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Thinking Policy Together

Assessment of Institutional Structures Governing the Informal Sector in Kenya

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Introduction

Institutions play a key role in determining the economic growth and development of a country. Institutions are important in maintaining the rule of law, promoting development programmes and activities, and protecting property rights for individuals and businesses. There has been concerted efforts by the Government of Kenya to formalize the informal sector due to the potential of the sector in improving the competitiveness of a country in the global economy. The sector has continued to grow, and constituting 83.4 per cent of total employment. According to the 2018 Economic Survey, the informal sector created 787,800 jobs out of the total 897,800 jobs in 2018, meaning it was the highest contributor of new jobs. To address the challenges related with informality, the Government and private sector have come up with institutions, policies, regulations and laws to coordinate, harmonize, manage and promote the development of the informal sector.

Kenya has made remarkable strides in addressing the issues of informality in the sector. The conceptualization of the informal sector dates back to development of Sessional Paper No. 1 of 1986 on Economic Management for Renewed Growth. Key institutions and policies that are geared to supporting the sector include: Micro and Small Enterprise Authority (MSEA), Kenya Private Sector Alliance (KEPSA), the Constitution of Kenya 2010, the Micro and Small Enterprise Act of 2012, National Trade Policy of 2006, Physical Planning Bill of 2017, Trade Licensing Act of 2006, and the Medium-Term Plan III. The development and implementation of these policies aims to create an enabling environment for ease of doing business.

This policy brief reviews legal frameworks, policies and institutions that govern various aspects of Micro and Small Enterprises (MSEs), including: coordination, harmonization and management of MSEs; technology, invention and innovation; financing; worksites and infrastructure; and manufacturing by MSEs.

Coordination, Harmonization, and Management of MSEs

For a long time, challenges in creating an enabling environment for MSEs to thrive has dominated the policy, legal, economic, political and social environment. Most of the policies and legal frameworks have not met the intended purpose due to inappropriate design and weak implementation. Weak coordination, harmonization and management of the MSEs sector has been identified as a persistent policy challenge.

The Sessional Paper No. 2 of 2005 was the most recent policy that called for institutional reforms to address the coordination challenge, which has greatly contributed to fragmentation of the sector. The MSE Act 2012 resolved this through the establishment of MSEA. However, MSEA lacks effective evidence-based coordination mechanisms and adequate financing.

Most of the institutions and implementation mechanisms established by the MSE Act have not become operational. These include the registrar, tribunal, MSE fund, regulations on implementation of MSE Act 2012, communication strategy, database for MSE associations and umbrella associations, M&E framework for MSEs, and guidelines for collaboration between MSEA and County Governments. The delay in establishment of these institutions and mechanisms is an impediment to growth and development of the MSE sector.

The MSE Act established MSE associations to provide a platform for MSEs to receive support from the Government. MSE associations are formal institutions recognized by the Government and the members benefit from the social capital and collective gains such as access to funds, worksites, markets, training opportunities, modern technologies, among other things. Therefore, MSEs in the informal sector are encouraged to join MSE associations to benefit from the collective gains given to the members of the associations.

Development and implementation of the key pending policies provide a roadmap in critical areas. Key among them is the National Coordination Strategy of Kenya's MSE sector whose preparation is underway. The strategy will fast-track the achievement of the key MSEA role of coordination, harmonization and management of MSEs and guide on integration of various public and private sector development plans, programmes and activities for MSEs development.

The MSEs should leverage on the goodwill from the Government, both National and County, and key stakeholders in closing the financing gap. Formation of strong partnerships and collaboration with National and County Governments, industries, stakeholders and development partners is key for MSEA to attract more resources and reduce over-dependence on financing through Parliament.

Technology, Invention and Innovation

The Kenya's Vision 2030 identifies science, technology and innovation as one of the drivers of socio-economic development in the country. It envisions technology to be key for knowledge-driven economic growth. Following the Kenya Vision 2030, the STI Act 2013 was enacted, which further established institutions such as National Commission for Science, Technology and Innovation (NACOSTI), Kenya National Innovation Agency (KENIA) and National Research Fund (NRF) and re-instituted Kenya Industrial Research and Development Institute (KIRDI).

Some of the challenges facing MSEs include low level of technology and innovation uptake in the country, which has resulted in low value addition with limited product range and slow investment in the industrial sector. Other challenges affecting uptake of technology and innovation among MSEs include overlapping and duplication of policy mandates such as those of KENIA, KIRDI and Kenya Industrial Estates (KIE) as well as lack of policies in some critical areas such as incubation, common manufacturing, and commercialization of inventions and innovation. Moreover, the high cost of registering patents also contributes to lack of protection of inventions and innovations.

Therefore, there is need to harmonize the legal frameworks resulting in overlapping mandates of the implementing organizations. This helps in reducing institutional conflicts created by lack of clarity on roles and responsibilities, which in-turn affects resource allocation.

Training for MSEs

Training and capacity building are imperative in the transfer and development of skills and has a direct impact on productivity. According to the MSE Survey 2019, about 56 per cent of the MSE associations indicated that members had received training in the past three years. Based on the results, it is evident that the informal sector operators place a high value on training since it provides them with the requisite skills to run their enterprises.

Further, the Government has established institutions such as the Kenya Institute of Business Training (KIBT), The National Industrial Training Authority (NITA), among others, to facilitate the delivery of trainings in the informal sector. Revitalization of the Technical and Vocational Education and Training (TVET) sub-sector will play a major role in ensuring equity, equality and relevance of education hence strengthening the link between skills learnt and labour market demand.

This notwithstanding, there have been a myriad of challenges in delivery of demand-based training and capacity building of the MSEs due to low allocation on training resources. The challenges range from inadequate training centres and centres of excellence in every county to lack of modern equipment, machinery, technology and tools in the training institutions since most of them are dilapidated and obsolete. This has resulted in low level of training leading to lack of skills for MSE operators. Therefore, key considerations should be made in developing a training policy and a capacity building strategy that would clearly illustrate how the informal sector will be integrated into the capacity building programmes and reinforce other institutions whose formation is aimed at improving training for the MSEs. Also, sensitization of the public on available government initiatives such as government funds, AGPO, and Intellectual Property Rights (IPRs) is imperative for the growth and development of the sector.

Financing MSEs

The informal sector could act as a catalyst of inclusive growth if properly financed. According to the 2019 Economic Survey, 83.6 per cent of the jobs created were in the informal sector, which is an increase from the previous years. From the statistics, there is a clear indication that the informal sector is vibrant and is steadily expanding in the country.

Despite their contribution to the economy, the MSEs face financial challenges that hinder their growth. Some of the challenges is their inability to access financial assistance from the banks due to lack of financial records that would determine their credit worthiness. In addition, the MSEs are subjected to cumbersome procedures and requirement for accessing funds from various institutions such as the Youth Fund and Uwezo Fund.

From the MSE Survey 2017, the number of MSE operators who sort and received credit from banks was low and the major reason for decline in loan requests was lack of collateral. Very few MSEs (4.1%) approached the government initiatives such as the Youth Enterprise Development Fund, Uwezo Fund, and Women Enterprise Fund. Expediting the consolidation of the various government funds (Youth Enterprise Development Fund, Uwezo Fund, Women Enterprise Fund and the MSE Fund) to Biashara Kenya Fund will enhance coordination in delivery of affordable financing and support for business development in the country. This notwithstanding, sensitization of the public on the existence and the importance of the government funds will help reduce financial burden on MSEs. In addition, MSEA should fast-track the establishment of the MSE Fund and forge more partnerships and collaborations with key stakeholders to attract more resources and improve accessibility and affordability of MSE financing.

MSEs Worksites and Infrastructure

A stable and permanent physical infrastructure is essential for productivity of enterprises. The key infrastructural concerns for the informal sector operators are land provision and workspaces, which continue to pose a challenge for the steady growth of the sector. The Constitution of Kenya 2010 guarantees every citizen a right to fair labour practices, reasonable remuneration and equitable land use. The urban spatial planning left out the informal sector traders, thus posing a challenge in accessing worksites and infrastructure. The MSE Act 2012 provides that MSEA should advise, facilitate and liaise with the relevant Government ministries and other agencies to develop and promote MSEs. They have the role of earmarking and zoning of land; development of worksite management policy; and provision of suitable infrastructure including social amenities, common usage facilities, worksites, business information centres, centres of excellence and other facilities necessary for development of MSEs.

The MSE Survey 2019 shows that there is inadequacy of internet connectivity (4%), water supply (42%), common manufacturing facilities (24%) and waste collection and disposal mechanisms (53%). Most of the MSEs operators in the country do not have security of tenure at their workspaces. This is due to lack of proper guidelines on property rights leading to complicated land allocation processes, and further made unbearable by the stringent building standards and regulations. Due to lack of documents that show ownership rights, those in the informal sector are subjected to harassment by local authorities, which in turn hinders development and productivity in the sector. MSEA should work in collaboration with County Governments to ensure that the counties integrate social, economic, physical, environmental and spatial planning into the county agenda. In addition, the National and County Governments should work together in providing MSEs with necessary infrastructure and social amenities such as worksites and workspaces, modern technologies, and incubation centres to improve the working environment.

Manufacturing by MSEs

The MSE survey 2019 indicates that only 24 per cent of the associations have members with access to common manufacturing facilities within the worksite or workspace. An analysis of MSE institutions survey 2017 identifies Kenya Association of Manufacturers (KAM) as one of the MSEs supporting institutions but mainly supporting only the registered MSEs. This poses a challenge on the productivity of the MSEs with informal manufacturing enterprises since they are left out in the development agenda.

The MSEs in the manufacturing sector are faced with challenges such as threat of traders of counterfeit products; low value addition with limited product range due to low level of technology and innovation uptake; delayed payments by government and retail chains to private sector suppliers affecting small scale holders and starters; and lack of market for products. Therefore, the Government should reinforce adherence to the stipulations of the Anti-Counterfeit Act 2008 to enhance the fight against counterfeit products to protect the Kenyan brand and provide an effective supply chain solution. Moreover, incentives should be given in favour of value addition to products to attract more customers and boost revenue.

About KIPPRA Policy Briefs

KIPPRA Policy Briefs are aimed at a wide dissemination of the Institute's policy research findings. The findings are expected to stimulate discussion and also build capacity in the public policy making process in Kenya.

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