

Chapter 1

The social protection floor: A concept to ensure basic social security for all – Overview of challenges and opportunities

1.1. Background

9. Since the establishment of the ILO in 1919, social security has been a core element of the Organization's mandate and, consequently, one of its key standard-setting areas. The Declaration of Philadelphia (1944)¹ called upon the ILO "to further among the nations of the world programmes which will achieve ... the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care ...". The universal recognition of social security as a right belonging to all persons was subsequently embodied by the inclusion of the right to social security in the Universal Declaration of Human Rights (UDHR), 1948,² in the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966,³ and in numerous other regional and international human rights treaties.⁴

10. The inclusion of social security in a number of international and regional human rights instruments as well as national legislation is also an acknowledgment of the fact that social security is a human need. Effective national social security systems are recognized as powerful tools to provide income security, to prevent and reduce poverty

¹ Declaration concerning the aims and purposes of the International Labour Organisation (Declaration of Philadelphia), adopted by the International Labour Conference at its 26th Session, held in Philadelphia, on 10 May 1944. The Declaration of Philadelphia forms part of the ILO Constitution.

² Universal Declaration of Human Rights, General Assembly Resolution 217 A(III), 1948.

³ International Covenant on Economic, Social and Cultural Rights, General Assembly Resolution 2200A(XXI), 1966.

⁴ These include the following: Convention on the Elimination of All Forms of Discrimination against Women, adopted by General Assembly Resolution 34/180 of 18 December 1979, Articles 11(1)(e), 11(2)(b) and 14(2); Convention on the Rights of the Child, adopted by General Assembly Resolution 44/25 of 20 November 1989, Articles 26, 27(1), 27(2) and 27(4); Convention on the Elimination of All Forms of Racial Discrimination, adopted by General Assembly Resolution 2106(XX) of 21 December 1965, Article 5(e)(iv); International Convention on the Protection of the Rights of All Migrant Workers and Their Families, adopted by General Assembly Resolution 45/158 of 18 December 1990, Articles 27 and 54; Convention on the Rights of Persons with Disabilities, adopted by General Assembly Resolution A/RES/61/106 of 13 December 2006; American Declaration of the Rights and Duties of Man, O.A.S. Res. XXX, adopted by the Ninth International Conference of American States (1948); Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador" (1988); African Charter on Human and Peoples' Rights, adopted by the 18th Assembly of Heads of State and Government, June 1981, Nairobi, Kenya (1981); African Charter on the Rights and Welfare of the Child, adopted on 11 July 1990 OAU Doc. CAB/LEG/24.9/49 (1990); Convention for the Protection of Human Rights and Fundamental Freedoms (1950), CETS No. 005; European Social Charter (1961) as revised in 1996.

and inequality and to promote social inclusion and dignity.⁵ Social security is also an economic necessity. When well-designed and linked to other policies it enhances productivity, employability and supports economic development. In times of crisis, it acts as an economic and social stabilizer and thereby contributes to mitigating the economic and social impact of economic downturns, enhancing resilience and achieving faster recovery towards inclusive growth.⁶

11. Despite its fundamental role and functions, social security is still far from being a reality for the vast majority of the world's population, which has no access to social security protection, or very little. In view of this huge coverage gap, estimated by the ILO to leave approximately 80 per cent of the world population without adequate income security and/or access to medical care, ILO constituents have on many occasions over the last decade reaffirmed the importance of social security and the primary role of the ILO to assist its member States to extend social security coverage. The conclusions adopted by the 100th Session of the ILC, provide that this should be done not only by using ILO social security standards and notably the Social Security (Minimum Standards) Convention, 1952 (No. 102), but also by elaborating a new Recommendation which would provide guidance to member States in building social protection floors for the provision of basic income security and medical care to all in need, thereby complementing existing standards.⁷

1.2. Evolution of the discussion at the ILO on the social protection floor concept

12. The new consensus on social security reached at the ILC, at its 89th Session in 2001, gave the highest priority to policies and initiatives that can bring social security to those who are not covered by existing schemes. Consequently, the ILO launched, in 2003, the Global campaign on social security and coverage for all. The ILO Declaration on Social Justice for a Fair Globalization, adopted by the ILC at its 97th Session in 2008, again reaffirmed the tripartite commitment to extend social security to all in need of such protection in the framework of the Decent Work Agenda.

13. In April 2009, the UN Chief Executives Board launched the joint UN social protection floor initiative. In June 2009, the ILC at its 98th Session recognized the crucial role of social protection policies in crisis response, and the Global Jobs Pact called for countries to “give consideration, as appropriate, to ... building adequate social protection for all, drawing on a basic social protection floor ...”.⁸

14. Regional tripartite ILO meetings in Latin America, Arab States and Asia and the Pacific during 2007 and 2008 discussed social security extension strategies. A generic two-dimensional extension strategy emerged, combining the extension of coverage to all through nationally defined social protection floors and the progressive implementation of higher levels of social security through comprehensive systems. This strategy was endorsed by the Yaoundé Tripartite Declaration adopted at the Second African Decent

⁵ Conclusions concerning social security (2011), para. 5(b).

⁶ *ibid.*, para. 5(c).

⁷ *ibid.*, para. 31.

⁸ ILO: *Recovering from the crisis: A Global Jobs Pact*, adopted by the International Labour Conference at its 98th Session, Geneva, 19 June 2009, para. 12(1)(ii).

Work Symposium in Yaoundé in 2010, and the Chairperson's summary of the Tripartite Meeting of Experts on Strategies for the Extension of Social Security Coverage in 2009.

15. Simultaneously, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) undertook in 2009 and 2010 a General Survey on the application of social security instruments⁹ in the light of the 2008 Declaration on Social Justice for a Fair Globalization. Based on replies from 116 member States, it concluded in its report¹⁰ that the "ILO mandate in social security, as reaffirmed and updated by the Declaration on Social Justice for a Fair Globalization of 2008, has largely outgrown the standards with which it has to be implemented. The available means are no more sufficient to meet the new ends. This is particularly evident as regards the objective of extending social security coverage to all, beyond the formal economy to the masses of population living in abject poverty and insecurity, which is placed at the heart of the ILO's mandate and mission."¹¹ The CEACR stated that "the task of globalizing social security requires the ILO to complement the current set of up-to-date standards with a new high-impact instrument embedding social security in a new development policy paradigm and designed so as to be accepted by all ILO member States".¹² It further noted that "The idea of underpinning the world economy by a global social security floor has the potential of once again changing the social security paradigm, the ways and means with which social security is going to be provided in the coming future, moving away from the risk-based towards more integrated forms of social protection."¹³ In this regard, the CEACR expressed full support for the two-dimensional strategy for the extension of social security but reiterated that "the legal framework provided by the existing social security standards needs to be strengthened".¹⁴

16. Most recently, in June 2011, the 100th Session of the ILC affirmed in its conclusions concerning social security (2011) that: "Closing coverage gaps is of highest priority for equitable economic growth, social cohesion and Decent Work for all women and men. Effective national strategies to extend social security in line with national priorities, administrative feasibility and affordability contribute to achieving these objectives. These national strategies should aim at achieving universal coverage of the population with at least minimum levels of protection (horizontal dimension) and progressively ensuring higher levels of protection guided by up-to-date ILO social security standards (vertical dimension). The two dimensions of the extension of coverage are consistent with moving towards compliance with the requirements of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and are of equal importance and should be pursued simultaneously where possible. The horizontal dimension should aim at the rapid implementation of national social protection floors, containing basic social security guarantees that ensure that over the life cycle all in need can afford and

⁹ The instruments covered by the General Survey concerning social security instruments (2011) are the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), the Income Security Recommendation, 1944 (No. 67), and the Medical Care Recommendation, 1944 (No. 69).

¹⁰ General Survey concerning social security instruments (2011); ILO: *Report of the Committee of Experts on the Application of Conventions and Recommendations* (articles 19, 22 and 35 of the Constitution), Report II (Part IB), ILC, 100th Session, Geneva, 2011.

¹¹ General Survey concerning social security instruments (2011), para. 30.

¹² *ibid.*, para 31.

¹³ *ibid.*, para. 53.

¹⁴ *ibid.*, para. 626.

have access to essential health care and have income security at least at a nationally defined minimum level. social protection floor policies should aim at facilitating effective access to essential goods and services, promote productive economic activity and be implemented in close coordination with other policies enhancing employability, reducing informality and precariousness, creating decent jobs and promoting entrepreneurship.”¹⁵

17. The ILC finally concluded that: “In view of the renewed support for the provision of at least a basic level of social security through establishing social protection floors, there is a need for a Recommendation complementing the existing standards that would provide flexible but meaningful guidance to member States in building social protection floors within comprehensive social security systems tailored to national circumstances and levels of development” and went further by identifying elements of a possible Recommendation on social protection floors.¹⁶ These elements are discussed in Chapter 2 of this report. Underlining the high priority to close the social security coverage gaps, the conclusions concerning social security (2011) call on countries to set themselves time frames for progressive implementation.¹⁷

1.3. The global protection gap¹⁸

18. Despite the universal recognition of social security as a fundamental human right and as an essential component of social and economic development, the majority of the world’s population does not benefit from any protection. Only about 20 per cent of the world’s working-age population (and their families) are estimated to have effective access to comprehensive social security systems.¹⁹

Gaps in population coverage

19. While there has been some progress in the extension of social security coverage in some parts of the world, in others stagnation and even contraction have occurred. In many countries, the growing incidence of informal work led to stagnant or even declining rates of coverage. With regard to the coverage of contributory benefits, these developments are closely associated with employment trends, particularly the quantity and quality of jobs available in the formal economy. Social insurance was originally established to serve wage and salary workers who have explicit contracts with regular and identifiable income in formal enterprises in the context of an identifiable employment relationship. Under these conditions, incomes can be monitored and compliance with contributory obligations can be enforced. Workers with less formal working conditions, especially in middle- and low-income countries are generally not covered by social insurance. This is usually the case for the self-employed, own-account workers or other workers in irregular forms of employment who often represent the vast majority of informal economy workers. Furthermore, in some countries employers and workers in small enterprises are exempted from social security contributions with certain provisions of labour and social security laws. In other countries, many workers – even

¹⁵ Conclusions concerning social security (2011), paras 8 and 9.

¹⁶ *ibid.*, para. 31 and appendix.

¹⁷ *ibid.*, paras 8 and 31.

¹⁸ More details on the level and quality of social security coverage is provided in the *World Social Security Report 2010/11*.

¹⁹ *World Social Security Report 2010/11*, p. 33.

though legally covered – are effectively excluded from protection through social security due to deficient enforcement mechanisms. They represent a relatively high share of total employment in low- and middle-income countries.

20. On the other hand, in many countries with low social insurance coverage – mainly middle- and low-income countries, alternative non-contributory and tax-financed social security mechanisms which could provide at least a basic level of coverage to those outside a formal employment relationship and hence close the coverage gaps, are underdeveloped. While recent developments show by many examples the large potential of non-contributory social security schemes in closing at least partially existing coverage gaps, many countries still have policy deficits and/or lack the administrative capacity and the political will to implement such schemes and allocate the required budgetary resources.

Gaps in contingencies covered

21. Comprehensive social protection (coverage by all branches of social security at least at a minimum level of benefits as guaranteed by the Social Security (Minimum Standards) Convention, 1952 (No. 102), is not a reality for the vast majority of the world's population. Out of the 165 countries for which information is available, only 59 countries have comprehensive social security systems covering at least eight branches of social security. In many countries, coverage is limited to a few branches, and only a minority of the population has access – both legally and in practice – to existing schemes.

22. Every country makes some form of provision for social health protection, thus enabling theoretically access to at least a limited range of health-care services. These include access to some free public health-care services or to services financed through health insurance for certain population groups. Most countries have schemes providing contributory old-age pensions, although in many coverage is restricted to selected groups of workers in the small formal economy. Many of these schemes are relatively new, so actual coverage measured in terms of the percentage of elderly persons receiving any benefit is very low. In most countries, formal economy employees have some form of protection in the event of employment injury, although often such coverage does not meet the requirements of Convention No. 102 with regard to the range and type of benefits provided. In most countries, at least some groups of employees are entitled to paid sick leave and paid maternity leave, either through provisions in the Labour Code or in collective agreements. However, as the actual enforcement of these provisions is often low, effective coverage is equally low.

Gaps in the adequacy of benefits provided

23. Protection provided through social security benefits should at least ensure that people of all ages are able to purchase or access all essential goods and services, including health services, enabling them to live decently. This means that their income should be lifted above the poverty level or a minimum level of income and they should be able to effectively access a set of essential health-care goods and services to be defined through a transparent national process. Persistent levels of poverty, social exclusion and avoidable disease burdens show that social security benefits often do not live up to the challenge of ensuring a life in dignity for all. The Committee of Experts observed in the General Survey concerning social security instruments (2011) a “divide between the high-income countries, on the one side, and the middle- and low-income countries, on the other side, in terms of the value and adequacy of the benefits provided by their respective social security systems. While in the former group of countries benefits as a rule are superior even to the advanced standards established by subsequent social security Conventions, the middle- and low-income countries often have a level of

benefits that does not attain the minimum benchmarks ... to permit a beneficiary to maintain himself and his family ‘in health and decency’.”²⁰

1.4. The current ILO legal framework for the extension of social security

24. ILO Conventions and Recommendations are the main tools through which the ILO can pursue its mandate to extend social security to all in need of protection. Two important recommendations, the Income Security Recommendation, 1944 (No. 67), and the Medical Care Recommendation, 1944 (No. 69), and six Conventions that are considered up to date by the ILO Governing Body²¹ embody the core of the ILO’s legal instruments on social security and maternity protection:

- ❑ Social Security (Minimum Standards) Convention, 1952 (No. 102);
- ❑ Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121);
- ❑ Invalidity, Old-Age and Survivors’ Benefits Convention, 1967 (No. 128);
- ❑ Medical Care and Sickness Benefits Convention, 1969 (No. 130);
- ❑ Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168); and
- ❑ Maternity Protection Convention, 2000 (No. 183).

25. In addition, two Conventions on the social security rights of migrant workers are considered up to date, the Equality of Treatment (Social Security) Convention, 1962 (No. 118), and the Maintenance of Social Security Rights Convention, 1982 (No. 157).

26. In their entirety, these instruments represent a unique and useful reference framework for the design of national social security systems. However, they leave a few important gaps, which need to be closed through a complementary instrument which provides guidance.

1.4.1. Recommendations Nos 67 and 69: The blueprint for comprehensive social security systems

27. The Income Security Recommendation, 1944 (No. 67), and the Medical Care Recommendation, 1944 (No. 69), are at the origin of the development of social security in ILO instruments and were foreseen, at the time of their adoption, to be translated into binding, conventional provisions. Together, they establish a comprehensive system of income security and medical care protection for each of the nine classical branches of social security in addition to general neediness (called “general want” in 1944), with the objective of relieving want and preventing destitution.²²

28. Recommendation No. 67 recommends the establishment of a comprehensive social security system for the provision of income security (cash benefits) in respect of eight contingencies: sickness, maternity, invalidity, old age, death of the breadwinner,

²⁰ General Survey concerning social security instruments (2011), para. 460, with reference to Article 67 of Convention No. 102.

²¹ ILO: GB.276/LILS/WP/PRS/1, Geneva, Nov. 1999.

²² Recommendation No. 67, paras 1–4.

unemployment, emergency expenses, and employment injuries.²³ One of the key principles of this Recommendation is universal coverage, following which income security, through a combination of social insurance and social assistance, should be extended to the population as a whole.²⁴ Specifically, it recommends that income security should be organized as far as possible on the basis of compulsory social insurance for the coverage of all workers and their families, including the self-employed, which should be complemented by social assistance programmes for the coverage of those who fall out of formal social security schemes and thus ensure the full coverage of the population.²⁵ Social assistance should comprise general measures of assistance to secure the well-being of dependent children, special maintenance allowances at prescribed rates for invalids, aged persons and widows if they are not covered by compulsory insurance, and general assistance for all persons who are in want and do not require internment for corrective care²⁶ (Guiding principle 3).

29. At the core of Recommendation No. 69 is also the guiding principle of universal coverage, based on the recognition that the availability of adequate medical care constitutes an essential element of social security.²⁷ According to Recommendation No. 69, medical care services may be provided in two ways: either through a social insurance service with supplementary provision by way of social assistance, or through a public medical care service.²⁸ Whichever method is adopted, the medical care service should cover all members of the community, whether or not they are in paid employment.²⁹

1.4.2. Social security Conventions: A reference for the development of social security systems

30. The Social Security (Minimum Standards) Convention, 1952 (No. 102), is the flagship of the six up-to-date social security Conventions. 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, survivors' benefit)³⁰ and sets minimum standards for each.

31. Minimum objectives are set for each contingency with regard to:

- ❑ a *minimum percentage* of the population protected in case of occurrence of one of the contingencies;³¹
- ❑ a *minimum level of benefits* to be provided in case of occurrence of one of the contingencies; and³²

²³ *ibid.*, para. 7.

²⁴ *ibid.*, Preamble.

²⁵ *ibid.*, paras 2 and 3.

²⁶ *ibid.*, para. 3.

²⁷ Recommendation No. 69, para. 8.

²⁸ *ibid.*, para. 5.

²⁹ *ibid.*, para. 8.

³⁰ These are set out, respectively, in Articles 8, 14, 20, 26, 32, 40, 47, 50 and 54 of Convention No. 102.

³¹ Convention No. 102, Articles 9, 15, 21, 27, 33, 41, 48, 55 and 61.

³² *ibid.*, Articles 10, 16, 22, 28, 34, 36, 49, 50, 56 and 62.

- *conditions for and the periods of entitlement to the prescribed benefits.*³³

32. These minimum objectives should be reached by the application of the key principles anchored in Convention No. 102, which have to be complied with irrespective of the type of scheme established:

- The general responsibility of the State for the due provision of the benefits and the proper administration of the institutions and services concerned in securing the provision of the benefit.³⁴
- The participation of the persons protected in the management of social security schemes.³⁵
- The collective financing of social security schemes.³⁶
- The guarantee of defined benefits by the State.³⁷
- The adjustment of pensions in payment.³⁸
- The right of appeal in case of refusal of the benefit or complaint as to its quality or quantity.³⁹

33. A key feature of Convention No. 102 is that it contains flexibility clauses allowing ratifying member States to gradually attain universal coverage. Based on the notion that each country should have the discretion to determine how best to ensure its income security, thereby reflecting in its choices its social and cultural values, history, institutions and level of economic development, the Convention fixes a set of objectives or standards based on commonly agreed principles that constitute a socially acceptable minimum for all member States. It thus prescribes certain minimum requirements to be observed by ratifying States while aiming at the progressive realization of a more comprehensive protection, both in terms of the number of contingencies covered and the persons protected. This is done first by allowing ratifying States to accept as a minimum three out of the nine branches of social security, with at least one of those three branches covering a long-term contingency or unemployment, and with a view to extending coverage to other contingencies at a further stage.⁴⁰

34. In addition, the scope of personal coverage under Convention No. 102 provides alternatives that take into account differences in the employment structure and in the socio-economic situation of member States, and as between the different categories of residents within a State. Hence, for each branch accepted the Convention gives member States the possibility to cover only a certain proportion of their population. Furthermore, in the implementation of social security branches it allows member States whose economy and medical facilities are insufficiently developed to make use of temporary exceptions relating, for example, to the proportion of people covered.⁴¹ The Convention

³³ *ibid.*, Articles 11, 17, 23, 29, 37, 51, 57 and 63.

³⁴ *ibid.*, Article 71, para. 3.

³⁵ *ibid.*, Article 72, para. 1.

³⁶ *ibid.*, Article 71, paras 1 and 2.

³⁷ *ibid.*, Article 71, para. 3.

³⁸ *ibid.*, Article 65, para. 10 and Article 66, para. 8.

³⁹ *ibid.*, Article 70.

⁴⁰ *ibid.*, Article 2.

⁴¹ *ibid.*, Article 3.

also provides for flexibility as to the type of schemes member States may establish for the implementation of the Convention and to reach its objectives. Such objectives can be reached through:

- ❑ universal schemes where entitlement to benefits is based solely on length of residence; or
- ❑ contributory social insurance schemes; or
- ❑ means-tested social assistance schemes where all those whose means during the contingency do not exceed prescribed limits are entitled to benefits.

The benefits provided may be either earnings-related or at a flat rate.

35. The other up-to-date Conventions in the field of social security set higher standards for the different branches of social security, notably as regards the personal scope of coverage and the minimum level of benefits to be provided (see box 1).

Box 1

Main features of other up-to-date ILO social security standards

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) – The contingency covered by Convention No. 121 includes: a morbid condition, incapacity for work, invalidity or a loss of faculty due to an industrial accident or a prescribed occupational disease, and the loss of support as a result of the death of the breadwinner following employment injury. It belongs to ratifying States to define the notion of “industrial accident”, including the conditions under which this notion applies to commuting accidents. Convention No. 121 indicates the cases in which accidents should be considered by national legislation as industrial accidents and under which conditions the occupational origin of the disease should be presumed. The national list of employment-related diseases has to comprise at least the diseases enumerated in Schedule I to the Convention. Convention No. 121 envisages that all employees, including apprentices in the public and private sectors, and in cooperatives, are to be protected. The Convention further lays down three types of benefits: medical care, cash benefits in the event of incapacity for work and loss of earning capacity (invalidity), and cash benefits in the event of the death of the breadwinner.

Invalidity, Old-Age and Survivors’ Benefits Convention, 1967 (No. 128) – Convention No. 128 covers all employees, including apprentices, or not less than 75 per cent of the whole economically active population, or all residents whose means during the contingency do not exceed certain limits. The periodical payment rate for invalidity benefit should amount to at least 50 per cent of the reference wage. Moreover, the Convention envisages the adoption of measures for rehabilitation services. The minimum amount of old-age and survivors’ benefit should correspond to at least 45 per cent of the reference wage.

Medical Care and Sickness Benefits Convention, 1969 (No. 130) – This Convention covers both the contingency of medical care benefits and cash sickness benefit. All employees, including apprentices, or at least 75 per cent of the whole economically active population, or all residents whose means do not exceed certain limits should be covered for both contingencies. In relation to medical care, wives and children of employees are also covered. In addition to the medical care required under Convention No. 102, Convention No. 130 provides for dental care and medical rehabilitation, including the supply, maintenance and renewal of prosthetic and orthopaedic appliances. Convention No. 130 also provides for entitlement to benefit throughout the contingency and allows for less possibility of limiting the duration of sickness benefits; a limitation corresponding to 26 weeks is only authorized where the beneficiary ceases to belong to the categories of persons protected and if the sickness started while the beneficiary still belonged to such categories.

Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) – The main aim of Convention No. 168 is twofold: the protection of unemployed persons through the provision of benefits in the form of periodical payments and through the promotion of employment. The minimum replacement rate of the benefits provided in case of unemployment should amount to 50 per cent of the reference wage. Ratifying States have to adopt appropriate steps to coordinate their system of protection against unemployment and their employment policy. The system of protection against unemployment, and in particular the methods of providing unemployment benefit, have to contribute to the promotion of full, productive and freely chosen employment and must not be such as to discourage employers from offering, and workers from seeking, productive employment. The persons protected must comprise prescribed classes of employees, constituting not less than 85 per cent of all employees, including public employees and apprentices, or all residents whose resources during the contingencies do not exceed prescribed limits.

Maternity Protection Convention, 2000 (No. 183) – Under Convention No. 183, the persons protected must comprise all employed women, including those in atypical forms of dependent work. The Convention further requires a minimum period of entitlement to maternity benefits of 14 weeks (including six weeks of compulsory leave after childbirth). Women who are absent from work on maternity-related leave are entitled to a cash benefit which, generally, must be not less than two-thirds of their previous earnings. The medical benefits provided to protected persons must include prenatal, childbirth and post-natal care. Convention No. 183 also lays down the right to work breaks for breastfeeding, as well as provisions relating to health protection, employment protection and non-discrimination.

1.5. Interim conclusion: The need to close the legal gaps in the ILO body of social security instruments⁴²

36. As reaffirmed by the ILC in the conclusions concerning social security (2011), the up-to-date ILO social security standards, and in particular Convention No. 102, provide a unique set of minimum standards for national social security systems which are internationally accepted. Convention No. 102 continues to serve as a benchmark and reference in the gradual development of comprehensive social security coverage at the national level. Several member States currently implementing successful and innovative social security extension policies have recently ratified Convention No. 102 and others have indicated their intention to do so. Moreover, international experience shows that the ILO social security Conventions, and particularly Convention No. 102, are a means to prevent the levelling down of social security systems worldwide, as they constitute benchmarks to assess whether their requirements have been met and contribute to the creation of a level playing field for social conditions across the world.⁴³

37. However, in the developing world, the impact of these standards has often been limited to formal employment, due to the fact that the personal scope of coverage under the classic system of social security, which the Conventions embody, does not extend to farmers and other subsistence workers, rural workers, and workers in the informal economy and their families, which form the major part of these countries' populations. As concluded by the CEACR, "Whereas Recommendations Nos 67 and 69, applying the

⁴² For further information see ILO: *Setting social security standards in a global society: An analysis of present state and practice and of future options for global social security standard setting in the International Labour Organization*, Social Security Policy Briefings, Paper 2 (Geneva, 2008).

⁴³ Report for the recurrent discussion on social security, para. 436.

Declaration of Philadelphia, aspired to social inclusion and universal coverage, social security Conventions have thus far been unable to achieve these goals, leaving open the possibility to exclude from coverage a substantial part of the population.”⁴⁴ Hence, the CEACR further concluded that the universal approach to social security, and the fundamental objectives and principles of Recommendations Nos 67 and 69 are still pertinent “in terms of the guiding principles they set forward for national law and practice and for ILO action on the extension of social security to all.”⁴⁵ However, they are limited in the means which they set out to ensure full population coverage and do not take account of the modern forms and concepts of social security coverage that have developed in many low- and middle-income countries during the last two decades.⁴⁶

38. Convention No. 102 does not require universal coverage, or the provision of a complete essential set of social security benefits (i.e. national social protection floors) to ensure basic protection to all throughout the life cycle. It also does not provide guidance for countries on the prioritization and sequencing of the benefits to be provided, taking into account the most urgent needs in terms of protection and the resources available within a country.

39. In view of the limited ability of up-to-date ILO social security standards to make the right to social security a reality for everyone, a new Recommendation is needed. It should be elaborated with a view to making concrete the principle of full social security coverage for all in need of such protection in law and in practice, as soon as possible. Most importantly, this would aim to protect in the first place the presently unprotected, the poor and the most vulnerable, including workers in the informal economy and their families, to ensure that they can enjoy effective essential social security throughout the life cycle. This instrument should also support a modern development strategy that is based on a simultaneous pursuit of economic and social development through the reduction of poverty, inequality and ill-health and assist ILO member States in providing basic social security for all those in need as fast as possible, so as to close persisting coverage gaps.

⁴⁴ General Survey concerning social security instruments (2011), para. 628.

⁴⁵ *ibid.*, para. 53.

⁴⁶ See report for the recurrent discussion on social security, Chapter 3.6.