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COUNTRY REPORT

KENYA

December 1976

Interdisciplinary Communications Program  
Smithsonian Institution

M. C. Shelesnyak, *Director*

John T. Holloway, *Associate Director for Operations*

Shirley Sirota Rosenberg, *Editor*

December 1976  
INTERDISCIPLINARY COMMUNICATIONS PROGRAM  
Smithsonian Institution  
Washington, D.C.

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In June 1972, the Interdisciplinary Communications Program (ICP) of the Smithsonian Institution undertook an integrated effort--the International Program for Population Analysis (IPPA)--to encourage policymakers and social scientists--particularly those from the Third World who are interested in policy solutions to population problems--to become involved in the study of problems and solutions of contemporary conditions related to population dynamics.

Several components make up the IPPA:

- o Support of short-term research projects of the social science aspects of population problems in developing countries that are amenable to change.
- o A communications network--implemented by small workshop/seminars, and a publications program which includes a quarterly newsletter, edited workshop/seminar proceedings, and an Occasional Monograph Series.
- o Technical resource facilities to aid and develop the community of interest in population concerns.

In an effort to introduce policymakers and social scientists to the ongoing population dynamics research in a number of countries, and the way in which that research has been supported by IPPA, ICP has prepared a Country Summary for each of 15 countries--Colombia, Costa Rica, Ghana, India, Indonesia, Jamaica, Kenya, Korea, Mexico, Nigeria, Pakistan, Philippines, Tanzania, Thailand, and Venezuela. One Country Summary is presented in this compilation. All countries and compilations were selected on the basis of the amount of effort--



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## KENYA

### 1. INTRODUCTION

After announcing a national population policy in 1967, Kenya began the first government-sponsored family planning program in Sub-Saharan Africa. Its predecessor, the voluntary Family Planning Association of Kenya established in 1961, now provides information and education support for the government program in addition to operating eight clinics which supplement the Ministry of Health's services (Population Reference Bureau, Inc. 1976b).

The Kenyan family planning program was renovated in 1974 and now has a stated goal of reducing population growth to 3 percent by 1979 and 2.3 percent by 1999. The new program will attempt to solve some of the problems faced by the earlier one: lack of high- and mid-level manpower, need for better coordination of family planning efforts, and the Kenyans' traditional bias toward large families (Population Reference Bureau, Inc. 1976b).

With a crude birth rate of 49 per 1000 population and a crude death rate of 16 per 1000, Kenya has a 3.4 percent rate of natural increase. The country has a population doubling time of 20 years; 46 percent of the population is under 15 years of age (Population Reference Bureau, Inc. 1976a).

ICP/IPPA received four proposals to study Kenya: two were signed into work agreements and two were rejected.

There were no conference/workshops held in Kenya, but an ICP/IPPA social science analyst visited the country in 1974 to monitor work agreement progress.

ICP will publish the results from one of the work agreements in monograph form. It will be titled "Population Studies in Kenyan Schools" by Kathryn Horsley and appear in Cultural Factors and Population in Developing Countries-- Monograph 6.

Results of the other work agreement, "Law and Population Growth in Kenya" by U.U. Uche was published, in part, by the Law and Population Program of Tufts University as part of the Law and Population Monograph Series (Number 22).

### SOURCES

Population Reference Bureau, Inc. Annual. 1976a. 1976 World Population Data Sheet. Population Reference Bureau, Inc.: Washington, D.C.

Population Reference Bureau, Inc. 1976b. World Population Growth and Response-- 1965-1975--A Decade of Global Action. Population Reference Bureau, Inc.: Washington, D.C.

## 2 WORK AGREEMENT ACTIVITIES

### a. Use of ICP/IPPA Data--Implications of Findings

The report by U.U. Uche, "Law and Population Growth in Kenya," places modern and traditional (tribal) law of Kenya in the context of current social and population policy. The principal contributions of the investigation are a compilation and synthesis of Kenyan law and administrative regulations in areas which affect population policy formulation and implementation--for example, marriage, pharmaceutical control, abortion, land tenure--and a summary of issues and opinions based on a survey conducted in rural Kenya to determine attitudes toward population policy.

Despite a national population policy in Kenya to decrease fertility, the law on many related topics is apparently not specifically geared to help reduce the country's 3.5 percent rate of population growth. Professor Uche concludes that such legislation, and its dispersal throughout the legal system, impinges negatively on population policy implementation and is detrimental to Kenya's population/fertility limitation efforts. The author recommends that a Family Planning Act be formulated to "embrace and rationalize law on the subject" and support the intent of the country's current Development Plan.

The shortcomings of this study highlight the need for future research on Kenya's traditional codes and cultural positions on fertility regulation and broader aspects of population planning. Coupled with the work by Uche, this would set the stage for Kenya's administrators and legislators to consider the types of new, comprehensive population and family planning policy legislation Uche shows to be necessary.

"Population Studies in Kenyan Schools" by Kathryn Horsley examines student and teacher awareness of population trends and attitudes toward population and development policies. Questionnaires were distributed to a random national sample of students in final high school year classes in 33 government supported schools and to all available teachers in the same schools. Many students were both aware of and articulate about major development problems facing Kenya: unemployment, land shortage and distribution, water supply, and inappropriate education. The investigator suggests that plans to intensify population education programs be dropped, and instead, existing curricula should be strengthened in the areas of community and national development planning.

The author concludes that a need exists for an integrated problem-solving approach for education in development planning. Looking at the inconsistencies showed by students in understanding population and related policies, they suggest that efforts be made to strengthen existing curriculum attention toward community and national development planning. She observes that educated young people may be torn between traditional and modern values, particularly those values surrounding the family and sex roles, and suggests that, instead of a population education program, Kenyan schools should offer educational activities and discussions centered around planning for the ultimate aims of community and national development--such as employment, income, and equality. Population issues would, thus, be placed in their proper perspective and underlying demographic and

economic relationships connected to national development by the students who will need such knowledge as Kenya decentralizes its planning process.

The author suggests that the best approach for equipping students with the knowledge and skills needed to evaluate the validity of Kenya's population policy is to offer in-class opportunities which encourage students to "plan development" for their own communities and perhaps for the country as a whole. Recommendations are made for teacher training, support for ongoing family life education, lists of specific population learning objectives, and topic suggestions for a "national policymaking unit" to be inserted into the General Paper course in the Kenyan schools.

#### Interest/Involvement of Policy Makers in Specific Work Agreements

U.U. Uche, author of "Law and Population Growth in Kenya," was requested to brief the Executive Committee of the Kenya Family Planning Association preparatory to the Association's writing a position paper on abortion law in Kenya for submission to Kenya's Attorney General. Uche was also requested by the Planning Division of the Ministry of Finance and Planning to prepare the law section of the Kenyan papers presented to the Bucharest Population Conference.

#### c. Work Agreement Summaries

(see attached)

#### d. Policy Relevance Statements

(see attached)

WORK AGREEMENT SUMMARY

WORK AGREEMENT NUMBER: WA-44  
 PROPOSAL NUMBER: P-215

PRINCIPAL INVESTIGATOR(S): Dr. Albert Maleche

ADDRESS: Bureau of Educational Research  
 University of Nairobi  
 P. O. Box 30197  
 Nairobi, Kenya

TELEPHONE: \_\_\_\_\_

PERIOD OF PERFORMANCE: 15 Jul 1975 - 31 May 1976 TOTAL COST: \$11,851

TITLE: Measuring Student Awareness and Teacher Readiness for Population Dynamics Education

DESCRIPTION: Survey of approximately 1500 secondary level students and 200-250 teachers, weighted by such variables as urban/rural residence, arts or science groups, public or private school, and sex of respondents, for purpose of evaluating awareness of and attitudes toward population issues. Findings to be included in the preparation of a report which provides basis for the design of population education curricula for Kenyan schools.

REPORT SCHEDULE		PAYMENT SCHEDULE		
DATE DUE	DATE RECEIVED	AMOUNT	DATE DUE	DATE REQUESTED
		\$3,000	On signing of contract	
14 Dec 75	9 Jan 76	\$3,000	On approval of Dec 75 report	15 Jan 76
14 Apr 76	24 Mar 76	\$3,000	On approval of Apr 76 report	29 Mar 76
31 May 76		\$3,000	On approval of May 76 report	

FINAL PAYMENT MADE: \_\_\_\_\_

DATE: 27 Mar 74

WORK AGREEMENT SUMMARY

Revised: 25 Apr 74

WORK AGREEMENT NUMBER: WA-2  
PROPOSAL NUMBER: P-17

**PRINCIPAL**

INVESTIGATOR(S): Professor U. U. Uche Mr. E. M. Ndiritu

ADDRESS: Faculty of Law Faculty of Law  
University of Nairobi University of Nairobi  
P. O. Box 30197 P. O. Box 30197  
Nairobi, Kenya Nairobi, Kenya

TELEPHONE: 34244/ 163772 (R)

PERIOD OF PERFORMANCE: 25 Jun 73 - 24 Jun 74 TOTAL COST: \$20,700

TITLE: Legal Aspects of Population in Kenya

DESCRIPTION: Compilation of pertinent laws, administrative regulations, orders and judicial decisions bearing on population and family planning in Kenya; and description of procedures for amendment or repeal of such laws and regulations. Collection and analysis of related sociological data on family planning practices and population matters, in order to place the legislation in the appropriate psychological, religious, cultural and ideological context. Presentation of results of the study in a monograph on law and population in Kenya.

REPORT SCHEDULE

PAYMENT SCHEDULE

<u>DATE DUE</u>	<u>DATE RECEIVED</u>	<u>AMOUNT</u>	<u>DATE DUE</u>	<u>DATE REQUEST</u>
		<u>\$5,000</u>	<u>OSC</u>	
<u>24 Sep 73</u>	<u>25 Sep 73</u>	<u>2,000</u>	<u>OARO Sep 73</u>	<u>27 Sep 73</u>
<u>24 Dec 73</u>	<u>26 Dec 73</u>	<u>2,000</u>	<u>OARO Dec 73</u>	<u>11 Jan 74</u>
<u>24 Mar 74</u>	<u>23 Mar 74</u>	<u>6,000</u>	<u>OARO Mar 74</u>	<u>22 Apr 74</u>
<u>24 Jun 74</u>	<u>13 Sep 74</u>	<u>5,700</u>	<u>OARO Jun 74</u>	

FINAL PAYMENT MADE: Nov 74

## LAW AND POPULATION GROWTH IN KENYA

U. U. Uche

### ABSTRACT

This report places modern and traditional (tribal) law of Kenya in the context of current social and population policy. The principal contributions are a compilation and synthesis of Kenya law and administrative regulations in areas which affect population policy formulation and implementation--for example, marriage, pharmaceutical control, abortion, land tenure--and a summary of issues and opinions based on a survey conducted in rural Kenya to determine attitudes toward population policy.

### SUMMARY

The first volume of the report presents a verbatim compilation of all extant laws found by Uche that touch on matters related to the population and family planning policy of the Kenyan Government. Some of the major areas of law included are sale and manufacture of pharmaceuticals, such as contraceptives, sterilization, abortion; age at marriage, dissolution of marriage, obligations of physicians to mother and fetus; divorce, inheritance, land tenure, maternity leave for salaried workers, and polygamy and polyandry.

Volume 2 contains a report on a survey conducted by Uche in rural areas of Kenya on attitudes toward population policy. The volume also contains some commentary of statements of key Kenyan leaders on population matters and a synopsis of other investigators' earlier findings on the subject.

The third volume, already published in the Law and Population Series of Tufts University\* in Medford, Massachusetts, presents general background on the future, history, government, and people of Kenya. This is followed by a review of family planning services provided by private agencies and government, a summary of key laws compiled in Volume 2, and a brief statement of Uche's conclusions.

### FINDINGS

Laws related to population have developed over time in Kenya and have not been codified for population policy purposes. For example, while contraception is not prohibited, current law severely restricts its manufacture, import, and distribution, and sale and advertisement because contraceptives come under Kenya's regulations on all prescription pharmaceuticals. While abortion and sterilization are not prohibited, they are limited by general law and penal code provisions. If

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Note: Correspondence to Dr. Uche should be addressed to the Faculty of Law, University of Nairobi, Nairobi, Kenya.

sterilization is performed on a woman who does not meet the legal test of having four children, the attending physician risks legal sanction.

Family and marriage law in Kenya are generally pronatalist. Under the numerous and varying tribal, religious, and state laws, the minimum age of marriage for women is 16 years, and traditional codes allow and encourage polygamy. Except for the small percentage of workers employed by government or large businesses, children are considered an important economic good and parents' principal old-age security. Thus, all traditional systems in Kenya recognize polygamy for these reasons: 1) the more wives, the more children, 2) the more hands in the family, the more food produced, 3) the more children, the higher a man's status, and 4) the belief that there are more women than men in Kenya. Uche notes, however, that a recent enactment of the African and Christian Marriage and Divorce Act favorably affects the status of women by no longer requiring a widow to cohabit with a deceased husband's relative and allowing her to support herself and her children independently if she so wishes. In addition, a Commission on Marriage and Divorce was reported to be considering changes in minimum age at marriage and other liberalizing measures.

The only significant findings of Uche's survey was that only 30.3 percent of respondents would limit family size if current income tax laws allowing deductions for up to four children were abolished. About 32 percent said they would have still more children if relief were further extended.

### CONCLUSION

Despite a national population policy in Kenya to decrease fertility, the law on many related topics, is apparently not specifically intended to affect the country's 3.5 percent rate of population growth. Professor Uche concludes that the dispersal of legislation concerning policy areas which impinge on population policy implementation is detrimental to Kenya's population/fertility limitation efforts.

### POLICY RELEVANCE

The author recommends that a Family Planning Act be formulated to "embrace and rationalize law on the subject" and support the intent of the country's current Development Plan.

### FURTHER RESEARCH NEEDS

The shortcomings of this study highlight the need for future research on Kenya's traditional codes' and cultures' positions on fertility regulation and broader aspects of population planning. Coupled with the work completed by Uche, this would set the stage for Kenya's administrators and legislators to consider the new, comprehensive population and family planning policy legislation Uche shows to be necessary.

### COMMENTS

The principal contribution of this study was the compilation of Kenya's laws in all legislative fields related to population and family planning policy. Professor Uche, a lawyer, was less successful in gathering or interpreting traditional/tribal laws and codes. Thus, the cultural context of current and future regulations dealing with family planning and population policy formulation and implementation remain uncharted.

# POPULATION STUDIES IN KENYAN SECONDARY SCHOOLS

Kathryn Horsley

## ABSTRACT

The study is an examination of student and teacher awareness of population trends and their attitudes toward population and development policies. Questionnaires were distributed to a random national sample of students in final high school year classes in thirty-three government-supported schools and to all available teachers in the same schools. Many students were articulate about major development problems facing Kenya: Unemployment, land shortage and distribution, water supply, and inappropriate education. General knowledge of population careers was, however, low among students and teachers.

## SUMMARY

The investigator sought primarily to discover what the well-educated youth of Kenya know about population trends and what their attitudes are toward related development issues. The author believes that only by evaluating such student and teacher characteristics can educators determine whether population education is desirable, and if so, the objectives and form it should take.

The data were collected through a questionnaire survey of 1,338 Kenyan high school students, with a random sample of clusters (classes) selected and stratified by province, the student's sex, and the major subject orientation of the class. Questionnaires were distributed to all available teachers in school on the day of the research team's visit: there was no actual sampling frame for the 391 teachers who responded. Conditions were constant in administering questionnaires; they were always self-administered. Open-ended and closed response questions were used. The author believes that the school setting probably influenced the ideas and language of the respondents; some students tended to respond with a uniform set of "correct answers." The author paid limited attention to social stratification variables, but was more concerned with describing the ideas held by the students--ideas over which educators believe they have some control.

## FINDINGS

The author reports that a strong emphasis on clinic delivery systems of contraceptive services has dominated thinking about population education. As a result, educators assumed they had no legitimate role in population education, since education focusing on providing clinical services seemed inappropriate for young students. Teachers believed that as long as official Kenyan policy remained entirely oriented toward reducing population growth through family planning, no official support would be forthcoming for an educational program which appeared to encompass a much broader orientation. Moreover, as long as population education was perceived to be a euphemism for birth control or family planning, it would be unlikely to gain either parental or governmental support.

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Note: Correspondence should be directed to Dr. Horsley, Bureau of Educational Research, University of Nairobi, P.O. Box 30197, Nairobi, Kenya.

Detailed analyses of these studies appear under the individual investigator's name in ICP's monograph series, Monograph 6.

The student data show that only 40 to 50 percent of the students know the correct definitions of such terms as doubling time, age structure, and land fertility. The students are seen as not "well-informed" regarding population characteristics and resource potential. The respondents, 83 percent, say there is a need for Kenya to control its population growth, with the two most common reasons being that Kenya does not have enough adequate land or resources and that unemployment is high. Yet 26 percent of those for population regulation agree with the statement, "Population growth is good for economic growth."

Central obstacles to development--unemployment, inappropriate education, land distribution--in their home communities are connected to a population-related factor in the community by only 18 percent of the students. Population-related factors are related to urban problems by 48 percent of the students, to unemployment by 23 percent and to women's health by 21 percent.

The teacher data shows that 83 percent of all social studies teachers would introduce population issues into their lessons if curriculum materials were available. Almost half say they are discussing population problems with their students. Their general knowledge of population trends, however, is low, particularly when compared to how closely this knowledge corresponds to that of the students.

### CONCLUSION

The author concludes that a need exists for an integrated problem-solving approach to provide education in development planning. Because of the inconsistency students showed in understanding population concerns and related policies, the author suggests that efforts be made to strengthen the curriculum in areas relating to community and national development planning. Observing that educated young people may be torn between traditional and modern values, particularly those surrounding family and sex roles, the author suggests that, instead of a population education program, Kenyan schools offer educational activities and discussions centered around planning for the ultimate aims of community and national development--taking in such issues as employment, income, and equality. Population factors would, thus, be placed in their proper perspective as underlying demographic and economic relationships are connected to national development by students who will need such knowledge as they become adults as Kenya decentralizes its planning process.

### POLICY RELEVANCE

Investigations suggest that efforts not be made to intensify population education programs at this time, but to strengthen existing curricula in the areas of community and national development planning. The author suggests that the best approach for equipping students with the knowledge and skills needed to evaluate the validity of Kenya's population policy is to offer in-class opportunities which encourage students to "plan development" for their own communities and perhaps for the country as a whole. Recommendations are made for teacher training, support for ongoing family life education, lists of specific population learning objectives, and topic suggestions for a "national policy making unit" to be inserted into the General Paper course in the Kenyan schools.

### FURTHER RESEARCH NEEDS

None.

### COMMENTS

None.

### 3. PROPOSAL ACTIVITIES

#### a. Statement on Proposals Received

ICP/IPPA received four proposals to study Kenya; two were contracted as work agreements and two were rejected. One of the work agreements was carried out by a collaborative U.S./Kenyan team and the other was performed by a collaborative Nigerian/Kenyan team. The two rejections went to Kenyans.

The total amount of dollars requested was \$455,501. The average proposed expenditure for all four Kenyan proposals was \$113,875.25. The average work agreement proposed expenditure totaled \$16,275.50 and for the rejections the average was \$211,475. (It should be noted that one of the rejected proposals had requested \$400,000.)

#### b. Principal Areas of Research Interest

In one of the work agreements, investigators explored the legal aspects of population studies in Kenya. The other investigation was of student awareness and teacher readiness for population dynamics education.

In one of the rejected proposals, the researcher sought to perform an integrated, eight-project study of factors pertinent to rural development in the district of Kitui. The other rejected proposal concerned a study on the role of urban centers in Kenyan nation-building with special reference to development and population issues.

#### c. Proposal Summaries

(see attached)

PROPOSAL SUMMARY

COUNTRY OF ORIGIN: Nigeria/Kenya PROPOSAL NUMBER: P-17 (Revised)  
DISPOSITION: WA-2 - 25 June 1973

PROPOSER(S): Professor U. U. Uche  
University of Nairobi  
P. O. Box 30197, Nairobi, Kenya, Africa

COLLABORATOR(S): Professor E. M. Ndiritu

TITLE: Legal Aspects of Population Studies in Kenya

DATE SUBMITTED: 13 Dec 72 \* DATE RCD.: 20 Dec 72 DURATION: 12 months

TOTAL AMOUNT: \$20,500 START DATE: 1 Jan 73

IPPA FUNDS REQ.: \$20,500 ALSO SENT TO: Not stated

OTHER FUNDING: Not stated

OTHER KNOWN WORK INVOLVEMENT.

DESCRIPTION: The candidates propose to compile pertinent laws, administrative regulations, orders and judicial decisions bearing on population and family planning in Kenya. They will describe the procedures for amendment or repeal of any such legislation. With regard to selected laws they will collate and analyze related data on family planning practices and population matters, in order to set the legislation in its proper psychological, religious, cultural and ideological context. The result of this data collection and analysis will be the preparation of a monograph on law and population for Kenya.

\* Revision submitted 17 January 1973.

This summary updates summary prepared 22 December 1972 by Roy H. Haas.

PREPARED BY: Nancy B. Leeds  
DATE: 27 Mar 73

PROPOSAL SUMMARY

COUNTRY OF ORIGIN: Kenya

PROPOSAL NUMBER: P-215  
DISPOSITION: EA-44 / 17 June 1975

PROPOSER(S): Dr. Albert Maleche  
Bureau of Educational Research  
University of Nairobi  
P.O. Box 20197, Nairobi, Kenya

COLLABORATOR(S): Kathryn Horsley

TITLE: a Proposal for Measuring Student Awareness and Teacher Readiness for Population Dynamics Education

DATE SUBMITTED: 11 Dec 74 DATE RCD.: 16 Dec 74 DURATION: 11 Months

TOTAL AMOUNT: \$11,851 START DATE: 1 Mar 75

IPPA FUNDS REQ.: \$11,851 ALSO SENT TO: Not stated

OTHER FUNDING: Not stated

OTHER KNOWN WORK INVOLVEMENT:

DESCRIPTION: Survey in Kenya of about 1500 secondary school students and 200-250 teachers to evaluate awareness and attitudes toward population issues. Results to be used as basis for designing population education curriculum.

PROPOSAL SUMMARY

COUNTRY OF  
ORIGIN: Kenya

PROPOSAL NUMBER: P-208  
DISPOSITION: Rejected 2 Dec 74

PROPOSER(S): Dr. G-C.M. Mutiso  
Department of Government  
University of Nairobi, P.O. Box 30197  
Nairobi, Kenya

COLLABORATOR(S): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TITLE: Kitui, an Integrated Study for Development Planning: Overall Theoretic Framework

DATE SUBMITTED: 1 Nov 74 DATE RCD.: 11 Nov 74 DURATION: Not stated

TOTAL AMOUNT: \$400,000 START DATE: Not stated

IPPA FUNDS REQ.: \$400,000 ALSO SENT TO: Not stated

OTHER FUNDING: Not stated

OTHER KNOWN WORK INVOLVEMENT:

DESCRIPTION: The applicant proposes an integrated, eight-project study of such factor pertinent to rural development in the district of Kitui, Kenya as agronomic and live-stock innovations in arid zones, water resources, and migration. Changes at the individual, community and national levels will be considered. Data on farming technology employed by individual households and communities will be provided by questionnaires; policy documents, analysis of field officers' time-use patterns, and unstructured interviews of local and national-level officials will yield information on regional plan

COMMENTS:

PROPOSAL SUMMARY

COUNTRY OF ORIGIN: Kenya PROPOSAL NUMBER: P-205  
DISPOSITION: Rejected 20 Nov 74

PROPOSER(S): Dr. Carl A. Dutto AND Dr. Tarsis Kabwegyere  
University of Nairobi, P.O. Box 14861, Nairobi, Kenya

COLLABORATOR(S): \_\_\_\_\_

TITLE: Urban Centers in Kenya: A Study of Social Participation with Special Reference to Development and Population Issues

DATE SUBMITTED: 25 Oct 74 DATE RCD.: 31 Oct 74 DURATION: 12 Months

TOTAL AMOUNT: \$22,950 START DATE: March 1975

IPFA FUNDS REQ.: \$22,950 ALSO SENT TO: Not stated

OTHER FUNDING: Not stated

OTHER KNOWN WORK INVOLVEMENT: \_\_\_\_\_

DESCRIPTION: The applicants propose to conduct research on the role of urban centers in Kenyan nation-building. They will first collect data on the characteristics of social participants, in order to assess the role of informal and formal participation in urban assimilation and national development. Secondly, they will investigate the population dynamics of urban dwellers and their responsiveness to population programs. Four towns in Kenya will be studied, with quantitative data provided by censuses, government records, and sample surveys. Qualitative data will be elicited from interviews, discussion groups, content analysis of cultural events, and participant observation.

## OTHER ACTIVITIES

## a. Trip Report

Nairobi, October 9, 10 and 11, 1974

Visited USAID offices and spoke with Lois Richards, Program Officer for Population (by telephone as she was working at her home) who was acting for Dr. Albert Lackey in the latter's absence and with Mr. Dale Pfeiffer, Assistant Program Officer. Ms. Richards was favorable to my planned activities in Nairobi and recommended a visit to Dr. Kanani, Director of the Kenya Family Planning Council, Ministry of Health. Did so later in the week. From USAID/Nairobi, cabled Mr. Lyons in Lagos that I would not return to Nigeria for a planned re-visit to Dr. Bakare in view of the latter's apparently excellent understanding of the project. Also called on Ms. Susan Fisher, Program Officer dealing with population at the Ford Foundation; she was also out of the country.

During the three-day period, spoke with a number of research fellows and associates at the Institute for Development Studies at the University: the Acting Director, Dr. J. Mugo-Gachuhi; Mr. Migot-Adholla, a rural sociologist and Mr. H.W.O. Okoth-Ogendo, a lawyer, who are collaborating on the first stages of a study of the relationship between population pressure and land tenure regulations in Kenya on which they may submit a proposal; Messrs. Kabiru Kinyanjui and O.N. Gakuru, in education, who are planning a study of the consequences of rapid population growth resulting from immigration and natural increase in the growing industrial center of Thika, for which they may seek support; Ms. Achola Pala, a Ph.D. student in anthropology at Harvard presently conducting field research in Kenya, who will submit a proposal for support of an additional component to her research on rural women regarding their fertility.

Met briefly with Professor Simeon Ominde, Department of Geography, who briefed me on two major projects he is now completing with ILO (International Labour Organization) and Ford/Rockefeller support. I mentioned to him that as the Center for Population Studies at the University of Nairobi becomes more active, ICP will be interested in receiving requests for support of individual research projects.

Had a long discussion with Dr. Philip Mbithi, Chairman of the Department of Sociology. He expressed considerable interest in the ICP program and asked me to meet with a number of the younger lecturers in his department who are seeking support for themselves or for Ph.D. students. Lacking time I did not see but will write Mr. T. Kabwegwere, Dr. Monsted, or Dr. Kayongo-Male.

Met and had lunch with Professor U.U. Uche, who brought me up-to-date on his planned conference on law and population in Africa to be held at Nairobi in November 1974, and who suggested a number of persons seeking research support for me to contact, including Professor Mdem, University of Zambia and Mr. Fimbo, University of Dar es Salaam.

Also met with Dr. Albert Maleche, Director, Bureau of Educational Research at the University. He plans to forward a proposal to ICP for the development of population education programs for Kenyan primary schools.

In general, there was an extraordinary amount of interest in the ICP/IPPA program in Nairobi, and we would expect a number of proposals from there in the next year.

ICP/IPPA Publications on Kenya

(see attached)



**Kenya**

**Kenya Steps Up Population Policy To Reduce RNI**

A concerted effort to implement the Republic of Kenya's population policy has been written into the nation's recently published third *Development Plan, 1974-1978*. Tied into a master design for development of rural areas, the 5-year family planning program is the first blueprint for action since Kenya announced its population policy in 1967. The nation's official population stance, the first in sub-Saharan Africa, has generally been considered a paper policy. Demographic goals were not quantified, and implementation of the policy was confined to the existing public health system and the Family Planning Association of Kenya, supplemented by voluntary expatriate and local agencies.

Although the first flurries of activity scored some notable successes, Kenya today is faced with the serious population pressure of 13 million people whose RNI (rate of natural increase) rose from 3.0 to 3.5 percent between 1962 and 1974. Solution of the nation's two most urgent problems—shortage of productive land and shortage of jobs—apparently depend in great measure on reducing the RNI to 2.86 percent by 1999. The new population strategy calls for an eight-fold increase in maternal, child health, and family planning activities; a stepped-up information campaign; and intensive training of indigenous paramedical and field workers. Emphasis is not on limiting absolute numbers but on providing sufficient services so that, for the first time, every couple in Kenya has the means to space children voluntarily.

The failure to take vigorous measures 15 years ago to contain the strain of an increasing population is cited by the third *Development Plan* as one reason Kenyans are denied "access to the material fruits of economic growth." Kenya enters the second decade of *uhuru* (Independence) with the realization that neither increasing

modernization, a growth in real income virtually unmatched in the Third World, nor one of the better health systems in Africa are enough to achieve the "maximum possible reduction in the growth rate" called for in her first two development plans. In the absence of an effective population policy, warned the International Labour Office mission to Kenya a few years ago, built-in population momentum could bring Kenya's RNI to 4.0, (close to 40 million people) at the close of this century.

Kenya is predominantly a nation of cultivators and herdsmen. Straddling the equator at the Indian Ocean, more than half of the country is the savannah grassland and "half-a-desert" land of nomadic peoples stretching north to Ethiopia. Another fifth is in the rolling plains of the south, the traditional home of the cattle-grazers. Agricultural wealth is concentrated in the well-watered lowlands bordering Lake Victoria in the west, and the green highland valleys of central Kenya, once the preserves of white settlers.

Wide disparities in income hark back to Kenya's tri-racial past. Only 1.4 percent of Africans, compared with 20.0 percent of Asians and 54.0 percent of Europeans, earn over 100 pounds monthly. It is estimated that 17 percent of Kenya's people are landless, one-fourth of job-seekers are unemployed, half the wage earners make less than 10 Kenya pounds a month, and people of low income are not much better off than people with no income at all.

Urban unemployment is the result of the flight from a population density that climbs to 126 per acre on arable land, the vagaries of nature in areas of uncertain rainfall, and the lure of wage-earning jobs. But the new technology based in the cities demands a higher level of skills than is brought by the average migrant, even if he is among the newly educated. And modern management has raised productivity to the point where industry needs more capital than labor. Kenya's gross domestic product increased by 6.7 percent between 1968 and 1972; employment rose by only 4.0 percent.

It is believed that Kenya is a land where everything—crops, livestock, and wildlife—can be raised. To cut back on rural-urban migration, the *Development Plan* calls for bringing marginal and grazing land into production, restoring to families the land that is theirs by tradition, and settling farmers on

former large landholdings. Labor-intensive schemes are contemplated for raising crops and building roads, and irrigation, forestation, bush clearance, flood control, and banding wildlife. Since Kenya's fast-growing economy is growing twice as fast as its population, a low-keyed optimism prevails. Kenya's accelerated family planning program can help rural development keep pace with population. Backing the program is significant international funding: \$24.8 million from UNFPA (United Nations Fund for Population Activities), U.S., Federal Republic of Germany, Denmark, Sweden, and Norway to be added to \$8.4 million from Kenya. All-out coordinated family planning efforts, based in a National Family Welfare Centre to be established in the capital city of Nairobi, should replace the sporadic family planning efforts of the past. The new program, managed mostly by Kenyans, should erase criticism of programs overstuffed with expatriates and inappropriate in the wake of Kenyanization and insensitive to norms and customs of about 45 ethnic groups.

Some of the odds are formidable. Kenyan women in both city and country must strive to achieve a desired family size of six or seven children. With the breakdown of polygamy, the Kenyan woman is now increasingly exposed to the risk of pregnancy. A heritage embracing concept of lineage continuity encourages fertility. However, since most women are engaged in some form of economic activity, wives and husbands may see family spacing as a way to free women to supplement livelihoods. The concept of spacing births also has roots in a tradition where a man in a polygamous marriage was enjoined to abstain from sexual relations until her first 3-year child was weaned. To this is added the overall thrust of the *Development Plan*: "The most effective way to bring [population] growth under control through economic growth and development in rural areas which [in turn] will check the economic and cultural incentives which result in large families." —S.S.

**EDITOR'S NOTE:** PANORAMA explores efforts in Third World countries as they establish viable population policies or programs to address population concerns.

## Bring Laws in Step With Population Stand, Kenyan Expert Urges

Laws, regulations, orders, and judicial decisions pertaining to population and family planning in Kenya—the first developing country in sub-Saharan Africa to adopt a population policy—have been compiled by U. U. Uche, Professor of Law at the University of Nairobi, and the second investigator to receive and complete a work agreement\* for ICP.

Professor Uche states that despite national population policy, Kenyan law shows a remarkable absence of legislation specifically intended to affect the high population growth rate of 3.5 percent. Dealing primarily with

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\*LEGAL ASPECTS OF POPULATION STUDIES IN KENYA. Uche, U. U. (lawyer, Kenya). 12 months.

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both traditional and modern laws that affect fertility directly and indirectly, he identifies population-related legal provisions "that are littered over the whole gamut of the laws of Kenya."

Although no law in Kenya, for example, prohibits any form of *contraception*, Uche recommends that laws be made specific and clear as to how contraceptives may be manufactured, distributed, imported, transported, sold, and advertised. (In fact, contraceptive devices have been consistently offered in Kenya's public clinics since 1952, first under colonial rule, and then by the Ministry of Health.)

*Sterilization* is permitted in Kenya, a procedure being requested almost exclusively by women, and generally performed only if the woman has at least four children. The courts have accorded limited recognition to *abortion*, if performed when the mother's mental or physical health is seriously endangered; the other provisions of the law, all of them penal, "sit rather uneasily on the professed policies of the government to reduce the growth rate, and the professional abortionist flourishes in outrageous disregard of dangers to life and health."

In the area of *family law*, a Commission on Marriage and Divorce appointed by the Pres-

ident has been drafting legislation to replace at least eight different tribal, religious and state laws, where the minimum age at marriage for a female is frequently no more than 16. The primary purpose of the Commission is to achieve uniformity and upgrade the status of women.

Fear of public outcry has shortcut attempts to abolish the practice of *polygamy*, permitted under Islamic law and customary laws of all tribes. However, the African and Christian Marriage and Divorce Act has recently removed the practice of wife inheritance, and a widow is no longer bound to cohabit with any relative, now being free to support her herself and her children as if she were an unmarried woman. All traditional systems in Kenya recognize polygamy for four major reasons: 1) the more wives, the more children; 2) the more hands in the family, the more food produced; 3) the more children, the higher a man's status; 4) the belief, probably erroneous, that there are more women than men in Kenya.

*Tax laws* provide child relief for up to four children. However, a survey by Uche shows that only 30.3 percent of respondents would limit family size if tax relief were abolished and 32 percent would definitely have more children if the level were higher. Since 16.6 percent of the samples would not commit themselves, says Uche, "it is possible that higher incentives in the form of child relief would produce a pronatalist effect."

Intestate law now requires that all surviving children and wives equally divide a man's estate. "The smaller the size of the deceased's family, the bigger the portions the individual members will receive from the estate."

One of the reasons for having a large family in a traditional system—to gain needed labor—is bolstered by legal sanction for children to bind themselves to masters under contracts of apprenticeship, as well as the practice of using a great deal of child labor in agriculture, particularly on coffee, tea, and pineapple farms.

The custom of having children as insurance against lack of income in old age, still prevails in Kenya, where social security is available only to people who have served in government or quasi-governmental agencies. Says Uche, "It is hoped that, in time, a welfare state, of which Kenya is one, would include this dimension in its social service programs."

FDQ--Vol. 3, No. 1  
Winter 1975

## **Work Agreements Now in Effect**

All work agreements made by ICP for the International Program for Population Analysis are announced in *PDQ* as they go into effect.

**LEGAL ASPECTS OF POPULATION STUDIES IN KENYA.** Uche. U.U. (*lawyer, Nigeria*) and E.M. Ndiritu (*lawyer, Kenya*).

*12 months*

Collection and analysis of legislation, administrative regulations and orders, and judicial decisions relating to population and family planning in Kenya. Investigators to place this legal picture within the psychological, religious, cultural, and ideological milieu of Kenya.

FDQ--Vol. 1, No. 3  
Spring 1973

**MEASURING STUDENT AWARENESS AND TEACHER READINESS FOR POPULATION DYNAMICS EDUCATION.** Maiche. Albert (*social psychologist, Kenya*) and Kathryn Horsley (*population education specialist, United States*). *12 months*.

Study seeks to determine population-related attitudes of Kenyan youth and receptivity of school administrators and teachers to a population education program. Previous surveys have concentrated on family planning rather than population dynamics. In contrast, proposed research will cover such facets of population dynamics as attitudes toward women's roles, and knowledge of demographic trends and mechanisms. Approximately 1500 secondary school students and 200-250 teachers will be interviewed. Findings are expected to prove useful for design of population education curricula for secondary schools.

FDQ--Vol. 4, Nos. 1,2  
Spring 1976

### 37. KENYA

TYPES OF LAWS	CONTRACEPTIVES		
	Condoms	Pills	IUDs
<b>Imports</b>	Imports are permitted, but only by licensed dealer.	Imports are permitted, but only by licensed dealer.	Imports are permitted, but only by licensed dealer.
<b>Manufacture</b>	Ministry of Health regulates manufacturing of contraceptives, which must be under supervision of registered pharmacist.		Manufacture is permitted but does not take place.
<b>Sale and Distribution</b>	Condoms are available. In the Meru District there has been an intensive government-sponsored sales and distribution project through commercial channels. Free samples are given and prices are subsidized. There is also distribution through government and family planning association clinics.	Pills are sold in pharmacies on prescription only. There are only 45 pharmacies in the country and few physicians in rural areas. Pills are free in government clinics.	Free IUD insertions offered by both government and family planning association clinics.
<b>Advertising and Publicity</b>	Publicity for family planning is permitted. Advertisement is authorized if for the advancement of medical science. The Family Planning Association has responsibility for education and motivation. Condoms are advertised. The government-sponsored sales program was promoted by radio, film, leaflets, door sales, and mailings.	Pills have not been advertised although advertisement is not illegal.	
<b>Use of Mails</b>	A government-sponsored program has promoted condom sales through the mails.		

From : Comparative Study of World Law on Contraceptives: Revised and Updated. 1974. Occasional Monograph Series, No. 1, Interdisciplinary Communications Program, Smithsonian Institution: Washington, D.C.

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## 6. PERSONS INTERESTED IN ICP/IPPA ACTIVITIES

(see attached)

SMITHSONIAN INSTITUTION

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MR. BRAMWELL WANGUSI  
THE NATIONAL CHRISTIAN COUNCIL OF  
KENYA PROJECT FOR FAMILY LIFE  
EDUCATION  
POST OFFICE BOX 45009  
NAIROBI  
KENYA

40

DR. G. C. IRVINE  
MEDICAL DIRECTOR  
PRESBYTERIAN CHURCH OF EAST AFRICA  
CHOGORIA HOSPITAL  
P. O. BOX 5035  
CHOGORIA VIA MERU  
KENYA

40

MR. KARIUKI I. NGENYE  
P. O. BOX 73526 NAIROBI  
NAIROBI  
KENYA

40

MRS. STELLA OMBWARA  
HOME ECONOMICS  
EGERTON COLLEGE  
P.O. NJORO  
KENYA

40

M. H. W. O. OKATH-OGENDO  
INSTITUTE FOR DEVELOPMENT  
STUDIES  
NATIONAL UNIVERSITY  
NAIROBI  
KENYA

40

MR. PARMEET SINGH  
DIRECTOR OF STATISTICS  
CENTRAL BUREAU OF STATISTICS  
MINISTRY OF FINANCE & PLANNING  
POST OFFICE BOX 30266  
NAIROBI  
KENYA

40

MS. ACHOLA PALA  
INSTITUTE FOR DEVELOPMENT  
STUDIES  
NATIONAL UNIVERSITY  
NAIROBI  
KENYA

40

PROF. S. H. OMINDE  
DEPARTMENT OF GEOGRAPHY  
NATIONAL UNIVERSITY  
NAIROBI  
KENYA

40

MR. PETER MURAUURA  
SCHOOL OF JOURNALISM  
NATIONAL UNIVERSITY  
NAIROBI  
KENYA

40

DR. KABIRU KINYANJUI  
INSTITUTE FOR DEVELOPMENT  
STUDIES  
NATIONAL UNIVERSITY  
NAIROBI  
KENYA

40

DR. CYNES MUTISO  
DEPARTMENT OF GOVERNMENT  
NATIONAL UNIVERSITY  
NAIROBI  
KENYA

40

DR. GICEHA KIGONDU  
EXECUTIVE DIRECTOR  
FAMILY PLANNING ASSOCIATION  
OF KENYA  
P.O. BOX 30581  
NAIROBI  
KENYA

40

MR. WINTON LANE  
REGIONAL SECRETARY  
INTERNATIONAL PLANNED PARENTHOOD  
FEDERATION, AFRICA REGION OFFICE  
P.O. BOX 30234  
NAIROBI  
KENYA

40

DR. JOHN C.B. BIGALA  
EXECUTIVE SECRETARY  
REGIONAL COUNCIL FOR EDUCATION  
P.O. BOX 45869  
NAIROBI  
KENYA

40

INSTITUTE FOR DEVELOPMENT STUDIES  
NATIONAL UNIVERSITY  
NAIROBI  
KENYA

40

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DATE: 11/15/76

DR. SAVAS EROZER  
P B F L/F.A.O.  
P.O. BOX 30470  
NAIROBI  
KENYA

40

MISS P. WALJI  
DEPARTMENT OF SOCIOLOGY  
UNIVERSITY OF NAIROBI  
P. O. BOX 30197  
NAIROBI  
KENYA

40

MISS J. MBULA  
DEPARTMENT OF SOCIOLOGY  
UNIVERSITY OF NAIROBI  
P. O. BOX 30197  
NAIROBI  
KENYA

40

DR. T. B. KABWEGYERE  
DEPARTMENT OF SOCIOLOGY  
UNIVERSITY OF NAIROBI  
P. O. BOX 30197  
NAIROBI  
KENYA

40

DR. J.K. FRIESEN  
INTERNATIONAL DEVELOPMENT  
## RESEARCH CENTRE  
P.O. BOX 30677  
NAIROBI  
KENYA

40

MR. NORMAN MYERS  
CONSULTANT IN CONSERVATION  
## ECOLOGY  
P.O. BOX 48197  
NAIROBI  
KENYA

40

SMITHSONIAN INSTITUTION  
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DATE: 11/15/76

MR. G.M. NDIRITU  
FACULTY OF LAW  
UNIVERSITY OF NAIROBI  
P.O. BOX 30197  
NAIROBI  
KENYA

40

AC

SMITHSONIAN INSTITUTION

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MR. PARMEET SINGH DIRECTOR OF STATISTICS CENTRAL BUREAU OF STATISTICS MINISTRY OF FINANCE & PLANNING P.O. BOX 30266 NAIROBI KENYA	40	DR. CHRISTOPHER WOOD- AFRICAN MEDICAL & RESEARCH FOUNDATION WILSON AIRPORT P.O. BOX 30125 NAIROBI KENYA	40	DR. J. K. MAITHA CHAIRMAN DEPARTMENT OF ECONOMICS UNIVERSITY OF NAIROBI NAIROBI KENYA	40
ACA		ACA		ACA	
DR. DHARAM P. GHAI DIRECTOR INSTITUTION FOR DEVELOPMENT STUDIES UNIVERSITY OF NAIROBI P. O. BOX 30197 NAIROBI KENYA	40	MR. K. NDETI CHAIRMAN DEPARTMENT OF SOCIOLOGY UNIVERSITY OF NAIROBI NAIROBI KENYA	40	DR. J. MUGO GACHUHI INST FOR DEVELOPMENT STUDIES NATIONAL UNIVERSITY P.O. BOX 30197 NAIROBI KENYA	40
ACA		ACA		ACA	
PROFESSOR U. UCHE UNIVERSITY OF NAIROBI P.O. BOX 30197 NAIROBI KENYA	40	DR. S. H. UMINDE THE UNIVERSITY OF NAIROBI P.O. BOX 30197 NAIROBI KENYA	40	DR. K. NDETI THE UNIVERSITY OF NAIROBI P.O. BOX 31097 NAIROBI KENYA	40
ACA		ACA		ACA	

SMITHSONIAN INSTITUTION  
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DATE: 11/15/76

MR. S.S. HEYER  
CHIEF STATISTICIAN  
MINISTRY OF FINANCE AND ECONOMIC  
PLANNING STATISTICS DIVISION  
P.O. BOX 30266  
NAIROBI  
KENYA

40

GOV