

REPUBLIC OF KENYA



RESPONSES TO THE QUESTIONS ON

**SOCIAL PROTECTION AND SOCIAL SECURITY AND
EDUCATION, TRAINING, LIFE-LONG LEARNING AND CAPACITY BUILDING**

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RESPONSES TO THE QUESTIONS ON SOCIAL PROTECTION AND SOCIAL SECURITY AND EDUCATION, TRAINING, LIFE-LONG LEARNING AND CAPACITY BUILDING

SOCIAL PROTECTION AND SOCIAL SECURITY (INCLUDING SOCIAL PROTECTION FLOOR)

- 1. What are the legal provisions in your country that recognizes the right to social security and protection, including non-contributory and contributory old -age benefits? Do they have a constitutional, legislative or executive foundation?***

Legal Provisions that recognize the Rights to Social security

The Constitution of Kenya Article 43(1)(e) provides Rights to social Security. Social Security in Kenya is governed under the National Social Security Fund (NSSF) Act, 2013 in coordination with other provisions such as; National Hospital Insurance Fund (NHIF) Act No. 9 of 1998, National Social Security Fund (NSSF) Act No.24 of 2013, Social Assistance Act No.24 of 2013, Persons with Disabilities Act of 2003, Public Service Superannuation Scheme of 2012, and Retirement Benefits Act of 1997. The Fund is contribution-based and mostly covers workers in the formal sector.

Social Security in Kenya is provided under three categories; Public Schemes such as the civil servants pension fund; the occupational schemes for employers for their employees and are underwritten by private insurance companies and individual schemes underwritten by insurance companies, premiums paid based on anticipated benefits after risk calculations.

The contributory Social security

The fund provides benefits for the workers and their dependents. Benefits include retirement pension, invalidity pension, survivors benefit, funeral grant and emigration benefit.

It is however worth noting that the greater percentage of workers is in the informal sector and efforts are underway to incorporate them in the contributory schemes.

Non-Contributory Social Protection

Social protection programmes are anchored in the Constitution of Kenya (CoK, 2010) under the following;

- Article 43 (3) of the Constitution of Kenya stipulates that the State shall provide appropriate Social Security to persons who are unable to support themselves and their dependants.
- Article 21(3) obligates the State to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth and members of minority or marginalised communities.
- The Kenya blue print, Vision 2030 under Chapter 4 section 6 on Gender, Youth and Vulnerable Groups establishes a consolidated fund for cash transfers to orphans and vulnerable children and elderly.

Current status of the legal frameworks for Social Protection

- Currently, the Government is in the process of reviewing the Social Assistance Act, 2013 in order to capture emerging trends in the sector.

Availability

- 2. What steps have been taken to guarantee universal coverage, ensuring that every older person has access to social security and social protection schemes including non-contributory, contributory, and survivor old age pensions, to ensure an adequate standard of living in older age?***

The Government implements various social assistance programmes in the country in form of Cash Transfer programmes as part of the overall Social Protection interventions. The three cash transfer programmes being implemented are;

- (i) The Older Persons Cash Transfer Programme (OPCT);
- (ii) Persons With Severe Disabilities Cash Transfer (PWSD-CT) Programme, and The Cash Transfer for Orphans and
- (iii) Vulnerable Children (CT-OVC)

This is carried out through non-contributory social assistance to individuals and households taking care of poor and vulnerable persons. The main aim of the programmes is to mitigate chronic or shock-induced poverty, address social risks and reduce economic vulnerability as they enable poor people meet their basic consumption needs and improve individuals' livelihoods.

The cash transfer for older persons started in 3 districts in 2007 with 300 households. This was scaled up in 2009 to cover 44 districts, with 33,000 households.

- In 2011, the programme received further funding and was expanded to cover 36,036 households.
- In 2012/13 the number of households covered had risen to 59,000 in all the sub counties.
- 2013/14 Financial Year, the programme enrolled 105,000 new beneficiaries; leading to a total coverage of 164,000 households.
- 2014/15 Financial Year, the programme had registered 225,000 beneficiaries in all the 290 constituencies.
- 2015/16 Financial Year, the OPCT expanded further to reach a total of 310,000 beneficiaries.
- 2016/17 Financial Year His Excellency the President issued an Executive Directive opening up the Older Persons. The Ministry registered and enrolled of 523,000 persons aged 70 years and above as beneficiaries of the OPCT programme.
- This is the single largest expansion of the programme to date which brought the total number of beneficiaries under the **OPCT to 833,000**.

Health care for old age

- Ministry of Health has established a Unit on Health and ageing to address health issues for the older person.
- Social health protection through Universal Health Coverage (UHC) is one of the flagship projects as per the Kenya Health Sector Strategic Plan (KHSSP) 2014-2018.

- A total of 42,000 households were registered by the National Hospital Insurance Fund (NHIF) under the Government Older Persons Cash transfer program
- Universal Health Coverage (UHC) pilot project was launched towards the end of 2018 in four counties; (Machakos, Isiolo, Kisumu and Nyeri) in line with the Presidential directive under the "Big Four Agenda" whose focus is on (1) Food security (2) Affordable housing (3) Manufacturing and (4) Affordable Health care for all.
- The Government provides basic needs and medical expenses for the elderly inmates to enhance their health as they are in custody.

Q3. What steps have been taken to ensure that every older person has access to social security and Social protection schemes which guarantee them access to adequate and affordable health care and support services for independent living in older age?

- The Government has already launched the Inua Jamii 70+ program, which will see all persons over 70 years get both cash transfer and medical insurance cover

Adequacy

Q4 What steps have been taken to ensure the levels of Social Security and Social Protection payments are adequate for older persons to have access to an adequate standard of living, including adequate access to health care and Social assistance?

- Since inception of the cash transfer programme for elderly persons in Kenya the amount of stipend has progressively increased as the economy improves. At start of the programme in 2007 each beneficiary was being paid Kshs 1,000, then the amount was increased to Kshs 1,500 in 2011 and currently each beneficiary receives Kshs 2000. The amount of transfer is reviewed from time to time.
- Research is undertaken from time to time to inform on the impact of the program and to observe the gaps and advice policy to enhance competency of the social protection program.

Accessibility

Q5 What steps have been taken to ensure older persons have adequate and accessible information on available social Security and social protection schemes and how to claim their entitlements?

To ensure adequate and accessible information on available social protection schemes and how to claim their entitlement the Government has constituted committees such as Constituency Social Assistance Committees (CSAC) and Beneficiaries Welfare Committees (BWC) via which information concerning programs are relayed to the beneficiaries.

The Government has continuously engaged the media, through, televisions; local FM stations and passed messages concerning the programs in a language that local people can understand to raise awareness.

Public education is also provided by Government in collaboration with various stakeholders and partners.

Marking of the United Nations International Days such as International Day of Older Persons (IDOP) and World Elder Abuse Awareness Day (WEAAD) provides an opportunity to inform the communities and inmates on the availability and accessibility of social protection program.

Q6. The design and implementation of normative and political framework related to social security and social protection benefits included an effective and meaningful participation of older persons?

Yes, the Constitution of Kenya , Articles 1(2), 10(2), 69(1xd), the Public participation bill, 2018 and Kenya Social protection investment plan , 2018-2030.

The development of the draft National Policy of Older Persons and Ageing (2014), the Ministry ensured participation of stakeholders and older persons to provide their inputs. The Draft Bill of Older persons (2017) and the Guidelines on the Establishment and Management of Institutions for older persons also enhance participation of older persons.

Equality and non-discrimination

Q7. Which are the measures adopted to ensure equitable access by older persons to social security and Social protection, paying special attention to groups in vulnerable situations?

The Constitution of Kenya (2010) Article 27 indicates that there should be equality and non-discrimination of any persons.

The Government has converted the Older Persons cash transfer programme from being targeted 65 years and above to universal 70 years and above cash transfer programme. That means all those non-pensioners aged 70 years and above were eligible to be registered.

The Government has developed a Vulnerable and Marginalized Group (VMG) framework which emphasis on identification and involvement of the marginalized groups within communities before registration and during implementation of the programme to ensure their inclusion.

Accountability

Q8. What mechanisms are in place to ensure social security and social protection schemes are effective and accountable?

The Government has established a Consolidated Programme Management Information System as the singular system used to manage all the functions of the program. The new system allows for seamless coordination of the programmes' operational functions including Targeting and Registration; Payments; Grievance and Case Management (G&CM); and Monitoring and Reporting.

The Government has put all Cash Transfer Programmes beneficiaries from the card-based payment system, to a new account-based system. The new account-based payment system is based on the principles of choice, flexibility, access, affordability and financial inclusion. Beneficiaries will have a choice of four banks from which they will select one where they will be collecting the cash transfer.

A Call Centre has been established at the Ministry headquarters to handle case management, complaints and grievances for the beneficiaries of the Cash Transfer programmes. The centre has working telephone lines including the **toll-free line 1533**.

The Government has put in place the Beneficiaries Welfare Committees (BWC) which comprises representatives of the beneficiaries to voice their issues to the management and also relay information on the programme to beneficiaries.

The following Constitutional committees also enhance efficiency and accountability of the Social protection and security schemes;

- Public account committee of the National Assembly of Kenya
- Public investment committee of the National Assembly of Kenya
- Commission on administrative justice(ombudsman)

Q9. What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for denial of their right to social security and social protection?

The Government has provided right to access courts, and the rights under chapter four of the Constitution of Kenya (2010). The Office of the Ombudsman, Kenya National Human Rights Commission (KNHRC), National Gender and Equality Commission among others.

RESPONSE TO QUESTIONS ON EDUCATION, TRAINING, LIFE-LONG LEARNING AND CAPACITY BUILDING.

National Legal Framework

1. In your country/region, how is the right to education, training and life-long learning and capacity building in older age guaranteed in legal and policy frameworks?

The Constitution of Kenya (2010) provides the right to education to the older persons in the following articles;

- Article 43 (1) (f) states that every person has the right to education.
- Article 57 (b) obligates the State to take measures to ensure the right of older persons to pursue their personal development.

In addition to the provisions from the Constitution, other legislative documents include;

- Basic Education Act 2013 which recognizes the provision of adult and continuing education and promotion of life-long learning.
- Sessional Paper No. 2 of 2015 on Education and Training addresses issues on education and training and life-long learning for older persons.
- The County Governments Act 2012 Cap 87 (a) envisages citizens participation through protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant information.
- The County Governments Act 2012 Cap 99 (1) envisages provision of civic education for an informed citizenry that actively participates in governance affairs of the society on the basis of enhanced knowledge, understanding and ownership of the Constitution.

The achievements made by December 2018, a total of 18,185 older persons comprising of 5,456 Males and 12,729 females aged 60 years and above were enrolled in adult education centers across the country.

Kenya as a Country is committed to addressing the achievement of the Sustainable Development Goals (SDG). In particular, the Sustainable Development Goal (SDG) 4 aims to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all including the older persons.

Availability, Accessibility and Adaptability

2. What are the key issues and challenges faced by older persons in your country/region with regard to the enjoyment of all levels of quality education, training, lifelong learning and capacity building services?

The inadequate awareness of the importance of adult education leads to negative perception of the adult and continuing education program that could result to Social exclusion of the enrolled adults.

Inadequate funding and lack of capitation grants for adult education learners.

The human resource issues also pose a challenge to adult education due to shortage of instructors to provide learning for the older persons. There is also a shortage of teaching and learning material resources. A proposal has therefore been presented to the Public Service Commission for recruitment of 25,000 additional instructors to attain at least one instructor per sub-location.

The health related complications that are common to the older persons and non-communicable diseases including poor eyesight, hearing impairment and difficulties in walking discourage the older persons from engaging in adult education.

The insufficient data on older persons and especially those in need of continuing education leaves the older persons need for education unaddressed.

Older persons with disabilities have not been mainstreamed in adult education programmes due to lack of trained special needs education instructors.

As for elderly inmates, the challenges include; inadequate educational facilities such as equipped classes and teaching aids, shortage of the teaching personnel in the correctional centres.

3. What steps have been taken to ensure that education, training, lifelong learning and capacity building services are available and accessible to all older persons, adapted to their needs, suited to their preferences and motivations and of high quality?

The Government has enhanced legislative measures by Gazettement of adult and continuing education centers to ensure high quality of education.

In addition, the development of the Adult Basic Education Curriculum that suits the older person's needs such as integration of income generating activities and provision of vocational skills in the literacy program motivates the adult learners. The project is implemented in 5,340 adult education centres across the Country.

The Government has invested in development of Community Learning Resource Centres for promotion of life-long learning and creation of literate environments in the communities for availability of capacity building services to the adult learners. A total of 217 Community Learning Resource Centres were established by December 2018.

The formation of institutional framework such as the Directorate of Adult and Continuing Education has promoted the employment of instructors and development of Learner Generated Materials to provide capacity building suitable for the adult learner's preferences. The materials were developed through tapping and documenting indigenous knowledge possessed by the older persons.

The Directorate established men/women only classes where cultural practices inhibit participation of both gender in the same class.

To increase publicity and advocacy campaigns, the International Literacy Day Celebrations are held in all the 47 counties in the Republic annually. This provides awareness creation for the adult learning program country wide including the marginalized communities.

The Directorate has also enhanced partnerships, collaboration and networking with line ministries, development partners, Non-Governmental Organizations (NGOs), Community based Organizations (CBOs), Faith Based Organizations (FBOs) and the private sector for resource mobilization and improvement of the quality of the adult education program.

The steps taken to address the challenges for elderly inmate learners are to identify staff and inmates who aid in teaching older inmates and establishment of shift classes.

4. In your country/region, are there studies and/or data available on the access of older persons to the right to education, training, life-long learning and capacity building in older age?

The available data is from the Ministerial quarterly and annual reports that indicate the numbers of registered older persons in education adult classes as 18,185 comprised of 5,456 Males and 12,729 females.

The Survey and population census reports also could provide some quantitative information on adult learners.

Scholarly research reports by various scholars and academicians in institutions of higher learning are also a source of data for adult learning.

Accurate available data for adult learners in correctional institutions among elderly inmates indicates that 210 are beneficiaries of the life-long learning and capacity building.

Equality and non-discrimination

5. In your country, is age one of the prohibited grounds for discrimination in relation to education in old age?

(a) Yes, Article 27 (4) of the Constitution of Kenya articulates that the state shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, ethnic or social origin, age, disability, religion, conscience, belief, dress, language or birth. No learner seeking admission should be turned away.

In correctional institutions all it is prohibited to discriminate the older inmates from access to education, therefore all inmates have the right to access education.

Accountability

6. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to education, training, life-long learning and capacity building?

The Government provisions for older persons to lodge their complaints and seek redress for denial of their rights to education are;

- Public forums through relevant ministries such as Ministry of Interior and Coordination of National Government, complaints to County Governments on any matter under the responsibility of the County Government as provided for by the County Governments Act Cap 88 (1).
- Complaints to Ethics and Anti-corruption Commission and the Office of the Ombudsman (Commission on Administrative Justice).
- Use of suggestions/complaints box.

The Kenya Prison services have a complaints section in all stations to record grievances arising from inmates including those that concern their capacity building. The grievances are then forwarded to the relevant authorities for action.