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THIRTEENTH PARLIAMENT | THIRD SESSION

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON THE INQUIRY ON THE WELFARE OF WORKERS IN THE
EXPORT PROCESSING ZONES IN MOMBASA AND KILIFI COUNTIES

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SEPTEMBER, 2024

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ABBREVIATIONS AND ACRONYMS

AGOA	-	African Growth and Opportunity Act
CSR	-	Corporate Social Responsibility
EPZA	-	Export Processing Zones Authority
HR	-	Human Resources
Ltd.	-	Limited
PFM	-	Public Finance Management
PWD ^s	-	Persons with Disability
US	-	United States

PREFACE

Establishment and Mandate of the Committee

The Senate Standing Committee on Labour & Social Welfare is established pursuant to standing order 228 of the Senate Standing Orders. 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, sports, public entertainment, public amenities and recreation.

The mandate of the Committee spans four (4) ministries: The Ministry of Labour and Social Protection, Public Service, Performance and Delivery Management, the Ministry of Gender, Culture, the Arts and Heritage, and the Ministry of Youth Affairs, Creative Economy and Sports.

The Committee also oversees the following State Department; the State Department of Diaspora Affairs under the Ministry of Foreign and Diaspora Affairs, and the Pensions Department under the National Treasury.

Membership of the Committee

The Committee membership is as follows –

- | | |
|---|--------------------|
| 1. Sen. Julius Murgor Recha, MP | - Chairperson |
| 2. Sen. George Mungai Mbugua, MP | - Vice Chairperson |
| 3. Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP | - Member |
| 4. Sen. Mohamed Faki Mwinyihaji, MP | - Member |
| 5. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 6. Sen. Alexander Munyi Mundigi, MP | - Member |
| 7. Sen. Crystal Kegehi Asige, MP | - Member |
| 8. Sen. Miraj Abdullahi Abdulrahman, MP | - Member |
| 9. Sen. Gloria Orwoba, MP | - Member |

CHAIRPERSON'S FOREWORD

Mr. Speaker, Sir

Article 96 (1) of the Constitution mandates the Senate to represent the counties and serve to protect the interests of the counties and their governments. To achieve these, the Senate, through Committees, engages county governments to ascertain any emerging challenges that require redress through legislation, oversight, and appropriation of resources.

On Wednesday 17th April 2024, Senator Mohamed Faki, MP, rose pursuant to Standing Order No.52(1) to seek a Statement concerning the grievances facing employees of the Export Processing Zone country-wide and in particular, the employees of Ashton Mombasa Apparels Ltd.

At its meeting held on Thursday, 9th May, 2024, the Committee considered the matter and resolved to visit Ashton Mombasa Apparel EPZ Limited in Mombasa County and additionally include Best Line Garments Limited in Kilifi County. The Committee first held a meeting with officials from the Export Processing Zone Authority on Friday, 14th June, 2024, so as to gain an in-depth understanding of the sector.

The visit took place between 18th -24th June, 2024. While on this visit, the Committee also engaged with the management of Umoja Rubber Company Limited.

The following Senators represented the Committee –

1. Sen. Julius Murgor Recha, MP - **Chairperson - Head of the delegation;**
2. Sen. George Mungai Mbugua, MP - **Vice Chairperson;**
3. Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP - Member;
4. Sen. Mohamed Faki Mwinyihaji, MP - Member; and
5. Sen. Alexander Munyi Mundigi, MP - Member.

The purpose of the visit was to investigate the grievances facing the employees in regards to the right to unionise, unfair hiring practices, sexual harassment, delay in issuance of employment contracts, tribalism, working conditions, long working hours and low wages.

The Export Processing Zones (EPZ) is created by an Act of Parliament known as The Export Processing Zones Act No.12 of 1990, which provides for the establishment of export processing zones and the Export Processing Zones Authority.

The EPZ has attractive fiscal, physical and procedural incentives to ensure low-cost operations for export-oriented businesses. These zones are governed by the EPZ Authority whose main roles include; development, regulation and administration of the zones and is a State corporation under the Ministry of Investments, Trade & Industry.

Export-oriented companies operating in these zones are licensed by the EPZ Authority and therefore subject to its policies and procedures. Additionally, these companies which employ Kenyan citizens as employees are also bound by Kenyan labour laws, which include; the Labour Relations Act, the Employment Act, the Work Injury Benefits Act, the Occupational Safety and Health Act, amongst others.

Article 41 of the Constitution solidifies labour relations by guaranteeing labourers various rights including fair remuneration, safe and healthy working conditions, reasonable working conditions, form, join or participate in the activities and programmes of a trade union and to go on strike.

The Committee visited Ashton Mombasa Apparels in Changamwe, Mombasa County on Wednesday, 19th June, 2024, Umoja Slippers (a local private company) and Best Line Garments EPZ, both in Kilifi County on Thursday, 20th June, 2024.

The Committee established that the EPZ companies it visited complied with the laws of the land and paid minimum wage to their workers. However, the EPZ companies had minimal Corporate Social Responsibility programs.

Additionally, the employees complained that they were paid lower salaries than some their co-workers who performed the same task. They stated that foreigners performing similar tasks were paid higher salaries than them.

In light of the above findings, the Committee makes the following recommendations -

- (i) That the Cabinet Secretary in charge of Labour and Social Protection –
 - a) immediately establishes an Export Processing Zones Wages Council in line with section 43 of the Labour Institutions Act, Cap. 234 to take care of this special categories of workers and reports back to the Senate within a month of tabling of this report;

- b) reviews and publishes a wages order that is specific to export processing zones workers, and report to the Senate, within six months of tabling of this report; and
 - c) in the spirit of fair labour practices of equal pay for equal work done, investigates claims of EPZs paying foreigners doing similar jobs to locals in EPZs higher wages, and report to the Senate within three months of tabling of this report.
- (ii) That the Cabinet Secretary in charge of Trade, Investments and Industry ensures that the Government seeks for better terms for the citizens of Kenya in terms of enhanced wages, corporate social responsibility programs, and environment reclamation programs;
- (iii) That the National Government through the EPZA –
- a) ensures that there is favourable business environment for EPZs nationally; and
 - b) Incorporates the County governments in setting up of the Export Processing Zones to ensure that counties benefit in terms of job opportunities, infrastructural development and corporate social responsibility programs.

Mr. Speaker, Sir,

I wish to thank the Senators for availing themselves in conducting this inquiry. The Committee also wishes to acknowledge the time and considerable effort made by all parties who volunteered information before it. The Committee further appreciates the Office of the Speaker and the Clerk of the Senate for facilitating the Committee in the production of this report.

Mr. Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 223 (6), to present and lay on the table of the House the Report of the Committee on Labour and Social Welfare on the Inquiry on the Welfare of Workers in the Export Processing Zones in Mombasa and Kilifi Counties for consideration by the House.

SIGNATURE.....

**for: CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP,
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE**

DATE: Friday, 5th July, 2024

CHAPTER ONE: INTRODUCTION

1.1 INTRODUCTION

1. Article 96 (1) of the Constitution mandates the Senate to represent the counties and serve to protect the interests of the counties and their governments. To achieve these, the Senate, through Committees, engages county governments to ascertain any emerging challenges that require redress through legislation, oversight, and appropriation of resources.
2. On Wednesday, 17th April, 2024, Senator Mohamed Faki, MP, pursuant to Standing Order No. 52(1) of the Senate Standing Orders rose to make a statement concerning the grievances facing employees of EPZs country-wide and in particular, the employees of Ashton Apparels Ltd Mombasa.
3. The salient issues raised in the Statement are -
 - (i) That the EPZ companies refuse the employees their right to unionise, it has been submitted that employees who make efforts to form unions in order to negotiate for more favorable employment conditions inadvertently lose their jobs & get fired.
 - (ii) That the hiring practices of the EPZ companies involve; sexual coercion, sexual harassment and sexual demands in order to secure job opportunities for the labourers.
 - (iii) That the management of these companies unnecessarily delay the issuance of employment contracts.
 - (iv) That among the unscrupulous hiring practices, there is rampant tribalism in the recruitment process. The employees submit that particular higher job groups are only occupied by particular tribes.

- (v) That the working conditions at these manufacturing sites are untenable. This is evidenced by the number of employees who suffer from ailments resulting from poor working conditions such as dust & chemicals.
 - (vi) The employees complain of long hours and low wages.
 - (vii) That particularly, the employees of Ashton Mombasa Apparels EPZ Ltd participated in a peaceful protest in order to mobilize for their right to unionize however, the Deputy County Commissioner and the Police at the behest of Ashton Apparels management, disrupted the protest and additionally laid-off 2000 employees.
4. The Statement was then committed to the Standing Committee on Labour & Social Welfare for consideration. In consideration of the Statement, the Committee resolved to undertake an inquiry on the issue with a view to gaining an in-depth in the whole sector.
5. The Committee noted that on 26th of October, 2023 the Member of Parliament for Changamwe, Hon. Omar Mwinyi had requested for a statement from the Chairperson of the Departmental Committee on Labour regarding unfair treatment of employees of Ashton Apparel (EPZ) Limited and Mombasa Apparel (EPZ) Limited in Mombasa County. In his statement he said Ashton Apparel (EPZ) Limited and Mombasa Apparel (EPZ) Limited, both owned by the same owner, have been in the limelight in the recent past for incidences of unfair treatment of over 4,000 employees.
6. The injustices include denial of leave days and sick offs, sexual advances and harassment in exchange for preferential treatment or otherwise unexplained deductions of dues, unlawful contract terms, prohibition of joining trade unions and unlawful termination of employment or dismissal.

CHAPTER TWO: EXISTING LEGAL FRAMEWORK

7. This Chapter looks at the existing legal framework within which the EPZs operate in regards to both the management and the workers.

2.1 THE EXPORT PROCESSING ZONE ACT, CAP 517

8. The Export Processing Zones Act, Cap 517, enacted in 1990 is the main law that governs exports processing zones in Kenya.

9. The Act provides for the establishment of export processing zones and the Export Processing Zones Authority, the promotion and facilitation of export oriented investments and the development of enabling environment for such investment.

2.2 THE EXPORT PROCESSING ZONES AUTHORITY

10. The Act establishes the Export Processing Zones Authority whose objectives are -
- (i) the development of all aspects of the export processing zones with particular emphasis on provision of advice on the removal of impediments to, and creation of incentives for, export-oriented production in areas designated as export processing zones;
 - (ii) the regulation and administration of approved activities within the export processing zones, through implementation of an administrative system in which the export processing zone enterprises are self-regulatory to the maximum extent; and
 - (iii) the protection of Government revenues and foreign currency earning.
11. In carrying out the objectives, the Authority may exercise, perform and discharge all or any of the following powers, duties and functions –

- (i) to advise the Cabinet Secretary on all aspects of development of the export processing zones;
- (ii) to implement the policies and programmes of the Government with regard to development of the export processing zones;
- (iii) to identify and map the areas to be designated as export processing zones;
- (iv) to plan the development and maintenance, and to finance the basic infrastructure up to the perimeter of the export processing zones;
- (v) to examine and process applications for designation of export processing zones and issue relevant approvals;
- (vi) to examine and process applications for licences by the export processing zone developers, export processing zone operators, and export processing zone enterprises and issue the relevant licences;
- (vii) to promote and market export processing zones among investors;
- (viii) to issue certificates of origin to export processing zone enterprises for the purpose of a generalized system of preferences and other trade preferences given under bilateral or multilateral trade agreements; and
- (ix) to act as a "one-stop" centre through which the export processing zone enterprises can channel all their applications for permits and facilities not handled directly by the Authority.

12. The Authority is empowered to formulate such rules as may be required for the purpose of ensuring orderly and fair development, and operation of export processing zones and export processing enterprises, and in particular rules to –

- (i) determine application procedures and criteria for the approval of export processing zones or export processing zone developers or export processing zone operators and export processing zone enterprises;

- (ii) determine procedures for providing the benefits accruing to export processing zone developers, export processing zone operators and export processing zone enterprises;
- (iii) ensure adequate security within the export processing zones;
- (iv) determine the form of the licences to be issued under this Act and the procedures for amendment and revocation of the licences;
- (v) determine entry of personnel into an export processing zone; and
- (vi) require information from export processing zone developers, operators, and enterprises.

2.3 BENEFITS ACCRUING TO EXPORT PROCESSING ZONE ENTERPRISES

13. Under Part VIII of the Act, the export processing zone enterprises, the export processing zone developers and the export processing zone operators are granted exemption from all existing and future taxes and duties payable under the Excise Duty Act (Cap. 472) and Value Added Tax Act (Cap. 476) on all export processing zone imports for use in the eligible business activities of the export processing zone enterprise including machinery and equipment, spare parts, tools, raw materials, intermediate goods, construction materials and equipment, office equipment and supplies, and transportation equipment subject to the limitations imposed by law.
14. The export processing zone enterprise, export processing zone developers and the export processing zone operators are granted the following exemptions –
- (i) exemption from registration under the Value Added Tax Act (Cap. 476);
 - (ii) exemption from the payment of excise duties as specified in the Excise Duty Act (Cap. 472);
 - (iii) exemption from the payment of income tax as specified in the Income Tax Act (Cap. 470) for the first ten years from the date of first sale as an export

processing zone enterprise, except that income tax rate will be limited to twenty-five percent for the ten years following the expiry of the exemption granted under this paragraph;

- (iv) exemption from the payment of withholding taxes on dividends and other payments made to non-residents during the period that the export processing zone enterprise is exempted from payment of income tax;
- (v) exemption from stamp duties on the execution of any instruments relating to the business activities of an export processing zone enterprise;
- (vi) exemption from quotas or other restrictions or prohibitions on import or export trade with the exception of trade in firearms, military equipment or other illegal goods;
- (vii) exemption from exchange controls on payments; and
- (viii) exemptions from rent or tenancy controls.

15. The Cabinet Secretary may, on the recommendation of the Authority and in consultation with the Cabinet Secretary for the time being responsible for finance, with the object of attracting, promoting or increasing the manufacture of goods, or provision of services, for export, by notice in the Gazette, declare any area, land or building or part thereof in Kenya to be an export processing zone.

2.4 LAW ON THE RIGHT TO FORM, JOIN OR PARTICIPATE IN THE ACTIVITIES AND PROGRAMMES OF A TRADE UNION

2.4.1 The Constitution

16. Article 36 of the Constitution on freedom of association provides as follows—

(1) Every person has the right to freedom of association, which includes the right to form, join or participate in the activities of an association of any kind.

(2) A person shall not be compelled to join an association of any kind.

17. Article 41 of the Constitution on labour relations, provides that—

(1) Every person has the right to fair labour practices.

(2) Every worker has the right to—

(a) fair remuneration;

(b) reasonable working conditions;

(c) form, join or participate in the activities and programmes of a trade union; and

(d) go on strike.

2.4.2 The Employment Act, Cap.226

18. Under section 19 of the Employment Act on deduction of wages, an employer may deduct from the wages of his employee -

- (a) any amount due from the employee as a contribution to any provident fund or superannuation scheme or any other scheme approved by the Commissioner for Labour to which the employee has agreed to contribute;
- (b) any amount the deduction of which is authorised by any written law for the time being in force, collective agreement, wage determination, court order or arbitration award; and
- (c) any amount in which the employer has no direct or indirect beneficial interest, and which the employee has requested the employer in writing to deduct from his wages.

2.4.3 The Labour Relations Act, Cap. 233

19. Section 4 of the Labour Relations Act on employee's right to freedom of association, provides that every employer has the right to -

- (a) participate in forming a trade union or federation of trade unions;*
- (b) join a trade union; or*
- (c) leave a trade union.*

20. Section 5 of the Act on protection of employees provides that no person shall require an employee or a person seeking employment not to be or become a member of a trade union or to give up membership of a trade union.

2.4.4 Wage Councils

21. Part VI of the Labour Institutions Act, Cap 234 provides for the establishment, functions and powers of wage councils.

22. Under section 43 of the Act, the Cabinet Secretary for matters related to labour is mandated to establish –

- (a) a General Wages Council;
- (b) an Agricultural Wages Council; and
- (c) an Export Processing Zones Wages Council

23. The Cabinet Secretary may, after consultation with the Board, in addition to the General Wages Council, establish a Sectoral Wages Council if the Cabinet Secretary is of the opinion that -

- (a) the remuneration and other conditions of employment of any category of employees in any sector is not adequately regulated by collective agreements; and
- (b) it may be expedient to set minimum wages and other conditions of employment in respect of employees in those sectors.

24. The terms of reference of a sectoral wages council may be in respect of –
- (a) employees in a sector, or part of a sector, either nationally or within a specific area; or
 - (b) one or more specified categories of employees, either nationally or within specific sectors or areas.
25. The Agricultural Wages Council may recommend to the Cabinet Secretary, minimum remuneration and conditions of employment of employees employed –
- (a) in the agricultural sector; or
 - (b) any sector in which no other wages order is applicable.
26. The functions of a wages council are to –
- (a) investigate the remuneration and conditions of employment in any sector;
 - (b) invite and consider written and oral representations, in the prescribed manner, from interested parties; and
 - (c) make recommendations to the Cabinet Secretary on minimum wage remuneration and conditions of employment.
27. In the performance of its functions, a wages council takes into consideration -
- (a) the needs of employees and their families, taking into account the general level of wages in the country, the cost of living, social security benefits and the relative living standards of other social groups;
 - (b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment and the need to encourage investment;
 - (c) the ability of employers to carry on their business successfully;
 - (d) the operation of small, medium and micro enterprises;
 - (e) the cost of living;
 - (f) the alleviation of poverty;
 - (g) the minimum subsistence level; and

- (h) the likely impact of any proposed conditions of employment on current employment or the creation of employment.

2.4.5 Contents of a Wage Order

- 28. A wages order —
 - (a) set minimum rates of remuneration;
 - (b) specify the matters in which an employer may make deductions from employee's wages and specify the maximum amount of deductions;
 - (c) specify the maximum amount which may be deducted from an employee's wages in respect of rations supplied by the employer;
 - (d) provide that an employer may only make a deduction in respect of rations supplied if authorised in writing by a labour officer;
 - (e) regulate task based work and piece work;
 - (f) regulate outwork, casual work and contract work;
 - (g) set minimum standards of sanitation for employees who reside on the premises of their employer; and
 - (h) regulate any other matter concerning remuneration or conditions of employment.
- 29. The minimum rates of remuneration or conditions of employment established in a wages order constitute a term of employment of any employee to whom the wages order applies and may not be varied by agreement.
- 30. Upon consideration and analysis of the above framework within which the EPZs operate, the Committee observed that —
 - (i) that the Export Processing Zones Authority regulates export processing zones
 - (ii) that the, while the Labour Institutions Act, Cap, 234 establishes an Export Processing Zones Wages Council;

- (iii) that a wages council makes recommendations to the Cabinet Secretary for Labour and Social Protection on minimum wage remuneration and conditions of employment in specific sectors;
- (iv) that a wages order constitutes minimum terms of conditions of employment;
- (v) that all workers have freedom to form, join or participate in the activities and programmes of a trade union; and not to be compelled to join an association of any kind; and
- (vi) that no person can require an employee or a person seeking employment not to be or become a member of a trade union or to give up membership of a trade union.

2.5 THE AFRICAN GROWTH AND OPPORTUNITY ACT (AGOA)

- 31. The African Growth and Opportunity Act (AGOA) is a United States Trade Act, enacted on 18 May 2000 as Public Law 106 of the 200th Congress. The AGOA legislation has been renewed on different occasions, most recently in 2015, when its period of validity was extended to September 2025.
- 32. The legislation significantly enhances market access to the US for qualifying Sub-Saharan African (SSA) countries. It does that by allocating a special program indicator ('D') to approximately 6,800 tariff lines in the US tariff schedule, which allows US importers to clear such goods - sourced from eligible African countries - duty-free under AGOA.
- 33. Only Sub-Saharan African countries are considered for eligibility, and with AGOA beneficiary status having been awarded to approximately 40 countries (this number changes from time to time).

34. Products that are AGOA eligible include items such as apparel and footwear, wine, certain motor vehicle components, a variety of agricultural products, chemicals, steel and many others.

CHAPTER THREE: CONDUCT AND PROCEEDINGS OF THE COMMITTEE

35. This Chapter gives brief background of the companies visited and also expounds on the Committee's conduct of proceedings. The Committee held ten (10) Sittings during consideration of the matter.

3.1 ASHTON MOMBASA APPARELS (EPZ) LIMITED

36. This company was established in January 2024 following the acquisition of Ashton Apparels (EPZ) Limited and Mombasa Apparels (EPZ) Limited by Gokaldas Exports whose headquarters are in India. Prior to acquiring the companies in Mombasa, Gekaldas Exports operated 20 factories globally with 26,000 workers.

37. Ashton Mombasa Apparel's core business is garment manufacturing and exporting primarily to the United States of America market, with a production capacity of over 23 million pieces. The company currently employs 9,394 workers.

3.2 BEST LINE GARMENTS EPZ LIMITED

38. Best Line Garments EPZ Limited, based in Kilifi County, is a significant player in the apparel manufacturing industry within the Export Processing Zone (EPZ) framework. The company changed management in 2023, and initially operated as Brilliant Garments Kenya EPZ Ltd. There are 1650 employees working at the factory located in Kilifi County.

39. Best Line Garments EPZ Limited specializes in producing high-quality apparel, including knitwear, woven garments, and sportswear. Their products cater for a diverse clientele, including men, women, and children. As part of the EPZ, the company focuses on exporting its products to international markets, primarily to North America, Europe, and Asia.

3.3 UMOJA SHOE COMPANY LIMITED

40. Umoja Rubber Products Limited, commonly known as Umoja Shoe Company Limited, is a prominent footwear manufacturing company based in Kilifi county. The company specializes in a wide range of footwear products, including school shoes, casual shoes, sandals, slippers, and industrial safety footwear.
41. They cater for various market segments, including children, adults, and workers. This private company has currently approximately 2800 employees working for them. The company supports the local economy by sourcing materials locally where possible and working with local suppliers and service providers.

3.4 COMMITTEE PROCEEDINGS

3.4.1 Meeting with the Export Processing Zones Authority (EPZA)

42. At its Sitting held on Friday, 14th June, 2024, the Committee met with the Export Processing Zones Authority where they deliberated on the welfare of workers in the EPZs. Concerns were raised on the poor remuneration, working conditions, unrealistic targets and the denial of the right to unionise.

3.4.2 Courtesy call to the Office of the Senator of Mombasa County

43. During the visit, the Committee paid a courtesy call to the Office of the Senator of Mombasa County in Ganjoni where they met the Members of the Senate Standing Committee on Health who were also on visiting health care facilities to acquaint themselves with healthcare provisions in the County of Mombasa.

Picture1: Courtesy Call to the Office of the Senator of Mombasa County



3.4.3 Meeting with the Management and Workers of Ashton Mombasa Apparel (EPZ)

44. The Committee met with the management of Ashton Mombasa Apparel (EPZ) Limited on Wednesday, 19th June, 2024, and deliberated on the issues that were raised in the Statement by Sen. Mohamed Faki. The Committee also met with the workers to ascertain on the issues raised in Statements and concluded with a tour on the facility and the factory.
45. The Principal Secretary for State Department for Investment Promotion, Mr. Abubakar Hassan Abubakar and officials of the EPZA were in attendance.
46. On the allegation of the company's refusal to embrace the union and prevention of workers from joining unions, the management assured the Committee that at no time had the management refused or stopped any worker from joining a union of his or her choice. This was evident from the union member recruitment and enlisting through check-off and monthly deductions and remittances of union dues they provided.

47. The company also refuted claims of sexual harassment of female employees by management staff and presented a comprehensive policy based on the Employment Act, 2007. They further stated that they had not received any authentic complaint or police report to pursue any such case. However, during the presentation by the Principal Secretary, State Department for Investment Promotion, he acknowledged that there were investigations by the Ministry on cases of sexual harassment and the action was taken on four of the cases.
48. On the issue of discrimination and tribalism the Company said they recruit through a competitive recruitment system and has a recruitment policy in place that is guided by the Employment Act 2007. They denied the existence of discrimination and tribalism and claimed that the recruitment is by merit and the nature of working contracts was determined by the seasonal nature of the business. Contracts are issued to staff for a specific period.
49. The Committee was informed by the Company that on the issue of long working hours the Company strictly operates in accordance with the Employment Act, 2007, that stipulates working hours and payment of overtime. They mentioned factories meet and observe all industrial requirements, ensuring habitable work environment at all times. The Company stated that they have fully fledged internal clinics manned by qualified medical personnel, who attend to staff and have no reported cases of sickness due to factory dust. The Committee was informed that each factory has a well-established human resource, welfare and other management offices to provide guidance on working conditions and address any issue that workers may have at any time.
50. Further, on the claim that the employees of Ashton Mombasa Apparels Ltd participated in a peaceful protest in order to mobilize for their right to unionise and the Police at the behest of Ashton Apparels management, disrupted the protest and

additionally laid-off employees, the Company stated that they encountered chaos and breaches of industrial peace just 28 days into operations when the new company took over.

51. They informed the Committee that it was not an industrial unrest as it did not involve demands from workers seeking union membership or other benefits. The individuals identifying themselves as self-nominated workers' representatives, physically attacked colleagues, supervisors and middle-level management bringing operations to a complete halt.
52. A meeting of the Committee and a few representatives of the employees and workers of Ashton Apparels Limited confirmed that there were no issues or grievances by the workers. They assured the Committee that there were no issues of sexual harassment, they had no problem with the working hours as stated in their contracts and the work load and also that the HR department was not involved in unscrupulous practices.
53. Some workers complained of harassment from persons within Changanwe area who had been forcing them to join the Union. Some of the workers complained of physical assault and death threats with reports to the police going unattended.

Picture 2: Meeting with the Management of Ashton Mombasa Apparel EPZ Ltd.



Picture 3: Meeting with the Management of Ashton Mombasa Apparel EPZ Ltd.



Picture 4: Meeting with the Employees of Ashton Mombasa Apparel EPZ Ltd.



Picture 5: Meeting with the employees of Ashton Mombasa Apparel Ltd.



Picture 6: Tour of Ashton Mombasa Apparel Ltd. Factory



3.4.4 Meeting with the Management and workers of Umoja Rubber Limited (Umoja Shoe Company)

54. On Thursday 20th of June, 2024 the Committee held two meetings with Umoja Rubber Limited (Umoja Shoe Company Limited). The first meeting was with the management of the Company and the next meeting with the workers of the Company. The Committee also toured the facility and the production areas.
55. The Committee noted that although the company was not an EPZ, they also had products for exports and the Committee was interested in the general wellbeing of the workers.
56. The company informed the Committee that it operates within the footwear manufacturing industry, specializing in the production of shoes that encompass a variety of footwear types such as formal shoes, casual shoes, sandals, boots, and possibly specialized footwear. They have incorporate modern technology and innovation in its manufacturing processes to improve efficiency, quality, and sustainability. The company supports the local economy by sourcing materials locally such as textile where possible and working with local suppliers and service providers.
57. The management requested the Committee to address unfair competition in the school shoes market where most schools advise parents to buy a particular brand.
58. The management addressed the following issues stated in the Statement in their presentation led by the managing Director;
- (i) There were no issues related to sexual harassment and gender issues at the company;
 - (ii) The company attracts and hires qualified individuals who fit the organization's culture and requirements;

- (iii) HR facilitates continuous learning and skill development among employees to enhance their performance and career growth;
- (iv) In terms of the health, wellbeing and safety of the employees they have implemented and adhered to local and international workplace safety standards and regulations to prevent accidents, injuries, and occupational hazards. This includes regular inspections of equipment, machinery, and workspaces. they also provide comprehensive health and safety training to all employees;
- (v) The work environment is conducive for working expectant mothers and those working in certain floors of production are given incentives to their jobs; and
- (vi) The company engages in Corporate Social Responsibility and engages with the communities around them.

59. The employees confirmed to the Committee that the company contributes to the well-being and satisfaction of employees.

Picture 7: Meeting the Management of Umoja Rubber Ltd.



Picture 8: Meeting with Management of Umoja Rubber Ltd.



Picture 9: Meeting with the Workers of Umoja Rubber Ltd.



Picture 10: Meeting with the Workers of Umoja Rubber Ltd.



Picture 11: Tour of Umoja Rubber Ltd.



Picture 12: Tour of Umoja Rubber Ltd.



3.4.5 Meeting with the Management and workers of Best Line Garments (EPZ) Ltd

60. The Committee visited Best Line Garments (EPZ) Limited on the same day to deliberate on the grievances facing the employees. The Committee met with the management and had a session with a few representatives of the workers.
61. The Principal Secretary for State Department for Investment Promotion, Mr. Abubakar Hassan Abubakar and officials of the EPZA were in attendance.
62. In their presentations, the management informed the Committee that it was under new management and it enhances its operations and reputation by prioritizing employee welfare, preventing any harassment through proactive measures, and

implementing robust HR practices where recruitments are done by merit. They confirmed to the committee that there no discrimination practices and tribalism within the company.

63. The management also stated that they have a supportive and inclusive workplace environment, so as to improves employee satisfaction and productivity and also contributes to long-term business success within the competitive EPZ sector.
64. The working hours of the normal day shift of eight hours and the nature of working contracts are 3 months initially, while some are for one year. In case of any injuries, the company stated that they have a nurse on board to do the first aid at scene before proceeding to the hospital.
65. The meeting with employees confirmed that the management promotes open communication channels between management and employees, address grievances promptly and fairly, and fostering a culture of trust and respect. They also stated that they had no grievances and were allowed to join any union even though the management has social welfare representatives that assist the workers when needed.

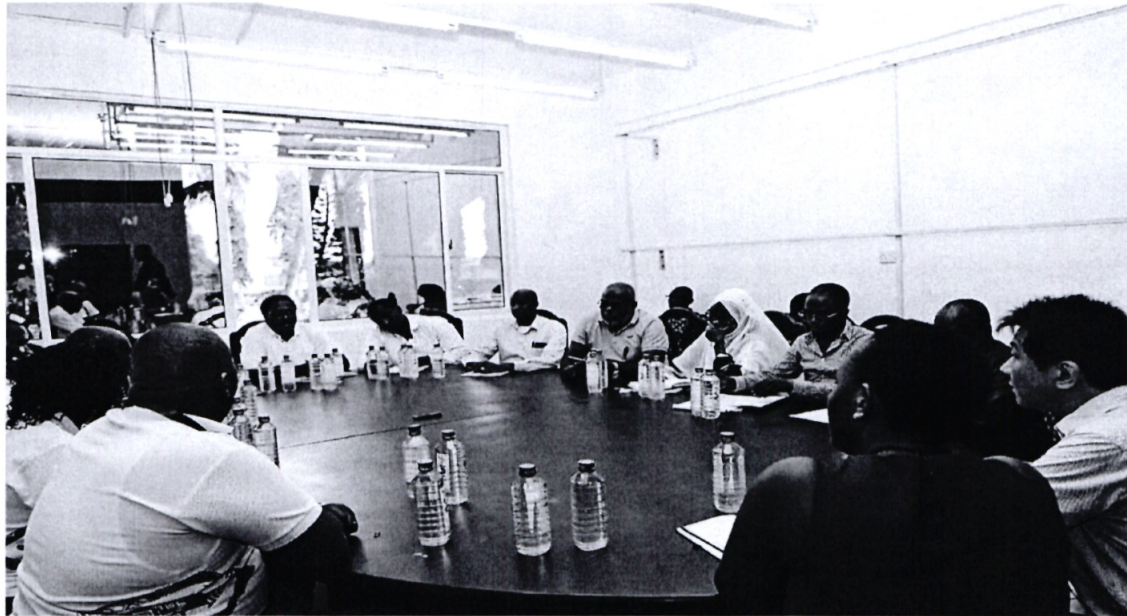
Picture 13: Meeting with the Management of Best Line Garments EPZ Ltd.



Picture 14: Meeting with the Management of Best Line Garments EPZ Ltd



Picture 15: Meeting with Management of Best Line Garments EPZ Ltd.



Picture 16: Meeting with the Workers of Best Line Garments EPZ Ltd.



Picture 17: Tour of the Best Line Garments EPZ Ltd. Factory



Picture 18: Tour of the Best Line Garments EPZ Ltd. Factory



CHAPTER FOUR: EMERGING ISSUES FROM THE SUBMISSIONS

66. This Chapter analyses the issues that emerged from the Committee's interactions with the various stakeholders. While the overall issue was the welfare of workers, other issues emerged such as fostering an ideal investment climate, unionization of workers, corporate social responsibilities (CSR) of EPZ companies and minimum wage for EPZ workers.

4.1 FOSTERING AN IDEAL INVESTMENT CLIMATE

67. During the visit, the Committee noted that there was need to foster an ideal investment climate. Political instability was one of the issues mentioned. The changes in government policies and regulatory uncertainty can create a volatile environment that deters investors. A stable political climate is crucial for long-term investment confidence. Therefore, transparent and predictable legal frameworks are essential for attracting and retaining investments.

68. Ashton Mombasa Apparels (EPZ) Limited raised concerns about crime, insecurity, or civil unrest which affected investor confidence and impact business operations. Ensuring a safe and secure environment is essential for attracting investments.

4.2 UNIONIZATION OF WORKERS

69. The employees need to be trained on labour relations laws so that they manage their work responsibilities alongside their union duties. All employees should be trained on their right to form, join or participate in the activities and programs of trade unions of their choice.

70. Though some employers have not denied employees their right to unionize, the instability caused by union official has led to confrontations or misunderstandings in the sector. There were claims that some Union officials had even made threats to employees and the management of the companies. There is therefore need to

establish an export processing zones trade union with trained officials to cater for workers working in these industrial areas.

4.3 CORPORATE SOCIAL RESPONSIBILITY (CSR)

71. The Committee noted that having CSR activities in EPZs will help build and maintain positive relationships with stakeholders, including employees, local communities, government bodies, and investors. This would foster trust and support, which is vital for long-term business sustainability. Both Ashton Mombasa Apparels and Umoja have engaged in a few CSR projects unlike Best Line Garments Limited.

72. The Committee encouraged impactful CSR programs that invest in the social sector like education, healthcare, environmental reclamation, and job creation outside of the EPZ boundaries which will help improve living standards and create a more inclusive economy.

4.4 REVIEWING THE MINIMUM WAGE FOR EPZ AREAS

73. During the visit, the Committee noted that EPZs expect a certain level of expertise from their employees since they produce products for the international markets which have certain standards. The work pressure of a tailor in an EPZ is therefore not equal to a tailor that is employed by a local company. Apart from the pressurized working conditions, employees may also have minimal bargaining power. A revised minimum wage specific to these categories of workers, that takes into account their unique situations should be effected. The publication of a wages order specific to Export Processing Zones (EPZs) is a critical regulatory measure that addresses the unique circumstances and challenges faced by workers in these designated industrial areas.

74. Finally, the Committee recognizes that it is imperative to encourage and attract investments so as to spur economic growth, but cautions that these investments should also have tangible positive effects to the citizens of Kenya. The Committee therefore advises the State Department of Labour and the State Department of Investment Promotion to take into account both short and long term gains for the country which include improved welfare of its citizenry, accounting for the environmental degradation that comes with the industries, improved infrastructure and corporate social responsibility.

CHAPTER FIVE: COMMITTEE FINDINGS AND RECOMMENDATIONS

75. Following the interactions with the State Department for Investments Promotion, the Export Processing Zones Authority, the management and workers of Ashton Mombasa Apparels (EPZ) Limited, Umoja Rubber Limited and Best Line Garments (EPZ) Limited, the Committee, made observations and recommendations.

5.1 COMMITTEE FINDINGS

76. The Committee found that –

- (i) The EPZ companies provide significant employment opportunities, particularly for semi-skilled and unskilled workers. Ashton Mombasa Apparels EPZ Ltd is among the largest employers in the EPZ sector providing jobs to thousands of locals;
- (ii) Local Private Companies like Umoja Rubber limited also provide employment opportunities to the citizens and therefore there is need to provide a favourable and equitable business operating environment that will be beneficial for both the company and employees;
- (iii) The working conditions in the EPZ companies vary, but efforts are generally being made to comply with national labor laws and international standards. This includes providing a safe and conducive working environment;
- (iv) Wages in EPZs are generally within the national minimum wage bracket, but there is still room for improvement to cater for the special category of workers.
- (v) Ashton Mombasa Apparels EPZ limited faces an operational challenge of insecurity or civil unrest which affects investor confidence and impacts business operations that led to losses. There is therefore the need to solve this issue for future investment and expansion of the EPZ companies.

5.2 COMMITTEE OBSERVATIONS

77. In addition to the above findings, the Committee observed that -

- (i) There is potential for growth and expansion in the EPZ sector in Mombasa, particularly by leveraging initiatives like the African Growth and Opportunity Act (AGOA) which provides duty-free access to the U.S. market;
- (ii) The EPZ companies are not mandated by the Government to effect any Corporate Social Responsibility initiatives. The companies showed inconsistent implementation of CSR programs as well as minimal engagement in such activities;
- (iii) The majority of the workforce in the EPZs in the textile and apparel sector are women; and
- (iv) There are some efforts to include people with disabilities in EPZ employment, though the extent and effectiveness of these efforts vary between the companies visited. For instance, Best Line Garments had two employees living with disability. The companies need initiatives aimed at recruiting and supporting employees with disabilities.

5.3 COMMITTEE RECOMMENDATIONS

78. As a result of the above findings and observations, the Committee recommends that

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- (i) The Cabinet Secretary in charge of Labour and Social Protection, immediately establishes an Export Processing Zones Wages Council in line with section 43 of the Labour Institutions Act, Cap. 234 to take care of this special categories of workers and report to the Senate within a month of tabling of this report;
- (ii) The Cabinet Secretary in charge of Labour and Social Protection, reviews and publishes a wages order that is specific to wages of export processing zones and report to the Senate within six months of tabling of this report;

- (iii) The Cabinet Secretary in charge of Labour investigates claims of foreigners being remunerated better than locals despite performing similar jobs and report to the Senate within three months of tabling of this report;
- (iv) The Cabinet Secretary in charge of Trade, Investments and Industry ensures that the Government gets the best deal for the citizens of Kenya in terms of enhanced wages, corporate social responsibility programs and environment reclamation programs;
- (v) The County governments be involved in setting up of the Export Processing Zones to ensure that counties benefit in terms of job opportunities, infrastructural development and corporate social responsibility programs; and
- (vi) The National Government should ensure that there is a favourable operating business environment for EPZs in all counties.

APPENDIX A: MINUTES OF THE PROCEEDINGS

APPENDIX B: MINIMUM WAGE GAZETTE NOTICE

**APPENDIX C: SUBMISSION BY ASHTON MOMBASA APPARELS
(EPZ) LTD**