

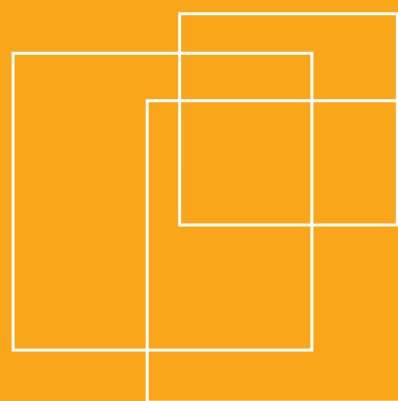


# 2<sup>nd</sup> African Decent Work Symposium 2010

**“Building a Social Protection Floor  
with the Global Jobs Pact”**

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Yaounde - Cameroon***



***Information Note - Panel 2 : The Right to social security and the  
relevance of ILO instruments***

## Context

The Global Jobs Pact, designed to guide national and international policies aimed a productive recovery centred on investments, employment and social protection. In this regard, it proposes measures and policies to particularly protect persons and families affected by the crisis, in particular the most vulnerable, and those in the informal economy by strengthening social protection systems to provide income support and sustainable livelihoods as web as security of pensions.

### The right to social security in UN Instruments

Social Security is recognized by the world community as a human right, and as such it is laid down Universal Declaration of Human Rights (1948), which stipulates in its:

- Article 22: Everyone, as a member of society, has the right to social security; and in
- Article 25: Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family.

Furthermore, through the adoption of the ***International Covenant on Economic, Social and Cultural Rights (1966)***, which provides for in its

- Article 9: The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance,

as well as through its ratification and accession, 160 UN Member States have committed themselves to work towards social security for everyone.

### ILO's mandate in social security

While the basic human right to social security was adopted as such by the UN, the ILO, as the UN agency specifically charged with setting international labour standards, had been given the primary responsibility since its creation in the realization of that right. Already the Preamble to the **ILO Constitution (1919)** provides for: ...to improve conditions of labour, inter alia, through the *«prevention of unemployment, ...the protection of the worker against sickness, disease, and injury arising out of his employment, the protection of children, young persons and women, provision for old-age and injury»*. And the **Declaration of Philadelphia (1944)** lays down: to pursue... *«the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care»*.

Furthermore, the **Conclusions of the General Discussion (adopted by the ILC 2001)** reaffirmed social security as basic human right, confirmed the ILO Mandate in social security, and proposed that the ILO launches a global campaign for the extension of social security for all, which was launched at the ILC 200. The **ILO Declaration on Social Justice for a Fair Globalization (adopted by the ILC 2008)**: *«recognizes that the ILO has the solemn obligation to further among the nations of the world programmes which will achieve the objectives of ... the extension of social security measures to provide a basic income to all in need along with all the other objectives set out in the Declaration of Philadelphia»*. And the **Global Jobs Pact (adopted by the ILC 2009)** requests countries that do not yet have extensive social security to build *“adequate social protection for all, drawing on a basic social protection floor, including: access to health care, income security for the elderly and persons with disabilities, child benefits, and income security combined with public employment guarantee schemes for the unemployed and the working poor”*.

## ILO social security instruments and Convention No. 102 in particular

ILO's ***main tools for pursuing its mandate*** and realizing the basic human right to social security are its social security standards. Since its establishment in 1919 the ILO has adopted over the years a number of Conventions and Recommendations on social security. Significant turning points in social security policy standard setting can be traced to the adoption of the **Income Security Recommendation, 1944 (No. 67)** and the **Medical Care Recommendation, 1944 (No. 69)** which reflect ILO's widened mandate in social security and laid down a new doctrine of universality as the basis for the development of social security. These two Recommendations reflected a fundamental change in approach to social security policies, as focus shifted from the social security protection of workers to the protection of the whole population. They laid the basis for the adoption of social security as a human right in the Universal Declaration of Human Rights in 1948 and, some years later, in the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1967. Over many decades the ILO has actively and consistently sought to translate what the right to social security means in changing and diverse social and economic contexts across the world.

**The ILO's Social Security (Minimum Standards) Convention, 1952 (No. 102)** was a breakthrough as it is the only international Convention, which defines the nine classical branches of social security (medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit) and sets minimum standards for each of these branches, which relate to:

- ***minimum percentage*** of the population protected;
- ***minimum level of benefits***; and
- ***conditions for and periods of entitlement to*** the prescribed benefits.

In addition, the Convention lays down commonly agreed social security principles and includes several flexibility clauses so as to allow as many countries as possible to fulfil its provisions.

**The social security Conventions adopted after Convention No. 102 follow the pattern of Convention No. 102, but set higher standards as regards the protected population, the levels of benefits and the periods of entitlement to the prescribed benefits.**

ILO social security standards, and in particular Convention No. 102, **represent a *symbol for the development of formal social security schemes all over the world*** and many regional human rights and social security instruments, as the SADC Code on Social Security (2009), or the ECOWAS General Convention on Social Security, make reference to Convention No. 102, its minimum standards and its basic principles.

**Most social security schemes worldwide have developed and extended coverage along the lines of Convention No. 102, which has proven to be an** important catalyst for the extension of social security coverage. As the Convention stipulates minimum levels of benefits and basic social security principles, it guarantees, when ratified, effective income replacement following the rights based approach and thus, it will enhance the confidence of insured persons in the social security system and in the national social security administration in general. If not ratified, the Convention provides a unique set of internationally accepted minimum benchmarks for benefit levels against which to assess the design of national social security systems.

In view of the low level of social security coverage and of the relatively low number of ratifications of Convention No. 102, the participants of the Tripartite Meeting of Experts on Strategies for the Extension of Social Security Coverage (Geneva, 2-4 September 2009) supported the possibility of **complementing Convention No. 102 by a new mechanism** which helps to achieve universal access to basic benefits to combat poverty as fast as possible and thus makes concrete the human right to social security.

## Objectives of the session

The session will reflect on the importance of ILO social security standards, and especially Convention No. 102 as a guiding tool for African countries, when reforming their social security systems and extending social security coverage so as to provide ultimately the right to social security to all.

The session will further reflect on the importance for ILO member States of ratifying Convention No. 102 and the benefits of ratification. It will examine how the number of ratifications of the Convention can be increased in the African region.

The session will finally discuss whether Convention No. 102 needs to be complemented by a mechanism which would help particularly African countries to put in place a social protection floor and to move to higher levels of social security protection in line with the development of national economies.

## Key issues

As only a minority of the population is covered by existing statutory social security schemes (approximately 10 per cent of the population), and as these schemes are often very limited in scope (in most African countries only employment injury benefits and pensions are provided), there is a **huge gap between social security coverage in reality and the realization of the human right to social security for everyone**. Convention No. 102 is the most important international legal instrument for assisting ILO member States in developing their social security systems and realizing the right to social security for everyone. It has had and still has significant influence on social security systems, particularly in Europe and Latin America. It is thus of utmost importance that ILO Member States in Africa are guided by the provisions of the Convention when reforming their social security systems and extending social security to wider groups of the population with the ultimate goal to reach universal social security coverage.

**Convention No. 102 has been ratified** to date by 46 ILO member States, however, only **five African countries** have ratified it, namely the Democratic Republic of the Congo (1987), the Libyan Arab Jamahriya (1975), Mauritania (1968), Niger (1966) and Senegal (1962), with no ratification during the last two decades. Convention No. 102, when ratified, establishes legally binding obligations for ratifying States. Thus, when ratified, national social security provision shall not fall beyond the minimum standards established by the Convention and the requirements of the Convention need to be observed in any social security reform process.

**The ILO's response to assist countries in ratifying and implementing Convention No. 102 offers the following means of action:**

- Organization of national or regional tripartite seminars on Convention No. 102,

its importance at international regional and national level, its legal and statistical requirements, as well as its ratification requirements;

- Comprehensive legal assessment on the compatibility of the national social security legislation and practice with Convention No. 102, which identifies possible gaps of the national legislation and practice in the application of the Convention;
- Presentation of the legal assessment to tripartite stakeholders and, if necessary, identification of the provision of possible technical assistance together with stakeholders, so as to fill the gaps and assist the member State in moving towards the ratification of the Convention.

## Possible leading questions for the debate

What is needed to close the social security coverage gap in Africa so as to make the human right to social security a reality for everyone in the African region, and to bring the reality closer to the levels of Convention No. 102? More particularly what kind of assistance do African constituents regard as needed to close the social security coverage gap and what assistance can ILO provide in this regard?

How can Convention No. 102 better guide African constituents in extending social security to all in Africa? What kind of assistance do African constituents regard as needed to better integrate the Convention in their social security policy decisions?

What do African constituents consider as obstacles to ratification of Convention No. 102, and how can it be explained that there has been no ratification in the last decades? How can these obstacles, in the view of African constituents, be overcome and the number of ratifications from African countries increased? What assistance can ILO provide in this regard?

Do African constituents consider that a new ILO mechanism complementing Convention No. 102 would make a significant contribution to close the coverage gap? If so, what form could this new ILO mechanism take (e.g. Convention, Recommendation, Non-binding Multilateral Framework) and how could it be designed to effectively respond to the needs of the African countries so as to guarantee the realization of the right to social security for everyone and eventually lead to the ratification of Convention No. 102 following the economic and social development of African countries.