THE LAW GROWTH NEXUS (LGN) PROJECT
‘Labour Law and the Enabling Business Environment for MSMEs in Kenya
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Introduction
During the discussion on the informal economy in 2002, the International Labour Conference (ILC) concluded that the growth of the informal economy can often be traced to inappropriate, ineffective policies coupled with the lack of conducive legal and institutional frameworks and the lack of effective implementation of policies and laws. The subject of business environment and labour law application to the MSEs was discussed in the Employment and Social Policy (ESP) Committee of the ILO Governing Body in November 2006. While pointing out the importance of application of labour law on MSEs, the ESP Committee recommended that the ILO explore cases where member States have found solutions in the "Win-win territory", where the enterprise growth and workers’ protection converge as well as facilitate the transition to formality.

The LGN III project attempts to explore the effect of labour and labour related laws on Micro Small and Medium Enterprises (MSME) and contribute towards a more conducive policy environment for MSME development in Kenya through the facilitation of labour law reform. Labour law is an important component of the broader enabling environment for sustainable enterprise development. The legal structure and the body of laws on which the legal structure is based forms a bridge or nexus between unregulated, poor quality and ultimately unsustainable development and regulated, higher quality, rights based and sustainable development.
Development Objective: To contribute to a more enabling policy environment for MSME development in Kenya

Overall Outcome: More and better jobs in the MSME sectors in Kenya.
(3500 decent jobs created/improved with at least 500 held by women.)

When: Phase 1 - August 2011 to November 2013
      Phase 2 - December 2013 to July 2016

Donor(s): Norwegian Agency for Development Cooperation (NORAD)

Development Partner(s):
1. Ministry of Labour Social, Security and Services
2. Federation of Kenya Employers, FKE (Employer Organization)
3. Central Organization of Trade Unions, COTU (Workers Organization)
   Others include:
4. Ministry of Transport
5. National Transport and Safety Authority (NTSA)
6. Matatu Welfare Association (MWA)
7. Matatu Owners Association (MOA)
8. Matatu Drivers and Conductors Welfare Association (MADCOWA)
9. Private Security Industry Association (PSIA)
10. Kenya Security Industry Association (KSIA)
11. Kenya Private Security Workers Union
12. Business Development Service providers

Reference:

Contact(s):
Pictures related to the project work
Brief background

The Law Growth Nexus Project identified a number of issues as the root causes explaining decent work deficit, and found a combination of factors ranging from lack of clarity what exactly constitutes an MSME, ignorance and opportunism among MSME owner-managers, outdated and impractical laws, lack of enforcement capacity through local authorities, and actual or perceived punitive compliance costs. The main observation was that the vast majority of MSME fail to comply with the labour law.

The Law Growth Nexus III Project seeks to address these challenges through promotion of compliance to labour laws and is aligned to the Decent Work Country Programmes (DWCP) in Kenya which identifies Social Protection, Employment Creation and Social dialogue as priority areas for consideration.

Objectives

1. To nurture respect for the rule of labour law.
2. To strengthen the capacity of ILO constituents to engage in social dialogue on the nexus between labour law compliance and MSME development.
3. To facilitate sector specific regulatory reform.
4. To strengthen the capacity of MSME to comply with the revised labour law and regulations.

1. To nurture respect for the rule of labour law
(Output 1 - MSME in Kenya have increased knowledge of the labour law)
Main activities/Implementation strategy:

I. Consulted with ILO constituents for the choice of the priority sectors namely; the transport (matatu) sector and private security sector
II. Carried out baseline surveys for the two priority sectors
III. Simplification of the labour laws and development of a simplified popular version
IV. Translation of the LL Booklet to a Swahili version
V. Development of the Labour Law Mobile Application
VI. Sensitization and Awareness campaign meetings in priority sectors

(Output 2- Increased knowledge among MSME about the Business Case underpinning labour law compliance)
I. Development of a Business case for compliance
II. Development and review of a generic multi sectoral training tool kit
III. Training of Trainers in the new revised tool kit.

2. To strengthen the capacity of ILO constituents to engage in social dialogue
(Output 1 - MSMEs have increased knowledge through increased social dialogue with tripartite constituents)
Main activities/Instruction strategy:

I. A study to establish best practice for an enabling environment
II. Facilitating of dialogue forums to enable MSMEs in informal sector engage with Employer/worker organization

(Output 2 - Proposals for sector specific regulatory amendments endorsed by Tripartite constituents and submitted to Government)

I. Provision of legal advisory services to constituents to draft proposals for regulatory reforms
II. Facilitate process of reactivation of the wages councils for both the priority sectors

3. To strengthen the capacity of MSME to comply with the revised labour law and regulations
(Output 1 - MSMEs in priority sectors have access to BDS services aimed at boosting capacity to comply)
Main activities/Instruction strategy:

I. Delivery of technical support to BDS providers trained to roll out training course
II. Development of a business tracking tool for assessing compliance with LLs
III. Provision of training to stakeholders in the priority sectors on LLs and other organizational/institutional development courses

(Output 2 - Compliant MSMEs have been rewarded with access to Business finance/Government supplier contracts/Organizational capacity development support)

I. Development of a compliance/reward system
II. Facilitate access for compliant MSMEs to targeted training, capacity development and/or development finance
Outcomes/Expected Deliverables

1. Improved perceptions among MSME about the rationale underpinning the labour law of the country,
2. Sector-specific regulatory reforms of the Labour Law that are driven by social dialogue among ILO constituents and informed by knowledge about international best practice,
3. Sector-specific institutional structures that better balance the traditional focus on sanctions and monitoring compliance with information, education and incentives and
4. MSME in priority sectors grow their businesses as a result of increased compliance levels.

Project Achievements

1. Traffic Amendment Act (CAP 403) enacted in November 2012. (Section 103 (4 and 5) makes it mandatory for all public service vehicle owners to formally employ (using a legally binding contract) at least one driver and conductor and pay them a monthly salary.
2. Gazetement of Legal Notice No. 173 legislating new regulations for the transport sector under the National Transport and Safety Authority (NTSA) (Integration of labour laws in the transport sector)
3. Employment Relationship in the matatu sector is getting formalised through contracts and social security
4. Social Dialogue has been enhanced
5. Awareness of rights and obligations by the workers

Tags: Nairobi

Regions to be covered: Kenya (Nairobi county, Nakuru County, Kisumu County, Mombasa County and Kajiado County)