Social Protection in Action: Building Social Protection Floors for All

2022

Kenya: Increasing domestic resources for social protection and progressively reducing reliance on external partners' resources

Summary

Kenya has made significant political and economic reforms that have contributed to sustained economic growth, social development and political stability over time. During the period 2015–2019, economic growth averaged 5.7 per cent, making it one of the fastest-growing economies in sub-Saharan Africa. The country managed to gradually redistribute the gains of this economic growth by strengthening its social protection system, in particular the social assistance component.

This study highlights Kenya's experience in progressively increasing domestic resources for social protection and reducing its dependence on external financing. At the onset, social assistance programmes were mainly financed by external donors, but Kenya has progressively increased its national capacity to finance its social protection programmes from domestic resources.

Despite these efforts, a high proportion of Kenya's population still lives on low and insecure incomes. Approximately 36 per cent of the population live below the national poverty line – set at US$1.33 per day – while about 80 per cent of the population live on less than US$2.80 a day. Poverty has been exacerbated by the COVID-19 pandemic, with close to 2 million people falling into poverty. The COVID-19 pandemic also put a strain on government revenues, while increasing the need of the population for improved social protection coverage.

Main lessons learned

- The Kenyan social protection system reaffirms that a combination of diverse mechanisms, including both non-contributory and contributory mechanisms, is key to the sustainable financing of social protection and the progressive realization of universal social protection.
- Development partners have played a catalytic role in the creation and strengthening of social assistance in Kenya, which has progressively increased its domestic resource capacity, thereby enhancing the sustainability of its social protection programmes and national ownership.
- Kenya has explored and implemented various strategies for increasing domestic resources, including through the introduction of automated tax collection mechanisms, which has led to an increase in budget allocation for social protection.

Social Protection Floors Recommendation, 2012 (No. 202)

SDG 1.3 aims to implement nationally appropriate social protection systems and measures for all, including floors, and by 2030, achieve substantial coverage of the poor and the vulnerable.

Social protection floors (SPFs) guarantee access to essential health care and basic income security for children, persons of working age and older persons. 187 countries have adopted the Social Protection Floors Recommendation, 2012 (No. 202), to achieve universal social protection.

The experiences of Kenya are in line with the principles set forth in Recommendation No. 202, promoting a social protection system that is universal and based on social solidarity, including in its financing approaches, and ensuring that an optimal balance is sought between the responsibilities and interests of those who finance and those who benefit from social security schemes. Lastly, they provide a strong example of how a diverse set of methods and approaches can be considered, including for financing mechanisms and delivery systems, in the design and implementation of social protection systems.

- Despite Kenya's success in increasing domestic resources for social protection, the COVID-19 crisis has revealed the gaps that remain in its social protection system and the need to invest more and better in social protection in order to gradually extend coverage and achieve adequate protection.
- In addition to the establishment of appropriate policy and legislative frameworks, strong commitments by the Government have supported the development and financial sustainability of the Kenyan social protection system.
- Kenya's experience shows how international assistance can only serve as a catalyst for increasing the fiscal space for social protection, and the importance of mobilizing domestic resources to create a universal and sustainable social protection system.

Context

Kenya's social protection programmes

Kenya has made significant progress in its social protection programmes since its independence in 1963. However, the programmes remained limited in nature, fragmented and donor-driven and contributory schemes mainly cover formal economy workers. The last decade has seen marked improvement in social protection systems, with increased investments from the Government and the inclusion of informal economy workers in social security and health insurance schemes. According to the Kenya National Bureau of Statistics' *Economic Survey 2020*, the informal economy forms 83.6 per cent of the workforce in Kenya.

The right to social security is enshrined in the Constitution of Kenya of 2010, which provides in article 43 "the right for every person to social security", while article 43(3) commits the State to providing "appropriate social security to persons who are unable to support themselves and their dependants". The National Social Protection Policy of 2011 provides that the Government will "ensure that adequate resources are allocated to social protection in a predictable, gradual, and long-term manner". This informed the Government decision to increase spending on social assistance in recent years, thereby reducing dependence on external partners. The Kenya national social protection system is anchored on three pillars, as provided by the National Social Protection Policy of 2011: social assistance, social security and health insurance.

Social assistance refers to "non-contributory transfer programmes aimed at preventing the poor or those who are vulnerable to shocks from falling below a certain poverty level". It is implemented through the following cash transfer programmes:

- **Cash Transfer for Orphaned and Vulnerable Children (CT-OVC)**: provides regular cash transfers to families living with OVCs.
- **Hunger Safety Net Programme:** aims at reducing dependency on emergency food aid in arid and semi-arid lands by sustainably strengthening livelihoods through cash transfers.
- **Cash Transfer Programme for Persons with Severe Disabilities**: covers adults and children with severe disabilities who require full-time support.
- **Older Persons Cash Transfer (OPCT)**: provides regular and predictable cash transfers to poor and vulnerable older persons (65 to 70 years old).
- **Universal Social Pensions Cash Transfer Programme**: covers all senior citizens who are 70 years and above.

Social security refers to "provisions for the economic security and social welfare of workers and their dependants, especially in the case of income losses due to unemployment, work injury, maternity, sickness, old age and death". It is implemented by the National Social Security Fund (NSSF) and complementary private retirement pensions/provident schemes, such as the Mbao Pension Plan, which are regulated by the Retirement Benefits Authority.

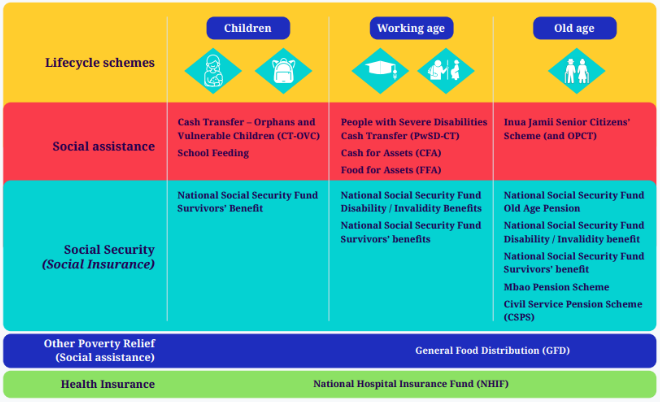
Health insurance are measures taken to "finance and manage healthcare based on risk pooling".[1] It is implemented by the National Hospital Insurance Fund (NHIF), which aims to establish a comprehensive national health insurance scheme for all. This is complemented by private health insurance, community health insurance programmes and specific county government health programmes with increased momentum towards universal health coverage.

Significant progress has been made to review the National Social Protection Policy of 2011 and develop the National Social Protection Investment Plan, 2030, which will see the social protection programmes transform towards progressive realization of a rights- based, life-cycle

[1] Kenya, National Social Protection Policy of 2011.

approach in line with Kenya's Constitution and ILO Recommendation No. 202. Figure 1 outlines the current schemes.

Figure 1. Current social protection schemes in Kenya, mapped across the life cycle



▶ Source: adapted from Kenya, Ministry of Labour and Social Protection, *Social Protection Sector Review*.

Legislation is an essential tool for securing social protection budgets, expanding coverage and making rights to social security enforceable

Anchorage of social security in law creates an obligation for the Government to secure budgets for social protection and establish a government tenure. Notably, there has been recent progress in the policy and regulatory space aimed at attracting additional financial resources. For example, the recently enacted National Hospital Insurance Fund (Amendment) Act, 2022 [2] makes it compulsory for Kenyans above the legal age of 18 years to be members and contribute to NHIF.

Social assistance spending is classified under the development budget, whose disbursements are often prone to delays, impacting the timeliness and predictability of payments to beneficiaries. Shifting social assistance spending to a recurrent budget would need to be grounded in law. Progress has been made in this regard, with the development of the Draft Social Assistance Fund Regulations under the Public Finance Management Act of 2012 and the revision of the Social Assistance Act of 2013, which is under way and will secure social assistance budgets by law.

Description of Kenya's social protection financing efforts

Social protection financing trends

At the foundational stages, social protection programmes were developed with the technical and financial support of external partners. The first pilot project was supported by the United Nations Children's Fund (UNICEF) in three districts, disbursing on average US$6.70 monthly to 500 households.[3] Over time, the Government has introduced nationally defined programmes and increased its spending on social protection schemes from US$43 million in 2011–2012 to US$299 million in 2017–2018.[4] By 2020, social assistance cash transfer programmes had grown to cover nearly 1.2 million households across the country.

According to the 2021–2022 Budget Statement,[5] the Government planned to allocate a total of 47.7 billion Kenyan shillings (US$477 million) to universal health coverage and a further allocation of up to 37.8 billion shillings (US$378 million) to social protection and affirmative actions[6] for the 2021–2022 financial year. Some of these allocations will include social assistance cash transfers.[7]

In addition, the Government has set aside 23.1 billion shillings (US$231 million) to continue the implementation of the economic stimulus programme in the financial year 2021–2022 to cushion vulnerable persons and businesses from the ravages of the COVID-19 pandemic.

Figure 2 represents the progressive increase in budget allocation for social protection programmes over the last five years, with a further increase in 2019–2020 owing to the Government's injection of an additional 10 billion shillings (US$100 million) for the COVID-19 pandemic emergency response.

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2 See Kenya, Kenya Gazette Supplement: Acts, 2022.

3 Claudia McKay et al., The Future of Government-to-Person (G2P) Payments: Innovating for Customer Choice in Kenya (CGAP & FSD Kenya 2020).

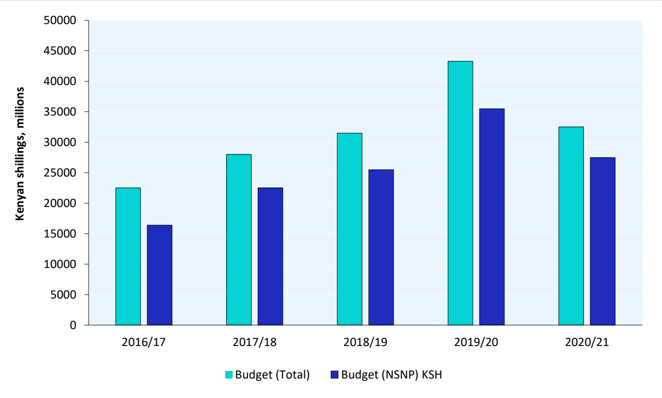
4 ILO, "Kenya: Inua Jamii Senior Citizens' Scheme", 2019.

5 Kenya, Budget Statement: FY 2021/22, 2021.

6 "Affirmative action" includes any measure designed to overcome an inequity or the systemic denial or infringement of a right or fundamental freedom as defined under article 260 of the Constitution.

7 Kenya, 2021 Budget Policy Statement, 2021.

Figure 2. Budget allocation for social protection and specific national safety net programmes



▶ Source: Kenya, Ministry of Labour and Social Protection, 2021.

Kenya Vision 2030[8] describes an adequate level of investment in social protection as one that should provide a "high quality of life for all citizens by the year 2030" and "a just and cohesive society with social equity".[9] This has informed the quest to find sustainable sources for financing social protection as underpinned by this country development blueprint.

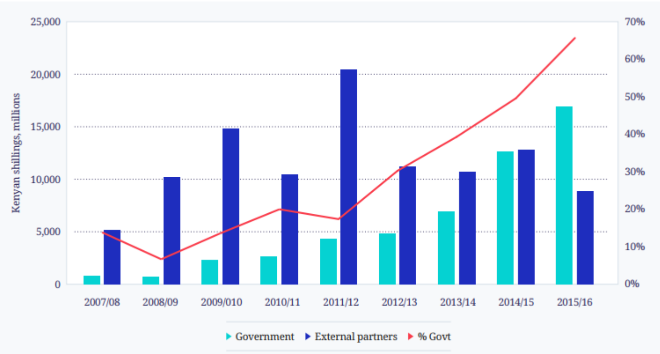
Overall, the Government has progressively adopted a mix of strategies to increase social protection fiscal space, including broadening of the tax base; automation of tax collection; enforcement of compliance; and expansion of contributions to NHIF and NSSF beyond the formal economy to reach the informal economy through voluntary contributions. The automated collection of tax revenues has improved tax efficiency; for instance in 2021, the Government collected US$140 million in tax revenues against a target of US$138 million, representing 6.7 per cent growth relative to the same period in the previous year.[10] Some of the new taxes introduced in Kenya include financial transaction taxes; property taxes (capital gains tax); a minimum tax at the rate of 1 per cent of total gross turnover; and a digital services tax at the rate of 1.5 per cent of transaction value among others.[11] There is also a three-year voluntary tax disclosure programme, which commenced in January 2021 to allow taxpayers to correct any past gaps in tax declarations and payments.

The Finance Act of 2021 further introduces other tax measures, such as expanding the scope of the Digital Service Tax to include income generated over the internet or electronic works. Collectively, these measures aim to increase tax revenues, which would then potentially provide additional resources to finance more social protection interventions.

Financing social assistance

The upward trend in spending on social assistance programmes has been progressively driven by the Government rather than external partners, signifying the commitment to financial sustainability of the sector. Although development partners have worked closely with the Government in establishing Kenya's social protection system, it is expected that their funding of specific cash transfers will continue to be reduced, keeping their contributions in the form of technical assistance as the Government seeks to fully finance national social assistance programmes. Figure 3 outlines the progressive increase in government funding of social assistance over the last 10 years.

Figure 3. Trends of Kenya's social assistance spending, 2007–2008 to 2015–2016, by source



▶ Source: Kenya, Ministry of Labour and Social Protection, *Kenya Social Protection Sector Review Report 2017*, 2017.

Kenya has made significant progress towards universal social protection with the introduction of the tax-financed universal social pension in 2018 covering older persons 70 years and above. Plans are also under way to introduce a universal child benefit and a pilot has been rolled out in 2021. However, further investments are still required to

8 Kenya Vision 2030 is Kenya's development blueprint or vision that seeks to transform Kenya into a middle-income nation by 2030, leading to improved living standards for the people

9 Kenya, Kenya Vision 2030: The Popular Version, 2007

10 KRA, "January 2021 Revenue Performance: A Reflection of Kenya's Economic Resurgence", 2021.

11 See, Kenya, The Tax Laws (Amendment) Act, 2020, in *Kenya Gazette Supplement: Acts, 2020*.

achieve universal coverage and adequate protection for all, while leaving no one behind.

Financing social health protection

The Government has made a commitment to achieve universal health coverage by 2022 through tax-funded and contributory mechanisms. The universal health coverage initiative was successfully piloted in 4 counties and is currently being implemented in all 47 counties. Enshrined in the Constitution of 2010 is the creation of two levels of government – the national Government and the county government, each operating as an entity and responsible for the provision of healthcare services, as health is among the devolved functions. Some counties have shown significant progress in the quality of services offered in the public health facilities and in financing essential healthcare.

The NHIF is a contributory scheme, with compulsory membership for formal sector workers contributing at a graduated scale between US$1.5 and US$17, depending on levels of income, while informal sector workers have voluntary membership contributing at a flat rate of US$5 per month. The NHIF (Amendment) Act 2022 makes it mandatory for Kenyans above the age of 18 years to be members and contribute to the NHIF. The country has a mixed healthcare financing system comprised of revenues collected by both national and county governments in the form of taxes, as well as donor funding; member contributions to the NHIF; private health insurance premiums; and out-of- pocket spending. As of 2018, it was estimated that the NHIF contributes at least 10 per cent of total healthcare expenditure in the country.[12]

To increase coverage and expand the contribution base, NHIF has undertaken several reforms to extend contributory coverage to more members in the informal economy and has instituted structural changes to make the Fund more responsive to members' needs, for instance through the introduction of new benefits. The NHIF has also automated key processes and introduced biometric registration and e-claims processing with a view to improving efficiency and curb fraud and also enabling the portability of health records. The reforms have resulted in an increase in membership; as of 2020, the NHIF covered 22 million [13] beneficiaries, including 9.5 million insured members and 12.5 million dependants, with plans to increase membership to 19 million insured members by 2022 as the country strives to progressively realize universal health coverage.[14]

The Health Subsidy Insurance Programme was also introduced to cover recipients of cash transfer programmes through a memorandum of understanding signed by the NHIF, the Ministry of Health and the State Department for Social Protection; it aims to increase coverage and integrate NHIF management information systems with the Enhanced Single Registry for improved efficiency.

Financing social security

The NSSF is a statutory body mandated to provide social security benefits upon retirement. The Fund provides old-age, invalidity and survivors' benefits.[15] Whereas social assistance is tax financed, the NSSF is financed from mandatory contributions of employers and formal sector workers and voluntary contributions of informal economy workers. The NSSF Act No. 45 of 2013 seeks to transform NSSF from a provident fund into a pension scheme for formal sector workers and remain a provident fund for the informal economy workers; however, the Act has not yet been fully implemented.

According to the NSSF financial statements for the year ended 2018, total member contributions grew by 3.7 per cent to reach a total of 14.04 billion shillings (US$140.4 million) in the period 2017–2018 and by 2020 the annual contributions had grown to 14.73 billion shillings (US$147.3 million), with the number of registered employers standing at 82,261 and the total number of registered workers at 288,692 in the same period.[16]

The introduction of the Mbao Pension Plan, which is a private scheme launched in 2011 targeting workers in the informal economy, was intended to encourage workers to save for old age/retirement. However, in line with international experiences, the voluntary scheme, which is based on individual savings account and therefore has limited potential for redistribution, was not very effective in achieving a broad

[12] NHIF, *The NHIF 2018–2022 Strategic Plan*, 2018.

[13] KNBS, Economic Survey 2021, 2021.

[14] NHIF, *The NHIF 2018–2022 Strategic Plan*, 2018, p. vii.

[15] NSSF, *NSSF Guide Book: the Official Guide to the National Social Security Act No. 45 of 2013* 1.

[16] KNBS, *Economic Survey 2021*.

extension of coverage. As of 2018, the Mbao Pension Plan had 100,000 members and a fund value of US$1.34 million.[17]

To increase coverage in the informal economy, the NSSF launched a new product, the Haba Haba, enabling informal economy workers to contribute a minimum of US$0.25 per day using mobile money platforms and with access to value-adding partnerships and incentives for instance access to credit after contributing for five years. This initiative is governed under the legislative framework of the NSSF. By 2020, total members registered under the Haba Haba programme stood at 102,098.

Way forward

- **Establishment of a mix of financing sources in the Kenya social protection system.** Creating fiscal space for social protection requires the adoption of adequate and sustainable financing through a blend of sources of financing with progressive and effective taxation systems, as well as the effective allocation of public resources to social protection and continued expansion of the contribution base (including through expansion of coverage to the informal economy), fortified by a strong legal framework. The Government aims to strengthen the legislation for social protection through the full implementation of the NSSF Act of 2013 and operationalization of the NHIF (Amendment) Act, 2022. To ensure more stable funding for social assistance, social assistance budgetary allocations need to be included as part of the recurrent budget.
- **Contributory schemes have the potential – albeit limited – to integrate informal economy workers.** Successful extension to the informal economy requires government support through subsidies, digitalization, and the adaptation of the schemes to the needs and situations of those in the informal economy. Further efforts are required in extending social protection to the informal economy if Kenya is to attain 40 per cent social protection coverage by 2025, in line with the target set by the *ILO Africa Social Protection Strategy, 2021–2025*. Linking social protection to other policy areas, such as employment and economic policies, is important to promote the formalization of the economy, thereby ensuring more sustainable and adequate financing of social protection. While there has been a significant increase in domestic resource mobilization, there is need for the Government to mobilize additional resources to achieve universal social protection.
- **The COVID-19 pandemic situation is still fragile and has exacerbated inequalities.** This has resulted in reduced tax revenues and increased public finance deficits. The COVID-19 pandemic highlighted the importance of building forward better, with stronger social protection systems that are universal, sustainable and shock-responsive. Investing more and better in social protection has become a priority.

[17] R.M. Kwena, "Mbao Pension Scheme", paper presented at the 2018 Kenya Social Protection Conference, 22 March 2018.

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