Emerging Trends in the Regulation of Social Security

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Abstract

This paper explores the trend in the regulation of social security in the developed and developing countries with special attention placed on three major policy areas of social security, namely, coverage, benefit structure and financing. It also discusses several policy options within social security provisions in particular, old age, medical, sickness, unemployment and work injury, in the light of fiscal and administrative constraints. The paper argues that social security is realistically, a functional institution in a developed country. It has been used as a means for promoting political, social and economic stability and for securing a myriad of accompanying advantages that have consequentially resulted in high standards of living. It concludes that developing countries, especially those in sub-Saharan Africa, need to improve their social security schemes (by enacting laws that are more adaptable to the socio-economic realities of the region) and commit to an increased budgetary allocation for social security (as seen in developed communities) in order to enhance social protection for the populace in respect of a defined contingency.

Keywords: Social Security, Regulation, Financing, Coverage, Benefits.

I. Introduction

The trends in social security laws are discernible from the comparative law perspective on the one hand and from the international law perspective on the other. In this paper, I am primarily concerned with the analytical review of relevant municipal laws in the comparative aspect of such trends. The different approaches to the regulation of social security in the group of communities, ranging from developed to the developing, have given rise to a basis of comparison between the two groups and across countries.[1] Generally, the regulation and operation of social security schemes vary from one country to another as the blueprints, the mechanics, financing and administration of social security, its cultural traditions, social values and the nature and extent of competing demands on

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1 Based upon the classification of countries into four main regions, namely Europe, Africa, the Americas and the Asia and the Pacific as contained in the *Social Security Programs Throughout the World* for the year 2012, 2011, 2011 and 2012 respectively. Developed countries as used in this paper refers to countries in Europe while developing countries refers to countries in Africa, the Americas except the US and Canada and countries in the Asia and the Pacific except Japan, New Zealand and Australia. See Social Security Administration and International Social Security Association. *Social Security Programs Throughout the World Europe* 2012, *Africa 2011, the Americas 2011, Asia and the Pacific 2012*, Washington DC, Office of Research, Evaluation and Statistics.

the national income are different. What is social security is relative to socio-political and economic levels of maturity in each community.

A cursory survey of the social security laws of most countries, especially the developed nations reveal the diversity of institutions erected to deal with a shared problem: how to ensure a basic income for people who are retired, disabled, widowed, orphaned or unemployed. To date, approximately 174 nations of the world have one form of social security scheme or another to administer benefits to those protected thereunder in respect of defined contingencies.[2] While some legal systems, such as Australia, pointedly refer (with sophistication and precision) to the range of schemes available in their jurisdictions as "Social Security",[3] some other jurisdictions like Nigeria refer to their archetype of social security as "Social Insurance" or some similar epithet.[4] In the United Kingdom (UK), only statutory benefits in cash are regarded as social security, while the term social services is used to cover social security, health, education, and housing services, as well as provision for social work and social welfare. In the United States (US), the term social security is narrower as it is restricted to the Federal social insurance system, that is, the Old Age, Survivors and Disability Insurance (OASDI), as distinct from state benefits and "welfare", in Europe, this is called social assistance. The social insurance system generally centres eligibility for pensions and other periodic payments on length of employment or self-employment and is generally financed entirely or largely from contributions, usually a percentage of earnings, made by employers, workers or both. Social assistance, on the other hand, is a service or scheme financed wholly from taxes and provides benefits to persons of small means as of right; an amount sufficient to meet minimum standards of need.[5] Benefits are usually means-tested in the sense that eligibility is determined by measuring individual or family income or resources against a calculated standard, based usually on subsistence needs. An alternative, but wider term for social security in the countries that are members of the European Union is social protection, which includes voluntary schemes not set up under legislation.

Formal social security policies differ considerably, especially among the developed countries, given that such policies are based on the objectives of the government. For instance, the social security laws of social democratic welfare states found mainly in the Scandinavian countries of Sweden, Finland and Denmark, represent a model characterised by extensive social rights. These laws focus on basic security in the sense that they are unified for all citizens and that the social security systems are relatively open (with general access) to all relevant population groups.[6] As such, the schemes are mostly tax-financed

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2 *Ibid.*

3 See as an example, The Social Security Act, Contributions and Benefits Act 1992; Social Security Act 1998 (UK); The Social Security Act 1935 (US) and the Social Security Act 1991 (Australia).

4 See the Nigerian Social Insurance Trust Fund Act, 1993 (Nigeria); Social Security and National Insurance Trust (SSNIT) Act 1991, (Ghana).

5 International Labour Organisation (ILO), *Approaches to Social Security: An International Survey.* (Geneva: ILO, 1942) p. 14.

6 S E Olsson-Hort, "Models and Countries – the Swedish Social Policy Model in Perspectives" Ed., K. Eklund, *Social Security in Sweden and other European Countries,* (Stockholm: Norstedts Tryckeri AB, 1993), Chapter 2 pp. 15 – 44 at p15; see also J Myles, "How to Design a "liberal" Welfare State: A Comparison of Canada and United States", *Journal of Social Policy and Administration* (1998), Vol. 32(4), pp. 341-364 at p. 350.

and rights are universal rather than corporatist, emphasising equality of citizenship rather than the preservation of status differences. On the other hand, the social security laws of the Continental European tradition that originated from Bismarck have an "insurance" character in the sense that they are work-related and they generally aim to provide earnings replacement rather than basic security. Some countries, such as the Netherlands and Great Britain, are, however, in between because they have the admixture of the two systems that is, the tax-finance and the insurance systems.

The aim of this article is to consider the general trend in social security laws in the developed and the developing communities, especially of sub-Saharan Africa, with a view to identifying and drawing attention to some of the best examples of social security schemes that could be deployed to provide an effective and efficient social safety net for the populace.

II. Comparative Concepts and Coverage for Social Security Across Regions

The International Labour Organisation (ILO), in the Social Security (Minimum Standards) Convention, 1952, (No. 102) ('the Convention'), provides for a minimum standard of benefits in nine distinct branches of social security. These are medical care, sickness, unemployment, old-age, employment injury, family, maternity, invalidity and survivorship.[7] The Convention also introduces the idea of a general level of social security that should progressively be attained everywhere since the system can be adapted to the economic and social conditions prevailing in each country, whatever the degree of its development. A State is required to accept at least three of these nine branches and, at least, one of which must be of a long-term nature (i.e. old age, disability, unemployment, employment injury or survivors' benefits) to ratify the Convention and before it can be given recognition as a State providing social security to its citizens.[8] This way, the pattern of social security schemes vary from one country to another, in terms of the type of social protection accorded as well as the benefit structure; this difference between the developed and developing countries of the world are largely due to the disparate political, social and economic developments.[9]

A. Europe

With the exception of San Marino that does not have any programme to provide for family allowance, the social security laws of most countries in Europe provide adequately for

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7 See Part II, III, IV, V, VI, VII, VIII, IX and X respectively of the Convention.

8 See Article 2 of the Convention.

9 The developed countries has been said to differ structurally from the developing countries in several respects such as in terms of the annual per capita gross national income which was said to be less than US $1,035 for low-income countries, between US$1,036 and $4,085 for lower middle-income countries, between $4,086 and $12, 615 for middle-income countries and more than $12, 615 for high income countries for 2012. See *Country Classification*. Available at- www.un.org/en/development/desa/policy/wesp/wesp_current2014wesp_country_classification.pdf.
Site accessed on 8 April 2016.

all the nine contingencies recommended under the Convention. Benefits are provided either through social insurance or social assistance, or a combination of both, to all those that come under a defined contingency.[10] In the UK, for example, social security is a comprehensive system of social services which comprises two major components: (1) the contributory, which is in a form of social insurance; and (2) the non-contributory which is a form of social assistance. The social insurance component comprises retirement pension, widow's payment, widowed mother's allowance, widow's pension, incapacity benefit, sickness benefit, maternity allowance and jobseeker's allowance.[11] Almost everyone in the UK is required to contribute towards social insurance on grounds that it is good for the individual and for the community as a whole; and that if individuals are not compelled to insure through the State, they would not insure at all, or be insured sufficiently.[12] The social assistance component, on the other hand, comprises income based benefits which include income support, income based job-seekers allowance, family credit, and disability working allowance. Contingencies or challenges posed by new forms of risk and uncertainties are also adequately provided for under the Disability Living Allowance and Disability Working Allowance Act, 1991 (UK). This Act provides, as social security benefits, a disability living allowance and disability working allowance for the physically or mentally-challenged and the terminally ill citizens – young and old. Similarly in Germany, every segment of the society, including those in kindergartens, are involved and do benefit from various forms of benefit available under the social security system.[13]

B. The Americas

In the Americas**,** seven countries, namely Argentina**,** Brazil, Canada, Chile, Colombia, Mexico and the US, have social security laws that cover all nine contingencies recommended by the ILO.[14] Like Europe, some countries in the region combine social insurance with social assistance to provide social security for its citizens.[15] For instance, Costa Rica*,* Uruguay*,* and a number of Caribbean countries provide non-contributory pensions and health care for indigents. While Chile and Costa Rica have also managed to extend coverage beyond the formal urban sector, Brazil has extended eligibility for primary health care and minimum pensions to low-income rural residents. In Canada, old age benefits are provided on a universal basis and at a flat rate for all residents who have attained the age of 65 under the Old Age Security Act, Cap. 0–9. The Canada Pension Plan

10 *Supra* n 1.

11 See generally, Social Security Contributions and Benefits Act 1992; Social Security (Incapacity for Work) Act 1994; Jobseeker's Act 1995 and the Employment and Support Allowance Regulation 2013.

12 A Seldon and F G Pennance, *Everyman's Dictionary of Economics,* 2nd ed., J M Dent & Sons Ltd., London, 1976, p. 314.

13 K. Romer, ed. *Facts about Germany,* Lexicon-Institut, Berteshman, 1979, p. 243.

14 See Social Security Administration and International Social Security Association. 2011. *Social security programs throughout the world, The Americas, 2011, supra* n 1.

15 Examples of these countries are US, Brazil, Costa-Rica, Dominican Republic, Trinidad & Tobago, Argentina, Barbados, Belize, and Nicaragua. See e.g. sections 2 – 5 and sections 201 – 210, *Social Security Act*, 1935, (US) Title 1. See also Social Security Administration and International Social Security Association. 2011. *Social security programs throughout the world, The Americas, 2011*, *supra* n 1.

also provides retirement benefits to those who have paid the necessary contributions under the Act. In countries with relatively low coverage, social security is more inequitable. In Colombia where only 16 per cent of the population is covered, employers and the State provide most of the finance.[16] Generally, Latin American countries that have the widest social insurance coverage also have the most progressive incidence of the benefits of social security. The US is exceptional amongst the industrialised countries in not providing short-term cash sickness and maternity benefits at the national level. Only six States: Rhode Island (1942); California (1946); New Jersey (1948); New York (1949); Puerto Rico (1968); Hawaii (1969) and the rail-road industry, have provision for cash sickness benefits, otherwise called temporary disability benefits, which they operate on the principle of social insurance. These laws provide workers with partial compensation for loss of wages caused by temporary non-occupational disability. The Railroad Unemployment Insurance Act 1938, which established a system of benefits for persons employed in the railroad industry, was amended in 1945 to include sickness benefit.[17]

C. Asia and the Pacific

In Asia and the Pacific**,** about 13 countries have social security laws that cover all the recommended nine contingencies contained in the Convention.[18] Countries like Azerbaijan, India, Turkmenistan, Uzbekistan and Georgia have a combination of social insurance and social assistance programmes to administer old age benefits. Some other countries like Japan combine their social insurance schemes with universal schemes.[19] In Japan for instance*,* the basic pension provides flat-rate pension and universal coverage to all residents in addition to the second tier pension, which provides an income-related pension. Japan also has a third tier optional scheme for larger pensions, which is provided either by private firms (employers) for their employees or by collective national pension funds for the self-employed with the government as the insurer.[20]

In Australia, the social security system is based on government recognition and community responsibility; measured against the income and assets of the applicant,

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16 E Ahmad, "Social Security and the Poor: Choices for Developing Countries". *The World Bank Research Observer,* 1991, Vol. 61, pp. 105 – 127 at p.116.

17 See Social Security Administration, *Social security programs in the United States,* Washington DC, Office of Research, Evaluation and Statistics, 1997, p. 45.

18 The countries include Armenia, Australia, Azerbaijan, China, Hong Kong, Iran, Israel, Japan, Kazakhstan, Kyrgyzstan, New Zealand, Thailand and Uzbekistan. See Social Security Administration and International Social Security Association. 2012. *Supra* n 1.

19 See Social Security Administration and International Social Security Association. 2012. *Social security programs throughout the world: Asia and the Pacific* 2012, *Supra* n 1. The universal or demo grant system provides flat-rate cash benefits to the target population, such as residents or citizens, without consideration of income, employment or means. It is usually financed from general revenues and benefits may apply to all persons with sufficient residency and to persons who meet other demographic requirements, such as age and family status.

20 See *Overview of Social Security System/ Social Security in Japan.* Available at www.ipss.go.ip/s-info/e/jasos/overview.html/-6k site accessed on 30 January 2011.

both systems assist those in need. Thus, entitlement to social security is considered as a right, based on an existing need, rather than something that is purchased by paying a contribution, a notion inherent in social insurance schemes.[21] This idea is behind section 37 of the Social Security (Administration) Act 1999 which requires that a claim for a social security payment be granted only when the person is qualified; having satisfied all the qualification criteria set out in the Social Security Act.

In some countries like India, formal social security coverage is fairly patchy as only the formal sector employees are covered by reasonable sickness, maternity, pension, and survivor benefits as well as subsidised housing. Self–employed and informal sector workers, who constitute nearly 90 per cent of all earners, get virtually no benefit from social insurance or social assistance.[22] The social assistance scheme, which is financed exclusively by the government, only provides assistance to needy elderly persons and poor households on the death of the primary breadwinner. However, in 2004, as part of measures to improve the social protection for its citizens, a voluntary old-age, disability and survivors benefits scheme for those in the unorganised sector (a social security scheme for employees and self-employed persons) that are - aged between 36 to 50, earn a monthly wage of 6,500 rupees or less, without mandatory coverage – was introduced in about 50 districts as a pilot programme. Contributions to this scheme are income-related and based on a flat rate.[23]

In the same year, the Mahatma Gandhi National Rural Employment Guarantee Act ('MGNREGA') came into force. It is regarded as India's largest social welfare policy that guarantees 100 days of employment, as a right, for every rural household that wants and seeks work from the Indian State. The Act fixed provisions for remuneration at statutory minimum wage rates and an entitlement to unemployment allowance if employment is not provided within 15 days of application. Available statistics have shown that MGNREGA has created record levels of employment and assets, with approximately 194 million rural households provided with employment over the first six years of MGNREGA's implementation. This created more than 9 billion person-days of employment with an expenditure of US$24 billion.[24] In addition, MGNREGA has had an impact by increasing livelihood and income security, decreasing the incidence of poverty, increasing food intake, reducing mental depression and positively affecting health outcomes.[25] Furthermore, the Supreme Court's rulings in a number of cases have had considerable impact on the progress toward making schooling an implementable

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21 See "Social Security – Overview and Overarching Issues", *Family Violence and Commonwealth Laws – Improving Legal Framework,* Chapter 5, pp. 129-144, p. 133. Available at - http://www.alrc.gov.au/sites/default/files/pdfs/publications/05_social_security-overview_and_overarching_issues.pdf site accessed on 13 February 2015.

22 E. Ahmad, *supra* n 16, at p.120.

23 *Supra* n 1, at p. 73.

24 See D Chopra, "The Mahatma Gandhi National Rural Employment Guarantee Act, India: Examining Pathways Toward Establishing Rights-Based Social Contracts", *European Journal of Development Research,* 2014, Vol. 26, pp. 355-369, p. 356.

25 *Ibid.* at p. 364.

constitutional right and judicial monitoring has also improved school-meal programmes with good effects on both nutrition and education.[26]

D. Africa

In Africa, lack of social security coverage is largely concentrated in the informal economies, which are, generally, a large source of employment for women than for men.[27] Thus, the social security laws of most countries within the continent are not comprehensive and levels of coverage are considerably low. Most laws provide protection only for the contingencies of old age, disability, death and work injury.[28] Also, for most of these schemes, the employer-liability approach has been adopted, not only for work injury, but for the other contingencies. It is only in Northern Africa that social security laws covering all nine contingencies recommended by the ILO exists. The Algerian social security law is at the forefront in this respect followed by Egypt, which does not have provision only for family allowance. Only five countries in Africa namely, Algeria, Egypt, Mauritius, Tunisia and South Africa provide protection against unemployment.[29] It is also significant to note that, while coverage for cash sickness and cash maternity benefits is a common feature of the social security laws of the developed countries, only 21 out of 52 countries in Africa provide statutory right to maternity leave and out of which less than 10 per cent of the working women are paid cash maternity benefit.[30] While countries like Algeria, Cape Verde, Egypt, Equatorial Guinea, Guinea, Libya and Tunisia have provision for cash sickness and maternity benefits, some others like Burkina Faso, Cameroon, Cote d' Ivoire, Gabon, Mali, Mauritania, Niger and Senegal have provision only for cash maternity benefits. Countries like Nigeria, Seychelles, Morocco, Congo (Kinshasa) and Congo (Brazzaville) provide limited cash maternity and sickness benefits for qualified employees under their respective labour laws.[31]

Only three countries in Africa - Botswana, Mauritius and Seychelles - out of approximately 44 countries in Africa that proclaim to have social security laws, have chosen to introduce pension schemes that place a greater emphasis on universality. In Botswana, for example, all citizens, aged 65 or older, are provided with a flat-rate old age benefits.[32] In Mauritius, there is a combination of elements of universality and social insurance. As such, a basic pension is paid to all residents aged 60 or older without any means test. This is supplemented by earnings–related contributions, paid by employers and employees. The old age benefits are given out to all residents, aged 60 with 12 years of residence, after the age of 18 for Mauritian nationals. No residence qualification is,

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26 P B Mehta, "India's Unlikely Democracy: The rise of Judicial Sovereignty", *Journal of Democracy,* 2007, Vol. 18(2), pp. 70-83, p. 81.

27 ILO, *Facts on Social Security in Africa.* Available at - www.ilo.org/public/english/bureau/inf.download, site accessed on 27 May 2011.

28 *Supra* note 1.

29 *Ibid.*

30 ILO, "Maternity and Paternity at Work: Law and Practice Across the World, 2014, available at www.ilo.org/wcmsps/groups/public/...wcms_242617.pdf. Site accessed 30 May 2015.

31 See for example, sections 16 and 54 Labour Act, Cap L1 LFN 2004 (Nigeria). See also generally Social Security Administration and International Social Security Association. *Supra* n 1.

32 Social Security Programs Throughout the World: Africa, 2011. *Supra* n 1, at p. 37.

however, required for those aged 70 or older.[33] A few other African countries such as South Africa, Liberia and Swaziland do provide means-tested old age benefits.[34] For instance, in South Africa**,** under the Social Assistance Act, 2004, (No. 13), entitlement to the tax-financed basic pension is subject to a means test for every man and woman who has attained the age of 65 and 60 respectively.[35]

The link between formal wage employment and participation in a social security scheme is thus virtually a common phenomenon in developing countries, especially in Africa. This is attributable to flawed policies and unfavourable extraneous circumstances, including the oil crisis and plummeting exchange rate, which have undermined the growth of African economies in the early 1970s.[36] Other factors include poverty, indebtedness[37] and constraints imposed by globalisation.[38] Moreover, the adoption of Structural Adjustment Programmes (SAPs) by most developing countries has contributed to a decline in the small percentage of the working population in the formal sector and has also led to wage cuts in both the public and private sectors with consequential erosion of the financial base of statutory social insurance schemes.[39] In addition, a major challenge to governance and development, which is also impeding the extension of social security protection in most African countries, is corruption. In a report released by the Economic Commission of Africa in October 2009 titled "African Governance Report 11" (AGR 11), deep-rooted corruption has generated much poverty and turned resource-rich countries into low-income backward societies resulting in the capacity to deliver services efficiently, provide security and maintain peace, order and stability being greatly eroded. It further stated that although Africa witnessed economic growth of 5.5 per cent, the positive change was not reflected in the standard of living of the people.[40]

In general, most of the social security schemes that are currently in Africa have been fashioned after foreign models without regard to the peculiar needs of the local communities. Consequently, the schemes have not had any significant impact on the well-being of the people as a large number of them are without any social protection whatsoever. Available statistics have shown that in sub-Saharan Africa, only an estimated 5 per cent to 10 per cent of the working population has some social security coverage. In middle-income African countries, social security coverage generally ranges from 20 per cent to 60 per cent of the population. The larger percentage of the population, such as the farmers, the self-employed and artisans, who are mostly in the informal sector

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33 *Ibid.* at p. 124.

34 *Ibid.* at pp.158, 104 and 165.

35 See Sections 5 and 10 of the Social Assistance Act 2004, No. 13 (South Africa).

36 J Butare and E Kaseke, "Social Security in Africa: Inherited Burdens, Future Priorities" *International Social Security Review,* 2003, Vol. 56(3-4), pp. 3-9 at p. 3.

37 The total debt of the 53 African countries in 2002 for instance amounted to 295,461 billion - See S Aluko, *History of External Debt of the World,* Being contributions to the Round Table Conference on the Nigerian External Debt Issue held at the Nigerian Institute of Social and Economic Research (NISER) Ibadan on 9 August 2005, p. 12.

38 J Butare and E Kaseke, *supra* n 36, at p. 3.

39 See ILO, *Social Security: Issues, Challenges and Prospects,* available at www.ilo.org/public/english/standards/relm/ic/ic89/pdf/rep-vi.pdf. Site accessed on 28 April 2015.

40 See C Olayinka, "Africa Trapped by Corruption, says AU Report", T*he Guardian,* Nigeria, 22 October 2009.

of the economy, are generally not protected, even in old age. The only option given to this category of people, in most cases, is to join the available social security scheme on a voluntary basis. Indeed, in Benin, out of about 46 per cent of the actively employed population, only salaried workers, who are about 5 per cent, have social security protection. Workers in the informal sector, self-employed and employers, who constitute about 59 per cent, domestic servants who are about 24 per cent and apprentices and others who are also about 12 per cent have no protection in any form. Also, in Cote d' Ivoire, with a population of 14 million, none of the 6.5 million people who work in agriculture has social protection.[41]

There is no doubt that efforts have been made in recent years by some African countries to improve both the scope and the level of social protection for the populace by introducing new schemes and improving on the existing ones. Nevertheless, there has not been any significant impact on the major social protection problem in the African region. The economic and fiscal situations are such that in most of sub-Saharan Africa, the prospects for introducing a tax-based social safety net either on a universal or a means-tested basis are poor. The reasons for this are attributable to a number of factors, such as fiscal constraints, which is the consequence of the large number of the poor and the limited scope for increasing tax revenue. Secondly, most of the existing social security schemes cannot easily be extended to the self-employed and the informal sector. This is because the threshold of entry in terms of their contribution and benefit structure is often too high for most of those excluded. Additionally, the benefits provided are inconsistent with the priorities of people living in poor circumstances whose social protection needs are essentially short term. Thirdly, there is the problem of governance and the potential for misuse of funds coupled with the fact that the administrative capacity of the existing public social security schemes is inadequate to take on the task of extending coverage. This is especially so as there is an absence of official records of income received, subsequently posing a difficulty in collecting taxes. In many of these countries, therefore, there is still a pressing need to improve the administrative performance of the available public social security schemes.[42]

III. Comparative Trends In Separate Elements of Social Security

Some branches of social security, such as old age, medical, sickness, unemployment and work injury, are currently witnessing significant reforms in order to enhance social protection for the people.

41 *Africa Regional Report on Social Security,* p. 5. Available at - http://www.World-Pensionorg/docus/tres7.doc Site accessed on 15 June 2011.

42 *Africa: regional report on social security, Ibid.* at p. 9. See also J Dethier, *Social Security: What Can Developing Countries Learn from Developed Countries,* Available at http://conferences.ifpri.org/2020chinaconference.pdf/ beijingbrief_dethier.pdf. Site accessed on 10 May 2015.

A. *Old Age Benefit*

It is undisputed that, of all the elements of social security, old age is the most important element because none of the other elements has the inevitability and (apart from permanent total invalidity) the irreversibility as well as the long term incapacitating effects of old-age or death. Protection against old age and death is therefore the most crucial in determining whether or not social security exists in a country. It is not determined by the availability of protection against employment injury or disease, sickness, maternity and invalidity.[43] The contingency covered for old age is survival beyond a prescribed age.[44] In terms of mode of protection, the most common form of old age security provision is social insurance, which is found in about 139 countries. The next most common are the Provident Fund Schemes found in 17 nations –five in Africa and 12 in the Asia and the Pacific.[45] Furthermore, of the 174 countries and territories considered in the Social Security Programs Throughout the World for the four main regions of Africa, Europe, the Americas and Asia and the Pacific, only two of these countries, namely, Bangladesh and Malawi, do not have public or publicly mandated form of old-age security support.[46] All the developed nations and most developing nations offer, at least, minimal support in the form of pension against old age risk in order to strengthen the comfort of those who have worked in the formal sector of the economy and have retired from active service.

(1) Impact of Fiscal Constraints and Demographic Pressure on Old Age Programme

Most old age security programmes, particularly those operated on the Pay-As-You-Go (PAYG) basis,[47] which hitherto have served to offer an unprecedented degree of prosperity and economic independence to older people wherever the programme is instituted and operated with maximal effect, have been undergoing significant structural changes since the latter part of the 20th century. This is largely in response to budgetary deficits in many countries as well as demographic changes which have often led to pressures on PAYG schemes to cut benefits and raise payroll taxes.

The budgetary deficits have arisen mostly from the nature and operation of the PAYG system. Social security systems, especially in the Organisation for Economic

43 B O Nwabueze, *Social Security in Nigeria,* Nigerian Institute of Advanced Legal Studies, Lagos, 1989, p. 4.

44 See Art 26 of the Convention, Art. 15 of the Invalidity, Old Age and Survivors Benefit Convention 1967, No. 128.

45 *Supra* note 1.

46 *Ibid.*

47 The PAYG system is one in which annual revenues dedicated to the system approximately equal annual expenditures. This means that the revenue collected from current workers and their employers are paid out almost immediately as benefits to retirees. The Pay-as-you-go approach can work provided that sufficient resources are mobilised from the economically active population to meet the needs of those receiving benefits.- H J Aaron, *Economic Effects of Social Security,* Washington DC, The Brookings Institution, 1982, p. 6. See also S J Schieber, *Social Security: Perspectives on Preserving the System.* Washington DC, Employee Benefit Research Institute Education and Research Fund, 1982, p. xxvi.

Cooperation and Development (OECD) countries, have expanded sharply in the 1950s and 1960s when real wages and population were growing rapidly. It was thus natural to rely on a publicly-managed, payroll tax-financed PAYG system to support only a small proportion of older people who survived into old- age.[48] However, real wage growth has slowed and population growth has come to a halt in these countries thereby necessitating an increase in tax rates to sustain the PAYG system.[49] In essence, as the PAYG schemes mature and increasing number of persons become eligible for benefits, there is an increasing pressure on the expenditure side of social security such that the revenues are eventually insufficient to pay the promised benefits. This, it has been argued, placed an intolerable burden on a declining proportion of overtaxed young workers, provoking intergenerational conflict and resulting in serious fiscal problems that undermine the long-term viability of the system.[50]

Similarly, in the US*,* the "short-term crisis" in social security finance has stemmed from the fact that annual benefits slightly exceed social security tax revenues, a condition that has been persistent since 1974.[51] According to a 1998 projection made by the Board of Trustees of the Federal Old Age and Disability Insurance Trust Funds, social security trust funds would become exhausted in the year 2032 if no corrective legislation were adopted. By that time, according to the projection, annual tax revenues of the trust funds would be sufficient to cover only about 75 per cent of what is needed to pay benefits. This potential social security "crisis" loomed so large that it emerged as one of the defining issues in the 2000 presidential debates and was a hot presidential election topic in 2004.[52]

The demographic challenge, on the other hand, is attributable to population ageing and the retirement of the post-war baby-boom generation (1940s–1950s) as well as the effects of continued low fertility rates and increases in life expectancy, which is the result of positive evolutions in the pattern of healthcare systems, especially in Europe.[53] Indeed,

48 E James, "Protecting the Old and Promoting Growth: A Defence of Averting the Old Age Crisis", 1999, Available online at http//documents.worldbank.org/curated/en/581468764139421/pdf/multi0page.pdf. Site accessed 24 April 2015

49 *Ibid.*

50 J. Midgley, "Has Social Security become Irrelevant?" *International Social Security Review,* 1999, Vol. 52, pp. 91-99 at p. 92. See also R.L Clark, "Social Security Reform in the United States: Implications for Japan", *The Japanese Journal of Social Security Policy,* 2003 pp. 14-23 at p. 14*;* World Bank, *Averting the Old-Age Crisis: Policies to Protect the Old and Promote Growth",* Washington DC, World Bank and Oxford University Press,1994, p. 2. Available at http://documents.worldbank.org/curated/en/973571468174557899/pdf/multi-page.pdf, site accessed on 3 October 2013.

51 WA Lovett, *Banking and Financial Institutions Law in a Nutshell,* US, West Publishing Co, 1984, p. 368.

52 P Yang and N Barrett, "Understanding Public Attitudes Towards Social Security", *International Journal of Social Welfare,* 2006, Vol. 15, pp. 95 – 109 at p. *95.* See also AA Samwick, "Social Security Reform in the United States", *National Tax Journal,* 1999, Vol. 4 pp. 819-842 at p. 821.

53 E. James, "Social Security Reform Around the World: Lessons from Other Countries", available at http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN007122.pdf, p. 2. Site accessed on 13 July 2013. Also, in Africa, despite the deepening poverty and the effects of HIV/AIDS such as low life expectancy, the majority of Africans are expected to grow older and, in all probability, live longer than previous generations. It has been projected that the Continent's population of older persons (those aged 60 years and above) currently estimated to be slightly over 38 million would reach 212 million by 2050, thus increasing six-fold in five decades. See African Union – First Session of the African Union Conference of Ministers in Charge of Social Development, Windhoek, Namibia, 27 – 31 October 2008, Social Policy Framework for Africa. Available at - http://www.un.org/esa/socdev/egms/docs/2009/Ghana/au2.pdf. Site accessed on 21 December 2015.

it has been projected that over the next 30 years, the proportion of the world's population over age 60 will nearly double, from 9 per cent to 16 per cent.[54] In the same vein, the OECD has projected an increase in the number of the elderly from 20.6 per cent in 1990 to 39.2 per cent in 2030 for its European member countries.[55] In Germany for instance, the fertility rate has fallen within 10 years from 2 – 4 per cent to 1 – 5 per cent, from baby boom to baby bust and life expectancy has risen by almost 10 years from 1950 to 1990. As at 2012, life expectancy in Germany is 80.89 years.[56] Also, since 1994, it was projected that German elderly would increase from 21 per cent in 1995 to 36 per cent in the year 2035, the highest share among the industrialised countries at that time, while demographic old age dependency ratio will far more than double from 21.7 per cent in 1990 to 49.2 per cent in 2030. In fact, the percentage of elders who are over 60 years of age already exceeds that of the young generation who are 20 years of age since the 1990s.[57]

In Finland**,** studies have also shown that baby boom generation would reach retirement age in 2010 – 2020 and the proportion of the population over 65 years of age would rise from 16 per cent to 27 per cent by 2030. As life expectancy increases, the number of persons who have reached the age of 80 will more than double by 2030.[58]

In Sweden, the number of pensioners to the economically-active population has been on the increase with the result that there are 30 old age pensioners for every 100 economically-active persons and it has been projected that in about twenty-five years, this number would have increased to 41.[59]

Also, in the US, a "long-term crisis" in social security financing has arisen from issues of demography, which also reflects greater longevity and an increasing proportion of the elderly in the population.[60] The rising life expectancy combined with the impending aging of the baby boom cohort have also produced anxieties concerning the long term economic viability of entitlement programmes that are serving a swelling and increasingly more affluent older population.[61]

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54 E James, *Ibid*.

55 A. Borsch – Supan, *A blueprint for Germany's pension reform.* Text of a paper presented at the Workshop "Reforming Old Age Pension Systems" held at Herbert-Giersch-Stiftung, Magdeburg between May 25 and 26, 2000. p. 3; see also K Hinrichs, *The Politics of Pension Reform in Germany,* p. 4, available at http://www.lse.ac.uk/europeanInstitute/research/hellenicObservatory/pdf/pensions_conference/Hinrichs.pdf
Site accessed on 1 November 2016; See also the Commission of the European Communities, "Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee"*,* COM, 2001, 362 final, Brussels, 3 July 2001, at p. 1. Available at - http://ec.europa.eu/transparency/regdoc/rep/1/2001/EN/1-2001-362-EN-F1-1/pdf. site accessed on 14 June 2013.

56 See Germany-Life Expectancy. Available at -http://www.google.com.ng/webhp?sourceid...20expectancy%20in%20germany Site accessed on 28 March 2016.

57 A Borsch, *Supra* n 55; See also K Hinrichs, *Supra* n 55.

58 H Niemela and K Salminen, "Social Security in Finland", *Finnish Centre for* Pensions*,* (Helsinki, Finland: Social Insurance Institution (Kela), 2003), p. 61. Available at - http://www.kela.fi/documents/12099/12170/socialsecurity.pdf Site accessed on 1 November 2016.

59 See *Social security in Sweden.* Swedish Monograph to the 27th General Assembly of the ISSA, Stockholm, 9-15 September, 2001. Available at www.issaint/pdf/GA2001/2monographs/pdf. p. 27. (Accessed 8 July 2010).

60 WA Lovett, *Supra* n 51, at p. 363.

61 M Silverstain M , TM Parrot, J J Angelli and FL Cook, "Solidarity and Tension between Age-Groups in the United States: Challenges for an Aging American in the 21st Century"*, International Journal of Social Welfare,* 2000, Vol. 9, pp. 270-284 at p. 273.

In general, the combination of an ever more elderly-biased age structure and a shrinking population of what is, at present, defined as employable age, pose severe problems for some welfare states which in their expenditure orientation are, in most cases, elderly-biased since public pensions regularly represent the largest single item of total social spending.

(2) Reform of Old Age Benefit Programme

The measures taken to overcome the fiscal and demographic challenges being experienced in old age programme in most countries have been largely similar. These measures range from increasing the retirement age for both men and women, raising pay-roll taxes to reducing the rate of benefits in their social security laws.

In Germany, for instance, the measures that have been taken, especially in the 1992 and 1999 pension reforms, include downsizing the system by decreasing benefits, increasing the retirement age, tightening the eligibility for disability pensions and hoping for an increase in female labour participation and some help from migration.[62] The retirement age for women, which until 1999 was 60 years, was raised to 65 years as for men in several steps from 2005 onwards.[63] In 2002, the German Government also took a variety of stop-gap measures, which included increasing the contribution rate to the old age pension system from 19.1 per cent of the gross wage to 19.5 per cent.[64]

In Finland, from the beginning of 2005, the effective retirement age was postponed from 65 years by two to three years to adapt the pension scheme to an increasing life expectancy and to pave the way for unification and simplification of the private sector earnings–related pension scheme.[65]

In the UK, the retirement age for the basic State retirement pension and the State Second Pension (SSP) for women would rise gradually from 61 to 65 by November 2018, while the retirement age for both men and women would rise gradually from age 65 to age 68 from 2020 to 2046.[66]

However, the most common feature of change in many countries, especially in Europe and North and Latin America, largely involve shifting from defined-benefit schemes toward greater pre-funding in accounts that are privately managed as an important part of the mandatory social security system. This system is called the Individual Retirement Account or the Notional Account or the Defined Contribution Scheme. Pre-funded scheme was first introduced in Chile in 1981 by General Pinochet's military regime that dismantled the Chilean social security system and replaced it with a system

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62 A Borsch-Supan, *Supra* n 55, at p. 7.
63 H Siebert, "Germany's Social Security System under Strain", (Germany: Kiel Institute of World Economics, 2003), p. 8. Available at - https://www.files.ethz.ch/isn/103035/kap1155.pdf site assessed on 1 November 2016.
64 *Ibid.* at p. 49.
65 H Niemela and K Salminen, *Supra* n 58, at p. 24.
66 See *Supra* n 1, at p. 312.

of privatised individual retirement accounts managed by commercial firms known as "Administrative Pension Funds."[67]

In a pre-funded scheme, the worker contributes according to a fixed schedule and these contributions, together with the investment returns earned, eventually turn into retirement income. Since the scheme is accumulation based, a given contribution rate will generally support a higher expected benefit rate than under the PAYG system. The government regulates and provides a social safety net, while the private sector invests the funds in the belief that economic rather than political considerations would determine the investment strategy and produce the best allocation of capital and the highest return on savings. Best practices have shown that pension plans operated using pre-funded accounts enhance the sustainability of the pension system, provide better benefits and have beneficial effects on the economy as a whole. It has also been contended, *inter alia,* that pre-funded pension system helps to: build and mobilise long-term national saving, which in turn facilitates capital accumulation, financial institutionalisation and increase in after-tax wages; increase a country's productivity and output, enabling the standard of living to remain high when the ratio of retiree to workers increases; facilitate economic growth for poverty reduction and wealth generation and shrink the burden on younger workers and avoid the peak tax rates that would be required under a PAYG system as population ages.[68] A pre-funded scheme also helps to tighten the link between contributions and benefits thereby engendering greater responsibility and an authentic ownership of the resources accumulated in retirement accounts on the one hand, and making it harder to tinker with the system on the other.[69] Moreover, pre-funded scheme discourages evasion and has few labour disincentives in the sense that those who retire early bear the cost of their early retirement in the form of lower accumulations and benefits rather than passing the costs on to others and undermining the financial viability of the scheme, as it does occur in most defined benefit schemes. This, in turn, provides an incentive for continued work, which increases the nation's labour force and productive capacity.[70]

In recent times, the Chilean 'reform' has been widely embraced and emulated in several countries. To date, about 30 countries in the Americas, especially Latin America, and some countries in Europe, Asia and the Pacific have structurally reformed their social security systems by incorporating pre-funded, privately-managed individual retirement accounts into their mandatory social security systems in order to make the systems more sustainable, equitable and growth enhancing. In the Americas, the countries include Bolivia, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El-Salvador, Mexico, Panama, Peru, and Uruguay; in Europe: Bulgaria, Croatia, Estonia, Latvia,

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[67] S Borzutsky, "Privatizing Social Security: Relevance of the Chilean experience", J Midgley and M Sheraden, eds*., Alternatives to Social Security: An International Inquiry,* (London: Auburn House, 1991), pp. 75-90, at p.76.

[68] E James, *supra* n 53, at p. 8; See also K Kumado and AF Gockel, "A Study on Social Security in Ghana", p. 35. Available at http://library.fes.de/pdf-files/bueros/ghana/50022.pdf Site accessed on 1 November 2016; S Hansell, "The New Wave in Old- Age Pensions", *Institutional Investor,* 1992, Vol. 26(12), pp. 77-86 at p. 79.

[69] A Borsch-Supan, *supra* n 55, at p. 11; See also J Midgley, *supra* n 50, at p. 95.

[70] E James, *supra* n 53, at p. 8; see also M Langford, "The Right to Social Security and Implications for Law, Policy and Practice", E Reidel, ed., *Social Security as a Human Right: Drafting a General Comment on Article 9, ICESCR – Some Challenges,* (Berlin: Springer Verlag, 2007), pp. 1 – 29, at p. 21.

Poland, Russia, Romania, San Marino, Slovak Republic and Sweden; and in the Asia and the Pacific region: Brunei, China and Kazakhstan, Kyrgyzstan, and Uzbekistan.[71] In Africa, it is notable that no country, except Nigeria, has reformed its pension scheme in line with the global trend with the enactment of the Pension Reform Act, 2004, which has subsequently been re-enacted as the Pension Reform Act, 2014.

In the UK, the government has, since March 1997, announced plans to transfer from the current PAYG pension scheme to individual cash funded pensions with a view to phasing out the State retirement pension for younger people. Moreover, as a means of improving cost control and saving incentive in the current pension system, the Pension Reform Act of 1988 (UK), gives an individual the possibility of leaving both the occupational pension schemes and State Earnings–Related Pension Scheme (SERPS)[72] completely to buy his/her own pension saving programmes in Appropriated Personal Pension Schemes (APPS). These schemes operate on a defined-contribution basis. The employer and the employee make their respective contributions to the Department of Social Security which, thereafter, pays "minimum contributions" to the APP of the amount by which the contracted–out rate of contributions would have been lower. These schemes are being operated by insurance companies, banks, unit trusts, building societies etc. The structural reform strategy was to decrease compensation levels in the public pension system without the lowering of pension contributions and to introduce special incentives to move pension savings from the State to occupational or private pension (contracting–out). This was aimed at enforcing short–term budget control and a long-term financial balance in the pension promise as well as making it easier to compete with SERPS–level within occupational pension programmes or through private insurance programmes.[73]

In the US, it is remarkable that even before the Chilean initiative reform measure, privately-funded schemes had been authorised since 1974 under the Employee Retirement Income Security Act (ERISA) as an addition to: (1) the pension programmes established under the Old Age, Survivors and Disability Insurance of the Social Security Act, 1935 (as amended); (2) individual savings and asset income; (3) employment earnings; and (4) welfare programmes. As a result of this, an increasing share of the workforce is participating in at least one pension programme or another other than social security.[74] A Commission established by government to consider ways of strengthening social security has also proposed re-allocating part of the social security payroll tax under the Social Security Act to individual accounts that are invested in the financial markets.[75]

It is noteworthy, however, that the extent to which the income redistribution objective of social security is to be fulfilled in pre–funded, privately–managed schemes,

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71 *Supra* n 1.

72 SERPS is a public income-related supplementary pension which is calculated on earned income. It is a defined-benefit system financed as a pay-as-you-go with contributions without any funding.

73 See J Eriksson, "Social Insurance Problems and Structural Reforms", K Eklund, ed., *Social Security in Sweden and other European Countries –Three Essays,* (Stockholm: Norstedts Tryckeri A B, 1993), pp. 89 – 146 at 98; See also M Howard, "Cutting Social security", A Walker and C Walker, eds., *Britain Divided: the Growth of Social Exclusion in the 1980s and 1990s,* (London: CPAG Ltd., 1997), pp. 84-95 at p. 90.

74 S J Schieber, *Trends in Pension Coverage and Benefit Receipt,* (Washington, DC: Employee Benefit Research Institute Education and Research Fund, 1982), p. 5.

75 E James, *Supra* n 53, at p. 1.

which are currently being adopted in many countries, remains unclear. One of the aims of social security is income re-distribution with a view to reducing social inequalities and inequity, which has also helped to reduce poverty in several countries.[76] While some elements of redistribution among the various income groups take place within the PAYG system, pre-funded schemes contain no redistributive elements as they are basically a compulsory individual insurance system with no intentional redistribution. Indeed, more inequities are being created by privately-funded schemes since the defined-contribution which it entails guarantees larger pensions to the high-income groups whereas the low-income groups will receive small pensions, or only the guaranteed minimum pensions, in countries where there exists this modality. Some of the new inequities are attributable to the performance of the investment and the interest rate at the time of retirement which, in turn, has a direct impact on the size of the annuity. Other inequities arise as a result of the fact that the defined-contribution system has a systematic bias in favour of high earners in view of the way annuities markets and privately-managed defined-contribution systems operate. Low-wage earners are likely to have a higher discount rate and suffer a greater utility loss since their income is lower; the required contribution represents a higher proportion of their total income, and they are less able to have other sources of savings.[77]

The foregoing identified inequities of pre-funded schemes notwithstanding, the introduction of the schemes across countries, coupled with the parametric reform measures, have been, by and large, effective in ensuring that workers are provided with reasonable economic security when they retire.

B. Medical Benefit

Medical benefit is another major branch of social security that is witnessing significant changes across nations. The contingencies covered for this benefit include any morbid condition, whatever its cause, as well as pregnancy and confinement and their consequences.[78] In recent times, there has been a general shift towards the social health insurance system from the tax-financed system as a process of deliberate health care reform aimed at making health care affordable to all in the spirit of Article 25 of the Universal Declaration of Human Rights as well as Article 12(1) of the International Covenant on Economic, Social and Cultural Rights.

Health care reform can be defined as the process of improving the performance of existing systems and of assuming efficient and equitable responses to future challenges.[79] In other words, it is a sustainable and purposeful change aimed at improving the health sector. Thus, health reform issues across both the developed and developing countries have been driven by one or more significant considerations, such as access, universal coverage,

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76 AW Clausen, "Poverty in the Developing Countries", (Washington, DC: The World Bank, 1985), p. 6.

77 S Borzutzky, "Social Security Privatization: The Lessons from the Chilean Experience for other Latin American Countries and the USA", *International Journal of Social Welfare,* 2003, Vol. 12, pp. 86-96 at p. 93.

78 See Art 8 of the Convention, and Article 7(a) of the Medical Care and Sickness Benefit Convention 1969, No. 130.

79 P Berman, "Health Sector Reform, Making Health Development Sustainable", *Health Policy,* 1995, Vol. 32, pp. 13 – 28, at p. 13.

cost-containment, quality of service and patients' satisfaction, equity, financing, integration and regulation of private providers, political commitment to reform, decentralisation, seamless inter-sectoral linkage to housing, education, nutrition, human or legal rights and alignment of donor-driven agenda to National Health Policies.[80]

The basic goals of a social health insurance scheme are to ensure access to medical care by all persons, eliminate the financial hardship of medical bills and limit the rise in healthcare cost.[81] Other supplementary goals are equitable financing method, easy understanding and administration as well as acceptability to providers of medical services and to the public.[82]

The attraction of the social health insurance for both citizens and policy-makers is attributable to its seemingly private nature in the funding and delivery of healthcare services, its self-regulating nature and stability in organisational and financial terms.[83] The social health insurance schemes also share a number of features which include the facts that: (i) insured persons pay a regular contribution to a health insurance fund based usually on income rather than reflecting their risk of illness; (ii) clinical need instead of ability to pay determines access to treatments and health care; (iii) contributions to the social insurance fund are kept separate from other government-mandated taxes and charges; (iv) both employers and employees pay contributions; (v) government support for those who are unable to pay, such as the unemployed and low-income informal economy workers, goes through the insurance fund; (vi) there may be more than one social health insurance fund, providing a measure of options to citizens; (vii) patients have at least several choices in selecting the doctor and other healthcare providers they use; (viii) social health insurance is compulsory for at least some categories of citizens; (ix) a basic package of health care benefits is defined and this may or may not vary across funds; and (x) health insurance funds may not turn away applicants for membership.[84] It is also important to note that where medical benefits for insured workers are provided through social insurance, similar services are typically furnished to their spouse and young children, and in some cases, other adults or young relatives living with and dependent on the insured.

Furthermore, the social health insurance systems, apart from being a reform process, are generally constructed as part of a social income policy to be redistributive in nature. They are thus consciously designed to achieve a series of societal objectives through a

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80 See AB Odutola, Centre for Health Policy and Strategic Studies. *Reform Implications of Nigeria's National Health Insurance Scheme*, Being text of a paper delivered the International Conference on Health Care Financing in Low Income Asian and African Countries held at CERDI, Clermont – Ferrand, France, in November, 2000. 3. See e.g. section 2 & 6 of the NHI Act, 1995 (No. 7875) (Philippines) wherein the guiding principles of the Act are stated to include emphasis on the issue of universality, equity, social solidarity and effectiveness.

81 K Davis, "National Health Insurance; Benefits, Costs and Consequences", (Washington D.C: The Brookings Institution, 1975), p. 3; see also G Carrin and C James, "Social Health Insurance: Key Factors Affecting the Transition Toward Universal Coverage, *International Social Security Review,* 2005, Vol. 58(1), pp. 1-15 at p. 1.

82 *Ibid.*

83 *Ibid.*

84 R Jacobs and M Goddard, "*The Role of the Insurer in the Health Care System: A Comparative Study of Four European Countries",* (UK: University of York Centre for Health Economics, 2000), p. 7.

set of financial cross-subsidies – not just from healthy to ill, but also from well-off to less well-off; from young to old and from individuals to families.[85] Thus, social solidarity, which is the belief that bad health is predominantly outside the individual's ability to control and, therefore, the risk of which should fall on society, is a fully integrated value available to all citizens as well as foreigners. The social health insurance has thus become the principal method of health financing in several developed and developing countries such as Germany,[86] Philippines,[87] Japan,[88] Korea,[89] China,[90] Bulgaria,[91] Estonia,[92] Manitoba[93] and Taiwan.[94] Several countries, including Austria, Belgium, Germany and Costa Rica have, through this system, established the principle of universal coverage in their respective countries.[95] Some other countries in Africa, such as Nigeria[96] and Ghana,[97] have also enacted National Health Insurance Laws aimed at facilitating the provision of accessible, affordable and qualitative health care services to the citizenry.

It is noteworthy, however, that in a number of social security systems, particularly in the developing countries, health care insurance extends only to employees in the formal sector. A common procedure is to start the programme in major urban centres, and then extend coverage gradually to other areas.[98] For instance, in Nigeria, coverage under the National Health Insurance Scheme Act, 1999 is mostly limited to the formal sector, especially Federal Government employees, which represents only about 20 to 25 per cent of the Nigerian population.[99]

C. Sickness Benefit

The contingency covered for sickness benefit includes incapacity for work resulting from a morbid condition involving suspension of earning, as defined by national laws or regulations.[100] In realisation of the need to cut down on social security expenditure, there

85 R B Saltman, "Social Health Insurance in Perspective: The Challenge of Sustaining Stability", R B Saltman, R Busse and J Figueras, eds., *Social Health Insurance in Western Europe,* (England: Open University Press, 2004.), pp. 3 – 20 at p. 5.

86 K Romer, *Supra* n 13, at p. 242; see also R Jacobs and M Goddard, *Supra* n 84, at p 18.

87 See National Health Insurance Act, 1995 (Republic Act 7875) (Philippines).

88 See *Overview of Social Security in Japan, Supra* n 20.

89 See National Health Insurance Act 2003, No. 6981 (Korea).

90 See National Health Insurance Act 1994, No. 4505 (China).

91 See Law for the Health Insurance, 1998 (Bulgaria).

92 See The Health Insurance Act, 2002 (Estonia).

93 See The Health Services Insurance Act, as amended up to 2005 (Manitoba).

94 See The National Health Insurance Act, 1994 (Taiwan).

95 G Carrin and C James, *Supra* n 81, at p. 1.

96 National Health Insurance Scheme Act, 1993, Cap. N. 42, LFN, 2004 (Nigeria).

97 See the National Health Insurance Act 2003 (Ghana).

98 See e.g. Social Security Administration and International Social Security Association, *Supra* n 1, at p. 9.

99 According to the Executive Secretary of the Council, as at August 2010, only 5.3 million Nigerians or about 3.73% of the population comprising mainly federal government employees and their families is so far benefiting from the Scheme. See *The Guardian* (Nigeria) 22 August 2010 at p.50.

100 See Art 14 of the Convention, and Article 7(b) of the Medical Care and Sickness Benefit Convention 1969, No 130.

has been a general trend across countries towards increased emphasis on wage payment (partly or in full) from the employers during shorter spells of illness. This period is usually followed by a long term pension after periods varying from about six months or less, to a year or more. In Germany, for instance, every employee has a right to continued payment from the employer of wage or salary for six weeks of illness a year. After this, the health insurance pays cash sickness benefit for up to 78 weeks, which can be as high as 85 per cent of regular wages or salary.[101] However, German employer's obligation to pay full wages depends on the length of the employee's employment with the employer. There will therefore be employees who are not eligible for wages during illness and who will have to rely on the insurance system.[102] In Sweden, under the Sick Pay Act, 1991, the employer is required to pay income loss compensation to his employee during the first 14 days of illness. From the 15th day, compensation for income loss is transferred from the employer to the Social Insurance Office and this benefit, unlike in Germany, is payable for an unlimited period. In the U.K., the sickness insurance was partly transferred to employers in 1983 in the Statutory Sick Pay (SSP) system, which covers 28 weeks in a sick spell. After the 28 weeks, short-term incapacity benefit is payable to people who are still incapable of work after they have received sickness benefit for this period.[103] However, by section 1(4) of the Social Security (Incapacity for Work) Act, 1994, (U.K.) the short-term incapacity benefit cannot be paid for more than 364 days. In essence, the long-term rate for incapacity benefit is not payable until the end of the first year of incapacity.[104] In Netherlands, the labour market agreements often give full compensation during shorter spells of illness. Under the Civil Code, employers must continue to pay 70 per cent of wages during an employee's absence that is due to sickness for a maximum of 104 weeks, which may be extended to 156 weeks. However, beginning in March 1996, coverage under the Sickness Benefits Act 1966 has been mostly privatised.

D. Unemployment Benefit

Unemployment benefit has also been witnessing considerable change in recent times due to the various demands of technological development, world trade and political ideology which have created a labour market that is characterised by less stable forms of employment. The contingency covered includes suspension of earnings, as defined by national laws or regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of and available for work.[105] In a Report released

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[101] K Romer, *Supra* n 13, at p. 242

[102] H Hansen, "Elements of Social Security in Sweden and Four other European Countries", K Eklund, ed., *Social Security in Sweden and Other European Countries. – Three essays,* (Stockholm: Norstedts Tryckeri AB, 1993), Chapter 3:45-87, at p. 60.

[103] See also, section 33 of the Social Security Contributions and Benefits Act 1992 (UK).

[104] See, section 1(5) of the Social Security (Incapacity for Work) Act 1994 (UK).

[105] See Art. 20 of the Convention, and article 10 of the Employment Promotion and Protection against unemployment Convention 1988, No. 168.

in 2013 by the ILO, it was disclosed that global youth unemployment rate, which had decreased from 12.7 per cent in 2009 to 12.3 per cent in 2011, increased again to 12.4 per cent in 2012 and 12.6 per cent in 2013 and by 2018, the rate is projected to rise to 12.8 per cent.[106] In another Report entitled "World Employment and Social Outlook – Trends 2015" which was released in 2015 by the Organisation, it was predicted that unemployment would continue to rise in a number of countries as the global economy entered a new period combining slower growth, widening inequalities and turbulence. It further stated that more than 212 million people globally would be out of work up from the then 200 million and that although the employment situation had improved in the US and Japan, it remained difficult in a number of advanced economies, particularly, in Europe.[107] In Europe, unemployment has, for long, remained at historical high levels, even in Britain where rates are said to have fallen considerably since 1993.[108] It is also pertinent to note that the Declaration, made by the African Heads of State and Governments at an Extra-ordinary Summit on Employment and Poverty Reduction in Ouagadougou in September 2004, to reduce unemployment and poverty by placing the issues at the centre of their development policies and programme has not had any significant impact as it was fraught with some bottlenecks.[109] This is evident from the said ILO's Report which disclosed that the employment situation has not improved much in sub-Saharan Africa despite better economic growth performance and that two Regions, South Asia and sub-Saharan Africa accounted for three-quarters of the world's vulnerable employment.[110]

The widespread nature of unemployment has been attributed, *inter alia,* to a number of factors – which vary from country to country – such as: the appearance on the labour market of persons born during high birth-rate periods at a time when the persons reaching retirement age correspond to low birth–rate periods; a very marked increase in the number of economically-active women; a general slowdown in economic growth and production-investment largely due to increases in energy costs and financial charges borne by enterprises or fluctuations in the money and financial markets which make investment operations especially hazardous; slow restructuring of industries and insufficient modernisation of production in the sectors most vulnerable to keen foreign competition; the rural exodus uncompensated by the creation of enough jobs in industry and services; lack of synchronisation between the skills required for the jobs proposed

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106 ILO, *Global Employment Trends for Youths 2013: A Generation at Risk,* Available at http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_212423.pdf Site accessed on 1 November 2016.

107 See U Ekwere, "No End in Sight to Nigeria's Unemployment", *The Punch* (Nigeria), 18 March 2015, p. 37. In a release by the US Labour Department in 2015 for instance, the number of people seeking unemployment benefits had reduced considerably "pushing down the four-week average of applications to its lowest level since April 2000. Weekly applications fell 1,000 to a seasonally adjusted 264,000." See Anon. US unemployment claims fall to 15-year low. *The Punch* (Nigeria), 15 May, 2015, p.41.

108 R Walker, "Poverty and Social Exclusion in Europe, A Walker and C Walker, eds., *Britain Divided: The Growth of Social Exclusion in the 1980s and 1990s",* (London: CPAG Ltd., 1997), pp. 48-74 at p. 64.

109 Anon. African finance ministers decry lack of employment generation, rising poverty level. *The Guardian* (Nigeria) 23 May 2006, p. 41.

110 See U Ekwere, "No End in Sight to Nigeria's Unemployment", *The Punch* (Nigeria), 18 March 2015, p. 37.

on the one hand, and the qualifications and skills or aspirations of young persons on the other, as well as an increase in unemployment benefit, which apparently tends to prolong the time spent in the search for employment.[111] In some countries like Germany, the rapid growth of the number of the unemployed is attributable to the economic depression that started from late 1992.[112]

As part of the measures to curtail the negative impact of unemployment, many countries have unemployment insurance schemes in their social security laws.[113] Benefits payable under the schemes are basically designed to tide a worker over a relatively short period of unemployment rather than provide benefits throughout a lengthy period of joblessness. The goal is to provide compensation for the loss of income resulting from involuntary unemployment as well as to ensure that a man's purchasing power is partially protected when he loses his job. It falls, but no longer to zero.

It is noteworthy, however, that the high incidence of unemployment in several countries and the fact that unemployment insurance benefit is generally limited in duration have compelled most governments to institute supplementary programmes, in the form of social assistance, to provide additional benefits to those who have exhausted their entitlements under the regular programmes. Experience has indicated that the extent of pressure to extend unemployment insurance benefits depends on the adequacy of alternative kinds of relief that are available. For instance, in Britain and Germany, it was only when steps were taken to make reasonably adequate public assistance payments available to exhaustees that these countries were able to overcome the pressure to provide greatly extended unemployment insurance benefits.[114] Also, in line with the general tenor of the ILO's Employment Promotion and Protection against Unemployment Convention, 1988 (No.168), which has given recognition to the widespread unemployment and underemployment affecting various countries throughout the world at all stages of development and, in particular, the problems of young people, many of whom are seeking their first employment, a number of countries have institutionalised special unemployment benefit programmes targeted at those who do not have any work history. For instance, in the UK, apart from the contribution-based jobseeker's allowance, a tax-financed, income-based jobseeker's allowance is payable, under section 3 of the Jobseeker's Act 1995, to persons who have no income or an income that does not exceed the applicable amount, as well as to those whose contributory benefit is insufficient or has expired. Also, in Finland, in addition to the basic unemployment allowance and earnings-related allowance for those with work history, there is the labour market subsidy, especially packaged for individuals who had not previously been in work and who are increasingly remaining unemployed, as well as those whose entitlements under the basic unemployment allowance or earnings-

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111 A Euzeby and C Euzeby, "Social Security Financing Methods, Labour Costs and Employment in Industrialized Market Economy Countries", *Financing Social Security: The Options – An International Analysis,* (Geneva: ILO, 1984), Chapter 3:51-85 at p.54.

112 See *Annual Report on Health and Welfare 1999, Social Security Systems Throughout the World,* p. 3 Available at http://www.mh/w.go.ip/english/wp/wp-hw/vol2/plc/html/. (Accessed 17 July 2008)

113 See e.g. Social Security Administration and International Social Security Association. *Social security programs throughout the world. Europe 2012, Supra* n 1, at p. 12

114 M S Gordon, *The Economics of Welfare Policies,* (New York: Columbia University Press, 1966), p. 105.

related unemployment allowance have ceased and are still unemployed. This has been designed to ensure subsistence and improve the claimant's prospects of returning to the labour market through employment policy measures. Thus, the subsidy is available to any unemployed person aged 17-64 years, who is registered as a full–time job-seeker at the local employment office and who is fit for work and is available in the labour market.[115] Similarly, in Australia, section 593 of the Social Security Act, 1991, provides for payment of means-tested Newstart Allowance to any unemployed person resident in Australia and who also is, at least, 21 years of age, but still under pensionable age. Such person must also be capable of undertaking and actively seeking work, or temporarily incapacitated for work because of an illness. Newstart Allowance is paid after a seven day waiting period for as long as the person remains qualified. The idea of the Newstart Allowance is to give short-term support to those who do not have any barriers to work, that is, those deemed able to work or study. Although the Newstart Allowance was supposed to be a short–term payment to tide people over until they find work, it has been revealed that in year 2009, of the 627,000 Newstart Allowance recipients, 309,000 received the payment for over a year; 222,000 for over two years and 112,000 for over five years.[116]

Generally, unemployment programmes, which exist mainly in developed countries, are compulsory and fairly broad in scope. The programmes usually have in-built mechanisms that improve the claimant's prospect of returning to the labour market as well as other employment policy measures that ensure training and retraining of the unemployed. There are also checks and controls in the administration of the benefits to ensure that claimants are actively seeking and available for work. It is thus a general requirement of the social security laws that claimants must register at employment offices to detail job search activities, show evidence of actively seeking work and report regularly for as long as payments continue. In other words, nearly all unemployment insurance programmes, as well as those providing unemployment assistance, require that applicants be capable of, and available for work. This close linkage between unemployment benefits and placement services ensures that benefits will be paid only after the person has been informed of any current job opportunities and has been found unsuitable. This could also be seen as anti-fraud measures to ensure that all claimants are making strenuous efforts to find work. In the UK, for instance, receipt of benefit, under the Jobseeker's Act, 1995, is conditional upon signing a jobseeker's agreement which details job search activities. Failure to comply with the terms of the agreement can lead to the issue of a jobseeker's direction to undertake a particular task, or attend a training scheme with the threat of benefit sanctions for non-compliance.

In contrast to what is obtainable in developed countries, most social security laws of the developing countries usually make provision for lump-sum grants, payable by

[115] See H Niemela and K Salminen, *Supra* n 58 at p.18. In the UK also, the shortfall in pension fund according to Pensions Secretary, Alan Johnson has been caused by a number of factors, such as stock market falls since mid-2000; See *The Punch* (Nigeria) 12 October 2004, p.30.

[116] See Australian Council of Social Services (ACOSS) Paper 163, April 2010, *Out of the Maze: A Better Social Security System for People of Working Age.* Available at http://www.acoss.org.au/images/uploads/ACOSS_Paper_-_Reform_of_working_age_payments.pdf site accessed on 1 November 2016.

either a government agency or the employer. The employers, in many instances, are required to pay lump-sum severance indemnities to discharged workers.[117] In Nigeria, for example, section 20(1)(c) of the Labour Act, 1974, requires an employer to "use his best endeavours to negotiate redundancy payments to any discharged worker." Section 20(2) of the Act further requires the Minister to make regulations providing generally, or in particular cases, for the compulsory payment of redundancy allowances on the termination of a worker's employment because of his redundancy.

E. Work Injury Benefit

Work injury compensation scheme is the oldest type of social security that provides monetary compensation as well as medical services for work-related injuries and diseases.[118] The contingencies covered for employment injury include, where due to accident or a prescribed disease resulting from employment, a morbid condition; incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national laws or regulations; total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.[119]

Work injury systems are generally based either on the social insurance system that uses a public fund or the various forms of private or semi-private arrangements required by law. Countries that rely primarily on private arrangements normally require employers to insure their employees against the risk of employment injury.[120] In recent times, it is remarkable that several countries that once used the employer-liability system for compensating victims of work accidents have adopted the social insurance scheme. The advantage of the social insurance scheme lies in the fact that the injured worker is generally assured of being adequately and promptly compensated from the compensation fund to which his employer has contributed, even where the employer becomes insolvent. The social insurance system, it has also been rightly noted, gives the guarantee to workers that the law would be better applied in practice by speeding up compensation procedure, reducing sources of dispute and thereby doing away with many causes of unjustified loss of right to benefit.[121] Experience has shown that the number of accidents for which

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117 Social Security Administration and International Social Security Association. *Social security programs throughout the world. Europe 2012, Supra* n 1 at p. 12.

118 The first workmen's compensation law was the Germany's Accident Insurance Law of 1884, which was enacted as part of the social insurance programmes introduced by the erstwhile Chancellor, Otto von Bismarck, to stave off socialism at that time. See M.S. Gordon, *Supra* n 114, at p.1; see J Myles, *Supra* n 6, at p. 344.

119 See Art 32 of the Convention and Art 6 of the Employment Injury Benefits Convention, 1964, No. 121.

120 For instance, work Injury scheme in Finland is a combination of employer liability scheme and the mandatory insurance with private carrier. See H Niemela and K Salminen, *Supra* n 58, at p. 31.

121 ILO, 1977, *Report of the Fifth African Regional Conference on "Improvement and Harmonization of Social Security Systems in Africa"*, held in Abidjan, Sept – Oct. 1977, p. 3.

compensation is paid rises considerably when a scheme is taken over and run at national level.[122] In Africa alone about 29 countries, including Algeria, Benin, Burkina Faso, Burundi, Cameroon, Egypt, Equatorial Guinea, Gabon, Guinea, Mali, Niger, Nigeria, Rwanda, Senegal, Sudan, Togo and Tunisia, have replaced their employer-liability systems with social insurance schemes.[123] Indeed, in the UK, benefit for industrial injuries has been integrated into the national social security scheme.[124]

IV. Comparative Trends in Financing

Financing of social security could be either contributory or non-contributory. Contributory scheme, usually referred to as the social insurance, is one in which financing is either by a combination of contributions from the workers, the employers and the State, or a combination of workers and employers contributions based on wages or earnings, or a combination of employers' and State financing. Generally, the social insurance denotes publicly-provided or mandated contributory programmes that cover workers and their dependants against major life risks, such as unemployment, health risks and old age, with beneficiaries receiving income or services in exchange for contributions to the scheme. The non-contributory system, on the other hand, is one in which a particular scheme or programme is financed either by the employer alone (such as for accident insurance) or by the State alone, based upon the idea that the community as a whole should be responsible for coming to the assistance of those of its members in need; the individual being able to claim, as a right, that the State should intervene on his or her behalf.[125] In line with para 26(5) of the ILO Income Security Recommendations, 1944 (No. 67), the cost of employment injury benefit is borne entirely by employers across the developed and developing countries. The employer's liability, in this regard, is generally predicated on his responsibility for maintaining the "human capital" that sustains his enterprise and its profitability.[126] Apart from the work injury compensation schemes, the non-contributory schemes are usually means-tested and targeted in some way for the poor or those vulnerable to poverty and shocks.[127]

The predominant means of social security financing across the developed and developing communities is, however, through the social insurance system.[128] For instance, social security is currently financed through pay roll contributions in several countries such as Finland, Ireland, Malta, Norway, Sweden and the UK where the intervention of the State had traditionally predominated.[129] In Sweden, State's contribution to the cost of

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122 *Ibid.*

123 *See* Social Security Administration and International Social Security Association. *Social security programs throughout the world: Africa, 2011, Supra* n 1.

124 Part V, Sections 94 – 101 of the Social Security Contributions and Benefits Act 1992 (UK).

125 G Perrin, "Rationalization of Social Security Financing", *Financing Social Security: the Options – an International Analysis,* (Geneva: ILO, 1984), pp. 121 – 145 at p. 122.

126 P Mouton, "Methods of Financing Social Security in Industrialized Countries", *Financing Social Security: the Options - an International Analysis,* (Geneva: ILO, 1984), pp. 3-32 at p.5.

127 J Dethier, *Supra* n 42.

128 See Social Security Administration and International Social Security Association, *Supra* n 1.

129 P Mouton, *Supra* n 126 at p. 16.

universal pension and sickness and disability, which was as high as 70 per cent and 34 per cent respectively before 1974, has steadily declined to 49 per cent and 24 per cent respectively by the year 1999. The contributions and fees now amount to approximately two-thirds of the total payments. The portion financed by taxes amounts to just less than one-fourth, while the share of the yield from the national pension fund used for pension payments corresponds to about one-tenth of the annual expenditure.[130] The State has also transferred two-fifths of the costs to employers' contributions which it previously financed for unemployment insurance and two-thirds of the cost for unemployment assistance, with the result that unemployment benefit now accounts for only 9 per cent of government expenditure on social insurance.[131] In the UK, the increasing structural problems, predominantly within the public pension and the health care sector in the 1980s, caused the government to implement a consistent and long-term policy to transfer a large part of the public engagement to the private sector. For instance, changes in the area of sickness insurance followed the same pattern, as in a number of other European countries, towards a welfare mix in which the social protection became a combination of public, collective and private parts. Consequently, public-paid statutory sickness benefits were extended with occupational benefits from the employers, either from own arrangements or through special insurances. Sickness benefits above the public minimum level are generally considered as a natural and important part of the employment contract with the employee. In this wise, sickness insurance was partly transferred to employers in 1983 in a new Statutory Sick Pay (SSP) system which covers the first 28 weeks in a sick spell. The idea was to partly disengage the State from a job which employers had already shown themselves capable of fulfilling and to make public expenditure savings.[132]

A. Developed Countries

A careful study of the regulation of social security financing in countries across Europe, Africa, Asia and the Pacific and the Americas has revealed that developed countries, especially in Europe, tend to spend a larger proportion of their national incomes on social security programmes than the developing countries. Apart from the contributions by the employers and employees, budgetary allocations for the support of social security schemes are both spontaneous and conspicuous. In many of these countries, such as in Belgium[133] and Austria,[134] the contribution from the State takes the form of a subsidy from the general budget, while in some countries like Ireland,[135] the government provides any deficit in the social insurance fund and the cost of means-tested allowance. In the UK, a treasury grant to contributory programmes of up to a maximum of 17 per cent of benefit expenditure is provided annually to cover short falls.[136] In some other countries

130 See *Social Security in Sweden, Supra* n 59 at p. 31.
131 *Ibid.*
132 See J Eriksson, *Supra* n 73 at p. 92.
133 See Social Security Administration and International Social Security Association, *Supra* n 1 at p. 48.
134 *Ibid*. at p. 36.
135 *Ibid*. at p.142.
136 *Ibid.* at p. 234.

like Japan, the State provides subsidies to cover a certain proportion of expenditure for pension and medical benefits.[137]

It is noteworthy, however, that the form of the financial contribution from the State is generally dependent upon the branch of social security and the objective thereof. As such, benefits that are geared towards fulfilling the social security objective of social solidarity and social cohesion are being financed entirely by the government in some countries. For example, old age benefits are paid on a universal basis or subject to a means test in Australia,[138] New Zealand,[139] Denmark[140] and Canada, [141] in order to provide basic income guarantee to the elderly and the cost is borne entirely by the government. Similarly, the cost of family allowance, payable to almost all residents is being financed entirely from the general revenue in Canada[142] New Zealand[143] and Australia,[144] whereas in some other countries like Austria,[145] government contributes a certain percentage from general tax revenue.

Furthermore, the value that the developed communities placed on social security is reflected in the percentage of the Gross Domestic Products (GDP) that is expended thereon, which now amounts to about 20 to 30 per cent in many of the industrialised countries where it is most developed.[146] Research has also shown that more than 10 per cent of the GDP is spent in most of the developed countries on old-age security and will grow still higher in the years ahead. In Germany for instance, expenditures of the social security system make up 22.6 per cent of the GDP, the largest proportion arising from the pension system and health insurance. France and Italy also have expenditures of a similarly high percentage relative to GDP for the three main social security branches, that is, pensions, health, and unemployment. Each of these three countries spends more than the UK and nearly double the percentage relative to GDP than the US.[147] In Denmark, about two-thirds of total social expenditure is financed by the State through taxes and duties as against one-third for the European Union (EU) countries on average, which has meant that of the EU countries, Denmark has one of the heaviest tax and duty burdens. Social expenditure in this country accounts for 40 per cent of all day-to-day State expenditure and 28 per cent of the GDP. Benefits linked to old age, sickness and families, however, make up over 70 per cent of all social expenditure.[148] Also, in Sweden, the social insurance

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137 See Social Security Administration and International Social Security Association, *Supra* n 1 at pp. 100 and 104.

138 *Ibid.* at p. 32.

139 *Ibid.* at p. 146.

140 See Social Security Administration and International Social Security Association, *Supra* n 1 at p.78.

141 See Old Age Security Act, 1985; see also Social Security Administration and International Social Security Association, *Supra* n 1 at p. 56.

142 *Ibid.* at p. 75.

143 See Social Security Administration and International Social Security Association, 2012, *Supra* n 1 at p. 151.

144 *Ibid.* at p. 39.

145 See Social Security Administration and International Social Security Association, 2012, *Supra* n 1 at p. 40.

146 A Euzeby and C Euzeby, *Supra* n 112, at p.52; see also E Chantal, "A Minimum Guaranteed Income Experiments and Proposals", *International Labour Review,* 1987, Vol. 126(3), pp. 253 - 276.

147 H Siebert, *Supra* n 63, at pp. 23 & 34.

148 *Denmark – conditions of life – social security*, p. 3. Available at http://www.um.dk/Publikationer/UM/English/Denmark/Kap3/3-2.asp. (Accessed 5 September 2012).

expenditure, including the unemployment insurance and various family allowances and grants, accounts for approximately 20 per cent of the country's GDP,[149] while in Finland, the share of the total pension expenditure in GDP amounts to 11.3 per cent.[150] In the US, dwarfing all other American public welfare programmes in total expenditures and in the number of persons affected is the Federal Old Age Survivor and Disability Insurance (OASDI) which was established under the provisions of the Social Security Act, 1935 (as amended). The OASDI is the largest government domestic programme, an important source of retirement income for a large number of Americans and the only social insurance programme financed and administered entirely by the Federal Government.[151] In 2012 for instance, $774.6 billion in total benefits was reportedly paid to 57 million people.[152] Also**,** in 2009, reports have it that US spent more on health care, about 17.3 per cent, as a proportion of its GDP than it spent on any other sector of the economy. The Congressional Budget Office has also projected that by 2016, the percentage of GDP consumed by health care would equal 20 per cent.[153] In Australia, as at 2010, over two million Australians of working age receive social security payments at an overall cost of $30 billion per year.[154] In all, while financing from pay roll contributions is still the most frequently used method for covering replacement cash benefits, available data has shown that, in developed communities, there is a general tendency towards increasing the share of taxes for the financing of family benefits, health care and basic pensions.

B. Developing Countries

The financing of social security in the developed countries of Europe and the US is in sharp contrast to the general practice in the developing communities, especially, Africa. In Africa, contributions from the employers and the employees are the major source of financing as there is little or no budgetary allocation or any financial input from the government. It is only in South Africa,[155] Swaziland[156] and Liberia,[157] where tax-financed old-age benefits, subject to a means test, are provided on a universal basis, and in Mauritius[158] and Seychelles[159] and Botswana[160] where tax-financed universal basic pension is provided at a flat rate on a universal basis. Indeed, in the developing countries only 2 per cent to 3 per cent of GDP is spent on old age security.[161] Research has also

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149 *Social Security in Sweden, Supra* n 59, at p. 8.
150 H Neimela and K Salminen, *Supra* n 58, at p. 49.
151 H J Aaron, *Supra* n 47, at p. 1.
152 A Barry Rand, "Social Security's Impact on the National Economy", available at http://www.huffingtonpost.com/a-barry-rand/social-security-economy_b_4071530.html site accessed on 1 November 2016.
153 S A Channick, "Health Care Reform in a New Political Environment: Predicting the Shape of Change", 2009, p. 2. Available https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1397689 Site accessed on 1 November 2016.
154 Australian Council of Social Services (ACOSS) Paper 163, April 2010, *Supra* n 117.
155 See Sections 5 and 10 of the Social Assistance Act, 2004, No. 13 (South Africa).
156 See Social Security Administration and International Social Security Association, 2012, *Supra* n 1 at p. 165.
157 *Ibid.* at p. 104.
158 *Ibid.* at p. 124.
159 *Ibid.* at p. 151
160 *Ibid.* at p. 37.
161 E James, *Supra* n 53, at p. 2.

shown that in most African countries, the contingencies covering the scope of coverage and the real value of average benefits have changed very little over the years.[162] Indeed, the African continent has been consistently berated as the only developing region in the world whose human welfare indicators are worsening and the proportion of people living below poverty line is increasing.

V. Conclusion

In general, whilst the social security laws of the developed communities have been very functional and effective in providing social safety net to all irrespective of social and economic status, the requisite will power and drive to animate the social security experiment in the less developed communities, particularly of Africa, are, as at now, grossly deficient. It is equally noteworthy that the relative quantum of essential investments of labour, capital and other vital resources apportioned to the social security scheme has been dictated logically by the relative level of awareness of the inestimable value of the social security scheme from one country to another, as well as the economic and fiscal situation in each country. The laws, which have permitted the developed communities to commit an average of about one-third to one-fifth of the total national resources to social security expenditures, have, no doubt, contributed immensely to the present developed status of such communities. The gain has also been in a consciousness of security and in the reduction of poverty. Moreover, there is no doubt that the reduction in money barriers in access to health care has contributed to improvements in health and the general quality of life. The example of the success story of such social security laws in the developed countries, therefore, is a glaring fact to which the less developed communities are freely accessible with a view to emulating them to their own great advantage.

Most of the developed countries, it has been discovered, do have programmed cradle-to-grave safety-nets for their citizens which are administered either on a universal basis or by a combination of the social insurance schemes with social assistance schemes. The social assistance schemes play considerable role in supplementing social insurance benefits for those without other sources of income as well as providing for those without rights to social insurance benefit or for whom such benefits have run out.

In Australia, for instance, the underlying principles of the social security law of the country have been identified as the responsibility to assist those in need; the concept of 'mutual obligation' and a person's relationship status and residence, which largely determine eligibility and rates of payment.[163] There is, therefore, the guaranteed minimum income support designed to provide persons unable to work, prevented from working or who cannot find work (the aged, handicapped, sick, sole parents, the unemployed) with uniform, taxable cash benefits, short or long term, as the case may be. Except for persons over 70 years of age, these benefits are subject to an income test. Over the years, the

[162] J Butare and E Kaseke, *Supra* n 36, at p. 3.

[163] The client's relationship status is reflected for example, in the concept of 'member of a couple' by which a lower social security payment is given to a member of a couple than one who is single on the ground that a married couple can share the costs of day-to-day living whereas a single person needs a relatively higher rate to enjoy the same living standard. See Social security – overview and overarching issues, *Supra* n 21.

income test has been progressively liberalised with the additional advantage of catering better for the needs of classes of persons who have never been attached to the labour force or whose eligibility has lapsed (the handicapped from birth, new entrants to the labour force, unmarried mothers, the long – term unemployed). For these persons, general revenue financing facilitates equality of treatment.[164] In the US, the social assistance approach is used to meet the medical care needs of low-income persons under the Medicaid programme.

In Netherlands, a programme under the *Algemene bijstandswet (ABW),* that is, the National Assistance Act, provides a minimum income for all persons residing legally in the Netherlands with inadequate financial resources to meet their essential living costs, taking into account also medical and social circumstances. In Germany*,* no one who falls into material distress needs despair as the State is enjoined to protect each of its inhabitants from social insecurity and to work towards the realisation of social justice. To achieve these aims, the Social Code of Germany demands that the State must, in good time and on an adequate scale, provide the necessary social services and facilities and make social welfare disbursements.[165] The Social Support Act, which was amended in 2003 and makes up Book XII of the Social Code (SGB XII), provides a safety-net, to protect from poverty, social exclusion and hardship, for those unable to help themselves or unable to obtain the help they need from family members or from the various branches of the social insurance schemes. Thus, every inhabitant of Germany - native or alien - is entitled to social support in such crisis situations: to maintenance grants or grants to help cope with particular circumstances such as disability, illness, unemployment or old age.[166]

It is humbly submitted that this is a major secret of the stupendous socio-economic progress, civilisation and affluence of the developed communities, which the developing communities would want to studiously understand and anxiously emulate in the interest of the adequate welfare and security of their people.

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[164] See A Herscovitch and D Stanton, "History of Social Security in Australia", *Family Matters,* 80: 51 – 60 at 51, available at https://aifs.gov.au/publications/family-matters/issue-80/history-social-security-australia Site accessed 1 November 2016.

[165] *Supra* n. 13 at p. 240.

[166] *Ibid.* at p. 245.