

**PORTABILITY OF SOCIAL PROTECTION BENEFITS ACROSS THE
EAST AFRICAN COMMUNITY: A CASE STUDY OF KENYA,
TANZANIA AND UGANDA**

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This project is my original work and has not been presented for a degree in any other University

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DEDICATION

This thesis is dedicated to my parents, Obadiah Maganga and Damaris Wuganga Maganga, who lit the fuse of academic scholarship in me, and especially my mother who could not be around to see me graduate. Secondly, to my precious children Kaleel Damaris Wuganga Maganga (daughter) and Kyle Obadiah Mwanyumba Maganga (son), whom have inspired me to finish this thesis and whom I hope will follow in my footsteps and surpass my greatest achievement, I know you will make me proud. I love you all very much.

ABSTRACT

This paper explores the possibility of an integrated Social Protection Policy for the East African Region. It looks specifically at preexisting provisions and makes a case for the revision of those to allow for more groups of people to come under coverage especially those in the informal sector and vulnerable and marginalized groups. The research zeros in on Kenya, Uganda and Tanzania as case studies of countries with Social Protection interventions and argues for the expansion of the same within the countries and in the region. Kenya stands out as a leading example for the region, as it is the only country with a Social Protection Policy and is explicitly stated as such in the East Africa Community Strategic Plan for Gender, Youth, Children, Social protection and Community Development. The key debate is anchored around the portability of benefits especially those that are of a non-contributory nature. The paper concludes by making a case for regional integration as a way of reducing barriers of movement for both individuals and, goods and services. It explores the possibility of setting up a regional organ under the auspices of the East African Community (EAC), with a mandate to coordinate and manage an integrated policy on Social Protection, geared towards setting up institutions, structures and pushing for relevant legislation entrenching Social Protection as a right for all individuals in the region.

LIST OF ABBREVIATIONS

| | |
|--------|--|
| ADBI | Asian Development Bank Institute |
| AEDC | American Economic Development Council |
| AIDS | Acquired Immuno-deficiency Syndrome |
| APSP | Africa Platform for Social Protection |
| ART | Anti-retroviral treatment/therapy |
| ASAL | Arid & Semi-Arid Lands |
| ASEAN | Association of Southeast Asian Nations |
| AU | African Union |
| AUC | African Union Commission |
| AU SPF | African Union Social Policy |
| CORD | Coalition for Reforms and Democracy |
| CSOs | Civil Society Organisations |
| CT | Cash Transfers |
| DFID | Department for International Development |
| EAC | East Africa Community |
| ESP | Expanding Social Protection |
| EU | European Union |
| FAO | Food and Agriculture Organisation |
| FBO | Faith Based Organisation |
| FY | For the Year |
| GFD | General Food Distribution |
| GBV | Gender Based Violence |
| GDP | Gross Domestic Product |

| | |
|---------|--|
| GTZ | German Technical Cooperation |
| HGSM | Home Grown School Meals |
| HIV | Human Immuno-deficiency Virus |
| HSNP | Hunger Safety Net Programme |
| ICT | Information Communication Technology |
| IDP | Internally Displaced Person(s) |
| ILO | International Labour Organisation |
| ILO SPF | International Labour Organisation Social Protection Floors |
| JICA | Japanese International Cooperation Agency |
| KSHS | Kenya Shillings |
| LAPF | Local Authorities Provident Fund |
| M&E | Monitoring & Evaluation |
| MCDSS | Ministry of Community Development and Social Services |
| MDG | Millennium Development Goals |
| MIS | Management Information Systems |
| MVC | Most Vulnerable Children |
| NHIF | National Hospital Insurance Fund |
| NGO | Non-governmental Organisations |
| NMK | <i>Njaa Marufuku</i> Kenya |
| NSNP | National Safety Net Programme |
| NSPP | National Social Protection Policy |
| NSSF | National Social Security Fund |
| NPP | National Patriotic Party |
| OBA | Output Based Aid |
| OPCT | Older Persons Cash Transfer |

| | |
|--------|--|
| OVC | Orphans and Vulnerable Children |
| OVC-CT | Orphans and Vulnerable Children Cash Transfer |
| PPF | Parastatal Pension Fund |
| PSPS | Public Service Pension Scheme |
| PWD | Persons with Disability |
| PWSD | Persons with Severe Disability |
| RBA | Retirement Benefits Authority |
| RECs | Regional Economic Communities |
| SAGE | Social Assistance Grant for Empowerment |
| SP | Social Protection |
| SPF-I | Social Protection Floor Initiative |
| SWOT | Strengthens, Weaknesses, Opportunities and Threats |
| TB | Tuberculosis |
| UFSP | Urban Food Subsidy Programme |
| UGX | Uganda Shilling |
| UN | United Nations |
| UNICEF | United Nations Children's Fund |
| VFSG | Vulnerable Family Support Grant |
| WB | World Bank |
| WFP | World Food Programme |

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CHAPTER ONE

INTRODUCTION

1.0 Introduction

Social Protection (SP) is touted as a compliment to economic growth in respect to its impact on poverty alleviation and, sustainable and inclusive development. With the increasing propensity towards regional integration, many states are now grappling with the realities of labour portability and by extension, therefore, the portability of benefits, not just those in the formal economy but more so for those in the informal economy. The informal sector in particular stands more vulnerable to socio-economic, political and natural risks and shocks as compared to the formal sector. This is because the informal sector in sub-Saharan Africa accounts for about 50-70%¹ of employment whereas Social Protection programmes cover mostly formal sector workers. For instance from an estimated twenty two million² people considered to be in the working bracket, the National Social Security Fund (NSSF), in 2010 only covered 38,339 people while the National Hospital Insurance Fund (NHIF) only covered 367,886³. These figures paint the clear picture of the coverage by formal sector provisions over and above the total number of the working population, assuming that the rest work in the informal sector and/or are unemployed. Different national social protection instruments or the lack thereof, is increasingly becoming a challenge for many governments which are moving away from statecentric concerns of power and domination in regional accords, and putting citizens at the core of various party manifestos and strategic objectives of regional integration.

¹ Barnett S. and Sparks D., *The Informal Sector In Sub-Saharan Africa: Out of the Shadows to Foster Sustainable Employment and Equity?* International Business Journal & Economic Research Journal, Volume 9, Number 5, May 2010.

² <http://blogs.worldbank.org/african/kenya-rising-and-germany-falling-a-tale-of-two-populations>, last visited on 15th August 2013, *Kenya rising and Germany falling: A tale of two populations*, by Wolfgang Fengler

³ Kenya Social Protection Sector Review, June 2012

The EAC is no exception; Kenya's 2013 general elections saw the two major parties⁴ incorporate Social Protection in their party manifestos as was the case in Ghana⁵ during the 2012 general elections. These are often juxtaposed against international instruments such as the International Labour Organisation (ILO) Social Protection Floor and the African Union - Social Policy Framework (AU SPF) which set a guiding framework for the development of domestic policies and programmes. A quagmire arises when Social Protection benefits, especially to the most vulnerable, are touted as stemming from human rights⁶. If this is to hold as the trajectory of Social Protection, then states are faced with the dilemma of developing national SP policies or affording regional organisations the institutional capacity to develop an integrated SP policy that should be accessed on the basis of human rights entitlement. These benefits are not bound by geographical borders but act on transboundary basis of equal entitlement. Countries often argue that with a human rights approach government is overburden by the opportunity costs which may arise from shifting national budgets in favour of SP as opposed to Health for instance, making it a right then makes the case for the demand of these services and therefore a right to all.

In which case, governments take a progressive realisation model where programmes and therefore services are progressively rolled out through targeted programmes to the most vulnerable first. The assumption being that with progressive realisation more people can be enrolled in the programme as time goes by, rather than have an abrupt surge in new beneficiaries and have an implosion of the programmes through demand that exceeds supply. In which case, resources and capacity to roll out programmes becomes the states impediment.

⁴ Coalition for Reforms and Democracy (CORD) and Jubilee Coalition

⁵ National Patriotic Party (NPP) Manifesto For Elections 2012

⁶ Sepúlveda M and Nyst C., *The Human Rights Approach to Social Protection*, Ministry for Foreign Affairs of Finland, Erweko Oy, 2012.

1.1 Scope of the Study

The study will look at the current operational instruments in place with a focus on national Social Protection Policies as well as international and regional instruments. Only three countries will be looked at specifically Kenya, Tanzania and Uganda who seem to be the pace setters of integration in the EAC and arguably the most influential both economically and politically. The dynamic of their interaction is both of cooperation and competition.

Additionally, two of the three countries present a peculiar situation of policy lacunae that can be generalized for the region, only Kenya has a national policy⁷ in place but stands on equal footing with the other two with respect to being an implementing partner to the EAC Strategic Plan for Gender, Youth, Children, Social Protection and Community Development 2011-2015, whereas African Union –Social Policy Framework (AU-SPF), International Labour Organisation – Social Protection Floor (ILO – SPF) have been adopted by all. This should provide a reasonable balance of inquiry.

1.2 Limitation of the Study

Given that the idea of Social Protection is interlinked with poverty alleviation as well as social security. This study will not delve into the different strategies of poverty alleviation or risk mitigation measures, but rather specifically on Social Protection programmes shaping regional discourse touching on all its constitutive elements as and where is appropriate. The research shall look specifically at the National Social Protection policies and strategies, the EAC Strategic Plan for Gender, Youth, Children, Social Protection and Community Development 2011-2015, African Union –Social Policy Framework (AU-SPF) and the International Labour Organisation – Social Protection Floor (ILO – SPF).

⁷ Kenya Social Protection Policy 2012

1.3 Statement of the Research Problem

The fact that poverty remains rampant in the EAC region means that strategies on poverty alleviation shall persist. Economists argue that the solution for poverty is economic growth that trickles down to the wider population thereby alleviating their status. Unfortunately, the trickle down notions have failed to account for continued economic growth, which have run parallel with increasing poverty rates. Social Protection as championed by the World Bank⁸, states that other than being a powerful tool to fight poverty, Social Protection also reduces inequality and promotes social stability.

The increasing popularity of Social Protection in Africa and the world as a whole has enabled countries adopt Social Protection policies as a key policy instrument and compliment to economic growth and poverty alleviation strategies. The East African Community (EAC) however lacks a solitary Social Protection policy to give direction to the different country programmes.

This lack of a single policy even with strides towards a political federation is giving rise to multiple interpretations on Social Protection, and therefore efforts to establish statecentric Social Protection policies and programmes. The EAC has a document entitled EAC Strategic Plan for Gender, Youth, Children, Social Protection and Community Development which is a five year plan of action from 2011 - 2015. The document recognizes that Kenya is the only country with great strides in implementing Social Protection and other members of the EAC are to borrow a leaf. Again it borrows heavily from international and continental instruments that lack strong regional persona. One key question or challenge that needs to be addressed is that of the

⁸ The World Bank's Africa Social Protection Strategy 2012-2022; *Managing Risk, Promoting Growth, Promoting Growth-Developing Systems for Social Protection in Africa*, the World Bank, 2012.

portability of benefits. Social Protection has to be comprehensively understood as a multifaceted approach to poverty alleviation. The approach that the ILO-SPF for instance takes is one that is rights based. This approach means that every individual is entitled to receive benefits accruing from the different programmes. Therefore the movement of people across borders within the EAC especially for work means that these individuals by right deserve to receive these benefits. This situation is made dire because of the informal sector which employs a majority of East Africa's citizens.

1.4 Research Questions

1. How prudent is it for countries that are planning to integrate to develop individualistic policies that govern SP?
2. How feasible will it be to harmonise an integrated policy which takes cognizance of divergent contexts and national interests?
3. What is the role then of international instruments in developing SP policies and programmes?

1.5 Objectives

1. To identify key international policies shaping Social Protection (SP) discourse.
2. To identify SP programmes and policies in operation in the EAC.
3. To assess the Social Policy of the EAC.
4. To identify the challenges being faced by the EAC in implementing an integrated Social Policy.
5. To ascertain the viability of an integrated SP policy for EAC.

1.6 Literature Review

The literature to be reviewed will look at poverty as a growing concern for many African states and how other complementary strategies to economic intervention can be employed to alleviate extreme poverty. The complimentary strategies will make a case for entrenching social justice and social equity, while looking at citizen participation in both the implementation of policies as well as the design of appropriate mechanisms to address vulnerability. Furthermore, the literature will raise questions on how economic integration presents both an opportunity for alleviating regional poverty as well as impedes progress with regards to national interest concerns. The literature will then set the stage for Social Protection as a viable intervention strategy for poverty alleviation both as a preventive and as a transformative strategy for vulnerable and marginalised groups. In addition, the literature will paint the picture that is the informal and formal sector in respect to migration and therefore the access of Social Protection benefits for both groups.

According to Mukui J.⁹ previous research that was carried out on poverty did not take into account the impact poverty reduction programmes had on the beneficiaries because these failed to take into account whether or not the questionnaires actually addressed the welfare components that were pertinent to them rather than what had been theorised as a best practice. Unfortunately, he added, research that was conducted on poverty mapping although good enough to institute noble programmes such as Constituency Development Funds, which could localize targeting of poverty it did not reflect how this information influenced policy decisions and allocating resources in favour of vulnerable groups in the society.

⁹ Mukui J. (2005) Poverty in Kenya; *Ten Years On*; Central Bureau of Statistics (CBS), Society for International Development (SID), and Swedish International Development Agency (SIDA), Copenhagen

This concept forms the basis of the interrogation of this study because it points to a disassociation between research, policy and implementation. The query raised is thus what tangible efforts has government invoked with regards to ascertaining needs based on participation and inclusion. To interrogate the issue even further, would point us towards fundamental flaws in structuralisation of both programmes and implementation mechanism. The disassociation of policy and practice, where factors unforeseen such as lengthy bureaucratic processes, administrative costs, logistics, institutional capacity and mandate impede the execution of programmes spelt out in different policies.

In reinforcing the thoughts of Mukui J.¹⁰, Aworuwa O.¹¹ argued that a clear understanding of the needs of the community have to be ascertained in order to decide on the most suitable recourse and intervention strategy. This gives credence to the fact that any intervention strategy on poverty needs to capture country specific contexts, poverty levels in Kenya, Uganda and Tanzania vary and so do GNP levels, national budgets and priority areas. In the case of Regional Economic Communities (RECs) the dilemma of sovereignty versus an integrated agenda of the previously independent units which had been driven by state-centric national interests is a hard trait to lose in the pursuit of commonality.

Underlying suspicion characterises the engagement even though not overtly demonstrated by state signals, because at the heart of it Morgenthau argues that states are driven by selfish ambition based on a realist paradigm, this explains why budgetary allocations on security and military are always higher than education and health. The issue here is what happens to the relations of power that existed prior to the march towards integration?

¹⁰ Ibid

¹¹ Aworuwa O. (2005) *Globalization and Marginalisation: Economic Development in Distressed Communities*, Sefer Books Ltd. Ibadan.

In essence, it is for this reason that there is a drive to balance the economic theory on demand and supply, in this case, government sits on the supply side whereas the citizenry sits on the demand side. Political theory based on democratic principles which embed participation in their core beliefs, would argue for legitimacy of the processes and therefore we can peg demand as the input from the citizenry which informs the development and implementation of Social Protection policies and programmes. The concept of inclusive and sustainable development picks from key attributes of democracy, the building blocks of the concept if you will of Social Protection are embedded in this thinking. According to the European Commission¹², Social Protection allows for people to participate in economic growth through the provision of complimentary and essential services to the most vulnerable and poor, therefore one can argue that SP provides protection against risks bolstering consumption and provides an essential component of safeguarding livelihoods and asset building.

Francesca Bastagli¹³ argues that SP in developing countries is a key component in fighting poverty. However, governments need to increase spending on formal social protection to realize this potential impact. Unfortunately, financial resource restrictions, policy design and implementation challenges, and political economy are the biggest stumbling blocks to realizing the full impact of Social Protection and also explains the low coverage of such programmes.

Borrowing from previously stated concepts, government need not only increase coverage but also take ownership of programmes which are heavily funded by development partners as well as explore creative ways to bring onboard the informal sector.

¹² http://ec.europa.eu/europeaid/how/public-consultations/documents/issues_paper_social_protection_in_eu_development_cooperation_en.pdf

¹³ Bastagli F. (2013), *Feasibility of Social Protection Schemes in Developing Countries*, European Union, Brussels

One challenge for every government to consider is that of financing and especially regional financing. These programmes are expensive to set up and operate at country level the next level would be regional reality which then transposes the same country specific realities to the next level. Given that these programmes are modelled around state welfare, countries are expected to shoulder the cost of these programmes from national budgets. The opportunity costs associated with this, compromise other key sectors of the economy such as infrastructure, health, education, security to name but a few. Therefore government reluctance to embrace these programmes is not uncommon or unexpected. On the other hand, development partners such as UKaid¹⁴ support the design and implementation of these programmes to ease the initial burdens of set up. Models such as the Kalomo¹⁵ Cash Transfer (CT) in Zambia which were carried out by the Ministry of Community Development and Social Services (MCDSS) as well as the German Technical Cooperation (GTZ) show how pilots can be upscaled by government through partnership in the initial stages of the process. These joint ventures often entered into as bilateral or multilateral engagements between parties, work towards ensuring buy in from technocrats and key decision makers especially in line ministries.

An important discourse however has to revolve around the upscaling of Social Protection benefits at a regional level because of the realities of economic integration as well as migrations across borders by both workers and refugees. The access by both these groups represents the formal and informal communities that are rife in regional neighbours. Economic migrants and refugees speak to the fact that Social Protection benefits really need to cut across or at the very least, take into consideration the formal and informal economy which cannot be ignored as a

¹⁴ Department for International Development or UKaid greatly supported the Hunger Safety Net Programme in Kenya.

¹⁵ <http://www.ipc-undp.org/publications/cct/africa/EvaluationReportKalomoCT.pdf>

factor of regional dynamics. According to the United Nations (UN)¹⁶ in 2005, about 3% of the world's population was living outside the home of origin the number was estimated at about 191 million people. This figures speak to people who are migrating and not necessarily conscious efforts to integrate regions which will by design increase the inflows and outflows of individual within a certain region and from without.

According to Avato, J. *et al*, migrants in poorer countries have very limited access to formal Social Protection, this limitation means that portability of the same (formal Social Protection) becomes a nightmare to enforce. Therefore, migrants have to rely on informal Social Protection, and it is often migration itself that constitutes a form of Social Protection for migrants and their families¹⁷. These mechanisms tend to stem from family support systems as opposed to state based mechanisms. It is evident that those most exposed are those that lie within what is described as the informal economy. Consequentially, this makes it even more difficult to integrate Social Protection provisions for the most vulnerable groups based on the fact that efforts designed are geared towards adopting informal sector workers into the formal Social Protection programmes and mechanisms. This approach however cannot be entirely faulted because formal sector workers also have to contend with difficulties related to portability of benefits across borders. Some of these difficulties are based on currency flight measures employed by governments not to mention safeguard measures on money laundering. In addition, legal requirements have a dual effect on the workers who tend to underreport earnings or avoid formal structures for the risk of losing their contributions all together.

¹⁶ Avato, J., J. Koettland R. Sabates-Wheeler. 2010. *Social Security Regimes, Global Estimates, and Good Practices: The Status of Social Protection for International Migrants*, World Development Vol 38, No. 4: 455-466.

¹⁷ Ibid

Some workers may therefore opt out of contributing or all together find a way around formal provisions so as to safeguard their earnings.

One thing that stands out and especially so for African countries is that poor legislative frameworks have burdened the portability debate between South-South migration. In the European Union (EU) for example, the debate for portability of social security has been on the discussion table since 1958¹⁸. At international level, the International Labour Organization (ILO) has been pioneering international instruments for migrant workers since the 1930s, created 2 Conventions (Migration for Employment Convention (C.97), 1949 and Migration Workers Convention (C.143), 1975), and several conventions/ recommendations provide important guidance for the coordination of social security schemes¹⁹. These provisions have not taken full effect in the global South for various reasons and debate has been centred more around establishing bi-lateral agreements that allow for preferential treatment rather than encompassing a well rounded approach that provides for universal access. In this case universal refers to the access by all.

The literature reviewed begins to speak to the fact that globalisation is an accelerating factor for migration and especially so regional integration efforts. It is no doubt that there is a precedence set for increased migration not just for individual reasons but as an institutionalised effort by governments. The transboundary nature of globalisation means that more people traversing borders means that vulnerability becomes a regional rather than a national issue.

¹⁸ Holzmann, R., J. Koettl, and T. Chernetsky. 2005. Portability regimes of pension and health care benefits for international migrants: An analysis of issues and good practices. Geneva: Global Commission on International Migration. - See more at: <http://www.adbi.org/research-policy-brief/2011/11/28/4814.social.security.labor.migration.asean/references/#sthash.rT8s1jf5.dpuf>

¹⁹ ILO Conventions No 19, 102 (Article 68), 118 and 157 and ILO Recommendation No. 167 with the model provisions in Annexes 1 and 2

This calls for institutionalisation of mechanisms that look at safeguarding migrant populations from risks and shocks of an economic and social nature. However, one cannot ignore the debate on sovereignty of the nation-state and assertions of national interests cannot be swept under the rug and governments forge ahead with common purpose as the sole driving factor. It is these considerations that make poverty alleviation schemes both an economic and political nightmare.

On the other hand, it is this thinking that also demands for policies and clear parameters for portability of benefits across regions as a way to ensure best practice is evolved to protect the vulnerable members of society. In essence, the first step is to ensure that provisions are not regarded as a matter of stately favour but rather as a rights component engrained in international and regional law provisions; a succinct right that should not be revoked at the whim of governments' predisposition.

The literature presents a viable effort to enrich the lives of the most vulnerable groups in society through Social Protection mechanisms that build on economic strategies by invoking a rights component, while building social cohesion, equity and social justice. Although, the benefits of Social Protection have been attested to in the overall growth of households by delivering accrued benefits in health, education and income security, gaps remain on the reach and sustainability of these programmes. Within what the paper prescribes as vulnerable groups: children, older persons, persons with disability, women and other marginalised groups, further vulnerability is brought to the fore by the divisions presented through the formal and informal economy.

Literature presented paints the picture that informal sector workers tend to be disadvantaged in accessing Social Protection benefits especially when these are cross border and specifically in South-South migration.

Attention is drawn therefore to African states and especially the EAC, on the absence of a policy or legislative framework that entrenches not only the rights of individuals to Social Protection but also to mechanisms that enable access of benefits at a regional level (portability). It is this thought process that informs the debate by exposing the gap that exists between policy and practice. Furthermore, given the need to protect regional citizens what set of provisions should be worked on with regards to ensuring that Social Protection benefits cut across the economic divide (formal and informal). There are clear difficulties to institutionalise Social Protection at a regional level but what mix or combination of provisions will ensure that individuals can access benefits without having to go through great lengths to effect or enjoy an intrinsic human right.

Regional governments then are lampooned by a barrage of options and models from which to pick. Pasadilla G. and Abella M.²⁰, argue for bilateral and multilateral cooperation in the Association of Southeast Asian Nations (ASEAN) when it comes to portability of social security benefits. The EU on the other hands presents a potent mix of both international instruments as well as regional accords built in to regional frameworks. The EAC needs thus explore sub-regional context based approaches informed by pre-existing literature as well as international and regional instruments to come up with a formula, as it were, for Social Protection. Kenya as the only EAC member with a Social Protection Policy²¹ is made reference to in the EAC Strategy on Social Protection as providing a guide with respect to the development of Social Protection for the region. This is looked at in tandem with regional and international frameworks, policies and laws to inform a comprehensive Social Protection mechanism for the East African Community.

²⁰ Pasadilla G. and Abella M., (2011) *Social Protection for Cross-Border Workers in East Asia*, Asian Development Bank Institute (ADBI), Tokyo http://www.cesifo-group.de/portal/page/portal/CFP_CONF/CFP_CONF_VSI/VSI%202012/vsi12-psb-Holzmann/Papers/vsi12-psb_pasadilla.pdf - last visited 13th July 2013.

²¹ Kenya Social protection Policy - 2012

1.7 Justification

This research is grounded on the operationalisation of a common Social Protection policy for the East African Region. The ambition courted by the EAC is to become a federation by 2015²². The federation will therefore derive its orientation as a unit, from a common objective and purpose. The constituent units will have to work in synergy to achieve common goals that benefit all members and Social Protection is no exception.

Poverty as a central theme among governments will have to be tackled in a manner that does not seem to short change the other in a common dispensation. Gains on poverty alleviation have to be transboundary and therefore crosscutting in their implementation given that poverty is no longer merely a statecentric issue but a regional one given the realities of globalisation and regional integration.

Given that Kenya is regarded as an exemplary member with regard to strides it has made in its own Social Protection programmes, specifically with the mention of the Kenya Social Protection Policy by the EAC Strategy, the research will bias towards Kenya's systems as a standard that is aspired to by other member countries within the EAC.

The research at the very least will prescribe a suitable working environment for a Social Protection policy in the region with a keen focus on policy provisions for comprehensive Social Protection benefits for every EAC citizen keen on prescribing incorporation measures for formal and informal sector workers.

²² East African Charter - 1999

1.8 Theoretical Framework

Several theories on poverty have been advanced to explain the prevalence of poverty across the globe. There is however no consensus on a particular theory because of the aggregated nature of poverty as a macro-economic issue. There are those that explain it from a social perspective, others psychological and probably the most prevalent is economic. For the purposes of this research we shall look at poverty in its ubiquity and the challenges it presents to segments of the population, which shall be referred to as vulnerable and marginalised groups from here on out. Social Protection as an intervention strategy will therefore explore underlying motives and government prioritization on policy engagement as a viable strategy that complements economic theory in fighting poverty.

According to Naidoo Saragen²³, Social Protection is based on the expansion in the thinking behind ‘security’, not necessarily physical security as it were, but rather human security discourse engrained in a holistic well-being of an individual, anchored in both national and international politics and relations.

Human security derives its voice through what Thompson L²⁴. calls the “new thinking on security”. Naidoo S. continues his argument by stating that the expansion in the concept of security is:

“A postmodernist or ‘critical human security’ approach that is rooted within the pluralist theory of international politics represents the other end in this security discourse. This approach is based on a set of assumptions that essentially attempt to

²³ Naidoo S. (2001), *A Theoretical Conceptualisation of Human Security*, Institute for Global Dialogue, Johannesburg.

²⁴ Thompson, L. (2000, *Theoretical Approaches to Security and Development*, ISS Monograph No. 50.

dislodge the state as the primary referent of security, while placing greater emphasis on the interdependency and transnationalization of non-state actors.”

The expansion of the conceptualization of the security theory from a realist perspective brought to the fore elements that went beyond securing nation-state geographical boundaries. In essence this prescribed a new realm of protection from security threats as a complex engagement from multiple ‘dangers’, old and new, begging for an interrelated approach to enhance human freedoms and fulfilment of the same. In furthering the argument, the United Nations Trust Fund for Human Security²⁵, argues that there are two dynamics which interrogate the conceptualisation of Human Security:

First, human security is needed in response to the complexity and the interrelatedness of both old and new security threats – from chronic and persistent poverty to ethnic violence, human trafficking, climate change, health pandemics, international terrorism, and sudden economic and financial downturns. Such threats tend to acquire transnational dimensions and move beyond traditional notions of security that focus on external military aggressions alone.

Second, human security is required as a comprehensive approach that utilizes the wide range of new opportunities to tackle such threats in an integrated manner. Human security threats cannot be tackled through conventional mechanisms alone. Instead, they require a new consensus that acknowledges the linkages and the interdependencies between development, human rights and national security.

²⁵ http://hdr.undp.org/en/media/HS_Handbook_2009.pdf visited on 16/08/2013...Human Security in Theory and Practice: Application of the Human Security Concept and the United Nations Trust Fund for Human Security (2009)

According to Tsai Y²⁶ .,:

“In 1994, the United Nations Development Program’s (UNDP) Human Development Report (HDR) presented a new way of thinking about the integration of security issues and globalization. This report defined human security according to seven dimensions: personal, environmental, economic, political, community, health, and food security (UNDP, 1994: 24–25). Moreover, the report adopted a —people-centric security concept as its focus instead of the traditional state-centered concept (UNDP, 1994: 24–33). This new emphasis on human security supplements the traditional concept of security and represents the emergence of a new paradigm in the field. Human security emphasizes the individual’s rights and interests, which are often ignored by the international community. Real security entails the protection of individuals from such threats as disease, hunger, unemployment, political oppression and environmental degradation (Tsai and Tan, 2007: 8–9). As a multi-level, wide-ranging security concept, it includes both the traditional and non-traditional elements of security. It not only serves as a blueprint for solving human problems, but also offers solutions which middle powers can put into practice (Paris, 2001: 88)... Thus Kofi Annan (2005) has pointed out the three pillars of this wider conception of human security: freedom from want, freedom from fear, and freedom to live in dignity.”

The propositions of the Human Security theory, to the state machinery, is to entrench social justice through an equitable access to basic amenities/services and economic opportunities. This can be accomplished by looking at the constituent elements of the individual’s well being as opposed to looking at the collective good and ignoring the day to day realities. This will result in the upholding of human dignity and human rights, through the provision of a bare minimum standard for all. This basic minimum in effect aims to reduce vulnerabilities from socio-economic as well as natural risks.

²⁶ Tsai Yu-tai, (2009), *The Emergence of Human Security: A Constructivist View*, International Journal of Peace Studies, Volume 14, Number 2, Autumn/Winter 2009

The concept of Social Protection is seen as drawing from a rights component that ensures that a basic minimum is accessed by all. It has been espoused as crucial in entrenching tenets of social justice and inclusion in the development agenda.

The study shall be informed by this point of view and set the basis by which research is conducted with an eye for transposing theory into EAC contextual realities especially with regards to the prioritisation of Human Security in the region. Holding the above notions as true the research shall look either to approve or disprove them by finding the modus operandi within the region.

1.9 Hypotheses

This research shall be informed by three hypotheses. The first will look at the lack of policy or legally enforceable mechanism spearheaded by a clearly mandated institution inevitably make the provisions of any strategy susceptible to manipulation in order to suit interests that go against the intended purposes of the instrument. The strategic plan of the EAC on Social Protection is bound for failure or will enjoy low success rate in realizing an integrated Social Protection agenda given its lack of both institutions and guiding policy.

The second hypothesis is based on the reluctance of nation states to prescribe a regional policy because of selfish interests and therefore to enhance national interests create a shell of a policy/strategy and deliberately undermine it, to ensure that they merely meet international pressures.

The final hypothesis is based on the lack of resources and especially of a financial nature which becomes a debilitating factor for the operationalisation of policies and programmes, withdrawing ownership and commitment to implement donor driven agendas.

1.10 Methodology

The data collection method will be through Focus Group Discussions, Key Informant Interviews and through secondary data. The target population of the research will be technocrats and politicians working in the EAC secretariat and in-country missions or relevant government departments and ministries as well as implementing partners of Social Protection programmes in the region. This group is important as it has firsthand experience, knowledge and expertise working with the EAC and Social Protection programmes. Civil Society Organisations and other Regional departments such as the AU will also compose the target population as they will provide information on other complimentary instruments that inform the EAC Strategic Plan on Social Protection. The geographical location to be covered will be the EAC, however, because the research is heavily concentrated around Kenya, Tanzania and Uganda the three countries will form the base of operations. Other pertinent information will be sourced through desk research and correspondence.

The sample size will be skewed towards individuals with access to relevant information and expertise on Social Protection, workings of the EAC, AU and the ILO. This sample size will comprise twenty (20) respondents chosen purposively because of their skills set and knowledge towards the research. These respondents will include government officials from Kenya, Tanzania and Uganda, officers of the Social Affairs Department of the EAC, Civil Society Organisations (CSO), international development partner agencies such as World Bank, DFID, Irish Aid,

Oxfam, UNICEF, Friedrich Ebert Stiftung (FES) Foundation and, academicians and professionals, in Social protection. Other information will be sourced through secondary data in the form of policies and legislative provisions held in public records.

Data collection data shall be collected both as primary data and secondary data. In this case primary data will be necessary in instances where documentation is not readily available or where individual expertise in policy processes provide insights that are often left out by the pen or that have not been documented. The case for secondary data is made with respect to pre-existing materials especially on international provisions and country specific policies. Secondary data will provide both analyses on programmes and provide a basis for comparison with other case studies which will inform the research findings.

Finally the raw data and the secondary data will be analysed qualitatively as the research seeks to determine processes and best practice scenarios which identifying gaps and inform policy making processes. No statistical analyses will be employed given the nature of the data collected and the information sought from this study.

1.11 Data Analysis and Findings

The data in this research will be of a qualitative nature and therefore qualitative analysis will be employed to review findings. The focused group discussions in particular shall enrich the prose as and where is appropriate given that the interviews will be unstructured. Data from secondary sources will be looked at together with the interviews to authenticate findings. In addition, these secondary sources will also be compared through triangulation of the case studies to enable for generalisation as well as draw conclusions for the broader research objectives for the region.

1.12 Chapter Outline

Chapter One:

The chapter contains the research proposal and gives a brief overview of the research to be conducted, it stipulates the problem of the research and defines the objectives therein. In addition, it prescribes a methodology of inquiry which is governed by a theoretical framework.

Chapter Two

This chapter makes a case for Social protection by providing a theoretical overview of the subject matter with insights into the historical overview of the concept as well as its evolution.

Chapter Three

This chapter delves into the existing Social Protection instruments in operation in the EAC. It makes an inquiry into national, regional and international Social Protection Policies and Instruments.

Chapter Four

This chapter makes a contextual analysis of the application of Social Protection Policies and instruments within the region taking cognisance of the differences in country approach and provisions and makes recommendations based on the findings.

Chapter Five

This chapter draws conclusions based on the study findings and sums up the research by pointing to key issues within the study.

CHAPTER TWO

A CASE FOR SOCIAL PROTECTION; THEORETICAL AND CONCEPTUAL FRAMEWORKS OF SOCIAL PROTECTION

2.0 Introduction

This chapter will look at the theoretical conceptualisation of Social Protection and present a case for its necessity and adoption into the EAC. The literature will look at the evolution of Social Protection with a keen interest on its founding tenets down to its application and practicality in the EAC.

By many standards Social Protection is a relatively novel term across the African continent and more so the East African region. The concept nonetheless is only new by definition, but far from it by practice(s). The idea of institutionalizing Social Protection is however rather new given the fact that various forms of Social Protection have existed in society in various forms over time. According to Oluoch E.²⁷, wife inheritance, which is a widespread cultural practice in sub Saharan Africa, was meant to ensure social and economic support to a widow and her children. Besides its contentious connotations, this practice could be characterise as a form of Social Protection, as it provided a form of risk mitigation measure, for women and children a key vulnerable segment of the population. On the other hand, chiefs' fields in Swaziland popularly known as *Indlunkhulu*²⁸, were set aside to cater to vulnerable segments of the population,

²⁷ Oluoch E., *Perception of the Rural Luo Community on Widow Inheritance and HIV/AIDS in Kenya: Towards Developing Risk Communication Messages*, International Journal of Business and Social Sciences, Vol. 4 No1: January 2013.

²⁸ Ellis F., Devereux S. and White P., (2009), *Social Protection in Africa*, Edward Elgar Publishing Limited, Cheltenham, UK.

providing a form of food security for them. This thinking sets the basis for interrogation of indigenous Social Protection mechanisms that may not have necessarily been codified.

Therefore the institutional memory of such practice is by no means new rather the formal policy processes and legislative frameworks inform the ‘newness’ of the practice. Interestingly enough arguments on the very nature of Social Protection with regard to form and substance exist and it is why a standard definition is yet to be synthesised. As such operational definitions litter governments, other non-state implementing bodies and/or stakeholders. These definitions stem from contextual realities, practice in Social Protection and vested interests by all stakeholders.

Assertions by relevant parties are hinged on what is needed and provided, against what is available and feasible. The modern conceptualization of Social Protection resonates not just with its initial state of Social Security but rather with a compliment of services that reduce the overall risk and vulnerability of beneficiaries.

However, Social Protection is often juxtaposed against social services and drawing the line between the two becomes a murky affair. Where do government services enshrined in the social contract start, and the responsibility of government towards upholding human rights and indeed human dignity stop. To understand Social Protection one would have to delve into the intricacies of Social Safety Nets and look at them together with labor market programs and retirement benefit packages. According to Mathiu M. and Mathiu K.²⁹, these programmes are pegged on political economy and national economic outlook dynamism. The underpinnings of Social Protection stem from social risk management. Risk management from a vulnerable and

²⁹ Mathiu M. and Mathiu K., *Social Protection for the Elderly as a Development Strategy: A Case Study of Kenya's Old Persons Cash Transfer Programme*, Maputo, 2012

marginalised groups' lens looks at attending specifically to at risk segments of the population to address income risks, equity building and regularising consumption.

This function also applies to non-vulnerable or marginalised groups of the population but the assumption here is that through economic opportunities afforded by the state those who can engage in improving their wellbeing through application of their skills and knowledge shall be able to provide for themselves some sort of risk management measures for example through savings, asset building etc. An underlying premise here is that those who are not presently vulnerable risk falling into vulnerability in the event of a shock or stress so through provisions of Social Protection one is covered in the event of any such incidence.

Social Welfare has evolved from government function to a statutory right demanded by citizenry and an obligation by government. According to Devereux S. and Sabates-Wheeler R.³⁰, with respect to vulnerable and marginalised groups, programmes ought to be targeted in order to move these at risk groups, from poverty alleviation to transformative social policies. This means simply that the programmatic end goal should not be to lift a critical mass out of poverty say through a certain prescribed measure of poverty such as a poverty line. Graduation should imply empowering vulnerable and marginalised groups to not only get out of poverty but also prevent them from sliding back into poverty and enabling them productively contribute to socio-economic development. Social Protection gets credence from the need to bring about sustainable development through inclusion programmes that target the most vulnerable. The thrust behind Social Protection is to ensure that architecture of programmes forestalls perpetual poverty cycles while creating real opportunities to reengage and reintegrate into society. Although the genesis of

³⁰ Devereux, S. and Sabates-Wheeler, R. (2004). *Transformative Social Protection*. Brighton, England: Institute of Development Studies.

sustainable development was hinged around economic and environmental considerations the notions cannot be examined without reference to poverty.

Sustainable development as a term was coined during the Brundtland Commission or World Commission on Environment and Development in 1987³¹, and expounded on by Richard Estes³² who summarized the findings as human progress that realizes the needs and aspirations of the current generation without undermining the capability of coming generations to achieve their needs. This thinking proposed that social and economic problems were interconnected. Increasing globalization only enhanced this interconnectedness. This thinking recognized the increasing growth that was being experienced in the world although with little reflection on the increasing poverty yet there was an increase in wealth in the world. According to the Global Development Research Centre³³ there are two levels of poverty that can be classified as Individual level which is explained by peoples circumstances this would speak to amount of education, discrimination, work orientation cultural practices, health, handicaps, sex and their status relative to circumstances. These have connotations that bear on individuals as being the cause and perpetrators of poverty. For instance on the attributes listed above when one looks at a person with disability as a perpetrator of poverty; one can say that economic opportunity for someone with a disability would be constrained.

The second level is the aggregate theory that compounds elements from the individual level and looked at from a macro level. Apart from the sum of individual elements another way of explaining poverty is from a generic dimension but also within the aggregate theory. In this view a systemic approach is looked at from the point of view that government is inadequate to provide

³¹ <http://www.un-documents.net/ocf-02.htm#I>

³² Estes R., *Toward Sustainable Development; From Theory to Praxis*, University of Pennsylvania, 1993

³³ <http://www.gdrc.org/icm/poverty-causes.htm>

the requisite condition for economic development and prosperity. This for instance could include lack of employment opportunities, low national income and poor macro-economic policy.

This paper will focus on the aggregate theory, which dispelled the notions of incapacity through the realisations of the 1980's which pointed to the uneven and unequal distribution of growth and development, and wealth, though in fact there was an increase globally. In addition, the Brundtland report took particular emphasis on the fact that problems or crises experienced in one part of the world would inevitably be felt in another part, even with those areas that were not in geographical proximity to each other. This was especially true of environmental events. Therefore the issues to contend with according to Brundtland, was rampant poverty in the face of expanding economies, the ripple effect of events in the global arena and the collective onus of the world and the need for a rethinking on the status quo in respect to development and redistribution of resources.

This thinking called attention to the failure of economic models alone in addressing poverty, and on the need for complimentary programmes. This required policies and programmes that comprehensively addressed poverty and development in an inclusive manner bringing about social justice and equity. It also established a nexus between national and global events, with respect to the ripple effect of poverty on not only nation states but also on the global. Although the thinking was global, redistribution of wealth was very much alive at the national level with the gap between the rich and poor growing. This meant that realities of the globe manifested even more prominently at the municipal level. Economic indicators such as increase in Gross Domestic Product (GDP) did not necessarily speak to poverty alleviation. There was therefore a need to reconcile the two so as to realise a sustainable model, given the implications of ignoring national happenings.

An offshoot of programmes that brought about greater inclusion, although from a purely theoretical perspective, would speak to an increase in political stability, cohesion of the society and solidarity. Some Social Protection practitioners argue that this is largely the reason that there is continuing buy in by African leaders as evidenced by increasing budgetary allocation and programme expansion. Uganda's Expanding Social Protection programme is a clear government strategic plan for expanding social grants in particular the coverage of the Social Assistance Grants for Empowerment (SAGE)³⁴. Although SAGE started off as a pilot, the government envisions full roll out to all districts in the country by 2015, which goes hand in hand with increased budgetary allocation with each financial year.

By expanding SP programmes, one of the key design elements is to increased citizen participation in the process through feedback mechanisms that allow evaluation of the programmes by beneficiaries and tax payers. This effective participation of the electorate builds on the social contract between state and citizenry. Ideally, a comprehensive and effectively functional, universal social protection programme should attract participation of the citizenry by holding government into account for services rendered thereby increasing transparency in the use of public funds.

2.1 Evolution of Social Protection

The existence of Social Protection can be recognized as one of the most significant social achievements of the 20th century. Systems of Social Protection enable societies to advance the

³⁴ Social Assistance Grants for Empowerment; Implementation Guideline (2012)

well-being and security of their citizens by protecting them from vulnerability and deprivation in order to pursue a decent life.

This concept should not be dragged into the debate of the Cold War and labelled; instead social protection draws from poverty alleviation strategies that borrow from both the tenets of a free market economy as well as a control economy. Although debatable, the departure from cold war realities of state centrism has shifted more towards citizen focused politics as espoused by Samuel Huntington³⁵ in his masterpiece on the *Clash of Civilisations*. In essence he spoke of a shifting in ideological dispensation, although focused on conflict, he was right to point out that engagements moved away from the macro level (state) to micro level (individuals and cultures).

Social Protection meets the essential needs of human survival by ensuring that all men and women have a basic socio-economic minimum. At the same time, it can play a more far-reaching role in enhancing the quality of life of individuals and societies by developing and unleashing human potential, facilitating structural change, increasing stability, advancing social justice and cohesion, and promoting economic dynamism.³⁶

Social Protection before the 20th Century, existed in the nuclear and extended family as a way of managing risk for each other by assisting whenever a problem arose. However the modern form of Social Protection is broader in concept. It proposes to put in place structures that manage risk and cover more people than just the immediate family. This is premised on the fact that not

³⁵ Huntington S., (1996), *The Clash of Civilisations*, Simon & Schuster, New York.

³⁶ <http://www.ilo.org/public/english/protection/download/lifecycl/lifecycle.pdf> -Social Protection a Life Cycle Continuum Investment For Social Justice, Poverty Reduction And Sustainable Development, Social Protection a Life Cycle Continuum Investment for Social Justice, Poverty Reduction and Sustainable Development A. Bonilla García and J.V. GrúaT, Version 1.0 Geneva, November 2003

everyone has someone and that the governments in place are now being held accountable for the welfare of their citizens.

In spite of its achievements and contribution to human development, social protection has always been the object of intense criticism. Since inception, Social Protection policies have been criticized on economic grounds for having a negative impact on overall economic performance. Most critics argue that these policies cost too much and are a financial burden that deplete public funds and reduce opportunities for investing in other priority areas. In her paper Rawlings³⁷ cites poor poverty targeting, disincentive effects, and limited welfare impacts as a prevalent criticism among many policy makers and economists. It is argued that the policies create disincentives in the labour market leading to dependency on public support and undermining the work ethic, as well as hindering structural change.

These assumptions have so far proved not credible because of the limited view through which Social Protection programmes are judged. The premise of Social Protection intervention is based on economic theory prescribing direct or indirect risk management. The direct method involves more popular economic intervention strategies such as savings, sharing risks, increasing the uptake of insurance, increased pension contributions and building the capacities of market institutions. On the other hand, the indirect method would include cash transfers, asset building programmes, public works programmes, old age insurance all of which seek to improve livelihoods and welfare.

These measures of dealing with risk can be either preventive or designed to provide a coping mechanism. These measures can therefore be either formal or informal, meaning that the players

³⁷ Rawlings B. L, (2004), *A New Approach to Social Assistance: Latin America's Experience with Conditional Cash Transfer Programs*, the World Bank, Washington

involved vary depending on either classification. Going by this conceptualization, Social Protection can therefore be logically deduced to be both preventive and promotive.

The preventive element will look into risk mitigation measures whereas the promotive element looks at livelihood security through basic minimum packages that promote asset building and decent work, with a prerequisite of skills endowment to achieve transformative impacts on poverty alleviation. By this the concept speaks to sustainability rather than objective attainment that leaves the individual exposed when the programme comes to an end. To explain this further, one would look at skills and livelihood security as opposed to project based objectives.

This means that when vulnerable and marginalised groups face risks, these communities have an end game of built in resilience over a period of time, that allows them to face shocks without necessarily falling back into poverty or at least extreme poverty.

According to Devereux and Sabates-Wheeler³⁸, Social Protection describes all public and private initiatives that provide income and consumption transfers to the poor, protect the vulnerable against livelihood risks, and enhance the social status and rights of the marginalized; with the overall objective of reducing economic and social vulnerability of poor, vulnerable and marginalized groups.

The changing international context includes a new wave of globalization that excludes the majority from its benefits and leaves increasing disparities and insecurity in its wake. For those already excluded, these pressures are daunting and social protection remains out of reach. Even in countries with developed systems of social protection such challenges make complete

³⁸ Devereux S. and Sabates-Wheeler R. (2004), *Transformative Social Protection*. Brighton, England: Institute of Development Studies.

coverage difficult to achieve. If the global goals of poverty reduction and sustainable development are to become a reality, social protection for all men and women must be a key global objective.

At the same time, for Social Protection to play an effective role in poverty alleviation and sustainable development, its scope must be expanded to meet new global needs and to render it more effective and relevant to the world's entire population.

2.2 Social Protection and Social Security

Social Protection can be described as the sum of programmes running to address risks and shocks, a comprehensive social protection programmes interlinks different programmes that mitigate risk by complementing services offered and thus accrues benefits to vulnerable communities, providing both risk mitigation and resilience during stresses and shocks.

Social Security can be argued to be one such measure that feeds into a comprehensive Social Protection approach. A household that receives anti-retroviral drugs in an HIV and AIDS programme and a pension can use the money to improve nutritional intake rather than pay to access the drugs. Benefits both from the medicines received and the pension, to improve the quality of life greatly helps a population that is at risk as compared to a situation where the individual was receiving one without the other. HelpAge International in 2010 put the number of orphans of HIV and AIDS parents living with grandparents as shooting from 44% to 61% from 1992 to 2000. In a situation such as this, the burden of care shifts to the grandparents and without some form of income the grandparents if unable to work are thrust into poverty. On the other hand a form of pension of grant towards the children could ensure that the children stay in school

and have a shot at breaking a potential poverty cycle. Michael Samson³⁹ argues that social pensions in South Africa reduce the people living below the poverty line by 5%, in addition, the pensioner reduced the family probability of falling into poverty by 11%.

The interlinkages between Social Protection programmes and poverty can be easily demonstrated as above and this pushed for the adoption of the same as a legitimate strategy in poverty alleviation.

This gave credence to the rights argument where poverty inhibited the enjoyment and fulfilment of human rights. The explicit recognition of social protection as a human right in the Universal Declaration of Human Rights of 1948 served to enshrine it in the universal conscience.⁴⁰ This is as the result of a long struggling process, the first traces of which were found with Hsun Tsu in China in the third century B.C. However, it did not begin to be affirmed practically until the eighteenth and nineteenth centuries in Europe, first through the philosophy of the Enlightenment, then with the “socialism of the chair” in Germany, the Fabian Society in England, Social Catholicism and solidarism in France.⁴¹

A little later, the International Labour Organization (ILO), particularly through the Declaration of Philadelphia, adopted in 1944 by the International Labour Conference, made a major contribution to the extension throughout the world of social security and the values on which it is based, foremost among which are solidarity, human dignity and social justice. Values which have carried the idea to what it is today given the past contextual struggles.

³⁹ Samson M. et al, (2004) *The Social and Economic Impact of South Africa's Social Security System*, Commissioned by the Economics and Finance Directorate, Ministry of Social Development

⁴⁰ <http://www.issa.int/News-Events/News2/Social-justice-social-protection-and-social-security> -Social justice, social protection and social security ISSA, 18.02.2010 | Feature

⁴¹ Ibid

Social security is a concept enshrined in Article 22 of the Universal Declaration of Human Rights which states that 'Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality'.⁴²

In simple terms this means that the signatories agreed that the society in which a person lives should help them to develop and to make the most of all the advantages (culture, work, social welfare) which are offered to them in the country. Social security is an important form of social protection, which is aimed at creating a safety net for all citizens, so that they do not suffer hunger and death as a result of poverty.⁴³ Social security in the wider context of social protection brings with it a sense of social justice which creates solidarity. Solidarity gives rise to two major forms of redistribution: vertical redistribution which is the vehicle of social assistance, since it is intended to provide a minimum level of resources for the most disadvantaged and horizontal redistribution which embodies the concept of social insurance, which may be distinguished from private insurance by the fact that contributions are based not on the probability of specific contingencies occurring, but on contributory capacity.⁴⁴

⁴² http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf "Universal Declaration of Human Rights". *Plain language version*. United Nations. "Art 22." "22 The society in which you live should help you to develop and to make the most of all the advantages (culture, work, social welfare) which are offered to you and to all the men and women in your country."

⁴³ http://www.unicef.org/mozambique/media_9464.html Social Security and Social Protection 2011...last visited on 23rd July 2013

⁴⁴ Euzeby A, (2004), *Social Justice, Social Protection and Social Security*, International Social Security Review (Vol. 57, 2/2004) Wiley-Blackwell

We can therefore redefine Social Protection as a series of mechanisms for the redistribution of income based on the values of solidarity, social justice and respect for human dignity.⁴⁵ It has the role of ensuring that the most vulnerable benefit from economic progress, of reducing or removing inequalities related to negative factors which limit the capabilities of the persons affected, of broadening the range of opportunities available to individuals throughout their life and, in doing so, of facilitating equality of opportunity and contributing to the achievement of individual and collective well-being.

The aforementioned, definition brings to light the current growth and interest by development agencies in social protection. This interest is pegged on the global reaction to various forms of economic or financial crisis over the 80s, 90s and most recently the current global economic downturn. These have been seen to be associated with contemporary processes of globalization and specifically with the growing integration of trade systems and capital markets, which are generally seen to present two contrasting faces. On the one hand, they are seen as increasing opportunities for all (including poorer people and poorer countries), while on the other hand they are seen as increasing insecurity and inequality on a global scale.

Other dimensions of contemporary global change of relevance include: an increasingly liberalized international economic environment restricting many sources of revenue which were previously available to governments to fund social expenditures; and a global demographic transition which implies long-term changes in dependency ratios in particular, the growth in the absolute and relative numerical importance of older people.

⁴⁵ Vij, N. (2011). "Building Capacities for Empowerment: the Missing Link between Social Protection and Social Justice," IDS and Centre for Social Protection, April.

This implies that processes of international economic integration are increasingly leaving nation states with less power to regulate conditions for relationships between capital and labour, conditions of access to internal markets, and levels of budgetary support available for human development.

On the other hand, development processes are also contributing to positive processes of human development such as longer life spans which may enhance pressures on public resources with regards to Social Protection. Yet processes of accelerated integration of global societies and economies – which have great potential for increasing growth and human well-being – may in the long run be threatened if growing inequality leads to a perception that basic requirements of social justice are not being met. Analysis suggests that the institutional framework for social policy must adapt in response, at the local, national and global levels, to get to the point of understanding and not just creating a framework for social protection on all three levels.

2.3 Changes in Development Practice

Development partners in the last decade have increasingly emphasised working holistically in full range of issues of common concern to public policy and budget to realise a sustainable development agenda as well as sustainable impacts on poverty reduction⁴⁶. This approach embodied in new approaches such as the Comprehensive Development Framework⁴⁷ requires a balanced understanding of public policy across all fields and especially that of Social Protection so as to come up with an appropriate combination of policies at the national level⁴⁸.

⁴⁶ Norton A., Conway T. and Foster M., (2001), *Social Protection Concepts and Approaches: Implications for Policy and practice in International Development*, Overseas Development Institute (ODI), London

⁴⁷ Wolfensohn J. and Fischer S., (2000) *The Comprehensive Development Framework (CDF) and Poverty Reduction Strategy Papers (PRSP)*, International Monetary Fund (IMF)

⁴⁸ Norton A., Conway T. and Foster M., (2001), *Social Protection Concepts and Approaches: Implications for Policy and practice in International Development*, Overseas Development Institute (ODI), London

2.4 Citizenship, Governance and Rights

As aforementioned Social Protection rights are contained in the Universal Declaration of Human Rights⁴⁹ however to operationalise these rights Norton A., et al argues that there is a need to convert the rights into entitlements and standards. This requires a great deal of consensus among international bodies such as the UN which prescribe international norms and binding declarations for member states who are the key drafters of these norms and declarations. They have the onus therefore of determining the acceptable threshold for survival and that policies are deliverable, effective and sustainable. This means looking at what entitlements and standards can be realised for the vulnerable groups in a manner that does not increase compromise human dignity. There are significant gaps in the knowledge with regards to governance and rights but these are critical considerations for the following reasons⁵⁰:

- *Defining those levels of material well-being which constitute a minimum acceptable standard or right.*
- *There is good historical evidence that, for economies in processes of change, the provision of protection against risk from new levels of exposure to markets is a fundamental part of the bargain between workers and state that accompanies structural reform.*
- *Defining the role of the state in these fields is highly contentious, and can only be handled through political processes. The use of tax funded transfers to assist the poorest requires very high levels of support especially from the middle/working class, within society to be politically sustainable.*

⁴⁹ United Nations Universal Declaration of Human Rights - 1948

⁵⁰ Norton A., Conway T. and Foster M., (2001), *Social Protection Concepts and Approaches: Implications for Policy and practice in International Development*, Overseas Development Institute (ODI), London

- *Social protection policy is also intimately connected to debates on social cohesion and social exclusion. This reflects a view in the social sciences which emphasises that inclusion in a collectivity which provides for mutual assistance is central to the definition of social life. To look at this relationship from a different angle, when a collectivity such as the state loses the capacity to provide for the needs of its members (citizens) in a crisis, it suffers a crisis of legitimacy as a consequence, and accordingly finds it harder to govern.*

Social security then becomes a child of Social Protection in a more formal manner emanating from the state through agencies trying to cover the masses, factoring in citizenship, governance and rights. However, in the context of the global South formal social security coverage is limited by resource constraints and made worse by the growth and size of the informal sector which tends to outnumber the formal⁵¹. This leads to a very clear niche for non-state actors who can come in although in a regulated manner so as to adhere both to long term development strategies as well as strategic objectives geared towards poverty alleviation.

⁵¹ <http://www.unirisk-kw.com/pages/longtermc.asp> - last viewed on 15th August 2013

CHAPTER THREE

EXISTING SOCIAL PROTECTION INSTRUMENTS IN OPERATION IN THE EAC

3.0 Introduction

This chapter will look at pre-existing policies, frameworks, strategies and mechanisms that are in operation in Kenya, Tanzania and Uganda. It will also explore regional and international instruments with the aim of detailing practice and presenting a case for Social Protection in the EAC.

There is now consensus among policymakers that Social Protection is a powerful way to fight poverty and promote inclusive growth. This international consensus is most clearly articulated in the International Labour Organisation's (ILO) Social Protection Floors, European Union Communication on Social Protection, World Bank Strategy on Social Protection for Africa, the African Union's Social Policy Framework (AU-SPF) endorsed by African heads of state in 2009 as well as regional and national level policies and strategies. Notwithstanding, one element of Social Protection that is greatly advanced with regard to probing portability is Social Security, because of legislative frameworks as well as operational structures even though limited mostly to formal sector contributors.

3.1: National Social Protection Policies and Instruments

3.1.1 Kenya

Kenya like many African countries has what can be aptly described as indigenous Social Protection practices but which are not formally recognised. However, this has changed with the

National Policy on Social Protection being endorsed by Cabinet in early 2012 and subsequent legislation passed on Social Assistance in December of 2012.

Social Protection in Kenya 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 ensures access to affordable healthcare, social security, and social assistance⁵².

Kenya, in its new Constitution of 2012 enshrined Social Protection as a fundamental right. The following documents provide for the environment set the basis for the operational environment and structure for social protection⁵³:

- 1) Constitution of Kenya 2010-Article 10 (2) (b) “human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized”.⁵⁴
- 2) Article 41 (4 & 5) recognises workers’ rights to organise and engage in collective.....⁵⁵ In addition to the above broad values and principles, the constitution recognises workers’ rights to organise and engage in collective bargaining which rights are important in providing a framework for organising and advancing the right to social security, among other rights of workers.
- 3) Article 43 provides as follows: 43 (1) Every person has the right: to the highest attainable standard of health which includes the right to health care services, including reproductive

⁵² Kenya Social Protection Policy 2012

⁵³ Ibid

⁵⁴ Constitution of Kenya 2010

⁵⁵ Ibid

health care; to accessible and adequate housing and to reasonable standards of sanitation; to be free from hunger, and to have adequate food of acceptable quality; to clean and safe water in adequate quantities; to social security; to education.⁵⁶ This is elaborated because in captures the discussion in play accurately.

The rights components speak to provisions on health, reproductive health and emergency health care services, housing, food, safe water, education, general social security. Additionally, the constitution gives elaboration to the necessary social protection for children and youth, and persons with disabilities, minorities and the elderly, Article 53, 54, 56 and 57 respectively⁵⁷.

Kenya's new constitution is considered fairly progressive in so far as human rights go, but more especially towards the right to social security. These provisions are read jointly with the National Social Protection Policy leading to the interrogation of three key areas: Social Security, Social Insurance and Social Assistance which in essence can be interpreted to establish a bare minimum standard entitlement for every citizen. It has to be understood that these are progressive in their realisation.

This policy has activated the rights component of the law by ensuring that Social Protection at different levels is being institutionalized and accountability is at the fore front of implementation. Kenya's Social Protection programmes are generally divided into two as we have seen from ongoing discourse; non-contributory and contributory programmes. The non-contributory programmes are divided into five categories⁵⁸;

1. Agriculture;

⁵⁶ Supra Note 32

⁵⁷ Constitution of Kenya -2010

⁵⁸ Kenya National Social Protection Policy - 2012

- a. National Accelerated Agricultural Inputs Access Programme (NAAIAP) which targets small-scale farmers and is funded by the government.
- b. *Njaa Marufuku* Kenya (NMK) – NMK Component-1, which targets farmers groups and is funded by the government.
- c. Food and Agriculture Organisation (FAO) Farmer First Programme which targets Household members with HIV/AIDS, TB, and/or severe malnutrition and is funded by FAO.

2. Education⁵⁹

- a. Most Vulnerable Children (MVC) targets schools in poor areas and is funded by the Government and DFID
- b. Expanded School Feeding programme which targets school children and is funded by the government and WFP
- c. Home Grown School Meals (HGSM) which targets schools in marginalised areas and is funded by the Government and JICA
- d. Regular School Feeding targets primary school children and is funded by the Government and WFP
- e. Secondary Education Bursary Fund which targets vulnerable secondary school students and is funded by the Government.

3. Health and Nutrition⁶⁰

- a. HIV/AIDS Nutrition Feeding which targets HIV clients on ART and OVCs in affected households and is funded by WFP

⁵⁹ Ibid

⁶⁰ Ibid

- b. Health Voucher-OBA Scheme which targets poor women in ASAL areas and is funded by the Government and UNICEF
 - c. NMK Component-2 which targets school children and is funded by the Government
4. Social Cash Transfers
- a. Hunger Safety Net Programme (HSNP) phase 1 pilot which targets chronically food insecure, extremely vulnerable and poor people and is funded by DFID
 - b. Cash Transfer for Orphans and Vulnerable Children (CT-OVC) which targets vulnerable children and is funded by the Government, UNICEF,DFID and WB
 - c. Older Persons Cash Transfer (OPCT) which targets older people and is funded by the Government
 - d. Disability grants which target people with disabilities and institutions serving people with disabilities and is funded by the Government
 - e. Urban Food Subsidy which targets poor households in urban areas and is funded by several donors.
5. Relief and Recovery⁶¹
- General Food Distribution which targets poor households and disaster victims and is funded by the Government
 - Supplementary Feeding including Mother and Child nutrition which targets poor women and children and is funded by the Government
 - Food/Cash for Assets which targets vulnerable communities and is funded by several donors.

The Contributory programmes are as follows⁶²:

1. National Hospital Insurance Fund (NHIF) which targets formal and informal sector workers and is funded by the Ministry of Health
2. National Social Security Fund (NSSF) which targets formal and informal sector workers and is funded by the Ministry of Labour
3. Civil Service Pension which targets civil servants and is funded by Ministry of Finance.

The government of Kenya is the biggest contributor to Social Protection; however, the distribution is skewed with the bulk being ploughed into the civil service pensions with the remainder going to safety nets where a strong presence of development partners is felt. There has however been a drive to spend more on non-contributory schemes such as social cash transfers allocated entirely to safety nets, the majority of which are going to relief and recovery programmes.⁶³ Unfortunately, government presence has been marred by accusations of being used for political mileage and distribution being strongly liked to local politicians where beneficiaries are led to believe that the benefits are as a result of loyalty to political parties rather than government fulfilling an entitlement to its citizenry.

The main form of safety net support offered to the poor and vulnerable populations has been humanitarian relief often in the form of food aid which had been mobilized by the government and the international community in response to crises, such as drought and floods. In many parts of the country, most notably Turkana and other Arid and Semi-Arid Lands (ASAL), this type of response has become common, with emergency food relief being provided to poor populations

⁶² Kenya Social Protection Review, June 2012, Republic of Kenya Ministry of State for Planning, National Development and Vision 2030

⁶³ Ibid

on an annual basis.⁶⁴ This suggests that this instrument had evolved into a regular response to chronic poverty and food insecurity.

According to Stephen Devereux, Social Protection as a risk mitigation measure is in a position to stabilize consumption and build assets that provide for protection during recurrent emergencies and disasters; another case for expanding Social Protection.

An evaluation of the cash transfer programme for Orphans and Vulnerable Children (CT-OVC) found a significant impact on consumption, school enrolment, and health outcomes, with households using programme transfers primarily for food- and health-related spending.⁶⁵ There has also been a modest impact on household productive assets. Similar results were reported for Kenya's Urban Food Subsidy programme and Food for Assets programme. Additionally, the CT-OVC programme appears to be having significant effects on the local economy, beyond the immediate impacts on programme beneficiaries, as the programme stimulates demand for locally produced goods and services. Simulations show that in 2009 rates of poverty also tended to be higher among households with Orphans and Vulnerable Children (OVC) (54 percent)⁶⁶, older people (53 percent), and people with disabilities (63 percent for children with disabilities and 53 percent for adults) than among the general population.⁶⁷ Moreover, households living in ASALs or those living in communities with insufficient entrepreneurial activity and job creation have been found to be more vulnerable to poverty. This persistent poverty highlights the fact that

⁶⁴ Ibid

⁶⁵ Alviar, C. and R. Pearson (2009). "Cash Transfers for Vulnerable Children in Kenya: From Political Choice to Scale Up." Social and Economic Policy Working Paper, UNICEF, New York.

⁶⁶ Ward, P., A. Hurrell, A. Visram, N. Riemenschneider, L. Pellerano, C. O'Brien, and I. MacAuslan (2009). "Cash References Transfer Programme for Orphans and Vulnerable Children (CT-OVC): Operational and Impact Evaluation," Oxford Policy Management report to UNICEF Kenya Office and Ministry of Gender and Social Development, Kenya.

⁶⁷ Kenya Social Protection Sector Review | June 2012

Social Protection can play an important role in efforts to reduce poverty and promote human development in Kenya.

From 2005 to 2010, Social Protection expenditure in Kenya rose from Kshs. 33.4 billion to 57.1 billion, which was equivalent to 2.28 percent of Gross Domestic Product (GDP) in 2010.⁶⁸ This overall growth in social protection spending was due to increases across the contributory programmes, the civil service pension, and safety nets. This point is controversial because of the perception of Social Protection; often Social Protection is equated to cash transfers, in the financial year 2013/2014 the budgetary allocation for this was Kshs. 13.4 billion⁶⁹, which when looked at without the other constituting elements looks quite small especially as a percentage of the whole which was Kshs. 1.6 trillion.

Social Protection programmes are increasingly leveraging advances in information communication technology (ICT) to enhance efficiency and overall programme performance. A number of safety net programmes are using, or are looking to use, the agency banking network and smart card technology to make transfers to beneficiaries. Others are experimenting with the use of mobile money⁷⁰, which eliminates many of the costs that beneficiaries incur when collecting their payments.

Contributory schemes are similarly looking to capitalize on these advances in order to streamline aspects of their payment systems including bringing on board informal sector workers.

⁶⁸ Ibid

⁶⁹ Statement delivered to the budget and appropriation committee of the National Assembly on 13th June, 2013, by Mr. Henry K. Rotich, Cabinet Secretary for the National Treasury, Republic of Kenya, highlighting the budget policy and revenue raising measures for fiscal year 2013/2014

⁷⁰ Mostly the m-pesa service provided by the Safaricom Mobile Service Provider

Such advances are promoting broader efficiency among social protection programmes, which are also beginning to experience economies of scale. This is evidenced by the fact that overhead costs are falling, although they remain high by international standards. Overhead costs for safety net programmes declined noticeably from 2005 to 2010, yet were, on average, equivalent to 39 percent of total expenditure.⁷¹ Non-transfer costs in contributory programmes have been very high, although there is some indication that these are declining.

One of the main issues that hindered wide spread and effective Social Protection was lack of accountability structures, however over the past few years evidence shows that Social Protection programmes, particularly safety nets, have established relatively robust accountability mechanisms. These include a suite of measures to ensure fiduciary control and “upwards” accountability to management and parliamentarians. Many safety nets have also established strong systems to create “downwards” accountability to beneficiaries and communities.⁷² For most programmes, this translated into the widespread use of community structures to monitor implementation progress and advocate for beneficiary rights, among others. While this strategy appears to be effective in many ways, it has raised questions about the sustainability of programmes that depend heavily on voluntary labour at local levels.

3.1.1.1 The National Social Security Fund (NSSF)

The NSSF of Kenya was established in 1965 to cater for private sector social security.⁷³ It is compulsory for every worker in any private sector firm with five or more workers. By 2005 Kenya’s NSSF had about three (3) million registered members with only about one million as active contributors. The Act provides for age benefits, survivors’ benefits, invalidity benefits,

⁷¹ World Bank (2011). Safety Nets How To: A Tool Kit for Practitioners, Version 1, World Bank, Washington D.C.

⁷² Weigand, C. and M. Grosh (2008). “Levels and Patterns of Safety Net Spending in Developing and Transition Countries,” Social Protection Discussion Paper No. 0817, World Bank, Washington D.C.

⁷³ <http://www.nhif.or.ke/healthinsurance/> - last visited on 23rd July 2013

withdrawal benefits, emigration grant and such other benefits as may be prescribed by the Minister in charge (Section 19).

The NSSF based on its inception was accused of low coverage and especially so looking at the informal sector coverage. Recent advances have seen the NSSF expand its coverage to the informal sector starting with domestic employees.

3.1.1.2 The National Health Insurance Fund (NHIF)

This is a State Parastatal established in 1966 as a department in the Health Ministry. The first Act of Parliament setting up that fund has been periodically reviewed to accommodate changing healthcare needs of the population, employment and restructuring in the health sector. Currently an NHIF Act No. 9 of 1998 governs the Fund.⁷⁴ In order to improve effectiveness and efficiency the NHIF was converted from a department of the Ministry of Health to a state corporation whose core mandate is to provide medical insurance cover to its members and their dependants.

Membership is open to Kenyans of 18 years and older with a minimum monthly wage of Kshs. 1000, this limit was set to allow for increased access by citizens. NHIF has 31 fully autonomous branches across the country offering all NHIF services including payment of benefits to hospitals or members or employers.⁷⁵

There are no exclusions with the fund; all medical conditions are covered with no limit to the number of a beneficiary's dependants⁷⁶ and providing for both in and out patient benefits. The Act attempts to entrench community participation in the management of the Fund by having one representative from an NGO involved in health care services, on the Fund Management Board,

⁷⁴ Ibid

⁷⁵ Ibid

⁷⁶ The Right to Social Security in Kenya; The gap between International Human Rights and Domestic Law and Policy, Hakijamii Trust 2007

also included is representative from the disadvantaged members of the society (rural and urban).⁷⁷

3.1.1.3 The Pensions Act and Pension for Public Service Employees

The Pensions Act, Cap 189 Rev. 2009⁷⁸, provides for the granting and regulating of pensions, gratuities and other allowances for public service officers. There are private retirement benefits schemes governed under the Retirement Benefits Act, 1997 through which private employers and their employees make contributions. A Retirement Benefits Authority (RBA) was set up to regulate, supervise and promote retirement benefits schemes.

3.1.1.4 National Policy on Older Persons and Ageing 2009

In September 2009, Kenya adopted a National Policy on Older Persons and Ageing. The overall objective is to facilitate the integration and to mainstream the needs of older persons in the national development process. The policy aims at ensuring that older persons are recognised, respected and empowered to actively and fully participate in society and development. The policy proposes, among other things, the establishment of credit facilities for the elderly as well as ensuring that there is food security and good nutrition for the elderly. This policy is currently undergoing a harmonization process with the provisions on social security and older persons in Kenya's new Constitution of 2010⁷⁹.

3.1.1.5 An Assessment of Social Protection in Kenya

The disconnect between policy and practice manifests itself in implementation and many times Africa is accused of having great policies that rest or sit in shelves. It should be observed that in

⁷⁷ NHIF Act Section 4 (i) (ii) ``

⁷⁸ http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Acts/PensionsAct_Cap189.pdf last visited on 23rd July 2013

⁷⁹ National Policy on Older Persons and Ageing - 2009

the Kenyan system there is no limit to the number of family beneficiaries in the national Health Insurance Fund. It is feared that given the traditional (extended) African family the scheme may eventually become unsustainable. In Kenya the NSSF covers approximately 1.2 million Kenyans while the civil service and the army employees covered are about 400,000 while the occupational schemes cover about 300,000 with individual schemes covering about 10,000 employees.⁸⁰

Given the burden on government relating to public service pensions, Kenya is moving towards contributory arrangements as opposed to relying on the government exchequer. It is also reported that the Kenya RBA has, through with difficulties mentioned above, been successful in regulating social security schemes and making them more compliant with RBA regulations and requirements. Spending on contributory programmes rose by roughly 53 percent between 2005 and 2010 as a result of increasing benefits being paid out as membership numbers rose all which had implications on the operational costs; by 2010 this amounted to 0.48% of GDP.⁸¹

Similarly, the civil service pension expenditure increased yearly, which resulted in an overall increase of 70% between 2005 and 2010. By 2010, expenditure on the civil service pension was equivalent to 1% of GDP. At the same time, spending on safety nets doubled, rising from Kshs. 11.9 billion in 2005 to Kshs. 20.5 billion in 2010, which was equivalent to 0.80 percent of GDP. This was largely due to the relief and recovery response to the drought in 2008 and a rapid increase in spending on social cash transfer programmes from 2009.⁸² Overall, the average spending on the General Food Distribution (GFD) programme, which is classified as relief and

⁸⁰ “Legal and Policy Context of the Kenyan Social Security and Health Insurance System, with Specific Reference to Envisaged Interventions, 2011 b

⁸¹ Kenya Social Protection Sector Review | June 2012

⁸² Ibid

recovery, amounted to 53.2% of all safety net spending between 2005 and 2010.⁸³ Increasing investments in Social Protection has resulted in growing coverage among the population.

On average, these programmes both contributory and safety net covered about 14% of the population annually during this period, indicating a growing trend among contributory schemes (134%) and safety nets (35%). By the end of 2010, safety nets covered about 13% of the population and, in spite of rapid growth, contributory schemes covered an estimated 1%.⁸⁴

Despite the general advances in the Social Protection sector, progress is uneven across programmes and among operational areas. Information is always required for robust evidence on programme impact to inform programme managers and policymakers, generally, however, monitoring and evaluation (M&E) of social protection programmes in Kenya is generally weak⁸⁵. In some cases, such information is collected but is not publically available. Where investments have been made in M&E, there is substantial evidence of social protection programmes achieving a range of impacts, including improving household consumption, school enrolment and health outcomes. There is also some evidence that these programmes contribute towards empowering vulnerable groups and stimulating markets. However, this information is restricted to a small subset of programmes and is not necessarily representative of the sector as a whole. More basic data on programme implementation is also often scarce, making it challenging to undertake a comprehensive assessment of the sector's performance. As a result, it is almost impossible for policymakers to gain an accurate picture of the population currently benefitting or covered from these programmes.

⁸³ Ibid

⁸⁴ "Legal and Policy Context of the Kenyan Social Security and Health Insurance System, with Specific Reference to Envisaged Interventions and Suggested Reforms," International Institute for Social Law and Policy, Clarkson, Western Australia, 2011

⁸⁵ Kenya Social Protection Sector Review | June 2012

Furthermore, delays in payments are persist, arising largely from the lengthy process of moving funds through government systems and to claim benefits from contributory schemes. Registration systems also tend to be manual, slow, and often prone to errors⁸⁶.

Finally, the only social protection programmes with the capacity to scale up in response to crisis are those classified as relief and recovery. This in itself can undermine the ability of social protection programmes to provide effective support to chronically poor and vulnerable populations. The Social Protection sector is evolving, the safety net programmes' movement has slowly shifted towards establishing predictable support to poor and vulnerable populations.

This has been, most notable in the steady expansion of social cash transfer programmes both in terms of geographic area and number of households covered. In the FY 2013/2014, budgetary allocation to vulnerable groups is set to double in increase coverage of programmes. Despite this trend safety nets remain dominated by relief and recovery programmes, particularly ad-hoc emergency food-based responses.

In 2010, an estimated 35% of all safety net beneficiaries were receiving support from the GFD programme.⁸⁷ While there is a long history of providing such support to poor populations in Kenya, international evidence suggests that the use of such emergency programmes to respond to chronic poverty tends to be inefficient. That is, emergency support saves lives but rarely halts the downward spiral into destitution as livelihoods are continually eroded.

⁸⁶ Ibid

⁸⁷ "Legal and Policy Context of the Kenyan Social Security and Health Insurance System, with Specific Reference to Envisaged Interventions and Suggested Reforms," International Institute for Social Law and Policy, Clarkson, Western Australia, 2011b

Additionally, despite increasing coverage and investments in safety nets, coverage of safety net programmes remains low in comparison to the population in need. Safety nets cover only a fraction of the poor population and the adequacy of support provided to households is questionable, food support is often subject to delays whereas cash transfers are rarely adjusted for inflation, household size or other factors. Furthermore, a key problem is that programmes run by different ministries are highly fragmented and uncoordinated not only are ministries not speaking to each other but also programmes from development partner run programmes leading to missed opportunities for efficiency gains. Safety net programmes in Kenya are currently comprised of over 19 programmes that tend to be small with a median size of 120,000 beneficiaries, with emerging geographic overlap, and are implemented by over a dozen different agencies.⁸⁸ Another key challenge is the fact that the implementing capacity among various agencies is weak. The duplication of efforts and parallel implementation structures do not optimize existing limited implementation capacity or support a coherent approach to capacity building across the sector. Despite these initiatives, understanding of the sector has been incomplete because there has been lack of a comprehensive analysis of how social protection programmes are addressing the vulnerability of the population across the lifecycle, as existing reviews have been focusing on safety nets or contributory schemes and not the sector as a whole⁸⁹.

The policy context for Social Protection in Kenya is now changing for the better. This is in response to international calls for greater access to Social Protection for citizens, such as by the African Union, and the constitutional commitment to extend social security to all as articulated

⁸⁸ Kenya Social Protection Sector Review | June 2012

⁸⁹ Kenya Social Protection Sector Review | June 2012

in the Bill of Rights (2010)⁹⁰. These trends have culminated in a National Social Protection Policy - 2012 (NSPP).

It proposes to extend social assistance to the various target populations, with the ultimate goal of providing universal access to the vulnerable throughout their lifecycle, and establish comprehensive social security arrangements that will extend legal coverage to all workers and their dependents, whether in the formal or informal sectors. To achieve the vision of NSPP in totality the following four principles need to be considered:⁹¹

Define the appropriate programme mix within safety nets. To progressively realize the constitutional right to social assistance for those in need. An appropriate mix of programmes will need to be defined based on the country's medium-term objectives and fiscal considerations. Because safety net programmes currently have a range of different objectives and information on their relative effectiveness and impact is generally limited, it is difficult to determine the exact form safety nets should presently take in Kenya.

Recognizing these limitations, certain parameters could guide the government's strategy to progressively realize the right to social assistance. These are;⁹² progressively realizing access to safety nets for vulnerable groups; given current fiscal limitations, the government has had to adopt a strategy to allocate resources to sub-groups within the vulnerable population segment. For example, while the cost of extending safety net support to all households with children under 18 years of age would cost 8.25% of GDP, refining the target group to only poor households with OVCs would reduce the cost to 0.39% of GDP. A number of factors could be considered in

⁹⁰ Constitution of Kenya - 2010

⁹¹ Ibid

⁹² Ibid

this process, including the relative poverty rates among different vulnerable groups and the productive benefits of investing in children⁹³.

Improving the effectiveness of safety net support for households; while much more work is required to detail such a reform agenda, the government could take short-term measures that would improve the effectiveness of safety nets. One such measure may include building capacity of institutional frameworks as well as personnel to build on programmatic efficiencies⁹⁴. Improve co-ordination among safety net programmes to reduce fragmentation and duplication. In the short term, greater co-ordination is needed among social cash transfer programmes as the basis for the provision of predictable support to poor and vulnerable populations. This should consist of a nation-wide strategy to scale up the coverage of programmes to avoid duplication and gaps. This would then be followed by a set of actions to harmonize these programmes, including the adoption of a single registry, a common M&E framework, and sector-wide minimum standards for accountability.⁹⁵

In the longer term, the aim would be to consolidate the programmes into a national safety net programme that uses common systems and structures. The National Social Protection Policy (NSPP) proposes to establish the National Social Protection Council, which would coordinate and oversee the development, implementation, and integration of social protection strategies, programmes, and resources. A national safety net programme would support these objectives further by, for example, making better use of existing implementation capacity. It would also be well positioned to adopt and extend the best systems and procedure practices from the individual social cash transfer programmes across the country.

⁹³ Ibid

⁹⁴ Ibid

⁹⁵ Ibid

Over time, these operational reforms could be extended to other safety net programmes. This consolidated approach could then be extended to respond to transitory needs by building the capacity to respond to crises into the national programme⁹⁶. Increase financing to safety nets in the face of a tight fiscal environment. Micro-simulations show that it is possible to progressively increase funding to safety nets in the current fiscal environment in order to achieve high rates of coverage among poor and vulnerable groups in the short to medium term. If economic growth continues at 6% per year, this will generate an estimated additional Kshs. 100 billion in annual government revenue. If 5% of these resources are allocated to social cash transfers, comprehensive coverage of poor households with members who are vulnerable could be achieved in nine years. In these scenarios, development partners' funding will continue to be needed in the short to medium term. There may also be scope to improve the effectiveness of safety net programmes by reorienting financing from the GFD. While this would not increase the overall funding to the sector, it would create efficiencies and improve the impact of these resources on poverty and human development in Kenya. Finally, there is a need to secure financing to respond to transitory needs among the vulnerable but not yet poor populations that are exposed to shocks. International experience suggests that contingent financing, channelled through established safety net programmes, can be an effective response. This approach could be integrated, for example, into the National Contingency Fund⁹⁷. Expand contributory programme coverage to the non-formal sector and address problems of adequacy and financial sustainability. The NSSF and NHIF are the main vehicles to progress towards the Constitutional (2010) right to social insurance for all. These Funds are currently implementing a range of reforms that aim to improve their efficiency and effectiveness, while also extending coverage to the informal sector.

⁹⁶ Ibid

⁹⁷ Ibid

For example, the reform of the NSSF into a pension fund will strengthen its ability to protect against poverty in old age. Reforms are similarly being considered to enable the realization of the country's Social Protection and health care financing goals. This has potential implications for the NHIF, with a draft Health Care Financing Strategy proposing to transform this Fund into a social health insurance scheme. Within this context, the priority actions for the NSSF include increasing the contribution levels and extending coverage, particularly to the informal sector, while continuing to bring down overhead costs. With regards to the NHIF, while the ongoing dialogue on health care financing may reorient this Fund, in the short term, significant changes are required to better protect the population from health shocks, including addressing its longer-term fiscal sustainability, increasing membership, and enhancing benefits. Within these broad areas of reform, concerted action is required to expand coverage among informal sector workers and the poorest populations in the country.⁹⁸

The Kenya Social Protection Review is a first step at taking stock of Social Protection programmes based on the Social Protection Policy provisions. The policy attempts to capture all vulnerable groups and prescribes measure in which to address each group's vulnerability. Although cash transfers are standard in the amount and fail to take cognisance of issues such as number vulnerable persons in the household. Progressive realisation speaks to imperfections of a system that is still being tweaked to get not only the right mix but also deliver on the efficiencies that it prescribes to alleviate poverty and improve human dignity. One thing that the Kenya government has to be credited with and more specifically the National Social Protection Secretariat is the conscious efforts to review programmes as a way to review progress as they chart a way forward.

⁹⁸ Ibid

This is the first step in the longer-term agenda of moving towards an integrated social protection system. The review provides, for the first time, a benchmark for the Social Protection sector as a whole, comprehensively encompassing social assistance, social security, and health insurance. As a result, it has created a common platform by which stakeholders can consider progress within the sector and thereby engage in more meaningful discussion⁹⁹.

3.1.2 Uganda

Uganda which borders both Kenya and Tanzania has also instituted its own measures to address the needs of the vulnerable and marginalised in society. One such measure is social security which unfortunately has been dogged by inadequate knowledge of both formal and informal social security systems. Uganda has the most under developed formal social security systems and the least documented non-formal social security systems of the countries in this study. Through the use of qualitative research methods, it was observed that communities are providing the most useful response to the rising risks and vulnerabilities posed by poverty, unemployment, emergencies and inevitable life-cycle factors. The following social security systems exist in Uganda: formal social security schemes targeting the employed, community groups that serve only group members, kinship-based solidarity groups that serve the extended family and village residents' mutual assistance groups, which are compulsory for all adults in the villages where they operate. These groups are currently the most widespread and effective of all, though they are plagued with poor management and a low capital base. The village-wide mutual assistance groups offer the potential for reaching most community members but operate in only one of the four districts visited.

⁹⁹ Ibid

District Development Programmes offer a feasible entry point for beginning to address the lack of policy-led social security at community level.¹⁰⁰ In recent years however, Uganda has made a great deal of progress in terms of analysing poverty, including implementing a highly influential Participatory Poverty Assessment to complement quantitative household surveys. Uganda has also compiled a Poverty Eradication Action Plan that has served as a model for Poverty Reduction Strategy Papers across the world.

Despite these innovative methodologies and strategy documents, certain gaps in understanding and strategising remain. On the analysis side, poverty in Uganda is understood in rather static terms, even though there are dynamic processes at work – such as HIV/AIDS, and conflict or insecurity – that are influencing poverty headcounts and trends to a highly significant degree.

This suggests the need for an analysis of vulnerability and risk to complement the standard quantitative and qualitative understanding of poverty in Uganda. From the perspective of planning for poverty reduction or eradication, the dynamic nature of vulnerability in the Ugandan context suggests a need for implementing basic social protection policies to protect the poor against the adverse economic and social consequences of this vulnerability. To date, much attention has focused on a set of conventional ‘vulnerable groups’ in Uganda, including orphans, people living with AIDS (PLWA), people with disabilities (PWD), internally displaced persons (IDP), widows and the elderly.

There are a large number of projects and programmes that provide vital assistance to these groups, but these interventions are patchy and uncoordinated, and are not located within a broader conceptual or policy framework for addressing the needs of Uganda’s vulnerable

¹⁰⁰ <http://www.ajol.info/index.php/jsda/article/view/23841> last visited on 23rd July 2013 African Journal of Social Work Vol.17(2) 2002: 159-180

groups.¹⁰¹ Uganda has borrowed a leaf from Kenya and has two limbs to the social protection structure a non-contributory and a contributory aspect. I will look at the most popular non-contributory programme and move to the contributory aspect.

3.1.2.1 The Social Assistance Grant for Empowerment (SAGE) Programme

In July 2010, the Ugandan Cabinet approved the implementation of the Expanding Social Protection (ESP) programme. During its initial five years, the programme will be supported by international partners, in particular DFID, Irish Aid and UNICEF, with an overall funding of £39 million has been agreed for the programme.¹⁰² The goal of the ESP programme is to “reduce chronic poverty and improve life chances for poor men, women and children in Uganda”. The purpose of the ESP programme is to “embed a national social protection system that benefits the poorest as a core element of Uganda’s national policy, planning and budgeting processes”. This is the closest to a Social Protection policy or structure that Uganda has. The programme comprises two main components; the first to develop and implement a national Social Protection vision and framework for Uganda, including strengthening the capacity of the Government of Uganda to deliver this framework. Secondly, to put in place a pilot social transfer programme, known as the Social Assistance Grants for Empowerment (SAGE) programme.

SAGE is a cash transfer specifically targeted at labour-constrained individuals and households that is people with increased vulnerability to poverty due to reduced ability to engage in productive activity. SAGE to pilot two targeting mechanisms:

1. Vulnerable Family Support Grant (VFSG) – measure of household labour constraint

¹⁰¹ Social Protection in Uganda, Study to Inform the Development of a Framework for Social Protection in the Context of the Poverty Eradication Action Plan Phase I Report: Vulnerability Assessment & Review of Initiatives, October 2002, Prepared for the Social Protection Task Force

¹⁰² Evaluation of the Uganda Social Assistance Grants For Empowerment (SAGE) Programme, Oxford Policy Management, 8th February 2012

2. Senior Citizens Grant (SCG) – those aged 65 years and above

SAGE pilot covers fourteen (14) districts across the four (4) country sub-regions. Areas were chosen according to an index based on share of specific demographic groups (children, elderly, OVCs) as well as on a health and education criteria. The programme aims to reach 600,000 people in 95,000 households during the pilot phase (Apr 2011 – Feb 2015), this is approximately 15% of households in the pilot districts.¹⁰³ A cash payment of UGX 23,000 per month will be paid out, linked to inflation and calculated as the amount necessary to increase the consumption expenditure of the average household in the lowest decile to that of the 11th percentile. Payments will be delivered using Mobile Money and managed by MTN mobile provider.

SAGE is led by the Ministry of Gender Labour and Social Development. It reports to a multi-institutional Steering committee comprising the ministries of Finance, Local Government, Health, Education, the Office of the Prime Minister, the National Planning Authority and development partners.

3.1.2.2 National Social Security Fund and Public Pension Scheme

The biggest formal social security schemes are the National Social Security Fund (NSSF) and the Public Service Pension Scheme (PSPS) which provide coverage for no more than 6% of the working population. The NSSF a contributory scheme covers about 300,000 employees in the formal private sector while the PSPS is tax financed and covers about 260,000 government employees. Both provide old age, disability and survivors' benefits. There are plans to introduce medical insurance for both groups of workers in the near future, a lead that is being borrowed from Kenya's NHIF.

¹⁰³ Evaluation of the Uganda Social Assistance Grants For Empowerment (SAGE) Programme, Oxford Policy Management, 8th February 2012

For the majority (95%) and most vulnerable of workers in the informal sector-small scale trade and agriculture, there are no formal mechanisms to save for a rainy day other than the informal community groups. As a result, people in these sectors work till they drop and most of them end up destitute in old age or physical disability. The situation is even worse in the case of death of a breadwinner. Most children from such families drop out of school perpetuating a vicious cycle of poverty and underdevelopment.

3.1.2.3 An Assessment of Social Security in Uganda

To interrogate the Social Security system, the challenges being faced form one basis of entry as it presents a case for the gaps and how reforms can be structured. To begin with, the social security system's coverage is greatly limited in terms of actual numbers of beneficiaries. Over 95% of the most vulnerable active labour force and their families in the informal sector have no form of social security coverage.¹⁰⁴ The level of protection available for members of NSSF and the PSPS is inadequate; only old age, death and disability risks are covered.¹⁰⁵

The current form of cover offered under the NSSF provident scheme does not insure the member and the beneficiary against the financial risks in the market and guarantee a regular income upon retirement. Plans dating back to 2001 to introduce medical insurance are yet to be implemented and the pensions sector is facing an impending liberalisation which is meant to address the necessary reforms that will galvanise the sector.

¹⁰⁴ <http://www.slideshare.net/dtumwesigye/the-role-important-of-social-security-in-the-economy-and-labour-market> - last visited on 23rd July 2013. The Role Important of Social Security in the Economy and Labour Market by David Lambert Tumwesigye

¹⁰⁵ <http://www.ssa.gov/policy/docs/progdsc/ssptw/2010-2011/africa/uganda.pdf> -182 SSPTW: Africa, 2011 Uganda

The informal sector poses a unique challenge for the extension of social security. The relative lack of an organised platform to address issues for workers in this sector fuels their further exclusion and lack of voice in policy debate. It has been previously assumed that by providing incentives and facilities like feeder roads to farmers and small scale traders, that they would automatically transform their lives out of poverty and vulnerability. Unfortunately, the reality is that the market is a terrible mechanism when it comes to addressing social imbalances. There is therefore a clear need for social security reform that starts with defining the strategic direction that the country needs to take. In view of the high level of poverty and vulnerability across the country, government and all stakeholders, employers and the public need to rally around a common position to extend social security coverage and enhance the adequacy and relevance of benefits. The reforms that are needed entail building consensus on the form and timing of liberalisation, the development of a more inclusive social security regime including social health insurance and improving the governance of social security through strengthening the governance and regulatory environment. It is possible to pursue a rights based approach to social security and protect all citizens. The efforts of the Ministry of Gender Labour and Social development to pilot test a cash grants system for the most vulnerable is a step in the right direction. Labour unions need to engage members and reach out to all workers and forge a common position on the form of social security governance and reform. All ingredients for a robust social security system are in place. In the same spirit it is worth noting that the Ugandan Constitution has provisions with respect to social security and social protection found in both the National Objectives and Directive Principles of State Policy as well as in the main substantive part of the Constitution.¹⁰⁶

¹⁰⁶ http://www.ugandalawlibrary.com/ull/files/constitution/constitution_1995.pdf -last visited on 23rd July 2013

Uganda has steadily grown above 6% annually over the past several years. There are calls for a more responsive social security system by all workers; and the government is keen on reforming the social security sector. The search for an enhanced social security system at this point is not farfetched.

3.1.3 Tanzania

Tanzania, like many other countries in the developing world has had strong informal and traditional social security systems built on family and/or community support. The social security system in Tanzania has the following key elements¹⁰⁷:-

- 1) Social assistance schemes which are non-contributory and income-tested, and provided by the state to groups such as people with disabilities, older persons and unsupported parents and children who are unable to provide for their own minimum needs. In Tanzania social assistance also covers social relief, which is a short term measure to tide people over a particular individual or community crisis;
- 2) Mandatory schemes, these are remittances workers make through the employers to pension or provident funds, employers also contribute to these funds;
- 3) Private savings, where people voluntarily save for retirement, working capital and insure themselves against events such as disability and loss of income and meet other social needs.

¹⁰⁷ <http://www.tanzania.go.tz/pdf/policy%20framework%20final%20social%20security.pdf> –National Social Security Policy in Tanzania

Currently, there are five major formal institutions that provide social security protection in Tanzania. These are the National Social Security Fund (NSSF) offering social security coverage to employees of the private sector and non-pensionable parastatal and government employees, the Public Service Pension Fund (PSPF) providing social security protection to employees of central Government under pensionable terms, Parastatal Pension Fund (PPF) offering social security coverage to employees of both private and parastatal organizations, the Local Authorities Provident Fund (LAPF) offering social security coverage to employees of the Local Government and the National Health Insurance Fund (NHIF) offering health insurance coverage to pensionable employees of central government. The formal social security total coverage in Tanzania is about 871,000 members distributed as 363,000 for NSSF, 193,000 for PSPF, 180,000 for NHIF, 90,000 for PPF and 45,000 for LAPF.¹⁰⁸ This represents about 85% of the persons employed in the formal employment sector.

3.1.3.1 Assessment of Social Security in Tanzania

A broad overview of Tanzania's Conventional Social Security programmes reveal that these cover a relatively limited proportion of the population and have not reached the urban and rural poor. They do not provide adequate Social Protection to members, thus leaving members exposed to various risks. The poor rely on non-conventional social security programmes which serve them but only inadequately. This is exacerbated by the erosion of traditional social security practices as a result of increasing urbanization and the process of globalization as the extended family system breaks down and as population pressure impinges on traditional use of common property.

¹⁰⁸ <http://www.tanzania.go.tz/pdf/policy%20framework%20final%20social%20security.pdf> –National Social Security Policy in Tanzania

There is therefore a need to understand the social security needs of different categories of poor people in Tanzania, the sources and types of risks confronting them and the different arrangements and strategies (informal, market-based and public) for risk reduction, mitigation and coping.¹⁰⁹ In order to have a real picture of the inequities in the distribution of resources and incomes in contemporary Tanzania, we must understand the extent of redistribution across generations and within a generation in both conventional and non-conventional social security schemes and programmes.

3.2 Regional Social Protection Policies and Instruments

The East African Community is set up by the Treaty for the establishment of the EAC 1999. In Article 120 of the treaty, social security and social protection are visualised as social welfare rather than as rights. The Partner States undertake to cooperate with respect to;

- a) Employment, poverty alleviation programmes and working conditions;
- b) Vocational training and the eradication of adult illiteracy in the Community;
- c) The development and adoption of a common approach towards disadvantaged and marginalized groups, including children, the youth, the elderly and persons with disabilities through rehabilitation and provision of among others, foster homes, health care, education and training”.

When the EAC Protocol on the Common Market (2010) was drafted, it also did not envision social security as a right.

¹⁰⁹ <http://archive.lib.msu.edu/DMC/African%20Journals/pdfs/social%20development/vol17no2/jsda017002002.pdf> - last visited on 23rd July 2013

The protocol recognises the need for Partner States to “coordinate and harmonise their social policies to promote and protect decent work and improve the living conditions of the citizens ... for the development of the Common Market” (Article 39 (1)).¹¹⁰

Members also agreed to coordinate and harmonise their social policies relating to, *inter alia*: good governance, the rule of law and social justice, promotion and protection of human and peoples’ rights, and the promotion and protection of the rights of marginalized and vulnerable groups. In this regard, they agreed to undertake to implement programmes to: promote employment creation, strengthen labour laws and improve working conditions, eliminate compulsory and forced labour, promote occupational safety and health at work places, abolish child labour in particular the worst forms of child labour, expand and improve social protection, promote the rights of persons with disabilities.

This forms the contextual background of the EAC member states interaction not only with each other but more so in matters of human security and by extension therefore Social Protection. The provisions are necessary in so far as they set out provisions that guide the interactions of member states and also for the promotion of Social Protection albeit as a welfare component.

3.3 EAC Strategic Plan for Gender, Youth, Children, Social Protection and Community Development

This document is designed to cover the period 2011 to 2015 and has four (4) distinct components; Gender and Women in Socio- Economic Development, Children, Youth, Social Protection and Community Development.¹¹¹ The Strategic Plan outlines broad Strategic

¹¹⁰ Social Security and Social Protection in the East African Community, John-Jean Barya fountain publishers Kampala 2011

¹¹¹ EAC Strategic Plan for Gender, Youth, Children, Social Protection And Community Development 2011-2015 EAC Secretariat Arusha, Tanzania November, 2010

objectives of each of the above components in the community as well as the specific targets to be achieved during the period. This strategic plan is a summation of a number of contributions at various levels. There were notable key milestones in its development that are highlighted below:

- Meeting for the Council of Ministers which adopted the Gender and Community Development Framework and directed the Secretariat to convene a meeting of Experts in order to formulate a Strategic Plan and develop implementation guidelines to operationalise the Framework
- Two meetings of Gender and Community Development Experts at Kibo Palace in Arusha from the 10th to 13th March, 2009 and from 16th to 17th September, 2009
- The first and second Meeting of the Forum of Ministers responsible for Social Development which took place in Kigali, Rwanda from 15th to 19th September, 2008 and Bujumbura, Burundi, from 2nd to 7th October, 2009.¹¹²

The bringing together high level ranking officials of government ensured that the Strategic Plan received the needed political support especially in the adoption of the strategy. It is critical to note that because Social Protection, in Kenya for instance, was housed under the Ministry for Gender, Children and Social Development, discourse on gender did not leave out Social Protection considerations and instead enriched the strategy dialogue given the holistic approach of Social protection, to human security in general. The meeting to set out clear guidelines on the implementation of the strategy is one that can be lauded as going beyond rhetoric to operationalise a much needed tool. Unfortunately, in the absence of a regional (EAC) policy, the strategic plan provides a most welcome substitute as the trudge towards institutionalising Social Protection is concern.

¹¹² Ibid

The Purpose of the Strategic Plan;

This is the first Strategic plan being developed at the regional level, designed to meet the following objectives: to identify and detail specific areas for intervention, to lay out key issues and challenges that need to be addressed and to set priorities for action by policy makers and other key Stakeholders.

The key issues that are targeted to be addressed in the Strategic Plan include;

i. Gender

Gender continues to be a mainstay of contemporary politics because of the conflict between modernisation and cultural orientation. This although a simplistic view captures a key psychosocial construct of contemporary ideology of the social and very well mental attribution of roles for either sex, based on prescribed gender roles that are deemed norm by society.

Gender and specifically women roles have become critical in discourse of welfare and socio-economic opportunity. In this light dialogue around gender has become a deliberate effort of both policy and practice (daily living).

The EAC has been seen as still lagging behind because of problems specific to women in the different contexts. One such problem is Gender-Based Violence (GBV) which is still a big problem with regard to insufficient legislation that provides a framework to deal with it. The experts in the regions and the Council of Ministers proposed recommendations for key action including to¹¹³:

- a) Provide an enabling policy and legislative framework for gender equality and equity

¹¹³ EAC Strategic Plan for Gender, Youth, Children, Social Protection and Community Development 2011-2015
EAC Secretariat Arusha, Tanzania November, 2010

- b) Facilitate gender mainstreaming in national development processes in member states for gender equality and women empowerment
- c) Facilitate increased budgetary allocation to national machinery in member states and strengthen national capacities in gender mainstreaming
- d) To facilitate collection and utilization of sex/gender desegregated data in member states
- e) To provide enabling mechanisms to address gender based violence in all situations.

ii. Youth

The definition of youth still poses a problem of clarity (young people, children, teenagers). This has affected programme interventions specific for clearly defined target groups (age-specific). Notwithstanding, the main framework proposes to¹¹⁴:

- a) Harmonise youth policies through the ratification and implementation of the African Youth Charter
- b) Develop a comprehensive, coherent and harmonized regional youth policy that also provides a binding framework for effective implementation, monitoring and evaluation of youth programmes and projects.
- c) Prioritise the issue of high levels of youth unemployment and underemployment in national development programmes complemented by clear programmes to address unemployment, and with specific provisions for youth with disabilities to ensure that they have equal access to opportunities;

¹¹⁴ Ibid

iii. Children;

Given that in the five member states, children constitute the majority in terms of population numbers, one cannot discount their special (specific) needs that have in many cases not been adequately addressed. Children are therefore exposed to many development challenges, including lack of adequate food, health and education. In addition, children are faced with abuse, violence, exploitation and sexual abuse, trafficking and child labour. Disabled children are the most affected by the foregoing challenges. In view of the above, recommendations were proposed to address these specific and peculiar challenges that children face. It is worth observing that the policy is not read in isolation but together with other policies which touch the crosscutting nature of children's issues, some of the recommendations include to¹¹⁵:

- Develop a comprehensive, coherent and harmonized regional policy on children to promote children's rights among partner states
- Harmonize national legislations with the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child
- Implement the key recommendations of the African Charter on the Rights and Welfare of the Child, The Call for Accelerated Action on the Implementation of the Plan of Action Towards Africa Fit for Children and the Algiers Common Position and Plan of Action on Strategies to Support Orphans, Vulnerable Children and Children Infected with HIV/AIDS;
- Provide protection to children in conflict situations, orphans, vulnerable and street children; including protection and rehabilitation to children in conflict with the law

¹¹⁵ Ibid

- Provide social security to vulnerable children and adolescents including those with disabilities to ensure food security, clothing, housing and other basic needs;

iv. Social Protection;

The region was found to have very poor social protection policies and therefore implementation of programmes was also poor. Kenya was observed to have made considerable strides in the area of cash transfers and is to be considered as a model of best practice to be emulated during the strategic plan period. Other areas for consideration are to¹¹⁶:

- Fully implement the key tenets of the 2002 African Union’s Policy Framework and Plan of Action on Ageing;
- Implement other international instruments that deal with the issues of ageing and older persons, the 1991 UN Principles for Older Persons, the 1992 UN Proclamation on Ageing, and the 2002 Madrid International Plan of Action on Ageing;
- Promote the rights of older persons and enact national laws to include these rights and adopt innovative policies and programmes to mainstream the issue of older persons in Ministries and Organisations;
- Support older persons by effectively addressing their needs through specific programmes that are incorporated into national development plans and strategies including social protection;

¹¹⁶ Ibid

v. Community Development

Community Development seeks to empower individuals and groups of people, by providing them with the skills they need to affect change in their own communities. It involves changing the relationships between ordinary people and people in positions of power, so that everyone can take part in the issues that affect their lives. This plan seeks to enhance communities participation by enabling them identify and develop sustainable and inclusive solutions to their social development challenges¹¹⁷.

Key actions will include;

- Develop a legislative framework (laws, policies and guidelines) for Community Development within partner states
- Identify institutional bottlenecks that infringe on the rights of the poor and marginalized to access social services and empower them to participate in Community Development
- Develop a capacity building programme for Community Development and engage more community development officers
- Set up a monitoring and evaluation framework for Community Development
- Strengthen strategic linkages with private sector, Civil Society Organizations (CSO) and Faith Based Organisations (FBO) to deliver social services.

¹¹⁷ Ibid

3.4 African Union Social Policy Framework (AU SPF)

The African Union (AU) as the premier institution articulating African issues would have been far from relevant were it to ignore issues on poverty and vulnerability on the continent. It recognised the need for a social policy for Africa and therefore worked on a framework that embodied the aspirations and hopes of an African continent for the current and future generations.

The AU Commission's (AUC) programme on Social Development seeks to promote human rights and dignity. The programme looks at: health and endemic diseases; migration; population; reproductive health and rights; culture; sport; social welfare and protection of vulnerable groups including children, people with disabilities, the older persons; the family; gender equality; education; and human resource development, amongst others as it delves into a human-centred approach to socio-economic development. This approach seeks to engrain a holistic approach to development while addressing intra-and inter-sectoral coordination of the social sector widely criticised for duplication across the continent (in-country programmes). People are regarded as the drivers and the beneficiaries of sustainable development and, in this regard, special attention is given to marginalized and disadvantaged groups and communities. A continental social policy framework will therefore works towards an aggregate value of poverty alleviation and an improved quality of life of the African¹¹⁸.

¹¹⁸ Report of the Chairperson of the AU Commission on the Implementation of the Decisions of the First Session of the African Union Conference of Ministers of Social Development, 27 to 31 October 2008, Windhoek, Namibia

During the first session of the African Union (AU) Conference of Ministers of Social Development, ministers adopted the Social Policy Framework (SPF). The document was later ratified by African Heads of Government in January 2009.¹¹⁹ It sets out a vision for African societies based on social solidarity, equity of choice, and freedom from discrimination and poverty. In doing this, it treats social policy as a subordinate to economic policy, but recognises the importance of social development both as a goal in its own right, and as a means of creating the conditions for sustainable and inclusive growth.

Social Protection is recognised as one of the key pillars for Social Development a realisation made by member states of the AU in Ougadougou in 2004 and subsequently informed both the Yaoundé and Livingstone Call for Action. The policy under item 31 recognised that: "Investment in and access to social protection is still low in many countries..." and it continues on to prescribe that, "Social protection and social security will be built gradually, based on comprehensive longer-term national social protection action plans"¹²⁰. The same article goes on to make very specific recommendations on measures to be taken in respect of building a robust Social Protection system by countries¹²¹:

- Extending existing social insurance schemes (providing subsidies for those that cannot contribute)
- Building up community-based or occupation-based insurance schemes on a voluntary basis providing
- Social welfare services
- Employment guarantee schemes

¹¹⁹ Ibid

¹²⁰ Africa Union Social Policy Framework for Africa - 2008

¹²¹ Ibid

- Introducing and extending publicly financed non-contributory cash transfer schemes.

In terms of social transfers, the AU SPF makes a recommendation that African countries should "Ensure relevant social protection, including income transfers, to support the poorest families in their efforts to mitigate the economic and social impacts... on the most vulnerable such as the elderly, children and the sick".¹²²

A key recommendation that is arguably the genesis of the ILO SPF is the notion of a basic minimum standard that needs to be established by member states. This provision embodies the contemporary discourse on Social Protection not just from a formal sector employees perspective, but also for those who are considered to be vulnerable and are at the risk of falling below minimum thresholds prescribed necessary for preserving human dignity and for survival. The AU SPF prescribes this as¹²³:

“A minimum package can have a significant impact on poverty alleviation, improvement of living standards, reduction of inequalities and promotion of economic growth and has been shown to be affordable, even in low-income countries, within existing resources, if properly managed.”

The Second Session of the Conference of the AU Ministers in charge of Social Development held in Khartoum, Sudan, in November 2010 focused on strengthening the Implementation Strategy of the AU SPF. The role envisioned for the AU Commission on Social Development was that of supporting knowledge development, capacity building and lesson learning for member states.

¹²² Ibid

¹²³ Ibid

This provision is critical for not only documenting best practice which can then be replicated but it avoided the issue of reinventing the wheel. Lessons learned and especially mistakes could be avoided from state to state.

The main purpose of the AU SPF is to provide an overarching policy structure/framework for AU Member States to assist them formulate individual national social policies that promote human empowerment and development. The AU SPF moves away from treating social development as subordinate to economic growth but rather a compliment of economic strategies for poverty alleviation justifying social development as a goal in its own right. This is not to down play the role of economic growth, which is a necessary prerequisite for the roll out of Social Protection, but it addresses issues of social justice and equality that are not addressed purely by economic growth.

3.5 International Labour-Organization Social Protection Floor (ILO SPF)

The Social Protection Floor can be described as a socio-economic development policy concept and a crisis management tool. The provisions of the ILO SPF promote for the solid foundation for economic growth, a societal insurance against perpetuating poverty and mitigation measures against the effects of economic shocks and crisis. The ILO SPF is anchored in international provisions; the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Labour Organization Conventions, recognize essential social rights which have been used as the legal basis to support Social

Protection. The Social Protection Floor encourages countries to aim towards a universal standard of coverage although skewed towards workers¹²⁴.

A brilliant conception around the ILO SPF was the recognition of the contextual realities of each country, which differs in terms of institutional capacity, political ideologies, financial resources, economic structure and cultural values. Therefore every floor is supposed to be defined by each individual country. Building from past Social Protection programs, the ILO SPF promotes a more coordinated design and implementation of social and labour policies. This is so because it enables a country guarantee a defined basic set of social rights, services and facilities that every individual should enjoy. This can be granted through: cash transfers such as a social pension, conditional cash transfers, universal access to health care services, food-based programs, as well as food stamps, vouchers and coupons, school supplies and uniforms, vocational and training programs for the unemployed, price subsidies for food, electricity, housing, or other public service; and other programs¹²⁵.

To ensure continuity and sustainability of the ILO SPF it is recommended that national strategies build on pre-existing social protection mechanisms and include a mix of contributory and non-contributory, targeted and universal, public and private instruments – depending on the social, economic and political context. It is also very interesting to note the fact that under the basic provisions the “other” provides for that very mix that accommodates country context and specific programming to cater to the uniqueness of country specific issues. The reiteration on the country context moves away from programmes and strategies that have been criticised over years

¹²⁴ Social Protection Floor Advisory Group, (2011) *Social Protection Floor for a Fair and Inclusive Globalization*, International Labour Organization (ILO), Geneva

¹²⁵ Ibid

as having been transposed and imposed on countries of the South which then collapse because they fail to consider what can be termed as “indigenous knowledge and input”¹²⁶.

Countries are also encouraged to develop higher levels of Social Protection in line with their needs, preferences, and financial capacities¹²⁷. A global coalition of United Nations agencies, international NGOs, development banks, bilateral organization and other development partners, have come together to form the Social Protection Floor - Initiative Coalition (SPF-I Coalition). This Coalition has been created to support countries with the establishment, expansion and edification of their national Social Protection floors, in line with MDG 8 which speaks to Global partnership¹²⁸.

The ILO strategy on the extension of Social Protection is based on the two-dimensional strategy adopted by the 100th Session of the International Labour Conference in 2011. This two dimensional approach aims at the rapid implementation of national Social Protection floors containing basic social security guarantees that ensure universal access to essential health care and income security at a nationally defined minimum level (horizontal dimension).

This is in line with the Social Protection Floors Recommendation, 2012 (No. 202), and the progressive achievement of higher levels of protection (vertical dimension) within comprehensive social security systems according to the Social Security (Minimum Standards) Convention, 1952 (No. 102). The floors can be looked at as nationally-defined sets of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion. These guarantees should ensure at a minimum that, over the life cycle, all in need have access to essential health care and basic income security.

¹²⁶ Ibid

¹²⁷ Ibid

¹²⁸ <http://www.socialprotectionfloor-gateway.org/72.htm> - last visited 15th August 2013

National Social Protection floors should comprise at least the following four social security guarantees, as defined at the national level¹²⁹:

1. Access to essential health care, including maternity care;
2. Basic income security for children, providing access to nutrition, education, care and any other necessary goods and services;
3. Basic income security for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability;
4. Basic income security for older persons. Such guarantees should be provided to all residents and all children, as defined in national laws and regulations, and subject to existing international obligations.

The World Bank Africa Strategy on Social Protection is deliberately not addressed in this paper because country specific papers on Economic Recovery and Poverty Eradication are designed around World Bank provisions. These incorporate Social Protection financing provisions which speak to international norms and practices. This is also the same reason the UNICEF thrust on Social protection is not addressed because it is skewed towards the rights of children as is the FAO thrust which pushes towards food security and so on. These approaches have a narrow view of the topic and it is for this reason that the ILO SPF is looked at as a general summary of the different positions adopted by development partners.

¹²⁹ Ibid

3.6 Social Protection Provisions

The policies and frameworks outlaid by the different countries prescribe the current progress in Social protection. It is evident that continued investment in Social Protection speaks to the very fact that it is now accepted and considered an integral cog in poverty alleviation strategy. Kenya which has the widest range of programmes comes out clearly as a trend setter and leader in Social protection in the region but it is also important to note that each of the three countries has shown considerable growth and commitment in investing in country specific programmes based on resource endowment and contextual realities. A key factor for consideration is the fact that regional and international frameworks ensured that overarching frameworks and guidelines are in place to ensure that the countries do not reinvent the wheel. Debate on policy and structure has ensued in the countries with a clear realisation of the need for policy and programmatic coherence. Secondly, a push for inclusion for both contributory and non-contributory individuals is key on the agenda both for purposes of sustainability and ensuring inclusion. In addition, the rights approach and debate over sustainability is recognised as important for the sake of guaranteeing a minimum standard that affords a decent and dignified standard of living.

Both governments and non-state actors are in consensus on collaboration among stakeholders as a key way in ensuring that entitlements are passed on to beneficiaries. Collaboration also speaks to inclusivity of citizenry and state where space is afforded to citizens to participate in the design, development and implementation of programmes.

CHAPTER FOUR

CONTEXTUAL ANALYSIS IN THE APPLICATION OF SOCIAL PROTECTION POLICIES AND INSTRUMENTS

4.1 Analysis on the Findings

This chapter will look at the findings from Chapter 3 and analyse it to take stock of the incidences of policy convergence and where there is a *lacunae* it will attempt to provide recommendations on the findings.

The East African region is no different from any country in Africa as far as poverty and the challenges of instituting programmes to address vulnerability and marginalisation are concerned. It is more important to look at the steps that different RECs have taken to support member states in addressing common problems. Poverty is one such problem because it is seemingly perpetual and has persisted through decades. Efforts by regional level bodies have been complemented by international organs whose provisions cannot be looked at in isolation or ignored but rather through the lens that interconnects global issues with national realities.

The EAC is no exception to this reality on country contexts versus regional and global contexts; a key consideration under the ILO SPF¹³⁰ context specific approaches to Social Protection. Unfortunately, as the tale of the African continent is told through generations, African priorities have taken a back seat. Tales of corruption, disease and mismanagement of public funds that dogged the African's reputation have led to hypothesis being generated to rationalise the need to develop guiding frameworks for African governments. This is coupled by slow economic growth

¹³⁰ Social Protection Floor Advisory Group, (2011) *Social Protection Floor for a Fair and Inclusive Globalization*, International Labour Organization (ILO), Geneva

and population explosions that have near handicapped governments forcing them to bow to the whims of the development agencies that support national budgets and development projects.

The EAC Strategy on Social Protection is informed by only one country policy which is the Kenya Social Protection Policy¹³¹. This document reads as a comprehensive strategy to address the needs of vulnerable communities taking into consideration national specific contexts in the design and implementation of programmes. The Kenya strategy in particular does well to distinguish the areas of coverage without limiting its scope and reach with respect to which groups are covered. Generally, programmes such as the Urban Food Subsidy programme looks at the increasing expansion of urban areas and populations, and seeks to engage a very real and emerging threat of East African countries where the rural-urban migration is forcing governments to push for decentralisation of government functions and for increased investment in rural areas¹³². The incidence of similarity between Tanzania and Kenya for instance in terms of programming underscores the value of dignified living for vulnerable populations that fall further into poverty without deliberate efforts to lift them from their current status which should have otherwise been addressed by GDP growth. The Ugandans, who are seemingly being left behind, bring to the table a concise strategy to expand the reach of Social Protection. The Expanding Social Protection programme speaks to a deliberate effort by government to increase both budgetary allocation and coverage of programmes. This long-term commitment by government for both funding and increasing the number beneficiaries addresses a critical element in Social Protection, which is buy-in by the political class. Buy-in ensures that programmes can have better planning and strategisation which leads to more robust programmes which can

¹³¹ EAC Strategic Plan for Gender, Youth, Children, Social Protection and Community Development 2011-2015, EAC Secretariat Arusha, Tanzania, November 2010

¹³² Investment Priorities for Rural Development, (2006), OECD, Edinburgh

inevitably grow through adoption of systems, capacity building and employing of best practices. The World Bank in particular is keen on establishing long-term relationships with states even though as bi-lateral agreements through its value for results programme.

In this case, Kenya has an agreement with the Bank to establish systems for Social Protection based on agreed upon long-term strategies that grow over a given period of time, the National Safety Nets Programme¹³³ which brings together the five (5) cash transfer programmes is another brilliant example of this long-term planning. Interestingly, the government is required to spend its own money and upon demonstration of certain results then does it receive funds which are equated to value of investment. A controversial approach that may plunge states into large public debt if monies are not refunded but a good way of ensuring that monies are spent on viable projects and not white elephants. The idea of establishing a single registry goes a long way in ensuring that programmes speak to each other and therefore beneficiaries accrue benefits from different programmes. A key step the Kenyan government has taken with respect to ensuring that at any one time a beneficiary's profile is known to them to avoid multiple registration increasing number of beneficiaries as well as ensuring that graduation mechanisms can easily be instituted and monitored. The crucial notion of Social protection is in the portability of benefits across borders especially those from Social Assistance programmes.

The AU SPF and the ILO SPF provide an overarching structure which countries can read together with national plans and strategies. Unfortunately, the two protocols mentioned in the document speak to CSO lobbying that pushes for the inclusion of agendas that are programme specific and not comprehensive. In addition, the Strategy in its totality comes to question as it

¹³³ <http://www.worldbank.org/en/news/press-release/2013/07/23/world-bank-help-kenya-build-national-safety-net> - last visited July 30th 2013

looks at too many broad issues, lumping them under one instead of looking at them individually and in-depth or at the very least clustering issues together to push for more synergy in approach.

It is for this reason that older persons protocols are extensively mentioned to inform the strategy of the EAC because of the fear of being left out in the implementation of the strategy¹³⁴. This thinking encapsulates the prioritisation of issues as well as resource allocation. Suffice it to say that there is no stand alone policy or implementation strategy on Social Protection, which spells double trouble in respect to both allocation and prioritisation even though countries at the national levels are taking to it at an individual basis. As the thinking on Social Protection evolves and changes, it is evident that the yester-years preoccupations of African heads of state and political parties still relegate Social Protection to the periphery of economic and budgetary allocations especially as a regional priority. However, the clash between instituting Social Protection and the need to address structural poverty and inequality, is being played out in ministries of finance that can no longer ignore the impact of Social Protection programmes that are affording dignity to the most vulnerable. These programmes are seen as needing to speak to each other; it is more prudent to employ agricultural extension services to farmers who can then be directly linked to public works (for instance building a road) programmes that provide requisite infrastructure to make the agricultural engagements commercially viable and sustainable. This thinking however hits a bottle neck as it escalates to the regional level where after strategies are undertaken they lose momentum because they have moved to a regional consideration. An interesting phenomenon that can be explained by the supposition that states do not feel responsible for the entire region but only for the segments that are nationally patriotic. A

¹³⁴ EAC Strategic Plan for Gender, Youth, Children, Social Protection and Community Development 2011-2015, EAC Secretariat Arusha, Tanzania, November 2010

realist model that speaks to a state only entering into an alliance as long as its national interests are being met cannot be ignored with regards to the motives behind regional integration.

This can go along to explain the EAC failure to achieve the Charter's objective of monetary union and possibly that of a political federation in the coming years. When we look at Kenyan Social Protection programmes as the most evolved out of the other programmes in the region, the model to be replicated as it were, one needs recognise the importance of having a comprehensive approach to Social Protection. There is need for a tiered approach that looks at the distinctions appreciated by all the countries which are certainly in order, this is the distinction between contributory and non-contributory programmes¹³⁵.

In Kenya's case the three components of Social Protection: Social Security, Social Insurance and Social Assistance¹³⁶ encompass the two. It is however clear that the only structured programme across the three countries is that of Social Security. Social insurance is plagued by the high cost of expanding reach and coverage especially to non-contributors, whereas, the social assistance component becomes too specific to country context. Therefore if one were to begin to address the concept of portability of benefits it would be virtually impossible to link social assistance benefits in Kenya and those in Uganda. In essence one would get caught up in debates of value and who is to administer or shoulder the burden of cost for effecting the right. Administrative and structural concerns will also dog the debate given that the push would have to look at linking

¹³⁵ Kenya Social Protection Review, June 2012, Republic of Kenya Ministry of State for Planning, National Development and Vision 2030

¹³⁶ Kenya Social Protection Policy - 2012

programmes specific to individual needs such as those pertaining to migrants working in the informal sector as well as groups of disadvantaged persons¹³⁷.

The AU SPF and the ILO SPF provide critical overarching frameworks that address the specific vulnerabilities of critical populations. It is for this reason that the document (EAC Social Protection Plan) assumes responsibility over other groups that need to be mentioned specifically. This need arises because of the older persons protocols mentioned as guide in the Plan¹³⁸. The AU SPF and the ILO SPF, provide the best thrust for the region in terms of addressing SP from the critical and controversial stance of a basic minimum set of provisions for an individual. Although, the AU SPF nurtured the original notion, the ILO SPF talked about it in more explicit terms with regards to embedding a rights component to the thinking. This rights based approach guarantees these fundamental entitlements to vulnerable and marginalised groups¹³⁹. This also means that government has an obligation conferred on it to fulfil a basic standard of living to its citizens without which it compromises the social contract between the two.

The AU SPF and the ILO SPF addresses a wider range of benefits for different groups considered vulnerable ensuring that life is dignified, both look at the larger issue of bringing informal sector workers within the purview of Social Protection entitlements. A key strategy that recognises the vastness of the informal sector and therefore it's susceptibility to risks and shocks and subsequently their ability to cope with stresses.

¹³⁷ Avato, J., J. Koettl and R. Sabates-Wheeler. 2010. *Social Security Regimes, Global Estimates, and Good Practices: The Status of Social Protection for International Migrants*, World Development Vol 38, No. 4: 455-466.

¹³⁸ EAC Strategic Plan for Gender, Youth, Children, Social Protection and Community Development 2011-2015, EAC Secretariat Arusha, Tanzania, November 2010

¹³⁹ Sepúlveda M and Nyst C., *The Human Rights Approach to Social Protection*, Ministry for Foreign Affairs of Finland, Erweko Oy, 2012.

Looking back at the EAC Strategy we can appreciate the valiant attempt to address the needs of vulnerable groups but the Strategy unfortunately has to contend with prioritisation issues which cannot be dictated by specific lobby groups which do not embrace a comprehensive conceptualisation of who is vulnerable.

In any case the question here is “is there a group more vulnerable than another” and if so then every group has a right to advance its cause with its best foot forward. With this thinking though, one would wonder what would happen to a group that is disadvantaged in terms of resource endowment and cannot leverage a strong position to articulate issues peculiar to that vulnerable group? This thinking speaks to the inclusion of all vulnerable groups in policy and legislation.

4.2 Recommendations on Findings

A key concern with the region is whether states will look beyond their national interests and give a voice to regional priorities. Social development in the face of globalisation is not a single country issue, but spills across borders and the interconnectivity and movement of persons makes it a regional issue. It is this facilitation of movement and communications that makes the issue of portability of benefits pertinent. It should be noted that the fact that there is only a strategy and not a policy for the region speaks to two realities.

The first is the fact that consensus on SP is difficult to arrive at because government is sceptical of affording rights that it cannot deliver on especially if based on a set of basic minimums. Secondly, the development of a regional policy means that the implementation burden needs to fall on an institution that will be mandated to implement the policy¹⁴⁰. The AU SPF despite its

¹⁴⁰ Samson M. et al, (2004), *The Social and Economic Impact of South Africa's Social Security System*, Commissioned by the Economics and Finance Directorate, Ministry of Social Development

great provisions has been criticised because it does not have an implementation mechanism. The age old adage that great policies live on African shelves is being epitomised by this incidence of lack of implementation. However, the question of implementation is critical in terms of who operationalises the policy.

The who question might perhaps be the real reason towards a snag in regional integration because states perceive any control exerted by one country and a question of ceding one's sovereignty, and it might as well be, but state pride and/or grand standing means that no state is willing to take the initial plunge.

If the issue is looked at in more practical terms, one can appreciate the fact that portability has to be based on or at least started from a structural perspective. This structure cannot be context based, in respect to nation states but rather regional based. The issue of structure in the EAC will be looked purely from a contributory stand point where one can essentially claim benefits based on a contribution made lessening the initial burden of states in terms of cost implication; this are the programmatic costs as compared to the administrative costs. The social security programmes in all three countries are governed by law and seem to have a high level of structural competency as compared to the social insurance or social assistance components of Social Protection.

This is the only programme in the near future that can be upscaled and made into a regional programme by setting up an organ of the EAC under specific legislation and mandate to ensure that it collects, manages and disburses funds to contributors. This organ of the EAC should only be political as far as legislation is being enacted pursuant to its establishment and all member countries domesticating a corresponding law in their respective countries. Secondly, the organ on Social Security should set a minimum contribution level that can be negotiated by the member

countries reflective of the regional dynamics. This can either be a fixed amount that all individuals can pay across the board or on pro-rata basis based on country realities for instance Kenyans would be in a position to pay a higher premium than their Ugandan counterparts because of Kenya's relatively bigger economy, purchasing power and currency value.

In the former, benefits would be equivalent to contribution whereas the latter would look at country of residence while receiving benefits. Now this should cater for cross border benefits. Kenyans living in Tanzania will receive a Tanzanian rate of benefits while Tanzanians in Kenya receive a Kenyan rate. The system of check-off balances the equation and discourages unnecessary duping of the system where one moves from say Tanzania to Kenya to receive benefits and crosses over to enjoy. This can be guaranteed through establishing a minimum number of years one has to have lived in country 'X' and continues to live in country 'Y' before the portability of such benefits can be effected. A clause can be introduced to ensure that a minimum period of stay is employed to restrict fraud. States will no doubt relinquish the control of Social Security without a fight, the regional Social Security scheme can run parallel to national systems and made optional/voluntary for anyone wishing to enrol, beneficiaries who wish to contribute to both or either should be allowed to do so without discrimination.

The regional system can be interlinked with national policies to avoid double payments and rather have sums increased for those making "double payments" as it were. This means that the region will no doubt have to think around establishing a single registry for the region. Registration of persons therefore becomes imperative as the regional organ needs to keep track of populations that are migrating from country to another¹⁴¹. Unfortunately, initial structural and

¹⁴¹ Avato, J., J. Koettl and R. Sabates-Wheeler. 2010. *Social Security Regimes, Global Estimates, and Good Practices: The Status of Social Protection for International Migrants*, World Development Vol 38, No. 4: 455-466.

capacity needs, have to go into the set up, countries would have to make a collective decision to prioritise the area and fund the setting up of the institution. This will of course follow a feasibility and S.W.O.T. analysis of the possibility of setting up the organ.

There should be funds which should be set aside for the organ to cater for the uptake period of the programme with greater incentives on return for those already contributing towards national social security funds so as to encourage them increase the uptake of the regional fund. This initial investment should also cater for the discrepancy in country uptake as regional migration occurs. For instance, if two hundred Tanzanians contribute to the fund and only fifty Kenyans contribute, then one hundred Tanzanians migrate to Kenya or Uganda for instance, the fund should be able to offset the discrepancy in numbers to facilitate the portability of benefits and much the rate at which the beneficiaries should receive in Kenya even though the contribution may not match the payments. It is also prudent for instance if the two hundred were Kenyans and the fifty Tanzanians as the Kenyans contribution would be higher but because of for example a pro-rata basis of paying benefits the Kenyan shillings would value more in Tanzania and facilitate the payments. On the other hand, if the EAC accomplishes the goal of being a monetary union then the issue of a single currency would greatly minimise the headache in respect to currency fluctuations¹⁴².

These benefits should be clearly spelt out with regards to management, in this respect the fund should be managed independently by an autonomous agency that is staffed purely through a merit and experience based system. Because there is need for ownership of the projects the staffing of the organ should be based on positive negotiated quotas by each state so as to ensure country specific contexts and concerns are addressed. The board should however be composed of

¹⁴² East African Charter - 1999

equal membership to ensure that each country is equally represented each with equal voting powers appointed by each sending state, and a non-executive position for the chief executive who should be competitively appointed to give administrative perspective.

The fund can later on be expanded to include informal sector contributors and make provisions which would attract especially small/large scale cross border business women/men. This can later be upscaled to ensure that there is only a single social security fund for the region.

The social insurance component of SP can follow in similar vein but the social assistance component would be much more difficult to institute because it would primarily speak to the non-contributory component of Social Protection. This quite frankly would be the region's Goliath and would need as a basis a Social Protection Basket Fund¹⁴³ for the region where states would contribute towards the most vulnerable in the region. The fund again would need structures that embody meritocracy, transparency and non-bias. The fund start off as targeted and look specifically at cross border population say the Maasai or Luo nations who are plunged in extreme poverty. Discretion might however remain with states to make the determinations and then make applications from the basket fund which in this case should have country offices to make determinations on vulnerability and therefore be the final application submitting authority to the regional basket fund. This would ensure two levels of checks where the country would make a determination then forward it to the country office which would in turn make a submission to the regional office which would make a determination.

¹⁴³ Piloting the Scale Up of the Malawi Social Cash Transfer, (2007), UNICEF, Lilongwe

The process which looks like might have too much red tape should be simplified through country Management Information Systems (MIS)¹⁴⁴ which should again speak to the regional office and ensure for faster and easier determination of beneficiaries. The system also building in efficiencies of targeting, disbursement of funds and provide a level of accountability and control mechanisms for programmes.

Payment systems should try as much as possible to embrace technology especially mainstream pay points to ensure easier access of the funds by beneficiaries from anywhere in the region. A leaf can be borrowed from South Africa which incorporates a number of identification techniques and pays beneficiaries through either pay points or directly into bank accounts that charge minimal fees¹⁴⁵. The point of genius here is to negotiate with VISA and MasterCard for instance to ensure that multiple pay points can be accessed by brandishing say cards with the logo. This is an easily identifiable and widely accepted mark that facilitates cross border payments and access to funds. The added advantage of this is the beneficiary integrates into main financial structures which also allows for accrued benefits such as credit.

The selling point and buy-in for the non-contributory schemes will be quite a challenging one, but one thing that might work well is the basket funding regime which would bring about a collective ownership of the fund and the ability for states to seek funds for the poor and vulnerable without necessarily touching their national kitty.

The operational term here would have to be increased budgetary allocation by states towards the national security fund as well as towards the basket fund. This should run in tandem with

¹⁴⁴ Baldein C. and Arribas-Banos, (2008) *Management Information Systems in Social Safety Net Programs: A Look at Accountability and Control Mechanisms*, World Bank, Washington

¹⁴⁵ *Child Support Grant Evaluation* (2010), Qualitative Research Report, South Africa Social Security Agency, Department for Social Development in the Republic of South Africa and UNICEF.

increased coverage of programmes as well as increase in benefits. These should have progressive realisation inscribed in their core because the process has to be done in a manner that recognises that programmes shall not run from A to Z overnight.

The policy and subsequent legislation that will come into place needs to be futuristic in planning and embrace long-term thinking or strategisation, because programmes such as these tend to be long drawn out in so far as consensus on policy accords, domestication procedures, negotiated representation, institutional set up, capacity building and resource endowment are concerned.

Critical to the process will be legitimacy of the process. This can only be achieved by increasing citizen participation in the processes at all levels to increase accountability and transparency of system. This builds both access and ownership of the programme from the grassroots. This can be understood from the demand side (grassroots) as compared to the supply (government) side. Clear structures for engagement and deliberation have to be consciously set up while space for this engagement deliberately created. The participation has to start right from the design of programme and continue through to roll-out and implementation. For instance, in Kenya the Social Protection policy during development and review had a Steering Committee that brought in development partners, civil society organisations, government and other relevant stakeholders¹⁴⁶.

During the roll-out the community based targeting method was a way of incorporating input from communities in the implementation phase of the policy¹⁴⁷. Lastly, the Social protection Sector Review was a way of evaluating the progress made by the policy in terms of

¹⁴⁶ Kenya Social Protection Review, June 2012, Republic of Kenya Ministry of State for Planning, National Development and Vision 2030

¹⁴⁷ Ibid

implementation. This process ensures that there is citizen participation at every level and builds legitimacy in the process. No doubt a key expenditure will have to go into awareness to address the issue of knowledge of entitlements and access to programmes by the beneficiaries and communities.

4.3 Country and Policy Realities in the EAC

At present the proposals set out above are futuristic and can either be engaged with in place of national policies which are non-existent except in Kenya. Most of these are at a stage of negotiation and stakeholders are grappling with national definitions. The AU SPF together with other international instruments have come up with definitions which are seemingly widely acceptable and can be used to shape a regional definition that is cognisant of the regional context. Kenya for instance refers to the AU SPF and ILO SPF as guiding documents for the policy¹⁴⁸. These frameworks could then be used in the region together with other operational definitions and concepts such as portability, vulnerable and marginalised groups to coin appropriate policy engagement principles including a minimum standard or package of benefits. Of course these have to be negotiated to ensure that a dignified living standard is agreed upon, that embraces social justice and social equity.

At this stage however, Social Protection is regarded as a stately duty that fosters popularity politics but at the same time creates opportunity costs to government. This means that states are busy creating their own systems and structures because of the current low coverage of the programmes. These programmes are often fragmented and do not speak to one another¹⁴⁹.

¹⁴⁸ Kenya Social Protection Policy - 2012

¹⁴⁹ Kenya Social Protection Review, June 2012, Republic of Kenya Ministry of State for Planning, National Development and Vision 2030

Different line ministries address Social Protection and because many governments argue that they do not have enough resources to roll-out programmes development partner agendas are put at the fore of national priority. Therefore Social Protection reads anything from agricultural extension services to school feeding programmes that do not complement each other or accrue benefits to vulnerable and marginalised groups.

States will therefore continue to invest in their own systems for the time being as they look to increase coverage and beneficiary numbers in their own countries. Because programmes have substantial amounts of development partner funding them, one cannot rule out the externally driven agenda to institute certain policy orientations that do not necessarily build on regional concerns or regional policy priorities. This is also true of domestic political contexts and processes. The EAC politics are yet to evolve from populist politics to issue based. Unfortunately, democratic processes are still dogged by ethnic affiliations, constitutional reviews, national rivalries to name but a few.

In any case, an opportunity exists here for the policy debate to continue because portability has been the mainstay of social security debate in the EAC region. What constrains the process is nationalistic interests and the politics of inclusion of different vulnerable groups without compromising government legitimacy.

CHAPTER FIVE

CONCLUSION

5.0 Introduction

This chapter winds the discourse of the paper presented. The reflections presented here represent findings from research that has been collected and conclusions drawn from these findings. They do not in any way presume to be exhaustive of the matter and leave room for further inquiry into the subject of Social Protection and the portability of benefits within the region.

As alluded to earlier Social Protection is in no way a new concept but only embodies a new approach and terminology. The institutionalisation of Social Protection in many ways addresses the incorporation or formalisation of indigenous coping mechanisms with new ones derived from contemporary realities.

This process of institutionalisation is critical because of the need to expand the coverage of programmes in a formal manner and therefore the need to have in place more robust structures and institutions that address the needs of the most vulnerable. This coverage is not limited to national but rather of a regional nature and expansion at country level should run in tandem with regional expansion plans.

It is imperative therefore as a first step to build on the structures that already exist and strengthen capacity and resources for the same. This should be reinforced by policy, legislation and clear implementation strategies with concise time lines. Given the propensity of Social Protection and increasing interest among development partners and governments (political will), it is prudent to capitalise on the current momentum while bolstering pre-existing efforts.

Basic minimum packages are required as a point of departure towards ensuring a basic dignified standard of living. This basic minimum can be enshrined in law with sufficient operational provisions (financial and human resource) made for its efficient and effective implementation. These should cover a broad range of vulnerable and marginalised groups to ensure livelihood guarantees and well as efficient coping mechanisms that are not only engaged during periods of emergency. Social Protection has the potential to ensure that risks and stresses are cushioned through fore-planning and contingency mechanisms that forestall catastrophes and especially for the region.

Regional integration seems like the best chance to concretise the Social protection agenda for the region. Unfortunately, the process seems to have gone into a drag and therefore an interim or intermediate process has to be engaged to ensure that structures are forward looking in terms of dealing with current realities while being futuristic in their approach. Social protection can be the key to unlock the regional disparity of economic endowment as far as ensuring a dignified standard of living and an ability to cope with shocks and stresses is concern. A well designed programme commencing from already institutionalised programmes (Social Security) can be piloted with the aim of upscaling it and further developing the social insurance and social assistance component of Social Protection.

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Appendices

Guiding Questions

1. Are there any plans to develop legislation and/or policies on Social Protection?
2. How can one distinguish between Social protection and Services?
3. What practical steps are being engaged in to address the informal sector?
4. How do regional Social protection instruments interact with National country policies?
5. What are the underlying factors impeding regional integration?
6. What opportunities exist for citizen participation in Social protection programmes?
7. What are the key development partner interest areas for the coming five (5) years?
8. What patterns are emerging as core focus for the post-MDG dispensation?
9. What are the key government plans with regards to Social Protection?