

THE NATIONAL SOCIAL SECURITY FUND ACT
A SERVICE OR A DISSERVICE TO THE LABOUR FORCE?

UNIVERSITY OF NAIROBI
PARLIAMENTARY LIBRARY

A DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIREMENTS FOR THE DEGREE OF THE BECHELOR OF LAWS,
UNIVERSITY OF NAIROBI.

BY

MWANGI WA MUCHEMI

NAIROBI

APRIL, 1978

UNIVERSITY OF HAIKON
PARLIAMENT LIBRARY

DEDICATED TO THE WORKERS
=====

AND
=====

PEASANTS OF THIS COUNTRY
=====

C O N T E N T S

	<u>PAGE</u>
PREFACE	i
1. INTRODUCTION; SOCIAL SECURITY GENERALLY	1
2. SCOPE OF THE NATIONAL SOCIAL SECURITY FUND ...	7
3. ORGANISATION AND ADMINISTRATION	14
4. CONCLUSIONS AND RECOMMENDATIONS	22
5. FOOTNOTES	29
6. BIBLIOGRAPHY	36

**UNIVERSITY OF HAWAII
HONOLULU LIBRARY**

P R E F A C E

Broadly, the thesis is an attempt to show whether the National Social Security Fund in Kenya is worth its name. Therefore aspects of it which are advantageous and disadvantageous to the working class are discussed. Reforms and expansions under the NSSF Act are also suggested.

Chapter One helps the reader understand what is meant by Social Security, why it is necessary and what category of persons should be covered by a scheme of Social Security. This helps the reader to appreciate the merits and the demerits of the Scheme in Kenya.

Also in Chapter one, a brief history of Social Security schemes in the world is given. The events leading to establishment of the NSSF Scheme are also traced.

Chapter Two deals with the scope of the National Scheme. In this chapter, the coverage of the scheme in respect of both persons and contingencies is outlined. The benefits which accrue to members are outlined. Some additional benefits are suggested which should come about on the path to transforming the scheme into a truly social security one.

Chapter three deals with the organisation and administration of the scheme. The financing of the scheme is discussed and reforms suggested. A critical analysis of the various organs of the scheme's administration is given and the ~~made~~ of ensuring that the requirements of the Act are complied with is discussed and evaluated. The investments of the funds arising from the scheme and its impact on members is evaluated. Reforms are also suggested. In the same chapter is discussed how conflicts in respect of benefit claims are resolved under the act. Its defects are discussed and reforms suggested.

In the final chapter, the points raised in the preceding chapters are briefly summarised. Broad reforms under the scheme are suggested and finally, the political -economy of the ~~act~~ is discussed.

It is my hope that this thesis will form a basis for further research in this field in order to fill the gaps which I have left.

Now for the usual acknowledgements. My thanks go first to Professor Muboru and Mr. Fahrouk Moslem, both lecturers in the Faculty of Law who supervised this work, and drew my attention to errors and ambiguities and made many constructive suggestions for improvement.

I am indeed greatly indebted to L.O. Musiga, Mr. Mbuyi, Mr. Ndegwa and Mr. Muange all senior officers of the National Social Security Fund for the co-operation they gave me during my research.

My thanks also go to the many workers I interviewed and who provided me with useful information.

Lastly and should not forget to thank ^{my} TYPIST for her tireless effort to ensure that the thesis is typewritten.

CHAPTER ONE

INTRODUCTION

SOCIAL SECURITY GENERALLY

What is meant by Social Security:

Although different writers have defined Social Security in different terms, they are all agreed that, the essential purpose of Social Security is to ensure freedom from want by collective or community provision for those people who because of misfortune are temporarily or permanently without sufficient resources for their subsistence and essential health services.

Thus when Henry Richardson lays emphasis on Social Security for workers only! he seems to forget that not only workers are likely to be affected by misfortune but non-workers are likely to be affected as well. Moreover to provide social security measures for people who once in their life-time have been wage earners is to leave over those in need of the greatest help. To quote a British Member of Parliament in 1870, "In helping only those who help themselves or who can get others to help them, we have left unhelped those in greatest need of help".

However in Kenya like in most other developing countries, the underdeveloped economies have not created room for expansion of the scope of social security and the schemes in those countries are mostly confined employees.

In order to be effective, a social security policy must be translated into legislation and therefore institutionalised. Social security law is "those legal mechanisms primarily concerned to ensure the provision for the individual of a cash income adequate when taken along with the benefits in kind provided by other social services to ensure for him a culturally acceptable minimum standard of living when the normal means of doing so fail".²

Social Security legislation reflects a society's philosophy as to how its needy should be treated. Even in capitalist states where the emphasis is on a laissez-faire policy, it has been realised that social security programmes are a must and the owners of capital must concede something in order to ensure themselves some security. It is obvious that poverty in time of plenty is dangerous and is likely to lead to political instability. However, in a free-enterprised economy, a lot of emphasis is laid on private social security measures. As may be observed, legislation on social security in Kenya does not cover as wide an area as it should because it leaves out the unemployed, self-employed etc out of the scheme.

Many low-paid workers after they have met the current necessities of life for themselves and their families have little or nothing left for savings or voluntary insurance and are unable to make provision for their old age and other risks. As the state is an association of citizens which exists for the sake of their general well being, it is a proper function of the state to promote social security.

In Great Britain, the policy of laissez-faire had for so long dominated the scene and the role of law therefore tended to be negative directed chiefly towards the prevention of interference with private enterprise. Absolute laissez-faire is anarchy and this state of affairs was bound to change over the years. In Kenya also, during the colonial era, the doctrine of laissez dominated the scene and the few existing schemes were chiefly in favour of

workers in the public sector. The philosophy of laissez-faire no longer dominates the scene and a rival philosophy of state welfare has replaced it.

Prevailing policies have tended to relegate private enterprise to a subordinate role and positively to favour intervention by the state. Legal mechanisms designed to regulate activity, redistribute wealth, and in particular establish acceptable standards of life have resulted.

New areas of substantive law have emerged with the change of attitude as a means to secure the implementation of the social policies aimed at attaining the objectives set out by the philosophy of welfare. Of these new areas the two chief ones are economic law and welfare law.

It is not however to be assumed that the policy of laissez-faire has died, as it is fundamentally the policy of a capitalist society, but it cannot exist without contradictions. For example, some welfare services like health, education, defence, and general security must be provided by the state.

For purposes of classification, only some services provided by the state are properly termed as social security, otherwise social security would include such services as education, health, defence and analogous services. Alongside these schemes are others designed to provide the individual with a cash income where-withal to go out into the market and purchase his and his dependants' means. These schemes are the concern of social security law. The former are referred to as welfare measures to distinguish them from social security measures. Social Security measures are designed to cover such misfortunes as sickness, disability due to accidents, old age, unemployment etc.

Need for and Scope of Social Security

At any stage in one's life, one is likely to find oneself in need which calls for some external assistance. I have already dealt with situations where this is likely to occur.

For each human being, life is whole and indivisible and somehow from the output of industry, resources must be pooled and spread to provide comprehensively for maintenance, not only by adequate wages during working years but by assistance for the periods when earnings cease and for the children who will be the next generation of workers.

In an agricultural as well as in a wage economy there is insecurity, arising from the former because of fluctuations in agricultural prices, natural disasters etc, and from the latter because of unemployment of all kinds including seasonal unemployment but in both cases, the most severe period is during a worker's old age when he is detained at home unable to earn his living. Such a situation calls for some social security scheme perhaps in the form of a national insurance scheme. In Kenya as in most other developing countries, due to the many claims upon the meagre resources, social security programmes are chiefly confined to employees leaving out the vast army of the unemployed and the rural farmers.

Insecurity is greater in industrial economies where workers may become unwanted because of the invention of labour saving machines or because of old age. In an agricultural economy, a farmer who owns a portion of land is at least assured of a place to live in even though he is exposed to the vagaries of the weather

Social security in the strict sense of the term, the sense in which it is presently understood is a recent development. Even with the emergence of the Industrial Revolution in Europe, social security did not come simultaneously or even soon thereafter. As I have already pointed out elsewhere, the doctrine of laissez-faire dominated the scene in Great Britain, with little state interventi

The Industrial Revolution in Europe gave rise to a class of wage earners or the Urban proletariat who depended entirely on wages for their livelihood and a spell of sickness or unemployment would reduce them to poverty.

The earliest Social security programme in Europe was introduced in Germany by Bismark to cater for impoverished wage earners in 1883. This was in the form of a compulsory state insurance but was extended in 1889 to cover cases of permanent incapacity.

The example of Bismark was soon copied in Europe by Austria, Hungary, and Britain adopting the movement early in the 20th Century, USSR and Japan began the movement at the same time and after the 1930s great depression, the movement spread to United States and Canada. Social security programmes were soon introduced in most of the countries of Europe more or less on the same lines with that of Germany.

Social Security programmes in Africa and Asia have only emerged with demise of Colonialism perhaps because the colonial government little concerned itself with the welfare of the indigenous people so long as it could achieve its aims of accumulating gains without conceding anything to the indigenous people in return. The only social security schemes existing at the time catered only for the colonial civil servants and the Africans were left to bargain with their individual employer for themselves. The result was that few if any schemes emerged at all.

It was not until the 1950's ^{that the} colonial administration gave any thought to a social security scheme when there was an acute labour shortage which the government thought would be reserved by social security measures. However, despite this, nothing came of the proposals made until after independence.

How Kenya Received the Message

As I have already stated social security programmes did not exercise the minds of officials until in the 1950s. The class of proletariat created by the colonial economic relationships posed a threat to the continuity of imperialism and this had already expressed itself in the outbreak of the Mau Mau in 1952. Most Mau Mau insurgents were former employees, either of the settlers or World War II fighters who had lost security with the loss of their jobs. Others were drawn from the urban working class as evidenced by the fact that the movement had initially spread in urban area like Nairobi and Mombasa.

The colonial authority realised the threat and was forced to have a second thought as regards the welfare of Africans. Even individual settler farmers who had hitherto opposed a social security scheme urged the government to initiate such a scheme. However, the suggestions came of nothing as the government enthusiasm was minimal and it was not until after independence that a social security programme was introduced.

The Professor J.H. Richardson had advised the colonial office on the importance of social security in several colonial territories but the colonial office for certain reasons was not able to implement the schemes all the same. His ideas were to lay a foundation for further progress in that direction.

Faced with the threat of instability due to the emergence of Trade Unionism and rise of the Mau Mau, in 1951 a paper dealing with social security and social insurance was discussed at a conference of Heads of Labour departments held in London. In 1953, a committee appointed by the Elected Members' Organisation to report on social service and social security for Africans in urban areas recommended that:-

"Inquiry should be instituted into the possibility of the old age benefits to be secured by the compulsory monthly affixing of stamps to cards by all employers and employees." ⁸

Again in 1953, the Kenya National Farmers Union in its annual report drew attention to its views concerning the desirability and practicability of providing some sort of security for old age which were that:-

"Nothing could be more conducive to establishing a stable and contented labour force divorced from its native ~~land~~ holdings" ⁹

It should be noted that the settlers main concern was to avail himself a constant supply of labour but not to give any social security to the natives." In fact, the chairman of the KNFU was Lord Delamere who had no liking for the Africans. The settlers were anxious to receive back the labour force they had lost through the outbreak of the war.

In 1954, the government set up a social security committee under the chairmanship of Dalton as a result of a motion introduced by Humphrey Slade and carried without dissent. One of the committee's terms of reference was to find out whether there is now or likely to be in future need to provide social security for employees in their old age. "As a reflection of the half-heartedness of the administration, the committee was only instructed to find out whether there was need and not to devise a scheme. It was obvious that there was need. The committee noted the importance of a social security scheme in Kenya and hence inter alia recommended that:-

"--- legislation be introduced as soon as practicable for the provision of social security for employees in their old age" ¹⁰

This move was supported by the committee working on African wages. ¹¹ However, Dalton's Committee recommendations were rejected as impracticable and involving a substantial sum of money which the government was not willing to provide at that time.

The government's efforts to find a way out did not cease there. European moderates had begun to advocate a policy of multi-racialism and a social security system for Africans could be an ingredient of this policy - that is, to concede to Africans to ensure the continuity of the economic relationships which favoured Europeans. Therefore in 1960, the government appointed two experts, Mr. C. E. Clark and Miss S. A. Ogilvie to review the financial and administrative problems envisaged in the report of the Dalton Committee. ¹²

The two experts went beyond their terms of reference and in addition to a social security scheme for employees, they recommended a non-contributory scheme for the destitute aged persons in urban areas. While accepting the Report, the government considered that its practicability be worked upon by E. Turner, an expert in the Ministry of National Insurance and Pensions in U.K.

Turner's report was accepted finally in 1964, and immediately the recommendations were set in train. The recommendations formed the basis of the sessional Paper No. 12, 1963/65 entitled Observations on the Proposed National Provident Fund.

The rapidity with which the independent government accepted the recommendations and wanted them implemented may be explained on two grounds. Firstly, the new government had to deliver what political programmes had promised the electors. Secondly, the U.K. government was not itself a disinterested party. It had its own nationals here who were former colonial civil servants and who it wanted to receive social security benefits. It therefore pressurised the independent government to accelerate the move.

The National Social Security Fund Act, 1965, carried the spirit of the sessional Paper.

ESTABLISHMENT OF THE NSSF

I have pointed out the reasons why the initiation of a social security programme was so rapid after independence. The sessional Paper No. 12 of 1963/65 was transformed into law in 1965 through the introduction of the National Social Security Fund Bill in Parliament in 1965.¹³ The title of the Bill and the subsequent act is misleading as the scheme falls short of a social security scheme. The title is given to it because of the intention to widen its scope in future. A Social Security scheme implies a consolidated system bring together the contingencies of different kinds under one administrative system. A provident fund is one where the employer and employees contribute to a fund from which the worker benefits on the occurrence of a contingency. This is actually the character of the NSSF scheme has taken and should be properly styled a Provident Fund Scheme. The intention to transform it into a social security properly so called was expressed by How J.G. Kiano when he said:-

"--- it is hoped that in future this policy will outgrow the normal scope of national provident fund and include the whole question of social security."¹⁴

After a lot of debate, the NSSF Bill was passed by Parliament on 12th October, 1965.

This move for the first time in Kenya brought Kenya into the map of countries in the world operating social security schemes of one kind or another. Hitherto the existing social security schemes were not on National basis except perhaps the workmen's compensation Act.

No evidence tends to indicate that the enactment of the social security Act was a result of any pressure from Trade Unions. This may perhaps be because Trade Unions were preoccupied in pressurising for higher wages at the time or because as in the 1950's they linked the introduction of the scheme as an Act of servitude designed to retain an employed to the employer as the settlers were still in the country. Another reason may be that they did not want to involve themselves in a scheme which made deductions of the employees' meagre wages. These are however mere suggestions and although there is no evidence of their participation neither do we have evidence of any opposition of the scheme from Trade Unions.

Through not comprehensive and leaves a lot to be desired the measure is nevertheless an important one as improving the lot of the country's wage earners as Kiano remarked during the debate on the Bill.¹⁵

In the ensuing chapters, I will discuss whether the purpose of the scheme has been achieved by trying to detect flaws in the scheme and offering solutions where possible.

SCOPE OF THE NATIONAL SOCIAL SECURITY FUND

Social Security systems being the responsibility of the state, are established by legislation which entitle specified categories of persons in the specified contingencies to receive benefits. In Kenya, the NSSF. is confined to employees and contingencies of a limited kind.

A. Who is a Registrable Employee?

The policy of the Kenya Government as embodied in the sessional paper No-12 of 1963/65-(16) and the resultant ~~act~~ ^{act} is that the scheme should cover all employees. Since it is not possible to bring in all workers at the same time because of the administrative difficulties involved, different categories of workers had to be brought in at different times through Ministerial Orders. (17)

Under S.2, the definition of employee covers all persons of employable age, 16, whose employment has a relationship with Kenya. Non-Nationals are also included in the scheme on the grounds that to leave them over would provide the employers with an incentive to employ expatriate labour. This is not true because employment of non-Nationals can be controlled by restricted issue of work-permits. It should be remembered that the scheme was introduced during the period of the transfer of the power to the Africans and the U.K. Government pressurized the new African Government to include former colonial employees in the scheme and the inclusion of non-nationals in the scheme should be viewed against this background. It is time the act was amended to exclude non-nationals from the scheme unless their governments abroad has reciprocal agreement with the Kenya Government to provide social security of equal worth to Kenya nationals working there.

Provision has been made for special workers who do not fall within the normal pattern of employment e-g seamen, Ministers of religion etc. so that they are not left outside the scheme.

Under the ^{Act and} schedule to the subsidiary legislation made thereafter, the order in which various categories of employees come into the scheme has been based on the size of the establishment where they work in terms of the number of employees working there. Workers in big establishments were the first to be admitted. Although this may appear an unfair arrangement, this was chiefly due to the economics of operating the scheme. As workers with higher incomes contributed more to the scheme, the fund could be more rapidly self-sufficient as was the original intention of the government. By now all the employees of the government. By now all the employees of an employer employing five persons or ~~10~~ ¹⁸ more have been covered by the scheme. 18

The scheme covers all employees irrespective of whether they had formerly been covered by a similar scheme. This is because if employees are exempted on grounds that they already had existing schemes;

- (1) The worker may be unable to claim full title to the employer's share of the contribution until he has served for a certain length of time which it would be in the employers interest to extend.
- (2) A worker is ^{likely} wholly to lose the benefits if dismissed due to misconduct.

- 3) Retirement age is not defined and a worker is therefore able to cash the benefit after a specified period with the risk of squandering the money before reaching old-age, thereby becoming a social liability.
- 4) The funds coming from private schemes are invested outside Kenya which is not in the best interests of the Economy;
- 5) An employer has an absolute right to terminate the scheme (19)

The scheme covers those employees of the government and statutory bodies who do not come under the Pension Act. This is understandable as those others are already covered under another scheme. However, for any reason, if such people lose their pensionable terms their employer, in this case the government, has to make contributions to the fund respectively up to the time such employees become liable to pay just as if they had been members of the fund. The affected employee may, if he wishes add his contributions.²⁰ This aspect of the Act is commendable as ensuring social security for all employees.

B. Who is Not Covered By The Scheme?

Although the initial policy was to keep exemptions at a minimum, this has not been possible for various reasons, largely to do with administrative convenience.

Persons awarded diplomatic status are not covered by the scheme. This is to comply with an international convention, and moreover, such persons strictly speaking are employed by foreign governments for example, ambassadors, and such people are not likely to retire here after their period of employment. They are also likely to be covered by the schemes in their home countries. This exemption appears to have been taken too far however, because Kenya Nationals working in diplomatic missions appear to have been left out of the schemes, although they are not expressly excluded by the Act. This is perhaps because having exempted the diplomatic organisation itself, a worker can only be called upon to pay his own contributions. Under international conventions, the diplomatic organisations can not be compelled to pay contributions. As Kenya Nationals working in diplomatic organisations are as in much need of social security as any other employees, it is necessary that they make a one-side-contribution or alternatively the government should make the additional contribution on their behalf especially because such people are few and mostly in the lower grades, which would mean very little expenditure on the part of the government.

The other examples of persons are government and statutory organisations' employees who are under pensionable terms. I need not deal with the reasons for their exemption as I have already done so.²¹ But considering that pensions are periodical sums paid to the retired worker the NSSF programme is a better scheme because it provides a lump sum which the retired worker can invest to ensure himself a regular flow of income. He may with this money be able to build himself a house in or buy a portion of land to settle in. This is hardly possible with a pension especially where it is small - because the retired worker may not be able to save the payment in order to obtain an accumulated sum. It's only saving grade is that it is regular and a retired worker is assured of a constant flow of income until he retires and thus advantageous to people who may squander the money.

University staff who are covered by the superannuation scheme for universities are also exempt to avoid erecting barriers which would impede the recruitment and free interchange of such staff.

Only those non-nationals whose contracts of service are of three years and over are members of the scheme. To include others would give rise to administrative inconveniences of opening up and closing accounts for them.

Full-time students are also exempt from the fund under legal notice number 35 of 1968. This is notwithstanding the fact that they are in receipt of allowances. This is understandable as the definition of employee under the act would not include a student. It is moreover considered that most students do not receive adequate allowances to enable them to afford contributions to the scheme and that they are likely to join permanent employment in the future whereas they will be proper members. Where a student is employed on vacation, it would be absurd to enrol the student in a scheme with which he will not continue.

Another group which is regrettably left out of the scheme is casual workers. Under the Act, a casual worker is:-

"Any employee whose contract of service provide for his wages to be paid at the end of each day and is engaged for less than one month at any one time." The exclusion of casual workers can be explained on economic grounds as the sums collected from them would be relatively small and because of the high mobility of labour with such workers. The casuals workers are not however unregistrable per section and the act leaves room for their inclusion under a Ministerial order (23). The power of the act which stipulates this however has remained dormant up to date. Casual workers are the people with most need of social security having no permanent employment and it is therefore regrettable that they should have been left out of the scheme. Such people receive low wages generally and are engaged in manual jobs which they are likely to be unable to continue doing for a long period. While conceding that such people should be left out due to economic reasons and administrative difficulties, there is a category of casual workers who should come into the scheme without causing much difficulty. This is casual labour which continues to work for one employer for a long period, say continuously for a month and is therefore more or less permanent. This point was stressed by the late Sir Ronald Ngala referring to Dock Workers during the debates on the bill when he said:-

" I think this aspect of the Bill should be done away with so that casual labourers can be treated on the same lines as the other workers---- I am talking of those people who are regularly working ----but the only difference is that they have a label on them as Casual labour (24)

It is the high time that casual workers who are more or less permanent should be admitted into the scheme at least if it's practically impossible to bring in all categories of casual workers. This was infact the original intention of the government as expressed in the sessional paper (25)

Although women have never been expressly left out of the scheme, it is only recently that they joined it. This is because, women unlike men had no means of identifying themselves as they didn't possess identity cards issued under the Registration of Persons Act. However the period in which women have been non-members have been too long considering that the scheme started far back in 1965 and women came in ten years thereafter. This cannot possibly be justified on administrative grounds. However, lack of identification aside, it appears there were other reasons for giving

preference to men as is evidenced by the white paper when it stated:-

To expedite the widest possible coverage of male workers, the government agrees to the temporary differment of the inclusions of women within the scheme but undertakes to see that there is no avoidable delay in bringing them in as soon as the fund organisation is able to cope"

Perhaps men were given preference because they are mainly the breadwinners but have also started to be heads of families especially where they are unmarried.

Persons below the age of sixteen are also non-members. This is on the assumption that the provision under the Employment Act which stipulates the employable age as sixteen will not be violated. But this is a provision which is difficult to follow as the educational system throws children of under sixteen into the labour market. The Employment Act should be amended to provide for a lesser age so that those persons can be covered and the employer would not have an excuse for employing juvenile labour which would award him the advantage of not making contributions to the fund. The NSSF Act should be amended accordingly.

C Who Else Should Be Covered By The Scheme?:

Due to economic and administrative reasons it has not been possible to bring in more persons and to include other contingencies into the scheme that is, it has not been possible to widen its scope. It is essentially a provident fund scheme.

Despite this discussion of other persons in need of social security ~~suffices~~ is called for. Our scheme concerns itself with only the employed leaving out those most in need, the unemployed. Like many other developed countries the unemployed cannot be included because of the little National Income which has many other claims upon it. But the fact remains that the many of the unemployed is amassing thereby posing a danger to the economic and the political stability. More vigorous taxation should be imposed to provide them with some social security, no matter how little.

The other category of persons who should come under the scheme are the self-employed. These should be admitted on voluntary basis only as it would be difficult to enforce their registration and subsequent contributions. Self-employed persons are as likely to be hit by unemployment as the employed especially in the agricultural industry. The self-employed may work want to save for the future. Private saving are not enough because these can be withdrawn before the contingency arises.

D Who Should Be Left Out Of The Scheme?:

People who are in need or are likely to suffer poverty are normally those with small means and social security systems should be primarily concerned with them. People who enjoy good and stable incomes are generally able to cover most of the risks of life from their own savings including their voluntary insurance and when a social security system pays benefits to such people, it has gone beyond its basic function.

The NSSF Scheme has exceeded this function when it covers the rich as well as the poor. There may be good reasons, including administrative convenience for this procedure but such systems involve a wide conception of the purposes of social security. In fact most of the highly paid workers consider social security as a burden as it contributes a negligible percentage of their savings. It is for a maximum wage beyond which one cannot be admitted into the scheme. ... time the act was amended to provide

E

What Contingencies Give Rise To Benefits?:

If the purpose of social security is to ensure by public measures the maintenance of income sufficient for the subsistence, health and ^{decent} ~~delive~~ of persons who are unable to make adequate provisions for themselves and their dependents because their earnings have ceased, were never sufficient or have been ~~substantially~~ reduced, generally by causes over which they have little or no control, an examination of those causes will give the answer. This includes consideration of the main causes of poverty. They include interruption or cessation of earnings because of sickness, unemployment, old age, or the death of the breadwinner of a family. Similar to sickness in their effect on income are occupational diseases, injury from accidents, invalidity and prolonged sickness or incapacity, including blindness.

In Kenya under the NSSF scheme, contingencies which give rise to benefits may be classified under the following headings under S.19 of the NSSF Act:

- a) Age benefits
- b) Services benefits
- c) Invalidity benefit
- d) Emigration grant
- e) Withdrawal benefit

The amendment to the original Act passed in December 1970 added a new clause to section '19(1)

and such other benefits as may be prescribed by the Minister with the concurrence of the Minister for the time being responsible for finance".

The importance of this amendment is that the scheme can now steadily be transformed from a strictly provident fund to a social insurance system. This amendment now puts the NSSF on the path of transformation into a social insurance system.

I will now discuss each of the above benefits in turn.

(a) Age Benefit:

This benefit is paid to a member of the fund who has attained the age of sixty years and has retired from regular employment. ^{Is} ~~is~~ age an appropriate criterion for awarding the benefits? It is generally accepted that age determines a person's ability to work. But it should be remembered that some people are still strong and healthy at the age of sixty while others are worn out even at the age of forty-five. ~~Depreciation.~~ ^{The} ~~in~~ human capital is usually determined by the diet, the health of a person or the type of work one has been engaged in. Manual work will tend to accelerate the depreciation. People who have remained in a state of good health and who have been feeding on a balanced diet may be able to work well above the age of sixty. It is no purpose giving the benefit to one who is in the employment especially as the practice has shown that people do not normally retire at the age of sixty. Instead of giving benefits to people just because they have reached age sixty and have retired it should be determined medically whether a claimant is still able to work. I do not mean that somebody should be forced to work but if he wishes to receive the benefit he should have it on condition that he does not intend to rejoin employment in future. Persons below age sixty should ~~be~~ also receive the benefit if it is medically proved that their ability to work has diminished. Alternatively persons below age 60 but above 45 should have the option to receive ~~advice~~ ^{advice} to receive the benefit.

(E) Surviver's Benefit:

This is the benefit payable to the dependant relatives of a deceased members of the fund. Under S.20 of the Act, this benefit is payable to the closest members of the deceased's family. This is understandable as the closest relatives of a person are usually his dependants. As the deceased's contributions are strictly speaking his property, they should like other property be disposed of according to his personal law of ^{succession} ~~mission~~ to give effect to section 82(4)(b) of the constitution.

A survivor's benefit must be claimed before the expiry of five years after the death of a member, otherwise it will not be the subject of any benefit. Although this is a reasonable period, it ignores the fact that many persons in this country are ignorant of the existence of such a scheme and the dependants of a deceased person would be no exception. They may not therefore know the existence of such a scheme whereas they will not claim. The government (or the fund organisation) should take all necessary measures to trace the relatives of the deceased, and inform them of their rights. Alternatively, educational campaigns should be launched to inform the people of the existence of the scheme. It is rarely that the members tell their dependants of the scheme and this is especially true of Africans who fear to talk about anything which suggests they will die. For psychological reasons, men are unlikely to tell their wives about the scheme.

(F) Invalidity Benefit:

This benefit is payable to any member irrespective of age who is rendered permanently incapable of work because of incapacity. In case of permanent disability resulting in partial incapacity, a similar benefit will be paid at age fifty five (26). The benefit is designed to cater for those who become incapable of further work through disablement. This provision is very helpful especially where the employee is not to receive any compensation under the workmen's compensation Act.

(iv) Withdrawal Benefit:

This benefit is payable to members who have attained the age of fifty-five and who have been out of employment for a period of at least three months by the time the claim is submitted. Previously under the original provision this period was one year. It has now been ammended (27) perhaps due to the realisation that at age fifty-five a member is unlikely to rejoin the ranks of wage-earners and it is therefore hard-going for a worker to wait for as long as one year after his retirement. Before he can make the claim. *should be widened in scope*

The withdrawal benefit to include persons (members) who find themselves out of employment for a certain minimum period irrespective of their age. An unemployed person irrespective of age is likely to suffer as much or even more than one who has attained the required age if without a regular income. No rationale exists for fixing the age at fifty-five except perhaps that a worker is unlikely to rejoin employment at that age. Given the present state of the labour market, there is no guarantee that even a very young person is likely to find some other ~~among~~ employment. This problem is most acute ^{among} the semi-skilled and unskilled labour force. However, even though persons under the age of fifty-five rejoin employment after receiving the benefit ~~after receiving it~~ they can always rejoin the scheme as fresh members. There is no reason why a person who has accumulated savings under the scheme should suffer instead of withdrawing the savings.

It is hoped that the Minister concerned will make use of section 19(1)(e) to widen the scope of benefits to include unemployed members thus bringing

the scheme on the path of transformation to a social insurance scheme.

V Hospital Benefits:

Section 19(1) of the Act has been extended to include hospital benefits. These take the form of free in-patient medical services in government hospitals. This benefit accrues to a member of the fund as well as to members of his family. Although the introduction of this benefit is commendable, unlike the National Hospital Insurance Fund, it occurs to a member only if he is admitted to a government hospital. In-patient treatment in government hospitals cost only shillings 20/- The value of the benefit to a member is therefore only shillings 20/- Moreover government hospitals do not offer the best facilities. Considering that about £20,000 is paid annually to the Ministry of Health by the fund, with this amount of money, members should be able to obtain medical services at a reduced rate in first class hospitals. The Auditor general has in fact regarded the amount of £20,000 paid to the Ministry as an arbitrary figure which is not fully utilized by the members (28).

E Protection of Benefits Against Third Parties:

Under a pension scheme the law invariably protects the benefits so that as soon as the beneficiary's claim is established, he does not have to contest the right to enjoy the benefits.

^{at to}
^{urge any} Under section 15 of the NSSF Act benefits are not alienable by way of assignment, charge, or any benefit and such account or benefit shall be voided. Under subsection (2) of the section the account of a member of benefit cannot be affected by Bankruptcy proceedings.

However an important observation can be made from section 15 that it fails to protect the account of a member from attachment. This renders the act incapable of upholding the social security principle. If a social security benefit can pass from the person who sacrificed contributions for it to a person not considered at the material time as being in need of such a benefit, and leave the person in need without it, this presents a grave situation and diminishes a social security coverage. A retirement benefit is an important hope in one's life. In one case, A owed B a sum of money. A had some difficulties in paying his debt. B knew that A was a contributor to the NSSF and that before long A would apply for his benefit. As soon as A did this and had his entitlement established, B applied to the court to have A's benefits attached to meet the debt and it was held that A's benefits could be attached. In his summing up, the judge said,

"There is no impediment to payment of sum owing to Judgement-debtor from NSSF to the decree-holder here. Perhaps, it is anomalous that under S.12 of Cap.189 a gratuity or pension is free from attachment whereas under S.15 of cap.258, a claimant's benefit from NSSF is not, but as the law stands, that is the position." (29)

CHAPTER THREE

ORGANISATION AND ADMINISTRATION

METHOD OF FINANCING

The National Social Security Fund in Kenya is in the nature of a provident Fund scheme and as pointed out earlier the title of the scheme is misleading. A provident fund means

"a compulsory savings scheme under which employees have contributions deducted from their wages contributions are added by their employers and the joint contributions are allocated to the credit of each individual employee in the fund". ³⁰

A social security fund implies a consolidated system bringing together the contingencies of different kinds under one administrative system. Strictly speaking therefore, the legislation established a National Provident Fund.

In a provident-fund scheme benefits are usually paid in lump-sum on the occurrence of the various contingencies.

The scheme in Kenya is financed by both employers and employees, the Government coming in only as an employer. Contributions are assessed as at five percent of the employee's wages, the ^{combined} contributed contributions thus makes ^{total} ten percent of the employees' wages. This system is preferable to a flat-rate system where the burden would ^{not} have been equitably on all and such a system would be unable to cope with rising wages, each time wage rates go up, it would be necessary to review the contributions being paid. Secondly, such a system, though easier to administer, would be less likely to produce as much income as a percentage system because a flat rate contribution must be capable of being paid by the lowest wage earner in the group, whereas a percentage based contribution is more closely related to the wage of each individual worker.

Interest is added annually to a member's account at a rate to be determined each year by the Minister for Labour in consultation with the Minister for Finance. Currently, this interest stands at five percent.

There is a limit as to the amount of money that a member can contribute to the fund. The maximum ^{combined} contribution initially stood at Sh. 80.00 but this has now been amended under the Third Schedule to the Act to provide a maximum standard contribution of Sh. 160.00, Sh. 80.00 to be contributed by the employee and the Sh. 80.00 to be contributed by the employer. The figure was arrived at by mutual agreement between the Government, the employees' representatives and the employers representatives. It would be in the employers interest to keep the figure down and this explains why a maximum standard contribution has been fixed. It is also considered that a salary in excess of Sh. 1,600.00 is high enough to enable the recipient to make his own private savings but this is illusory under the present economic circumstances. In my view, the ceiling should be waived and contributions should be made on any amount of earnings. If the employers are aggrieved by such a policy, then contributions in excess of the maximum should be one-sided, meaning that they should be payable by the employee only at least on a voluntarily basis. Although this would necessitate keeping separate records and particulars and thus increasing the administrative difficulties to ^{and} expenditure, this can be offset easily by the increased contributions as the fund would now be having more money available for investments. The yield in this increased investment would more than pay for the extra - administrative costs.

The scheme is self-supporting in that it pays for its own administrative costs out of the moneys earned as interest from the investments of the funds, moneys paid as penalties under the Act, and contributions on behalf of casual workers and moneys which have vested in the Minister by virtue of Section 9 (3) of the Act. These are as well the sources of interests on individual member's accounts.

The responsibility for collecting contributions from an employee and remitting them together with his contributions rests squarely on the employer failure to do which makes him liable under section 36 (a) of the Act.

The scheme has one obvious disadvantage. The purchasing power of money falls during periods of inflation and the real value of the contributions therefore diminishes over the years, the interest added upon members accounts is not enough to offset the devaluation of money caused by inflation. Over the 1970's the rate of inflation has been over ten percent per year but the maximum interest since 1965 which has been credited on members accounts has only been five per cent and this even was done only last year. The investment of the moneys has undoubtedly earned a higher interest because in a time of inflation invests are higher on investments and on loans. This explains why banks continue to earn profits even at a time of inflation. The fund operates like a bank in that it lends out money and pays for its own administrative expenses. With the higher interests earned during periods of inflation, it should be possible to retain the value of the original contributions from the employees to offset the effect of inflation. On this point, the fund authorities stand answerable to the contributors because the interest earned by members is not proportionate with the interests earned from investments of the funds.

Another disadvantage with the scheme is that the scheme sets out to do no more than to enable members to make savings. Therefore a member receives by way of benefits the total of his standard contributions plus interest and no more. With pension scheme although there is a minimum period in which a member should have worked in order to qualify for a pension, a member receives a monthly sum on retirement until he dies. With the N.S.S.F. scheme, those members whose contributions are small or who contributed for only a short period before retirement may find that they have inadequate security for the rest of their life. This point can be illustrated by the following hypothetical case:-

Musyoki has just retired from employment at the age of 60. For ten years he has been a contributor to the NSSF scheme. His combined contribution for the ten years period he has worked has been Sh. 80.00 per month. Therefore, on retirement, he has received a total of Sh. 9,600.00 as age benefit. Assuming that Musyoki is not extravagant, he spends only Sh. 100.00 per month with his wife after retirement. Musyoki lives to be 80 years meaning that he lives for twenty years after retirement. In that period he would spend Sh. 24,000.00 while he has only received Shs. 9,600.00 as age benefit. Where is he to get the extra money? If Musyoki was receiving a pension of shs. 100.00 per month, it is clear that he would have been in a better position.

It is quite clear from the above hypothetical case that even having contributed for a long period as our hypothetical Musyoki, a member is likely to face destitution because of the inadequacy of the benefit. Therefore a provident-Fund (which form the NSSF essentially takes) is only suited to those who are spendthrift or who are likely to get an opportunity to invest the money in a profitable business who can therefore ensure themselves of a constant flow of income. Ironically in Kenya, pensions in the Civil Service are paid to persons who are economically better off than members of NSSF.

The pensioners in the Civil Service were former high-ranking officers who because of their position and salary can be expected to have instituted for themselves while still in employment, some form of Social Security. As can be observed, Senior Civil Servants in Kenya own large businesses and big farms. This being the case, provision for Social Security in the Civil Service should be in the reverse, Senior Civil Servants receiving provident funds and Junior Civil servants being the pensioners for they have little opportunity of acquiring some other means of Social Security - for example by engaging in business.

ADMINISTRATION

(i) The Director

The administration of the fund is vested in the Director. The Government considered it more expedient to have one officer take control of the fund instead of a Central Board whose decisions would be much slower although more considered. However, the decisions of the Director are always subject to the approval of the Minister for Labour. Moreover, because of the pressure of the Advisory Council and the investment committee, decisions which the Director can make unilaterally are very limited indeed. His role is limited therefore to the general administration and although he formulates policies, these are by no means binding without the approval of the Minister.

(ii) The Advisory Council

As its name suggests, this body acts purely in an advisory capacity and its recommendations are in theory not binding on the Government. The function of the Council is to examine whenever time permits, all draft subsidiary legislation and to investigate the general impact of the scheme and make recommendations for any necessary changes.

The Council has a tripartite representation, by Employers, employees and the government, each group having five members in the council. These are appointed by the Minister for Labour and are supposed to be powerful leaders of their respective groups. The workers are represented by Hon. Juma Boy M.P. J. Karebe, Esq., Kimani wa Nyoike Esq, F. Ominde Esq. and Chadwick Odongo Esq., and all powerful trade Unionists. The employers representatives are also powerful leaders of the FKE and these are J.B. Polland, Esq., David Richard Esq. Dr. Munene Esq., Tony Owuor Esq., P.E.D. Wilson Esq, Dr. J.F. Munene is also the Chairman of the Committee. On the government side Permanent Secretaries of the Directorate of Personnel Management, Ministry of Finance and Planning, Commerce and Industry, Labour and the Director of the National Hospital Insurance Fund.

The workers representation is not as effective as it appears to be being led by powerful trade unions. The workers participation in the council is characterised by apathy, and disinterest. There has been very little activity in the Council on the part of workers representatives. This may be explained perhaps by the fact that participation has been on a voluntary basis and it is not until recently that remuneration has been introduced for the sittings. Little participation has occurred with the introduction of the remuneration with workers representatives coming very late presumably only to collect the sitting allowance. The absence of the employees participation explains why there has been very little divergence of opinion in the deliberations of the advisory Council. This state of affairs is being very

harmful to the workers who have placed their leaders in the position of trustees to take care of their interests. Moreover, workers participation should be greater, the scheme having been instituted for their welfare, had the workers not had a sympathetic government on their side, even without the participation of the workers representative, the few reforms on the Act which have been made for the benefit of the workers for example, in increasing the employers' shares of the contribution would not have occurred bearing in mind that workers and employers are normally on opposing sides.

The Advisory Council normally meets three times annually and discusses policies which are formulated by the Director of the Fund. Though this body is purely advisory, quite a substantial amount of subsidiary legislation has been effected through it ~~took~~^{used} the Hospital benefit which have been recently introduced for members of the scheme under Section 19 of the Act.

My contention is that even if the workers participation in the Advisory Council was active, they would still be under represented under the Council's present constitution. Among the three groups, the worker comprise the majority and therefore their representation should be proportionate with their numerical strength and due to the fact that the fund exist chiefly for their own sake.

Any recommendation made by the Advisory Council must be communicated to the Minister for Finance who may adopt it or reject it. This is to ensure that a recommendation of the Advisory Council mainly where it concerns finance does not go counter to government economic policy.

ii) Machinery of Compliance

A scheme like the NSSF which compels employees as well as employers to part with a part of their income for the sake of benefits which are not immediate cannot be expected to be so easily welcomed either by employers or employees. It must have some defaulters either wilfully or due to circumstances beyond the defaulting parties control like lack of money to contribute. In order to ensure compliance and to educate employees as well as employers of the importance of the scheme there is an inspectorate body appointed under Section 34 (1) of the Act. Under the act, inspectors have power to enter any premises for the purposes of carrying out their duties. An employer, employee or anybody else who is likely to know is bound to answer any questions and to give information required by the Inspector. ³³

The inspectorate has not had a marked success because defaulting is still widespread. This may be attributed to various factors. In the first place, the inspectorate staff is inadequate. In the whole Republic there are only forty inspectors and most of these are concentrated in the main urban centres. Ten of these serve Nairobi area where there are the greatest number of employees and employers. With such a limited staff, it is therefore difficult for the inspectors to cover every possible place of employment within a short period. This explains why most of the rural employers and employees have evaded the scheme successfully.

Secondly, the work of inspectors in trying to find out the defaulters is greatly hampered by collusion of employers and employees. As it reduces their income, some employees have upto this time not been able to understand the purpose of the scheme and would do anything to avoid it. It is in the employers interest not to contribute. Thus, when confronted by the inspectors, neither the employees, nor the employers give accurate information. Employees have been known to claim to be relatives of their employers and thus only a help hand in the establishment. The employees do this perhaps also due to the fear of losing their Job if

They tell the truth. This practice is most widespread in small establishments like shops, bars, hotels and other types of domestic employment.

Another problem facing the inspectorate staff is that even though they establish that a certain number of persons are employed in a particular establishment, they sometimes find it very difficult to get the employer himself because in many cases the employer is away and does not reside there, Many employers are also employees elsewhere and this is particularly the case with the Kenyan petty bourgeoisie class. A Civil Servant may be working in Nairobi while he has a large labourforce in his shamba in the Rift valley. In those circumstances, it becomes difficult to get the employer in order to prosecute him. Closely related to this problem is also the problem of the "big fish" who exert undue influence on the inspectors. They either bribe, threaten or intimidate the inspectors to escape prosecution, The inspectors in town simply fear to prosecute some individuals fearing some serious repercussions on their own position. In such circumstances persuasion is the only means left to the inspector.

The other problem which affects the success of the compliance machinery is that where the defaulters are prosecuted, they get away with light sentences. A case in point is R.V. General Manager, Multer and Oswald. Here, the accused was charged with and convicted of twenty nine courts of failure to remit contributions. He was fined only Sh. 10.00 per cent. Without heavier court penalties, machinery of compliance is not likely to be very successful. Another problem which arises is in relation to the accounting records kept by the employers. Some employers neither employ accounting staff nor keep records. They remit money to the NSSF without indicating for which members they are doing so. The NSSF administration records accordingly do not show on whose behalf or for what purpose the money has been remitted. When such an employer is prosecuted, he wins the case because he has remitted the required money to the fund. Although the Act requires the employer to keep some records, this is hardly enforceable because no penalties are provided for failure to keep the records. This makes the work of inspectors rather difficult.

Default is quite extensive as indicated by the fact that in 1975 alone £650,777 was paid in standard contributions directly as a result of field inspections. Out of that amount £80,059 was paid as a result of Court action. Penalties paid as a result of rate contributions amounted to £29,546.

The biggest defaulters are mainly local Councils, Co-operative societies and Farmers. It can be observed that these are also the institutions with most unstable incomes and default is sometimes due to circumstances beyond their control. Local authorities derive their funds from the Central government and since the abolition of the Graduated Personal Tax, they have found themselves in great financial difficulties. Co-operative Societies derive their income from the members and among this group are farmers who comprise a substantial percentage. Farmers have unstable incomes and during periods of slump, Co-operatives find themselves in financial difficulties. It goes without saying that farmers are the people most exposed to the vagaries of the weather and a bad harvest means a difficult financial situation for them. Sometimes in such cases, forcing compliance has resulted in fruitless Court action.

INVESTMENT OF THE FUNDS.

Since the inception of the fund the government policy which has been also the practice is that the fund should be self supporting. As well as being able to pay for its own administration, the scheme must be able to earn interest on individual member's accounts. The NSSF moneys must therefore be invested in such a way as will be able to meet both requirements. Capital must be guarded against loss as well as yield a fair rate of interest.

This money therefore should not form part of the government revenue in order to discharge both objectives effectively. If it forms part of government revenue, there is always a danger that the government may raid the funds and use them for other purposes. The funds should be placed in the hands of a statutory corporation which would act as a private Company in its objective of maximising profits in order to earn the highest possible interest.

This is not the case in Kenya and investment of NSSF money is directly greatly controlled by policies emanating from the treasury. Although investment itself is done by trustees, investments in various undertakings can only be made with the consent of the Minister for Finance and are made in the name of the Permanent Secretary to the Treasury.³⁸ Investments are not therefore, made in the best interest of the workers in that they are not made where the returns are likely to be highest.

Under Section 26(1) of the NSSF Act, a body known as the investment committee is established. Like the Advisory Council the body has a tripartite representation. Workers are represented in the Committee by Hon. Juma Boy M.P. the government by C.N. Keuchi (also the Chairman) who is the Deputy Permanent Secretary to the Treasury and the employers by David Richmond. The Director of NSSF or in his place, the Financial Controller, is also a member. Like the Advisory Council, the role of the Committee is purely advisory.

Like in the Advisory Council employee participation has been characterised with apathy and lack of interest. I am told that Juma Boy has never attended any of the meetings, of the Committee.³⁹ As in the Advisory Council, this has the effect of overriding the workers' interests and as earlier pointed out investments are not made in the best interests of the workers,

Usually, investments take the form of levying stocks and treasury bills from either the Central government, Local authorities, statutory Corporations and in limited cases, private companies. This is essentially a form of lending. As at present the fund has £120 worth of investments; £285,000 is being held by the Kenya Railways corporation, £3½ million by the City Council £4½ by Companies i.e. B.A.T. E.A. Breweries, E.A.P & T, Brooke Bond Portland Cement, and Bamburi Cement all companies in which the government has a shareholding interest. The rest of the money is being held by the Treasury. The Central government has the largest share of the funds through issue of bonds. This money is generally used by the government to meet the regular ^{current} expenditure and the integrity of the scheme therefore depends, not on the building of a Reserve fund but on the governments willingness and ability to find the necessary money for benefits by taxation. The obligation to beneficiaries is however strong enough and default is unlikely.

By government ^{borrowing} becoming, the members receive indirect benefit because with the funds the government is able to provide its regular welfare services.

None of the investments made from the fund however substantially and directly benefits the members. Questions have been ^{raised} as to why this should not be done. For instance, this money could be used to build the badly needed houses in urban areas for members who would then purchase them on a tenant purchase basis. The employees, as an alternative measure, could be encouraged to form themselves into a Housing Co-operative ^{which} would borrow money from the fund for building houses for the employees. Mr. Musiga L.O., the Director of the fund has in fact urged this measure but his call has remained a cry in the wilderness. A commentator in one of the ^{papers} has remarked that :-

"The workers should not only wait until they retire (with only a few years to live) and then see the benefits of NSSF. Ways and means should be found... so that workers may be able to take loans from the NSSF for ^{building} their own houses... Let the workers benefit from the NSSF when they are still strong and healthy". Like Musiga's call this and other similar appeals have remained a cry in the wilderness.

Another way in which the employees may benefit from the fund is by being able to borrow from it as in the Co-operative Societies. Allowing employees to borrow from the fund may go along way in solving social security problems in a far better way than keeping the money as savings for the employees. Such loans can easily be recovered from the employees' monthly wages. When it is borne in mind that a large share of workers are people who may have no other borrowing facilities having no security for the loans, or not being able to join Co-operative societies because of their low wages the importance of availing NSSF money for borrowing by the employees is understood.

Although suggestions have been made as to how the workers conditions can be improved through the fund there has been no positive response. This negative response cannot wholly be attributed to the government. Trade Unions take the biggest share of the blame because they have not even suggested it let alone taking any measures towards that direction.⁴¹ Infact these suggestions have been made unofficially by insignificant persons when it is expected that Trade Unions would champion the interests of the workers. By failing to attend the deliberations of the investment committee and the Advisory Council there has been no form where the voice the wishes of the workers, with any probability of implementation. People who have urged for more benefits for the workers are not even Trade Unionists, for example Musiga is not a trade Unionist, although he has urged for the money to be made available for borrowing by workers housing Co-operations which would be formed. These appeals have usually been made through the press by laymen. On the other hand, government has refused to adopt such a policy on the excuse that it would make the administration of the scheme more complex and expensive. Nevertheless it can be done, and it is time it was started if only on experimental basis.

DETERMINATION OF CONFLICTING BENEFIT CLAIMS

Conflicting claims are likely to occur especially in the payment of survivor's benefit. Under Section 21 of the Act survivor's benefit is payable to the dependent relatives of the deceased. Under subsection 2 of that section a dependant relative means a wife, husband, son or daughter of the deceased or if they do not exist a parent, brother, or sister of deceased. The Act does not state who else would be entitled in case neither of the groups exist but only says that "any" sum paid otherwise than in accordance with this section shall be recoverable as a sum due to the fund from the estate of that dependent relative or from the person to whom ^{it} was paid. Does the legislative want to mean that no other person can be dependent relative ~~either~~ outside the two categories of persons specified in the Act? If this is the construction to be given to the section then the legislature must have overlooked the fact that a person is likely to be a dependent relative of deceased even if he or she is outside the two specified categories. In the African extended family system, a dependent relative can even include a very distant relative who may be no more than a member of the deceased's clan. This aspect of the Act should be amended to extend the category of dependent relatives in the alternative survivor's benefit should be disposed of according to the deceased's personal law of succession which is not at variance with the African concept of a dependent relative. Infact as the Act stands now it violates S. 82(4) (b) of the constitution in so far as it prescribes the manner of devolution of the deceased's members contributions. That section of the constitution guarantees that a person will be governed by his personal law in matters of succession.

There is no reason why a member NSSF money should not be regarded as his property and therefore be dealt with according to his personal law on his death.

Conflicting claims have been few but this is no guarantee that the trend is going to continue. Most of these have been by persons claiming to be wives of the deceased. Under S. 32 of the Act, the Minister is empowered to appoint an official or a body of officials to determine any claim for benefit, whose decision shall be final only subject to the regulations which the Minister may make. Such regulations may provide for appeals by any aggrieved body to a higher authority also appointed under the regulations made by the Minister. Under S. 32 (2) such higher authority may refer the case to the high Court for decision of any question of law. Under the same section, "regulations may provide for appeals to the High Court from the decision of any such officer, person or tribunal, on any such question of law. As can, be observed from the wording of the Act, it is not mandatory for appeals to be brought before the High Court and even where they are brought, they lie only on the question of law. The question arises, is the tribunal appointed by the Minister competent to deal with the claim. Where would a party aggrieved by the decision of a tribunal which satisfies the Minister appeal to that is, where does the final determination of the claim lie. This aspect of the Act is defective in that it gives ultimate power to an officer or tribunal appointed by the Minister rather than the Court of law which is competent to deal (with such claims. This is undesirable as well as being contrary to S. 60 (1) of the constitution which states that the High Court shall have unlimited original jurisdiction in Civil and Criminal matters. In so far as Section 32 of NSSF Act deprives the High Court of this Jurisdiction, it is void. Determinations of claims have normally been made by officers of the fund who have relied on local administrations assistance in determining who is the right claimant, for example, where both each of two women claims to be legitimate wife of the deceased member. Jurisdiction in such matters best lies in a Court of law, which has the benefit of the knowledge of family law. If a question arises as to who of two claimants is a widow it is only the Court which can determine such a question accurately because it knows which are and which are not valid marriages under the law. As I pointed out earlier, there is no reason why questions arising out of NSSF claims should not be dealt with just like any other questions regarding property in a court of law.

No competing claims have occurred in respect of other benefits. This is because under the registration system a member has a foolproof method of identification. His registration number resembles no other as it is based on a Member's registration under the Registration of Person's Act. Even if through administrative error, two numbers are identical their thumbprints on the identity card can never be similar.

CHAPTER FOUR

CONCLUSIONS AND RECOMMENDATIONS

We have seen that Social Security simply defined means an assurance of freedom from want. This being the case, a Social Security Scheme should therefore cover those who are likely to be faced by destitution. This group comprises of workers, the self employed, and the unemployed.

It is also clear that the Scheme entitled the National Social Security Fund in Kenya is essentially a Provident Fund Scheme and not a Social Security Scheme as it concerns itself only with the employed.

In all societies, Social Security has existed in one form or another. In the old African societies, the aged, the sick, the infirm and the children were cared for by the still active and productive members of the society and the family. Social Security in modern times has however undergone a transformation in that it is now more institutionalised and organised.

We have seen that although Social Security measures were advocated from various quarters during the colonial period, it is not until after independence that these proposals were taken seriously and transformed into legislation. It should be borne in mind that trade unions were very active immediately after independence and there were numerous strikes. Like the Trade Disputes and the Trade Unions Acts, the NSSF Act was a measure aimed at lessening industrial unrest as well as fulfilling what political programmes of the new African government had promised the electorate.

In the course of my thesis, I have attempted to answer the question whether the NSSF fulfils the expectations of the worker by indicating whether a certain aspect of the Scheme is

desirable or not. I have also, in the course of the thesis suggested some reforms. By way of summary, the following reforms and recommendations are worthwhile if the system is to be more appealing to the worker.

1. The scope of the Scheme should be widened to cover more persons and more contingencies. It is time the species of casual workers I have described elsewhere⁴³ should be brought under the Scheme. This is possible under Section 5 of the NSSF Act through a Ministerial order. Section 19 of the Act is wide enough to cover more benefits. This section should be used to provide persons who are laid off from employment before reaching the statutory age with some benefit or the withdrawal benefit should be widened in scope to cover such persons. Under Section 19 also, additional benefits such as by way of providing housing and loans to the members should be declared. Benefits should not only relate to a worker's period of retirement but should also relate to the period when an employee is still working and healthy.

2. The highest returns to the worker through investments of the funds can best be realised if the fund organisation enjoys a considerable degree of independence from the government. The organisation would act like a statutory corporation which would aim at a maximisation of profits meaning a higher interest on each individual member's account. For instance, instead of being a lender of money, the fund organisation could itself engage in its own business. In economic theory, however, the risk is greater where the returns are highest but since private companies have not only been able to survive but also to achieve considerable profits although engaging in risky investments, there is no reason why the fund organisation should not achieve the same. The government

should allow the fund organisation to run like statutory corporations some of which like the Industrial and Commercial Development Corporation have shown considerable success. As long as the government wants a big portion of the NSSF money, returns and consequently interest will remain at a low level. The government should only intervene in cases of mismanagement.

3. Workers participation in the Scheme has up to this time been negative. Their representatives do not either attend the meetings of the Advisory and the Investment Councils or participate in the deliberations. This may be attributed to mere disinterest but it is mainly due to the lack of skill on the part of the leading trade unionists to enable them to contribute anything in the meetings. Although they may know that a certain move is advantageous to the worker, they are unable to present their case in the Council because of lack of professional skills. On the other hand, they are faced by a group of powerful (both economically and professionally) representatives of employers and the government. Steps should be made to ensure that the workers are represented by persons with the necessary skills to present the case of the employees.

Maybe the failure of active representation by the worker's representatives stems from the fact that these representatives are appointed by the Minister rather than the workers themselves and they therefore have no feeling of responsibility to workers in this respect. This problem can be alleviated by allowing the workers to elect a number of persons among whom the representatives of the workers in the Councils would be appointed. Such representatives should be chosen from the lower rungs of the trade union ladder who have the most direct and greatest contact with the employees and therefore know their views best in respect of the Scheme.

4. As already observed, the inspectorate staff of the Scheme has not been very successful. The main reason is because the number of the officers is inadequate. It takes a long time to fill vacant posts of the NSSF organisation because this has to be done through the procedure of the Civil Service. This is true of the inspectors, who cannot be appointed by the administration independently of the Public Service Commission. This explains why the number of those officers is far below the requisite number. If the Scheme is to be successful, additional inspectorate staff must be employed. To get rid of the bureaucratic process of employment through the Civil Service procedure, the fund should be autonomous to accelerate the procedure of employment of the staff. The inspectors should also undergo an intensive training in order to educate both the workers and the employers of the importance of the Scheme. Higher penalties should be imposed in case of default in order to achieve a greater measure of compliance.

5. Consideration should be made for bringing in the government as an additional contributor especially where the standard contribution is so small as to be of little value to the worker in his period of retirement. This would infact be a step further towards the government's policy of making the Scheme a truly Social Security Scheme.⁴⁴ This extra cost on the part of the government can be met by increased taxation on the economically well off. In addition to providing more security to the workers, this would help to distribute more fairly and equitably the economic resources of the country.

6. As a further measure of fulfilling the government's promise to transform the Scheme into a Social Security one, if recommendation number (5) cannot be fulfilled, the Scheme should then be transformed into a "Pension Scheme". The lump sums which workers receive under the NSSF Scheme are of little

value to them. With this money a retired worker (especially from the ranks of the lowly paid workers) is unlikely to engage in business to assure himself of a regular flow of income either because it is too little or because he has no opportunity of doing so because of the throat cut competition in business. Many workers therefore end up in squandering the money. With a pension scheme, a worker draws a regular income throughout his life. Pensions should continue to be payable to a worker's dependants after the latter's death if he had not exhausted his entire standard contribution by the time of his death. Alternatively, the retired worker should on retirement receive a small lump sum and thereafter some monthly payments. The lump sum received under the NSSF Schemes are in many cases not enough to sustain a member throughout his period of retirement.

7. Where there are conflicting claims in respect of the survivor's benefit, the conflict should be resolved according to the deceased's law of property and succession in a competent Court of Law and should not be left to the administration of the fund which may not be equipped to deal with such cases. No justification exists for treating the NSSF money as distinct from the other property of the deceased and should therefore be dealt with in a similar manner.

8. As a comment on the whole system of Social Security in Kenya, it is clear that development of Social Security in this country has been haphazard. There is no well planned system of Social Security, but only isolated bodies operating as an end in themselves. The National Social Security Fund, National Hospital Insurance Fund, Workmens' Compensation, Social Relief Funds, Superannuation Schemes and institutional family allowances and health insurance schemes operate independently of each other thereby obscuring the coherence and objectives of a Social Security System.

It is not uncommon to find one individual affected in one way or another by most of these Schemes or services. Such an individual for instance may be a member of the NSSF, a contributor to the NHIF, a participant in some kind of Superannuation Scheme and may also be covered by some private family allowance and health insurance arrangements. Problems of filling forms, involuntary reading of numerous instructions and making a number of contributions demanded to cover these schemes are an expensive affair. What is advocated is a department of Social Security as a major organisation. Under this department various funds would be controlled and guided. This arrangement would provide facility for co-ordination and an intelligent basis for a continuous review of Social Security policy which should aim at a comprehensive Social Insurance System.

The proposed merger of the NSSF Scheme with the Pension Scheme ⁴⁵ would be a step towards this direction.

9. The Scheme has up to this period not been able to find favour with a great majority of workers. They see in the scheme, a move by the government to reduce their earnings when they most need them. This is because the Scheme is so much alienated from the worker and the only times when a worker comes into contact with it is when he sees deductions towards the Scheme on his pay slip and when he wants to claim benefits under the Scheme. The workers' participation is such that the worker has not been able to obtain any additional benefits during his working life. While the blame may lie on the workers' representatives, it is unlikely that even with improved participation on their part a worker would be able to realise his full expectations under such a Scheme. A worker would be happier with the Scheme if, the Scheme is essentially made a workers' Scheme. This means that officials of the Scheme would be elected by the workers themselves and the workers would be able to dismiss them. There would be nothing

like a government's or an employer's participation. The workers should decide themselves what benefits to declare, what investments to make and how the funds of the Scheme should be utilised. The success of the Co-operative Movement in Kenya is owed to such aspects - that it is essentially a workers' Scheme. The consciousness of the worker that he is part and parcel of the Scheme increases his enthusiasm to make the Scheme a success.

Such a proposal is however not likely to commend itself to the government which established the Scheme with a view to making it a ready source of revenue for it in order to discharge its regular services. In this respect, the government loses sight of the fact that a Scheme run by the workers themselves can provide the government with revenue through taxation arising from the economic prosperity which would be gained by the workers through borrowing from the fund. Repayment of loans borrowed by the workers can be made through deductions of their wages. Because of the workers' improved living conditions, they will be happier and thus contribute more to productivity. If the funds are loaned to members while they are still working, there may in fact be no need of taking any measures of Social Security during a worker's old age as he will already have done so for himself by investing the loan in a profitable manner.

The greatest and most important reform that can be made under the Scheme is to transfer its sole administration to the workers themselves and to have the employer's and the government's hands off it. If this is done, all the other reforms would be unnecessary as the worker would now decide what to do with the money. But this is not possible in a capitalist society which wants to maintain the existing economic relationships by denying the workers a hold on the means of production. The Bourgeois class wants to direct and to administer the little that the worker has toiled to earn so that he does not use it counter to its class interests.

What impact has the NSSF Scheme had on Economic Development? We have already observed how the funds of the Scheme are invested in various undertakings.

The portion which goes to the government is used to meet the current expenditure. This includes building of roads and such other infrastructure which bring about substantial economic returns. In addition the government is able to provide the essential services like health and education.

The funds which go to the statutory corporations and companies are used for the expansion of business and industry. This brings about more productivity and generates employment. This is a major benefit to the country as a whole not only to the workers.

To the worker himself, contribution means a reduction in his income and hence to his living standard. The worker guards against destitution in future by consuming less at present. But at the same time, because of the decline in the purchasing power of money over the years, a worker's satisfaction from the consumption of his money when he retires is greatly reduced especially because the interest earned from this money does not correspond with the fall in the value of money over that period.

Social Security Schemes are characteristic of the Capitalist countries and Marxists have refused to accept that such Schemes are of any benefit to the employee. They argue that as such Schemes deceive the worker that his employer (the capitalist) has sincere consideration and concern for his welfare, they diminish the class consciousness of the worker, thus making him loyal to the capitalist mode of production. This attitude on the part of the workers guarantees the continuation of the capitalist mode of production where the worker is denied access to the means of production so that he can continue to sell his labour to the capitalists.

The Marxist point of view is therefore that, Social Security programmes are a superstructure of capitalism which though an expensive one, guarantees its continuance.

The employers contribution to the Scheme is a human relations method used by the capitalist as an aspect of profit-sharing by the worker. Other forms of profit sharing include bonuses, buying shares for the employee in the industry, rewards for long and loyal services, pensions and other forms of payments beyond an employees regular wages. Such Schemes are used to create a false impression on the part of the workers that there exists a social partnership between workers and capitalists, an attitude which is in the best interests of the employers. One writer has thus commented:-

"Profit sharing" by no means guarantees workers material advantages. Whatever guise it may take, this technique is essentially a form of indirect wage, which serves to increase the worker's dependence on his employer

Accompanied as it is by concentrated brain washing of the workers, it represents a threat to the labour movements in so far as it undermines class solidarity of the workers and impedes their organised struggle for higher wages, unified national rates and weakens their class consciousness⁴⁶.

From a Marxist economic point of view, employers participation in Social Security Schemes essentially represents part of the labour costs deducted by the capitalists from the overall wage fund and returned to the workers in the guise of voluntary allocations from the employers' profits. Capitalist are compelled to introduce welfare schemes because they are essential for the normal refurbishing of the workers' physical and mental resources in the context of modern capitalist production. Sociology has demonstrated that men produce better when they are happy and it is in the interests of the owners of the means of production to instil some happiness into the workers so as to increase production. As Marx and Engels have put it:-

"Regardless of the ruses resorted to by employers to present themselves as 'humane' and sincere in their 'concern' in workers' welfare, their relationships with the workers in their employ will always be an economic, not a human relationship for the very aim of capitalist production is to secure surplus value by exploiting the labour of wage workers"⁴⁷.

Social Security programmes existing in capitalist societies (commonly known as welfare capitalism) are therefore in the Marxist view, with which the writer shares sympathy, a cloak to disguise exploitation of the working class in order to promote devotion and loyalty on the part of the workers to the employers who are the owners of the instruments of production. This devotion and loyalty to the Bourgeois class minimises the class consciousness of the workers thereby preventing them from waging a class struggle against exploitation.

Where then does the solution lie? The answer is to be found in the root cause of the problem. As the problem arises from the capitalist mode of production, the solution lies in the destruction of it and by replacement of it by state ownership. This can be brought about by a socialist revolution. Where the means of production are vested in the state, the workers are the owners of the means of production. They are their own managers and surplus profit is for their benefit as a whole. This means that there will be no class of employers and employees. All will be equal partners in the sharing of the profits arising from production. In addition to improving the living conditions of workers, there will be more productivity because the workers, being also the beneficiaries will be prepared to work harder. The economic development which has been achieved in USSR and China within a very short period compared with the long period taken by Western European Capitalist countries to achieve their present economic status bears testimony to this fact.

However even after the emergence of socialism, the organisation of production is likely to be such that there are still Managers in industry. From those Managers, a class of technocrats is likely to emerge which would threaten the revolution in the guise of ~~proletariat~~ ^{proletariat} dictatorship which emerges after the overthrow of capitalism. Experience in USSR and China has shown that this class of people has arisen and has attempted to re-establish the old forms of production with its accompanying bureaucracy. How to do away with this class of people has been a controversial question and as yet, no clear solution has emerged. In China, it is advocated that this class should be got rid of by a continuous class struggle. The question of getting rid of technocrats who are likely to re-introduce the old forms of productions is a question which even Marxists have been unable to answer satisfactorily.

In a state which has transformed the mode of production to a socialist one, a social security programme would be unnecessary for production is for the welfare of all. As the ownership of the means of production is vested in the people, production will be for their benefit as a whole.

As Marx and Engels have pointed out, the transformation from capitalist mode of production to a socialist one is not likely to be that smooth. There has to be an armed struggle as the owners of the means of production cannot easily be persuaded to part with them. The critics of Marx who have branded him as blood-thirsty have ignored this fact. A Socialist Revolution is not likely to come about through social legislation as the critics of Karl Marx have pointed out. The legislators are also the owners of the instruments of production and they are not likely to enact law which will deprive them of their class privileges. Experience in Africa bears testimony to this fact where the political leaders

profess to be socialists, and to be leading their country on the path to socialism but practically they strengthen capitalism. It is this capitalist mode of production and its accompanying exploitation that the workers must resist if they want to have meaningful welfare at all which will improve the living conditions of the working class who are the real producers. They must enjoy the fruits of their labour by having a fair share of what they have helped to produce.

*Some capitalist
handling of
statutory
but no more*

FOOT NOTES:

1. Henry Richardson: Economic and Financial Aspects of Social Security, University of Toronto Press, 1960
2. Calvert H: Social Security Law, London Sweet and Maxwell 1974 P.1
3. Supra, Footnote 1 at P.32.
4. Interviews held with some former evacuated Kirinyaga Road resident on 5th November, 1977.
5. Supra p.1
6. Dennis Richards: Modern Europe, 1789-1945, 5th Ed, London, Longmans Green P.254.
7. Supra p.4
8. Musiga L.O.: An Approach to the study of Development of Social Security in Kenya University of Nairobi 1972, P79 (M.A. Thesis).
9. KNFU Report No. 10 1953, Government Printer Nairobi.
10. Report of the Social Security Committee 1957, P31 Govt. Printer, Nairobi.
11. Report of the Committee on African Wages, 1954, P.102, Govt. Printer Nairobi.
12. Old Age Security: A report to the Ministry of Labour 1961, by C.E. Clerke and S.A. Ogilvie, P.L. Government Printer Nairobi.
13. House of Representatives- Debates 1965 Vol.6 column 439 Govt. Printer Nairobi.
14. Supra, Footnote 13, column 687.
15. Supra, footnote 13 at column 439.
16. Sessional Paper No.12, 1963/65; Observations on the Proposed National Provident Fund, P.5, Govt. Printer Nairobi.
17. National Social Security Fund Act Cap.258 Laws of Kenya, S.5.
18. Legal Notice No.48 of 1967; Kenya Subsidiary Legislation 1967, Govt. Printer Nairobi.
19. Supra Footnote 16 at pp.7-8 para.22.
20. Supra footnote 17, S.16.
21. Supra p.8
22. Supra footnote 16 at p.23
23. Proviso to S.5(1) and 5.7(1) (b) of the NSSF Act, Cap. 258 Laws of Kenya.
24. Supra footnote 13, at column 695.

25. Supra, footnote, 16, at p. 23.
26. Supra, footnote, 17 S. 22.
27. Legal Notice No. 16 of 1977 Kenya Subsidiary Legislation 1977
Govt. Printer, Nairobi.
28. Report of the NSSF and Accounts for the period ended
31st December 1975, p. 20, Govt. Printer, Nairobi.
29. Civil Case No. 173 of 1966, High Court of Kenya at Mombasa
(unreported).
30. Parrot A.L.: Problems Arising from the transformation from
Provident Fund to Pension Schemes (ISSR No. 4, 1968) ILO,
Geneva 1968.
31. Interview held with Mr. Mbuvi, NSSF Financial Controller in
his office on 10th February 1978.
32. Ibid.
33. Supra, footnote 17, S. 34 (1) (2) (3) (4) (5)
34. Interviews held with Mr. Munge and Mr. Ndegwa, respectively
Chief Inspector and Senior Compliance Officers, NSSF on
9th February 1978.
35. Criminal Case No. 10 of 1977, District Magistrate's Court at
Nairobi.
36. Supra, footnote 28 at p. 3.
37. Supra, footnote 31.
38. Supra, footnote 17, S. 27 (2).
39. Supra, footnote 31.
40. Supra, footnote 31.
41. Interview held with Mr. Musiga, Director, NSSF in his office
in September, 1977.
42. Supra, footnote 31.
43. Supra. p. 9
44. At column 441, House of Representative Debates, 1965, Vol. 6
the then Minister for Commerce and Industry while moving the
NSSF Bill said, "It is Government's intention to use the
initial scheme solely as a basis on which to build more
comprehensive cover for the workers". Later at column 687
he continued, ".....It is hoped that, in the future, this
policy will outgrow the normal scope' of National Provident
Fund and include the whole question of Social Security".
45. See House of Representative Debates, 1965 Vol.6 column 702.
Also see the Nairobi Times 27th November 1977.
46. Bogomovola N.: Human Relations Doctrine, Ideologies, Weapon
of the Monopolies Progress Publishers, Moscow 1973 p. 99.
47. Marx K. and F. Engels: Collected Works, Vol. 2 London,
Lawrence and Wishart, 1975, p. 497.

17. Mouton Pierre: Social Security in Africa, Trends,
Problems and Prospects, ILO, Geneva, 1974.

BIBLIOGRAPHY

18. Musiga L.O.: An Approach to the Study of Development
Social Security in Kenya, University of
BOOKS

1. Atmeyer J.A.: The formative years of Social Security: University of Wisconsin Press, 1966.
2. Bogomolova N.: Human Relations Doctrine: Ideologies, Weapons of the Monopolies, Progress Publishers Moscow, 1973.
3. Bruce, M.: The coming of the Welfare State, London Batsford, 1961.
4. Bufill C.M.: Trends in Social Security. International Social Security Association, Geneva, 1964.
5. Burns E.: Social Security and Public Policy. McGraw Hill, New York, 1956.
6. Calbert Henry: Social Security Law. London, Sweet & Maxwell 1974.
7. Clayton & Savage: Labour & Government in Kenya, 1895-1963, Frank Cass: London, 1974.
8. Doublet J.: Human Rights and Social Security. International Social Security Association, Geneva, 1968.
8. Hagenlevmh W: Social Economics, Cambridge University Press 1958.
9. Kaisen E.: Introductory Report on the Teaching of Social Security in University. African Social Security series No. 4 Geneva, 1967.
10. Kenyatta Jomo: Suffering without Bitterness East African Publishing House, 1970.
11. Kincard J.C.: Poverty and Equality in Britain Penguin Books, 1974.
12. Marsh D.: An introduction to the study of Social Administration, London, Revtledge and Kegan Paul 1965.
13. Marx and Engels: Collected Works: London, Lawrence and Wishert, 1975.
14. Marx K.: Economy Class and Social Revolution, London, Nelson, 1972.
15. Marx K.: A critiave of Political Economy: New York, Modern Library 1906-09.
16. Mart K.: Theories of Surps Value, Moscow Foreign Languages Publishing House, 1963.

17. Mouton Pierre: Social Security in Africa, trends, problems and prospects, ILO, Geneva, 1975.
18. Musiga L.O.: An Approach to the Study of Development of Social Security in Kenya, University of Nairobi, 1972 (M.A. Thesis, University of Nairobi).
19. Musiga L.O.: Organisational Aspects of Social Security in Kenya, University of Nairobi, 1973 (M.A. Thesis, University of Nairobi).
20. Parrot A.L.: Problems arising from transformation *from* provident fund to Pension Schemes. International Social Security Association No. 4, Geneva, 1968.
21. Peacock A.L.: The Economics of National Insurance, William Hodge & Co. London, 1952.
22. Pernin G.: The future *of* Social Security, International Social Security Series, No. 1, Geneva, 1969.
23. Richards Dennis: A History of Modern Europe, 1789-1945, 5th Ed., London Longmans, Green p. 254.
24. Richardson:H: Economic and Financial Aspects of Social Security; *and* international *survey*, London, Allen and Unwin, 1960.
25. Robson A.R.: Social Security, London, Allen and Unwin, 1948.
26. Rys. V.: Comparative Studies of Social Security; problems and Perspectives International Social Security Association, Geneva 1966.
27. Savy R: Social Security in Agricultural and Rural Areas Geneva, International Labour Office, 1972.
28. Shawfield A.: The attack on World Poverty, Oldburne Books 1960.
29. Tamburi G.: Social Security and capital formation in Developing countries, African Social Security Series No. 1. Libreville, 1967.
30. Titmus R.M.: The Relationship between Income Maintenance and Social Service Benefits. International Social Security Association No. 1. 1967.
31. Williams G.: The price of Social Security, Kegan Paval, Trench & Co. 1944.

GOVERNMENT DOCUMENTS

1. Kenya National Assembly, House of Representative Debates, Vol. 6, 1965; Government Printer, Nairobi, 1965.
2. Kenya National Assembly, House of Representatives, ^{Paper} Report No. 12 of 1963/65 - Observations on the Proposed National Provident - Fund Government Printer, Nairobi, 1965.
3. Kenya Development Plan 1974-78. Government Printer, Nairobi
4. Kenya Colony and Protectorate: Labour Department Annual Report, 1953, Government Printer, Nairobi.
5. Kenya Colony & Protectorate, Labour Department Annual Report, 1957, Government Printer, Nairobi.
6. Kenya Colony and Protectorate Labour Department Annual Report 1957, Government Printer, Nairobi.
7. Kenya Colony and Protectorate, Labour Department Annual Report, 1959, Government Printer, Nairobi.
8. Report of the National Social Security Fund 1975, Government Printer, Nairobi.
9. Kenya Colony and Protectorate, Report of the Committee on African Wages, 1954, Government Printer, Nairobi.
10. Kenya Colony and Protectorate Social Security Committee Report, Government Printer, 1957.
11. Kenya Colony and Protectorate, Old Age Security; a report to the Minister for Labour and Housing Kenya by Mr. C.E. Cla and S.A. Ogilvie, Government Printer, 1961.

Nairobi, 1970.

6. The Workmen's Compensation Act Cap. 224
Printer, Nairobi, 1970.

I.L.O. REPORTS AND DOCUMENTS

1. International Labour Office; An introduction to Social Security, Geneva, 1970.
2. International Labour Office; Social Security, A workers Education Manual (New Ed.) Geneva, 1970.
3. African Regional Conference of the International Social Security Association, 3rd Abidjan, 1968, Reports and Documents Geneva 1968.
4. African Regional Conference of the International Social Security Association, 4th Libreville, 1969, Reports and Documents, Geneva, 1969.
5. African Regional Conference of the International Social Security Association, 4th Libreville 1972 Reports and Documents, Geneva, ISSA, 1972.

6.

STATUTES

1. The Kenya Constitution, 1969, Government Printer, Nairobi.
2. The Employment Act Cap 22b Laws of Kenya Government Printer Nairobi.
3. The National Social Security Fund Act, Chapter 258 Laws of Kenya Govt. Printer, Nairobi, 1967.
4. The Trade Disputes Act, Cap 234 Laws of Kenya, Govt. Printer Nairobi, 1970.
5. The Trade Unions Act Cap 233 Laws of Kenya, Govt. Printer, Nairobi, 1970.
6. The Workmen's Compensation Act Cap. 236 Laws of Kenya, Govt. Printer, Nairobi, 1970.