

# The GLOCEPS

## Commentary Today

### Foreign Policy Pillar

## Safeguarding Kenya's domestic workers in Saudi Arabia

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### The GLOCEPS Advisory

There is a need for concerted bilateral and domestic multi-agency efforts to protect Kenyan citizens from labour trafficking. It is critical that the government fast-tracks the labour migration bill to create a framework for the harmonised system to manage labour exports. Moreover, the urgency to negotiate an extradition treaty with Saudi Arabia and protect distressed Kenyans in the Gulf cannot be overstated. The government should, meanwhile, sensitise Kenyans on official migration procedures, the avenues for training and the importance of the Musaned system to encourage Kenyans to work abroad through the proper channels.



Photo Credit: Send Us Home Kenya

Kenya is making commendable efforts to establish safe houses, labour attaché offices, train and track migrant workers in the Gulf. Nonetheless, gaps in her labour export policies continue to contribute to the maltreatment of her migrant domestic workers in Saudi Arabia. Riyadh provides an avenue to ease the pressure off Kenya's saturated domestic labour market. However, unexplained deaths, modern-day slavery, sexual servitude and mistreatment of Kenyan migrant workers persist despite a model bilateral labour agreement. While Saudi Arabia amended its labour laws in 2019 to address some of Kenya's concerns, the implementation is yet to be felt. The inhumane Saudi law thrives in the absence of an extradition treaty and the lack of a comprehensive labour export policy framework to protect vulnerable

Kenyans in Riyadh. This concerns Kenya's economic stability and diplomatic relations, as diaspora remittances complement household earnings and drive investments.

### The Labour Export Policy framework

The inadequacies of Kenya's efforts to stem the labour trafficking and mistreatment of her citizens abroad are rooted in the absence of a labour export policy. While Vision 2030 recognises the potential of Kenya's human capital, parliament is yet to pass the Labor Migration Management Bill 2021 which seeks to address the rising mistreatment of Kenyan migrant workers, especially those working in the Middle East. The Ministry of Labour and Social Protection (MLSP) focuses on domestic labour concerns and the inadequacies faced in



Photo Credit: hrsd.gov.sa



managing Kenya's labour export in the diaspora. The Labour Institutions Act of 2007 and the 2007 Employment Act are outdated to deal with the increased labour migration and resultant effects of labour trafficking. Other regulations are dispersed within the 2016 National Employment Authority (NEA) Act and the Labour Institutions (Private Employment Agencies) Regulations of 2016. This policy framework has failed to streamline the irregularities and led to poor coordination as multiple government agencies have disjointed approaches to tackling the foreign employment issue.



Photo Credit: Kenya News Agency

Ministry of Labour and Social Protection Cabinet Secretary CS Simon Chelugui

### Laxity in vetting and monitoring labour recruitment agencies

The NEA's inefficiency has exacerbated the crisis, yet it is mandated to streamline Kenya's labour exports. Despite the 2017 deregistration and re-registration of labour recruitment agencies, unscrupulous recruitment agencies have infiltrated the system. For instance, in February 2022, Qatar shut down twelve Kenyan-owned labour agencies that were trafficking Kenyans to the Middle East. It is critical that investigations ascertain how these agencies passed the vetting by the inter-ministerial committee. NEA's inadequacy has then enabled labour traffickers to register fraudulent agencies, bypass bureaucratic processes, monitoring processes, obtain travelling documents with minimal questions and circumvent procedures meant to regulate the sector. This incongruence has fueled the crisis and weakened the enforcement of the 2019 Kenya-Saudi Arabia bilateral labour agreement.



Photo Credit: The Guardian

### Migrants Situational Awareness

The lack of situational awareness on the rightful procedures for labour immigration has seen many vulnerable Kenyans being duped into being trafficked to Saudi Arabia. Labour traffickers target vulnerable, unemployed Kenyan youths, especially from rural areas with limited education, internet access and comprehension of their rights and duties—including the importance of official registration with their embassies. Due to the demand for Gulf jobs, labour traffickers take advantage of the desperation of potential migrants unable to afford the fees for pre-departure training. They fast-track their recruitment, pay expensive airfares, negotiate and even sign contracts on their behalf. They also fail to register them with respective state agencies, systems such as Musaned and diplomatic missions. So far, MLSP and MFA have only conducted two awareness creation forums in Kilifi and Muranga. However, these forums are inadequate to mitigate the magnitude of the crisis.



Photo Credit: Nairobi News - Nation





## Migrant welfare and extradition process

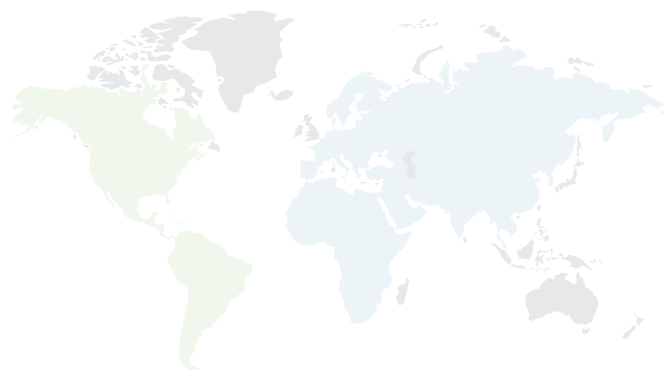
While plans are underway to build a Kenyan safe house in Saudi Arabia, labour migrants to the Gulf have limited welfare protection. This is due to the limited diplomatic mission capacity, and the absence of an extradition treaty with the Saudi Arabia government that has left Kenyan detainees languishing in the deplorable overpopulated Saudi Arabia detention facilities. In this new arrangement, it is expected that once a Kenyan migrant is detained, the Kenyan mission in Saudi Arabia will provide legal assistance and secure their release or deportation. However, the embassy is understaffed, overwhelmed by persistent distress calls and often unresponsive



to the needs of the diaspora. An extradition treaty with Riyadh could easily enable distressed Kenyans to be deported back home as the Extradition (Commonwealth Countries) Act 2012, guides cooperation with foreign states in managing legal matters. For instance, Philippines and Saudi Arabia established the Transfer of Sentenced Persons Agreement (TSPA), the Extradition Treaty, and the Treaty on Mutual Legal Assistance on Criminal Matters to



Legal Assistance on Criminal Matters to enable Filipino workers jailed in the Kingdom to be repatriated. While no African country has an extradition treaty with Riyadh, Ethiopia's citizen-centred diplomacy has repatriated thousands of its citizens detained in Saudi Arabia through the state carrier—Ethiopian Airlines, and collaboration with Gulf states. However, Kenyan workers are indefinitely detained as there are no clear timelines for their deportation.



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