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REPUBLIC OF KENYA


THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION

DEPARTMENTAL COMMITTEE ON LABOUR

REPORT ON THE STUDY VISIT BY THE DEPARTMENTAL
COMMITTEE ON LABOUR TO THE PARLIAMENT OF THE UNITED
REPUBLIC OF TANZANIA

4TH – 8TH SEPTEMBER 2023

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 21 FEB 2024	DAY: Wednesday
TABLED BY:	Hon. Peter Kihungi (Member, Labour Committee)
CLERK-AT THE-TABLE:	Modo

Directorate of Committee Services
Clerk's Chambers
National Assembly
NAIROBI

December 2023

TABLE OF CONTENTS

ABBREVIATIONS AND ACRONYMS 3

CHAIRPERSON'S FOREWORD 4

EXECUTIVE SUMMARY 6

PART 1 7

1.0. PREFACE 7

 1.1. Mandate of the Committee 7

 1.2. Committee Membership 8

 1.3. Committee Secretariat 9

 1.4. Justification for the Visit 9

PART 2 11

2.0. BACKGROUND TO THE VISIT 11

 2.1. Human Capital and Remuneration 11

 2.2 Occupational Safety and Health 13

PART 3 15

3.0. MEETINGS PROCEEDINGS 15

 3.1. Meeting with the Committee on Social Welfare and Community Development,
National Assembly of Tanzania 15

 3.2. Meeting with the Tanzanian Prime Minister's Office – Labour, Youth,
Employment and Persons with Disabilities (PMO-LYED) 16

 3.3. Meeting with the Tanzanian Occupational Safety and Health Agency (OSHA) 21

 3.4. Meeting with the Tanzanian Employment Services Agency (TaESA) 22

 3.5. Meeting with the Tanzanian Vocational Education and Training Authority
(VETA) 23

PART 4 26

4.0. COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS 26

 4.1. Committee's Observations 26

 4.2. Committee's Recommendations 27

ABBREVIATIONS AND ACRONYMS

CCM	-	Chama Cha Mapinduzi
EAC	-	East African Community
ILO	-	International Labour Organization
INTEP	-	Integrated Training for Entrepreneurship Promotion
MVTTC	-	Morongoro Vocational Teachers Training College
NITA	-	National Training Authority
NSSF	-	National Social Security Fund
OSH	-	Occupational Safety and Health
OSHA	-	Occupational Safety and Health Agency
PMO-LYED	-	Prime Minister's Office – Labour, Youth, Employment and Persons with Disabilities
PSSSF	-	Public Service Social Security Fund
RPL	-	Recognition of Prior Learning
SDL	-	Skills Development Levy
SEP	-	Skills Enhancement Programme
SRC	-	Salaries and Remuneration Commission
TVET	-	Technical and Vocational Education and Training
TDV	-	Tanzania Development Vision 2025
UHC	-	Universal Health Coverage
VETA	-	Vocational Education and Training Authority

CHAIRPERSON'S FOREWORD

The Constitution of Kenya, 2010 makes provision for comprehensive and progressive social and economic rights, which include labour rights, fair remuneration and reasonable working conditions under Article 41. These rights are underscored in crucial legislation such as The Employment Act (2007), Public Service Commission Act (2017), Labour Relations Act (2007), Salaries and Remuneration Commission Act (2011), and Occupational Safety and Health Act (2007), as well as establishment of the Directorates of Occupational Safety and Health Services (DOSHS), National Human Resource Planning and Development (DNHRPD), National Employment Authority (NEA), and National Industry Training Authority (NITA), among others.

Despite the aforementioned provisions, challenges still exist, such as weak linkages between education and training institutions, and industry; non-integrated industrial training and attachment system; lack of up-to-date labour market information; weak framework for provision of employment services; weak labour administration systems; and inadequate health and safety measures at workplace. In this regard, the Committee resolved to undertake a study visit to the United Republic of Tanzania in order to appraise itself with the operations of the counterpart Parliamentary Committee and government agencies that oversight matters labour, in an endeavor to come up with ways to deal with the aforementioned matters.

The Committee was represented by a delegation comprised of the following members-

- | | | |
|-----------------------------------|---|-----------------------------|
| 1. Hon. Leah Sopiato Sankaire, MP | - | Leader of Delegation |
| 2. Hon. Peter Irungu Kihungi, MP | - | Member |
| 3. Ms. Wambui Nyachae | - | Secretary to the delegation |

The delegation had a productive visit with various government bodies in Tanzania including the parliamentary committee and ministry responsible for labour matters, as well as government institutions overseeing employment services, occupational safety and health, and vocational education and training.

I would like to thank the Committee Members who participated in the benchmarking visit, appreciate the role played by the Office of the Clerk of the National Assembly in facilitating the visit, and commend the secretariat for providing technical and logistical support to the Committee.

On behalf of the Committee, I am pleased to present the Report of the Committee on the Study Visit by the Departmental Committee on Labour to the Parliament of the United Republic of Tanzania.

**HON. ERIC MUCHANGI KAREMBA, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON LABOUR**

EXECUTIVE SUMMARY

The Departmental Committee on Labour draws its mandate from Standing Order 216 of the National Assembly Standing Orders. The Committee is mandated to consider labour, human capital and remuneration, trade union relations and public service. The Committee investigates and inquires into matters and agencies under its purview as per its mandate and reports to the House. It also studies and reviews legislation, treaties and agreements under its purview. It monitors policies, estimates and status of implementation of the assigned Ministries, Departments and Agencies and reports to the House.

The Clerk of the National Assembly of Kenya, through a letter dated 1st August 2023, informed the Clerk of the National Assembly of Tanzania of the Committee's proposal to undertake a study visit to Tanzania, which was accepted via a letter dated 21st August 2023. The study visit aimed to provide an opportunity to learn applicable best practices in the following areas:

- i. *Human Capital and Remuneration and Public Service*: Enforcement of legislation, public bodies and facilities dealing with wages and resources, rationale for two social security funds (one for public officers and one for private employees), and maternity and unemployment benefits schemes;
- ii. *Occupational Health and Safety in Tanzania*: Best practices to monitor, oversight and implement health and safety in workplace. The use of technology in surveillance and enforcement, public awareness campaigns and best practices for enforcement.

The Committee engaged in exchanges with the Committee on Social Welfare and Community Development at the National Assembly of Tanzania; Prime Minister's Office – Labour, Youth, Employment and Persons with Disabilities; Employment Services Agency (TaESA); Occupational Safety and Health Authority (OSHA); and Vocational Education Training Authority (VETA).

The visit ultimately sought to provide understanding into the role of legislatures in monitoring enforcement of labour and public service laws and policies and highlight areas for policy review and law reforms to be taken up by the Kenyan National Assembly Committee on Labour.

PART 1

1.0. PREFACE

1.1. Mandate of the Committee

1. The Departmental Committee on Labour of the 13th Parliament was constituted on 27th October, 2022 and is established under provisions of Standing Order No.216., which grants the Committee, amongst other functions, to:
 - (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
 - (b) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
 - (ba) on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
 - (c) study and review all legislation referred to it;
 - (d) study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - (e) investigate and inquire into matters of the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - (f) 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);
 - (fa) examine treaties, agreements and conventions;
 - (g) make reports and recommendations to the House as often as possible, including recommendation of propose legislation;
 - (h) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - (i) examine any questions raised by Members on a matter within its mandate.
2. The Second Schedule of the Standing Orders on Departmental Committees further outlines the subjects of the Committee as follows-
 - (a) Labour;
 - (b) Human capital and remuneration;
 - (c) Trade union relations; and
 - (d) Public service.

1.2. Committee Membership

3. The Committee was constituted by the House on 27th October 2022 and comprises the following Members of Parliament:

Hon. Eric Muchangi Karemba, MP (**Chairperson**)
Runyenjes Constituency
UDA Party

Hon. Fabian Kyule Muli, MP (**Vice Chairperson**)
Kangundo Constituency
GDDP

Hon. James Onyango Oyoo, MP
Muhoroni Constituency
ODM Party

Hon. Ernest Ogesi Kivai Kagesi, MP
Vihiga Constituency
ANC Party

Hon. Richard Kiti Chonga, MP
Kilifi South Constituency
ODM Party

Hon. Joseph Samal Lomwa, MP
Isiolo North Constituency
Jubilee Party

Hon. George Aladwa Omwera, MP
Makadara Constituency
ODM Party

Hon. Catherine Wambiliaga, MP
Bungoma County
FORD-K

Hon. Amina Dika Abdullahi, MP
Tana River Constituency
KANU

Hon. Dorice Aburi Donya, MP
Kisii County
WDM-K

Hon. Patrick Simiyu Barasa, MP
Cherangany Constituency
DAP-K Party

Hon. Mangale Munga Chiforomodo, MP
Lunga Constituency
UDM Party

Hon. Peter Irungu Kihungi, MP
Kangema Constituency
UDA Party

Hon. Leah Sopiato Sankaire, MP
Kajiado County
UDA Party

Hon. Lilian Chebet Siyoi, MP
Trans Nzoia County
UDA Party

1.3. Committee Secretariat

4. The Committee secretariat comprises of the following staff:

Ms. Rose M. Wanjohi	-	Senior Clerk Assistant
Mr. Samuel Wanjiru	-	Clerk Assistant III
Mr. Fredrick Muthengi	-	Deputy Director, PBO
Ms. Fiona Githunguri	-	Legal Counsel II
Ms. Wambui Nyachae	-	Research Officer III
Mr. Timothy Tsungulah	-	Research Officer III
Ms. Zainab Wario	-	Serjeant-At-Arms II
Ms. Rehema Koech	-	Audio Officer III
Ms. Rinha Sainey	-	Media Relations Officer III
Mr. Alex Amwata	-	Hansard Officer III

1.4. Justification for the Visit

5. In undertaking oversight of implementation and enforcement of labour laws to fill policy and legislative gaps, the Committee noted the following challenge in Kenya:

- i. There exists an inadequately informed citizenry with respect to Occupational Safety And Health (OSH), as well as a lack of a safety and health preventative culture, insufficient data and poor systems for its management, insufficient competent health and safety personnel, and ineffective monitoring systems.
- ii. On Human Capital and Remuneration, challenges include unemployment, underemployment, and mismatch between skills possessed and skills required in the labour market, which negatively affects employability and remuneration, as well as human capital development.

6. The United Republic of Tanzania has demonstrated strides in labour law reforms through the following interventions, among others:

- i. **The Skills Development Fund (SDF)**, which is a designated fund established to provide training to minimize skills gaps and increase the supply of graduates with marketable skills in order to enable the growth of a competent workforce.
- ii. **The Dual Apprenticeship Programme**, which seeks to give apprentices the opportunity to experience 20 weeks of off-the job training at VETA training facilities, as well 32 weeks of on-the job training at industry workplaces.

- iii. **The Public Service Social Security Fund (PSSSF)**, in addition to the National Social Security Fund (NSSF), which provides security services specifically to public servants and manages and administers various benefits, including retirement benefits among others.
 - iv. Preventive **Occupational Safety and Health (OSH)** procedures are prioritized in Tanzania's occupational safety and health framework, which includes pre-employment and ongoing employee medical exams, as well as inspection of workplace drawings for public buildings.
 - v. **Vocational Education and Training (VET)** centres, which are spread out across the nation and strongly emphasizes community-based training, which goes beyond standard technical training and tailormakes programmes with consideration of socio-economic and community needs.
7. It is for the aforementioned reasons that the Departmental Committee on Labour organized for a benchmarking visit to the Parliament of the United Republic of Tanzania from 4th to 8th September, 2023, in an effort to learn from best practices on matters of human capital and remuneration, public service, social security and occupational health and safety.

PART 2

2.0 BACKGROUND TO THE VISIT

2.1. Human Capital and Remuneration

8. Human capital refers to the skills, knowledge, experience, and abilities possessed by individuals, which contribute to their economic productivity and potential for future earnings.
9. In Kenya, human capital plays a crucial role in driving economic growth and development. Several key factors and initiatives are relevant to understanding human capital development. This includes improving the quality of education through curriculum reforms and training; a Universal Health Coverage (UHC) program that provides affordable healthcare for a healthy workforce; skills development through the National Industrial Training Authority (NITA) and Technical and Vocational Education and Training (TVET) institutions; entrepreneurship programs and policies to foster economic growth and create job opportunities; ensuring equal access to education and economic opportunities for women and girls; and expanding internet access and digital skills training to participate in the digital workforce.
10. Remuneration refers to the compensation and benefits provided to employees in exchange for their work. As per Article 230(4) of the Kenyan Constitution, 2010, the powers and functions of the Salaries and Remuneration Commission (SRC) are to set and regularly review the remuneration and benefits of all State officers and advise the national and county governments on the remuneration and benefits of all other public officers.
11. Matters salaries and remuneration call for the need to ensure that the total public compensation bill is fiscally sustainable; public services are able to attract and retain the skills required to execute their functions; productivity and performance is recognized; and transparency and fairness upheld.
12. The policy and legislative framework on the various aspects of labour law are as follows:
 - i. **The Constitution of Kenya 2010-** Article 41 guarantees the right to fair labour practices, fair remuneration, reasonable working conditions, and to form, join or participate in the activities and programmes of a trade union. Article 230 mandates the Salaries and Remuneration Commission to set and review the remuneration and benefits of all State officers and advise the

national and county governments on the remuneration and benefits of all other public officers. Article 234 mandates the Public Service Commission, among others, to develop human resources in the public service, ensure the public service is efficient and effective, and review and make recommendations to the national government in respect of conditions of service, code of conduct and qualifications of officers in the public service.

- ii. **The Human Resource Strategy Framework for the Public Service (2017)** emphasizes capacity building and continuous learning, performance management, recruitment and talent management, diversity and inclusion, employee engagement and job satisfaction, ethical and integrity standards, and the development and digital transformation of public service.
 - iii. **The Employment Act (2007)** calls for equal remuneration for work of equal value and that contracts of service shall state the remuneration, scale or rate of remuneration, and the method of calculating it.
 - iv. **Public Service Commission Act (2017)** mandates the Commission with overseeing human resource management planning and management as well as succession planning and talent management.
 - v. **Labour Relations Act (2007)** governs the rights of employees and employers in relation to trade unions, industrial actions, and dispute mechanisms.
 - vi. The Salaries and Remuneration Commission is established under Section 11 of the **Salaries and Remuneration Commission Act (2011)** and provides that the Commission shall, among others, inquire into and advise on salaries and remuneration to be paid out of public funds and on the harmonization, equity and fairness of remuneration for the attraction and retention of requisite skills in the public sector.
 - vii. **The Directorate of National Human Resource Planning and Development (DNHRPD)**, under the Ministry of Labour, is mandated to collect and analyze data on manpower supply and demand from local institutions and establishments. The manpower supply gives data on skills emerging from local institutions whereas the demand side gives information relating to establishments in the labor market.
13. Challenges such as unemployment, underemployment, and skills mismatch persist in Kenya. Many skilled individuals are often unable to secure jobs that match their qualifications, leading to a situation where the full potential of the human capital is not effectively harnessed. This issue can

impact the remuneration (compensation) of employees, as individuals might not be rewarded adequately for their skills due to the prevailing job market conditions.

2.2 Occupational Safety and Health

14. The primary legislation governing Occupational Safety and Health (OSH) in Kenya is the Occupational Safety and Health Act, 2007. This law establishes the legal framework for promoting and ensuring safety and health in the workplace. The Act covers a wide range of issues related to workplace safety, including the responsibilities of employers and employees, the establishment of safety committees, and the reporting of accidents and dangerous occurrences.
15. Compliance with OSH regulations not only helps protect the well-being of workers but also contributes to a safer and more productive work environment. Violations of OSH laws can lead to penalties and legal action, so it is crucial for employers to take OSH seriously and for workers to actively participate in maintaining a safe workplace.
16. Policy and legislative framework on the various aspects of labour law are as follows:
 - i. The Constitution of Kenya (2010)** - Article 41 guarantees the right to fair labour practices, fair remuneration, reasonable working conditions, and to form, join or participate in the activities and programmes of a trade union.
 - ii. The National Occupational Safety and Health Policy (2012)** addresses the current challenges, gaps and future development of safety and health systems and programmes in the country. It is expected to promote basic principles of assessing occupational risks and/or hazards; combating hazards at source; and developing a national preventative safety and health culture that includes information, consultation, research and training.
 - iii. Occupational Safety and Health Act (2007)** seeks to provide for the safety, health and welfare of workers. It provides for the establishment of the National Council for Occupational Safety and Health to, among others, advise the Minister on the formulation of a policy framework with focus on health, compensation and rehabilitation services. It also seeks to establish a safety and health preventative culture.
 - iv. The Directorate of Occupational Safety and Health Services (DOSHS)**, under the Ministry of Labour is mandated to inspect workplaces to ensure compliance with safety and health law, examine and test equipment, investigate occupational accidents and diseases,

conduct medical examinations of workers, train on occupational safety and health; and disseminate information on occupational safety and health.

17. Challenges in this area include inadequately informed workers, employers, and stakeholders as well as weak systems for inculcating safety and health preventative culture. In addition, there is inadequate data on occupational health and safety, systems for occupational injury data management and research to address both emerging and traditional occupational risks arising from fast technological developments and globalization. The situation is worsened by insufficient qualified and skilled occupational health and safety personnel in both public and private sectors of the economy and ineffective monitoring systems of occupational health and safety workplaces.

PART 3

3.0. MEETINGS PROCEEDINGS

3.1. Meeting with the Committee on Social Welfare and Community Development, National Assembly of Tanzania

18. On Tuesday 5th September 2023, the Committee met with Members of the Tanzanian Parliamentary Standing Committee on Social Welfare and Community Development at the Parliament of Tanzania

19. The Committee on Social Welfare and Community Development in the National Assembly of Tanzania comprises of 21 members of Parliament and oversees the following Ministries:

- i. Prime Minister's Office Labour, Youth, Employment and Persons with Disability; and
- ii. Ministry of Community Development, Gender, Women and Special Groups.

20. The Committee is mandated to:

- i. Scrutinize the budget of the ministries it administers;
- ii. Scrutinize contracts/ treaties/ protocols proposed for approval by the ministries it oversees;
- iii. Examine annual reports of the ministries and institutions under their portfolio in the context of the of the efficiency in order to determine whether the affairs of the said bodies are being managed according to the relevant acts of parliament established regulation, rules and general order; and
- iv. Strengthen cooperation between Parliament and Parliaments of other countries.

3.1.1. The Role of the Tanzanian Parliament in Monitoring the Enforcement of Labour Laws

21. The mechanisms adopted by the Tanzanian Parliament to effectively implementing labour laws in Tanzania, consist of the below:

- i. *Legislation*: Creating, enacting and amending the legal framework that governs the rights and obligations of employers and employees in the workplace;
- ii. *Oversight*: Overseeing implementation and enforcement of labour laws by the executive branch, including assessing whether the laws are being effectively enforced and identifying gaps;

- iii. *Budgetary Control*: Approving the budget for labour enforcement agencies and allocating resources to ensure effective enforcement;
- iv. *Review and Evaluation*: conducting regular review and evaluation of labour laws and their enforcement; and
- v. *Accountability*: Questioning government officials about their efforts and demand explanations for failure and propose measures to improve enforcement.

3.1.2. Labour Policy and Legislative Framework

22. In mainland Tanzania, the Government has undertaken comprehensive labour law and regulatory reform relating to various aspects of employment and labour relations. The reform process was supported by the ILO and culminated in the enactment of a number of new laws, including the following: The Occupational Health and Safety Act, 2003; The Employment and Labour Relations Act, 2004; The Labour Institutions Act, 2004; Workmen's Compensation Act, 2008; Social Security (Regulatory Authority) Act, 2008; and Non-Citizens (Employment Regulations) Act, 2015.

3.2. Meeting with the Tanzanian Prime Minister's Office – Labour, Youth, Employment and Persons with Disabilities (PMO-LYED)

23. On Wednesday 6th September 2023, the Committee met with Hon. Prof. Joyce Lazaro Ndalichako, Minister of State, Prime Minister's Office (Labour, Youth, Employment and Persons with Disabilities) (PMO-LYED) held at the offices of the Ministry.

24. The Prime Minister's Office – Labour, Youth, Employment and Persons with Disabilities (PMO-LYED) is comprised of a number of units and directorates that coordinate their efforts to alleviate unemployment, improve human capital and remuneration, and promote occupational safety and health:

- i. **Labour Division**- To facilitate conducive working environment for both employers and employees in labour and social security matters and timely issuance of Work Permit services in the Country.

- ii. **Employment and Skills Development Division-** To provide expertise and services in management of employment promotion and services; skills development and labour market information.
- iii. **Youth Development Division-** To create a conducive environment for promotion of youth involvement in social, economic and cultural development initiatives. It comprises of a Youth Coordination and Mobilization Section and Youth Upbringing, Guidance and Counseling Section.
- iv. **Social Protection Division-** To create an enabling environment for the development of the Social Protection Sector and provision of social insurance and social assistance services to employees and general public at large.
- v. **Persons With Disability Unit-** To provide expertise and services to persons with disability.
- vi. **Trade Unions and Employer's Associations Registration Unit-** To provide registration and de-registration services to Trade Unions and Employers Association.
- vii. **Employment Services Unit-** To provide high quality and efficient employment services to the Public and Private sectors in Tanzania and beyond.
- viii. **Productivity Promotion Unit-** To promote productivity and innovation for economic development.
- ix. **Administration And Human Resource Management Division-** To provide expertise and services on human resource management and administrative matters to the Office.
- x. **Policy and Planning Division-** To provide expertise and services in policy formulation, implementation, monitoring and evaluation.
- xi. **Finance and Accounts Unit-** To provide financial management and book-keeping services for the Office.
- xii. **Internal Audit Unit-** To provide advisory services to the Accounting Officer on the proper management of Resources.
- xiii. **Procurement Management Unit-** To provide expertise and services in procurement, storage and supply of goods and services for the Office.
- xiv. **ICT and Statistics Unit-** To provide expertise and services on application of ICT to the Office as well as statistical analysis.
- xv. **Legal Services Unit-** To provide legal expertise and services to the Office.

- xvi. **Government Communication Unit-** To provide to the Office expertise and services in information, communication and dialogue with Public and media.

3.2.1. Addressing Unemployment in Tanzania

25. Tanzania, like many other developing countries, faces the challenge of youth unemployment.

The country's 2021 Labour Force Survey estimated that the working age population in Tanzania is 25,861,023 people and among them 23,536,135 (91%) are employed. Youth labour force is estimated to be 14,219,191 (55% of the total labour force), with an unemployment rate of 12.2%.

26. The increased unemployment rate for youth in Tanzania is generally related to the imbalance between supply and demand for labour. Other specific reasons for youth unemployment include:

- i. Inability of the economy to absorb larger numbers of the labour market entrants;
- ii. Youth lack or sometimes have limited employable skills that are in demand in the labour market;
- iii. Inability to access startup capital to establish their own businesses, which leaves youth as job seekers rather than job creators;
- iv. Lack of access to land/work premises as land has been traditionally owned by elders;
- v. Inadequate entrepreneurship education, life skills and competencies for business venturing;
- vi. Poor infrastructure in rural and peri-rural areas to support enterprise development;
- vii. Majority of youth are employed/ working in the informal sector;
- viii. Mismatch between training of youth and the needs of the labour market; and
- ix. Inadequate labour market information as well as dissemination mechanisms to reach all stakeholders.

27. In addressing the unemployment challenge, Tanzania has undergone social and economic reform measures that are ultimately given direction by the Tanzania Development Vision (TDV) 2025, the Third 5-Year Development Plan (2021/22 – 2025/26) and the manifesto of the Chama Cha Mapinduzi (CCM), the dominant ruling party which is currently being implemented. The plan emphasizes the need to reduce unemployment in the country through industrialization and promote availability of requisite industrial and other production and service delivery skills. In

implementing the plan, a number of strategic interventions have been adopted as a means to promote youth employment:

- i. **The Tanzania Employment Services Agency** is under the Prime Minister's Office – Labour, Youth, Employment and Persons with Disability. It provides job seekers with appropriate career and vocational guidance, placement services, cross-boarders placements recruitment services and job access facilitation.
- ii. **The Youth Development Fund** provides loans with low rates of 3% to individuals or productive groups. The fund is sourced from the government budget and, because of high demand, the National Assembly Committee on Social Welfare and Community Development advised the government to look for other sources to raise capital.
- iii. **The Skills Development Fund (SDF)** seeks to ensure development of a skilled workforce in key economic sectors by minimizing skills gaps and rapidly increasing the supply of graduates with skills relevant to the labor market. It is available at university level, technical education and training, vocational education and training, and alternative training (informal).
- iv. **Loans from the Local Government** are enshrined in The Local Government Finance Act (Cap 290), which provides that 10% of the local government resources is to be allocated as loans for women (4%), youth (4%) and persons with disabilities (2%).
- v. **Building a Better Tomorrow Programme (BBT)** addresses youth and women challenges in the agricultural sector through various agriculture value chain projects under the block farming model for youth and women. The Minister of agriculture has identified 162,492 acres of arable land for crop production. In 2023, 74 youths were sponsored to attend training in Israel.
- vi. **National Skills Development Programme** is designed to enhance employability and labour productivity of the Tanzanian youth in the local and global market. It consists of:
 - a. *The Internship Programme* aims to impart valuable employable skills to approximately 3,000 graduates a year by attaching them to employers for 6-12 months, where they receive emoluments from the Prime Minister's Office.
 - b. *Apprenticeships* provide skills to youth on fish farming and greenhouse farming, among others.
 - c. *Vocational Guidance and Employment Counselling* is provided to facilitate almost 4,000 youth annually to facilitate them to make better career choices.

- d. *Job Search Skills Training Programmes* are provided to an average of 10,000 youth aimed at imparting necessary skills to enhance their employability.
- e. *Decent Work Country Programme* provides training to youth on matters concerning Youth Development Fund.

3.2.2. Social Security Schemes

28. Tanzania has two social security programmes- The Public Service Social Security Fund (PSSSF) for employees in the public sector and the National Social Security Fund (NSSF) for those in the private sector. The National Social Security Fund Act No. 28 of 1997 provides for registration of both employers and employees, and all employers must register with the fund immediately after setting up companies. The Public Service Social Security Fund, on the other hand, is established by Public Service Social Security Act of 2018 to cater specifically to government employees and civil servants working in the public sector.
29. The NSSF Act directs that a contributing employer shall pay to the Fund a contribution that consists of the employer's and employee's share at the rate stipulated in the First Schedule (10 cents for every complete shilling of wages from the employer's share deductible from wages by the employer and 20 cents for every complete shilling of wages for statutory contributions for each employee). The PSSSF Act, on the other hand, requires that there shall be a contribution payable to the fund by the employer at the rate of 20 per centum of the employee's monthly salary.
30. On benefits, the NSSF Act provides for benefits that cover retirement pension, invalidity pension, survivors' pension, funeral grants, maternity benefit, unemployment benefit, and health insurance benefit. The PSSSF Act also provides for the aforementioned benefits and further extends benefits to include special provisions for persons holding public office.
31. The aforementioned special benefits under the PSSSF provide that when any person holding a constitutional office is transferred, appointed, nominated or elected to another constitutional office, the highest salary received during their service shall be taken into account when computing their pension, gratuity and other allowances. Similarly, when they later occupy a

non-constitutional office, the salary they received while holding a constitutional office shall be taken into account if it is the highest.

32. The PSSSF operates on a mandatory contribution system, with both employees and the government making contributions, which ensures that members have a dedicated savings plan aligned with the nature of work in the public service. Furthermore, because the PSSSF is managed and regulated by the government, it provides a level of confidence and trust with handling of members' contributions. The PSSSF may also reduce dependency on social welfare programmes, thus lessening the financial burden on the government in the long run.

3.3. Meeting with the Tanzanian Occupational Safety and Health Agency (OSHA)

33. On Wednesday 6th September 2023, the Committee met with Dr. Jerome Materu, Acting Director of Occupational Safety and Health, at the Tanzanian Occupational Safety and Health Agency (OSHA). The meeting was held at the offices of the Prime Minister's Office – Labour, Youth, Employment and Persons with Disabilities.

34. The Occupational Safety and Health Agency (OSHA) is a government agency under the Prime Minister's Office (Labour, Youth, Employment and Persons with Disability) responsible for enforcing the Occupational Health and Safety (OSHA) Act to protect workers against potential hazards at their workplace that can cause diseases and accidents.

35. Tanzania's previous legislation and policy framework did not prioritize occupational safety and health, and it is therefore a relatively priority issue in Tanzania, like much of the rest of the African continent. OSHA's emphasis is on sensitization and education, rather than punishment, to ensure that employers are held accountable, as the benefits of a safe and healthy workplace environment outweigh the costs.

36. Other key objectives of OSHA in Tanzania are to:

- i. Advise the government on workplace safety and health issues as well as policies, regulations and guidelines for safety and health management in the country, including ratification of international conventions on safety and health issues;

- ii. Increase awareness and stakeholders' engagement in matters related to safety and health by providing trainings, including providing professional advice to stakeholders;
- iii. Conducting various researches concerning occupational safety and health issues in order to advise government on how to implement the OSHA Act.

37. Responsibilities of OSHA include registering workplaces; conducting general and specific inspections; undertaking occupational safety and health risk assessment; conducting accident investigations and industrial hygiene surveys; and providing technical advice on occupational safety and health issues.

38. The Safety Section is headed by a Safety Manager supported by expert inspectors to oversee mechanisms instituted at the workplace to prevent occupational accidents and diseases, while the Health Section is formed by a team of Medical Doctors, Nurses and other Occupational Health Specialists who medically examine employees before they start working (Pre-employment), when already at work (Periodic/Continuous), and at the end of employment (Exit).

39. Nevertheless, there still exist challenges such as inadequate knowledge and understanding about the importance of safety and health issues at work, as well as violation of conditions by not complying with safety and health standards. There is also a misconception among some employers that the costs of ensuring safety and health at the workplace are high.

3.4. Meeting with the Tanzanian Employment Services Agency (TaESA)

40. On Thursday 7th September 2023, the Committee met with Joseph Nganga, Director of Employment at Tanzanian Employment Services Agency (TaESA). The meeting was held at the offices of the Prime Minister's Office – Labour, Youth, Employment and Persons with Disabilities.

41. The Employment Services Agency is domiciled within the Prime Minister's Office (Labour, Youth, Employment and the Persons with Disability) and seeks to provide high quality and efficient employment services to the Public and Private sectors in Tanzania and beyond. More specifically, it undertakes the following:

- i. Promotion of the provision of employment services related to career guidance, employment counselling, job search and placement services to job seekers and employers;

- ii. Preparing, monitoring, evaluating and reviewing guidelines on employment facilitation and cross-border placement services;
- iii. Implementing guidelines on regulation of employment service agencies; and
- iv. Promoting the use of manual and automated employment services processing and analysis techniques.

42. The Agency is also concerned with migrant labour, and more specifically the employment of Tanzanians in other countries. Employers in the destination countries are vetted and potential employees are interviewed about their qualifications and experience and are briefed on the culture and labour laws in the destination country. However, challenges still exist with insufficient and inadequate consular services and some recruitment agencies' lack of compliance with regulations and standards.

3.5. Meeting with the Tanzanian Vocational Education and Training Authority (VETA)

43. On Thursday 7th September 2023, the Committee met with VETA's Director General, Mr. Anthony Kasore, and the management team at their offices and training centers.

44. Tanzania's Vocational Education and Training Authority (VETA) is a government institution under the Ministry of Education Science and Technology, and has the mandate to provide and promote vocational education and training in Tanzania, while facilitating financial support for the same. VETA provides training through 50 vocational training centers that it owns spread across the country, which are facilitated by teachers who are trained through a specialized college, the Morongoro Vocational Teachers Training College (MVTTC). VETA trainings ultimately aim to enhance employability in both wage employment and self-employment as well as career progression of its graduates.

45. VETA facilitates financial support for vocational training through funds from the Skills Development Levy (SDL), sourced from the private sectors employers' contribution deducted from employees' salaries. Other funding sources are government projects development, development partners, and internal sources like income generating activities and training fees.

46. VETA promotes vocational education and training by raising awareness about its services to stakeholders, including the government, parents, employers, employees and donors. It also targets prospective trainees, instructors, VET graduates, legislators, trade unions and NGOs. To achieve this, VETA uses media engagement, advertising, public presentations, and exhibitions, as well as newsletters, annual reports, brochures, catalogues, and an official website.

47. VETA operates through offices in nine (9) geographical zones for effective coordination of training provision in different regions. These Zones include Dar Es Salaam Zone, Central Zone, Lake Zone, Western Zone, South West Zone, South East Zone, Eastern Zone, Highlands Zone, and Northern Zone.

48. VETA's delivery approaches include institutional-based training, apprenticeship and work-based learning, outreach, and skills enhancement with a demand-driven system that calls for close alignment to job demands, flexibility in modes of delivery, integration of business and entrepreneurial skills, and integration into the country's social and economic policies and plans.

- i. **Institutional-Based Training** comprises of short and long courses that are organized into thirteen (13) occupational sectors namely, mechanical; electrical; civil and building engineering; automotive; commercial services and business support; clothing and textile; transport; mining; printing; cosmetology; agriculture and food processing; and hospitality, tourism and travel agency, and fine and performing arts.
- ii. **The Integrated Training for Entrepreneurship Promotion (INTEP)** focuses on training people, and especially women and youth, who are unemployed, under-employed, or in the informal sector (micro and small enterprises) through short tailor-made courses linked to the socio-economic context.
- iii. **The Skills Enhancement Programme (SEP)** supports the provision of training to employees of different companies with the view of updating and upgrading skills to address changing technologies and needs in the workplace, thus improving productivity.
- iv. **Apprenticeship Training** includes formal and informal work-based training for youth to acquire the skills of the trade and become inducted into the culture and networks of the business. It consists of the below programmes:
 - a) *Recognition of Prior Learning (RPL)* targets persons working at the operational/ artisan level, whose learning may have occurred through informal and formal training or life and

work experience, but was never recognized or certified. It consists of assessing candidates against prescribed standards for qualification, after which they are trained for upgrading of skills, examined and awarded certificates.

- b) *The Dual Apprenticeship Programme* is a 3-year programme whereby VETA enters into MOUs with the relevant workplace to allow apprentices to alternate between the training center and the workplace (industry). The 52 weeks of the year are spread into three (3) blocks, enabling apprentices to spend 32 weeks at the workplace and 20 weeks at the VETA training centers. Block 1 consists of 7 weeks of off the job training at VETA and 12 weeks of on-the-job training in various industries, Block 2 consists of 7 weeks of off the job training at VETA and 10 weeks of on-the-job training, and Block 3 consists of 6 weeks of off the job training at VETA and 10 weeks of on-the-job training.

49. The Committee visited the Vocational Education and Training Centers in Dodoma, where it observed the practical training for the meat industry, welding and metal fabrication workshop, plumbing and pipe fitting workshop, and food production. All the aforementioned industrial trainings are centrally located on the same premises with specific workshops, safety clothing, supervised by trainers.

PART 4

4.0. COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

4.1. Committee's Observations

50. The Committee made the following observations:

- i. **Skills Development:** While Tanzania has a harmonized Skills Development Fund (SDF), a challenge in Kenya is the lack of a dedicated skills development fund. Funding is fragmented and inadequately coordinated across the Industrial Training Levy Fund, Youth Enterprise Development Fund, Women Enterprise Fund, UWEZO Fund and various County Government funds.
- ii. **Occupational Safety and Health (OSH):** Tanzania's occupational safety and health framework prioritizes preventative measures such as scrutinization of workplace drawings for public buildings, which is enshrined in Tanzania's Occupational Safety and Health Act, as well as pre-employment and continuous medical examinations of employees.
- iii. **East African Community (EAC) Work Permits:** Tanzania's counterpart committee raised concern that, despite agreeing to the East African Community Common Market Protocol (2010), which allows workers from any Partner State to accept employment within any other EAC country, Tanzanian citizens face complicated bureaucratic processes and lengthy procedures in pursuing work permits to work in Kenya.
- iv. **Social Security Schemes:** Tanzania's Public Service Social Security Fund (PSSSF) benefits from government support, which can offer a degree of financial stability and security. It also provides benefits and services custom-made to meet public servants needs for improved coverage.
- v. **Vocational Education and Training (VET):** Tanzania has VET branches countrywide and places strong emphasis on community-based training that surpasses the conventional strategy of purely technical training and takes into account socially-related demands of the community, the social and economic activities of the target groups, and creates a relevant link between VET and the socioeconomic context of Tanzania.

4.2 Committee's Recommendations

51. The Committee made the following recommendations:

- i. **Skills Development:** Kenya could learn from Tanzania's single and dedicated Skills Development Fund (SDF) to establish a one-stop national skills development fund and strengthen inter-fund linkages for transparency, accountability and improved service delivery.
- ii. **Occupational Safety and Health (OSH):** In Kenya, despite legislative and implementation measures to ensure occupational safety and health, a gap exists in preventative measures such as evaluating workplace risks and dangers, addressing them at their source, and fostering a preventative culture for safety and health. Kenya could borrow from Tanzania's proactive OSH activities to avoid preventable health and safety risks and incidences.
- iii. **East African Community (EAC) Work Permits:** There is need to make legislative provisions in Kenyan labour laws regarding work permits specifically for EAC citizens for realization of the right to free movement of labour under the East African Community Common Market Protocol.
- iv. **Social Security Schemes:** The Committee should assess the viability and applicability of a Public Service Social Security Fund (PSSSF) within the Kenyan context, with consideration of political and budgetary decisions that may affect its operations and stability.
- v. **Vocational Education and Training (VET):** Challenges with community-based and outreach training programmes in Kenya have included insufficient information on community groups, which is required to design trainings, as well as difficulties in accessing new technologies and limited capacity to certify such trainings. The Committee should therefore review the planning and implementation of these modes of training to improve the relevance of trainings at the grassroots and reach a wider range of citizens.

SIGNED: _____




DATE: _____

06/12/2023

HON. ERIC MUCHANGI KAREMBA, M.P.

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON LABOUR

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 21 FEB 2024	DAY: _____
TABLED BY: _____	_____
CLERK-AT-THE-TABLE: _____	_____

Annexure 1

Report Adoption List



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT-SECOND SESSION -2023
DEPARTMENTAL COMMITTEE ON LABOUR

REPORT ADOPTION LIST

We, the members of the Departmental Committee on Labour, have pursuant to Standing Orders 199, adopted this report on the study visit to the Parliament of the United Republic of Tanzania and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity. Date:

	NAMES	SIGNATURE
1.	Hon. Karemba Eric Muchangi Njiru, MP-Chair person	
2.	Hon. Muli Fabian Kyule, MP- Vice Chairperson	
3.	Hon. K'Oyoo James Onyango, M.P.	
4.	Hon. Kagesi Kivai Ernest Ogesi, M.P.	
5.	Hon. Kiti Richard Ken Chonga, M.P.	
6.	Hon. Lomwa Joseph Samal, M.P.	
7.	Hon. Omwera George Aladwa, M. P.	
8.	Hon. Wambilianga Catherine Nanjala, MP	
9.	Hon. Abdullahi Amina Dika, M.P.	
10.	Hon. Aburi Donya Dorice, M.P.	
11.	Hon. Barasa Patrick Simiyu , M.P.	
12.	Hon. Chiforomodo Mangale Munga, M.P.	
13.	Hon. Kihungi Peter Irungu, M. P.	
14.	Hon. Sankaire Leah Sopiato, M.P.	
15.	Hon. Siyoi Lillian Chebet, M.P.	

Annexure 2

Minutes

MINUTES OF THE 77TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON WEDNESDAY 6TH DECEMBER 2023 IN THE COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:00 PM.

PRESENT

1. The Hon. Karemba Eric Muchangi Njiru, M.P. - Chairperson
2. The Hon. Muli Fabian Kyule, M.P. - Vice Chairperson
3. The Hon. Abdullahi Amina Dika, M.P.
4. The Hon. Wambilianga Catherine Nanjala, M.P.
5. The Hon. Chiforomodo Mangale Munga, M.P.
6. The Hon. Sankaire Leah Sopiato, M.P.

APOLOGIES

1. The Hon. Kiti Richard Ken Chonga, M.P.
2. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
3. The Hon. K'Oyoo James Onyango, M.P.
4. The Hon. Lomwa Joseph Samal, M.P.
5. The Hon. Omwera George Aladwa, M.P.
6. The Hon. Aburi Donya Dorice, M.P.
7. The Hon. Kihungi Peter Irungu, M.P.
8. The Hon. Siyoi Lillian Chebet, M.P.
9. The Hon. Barasa Patrick Simiyu, M.P.

COMMITTEE SECRETARIAT

1. Ms. Rose M. Wanjohi - Senior Clerk Assistant
2. Mr. Samuel Wanjiru - Clerk Assistant III
3. Mr. Fredrick Muthengi - Deputy Director, PBO
4. Ms. Fiona Githunguri - Legal Counsel II
5. Mr. Timothy Chiko - Research Officer III
6. Ms. Rehema Koech - Audio Officer III
7. Ms. Rinha Sainey - Media Relations Officer III
8. Mr. Alan Gatuku - Serjeant at Arms

AGENDA

1. Prayers
2. Preliminaries.
3. Confirmation of Minutes.
4. Matters Arising;
5. Pending Business (*enclosed*);
6. **Briefing and consideration of submissions on:**
 - i. **Consideration and Adoption of the Report on Status of Implementation of the Budget FY 2022/23**
 - ii. **Adoption of the Report on the Study Visit to the Parliament of Tanzania**
7. Any Other Business.
8. Adjournment.

MIN. NO.580 NA/LABOUR/2023: PRELIMINARIES.

The Chairperson called the meeting to order at half past twelve o'clock. This was followed by a prayer by The Hon. Catherine Wambilianga, M.P. Thereafter, self-introductions were made.

MIN.NO.581 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.

This Agenda was deferred.

MIN.NO.582 NA/LABOUR/2023: MATTERS ARISING.

No matter arose.

MIN.NO.583 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE.

The following business has been committed to the committee;

1. The Employment (Amendment) Bill (Senate Bill No. 11 of 2022). The Bill, sponsored by Sen. Samson Cherarkey, seeks to provide for the right to disconnect in the digital age. This Bill seeks to address increased employee burnout. Digital connectivity has also been noted to be slowly eroding leisure time for employees hence affecting their work life balance. This Bill therefore seeks to strike a balance between work and private life to allow digital technology to have a positive effect on workers' quality of life supported by employers.

Status:

The Report to be tabled on Thursday 7th December, 2023

2. The Statute Law (Miscellaneous Amendments) (No. 2) (National Assembly Bill No. 68 of 2023). The Bill, sponsored by the Leader of Majority, seeks to make various amendments to various statutes including-
 - i. The Industrial Training Act (Cap. 237). The Bill seeks to amend the Industrial Training Act to provide that the date for remitting the training levy shall be the ninth day of the month in order to harmonize it with the period within which PAYE is remitted to the Kenya Revenue Authority
 - ii. The Employment Act, 2007 (No. 11 of 2007). The Bill seeks to amend the Employment Act, 2007, to exempt the National Intelligence Service from the application of the Act in the same manner as other security organs are exempted.

Status

The Report has been tabled to the Justice and Legal Affairs Committee on 6th December 2023

3. The Statute Law (Miscellaneous Amendments) (National Assembly Bill No. 67 of 2023). The Bill, sponsored by the Leader of Majority, seeks to make various amendments to various statutes including the National Employment Authority Act (No. 3 of 2016). The Bill seeks to amend the National Employment Authority Act, 2016, to cure inconsistencies in the Act and align it with the National Authority Human Resources Policy and Procedures Manual.

Status

The Report has been tabled to the Justice and Legal Affairs Committee on 6th December 2023

4. The Employment (Amendment) Bill, (National Assembly Bill No. 62 of 2023 by Hon. Didmus Wekesa Barasa, MP. The Bill seeks to amend the provisions of the Employment Act, 2007, to regulate the transfer of employees by employers from one place of work to another.

Status

The Bill was read a first time on 22nd November 2023. The committee placed the advert in the dailies on 27th November 2023 and has written to stakeholders for submission of memoranda.

5. The National Employment Authority (Amendment) Bill, 2023 (Senate Bills No 48 of 2023). The Bill, sponsored by Sen. Crystal Asige, seeks to introduce provisions that seek to protect the rights, welfare and well-being of Kenyans working overseas.

Status

The Bill was referred to the Joint Committee on Labour and Diaspora Affairs and Migrant Workers for processing on 27th November 2023 by the Hon. Speaker. Committee to place an advert in the dailies and write to stakeholders for submission of memoranda.

6. The Proposed Salaries and Remuneration Commission (Amendment), 2023 by Hon Didmus Barasa Wekesa, MP seeks to amend the Salaries and Remuneration Commission Act to provide that the chairperson and members other than those appointed under Article 230 (2) (d) of the Constitution, shall serve on a part time basis for a non-renewable term of six years. The bill also caps the meetings of the Commission at fifteen.

Status

The Committee transmitted on 6th December 2023 the Legislative Proposal to the Hon. Speaker for consideration.

7. The Proposed Industrial Training (Amendment) Bill, 2023 sponsored by Hon. Joshua Odongo Oron, M.P. was referred to the Committee on 29th November 2023. The legislative proposal seeks to amend the provisions of the Industrial Training Act, (Cap.237), in order to recognize prior learning as a framework that acknowledges the skills, knowledge, performance outcomes and learning achieved, through informal and non-formal learning pathways.

Status

The Committee has written to the Kenya Law Reform Commission and the Attorney General for comments and recommendations.

8. Sessional Paper No. 5 on the National Policy on Labour Migration. The main objective of the National Policy on Labour Migration is to promote inclusive and sustainable development of the country through safe, orderly and productive labour migration. The paper was laid on the table of the House on 14th September 2023.

Status:

The Joint Committee on Labour and Diaspora Affairs and Migrant Workers met the Cabinet Secretary, Ministry of Labour and Social Protection on Thursday 9th November 2023 to deliberate on the Policy. The Sitting proposed a retreat from 23rd to 26th November 2023 to further deliberate on the policy but it was postponed and new dates and place will be communicated in due time.

9. Request for a statement regarding unfair treatment of employees of Ashton Apparel (EPZ) Ltd and Mombasa Apparel (EPZ) Ltd by Hon. Shimbwa Omar Mwinyi, M.P.

Status:

The Committee met on Tuesday 21st November 2023 with the Cabinet Secretary, Labour and Social Protection. The Cabinet requested more time to investigate the matter and submitted a detailed response on Monday, 27th November 2023. However, the Honourable Member was not satisfied with the response. The Committee proposed a fact-finding visit to the two mentioned companies in Mombasa from 7th to 10th December 2023, which is awaiting approval.

10. Report on the status of Budget implementation FY 2022/23 for MDAs under the purview of the Committee.

Status:

The Committee adopted the Report on 6th December 2023

MIN. NO.584 NA/LABOUR/2023: CONSIDERATION OF ADDITIONAL SUBMISSIONS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL, (NATIONAL ASSEMBLY BILL NO 67. OF 2023) AND THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (NO. 2) (NATIONAL ASSEMBLY BILL NO. 68 OF 2023)

Ms. Fiona Wanjiru, Legal Counsel, briefed additional submissions on the Statute Law (Miscellaneous Amendments) Bill, (National Assembly Bill No. 67 of 2023) and Statute Law (Miscellaneous Amendments) Bill (No. 2) (National Assembly Bill No. 68 of 2023) as follows;

The Katiba Institute presented the following written views

a) On the proposed amendment to the National Employment Authority Act (Cap 237)

The Katiba Institute raised concern on the proposed amendment is to cure inconsistencies in the Act and align it with the National Employment Authority Human Resource Policy and Procedures Manual. The copy of the manual was not provided for confirmation that it's indeed the case and why. Substantively though, policies and procedures should be amended to comply with the law not the other way round. The same reasons should have been included in the memorandum of objects and reasons.

The Institute noted that the National Employment Authority Act as it is now, focuses significantly on the youth. The proposed amendments to sections 2, 30(1), 30(3), 33(3) and 42 to delete the word youth, if passed changes the original purpose of the Act which is to promote youth employment. Further, it's unclear why the Act as it is now no longer gives effect to Article 56(c) that the state shall put in place affirmative action programmes designed to ensure that minorities and marginalized (c) ... are provided special opportunities for access to employment".

In regard to the proposed amendment to section 4 of the National Employment Authority Act-limiting the Act's application to employers with ten or more employees, the institute opined that although there may be a sound reason, but compliance with a policy and procedures manual is not one of them.

On the proposed amendment to the same section 4 to include the County Governments without incorporating Counties into other sections of the Act may not be sufficient to ensure that the Act binds County Governments. For instance section 28 of the Act requires the Authority be notified when a vacancy occurs at a "public or state office at the national government level". Therefore including each county in 4(aa) would not obligate the County Governments to comply with section 28.

The Institute proposes that sections 17(2) (c) and (d) on qualifications be retained as they are.

The Katiba Institute proposes that the section 28(2) be retained. There is no other system of considering persons registered with the Authority for vacancies in the regulations which was shared to the stakeholders.

The Katiba Institute proposes that sections 30(1), 30(2), 30(3), 33(3) and 42 be retained as they are now. It is necessary for the Act to provide an interpretation of the word "jobseeker" and harmonize the meaning of the word "jobseeker" in the context of the Act.

On the proposed deletion of section 37(2), the Institute proposes that regulations should be provided beforehand that set out the incentive schemes to reward the private institutions. The regulations

should be subjected to public participation and their application should espouse the national values and principles under Article 10.

b) On the proposed amendment to section 3(2) of the Employment Act, No. 11 of 2007

The Institute noted that the proposed amendment to section 3(2) of the Employment Act, 2007 to exempt the National Intelligence Service is, according to the Memorandum of Objects and Reasons to exempt NIS 'in the same manner as other national security organs'. However, their concern is that this does not comply with the provisions of Article 24 (5) especially on the matter of labour relations among the fundamental rights and freedoms guaranteed under the Bill of Rights. Further, although Article 24(5) states that legislation may limit the right to Labour Relations to persons serving in the Kenya Defence Forces or the National Police Service, it does not extend the exception to other security organs such as the National Intelligence service.

In addition, if Parliament intends to limit labour rights by exempting the NIS from the employment Act, it must comply with Article 24 (1)-(2). Article 24(3) requires the National Assembly to "specifically express the intention to limit the right to fair labour and the nature and extent of the limitation". Article 24(2) provides that the National Assembly must explain why the limitation is reasonable and justifiable, the importance and purpose of the limitation and why a blanket exemption is necessary.

The institute presented that the proposed amendment does not meet the requirements of Article (1) - (2) and would be subject to challenge in a court of law.

c) On the proposed amendment to Section 5B(3) the Industrial Training Act (Cap 237)

Katiba Institute considered it a minor amendment and therefore did not have any substantive comment.

West Minister Consulting

The West Minister Consulting in their written submissions support the amendment to the Industrial Training Act to harmonize the remittance dates for the training levy with the period within which PAYE is required to be remitted to the Kenya Revenue Authority. The amendment will simplify the process of statutory deductions for employers and consolidate the submission timelines, reducing the overall compliance costs. Furthermore, it streamlines enforcement procedures for government entities involved in the submission and payment processes.

However, they propose that the Bill makes provision for amendment of legislation to include Affordable Housing Levy as a tax deductible. The justification is that the levy is an employee benefit, therefore clarity to tax computation, it be recognized as an allowable expense for improved clarity and compliance in the tax treatment of the contribution.

Committee Observation

The Committee observed that the proposal to provide for legislation to include Affordable Housing Levy as a tax deductible is not a subject of amendment under the Statute Law (Miscellaneous Amendments) Bill, 2023 (National Assembly Bills No. 68 of 2023).

The Committee agreed that the recommendations as last adopted still stand.

MIN. NO. 585 NA/LABOUR/2023: CONSIDERATION AND ADOPTION OF THE REPORT ON THE STATUS OF THE BUDGET IMPLEMENTATION FOR FY 2022/23

Mr. Fredrick Muthengi, the Deputy Director, Parliamentary Budget Office presented that Report of the Committee on the Status of the Budget Implementation for FY 2022/23.

The labour sector's original printed budget estimates was approved at Kshs 17,609.93 million that comprised of Kshs 16,308.09 million for recurrent expenditure and Kshs 1.3 billion for development expenditure. However, this budget was revised downwards through two supplementary estimates to stand at Kshs 16.34 billion comprising of 15.61 billion for recurrent and Kshs 722.9 million for development at the close of the financial year. The overall budget performance in the financial year 2022/23 within the Labour sector shows that out of the final revised(Supplementary II estimates) budget of Kshs 16.34 billion, only Kshs 12.61 billion had been released from the exchequer to the spending agencies. The actual expenditure by the close of that financial year was Kshs 16.4 billion higher than the disbursed amounts arising from internally generated collections (appropriations in aid of Kshs 2,654.37 million).

The actual expenditures of the agencies within the sector shows that the agencies spending was at lower level compared to the approved budgets. Low actual expenditures affects the overall budget performance and achievement of the set targets, outcomes and programmes/projects. Projects and programmes may lag behind schedules arising from low absorption rates during the budget implementation.

The Labour sector has a pending bill of Kshs. 1.86 billion comprising of Kshs. 1.66 billion under recurrent and Kshs. 71.57 million under Development in the FY 2022/23. Additionally, the sector has historical pending bills amounting to Kshs. 122.65 million for prior years. The bulk of pending bills are under the State Department for Public Service whose total pending bills stood at Kshs 1.1 billion and Kshs 96.02 million for the State Department for Labour and Skills Development.

Committee Observations and Recommendations

From the foregoing, it is important to note that budgets at the national or institutional level are financial plans that allocate resources to various activities, projects and programmes to attain specific objectives. Thus at the national level, budget implementation are essential drivers of economic growth, employment opportunities, improved service delivery to citizens as well as empowering production firms and acts as source of income for those engaged in its supply chain thus contributing towards general economic wellbeing. Most Projects are behind schedule and may delay delivery of services to the intended beneficiaries.

Observation:

1. Most Ministries, Departments and Agencies (MDAs) have low absorption capacities of their approved budgets. In this sector, the initial MDAs budgets were greatly reduced at the supplementary budgets stage.
2. There is a lower rate of funds utilization that is the actual expenditure at the close of year is less than the approved budgets.

Recommendation:

3. In this regard, the MDAs should undertake effective financial control processes to ensure that funds are utilized optimally and for the intended purposes. This in turn would lead to improved financial performance.

Observation:

4. The component of compensation to employees is the only component with higher absorptive rates across all the MDAs in the sector.

Recommendation:

5. Government Institutions should undertake regular financial audits in order to identify discrepancies in the expenditures. This may help in identifying the relevant controls that may be put in place to boost financial performance

Observation:

6. Consistent Mid-year revisions of the estimates and introduction of austerity measures by the National Treasury results to non-implementation and postponement of the major of targets and revision of performance targets. This ultimately in turn results to late Release of funds, delay of ongoing projects and other planned activities which mostly require continuous and cash flow that is predictable.

Recommendation

7. To improve on budgetary absorption, the accounting officers with the responsibility of financial administration must put in place measures to enhance efficiency and ensure effective budgetary absorption
8. Arising from the observation that there were consistent lower absorption of funds across the MDAs, then therefore there is need going forward for stricter adherence to the budget figures as MDAs consistently received significantly lower sums that the budgeted amounts.

Observation:

9. A substantial amount of the development budget still remains unutilized and thus government projects are not efficiently implemented. Due to the low spending of budgeted funds the government has experienced increase in the cost of acquiring debts. In addition, the government pays high commitment charges for committed but undisbursed loans.
10. Generally, at times the government may require use of the private sector to execute some of its programmes and projects. This may be due to inadequate resources both financial and human resource that is required resources and capacities to implement its budgets. The private sector capacity has a significant influence on absorption of budgeted funds in the public sector.
11. There are inordinate delays in disbursement of funds from the National Treasury to the MDAs which significantly affect the implementation of development projects as well as projects depending on recurrent expenditure. Further, the funds disbursed to MDAs are inadequate to meet the all funding to programmes/ projects to completion. Thus there are delays in release of funds when requested resulting to low absorption which also affects the level of absorption
12. In addition, the process of disbursement of funds from the exchequer to the MDAs is not smooth as seen from the delays in disbursement, inadequate project funds and bureaucracies involved.
13. There are regular delays in release of Funds to the MDAs. This has negative effect and impede timely project execution of planned activities and interferes with the procurement plans which are likely to lead to pending bills and costs escalation.

Recommendation:

14. The National Treasury should release funds to MDAs in a timely manner based on their work plans and cash flow projections to ensure effective implementation of planned activities

Observation

15. Delay in projects execution is likely to lead to wastage of resources, lack of value for money in implementation of projects and loss of public funds, thereby impacting negatively on development projects. This in turn threatens economic growth and sustainability of service delivery to citizens. The Projects are also at risk of incurring additional costs in case of legal disputes due to non-payment for services rendered in cases of delay arising from pending bills.

Recommendation

16. Stricter enforcement and compliance with Regulation 56(2)(b) of the Public Finance Management Regulations, 2015 that requires continuing projects be budgeted for first before

any new projects are budgeted for by the entity and preference for payments of earlier projects instead of undertaking additional projects before completing previous projects

The Departmental Committee on Labour Report on the Status of Budget Implementation FY 2022/23 was unanimously adopted as proposed by Hon. Chiforomodo Mangale, MP and seconded by Hon. Catherine Wambiliaga, MP

MIN. NO. 586 NA/LABOUR/2023: CONSIDERATION AND ADOPTION OF THE REPORT ON THE STUDY VISIT BY THE COMMITTEE ON LABOUR TO THE PARLIAMENT OF THE UNITED REPUBLIC OF TANZANIA

Ms. Rose M. Wanjohi, Senior Clerk Assistant briefed the Committee on the Study Visit as follows:-

The study visit aimed to provide an opportunity to learn applicable best practices in the following areas:

- i. *Human Capital and Remuneration and Public Service*: Enforcement of legislation, public bodies and facilities dealing with wages and resources, rationale for two social security funds (one for public officers and one for private employees), and maternity and unemployment benefits schemes;
- ii. *Occupational Health and Safety in Tanzania*: Best practices to monitor, oversight and implement health and safety in workplace. The use of technology in surveillance and enforcement, public awareness campaigns and best practices for enforcement.

The Committee engaged in exchanges with the Committee on Social Welfare and Community Development at the National Assembly of Tanzania; Prime Minister's Office – Labour, Youth, Employment and Persons with Disabilities; Employment Services Agency (TaESA); Occupational Safety and Health Authority (OSHA); and Vocational Education Training Authority (VETA).

The visit ultimately sought to provide understanding into the role of legislatures in monitoring enforcement of labour and public service laws and policies and highlight areas for policy review and law reforms to be taken up by the Kenyan National Assembly Committee on Labour.

Committee's Observations

The Committee made the following observations:

- i. **Skills Development**: While Tanzania has a harmonized Skills Development Fund (SDF), a challenge in Kenya is the lack of a dedicated skills development fund. Funding is fragmented and inadequately coordinated across the Industrial Training Levy Fund, Youth Enterprise Development Fund, Women Enterprise Fund, UWEZO Fund and various County Government funds.
- ii. **Occupational Safety and Health (OSH)**: Tanzania's occupational safety and health framework prioritizes preventative measures such as scrutinization of workplace drawings for public buildings, which is enshrined in Tanzania's Occupational Safety and Health Act, as well as pre-employment and continuous medical examinations of employees.
- iii. **East African Community (EAC) Work Permits**: Tanzania's counterpart committee raised concern that, despite agreeing to the East African Community Common Market Protocol (2010), which allows workers from any Partner State to accept employment within any other EAC country, Tanzanian citizens face complicated bureaucratic processes and lengthy procedures in pursuing work permits to work in Kenya.
- iv. **Social Security Schemes**: Tanzania's Public Service Social Security Fund (PSSSF) benefits from government support, which can offer a degree of financial stability and security. It also provides benefits and services custom-made to meet public servants needs for improved coverage.
- v. **Vocational Education and Training (VET)**: Tanzania has VET branches countrywide and places strong emphasis on community-based training that surpasses

the conventional strategy of purely technical training and takes into account socially-related demands of the community, the social and economic activities of the target groups, and creates a relevant link between VET and the socioeconomic context of Tanzania.

Committee's Recommendations

1. The Committee made the following recommendations:
 - i. **Skills Development:** Kenya could learn from Tanzania's single and dedicated Skills Development Fund (SDF) to establish a one-stop national skills development fund and strengthen inter-fund linkages for transparency, accountability and improved service delivery.
 - ii. **Occupational Safety and Health (OSH):** In Kenya, despite legislative and implementation measures to ensure occupational safety and health, a gap exists in preventative measures such as evaluating workplace risks and dangers, addressing them at their source, and fostering a preventative culture for safety and health. Kenya could borrow from Tanzania's proactive OSH activities to avoid preventable health and safety risks and incidences.
 - iii. **East African Community (EAC) Work Permits:** There is need to make legislative provisions in Kenyan labour laws regarding work permits specifically for EAC citizens for realization of the right to free movement of labour under the East African Community Common Market Protocol.
 - iv. **Social Security Schemes:** The Committee should assess the viability and applicability of a Public Service Social Security Fund (PSSSF) within the Kenyan context, with consideration of political and budgetary decisions that may affect its operations and stability.
 - v. **Vocational Education and Training (VET):** Challenges with community-based and outreach training programmes in Kenya have included insufficient information on community groups, which is required to design trainings, as well as difficulties in accessing new technologies and limited capacity to certify such trainings. The Committee should therefore review the planning and implementation of these modes of training to improve the relevance of trainings at the grassroots and reach a wider range of citizens.

The Report on the study visit by the Departmental Committee on Labour to the Parliament of the United Republic of Tanzania was unanimously adopted by Hon. Fabian Muli, MP, Vice Chairperson and Hon. Chiforomodo Mangale, MP

The Departmental Committee on Labour on the Report on the 111th session of the International Labour Organization was deferred.

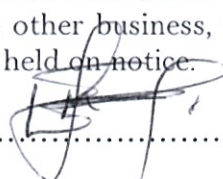
MIN. NO. 587 NA/LABOUR/2023: ANY OTHER BUSINESS

No other business arose.

MIN. NO. 588 NA/LABOUR/2023: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at quarter past two o'clock. The next meeting will be held on notice.

SIGNED.....



DATE.....

15/02/2024

(CHAIRPERSON)

