

THE NATIONAL YOUTH EMPLOYMENT AUTHORITY BILL, 2015

MEMORANDUM:

The Parliamentary Initiatives Network (PIN) is a forum for non-state actors in Kenya with a programmatic interest in the work of Parliament. PIN brings together eighteen Kenyan organizations including civil society, professional associations, think tanks and research institutions that focus on supporting parliamentary business. Its mandate extends to providing information and research support to the Kenyan Parliament in its oversight, legislative and representation roles, as well as designing tools to help parliament systematically monitor and track the implementation of decisions, policies and laws in line with the constitution of Kenya.

PIN appreciates the principally good intentions to mitigate the problem of youth unemployment in Kenya, through the mechanisms prescribed under the National Youth Employment Authority Bill. Granted, this has been a perennial problem in the country, dating back to the early decades of political independence. It has persisted in spite of several deliberate efforts by the different regimes that have been in office to put in place strategic interventions such as the Kazi Kwa Vijana Program or the Youth Enterprise Development Fund aimed at economically empowering the Kenyan youth. For this reason, the Constitution of Kenya 2010 put in safeguards to ensure this concern is addressed. Article 55(c) read together with 56 (c) of the Constitution of Kenya requires the State to take legislative, administrative and affirmative action measures to ensure that the youth access employment. To this end, the National Youth Employment Authority Bill was drafted to establish a legal framework that facilitates access to employment opportunities by the youth. It provides for the establishment of an Authority whose core mandate is to maintain a database of all youth seeking employment and to facilitate their employment. The management of this Authority is vested in a Board.

In its review of the Bill, PIN identified a number of concerns that were not appropriately addressed by the Bill. These include:

- I) Recognizing that there already exist a number of mechanisms tasked with handling youth affairs, including Employment Bureaus under the Ministry of Labour, how does the Bill harmonize the existing mechanisms? How will the Authority created be linked to these bureaus and other existing mechanisms?
- II) There is need to have a skills audit of the youth seeking employment and consequently a skills database. Currently, there is seemingly a mismatch between employment opportunities and skills available. There should be a mechanism for the private sector to stipulate what skills they need that Universities and other learning institutions are not responding to.

- III) Given the role of Huduma Centers in transforming public service delivery in the country and ensuring easier access to government services, is it not feasible to have them take up the responsibility of registration of youth seeking employment?
- IV) The proposed framework is narrow and leaves out a number of possible strategies for employment creation for the youth, both with formal or informal education. Noteworthy, most youth in Kenya have formal but 'incomplete' education due to the large number of academic dropouts. Where are concepts such as access to credits, loans, scholarships, state awards for exemplary performance/innovation (with monetary value equivalents) that can spur self employment? What is the place for the strengthened NYS, volunteerism, or sector based minimum job placements such as Kazi Kwa Vijana to boost roads and transport, health, agriculture, security etc? What is the role of the Labour Ministry, FKE and the Labour Unions in this? What subtle contributions can they make or be legally compelled to make?
- V) How will the functioning of the Authority be monitored?
- VI) The Bill does not address the link between national and county governments in the creation of employment for the youth. The Bill needs to create strategies for propagation at the county level?
- VII) The Bill seems to primarily address formal employment that emanates out of a university level education and qualification. It does not adequately cater to those from technical institutions, like polytechnics. The strategies identified in the Bill do not adequately address employment in the informal sector.
- VIII) There are already established institutions which are mandated to undertake some of the functions indicated in this Bill. These include the National Youth Council and the Youth Enterprise Development Fund (YEDF). How do these fit in the Employment Authorities structure as envisaged in the Bill?

Further, PIN proposes the following specific amendments to the Bill:

Clause	Provision	Comment/Rationale/recommendation
Clause 8(2) Headquarters and access to services	The Authority shall ensure reasonable access of its services in all parts of Kenya, in so far as it is appropriate to do so, having regard to the nature of the service	<ul style="list-style-type: none"> • The term '<i>reasonable access</i>' is ambiguous and may allow room for interpretation that is detrimental to the youth • Delete the word reasonable • The Authority ought to be integrated to all the Counties • Establish County branches/offices to facilitate this process and for ownership. Charge County governments with responsibility of contributing to these County branches. In tandem with keeping a register

		of job seekers, map out potential employers and how to incentivize them;
<p>Clause 9</p> <p>The Functions of the Authority</p>	<p>The Functions of the Authority shall be to-</p> <p>(a) Register all youth who are seeking employment</p>	<ul style="list-style-type: none"> • Employment bureaus are already doing this • Amend to the effect that the Authority shall liaise with or shall coordinate the employment bureaus in registration of the youth
	<p>(b) Maintain and publish online an up-to-date database of all youth seeking employment</p>	<ul style="list-style-type: none"> • Provide for the establishment of resource centres with this information at the County Headquarters and Sub-county offices • Data bases should include aspects of a skills audit
	<p>(c) Ensure easy access to any information pertaining to job vacancies for the youth</p>	<ul style="list-style-type: none"> • Delete the word ‘easy’ so that it reads, “... shall ensure access to any information...”
	<p>(h) Facilitate, through continuous training and other activities of education of youth on possible improvement of their employment chances and work skills</p>	<ul style="list-style-type: none"> • Consider incorporating the requirement for the Authority to continuously liaise with learning institutions in the development of a curriculum that responds to employees needs

	<p>(i) Facilitate counseling of the youth and similar activities to improve the absorption of youth in employment and undertake activities to promote the development of youth in so far as employment of the youth is concerned</p>	<ul style="list-style-type: none"> • Insert the word career before counseling so that it reads: “Facilitate ‘Career’ counseling of the youth...” • The meaning of the counseling to be offered here is currently ambiguous •
	<p>(l) encourage and promote efficiency and responsibility in the employment of the youth</p>	<ul style="list-style-type: none"> • Through what mechanism will this actually be done? • Delete (l) as it adds no value to the section. The term “responsibility” is vague in its meaning.
	<p>(m) encourage equal opportunity employment practices for the benefit of the youth</p>	<ul style="list-style-type: none"> • Delete the word ‘encourage’ and substitute therefore ‘ensure’ • Add a stipulation at the end of that statement to the effect that failure to adhere to the ‘equal opportunity policy’ will attract certain penalties
<p>Clause 11 The Board of the Authority</p>	<p>This section lists the persons of whom the Board shall comprise</p>	<ul style="list-style-type: none"> • Add the following persons to the Board: <ol style="list-style-type: none"> i. Permanent Secretary for the Ministry of Devolution & Planning ii. The Chairperson of Labour and Social Services from the Council of Governor iii. A representative of the Kenya Association of Technical Training Institutions (KATTTI) iv. A representative from the Kenya Private Sector Alliance (KEPSA) <p>One representative from the Civil Society</p> <p>Delete the word “nominated” in Clause 11(h) to read: One youth representative of the Federation of Kenya Employers</p>

<p>PART IV on Affirmative Action</p> <p>Section 38 (1)</p>	<p>It provides that the State shall, through the Authority encourage private and public institutions to employ youth in all positions including positions of leadership and management</p>	<ul style="list-style-type: none"> • Insert a new subsection (1) before the current section, providing clearly and succinctly the affirmative action measures that must be taken by the State to facilitate youth employment. • Provide that ‘At least thirty percent of the labor force in government entities shall be set aside for the youth’ • Subsequently amend section 30 on the private sector to include the thirty percent Cap and provide that private sector employers that comply with this requirement in addition to those listed in clause 38 shall get the incentives prescribed thereof.
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