



3rd CYCLE UNIVRESAL PERIODIC REVIEW FACTSHEET FOR KENYA

SUB THEME; SOCIAL SECURITY RIGHTS IN
KENYA

SUBMITTED BY

KENYA OLDER PERSONS AND AGEING ADVOCACY FORUM

This factsheet has been prepared by: Kenya Older Persons and Ageing Advocacy Forum established by HelpAge International Kenya Country Programme and Mangu Integrated Community Project (MICOP - CBO) with continued support from HelpAge International Africa Regional Office Nairobi. The key aim of the advocacy forum is to create awareness and influence policy change in favour of older persons and ageing development. (for further information kindly contact Michael Kanyingi , MICOP CBO; Thika Nakuru Highway, P.O.Box 96- 01028 Thika, Kenya. Tel +254- (0)704 443 535, E-mail: manguhealth@gmail.com, and Roseline Kihumba or Erastus Maina, HelpAge International Off Shanzu Road Westlands. P.O Box Nairobi Kenya; mail: roselinekihumba@helpage.org or erastus.itume@helpage.org

UPR REPORT FOR 3RD CYCLE - KENYA

SUB - THEMATIC GROUP: SOCIAL SECURITY

A. Preamble

Increasingly the Government of Kenya continues to invest in expanding and improving the social security¹ systems as a key strategy of reducing vulnerability and poverty as reflected in its Constitution, development policies and plans. Social Security is a key element of many social policies across government ministries.

Article 21 (3) of the Constitution of Kenya 2010, obligates the state to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth and members of minority or marginalised communities. Specifically, it commits that all people have a right to social security (Article 43 (1) (e)). Similarly, the Kenya development blue print, the Vision 2030 under chapter 4 section 6 on the Gender, Youth and Vulnerable Groups includes the establishment of a consolidated Fund for cash transfers to Orphans and Vulnerable children and elderly as one of the flagship projects.

Increasing evidence shows that social protection instruments are effective in addressing poverty, vulnerability and risk. The Government of Kenya is implementing various social protection programmes for older people, orphans and vulnerable children and people with disability, but these programmes are limited in scope and coverage. The programmes have been implemented by various ministries, agencies and development partners, often leading to coordination challenges. The varied implementation structures make it difficult to develop a comprehensive view of the state of social protection as a sector in Kenya².

B. Progress made since the last UPR Cycle.

- During the 2nd UPR Cycle, the following recommendations were forwarded to the Government of Kenya and accepted:
- Continue strengthening social protection programs developed on behalf of its people, especially the population most in need.
- Undertake, policy, legislative, judicial and administrative measures for social protection for vulnerable groups in the country including children and PWD under social security for vulnerable groups. Recommendation numbers 142.70, 142.145, 142.150, 142.159, ESCR; REC 28, 30, 36, CRC; 56 g & h, CRPD; 14 B and 50a.

C. The specific actions by the Government of Kenya:

There have been noted positive developments by the Government of Kenya towards enhancing social protection. Kenya continues to advance social protection as a human right with notable expansion of social protection mechanisms. Kenya has signed, ratified and adopted treaties, conventions, resolutions and declarations that are critical to advancing the integration and empowerment of vulnerable groups. Sustainable Development Goals promotes social protection as a strategy to enhance equality, human rights and social justice while ensuring no one is left behind. All are in line with Constitution of Kenya (2010) which contains a comprehensive Bill of Rights that guarantees all Kenyans their economic, social, and cultural (ESC) rights [Article 10 (2) (b); Article- 21 (3); Article 27

¹ Social security and social protection are used interchangeably in Kenya (refer to Inua Jamii doc where you can use the same wording)

² Inua Jamii Project Document, 2018

(4) and Article 4 (3)]. Kenyan Constitution has also put in place other supportive legal and policy frameworks.³

Key achievements made by the Kenya Government in the social protection section include:

- Development of a single registry for all the social protection programmes is on track to enhance coordination, sharing of knowledge and expertise.
- Development of a grievance mechanism to help monitor complains and grievances and enhance case management at all levels which will help resolve cases in a short lead-time.
- The launch of a universal pension for people above the age of 70 is now reaching 523,000 while the previous Older People Cash Transfer reaching 310,000 vulnerable older people 65 years and above. The two cash transfer programmes now reach a total of 833,000 older people.
- Social health protection through Universal Health Coverage has enabled the registration of 42,000 households of older people by National Hospital Insurance Fund (NHIF) though it is yet to be operational. National Hospital Insurance Fund (NHIF) which offers the widest coverage is governed by the NHIF Act No. 9 of 1998 and is compulsory for salaried employees. In an attempt to extend coverage to the informal sector, membership has been opened up to the sector on a voluntary basis. The Ministry of Health has established a health and ageing unit at the Ministry Headquarters to address older people's health issues.
- Cash transfer for Orphans and Vulnerable Children beneficiaries has been increased from 255, 608 in 2015/16 to 355,000 in 2016/17.
- Cash Transfer Programme for Persons with Severe Disability is reaching 47,000 beneficiaries. It is important to note that older people get indirect benefits from the above two cash transfers based on the key role as foster parents and carers for people with severe disabilities.
- Improved quality of life and wellbeing in households receiving cash transfer in terms of ability to take improved diet, access to health and education for children within these households. Improved quality of life and wellbeing in households receiving cash transfer in terms of ability to take improved diet, access to health and education for children within these households.

Key Challenge

1. Difficulties in enrolment and accessing registration or pay points. SP beneficiaries who are bedridden and home bound including those with mental illnesses have difficulties in accessing pay points. Majority of bedridden, homebound or mentally ill (Dementias and brain degenerative diseases) citizens were not registered and are not benefiting. Those who have retired from the civil service and those injured on line of duty especially police and military service have challenges accessing compensation and pension.

Cause: Communication outreach strategy during registration and payment mode not effective or not sensitive to bedridden and homebound citizen's especially older people. Bureaucratic procedures and some requiring travelling long distances to register, accessing cash or pension and compensation. Despite the government's commitment to make the Inua Jamii 70 years and above universal, this is yet to be actualised. The registration was done with a set target figure leaving out many older people whereas communication to citizens was that age (70 years and above) was the eligibility criteria.

Recommendation: Strengthen and make procedures of registering inclusive of currently excluded groups especially the bedridden and mentally ill. Accessing pension and cash transfer stipend should be decentralized, simple and dignified while creating an effective social accountability

³ National Social Protection Policy 2012; National Social Protection Framework; National Government Affirmative Action Fund (NGAAF) Regulations 2016; National Safety Net Program (NSNP) 2013; National Older Person and Ageing Policy Framework, 2014; Kenya Social Protection Sector Review 2017; Inua Jamii Programme: Consolidation Strategy and Action Plan 2016); The Social Protection Council; and The Kenya Retirement Benefits Authority 2014-2019 strategic plan

mechanism for pension and social protection. The compensation mechanisms for those who are injured in line of employment should be easy and timely. Government must match the budgetary allocation for the universal pension for older people aged 70 years and above with their official population.

2. Social protection programmes that exist in Kenya are not fully protected by a legal framework compromising the right to social protection.

Recommendation: Ensure that policies and legislation are put in place so that older persons who retire from employment are provided with adequate pension and other forms of social security. The state must also ratify and implement AU Protocol on Social Protection, PWD and Older People and approve The Care and Protection of Older Members of the Society Bill 2018.

3. There is low awareness and enrolment of people in informal sector in social security; the informal economy workers are left out of contributory social security leaving them to rely on individual coping strategies that are often costly and inefficient, and face risk of falling into poverty and deprivation at times of hardship. About 80% of Kenyan work force is in the informal sector and only 15% of the population is covered by social security old age benefit programmes.

Causes: Lack of a system to enrol people engaged in informal sector in social security programmes. Low awareness on the importance of social security remain a concern among the citizens. Informal sector workers have little or no security of employment or income. Their earnings tend to be very low and fluctuate more than workers in formal employment.

Recommendation: Efforts should be increased to educate the informal sector workers in order to have them join contributory social security schemes and extend social assistance coverage to all PWD, vulnerable children and older persons. Ensure that universal social protection mechanisms exist to provide income security for older persons who did not have the opportunity to contribute to any social security provision.

References:

- Government of Kenya. (2013). Kenya Gazette Supplement No. 179 (Acts No. 45). *The National Social Security Fund Act*. Nairobi: Government of Kenya.
- Government of Kenya. (2012). *Kenya National Social Protection Policy*. Nairobi: Government of Kenya
- Government of Kenya. (2017). Kenya social protection sector review. Nairobi: Government of Kenya
- Government of the Republic of Kenya. (2012b). Kenya Social Protection Sector Review. Ministry of State for Planning, National Development and Vision 2030: Nairobi, Kenya.