



**MINISTRY LABOUR AND SOCIAL PROTECTION
STATE DEPARTMENT FOR SOCIAL PROTECTION
DEPARTMENT OF SOCIAL DEVELOPMENT**

**GUIDING QUESTIONS FOR DEFINING THE NORMATIVE CONTENT OF THE ISSUES
EXAMINED AT THE TENTH WORKING SESSION OF THE OPEN-ENDED WORKING
GROUP**

**SOCIAL PROTECTION AND SOCIAL SECURITY (INCLUDING SOCIAL PROTECTION
FLOORS)**

Definition

- 1. What is the definition of the right to social security and social protection (including social protection floors) for older persons in the national legislation in your country? Or how should such a right be defined, considering existing national, regional and international legal framework?**

Article 43 of the Constitution of Kenya guarantees all Kenyans their economic, social, and cultural rights. It asserts the right for every person to social security and binds the State to provide appropriate social security to persons who are unable to support themselves and their dependents. The Constitution emphasizes the direct application of international agreements ratified by Kenya which recognizes social protection as a fundamental human right for all citizens of the world.

The Kenya Social Protection Policy (2011) refers to social protection as, policies and actions, including legislative measures, that enhance the capacity of and opportunities for the poor and vulnerability to improve and sustain their lives, livelihoods, and welfare, that enable income-earners and their dependents to maintain a reasonable level of income through decent work, and that ensure access to affordable healthcare, social security and social assistance.

Other legislations, policies and programs which provide for social protection include; Cash Transfer Program for Older Persons, National Social Security Act No. 45 of 2013, National Hospital Insurance Fund Act (CAp255) and Social Assistance Act (2013) Cash Transfers for Older Persons is one of the social protections floors interventions that targets older persons who are seventy years and above.

Scope of the right

- 2. What are the key normative elements of the right to social protection and social security for older persons? Please provide references to existing standards on such elements as below, as well as any additional elements:**



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a) Availability of contributory and non-contributory schemes for older persons

- Non-contributory schemes are Cash Transfer for Older Persons
- Contributory schemes are; National Social Security Fund which is governed by the National Social Security Fund Act, 2013; National Hospital Insurance Fund governed by the National Hospital Insurance Fund Act (CAP255); Retirement Benefit Schemes regulated by the Retirement Benefits Authority.

b) Adequacy of benefits to guarantee older person's access to an adequate standard of living and adequate access to health care.

Over the years, the amount disbursed through the Cash Transfer program has gradually increased. The program started with a monthly stipend of Ksh 500 in 2007 which was increased to Ksh 1,500 in 2011 and currently is at Ksh 2,000. Affordability of premiums for the National Health Insurance Fund (NHIF) has been kept quite low at ksh 500 per month translating to ksh6,000 per annum. Hence older persons have been able to access health care through the NHIF.

c) Accessibility, including older person's coverage by social security systems, eligibility criteria, and affordability of contributions

The numbers of older persons in the Cash Transfer Program had been increasing over the years. In the year 2017, the expansion plan targeted all persons aged 70 years and above.

d) Equitable access by older persons to the enjoyment of the right to social security and social protection, paying special attention to groups in vulnerable situation

Through the equalization fund, areas with the highest poverty levels have been targeting more beneficiaries into the cash transfer programs.

e) Participation of older persons in the design and administration of the social security system.

The national values and principles of governance in Article 10 of the Constitution of Kenya, bind all State organs, State officers, public officers and all persons whenever any of them makes or implements public policy decisions, should ensure participation of the people. Older persons participate in the targeting, enrolment and management of the Older Persons Cash Transfer Program.



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State obligations

- 3. What are the measures that should be undertaken by the State to respect, protect and fulfill the right of social security and social protection for older persons, regarding the normative elements as provided above?**
- i. Intensify awareness creation to workers on saving and investing for old age.
 - ii. Promote and strengthen comprehensive social security schemes in all sectors.
 - iii. Facilitate the formation of community-based structures that encourage membership of Older Persons to social and health insurance schemes.
 - iv. Decentralize and strengthen health care to ensure easy access by Older Persons within their local environment.
 - v. Mobilize communities to ensure meaningful involvement and participation in management of their life-long health care needs
 - vi. Increase budgetary allocation to cover all older persons in cash transfer and other social protection initiatives.
 - vii. Institute a National Council for Older Persons.

Special considerations

- 4. What special measures and specific considerations should be considered in developing the normative content of the right of older persons to social protection and social security?**
- i. Incorporate geriatrics and gerontology research and studies in the education and training curricula.
 - ii. Ensure social assistance programs targeted for older persons reach all older persons equitably.
 - iii. Provision of affordable healthcare to older persons.
 - iv. Facilitate access to geriatrics health care services.
 - v. Collect information and statistics on Older Persons including those with disabilities to inform policy and program development.
 - vi. Establish a framework and strategy for partnering with representative organizations of older persons in provision of social protection.
- 5. How should the responsibilities of non-State parties such as private sector be defined in the context of the right of older persons to social protection and social security?**
- i. Resource mobilization for social protection projects and programmes on Older Persons.
 - ii. Provision of technical support to government in implementing social protection programs to older persons.



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- iii. Mobilize Older Persons to facilitate their participation and access to services availed by the Government

Implementation

6. What are the best practices and main challenges faced by your country in the adoption and implementation of the normative framework on social security and social protection for older persons?

Best practices

To ensure adequate and accessible information on available Social Protection Schemes on Government Cash Transfers and how to claim their entitlement, the Government has constituted committees such as Constituency Social Assistance Committees (CSAC) and Beneficiaries Welfare Committees (BWC) through information concerning the programs is relayed to the beneficiaries. The Government has continuously engaged the media through; televisions, local FM stations and relayed messages concerning the programs in a language that local people can understand to raise awareness on the cash transfer programs.

Mbao Pension Plan that is a public-private partnership targeting the jua kali / informal sector i.e. informal sector workers, to contribute on an individual voluntary basis. It is regulated by the RBA

The Department of Social Development facilitates the formation and registration of Older Persons Welfare Groups and Community Based Organizations which have developed their own social welfare schemes.

Challenges

- Increase in number of older persons in need of social protection vis-a-vis available resources.
- Climate change increasing vulnerability.
- High prevalence of old age ailments.