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3/12/2020

REPUBLIC OF KENYA




THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – FOURTH SESSION, 2020

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THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON THE CONSIDERATION OF THE PETITION BY THE KENYA
ASSOCIATION OF RETIRED OFFICERS ON IMPROVED TERMS FOR
PENSIONERS IN KENYA

 THE NATIONAL ASSEMBLY PAPERS LAID		
DATE:	03 DEC 2020	DAY: THURSDAY
TABLED BY:	HON. GIDEON KOSKEI, MP (VICE CHAIRPERSON)	
CLERK AT THE TABLE:	SUSAN MARITIM	

Directorate of Departmental Committees
Clerk's Chambers
Parliament Buildings

DECEMBER, 2020

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ABBREVIATIONS AND ACRONYMS

Amb	-Ambassador
EGH	-Elder of the Order of the Golden Heart
Hon	- Honourable
ILO	-International Labour Organization
KARO	- Kenya Association of Retired Officers
KNBS	-Kenya National Bureau of Statistics
M.P.	- Member of Parliament
NHIF	- National Hospital Insurance Fund
SAGA	-Semi-Autonomous Government Agency
SRC	- Salaries and Remuneration Commission

ANNEXURES

Annexure 1: Minutes of Committee sittings on the consideration of the Petition

Annexure 2: Submissions

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CHAIRMAN'S FOREWORD

Pursuant to Standing Order 225 (2) (b) the Speaker reported to the House that the Kenya Association of Retired Officers (KARO), a duly registered association working towards better and improved terms and conditions of pensioners in Kenya, submitted a petition which was tendered on behalf of over 200,000 Government pensioners in the country. The petitioners claim that majority of the pensioners, especially those who retired before 2003, live in abject poverty and are unable to meet their monthly upkeep, food, clothing and medical expenses, and that they have for long been neglected due to the perception that they are economically unproductive. The petitioners believe that the pensioners play a very significant role in national development in their own way and deserve better livelihoods through a comprehensive pension and benefit policy.

The petitioners pray that this House intervenes through the implementation of the Salaries and Remuneration Commission (SRC) Pension Increase Policy of 2015, amendment of the Pensions Act Cap.189 and the Pensions Increase Act Cap.190 of the Laws of Kenya, the provision of free and comprehensive healthcare for pensioners as well as the development and implementation of a comprehensive pension policy for the public service in Kenya.

Pursuant to the provisions of Standing Order No.227, the Speaker committed the Petition to the Departmental Committee on Labour and Social Welfare for consideration. The Committee is required to report its findings to the House and the petitioner in accordance with Standing Order No.227 (2). At its sittings held on 12th October, 25th November and 2nd December 2020, the Committee considered the Petition and came up with this Report.

May I take this opportunity to express my gratitude to Committee Members for their resilience and devotion to duty which made the consideration of the Petition successful. May I also appreciate the Offices of the Speaker and Clerk of National Assembly for always providing guidance and direction to Committees in the discharge of their mandate. Finally, I commend the secretariat for exemplary performance in providing technical and logistical support to the Committee.

On behalf of the Departmental Committee on Labour and Social Welfare it is my pleasant duty to submit to the Hon. Speaker a report of the Committee on the consideration of the Petition by the Kenya Association of Retired Officers (KARO) on improved terms for pensioners in Kenya.

HON. PETER MWATHI, M.P.
CHAIRPERSON

PART ONE

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Labour and Social Welfare is established in accordance with the provisions of Standing Order 216 of the National Assembly. Its mandate as provided for in S.O. 216(5) is to *inter-alia*:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - iii. *To study and review all legislation referred to it;*
 - iv. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - v. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House;*
 - vi. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and*
 - vii. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*
2. The Committee is mandated to consider the following subjects: -
 - i. Labour
 - ii. Labour relations
 - iii. Manpower or Human Resource Planning
 - iv. Gender
 - v. Youth
 - vi. Social Welfare and Security
 - vii. Children's Welfare Persons Living with Disabilities
3. In executing its mandate, the Committee oversees the following government Ministries, departments and or agencies, namely:
 - i. The State Department for Labour
 - ii. The State Department for Social Protection
 - iii. The State Department for Gender
 - iv. The State Department for Youth
 - v. The State Department for Arid and Semi-Arid Lands
 - vi. National Gender and Equality Commission

1.2 Committee Membership

4. The Committee comprises of the following members-

Chairperson

Hon. Peter Mwathi, MP
M.P for Limuru Constituency

Jubilee Party

Hon. Gideon Koske Kimutai, M.P
M.P for Chepalungu Constituency

Chama Cha Mashinani (CCM)

Hon. James Onyango Koyoo, MP
M.P for Muhoroni Constituency
Orange Democratic Movement (ODM)

Hon. Janet Marania Teyiaa, MP
M.P for Kajiado County
Jubilee Party

Hon. Janet Nangabo Wanyama, MP
M.P for Trans Nzoia County
Jubilee Party

Hon. Ronald Kiprotich Tunoi, MP
M.P for Bomet Central
Jubilee Party

Hon. Moses Malulu Injendi, MP
M.P for Malava Constituency
Jubilee Party

Hon. Tom Odege, MP
M.P for Nyatike Constituency
Orange Democratic Movement (ODM)

Hon. Rose Museo, MP
M.P for Makueni County
Wiper Democratic Movement (WDM)

Hon. Caleb Amisi, MP
M.P for Saboti Constituency
Orange Democratic Movement (ODM)

Hon. Omboko Milemba, MP
M.P for Emuhaya Constituency
Amani National Congress Party (ANC)

Hon. Charles Kanyi Njagua, MP
M.P for Starehe Constituency
Jubilee Party

Hon. Fabian Kyule Muli, MP
M.P for Kangundo Constituency
Muungano Party

Hon. Abdi Mude Ibrahim, MP
M.P for Lafey Constituency
Economic Freedom Party (EFP)

Hon. Titus Mukhwana Khamala, MP
M.P for Lurambi Constituency
Amani National Congress Party (ANC)

Hon. Safia Sheikh Adan, MP
M.P for Marsabit County
Jubilee Party

Hon. Ole Sankok David, MP
Nominated M.P
Jubilee Party

Hon. Wilson Sossion, MP
Nominated M.P
Orange Democratic Movement (ODM)

Hon. Gideon Keter, MP
Nominated M.P
Jubilee Party

1.3 Committee Secretariat

Mr. Adan Gindicha
Senior Clerk Assistant /Head of Secretariat

Mr. John Mugoma
Clerk Assistant II

Ms. Fiona Musili
Research Officer

Ms. Doreen Karani
Legal Counsel

Mr. Abdinasir Moge
Fiscal Analyst

PART TWO

2.0 CONSIDERATION OF THE PETITION

5. During its consideration of the Petition, the Committee received submissions from the following-
 - (i) Representatives of the Kenya Association of Retired Officers (KARO)- the petitioner
 - (ii) Cabinet Secretary for the Ministry of Labour and Social Protection
 - (iii) Cabinet Secretary for National Treasury and Planning
 - (iv) Cabinet Secretary for the Ministry of Health

2.1 Submission by representatives of the Kenya Association of Retired Officers (KARO)

6. During a meeting with the Committee held on 12th October 2020 and in a follow up letter dated 12th November 2020, representatives from the Association submitted as follows-
 - (a) On the prayer for the development and implementation of a comprehensive pension policy for the Public Service of Kenya**
7. The Petitioners strongly and sincerely believe that pensioners play a significant role in the national development in their own way and like any other citizen deserve access to the Economic and Social Rights, specified in the Constitution under Article 43. It is further observed that the Constitution of Kenya provides explicit rights, entitlements and privileges for Older Persons with specific obligations to the State and family. For example: Article 10 (2) (b) outlines the State's obligation in service delivery to Older Persons alongside other marginalized groups; Article 21 (3) obligates State organs and public officers, to address the needs of older persons and other vulnerable groups; Article 27 (4) promotes and safeguards equality and non-discrimination of older persons based on age, whereas Article 43 (3) compels the State to provide appropriate social security to needy older persons.
8. Kenya Vision 2030 which is the long-term development blueprint for the Country, aims at creating a globally competitive and prosperous nation with a high quality of life by 2030. The broad flagship project under the Social Pillar in Vision 2030, provides for the establishment of, among other issues, Older Persons and Ageing Policy, to ensure their social protection.
9. The various international conventions, recommendations and resolutions, advocate for ensuring income security for people during their old age, as a crucial objective among the welfare goals that modern societies should seek to achieve. For this reason, public pension systems have become a foundation on which income security for older persons has been built. According to the 2017 Social Protection Report by the International Labour Organization (ILO), pension for the older women and men is the most widespread form of social protection in the world. ILO and other international and regional organizations' conventions, recommendations and resolutions, further require provision

for the payment of pensions in old age at guaranteed levels, upon completion of a qualifying period and their regular adjustment to maintain pensioners' purchasing power. They also recognize and require that pensions should be regularly adjusted to prevent erosion of the value of pension over time as an important consideration on the adequacy and retention of the purchasing power and real value.

10. In the Sustainable Development Goals, pension is a key aspect of social protection. When the cost of living rises and there is no equivalent increase in pensions, it reduces the purchasing power of retirees thereby, putting them at risk of sliding into poverty.
11. Kenya as a member of the ILO and the international and regional organizations is required to subscribe and domesticate the policies on social protection, including pensions. Developing a comprehensive Policy that would embrace the principles of social security and protection would demonstrate the Country's commitment and compliance level.
12. From the international and national perspective, all pension schemes that contribute towards old-age income security are relevant, however, their degree of relevance is gauged by their compliance with the ILO standards on social security.
13. The legislations on Pensions and the circulars that have been released from time to time, have not fully incorporated the provisions in the international instruments, the Constitution of Kenya and the Vision 2030.
14. It is the conviction of the Petitioners (KARO) that Kenya needs to develop a coherent and comprehensive framework for guiding the payment of pension benefits to its retirees. KARO therefore, petitions for development of a comprehensive Pension Policy. This would ensure the incorporation of provisions in all the relevant conventions, recommendations and statutes and subsequently, the social protection of the pensioners.

Envisioned content of the comprehensive Pension Policy

15. It is a fact that Public Service retirees during their working lives when they enjoyed good health and productive capacity, contributed to socio-economic development. It is also true that since 1942, Government has put effort to review Pensions, including repeal of sections of the Pensions-enabling legislations. It is however, observed that in spite of these efforts, there are gross disparities, with more than 25% of the pensioners having slipped to abject poverty. It is only fair and just that once they retire, they are not left behind as the benefits of national prosperity are distributed. The Petitioners (KARO) , therefore, proposes that the Comprehensive Pension Policy should cover the following key areas:

Policy Goal

16. This should recognize that older persons are an important segment of the National Population whose rights need to be acknowledged, respected, protected and promoted. The Policy should therefore, create an environment that will enable development / review of legislations and programmes that recognize, empower and facilitate older persons including Public Service retirees, to participate in the society, enjoy their rights and freedom, and live in dignity as enshrined in the Constitution.

Policy Objectives

17. The following should be considered as some of the key objectives of the Comprehensive Pensions Policy, to:

- (i) Facilitate guaranteed and adequate replacement of lost income;
- (ii) Provide for adequate and reliable benefits and level of protection to pensioners and their families, empowering them to participate in the society and enjoy their rights as provided by the Constitution;
- (iii) Guarantee State responsibility and intervention, including provision of a legal framework, to ensure equity, social efficiency to avoid poverty, and a reliable standard of living of the Public Service retirees;
- (iv) Provide for basic life' requirements including access to Universal Health Care services; and
- (v) Create a conducive environment for older persons, particularly Public Service retirees, to live in dignity and be protected from abuse.

Guiding Principles

18. The guiding Principles should be influenced by the Principles provided in the Constitution under Articles 10 (b) and 27, that is:

- (i) Human dignity;
- (ii) Equity and social justice;
- (iii) Inclusiveness and public participation;
- (iv) Equality and social protection; and
- (v) Protection of basic human rights and non-discrimination.

19. It is envisaged that this Policy will inform the review of the existing pensions legislations including other sectoral and departmental policies, programmes and plans, to ensure the mainstreaming of issues of older persons and ageing, in development processes. It should also provide a framework for enhancing older persons' rights, needs and aspirations. The Policy should also provide a coordinated and harmonized mechanism for implementation of outlined interventions, to enhance the standard of living, protect the older persons from slipping into poverty and address issues of disparity and inequity in the payment of pensions of the Public Service retirees.

Key Thematic Areas of Coverage

20. Of essence the Policy should cover the following areas:

- (i) Income security for people during their old age, upon completion of a qualifying period of service;

- (ii) Regular adjustment of pensions payable, to maintain pensioners' purchasing power and prevent erosion of the value of pension over time;
 - (iii) Adequacy and retention of the recognition of the level of contribution during service period, thus, ensure review whenever salaries are reviewed; and
 - (iv) Adjustment of pension to match the changes in the cost of living.
21. The available relevant international, regional, legal, policies, and institutional frameworks on older persons should be used to guide the development of the Policy. These to include information and principles from the following international and regional instruments:
- (i) Universal Convention of Human Rights – 1948;
 - (ii) African Charter of Human and People's Rights;
 - (iii) International Covenant on Economic, Social and Cultural Rights (ICESCR) – 1966;
 - (iv) UN Declaration on the Right to Development – 1986;
 - (v) The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) – 1979;
 - (vi) The Convention on the Rights of the Child (CRC) – 1989;
 - (vii) International Labour Organization Conventions (Various which are relevant);
 - (viii) UN Standards Rules on Equalization on Opportunities for Persons with Disabilities – 1992;
 - (ix) UN Plan of Action on Ageing – 1982;
 - (x) UN Principles for Older Persons – 1991;
 - (xi) UN Proclamation on Ageing – 1992;
 - (xii) UN Plan of Action on Ageing – 2002;
 - (xiii) AU Policy Framework on Ageing – 2002.
22. Using the international instruments will be in line with the provision of the Constitution of Kenya 2010, which states that any Treaty or Convention ratified by Kenya, shall form part of the Laws of Kenya.
23. Similarly, the recommendations/ resolutions of the following Government appointed salary review Commissions, Committees and Parliamentary Resolutions, should influence/ inform the Policy:
- (i) The Ndegwa Commission, 1970;
 - (ii) Ramtu Commission, 1985;
 - (iii) Sessional Paper No. 3 of 1985;

- (iv) Proposed amendment to the Pension (Increase) Act. 1996 Bill;
- (v) Munene Committee, 1997;
- (vi) Kipkulei Commission on Harmonization, 1998/1999;
- (vii) The Musila Bill of 2005;
- (viii) Public Sector Remuneration and Benefits Policy Framework, June 2015; and
- (ix) Public Sector Remuneration and Benefits Policy, June 2015.

24. All the above documents have in unison recommended that, *“whenever there are salary adjustments in public sector, pensions should also be adjusted”* and promptness in payment of pensions. This is a critical aspect that should be captured in the Policy. There are other information available in these documents which could be useful for incorporation in the proposed Policy.

25. The need for a Comprehensive Pension Policy cannot therefore, be denied. Without a coherent and comprehensive framework to guide different departments, sectors and agencies involved in processing and payment of pensions, substantial resources and efforts may continue to be paid as pensions, without addressing the issues ailing the Public Service retirees thus, reflecting Government as a bad employer and adversely affecting ethical service provision of the serving personnel.

(b) On the prayer for the repeal/review/amendment of the Pensions Act CAP. 189 and Pensions Increase Act CAP. 190 of the laws of Kenya

26. The need to amend/ repeal the provisions in the Pension Acts (CAP. 189) and the Pensions Increase Act (CAP. 190) is indeed long overdue. For example, the Pensions Act has been in Kenya’s statute books for 78 years, that is from 1942 when it was enacted by the colonial government and assented to by the Governor of the Kenya Colony and Protectorate. While the Pensions Increase Act, CAP. 190 has been in Kenya’s statute books since 1956 with a commencement date of 1st July,1956. The Acts which were intended to enhance the welfare of the Public Service retirees, have become, through the provisions in the various clauses, the greatest hindrance to the improvement of the social welfare of the retirees.

27. The increased number of the Public Service retirees who are not drawing the ‘living pension rate’ or have slipped to pensions levels which are below the poverty line, is indicative that it is time to have these Acts reviewed. It is however, noted that since independence in 1963, Kenya has not developed a Comprehensive Pension Policy which would provide a framework for review and on which all the Pensions Acts would be anchored. Another issue of great concern is that the pensions payable to public officers, is not protected under the Constitution of Kenya, 2010.

28. The review/ repeal should aim to make these Acts compliant with the provisions of the Constitution of Kenya, 2010 particularly, Articles: 10 (2) (b); 21 (3); 27 (4); and 43 and the International conventions, recommendations and resolutions on older persons, ageing and sustainable development. The review / repeal of the two Acts (CAP 189 and 190) is

essential as the two are jointly applied in the management and administration of pensions and gratuities payable to the Public Service retirees.

29. The amendments to the two Acts of Parliament should be seen in terms of:

- (i) Short-term, that is within two years with minimal negative impacts if any; and
- (ii) Long term and may involve repeal.

30. The proposed amendments to the Pensions Act and the Pensions Increase Act are as follows:

The Pension Act (CAP. 189)

- (i) General across the Pensions Act Cap 189- There is the general application of male gender term to refer to the pensioner and female gender term to refer to the dependent spouse. This terminology should be edited and corrected in the Act to reflect the current reality and comply with the provisions of the Constitution which accommodate both genders.
- (ii) The role of the Presidency/ Executive-The role as specified in the Act is not compliant with the provisions in the Constitution on the functions of the President. All the sections assigning the President responsibilities on administration of pension which are not in compliance with provisions in the Constitution should be amended.
- (iii) Section 10-Minimum and maximum Pensions - The minimum pension of Kshs. 2,000.00 was determined in 2007, the same has since been overtaken by inflation and the rising cost of living, making the pensioners earn below the specified poverty line. This clause should be amended to read “at any given time the minimum pensions payable will be adjusted to ensure the level is not below the specified poverty line figure”. Further, due to a rise in cost of living and inflation, the real value of money changes and so does the salary levels. Tying the maximum pension to the full pensionable emoluments drawn by the officer at the time of retirement, does not. Additionally, the amendment should recognize the contribution of the officer and level of service given and thus the serious horizontal and vertical disparities and inequities. Moreover, due to low inadequate levels of pension benefits payable pensioners may slip into poverty. The Clause should therefore be amended to allow that the level of pension at any given time to be prorated to the current pensionable emoluments of the serving officers. The rising rates of inflation and frequent changes in the cost of living is a reality that also seriously affects negatively the purchasing power and the standard of living of the Public Service pensioners. There should also be provisions for the pension adjustments based on the cost of living.
- (iv) Section 14 and 15 Pension, etc. May cease on bankruptcy and conviction- Many pensioners have dependents relying on their pension. When it ceases on grounds of bankruptcy or conviction, the dependents are also by default punished. There should be a review and amendment of Sections 14 and 15 to allow the dependents to continue drawing dependents pension in as in the case of death of the pensioner, to mitigate their suffering.

- (v) Section 16(A) - Pensioner to be retained in service pending payment of pension/gratuity-This Section reflects the provisions in the Musila Bill (Act No. 6 Section 2). The Section has however, not been implemented in full and officers continue to suffer due to delayed payment of pensions/gratuity. As the Government commits to implementation of this provision, a penalty should be introduced to be imposed on the office causing the delay to compel adherence to the provisions of the law.
- (vi) Pensions to dependents on death of officer in service or on retirement- The Pensions Act defines the dependent as a widow thus, in effect discriminating against a male spouse. The Act should be amended to include male spouses as dependents upon the death of a pensionable officer. Additionally, the pension is only payable for five (5) years commencing on the death of the officer after which it stops. The assumption is that the dependent is not a senior citizen and can fend for themselves. In most cases however, when an officer dies after attaining retirement age, the spouse is equally aged. Stopping the Dependent's Pension after five (5) years may deny the dependent the only source of livelihood and push the dependent to abject poverty. The Section should be amended to allow for the payment of the widows'/widowers pension/ gratuity for life as a means of social protection. Further, it is observed that Section 13 of the Parliamentary Pensions Act, sub-section 3 has a similar provision as the recommended amendment. CAP. 189 should be amending to incorporate the provision on payment of dependents (the spouse), pension for life, for equity purposes. Further, Section 17(2) (a) of the Pensions Act, should be applicable to all surviving spouses.
- (vii) Section 18 and 19- The two Sections refer to male officers while within the Act it has not been explained that the usage of male gender refers to all genders. These Sections should be amended to enable female officers to be entitled to the same benefits.

The Pension (Increase) Act CAP. 190

- (i) Section 3 of the Act; Date and rate of pension Increase- The rate of increase of pension is pegged at the rate of three percent (3%) of the pension and is payable after every two (2) years on 1st July. This has not addressed the intension of shielding the Public Service retirees from sliding into poverty. For example, the inflation rate between 2013 and 2017 was averaged at 6.7 per cent per annum. To mitigate fully against the effects of this inflation, effective compensation should therefore, have been at 5.2 percent per annum (6.7 percent less the effective annual indexation of 1.5 percent). Additionally, specifying a fixed percentage of pension increase in legislation, constrains any increase to address the changes in the cost of living, disparities and any inequity that may arise over time. As a result, the Government is unable to award a warranted higher increase to pensions. Further, the percentage increase has also proved negligible particularly to those with low monthly pensions. The petitioners therefore proposed that to effectively address the situation Section 3 of the Act should be amended to protect the Public Service retirees from erosion of purchasing power by the cost of living and adopt the triennial pension increase, adjusted to the cost of living. This would be in line with the international guidelines on pension which states that, "Unless pensions are adjusted in line with increases in real wages or other measures related to the overall cost of living, the standard of living of older persons will deteriorate and they may be subsequently pushed into poverty". Moreover, there should be a provision for automatic pension review and increase whenever Public Sector salaries are reviewed and increased.

31. The petitioners submitted that proposed amendments were just highlights of the critical sections in the Principal Acts CAP. 189 and CAP. 190. The petitioners stated that they had not undertaken an in-depth analysis of the schedules and proposed that as the amendments to the Acts were being undertaken the schedules should be looked at and appropriate amendments undertaken to ensure there was no contradiction in the schedules.

(c) On the prayer for a one- off review to enhance pensions payable to pensioners who retired prior to 2005 in line with the recommendations of Salaries and Remuneration Commission in 2015

32. The Kenya Association of Retired Officers (KARO) noted that currently there were two (2) groups of Public Service pensioners under the defined benefits pension scheme, namely those who retired:

- (i) Before 2005, characterized by extremely low pensions based on low salaries prior to retirement, and thus, very low monthly pensions; and
- (ii) After 2005 whose monthly pensions are substantially higher and who benefitted from improved salaries and benefits, following the implementation of the Kipkulei Harmonization Commission Report.

33. The Sustainable Development Goals and the International Labour Organization, declared that pension is an essential part of social protection. When the cost of living rises and there is no equivalent increase in pensions, it reduces purchasing power of retirees, thereby putting them at risk of sliding into poverty. Presently, in Kenya the number of Public Service retirees who are pensioners exceeds 220,000 persons and according to available information, about 25 per cent of them earn Kshs. 4,000 per month which is below the calculated (Kenya National Bureau of Statistics) poverty line of Kshs. 4,624/- per month. The pensioners drawing pension above the poverty line figure are also progressively slipping towards absolute poverty, due to the erosion of their pensions by inflation. Since 2005, inflation compensation for pensions is indexed at 3 per cent, every two years, which on average is 1.5 percent per annum. Between 2013 and 2017 for example, inflation was averaged at 6.7 per cent per annum. Effective compensation for this period that would have enabled the pensioners to retain their purchasing power should therefore, have been an increase by 5.2 percent per annum (i.e, 6.7 percent less the effective annual indexation of 1.5 percent), to mitigate fully against rise in inflation.

34. Further, an important consideration on adequacy of pensions, is the ability to retain the purchasing power and real value. It is however, noted that on the issue of adequacy, the current average pension is relatively very low, especially for pensioners who retired before 2005, due to minimal economic growth between 1991 and 2005. During this period there was no major salary review or pension increase. The pensionable emoluments used to calculate pensions were therefore very low making the resultant pension payable to these retirees very little. Consequently, the current 3 percent pensions increase bi-annually, for those who retired before 2005, has no significant impact and pensioners are not drawing a living pension. The officers who retired after 2005 are however, drawing a reasonable pension, reflecting the increase in the salaries which were effected after 2005.

35. It is also noteworthy, that over the years, salary of the serving civil servants has been reviewed without the corresponding review of the pensions, overlooking the

recommendations of the past Government appointed Commissions and Committees which repeatedly recommended that, “Any time there is salary adjustments in public sector, pensions should be adjusted accordingly”. The Salaries and Remuneration Commission (SRC) Report of 2014 noted that due to the absence of regular increases to salaries and pensions before 2005, the purchasing power of the pensioners had been severely eroded. In 2015, following an actuarial study, SRC recommended to Government a one-off pension review for this group of Public Service retirees, to address the inadequacy, disparity and inequity. These recommendations however, have not been implemented.

36. As a result, presently there are instances where pensions of Public Service retirees who served in lower positions are higher than for those who served in more senior positions but retired years earlier. Similarly, persons who held same grade and responsibilities, depending on the date of retirement, are drawing extremely disparate monthly pensions.

37. In the absence of a Cost of living Adjustment (COLA) policy as relates to pensions, pensioners have continued to be exposed to income insecurity, as they suffer from erosion of their purchasing power, at a time when they are elderly, leading to destitution and indignity.

38. KARO (the petitioners) therefore submitted that:

(i) The recommendations of the Salaries and Remuneration Commission that the existing framework for review of pensions payable in respect of Public Service under the Pensions Act (CAP. 189) and Pensions Increase Act (CAP. 190) be amended to make provision for additional discretionary pension increases over and above those provided in the Pensions Act CAP. 189 and Pension Increase Act (CAP. 190) should be adopted and implemented;

(ii) A one-off review of the monthly pension benefits for those who retired before 2005 when the salaries were adjusted, be implemented;

(iii) The Government pensioners be protected from being pushed into extreme poverty by the erosion of their pensions, due to inflation and cost of living. The annual pension increase should therefore be based on inflation rate corresponding to the prevailing cost of living and indexed to a measure of cost of living;

(iv) There should be equity in pension payments and bridging of the gap between the current average pension for those who retired before 2005 and those who retired after 2005, to ensure socio-economic justice and protection;

(v) The recommendations of past Government appointed Commissions and Committees that; “Whenever public-sector salaries are reviewed and increased, the same should apply to pension benefits” should be adopted and implemented.

(d) On the prayer for the inclusion of government pensioners in the ‘Inua Jamii’ 70 years and above cash transfer programme

39. About 45.9% of the population in Kenya is estimated to be living under the poverty line. Older Persons constitute a sizeable percentage of this segment of the population of the poor in the Country. In response to the situation, Kenya has already mainstreamed the

international and regional policies and plan of actions on older persons and ageing, into its laws and development agenda. Records show that by the year 2014, 88% of the total Government spending on social protection was channeled to Public Service pension while the remaining Government financing was allocated to safety nets, especially to social cash transfers locally referred to as Inua Jamii.

40. Inua Jamii, comprises of specific social protection programs, implemented by the Government, which include social assistance, and comes in form of cash transfers that target Older Persons, persons with severe disabilities and orphans and vulnerable children. Other forms of assistance include financial assistance in form of grants, food subsidies, and bursaries. Inua Jamii is the Government of Kenya's (GoK's) flagship National Safety Net Programme (NSNP). The objective of Inua Jamii is to uplift the lives of poor and vulnerable citizens of Kenya through regular and reliable bi-monthly cash transfers. "Inua Jamii 70 years and above Cash Transfer Program" was launched in 2017 but actual payments commenced in March, 2018 with a regular bi-monthly cash transfers of Kenya shillings four thousand (KES. 4,000/00). The Public Service retirees regardless of how deserving the case may be, are not beneficiaries in this Programme.
41. The Inua Jamii also has a Health, HIV and AIDS component. It takes cognizance of the fact that older persons' health is influenced by life-long experiences which include upbringing, nutritional status, occupation in active life, housing, access to health services, water, sanitation, income levels and the challenges of HIV and AIDS. This component of Inua Jamii is not availed to the Public Service retirees. Majority of these retirees, based on the level of their pension, cannot afford to pay for the cost of healthcare services coverage, which is an essential benefit of promoting national prosperity and is currently being availed to other older persons who were not former employees of the Government.
42. Information available indicates that initial plan of the Ministry of Labor and Social Protection was to have a component of the Inua Jamii programme as "*A Universal Pension Scheme*" for older persons aged 70 years and above without exception. Later as the programme was rolled out, it emerged that Public Service pensioners were excluded from the Program, for reason that they were receiving a monthly pension from the same Government. Although Social Protection Policy's main objective is to promote the inclusion of older Persons in poverty reduction policies, programmes, strategies and national budgeting processes, a sizeable number of Public Service retirees have been left out by virtue of drawing a pension and they languish in poverty. The situation is worse amongst older Public Service pensioners who retired prior to 2005, drawing a pension level below poverty line and therefore, living in abject poverty.
43. Part of the reasoning for none inclusion of Public Service retirees in the programmes, has been the marked increase in the Government expenditure on pension. The fact however, is that the growth is not as a result of the level of pension but rather the number of persons retiring from the Service. It is also observed that when Public Service pension is analyzed as a component of social protection scheme, most analysts look at the levels of Government expenditure and not adequacy of the pension. This has led to a number of policies and programmers meant for cushioning the poor, not being extended to the Public Service retirees, although 25% of these retirees earn pensions that are below poverty line.
44. It has however, been established that there are a number of non-Public Service pensioners who are in receipt of the payments in the Inua Jamii Programme. For parity of treatment

and equity, it is only fair and just that once the public servants retire and the levels of pension payable is low, that they are not left out of the social protection programmers. Their being former Government employees on pension, should therefore, not be criteria for excluding them from the needed benefit. They equally suffer from effects of poverty as well as diseases such as diabetes, cancer, and hypertension. Their inclusion will mitigate some of the current suffering.

45. It is evident that there are some gaps in the Policies' implementation. The various measures put in place to address the growing concerns of the elderly, inadequately cover the Public Service retirees. The major inadequacy is in not comprehensively analyzing the Public Service retirees, regarding the large variation in their: social; cultural; economic and other resource endowment, if any; health; and professional/technical capabilities, after retirement. It assumes that the pension is adequate and the support therefore, targets the older people not earning formal income and are in the below poverty line category. The reality is that for a reasonable number, the pension offered is too low to adequately meet their basic needs.
46. KARO therefore, seeks to draw the attention of the National Assembly to existing discrimination against the Public Service retirees in the current Social Protection Policy and request that:
- i). The principle of equity and fair play should be exercised with respect to the implementation of Inua Jamii Programme;
 - ii). The Social Protection Policy be expanded and programmes developed to include Public Service retirees;
 - iii). The State introduce universal social protection in form of cash transfer to all citizens 70 years and above, upon application and proof that the person is living below poverty line; and
 - iv). Appropriate legal and policy framework be put in place.

(e) On the prayer for the provision of free and subsidized comprehensive health care services for government pensioners at all public health institutions in Kenya under the Universal Health Coverage (UHC).

47. The levels of pensions and the cost of healthcare services, has made it impossible for many retirees to access quality healthcare services. Throughout their working life, most people enjoy good health and productive capacity. Upon retirement, they become impoverished and in most cases are unable to afford quality healthcare services. For example; on average, the lowest charges for doctor's consultation fee before purchase of medicine is KSh. 2,500 (per session) more than half the lowest monthly pension which is about Kshs. 4,000.
48. This is not only frustrating but quite challenging for the Public Service retirees, coming from a background where before retirement the Government had provided a comprehensive Medical Cover. The frustration is compounded by the fact that the Health Care Insurance providers, discriminate against the aged and deny coverage beyond a certain age or impose very high and thus, unaffordable premiums. Many of the retirees suffer from non communicable chronic diseases, namely; diabetes, high blood pressure

and cancer. In the absence of a medical cover by the Government, like all other elderly citizens, the burden of healthcare for pensioners which is on self compel them to borrow funds or sell family assets, including houses they live in, to offset crippling medical bills. This has driven many pensioners deeper into poverty and destitution.

49. The burden of poverty, diseases and subsequent medical bills, leave the retirees and their families desperate and resource poor. Consequently, by not providing health care services for the retirees, Kenya compromises its achievement of the Sustainable Development Goals and Vision 2030 on healthcare and contravenes Article 43 (1a) of the Constitution of Kenya.
50. KARO appreciates the fact that Government has already identified health services as one of its four pillars of socio-economic development, based on realization that access to healthcare services is a major challenge to many Kenyans, especially the aged retirees. The aspect of health is well articulated in the Policy document of Kenya Social Protection, 2011 where it is stated that there is “need to provide mandated post-retirement healthcare coverage, as most retirees will not be able to afford the voluntary contribution made to the NHIF...” It further recognizes that “many retirees, especially those dependent on pension benefits alone, cannot afford to meet the cost of medical care”.
51. From the World perspective, the need for access to quality healthcare services has been emphasized in several reports and articles including the ILO reports and in particular the Kenya’s implementation status analysis on the Cash Transfer Programme. It states that the healthcare needs of the poor will continue to dominate the consumption patterns, since they experience higher incidences of illness due to the poor living conditions. The reports recommend that access to quality and affordable healthcare services, for the poor and elderly, ought to be taken up by the State as it is a major challenge, especially when they are aged and dependent. This will enhance social protection of the elderly retirees.
52. KARO therefore submitted that quality healthcare services for Public Service retirees should be made an essential benefit and access to quality healthcare services or health insurance component be included as part of the pension benefits for Public Service retirees. KARO therefore, called upon the National Assembly to facilitate-
 - (i) The introduction of a healthcare services scheme under the NHIF, for the Public Service retirees and as an immediate measure, priority be given to those retirees drawing a monthly pension of Kshs. 5,000/= and below;
 - (ii) A waiver for the NHIF monthly payments of Kshs. 500/= be made for the Public Service retirees;
 - (iii) A subsidy to be given to make the premiums affordable to retirees who have opted to purchase insurance cover under the NHIF. This will ensure compliance with international conventions and Article 43, Section (1)(a) of the Constitution of Kenya, 2010 on Economic and Social Rights, which provides for the right “*to the highest attainable standard of health which includes the right to healthcare services*”
53. In conclusion the petitioners submitted that-

(i) To the best of their knowledge the issues covered in the Petition were not pending before any law or constitutional or legal body and therefore, humbly pray that the Petition be dealt with immediately in view of the urgency and the gravity of the issues raised herein. Further, the petitioners submitted that the National Assembly of the Republic of Kenya should initiate and ensure-

- (1) The Development of a Comprehensive Pensions Policy;
- (2) Review /Repeal / Amend the Pensions Act, Cap.189, Pensions Increase Act, Cap.190 to facilitate payment the one –off pension review and also to comply with the Constitution of Kenya, 2010;
- (3) The implementation of recommendation of a one –off increase of pension to Public Service retirees who retired prior to 2005 as a matter of urgency to alleviate the suffering these pensioners are going through;
- (4) The introduction of regular pensions review based on Cost of living Adjustment (COLA) where the review is capped at inflation rate and corresponds to the cost of living for the level of pension payable to be indexed to a measure of cost of living;
- (5) Adoption and implementation of the recommendations of past Salaries Commissions and Committees that *“Whenever public-sector salaries are reviewed and increased, the same should apply to pension benefits.”*;
- (6) Application of the principle of equity and fair play in the implementation of Inua Jamii Programme, by expanding the Social Protection Policy and developing programmes that include Public Service retirees within appropriate legal and policy framework;
- (7) Introduction of a healthcare services scheme under the NHIF, for the Public Service retiree and waiver of the NHIF monthly, payments of Kshs. 500/=.

2.2 Submission by the Cabinet Secretary for the Ministry of Labour and Social Protection

54. During a meeting with Committee held on 25th November 2020 the Cabinet Secretary for the Ministry of Labour and Social Protection, Hon. Simon K. Chelugui E.G.H made submissions with regard to the Petition regarding the welfare of pensioners in Kenya.

55. On the petitioners’ prayer for inclusion of government pensioners in the Inua Jamii 70 years and above Cash Transfer Programme-

56. The Cabinet Secretary submitted that the Government of Kenya was currently implementing three Inua Jamii cash programmes namely: Older Persons’ Cash Transfer, Orphans and Vulnerable Children’s Cash Transfer and Persons with Severe Disability Cash Transfer. The Government carried out a nationwide registration of Senior Citizens aged 70 years and above during the months of July and August, 2017.

57. The criteria for identification and registration of Older Persons aged 70 years and above to be enrolled into the Consolidated Cash Transfer programme in all the constituencies countrywide are that the Older Person:

(i) Must be aged 70 years and above;

(ii) Must be a Kenyan Citizen;

(iii) Must have a valid National Identification Card; and

(iv) Must not be benefiting from any other Government Safety Net Programme including pensions.

58. The Government's intention was to cushion all elderly persons aged 70 years and above through regular and predictable cash transfers through the Inua Jamii Cash Transfer Programme.

59. The Kenya National Bureau of Statistics (KNBS), Kenya Population Census 2019 results, indicate that Kenya has 1,194,464 citizens aged 70 years and above. Currently, a total of 833,129 Older Persons have been enrolled and are benefiting in the Older Persons Cash Transfer Programme. Based on the KNBS 2019 Census statistics, it means that presently, approximately 361,464 older persons aged 70 Years and above are not covered by the Inua Jamii Programme. This group includes those who are in the various pension schemes and those capable of taking care of themselves.

60. However, the Ministry has made budget projections for the enrolment of 250,000 older persons aged 70 Years and above in the next financial year (FY2021/2022) subject to availability of resources.

61. **Due to inadequate budgetary provision, all Government pensioners have been excluded from benefiting from this programme, the reason being that, by their inclusion they would be receiving double benefits.** The available resources are currently dedicated to the poor and vulnerable senior citizens who have no other alternative source of income. Additionally, the government has conducted a thorough payroll cleansing of Inua Jamii program by removing all deceased beneficiaries, ineligible beneficiaries and pensioners enrolled in the program. This will create opportunities for registration and enrollment of more deserving citizens.

62. Further to this, the Ministry is working to establish links with all different pension schemes countrywide to enable it identify and validate all persons on various pensions schemes for ease of reference and eliminating cases of double dipping.

2.3 Submission by the Cabinet Secretary for National Treasury and Planning

63. During a meeting with Committee held on 25th November 2020 the Cabinet Secretary for National Treasury and Planning, Hon. (Amb) Ukur Yatani, E.G.H. made submissions with regard to the Petition regarding the welfare of pensioners in Kenya.

64. **On the petitioners' prayer for development and implementation of a comprehensive pensions policy for public service in Kenya-**

65. The Cabinet Secretary submitted that the National Treasury acknowledges that the retirement benefits sector plays an important socio-economic role in enhancing resource mobilization for economic development. The attainment of this goal requires an enabling legal and regulatory infrastructure that supports retirement benefits reforms. A National Retirement Benefits Policy provides a framework for the provision and management of retirement benefits in a country. It provides policy guidelines to ensure development, growth, coordination and enhanced adequacy, and sustainability as well as coverage of retirement benefits. The retirement benefits sector has achieved tremendous results in terms of growth and governance structures, following the retirement benefits reforms. However, the sector still lacks a comprehensive retirement benefits policy for proper coordination, governance and development. Consequently, the legislative and policy agenda is fragmented and uncoordinated. In addition, a majority of Kenyans remain uncovered with the retirement benefits coverage at about 18.2 percent of the recorded employment. The retirement benefits adequacy is also low and below the recommended ILO standard of 40 percent income replacement rate.
66. The Government through key stakeholders has developed a draft National Retirement Benefits Policy in line with the Governments larger financial and pension inclusion agenda. The main objective of this policy is to provide a framework to guide the coordination, good governance, development and growth of the retirement benefits sector to ensure income security in old age for all workers by ensuring affordable, adequate, and sustainable retirement benefits.
67. The specific objectives include:
- (i) Widen the scope and retirement benefits coverage for both the formal and informal sector workers;
 - (ii) Provide for coordination in the existing legal and regulatory framework including national, regional and global collaboration.
 - (iii) Institute a mechanism of good governance and sustainability of the retirement benefits system.
 - (iv) Promote and facilitate the portability of retirement benefits.
 - (v) Promote and facilitate innovation in the retirement benefits sector.
68. The National Treasury is alive to the fact that the draft National Retirement Benefits Policy contain gaps that require to be addressed for purposes of making the policy comprehensive and address all the needs of the sector. Towards this end a tender for consultancy on the finalization of the policy was floated. Evaluation has been done and we expect to soon award the World Bank funded tender. There will be public participation during the process of formulating this policy as a requirement of the Constitution of Kenya 2010. The policy will address most of the issues raised in the petition by KARO.
- 69. On the petitioners' prayer to repeal/review/amendment of the pensions act cap 189 and pensions increase act cap 190 of the laws of Kenya-**
70. The Cabinet Secretary submitted that the National Treasury is desirous to review of both Acts to identify areas that may need amendment to conform to the Constitution of Kenya

2010. In view of dynamism of the law, review of the pension laws just as other laws, is necessary from time to time.

71. On the proposed amendments to the Pensions Act CAP 189 the Cabinet Secretary submitted as follows-

SECTION	PROPOSED AMENDMENT	REMARK/RESPONSE
<p>General Across The Pensions Act Cap 189</p>	<p>There is a general application of male gender term to refer to the pensioner and female gender term to refer to spouse.</p> <p>REC: Edit the correct terminology in the act to reflect the current reality which accommodates both gender and comply with provisions of the constitution.</p>	<p>The National Treasury is in concurrence that the male and female gender should be treated equally under the Act without discrimination in compliance with the Constitution of Kenya 2010.</p>
<p>1. The Role of the Presidency</p>	<p>The role as specified in the Act is not compliant with the provisions in the constitution on functions of the President.</p> <p>REC: Amend the sections assigning the President responsibilities on administration of pension which are not in compliance with the Provisions in the Constitution.</p>	<p>The powers of the President in the Act have been delegated to the Cabinet Secretary and in turn to the Secretary/Director of Pensions for administrative purposes.</p>
<p>2. Minimum and Maximum Pension (Section 10)</p>	<p>The Minimum pension of Kshs.2000 was determined in 2007, the same has since been overtaken by inflation and the rising cost of living, making the pensioners earn below the specified poverty line.</p> <p>REC: Amend Clause to read that 'at any given time the minimum pension payable will be adjusted to ensure the level is not below the specified poverty line figure'</p> <p>Due to rise in cost of living and inflation, the real value of money changes and so does the salary levels. Tying the maximum pension to the full pensionable emoluments</p>	<p>The pension increase was determined actuarially and approved by the Cabinet. There will be need to carry out an actuarial evaluation to determine the cost implication.</p>

	<p>drawn by the officer at the time of retirement does not:</p> <p>Recognize the contribution of the officer and the level of service given and thus creates serious horizontal and vertical disparities and inequities and makes pensioners slip into poverty due to low inadequate levels of pension benefits payable</p> <p>REC: Amend the clause to allow that the level of pension at any given time to be prorated to the current pensionable emoluments of the serving officers</p>	<p>The current public service pension scheme is an unfunded defined benefit scheme with a formula that provides for up to 100% replacement ratio of a member's pensionable emolument as maximum benefit. This is a generous formula compared to other jurisdictions and therefore one cannot earn a pension above his salary since this is an unfunded scheme.</p>
<p>3. Pension, etc, May Cease on Bankruptcy and Conviction 14 and 15</p>	<p>Many Pensioners have dependants relying on their pension. When it ceases on grounds of bankruptcy or conviction, the dependants are also by default punished:</p> <p>REC: Review and amend sections 14 and 15 to allow dependants to continue drawing dependants pension as in the case of death of a pensioner, to mitigate their suffering.</p>	<p>These are infrequent occurrences. The National Treasury concurs that the sections may be amended to make it automatic for dependants to continue drawing pension as long as it is not in contravention of any other law.</p>
<p>4. Pensioner to be retained in service pending payment of pension/gratuity section 16 (A)</p>	<p>This section reflects the provisions in the Musila Bill (Act No. 6 Section 2). The Section has however not been implemented in full and officers continue to suffer due to delayed payment of pension/gratuity</p> <p>REC: As the Government commits to implementation of provision, introduce some penalty to be imposed on the office causing the</p>	<p>The pension payment process involves three parties, the pensioner, employer and the Pensions Department. Delays may be occasioned by any of the parties for various reasons. The Government is addressing the issue in a multifaceted way through the procurement of a robust pension system that will allow for online filing of pension claims by Ministries,</p>

	<p>delay to compel adherence to the provisions of the law.</p>	<p>Departments and Agencies (MDAs) to improve efficiency.</p> <p>The National Treasury has enhanced the interagency collaboration by posting staff to verify pension claim at source and enrolling them in the pension system as in the case of TSC and National Police service.</p>
<p>5. Pensions to dependant on death of officer in service or on retirement (Section 17)</p>	<p>The Pensions Act defines the dependant as a widow thus, in effect discriminating against a male spouse</p> <p>REC: Amend Act to include male spouses as dependants upon death of a pensionable officer</p>	<p>The National Treasury is in concurrence that Section 17 of the Act may be so amended</p>
	<p>It is observed that Section 13, Sub-Section 3 of the Parliamentary Pensions Act</p> <p>REC: Amend the Section 17 to allow for payment of the widow/widowers pension for life instead of five years as a means of social protection</p>	<p>This recommendation is not tenable since the current public service pension scheme under the Pensions Act Cap 189 is an unfunded defined benefit scheme. It may be noted that as of now, the monthly pension payroll stands at Kshs.3.7 billion. If dependants are to be paid for life, it is estimated that after 10 years on the factor of dependant's pension alone the figure would have doubled making the scheme unsustainable. This has however been addressed in the new contributory Public Service Superannuation Scheme in which dependants will be getting dependants pension for life depending on the annuity a member buys. It may be noted that the Parliamentary Pensions Act Cap 196 and the Widow's and Children's Pensions Act Cap 195 are contributory schemes in which widows' pension is payable for life contrary to the Pensions Act CAP 189 which is unfunded.</p>

6. Section 18 and 19 of the Pensions Act Cap 189.	The two sections refer to male officers while within the Act it has not explained that usage of male gender refers to all gender REC: Amend the Section to enable female officers to be entitled to the same benefits	The National Treasury concurs with the proposed amendments that seeks to make spouses of either gender to be entitled to Killed on Duty benefits for dependants.
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72. On the proposed amendments to the Pensions Increase Act CAP. 190 the Cabinet Secretary submitted as follows-

SECTION	PROPOSED AMENDMENT	NATIONAL TREASURY RESPONSE
Section 3 of the Act; Date and rate of pension Increase	The rate of increase is pegged at the rate of three per cent (3%) of the pension and is payable after two years on 1 st July. REC: Amend Section 3 of the Act to: a). Protect public service retirees from erosion of purchasing power by cost of living and adopt the triennial pension increase adjusted to the cost of living. b). Provide for automatic pension reviews and increase whenever public sector salaries are reviewed and increased.	The National Treasury concurs that the annual indexation of pension is lower than the average inflation rate to fully mitigate the impact of inflation. The proposals require to be subjected to an actuarial evaluation to determine the cost implications to inform changes to the current pension increase policy.

73. It may be noted that most of the disparities mentioned in the two Acts have been addressed through the public service pension reforms that culminated in the enactment of the Public Service Superannuation Scheme Act, 2012 that establishes the Public Service Superannuation Scheme which commences on 1st January, 2021.

74. On the petitioner's prayer for a one-off review to enhance pension payable to pensioners who retired prior to 2005 in line with the recommendations of Salaries and Remuneration commission in 2015, -

75. The Cabinet Secretary submitted that the Salaries and Remuneration Commission recommended a one off pension increase for officers who retired from the year 1991 to 2005. While it is true that the pensioners who retired between 1991 and 2005 draw low pensions derived from the low salaries paid at the time, it would be discriminatory to award an increase to just one category of pensioners. Those who retired before 1991 equally receive lower pensions. It may also be noted that thousands of teachers who retired between 1997 and June 2003 (a period within the recommended increment

category) have had their pension reviewed pursuant to the 1997 Nauru Teachers Case. In some of the instances some retired teachers had their pension doubled after the review.

76. It is therefore, our considered opinion that this matter be looked at wholesomely in order to provide a lasting solution on the pension increase and avoid a situation in which further disparities may be created in regards to pension pay outs for different categories of public service retirees.

77. On the petitioner's prayer for inclusion of government pensioners in the Inua Jamii 70 years and above Cash Transfer Programme

78. The Cabinet Secretary submitted that the Inua Jamii programme was meant to assist the elderly and the most vulnerable members of the society who are not receiving any support from the Government. This is the reason why retirees of the public service who are recipients of pension from government coffers were not included as beneficiaries under the programme. This was meant to enable government reach out to the other needy members of the society.

79. On the petitioner's prayer for provision of free and subsidized comprehensive health care services for government pensioners at all public health institutions in Kenya under the Universal Health Cover (UHC)-

80. The Cabinet Secretary submitted that the Government is alive to the fact that post-retirement healthcare is a big challenge to retirees owing to their financial vulnerability compounded by aging. As a result, the Government for a start has developed a policy on Post-Retirement Health Insurance for officers in service which will be rolled out in due course to address this gap.

81. The NHIF is progressively developing packages targeted at different categories of citizens that is geared towards achieving the universal health cover for the majority of Kenyans.

2.4 Submission by the Cabinet Secretary for the Ministry of Health

82. The Cabinet Secretary for Health, Sen. Mutahi Kagwe, EGH, made a written submission to the Committee as follows-

83. On the petitioner's prayer for provision of free and subsidized comprehensive health care services for government pensioners at all public health institutions in Kenya under the Universal Health Cover (UHC)-

84. The Cabinet Secretary submitted that NHIF provides comprehensive medical covers to Civil Servants working in the National Government, County Governments employees, Kenya Police Service and National Police Service employees. The comprehensive medical covers are enhanced over and above the *Supa* Cover which is available for all NHIF contributors and their dependents. However, the enhanced cover is only available to those in active service and upon retirement from the Civil Service this cover expires. Due to age related complications most retirees require a comprehensive medical cover. For those retirees who are able to continue paying the monthly contributions of Kshs. 500 or an annual payment of Ksh. 6,000, they have access to the National Scheme dubbed *Supa* Cover. The enhanced benefits are lacking in this scheme.

85. The proposed solution is the establishment of a post-retirement medical scheme to which public servants can contribute while they are in service so that they can be covered comprehensively upon their retirement. Through the Legal Notice No.192 of 2018, Retirement Benefits Authority issued guidelines on Post-Retirement Medical Funds which would guide in the process of establishing post-retirement medical schemes for the public servants both at the National and County Governments. An example is a defined contribution scheme where an amount to be contributed to the post-retirement medical funds would be dependent on the number of years remaining to retirement and whether the Government would determine subsidies to the retirees.
86. Further, the Cabinet Secretary submitted that plans are underway to establish a post-retirement scheme. Towards this end, a survey was done for the Civil Servants in 2017 and on analysis it was found that about 85% of them were in support of having a post-retirement medical cover. An Inter-ministerial technical committee comprised of representatives from National Treasury, Ministry of Health, Insurance Regulatory Authority and Ministry of Labour and Social Services was then formed and has been spearheading the same.
87. Currently NHIF is managing a Comprehensive Medical Cover for Kenya Association of Retired Officers which covers over 1,300 retired public servants. With experience spanning over 54 years having more than 9.6 million members covered, the Comprehensive Medical Covers and even the Retired Officers Medical Covers and the fully established systems, NHIF is well equipped to administer a post-retirement medical scheme for all public servants.

PART THREE

3.0 COMMITTEE OBSERVATIONS

88. The Committee made the following general and specific observations-

3.1 General Observation

- (i) The Kenyan Public Service currently has over 225, 000 retirees drawing pension from the Government, with this rate increasing at an average of 500 retirees per annum. These men and women have made significant contributions to national development and form an important segment of the population. They are part of the older members of society whose need for special attention and care is provided for under various Articles of the Constitution of Kenya 2010. In particular, Article 57 of the Constitution of Kenya, 2010 requires the Government to take measures to protect and enhance the welfare of the elderly to ensure that they fully participate in affairs of society, pursue their personal development, live in dignity and respect and free from abuse.

3.2 Specific Observations

- (i) Kenya lacks a comprehensive Pension Policy leading to a fragmented and uncoordinated approach to the management and development of the retirement benefits sector. This has resulted in a situation where majority of Kenyans remain uncovered with only an estimated 18. 2 per cent of the population enjoying any form of retirement benefit. The benefits are also markedly low and way below the International Labour Organization (ILO) standard of 40 Per Cent;
- (ii) The current Pensions Act, CAP 189 of the Laws of Kenya, has been in existence for 78 years, since its enactment in 1942 and assent by the Colonial Governor in 1946. Laws are dynamic by nature and must always be pegged to the realities of society. Despite the various amendments made to it, the Act does not conform to the realities of the times;
- (iii) About 25 per cent of the Government Pensioners currently earn below Kshs. 4000 per month in pension dues, which is below the average overall absolute poverty level of Kshs. 4,624 per adult per month according to the Kenya National Bureau of Statistics. Indeed, the Pension Increase Act, CAP 190 of the Laws of Kenya, sets the minimum Pension at only Kshs. 2000. The Act provides for the adjustment of pension benefits at 3 Per Cent every two years, which translates to 1.5 per cent per annum. When considered against the rate of inflation, which averaged 6.7 per cent between 2013 and 2017, the reviews have negligible impact;
- (iv) Despite enjoying a comprehensive medical cover while in employment, Government Pensioners lose the same upon attainment of retirement age of 60 years. This leaves them vulnerable to a variety of ailments associated with old age. To continue enjoying benefits from the NHIF, the Pensioners are expected to contribute a premium of Kshs. 500 per month or Kshs. 6000 per annum. Given the low levels of pensions, many pensioners are driven to extreme poverty by the burden of illness. This is contrary to the provisions of Article, 43 of the Constitution of Kenya 2010 which provides for the right to health services for every citizen;

- (v) Government Pensioners are currently excluded from the Cash Transfer Program for the elderly under the National Safety Net Program, while other Kenyans enjoy the same upon attainment of 70 years of age irrespective of their previous employment status;
- (vi) The Salaries and Remuneration Commission, created under Article 230 of the constitution and operationalized through the SRC Act No. 10 of 2011, does not have representation from Pensioners despite one of its key functions, under Section 11(g) being, “ **to make recommendations on the review of pensions payable to holders of public office**”
- (vii) The SRC, in two of its advisories to the Government in line with its mandate as provided for in the Constitution, recommended as follows:
 - (a) A discretionary one-off pension increase for retirees for the period 1991-2005 to compensate for inflation
 - (b) Amendment of the Pension (Increase) Act, CAP.190 of the Laws of Kenya, to provide for triennial review of pension-in-payment over and above the existing biennial increase effected in June 2005.

These recommendations, were contained in SRC policy documents launched by the President of the Republic of Kenya in June 2015 and submitted to the National Treasury for implementation but remain unimplemented 5 years down the line; and

- (viii) In addition to being low, pension payment has been characterized by inordinate delays with many pensioners reportedly dying while still pursuing the payment. This could be partly attributed to the fact that pensions are processed at the National Treasury through the Director of Pensions. The National Treasury is already overburdened with other more current issues hence the possibility of pension issues being reduced to low priority yet the ILO, in its 2017 Report on Social Protection identifies pension as the most widespread form of social security.

PART FOUR

4.0 COMMITTEE'S RECOMMENDATIONS

89. The Committee made the following general and specific recommendations-

4.1 General Recommendation

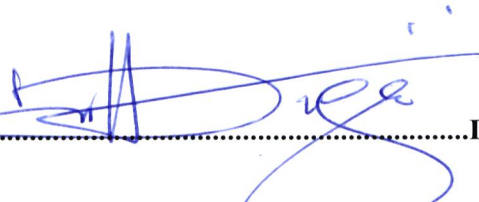
The Cabinet Secretary for Labour should include a clear framework for the engagement of retirees in national development in the ongoing development of the Volunteerism Policy. This is in recognition of the fact that a large number of retirees exit the service with a substantial amount of knowledge and expertise and while still relatively energetic.

4.2 Specific Recommendations

1. The Cabinet Secretary for National Treasury and Planning should fast track the ongoing process on the development of the National Retirement Benefits Policy to provide for the provision and management of retirement benefits in the country. A progress report on this activity should be made to Parliament by 31st March, 2021;
2. The Cabinet Secretary for National Treasury and Planning should initiate the comprehensive review/repeal of the Pensions Act, CAP 189 of the Laws of Kenya and the Pension (Increase) Act, CAP 190 of the Laws of Kenya to align it with the provisions of the Constitution of Kenya 2010 and enable it conform with the realities of the day. **In particular, the review should consider the issue of frequency of review of pension, minimum payable pension and the need for consideration of the Cost of Living adjustment.** A progress report on this should be made to Parliament by 31st March, 2021;
3. The Cabinet Secretary for Health in consultation with the National Treasury should fast track the implementation of the Post-Retirement Medical Scheme to cater for the health needs of Government Pensioners. **In the interim and in cognizance of the current risks enhanced by the COVID-19 situation**, in order to cushion the current pensioners from the burden of disease it is recommended that, Pensioners drawing less than Kshs. 5000 in monthly pension be granted free access to comprehensive health care service at all public health institutions country wide. In addition, all other pensioners be granted subsidy to make premiums affordable to those who opt to purchase insurance cover under NHIF. A progress report on this milestone be availed to Parliament by 30th June, 2021;
4. The Cabinet Secretary for the National Treasury and Planning **should implement by 31st December, 2021** the recommendations of the SRC on Pension Increase Policy as contained in the Public Sector Remuneration and Benefits Policy Framework (First Edition) and the Public Sector Remuneration and Benefits Policy 2015, launched by His Excellency the President in June 2015 and submitted to the National Treasury for implementation. This should however be executed in an equitable manner so as to ensure it does not perpetuate further disparity;
5. The Cabinet Secretary for Labour in consultation with the National Treasury should include Government Pensioners currently earning less than Kshs. 4000 in monthly pension in the next listing of beneficiaries of the Cash Transfer for the elderly as a stop

gap measure pending review of pension to reflect the current cost of living. A progress report on this should be made to Parliament by 31st March, 2021; and

6. The Cabinet Secretary for the National Treasury should initiate the transformation of the current Pensions Department into a Semi-Autonomous Government Agency (SAGA) to manage and administer pensions and with a wider mandate of developing and implementing the Pensions Policy for the Public Service that would address the issues of fairness, adequacy, affordability and sustainability of pension benefits. In line with the ILO recognition of Pension as a form of social Security, the Government should in the long run consider domiciling the management of the retirement benefits sector under the State Department for Social Protection together with other social protection initiatives.

SIGNED  DATE 02/12/2020

**HON. PETER MWATHI, M.P. - CHAIRPERSON
DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE.**

MINUTES OF THE 50TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY 2ND DECEMBER, 2020 AT 10.20AM IN ABERDARE HALL, KICC, PARLIAMENT BUILDINGS

PRESENT

1. **The Hon. Peter Mwathi, MP** - Chairperson
2. **The Hon. Gideon Koske Kimutai, M.P.** - Vice Chairperson
3. The Hon. Ronald Kiprotich Tonui, MP
4. The Hon. Janet Nangabo, MP
5. The Hon. James K'Oyoo, M.P
6. The Hon. Moses Malulu Injendi, M.P
7. The Hon. Caleb Amisi, M.P.
8. The Hon. Titus Mukhwana Khamala, M.P
9. The Hon. Tom Mboya Odege, MP
10. The Hon. Abdi Mude Ibrahim, MP
11. The Hon. Safia Sheikh Adan, M.P
12. The Hon. Charles Kanyi Njagua, MP
13. The Hon. Wilson Sossion, MP
14. The Hon. David Ole Sankok, MP
15. The Hon. Gideon Keter, MP

APOLOGY

1. The Hon. Janet Marania Teyiaa, MP
2. The Hon. Rose Museo Mumo, MP
3. The Hon. Omboko Milemba, MP
4. The Hon. Fabian Kyule Muli, M.P

The National Assembly Secretariat

1. Mr. Adan Sora Gindicha -Senior Clerk Assistant
2. Mr. John Mugoma -Clerk Assistant II
3. Mr. Sydney Okumu - Legal Counsel
4. Mr. Job Owaga - Audio Officer

AGENDA

1. Prayers
2. Preliminaries
 - i. Introductions
 - ii. Communication from the Chairperson
 - iii. Confirmation of Minutes
 - iv. Matters Arising
3. **Consideration and adoption of the following reports: -**
 - i. **Public Petition regarding the Welfare of Pensioners presented by Kenya Association of Retired Officers.**
 - ii. **Public Petition by Ukongwe Bora Welfare regarding a proposal to enact Legislation for provision of maintenance and Welfare of Parents and Senior Citizens.**
4. Any Other Business

5. Adjournment/Date of the next Sitting

MIN.NO. DC/LSW/287/2020: - PRELIMINARIES

The meeting was called to order at 11.20am and thereafter a prayer was said.

MIN.NO. DC/LSW/288/2020: - ADOPTION OF THE AGENDA

The agenda of the meeting were adopted having been proposed and seconded by the Hon. Abdi Mude Ibrahim MP and the Hon. Gideon Koske Kimutai, MP respectively.

MIN.NO. DC/LSW/289/2020: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Minutes of the 28th to 31st, 33rd to 36th, 39th to 41st, 43rd to 46th Sittings were read and confirmed as true record of the proceedings.

MIN.NO. DC/LSW/290/2020: MATTERS ARISING

No Matters Arose

MIN.NO. DC/LSW/291/2020: CONSIDERATION AND ADOPTION OF REPORT ON PUBLIC PETITION REGARDING THE WELFARE OF PENSIONERS PRESENTED BY KENYA ASSOCIATION OF RETIRED OFFICERS.

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

1. The Kenyan Public Service currently has over 225, 000 retirees drawing pension from the Government, with this rate increasing at an average of 500 retirees per annum.
2. Article 57 of the Constitution of Kenya, 2010 requires the Government to take measures to protect and enhance the welfare of the elderly to ensure that they fully participate in affairs of society, pursue their personal development, live in dignity and respect and free from abuse.
3. Kenya lacks a comprehensive Pension Policy leading to a fragmented and uncoordinated approach to the management and development of the retirement benefits sector. This has resulted in a situation where majority of Kenyans remain uncovered with only an estimated 18. 2 per cent of the population enjoying any form of retirement benefit.
4. The current Pensions Act, CAP 189 of the Laws of Kenya, has been in existence for 78 years, since its enactment in 1942 and assent by the Colonial Governor in 1946. Laws are dynamic by nature and must always be pegged to the realities of society. Despite the various amendments made to it, the Act does not conform to the realities of the times;
5. About 25 per cent of the Government Pensioners currently earn below Kshs. 4000 per month in pension dues, which is below the average overall absolute poverty level of Kshs. 4,624 per adult per month according to the Kenya National Bureau of Statistics.
6. The Pension Increase Act, CAP 190 of the Laws of Kenya, sets the minimum Pension at only Kshs. 2000. The Act provides for the adjustment of pension benefits at 3 Per Cent every two

years, which translates to 1.5 per cent per annum. When considered against the rate of inflation, which averaged 6.7 per cent between 2013 and 2017, the reviews have negligible impact;

7. Despite enjoying a comprehensive medical cover while in employment, Government Pensioners lose the same upon attainment of retirement age of 60 years. This leaves them vulnerable to a variety of ailments associated with old age. To continue enjoying benefits from the NHIF, the Pensioners are expected to contribute a premium of Kshs. 500 per month or Kshs. 6000 per annum. Given the low levels of pensions, many pensioners are driven to extreme poverty by the burden of illness.
8. Government Pensioners are currently excluded from the Cash Transfer Program for the elderly under the National Safety Net Program, while other Kenyans enjoy the same upon attainment of 70 years of age irrespective of their previous employment status;
9. The Salaries and Remuneration Commission, created under Article 230 of the constitution and operationalized through the SRC Act No. 10 of 2011, does not have representation from Pensioners despite one of its key functions, under Section 11(g) being, “ **to make recommendations on the review of pensions payable to holders of public office**’
10. The SRC, in two of its advisories to the Government in line with its mandate as provided for in the Constitution, recommended as follows:
 - (a) A discretionary one-off pension increase for retirees for the period 1991-2005 to compensate for inflation
 - (b) Amendment of the Pension (Increase) Act, CAP.190 of the Laws of Kenya, to provide for triennial review of pension-in-payment over and above the existing biennial increase effected in June 2005.
11. In addition to being low, pension payment has been characterized by inordinate delays with many pensioners reportedly dying while still pursuing the payment. This could be partly attributed to the fact that pensions are processed at the National Treasury through the Director of Pensions.

From the observations above, the Committee recommended that:-

1. The Cabinet Secretary for Labour should include a clear framework for the engagement of retirees in national development in the ongoing development of the Volunteerism Policy. This is in recognition of the fact that a large number of retirees exit the service with a substantial amount of knowledge and expertise and while still relatively energetic.
2. The Cabinet Secretary for National Treasury and Planning should fast track the ongoing process on the development of the National Retirement Benefits Policy to provide for the provision and management of retirement benefits in the country. A progress report on this activity should be made to Parliament by 31st March, 2021;
3. The Cabinet Secretary for National Treasury and Planning should initiate the comprehensive review/repeal of the Pensions Act, CAP 189 of the Laws of Kenya and the

Pension (Increase) Act, CAP 190 of the Laws of Kenya to align it with the provisions of the Constitution of Kenya 2010 and enable it conform with the realities of the day. In particular, the review should consider the issue of frequency of review of pension, minimum payable pension and the need for consideration of the Cost of Living adjustment. A progress report on this should be made to Parliament by 31st March, 2021;

4. The Cabinet Secretary for Health in consultation with the National Treasury should fast track the implementation of the Post-Retirement Medical Scheme to cater for the health needs of Government Pensioners. In the interim and in cognizance of the current risks enhanced by the COVID-19 situation, in order to cushion the current pensioners from the burden of disease it is recommended that, Pensioners drawing less than Kshs. 5000 in monthly pension be granted free access to comprehensive health care service at all public health institutions country wide. In addition, all other pensioners be granted subsidy to make premiums affordable to those who opt to purchase insurance cover under NHIF. A progress report on this milestone be availed to Parliament by 30th June, 2021;
5. The Cabinet Secretary for the National Treasury and Planning should implement by 31st December, 2021 the recommendations of the SRC on Pension Increase Policy as contained in the Public Sector Remuneration and Benefits Policy Framework (First Edition) and the Public Sector Remuneration and Benefits Policy 2015, launched by His Excellency the President in June 2015 and submitted to the National Treasury for implementation. This should however be executed in an equitable manner so as to ensure it does not perpetuate further disparity;
6. The Cabinet Secretary for Labour in consultation with the National Treasury should include Government Pensioners currently earning less than Kshs. 4000 in monthly pension in the next listing of beneficiaries of the Cash Transfer for the elderly as a stop gap measure pending review of pension to reflect the current cost of living. A progress report on this should be made to Parliament by 31st March, 2021; and
7. The Cabinet Secretary for the National Treasury should initiate the transformation of the current Pensions Department into a Semi-Autonomous Government Agency (SAGA) to manage and administer pensions and with a wider mandate of developing and implementing the Pensions Policy for the Public Service that would address the issues of fairness, adequacy, affordability and sustainability of pension benefits. In line with the ILO recognition of Pension as a form of social Security, the Government should in the long run consider domiciling the management of the retirement benefits sector under the State Department for Social Protection together with other social protection initiatives.

MIN.NO. DC/LSW/292/2020: CONSIDERATION AND ADOPTION OF REPORT ON PUBLIC PETITION BY UKONGWE BORA WELFARE REGARDING A PROPOSAL TO ENACT LEGISLATION FOR PROVISION OF MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS.

The Committee considered the report and made the following observations-

1. The Committee had already considered and submitted a report to the House on the Care and Protection of Older Members of the Society, Senate Bill No 17 of 2018;
2. The said Senate Bill, at the time of adoption of this report, had undergone second reading at the National Assembly;
3. The Senate Bill sought to provide a framework for the care of older members of society and establish a framework for the empowerment and protection of elderly and maintenance of their well-being, safety and security among other purposes similar to the objectives of the Bill proposed in the Petition by Ukongwe Bora Welfare Society;
4. The Senate Bill contains some provisions sought to be cured by the Bill proposed in the Petition by Ukongwe Bora Welfare Society; and
5. The Bill by Ukongwe Bora Welfare Society titled '*The Maintenance And Welfare Of Parents And Senior Citizens Bill*' does contain other provisions not in the Senate Bill of which include-
 - (a) provisions relating to care and maintenance of parents by their children or relatives or persons who will be beneficiaries of inheritance;
 - (b) provision of stipend/allowance for care of the older person;
 - (c) provisions concerning protection of life and property of senior citizens; and
 - (d) a provision creating the offence of neglect or abandonment of an older person by the caregiver or child.
6. It was however noted that the above provisions had not been subjected to Public Participation.

Committee Recommendations

From the above observations, the Committee recommended that the prayers of the Petitioners will have been granted once the Care and Protection of Older Members of the Society, Senate Bill No 17 of 2018 is passed by the National Assembly.

MIN.NO. DC/LSW/ 293/2020: ANY OTHER BUSINESS

No Any Other Business Arose.

MIN.NO. DC/LSW/294/2020: ADJOURNMENT

There being no other business, the meeting was adjourned 12.00 noon

SIGNED:

The Hon. Peter Mwathi, M.P

(Chairperson)

DATE: 02/12/2020

**MINUTES OF THE 48TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY 25TH NOVEMBER, 2020
AT 10.30AM IN ABERDARE HALL, KICC, PARLIAMENT BUILDINGS**

PRESENT

- | | |
|---|---------------------------|
| 1. The Hon. Peter Mwathi, MP | - Chairperson |
| 2. The Hon. Gideon Koske Kimutai, M.P. | - Vice Chairperson |
| 3. The Hon. Ronald Kiprotich Tonui, MP | |
| 4. The Hon. James K'Oyoo, M.P | |
| 5. The Hon. Moses Malulu Injendi, M.P | |
| 6. The Hon. Caleb Amisi, M.P. | |
| 7. The Hon. Titus Mukhwana Khamala, M.P | |
| 8. The Hon. Tom Mboya Odege, MP | |
| 9. The Hon. Charles Kanyi Njagua, MP | |
| 10. The Hon. Abdi Mude Ibrahim, MP | |
| 11. The Hon. David Ole Sankok, MP | |

APOLOGY

1. The Hon. Janet Nangabo, MP
2. The Hon. Janet Marania Teyiaa, MP
3. The Hon. Rose Museo Mumo, MP
4. The Hon. Omboko Milemba, MP
5. The Hon. Wilson Sossion, MP
6. The Hon. Gideon Keter, MP

The National Assembly Secretariat

- | | |
|----------------------------|---------------------------|
| 1. Mr. Adan Sora Gindicha | -Senior Clerk Assistant |
| 2. Mr. John Mugoma | -Clerk Assistant II |
| 1. Ms. Noelle Chelagat | - Media Relations Officer |
| 2. Mr. Salem Lorot | - Legal Counsel |
| 3. Mr. Wilson Angatangoria | - Sargent-At-Arms |
| 4. Mr. Job Owaga | - Audio Officer |

National Treasury

1. Hon. Nelson Gachuhie - CAS
2. Mr. Michael Kagio - Director, Pensions
3. Mr. Geoffrey Kibenda - D/Director, Pensions

Ministry of Labour and Social Protection

1. Hon. Patrick Ntutu – CAS
2. Mr. John Gachugi – Director, JAU

Kenya Association of Retired Officers

1. Mr. Ibrahim Hussein - Chairperson
2. Mr. John Wachira - Secretary General

3. Mr. Mark Oyoo - Secretary
4. Ms. Grace Atieno - Member
5. Mr. Njeru Kirira - Member

AGENDA

1. Prayers
2. Preliminaries
 - i. Introductions
 - ii. Communication from the Chairperson
 - iii. Confirmation of Minutes
 - iv. Matters Arising
3. **Meeting with the following State Departments regarding a Public Petition by the Kenya Association of Retired Officers concerning the welfare of Pensioners in the country:**
 - a. **State Department for Public Service**
 - b. **The National Treasury**
 - c. **The State Department for Social Protection**
 - d. **Salaries Review Commission**
 - e. **Ministry of Health**
4. Any Other Business
5. Adjournment/Date of the next Sitting

MIN.NO. DC/LSW/274/2020: - PRELIMINARIES

The meeting was called to order at 10.30am and thereafter a prayer was said. This was followed by introductions. The Chairperson then welcomed all the Hon. Members and witnesses to the meeting and briefed them on the main agenda of the Sitting.

Further, the Chairperson conveyed apologies from Salaries Review Commission and Ministry of Health. It was however noted that the Ministry of Health submitted written response to issues raised by the Petitioners.

MIN.NO. DC/LSW/275/2020: - ADOPTION OF THE AGENDA

The agenda of the meeting were adopted having been proposed and seconded by the Hon. Tom Mboya Odege MP and the Hon. Caleb Amisi, MP respectively.

MIN.NO. DC/LSW/276/2020: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO. DC/LSW/277/2020: SUBMISSIONS BY STAKEHOLDERS

The Committee received oral submissions from the following stakeholders: -

I. State Department for Social Protection

On the petitioners' prayer for inclusion of government pensioners in the Inua Jamii 70 years and above Cash Transfer Programme, the Committee was informed that: -

1. The Government of Kenya was implementing three Inua Jamii cash programmes namely: Older Persons' Cash Transfer, Orphans and Vulnerable Children's Cash Transfer and Persons with Severe Disability Cash Transfer.
2. The Government carried out a nationwide registration of Senior Citizens aged 70 years and above during the months of July and August, 2017.
3. One of the criteria for identification and registration of Older Persons aged 70 years and above to be enrolled into the Consolidated Cash Transfer programme in all the constituencies countrywide was that the Older Person must not be benefiting from any other Government Safety Net Programme including pensions.
4. The Government's intention was to cushion all elderly persons aged 70 years and above through regular and predictable cash transfers through the Inua Jamii Cash Transfer Programme.
5. The Kenya National Bureau of Statistics (KNBS), Kenya Population Census 2019 results, indicate that Kenya has 1,194,464 citizens aged 70 years and above. A total of 833,129 Older Persons have been enrolled and are benefiting in the Older Persons Cash Transfer Programme.
6. Based on the KNBS 2019 Census statistics, it meant that approximately 361,464 older persons aged 70 Years and above were not covered by the Inua Jamii Programme. This group includes those who are in the various pension schemes and those capable of taking care of themselves.
7. The Ministry has made budget projections for the enrolment of 250,000 older persons aged 70 Years and above in the next financial year (FY2021/2022) subject to availability of resources.
8. Due to inadequate budgetary provision, all Government pensioners were excluded from benefiting from this programme, the reason being that, by their inclusion they would be receiving double benefits.
9. The available resources are dedicated to the poor and vulnerable senior citizens who have no other alternative source of income. Additionally, the government conducted a thorough payroll cleansing of Inua Jamii program by removing all deceased beneficiaries, ineligible beneficiaries and pensioners enrolled in the program.
10. The Ministry was working to establish links with all different pension schemes countrywide to enable it identify and validate all persons on various pensions schemes for ease of reference and eliminating cases of double dipping.

II. The National Treasury

The National Treasury responded as follows to the Petitioner's prayers:-

1. On the petitioners' prayer for development and implementation of a comprehensive pensions policy for public service in Kenya

- a) A National Retirement Benefits Policy provides a framework for the provision and management of retirement benefits in a country. It provides policy guidelines to ensure development, growth, coordination and enhanced adequacy, and sustainability as well as coverage of retirement benefits.
- b) The retirement benefits sector has achieved tremendous results in terms of growth and governance structures, following the retirement benefits reforms. However, the sector still lacks a comprehensive retirement benefits policy for proper coordination, governance and development.
- c) Majority of Kenyans remain uncovered with the retirement benefits coverage at about 18.2 percent of the recorded employment. The retirement benefits adequacy is also low and below the recommended ILO standard of 40 percent income replacement rate.
- d) The Government through key stakeholders has developed a draft National Retirement Benefits Policy in line with the Governments larger financial and pension inclusion agenda. The main objective of this policy is to provide a framework to guide the coordination, good governance, development and growth of the retirement benefits sector to ensure income security in old age for all workers by ensuring affordable, adequate, and sustainable retirement benefits.
- e) The draft National Retirement Benefits Policy contain gaps that require to be addressed for purposes of making the policy comprehensive and address all the needs of the sector. Towards this end a tender for consultancy on the finalization of the policy was floated.

2. On the petitioners' prayer to repeal/review or amend the Pensions Act Cap 189 and pensions increase act cap 190 of the laws of Kenya-

The Cabinet Secretary submitted that the National Treasury was desirous to review of both Acts to identify areas that may need amendment to conform to the Constitution of Kenya 2010. In view of dynamism of the law, review of the pension laws just as other laws, was necessary from time to time.

3. On the proposed amendments to the Pensions Act CAP 189 and the Pensions Increase Act CAP. 190 the National Treasury submitted various sections, proposed amendments and remarks. That most of the disparities mentioned in the two Acts were addressed through the public service pension reforms that culminated in the enactment of the Public Service Superannuation Scheme Act, 2012 that establishes the Public Service Superannuation Scheme which commences on 1st January, 2021.

4. On the petitioner's prayer for a one-off review to enhance pension payable to pensioners who retired prior to 2005 in line with the recommendations of Salaries and Remuneration commission in 2015, the Committee was informed that: -

- a) The Salaries and Remuneration Commission recommended a one-off pension increase for officers who retired from the year 1991 to 2005. While it is true that the pensioners who retired between 1991 and 2005 draw low pensions derived from the low salaries paid at the time, it would be discriminatory to award an increase to just one category of pensioners.
- b) Thousands of teachers who retired between 1997 and June 2003 (a period within the recommended increment category) have had their pension reviewed pursuant to the 1997. In some of the instances some retired teachers had their pension doubled after the review.
- c) The matter should be looked at wholesomely in order to provide a lasting solution on the pension increase and avoid a situation in which further disparities may be created in regards to pension pay outs for different categories of public service retirees.

5. On the petitioner's prayer for inclusion of government pensioners in the Inua Jamii 70 years and above Cash Transfer Programme, the Treasury submitted that: -

The Inua Jamii programme was meant to assist the elderly and the most vulnerable members of the society who are not receiving any support from the Government. This is the reason why retirees of the public service who are recipients of pension from government coffers were not included as beneficiaries under the programme. This was meant to enable government reach out to the other needy members of the society.

6. On the petitioner's prayer for provision of free and subsidized comprehensive health care services for government pensioners at all public health institutions in Kenya under the Universal Health Cover (UHC)-

- a) The Treasury submitted that the Government was alive to the fact that post-retirement healthcare was a big challenge to retirees owing to their financial vulnerability compounded by aging. As a result, the Government for a start developed a policy on Post-Retirement Health Insurance for officers in service which will be rolled out in due course to address this gap.
- b) The NHIF was progressively developing packages targeted at different categories of citizens that was geared towards achieving the universal health cover for the majority of Kenyans.

Committee Observations and Recommendations

From the submissions from the stakeholders, the Committee made the following observations:-

- 1. There was need for a comprehensive data on retired officers who retired before 2005.

2. The Pensions departments should benchmark on the best practices regarding best ways to take care of the pensioners.
3. The new Pension Scheme in Public Service should include those who retired earlier from the service.
4. Pension should be increased alongside salary increment.
5. The National Treasury should expedite the development of the National Retirement Benefit Policy and give specific timelines on when the policy will be ready.

MIN.NO. DC/LSW/278/2020: ANY OTHER BUSINESS

No Any Other Business Arose.

MIN.NO. DC/LSW/279/2020: ADJOURNMENT

There being no other business, the meeting was adjourned 1.30pm

SIGNED: 

The Hon. Peter Mwathi, M.P

(Chairperson)

DATE: *2ND DECEMBER, 2020*

**MINUTES OF THE 34TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
LABOUR AND SOCIAL WELFARE HELD ON MONDAY 12TH OCTOBER, 2020 AT
2.50PM IN THE MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS**

PRESENT

1. **The Hon. Peter Mwathi, MP** - Chairperson
2. The Hon. Tom Mboya Odege, MP
3. The Hon. Abdi Mude Ibrahim, MP
4. The Hon. Fabian Kyule Muli, MP
5. The Hon. Safia Sheikh Adan, MP
6. The Hon. Caleb Amisi, M.P.
7. The Hon. Wilson Sossion, MP
8. The Hon. David Ole Sankok, MP
9. The Hon. Gideon Keter, MP

APOLOGY

1. **The Hon. Gideon Koske Kimutai, M.P.** - Vice Chairperson
2. The Hon. Janet Nangabo, MP
3. The Hon. James K'Oyoo, M.P
4. The Hon. Moses Malulu Injendi, M.P
5. The Hon. Ronald Kiprotich Tonui, MP
6. The Hon. Rose Museo Mumo, MP
7. The Hon. Janet Marania Teyiaa, MP
8. The Hon. Charles Kanyi Njagua, MP
9. The Hon. Omboko Milemba, MP
10. The Hon. Titus Mukhwana Khamala, M.P.

IN ATTENDANCE

Association of Retired Officers (KARO)

1. Mr. Ibrahim Hussein - Chairperson
2. Mr. Mark Oyoo - Secretary
3. Mr. Joseph Kinyua - Treasurer
4. Mr. Njeru Kirira - Member
5. Ms. Beatrice Mwaniki - Member
6. Mr. Ahmed Hussein - Member
7. Mr. Erastus Rutere - Member
8. Ms. Grace Atieno - Member
9. Mr. Boniface Makau - Member
10. Mr. Peter Gichohi - Member

The National Assembly Secretariat

1. Mr. Adan Sora Gindicha -Senior Clerk Assistant
2. Mr. John Mugoma -Clerk Assistant II
3. Ms. Fiona Musili - Research Officer
4. Ms. Sheila Chebotibin - Sargent-At-Arms
5. Mr. Job Owaga - Audio Officer
6. Mr. Ivan Ochieng - ICT Officer

AGENDA

1. Prayers
2. Preliminaries
 - i. Introductions
 - ii. Communication from the Chairperson
 - iii. Confirmation of Minutes of previous Sittings
 - iv. Matters Arising
3. **Consideration of the Public Petition by the Kenya Association of Retired Officers regarding the welfare of the pensioners in Kenya**
4. Any Other Business
5. Adjournment/Date of the next Sitting

MIN.NO. DC/LSW/186/2020: - PRELIMINARIES

The meeting was called to order at 2.50pm and thereafter a prayer was said. The Chairperson then welcomed all the Hon. Members and official of KARO to the meeting.

MIN.NO. DC/LSW/187/2020: - ADOPTION OF THE AGENDA

The agenda of the meeting were adopted having been proposed and seconded by the Hon. David Ole Sankok, MP and the Hon. Wilson Sossion, MP respectively.

MIN.NO. DC/LSW/188/2020: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO. DC/LSW/189/2020: SUBMISSIONS BY KENYA ASSOCIATION OF RETIRED OFFICERS

The officers submitted as follows:-

- I. That the majority of the pensioners especially those who retired in the year 2003 live in abject poverty and are unable to meet their monthly upkeep like food, clothing and medical expenses and that they have for long been neglected due to the perception that they are economically unproductive.
- II. That the retired officers play a very significant role in national development in their own way and deserve better livelihoods through a comprehensive pension and benefit scheme.
- III. That the Committee should intervene through the implementation of the Salaries and Remuneration (SRC) pension increase policy of 2015; amendment of Pensions Act, Cap 189 and the Pensions (increase) Act, Cap 190 of the Laws of Kenya; the provision of free and comprehensive healthcare for pensioners; as well as the development and implementation of a comprehensive pension policy for the public service in Kenya.
- IV. The Kenya Association of Retired Officers (KARO) on behalf of over 200,000 government pensioners in Kenya who receive their monthly pension from the pensions department of the National Treasury had the following prayers:-
 - a. Petition No.1: Implementation of the SRC on pension policy of 2015;
 - b. Petition No.2: Repeal/review/amendment of the Pensions Act, Cap 189 and the pensions (increase) Act, Cap 190 of the Laws of Kenya;

- c. Petition No.3: Provision of free comprehensive medical care for government pensioners at all public health and any other NHIF accredited health facilities in Kenya under the Universal Health Coverage (UHC) agenda;
 - d. Petition No.4: Inclusion of government pensioners in the “Inua Jamii 70 years and above Cash transfer Program” under the Ministry of Labor and Social Protection;
 - e. Petition No.5: Representation of Government Pensioners, through their recognized pensioners Association in the Salaries and Remuneration Commission (SRC);
 - f. Petition No.6: Development and Implementation of Comprehensive Pension policy for the Public Service in Kenya.
- V. Pensioners in the bracket of Kes.5,000-10,000 in monthly pension live in abject poverty and are unable to meet their basic needs.
 - VI. That out of the 220,000 public service retirees in Kenya drawing pensions, 25 percent earn kshs.4000 and below per month.
 - VII. The real pension value has been eroded by inflation which between 2013 and 2017 averaged 6.7 percent per annum against 3 percent bi-annual pension adjustment.
 - VIII. The constitutional and legal provisions on social protection and human rights Articles 43 (1) and 57 of the constitution of Kenya on economic and social protection rights and enhancement of welfare of the elderly to ensure that they live in dignity, respect and free of abuse, receiving reasonable care and assistance from family and state.
 - IX. Pension Act, cap 189 predicates monthly pensions on the last salary; defining dependents as wife and children limiting dependents pension to a maximum of five years while pensions Increases Act cap 190, limits the pension increases to 3% after every two years and the widows and children’s pension Act cap 195 cushioning the widows and children upon the death of the retiree.
 - X. The international conventions and best practices on human rights and social protection namely; United Nations Universal Declaration of human rights (1948) ; ILO conventions and Recommendations; African Charter for Human and people’s rights (1981); East African Common Market Protocol which recognizes the fundamental right and ensuring old age income security.
 - XI. The Kenya Government policies on Labor and Social protection in the Vision 2020 of reducing poverty among elderly from 55% to 25% and National Social Protection Policy on individuals and household’s protection from impacts of adverse consumption shocks and poverty.
 - XII. Reports by commissions, Parliamentary resolutions and relevant organizations from 1970 to 2015 recommend that “whenever there are salary adjustments in public sector, pensions should also be adjusted”. Best practices cost of living adjustment of adjusting payment of pension to a measure of cost of living, as stated in ILO world social protection report 2017-2019.
 - XIII. Medical cover for the retirees, showing how the low levels of pensions and discrimination of health care insurance providers on age, makes it impossible for the retirees to access quality healthcare service.
 - XIV. KARO recommended that Parliament should consider the following:-
 - a) Enhance Pension Benefits through review of Pensions to address cost of living adjustments (COLA);
 - b) Ensure Equity in pension payments through;
 - c) Eliminate discrimination in payment of pensions of a deceased pensioner;

- d) Extend Period of payment of pension to surviving spouse to cover life of the dependent spouse, male or female;
- e) Amend widows and children pension scheme Act, cap 195 to include widowers;
- f) Provision of Non-pension benefits like access to quality healthcare;
- g) Empower KARO for sustainability by facilitating its physical infrastructure and linkages.

Committee Observations and Way Forward

From the submissions by KARO, the Committee observed the following: -

- 1. There are different pension laws for different arms of Government;
- 2. The current pensions law has punitive clauses where a male can't earn pension of a female pensioner;
- 3. Laws on pensions should be reviewed after every three years depending on the cost of living and in line ILO regulations. Further, the current Act should be reviewed in totality so that irrelevant Clauses can be expunged;
- 4. There was need for a comprehensive pensions policy to guard against the suffering of pensioners;
- 5. Healthcare is key within pension payment and therefore the NHIF contributions need to be retained once an individual retires.

Way Forward

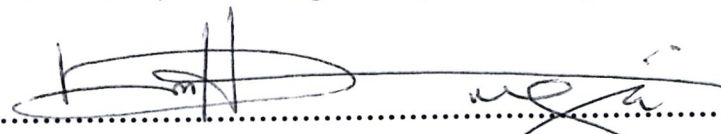
The Committee resolved to get views from the relevant Government agencies including the National Treasury and Salaries Review Commission and thereafter submit its views to the House through a report.

MIN.NO. DC/LSW/190/2020: ANY OTHER BUSINESS

No Any Other Business Arose

MIN.NO. DC/LSW/191/2020: ADJOURNMENT

There being no other business, the meeting was adjourned 4.00pm

SIGNED: 

The Hon. Peter Mwathi, M.P
(Chairperson)

DATE: ~~20~~ 2ND DECEMBER, 2020

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY (FOURTH SESSION)

CONVEYANCE OF A PUBLIC PETITION

(No. 02 of 2020)

REGARDING THE PLIGHT OF PENSIONERS

Honourable Members, pursuant to the provisions of Standing Order 225(2) (b), I wish to report to the House a Petition submitted by the Kenya Association of Retired Officers, a duly registered association working towards better and improved terms and conditions of pensioners in Kenya which petition is tendered on behalf of over 200,000 government pensioners in the Country.

Honourable Members, the petitioners claim that majority of the pensioners especially those who retired before the year 2003, live in abject poverty and are unable to meet their monthly upkeep, food, clothing and medical expenses and that they have for long been neglected due to the perception that they are economically unproductive.

Honourable Members, the petitioners believe that they play a very significant role in national development in their own way and deserve better livelihoods through a Comprehensive Pension and Benefit Policy.

Honourable Members, the petitioners pray that this House intervenes through the implementation of the Salaries and Remuneration Commission (S.R.C.) Pension Increase Policy of 2015;



KENYA ASSOCIATION OF RETIRED OFFICERS (K.A.R.O)

(MOTTO: FOR TOGETHER WE LIVE AND SERVE)

P.O. BOX 86-10100 NYERI. TEL: 0721 973 966, 0722 691 492

The National Assembly of the Republic of Kenya,

Thro'

The Clerk,

The National Assembly of Kenya,

P.O. Box 41482-00100,

NAIROBI.

DLPS

Please deal.

09/10/19

DLPS - 1.8p
Please deal.

30th September 2019.

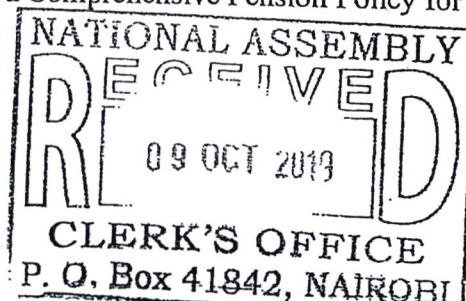
11.10.19

PRESENTATION OF PETITIONS TO THE NATIONAL ASSEMBLY OF THE NATIONAL PARLIAMENT OF THE REPUBLIC OF KENYA BY THE KENYA ASSOCIATION OF RETIRED OFFICERS (KARO) ON BEHALF OF OVER 200,000 GOVERNMENT PENSIONERS SPREAD OUT IN ALL THE 47 --COUNTIES THAT CONSTITUTE THE REPUBLIC OF KENYA.

The Kenya Association of Retired Officers, on behalf of over 200,000 government pensioners in Kenya who receive their monthly pension from the Pensions Department of the National Treasury, wishes to humbly and with due respect, present the following Petitions to the National Assembly of the Republic of Kenya for deliberation and expeditious action. This is in accordance with Articles 37 and 119 of the Kenya Constitution 2010, Petitions to Parliament (Procedure Act) of 2012 and Standing Orders 219—229, Part III—Public Petitions—of the National Assembly.

The Petitions referred above are as follows:

- (a) **Petition No.1:** Implementation of the Salaries and Remuneration Commission (S.R.C.) on Pension Increase Policy of 2015;
- (b) **Petition No. 2:** Repeal/Review/Amendment of the Pensions Act, Cap 189. And the Pensions (Increase) Act, Cap. 190 of the Laws of Kenya;
- (c) **Petition No. 3:** Provision of Free and Comprehensive Health/Medical Care for government pensioners at all Public Health and any other N.H.I.F. accredited Health Facilities in Kenya under the Universal Health Coverage (U.H.C.) Agenda;
- (d) **Petition No. 4:** Inclusion of government pensioners in the "Inua Jamii 70 years and above Cash Transfer Program" under the Ministry of Labour and Social Protection;
- (e) **Petition No. 5:** Representation of Government Pensioners, through their recognised Pensioners Association, in the Salaries and Remuneration Commission (S.R.C.);
- (f) **Petition No.6:** Development and Implementation of a Comprehensive Pension Policy for the Public Service in Kenya.



The Petitions referred above, represent issues of major and special concern to government pensioners which need to be addressed as a matter of urgency. It should be a matter of great concern to the Members of the National Assembly and indeed the Government of the Republic of Kenya to note that majority of pensioners rely solely on their meager monthly pension which is inadequate to meet their daily basic needs. This applies largely to those who retired before the year 2003.

Those in the bracket, Kes5.000—Kes10.000, in monthly pension, live in abject poverty and are unable to meet their monthly food, clothing and medical expenses. In this regard, therefore, the government pensioners, through the Kenya Association of Retired Officers, wishes to strongly appeal to the Members of the National Assembly to give the Petitions, herewith attached, the attention they deserve as a means of improving the welfare of the pensioners.

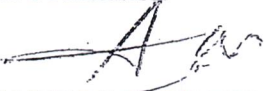
These Petitions, attached herewith, are supported by 1433 signatures, appended herewith. The pensioners who have appended their signatures to the said Petitions are drawn from different Counties in Kenya as follows:

County	No. of Signatures
Elgeyo—Marakwet	419
Baringo	326
Meru	197
Nyeri	169
Tharaka-Nithi	163
Taita Taveta	127
Laikipia	12
Nyandarua	10
Marsabit	10
Total	1433

The Association humbly prays to the Honourable Members of the National Assembly of the Republic of Kenya to seriously consider the Petitions herein and act expeditiously

Thank you for your support,

Your humble Petitioners,


P. KARUGA GICHOHI—0724110671.

FOR AND ON BEHALF OF,

KENYA ASSOCIATION OF RETIRED OFFICERS (KARO)



KENYA ASSOCIATION OF RETIRED OFFICERS (K.A.R.O)

(MOTTO: FOR TOGETHER WE LIVE AND SERVE)

P.O. BOX 86-10100 NYERI. TEL: 0721 973 966, 0722 691 492

E -mail: karohqs47@gmail.com / karugagichohi@gmail.com

11th November, 2020

PETITIONS TO THE NATIONAL ASSEMBLY OF THE REPUBLIC OF KENYA UNDER ARTICLES 37 AND 119 OF THE KENYA CONSTITUTION OF 2010, PETITIONS TO PARLIAMENT (PROCEDURE) ACT OF 2012 AND THE STANDING ORDERS 219-229, PART XXIII – PUBLIC PETITIONS – OF THE NATIONAL ASSEMBLY ON:-

- (i) DEVELOPMENT AND IMPLEMENTATION OF A COMPREHENSIVE PENSION POLICY FOR THE PUBLIC SERVICE OF KENYA;**
- (ii) REPEAL/REVIEW/AMMENDMENT OF THE PENSIONS ACT CAP. 189 AND PENSIONS INCREASE ACT CAP. 190 OF THE LAWS OF KENYA;**
- (iii) ONE -OFF REVIEW OF PENSIONS PAYABLE TO PENSIONERS WHO RETIRED PRIOR TO 2005 IN LINE WITH THE RECOMMENDATIONS OF SALARIES AND REMUNERATION COMMISSION IN 2015;**
- (iv) INCLUSION OF GOVERNMENT PENSIONERS IN THE “INUA JAMII” 70 YEARS AND ABOVE CASH TRANSFER PROGRAMME; AND**
- (v) PROVISION OF FREE AND SUBSIDIZED COMPREHENSIVE HEALTH CARE SERVICES FOR GOVERNMENT PENSIONERS AT ALL PUBLIC HEALTH INSTITUTIONS IN KENYA UNDER THE UNIVERSAL HEALTH COVERAGE (UHC).**

Preamble

This is a follow up to the meeting of Kenya Association of Retired Officers (KARO) representatives with the Parliamentary Committee on Social Security, on 12th October, 2020. As will be recalled, after presentation of the Petition and ensuing discussion, the Committee directed that KARO:

- a) Gives more specific details to clarify the Petition;
- b) Specify the areas/ clauses of the Pensions Act Cap. 189 and Pensions Increase Act Cap. 190, that require to be repealed/ reviewed/ amended; and
- c) Identify and state the pertinent issues that needs to be covered in the proposed Comprehensive Pension Policy.

Members of the Kenya Association of Retired Officers in their effort to bring more clarity to the Petition, subsequently, reorganized the presentation in the original Petition to give it flow as well as clarity.

PETITION NO. 1: DEVELOPMENT AND IMPLEMENTATION OF A COMPREHENSIVE PENSION POLICY FOR THE PUBLIC SERVICE OF KENYA

As expressed during the meeting, Petitioners strongly and sincerely believe that pensioners play a significant role in the national development in their own way and like any other citizen, deserves to access the Economic and Social Rights, specified in the Constitution under Article 43. It is further observed that the Constitution of Kenya provides explicit rights, entitlements and privileges for Older Persons with specific obligations to the state and family. For example: Article 10 (2) (b) outlines the State's obligation in the service delivery to Older Persons alongside other marginalized groups; Article 21 (3) obligates State organs and public officers, to address the needs of older persons and other vulnerable groups; Article 27 (4) promotes and safeguards equality and non-discrimination of older persons based on age, whereas Article 43 (3) compels the State to provide appropriate social security to needy older persons.

Kenya Vision 2030 which is the long-term development blue print for the Country, aims at creating a globally competitive and prosperous nation with high quality of life by 2030. The broad flagship project under the Social Pillar in Vision 2030, provides for the establishment among other issues, Older Persons and Ageing Policy, to ensure their social protection.

The various international bodies Conventions, Recommendations and Resolutions, advocates for ensuring income security for people during their old age, as a crucial objective among the welfare goals that modern societies should seek to achieve. For these reasons, public pension systems have become a foundation on which income security for older persons has been built. According to the 2017 Social Protection Report by the International Labour Organization (ILO), pension for the older women and men is the most widespread form of social protection in the world. ILO and other international and regional organizations' conventions, recommendations and resolutions, further require provision for the payment of pensions in old

age at guaranteed levels, upon completion of qualifying period and their regular adjustment to maintain pensioners' purchasing power. They also recognize and require that pensions should be regularly adjusted to prevent erosion of the value of pension over time as an important consideration on the adequacy and retention of the purchasing power and real value.

In the Sustainable Development Goals, pension is a key aspect of social protection. When the cost of living rises and there is no equivalent increase in pensions, it reduces the purchasing power of retirees thereby, putting them at risk of sliding into poverty.

Kenya as a member of the ILO and the international and regional organizations is required to subscribe and domesticate the policies on social protection, including pensions. Developing a comprehensive Policy that would embrace the principles of social security and protection would only demonstrate the Country's commitment and compliance level.

From the international and national perspective, all pension schemes that contribute towards old-age income security are relevant, however, their degree of relevance is gauged by their compliance with the ILO standards on social security. The legislations on Pensions and the circulars that have been released from time to time, have not however, fully incorporated the provisions in the international instruments, the Constitution of Kenya and the Vision 2030.

It is the conviction of the Petitioners (KARO), that Kenya needs to develop a coherent and comprehensive framework for guiding the payment of pension benefits to its retirees. KARO therefore, petitions for development of a comprehensive Pension Policy. This would ensure the incorporation of provisions in all the relevant conventions, recommendations and statutes and subsequently, the social protection of the pensioners.

ENVISIONED CONTENT OF THE COMPREHENSIVE PENSION POLICY

It is a fact that Public Service retirees during their working lives when they enjoyed good health and productive capacity, contributed to the socio-economic development. It is also true that since 1942, Government has put effort to review Pensions, including repeal of sections of the Pensions enabling legislations. It is however, observed that in spite of these efforts, there are gross disparities, with more than 25% of the pensioners having slipped to abject poverty. Yet it is only fair and just that once they retire, they are not left behind as the benefits of national prosperity are distributed.

The Petitioners (KARO), therefore, proposes that the Comprehensive Pension Policy to cover the following key areas:

1. Policy Goal

This should recognize that older persons are an important segment of the National Population whose rights needs to be acknowledged, respected, protected and promoted. The Policy should therefore, create an environment that will enable development / review of legislations and programmes that recognizes, empowers and facilitate older persons including Public Service retirees, to participate in the society, enjoy their rights and freedom, and live in dignity as enshrined in the Constitution.

2. Policy Objectives

The following to be considered as some of the key objectives of the Comprehensive Pensions Policy, i.e, to:

- I. Facilitate guaranteed and adequate replacement of lost income;
- II. Provide for adequate and reliable benefits and level of protection to pensioners and their families, empowering them to participate in the society and enjoy their rights as provided by the Constitution;
- III. Guarantee State responsibility and intervention, including provision of legal framework, to ensure equity, social efficiency to avoid poverty, decent and reliable standard of living of the Public Service retirees;
- IV. Provide for basic life' requirements including access to universal health care services; and
- V. Create a conducive environment for older persons, particularly Public Service retirees, to live in dignity and be protected from abuse.

3. Guiding Principles

The guiding Principles to be influenced by the Principles provided in the Constitution under Articles 10 (b) and 27, that is:

- I. Human dignity;
- II. Equity and social justice;
- III. Inclusiveness and public participation;
- IV. Equality and social protection; and

V. Protection of basic human rights and non discrimination.

It is envisaged that this Policy will inform the review of the existing pensions legislations including other sectoral and departmental policies, programmes and plans, to ensure the ~~mainstreaming of issues of older persons and ageing, in development processes. It should also~~

provide a framework for enhancing older persons' rights, needs and aspirations. The Policy should also provide a coordinated and harmonized mechanism for implementation of outlined interventions, to enhance the standard of living, protect the older persons from slipping into poverty and address issues of disparity and inequity in the payment of pensions of the Public

Service retirees.

4. Key Thematic Areas of Coverage

Of essence the Policy should cover the following areas:

- I. Income security for people during their old age, upon completion of qualifying period of service;
- II. Regular adjustment of pensions payable, to maintain pensioners' purchasing power and prevent erosion of the value of pension over time;
- III. Adequacy and retention of the recognition of the level of contribution during service period, thus, ensure review whenever salaries are reviewed; and
- IV. Adjustment of pension to match the changes in the cost of living.

The available relevant international, regional, legal, policies, and institutional frameworks on older persons should be used to guide the development of the Policy. These to include information and principles from the following international and regional instruments:

- Universal Convention of Human Rights – 1948;
- African Charter of Human and People's Rights;
- International Covenant on Economic, Social and Cultural Rights (ICESCR) – 1966;
- UN Declaration on the Right to Development – 1986;
- The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) – 1979;
- The Convention on the Rights of the Child (CRC) – 1989;
- International Labour Organization Conventions (Various which are relevant);

- UN Standards Rules on Equalization on Opportunities for Persons with Disabilities – 1992;
- UN Plan of Action on Ageing – 1982;
- UN Principles for Older Persons – 1991;
- UN Proclamation on Ageing – 1992;
- UN Plan of Action on Ageing – 2002;
- AU Policy Framework on Ageing – 2002.

Using the international instruments will be in line with the provision of the Constitution of Kenya 2010, which states that any Treaty or Convention ratified by Kenya, shall form part of the Laws of Kenya.

Similarly, the recommendations/ resolutions of the following Government appointed salary review Commissions, Committees and Parliamentary Resolutions, should influence/ inform the Policy:

- I. The Ndegwa Commission, 1970;
- II. Ramtu Commission, 1985;
- III. Sessional Paper No. 3 of 1985;
- IV. Proposed amendment to the Pension (increase) Act. 1996 Bill;
- V. Munene Committee, 1997;
- VI. Kipkulei Commission on Harmonization, 1998/1999;
- VII. The Musila Bill of 2005;
- VIII. Public Sector Remuneration and Benefits Policy Framework, June 2015; and
- IX. Public Sector Remuneration and Benefits Policy, June 2015.

All the above documents have in unison recommended that, ***“whenever there are salary adjustments in public sector, pensions should also be adjusted”*** and promptness in payment of pensions. A critical aspect that should be captured in the Policy. There are other information available in these documents which could be useful for incorporation in the proposed Policy.

The need for a Comprehensive Pension Policy cannot therefore, be denied. Without a coherent and comprehensive framework to guide different departments, sectors and agencies involved in processing and payment of pensions, substantial resources and efforts may continue to be

paid as pensions, without addressing the issues ailing the Public Service retirees thus, reflecting Government as a bad employer and adversely affecting ethical service provision of the serving personnel.

The National Assembly is therefore, hereby petitioned through the Committee to: accept the proposal for Development of a Comprehensive Pensions Policy; initiate; and ensure the same is accomplished.

***PETITIONS TO THE NATIONAL ASSEMBLY OF THE REPUBLIC OF KENYA
UNDER ARTICLES 37 AND 119 OF THE KENYA CONSTITUTION OF 2010,
PETITIONS TO PARLIAMENT (PROCEDURE) ACT OF 2012 AND THE
STANDING ORDERS 219-229, PART XXIII – PUBLIC PETITIONS – OF THE
NATIONAL ASSEMBLY***

**PETITION NO. 2: REPEAL/REVIEW/AMMENDMENT OF THE PENSIONS ACT
CAP. 189 AND PENSIONS INCREASE ACT CAP. 190 OF THE LAWS OF KENYA**

The need to amend/ repeal the provisions in the Pension Acts (Cap. 189) and the Pensions Increase Act (Cap. 190) is indeed long overdue and a call for action including the urgency, is not an exaggeration. For example, the Pensions Act has been in Kenya's statute books for 78 years, that is from 1942 when it was enacted by the colonial government and assented to by the Governor of the Kenya Colony and Protectorate. While the Pensions Increase Act, Cap. 190, of the laws of Kenya has been in Kenya's statute books since 1956 with a commencement date of 1st July, 1956. The Acts which were intended to enhance the welfare of the Public Service retirees, have become, through the provisions in the various clauses, the greatest hindrance to the improvement of the social welfare of the retirees.

The increased number of the Public Service retirees who are not drawing the 'living pension rate' or have slipped to pensions levels which are below poverty line, is indicative that it is time to have these Acts reviewed. It is however, noted that since independence in 1963, Kenya has not developed a Comprehensive Pension Policy which would provide a framework for review and on which all the Pensions Acts would be anchored. Another issue of great concern is that the pensions payable to public officers, is not protected under the Kenya Constitution, 2010.

The review/ repeal should aim to make these Acts compliant with the provisions of the Constitution of Kenya, 2010 particularly, Articles: 10 (2) (b); 21 (3); 27 (4); and 43 and the International Conventions, Recommendations and Resolutions on older persons, ageing and sustainable development. The review / repeal of the two Acts (Cap 189 and 190) is essential as the two are jointly applied in the management and administration of pensions and gratuities payable to the Public Service retirees.

The amendments to the two Acts of Parliament should be seen in terms of:

I. Short-term, that is within two years with minimal negative impacts if any; and

II. Long term and may involve repeal.

Tabulated here below are the proposed amendments to the Pension Act and the Pensions Increase Act, for ease of reference.

THE PENSION ACT (CAP. 189)

Section	Remarks/Comments/proposed Amendments
General across the Pensions Act Cap 189	There is the general application of male gender term to refer to the pensioner and female gender term to refer to the dependant spouse,
	<ul style="list-style-type: none"> • Edit and correct the terminology in the Act to reflect the current reality which accommodates both gender and comply with the provisions of the Constitution.
1. The role of the Presidency/ Executive	<p>(i) The role as specified in the Act is not compliant with the provisions in the Constitution on the functions of the President.</p> <ul style="list-style-type: none"> • Amend all the sections assigning the President responsibilities on administration of pension which are not in compliance with provisions in the Constitution.
2. Minimum and maximum Pensions Section 10	<p>(i) The minimum pension of Ksh. 2,000.00 was determined in 2007, the same has since been overtaken by inflation and the rising cost of living, making the pensioners earn below the specified poverty line.</p> <ul style="list-style-type: none"> • Amend the clause to read that “at any given time the minimum pensions payable will be adjusted to ensure the level is not below the specified poverty line figure”. <p>(ii) Due to rise in cost of living and inflation, the real value of money changes and so does the salary levels. Tying the maximum pension to the full pensionable emoluments drawn by the officer at the time of retirement, does not;</p> <p>a) Recognize the contribution of the officer and level of service given and thus, creates serious horizontal and vertical disparities and inequities.</p>

	<p>b) Makes the pensioners slip into poverty due to low inadequate levels of pension benefits payable.</p> <ul style="list-style-type: none"> • Amend the Clause to allow that the level of pension at any given time to be prorated to the current pensionable emoluments of the serving officers.
	<p>(iii) The rising rates of inflation and frequent changes in the cost of living is a reality that also seriously affects negatively the purchasing power and the standard of living of the Public Service pensioners.</p> <ul style="list-style-type: none"> • Review and insert provisions for the pension adjustments based on the cost of living.
<p>3. Pension, etc, May cease on bankruptcy and conviction 14 and 15</p>	<p>(i) Many pensioners have dependants relying on their pension. When it ceases on grounds of bankruptcy or conviction, the dependants are also by default punished.</p> <ul style="list-style-type: none"> • Review and amend Sections 14 and 15 to allow the dependants to continue drawing dependants pension in as in the case of death of the pensioner, to mitigate their suffering.
<p>4. Pensioner to be retained in service pending payment of pension/gratuity section 16(A)</p>	<p>(i) This Section reflects the provisions in the Musila Bill (Act No. 6 Section 2). The Section has however, not been implemented in full and officers continue to suffer due to delayed payment of pensions/gratuity.</p> <ul style="list-style-type: none"> • As the Government commits to implementation of provision, introduce some penalty to be imposed on the office causing the delay to compel adherence to the provisions of the law.
<p>5. Pensions to dependents on death of officer in service or on retirement</p>	<p>(i) The Pensions Act defines the dependant as a widow thus, in effect discriminating against a male spouse.</p>

- **Amend the Act to include male spouses as dependants upon the death of a pensionable officer.**

(ii) The pension is payable for five (5) years commencing on the death of the officer after which it stops. The assumption is that the dependant is not

a senior citizen and can fend for themselves. In most cases however, when an officer dies after attaining retirement age, the spouse is equally aged. Stopping the Dependants Pension after five (5) years may deny the dependant the only source of livelihood and push the dependant to abject poverty

- **Amend the Section to allow for the payment of the widows/widowers pension/gratuity for life as a means of social protection.**

(iii) It is observed that Section 13 of the Parliamentary Pensions Act, sub-section 3 has a similar provision as the recommended amendment.

- **Amend the Cap. 189 to incorporate the provision of payment of dependants (the spouse), pension for life, for equity purposes.**

- **Section 17(2) (a) of the Pensions Act, to be applicable all surviving spouses.**

6. Section 18 and 19

(i) The two Sections refer to male officers while within the Act it has not been explained that the usage of male gender refers to all genders.

- **Amend the Sections to enable female officers to be entitled to the same benefits.**

THE PENSION (INCREASE) ACT CAP. 190

Section	Remarks/Comments/Proposed Amendments
1. Section 3 of the Act; Date and rate of pension Increase	(i) The rate of increase of pension is pegged at the rate of three percent (3%) of the pension and is payable after every two (2) years on 1 st July. This:

(a) has not addressed the intension of shielding the Public Service retirees from sliding into poverty. For example, the inflation rate between 2013 and 2017 was averaged at 6.7 per cent per annum. To mitigate fully against the effects of this inflation, effective compensation should therefore, have been at 5.2 per cent per annum (6.7 per cent percent less the effective annual indexation of 1.5 per cent).

(b) Specifying a fixed percentage of pension increase in legislation, constrains any increase to address the changes in the cost of living, disparities and any inequity that may arise over time. As a result, the Government is unable to award a warranted higher increase to pensions.

(ii) The percentage increase has also proved negligible particularly to those with low monthly pensions. To effectively address the situation:

- **Amend Section 3 of the Act to:**

(a) *Protect the Public Service retirees from erosion of purchasing power by the cost of living and adopt the triennial pension increase, adjusted to the cost of living. This will be in line with the international guidelines on pension which states, “Unless pensions are adjusted in line with increases in real wages or other measures related to the overall cost of living, the standard of living of older persons will deteriorate and they may be subsequently pushed into poverty”.*

	<p>(b) <i>Provide for automatic pension review and increase whenever Public Sector salaries are reviewed and increased.</i></p>
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The proposed amendments are just highlights of the critical Sections in the Principal Acts Cap. 189 and Cap. 190. The Petitioners have not undertaken an in-depth analysis of the schedules. As the reviews are being made the schedules be looked at and appropriate amendments be undertaken to ensure there is no contradiction in the schedules.

**PETITIONS TO THE NATIONAL ASSEMBLY OF THE REPUBLIC OF KENYA
UNDER ARTICLES 37 AND 119 OF THE KENYA CONSTITUTION OF 2010,
PETITIONS TO PARLIAMENT (PROCEDURE) ACT OF 2012 AND THE STANDING
ORDERS 219-229, PART XXIII – PUBLIC PETITIONS – OF THE NATIONAL
ASSEMBLY**

**PETITION NO. 3: ONE-OFF REVIEW TO ENHANCE PENSIONS PAYABLE TO
PENSIONERS WHO RETIRED PRIOR TO 2005 IN LINE WITH THE
RECOMMENDATIONS OF SALARIES AND REMUNERATION COMMISSION IN
2015**

The Kenya Association of Retired Officers (KARO) notes that currently there are two (2) groups of Public Service pensioners under the defined benefits pension scheme, namely those who retired:

- I. Before 2005, characterized by extremely low pensions based on low salaries prior to retirement, and thus, very low monthly pensions; and
- II. After 2005 whose monthly pensions are substantially higher and who benefitted from improved salaries and benefits, following the implementation of the Kipkulei Harmonization Commission Report.

The Sustainable Development Goals and the International Labour Organization, declared that pension is an essential part of social protection. When the cost of living rises and there is no equivalent increase in pensions, it reduces purchasing power of retirees, thereby putting them at risk of sliding into poverty.

Presently, in Kenya the number of Public Service retirees who are pensioners exceeds 220,000 persons and according to available information, about 25 per cent of them earn KHz. 4,000/= per month, which is below the calculated (Kenya National Bureau of Statistics) poverty line of Kshs. 4,624/- per month. The pensioners drawing pension above the poverty line figure are also progressively slipping towards absolute poverty, due to the erosion of their pensions by inflation. Since 2005, inflation compensation for pensions is indexed at 3 per cent, every two years, which on average is 1.5 per cent per annum. Between 2013 and 2017 for example, inflation was averaged at 6.7 per cent per annum. Effective compensation for this period that would have enabled the pensioners to retain their purchasing power should therefore, have

been an increase by 5.2 per cent per annum (i.e, 6.7 per cent percent less the effective annual indexation of 1.5 per cent), to mitigate fully against rise in inflation.

Further, an important consideration on adequacy of pensions, is the ability to retain the purchasing power and real value. It is however, noted that on the issue of adequacy, the current

average pension is relatively very low, especially for pensioners who retired before 2005, due to minimal economic growth between 1991 and 2005. During this period there was no major salary review or pension increase. The pensionable emoluments used to calculate pensions was therefore, very low making the resultant pension payable to these retirees very little.

Consequently, the current 3 percent pensions increase bi-annually, for those who retired before 2005, has no significant impact and pensioners are not drawing a living pension. The officers who retired after 2005 are however, drawing a reasonable pension, reflecting the increase in the salaries which were effected after 2005.

It is also noteworthy, that over the years, salary of the serving civil servants has been reviewed without the corresponding review of the pensions, overlooking the recommendations of the past Government appointed Commissions and Committees which repeatedly recommended that, "any time there is salary adjustments in public sector, pensions should be adjusted accordingly". The Salaries and Remuneration Commission (SRC) Report of 2014 noted that due to the absence of regular increases to salaries and pensions before 2005, the purchasing power of the pensioners has been severely eroded. In 2015, following an actuarial study, SRC recommended to Government a one-off pension review for this group of Public Service retirees, to address the inadequacy, disparity and inequity. These recommendations however, have not been implemented.

As a result, presently there are instances where pensions of Public Service retirees who served in lower positions are higher than for those who served in more senior positions but retired years earlier. Similarly, persons who held same grade and responsibilities, depending on the date of retirement, are drawing extremely disparate monthly pensions.

In the absence of a Cost of living Adjustment (COLA) policy as relates to pensions, pensioners have continued to be exposed to income insecurity, as they suffer from erosion of their purchasing power, at a time when they are elderly, leading to destitution and indignity.

KARO therefore, petitions the Parliamentary Committee for:

- I. Adoption and implementation of the Salaries and Remuneration Commission's recommendations that;**
- (a) The existing framework for review of pensions payable in respect of Public Service under the Pensions Act (Cap. 189) and Pensions Increase Act (Cap. 190), be amended to make provision for additional discretionary pension increases over and above those provided in the Pensions Act Cap 189 and Pension Increase Act (Cap 190),**
 - (b) one-off review of the monthly pension benefits for those who retired before 2005 when the salaries were adjusted, be implemented, and**
 - (c) The Government pensioners be protected from being pushed into extreme poverty by the erosion of their pensions, due to inflation and cost of living. The annual pension increase should therefore be based on inflation rate corresponding to the prevailing cost of living and indexed to a measure of cost of living;**
- II. Establishment of equity in pension payments and bridging of the gap between the current average pension for those who retired before 2005 and those who retired after 2005, to ensure socio-economic justice and protection;**
- III. Adoption and implementation of the recommendations of past Government appointed Commissions and Committees that; *"Whenever public-sector salaries are reviewed and increased, the same should apply to pension benefits."***

**PETITIONS TO THE NATIONAL ASSEMBLY OF THE REPUBLIC OF KENYA
UNDER ARTICLES 37 AND 119 OF THE KENYA CONSTITUTION OF 2010,
PETITIONS TO PARLIAMENT (PROCEDURE) ACT OF 2012 AND THE STANDING
ORDERS 219-229, PART XXIII – PUBLIC PETITIONS – OF THE NATIONAL
ASSEMBLY**

**PETITION NO. 4: INCLUSION OF GOVERNMENT PENSIONERS IN THE “INUA
JAMII” 70 YEARS AND ABOVE CASH TRANSFER PROGRAMME**

About 45.9% of the population in Kenya is estimated to be living under the poverty line. Older Persons constitute a sizeable percentage of this segment of the population of the poor in the Country. In response to the situation, Kenya has already mainstreamed the international and regional policies and plan of actions on older persons and ageing, into its laws and development agenda. Records show that by the year 2014, 88% of the total Government spending on social protection was channeled to Public Service pension while the remaining Government financing was allocated to safety nets, especially to social cash transfers locally referred to as INUA JAMII.

INUA JAMII, comprises of specific social protection programmes, implemented by the Government, which include social assistance, and comes in form of cash transfers that target Older Persons, persons with severe disabilities and orphans and vulnerable children. Other forms of assistance include financial assistance in form of grants, food subsidies, and orsaries. INUA JAMII is the Government of Kenya’s (GoK’s) flagship National Safety Net Programme (NSNP). The objective of INUA JAMII is to uplift the lives of poor and vulnerable citizens of Kenya through regular and reliable bi-monthly cash transfers. “INUA JAMII 70 years and above Cash Transfer Program” was launched in 2017 but actual payments commenced in March, 2018 with a regular bi-monthly cash transfers of Kenya shillings four thousand (KES. 4,000/00). The Public Service retirees regardless of how deserving the case may be, are not beneficiaries in this Programme.

The INUA JAMII also has a Health, HIV and AIDS component. It takes cognisance of the fact that Older persons’ health is influenced by life-long experiences which include upbringing, nutritional status, occupation in active life, housing, access to health services,

water, sanitation, income levels and the challenges of HIV and AIDS. This component of INUA JAMII is not availed to the Public Service retirees. Majority of these retirees, based on the level of their pension, cannot however, afford to pay for the cost of healthcare services coverage, which is an essential benefit of promoting national prosperity and is currently being availed to other older persons who were not former employees of the Government:

Information available indicates that initial plan of the Ministry of Labor and Social Protection was to have a component of the INUA JAMII programme as “*A Universal Pension Scheme*” for older persons aged 70 years and above without exception. Later as the programme was rolled out, it emerged that Public Service pensioners were excluded from the Program, for reason that they were receiving a monthly pension from the same Government. Although Social Protection Policy’s main objective is to promote the inclusion of older Persons in poverty reduction policies, programmes, strategies and national budgeting processes, a sizeable number of Public Service retirees have been left out by virtue of drawing a pension and they languish in poverty. The situation is worse amongst older Public Service pensioners who retired prior to 2005, drawing a pension level below poverty line and therefore, living in abject poverty.

Part of the reasoning for none inclusion of Public Service retirees in the programmes, has been the marked increase in the Government expenditure on pension. The fact however, is that the growth is not as a result of the level of pension but rather the number of persons retiring from the Service. It is also observed that when Public Service pension is analyzed as a component of social protection scheme, most analysts look at the levels of Government expenditure and not adequacy of the pension. This has led to a number of policies and programmers meant for cushioning the poor, not being extended to the Public Service retirees, although 25% of these retirees earn pensions that are below poverty line.

It has however, been established that there are a number of non-Public Service pensioners who are in receipt of the payments in the INUA JAMII Programme. For parity of treatment and equity, it is only fair and just that once the public servants retire and the levels of pension payable is low, that they are not left out of the social protection programmers. Their being former Government employees on pension, should therefore, not be a criteria for

excluding them from the needed benefit. They equally suffer from effects of poverty as well as diseases such as diabetes, cancer, and hypertension. Their inclusion will mitigate some of the current suffering.

It is evident that there are some gaps in the Policies' implementation. The various measures put in place to address the growing concerns of the elderly, inadequately cover the Public Service retirees. The major inadequacy is in not comprehensively analyzing the Public Service retirees, regarding the large variation in their: social; cultural; economic and other resource endowment, if any; health; and professional/technical capabilities, after retirement.

It assumes that the pension is adequate and the support therefore, targets the older people not earning formal income and are in the below poverty line category. The reality is that for a reasonable number, the pension offered is too low to adequately meet their basic needs.

KARO therefore, petitions the Parliamentary Committee to draw the attention of the House to existing discrimination against the Public Service retirees in the current Social Protection Policy and request that:

- I. The principle of equity and fair play should be exercised with respect to the implementation of INUA JAMII Programme;**
- II. The Social Protection Policy be expanded and programmes developed to include Public Service retirees;**
- III. The State to introduce universal social protection in form of cash transfer to all citizens 70 years and above, upon application and proof that the person is living below poverty line; and**
- IV. Appropriate legal and policy framework be put in place.**

***PETITIONS TO THE NATIONAL ASSEMBLY OF THE REPUBLIC OF KENYA
UNDER ARTICLES 37 AND 119 OF THE KENYA CONSTITUTION OF 2010,
PETITIONS TO PARLIAMENT (PROCEDURE) ACT OF 2012 AND THE STANDING
ORDERS 219-229, PART XXIII – PUBLIC PETITIONS – OF THE NATIONAL
ASSEMBLY***

**PETITION NO. 5: PROVISION OF FREE AND SUBSIDIZED
COMPREHENSIVE HEALTH CARE SERVICES FOR GOVERNMENT
PENSIONERS AT ALL PUBLIC HEALTH INSTITUTIONS IN KENYA
UNDER THE UNIVERSAL HEALTH COVERAGE (UHC).**

The levels of pensions and the cost of healthcare services, has made it impossible for the many retirees to access quality healthcare services. Throughout their working life, most people enjoy good health and productive capacity. Upon retirement, they become impoverished and in most cases are unable to afford quality healthcare services. For example; on average, the lowest charges for doctor's consultation fee before purchase of medicine is KSh. 2,500 (per session) more than half the lowest monthly pension which is about KSh. 4,000.

This is not only frustrating but quite challenging for the Public Service retirees, coming from a background where before retirement the Government had provided a comprehensive Medical Cover. The frustration is compounded by the fact that the Health Care Insurance providers, discriminate against the aged and deny coverage beyond a certain age or impose very high and thus, unaffordable premiums. Many of the retirees suffer from incommunicable chronic diseases, namely; diabetes, high blood pressure and cancer. In the absence of a medical cover by the Government, like all other elderly citizens, the burden of healthcare for pensioners which is on self, compel them to borrow funds or sell family assets, including houses they live in, to offset crippling medical bills. This has driven many pensioners deeper into poverty and destitution.

The burden of poverty, diseases and subsequent medical bills, leave the retirees and their families desperate and resource poor. Consequently, by not providing health care services for the retirees, Kenya compromises its achievement of the Sustainable Development Goals and Vision 2030 on healthcare and contravenes Article 43 (1a) of the Constitution of Kenya.

KARO appreciates the fact that Government has already identified health services as one of its four pillars of socio-economic development, based on realization that access to healthcare services is a major challenge to many Kenyans, especially the aged retirees. The aspect of health is well articulated in the Policy document of Kenya Social Protection, 2011 where it is stated that there is “need to provide mandated post-retirement healthcare coverage, as most retirees will not be able to afford the voluntary contribution made to the NHIF...” It further recognizes that “many retirees, especially those dependent on pension benefits alone, cannot afford to meet the cost of medical care”.

From the World perspective, the need for access to quality healthcare services has been emphasized in several reports and articles including the ILO reports and in particular the Kenya’s implementation status analysis on the Cash Transfer Programme. It states that the healthcare needs of the poor will continue to dominate the consumption patterns, since they experience higher incidences of illness due to the poor living conditions. The reports recommend that access to quality and affordable healthcare services, for the poor and elderly, ought to be taken up by the State as it is a major challenge, especially when they are aged and dependent. This will enhance social protection of the elderly retirees.

KARO, humbly petitions the National Assembly of the Republic of Kenya through the Parliamentary Committee that quality healthcare services for Public Service retirees be made an essential benefit and access to quality healthcare services or health insurance component be included as part of the pension benefits for Public Service retirees. KARO therefore, calls upon the Parliamentary Committee to initiate and Parliament to pass:

- I. Introduction of a healthcare services scheme under the NHIF, for the Public Service retirees. As an immediate measure, priority be given to those retirees drawing a monthly pension of Kshs. 5,000/= and below;**
- II. A waiver for the NHIF monthly payments of Kshs. 500/= be made for the Public Service retirees;**
- III. Subsidy be given to make the premiums affordable to retirees who have opted to purchase insurance cover under the NHIF.**

This will ensure compliance with the international Convention and Article 43, Section (1)(a) of the Constitution of Kenya, 2010 on Economic and Social Rights, which provides

for the right *“to the highest attainable standard of health which includes the right to healthcare services”*

**PETITIONS TO THE NATIONAL ASSEMBLY OF THE REPUBLIC OF KENYA
UNDER ARTICLES 37 AND 119 OF THE KENYA CONSTITUTION OF 2010,
PETITIONS TO PARLIAMENT (PROCEDURE) ACT OF 2012 AND THE STANDING
ORDERS 219-229, PART XXIII – PUBLIC PETITIONS – OF THE NATIONAL
ASSEMBLY**

CONCLUSION

KARO as petitioners wish in conclusion to state that:

I. To the best of our knowledge the issues covered in these Petitions are not pending before any law or constitutional or legal body.

II. We therefore, humbly pray that:

(a) The Petition be dealt with immediately in view of the urgency and the gravity of the issues raised herein and the National Assembly of the Republic of Kenya initiates and ensures;

- 1) **The Development of a Comprehensive Pensions Policy,**
- 2) **Review /Repeal / Amend the Pensions Act, Cap.189, Pensions Increase Act, Cap.190 to facilitate payment the one –off pension review and also to comply with the Constitution of Kenya, 2010,**
- 3) **The implementation of recommendation of a one –off increase of pension to Public Service retirees who retired prior to 2005 as a matter of urgency to alleviate the suffering these pensioners are going through,**
- 4) **The introduction of regular pensions review based on Cost of living Adjustment (COLA) where the review is capped at inflation rate and corresponds to the cost of living for the level of pension payable to be indexed to a measure of cost of living,**
- 5) **Adoption and implementation of the recommendations of past Salaries Commissions and Committees that “Whenever public-sector salaries are reviewed and increased, the same should apply to pension benefits.”**
- 6) **Application of the principle of equity and fair play in the implementation of INUA JAMII Programme, by expanding the Social**

Protection Policy and developing programmes that include Public Service retirees within appropriate legal and policy framework,

- 7) Introduction of a healthcare services scheme under the NHIF, for the Public Service retiree and waiver of the NHIF monthly, payments of Kshs. 500/=.**
-

Signed on Behalf of Petitioners, KENYA ASSOCIATION OF RETIRED OFFICERS (KARO)

**IBRAHIM M. HUSSEIN, EBS
CHAIRMAN
KENYA ASSOCIATION OF RETIRED OFFICERS**

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REPUBLIC OF KENYA



DD cutter
24/11

**MINISTRY OF LABOUR AND SOCIAL PROTECTION
OFFICE OF THE CABINET SECRETARY**

Tel: +254 (0) 2729800/2727980-4
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When replying, please quote

Social Security House, Bishops Road
P.O. Box 40326/16936 - 00100
Nairobi
KENYA

Ref. ML&SP/SP/37/5

24th November, 2020

Michael R. Sialai, EBS

Clerk to the National Assembly,
Clerk's Chambers, National Assembly
Parliament Buildings
P. O. Box 41842-00100

NAIROBI

Dear, *Michael*

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25/11

**RE: DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE: PUBLIC
PETITION REGARDING THE WELFARE OF PENSIONERS IN KENYA**

Reference is made to your letter Ref: NA/DCLSW/2020(082) on the above subject matter.

Kindly find attached the responses to a petition by the Kenya Association of Retired Officers (KARO) regarding "Inclusion of government pensioners in the Inua Jamii Program".

Yours

Simon K. Chelugui
CABINET SECRETARY

NATIONAL ASSEMBLY
RECEIVED
25 NOV 2020
CLERK'S OFFICE
P. O. Box 41842, NAIROBI

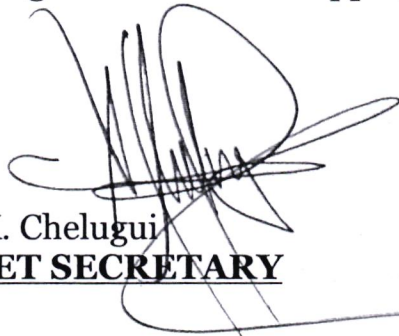
Deputy Director/In-charge
RECEIVED
26 NOV 2020
Directorate of Departmental Committees

The Kenya National Bureau of Statistics (KNBS), Kenya Population Census 2019 results, indicate that Kenya has 1,194,464 citizens aged 70 years and above. Currently, a total of 833,129 Older Persons have been enrolled and are benefiting in the Older Persons Cash Transfer Programme. Based on the KNBS 2019 Census statistics, it means that presently, approximately 361,464 older persons aged 70 Years and above are not covered by the Inua Jamii Programme. This group includes those who are in the various pension schemes and those capable of taking care of themselves.

However, the Ministry has made budget projections for the enrolment of 250,000 older persons aged 70 Years and above in the next financial year (FY2021/2022) subject to availability of resources.

Due to inadequate budgetary provision, all Government pensioners have been excluded from benefiting into this programme, the reason being that, by their inclusion they would be receiving double benefits. The available resources are currently dedicated to the poor and vulnerable senior citizens who have no other alternative source of income. **Additionally, the government has conducted a through payroll cleansing of Inua Jamii program by removing all deceased beneficiaries, ineligible beneficiaries and pensioners enrolled in the program.** This will create opportunities for registration and enrollment of more deserving citizens.

Further to this, the Ministry is working to establish links with all different pension schemes countrywide to enable it identify and validate all persons on various pensions schemes for ease of reference and eliminating cases of double dipping.



Simon K. Chelugui
CABINET SECRETARY



REPUBLIC OF KENYA

**MINISTRY OF LABOUR AND SOCIAL PROTECTION
STATE DEPARTMENT FOR SOCIAL PROTECTION**

**PETITION TO NATIONAL ASSEMBLY UNDER THE KENYA
CONSTITUTION OF 2010, PARLIAMENT PROCURE ACT OF
2012 AND STANDINGS ORDERS 219-229: PUBLIC
PETITION REGARDING THE WELFARE OF PENSIONERS
IN KENYA**

**Petition (iv): Inclusion of Government Pensioners in the
Inua Jamii 70 years and above Cash Transfer
Programme.**

The Government of Kenya is currently implementing three Inua Jamii cash programmes namely: Older Persons' Cash Transfer, Orphans and Vulnerable Children's Cash Transfer and Persons with Severe Disability Cash Transfer. The Government carried out a nationwide registration of Senior Citizens aged 70 years and above during the months of July and August, 2017.

The criteria for identification and registration of Older Persons aged 70 years and above to be enrolled into the Consolidated Cash Transfer programme in all the constituencies countrywide are that the Older Person:

- a) Must be aged 70 years and above;
- b) Must be a Kenyan Citizen;
- c) Must have a valid National Identification Card; and
- d) Must not be benefiting from any other Government Safety Net Programme including pensions.**

The Government's intention is to cushion all elderly persons aged 70 years and above through regular and predictable cash transfers through the Inua Jamii Cash Transfer Programme.

REPUBLIC OF KENYA



THE NATIONAL TREASURY & PLANNING

BRIEF FOR THE CABINET SECRETARY, THE NATIONAL TREASURY & PLANNING FOR THE MEETING WITH THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON 25TH NOVEMBER, 2020 AT RUWENZORI HALL, KICC.

PETITION NO.1: DEVELOPMENT AND IMPLEMENTATION OF A COMPREHENSIVE PENSIONS POLICY FOR PUBLIC SERVICE IN KENYA

The petitioners aver that the pension legislation in Kenya and the circulars that been released from time to time have not however, fully incorporated the provisions of the in the international instruments, the Constitution of Kenya and Vision 2030. It is the conviction of KARO, that Kenya needs to develop a coherent and comprehensive framework for guiding the payment of pension benefits to retirees. KARO therefore, petitions for the development of a comprehensive policy that would ensure the incorporation of provisions of the relevant conventions, recommendations and statutes and subsequently the social protection of pensioners.

THE NATIONAL TREASURY RESPONSE:

The National Treasury acknowledges that the retirement benefits sector plays an important socio-economic role in enhancing resource mobilization for economic development. The attainment of this goal requires an enabling legal and regulatory infrastructure that supports retirement benefits reforms. A National Retirement Benefits Policy provides a framework for the provision and management of retirement benefits in a country. It provides policy guidelines to ensure development, growth, coordination and enhanced adequacy, and sustainability as well as coverage of retirement benefits.

The retirement benefits sector has achieved tremendous results in terms of growth and governance structures, following the retirement benefits reforms. However, the sector still lacks a comprehensive retirement benefits policy for proper coordination, governance and development. Consequently, the legislative and policy agenda is fragmented and uncoordinated. In addition, a majority of Kenyans remain uncovered with the retirement benefits coverage at about 18.2 percent of the recorded employment. The retirement benefits adequacy is also low and below the recommended ILO standard of 40 percent income replacement rate.

below
ILO

Draft Policy

The Government through key stakeholders has developed a draft National Retirement Benefits Policy in line with the Government's larger financial and pension inclusion agenda.

The main objective of this policy is to provide a framework to guide the coordination, good governance, development and growth of the retirement benefits sector to ensure income security in old age for all workers by ensuring affordable, adequate, and sustainable retirement benefits.

mass

The specific objectives include:

- a) Widen the scope and retirement benefits coverage for both the formal and informal sector workers;
- b) Provide for coordination in the existing legal and regulatory framework including national, regional and global collaboration.
- c) Institute a mechanism of good governance and sustainability of the retirement benefits system.
- d) Promote and facilitate the portability of retirement benefits.
- e) Promote and facilitate innovation in the retirement benefits sector.

We are alive to the fact that the draft National Retirement Benefits Policy contain gaps that require to be addressed for purposes of making the policy comprehensive and address all the needs of the sector. Towards this end we floated a tender for consultancy on the finalization of the policy. Evaluation has been done and we expect to soon award the World Bank funded tender. There will be public participation during the process of formulating this policy as a requirement of the Constitution of Kenya 2010. The policy will address most of the issues raised in the petition by KARO.

→ any deadline.

PETITION NO. 2: REPEAL/REVIEW/AMMENDMENT OF THE PENSIONS ACT CAP 189 AND PENSIONS INCREASE ACT CAP 190 OF THE LAWS OF KENYA

The petitioners aver that the pension laws are archaic and need to be reviewed to accord with various provisions of the Constitution of Kenya 2010 particularly Articles 10(2) (b); 27 (4) and 43 and the various international conventions, recommendations and resolutions on older persons ageing and sustainable development. They note that the Pensions Act Cap 189 and the Pensions Increase Act Cap 190 of the Laws of Kenya which were intended to enhance the welfare of public service retirees have become the greatest hindrance to the improvement of the social welfare of retirees. They also contend that the pension payable to public servants is not protected under the Constitution of Kenya 2010.

THE NATIONAL TREASURY RESPONSE:

The National Treasury & Planning is desirous to review of both Acts to identify areas that may need amendment to conform to the Constitution of Kenya 2010. In view of dynamism of the law, review of the pension laws just as other laws, is necessary from time to time.

	<p>to the full pensionable emoluments drawn by the officer at the time of retirement does not:</p> <p>Recognize the contribution of the officer and the level of service given and thus creates serious horizontal and vertical disparities and inequities and makes pensioners slip into poverty due to low inadequate levels of pension benefits payable</p> <p>REC: Amend the clause to allow that the level of pension at any given time to be prorated to the current pensionable emoluments of the serving officers</p> <p><i>Prorate basic</i></p> <p><i>of actual</i></p>	<p>The current public service pension scheme is an unfunded defined benefit scheme with a formula that provide for up to 100% replacement ratio of a members pensionable emolument as maximum benefit. This is a generous formula compared to other jurisdictions and therefore one cannot earn a pension above his salary since this is an unfunded scheme.</p>
<p>3. Pension, etc, May Cease on Bankruptcy and Conviction 14 and 15</p>	<p>Many Pensioners have dependants relying on their pension. When it ceases on grounds of bankruptcy or conviction, the dependants are also by default punished:</p> <p>REC: Review and amend sections 14 and 15 to allow dependants to continue drawing dependants pension as in the case of death of a pensioner, to mitigate their suffering.</p>	<p>These are infrequent occurrences. We concur that the sections may be amended to make it automatic for dependants to continue drawing pension as long as it is not in contravention of any other law.</p>
<p>4. Pensioner to be retained in service pending payment of pension/gratuity</p>	<p>This section reflects the provisions in the Musila Bill (Act No. 6 Section 2). The Section has however not been implemented in full and officers</p>	<p>The pension payment process involves three parties, the pensioner, employer and the Pensions Department. Delays</p>

1. THE PENSIONS ACT CAP 189

SECTION	PROPOSED AMMENDMENT	REMARK/RESPONSE
<p>General Across</p> <p>The Pensions Act Cap 189</p>	<p>There is a general application of male gender term to refer to the pensioner and female gender term to refer to spouse.</p> <p>REC: Edit the correct terminology in the act to reflect the current reality which accommodates both gender and comply with provisions of the constitution.</p>	<p>We are in concurrence that the male and female gender should be treated equally under the Act without discrimination in compliance with the Constitution of Kenya 2010.</p> <p><i>Timothius for review</i></p>
<p>1. The Role of the Presidency</p>	<p>The role as specified in the Act is not compliant with the provisions in the constitution on functions of the President.</p> <p>REC: Amend the sections assigning the President responsibilities on administration of pension which are not in compliance with the Provisions in the Constitution.</p>	<p>The powers of the President in the Act have been delegated to the Cabinet Secretary and in turn to the Secretary/Director of Pensions for administrative purposes.</p>
<p>2. Minimum and Maximum Pension (Section 10)</p>	<p>The Minimum pension of Kshs.2000 was determined in 2007, the same has since been overtaken by inflation and the rising cost of living, making the pensioners earn below the specified poverty line.</p> <p>REC: Amend Clause to read that '<u>at any given time the minimum pension payable will be adjusted to ensure the level is not below the specified poverty line figure</u>'</p> <p>Due to rise in cost of living and inflation, the real value of money changes and so does the salary levels. Tying the maximum pension</p>	<p>The pension increase was determined actuarially and approved by the Cabinet. There will be need to carry out an actuarial evaluation to determine the cost implication.</p>

		Superannuation Scheme in which dependants will be getting dependants pension for life depending on the annuity a member buys. It may be noted that the Parliamentary Pensions Act Cap 196 and the Widow's and Children's Pensions Act Cap 195 are contributory schemes in which widows' pension is payable for life contrary to the pensions act cap 189 which is unfunded.
6. Section 18 and 19 of the Pensions Act Cap 189.	The two sections refer to male officers while within the Act it has not explained that usage of male gender refers to all gender REC: Amend the Section to enable female officers to be entitled to the same benefits	We concur with the proposed amendments that seeks to make spouses of either gender to be entitled to Killed on Duty benefits for dependants.

2. THE PENSIONS INCREASE ACT CAP. 190

SECTION	PROPOSED AMMENDMENT	NATIONAL TREASURY RESPONSE
Section 3 of the Act; Date and rate of pension Increase	The rate of increase is pegged at the rate of three per cent (3%) of the pension and is payable after two years on 1 st July. REC: Amend Section 3 of the Act to: a). Protect public service retirees from erosion of purchasing power by cost of living and adopt the triennial pension increase adjusted to the cost of living. b). Provide for automatic pension reviews and increase whenever public sector salaries are reviewed and increased.	The National Treasury concurs that the annual indexation of pension is lower than the average inflation rate to fully mitigate the impact of inflation. The proposals requires to be subjected to an actuarial evaluation to determine the cost implications to inform changes to the current pension increase policy.

<p>section 16 (A)</p>	<p>continue to suffer due to delayed payment of pension/gratuity</p> <p>REC: As the Government commits to implementation of provision, introduce some penalty to be imposed on the office causing the delay to compel adherence to the provisions of the law.</p>	<p>may be occasioned by any of the parties for various reasons. The Government is addressing the issue in a multifaceted way through the procurement of a robust pension system that will allow for online filing of pension claims by Ministries, Departments and Agencies (MDAs) to improve efficiency.</p> <p>The National Treasury has enhanced the interagency collaboration by posting staff to verify pension claim at source and enrolling them in the pension system as in the case of TSC and National Police service.</p>
<p>5. Pensions to dependant on death of officer in service or on retirement (Section 17)</p>	<p>The Pensions Act defines the dependant as a widow thus, in effect discriminating against a male spouse</p> <p>REC: Amend Act to include male spouses as dependants upon death of a pensionable officer</p> <p>It is observed that Section 13, Sub-Section 3 of the Parliamentary Pensions Act</p> <p>REC: Amend the Section 17 to allow for payment of the widow/widowers pension for life instead of five years as a means of social protection</p>	<p>We are in concurrence that Section 17 of the Act may be so amended</p> <p>This recommendation is not tenable since the current public service pension scheme under the Pensions Act Cap 189 is an unfunded defined benefit scheme. It may be noted that as of now, the monthly pension payroll stands at Kshs.3.7 billion. If dependants are to be paid for life, it is estimated that after 10 years on the factor of dependants pension alone the figure would have doubled making the scheme unsustainable. This has however been addressed in the new contributory Public Service</p>

THE NATIONAL TREASURY RESPONSE:

The Salaries and Remuneration Commission recommended a one off pension increase for officers who retired from the year 1991 and 2005. While it is true that the pensioners who retired between 1991 and 2005 draw low pensions derived from the low salaries paid at the time, it would be discriminatory to award an increase to just one category of pensioners. Those who retired before 1991 equally receive lower pensions. It may also be noted that thousands of teachers who retired between 1997 and June 2003 (a period within the recommended increment category) have had their pension reviewed pursuant to the 1997 Nakuru Teachers Case. In some of the instances some retired teachers had their pension doubled after the review.

It is therefore, our considered opinion that this matter be looked at wholesomely in order to provide a lasting solution on the pension increase and avoid a situation in which further disparities may be created in regards to pension pay outs for different categories of public service retirees.

PETITION NO. 4: INCLUSION OF GOVERNMENT PENSIONERS IN THE 'INUA JAMII' 70 YEARS AND ABOVE CASH TRANSFER PROGRAMME

The petitioners are seeking to have public service retirees earning pension to be included in the Inua Jamii Programme by virtue of drawing low pension.

KARO petitions the Parliamentary Committee to draw the attention of the House to existing discrimination against public service retirees in the current Social protection Policy and request that:

- i. The Principle of equity and fair play should be exercised with respect to implementation of INUA JAMII Programme;
- ii. The social protection policy be expanded and programmes developed to include Public Service retirees;
- iii. The State to introduce universal social protection in form of cash transfer to all citizens 70 years and above, upon application and proof that the person is living below the poverty line; and
- iv. Appropriate legal and policy framework be put in place

THE NATIONAL TREASURY RESPONSE:

The Inua Jamii programme was meant to assist the elderly and the most vulnerable members of the society who are not receiving any support from the Government. This is the reason why retirees of the public service who are recipients of pension from government coffers were not included as beneficiaries under the programme. This was meant to enable government reach out to the other needy members of the society.

It may be noted that most of the disparities mentioned in the two Acts have been addressed through the public service pension reforms that culminated in the enactment of the Public Service Superannuation Scheme Act, 2012 that establishes the Public Service Superannuation Scheme which commences on 1st January, 2021.

PETITION NO.3: ONE OFF REVIEW TO ENHANCE PENSION PAYABLE TO PENSIONERS WHO RETIRED PRIOR TO 2005 IN LINE WITH THE RECOMMENDATIONS OF SALARIES AND REMUNERATION COMMISSION IN 2015

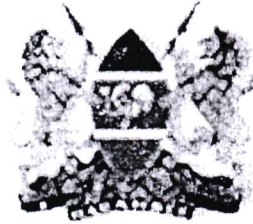
The petitioners note that currently there are two groups of Public Service pensioners under the defined benefit pension scheme namely those who retired;

- 1 Before 2005 characterized by extremely low pensions based on low salaries prior to retirement and thus very low pensions
- 2 After 2005 whose monthly pensions are substantially higher and who benefitted from improved salaries and benefits, following the implementation of the Kipkulei Harmonization Commission Report.

The petitioners note that when the rising cost of living is not matched with increase in pensions, it reduces purchasing power of retirees, thereby putting them at risk of sliding into poverty. They further note that about 25% of pensioners earn below Ksh.4,000/= per month which is below the calculated poverty line of Kshs.4,624.00 according to the Kenya National Bureau of Statistics.

The petitioners note that the Salaries and Remuneration Commission Report of 2014 noted that due to the absence of regular increases to salaries and pension before 2005, the purchasing power of pensioners have been severely eroded. In 2015 SRC recommended to Government a one-off pension review for this group of Public Service retirees, to address the inadequacy, disparity and inequity. KARO therefore petitioned the Parliamentary Committee for:

- i. Adoption of the Implementation of the Salaries and Remuneration Commission's recommendations that;
 - a) The existing framework for review of the pension payable in respect of Public Service under the pensions Act (Cap 189) and the Pensions Increase Act (Cap 190), be amended to make provision for additional discretionary pension increases over and above those provided in the Pensions Act cap 189 and Pensions Act (Cap 190)
 - b) One-off review of the monthly pension benefits for those who retired before 2005 when the salaries were adjusted, be implemented, and
 - c) The Government pensioners be protected from being pushed into extreme poverty by erosion of their pension, due to inflation and cost of living. The Annual pension increase should therefore be based on inflation rate corresponding to the prevailing cost of living and indexed to a measure of cost of living
- ii. Establishment of equity in pension payments bridging of the gap between the current average pension for those who retired before 2005 and those who retired after 2005, to ensure socio-economic justice protection;
- iii. Adoption and implementation of recommendations of the past Government appointed Commissions and Committees that; whenever public sector salaries are reviewed and increased, the same should apply to pension benefits



DD Cnd/2021
24/11

MINISTRY OF HEALTH
OFFICE OF THE PRINCIPAL SECRETARY

Telephone Nairobi 2717077
Email: pshealthke@gmail.com

AFYA HOUSE
CATHEDRAL ROAD
P O Box 30016
NAIROBI

When replying please quote:

Ref. No. MOH/ADM/NA/01/93 VI/10

② Gindukha
TSA
26/11
24th November, 2020

Mr. Michael Sialai, EBS
Clerk to the National Assembly
P.O. BOX 41842-00100
NAIROBI.

Dear Michael

RE: DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE: PUBLIC PETITION REGARDING THE WELFARE OF PENSIONERS IN KENYA

Reference is made to your letter Ref. NA/DCLSW/2020/082 dated 18th November, 2020 on the above Subject requesting me to submit a comprehensive written response.

Attached herewith please find a comprehensive statement regarding the petition for your information.

Thank you for your understanding and continued support.

Yours Sincerely,

Susan Mochache, CBS
PRINCIPAL SECRETARY

NATIONAL ASSEMBLY
RECEIVED
25 NOV 2020
CLERK'S OFFICE
P. O. Box 41842, NAIROBI

Deputy Director/In-charge
RECEIVED
26 NOV 2020



ISO 9001:2015

PETITION NO. 5: PROVISION OF FREE AND SUBSIDIZED COMPREHENSIVE HEALTH CARE SERVICES FOR GOVERNMENT PENSIONERS AT ALL PUBLIC HEALTH INSTITUTIONS IN KENYA UNDER THE UNIVERSAL HEALTH COVER (UHC)

The petitioners note that the levels of pension and the cost of healthcare services, has made it impossible for many retirees to access quality healthcare when they need it most owing to prohibitive cost.

They note that the health care insurance providers discriminate against the aged and deny coverage beyond certain age or impose very high and thus, unaffordable premiums. This has resulted in pensioners paying for medical costs out of pocket and thus driving them deeper into poverty. KARO has petitioned Parliament for:

- i. Introduction of a healthcare services scheme under the NHIF, for the public Service retirees. As an immediate measure, priority be given to those retirees drawing a monthly pension of Kshs.5000 and below;
- ii. A waiver for NHIF monthly payment of the Kshs.500 be made for the Public Service retirees;
- iii. Subsidy be given to make the premiums affordable to retirees who have opted to purchase insurance cover under the NHIF

THE NATIONAL TREASURY RESPONSE:

of retirement health care
The Government is alive to the fact that post-retirement healthcare is a big challenge to retirees owing to their financial vulnerability compounded by aging. As a result, the Government for a start has developed a policy on Post-Retirement Health Insurance for officers in service which will be rolled out in due course to address this gap. When?

The NHIF is progressively developing packages targeted at different categories of citizens that is geared towards achieving the universal health cover for the majority of Kenyans.



HON. (AMB.) UKUR YATANI, E.G.H
CABINET SECRETARY/ THE NATIONAL TREASURY AND PLANNING



MINISTRY OF HEALTH

RESPONSE TO PUBLIC PETITION REGARDING THE WELFARE OF PENSIONERS IN KENYA.

BACKGROUND

Reference is made to a letter **Ref: NA/DCLSW/ 2020/ (082) and dated 18th November, 2020** inviting the Cabinet Secretary for a meeting to be held on Wednesday 25th November, 2020 to respond to issue raised in a petition regarding the welfare of pensioners in Kenya.

The following is the issue falling in the purview of the Ministry of Health and the corresponding response.

ISSUE

Provision of free comprehensive health cover for government pensioners

Response

Background and context

NHIF provides comprehensive medical covers to Civil Servants working in the National Government, County Governments employees, Kenya Police Service and National Police Service employees. The comprehensive medical covers are enhanced over and above the Supa Cover which is available for all NHIF contributors and their dependants.

Problem

The enhanced cover is only available to those in active service and upon retirement from the Civil Service this cover expires. Due to age related complications most retirees require a comprehensive medical cover.

For those retirees who are able to continue paying the monthly contributions of Kshs. 500 or an annual payment of Ksh.6,000, they have access to the National Scheme dubbed Supa Cover. The enhanced benefits are lacking in this scheme.

Solution

The establishment of a post-retirement medical scheme to which public servants can contribute while they are in service so that they can be covered comprehensively upon their retirement. Through the Legal Notice No.192 of 2018, Retirement Benefits Authority issued guidelines on Post-Retirement Medical Funds which would guide in the process of establishing post-retirement medical schemes for the public servants both at the National and County Governments. An example is a defined contribution scheme where an amount to be contributed to the post-retirement medical funds would be dependent on the number of years remaining to retirement and whether the Government would determine subsidies to the retirees.

Plans are underway to establish a post-retirement scheme. Towards this end, a survey was done for the Civil Servants in 2017 and on analysis it was found that about 85% of them were in support of having a post-retirement medical cover. An Inter-ministerial technical committee comprised of representatives from National Treasury, Ministry of Health, Insurance Regulatory Authority and Ministry of Labour and Social Services was then formed and has been spearheading the same.

Currently NHIF is managing a Comprehensive Medical Cover for Kenya Association of Retired Officers which covers over 1,300 retired public servants. With experience spanning over 54 years having more than 9.6 million members covered, the Comprehensive Medical Covers and even the Retired Officers

Medical Covers and the fully established systems, NHIF is well equipped to administer a post-retirement medical scheme for all public servants.

On inclusion of government pensioners in the **Inua Jamii** programme, The Ministries of Health and that of Social Protection have undertaken to include all elderly persons, irrespective of their previous place of employment to the **Inua Jamii programme**. This will include all pensioners who have attained the age of 70 years.



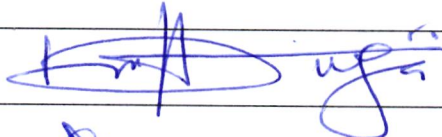

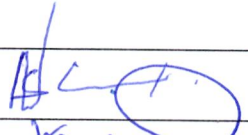
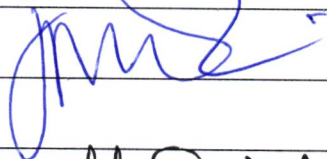
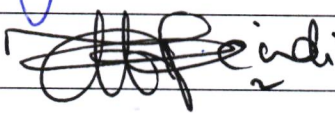
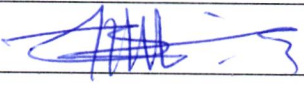

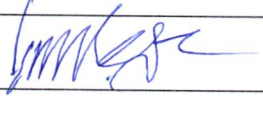

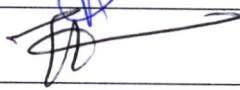
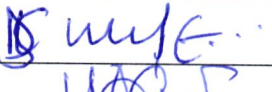

for, Sen. Mutahi Kagwe, EGH
CABINET SECRETARY

24TH NOVEMBER, 2020

**DEPARTMENTAL COMMITTEE ON LABOUR & SOCIAL WELFARE
REPORT ADOPTION SCHEDULE**

REPORT ON CONSIDERATION OF THE OF THE PETITION BY THE KENYA ASSOCIATION OF RETIRED OFFICERS ON IMPROVED TERMS FOR PENSIONERS IN KENYA.

DATE: 02/12/2020

No.	NAME	SIGNATURE
1.	The Hon. Peter Mwathi, MP – Chairperson	
2.	The Hon. Gideon Koske Kimutai, MP – Vice Chairperson	
3.	The Hon. Ronald Kiprotich Tonui, MP	
4.	The Hon. Janet Marania Teyiaa, MP	
5.	The Hon. Janet Nangabo Wanyama, MP	
6.	The Hon. James Onyango K'Oyoo, MP	
7.	The Hon. Rose Museo, MP	
8.	Hon. Moses Malulu Injendi, M.P	
9.	The Hon. Fabian Kyule Muli, MP	
10.	The Hon. Abdi Mude Ibrahim, MP	
11.	The Hon. Omboko Milemba, MP	
12.	The Hon. Safia Sheikh Adan, MP	
13.	The Hon. Tom Mboya Odege, MP	
14.	The Hon. Caleb Amisi, M.P	
15.	The Hon. Charles Kanyi Njagua, MP	
16.	The Hon. Titus Mukhwana Khamala, M.P	
17.	The Hon. Ole Sankok David, MP	
18.	The Hon. Wilson Sossion, MP	
19.	The Hon. Gideon Keter, M.P	

