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THE NATIONAL ASSEMBLY


12TH PARLIAMENT

LABOUR AND SOCIAL WELFARE COMMITTEE

**44TH ARLAC GOVERNING COUNCIL MEETING FOR
MINISTERS RESPONSIBLE FOR
LABOUR/EMPLOYMENT/MANPOWER ISSUES AND HIGH
LEVEL SYMPOSIUM ON SOCIAL DIALOGUE AND
TRIPARTISM**

19TH – 23RD February, 2018

Ezulweini, Swaziland

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	22 NOV 2018
	DAY: THURSDAY
TABLED BY:	Hon. Ali Wario Chair, Committee on Labour and Social Welfare
CLERK-AT-THE-TABLE:	Mog Lemana

Directorate of Committee Services
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER, 2018

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EXECUTIVE SUMMARY

The ILO and UNDP jointly formed ARLAC in 1974. In 1982, it transformed into a unique organization with its independent Governing Council, comprising labour ministries from its member countries but with lots of support from the ILO and UNDP. The current membership of ARLAC stands at twenty full members, that is, countries that have ratified the ARLAC Agreement. These countries, convinced that the social protection function was expanding in scope and activity and that the objective of development plans would not be achieved if social and labour factors on the one hand and economic factors on the other, were not coordinated or harmonized, emphasized the need for training.

ARLAC is actually a CIS Regional Centre for Africa. "CIS is the knowledge management arm of the ILO Programme on Safety and Health at Work and the Environment (Safe Work). Its goal is to ensure that workers and everyone concerned with their protection have access to the facts they need to prevent occupational injuries and diseases.

the 44th ARLAC Governing Council Meeting was held from 19th -23rd February, 2018 and also the High Level Symposium on Social Dialogue and Tripartism as Crucial Means for the Effective Achievement of the ILO Declaration on Social Justice for a Fair Globalization and Decent Work. The National Assembly Labour and Social Welfare Committee participated in this deliberation. The Kenyan delegation participated in both activities alongside fourteen (14) other Member Countries and where she was the only country from the East African Region.

The delegation of the National Assembly Labour and Social Welfare Committee forming part of the Kenyan Delegation comprised of:-

1. Hon. Catherine Wambilianga, MP
2. Hon. Michael Muchira, MP
3. Mr. Said Osman- Committee Researcher/Delegation Secretary.

The way forward that came out of the deliberation for the Kenyan delegation is as follows:-

- i. The Government of Kenya should fast track the ratification process for ILO Convention No. 87 on Freedom of Association and to make consideration towards ratification of 150 and 189.

- ii. The Government should renew negotiations with South Africa for a Joint Development Co-operation Framework on areas of social inclusion.
- iii. The Government should embark on programme for strengthening Social Dialogue institutions.
- iv. The Parliament of Kenya in collaboration with the Executive review Labour Laws and policy to align with current trends.

1.0 INTRODUCTION

1.1 Establishment and Mandate of the Committee

The Departmental Committee on Labour and Social Welfare is established in accordance with the provisions of Standing Order 216 of the National Assembly. Its mandate as provided for in S.O. 216(5) is to *inter-alia*:-

- i. *Oversight over the day to day running and administration of Ministries, Departments and Agencies under its purview;*
- ii. *Consider Estimates of the said Ministries, Departments and Agencies;*
- iii. *Consider relevant legislation and recommend enactment of laws; and,*
- iv. *Carry out vetting of State/Public Officers as required by law.*

The Committee is mandated to consider the following subjects:-

- i. Labour,
- ii. Labour relations,
- iii. Manpower or Human resource Planning,
- iv. Gender,
- v. Youth,
- vi. Social Welfare and Security,
- vii. Children`s Welfare,
- viii. And Persons Living With Disabilities.

Oversight

In executing its mandate, the Committee oversees the following government Ministries, departments and or agencies, namely:

- i. Ministry of Labour
- ii. The State Department for Social Security and services
- iii. The State Department for Gender
- iv. The State Department for Youth

COMMITTEE MEMBERSHIP

1. The Hon. Ali Wario, MP - **Chairperson**
2. The Hon. Joyce Korir, MP- **Vice Chairperson**
3. The Hon. Gladys Wanga, MP
4. The Hon. Janet Marania Teyiaa, MP
5. The Hon. Janet Nangabo Wanyama, MP
6. The Hon. Ronald Kiprotich Tunoi, MP
7. The Hon. James Onyango Koyoo, MP
8. The Hon. Rose Museo, MP
9. The Hon. Alfred Kiptoo Keter, M.P
10. The Hon. Charles Kanyi Njagua, MP
11. The Hon. Catherine Wambilyanga, MP
12. The Hon. Fabian Kyule Muli, MP
13. The Hon. Ole Sankok David, MP
14. The Hon. Abdi Mude Ibrahim, MP
15. The Hon. Michael Mwangi Muchira, MP
16. The Hon. Safia Sheikh Adan, MP
17. The Hon. Tom Odege, MP
18. The Hon. Wilson Sossion, MP
19. The Hon. Omboko Milemba, MP

COMMITTEE SECRETARIAT

- | | |
|------------------------------|---------------------|
| 1. First Clerk Assistant | Mr. Adan Gindicha |
| 2. Clerk Assistant | Mr. John Mugoma |
| 3. Legal Counsel | Ms. Marlene Ayiro |
| 4. Research & Policy Analyst | Mr. Said Osman |
| 5. Fiscal Analyst | Ms. Amran Mursal |
| 6. Media Relations | Ms. Noelle Chelagat |

On behalf of the Departmental Committee on Labour and Social Welfare and Pursuant to the provisions of Standing Order 200(1), it is my pleasant duty to present the 44th ARLAC Governing Council Meeting was held from 19th -23rd February, 2018 and also the High Level Symposium on Social Dialogue and Tripartism Report of the Committee on Labour and Social Welfare, to the House.

Signed _____



Hon. Ali Wario, MP

Chairperson, Departmental Committee on Labour and Social Welfare

Date _____

24/02/18

2.0 BACKGROUND

The Cabinet Secretary for the Ministry for Labour and East Africa Affairs was invited by the Chairperson of ARLAC Governing Council and ARLAC Executive Office, Hon. Minister for Labour and Social Welfare Ms. Petronella Kagonye and Member of Parliament, vide a letter dated 18th December 2017 to attend the 44th ARLAC Governing Council Meeting for Ministers responsible for labour/employment /manpower issues from 19th-23rd February 2018 and also the High Level Symposium on Social Dialogue and Tripartism as Crucial Means for the Effective Achievement of the ILO Declaration on Social Justice for a Fair Globalization and Decent Work. The National Assembly Labour and Social Welfare Committee participated in this deliberation. The Kenyan delegation comprised of the following persons:

- Ambassador Ukur K. Yattan - Head of Delegation
Hon. Cabinet Secretary for Labour and Social Protection
- Hon. Catherine Wambilianga, MP - Observer/Alternate Delegate
Parliamentary Committee on Labour and Social Welfare
- Hon. Michael Muchira, MP - Observer/Alternate Delegate
Parliamentary Committee on Labour and Social Welfare
- Mr. Said Osman, Research Officer - Observer/Alternate Delegate
Parliamentary Committee on Labour and Social Welfare
- Mr. Isaiah B. Kirigua - Delegate/Chief Technical Advisor
Senior Deputy Labour Commissioner
- Mr. Geoffrey A. Omondi - Technical Advisor on Social Dialogue
Deputy Labour Commissioner
Research, Training and Programmes
- Ms. Hellen A. Apiyo - Technical Advisor on Social Dialogue
Senior Assistant Labour Commissioner
International Labour Affairs
- Mr. Robert Chepkwony - Ag. Personal assistant to the
Cabinet Secretary/Communications Officer

Kenya participated in both activities alongside fourteen (14) other Member Countries and where she was the only country from the East African Region. The delegation also played a significant role in the drafting committee of the Meeting in drawing resolutions and recommendations.

2.1 Outcomes of the High Level Symposium

Member Countries' participation in the High Level Symposium was in the preliminary done through presentation of country reports by Senior Officials, representatives of the International Labour Organization (ILO) and thereafter followed by discussion and debate. The Meeting of the Experts held on 19th February 2018 having received country reports on social dialogue and tripartism as a means of promoting ILO Declaration on social justice for a fair globalization for decent work, it made the following observations and recommendations that:

1. The ILO Declaration on Social Justice for a Fair Globalisation of 2008 lays out important strategic objectives which member countries should pursue in promoting the Decent Work Agenda with specific reference to Social Dialogue and Tripartism;
2. Social dialogue is an essential tool for negotiation, consensus building, change and national building to achieve social and economic goals;
3. Most of the member countries have ratified ILO Conventions, No. 87, 98 and 144, which are the essential instruments for effective social dialogue and tripartism;
4. Most member countries have domesticated the above conventions into their national legislations, policies, plans and programs; and
5. Member countries have established tripartite and bipartite structures to support social dialogue and decent work at national and enterprise levels respectively.

The Ministers observed that social dialogue and tripartite relations face numerous challenges, which include:-

1. Low priority and limited funding of ministries responsible for labour matters;
2. Ineffective communication between workers and employers;
3. Lack of awareness and shared understanding of social dialogue and tripartism among governments and social partners;

4. Decent Work deficits arising from new forms of employment relationships and a growing informal economy;
5. Limited knowledge/ understanding and non-compliance with labour laws;
6. Mistrust between the social partners;
7. In some instances there is low unionisation due to the diminishing influence of trade union movement;
8. In some instances there is proliferation of trade unions and negative competition within the labour movement;
9. Lack of clear criteria for determining and recognizing the most representative organisation of workers/employers;
10. Non utilisation of domestic social dialogue structures to resolve disputes relating to the compliance with International Labour Standards;
11. Some ARLAC member countries have challenges in domesticating International Labour Standards such as ILO Convention No. 87 on Freedom of Association and the Protection of the Right to Organise; and
12. Technological revolutions, demographic changes, migration, climate change and globalisation all of which impact on the world of work.

On the basis of the aforementioned and further deliberations, the Ministers came up with the following recommendation for implementation by member countries:-

1. Prioritise ministries responsible for labour matters and allocate to them adequate resources;
2. Build capacity of the government and social partners on social dialogue, International Labour Standards and national labour laws;
3. Promote awareness on social dialogue and tripartism;
4. Review existing policies, strategies and legislation as well as developing new ones to address emerging forms of employment relationships;
5. Develop programmes in line with the ILO Recommendation No. 204 to formalise the Informal Economy.

2.2 Specific Recommendations of the High level Meeting

1. Engage the International Labour Organisation (ILO) for technical assistance to support the social partners to promote freedom of association for effective social dialogue;
2. Engage the ILO to assist member countries to develop guidelines to deal with issues relating to determining the most representative organisation of employers and workers;
3. Strengthen platforms for sharing experiences and good practices in social dialogue and dispute settlement;
4. Engage the ILO to provide technical assistance on strengthening domestic social dialogue structures.
5. Make the necessary preparation for active participation in the recurrent discussion on social dialogue and tripartism due to be held at the forthcoming 107th Session of the International Labour Conference, in order to benefit from the solutions to be adopted.

The Ministers further resolved that:

1. ARLAC should in collaboration with the ILO work together in future programming to assist member countries to fully domesticate applicable International Labour Standards on social dialogue; and
2. ARLAC should in collaboration with International Labour Organisation-International Training Centre (ILO-ITC) in Turin, Italy to hold the first social dialogue academy.

2.3 Outcomes of the 44th Governing Council

The meeting of the Governing Council deliberated on all agenda items and with the following resolutions:

2.4 Members in Arrears

To stay the implementation of Article 19(4) (a) and (b) which provides for suspension of member countries in arrears of contribution with a view to maintaining the spirit of solidarity among its membership. However to ensure the members with arrears, pay up their contributions or give a payment plan, Nigeria was asked to engage Sierra Leone while the Chairperson was tasked to engage Uganda and Somalia.

2.5 Recruitment of the ARLAC Director

To appoint the candidate from Uganda to the post, since he had successfully gone through the process of interview and emerged the best, despite his country having arrears of contribution. This should be effected by end of April 2018 and that he should be involved in preparation of the next Governing Council meeting to be held in Geneva.

2.6 Revision of the 2018 Budget Line

In principle approved the utilization of funds for 2018, but directed that in future the report should be prepared and circulated to member countries before the meeting to allow adequate time to study the budget.

2.7 Restructuring of the ARLAC

The recruitment of the two deputies, training personnel, review of the salary and pensions of staff should be done within the framework of the Study Report previously issued but also aligned to the ARLAC Constitution.

2.8 Additional Contributions to ARLAC

The meeting commended the Government of Zimbabwe for having supported ARLAC in the previous year through a grant of US\$ 70,000 and further appealed that the additional commitment of US\$65,000 for 2018 be redeemed in line with the Host Agreement. The meeting also noted the commitment by the Government of Nigeria of US\$ 10,000 and also welcomed Kenya's pledge of US\$ 10,000 for the year 2018. The Government of Zimbabwe was also urged to finalize the designs of envisaged infrastructural development for consideration by the 44B Governing Council Meeting of June 2018.

2.9 Preparation for the International Labour Conference (ILO)

Members of the Governing Council were urged to note the debate on ILO co-operation with the tobacco companies on the provision of financial assistance to programmes targeted at elimination of child labour. The request was noted for Governing Council's consideration at the 44B meeting in Geneva and the International Labour Conference.

2.10 Meeting with the Minister for Labour for South Africa

The Honourable Cabinet Secretary, Amb. Yattani also took the opportunity to hold talks with the Deputy Minister for Labour of the Republic of South Africa, exploring areas of mutual co-operation in strengthening social dialogue. From this meeting, it was mutually agreed that Kenya would visit South Africa possibly in the next two months to study the South African Social Dialogue Institutions with particular interest in the Conciliation and Mediation Commission which deals with resolution of Labour disputes. The discussion also explored the possibility for training of the exploring/strategies for strengthening social dialogue institutions.

2.11 Observation Made By the Delegation

The delegation made the following observations;

- i. The Kenyan Government was commended for prompt and advance payment of the body annual contribution.
- ii. There is pending ILO Conventions that were not ratified such as the ILO Convention No. 87, 150 and 189.

2.12 Recommendations and way forward for Kenyan Delegation

There is need for Kenya to undertake the following measures as soon as possible:

- i. **The Government should fast track the ratification process for ILO Convention No. 87 on Freedom of Association and to make consideration towards ratification of 150 and 189.**
- ii. **The Government should renew negotiations with South Africa for a Joint Development Co-operation Framework on areas of social inclusion.**
- iii. **The Government should embark on programme for strengthening Social Dialogue institutions.**
- iv. **The Parliament of Kenya in collaboration with the Executive review Labour Laws and policy to align with current trends.**