Ashina Mtsumi, Lihle Mabuza, Benjamin Tonga, Robert Akoto Amoafo. "The realisation of the right to social security during COVID-19 in Africa: Case studies of Cameroon, Kenya and South Africa." (2021) 5 *Global Campus Human Rights Journal* 89-110
http://dx.doi.org/10.25330/1357

The realisation of the right to social security during COVID-19 in Africa: Case studies of Cameroon, Kenya and South Africa

Ashina Mtsumi, Lihle Mabuza,** Benjamin Tonga,*** Robert Akoto Amoafo**** and Wilson Macharia******

Abstract: *The COVID-19 pandemic exposed and further exacerbated the inequalities that existed within states. The right to social security constituted a crucial part of the response to COVID-19 in various African states. This was premised on the recognition of the social cost associated with the pandemic, particularly the impact of lockdowns on populations. This paper interrogates how three African countries (Cameroon, Kenya and South Africa) fulfilled their obligations at the peak of the pandemic with respect to the right to social security. Contrary to what is often assumed, these countries made important strides in assisting households through the loss of livelihoods caused by the pandemic. However, our finding concluded that the informal sector (which is a major source of income) was not adequately addressed, nor were the needs of the most vulnerable sufficiently met. The countries did not have sufficiently comprehensive social security policies to respond effectively to the pandemic. African governments need to invest more money, time and human resources into strengthening the resilience of social security systems and addressing the persistent challenges of corruption, lack of proper planning, and absence of data which confront those who need help the most and prevent rationalisation of the debt burden.*

Key words: *COVID-19; social security in Africa; human rights; economic, social and cultural rights; Cameroon; Kenya; South Africa*

* LL.B (University of Nairobi), LL.M (University of Pretoria); Programme Officer for Public Services and Africa Representative, Global Initiative for Economic, Social and Cultural Rights; ashinamtsumi@gmail.com

** BA (Honours) (University of the Witwatersrand), MPhil (University of Pretoria); Human Rights Practitioner (Department of International Relations and Cooperation, South Africa); lihle.a4c@gmail.com

*** LL. B, LL.M (University of Buea), LL.M (University of Pretoria); Human Rights Advocate (World Alliance for Citizen Participation, CIVICUS); tongabenjamin@gmail.com

**** BA (University of Ghana), MPhil (University of Pretoria); Advocacy Manager, Pan Africa ILGA; akoto.robert@gmail.com

***** LL.B (University of Nairobi), LL.M (University of Pretoria); Tutor and Doctoral Candidate (Centre for Human Rights, University of Pretoria); Advocate of the High Court of Kenya; wilsonmash93@gmail.com

1 Introduction

Social security is a key component of the International Covenant on Economic Social and Cultural Rights (ICESCR 1966, art 9), a component which has become even more necessary with the emergence of the COVID-19 pandemic. With many losing their jobs (ILO 2021) and vulnerable groups becoming more vulnerable during the pandemic (Siegel and Mallow 2021, 93), governments around the world have come under pressure to provide social security as a measure to address the social and economic challenges brought about by the pandemic (International Social Security Association 2021).

The International Labour Organisation (ILO) defines social security as "the protection that a society provides to individuals and households to ensure access to health care and to guarantee income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner." (ILO n.d.(b))

The aim of this paper is to highlight the progress made towards realisation of the right to social security in the context of the COVID-19 pandemic in Africa, focusing on Cameroon, Kenya and South Africa, which represent different sub-regions. The paper shows how social security systems in Africa are already fragile and how South Africa, Cameroon and Kenya are dealing with the extra demands from the COVID-19 pandemic. It further discusses the range of measures that have been adopted by these states to secure the right to social security in the midst of the pandemic by reviewing the various programmes, policies and initiatives that have been put in place in this regard. The paper identifies the challenges faced in these processes, and proposes ways in which these interventions can be strengthened to ensure the right to social security is realised during the pandemic and beyond.

2 Overview of the right to social security

State parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) have an obligation under article 9 to ensure the availability of social security and social insurance to their citizens. The Committee on Economic, Social and Cultural Rights (CESCR) defines the right to social security in General Comment 19, which states that "[t]he right to social security encompasses the right to access and maintain benefits, whether in cash or in-kind, without discrimination in order to secure protection, inter alia, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents" (CESCR 2008, para 2).

Article 22 of the Universal Declaration of Human Rights states, "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality."

Providing social security and social insurance is a safeguard measure to ensure no person falls short of enjoying their fundamental human rights, especially Economic, Social and Cultural Rights (ESCR). It aims to ensure marginalised and vulnerable peoples are able to access services and basic amenities as well as protect their dignity. In General Comment 19, the CESCR noted that "[s]ocial security, through its redistributive character, plays an important role in poverty reduction and alleviation, preventing social exclusion and promoting social inclusion" (CESCR 2008, para 3). The CESCR further identifies that "[t]he right to social security includes the right not to be subjected to arbitrary and unreasonable restrictions of existing social security coverage, whether obtained publicly or privately, as well as the right to equal enjoyment of adequate protection from social risks and contingencies" (para 9).

Under the African human rights system, the right to social security is not specifically mentioned in the African Charter on Human and Peoples' Rights (African Charter). It is however recognised in the Principles and Guidelines for the Implementation of Economic, Social and Cultural Rights in the African Charter developed by the African Commission on Human and Peoples' Rights (African Commission 2010). In these guidelines, the African Commission recognises that "[t]he right to social security is of central importance in guaranteeing human dignity for all persons when they are faced with circumstances that deprive them of their capacity to fully realise their rights." (African Commission 2010, 45). The guidelines further identify the minimum core of the right to social security as "access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education consistent with human life, security and dignity." (African Commission 2010, 45). Also, article 13(f) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa encourages states to "establish a system of protection and social insurance for women working in the informal sector and sensitise them to adhere to it."

As for all other basic rights, states are obligated to promote and fulfil the right to social security as stipulated in the various international, regional, and national laws, guidelines and treaties. The next section of this paper looks at the extent to which South Africa, Cameroon and Kenya have realised their obligations towards the right to social security.

3 The state of the realisation of the right to social security in Cameroon, Kenya and South Africa

3.1.*Background to social security in Cameroon, Kenya, and South Africa*

Historically, the social security systems of most African countries reflect colonial preferences and considerations (Bailey and Turner 2002, 106). According to Bailey and Turner, several distinct patterns of social security developed in Africa reflected colonial traditions and linkages where, for instance, pensions were provided based on social insurance and priority was given to employment injury schemes. Over the years, social security systems in African countries have evolved and each country has experienced its own evolution. While some countries still have the influence of colonial linkages, others have had changes after independence via arrangements such as policies, strategies and constitutions.

In South Africa, social security cannot be understood outside the history of apartheid. When the social security system began in South Africa in 1910, it was reserved for the white minority in the country (Sokomani and Reddy 2008). It was only in the early 1970s that black people began to be integrated into the system. However, it was still underpinned by discrimination because the inclusion of black people was seen as something that would put the fiscal viability of the country in jeopardy (Sokomani and Reddy 2008).

The inclusion of the right to social security in South Africa's democratic Constitution in 1996 was fundamental in attempting to deal with the structural oppression of apartheid. The right to social security, enshrined in Section 27 of the Constitution, states "[e]veryone has the right to have access to (c) social security, including, if they are unable to support themselves and their dependents, appropriate social assistance." However, just like all ESCR, this must be progressively realised in line with the availability of resources (Constitution of South Africa 1996).

In Cameroon, social security has encountered two phases of evolution. During the pre-independence period before 06 December 1945, the colonial power France set up a compensation fund for family benefits with its headquarters in Douala. The post-independence period saw social protection formalised in law, with the National Social Security Fund (NSSF) established by Law no. 67 / LF / 08 on 12 June 1967, and the Labour Code by Act No. 92/007 on 14 August 1992. Beyond the

Labour Code, there are several other decrees and ministerial orders that govern the relationship between employees and employers in the country.

In Kenya, the right to social security is recognised under article 43(1)(e) of the 2010 Constitution, and elaborated further under article 43(3) which provides that the state "shall provide appropriate social security to persons who are unable to support themselves and their dependents" (Constitution of Kenya 2010). The provision is subject to the principle of progressive realisation (art. 21) which mandates the state to take steps towards ensuring that everyone in Kenya enjoys the right to social security. It is also a justiciable right by virtue of article 22, which means that any person can go to court to enforce their right to social security, even where they are acting on behalf of someone else or a group of persons. Article 2 also incorporates relevant international law such as the ICESCR and the African Charter into the Kenyan legal framework (cl 5–6).

The legislative framework governing social security in Kenya is made up of three main statutes: the National Social Security Fund Act, 2013 (NSSF Act), the National Hospital Insurance Fund Act, 1998 (NHIF Act), and the Social Assistance Act, 2013 (SA Act). The NSSF and NHIF Acts create compulsory contributory schemes for persons in formal employment; the two acts govern their pensions and other benefits, and medical insurance, respectively. They both allow for voluntary contributions from persons who are not in formal employment. Social assistance under the Social Assistance Act includes a broad range of financial assistance and social services necessary to alleviate the causes or effects of poverty (s 2). With regard to situations of emergency such as the pandemic, the Social Assistance Act envisions "emergency assistance for a period not exceeding one month" (SA Act, s 18(a)). Qualification as a "person in need" entitled to social assistance includes persons who are unemployed (SA Act, s 18 (3)(c)).

South Africa and Kenya have the right to social security enshrined in their constitutions, in contrast with Cameroon where it is placed in other legal instruments including Decrees and Ministerial orders. As well as the mention of social security in the constitution of Kenya, it is also further elaborated in other laws to give more meaning and clarity to how the constitutional right can be practically realised.

3.2. *The pre-pandemic state of social security in Cameroon, Kenya and South Africa*

According to the ILO, coverage by statutory social security schemes in sub-Saharan Africa is limited, and largely confined to workers in the formal economy and their families (ILO n.d.(a)). In many countries in

Africa, the Organisation has identified that arrangements for informal workers are limited or non-existent and this is burdened by the various challenges these African countries face (ILO n.d.(a)).

South Africa is battling the triple challenges of inequality, poverty and unemployment, and social security plays a crucial role in alleviating poverty and reducing inequality. The White Paper on Social Welfare (1997) states that social security in South Africa consists of a variety of public and private measures for poverty prevention, poverty alleviation, social compensation and income distribution. It takes into account persons whose earning power is lost or interrupted so that they cannot otherwise avoid poverty or maintain children.

Social security in South Africa falls into four main categories: private savings, social insurance, social assistance and social relief. Private savings consist of individuals making their contributions in anticipation of the risk of loss of income. Social insurance consists of joint contributions by employers and employees, examples of which are pensions or provident funds. Social assistance is a non-contributory, means-tested form of social security, and is delivered as grants to the most vulnerable members of society including the aged, persons with disabilities, and children. Though social assistance is not aimed at meeting the total needs of recipients, it is a means to enable the most basic needs to be met. Lastly, social relief involves emergency contributions during crisis situations (SAHRC 2000).

The most prominent form of social security in South Africa is social assistance in the form grants that the government disburses every month to citizens in particular categories. Key social grants include the Old Age Pension (OAP), Disability Grant (DG), Child Support Grant (CSG), Foster Child Grant, Care Dependency Grant (CDG), Grant in Aid, and War Veterans' Grant (Social Assistance Act 2004). These are there to ensure citizens have adequate economic and social protection during unemployment, ill-health, maternity, child-rearing, widowhood, disability, and old age, by means of contributory and non-contributory schemes for providing for their basic needs (Social Assistance Act 2004).

In Cameroon, until 2014, the social protection system covered only three social security benefits, provided through the National Social Insurance Fund (NSIF): pensions (disability, old age and survivors), family allowance, and employment injury. The NSIF system provided services for formal workers, especially those in the public service and state-owned enterprises. Under this scheme, only salaried workers governed by the Labour Code, a small proportion of the youth, and public workers (19% of the population) were theoretically covered (CAMYOSFOP 2018). The informal sector was largely left out. With the rate of informal workers in Cameroon being as high as 81%, this means that the majority of the vulnerable population were excluded.

However, Cameroon took some steps towards strengthening the scheme by extending coverage to informal workers through the National Voluntary Contribution Scheme in August 2014. This social security scheme came into force through a Prime Ministerial Decree signed on 13 August 2014, laying down terms and conditions of support for the voluntary contributors. The voluntary contribution scheme aims at increasing coverage across the population, considering the previous system was restricted to workers in the formal sector. The scheme targets workers in the informal sector and the self-employed, covering the risks of old age, invalidity and death. The basis for calculation is the minimum wage of 36.270 FCFA, and beneficiaries are expected to contribute for a minimum of 15 years in order to benefit.

According to Article 2 of Decree No. 2014/23/77/PM of 13 August 2014, the following are considered as voluntary insured people:

1. Persons with capabilities to contribute, who are not subject to a compulsory contribution against risks of old-age, invalidity, and death;

2. Workers who do not fulfil conditions of affiliation to the general scheme, the scheme of state personnel, or any other special social security scheme;

3. Formerly insured persons who have stopped fulfilling the conditions for contributions to the general scheme.

Registration into this scheme went operational across the country in December 2014. Since then, there have been remarkable increases in social security coverage. The decree resulted in increased affiliation, from 10% in 2012 to 20% in 2015. As at 2016, the CNPS had registered 136,588 self-employed contributors. Out of those who registered, 4,200 contributors were from the informal sector while 6,500 were youths (CNPS 2017).

Despite the above strides made so far, implementation of the voluntary contribution scheme is facing several challenges. Calculations for contributions are done on the minimum wage, which a majority of workers in the informal sector are unable to afford. Some people are still unable to contribute either because their income is too low or irregular, or because they have no income at all. Reducing the minimum contribution will enable more informal workers to contribute. However, the majority of those in the informal sector, especially in rural areas, are still not aware of the existence of the voluntary scheme (Suwun 2018).

In Kenya, before the COVID-19 pandemic, the state had taken several steps towards ensuring everyone is able to enjoy the right to social security. Some of the interventions include mandatory participation in national medical and pension schemes for persons in informal employment and the rollout of cash transfers for orphans and vulnerable children. While persons in informal work may make voluntary contributions to the medical and pension schemes, many times they are unable to do so due to the unpredictable nature of their work. This leaves them without adequate social security, and particularly vulnerable to shocks such as catastrophic health expenditure in the event of an illness or accident, which could easily plunge the family deeper into poverty by having to deal with medical expenses.

Initially, Kenya was steadily increasing its investment in social security. By 2010, state spending on social protection was estimated to be 2.28% of the GDP with the government being the largest contributor to funding social security (55%) and development partners funding 22% of the national social protection budget (GOK 2012, 5). This was important for sustainability because overreliance on development partners leaves the sector more vulnerable to shocks and changes in external priorities (Moyo 2010). This level of investment in social security made it possible to increase the coverage of social protection by 135% between 2005 and 2010 (GOK 2012, 5). However, despite the state acknowledging the persisting limitations on its capacity to scale any social protection programme in response to a crisis (GOK 2012, 9), by 2019 government spending on social protection had significantly fallen to about 0.4% of GDP (GOK 2020, 14), thus making the social security system ill-prepared for the scale of shock introduced by the pandemic.

As in many other African countries, there were programmes, policies and interventions by governments in South Africa, Cameroon and Kenya for the development and implementation of social security interventions during the COVID-19 pandemic. Prominent among them are social grants for the elderly, persons with disabilities, persons who have lost their jobs and other vulnerable populations. There are clear arrangements for persons in formal sectors and initiatives to include persons in informal sectors in Cameroon and Kenya. Notwithstanding the programmes, policies, and interventions put in place by these countries, there are still major gaps that make these social security systems fragile. It is therefore important to understand how governments were able to handle the extra demands on these already fragile social security systems during the COVID-19 pandemic.

4 Measures adopted to mitigate the impact of COVID-19 on the right to social security

In response to the COVID-19 pandemic, countries made immediate public health interventions and adopted economic measures to mitigate adverse impacts and stimulate the economy. However, widespread workplace closures due to the lockdowns resulted in significant loss of labour income through higher levels of inactivity and unemployment (ILO 2021).

4.1. Social security during the COVID-19 pandemic in South Africa

South Africa took a three-stage approach to managing the pandemic. The first stage included measures to mitigate the effects of the pandemic on business communities and individuals (Tralac 2020). These included tax relief, disaster relief, emergency procurement, and wage support through the Unemployment Insurance Fund (UIF). The second stage was directed at stabilising the economy through supply and demand of jobs (Presidency 2020). In this regard, the President stated that R500 billion (US$35 billion) of internal resources, or 10% of GDP, had been allocated to the COVID-19 stimulus package to assist with funding for the health response, support for household and individuals to relieve hunger and distress, and assistance with workers' wages for companies which wished to save jobs. The last stage was characterised by inclusive economic reforms (Tralac 2020).

Meanwhile, the South African government put measures in place to help cushion the impact of COVID-19. These included top-ups to existing social grants, a COVID-19 Social Relief of Distress (SRD) grant and Temporary Employee Relief Scheme, and food parcels (Devereux and Van den Heever 2020). R40 billion (US$2.8 billion) was allocated to the expansion of social assistance such as social grants and the SRD grant. According to Köhler and Bhorat (2020), this amount was expected to benefit 18 million existing grant recipients and an additional 12 million recipients of the special SRD grant.

The government took measures to boost funding of various grants for six months. In this regard, caregivers were given an extra R500 (US$35) per month on top of the amount they were already receiving, regardless of the number of children they have (Maeko and Mathe 2020). It is estimated the Child Grant supports 13 million children in South Africa, meaning that it reaches close to 30 million people. All other grant beneficiaries received an extra R250 a month (Maeko and Mathe 2020).

The Department of Employment and Labour (DEL), through the Unemployment Insurance Fund (UIF), also introduced a COVID-19 Temporary Employer-Employee Relief Scheme (COVID-19 TERS) to contribute to containment of the pandemic (Department of Employment and Labour 2020). This was targeted at employers unable to pay full salaries to their workers during the lockdown. R40 billion was committed by the government to pay workers. This measure mostly targeted formal employment since employers had to apply on behalf of their employees.

Unfortunately, many workers in South Africa work in the informal sector where there is no unemployment protection measure. It is estimated that 3 million people lost their jobs and livelihoods during the pandemic (Devereux and Van den Heever, 2020). This is mostly due to the fact that numerous companies suffered losses due to strict restrictions imposed by the government to control the pandemic.

It is predicted that more people will lose their jobs as the effects of the pandemic are felt for years to come, especially effects on the economy (Devereux and Van den Heever 2020). This is why it became important for the government to also set up the COVID-19 SRD grant.

The COVID-19 SRD grant was set up as a temporary measure to assist those who had lost their jobs. It was intended for persons in such dire material need that they are unable to meet their or their families' most basic needs. The amount was set at R350 (US$24) per month from the date the application was approved (SASSA 2020). This measure was originally meant to last six months until October 2020, but due to the prolonged effects of COVID-19 it was extended to April 2021 (Presidency 2021).

The government also set up the Solidarity Fund to help curb the economic effects of COVID-19. The Fund called upon individuals and companies to donate money, which was then used in a variety of ways including the humanitarian mandate of the Fund to provide food relief to households living below the poverty line in both rural and urban areas. In this regard, the government worked with partners across civil society and the private sector to ensure that people were reached (Solidarity Fund 2020).

Beyond these interventions, numerous organisations also joined the relief efforts to supplement the work done by the government. Organisations such as FoodForwardSA addressed the issue of hunger through food banks and distribution of food parcels. The Gift of the Givers Foundation supported frontline workers through PPE distribution, medical equipment and supplies (Parliamentary Committee 2020). UNICEF built handwashing stations in communities to ensure hygiene of children and their families (Kesselaar 2020).

4.2. Social security during the COVID-19 pandemic in Cameroon

Cameroon, for its part, is in a state of unprecedented humanitarian crisis caused by numerous conflicts in almost all regions of the country. While the North and Far North Regions suffer from the resurgence of the Boko Haram insurgency emanating from neighbouring Nigeria, the East and Adamawa Regions register recurrent attacks from Central African Republic (CAR) rebels through rampant kidnappings and lootings in a bid to fund their war. The 'Anglophone Crisis' has for its part ravaged the North West and South West Regions, leading to the internal displacement of over 700,000 inhabitants, most of whom have sought refuge in the Littoral, West and Centre Regions as they flee from the scathing violence that has engulfed their communities (Amnesty International 2020).

The emergence of the COVID-19 pandemic has gravely limited the effectiveness of humanitarian assistance to both internally displaced persons (IDPs) and refugees (both Nigerian refugees in the north and Cameroonian refugees in eastern Nigeria). The result has been the adjustment and reorientation of the state budget to reflect realities of this global health crisis. The amalgamation of the socio-political crises in Cameroon coupled with the outbreak of the COVID-19 pandemic poses significant challenges in containing the health pandemic while at the same time coping with its economic and social impacts.

To mitigate the socio-economic impact of the COVID-19 pandemic, the President of Cameroon set up a special solidarity fund. The sum of US$1,681,833 (FCFA 1 billion) was designated to financing operations and strategies for preventing the spread of pandemics in Cameroon. (Bainkong 2020).

Lockdowns and restrictive measures geared at reducing the spread of the virus brought untold misery and suffering for many households and businesses. In response to this, the government suspended for three months the payment of docking charges (penalties for occupying port space beyond duty-free days) and demurrage (the penalty for holding the container at a terminal beyond the duty-free period) in the ports of Douala and Kribi, especially for essential goods (Cameroon Government 2020).

With regard to taxes, the government announced a full deduction from corporate income tax on donations and concessions granted by companies, to help them fight against the COVID-19 pandemic. It granted a moratorium and payment delays for companies directly affected by the crisis and suspended forced recovery measures against them. An exemption clause from the axle load tax for the second quarter was also introduced. Tourist taxes for hotels and restaurants were suspended in March 2020 for the remainder of the year (Cameroon Government 2020). The purpose of these measures was to allow businesses to run within their operational capacity amidst the economic impact of the pandemic.

Additionally, the deadline for filing statistical and tax declarations was extended without penalties. The government also made an allocation of FCFA 25 billion (US$45.2 million) for clearance of stocks of VAT credits awaiting reimbursement. It likewise suspended the general accounting audits for the second quarter of 2020, and postponed the payment of property tax from April to September 2020.

The labour market in Cameroon is mainly informal. Over 40% of the population live in poverty. Health expenditures are usually out of pocket payments with under 3% of the population being adequately covered by social health protection. The COVID-19 pandemic resulted in an unprecedented demand for health services. In response to the additional demand for financial and material resources to the health sector, Cameroon increased its health spending by CFA 6.5 billion (US$11.7 million) to ensure access to essential services (ILO 2020).

The social protection system in Cameroon is managed through the scheme for civil servants and the CNPS, which covers workers regulated under the labour code of Cameroon. To mitigate the impact of COVID-19 on social security, the government, through the CNPS, increased family allowances by 60% and pensions by 20% for formal workers. The government also decided to cancel penalties between May and July for late payment of social security contributions to the CNPS by employers who were finding it difficult to pay.

Certain categories of workers in the informal sector such as small fresh food sellers were exempted from withholding tax and communal taxes for the second quarter. However, the impact of this is not known because the state cannot monitor its effectiveness, since these taxes are part of local municipal authority financing.

4.3. Social security during the COVID-19 pandemic in Kenya

In Kenya, the COVID-19 pandemic resulted in greater need for social security across the population. The number of people who were food insecure increased by 38% and the impact of the pandemic was felt the most by income-poor and labour-dependent households (Kansiime et al. 2021).

In his first address to the nation following the increase in the number of confirmed COVID-19 cases in Kenya, the President introduced a range of measures intended to curb the spread of the pandemic and cushion the public against the economic effects. To limit the spread, the President ordered a lockdown restricting intercounty movement and a curfew restricting movement to certain hours of the day. He also prohibited gatherings, and encouraged everyone who could work from home to do so in order to reduce movement and potential crowding (Office of the President 2020). The effect of these measures was to leave many households without a source of income as industries were closed down, and reduced household spending caused many companies to lay off workers in order to remain financially sustainable. An increased number of people needed social security interventions, putting extra strain on the social security system.

To mitigate the impact on the social security system, the government made several adjustments both directly to the social security system in order to strengthen it, and to the general economic framework in order to reduce the strain on the social security system.

In March 2020, the President announced an additional KES 10 billion for cash transfers to the "elderly, orphans and other vulnerable members of society." The President also announced 100% tax relief for persons earning KES 24,000 and below, and a reduction of the income tax rate and value-added tax in an attempt to further cushion Kenyans from the harsh economic impacts of the pandemic and support social security interventions (Office of the President 2020).

As a result of the pandemic, more people were in need of medical insurance to access healthcare if they showed symptoms of the virus. People with underlying health conditions also needed access to healthcare to avoid becoming exposed. Kenya maintained its National Hospital Insurance Fund (NHIF) medical cover which only covers 11% of the population (Ouma et al. 2020). This primarily excluded workers in the informal sector, which makes up about 70% of the workforce, who would be forced to rely on out-of-pocket payment in the event they required medical attention (Ouma et al. 2020). This led to delays in, or avoidance of, seeking medical attention even where it was required.

Although the government made free testing available in COVID-19 hotspots, the NHIF did not extend cover to COVID-19 testing (Ouma et al. 2020). This is problematic, considering about 40% of the population lives below the poverty line and the relatively high cost of testing therefore prevented many from getting tested and taking necessary steps to curb the spread of the pandemic such as isolation (Ouma et al. 2020).

t of the inefficient coverage of the NHIF, many Kenyans were forced to rely on private medical insurance providers. These are accessible only to those who can afford them and have inherent limitations by virtue of their provision by profit-making companies. When COVID-19 first reached Kenya in March 2020, private insurance companies attempted to rely on the classification of the virus as a pandemic to exclude cover for all medical costs related to the virus because covering policy-holders for the disease would be financially unviable (Mwangi 2020). However, following government intervention, the Association of Kenya Insurers changed their position to extend cover to all policy-holders affected by COVID-19 (Mwangi 2020).

5 Challenges to ensuring the right to social security during COVID-19 in Cameroon, Kenya and South Africa

Many governments faced challenges to their attempts to deliver on their obligations under international, regional and national laws to ensure a consistent, universal and effective social security system that met the demands of its people during the COVID-19 pandemic. This was evident during periods of lockdown when vulnerable populations were not working and, therefore, did not have any means of providing for their upkeep.

5.1 Challenges in South Africa

The South African government is no exception in this regard. It experienced numerous challenges in trying to mitigate the impact of COVID-19. Emergency relief programmes designed to help citizens were originally planned to last six months. However, they had to be prolonged because the impacts of COVID-19 were far-reaching. At the same time, the social security system had shortcomings. The process of applying for relief packages during the pandemic was slow, error-prone and susceptible to abuse and mismanagement of funds (Devereux and Van den Heever 2020). Furthermore, the Unemployment Insurance Fund (UIF) faced a massive backlog of claims and erroneous payments. Also, many food parcels were diverted by local government officials for their personal agendas (Devereux and Van den Heever 2020).

5.2 Challenges in Cameroon

The CNPS covers only 10% of the population and provides most of the benefits prescribed by the ILO's Social Security Minimum Standards with the exception of unemployment and sickness benefits (ILO 1952). For workers outside the formal labour market (estimated at 7.3 million people) contributory pension regimes have recently been extended. These currently reach 250,000 own-account workers, most of whom are in the informal economy and are otherwise largely uncovered.

Corruption, lack of accountability, and mismanagement of COVID-19 funds were some of the biggest challenges to ensuring the right to social security. Under President Paul Biya, a solidarity fund for COVID-19 was created with the sum of US$1.8 million (Business in Cameroon 2020), and additional contributions were received from civilians, companies, ministers, lawmakers and senior state functionaries. Cameroon also received assistance from foreign governments to fight COVID-19, with over US$226 million in emergency funding from the International Monetary Fund. However, the management of this fund was strongly criticised, as there seemed to be no plan of action on how the funds would be used, and hospitals received little or no assistance from the government. To date, few can say with certainty where these funds disappeared to (Kindzeka 2020). Other people and entities equally donated thousands of bags of rice for distribution to the most vulnerable populations, which was mismanaged by public authorities

The pandemic greatly affected the labour market. Economic growth and foreign trade were hampered. Cameroon's partners, such as China and France, were among the most affected countries and this led to a reduction of credit in the economy and the state budget.

Employment and the labour market were also affected by rationalisations at certain companies, which were forced to reduce operating expenses, wages or number of workers in order to cope with the decline in sales volume or turnover. The national survey of formal and informal sector enterprises showed that strategies which have consequences for employment (reduction of wages, lay-offs, rotation of workers) were those most used by businesses. Beyond these strategies, the fall in demand and production were also damaging. In the absence of effective assistance policies, these harmful effects added to under-employment and informal employment (ILO 2020).

5.3 Challenges in Kenya

In Kenya, efforts to protect the right to social security during the pandemic were hampered by the fact that no cash benefits were made available to people unable to work due to sickness, nor to those rendered unemployed due to the measures taken to stop the spread of the pandemic. This was compounded by the fact Kenya does not have an unemployment benefit despite this being provided for in section 22 of the SA Act, nor did it introduce one during the pandemic as was done in South Africa.

The pandemic also revealed the gap in the current social security framework in terms of envisioning social security for protracted emergency situations such as the coronavirus pandemic. Section 18 of the SA Act only envisions emergency social assistance lasting for "a period not exceeding one month", but the pandemic lasted for far longer than this prescribed period.

Further, social security is a resource-intensive right and the primary challenge to ensuring this right during the pandemic was the lack of preparedness of the Kenyan social security system. Social security was not granted adequate resources in the budget, as a result of a myriad of issues including misplaced priorities (Ouma et al. 2020), regressive tax regimes, debt servicing, and loss of financial resources to illicit financial flows and corruption (Ouma et al. 2020).

The pandemic caused an increase in Kenya's debt burden from 61.7% of GDP in 2019 to 69.9% in 2022, which in turn increased the debt servicing burden to a concerning 74.5% (Fresnillo 2020). In acknowledging the heavy burden caused by debt servicing and the negative repercussions for the state's capacity to respond to the pandemic, the Group of Twenty (G20) initiated the Debt Service Suspension Initiative (DSSI) on May 2020. Initially intended to end in December 2020, it was eventually extended until June 2021 (World Bank 2021). The World Bank estimated that as a result of the DSSI, Kenya could potentially save US$1,250 million between May 2020 and June 2021 (World Bank 2021). Countries benefiting from the DSSI are expected to use the freed-up funds to increase social spending in response to the pandemic, including spending on social security. As a DSSI participant, Kenya is flagged as having a high risk of external and overall debt distress.

Additionally, corruption and mismanagement of funds was flagged as a major drain on resources which could be otherwise spent on increasing coverage under social security. According to Ouma et al. (2020), corruption contributes to reducing the resources available to invest in social security, and to general public scepticism with social security programs such as NHIF, which results in people avoiding the schemes, and also contributes to under-resourcing for these schemes.

These problems are compounded by illicit financial flows (IFFs) which drain the resources available for investment in social security. According to the United Nations Conference on Trade and Development (UNCTAD), Africa is losing US$88.6 billion through IFFs in the form of tax and commercial practices, illegal markets, theft and terrorism financing, and corruption. The largest drain on resources is tax avoidance and evasion, including the state giving tax breaks and tax holidays to multinational corporations to attract investment in the hope that the economic gains will trickle down to the marginalised —but this theory has since been debunked (UNCTAD 2020, 2). Rather than wait for a trickle-down effect, states must proactively provide social services and social security to cushion and protect people living in poverty.

Many of the challenges faced by South Africa, Cameroon and Kenya revolved around lack of proper planning, mismanagement of funds, corruption, and improper implementation of policies and strategies that already existed. These challenges not only show the weaknesses in social security systems but also the level of unpreparedness of many African governments to address challenges that come with pandemics.

6 Ensuring the right to social security during COVID-19 and beyond

In addition to the measures already taken by the respective governments, other and additional measures should be envisaged, including the following:

1. Governments could regularly evaluate the informal sector and involve it in the measures implemented. It has been shown that the informal sector is harmed by government decisions.

2. Local businesses could increase their production instead of importing goods, or accelerate the process of local transformation of goods often exported in their raw state.

3. Governments could strengthen capacities of households by informing them of the various support measures available and the conditions and procedures that can benefit them.

4. The absence or limited nature of unemployment protection measures, including partial unemployment or partial income compensation, reduces the ability of companies to preserve jobs while coping with the financial impact of the crisis. Better social security systems are needed to provide protection to the unemployed, particularly those affected by the pandemic.

5. Women are the majority of health workers. Most of them are also parents and caregivers, and responsible for procuring water and fuel for household consumption. In addition, they are overrepresented in the

most vulnerable forms of work, including informal employment (UN Women 2020). Ensuring the gender-responsiveness of policy responses is essential to achieving better and more inclusive social security systems.

6. Particular attention should also be given to the needs of homeless people and those in informal settlements, who live in congested dwellings and often lack access to water and sanitation, and for whom increased hygiene and social distancing are often impossible. Currently the threat of COVID-19 is being discussed in universal terms, but there is a real risk that the impacts on the poor will be considerably higher than elsewhere. To mitigate the worst of these, and to achieve longer-term changes, there is a need to understand and address health and living conditions in informal settlements (Wilkinson 2020).

7. Guaranteeing access to affordable health care is critical, first and foremost to ensure that people are not prevented from seeking care and to prevent the impoverishment of individuals and households through out-of-pocket payments directly related to seeking care. Financial and geographical access to care is essential, particularly for those in rural areas.

8. Policies related to sickness benefits have become a central issue in countries impacted by COVID-19. Workers who cannot rely on sickness benefits or paid sick leave entitlements (especially those in non-standard forms of work) may be reluctant to self-isolate or forced to report to work while sick, thereby potentially passing on the virus to colleagues and clients. There might also be situations where there are lengthy waiting periods for the payment of sickness benefits or paid sick leave entitlements. Inversely, when financially protected, individuals might be more amenable to testing.

9. None of the accompanying measures addressed the loss of earnings of workers who went on unpaid technical leave. In responding to the COVID-19 crisis, respective governments must put in place unemployment protection schemes to ensure income security for workers who have lost their jobs. This can be achieved through expansion of unemployment benefits, wage subsidies, introduction of partial unemployment benefits to compensate for crisis-induced reductions in working hours, and employment services to complement income support to unemployed workers.

10. In view of the particular vulnerability of older persons and persons with disabilities, old age, survivor and disability benefits have a particularly important role to play in ensuring income security for those affected by the crisis.

11. Cash disbursements to low- and middle-income groups is an effective response to ensure continued consumption, as these households have a high propensity to use large portions of transfers on goods and basic necessities, and this has an income multiplier effect.

12. Governments could provide priority support to women on the frontlines of the response, for instance by improving access to women-friendly personal protective equipment and menstrual hygiene products for healthcare workers and caregivers, and flexible working arrangements for women with a burden of care.

13. Platforms for regular dialogue between the different stakeholders in the labour market could be established in order to monitor and manage the effects of the pandemic on employment and the labour market.

14. The South African system needs to be reviewed in terms of its criteria, online registration, payment methods and monitoring. There has to be a clear way to link beneficiaries, entitlements and contributions (Devereux and Van den Heever 2020).

15. South Africa does not have a comprehensive social security policy. This is particularly important for working-age people who are unemployed. It is reported that only 7% of unemployed people are covered by unemployment insurance. The opportunity given by COVID-19 to reconfigure the social contract around social security must be embraced (Devereux and Van den Heever 2020).

7. Conclusion

The COVID-19 pandemic created an urgent need for the implementation of social security policies, programmes and interventions due to the introduction of lockdowns, the loss of jobs and people's increased vulnerability. Although governments already had some key social security policies, programmes and interventions in place before the COVID-19 pandemic, they were not strong enough to support the added level of demand on the social security systems. Governments need to invest more money, time and human resources to strengthen these systems to deliver as expected. Notwithstanding the level of investments, there were challenges that these systems were unable to meet. There were instances of corruption, lack of proper planning, and absence of data on those who needed help the most.

African governments must commit to their international, regional and national obligations to provide essential services and support to their citizens which will ensure the realisation of the right to social security.

They must invest in social security systems and not wait until there are pandemics and emergencies like COVID-19. They can develop strong policies and create avenues to for investing in social security initiatives now, so as to avert the derailing of their plans and budgets by unforeseen emergencies in the future.

References

African Commission. 2010. *Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights.* African Commission on Human and Peoples' Rights. Link

Amnesty International. 2020. "Report: Cameroon 2020." Link

Bailey, C., and J. A. Turner. 2002. "Social Security in Africa." *Journal of Aging & Social Policy* 14 (1): 105–114.

Bainkong, G. 2020. "Imperative Transparency!" *Cameroon Tribune*, July 27, 2020. Link

Business in Cameroon. 2020. "Cameroon creates a solidarity fund to fight Covid-19." April 3, 2020. Link

Cameroon Government. 2020. "Government response strategy to the coronavirus pandemic (COVID-19)." Link

CAMYOSFOP (Cameroon Youths and Students Forum for Peace). 2018. "Assessing Youth Driven Social Accountability Indicators within the 2030 Agenda Landscape." Link

CESCR (Committee on Economic, Social and Cultural Rights). 2008. "General Comment 19: The right to social security (art 9)."

CNPS (Caisse Nationale de Prévoyance Sociale - Cameroon). 2017. [In English: National Social Insurance Fund (NSIF)]. Link

Constitution of Kenya. 2010.

Constitution of the Republic of South Africa. 1996.

Department of Employment and Labour. 2020. Consolidated COVID-19 Temporary Employee / Employer Relief Scheme. April 30, 2020. Link

Devereux, S., and A. Van den Heever. 2020. "How social security could make life better in SA after COVID-19". *Wits.ac.za Opinion*, September 30, 2020. Link

Fresnillo, I. 2020. "Shadow report on the limitations of the G20 Debt Service Suspension Initiative: Draining out the Titanic with a bucket?" *Eurodad.org*, October 14, 2020. Link

GOK (Government of Kenya). 2012. Ministry of State for Planning, National Development and Vision 2030. "Kenya social protection sector review: Executive report: The context for social protection in Kenya." June 2012.

ICESCR (International Covenant on Economic, Social and Cultural Rights). 1966.

ILO (International Labour Organisation). 1952. The ILO Social Security (Minimum Standards) Convention (No. 102). Link

ILO (International Labour Organisation). 2020. "Cameroon: Rapid evaluation of the impact of COVID-19 on employment and the labour market." ILO Country Brief, December 11, 2020. Link

ILO (International Labour Organisation). 2021. "Assessment of the social security responses to COVID-19: Lessons from the Western Balkans and Eastern Europe during the first stage of the pandemic." ILO Decent Work Technical Support Team and Country Office for Central and Eastern Europe (DWT/CO-Budapest). Budapest: ILO.

ILO (International Labour Organisation). n.d.(a). "Social Protection in Africa." Link

ILO (International Labour Organisation). n.d.(b). "Facts on Social Security." Link

International Social Security Association. 2021. "Ensuring social security coverage during COVID-19." April 29, 2021. Link

Kansiime, M. K., J. A. Tambo, I. Mugambi, M. Bundi, A. Kara and C. Owuor. 2021. "COVID-19 implications on household income and food security in Kenya and Uganda: Findings from a rapid assessment." *World Development* 137 (January 2021): 105199.

Kesselaar, K. 2020. "Nine local charities you can donate to for COVID-19 relief." *Business Day,* June 29, 2020. Link

Kindzeka, Moki Edwin. 2020. "Cameroon citizens raised $40 million for COVID relief, but where is it?" *Voice of Africa,* July 27, 2020. Link

Köhler, T., and H. Bhorat. 2020. "COVID-19, social protection, and the labour market in South Africa: Are social grants being targeted at the most vulnerable?" National Income Dynamics Study (NIDS) – Coronavirus Rapid Mobile Survey (CRAM). *Working Papers 202008*. University of Cape Town, Development Policy Research Unit.

Maeko, T., and T. Mathe. 2020. "COVID-19 top-up is for caregivers, not children". *Mail & Guardian,* April 23, 2020. Link

Moyo, D. 2010. *Dead Aid: Why Aid Is Not Working and How There Is a Better Way for Africa*. New York: Farrer, Straus & Giroux.

Mwangi, W. 2020. "Insurance firms agree to cover coronavirus costs." ***Daily Nation***, March 13, 2020 (updated June 28, 2020). Link

National Hospital Insurance Fund Act (Kenya). 1998.

National Social Security Fund Act (Kenya). 2013.

NSIF (National Social Insurance Fund) (Cameroon). *See* CNPS.

Office of the President. 2020. "Presidential address on the state interventions to cushion Kenyans against economic effects of COVID-19 pandemic." March 25, 2020. Link

Ouma P. N., A. N. Masai and I. N. Nyadera. 2020. "Health coverage and what Kenya can learn from the COVID-19 pandemic." *Journal of Global Health*. Link

Parliamentary Committee. 2020. South African Parliamentary Committee on Social Development, and Select Committee on Health and Social Services. Meeting, 29 May, 2020. Link

Presidency (Presidency of the Republic of South Africa). 2021. State of the Nation Address. February 11, 2021. Link

SAHRC (South African Human Rights Commission). 2000. 3rd Economic and Social Rights Report. Link

SASSA (South African Social Security Agency). 2020. "Social Grants - Coronavirus COVID-19". Link

Siegel, R. M., and P. J. Mallow. 2021. "The impact of COVID-19 on vulnerable populations and implications for children and health care policy." *Clinical Pediatrics* 60(2): 93-98. Link

Social Assistance Act (Kenya). 2013.

Social Assistance Act (South Africa). 2004. Link

Sokomani, A., and T. Reddy. 2008. "Overview of the South African Social Security System." In *Corruption and Social Grants in South Africa*. Institute for Security Studies: Monograph 154 (November 2008). Link.

Solidarity Fund. 2020. Link

Suwun, R. B. 2018. "Extending social security coverage to the informal workers in Cameroon". *Socialprotection.org blog*, July 2, 2018. Link

Tralac (Trade Law Centre). 2020. "South Africa's policy response to the COVID-19 pandemic". July 03, 2020. Link

UNCTAD (United Nations Conference on Trade and Development). 2020. *Tackling Illicit Financial Flows for Sustainable Development in Africa: Economic Development in Africa Report 2020*. New York: United Nations Publications. Link

UN Women. 2020. "Paying attention to women's needs and leadership will strengthen COVID-19 response." March 19, 2020. Link

Wilkinson, Annie, Abu Conteh and Joseph Macarthy. 2020. "Chronic conditions and COVID-19 in informal urban settlements: a protracted emergency." *Cities and Health* 5, 2021 (Issue sup1): S148–S151. Link

World Bank. 2021. Debt Service Suspension Initiative. Accessed 2021. Link