KENYA

Is the glass half full or half empty?

The impressive advances in social security made in the early years of independence have been largely undermined in the last two decades by market-driven neoliberal forces, donor-imposed structural adjustment programmes, and domestic corruption. All of the eight registered custodians of pension funds are commercial banks, while many senior citizens must fall back on family security networks. Meanwhile, civil society efforts to provide alternative education for around 30% of slum-dwelling children cut off from formal schooling have been replicated by the government.

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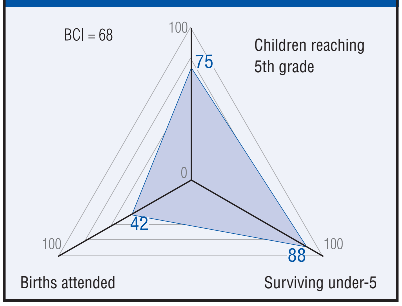
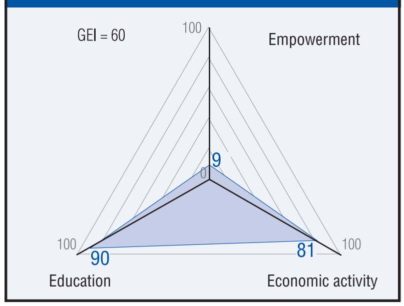
Basic Capabilities Index (BCI)



Gender Equity Index (GEI)



Social security in its broadest sense was at the centre of the Kenyan government's socioeconomic policy well before the attainment of national independence in 1963. Indeed, the manifesto of the party of independence, the Kenya African National Union (KANU), emphasized confronting the three main enemies of the young nation: poverty, disease and ignorance (GoK, 2002, p. 14). It was thus understood that secure livelihoods and universal health and education would be available to every Kenyan sooner rather than later.

During the first 10 years of independence, the government devoted considerable resources to expanding economic opportunities for peasants, small-scale traders and other players in the economy whose output would tackle poverty and economic insecurity head on. The creation of local capital formation opportunities through partially and fully state-owned corporations was also embarked on with commendable gusto. Africanization, Kenyanization and indigenization of the economy were not merely buzzwords, but rather deliberate government policy.

The government took steps to address the social security needs of its citizens by expanding educational opportunities, providing free health services and catering for senior citizens through a civil service pension scheme and the creation of the National Social Security Fund for the private sector. But these early gains have been reversed over the last two decades through structural adjustment-related donor conditionalities, neoliberal policies influenced by the corporate sector, and domestic corruption.

Insecurity in old age

In spite of the noble intentions to fight poverty, ignorance and disease, the government has not invested sufficient energy and resources in the future of its senior citizens. People who have graduated from active participation in the economy must fall back on traditional social security networks, which often means total dependence on their working offspring. Woe unto you if you do not have a wage-earning son or daughter!

Initially, the government created a pension scheme only for those who worked in the civil service. This made work outside the civil service quite insecure and led many to scramble for public service jobs, no matter how low the pay. However, due to deteriorating economic conditions, even this public service pension scheme has become more of a token than a guarantee of secure post-service livelihood.

For private sector employees, the National Social Security Fund (NSSF) was established in 1965. This was a contributory scheme where an employee contributed a fixed monthly amount that was matched by the employer. The funds could not be accessed by employees until they reached the age of 55, even if they retired earlier. The flaws in the NSSF were myriad. For instance, during its first 10 years of operation, women employees were excluded from the scheme. The first women were registered by the Fund in 1975 but did not contribute to it until 1977. In addition, private entrepreneurs and employees of the informal sector were not eligible for membership.

While the monthly contribution of KES 20 was reasonable at the time that the NSSF was established – when it was equivalent to USD 3 – it was not revised until the end of the 1990s, when it was worth a mere USD 0.28. As a result, the amount available to retirees at the end of a lifetime of contributions was not nearly adequate to ensure a secure livelihood.

It was not until recently that the government addressed the pension and social security sector. First, it amended the 1965 National Social Security Fund Act in 1987. This transformed the NSSF from a department in the Ministry of Labour into a state corporation with a board of trustees. Second, it liberalized membership to include the informal sector and the self-employed. Third, it sought to vary the employer and employee contributions to reflect prevailing economic realities.

Confronted with a growing population of retirees – partly due to the lowering of the age of retirement, which is now mandatory at 55 – the government was again forced to tackle the issue of social security towards the end of the 1990s. The single most important step was the creation of the Retirement Benefits Authority (RBA).

The RBA was created by the Retirement Benefits Authority Act of 1997, but did not become operational until January 1999. The objectives of the RBA include regulating and supervising the establishment and management of retirement benefit schemes; protecting the interests of members and sponsors of retirement benefit schemes; promoting the development of the retirement benefit sector; advising the minister of finance on the national policy to be followed regarding retirement benefit schemes; and implementing all related government policies (GoK, 2000).

In spite of the foregoing, however, the retirement benefit, social security fund and provident fund sector is overwhelmingly private sector-driven. As at the end of 2006, there were close to 1,700 registered and unregistered – but recognized – retirement benefit schemes. The majority of these (70%) are managed by the insurance industry, which controls about 10% of the total assets in the sector.[1]

Pension schemes hold an estimated KES 130 billion (USD 1.95 million) or 23% of the country's GDP. To underscore the stranglehold of the private sector on pension funds, it is worth noting that all of the eight registered custodians of pension funds are commercial banks. The 14 registered managers, 44 administrators and eight actuaries are all private companies as well (RBA, 2005).

The private sector domination of this sector has ensured that the profitable investment of these funds (in the interest of the companies themselves) has overshadowed their noble social mission.

Successful non-formal education

In keeping with the promise to fight ignorance as one of the Kenyan nation's three main enemies, the government invested commendably in the formal education sector in the immediate post-independence period. This spurred the expansion of education infrastructure, including the building of primary, secondary and vocational education institutions as well as middle-level colleges. Within 10 years of independence, free primary schooling was announced as a national project. This was later followed by a school feeding programme in the country's arid regions. However, these advances were subsequently undermined by the structural adjustment programmes imposed by international financial institutions.

From the mid-1980s, when structural adjustment programmes were fully implemented in Kenya, until the end of 1990s, enrolment in educational institutions at all levels plummeted. It was therefore music to Kenyans' ears when, in January 2003, the newly elected National Rainbow Coalition (NARC) government decreed free primary education once again. But this was done without understanding the problems that bedevilled the earlier attempt, and views are mixed on the benefits of this new initiative – particularly with regard to the imperative of quality.

It is estimated that between 30% and 35% of slum-dwelling children throughout Kenya are still cut off from formal schooling, despite the reestablishment of free primary education (GoK, 2006). When free primary education was relaunched in 2003, many thought this meant that every child of school-going age would be absorbed. But it turned out that, sooner rather than later, when the euphoria settled down, the reality remained. And the reality was that the same factors that had impeded many school-aged children from joining formal education in the past remained unchanged. Poverty, family breakdowns, parental neglect and child abuse, among other factors, continued to cause school dropouts. More recently, in 2004, a presidential directive reverted the heavy burden of the construction of classroom structures back to the parents. There are also PTA (Parents/Teachers Association) teachers paid by school committees with funds raised from the parents. School uniforms have remained mandatory for all children, and this is costly too.

These factors motivated numerous civil society organizations to experiment with alternative education systems. Some were short-lived, but others were wildly successful. One example of a successful alternative education system is the non-formal education programme of the Undugu Society of Kenya, known as the Undugu Basic Education Programme (UBEP).

When Undugu and other stakeholders began promoting non-formal education innovation in the 1970s, their efforts were not appreciated by mainstream education authorities. Non-formal education then was seen as an insidious attempt to dilute the quality and standards of education in the country. The government went so far as to accuse Undugu of sabotaging formal education in Kenya. However, non-formal education later proved to be a source of hope for the hopeless, a practical opportunity not only for those who could not afford the cost of formal education, but also all those wishing to bridge the gap created by missed educational opportunities in their childhood.

UBEP caters for children from the streets and slums who are unable to pursue formal education, either for lack of school fees and other school levies or for whatever other reasons. The three-year programme, which is followed by a year of exposure to basic technical skills, offers basic literacy and numeracy skills to learners, and runs parallel to formal primary school programmes (USK, 2000).

Children in non-formal centres such as UBEP do not pay the levies imposed on children in formal schooling. They do not even need uniforms. In other words, non-formal education is a more flexible and more affordable system. In this sense, non-formal education is committed to making it easy and possible for those who have been sidelined or marginalized by the formal education system to make up for the loss, and where possible, to catch up with others. The non-formal education learner is assumed to be more mature in age and thus more focused and better motivated to learn, and to learn at a greater speed. Three to four years are therefore assumed to be sufficient for basic education. The government later adopted the concept and now has a National Non-Formal Education Scheme.

The need to achieve social security

In Nairobi, 60% of the population occupies only 6% of the city's land and lives in informal settlements (UN-Habitat, 2005). The social insecurity in these informal settlements is not limited to ownership or user rights over land, but extends to incessant harassment by the landowners and administration officials (local chiefs and the police). In one of the Korogocho settlements of Nairobi, residents claim they cannot even repair the leaking roofs of their makeshift dwellings without permission from the area chief. Securing the chief's approval almost invariably involves a bribe, ranging from KES 100 (USD 1.50) to KES 1,000 (USD 15), depending on the chief's assessment of the level of need and ability to pay. For people who subsist on less than USD 1 a day, this is not a light demand (Kenya Social Forum, 2005).

Various surveys by the government show that more than 10% of the rural population is landless and about 44% owns less than two acres of land. Although there is evidence of the increasing importance of non-farming activities as sources of income and livelihood, access to farmland in rural areas still has important social and economic significance. Even those with industrial or intellectual sources of income still feel insecure if they do not own land.

For the urban poor, invasion of public land became the most popular (indeed the only) way of accessing land to put up their dwellings. This has recently changed, as wealthy and politically connected individuals have fraudulently appropriated most of the public land in urban areas. The alternative left for the urban poor, therefore, was to take up residence on land that is unfit for human habitation, ranging from the sides of railway tracks and highways – with a high risk of accidents and problems of exhaust fumes and noise pollution – to poorly drained areas that are prone to flooding, or the banks of rivers and inclines that are threatened by landslides as a result of rainfall or the removal of vegetation, as well as areas around factories, where both the air and soil are heavily polluted.

An analysis of crime trends also paints a worrying picture. Due to the apparent inability and/or unwillingness to act, many crimes are not reported. According to the government's own admission, over half of the victims affected do not report crimes to the police for various reasons. Still, a look at the crime profile from reported cases in the last five years tells a horror tale.

Insecurity affecting children and women – the groups that are most vulnerable by virtue of their removal from the mainstream of decision-making due to lack of economic clout – appears to be more pronounced.

Critical issues of access to land, land use planning, land administration, land information management systems, environmental protection, conflict management and restitution of historical injustices have begged redress.

Ad hoc policy reviews have been attempted since the mid-1960s in a bid to develop an integrated national outlook. These reviews have taken the form of parliamentary sessional papers, national development plans and sectoral action plans.

The need to eradicate hunger was recognized at the time of independence, and Sessional Paper No. 10 of 1965 on African Socialism and its Application to Planning in Kenya stated very specifically that hunger could only be eradicated through increased food production and land reform involving land adjudication, consolidation, transfers and resettlement.

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1 For more information see: <http://allafrica.com/stories/200706260620.html>

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The Committee underlined many of the reforms which Canadian groups have long sought including: social assistance at levels adequate for a decent standard of living, increases in minimum wages, assured access to employment insurance benefits and measures addressing food insecurity, hunger, homelessness and inadequate housing (NAPO, 2006).

A national anti-poverty strategy might embody these steps. Twelve years after Copenhagen, Canadians still await it. ■

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CANADA

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The Ontario provincial government recently introduced an Ontario Child Benefit.

It is not yet possible to tell whether the Newfoundland and Quebec initiatives will lead either to a cross-country provincial competition at raising the bar of social support and/or to a national anti-poverty strategy.

When Canada appeared before the ICESCR Committee in 2006, the Committee expressed particular concern that amid such a prosperous country, 11.2% of Canadians remained in poverty, including many First Nations, immigrants, women, single mothers and disabled Canadians. Clearly Canada had continued to fail to fulfil its obligations to adequacy of social supports.

Most worrying was the Committee's assessment that Canadian governments treated rights such as the right to adequate social assistance and the right to adequate health care as "principles and programmatic objectives rather than legal obligations." It noted that enforcement mechanisms for these rights were lacking and that governments argue before courts against including Covenant rights among those protected by the Constitution's Charter of Rights and Freedoms.

FRANCE

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In March 2007, the Conference on Social Security in Health in Developing Countries took place in Paris. This event, which was organized as a French initiative, developed on the reflections of the eight wealthiest countries in the world (G8) from St. Petersburg in 2006 which called for "an acceleration in international discussions on the practical approaches that permit public, private and community based health insurance coverage in developing countries." We hope that this French initiative is a first step towards rebalancing multilateral and bilateral aid in the health sector, and the benefit of the reinforcement of French actions in the improvement of health systems. ■

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KENYA

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The National Food Policy of 1980 built on the need for prudent and focused land reform policy as a requisite for achieving a food-secure nation. Sessional Paper No. 1 of 1986 on Economic Management for Renewed Growth, the Household Food Security and Nutrition Policy of 1988, as well as the National Development Plan 1984-1988, all recognized the need to limit the misuse of land. Through Sessional Paper No. 1 of 1986, the government expressed its intention to establish a National Land Commission to review land tenure, land-use practices and legislation. This came to naught.

The government came to recognize that although food may be available nationally, it may not be accessible at the household level (GoK, 1988).[2] Many factors were acknowledged to be responsible for this situation, not least among them the fact that a significant proportion of the Kenyan population is malnourished as a consequence of inequalities in the distribution of land resources, income inequalities, seasonal food shortages and lack of education and awareness.

2 See also Sessional Paper No. 1 of 1986.

Through these policy documents, the government stated its commitment to influencing increased food production on smallholder farms to attain food self-sufficiency through the development and improvement of land access, utilization, enhancement of input and output markets and rural infrastructure. Unfortunately, a great more needs to be done to live up to this commitment. ■

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MALTA

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It should be noted that in the Maltese context, the allowances given to asylum seekers and rejected asylum seekers could be compared at par or worse to persons living on a 'dollar a day' in a poor country, if they are not aided by charity organizations.

Official development assistance

According to the European Commission (2007, p. 164), Malta spent EUR 7 million (USD 9.68 million) or 0.15% of its GNI on official development assistance (ODA) in 2006. However, questions have been raised on whether the money was actually spent on aid towards the development of poor countries or for other purposes.

CONCORD (2007), an EU non-governmental development organization (NGDO) platform of which the NGDO Platform is a member, criticizes the government of a lack of transparency on where the money goes and to whom. CONCORD stresses that currently Maltese ODA figures include the cancellation of Iraq's debt to Malta, money spent on migrants during their first year in the country, the repatriating of migrants, and a number of scholarships given to people from developing countries. This money is not helping any developing country to develop and thus should not be counted as ODA. CONCORD further criticizes the government for wanting to tie ODA to the acceptance of the repatriation of migrants. The Maltese NGDO Platform has serious reservations on this measure and considers that it undermines the rightful focus of ODA, namely tackling poverty. ■

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MEXICO

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- Claims by trade union organizations presented to the ILO Administrative Council based on violations of Convention 102: 10 claims have been presented and are awaiting admission.
- Complaints by trade union organizations presented to the ILO Freedom of Association Committee based on violations of Convention 98 on the right to organize and bargain collectively: 10 complaints have been presented, admitted and combined in case 2577.[14]

If this type of reform is implemented in the rest of the system (in state companies, for example), the Mexican state will continue to contravene its national and international obligations in respect of the right to social security, and people will be compelled to resort to resistance strategies and extraordinary national and international legal mechanisms.

Challenges

- Demographic change is not the only challenge and may well not be the principal one as the authorities claim. Although fertility and child mortality rates have decreased, while life expectancy has increased, effective measures to address inequality and poverty are still needed along with a review of the social security system administration that is facing problems such as: fragmentation, a lack of integral actuarial assessment, insufficient regulation of private stakeholders (especially financial institutions), tax evasion and a diminishing allocation of budget resources, while fines and surcharges are cancelled for big companies with debts due to non-remittance of employee/employer contributions to IMSS.
- Cuts in the social security and health budget must be prevented to avoid further worsening of the financial crisis facing service institutions, an increased shortage of medicines and equipment and deterioration in the condition of infrastructure and the quality of services.
- It is essential to re-conceptualize social security not only as a work-related benefit but also as a human right applicable to the entire population, in the spirit of ICESCR Article 9.
- While the model continues to be an occupational one, social security can only be guaranteed to the population through policies of full and proper employment that, among other things, widen coverage and guarantee adequate pensions. ■

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14 Further information available from: <www.ilo.org>.