TRADE UNIONS AND SOCIAL SECURITY IN EAST AFRICA

Background Report

and

A model code on social security for the East African Community

East African Trade Union Confederation

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Contents

I INTRODUCTION

The world we live in is characterized by numerous unexpected life circumstances. In certain instances, we are faced with the loss or reduction of productive capacity, and discrimination that can hinder our personal or family well-being. As such, we all need protection from social risks and resulting insecurities.

Social security benefits - or social transfers - are powerful tools to combat poverty and inequality, and to invest in social and economic development. As such, they are key to achieve the Millennium Development Goal (MDG) targets.

Social protection, through social security policies that are aligned with economic and labour policies, is an economic, social and political necessity that has been recognized by several international declarations and agreements as a human right.

Through insurance and assistance programmes, social security helps prevent people from falling into poverty and/or escape the poverty trap. As such, they also avoid or lessen social tensions, violent conflicts and uncontrolled migration.

Similarly, social security schemes are also known to be automatic social and economic stabilizers, especially in times of economic crisis.

> There has been widespread consensus in most industrialized countries that growing prosperity should be accompanied by an improvement in the social protection of their populations. There is no successful industrialized country in Asia, Europe, North America or Oceania without a fairly extensive social security system… Many of the most successful economies in the world, such as Denmark, France, Germany, Norway, Sweden and the Netherlands, have the highest levels of social expenditure measured as a percentage of GDP, generally amounting to between 25 and 30 per cent of their respective national incomes.

Source: (ILO 2011: para 66)

The right to social security

Social security is a human right and is enshrined as such in the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), and in other major United Nations human rights instruments (see Figure 1).

On the part of the International Labour Organization (ILO), the achievement of social security for all is at the core of its Constitution and mandate. For instance, the Declaration of Philadelphia (1944), which is an integral part of the ILO Constitution, recognizes that the extension of social security worldwide is one of the Organizations' main objectives. More precisely, it recognizes the solemn obligation of the ILO to further among the nations of the world programmes that will achieve, inter alia, "the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care", as

well as "provision for child welfare and maternity protection", thereby extending the protection from workers to all those in need.

Since its establishment in 1919 the ILO has adopted over the years a number of Conventions and Recommendations on social security. Significant turning points in social security policy development can be traced to the adoption of the Income Security Recommendation, 1944 (No. 67), and the Medical Care Recommendation, 1944 (No. 69), which laid down a new doctrine of universality as the basis for the development of social security.

These two Recommendations reflected a fundamental change in approach to social security policies, as focus shifted from the social security protection of *workers* to the protection of the *whole population*. They laid the basis for the adoption of social security as a human right in the Universal Declaration of Human Rights in 1948 and, some years later, in the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1967. Over many decades the ILO has actively and consistently sought to translate what the right to social security means in changing and diverse social and economic contexts across the world.[1] The ILO's Social Security (Minimum Standards) Convention, 1952 (No. 102), was a breakthrough in defining the nine branches of social security, in setting minimum standards for each and in setting standards or guidelines for the governance and sustainability of social security schemes (ILO, 2009).

The ILO promotes a rights-based approach to social security with ILO standards as its principal means of action for assisting Partner States towards the realization of this right.

The ILO also adopts further initiatives to support international efforts aimed towards the realization of social security for all:

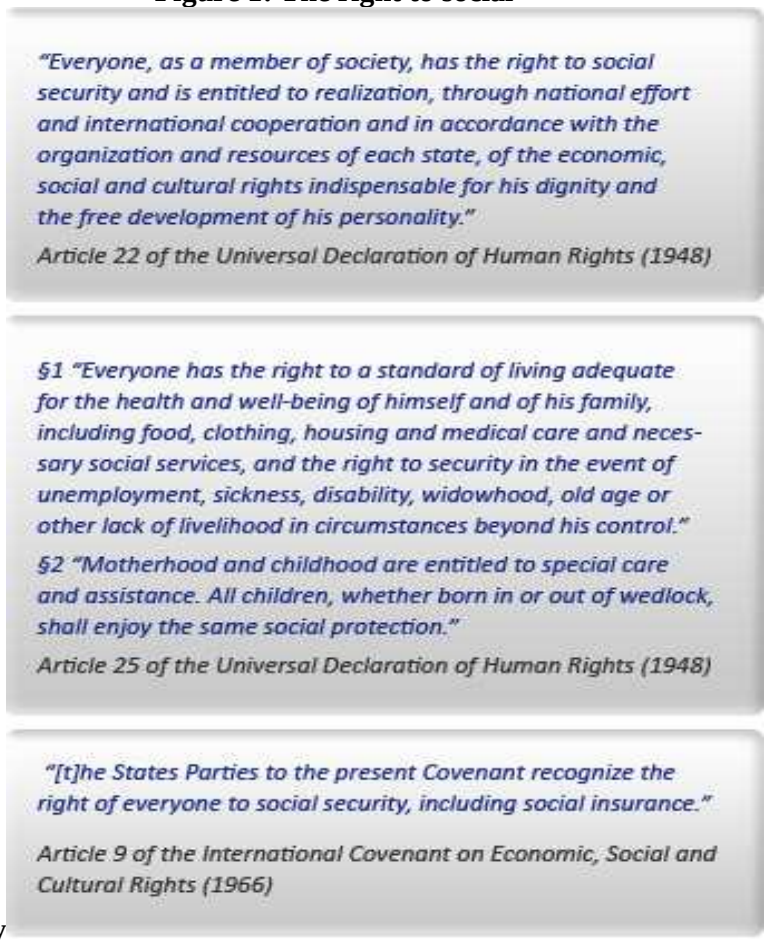
- In 2003, it launched the Global Campaign on Social Security and Coverage for All, reflecting a global consensus on the part of governments and employers' and workers' organizations to broaden social security coverage among working people, particularly in the informal economy, and raising awareness about the role of social security in economic and social development. The campaign also seeks to develop a broad partnership involving international organizations, donor countries, social security institutions and civil society organizations.

- In 2008, the Declaration on Social Justice for a Fair Globalization established a new foundation on which the ILO can effectively support the efforts of Partner States to promote and achieve progress and social justice through the four strategic objectives of the ILO's Decent Work Agenda: the promotion of fundamental rights, employment creation, social protection and social dialogue.

[1] To date, 160 United Nations member States have ratified or acceded to Article 9 of the ICESCR and have thus committed themselves to guarantee for everyone the right to social security within their national boundaries (ILO 2011).

- In 2009, in response to the crises, the ILO designed a framework to guide national and international policies aimed at stimulating economic recovery, generating jobs and extending social protection for all. The Global Jobs Pact specifically calls on countries to give consideration to build "adequate social protection for all, drawing on a basic social protection floor including: access to health care, income security for the elderly and persons with disabilities, child benefits and income security combined with public employment guarantee schemes for the unemployed and working poor."

Figure 1: The right to social security



- In 2011, the Recurrent Discussion on the strategic objective of social protection (social security) at the 100th International Labour Conference came out with strong conclusions regarding the extension of social security to all through national defined social protection floors.

- The Social Protection Floor Initiative (SPF-I), launched in 2009, is also grounded in a rights-based framework. Its concept is based on shared principles of social justice and reflects the call of the Declaration of Human rights for adequate life standards, access to health, education, food, housing and social security. Moreover, the SPF-I enables the concrete realization of human rights. The results of ILO research shows that a social protection floor can be afforded by virtually all countries and that it would constitute an effective tool in the fight against poverty and in reaching the Millennium Development Goals.

Impact of social security

The provision of social security is an effective and important means of reducing poverty and social exclusion as it prevents people from falling into poverty and enables the poor to escape the poverty trap. In the absence of social protection, people, especially the most vulnerable, are subjected to increased risks of sinking below the poverty line or remaining caught in conditions of poverty.

In addition, there is strong evidence that social security fosters long-term economic growth by raising labour productivity and enhancing social stability.

> A series of empirical studies on South Africa clearly shows that social assistance expenditure has promoted investment, economic growth and job creation, and that these expenditures have improved the trade balance. Low-income households spend relatively high proportions of their income on domestic goods and services; hence an increase in their income tends to favour domestic industries. Moreover, there is a direct impact on education, in particular on the school enrolment of girls. This leads in turn to an increasingly productive labour force and a higher GDP [Gross Domestic Product] growth rate.

Source: ILO (2011: para 54).

II TERMINOLOGIES

Social security

The ILO (2009) defines social security as the set of institutions, measures, rights and obligations whose primary goal is to provide – or aim to provide – according to specified rules, income security and medical care to individual members of society. This formulation may be interpreted in relation to societies – nations – as a whole, to social groups and to both formal and informal economies. On an operational level, social protection or social security systems may therefore be understood as incorporating:

■ those cash transfers in a society that seek to provide income security and, by extension, to prevent or alleviate poverty;
■ those measures which guarantee access to medical care, health and social services; and
■ other measures of a similar nature designed to protect the income, health and wellbeing of workers and their families.

The principles embedded in this definition and understanding is that social security is redistributive in poverty reduction and alleviation, prevents social exclusion and promotes social inclusion.

The ILO specifically indicates that such an understanding of social security requires the establishment of non-contributory (for example, tax-financed) schemes, or other social assistance measures to provide support to those individuals and groups who are unable to make sufficient contributions for their own protection and are therefore excluded from more formal social security schemes – mainly those workers (and their families) in the informal economy. Governments, as the main driver of social protection measures, should adopt reforms that progressively include those currently without social protection (ibid., pp. 9–12).

In this case, social security covers all measures providing benefits, whether in cash or in kind, to secure protection, *inter alia*, from
(a) lack of work-related income (or insufficient income) caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member;
(b) lack of access or unaffordable access to health care;
(c) insufficient family support, particularly for children and adult dependants;
(d) general poverty and social exclusion.

Social security thus has two main (functional) dimensions, namely “income security” and “availability of medical care”, which are identified specifically in the ILO Income Security Recommendation, 1944 (No. 67) and the Medical Care Recommendation, 1944 No. 69), respectively, as “essential elements of social security”.

These Recommendations envisage that, firstly, “income security schemes should relieve want and prevent destitution by restoring, up to a reasonable level, income which is lost by reason of inability to work (including old age) or to obtain remunerative work or by reason of the death of the breadwinner” (No. 67, Guiding principles, Paragraph 1). Secondly, “a medical care service should meet the needs of the individual for care by members of the medical and allied professions” and that the “medical care services should cover all members of the community” (No. 69, Paragraphs 1 and 8). This duality is also reflected in the formulation of

the Declaration of Philadelphia which speaks of "social security measures to provide a basic income to all in need of such protection and comprehensive medical care".

Access to social security is, in its essential nature, a public responsibility, and is typically provided through public institutions, financed either from contributions or taxes. However, the delivery of social security can be and often is mandated to private entities. Moreover, there exist many privately run institutions (of insurance, self-help, community-based or of a mutual character) which can assume a number of roles in social security, and important modalities of income security, including in particular occupational pension schemes, which complement and may substitute in considerable measure for elements of public social security schemes.

Entitlements to social security are conditional either on the payment of social security contributions for prescribed periods (i.e. contributory schemes, most often structured as social insurance arrangements) or on a requirement, sometimes described as "residency", under which benefits are provided to all residents of the country who also meet certain other criteria (i.e. non-contributory schemes). Such other criteria may make benefit entitlements conditional on age, health, labour market, income or other determinants of social or economic status and/or even conformity to certain forms of behaviour.

What distinguishes social security from other social arrangements is that:

(1) benefits are provided to beneficiaries without any simultaneous reciprocal obligation (thus it does not, for example, represent remuneration for work or other services delivered); and

(2) that it is not based on an individual agreement between the protected person and provider (as, for example, a life insurance contract) but that the agreement applies to a wider group of people and so has a collective character.

Depending on the category of applicable conditions, a distinction is also made between non-means-tested schemes (where the conditions of benefit entitlement are not related to the total level of income or wealth of the beneficiary and his family) and means-tested schemes (where entitlement is granted only to those with income or wealth below a prescribed threshold).

A special category of "conditional" schemes includes those which, in addition to other conditions, require beneficiaries (and/or their relatives or families) to participate in prescribed public programmes (for example, specified health or educational programmes). In recent years, schemes of this type have become known as conditional cash transfer (CCT) schemes.

The "branches" (or functions) of social security as defined in Convention No. 102 include protection in case of sickness (medical care and income support), disability (medical care, rehabilitation, income support, long-term care), maternity (medical care and income support), employment injury (medical care, rehabilitation, income support), unemployment (income support, active labour market policies), old age (income support, long-term care), or death of a family member (income support). Countries aiming, however, to provide the broadest support to citizens would typically add to their portfolio of social provision functions including income support to secure housing and income support in case of general poverty and social exclusion.

Social protection

The term *social protection* is used in institutions across the world with an even wider variety of meanings than *social security*. It is often interpreted as having a broader character than social security (including, in particular, protection provided between members of the family or members of a local community), but is also used in some contexts with a narrower meaning than social security (understood as comprising only measures addressed to the poorest, most vulnerable or excluded members of society). Thus, in many contexts the terminology "social security" and "social protection" may be largely interchangeable, and the ILO (following the European tradition) certainly uses both in discourse with its constituents and the provision of relevant advice to them.

Social transfer

All social security benefits comprise *transfers*, either *in cash* or *in kind*, i.e. they represent a transfer of income or services (most oft en health-care services). This transfer may be from the active to the old, the healthy to the sick, or the affluent to the poor, among others.

The recipients of such transfers may be in a position to receive them from a specific social security scheme because they have contributed to such a scheme (*contributory scheme*), or because they are residents (*universal schemes* for all residents), or they fulfil specific age criteria (*categorical schemes*), or they experience specific resource conditions (*social assistance schemes*) or because they fulfil several of these conditions at the same time.

In addition, it is a requirement in some schemes that beneficiaries accomplish specific tasks (employment guarantee schemes, public works) or that they adopt specific behaviours (as in CCTs). In any given country, several schemes of different types generally co-exist and may provide benefits for similar contingencies to different population groups.

III SOCIAL SECURITY IN AFRICA: A BRIEF REGIONAL PROFILE

The policy context

In Africa in recent years the policy impetus to promote and expand social protection has been driven by both the ILO and the African Union (AU). The Constitutive Act of the AU adopted by the 36th Ordinary Session of the Assembly of Heads of State and Government on 11 July 2000 in Lomé, Togo reinforced and continues to reinforce the need to promote a common agenda to address issues affecting the people of the continent. Articles 3 and 4 of the Constitutive Act emphasize the promotion and protection of human and people's rights in accordance with the African Charter on Human and People's Rights. Explicit mention is made of the intent to promote sustainable development at the economic, social and cultural levels as well as cooperation in all fields of human activity in order to raise the living standards of African peoples (AU, 2000). The Constitutive Act provides the overall framework within which subsequent discussions on poverty, unemployment and vulnerability are put on the agenda.

Social protection in Africa is gaining momentum and efforts are being made to sustain and expand existing measures, with particular efforts to overcome the problems of exclusion. Important steps have been taken on a number of occasions, and meetings at Ouagadougou (2004), Livingstone (2006), Addis Ababa (2007), Windhoek (2008) and Yaoundé (2010).

At the Third Extraordinary Session of the Assembly of Heads of State and Government of the AU in September 2004 in Ouagadougou, Burkina Faso, poverty and unemployment were high on the agenda. This meeting resulted in the Ouagadougou Declaration and Plan of Action (PoA) whose declared aims are to empower people, open opportunities and create social protection and security for workers through building a people-oriented environment for development and national growth. The PoA envisages that resources would be mobilized for implementation of plans of action at each of the national, regional, and international levels. It recognizes the need to address social development, poverty alleviation and employment creation in a coherent and integrated manner.

Together, the Ouagadougou Declaration and PoA form the current blueprint for the AU strategy on social development. The linking of poverty reduction, productive employment and social protection in the Plan of Action correlate directly with the Decent Work Agenda of the ILO.

The Livingstone Conference held in March 2006 represented yet another turning point in the commitment of African governments to promote social protection as an urgent response to the increasing vulnerabilities of people, in the face of both chronic deprivation and new crises in the region. The Livingstone Call for Action recognizes that a critical requirement for a comprehensive social development agenda is the promotion of an approach that links employment policies and poverty alleviation. The Call for Action adopts the guiding principle that social protection is embedded in both a human rights and an empowerment agenda.

The ILO's 11th African Regional Meeting held in Addis Ababa in April 2007 agreed on the following target related to social security:

> All African countries adopt coherent national social security strategies, including for the introduction or extension of a basic social security package that includes essential health care, maternity protection, child support for school-age children, disability protection and a minimum pension.

The First AU Conference of Ministers in Charge of Social Development, held in Windhoek, Namibia from 27 to 31 October 2008, adopted the Social Policy Framework for Africa (SPF). This framework, noting that levels of investment in and access to social protection are still low in Africa, foresees the gradual building of social protection and social security "based on comprehensive longer term national social protection action plans. Measures will include: extending existing social insurance schemes (with subsidies for those unable to contribute); building up community based or occupation based insurance schemes on a voluntary basis, social welfare services, employment guarantee schemes and introducing and extending public-financed, non-contributory cash transfers."

Under the Social Policy Framework, African countries are encouraged to choose the coverage extension strategy and combination of tools most appropriate to their circumstances. It notes, however, the emerging consensus "that a minimum package of essential social protection should cover: essential health care, and benefits for children, informal workers, the unemployed, older persons and persons with disabilities. This minimum package provides the platform for broadening and extending social protection as more fiscal space is created."

This document also indicates that such 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 African Decent Work Symposium in Yaoundé in October 2010, entitled "Building a Social Protection Floor through the Global Jobs Pact", was attended by delegates from 47 African ILO Partner States, including 26 Employer and 26 Worker representatives. The Symposium adopted the "Yaoundé Tripartite Declaration on the Implementation of the Social Protection Floor" on 8 October 2010.

The delegations called upon governments and social partners in Africa "to undertake decisive steps to improve the level of social security for all in Africa through the adoption of a two-dimensional strategy for the extension of effective social security coverage" as follows:

– "The horizontal dimension should consist of the rapid implementation of national social protection floors, i.e. a minimum package of transfers, rights and entitlements that provides access to essential medical care and provides sufficient income to all in need of such protection".
– "The vertical dimension should seek to provide higher levels of social security – at least in line with the coverage and benefit requirements of the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102) – to as many people in our societies as possible and as soon as possible; based, as a prerequisite, on policies to gradually formalize the informal economies of Africa".

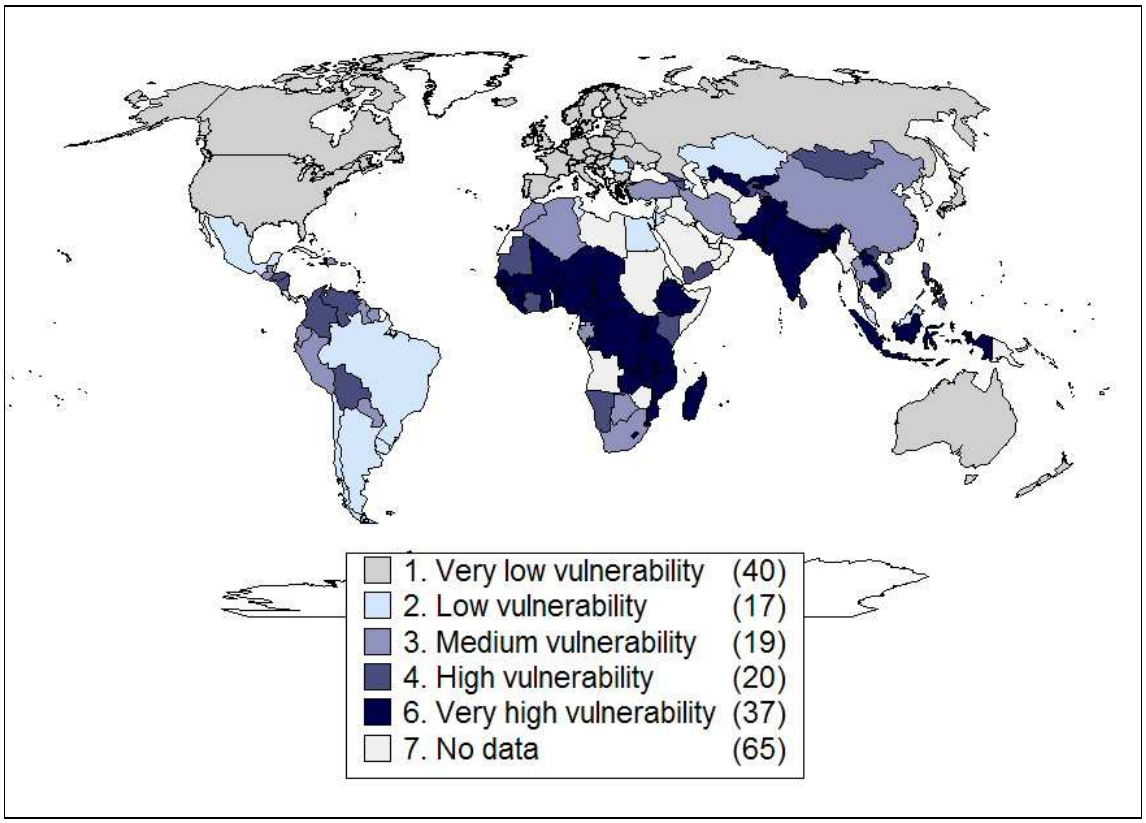
The delegates also called for "reinforce[d] efforts for speedy actions towards the widest possible ratification of Convention No. 102", and requested the ILO "to explore ... the option to introduce a new mechanism that guides countries in national implementation of the Social

Protection Floor". The ILO was invited to play a leading role in developing a strategic plan of action for joint follow-up with African Union, employers' and workers' organizations, and others.

The social and economic context of Africa

Majority of African countries are poor, and in most a major proportion of the population lives below the poverty line. Poverty remains a difficult problem affecting millions of people, despite the progress made in some African countries through steady, albeit slow, rates of economic growth, reflecting stable macroeconomic policy environments. Figure 2 gives an indication of the extent of vulnerability of the context compared to the rest of the world.

Figure 2: Countries grouped by level of vulnerability, poverty and informality combined, latest available year



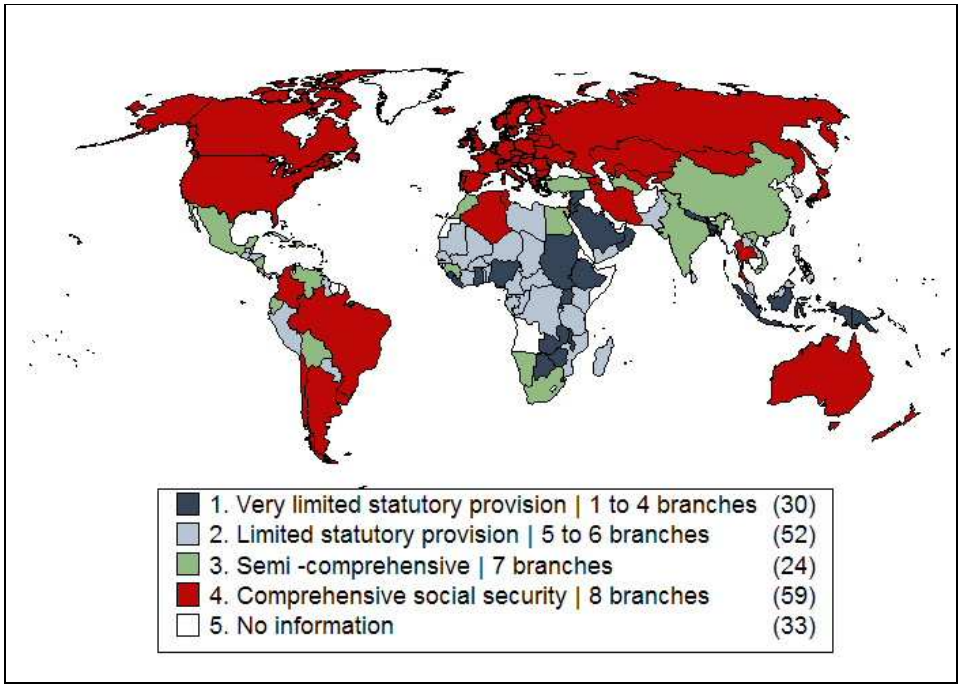
Source: ILO: *World Social Security Report 2010*

There is an urgent need in Africa to mobilize appropriate social protection strategies both to address poverty and at the same time to promote the Decent Work Agenda. This need must be placed in the demographic context, noting Africa's growing population and its total fertility rate. By any measure, poverty in Africa is a major factor and poverty-reducing strategies in the form of social protection are increasingly being seen by policy-makers as a key to making significant impacts on the extent and depth of poverty.

An overview of social security in Africa

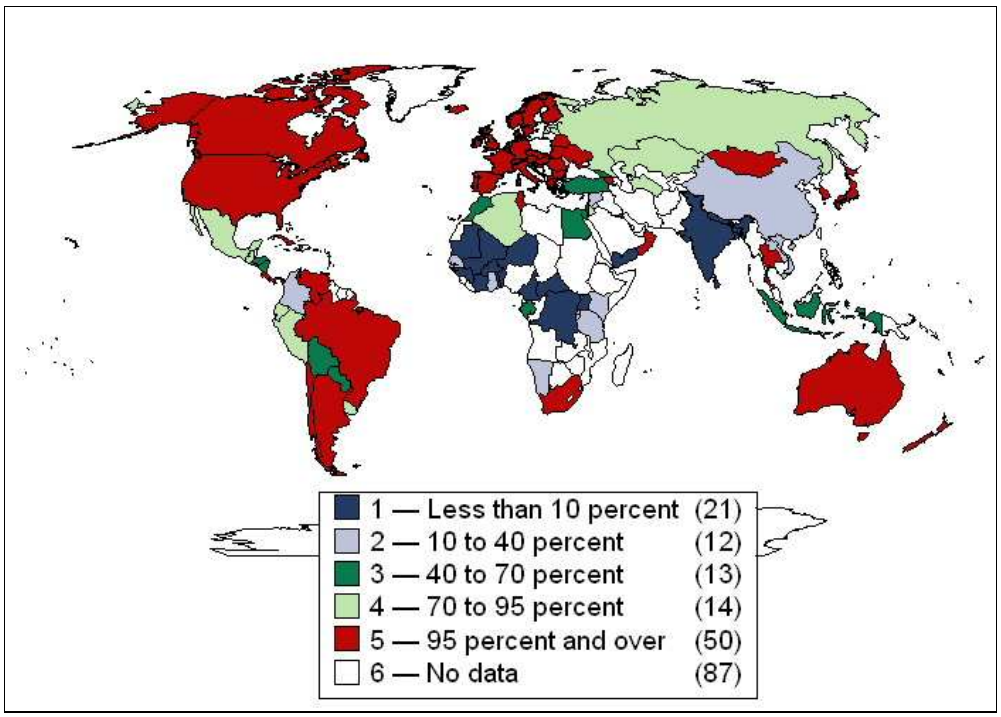
The following figures shows the scope of legal coverage by social security schemes around the world, with the African continent as the region where the smallest portion of the population enjoys access to comprehensive social security systems. In a nutshell, very few people in Africa are covered. In terms of social insurance, less than 10 per cent are covered in Sub-Saharan Africa. And again, those covered are mainly government employees and those who have access to full time formal employment. These statutory social security schemes are often public or publicly regulated to monitor the governance of social insurance schemes and safeguard the interests of contributing members. However, the vast majority of the population does not qualify for or cannot afford to contribute to social insurance schemes primarily due to high and persistent levels of unemployment and the growing amount of informal work. Furthermore, there are significant regional and national differences in the level of development of social security schemes and social protection measures throughout the African continent, which can be divided into three general areas: North Africa, Continental Africa or Sub-Saharan Africa and Southern Africa. Of these three main blocks, two have built social security systems which guarantee at least a minimum social protection package: North Africa and Southern Africa. In North Africa, one of the most developed regions of the continent, ties with Europe played a crucial role in the establishment of pension systems and unemployment benefits (which also cover the self-employed) in the 1950s. The third block, Sub-Saharan Africa, is characterized by a higher level of heterogeneity. Today, this area provides several major examples of social transfer programmes in the continent, with recent governments also trying to reform and extend the social security systems already in place.3 Ensuring that a basic package of social measures is accessible to all those in need and is able to lift them out of poverty thus remains a persisting challenge.

Figure 3: **Number of social security branches covered by statutory programme, 2008-2009**



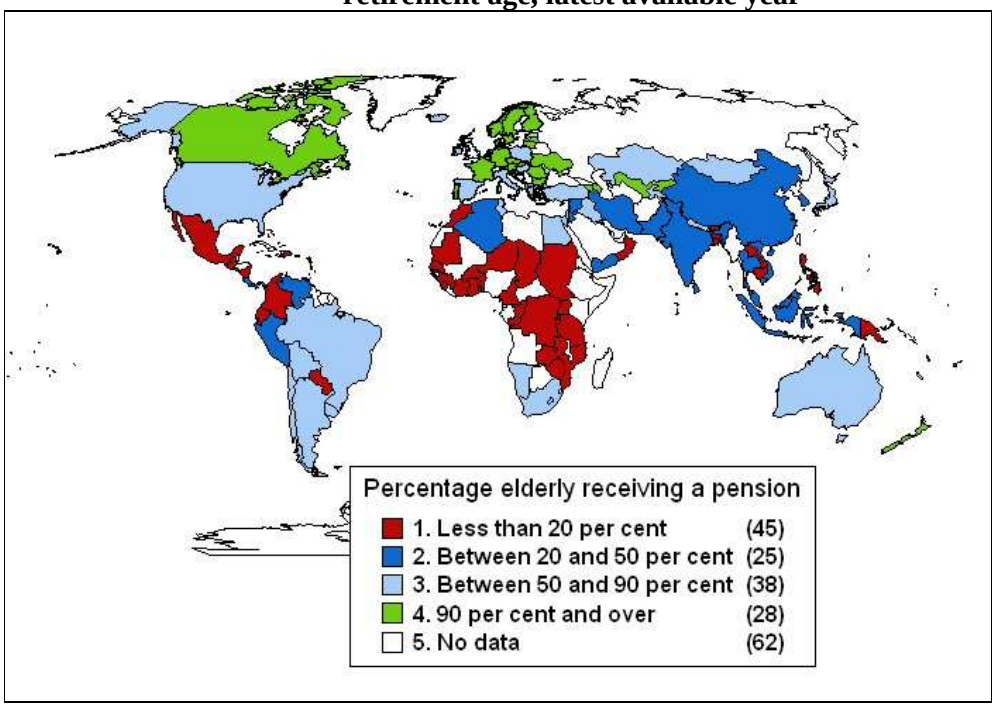
Source: ILO: *World Social Security Report 2010.*

Figure 4: Health protection: Proportion of the population covered by law, latest available year (percentages)



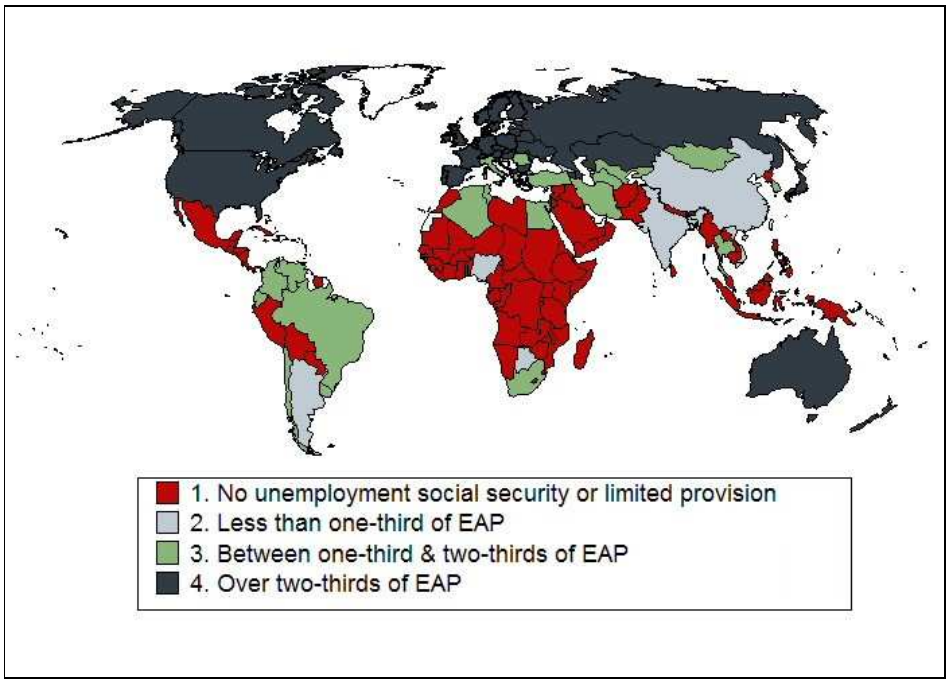
Source: ILO: *World Social Security Report 2010*

Figure 5: Old-age pension beneficiaries as a percentage of the population above retirement age, latest available year



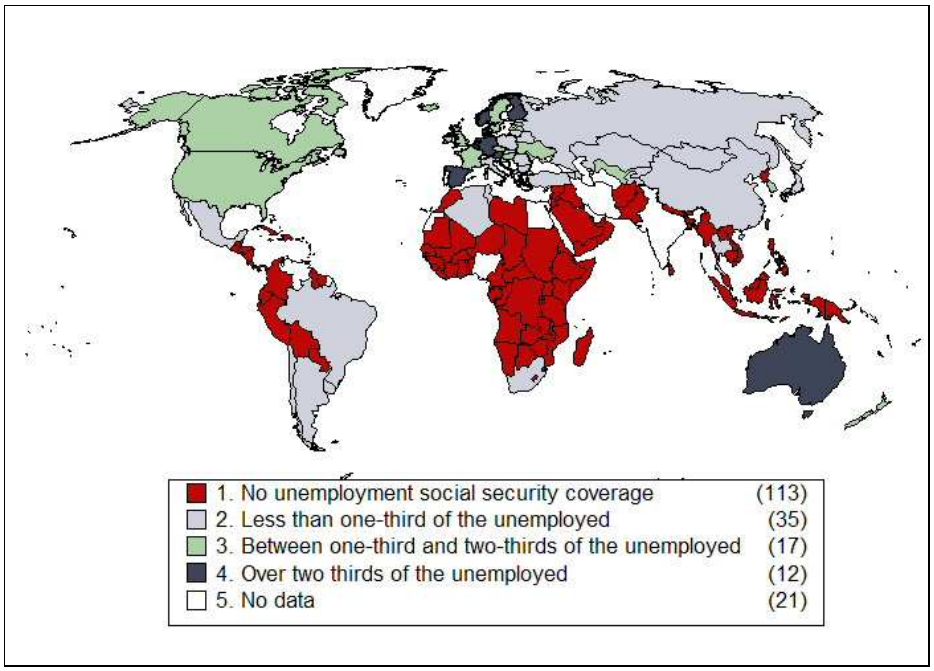
Source: ILO: *World Social Security Report 2010*

Figure 6: Unemployment protection schemes: Legal extent of coverage worldwide as a percentage of the economically active population (EAP), latest available year



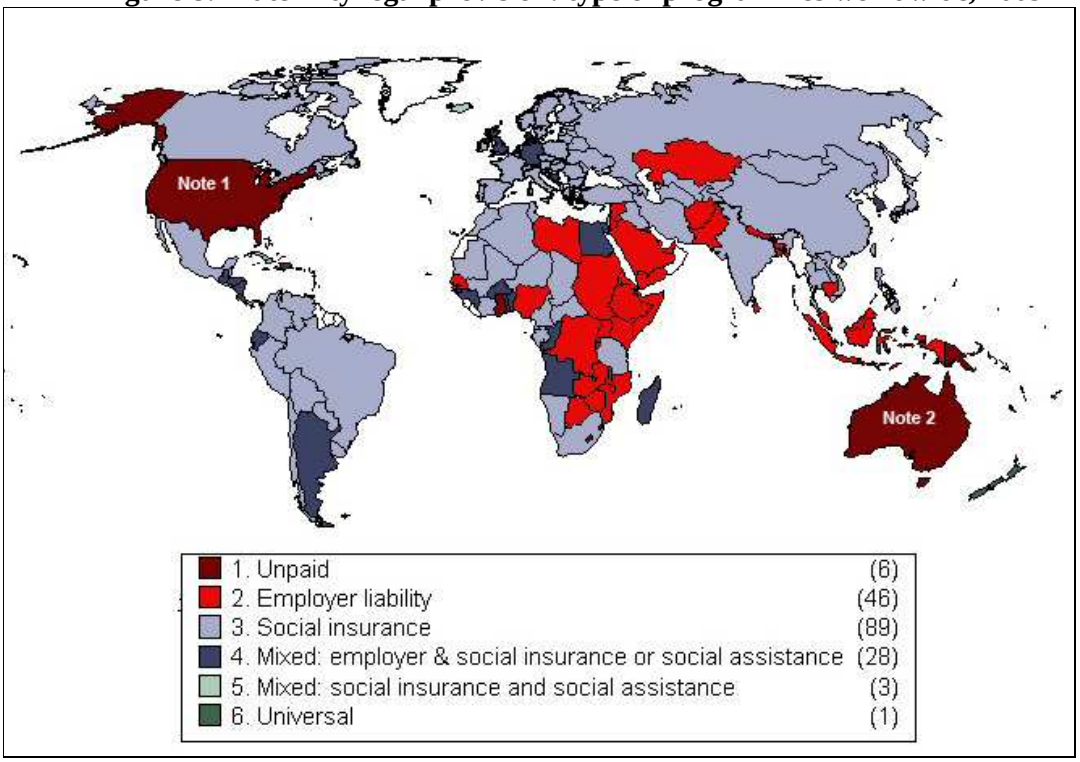
Source: ILO: *World Social Security Report 2010*

Figure 7: Unemployment: Effective coverage worldwide unemployed who actually receive benefits, latest available year (percentages)



Source: ILO: *World Social Security Report 2010*

Figure 8: Maternity legal provision: type of programmes worldwide, 2009



Source: ILO: *World Social Security Report 2010*

Is social security affordable in Africa?

The financial, fiscal and economic affordability and sustainability of social protection systems has become a major concern for countries at all stages of economic development. Hence a few observations are in order at this point to refute the notion that setting up redistributive social transfer systems may be unaffordable in developing countries.

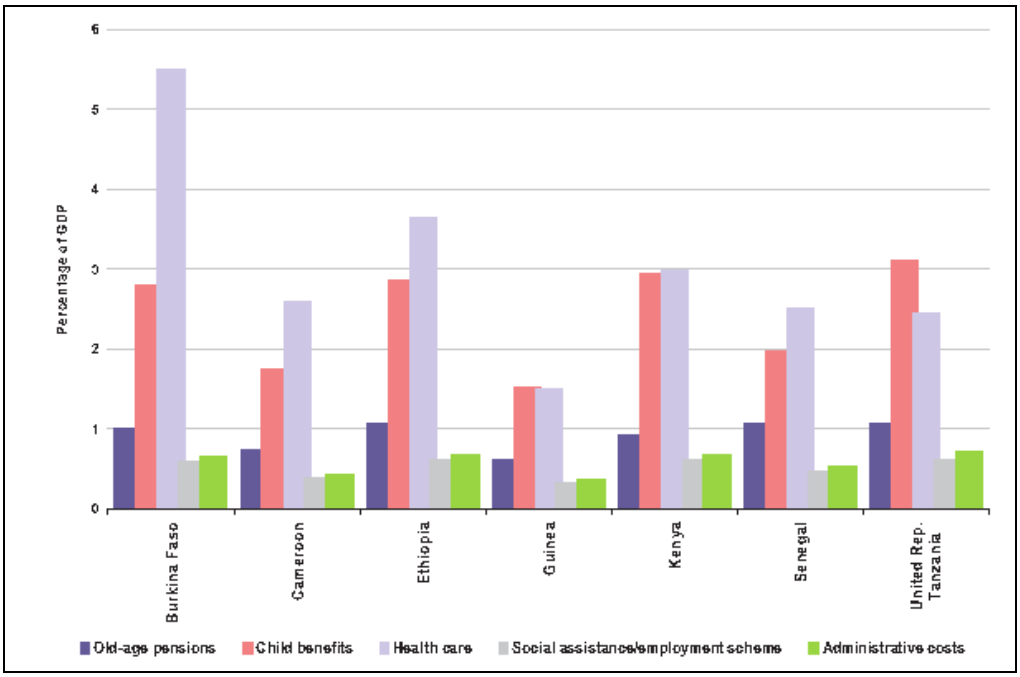
Evidence, from both financial studies and real national experience, shows that some level of social security can be afforded at early stages of national development. Despite their potential positive effects on social and economic stabilization, investments in social security have not been seen to form a significant part of development strategies in low-income countries. It seems that most governments have simply assumed that social transfers are too big a burden on developing economies and would compromise growth.

However, the economic arguments in favour of making resources available for investments in social security are overwhelming. It is noteworthy that the World Bank takes up the theme, in its *World Development Report 2005*, that poverty is a risk to security and lack of security is a hindrance to the investment climate. Beyond argument, productivity is a characteristic of people who enjoy a minimum level of material security and so can afford to take entrepreneurial risks, of those who are healthy and not hungry, and those with at least a reasonable level of schooling. Without basic social transfer schemes that foster health,

adequate levels of nutrition and social stability, a country simply cannot unlock its full productive potential.

The ILO has undertaken two costing studies (ILO, 2008), one in Africa and the other in Asia, that provide a first estimate of the costs of a hypothetical basic social protection package in low-income countries now and over the coming decades. The indicative package included, along with basic child benefits; universal access to essential health care and a social assistance/100-day employment scheme for the poor in the active working-age range, and also a universal basic old-age and disability pension. The studies show that the initial gross annual cost of the overall basic social protection package (excluding access to basic health care that to some extent is financed already) is projected to be in the range of 2.2 to 5.7 per cent of GDP in 2010. Individual elements appear even more affordable (see figure 9).

Figure 9: Costs for components of a basic social protection package for selected countries in Africa, 2010 (percentage of GDP)



Source: Building a social protection floor with the Global Jobs Pact Second African Decent Work Symposium Yaoundé, Cameroon, 6–8 October 2010

The hypothetical annual cost of providing universal basic old-age and disability pension is estimated in 2010 at between 0.6 and 1.5 per cent of annual Growth Domestic Product (GDP) in the countries considered. These costs for 2010 are estimated at, or below, 1.0 per cent of GDP in Cameroon and Guinea, while for Burkina Faso, Ethiopia, Kenya, Senegal and the United Republic of Tanzania the cost estimates fall between 1.1 and 1.5 per cent of GDP. As shown in figure 10 the cost of such pensions would increase only moderately by the year 2030 – despite the ageing process.

Figure 10: Costs for basic universal old age and disability pensions for selected countries in Africa, 2010, 2020 and 2030 (percentage of GDP)

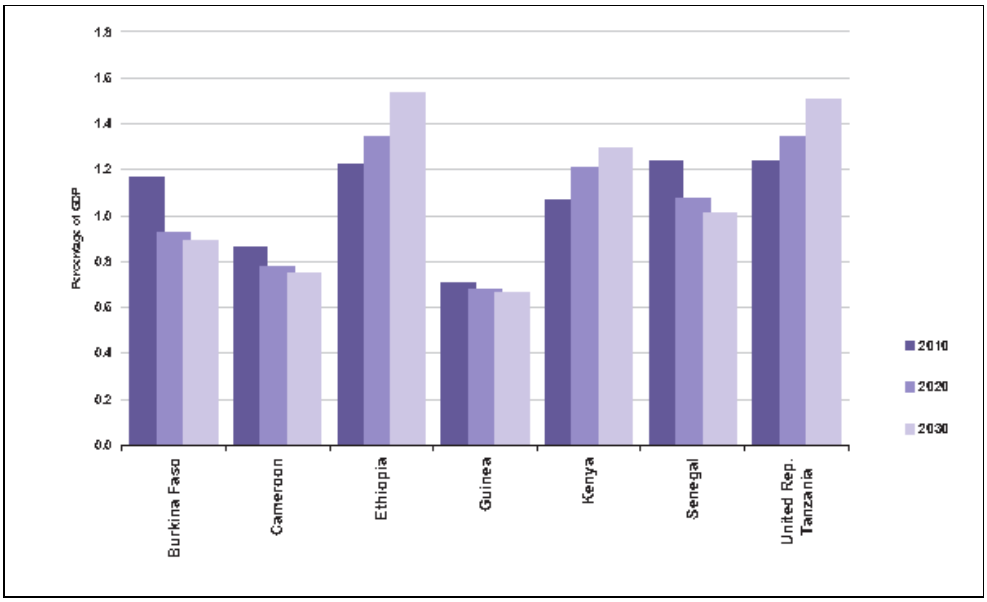


Table 1 below gives the examples of Algeria and South Africa as some of the countries in Africa that have comprehensive social security schemes.

Table 1: Case Studies of operational social security schemes in Africa

A. Old Age, Disability, and Survivors

	South Africa	**Algeria**
Regulatory framework	**First laws:** 1928 (old age), 1936 (blindness), and 1946 (disability). **Current law:** 2004 (social assistance), with 2008 amendment.	**First law:** 1949. **Current laws:** 1983, implemented in 1984, with 1996, 1997, and 1999 amendments; and 1994 (early pension).
Type of programme	Social assistance system	Social insurance system.
Coverage	Persons with limited means who are citizens of South Africa, permanent residents, or refugees with disabilities (for disability benefits only). Exclusions: Persons confined to or cared for in state facilities. Special system for public-sector employees.	All persons employed under a labor contract, household workers, actors, and certain categories of fishermen and apprentices with earnings at least equal to half the legal minimum wage. The legal monthly minimum wage is 12,000 dinars. Exclusions: Self-employed persons. Special systems for armed forces personnel and self-employed persons.
Source of funds	**Government:** The total cost.	**Insured person:** 7% of gross earnings (including 0.5% for the early pension). **Self-employed person:** Not applicable. **Employer:** 10% of gross payroll (including 0.5% for the early pension). **Government:** None; the government subsidizes the minimum pension.
Administrative organization	National and provincial offices of the Department of Social Development	Ministry of Labor and Social Security provides general supervision. National Retirement Fund administers the old-age program for salaried employees. National Social Insurance Fund administers the disability and survivors program for salaried employees. National Social Security Fund for Nonwage Earners administers the old-age and disability program for nonwage earners.

B. Sickness and Maternity

	South Africa	Algeria
Regulatory framework	2001 (unemployment insurance), implemented in 2002; and 2003 (health), implemented in 2004.	**First law:** 1949. **Current law:** 1983, implemented in 1984.
Type of programme	Social assistance system. Medical benefits only	Social insurance system.
Coverage	**Sickness and maternity benefits:** Eligible insured workers working more than 24 hours a month, the unemployed, and workers with earnings reduced to no more than 1/3 of the regular wage. Exclusions: Government employees and employees who work fewer than 24 hours a month; foreigners who enter the country to fulfill an employment contract and who are required by law to leave the country when the contract ends; and persons receiving a monthly state pension, any benefit from the work injury and occupational disease compensation fund, or benefits from any unemployment fund or scheme. **Medical benefits:** Old-age pensioners and disability pensioners.	**Cash and medical benefits:** All employed persons. Exclusions: Self-employed persons. **Medical benefits only:** Persons receiving an unemployment benefit, persons receiving the early pension, national liberation war pensioners, persons with an assessed degree of disability of at least 50%, unemployed students, and their respective dependents; the dependents of certain categories of prisoners. Exclusions: Self-employed persons.
Source of funds	**Cash sickness and maternity benefits:** Funds for Unemployment **Medical benefits: F**unds for Old Age, Disability, and Survivors.	**Insured person:** 1.5% of gross earnings. The insured person's contributions also finance disability benefits, survivor benefits, and the death grant under Old Age, Disability, and Survivors. **Self-employed person:** Not applicable. **Employer:** 12.5% of gross payroll. The employer's contributions also finance disability benefits, survivor benefits, and the death grant under Old Age, Disability, and Survivors.
Administrative organization	Department of Labour provides general supervision. Managed by a bipartite board, local unemployment benefit committees, and claims officers, the Unemployment Insurance Fund administers the programme.	Ministry of Labour and Social Security provides general supervision. National Social Insurance Fund administers the programme for salaried employees. National Social Security Fund for Nonwage Earners administers the programme for nonwage earners.

C. Work Injury

	South Africa	Algeria
Regulatory framework	**First law:** 1914. **Current law:** 1993 (occupational injuries and diseases), with 1997 amendment.	**First law:** 1919. **Current law:** 1983, implemented in 1984.
Type of programme	Employer-liability system, involving compulsory insurance with a public carrier.	Social insurance system.
Coverage	Employed persons, including some contract workers and military personnel. Exclusions: Household workers, self-employed persons, and some contract workers and military personnel.	All employed persons, apprentices, students (including those in technical schools), trainees, persons undergoing medical or vocational rehabilitation, some kinds of voluntary workers, wards of juvenile courts, and prisoners working in prison workshops. Exclusions: Self-employed persons.
Source of funds	**Employer:** The total cost is met through the payment of insurance premiums. The cost of premium varies, depending on the reported accident rate.	**Insured person:** None; work injury pensioners whose permanent disability pension is more than the legal minimum wage contribute 2% of the pension. **Employer:** 1% of gross payroll.
Administrative organization	Department of Labour provides general supervision. Compensation Commissioner administers the program, including claims decisions and the management of funds from which benefits are paid. Employers must normally insure against liability with a public compensation fund, but in certain instances may insure with an employers' mutual association licensed by the Minister of Labour. Government and some local authorities are individually liable.	Ministry of Labour and Social Security provides general supervision. National Social Insurance Fund administers the programme.

D. Unemployment

	South Africa	Algeria
Regulatory framework	**First law:** 1937. **Current laws:** 1966 (unemployment), implemented in 1967, with amendments; 2001 (unemployment insurance); and 2002 (contributions).	**First and current law:** 1994.
Type of programme	Social insurance system.	Social insurance system.
Coverage	All employees working for more than 24 hours a month, including household and seasonal workers and employees in national and provincial governments. Exclusions: Self-employed persons; government employees and employees who work fewer than 24 hours a month; foreigners who enter the country to fulfil an employment contract and who are required by law to leave the country when the contract ends; and persons receiving a monthly state pension, any benefits from the work injury and occupational disease compensation fund, or benefits from any unemployment fund or scheme.	Salaried workers. Exclusions: Self-employed persons.
Source of funds	**Insured person:** 1% of covered earnings. The maximum earnings for contribution calculation purposes are 12,478 rand a week or 149,736 rand a month. **Employer:** 1% of the insured's covered earnings. The maximum earnings for contribution calculation purposes are 12,478 rand a week or 149,736 rand a month. **Government:** 25% of total employee and employer contributions, up to 7 million rand a year. The maximum earnings for contribution calculation purposes are 12,478 rand a week or 149,736 rand a month.	**Insured person:** 0.5% of gross earnings; contributions are paid on unemployment benefits. **Employer:** 1.5% of gross payroll plus a lump-sum contribution equal to 80% of each laid-off worker's average monthly earnings in the last year for each year of employment (up to 12 years) if the employee worked for the employer for more than 3 years.
Administrative organization	Department of Labour provides general supervision. Managed through its board and regional business unit managers, the Unemployment Insurance Fund administers the programme.	Ministry of Labor and Social Security provides general supervision. National Unemployment Insurance Fund administers the programme.

E. Family Allowances

	South Africa	Algeria
Regulatory framework	**Current law:** 2004 (social assistance).	**First and current law:** 1941, with 1994 amendment.
Type of programme	Social assistance system.	Employment-related system.
Coverage	Low-income persons caring for children younger than age 18. Exclusions: Persons confined to or cared for in state facilities.	Non-agricultural employees and social insurance beneficiaries. Exclusions: Self-employed persons. Special systems for public-sector employees and employees of certain agricultural cooperatives.
Source of funds	**Government:** The total cost.	**Employer:** 25% of the cost of family allowances for employees. **Government:** 75% of the cost of family allowances for employees; the total cost of family allowances for social insurance beneficiaries.
Administrative organization	National and provincial offices of the Department of Social Development administer the programme	Ministry of Labour and Social Security provides general supervision. National Social Insurance Fund administers the programme.

Source: ***US Social Security Programs Throughout the World: Africa (2011).*** Social Security Administration Office of Retirement and Disability Policy Office of Research, Evaluation, and Statistics 500 E Street, SW, 8th Floor Washington, DC 20254

IV SOCIAL SECURITY IN EAST AFRICA

Introduction

The current philosophical and ideological pillars of government policy in all countries in the East African Community (EAC) are that of neoliberal economic policies (see Barya 2011). The end result of these policies,mainly imposed by Bretton Woods Institutions, not only intensified foreign domination and exploitation of African countries but also undermined the working class and all working people, particularly through wage freezes and massive retrenchments from the government and public enterprises. These processes further and directly impacted on the welfare functions of the state mainly: education, health and housing. They also exacerbated social inequalities by redistributing wealth in favour of the rich and powerful, caused unemployment and increased poverty.

However, in recent years, some countries in the EAC have consciously developed social security policies, albeit within the context of neoliberal economic frameworks. These include Tanzania (in 2003) and Rwanda (in 2009). Kenya, Uganda and Burundi do not have explicit social security and social protection policies.

Within the broader context of the East African Community, both the treaty establishing the EAC and the Common Market Protocol recognize the need for and the importance of social security (Article 120), though in a limited sense. Social security is seen as part and parcel of the principles of free movement of labour, the right of entry and residence and the right to provide and receive services. 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 marginalised 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. 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)). They also agree 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.

The constitutional provisions related to social security and social protection are quite different amongst the East African countries. The constitutions of Burundi, Uganda, and Rwanda are not explicit on the protection of social security, whilst the constitution of Tanzania is framed within the ideological context of socialism. The new constitution of Kenya is the most progressive on the issues of social security. It recognizes the right to health, including reproductive health care, as well as rights to housing, food, safe water, education and social security, specifically. The constitution also recognises rights of children and youth, persons with disabilities and those of the elderly (Articles 43, 53-57).

As at 10 August 2011, there are a total of 47 ratifications to Convention 102, but none from the East African countries.

Coordination of social security benefits in East Africa

Following the signing of the Common Market Protocol by the Heads of State on 20 November 2009, the EAC Secretariat commenced a process to develop a social security annex/directive. The annex was meant to be part of the remaining annexes as stipulated in the roadmap adopted by the EAC Council to complete the process of the development of additional annexes to the Protocol.

However, the process has been delayed largely due to legal discussions on whether the Protocol contained provisions giving the basis for an annex on social security. The legal drafters stressed that, in their view, an annex cannot set out new principles, or create new rights or obligations, beyond those already contained in the Protocol. This view was also observed by the Multi-Sectoral Council. The council further noted that there are challenges facing the development of a directive on the coordination of social security benefits in East Africa. These included different social security schemes, movements of benefits across funds, different periods of coverage, different contribution rates and umber of social security branches of benefits, lack of portability of accrued social security benefits and aggregation of social security benefits. The Council agreed on the need for a comprehensive regional study to address these challenges.

The report of the Multi-Sectoral Council was considered by the Council of Ministers in April 2011. The Council made several directives on the way forward, including directing the EAC Secretariat to hire a consultant by 30 June 2011 to consolidate the various actuarial studies undertaken by Partner States social security institutions and to address the financial and economic implications on the coordination of social security benefits.

Table 2 shows the current operational social security schemes in East Africa

Table 2: Operational social security schemes in East Africa, 2009

F. Old Age, Disability, and Survivors

	Burundi	Kenya	Rwanda	Uganda	Tanzania
Regulatory framework	**First law:** 1956. **Current law:** 2002 (pensions).	**First and current law:** 1965 (social security fund), with amendments.	**First law:** 1956. **Current laws:** 1974 and 2003.	**First law:** 1967. **Current law:** 1985 (social security fund).	**First and current laws:** 1964 (provident fund); and 1997 (social insurance), implemented in 1998.
Type of programme	Social insurance system.	Provident fund system.	Social insurance system.	Provident fund system.	Social insurance system.
Coverage	Salaried workers covered by the labor code, military personnel, and contract workers from the civil service and public utility commission. Voluntary coverage for persons previously insured for at least 6 consecutive months. Exclusions: Self-employed persons. Special system for civil servants.	Employed persons, traders, self-employed persons, and some workers in the informal sector, including farmers. Voluntary coverage is possible. Exclusions: Some types of casual workers. Special pension system for public-sector employees.	Salaried workers, including permanent, temporary, and occasional workers; professional and in-service trainees; apprentices; civil servants; political appointees; and government officials. Voluntary coverage for self-employed persons and for persons who were previously insured for at least 6 consecutive months and had mandatory coverage in the last 12 months.	Persons aged 16 to 54 employed in firms with five or more workers. Voluntary coverage is possible. Exclusions: Temporary employees and self-employed persons. Special systems for public-sector employees, military and prison personnel, and government teaching service employees.	Employed workers in the private sector organized groups in the formal sector, and public employees and self-employed persons not covered under the parastatal special system. Voluntary coverage is possible. Exclusions: Household workers.
Source of funds	**Insured person:** 2.6% of monthly earnings; 3.8% if in arduous work. The voluntarily insured contribute 6.5% of monthly earnings. The maximum monthly earnings for contribution calculation purposes are 150,000 francs. **Self-employed person:** Not applicable. **Employer:** 3.9% of monthly payroll; 5.7% of monthly payroll on behalf of employees in arduous work. The maximum monthly earnings for contribution calculation purposes are 150,000 francs. **Government:** None; contributes as an employer.	**Insured person:** 5% of monthly earnings. Voluntary contributors pay between 100 shillings and 1,000 shillings. The maximum earnings for contribution calculation purposes are 4,000 shillings	**Insured person:** 3% of covered earnings; voluntary contributors pay 6% of covered earnings. The minimum monthly earnings for contribution calculation purposes are equal to the legal monthly minimum wage, which varies by sector. The monthly earnings for contribution calculation purposes are subject to a maximum. **Self-employed person:** Voluntary contributions of 6% of declared income. The maximum monthly income for contribution calculation purposes is 104,000 francs. **Employer:** 3% of covered payroll. The minimum monthly earnings for contribution calculation purposes are equal to the legal monthly minimum wage, which varies by sector. The monthly earnings for contribution calculation purposes are subject to a	**Insured person:** 5% of gross monthly earnings. **Self-employed person:** Not applicable. **Employer:** 10% of gross monthly payroll. **Government:** None.	**Insured person:** 10% of gross earnings; voluntary contributors pay 20% of declared income but no less than 20% of the legal minimum wage. The monthly legal minimum wage ranges from 65,000 shillings to 350,000 shillings, **Self-employed person:** 20% declared income but no less than 20% of the legal minimum wage. **Employer:** 10% of gross payroll. Contributions are paid on behalf of insured women who receive maternity benefits. The employer's contributions also finance cash maternity benefits, medical benefits, funeral grants, and work injury benefits. **Government:** None; contributes as an employer on behalf of public-sector employees.

			maximum. **Government:** None.		
Administrative organization	Ministry of Labour and Social Security provides general supervision. Managed by a tripartite board and a director, the National Social Security Institute administers the programme.	Ministry of Labour provides general supervision through a board of trustees. National Social Security Fund administers the programme.	Ministry of Finance and Economic Planning provides general supervision. Managed by a tripartite council and a director general, the Social Security Fund administers the programme.	Ministry of Finance, Planning, and Economic Development provides general supervision. Bank of Uganda provides substantive supervision. National Social Security Fund administers the programme. National Social Security Fund is governed by a tripartite board of directors consisting of the managing director, the chairman, and other members appointed by the Minister of Finance, Planning, and Economic Development.	Ministry of Labour, Youth, and Sports Development provides general supervision. Managed by a director general, the National Social Security Fund administers the programme.

Sickness and Maternity

	Burundi	**Kenya**	**Rwanda**	**Uganda**	**Tanzania**
Regulatory framework	The labour code (1993) requires employers to pay 66.7% of wages for sick leave for up to 3 months each calendar year and to provide medical care for workers and their dependents. The labour code (1993) requires employers to pay 50% of wages for maternity leave of up to 12 weeks (14 weeks in the event of complications arising from pregnancy or childbirth), including at least 6 weeks after childbirth, if the woman has at least 6 months of service during the year before the expected date of childbirth. The 1984 provision established a medical assistance program to provide medical, surgical, maternity, hospitalization, dental, and pharmaceutical services to the	**First law:** 1966 (hospital insurance), with amendments. **Current law:** 1998 (hospital insurance).	No statutory benefits are provided. The labour code requires employers to pay 100% of wages for sickness benefits for up to 30 days. The labour code requires employers to pay 66.7% of wages for maternity benefits for up to 12 weeks.	N/A	**First and current law:** 1997 (social insurance), implemented in 2005.

	low-income population. The 1980 law (health insurance) provides for medical benefits for civil servants and members of the armed forces.		
Type of programme		Social insurance system. Medical benefits only.	Social insurance system. Cash maternity benefit and medical benefits only.
Coverage		Employed persons earning at least 1,000 shillings a month, including public-sector employees and self-employed persons; the dependents of insured persons. Voluntary coverage for persons earning less than 1,000 shillings a month.	Employed workers in the private sector (except in private companies covered by the parastatal special system), organized groups (such as cooperative members) in the formal sector, public employees, and self-employed persons not covered under the parastatal special system. Voluntary coverage is possible. Exclusions: Household workers. Special system for certain employees.
Source of funds		**Insured person:** A variable monthly contribution of 30 shillings up to 320 shillings; voluntary contributors pay a flat rate of 160 shillings a month. **Self-employed person:** A variable monthly contribution of 30 shillings to 320 shillings; voluntary contributors pay a flat rate of 160 shillings a month. **Employer:** None. **Government:** None.	**Insured person:** Funds under Old Age, Disability, and Survivors.. Old-age pensioners may make a voluntary contribution equal to 6% of their monthly pension. **Self-employed person, Employer, and Government:** Source of funds under Old Age, Disability, and Survivor.
Administrative organization		Ministry of Health provides general supervision through a board of directors. National Hospital Insurance Fund administers the program.	Ministry of Labour, Youth, and Sports Development (provides general supervision. Managed by a director general, the National Social Security Fund administers the programme.

G. Work Injury

	Burundi	Kenya	Rwanda	Uganda	Tanzania
Regulatory framework	**First law:** 1949. **Current law:** 2002 (pensions).	**First law:** 1946. **Current laws:** 1974 (workmen's compensation), with amendments; 2007 (work injury); and 2007 (employment).	**First law:** 1949 (private sector). **Current laws:** 1974 and 2003.	**First law:** 1946. **Current law:** 2000 (workers' compensation).	**First law:** 1948. **Current law:** 1997 (social insurance), implemented in 2002.
Type of programme	Social insurance system.	Employer-liability system, normally involving insurance with a private carrier.	Social insurance system.	Employer-liability system, involving compulsory insurance with a specified insurer.	Social insurance system.
Coverage	Salaried workers covered by the labor code, including agricultural workers, apprentices, trainees, and military and police personnel. Exclusions: Self-employed persons.	Employed persons in the public and private sectors. Exclusions: Non-manual employees earning more than 4,000 shillings a month, self-employed persons, casual workers, and family labour.	Employed persons. Voluntary coverage is not possible. Exclusions: Self-employed persons.	Employed persons, including government employees. Exclusions: Active members of the armed forces and self-employed persons.	Employed workers in the private sector (except in private companies covered by the parastatal special system), organized groups (such as cooperative members) in the formal sector, and public employees and self-employed persons not covered under the parastatal special system. Exclusions: Household workers. Special system for certain employed workers.
Source of funds	**Insured person:** None. **Self-employed person:** Not applicable. **Employer:** 3% of covered monthly payroll. The maximum monthly earnings for contribution and benefit calculation purposes are 80,000 francs. **Government:** None; contributes as an employer.	**Employer:** The total cost is met through the direct provision of benefits or insurance premiums. **Government:** None; the cost of benefits for government employees.	**Insured person:** None. **Self-employed person:** Not applicable. **Employer:** 2% of gross monthly payroll. **Government:** None.	**Insured person:** None. **Self-employed person:** Not applicable. **Employer:** The total cost is normally met through insurance premiums. **Government:** None.	Funds under Old Age, Disability, and Survivors
Administrative organization	Ministry of Labour and Social Security provides general supervision. National Social Security Institute administers contributions and benefits. Medical services are	Ministry of Labour and Human Resource Development enforces the law, approves settlements, and pays benefits from money deposited with it by	Ministry of Finance and Economic Planning provides general supervision. Managed by a tripartite council and a director general, the Social Security Fund administers the program.	Ministry of Gender, Labour, and Social Development enforces the law, approves settlements, and pays benefits from money deposited by employers. Employers must insure against liability with private insurance	Ministry of Labour, Youth, and Sports Development provides general supervision. Managed by a director general, the National Social Security Fund administers the program.

	provided by the National Social Security Institute and public or approved private medical institutions.	employers. Employers may insure against liability with private insurance companies.		companies.

H. Unemployment

	Burundi	Kenya	Rwanda	Uganda	Tanzania
Regulatory framework	N/A	N/A	N/A	N/A	No statutory benefits are provided. The labour code requires employers to provide severance pay to employees with continuous service of at least 3 months.
Type of programme					
Coverage					
Source of funds					
Administrative organization					

I. Family Allowances

	Burundi	Kenya	Rwanda	Uganda	Tanzania
Regulatory framework	**First law:** 1971. **Current law:** 1977 (family benefits).	N/A	N/A	N/A	N/A
Type of programme	Employment-related system.				
Coverage	Salaried workers covered by the labour code and apprentices. Exclusions: Self-employed persons. Special system for civil servants.				
Source of funds	**Employer:** The total cost.				
Administrative organization	Ministry of Labour and Social Security provides general supervision. Employers pay the benefits directly to employees.				

Source: ***US Social Security Programs Throughout the World: Africa (2011).*** Social Security Administration Office of Retirement and Disability Policy Office of Research, Evaluation, and Statistics 500 E Street, SW, 8th Floor Washington, DC 20254

Burundi

With the support of the ILO Burundi adopted a comprehensive social security policy (*politique nationale de protection sociale*, PNPS) in 2010. Table 3 contains information on the current social security schemes in Burundi.

Table 3: Social security scheme in Burundi

Scheme name in english	Local name	Type	Contributory	Govt. Level
Civil servants scheme	Office natioanale des pensions et risous professionnels	Defined Benefit Scheme	Yes	Central government
Familly allowances scheme	Régime des prestations familiales	Defined Benefit Scheme	Fully contributory	Central government
Health care insurance	Mutuelle de la fonction publique du Burundi	Defined Benefit Scheme	Fully contributory	Central government
Pension insurance Scheme [National Social Security Institute| INSS]	Régime d'Assurance Pension [Institut National de Sécurité Sociale|INSS]	Defined Contribution Scheme	Fully contributory	Central government
Public Health expenditure	Mutuelle de la fonction publique du Burundi	Defined Benefit Scheme	Non contributory	Central government
Régime d'Assurance Risques Professionnels et Maladies Professionnelles [INSS]	Régime d'Assurance Risques Professionnels et Maladies Professionnelles [INSS]	Defined Contribution Scheme	Fully contributory	Central government
Sickness and maternity insurance scheme	Mutuelle de la fonction publique du Burundi	Defined Benefit Scheme	Fully contributory	Central government

Source: ILO Social Security Department (internet accessed 10 August 2011)

Kenya

Kenya has achieved impressive economic growth in recent years, leading to a fall in poverty by 10 per cent to 46 per cent of the population since 2000. Nevertheless, deep social, ethnic and regional inequalities remain. While Kenya is on track for full or partial achievement of some MDGs, the goals on child mortality and maternal health will probably not be achieved, according to current projections. A significant constraint for accessing good quality health care, besides a lack of funds by households, is the shortage of qualified health-care personnel, especially in rural areas.

Just over half of total health expenditure is out-of-pocket, while 16 per cent is raised through the statutory National Hospital Insurance Fund (NHIF). The NHIF was established in 1966, making Kenya the first country in Africa to introduce compulsory health insurance. The NHIF covers workers in the formal sector and the self-employed; a recent extension is that pensioners and "organized groups" can enrol voluntarily. In total, the scheme has 1.5 million members constituting together with their dependants 25 per cent of the population (2007). The scheme covers in-patient medical needs and most admissions for a fixed number of days.

A draft bill for a national social health insurance fund (NSHIF) was submitted to Parliament in 2004 has not yet been passed because of budgetary concerns on the part of the Government. The NSHIF was planned as a compulsory insurance scheme with solidarity-based and income-rated contributions. Coverage was to extend to the entire population, thus achieving access to affordable health care for all. Furthermore, the establishment of a strong Fund for health services was expected to lead to significant cost savings and efficiency gains.

The ILO estimates that 60 per cent of the population have no effective access to health services when needed.

Rwanda

Significant breakthroughs have been made in recent years concerning the extension of social security in Rwanda. Notably, the Government's decision to introduce compulsory health insurance for the entire population, accompanied by a policy of strong support to the development of mutual health organizations throughout the country. Building on existing examples of community-based initiatives, there has been a huge growth in the number of mutual health organizations (*mutuelles de santé*), which have been set up in each of the 30 health districts and are also present at the level of the health centre in the form of a smaller unit called *section de mutuelle*; there are now more than 400 of these units. Membership rates of Community Based Health Insurance (CBHI) stood at 73% in 2006 and increased since then to reach 91% of coverage in 2010. In 2010, the CBHI policy has been updated in order to be more adapted to the current challenges. The new policy will improve population's access to quality health services in a fair and equitable manner.

The existing statutory social security system in Rwanda includes the Social Security Fund (pensions and occupational risks); and, for the health part, the RAMA (*Rwandaise d'Assurance Maladie*) and the MMI (Military Medical Insurance). The Rwandan Government shows a strong interest in strengthening the structure and capacity of public institutions in providing social security.

In December 2008, the Rwandan Ministry of Finance and Economic Planning released a project on "Rationalizing delivery of social security benefits services to be delivered under one institution". This has resulted to the merger of two main social security institutions, the Social Security Fund of Rwanda and "*la Rwandaise d'Assurance Maladie*" (RAMA) into a single Rwanda Social Security Board (RSSB).

In 2009, the "Social Security Policy" has been prepared by the Ministry of Finance and Economic Planning. The new Rwanda's vision for social security is to reach the ideal

situation of “Social security coverage for all” and having all the population covered with maximum benefits possible (retirement, professional risk benefits, sickness benefits, maternity, health care, etc.). In order to achieve this, key actions have been identified such as the reinforcement of compulsory affiliation and/or development of incentives for voluntary membership in order to increase the coverage, awareness campaign for active participation of the population through community based-organizations.

In 2011, the Ministry of Local Government has prepared a National Strategy on Social Protection. This strategy presents the social protection vision for the next 10 years. The long term vision for Rwanda is to establish by 2020 a “social protection system that complements and contributes to economic growth”. The mission is to ensure “that all poor and vulnerable people are guaranteed a minimum income and access to core essential services that those who can work are provided with the means of escaping poverty, and that increasing numbers of people are able to access risk-sharing mechanisms that protect them from crises and shocks.” Therefore, two main elements have been identified to establish the social protection system: a social protection floor for the most vulnerable groups and an increased participation of the informal sector in the contributory social security system.

A social insurance scheme has also been implemented, designed to provide mainly poor communities with health- and related services. A medical insurance regime for public servants was established in 2001. For salaried employees in the private sector, medical care is ensured by their respective employers. Employers may choose either to be affiliated with the scheme for public servants or to contract with private insurance companies. The general population, including those in rural areas and working in the informal sector, obtains medical care through mutual associations, which have developed at a rapid rate since 2001. A large majority (85 per cent) of the Rwandan population is now covered by these insurance programmes, according to figures (2008) from the Ministry of Finance and Economic Planning. Members have access to all services and medicines offered at health centres and hospitals. Coverage excludes prostheses and cosmetic surgery.

Implementing the policy direction requires both institutional capacity as well as finances. The Rwandan Government is steadily working towards achieving this goal. The country established the Kigali Health Institute primarily to train health-care professionals for the country (mainly technicians and nursing staff).

Rebuilding and expanding access to primary health care has required a substantial increase in health funding backed by solid political stability and support. That such support has been forthcoming is clear from health expenditure increases in 2008 to 12 per cent of the national budget, up from 4.25 per cent in 1996. Of this, 60 per cent has been decentralized in the form of resources to the various health districts.

Funding for the newly introduced social insurance scheme and strategy comes mainly from donor sources and requires more long-term and sustainable forms of funding than are presently available.

For public servants the contribution rate is 15 per cent of basic salary, of which 7.5 per cent is paid by the employer and 7.5 per cent by the employee. For military personnel the contribution rate is 22.5 per cent of gross salary, of which 17.5 per cent is paid by the Government and 5 per cent by military staff member. Mutual health-care insurance programmes are supported by household-based contributions. The head of household usually

pays a collective contribution for all dependants equal to RwF1,000 per household member per year. The amount paid by an insured individual is fixed at 10 per cent of the total cost of health treatment provided. The extremely poor are exempted from paying these fees and are given free access to the facility.

Tanzania

Social Security coverage is less than 1 per cent of the entire population, and about 6.5 per cent of the formal working population. Almost the entire informal sector is not covered by any form of social security scheme.

The existing non-contributory programmes are designed to provide assistance to a wide range of poor and vulnerable groups: the disabled, children and the elderly. Social assistance funding from the Government is 0.5 per cent GDP and NGOs account for a further 0.5 per cent GDP. All programmes suffer from limited financial and human resources and therefore cover only a part of the most vulnerable of the population.

The Government is the main provider of health services in Tanzania, which are administered by the Ministry of Health and Social Welfare, and the President's Office Regional Administration and local government. The social health system is financed by revenues from taxation, donors and fees for services. Fee-for-service charges do not apply for the treatment of children aged under five and diseases such as tuberculosis, AIDS, epidemics and leprosy. These elements represent only 2.5 per cent of total health expenditure.

There are two social insurance funds offering health and medical coverage: The National Health Insurance Fund (NHIF) providing the main access to health services, after the state tax-financed health programmes; and the National Social Security Fund (NSSF). Coverage by both schemes is low. In 2005, NSSF had 9,000 members of its health fund, just 3.4 per cent of its total active membership. The NHIF had 242,580 active registered members and, including dependents, a total of 1 million people were covered.

In addition, there is the Community Health Fund (CHF), which was established as an alternative for the fee-for-service scheme. Currently, only 29 districts out of 72 have access to this programme and to the matching grants from the Ministry of Health and Social Welfare. Currently, less than 10 per cent of households have joined such schemes, which represent 2 per cent of total spending. There is even scarcer information about the non-public schemes: micro health insurance, private health insurance and indigenous provision. It is reasonable to assume, based on total amount of insurance premiums paid in 2002 that this type of provision accounts for 1 per cent of total expenditure. There is a long history of indigenous associations being active in collecting insurance contributions for funerals and health care expenses.

There are a number of opportunities and challenges apparent for Tanzania Mainland, with the projected rapid increase in the population by 2020, and the need to think strategically about how its resources are used effectively to invest in healthcare, education, and other social protection schemes. Currently the UK Department for International Development (DFID) is funding an ILO project. This is a joint project for Tanzania Mainland, Zanzibar, and Zambia.

For Tanzania Mainland the Social Protection Expenditure and Performance Review (SPER) and a Social Budget (SB) has been produced.

This work has identified that there is scope to develop an affordable Social Protection system that provides wider coverage to the population, by implementing a universal pension, a child benefit scheme, and some targeted social assistance.

Uganda

Uganda has made progress in reducing poverty in recent years but still faces severe problems in health-care coverage and health status. Its mortality rates for mothers, infants and children are among the highest in the world, but life expectancy has increased and the ratio of the poor decreased since the beginning of the decade. Its skilled birth attendance access deficit is higher than that of countries with much lower health expenditure per capita (for example, Sierra Leone). Because of insufficient staffing levels at health-care facilities, over three-quarters of the population have no access to health care.

The draft of the National Health Sector Policy 2010–20 explores the concepts of universal coverage and social health protection (specifically risk-pooling and prepayment). This is in accordance with government aims to achieve access for all to a minimum package of services, to ensure equitable distribution of services and to make more effective and efficient use of health resources.

Against this background, the Government has recently launched an initiative to reform social health protection in the country with a view to achieving universal coverage. The reform will build on experience with social health insurance. The possible roles of the existing social security institution (the National Social Security Fund – NSSF) and a new national health insurance scheme are currently being evaluated with a view to covering different groups of the population as well as sharing administrative functions.

A national health insurance is proposed, which would ultimately become a mandatory scheme for all residents of Uganda, financed by contributions, offering a minimum health services package and managed by an independent government agency.

The issues currently being debated refer to the appropriate strategy for achieving universal coverage for all citizens and residents. The current plan foresees a timeframe of 15 years to reach universal coverage, rolling out coverage in the initial stages to civil servants only. In later stages the formal sector would be covered and universal coverage, including for informal economy workers and their families, would be achieved. Furthermore, the NSSF is planning to broaden its range of benefits for its members from the formal sector to health-care services. Uganda is an example of a pluralistic and gradual approach to extending social health protection coverage. The need for coordination within the existing and proposed structures of social health protection is evident, and the potential benefits of managing the various approaches with a view to universality and equitable access are clear: coverage could be extended through using the most efficient mix of existing and new structures, for example, covering the existing NSSF membership through an extension of NSSF benefits and also ensuring that from the beginning the reform benefits broad population groups, including the poor and informal workers.

Zanzibar

The Zanzibar Social Security Fund was established under the Zanzibar Security Fund Act No. 2 of 1998 subsequently amended by the Zanzibar Social Security Fund Act No. 9 of 2002 and re-enacted by the Act No. 2 of 2005. Prior to the enactment of the Act and establishment of the Zanzibar Social Security Fund, there was no formal social security scheme in Zanzibar. Nor was there a significant private sector occupational pension scheme sector in Zanzibar. Before the inception of Zanzibar Social Security Fund, public service employees in Zanzibar were covered and received pension benefits under the Pensions Act No. 2 of 1990. This scheme has been absorbed by ZSSF.

ZSSF provides old-age, invalidity and survivor benefits as well as medical care benefits and maternity benefits (the latter are only payable at three year intervals). Membership in the scheme is compulsory for all employees who have not yet reached retirement age, which is fixed at 55 years for men and 50 years for women. Workers as well as their families are covered by the scheme.

The Social Protection Expenditure and Performance Review (SPER) for Zanzibar was produced in 2010.

V TRADE UNIONS AND SOCIAL SECURITY

Trade unions have continuously advocated to make social protection an integral part of Africa's development. They have strongly asserted that that social protection is a human right and an essential element of social justice. It provides dignity, lifting people out of poverty and reducing inequality through redistribution of wealth and is an investment in both productive capacity and in development, and must be considered a part of the responsibilities of government.

Unions have severally observed that social security schemes in African countries were enacted by acts of parliament immediately after independence, although they borrowed many of their provisions from the British or French systems. Unfortunately, these schemes have performed dismally for much of the post-independence period. The main culprits have been governments that have continued to interfere with their performance, preferring to see them as sources of funds to balance the budget - mainly to finance their excess expenditures on "white elephants", political campaigns, wars, and so on. As a result, workers have not in any way benefit from their contributions. For a long time governments have conceived the security schemes, as any other state owned enterprise. As a result their management and staffing have tied to political allegiance to the ruling party and the presidency. Needless to say these schedules have ended up being non-performers, who nevertheless have had to satisfy the interests of their political masters.

This lack of autonomy of the schemes has dealt another heavy blow on the schemes. The other problem had to do with the type of schemes themselves. Most are provident funds and not comprehensive social insurance schemes that can take care of workers' problems like old age, health, sickness, accidents, disability, dependants, loss of employment, etc. The bureaucracy involved before one can be paid leaves a lot to be desired. The size of the benefits, usually eroded by spiralling inflation, currency devaluation, flotation and liberalisation, is to say at the least, very inadequate, if eventually paid.

In this regard, unions always their commitment to universal access to adequate social protection, with priority attention to be paid to those lacking access to basic social safety nets, including the unemployed and those in informal work, with particular regard to women and youth.

It is clear that it is primary role of the state to provide, facilitate, promote and extend coverage of social protection. The benefits should be non-discriminatory, adequate and secure, and that the financial sustainability of social protection schemes must be assured. Trade unions and employers' organisations should be involved in their design and management. Social dialogue and tripartite participation, on an equal basis, are essential instruments for building a fair and effective consensus model.

Furthermore, unions emphasizes that ILO Convention 102 on Social Security (Minimum Standards) is the key international instrument in respect of social security. Unions are in full belief to the provisions of Convention 102 addressing health care, family benefits, sickness, unemployment, old age, invalidity, employment injury, maternity, and loss of a breadwinner.

Extracts of remarks by Brother Francis Atwoli, Secretary General of the Central Organisation of Trade Unions (Kenya) during ILO Tripartite of Experts on Social Security, Geneva, 2-4 September 2009

The social security system in Kenya is not a product of a broad-based, participatory, all-inclusive and human rights-centred policy processes. The social security protection envisaged under Kenyan laws does not recognize or make any provision for vulnerable groups such as refugees, asylum seekers, internally displaced persons etc.

The National Social Security Fund and the National Hospital Insurance Fund, which are the two statutory flagship national social security schemes that ought to be based on the principles of affordability and solidarity as opposed to profit, have a lot of operational problems.

It is thus apparent that the policy and legal framework in Kenya as relates to the right to social security is fraught with shortcomings and is largely inconsistent with international standards and principles. Thus the COTU-Kenya is engaging the government of Kenya to address the following concerns:
1. Ensure that the Constitution of Kenya Review process, which held a lot of promise since the draft bill of rights contains the right to social security, is revived and concluded;
2. Ensure that it puts into place a policy framework that would recognize and provide for the right to social security for all Kenyans, especially the poor, women, the vulnerable workers, the unemployed, older persons, persons with disabilities, refugees and other marginalized groups;
3. Ensure that all the laws on social security and protection are coherent and consistent;
4. Reform the laws that discriminate against the unemployed and other vulnerable groups that need social protection;
5. Ensure that these groups are brought within the ambit of social security protection in Kenya; and
6. Ensure that social security institutions will effectively implement such measures in practice and be accountable to Kenyans.

In order for the right to social security to be realized, the social security system must:

a) Be available and established under national law; which should include being financially viable, sustainable and responsive to conditions;
b) Provide adequate benefits in amount and duration of payment;
c) Be accessible so as to extend social security provision to those lacking coverage, especially those in the 'informal economy', economically affordable, physically accessible with access to relevant information and participation.

VI CONCLUSIONS

Social security is first and foremost a human right and hence an obligation for all societies. It also acts as a social and economic facilitator of change and has the capacity to function as an effective financial stabilizer.

Social security systems not only prevent people from falling into poverty and reduce the likelihood of social unrest, but also embody an indispensable investment in people's productive capacity through enhanced access to better nutrition, health and education. They help to better manage risk and uncertainty and stabilize aggregate demand in times of economic crisis.

Widespread consensus exists for the expansion of social security in Africa as a means to reduce poverty and as a form of investment in the future. However, this commitment falters when it comes to matters of practical implementation and how to introduce the necessary changes within each country. The focus is uncertain, varying from mechanisms to identify and focus services on the most vulnerable groups (more specifically amongst children, people with disabilities and the elderly) to recommendations for approaches to longer term poverty reduction that can remove barriers to health, education and access to service while at the same time promoting decent work and social infrastructure development.

Trade unions in East Africa believe in the observation of the ILO that it is the outcomes of national social security strategies that matter, not the ways and means through which countries set out to achieve those outcomes. Support must be given to the key features which the ILO would seek to promote, and to assess, in the design and implementation of a national social security system. These include:

Universal coverage of income security and health systems: all (permanent and temporary) residents of a country should have gender-fair access to an adequate level of basic benefits that lead to income security and comprehensive medical care.

Benefits and poverty protection as a right*:* entitlements to benefits should be specified in a precise manner so as to represent predictable rights of residents and/or contributors; benefits should protect people effectively against poverty; if based on contributions or earmarked taxes, minimum benefit levels should be in line with the Social Security (Minimum Standards) Convention, 1952 (No. 102), or more recent Conventions providing for higher levels of protection, and the European Code of Social Security of the Council of Europe.

Collective "actuarial equivalence" of contributions and benefit levels: the benefits to be received by scheme members should represent both a minimum benefit replacement rate and a minimum rate of return in the case of savings schemes, which in turn must adequately reflect the overall level of the contributions paid; such minimum levels should be effectively guaranteed, preferably by the State.

Sound financing*:* schemes should be financed in such a manner as to ensure to the furthest extent possible their long-term financial viability and sustainability, having regard to the maintenance of adequate fiscal space for the national social security systems as a whole and individual schemes in particular.

Responsibility for governance*:* the State should remain the ultimate guarantor of social security rights, while the financiers/contributors and beneficiaries should participate in the governance of schemes and programmes.

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ANNEX—

A MODEL CODE ON SOCIAL SECURITY FOR THE EAST AFRICAN COMMUNITY

PREAMBLE

We, the Heads of State and/or Government of

The Republic of Burundi

The Republic of Kenya

The Republic of Rwanda

The United Republic of Tanzania

The Republic of Uganda

Noting that social security is a human right and is enshrined as such in the African Charter on Human and People's Rights (2000), the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), and in other major United Nations human rights instruments, and

Social security benefits are powerful tools to combat poverty and inequality, and to invest in social and economic development, and are also known to be automatic social and economic stabilizers, especially in times of economic crisis, and

Having regard to the Treaty for the Establishment of the East African Community and, in particular, the Protocol on the Establishment of the East African Community Common Market, and

Whereas the Partner States agreed under Article 104 (1) of the Treaty to adopt measures to achieve, *inter alia*, the free movement of labour and to ensure the enjoyment of the right of establishment of their citizens in the Community, and

Whereas under Article 5(2) of the Protocol the Partner States further agreed to remove restrictions on the movement of labour and to provide for social security benefits, and

Whereas Article 10 (3)(f) of the Protocol entitles workers to enjoy the rights and benefits of social security as accorded to the workers of the host Partner State, and

Whereas under Article 12(2) of the Protocol the Partner States undertook to review and harmonize their national social security policies, laws and systems to provide for social security for self-employed persons who are citizens of other Partner States, and

Whereas Article 13(3)(b) of the Protocol entitles self-employed persons who are in the territory of another Partner State to join a social security scheme of that Partner State in accordance with its national laws, and

Whereas Article 39 (1) of the Protocol, Partner States undertook to coordinate and harmonise their social policies to promote and protect decent work and improve the living conditions of the citizens of the Partner States for the development of the Common Market, and

Whereas Article 39 (3) (h) of the Protocol Partner States undertook to implement programmes expand and improve social protection; and

Whereas the free movement of labour and the right of establishment can only be fully realized if workers and self-employed persons who carry out their employment or self-employment in two or more Partner States can exercise the right to social security benefits from each of the Partner States in which they have worked, and

Whereas the exercise of the right to social security benefits from two or more Partner States requires the coordination of the social security benefits of the Partner States, and

Whereas the coordination of the social security benefits of the Partner States is a first step towards the harmonization of their national social security policies, laws and systems, and that Partner States will ensure portability of contributions and entitlements of workers and their families.

Have agreed on the following provisions:

Part I – General provisions

Article 1—Purpose

1. The general purpose of this Code is to provide Partner States with strategic direction and guidelines in the development of policies and legislation, and improvement of social security schemes, in order to enhance the welfare of the people of the East African Community.
2. To provide the East African Community and Partner States with a set of general principles and minimum standards of social security, as well as a framework for monitoring and evaluation at national and regional levels.
3. To provide the East African Community and Partner States with an effective instrument for the coordination, convergence and harmonisation of social security systems in the region.

Article 2—Interpretation

4. For the purpose of this Code:
   (a) the term "**legislation**" includes laws and regulations as well as social security rules;
   (b) the term "**prescribed**" means determined by or in virtue of national legislation;

(c) the term "**resident**" means a person ordinarily resident in the territory of the Partner State concerned;

(d) the term "**qualifying period**" means a period of contribution, a period of occupational activity or a period of residence, including any period treated as such or any combination thereof, as may be prescribed for conferring entitlement to benefit;

(e) the term "**dependant**" means a son or daughter of a worker or a self employed person who has attained the age of eighteen years, the mother, the father, a sister or a brother of a worker or a self employed person who is wholly dependent on the worker or self employed person, who is a citizen;

(f) the term "**surviving spouse**" designates the spouse who was dependent on the deceased person at the time of the latter's decease and who has not remarried;

(g) the term "**child**" means a son or daughter of a worker or self employed person under the age of eighteen years, who is a citizen;

(i) the term "**migrant**" describes someone who migrates from outside the East African Community in order to pursue work, including seasonal work;

(j) the term "**undocumented migrants**" means those who migrates from outside the East African Community and are working without permission, regardless of whether or not they have rights of residency.

Article 3—Definitions

5. **Social allowances:** These are universal payments made to persons in designated categories who are exposed to exceptional need (such as children, older persons, persons with disabilities), designed to assist them in the realisation of their full potential. The objective of social allowances is social compensation. Social allowances are financed from government revenue and are not means-tested. They are paid to all persons falling within the designated categories, regardless of their socio-economic position.

6. **Social assistance:** This is a form of social security which provides assistance in cash or in kind to persons who lack the means to support themselves and their dependants. Social assistance is means-tested and is funded from government revenues. Normally, the beneficiaries are those who are not covered by any other form of social security. The objective of social assistance is to alleviate poverty through, amongst other things, the provision of minimum income support.

7. **Social insurance:** This is a form of social security designed to protect incomeearners and their families against a reduction or loss of income as a result of exposure to risks. These risks impair one's capacity to earn income. Social insurance is contributory with contributions being paid by employers, employees, self-employed persons, or other contributors, depending on the nature of the specific scheme. Social insurance is aimed at achieving a reasonable level of income maintenance.

8. **Social protection:** Social protection is broader than social security. It encompasses social security and social services, as well as developmental social welfare. Social protection thus refers to public and private, or to mixed public and private measures designed to protect individuals against life-cycle crises that curtail their capacity to meet their needs. The objective is to enhance human welfare. Conceptually and for purposes of this Code social protection includes all forms of social security. However, social protection goes beyond the social security concept. It also covers social services and developmental social

welfare, and is not restricted to protection against income insecurity caused by particular contingencies. Its objective, therefore, is to enhance human welfare.

9. **Social security:** This refers to public and private, or to mixed public and private measures, designed to protect individuals and families against income insecurity caused by contingencies such as unemployment, employment injury, maternity, sickness, invalidity, old age and death. The main objectives of social security are: (a) to maintain income, (b) to provide health care, and (c) to provide benefits to families. Conceptually and for the purposes of this Code, social security includes social insurance, social assistance and social allowances.

10. **Portability or exportability**: is the worker's ability to preserve, maintain and transfer acquired social security rights independent of nationality and country of residence.

Article 4—The right to social security

11. Everyone in EAC has the right to social security.

12. Every Partner State should establish and maintain a system of social security in accordance with the provisions of this Code and as per the relevant Articles in the Social Charter in the East African Community.

13. Every Partner State should ratify ILO Convention No. 102, maintain its social security system at a satisfactory level and progressively raise its system of social security to a higher level.

Article 5—Social assistance, social services and social allowances

14. Everyone in EAC who has insufficient means of subsistence to support themselves and their dependants should be entitled to social assistance, in accordance with the level of socio-economic development of the particular Partner State.

15. Partner States should provide an enabling environment for the provision of social services to both those individuals and groups in the community in need of welfare and development support.

16. Partner States should encourage the participation of individuals, civil society organisations, non-state actors and other non-governmental organisations in order to establish and maintain such services.

17. Partner States should provide social allowances to persons falling within designated categories in order to assist them in the realisation of their full potential.

Article 6—Social insurance

18. Each Partner State should establish social insurance schemes and should progressively expand the coverage and impact of these schemes.

19. Partner States should adopt relevant legislative and other measures in order to ensure the proper management and administration of these schemes.

20. Partner States should provide adequate social insurance benefits, commensurate with the contingency covered and with the nature and extent of the loss suffered.

21. Partner States should extend social insurance coverage to the entire population.

22. Partner States should provide and regulate social insurance mechanisms for the informal sector.

23. Partner States should encourage and regulate private and public sector participation, with regard to both the provision and management of social insurance, as well as the payment of social insurance benefits. Private sector participation can be either occupational-based or of an individual or group nature.

Article 7—Health

24. Partner States should ensure that adequate health care is available to everyone. Partner States should provide curative, preventive and promotive medical care and should ensure equity in access to health services, and develop and maintain viable public health insurance schemes. Health care should be provided for in a professional, safe and ethical manner.

25. Partner States should promote, regulate and support the establishment of private health insurance schemes, while at the same provide public health services for the benefit of the poor who are unable to contribute towards a public health insurance scheme or a private health insurance scheme. In addition to medical care, they should provide appropriate sickness and invalidity cash benefits.

26. Partner States should promote and support micro-health insurance for the benefit of persons with low and unpredictable incomes, who are unable to participate in a public health insurance scheme or a private health insurance scheme.

27. Partner States should put in place special measures to address the HIV/AIDS pandemic, bearing in mind the provisions of the Recommendation concerning HIV and AIDS and the World of Work, 2010 (No.200) and the ILO Code of Practice on HIV/AIDS and the World of Work.

28. Partner States should promote occupational health and safety in accordance with the provisions of this Code and the proposed Social Charter in the East African Community.

Article 8: Maternity and paternity

29. Partner States should ensure that women are not discriminated against or dismissed on grounds of maternity and that they enjoy the protection provided for in the ILO Maternity Protection (Revised) Convention No. 183 of 2000.

30. Partner States should ensure that working conditions and environments are appropriate for and conducive to pregnant and nursing mothers.

31. Partner States should progressively provide for paid maternity leave of at least 14 weeks and cash benefits of not less than 66% of income.

32. Partner States are encouraged to provide for paternity leave in order to ensure that child-rearing is a shared responsibility between father and mother.

Article 9: Death and survivors

33. Partner States should ensure that social insurance schemes provide protection against the contingency of death.

34. The benefits payable in the event of death of a breadwinner should include a death grant, to assist with funeral costs and – subject to qualifying conditions – survivors' benefits, which should be in the form of periodical payments, aimed at the upkeep of survivors.

35. Partner States should ensure that legal? dependants and, where justified, factual? dependants, qualify as survivors.

Article 10: Retirement and old age

36. Partner States should aim to create an enabling environment that provides universal coverage for old people, through social assistance, social insurance or social allowances. Partner States are urged to promote measures that would assist in maintaining human dignity, prevention of destitution and protection of the aged from abuse.

37. Partner States should work towards the establishment of a minimum and maximum retirement age that takes into account the need to ensure an appropriate retirement benefit, as well as country specific considerations such as life expectancy, the HIV/AIDS pandemic and economic development.

38. Partner States are encouraged to promote institutional, residential, community and home-based care for aged persons.

39. Partner States should work towards the mandatory membership of and coverage in terms of retirement funds, whether public or private or both, as well as the compulsory preservation and transfer of retirement contributions and benefits.

40. Partner States should aim at achieving equality of access, as well as the maintenance and aggregation of social security contributions and benefits and the aggregation of insurance periods on a cross-country basis among Partner States, through national laws and bilateral and other arrangements.

41. Partner States should promote the provision of social security benefits that provide for periodic pensions to be paid to the aged, rather than lump sum payments.

Article 11: Unemployment and under-employment

42. Partner States should ensure that those who are openly unemployed, including work-seekers and those who have been retrenched, as well as those who are undertaking employment or income-generating activities for survival purposes, are supported through at least the provision of social assistance, so as to enable them to live above poverty levels.

43. Partner States should adopt proactive policies and measures towards inclusive economic and social development so as to eradicate poverty and eventually to absorb the majority of the labour force into productive employment and income–generating activities.

44. Partner States should aim to progressively integrate the formal and non-formal aspects of social security (as they simultaneously seek to align these with) – and to integrate – formal and non-normal aspects of the economy, as a way of promoting inclusive social and economic development.

45. Partner States should provide adequate protection against loss of employment, including protection against arbitrary and/or unfair dismissal.

46. Partner States should provide adequate protection in the event of the unavoidable loss of employment. Bearing in mind the level of socio-economic development in a particular Partner State, these forms of protection should include the payment of appropriate social insurance benefits, severance benefits and – in the event of employer insolvency or sequestration – specialised privileged status of employee claims and, where possible, the establishment of a wage guarantee fund.

Article 12: Occupational injuries and diseases

47. Partner States should provide compulsory coverage, either through public or private mechanisms or through a combination of both.

48. All modalities of disablement should be covered, irrespective of whether the disablement occurs in the formal or informal sector.

49. All occupational-related injuries and diseases should be covered.

50. To the extent that use is made of a list of occupational-related diseases, the range of diseases covered in such list should at least be in accordance with the list of diseases contained in the most recent ILO Conventions on occupational health and safety.

51. Occupational injury and diseases schemes should provide adequate medical care and appropriate benefits.

52. Social security systems should provide for adequate rehabilitation and reintegration measures. Partner States should ensure that appropriate preventative measures are in place.

Article 13: Gender

53. Partner States should ensure that there is equal coverage of and access to social security – including equality in receiving social security benefits – between men and women.

54. Partner States should ensure that social security legislation in their respective countries is not gender-discriminatory.

55. Partner States should support gender sensitisation in the social security system, inclusive of addressing women's special needs and circumstances, and introducing appropriate affirmative action programmes.

56. Partner States should abolish all discriminatory laws, customs and practices in their respective social security systems.

57. Partner States should introduce special programmes and strategies for the eradication of poverty and the economic empowerment of women.

58. Partner States should adopt and promote policies that ensure that workers, particularly female workers, are able to balance occupational and family obligations.

Article 14: People with disabilities

59. Partner States are encouraged to create an enabling environment that would ensure that persons with disabilities, irrespective of the origin and nature of their disabilities or incapacities, are entitled to social security. In particular, Partner States are encouraged to ensure that persons with disabilities benefit from social safety net mechanisms.

60. Partner States should ensure that social security instruments guarantee equality of access and coverage to persons with disabilities.

61. Partner States should promote the social and professional integration of persons with disabilities, through measures such as rehabilitation, vocational training, accessibility and mobility, means of transport and housing and the appropriate organisation of work and the working environment.

62. Partner States should ensure that the special needs (including the need for assistive devices) and circumstances of persons with disabilities are provided for in national social insurance and social assistance instruments.

Article 15: Family protection

63. Partner States should ensure that the family, as a fundamental unit of society, is appropriately protected. Partner States should promote the economic, legal and social protection of family life.

64. Partner States should ensure that social security systems and programmes reflect the reality and importance of the extended family. Partner States should recognise and strengthen the extended family support system.

65. Partner States are encouraged to provide a framework for the extension of appropriate family benefits, particularly to families in need and to dysfunctional family structures.

Article 16: Children and young persons

66. Partner States should recognise and acknowledge the UN Convention on the Rights of the Child (1991) as the main source of children's rights.

67. Partner States should prevent child labour and child abuse, in accordance with United Nations and ILO Conventions (Nos. 135 and 182).

68. Partner States should ensure that sufficient protection is extended to children who are lawfully employed.

69. Partner States should provide that the minimum employment age shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education.

70. Partner States should provide that persons who are still subject to compulsory education should not be employed in such work as would deprive them of the full benefit of their education.

71. Partner States should ensure that there is proper and adequate nutrition for children.

72. Partner States should adopt measures that ensure protection against mental, physical and emotional abuse of youth and children.

73. Partner States should provide adequate support to orphans and child-headed households, especially in relation to inheritance and family integration.

74. Partner States should put in place effective measures and provision for adequate foster-care and adoption arrangements.

Article 17: Migrants, foreign workers and refugees

75. Partner States should work towards the free movement of persons. Immigration controls should be progressively reduced.

76. Partner States should ensure that all lawfully employed immigrants are protected through the promotion of the following core principles. These principles should be contained in both the national laws of Partner States and in bi- or multilateral arrangements between Partner States:
    (a) Migrant workers should be able to participate in the social security schemes of the host country.
    (b) Migrant workers should enjoy equal treatment alongside citizens within the social security system of the host country.
    (c) There should be an aggregation of insurance periods and the maintenance of acquired rights and benefits between similar schemes in different Partner States.
    (d) Partner States should ensure the facilitation of exportability of benefits, including the payment of benefits in the host country. This principle shall declare that certain long-term benefits should be payable abroad, including situations where a migrant earning a pension in their host state and, having retired, decides that they want to return to their home state to live with their family, the host state should continue to pay the pension to the migrant when that migrant returns home or moves to any Partner State .
    (e) Partner States should identify the applicable law for purposes of the implementation of the above principles.
    (f) Partner States should ensure coverage of self-employed migrant workers on the same basis as employed migrants.

77. All residents, including undocumented migrants should be provided with basic minimum protection and should enjoy coverage according to the laws of the host country.

78. The social protection extended to refugees should be in accordance with the provisions of international and regional instruments.

Article 18: Special and collective contingencies

79. Partner States should ensure that their social security systems provide protection against special and collective risks, including political conflict and natural disasters.

80. Partner States should provide for special interventionist approaches to disaster relief at regional and country level, including prevention, relief, reconstruction and rehabilitation.

81. Partner States should ensure that protection is provided on an equitable basis.

Article 19: Prevention and integration

82. Partner States are encouraged to ensure that national social security systems adequately integrate sufficient preventative and reintegrative measures and are not primarily compensation-focused.

83. Reintegrative measures should be aimed at ensuring that those persons affected by a risk-creating situation are meaningfully integrated, at least socially, and in the labour market, in order to encourage self-reliance and to support their human dignity.

84. Partner States should collectively and individually ensure that their social security systems adequately provide for the prevention of social risks that affect communities within and across the borders of Partner States, and should also provide for effective measures of relief, rehabilitation, reconstruction, reintegration and revival for communities so affected.

Article 20: Social protection framework

85. Partner States should recognise the links between social and economic development and should accordingly seek to ensure that social security policies and economic development policies are formulated in a complementary, integrated and mutually reinforcing manner.

86. Partner States should recognise that social security operates within the broader social protection framework of both direct and indirect measures and should, thus, accordingly ensure that indirect forms of support, such as those related to health, education, transport, housing, water and electricity, complement direct forms of social security.

87. Partner States should recognise the existence of informal modes of social security and should seek to strengthen and rationalise them (by, for example, providing skills training and relevant forms of support) and to integrate them with formal modes of social security.

88. Partner States should aim at developing integrated and comprehensive social security protection which encompasses co-ordinated formal and non-formal types and direct and indirect forms of social support.

Article 21: Implementation, monitoring and evaluation

89. Partner States should endeavour to establish proper administrative and regulatory frameworks in order to ensure effective and efficient delivery of social security benefits, in particular:
    (a) integrated, inter-departmental and inter-sectoral structures with adequate and sufficient budgetary support;
    (b) easy access for everyone to independent adjudication institutions that have the power to finally determine social security disputes, inexpensively, expeditiously and with a minimum of legal formalities;
    (c) sustainable social security provisioning linked to economic policy;
    (d) preference for most vulnerable groups in the provision of social security benefits;
    (e) In addition to the utilisation of national tripartite and regional structures, every effort should be made to involve civil society and other non-state entities such as NGO's and CBO's in the formulation, implementation and monitoring of social security policies; and
    (f) improved monitoring and sound governance structures independent of social security providers to ensure the protection of members, autonomous decisionmaking and sound investment, among other requirements.

90. Partner States and the relevant EAC structures should establish mechanisms both at the national and EAC levels to monitor progressive compliance with the provisions of this Code.

91. The Integrated Committee of Ministers should establish an Independent Committee of Experts within the relevant EAC structures to monitor compliance with the Code and to make recommendations to the relevant EAC structures and the respective national structures on the progressive attainment of its provisions.

92. The Committee should consist of no less than seven members and no more than twelve members. Each member State should be represented at the Committee.

93. Members of the Committee should be appointed in their personal capacities and shall be persons of integrity and proven relevant expertise.

94. In appointing members of the Committee, account should be taken of the need for equitable representation in terms of gender, disability, areas of expertise and broad geographical distribution.

95. Members of the Committee should be appointed for a once-off renewable period of five years.

96. In order to ensure continuity, staggered appointments should be made.

97. In the event of a position becoming vacant on the Committee, a new member should be appointed for the remainder of the vacant term.

98. The Code will be reviewed and amended from time to time as and when it is deemed necessary.