

SCANNED

REPUBLIC OF KENYA

PARLIAMENT
OF KENYA
LIBRARY



THE SENATE

TWELFTH PARLIAMENT – THIRD SESSION

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON THE PETITION CONCERNING NON-RECRUITMENT OF LOCALS
BY FLOWER FARMS, INSTITUTIONS AND OTHER COMPANIES OPERATING
IN KAPUTEI NORTH WARD, KAJIADO COUNTY.

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

October, 2019

Contents

ABBREVIATIONS AND ACRONYMS	2
PREFACE	3
CHAPTER 1: INTRODUCTION	5
1.1 EMERGING ISSUES FROM THE PETITION	5
1.2 THE PETITIONERS' PRAYERS	5
CHAPTER 2: COMMITTEE DELIBERATIONS & UNDERTAKINGS.....	6
2.1 COMMITTEE UNDERTAKINGS	6
2.2 MEETING WITH THE PETITIONERS	6
CHAPTER 3: COMMITTEE OBSERVATIONS & RECOMMENDATIONS	8
3.1 OBSERVATIONS.....	8
3.2 RECOMMENDATIONS.....	8

Appendices

1. Copy of the Petition
2. Minutes of the sittings of the Committee.

Abbreviations and Acronyms

CSR - Corporate Social Responsibility

MP - Member of Parliament

NEMA - National Environment Management Authority

PREFACE

Mr. Speaker, Sir

1. The Standing Committee on Labour and Social Welfare was constituted in December, 2017 during the First Session of the Twelfth (12th) Parliament pursuant to the provisions of Senate standing order 187.

The Committee is mandated to consider all matters related to: *manpower and human resources planning, pension, gender, culture and social welfare, youth, National Youth Service, children's welfare; national heritage, betting, lotteries and sports, public entertainment, public amenities and recreation.*

2. In executing its mandate, the Committee oversees the Ministries of -
 - a) Labour and Social Protection;
 - b) Public Service, Youth and Gender Affairs; and,
 - c) Sports and Heritage.

3. The Committee comprises the following Members:

1. Sen. Sakaja Johnson Arthur, MP	-Chairperson
2. Sen. (Dr.) Milgo Alice Chepkorir, MP	-Vice Chairperson
3. Sen. Madzayo Stewart Mwachiru, MP	-Member
4. Sen. Poghisio Samuel Losuron, EGS, MP	-Member
5. Sen. (Dr.) Mwaura Isaac, CBS, MP	-Member
6. Sen. Cherarkey Samson Kiprotich, MP	-Member
7. Sen. Makori Beatrice Kwamboka, MP	-Member
8. Sen. (Dr.) Inimah Gertrude Musuruve, MP	-Member
9. Sen. Lokorio Petronila Were, MP	-Member

4. The petition concerning non-recruitment of locals by flower farms, institutions and other companies operating in Kaputei North Ward, Kajiado County was presented to the Senate on 18th July, 2018 by Sen. Mary Seneta, MP. – Nominated Senator from Kajiado County. The Speaker of the Senate then directed that the petition be dealt by the Standing Committee on Labour and Social Welfare.
5. The Committee held 3 sittings on the matter, including meeting with the petitioners.
6. The Committee also wrote to the Ministry of Labour and Social Protection directing them to conduct regular inspections in companies that operate in the area.

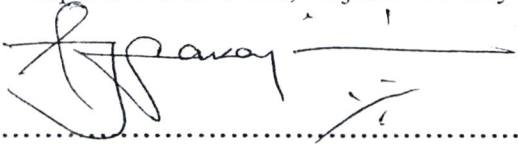
ACKNOWLEDGEMENT

Mr. Speaker Sir,

The Committee wishes to acknowledge the time and considerable effort made by all parties who volunteered information before it. I also wish to express my gratitude to my colleagues for their thoughtful input and engaged contributions to the matter. Further, the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating all the actions that led to the production of this report. The Committee also wishes to recognize the commitment and dedication of the staff of the committee that made the work of the Committee and the production of this report possible.

Mr. Speaker Sir,

It is now my pleasant duty, pursuant to Standing Order 232, to table the report of the Standing Committees on Labour and Social Welfare in relation to the Petition concerning non-recruitment of locals by flower farms, institutions and other companies operating in Kaputei North Ward, Kajiado County.



SIGNATURE.....

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

DATE: 11th September, 2019.....

CHAPTER 1: INTRODUCTION

1.1 Emerging Issues from the Petition

1. **That**, we are aggrieved that a majority of the flower farms, institutions and other companies operating in Kaputei-North Ward in Kajiado County do not employ locals, thus denying the community opportunities for economic and social advancement;
2. **That**, the majority of these flower farms, institutions and other companies do not advertise for jobs in the local dailies or public places within the Ward;
3. **That**, despite making huge profits from their operations in our Ward, these firms do not invest back in the community through Corporate Social Responsibility (CSR), which has entrenched a sense of exploitation and marginalization among the local people, as well as anger and resentment towards these firms;
4. **That**, we have made the best efforts to have these matters addressed by the relevant authorities, all of which have failed to give a satisfactory response; and
5. **That**, none of these issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.

1.2 The Petitioners' Prayers

The Petitioners' prayers were that the Senate investigates the matters and make appropriate recommendations with a view to -

1. Initiate legislation to provide for a mandatory minimum percentage of employees in a firm, comprising both skilled and unskilled workers, who must be recruited from the local community;
2. Recommend that flower farms, institutions and other companies be required to advertise for jobs in public places and in local newspapers in the area where they operate;
3. Recommend that flower farms, institutions and other companies be required to include in their boards of management representatives from the local community, and engage them in decision making including during recruitment exercises;
4. Recommend to the relevant line Ministry and state agencies to take action against any owners or managers of these firms found culpable of the grievances raised in this Petition; and
5. That the Senate initiates legislation to provide for mandatory Corporate Social Responsibility (CSR) by firms carrying out operations in an area, so as to uplift the general living standards of the people in that area and community.

CHAPTER 2: COMMITTEE DELIBERATIONS & UNDERTAKINGS

This section contains the deliberations that the Committee made and the presentations that were made by the Petitioners.

2.1 Committee Undertakings

The Committee first considered the Petition on Wednesday, 8th August, 2018 where it resolved to invite the petitioners to a meeting to provide more specific information and evidence on the allegations made in the petition.

2.2 Meeting with the Petitioners

The Petitioners together with the Senator from Kajiado County, Sen. Mary Seneta appeared before the Committee on Thursday, 6th September, 2018 and presented as follows -

1. That the Community has educated children up to degree levels but the children could neither get jobs in Nairobi nor Kajiado;
2. The County Government at the onset of devolution did a spatial plan which brought in a lot of investors to Kajiado County but lacked the requisite regulations;
3. This resulted in residents and locals having to live with pollution from industries, erosion of the existing infrastructure and other accompanying problems;
4. There are currently no laws or regulations requiring the companies and industries that had set up base in the area to employ locals, and some end up exporting labour from other parts of the country and even foreign labour;
5. There is complicity and complacency by both levels of government since the positions are not even advertised;
6. There are also very low instances of the Ministry of Immigration visiting to flush out foreign employees;
7. The petitioners have tried to engage the companies, institutions and industries on the matter of Corporate Social Responsibility (CSR) from environmental recovery, building of schools and health facilities, scholarships and bursary programmes, infrastructural development, among others. The petitioners are almost always reported to the police and district officers for harassment. They have also tried to invite them to a consultative meeting but 70% of the companies sent very junior officers;
8. They also want the phrase "local community" to be defined nationally to mean 'those whose origin of birth is from that specific area' since investors

especially, the foreign ones interpret the word 'local' to mean 'all Kenyans' as they are not aware of the intricacies of the locality;

9. The petitioners are seeking for the companies to employ at least a quarter of their staff locally; and
10. The petitioners presented a list of some of the investors in Kaputei North Ward and their status on the employment of locals and wanted the companies to be compelled to do CSR.

The Petitioners therefore made the following prayers

1. The Committee to initiate legislation to deter the mushrooming of industries in residential areas;
2. The Committee to caution county governments and investors on the spirit of public participation. The companies have taken public participation to include county government officers and National Environmental Management Authority (NEMA) and other state agencies. The residents of a particular place are not consulted;
3. Jobs should be advertised both locally and externally. Notices and adverts clearly outlining the job descriptions should be put at the gate and announced at the Chief's barazas;
4. Companies should be compelled to do CSR; and
5. Ensure that a percentage of the locals are employed in the institutions.

CHAPTER 3: COMMITTEE OBSERVATIONS & RECOMMENDATIONS

3.1 Observations

The Committee made the following observations-

1. There is a lot of pressure for employment within the Ward;
2. There are no incentives to private institutions to hire locally from within the locality of the institution since these institutions operate on profit and merit;
3. There seems to be laxity or complicity by both levels of government over monitoring of factories and institutions

In response to the Petition, the Committee, in its letter dated 3rd July, 2019 wrote to the Ministry of Labour and Social Protection directing the Ministry to conduct inspection visits in Kaputei North Ward on the welfare of the employees, including the safety regulations, workmen compensations, freedom to be unionized and wages and salaries.

3.2 Recommendations

In response to the prayers by the Petitioners, the Committee recommended that –

1. County Governments, when attracting investments, should aim to get the best deals for their residents in terms of employment, putting up social amenities like schools and hospitals, capacity building in technical areas, rehabilitation of the environment and infrastructural projects; and
2. The Ministry of Labour and Social protection should conduct regular inspections to ensure that the companies adhere to the laws, standards and regulations which protect the Kenyan workers from exploitation.

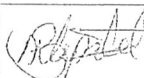
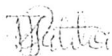








The Committee also resolved to undertake the following –

1. To come up with national solutions to be effected everywhere in Kenya so that no other citizen feels discriminated in their own locality when it comes to access to employment opportunities;
2. To engage the County Governments during its County visits to ensure that counties get the best deal (including CRS, employment opportunities and environmental rehabilitation) for their residents from potential investors; and
3. To deal with the problem of youth employment wholesomely by engaging the Ministry of Labour and Social Protection under which the National Employment Authority falls, to work hand in hand with Huduma Centres and ensure that there is a database of youth seeking jobs in every centre through which the institutions can use to source for workers.

Petition to the Senate by residents of Kaputiei-North Ward in Kajiado County, concerning non-recruitment of locals by flower farms, institutions and other companies operating in the Ward

- b) Recommends that flower farms, institutions and other companies be required to advertise for jobs in public places and in local newspapers in the area where they operate;
- c) Recommends that flower farms, institutions and other companies be required to include in their boards of management representatives from the local community, and engage them in decision making including during recruitment exercises;
- d) Recommends to the relevant line Ministry and state agencies to take action against any owners or managers of these firms found culpable of the grievances raised in this Petition; and
- e) That the Senate initiates legislation to provide for mandatory corporate social responsibility by firms carrying out operations in an area, so as to uplift the general living standards of the people in that area and community.

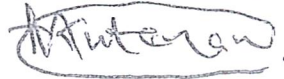
Dated this.....day of.....2018.

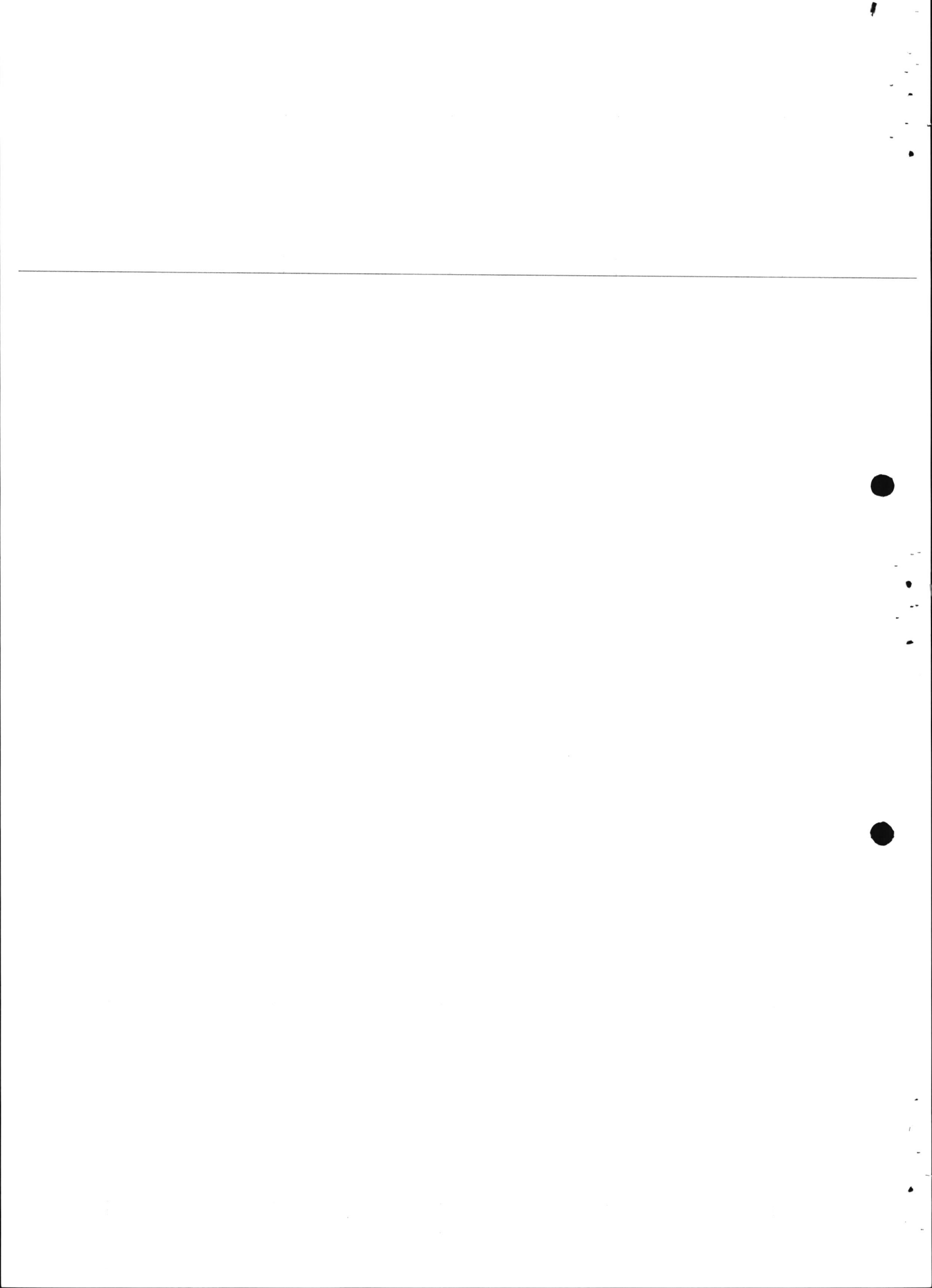
No	NAME	ADDRESS	I.D. No.	SIGNATURE
1.	BENJAMIN TIPATET	008-01100 KAJIADO	9023877	
2.	JACKSON KATITA	17A-KITENGA	22419874	
3.	PATRICK NG'ANG'A	008-01100 KAJIADO	23365335	
4.	MARQUADET MALASE	008-01100 KAJIADO	22660045	
5.	ISAAC SAITABAU	008-01100 KAJIADO	33277428	
6.	Emily Releka	008-01100 KAJIADO	8342022	
7.	MOSES TIPATET	008-01100 KAJIADO	0792118	
8.	Faith N. Josiah	24-0160 KAJIADO	24787124	
9.	EMMANUEL OSU	008-01100 KAJIADO	30775402	
10.	JOSIAH SHANKAH	875 KJO	20070312	

Petition to the Senate by residents of Kaputiei-North Ward in Kajiado County, concerning non-recruitment of locals by flower farms, institutions and other companies operating in the Ward

Counter signed by Senator Mary Yiane Seneta, Nominated Senator.

Sen. Mary Yiane Seneta,
Nominated Senator

A handwritten signature in cursive script, enclosed in a hand-drawn oval. The signature appears to read "Mary Yiane Seneta".



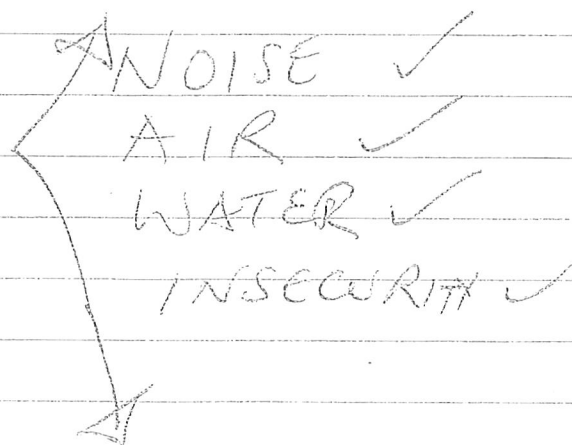
COMPANIES AT KAPUTIEI NORTH WARD

1. Jumbo Tanks
2. Masai Rolling Mills
3. Zenith Steel
4. Imara Steel
5. Njemia Pharmaceuticals
6. Westcon Ltd
7. Sigma Supplies
8. Majani Bora
9. Isinya feeds
- 10. Yash Poles
11. Allied Ltd (Gas cylinders)
12. Sichuan
13. Darford
14. Shanga
15. ASP
16. Isinya Roses Ltd
17. P.J. Dave flowers
18. Flora Ltd
19. Desire flowers
- 20. Maua Agritech
21. Shade Flowers *
22. Carnations flowers
23. Mboga Tuu
24. TWYFORD tiles
25. KAG University
26. East Africa Universities
27. RAF University

1. Employment (b)
2. Environment (a)
3. CSR (c)

① ISSUES

1. Supervision.
2. The most difficult jobs.
3. Information to the community.



MINUTES OF THE 38TH MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON WEDNESDAY, 4TH SEPTEMBER, 2019 IN THE GROUND FLOOR BOARDROOM, RED CROSS BUILDING FROM 11.00 AM.

MEMBERS PRESENT

- | | |
|--|-------------------|
| 1. Sen. Sakaja Johnson Arthur, CBS | -Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir | -Vice Chairperson |
| 3. Sen. Poghisio Samuel Losuron, EGH | -Member |
| 4. Sen. Makori Beatrice Kwamboka | -Member |
| 5. Sen. (Dr.) Inimah Gertrude Musuruve | -Member |
| 6. Sen. Lokorio Petronila Were | -Member |

ABSENT WITH APOLOGIES

- | | |
|------------------------------------|---------|
| 1. Sen. Madzayo Stewart Mwachiru | -Member |
| 2. Sen. Cherarkey Samson Kiprotich | -Member |
| 3. Sen. (Dr.) Mwaura Isaac, CBS | -Member |

SENATE SECRETARIAT

- | | |
|-----------------------|-------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Ms. Julia Gichohi | - SAA |

MINUTE SEN/SCLSW/178/2019: PRELIMINARIES

The Chairperson called the meeting to order at 11.05 am followed by a word of prayer.

MINUTE SEN/SCLSW/179/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Petronila Were and seconded by Sen. Gertrude Musuruve as follows –

AGENDA

1. Preliminaries (Prayers and introductions)
2. Adoption of the Agenda;
3. **Consideration and Adoption of the petition report concerning non-recruitment of locals in flower farms and institutions in Kaputei North Ward, Kajiado County;**
4. **Consideration and Adoption of the petition report concerning Delayed Salaries and non-remittance of statutory deductions for employees at the Nol Turesh Loitoktok Water and Sanitation Company Limited;**
5. **Deliberations on the ICPD25;**
6. ~~Committee work schedule August – December, 2019; and~~
7. Any Other Business & Adjournment

MINUTE SEN/SCLSW/180/2019: CONSIDERATION AND ADOPTION OF THE PETITION REPORT CONCERNING NON-RECRUITMENT OF LOCALS IN FLOWER FARMS AND INSTITUTIONS IN KAPUTEI NORTH WARD, KAJIADO COUNTY;

Members deliberated on the report of the petition report concerning non-recruitment of locals in flower farms and institutions in Kaputei north ward, Kajiado county and made the following observations–

1. There is a lot of pressure for employment within the ward;
2. There are no incentives to private institutions to hire locally from within the locality of the institution since these institutions operate on profit and merit;
3. There seems to be laxity or complicity by both levels of government over monitoring of factories and institutions

The Committee therefore recommended the following –

1. County governments when attracting investments, should aim to get the best deals for its residents in terms of employment, putting up social amenities like schools and hospitals, capacity building in technical areas, rehabilitation of the environment and infrastructural projects; and
2. The Ministry of Labour and Social protection should conduct regular inspection to ensure that the Companies adhere to the laws, standards and regulations which protect the Kenyan workers from exploitation.

The report was adopted after being proposed by Sen. Petronila Were Lokorio and seconded by Sen. Gertrude Musuruve.

MINUTE SEN/SCLSW/180/2019: CONSIDERATION AND ADOPTION OF THE PETITION REPORT CONCERNING DELAYED SALARIES AND NON-REMITTANCE OF STATUTORY DEDUCTIONS FOR EMPLOYEES AT THE NOL TURESH LOITOKTOK WATER AND SANITATION COMPANY LIMITED

Members deliberated on the report of the petition report concerning Delayed Salaries and non-remittance of statutory deductions for employees at the Nol Turesh Loitoktok Water and Sanitation Company Limited and made the following observations–

1. The dismissal of staff was not procedural;
2. There was no documentation to support the communication between the workers and the management;
3. The Company had made strides in addressing the debt for statutory deductions like NHIF, NSSF and PAYE, but had not addressed the issue of salaries; and
4. Despite the challenges, there seems to be an opportunity for shared resources between Counties in terms of Liaison and cooperation.

1.2 Committee undertakings and Recommendations

The Committee had directed the Cabinet Secretary in Charge of Water and Sanitation to arbitrate on the issues raised in the petition in its letter to the parties concerned dated 15th August, 2019 dated SEN/SCLSW/2019/38.

The Committee made the following recommendations -

1. The Committee recommends that the Office of the Auditor General conducts a special audit of the eight Water Services Boards in the country and all the Water Services and Sanitation Management Companies operating under them; and Report to the Senate within 6 months.
2. Beyond salary arrears, there is need for improved labour relations between workers and management in terms of recognition of trade unions and collective bargaining agreements.

The report was adopted after being proposed by Sen. Alice Milgo and seconded by Sen. Samuel Poghisio.

MINUTE SEN/SCLSW/181/2019: DELIBERATIONS ON THE ICPD25

Members deliberated on the ICPD25 and noted the letter sent by the National Council for Population and Development inviting Senate Committees on Health, Finance and Labour and Social Welfare to a breakfast meeting to be apprised of the same. The Committee resolved to put on hold their arrangements on ICPD25 and attend the breakfast meeting hosted by the Population Council on Thursday 12th September, 2019.

~~MINUTE SEN/SCLSW/182/2019: COMMITTEE WORK SCHEDULE AUGUST - DECEMBER, 2019~~

Members went over the Committee work schedule for August to September 2019 and resolved on the following -

1. To redirect the petition on the enactment of a military veteran law to address the needs of military veterans and their dependents to the Standing Committee on National Security and Foreign Relations due to the sensitivity of issues touching with the Military;
2. Reschedule the in-house meeting of Thursday, 5th September to Wednesday 10th September, 2019;
3. Meet digital hailing cab applications stakeholders on Thursday, 12th September, 2019 at 10 am;
4. Hold a retreat with the SC Sports and Heritage on the National Museum and Heritage Bill and other sporting and heritage issues in Mombasa in October, 2019.
5. Set up a meeting of KECOBO, KFC, KFCB, artists and Ministry on Wednesday, 2nd October, 2019;
6. Set up a meeting on Sporting federations and Players Associations on Wednesday, 23rd October, 2019

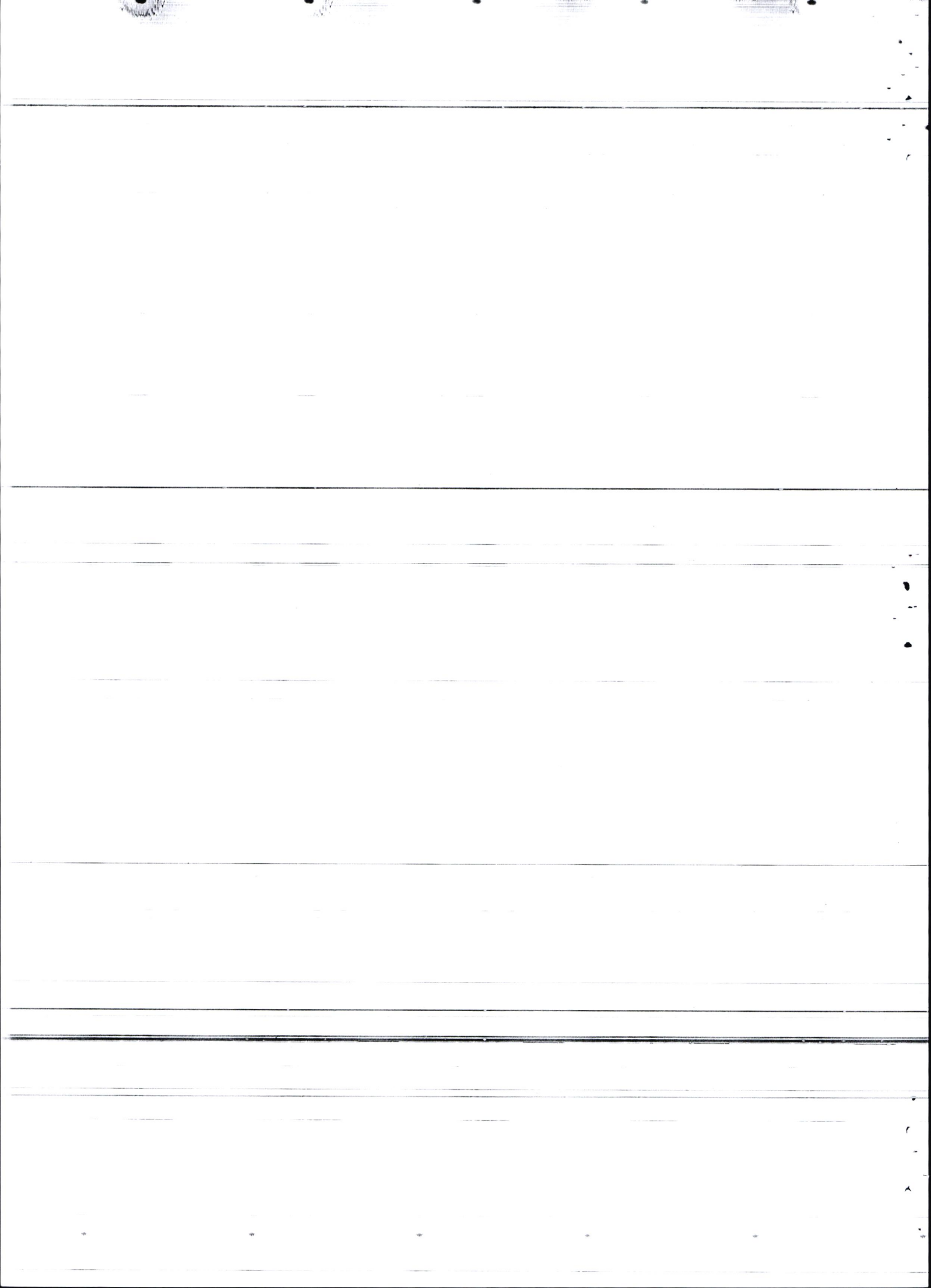
MINUTE SEN/SCLSW/183/2019: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business the meeting was adjourned at 1.00 pm.

SIGNATURE.....

(CHAIRPERSON, SEN. JOHNSON SAKAJA)

DATE..... 11th September - 2019



**MINUTES OF THE 30TH MEETING OF THE STANDING COMMITTEE ON
LABOUR AND SOCIAL WELFARE HELD ON THURSDAY 6TH SEPTEMBER,
2018 IN THE GROUND FLOOR BOARDROOM, RED CROSS BUILDING FROM
9.30 AM.**

MEMBERS PRESENT

- | | |
|---|--------------------|
| 1. Sen. Sakaja Johnson Arthur, MP | - Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir, MP | - Vice Chairperson |
| 3. Sen. (Dr.) Gertrude Musuruve, MP | - Member |
| 4. Sen. Petronila Were Lokorio, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--|----------|
| 5. Sen. Stewart Madzayo, MP | - Member |
| 6. Sen. Poghio Samuel Losuron, EGH, MP | - Member |
| 7. Sen. (Dr.) Mwaura Isaac, CBS, MP | - Member |
| 8. Sen. Samson Cherargey, MP | - Member |
| 9. Sen. Beatrice Kwamboka, MP | - Member |

SENATE SECRETARIAT

- | | |
|-----------------------|--------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Mitch Otoro | - Legal Counsel |
| 3. Mr. Vitus Owino | - Research Officer |
| 4. Ms. Fredrick Ouma | - Serjeant At Arms |

IN ATTENDANCE

- | | |
|---------------------|----------------------------|
| 1. Sen. Mary Seneta | |
| 2. Moses Tipatet | - IIng'osuani |
| 3. Jackson Katitia | - Chairman, Isinya W.R.R.A |
| 4. Isaac Saitabau | - IIng'osuani |
| 5. Gideon Toimasi | - Youth Senate – KE |
| 6. Koikai Noowkanaa | - Youth Senate – Ke |
| 7. Benjamin Tipatet | - Chairman, IIng'osuani |
| 8. Margaret Malaso | - IIng'osuani |
| 9. Emmanuel Osoi | - IIng'osuani |

MINUTE SEN/SCLSW/129/2018: PRELIMINARIES

The Chairperson called the meeting to order at 10.00 a.m., followed by a word of prayer.
~~He then led in a self-introductory session of members and visitors present.~~

MINUTE SEN/SCLSW/130/2018: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Milgo and seconded by Sen. Musuruve as follows:

AGENDA

1. Preliminaries
 - Prayers
 - Introductions
2. Adoption of the Agenda;
3. **Meeting Petitioners on the Petition concerning non-recruitment of locals by flower farms, institutions and other companies operating in Kaputei North Ward, Kajiado County; and**
4. Any Other Business & Adjournment.

5. MINUTE SEN/SCLSW/131/2018: MEETING PETITIONERS ON THE PETITION CONCERNING NON-RECRUITMENT OF LOCALS BY FLOWER FARMS, INSTITUTIONS AND OTHER COMPANIES OPERATING IN KAPUTEI NORTH WARD, KAJIADO COUNTY

a) Welcoming Remarks by the Chair

The Chair welcomed the Petitioners and recognized the presence of Sen. Mary Seneta who presented the petition in the Senate. He thanked the petitioners for raising the petition and noted that the concerns in the petition are widespread and concern most parts of the country. He then requested the participants to make their presentations.

b) Margaret Malaso

Ms. Malaso stated that as a woman, they have educated children up to degree levels but the children could not get jobs not only in Nairobi but also in Mashinani.

c) Mr. Benjamin Tipatet, the leader of delegation

Mr. Tipatet thanked the Senate and the Standing Committee on Labour and Social Welfare and presented a list of some of the investors in Kaputei North Ward and their status on the employment of locals. He then mentioned the following -

1. The County government at the onset of devolution did a spatial plan which brought in a lot of investors to Kajiado County but lacked the requisite regulations.
2. This resulted to residents and locals having to live with pollution from industries, erosion of the existing infrastructure and other accompanying problems;
3. There were no laws or regulations requiring the companies and industries that had set up base in the area to employ locals and some ended up exporting labour from other parts of the country and even foreign labour;

4. There is complicity and complacency by both levels of government since the positions are not even advertised. There are very low instances of the Ministry of Immigration visiting to flush out foreign employees;
5. The petitioners are seeking for the companies to employ at least a quarter of their staff locally;
6. Also raised the issue of CSR by the institutions and industries from environmental recovery, building of schools and health facilities, scholarships and bursary programs, infrastructural development, etc. they want companies to be compelled to do CSR;
7. The petitioners have tried to engage the companies but are almost always reported to the police and district officers for harassment. They have also tried to invite them to a consultative meeting but 70% of the companies sent very junior officers;
8. They also want the definition of a local community to be defined nationality to mean those whose origin of birth is from that specific area; and
9. Investors especially the foreign ones interpret the word local to mean all Kenyans - they are not aware of the intricacies of the locality.

The petitioners therefore prayed to the Senate to:

1. Initiate legislation cautioning the mushrooming of industries in residential areas;
2. Caution county governments and investors on the spirit of public participation. They have taken public participation to include county government officers and NEMA and other state agencies. The residents of a particular place are not consulted;
3. Jobs should be advertised both locally and externally. Well though Notices and adverts clearly outlining the job descriptions should be put at the gate and at the Chief's barazas;
4. Companies should be compelled to do CSR; and
5. Ensure that a percentage of the locals are employed in the institutions.

d) Sen. Mary Seneta

Sen. Mary Seneta started by saying that discrimination based on culture, language and dress-code is against the Constitution. There is a wide spread belief that the Maasai are not educated and thus cannot work.

She further quoted the Employment Act of 2007 which gives the provisions of discrimination under Section 5 (4) and added that Isinya has over 500 companies and they can apply positive discrimination within the law.

~~She gave examples of other jurisdictions like Tanzania through their Employment and Labour Relations Act, 2004 which has provided for the employment of locals within the law. Canada through their Human Rights Act Section 3 also provided for the same.~~

She quoted the United Nations Global Compact Labour Principles which outlines the situations under which discrimination occurs one of them being that when a potential candidate is treated differently or less favourably because of characteristics that are not related to his /her merit or inherent requirements of the job. It also allows for consideration of additional grounds where discrimination may arise.

She stated that the discrimination is in attitude and behavior and has a cultural root. Employers therefore need to take affirmative action in the Kajiado case.

She further added that the County Government Act puts in place 30% employment opportunities to minorities and the Committee should call the companies to a meeting where all stakeholders can agree. She then presented a list of the companies who in her view had flouted the recruitment laws namely ASP, SIGMA Feeds, Njimia Pharmaceuticals, Isinya roses, PJ Dave Flowers, Isinya Flora etc.

e) Members Responses

The Members of the committee responded as follows –

- 1) Empathised and sympathized with the petitioners on their situation as they are not given an opportunity to participate in building the Nation;
- 2) Noted that the companies did not conduct proper public participation to give the organizations the good will to co-exist with the residents of the area;
- 3) The Companies should conform to the conventions of the United Nations since Kenya is a signatory;
- 4) Agreed with the petitioners that the advertisements should be posted also within the locality that is, at the chief's camps, outside the gates of the institutions, in local radio stations etc.;
- 5) Noted that the local administration seemed to be compromised;
- 6) There also seems to be laxity or complicity over monitoring of factories and institutions;
- 7) Kenya should benchmark against international best practices in the sector;
- 8) Noted that there is no law compelling the private companies to hire locally from within the locality of the company;
- 9) Foreign Companies and institutions should treat citizens with respect and honour; and,
- 10) The Constitution is clear about access to information. Advertisements should be open and transparent.

f) ~~Way Forward~~

1. In responding to the prayers of the petitioners, the Committee will try and come up with national solutions to be effected everywhere in Kenya so that no other citizen feels discriminated in their own locality when it comes to access to employment opportunities;
2. The Committee will write to the Ministry to send officials to Kaputei North Ward to assess the welfare of the employees including the safety regulations, workmen compensations, freedom to be unionized and wages and salaries;
3. The committee may decide to do an inspection visit to Kaputei;
4. The Committee will try to engage the County Government without creating unnecessary hurdles and have a fair discussion on the way forward;
5. To deal with the problem of youth unemployment, the Committee is trying to talk to the Ministry of Labour under which the National Employment Authority falls to work hand in hand with Huduma Centre and ensure that there is a database of youth seeking jobs in every centre through which the institutions can use to source for workers; ~~the Committee will write to the Ministry on the operationalization of NEA; and~~
6. Corporate Social Responsibility needs a framework and should be incorporated into the Kenyan culture.

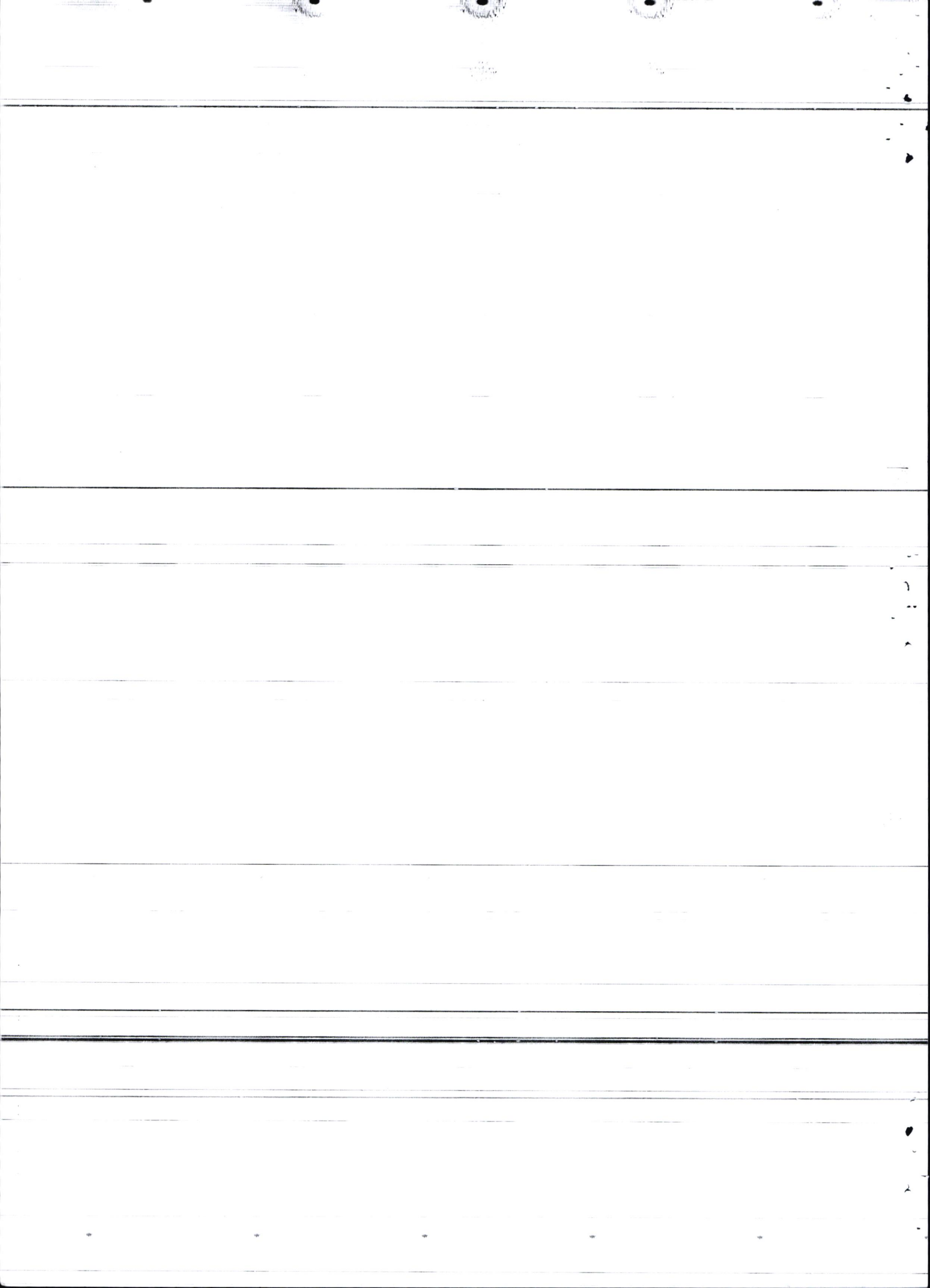
MINUTE SEN/SCLSW/132/2018: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business the meeting was adjourned at 11.30 am.

SIGNATURE.....

(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE..... 2/10/2015



MINUTES OF THE 25TH MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY 8TH AUGUST, 2018 IN THE COUNTY HALL MINI CHAMBERS, COUNTY HALL BUILDING FROM 9.30 AM.

MEMBERS PRESENT

- | | |
|--|-------------------|
| 1. Sen. Sakaja Johnson Arthur, MP | - Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir, MP | -Vice Chairperson |
| 3. Sen. Poghisio Samuel Losuron, EGH, MP | -Member |
| 4. Sen. Petronila Were Lokorio, MP | -Member |
| 5. Sen. Beatrice Kwamboka, MP | -Member |

ABSENT WITH APOLOGIES

- | | |
|-------------------------------------|---------|
| 6. Sen. Stewart Madzayo, MP | -Member |
| 7. Sen. (Dr.) Mwaura Isaac, CBS, MP | -Member |
| 8. Sen. Samson Cherargey, MP | -Member |
| 9. Sen. (Dr.) Gertrude Musuruve, MP | -Member |

SENATE SECRETARIAT

- | | |
|-----------------------|--------------------|
| 1. Mr. Peter Muchira | -Clerk Assistant |
| 2. Ms. Carol Kirorei | -Clerk Assistant |
| 3. Mr. Jeremy Chabari | - Legal Counsel |
| 4. Ms. Merale Sande | - Research Officer |
| 5. Mr. Vitalis Oketch | - Research Officer |

MINUTE SEN/SCLSW/109/2018: PRELIMINARIES

The Chairperson called the meeting to order at 9.30 am followed by a word of prayer.

MINUTE SEN/SCLSW/110/2018: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Petronila and seconded by Sen. Kwamboka as follows:-

1. Preliminaries
 - Prayers
 - introductions
2. Adoption of the Agenda;
3. **House Keeping:**
 - a) **Confirmation of Minutes 21, 22, 23 & 24**
 - b) **Correspondence before the Committee**
 - c) **Petitions before the Committee**
 - i) **Briefing on the Petition by Members of the Abasuba Community in Western Kenya for the Protection of their Language, Culture and Heritage**
 - ii) **Petition on non-recruitment of locals by flower farms, institutions and other companies operating in Kaputei North Ward, Kajiado County.**
 - d) **Bills before the Committee**
 - i) **The Care and Protection of older Members of Society Bill, 2018**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLSW/111/2018: HOUSEKEEPING

a) Confirmation of Minutes 21, 22, 23 & 24

The Minutes of the 21st Sitting held on Wednesday, 4th July, 2018 in the Ground-floor Boardroom, Red Cross Building from 10.00 am were confirmed after being proposed by Sen. Beatrice Kwamboka and seconded by Sen. Petronila Were.

The Minutes of the 22nd Sitting held on Wednesday 4th July, 2018 in the Ground Floor Boardroom, Red Cross Building from 12.00 Noon were confirmed after being proposed by Sen. Petronila Were and seconded by Sen. Sakaja.

The Minutes of the 23rd Sitting held on Thursday 5th July, 2018 in the Ground Floor Boardroom, Red Cross Building from 11.00 am were confirmed after being proposed by Sen. Beatrice Kwamboka and seconded by Sen. Alice Milgo.

The Minutes of the 24th Sitting held on Wednesday 18th July, 2018 in the Ground Floor Boardroom, Red Cross Building from 11.00 am were confirmed after being proposed by Sen. Petronila Were and seconded by Sen. Alice Milgo.

Matters Arising

- i) Under Minute SEN/SCLW/98/2018, On the matter of Betting, Control and Licensing Board of Mombasa County, the Committee resolved to travel to Mombasa to meet with County officials to finalise on the issue;
- ii) Under Minute SEN/SCLSW/94/2018, on the meeting with the Chief Administrative Secretary and Principal Secretary from the State Department of Gender, the Committee resolved to invite the stakeholders to give a brief on the status of merging the Uwezo fund, Women Enterprise Fund and Youth Fund specifically on the uptake of the Fund and Challenges and measures taken to ensure smooth running of the fund;
- iii) Under Minute SEN/SCLW/102/2018, on the meeting with the Cabinet Secretary, Ministry of Labour and Social Protection, the Committee proposed to hold a retreat with the Ministry, National Employment Authority and National Industrial Training Authority in September;

b) Correspondence before the Committee

- i) Letter from the CS, Ministry of Education postponing the meeting concerning the Abasuba Petition.

The Committee acknowledged receipt of the letter and resolved to reschedule the meeting to 11th September, 2018 at 11.00 am;

- ii) Letter from Kenya Railways informing the Committee that the General Manager Human Resources and the General Manager Infrastructure Development will represent the Managing Director in the meeting with the Committee scheduled to take place the following day.

The Committee acknowledged receipt of the letter.

- iii) Letter from Council of Governors dated 20th July, 2018 recommending that Governors should be included as state officers under the Retirement Benefits (Deputy President and Designated Officers) (Amendment) Bill, 2018.

The Committee acknowledged receipt of the letter but noted that the Bill had already been passed by the House on 31 July, 2018 and is due for the Committee of the whole.

- iv) Letter from Retired Teachers Forum dated 20th July, 2018 about teachers who retired from 1997 to 2007 who have not been paid their pensions yet.

The Committee noted their concerns and proposed that their grievances should come in form of a petition so that the Committee can deal with the matter conclusively.

- v) Letter from the office of the Clerk of the Senate notifying the Committee of the Motion by Sen George Khaniri on registration of Persons with Disabilities. The Ministry of Labour and Social Welfare should provide a report on the same by 18th September, 2018.

- vi) Letter from the Kenya National Commission for UNESCO inviting the Committee to attend the to be part of the 3rd KNATCOM celebrations that will be held in Kisumu County from 19th to 23rd September, 2018;

The Committee resolved to send at least three members to the celebrations.

- vii) Letter from Programme for Christian-Muslim Relations in Africa (PROCMURA) inviting the Committee to finance and be part of their peace campaigns from 21 – 23 September, 2018.

The committee noted that it will be engaged at that time in KNATCOM activities.

- viii) Letter from Africa Centre for Open Governance which contained a report on Golden Handshakes: the Retirement Benefits of Senior State Officers in Kenya” the Committee acknowledged receipt and noted that the Bill dealing with the issue contained in the report had already been passed by the House on 31 July, 2018 and is due for the Committee of the whole.

c) Petitions before the Committee

- i) Briefing on the Petition by Members of the Abasuba Community in Western Kenya for the Protection of their Language, Culture and Heritage

The Committee noted that the petition was proceeding well and that the Members of Parliament from the Suba areas should be invited to add their voices to the petition.

- ii) Petition on non-recruitment of locals by flower farms, institutions and other companies operating in Kaputei North Ward, Kajiado County.

The Committee agreed to meet the Petitioners in August and requested the Secretariat to schedule a date.

d) Bills before the Committee: The Care and Protection of older Members of Society Bill, 2018

The Committee resolved to hold a public hearing in late August, 2018 and requested the Secretariat to schedule a date.

MINUTE SEN/SCLSW/112/2018: ANY OTHER BUSINESS & ADJOURNEMENT

- i) The Committee was informed of the Message from the Speaker requesting the Committee to consider the matter of Hon. Chepkong'a, nominee to the Parliamentary Service Commission. The committee resolved to hold the Approval hearing meeting on Thursday 16th August, 2018 at 10.00 am.
- ii) Members were concerned about the handling of the National Athletic teams and they resolved to invite the Ministry of Sports and Heritage, the Sports Federations, Players Associations and Major sports sponsors to discuss the matter:-
- iii) Concerns were also raised on the working of Bunge Sports Club and members proposed that a joint committee should be formed to make sure that both houses are represented.

There being no other business, the meeting was adjourned at 11.00 am.


SIGNATURE.....

(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE.....

5TH SEPTEMBER, 2018