



REPUBLIC OF KENYA

MINISTRY OF GENDER, CHILDREN,
AND SOCIAL DEVELOPMENT

KENYA NATIONAL SOCIAL PROTECTION POLICY

June 2011

KENYA NATIONAL SOCIAL PROTECTION POLICY



JUNE 2011

CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS	i
FOREWORD	iii
EXECUTIVE SUMMARY.....	v
CHAPTER 1: INTRODUCTION	1
1.1 Background	1
1.2 The Constitution and Social Protection	1
1.3 International Agreements	2
1.4 Operational Definition of Social Protection in Kenya	2
1.5 Approaches to Social Protection	2
1.6 Social Protection in the Context of National Development	3
CHAPTER 2: OBJECTIVES, GUIDING PRINCIPLES, AND ASSUMPTIONS	5
2.1 Objectives	5
2.2 Guiding Principles	5
2.3 Assumptions	7
CHAPTER 3: THE SOCIO-ECONOMIC ENVIRONMENT	8
3.1 Poverty in Kenya.....	8
3.2 The Macroeconomic Situation	9
CHAPTER 4: THE CURRENT CONTEXT OF SOCIAL PROTECTION	10
4.1 Social Assistance	12
4.2 Social Security	10
4.3 Health Insurance	13
4.4 Overall Assessment of Social Protection	13
CHAPTER 5: POLICY MEASURES	16
5.1 Social Assistance	16
5.2 Social Security	18
5.3 Health Insurance	20
CHAPTER 6: COORDINATION AND INTEGRATION IN THE	22
IMPLEMENTATION OF SOCIAL PROTECTION	
6.1 Rationale for Coordination and Integration	22
6.2 Levels and Substance of Coordination and Integration	22
6.2.1 Within Social Assistance	22
6.2.2 Between Social Security and Health Insurance	23
6.2.3 Between Social Assistance, Social Security, and Health Insurance	23
6.3 Prioritization and Sequencing of Policy Measures	23
6.3.1 Short and Medium-term Measures	23
6.3.2 Longer-term Measures	24
CHAPTER 7: INSTITUTIONAL FRAMEWORK	26
7.1 The National Social Protection Council	27
7.2 The National Social Protection Secretariat	28
7.3 County and Sub-county Social Protection Committees	28
7.4 Regulation and Adjudication	28

CHAPTER 8: FINANCING	29
8.1 Sources of Funds for Social Protection.....	29
8.1.1 Government Funding	29
8.1.2 Non-state Actors' Funding	30
8.2 The Management of Funds	30
8.3 Graduation and Exit	31
CHAPTER 9: MONITORING AND EVALUATION, MANAGEMENT	32
INFORMATION SYSTEMS, AND COMMUNICATION	
9.1 Monitoring and Evaluation	32
9.2 Management Information System	33
9.2.1 Information Flow	33
9.2.2 The Collection and Management of Data	34
9.3 Communication and Influencing Strategy	34
9.4 Policy Reviews.....	35
ANNEXES	
Annex I: Definition of Terms	36
Annex II: Summary of Key Social Assistance Programmes in Kenya	39
Annex III: Key National Development Indicators	40

LIST OF ABBREVIATIONS AND ACRONYMS

AIDS	-	Acquired Immune Deficiency Syndrome
ASAL	-	Arid and Semi-arid Lands
AU	-	African Union
CBO	-	Community-based Organization
CDF	-	Constituency Development Fund
CEDAW	-	Convention on the Elimination of All Forms of Discrimination Against Women
CRB	-	Central Registry of Beneficiaries
CSO	-	Civil Society Organization
CSR	-	Corporate Social Responsibility
CT	-	Cash Transfer
DFID	-	Department for International Development (UK Government)
EAC	-	East African Community
ERS	-	Economic Recovery Strategy
ESC	-	Economic Social Cultural (Rights)
FBO	-	Faith-based Organization
GDP	-	Gross Domestic Product
HIV	-	Human Immunodeficiency Virus
HMO	-	Health Management Organization
HSNP	-	Hunger Safety Net Program
ID	-	Identification Card
ILO	-	International Labour Organization
IPRS	-	Integrated Population Registration System
JICA	-	Japan International Cooperation Agency
KIHBS	-	Kenyan Integrated Household and Budget Survey
KIPPRA	-	Kenya Institute of Public Policy Research and Analysis
KKV	-	Kazi kwa Vijana
KRA	-	Kenya Revenue Authority
KRBF	-	Kenya Roads Board Fund
LATF	-	Local Authority Transfer Fund
M&E	-	Monitoring and Evaluation
MoA	-	Ministry of Agriculture
MDGs	-	Millennium Development Goals
MIS	-	Management Information System
MTP	-	Medium-term Expenditure Plan
NHIF	-	National Hospital Insurance Fund
NSA	-	Non-state Actors
NSC	-	National Steering Committee
NSPC	-	National Social Protection Council
NSPF	-	National Social Protection Fund
NSPP	-	National Social Protection Policy

NSSF	-	National Social Security Fund
OPM	-	Office of the Prime Minister
OVC	-	Orphans and Vulnerable Children
PRSP	-	Poverty Strategy Reduction Paper
PWD	-	Persons with Disabilities
SAGA	-	Semi-autonomous Agency
SWAP	-	Sector-wide Approach
UN	-	United Nations
UNICEF	-	United Nations Children's Fund
WB	-	World Bank
WFP	-	World Food Programme
WHO	-	World Health Organization
WSSD	-	World Summit on Social

FOREWORD

Poverty, disease, and ignorance were identified at the time of independence in 1963 as the critical challenges facing the new nation of Kenya. While an appreciable degree of success has been achieved in the area of education, progress in reducing poverty and providing healthcare has been more modest. Forty-eight years after independence, poverty and vulnerability remain major challenges, with almost one in every two Kenyans trapped in a long-term, chronic and intergenerational cycle of poverty.

Health risks that require a household to pay for medical treatment are of special concern to poor households. The cost of each illness, injury, or accident can range from very small, for example, covering the cost of simple medication, to astronomical, such as, for major surgeries. There are also illnesses associated with mass covariant risks, such as epidemics or natural disasters. These health risks tend to be difficult, if not impossible, to predict and affect many people at the same time. The households' limited ability to predict when and how often they will be affected and how much these illnesses are likely to cost them generates more uncertainty than many other risks.

From a social security perspective, the challenges include but are not necessarily limited to providing retirement pensions, sickness benefits, maternity protection, employment injury and disease protection (workers' compensation), survivors' benefits, disability coverage, family benefits, and unemployment protection.

This Policy – developed to address these challenges – is an important contribution of the efforts by the Government to reduce poverty and the vulnerability of the population to economic, social, and natural shocks and stresses. It will play an important role in increasing access to social welfare services – not only for those with no predictable income but also for those in employment and the self-employed who need a financial cushion against future risks such as loss of employment, injury at work, loss of assets, or sickness. It builds on Kenya's commitment to poverty reduction as articulated in various policy documents, development plans, and budgetary allocations, including Kenya Vision 2030.

The Policy will also help individuals and households to reach a better balance between care-giving and productive work responsibilities. This is critical for the achievement of national and international human welfare thresholds such as the guarantees provided by the Constitution, the United Nations Millennium Development Goals (MDGs), and international agreements including the Universal Declaration of Human Rights (1948), which identify social protection as a fundamental human right for all citizens. This is also in line with the East African Community and African Union commitments to social policy interventions.

This Policy recognizes and builds on existing social protection initiatives such as education bursaries, school feeding programmes, fee waivers in public health facilities, Orphans and Vulnerable Children's (OVC) programme, older persons cash transfer and youth enterprise fund, among others.

Broadly, the measures outlined in this Policy aim to ensure that all people have the requisite financial cushion to enable them to maintain a decent living standard including access to healthcare during and after their active productive ages, income security provided through household and child benefits that facilitate access to nutrition, education, and healthcare, income security through social assistance for older persons, people with disabilities, and those in active age groups who are unable to earn sufficient incomes in the labour market.

Social protection interventions are provided by many different stakeholders including Government ministries and agencies, the private sector, communities, households, and other non-state actors. In the past, these different actors have often operated in isolation from each other, which has thus diminished their potential impact. Through this Policy, the Government of Kenya is reviewing existing social protection strategies, programmes, and activities with a view to promoting synergy and minimizing duplication and conflict.

Some of the schemes targeted for review and reform include but are not limited to: the National Social Security Fund (NSSF), the Civil Service Pension scheme, various retirement benefit schemes provided under the Retirement Benefits Authority (RBA) Act, the National Hospital Insurance Fund (NHIF), and cash transfer programmes. The Government is also cognizant of the fact that informal community support and extended families provide a significant form of social protection to our people.

This Policy reflects on the most appropriate principles and arrangements for funding social protection in Kenya – with reference to questions such as the appropriate level of funding, required funding sources, the way to make savings in the system by harmonizing the provision of social protection, and how these savings can be reallocated to other areas of social protection in need of support.

This Policy was developed during a process that involved widespread consultations and the participation of stakeholders, thereby engendering ownership by the people of Kenya. I wish to thank all those who gave their input either individually or through their organisations and institutions. Special thanks go to our development partners, particularly the Department for International Development (DFID), UNICEF, and the World Bank for their technical and financial support during the entire process.

I wish to commend the Permanent Secretary Ministry of Gender, Children and Social Development, Dr. James W. Nyikal, CBS, the Technical Working Group members under Professor Collette Suda, Secretary for Gender and Social Development, who provided leadership for this process. Two teams of consultants helped to develop this Policy. I wish to thank the first team comprising Dr. Michael Samson, Dr. Mary Amuyunzu-Nyamongo, and Mr. Peter Kariuki. The second team of Mr. Oduor Ong'wen, Dr. Amuyunzu-Nyamongo, and Professor Marius Olivier helped to complete the process, and I thank them sincerely.

Last but not least, I would like to thank the Interim Social Protection Secretariat in my Ministry, under the leadership of Ms. Winnie Mwasiaji, which provided logistical support during the entire process.

The implementation of this Policy will, without doubt, require huge financial outlays. I have no doubt that all stakeholders will work in partnership to help mobilise these resources as well as fully participate in the design, implementation, monitoring, and evaluation of the programmes that will be inspired by this Policy.

I believe this Policy will help to positively transform the lives of the Kenyan people.



HON. DR. NAOMI SHABAN, EGH, MP
MINISTER FOR GENDER, CHILDREN, AND SOCIAL DEVELOPMENT

INTRODUCTION

Social protection has been implemented in Kenya for many years in various forms that include both non-contributory and contributory schemes. These schemes were given an impetus by the 2006 African Union meeting in Livingstone, Zambia, following which the Government of Kenya initiated a wide consultative process to formulate a national social protection framework. Through this process, the Government has identified several key social protection actions in the areas of social assistance, social security, and health insurance.

The Constitution of Kenya (2010) contains a comprehensive Bill of Rights. Article 43 guarantees all Kenyans their economic, social, and cultural (ESC) rights. It asserts the “right for every person...to social security and binds the State to provide appropriate social security to persons who are unable to support themselves and their dependants.” This right is closely linked to other social protection rights, including the right to healthcare, human dignity, reasonable working conditions, and access to justice. Article 21 establishes the progressive realization of social and economic rights and obligates the State to “observe, respect, protect, promote, and fulfil the rights and fundamental freedoms in the Bill of Rights.”

The Constitution emphasises the direct application of international agreements ratified by Kenya. These include the Universal Declaration of Human Rights (1948), which recognizes social protection as a fundamental human right for all citizens of the world. This is reinforced by many UN and ILO conventions as well as regional agreements including the African Charter on Human and Peoples’ Rights (1981) and the East African Community Common Market Protocol. The UN/ILO Social Protection Floor Initiative (SPF) guarantees a universal minimum package of social transfers and services within a lifecycle approach to social protection. Within Kenya itself, Vision 2030 envisages an equitable society to which social protection can contribute.

For the purposes of this Policy, social protection is defined as: *policies and actions, including legislative measures, that enhance the capacity of and opportunities for the poor and vulnerable to improve and sustain their lives, livelihoods, and welfare, that enable income-earners and their dependants to maintain a reasonable level of income through decent work, and that ensure access to affordable healthcare, social security, and social assistance.*

OBJECTIVES

The overarching goal of social protection is *to ensure that all Kenyans live in dignity and exploit their human capabilities for their own social and economic development.* To attain this, the following broad policy objectives will be pursued:

- i. Protecting individuals and households from the impact of adverse shocks to their consumption that is capable of pushing them into poverty or into deeper poverty.
- ii. Supporting individuals and households to manage these shocks in ways that do not trap them in poverty by reducing their exclusion and strengthening their ability to graduate from social assistance and to become financially self-sufficient.

- iii. Cushioning workers and their dependants from the consequences of income-threatening risks such as sickness, poor health, and injuries at work as well as from the threat of poverty in their post-employment life.
- iv. Promoting key investments in human capital and physical assets by poor and non-poor households and individuals that will ensure their resilience in the medium-term and that will break the intergenerational cycle of poverty.
- v. Promoting synergies and integration among social protection providers as well as positive interactions among stakeholders for the optimal functioning of this Policy.

This Policy is based on the following principles: leadership and integrity; good governance; evidence-based programming; gender mainstreaming (in other words, assessing the implications for both males and females of any planned action); equity and social justice; adherence to common standards; public participation; the adequacy, affordability, and sustainability of benefits; and flexibility and responsiveness to changing circumstances.

POLICY MEASURES

The policy measures are presented in three categories: social assistance, social security, and health insurance.

Social Assistance: The government, working with all other stakeholders, shall:

- i. Establish institutions and provide resources needed to provide social assistance to the various target populations.
- ii. Ensure that the design and implementation of all programmes and development approaches are coordinated, including those within social assistance and between social security and health insurance.
- iii. Strengthen and scale-up existing social assistance programmes while widening their geographical and demographic coverage.
- iv. Put in place institutional frameworks for coordinating social assistance to ensure consistent and adequate levels of support.
- v. Conduct periodic reviews of instruments and strategies to reach the poor based on standards agreed upon by stakeholders such as ease of implementation, effectiveness in targeting, cost-effectiveness, and the impact on the welfare and livelihoods of the beneficiaries.
- vi. Conduct research to inform the implementation of social assistance interventions on areas such as targeting, the adequacy of the transfer value, delivery mechanisms, social rights, and community/beneficiary participation.
- vii. Determine the appropriate graduation and exit strategies for the different interventions while helping stakeholders to develop standards to be used to assess the appropriateness of these strategies.

Social Security: The Government, working with all other stakeholders, shall:

- i. Strengthen the existing social security regime and establish comprehensive social security arrangements that will extend legal coverage to all workers, whether in the formal or informal sectors, and their dependants.

- ii. Undertake research into and consider viable options for extending coverage to those who work informally and their dependants in consultation with key stakeholders, including those in affected communities and sectors.
- iii. Devise ways to make membership of social security schemes compulsory, and enforce and monitor the compliance of those who are able to contribute.
- iv. Review and adjust governance and management arrangements to ensure that governance is representative of the interests of the Government, employers, and workers and that the management of the schemes is streamlined, cost-effective, and transparent.
- v. Introduce more coordination and integration between programmes as well as modernisation where appropriate to ensure the efficient collection of contributions, widen geographic access to quality service delivery, and ensure the effectiveness of benefit payments.
- vi. Develop synergies within social security and across the social protection spectrum, by harmonizing benefits where possible and by coordinating and integrating a system of providing multi-pillar retirement schemes, supported by integrated coordinated information systems and reliable contributor and beneficiary databases.
- vii. Support effective standard-setting by independent regulators with an extensive regulatory and supervisory mandate.
- viii. Promote the adoption of legislation, policies, and implementing measures aimed at replacing, where appropriate, lump-sum benefit payments with regular payments indexed to the cost of living.
- ix. Increase the adequacy of benefits by setting target replacement rates close to minimum social security standards, raising contributions to appropriate levels (having reviewed rates and contributory ceilings), curbing excessive administrative costs, incorporating (where appropriate) the preservation and portability of benefits, and ensuring that adequate returns on investments are passed on to contributors and beneficiaries.
- x. Extend the range of social security benefits to cover such key areas of need including unemployment and comprehensive pre-natal and post-natal care for mothers and babies.
- xi. Align social security schemes, laws, arrangements, and interventions with the Bill of Rights in the Constitution and, in so doing, ensure that any discrimination or unequal treatment is eliminated.
- xii. Determine the most appropriate role to be played by occupational schemes in extending social security coverage to those who can contribute to their own post-retirement welfare and security and risk mitigation.
- xiii. Include mechanisms for rehabilitating and re-integrating unemployed workers into the job market in the design and implementation of social security schemes to avoid having to fund any unnecessary unemployment benefits.

Health Insurance: The Government, in collaboration with partners, shall:

- i. Re-establish the NHIF as a fully-fledged comprehensive national health insurance scheme, which covers all Kenyans, and to which those who can afford it must contribute.
- ii. Establish a framework for enabling those who are not able to contribute to access a core package of essential health services, including maternity care and treatment for HIV/AIDS and related diseases.

- iii. Extend the range of benefits provided by the NHIF, including outpatient care, specialized treatment and quality of care assurance, sickness benefits, and mandated post-retirement health coverage.
- iv. Ensure that benefits made available by the NHIF and other medical schemes are adequate and are geographically and demographically accessible.
- v. Streamline institutions by removing all duplication and inconsistencies between healthcare providers.
- vi. Establish a health insurance regulator to improve standard setting, regulation, and supervision in the health sector.
- vii. Provide a supportive framework for private sector participation in the health sector and determine the exact role, place, and function of medical benefit (insurance) schemes in relation to the NHIF and Government interventions in healthcare.

MANAGEMENT

One of the key challenges facing policymakers and stakeholders in Kenya is the fragmentation of programming, which has led to duplication and inconsistencies in the operation and implementation of social protection throughout the country. Therefore, it is vital to streamline and coordinate this programming and to bring stakeholders together in an effective partnership to agree on the way forward for social protection at both the national and county levels.

In order to ensure the coordination of social protection initiatives at the national, county, and sub-county levels, a framework will be developed within which all social protection interventions throughout the country will be implemented. At the national level, a National Social Protection Council (NSPC), with its own Secretariat, will be the body in charge of coordination, and there will be similar agencies at the county level, which will be guided by common standards developed by the NSPC. Independent regulators and adjudicators will also be appointed to set guidelines and enforce standards.

An Act of Parliament will establish the NSPC. The Council's membership will comprise representatives of the Government ministries engaged in social protection and of non-state actors (NSAs) such as the private sector, employers, workers, development partners, community groups, and voluntary organizations. Its functions will include: developing a national strategy for the coordination of social protection; designing and developing integrated social protection programmes; developing systems to improve research, analysis, and targeting; reviewing the status and progress of social protection interventions; and identifying gaps and priority areas for increasing the impact of social protection. The Council will report to the National Assembly through its host ministry - the ministry responsible for social protection.

To carry out governance responsibilities around the country, committees will be established at the county and sub-county levels whose membership and functions have yet to be defined but are likely to include the responsibility for overseeing community-based initiatives including micro-insurance schemes. As social protection is a function of the national government, the committees will report to the NSPC but will also establish mechanisms for reporting to the county governments.

Independent regulators, including the Retirement Benefits Authority, will regulate, set standards for, and supervise compliance by social security and health insurance schemes. One or more institutions will be established to hear appeals and resolve social protection disputes in an independent, expedient, efficient, and cost-effective way but only after the internal complaint mechanism of a particular social security, health insurance, or social assistance institution has been exhausted.

FINANCING

This Policy aims to ensure that social protection interventions are effectively and sustainably financed from a range of sources but with the clear understanding that the Government shall provide the bulk of the funding. This Government support will include multi-year budget commitments based on periodic social budgeting and ring-fenced funding to finance cross-sectoral and coordinated programmes. The Government shall provide resources from the national budget to support this Policy according to need and based on affordability of new social protection programmes. Non-state actors including the private sector, employers, workers, development partners, community groups, and voluntary organizations will augment these resources.

This Policy proposes that the Government shall develop strategies that prioritise the funding of social protection interventions, and review the relative share of funding from the Government and other stakeholders. It also commits the Government to improve the targeting of social protection beneficiaries, reducing administrative costs, and improving the management of funds allocated for social protection.

MONITORING AND EVALUATION

Monitoring, evaluation, and impact assessments are integral to the implementation of this Policy. Social protection measures will be monitored at two levels: (i) within the line ministries alongside the overall monitoring of programmes and targets identified for poverty reduction in line with Vision 2030; and (ii) by the NSPC, which will specifically monitor the strategies, programmes, and interventions developed within the framework of this Policy. All of this monitoring will focus on whether this Policy is being implemented fully and in a timely manner. Meanwhile, evaluations conducted by the NSPC will ascertain that the Policy's objectives are being achieved within a specified timeframe and against measurable baselines. Impact assessments will aim to discern any changes that may have occurred in the livelihoods of the beneficiaries.

MANAGEMENT INFORMATION SYSTEM

The Government recognizes the need to establish an information system to manage social protection in the country. This system would make it possible to document results of the various interventions and schemes, inform key stakeholders about the status and effectiveness of social protection programmes, and generate political support for sustaining and expanding social protection programmes. The Government shall develop a single management information system (MIS) to: (i) harmonize and consolidate the current range of fragmented schemes, and (ii) increase the ability of social protection initiatives to scale

up their operations quickly in response to crises. The responsibility for the collection and management of data will remain with the stakeholders implementing the various social protection programmes. The NSPC will also help these stakeholders to develop or refine their own information management systems. Meanwhile, the National Integrated Monitoring and Evaluation System (NIMES) will include specific indicators for monitoring and evaluating social protection programmes.

REVIEWS

This Policy will be reviewed regularly under the leadership of NSPC or in response to the needs and demands of the people of Kenya.

THE STRUCTURE OF THE POLICY

The details of this Policy are presented in nine chapters as follows: (i) introduction; (ii) objectives, guiding principles, and assumptions; (iii) the socio-economic environment; (iv) the current context of social protection; (v) policy measures; (vi) coordination and integration in the implementation of social protection; (vii) the institutional framework; (viii) financing; and (ix) monitoring and evaluation, management information systems, and communication. Three annexes are attached to this Policy: a definition of terms; a summary of key social assistance programmes in Kenya; and a list of key development indicators.

INTRODUCTION

1.1 Background

Social protection has been implemented in Kenya in many different forms for many decades, including various programmes created in response to emergencies. The establishment of the National Social Security Fund (NSSF) and the National Hospital Insurance Fund (NHIF) in 1965 and 1966 respectively, was part of the Government's efforts to cushion workers against future vulnerabilities. However, these interventions have tended to be created in a piecemeal and uncoordinated manner. Following a meeting in Livingstone, Zambia in 2006, under the auspices of the African Union, the Government of Kenya began the process of formulating a national social protection framework. This entailed holding national consultation meetings involving representatives from Government ministries, non-state actors (NSAs) such as the private sector, community groups, and voluntary organizations, and development partners as well as exploring international best practices in the provision and financing of social protection. This process has enabled the Government to identify several key comprehensive actions in the areas of social assistance, social security, and health insurance. The consultations also identified several key barriers that were preventing many people from accessing social protection services, including stigma and discrimination on account of gender, disability, age, nationality, area of residence, and poor wellbeing (for instance, having a particular disease).

1.2 The Constitution and Social Protection

The Constitution is the supreme law of the country. Therefore, any law or policies – including those touching on social protection – that are inconsistent with it are void. Article 43 of the Constitution expressly guarantees all Kenyans their economic, social, and cultural (ESC) rights, including basic rights to health, education, food, and decent livelihoods. It explicitly asserts the right “of every person... to social security” and binds the State in Article 43(3) to “provide appropriate social security to persons who are unable to support themselves and their dependants.” This implies social protection in its totality: social assistance; social security; and health insurance.

The constitutional right to social security, in both the wide and narrow sense, is closely interlinked with other social protection rights. These include the right to the highest attainable standard of health, such as the right to healthcare services. It also includes the rights to equality and freedom from discrimination, human dignity, freedom of movement and residence, reasonable working conditions, fair administrative actions, access to justice, and the resolution of disputes in a fair manner and through public hearing before a court or independent and impartial tribunal or body. Finally, Article 21 of the Constitution commits the State to working towards the gradual realization of the social and economic rights and binds the State “to observe, respect, protect, promote, and fulfil the rights and fundamental

freedoms in the Bill of Rights.” For this to be achieved, the State is expected to take whatever legislative, policy, and other measures as necessary, including the setting of standards.

1.3 International Agreements

The Constitution emphasises the application of international agreements ratified by Kenya. Kenya is a signatory to the Universal Declaration of Human Rights (1948), which recognizes social protection as a fundamental human right for all citizens of the world. Other international instruments adopted by the country include the International Covenant on Economic, Social, and Cultural Rights (1967), the UN Convention on the Elimination of All Forms of Discrimination Against Women (1979), the UN Convention on the Rights of the Child (1990), the UN Convention on the Rights of Persons with Disabilities (2006), the African Charter on the Rights and Welfare of the Child (1990), the International Labour Organization (ILO) Convention on the Worst Forms of Child Labour (1999), the ILO Minimum Age Convention (1973) that deals with the minimum age for employment, and the African Charter on Human and People’s Rights (1981). Kenya is also a signatory to several ILO Conventions and Regional Protocols on migrant labour.

The UN/ILO Social Protection Floor Initiative (SPF) adopts a lifecycle approach to social protection. It guarantees a universal minimum package of social transfers and services consisting of: access to education and essential health services, income security through family or child benefits, unemployment benefits, disability benefits, and income security in old age (both contributory and non-contributory pensions). The World Summit on Social Development (WSSD) of 2000 has also played an influential role in shaping the social protection agenda in Kenya.

As an East African Community (EAC) Partner State, Kenya is party to the wide-ranging provisions on the harmonization and coordination of social security that guide the actions of the Partner States.

1.4 Operational Definition of Social Protection in Kenya

For the purposes of this Policy, social protection refers to:

Policies and actions, including legislative measures, that enhance the capacity of and opportunities for the poor and vulnerable to improve and sustain their lives, livelihoods, and welfare, that enable income-earners and their dependants to maintain a reasonable level of income through decent work, and that ensure access to affordable healthcare, social security, and social assistance.

1.5 Approaches to Social Protection

The Government recognises that different results will be achieved depending on the extent to which beneficiaries are able to build on the social protection support that they receive. In this regard, the Government shall pursue the following four approaches in delivering social protection.

Provision: Efforts in this approach will focus on social assistance covering a broad range of actions including cash transfers, food aid, affordable health charges, child protection services, and responses to life-threatening emergencies to enhance coping mechanisms of vulnerable groups.

Prevention: Efforts in this approach will focus on strengthening social security and health insurance schemes through unemployment, healthcare, sickness, maternity, and other relevant benefits and pensions, as well as services to support communities and other subsidized risk-mitigation mechanisms to prevent deprivation or destitution.

Promotion: Efforts in this approach will seek to strengthen interventions aimed at enhancing livelihoods and productivity, such as conditional cash transfers, public works programmes, food for work, and school feeding programmes in order to reduce households' susceptibility to social risks. Micro and area-based schemes such as community-driven development initiatives will be part of this approach.

Transformation: Efforts in this approach will continue to support the formulation of policies and the enactment of laws and regulations including the development of evidence-based programmes on social protection, the statutory minimum wage, maternity benefits, inheritance rights, anti-discrimination legislation, anti-stigma campaigns, anti-corruption legislation, policies on fee-free education, and regulations on safe classroom environments (to avoid exclusion of vulnerable children and girls).

As far as providing for older persons is concerned, the Policy envisages social assistance as consisting of a benefit, grant, or pension payable to the older persons on either a targeted or universal basis. There will also be a compulsory contributory scheme, possibly provided by the NSSF, while occupational retirement schemes and voluntary social insurance/security schemes will also provide pension benefits to their beneficiaries.

1.6 Social Protection in the Context of National Development

The ultimate goal of social protection is to ensure that all Kenyans live in dignity and are given the opportunity to exploit their capabilities for social and economic development. This goal is reflected in Kenya Vision 2030, which aims to provide a “high quality of life for all its citizens by the year 2030. The Vision is built on three pillars - economic, social, and political. The social pillar seeks to build “a just and cohesive society with social equity in a clean and secure environment.” The social pillar is based on transformation in eight social sector areas, namely education and training; health; water and sanitation; environment, housing, and urbanization; gender, youth, sports, and culture; and promoting equity and poverty reduction. It makes special provision for those with disabilities and those who live in marginalized areas. Through Vision 2030, Kenya aims to become a middle-income country. This provides an impetus for the Government to increase investment in social protection to the levels invested in comparable countries. For the first five-year period (Medium Term Plan I: 2008-2012), the Vision's goal is “to increase opportunities all-round among women, youth, and all disadvantaged groups.” One of the actions proposed to achieve this is the establishment of a consolidated Social Protection Fund. This fund is critical to the financing and sustainability of social protection in the country.

The goals of Vision 2030 are supported by Kenya's overall development agenda, which is commitment to poverty reduction, equity, and equal access to income-generating opportunities and sustainable livelihoods across regions and among people based on principles of social and political justice. By participating in well-designed social security schemes, Kenyans who are able to contribute to their well-being and that of their dependants will also be supporting their country's economic and national development, as they will not need to become dependent on State support when confronted with crisis. Furthermore, affordable health insurance will widen access to healthcare to all Kenyans. Social protection programmes will also enable Kenyans to access services and income-generating opportunities.

OBJECTIVES, GUIDING PRINCIPLES, AND ASSUMPTIONS

2.1 Objectives

The overarching goal of social protection is *to ensure that all Kenyans live in dignity and exploit their human capabilities to further their own social and economic development*. To attain this goal, the following broad policy objectives are to be pursued:

- Protecting individuals and households from the impact of adverse shocks to their consumption that is capable of pushing them into poverty or into deeper poverty.
- Supporting individuals and households to manage these shocks in ways that do not trap them in poverty by reducing their exclusion and strengthening their ability to graduate from social assistance and to become financially self-sufficient.
- Cushioning workers and their dependants from the consequences of income-threatening risks such as sickness, poor health, and injuries at work as well as from the threat of poverty in their post-employment life.
- Promoting key investments in human capital and physical assets by poor and non-poor households and individuals that will ensure their resilience in the medium term and that will break the intergenerational cycle of poverty.
- Promoting synergies and integration among social protection providers as well as positive interactions among stakeholders for the optimal functioning of this Policy.

2.2 Guiding Principles

The implementation of social protection in Kenya will be based on the Constitution, which guarantees the rights of the citizens and mandates the Government to put these rights into practice.

1. **Leadership and integrity:** The Government will provide leadership within a legal and policy framework to facilitate the coordination and alignment of interventions and oversee the provision of long-term coordinated support to social protection. It will also take the necessary steps to achieve the constitutional goal of ensuring that all Kenyans are covered by a basic level of social security. In addition, the Government will ensure that ethical standards are upheld in all programmes and interventions in the sector.
2. **Good governance:** Social protection programmes will be inclusive and transparent. They will have inbuilt accountability and will disseminate information in an accurate

and timely way, including information on instances involving abuse of the system, on contract terms and unit costs of institutions administering social protection interventions, and on the procurement of services. The social security system will, in particular, ensure the right of beneficiaries and agencies to seek, receive, and impart information on all social protection entitlements in a clear and transparent manner, which includes continuing disclosure of information on the rules and operations of these programmes.

3. **Evidence-based programming:** Social protection programmes will be informed by research conducted regularly by credible national and international institutions.
4. **Gender mainstreaming:** In recognition of the fact that men and women, and boys and girls, are affected differently by the same risks and face different types of risks, efforts shall be made to assess the implications for both males and females of any planned social protection activity at every level.
5. **Equity and social justice:** In accordance with the Constitution and international agreements, social protection will ensure the promotion, and protection of workers while conforming to international labour standards.
6. **Common standards:** Partners and agencies involved in implementing and supporting social protection will commit to a common set of performance and financial management standards and reporting procedures. They will compile and share with relevant stakeholders' statistical information, periodic progress reports, and the results of independent audits, actuarial valuations, and social budgets. The gradual decentralization of responsibilities for the delivery of social protection to county levels will also require a system for measuring results against agreed benchmarks, setting performance and quality standards, and creating tools to monitor the delivery of benefits and services.
7. **Public participation:** Beneficiaries and all stakeholders will be consulted and involved in the design, planning, implementation, monitoring, and evaluation of social protection interventions.
8. **Adequacy, affordability, and sustainability:** Social protection schemes and programmes will be affordable for both low-income individuals and the State budget. Efforts will be made to ensure that benefits are sufficient to provide appropriate healthcare, minimum levels of protection for those covered by social assistance arrangements, and a reasonable level of income (based on an individual's past earnings) for those covered by social security schemes and their dependants. The levels of benefits will be indexed to an objective standard that will take into account periodic changes in the cost of living and ensure the sustainability of the benefits.
9. **Flexibility and responsiveness to changing contexts:** Social protection programmes will be sensitive and capable of adapting to emergencies and shocks. This will enable the Government and stakeholders to respond to emergencies in a timely and effective manner through well established, well designed, and efficient institutional channels.

2.3 Assumptions

The current fragmentation of the provision of social protection is a major constraint to the efficient use of resources and prevents these interventions from having a full and meaningful impact on the lives of the poor and vulnerable. There is, therefore, an urgent need to find a feasible way to coordinate existing activities and integrate new ones.

This Policy, therefore, is based on the following assumptions:

1. The delivery of social protection interventions will be efficient, cost-effective, and equitable.
2. Responsibility for the delivery, administration, and management of social protection programmes will gradually be decentralized to the county and sub-county levels.
3. Stakeholders will participate fully in and be accountable for the delivery, administration, and management of social protection programmes.
4. Providers of social protection services will have complete operational autonomy.
5. The Government will establish efficient and cost-effective monitoring, evaluation, reviewing, and reporting systems.
6. There will be a smooth transition from the current to the proposed institutional arrangements.
7. All new programmes and schemes will complement current Government structures and programmes.

THE SOCIO-ECONOMIC ENVIRONMENT

3.1 Poverty in Kenya

It is estimated that about 46.7 percent of Kenyans (16.3 million people) are food poor and cannot meet the cost of a basic food bundle. Poverty rates are higher in rural areas (49.7 percent) than in urban areas (34.4 percent). However, the national numbers camouflage significant regional differences. For instance, poverty incidence in the Coast and North Eastern Provinces is estimated to be 70 and 74 percent, respectively compared with 22 percent in Nairobi and 31 percent in Central Province (Kenya Integrated Household and Budget Survey, 2005/6).

Vulnerability is determined mainly by geography, household composition, and macro-economic environment. Geographical factors include the area of residence, demographic and socio-economic factors such as household composition, the educational attainment of the household head, and access to assets. A household is more likely to be exposed to adverse shocks if it is located in areas with adverse agro-climatic conditions and limited natural resources or in communities where there is insufficient entrepreneurial activity and job creation. Although poverty incidence is higher on average in rural than in urban areas, slum residency is a predictor of even higher poverty levels.

Household size, household composition, human capital and other assets, and the main sector of activity of the head of household have been found to determine vulnerability to poverty. Larger households with larger dependency ratios tend to be poorer. In addition, in subsistence economies where there is a high risk of declining soil productivity, large households are likely to increase competition for various land uses.

Poverty in Kenya has a predominantly young face. In addition, the vulnerability to poverty of female-headed households is about 14 percent compared with 5 percent for male-headed households. Households that include orphans and vulnerable children (OVC) tend to be highly vulnerable and to have few resources. The incidence of vulnerability of child-headed households is 96 percent higher than the recorded poverty rate. All their vulnerability is accounted for by lack of endowments. Households headed by older people are substantially vulnerable to poverty.

The vulnerability of many Kenyans to the risks of unemployment, diseases, and climate change make it crucial for the Government and its partners to put in place measures to promote sustained economic development as well as the development of human and social capital.

3.2 The Macro-economic Situation

After several years of economic stagnation and decline, since 2003, the Government has initiated a series of bold changes and has made significant improvements in macro-economic management. The most significant advancement was the reduction in the debt to GDP ratio from 60 percent in 2000 to 40 percent in 2008. These gains were reversed in 2008 as a result of violence that followed the disputed presidential elections of December 2007 and the global economic crisis. Since then, there has been a remarkable recovery, and the debt to GDP ratio stood at 42.3 percent in 2010, but agriculture, the mainstay of the economy, was particularly hard hit by the downturn. After contracting by more than 4 percent in 2008, the sector shrank by a further 2.6 percent in 2009. Due to continued poor performance in agriculture, the country currently produces only about 60 percent of its food requirements. The current drought in the northern part of the country, exacerbated by a huge influx of refugees from neighbouring countries, has presented the Government with a serious challenge. The average per capita supply of calories is estimated to be 1,800 calories per day, and the import dependency ratio (IDR) stands at about 43 percent.

In 2009/2010, the Government made efforts to boost employment through an economic stimulus package designed to promote labour-intensive projects. The jobs generated were mostly in the informal sector within the construction, transport, storage, and hotels and restaurant sectors. The volatility of the international prices of petroleum products coupled with prolonged drought in most parts of Kenya led to sharp increases in the domestic prices of petroleum products and electric power. This has had a knock-on effect on the prices of most consumer goods and services, leading to increased economic vulnerability, particularly among the poor and low-income wage earners.

THE CURRENT CONTEXT OF SOCIAL PROTECTION

4.1 Social Assistance

The Government and its development partners are currently implementing several social assistance interventions targeted to specific categories of beneficiaries. These interventions are summarized in Table 1 (a complete list is provided in Annex II).

Table 1: Safety Net Programmes in Kenya (by 2010)

Category	Example of Programmes	Type and Numbers of Beneficiaries	Main Characteristics
Cash transfers	Orphans and Vulnerable Children Cash Transfers CT-OVC, Older Persons Cash Transfer (OPCT), Hunger Safety Net Programme (HSNP), Urban Food Subsidy	CT-OVC-412,470 children	Some of these programmes are pilots aimed at drawing lessons for scale-up
Food distribution	School feeding, Expanded school feeding General emergency relief	Regular school feeding -803,669 children Expanded school feeding -346,000 children General food relief -2,180,058 people	Relief has characterized government interventions during drought and famine, mainly in ASAL areas. School feeding programmes are intended to keep children in school during food shortages.
Public works	<i>Kazi kwa vijana</i> (KKV)	KKV -297,861 young people	This programme was established in 2008 to absorb young people into the job market but management and logistical shortcomings have been noted.
Grants	<i>Njaa Marufuku</i> , People with severe disabilities, Safe motherhood Health vouchers	<i>Njaa Marufuku</i> - 12,180 groups People with severe disabilities- 4,200 Health vouchers for safe motherhood - 59,982 women	The <i>Njaa Marufuku</i> grants are one-off payments. Home-grown school feeding funds are transferred to schools to enable them to generate income for their members.

Reviews of social assistance programmes conducted by the Government and development partners in 2005 and 2009 have highlighted the inadequacy of the existing interventions. For instance, while repeated distribution of food to poor families in arid and semi-arid lands (ASALs) has kept people alive, it has not reduced poverty. In addition, even though the Government spends about 0.9 percent of its GDP on social assistance, most of the financing of these programmes comes from its development partners (estimated at 90 percent).

Non-state actors (NSAs), such as NGOs, implement a range of social protection interventions although most of these are limited in scope and coverage. The NSAs face three key challenges: inadequate resources; a lack of coordination; and the inability to sustain their programmes if and when donor funding is withdrawn.

Informal community support and extended families provide a significant form of social assistance in Kenya. There are two main types of such safety nets: membership of traditional solidarity networks (the family, kinship groups, and neighbourhoods); and membership of cooperative or social welfare associations (including self-help groups, rotating savings and credit associations, and cultural associations). There are over 300,000 such cooperative groups nationally, which provide a range of services, including loans, food, education, health, and funeral assistance. Such safety nets face three main challenges: limited productive resources that are under the control of households and communities; low levels of income; and high levels of dependency, which have worsened as a result of HIV/AIDS and the financial, fuel, and food crises.

Despite the lack of a specific regulatory framework for social assistance schemes, the existing programmes are guided by three broad categories of legislation and policy, namely sector specific, vulnerability, and locality-based laws and policies.

Sector-specific legislation is aimed at guiding the implementation of interventions for the welfare of poor and vulnerable members of society. These cover the education sector (for example, the Education Act, 2007), the health sector (for example, the HIV Prevention and Control Act, 2006), and agriculture (for example, the Strategy for Revitalizing Agriculture, 2004-2014). The National Food Security and Nutrition Policy (2007) covers programmes that increase access to food and improve nutrition as well as measures to ensure food sufficiency and security.

The main focus of vulnerability-focused laws and policies is to protect the rights of the disadvantaged and to ensure their enjoyment of these rights. These include the National Children's Policy (2010) and the Children's Act (2001), the National Policy on Older Persons and Aging (2009), the National Policy on Youth (2006), the National Gender and Development Policy (2000), and the Persons with Disabilities Act (2003). The main problem with most of these laws and policies is that they are not in tune with the country's Constitution and its rights-based framework. As a result, they fail to include important elements for protecting the economic, social, and cultural (ESC) rights of Kenyans. Furthermore, there are challenges in relation to effective targeting mechanisms, appropriate legal framework, and adequate, sustained earmarked funding from the State budget. Also, vulnerability-focused programmes tend to have only limited geographic coverage.

As for locality-based laws and policies, the National Policy for the Sustainable Development of Arid and Semi-Arid Lands (2007) calls for specific interventions to bring the economic development level of the ASALs up to the levels that prevail in other parts of the country after many decades of negligible economic development. The deprived circumstances experienced by many of the urban poor are also a key focus of the Government, as reflected in such interventions as slum upgrading.

4.2 Social Security

A recent report (GoK and ILO, 2010) indicated that the multiplicity of old age pension schemes in Kenya has created a variety of institutional approaches that are in need of closer coordination. Except for the current Civil Service Pension scheme, all of the retirement benefit schemes are contributory (see Table 2 for details on social security).

Table 2: Social Security Schemes in Kenya

Characteristics	National Social Security Fund (NSSF)	Public Service Pension Scheme	Occupational Schemes	Individual Schemes
Criteria for membership	Employees in both formal and informal sectors	Permanent and pensionable civil servants, provided for in the Pensions Act	Employer based	Open to all on a voluntary basis
Number of members or schemes	4.6 million members but only 1.2 million are active	425,000 civil servants and 200,000 pensioners	1,300 schemes with 300,000 members	16 schemes
Benefits	Age/retirement, survivors', invalidity, withdrawal and emigration	Retirement, disability, and survivors' (in particular widows) and orphans'	Different levels depending on the schemes	Variable benefits according to the schemes

Sources: Sundeep, 2008, and RBA Website (adjusted).

The Retirement Benefits Act 1997 (amended in 2006) set up the Retirement Benefits Authority (RBA), which is charged with the “regulation, supervision, and promotion of retirement benefits schemes, the development of the retirement benefits sector and for connected purposes.” The RBA has many achievements to its credit including supervising and regulating retirement fund schemes and industry. Under the auspices of the RBA, a recent attempt to provide retirement protection to some informal sector workers has been reasonably successful.

Sickness and maternity benefits are currently provided on the basis of individual employer liability (as required by the Employment Act of 2007). Employers are also individually liable for the payment of compensation in the event of an occupational injury or disease (Work Injury Benefits Act, 2007). The Ministry of Labour is responsible for the administration of the workmen’s compensation system, approving settlements and paying benefits from funds deposited with it by employers. Currently, Kenya does not have an unemployment insurance scheme.

The laws and policies in the social security sub-sector are aimed at protecting contributors and beneficiaries. The NSSF only provides lump sum benefits, and there is no provision for annuitization. The conversion of the NSSF into a fully-fledged pension scheme with an improved benefit regime is the aim of the National Social Security Pensions Trust Bill of 2011 (which has not yet been passed into law). Although the NSSF now covers all categories of employers (as of November 2009 coverage was extended to employers with only 1 to 4 employees), effective coverage still remains low. In addition, given the low monetary ceiling on contributions, the current level of benefits is inadequate; therefore, benefit formulas

should be revised accordingly. Similarly, a case has been made for reforming the Civil Service Pension scheme. Advocates of this reform envisage a separate pension scheme to which both the Government as the employer and covered civil servants will contribute 15 percent and 7.5 percent of their earnings, respectively.

4.3 Health Insurance

Although several schemes in Kenya offer healthcare, the primary scheme is the National Hospital Insurance Fund (NHIF). For a long time, the NHIF covered only in-patient hospital cover for both formal and informal sector workers, but in December 2009, it introduced outpatient coverage as well. Several private health insurers cater for higher-income earners. Micro-health insurance schemes also cover certain households.

The NHIF Act No 9 (1998) regulates the NHIF. The NHIF covers salaried workers on a compulsory basis (about 2 million contributory members with about 10 million dependants). Informal sector workers and those who are sponsored by individuals or institutions can join on a voluntary basis, and 700,000 such workers are so far covered. Salaried workers pay contributions on a graduated scale basis, starting at a minimum payment of KShs. 30 per month and rising to a maximum of KShs. 320 per month.

Private health insurers offer schemes with risk-based premiums and reimbursement schedules with caps. These schemes have a total membership of around 500,000 in Kenya. Some of them are organized as health management organizations (HMOs), which are medical insurance providers regulated by insurance.

4.4 Overall Assessment of Social Protection

It is clear that the Government and its partners have implemented various interventions to ensure that the poor are cushioned while those who are financially able contribute to medical and retirement schemes as well as social security schemes (where appropriate together with their employers). However, most of the laws and policies that initiated these social protection schemes were developed prior to the enactment of the current Constitution and the development of Vision 2030.

The social security sub-sector faces several challenges that include low effective coverage; limited range, scope, and adequacy of benefits; limited funding; mismanagement of resources, and poor record keeping. There have been calls for reforms to ensure these schemes are consistent with the rights-based goals set out in the Constitution and to safeguard contributors' investments. The limited coverage, penalties for late contributions that are punitive to the poor and unemployed, inefficient collection mechanisms, and long drawn out payment processes remain major challenges for this sub-sector.

There are many interventions in the social assistance area, but their effectiveness has been undermined by a lack of coherence. The laws and policies targeting specific social groups have tended to be passed in response to narrow concerns, which means that they are not effective across all sectors. Some of the laws and policies have design issues that would need to be addressed before this National Social Protection Policy can be fully realized.

The NHIF faces a number of challenges, including reimbursement policies, which have encouraged longer stays in hospitals (especially private hospitals), the growing increase in the value of claims, an uneven distribution of payments in different categories of hospitals, and reimbursements that are skewed in favour of private hospitals and nursing homes rather than government or mission facilities. There are also administrative inefficiencies that have contributed to high overhead costs.

Given the current focus on integration as a key approach to development, it is critical to understand the existing laws and policies in the sectors relevant to social protection to inform the development of this Policy. For instance, it will be necessary to take some sector and location-specific laws (such as Northern Kenya and ASAL) into account when implementing this Policy.

Some of the challenges that will need to be overcome to ensure the successful implementation of this Policy are outlined below.

- a) ***Closing coverage and access gaps:*** There are huge gaps in the coverage of Kenyan social assistance, social security and health insurance systems. This is the result of the narrow coverage provided for in the current legal framework, which is largely limited to formal sector and salaried workers. This means that the approximately 8 million informal sector workers and those living in rural and remote areas have inadequate access to the protective and promotive aspects of social protection.
- b) ***Reducing the heavy burden on employers and the excessive liability on the public purse:*** It is evident that the social insurance system in Kenya is characterized by a heavy burden on employers and an excessive liability on the public purse. Because of the principle of individual employer liability, employers have to pay for sickness, maternity, medical, and occupational injury and disease benefits in addition to contributing to one or more retirement schemes. Negative hiring practices invariably flow from this, such as excluding any women likely to request maternity leave or any candidates with an adverse medical history.
- c) ***Reducing fragmentation:*** The social security system in Kenya is highly fragmented, involving many different institutions and a large number of line ministries. Therefore, streamlining of retirement and health insurance schemes is badly needed, which will happen if social insurance arrangements for which employers are currently responsible are integrated into a public scheme. There is also a need to carefully consider what would be the role, place, and functions of occupational and private-based schemes and institutions (including insurance institutions) within such a revamped system of social protection, especially as the NSSF and the NHIF are to operate as fully fledged national institutions providing adequate benefits. Careful consideration should be given to gradually harmonizing public servants' benefits with those of the private sector and to integrating all retirement schemes that cover the whole population. It may also be worthwhile to consider integrating, either partially or totally, the different functions of existing national social security institutions to increase efficiency.
- d) ***Complying with international standards:*** There is a need to set up an appropriate and accessible social security adjudication framework (including an impartial and

independent external appeal framework), which complies with the requirements of the Constitution and international law. Because of Kenya's membership of the EAC, the country should harmonize its social security benefit levels with the rest of the region.

- e) **Extending independent regulation:** There is also a need for more extensive and better independent regulation arrangements in Kenya.
- f) **Increasing the scope and adequacy of benefits:** Social security institutions could offer additional benefits such as maternity protection on a social insurance basis to increase the protection, predictability, and sustainability of such benefits. Also, in many respects, the benefits paid by social security institutions, in particular the NSSF, are inadequate and inequitable. There are several reasons for this:
 - (i) Insufficient contributions
 - (ii) High administrative costs
 - (iii) Uneven benefit allocations
 - (iv) Gaps in provision including the absence of a guarantee that a worker's benefits will continue until retirement or the fact that workers cannot transfer their accrued entitlements and benefits when they transfer between the public service and private sector, or between occupational retirement schemes and the lack of out-patient care (lack of portability)
 - (v) The practice of paying lump sums instead of regular benefits
 - (vi) The low monetary ceiling for pensionable earnings at NSSF
 - (vii) The failure to adequately pass on returns on investments to contributors.
- g) **Addressing discrimination:** Social security and health insurance schemes are also characterised by various forms of discrimination, such as direct and indirect forms of gender discrimination, insufficient provision for non-citizens in accordance with international and regional (EAC) standards, and disparities in the contribution framework of the NHIF among others.
- h) **Incorporating prevention, integration and rehabilitation:** Social protection programmes need to include elements to help those affected by a risk-creating condition, such as unemployment or employment-related injury, to be reintegrated into the labour market. For example, suitable return-to-work arrangements should be introduced within the employment injuries and diseases framework, while labour market integration should be linked to unemployment insurance schemes. Overall, this will also create savings as less compensation (benefits) will need to be paid out.
- i) **Involving and consulting stakeholders:** Finally, there is a need to properly involve and consult stakeholders in social protection programming. These include organized business and labour because they are most directly affected by any change to the social security and health insurance framework. Also, insurance and other affected institutions need to be consulted, given the impact that any reform will have on their role.

POLICY MEASURES

5.1 Social Assistance

This Policy will help stakeholders to review the effectiveness, targeting strategies, and delivery mechanisms of their social assistance programmes in order to enhance their impact. The ultimate goal of social assistance is to provide universal access to the vulnerable throughout their lifecycle. Evidence generated from the reviews of existing programmes and regulatory frameworks will guide this process. A range of policy measures and interventions, presented below, will be used to extend social assistance targeted to the poor and vulnerable members of the society.

Policy Issues

(1) **Safety nets and consumption transfers to sustain livelihoods and build human capital:** Social transfers will mainly be in the form of direct cash transfers to poor and vulnerable people over their lifecycle but may include in-kind benefits. The transfers may be conditional or non-conditional depending on the target group and the delivery mechanisms adopted. The criteria for targeting and standards will be developed as part of the strategies to implement this Policy.

(2) **Asset protection and rehabilitation to re-establish livelihoods:** Efforts will be made to ensure that the people's property is protected and for those who lose their assets, mechanisms are put in place to support them. Some of the key measures are outlined below.

- i. Provide food, shelter, water, and health services in response to emergencies
- ii. Provide asset rebuilding services such as restocking, access to inputs, and resettlement for rehabilitation purposes.
- iii. Provide direct feeding programmes for those vulnerable to malnutrition, meals and nutritional support to schools, the older persons and pre-school-age children with supporting training in good nutritional practices, skills transfer and health services, and food distribution during emergencies such as famine and flooding (in the relief phase).
- iv. Redistribute food in the country to ensure that areas requiring food get it in a timely manner.
- v. Provide food for work and targeted subsidies to enable the poor to access basic services such as food and inputs.
- vi. Support the extension of the coverage of micro-insurance to safeguard assets.

(3) **Asset development and income opportunities to establish sustainable livelihoods:** There is a need to ensure that people who are receiving social assistance have access to other services that can help transform their lives, as outlined below.

- i. Strengthen micro-finance systems to expand access to banking, credit, and savings and build skills training and business development services to facilitate informal and formal employment (as stipulated in the Development of Micro-enterprises for Employment Creation Policy of 2005).
- ii. Strengthen social economic institutions such as cooperatives and self-help groups
- iii. Widen eligibility for waivers, exemptions, and targeted subsidies to public services.
- iv. Increase access to targeted subsidies for agricultural and industrial inputs.

The selection of the most appropriate instruments for implementing social assistance will be determined by the following factors:

- i. The extent to which they will reduce risk and vulnerability, resulting in income-smoothing and reduced fall back on negative coping strategies by the poor and vulnerable.
- ii. The extent to which they enable the realization of human rights, gender equality, and intergenerational equity.
- iii. Their potential for contributing to economic growth by reducing market failure (for example credit and insurance).
- iv. Their potential for helping beneficiaries to build livelihood assets and human capital, thus enabling them to participate in and contribute to economic growth and assert their rights and to recover after shocks.
- v. Their contribution to maintaining socio-political stability by providing cost-effective broad national coverage and by having an open policy dialogue about their eligibility criteria.
- vi. A consideration of costs versus benefits.
- vii. The extent to which they complement existing instruments and programmes.
- viii. Their feasibility in terms of political sustainability, financing, targeting, ability to scale up and down, and administrative capacity requirements (these factors are particularly important when considering governance issues).

Policy Statements

The Government, working with all other stakeholders, shall:

- i. Establish the funds and institutions needed to provide social assistance to the various target populations.
- ii. Ensure that the design and implementation of programmes and development approaches are coordinated, including within social assistance and between social security and health insurance.
- iii. Strengthen and scale-up existing social assistance programmes while widening their geographical and demographic coverage.
- iv. Put in place institutional frameworks for coordinating social assistance to ensure consistent and adequate levels of support.
- v. Conduct periodic reviews of instruments and strategies to reach the poor based on standards agreed upon by stakeholders such as ease of implementation, effectiveness in targeting, cost-effectiveness, and their impact on the welfare and livelihoods of the beneficiaries.
- vi. Conduct research to inform the implementation of social assistance interventions

- on areas such as targeting, the adequacy of the transfer value, delivery mechanisms, social rights, and community/beneficiary participation.
- vii. Determine the appropriate graduation and exit strategies for the different interventions while helping stakeholders to develop standards to be used to assess the appropriateness of these strategies.

5.2 Social Security

(1) **Redirecting individual employer and government liability:** There is ample scope in most cases for transferring the liability currently borne by individual employers to a public body such as the NSSF and, where relevant, the NHIF. This will help to eliminate gender discriminatory and negative employment practices and enable employers to contribute effectively to social security schemes. It will also guarantee payments to beneficiaries by an independent fund. The savings made as a result of the redirection of the Government's current liability for Civil Service Pensions will be allocated partly to pay for its contribution to a new scheme (alongside contributions by civil servants) and partly to invest in other social protection needs in the country, for example, either the introduction of a universal old age pension or the extension of the current targeted old age cash transfer programme.

(2) **Retirement schemes:** The Government recognizes the need to extend coverage of retirement schemes to informal sector workers and to increase the range and adequacy of NSSF benefits. Other benefits to be considered include maternity, unemployment insurance, and work injury arrangements. The indication by the Retirement Benefits Authority (RBA) that the average benefits replacement rate should be increased to 32 percent by 2014 would provide more adequate income in old age. The aim of the RBA is for Kenya to meet the ILO's minimum social security standards set at a replacement rate of 40 percent of a reference of previous individual earnings after a full career of 30 years of contributions for lower earners within a combination of social security financing mechanisms. Kenya's international and regional obligations under the NSSF Act and other relevant legislation will be put into effect. Once a contributory scheme is established as part of the Civil Service Pension reforms, employees will be represented on the governing board.

Workers will be allowed to transfer their retirement benefits among and across the different schemes when they change jobs. Preferably, this should be compulsory to ensure that appropriate benefits are available to workers when they eventually retire. Any forms of gender discrimination and disparate treatment will be eliminated to comply with the Constitution and international agreements.

Occupational pension schemes will fulfil the role of opt-out or top-up schemes, although other options also exist. The Government shall discuss the most appropriate approaches with its key stakeholders.

(3) **Sickness benefits:** There is a need to align the minimum provision for sickness benefits in the Employment Act (2007) with internationally accepted minimum standards and the constitutional right to reasonable working conditions in relation to the period of sickness. There is also a need to review the rather high rate of 100 percent of previous earnings, in view of the minimum target set by the ILO Conventions. Account would be taken of the low-level wage income of many formal sector workers in Kenya. Under a reformed social security

system, it could be the obligation of NHIF, though this is not medical but remuneration replacement, in view of the often logical link between medical care and sickness benefits, and its recommended assumed role as national insurance provider in the areas of medical care and sickness, to provide sickness benefits. Labour laws would be aligned to the Constitution.

(4) **Maternity protection:** Maternity benefits (mainly in the form of remuneration) shall be provided through a restructured NSSF. Conversion Bill Measures will be introduced to ensure that appropriate pre-natal and post-natal care, which is now available to female workers, is enhanced and their working conditions improved.

(5) **Employee injury and disease benefits (workers' compensation):** The following measures are proposed:

- i. Extending coverage to excluded workers, in particular those in the informal economy.
- ii. Introducing rehabilitation into the employment injury and healthcare system in accordance with the draft National Occupational Safety and Health Policy as well as the integration of preventive and rehabilitative health services into the healthcare system as part of a national framework that will link to the private provision of rehabilitation services in Kenya.
- iii. Establish a public or national scheme or use existing schemes, in either case limiting or excluding employees' individual civil liability.
- iv. Ensure legislative interventions on occupational diseases as most have long latent periods and may be diagnosed long after the worker has stopped working.
- v. Periodic rather than lump sum payments should be given to any affected workers who only have employment injury and disease benefits to live on.

(6) **Unemployment protection:** An unemployment insurance scheme provides workers who lose their jobs with temporary financial assistance to tide them over and helps them to re-integrate into the labour market. This kind of scheme is funded by contributions from both the employer and employee. The benefit offered is short-term and should be paid when the worker's unemployment is involuntary. An actuarial evaluation should be undertaken to determine the level of the contributions, the eligibility requirements, and the size and duration of the benefit package.

Policy Statements

The Government, working with all other stakeholders, shall:

- i. Strengthen the existing social security regime and establish comprehensive social security arrangements that will extend legal coverage to all workers, whether in the formal or informal sectors, and their dependants.
- ii. Undertake research into and consider viable options for extending coverage to those who work informally and their dependants in consultation with key stakeholders, including those in affected communities and sectors.
- iii. Devise ways to make membership of social security schemes compulsory and enforce and monitor the compliance of those who are able to contribute.
- iv. Review and adjust governance and management arrangements to ensure that governance is representative of the interests of the Government, employers, and workers and that the management of the schemes is streamlined, cost-effective, and transparent.

- v. Introduce more coordination and integration between programmes as well as modernisation where appropriate to ensure the efficient collection of contributions, widen geographic access to quality service delivery, and ensure the effectiveness of benefit payments.
- vi. Develop synergies within social security and across the social protection spectrum, by harmonizing benefits where feasible and by coordinating and integrating a system of providing multi-pillar retirement schemes provisioning, supported by integrated coordinated information systems and reliable contributor and beneficiary databases.
- vii. Support effective standard-setting by independent regulators with an extensive regulatory and supervisory mandate.
- viii. Promote the adoption of legislation, policies, and implementing measures aimed at replacing, where appropriate, lump-sum benefit payments with regular payments indexed to the cost of living.
- ix. Increase the adequacy of benefits by setting target replacement rates close to minimum social security standards, raising contributions to appropriate levels (having reviewed rates and contributory ceilings), curbing excessive administrative costs, incorporating (where appropriate) the preservation and portability of benefits, and ensuring that adequate returns on investments are passed on to contributors and beneficiaries.
- x. Extend the range of social security benefits to cover such key areas of need including unemployment and comprehensive pre-natal and post-natal care for mothers and babies.
- xi. Align social security schemes, laws, arrangements, and interventions with the Bill of Rights in the Constitution and, in so doing, ensure that any discrimination or unequal treatment is eliminated.
- xii. Determine the most appropriate role to be played by occupational schemes in extending social security coverage to those who can contribute to their own post-retirement welfare and security and risk mitigation.
- xiii. Include mechanisms for rehabilitating and re-integrating unemployed workers into the job market in the design and implementation of social security schemes to avoid having to fund any unnecessary unemployment benefit.

5.3 Health Insurance

The provision of outpatient care by the NHIF as envisaged by this Policy will require that contribution rates be substantially increased and be funded partly by the introduction of an employer co-contribution. There is a clear need to reform the co-payment system to engage more hospitals in the contracting system and to cover the entire informal economy. These and other reforms will require the NHIF to be transformed into a social health insurance scheme and eventually into a fully-fledged health scheme. There are several issues that need to be considered in this context:

- i. **Coverage:** While some services are provided free at government health facilities, informal sector workers are invariably unable to afford the contribution rate set by the NHIF.
- ii. **Post-retirement health coverage:** There is a need to provide mandated post-retirement healthcare coverage as most retirees will not be able to afford the voluntary contribution to be made to the NHIF in order to ensure coverage.
- iii. **Improving the benefit regime:** The benefits provided by NHIF are inadequate for several reasons. Because the NHIF will be providing outpatient care, it will be

necessary to increase contributions, at least those of salaried workers, and to revise the current minimum and maximum caps on contributions.

- iv. **Liability to pay for medicine and sickness benefits:** There is a need to transfer the liability of employers to pay for medicine and sickness benefits to the NHIF.
- v. **Health insurance regulator:** There is a need for private and occupational health insurance providers and the NHIF to be regulated and supervised by an independent regulator.

Policy Statements

The Government, in collaboration with other stakeholders, will:

- i. Re-establish the NHIF as a fully-fledged comprehensive national health insurance scheme, which covers all Kenyans, and to which those who can afford it must contribute.
- ii. Establish a framework for enabling those who are not able to contribute to access a core package of essential health services, including maternity care and treatment for HIV/AIDS and related diseases.
- iii. Extend the range of benefits provided by the NHIF, including outpatient care, specialized treatment and quality of care assurance, sickness benefits, and mandated post-retirement health coverage.
- iv. Ensure that benefits made available by the NHIF and other medical schemes are adequate and are geographically and demographically accessible.
 - v. Streamline institutions by removing all duplication and inconsistencies between healthcare providers.
- vi. Establish a health insurance regulator to improve standard setting, regulation, and supervision in the health sector.
- vii. Provide a supportive framework for private sector participation in the health sector and determine the exact role, place, and function of medical benefit (insurance) schemes in relation to the NHIF and Government interventions in healthcare.

COORDINATION AND INTEGRATION IN THE IMPLEMENTATION OF SOCIAL PROTECTION

6.1 Rationale for Coordination and Integration

One of the key challenges facing social protection policymakers and stakeholders in Kenya is the fragmentation of programming, which has led to duplication and inconsistencies in the operation and implementation of interventions throughout the country. Therefore, it is vital to streamline and coordinate this programming and to bring stakeholders together in an effective partnership to agree on the way forward for social protection at both the national and county levels.

In order to ensure the coordination of social protection initiatives at the national, county, and sub-county levels, a framework will be devised within which social protection interventions throughout the country will be implemented. At the national level, a National Social Protection Council (NSPC), with its own Secretariat, will be the body in charge of coordination, and there will be similar agencies at the county level, which will be guided by common standards developed by the NSPC. Independent regulators and adjudicators will also be appointed to set guidelines and enforce standards as further discussed in Chapter 7.

6.2 Levels and Substance of Coordination and Integration

The Government foresees the following levels of coordination and integration between social assistance, social security, and health insurance:

- i. Constitutional compliance, which will require different actors at the national and county levels to work together towards the progressive realization of ESC rights.
- ii. Alignment of practices with international and regional measures of outcomes related to social protection and the harmonization of social security interventions across the region and across other social and economic sectors.
- iii. Streamlined and uniform standards set by, in particular, independent regulators (such as the Retirement Benefits Authority) that guide the different funds (including the NSSF and NHIF).

6.2.1 Within Social Assistance

There is a need for standardized guidelines and streamlining of, for example, targeting, levels and types of transfers, management information systems (MIS), registries or databases of all beneficiaries and programmes, including the simplification of registration functions.

6.2.2 Between Social Security and Health Insurance

Coordination and integration of social security and health insurance will have various positive results. Medical and dependants' benefits will be harmonized, and a single registry or database of contributors, beneficiaries, and employers will be established. Service providers will be coordinated, which may make it possible to provide several services in a central place in each community. Mechanisms for collecting contributions and paying benefits will be streamlined, thus making them more efficient. Also, this coordination will make it easier for the unemployed to access the labour market and for workers injured on the job to return to work through established operational frameworks.

6.2.3 Between Social Assistance, Social Security, and Health Insurance

Several linkages can be developed between the three sets of programmes to ensure synergy and graduation of beneficiaries:

- i. *Healthcare*: The NHIF will serve as the national provider of health coverage to all Kenyans, in terms of healthcare and (possibly) also sickness benefits. However, a system will need to be devised to pay targeted subsidies to and/or exempt from contributions and user fees those who cannot afford to pay for care. The Government will clarify the roles and functions of medical benefit/insurance schemes. The options available include topping up and opting out.
- ii. *Retirement pensions*: From a social assistance perspective, the pension payable to older people could be provided on either a targeted or universal basis. If the pension is provided on a universal basis, it has a direct impact on the ideal replacement rate to be provided by the NSSF. The roles and functions of occupational retirement schemes (usually voluntary) will need to be clarified as well as those of private sector and individual plans.
- iii. *Research*: The Government shall coordinate all social protection research. Research is particularly needed on the exit, transfer, and graduation of beneficiaries from social protection programmes and on issues of process and methodology of conducting research. There is also a need to develop a more detailed research framework.
- iv. *Monitoring*: There will be periodic reporting by programmes on progress.

6.3 Prioritization and Sequencing of Policy Measures

The social protection priorities are presented below in terms of those that will be achieved in the short and medium-term, and those that will require a longer time to be realized.

6.3.1 Short and Medium-term Measures

Policy Measure: In the immediate to medium term, the government, by coordinating the currently fragmented social protection interventions, will establish and provide a basic minimum social protection package as defined in the AU Social Protection Framework (2008). In the meantime, the Government will also be planning longer-term actions in line with the UN/ILO Social Protection Floor (SPF) Initiative, which guarantees a universal minimum package that adopts a lifecycle approach to social protection. The SPF package consists of the following elements: access to education and essential health services; income

security through family or child benefits; unemployment benefits; disability benefits; and income security in old age (through both contributory and non-contributory pensions).

Policy Objectives

- i. Poor and vulnerable households will have access to basic social services including education, water and sanitation, and essential health care benefits such as maternity benefits. The Government shall ensure that the delivery system is effective and that the financing of the benefits is adequate.
- ii. Children of poor and vulnerable families will enjoy income security at least at the poverty level through family/child transfers aimed at helping them to access nutrition, education, and healthcare.
- iii. Targeted income support will be provided to the poor and unemployed in active age groups especially through cash-for-work and other labour-intensive programmes.
- iv. A national social health insurance scheme will be initiated that will protect both formal and informal sector workers as well as the unemployed from the economic liability of health shocks.
- v. The older people and people with disability will enjoy income security through pensions and transfers granted at least up to the poverty line level.
- vi. Workers will be cushioned by viable and predictable social security schemes.
- vii. Collaboration between the Government and NSAs will be enhanced.

6.3.2 Longer-term Measures

Policy Measure: The Constitution declares that Kenyans are entitled to enjoy a full range of ESC rights including those related to social protection in its varied aspects. The Government is committed to the progressive realization and protection of these rights. It is possible that the country may not be able to move forward on all areas of social protection provision once this National Policy is in place. This is not only because resources are limited, but also because the approaches to be adopted need to be tested and reviewed, which will take time. Furthermore, the Government will need time to cater for the costs of the nationwide implementation of the social protection interventions.

Policy Objectives

The main interventions (to be further clarified in the national social protection strategy for the implementation of social protection) are:

- i. Appraising the existing mandates requiring Government departments to provide free services and fee waivers to specific groups and measures to ensure these mandates are being put into practice in the provision of education, health, and social services to specific groups.
- ii. Introducing a universal pension scheme for older persons.
- iii. Encouraging and supporting informal schemes (such as community savings and insurance schemes) that enhance welfare.
- iv. Investigating ways to extend social security and health insurance coverage to the self- and informally employed.

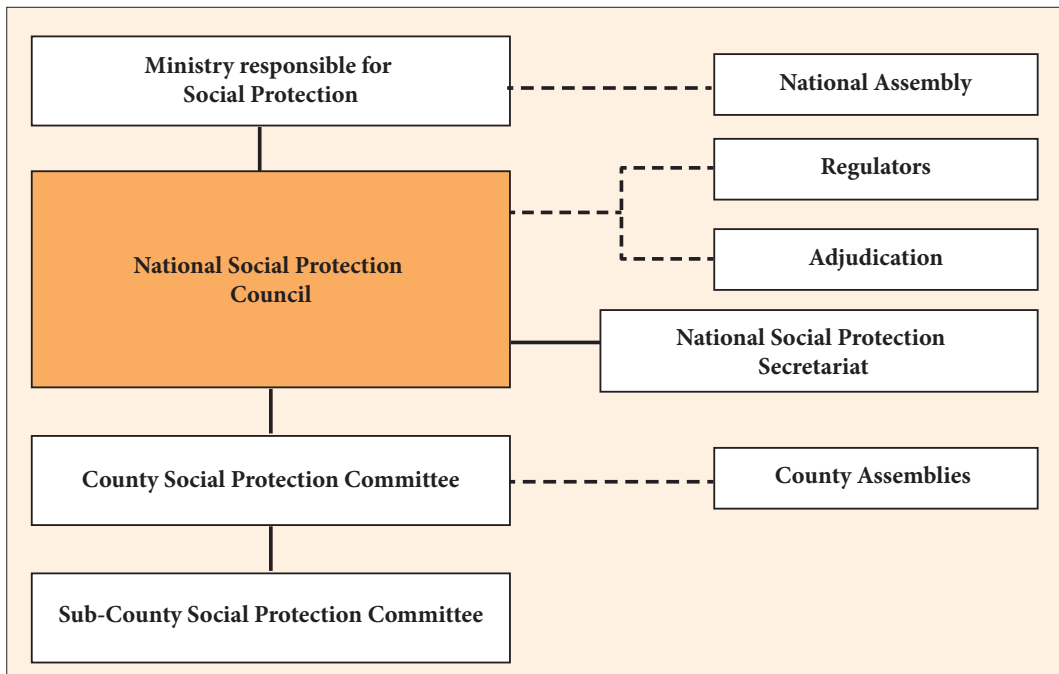
- v. Reforming and extending existing social security schemes and reviewing the Civil Service Pension scheme as well as other retirement benefit schemes.
- vi. Introducing targeted subsidies to those unable to contribute to formal insurance schemes.
- vii. Encouraging and supporting occupational-based insurance schemes.
- viii. Reforming and expanding the NHIF to serve as a fully fledged national social health insurance scheme.
- ix. Redirecting relevant current social security benefits for which all employers are individually liable into a unified social security framework.
- x. Strengthening the provision of social welfare services to the poorest and most vulnerable.
- xi. Establishing employment guarantee schemes for the poorest families.
- xii. Introducing an unemployment insurance framework for Kenyans to tide over individual workers during times of unemployment and to re-integrate them into the labour market.
- xiii. Providing safety nets and conditional transfers to those who remain unsupported and unemployed.
- xiv. Exploring the possibility of establishing broader child and/or family benefits.

The Government commits to the successful implementation of the action plans developed to put this Policy into operation and shall maintain dialogue with affected communities and NSAs.

INSTITUTIONAL FRAMEWORK

Currently, social protection interventions are managed by several different line ministries, including the Ministry of Gender, Children, and Social Development; the Ministry of Labour; the Ministry of Public Health and Sanitation; the Ministry of Medical Services; the Ministry of Special Programmes, the Ministry of Agriculture, and the Ministry of Education. This has led to fragmentation and a lack of coordination and synergy in the social protection system. In response to the need for a more coordinated approach to social protection, the Government shall establish a National Social Protection Council (NSPC) to coordinate and oversee the development, implementation, and integration of social protection strategies, programmes, and resources. This agency will have offices at both the national and county levels as is illustrated in Figure 1.

Figure 1: Social Protection Institutional Framework



7.1 The National Social Protection Council

The National Social Protection Council, to be established by an Act of Parliament, will bring together key stakeholders in the area of social protection. Its membership shall consist of representatives of the Government ministries engaged in social protection, and of organized business, employers, and workers, social security organizations, and of CSOs and FBOs. The Council will be a forum in which the stakeholders will jointly agree on social protection policies and actions. It will also oversee the implementation of this Policy. The functions of the NSPC will include:

- i. Developing a national strategy on the coordination of social protection.
- ii. Designing and developing integrated social protection programmes, with implementation guidelines and service standards on joint programmes.
- iii. Improving the research, analysis, and targeting of poor and vulnerable groups.
- iv. Reviewing of the status of social protection and progress towards goals, and identifying gaps and priority areas to increase the impact of social protection.
- v. Encouraging stakeholders to review the legislation and policies on social protection and facilitating agreements among stakeholders on coordinated policies and strategies.
- vi. Establishing single registries for programmes across target groups and programme areas.
- vii. Developing and implementing a communication and influencing strategy on social protection.

The Council will set up committees and sub-committees at the national level to pursue different agendas. These will include:

- i. Committees of representatives from agencies pursuing common social protection aspects, such as asset development and income generation, asset protection and rehabilitation, safety, consumption transfers, and social security and health insurance.
- ii. Committees of representatives from agencies supporting joint programmes at the national or county levels.
- iii. Committees of representatives from agencies focusing on similar geographic and/or target populations such as older persons, OVC, young people, and people with disability.

The committees will help agencies working on similar issues to create sub-committees to coordinate their input into discussions on the Policy and to devise ways to implement agreements reached at the NSPC level. These could include sub-committees consisting of:

- i. The Principal Secretaries of the ministries responsible for social protection.
- ii. Representatives of private sector stakeholders to guide market-based social protection services.
- iii. Non-state actors.
- iv. Representatives of Government agencies responsible for social protection.

The recommendations of the NSPC will be reported to the National Assembly through the host ministry that will be responsible for social protection.

7.2 The National Social Protection Secretariat

For the purposes of implementing the NSPC's decisions and carrying out day-to-day functions, a National Social Protection Secretariat will be established. The Secretariat will provide the NSPC with technical support and will coordinate the implementation of agenda items in the area of social protection. The roles, responsibilities, staffing, and other resources will be defined in a Sessional Paper to be developed in line with this Policy and in the legislation establishing the Council.

7.3 County and Sub-county Social Protection Committees

To carry out governance responsibilities around the country, committees will be established at the county and sub-county levels whose membership and functions have yet to be defined but are likely to include responsibility for overseeing community-based initiatives, including micro-insurance schemes. As social protection is a function of the national government (see the Fourth Schedule Part I of the Constitution), the committees will be answerable to the National Social Protection Council but will establish appropriate reporting relationships with the county governments. Their main roles will be to:

- i. Oversee and monitor social protection interventions in their jurisdiction.
- ii. Coordinate and harmonize programmes within the county (particularly programmes being implemented by Government ministries and agencies, NSAs and development partners) to minimize overlaps.
- iii. Ensure that sector policies and guidelines are implemented in the county and maintain a registry of programmes and beneficiaries in coordination with the registries at the national level (to ensure the integration of the MIS at the national level and those in the counties).

The county and sub-county committees will be responsible for the targeting and exit procedures of the programmes in their jurisdictions. Disputes will be resolved or referred to the NSPC by the county committees.

7.4 Regulation and Adjudication

Independent regulators, including the RBA, will regulate and set standards for and supervise compliance by social security and health insurance schemes. One or more institutions will be set up to hear appeals and resolve social protection disputes in an independent, expedient, efficient, and cost-effective way but only after the internal complaint mechanisms of a particular social security, health insurance, or social assistance institution have been exhausted.

FINANCING

8.1 Sources of Funds for Social Protection

The Government regards social protection as an investment and one of the most important aspects of its national social development agenda. It is notable that:

- i. Current social protection funding in Kenya is low at an estimated 2 percent of GDP (excluding public health expenditure).
- ii. Health expenditure (currently around 5 percent of the national budget) is well below the target of 15 percent set by the Abuja Declaration of 2001.
- iii. The administrative expenses of public schemes, in particular those run by the NSSF and the NHIF, are much higher than the international standards (at less than 15 percent).

8.1.1 Government Funding

Article 20 (5) of the Constitution declares that it is the duty of the State to allocate sufficient resources to ensure the achievement of constitutional rights. In the case of any right listed under Article 43 (ESC Rights) and in allocating resources, the State must give priority to ensuring the widest possible enjoyment of the right given the prevailing circumstances, including the vulnerability of particular groups or individuals. Given that social protection is recognized as a critical part of human development, the Government shall make deliberate and concerted efforts to identify new and additional resources to support the national budget for this sector.

The Government support will include multi-year budget commitments based on periodic social budgeting and ring-fenced funding to finance cross-sectoral and coordinated programmes. The Government shall provide resources from the national budget to support the National Social Protection Policy according to need and based on the affordability of new social protection programmes.

The Government shall endeavour to:

- i. Ensure that adequate resources are allocated to social protection in a predictable, gradual, and long-term manner.
- ii. Adopt macroeconomic policies that ensure sustainable growth and fiscal stability
- iii. Increase public expenditures to support social protection.
- iv. Encourage the use of devolved funds for implementing social protection.
- v. Adopt a taxation policy that ensures that there are adequate resources available to fund social protection and that, through tax relief, encourage households to invest in self-protection, savings, and insurance.

- vi. Consider tax rebates and tax remission for individuals, firms, and organizations that make social assistance contributions within an established framework.
- vii. Shift from budget-financed to a contribution-financed pension scheme for public servants in consultation with the key stakeholders.
- viii. Establish a Consolidated Social Protection Fund envisaged in Vision 2030 to be administered by the NSPC.
- ix. Through the NSPC, establish regulatory frameworks and systems to ensure the accountability, transparency, and reporting of all contributions to social protection.

8.1.2 Non-State Actors' Funding

- i. *Private Sector Funding:* The private sector, as the principal beneficiary of a healthy and socially stable workforce, has an interest in preventing risks and minimizing vulnerability. Therefore, the Policy expects the private sector to establish and operate retirement and medical benefit schemes and to develop affordable and sustainable credit schemes for the poor and contribute to social protection as part of corporate social responsibility (CSR).
- ii. *Employers and Workers:* When the administration of employers' and employees' contributions is streamlined, more resources will become available to increase social protection benefits.
- iii. *Development Partners:* The Government and its development partners will work closely together to ensure that social protection is funded in a regular, predictable, and sustainable way. The Government shall put mechanisms in place to consolidate the funding for social protection.
- iv. *Community Funding:* The agencies implementing the Policy will, in consultation with communities, develop a mechanism for strengthening the existing CBOs. The Government shall help communities to forge and sustain strategic links and to identify opportunities for social support.
- v. *Voluntary Organizations:* Voluntary organizations including NGOs, CBOs, FBOs, foundations, and trusts will be coordinated and assisted by the NSPC to review, strengthen, and align their interventions with those of other actors to take advantage of any synergies in social protection programming.

8.2 The Management of Funds

While the autonomy of various actors will be respected, it is vital for the efficiency and impact of expenditures on social protection that the disbursement of resources is coordinated. Therefore, this Policy proposes to:

- i. Develop strategies and prioritise the funding of identified social protection interventions and review the relative shares of the Government and other stakeholders.
- ii. Improve the targeting of social protection beneficiaries.
- iii. Reduce the administrative costs associated with paying benefits and collecting contributions.
- iv. Improve the management of funds allocated to social protection.

- v. Identify and address funding gaps.
- vi. Strengthen the financing and sustainability of funding.
- vii. Help stakeholder to review the levels and distribution of their funding.

8.3 Graduation and Exit

The Government and its partners shall develop a strategy that will economically and socially empower social protection beneficiaries to wean themselves off social assistance schemes and programmes and become financially self-sufficient wherever possible. Links will be created between social assistance, social security, and health insurance to ensure that Kenya adopts a lifecycle approach to social protection. Synergies created in the implementation of social protection programmes will give some beneficiaries, such as unemployed able-bodied people, incentives (such as skills and start-up capital) to graduate from the programmes.

The vulnerable but able bodied groups receiving social assistance support will have a clear exit strategy of exiting the programme based on capacity building activities such as; skills development, training and access to microfinance services for income generating activities.

MONITORING AND EVALUATION, MANAGEMENT INFORMATION SYSTEMS, AND COMMUNICATION

9.1 Monitoring and Evaluation

Monitoring and evaluation (M&E) and impact assessments are integral to the implementation of this Policy. Social protection measures will be monitored at two levels: (i) within the line ministries alongside the overall monitoring of programmes and targets identified for poverty reduction in line with Vision 2030; and (ii) by the NSPC, which will specifically monitor the strategies, programmes and interventions developed within the framework of this Policy. All of this monitoring will focus on whether this Policy is being implemented fully and in a timely manner. Meanwhile, evaluations conducted by the NSPC will ascertain that the Policy's objectives are being achieved within a specified timeframe and against measurable indicators. Impact assessments conducted by the implementing agencies and the NSPC will aim to discern any changes that may have occurred in the lives and livelihoods of the beneficiaries.

The Government shall use the M&E reports for designing and planning subsequent or follow-up programmes. An M&E framework will be developed as part of the process of implementing social protection programmes to track and review progress against performance targets and indicators, thus yielding lessons that could be used to adjust the programmes when necessary.

The Government shall consider social protection as relevant to all pillars of Vision 2030 but particularly to the social pillar, alongside other vital crosscutting issues such as gender equity, intergenerational equity, and inclusivity. Because employers, workers, and other NSAs will be crucial to the implementation of the M&E framework due to their engagement in the management of the programmes, the Government shall consider them as partners in ensuring that this Policy is put into effect.

Policy Statements

The Government shall:

- i. Establish an M&E system to track the status of the beneficiaries of all social protection programmes.
- ii. Conduct research and/or collate research results to establish tracking mechanisms for all social protection programmes.
- iii. Develop, through the NSPC, a system for tracking transfers, social security, and health insurance payments and constantly urge stakeholders to streamline and increase their efficiency.

9.2 Management Information System

The Government recognizes the need to establish a management information system (MIS) for social protection in Kenya. This system will document the performance of programmes, make it possible to inform key stakeholders about the status and effectiveness of social protection programmes, and provide a basis for sustaining and expanding the programmes. The Government shall develop single MIS to: (i) harmonize and consolidate the current range of fragmented schemes; and (ii) increase the ability of social protection initiatives to scale-up their operations quickly in response to crises.

Policy Statements

The Government shall facilitate the establishment of an MIS to be managed at the national and county levels with due regard to individuals' right to privacy. The MIS will:

- i. Build on existing datasets and registries of beneficiaries under the existing programmes and schemes.
- ii. Track complementary initiatives such as school feeding programmes, free primary and free day secondary education, thereby strengthening inter-sectoral links between national programmes to maximize their impact.
- iii. Establish indicators for community registration systems through a participatory process and guided by the participatory poverty assessment processes. These criteria will be used to track poverty reduction at the community level.

The Functions of the MIS

The MIS will specifically perform the following functions:

- i. Maintain an inventory of all social protection programmes in the country.
- ii. Establish consolidated Single Registry of Beneficiaries (SRB), for social assistance specifically, to be updated periodically to ensure integrity of the data. Corrections and updates of data will be done at the sub-county, county, and national levels.
- iii. Generate and provide registered people with programme ID Cards at the sub-county level.
- iv. Outline eligibility criteria for each social protection intervention.
- v. Maintain a record and balance sheet of all monthly transfers to beneficiaries.

9.2.1 Information Flow

Although datasets are currently held and managed by the various State and NSAs that are implementing social protection interventions, this information is fragmented and is not coordinated within a comprehensive programmatic approach. Some of the information is also stored in paper form and is managed manually, which is slow and cumbersome and makes it difficult to scale-up the programmes.

Current and future innovations in information and communication technology will be used to facilitate the running of the MIS. This process will also benefit from various other information systems that are being created by the Government such as e-government, county information and resource centres, and integrated population registration systems.

The information system will serve three main groups of objectives:

- i. *Strategic objectives*: tracking outcomes and the effectiveness of policies, strategies, and resources in achieving social protection goals.
- ii. *Operational objectives*: tracking outputs and determining how implementation plans, delivery systems, and service standards can be strengthened to increase the achievement of outputs.
- iii. *Learning objectives*: providing evidence to improve the design of social protection interventions by improving targeting, identifying strategies and policies that work, and ensuring that any lessons learned are shared with all stakeholders.

9.2.2 The Collection and Management of Data

The responsibility for the collection and management of data will remain with the stakeholders who are implementing the various social protection programmes. The National Integrated Monitoring and Evaluation System (NIMES) will be supported to include key social protection indicators.

The National Social Protection Policy institutional framework, in particular the NSPC, will help stakeholders to:

- i. Develop information management systems by improving their respective data collection systems and establishing common information systems.
- ii. Participate in the development and adoption of guidelines to improve data collection.
- iii. Set up common databases, single registries, and reporting systems for similar programmes so that stakeholders can upload data to these common databases.
- iv. Set up shared databases on programmes and beneficiaries at the sub-county and county levels.
- v. Develop systems to facilitate the management, sharing, and wider dissemination of information.
- vi. Use information technology to increase the access of the public and stakeholders to social protection information and to enhance the delivery of social protection.

The NSPC will help stakeholders to collect and collate data and to prepare annual and other regular status reports. These reports will include:

- i. Information on progress towards national social protection targets.
- ii. Information on programmes, the status of their implementation, and the communities, households, and individuals being supported.
- iii. The regional distribution of social protection initiatives.
- iv. Challenges in implementing social protection and any areas that might need strengthening.
- v. Any gaps that might have emerged or are anticipated in social protection systems.
- vi. Best practices, lessons learned, and areas of future focus.

9.3 Communication and Influencing Strategy

The Government recognizes that social protection is not a widely understood concept in Kenya. Therefore, there is a need to formulate a comprehensive communication and

influencing strategy to raise awareness of social protection and to engender the necessary ownership of the programme by the various stakeholders and implementing partners. The CIS will be aimed at:

- i. Providing information on the social protection concept in simplified and easy to understand formats.
- ii. Ensuring that information flows to and from key stakeholders in a timely manner, including key Government ministries, development partners, NSAs, communities, and beneficiaries.
- iii. Monitoring the effectiveness of the CIS.
- iv. Disseminating the outcomes of the CIS.

All implementing institutions and structures will need additional capacity not only on the conceptual issues but also on the operational side. Capacity building activities will be implemented with and through the NSPC, its Secretariat, and the various committees.

The information generated through the MIS will be made available through various reports that will be produced by NSPC and the implementing agencies. The materials produced will include Parliamentary reports, presentations to stakeholders, and public information. The existence and dissemination of this information will encourage beneficiaries and their representatives to participate in various forums on social protection at the national and county levels. The information will be disseminated through the media (electronic, print, social, and folk media) to inform the population about social protection. Community-based communication channels, including vernacular radio stations and theatre groups, will also be used.

The NSPC and the county and sub-county committees will encourage stakeholders to use the information collected within the system to review the national and sectoral strategies on social protection. This should help to put into practice the coordination framework proposed in this Policy.

9.4 Policy Reviews

This Policy will be reviewed regularly under the leadership of NSPC or in response to the needs and demands of the people of Kenya.

ANNEX I: DEFINITION OF TERMS

Decent work: Work that is productive and delivers a fair income, provides security in the workplace and social protection for workers and their families, offers prospects for personal development and encourages social integration, gives people the freedom to express their concerns, to organize, and to participate in the decisions that affect their lives, and guarantees equal opportunities and equal treatment for all.

Equity: Justice according to natural law or right, specifically freedom from bias or favouritism.

Gender mainstreaming: The process of assessing the implications for women and men, and boys and girls, of any planned action, including legislation, policies, or programmes, in any area and at all levels. This is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring, and evaluation of policies and programmes in all political, economic and social spheres, so that women and men benefit equally and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality.

Health insurance: Insurance against loss by illness or bodily injury. Health insurance provides coverage for medicine, visits to the doctor or emergency room, hospital stays, and other medical expenses. Policies differ in terms of what they cover, the size of the deductible and/or co-payment, the limits of coverage, and the options for treatment available to the policyholder. An individual can purchase health insurance directly, or it may be provided through an employer.

Human capital: The stock of competences, knowledge, and personality attributes embodied in the ability to perform labour so as to produce economic value.

Poverty: A state of continuous deprivation or a lack of the basics of life. Basics include economic, social, psychological, and physiological factors. Poverty, therefore, has many dimensions that encompass both income poverty and human or capability poverty. Poverty manifests itself at the individual, household, community, and national levels. It also has a gender dimension. Those who have been consulted in participatory poverty assessments have defined poverty in terms of a lack of felt basic needs and of living a deprived life.

Risk: The probability of an event occurring that may adversely affect welfare. It can also be described in terms of a balance between probability and magnitude. Probability can be expressed in terms of the probable frequency with which a shock will be experienced by an individual, household, or community.

Shock: A loss that affects the capacity of a household to cope with its daily demands. Idiosyncratic shocks are those that occur when only one or a few individuals or households in a community suffer losses, whereas covariate shocks affect a large number of households, entire communities, regions within a country, or several countries. Some of these shocks may result from acts of nature (such as floods, droughts, or disease) whereas others are caused by human activity (such as environmental degradation or ethnic conflict).

Social assistance: Two forms are recognized: formal and informal safety nets. Formal safety nets are those that legally guarantee low-income individuals access to economic or social support, whereas informal safety nets provide livelihood support to individuals to enable them to remain above the designated minimum standard of living but with no legal guarantee that this support will continue. Social assistance is defined as non-contributory transfers to those individuals deemed eligible for assistance by society on the basis of their vulnerability or poverty. The aim of social assistance is minimum income protection (a "safety net") for particularly poor and excluded people. Social assistance is mainly given on the basis of need and is often subject to means-testing – especially in programmes where universal citizen-based or residence-based coverage is extended. Benefits are not raised through contributions but are funded from the State budget. In Kenya, the term “social assistance” is used to refer to non-contributory transfer programmes aimed at preventing the poor or those who are vulnerable to shocks from falling below a certain poverty level.

Social capital: The norms and values that people hold that result in, and are the result of, collective and socially negotiated ties and relationships. It is integrally related to other forms of capital, such as human (skills and qualifications), economic (wealth), cultural (modes of thinking), and symbolic (prestige and personal qualities).

Social equity: Measures put in place to protect people against discrimination or abuse. This requires setting and enforcing minimum standards in the workplace and legislation and enforcement of a broader set of rights such as land rights, racial discrimination, and gender equality. The role played by social equity instruments depends critically on the specific social and economic country context. This is an area that has not been a major focus of social protection in Kenya.

Social health insurance: A way to finance and manage healthcare based on risk pooling. It pools the health risks of the people on the one hand and the contributions of individuals, households, enterprises, and the government on the other. Thus, it protects people against financial and health burdens and is a relatively fair method of financing health care.

Social insurance: Benefits or services extended to individuals and households in recognition of their contributions to an insurance scheme. These services typically include provision for retirement pensions, disability insurance, and survivor and employment benefits. These programmes are contributory. They are financed mainly through earnings-related contributions from employers and/or employees, with additional contributions financed from the general budget. Eligibility for benefits under contributory programmes is usually limited to those who have made a minimum number of contributions. In Kenya, social insurance is conceptually closely associated with health insurance.

Social justice: The fair and proper administration of laws conforming to the natural law that all people irrespective of ethnic origin, gender, possessions, race, religion, or ability should be treated equally and without prejudice.

Social protection: A set of all initiatives, both formal and informal, that provide *social assistance* to extremely poor individuals and households, *social services* to groups who need special care or who would otherwise be denied access to basic services, *social security* and

health insurance to protect people against the risks and consequences of livelihood shocks through earnings-related contributions and benefits, and social equity to protect people against social risks such as discrimination or abuse.

In Kenya, social protection is defined as *“policies and actions, including legislative measures, that enhance the capacity of and opportunities for the poor and vulnerable to improve and sustain their lives, livelihoods, and welfare, that enable income-earners and their dependants to maintain a reasonable level of income through decent work, and that ensure access to affordable healthcare, social security, and social assistance.”*

Social Protection Floor: A set of basic social rights, services and facilities that the global citizen should enjoy. The term “social floor” corresponds in many ways to the existing notion of “core obligations” that is embodied in human rights treaties. This concept was adopted in the form of ‘The Social Protection Floor Initiative’ by the United Nations System Chief Executives Board in April 2009 as one of the nine key initiatives to address the global financial crisis. The ILO and the WHO are leading on this initiative.

Social security: 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. This provision can be made through public or private contributory schemes or other arrangements. The aim of social security is to maintain the income of individuals by providing them with earnings-related benefits derived from contributions previously made by both employees and employers, sometimes supplemented from the state budget. Although based on insurance principles, this kind of insurance is obligatory, and the individual premium is not linked to individual risk as the aim is to achieve social cohesion and stability. The ILO defines social security more broadly to encompass all measures providing benefits, whether in cash or in kind, to protect incomes.

Vulnerability: It is considered as the exposure to contingencies and stress, and difficulty in coping with them. Vulnerability has two sides: an external side of risks, shocks, and stresses to which an individual or household is subject, and an internal side, which is defencelessness, meaning a lack of means to cope with shocks without sustaining damaging losses. The World Bank’s World Development Report of 2000/01 defined vulnerability as the likelihood that a shock will result in a decline in well-being. In this Policy, the term vulnerability is considered to be “the likelihood of suffering from future deteriorations in standard of living, which may result in socially unacceptable outcomes such as the state of poverty or the inability to meet basic needs such as food.

ANNEX II: SUMMARY OF KEY SOCIAL ASSISTANCE PROGRAMMES IN KENYA

No.	Programme	Beneficiaries	Number of Beneficiaries (June 2010/11)	Funding Agency	Implementing Agency
1.	Disability grants	People with severe disabilities	4,200 people	GoK	Department of Gender (MGCSD)
2.	Expanded school meals program	School children	346,000 children	GOK & WFP	WFP
3.	Food For Assets	Vulnerable communities	140,000 people	Several donors	WFP and Ministry of Northern Kenya
4.	General relief food distribution (emergency)	Poor households & disaster victims	2,180,058 people	GoK	Special Programmes & WFP
5.	Health voucher scheme – NCAFD	Pregnant women, FP clients and victims of gender-based violence	Safe motherhood – 20,149; FP – 9,111 and GBV – 471	KFW & GoK	KPMG
6.	Health voucher scheme – OBA	Poor women in ASAL areas	59,982 women	UNICEF & GoK	Min. of Medical Services
7.	HIV/AIDS Nutrition feeding	HIV clients on ART and OVCs in affected households	72,065 households	WFP	Several implementing agencies
8.	Homegrown school meals (MOA)	Schools in poor areas	538,457 children	GoK/JICA	NMK Secretariat – MOA
9.	Hunger Safety Net Programme (HSNP)	- Community identified poor - Older people - Households with high number of dependants	59,000 Households	DFID	HSNP Secretariat, Oxfam GB, HelpAge, Financial Sector Deepening, & Equity Bank, OPM
10.	<i>KaziKwaVijana</i>	Unemployed youth	297,861 young people	GoK & WB	OPM and 11 other Ministries
11.	Most vulnerable children	Schools in poor areas	1,778,297	GoK & DFID	Ministry of Education
12.	National Accelerated Agricultural Inputs Access Program (NAAIAP)	Small-scale poor farmers	120,750 households	GoK & World Bank	Ministry of Agriculture
13.	<i>NjaaMarufuku</i>	Farmer's groups	12,180 groups	GoK	MOA
14.	Older Persons Cash Transfer Program	Older persons	48,065 households	GoK	Dept of Gender (MGCSD)
15.	Orphans & vulnerable children CT	OVC	412,470 children	UNICEF, DFID, World Bank, & GoK	Children's Secretariat, OVC Secretariat, & MGCSD
16.	Regular school meals program	Primary school children	803,669	GoK & WFP	MOE & WFP
17.	Supplementary feeding & MCH program	Poor women and children	454,667 people	GoK	WFP
18.	Urban food subsidy	Poor households in urban areas	5,150 households	GoK, WFP, & Oxfam	WFP, Oxfam, & Concern

ANNEX III: KEY NATIONAL DEVELOPMENT INDICATORS

No.	Characteristics	Level (2009)
1.	Total Population	39.4 million
2.	Population below the poverty line	46.7
3.	Age dependency ratio	96
4.	Youth population	31.6%
5.	Real GDP Growth	2.6%
6.	Gross enrolment rate for primary education	110%
7.	Primary school completion rate	83.2%
8.	Gross enrolment rate for secondary education	45.3%
9.	Under-5 mortality	74 per 1,000 live births
10.	Infant mortality	52 per 1,000 live births
11.	Maternal mortality	488 per 100,000 live births
12.	Immunization coverage	77.4%
13.	HIV prevalence	6.3%
14.	Access to piped water	63.7%
15.	Access to improved sanitation	22.6%

Source: Millennium Development Goals Status Report for Kenya – 2009.

PHOTO CREDITS

Cover page (watermark): © Guy Hubbard, UNICEF.

Design by: Robert Waiharo

CONTACTS:

Permanent Secretary

Ministry of Gender, Children and Social Development

NSSF Building, Block A, 6th Floor - Eastern Wing

P.O. Box 16936 – 00100, NAIROBI

Telephone: 2727980-4

Fax: 2734417

Email: ps@gender.go.ke

Website: www.gender.go.ke