



HUMAN  
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## “We Are All Vulnerable Here”

Kenya’s Pandemic Cash Transfer Program Riddled With Irregularities

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## “We Are All Vulnerable Here”

### Kenya’s Pandemic Cash Transfer Program Riddled With Irregularities

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## **Glossary of Terms**

<b>AfDB</b>	The African Development Bank is a regional finance institution established to contribute to the economic development and social progress of African member countries.
<b>Chief</b>	A local government administrator who oversees an administrative location, the second smallest administrative unit. An assistant chief oversees a sub-location, the smallest administrative unit.
<b>Community Health Volunteers</b>	Volunteer health workers in informal settlements who support and educate their communities on health matters.
<b>County</b>	Geographical government units headed by a governor.
<b>County Commissioner</b>	A representative of the national government and head of security at the county level.
<b>Covid-19</b>	COVID-19 is a disease caused by a new strain of coronavirus. 'CO' stands for corona, 'VI' for virus, and 'D' for disease. Formerly, this disease was referred to as '2019 novel coronavirus' or '2019-nCoV'.
<b>Economic inequality</b>	This is the unequal distribution of income, wealth, and the unequal access to economic opportunities between different groups of people in a given society.
<b>EACC</b>	The Ethics and Anti-Corruption Commission is a constitutional body created by the Kenyan government “to combat and prevent corruption, economic crime and unethical conduct in Kenya through law enforcement, prevention, public

education, promotion of standards and practices of integrity and ethics.”

**Gross Domestic Product (GDP)**

This is the total value of goods produced and services provided in a country during one year.

**ICESCR**

International Covenant on Economic, Social and Cultural Rights is a multilateral treaty which requires its parties to ensure economic, social and cultural rights for everyone, including the right to social security, labor rights and the right to health, the right to education, and right to an adequate standard of living.

**IMF**

International Monetary Fund (IMF) is an organization of 190 countries with a stated mission of “working to foster global monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth, and reduce poverty around the world.”

**Informal Settlements**

Housing, shelter, or settlement in an urban area where inhabitants have no or limited security of tenure vis-à-vis the land or dwellings they inhabit; where their neighborhoods usually lack, or are cut off from, formal basic services (e.g. water, sanitation, electricity, roads, drainage) and city infrastructure; and where housing may not comply with current planning and building regulations. Informal settlements are often referred to as slum communities or slums, but despite their high poverty levels and lack of basic infrastructure, people living in slums in some cases have security of tenure and recognition in the formal housing sector.

**International Poverty Line**

This is a monetary threshold used by the World Bank under which an individual is considered to be living

in poverty. It is currently set at \$1.90 per day (in 2011 Purchasing Power Parity dollars), a threshold frequently criticized as too low and measuring extreme poverty. In 2018, the World Bank introduced additional poverty metrics, these include higher poverty lines at US\$3.20 and US\$5.50 a day.

**Kazi Mtaani**

The Kenyan government's Cash for Work relief program established in July 2020 in response to the Covid-19 pandemic, targeting up to 200,000 young people across the country. Young people employed in the program do menial jobs such as cleaning sewers, sweeping roads, and collecting rubbish in return for pay.

**KNBS**

Kenya National Bureau of Statistics is a state agency responsible for the collection and storage of data across all sectors of Kenya's economy.

**Mpesa**

A mobile money service offered by Kenya's largest telecommunication company, Safaricom. The authorities disbursed cash transfers through Mpesa to vulnerable families during Coronavirus partial lockdown in 2020.

**Multidimensional Poverty Index (MPI)**

The global Multidimensional Poverty Index (MPI), introduced by the United Nations in 2010 to replace the Poverty Index, is an international measure of acute multidimensional poverty covering over 100 developing countries. It captures acute deprivations in ten indicators, including health, education, and living standards that a person faces simultaneously. The MPI assesses poverty at the individual level. If a person is deprived in a third or more of ten (weighted) indicators, the global MPI identifies them as 'MPI poor'.

<b>Poverty</b>	This refers to a situation where people lack enough resources to provide the necessities of life such as food, clean water, shelter, clothing, health care, education, and transportation.
<b>Poverty Index</b>	Introduced in 1997 by the UN, this is a composite index that assesses three elements of deprivation in a country – longevity, knowledge, and a decent standard of living.
<b>Nyumba Kumi</b>	Literally translates as “Ten Households,” which is a community policing system Kenya introduced in 2013 where a cluster of 10 households is placed under the jurisdiction of one older person chosen by government officials who is supported by a team of young people he chooses.
<b>OHCHR</b>	Office of the High Commissioner for Human Rights, the department of the UN secretariat that promotes and protects rights guaranteed under international law and stipulated in the Universal Declaration of Human Rights of 1948.
<b>Peri-Urban</b>	A settlement located in an area immediately adjacent to a city or urban area.
<b>Rapid Credit Facility</b>	An IMF facility that provides emergency financial assistance with limited or no conditions to low-income countries. However, requesting governments write Letters of Intent that include commitments regarding how they will use the funds.
<b>Safaricom</b>	The leading communications company in Kenya with the widest coverage, and provider of the mobile money service, MPESA.
<b>SIDNET (or SDI)</b>	A network of community-based organizations working in informal settlements in 33 countries in Africa, Asia, and Latin America. SIDNET and member federations

are helping people in 500 cities secure land rights and participate in income generating programs.

**Social Justice Centers**

These are community movements of young rights activists in informal settlements and rural communities who promote justice in their communities.

**Sub county**

A smaller administrative unit delineated by the national government and headed by the sub county commissioner.

**UDHR**

The Universal Declaration of Human Rights outlines the rights and freedoms to which everyone is entitled. It sets out the key principles of human rights.

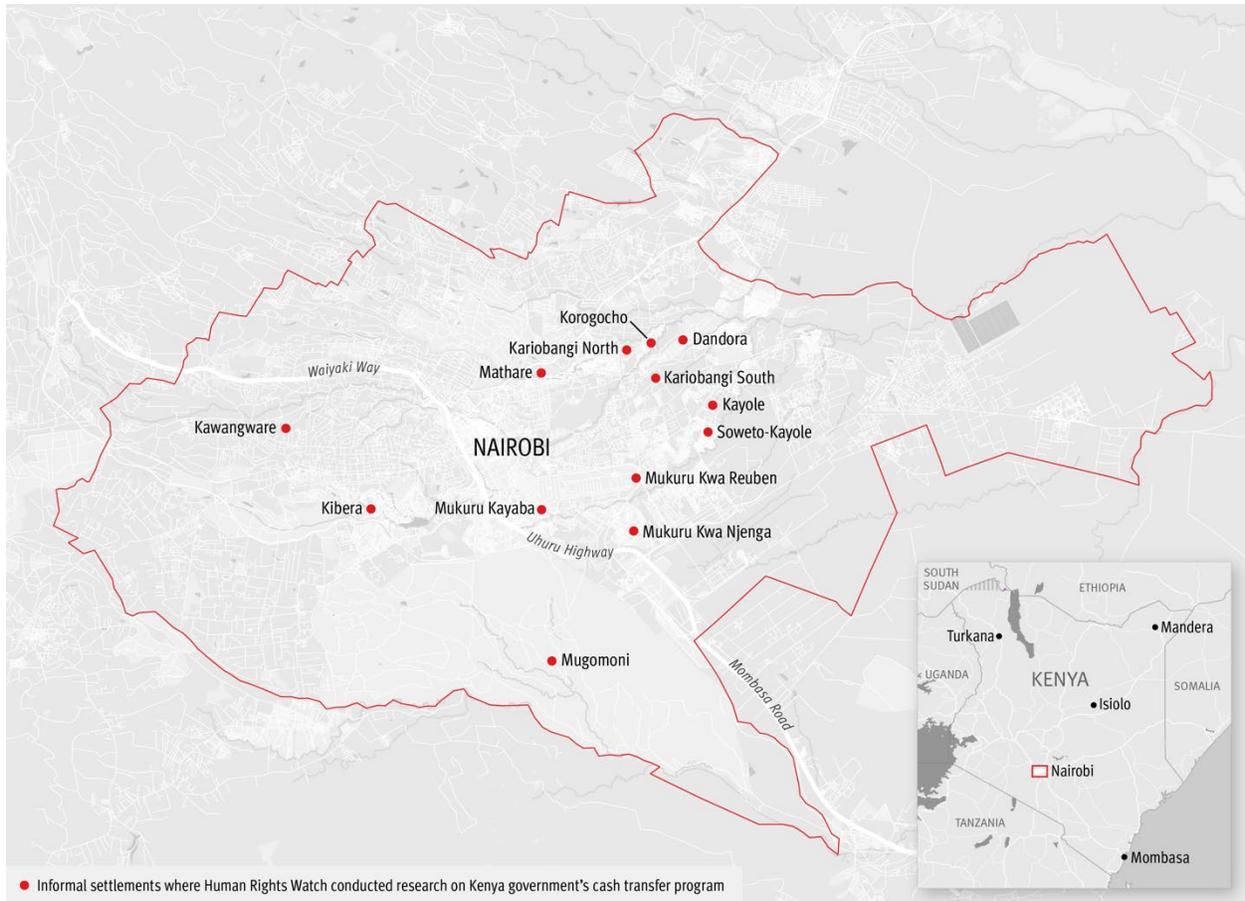
**UNDP**

United Nations Development Programme, a UN agency established in 1965 to help countries eliminate poverty and achieve sustainable human development.

**WFP**

World Food Programme, the food-assistance specialized agency of the UN. It is the world's largest humanitarian organization focused on hunger, food security, and the provision of school meals.

# Map of Nairobi Showing Informal Settlements



## Summary

On March 27, 2020, Kenyan authorities introduced measures to contain the spread of the novel coronavirus, including a dusk-to-dawn curfew and a directive to Kenyans to work from home. For “Wanjiku,” a 27-year-old pre-school teacher and single mother living in Mukuru Kwa Reuben, an informal settlement in Nairobi, that would be the start of the most difficult nine months of her life.

Her employer, a private school in Mukuru Kwa Reuben, immediately notified her and other staff that they would not be paid for as long as the school remained closed due to the pandemic. When Human Rights Watch interviewed Wanjiku, who was with “Janet,” her four-year-old daughter, in November 2020 when schools were still under lock and key, they were struggling to make ends meet. It wasn’t until January 2021 that schools reopened.

Two days before the start of the lockdown, on March 25, President Uhuru Kenyatta announced a range of measures to cushion the economic impact of the pandemic, including adding Ksh10 billion (\$100 million) to a social protection fund for the older people, orphans and those with underlying health conditions. About two months later, the president announced a cash transfer program for the most socio-economically vulnerable populations, including people with disabilities, pointing out that his administration was already paying out Ksh250 million (\$2.5 million) to the most vulnerable households each week.

In April, Wanjiku registered for the cash transfer program based on information from authorities that those who had lost income were eligible, but she has never received any assistance, and she has not received any information on why she was not considered for assistance or if she could appeal or challenge the decision to leave her out.

Kenya has no system of social security to pay income to those who lose jobs and although government stated this as one of the objectives of its Covid-19 cash transfer program, the outlined criteria did not include job loss as one of the factors to be considered during the selection of beneficiaries.

For Wanjiku, going without food for several days a week became routine, as her low paying temporary jobs, such as washing clothes, did not provide enough to feed her family for more than three days a week, as she struggled to provide her family with the most basic needs. Janet constantly cried for something to eat; her mother told Human Rights Watch. As of November 2020, Wanjiku owed several months in rent and did not know how she would be able to meet her rent commitments for the coming months. Although the landlord had not evicted her, his reminders to pay were a source of significant anxiety, as she would have nowhere to shelter with her young daughter should the landlord decide to evict them.

Wanjiku is just one of the many Kenyans in informal settlements whose livelihoods have been devastated by the Covid-19 pandemic, yet did not benefit from the government's cash transfer program that could have guaranteed them the enjoyment of the right to food and shelter, at least for the duration of the pandemic. Kenya does not guarantee social security for all and does not protect the right of everyone to an adequate standard of living, including adequate food and shelter at all times, even during an emergency.

Human Rights Watch's analysis of available government data and information provided by government officials indicate that the Covid-19 cash transfer program provided support to less than five percent of the socio-economically vulnerable families in Nairobi, and an even smaller percentage across the nation, which means that the government failed to guarantee the right to an adequate standard of living for more than 95 percent of vulnerable households.

Kenya is a lower-middle income economy whose population has doubled over the past three decades from 23.72 million in 1990 to 47.5 million in 2020, which means that, even in the absence of emergency situations like the coronavirus pandemic, a growing number of Kenyans have been struggling to attain an adequate standard of living. Along with burgeoning population growth has come alarmingly widening economic disparities both between and within the nation's eight regions and among the same population in a given region.

At least 36.1 percent of the population – 17.1 million Kenyans – live below the international poverty line, a measure of extreme poverty defined as earning less than \$1.90 a day, according to the Kenya National Bureau of Statistics, while 66.2 percent live on less than \$3.20 a day, and 86.5 percent on less than \$5.50, according to the World Bank. As of 2015,

half of Kenyans were living in multidimensional poverty, a measure that uses a weighted index of ten factors related to health, education, and living standards.

Poverty rates are especially high – above 70 percent – in the remote, arid and sparsely populated northeastern parts of Kenya. Some large cities also have high poverty rates; for example, 44 percent of Mombasa residents are classified as poor, compared to 42 percent of people in the capital of Nairobi. However, the abysmally low poverty line of \$1.90 per day masks the huge numbers of people in higher-cost cities like Nairobi who struggle to afford basic necessities. Despite stubbornly high poverty rates, Kenya’s existing social protection system is not as robust and does not guarantee social security to everyone, which made it even more difficult to expand existing programs to identify and reach families in need of support during the pandemic.

Based on interviews with 136 people, including 102 residents of 11 informal settlements in Nairobi – of which 82 were women – senior national and local administration officials, community and resident’s association officials, and a representative of the International Monetary Fund (IMF), this report examines the effectiveness, at least in terms of ensuring the right to an adequate standard of living for all, of the cash transfer program introduced to cushion the devastating impact of pandemic – related lockdowns. The report focuses primarily on informal settlements (Kibera, Mukuru, Korogocho, Mathare, Kangemi, Kawangware, Kariobangi, Dandora, Mugomoini, Kayole, Kayole Soweto and Dagoretti Waithaka) in Nairobi county, one of the 21 counties where the authorities implemented the program. Kenya has 47 counties in total.

The research focused on Nairobi in part because it has the fastest growing number of informal settlements in the country and was one of the counties targeted by the government’s pandemic-related cash transfer program. Of the 10 million people living in informal settlements across Kenya, 2.4 million live in Nairobi – making up half the city’s population yet crammed into only 1 percent of its land. Residents of informal settlements, who are the most likely to live in extreme poverty and thus struggle to meet their basic needs, were also the most socio-economically affected by the Covid-19 pandemic, according to the United Nations Development Programme (UNDP).

Government-imposed public health measures intended to curb the spread of the virus, such as partial lockdowns and curfews, were more challenging to adhere to in informal

settlements and had harsher economic consequences. Government officials told Human Rights Watch that more than 60 percent of businesses in informal settlements were closed during the partial lockdown, exposing thousands of families to serious economic hardships. High population density, lack of basic public services, poor electricity access, and pre-existing high rates of unemployment exacerbated the impact of these measure on residents. Most employed residents work as unskilled laborers, earning around or below \$1.90 (Ksh190) per day, an amount that leaves many unable to afford a minimum standard of nutrition and other necessities.

There is a gender dimension to poverty in Kenya According to government data, women are more likely to be unemployed, underemployed, underpaid, and seasonal workers. Females constitute 64.5 percent of the unemployed, 61.9 percent of all part time workers, and majority of the underemployed. Kenya’s 2015/16 Integrated Household Survey results show that more than a third of households are headed by females, and that 30.2 percent of female headed households live below the poverty line compared to 26.0 percent of their male counterparts. A survey conducted in May 2020 showed that the labor force participation rate in the seven days preceding the survey was higher for males (65.3 percent) while slightly more than half (51.2 percent) of the females were found to be outside the labor force in the reference period.

Human Rights Watch spoke with dozens of people living in Nairobi’s informal settlements who said that, since the lockdown-induced loss of jobs and economic crisis, they have faced extreme hunger, going entire days without meals, in some cases up to four days a week, and have accumulated rent arrears of up to nine months. Several said landlords evicted tenants for nonpayment of rent while some men abandoned their families – spouses and children – in the city altogether and returned to their upcountry homes.

Also, most women in Kenya work part-time in the informal sector, including as domestic workers where they cannot render services remotely, thereby losing income, and in the service industry, where they are likely to have no job security and safety nets when crises such as Covid-19 hit the economy.

Despite President Kenyatta’s pledge to cushion the most economically and socially vulnerable from the impact of the government’s pandemic response, few households received the promised relief. The cabinet secretary for Treasury and Planning, Ukur Yatani,

told Human Rights Watch in January 2021 that the cash transfer program ran from April 22 to November 27, 2020 and, in its first phase, targeted 85,300 households in four counties: Nairobi, Mombasa, Kilifi and Kwale.

In its second phase, he said the program reached an additional household in 17 other counties. He added that the authorities prioritized support for households in informal settlements with high poverty index; where the head or breadwinner has a physical disability; is widowed; is a minor (orphan or child-headed households); have pre-existing medical conditions such as cancer or HIV; has a mental health condition and are not benefiting from other government support.

The whole country remains, at time of writing, under a dusk-to-dawn curfew that began in March 2020 when the pandemic hit. For 30 days in April 2021, travel to or from Nairobi, Kajjado, Machakos, Kiambu and Nakuru counties was also prohibited. Of the 85,000 households that benefitted from the cash transfers in the first phase, 29,000 were from informal settlements in Nairobi county – which amounts to less than 5 percent of the 600,000 households in Nairobi’s informal settlements.

Moreover, this report found that the cash transfer program lacked clear rules and basic transparency and did not appear to recognize that everyone has a right to social security and an adequate standard of living, including food, leading many eligible people not to be registered and enabling corruption and favoritism in its implementation. There is no mechanism for people like Wanjiku who missed out, to appeal or challenge the decision to leave them out. Authorities did not publish any information about the program’s start date and duration; eligibility criteria; or the amount and frequency of payments.

In addition, the national government’s devolution of implementation to multiple groups with little coordination or oversight compounded corruption risks. Human Rights Watch interviews surfaced numerous allegations that officials in charge of enrolment frequently ignored government-approved eligibility criteria, which failed to ensure the assistance reached everyone at risk of hunger, and directed benefits to their relatives or friends, even in cases when they did not meet the criteria.

Many of the residents of informal settlements in Nairobi with whom Human Rights Watch spoke, who appeared to be eligible for the program, said they did not register for it

because they were simply not aware of its existence. Others, including those living in households headed by people with disabilities, have serious pre-existing medical conditions such as cancer or HIV/AIDS, and older people, said they registered but did not receive any benefits. Several said they received some cash transfers between April and July, although the number of payments varied widely and some reported that they received the money for only one or two months. Only a small fraction of beneficiaries said they received the cash for the entire authorized period that extended from April to November.

This report found that, in some areas, the authorities engaged Nyumba Kumi, or village elders who head clusters of 10 households, to oversee the program's implementation, while in other areas it fell to community health volunteers or resident savings associations. Interviewees charged with enrollment told Human Rights Watch that they had not been trained or given any selection criteria or guidelines and they therefore selected people they knew.

Some beneficiaries said they were enrolled by local politicians, who were either given free reign by authorities to select a certain number of people or who were given control over enrolment delegated to others. The report found that the involvement of politicians made the process more vulnerable to cronyism than when implemented by Nyumba Kumi cluster leaders or Community Health Volunteers. At least six residents of informal settlements alleged that members of parliament and Nairobi county assembly used their allocated benefits for friends and family members, even in cases when they were not eligible. In Mukuru Kwa Reuben, a 29-year-old father of two who benefited from the cash transfers after he was enrolled/registered by a Nairobi politician told Human Rights Watch that he has a stable job with a decent salary and wasn't really in serious need.

Even for those lucky enough to be enrolled, not all ultimately received the cash. Government officials told Human Rights Watch that about half of those enrolled received the money, and not throughout the authorized duration. It is unclear who and how the decision was made to drop some of the enrolled names. Human Rights Watch calls on Kenyan authorities to make a comprehensive list of all households that received cash transfers available to the auditors and any other government agencies monitoring the program.

The frequency of the transfers also varied. Contrary to the government’s claim that each beneficiary received a total of 35 transfers in eight months, most of those who spoke to Human Rights Watch said they received the transfers just twice or four times in that period. While some beneficiaries received the cash weekly, many received money every two weeks and others once a month.

Like for many countries, the challenges Kenyan officials face in the midst of a health crisis to effectively provide support to families on the brink of hunger exposes the huge gaps in the country’s existing social protection system. There is no recognition of the right of everyone to social security nor any attempts to create a comprehensive system of social security. The efforts to expand coverage, and the lessons learned, present a critical opportunity to develop social protection programs based on the right of everyone to social security and to an adequate standard of living.

According to the World Bank, the effects of the Covid-19 pandemic will push an additional 88 million to 115 million people into extreme poverty worldwide, bringing the total to between 703 and 729 million. The “new poor” is forecasted to be more urban than those who have persisted in poverty for a longer time; more engaged in informal services; live in congested urban settings; and work in the sectors most affected by lockdowns.

Kenya, as a state party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) is obligated under article 11 to ensure that Kenyans enjoy the right to an adequate standard of living, including adequate housing as well as the fundamental right to adequate food and freedom from hunger and malnutrition. There are similar protections under article 25 (1) of the Universal Declaration of Human Rights (UDHR).

In General Comment 12, the ICESCR Committee, which monitors implementation of the International Covenant on economic, social and cultural rights by its States parties, said that whenever an individual or group is unable, for reasons beyond their control including natural or other disasters, to enjoy the right to adequate food by the means at their disposal, governments have the obligation to provide that right directly.

ICESCR and other human rights law also require Kenya to respect and implement the right of everyone to social security. The African Commission on Human and Peoples’ Rights, which interprets the African Charter and considers individual complaints, has interpreted

the right to social security as implicit from a joint reading of several rights guaranteed under the African Charter on Human and Peoples' Rights including the rights to life, dignity, liberty, work, health, food, protection of the family and the right to the protection of the aged and the disabled. Kenya is a state party to the African Charter and has included these rights in its national constitution.

Human Rights Watch calls on the Kenyan government to take urgent steps to fulfil its obligation to ensure that residents of informal settlements can meet their basic needs to adequate food and housing. The authorities should investigate the implementation of the cash transfer program and hold those credibly implicated in any misuse or misappropriation of funds should be held to account. The government should guarantee that social assistance programs respect the principles of equality and nondiscrimination.

# Recommendations

## To President Uhuru Kenyatta and the National Government

- Publicly recognize the rights of everyone to social security and to an adequate standard of living and announce that government policies will be based on these rights.
- Direct the relevant government departments implementing the cash transfer program to publish all information on the criteria for allocation and distribution of social protection funds aimed at mitigating the socio-economic impact of the COVID-19 pandemic, including details of amounts disbursed across Nairobi and other counties where the program was implemented, and to make the list of names of beneficiaries available for the Auditor General, Ethics and Anti-Corruption Commission and other relevant government agencies.
- Direct the Ethics and Anti-Corruption Commission (EACC) to promptly and thoroughly investigate allegations of irregularities or misappropriation of money meant for the cash transfer program and submit the files to the Office of the Director of Public Prosecutions for prosecution.
- Direct the relevant state departments to, in the short term, re-start the emergency cash transfer program given the control measures are still in place and allocate more funding to greatly expand it for as long as the government of Kenya has Covid-19 pandemic-related measures in place to ensure that all vulnerable households, including those in Nairobi's informal settlements, have the means to afford food, rent, and other expenses fundamental to human rights.
- Direct all relevant state departments to take steps to mitigate gendered impacts of Covid-19 and ensure that responses do not perpetuate gender inequity.
- Direct relevant government departments to, in the long term, develop robust social protection programs with an ultimate aim of providing assistance to all people who need it and can be easily scaled up in crisis situations.
- Set up a system of social security, based on the right of all Kenyans to social security, that is adequate to ensure an adequate standard of living for all, accessible to everyone and is protected in law.
- Consider introducing broad and well thought out, gender-sensitive economic stimulus measures that would enable small and medium businesses, including

those in informal settlements in Nairobi and other urban areas, to easily access credit facilities or startup capital at no or low interest.

- Increase funding to the ministry of Labour and Social Protection, which is responsible for implementing the cash transfers, both as an immediate response to the pandemic and in the longer term.

## **To the Ministries of Treasury and Planning, Labour and Health**

- Extensively review and strengthen internal mechanisms for implementing cash transfers, including the criteria for selecting vulnerable households and accountability mechanisms such as oversighting, supervision and training of selectors, and complaint mechanisms. Publish all relevant information, including eligibility criteria, number of households supported, and total amounts received.
- Continue the cash transfers until the economic impacts of the Covid-19 pandemic have subsided and expand the number of beneficiaries of the transfers, preferably consider covering all in informal settlements in Nairobi.
- Ensure the mechanisms for survey and mapping vulnerable households in Nairobi and other areas where the cash transfer program is implemented are adequately and fairly reviewed to ensure all vulnerable households are identified, reached and supported.
- Ensure thorough and timely audit of the cash transfer funds and, in the event of irregularities and/or misuse of money, ensure all those responsible are held to account.
- Compile names of all beneficiaries of cash transfers across Nairobi and other counties where the program was implemented, make the list available to the Auditor General, Ethics and Anti-Corruption Commission and other relevant government agencies.
- Ensure that existing guidelines on Covid-19 control are practical in informal settlements and other urban areas, including by publishing additional guidelines where necessary.
- Ensure that any targeted allowances benefit all families that are eligible, by taking the following steps:
  - Establish the right of all Kenyans to social security as the basis for these allowances.

- Establish effective communications strategies to ensure that everyone knows about the social protection program, its eligibility criteria, and the means of accessing it;
- Make the application process accessible to all, including those with low literacy and/or no internet access;
- Ensure that women are able to apply and receive these benefits as heads of households;
- Invest in selection mechanisms that do not overestimate incomes of any applicant;
- Avoid placing quotas on the number of people who can access a program;
- Ensure that people can apply for the program whenever they require it;
- Ensure that decisions on selection are as objective as possible;
- Eliminate discrimination in decision-making;
- Keep comprehensive information on selection decisions;
- Establish effective and independent grievance mechanisms that enable applicants to appeal unfavorable decisions;
- Maintain a comprehensive database of information and statistics to inform planning and identification of beneficiaries for targeted allowances.
- Ensure adequate social protection budgets to provide a minimum social protection package for households with children.

### **To the Auditor General**

- Assess the effectiveness of the internal controls and overall implementation, including transparency and frequency of cash disbursements, of the government's pandemic – related cash transfer program.
- Undertake a timely and thorough audit of the entire process of the government's pandemic – related cash transfer and publish the findings.

### **To the Ethics and Anti-Corruption Commission (EACC)**

- Initiate timely and thorough investigations into the implementation of the government's pandemic-related cash transfer program, including possible irregularities in the disbursement of funds, and publish the findings.

- Immediately institute, in line with the asset recovery procedures from the public officials and companies who illegally benefited from the cash transfer program the recovery of any assets they may have acquired through such wealth.

## **To the Parliament**

- Ensure that the relevant parliamentary committees collaborate to initiate independent public enquiries and fact-finding on how the pandemic – related cash transfer was implemented, including looking into allegations/reports of misuse of funds.
- Make public the findings of any such investigations or inquiries by the relevant parliamentary committees on the use of funds meant for the pandemic-related cash transfers.
- Initiative bills and motions to guide the reform process in the management of public resources, especially in the management of disasters and public emergencies such as the Covid-19 pandemic.
- Ensure that any reforms introduced in the ministries of treasury and planning, health and labor, are replicated in other ministries to enhance transparency and accountability mechanisms in budgeting, allocation, disbursement, procurement, utilization and audit processes on public funds.

## **The Office of the Director of Public Prosecutions**

- In conjunction with the Ethics and Anti-Corruption Commission, urgently prosecute those implicated in the mismanagement or misuse of resources meant for the pandemic - related cash transfer program.

## **To African Development Bank, World Bank, and International Monetary Fund**

- Provide additional financial resources and technical expertise to enable Kenyan authorities to expand the reach of cash transfers to particularly include people pulled further into poverty because of the Covid-19 pandemic, including in informal settlements in Nairobi and other urban areas, and marginalized women and girls.
- Privately and publicly, urge Kenyan authorities to ensure the Auditor General has access to all documents relating to the pandemic - related cash transfers to enable prompt and thorough audit.

- As partners of the Kenyan government contributing resources for response to the Covid-19 pandemic, urge Kenyan authorities to establish minimum safeguards to ensure public participation in decision making at all levels including at the national level for improved service delivery and accountability.

## Methodology

This report is based on Human Rights Watch research in 11 of the 14 informal settlements in Nairobi county. Nairobi is among the 21 counties the Kenyan government selected, out of the country's 47 counties, to implement cash transfers to cushion the most vulnerable households against the impact of the Covid-19 pandemic. This research focused only on Nairobi county.

For five months - between September 2020 and January 2021 – Human Rights Watch researchers interviewed residents of the following informal settlements in Nairobi: Mathare, Mugomoini, Kayole, Soweto-Kayole, Mukuru Kwa Njenga, Mukuru Kayaba, Mukuru Kwa Reuben, Kibera, Kawangware, Dandora, Korogocho and the wider Kariobangi (South and North).

Human Rights Watch interviewed a total of 136 people, of which 82 were women, including 31 beneficiaries of the cash transfers, 62 people who did not benefit despite meeting government criteria, two senior national government officials, eight national government administrators in the informal settlements who had responsibility for selecting cash transfer beneficiaries in their jurisdictions, a representative of the International Monetary Fund (IMF) and 10 community health volunteers.

Researchers further spoke with 11 activists, including two officials of residents' associations, in Kayole, Dandora, Kawangware and Mathare settlements. These activists had worked with local administrators to identify and recommend potential beneficiaries for enrolment into the cash transfer program. Two of the activists were also among the 31 beneficiaries of the program.

Residents of informal settlements interviewed for this report described the size of their households, sources of income and impact of the Covid-19 pandemic on their income, their ability to feed family members, pay house rent during this period, whether they received any support, including from the government cash transfer program or other programs such as the one by World Food Programme and GiveDirectly, and in the case of those who receive government support, how they got enrolled, and the regularity of

payments. They also gave their opinion on whether the amount they received was adequate.

The residents also explained how they learned about the enrolment of beneficiaries for the program, whether the information was readily provided by the authorities and expressed views on the transparency and fairness of the enrolment and disbursement processes. We further talked to the International Monetary Fund (IMF) representative in Kenya as well as senior staff of the World Food Programme and GiveDirectly. Researchers also reviewed government policy documents and independent research publications relevant to this report.

On December 7, 2020, Human Rights Watch wrote to the ministries of Treasury and Planning, Labour and Health with a set of questions on the cash transfer program and how it was implemented. On January 19, the cabinet secretary for Treasury and Planning, Ukur Yatani, responded with details about enrollment criteria for the cash transfer.

Where relevant, Human Rights Watch has withheld identities of the interviewees to protect them from potential reprisals by the authorities and others. All interviews were held confidentially, in safe locations, in full observation of measures to prevent the transmission of the virus, and with full and informed consent of interviewees. The interviews were conducted mainly in Swahili, and, in a few instances, in other local languages, including two with the help of an interpreter. No compensation was requested by interviewees and none was provided.

# I. Background

## Poverty and Inequality in Kenya

Kenya, a lower-middle income economy, has grown rapidly over the last three decades from a population of 23.72 million in 1990 to 47.5 million people (or 12.5 million households) in 2019, according to the Kenya National Bureau of Statistics and United Nations Population Fund (UNFPA).<sup>1</sup> Studies by experts over that period shows that economic disparities both between and within regions has continued to widen.<sup>2</sup>

With a Gross Domestic Product (GDP) of US\$95.5 billion, Kenya's economy remains the largest and most developed in eastern and central Africa region. However, 36.1 percent of its population – 17.1 million Kenyans – still lives below the international poverty line of \$1.90, according to official government data.<sup>3</sup> According to the 2015 Kenya Population and Housing Census, there are about 19.5 million people with low income in Kenya, which means a staggering 41 percent of the population in Kenya will struggle to meet basic needs or, put simply, realize their right to an adequate standard of living, especially in the absence of universal state support to everyone.<sup>4</sup>

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<sup>1</sup> United Nations Population Fund, World Population Dashboard – Kenya, 2021; <https://www.unfpa.org/data/world-population/KE>; 2019 Kenya Housing and Population Census Results, Kenya National Bureau of Statistics, December 2019; <https://www.knbs.or.ke/?p=5621>. (Last accessed on Feb 28, 2021).

<sup>2</sup> Arne Bigsten, et al, Incomes, Inequality and Poverty in Kenya: A Long Term Perspective, Oxford University Press, 2021; <https://oxford.universitypressscholarship.com/view/10.1093/acprof:oso/9780198744795.001.0001/acprof-9780198744795-chapter-15> (last accessed on Feb 28, 2021).

<sup>3</sup> Society for International Development (SID), Pulling apart: Facts and Figures on inequality in Kenya, 2004; <http://sidint.net/docs/pullingapart-mini.pdf> (last accessed on Feb 28, 2021). In Comparison to Kenya's GDP, its neighbor Tanzania has a GDP of \$63.18 billion, Uganda \$35.17 billion and Rwanda \$10.35 billion; [https://www.google.com/search?q=uganda%27s+gdp&rlz=1C1GCEU\\_enKE909KE909&oq=Uganda+&aqs=chrome.1.69i57j69i59j35i39j46i67i175i199joi67joi67j69i61.5951joi4&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=uganda%27s+gdp&rlz=1C1GCEU_enKE909KE909&oq=Uganda+&aqs=chrome.1.69i57j69i59j35i39j46i67i175i199joi67joi67j69i61.5951joi4&sourceid=chrome&ie=UTF-8).

According to World Vision, \$1.90 per person per day in 33 low-income countries such as Kenya; \$3.21 per person per day in 32 lower-middle-income countries, such as India and the Philippines; \$5.48 per person per day in 32 upper-middle-income countries, such as Brazil and South Africa; \$21.70 per person per day in 29 high-income countries; <https://www.worldvision.org/sponsorship-news-stories/global-poverty-facts#:~:text=BACK%20TO%20QUESTIONS-,What%20is%20the%20international%20poverty%20line%3F,compare%20poverty%20levels%20between%20countries>.

<sup>4</sup> The World Bank, Poverty Incidence in Kenya Declined Significantly, but unlikely to be eradicated by 2030, April 10, 2018; <https://www.worldbank.org/en/country/kenya/publication/kenya-economic-update-poverty-incidence-in-kenya-declined-significantly-but-unlikely-to-be-eradicated-by-2030> (last accessed July 6, 2021). UNHCR, Articulating the Pathways of the Socio-Economic Impact of the Coronavirus (COVID-19) Pandemic on the Kenyan Economy, Policy Brief, April 2020; <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiXs8mC-8PvAhWbFMAKHSMiDhEQFjAAegQIBBAD&url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fdam%2Fba%2Fdocs%2FCOV>

An average of 14 million of that population is in rural areas, 1.3 million in peri-urban areas and 4.2 million in informal settlements.<sup>5</sup> Of the 4.2 million in informal settlements across Kenya, around 2.4 million, or more than half, are in Nairobi's informal settlements, the focus of this report.

Studies by various groups including Oxfam and Society for International Development have demonstrated the increasing levels of social and economic inequality in Kenya. For example, 10 percent of Kenyans control or own approximately 44 percent of the national wealth<sup>6</sup> and account for over 70 percent of income, while the poorest 10 percent earn less than one percent of the national income.<sup>7</sup> In April, the UNDP expressed concern that the Covid-19 pandemic could reinforce these income inequalities.<sup>8</sup>

There are also disparities in poverty levels across regions in Kenya. The percentage of poor people, for instance, is lower in the capital, Nairobi at 44 percent, and in some areas – such as rural areas where poverty is above at 70 percent.<sup>9</sup> Poverty rates are much higher – above 70 percent – in the remote, arid and sparsely populated northeastern parts of the

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ID-19-CO-Response%2FSocio-Economic-Impact-COVID-19-Kenya-Policy-Brief-UNDP-Kenya-April-2020.pdf&usg=AOvVawog3uSBFOxIbcg1BpNg38WS

(last accessed on Feb 28, 2021); Kenya National Bureau of Statistics, 2015/2016 Kenya Integrated Household Budget Survey, Nairobi, published in March 2018; [https://sun-connect-news.org/fileadmin/DATEIEN/Dateien/New/KNBS\\_-\\_Basic\\_Report.pdf](https://sun-connect-news.org/fileadmin/DATEIEN/Dateien/New/KNBS_-_Basic_Report.pdf) (last accessed May 7, 2021).

<sup>5</sup> Peri-urban areas are broadly defined as those areas which are transitioning between the urban and traditional landscapes as determined by daily commuting distance to the central business district of the nearby city and or town.

<sup>6</sup> Oxfam International, Kenya: Extreme Inequality in numbers, 2020; <https://www.oxfam.org/en/kenya-extreme-inequality-numbers#:~:text=A%20recent%20study%20estimated%20that,inequality%20is%20prevalent%20in%20Kenya.&text=For%20example%2C%20despite%2096%25%20of,hold%20a%20title%20to%20land> (last accessed on Feb 28, 2021); Society for International Development (SID), Pulling apart: Facts and Figures on inequality in Kenya, 2004;

<http://sidint.net/docs/pullingapart-mini.pdf> (last accessed on Feb 28, 2021). Social inequality occurs when resources in society are distributed unevenly, typically through norms of allocation, that follow specific patterns along lines of socially defined categories of persons. It is the differentiation preference of access of social goods in the society brought about by power, religion, kinship, prestige, race, ethnicity, gender, age, sexual orientation, and class. Social inequality usually implies lack of equality of outcome but may alternatively be conceptualized in terms of the lack of equality of access to opportunity.

<sup>7</sup> Ibid.

<sup>8</sup> UNHCR, Articulating the Pathways of the Socio-Economic Impact of the Coronavirus (COVID-19) Pandemic on the Kenyan Economy, Policy Brief, April 2020;

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiqxeHOzMPvAhWSYMAKHc6gAsgQFjAAegQIBBAD&url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fdam%2Fba%2Fdocs%2FCOVID-19-CO-Response%2FSocio-Economic-Impact-COVID-19-Kenya-Policy-Brief-UNDP-Kenya-April-2020.pdf&usg=AOvVawog3uSBFOxIbcg1BpNg38WS> (last accessed on Feb 28, 2021).

<sup>9</sup> Society for International Development (SID), Pulling apart: Facts and Figures on inequality in Kenya, 2004; p.37.

<http://sidint.net/docs/pullingapart-mini.pdf> (last accessed on Feb 28, 2021); The World Bank, Poverty Incidence in Kenya Declined Significantly, But Unlikely to be eradicated by 2030, April 2018;

<https://www.worldbank.org/en/country/kenya/publication/kenya-economic-update-poverty-incidence-in-kenya-declined-significantly-but-unlikely-to-be-eradicated-by-2030> (last accessed May 7, 2021).

country or even the poorest areas of Nairobi.<sup>10</sup> At the same time, on average, population of poor people in Nyanza region's five counties of Siaya, Kisumu, Migori, Homabay and Kisii is at 63 percent.<sup>11</sup>

### **Kenya's Administrative Structure**

The current structure of government allows power at two levels: the national level, headed by the president and his deputy, and the county level, headed by the governor and is semi-autonomous with devolved functions. The national government is composed of 47 counties. The governor is directly elected and is the highest elected official in the county. Each county has its own county assembly with members of the county Assembly (MCAs) as representatives. The administrative structure of the national government at the county level includes county commissioners, who are under the ministry of interior, and oversees all national government functions, including security, in the county. Under the county commissioner are deputy commissioners, who oversee sub counties, chiefs, who oversee locations, and assistant chiefs, who oversee smaller administrative units called sub locations, which comprise of a few villages headed by village cluster heads, also known as Nyumba Kumi cluster heads

Apart from the inequality between different cities or regions, studies have found that inequalities and poverty levels also exist within city populations.<sup>12</sup> In Nairobi, the percentage of people living below the poverty line is 44 percent, but poverty levels in the upmarket neighborhoods such as Lavington, Karen, Kileleshwa and Runda location is under five percent, while the levels are higher than 70 percent in the informal settlements that are the focus of this research, including as Soweto, Kibera, Mathare, Korogocho and Mukuru Kayaba.<sup>13</sup>

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<sup>10</sup> Ibid; p.37.

<sup>11</sup> Centre for Strategic and International Studies, Rural Service Delivery and Groundbreaking Research in Nyanza Province, Kenya, September 19, 2009; P.1; <https://www.csis.org/blogs/smart-global-health/rural-service-delivery-and-groundbreaking-research-nyanza-province-kenya> (last accessed July 6, 2021).

<sup>12</sup> Society for International Development (SID), Pulling apart: Facts and Figures on inequality in Kenya, 2004; <http://sidint.net/docs/pullingapart-mini.pdf> (last accessed on Feb 28, 2021).

<sup>13</sup> Oxfam GB Briefing Note, Urban Poverty and Vulnerability in Kenya: The Urgent Need For Co-Ordinated Action To Reduce Urban Poverty, September 10, 2009;

Poverty in Kenya is also more pronounced along gender lines. Kenya's 2015/16 Integrated Household Survey results show that 30.2 percent of female headed households live below the poverty line compared to 26.0 percent of their male counterparts.<sup>14</sup> In its April 2020 policy brief, the UNDP noted it expected the Covid-19 pandemic to exacerbate these poverty levels, especially among female headed households.<sup>15</sup>

The impact of corruption on poverty levels in Kenya cannot be overlooked. Research by both government and non-governmental organizations (NGOs) show that corruption remains endemic and even President Kenyatta has recognized that corruption is a problem and implored Kenyans to work together to address it.<sup>16</sup> In 2020 Transparency International, the global anti-corruption watchdog, ranked Kenya at 143 out of 180 in its Corruption Perceptions Index, with a slightly improved score of 31 out of 100 the previous year. Kenya's score fell below a Sub-Saharan Africa average of 32 and a global average of 43 in 2020.<sup>17</sup>

In November 2020, a report of the Director of Public Prosecutions estimated that the country was losing Ksh140 billion (US\$1.4 billion) to corruption.<sup>18</sup> Studies have shown that corruption increases poverty by reducing the level and quality of social services available

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[https://reliefweb.int/sites/reliefweb.int/files/resources/AB7F36D6785194D3432576470033317B-Full\\_Report.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/AB7F36D6785194D3432576470033317B-Full_Report.pdf) (last accessed on Feb 28, 2021).

<sup>14</sup> Kenya National Bureau of Statistics, Main Findings of 2015/2016 Poverty Estimates – County level, 2016; <http://statistics.knbs.or.ke/nada/index.php/ddibrowser/88/export/?format=pdf&generate=yes> (last accessed on Feb 28, 2021).

<sup>15</sup> UNHCR, Articulating the Pathways of the Socio-Economic Impact of the Coronavirus (COVID-19) Pandemic on the Kenyan Economy, Policy Brief, April 2020; <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiqxeHO2MPvAhWSYMAKHc6gAsgQFjAAegQIBBAD&url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fdam%2Frba%2Fdocs%2FCOVID-19-CO-Response%2FSocio-Economic-Impact-COVID-19-Kenya-Policy-Brief-UNDP-Kenya-April-2020.pdf&usg=AOvVawog3uSBFOxIbcg1BpNg38WS> (last accessed on Feb 28, 2021).

<sup>16</sup> Transparency International, Corruption Perceptions Index 2019; <https://tikenya.org/corruption-perceptions-index-2019/>; President Kenyatta, We all have responsibility to fight corruption, Nairobi, February 22, 2020; <https://www.president.go.ke/2020/02/22/we-all-have-a-responsibility-to-fight-corruption-president-kenyatta-says/> (last accessed on Feb 28, 2021); Heinrich Boll Stiftung; State Capture: On Kenya's Inability to Fight Corruption, August 23, 2019; <https://za.boell.org/en/2019/08/23/state-capture-kenyas-inability-fight-corruption> (last accessed May 7, 2021); business Daily, US Links Loss of Kenya State Tenders to Graft, April 19, 2021; <https://www.businessdailyafrica.com/bd/economy/us-links-loss-kenya-state-tenders-to-graft-3367500> (Last accessed May 7, 2021).

<sup>17</sup> Transparency International, Corruption Perceptions Index 2020; <https://tikenya.org/wp-content/uploads/2021/01/2020-Corruption-Perceptions-Index-Press-Release.pdf>.

<sup>18</sup> The East African, Theft of public funds by Kenya govt officials doubles to \$1.4b, November 15, 2020; <https://www.theeastafrican.co.ke/tea/news/east-africa/theft-of-public-funds-by-kenya-govt-officials-doubles-to-1-4b-3021108> (last accessed on Feb 28, 2021).

to the poor and causes a reduction in resources allocated to development.<sup>19</sup> According to IMF research, corruption perpetuates an unequal distribution of asset ownership and unequal access to education and other services.<sup>20</sup>

## Poverty and Gender in Kenya

Analysis of government reports by Human Rights Watch for this research shows a lack of effective gender indicators across all sectors that would promote planning for gender equality.<sup>21</sup> Nonetheless, available data shows that poverty in Kenya is more pronounced along gender lines. Women tend to be poorer than men and have less access to the capital and assets necessary for livelihoods.<sup>22</sup> Men participate more in the labor force and have more opportunities for formal employment, which has stronger job security protections, and earn more than women.<sup>23</sup>

Data shows that in Kenya, women are more likely to be unemployed, underemployed, underpaid, and seasonal workers. Kenya's 2015/16 Integrated Household Survey results show that more than a third of households are headed by females.<sup>24</sup> In its April 2020 policy brief, the UNDP noted it expected Covid-19 to exacerbate these poverty levels, especially among female headed households.<sup>25</sup>

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<sup>19</sup> Sanjeev Gupta, and George Abed, Does Corruption Affect Income Inequality and Poverty?, September 2002; <https://www.elibrary.imf.org/view/IMFo71/02861-9781589061163/02861-9781589061163/ch17.xml?language=en&redirect=true&redirect=true> (last accessed on Feb 28, 2021).

<sup>20</sup> Ibid.

<sup>21</sup> Kenya National Gender Statistics, Women Count, 2018; [https://data.unwomen.org/sites/default/files/documents/Kenya\\_national-gender-stats-assessment.pdf](https://data.unwomen.org/sites/default/files/documents/Kenya_national-gender-stats-assessment.pdf) (Last accessed July 6, 2021).

<sup>22</sup> Oxfam GB Briefing Note, Urban Poverty and Vulnerability in Kenya: The Urgent Need For Co-Ordinated Action To Reduce Urban Poverty, September 10, 2009; [https://reliefweb.int/sites/reliefweb.int/files/resources/AB7F36D6785194D3432576470033317B-Full\\_Report.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/AB7F36D6785194D3432576470033317B-Full_Report.pdf) (last accessed on Feb 28, 2021).

<sup>23</sup> Ibid.

<sup>24</sup> Basic Report, 2015/2016 Kenya Integrated Household Budget Survey, March 2018; [https://sun-connect-news.org/fileadmin/DATEIEN/Dateien/New/KNBS\\_-\\_Basic\\_Report.pdf](https://sun-connect-news.org/fileadmin/DATEIEN/Dateien/New/KNBS_-_Basic_Report.pdf) (last accessed on July 6, 2021).

<sup>25</sup> UNHCR, Articulating the Pathways of the Socio-Economic Impact of the Coronavirus (COVID-19) Pandemic on the Kenyan Economy, Policy Brief, April 2020; <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiqxeHO2MPvAhWSYMAKHc6gAsgQFjAAegQIBBAD&url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fdam%2Fba%2Fdocs%2FCOVID-19-CO-Response%2FSocio-Economic-Impact-COVID-19-Kenya-Policy-Brief-UNDP-Kenya-April-2020.pdf&usg=AOvVawog3uSBFOxIbcg1BpNg38WS> (last accessed on Feb 28, 2021).

## Informal Settlements in Nairobi

The growth of the nation's capital city Nairobi as a regional business hub has been characterized by rural-urban migration, coupled with a generally high birth rate, has resulted in rapid population growth and the expansion of large-scale informal settlements.<sup>26</sup> Nairobi's population has grown from 510,000 in 1969 to 4.3 million in 2019.<sup>27</sup> According to the 2019 population census, roughly 10 million people are living in informal settlements across Kenya, out of which 2.4 million are in Nairobi, and this is the population that the government ought to target with strong social security policies or broad and inclusive social assistance programs to ensure an adequate standard of living, with or without an emergency.<sup>28</sup>

Nairobi has approximately eight broad belts of informal settlements: Kibera, Mukuru, Korogocho, Mathare, Kangemi, Kawangware, Kahawa Soweto and Dagoretti Waithaka belt.<sup>29</sup> These settlements have been divided into a total of 14 smaller neighborhoods with a total of 158 village clusters.<sup>30</sup>

Residents of informal settlements make up nearly half of Nairobi's population, yet they are crammed into only 5 percent of Nairobi's residential areas and just one percent of all the land in Nairobi according to Oxfam.<sup>31</sup> In addition to having high population density,

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<sup>26</sup> Shifa, Muna et al, Urban Poverty and Inequality in Kenya, Southern Africa Labour and Development Research Unit and University of Cape Town, September 2017; <http://opensaldru.uct.ac.za/handle/11090/930> (last accessed on Feb 28, 2021).

<sup>27</sup> Kenya National Bureau of Statistics, 2019 Kenya Population and Housing Census, 2019; <https://housingfinanceafrica.org/documents/2019-kenya-population-and-housing-census-reports/> (last accessed on Feb 28, 2021).

<sup>28</sup> Winnie Mitula, The Case of Nairobi Kenya, University of Nairobi, 2003; Urban slums reports: The case of Nairobi, Kenya (uonbi.ac.ke). [http://erepository.uonbi.ac.ke/bitstream/handle/11295/54284/Nairobi\\_bw.pdf?sequence=2&isAllowed=y](http://erepository.uonbi.ac.ke/bitstream/handle/11295/54284/Nairobi_bw.pdf?sequence=2&isAllowed=y) (last accessed on Feb 28, 2021).

<sup>29</sup> Human Rights Watch interview with Jack Makau, Nairobi Head of Office, Society for Slum Dwellers (Slums Dwellers International), SIDNET, also representing GiveDirectly in Nairobi, Nairobi town, November 4, 2020. GiveDirectly is a nonprofit organization operating in East Africa that helps families living in extreme poverty by making unconditional cash transfers to them via mobile phone. GiveDirectly transfers funds primarily to people in Kenya, Uganda, and Rwanda. <https://www.givedirectly.org/> (last accessed on Feb 28, 2021).

<sup>30</sup> UNHCR, Articulating the Pathways of the Socio-Economic Impact of the Coronavirus (COVID-19) Pandemic on the Kenyan Economy, Policy Brief, April 2020; <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiqxeHO2MPvAhWSYMAKHc6gAsgQFjAAegQIBBAD&url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fdam%2Fba%2Fdocs%2FCOVID-19-CO-Response%2FSocio-Economic-Impact-COVID-19-Kenya-Policy-Brief-UNDP-Kenya-April-2020.pdf&usg=AOvVawog3uSBFOxIbcg1BpNg38WS> (last accessed on Feb 28, 2021).

<sup>31</sup> Oxfam GB Briefing Notes, Urban poverty and vulnerability in Kenya: The urgent need for co-ordinated action to reduce urban poverty, September 10, 2009; <https://policy-practice.oxfam.org/resources/urban-poverty-and-vulnerability-in-kenya-the-urgent-need-for-co-ordinated-actio-123932/> (last accessed on Feb 28, 2021).

informal settlements lack public services, good governance, and electricity access.<sup>32</sup> Most employed residents work as unskilled laborers, earning around a dollar per day, which is far from insufficient in guaranteeing them and their families adequate food daily or decent shelter.<sup>33</sup>

Most buildings or residential houses in these informal settlements are temporary and dilapidated, with mud walls, corrugated iron roofs and floors made from dirt. Sanitation is poor, and most families share public latrines. Most residents lack running water, medical care, and other basic amenities, and live in small single rooms measuring between 12 feet by 12 feet per family, a clear violation of the right to an adequate standard of living, which should encompass adequate food, clean water, decent shelter and sanitation.<sup>34</sup> From the outset of the Covid-19 pandemic, human rights organizations, as well as government officials, recognized that conditions in informal settlements made residents especially vulnerable to the virus.<sup>35</sup>

Kenya reported its first positive case of the novel coronavirus on March 13, 2020, and as of July 5, 2021, there were 185, 868 confirmed cases nationwide and 3, 675 deaths from Covid-19, according to government data of tested cases.<sup>36</sup> However, these numbers likely vastly underestimate the actual infection rate. In January 2021, a Kenya government policy brief showed that the estimated overall prevalence of coronavirus infections in Nairobi was at 35 percent of its nearly 5 million people, which translates to around 1.75 million people, even though undertesting and under reporting was common in many countries.<sup>37</sup>

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<sup>32</sup> Society for International Development (SID), Pulling apart: Facts and Figures on inequality in Kenya, 2004; <http://sidint.net/docs/pullingapart-mini.pdf> (last accessed on Feb 28, 2021).

<sup>33</sup> Society for International Development (SID), Pulling apart: Facts and Figures on inequality in Kenya, 2004; <http://sidint.net/docs/pullingapart-mini.pdf> (last accessed on Feb 28, 2021).

<sup>34</sup> Julia Bird et al, Life in a slum: understanding living conditions in Nairobi's slums across time and space, Oxford Review of Economic Policy, 2017; <https://academic.oup.com/oxrep/article-abstract/33/3/496/3926163?redirectedFrom=fulltext>.

<sup>35</sup> UNHCR, Articulating the Pathways of the Socio-Economic Impact of the Coronavirus (COVID-19) Pandemic on the Kenyan Economy, Policy Brief, April 2020; <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiqxeHO2MPvAhWSYMAKHc6gAsgQFjAAegQIBBAD&url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fdam%2Fba%2Fdocs%2FCOVID-19-CO-Response%2FSocio-Economic-Impact-COVID-19-Kenya-Policy-Brief-UNDP-Kenya-April-2020.pdf&usg=AOvVawog3uSBFOxIbcg1BpNg38WS> (last accessed on Feb 28, 2021).

<sup>36</sup> Worldmeter, Kenya Coronavirus cases, March 22, 2021; <https://www.worldometers.info/coronavirus/country/kenya/> (last accessed on Feb 28, 2021).

<sup>37</sup> Government of Kenya et al, Findings of Covid-19 Antibody Survey in Nairobi City County Conducted in November 2020, Policy Brief, January 26, 2020; [https://www.google.com/search?q=http%3A%2F%2Fwww.Policy+brief+Nairobi+COVID+serosurvey+conducted+Nov+2020\\_final+\(1\).pdf&rlz=1C1GCEU\\_enKE909KE909&oq=http%3A%2F%2Fwww.Policy+brief+Nairobi+COVID+serosurvey+conducted+](https://www.google.com/search?q=http%3A%2F%2Fwww.Policy+brief+Nairobi+COVID+serosurvey+conducted+Nov+2020_final+(1).pdf&rlz=1C1GCEU_enKE909KE909&oq=http%3A%2F%2Fwww.Policy+brief+Nairobi+COVID+serosurvey+conducted+)

According to the policy brief, 60 percent of all reported cases of Covid-19 infection in Nairobi were in informal settlements.<sup>38</sup> With houses barely a meter apart and up to 8 persons per room, social distancing was next to impossible.<sup>39</sup> Inadequate and unreliable water supply and poor sanitation negatively impacted the ability of residents to regularly wash their hands.<sup>40</sup>

## Kenya Social Protection Systems and Gaps

Prior to the Covid-19 pandemic, Kenya's government was in the process of building social protection programs to try to provide social protection to up to 36.1 percent of its population living in poverty. Kenya's social protection program started in 2007 with financial transfers to the elderly, but was not designed to provide universal social security to all households living below the international poverty line. Over the years this program has expanded to support a lot more older people and other categories of the vulnerable populations today than when it started more than a decade ago. In 2019, Kenya adopted a new social protection policy that seeks to establish basic elements of social protection, including income security for children, persons in active age, older persons, and access to essential maternity and health care.<sup>41</sup>

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Nov+2020\_final+(1).pdf&aqs=chrome..69i57j69i58.1871j0j9&sourceid=chrome&ie=UTF-8; Kemri, Status of the COVID-19 pandemic in Kenya: Evidence from national case-based surveillance, serosurveillance and hospital-based clinical surveillance, October 2020; <https://www.kemri.org/wp-content/uploads/2021/01/Policy-Brief-on-Status-of-the-COVID-19-pandemic-in-Kenya-October-2020.pdf> (last accessed on Feb 28, 2021).

<sup>38</sup> Government of Kenya et al, Findings of Covid-19 Antibody Survey in Nairobi City County Conducted in November 2020, Policy Brief, January 26, 2020 (on file); Kemri, Status of the COVID-19 pandemic in Kenya: Evidence From National Case-Based Surveillance, Serosurveillance and Hospital-Based Clinical Surveillance, October 2020; <https://www.kemri.org/wp-content/uploads/2021/01/Policy-Brief-on-Status-of-the-COVID-19-pandemic-in-Kenya-October-2020.pdf> (last accessed on Feb 28, 2021).

<sup>39</sup> Ibid.

<sup>40</sup> Human Rights Watch interview with Jack Makau, Nairobi Head of Office, Society for Slum Dwellers (Slums Dwellers International), SIDNET, also representing GiveDirectly in Nairobi, Nairobi town, November 4, 2020. GiveDirectly is a nonprofit organization operating in East Africa that helps families living in extreme poverty by making unconditional cash transfers to them via mobile phone. GiveDirectly transfers funds primarily to people in Kenya, Uganda, and Rwanda. <https://www.givedirectly.org/> (last accessed on Feb 28, 2021).

<sup>41</sup> Ministry of Labour and Social Protection, Kenya Social Protection Sector Annual Report 2018/19, Nairobi, JULY 2020, p. 15-16; <https://www.socialprotection.go.ke/wp-content/uploads/2020/09/Kenya-Social-Protection-Sector-Annual-Report-2020-1.pdf> (last accessed May 12, 2021).

Social protection in Kenya is structured around three pillars - social assistance, social security (pensions), and health insurance.<sup>42</sup> The social assistance pillar includes the cash transfer programs that predated Covid-19, grouped under the government’s National Safety Net “Inua Jamii” Program (NSNP), which began in 2013.<sup>43</sup> The NSNP pays cash transfers to four categories of beneficiaries: caregivers for orphans and vulnerable children; older persons; persons with severe disabilities; and a category of vulnerable households served by a program called the “Hunger Safety Net Program (HSNP).<sup>44</sup> Beneficiaries under all NSN programs receive Ksh.4,000 (\$37) every two months.<sup>45</sup> This translates to just under Ksh500 (\$5) per week, which can barely afford them basic necessities, the bare minimum of an adequate standard of living.

According to the Ministry of Labour and Social Protection, NSN programs were paying 1.3 million people cash transfers in 2018, including 800,000 older persons, 353,000 caregivers for orphans and vulnerable children, and 47,000 people living with disabilities, but this again is far below the numbers the authorities need to support to ensure everyone has an adequate standard of living.<sup>46</sup> The Hunger Safety Net Program was, in 2018, benefitting almost 150,000 households, all in northern Kenya counties of Marsabit, Mandera, Turkana and Wajir.<sup>47</sup> 64 percent of the NSNP’s total beneficiaries were female and 36 percent male.<sup>48</sup> The majority of beneficiaries of the NSNP were, according to a March 2021 UK-government financed report on social protection on Kenya, in rural areas.<sup>49</sup>

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<sup>42</sup> Ministry of Labour and Social Protection, Kenya Social Protection Sector Annual Report 2018/19, Nairobi, JULY 2020, p. 6; <https://www.socialprotection.go.ke/wp-content/uploads/2020/09/Kenya-Social-Protection-Sector-Annual-Report-2020-1.pdf> (last accessed May 12, 2021).

<sup>43</sup> Ministry of Labour and Social Protection, Kenya Social Protection Sector Annual Report 2018/19, Nairobi, JULY 2020, p. 21; <https://www.socialprotection.go.ke/wp-content/uploads/2020/09/Kenya-Social-Protection-Sector-Annual-Report-2020-1.pdf> (last accessed May 12, 2021).

<sup>44</sup> Ibid., p. 20.

<sup>45</sup> Alexandra Doyle, Towards Shock Responsive Social Protection: Lessons From the Covid-19 Response in Kenya, Maintains – Research Supporting Social Services to Adapt to Shocks, March 2021, p. 13. [https://socialprotection.org/sites/default/files/publications\\_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final\\_o.pdf](https://socialprotection.org/sites/default/files/publications_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final_o.pdf) (Last accessed May 12, 2021).

<sup>46</sup> Ibid., p. 21.

<sup>47</sup> Alexandra Doyle, Towards Shock Responsive Social Protection: Lessons From the Covid-19 Response in Kenya, Maintains – Research Supporting Social Services to Adapt to Shocks, March 2021. [https://socialprotection.org/sites/default/files/publications\\_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final\\_o.pdf](https://socialprotection.org/sites/default/files/publications_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final_o.pdf) (Last accessed May 12, 2021).

<sup>48</sup> Ibid.

<sup>49</sup> Alexandra Doyle, Towards Shock Responsive Social Protection: Lessons From the Covid-19 Response in Kenya, Maintains – Research Supporting Social Services to Adapt to Shocks, March 2021. [https://socialprotection.org/sites/default/files/publications\\_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final\\_o.pdf](https://socialprotection.org/sites/default/files/publications_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final_o.pdf) (Last accessed May 12, 2021).

Prior to the pandemic, the Kenyan government was working to convert the various programs under the NSNP into a single social register – known as the “Enhanced Social Registry” – that would act as a central database of low income and vulnerable households.<sup>50</sup> This would, the government has argued, provide a central register through which to identify households in need and roll out social protection programs.<sup>51</sup>

Despite the growth of the NSNP, the Kenyan government has acknowledged that its pre-pandemic cash transfer programs, and social protection more widely, were not ambitious or well-resourced enough to reflect the country’s high poverty levels. In 2017, the Kenyan government spent 0.4 percent of gross domestic product (Ksh26 billion) on social protection, which included cash transfers and other forms of social safety nets.<sup>52</sup> Countries in sub-Saharan Africa on average spend 1.5 percent of GDP on social safety nets, according to a 2018 World Bank report.<sup>53</sup> A July 2020 Ministry of Labor and Social Protection report concluded that:

Although the Kenya’s social protection programs have reached a great proportion of the poor population, statistics reveal that 36.5 percent of Kenyans still live below the poverty line that means a large proportion of eligible households remain uncovered by any form of social protection.... Studies indicate that the impacts of social protection programs are yet to have a significant impact on poverty. There is a need for the authorities to carry out a needs assessment, compile a list of all vulnerable households across Kenya and thus work towards increasing investments in all social protection programs in health, social security, child grants and economic inclusion to ensure all vulnerable households are covered and guaranteed basic social security.”<sup>54</sup>

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<sup>50</sup> Ministry of Labour and Social Protection, Kenya Social Protection Sector Annual Report 2018/19, Nairobi, July 2020, p.21; <https://www.socialprotection.go.ke/wp-content/uploads/2020/09/Kenya-Social-Protection-Sector-Annual-Report-2020-1.pdf> (last accessed May 12, 2021). Alexandra Doyle, Towards Shock Responsive Social Protection: Lessons From the Covid-19 Response in Kenya, Maintains – Research Supporting Social Services to Adapt to Shocks, March 2021, p. 2-3. [https://socialprotection.org/sites/default/files/publications\\_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final\\_o.pdf](https://socialprotection.org/sites/default/files/publications_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final_o.pdf) (Last accessed May 12, 2021).

<sup>51</sup> Ibid.

<sup>52</sup> Ministry of Labour and Social Protection, Kenya Social Protection Sector Annual Report 2018/19, Nairobi, July 2020, p.5; <https://www.socialprotection.go.ke/wp-content/uploads/2020/09/Kenya-Social-Protection-Sector-Annual-Report-2020-1.pdf> (last accessed May 12, 2021).

<sup>53</sup> World Bank, The State of Social Safety Nets 2018, p.18.

<https://openknowledge.worldbank.org/bitstream/handle/10986/29115/9781464812545.pdf?sequence=5&isAllowed=y>

<sup>54</sup> Ministry of Labour and Social Protection, Kenya Social Protection Sector Annual Report 2018/19, Nairobi, July 2020, p.36; <https://www.socialprotection.go.ke/wp-content/uploads/2020/09/Kenya-Social-Protection-Sector-Annual-Report-2020-1.pdf> (last accessed May 12, 2021).

## II. Disproportionate Impact of Covid-19 and Related Restrictions on Nairobi's Informal Settlements

Kenyan authorities have not made public any data on the socio-economic impact of Covid-19 and the measures to control its spread have had on the over 4.2 million people in informal settlements across Kenya, including the 2.4 million currently in informal settlements in Nairobi alone, and the level of support required to guarantee each household an adequate standard of living, with or without the pandemic. International human rights groups such as Human Rights Watch, and institutions like the UNDP, have conducted research on the impact of Covid-19 on the most vulnerable families in Nairobi's informal settlements, which is part of the population that the government's cash transfer program sought to cushion.

Conditions in informal housing leave residents at higher risk of infection, putting added pressure on already scarce resources and thus further undermine the quality of life they are able to afford in either the absence of or limited government support. Housing in informal settlements is unplanned and residential houses are built close to each other. High population densities and a large number of people in each household made it difficult for residents to adhere to virus control measures such as social distancing.<sup>55</sup>

Many residents told Human Rights Watch they could not afford to adhere to stay-at-home measures because they are dependent on casual day jobs.<sup>56</sup> Despite continuing to leave home to earn what living they can, residents described extreme economic hardship. Many said they lost their jobs or earnings, or were forced to shut down their businesses, and many struggled to make ends meet after they missed out on government support. Compounding these financial struggles, many residents also needed to care for family

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<sup>55</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; interview with beneficiaries in Soweto, Nairobi county, November 24, 2020; interview with beneficiaries in Mukuru Kayaba, Nairobi county, November 25, 2020; interview with beneficiaries in Mukuru Kwa Njenga, Nairobi county, November 26, 2020; interview with beneficiaries in Mugomoini, Nairobi county, November 6, 2020.

<sup>56</sup> UNHCR, *Articulating the Pathways of the Socio-Economic Impact of the Coronavirus (COVID-19) Pandemic on the Kenyan Economy*, Policy Brief, April 2020; <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiqxeHO2MPvAhWSYMAKHc6gAsgQFjAAegQIBBAD&url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fdam%2Frba%2Fdocs%2FCOVID-19-CO-Response%2FSocio-Economic-Impact-COVID-19-Kenya-Policy-Brief-UNDP-Kenya-April-2020.pdf&usg=AOvVawog3uSBFOxIbcg1BpNg38WS> (last accessed on Feb 28, 2021).

members who contracted Covid-19 or other illnesses and pay funeral costs whenever loved ones passed away.<sup>57</sup>

Currently, with no state guarantees of the right to health, four out of every five Kenyans have no access to medical insurance and that among the poorest quintile, only 3 percent have health insurance with disparities between rural and urban populations, where rates of coverage are an average of 12 percent and 27 percent respectively.<sup>58</sup>

The UNDP found that the pandemic could become another source of impoverishment and reinforce existing inequalities, in turn limiting the ability of vulnerable households to escape from poverty.<sup>59</sup>

## Government's Public Health Response

On March 15, 2020, President Kenyatta announced the closure of all schools and colleges in an effort to curb the spread of the virus, affecting more than 12 million students.<sup>60</sup> On March 22, the health cabinet secretary, Mutahi Kagwe, banned international flights in and out of Kenya, except for cargo flights, and announced a mandatory 14-day quarantine for all incoming travelers and those who may have had contact with them. People interviewed described poor conditions of the quarantine facilities, including lack of bedding, water, food, and cleaning supplies, including soaps and detergents.

They said they were not told of test results and that staff did not adhere to the government's own protocols, such as wearing face masks or other protective equipment,

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<sup>57</sup> Human Rights Watch interview with Jack Makau, Nairobi Head of Office, Society for Slum Dwellers (Slums Dwellers International), SIDNET, also representing GiveDirectly in Nairobi, Nairobi town, November 4, 2020. GiveDirectly is a nonprofit organization operating in East Africa that helps families living in extreme poverty by making unconditional cash transfers to them via mobile phone. GiveDirectly transfers funds primarily to people in Kenya, Uganda, and Rwanda. <https://www.givedirectly.org/> (last accessed on Feb 28, 2021).

<sup>58</sup> UNHCR, *Articulating the Pathways of the Socio-Economic Impact of the Coronavirus (COVID-19) Pandemic on the Kenyan Economy*, Policy Brief, April 2020; <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiqxeHO2MPvAhWSYMAKHc6gAsgQFjAAegQIBBAD&url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fdam%2Fba%2Fdocs%2FCOVID-19-CO-Response%2FSocio-Economic-Impact-COVID-19-Kenya-Policy-Brief-UNDP-Kenya-April-2020.pdf&usg=AOvVawog3uSBFOxIbcg1BpNg38WS> (last accessed on Feb 28, 2021).

<sup>59</sup> *Ibid.*

<sup>60</sup> Andrew Wasike, *Coronavirus: Kenya Shuts Schools As New Cases Confirmed*, AA Magazine, March 15, 2020; <https://www.aa.com.tr/en/africa/coronavirus-kenya-shuts-schools-as-new-cases-confirmed/1767139> (last accessed on Feb 28, 2021); See also Insights for Education, "Data Story of Covid-19 and Schools," <https://infographic.education.org/insights/en/> (last accessed on May 18, 2021.)

to ensure that those quarantined do not become exposed to the virus. However, the authorities did little to prepare facilities and staff on how to handle those in quarantine.<sup>61</sup> On March 27, the government imposed a nationwide dusk-to-dawn curfew, which remained in place at time of writing, with the authorities only reviewing curfew start and end times each month.<sup>62</sup>

A year later, on March 26, 2021, in the face of a rapid increase in the number of coronavirus cases, President Kenyatta tightened control measures that had been slightly relaxed, bringing forward the curfew starting time to 8p.m. from 10p.m. In the early days of the pandemic in 2020, police enforced the curfew in a chaotic and violent manner. In downtown Nairobi and in the coastal city of Mombasa, police arrested people on the streets, and herded them together while transporting them to the police stations, increasing the risks of spreading the virus.<sup>63</sup>

Witnesses told Human Rights Watch that in the Embakasi area of eastern Nairobi, police officers in March 2020 forced a group of people walking home from work to kneel, then whipped and kicked them. The authorities implemented these measures even more haphazardly, with indefinite and arbitrary extensions of the quarantine durations causing anxiety in those quarantined, ranging from fear of losing their jobs or delay in seeing loved ones.<sup>64</sup>

## Impact on Informal Settlements

In 2019, the KNBS estimated unemployment rate at 7.27 percent among youth aged between 20 – 24 years.<sup>65</sup> The agency estimated that the formal sector only generates enough jobs to absorb around 20 percent of young people newly entering the labor force,

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<sup>61</sup> Human Rights Watch press release, Kenya: Quarantine Conditions Undermine Rights, May 28, 2020; <https://www.hrw.org/news/2020/05/28/kenya-quarantine-conditions-undermine-rights> (last accessed on Feb 28, 2021).

<sup>62</sup> David Ayega, The Dusk-to-Dawn State Curfew declared by President, Capital News, March 26, 2020; <https://www.capitalfm.co.ke/news/2020/03/dusk-to-dawn-curfew-starts-friday-to-combat-covid-19/> (last accessed on Feb 28, 2021).

<sup>63</sup> Kenya: Quarantine Conditions Undermine Rights, Human Rights Watch press release, May 28, 2020; <https://www.hrw.org/news/2020/05/28/kenya-quarantine-conditions-undermine-rights> (last accessed on Feb 28, 2021).

<sup>64</sup> Ibid.

<sup>65</sup> Kenya National Bureau of Statistics, 2019 Kenya Population and Housing Censuses Reports, February 28, 2020; <http://housingfinanceafrica.org/documents/2019-kenya-population-and-housing-census-reports/>; Kenya: Youth unemployment rate from 1999 to 2020, ILO estimates, 2020; <https://www.statista.com/statistics/812147/youth-unemployment-rate-in-kenya/> (last accessed on Feb 28, 2021).

leaving the remaining 80 percent to find work in the informal sector.<sup>66</sup> Most of the youth and other residents of informal settlements fall into the category of the unemployed youth.<sup>67</sup>

In informal settlements such as Mukuru Kayaba, Kibera, Kayole and Soweto, government officials told Human Rights Watch that more than 60 percent of businesses in those informal settlements, which could also be a reflection of the situation in other settlements, had closed during the partial lockdown, which was imposed in Nairobi and a few other counties between April and July 2020 and again in April 2021, exposing tens of thousands of families to severe economic hardships.<sup>68</sup>

Soon after the partial lockdown was first imposed, on May 23, 2020, President Kenyatta announced that the government had set aside Ksh3 billion (\$30 million) for provide credit facility to small businesses to cushion them against the impact of the Covid-19 pandemic, yet, according to the government officials working in informal settlements, none of the businesses located there benefited from government support.<sup>69</sup> At time of writing, there was no evidence that the authorities tried to assess the needs of small businesses or had provided credit facilities to the small businesses, including those in informal settlements.

With Kenya lacking a social security program that allows for payment of those who lose jobs, residents of informal settlements described to Human Rights Watch the catastrophic impact of losing their livelihoods since the onset of the Covid-19 pandemic. Many families recounted how they have been going for full days without meals, in some instances for as many as four days a week. Many also said that they accumulated rent arrears of up to nine

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<sup>66</sup> Institute of Development Studies, *Jobs in Kenya: Opportunities and Challenges*, University of Nairobi, March 14, 2018 (pp 2); [https://assets.publishing.service.gov.uk/media/5afacd43ed915dodf4e8ce4d/Jobs\\_in\\_Kenya.pdf](https://assets.publishing.service.gov.uk/media/5afacd43ed915dodf4e8ce4d/Jobs_in_Kenya.pdf); Census: 39pc of Kenya youth are unemployed, *Business Daily*, Nairobi, February 24, 2020; <https://www.businessdailyafrica.com/bd/economy/census-39pc-of-kenya-youth-are-unemployed-2281430> (last accessed on Feb 28, 2021).

<sup>67</sup> 2019 Kenya Population and Housing Censuses Reports, Kenya National Bureau of Statistics, February 28, 2020; <http://housingfinanceafrica.org/documents/2019-kenya-population-and-housing-census-reports/>; Kenya: Youth unemployment rate from 1999 to 2020, ILO estimates, 2020; <https://www.statista.com/statistics/812147/youth-unemployment-rate-in-kenya/> (last accessed on Feb 28, 2021).

<sup>68</sup> Human Rights Watch interview with government administrator in Mukuru Kayaba, Nairobi, November 25, 2020; interview with government administrator in Kayole, Nairobi, November 18, 2020; interview with government administrator in Kibera, Nairobi, December 4, 2020; interview with government administrator in Soweto Kayole, Nairobi, November 19, 2020.

<sup>69</sup> President Uhuru Kenyatta, National economic stimulus plan, state address, May 23, 2020; The KTN link: <https://www.youtube.com/watch?v=WbHKBt2mytY> (last accessed on Feb 28, 2021).

months.<sup>70</sup> Others said the heads of some households abandoned their families – spouses and children – in the city altogether and returned to their upcountry homes.<sup>71</sup>

A 75-year-old woman from Kayaba, who was a grandmother, told Human Rights Watch:

“I live with my late daughter’s six children, two of whom have mental health conditions. When the lockdown came, my small-scale detergents sales business became difficult. I was not able to continue buying medication – at Kshs.100 (\$1) per tablet – for my grandchildren. I tried borrowing money from friends, but they were also not doing well. Food was difficult to get. I was borrowing food, begging, and buying food items on credit, which I am yet to pay.”<sup>72</sup>

Another resident of Kayaba, a 39-year-old mother of four said:

“It was very tough for me during the lockdown. My laundry work stopped because people stopped giving us clothes to wash. They were afraid we would infect them with the virus. At home, we would have just one meal a day, and at some point, we started going without food.”<sup>73</sup>

In April 2020, the UNDP noted that workers in the informal economy may not be able to stay at home when they are sick because they do not have paid sick leave as part of the government’s response to Covid-19.<sup>74</sup> People living below the poverty line often lack savings or enough income to stockpile food. And, as the UN Office of the High

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<sup>70</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; Soweto, Nairobi county, November 24, 2020; Mukuru Kayaba, Nairobi county, November 25, 2020; Mukuru Kwa Njenga, Nairobi county, November 26, 2020; Mugomoini, Nairobi county, November 6, 2020.

<sup>71</sup> Ibid. Most families in informal settlements in Nairobi have temporarily moved to the city and left their ancestral homes in the rural villages where they were born and raised. This is where they go when they retire or lose jobs, and in the middle of the Covid-19 crisis many families opted to return to their ancestral homes where they have at least a piece of land they can farm and harvest some food.

<sup>72</sup> Human Rights Watch interview with grandmother of six in Mukuru Kayaba, Nairobi, November 25, 2020.

<sup>73</sup> Human Rights Watch interview with mother of four Mukuru Kayaba, Nairobi, November 25, 2020.

<sup>74</sup> UNHCR, *Articulating the Pathways of the Socio-Economic Impact of the Coronavirus (COVID-19) Pandemic on the Kenyan Economy*, Policy Brief, April 2020; <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiqxeHO2MPvAhWSYMAKHc6gAsgQFjAAegQIBBAD&url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fdam%2Frba%2Fdocs%2FCOVID-19-CO-Response%2FSocio-Economic-Impact-COVID-19-Kenya-Policy-Brief-UNDP-Kenya-April-2020.pdf&usg=AOvVawog3uSBFOxIbcg1BpNg38WS> (last accessed on Feb 28, 2021).

Commissioner for Human Rights (OHCHR) in Nairobi noted, malnutrition, and other forms of diseases place somebody at higher risk of severe outcomes from Covid-19 pandemic.<sup>75</sup>

In Soweto Muthaiga, a 28-year-old mother of two said that the effect of the lockdown has lingered even after the government relaxed the measures:

“I used to make around Ksh.200 or Ksh.300 (\$3) from washing clothes for people. During the pandemic related restrictions, bans on travel or intercounty movement, work became very difficult to come by. Several times I went a whole day without food. My young children would cry a lot when we went without food. My work has not really picked up since then so we still go without food to this day.”<sup>76</sup>

A 28-year-old woman living in Kayaba told Human Rights Watch:

“I am unemployed with three children aged between nine and one year old. The youngest has sickle cell anemia [a blood cell disorder that increases the risk of severe outcomes from Covid-19].<sup>77</sup> We have to buy his medication on weekly basis. My husband’s job has been on and off since Covid-19 started. This has really affected us. My biggest problem is my child’s sickness. I do not even need money. I can go hungry. All I need is treatment for my child.”<sup>78</sup>

Another resident of the community, a 33-year-old street vendor and mother of two said, “I fell ill early this year before the corona virus pandemic, and I am still unwell. I stopped selling in April when I was admitted in hospital and I am still on medication. My condition coupled with challenges brought about by coronavirus restrictions has made life very difficult.”

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<sup>75</sup> Covid-19 does not discriminate; nor should our response, OHCHR, July 2020; <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25730&LangID=E> (last accessed on Feb 28, 2021).

<sup>76</sup> Human Rights Watch interview in Kayole Soweto, Nairobi, November 20, 2020.

<sup>77</sup> Centre for Disease Control and Prevention, Study finds people with sickle cell disease who developed coronavirus disease have high rates of hospitalization, intensive care unit admission, and death, October 20, 2020; <https://www.cdc.gov/ncbddd/sicklecell/features/scd-and-covid-19.html> (last accessed May 24, 2021).

<sup>78</sup> Human Rights Watch interview with a 28-year-old mother of three in Mukuru Kayaba, Nairobi, November 25, 2020.

Nearly all the interviewed residents, including those who benefited from the government's cash transfer program, felt that the government had not done enough to lessen the economic impact of Covid-19.<sup>79</sup>

In Mukuru Kayaba, a 29-year-old mother of three, including one born with a brain condition that she said requires regular medical attention, said she never received government support despite authorities' promise to include families who have members with underlying health conditions in the cash transfer program.<sup>80</sup>

In Soweto, Kayole, a 32-year-old mother of a 4-year-old boy born with a neurological condition, which she said requires surgery also said she did not get any support from the cash transfer program even though she presented her name for registration and government officials knew about her child's health.<sup>81</sup> In Kibera, a 42-year-old mother of six said the Ksh1,000 (\$10) she received four times after every two weeks was not even enough for food for one day and her family went without food for many days each week in 2020.<sup>82</sup>

Some of the government's containment measures introduced new financial demands on families that were already strained by either loss of jobs or collapse of businesses. On April 3, the authorities made it mandatory for everyone to wear masks in public places, a policy that remains in place to-date, and introduced mandatory quarantine in government assigned facilities, at their own expense, as penalty for not wearing masks or breaching the curfew. Those who did not wear masks or were unable get home before the curfew became more susceptible to arrests or beatings by police.<sup>83</sup>

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<sup>79</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; interview in Soweto, Nairobi county, November 24, 2020; interview in Mukuru Kayaba, Nairobi county, November 25, 2020; interview in Mukuru Kwa Njenga, Nairobi county, November 26, 2020; interview in Mugomoini, Nairobi county, November 6, 2020.

<sup>80</sup> Human Rights Watch interview with 29-year-old mother of three, Mukuru Kayaba, Nairobi, November 19, 2020.

<sup>81</sup> Human Rights Watch interview with 32-year-old mother of one, Soweto Kayole, Nairobi, November 24, 2020.

<sup>82</sup> Human Rights Watch interview with 42-year-old mother of six, Kibera, Nairobi, December 4, 2020.

<sup>83</sup> Kenya: 3 People Killed in Clash With Police Over Face Masks, Associated Press, June 26, 2020; <https://www.voanews.com/covid-19-pandemic/kenya-3-people-killed-clash-police-over-face-masks> (last accessed on Feb 28, 2021).

### III. Responses to the Economic Impact of Covid-19

Like many of the government’s social security initiatives that existed prior to the pandemic, the Covid-19 cash transfer program was not designed to ensure everyone is guaranteed an adequate standard of living. The president launched the Covid-19 cash transfer program in a public address on March 25, 2020, which introduced a range of measures to cushion Kenyans from the economic impact of the Covid-19 pandemic.

Although president noted the “anxiety that this pandemic has caused millions of Kenyan families, and the possibility of job losses or loss of other sources of income weighing heavily on their minds, the criteria for selecting beneficiaries of the cash transfer program did not include lose of jobs as a necessary condition for which one in any way qualifies for the support.”<sup>84</sup>

In addition to tax reductions for individuals and businesses, Kenyatta promised to appropriate an additional Ksh10 billion (\$100 million) for cash transfers by the Ministry of Labor and Social Protection “to the older people, orphans, people with underlying health conditions and other vulnerable members of our society through cash transfers...to cushion them from the adverse economic effects of the COVID-19 pandemic.”<sup>85</sup>

The government subsequently disbursed cash transfer payments under the preexisting “Inua Jamii” National Safety Net Project, and through a new program, called the Covid-19 cash transfers, which is the focus of this report. By May 23, 2020, when President Kenyatta announced what he described as a Covid-19 – related economic stimulus package, he said the government was already sending out Ksh250 million (\$2.5 million) to the most vulnerable households per week.<sup>86</sup>

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<sup>84</sup> President Kenyatta, Presidential address on the state interventions to cushion Kenyans against economic effects of covid 19 pandemic, March 25, 2020; <https://www.president.go.ke/2020/03/25/presidential-address-on-the-state-interventions-to-cushion-kenyans-against-economic-effects-of-covid-19-pandemic-on-25th-march-2020/> (last accessed on Feb 28, 2021).

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

## Inua Jamii Cash Transfers

Payments during the pandemic under “Inua Jamii” National Safety Net Project were made to beneficiaries already registered with the program, with a government official stating on April 27 that 1,094,323 beneficiaries would receive Ksh.4,000 (\$37) for the months of May and June.<sup>87</sup> A UK-government funded report subsequently found that in late April 2020 beneficiaries received Ksh.8,000 (\$75) to cover the period January to April 2020 (covering two payment cycles as the payment in February had been missed), and a second tranche of Ksh.4,000 (\$37) the end of June to cover May and June 2020.

Later in the pandemic, a European Union-funded consortium, led by the Kenyan Red Cross Society and Oxfam, provided cash “top-ups” of Ksh.5,558 (\$52) for three months to 1,966 beneficiaries of Inua Jamii programs residing in informal settlements in Nairobi and Mombasa. A November 2020 Oxfam report stated that the top-up program reflected the fact that the Ksh.2000 (\$19) per month covers an estimated 14 percent of the monthly basic needs of a family of four in Nairobi’s informal settlement.<sup>88</sup>

## Kazi Mtaani Jobs Program

In addition to this, President Kenyatta on May 23 said that government would spend K10 billion (\$100 million) on the Kazi Mtaani program through which the authorities provide menial jobs, such as cleaning sewers, garbage collection, and road sweeping, to over 200,000 youths across Kenya, to cushion young people from the economic impact of Covid-19 pandemic.<sup>89</sup> The program targeted mainly those who did not benefit from the Covid-19 cash transfers.

On October 12, 2020, the Nairobi County Commissioner Fiona Mwaroa told Human Rights Watch that “For Kazi Mtaani, we have 55,000 young people employed in Nairobi alone. The pilot program had 12,000, but the second phase had a total of 55,524 people employed.”<sup>90</sup>

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<sup>87</sup> 3 Marindany, K. (2020, 27 April). Inua Jamii beneficiaries to be paid Sh4,000 each from Tuesday. The Star Available at <https://www.the-star.co.ke/counties/nairobi/2020-06-27-inua-jamii-beneficiaries-tobe-paid-sh4000-each-from-tuesday/> accessed 29 September 2020].

<sup>88</sup> Oxfam Briefing Paper, Covid-19 and Vulnerable, Hardworking Kenyans: Why it’s a strong social protection plan, November 2020, p.10-13; <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621095/bp-kenya-social-protection-101120-en.pdf?sequence=1>.

<sup>89</sup> President Uhuru Kenyatta, National economic stimulus plan, state address, May 23, 2020; The KTN link: <https://www.youtube.com/watch?v=WbHKBt2mytY> (last accessed on Feb 28, 2021).

<sup>90</sup> Human Rights Watch interview with Nairobi County Commissioner, Philemona Mwaroa, Nairobi, October 12, 2020.

Human Rights Watch found that the authorities are paying the youth Ksh5,000 (\$50) for 11 days of work per month.<sup>91</sup>

The government's Covid-19 economic stimulus measures covered other broad areas like infrastructure, education, health, agriculture, hotels, tourism, and manufacturing. President Kenyatta also said that another Ksh10 billion (\$100 million) had been set aside for Value Added Tax (VAT) refunds and Ksh3 billion (\$30 million) as affordable credit for small and medium enterprises (SMEs).<sup>92</sup> Again, the president did not provide details about how the fund will be administered and how intended beneficiaries could access it.

Human Rights Watch found no evidence that any of the businesses in informal settlements, which were some of the hardest hit by the government's Covid-19 response measures, had benefited from the SMEs fund.<sup>93</sup> The government administrators in the informal settlements told Human Rights Watch that no business in their areas of jurisdiction received any support. One administrator said: "It [the support] would have come through my office, which means there is no way it can happen without my knowledge. I did not see anything."<sup>94</sup>

## The Pandemic-Related Cash Transfer Program

The Kenyan government, as part of its response to the economic impact of Covid-19, implemented a new cash transfer program to specifically cushion the most vulnerable households against the impact of the Covid-19 pandemic, between April and November 2020, which mostly covered the first phase of Covid-19 containment measures.

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<sup>91</sup> Human Rights Watch interview with the county commissioner of Nairobi, Fiona Mworooa, October 12, 2020; interview with a government administrator in Kayole, Nairobi, November 18, 2020; interview with a government administrator in Mukuru Kwa Reuben, Nairobi, September 23, 2020; interview with a government administrator in Mugomoini, Nairobi, October, November 6, 2020; <sup>91</sup> Alexandra Doyle, Towards Shock Responsive Social Protection: Lessons From the Covid-19 Response in Kenya, Maintains – Research Supporting Social Services to Adapt to Shocks, March 2021, p. 10. [https://socialprotection.org/sites/default/files/publications\\_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final\\_o.pdf](https://socialprotection.org/sites/default/files/publications_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final_o.pdf) (Last accessed May 12, 2021).

<sup>92</sup> President Uhuru Kenyatta, National economic stimulus plan, state address, May 23, 2020; The KTN link: <https://www.youtube.com/watch?v=WbHKBt2mytY> (last accessed on Feb 28, 2021).

<sup>93</sup> President Uhuru Kenyatta, National economic stimulus plan, state address, May 23, 2020; The KTN link: <https://www.youtube.com/watch?v=WbHKBt2mytY> (last accessed on Feb 28, 2021).

<sup>94</sup> Human Rights Watch interview with a government administrator in a Nairobi informal settlement, November 18, 2020.

The second phase of containment measures, which included travel bans in and out of five most affected counties such as the capital Nairobi, closing of all restaurants and bars, and dusk to dawn curfews, followed a spike in coronavirus infections in March 2021. The government's pandemic relief measures did not extend to this second phase, some of which remain in place to-date. Instead, President Kenyatta announced new far reaching tax measures, including taxation on food stuffs, any new credit facilities issued by banks and powdered milk for children, among others, that could exacerbate the impact of Covid-19 pandemic, including on households that were already vulnerable and further undermine their right to an adequate standard of living, including access to food.

As for the first phase, the Covid-19 cash transfer involved weekly payments of Ksh.1,000 (\$9), which was insufficient and could not ensure an adequate standard of living for the families, targeted at households not already enrolled in the Inua Jamii program, initially aiming to reach a total of 669,000 households through the mobile money platform M-Pesa, but in the end managed just half that number.<sup>95</sup>

In a letter to Human Rights Watch on January 19, 2021, the Cabinet Secretary for Treasury and Planning, Ukur K. Yatani, outlined the structure of the pandemic - related cash transfer program.<sup>96</sup>

Yatani said the authorities focused on households with a high poverty index in informal settlements. He listed six criteria used by authorities to target specific households: poor households where the head or breadwinner had a physical disability; or was widowed; or is a minor (orphans or child-headed households); have pre-existing medical conditions such as cancer or HIV; has a psychosocial disability [mental health condition] or households not benefiting from other government support.<sup>97</sup>

Yatani further explained that elders heading what is known as the Nyumba Kumi villages, which basically comprise of clusters of 10 households each, and are supervised by

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<sup>95</sup> Alexandra Doyle, Towards Shock Responsive Social Protection: Lessons From the Covid-19 Response in Kenya, Maintains – Research Supporting Social Services to Adapt to Shocks, March 2021, p.9. [https://socialprotection.org/sites/default/files/publications\\_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final\\_o.pdf](https://socialprotection.org/sites/default/files/publications_files/Maintains%20COVID-19%20SRSP%20responses%20-%20Kenya%20case%20study%20-%20final_o.pdf) (Last accessed May 12, 2021).

<sup>96</sup> Ukuru Yatani, Cabinet Secretary for treasury and planning, response to Human Rights Watch questions, Nairobi, January 19, 2021.

<sup>97</sup> Ibid.

government chiefs in informal settlements, helped identify the most vulnerable families in their clusters. Although Yatani said the authorities established multi-agency committees at village, subcounty and county levels to validate and verify “data of the targeted population to ensure equity,” Human Rights Watch found little evidence of a clear system of data verification.<sup>98</sup> Furthermore, Human Rights Watch research showed that the reality in the informal settlements did not correlate with the cabinet minister’s claims that there was a clear system of verification and validation of data of beneficiaries.<sup>99</sup>

Yatani noted that the program, which started on April 22 and ended on November 27, 2020, was implemented in two phases. Phase one targeted 85,300 households in four counties — Nairobi, Mombasa, Kilifi and Kwale — that the authorities had locked down, banning any travel in and out of those counties between April and July 2021. In October 2020, Nairobi county commissioner, Mworoo, told Human Rights Watch that 29,000 of the households listed during the first phase were from informal settlements in Nairobi county.<sup>100</sup>

This amounts to approximately 4.8 percent of households in Nairobi’s informal settlements. The estimated eight informal settlements in Nairobi, according to Slum Dwellers International (SIDNET),<sup>i</sup> have over 600,000 households, all of whom were in dire need of support.<sup>101</sup>

In the second phase, according to Yatani, the authorities listed an additional 247,900 households from another 17 counties, which means the program was implemented in a total of 21 of Kenya’s 47 counties.<sup>102</sup> The cabinet secretary did not name the 17 counties or

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<sup>98</sup> Ibid.

<sup>99</sup> Ukuru Yatani, Cabinet Secretary for treasury and planning, response to Human Rights Watch questions, Nairobi, January 19, 2021.

<sup>100</sup> Human Rights Watch interview with Nairobi County Commissioner, Fiona Mworoo, October 12, 2020.

<sup>101</sup> Human Rights Watch interview with Jack Makau, Nairobi Head of Office, Society for Slum Dwellers (Slums Dwellers International), SIDNET, also representing GiveDirectly in Nairobi, Nairobi town, November 4, 2020. GiveDirectly is a nonprofit organization operating in East Africa that helps families living in extreme poverty by making unconditional cash transfers to them via mobile phone. GiveDirectly transfers funds primarily to people in Kenya, Uganda, and Rwanda. <https://www.givedirectly.org/> (last accessed on Feb 28, 2021). Slum Dwellers International is an NGO that regularly conducts household surveys in Nairobi and also helped Kenyan authorities and GiveDirectly to select beneficiaries of their respective Covid-19 cash transfer programs.

<sup>102</sup> Meaning of county: In Kenya, counties are geographical units envisioned by the 2010 Constitution of Kenya as the units of devolved government headed by the governor. The powers are provided in Articles 191 and 192, and in the fourth schedule of the Constitution of Kenya and the County Governments Act of 2012. The counties are also single-member constituencies for the election of members of the Senate and special women members of parliament to the National Assembly of Kenya. As of 2017 general elections, there are 47 counties. Following the re-organization of Kenya's national administration, counties

how they were selected, but stated that “a total of 332,563 household beneficiaries have been reached with each having received Ksh1,000 (\$10) per week through Safaricom’s MPESA service.”<sup>103</sup>

He further said that as of November 27, 2020, the authorities had disbursed Ksh9.3 billion (\$93.3 million), which is “99.86 percent of the Ksh9,340,270,000 (\$93,402,700) total amount allocated. Efforts are being made to seek more funding for additional 2 months to cushion the vulnerable population.”<sup>104</sup>

## Private and International Donor Interventions

Kenyan authorities have insisted that the pandemic-related cash transfer program was fully funded by the government,<sup>105</sup> despite having received significant support from external partners to bolster its emergency response to the coronavirus pandemic. A loan from the African Development Bank (AfDB) explicitly included support for the cash transfer program as a goal.<sup>106</sup>

AfDB, through its emergency lending program, supported many African countries, including Kenya, to cope with the economic hardship of the pandemic.<sup>107</sup> In May 2020, the AfDB approved a Ksh24.716 billion (188 million euros) loan to the government of Kenya to support its “efforts to respond to the Covid-19 pandemic and to mitigate its economic and social impacts.”<sup>108</sup> This includes enhancing existing social protection through a cash transfer program for the older people, orphans, and people with disabilities, as well as extending protections to “new categories of people who have become vulnerable due to Covid-19.”

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were integrated into a new national administration with the national government posting county commissioners to represent it at the counties.

<sup>103</sup> Ukuru Yatani, Cabinet Secretary for treasury and planning, response to Human Rights Watch questions, Nairobi, January 19, 2021.

<sup>104</sup> Ibid.

<sup>105</sup> Ukuru Yatani, Cabinet Secretary for treasury and planning, response to Human Rights Watch questions, Nairobi, January 19, 2021.

<sup>106</sup> Kenya Received Shs 133.2bn in Loans in just 3 Days, Capital Fm, May 23, 2020; <https://www.capitalfm.co.ke/business/2020/05/kenya-receives-sh133-3bn-in-loans-in-just-3-days-after-afdb-lends-govt-sh21-9bn/> (last accessed on Feb 28, 2021).

<sup>107</sup> Ibid.

<sup>108</sup> The African Development Bank, Kenya - Covid-19 Emergency Response Support Program (ERSP) - Appraisal Report, May 25, 2020; <https://www.afdb.org/en/documents/kenya-covid-19-emergency-response-support-program-ersp-appraisal-report> (last accessed on Feb 28, 2021).

According to the AfDB project document, Kenya’s existing cash transfer program, which has been in place for over a decade, benefited 1.3 million people, mostly the older people, orphans and people with disabilities, and that an “additional 4 million will require social assistance due to the impact of Covid-19 crisis.” The bank commended the government’s appropriation of an additional Ksh 10 billion (about \$94.3 million) to provide a “one-off transfer equivalent of \$40 each to 3 million beneficiaries,” as well as “expand coverage of social protection to new vulnerable populations such as urban poor and informal sector workers, including providing weekly stipend to needy households in Nairobi,” among other measures.

Kenya also received the IMF’s emergency lending to help countries cope with the economic hardship of the pandemic. In May, the IMF approved a Ksh7.39 billion (\$739 million) loan to Kenya under the Rapid Credit Facility (RCF) to support its response to the Covid-19 pandemic, including “cash transfers to orphans, the older people, and the most vulnerable.”<sup>109</sup> In its Letter of Intent requesting assistance from the IMF, the Kenyan government said it was “strongly committed to ensuring effective and transparent use of public funds,” and pledged to strengthen its capacity to “detect illicit enrichment and to address conflict of interest” and to “conduct independent post-crisis auditing of Covid-19 related expenditures and publish the results.”

In addition to the national government’s pandemic -related cash transfer program, local county governments, nongovernmental organizations and private individuals also introduced initiatives to help alleviate the impact of the Covid-19 pandemic to the vulnerable, but these efforts remained poorly coordinated.<sup>110</sup> In Mombasa, businesspeople, alongside the county government of Mombasa, distributed food supplies to the vulnerable families in the coastal town.<sup>111</sup>

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<sup>109</sup> Republic of Kenya: Request for Disbursement under the Rapid Credit Facility-Press Release; Staff Report; and Statement by the Executive Director for the Republic of Kenya, International Monetary Fund, May 11, 2020; <https://www.imf.org/en/Publications/CR/Issues/2020/05/11/Republic-of-Kenya-Request-for-Disbursement-under-the-Rapid-Credit-Facility-Press-Release-49405> (last accessed on Feb 28, 2021).

<sup>110</sup> Human Rights Watch interview with a government official, Nairobi, September 14, 2020.

<sup>111</sup> Human Rights Watch interview with an activist, Mombasa, September 16, 2020.

In July, the World Food Program (WFP) launched an independent cash transfer program to supplement the government program.<sup>112</sup> A WFP staff told Human Rights Watch that its program had supported 70,500 households in Nairobi and 24,000 in Mombasa who missed out on the government program with Ksh4,000 (US\$40) a month for three months”.<sup>113</sup>

GiveDirectly, an international nongovernmental organization operating in different regions and continents, including East Africa, also implemented an independent cash transfer program under which beneficiaries received Ksh3,000 (\$30) per month for three months to supplement the government’s Covid-19 cash transfer program.<sup>114</sup>

However, none of these measures by donors or civil society groups on the one hand and Kenyan government on the other, appear designed to guarantee the right of everyone to social security and an adequate standard of living. Just like the government’s initiative, some of the initiatives by donors and civil society groups appeared designed more as charities that targeted an even smaller fraction of beneficiaries without any clarity on how the many other households that faced hunger in informal settlements were left out.

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<sup>112</sup> WFP supplements Government support to poor families in Kenya hit by COVID-19, United Nations World Food Program, July 2, 2020’ <https://www.wfp.org/news/wfp-and-kenya-government-launch-cash-transfers-families-impacted-coronavirus-mombasa> (last accessed on Feb 28, 2021).

<sup>113</sup> Calum Gardner, Kenya Cash Transfer Response, WFP, February 16, 2021.

<sup>114</sup> Human Rights Watch interview with staff of Slum Dwellers Association, Nairobi, November 4, 2020.

## IV. Cash Transfer Program Irregularities

Human Rights Watch found that, from the onset of government’s measures to contain the spread of coronavirus from March 2020, which has been followed by monthly reviews of the measures, Kenyan authorities were slow to respond to the unique needs of the informal settlements and, when they did respond, it was haphazard, skewed, short – lived, inadequate and did not appear designed to enforce the right to social security and to an adequate standard of living for all, including food.<sup>115</sup> The stay-at-home measures, for instance, predictably led to the loss of jobs, shut down of businesses and other sources of income for a large percentage of residents, yet the government did not provide any initial support to cushion the blow.<sup>116</sup>

When authorities did finally implement an eight-month pandemic-related cash transfer program, it was not only a short-lived transfer of insufficient funds but also lacked even basic transparency, and provided no clarity on who was eligible, how beneficiaries were identified, or why thousands of households who met the approved criteria were excluded.<sup>117</sup> It was also replete with irregularities and allegations of cronyism and corruption.

### General Lack of Transparency

From the outset, and through every stage of its implementation, Human Rights Watch found that the Covid-19 cash transfer process lacked even basic transparency.<sup>118</sup> Other than President Kenyatta’s mention of the plan for pandemic - related cash transfers in a

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<sup>115</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; beneficiaries in Soweto, Nairobi county, November 24, 2020; beneficiaries in Mukuru Kayaba, Nairobi county, November 25, 2020; beneficiaries in Mukuru Kwa Njenga, Nairobi county, November 26, 2020; beneficiaries in Mugomoini, Nairobi county, November 6, 2020.

<sup>116</sup> Ibid.

<sup>117</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; beneficiaries in Soweto, Nairobi county, November 24, 2020; beneficiaries in Mukuru Kayaba, Nairobi county, November 25, 2020; beneficiaries in Mukuru Kwa Njenga, Nairobi county, November 26, 2020; beneficiaries in Mugomoini, Nairobi county, November 6, 2020.

<sup>118</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; beneficiaries in Soweto, Nairobi county, November 24, 2020; beneficiaries in Mukuru Kayaba, Nairobi county, November 25, 2020; beneficiaries in Mukuru Kwa Njenga, Nairobi county, November 26, 2020; beneficiaries in Mugomoini, Nairobi county, November 6, 2020.

public address on May 23, the authorities offered little to no information about the program implementation: when it would start, the intended beneficiaries and how they would be selected or who would be responsible for selecting beneficiaries.<sup>119</sup>

One government official admitted to Human Rights Watch that there was no clarity about how authorities determined how many households to enroll in each informal settlement where the program was implemented.<sup>120</sup> Despite well-published statistics on the high poverty index in some of the large informal settlements such as Kibera and Mathare,<sup>121</sup> the official said authorities arbitrarily capped the number of households at a maximum of between 250 and 1,000 per settlement, which means majority of the vulnerable households in the informal settlements who faced the threat of hunger were unfairly left out of the support program with no mechanism for appeal.<sup>122</sup>

A chief of one of the medium sized informal settlement complained that “at least 25,000 out of the approximately 40,000 households in my area were in serious need of support. But I was allocated only 350 slots. I don’t know how our seniors [officials] arrived at that figure because they did not consult us on the ground.”<sup>123</sup>

While such targeted protection mechanisms should abide by principles of equality and non-discrimination and any criteria used to identify the beneficiaries, Human Rights Watch found that the government decision to allocate quotas in each informal settlement was arbitrary, as it was not based on any known and up-to-date needs-assessment of the households, and served only to lock out many vulnerable households unjustifiably.

Moreover, not all the enrolled households actually benefited from the cash transfers. Local administration officials in the informal settlements told Human Rights Watch that they did

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<sup>119</sup> President Uhuru Kenyatta, Covid-19 Economic Stimulus Package, Public Address, NTV, May 23, 2020. <https://www.youtube.com/watch?v=aUH6au701Ys>. At minute 3.36, Kenyatta says the government was already sending out Ksh250 million a week to the vulnerable through cash transfers (last accessed on Feb 28, 2021).

<sup>120</sup> Human Rights Watch interviews with a government official who participated in the enrolment of beneficiaries, Nairobi county, November 18, 2020.

<sup>121</sup> Search for Town Jobs Pushes 10 Million Kenyans to Slum Poverty, The Standard, January 22, 2020; <https://www.standardmedia.co.ke/business/article/2001357410/search-for-town-jobs-pushes-10-million-kenyans-to-slum-poverty>; Housing poverty in Kenya: Fighting for families in slums and vulnerable communities, Habitat for Humanity: Great Britain, 2012. <https://www.habitatforhumanity.org.uk/country/kenya/> (last accessed on Feb 28, 2021).

<sup>122</sup> Human Rights Watch interview with a government chief, Nairobi county, November 18, 2020.

<sup>123</sup> Human Rights Watch interview with a government chief, Nairobi county, November 21, 2020.

not know how or why the numbers of the households they enrolled were whittled down and had no idea who eventually benefited, exacerbating divisions within the community.<sup>124</sup> One official said that, although they enrolled households according to the slots allocated to them, only about half or even less in many areas the people they enrolled received payment.<sup>125</sup> The official expressed concern about the lack of information about factors considered while trimming the list and who exactly was responsible for that process.<sup>126</sup> He said: “The process was opaque and very fertile for corruption.”<sup>127</sup>

A senior official of a Nairobi-based nongovernmental organization who was tasked with enrolling vulnerable households called for transparency on how authorities arrived at the final list of beneficiaries.<sup>128</sup> He said: “We are interested in knowing who from the list we submitted benefited from government support. The system was not very transparent and was open to abuse.”<sup>129</sup>

## Lack of Enrollment Information

Government officials made no effort to communicate to potential beneficiaries of the Covid-19 cash transfer program when, how and where to register for the program.<sup>130</sup> It remains unclear how beneficiaries were identified or approved and what determined the amount and frequency of payments each received. The residents of informal settlements where the cash transfers were implemented further lack information on how and to whom they could appeal after being left out, or even how much they were entitled to receive, in what frequency and for what duration.<sup>131</sup>

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<sup>124</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; Soweto, Nairobi county, November 24, 2020; Mukuru Kayaba, Nairobi county, November 25, 2020; Mukuru Kwa Njenga, Nairobi county, November 26, 2020; Mugomoini, Nairobi county, November 6, 2020.

<sup>125</sup> Human Rights Watch interview with a government official, Nairobi county, November 27, 2020.

<sup>126</sup> Ibid.

<sup>127</sup> Human Rights Watch interview with a government official, Nairobi county, November 27, 2020.

<sup>128</sup> Human Rights Watch with an NGO official who participated enrolling beneficiaries for government cash transfer, Nairobi county, November 11, 2020.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

<sup>131</sup> Ibid.

Most residents of the settlements Human Rights Watch interviewed said that they had no information about when, where and who carried out the enrolment.<sup>132</sup> Among those who benefited from the Covid-19 cash transfers, some did not know when and how they were enrolled into the program. In a few instances, those interviewed said they heard about the Covid-19 cash transfer program for the first time when Human Rights Watch interviewed them.<sup>133</sup>

This report found that, when the enrollment finally kicked off, it was done through government chiefs, community health volunteers, and Nyumba Kumi heads who carried out the exercise in an almost secretive manner in nearly all Nairobi informal settlements, which made the program prone to corruption and abuse. Many residents of the settlements only learned about the enrollment for the Covid-19 cash transfer program long after it had concluded while others, who did not fall under vulnerable criteria, benefited. Thus, it means the program was barely designed to be fair and the many failings at implementation merely enhanced this unfairness.<sup>134</sup>

A government chief, a salaried state administrator whose jurisdiction includes one of the biggest informal settlements, told Human Rights Watch that he and his enrolment team deliberately decided to keep the enrolment secret to avoid being overwhelmed by requests, which demonstrates the failure of the Kenyan officials to appreciate that, for families that were facing hunger in the informal settlements, it was their right to access government support and not mere charity or favor: “We could not announce to everyone because the slots allocated to my area by my bosses were very few. The needy people who qualified for support here are very many and they would have flocked my office. How was I going to handle them?”<sup>135</sup>

In Mukuru Kayaba, a 31-year-old teacher and mother of four, said residents organized a peaceful demonstration to the chief’s camp when they realized the cash transfer

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<sup>132</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; Soweto, Nairobi county, November 24, 2020; Mukuru Kayaba, Nairobi county, November 25, 2020; Mukuru Kwa Njenga, Nairobi county, November 26, 2020; Mugomoini, Nairobi county, November 6, 2020.

<sup>133</sup> Ibid.

<sup>134</sup> Human Rights Watch interview with vulnerable families in Kayole, Nairobi county, November 19, 2020; Soweto, Nairobi county, November 24, 2020; Mukuru Kwa Njenga, Nairobi county, November 27, 2020; Mukuru Kayaba, Nairobi county, November 25, 2020; Mukuru Kwa Reuben, Nairobi county, December 1, 2020; Mathare, Nairobi county, December 4, 2020; and Kibera settlements, Nairobi county, November 21, 2020.

<sup>135</sup> Human Rights Watch interview with a senior chief, Nairobi county, November 18, 2020.

enrollment was going on secretly. She said: “We never even got to know who was registering people and when it was being done. Only a few people knew about it. We do not know what is going on with this cash transfer project. It is very secret and selective.”<sup>136</sup>

A rights activist in Kawangware told Human Rights Watch that he had expected the authorities to use a combination of community-based organizations, government chiefs, mainstream media, social media, and posters in all the informal settlements to inform potential beneficiaries to present themselves for enrolment at a specific point and on known date(s). She said:

“This lack of enrolment information has allowed some people to abuse the process by just selecting their cronies and relatives. Only those who were lucky to be reached or who knew someone received the relief money.”<sup>137</sup>

Due to the government’s failure to establish effective communication strategies, deal with information barriers, and placing caps on the number of people who could access the program, it did not reach many of the people in need of support during the pandemic as was intended and therefore undermining the right to social security as enshrined in the country’s laws of many of those heavily impacted by the Covid-19 control measures.

## **Inconsistent Application of Selection Criteria**

Both in design and implementation, the government criteria lacked a rights-based approach, as it failed to recognize the right to social security for all and the right to an adequate standard of living, including food, basic shelter and water for all and did not include mechanisms through which those left out could appeal or challenge the decision to leave them out. It further failed to appreciate the responsibility of the government to ensure the realization of these rights, especially so during the pandemic.

Although senior Kenya government officials told Human Rights Watch that they had a clearly articulated criteria for selecting beneficiaries of the Covid-19 cash transfer program, they did not make selection criteria public from the onset. Moreover, our findings showed

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<sup>136</sup> Human Rights Watch interview with a teacher who lost her job, Mukuru Kayaba, Nairobi county, November 24, 2020.

<sup>137</sup> Human Rights Watch interview with a rights activist, Kawangware, Nairobi county, October 26, 2020.

that, based on the criteria laid out in a letter from the Secretary for Treasury and Planning to Human Rights Watch, the authorities either failed to follow their own criteria or did little to enforce it.<sup>138</sup> In Kibera and Mukuru Kwa Njenga, the officials there simply ignored the guidelines while in Mathare, Kayole, Mukuru Kayaba, Mukuru Kwa Reuben and Mugomoini, the officials introduced fresh requirements. In effect, the authorities selected beneficiaries across Nairobi’s informal settlements in a manner that failed to follow any clear and uniform criteria.<sup>139</sup>

Some activists and community leaders alleged that elements of nepotism, favoritism and bias were introduced into the process due to the lack of clarity on the selection criteria. In Mukuru Kwa Njenga and Mathare, those in charge of enrollment told Human Rights Watch that they had not been trained or given any selection criteria or guidelines and they therefore selected people they knew.<sup>140</sup>

This report found that, in some areas, the authorities used Nyumba Kumi heads who were supervised by chiefs overseeing their area; in other areas, the authorities deployed community health volunteers to enroll people; and yet still in other areas, the authorities used resident savings associations, which picked only their registered members.<sup>141</sup> A government chief told Human Rights Watch that he knew some of the volunteers listed people who did not meet the criteria but that they were not held accountable:

“We worked with health volunteers and there was no training, but we gave them instruction on how to come up with names. Of course, there were some cases where names appeared in a list when they did not meet the criteria. For those ones, there were no ways to punish.”<sup>142</sup>

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<sup>138</sup> Hon. Ukur K. Yatani, Cabinet Secretary, National Treasury and Planning, Response to Human Rights Watch letter, Request for Information on Covid-19 Cash Transfer Initiative, January 19, 2021.

<sup>139</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; Soweto, Nairobi county, November 24, 2020; Mukuru Kayaba, Nairobi county, November 25, 2020; Mukuru Kwa Njenga, Nairobi county, November 26, 2020; Mugomoini, Nairobi county, November 6, 2020.

<sup>140</sup> Human Rights Watch interview with a 39-year-old official of slum dwellers in Mathare, Nairobi county, November 17, 2020; a community health volunteer in Mukuru Kwa Njenga, Nairobi county, November 27, 2020.

<sup>141</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; Soweto, Nairobi county, November 24, 2020; Mukuru Kayaba, Nairobi county, November 25, 2020; Mukuru Kwa Njenga, Nairobi county, November 26, 2020; Mugomoini, Nairobi county, November 6, 2020.

<sup>142</sup> Human Rights Watch interview with a government administrator in an informal settlement, Nairobi County, November 21, 2020

A staff member at Slum Dwellers International (SIDNET) told Human Rights Watch that in April 2020, it submitted at the government's request a list of 40,000 households from Nairobi's informal settlements based on the criteria provided by the authorities.<sup>143</sup> The SIDNET official expressed frustrations about the process:

“We are of the opinion that the entire population in the informal settlements qualified for government support. The selection process was considered biased, as many deserving people were left out, and in many instances, officials removed names from the list without any reasons.”<sup>144</sup>

Due to the existence of multiple, sometimes conflicting, processes, according to residents and some selectors, the authorities ended up with multiple lists of beneficiaries and it is unclear which of the lists they used, or if they used any of the lists at all.<sup>145</sup>

An activist in Dandora settlement told Human Rights Watch: “To many of us, it looks as though after the selection process, some officials just went and sat down to pick their own people on the basis of a criteria only known to them.”<sup>146</sup>

A youth leader from Kayole, Nyando, who helped compile names of beneficiaries in his community expressed concerns that people who qualified for support were inexplicably dropped from the submitted list of beneficiaries. He said: “My list of 20 names had one person with disabilities but the person was dropped off the list and did not receive the cash transfer.”<sup>147</sup>

A government chief who was also involved in the enrolment process raised similar concerns:

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<sup>143</sup> Human Rights Watch with an NGO official who participated enrolling beneficiaries for government cash transfer, Nairobi county, November 11, 2020.

<sup>144</sup> Ibid.

<sup>145</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; Soweto, Nairobi county, November 24, 2020; Mukuru Kayaba, Nairobi county, November 25, 2020; Mukuru Kwa Njenga, Nairobi county, November 26, 2020; Mugomoini, Nairobi county, November 6, 2020.

<sup>146</sup> Human Rights Watch interview with an activist in Dandora settlement area, Nairobi county, October 23, 2020.

<sup>147</sup> Human Rights Watch interview with a young political activist, Nairobi, November 18, 2020.

“I submitted names from my community. The criteria of selection were people with disabilities then those who had lost their source of income due to the Corona virus. However, I later discovered that those charged with the responsibility to collect names of beneficiaries had instead given the names of their relatives and friends. I took time to call everyone only to realize the criteria of listing beneficiaries had not been respected.”<sup>148</sup>

Residents were also confused about the selection process. A 27-year-old man from Mukuru Kwa Reuben settlement said: “I come from a family of five. My 24 years-old brother who has a family and was unemployed didn’t get the support, but my elder brother who has a good job earning Kshs.40,000 per month received the cash transfers.”<sup>149</sup>

The lack of clarity and inconsistent application of the selection criteria created tensions in the communities. A 57-year-old mother of three from Kayaba described the hostility she faced from neighbors because she benefitted from the program:

“I was registered by someone in the chief’s office and started getting Kshs.1,000 per week in April, which was soon after the lockdown started. Some of my neighbors registered at the same time as me but did not receive any money. This has created animosity between those of us who are receiving and those not receiving the money. The people not receiving the money have become hostile towards those receiving money.”<sup>150</sup>

Despite government officials saying they identified and supported families whose breadwinners lost jobs during the Covid-19 pandemic, many such families struggled without support. In some cases, the financial difficulties created disharmony in families. A 31-year-old former schoolteacher said:

“I have four school-age children and I lost my job due to the lockdown. My husband, a construction worker on daily wage also didn’t have a job throughout because most construction work stopped. Our life has really changed, we have fights. We never received any government support. We

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<sup>148</sup> Human Rights Watch interview with a government chief, Nairobi, November 18, 2020.

<sup>149</sup> Human Rights Watch interview with a young man in Mukuru Kwa Reuben, Nairobi, September 22, 2020.

<sup>150</sup> Human Rights Watch interview with a 57 year old mother of three from Mukuru Kayaba, Nairobi, November 25, 2020.

even demonstrated at the chief’s office because other people were getting support while we didn’t, yet we are all having tough times.”

## Allegations of Cronyism and Nepotism

The cash transfer program was implemented in a manner that left many in informal settlements who either had no relative or had no links to government officials discriminated against. Researchers documented instances where government officials ignored criteria for selecting beneficiaries for the Covid-19 cash transfers and instead allocated slots to political leaders who in turn selected relatives and cronies, most of whom did not meet the basic selection criteria laid down by the authorities.

In Mukuru Kwa Njenga, a 43-year-old woman said she was enrolled in the program by a member of parliament from a political party she supported, even though he had no formal responsibility to enroll beneficiaries. She said all those whose names were forwarded by the legislator together with hers received support.<sup>151</sup> She explained:

“Our area member of parliament is from the party I supported in 2017 elections. An official from his office is the one who registered me and other party supporters. I received payments from the government’s cash transfer program between July and November 2020.”<sup>152</sup>

In Kayole, a 29-year-old man who campaigned for an official of the Nairobi county government during the 2017 elections said he and others who worked for the official were registered for support by someone from the official’s office.<sup>153</sup>

Four other residents of Mukuru Kayaba and Kibera communities made similar allegations about parliamentarians and political officer holders favoring their relatives and supporters as beneficiaries of the cash transfer program.

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<sup>151</sup> Human Rights Watch interview with a 43-year-old mother of three, Mukuru Kwa Njenga, Nairobi, November 27, 2020. According to state officials Human Rights Watch interviewed, the enrollment was to be conducted by either villager elder/Nyumba Kumi Cluster heads or Community Health Volunteers supervised by a chief. Political leaders such as members of parliament, senators, members of the county assembly and governors were not among those authorized to enroll, and their enrollment activities was not publicly or officially known or recognized.

<sup>152</sup> Human Rights Watch interview with a 43-year-old mother of three, Mukuru Kwa Njenga, Nairobi, November 27, 2020.

<sup>153</sup> Human Rights Watch interview with a 29-year-old political activist who worked with the immediate former Nairobi governor, Mike Mbuvi Sonko, Nairobi, November 18, 2020.

This report found that the authorities reserved slots for political leaders to allocate, including members of the national and county executive and parliament. A 31-year-old man who received cash transfer after he was selected by a politician for whom he campaigned in the 2017 elections said the authorities appeared not to bind political leaders to any criteria.<sup>154</sup>

A resident of Mukuru Kwa Njenga, who received cash transfers after a political leader for whom she campaigned during the 2017 elections forwarded her name, said that the politician chose only members of his party's youth group, including some who appeared to be financially comfortable.<sup>155</sup> Some selectors alleged that other government officials such as sub county commissioners reserved slots for relatives and cronies, including those who were not resident in Nairobi.<sup>156</sup>

## Irregularity of Payment

Human Rights Watch research suggests that because of these inconsistencies in the selection process of the Covid-19 cash transfer program, the frequency and consistency of the cash transfers varied from individual to individual.<sup>157</sup> Some people said they received money weekly, others fortnightly, while still others received the money monthly.<sup>158</sup> In addition, some people said their payments started in April, others in May, June or July, while yet several others said they received the money only four times between July and September.<sup>159</sup>

In Mathare, a 23-year-old mother of two described to Human Rights Watch how she received the cash transfers. "I first received Ksh1,000 (\$10) in July. I received the money again for the first three weeks of August and then it stopped for one month after which I

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<sup>154</sup> Human Rights Watch interview with a 31-year-old man, a political activist, Kayole settlement, Nairobi, November 18, 2020.

<sup>155</sup> Human Rights Watch interview with a 37-year-old mother of three, Mukuru Kwa Njenga, Nairobi, November 27, 2020.

<sup>156</sup> Human Rights Watch interview with a government official who participated in enrolling beneficiaries, Nairobi, November 18, 2020.

<sup>157</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; Soweto, Nairobi county, November 24, 2020; Mukuru Kayaba, Nairobi county, November 25, 2020; Mukuru Kwa Njenga, Nairobi county, November 26, 2020; Mugomoini, Nairobi county, November 6, 2020.

<sup>158</sup> Ibid.

<sup>159</sup> Human Rights Watch interview with multiple beneficiaries of the cash transfer program in Kayole, Nairobi county, November 18, 2020; Soweto, Nairobi county, November 24, 2020; Mukuru Kayaba, Nairobi county, November 25, 2020; Mukuru Kwa Njenga, Nairobi county, November 26, 2020; Mugomoini, Nairobi county, November 6, 2020.

received it one more time. Then it stopped completely. I have not received money since then. It was very irregular,” she said.<sup>160</sup>

Many of the residents Human Rights Watch interviewed said they did not understand what criteria the authorities used to determine the amount and frequency of payments. In Mugomoini, a 29-year-old single mother of two asked, “Since everyone was supposed to receive the money weekly from April to November, should the government not ensure they still receive the balance of the money? Is the money still there or where did it go?”<sup>161</sup> There was also no effective grievance mechanism that should have enabled beneficiaries to submit complaints or questions on the irregularity of payment other than their local authorities who in many cases were either equally uninformed or unwilling to help.

## Inadequate Support

Human Rights Watch found that government’s Covid-19 cash transfer program did not go far enough in alleviating the impact of the Covid-19 pandemic on the lives and livelihoods of people in Nairobi’s informal settlements, both in terms of the total number of people it targeted, and the duration of support and amounts provided. The transfers therefore failed to guarantee an adequate standard of living for even those who received, as they could barely afford food between cash transfers, and did not last long enough to ensure that vulnerable households were guaranteed social security at least for the duration of the Covid-19 pandemic.

Several members of households that did not benefit from the government support narrated their struggles to make ends meet amid partial lockdown measures throughout 2020. Some heads of households said that they later chose to ignore measures to contain the spread of Covid-19 to beg for food from neighbors or look for menial jobs elsewhere.<sup>162</sup>

In Kayole, a 47-year-old businesswoman and single mother of two who did not benefit from the cash transfer recounted how she dared to defy restrictions and go out: “I started

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<sup>160</sup> Human Rights Watch interview with a mother of two, Mathare settlements, Nairobi, November 21, 2020.

<sup>161</sup> Human Rights Watch interview with a jobless single mother of two, Mugomoini settlement, Nairobi, November 6, 2020.

<sup>162</sup> Human Rights Watch interview with vulnerable families in Kayole, Nairobi county, November 19, 2020; Soweto, Nairobi county, November 24, 2020; Mukuru Kwa Njenga, Nairobi county, November 27, 2020; Mukuru Kayaba, Nairobi county, November 25, 2020; Mukuru Kwa Reuben, Nairobi county, December 1, 2020; Mathare, Nairobi county, December 4, 2020; and Kibera settlements, Nairobi county, November 21, 2020.

washing clothes for people for a fee to fend for my family. I could not pay rent for months. I had no food for children, and they would cry for days. I was so desperate.”<sup>163</sup>

Although support for the 5 percent of the households who benefited was welcomed by beneficiaries, many of them complained that the amounts they received were far from adequate. Even the heads of households who received the weekly payments throughout the eight-month period told Human Rights Watch that the Ksh1,000 (\$10) could only help their families afford food for up to two days and left them without food for up to four days per week.

In Soweto settlement, a 39-year-old mother of four said the situation deteriorated despite her family receiving government support. She said: “We would just have one meal a day, and at some point, we started going without food. The people who used to give us work to wash clothes to supplement what we received from government became afraid of us. They thought we could transmit the virus to them.”<sup>164</sup>

A 35-year-old father of one, a resident of Kayole’s Matopeni area, said:

“My electronics business slowed down drastically during the lockdown. I started receiving the Covid-19 relief of Kshs.1,000 in June after every two weeks. I would spend the money in one day. In most cases, the money would arrive when there was no food in the house, so I would spend it immediately. The last payment came at the end of August.”<sup>165</sup>

A 28-year-old mother of three from Soweto settlement agreed with other interviewees that the amounts were far from enough given how dire the economic situation in informal settlements was. She said:

“My husband is a construction worker who is paid daily but during the lockdown he did not have work for two months. I started receiving Ksh.1,000 (\$10) every week in April but the money was not enough. I

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<sup>163</sup> Human Rights Watch interview with a 47 year old single mother of two, Kayole settlement, Nairobi, November 22, 2020.

<sup>164</sup> Human Rights Watch interview with a 39 year old mother of four, Soweto settlement, Nairobi, November 24, 2020.

<sup>165</sup> Human Rights Watch interview with a young businessman in Kayole, Nairobi, November, 19, 2020.

usually use it up on the same day I received it for our domestic needs. We often did not have food, my children would cry from morning to evening, In my opinion, the money should have been around Ksh.4,000 (\$40) a week.”<sup>166</sup>

Many beneficiaries of the program interviewed by Human Rights Watch had similar complaints. It is clear that in the conception and design of this program, the government did not properly factor the costs of rent, water, food and sanitation into the calculation of cash transfer amounts and as a result, even those who benefited from the program did not fully receive the necessary support needed to get through the challenges of the pandemic and government instituted measures, and they could still not afford the basics such as food or shelter despite the support.

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<sup>166</sup> Human Rights Watch interview with a mother of three in Soweto Kayole, Nairobi, November 20, 2020.

## V. Lack of Oversight and Accountability

Kenyan officials responded to Human Rights Watch’s findings and some of the allegations of irregularities, including by providing details about selection criteria and the scope of the Covid-19 cash transfer program. The response from authorities however failed to address many of the issues unearthed by our research, including irregular frequency of payments, lack of transparency, allegations of cronyism, poor oversight, and failure to share adequate information about the cash transfer registration or the lack of mechanism for those left out to appeal or challenge their exclusion.

### Poor Supervision and Oversight

Cabinet secretary Yatani told Human Rights Watch, that the authorities had mechanisms for authenticating and verifying data. He said, “Safaricom, the service provider provided further authentication and verification of data using name, identity cards and registered sim card number before payments to households.”<sup>167</sup> He did not however show how this addressed the lack of clear and strong oversight of the cash transfer program found by Human Rights Watch, including allegations that some beneficiaries were not residents of Nairobi’s informal settlements.<sup>168</sup>

Several residents, activists, and local administrators in informal settlements told Human Rights Watch that they expected the cash transfer program to be better organized with thorough oversight to ensure fairness and prevent some of the irregularities that occurred.<sup>169</sup>

A staffer at SIDNET described a much more rigorous oversight process for the GiveDirectly cash transfer program, which was independent of the government’s program and for which they helped enroll beneficiaries. The SIDNET staffer said that, in the GiveDirectly program,

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<sup>167</sup> Safaricom is Kenya’s largest mobile network company headquartered in Nairobi. It offers a range of services, including mobile telephony, data, fiber optic and mobile money transfer, among others. It is partly government owned, and Kenyan authorities used its mobile money transfer services to transfer cash to beneficiaries of the Covid-19 cash transfer program in 2020.

<sup>168</sup> Ukuru Yatani, Cabinet Secretary for treasury and planning, response to Human Rights Watch questions, Nairobi, January 19, 2021.

<sup>169</sup> Human Rights Watch interview with multiple residents of informal settlements, Nairobi, on diverse dates between September 2020 and January 2021.

those enlisting beneficiaries on the criteria were first trained and then monitored closely to ensure they followed the criteria.<sup>170</sup> GiveDirectly officials later followed up with direct phone calls to each enlisted individual, whom they asked specific questions to determine the size of their households, income levels, exact location, and personal contacts.<sup>171</sup> Where needed, some of their staff visited the beneficiaries to authenticate and verify information.<sup>172</sup>

According to the SIDNET official, the Kenyan government “did not undertake such rigorous process of training, monitoring and follow up to authenticate names of beneficiaries and levels of need.” Relying on Safaricom alone to confirm names and registered sim card numbers, according to an activist in Kayole, was not useful when enrolment officers were abusing the process by enlisting relatives and cronies into the program.<sup>173</sup> The sim card verification, according to the activist, could not authenticate household and income levels, especially in instances where those enlisted into the program were either undeserving or did not reside in any of Nairobi’s informal settlements.<sup>174</sup>

Two government administrators in Nairobi admitted that in many instances, the enrolment officers were largely able to pick whoever they wanted, and in the absence of monitoring and independent follow up to verify data, the authorities failed to reach many qualified people while many other unqualified people ended up benefiting from the program due to political patronage, by which we mean the use of state resources to reward individuals for their electoral support.<sup>175</sup> The two administrators said that, once the names were submitted to the county level committee, in many instances names of new beneficiaries were added while originally selected names were dropped at the whims of senior government officials without any clear criteria.<sup>176</sup>

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<sup>170</sup> Human Rights Watch interview with a 39-year-old official of slum dwellers in Mathare, Nairobi county, November 17, 2020; a community health volunteer in Mukuru Kwa Njenga, Nairobi county, November 27, 2020.

<sup>171</sup> Human Rights Watch interview with Jack Makau, Nairobi Head of Office, Society for Slum Dwellers (Slums Dwellers International), SIDNET, also representing GiveDirectly in Nairobi, Nairobi town, November 4, 2020. GiveDirectly is a nonprofit organization operating in East Africa that helps families living in extreme poverty by making unconditional cash transfers to them via mobile phone. GiveDirectly transfers funds primarily to people in Kenya, Uganda, and Rwanda. <https://www.givedirectly.org/> (last accessed on Feb 28, 2021).

<sup>172</sup> Ibid.

<sup>173</sup> Human Rights Watch with a rights activist in Kayole settlement, Nairobi, November 19, 2020.

<sup>174</sup> Ibid.

<sup>175</sup> Human Rights Watch interview with a government administrator, eastern Nairobi, November 18, 2020; government administrator, south west Nairobi, October 17, 2020.

<sup>176</sup> Ibid.

The cabinet secretary said that “national government administration officers together with the ‘Nyumba Kumi cluster heads did contact tracing of beneficiaries and confirmed receipt of the stipend.” Government administration officers in the informal settlements however told Human Rights Watch that there was little they could do to monitor or supervise the implementation of the program because decisions were made by senior officials without their input.<sup>177</sup>

A chief in a settlement south west of Nairobi said, “there is little I can do if the enrolment did not go well or if it was fraudulent. I do not have those powers, but hopefully some of those above us in government will do something.”<sup>178</sup>

Another chief added:

“I did my best when I discovered those enrolling people in my area were just enlisting friends and relatives. But my authority is limited to my jurisdiction and to those below me. I cannot correct what is happening in other areas or what is being done by those seniors to me. There should have been an overall team to do that.”<sup>179</sup>

## Lack of Accountability

In August 2020, President Kenyatta ordered investigations following media reports that funds amounting to Ksh43 billion (\$430 million), meant for medical supplies for the treatment of Covid-19, could have been misappropriated.<sup>180</sup> In September, the Ethics and Anti-Corruption Authority recommended the prosecution of 15 top government officials and businesspeople for the theft of Ksh2.1 billion (\$21 million), but, as of this writing eight months later, no one has yet been charged with offences related to the loss of these

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<sup>177</sup> Human Rights Watch interview with a government administrator, eastern Nairobi, November 18, 2020; government administrator, south west Nairobi, October 17, 2020.

<sup>178</sup> Human Rights Watch interview with a government administrator, South West Nairobi, October 17, 2020.

<sup>179</sup> Human Rights Watch interview with a government administrator, eastern Nairobi, November 18, 2020.

<sup>180</sup> Denis Okari, NTV Investigates: Covid-19 Millionaires, Nation Media Group, August 14, 2020.

<https://www.youtube.com/watch?v=5yZkFHaRdMM>; Dr Godwin Ogotu: Ksh43 billion cannot be accounted for at KEMSA, NTV Kenya on Twitter, August 16, 2020. <https://twitter.com/ntvkenya/status/1295069348609118209?lang=en> (last accessed on Feb 28, 2021).

funds.<sup>181</sup> Similarly, Kenyan authorities have yet to either acknowledge or investigate allegations of irregularities in the cash transfer program, which, according to the cabinet secretary Yatani was worth Ksh10 billion (\$100 million).<sup>182</sup>

Religious leaders have called for those implicated in the theft of funds to be held accountable.<sup>183</sup> Under the disbursement request documents that Kenya signed with the IMF, whose Covid-19-related support funds likely contributed to the cash transfer program, Kenya authorities are obligated to “conduct independent post-crisis auditing of Covid-19 related expenditures and publish the results.”<sup>184</sup> The IMF’s Kenya resident representative told Human Rights Watch that, following reports of theft of Covid-19-related funds, the institution was now pushing for a more extensive audit than contained in the initial loan agreement.<sup>185</sup>

In response to concerns about the frequency of cash transfers to the households, Yatani told Human Rights Watch that “a total of 332,563 beneficiaries have been reached with a total of 35 disbursement each made up of Ksh1,000 (\$10) per week from April 22 until November 27, 2020.”<sup>186</sup> This is contrary to Human Rights Watch finding that disbursement was inconsistent and irregular among most beneficiaries in informal settlements in Nairobi, the focus of this research.<sup>187</sup>

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<sup>181</sup> Kunle Awosiyani, Covid-19 funds theft: 15 Kenyan top officials face prosecution, Silverbird News 24, Nigeria, September 24, 2020. <https://silverbirdnews24.com/news/2904/covid-19-fund-theft-15-kenyan-top-officials-face-prosecution/>; Emmanuel Igunza, Coronavirus corruption in Kenya: Officials and Businesspeople targeted, BBC, September 24, 2020. <https://www.bbc.com/news/world-africa-54278417> (last accessed on Feb 28, 2021).

<sup>182</sup> Ukuru Yatani, Cabinet Secretary for treasury and planning, private response to Human Rights Watch questions, Nairobi, January 19, 2021.

<sup>183</sup> Fredrick Nzwili, Kenyan religious leaders demand action on alleged theft of COVID-19 funds, Catholic News Service, Nairobi, August 26, 2020. <https://cruxnow.com/church-in-africa/2020/08/kenyan-religious-leaders-demand-action-on-alleged-theft-of-covid-19-funds/> (last accessed on Feb 28, 2021).

<sup>184</sup> The International Monetary Fund, Republic of Kenya: Request for Disbursement under the Rapid Credit Facility-Press Release; Staff Report; and Statement by the Executive Director for the Republic of Kenya, May 11, 2020. <https://www.imf.org/en/Publications/CR/Issues/2020/05/11/Republic-of-Kenya-Request-for-Disbursement-under-the-Rapid-Credit-Facility-Press-Release-49405> (last accessed on Feb 28, 2021).

<sup>185</sup> Human Rights Watch interview with Tobias Rasmussen, Kenya Resident Representative, IMF, January 11, 2021.

<sup>186</sup> Ukuru Yatani, Cabinet Secretary for treasury and planning, response to Human Rights Watch questions, Nairobi, January 19, 2021.

<sup>187</sup> Human Rights Watch interview with 32-year-old man in Kayole, Nairobi, November 18 and 19, 2020; interview with father of three in Mugomoini, Nairobi, October 14, 2020; interview with an activist in Dandora, October 17, 2020.

## **VI. Ensuring the Right to Social Security in Kenya**

### **Strengthen Oversight and Accountability Structures**

One lesson that Kenyan authorities could draw from challenges of the just concluded Covid-19 cash transfer program is that emergency social assistance response systems are weak and need to be strengthened. One of the core problems is that social security is not treated as a basic right, that the government needs to ensure is available and accessible to all, to ensure an adequate standard of living for everyone.

This will require putting together detailed data, which should include contact information, of the vulnerable households. The data should be regularly reviewed and updated, ready for any emergency response both during this Covid-19 crisis and in the future, and at all times help ensure everyone has an adequate standard of living.

The authorities will further need to establish an effective system for overseeing the cash transfers to minimize irregularities, ensure all intended beneficiaries are reached for support and, where need be, one that can ensure any suspected irregularities are promptly investigated and those implicated held to account. In view of the concerns we have documented on how the Covid-19 cash transfer program was implemented, the authorities to either introduce or strengthen the feedback and complaints mechanism to make social protection program as accountable as possible.

By ensuring social security is treated as a basic right, the government should ensure everyone has the right to an effective remedy when they are denied this right, including the right to legally challenge their exclusion.

There is further need for the national government improve coordination with all the 47 county governments to establish an early warning system across Kenya that can routinely assess households in informal settlements for livelihood risks and respond quickly to the impacts of emergencies.

## **Expand the Reach of Cash Transfers**

Increasing the number of vulnerable Kenyans targeted by social protection programs to include the vast number of food insecure residents of informal settlements is a necessary step towards realization of the right to social security; this also means ensuring that all minority groups are reached and that cash transfers are appropriate for those receiving them, particularly in terms of accessibility and where necessary, introduce in-kind assistance to those who cannot make use of cash. Expanding accessibility of these programs effectively minimizes and reduces the risk of excluding people without an adequate standard of living.

While preparing data of all vulnerable households, the authorities should aim to identify all such households across Kenya, so they can provide support to all families denied an adequate standard of living, including adequate food, water and shelter. The aim should be for both the just concluded Covid-19 emergency response, which the authorities should consider restarting given Covid-19 pandemic has persisted and some of the control measures and restrictions are still in place, and the social assistance program that has been in place since 2013 to benefit all vulnerable families in Kenya's 47 counties, rather than just 17 that the 2020 Covid-19 response reached, if it is to reflect the government's commitment to ensuring the right to social security for everyone.

In terms of overall households assisted, the authorities should ensure that no one is denied basic rights, for example by going hungry, including by ensuring all vulnerable families are assisted in Covid-19 emergency support going forward and to further expand the existing social assistance programs that predate Covid-19. As observed by Oxfam, implementing the National Safety Nets project has underscored the need for Kenya's nascent 'social protection' program to be immediately extended and expanded to the majority vulnerable Kenyans currently not enrolled in any social protection program. This includes increasing the amount of relief money and policies dedicated to cushioning vulnerable informal workers, whose entire reliance on daily work and sensitivity to economic shocks and volatility is high.

## **Conduct Assessment and Increase Budgetary Allocation**

One of the weaknesses of the just concluded Covid-19 cash transfer program was that it did not go deep enough, as only a small fraction of the potential beneficiaries actually

received support. At the same time the government did not carry out a needs-assessment, likely due to lack of an adequate mechanism for this, and therefore lacked a comprehensive list of all the vulnerable families whose right to social security and an adequate standard of living had been undermined by the Covid-19 pandemic.

Kenya should begin by first identifying and updating existing data on vulnerable households across the country who need help to realize the right to an adequate standard of living, including access to food, housing and basic shelter, and therefore begin to set up a social security and other social protection systems to ensure the vulnerable households get the required support to realize their rights.

While the Kenyan Government should, in the long-term, work towards universal social protection, it needs to ensure that current social security and social protection systems are funded to meet the minimum core standard, such as ensuring that no one goes hungry or without shelter, which will require increased investment to address the need to ensure the right to social security for everyone. Such systems must also abide by principles of equality and non-discrimination.

Once the needs-assessment is done and a comprehensive list of all vulnerable households that struggle to realize adequate standard of living across Kenya are identified, it should be easy to understand the extent to which budgetary allocations to the social protection programs, including to the emergency responses such as those that were established to alleviate the impact of Covid-19 on the vulnerable households, need to be increased.

Kenya has been developing its tax-financed social protection system since 2007, but the level of investment still remains below where it can make a significant difference.<sup>188</sup> In more recent years since 2017, Kenya's financial allocations to both the social protection programs that existed prior to Covid-19 and the 2020 Covid-19 cash transfer program has been just below 0.5 percent of GDP per year.

The lack of needs assessment and thus a comprehensive list, coupled with haphazard and inevitably inadequate budgetary allocations, have meant that the programs are far from

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<sup>188</sup> Republic of Kenya, Ministry of Labor and Social Protection, State department for social protection, Kenya Social Protection Sector Review, 2017, p.8; <https://www.developmentpathways.co.uk/wp-content/uploads/2019/10/Kenya-Social-Protection-Sector-Review-Summary-Report.pdf>.

being able to ensure the right to social security for everyone or an adequate standard of living for all. As it is, the initiatives have either left out majority of those who cannot afford an adequate standard of living or the support provided is rarely sufficient to meet the basic needs of the recipients.

Authorities will also need to assess more realistically which levels of support will ensure that everyone's right to social security and an adequate standard of living is guaranteed. It will require the authorities to factor the costs of rent, medicines and sanitation goods into the calculation of cash transfer amounts, as these are costs that must be, and yet often cannot be, met by vulnerable families.

Building more comprehensive datasets and budgetary allocations also requires effective communication strategies of social protection programs to ensure that everyone knows about them, who has access to them and how to get access. Those who need access should also be able to do so whenever they need or require it without discrimination and right of appeal on selection decisions to ensure that the right to social security is guaranteed.

## VII. Kenya's Legal Obligations

### The National Constitution

Kenya's 2010 constitution has progressive provisions that are either directly applicable or could have informed authorities' efforts to alleviate the economic impact of Covid-19 – related measures on to the most vulnerable households in Nairobi and other parts of the country.

Article 43 (1) (c) of the constitution provides that every person has the right to be free from hunger, and to have adequate food of acceptable quality.<sup>189</sup> Article 43 (3) further provides that the government has an obligation to “provide appropriate social security to persons who are unable to support themselves and their dependents.”<sup>190</sup>

The constitution also guarantees the right to accessible and adequate housing, and to reasonable standards of sanitation.

### African and International Standards

The African Charter on Human and Peoples' Rights, which Kenya has ratified, provides for the rights to life, health and to economic, social and cultural development.<sup>191</sup> The African Commission on Human and Peoples' Rights has recognized the right to social security as implicit from a joint reading of a number of rights guaranteed under the African Charter including the rights to life, dignity, liberty, work, health, food, protection of the family and the right to the protection of the aged and the disabled.<sup>192</sup>

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<sup>189</sup> The Constitution of Kenya 2010, Chapter 4, Articles 43 (1) (c).

<sup>190</sup> The Constitution of Kenya 2010, Chapter 4, Articles 43 (3).

<sup>191</sup> Kenya ratified the African Charter on Human and People's Rights on January 23rd, 1992; <http://kenyalaw.org/treaties/treaties/11/African-Banjul-Charter-on-Human-and-Peoples-Rights>.

<sup>192</sup> Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights. The African Commission is an African Union body that promotes and protects human rights by interpreting the African Charter and considering individual complaints. Established in 1986, it is located in Banjul, The Gambia, from where it hears cases from the African Union Member States.

The Commission has also affirmed that the right to social security imposes, among others, an obligation on States parties to ensure a minimum level of support and to adopt social assistance measures.<sup>193</sup>

In June 2020, the Commission urged African governments to “provide assistance to individuals, families and communities including vulnerable groups and at-risk groups, through at least a minimum essential level of food distribution, social welfare and other social security measures, in order to mitigate the impact of Covid-19 on their economic, social and cultural rights.”<sup>194</sup> The Commission also called on States parties to provide stimulus packages, loans, grants and other incentives to the business sector including the informal sector. By apparently failing to include SMEs in Nairobi’s informal settlements in the pandemic – related economic stimulus programs the Kenyan government did not fully accede to this call.

Regional and international human rights bodies recognize the disproportionate enjoyment of economic rights by women, and the disproportionate impact of emergencies and crises on women due to entrenched gender discrimination. The African Commission has recognized that, “Due to entrenched patterns of sex/gender discrimination, women often do not enjoy equality in relation to economic, social and cultural rights.”<sup>195</sup>

It has called on States to ensure equality and nondiscrimination and to interpret these two principles in ways which facilitate the full protection of economic, social and cultural rights, especially for vulnerable and marginalized groups<sup>196</sup> It has enumerated vulnerable and marginalized groups to include, among others, women, children (particularly orphans, young girls, children of low-income groups etc.), youth, the elderly, persons with disabilities, female headed households.<sup>197</sup>

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<sup>193</sup> Based on an African Union Executive Council decision, a mandate was given for the development of an additional protocol to the African Charter of Human and People’s Rights on the Rights of Citizens to Social Protection and Social Security. The accompanying text of the decision endorses the pursuit of a rights-based approach to social protection and social security for all citizens, aiming at inclusive development that leaves no one behind, through appropriate legal and policy frameworks, complementing the African Charter. <http://www.socialprotectionfloorscoalition.org/2018/04/social-protection-in-africa/> (last accessed on Feb 28, 2021).

<sup>194</sup> Press release on the impact of the COVID-19 pandemic on economic, social and cultural rights in Africa, African Commission on Human and Peoples’ Rights, March 11, 2021; <https://www.achpr.org/pressrelease/detail?id=510> (last accessed on Feb 28, 2021).

<sup>195</sup> *Ibid.*, p. 16.

<sup>196</sup> *Ibid.*

<sup>197</sup> *Ibid.*, p. 8.

Article 25(1) of the Universal Declaration of Human Rights (UDHR) and article 11, of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Kenya has ratified, obligates governments to ensure people’s right to an adequate standard of living, to enable them to enjoy the rights necessary to live in dignity, including the right to food and housing, as well ensure the right to social security for those who are unable to support themselves.<sup>198</sup>

Article 6 of the International Covenant on Civil and Political Rights (ICCPR) further places an obligation on States to protect the inherent right to life of every human being.<sup>199</sup> In furtherance of this obligation, States have a heightened duty to take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity such as the prevalence of life-threatening diseases, widespread hunger and malnutrition and extreme poverty and homelessness.

In such instances, the government should take appropriate measures to ensure access to all persons, without delay, essential goods and services such as food, water, shelter, healthcare, electricity and sanitation, and other measures designed to promote and facilitate adequate general conditions.<sup>200</sup>

International human rights law further obligates governments under Article 27, of the Convention on the Rights of the Child (CRC) to recognize “the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.” Article 28 of Convention on the Rights of Persons with Disabilities (CRPD) guarantees the right to an adequate standard of living for people with disabilities and their families, as well as access to social protection, and poverty reduction programs, in particular women and girls with disabilities and older persons with disabilities. Human Rights Watch research indicates that the Kenyan government failed in its obligation to

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<sup>198</sup> Kenya ratified the Universal Declaration of Human Rights on July 31, 1990; <http://kenyalaw.org/treaties/treaties/164/Universal-Declaration-of-Human-Rights>; and the International Covenant on Economic, Social and Cultural rights on May 1, 1972, <http://kenyalaw.org/treaties/treaties/873/International-Covenant-on-Economic-Social-and-Cultural> (last accessed on Feb 28, 2021).

<sup>199</sup> Kenya ratified the International Covenant on Civil & Political Rights on 1st May 1972 <http://kenyalaw.org/treaties/treaties/159/International-Covenant-on-Civil-and-Political-Rights> (last accessed on Feb 28, 2021).

<sup>200</sup> UN Human Rights Committee (HRC), General comment no. 36, Article 6 (Right to Life), 3 September 2019, CCPR/C/GC/35, available at: <https://www.refworld.org/docid/5e5e75e04.html> (accessed 16 March 2021).

implement the Covid-19 palliatives in ways that adequately protected the rights of the most vulnerable groups, including children and people with disabilities in Nairobi's informal settlements.

Within the right to an adequate standard of living, UN treaty bodies have set out minimum core obligations on all countries, meaning the basic rights they should ensure at all times, for everyone. The core obligations include ensuring access to the minimum essential nutritionally adequate and safe food and freedom from hunger; to basic shelter, housing, and sanitation; an adequate supply of safe drinking water; and social security that provides a minimum essential level of benefits.

Countries with limited resources still have an obligation to ensure an adequate standard of living. Even in times of crisis, governments are required to make every effort to meet these obligations with existing resources, including international assistance, and allocate them in the way that maximizes respect for human rights, including considering the precarious situation of disadvantaged and marginalized individuals or groups. Governments must guarantee that social assistance programs respect the principle of equality and nondiscrimination.

The UN Office of the High Commissioner on Human Rights has noted that the fiscal stimulus and social protection packages aimed directly at those least able to cope with the Covid-19 crisis are essential to mitigating the devastating consequences of the pandemic.<sup>201</sup> Immediate economic relief measures such as guaranteed paid sick leave, extended unemployment benefits, food distribution, childcare, and universal basic income can help safeguard against the acute effects of the crisis.

The OHCHR has further called for urgent steps to address food insecurity for the poorest and most marginalized segments of the population. Measures aimed at providing immediate support to satisfy people's dietary needs should be put in place, including through provision of food and nutrition assistance.

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<sup>201</sup> Covid-19 Guidance: Socio-Economic Impacts, UNOHCHR, 2020; <https://www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx> (Last accessed March 2, 2021).

## Acknowledgment

This report was researched and written by Otsieno Namwaya, Senior Researcher in the Africa Division at Human Rights Watch, and Najma Abdi, coordinator in the Africa Division at Human Rights Watch. It was edited by Mausi Segun, executive director, Africa Division; Clive Baldwin, senior legal advisor; and Babatunde Olugboji, deputy program director at Human Rights Watch.

The report was reviewed by Sarah Saadoun, and Lena Simet, Senior Researchers in the Business and Human Rights Division of Human Rights Watch; Laura Mills, researcher on older people's rights; and Jane Buchanan, deputy director, Disability Rights Division; Jo Becker, advocacy director, Children's Rights Division; Jim Wormington, senior researcher, Africa Division; Agnes Odhiambo, senior researcher, Women Rights Division.

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Human Rights Watch thanks the People's Postcode Lottery, United Kingdom, for their support of this project.

# Annexes

## Annex I: HRW Letter to Ministry of Labour and Social Protection

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James Ross, *Legal and Policy Director*

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Neil Rimer, *Co-Chair*

December 7, 2020

Eng Peter K Tum  
Principal Secretary  
Ministry of Labour and Social Protection,  
State Department for Labour,  
Bishops Road, Social Security House  
P.O. Box 40326 – 00100, Nairobi

Transmitted via email to: [ps@labour.go.ke](mailto:ps@labour.go.ke)

**Re: Request for Information on COVID – 19 Cash Transfer Initiative**

Dear Eng Peter Tum,

I write on behalf of Human Rights Watch to request information, preferably in a meeting, on the very commendable initiative by the Kenya government to cushion the most vulnerable households from the impact of COVID-19 control measures.

Human Rights Watch is an independent nongovernmental organization that conducts human rights research and advocacy in more than 100 countries around the world. We have monitored and investigated human rights issues in Kenya for around 30 years.

As part of our work on the issues of poverty and inequality, Human Rights Watch is carrying out research on the cash transfer program, which the government established at the onset of the Covid-19 pandemic to cushion vulnerable households from the impact of measures introduced to control the spread of Covid-19.

Human Rights Watch is committed to producing research that is fair and accurately reflects information from various sources, including the government.

Please find below questions on how the Kenyan program has fared this far in cushioning the most vulnerable households.

We request that you kindly send us your written response to these questions by December 15, 2020 to enable us to reflect your responses



HRW.org

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We request that you kindly send us your written response to these questions by December 15, 2020 to enable us to reflect your responses in our report and other materials. Alternatively, we would welcome the opportunity to schedule an in-person meeting or a phone call to discuss the research.

You can contact us by email: [mattheo@hrw.org](mailto:mattheo@hrw.org); or telephone: +254 728891575 to seek any clarifications, to schedule a meeting and to respond to the attached questions.

Thank you for your attention to this matter.

Sincerely,



Otsieno Namwaya  
East Africa Director,  
Human Rights Watch  
Nairobi

We would greatly appreciate your response to the following questions:

1. Regarding the beneficiaries:
  - a. What criteria did the government use to identify the most vulnerable households and therefore families most in need of cushioning from the impact of Covid-19 control measures?
  - b. While following the criteria in (a) above, how were the beneficiaries selected and did everyone who was eligible per your criteria receive payment?
2. What measures did the government take to ensure that all vulnerable households across Kenya were reached for support? Did the program cover the whole country, including the poor rural communities, or did it just focus on the vulnerable in urban areas?
3. Do you have any statistics or data on the progress of the Covid-19 direct cash transfer initiative? If so, we would appreciate if you can share with us data on the following areas:
  - a. What is the overall number of households being supported through the government's direct cash transfer program nationwide?
  - b. How much does each household get and what is the frequency of disbursement (weekly, every two weeks, monthly)? Do all households get the same amount and for the same frequency or not, and why?
  - c. How long will the program last and in which month did the disbursement officially start and when will it end?

4. How much has the government allocated for this initiative?
  - a. How much have external donors contributed specifically for the cash transfer program?
  - b. How much has so far been spent countrywide?
5. What steps have you taken to ensure transparency of the disbursement process? Is the program subject to an oversight body, or audit, or any other measure to ensure accountable use of funds?

**CC:**

Hon. Mutahi Kagwe,  
Cabinet Secretary for Health and Chair,  
National Emergency Response  
Committee on Coronavirus  
Afya House, Cathedral Road,  
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Protection,  
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Bishops Road, Social Security House  
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## Annex II: Response from Kenyan Government



REPUBLIC OF KENYA  
THE NATIONAL TREASURY AND PLANNING

Telegraphic Address: 22921  
FINANCE – NAIROBI  
Fax No. 315779  
Telephone: 2252299

THE NATIONAL TREASURY  
P.O. Box 30007 - 00100  
NAIROBI  
KENYA

When replying please quote

Ref: RES 1185/20/01 'A' (38)

Date: 19<sup>th</sup> January, 2021

Mr. Otsieno Namwana  
East Africa Director  
Human Rights Watch  
NAIROBI

Dear *Otsieno,*

RE: REQUEST FOR INFORMATION ON COVID-19 CASH  
TRANSFER INITIATIVE

We refer to your letter dated 7<sup>th</sup> December, 2020 requesting for information on Covid-19 Cash Transfer Initiative.

The Government is implementing the Cash Transfer Programme, including the Covid-19 Cash Transfer Initiative through the Ministry of Labour and Social Protection. In this regard, please find attached written responses to the questions raised for your further action.

Yours

*Sincerely,*

HON. (AMB) UKUR K. YATANI, EGH  
CABINET SECRETARY/NATIONAL TREASURY & PLANNING

①



MINISTRY OF LABOUR AND SOCIAL PROTECTION  
STATE DEPARTMENT FOR SOCIAL PROTECTION

RESPONSE TO HUMAN RIGHTS WATCH QUESTIONS ON THE  
COVID-19 CAST TRANSFER INITIATIVE

**1. Regarding the Beneficiaries**

**a) What criteria did the government use to identify the most vulnerable households and therefore families most in need of cushioning from the impact of Covid-19 control measure?**

**Response:**

A Multi-Agency team from the Ministry of Health, the Ministry of Interior and Coordination of National Government and the Ministry of Labour and Social Protection was charged with identifying the vulnerable groups in a phased basis. The programme was initially targeted at the counties placed on lockdown and consecutively expanded to the rest of the country.

Priority was given to:

- Households with a high poverty index and where the head or the bread winner is disabled.
- Households with a high poverty index and where the head or the bread winner is widowed.
- Households with a high poverty index and where the head or the bread winner is a minor (orphans or child-led households).
- Households with a high poverty index and where the head or the bread winner is suffering from pre-existing medical condition e.g. HIV, Cancer etc.
- Households with a high poverty index and where the head or the bread winner is mentally unsound and/or vulnerable.
- Households not benefiting from other Government support programmes.

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- Majorly selected from urban/ informal settlements that are hard hit by the pandemic.

**b) While the following criteria in (a) above, how were the beneficiaries selected and did everyone who was eligible per your criteria receive payments?**

**Response:**

Process of identifying potential beneficiary households was entrusted on grassroots “nyumba kumi clusters (group of households) who identified vulnerable households within their clusters. Further, the list was subjected to different committees at all Levels with representation of all key departments spearheaded by a County Implementation Committee (CIC). These committees have been entrusted in validation and verification of data.

**2. What measures did the government take to ensure that all the vulnerable households across Kenya were reached for support? Did the programme cover the whole country, including poor rural communities, or did it just focus on vulnerable in urban areas?**

**Response:**

Potential beneficiaries were identified through grassroots “nyumba kumi” (group of households) clusters in the community who identified the most vulnerable households based on the provided criteria.

Multi agency committees were also established at the sub location, Sub County and County levels with representation of all key departments. These committees were entrusted in validation and verification of data of the targeted population to ensure equity.

The data was then forwarded from the County level and processed through available information held by Government agencies including personal identification records.

Coverage was made in phases;

**Phase 1** involved four Counties under lockdown namely Nairobi, Mombasa, Kilifi and Kwale, were a total of **85,300** households (HHs)

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were identified. Phase 2 targeted a further 17 counties bringing the total to 247,900 households who were enrolled into the programme.

Payments for this first phase commenced on 22nd April 2020. So far, a total of 332,563 beneficiaries have been reached with each having received Kshs. 1,000 per week through Safaricom MPESA service.

**3. Do you have any statistics or data on the progress of the Covid - 19 direct cash transfer initiative? If so, we would appreciate if you can share with us data on the following areas:**

**a.) What is the overall number of households being supported through the governments direct cash transfer programme nationwide?**

**Response:**

A total of 332,563 households are currently enlisted in the programme.

**b.) How much does each household get and what is the frequency of disbursement (weekly, every two weeks, monthly)? Do all households get the same amount and for the same frequency or not, and why?**

**Response:**

Disbursement were made on a weekly basis, with each individual household receiving Ksh 1000, through their registered M-Pesa mobile phone numbers.

**c.) How long will the program last and in which month did the disbursement officially start and when did it end?**

**Response:**

The 1<sup>st</sup> disbursement which was a pilot of 5000 identified in Kibra informal Settlement-Nairobi was made on 15<sup>th</sup> April, 2020. Phase 1 payments were consequently made on 22<sup>nd</sup> April, 2020 after the success of the pilot. So far, 35 weekly disbursements have been made as at the last disbursement on 27<sup>th</sup> November 2020.

(h)

4. How much has the government allocated for this initiative?

- a.) How much have external donors contributed specifically to cash transfer programme?

**Response:**

The Covid-19 cash transfer initiative is one hundred percent (100%) funded by the taxpayers through the Government of Kenya (GOK).

- b.) How much has so far been spent countrywide?

**Response:**

As at the last disbursement on 27<sup>th</sup> November, 2020 the programme had disbursed a total of Kshs. 9,327,270,000 99 amounting to 99.86% out of the Kshs 9,340,270,000 total amount allocated. Efforts are being made to seek more funding for additional 2 extra months to cushion the vulnerable population.

5. What steps have you taken to ensure transparency of the disbursement process? Is the program subject to an oversight body, or audit, or any other measure to ensure accountable use of funds?

**Response:**

Data provided from the field was subjected to further IPRS check and verification using identity cards through the relevant government agencies. The Safaricom service provider provided further did authentication and verification of data using name, identity cards and registered Sim card number before payments to households. On the other hand, once the funds were transmitted, NGAO officers together with the "nyumba kumi" cluster heads did contact tracing of the identified beneficiaries and confirmed receipt of the stipend. Sampled households were also profiled to understand the impact of the programme.



Simon K. Chelugui, EGH  
CABINET SECRETARY

5

# Annex III: Human Rights Watch Letter to African Development Bank

350 Fifth Avenue, 34<sup>th</sup> Floor  
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**December 7, 2020**

Mr. Gabriel Negatu  
Director General

East Africa Regional Hub (RDGE)  
African Development Bank Group  
Khushee Tower, Longonot Road,  
Upper Hill  
Nairobi, Kenya

Phone: (254) 20 2712925/ (254) 20 2712926/ (254) 20 2712928

Transmitted via email: [learc@afdb.org](mailto:learc@afdb.org)

**Re: Questions on COVID – 19 Response Funds to Kenya**

Dear Gabriel Negatu,

I am writing regarding research Human Rights Watch is conducting on the cash transfer program the Kenyan government introduced to support vulnerable households who lost income due to measures to prevent the spread of Covid-19.

Human Rights Watch is an independent international nongovernmental organization that conducts human rights research and advocacy in more than 100 countries, including Kenya, for over 40 years. Since the onset of the Covid-19 pandemic, we have urged governments and financial institutions, including the IMF and AfDB, to provide adequate economic support to protect people's rights and to ensure that emergency funding is made transparent and accountable so that it reaches the people who need it most.

We appreciate the African Development Bank's emergency lending to help African countries, including Kenya, cope with the economic hardship of the pandemic. In May, the AfDB approved a 188 million euros loan to the government of Kenya to support its "efforts to respond to the COVID-19 pandemic and to mitigate its economic and social impacts." This includes enhancing existing social protection for children, the elderly, orphans, and people with disabilities, as well as extending protections to "new categories of people who have become vulnerable due to COVID-19," including through a cash transfer program.



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NAIROBI

The project document notes that the existing cash transfer program benefited 1.3 million people, and that an “additional 4 million will require social assistance due to the impact of COVID-19 crisis.” To that end, it commends the government’s appropriation of an additional KES 10 billion (about USD 94.3 million) to provide a “one-off transfer equivalent of USD 40 to 3 million beneficiaries,” as well as “expand coverage of social protection to new vulnerable populations such as urban poor and informal sector workers, including providing weekly stipend to needy households in Nairobi,” among other measures.

The loan agreement also highlights the government’s commitment to “governance and transparency in the use of COVID-19 resources.” Specifically, authorities agreed to conduct an audit of Covid-19-related expenditures, operationalize a multi-agency framework to prevent and mitigate corruption, and publish procurement contracts.

Human Rights Watch is conducting research on the cash transfer program to assess its operations and whether it is reaching all eligible beneficiaries. Based on our interviews to date, we have significant concerns that the process of selection of beneficiaries has not been above board and the cash disbursements have lacked transparency. Human Rights Watch is committed to producing research that is fair and accurately reflects information from various sources, including Kenya’s partners. As part of our research, we are requesting some information from your office.

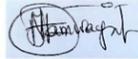
I would appreciate your written response to the questions below by December 14, 2020 so that we may reflect your responses in our report and other materials. We are also available for an in-person meeting if possible, at your earliest convenience.

1. Does the financial assistance the AfDB provided to the Kenyan government extend support for the cash transfer program?
2. Has the AfDB reviewed, or does it intend to review, the cash transfer program? If it has reviewed the program:
  - a. Is the AfDB satisfied with its implementation?
  - b. What is the total cost of the program?
  - c. How many people or households benefitted from the program, how much money did they receive, and on what time frame?
3. To the AfDB’s knowledge, is information regarding the cash transfer program publicly available?
4. Is the AfDB satisfied with the Kenyan government’s transparency on its Covid-19-related expenditures?
5. Is the AfDB aware of any investigations by the Kenyan government of allegations of irregularities or suspicious activity regarding Covid-19 expenditure? If so, what was the outcome of the investigation?

Please add any other information that you believe would be valuable to our understanding of the cash assistance program. You can contact me at [mattheo@hrw.org](mailto:mattheo@hrw.org); or +254 728891575 to seek any clarifications and to respond to the attached questions.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Otsieno Namwaya', is placed over a light blue rectangular background.

Otsieno Namwaya  
East Africa Director  
Human Rights Watch  
Nairobi

# Annex IV: Human Rights Watch Letter to International Monetary Fund

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December 7, 2020

**Tobias Rasmussen**  
Kenya Resident Representative  
International Monetary Fund (IMF)  
Delta Centre Building, 12th Floor  
Menengai Road, Upper Hill  
Nairobi  
Tel: +254-20-293-4068

**Re: Questions on COVID-19 Response Funds to Kenya**

Dear Tobias Rasmussen,

We are writing regarding research we are conducting on the cash transfer program the Kenyan government introduced to support vulnerable households who lost income due to measures to prevent the spread of Covid-19.

Human Rights Watch is an independent nongovernmental organization that has monitored and investigated human rights issues in more than 90 countries, including Kenya, for over 40 years. Since the onset of the Covid-19 pandemic, we have urged governments and financial institutions, including the IMF, to provide adequate economic support to protect people's rights and to ensure that emergency funding is made transparent and accountable so that it reaches the people who need it most.

We appreciate the IMF's emergency lending to help countries around the world, including Kenya, cope with the economic hardship of the pandemic. In May, the IMF approved a \$739 million loan to Kenya under the Rapid Credit Facility (RCF) to support its response to Covid-19, including "cash transfers to orphans, the elderly, and the most vulnerable."<sup>1</sup> The Kenyan government also "strongly committed to ensuring effective and transparent use of public funds," and pledged to strengthen its capacity to "detect illicit enrichment and to address conflict of interest." Authorities also agreed to "conduct independent post-crisis auditing of COVID-19 related expenditures and publish the results."

<sup>1</sup> Page 22 <https://www.imf.org/en/Publications/CR/Issues/2020/05/11/Republic-of-Kenya-Request-for-Disbursement-under-the-Rapid-Credit-Facility-Press-Release-49405>



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Human Rights Watch is conducting research on the cash transfer program to better understand how it is operating and whether it is reaching all eligible beneficiaries. Based on our interviews to date, we have significant concerns that the process of selection of beneficiaries has not been above board and the cash disbursements have lacked transparency.

Human Rights Watch is committed to producing research that is fair and accurately reflects information from various sources, including Kenya's partners. As part of our research, we are writing to your office to request information.

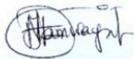
We would appreciate your written response to the questions below by December 14, 2020 so that we may reflect your responses in our report and other materials.

1. Is the IMF satisfied with Kenya's economic support to vulnerable households impacted by the Covid-19 pandemic?
2. Has the IMF reviewed, or does it intend to review, Kenya's cash transfer program? If it has reviewed the program:
  - a. Is the IMF satisfied with its implementation?
  - b. What is the total cost of the program?
  - c. How many people or households benefitted from the program, how much money did they receive, and on what time frame?
3. Is the IMF satisfied with the Kenyan government's transparency of Covid-19-related expenditures, in line with its commitment under the RCF?
4. Is the IMF aware of any steps the Kenyan government has taken to strengthen its capacity to detect illicit enrichment and address conflict of interest?
5. Has the Kenyan government scheduled or otherwise begun discussion to conduct an independent audit of COVID-19 related expenditures?

Please add any other information that you believe would be valuable to our understanding of the cash assistance program. You can contact us through Otsieno Namwaya at [mattheo@hrw.org](mailto:mattheo@hrw.org); or +254 728891575 to seek any clarifications and to send a written response to the attached questions.

Thank you for your attention to this matter.

Sincerely,



Otsieno Namwaya  
East Africa Director,  
Human Rights Watch  
Nairobi



## “We Are All Vulnerable Here”

### Kenya’s Pandemic Cash Transfer Program Riddled With Irregularities

The Covid-19 crisis has devastated many lives and livelihoods in Kenya since March 2020 when the authorities detected the first positive case and imposed stringent control measures, including curfews, stay at home directives and other restrictions on movement. Thousands of people lost their only sources of income, with businesses closing and sole breadwinners of households losing jobs. Thousands of families suffered or faced the threat of starvation and eviction due to nonpayment of rent. This report, based on interviews with 136 people, including government officials and residents, documents irregularities that characterized government’s Covid-19 cash transfer program in informal settlements in Nairobi. It finds that enrollment in the cash transfer program lacked transparency, failed to adhere to laid down criteria and in some instances was characterized by favoritism and cronyism. Although the program was designed to pay beneficiaries weekly transfers for 35 weeks, the frequency and duration of the transfers varied widely, with some just receiving the transfer a handful of times. Human Rights Watch calls upon Kenyan government to fulfil its obligations to ensure an adequate standard of living for all Kenyans by promptly and thoroughly investigating allegations of irregularities or misappropriation of funds released to cushion the most vulnerable households from the negative economic impact of the Covid-19 pandemic.

*(above) A man with a physical disability waits for food and other basic goods being distributed by volunteers in the Korogocho settlement of Nairobi, Kenya on March 28, 2020.*

*© 2020 Luis Tato/AFP via Getty Images*

*(front cover) Members of local organizations visited families in Mathare settlement to donate facemasks and foodstuffs to people economically hit by the Covid-19 lockdown.*

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