

Anchoring Social Protection in Law



Social security is a human right laid down in major international instruments

With the adoption of the Universal Declaration of Human Rights in 1948 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966, the obligation of States to respect, protect and fulfil everyone's right to social security is internationally recognized. ILO standards provide the normative substance to implement the human right to social security.



Anchoring social protection systems in law has two main advantages:

1. Legal frameworks help to respect, protect and fulfil the human right to social security.
2. An adequate social protection legal framework creates a solid foundation that will help raise awareness of beneficiaries, provide adequate benefits, increase accountability, contribute to social protection programmes' stability and lead to effective implementation.

What should a social protection legal framework look like?

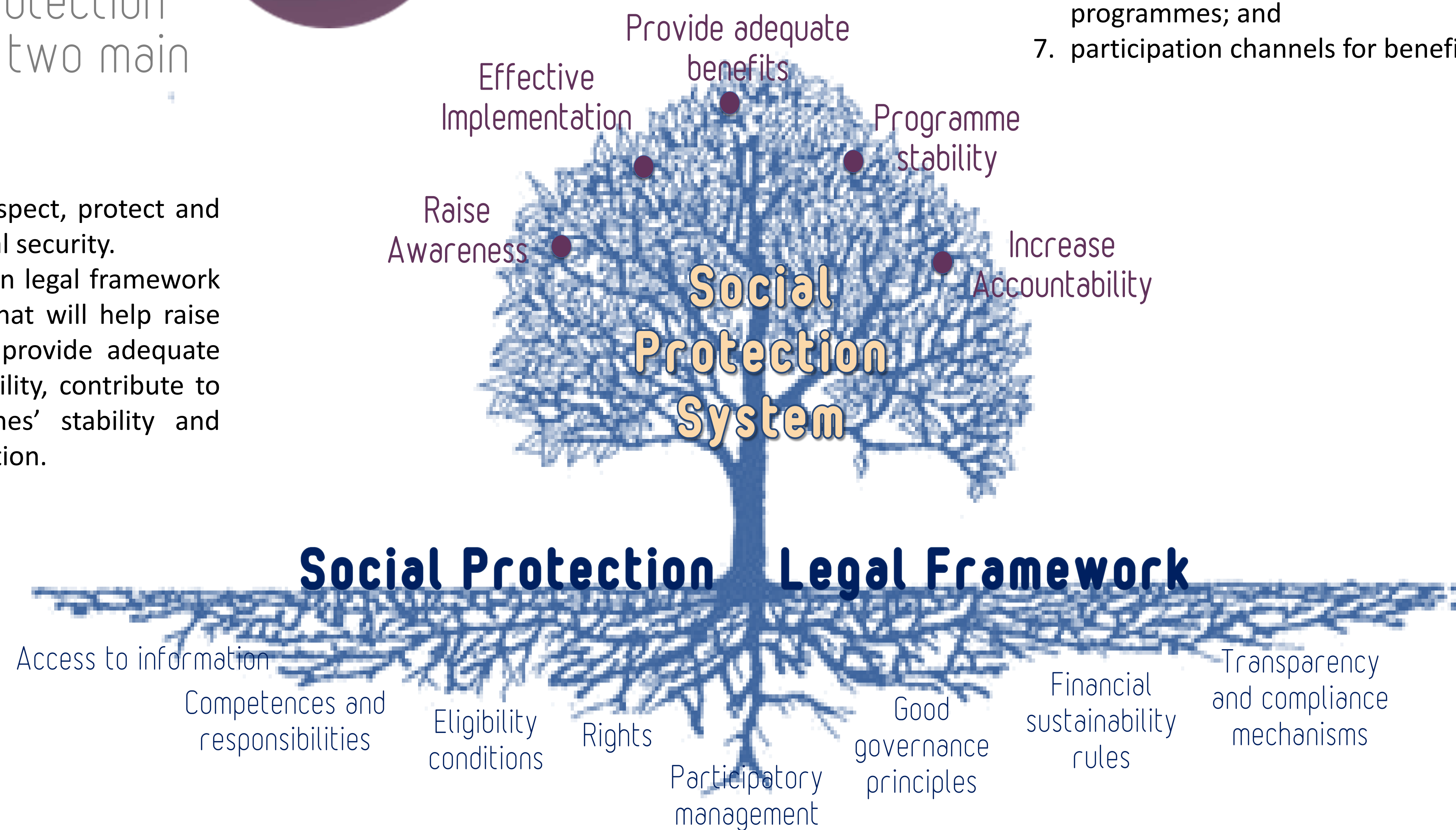
An adequate social protection legal framework is one that, at a minimum, includes:

1. precise entitlements and eligibility requirements for social protection programmes;
2. definitions of the various roles and responsibilities of entities and actors involved in implementing programmes at different levels of government;
3. articulation of the long-term financial requirements, ensuring adequacy and predictability of benefits;
4. good governance principles;
5. enforcement and compliance mechanisms including the right to access complaints and appeals systems;
6. mechanisms to ensure transparency and access to information about available programmes; and
7. participation channels for beneficiaries.

International conventions & recommendations to anchor social protection in law

The Social Security (Minimum Standards) Convention, 1952 (No. 102), the Social Protection Floors Recommendation, 2012 (No. 202), and other social security standards are tools that can guide the drafting and implementation of social protection laws. Also, when ratified, these standards provide a reference framework for the progressive development of sustainable social security systems.

The ILO provides legal advisory assistance to countries. A global guide to support the drafting of social security laws and a toolkit to better assist States that are looking to ratify Social Security Conventions will soon be available. Country briefs describe successful country examples of anchoring social protection in law.



Extending social protection through rights-based approach

Mexico

Mexico's social protection system comprises contributory and voluntary contributory schemes for workers in the formal economy and a non-contributory scheme for workers in the informal economy. Both types of schemes contribute to raising the level of social protection for workers in the country's vast informal economy. The International Covenant on Economic, Social and Cultural Rights, to which Mexico is a party, calls for an adequate social security system for all workers in the country.

Mexico's social protection system is anchored in a social right framework. The basis of the non-contributory scheme is based primarily on the concept of social justice. The concept of social justice is defined as the right to social security. This right is enshrined in the Mexican Constitution and is further reinforced by the Mexican Social Security Law (Ley del Seguro Social).

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Key elements of Mexico's social protection system:

- Recommendations including ILO's Rights-based Social Security Framework, Mexico's Social Security Law, and the Mexican Social Security Law.
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MEXICO

Extending social protection by anchoring rights in law

South Africa

The South African social protection system is one of the most comprehensive in the world. It is anchored in a social right framework. The South African Constitution enshrines the right to social security. This right is further reinforced by the South African Social Security Act (SASSA Act).

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SOUTH AFRICA

Learn more at:
www.social-protection.org