of better opportunities. This is attributed to increased human mobility, rapid globalization and open borders, technological advancement and demographic challenges. In particular, youth unemployment which stands at 34.27 percent<sup>1</sup> is key driver to the increasing number of Kenyans seeking employment in other major cities.

The Middle East, and in particular the Kingdom of Saudi Arabia (KSA), Qatar and Dubai remain the key labour destinations for Kenya's semi and unskilled migrant workers. While labour migration is viewed positively given its contribution to socio-economic wellbeing of families while enabling the transfer of technology and skills, its downside remains a policy issue. Globally, low skilled migrant workers remain vulnerable to abuse, receive inadequate wages, experience poor working conditions and are occasionally discriminated against.

For the case of Kenya, reports by the Ministry of Labour show that the Middle East, being Kenya's largest labour market for domestic workers boasts of at least 80,000 living and working in the KSA. It is also reported that with the increase in numbers of Kenyans exiting the country for domestic assignments in the Middle East, there has been a corresponding increase in distress calls by those alleging torture and mistreatment by their employers. As such, such positions paint a grim picture of the real socio-economic benefits of such arrangements and their sustainability.

This explains the September 2014, attempt to address the challenges facing migrant domestic workers, through the government's ban on the export of labour and a further set up a task force to review the management of foreign employment. However, lifting of the ban in 2016 and five years later in to continued activities, incidents of families calling on the government for assistance on behalf of their distressed relatives in the Gulf States continue unabated.

On the same breadth, the Ministry of Labour while appearing before a parliamentary before a Committee in the National Assembly, investigating the issue early in the year, reported that some ninety-three (93) Kenyans have died in the Middle East between 2019 and 2021. According to the Ministry, most of deaths were linked to cardiac arrest, Covid-19, cancer, childbirth, respiratory complication, tuberculosis and meningitis. Other causes include accidents and suicide.

While the Ministry did not provide a detailed breakdown on the deaths of the Kenyans, reports show that majority of the death occurred in KSA, Qatar and the UAE.

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<sup>1</sup> Kenya National Bureaus of Statistics. Economic Survey 2021.

## **1.2 Labour Migration: Scope of the Report**

It is against the foregoing backdrop that the Committee, in undertaking its oversight and legislative role with respect to labour issues was part of the Kenyan delegation alongside the Ministry of Labour to the gulf region. The goal of the visit was to review the BLAs for domestic workers. The visit targeted strategic migrant destination of the KSA, Qatar, Abu Dhabi and Dubai but was subsequently skewed to KSA and UAE (Dubai). Further, in view of the fact that the issues are within the purview of the Committee and considering the numerous complains, incidents and claims linked to unskilled migration to the Arab countries, its economic contribution notwithstanding, the Committee resolved to escalate the investigations. In that regard, the Committee sought to:-

- (a) Review existing opportunities and assess obstacles for improved processes and labour migration governance and
- (c) Provide practical policy, legislative and/ or administrative solutions to these processes.

## CHAPTER TWO: INTRODUCTION

### 2.1 Unpacking Labour Migration: Broad Perspective

According to the Ministry of Labour, Kenyans migrate to different parts of the World, including Europe, United States of America (USA), Asia, and Latin America. Others destinations include Canada, Australia, Middle East and Gulf region and selected countries in Africa such as Uganda, Tanzania, South Sudan, Rwanda, Botswana, Lesotho and South Africa. However, the Arab States are emerging as key labour destinations.

This is particularly for semi an unskilled Kenyans in sectors such as construction and hospitality or domestic workers. According to the Population Division of the United Nations Department of Economic Affairs (UNDESA), there were 35 million international migrants in the Gulf Cooperation Council (GCC) countries, and Jordan and Lebanon in 2019, 31 per cent of whom were women.

The International Labour Organization (ILO) also estimates that in 2017, the Arab States hosted 23 million migrant workers, with 9 million (39 per cent) being women. Further, that majority of these workers immigrate from Asia, Africa, especially Egypt, and increasingly from East Africa, that is Ethiopia, Kenya, and Uganda<sup>2</sup>.

### 2.2 Unpacking Labour Migration: National Trends and Contributions to GDP

High-skilled Kenyans migrate to western countries and in some cases within neighbouring African countries in search of higher education or to advance their skills<sup>3</sup>. The push factors that include unemployment, desire for better working conditions among others contribute to the increasing numbers of migrant workers pursuing opportunities in other countries.

Available data shows that as at 2010, United Kingdom (UK) was leading as the top destination for Kenyan migrants at 152,999. However, with increasing immigration restrictions including but not limited to visa requirements associated with the West, many Kenyan migrants mostly semi and unskilled are opting for the Gulf countries<sup>4</sup>. Official figures of the number of Kenyan migrants to the Gulf region remains scanty, inaccurate and inconsistent<sup>5</sup>.

However, the Kenyan government estimated that at least 100,000 Kenyan migrants are currently living and working in the Gulf region while other experts indicate at least 80,000 are living and working in the KSA alone<sup>6</sup>. Reports also show that UAE, Qatar, Kuwait, Oman, and Bahrain and most recently Lebanon, Iraq, and Jordan remain key destinations in the Gulf States. Interestingly, the broad nature of these preferred destinations has resulted in significant governance challenges

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<sup>2</sup> <https://www.ilo.org/beirut/areasofwork/labour-migration/lang--en/index.htm>

<sup>3</sup> Migration Policy Institute. 2015. The Kenyan Diaspora in the United States at [www.migrationpolicy.org/sites/default/files/publications/RAD-KenyaII.pdf](http://www.migrationpolicy.org/sites/default/files/publications/RAD-KenyaII.pdf) retrieved on 11th Oct 2021

<sup>4</sup> Flahaux, Marie-Laurence and De Haas, Hein. 2016. "African migration: trends, patterns, drivers." Comparative Migration Studies.

<sup>5</sup> Shah 2008; Naufal and Genc 2014

<sup>6</sup> Ibid.

hence exposing the workers to extreme levels of vulnerability. This situation continues to raise grave concerns following growing labour abuses and violations faced by these workers in the Gulf region.

The foregoing notwithstanding, remittances from the Kenyans living in the diaspora, including those from labour migrants have played a vital role in the country's socioeconomic development. For instance, in 2015 the Central Bank of Kenya (CBK) reported that diaspora remittances amounted to 1.55 billion US dollars (*excluding unofficial remittances*), representing 3 percent of the country's gross domestic product.

Further, that the Gulf States and other countries contribute 18.2 percent, at position three after North America at 50 percent share<sup>7</sup>. Recent data between January and June 2021 shows that remittance from the KSA are at third place after United States and United Kingdom<sup>8</sup>. Given the current trend, and the government's efforts to formalise and sign BLAs with KSA early in the year, it is expected that remittance flows from the gulf countries will increase in the short term.

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<sup>7</sup> Central Bank of Kenya. 2016. "Diaspora Remittances." Retrieved date: 29 May 2016. <https://www.centralbank.go.ke/index.php/diaspora-remittances>

<sup>8</sup> Central Bank of Kenya, 2021

## **CHAPTER THREE: DELEGATION PROCEEDINGS: STUDY VISIT AND COMMITTEE ENGAGEMENT WITH STAKEHOLDERS IN LABOUR MIGRATION**

The delegation to KSA and Dubai comprised of the members of the Standing Committee on Education and the Committee on Labor and Social Welfare. The delegation held meetings with several stakeholders in the labour sector in KSA and the UAE. The Members also held meetings with Kenyans working in Dubai for additional consultations. At the end of the visit, members resolved to organize sessions with recruitment agencies in Kenya so as to deliberate on findings and possible solutions towards enhancement of labour migration processes.

### **3.1 Delegation Proceedings during the Study Visit to the Kingdom of Saudi Arabia**

#### ***3.1.1 Brief Background of the Kingdom of Saudi Arabia***

The Kingdom of Saudi Arabia is the largest Arab country of the Middle East. It is bordered by Jordan and Iraq on the north and northeast, Kuwait, Qatar, Bahrain and the United Arab Emirates on the east, Oman on the southeast, and Yemen on the south. Being a monarchy, the Kingdom of Saudi Arabia is headed by King Salman bin Abdulaziz Al Saud succeeded to the throne on 23 January 2015, following the death of his brother, the late King Abdullah bin Abdulaziz Al Saud. Its population as at 2019 is estimated to be at 34.14 million with Riyadh as the largest city with a population of 4.21 million. Jeddah, the commercial capital of Saudi Arabia is second largest boasting of a port along the Red Sea.

In terms of demographics, 2017-2018 data reveals that more than 30 percent of the Kingdoms population comprises of expatriates with the total number of non-Saudis estimated at 10.73million. The Kingdom of Saudi Arabia has an oil-based economy with strong government controls over major economic activities and ranks as the largest exporter of petroleum in Oil Producing and Exporting Countries (OPEC). As such the petroleum sector accounts for roughly 87 percent of budget revenues, 42 percent of GDP, and 90 percent of export earnings.

Arabic is the official language of Saudi Arabia and the primary language used in all dealings and public transactions. English serves as an informal second language in the Kingdom and is spoken by a large section of its society. Saudi Arabia's rich heritage and traditions have been shaped by its position as a historic trade hub and the birthplace of Islam. Indeed, Saudis learn about at an early age from their families and in schools. The highlights of the year are the holy month of Ramadan and the Hajj (pilgrimage) season, and the national holidays that follow them.

#### ***3.1.2 Brief Background of the Dubai***

Dubai, is one of the seven Emirates that make up the United Arab Emirates (UAE), a cosmopolitan and innovative city and the second largest of the Emirates after Abu Dhabi. It covers approximately 4110 square kilometers. Dubai's population is 3.33 million as at September 2019 with three quarters of the population being male. The city of Dubai is a multicultural with 5 only percent of local Emiratis and the remaining 95 percent comprising of expatriates from around the world. The main driver of economic diversity in the UAE is tourism, logistics, manufacturing and services sectors which provide opportunities for growth beyond oil and gas and upon which

labour migration is a major beneficiary. In this regard, economic development programs including migration for the Emirate have been designed to leverage its strategic location between Europe and Asia, and the airline Emirates has played a significant role in bringing foreigners to Dubai, which accounts for two-thirds of tourist arrivals in the country.

### **3.2 Courtesy Call at the Embassy of Kenya, Riyadh**

1. The Delegation paid a courtesy call at the Kenyan embassy in Riyadh, Kingdom of Saudi Arabia on Sunday, 11<sup>th</sup> April, 2021. The Committee was received by the following Kenya officials; H.E Amb. Peter N.R.O. Ogego, Head of Mission; Amb. Lawrence Waweru, Deputy Head of Mission; Mr. Robinson Juma Twanga, Labour Attaché; Mr. Justus Muli, Foreign Relations Officer; Mr. Hussein Mohammed, Political Attaché; Mr. John Kirwa, Embassy official; Ms. Sasha Ochole, Administrative Attaché and Ms. Hawa Ibrahim, Immigration attaché.
2. In his remarks H.E. the Ambassador, Mr. Peter Ogego welcomed the delegation to Saudi Arabia (SA) and introduced the delegation to the strategic, economic and political interests that the embassy serves taking into consideration that the Kingdom of Saudi Arabia is the biggest labour market for Kenya. He indicated that Kenya is granted scholarships for Islamic studies with possibilities in other disciplines being explored as there exists a pending Memorandum of Understanding (MoU) between KSA and the Ministry of Education. In terms of recruitment, the delegation heard that agents are responsible for migrant workers and as such government agencies such as National Employment Authority (NEA), National Intelligence Services (NIS), and the Ministry of Labour complement at a secondary level.
3. The delegation was also informed that-
  - (a) Contracts are provided for a duration of two years for domestic workers before illegibility for extension, termination or renewal;
  - (b) Complaints ought to be handled by the agents both in Kenya and SA prior to its escalation to government agencies;
  - (c) The process of repatriation involves issuance of exit visa following an authority from their employers and/or agents;
  - (d) An *Iqama* resident permit is a requirement for every immigrant in Saudi Arabia and one cannot access any private or government service without it;
  - (e) Kenyans immigrating to SA while expectant or having conceived while in the country Saudi continue to face challenges;
4. The delegation observed the need for a comparative study on migration laws with best practices from India, Philippines and Pakistan. In that regard, the team resolved to develop legislative interventions aimed at institutionalizing and structuring labour export, regulating the process for improved livelihoods.

### **3.3 Meeting with the Council of Mega Recruitment Companies**

The delegation held a meeting with the Council of Mega Recruitment Companies on Sunday, 11<sup>th</sup> April, 2021 at the Crowne Plaza *Riyadh Al Waha*. The meeting was attended by at least 19 representatives of the Council. The following are key highlights of the issues that emerged during the meeting -

1. In as much as at least 80,000 Kenyans work in Saudi Arabia, the numbers of Pakistanis and Indians total up to 600,000 and 2 million respectively, hence the need to shift policy for the case of Kenya from importation of unskilled migrants to skilled for instance nurses, teachers, construction workers and medical personnel;
2. Kenya needs to streamline its agency system as majority of domestic workers and processed through rogue agents.
3. The Mega Recruitment companies provide the following services -
  - (a) complete the regulatory procedures required for obtaining the residence permits of foreign workers;
  - (b) assume and bear the responsibility for the foreign workers while in the Kingdom;
  - (c) orients and train workers on Saudi Arabian rules and regulations;
  - (d) guarantee foreign workers' entire financial benefits and rights until their return to their countries of origin;
  - (e) guarantee workers' access and contact to their families and deploying agencies;
  - (f) deploys workers in accordance with their contracts duly attested by the Saudi Ministry of Labour to protect the rights of the workers, employers, and recruitment agencies; and
  - (g) provide workers with accommodation until they are fetched by their employers.
4. The government of KSA has integrated and leveraged on the Information, Communications and Technology (ICT) to capture data and information about all labourers including their contract details, hence the information is made available and accessible to government agencies.
5. In terms insurance of migrants, they are provided with a medical insurance on arrival which caters for workman's injury cover amongst others hazards. Additional training for instance basic etiquette and orientation is offered with the company obligated to offset funeral related expenses of any deceased migrant worker.
6. To facilitate communication, a mobile phone is registered with relevant government agencies.
7. As regards the ongoing Covid19 pandemic, KSA has introduced labour reforms geared towards easing restrictions and to further allow some migrant workers to change jobs/ job stations without employer consent under specific circumstances.
8. They requested that Kenya addresses the following -
  - (a) Government of Kenya to enforce compliance in terms of agreed to requirements, capital base, administer regular audits by agencies;
  - (b) Agencies to operate professionally especially as regards conflict resolution;
  - (c) Streamline and enhance pre-departure training needs as per set curriculum;
  - (d) Address timelines in passport processing, certificate of good conduct, medical tests as delays continue to impact the industry;
  - (e) Increase accredited medical centers to hasten medical check processes;
  - (f) Formalize linkages between Ministry of Foreign Affairs and Ministry of Labour, for instance the *MUSANNED* System; and
  - (g) Address critical setbacks in Technical and Vocational Education and Training (TVET).

### **3.4 Meeting with the Maharah Human Resources Company.**

The delegation held a meeting with the *Maharah* human resources company on 13<sup>th</sup> April, 2021 at their offices in Riyadh where the Director, International Relations & Recruitment – Mr. Feisal AbdulAziz AlKatheh shared his thoughts on the issue. The following are key highlights of the proceedings –

1. *Maharah* is a public listed company with a public model whose main objective is to operate as a recruitment mediator, and provider of domestic services and labour force to the public and private sectors. The company goal is to provide the labour market with workers across various professions. As such the company focuses on offering creative and innovative solutions to human resource departments in different sectors and companies;
2. South Africa, Egypt and Tunisia are the only countries with an accreditation process for nurses;
3. The Kingdom of Saudi Arabia is in the process of becoming an incubator of talent and hence countries ought to take advantage of the opportunity through streamlining of labour migration processes in respective countries; and
4. The sector continues to face challenges particularly in dealing with recruitment agencies in Kenya, for instance in terms of payments hence the need to push for reputable recruitment agencies. Further, medical checks are ineffective with rampant cases of persons with mental challenges and expectant women finding themselves in KSA for work.

### **3.5 Delegation Visit to Rahat Alosra Recruitment Company and Call Centre**

The delegation visited the *Rahat Alosra* recruitment company on 13<sup>th</sup> April, 2021 to acquaint itself with its operations and further toured its call center. The delegation noted as follow: –

1. The recruitment company provides SIM cards, ensures that all migrant workers operate a bank account, insurance cover and organises for contact with families upon arrival;
2. The company undertakes simple training programmes to share expectations, including manual for references and contracts between employer and labourers are subsequently approved by the Ministry of Labour. Further, agents ensure that salaries are received, and facilitate remittances.
3. That remuneration is fixed and determined by experience.
4. The call centre assists between 10 percent and 15 percent of the migrant workers seeking information with the supervisor acting as a bridge between the employer and employees.
5. To address language and communication barriers, there are possibilities of these centers to employ migrant workers, for instance the call center team consisted of two former migrant workers from Kenya.

### **3.6 Visit to Al Mawarid Manpower Solutions Company**

The Delegation visited *Al Mawarid* Manpower Solutions Company on 13<sup>th</sup> April, 2021. The delegation noted as follows –

1. *Al Mawarid* Company provides services related to domestic employment, employment in the private and public sectors and support services with specialities in workforce services for

homes, such as private drivers, female domestic workers, house cooks, home farmers, nannies. Others are home expeditors, house tea boys, physical therapists, home nurses, home managers, and home tailors among many; and

2. The Company has institutionalised management policies to ensure a competitive and stimulating work environment. These include, supporting the occupational role of the employees, providing a stable career path, undertaking employee opinion surveys to measure their occupational satisfaction, evaluating employees' performance, rewarding accomplished professions with moral and financial support. Others include introducing policies to encourage employees, periodical review of wages, encourage positive communication among employees through periodic meetings and application of international occupational safety and health standards within the work environment.

### **3.7 Meeting with the Ministry of Labour Officials, Kingdom of Saudi Arabia**

The Delegation had a session with the Assistant Deputy Minister, Ministry of Labour of the Kingdom of Saudi Arabia. H.E Amb. Peter Ogego, the Kenyan Ambassador to Saudi Arabia was also present in the meeting. The delegation heard that -

1. Saudi Arabia is an important frontier in job creation with a well-established *MUSANNED* system hence the need for Kenya to learn from such labour practices in terms of management of skills, possible regulations and legislations key to facilitating the sector among others;
2. The *MUSANED*, currently launched in eleven countries, is an opportunity to support people and is meant to improve the recruitment process, provide linkages to local and international recruitment agencies
3. The *MUSANED* framework consists of automated visa procedures, education and training, complaint system and an update of regulations. In that regard, during the recruitment process, the system manages contractual relationships, payment channels and documentation of the employment contract. It is on this basis therefore that the system increases transparency through traceability optimization, protection of workers' rights and protection of employers' rights;
4. The *MUSANED* system in exploring new initiatives is trying to create new partnership contracts through the *Tawheed* system, rights of insurance, direct level service transfer and contract renewals
5. The foregoing notwithstanding, Saudi Arabia continues to face challenges with the Kenyan workforce for instance the recent temporary closure of the training school in Kenya, the long training period mandated by the Kenyan government and delays in approval of the Kenyan Ministry of Labour and Social Protection of the *MUSANED* platform. In this regard, The Kenyan Ministry was urged to explore and adopt the use of online training platforms.

Additionally, the delegation was in consensus on the following-

- (a) The Ministry of Labour and Social Protection to give access rights to the *MUSANED* system to the ambassador of Saudi Arabia;
- (b) Training of Kenyan workers to include soft skills, including but not limited to knowledge of the Saudi culture, financial management and management of expectations;
- (c) The inclusion of a bilateral framework within the platform;

- (d) The Government of Kenya to institute a regulatory framework for private institutions;
- (e) Kenya and Saudi Arabia to initiate and develop a skills agreement alongside a Memorandum of Understanding; and
- (f) The media to highlight some positive aspects of the bilateral labour relationships.

### **3.8 Delegation Visit to United Arab Emirates (Dubai)**

#### **3.8.1 Courtesy call at the Kenya Consulate in Dubai**

The delegation visited the Kenyan consulate in Dubai on 15<sup>th</sup> April, 2021 and was received by Amb. Peter M. Mwendwa, HSC, the counsel general. The following officials graced the meeting, Mr. Gideon Mwangi, deputy counsel; Mr. Hassan, first counsellor, political issues; Ms. Mercy, first counsellor, political issues and Mr. Jonathan Bii, the labour attaché. The Delegation was informed that-

1. The consulate general of the republic of Kenya in Dubai started its operations in 2010 to enhance cordial relations between Kenya and Dubai and Northern Emirates of *Sharjah, Ajman, Ras al Khaimah, Umm al Quwain and Fujaira*;
2. Dubai is an important international financial center for the region and many foreign companies, especially South East Asian corporations have chosen Dubai as their regional headquarters. Further that Dubai boasts of a thriving expat community as well as a tourist hub. The latter becoming a very important source of income for the city. To this end foreign companies, expatriates and tourists from several countries around the world have representation in Dubai in the form of consulates or honorary consulates;
3. The UAE is a net importer of labour with majority of the offers to Kenyans being semiskilled and unskilled. On the other hand, majority of skilled labourers within the UAE are Indians with a population of about 4.5 million in Dubai. However, opportunities exist in human resources and ICT related sectors;
4. As at September 2021, there were approximately 60,000 Kenyans living and working in UAE, majority of whom work in domestic environments, aviation sector, hospitality, retail, security, maintenance, construction, academic and business. However, many Kenyans lost jobs as a result of the global Covid-19 pandemic;
5. The consulate engages in the processing of passport, visas, national identity cards, birth certificates, emergency travel documents as well as handling persons in distress. However, it is constrained in terms of space and as such occasionally provides services through virtual means;
6. The UAE labour laws provide that for one to be employed, they must possess an employment offer, signed employment contract, a work permit and employment visa;
7. Most Kenyans are recruited through unregistered agencies, some of whom have been found to be former domestic workers who would probably not recruit professionals such as engineers or teachers. This creates a situation where migrant workers are offered one-way tickets and in some cases issued with tourist visas resulting in numerous limitations;
8. There is a need for the government to regulate the recruitment process, with Philippines and India as a benchmark, given the success stories emerging from the two jurisdictions;

9. In reforming TVETs, focus ought to be training and preparing young people for the global labour market as majority of the employers in UAE value experience as opposed to academic qualifications.
10. The labour migration is in urgent need of streamlining in terms of skill matching and credibility of certification for skilled workers; establishment of safe houses as is the case for Philippines, Indians, Ethiopians; address the issues of children born of migrant Kenyans in the UAE; Revisiting the contents of the BLA with UAE and the fast tracking of the labour migration policy and labour migration bill.

## CHAPTER 4: COMMITTEE INQUIRY ON LABOUR MIGRATION

The Committee deliberated on the Middle East study visit on labour migration during its sitting on the 18<sup>th</sup> June 2021. The Committee was in consensus that the visit provided insights on the migration challenges experienced by Kenyan workers across the Middle East. Further, that the visit was an eye opener to new labour frontiers that the Ministry of Labour ought to consider, supported by Parliament and to the benefit of Kenyans. The Committee resolved to invite the Ministry of Foreign Affairs, the Ministry of Labour and Social Protection, the National Employment Authority, Associations of Recruitment Agencies and Representatives of Kenyans working in Saudi Arabia to deliberate on the following emerging issues among others –

- (a) The revival of the welfare system called *Jaliat* whose goal was to help those in distress or on need;
- (b) The role of the Kenyan Embassy in Saudi Arabia in facilitating migrants in distress;
- (c) The role of government in granting amnesty to Kenyans stranded in Saudi Arabia and the possibility of their to return;
- (d) A report on the number of Kenyans incarcerated in the process of repatriation;
- (e) The role of government in negotiating for better terms for Kenyan workers, for instance, lower calling rates, banking services, return tickets and salaries, etc;
- (f) Organisation of pre-placment training to ensure timeliness and guarantee quality; and
- (g) The role of government in the issuance of the migrant visas.

### 4.1 Meeting with the Ministry of Labour and Social Protection, National Employment Authority and Recruitment Agencies (8<sup>th</sup> July, 2021)

This meeting between the Committee and officials from the Ministry of Labour and Social Protection led by the Cabinet Secretary, Mr. Simon Chelugui, and Officials from the National Employment Authority led by Ms. Grace Okoki was held on 8<sup>th</sup> July 2021. The leadership of the umbrella organization of the recruitment agencies, the Association of Skilled Migrant Agencies of Kenya (ASMAK) and the Kenya Association of Private Employment Agencies (KAPEA) were in attendance. The following are key highlights of the proceedings -

1. The National Employment Authority (NEA) is in the process of becoming an independent entity following the ongoing process to delink it from the Ministry, a decision that is expected to increase its efficiency and impact;
2. The Labour Migration Policy is ready for submission to Cabinet while the labour migration management bill which seeks to reinforce the existing legislation is being finalized.
3. The Ministry is in discussions with the National Police Service to review the cost and period of obtaining police clearance certificates. Additionally, special counters are to be set to fast-track issuance of documents such as; birth certificates, passports and police clearance certificates;
4. As regards medical check-ups for outbound migrant workers;
  - (a) The Ministry is engaging members of the Gulf Cooperation Council (GCC) to explore the possibility of accrediting additional GAMCA medical centers in major towns.

- (b) The Ministry is engaging with Ministry of Health and professional bodies in the health sector to identify and accredit local medical institutions to undertake medical examination for outbound migrant workers.
  - (c) The CS opines that host countries ought to allow outbound migrant workers to be examined by MOH accredited medical centers.
5. Kenya has 85 accredited training providers with a capacity to train over 10,000 potential migrant workers and that the review of training programs is a continuous exercise aimed at addressing any emerging issues;
  6. The Ministry is in the process of reviewing the regulations of private employment agencies so as to improve ethical recruitment and accountability.
  7. Kenya has signed BLAs with governments of Qatar, UAE and the Kingdom of Saudi Arabia. Additionally, Kenya has developed BLAs with six other countries namely, United Kingdom, Poland, Oman, Kuwait, Jordan, and Bahrain;
  8. The Cabinet has approved the appointment of honorary consuls and labour attaches in key labour destination countries like Canada, Australia, UK, Bahrain, Jeddah, Jordan, Kuwait and Iraq. This is aimed at improving the provision of necessary consular assistance and protection of labour rights. As such the Cabinet Secretary (CS) sought the support of the Senate in the establishment of the labour attaché offices in the aforementioned countries;
  9. Kenya is adopting the same One-Country-Team Approach applied in Philippines where all government ministries, department and agencies involved in labour migration work together in order to build synergy and enhance coordination.
  10. The CS highlighted as follows regarding the support services to migrant workers. That;
    - (a) The current comprehensive pre-departure and orientation programme for migrant workers is under review, and will be mandatory for all migrant workers.
    - (b) The Ministry undertakes attestation of foreign labour contracts to ensure that they meet the minimum terms of conditions as provided in law and further monitors their implementation.
    - (c) The Kenyan National Policy on Labour Migration proposed the establishment of safe houses as temporary shelter for migrant workers in distress before transfer of employment or deportation.
  11. In terms of regulation of private recruitment agencies, NEA is mandated to monitor and supervise all these agencies operating in the country.
  12. The Cabinet has approved the establishment of a migrant workers welfare fund whose objective is to provide protection, welfare assistance to Kenyan migrant workers during migration, stay in destination country and upon return to the country.

#### **4.1.1 Presentation by Association of Skilled Migrant Agencies of Kenya (ASMAK)**

13. In lauding the CS and the government for the elaborate plans and proposals put in place to protect and improve the welfare of Kenyan workers seeking work abroad, ASMAK;
  - (a) Decried the failure by the Ministry to safeguard the agencies tasked with recruiting migrant against media backlash leading to closures;
  - (b) Noted that given the single attaché in Kingdom of Saudi Arabia against 88,000 Kenyan migrant workers the offices are stretched and services inadequate;

- (c) Raised concerns on the length of time taken to apply for certificate of good conduct; the move by foreign embassies to ask migrant workers and recruitment agencies to fund for the verification of certificate of good conduct; the high cost of acquiring a passport and the quality of the training curriculum in the sense that they are not custom made to serve the different markets.

#### **4.1.2 Presentation by Kenya Association Private Employment Agencies (KAPEA)**

14. KAPEA's focus was the need to expedite legislation and implementation of all set out plans. Further, KAPEA proposed that the recruitment agencies ought to be part of the vetting board so as to self-regulate
15. While intervening on KAPEA's presentation, the Committee addressed the following-
  - (a) Acknowledged the special counters for fast tracking the processing of passports, certificates of good conduct and medical certificates;
  - (b) The need to address pre-departure trainings;
  - (c) Recruiting agencies to focus on professionals or skilled workers while at the same time improve relationships between agents and migrant workers;
  - (d) Status of the skilled labour agreements;
  - (e) Professional/ skilled workers, for instance trained medical doctors from Kenya vis avis professionals from India and Philippines and why the latter are given preference;
  - (f) The *MUSANED* system;
  - (g) Reinstating the *Jalia* system;
  - (h) The need for enhanced vetting of agencies in a bid to rid the system of rogue and unregistered agencies;
  - (i) The streamlining of the migration register by the Ministry of Interior and national coordination; and
  - (j) Establishment of safe homes for men and women.

#### **4.1.3 Presentation by Kenya Association Private Employment Agencies (KAPEA)**

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- (i) The streamlining of the migration register by the Ministry of Interior and national coordination; and
- (j) Establishment of safe homes for men and women.

#### **4.2 Meeting with the Ministry of Labour and Social Protection, Ministry of Foreign Affairs, Ministry of Interior – State Department of Immigration, the National Employment Authority and Recruitment Agencies (19<sup>th</sup> July, 2021)**

This meeting between the Committee and the officials from the Ministry of Labour and Social Protection led by Mr. Simon Chelugui, the Cabinet Secretary, Ministry of Foreign Affairs led by Hon. Ababu Namwamba was held on 19<sup>th</sup> July 2021. The meeting was also attended by Mr. Alexander Muteshi, the Director General, Immigration, officials from the NEA led by Ms. Grace Okoki, the leadership of the umbrella organizations of the recruitment agencies; ASMAK and KAPEA.

1. During the meeting, the MFA was in agreement with the following issues even as it recommended that the Ministry of Labour and Social Protection considers temporary cessation of recruitment of domestic workers until sufficient protection measures are implemented.
2. The Committee recommended that the Ministry of Labour and the Ministry of Foreign Affairs should look into the following -
  - (a) The need for safe houses for migrant workers in distress;
  - (b) Development of a database for migrant workers both at the Ministry of Foreign Affairs (MFA) and the Kenyan Embassies in the destination countries;
  - (c) Accessibility to the *MUSANED* system of the Kingdom of Saudi Arabia by the MFA officials which later was clarified that the Kingdom of Saudi Arabia and the MFA representatives abroad have been given access to the *MUSANED* portal
  - (d) Efforts to facilitate migrants in distress back into the country; and
  - (e) Statistics on the number of Kenyans who have lost their lives or reported cases of mistreatment in the Kingdom of Saudi Arabia in the last three years, and what the Government has done to address their plight. In this regard, the CS is scheduled to engage with the officials of the Kingdom of Saudi Arabia to resolve the issues.

##### **4.2.1 Presentation by the Ministry of Labour and Social Protection**

1. In responding to the foregoing issues, the CS assure the committee and all stakeholder that the Ministry has presented a cabinet memo to the National Development Implementation Technical Committee (NDITC) for approval of the National Policy on Migration in September 2021. Additionally, that the Ministry had developed a draft labour migration management bill and was awaiting stakeholder validation process before submitting to the cabinet in October 2021.
2. The Committee was also informed that at least Ksh 3 billion is attributed to remittances arising from Kenyans working abroad. On the same breath, the Committee heard that investment and focus on skilled labour is likely to result in increased remittances. Further, the Ministry committed to implement the following activities between August 2021 and June 2022 in a bid to enhance the labour migration processes and governance –

No.	Subject/Activities	Timeframe
	Finalize discussions with the National Police Service in a bid to review the cost and period of obtaining police clearance certificates and establishing counters to fast-track issuance of birth certificate, passports etc.	August 2021
	Engage members of the Gulf Cooperation Council (GCC) to explore the possibility of accrediting additional GAMCA medical centers in major urban centers	September 2021
	Engage with MoH to identify and accredit local medical institutions for medical examination	August 2021
	Review the pre-departure training programme	December 2021
	Develop handbooks for key labour destination countries and update the website on the same	September 2021
	Develop and implement return and re-integration programme	October 2021
	Establish a National Reintegration Centre at NEA	December 2021
	Develop directive requiring domestic workers to appear in person before the attesting labour officer	July 2021
	Automate the attestation process and capacity building of labour officers	December 2021
	Review the regulations of private employment agencies to enhance ethical recruitment and increase accountability.	November 2021
	Operationalize the oversight mechanism for monitoring private recruitment agencies (PRA) operating in Kenya.	August 2021
	Build the capacity of private employment agencies and enforcement agencies	December 2021
	Review the three (3) BLAs with governments of Qatar, UAE and Saudi Arabia.	August-December 2021
	Fast-track the finalization of BLAs with the United Kingdom, Poland, Oman, Kuwait, Jordan, Bahrain. Negotiation and signing of the BLAs.	December 2021
	Establish and operationalize joint implementation committees with regards to BLMAs	August-December 2021
	Establish labour attaché offices in key labour destination countries	June 2022

	Review the scope of the functions of labour attachés	September 2021
	Establish National Inter-Agency Labour Migration Coordination Committee (One- Country- Team -Approach)	August 2021
	Develop an integrated online system for all labour migration services in the country	December 2021
	Establish a one-stop shop for services offered to migrant workers.	December 2021
	Put in place mechanisms to ensure mandatory pre-departure training –Issuance of new guidelines making pre-departure and orientation programme compulsory for all outbound migrant workers.	July 2021
	Establish safe houses in target destination countries.	February 2022
	Conduct regular assessment of skills demand in foreign labour markets.	June 2022
	Operationalize the migrant workers welfare fund.	December 2021

Source: Ministry of Labour and Social Protection on the 19<sup>th</sup> July 2021

3. While reacting to the presentation by the Ministry of Labour, the following concerns were raised and possible solutions proposed:-
  - (a) The need to NEA to ensure all agencies are part of an association for enhanced regulation. Further the ASMAK undertakes comprehensive vetting of recruitment agencies before acceptance into membership;
  - (b) Concerns on the increase in foreign run recruiting agencies, and their lack of adherence to regulations; Further that NEA provides the latest statistics of foreign recruiting agencies.
  - (c) Possibilities of ASMAK establishing offices to handle distress calls in Saudi Arabia and considerations to partners with the government in achieving the same; and
  - (d) The possibility of involving ASMAK in signing Memorandums of Understanding and BLAs and during the development of any legislation and regulations.
4. While contributing to the discussions, Ms. Faith Njuguna, a former migrant to the Kingdom of Saudi Arabia since 2012, and currently undocumented recommended that the Kenyan government put legislation and regulations in place to enable the Kenyan migrants accorded similar treatment as their counterparts from the Philippines;
5. The Ministry stated that it was collaborating with International Labour Organization (ILO) to undertake the study to conceptualise the migrant workers fund. The Ministry committed to share with the Committee the structure and operation of the fund in due course.
6. The Ministry requested the Committee to follow up on the NEA Miscellaneous (Amendment) bill passed by the National Assembly and currently awaiting consideration in the Senate.

## CHAPTER FIVE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

In making its observations and recommendations, the Committee considered the emerging issues following its joint visit to the Middle East on labour migration issues between 10<sup>th</sup> - 20<sup>th</sup> April, 2021. The Committee also gained additional insights during the subsequent meetings with the various government agencies including the Ministry of Labour and Social Protection, The Ministry of Foreign Affairs, Ministry of Interior and Coordination of National Government and the recruiting agencies.

### 5.1 Committee Observations

Following the Committee's interaction with the various stakeholders, Members noted THAT -

1. The country lacks a comprehensive policy and legal framework useful to guide, govern and create stability in the migration processes. Further, that both the labour migration policy and labour migration bill key in reinforcing the existing legislation are either before Cabinet or are being finalized hence hampering proper governance in labour migration issues;
2. Labour migration to key labour destination in the Middle East has been ongoing in the absence of formal agreement or memorandum of understanding (MoUs). Further, that where they exist, the agreement falls short of taking care of the interests of the workers. However, this is likely to change with a review of BLAs with governments of Qatar, UAE and the Kingdom of Saudi Arabia and the ongoing development of BLAs with United Kingdom, Poland, Oman, Kuwait, Jordan, and Bahrain;
3. With the growing numbers of migrants to the Middle East there was need to streamline key prerequisite processes for effective governance. The Committee therefore observes that the following areas must be addressed as a matter of priority:-
  - (a) *Recruitment Process and Recruiting Agencies*: The need to ensure recruitment of migrants undertaken by registered agencies, ensure compliance with requirement and regulations like the capital base, regular audits. Further, that private employment agencies and foreign run agencies must be regulated so as to improve ethical recruitment and accountability;
  - (b) *Pre-departure training*: Training of the migrant works must be as per set curriculum overseen by NEA with among others, training in soft skills, knowledge of the residential culture, financial management and attitude;
  - (c) *Migrants legal identification and registration*: Address timelines in the processing of passports, certificate of good conduct, medical tests as delays continue to impact the industry;
  - (d) *Screening, assessment and referrals*: Hastening and simplifying of medical checks processes by accrediting additional medical centers;
  - (g) Formalize linkages between Ministry of Foreign Affairs, Ministry of Labour and Ministry of interior and National Coordination, local and international recruitment agencies. For instance the *MUSANNED* system which provide linkages to The Ministry of Labour and Social Protection must be easily accessed by the key stakeholders;
4. Migrant workers lack formal mechanisms including requisite consular assistance useful for self-improvement, wellbeing and protecting their rights. In particular the Committee noted the following as useful and urgent :-

- (a) Formal welfare mechanisms like the *Jaliat* welfare system whose goal was to help those in distress or on need was no longer recognised or in operation;
  - (b) Lack of temporary shelters like safe houses in major labour destinations;
  - (c) The absence of honorary consuls and labour attaches in key labour destination countries like Canada, Australia, UK, Bahrain, Jeddah, Jordan, Kuwait and Iraq; and
  - (d) The absence of a migrant workers' welfare fund whose objective is to provide protection, welfare assistance to Kenyan migrant workers during migration, stay in destination country and upon return to the country.
5. While the Committee acknowledged the Ministry's commitment in implementing some specific activities between earmarked for August 2021 to June 2022 and whose objective is to enhance the labour migration processes and governance, the Committee is concerned about the deteriorating conditions of migrant workers in the KSA. The Committee opines that the processes likely to protect life and the welfare and migrants supersedes all others and therefore must be prioritized.

## 5.2 Committee Recommendations

In that regard, the Committee makes the following recommendations. THAT -

### A. In respect to the Kingdom of Saudi Arabia,

**ALL** Labour Migration of domestic workers from Kenya to the Kingdom of Saudi Arabia be **immediately suspended** until the Executive demonstrates that the following basic minimums have been put in place.

- (i) The establishment of the status of all Kenyans currently in Malaz Prison in Riyadh, Tarhil deportation Centre in Riyadh, and all/any other prisons and deportation centers within the Kingdom of Saudi Arabia with the aim of repatriating them back into the country;
- (j) The establishment of the current status of all domestic workers in the Kingdom of Saudi Arabia, their contacts and places of work and set up a database and lines of communication between them and the Labour offices at the embassy;
- (k) The return to Kenya of **all** current and former domestic workers who are currently in distress and stuck in the Kingdom of Saudi Arabia;
- (l) The investigation and submission of a report to The Senate of the cases of the Kenyan migrant workers whose deaths have occurred in Saudi Arabia. This report, must among other things, demonstrate the linkages between the Labour Attaches and the recruitment agencies in handling of distress calls and other complaints by migrant workers;
- (m) The establishment of fully fledged labour offices and **safe houses** in Jeddah and Riyadh in Saudi Arabia accessible to any Kenyan in distress;
- (n) Formal re-recognition of the welfare associations of Kenyans in Saudi Arabia for instance the Kenyan Jaaliat Group (KJSA), with the aim of liaising with them in responding to distress calls by Kenyans;
- (o) Fresh vetting and registration of **ALL** the local recruitment agencies with the vetting standards to be determined by the Ministry of Labour through the National Employment Authority. To this end, no entity will be allowed to recruit Kenya migrant workers unless the entity is registered and regulated in Kenya; and

- (p) Review of the regulations of private employment agencies including the determination of a minimum deposit to ensure swift repatriation of any domestic worker in distress.

**B. Additionally, in addressing general labour migration issues,**

**The Ministry of Labour undertakes, finalises and enforces the following key principles for efficiency in processing migrant workers;**

- (a) Engage with the National Police Service to establish desk to fast-track the issuance of certificates of good conduct for outbound Kenyan migrant workers;
- (b) Engage with the Gulf Cooperation Council (GCC) on expanding the list of accredited medical centres (GAMCA) especially in urban areas. Further, liaise with the Ministry of Health to identify and accredit local medical institutions for medical examinations;
- (c) Review the pre-departure training programs including issuance of new guidelines making pre-departure training and orientation programs mandatory to all outbound migrant workers;
- (d) The Ministry of Labour fast-tracks the finalisation and signing of the pending Bilateral Labour Agreements for skilled migrant workers with the UK, Poland, Oman Kuwait, Jordan and Bahrain;
- (e) Review the Bilateral Labour Agreement between Kenya and Saudi Arabia;
- (f) Establish and operationalize the joint implementation committees on implementation of the Bilateral Labour Agreements;
- (g) Present to the Senate a report on the review of the scope of the functions of Labour Attaches;
- (h) Automate the attestation process and capacity building of labour officers;
- (i) Establish the National Reintegration Centre, including the development and implementation of a return and reintegration program;
- (j) Develop information handbooks for key labour destination;
- (k) Develop an interactive website, and an integrated online system for all labour migration services in the country which act as a one-stop shop for all labour migration matters; and
- (l) Establish the Inter-Agency Labour Migration Coordination Committee (One-Country-Team-Approach).



## NATIONAL EMPLOYMENT AUTHORITY

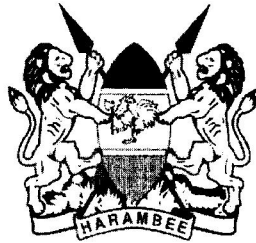
### VISIT TO THE KINGDOM OF SAUDI ARABIA AND UNITED ARAB EMIRATES BY THE SENATE COMMITTEES ON LABOUR AND SOCIAL WELFARE & THE EDUCATION COMMITTEE

#### DRAFT ITINERARY

Saturday, 10 <sup>th</sup> April, 2021	Afternoon	Travel from Nairobi to Saudi Arabia
	Night	Arrival at Riyadh, Saudi Arabia
Sunday, 11 <sup>th</sup> April, 2021	10.00 a.m	❖ Visit the Kenyan Embassy in Riyadh
	12.00 noon	❖ Visit to the Ministry of Labour – Saudi Arabia
Monday, 12 <sup>th</sup> April, 2021	9.00 a.m.	❖ Meeting with the Associations of Recruitment Agencies ❖ Meeting with a Mega Recruitment Company
Tuesday, 13 April, 2021	9.00 a.m	❖ Visit to the Philippines Overseas Labour Office ❖ Visit to the MUSANED Team,
Wednesday, 14 <sup>th</sup> April, 2021	9.00 a.m.	❖ Visit Call Centre ❖ Visit to a Deportation Centre
	Evening	Travel to United Arab Emirates
Thursday, 15 <sup>th</sup> April, 2021	10.00 a.m	❖ Visit the Kenyan Consulate, Dubai ❖ Labour Attache office in Dubai

Friday, 16 <sup>th</sup> April, 2021	10.00 a.m.	❖ Meeting with Kenyans working in Dubai
Saturday, 17 <sup>th</sup> April 2021	9.00 a.m.	<b><u>Day Visit to Abu Dhabi</u></b> ❖ Visit to Kenya Embassy in Abu Dhabi ❖ Visit to Philippines Overseas Labour Office (POLO) in Abu Dhabi ❖ Visit to the India Embassy in Abu Dhabi
Sunday, 18 <sup>th</sup> April 2021	10.00 a.m.	❖ Wrap up meeting with the Kenyan Consulate, Dubai
Monday, 19 <sup>th</sup> April, 2021		❖ REST
Tuesday, 20 <sup>th</sup> April 2021		Arrive in Nairobi.

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HARAMBEE AVENUE  
P.O. Box 30551-00100  
NAIROBI, KENYA

MINISTRY OF FOREIGN AFFAIRS

MFA. ADM.1/97A

Ref. No.....

19<sup>th</sup> July, 2021

The Clerk  
Office of the Senate  
Parliament  
**NAIROBI.**

Dear

**REPORT ON STATUS OF KENYANS IN THE DIASPORA FOLLOWING THE  
OUTBREAK OF COVID-19**

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This is further to the meeting of the Senate Standing Committee on Labour and Social Welfare on Labour Migration held on 19<sup>th</sup> July, 2021.

During the submission by the Ministry of Foreign Affairs, I did share a report that was prepared jointly between the Ministry of Foreign Affairs and the Ministry of Labour and Social Protection. "*Report on Status of Kenyans in the Diaspora Following the Outbreak of COVID-19*"

The aim of the report was, among others, to ascertain the number of Kenyan Diaspora, map out countries with Kenyan Diaspora hit hardest by the COVID-19 pandemic, identify specific challenges facing Kenyan migrant workers, identify measures being taken by other countries in protecting their diaspora and recommend interventions.

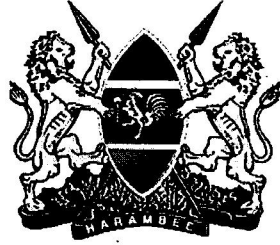
Attached herewith, please find a copy of the said report for the Committee's record.

Yours

  
**Hon. Ababu Namwamba, EGM**  
**CHIEF ADMINISTRATIVE SECRETARY**

Encl.





Republic of Kenya

**REPORT ON THE STATUS OF KENYANS  
IN THE DIASPORA FOLLOWING THE  
OUTBREAK OF COVID-19**

June, 2020

## 1. BACKGROUND

The COVID-19 pandemic has affected the dynamics of the labour market both locally and abroad. This has affected Kenyans both within the country and those in Diaspora. In order to step up preparedness to respond effectively to the challenges faced by the Kenyans abroad during this pandemic, a committee was formed between the Ministry of Foreign Affairs and Ministry of Labour and Social Protection.

A joint meeting was held between the two Ministries, where a six (6) member team was tasked to prepare a report on the status of Kenyans in Diaspora following the outbreak of the COVID-19 pandemic. The team comprised three (3) representatives each from the two Ministries. It worked under the leadership of the two Chief Administrative Secretaries (CASs) of the two ministries: Hon. Ababu Namwamba, Ministry of Foreign Affairs, and Hon. Patrick Ole Ntutu, Ministry of Labour and Social Protection.

The Terms of Reference for the Team were to:

- a. Ascertain the number of Kenyan Diaspora
- b. Map out countries with Kenyan Diaspora hit hardest by the COVID-19 pandemic
- c. Identify specific challenges facing Kenyan migrant workers
- d. Identify measures being taken by other countries in protecting their diaspora abroad
- e. Recommend interventions.

## 2. THE NUMBER OF KENYANS IN DIASPORA

Timely and reliable data is crucial for making informed decision on Kenyans living, working or studying abroad.

There is insufficient information on disaggregated data on Kenyans abroad, which include: number and location of Kenyans abroad, experience and skills inventory, needs of the foreign labour market, projected labour demand, terms and conditions of employment, remittances and dispute resolution mechanisms. ***A matrix on data of population of Kenyans abroad is attached to this Report as ANNEX 3.***

## 3. Challenges affecting Kenyans outside the country as a result of COVID-19

The challenges faced by Kenyans in the Diaspora in key destination countries are as discussed below:

### 3.1. Country-specific challenges faced by Kenyans in Diaspora

#### **a. The Kingdom of Saudi Arabia**

There are a number of Kenyans confined in hostels and deportation centres due to Corona virus. Some are waiting for the situation to improve to be given other assignments while others are waiting for repatriation. One Kenyan, a long-distance driver with SAPTCO Company, was infected with the Corona Virus Disease. He died in Jeddah on Friday 24th April, 2020 while under free medical attention offered by the Government of Saudi. He had an underlying heart condition and diabetes.

The Saudi Government has established a fund to cushion employers to continue paying salaries and advised employers to give compassionate leave to employees. The companies have also been granted permission to apply for exit visa through Ministry of Labour for the expired contracts and for those willing to travel back to their home countries. The government is also facilitating exit and re-entry of professionals and exit of illegal migrants.

The Kenya Embassy, Riyadh has been closely monitoring the food security situation of Kenyans in the Kingdom amidst the COVID-19 pandemic, particularly the run-away domestic workers, and has secured commitments to deliver food baskets to the Embassy from the Saudi Food Bank, in coordination with the UN Resident Coordinator and World Food Programme (WFP).

#### **b. United Arab Emirates**

All companies, especially in the hospitality sector (Hotels, Restaurant and Entertainment) where most of the Kenyans are employed have been closed. The closure of businesses has led to many Kenyans being sent on unpaid leave of up to three months. Other companies have terminated the services of the employees.

The Kenya Consulate, Dubai has been able to assist and improve the welfare of Kenyans in the UAE in the following ways: -

1. Provision of foodstuffs to seventy-four (74) Kenyans who had no source of income;
2. Re- location of 13 Kenyans who were locked out of their accommodation due to non-payment of rent by the company;
3. Counselling and guidance of Kenyans who are in hospitals and at home;
4. Assisting Kenyans who have lost their jobs to file cases with the Ministry of Human Resources & Emiratisation;
5. Facilitating registration of Kenyans who are willing to travel to Kenya.

In Ajman, United Arab Emirates, nineteen (19) Kenyans have not been paid by their employers for three months since December 2019. Consequently, their services were terminated after they lodged a case against the companies. Four of the employees have

been granted approval to refer the cases to court by the Ministry of Human Resources and Emiratization.

Thirteen (13) Kenyans are living in deployable conditions. Some of them had fallen sick and the consulate provided medication. They are therefore living in unhygienic conditions and are prone to falling sick especially during this period of Corona Virus outbreak. Similarly, the other six (6) Kenyans who are staying in another accommodation have also been forced to vacate the accommodation.

There are eleven (11) Kenyan workers in distress. They started working in December 2019 and January 2020 up to middle of March 2020. They have not been paid salaries and the companies have terminated their contracts. The Embassy is assisting them with the provision of food and accommodation.

Four (4) Kenyans have tested positive for the Corona Virus Disease as at 29th April 2020. All of them are male. Two have been hospitalized and the other two are in self-quarantine in their houses since they stay alone.

About 138 Kenyans Diaspora in UAE, had booked flight with Kenya Airways in March 2020. They were however caught up with current lock down and were unable to travel back to the country.

A number of these Kenyans have since returned to Kenya through flights facilitated by the Ministry of Foreign Affairs. In this respect, three (3) flights have ferried three hundred and ninety-eight (398) Kenyans back home (see Annex 4).

The Kenyan Embassy was granted approval to evacuate Kenyans who are living in United Arab Emirates. Most of the companies are terminating the services of employees while others are either sending employees on leave at reduced salaries or unpaid leave. This has necessitated many Kenyans to opt to travel home due to high cost of living. However, there are still more Kenyans who were left out due to lack of money to buy the air tickets.

### **c. Qatar**

Employers have been directed to continue paying wages, providing accommodation and food irrespective whether the workers are on lockdown or not. Employers who are not able to do so, have been advised to seek government financial assistance to meet worker's obligations during this period.

## **Recommendations**

### **It is therefore recommended that:**

- The idea of establishing a Consular Fund be explored further. The fund would be utilized to assist Kenyans in the diaspora who might be in dire need of evacuation. The details should be worked on by the Diaspora and Consular Affairs Directorate.
- More Bilateral Labour Agreements (BLAs), targeting both skilled and unskilled Kenyans, be established with identified countries that are hotspots for labour export e.g. Iraq. This should also be expanded to non-traditional labour migration countries, and to high skills and technical jobs.
- Appointment of Honorary Consuls in Bahrain, Jeddah, Iraq and other places where there are issues affecting Kenyans and are far removed from existing Kenyan diplomatic Missions. This will enable expanded provision of necessary consular assistance to distressed Kenyans abroad. This matter is to be taken up by the Committee on Appointments of Honorary Consuls in the Ministry of Foreign Affairs.

### **3.2. Lack of accurate data on persons in diaspora**

Kenya lacks accurate data and information on the number and location of persons in diaspora. This is as a result of undocumented Kenyans in some countries. The impact of the COVID 19 virus on the Kenyan migrant workers is therefore yet to be fully established. In order to initiate the process of getting this information there is need to:

- a) Liaise with the Kenyan Embassies, Missions and consulates.

The aim is to establish the number of Kenyan migrant workers affected by the virus in terms of job losses, loss of travel documents, lockdowns, closure of borders, and other factors.

- b) Obtain data online

The Information can also be sought from the Diaspora associations and Kenyan communities abroad. Due to the travel and movement restrictions within these countries, mechanisms should be explored to obtain the data online. It is therefore recommended that an online system be developed for this purpose. The details of the online portal should be highly publicized.

- c) Establish call and communication centres

There is need to establish a call and communication centre at the Ministry of Foreign Affairs as well as Kenyan Missions to receive information and feedback on Kenyan workers in distress. Details of the help lines should be highly publicized.

This will enable the Government to receive and disseminate accurate information on Diaspora issues. The Centre should explore the use of all media (including the social media) for wider outreach. In addition, there is need to prepare periodic briefs (Similar to the briefs by the Ministry of Health). A list of frequently asked questions should also be prepared and posted to the various sites.

#### **4. PROPOSED AND PLANNED INTERVENTIONS**

The team proposed two key interventions aimed at addressing the challenges faced by Kenyans in Diaspora.

##### **a. Benchmarking with other Countries**

The International Labour Organization (ILO) estimates that nearly 2.2 billion workers, representing 68 per cent of the global workforce, are living in countries with recommended or required workplace closures. Migrant workers represent 4.7 per cent of this global labour pool comprising 164 million workers.

A number of countries and local governments have begun to establish more comprehensive measures to support migrant workers who experience significant income losses during the pandemic, in line with national workers. Bilateral and multilateral cooperation to migrant workers and their families can ensure their protection, safe return and effective reintegration into labour markets

For migrant workers who are in irregular status or returning home, strong collaboration with the country of origin on amnesties, regularization, information exchange and processes of return can ensure protections and smoother repatriation (including processing documents), and support for skills recognition and other measures to facilitate effective reintegration into labour markets. For example, bilateral (and sub regional) cooperation can facilitate economic support to migrants who have lost their jobs or help prepare them for re-entry and reintegration into home labour markets.

The Covid-19 pandemic has affected labour migration across the globe. In order to obtain data on its impact on our migrant workers, and enable the Government to design appropriate interventions, there is need to benchmark and obtain information about interventions being employed by other labour sending countries notably those in Asia (Philippines, Nepal, and India) as well as countries in the East and Horn of Africa. This can be done through desk research.

## Annex 1: Good practices in Protection of migrant workers

Country	Interventions	Remarks
Brazil	Has established a support programme for the unemployed to face the COVID-19 emergency where migrants and refugees, as well as informal workers, can also benefit	Kenya has proposed the establishment of an unemployment relief fund to temporarily cushion employees who have lost employment due to Covid-19. Though at the conceptualization stage, the scope of the scheme should be expanded to cover domestic workers as well.
Chile	Has established a programme on the COVID-19 Emergency Stipend (COVID-19) for vulnerable families that targets migrants in regular status in the country	There is need to consider vulnerable migrants under the social protection programmes currently being implemented by the Ministry Of Labour and Social Protection
New Zealand	Has made its Wage Subsidy Scheme available to migrants, among other countries, such as Tunisia.	Establishment of a Wage Subsidy Scheme may not be viable in the short – term. However Kenya can explore the idea as a long term strategy.
California	Has established a new fund that may reach USD125 million to provide income support to migrant workers irrespective of their status.  Extend access to health services and social protection coverage to migrant workers	Kenya should explore the possibility of fast-tracking the establishment of the Migrant Workers Welfare Fund proposed under the labour Migration Management Bill. The aim of the fund is to assist migrant workers in distressed situations
Qatar, Saudi Arabia and Malaysia	The three countries are providing free screening and testing for migrant workers.	Kenyan migrant workers need be encouraged to take advantage and go for the free screening and testing in countries where the services are being offered
The Philippines	Is extending financial stipends to migrant workers abroad and, together with Hong Kong (China), helping ensure that Filipino migrant workers are still able to travel when they have valid	There is need to consider vulnerable migrants under the social protection programmes currently being implemented by the ministry of labour and social protection

	employment contracts and are supported by recruitment agencies and fair recruitment processes on both ends of the migration corridor, including for migrant domestic workers.	
Peru and Argentina,	Are developing expedited procedures for the recognition of the professional qualifications of Venezuelan migrants in the country of destination, at least for the duration of the response to the COVID-19 pandemic.	
Malaysia and Bangladesh	Trade unions are also cooperating across borders, for example between Malaysia and Bangladesh, on various migrant worker supports, including food distribution.	There is need for wide stakeholder involvement in implementing migrant workers support programme to Kenyan migrant workers.
India	Has sent a medical team to support Kuwait, which hosts about one million Indian migrant workers. Some countries of origin are enhancing unilateral measures or consular services in countries of destination. They are establishing dedicated helplines, website, focal points in line ministries and information exchange that target the specific needs of their nationals working abroad, including information services, legal assistance and humanitarian support to stranded workers (e.g., India, Sri Lanka, Pakistan, Bangladesh) including to provide emergency services to their migrant workers	Kenya should explore the possibility of sending specialized teams to offer medical and psychosocial support to our migrant workers in countries/regions where we have large number of migrant workers.  There is need to establish proper communication channels targeting our migrant workers. This information is crucial to enable our migrants make informed choices. The information should also include the type of support available. There is also need to develop a list of frequently asked questions.
Austria	Austria, like many other countries, is facing a massive increase in unemployment. To mitigate the skyrocketing number of	This is a good practice, although it does not apply to migrant workers

	<p>unemployed persons, social partners have developed a new model of subsidised short-time work that could become an international role model. The Austrian model allows a temporary reduction in working hours up to 90% while maintaining the employment relationship and granting almost full public wage compensation. This measure can help to bridge the economic outfall as it helps to stabilise demand and fosters a fast return to pre-crisis economic activity.</p>	
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**b. Mapping of the hard-hit countries by COVID-19 pandemic**

The COVID-19 pandemic has spread to all the corners of the world. Some countries have been hit hard by this pandemic and therefore affecting many Kenyans in the Diaspora. As per the WHO surveillance data of 9<sup>th</sup> June, 2020, the most affected countries in terms of confirmed cases, are; **the United States of America, Brazil, China, Peru, Chile, Mexico, Iran, Pakistan, Saudi Arabia, Russia, The United Kingdom, Spain, Italy, Germany, Turkey, France and India.**

**5. WAY FORWARD**

The joint team has:

- Requested Kenyan Missions abroad to provide disaggregated data on Kenyans abroad. This will enhance the existing matrix on Kenyans abroad.
- Consulted the Ministry of Interior and Coordination of National Government, Ministry of Education, Kenya National Bureau of Statistics and Central Bank of Kenya on data on Kenyans abroad
- Requested the Missions to provide the numbers of anticipated deportation of Kenyans and the reasons for the same. This will enhance accuracy of overall data.

## Annex 2: STRATEGIES AND INITIATIVES

Strategy	Initiative /Action
Assistance to Kenyan migrant workers in distress <ul style="list-style-type: none"> <li>• Runaway Workers</li> <li>• Workers in irregular situation</li> <li>• Workers not being paid</li> </ul>	<ul style="list-style-type: none"> <li>• Repatriation</li> <li>• Provision of foodstuff;</li> <li>• Re- location of Kenyans who were locked out of their accommodation due to none payment of rent by the company;</li> <li>• Counselling and guidance of Kenyans who are in hospitals and at home;</li> <li>• Assisting Kenyans who have lost their jobs to file cases with the Ministries of labour in the host countries;</li> <li>• Facilitating registration of Kenyans who are willing to travel to Kenya.</li> </ul>
Establish a mechanism to take stock of the Kenyan diaspora	<ul style="list-style-type: none"> <li>• Establish database on Kenyan Migrant workers</li> <li>• Establish the number of Kenyan migrant workers affected by the virus in terms of job loss, loss of travel documents, lockdowns, closure of boarder and others.</li> <li>• Establish call and communication centres at the Ministry of Foreign Affairs as well as Kenyan Missions to receive information of Kenyan workers in distress</li> <li>• Mapping of the hard-hit countries by COVID-19 pandemic</li> </ul>
Benchmarking with other countries	<ul style="list-style-type: none"> <li>• Learning the best practices from countries that have established comprehensive measures to support migrant workers who experience significant income losses during the pandemic.</li> </ul>
<b>OTHER MEASURES/INTERVENTIONS</b>	
Return & re-integration	<ul style="list-style-type: none"> <li>• Development and implementation of Return and Re-integration programmes for migrant returnees (focusing on voluntary and forced return)</li> <li>• Placement of migrant workers who lost their jobs in alternative jobs abroad</li> </ul>
Exploring new labour markets	<ul style="list-style-type: none"> <li>• Carrying out employment needs assessment in existing and potential labour destination countries with special focus on new labour markets</li> <li>• Undertake skills development/upgrading, assessment and certification for targeted foreign markets</li> <li>• Establishment of an Unemployment Relief Fund to temporarily cushion migrant workers who have adversely been affected by the pandemic</li> </ul>

<p>Assistance to Kenyan migrant workers in distress</p>	<ul style="list-style-type: none"><li>• Establishment of migrant worker’s relief fund (contingencies for distressed migrant workers, provision of legal services)</li><li>• Establishment of safe houses as temporary shelters for migrant workers in distress</li><li>• Establish a toll-free hot line, mobile application (Migration Application MigApp), social media platforms for Kenyan migrant workers in need of assistance</li><li>• Exploring a new model of subsidised short-time work</li></ul>
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**ANNEX 3: DATA ON POPULATION OF KENYANS IN DIASPORA**

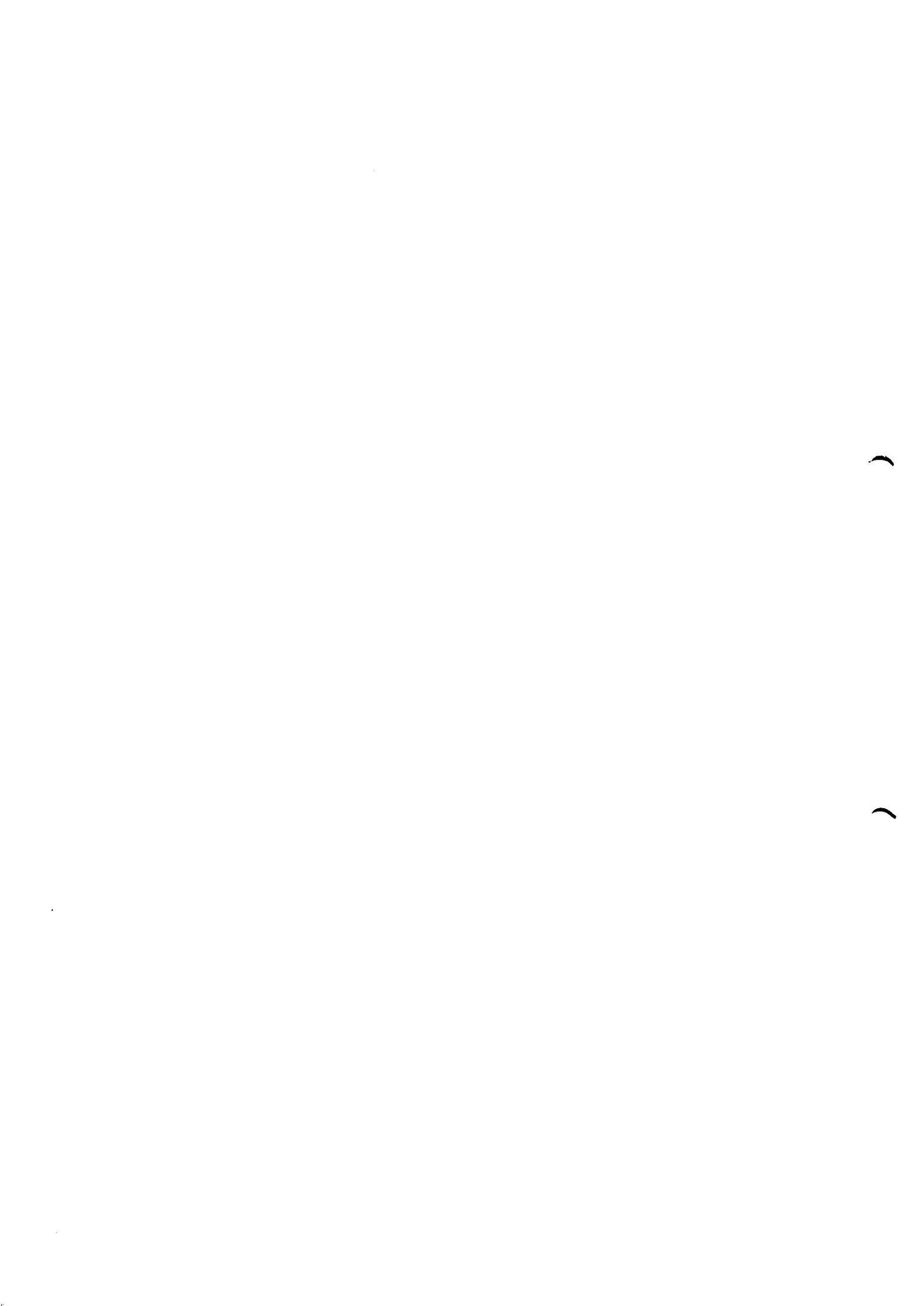
S/N	Country	Registered With Mission	Students (Inclusive)	Total Estimated	Huduma Number reg.	Accredited Countries
1.	Angola	357			309	None
2.	Algeria	165		200	0	• Mali
3.	Australia	6700	4000	21,300	6426	• New Zealand
4.	Austria	3,790		5,000	744	• Hungary • Slovak Republic
5.	Argentina	2				
6.	Barbados	9				
7.	Bahrain	5000-		7000		
8.	Belgium	940	160		467	• Luxembourg
9.	Belarus	-				
10.	Bolivia	1				
11.	Botswana	2,982		3,500	966	
12.	Brazil	106		250	168	• Argentina • Chile • Venezuela • Colombia • Uruguay • Bolivia
13.	Bulgaria	22				
14.	Burundi	350	22	1,700	286	
15.	Cameroon	27				
16.	Cayman Island	3		100		
17.	Brunei	5				
18.	Cambodia	20		23		
19.	Canada	27,150	1900	40,000	2021	
20.	Chile	6				
21.	Commonwealth of Bahamas	4				
22.	China	4,667	1200	6,000	370	
23.	Czech Republic		8	200		
24.	Colombia	28				
25.	Cuba	61	55	100	52	
26.	Cyprus	32	20	100		
27.	Equatorial Guinea	18				•
28.	Egypt	4,310	166		1008	• Jordan • Morocco • Tunisia • Eritrea • Palestine
29.	DRC Congo	100		100	284	
30.	Dubai	50,000		50,000	17075	
31.	Djibouti	300	0	300		

S/N	Country	Registered With Mission	Students (Inclusive)	Total Estimated	Huduma Number reg.	Accredited Countries
32.	Ethiopia	600	1	1,500	449	
33.	Eswatini			2000		
34.	India	1239	469	3,000	849	
35.	Somalia	100		200	0	
36.	France	2,500	300	2,500	540	<ul style="list-style-type: none"> <li>• Portugal</li> <li>• Serbia</li> </ul>
37.	Germany	11,515	750	15,000	1325	<ul style="list-style-type: none"> <li>• Bulgaria</li> <li>• Romania</li> </ul>
38.	Guinea	7	15	97		<ul style="list-style-type: none"> <li>•</li> </ul>
39.	Greece	333	30	600		
40.	Hungary	3790	207	5000		
41.	Eritrea	15				
42.	Indonesia	25				
43.	Iran	120	100	200	70	
44.	Iraq	-		300		
45.	Israel	380	105	400	347	
46.	Italy	3020	650	4000	2202	<ul style="list-style-type: none"> <li>• Greece</li> <li>• Poland</li> <li>• Cyprus</li> <li>• Malta</li> </ul>
47.	Jamaica			64		<ul style="list-style-type: none"> <li>•</li> </ul>
48.	Japan	886		1,000	290	
49.	Jordan	1,580	80			
50.	Kuwait	-		10000	2994	<ul style="list-style-type: none"> <li>• Bahrain</li> <li>• Lebanon</li> </ul>
51.	Kazakhstan	-				
52.	Laos	3		5		
53.	Lebanon	-		1500		
54.	Luxembourg	40	10			
55.	Malawi	700				
56.	Malaysia	700	600		493	<ul style="list-style-type: none"> <li>• Philippines</li> <li>• Indonesia</li> <li>• Brunei</li> </ul>
57.	Mali	12				
58.	Malta	16	10	25		
59.	Morocco	35	80			
60.	Myanmar	6		8		
61.	Mozambique	153	30			
62.	Namibia	244		1,100	283	
63.	Netherlands	500	50	1500	406	<ul style="list-style-type: none"> <li>• Czech Republic</li> </ul>
64.	New Zealand	657	200	2500		
65.	Oman	4,000		4,900	765	
66.	Palestine	-				
67.	South	282		477	277	

S/N	Country	Registered With Mission	Students (Inclusive)	Total Estimated	Huduma Number reg.	Accredited Countries
	Korea					
68.	Sudan	3227		30000	246	
69.	Philippines	800	100			
70.	Portugal	34	6	89		
71.	Poland	106	200	400		
72.	Qatar	16750	20	40,000	12793	
73.	Rwanda	3196	300	5,000	970	
74.	Romania	27				
75.	Russia (Moscow)	287		350	132	<ul style="list-style-type: none"> <li>• Ukraine</li> <li>• Belarus</li> <li>• Kazakhstan</li> </ul>
76.	Saudi Arabia		62000	100,000	2383	<ul style="list-style-type: none"> <li>• Iraq</li> <li>• Yemen</li> </ul>
77.	Spain	1800	70	2500	1005	
78.	Serbia	25	11	27		
79.	Slovak Republic	40				
80.	Switzerland	836	28	3,500	852	
81.	Tanzania	7,125		20,000	2291	
82.	Thailand	459		500	246	<ul style="list-style-type: none"> <li>• Cambodia</li> <li>• Vietnam</li> <li>• Myanmar</li> <li>• Laos</li> </ul>
83.	Tunisia	7				
84.	Turkey	411	375		374	
85.	United Arab Emirates (UAE)	23,786		50,000	4031	
86.	United Kingdom	136,000	3,000		6580	
87.	Ukraine	87				
88.	Uruguay	1				
89.	Venezuela	8				
90.	Vietnam	10		15		
91.	Zambia	1,900	20	1,900	1149	<ul style="list-style-type: none"> <li>• Malawi</li> </ul>
92.	Zimbabwe	450			351	<ul style="list-style-type: none"> <li>• Mozambique</li> </ul>
93.	Pakistan	142	33	315	141	
94.	Yemen	3,000				
95.	United States of America	24,400		950,000 <sup>1</sup>	2042	
96.	New York				734	
97.	Los Angeles				787	
98.	Uganda	1663	1765	4400	4381	
99.	St. Kitts and	13		13		

<sup>1</sup> The total estimate of the Kenyans in the USA, includes their offspring which totals to 950,000 Kenyans. All the other figures do not include offspring of the Kenyans in the diaspora.

S/N	Country	Registered With Mission	Students (Inclusive)	Total Estimated	Huduma Number reg.	Accredited Countries
	Nevis					
100.	South Sudan	5200		7,000	3227	
101.	Sweden	805	50	2,500	2127	<ul style="list-style-type: none"> <li>• Denmark</li> <li>• Finland</li> <li>• Iceland</li> <li>• Norway</li> </ul>
102.	Denmark	403		2,000		
103.	Finland	559		2,500		
104.	lesotho			1500		
105.	Liberia	78				
106.	Iceland	31		120		
107.	Norway	312		2,500		
108.	Republic of South Africa	22800	2000	40,000	6023	
109.	Republic of Ireland	-	200	5,000	233	
110.	Nigeria	348		2,000	0	<ul style="list-style-type: none"> <li>• Togo</li> <li>• Sierra Leone</li> </ul>
111.	Niger	51				<ul style="list-style-type: none"> <li>•</li> </ul>
112.	Togo	28				
113.	Sierra Leone	114				
114.	Benin	14				
115.	Bukina Faso	18				
116.	Ghana	184	15			
117.	Cote d'Ivoire	121				
118.	Gambia	29				
119.	Senegal	160	2	160		
120.						
	<b>TOTAL</b>	<b>393,458</b>	<b>81,413</b>	<b>1,468,038</b>	<b>94,564</b>	



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**KENYA ASSOCIATION OF PRIVATE EMPLOYMENT AGENCIES**

**(KAPEA)**



**KAPEA**

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**KENYA ASSOCIATION OF PRIVATE  
EMPLOYMENT AGENCIES**

**A PROPOSAL ON SELF REGULATION FOR PRIVATE  
EMPLOYMENT AGENCIES IN KENYA**

**SUBMITTED TO THE CLERK OF THE NATIONAL & SENATE ASSEMBLY**

**SENATE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE ON  
LABOUR MIGRATION**

**JULY 2021**

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Kimathi House, 8<sup>th</sup> Floor, Kimathi Street, Nairobi  
0701 777 946 (Chairman), 0722 527 884 (Treasurer), 0704 544 444 (Secretary)

## **ABOUT KAPEA**

KAPEA serves as an Umbrella body of all licensed and accredited recruitment agents in Kenya. The head office is in Kimathi House, 8<sup>th</sup> Floor. The association has 450 accredited members currently

KAPEA operates by a documented service charter and has a code of professional practice created in consultation with members and industry stakeholders to ensure that all members conduct their businesses ethically, to the highest standards and with respect to governing laws. It is binding on all corporate members

The organization is governed by a 6 member committee elected on 3 year tenure. The serving chairman is Kenneth Kiagiri.

## **CORE MANDATE**

- To contribute **to** the alleviation of poverty and unemployment in Kenya by securing local and foreign employment opportunities that are consistent with principles of decent work and national and international standards regarding labour and migrant workers
- To develop strategies and programs to ensure full and quality employment opportunities under the best possible terms and conditions of employment
- To contribute **to** the prevention of irregular/unethical recruitment, exploitation or trafficking and smuggling of persons through labour migration or any other malpractices that may occur in the course of recruitment, placement or employment of Kenyans.
- To contribute **to** the development of national policy and law on local and foreign recruitment and employment.
- To progressively develop the level and standards of operations or provisions of services by members of the association to operate in agreement with national and international law and standards regarding labour and migrant workers.
- To promote the socio-economic welfare for its members;
- To enhance the knowledge and organizational and institutional capacity for its members.

- To engage in such other activities as raise the profile of the industry and its members, e.g. to distinguish them from unscrupulous, unethical actors and quacks.
- Represent the industry in intergovernmental forums such as with IOM and ILO, and international trade associations like the World Employment Confederation

### **Our Duty to the Industry**

- Engage with the relevant government institutions/authorities to formulate adopt and adhere consistently to a Code of Conduct to regulate the operation of the members of the Association.
- To ensure through the Code of Conduct that the operations of its members as far as such operations relate to employment agency services are carried out in a lawful and proper manner.
- To ensure that all job seekers and migrant workers have free and fair access to independent information and training in accordance with national and international law and standards prior to agreeing to take employment offered by an KAPEA member.
- Ensure access to services including guidance, counseling and pre-departure orientation services to jobseekers leaving the country, support and follow-up services to migrant workers abroad and re-orientation services to migrant workers returning to the country. It is the mandate of licensed agents to ensure that all migrant workers attend pre-departure training with an independent institution as agents might compromise the type of training given.
- It is the mandate of licensed agents to ensure that all migrant workers attend relevant training as guided by NITA i.e. including but not limited to pre-departure training and Homecare Training.
- Establish Sector Committees which are in charge of driving sectoral advocacy agenda of KAPEA. This makes it easy for KAPEA members to channel issues of concern to their sector to harmonize the issues before presenting them to the executive committee.

## **KAPEA RULES AND REGULATIONS GOVERNING THE RECRUITMENT AND EMPLOYMENT OF MIGRANT WORKERS**

### **PART 1 : GENERAL PROVISIONS ON SELF REGULATION**

The private sector shall participate in the recruitment of Kenyan worker for overseas employment, in accordance with these Rules and any subsequent guidelines that may be issued by the **KAPEA** Governing Board and its administration.

1. Proof valid **accreditation by NEA** and provision of current operating license
2. Valid clearances from the KACC and KENYA POLICE for the proprietor, partners, and all members of the board of directors of the recruiting agency,
3. A sworn **affidavit or notarized undertaking** declaring no criminal conviction or no pending criminal case for illegal recruitment or a crime involving moral turpitude.
4. Assume full and complete **responsibility for all claims and liabilities** which may arise in connection with the use of the license;
5. Assume joint and several liabilities with the employer/principal for all claims and liabilities which may arise in connection with the implementation of the contract, including but not limited to unpaid wages, death and disability compensation and repatriation;
6. Ensure recruitment of **medically fit workers** attested by medical clearance certificates by authorized institutions only
7. Guarantee **compliance with existing labor and social legislation** and applicable regulations of the republic of Kenya and international organizations such as the International Organization for Migration (IOM) and International Labour Organization (ILO);
8. Assume full and **complete responsibility** for all valid, legal and authorized acts of its officers, employees and representatives done in connection with recruitment and placement;
9. Negotiate for the **best terms and conditions of employment** for migrant workers; Inform them of their rights and duties and disclose the full terms

- and conditions of employment under their contracts of employment and articles of agreement prior to and in the process of engagement;
10. Provide **orientation** to incumbents on recruitment procedures, terms and conditions and other relevant information to them, and provide the necessary facilities for the purpose;
  11. **Act on complaints** or problems brought to its attention or submit reports on the status or condition of recruits on a regular basis;
  12. Ensure that the **contracts of employment** are in accordance with the standard employment contract and other applicable laws, regulations and collective bargaining agreements;
  13. **Flowchart** detailing the step-by-step recruitment procedures, documentary requirements, briefings and orientations required, authorized fees and costs, deployment timeframes, and the responsible officer/s and process cycle time for every phase of the process; and
  14. A two-year **business plan** detailing financial, market and operational viability, including projected income and a risk management plan.
  15. **Panel Interview** — The proprietor, partners and members of the Board of Directors, including the major stockholders of recruitment agency, shall undergo a panel interview to ascertain their qualifications and fulfillment of the requirements under the association applicable rules.
  16. Submission of **Business Take-Off** Requirements. — such as
    - a. A lease contract for an office space, or proof of building ownership that will be used as a decent office, its layout providing and clearly delineating adequate spaces that will serve as a receiving area, interview room, administrative and finance area, conference/training room, and an executive office;
    - b. An inventory of office equipment and facilities, which at the minimum, shall include the following: i. Office furniture ii. Secured filing cabinets; and iii. Office equipment, which at the minimum, shall include two (2) computers, computer printer and scanner, internet connection, and multi-media equipment (i.e. LCD projector, and other similar audio-visual equipment).
    - c. Organizational chart indicating the duties and responsibilities and names of officers and staff, which at the minimum, shall consist of the Director, Office Manager, Recruitment and/or Documentation Officer, Accountant or Bookkeeper, Cashier, and a Liaison Officer;

## **PART 2: COMMON PROVISIONS**

- a) Any derogatory practices and gross violation of rules shall be subject to disciplinary action which may lead to suspension from membership without refund of fees paid and a report to NEA to investigate malpractice, malfeasance, misrepresentation etc
- b) Change of board of directors in recruitment agencies shall be communicated to KAPEA and clearances indicated in general provisions rule \_\_ duly submitted to governing council / Executive Committee.
- c) Transfer of business address shall, too be communicated to KAPEA with copy of lease or proof of ownership attached. The same shall apply to new branches opened and operated by the agencies.
- d) Conviction for an offense involving moral turpitude shall lead to disqualification from membership
- e) Violation of privacy policy and ineptitude by sharing recruits bio-data without permission shall lead to disqualification from membership
- f) Refusal to provide performance reports for central profiling or delay of the same shall be constituted as intent to derail the association's mission and commitment to provide sector statistics

## **PART 3: BENCHMARKS**

### **Professional Training**

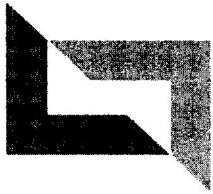
Facilitate training for its members through International Recruitment Integrity System (IRIS) and certifications required in Canada and some other European based companies and an industry mark of quality recruitment.

### **Strengthening of Private Employment Services by Designing and Implementing a Public-Private-Partnership Framework**

Sessional-Paper-No.-4-On-Employment-Policy-And-Strategy-For-Kenya (2013) listed KAPEA as one of the institutions that should strengthen private employment services. As a contributor and stakeholder in the labour market, KAPEA proposes a Public-Private-Partnership to have a maiden cohort of **resource persons** to be trained at the Kenya School of Government to the assist consulates through deployment in major cities in the BLA countries of Middle East with oversight over migrant workers

Such persons are to be sourced from KAPEA membership. KAPEA proposes a PPP approach through establishment of **migrant resource centers** and **safe houses** in major cities of target countries fully equipped with staff and a 24/7 hotline to cover cases of runaways, mistreatment and gross misconduct in accordance with International Convention on the Protection of the Rights of All Migrant Workers.

This approach will ensure that the association represents its members abroad by offering much needed help and offloading the burden occasioned to foreign affairs in dealing with distressing issues



# ASMAK

ASSOCIATION OF SKILLED MIGRANT AGENCIES OF KENYA

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## Association of Skilled Migrant Agencies of Kenya (ASMAK) – Self Regulation

### INTRODUCTION

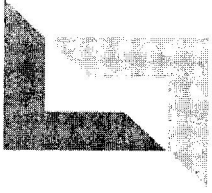
The Association of Skilled Migrant Agencies of Kenya (ASMAK) was established in 2018 as a professional body of Private Employment Agencies who have undergone thorough vetting and licensing by the National Employment Authority under the Ministry of Labour and Social Protection. It is non-political and its operations are guided by the *ASMAK Constitution and Code of Conduct*.

Although recruitment agencies in Kenya operate as normal private businesses, it is worth noting that their activities and operation relate to people and therefore require some specific standards of conduct.

A standard code of conduct for ASMAK Members has been developed with the assistance of key partners IOM and Verité, with the aim of creating a positive image and raising standards in the industry.

- All ASMAK Members are expected to adhere to the Code of Conduct.
- ASMAK acts as a reliable source of timely and accurate information about services, practices and status of the global employment industry.
- ASMAK exists for self-regulation and bringing order in the Industry.
- ASMAK serves as the official link between the Government and its members on matters to improve the Industry.
- Acts as a lobby body to raise the interest of markets as well as unifying body for members to speak in one voice.
- The Association also provides a forum for members to discuss, ratify and advocate ethical standards of operations that are optimal for the industry.

We are passionate and totally committed to setting standards that best serve the job seekers and employers.



# ASMAK

ASSOCIATION OF SKILLED MIGRANT AGENCIES OF KENYA

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## **The governance structures of ASMAK is composed of;**

- a) Members in General Meeting;
- b) The Executive Committee
- c) Board of Trustees.

ASMAK Office is located in View Park Towers 13th Floor manned by a secretary who is guided by the executive.

Current ASMAK Membership is two hundred and seven (207) (Attached list)

## **Membership Application Process**

All recruitment agencies who want to become members of ASMAK must follow ASMAK membership application process which includes:

Filling in Asmak application Form and attach the documents which include

Company's Registration Certificate

Directors Details including IDs, Passport Photo

National Employment Authority – Notification

Chamber of Commerce Certificate

Office Manager or person in charge ID and contact details

Once all documents are received interviewed is conducted and is either approved or rejected.

Approved members pay membership fee then they are issued with ASMAK Certificate together with the Constitution and Code Conduct.

## **Key Facts and Figures of International Recruitment**

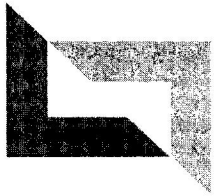
The recruitment landscape today is increasingly complex and involves a wide range of actors, both regulated and unregulated.

In many parts of the world, recruitment through private employment agencies is on the rise including here in Kenya. In Kenya there are currently over four hundred recruited agencies.

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# ASMAK

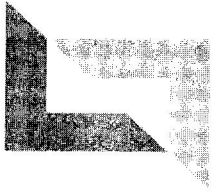
ASSOCIATION OF SKILLED MIGRANT AGENCIES OF KENYA

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While private recruitment agencies can play a positive role in matching labour supply and demand, there is growing concern about exploitative recruitment practices and **UNSCRUPULOUS EMPLOYMENT AGENCIES**, informal labour intermediaries and other actors operating outside of the legal framework. These unfair recruiters tend to primarily target low-skilled workers and often place them at risk of **HUMAN TRAFFICKING** and **FORCED LABOUR**. Both national and migrant workers are at risk of facing abuses during the recruitment process. It is in this regard that ASMAK has put disciplinary measures in place which assist in ensuring that ASMAK Members are not involved in unethical recruit.

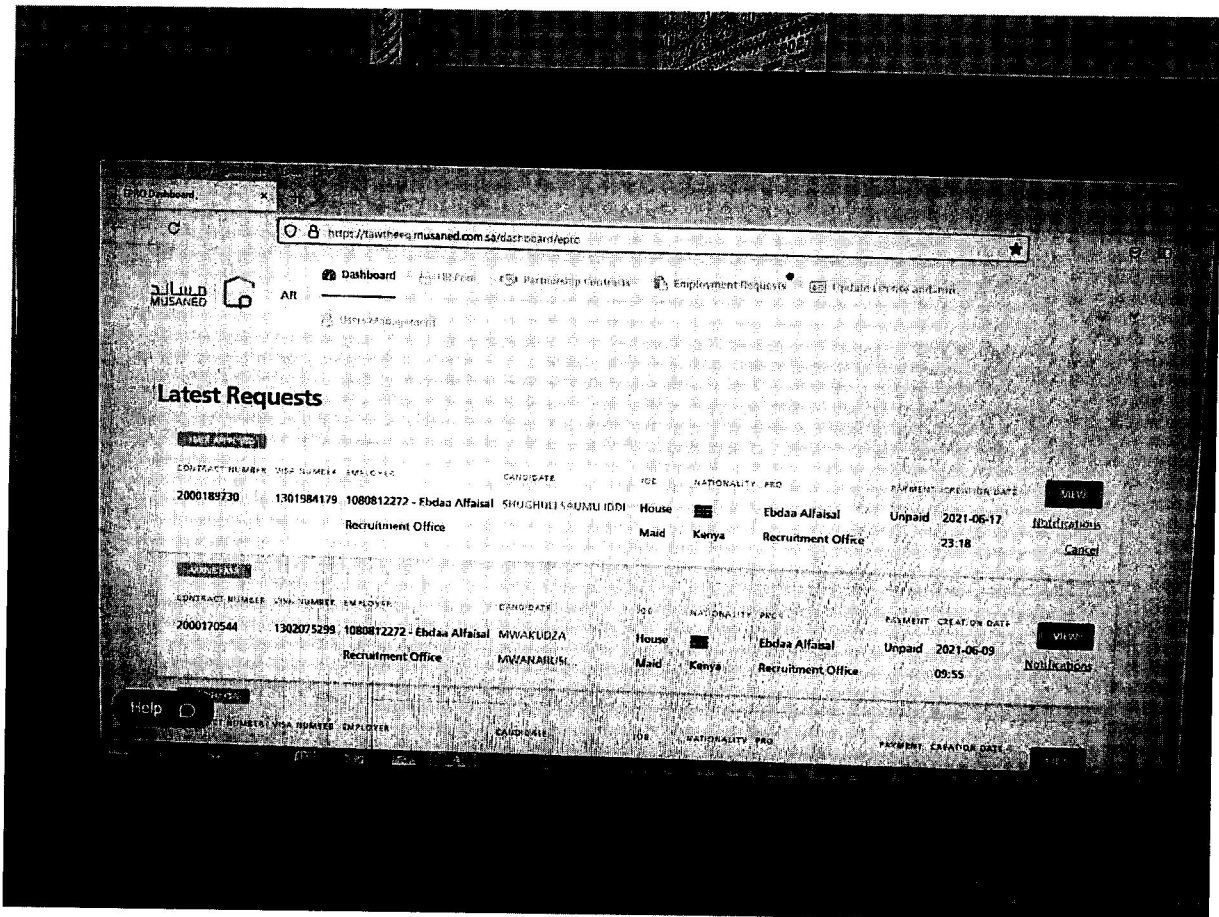
## **Recruitment Process of Migrant Workers by ASMAK Members specifically Domestic Workers to KSA.**

All Domestic workers being recruited by ASMAK members have to go through the MUSANED System as per below screen shot, this includes House Help, House Driver, House Caregivers, House Teachers, House cook and House Gardeners.



# ASMAK

ASSOCIATION OF SKILLED MIGRANT AGENCIES OF KENYA



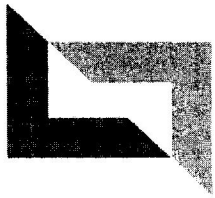
## Handling the Distress Cases

Members are at liberty to handle the distress cases with their partner agent but where the Kenyan agent is unable to resolve the distress amicably they forward the case to ASMAK Office by filling in ASMAK distress form (attached) and then this is followed by the Domestic Sector who handle the case with relevant Government authorities especially National Employment Authority and the contacts in the diaspora.

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## Disciplinary Committee

Disciplinary Committee of ASMAK is constituted of all executive members.

### **Action**

The process to discipline a member is guided by ASMAK Constitution article 6.6.2 where a verdict is passed by majority vote. (Attached ASMAK Constitution and Code of Conduct)

## ASMAK CASES HANDLED BY ASMAK IN 2019 -2020

1. Complaints handled and solved amicably sixty seven (67) most of this cases were resolved by dealing directly with the employer as the partners were un-cooperative.
2. Deaths :
  - Seven domestic workers who had contract in place.
  - Seven who had run away from their employers.
  - Two Muslim men due to COVID 19

These cases were handled with the help of our diaspora contact- the Chairperson of Diaspora Community in KSA who is recognized by the Kenyan Embassy in KSA.

## Challenges faced by ASMAK – See Annex Report

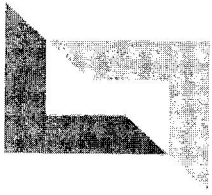
### Way Forward

- Asmak is in the process of establishing an office in KSA to ease dealing with distress cases of migrant workers we are requesting Government logistic assistant to enable the same.
- We are requesting the Government support during our visit KSA for a fact finding mission.

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ASSOCIATION OF SKILLED MIGRANT AGENCIES OF KENYA

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- Association to be included during drafting of Policy, Bills and any other matters relating to Labour Migration.
- Also refer to annex report on recommendations.

## ASMAK CONTACT DETAILS

Telephone Number: +254 782899931

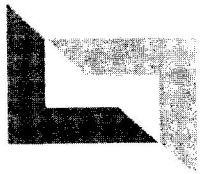
Domestic Sector Hotline: + 254 739201977

Email: [info@asmak.co.ke](mailto:info@asmak.co.ke)

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# ASMAK

ASSOCIATION OF SKILLED MIGRANT AGENCIES OF KENYA

## POTENTIAL & CHALLENGES OF LABOUR EXPORT IN KENYA 2020/2021



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# **ASSOCIATION OF SKILLED MIGRANT AGENCIES OF KENYA**

- The **Association of Skilled Migrant Agencies of Kenya (ASMAK)** was established in 2018 as a professional body of Private Employment Agencies who have undergone thorough vetting and licensing by the National Employment Authority under the Ministry of Labour and Social Protection.
- It is non-political and it's operations are guided by the ***ASMAK Constitution***.

## **Conduct**

- Although recruitment agencies in Kenya operate as normal private businesses, it is worth noting that their activities and operation relate to people and therefore require some specific standards of conduct.
- A standard code of conduct for ASMAK Members has been developed with the assistance of key partners IOM and Verité, with the aim of creating a positive image and raising standards in the industry.
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## **Conduct (cont'd)**

- ASMAK acts as a reliable source of timely and accurate information about services, practices and status of the global employment industry.
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- ASMAK serves as the official link between the Government on matters to improve the Industry.
- Acts as a lobby body to raise the interest of markets as well as unifying body for members to speak in one voice.

## **Conduct (cont'd)**

- The Association also provides a forum for members to discuss, ratify and advocate ethical standards of operations that are optimal for the industry.
- We are passionate and totally committed to setting standards that best serve the job seekers and employers.



## Key Facts and Figures Inter. Recruitment Cont.

- The recruitment landscape today is increasingly complex and involves a wide range of actors, both regulated and unregulated.
- In many parts of the world, recruitment through private employment agencies is on the rise. In 2013, there were almost **260,000 PRIVATE EMPLOYMENT AGENCIES** worldwide. While private recruitment agencies can play a positive role in matching labour supply and demand, there is growing concern about exploitative recruitment practices and **UNSCRUPULOUS EMPLOYMENT AGENCIES**, informal labour intermediaries and other actors operating outside of the legal framework.
- These unfair recruiters tend to primarily target low-skilled workers and often place them at risk of **HUMAN TRAFFICKING** and **FORCED LABOUR**. Both national and migrant workers are at risk of facing abuses during the recruitment phase.

## Key Facts and Figures Inter. Recruitment Cont.

- The International Labour Organization estimates that **40.3 MILLION PEOPLE ARE TRAPPED IN FORCED LABOUR, HUMAN TRAFFICKING OR SLAVERY-LIKE CONDITIONS** worldwide, with victims to be found in every region of the world. Ninety per cent of the 40.3 million victims are exploited in the private economy, while 44 per cent are internal or international migrant workers.

## **LABOUR EXPORT POTENTIAL**

- Diaspora remittances play a vital role in Kenya's socioeconomic development. According to Central Bank of Kenya, in 2019 remittances from diaspora stood at KESh.280 billion or USD 2.8 billion representing 3.2% of Kenya's GDP.
- Nearly half of the remittances came from North America, and one-third from Europe.
- Most Western-based Kenyans tend to be highly skilled and migrate via family reunification channels or routes such as the U.S. diversity visa program, asylum programs, or through illegal immigration.

## **LABOUR EXPORT POTENTIAL**

- These numbers indicate where focus should be laid in terms of Bilateral Labour Agreements which will contribute to the increase in the remittances beneficial to economic growth and GDP.
- Despite above indications on benefits of remittances and trained unemployed Kenya Youth the Government has been slow in negotiating Bilateral Labour Agreements which conform to International Labour standards as the current three of the BLAs signed with Middle East Countries focus on low skilled workers who are also most vulnerable.

## **Huge Potential for more remittance to Kenya from the Gulf Region.**

KSA deployed workers 2019 – February 2020 – **45,000**

- Average salary – **Ksh 25,000.00 per Month.**
- Total Remittances per Month – **Ksh 1.125 Billion per Month.** Per Year: **Ksh. 13.5 Billion.**
- This proves that Labour is a key Kenyan export and with proper management it has the potential to grow further thus injecting a significant inflow of revenues into the economy.

## **CHALLENGES FACING RECRUITMENT INDUSTRY**

Recruitment Agencies are encountering various challenges which have negatively impacted the business which we have been trying to resolve by having meetings with the Institutions involved in Labour Migration.

### **Licensing**

- The Current licenses are valid for 1 year and sometimes it takes more than 4 months to have the renewal of license.
- Also some new license can take up to 6 months upon submission of their documents to the relevant authorities for vetting and this has scared some of potential recruiters .
- Cost of license is high compared to other Countries such as Uganda and Philippines .



## License (Cont.)

### Recommendations

- Renewed Licenses to be valid for 2 years as most employment contract for migrant workers are valid for two years.
- Reduce cost of License to **Ksh about 200,000.00**
- Automatic renewal unless an agency has been blacklisted or license suspended.
- If a misconduct is reported/alleged the agency should be allowed to operate until judgment is passed.

## TRAVEL DOCUMENTS

- There is delay in obtaining documents such as Birth Certificates, Travelling passport and the Police clearance Certificates.
- There is also the issue of delay of issuing passports for the Muslim migrant workers due to vetting.

### **Recommendation:**

- Migrant workers applying for travelling Passports to be on the priority list same as other urgent cases that are time bound e.g. those seeking Medical treatment abroad or Students going for further studies.
- Government to establish a one stop shop for labour migration where all documents pertaining to travel are issued.
- For short term solution government to allow migrant workers to be integrated in one of the special cases counters at the immigration such as civil servant counter.

## Medical Testing

- The current system of pre-travel medical screening in Kenya is not synchronized with the post-travel screening in the Middle East especially for Saudi Arabia.
- There is no medical Centre based in Mombasa or any other county as KSA accredited Medical center.
- It's worth noting that KSA is one of our biggest market especially for domestic labour.
- Lack of standardized medical tests resulting in failed medicals in the destination countries in the Middle East and workers being returned.
- In some cases we have unfortunately lost Kenyans due to conditions which were missed out during the initial testing here in Kenya.

## Medical Testing Cont.

- Introduction of GAMCA Medical system by some Middle East Countries is not currently practical in Kenya as there are only 4 clinics serving the whole country. Places like Mombasa county which is our 2<sup>nd</sup> big county does not have a single clinic. The BLAs only indicate that migrant workers must be medically fit and not mention of GAMCA Medicals
- The costing of the GAMCA Medical system is more than twice what is offered by our local medical centers for the same medical tests.
- The results are taking even a week to be released .
- They clinics not able to handle numbers .
- Those from Mombasa and other Counties have to travel all the way to Nairobi

## **Medical Testing Recommendations**

- GAMCA Medical system for KSA and any other Middle East Countries to be put on hold with immediate effect until such a time that we have enough clinics at least both in NAIROBI AND MOMBASA .
- We should have not less than 10 clinics in either county.
- GAMCA Medical system prices should be reviewed to standardization of the same medical tests done by our local medical centers.
- More Medical Centers to be opened country wide and their testing be standardized with labor receiving countries testing.

## **Bilateral Labour Agreements**

- It is a fact that in other countries, export of human capital is given very high profile in the bilateral relations with destination countries.
- For example, the salary for a Kenya domestic worker is 50% less that of domestic worker from Philippines working in Saudi Arabia though of importance to note Philippines migrant workers including Domestic Workers are properly trained especially on work ethics .

### **Recommendation:**

- Bilateral Agreements/MOUs' between Kenya and key destination Countries must conform to International Labour Standards .
- BLAs should include employment quotas especially on professional /skilled cadres such as doctors, nurses, engineers, accountants, marketers etc. in addition to the blue-collar jobs.

## Expansion of Markets

- The fact that Diaspora remittances are now the highest earners employed Kenyans are often searching for jobs in other markets such as, UK Europe, North America , Canada and Australia .

### ***Recommendation:***

- There is need to have aggressive engagement with foreign governments in need of skilled manpower to ensure creation of employment opportunities overseas for Kenyans .
- All other BLAs pending signing should be given priority.

## **Creating a conducive environment for the growth of the foreign recruitment industry**

- The operating environment in the foreign recruitment industry is currently frustrating to the Kenyan players.
- Our foreign counterpart agencies are very well much supported by their own Embassies and Governments even when they illegally go against the Kenyan agents.
- The current vetting system is quite thorough but surprisingly there are still loopholes as foreigners are able to operator recruitment agencies in Kenya through proxies thus controlling supply and demand which puts the migrant workers at risk once they are in destination countries.
- The police constantly harasses Kenyan agencies and recruits in hostels and in transit to the airport hiding under the pretext that they are suspected of human trafficking despite the agencies being legally licensed.

## **Creating a conducive environment for the growth of the foreign recruitment industry -Cont.**

### **Recommendation:**

- To urgently convene Stake Holders Meeting to address Labour Migration Issues including the Embassies of the Destination Countries.
- The Government needs to be firm on rooting out agencies floating the rules for the protection of the Kenyan Migrant Workers.
- Crack down on illegal Labour export agents in Kenya who flout the laid down Government guidelines, and almost engage in human trafficking.
- One of the documents for new applicants to operate recruitment agency should be a bank statement not less than six Months old.

## **Creating a conducive environment for the growth of the foreign recruitment industry –Cont.**

- ASMAK is aware that Lawyers Without Borders and Verité have established an SOP with a wide range of government agencies (from MOL, MFA, Police/Security, the AG's office, CTIP, KHRC, etc.), for the purposes of improving protocols for detecting and prosecuting human trafficking for the purposes of labor exploitation.
- The agencies involved in developing these SOPs now need support in training their personnel and implementing everything from detection, investigation, evidence collection, and handling witnesses or victims.



## Promotion of Labour Migration

- Despite the growing contribution of the Kenyan diaspora, the government of Kenya has not actively participated in promoting the increase in diaspora numbers through export of human capital.

### **Recommendation:**

- Roll out public awareness on labour migration initiated by the government to the masses, include roadshows, Media Campaigns.
- For labour Destination countries, engage local Embassies and consulates to market Kenyan Human Capital

## Specific Challenges for Domestic workers KSA

**Runaways-** Once the migrant worker leaves the legal employer, agencies and sponsors have no way of following them up, leaving them vulnerable to a multitude of risk

**Deportation centers-** Domestic workers who had disagreements with their bosses and stopped work, reported being taken to a Deportation Centre, where they were awaiting deportation back to Kenya.

**Illegal Agencies-** Some of the migrant workers were recruited illegally as cleaners, security guards and drivers hence skipped training. On reaching destination Country they work as domestic workers with no formal training which amounts to deception.

## **Recommendations**

- Agencies in Labour Receiving Countries Partnering with Kenyan Agencies should be given a pre-condition to have hostels to house migrant workers in case of distress and facilities inspected by the Kenyan Labour Attaché.
- Have the Kenyan Embassy involved in vetting all companies Kenyan Agencies are working with to ensure they are credible in labour receiving countries.
- Kenya Government needs to have safe House for Kenyan Migrant workers in Labour receiving Countries.
- More support in terms of resources and personnel needs to be accorded the Regulatory bodies, especially The National Employment Authority, so as to achieve necessary capacity for effective performance.

## **Recommendations Cont.**

- Consider having not less than three labour Attaché's in KSA and one must be female .
- Labour assistances who understand Arabic to deal with various Government Ministries.
- Welfare officer /Social Worker – To deal especially issues of distress for ladies.
- Identify Diaspora members to work with in various towns who report to the Labour Attaché and who should be remunerated.
- Review of the BLA/MOU signed between the Kenya recruitment Agencies and KSA Partners to address the areas which we have identified.
- The standard contract for Domestic workers to be reviewed.

## **Recommendations Cont.**

- To stop exploitation of migrant workers the Cleaners should not be used as Domestic workers as this has been exploited by both Kenyan and Saudi Agencies.
- ASMAK is willing to open offices in Labour receiving Countries starting with KSA to be operated by the Association members employees which will act as a call Centre especially dealing with distress cases at the cost of the recruitment Agencies but we require GOK support to open the same.
- Recruitment Agencies to a representative in the NEA Board /Committee who can articulate labour Migration issues.
- Enact into law the Migration bill, Migration policy, to facilitate the employment of Kenyans in the Diaspora as these two address most of the challenges .

## **UAE SPECIFIC -EXPLOITING FULL POTENTIAL OF EMPLOYMENT OPPORTUNITIES IN UAE**

- Urgent intervention for lifting embargo on employment visas for men/ women to access the many jobs opportunities in UAE.
- Urgently negotiate a BLA for skilled and semi skilled Kenyans to work in UAE. Currently we only have BLA for domestic workers which guarantee minimum wages and other terms and conditions of employment supervised and regulated by the Ministry of Human Resource and Emiratization in UAE.

## **EXPLOITING FULL POTENTIAL OF EMPLOYMENT OPPORTUNITIES IN UAE –Continued**

- Pre departure training ought to be detailed factoring in the culture, customs and traditions of UAE. Only migrants who are psyche to work should be allowed access, many Kenyans take advantage of accessing UAE through labour co-operation only to end up doing illegal business, this leads to blacklisting of Kenyans and denial of job opportunities in future.
- All demand letters/ employment contracts should be attested by the Embassy of Kenya in UAE / labour attaché before submission for action in Kenya, this will ensure Kenyans are not brought here on non existing jobs.

## **EXPLOITING FULL POTENTIAL OF EMPLOYMENT OPPORTUNITIES IN UAE –Continued**

- The two countries could explore areas of cooperation in health and commence discussions for possible inclusion during the next session of the Joint Commission for Cooperation (JCC). This could include a bilateral framework in health that could include, but not limited to such areas as:
- Mutual recognition and Accreditation of each other's training institution, and national certifications/licensing;
- Training of medical personnel;
- Fellowships and Exchange programmes in Health including Internship, graduate programmes, visiting practitioners,
- Twinning institutions of excellence in medical & research for exchange of best practices;

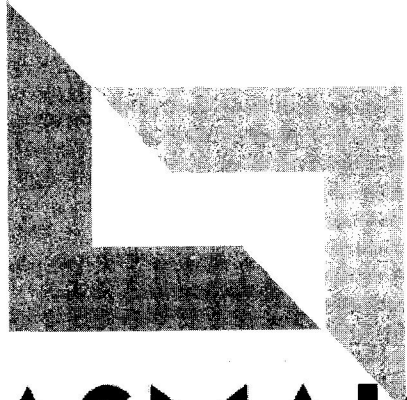
## Conclusion

- It is clear that taking advantage of market dynamics, to advance protections for Kenyan especially the youth seeking foreign employment will lead to increased remittances and greater economic growth for Kenya.
- As a country we have failed to take advantage of our Human Capital and this needs to be addressed urgently .
- Recruitment agencies in Kenya also play a key role in this undertaking and with proper policies and strategies in place as well as fair recruitment practice within the recruitment industry, Kenyans can benefit from labour migration not only at individual level but also at the community level due to economic benefit.
- The Country economy growth will benefit from the remittances from the migrant workers adding to the Country's GDP.

**END**

• Thank YOU





**ASMAK**

ASSOCIATION OF SKILLED  
MIGRANT AGENCIES OF KENYA

# THE CONSTITUTION OF THE

ASSOCIATION OF SKILLED MIGRANT AGENCIES OF KENYA (ASMAK)

## **TABLE OF CONTENTS**

Article 1:	Name of the Association
Article 2:	Interpretation
Article 3:	Objectives
Article 4:	Rights of the Association Article
Article 5:	Duties of the Association
Article 6:	Membership
Article 7:	Governance Structures
Article 8:	Management of Association Funds
Article 9:	General Meetings
Article 10:	Decisions, Elections, and Voting
Article 11:	Appointment of Auditor
Article 12:	Code of Conduct
Article 13:	Compliance with Rules of Membership
Article 14:	Branches
Article 15:	Amendment
Article 16:	Dissolution

## **Article 1: Name**

- 1.1 The name of the Association is **ASSOCIATION OF SKILLED MIGRANT AGENCIES OF KENYA (ASMAK)** here in after referred to as "THE ASSOCIATION".
- 1.1 The Association is a non-profit and non-political association.
- 1.2 The registered office of the Association shall be situated in Nairobi in the Republic of Kenya or such other place as may be from time to time determined by the members of the Association.
- 1.3 The postal address shall be P.O. Box 10362 -00100 NAIROBI or any such other address as may be determined by the members.
- 1.4 The official languages of the Association shall be English and Kiswahili.

## **Article 2: Interpretation**

- 2.1. The terms listed in this Constitution shall have the meanings attached to them hereunder, provided that such meaning shall be attached within the context of this Constitution and the circumstances prevailing at any point in time.
  - a) 'Code of Ethical Conduct' or 'Code of Conduct' means the Code of Ethical Conduct (COEC) adopted by the Association as provided for by this Constitution.
  - b) Private Employment Agency (PEA) means any licensed and accredited person, agency, group of persons, whether corporate or otherwise or any organization who or which:
    - i) Acts as an intermediary between a prospective worker or employer, or other labour supplier, for purposes of sourcing employment or supplying labour authorized or licensed by the relevant government authority
    - ii) and/or negotiates terms and conditions of employment with a view to deriving pecuniary or other material gain either directly or indirectly from either a prospective worker or employer, or other labour supplier.
  - c) 'Foreign employment agency' (FEA) means a private employment agency engaging Kenyan workers for foreign employers for purposes of gainful employment or negotiating terms and conditions of such employment,
  - d) 'Foreign employer' means an employer who has a place or places of business outside of Kenya.
  - e) Labour migrant/migrant worker means a Kenyan who secures employment and/or is employed outside of Kenya.
  - f) 'Prospective employee' or "jobseeker" means a Kenyan seeking employment locally or in a foreign country. Also referred to as 'jobseeker' in this document.
  - g) 'Prospective employer' means a local or foreign employer seeking to offer employment to or to employ a Kenyan citizen.

## **Article 3: Objectives**

- 3.1 The objectives for which the Association is established are:
  - a) To contribute to the protection of Kenyan workers, and the prevention of irregular/ unethical recruitment, forced labour, exploitation or trafficking and smuggling of persons through labour migration or any other malpractices that may occur in the course of recruitment, placement or employment of Kenyans;
  - b) To contribute to the development of National Policy and law on local and foreign recruitment and employment.

- c) To contribute to the alleviation of poverty and unemployment in Kenya by improving members' capacities to contribute to building safer labour markets and employment opportunities for Kenyans; by improving members' capacities to facilitate safe and protected routes for Kenyans to obtain local or foreign employment opportunities that are consistent with principles of decent work and national and international standards regarding labour and migrant workers.
- d) To progressively develop the level and standards of operations or provisions of services by members of the association to operate in agreement with national and international law and standards regarding labour and migrants.
- e) To promote the socio-economic welfare of members.
- f) To contribute to the professional advancement of the members;
- g) To enhance the knowledge and organizational and institutional capacity of its members;
- h) To engage in such other activities that raise the profile of the industry and its members, e.g. to distinguish them from unscrupulous, unethical actors. Such as representing the industry in forums with the government of Kenya, intergovernmental forums such as with IOM and ILO, and engagement with the international recruitment industry such as the World Employment Confederation.
- i) To look for business opportunities for members
- j) To negotiate favourable commissions for members
- k) To negotiate for better terms of service for migrant workers including their safety and how they are treated by employers.
- l) Work with relevant industry players and stake holders for smooth business
- m) To negotiate favourable terms of trade for its members with e.g. Training schools, Medical facilities, Airlines or Travel agents and any other stakeholder/partner that may deem necessary.
- n) To instill discipline in members to conduct and observe ethical business practices.
- o) To promote socio-economic welfare of migrant workers through a welfare body.

#### **Article 4: Rights of the Association**

##### **4.1 The Rights of the Association are:**

- a) To obtain, source, collect and/or receive monies and funds or any other forms of property by way of contributions, donations, subscriptions, legacies, grants or any other lawful method for/or towards the achievement of the objects of the Association;
- b) To invest and deal with the monies held by the Association and not immediately required in such manner as may from time to time be determined by the members;
- c) To borrow, advance, or raise money for the furtherance of its objects in such a manner and upon such terms as the Association may deem fit and, in particular, upon the security by way of mortgage, charge, debenture or otherwise of all or any part of the Association's assets
- d) To purchase, take on, lease or exchange, hire or otherwise acquire in any manner property in the name of the Association;
- e) To transfer or dispose of all or any part of the property and assets of the Association;
- f) To affiliate with any groups of persons, associations or organizations having similar objectives;
- g) To enjoy or exercise such other rights as may be necessary for the achievement of its objects or the lawful and proper performance of its mandate.

## Article 5: Duties of the Association

### 5.1 The duties of the Association are:

- a) Engage with the relevant Government institutions/authorities to formulate, adopt and adhere to a Code of Ethical Conduct to regulate the operation of the members of the Association;
- b) To ensure through the Code of Ethical Conduct that the operations of its members, as far as such operations relate to employment agency services, are carried out in a lawful manner, and are committed to business operations which reduce Kenyan workers' risks of forced labour or trafficking in persons for the purposes of labour exploitation;
- c) To ensure that all jobseekers and migrant workers have free and fair access to independent information and training in accordance with national and international law and standards prior to agreeing to take employment offered by an ASMAK member; ensure access to services including guidance, counseling and pre-departure orientation services to jobseekers leaving the country, support and follow-up services to migrant workers abroad and re-orientation services to migrant workers returning to the country. It is the mandate of licensed agents to ensure that all migrant workers attend pre-departure training with National Employment Authority /NITA approved institutions and as per set up curriculum.
- d) Establish Sector Committees which are in charge of driving sectoral advocacy agenda of ASMAK. ASMAK members will channel issues of concern to their sector through the sector committees which will harmonize the issues before presenting them to the executive. The Sector Committee members are authority on their sector. The Sectors will be chaired by a key leader with expertise within the sector Elected by members during the Elections and will be part of the executive Committee. Sector Committee Members will be nominated by the executive committee and are allowed to join more than one sector. Sector Committees established for both domestic and foreign recruitment services are:
  - Professional/ Skilled (including low-wage or blue-collar sectors such as commercial cleaners, construction, or commercial security etc. )
  - Domestic
- e) As membership dues or association resources permit, to establish a secretariat and set up an office for overseeing the administration programs and strategic plan of the Association.
- f) To develop and maintain a database of private licensed employment agencies, job seekers and persons recruited, placed or employed for use by the members of the Association, jobseekers, the Government of Kenya and any interested partners;
- g) To maintain a registry of all migrants recruited or placed through its members to be available for inspection by the Government of Kenya;
- h) To determine, in consultation with the members and the relevant government authorities, the fees to be charged by the members of the Association for the services rendered to employers, jobseekers, migrant workers or any other party;
- i) To avail a copy of this Constitution to every member at or before commencement of membership, at any time a change or amendment is established, and under such conditions as may be determined by the members.

## **Article 6: Membership**

### **6.1 Membership eligibility**

All private recruitment agencies accredited and licensed by the Government of Kenya are eligible for membership. Membership is contingent on payment of annual membership fees and upon being issued with a valid certificate of Membership signed by the designated signatories and adherence to conduct established by the Constitution and the Code. Membership fee is non-refundable.

- a) Every member of the Association will be issued with a copy of the Constitution and Code of Ethical Conduct upon payment of Membership Fee.
- b) ASMAK members shall not belong to any other similar association. Any person who is a member of another similar association shall be suspended immediately on confirmation and shall be referred to the disciplinary committee for termination of membership.

### **6.2 The membership of the Association shall comprise the following:**

- i. Ordinary Members
- ii. Honorary Members

### **6.3 Ordinary Members**

- a) An ordinary member is any sole proprietor, group of persons or agency registered as such under any law, or a body corporate operating as a private employment agency licensed / authorized by the relevant authority and recruiting Kenyan Migrant workers
- b) A private employment agency seeking to become an ordinary member shall present a written application to the Chairperson or any other authorized person for consideration. The application shall include a written introduction by an ordinary member.

#### **c) Annual Subscription**

Every member shall pay an amount as Annual subscription as shall be agreed from time to time.

- I. The annual subscription fee shall be due by the 31st of January every year.
- II. A grace period of two (2) months shall be allowed, any member who fails to pay the annual subscription after the grace period the membership shall be suspended.
- III. A member removed under (II) above shall be reinstated upon payment of full subscription and any penalty as shall be set by the executive and approved by members at the Annual General Meeting/SGM .
- IV. Annual Subscription Fee is non refundable
- d) On admission, the new member shall be required to comply with the registration procedures and shall thereafter, pay the registration, subscription and any other fees as may from time to time, be determined by the Executive Committee and approved by the members.
- e) Upon registration, a member shall be bound by this Constitution and any other rules and regulations of the Association.

### **6.4 Honorary Members**

- a) Honorary membership shall be conferred to any member who or which, in the view of the members of the Association, has given outstanding support or contribution to the Association or its members. Such support and/ or contribution may be in moral, material, financial or any other befitting form as determined by the members.
- b) Any subscribed member of the Association may propose the name of any person, group of persons or body corporate for consideration as an honorary member of the Association.
- c) A decision on admission of an honorary member shall be by a simple majority of votes by the members at a general meeting.

## **6.5 Rights and Duties of Members**

6.5.1 The members of the Association shall have the right to:

- a) Take a full and active part in the discussion, formulation and implementation of the policies of the Association and in the conduct of its activities;
- b) Receive information on all aspects of Association;
- c) Inspect books of accounts and all documents of the Association at any reasonable time;
- d) Take part in elections and be elected or appointed to any committee, structure, commission or delegation of the Association. (Include voting rights) i.e. one vote per agency.

6.5.2 The members of the Association shall have the duty to:

- a) Take all necessary steps to understand and carry out the objects, policies and activities of the Association;
- b) Observe discipline, behave honestly and carry out decisions of the majority and decisions of the Association.
- c) Observe and uphold all relevant laws, act ethically, adopt highest standards of professional practice, etc.

## **6.6 Termination of Membership**

6.6.1 A member may apply to resign from the Association by giving a one-month notice in writing to the Chairperson or any other authorized person, which notice shall come into effect on the due date, provided that the member shall be required to perform any outstanding obligations prior to release from membership.

6.6.2 Membership may be terminated by majority vote of the Executive Committee for reason of:

- a) Abuses or fraudulent practices particularly against workers and after adequate investigation of the complains against the agency.
- b) Non-payment of subscription fees as stipulated;
- c) Ceasing to carry on the business of private employment agency;
- d) Death, where there is no other person to continue conducting the business of the Agency. Bankruptcy, mental disorder, labour malpractices, or integrity issues.
- f) Expulsion; provided always that termination of membership by reasons stated in paragraphs (a), (b) (c) and (e) shall be preceded by notice to the member to show cause why the membership should not be terminated, an opportunity of the member to respond, and a decision of a general meeting of the Association.
- g) The executive committee will refer cases of suspension or termination to the Disciplinary committee.
- h) All disciplinary matters should be referred to and dealt with by the disciplinary committee.

6.6.3 Any person who is expelled from membership is NOT entitled to a refund of any monies Contributed by him/her to the Association.

## **Article 7: Governance Structures**

### **7.1 General Principles**

Participation in or election into the governance structures of the Association shall be guided by the general principles of:

- a) Interests of the Association;
- b) Democracy;
- c) Transparency and accountability;
- d) Non-discrimination;
- e) Regional balance;
- f) Gender equity

### **7.2 Governance Structures**

The governance structures of the Association shall be composed of:

- a) Members in General Meeting;
- b) The Executive Committee;
- c) Board of Trustees.

### **7.3 Members in General Meeting**

#### **7.3.1 The General Meeting shall be composed of:-**

- a) All Members, executive and relevant committees of the Association represented by one Director who shall have satisfied all the requirements for participation in the meeting.
- b) Members must show commitment to the Association by attending meetings.
- c) Members who fail to attend two (2) Consecutive meetings shall be penalised
- d) Honorary Members who shall have a right to attend and participate in discussions but not to vote or be voted for.

#### **7.3.2. Members in General Meeting shall:**

- (a) One - half of the Ordinary members be the supreme authority of the Association;
- (b) Perform the general functions of developing policies for the Association, approving overall budgets, plans of action, audited accounts and establishment of branches and appointing trustees and Auditors of the Association;
- (c) Make such other decisions as may be necessary for the lawful and proper running of the Association.

### **7.4 Executive Committee Membership**

#### **7.4.1 There shall be an Executive Committee of the Association composed of the following (see section 7.6 for descriptions of each role).**

- a) Chairperson
- b) Vice Chairperson
- c) Secretary General
- d) Assistant Secretary General
- e) Treasurer
- f) Assistant Treasurer
- g) Organising Secretary

- h) Assistant organizing Secretary
- i) Three ordinary members
- j) Chair Domestic Sector
- k) Chair Professional

- i) All of whom shall be fully subscribed members and shall be elected at a General Meeting of the Association at which such elections are scheduled in accordance with this Constitution. Members on suspension shall not be eligible for any Executive Committee positions.
- ii. At least one-third of the members of the Executive Committee shall be composed of the any gender.

7.4.2 Interim Officials must meet the above criteria will be expected to serve on the Executive Committee for at least six (6) months) to ensure continuity of the Association activities take effect, and thereafter a General Election will be called to confirm or elect new Officials.

7.4.3 To be eligible to be elected as a member of the Executive Committee one must be a Director/ Principal Agent of a Private Employment Agency (P EA) company which is fully registered /paid up Member of ASMAK.

7.4.4 A member is eligible to be elected as a member of the Executive Committee /or Sector committee while awaiting renewal NEA license but must submit the same within Three Months (3) after election.

7.4.5 A member of the Executive Committee shall hold office for a term of not more than Two Years (2) subject to one (1) renewal term during elections.

7.4.6 A member of the Executive Committee shall be eligible for election for a second term of two year (2) provided that no member shall serve for more than two consecutive terms.

7.4.7 A Member of the executive is eligible to serve a maximum of two (2) terms in the same capacity, and is eligible to seek election in a different capacity beyond the two (2) terms.

7.4.8 A member of the Executive Committee who ceases to be a member of the Association or is placed on probation or suspension shall automatically cease to be a member of the Executive Committee.

7.4.9 A member of the Executive Committee may be suspended from office for reasons of misconduct, incapacity or incompetence, such decisions shall be made by two third (1/3) of the executive committee members and the matter handed over to the disciplinary Committee. The Assistant should take over in acting capacity until a decision is made. Once the disciplinary committee expels the executive member the assistant assumes the position.

The Executive Committee will appoint the Assistant among its members.

## **7.5 Executive Committee Meetings and Decisions**

7.5.1 The Executive Committee shall meet at least quarterly for the effective management of the affairs of the Association a special meeting shall be called upon when an urgent need arises as may be determined by the Secretary General in consultation with Chairperson.

7.5.2 The meetings of the Executive Committee shall be called by the Secretary General and presided over by the Chairperson.

7.5.3. In the event that the Secretary General is not available, the Assistant Secretary will act on behalf of the SG to call for such meetings.

7.5.4. Not less than two third (2/3) of the members of the executive committee shall form a quorum.

7.5.5 The Executive Committee shall by a two-thirds (2/3) vote of the members present and voting, make the rules that shall govern its meetings and in the manner in which its decisions shall be taken. The rules shall only come into force upon a resolution to that effect by members. The chairperson shall exercise voting right as a member of ASMAK and Executive Committee.

7.5.6 The Executive Committee shall:

- a) Be responsible for the management of the affairs of the Association and to make such decisions as shall be necessary for the achievement of the objects of the Association and implementation of the resolutions passed by the members of the Association;
- b) Have the authority, in the extraordinary circumstances of emergencies, to make decisions on urgent matters that require immediate attention and thereafter inform the members at the next General Meeting following such decision;
- d) Authorise disbursement of all moneys on behalf of the Association and which are within the ceiling and/or budget approved by members;
- e) Be held accountable for any decision it makes on behalf of the association;
- f) Compose and provide the Board of Trustee members with a quarterly report, which shall include
  - 1) documentation of minutes of all General Meetings of the association membership,
  - 2) documentation of minutes of all Executive Committee meetings,
  - 3) a 2-5 page briefing document summarizing items of note from the association's activities of the previous quarter, and items of concern or successes towards the associations goals noted by members during general meetings, or in other communication to the Executive Committee.

7.6 The Office bearers within the Executive Committee shall perform functions as herein detailed, under the general supervision of the Executive Committee and Board of Trustees.

7.6.1 The Chairperson shall (if the chair is male gender the vice must be of different gender) and shall perform.

- a) Preside over all meetings, enforce observation of the Constitution and rules of the Association and perform such duties and functions, which by usage and custom pertain to this office, unless prevented due to absence from the country, illness, suspension from office or other reasonable cause.
- b) The Chairperson shall ensure that a register of all members is kept as is by law required.

7.6.2 The Vice-Chairperson shall

- a) Assist the Chairperson in the performance of her or his duties as the chairperson may assign her or him. He/ she shall perform the duties of the chairperson in her or his absence.
- b) In the event of resignation or removal of the Chairperson from office, the Vice Chairperson shall act as the Chairperson until such time as the members shall confirm him or her to that position or elect a new Chairperson. A person so confirmed or elected, as Chairperson shall hold the office of Chairperson for the remaining term.

7.6.3 The Secretary General shall:

- a) Be responsible for all the correspondence of the Association;
- b) Maintain association and membership records;
- c) Issue notices and agendas for meetings of the Executive Committee and General Meetings;
- d) Be responsible for ensuring the compliance by the Association of the provisions of relevant laws and regulations;

- e) Keep a register of all the members in such form as the Registrar of Societies may under the Societies Act prescribe, and shall cause to be entered therein, the name and address of each member, the date of his or her admission to membership and the date on which he or she ceases to be a member apart from any other information which may be required by law; membership and the date on which he or she ceases to be a member apart from any other information which may be required by law;
- f) Be the custodian of the Constitution of the association, the stamp, the seal and the Certificate of the Association.

7.6.4 The Assistant General Secretary shall:

- a) Assist the secretary in the performance of her or his duties;
- b) Undertake such other duties as the Secretary or the Executive Committee shall assign to him or her;
- c) In the absence of the Secretary, perform all the duties of the Secretary.

7.6.5 The Treasurer shall:

- a) Be responsible for the administration and accountability of all funds of the Association;
- b) Receive and disburse all the moneys of the Association;
- c) Be responsible for ensuring that proper books of accounts are kept wherein all the transactions carried out by the Treasurer on behalf of the Association shall be recorded;
- d) Prepare and present to the members, at the General Meeting and/or upon vacating the office of Treasurer, and to the Board of Trustees each quarter a full and true account of all moneys received and paid by him/her during the period which has elapsed since the date he or her assumed office.

7.6.6 The Assistant Treasurer shall:

- a) Assist the Treasurer in the performance of her or his duties;
- b) Perform such duties as may specifically be assigned to her or him by the Treasurer;
- c) Perform the duties of the Treasurer in her or his absence.

7.6.7 The Organising Secretary shall;

- a) Ensure that information, including minutes of Executive Committee meetings, is useful, relevant, and available to all Members;
- b) Set tone for the group during meetings from welcome message to starting and responding to discussions;
- c) Maintain order and adherence to expectations of conduct during meetings, and keep a positive attitude and professional atmosphere;
- d) Remind the members during meetings and discussions to exhibit mutual respect;
- e) Ensure members conduct themselves with decorum and mutual respect during meetings.
- f) Whip members to attend meeting and cultivate cordial relationships among Members.
- g) Whip members to meet the financial obligations of the Association, including prompt payment of annual subscriptions and any other remittances.

7.6.9 The Assistant Organizing Secretary shall

- a) Assist the organizing Secretary in performing his/her duties
- b) Undertake such other duties as the Organizing Secretary or the Executive Committee shall assign to him or her;
- c) In the absence of the Organizing Secretary, perform all the duties of the Secretary

7.6.10 The Three Ordinary Members who sit on the Executive Committee shall

- a) Perform checks and balances.
- b) Participate in other committees.
- c) Attend to duties as delegated by the Chairperson/Executive Committee
- d) Attend/Contribute to Committee Meetings
- e) Assist at General Meetings if necessary

## **7.7 Board of Trustees**

- 7.7.1 The Board of Trustees (BoT) shall act as an independent body for the purpose of advising the leadership and members of ASMAK on matters of compliance with the rules of ASMAK membership as defined in the association's Constitution, and the Code of Ethical Conduct adopted by ASMAK members.
- 7.7.2 It shall also be the purpose of the BoT to provide guidance and advice to ASMAK leadership and members in the interest of advancing the objectives of the association as stated above under Article 3, and particularly guidance for the advancement of ethical recruitment to combat forced labour and human trafficking for the purposes of labour exploitation.
- 7.7.3 The Board of Trustees shall receive reports from the Executive Committee as need be.
- 7.7.4 The Board of Trustees (BoT) shall be comprised of Seven (7) members and have the following duties:
- i. Three (3) ASMAK members appointed by members' vote of the ASMAK membership during a General Meeting/ SGM of the association membership.
  - ii. Four (4) representatives in their areas of expertise, one of whom is a lawyer with experience with International Labour Laws (ILO) Kenyan Labour Laws.
    - a) Setting aside personal interests in order to represent the interests of the entire membership of ASMAK, and uphold the objectives of the association;
    - b) Ensuring all documents and reports are completed and submitted by the Executive Committee to the BoT in advance of each BoT meeting.
    - c) Providing a briefing at each General Meeting/SGM of the BoT activities, advice for ASMAK members, decisions, or other pertinent information regarding the BoT, such as changes to BoT membership.
    - d) Providing expertise and independent consideration of all ASMAK membership concerns and/or matters of arbitration.
    - e) All land, buildings and other immovable property and all investments and securities of the Association shall be vested in the Board of Trustees.
    - f) The Trustees shall pay any income received from the property therein vested to the Treasurer.
    - g) Any expenditure in respect of the property vested therein which in the opinion of the Trustees is necessary or desirable in the interests of the Association shall be reported by the Trustees to the Executive Committee which shall authorize the same as it deems fit.
    - h) Proactively contributing to advising ASMAK leadership and members for the advancement of safe migration and leveraging this private sector association to combat forced labour and human trafficking for the protection of Kenyan workers.
- 7.7.5 BoT Members shall serve for three (3) years. Any ASMAK member in good standing is eligible to be elected to the Board of Trustees.

- 7.7.6 The Trustees shall not serve for more than two consecutive terms
- 7.7.7 Any Trustee may be removed by majority vote of the members of ASMAK in General Meeting by reason of misconduct, incapacity, incompetence or dishonesty.
- 7.7.8 All vacancies occurring by removal, resignation or death shall be filled by nomination and vote at the General Meeting /SGM

## **Article 8: Management of Association Funds**

- 8.1 The Association shall operate an account or accounts in a bank or banks approved by the Executive Committee.
- 8.2 All moneys and funds shall be paid to and received by the Treasurer and shall be deposited in the name of the Association in the designated account or accounts.
- 8.3 Signatories to the account shall be Chairperson, Treasurer, Assistant Treasurer Secretary and one ordinary member of the Executive Committee appointed thereby for that purpose.
- 8.4 Transactions relating to the accounts shall be valid if jointly signed by any three of the signatories, provided that the signature of the ordinary member of the Executive Committee shall be mandatory.
- 8.5 The Treasurer shall at any given time hold such cash not exceeding **Ksh.15,000** or such other amount as may from time to time be determined by the Executive Committee for petty disbursement of which proper accounts shall be kept.
- 8.6 The Executive Committee shall have power to suspend any of its members who it has reasonable cause to believe is not properly applying or accounting for any funds or property of the Association and shall have power to appoint another person in his or her place. Such suspension shall be reported to the next General Meeting from the date of suspension and the General Meeting shall decide what action should be taken in the matter.
- 8.7 The financial year of the Association shall be from 1st January to 31st December.
- 8.8 The funds of the organization shall be applied for the following purposes:
- (a) Operating office expenses of the Association; rental, wages within stipulated budget.
  - (b) Training of and capacity building for members;
  - (c) Publicity in such manner as the Association may determine;
- Establishing and running or operating a secretariat;
- Any other purpose incidental to or necessary for the achievement of the objects of the Association.
- 8.9 **Revenue generation**
- a) Membership fees
  - b) Annual subscription by members
  - c) Every member to pay an agreed fee per every migrant worker exported as agreed by Members in AGM/SGM
  - d) ASMAK members to subscribe to having them forward their applications through the association and commit to pay the agreed fee per migrant worker due for export.
  - e) Donations
  - f) Penalties

## **Article 9: General Meetings**

9.1 There shall be two classes of General Meetings — Annual General Meeting and Special General Meeting,

9.2 An **Annual General Meeting** shall be held not later than **31st December** after one year.

Notice in writing of such annual General meeting , accompanied by the annual statement of account and the agenda for the meeting shall be sent to all members not less than 21 days before the date of the meeting , and where practicable, by Press advertisement not less than 14 days before the date of the meeting

9.3 The Agenda for any annual general meeting shall consist of the following

- 1) Confirmation of the minutes of the previous annual general meeting
- 2) Consideration of the accounts
- 3) Election of the office bearers, the committee members and Board of trustees (At the end of respective term.)
- 4) Appointment of auditors in accordance with article 11.1
- 5) Such other matters as the committee may decide or as to which notice shall have been given in writing by a member or members to the Secretary at least four weeks before the date of the meeting
- 6) Any other business with the approval of the Chairman.

### **9.4 A Special General Meeting**

9.4.1 A Special General Meeting may be called for any special purpose by the committee. Notice in writing for such a meeting shall be sent to all members not less than seven (7) days before the date thereof and where practicable by press advertisement not less than seven (7) days before the date of such meeting

9.4.2 A special general meeting may also be requisitioned for a specific purpose by order in writing to the secretary of not less than 1/3 members and such meeting shall be held within 21 days of the date of the requisition and no other matter shall be discussed than that stated in the requisition

9.5 Unless otherwise provided, the quorum for a meeting shall be at least— (a) two-thirds of the registered members for an annual general meeting; and (b) one-third of the registered members for a special general meeting.

The secretary shall submit a copy of the notice of the meeting to the Registrar of Societies.

### **9.6 PROCEDURE FOR THE MEETINGS**

At all meetings of the society the chairman, or the Vice Chairman, or in the absence of both these officers, a member selected by the meeting shall take the chair.

- (1) The Chairman may at his discretion limit the number of persons permitted to speak in favour of and against any motion
- (2) The Secretary shall confirm the attendance and guide members on how to register their attendance in the meeting.
- (3) The quorum for the meeting shall be confirmed in accordance with the Act and the rules or constitution of the society.
- (4) The Secretary shall guide the members on how the meeting shall be moderated and how they shall participate in the deliberations and voting.
- (5) In accordance with the rules or constitution of the society relating to the procedure at meetings, the chairperson shall guide the meeting through each agenda item.

## **Article 10: Decisions, Elections, and Voting**

- 10.1 Ordinary Members who are Directors of their Companies of the Association shall have equal rights to vote.
- 10.2 No ordinary member shall be eligible to vote on any matter if his or her annual subscription is in arrears for over two months from the due date.
- 10.3 Only one Director from each member company is eligible to vote.
- 10.4 Nominations, including self-nominations will be done from the floor (Open Nominations).
- 10.5 A person can nominate himself or herself.
- 10.6 A member can rise and decline nomination during the nomination process.
- 10.7 Member can rise and oppose nomination of another Member with a valid reason.
- 10.8 Nominations for all office bearers before the voting begins.
- 10.9 The Member shall write the name of the nominee of their choice on the ballot.
- 10.10 No Member will be voted if not present during the elections.
- 10.11 Voting will be by secret ballot. Elections shall be by secret ballot on the basis of one member \ one vote by fully paid up members physically present at the time of the voting.
- 10.12 The conduct of elections shall be by simple majority.
- 10.13 The Votes will be accounted after the casting of votes of all elective posts.
- 10.14 Where only one Candidate is nominated for the position, the candidate will be elected by acclamation.
- 10.15 In case of a tie in votes during elections, voting shall be repeated until a simple majority is attained.
- 10.16 Election will be attended by a Government official from the Ministry for the time being charged with employment matters who will supervise the Elections and act as returning officers or such other person as may be determined by members can be invited to the be an observer during the elections.
- 10.17 The election and removal of the members of the Executive Committee and Trustees and any matters affecting members or the Association and which requires to be put to vote shall be decided by secret ballot.
- 10.18 The Minutes shall record the candidate nominated for each position and the elected Candidate.
- 10.19 Elections in respect of the members of Executive Committee and Board of Trustees shall be conducted in case of death, resignation, bankruptcy, expulsion, inability to perform functions or at the expiry of the respective terms.
- 10.20 **REMUNERATION OF OFFICE BEARERS**

The members of the executive shall be entitled to remuneration and/or shall be reimbursed for expenses incurred in the course of their duties of the Association provided that any remuneration shall be first approved by the members at a Special or Annual General Meeting.
- 10.21 The quorum for an Annual General Meeting shall be 2/3 of the ordinary members except where it is provided otherwise in this Constitution.
- 10.22 Have the power to appoint such sub-committees as it may deem necessary to investigate, deliberate on or otherwise act upon any such issues as may require immediate attention and determine the conditions under which such subcommittee shall operate

### **Article 11: Appointment of Auditor**

- 11.1 The Annual General Meeting shall appoint an Auditor for the following year.
- 11.2 The Auditor shall be appointed from a recognized and reputable firm which is fully and credibly independent from any association with any member of ASMAK.
- 11.3 The Auditor shall not be an officer or member of the Association.
- 11.4 A full and complete audit shall be performed on an annual basis.
- 11.5 All of the Association's accounts, records, and documents shall be opened to inspection of the Auditor at any time. The Treasurer shall produce an account of his or her receipts and payments and a statement of assets and liabilities made up to date which shall not be less than six weeks and not more than three months before the date of the Annual General Meeting.
- 11.6 The Auditor shall examine such annual accounts and statements and either clarify that they are correct, duly vouched and in accordance with the law or report to the Association in what respect they are found to be incorrect, unvouched or not in accordance with the law.
- 11.7 A copy of the Auditor's report on the accounts and statements together with such accounts and statements shall be furnished to all members at the same time as the notice convening the Annual General Meeting is sent out. An Auditor may be paid such honorarium or fees as may be agreed upon the relevant consultations.
- 11.8 Inspection of accounts and List of Members: The books of account and all documents relating thereto, and a list of the members of the society, shall be available for inspection at the Registrar's office of the society by any officer or member of the society. The Member of the society shall make the request on giving not less than Seven (7) days' notice in writing to the society and for inspection by the Registrar, or by any person authorized by him in writing on their behalf, at the office of the Registrar at any reasonable time specified by him/her if so required in writing by the Registrar.

### **Article 12: Code of Conduct**

- 12.1 The association shall hold its members accountable to a Code of Ethical Conduct as formulated through the relevant Ministry charged with Labour matters and the association; the CoEC describes the principles of ethical recruitment which ASMAK members commit to for the purposes of advancing the objectives of the association.
- 12.2 The Code of Ethical Conduct shall be adopted by members in a General / Special Meeting and may be reviewed and/or amended thereby from time to time.
- 12.3 Once adopted, the Code of Conduct shall be binding on all members of the association.

### **Article 13: Discipline**

- 13.1 There shall be established a Disciplinary Committee by the members as a subcommittee of the Executive Committee.
- 13.2 The disciplinary procedures and actions shall be in accordance with rules and regulations developed by the Disciplinary Committee, endorsed by the Executive Committee and adopted by the members.

### **Article 14: Branches**

- 14.1 A branch may be formed by a General Meeting/Special general meeting on the recommendation of the Executive Committee.
- 14.2 A branch so formed shall operate under this Constitution and may only be dissolved by decision of a General Meeting.

### **Article 15: Amendment**

- 15.1 A General Meeting at which a proposal for amendment of this Constitution is addressed shall have a quorum must be two-thirds of the total number of registered and active Members.
- 15.2 A thirty days' notice shall be given for such meeting and the notice shall indicate that amendment of the Constitution is an agenda item of the meeting.
- 15.3 A decision to amend this Constitution shall be passed by quorum at a General Meeting (at least two-thirds of Members present)
- 15.4 Amendments to the constitution, however, cannot, however be implemented without the prior consent in writing of the Registrar of Societies obtained upon application to him/her made in writing and signed by three of the office bearers.
- 15.5 Any fully subscribed member may, in writing, propose amendments to the Constitution to be submitted to the Chairperson.
- 15.6 This Constitution shall be enforceable upon approval by ratification by members and subsequent lodging of the document with the Registrar of Societies.

### **Article 16: Dissolution**

- 16.1 A General Meeting at which a proposal for dissolution of the Association is addressed shall have a quorum of not less than two-thirds of the ordinary members.
- 16.2 A thirty days' notice shall be given for such meeting and the notice shall indicate that dissolution is an agenda item of the meeting.
- 16.3 A decision to dissolve the Association shall be passed by at least two-thirds of the members present and voting.
- 16.4 The Association will inform the Registrar in writing of the Members Decision to dissolve the Association for approval.
- 16.5 Dissolution of the Association however, cannot be implemented without the prior consent in writing of the Registrar of Societies obtained upon application to him/her made in writing and signed by three of the office bearers.
- 16.6 On dissolution the assets, profits and/or moneys held by the Association shall be applied in accordance with the prevailing laws.

I/We (print name(s) .....

.....

Being principle Directors of the Agency registered with the Government of Kenya as (print agency name)

.....

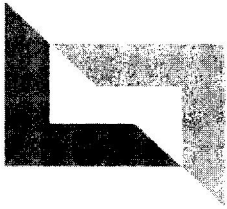
And holder(s) of PEA certificate No:.....

Do hereby accept to adhere to the Constitution herein stated.

Signature(s).....

.....

Date..... Recruitment Agency Stamp



# ASMAK

ASSOCIATION OF SKILLED MIGRANT AGENCIES OF KENYA

File No:.....

Name of Company (in Kenya): .....

Email:.....

Telephone:.....

Office Area (location):.....

Saudi Company:.....

Email:.....

Telephone:.....

Office Area (location):.....

Workers Name in full:.....

Passport No:.....

Visa No:.....

Problem/Issues : .....

Other Problem:.....

.....

.....

Action Taken : .....

.....

.....

Name of Kenyan Director..... Signature.....

Date .....

**Realising Excellence through Human Resource**  
P.O.BOX 10362 – 00100 NAIROBI | info@asmak.co.ke | www.asmak.co.ke  
*We are Transparent, Accountable and Against Human Trafficking*

STANDARD EMPLOYMENT  
CONTRACT FOR DOMESTIC  
SERVIVE WORKERS (DSW)  
BOUND FOR THE KINGDOM  
OF SAUDI ARABIA  
CONTRACT # 2000208044

عقد عمل موحد للعمالة المنزلية  
المتوجهة للعمل في المملكة  
العربية السعودية  
رقم العقد 2000208044

This employment contract is executed and  
entered into by and between:

تم التوقيع على عقد العمل هذا والدخول فيه بين  
كل من:

A. Employer:

Name: TAWASIF JADAAN MUTAYR  
ALRUWAILI

National ID Number: 1070748007

Address

Street: طريق العروبة، العليا، الرياض 2077  
السعودية، 12244 7856

City: طريق العروبة، العليا، الرياض 2077  
السعودية، 12244 7856

Contact Numbers

Mobile: 966508609178

Telephone: 966508609178

ا. صاحب العمل:

الاسم: تواسيف جدعان بن مطير الرويلي

رقم الهوية الوطنية: 1070748007

العنوان

الشارع: 2077 طريق العروبة، العليا، الرياض  
السعودية، 12244 7856

المدينة: 2077 طريق العروبة، العليا، الرياض  
السعودية، 12244 7856

أرقام الاتصال

رقم الجوال: 966508609178

رقم الهاتف: 966508609178

Hereinafter called the Employer  
Represented in the Kingdom of Saudi  
Arabia by Saudi Recruiting Agency:

Name: Fatrat Alenjazz Recruitment Office

License no: 3730016

Telephone: +96600966551226555

Address

Street: Alguryat - Alkhalydia \_ Kinf Faisal  
Street

City: Al Qurayyat

Email: alatallah@yahoo.com

B. Domestic Service Worker:

Name: CALEBLOISE WAMBUI

Position: House Maid

Address: KILINDINI

Civil Status: Single

Contact No: +254797919759

Passport No: AK0931612

Place of Issue: NAIROBI

Date of Issue: 27/04/2021

ويشار إليه فيما يلي بصاحب العمل وتمثله في  
المملكة العربية السعودية وكالة الاستقدام  
السعودية:

الاسم: مكتب فترة الانجاز للاستقدام

رقم الترخيص: 3730016

رقم الهاتف: +96600966551226555

العنوان

الشارع: القريات - الخالدية \_ شارع الملك فيصل

المدينة: Al Qurayyat

البريد الإلكتروني: alatallah@yahoo.com

ب. العامل المنزلي / العاملة المنزلية:

الاسم: CALEBLOISE WAMBUI

الوظيفة: عاملة منزلية

الوظيفة: KILINDINI

الحالة الاجتماعية: أعزب

رقم الاتصال: +254797919759

رقم الجواز: AK0931612

مكان إصداره: NAIROBI

تاريخ إصداره: 27/04/2021

وزارة العمل الأجنبية  
Foreign MOL

السفارة الأجنبية  
Foreign Embassy

السفارة السعودية  
Saudi Embassy

Next of kin: MARY NYAMBURA KARIRI  
Relationship: Mother  
Contact No: 254721903939  
Address: KILINDINI

أقرب الأقرين: MARY NYAMBURA KARIRI  
العلاقة: Mother  
رقم الاتصال: 254721903939  
العنوان: KILINDINI

herein after called DSW Represented in  
his\her country by Recruitment Agency:

يسمى فيما يلي بالعامل المنزلي / العاملة  
المنزلية وتمثله/تمثلها في بلده/بلدها وكالة  
الاستقدام

Name: Monisa Company Limited  
License No: 000431  
Address  
Street: Nairobi  
City:  
Contact No: 00254721845577  
Email: monisacompany@gmail.com

الاسم: Monisa Company Limited  
رقم الترخيص: 000431  
العنوان  
الشارع: Nairobi  
المدينة:  
رقم الاتصال: 00254721845577  
البريد الإلكتروني:  
monisacompany@gmail.com

The employer and the DSW hereby  
voluntarily bind themselves to the  
following terms and conditions:

يلتزم صاحب العمل والعامل المنزلي / العاملة  
المنزلية بموجب هذا العقد طوعاً بالأحكام والشروط  
التالية:

1. City of work: القرىات
2. Contract Duration: The contract shall be valid for a period of two years commencing from the date of arrival of the DSW in KSA. The monthly wages shall be calculated for payment from such date.
3. In accordance with the regulations prevailing in both countries, the DSW and the employer agree on a monthly salary of 900 SAR.

1. مدينة العمل: القرىات
2. مدة العقد: يسري العقد لمدة سنتين تبدأ من تاريخ وصول العامل المنزلي إلى المملكة العربية السعودية وتحسب الأجور الشهرية للدفع من ذلك التاريخ.
3. طبقاً للقوانين السارية في البلدين معاً اتفق العامل المنزلي وصاحب العمل علىراتب شهري قدره 900 ريال سعودي.

Signatures:

التوقيعات:

العامل المنزلي / العاملة المنزلية  
Domestic Service Worker

وكالة الاستقدام الأجنبية  
Foreign Recruitment Agency

وكالة الاستقدام السعودية  
Saudi Recruitment Agency

صاحب العمل  
Employer

وزارة العمل الأجنبية  
Foreign MOL

السفارة الأجنبية  
Foreign Embassy

السفارة السعودية  
Saudi Embassy

**MINUTES OF THE 78<sup>TH</sup> MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON THURSDAY, 28<sup>TH</sup> OCTOBER 2021 AT 11.00 AT THE SOVEREIGN HOTEL, KISUMU COUNTY.**

**MEMBERS PRESENT**

- |                                       |               |
|---------------------------------------|---------------|
| 1. Sen. Johnson Sakaja, CBS           | - Chairperson |
| 2. Sen. Madzayo Stewart Mwachiru, CBS | - Member      |
| 3. Sen. Naomi Masitsa Shiyonga        | - Member      |
| 4. Sen. (Dr.) Milgo Alice Chepkorir   | - Member      |
| 5. Sen. Makori Beatrice Kwamboka      | - Member      |

**ABSENT WITH APOLOGIES**

- |                                 |                    |
|---------------------------------|--------------------|
| 1. Sen. Johnes Mwaruma          | - Vice-Chairperson |
| 2. Sen. Susan Kihika            | - Member           |
| 3. Sen. Paul Mwangi Githiomi    | - Member           |
| 4. Sen. (Dr.) Isaac Mwaura, CBS | - Member           |

**SENATE SECRETARIAT**

- |                         |                           |
|-------------------------|---------------------------|
| 1. Ms. Mwanate Shaban   | - Clerk Assistant         |
| 2. Mr. Jeremy Chabari   | - Legal Counsel           |
| 3. Mr. Frank Mutulu     | - Media Relations Officer |
| 4. Mr. Humphrey Ringera | - Research Officer        |
| 5. Ms. Winnie Atieno    | - Audio Officer           |
| 6. Mr. John Pere        | - Serjeant-At-Arms        |
| 7. Ms. Agnes Muchoki    | - Secretary               |
| 8. Ms. Ann Mumbi        | - Accountant              |

**MINUTE SEN/SCLSW/339/2021: PRELIMINARIES**

The Chairperson called the meeting to order at 11.05 a.m. followed by a word of prayer. He informed the Committee that Bomet County had requested that the Committee reschedules its visit to the following day, Thursday, 29<sup>th</sup> October, 2021 since the County had a function which involved both the County Assembly and the County Executive.

He also informed the Committee that the Nyamira Senator had requested the Committee to reschedule the visit and that also that Kisii County executive had also sent apologies.

The Chair informed the Committee that the Delegation will use the days to consider some of its pending legislative issues including adoption of pending reports.

### **MINUTE SEN/SCLSW/340/2021: ADOPTION OF THE AGENDA**

The agenda of the Meeting was adopted after it was proposed by Sen. Madzayo Stewart Mwachiru, CBS, MP and seconded by Sen. (Dr.) Milgo Alice Chepkorir, MP as follows-

#### **AGENDA**

1. Preliminaries (Prayers & Briefing by the Chair);
2. Adoption of the Agenda;
3. Confirmation of Minutes 73,72, 71, 70, 69, 68, & 62;
4. Consideration and adoption of the Labour Migration Report;
5. Any Other Business & Adjournment.

### **MINUTE SEN/SCLSW/341/2021: CONFIRMATION OF MINUTES 73, 72, 71, 70, 69, 68 and 62**

1. The Minutes of the 73<sup>rd</sup> Meeting held on Tuesday, 19<sup>th</sup> October, 2021 at 10:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. (Dr.) Milgo Alice Chepkorir, MP and seconded by Sen. Masitsa Naomi Shiyonga, MP.
2. The Minutes of the 72<sup>nd</sup> Meeting held on Monday, 18<sup>th</sup> October, 2021 at 12.00 noon were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Beatrice Kwamboka, MP and seconded by Sen. Masitsa Naomi Shiyonga, MP.
3. The Minutes of the 71<sup>st</sup> Meeting held on Friday, 15<sup>th</sup> October, 2021 at 3.30 pm. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Stewart Madzayo Mwachiru, CBS, MP and seconded by Sen. (Dr.) Milgo Alice Chepkorir, MP.
4. The Minutes of the 70<sup>th</sup> Meeting held on Friday, 15<sup>th</sup> October, 2021 at 12 noon. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Stewart Madzayo Mwachiru, CBS, MP and seconded by Sen. Beatrice Kwamboka, MP.
5. The Minutes of the 69<sup>th</sup> Meeting held on Friday, 15<sup>th</sup> October, 2021 at 9.00 am. were confirmed as a true record of the proceedings of the

Committee having been proposed by Sen. Stewart Madzayo Mwachiru, CBS, MP and seconded by Sen. (Dr.) Milgo Alice Chepkorir, MP.

6. The Minutes of the 68<sup>th</sup> meeting held on Thursday, 14<sup>th</sup> October, 2021 at 10:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Beatrice Kwamboka, MP and seconded by Sen. Naomi Shiyonga, MP.
7. The Minutes of the 62<sup>nd</sup> Meeting held on Friday, 15<sup>th</sup> October, 2021 at 9.00 am. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Stewart Madzayo Mwachiru, CBS, MP and seconded by Sen. (Dr.) Milgo Alice Chepkorir, MP.

**MINUTE SEN/SCLSW/342/2021: CONSIDERATION AND ADOPTION OF THE REPORT ON LABOUR MIGRATION: OPPORTUNITIES, CHALLENGES AND POLICY IMPLICATIONS – SENATE DELEGATION STUDY VISIT TO THE MIDDLE EAST.**

The Committee considered the above report and made the following observations -

1. The country lacks a comprehensive policy and legal framework useful to guide, govern and create stability in the migration processes. Further, that both the labour migration policy and labour migration bill key in reinforcing the existing legislation are either before Cabinet or are being finalized hence hampering proper governance in labour migration issues;
2. Labour migration to key labour destination in the Middle East has been ongoing in the absence of formal agreement or memorandum of understanding (MoUs). Further, that where they exist, the agreement falls short of taking care of the interests of the workers. However, this is likely to change with a review of BLAs with governments of Qatar, UAE and the Kingdom of Saudi Arabia and the ongoing development of BLAs with United Kingdom, Poland, Oman, Kuwait, Jordan, and Bahrain;
3. With the growing numbers of migrants to the Middle East there was need to streamline key prerequisite processes for effective governance. The Committee therefore observes that the following areas must be addressed as a matter of priority:-
  - (a) *Recruitment Process and Recruiting Agencies:* The need to ensure recruitment of migrants undertaken by registered agencies, ensure compliance with requirement and regulations like the capital base, regular audits. Further, that private employment agencies and

foreign run agencies must be regulated so as to improve ethical recruitment and accountability;

- (b) *Pre-departure training*: Training of the migrant works must be as per set curriculum overseen by NEA with among others, training in soft skills, knowledge of the residential culture, financial management and attitude;
  - (c) *Migrants legal identification and registration*: Address timelines in the processing of passports, certificate of good conduct, medical tests as delays continue to impact the industry;
  - (d) *Screening, assessment and referrals*: Hastening and simplifying of medical checks processes by accrediting additional medical centers;
  - (g) Formalize linkages between Ministry of Foreign Affairs, Ministry of Labour and Ministry of interior and National Coordination, local and international recruitment agencies. For instance the *MUSANNED* system which provide linkages to The Ministry of Labour and Social Protection must be easily accessed by the key stakeholders;
4. Migrant workers lack formal mechanisms including requisite consular assistance useful for self-improvement, wellbeing and protecting their rights. In particular the Committee noted the following as useful and urgent :-
- (a) Formal welfare mechanisms like the *Jaliat* welfare system whose goal was to help those in distress or on need was no longer recognised or in operation;
  - (b) Lack of temporary shelters like safe houses in major labour destinations;
  - (c) The absence of honorary consuls and labour attaches in key labour destination countries like Canada, Australia, UK, Bahrain, Jeddah, Jordan, Kuwait and Iraq; and
  - (d) The absence of a migrant workers' welfare fund whose objective is to provide protection, welfare assistance to Kenyan migrant workers during migration, stay in destination country and upon return to the country.
5. While the Committee acknowledged the Ministry's commitment in implementing some specific activities between earmarked for August 2021 to June 2022 and whose objective is to enhance the labour migration processes and governance, the Committee is concerned about the deteriorating conditions of migrant workers in the KSA. The Committee opines that the processes likely to protect life and the

welfare and migrants supersedes all others and therefore must be prioritized.

The Committee then made the following recommendation<sup>1</sup>. in respect to the Kingdom of Saudi Arabia -

**1. ALL Labour Migration of domestic workers from Kenya to the Kingdom of Saudi Arabia be immediately suspended until the Executive demonstrates that the following basic minimums have been put in place.**

- a) The establishment of the status of all Kenyans currently in Malaz Prison in Riyadh, Tarhil deportation Centre in Riyadh, and all/any other prisons and deportation centers within the Kingdom of Saudi Arabia with the aim of repatriating them back into the country;
- b) The establishment of the current status of all domestic workers in the Kingdom of Saudi Arabia, their contacts and places of work and set up a database and lines of communication between them and the Labour offices at the embassy;
- c) The return to Kenya of **all** current and former domestic workers who are currently in distress and stuck in the Kingdom of Saudi Arabia;
- d) The investigation and submission of a report to The Senate of the cases Kenyan migrant workers whose deaths have occurred in Saudi Arabia. This report must among other things demonstrate the linkages between the Labour Attaches and the recruitment agencies in handling of distress calls and other complaints by migrant workers;
- e) The establishment of fully fledged labour offices and **safe houses** in Jeddah and Riyadh in Saudi Arabia accessible to any Kenyan in distress;
- f) Formal re-recognition of the welfare associations of Kenyans in Saudi Arabia e.g. The Kenyan Jaaliat Group (KJSA) with the aim of liaising with them in responding to distress calls by Kenyans;
- g) Fresh vetting and registration of **ALL** the local recruitment agencies with the vetting standards to be determined by the Ministry of Labour through the National Employment Authority. To this end, no entity will be allowed to recruit Kenya migrant workers unless the entity is registered and regulated in Kenya; and

- h) Review of the regulations of private employment agencies including the determination of a minimum deposit to ensure swift repatriation of any domestic worker in distress.

The Committee also made the following general recommendations -

**2. The Ministry of Labour undertakes, finalises and enforces the following key principles for efficiency in processing migrant workers;**


- (a) Engage with the National Police Service establishes desk to fast-track the issuance of certificates of good conduct for outbound Kenyan migrant workers;
- (b) Engage with the Gulf Cooperation Council (GCC) on expanding the list of accredited medical centres (GAMCA) especially in urban areas. Further liaise with the Ministry of Health to identify and accredit local medical institutions for medical examinations;
- (c) Review the pre-departure training programs including issuance of new guidelines making pre-departure training and orientation programs mandatory to all outbound migrant workers;
- (d) The Ministry of Labour fast-tracks the finalisation and signing of the pending Bilateral Labour Agreements for skilled migrant workers with the UK, Poland, Oman Kuwait, Jordan and Bahrain;
- (e) Review the Bilateral Labour Agreement between Kenya and Saudi Arabia;
- (f) Establish and operationalize the joint implementation committees on implementation of the Bilateral Labour Agreements;
- (g) Present to the Senate a report on the review of the scope of the functions of Labour Attaches;
- (h) Automate the attestation process and capacity building of labour officers;
- (i) Establish the National Reintegration Centre, including the development and implementation of a return and reintegration program;
- (j) Develop information handbooks for key labour destination;
- (k) Develop an interactive website, and an integrated online system for all labour migration services in the country which act as a one-stop shop for all labour migration matters; and

(l) Establish the Inter-Agency Labour Migration Coordination Committee (One-Country-Team-Approach).

The report on the report on Labour Migration: Opportunities, Challenges and Policy Implications – Senate Delegation’s Study Visit to the Middle East was adopted after being proposed by Sen. Dr. Alice Milgo and seconded by Sen. Beatrice Kwamboka.

**MINUTE SEN/SCLSW/343/2021: ANY OTHER BUSINESS AND ADJOURNMENT**

There being no other business, the meeting was adjourned at 1.45 p.m.



**SIGNATURE:** .....

**(CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS)**

**DATE: Saturday, 30<sup>th</sup> October, 2021**

**MINUTES OF THE 62<sup>ND</sup> MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON SATURDAY, 2<sup>ND</sup> OCTOBER, 2021, AT 10.30 AT BARAZA 1, SAROVA WHITESANDS.**

**MEMBERS PRESENT**

- |   |                             |
|---|-----------------------------|
| 1. <b>Sen. Sakaja Johnson Arthur, CBS</b> | - <b>Chairperson</b>        |
| 2. <b>Sen. Mwaruma Johnes</b>             | - <b>Vice-Chairperson</b>   |
| 3. Sen. (Dr.) Milgo Alice Chepkorir       | - Member                    |
| 4. Sen. Masitsa Naomi Shiyonga            | - Member (joined virtually) |
| 5. Sen. Makori Beatrice Kwamboka          | - Member (joined virtually) |
| 6. Sen. Madzayo Stewart Mwachiru          | - Member                    |

**ABSENT WITH APOLOGIES**

- |                                 |          |
|---------------------------------|----------|
| 1. Sen. Kihika Susan Wakarura   | - Member |
| 2. Sen. Mwangi Paul Githiomi    | - Member |
| 3. Sen. (Dr.) Mwaura Isaac, CBS | - Member |

**SENATE SECRETARIAT**

- |                       |                             |
|-----------------------|-----------------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant           |
| 2. Mr. Jeremy Chabari | - Legal Counsel             |
| 3. Mr. Kevin Kibet    | - Hansard Reporter/CA       |
| 4. Ms. Marale Sande   | - Senior Research Officer   |
| 5. Ms. Fatuma Abdi    | - Audio Officer             |
| 6. Ms. Lucianne Limo  | - Media Relations Officer   |
| 7. Ms. Sakina Halako  | - DCOM's Personal Secretary |
| 8. Mr. John Pere      | - SAA                       |
| 9. Mr. Brown Mwangi   | - Office Assistant          |

**MINUTE SEN/SCLSW/269/ 2021: PRELIMINARIES**

The Vice-Chairperson called the meeting to order at 10.30 a.m. followed by a word of prayer.

**MINUTE SEN/SCLSW/270/2021: ADOPTION OF THE AGENDA**

The agenda of the Meeting was adopted unanimously as follows-

**AGENDA**

1. Preliminaries (Prayers & Introductions);
2. Adoption of the Agenda;
3. **Consideration of the Report of Senate's delegation visit to the Middle East on labour migration from 10<sup>th</sup> to 20<sup>th</sup> April, 2021 and enquiry on the labour migration issues; and**
4. Any Other Business & Adjournment.

**MINUTE SEN/SCLSW/271/2021: CONSIDERATION OF THE REPORT OF SENATE'S DELEGATION VISIT TO THE MIDDLE EAST ON LABOUR MIGRATION FROM 10TH TO 20TH APRIL, 2021 AND ENQUIRY ON THE LABOUR MIGRATION ISSUES**

The Committee considered the Labour Migration Report and made the following observations and recommendations –

**a) Committee Observations**

Following the Committee's interaction with the various stakeholders, Members noted significant gains in streamlining the processes of migrating workers especially to the Middle East. For instance, the establishment of desks designated for passport issuance in seven regions in August 2021. This is expected to fast-track the issuance of passports for migrant workers and the finalization of the labour migration policy in September, 2021. The Committee is however concerned about the welfare of Kenyan migrant workers in general and particularly domestic workers headed to Saudi Arabia. The Committee opines that more needs to be done to protect lives and livelihoods in line with Chapter four of the Constitution.

**b) Committee Recommendations**

In that regard, the Committee makes the following recommendations. THAT:-

In respect to Labour Migration to the Kingdom of Saudi Arabia, the following is recommended –

1. The Government of Kenya suspends **ALL** labour migration to Saudi Arabia for **domestic workers** until the following basic minimums have been put in place and demonstrated to the Senate-
  - (a) Review the Bilateral Labour Agreement on unskilled labour between Kenya and Saudi Arabia, with the aim of ensuring the rights of Kenya Domestic Workers are safeguarded and protected;
  - (b) Establish and operationalize the joint implementation committees on implementation of the Bilateral Labour Agreements;
  - (c) Present to the Senate a report on the review of the scope of the functions of Labour Attaches;

- (d) Automate the attestation process and capacity building of labour officers;
  - (e) Establish the National Reintegration Centre, including the development and implementation of a return and reintegration program;
  - (f) Develop information handbooks for key labour destination;
  - (g) Develop an interactive website, and an integrated online system for all labour migration services in the country which act as a one-stop shop for all labour migration matters;
  - (h) Establish the Inter-Agency Labour Migration Coordination Committee (One-Country-Team-Approach);
  - (i) Establish safe houses in Jeddah and Riyadh in Saudi Arabia; and
  - (j) Operationalize the migrant workers fund.
2. The Suspension shall be lifted by a Resolution of the Senate when the above conditions have been met.
  3. BLA on skilled labour to Saudi
  4. The Ministry of Labour undertakes, finalises and enforces the following key principles for efficiency in processing migrant workers;
    - (a) Engage with the National Police Service to establish a desk to fast-track the issuance of certificates of good conduct for outbound Kenyan migrant workers;
    - (b) Engage with the Gulf Cooperation Council (GCC) on expanding the list of accredited medical centres (GAMCA) especially in urban areas. Further liaise with the Ministry of Health to identify and accredit local medical institutions for medical examinations; and
    - (c) Review the pre-departure training programs including issuance of new guidelines making pre-departure training and orientation programs mandatory to all outbound migrant workers.
  5. The Ministry of Labour investigates the cases of Kenyan migrant workers whose deaths have occurred in Saudi Arabia and submit a report to the Senate by 30<sup>th</sup> November, 2021;
  6. The Ministry of Labour submits a report to the Senate by 30<sup>th</sup> November, 2021, demonstrating linkages between the Labour Attaches and the recruitment agencies in handling of distress calls and other complaints by migrant workers;

7. The Ministry of Labour fast-tracks the finalisation and signing of the pending Bilateral Labour Agreements for skilled migrant workers with the UK, Poland, Oman Kuwait, Jordan and Bahrain;
8. The Ministry of Foreign Affairs, through the Embassy in Saudi Arabia-
  - a) Develop a database of all migrant Kenyans in Saudi Arabia, identify those in need of repatriation and outline possible measures for their safe return;
  - b) Formally recognise the welfare associations of Kenyans in Saudi Arabia and work with those associations in responding to distress calls by Kenyans; and
  - c) Addresses the contentious issue of children born to Kenyan migrant workers in Saudi Arabia.
9. Ministry of Foreign Affairs to establish fully fledged labour offices in Jeddah and Riyadh, Saudi Arabia; and
10. All recruiting agencies to undergo fresh vetting with the vetting standards to be determined by the Ministry of Labour, National Employment Authority. To this end, no entity will be allowed to recruit Kenya migrant workers unless the entity is registered and regulated in Kenya.

The Committee requested the Secretariat to rework on the recommendations and bring them to the Committee's review in the next House-keeping meeting.

**MINUTE SEN/SCLSW/272/2021: ANY OTHER BUSINESS AND ADJOURNMENT**

There being no other business, the meeting was adjourned at 12.05 p.m.



**SIGNATURE:** .....  
**(CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS)**

**DATE:** **Thursday, 28<sup>th</sup> October, 2021**

**MINUTES OF THE 38 (ZOOM ONLINE) MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON THURSDAY, 8<sup>TH</sup> JULY, 2021, AT 10.00 AM**

**MEMBERS PRESENT**

- |                                     |                           |
|-------------------------------------|---------------------------|
| 1. Sen. Sakaja Johnson Arthur, CBS  | - <b>Chairperson</b>      |
| 2. Sen. Mwaruma Johnnes             | - <b>Vice Chairperson</b> |
| 3. Sen. Madzayo Stewart Mwachiru    | - Member                  |
| 4. Sen. Kihika Susan Wakarura       | - Member                  |
| 5. Sen. Mwangi Paul Githiomi        | - Member                  |
| 6. Sen. Makori Beatrice Kwamboka    | - Member                  |
| 7. Sen. Masitsa Naomi Shiyonga      | - Member                  |
| 8. Sen. (Dr.) Milgo Alice Chepkorir | - Member                  |

**ABSENT WITH APOLOGIES**

- |                                 |          |
|---------------------------------|----------|
| 1. Sen. (Dr.) Mwaura Isaac, CBS | - Member |
|---------------------------------|----------|

**IN ATTENDANCE**

- |  |   |
|--|---|
| 1. Hon. Simon Chelugui                           | - CS, Labour and Social Protection      |
| 2. Hon. (Eng.) Peter Tum                         | - PS, Labour and Social Protection      |
| 3. Ms. Joyce Mwale                               | - Director, Administration              |
| 4. Ms. Winnie Karingithi                         | - Director, Planning                    |
| 5. Mr. Francis Wanyeki                           | - Office of the Cabinet Secretary (CS)  |
| 6. Mr. Patrick Mwangi                            | - Senior Assistant Secretary            |
| 7. Ms. Alice Kavata                              | - Assistant Secretary                   |
| 8. Mr. Benson Kagunda                            | - Assistant Secretary                   |
| 9. Ms. Edith Okoki                               | - Ag. DG, National Employment Authority |
| 10. Mr. Festus Mutuse<br>Quality Management, NEA | - Ag. Director, Planning, Strategy and  |
| 11. Mr. Francis Nduhiu                           | - Chairman, ASMAK                       |
| 12. Ms. Monica Muema                             | - Secretary General, ASMAK              |
| 13. Ms. Mary Gitau                               | - Treasurer, ASMAK                      |
| 14. Kenneth Kiagiri                              | - Chairman, KAPEA                       |
| 15. Ms. Fatuma Masuud                            | - Secretary General, KAPEA              |

**SENATE SECRETARIAT**

- |                       |                                       |
|-----------------------|---------------------------------------|
| 1. Ms. Mary Chesire   | - Deputy Director, Committee Services |
| 2. Ms. Mwanate Shaban | - Clerk Assistant                     |
| 3. Ms. Marale Sande   | - Senior Research Officer             |
| 4. Mr. Kevin Kibet    | - Hansard Officer/ Clerk Assistant    |
| 5. Mr. Jeremy Chabari | - Legal Counsel                       |
| 6. Mr. Reuben Kimosop | - Senior SAA                          |
| 7. Ms. Fatu Abdi      | - Audio officer                       |

## **MINUTE SEN/SCLSW/160/2021: PRELIMINARIES**

The Chairperson called the meeting to order at 10.17 am followed by a word of prayer. This was followed by introductions by all present.

## **MINUTE SEN/SCLSW/161/2021: ADOPTION OF THE AGENDA**

The agenda of the Meeting was adopted unanimously as follows –

### **AGENDA**

1. Preliminaries (Prayers & Introductions);
2. Adoption of the Agenda;
3. **Stakeholder Meeting on Labour Migration; and**
4. Any Other Business & Adjournment.

## **MINUTE SEN/SCLSW/162/2021: STAKEHOLDER MEETING ON LABOUR MIGRATION**

### **a) Presentation by Hon. Simon Chelugui, CS Labour and Social Protection**

1. The CS lauded the Chairperson for sponsoring the legislation that enabled formation of the National Employment Authority (NEA). He added that the Ministry is in the process of delinking with NEA for it to operate independently.
2. The CS noted that Kenya has millions of graduates ready for the job market and it is striving to seek job opportunities for them in conjunction with NEA abroad.
3. He noted that the Kenyan workforce is facing several issues abroad and the Ministry is striving to improve their welfare.
4. The CS stated that there is Labour Migration Management Bill, which seeks to reinforce the existing legislation on labour migration and protect migrant workers. He sought the support of the Committee to enact the Bill.
5. On Labour Migration Policy, the Ministry has developed a policy and is ready for submission to the Cabinet. The CS sought support of the Committee in adoption and operationalization of the policy.
6. On police clearance certificates and passports, the Ministry is in discussion with the National Police Service to review the cost and period of obtaining Police Clearance Certificates. Additionally, special counters to be set to fast-track issuance documents such as; Birth

certificate, Passports and Police Clearance Certificate (Registration of Persons, Immigration, DCI, Airport).

7. On medical check-ups for Outbound Migrant workers;
  - (a) The Ministry is engaging members of the Gulf Cooperation Council (GCC) to explore the possibility of accrediting more GAMCA medical centres in major towns.
  - (b) The Ministry is engaging with Ministry of Health and professional bodies to identify and accredit local medical institutions to undertake medical examination for outbound migrant workers.
  - (c) The CS requested for the support of the Senate in engaging host countries to allow outbound migrant workers be examined by MOH accredited medical centres.
8. On Pre-departure training, Kenya has accredited 85 training providers who can train over 10,000 potential migrant workers. Review of training programmes to be continuous in a bid to address emerging issues.
9. On recruitment agencies, the Ministry currently reviewing the regulations of private employment agencies so as to improve ethical recruitment and accountability.
10. On Bilateral Labour Agreement (BLAs), Kenya has signed BLAs with governments of Qatar, UAE and Saudi Arabia. Additionally, Kenya has developed BLAs with six countries namely: United Kingdom, Poland, Oman, Kuwait, Jordan, and Bahrain.
11. The Cabinet has approved the appointment of Honorary Consuls and Labour Attaches in key labour destination countries (Canada, Australia, UK, Bahrain, Jeddah, Jordan, Kuwait and Iraq) to improve the provision of necessary consular assistance and protection of the labour rights. The CS sought support of the Senate in establishment of the Labour Attaché offices in the mentioned countries.
12. On coordination of Labour migration Management, Kenya is adopting the same One-Country-Team Approach applied in Philippines where all government Ministries, Department and Agencies involved in labour migration work together in order to build synergy and enhance coordination.
13. On support services to Migrant Workers, the CS noted that;
  - (a) Kenya has a comprehensive pre-departure and orientation programme for its migrant worker and it is being expanded and it will be mandatory for all migrant workers.
  - (b) The Ministry undertakes attestation of foreign labour contracts to ensure that they meet the minimum terms of conditions as provided in law and monitors its implementation.
  - (c) The Kenyan National Policy Labour Migration proposed the establishment of Safe houses for temporary shelter for Migrant

Workers in distress before transfer to another employment or deportation.

14. On regulation of Private Recruitment Agencies, NEA is mandated to monitor and supervise all Private Recruitment Agencies operating in the country.
15. On migrant workers Welfare Funds, the Cabinet approved the establishment of a Migrant Workers Welfare Fund whose objective is to provide protection, welfare and assistance to Kenyan migrant workers during migration, stay in destination country and upon return to the country.

**(b) Presentation by Association of Skilled Migrant Agencies of Kenya (ASMAK)**

1. ASMAK lauded the Cabinet Secretary (CS) for the plans and proposals put in place by the Government of Kenya to protect and improve the welfare of Kenyan workers seeking work abroad.
2. ASMAK decried of the failure by the Ministry to safeguard the agencies tasked with recruiting migrant workers since they face a lot of media backlash leading to closure of their agencies.
3. ASMAK noted that Kenya has one attaché in Saudi Arabia against 88,000 Kenyan migrant workers working there.
4. ASMAK raised concerns on the following -
  - (a) The length of time it takes to apply for a Certificate of Good Conduct;
  - (b) Why some foreign embassies ask migrant workers and recruitment agencies to pay for verification of certificate of good conduct;
  - (c) The high cost of acquiring a passport; and
  - (d) The quality of the training curriculum, ie it is not custom made to serve the different markets.

**(c) Presentation by Kenya Association Private Employment Agencies (KAPEA)**

1. KAPEA lauded the Cabinet Secretary (CS) for the brief. They urged the government to expedite legislation and implementation of all the set out plans.
2. KAPEA proposed that the recruitment agencies should be given a seat in the vetting board so that they can help in self-regulating errant members.

#### **(d) Members interventions**

1. The Cabinet Secretary (CS) was lauded for making arrangements for the setting up special counters for expediting processing of passports, certificates of good conduct and medical certificates.
2. It was noted that pre-departure training was an issue for Kenyan migrant workers and the concerned bodies should put emphasis on this.
3. The recruiting agencies were urged to also put more focus on professionals or skilled workers.
4. Concerns were raised on the state of Kenyan migrants abroad and their relationships with the recruiting agencies both local and abroad.
5. Members sought to get a timeline on when the labour management laws will be implemented.
6. Members sought to know the status of skilled labour agreement.
7. Members sought to understand why trained medical doctors and professionals from Kenya are less preferred and paid less compared to their counterparts from India and Philippines.
8. Members stated that they were devastated to note that in Dubai, there is only one safe home shared between males and females.
9. Members sought to know if the recruitment agencies and the ministry can be able to view the musaned system.
10. Members stated that recruitment agencies must work on a wage protection programme.
11. Members directed that the Jalia should be reinstated to safeguard the interests of Kenyans.
12. Members stated that there should be proper vetting of agencies for oversight.

#### **(e) CS response**

1. The CS stated that the Ministry will work as a team with the agencies and associations to realise the dream of protecting the welfare of Kenyan workers.
2. The CS noted that the bad publicity on Kenyan workers abroad in various media platforms majorly affects the domestic workers and not skilled workers. He noted that the respective authorities have expressed confidence in Kenyan workers.

3. The CS stated that the Ministry will travel to Saudi Arabia in August to sign the skilled labour agreement.
4. The CS committed to report on labour migration laws to the Committee on 14<sup>th</sup> July 2021 on the timeline matrix.
5. The Ministry to come up with a welfare, a contributory fund, for all Kenyan migrant workers.
6. The CS stated that they are working with the Ministry of Interior and Coordination of National Government to streamline the migration register.
7. The CS noted that they will develop regulations for establishment of separate safe homes for men and women.

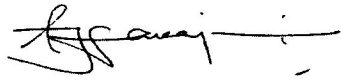
### **Way Forward**

The Committee resolved as follows -

1. That the Ministry of Labour and Social Protection should provide timelines of all the activities in their presentation within a week;
2. That the Ministry of Foreign Affairs should be invited to a meeting with the Committee the following week to respond to -
  - i. The need to have safe houses for Kenyan migrant workers who are in distress;
  - ii. The need to have a database of migrant workers both in the Ministry of Foreign Affairs (MOFA) and the Kenyan Embassies in the destination countries;
  - iii. The need to have MOFA representatives in destination countries able to log into the MUSANED system of the Kingdom of Saudi Arabia;
  - iv. The facilitation of all Kenyan migrants who are in distress back into the country; and
  - v. the number of Kenyans who have lost their lives or reported mistreatment in the Kingdom of Saudi Arabia in the last three years, and what the Government has done to address their plight.
3. That the Ministry of Interior and Coordination of Local Government should respond to the Committee on the matter of fast-tracking of passports and certificates of good conduct for the migrant workers.

**MINUTE SEN/SCLSW/163/2021: ANY OTHER BUSINESS AND ADJOURNMENT**

There being no other business, the Chairperson thanked the participants and the meeting was adjourned at 12.15 pm.



**SIGNATURE:** .....  
**(CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS)**

**DATE: Tuesday, 27<sup>th</sup> July, 2021**

**MINUTES OF THE 28<sup>TH</sup> MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON FRIDAY, 18<sup>TH</sup> JUNE, 2021, AT 3.00 PM IN THE MEDUSA 2 CONFERENCE ROOM, ENGLISHPOINT MARINA, MOMBASA COUNTY.**

**MEMBERS PRESENT**

- |                                     |                           |
|-------------------------------------|---------------------------|
| 1. Sen. Sakaja Johnson Arthur, CBS  | - <b>Chairperson</b>      |
| 2. Sen. Mwaruma Johnnes             | - <b>Vice Chairperson</b> |
| 3. Sen. Madzayo Stewart Mwachiru    | - Member                  |
| 4. Sen. Mwangi Paul Githiomi        | - Member                  |
| 5. Sen. (Dr.) Milgo Alice Chepkorir | - Member                  |

**ABSENT WITH APOLOGIES**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Kihika Susan Wakarura    | - Member |
| 2. Sen. Makori Beatrice Kwamboka | - Member |
| 3. Sen. Masitsa Naomi Shiyonga   | - Member |
| 4. Sen. (Dr.) Mwaura Isaac, CBS  | - Member |

**SENATE SECRETARIAT**

- |                         |                           |
|-------------------------|---------------------------|
| 1. Ms. Mwanate Shaban   | - Clerk Assistant         |
| 2. Mr. Jeremy Chabari   | - Legal Counsel           |
| 3. Mr. Reuben Kimosop   | - SAA                     |
| 4. Mr. Frank Mutulu     | - Media Relations Officer |
| 5. Mr. Ringera Humphrey | - Research Officer        |
| 6. Ms. Alice Nanyama    | - Secretary               |
| 7. Ms. Fatuma Abdi      | - Audio Officer           |
| 8. Ms. Rita Chidi       | - Office Assistant        |

**MINUTE SEN/SCLSW/114/2021: PRELIMINARIES**

The Chairperson called the meeting to order at 3.00 pm followed by a word of prayer.

**MINUTE SEN/SCLSW/115/2021: ADOPTION OF THE AGENDA**

The agenda of the Meeting was adopted after being proposed by Sen. Githiomi and seconded by Sen. (Dr.) Milgo as follows –

**AGENDA**

1. Preliminaries (Prayers);
2. Adoption of the Agenda;
- 3. Consideration of the Middle East Study Visit Report on Labour Migration; and**
4. Any Other Business & Adjournment.

**MINUTE SEN/SCLSW/116/2021:**

**CONSIDERATION OF THE MIDDLE EAST STUDY VISIT REPORT ON LABOUR MIGRATION**

The Committee deliberated on the Draft Report on the Middle East Study Visit on Labour Migration and agreed that the visit was an eye opener not only for the migration challenges experienced by Kenyan workers in that region. But also on the new labour frontiers that may be explored and support by both Parliament and the executive to make the processes smoother for the citizens.

The Committee resolved to invite Ministry of Foreign Affairs, the Ministry of Labour and Social Protection, the National Employment Authority, Associations of Recruitment Agencies and Representatives of Kenyans working in Saudi Arabia to deliberate on the following –

- 1) The revival of the welfare system called Jalia which existed to help someone in distress or needy. The workers in Saudi Arabia claimed that the Embassy had curtailed the system;
- 2) Whether the Kenyan Embassy in Saudi Arabia still issues letters of assistance;
- 3) How the government can get amnesty for Kenyans stranded in Saudi Arabia and want to come back home;
- 4) The number of Kenyans in Jail and the process of repatriation;
- 5) What the government can do in terms of negotiating for better terms for Kenyan workers, for instance calling rates, banking services, return tickets, better salaries, etc;
- 6) Training – how it can be made time sensitive and but also enhance quality;
- 7) How the government can stop the exploitation of tourist visas to Dubai which lead to exploitation of Kenyans

The Meeting was scheduled for Wednesday, 30<sup>th</sup> June, 2021.

The Committee also resolved that the Secretariat researches on the Bilateral Labour Agreements for Philipinnes and other countries that have negotiated better terms for their workers and report in the next meeting.

**MINUTE SEN/SCLSW/117/2021: ANY OTHER BUSINESS AND ADJOURNMENT**

There being no other business, the meeting was adjourned at 5.00 pm.



**SIGNATURE:** .....  
**(CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS)**

**DATE: Wednesday, 14<sup>th</sup> July, 2021**