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*RAI SNA
13/4/16*



**PARLIAMENT
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THE NATIONAL ASSEMBLY

*Paper laid by the
Chairperson, DC on
labour & social welfare
on 13/4/2016 (PM)
(G)*

ELEVENTH PARLIAMENT- FOURTH SESSION- 2016

THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON

**41ST AFRICAN REGION LABOUR ADMINISTRATION CENTRE (ARLAC)
GOVERNING COUNCIL MEETING AND HIGH LEVEL SYMPOSIUM ON SOCIAL
PROTECTION IN VICTORIA FALLS-ZIMBABWE**

DIRECTORATE OF COMMITTEE SERVICES

CLERK'S CHAMBERS

PARLIAMENT BUILDINGS

NAIROBI

APRIL, 2016

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1.0 PREFACE

On behalf of the Departmental Committee on Labour and Social Welfare and pursuant to the provisions of Standing Order 199, it is my pleasure and duty to present to the House the report of the Committee on 41st African Regional Labour Administration Centre (ARLAC) Governing Council of Ministers and High Level Symposium on Social Protection Designing Labour Protection measures held in Zimbabwe from 16th to 20th February, 2015.

1.1 Mandate of the Committee

As set out in standing order 216 (5), the Committee is mandated 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;*
- *Study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.*
- *Study and review all legislation referred to it.*
- *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.*
- *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*
- *Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

1.2 Committee Membership

The Departmental Committee on Labour and Social Welfare was constituted on Thursday 16th May, 2013 and comprises the following Members:

1. Hon. David Were, MP - Chairperson

2. Hon. Tiyah Galgalo, MP - Vice Chairperson
3. Hon. Janet Teyiaa, MP
4. Hon. Peris Tobiko, MP
5. Hon. John Ndirangu Kariuki, MP
6. Hon. Winnie Karimi Njuguna, MP
7. Hon. Janet Nangabo, MP
8. Hon. John Serut, MP
9. Hon. Samuel Gichigi, MP
10. Hon. Elijah Lagat, MP
11. Hon. Cornelly Serem, MP
12. Hon. Abdi Noor Ali, MP
13. Hon. Daniel Wanyama, MP
14. Hon. Regina Nyeris, MP
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16. Hon. Kinoti Gatobu, MP
17. Hon. Elijah Mosomi Moindi, MP
18. Hon. James Onyango K'Oyoo, MP
19. Hon. Omondi John Ogutu, MP
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21. Hon. Patrick Wangamati, MP
22. Hon. Rose Museo Mumo, MP
23. Hon. Silvance Onyango Osele, MP
24. Hon. Nyasuna Gladys Wanga, MP
25. Hon. John Owuor Onyango Kobado, MP
26. Hon. Mwanyoha Hassan Mohammed, MP
27. Hon. Mlolwa Jones Mwangogo, MP
28. Hon. Ferdinand Waititu, MP

1.3 Composition of the delegation

The Committee Members nominated the following Members to attend the 41st African Regional Labour Administration Centre Conference;

1. Hon. Samuel Gichigi, MP- Leader of the Delegation
2. Hon. Janet Nangabo, MP
3. Ms. Ella Kendi Mwenda- Delegation Secretary

1.4 Committee Observations and Recommendations

Having considered the presentations made by delegates from different Member Countries, the Committee Members made the following observations and recommendations;-

1.4.1 Observations

The Committee's delegation observed the following;

1. The Kenyan Constitution especially in the Bill of right provides a very progressive legal framework for provision of social protection and in most cases requires the state to provide the protection as matter of right to the citizenry.

Women, youth, people living with disabilities and other marginalized groups are specifically targeted for social protection. Further, clear affirmative measures are provided to ensure that these rights are achieved including timelines for enactment of related statutes.

While it will take the country a substantial period to fully implement the said provisions of the Constitution due to financial constraints, Kenya is clearly far ahead of other countries in the continent in recognition of the necessary legal interventions to attain social protection.

2. On social protection of senior citizenry, in countries like Botswana and South Africa, there are more effective and manageable programs where pension or cash transfer is universal based on age. This resolves the challenge facing the Kenya older persons cash transfer program where only a small fraction of those entitled are benefiting. The situation is especially bad where people living under completely similar needy circumstances have a few people picked as beneficiaries while most do not benefit due to budgetary constraints.

3. The delegation also noted that several countries had a workmen compensation policy based on non-liability principle unlike in Kenya where injured workers have to prove that the employers were to blame for the injuries before the employers become liable. In cases where a worker is unable to prove that the employer was to blame or where the employee is found to be at fault such employee is not compensated.
4. Kenya is among just a few countries in the continent where public employees still enjoy a defined benefit pension plan meaning that they do not save for their retirement. Most countries have defined contributions schemes where both the state and employee jointly contribute to the pension fund and employee enjoys a separate account into which the interest and other earnings are credited.
5. The delegation had an opportunity to meet the Kenyan High Commissioner to Zambia and she indicated that there were vacancies in Zambia for those trained in geothermal engineering but there was no structured way of reaching out to such persons in Kenya especially due to lack of a formal data base for those with various skills/ competences.

1.4.2 Recommendations

The delegation recommends that:

1. The National Assembly and line Ministries should ensure enactment of the relevant statutes and provision of the necessary budgetary support to comply with the constitution and International best practices on Social Protection.
2. The Committee, the House and the line Ministries to explore conversion of older person's cash transfer program to universal coverage based on age.
3. The Country should explore establishment of a workmen compensation fund or insurance plan for payment of injured workers whether or not such workers are to blame as long as the injuries occurred in course of their duties.
4. The civil servants should contribute to their own welfare upon retirement as this will also help entrench the culture of saving in the country. This can be done through a defined contributory scheme.
5. The relevant ministries to;
 - a) Urgently establish a data base for all skills in the country

- b) Engage all the Kenyan ambassadors and task them to identify the job opportunities available abroad in addition to creating the necessary structures to advise our education/training institutions of such opportunities.

1.5 Adoption of the Report

The Members of the Departmental Committee on Labour and Social Welfare pursuant to Standing Order 199 adopted this Report on 41st African Regional Labour Administration Centre (ARLAC) Governing Council of Ministers and High Level Symposium on Social Protection and affixed their signatures as affirmed by the attached Annex I on 27th October, 2015.

1.6 Acknowledgement

- a) The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate.
- b) I take this opportunity to thank all the Members for their useful contribution towards preparation, compilation and production of this report.
- c) The Committee wishes to record its appreciation for services rendered by the staff of the National Assembly attached to the Committee, their efforts and input made the work of the Committee and compilation of this Report possible.
- d) On behalf of the Departmental Committee on Labour and Social Welfare it is my pleasure and duty to present the Committee's report on 41st African Regional Labour Administration Centre (ARLAC) Governing Council of Ministers and High Level Symposium on Social Protection.

Signed..........Date.....30-03-2016.....

 Hon. Samuel Gichigi, MP – Leader of the Delegation

Departmental Committee on Labour and Social Welfare

2.0 BACKGROUND

The “African Regional Labour Administration Centre (ARLAC) Governing Council Meeting and Ministerial High Level Symposium on Social Protection: Designing Labour Protection Measures was conducted at the Elephant Hills Resort, Victoria Falls, Zimbabwe from 16th – 20th February, 2015. The following member countries participated in the symposium: Botswana, Egypt, Ethiopia, Kenya, Lesotho, Liberia, Namibia, Nigeria, South Africa, Sudan, Swaziland, Uganda, Zambia and Zimbabwe. The following organizations were also represented: International Labour Organization (ILO) and East and Central Africa Social Security Association (ECASSA).

2.1 The objectives of the high level symposium were to;

- a) Identify proactive approaches in social protection;
- b) Expand the scope and coverage of social security systems;
- c) Assess the adequacy and quality of social protection benefits and services;
- d) Develop administrative and operational measures to enhance social protection in an effective and sustainable manner and to mitigate the negative social effect in the society.

3.0 MEMBER COUNTRY PRESENTATIONS ON NATIONAL LABOUR PROTECTION MEASURES FOR SUSTAINABLE DEVELOPMENT

3.1 BOTSWANA

Botswana is one of the most sparsely populated nations in the world. Around 10 percent of the population lives in the capital and largest city, Gaborone. Botswana has transformed itself into one of the fastest-growing economies in the world, now boasting a GDP (purchasing power parity) per capita of about \$16,400 per year as of 2013.

The National Labour Protection measures put in place involve the following;

1. Worker’s compensation: Worker’s Compensation Act ensures workers get compensated for work related injuries or occupational diseases that permanently incapacitate a worker or result in death. All workers, irrespective of the nature of the contract are covered,

including apprentices and undocumented workers. This universal compensation is unlike in Kenya where we have liability based compensation.

2. Severance benefit: Severance benefit is paid at the rate of one day's basic pay per month worked for the first 60 months and at double the rate thereafter.
3. Public sector employee's Pension: Botswana has a defined Contribution Pension Scheme where the Employer contributes 15 % and employee 5 %. In Kenya the government bears the entire burden however with the NSSF Act the civil servants are expected to be making contribution towards their Pension. For private sector employees occupational pension plans are usually established by medium-sized and large employers where the plans are financed by both employers and employees which is normally, 5% from employee and 10% in employer contribution.
4. Leave with pay: In public sectors employees earn leave with basic pay at the rate of 20 days per year for the ordinary staff member, 25 days per year for the middle management and 30 days per year for senior management.

In the Private sector employees earn leave with basic pay at the rate not less than 1.25 days per month or 15 days per year.
5. Sick leave: The Public sector grants employees up to 6 months sick leave on full pay in any period of three years. Private sector grants employees paid sick leave days from 14 days to 20 days paid sick leave in any one year of continuous employment.
6. Medical Aid: In the Public sector, Permanent and pensionable employees are eligible to join Botswana Public Officers Medical Aid Scheme where the employer contributes 50% and the employee contributes 50% while in the Private sector employers and employees subscribe to various Medical Aid schemes in the country.
7. Maternity: In the Public sector, there are 84 calendar days maternity leave on full pay for each confinement, while the Private sector employees gets a total of 12 weeks maternity leave ;six weeks before date of confinement and 6 weeks after confinement.

3.2 ETHIOPIA

The measures the Country has put in place include the following social protection measures;

1. Public Sector Social Security scheme which has 1.8M contributors and 700,000 pensioners receiving monthly entitlements. The private sector has 752,342 employees registered as active contributory members and 4,971 pensioners.
2. Health Insurance Schemes: The government has developed a health insurance strategy that has two major components; Social Health Insurance (SHI) which is designed to give coverage to the formal sector that include government employees, pensioners, private sector with 10 or more employees, NGOs and their core family Members. Community-Based Health Insurance (CBHI) covers the informal sector workers. It is now under pilot test in selected districts of the country.
3. Rural Productive Safety Net Programme (RPSNP) is on-going and has seen three phases 2005-2009, 2010-2014/15 in 319 food deficit districts with about 8.3M beneficiaries out of which about 20% i.e. 1.3 million being direct support beneficiaries and from 2015-2020 in 411 districts with food deficit where the case-load can reach up to 10 million people.
4. Urban Safety Net Programmes (USNP): There has been a housing program to allocate to low-and middle-income citizens through the condominium housing construction.
5. Cash Transfer: This pilot program benefits around 12,000 individuals in four districts of the country.

3.3 KENYA

The Kenya's constitution provides for social protection as a human right for all the citizens. Only 15% of the workforce is covered by social protection. In 2013, 53.4% of Kenya's population was of working age out of which 83.7% (11.3m) were in the informal sector.

Social Protection Programmes and Measures that are in place were as follows;

1. The Country has three Cash Transfer Programs namely; Orphans and Vulnerable Children, Persons with Severe Disabilities and Older persons. The new NSSF Act has made it compulsory for all employers and employees (including government and civil servants) to contribute towards the employees pension in a graduated plan with Tier I and Tier II, as well as optional individual occupational schemes.
2. Social Health–National Health Insurance Fund (NHIF): Offers Free medical cover for children under 5 years of age and various categories of coverage dependent on

contributions .The services are also available to the informal sector which covers 19M people.

3. Empowerment programs for youth and women through concessionary lending schemes which offers loans to no or low interest rates.
4. Affirmative policies which enable the youth, women and Persons with Disabilities access Government Procurement Opportunities.
5. Youth Internship Training Programme which focuses on providing technical skills to the youth.

3.4 NIGERIA

Some of the Social Protection Intervention programmes include;

1. Mortgage Finance: wholesale mortgage provider – the Nigerian Mortgage Refinance Corporation (NMRC) set up to provide affordable mortgages to ordinary Nigerians, starting with those in the low – middle income bracket.
2. Subsidy Reinvestment & Empowerment Programme (SURE-P): These are Community Services Scheme developed to empower young unskilled, women and people living with disabilities. (About 125,000 mostly young workers have been engaged nationwide), TVET – Technical Vocational Education and Training for wealth creation and job generation.
3. Programs to promote entrepreneurship among the youth to support 750,000 young farmers with grants and training.
4. Graduate Internship Scheme; that is reducing the vulnerability of unemployed graduates by enhancing their employability (although the target is 50,000 unemployed graduates from the 36 States of Nigeria; about 22,000 graduates have so far been placed by the program.
5. Amnesty Programme for disarmed militants through education, vocational training and monthly allowance to curb youth restiveness
6. Micro Finance: A new bank – the Development Bank of Nigeria to be operational soon; in order to help bridge the access to finance gap for SMEs. Long – term financing (5 – 10 years) at affordable rates to be provided by the bank.

7. Several pockets of other labour development and youth & women empowerment programmes in the form of Social Assistance at various stages of implementation by some of the State Governments and NGOs.

3.5 SUDAN

Social protection in Sudan covers mainly those working in the formal economy, both public and private. Recently social protection system has moved progressively towards the inclusion of the informal economy through the setting up of the Social Support program.

1. Social Protection Initiative: is the first initiative for cash transfer (350,000 beneficiaries) for those families classified as extremely poor).
2. The National Health Insurance Fund (NHIF): is a semi-autonomous body under the Ministry of Social Welfare. The NHIF is also a key financing agent of the health care system. The contribution from employees in the formal sector is a percentage of their salary.
3. The National Social Insurance Fund (NSIF): is a compulsory insurance plan which covers all employees working in the private sector. It covers less than 1% of the active population. The premiums are paid by the employees and employers, which amount to 25% of the employee's salary (8% is paid by the employee and 17% is paid by the employer).
4. The National Pension Fund (NPF): Covers public employees. It has 182,000 pensioners.

Sudan faces the following challenges in ensuring Labor Protection:

- a) The informal economy covers about 60% of the labor force.
- b) Further lack of infrastructure and the large expanse of the country all form major challenges in addition to limited resources.
- c) Limitation of timely, harmonic and completed information about the targeted population and the outcome of these social protection programs is also a challenge.
- d) There is also inadequacy of programmes covering vulnerable groups.

3.6 SWAZILAND

The Country has 200, 000 formally employed people with unemployment rate of 28.1%.

It is in the process of establishing the following Social Protection organizations;

- a) The proposed Swaziland National Pension Fund (SNPF).

- b) The proposed Workmen's Compensation Insurance Fund (WCIF).
- c) The proposed National Health Insurance Fund (NHIF).

National legislation, policies, plans, and programmes on working conditions are;

- a) Occupational Safety & Health Act 2001
- b) Employment Act of 1980
- c) Industrial Relations Act 1980
- d) Wages Act of 1964
- e) Factories Machinery & Construction Works Act,1972
- f) Decent Work Country Programme
- g) Action Programme on the Elimination of Child Labour

Challenges that Swaziland faces in ensuring labour protection are;

- a) Non - compliance with Labour Laws.
- b) Personnel shortage.
- c) Inadequate financial resources.
- d) Backlog of cases in the Industrial Court.
- e) Inadequate remuneration to recruit and retain skilled personnel.

3.7 UGANDA

The Social security system in Uganda has three components:

- a) Direct Income Support
- b) Cash transfers to vulnerable groups
- c) Public Works: Regular short term support for the unemployed poor with labour capacity.

Uganda has built a multi-tier pension system model comprised of;

- a) Non-contributory direct income support schemes
- b) Mandatory contributory/social insurance schemes
- c) Voluntary private social security schemes.

Most prominent ones are the public pension system covering the public sector employees and the NSSF that covers the private sector workers.

Other social insurance schemes include;

- a) Health insurance
- b) worker's compensation

- c) Social assistance interventions such as the direct income support schemes
- d) The senior citizen grant and the vulnerable family grants
- e) The Social Assistance Grants for Empowerment (SAGE)

3.8 ZIMBABWE

Zimbabwe covers four branches in social protection; old age pensions, invalidity, survivors and work injury.

Social Protection Mechanisms include the following;

1. Social Insurance: Generally the Zimbabwe workforces do not have adequate and comprehensive social insurance. Occupational schemes are not compulsory hence have a limited coverage and lacks portability.
2. NSSA Act 17:04 of 1989: Established to administer social security schemes in Zimbabwe (Social Insurance).It includes two schemes;
 - a. Pension and Other Benefits Scheme:Pension and other benefits scheme are compulsory to formally employed workers with 168,000 beneficiaries
 - b. Accident prevention and Workers' Compensation Insurance Scheme: It is fully funded by employers and insures workers against work-related injuries .It has contribution premiums based on industry-specific risk assessment rates levied on the total wage bill.

Challenges experienced in extending Social Protection to the Informal Sector are as follows;

- a) The low level earnings and absence of any visible employer-employee relationship makes the contributory schemes often difficult to enforce.
- b) Voluntary schemes although ideal have been known to have low coverage.
- c) Due to the mobility of those in the informal sector, default rates are likely to be high.

4.0 OBSERVATIONS

The delegation observed the following;

1. The 2010 Kenyan Constitution especially in the Bill of right provides a very progressive legal framework for provision of social protection and in most cases requires the state to provide the protection as matter of right to the citizenry.

Women, youth, people living with disabilities and other marginalized groups are specifically targeted for social protection. Further, clear affirmative measures are provided to ensure that these rights are achieved including timelines for enactment of related statutes.

While it will take the country a substantial period to fully implement the said provision of the constitution mostly due to financial constraints, Kenya is clearly far ahead of other countries in the continent in recognition of the necessary legal interventions to attain social protection.

2. On social protection of senior citizenry, in countries like Botswana and South Africa, there are more effective and manageable programs where pension or cash transfer is universal based on age. This resolves the challenge facing the Kenya older persons cash transfer program where only a small fraction of those entitled are benefiting. The situation is especially bad where people living under completely similar needy circumstances have a few people picked as beneficiaries while most do not benefit due to budgetary constraints.
3. The delegation also noted that several countries had a workmen compensation policy based on non-liability principle unlike in Kenya where injured workers have to prove that the employers were to blame for the injuries before the employers become liable. In cases where a worker is unable to prove that the employer was to blame or where the employee is found to be at fault such employee is not compensated.
4. Kenya is among just a few countries in the continent where public employees still enjoy a defined benefit pension plan meaning that they do not save for their retirement. Most countries have defined contributions schemes where both the state and employee jointly contribute to the pension fund and employee enjoys a separate account into which the interest and other earnings are credited.
5. The delegation had an opportunity to meet the Kenyan High and she indicated that there were vacancies in Zambia for those trained in geothermal engineering but there was no structured way of reaching out to such persons in Kenya especially due to lack of a formal data base for those with various skills/ competences.

5.0 RECOMMENDATIONS

The delegation recommends that:

1. The National Assembly and line Ministries should ensure enactment of the relevant statutes and provision of the necessary budgetary support to comply with the constitution and International best practices on Social Protection.
2. The Committee, the House and the line Ministries to explore conversion of older persons transfer program to universal coverage based on age.
3. The Country explores establishment of a workmen compensation fund or insurance plan for payment of injured workers whether or not such workers are to blame as long as the injuries occurred in course of their duties.
4. The civil servants should contribute to their own welfare upon retirement as this will also help entrench the culture of saving in the country. This can only be achieved through a defined contributory scheme.
5. The relevant ministries to;
 - I. Urgently establish a data base for all skills in the country
 - II. To engages all our ambassadors and task them to identify the job opportunities available abroad in addition to creating the necessary structures to advise our education/training institutions of such opportunities.

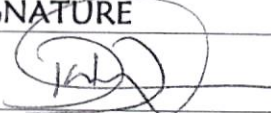
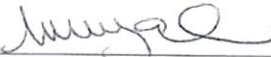
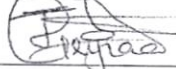
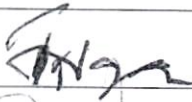

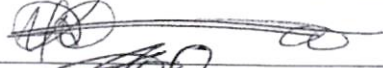
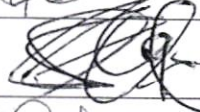
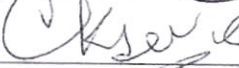


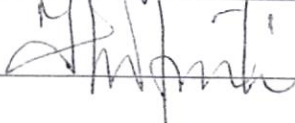
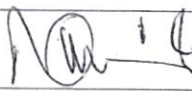
DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

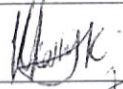
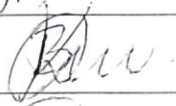



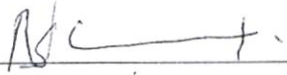
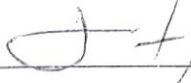

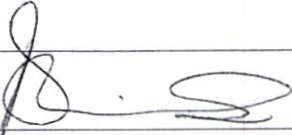
Agenda:

1. Consideration of the Protection of Traditional Knowledge and Traditional Cultural expressions Bill, 2015
2. Consideration and adoption of Reports on foreign trips

Venue: Small Boardroom, 9th Floor, Harambee Sacco Plaza

Date: 27th October, 2015

IO.	NAME	SIGNATURE
	Hon David Were, MP-Chairperson	
	Hon. Tiyah Galgalo, MP-Vice Chairperson	
	Hon. Janet Teyiaa, MP	
	Hon. Peris Tobiko, MP	
	Hon. John Ndirangu Kariuki, MP	
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26.	Hon. Mlolwa Jones Mwangogo, MP	
27.	Hon. Silvance Onyango Osele, MP	
28.	Hon. Aisha Jumwa Karissa, MP	
29.	Hon. Ferdinand Waititu, MP	

Erick Nyambati

For: Clerk of the National Assembly