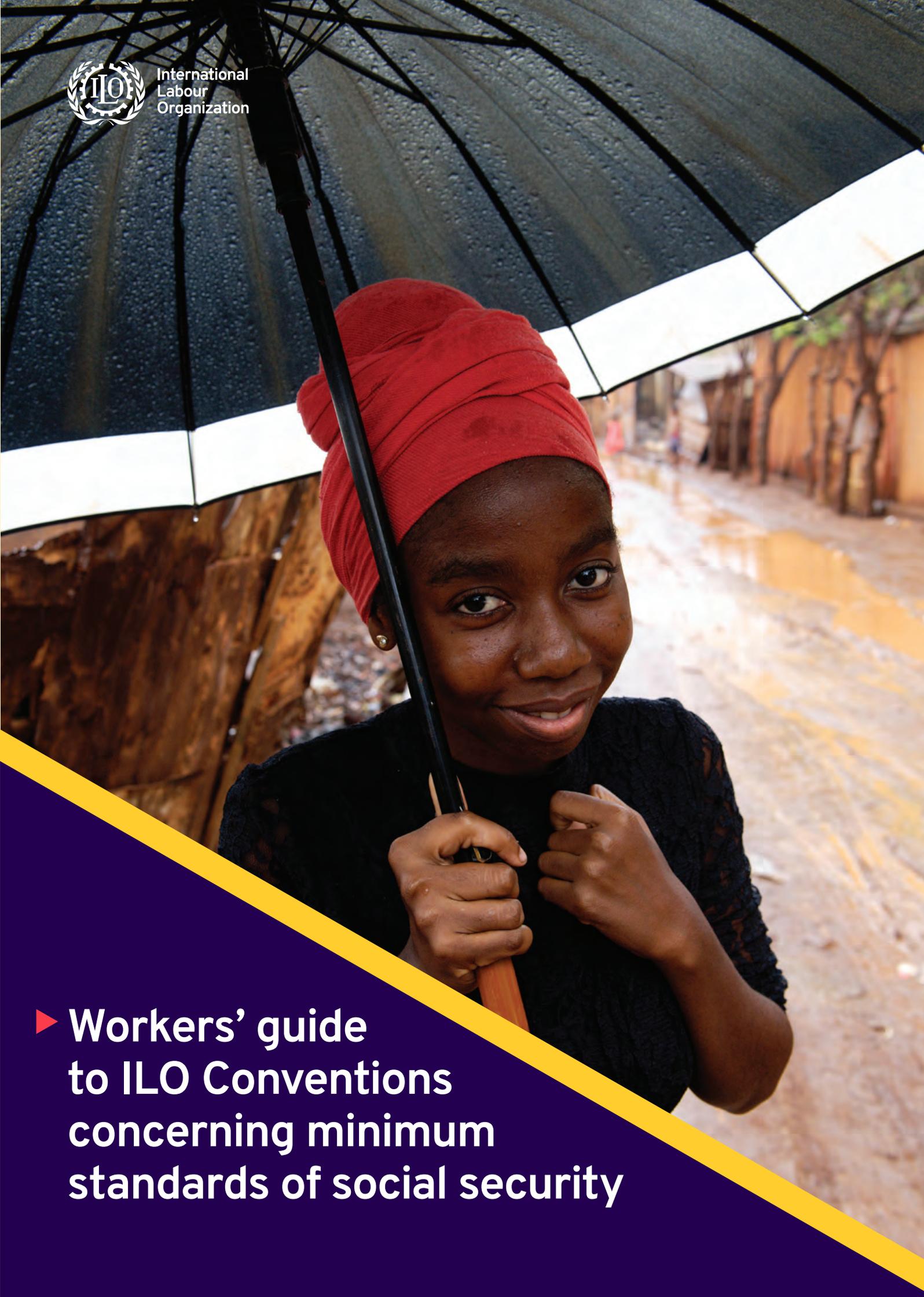




International
Labour
Organization



▶ **Workers' guide
to ILO Conventions
concerning minimum
standards of social security**

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► Foreword

The right to social security is recognised in numerous human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, and filled by ILO social security standards, and in particular Convention No. 102 with concrete substance and guarantees. As a human right, social security aims to ensure that every human being enjoys a life in health and dignity.

Social protection contributes to an enabling environment for decent work, productivity growth, employment creation and sustainable enterprises. Inclusive and sustainable social protection systems bolster the resilience of societies and represent a means to respond to structural transformations, such as those related to climate and demographic changes, digitalization and globalization, as well as to the rise of precarious forms of work and persisting informality.

Despite progress in recent years in extending social protection in many parts of the world, the COVID-19 crisis has exposed deep-seated inequalities and significant gaps in social protection coverage, comprehensiveness and adequacy across all countries. Also, the threats linked to the Global crisis on Food and Energy Supply triggered by the war in Ukraine, climate change and the disruption of the global supply chains emphasize the urgent need for universal social protection. As of 2020, only 46.9 per cent of the global population were effectively covered by at least one social protection benefit, while the remaining 53.1 per cent – as many as 4.1 billion people – were left wholly unprotected. However, the most recent crises, including the COVID-19 pandemic, have provided a momentum for social protection and many countries have placed social protection as a priority in their national agendas.

In light of the urgency accelerated by the COVID-19 pandemic to establish universal, comprehensive, sustainable and adequate social protection systems based on ILO social security standards, and in particular Convention No. 102, the Resolution and conclusions concerning the second recurrent discussion on the strategic objective of social protection (social security), adopted by the International Labour Conference (ILC) in June 2021, called upon the ILO to launch a campaign to systematically promote the ratification of the Social Security

(Minimum Standards) Convention, 1952 (No. 102). The campaign aims at reaching 70 ratifications of Convention No. 102 by 2026.

The promotion of the right to social security has been an important part of the ILO's mandate since its founding in 1919. Over the years, the ILO has adopted a wide range of standards establishing obligations and providing guidelines to States to implement the right to social security. These include 31 Conventions, out of which 8 are up to date, representing the main references in ILO policy and technical advice in the field of social protection for governments that, in consultation with employers and workers, are seeking to draft and implement social protections policies and legal frameworks and establish corresponding administrative and financial governance frameworks.

The Social Security (Minimum Standards) Convention, 1952 (No.102) is the ILO's flagship social security Convention establishing worldwide-agreed qualitative and quantitative minimum standards for all nine branches of social security (i.e. medical care, sickness benefits, unemployment benefits, old-age benefits, employment injury benefits, maternity benefits, family benefits, disability benefits and survivors benefits) as well as a set of core principles of administration and financing to be observed, irrespective of the type of social security system.

By setting a socially acceptable minimum level of protection, the Convention aims at gradually raising the basic parameters of the social security programmes to higher levels and extending the range of contingencies covered with the understanding that there is no-one-fits-all model of social security and that each society has to develop the best means of guaranteeing protection of its members reflecting the social and cultural values, history, institutions and level of economic development. Nonetheless, while it demonstrates a high level of flexibility, this Convention also imposes the observance of certain important non-negotiable principles. For example, mandatory affiliation to statutory social protection schemes as a preferable rule and collective financing through contributions or taxes are required by the Convention as indispensable requisites to give effect to fundamental objectives such as social solidarity and cohesion, equality and

non-discrimination, and the protection of the poor and vulnerable members of the community.

Over the last 70 years, Convention No. 102 has been ratified by 61 countries. However, its impact has gone well beyond that scope, having had a substantial influence on the development of social security systems in the various regions of the world, and setting the reference framework to build and maintain universal, comprehensive, sustainable and adequate social protection systems placed under the overall and primary responsibility of the State. Convention No. 102 is therefore deemed to embody an internationally accepted definition of the very notion of social security not in abstract terms but by reference to the minimum levels of protection which should be provided upon the emergence of a given life-course risk and to the core principles related to its administration and financing.

The ratification of Convention No. 102 and the other up-to-date ILO social security standards has proven of particular importance for countries undergoing political or comprehensive labour market reforms, and those experiencing crises, as it provides legal incentives to maintain some of the most crucial guarantees of the system. In other countries, ratification has served as a catalyst for the improvement of the social security system by guiding parametric adjustments, the extension of coverage and, in some cases, a systemic reform. Not only do the minimum requirements and benchmarks set out by Convention No. 102 contribute to the creation of an equitable global level playing field for social protection in a global economy, but they also guarantee that minimum levels of protection will be maintained not only in times of crisis, but also when countries are implementing austerity measures.

The ILO encourages workers' organisations to actively promote the ratification and effective implementation of Convention No. 102 and the other up-to-date ILO social security standards and seek the support of ACTRAV in this regard. In countries where it is not ratified, Convention No. 102 should act as a guiding framework for governments when developing social security policies and legislation. Workers' organisations are not passive bystanders, but agents of change able to develop new pathways for a COVID-19 recovery with adequate and sustainable social protection leaving no one behind. Therefore, strengthening the capacity of workers' organisations is essential to ensure that effective

social dialogue can take place and contribute to building coordinated policy responses to address the current crisis and recovery. Sound technical knowledge among workers' representatives contributes also to the formulation of national social protection policies and legal frameworks and to their implementation in line with Convention No. 102 and the other up-to-date ILO social security standards. Informed policy design improves implementation effectiveness and contributes to ownership of the measures adopted as well as trust amongst tripartite actors and workers in general.

This guide is part of the Resource package developed by the ILO's Bureau for Workers' Activities (ACTRAV) to assist workers' organizations in the promotion and implementation of effective social protection. The package encompasses a number of key issues in current social protection debates and policy discussions, including a series of policy briefs on „What workers' organizations need to know" addressing policies options for closing gender gaps in social protection, extending social protection to informal economy workers, finding fiscal space for social protection financing and implementing adequate pension schemes and reforms.

We hope that this guide will serve as a valuable resource, giving practical guidance foremost to workers' organizations, but also to ILO officials, governments, employers' organizations and other partners active in this field to better understand the importance of ILO social security standards, and in particular Convention No. 102.

The guide was coordinated, assessed and finalized by Ursula Kulke with the support of Greta Cartoceti from ILO-ACTRAV and Mamadou Souare from LO-ACTRAV who coordinated the production and dissemination of the guide. A first draft of the guide was prepared by Dr. Albrecht Otting. Colleagues from the ILO Social Protection Department, and in particular Kroum Markov, and from the ILO International Labour Standards Department, and in particular Emmanuelle St. Pierre Guilbault and Svetlana Mandzhieva, have reviewed and provided additional inputs. To all of them my gratitude.

Maria Helena André

Director, ILO's Bureau for Workers Activities (ACTRAV)

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Introduction

► Introduction

The International Labour Organization (ILO) was established over a hundred years ago in 1919 in Geneva as part of the Peace Treaty of Versailles that ended World War I. The driving force for its creation was the recognition, against a background of widespread exploitation of workers in the industrializing nations at that time, that “universal and lasting peace can be accomplished only if it is based on social justice”. There was also increasing understanding of the world’s economic interdependence and the need for cooperation to obtain similarity of working conditions in countries competing for markets. Accordingly, the Preamble of the ILO Constitution states that “the failure of any nation to adopt human conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries”.

From its very beginning, the ILO was designed as a deliberative and standard-setting organization. These standards are adopted by the International Labour Conference with the votes of employers’, workers’ and governments’ representatives of all Member States. They take the form of either Conventions (or Protocols) or Recommendations containing comprehensive principles regarding all areas of labour and social security. These standards fix minimum requirements, which means that national legislation can always provide for more generous benefits or qualifying conditions. But in the case of a Convention, the minimum requirements should at least be respected. Conventions are international treaties that are legally binding for all Member States having ratified them. In all other cases, the standards may provide useful guidance for internal legislation.

ILO standards are characterized by two features. In the first place, they are universal, as they are intended to be applied in all Member States of the ILO. On the other hand, and as a counterpart, they possess a certain flexibility. This is necessary and the only realistic approach, because standards which are intended to be universally applicable in countries with very different levels of development and legal approaches need sufficient flexibility to be adaptable to such diversity. When adopting international labour standards, the International Labour Conference has to maintain a very delicate balance between not adopting standards which are too high for many Member States, and inadequate standards which enshrine only the lowest common denominator among Member States, as this would make them almost meaningless.

Social security issues have always been foremost among the concerns of the ILO. The Preamble to the ILO Constitution urged the Organization as long ago as 1919 to improve working conditions by “the prevention of unemployment, the protection of the worker against sickness, disease and injury arising out of his employment, ... provision for old age and injury, ...” Overall, the ILO has adopted 31 Conventions and 24 Recommendations in the area of social security. Not all of them are still relevant and some of them have been revised in the meantime.

More recently, ILO tripartite constituents, in the Resolution and conclusions of the recurrent dis-



cussion on the strategic objective of social protection (social security), adopted by the International Labour Conference in June 2021, called upon the ILO to duly assist Member States in overcoming obstacles to the ratification of up-to-date ILO social security Conventions, and requested the ILO to launch a campaign to systematically promote the ratification of the Social Security (Minimum Standards) Convention, 1952 (No. 102). To accelerate the effective implementation of ILO standards, the Office launched in June 2022 a global ratification campaign with the aim of reaching at least 70 ratifications of Convention No. 102 by 2026, from 61 ratifications in 2022.

The present manual on Convention No. 102 and further up-to-date social security Conventions and Recommendations of the ILO is intended to provide workers' representatives with information about the contents and meaning of those standards, to explain the ideas lying behind them and to situate them in the context of the different approaches to social security. The aim is to explain the technical and complex provisions in an understandable manner and thus to help workers' representatives

to promote the ratification of these important legal instruments, and in particular Convention No. 102, and to ensure their application at national level as a basis for progressively extending adequate and sustainable social protection to all.

This manual is divided into five chapters. The first provides an introduction to the standard-setting activity of the ILO in the area of social security in its historic context. The second explains the crucial role played by workers' organizations in promoting the ratification and effective implementation of social security standards. The third explains the contents of the minimum and more advanced social security standards in more detail. The fourth describes how the application of ILO standards is ensured through a system of regular reports and a special supervisory procedure established in accordance with the ILO Constitution. The fifth provides an overview of the current state of ratifications of social security Conventions, and the sixth calls on workers' organizations to promote ILO Conventions and indicates the workers' organizations' agenda for resilience and empowerment in the context of the COVID-19 crisis and recovery.



1

▶ Adoption of social security standards by the ILO

► 1. Adoption of social security standards by the ILO

1.1 First-generation standards adopted before World War II

At the beginning of the 20th century, only a few States had social security schemes and these were mostly insurance-based. Following the establishment of the first social insurance schemes in Germany in the late 19th century, such schemes started to spread among industrialized nations. The concept of social insurance – frequently linked to the name of Bismarck who had been instrumental in introducing such schemes in Germany – was characterized by the principle of compulsory affiliation; common financing through contributions from workers and employers; administration by non-profit, self-governing institutions; administrative and financial supervision of the State; and association of insured persons with the management of social insurance institutions. Accordingly, the first generation of ILO standards aimed at promoting social insurance through separate standards for the protection of certain categories of workers against specific contingencies, such as maternity, industrial accident,¹ occupational diseases,² sickness,³ old age,⁴ invalidity,⁵ death of the breadwinner⁶ and unemployment.⁷ In addition, separate instruments were adopted for certain contingencies in different economic sectors (in particular, industry and agriculture).

1.2 Second-generation standards⁸ adopted during and after World War II

The second phase of the ILO's standard-setting activity started during the Second World War. At this time, the nations of the free world were intensively seeking to build such post-war order where "all the

men in all lands may live out their lives in freedom from fear and want". In 1941, the Atlantic Charter expressed the "desire to bring about the fullest collaboration between all nations in the economic field with the object of securing, for all, improved labour standards, economic advancement and social security". The report of Lord Beveridge on social insurance and allied services (1942) systematized the concept of social security, assuming that "social insurance should be treated as one part only of a comprehensive policy of social progress". His proposal implied universal coverage of the population, provision of benefits compatible with human dignity, and social assistance to those not benefiting from social insurance.

This broader concept of social security, which was first reflected in the Social Security Act (1935) of the United States and the Social Security Act (1938) of New Zealand, found its expression in the Declaration of the Aims and Purposes of the International Labour Conference of 1944. This declaration was adopted in Philadelphia in the midst of the Second World War, when the ILO's headquarters had been temporarily moved to Montreal, Canada, for reasons of safety. The Declaration of Philadelphia set out the key principles for the ILO's work after the end of World War II. It became an annex to the ILO Constitution. The Declaration mentions as part of the Programme of Action of the ILO "the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care". This implied an important change for ILO's work in social security as the mandate of the Organization was extended to guarantee income social security to the entire society and not only to specific categories of workers. At the same time, the International Labour Conference in Philadelphia adopted two Recommendations: the Income Security Recommendation, 1944

1 Workmen's Compensation (Agriculture) Convention, 1921 (No. 12); Workmen's Compensation (Accidents) Convention, 1925 (No. 17).

2 Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18); Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42).

3 Sickness Insurance (Industry) Convention, 1927 (No. 24); Sickness Insurance (Agriculture) Convention, 1927 (No. 25).

4 Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35); Old-Age Insurance (Agriculture) Convention, 1933 (No. 36).

5 Invalidity Insurance (Industry) Convention, 1933 (No. 37); Invalidity Insurance (Agriculture) Convention, 1933 (No. 38).

6 Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39); Survivors' Insurance (Agriculture) Convention, 1933 (No. 40).

7 Unemployment Provision Convention, 1934 (No. 44).

8 For detailed information regarding the requirements of Convention No. 102, see Annex 1.

(No 67) and the Medical Care Recommendation, 1944 (No. 69), which laid down, taken together, the blueprint for the development of comprehensive social security for the years to come. They paved the way for a second generation of social security standards aiming at the promotion of entire social security systems. These second-generation standards consolidated different branches of social security into a unified and coordinated system. They broadened their range by including new branches such as family benefit and universal medical care, and they extended social security protection to the self-employed and the non-working population. The novelty of these standards lay in the comprehensiveness of coverage in respect of persons and contingencies, as well as in the coherent and codified form of presentation. Another major novelty of the second generation standards is the introduction and prescription of a minimum level of benefits in each of the social security branches covered.

Already at the time of their adoption, it was envisaged that these two Recommendations would be converted into legally binding Conventions based on acquired experience. This was done at the 35th Session of the International Labour Conference on 28 June 1952 through the adoption of the Social Security (Minimum Standards) Convention (No. 102). Convention No. 102 constitutes a landmark in the work of the ILO. It consolidates the previous instruments, which were confined to particular branches, and gives social security a unified, coordinated structure, placed under the general responsibility of the State. Convention No. 102 is a comprehensive instrument which covers and defines all nine branches of social security and establishes minimum parameters of protection with respect to not only employees but also economically active persons and persons of small means in need of protection. But it also provides for some flexibility, as Member States do not need to have a comprehensive social security system in place before ratifying the Convention but can proceed to ratification when their system complies with respect to at least three of the nine branches, and may subsequently notify the ILO that it accepts one or more additional parts of the Convention. A certain order of priority is indicated but, broadly speaking, it is left to each State to build up its own programme according to its own needs and its stage of development.

Initially, it was envisaged to establish an instrument with a dual architecture of “minimum standards”

for less developed countries desiring to create their national systems of social security (with the possibility of temporary exceptions); and “advanced standards” for countries with already developed systems. However, due to the complexity of the debate and the lack of time, the idea of one comprehensive social security instrument was ultimately abandoned and the completion of the original dual architecture was split into stages: minimum standards were set in Convention No. 102, whereas the adoption of more advanced standards was put on the agenda of a future ILC session. These future standards became the thematic Conventions Nos. 121, 128, 130, 168 and 183.

Convention No. 102 became the foundation of international social security law. It transformed the strategic vision laid down in the 1944 Recommendations into legal obligations and became a landmark international instrument by establishing social security as a separate branch of international law. It is the only international standard, which adopts a holistic approach and regroups into a single, comprehensive and legally binding instrument the range of nine benefits considered to form the core of social security (medical care, and benefits with regard to sickness, unemployment, old age, employment injury, family, maternity and survivors) and places them under the principles of governance applicable to the entire social security system. It gives an internationally accepted definition of the material scope of social security which is still relevant today. It defines the persons protected not in terms of given trades or branches of activity (industry or agriculture) but according to numerical criteria, and with a choice in this respect of several options related either to employed persons, or active population, or residents. While social security instruments adopted before the War left the determination of the rate of benefit to national legislation, Convention No. 102 prescribes a minimum rate for the various benefits it provides for. This is done by setting quantitative standards and statistical requirements as to the minimum coverage of the population and the rate of benefits. This is certainly one of the most innovative aspects of this instrument, as it supplies a yardstick for measuring the extent to which national systems reach or exceed the prescribed minimum level. In this way, the Convention provides a legally binding minimum normative framework for the design, measurement and development of social security systems worldwide.

But the Convention also offers some flexibility, making it universally applicable. This is achieved, in par-

ticular, by linking the required rate of benefits to the individual wage level of different countries, using as relevant reference wage the statistically determined wage of a typical adult male labourer in the country concerned. Moreover, it offers a range of options and flexibility clauses as regards the required scope of protection, making it possible to attain gradually the objective of broad coverage in harmony with the degree of national economic development.

It is important to keep in mind that the Convention does not call for the standardization or “unification” of national social security systems. It respects the diversity and individuality of different national approaches towards social security which are the product of distinctive social, political and economic traditions of the States in which they have evolved. Instead of trying to impose a specific approach or “blueprint” for the establishment of social security schemes, the Convention sets “benchmarks” for contributory and non-contributory social protection schemes, that is, a series of objectives based on commonly accepted principles with a view to guaranteeing a minimum social threshold for people in all Member States. The minimum goals laid down in Convention No. 102 set out what must be achieved but leave every State to determine how it will be achieved. They are designed in such a way that they can be applied by all types of social security mechanisms, whether entitlement is based on employment, specific categories of occupations, the whole economically active population, or residence. Each country may apply the Convention through a combination of contributory and non-contributory benefits, general and occupational schemes, compulsory or voluntary insurance, and through different methods for the administration of benefits including public and private participation, all intended to secure an overall level which best responds to its needs.

1.3 Third-generation standards⁹

Having set in stone the conceptual framework of social security, ILO’s forthcoming work in this subject area focused on finalizing the original vision of also setting higher standards as compared to the minimum ones established by Convention No. 102

while reaffirming the systems approach, as well as the principles of administration and financing, as set out in Convention No. 102. The third-generation standards adopted subsequently draw upon the model of Convention No. 102, but take social security two steps further: first, by raising the level of protection offered both in terms of population covered and of the level of benefits; and, second, by broadening the concept of social security to include additional forms of social benefits, support and services. These “higher” standards laid down in legally binding Conventions complete the original architecture imagined in the early 1950s and revise the first-generation instruments on the basis of the common principles regarding the organization, management and financing of the social security systems established by Convention No. 102. These more demanding standards are accompanied by non-binding Recommendations which provide guidance as to how to implement the Conventions with respect to specific issues or improve their levels of protection. They frequently suggest certain lines of advance beyond the limits defined in the more mandatory articles of the Conventions.

These more advanced standards adopted from 1964 onwards comprise:

1. The Employment Injury Benefits Convention, 1964 (No. 121) and the Employment Injury Benefits Recommendation, 1964 (No. 121) which deal with all four contingencies caused by employment injuries and occupational diseases.
2. The Invalidity, Old-Age and Survivors’ benefit Convention, 1967 (No. 128) and the Invalidity, Old-Age and Survivors’ Benefits Recommendation, 1967 (No. 131) which regroup all three long-term benefits payable in case of old age, invalidity and death. This is in line with the practice in many countries to have these three branches of social security administered by a single national pension system.
3. The Medical Care and Sickness Benefits Convention, 1969 (No. 130) and the Medical Care and Sickness Benefits Recommendation, 1983 (No. 134), reflecting the trend towards establishing comprehensive health insurance systems.
4. The Employment Promotion and Protection against Unemployment Convention, 1988

⁹ For detailed information regarding the requirements of advanced standards, see Annex 2.

(No. 168)¹⁰ and the Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176) which apply a comprehensive approach towards employment promotion based on the understanding that unemployment protection is only part of a broader set of social policies directed at one priority goal – the promotion of full, productive and freely chosen employment.

5. The Maternity Protection Convention, 2000 (No. 183)¹¹ and the Maternity Protection Recommendation, 2000 (No. 191), which are another example of a more integrated and flexible approach towards social protection.

All these up-to-date social security standards revise the previous first-generation standards on social insurance and social protection.

The picture given above of the development of international standards on social security would be incomplete if it failed to mention the ILO's constant concern to provide protection for migrant workers, and non-nationals in particular, in the field of social security. Here twin goals have been pursued: on the one hand, to ensure that non-nationals are treated on an equal footing with nationals; and, on the other, to guarantee the maintenance of rights, both acquired and in the course of acquisition, in the event of workers transferring their residence from one country to another. The principle of equal treatment is enshrined in many general instruments on social security, including Convention No. 102. It has been the subject of specific standards, of which the following deal exclusively with social security: the Equality of Treatment (Social Security) Convention, 1962 (No. 118) and the Maintenance of Social Security Rights Convention, 1982 (No. 157) and Recommendation (No. 167). From a conceptual point of view, the standards providing social security protection for migrant workers are regarded as coordination standards, while those dealt with in previous paragraphs are considered as harmonization standards.

Lastly, in accordance with the practice regarding the drafting of standards on maritime labour, a number of Conventions and Recommendations concerning

seafarers' social security benefits have been adopted by special maritime sessions of the International Labour Conference. These have now been consolidated in one single comprehensive instrument, namely the Maritime Labour Convention, 2006, as amended (MLC 2006). Social security for seafarers is now regulated in Regulation 4.5, Standard A4.5 and Guideline B4.5 of MLC 2006. Social protection for sea fishers is regulated in the Work in Fishing Convention, 2007 (No. 188).

1.4 Decent work and the extension of social protection to all

In most of the Organization's standard-setting and technical cooperation activities on social security, the constituents of the ILO had expected that an increasing proportion of the labour force, also in developing countries, would end up in formal sector employment or self-employment covered by social security schemes. It implicitly assumed that past economic and social development patterns of the industrialized countries would replicate themselves in other regions. However, experience in particular in developing countries – and also to some extent in industrialized countries – has shown that this proportion is now stagnating or even declining and that more and more workers – often women – are in less secure employment such as casual labour, home work or certain types of self-employment. The growth of informal, unregistered and unprotected work creates dangers for formal and informal workers alike. With shrinking formal employment, workers bear an increasing direct burden of financing social needs, with adverse effects on their livelihood.

One of the key global problems facing social security today is the fact that the vast majority of the world's population (workers and their dependants), in particular in developing countries, work in the informal economy and are thus excluded from any type of social security protection or have only partial access to comprehensive social protection

¹⁰ Unlike Conventions Nos. 121, 128 and 130, which substitute the corresponding Parts VI, V, IX, X and III of Convention No. 102 within the meaning of its Article 75, Convention No. 168 only revises the pre-war Unemployment Provision Convention, 1934 (No. 44), but not Part IV of Convention No. 102, because the latter is still regarded as a valuable target for developing countries that are in a position to set up an unemployment compensation scheme. This does not alter the fact, however, that Convention No. 168 effectively sets higher standards than those contained in Part IV of Convention No. 102 as regards both the applicable scope of protection and the rate of benefits.

¹¹ From a strictly legal point of view, Convention No. 183 formally revises only the Maternity Protection Convention (Revised), 1952 (No. 103), but not Part VII of Convention No. 102.



Street seller. La Paz (Alto), Bolivia. Date : 2010-04. Copyright © Marcel Crozet / ILO.

systems.¹² In response, in 1999 the ILO developed as a primary goal the “decent work strategy” based on four strategic pillars: full and productive employment, rights at work, social protection and the promotion of social dialogue. The strategy recognizes the central role of employment as the most effective route out of poverty. But decent work is not just about getting a job. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families. One of the essential features of the decent work approach is that everybody should be entitled to basic social protection.

Moreover, in view of this huge coverage gap, the ILO launched a “Global campaign on social security and coverage for all” in 2003. Through the ILO Declaration on Social Justice for a Fair Globalization, adopted in 2008, constituents reconfirmed their joint efforts in promoting decent work through a coordinated approach towards achieving the four strategic

objectives of employment, social protection, social dialogue, and fundamental principles and rights at work. These objectives include the extension of social security to all, including measures to provide basic income to all in need of such protection, and adapting its scope and coverage to meet the new needs and uncertainties generated by the rapidity of technological, societal, demographic and economic changes. These efforts culminated at the 101st Session of the International Labour Conference with the adoption on 14 June 2012 of the Social Protection Floors Recommendation, 2012 (No. 202).

1.5 The Social Protection Floors Recommendation, 2012 (No. 202)¹³

This Recommendation, which was adopted by all constituents with one abstention in 2012, marks

¹² In its *World Social Protection Report 2020–22* (ILO 2021 a) the ILO specifies that (as of 2020) 46.9 per cent of the global population were effectively covered by at least one social protection benefit, while the remaining – 53.1 per cent – were left wholly unprotected. Only 30.6 per cent of the working-age population are legally covered by comprehensive social security systems, whereas 69.4 per cent were covered only partially or not at all. Countries spend on average 12.9 per cent of their gross domestic product (GDP) on social protection (excluding health), but this figure masks staggering variations. High-income countries spend on average 16.4 per cent, or twice as much as upper-middle-income countries (which spend 8 per cent), six times as much as lower-middle-income countries (2.5 per cent), and 15 times as much as low-income countries (1.1 per cent).

¹³ For detailed information regarding the requirements of Recommendation No. 202, see Annex 3.

a new stage in promoting the extension of social security by the ILO. It incorporates the objectives of the Recommendations adopted in 1944 while laying down a strategy for achieving universal social protection in the context of the 21 century. It is based on a two-pronged approach, namely: (1) to achieve universal coverage of the whole population with at least minimum levels of protection (horizontal dimension); and (2) progressively ensuring higher levels of protection guided by up-to-date ILO social security standards (vertical dimension). Both dimensions of extension of coverage are of equal importance and should be pursued simultaneously, where possible. They are consistent with moving towards compliance with the requirements of the Social Security (Minimum Standards) Convention, 1952 (No. 102) and the other up-to-date Conventions and Recommendations setting out more advanced standards, whose ongoing importance is explicitly underlined in paragraph 17 of the text. It is only a logical consequence of this approach that paragraph 18 of the Recommendation urges Member States to ratify, as early as national circumstances allow, at least the Social Security (Minimum Standards) Convention, 1952 (No. 102), or, if possible, other more advanced standards.

The new Recommendation complements the existing normative framework by encouraging countries to implement national social protection floors as a fundamental element of their social protection systems, which should ensure a basic level of social security also for the so far unprotected, i.e. the poor and the most vulnerable, including workers in the informal economy and their families. Paragraph 2 defines social protection floors in the following terms: "For the purpose of this Recommendation, social protection floors are nationally defined sets of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion." These national social protection floors should comprise at least the following four basic guarantees, as defined at national level:

- access to essential healthcare, including maternity care;
- basic income security for children, providing access to nutrition, education, care and any other necessary goods and services;
- basic income security for persons in active age who are unable to earn sufficient income, in

particular in cases of sickness, unemployment, maternity and disability; and

- basic income security for older persons.

While the final objective is to put in place comprehensive social protection systems, implementation can be gradual in line with States' resources. Countries adopting a social protection floor should develop nationally defined strategies, in a participatory manner, respecting principles which echo both fundamental human rights principles and also core principles related to the good governance, delivery and financing of social security systems. These basic social security principles include:

- the universality of protection; entitlements prescribed by law;
- adequacy and predictability of benefits;
- non-discrimination, gender equality and responsiveness to special needs;
- respect for the rights and dignity of people covered by the social security guarantees;
- progressive realization;
- solidarity in financing;
- transparency and accountability;
- efficiency and accessibility of complaints and appeal procedures; and
- respect for the rights of collective bargaining and freedom of association for all workers.

Social protection floors should be financed from national resources based on the principle of solidarity in financing, using different approaches which may include universal benefit schemes, social insurance schemes, social assistance schemes, negative income tax schemes, public employment schemes and employment support schemes.

Recommendation No. 202 constitutes a new international reference for the future development of national social protection policy and legislation through outlining a roadmap towards universal social protection. By setting out fundamental principles and a framework for the development of universal, comprehensive, sustainable and adequate social protection systems, it embodies a new paradigm for social protection in the 21st century which calls for effective implementation. This Recommendation provides the basis for the future work of the ILO in the area of social security and social protection.

1.6 Social protection as a human right and the UN 2030 Agenda for Sustainable Development

The concept of the Social Protection Floor is based on shared principles of social justice: Recommendation No. 202 explicitly refers in its Preamble to the Universal Declaration of Human Rights, 1948 and the International Covenant on Economic, Social and Cultural Rights, 1966 which stipulate the right of everyone to social security and the right to medical care.

On the other hand, the decent work concept of the ILO as well as the idea of developing social protection floors have now gained widespread international acceptance and are also embedded, for instance, in the United Nations 2030 Agenda for Sustainable Development. This Agenda, which was formally adopted by world leaders of the UN's 193 Member States gathering at a special summit in September 2015 in New York, lists 17 Sustainable Development Goals (SDGs) complemented by

169 targets that build on the progress achieved under the Millennium Development Goals of the United Nations. It provides a globally applicable framework for national and international efforts over the 15 years 2015 to 2030 to find shared solutions to the world's greatest challenges. It calls for a mobilization of efforts on the part of all countries to end all forms of poverty, fight inequalities and tackle climate change, while ensuring that no one is left behind. It thus aims at integrating and balancing the three dimensions of sustainable development: the economic, social and environmental.

Most prominently, target 1.3 calls upon countries "to implement nationally appropriate social protection systems and measures for all, including floors, for reducing and preventing poverty, and by 2030 achieving substantial coverage of the poor and the vulnerable", and Goal 8 calls for the promotion of "inclusive and sustainable economic growth, employment and decent work for all". The importance of social protection for sustainable development is also reflected in several other goals and targets, including universal health coverage (SDG target 3.8), gender equality (SDG target 5.4), decent work and



Expecting and nursing mothers require social protection but workers in the informal economy are often not covered. Maternity protection has been a primary concern of the ILO since its creation in 1919. Workplace support for mothers who are breastfeeding has been a basic provision of maternity protection. The Philippines expanded maternity leave benefits in 2019 to align with international labour standards. The ILO also promoted exclusive breastfeeding in the workplace to advance women's rights to maternity protection and to improve nutrition security for Filipino children. Copyright © E. Tuyay / ILO.

economic growth (SDG target 8.5), and greater equality (SDG target 10.4).

The SDGs are not legally binding, but they will nevertheless stimulate governments to take ownership and to establish national frameworks for their achievement. A follow-up procedure has been established in order to review the progress made in implementing the 17 Goals, which will be based on national-level analysis and data collection. The ILO has accepted custodianship for the development of 17 SDG indicators and the compilation of related statistical data in order to measure and monitor progress made towards the achievement of five of the 17 SDGs including target 1.3. SDG indicator 1.3.1 is of particular relevance in this context, as it reflects the proportion of persons effectively covered by a social protection system, including social protection floors, as well as the main components of social protection: child and maternity benefits; and support for persons without a job, persons with disabilities, victims of work injuries

and older persons. Such measurement of effective social protection coverage is particularly useful for assessing the extent to which social protection, in line with ILO standards, is effectively implemented in the national context.

This shows that human rights standards adopted by the United Nations and the ILO standards including the Social Protection Floor Initiative are complementary, as the first provides the policy space whilst the latter provides the normative framework in which States should develop social protection floors. The body of standards produced by the ILO over the years has brought into existence international social security law which gives a firm legal foundation to the internationally recognized human right to social security and which has brought national social security systems under the rule of law. Based on this foundation, the United Nations and the ILO work together in promoting the final goal of universal social protection for all.



2

▶ **Role of workers' organizations in the process of ratification, application and supervision of social security standards**

▶ 2. Role of workers' organizations in the process of ratification, application and supervision of social security standards

Workers' organizations should promote the ratification and application of the ILO social security standards, and particularly Convention No. 102, with a view to building sound and sustainable social protection systems as well as guaranteeing regular and adequate benefits to all workers.

The provision of benefits, in cash or in kind, ensures that workers and their families have access to medical care and health services, as well as income security throughout the life cycle, particularly in the event of illness, unemployment, employment injury, maternity, family responsibilities, invalidity or loss of the family breadwinner, as well as during retirement and old age.

The ratification and application of Convention No. 102 would also enhance the confidence of insured persons in social protection schemes and in the national social security administration in general, and provide ratifying States with ILO technical assistance in the field of social protection on a priority basis.

In countries where it is not ratified, Convention No. 102 should be regarded as a guiding framework for developing social security policies and legislation. Workers' organizations can rely on the fact that Convention No. 102 was adopted at the International Labour Conference with a large majority of all delegates – governments, employers and workers – to remind Member States of their commitment.

2.1 Workers' organizations' involvement in the process of ratification, application and supervision of social security standards

There are many instances where workers' organizations are directly involved in the process of ratification, application and supervision of social security standards. These are provided through the Constitution of the ILO, but they exist also at national level.

At the level of the ILO:

- ▶ The ILO is the only tripartite UN agency with government, employer and worker representatives. ILO standards are adopted at the International Labour Conference, where government delegates and the social partners (the representatives of employers and workers) have the same voting strength.
- ▶ The promotion of social dialogue and tripartism is one of the four strategic objectives of the ILO under the Decent Work Agenda and was reaffirmed as such by the ILO Declaration on Social Justice for a Fair Globalization, 2008, and the ILO Centenary Declaration for the Future of Work, 2019.
- ▶ If an ILO instrument has been adopted, employers' and workers' organizations at national level are consulted as regards its implementation.
- ▶ Workers have the possibility to actively participate through their representative organizations in the supervision of ratified Conventions. They receive governments' reports on the application of ratified Conventions and have the possibility to provide their own comments. The same applies with regard to any information submitted by governments upon request about Conventions which have not, or not yet, been ratified. Workers' organizations may, for instance, draw attention to a discrepancy in law or practice regarding the application of a ratified Convention. Furthermore, any employers' or workers' organization may submit comments on the application of international labour standards directly to the Office. The Office will then forward these comments to the government concerned, which will have an opportunity to respond before the comments are examined by the Committee of Experts on the Application of Conventions and Recommendations (CEACR).
- ▶ Workers' organizations are also represented in the International Labour Conference Committee on the Application of Standards.

In recent years, the Committee of Experts has recalled consistently the essential role played by

Box 1. The important role played by trade unions in the supervision of standards

In the last two decades workers' organizations have played an increasingly active role in the supervision of ILO standards. Their comments on their governments' report have often expressed dissatisfaction, in particular with the increasingly strict access to social security benefits in their countries and the privatization of social security schemes, but they have also expressed concerns about the low level of benefits, the low coverage of schemes (in particular in the case of unemployment protection), and the insufficient protection of workers in precarious jobs or in the informal sector. They have also referred to problems in national healthcare systems and the need for better protection of social security funds.

However, it should also be acknowledged that social security systems are subject to constant reforms in order to adapt them to changing societal needs or changing financial constraints. Not all reductions of benefits automatically violate the obligation of a State under the ILO social security standards, unless the level of benefits is reduced below the minimum level guaranteed by these standards.

The Committee of Experts takes the view that "reductions in levels of protection, notably in times of crisis or in the context of austerity measures and fiscal consolidation should only be considered as a last resort option, when all other means have been exhausted. Retrogressive measures should not go beyond what is strictly necessary to preserve the financial and fiscal sustainability of the system and should not result in a breach of solidarity with those segments of the population which are the most in need of protection. Furthermore, such measures should not be maintained for a longer period than that which is strictly necessary. Most importantly, fiscal consolidation should always be accompanied by a social impact assessment with a view to introducing measures to mitigate adverse effects on the most vulnerable."¹

Note: ¹ Observation of 2008 as regards the application of Convention No. 102 by Portugal. In its observation of 2011 as regards the application of Convention No. 102 by Greece, the CEACR considered that "a social security system would not fulfil its role if the benefits it provides would be so low as to push the workers below the poverty line, as in such cases the State will be seen as failing to fulfil its general responsibilities under Article 71 para.2 and 72 para.2 of the Convention."

the social partners in the supervision of ILO instruments. Member States have an obligation under article 23(2) of the ILO Constitution to communicate to the representative employers' and workers' organizations copies of any report supplied in accordance with articles 19 and 22 of the Constitution on the measures taken in order to give effect to the ILO instruments adopted by the International Labour Conference. Following observations submitted by employers' and workers' organizations, the Committee of Experts has declared itself ready to review the application of a technical Convention, including outside of a reporting year, having due regard to the following elements:

- ▶ the seriousness of the problem and its adverse impact on the application of the Convention;
- ▶ the persistence of the problem; and
- ▶ the relevance and scope of the government's response in its reports or the absence of response

to the issues raised by the Committee, including cases of clear and repeated refusal of a State to comply with its obligations.

Observations or comments received from employers' and workers' organizations are routinely considered by the Committee of Experts in an observation; that is, they are commonly integrated into the yearly report of the CEACR, thus enhancing the publicity and visibility of the issues raised (see box 1).

At the national level:

- ▶ Member States are requested to develop national social security strategies and policies, including tripartite participation with representative organizations of employers and workers (para. 19 of Recommendation No. 202).
- ▶ Persons protected, mainly through their representative organizations, are entitled to participate in the management of social security institutions by virtue of Article 72, para. 1



110th Session of the International Labour Conference. ILO Committee on the Application of Standards (CAN). Tuesday, 31 May 2022. Copyright © Crozet / Pouteau / Albouy / ILO.

of Convention No. 102¹⁴. In this context, the Committee of Experts stressed the importance of an enabling legislation and institutional environment to promote effective social dialogue and social participation in relation to social protection at the national level. Those concerned should have a voice in the decision-making process. Therefore, participation and consultation, through relevant and representative organizations, should be an integral part of social policies, programmes or strategies.

- There are also examples (as in Denmark, Finland, France and the Netherlands) where unemployment schemes or occupational pension schemes have been established on the basis of a collective

agreement upon the initiative of trade unions in those countries. Such agreements provide social partners with the possibility to run such systems themselves. They thus combine the advantages of broader coverage and pooling of risks with autonomy from the State, as they are jointly managed by employers' and workers' representatives. However, this does not discharge the State from its general obligation and responsibility to ensure the due provision of benefits in compliance with Convention No. 102.¹⁵

Social partners – employers' and workers' organizations – can thus play an important role in the development and management of social protection measures.

14 Article 72, para. 1 of Convention No. 102 stipulates that "Where the administration is not entrusted to an institution regulated by the public authorities or to a Government department responsible to a legislature, representatives of the persons protected shall participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions; national laws or regulations may likewise decide as to the participation of representatives of employers and of the public authorities."

15 Article 71 para. 3 of Convention No. 102.



3

▶ Content of Convention No. 102

▶ 3. Content of Convention No. 102

As mentioned above, the ILO social security Conventions and Recommendations, and more particularly Convention No. 102, are regarded as the main instruments through which the ILO pursues its mandate of extending social security coverage to all by establishing States' obligations for the implementation of social security schemes for each contingency.

Convention No. 102 is the only international instrument with a systemic vision of social security establishing worldwide-agreed qualitative and quantitative minimum standards for all nine branches of social security. It also sets out common rules of collective organization, financing and management of social security, as well as principles for the good governance of national systems. As such, it is considered as a symbol and a reference for the creation and reform of social security systems globally.

Because of its outstanding importance, this chapter will explain in more detail in the first place the meaning and the underlying rationale of the different provisions of Convention No. 102. When doing so, however, account will also be taken of the third-generation higher standards adopted subsequently, as they sometimes provide a more specific meaning to the underlying concepts of social security of Convention No. 102. Moreover, account will be taken of Recommendation No. 202, as this Recommendation pursues as its primary goal a broadening of the idea of social security as defined in Convention No. 102, without however weakening its basic principles. Reference will also be made to the UN 2030 Agenda for Sustainable Development, as social protection is definitely one of the most important means for attaining the targets set by this fundamental charter for the twenty-first century.

3.1 Basic concept of Convention No. 102

It has to be acknowledged that for a reader without deep knowledge of the basic mechanisms of social security schemes, the provisions of Convention No. 102 and the other social security standards are not easy to understand. This is due to the rather technical nature of these instruments, but also to the very complex, interrelated and concise presen-

tation of the different requirements they contain. It may therefore be useful to explain first the general structure of Convention No. 102 before explaining its provisions in more detail.

In a nutshell, it can be stated that Convention No. 102 and all the other up-to-date ILO standards on social security adopted after World War II pursue the aim of establishing precise qualitative and quantitative benchmarks which together determine the minimum standards of social security protection to be provided by social security schemes when life risks or circumstances occur, with regard to:

- ▶ definition of the contingency (what risk or life circumstance must be covered?);
- ▶ persons protected (who must be covered?);
- ▶ type and level of benefits (what should be provided?);
- ▶ entitlement conditions, including qualifying period (what should a person do to get the right to a benefit?); and
- ▶ duration of benefit and waiting period (how long must the benefit be paid/provided for?).

Convention No. 102 defines minimum standards as regards nine branches of social security. These are:

1. Medical care
2. Sickness benefit
3. Unemployment benefit
4. Old-age benefit
5. Employment injury benefit
6. Family benefit
7. Maternity benefit
8. Invalidity benefit
9. Survivors' benefit

All but the first of these benefits are paid in cash and two of them – employment injury and maternity – also include beside cash benefits an element of medical care. Family benefits may comprise a variety of components.

Finally, the Conventions set out common rules of collective organization, financing and management

of social security, as well as principles for the good governance of national systems. These include:

- ▶ the general responsibility of the State for the due provision of benefits and proper administration of social security systems;
- ▶ solidarity, collective financing and risk-pooling;
- ▶ participatory management of social security schemes;
- ▶ guarantee of defined benefits;
- ▶ adjustment of pensions in payment to maintain the purchasing power of beneficiaries; and
- ▶ the right to complain and appeal.

In addition to branch-specific provisions contained in Parts II–X, the Convention lays down provisions common to all or most of the various contingencies: flexibility options in ratification and implementation of the Convention (Part I), quantitative standards for periodical payments (Part XI), equality of treatment of non-national residents (Part XII), and common provisions in Part XIII regarding the suspension of benefits, the right of appeal and certain principles concerning financing and administration.

As explained above, one of the innovative features of Convention No. 102 consists in the fact that it establishes quantitative standards based on statistical requirements as regards the minimum level of coverage, the minimum rate of benefits and the adjustment of benefits. These will be explained first before looking into the further requirements regarding each branch of social security.

3.2 Personal scope of protection

Owing both to historical and economic reasons, there is a diversity of social protection mechanisms which cover different groups of people: some schemes cover only or mainly employed persons, others apply to most or all of the active population (including the self-employed), and a few schemes cover practically the entire population. With deliberate flexibility, the Convention authorizes the use of different methods for the provision of coverage prescribed in order to allow for the varying situations to be found from country to country, as the result of one or other of the two main lines of approach – social insurance (providing mainly for

benefits proportionate to the period of insurance and the amount of contributions paid); and public welfare services (aiming essentially at providing a (frequently tax-financed) minimum income).

In line with this flexible approach, the Convention does not define the classes of persons to be protected linked to specific sectors, as was the practice in Conventions adopted before the Second World War, but simply requires that a specified percentage of the population is covered. These percentages relate either

- ▶ to all employed persons (“employees”);
- ▶ to the whole working population (“economically active population”); or
- ▶ to all residents subject to a means test.¹⁶

The first alternative is narrower in scope of coverage than the others; it was included in order to take into consideration systems which are restricted to employees (i.e. classical “Bismarckian” social insurance schemes). A State which avails itself of this alternative must demonstrate in its periodic reports that its social protection scheme, or combination of schemes covers prescribed classes of employees, constituting not less than 50 per cent of all employees.

The second alternative was designed to take account of the “social security” type of system (“Beveridge”); it requires that prescribed classes of the economically active population, including self-employed persons, constituting not less than 20 per cent of all residents be protected.

The third alternative was intended for the non-contributory, tax-financed systems providing protection to persons of small means (means-tested social assistance schemes).

By referring to statistical criteria for defining their scope and by offering States a choice of options, the Convention provides considerable leeway in defining the scope of persons protected. This is already expressed by using the term “prescribed” which offers the national legislator by definition some latitude to regulate further details in national laws or regulations.

While the percentages required by Convention No. 102 are rather low, the standards set by the social security Conventions and Recommendations adopted subsequently are higher (as can be seen

¹⁶ Articles 9, 15, 21, 27, 33, 41, 48, 55, 61 of Convention No. 102.

► Table 1. Personal scope of protection (percentages)

Contingency	Employees			Economically active population			Residents			Employees (developing countries, exceptions)	
	A	B	C	A	B	C	A	B	C	A	B
Medical care	50 ¹	100 ^{1,2}	³	20 ¹	75 ¹	100 ¹	50	75	100	50 ⁴	25 or 50 ⁵
Cash sickness benefit	50	100 ²	³	20	75	100	100 (means test)			50 ⁴	25 or 50 ⁶
Invalidity, Old-age, Survivors' benefits	50	100	³	20	75	100	100 (means test)			50 ⁴	25 or 50 ⁶
Employment injury	50	100	³	Voluntary insurance for non-salaried workers is recommended			-	-	-	50 ⁴	75 ⁷
Maternity	50 ⁸	100 ²	-	20 ⁸	-	-	-	-	-	50 ⁴	-
Unemployment	50	85 ²	-	-	-	-	100 (means test)			50 ⁴	50
Family benefit	50	-	-	20	-	-	100 (means test)			50 ⁴	-

Notes: A = Convention No. 102 (minimum standards) B = Conventions Nos. 121, 128, 130, 168, 183 (higher standards) C = Recommendations Nos. 121, 131, 134, 176, 191 (recommended standards). ¹ And the wives and children of persons in the said classes. ² Provided that determined categories of employees can be excluded. ³ Extension, by stages if necessary, to persons having been excluded. ⁴ 50% of all employees in industrial workplaces employing 20 persons or more. ⁵ 25% of all employees or 50% of employees in industrial undertakings, and the wives and children of such employees. ⁶ 25% of all employees or 50% of employees in industrial undertakings ⁷ 75% of all employees in industrial undertakings. ⁸ All women in prescribed classes of employees or the economically active population, respectively, and for maternity medical benefit also the wives of men in these classes. The indicated percentage relates to classes of workers in order to avoid any gender discrimination.

in table 1). The accompanying Recommendations urge Member States to extend the scope of coverage even further.

Recommendation No. 202 complements Convention No. 102 and the higher social security standards, as it aims to provide at least basic social security guarantees to all residents and children. These guarantees should ensure at a minimum that, over the life cycle, all in need have access to essential healthcare and to basic income security. Such basic income guarantees, however, may not attain the level prescribed in Convention No. 102, but will be determined by national poverty lines or correspond to the monetary value of a set of goods and services required to allow a life in dignity.

Convention No. 102¹⁷ also recognizes the difficulties experienced in particular by developing countries, which are frequently confronted with massive problems regarding the correct and comprehensive registration of all workers even when they fall (in theory) under the scope of their legislation. This is

particularly the case for those working in smaller enterprises or in the informal economy. For this reason, the Convention allows States whose economy is "insufficiently" developed to avail themselves, by a declaration appended to their ratification, to temporarily limit the scope of protection to employees working in industrial workplaces employing 20 persons or more, for whom formal records are more likely to exist and who, for this reason, are more easily reached by the necessary registration process of social insurance institutions. This temporary exception aims at allowing countries to start building and consolidating their systems by first covering big enterprises and then extending progressively social security protection to smaller enterprises and self-employed persons.

Frequently, special categories of employees, in particular public servants and agricultural workers, are not covered by the general but by special social protection schemes, or they are entirely exempted from any coverage. This may be due to the fact that the State

17 Article 3 of Convention No. 102 refers to the last letters of the aforementioned Articles.

wants to offer them special and generally more favourable benefits than those granted under the general schemes (such as in the case of public servants) or that they are left out because of the administrative difficulty of registering them and of keeping track of their movements (such as casual or seasonal workers, domestic workers, home workers or members of the employer's family). Unlike the higher standards, Convention No. 102 does not specifically allow for the exclusion of specific categories of workers, but allows Member States to prescribe the scope of protection at their discretion provided the minimum percentage of coverage laid down in the Convention is attained in law and practice. However, it should be noted that Convention No. 102 does not apply to seamen or sea fishermen (Article 77), who are protected by the Social Security (Seafarers) Convention, 1946, and the Seafarers' Pensions Convention, 1946. In addition, a Member may exclude seamen and sea fishermen from the number of employees, of the economically active population or of residents, when calculating the percentage of employees or residents protected in compliance with any of Parts II to X covered by its ratification.

3.3 Replacement rates of periodical payments

As explained above, the Conventions relate the minimum level of periodical cash benefits payable in respect of the various contingencies to the wage level of the country concerned, using a schedule of "standard beneficiaries" and "corresponding minimum levels of benefits, indicated in percentages" (Schedule to Part XI of Convention No. 102).

The "standard beneficiary" is the typical household for which the Convention seeks to ensure a minimum level of protection and is composed of a breadwinner and a dependent spouse, as well as, dependent children, if applicable. The indicated percentages for each social security benefit may relate either to the wage of "skilled manual male employee" or to the wage of an "ordinary adult male labourer" in the country concerned.

A *skilled manual male employee* is defined¹⁸ as either

- a) a fitter or turner in the manufacture of machinery other than electrical machinery; or

- b) a person deemed typical for skilled labour, i.e. "a person employed in the major group of economic activities with the largest number of economically active male persons protected in the contingency in question"; or
- c) a person whose earnings are such as to be equal to or greater than the earnings of 75 per cent of all the persons protected, such earnings to be determined on the basis of annual or shorter periods as may be prescribed; or
- d) a person whose earnings are equal to 125 per cent of the average earnings of all persons protected.

An *ordinary adult male labourer* is¹⁹ either

- a) a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery; or
- b) a person deemed typical of unskilled labour, selected according to the same criteria as described above under (b).

Convention No. 102 offers a choice of three methods of calculation to ensure that the rate of benefit reaches the level prescribed. These three formulas take into account the methods for calculation of benefit adopted by different States, and they thus suit the practice in various schemes according to which:

- a) the amount of the benefit may be based on the previous earnings of the beneficiary or the breadwinners and may be proportionate, wholly or in part, to these earnings (Article 65 of Convention No. 102); or
- b) a uniform rate of benefit or one which includes a prescribed minimum amount may be fixed in each case irrespective of previous earnings (Article 66 of Convention No. 102); or
- c) a uniform rate of benefit may be fixed as in the preceding case, but the amount paid depends upon the means of the persons concerned, i.e. it may be reduced to the extent that by which the other means of the beneficiary and his family during the contingency exceeds a prescribed amount (Article 67 of Convention No. 102).

These three methods were considered to accommodate the various types of social security mechanisms, namely: benefits proportionate to earnings, flat-rate benefits, and means-tested benefits.

¹⁸ In Article 65 paras 6 and 7 of Convention No. 102.

¹⁹ According to Article 66 paras 4 and 5 of Convention No. 102.

► Table 2. Replacement rates of periodical cash benefits (percentages)

Contingency	Standard beneficiary	Minimum standards	Higher standards	
			Conventions	Recommen-dations
Sickness	Man with wife and two children	45	60	66 2/3
Unemployment	Man with wife and two children ¹	45	50 ¹	---
Old-age	Man with wife of pensionable age	402	452	55 ²
Employment injury:				
- incapacity for work	Man with wife and two children	50	60	66 2/3
- invalidity	Man with wife and two children	50	60	66 2/3
- survivors	Widow with two children	40	50	66 2/3
Maternity	Woman	45	66 2/3 ³	100
Invalidity	Man with wife and two children	40 ⁴	50 ⁴	60 ⁴
Survivors	Widow with two children	40 ⁴	45 ⁴	55 ⁴

Notes: ¹ Under Convention No. 168 (higher standard), the beneficiary is considered alone. ² These rates are required only for protected persons who have completed a qualifying period of 30 years of contribution or employment or 20 years of residence. A reduced benefit shall be secured at least after 15 years of contribution or employment. ³ Where benefits are based on previous earnings by virtue of Convention No. 183. ⁴ These rates are required only for protected persons who have completed a qualifying period of 15 years of contribution or employment or 10 years of residence. A reduced benefit shall be secured at least after 5 years of contribution or employment.

Basically, the following situations have been taken into account:

- 1) Where the rate of benefit is *calculated by reference to the previous earnings* of the beneficiary or covered person, the rate of benefit payable to a standard beneficiary, together with any family allowance involved, should not be less than the indicated percentage of the previous earnings plus family allowances. Formal rules should be described for the calculation of previous earnings. An upper limit may be set to the rate of benefit, or to the level of reckonable earnings. However, this ceiling should not be set below the earnings of a skilled manual male employee or at least not in such a way that the benefit of a skilled manual male employee does not reach the prescribed replacement rate (Article 65 of Convention No. 102).
- 2) Where uniform benefits are payable *at a flat-rate*, the rate of benefit for a standard beneficiary, together with any family allowances involved, should be not less than the indicated percentage of the wage, plus family allowance, of an ordinary adult male labourer (Article 66 of Convention No. 102).

3) In a third situation, where *all residents are covered*, the rate of benefit may be determined by *taking into account the means* of the beneficiary and his family, according to a prescribed scale. This formula has been designed to apply to non-contributory universal systems of social security which are frequently subject to a means test and which, at the time of adoption of Convention No. 102, could be found in particular in Australia and New Zealand. In such a case, the prescribed rules should allow substantial amounts of the other means of the family to be disregarded before the scale of benefit is reduced. The total of benefit, and other means (if any) over and above the amount disregarded, should be comparable with the benefit calculated elsewhere under the "flat-rate" formula and sufficient to maintain the family of the beneficiary in health and decency (Article 67 of Convention No. 102).²⁰

The later adopted Conventions Nos 128, 130 and 168²¹ provide for the same alternatives as regards the calculation of reference earnings (see table 2).²²

Family benefits may be provided either in cash or in kind (food, clothing, housing, holidays, or domestic help), or a combination of both.²³ The rate normally

20 This method of calculation may not be applied in respect of Part VI (Employment injury benefit) and Part VIII (Maternity benefit).

21 In case of non-contributory benefits, Convention No. 168, Article 15, para. 1(b) prescribes as one of the reference wages the national statutory minimum wage, beside the wage of an ordinary labourer.

22 The Employment Injury Benefits Convention, 1964 (No. 121), however, does not include the last alternative, i.e. the provision of means-tested benefits. The same applies to the Maternity Protection Convention, 2000 (No. 183).

23 Article 42 of Convention No. 102.

differs according to the number of children and/or their age. In some countries, family allowances have been made subject to an income test. For this reason, the rate of benefit could not be fixed directly as a certain sum or a certain percentage of a previous standard wage for each child. Therefore, the amount of benefit has been indicated in an indirect and global way. The total value of all benefits must represent either 3 per cent of the wage of an ordinary adult male labourer multiplied by the number of children protected, or 1.5 per cent of the said wage, multiplied by the total number of children of all residents.²⁴

Finally, it should be noted that alternative calculation methods deemed to be equivalent are available for schemes providing disproportionately higher benefits after shorter periods of insurance, employment or residence without necessarily attaining the required level after the standard period, i.e. after having completed a qualifying period of only ten years of contribution or employment (instead of 30) or five years of residence (instead of 20) in case of old age, or five years of contribution, employment or residence (instead of 15 or 10 years respectively) in case of invalidity or death of the breadwinner.²⁵

There is also the possibility of referring to the total amount of benefits paid to determine compliance with any of Parts III, V, IX and X. Under this formula, the minimum standard is deemed to be reached if the total amount of benefit paid exceeds by at least 30 per cent the total amount of benefits which would be obtained by applying the flat-rate formula in a scheme covering only 20 per cent of all residents. This introduces a considerable element of flexibility regarding the ways in which schemes covering all residents may comply with the Convention; for instance it leaves great latitude in the determination of the amount of benefit payable in each case, provided that total benefits paid comply with the above-mentioned condition.²⁶

It should be emphasized that the provisions of the Conventions regarding the required minimum rate of benefits are not intended to oblige States to adhere to a certain method of calculating their rate of benefit provided for by national legislation. States are free to adopt their own rules provided the result of their calculations meets the requirements as to the amount laid down in the Conventions. The three formulas outlined above and the parameters they

apply are intended only to provide a basis for comparison between national situations and the requirements of the Conventions. Therefore, any State for which these Conventions are in force may avail itself of any one of these formulas. In fact, many schemes in Member States combine the different formulas by supplementing, for instance, contribution-financed earnings-related benefits with a tax-financed flat-rate minimum benefit, which may or may not be subject to a means or income test.

The Conventions are silent as regards the question whether the replacement rate is to be calculated in relation to gross or to net earnings. Indeed, there are two ways to calculate the ratio of benefits to previous earnings: by either including or disregarding the effect of taxation. Where the effect of taxation is not included in either the numerator or the denominator, the replacement ratio summarizes gross benefit entitlements relative to gross earnings. This is the most frequently used method of calculating the replacement rate.

However, as taxation (including social security contributions) can have a large impact on the available amount of benefits and earnings, it is more accurate, but also more complicated, to calculate a net replacement ratio, which represents the ratio of net benefits after taxation to net earnings after taxation. Such a calculation frequently results in a higher replacement rate, as taxes and possibly also social security contributions levied on social security benefits are normally less important than taxes levied on earnings.

Whatever the calculation method chosen, the CEACR has always insisted on a calculation which represents either the ratio of gross benefits to gross earnings of a standard beneficiary or the ratio of net benefits to net earnings. This is necessary because taxes and social security contributions lower both the numerator and the denominator in the equation.

3.4 Periodic revision of cash benefits to changes in the general level of earnings and prices

Part XI of Convention No. 102 also provides for a periodic revision of pensions to fluctuations in the

²⁴ Article 44 of Convention No. 102.

²⁵ Articles 29 para. 3, 57 para. 3, 63 para. 3 of Convention No. 102.

²⁶ Article 67 (d) of Convention No. 102.



Exchange bank on Pahonyothin Road, Bangkok, Thailand. Copyright © Marcel Crozet / ILO.

economic situation. The importance of protecting pensioners against the effect of inflation becomes evident if one considers that a constant inflation rate of 3 per cent per year, for instance, which still can be considered as being moderate, will result in a price increase of 100 per cent in about 23 years, cutting the purchasing power of pensions by half. So – particularly in periods of rapid inflation – the erosion of the purchasing power of social security benefits can have dramatic and unfortunate consequences.

The International Labour Conference already foresaw this problem when adopting its Income Security Recommendation, 1944 (No. 67).²⁷ The later Conventions No. 102 of 1952, No. 121 of 1964 and No. 128 of 1967 all confirm the principle put forward in 1944, namely that rates of long-term benefits ought to be reviewed following substantial changes in the general level of earnings, where these result from substantial changes in the cost of living.²⁸

Hence a growing number of social security schemes now incorporate legislative provision for a more or

less automatic adjustment of their benefits in line with the general level of prices or wages. In practice, there are three main methods of adjusting pensions to variations in the economic situation:

- a) systematic adjustment, where the principle and methods of adjustment are laid down in legislation;
- b) adjustment according to general principles stated by law, without specifying any method or degree of adjustment; and
- c) adjustment on an ad hoc basis.

The Conventions²⁹ only state a general obligation to review or adjust benefits, without, however, stipulating the methods for discharging this obligation. Neither do they prescribe the periodicity of reviews, which should be undertaken whenever changes in the general level of earnings and/or the cost of living are “substantial”. Thus the application of these provisions by no means involves setting up a pre-established procedure for a more or less au-

27 Subparagraph 11 of the guiding principles 22–24 in the Annex to Recommendation No. 67 provides: “Periodical payments in respect of permanent incapacity and death should be adjusted currently to significant changes in the wage level in the insured person’s previous occupation.”

28 More precisely, Convention No. 128, Article 29, establishes that such benefits “shall be reviewed following substantial changes in the general level of earnings or substantial changes in the cost of living”.

29 Articles 65 para. 10 and 66 para. 8 of Convention No. 102, Article 21 of Convention No. 121 and Article 29 of Convention No. 128.

Box 2. Two yardsticks for the indexation of long-term benefits

As pointed out by the Committee of Experts, there is an element of complementarity between the two methods of indexation – the first permits the maintenance of the purchasing power of pensioners in line with prices, while the second ensures that pensioners may share equally with wage-earners in any increase of the general standard of living in line with earnings. Adjusting pensions to the cost of living alone, while safeguarding the standard of living of pensioners against sliding into absolute poverty, would not prevent them from experiencing relative poverty, as their pensions would progressively lag behind the general growth of average income of the working population. Moreover, the fact that adjustments cannot be made without taking the financial sustainability of the pension scheme and the macroeconomic performance of a country into account adds to the complexity of the overall picture. The Committee of Experts therefore considered that “whichever method of adjustment is used, the purchasing power of pensions should be maintained”. On the other hand, it also pointed out that the term “cost of living” should be interpreted broadly, and that “adjustment in line with the consumer price index alone should not in general be regarded as sufficient” (ILO 2011 a, paras 477–485).

automatic adjustment of pensions at stated intervals by reference to a specified index, but it suffices that in practice the necessary steps are taken. However, while States are free to choose the method of adjustment which they consider to be most appropriate to their national context, they are nonetheless required to adhere in good faith to the objective of these provisions, which is to maintain the real value of pension benefits. By doing so, they should also consider that “an automatic indexation of benefits constitutes without doubt the most advanced method of adjusting the rates of benefits to inflation and the cost of living”.³⁰

As regards the yardstick for adjustment, two measures of indexation are advocated in the Convention: (a) adjustment of benefits to the general level of earnings measured, for example, by reference to the average wage in a country; and (b) adjustment of benefits to general inflation, measured by the price of selected consumer goods, and reflected in some type of consumer price index. In many countries, the two basic adjustment mechanisms to inflation and the general earnings are used in a complementary way by using, for example, mixed “coefficients” which relate both to changes in the level of earnings and to changes in prices (see box 2).

The Conventions require a regular review and adaptation only of long-term cash benefits, that is of all periodical payments in respect of old age,

employment injury (except in case of incapacity for work), invalidity and death of breadwinner. Indeed, pensioners are particularly vulnerable to inflationary processes, in so far as their pension is their main if not their only source of income. In the case of short-term benefits, where the average claim does not last very long and where the level of benefits generally reflects the level of the claimant’s recent wages, no great difficulty arises (unless inflation is catastrophically rapid) because of their relatively brief duration. They must at all times comply with the minimum requirements of the Convention.

In contrast, long-term benefits for old age, invalidity or death of the breadwinner must be protected against decrease of their real value as a result of a rise in the cost of living. Here the claimant may even suffer a double blow if nothing is done to adjust the pension. In fact, this concerns not only pensions in payment, but also the calculation of the initial amount. Frequently the level of the pension itself is calculated on past earnings over a longer reference period or even the whole employment life of a claimant. Unless these past earnings are also reassessed to give them an adequate current value, the rate of pension may be unduly low in relation to wages or to the cost of living at the time it is awarded. Once in payment, unless some adjustment is undertaken from time to time, the value of the pension will further depreciate more and more during periods of inflation.

³⁰ In its previous reports, the Government of Barbados had indicated that pensions were reviewed on an ad hoc basis, but that it was considering introducing a method of annual indexation as a means of increasing periodical payments. This was finally done in the context of a pension reform carried out in 2008 and noted with satisfaction by the Committee of Experts in its observations on Convention Nos. 102 and 128 of 2008 and 2010.

3.5 Branch-specific requirements of Convention No. 102

3.5.1 Medical care (Part II of Convention No. 102)

All the risks for which conventional social security is designed can somehow be linked to medical care. They are directly related in case of employment injury, sickness, maternity and invalidity; and indirectly related in case of old age and death (survivors' benefits), family benefits and unemployment benefit, since these benefits are intended to provide a decent income and thus to maintain the beneficiaries in a state of adequate nutrition and good health. The connection between ill-health and poverty, with each being a principal cause of the other, does not need to be emphasized. So it is not surprising to find that medical care is the first of the social security benefits listed in Convention No. 102, and that the UN SDG 3 ("Ensure healthy lives and promote well-being for all at all ages") enshrines besides a number of specific health targets the ideal of universal health coverage (target 3.8) as one of its goals. Also, ILO Recommendation No. 202 regards "access to a nationally defined set of goods and services, constituting essential health care"³¹ as an indispensable part of every social protection floor.

Convention No. 102 is more modest in its goals, as it does not require universal healthcare coverage. It defines goals basically suited to insurance schemes, namely that medical care should be provided to at least 50 per cent of all employees; or 20 per cent of all residents, where the healthcare scheme covers economically active persons; or 50 per cent of all residents. It accepts as a temporary exception to confine medical care to 50 per cent of all employees in industrial workplaces employing 20 persons or more. Medical care for insured workers provided through social insurance should also be extended to their wives and children.³²

Convention No. 102 stipulates in general terms that medical care shall be afforded with a view to

maintaining, restoring or improving the health of the persons protected and their ability to work and to attend to their personal needs.³³ It specifies a minimum content of medical care which shall include at least general practitioner care, including home visits; specialist care in hospitals and similar institutions for in-patients and out-patients, and such specialist care as may be available outside hospitals; essential pharmaceutical supplies; pre-natal, confinement and post-natal care by medical practitioners or qualified midwives; and hospitalisation where necessary.³⁴ To this the Medical Care and Sickness Benefits Convention, 1969 (No. 130), adds dental care and medical rehabilitation including necessary appliances.³⁵

In practice, medical care can be provided either directly or indirectly. Under the direct system, the social security institutions or, in a national health system, the public administration, operate and control the necessary medical facilities. Under an indirect system, social security institutions enter into a variety of contracts to secure medical care for insured persons, usually on the basis of a fee established for each service provided. In another variant of the fee-for-service method, the patient pays the medical bill and is then reimbursed, in whole or in part, by the social security institution. Whatever the method chosen by a country, the Conventions and also Recommendation No. 202 put a particular emphasis on the need to limit the amount of admitted cost-sharing –that is, of individual charges a patient has to pay either directly or indirectly in case of only partial reimbursement for the delivery of medical care or drugs. Such cost-sharing arrangements exist in many countries. They have been introduced with a view to increasing the cost-efficiency of a scheme by making people aware of the value of medical benefits they are receiving. But such cost-sharing should not stand in the way of necessary treatment. Therefore, both Conventions Nos. 102 and 130, while recognizing this practice, require that cost-sharing should be so designed as to avoid hardship and not prejudice the effectiveness of medical and social protection.³⁶ Recommendation No. 202 suggests that "persons in need of health care should not face hardship and

³¹ Paragraph 5 (a) of Recommendation No. 202.

³² Article 9 of Convention No. 102.

³³ Article 10 para. 3 of Convention No. 102.

³⁴ Article 10 para. 1 of Convention No. 102.

³⁵ Article 13 of Convention No. 130.

³⁶ Article 10 para. 2 of Convention No. 102, Article 17 of Convention No. 130.



Families queuing at the Kasungu Hospital, waiting for child health care (Malawi). Copyright © Marcel Crozet / ILO.

an increased risk of poverty due to the financial consequences of accessing health care”.³⁷

Although it is usually not required in practice, Convention No. 102 accepts the imposition of “such qualifying period as may be considered necessary to preclude abuse”.³⁸ In instances where such a requirement does exist, it is usually of short duration.

Many systems set a limit on the duration, or the total cost, of the treatment of a medical episode. Convention No. 102 authorizes a limit of 26 weeks but provides for a continuation thereafter while cash sickness benefit is being paid or for diseases accepted as needing prolonged care.³⁹ Convention No. 130 authorizes such limitations only in situations where the beneficiary ceases to belong to the categories of persons protected.⁴⁰

3.5.2 Sickness benefit (Part III of Convention No. 102)

In the context of social security, sickness is a temporary condition to be matched by temporary benefit, available for a period during which the condition may be expected to clear up. For a condition which persists beyond that period, other arrangements have to be made.

Sickness benefit is also part of the basic income security advocated in Recommendation No. 202 for persons in active age.⁴¹ Also, the SDG target 3.8 provides for “universal health coverage, including financial risk protection”.

Sickness benefits are intended to compensate for the loss of earnings due to abstention from work necessitated on medical grounds. Convention No. 102 defines the contingency as “incapacity for work resulting from a morbid condition and involving

37 Paragraph 8 (a) of Recommendation No. 202.

38 Article 11 of Convention No. 102.

39 Article 12 of Convention No. 102.

40 Article 16 para. 2 of Convention No. 130.

41 Paragraph 5 (c) of Recommendation No. 202.

suspension of earnings, as defined by national laws or regulations".⁴²

The minimum amount of benefit for a standard beneficiary, i.e. a man with wife and two children, is set at 45 per cent (60 per cent under Convention No. 130) of reference earnings. These are rather modest requirements. Most countries set the rate at 50 to 75 per cent of current average earnings, frequently with supplements for dependants. Most programmes fix a maximum amount or do so implicitly through a general ceiling for contributions and benefits, which is admitted provided that the maximum amount is fixed in such a way that the required percentage is still attained for a typical skilled manual male employee.

Generally, to be eligible for cash sickness benefits a person becoming ill must be gainfully employed, incapacitated for work, and not receiving regular wages or sick-leave payments from the employer. Most schemes require claimants to meet a minimum period of contribution or to have some history of work attachment prior to the onset of illness to qualify. The ILO Conventions accept the imposition of such a qualifying period, when it is considered necessary to preclude abuse⁴³ – that is, to prevent persons unfairly benefiting from a system by joining it at short notice. A qualifying period of not more than three months (or six months at a maximum) can, as a general rule, be considered to meet this purpose.

The minimum duration of payment is fixed at 26 weeks (by Convention No. 102)⁴⁴ or 52 weeks (by Convention No. 130)⁴⁵ in each case of sickness. This is in compliance with the practice of most countries. In some instances, however, benefits may be drawn for considerably longer and even an unlimited duration. In most countries, however, when cash sickness benefits are exhausted, the recipient is paid an invalidity benefit if the incapacity continues.

Conventions Nos. 102 and 130 also accept a waiting period of three days.⁴⁶ As a result, benefits may not be payable if an illness or injury lasts for only a few days. Such a waiting period reduces administrative and benefit costs by excluding many claims for

short illnesses or injuries during which relatively little income is lost, and can also help reduce the potential for the inappropriate use of the system by workers.

The same effect is attained where employers are required to pay wages or benefits for a certain number of days before social insurance payments begin. This is indeed the case in many countries, because it is expected that the employer's active involvement in the provision of sickness benefits improves the control of frequent short-term claims and reduces the related administrative burden of sickness insurance funds. It is also expected that the number of short-term sickness absences will decrease when employers have a financial incentive to take appropriate action to improve the quality of working life and to monitor absence from work. As cash sickness benefits need only to be paid in the event of suspension of earnings, such an initial payment of "sick pay" has the effect of postponing the start of cash sickness benefits payable by an insurance scheme.

3.5.3 Unemployment benefit (Part IV of Convention No. 102)

In the words of Convention No. 102, unemployment benefits provide compensation for the loss of earnings "due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work".⁴⁷ To these qualifications, the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) adds the condition that the person is "actually seeking work".⁴⁸

Unemployment schemes usually provide benefits only to workers who have become unemployed as a result of circumstances beyond their control and who have consequently lost their earnings. In other words, unemployment must be "involuntary". Almost all schemes impose a disqualification for an appropriate period when a person leaves employment voluntarily without good, or just, cause. Many

42 Article 14 of Convention No. 102.

43 Article 17 of Convention No. 102, while Article 25 of Convention No. 130 specifies that "the conditions governing the qualifying period shall be such as not to deprive of the right to benefit persons who normally belong to the categories of persons protected".

44 Article 18 para. 1 of Convention No. 102.

45 Article 26 para. 1 of Convention No. 130.

46 Article 18 para. 1 of Convention No. 102, Article 26 para. 3 of Convention No. 130.

47 Article 20 of Convention No. 102.

48 Article 10 para. 1 of Convention No. 168.

also disqualify workers who were dismissed by the employer on the grounds of misconduct. The following behaviour may be regarded as misconduct for the purpose of disqualification: theft, dishonesty, frequent unjustified absence from work, excessively bad timekeeping and repeated negligence.

Being unemployed is thus not the same as merely being economically inactive. Unemployment requires that a person is capable of working, available for work and actually seeking work. Usually, unemployment benefit schemes require in addition that the claimant is registered as a jobseeker at an employment exchange office, i.e. that the claimant, in short, still regards himself/herself as part of the active labour force.

Being “capable of work” means that a worker is not incapacitated or otherwise unable to accept a job offer. For workers who are out of work because of sickness, maternity, invalidity or old age, benefits are usually available under other benefit branches of social security.

Being “available for work” means that a claimant is not only in need of a job but must also be free to take one and must not, for example, be currently occupied as an independent worker, be out of reach or have only a few hours a day to spare for employment. A claimant may thus be ruled “not available” when personal circumstances prevent acceptance of a job offered by the employment exchange office.

“Willingness to work” is tested by offering a suitable job. If this is not possible because job opportunities are scarce, it might be considered that regular reporting at an employment exchange office is sufficient for a claimant to prove willingness to work. Sometimes the law requires this in any case.

The condition that a claimant should be “seeking work” goes a little bit further than mere “willingness to work”. It means in practice that a claimant is not allowed merely to sit and wait until a new job becomes available but has to become pro-active in looking for job vacancies and applying for jobs – in

addition to reporting regularly to the employment exchange office.

Unemployed persons are only required to accept “suitable” jobs. Elements to be taken into account in deciding “suitability” are listed in Convention No. 168;⁴⁹ they include the age of the unemployed person, their length of service in their former occupation, their acquired experience, the length of the period of unemployment, the labour market situation, the impact of the employment in question on their personal and family situation and whether the employment is vacant as a direct result of the stoppage of work due to an ongoing labour dispute. The situation is seldom clear-cut. A job that is suitable for a young worker may be one that an older worker could justifiably refuse, and vice versa.

The Committee of Experts noted that in the wake of rising unemployment at the end of the last century, some Member States established more stringent criteria by replacing the concept of suitable employment by the more restrictive concept of withdrawing benefits already for refusing employment offered “without reasonable ground”. This prompted the Committee of Experts to intervene by observing to the governments concerned that “the concept of suitable employment” fulfils the aim of offering unemployed persons protection during the initial period of unemployment from the obligation to take up any job, even where this is not suitable.⁵⁰ Compulsory work which is exacted from a person under the menace of any penalty (which might also take the form of a loss of rights) could even be considered to constitute a form of forbidden forced labour within the meaning of the Forced Labour Convention 1930 (No. 29).⁵¹

An unemployment benefit scheme is basically designed to protect persons who are in paid employment, since it is they who are exposed to the risk of involuntary unemployment. Traditionally, and still in most countries, self-employed persons are outside its scope. Therefore, Convention No. 102⁵² contains no provision of coverage relating to the

49 Article 21 para. 2 of Convention No. 168; some indications can also be found in Paragraph 14 of Recommendation No. 176.

50 In its observations regarding the application of Convention No. 168 by Norway, the CEACR pointed out that the possibility, under sections 4–5 and 4–20 of the National Insurance Act of 28 February 1997, of compelling unemployed persons to accept jobs offering less income than the unemployment benefit to which they would otherwise be entitled as of right, or to accept self-employment, which would deprive them of further social security coverage against unemployment, if abused by the employment service, could completely undermine the nature and purpose of unemployment benefit as foreseen by the Convention. In its observations of 2007, however, the CEACR finally noted with satisfaction that the legal provisions compelling unemployed persons to accept jobs offering less income than the unemployment benefit or to generate income from self-employment have been abrogated by decision of the Storting of 16 December 2005. The corresponding amendments to the National Insurance Act came into force as of 1 January 2006.

51 The definition of “forced or compulsory labour” covers work or service which is exacted “under the menace of any penalty”. It was made clear during the consideration of the draft instrument by the International Labour Conference that the penalty here in question needs not be in the form of penal sanctions but might take the form also of a loss of rights or privileges.

52 Article 11 of Convention No. 102.

economically active population. It only requires the protection of either prescribed categories of employees constituting at least 50 per cent of all employees, or of all residents with insufficient means. This is in line with the practice of many countries to combine unemployment protection through a contributory unemployment insurance scheme with tax-financed unemployment assistance which provides some kind of means-tested benefits for those who do not qualify, or who are no longer entitled to ordinary insurance-related benefits. Recipients of unemployment assistance are usually also required to register and report at the employment exchange. Convention No. 168 explicitly takes both methods of protection into account and contains detailed specific requirements for each of them.⁵³

Unemployment benefit schemes were originally designed to protect workers who were already members of the labour force, but not persons who had never been employed. Some countries, however, have initiated special arrangements in particular for those who have just left school or college and cannot find work. Some schemes have also been extended to cover self-employed persons who lose their livelihood in an economic depression. Convention No. 168 explicitly urges Member States to adopt special provisions for specific categories of new applicants for employment who have never been, or who have ceased to be, covered by schemes for the protection of the unemployed, but who have nevertheless registered themselves as jobseekers.⁵⁴

The promotion of full, productive and freely chosen employment and the promotion of unemployment protection are interrelated. As underlined in the Global Jobs Pact adopted in 2009 by the International Labour Conference in the wake of a global financial and economic crisis, employment promotion (such as through active labour market programmes and enterprise creation) and social protection in the event of unemployment are two sides of the same coin. It is for this reason that unemployment insurance and placement services usually maintain a close administrative relationship that ensures that benefits are paid only to workers who are registered for employment. At the same time, this liaison increases the effectiveness of the placement services by providing an incentive, through

the payment of benefits to unemployed persons, to register and report regularly. Many countries have even merged the administration of unemployment insurance and employment services.

The close link between employment promotion and unemployment protection is also emphasized in Convention No. 168. Member States are called upon to ensure that their system of protection against unemployment, and in particular the method of providing unemployment benefits, contribute to the promotion of productive and freely chosen employment. Means of promoting productive employment should include, inter alia, employment services, vocational training and vocational guidance. Special programmes to promote additional job opportunities and employment assistance should focus on identified categories of disadvantaged persons having or liable to have difficulties in finding lasting employment, such as women, young workers, persons with disabilities, older workers, the long-term unemployed, migrant workers lawfully resident in a country and workers affected by structural change.⁵⁵

Such an approach also contributes to the achievement of SDG 8 which calls for the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. It establishes as target 8.5 the achievement, by 2030, of the aim of full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value. Goal 8.b focuses in particular on youth unemployment and calls for the development and implementation, by 2020, of a global strategy for youth employment and the ILO Global Jobs Pact.

This is echoed by ILO Recommendation No. 202 which includes unemployment as one of the conditions justifying the provision of basic income security, but also calls for the development of a social security extension strategy which should support the growth of formal employment and the reduction of informality.⁵⁶ Indeed, as also underlined in the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), the extension of social security coverage can be used as a means to formalize informal employment.⁵⁷

53 Article 12 of Convention No. 168.

54 Article 26 of Convention No. 168.

55 Articles 7 and 8 (1) of Convention No. 168.

56 Paragraph 15 of Recommendation No. 202.

57 Paragraph 11 (n) of Recommendation No. 204.



Durrës Employment Office, Albania. Copyright © Marcel Crozet.

Contributory unemployment insurance schemes usually require a qualifying period to be satisfied – length of employment or number of contributions paid. Unemployment assistance schemes may require a specified duration of residence in the country concerned. The purpose of such a qualifying period is to make certain that the claimant is properly within the scope of the scheme and does not “abuse” it. Conventions Nos. 102 and 168 require that such a period shall not exceed the length deemed necessary to prevent abuse.⁵⁸ Of course, this generic term gives member States some leeway in determining what in their opinion consti-

tutes an abuse in this situation, but the Committee of Experts nevertheless intervened when it regarded the length of an established period to be excessive (see box 3). In order to acquire a right to insurance-based unemployment benefits, many national schemes require a period of contributions between six and 12 months but, in addition, they usually also prescribe a “reference period” during which the qualifying condition must have been satisfied – say, a qualifying period of six months of coverage within the year before employment ceased or 12 months of covered employment in the past two years.

Box 3. Qualifying period: The case of Portugal

By section 12 of Legislative Decree No. 79-A/89, Portugal established in 1989 an unemployment insurance scheme with a comparative long qualifying period of 540 days of salaried employment for entitlement to unemployment benefit. When the Committee of Experts asked for explanations with reference to Article 23 of Convention No. 102 which stipulates that the qualifying period shall not exceed the length considered necessary to preclude abuse, the Government stated in its report that the determination of the qualifying period in Portugal was related to several factors, including the need to establish a minimum period of employment and to adapt the unemployment protection scheme to the context of a labour market which is characterized by a certain rigidity, with contracts without limit of time being predominant and fixed-term contracts (a situation in

(Box 3 continued on next page)

⁵⁸ Article 23 of Convention No. 102, Article 17 of Convention No. 168.

Box 3. (cont.)

which the completion of this qualifying period would raise even more serious problems) being of an exceptional nature. According to the Government, since the situation with regard to contracts of employment in Portugal was fundamentally stable, the qualifying period in question was not very difficult to complete. Furthermore, the Government considered that the relatively long duration of the periods of protection, which were intended in particular to protect older workers, had to be counterbalanced in terms of the payment of contributions.

However, the Government also confirmed that measures had been adopted with regard to the textile and clothing industry under the terms of Decision No. 6/97 of the Council of Ministers of 15 January 1997, reducing inter alia the qualifying period for entitlement to unemployment benefits from 540 days of salaried employment over the past 24 months to 270 days of salaried employment over the last 12 months preceding the date of unemployment. It pointed out that in addition to the textile and clothing sectors, similar measures had been applied in the cases of shipyards, as well as in the context of the restructuring of the glass sector in 1994. However, the Government also emphasized that these were temporary and exceptional measures.

The Portuguese Trade Union (CGTP-IN) commented on the Government's report by clarifying that, from the point of view of the provisions of Article 23 of the Convention, it considered the qualifying period of 540 days to be excessive since it had the effect of excluding from the protection a considerable number of workers who, due to the current precariousness and instability which characterized the labour market, did not succeed in completing this period. According to the CGTP-IN, this situation was in violation of the principle of the universality of protection set out in the Convention. With regard to the social allowance for unemployment which was designed to replace or supplement unemployment benefit, the CGTP-IN emphasized that the number of persons covered was smaller because it was subject to an earnings condition.

In its observations of 1999, the Committee of Experts recalled that Article 23 of Convention No. 102 only authorizes such qualifying period as may be considered necessary to preclude abuse. It also noted that, while the completion of a qualifying period may be relatively easy under the conditions of a fundamentally stable system of employment relations, as described by the Government, the same did not apply in the current labour market which, according to the CGTP-IN, was characterized by increasing precariousness and instability in employment. Even workers with contracts without limit of time were increasingly affected by economic restructuring, with the effect that measures to reduce the qualifying period might prove to be necessary in certain sectors in order to protect those who were made unemployed without having completed the full qualifying period set out in the legislation. With regard to workers with fixed-term employment contracts, whose numbers appeared to be very substantial according to the information supplied by the CGTP-IN in the context of the application of the Termination of Employment Convention, 1982 (No. 158), the completion of the current qualifying period of 540 days of salaried employment during the previous two years had become particularly difficult. Finally, the Committee emphasized that the social allowance for unemployment, for which the qualifying period would appear to comply with the provisions of Article 23, could not be considered a method of protection which gave effect to Part IV of the Convention, since the social allowance did not comply with the criteria set out in Article 21 (b) as regards its scope (all residents whose resources during the contingency do not exceed limits prescribed).

Following the entry into force of Framework Act No. 32/2002 of 23 December, establishing a new structure for the social security system, extensive reforms were carried out by the Portuguese Government in various branches of social security, including in particular medical care, unemployment benefit and old-age benefit. In its observations concerning ratified Conventions of 2007, the Committee of Experts noted with satisfaction that by Legislative Decree No. 84/2003 of 24 April, special temporary measures of protection of unemployed workers had been established in Portugal under the new Programme of Employment and Social Protection (PEPS), which also included a reduction of the qualifying period to 270 days of employment with the corresponding record of remuneration over the 12-month period prior to the date of unemployment.

Box 4. Waiting period: The case of France

France introduced in 1959 an unemployment insurance scheme (UNEDIC) based on a collective agreement between the social partners, i.e. the employers' association CNPF and the trade unions FO, CFTC and CGC. In 1992, eligibility conditions were tightened, and a waiting period of eight days was introduced before the payment of unemployment allowances started. When the Committee of Experts addressed a direct request to the Government referring to Article 24(3) of Convention No. 102, which admits such a waiting period only for seven days, it also stressed that, in spite of the fact that unemployment insurance in France is not based on law but on a collective agreement concluded by social partners, the State still has to assume general responsibility for the due provision of benefits in accordance with Article 71(3) of Convention No. 102. It was finally in its observations of 2003 that the Committee could note with satisfaction that Article 31 of the collective agreement was amended by a new agreement of 1 January 2001, which reduced the waiting period for payment of the benefit to the first seven days of unemployment in order to give effect to the requirements of the Convention.

The most commonly observed rates of unemployment benefit are between 40 and 75 per cent of a claimant's previous average earnings during a recent period, within a maximum and a minimum. Unemployment assistance schemes usually provide for means-tested benefits at a flat rate. Most schemes add a supplement for a dependent spouse and children, which are either flat-rate amounts or an additional percentage of average earnings. In many countries which cover unemployment, the rate of benefit is the same as that for sickness. Convention No. 102 equates unemployment benefit with sickness benefit, too – at least 45 per cent of the claimant's previous earnings for a man with a wife and two children.⁵⁹ Convention No. 168 sets the minimum replacement rate at 50 per cent.⁶⁰

Usually, the payment of insurance-based unemployment benefit is limited in time, and where such a limit is prescribed, it may be fixed in either of two ways. The first is for there to be a common duration of benefit for all qualified claimants, irrespective of their past employment or contribution record; the second is for the duration of benefit to vary from one person to another, according to the number of contributions paid, or the length of past employment. There are also schemes which make exceptions to the prescribed limit, according to the age or family responsibilities of the claimant. Convention No. 102 expects that an insurance-based benefit should be paid to a qualified person for at least

13 weeks in the course of one year, or unemployment assistance for at least 26 weeks.⁶¹ Convention No. 168 extends the required period of payment for insurance-based benefits to 26 weeks in each spell of unemployment, or to 39 weeks over any period of 24 months.⁶²

Almost all unemployment benefit schemes prescribe a waiting period of several days between the last day of employment and the first day for which benefit is paid. This is done to lighten the administrative and financial burden of dealing with a very large number of small claims. Convention No. 102 allows a waiting period of up to seven days (see box 4).⁶³ The waiting days may be waived, if a spell of unemployment starts very soon after a previous spell ends. In the case of seasonal workers, the duration of the benefit and the waiting period may be adapted to their special conditions of employment.

3.5.4 Old-age benefit (Part V of Convention No. 102)

The main objective of any system of old-age protection is to guarantee protected persons who have reached a certain age reasonable means of subsistence for the rest of their lives and thus to allow them to retire from active employment or self-employment. Convention No. 102 and the Invalidity, Old-age and Survivors' Benefits Convention 1967

⁵⁹ Schedule to Part XI of Convention No. 102.

⁶⁰ Article 15 of Convention No. 168.

⁶¹ Article 24 of Convention No. 102.

⁶² Article 19 of Convention No. 168.

⁶³ Article 24 para. 3 of Convention No. 102, also Article 18 of Convention No. 168.



Harvesting work. SEKEM produces and manufactures its own products including herbs, pharmaceuticals, and textiles. company has its own agricultural farms that grow the fruits and herbs necessary for manufacturing its products. Egypt. Copyright © Marcel Crozet / ILO.

(No. 128) define the contingency simply as “survival beyond an age prescribed by or in virtue of national legislation, which shall, in principle, not be more than 65 years”.⁶⁴ Of course, the wording of this provision does not preclude States fixing a lower pensionable age.

There are a number of considerations involved in fixing the age at which a worker becomes entitled to old-age benefit. One is that once a worker has reached a certain age, his/her contribution to working life has earned him/her the right to rest. Another approach is based on a presumption of invalidity: at a certain age, a worker's physical and mental capacities are thought to be reduced to such an extent that it would be unfair to compel him/her to continue his/her occupational activity.

Other factors influencing the fixing of pensionable age by legislation are demographic, economic and social criteria, such as the average level of ageing of protected persons, the structure by age of the

population, and the cost of financing pensions. The continuing increase of longevity in all regions of the world is driven in particular by a decline in late-life mortality. Of course, this invariably affects the financial equilibrium of any pension scheme, because it entails a longer duration of pension payment. Securing an adequate level of income for all people in old age without overstressing the capacities of younger generations constitutes an important social policy challenge facing ageing societies.⁶⁵

When Conventions Nos. 102 and 128 were adopted, the increasing life expectancy did not yet play such an important role. But nevertheless, both Conventions already contain a flexibility clause allowing for a higher age than 65 years to be fixed, in certain conditions and for special reasons (i.e. “with due regard to the working ability of elderly persons in the country concerned” according to Convention No. 102⁶⁶ and “with due regard to demographic, economic and social criteria, which shall be demonstrated statistically” pursuant to Convention

⁶⁴ Article 26 of Convention No. 102, Article 15 of Convention No. 128.

⁶⁵ According to data from the *UN World Population Prospects: The 2017 Revision*, the population aged 60 or above is growing globally at a rate of about 3 per cent per year. Accordingly, the number of persons belonging to this age bracket is expected to more than double by 2050 and to more than triple by 2100, rising from 962 million globally in 2017 to 2.1 billion in 2050 and 3.1 billion in 2100.

⁶⁶ Article 26 of Convention No. 102.

No. 128⁶⁷). Convention No. 128, however, contains a “caveat” by providing that if the prescribed age is 65 years or higher, it shall be lowered, under prescribed conditions, in respect of persons who have been engaged in occupations that are deemed by national legislation, for the purpose of old-age benefit, to be arduous and unhealthy.

Convention No. 128’s accompanying Recommendation No. 131 specifies a number of further circumstances justifying the grant of an anticipated pension by stipulating:

With a view of protecting persons who are over a prescribed age but have not yet attained pensionable age members should provide benefits, under prescribed conditions, for –

- a) persons whose unfitness for work is established or presumed;
- b) persons who have been involuntarily unemployed for a prescribed period; or
- c) any other prescribed categories of persons for which such a measure is justified on social grounds.⁶⁸

An increasing number of countries have introduced more flexibility by allowing insured persons (on condition that a certain minimum qualifying period is completed) to claim a pension either in advance of the normal pensionable age (early retirement), or later than the normal pensionable age (deferred retirement) subject to the condition that the pension amount is reduced or increased by a coefficient which offsets the longer or shorter average life expectancy of persons who claim their pension at a lower or higher than normal retirement age. Some countries have also introduced provisions aimed at easing the transition from full-time activity to retirement, by providing for a kind of progressive retirement while receiving a partial pension. These arrangements offer workers the option of gradually reducing their workload in the last years of their working life so as to achieve a smooth transition to retirement and avoid a sudden drop in their income.

Coverage under pension schemes has tended to increase, in particular during the second half of the nineteenth century. In the great majority of industrialized countries, provision has been made either for coverage of all residents, or for a gradual extension of protection to all economically active persons, as advocated in Recommendation

No. 131.⁶⁹ This progress should not, however, obscure the fact that in many countries some occupational categories are not yet protected. Moreover, in the developing countries, the extension of social security to the rural and the informal sectors runs up against enormous administrative difficulties as regards the registration of beneficiaries and the collection of contributions. In a substantial number of developing countries, public servants are in fact the only workers effectively covered by a proper pension scheme.

In view of this, both ILO Recommendation No. 202 and SDG target 1.3 call for a new approach by setting up social protection floors for all with a view to secure protection in old age aimed at preventing or alleviating poverty, vulnerability and social exclusion.

The legislation of most countries with an earnings-related pension formula provides for an annual rate of accumulation of the pension for each year of insurance, normally between 1 and 1.5 per cent. Under such a formula, attainment of the minimum rate fixed in Convention No. 102 (40 per cent after 30 years of insurance) requires an annual accrual rate of at least 1.33 per cent. For a country applying the higher standard of Convention No. 128 (45 per cent after 30 years of insurance), an annual accrual rate of at least 1.5 per cent is required.

The amount of the wage or earnings taken into account in calculating the pension is one of the essential elements determining the rate of benefit. This depends on the one hand, on the wage components taken into consideration (normally both for contribution and benefit purposes) and, on the other, on the periods taken into account. As regards the reference period taken into consideration, some pension schemes base their calculation on all or nearly all of earnings received during the entire period of insurance (“career average earnings”), while in others, the reference period is much shorter, consisting only of the last years of employment (usually the last three to ten years). Where the reference period is long or remote, there is a risk that the earliest registered nominal earnings no longer correspond to the range of earnings obtained at the time when the pension is claimed. This is why the Convention requires that all elements of the equation, wages and benefits must be calculated on the same time

⁶⁷ Article 15 of Convention No. 128.

⁶⁸ Paragraph 6 of Recommendation No. 131.

⁶⁹ Paragraph 2 of Recommendation No. 131.

basis.⁷⁰ This means that past earnings should be adjusted in line with the general increase of wages in order to get up-to-date results.

While the calculation of the required minimum amount of pension for a standard beneficiary is based on 30 years of contribution or employment, or 20 years of residence, the Conventions also prescribe that a reduced benefit shall be secured after not more than 15 years of contribution or employment. A longer qualifying period for an old-age pension would no longer comply with Conventions Nos. 102 or 128.⁷¹

However, there are a few countries where the legislation requires that a prescribed yearly average number of contributions is paid while the insured person is of working age. These are in particular countries with pension schemes covering the whole population.⁷² For these countries, an alternative is provided for in the Conventions subject to the condition that the scheme covers, in principle, all economically active persons. Under such schemes, a reduced pension must be payable to the person protected who has completed half the qualifying period for the normal pension.

In a significant number of countries, various periods other than periods of employment or contribution are credited as assimilated periods for purposes of entitlement to pension and/or calculation of benefit. As advocated by Recommendation No. 131,⁷³ such non-contributory periods may include periods during which the insured person received social security benefits or other compensation such as sickness benefit, maternity benefit, employment injury or unemployment benefit. Sometimes periods of sick leave or unemployment are even taken into account (subject to certain conditions) irrespective of whether other social security benefits have actually been paid. The same may apply to periods of military service or periods of study or training or other periods during which the insured person held an official post or political office in recognition of the service rendered to the State by the person concerned. An increasing number of countries also

include periods spent raising children and/or assisting a disabled person or one requiring care.

The main objective of any system of old-age protection is to guarantee protected persons who have reached a certain age reasonable means of subsistence for the rest of their lives. This aim can only be achieved through periodical payments made "throughout of the contingency". Provident funds, still existing in a number of developing countries, which only pay a lump-sum based on the accumulated capital in individual accounts do not meet the requirements laid down in the Conventions.⁷⁴

3.5.5 Employment injury benefit (Part VI of Convention No. 102)

Work injury or employment injury programmes are the oldest and most widespread form of social security. They provide compensation for work-connected injuries in case of an industrial accident and for occupational diseases. Such programmes usually furnish short- and long-term benefits depending on the duration of the incapacity. Employment injury benefits nearly always include cash benefits and medical services.

Workmen's compensation based on employer's liability is still common in developing countries, although it is not compatible with Convention No. 102 which requires "the cost of benefits provided in compliance with this Convention and the cost of the administration of such benefits to be borne collectively by way of insurance contributions or taxation". This is not altered by the fact that in those developing countries, insurance with private or public carriers is generally available to cover the legal liability of employers, as such insurance, as a general rule, does not comply with the Convention's requirements as to the administration of social security.

Neither Convention No. 102 nor the Employment Injury Benefits Convention, 1964 (No. 121) provide for a precise and comprehensive definition of what shall be regarded as "industrial accident" but

70 Articles 65 para. 4 and 66 para. 2 of Convention No. 102.

71 Article 29 para. 2 of Convention No. 102, Article 18 para. 2 of Convention No. 128.

72 A good example for such a country is Switzerland which requires, in principle, that contributions are paid every year by all residents. In Switzerland, an old-age pension is payable subject to the condition that contributions have been paid without interruption since age 21.

73 Paragraphs 20 and 21 of Recommendation No. 131.

74 Article 30 of Convention No. 102, Article 19 of Convention No. 128.



Montage rappel, France. Copyright © Legoupi S. / ILO.

leave it to national legislation to define the term, “including the conditions, under which a commuting accident is also considered to be an industrial accident”. However, the Employment Injury Benefits Recommendation, 1964 (No. 121) provides for some specifications by advocating that:

each Member should, under prescribed conditions, treat the following as industrial accidents:

- a) accidents, regardless of their cause, sustained during working hours at or near the place of work or at any place where the worker would not have been except for his employment;
- b) accidents sustained within reasonable periods before and after working hours in connection with transporting, cleaning, preparing, securing, conserving, storing and packing work tools or clothes;
- c) accidents sustained while on the direct way between the place of work and –
 - i) the employee’s principal or secondary residence; or
 - ii) the place where the employee usually takes his meals; or
 - iii) the place where he usually receives his remuneration.⁷⁵

As regards “occupational diseases”, Recommendation No. 121 also provides for some useful guidance by stipulating that:

- 1) Each Member should, under prescribed conditions, regard diseases known to arise out of the exposure to substances or dangerous conditions in processes, trades or occupations as occupational disease.
- 2) Unless proof to the contrary is brought, there should be a presumption of the occupational origin of such diseases where the employee –
 - a) was exposed for at least a specified period; and
 - b) has developed symptoms of the disease within a specified period following termination of the last employment involving exposure.⁷⁶

Most importantly, however, a list of recognized occupational diseases was annexed to Convention No. 121. This list, which was again updated and amended in 1980 by the International Labour Conference, now contains a total of 29 diseases which are, beyond dispute, of an occupational origin.

Employment injury encompasses four different contingencies where they are due to an industrial accident or an occupational disease:

⁷⁵ Paragraph 5 of Recommendation No. 121.

⁷⁶ Paragraph 6 of Recommendation No. 121.

- Where the industrial accident or the occupational disease result in a “morbid condition”, medical care shall be provided.
- Where they result in “incapacity for work involving suspension of earnings”, a (short-term) cash benefit shall be provided.
- Where they result in a total or partial loss of earning capacity likely to be permanent, a (long-term) cash benefit shall be provided.
- Where they result in the death of the breadwinner, cash survivors' benefits shall be provided for the widow (not necessarily also for the widower!) and the children of the deceased person, where other means of subsistence do not exist.⁷⁷

Thus, the first contingency gives rise to benefit in kind, the second to a short-term benefit in cash, and only the last two contingencies give rise to the payment of long-term benefits.

The scope of benefits and the income replacement rate of cash benefits under employment injury schemes are usually higher than under regular sickness insurance and pension schemes. Injured workers are generally not only entitled to receive all kinds of medical attention necessary for full recovery or until their condition stabilizes, but also to rehabilitation services that are needed to return them to their work and/or day-to-day living. Moreover, all kinds of medical and hospital care and rehabilitation services needed are nearly always free.

This is also reflected in Convention No. 102,⁷⁸ which provides for a wider minimum range of medical care in case of employment injury than for non-work-related injuries and illnesses. It includes, for instance, home visits from specialists, dental care, maintenance in hospitals, convalescent homes, sanatoria or other medical institutions, and the provision of dental, pharmaceutical and other medical or surgical supplies, including prosthetic appliances. In addition, all kinds of medical care must be provided free of charge for the beneficiary.

Convention No. 121 also requires Member States to provide rehabilitation services which are designed to prepare a disabled person for the resumption of his/her previous activity or, if this is not possible, the most suitable alternative work having regard to his/her aptitudes and capacity, and to take measures to further the placement of disabled persons in suitable employment.⁷⁹

Cash benefits under employment injury programmes can be subdivided into three types: benefits for temporary incapacity, those for permanent total or partial invalidity, and those for survivors in the event that the death of the breadwinner was the direct result of an employment injury. All three of these benefits should be provided as periodic cash benefits. The minimum percentages fixed under Convention No. 102 for a standard beneficiary are 50 per cent of pre-accident earnings in case of temporary or initial incapacity for work and in case of total loss of earning capacity likely to be permanent (invalidity), and 40 per cent in case of death. These percentages are 10 points higher under Convention No. 121.⁸⁰

Special provisions are made for benefits for permanent incapacity for work (see also section 3.5.8 below). Where the incapacity is only partial, the benefit paid may be proportionally reduced in order to reflect the actual loss of working capacity. Such a partial pension may also be converted into a lump sum where the degree of incapacity is only slight or where the competent authority is satisfied that the lump sum will be properly utilized and not wasted by the recipient on purely short-term improvements in lifestyle.⁸¹

Convention No. 102 also requires the payment of survivors' benefits (see also section 3.5.9 below) for the widow or child in case of “loss of support suffered as a result of the death of the breadwinner”, whereas Convention No. 121 extends the range of eligible persons also to disabled and dependent widowers.⁸²

77 Article 32 of Convention No. 102, Article 6 of Convention No. 121.

78 Article 34 of Convention No. 102.

79 Article 26 of Convention No. 121.

80 Schedule to Part XI of Convention No. 102, Schedule II of Convention No. 121.

81 Article 36 of Convention No. 102, Article 14 of Convention No. 121; a good example for such a supervision may be section 5 of the Spanish Labour Ministry Order of 31 July 1972, which provides that at the request of an interested party under 60 years of age, the total incapacity pension for life may be converted at the request of an interested party under the age of 60 into a lump sum if, at the time of application, the following conditions are met: (a) it can be presumed that the injuries causing incapacity are not susceptible to change that could require the revision of the degree of incapacity in future; (b) the beneficiary is either affiliated as an employee or self-employed worker under any social security scheme or is able to demonstrate that the amount of compensation will be invested in the preparation or development of alternative sources of income, such as self-employment.

82 Article 36 para. 1 of Convention No. 102, Article 14 of Convention No. 121.

Survivors' benefits are computed as a percentage of either the worker's average earnings immediately before death or the benefit payable (or potentially payable) at death. These percentages are typically larger than those for survivors' benefits under the general programme and do not vary with the length of covered employment. They usually amount to about one-third to one-half of the worker's average earnings for a widow, and about half as much for each child. A limit is commonly placed on the combined total of survivors' benefits. These rates, incidentally, would satisfy the minimum level set in Convention No. 121, which expects that a widow with two children would receive at least one-half (50 per cent) of her husband's pre-accident earnings by way of pension.⁸³

Employment injury schemes are often closely linked to occupational health and safety regulations. Many schemes include preventative elements aimed at improving workplace safety. Indeed, in employment injury schemes, compensation and prevention are logically and practically not separable, as obviously the most desirable way to reduce the cost of occupational injuries and diseases is to reduce their incidence. For the effective setting of preventative strategy, a reporting system and the collection and analysis of data on occupational accidents and diseases are very important.⁸⁴

3.5.6 Family benefit (Part VII of Convention No. 102)

The first ILO instrument to deal directly with family benefit was the Income Security Recommendation, 1944 (No. 67). The Recommendation establishes as a guiding principle that "society should normally co-operate with parents through general measures of assistance designed to secure the well-being of dependent children"⁸⁵ and urges the provision not only of children's allowances in cash, but also of benefits in kind, such as free or subsidized infant food or school meals, or below-cost housing for families with a number of children. When, in 1952, the core elements of the Recommendation were integrated into Convention No. 102, the contingen-

cy was stated quite simply as "responsibility for the maintenance of children".⁸⁶

Traditionally, family benefits have been employment-related, and this is still the case in many developing countries, where they are restricted in most cases to public and private sector employees. This is also reflected in Convention No. 102 which uses the same formula for defining the required personal scope of protection as for other contingencies (either 50 per cent of all employees; or prescribed classes of economically active persons constituting not less than 20 per cent of all residents; or residents with insufficient means).⁸⁷ In almost all industrialized countries, however, family benefits have now become universal benefits available to all residents and financed out of taxation, i.e. there is no direct link to employment any more.

While other social security benefit schemes stand ready to provide a guaranteed income against the day when regular wages are interrupted or are relinquished in old age, the original and still dominant reason for providing family benefits is to help families cope with the extra costs involved in raising and educating children under school-leaving age. They promote horizontal equity between those who have children and those who do not.

Family benefits are also used as a means to combat child labour and promote school attendance, particularly in those developing countries where the payment of benefits has been made contingent on the school attendance of the child concerned.

Another notable objective of family benefits is to preclude families of limited means from sliding into poverty because of having to maintain a child. Indeed, analysis of poverty risks show that those facing the highest risk of poverty and of remaining chronically poor are one-parent families and households with several children. From that angle, family allowances can be regarded as "basic income support" which (also) addresses household poverty. This idea has been invigorated by ILO Recommendation No. 202, which calls upon Member States to introduce a social protection floor which should include "basic income security for children, at least at a nationally defined minimum level,

83 Schedule II of Convention No. 121.

84 Article 26 para. 1 a of Convention No. 102.

85 Paragraph 28 of Recommendation No. 67.

86 Article 40 of Convention No. 102.

87 Article 41 of Convention No. 102.



Tenant family working in the harvest and production of tobacco (Kasungu region, Malawi). Copyright © Marcel Crozet / ILO.

providing access to nutrition, education, care and any other necessary goods and services".⁸⁸ These aims are also part of SDGs 1-5 and of the Universal Declaration of Human Rights of 1948, which explicitly states a right of children to special care and assistance including a right to education.

The minimum rate of family benefits set by Convention No. 102 is rather low. The Convention provides for family benefits in cash or in kind; they might comprise either

- a) a periodical payment to the responsible persons; or
- B) the provision of food, clothing, housing, holidays, or domestic help for the children.⁸⁹

This combination of cash and services means, of course, that the minimum rate of children's allowances cannot be defined in the same way as the rate of other social security benefits, i.e. in relation to individual earnings. The ratifying country is therefore asked to ensure that a minimum total amount is devoted to family benefits. Where the national

legislation has a limited coverage, the Convention asks for 3 per cent of an unskilled worker's wage, multiplied by the total number of children covered; where the scheme extends to all residents, the figure asked for is 1.5 per cent of that wage, multiplied by the total number of their children. These average rates are easily met by most countries that have introduced a system of family allowances.

A short qualifying period is also allowed by Convention No. 102, depending upon the nature of the governing legislation, which should not be longer than three months of contributions or employment or 12 months of residence.⁹⁰

Family benefits are usually granted up to a certain age of the child, which may be 16 or 18 years. Some schemes continue to provide family benefits up to a higher age of, in some cases, 25 provided the child is a full-time student, an apprentice, or a registered jobseeker. The majority of schemes place no limit on the duration of benefit for an invalid child. These limitations are in conformity with Convention

⁸⁸ Paragraph 5 (a) of Recommendation No. 202.

⁸⁹ Article 42 of Convention No. 102.

⁹⁰ Article 43 of Convention No. 102.



A mother breastfeeding her child right after giving birth. Maternity protection has been a primary concern of the ILO since its creation in 1919. Workplace support for mothers who are breastfeeding has been a basic provision of maternity protection. The Philippines expanded maternity leave benefits in 2019 to align with international labour standards. The ILO also promoted exclusive breastfeeding in the workplace to advance women's rights to maternity protection and to improve nutrition security for Filipino children. Copyright © E. Tuyay / ILO.

No. 102 which defines a child as “a child under school-leaving age or under 15 years of age”.⁹¹

3.5.7 Maternity benefit (Part VIII of Convention No. 102)

Maternity protection is one of the very first policy areas addressed by the ILO through the adoption of the Maternity Protection Convention, 1919 (No. 3). Later, this Convention was revised twice, most recently in the Maternity Protection Convention, 2000 (No. 183) and its accompanying Recommendation No. 191.

Maternity protection is a human right and an essential prerequisite for the achievement of women's rights and gender equality. Essential healthcare, including maternity care, and basic income during maternity is also listed as part of the Social Protection Floor defined in Recommendation No. 202.⁹² This is also one of the SDGs, which advocate for maternity protection for all through target 1.3

on social protection systems and target 5.4 on gender equality and non-discrimination.

Expectant and nursing mothers require special protection to prevent harm to their own or their infants' health and they need adequate time to give birth, to recover, and to nurse their children. At the same time, they also require protection to ensure that they will not lose their job simply because of pregnancy or maternity leave. Such protection not only ensures a woman's equal access to employment, it also ensures the continuation of often vital income which may be necessary for the well-being of her entire family. Safeguarding the health of expectant and nursing mothers and protecting them from job discrimination is a precondition for achieving genuine equality of opportunity and treatment for men and women at work and enabling workers to raise families in conditions of security.

Maternity protection is thus multidimensional and encompasses different components. Convention No 102 focuses on the two social security aspects

⁹¹ Article 1 (e) of Convention No. 102.

⁹² Paragraph 9 (2) of Recommendation No. 202.

of maternity protection, namely on the delivery of medical services during pregnancy and confinement, and on income security during maternity leave.

It specifies that medical care must include at least prenatal, confinement and postnatal care either by medical practitioners or by qualified midwives, and hospitalization, where necessary, which includes the provision of bed and board. Such medical care shall not only be provided to women covered on their own right by a social security scheme, but also to the wives of workers protected; and it shall be provided free of charge.⁹³

Any qualifying period may not be longer than a period considered necessary to avoid abuse (i.e. no longer than six or, at a maximum, 12 months).⁹⁴

The minimum period of maternity leave is set at 12 weeks, which was in compliance with the general practice at the time when Convention No. 102 was adopted.⁹⁵ A period of 14 weeks has now become the norm under the latest Maternity Protection Convention, 2000 (No. 183).⁹⁶

During the whole period of maternity leave, a cash benefit shall be payable to all working mothers covered by a social insurance scheme which shall replace the loss of income and shall attain at least 45 per cent of the reference earnings.⁹⁷ This rate has been increased to two-thirds by the Maternity Protection Convention, 2000 (No. 183).⁹⁸

3.5.8 Invalidity Benefit (Part IX of Convention No. 102)

In social security schemes, invalidity or disability benefits are more often than not grouped together with old age and survivorship. While Convention No. 102 treats invalidity, old-age and survivors' benefits as different branches of social security and deals with them individually in separate parts of the Convention, it nevertheless lays down parallel requirements for all three kinds of benefits. Also, the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) deals with these three contingencies in one instrument and is accom-

panied by the Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967 (No. 131).

In one sense, invalidity benefit may indeed be regarded as an early retirement pension. Social security schemes in most countries are based on the concept that old-age and invalidity pensions are both retirement pensions paid on the ground that a worker's physical and mental capacity is reduced to such an extent that it would be unfair to compel him/her to continue his/her occupational activity. In those schemes, the financing and the calculation method for old-age and invalidity pensions are based on the same principles.

However, there are also a few other countries which have kept legislation for invalidity and for old-age benefit separately, because they regard invalidity rather as a long-term or permanent illness, to be met by an indefinite extension of sickness benefit until this is superseded by retirement pension at normal pensionable age.

Convention No. 102 defines invalidity as "inability to engage in any gainful activity, to an extent prescribed, which is likely to be permanent or persist after the exhaustion of sickness benefit".⁹⁹ This definition includes different elements. First of all, it means that the inability or disablement is supposed to be "permanent" or at least "of such a long duration that it exceeds the duration of sickness benefit payment fixed in the law". Such inability or disablement is usually the consequence of a physical or mental condition: either the total or partial loss of any part of the body, or the loss of any physical or mental faculty to enjoy a normal lifestyle. Secondly, it implies an economic or occupational element: not only the physical or mental condition is taken into account, but also the consequences of such a condition on the earning capacity of the person concerned. The latter may be assessed either in relation to the specific occupation which was previously exercised by the person concerned (occupational invalidity) or in relation to any suitable occupation available on the labour market (general invalidity). The concept retained in most legislations (and the Convention) is clearly the latter. Finally, the degree

⁹³ Article 49 of Convention No. 102.

⁹⁴ Article 51 of Convention No. 102.

⁹⁵ Article 52 of Convention No. 102.

⁹⁶ Article 4 para. 1 of Convention No. 183.

⁹⁷ Schedule to Part XI of Convention No. 102.

⁹⁸ Article 6 para. 3 of Convention No. 183.

⁹⁹ Article 54 of Convention No. 102.



Man in a wheelchair, waiting in the no man's land to be employed to transport goods beyond the Busia border for businessmen who use people with disabilities to ferry goods across the border without being taxed (Kenya). Copyright © Marcel Crozet / ILO.

of invalidity has to be assessed, as the legislation may require either that invalidity be total, or attaining a specified degree of e.g. two-thirds.

Legislation may also provide for the payment of a lower rate of benefit in case of partial invalidity, where the degree of invalidity has been found to be less than total, but still substantial,¹⁰⁰ or it may provide for the payment of an increment or a supplement to pensioners who are in need of constant help or attendance of another person.¹⁰¹ Such a supplement fixed either as a certain percentage of the invalidity pension or as a fixed monetary amount can be found in the legislation of many countries.

Similarities between invalidity and old-age benefits are also underpinned by the fact that the payment of an invalidity pension is usually subject to the completion of a qualifying period of contributions, employment or residence. Also, the required minimum amounts are similar: Convention No. 102 sets the minimum replacement rate of previous wage to be attained by a standard beneficiary at 40 per cent,

whereas Convention No. 128 fixes a slightly higher percentage for invalidity benefits (50 per cent) than for old-age benefits (45 per cent).¹⁰²

However, there is one striking difference: the qualifying period permitted under the Conventions for invalidity (and survivors') benefit is significantly shorter. The model calculation for a standard beneficiary shall not be based on 30 years of contribution or employment (or 20 years of residence) as for old-age benefits, but on only half the time, that is 15 years of insurance or employment (or 10 years of residence). The reason for this shorter period is obvious: it secures a minimum benefit also in cases where invalidity occurs before the normal pensionable age and the insured person did not have enough time to accrue rights on the basis of a normal professional career.¹⁰³

When invalidity benefit schemes calculate the rate of benefit for total disability in the same way as for old age, that is by reference to periods of coverage, contributions or employment, this may, in theory at

¹⁰⁰ Paragraph 5 of Recommendation No. 131.

¹⁰¹ Paragraph 25 of Recommendation No. 131.

¹⁰² Schedule to Part XI of Convention No. 102, Schedule to Part V of Convention No. 128.

¹⁰³ Article 57 para. 1 (a) of Convention No. 102, Article 11 para. 1 (a) of Convention No. 128.

least, produce a very low rate of pension if invalidity occurs early in the claimant's insurance life. To avoid such a result, it is not unusual to prescribe a minimum benefit, either as a percentage of the insured wages, or of the general minimum wage, or as a fixed amount.

Another way of ensuring that a younger invalid enjoys adequate protection is to take account of the periods of coverage actually completed and then to include an additional period in the calculation. For example, the rate of benefit may be calculated as if the claimant had worked up to age 60 or until the normal pensionable age, even when the period of contribution or employment actually completed was shorter. Such a formula ensures that invalidity pensions attain the same or nearly the same amount as old-age pensions payable to a person with the same insured wage who was able to continue his/her professional career up to the normal retirement age. Another formula consists in guaranteeing that invalidity benefits are always calculated on the basis of at least a minimum period of coverage, for example, 20 years.

Whatever the formula chosen, it should ensure (in a typical earnings-related pension scheme) that in the end invalidity benefits payable to a standard beneficiary, that is a man with wife and two children, attains at least the same minimum amount of 40 per cent of reference earnings after 15 years of coverage as old-age benefits payable for a man with a wife of pensionable age who has completed 30 years of contributions or employment.

The accepted qualifying period for invalidity benefit is worded in Convention No. 102 in much the same terms as for old-age benefits but, as befits the nature of the contingency, the maximum permissible period is shorter. A reduced benefit is to be already payable after five years of contributions or employment (instead of 15, as is provided for old-age benefits). Schemes which require a prescribed yearly average number of contributions to be paid are required to pay a reduced invalidity benefit after a qualifying period of only three years of contributions provided at least half the yearly prescribed average has been paid.¹⁰⁴

As for any other long-term benefit, the Conventions prescribe that invalidity benefits shall be periodical payments provided for the whole duration of the contingency or, at least, until old-age benefits become payable instead.

3.5.9 Survivors' benefit (Part X of Convention No. 102)

Survivors' pensions are based on the notion of dependency: they link benefit entitlement to the contributions paid by (or on behalf of) the deceased spouse, they insure against the loss of the breadwinner, and they are usually suspended if the recipient remarries. Almost instinctively, in the context of social security, one thinks of "survivors" as referring to widows and children – and of course this is largely true. Also, the parts of Convention No. 102 dealing with the survivors' benefits branch were designed to meet the pattern of family life in which the married woman stayed at home, undertook household tasks and cared for children, while the husband and father was the provider, the "breadwinner". So, the widow and the orphaned children were regarded as vulnerable and deprived of support when the husband died. Accordingly, the contingency is defined as "loss of support suffered by the widow or child as the result of the death of the breadwinner".¹⁰⁵

This definition reflects the traditional pattern of social security legislation in former times, when survivors' benefits were provided only to the widow and to orphans, not to the widower (unless he had a disability and was for that reason dependent on his wife).¹⁰⁶ But even in countries where this differentiation has been abolished in the meantime for the sake of equal treatment, the widow is, in practice, still the principal beneficiary of any scheme of survivors' benefit.

In line with the spirit of survivors' benefits to provide for an income to dependent family members, Convention No. 102 authorizes possible entitlement conditions by stipulating that "in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support".¹⁰⁷ In addition, the Convention explicitly allows for a suspension of benefit if the survivor is engaged in any

¹⁰⁴ Article 57 para. 2 of Convention No. 102, Article 11 para. 2 of Convention No. 128.

¹⁰⁵ Article 60 para. 1 of Convention No. 102, Article 21 para. 1 of Convention No. 128.

¹⁰⁶ Paragraph 12 of Recommendation No. 131.

¹⁰⁷ Article 60 of Convention No. 102.



Mother carving tombstones while taking care of her baby. Potosí, Bolivia. Copyright © Marcel Crozet / ILO.

prescribed gainful activity or if her earnings exceed a prescribed amount. Such elements of income- or means-testing have now been introduced by many countries in order to focus the payment of survivors' benefits on those who are really in need of them. The same applies if a widow is in receipt of another social security benefit such as her own individual old-age pension, in which case national legislation frequently offers a right to opt for the highest of both benefits.

These eligibility conditions are in conformity with Convention No. 102 and also with Convention No. 128,¹⁰⁸ which is more specific as regards the possible definition of "ongoing incapacity for self-support" of the surviving spouse by stipulating that:

- a) in the case of a widow the right to a survivors' benefit may be made conditional on the attainment of a prescribed age, which shall not be higher than the age prescribed for old-age benefits; and that
- b) no requirement as to age may be made if the widow is invalid or caring for a dependent child of the deceased.

Moreover, Convention No. 128 also looks at the family responsibility of the widow by providing that "a minimum duration of marriage may be required in order that a widow who is without a child may be entitled to a survivors' benefit".¹⁰⁹

The Conventions also include children in the range of family members who shall be entitled to a survivors' benefit. Eligible orphans usually include children of the deceased covered person and the spouse, and normally also include children (if any) of previous marriages of either spouse. Adopted children and possibly illegitimate children are also included if they were maintained by the deceased person.

While Convention No 102 requires the provision of survivors' benefits only for a widow and the children of a deceased insured person, many schemes are also prepared to extend their benefits to other surviving dependants in order to take an increasing diversity of family patterns into account. Entitlement of widowers was customarily confined to those who, as an invalid, were incapable of supporting themselves. But more and more

¹⁰⁸ Article 21 paras 2 and 3 of Convention No. 128.

¹⁰⁹ Article 21 para 4 of Convention No. 128.

schemes, for the sake of gender equality, have now established the same entitlement conditions for widowers and widows. Also here, such a reform is usually accompanied with other limitations (such as a means- or income-test) in order to concentrate survivors' benefits to those who are really in need of them. Some schemes go outside the family circle of spouse and children and also include aged dependent parents in the list of eligible persons, provided they had been maintained by the deceased or lived in the same household. The ILO Conventions, while providing some guidance in this respect, in no way limit the discretion of national legislations to further design and tailor their own rules in accordance with their own needs.

The guidance given by the Conventions as regards the calculation of survivors' benefits is to provide the same rate of benefit for a widow with two children as the old-age pension rate for a married couple. This rate (at least 40 per cent of the reference wage under Convention No. 102 and 45 per cent under Convention No. 128) should be guaranteed after not more than 15 years of contribution or employment or after 10 years of residence. However, the Conventions do not specifically prescribe how survivors' benefits shall be shared among the widow and her children. In practice, the proportions awarded vary widely. The application of a typical formula in line with ILO standards results in the award to the widow of a pension equal to one-half of her husband's old-age or invalidity pension entitlement, and to each child, one-quarter.

The required qualifying period for survivors' benefit is worded in the same terms as for invalidity benefit, i.e. a reduced benefit shall already be payable after five years of contributions or employment paid by or on behalf of the person on whose acquired pension rights the claim is based.¹¹⁰ The effect of this is that the widow of an old-age or invalidity pensioner is automatically qualified to receive a survivors' pension (subject to her own eligibility on the grounds of age or means, etc., as appropriate).

As for any other long-term benefit, the Conventions prescribe that survivors' benefits shall be periodical payments provided for the whole duration of the contingency. This does not prevent, however, the

suspension of survivors' pensions in case of remarriage, when they are usually waived or converted into a lump sum under national legislation.¹¹¹

3.5.10 Suspension of benefits (Part XIII of Convention No. 102)

Article 69 of Convention No. 102 and Articles in the Conventions adopted subsequently¹¹² contain a list of cases in which the benefit due to a person protected may be suspended to an extent prescribed. This list is exhaustive and therefore limits suspension of benefits in any other circumstances. The cases where such a suspension is authorized may be grouped into three types of situation: (1) the absence of the person concerned from the territory of the State in which the benefit is granted (i.e. there is no obligation to "export" benefits to other countries); (2) situations in which the person concerned is maintained at public expense,¹¹³ or at the expense of a social security institution or service, or is in receipt of another cash benefit other than a family benefit, or compensation;¹¹⁴ and (3) a number of cases related to the personal conduct of the beneficiary. These latter include fraudulent claims, cases where the contingency has been caused by a criminal offence or the wilful misconduct of the person concerned, or failure to make use of the appropriate services (e.g. medical or rehabilitation services, or employment services) or failure to comply with the rules prescribed for verifying the occurrence or continuance of the contingency. It should nevertheless be emphasized that Conventions Nos. 121, 128 and 130 provide that, in certain cases, part of the cash benefit otherwise due must be paid to the dependants of the beneficiary concerned.

There are other cases of suspension which are specifically related to unemployment and underline the involuntary character of this contingency. Indeed, unemployment benefits may be refused, withdrawn, suspended or reduced where the person concerned has deliberately contributed to his or her own dismissal, has left employment voluntarily without just cause or, under certain conditions, during the period of a labour dispute.

110 Article 63 of Convention No. 102, Article 24 of Convention No. 128.

111 Article 69 (j) of Convention No. 102, Article 32 (g) of Convention No. 128.

112 Article 22 of Convention No. 121, Article 32 of Convention No. 128, Article 28 of Convention No. 130, Article 20 of Convention No. 168.

113 For example, in a hospital, in prison, or in a public establishment for the elderly.

114 For example, in order to preclude concurrent entitlement to more than one benefit.



CFTPS Training Center in Diego. An ILO supported the center providing training for young people in difficult situations. Madagascar. Copyright © Marcel Crozet / ILO.

3.6 Equality of treatment

3.6.1 Equality of treatment of men and women

The elimination of discrimination at work is central to social justice and is the subject of two of the eight fundamental and most widely ratified ILO Conventions: the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Equal Remuneration Convention, 1951 (No. 100). Convention No. 102 was in fact adopted the year that followed the adoption of Convention No. 100, which requires equal remuneration for men and women for work of equal value. Nonetheless, while Conventions Nos. 100 and 111 are policy Conventions aimed at triggering policy and legal developments, Convention No.102 is a technical standard meant to set a minimum level of protection by reference to statistically pertinent standard beneficiaries rather than to promote certain types of family structures.

In the post-war industrial society of the 1950 and 1960s, when the ILO adopted its second and third generation of social security standards, it was established that a single income household composed

of a man (breadwinner) with a dependent wife and two dependent children could be considered as a statistically representative family setup for determining the minimum levels of protection. Accordingly, the ILO social security instruments do not aim at establishing a preferred model of household composition, but rather seek to establish the minimum protection for a statistically representative family structure.

Concerning the setting of a ceiling for contributory social security benefits, ILO standards try to identify the level of earnings deemed sufficiently high to guarantee that the minimum replacement ratios established by the standards are applicable to the vast majority of workers. In this regard, the standards provide various options, some of which make reference to a skilled manual male labour, whose earnings were considered the most representative at national level. This was however not done with the objective of adopting a bias against women. On the contrary, in 1952 but unfortunately still today, male earnings exceeded those of women even in the most developed countries. Hence, allowing to set the contributory ceiling by reference to the level of the skilled manual male labourer had and still has the result of ensuring that the ceiling is set

Box 5. Gendered language in ILO social security Conventions

There is a lot being said about the alleged biased male breadwinner model approach retained by ILO social security standards which calls two main observations.

- The first one is that one should not be confused about the objective of these standards which is not to promote specific family models and roles for societies to follow but rather identify nationally appropriate minimum levels of protection in view of the levels of earnings in each country. In this sense, ILO social security are technical standards which differ from policy standards such as the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) which aim at having States adopt policies and legal frameworks in pursuit of these objectives. Convention No.102 was adopted amidst the few years which separated the adoption of Convention No. 100 and Convention No. 111 by the International Labour Conference. In other words, this body of standards was far from being gender-blind during this period but it considered that the objective of setting social security minimum standards was a technical matter to be dealt with by technical means, taking into account pay imbalances existing between men and women. Times change however, and it is highly probable that, had these standards to be adopted today, they would most probably have avoided a gendered language as found in Convention No. 102 and its successors.
- The second consideration is that, given the prevailing large gender pay gaps in most parts of the world, this approach seems to be still very relevant in ensuring that both the threshold and ceiling of social security systems are set sufficiently high to allow life in health and decency as required by Convention No. 102.
- In light of the question of perceived gender bias in the social security instruments, and particularly the inclusion of gendered language in Convention No. 102, the Governing Body requested the Office to prepare a background paper providing information on the implications of gendered language used in certain provisions of ILO social security standards, and in particular of the Social Security (Minimum Standards) Convention, 1952 (No. 102), to be placed on the agenda of the Governing Body for discussion at the earliest possible date with a view to deciding on appropriate follow-up actions (343rd Session, Geneva, November 2021).^a

Note: ^a See GB.343/LILS/1, para.6, f.

sufficiently high to cover the largest pool of beneficiaries, not discriminate against women.

ILO standards also establish the minimum level of benefits to be guaranteed. This is also done by reference to the level of earnings in each country, this time however by reference to an "ordinary male labourer". Reference to the ordinary male labourer has the objective of setting the minimum at a higher level, considering that unskilled women continue still today to earn significantly less than unskilled men – hence referencing the average wage of unskilled labour would have resulted in a lower minimum level of benefit which needed to be guaranteed. While neither Convention No. 102, nor Conventions Nos. 121, 128 and 130

as technical standards include specific provisions regarding gender equality, an evolution took place with the adoption of the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), which contains a specific policy type provision requiring equality of treatment for all persons protected, without discrimination on the basis inter alia of sex,¹¹⁵ while allowing Member States to adopt special measures to meet the specific needs of categories of persons who have particular problems in the labour market. Also, Recommendation No. 202 explicitly lists "non-discrimination, gender equality and responsiveness to special needs"¹¹⁶ as one of the guiding principles for the establishment of social protection floors.

¹¹⁵ Article 6 para. 1 of Convention No. 168.

¹¹⁶ Paragraph 3 (d) of Recommendation No. 202.

It has to be acknowledged that gender equality in social protection is more than merely a question of securing equal treatment of men and women in the formal sense. It is also a matter of taking into account, in an appropriate way, gender roles in society, roles which differ between societies and have in recent years undergone immense change in many countries. Thus, social protection schemes should be designed, on the one hand, to guarantee equality of treatment between men and women and, on the other hand, to take into account different gender roles and serve as a tool for the promotion of gender equality. This means, in particular, that they should also take into account the impact which labour market inequalities have on different forms of social protection *in order to achieve real equality*. Many women spend much of their lives outside paid employment and are thus economically dependent on their husbands. For this reason, in particular in social insurance systems based on gainful employment, derived rights which allow a dependent spouse to benefit from healthcare and survivors' benefits are of particular importance for women.

In 2001, the International Labour Conference took a clear stance on this issue by stating that “as a result of the vastly increased participation of women in the labour force and the changing roles of men and women, ... social security should promote and be based on the principle of gender equality. However, this implies not only equal treatment for men and women in the same or similar situations, but also measures to ensure equitable outcomes for women. Society derives great benefit from unpaid care which women in particular provide to children, parents and infirm family members. Women should not be systematically disadvantaged later in life because they made this contribution during their working years.”¹¹⁷

This new approach towards gender mainstreaming is entirely in line with recent reforms adopted by many countries which have introduced pension credits for periods of unpaid care. This is also required by SDG target 5.4: “Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.”

3.6.2 Equality of treatment of non-national residents (Part XII of Convention No. 102)

From its inception, the ILO has always regarded the protection of migrant workers as one of its basic tasks. Many of the earliest Conventions bear witness to this aim by laying down the principle of equal treatment for nationals and non-nationals.

Also, Convention No. 102 provides as a principle that non-national residents should have the same rights as national residents.¹¹⁸ However, the application of this principle is subject to two important provisions: (1) Where benefits are payable wholly or mainly from public funds, special qualifying rules may apply to persons who were born outside the territory. (2) Where benefits are payable under a contributory social insurance scheme, the rights of nationals from another country may be subjected to the terms of a reciprocal agreement between the countries concerned.

However, at the time of the adoption of Convention No.102, the decision was made to focus on setting the minimum standard and to leave more detailed migratory aspects relating to social security to a separate set of instruments – the social security coordination standards, namely:

- ▶ The Equality of Treatment (Social Security) Convention, 1962 (No. 118) which guarantees equality of treatment on a reciprocal basis, i.e. to all nationals from a State which has accepted the provisions of this Convention with respect to any branch of social security. It also provides for an export of cash benefits to residents abroad, subject to the condition that the other State has accepted the same obligation with respect to the same branch of social security.
- ▶ The Maintenance of Social Security Rights Convention, 1982 (No. 157) which contains standard rules for comprehensive coordination of social security systems among ratifying States in order to ensure that migrant workers do not lose acquired social security rights when they move their residence from one country to another.

¹¹⁷ Point 8 of the Resolution and conclusions concerning social security, International Labour Conference, 89th Session, 2001 (see ILO 2001,3).

¹¹⁸ Article 68 of Convention No. 102.

3.7 General principles as regards the financing and administration of social security institutions (Part XIII of Convention No. 102)

As regards the methods of organizing and administering social security, Convention No 102 abstains from establishing standards of a technical nature thus allowing ratifying States great leeway in organizing their systems of social security. As set out above, Convention No. 102 offers a range of options and flexibility clauses making it possible to attain gradually the ideal of universal coverage in harmony with the degree of national economic development. Each country may apply the Convention through a combination of contributory and non-contributory benefits calculated according to different formulas (earnings-related, flat-rate or means-tested), different methods for the administration of schemes (general, occupational, compulsory or voluntary insurance, and public or private administration), all intended to secure an overall level of protection which best corresponds to the needs of the country concerned.

However, the flexibility offered by the Convention should not be confounded with laxism:

... the possible equivalence in the use of different formulas does not mean that all solutions are admissible. Thus, the periodic nature of cash benefits, the obligation to guarantee their level and to maintain their real value can hardly be ensured by defined contribution schemes. The option of means testing the benefits is available only for schemes covering, in principle, all residents. The use of voluntary insurance schemes, to which belong the majority of private occupational schemes, is subject to the condition of their supervision by the public authorities or by the social partners, and of the extension of their coverage to a substantial part of workers. Financing by way of contributions or taxation excludes schemes based on direct liability of the employer as well as those financed through commercial insurance primes. It is apparent that notwithstanding the different levels of protection required by the international standards, there are limits to reforms, particularly to those which lead to privatization of social security. In this resides a guarantee against social regress, the provision of which has been traditionally the role of the ILO standards (Voin 1993).

There are indeed some basic rules regarding good management set forth in Part XIII of the Convention that must be respected no matter what system is used. These principles concern in particular a claimant's right of appeal, the State's ultimate responsibility for the due provision of the benefits and the proper administration of the institutions, the participation of the persons protected in the management of social security schemes, and the collective financing of benefits.

The right of appeal in the case of refusal of benefit or complaints as to its quality or quantity is one of the principles enshrined in Convention No. 102 and also in the subsequent instruments.¹¹⁹ This right, however, is restricted when it comes to medical care if the administration of medical care is entrusted to a government department responsible to a legislature; in that case, the right of appeal may be replaced by a right to have a complaint concerning the refusal of medical care or the quality of care received investigated by the appropriate authority.

Social security disputes are usually settled in two stages: a first complaint phase, generally before a higher-level administrative body within the social security institutions, and a second stage of appeal against the decision of the administrative body, generally before an administrative, judicial, labour or social security court or tribunal.

Even though the Conventions do not specify the channels of appeal which must be made available, the preparatory work for the adoption of Conventions Nos. 121 and 128 nevertheless provides indications on the nature of this right. For example, it was stated that the right of appeal bears upon a decision which would have been final if this right has not existed. Furthermore, the concept of recourse implies that the matter must be determined by an authority that is independent of the administrative authority which made the first decision. The mere right to ask for re-examination of the case by the same body is not enough to constitute an appeal procedure.

In this respect, the Committee of Experts observed that also in the absence of a special appeal procedure before a special social security or labour court, the safeguards provided for in the Conventions could nonetheless be ensured by the application of the general rules governing the right of appeal to the

¹¹⁹ Article 70 of Convention No. 102, Article 23 of Convention No. 121, Article 34 of Convention No. 128, Article 29 of Convention No. 130, Article 27 of Convention No. 168.

ordinary courts in so far as these rules permit the review or annulment of any administrative decision adopted by the social security institution (ILO 1961).

As governments have a fundamental responsibility, frequently laid down in their countries' constitutions, to ensure a basic standard of living for their people, it is only a logical consequence of ratification of Convention No. 102 that the State "accepts a general responsibility for the due provision of the benefits provided in compliance with this Convention, and that it shall take all measures required for this purpose". This also implies an obligation to ensure the financial viability of its social security scheme. The overall financial responsibility of the State is complemented and reinforced by its "general responsibility for the proper administration of the institutions and services concerned in the application of the Convention".¹²⁰

The Convention thus recognizes the State's power of oversight and control. This does not necessarily mean that the State has to cover any deficit which might occur, as long as there are other means available to remedy the situation (such as a change of the contribution rate and/or the benefit structure), but it encompasses at least an obligation to "ensure, where appropriate, that the necessary actuarial studies and calculations concerning the financial equilibrium are made periodically and, in any event, prior to any change in benefits, the rate of insurance contributions, or the taxes allocated to covering the contingencies in question".¹²¹ This is just another example of the Convention stressing the importance of sustainability and the importance of careful planning in order to maintain the financial balance of a scheme. No comprehensive scheme can be maintained without a stable revenue basis. If this is no longer provided, that is, if something goes wrong at any stage in the chain of responsibilities, the Committee of Experts took the view that the State is obliged in principle to remedy the situation, if necessary also by the provision of public funds.

Finally, Convention No. 102 provides that the representatives of the persons protected must be involved in the management of the scheme or are associated therewith in a consultative capacity. Frequently, national laws or regulations also envisage the participation of representatives of employ-

ers and of the public authorities, thus putting the management of a scheme on a tripartite basis.

One reason for the participation of the social partners is the fact that the social security schemes are, at any rate in the case of social insurance, financed wholly or predominantly by the contributions which employers and workers pay on the basis of labour income. However, even in the case of schemes which are financed from general tax revenues and administered by a government department, tripartism can play an important role in improving policies and in making systems more responsive to workers' needs. Although this is not explicitly required by the ILO Conventions, as Convention No. 102 exempts institutions regulated by the public authorities or schemes directly run by a government department responsible to legislature from such an obligation, the ILO, in recognition of the essential role played by social partners in ensuring sound governance of social security systems, has always called for a strong role of the workers' and also the employers' organizations in the management of social security.

As the Convention accepts varying methods for the provision of social protection through the mechanisms of social insurance, social assistance or universal public service, it does not favour a particular way of financing and simply provides that financing must be carried out by way of insurance contributions paid by employees and/or employers, by general taxation or through a combination of these. However, the Convention insists on the *principle of collective financing*. The principle of collective financing through contribution or taxes means that the Convention excludes schemes based on direct liability of the employer and also "savings schemes" which are financed exclusively by the persons protected (see box 6).

Collective financing involves individuals pooling their resources for the greater good. It is closely connected with the principle of solidarity and generally means that contributors do not necessarily receive the same amount of money in benefits as they deposited in contributions. There is always a redistribution of income between those with sufficient earnings and those in need of social benefits, and frequently also from the more affluent members of society to those who earn or have earned less. This, indeed, is an essential component of any social security scheme.

¹²⁰ Articles 71 para. 3 and 72 para. 2 of Convention No. 102.

¹²¹ Article 71 para. 3 of Convention No. 102, Article 24 para. 2 of Convention No. 121, Article 35 of Convention No. 128, Article 30 of Convention No. 130, Article 28 of Convention No. 168.

Box 6. Privatization of social security

Over recent decades schemes have been introduced in many Latin American countries (such as Brazil, Colombia, Mexico and Peru) following the example of Chile, which, in 1991, was the first country to initiate old-age pension reforms based on mandatory funded individual retirement accounts and moving away from public management. Ever since these reforms were adopted, the Committee of Experts has been engaged in an intensive dialogue with the governments concerned on a very broad spectrum of issues of non-compliance with ILO social security standards. It observed in particular that pension schemes based on the capitalization of individual savings managed by private pension funds were organized in disregard of the principles of solidarity, risk sharing and collective financing, which formed the essence of social security, and also in disregard of the principles of transparent, accountable and democratic management of pension schemes featuring the participation of representatives of insured persons. This issue gave rise to several representation procedures under article 24 of the ILO Constitution, in the context of which, in 1986 and 2000, the Governing Body concluded that the Conventions in question were not complied with and entrusted the Committee of Experts with the task of supervising the implementation of its conclusions and recommendations. These conclusions and recommendations called on the Government of Chile to amend the national legislation to ensure that the privately managed pension system is administered by non-profit-making organizations; that representatives of the insured are able to participate in the administration of the system; and that employers contribute to the financing of the old-age and invalidity benefits. In view of the absence of adequate measures taken by the Government to give effect to the recommendations of the Governing Body, the case of Chile has also been discussed on repeated occasions in the Conference Committee on the Application of Standards since 1987.^a

Moreover, experience has shown that it is much more costly to administer individual savings accounts than social security records, that pension fund management companies (for example the *Administradoras de Fondos de Pensiones (AFP)* in various countries of Latin America) have high marketing costs, and that private management companies cannot be relied upon to enforce compliance. The failure of so many private pension schemes to deliver decent pensions, not least due to losses sustained during the financial crisis in 2008–09, has led many governments to undertake a second round of significant reforms, allowing workers to switch back to pay-as-you-go schemes based on the principles of social insurance (see ILO 2018).

Note: ^a Observations of the CEACR as regards Peru (2002–12), Mexico (2007–14) and Chile (2005–17). Comments regarding Chile were made on the basis of the outdated Conventions Nos. 35–38, as Chile (unlike Mexico and Peru) has not ratified Convention No. 102.

The Convention also sets some limits on the amount of contribution or taxation that may be imposed upon the people. The State must ensure that the contributions or taxation is at such a level as to “avoid hardship to persons of small means”; this stresses the solidarity element of collective financing. Contributions and taxes should also be established in view of the economic situation of the country and the classes of person protected; this relates to the

concept of sustainability. The Convention also specifies how the burden of financing social security is to be shared in contributory schemes: the total of insurance contributions borne by the employees protected must not exceed 50 per cent of the total of financial resources required in each or all of the contingencies except family benefits and employment injury benefits. In all other respects, Member States are free to adopt the system they want.¹²²

¹²² Article 71 para. 2 of Convention No. 102.



4

▶ Supervision of ILO Conventions and Recommendations

► 4. Supervision of ILO Conventions and Recommendations

The ILO is the first international organization to have been provided under its Constitution with an elaborate system charged with monitoring the effective application of its standards.

First of all, when a Convention or a Recommendation is adopted by the International Labour Conference, the government of each Member State is obliged to submit the text within a year, or at most within 18 months, to the competent national authorities, i.e. usually the parliament, “for the enactment of legislation or other action”. When doing so, the governments are required to indicate the measures they consider desirable. A government may, for instance, point out that the instrument is already fully applied in national law and practice and may, as a result, be ratified or accepted. It may recommend that laws be decreed in order to give full effect to the instrument, after which, in case of a Convention, it will proceed to ratify the same. It may further recommend that the question of ratification of a Convention be adjourned, so that time may be provided for consultation or examination of the item as necessary. But it may also go as far as to recommend that a Convention is not ratified.

The purpose of this obligation is, of course, to encourage the ratification of ILO Conventions, or at least, to stimulate debate within the country on the issues covered by these instruments, with a view to promoting their implementation.

Governments are also held to provide regular reports (every six years with respect to the so-called “technical Conventions” including all social security Conventions¹²³) on the application of ratified Conventions¹²⁴ and, on request, also on non-ratified Conventions or Recommendations.¹²⁵ These reports have to be supplied on the basis of a report form, which contains the substantive provisions of the

Convention and a number of questions on how it is applied, both in law and practice. A committee of independent experts – the Committee of Experts on the Application of Conventions and Recommendations (CEACR) – was set up in 1926 to supervise the application of ILO standards, to which all government reports on the application ILO standards are submitted for scrutiny.¹²⁶

The CEACR consists of 20 high-level jurists (judges of the International Court of Justice, of national Supreme Courts or other courts of law, as well as professors of law in labour issues) from all regions of the world. They are appointed by the Governing Body of the ILO for a maximum of four renewable periods of three years among persons of recognized competence in the area of labour and social security legislation.¹²⁷ These experts are in no sense representatives of governments. Their independence is guaranteed by the fact that they are appointed by the Governing Body of the ILO on the recommendation of the Director-General, and not by proposal of the governments of the countries of which they are nationals.

The Committee of Experts meets once year in November–December. It takes its decisions in total independence based solely on the principle of objectivity and impartiality. It has always insisted on the fact that its only task is to ascertain whether the provisions of an instrument are applied irrespective of the social and political situation prevailing in the country concerned. Its decisions are not only based on the governments’ reports, but also on other available information such as observations supplied by trade unions or employers’ associations or coming from the technical departments within the ILO. In undertaking its impartial and technical analysis of how the Conventions are applied in law and practice by Member States, the Committee of Experts must

123 The next six-year reporting cycle on social security Conventions starts in 2023.

124 By virtue of article 22 of the ILO Constitution.

125 By virtue of article 19 of the ILO Constitution.

126 In accordance with an arrangement made between the Council of Europe and the International Labour Organization, the Committee of Experts is also entrusted with the task to examine country reports on the application of the European Code of Social Security, which is a regional instrument based to a large extent on ILO Convention No. 102. Member States having ratified the European Code are required to report annually, which ensures of course a much closer scrutiny than of ILO Conventions.

127 Their names and professional backgrounds are published in an appendix to Part I of the annual reports of the CEACR on the Application of International Labour Standards

determine the legal scope, content and meaning of the provisions of the Conventions.¹²⁸

In practice, however, the Court has never been seized with such an issue. Opinions of the Committee of Experts regarding the conformity of a piece of national legislation with the Conventions thus cannot be regarded as definitive interpretations and they are legally not binding, but they have nevertheless over the years acquired considerable moral force. The interpretations of the Committee of Experts are guided by Articles 31 and 32 of the Vienna Convention on the Law of Treaties, i.e. they are made in good faith in accordance with the ordinary meaning of a term taking into account its context as well as its object and purpose. Respectful of the input made by the tripartite constituents of the ILO, reference is also made to the preparatory work leading to the adoption of an instrument.

The Committee of Experts presents each year to the International Labour Conference a Report on the Application of (ratified) Conventions and Recommendations including, at request, General Surveys on the implementation of ILO Conventions and Recommendations, including by countries which have not ratified them. These General Surveys feed into the recurrent discussions of the International Labour Conference which periodically take place on one of the four strategic objectives of the Decent Work Agenda. They provide information on the contents of ILO standards, the extent of their effective implementation and also on the difficulties reported by governments in applying standards. By clarifying the scope of these standards, they provide guidance to national legislation and occasionally also indicate means of overcoming obstacles to their application.

The Committee's comments take the form of observations or direct requests. Observations are generally used in more serious or long-standing cases of failure to fulfil obligations. They are reproduced in the annual Report on the Application of Conventions and Recommendations, which is then submitted to the Conference Committee on the Application of Standards in June every year. Direct requests are not published in the report of the Committee of Experts, but are communicated directly to the governments concerned, as well as to workers' and employers' organizations.¹²⁹ Direct requests are usually made when a minor discrepan-

cy is involved, a technical issue is raised, or further clarification is required to enable the Committee of Experts to fully assess the way in which a ratified Convention is applied.

Beginning in 1957, the Committee of Experts also started to identify in its report particularly serious, persistent and urgent cases by so-called "double footnotes". Such footnotes attached at the end of its comments identify cases in which, because of the nature of the problems encountered in the application of a Convention concerned, it has deemed appropriate to ask the government to supply a report earlier than would otherwise have been the case and, in some instances, to supply full particulars to the Conference at its next sessions.

The regular report of the Committee of Experts on the application of Conventions containing its observations is then submitted to the International Labour Conference at each of its annual sessions. A Conference Committee on the Application of Standards is set up each year, this time on a tripartite basis, wherein each of the groups – governments, employers and workers – has the same voting strength as others. This Conference Committee deals with the most important issues contained in the Committee of Experts' report, including in particular those individual cases identified by "double footnotes". It may also invite government representatives to take part in the discussion and to respond to questions. Governments are thus able to elaborate on information previously supplied to the Committee of Experts, indicate any further measures taken or proposed since the last session, draw attention to difficulties encountered in the fulfilment of obligations and seek guidance as to how to overcome such difficulties. At the end of its proceedings, the Conference Committee drafts a report which is submitted to the Conference for discussion in one of the plenary sittings. In its report to the Conference, the Committee on the Application of Standards draws its own conclusions, inviting the governments concerned to provide clarifications and to take measures, where appropriate, to overcome divergences observed between national law and practice and the provisions of ratified Conventions. The discussion of this report provides delegates from all the three groups with an opportunity to draw further attention to particular aspects of the Committee's work. In its report

¹²⁸ By virtue of article 37 of the ILO Constitution, only the International Court of Justice is competent to make "definitive interpretations" of Conventions.

¹²⁹ They are accessible online through the NORMLEX database available at: www.ilo.org/normes.



Address by Mr Marc LEEMANS, Worker Vice-Chairperson, Belgium (by video). ILO Committee on the Application of Standards (CAN). Plenary sitting of the 110th Session of the International Labour Conference. Saturday, 11 June 2022. Copyright © Crozet / Pouteau / Albouy / ILO.

submitted to the plenary sitting of the Conference for adoption, the Conference Committee on the Application of Standards may invite the Member State whose case has been discussed to accept a technical assistance mission by the International Labour Office to increase its capacity to fulfil its obligations, or may propose other types of missions. The Conference Committee may also request a government to submit additional information or

address specific concerns in its next report to the Committee of Experts. The Conference Committee also draws the attention of the Conference to certain cases, such as cases of progress and cases of serious failure to comply with ratified Conventions. Once adopted by the Conference, the report is sent to governments with special attention drawn to points which the government should take into account. Box 7 provides two examples of the process.

Box 7. Two examples of discussions held by the Conference Committee on the Application of Standards in the area of social security

1. The case of Greece

In the course of the 103rd session of the International Labour Conference in 2014 in Geneva, the Conference Committee discussed the application of ILO Convention No. 102 during the sovereign debt crisis faced by Greece in the aftermath of the financial crisis of 2007–08. In its observations of that year, the Committee of Experts found that “the continuing contraction of the economy, employment and public finances caused by the policy of continuous austerity threatens the viability of the national social security system and has resulted in the increased impoverishment of the population, which seriously undermines the application of all accepted Parts of the Convention” (ILO 2014a, 516). Consequently, it submitted observations and recommendations around three issues: (1) protection of the social security system against continuous austerity; (2) stopping the increasing impoverishment of the population; and (3) establishing a national social protection floor.

(Box 7 continued on next page)

Box 7. (cont.)

In the meeting of the Conference Committee on the Application of Standards during the same year (ILO 2014b, Part II/80–86), the Government representative of Greece explained that the issues raised by the Committee of Experts should be seen in the context of the recession and austerity policies adopted by the Greek Government in the preceding four years in order to ensure the sustainability of the economy in general and of the social security system in particular. He did not deny the lack of conformity with the provisions of Convention No. 102 from a legal point of view, which would fall within the scope of competence of the Committee of Experts, but he also explained recent policies and legislative reforms which sought to secure adequate benefits for the insured population, as well as maintaining the beneficiaries and their families “in health and decency” as referred to by Article 67 of Convention No. 102. He insisted, however, on the necessity for the social security system to remain sustainable in the current economic environment and for the State to fulfil its obligations towards its citizens and its international obligations.

The Employers’ Group members voiced criticism about the nature of the observations made by the Committee of Experts which they considered to be “persuasive rather than objective”. They understood that the reduction of monthly pensions affected only one-third of pensions, and that the goal of such a temporary reduction was to stabilize the system in the face of a severe crisis so that it did not collapse. They took the view that Convention No. 102 does not preclude necessary structural reforms. Moreover, they insisted that Convention No. 102 does not require a Government “to return to the past”, and that the establishment of a social protection floor, while generally desirable, was not required by the ratified parts of the Convention.

In its conclusions, the Committee recalled that the principle of the general responsibility of the State for the sustainable financing and management of its social security system expressed in Articles 71 and 72 of Convention No. 102 required the Government to establish a sound financial and institutional architecture of the social security system and “take all measures required for this purpose”, including in particular the following: maintain the system in financial equilibrium, ensure proper collection of contributions and taxes taking into account the economic situation in the country and the classes protected, carry out the necessary actuarial and financial studies to assess impact of any changes in benefits, taxes or contributions, ensure the due provision of the benefits guaranteed by the Convention, and to prevent hardship to persons of small means. Acknowledging the unprecedented financial and management challenges of steering the Greek social security system through the crisis, the Committee requested the Office to give guidance to the Government on reforming its social security system. Furthermore, the Committee observed that the continuous contraction of the social security system in terms of coverage and benefits had affected all branches of social security and in some instances resulted in reducing the overall level of protection below the levels laid down in Articles 65–67 of the Convention. In this context, the Committee invited the Government to continue to keep the functioning of the social security system under review and to adjust it, as necessary, making full use of ILO technical assistance to support the quantitative analysis of those options. The Committee considered that “due to its tripartite structure and its mandate, the ILO is ideally placed to assist constituents to address social and economic crises and to help design sound and equitable reform policies”. In view of the gravity of the social crisis in Greece, it urged the Government to give effect to the above recommendations and to provide full information to the Committee of Experts to ensure the appropriate follow-up to the case.

One year later, in 2015, the Committee of Experts acknowledged the significant efforts made by the Government to foster the organization of a viable social security system through, inter alia, computerization, elimination of fraud and undeclared work, strict actuarial oversight and efficient administration, and even through cutting higher pensions to sustain lower pensions in the name of solidarity. It also noted from the Government’s report that the fiscal space reserved for the application of the Convention and the recommended anti-poverty measures in Greece was strictly defined by the limits permitted by the implementation of the economic adjustment programme

Box 7. (cont.)

and the commitments assumed by the Government under the Memorandum with the “Troika”. However, it expressed serious concerns about a possible collapse of the social security system in Greece due to a contraction of the number of insured persons contributing to the system, as well as of the persons receiving various benefits from it. It therefore urged the Government to provide substantive responses in respect of its following previous statements: “(1) that the Government has and will put the issue of the prevention of poverty on the agenda of its meetings with the parties of the international support mechanism for Greece; (2) that the National Actuarial Authority will be in position to determine the social impact of the cuts in social security benefits; and (3) that the actions taken to prevent poverty analysed the most rapid scenarios for reversing certain austerity measures and disproportionate cuts in benefits” (ILO 2015, 460).

2. The case of the United Kingdom

In the course of the 106th Session of the International Labour Conference in 2017 in Geneva, the Conference Committee discussed the application of ILO Convention No. 102 by the United Kingdom. With respect to this country, the Committee of Experts had noted in its observation of the same year (ILO 2017b, 564–566) that the system of social protection comprised contribution-based and income-based social security benefits, as well as various tax credits and a range of means-tested social assistance benefits, which offered additional protection against poverty. Contribution-based benefits were payable at a flat rate to anyone who had paid the requisite amount of National Insurance Contributions (NICs). Income-based benefits replaced or supplemented contribution-based benefits and were available to all who met the eligibility criteria as to their income. Under a reform going on for several years, the means-tested income-based benefits were successively replaced by a uniform system of “universal credits”. As the UK Government regarded this new kind of benefit as a “social assistance benefit” which did not fall within the scope of the ILO Conventions, it wanted to show compliance with the accepted Parts of the Convention for the foreseeable future on the force of contribution-based social security benefits alone. The Committee of Experts, however, came to the conclusion that contribution-based benefits were below the level of 40 per cent of the wage of an ordinary adult male labourer and therefore did not meet the requirements of Article 66 of Convention No. 102.

In relation to the key findings of the Committee of Experts concerning the adequacy of benefits, the Government representative of the United Kingdom insisted in the discussion of the Conference Committee on the Application of Standards of the same year (ILO 2017c, Part II/101-105) on the need to consider the welfare support system as a whole. Contribution-based benefits were only a part of the overall welfare system that included a mixture of income-related and social assistance benefits. The main rates of contributory Jobseeker Allowance and contributory Employment Support Allowance provided an income supplement to those who were not at work, while additional support was available for those with low incomes and with limited capital. Many of those claiming contribution-based Jobseekers Allowance and Employment Support Allowance were also claiming other benefits such as Housing Benefit or Personal Independence Payment. She reaffirmed the Government's commitment to provide detailed explanations on the welfare system in the United Kingdom in response to the comments made by the Committee of Experts.

The Workers' Group members recalled the importance of social security systems as a means to fight poverty. They considered that in this respect, Convention No. 102 was of particular importance because it contained an internationally accepted definition of social security by determining objectives to meet and not only the means of attaining those objectives. It contained minimum obligations and allowed progress made to be measured in this respect. However, it was also a very flexible instrument containing different options and flexibility clauses. It offered each country the possibility to combine contributory and non-contributory benefits in order to ensure a minimum protection. While each country was free to declare which parts of the Convention it was willing to accept, it could not pretend that social assistance benefits fall outside of the scope

Box 7. (cont.)

of the Convention, because Article 67 had been inserted specifically with the aim of allowing an assessment of whether such benefits were sufficient to meet the requirements of the Convention. They doubted, however, whether the new British system consisting of “universal credits” would be sufficient to maintain the family of the beneficiary in health and decency, as required, because, according to the latest estimates, the new system of universal credits would entail a reduction of income for many households.

The Employer’ Group members welcomed the Government’s announcement that it would report more fully on the application of the Convention in time for the next meeting of the Committee of Experts, including information on the ongoing revision of the social security system. They noted that two main issues had been identified by the Committee of Experts which required further response from the Government. The first was whether non-contributory benefits fell within or outside the scope of the Convention. The second issue was whether or not the level of benefits fell below the minimum obligation under the Convention. Depending on the outcome of the first issue, an analysis of the second was necessary. They concluded by stating that they looked forward to additional information and data provided by the Government before the next session of the Committee of Experts to enable a clearer understanding of the compliance with the Convention.

In its conclusions, the Committee encouraged the Government of the United Kingdom to transmit to the Committee of Experts the additional information requested, including the relevant statistics, in order to enable the experts to make a fresh evaluation of the application of the Convention in the country.

The two examples in box 7 illustrate how the supervisory procedure of the ILO combines the action of an independent technical body with that of a political institution which comprises governments’, workers’ and employers’ representatives. Of course, it falls short of being able to impose any sanctions on a defaulting State – as a court is generally empowered to do – but it has nevertheless shown its effectiveness on many occasions. Its main purpose is not to blame or punish in any way a government which, for one reason or another, has failed to comply with its obligations, but rather

to establish a dialogue in order to help it overcome difficulties it has in complying with ILO standards. This aim is effectively underpinned by the technical assistance capacity which the ILO can deploy in order to assist Member States all over the world in their efforts to improve their social and labour legislation in line with international standards and thus obtain a higher level of social development. The efficiency demonstrated in many cases by the ILO supervisory machinery is largely due to its regularity, its objectivity and impartiality, and its publicity.



5

- ▶ **Ratification of Convention No. 102 and other social security instruments of the ILO**

► 5. Ratification of Convention No. 102 and other social security instruments of the ILO

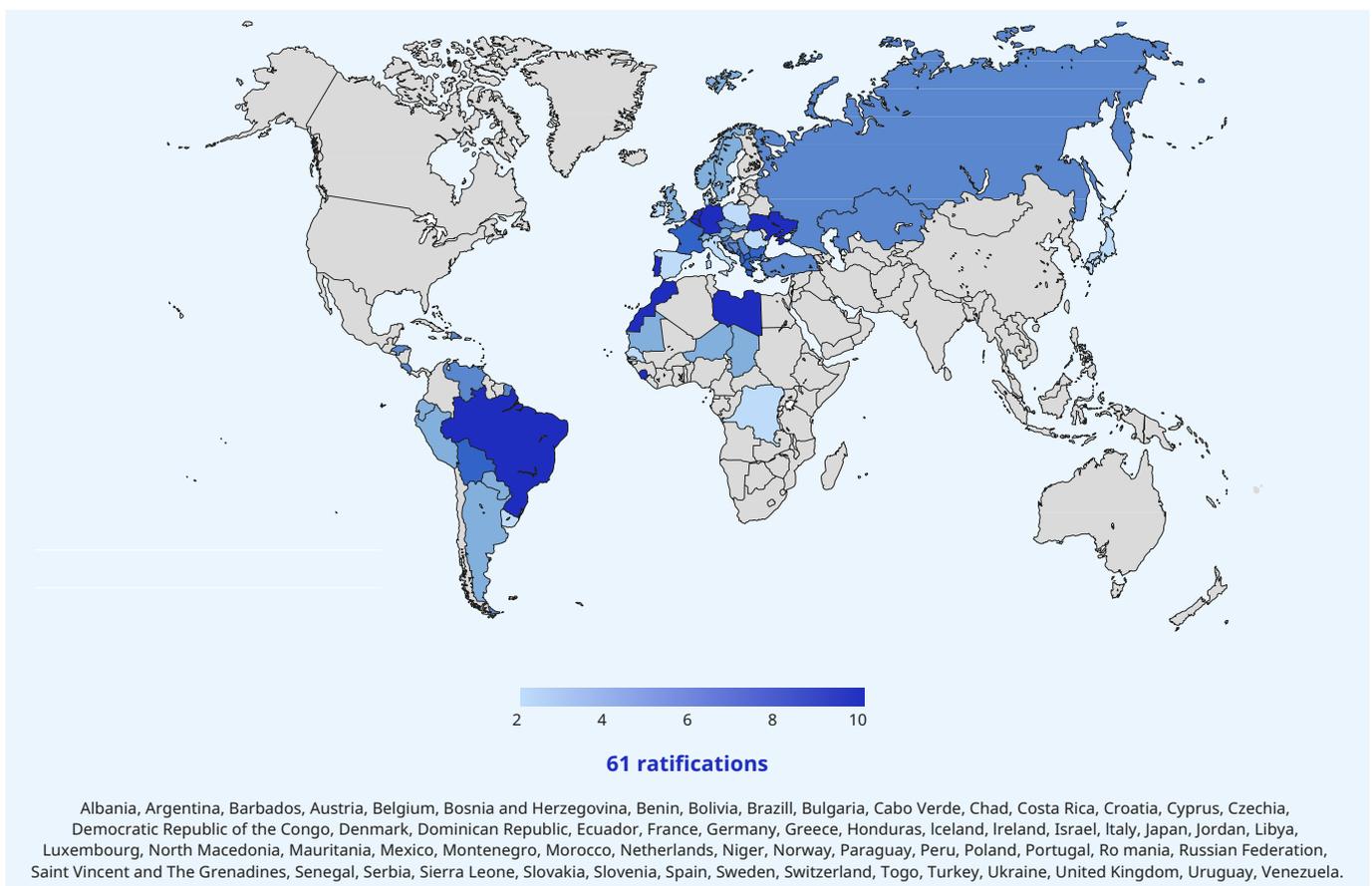
Up to the present, 61 countries (of a total of 187 Member States) have ratified Convention No. 102 and have thus accepted to incorporate its provisions into their internal legal system and their national practice. Not all these countries, however, have accepted the obligations of the Convention with respect to all nine branches of social security. Indeed, this is not required. With a view to allow its ratification by the largest possible number of States irrespective of their degree of development as regards social security, Convention No. 102 requires for the purpose of its ratification that a State merely accepts three of the nine parts or contingencies, including at least one relating to unemployment, employment injury, old-age, invalidity or survivors' benefits. States may subsequently accept the obligations in respect of other parts of the Convention, so that they can work gradually towards full achievement of the aims of the Convention. (As regards the

higher standards, Convention No. 128 also offers a choice between one of the three branches covered by this Convention, i.e. between old-age, invalidity and survivors' benefits).

Moreover, the Convention No. 102 permits temporary exceptions for countries "whose economy and medical facilities are insufficiently developed". Under these exceptions, it is possible, for example, in respect of each contingency, to provide coverage for a smaller number of persons, calculated by reference only to employees in industrial workplaces of a specified size, thus bringing the minimum standard more easily within the reach of less industrialized countries. In order to avail itself of such an exception, a country must append a declaration to its ratification.

As can be seen in the attached chart of ratifications, of the 61 countries having ratified Convention

► Figure 1. Ratification map of Convention No. 102



No. 102 to date, only eight have accepted all parts of the Convention and five (Bolivia, Chad, Paraguay, Peru and Turkey) have availed themselves of the temporary exception regarding coverage.

In view of the still fundamental inadequacies and deficiencies of social protection systems in developing countries, it is not surprising that in spite of the flexibility built into all ILO social security Conventions, and in spite of the fact that Convention No. 102 is to be regarded as a set of minimum criteria, many developing countries, in particular in Africa and Asia, still feel unable to ratify Convention No. 102. In fact, as shown by the attached chart of ratifications, the large majority of ratifications come from European or Latin American countries. But the chart also shows a steady rate of ratifications, with about eight to ten new ratifications each decade. And it is encouraging to see that a ratification of Convention No. 102 is now also considered to a growing extent by African, e.g. Sierra Leone which ratified the Convention in March 2022, and Asian countries.

A look at the ratification map above shows that there are also white regions representing industrialized (OECD) countries with well-developed social security schemes which still have not ratified Convention No. 102. It is regrettable that they still refrain from doing so on purely technical grounds.

However, the impact of the ILO Conventions in general and that of Convention No. 102 in particular should be measured not only in terms of the number of ratifications: over the years, the Convention No. 102 has had, and continues to have, substantial influence on the development of social security in various regions of the world. Irrespective of the fact that most the social security Conventions were adopted some decades ago and, to some extent, still reflect the prevailing views of the past as regards, in particular, traditional gender roles, both the flexibility and the basic principles and requirements contained in their provisions have permitted Convention No. 102 to pass the test of time.



6

- ▶ **The role of workers' organizations in the promotion of ILO Conventions and especially Convention No. 102: A call for action**

▶ 6. The role of workers' organizations in the promotion of ILO Conventions and especially Convention No. 102: A call for action

Workers' organizations are now aware of the importance of ILO social security standards and of the need to engage with respective governments to encourage their ratification and implementation.

For this purpose, trade unions need to become real actors of change and set up a road map for effectively contributing to the ratification of ILO social security Conventions and particularly Convention No. 102. Furthermore, they need to strengthen social dialogue to make sure that this can generate consensus for the transformative changes which are necessary to build forward better.

The workers' organizations' agenda for resilience and empowerment in the context of a human-centred recovery from the COVID-19 crisis that is inclusive, sustainable and resilient should thus be based on the following actions:

- ▶ Workers' organizations have an important role to play in promoting the ratification of the Social Security (Minimum Standards) Convention, 1952 (No. 102), e.g. through initiating ratification campaigns.
- ▶ Social protection extensions must be based on national social dialogue. Social dialogue and consultations with social partners are particularly important for devising coordinated policy responses, including policy responses to the COVID-19 pandemic. Workers' organizations should therefore work towards the creation of a political will among decision-makers, as this represents a prerequisite to establishing an enabling environment for constructive social dialogue.
- ▶ Workers' organizations play a key role in strengthening social dialogue mechanisms and institutions, to ensure that the necessary



One of the trainer of the vocational skills and training centre at the YECE, Centre for Youth Empowerment and Civic Education which partnered with the ILO/IPEC to support the national action plan aimed at combating child labour in Malawi. Copyright © Marcel Crozet / ILO.

infrastructure is provided so that these mechanisms and institutions can operate better during periods of crisis and beyond.

- ▶ Workers' organizations have to increase their representative capacity through the development and implementation of innovative strategies and services to attract, retain and represent all workers, regardless of their vulnerability in the labour market and their employment relationships, including informal economy workers.
- ▶ As the prolonged COVID-19 crisis continues, as countries emerge from it and as pressures increase to reduce spending and put in place austerity measures, it will be crucial for workers' representatives to be actively engaged and consulted to ensure that they can effectively shape any potential reform measures to safeguard social outcomes.
- ▶ Strengthening the capacity of workers' organizations is essential to ensure that effective social dialogue can take place and contribute to building coordinated policy responses to address the current crisis and recovery. Sound technical knowledge among workers' representatives contributes also to the formulation of national social protection policies and legal frameworks and their implementation in line with Convention No. 102, Recommendation No. 202 and Recommendation No. 204. Informed policy design improves the effectiveness of implementation and contributes to ownership of the measures adopted as well as trust amongst tripartite actors and workers in general.
- ▶ Workers' organizations play a key role in disseminating information to workers and employers and raising their awareness about their social protection rights and obligations.
- ▶ Workers' representatives on tripartite boards of directors of social security institutions should fight for good governance of the social protection system. Board members are "trustees" for social security schemes and have to exercise a reasonable standard of care on behalf of all the beneficiaries of that entity, including acting in accordance with the rules of the scheme, within the framework of the law, as well as acting prudently, conscientiously, and with good faith and in the best interests of the scheme's constituents and to strike a fair balance among the different categories. Representatives of workers' organizations would be expected to represent the interests of workers as a whole, not just those in respective federation.
- ▶ Finally, it is important that workers' representatives engage with the UN processes on sustainable development, which offer workers' organizations and other ILO constituents in general the space and impetus necessary to participate in democratic and transparent multilateral decision-making. These processes also offer workers the opportunity to demand enhanced policy coherence, improved enforcement and better accountability. Workers' organizations can demonstrate the important role of social dialogue and social partnership for national development.



Buenos Aires, Argentina,
woman, makes alfahores.
Copyright © Lord R.
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► Concluding remarks

The adoption of international labour standards and ensuring their universal application is the main tool available to the ILO in pursuing its goal of “universal and lasting peace based on social justice”. These standards provide its tripartite constituents with both the opportunity and the responsibility to act together in order to make the world a better, fairer and more secure place. Member States support this goal by accepting these standards, first in the plenary Sessions of the International Labour Conference, where these standards are adopted, and secondly in particular through the ratification of the standards. The acceptance and ratification of ILO Conventions by as many Member States as possible is a powerful tool to advance the common goal of social justice through decent work worldwide, because ratification creates a “legal obligation”, not only a “moral commitment” for ratifying States to abide by the provisions of the instrument in question.

There is a great demand for policies which deliver decent work and greater social justice, as high levels of unemployment and underemployment remain a major source of concern. The global jobs gap, which causes millions of people to move to more affluent countries seeking better lives and decent jobs, is matched by a gap in social protection. Today, only 30.6 per cent of the world’s population has access to social protection and changing demographics will pose major challenges to creating and extending sustainable social protection systems. This underlines the importance of the ILO Social Protection Floor Initiative, which is also echoed in the UN 2030 Agenda for Sustainable Development.

The call for ratifying, or at least giving effect, to the Social Security (Minimum Standards) Convention, 1952 (No. 102) and, where possible, also to other social security Conventions and Recommendations with more advanced standards, is more pertinent than ever. The International Labour Conference reiterated and broadened this call most recently by adopting the Resolution and conclusions concerning the second recurrent discussion on social protection (social security) in 2021, which called upon the ILO to assist Member States in overcoming obstacles to the ratification of up-to-date ILO social security Conventions and requested the ILO to launch a campaign to systematically promote the ratification of Convention No. 102. For this purpose, the Office will launch a global ratification campaign

with the aim of reaching at least 70 ratifications of Convention No. 102 by 2026, from 61 ratifications in 2021.

At national level, workers’ organizations need thus to engage with their respective governments to encourage them to ratify and implement ILO social security standards, in order to guarantee sustainable and well-established social security systems and the provision of regular and adequate benefits for all workers and their families.

The social security Conventions of the ILO embody the idea of a general level of social security which must gradually be achieved everywhere in all regions of the world, irrespective of the level of development. They are also inspired by the idea that there is no single model for social security, and that social security develops and is continuously transformed and adapted to changing societal needs. Therefore, the method selected by each Member State for guaranteeing a minimum level of protection reflects the social and cultural values, history, institutions and level of economic development of each country concerned. However, by setting out an integrated series of objectives based on commonly accepted principles, Convention No. 102 establishes a framework for a minimum social threshold for all Member States to be observed when they develop their own national strategies and their own schemes of social protection.

As this manual has tried to show, the social security standards of the ILO are important tools for ensuring that the global economy provides benefits and opportunities for all. These standards have become an invaluable tool to promote the cause of decent work and social justice. There have been many cases of progress to which the international labour standards have contributed. The supervisory system of the ILO ensures that countries respect their obligations under the Conventions they have ratified and, more generally, their obligations under the ILO Constitution.

Convention No. 102, and also the more advanced social security Conventions Nos. 121, 128, 130, 168 and 183 continue to correspond to current world needs. They constitute an internationally accepted normative framework for the development of social security which is still valid. They give meaning and definition to the content of the right to social

security as laid down in other international human rights instruments. They have come to be recognized globally as key references for the design of sound and sustainable social protection schemes and systems. Together with the Social Protection Floors Recommendation, 2012 (No. 202), they provide concrete guidelines and also specific content for the achievement of the UN 2030 Agenda for Sustainable Development, and in particular SDG target 1.3 (extension of social protection to all), SDG target 3.8 (universal healthcare coverage), SDG target 5.4 (gender equality and non-discrimination), SDG target 8.5 (decent work and economic growth), and SDG target 10.4 (adoption of policies, especially fiscal, wage and social protection policies with a view to reduce inequality within and among countries).

More specifically, these standards serve as key references for:

- ▶ the elaboration of national social security extension strategies;
- ▶ the development and maintenance of comprehensive national social security systems;
- ▶ the design and parametric adjustments of social security schemes;
- ▶ the establishment and implementation of effective recourse, enforcement and compliance mechanisms;

- ▶ the good governance of social security and improvement of administrative and financial structures;
- ▶ the realization of international and regional obligations, and the operationalization of national social protection strategies and action plans; and
- ▶ working towards the achievement of the Sustainable Development Goals.

The tripartite organization of the ILO provides a unique framework for the active participation of workers and their representative organizations in the development and enforcement of international labour standards at all levels: in the process of their adoption, their ratification, their implementation, and their supervision. While ILO standards are primarily a tool to be used and implemented by national governments, employers' and in particular workers' organizations also have an important role to play. They can also exercise this role by raising awareness of the need for social protection with reference to ILO standards and equally to the Sustainable Development Goals of the United Nations. It is hoped that this manual will not only empower ILO constituents but assist society as a whole to claim their right to social security under international law.

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Annexes

► Annex 1: Main requirements of Convention No. 102 – Minimum standards

► Table 1. Main requirements: ILO social security standards on health protection

Convention No. 102: ¹³⁰ Minimum standards	
What should be covered?	Any ill-health condition, whatever its cause; pregnancy, childbirth and their consequences.
Who should be covered?	At least: <ul style="list-style-type: none"> ► 50% of all employees, and wives and children; or ► categories of the economically active population (forming not less than 20% of all residents, and wives and children); or ► 50% of all residents.
What should the benefit be?	<i>In case of ill health:</i> general practitioner care, specialist care at hospitals, essential medications and supplies; hospitalization if necessary. <i>In case of pregnancy, childbirth and their consequences:</i> prenatal, childbirth and postnatal care by medical practitioners and qualified midwives; hospitalization if necessary.
What should the benefit duration be?	As long as ill health, or pregnancy and childbirth and their consequences, persist. May be limited to 26 weeks in each case of sickness. Benefit should not be suspended while beneficiary receives sickness benefits or is treated for a disease recognized as requiring prolonged care.
What conditions can be prescribed for entitlement to a benefit?	Qualifying period may be prescribed as necessary to preclude abuse.

► Table 2. Main requirements: ILO social security standards on sickness benefits

Convention No. 102: Minimum standards	
What should be covered?	Incapacity to work resulting from illness that results in the suspension of income.
Who should be protected?	At least: <ul style="list-style-type: none"> ► 50% of all employees; or ► categories of the economically active population (forming not less than 20% of all residents); or ► all residents with means under a prescribed threshold.
What should be the benefit?	<i>Periodic payments:</i> at least 45% of reference wage.
What should the benefit duration be?	As long as the person remains unable to engage in gainful employment due to illness; possible waiting period of max. three days before benefit is paid; benefit duration may be limited to 26 weeks in each case of sickness.
What conditions can be prescribed for entitlement to a benefit?	Qualifying period may be prescribed as necessary to prevent abuse.

¹³⁰ Social Security (Minimum Standards) Convention 1952 (No. 102).

► **Table 3. Main requirements: ILO social security standards on unemployment protection**

Convention No. 102: Minimum standards	
What should be covered?	Suspension of earnings due to inability to find suitable employment for capable and available person.
Who should be protected?	At least: <ul style="list-style-type: none"> ► 50% of all employees; or ► all residents with means under prescribed threshold.
What should be the benefit?	Periodic payments; at least 45% of reference wage.
What should the benefit duration be?	<i>For schemes covering employees:</i> at least 13 weeks of benefits within a period of 12 months. <i>For means-tested (noncontributory) schemes:</i> At least 26 weeks within a period of 12 months. Possible waiting period of max. seven days.
What conditions can be prescribed for entitlement to a benefit?	Qualifying period may be prescribed as necessary to prevent abuse.

► **Table 4. Main requirements: ILO social security standards on income security in old age (old-age pensions)**

Convention No. 102: Minimum standards	
What should be covered?	Survival beyond a prescribed age (65 or higher according to working ability of elderly persons in country).
Who should be protected?	At least: <ul style="list-style-type: none"> ► 50% of all employees; or ► categories of economically active population (forming not less than 20% of all residents); or ► all residents with means under prescribed threshold.
What should be the benefit?	<i>Periodic payments:</i> at least 40% of reference wage; to be adjusted following substantial changes in general level of earnings which result from substantial changes in the cost of living.
What should the benefit duration be?	From the prescribed age to the death of beneficiary.
What conditions can be prescribed for entitlement to a benefit?	30 years of contributions or employment (for contributory schemes) or 20 years of residence (for non-contributory schemes); or, if all economically active persons (EAPs) are covered, a prescribed qualifying period and meet the required yearly average contributory density throughout the career. Entitlement to a reduced benefit after 15 years of contributions or employment; or, if all EAPs are covered, a prescribed qualifying period and meet half the required yearly average contributory density throughout the career.

► **Table 5. Main requirements: ILO social security standards on employment injury protection**

Convention No. 102: Minimum standards	
What should be covered?	Ill health and/or incapacity for work due to work-related accident or disease, resulting in suspension of earnings; total loss of earning capacity or partial loss at a prescribed degree, likely to be permanent, or corresponding loss of faculty; loss of support for the family in case of death of breadwinner.
Who should be protected?	At least 50% of all employees and their wives and children.
What should the benefit be?	<p><i>Medical care and allied benefits:</i> General practitioner, specialist, dental and nursing care; hospitalization; medication, rehabilitation, prosthetics, eyeglasses, etc., with a view to maintaining, restoring or improving health and ability to work and attend to personal needs.</p> <p><i>Cash benefits:</i> Periodic payments: at least 50% of reference wage in cases of incapacity to work or invalidity; at least 40% of reference wage in cases of death of breadwinner.</p> <p>Long-term benefits to be adjusted following substantial changes in general level of earnings which result from substantial changes in the cost of living.</p> <p>Lump sum if incapacity is slight and competent authority is satisfied that the sum will be used properly.</p>
What should the benefit duration be?	<p>As long as the person is in need of healthcare or remains incapacitated.</p> <p>No waiting period except for temporary incapacity to work for a maximum of three days.</p>
What conditions can be prescribed for entitlement to a benefit?	<p>No qualifying period allowed for benefits to injured persons.</p> <p>For dependants, benefit may be made conditional on spouse being presumed incapable of self-support and children remaining under a prescribed age.</p>

► **Table 6. Main requirements: ILO social security standards on family/child benefits**

ILO Convention No. 102: Minimum standards	
What should be covered?	Responsibility for child maintenance.
Who should be protected?	<p>At least:</p> <ul style="list-style-type: none"> ► 50% of all employees; <i>or</i> ► categories of economically active population (forming not less than 20% of all residents); <i>or</i> ► all residents with means under prescribed threshold.
What should the benefit be?	<p>Periodic payments; <i>or</i> provision for food, clothing, housing, holidays or domestic help; <i>or</i> combination of both.</p> <p><i>Total value of benefits calculated at a global level:</i></p> <ul style="list-style-type: none"> ► at least 3% of reference wage multiplied by number of children of covered people; <i>or</i> ► at least 1.5% of reference wage multiplied by number of children of all residents.
What should the benefit duration be?	At least from birth to 15 years of age or school-leaving age.
What conditions can be prescribed for entitlement to a benefit?	<ul style="list-style-type: none"> ► Three months' contributions or employment (for contributory or employment-based schemes); ► One year's residence (for non-contributory schemes).

► Table 7. Main requirements: ILO social security standards on maternity protection

ILO Convention No. 102: Minimum standards	
What should be covered?	Medical care required by pregnancy, childbirth and their consequences; resulting lost wages.
Who should be protected?	At least: <ul style="list-style-type: none"> ► all women in prescribed classes of employees, which classes constitute not less than 50% of all employees and, for maternity medical benefit, also the wives of men in these classes; or ► all women in categories of the economically active population forming not less than 20% of all residents, including, with regard to maternity medical benefit, the wives of men in these classes); or ► all women with means under a prescribed threshold.
What should the benefit be?	<p><i>Medical benefits:</i> at least:</p> <ul style="list-style-type: none"> ► prenatal, confinement and postnatal care by qualified practitioners; ► hospitalization if necessary. <p>With a view to maintaining, restoring or improving the health of the woman protected and her ability to work and to attend to her personal needs.</p> <p><i>Cash benefits:</i></p> <p>Periodic payment: at least 45% of the reference wage.</p>
What should the benefit duration be?	<p><i>Medical benefits:</i> throughout the contingency</p> <p><i>Cash benefits:</i> at least 12 weeks for cash benefits.</p>
What conditions can be prescribed for entitlement to a benefit?	As considered necessary to preclude abuse.

► Table 8. Main requirements: ILO social security standards on disability benefits

ILO Convention No. 102: Minimum standards	
What should be covered?	Inability to engage in any gainful activity, likely to be permanent, or that persists beyond sickness benefit (total invalidity).
Who should be protected?	At least: <ul style="list-style-type: none"> ► 50% of all employees; or ► categories of the economically active population (forming not less than 20% of all residents); or ► all residents with means under prescribed threshold.
What should the benefit be?	<p><i>Periodic payment:</i> at least 40% of reference wage.</p> <p>To be adjusted following substantial changes in general level of earnings which result from substantial changes in the cost of living.</p>
What should the benefit duration be?	As long as the person remains unable to engage in gainful employment or until old-age pension is paid.
What conditions can be prescribed for entitlement to a benefit?	<p>15 years of contributions or employment (for contributory schemes) or 10 years of residence (for non-contributory schemes); or</p> <p><i>if all EAP covered:</i> 3 years of contributions and meet the required yearly average contributory density throughout the career.</p> <p>Entitlement to a reduced benefit after 5 years of contributions or employment; or</p> <p><i>if all EAP covered:</i> 3 years of contributions and meet half the required yearly average contributory density throughout the career</p>

► **Table 9. Main requirements: ILO social security standards on survivors' benefits**

ILO Convention No. 102: Minimum standards	
What should be covered?	Widow's or children's loss of support in the event of death of the breadwinner.
Who should be protected?	Wives and children of breadwinners in categories of employees representing at least 50% of all employees; <i>or</i> wives and children of members of categories of economically active population representing at least 20% of all residents; <i>or</i> all resident widows and children with means under prescribed threshold.
What should the benefit be?	<i>Periodic payment:</i> at least 40% of reference wage; to be adjusted following substantial changes in general level of earnings which result from substantial changes in the cost of living.
What should the benefit duration be?	Until children reach 15 years of age; <i>or</i> school leaving age. Until widows are remarried.
What conditions can be prescribed for entitlement to a benefit?	15 years of contributions or employment (for contributory schemes) or 10 years of residence (for noncontributory schemes); <i>or</i> <i>if all EAP covered:</i> 3 years of contributions and meet the required yearly average contributory density throughout the career. Entitlement to a reduced benefit after five years of contributions or employment; <i>or</i> <i>if all EAP covered:</i> 3 years of contributions and meet half the required yearly average contributory density throughout the career. For widows, benefits may be conditional on being presumed incapable of self-support.

► Annex 2: Main requirements of Advanced Standards

► Table 1. Main requirements: ILO social security standards on health protection

Convention No. 130 ¹³¹ and Recommendation No. 134 ¹³² : Advanced standards	
What should be covered?	The need for medical care of a curative and preventive nature.
Who should be covered?	<p>C.130: All employees, including apprentices, and their wives and children; <i>or</i></p> <ul style="list-style-type: none"> ► categories of the active population forming not less than 75% of the whole active population, and their wives and children; <i>or</i> ► prescribed class(es) of residents forming not less than 75% of all residents. <p>(Persons already receiving certain social security benefits shall also continue to be protected under prescribed conditions.)</p> <p>R.134: In addition: persons in casual employment and their families, members of employers' families living in their house and working for them, all economically active persons and their families, all residents.</p>
What should the benefit be?	<p>C.130: The medical care required by the person's condition, with a view to maintaining, restoring or improving health and ability to work and attend to personal needs, including at least: general practitioner care, specialist care at hospitals, allied care and benefits, essential medical supplies, hospitalization if necessary, dental care and medical rehabilitation.</p> <p>R.134: Also, the supply of medical aids (e.g. eyeglasses) and services for convalescence.</p>
What should the benefit duration be?	<p>C.130: Throughout the contingency.</p> <p>May be limited to 26 weeks where a beneficiary ceases to belong to the categories of persons protected, unless he/she is already receiving medical care for a disease requiring prolonged care, or as long as he/she is paid a cash sickness benefit.</p> <p>R.134: Throughout the contingency.</p>
What conditions can be prescribed for entitlement to a benefit?	<p>C.130: Qualifying period shall be such as not to deprive of the right to benefits persons who normally belong to the category.</p> <p>R.134: Right to benefit should not be subject to qualifying period.</p>

► Table 2. Main requirements: ILO social security standards on sickness benefits

Convention No. 130 and Recommendation No. 134: Advanced standards	
What should be covered?	<p>C.130: Incapacity to work resulting from sickness and involving suspension of earnings.</p> <p>R.134: Also covers periods of absence from work resulting in loss of earnings due to convalescence, curative or preventive medical care, rehabilitation or quarantine, or due to caring for dependants.</p>
Who should be protected?	<p>C.130: All employees, including apprentices; <i>or</i></p> <ul style="list-style-type: none"> ► categories of economically active population (forming not less than 75% of whole economically active population); <i>or</i> ► all residents with means under prescribed threshold. <p>R.134: Extension to persons in casual employment, members of employers' families living in their house and working for them, all economically active persons, all residents.</p>
What should be the benefit?	<p>C.130: Periodic payments: at least 60% of reference wage; in case of death of the beneficiary, benefit for funeral expenses.</p> <p>R.134: Benefit should be 66.66% of reference wage.</p>
What should the benefit duration be?	<p>C.130: As long as the person remains unable to engage in gainful employment due to illness; possible waiting period of max. three days before benefit is paid; benefit duration may be limited to 52 weeks in each case of sickness.</p> <p>R.134: Benefit should be paid for full duration of sickness or other contingencies covered.</p>
What conditions can be prescribed for entitlement to a benefit?	<p>C.130: Qualifying period may be prescribed as necessary to prevent abuse.</p>

131 Medical Care and Sickness Benefits Convention, 1969 (No. 130).

132 Medical Care and Sickness Benefits Recommendation, 1969 (No. 134).

► **Table 3. Main requirements: ILO social security standards on unemployment protection**

Convention No. 168 ¹³³ and Recommendation No. 176 ¹³⁴ : Advanced standards	
What should be covered?	<p>C.168: Loss of earnings due to inability to find suitable employment for capable and available person actively seeking work. Protection should be extended to loss of earnings due to partial unemployment, suspension or reduction of earnings due to temporary suspension of work, as well as part-time workers seeking full-time work.</p> <p>R.176: Provides guidance for assessing suitability of potential employment.</p>
Who should be protected?	<p>C.168: At least 85% of employees, including public employees and apprentices; all residents with means under prescribed threshold. Coverage should be extended to part-time workers and at least 3 of the 10 listed categories of persons seeking work who have never been, or have ceased to be, recognized as unemployed or covered by unemployment protection schemes.</p> <p>R.176: Coverage should be extended progressively to all employees as well as to persons experiencing hardship during waiting period.</p>
What should be the benefit?	<p>C.168: Periodic payments: at least 50% of reference wage; or in the case of social assistance, the total benefits must guarantee the beneficiary healthy and reasonable living conditions.</p> <p>R.176: For partial employment: total benefit and earnings from the part-time work should reach a sum between previous earnings from full-time work and the amount of full unemployment benefit, or be calculated in the light of reduction of hours of work suffered.</p>
What should the benefit duration be?	<p>C.168: Throughout the unemployment period: possibility to limit initial duration of payment of the benefit to 26 weeks in each case of unemployment or 39 weeks over any period of 24 months; possible waiting period of max. seven days.</p> <p>R.176: Benefit duration should be extended until pensionable age for unemployed persons having reached a prescribed age.</p>
What conditions can be prescribed for entitlement to a benefit?	<p>C.168: Qualifying period may be prescribed as necessary to prevent abuse.</p> <p>R.176: Qualifying period should be adapted or waived for new jobseekers.</p>

► **Table 4. Main requirements: ILO social security standards on income security in old age (old-age pensions)**

Convention No. 128 ¹³⁵ and Recommendation No. 131 ¹³⁶ : Advanced standards	
What should be covered?	<p>C.128: Survival beyond a prescribed age (65 or higher with due regard to demographic, economic and social criteria). Also, the prescribed age should be lower than 65 for persons with occupations deemed arduous or unhealthy.</p> <p>R.131: In addition, the prescribed age should be lowered based on social grounds.</p>
Who should be protected?	<p>C.128: All employees, including apprentices; <i>or</i></p> <ul style="list-style-type: none"> ► categories of economically active population (forming at least 75% of whole economically active population); <i>or</i> ► all residents; <i>or</i> ► residents with means under prescribed threshold. <p>R.131: Coverage should be extended to persons whose employment is of a casual nature; <i>or</i> all economically active persons. (Benefits should not be suspended solely for reason of being absent from the territory.)</p>
What should be the benefit?	<p>C.128: <i>Periodic payments:</i> at least 45% of reference wage; to be adjusted following substantial changes in general level of earnings or in the cost of living.</p> <p>R.131: At least 55% of reference wage; minimum amount of old-age benefit should be fixed by legislation to ensure a minimum standard of living; level of benefit should be increased if beneficiary requires constant help.</p> <p>The amount of benefits should be periodically adjusted taking account of changes in the general level of earnings or the cost of living.</p> <p>(Level of benefits should be increased under certain conditions, if the person who has reached pensionable age defers either their retirement or their claim to benefits.)</p> <p>Benefits provided through a contributory scheme should not be suspended solely because the person entitled to the benefits is gainfully occupied.</p>

133 Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168).

134 This should read Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176).

135 Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128).

136 Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967 (No. 131).

► Table 4. (cont.)

Convention No. 128¹³⁵ and Recommendation No. 131¹³⁶: Advanced standards	
What should the benefit duration be?	From the prescribed age to the death of beneficiary.
What conditions can be prescribed for entitlement to a benefit?	<p>C.128: Same as C.102.</p> <p>R.131: 20 years of contributions or employment (for contributory schemes) or 15 years of residence (for non-contributory schemes).</p> <p>Entitlement to a reduced benefit after 10 years of contribution or employment.</p> <p>Periods of incapacity due to sickness, accident or maternity, and periods of involuntary unemployment, in respect of which benefit was paid, and compulsory military service, should be incorporated in periods of contribution or employment for purposes of calculating fulfilment of qualifying period.</p>

► Table 5. Main requirements: ILO social security standards on employment injury protection

Convention No. 121¹³⁷ and Recommendation No. 121¹³⁸: Advanced standards	
What should be covered?	C.121: Same as C.102 .
Who should be protected?	<p>C.121: All public- and private-sector employees, including members of cooperatives and apprentices; in case of death, spouse, children and other dependants as prescribed.</p> <p>R.121: Coverage should be extended progressively to all categories of employees, other categories of workers and other dependent family members (parents, brothers and sisters, and grandchildren).</p>
What should the benefit be?	<p>C.121: <i>Medical care:</i> Same as C.102; also emergency and follow-up treatment at place of work.</p> <p><i>Cash benefits:</i></p> <p>Periodic payments: at least 60% of reference wage in cases of incapacity for work or invalidity; at least 50% of reference wage as well as funeral benefits in case of death of breadwinner.</p> <p>Level of benefit should be increased if beneficiary requires constant help.</p> <p><i>Lump sum:</i> Same conditions as C.102 as regards substantial partial loss of earning capacity or corresponding loss of faculty, or with regard to partial loss of earning capacity likely to be permanent which is not substantial but which is in excess of a prescribed degree, with the consent of the injured person and if the competent authority believes that it will be used in a particularly advantageous manner.</p> <p>Long-term benefits to be adjusted following substantial changes in general level of earnings which result from substantial changes in the cost of living.</p> <p>R.121: Same as C.102.</p> <p><i>Cash benefit:</i> not less than 66.67% of average earnings of persons protected;</p> <p>Costs of constant help or attendance should be covered when such care is required.</p> <p>Supplementary or special benefits where unemployability or disfigurement are not taken into account in the evaluation of the loss sustained.</p> <p>Lump sum allowed where degree of incapacity is less than 25%; should bear an equitable relationship to periodic payments and not be less than periodic payments for three years.</p>
What should the benefit duration be?	<p>C.121: As long as the person is in need of healthcare or remains incapacitated.</p> <p>R.121: In addition, cash benefits should be paid from first day in each case of suspension of earnings.</p>
What conditions can be prescribed for entitlement to a benefit?	<p>C.121: Same as C.102.</p> <p>(In the case of occupational diseases, a period of exposure may be prescribed.)</p>

137 Employment Injury Benefits Convention, 1964.

138 Employment Injury Benefits Recommendation, 1964

► **Table 6. Main requirements: ILO social security standards on maternity protection**

ILO Convention No. 183 ¹³⁹ and Recommendation No. 191 ¹⁴⁰ : Advanced standards	
What should be covered?	C.183: Medical care required by pregnancy, childbirth and their consequences; resulting lost wages. R.191: Same as C.183.
Who should be protected?	C.183: All employed women including those in atypical forms of dependent work. R.191: Same as C.183.
What should the benefit be?	C.183: <i>Medical benefits:</i> At least prenatal, childbirth and postnatal care; hospitalization if necessary. Daily remunerated breaks or reduced hours for breastfeeding. <i>Cash benefits:</i> At least 66.67% of previous earnings; should maintain mother and child in proper conditions of health and a suitable standard of living. Appropriate increases in the levels of cash benefits must be considered periodically. R.191: <i>Medical benefits:</i> Medical maternity care should also comprise pharmaceutical and medical supplies, medically prescribed tests, and dental and surgical care. <i>Cash benefits:</i> Should be raised to the full amount of the woman's previous earnings.
What should the benefit duration be?	C.183: 14 weeks' maternity leave, including 6 weeks' compulsory leave after childbirth; additional leave before or after maternity leave in cases of illness, complications or risk of complications arising from pregnancy or childbirth. R.191: At least 18 weeks' maternity leave. Extension of the maternity leave in the event of multiple births.
What conditions can be prescribed for entitlement to a benefit?	C.183: Conditions must be met by a large majority of women; those who do not meet conditions are entitled to social assistance. R.191: Same as C.183.

► **Table 7. Main requirements: ILO social security standards on disability benefits**

ILO Convention No. 128 and Recommendation No. 131: Advanced standards	
What should be covered?	C.128: Incapacity to engage in any gainful activity, likely to be permanent, or that persists beyond temporary or initial incapacity (total invalidity). R.131: Incapacity to engage in an activity involving substantial gain (total or partial invalidity).
Who should be protected?	C.128: All employees, including apprentices; or ► at least 75% of economically active population; or ► all residents, or residents with means under prescribed threshold. R.131: Coverage should be extended to persons in casual employment and all economically active persons. Benefits should not be suspended solely for reason of being absent from territory.
What should the benefit be?	C.128: <i>Periodic payment:</i> at least 50% of reference wage; to be adjusted following substantial changes in general level of earnings or of the cost of living. Provision of rehabilitation services as well as measures to further the placement of disabled persons in suitable employment. R.131: Periodic payment should be increased to at least 60% of reference wage. Minimum amount of disability benefit should be fixed by legislation to ensure a minimum standard of living. The amount of benefits should be periodically adjusted taking account of changes in the general level of earnings or the cost of living. Reduced benefit for partial invalidity.
What should the benefit duration be?	As long as the person remains incapacitated or until old-age pension is paid.
What conditions can be prescribed for entitlement to a benefit?	C.128: Same as C.102. R.131: Five years of contributions, employment or residence; qualifying period should be removed (or reduced) for young workers or where invalidity is due to an accident. Periods of incapacity due to sickness, accident or maternity, and periods of involuntary unemployment, in respect of which benefit was paid, and compulsory military service, should be incorporated in periods of contribution or employment for purposes of calculating fulfilment of the qualifying period.

139 Maternity Protection Convention, 2000 (No. 183).

140 Maternity Protection Recommendation, 2000 (No. 191).

► Table 8. Main requirements: ILO social security standards on survivors' benefits

ILO Convention No. 128 and Recommendation No. 131: Advanced standards	
What should be covered?	<p>C.128: Widow's or children's loss of support in case of death of breadwinner.</p> <p>R.131: Same as C.128.</p>
Who should be protected?	<p>C.128:</p> <ul style="list-style-type: none"> ► Widows, children and other dependants of employees or apprentices; or ► widows, children and other dependants forming not less than 75% of economically active population; or ► all widows, children and other dependants who are residents; or who are residents and whose means are under prescribed threshold. <p>R.131: In addition, coverage should progressively be extended to widows and children and other dependants of persons in casual employment or all economically active persons. Also, an invalid and dependent widower should enjoy same entitlements as a widow. Benefits should not be suspended solely for reason of being absent from territory.</p>
What should the benefit be?	<p>C.128: <i>Periodic payment:</i> at least 45% of reference wage; benefits to be adjusted following substantial changes in general level of earnings or of the cost of living.</p> <p>R.131: Benefits should be increased to at least 55% of reference wage; a minimum survivors' benefit should be fixed to ensure a minimum standard of living.</p> <p>The amount of benefits should be periodically adjusted taking account of changes in the general level of earnings or the cost of living.</p> <p>Allowances or lump-sum benefits for widows who do not fulfil prescribed entitlement conditions, and/or assistance and facilities to obtain suitable employment.</p> <p>Benefits provided through a contributory scheme should not be suspended solely because the person entitled to the benefits is gainfully occupied.</p>
What should the benefit duration be?	<p>C.128 and R.131: Until children reach 15 years of age or school leaving age, or higher if apprentice, student or has a chronic illness/disability;</p> <p>For widows, lifelong or until engaged in gainful activity or remarried.</p>
What conditions can be prescribed for entitlement to a benefit?	<p>C.128: Same as C.102; In addition, possible to require a prescribed age for widow, not higher than that prescribed for old-age benefit. No requirement of age for an invalid widow or a widow caring for a dependent child of deceased. A minimum duration of marriage may be required for a widow who is without child.</p> <p>R.131: Five years of contributions, employment or residence. Periods of incapacity due to sickness, accident or maternity and periods of involuntary unemployment, in respect of which benefit was paid and compulsory military service, should be incorporated in periods of contribution or employment for purposes of calculating fulfilment of the qualifying period.</p> <p>Widows' benefits may be conditional on the attainment of a prescribed age.</p>

► Annex 3: Main requirements of Recommendation No. 202 – Basic protection

► Table 1. Main requirements: ILO social security standards on health protection

Recommendation No. 202:¹⁴¹	
Basic protection	
What should be covered?	Any condition requiring healthcare, including maternity.
Who should be covered?	At least all residents and children, subject to the country's existing international obligations.
What should the benefit be?	Goods and services constituting at least essential healthcare, including maternity care, meeting accessibility, availability, acceptability and quality criteria; free prenatal and postnatal medical care for the most vulnerable; higher levels of protection should be provided to as many people as possible, as soon as possible.
What should the benefit duration be?	As long as required by the health status.
What conditions can be prescribed for entitlement to a benefit?	Persons in need of healthcare should not face hardship and an increased risk of poverty due to financial consequences of accessing essential healthcare. Should be defined at national level and prescribed by law, applying principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of people.

► Table 2. Main requirements: ILO social security standards on sickness benefits

Recommendation No. 202:	
Basic protection	
What should be covered?	At least basic income security for those who are unable to earn a sufficient income due to sickness.
Who should be protected?	At least all residents of working age, subject to the country's existing international obligations.
What should be the benefit?	Benefits in cash or in kind at a level that ensures at least basic income security, so as to secure effective access to necessary goods and services; prevents or alleviates poverty, vulnerability and social exclusion; and enables life in dignity. Levels should be regularly reviewed.
What should the benefit duration be?	As long as the incapacity to earn a sufficient income due to sickness remains.
What conditions can be prescribed for entitlement to a benefit?	Should be defined at national level, and prescribed by law, applying principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of people.

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► **Table 3. Main requirements: ILO social security standards on unemployment protection**

Recommendation No. 202:	
Basic protection	
What should be covered?	At least basic income security for those who are unable to earn sufficient income in case of unemployment.
Who should be protected?	At least all residents of active age, subject to the country's existing international obligations.
What should be the benefit?	Benefits in cash or in kind at a level that ensures at least basic income security, so as to secure effective access to necessary goods and services; prevents or alleviates poverty, vulnerability and social exclusion; and enables life in dignity.
What should the benefit duration be?	As long as the incapacity to earn a sufficient income remains.
What conditions can be prescribed for entitlement to a benefit?	Should be defined at national level, and prescribed by law, applying principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of people.

► **Table 4. Main requirements: ILO social security standards on income security in old age (old-age pensions)**

Recommendation No. 202:	
Basic protection	
What should be covered?	At least basic income security for older persons.
Who should be protected?	All residents of a nationally prescribed age, subject to the country's existing international obligations.
What should be the benefit?	Benefits in cash or in kind at a level that ensures at least basic income security, so as to secure effective access to necessary goods and services; prevent or alleviate poverty, vulnerability and social exclusion; and enable life in dignity. Levels should be regularly reviewed.
What should the benefit duration be?	From the nationally prescribed age to the death of beneficiary.
What conditions can be prescribed for entitlement to a benefit?	Should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of older persons.

► **Table 5. Main requirements: ILO social security standards on employment injury protection**

Recommendation No. 202:	
Basic protection	
What should be covered?	At least basic income security for those who are unable to earn a sufficient income due to employment injury.
Who should be protected?	At least all residents of active age, subject to the country's existing international obligations.
What should be the benefit?	Benefits in cash or in kind at a level that ensures at least basic income security, so as to secure effective access to necessary goods and services; prevent or alleviate poverty, vulnerability and social exclusion; and enable life in dignity. Levels should be regularly reviewed.
What should the benefit duration be?	As long as the incapacity to earn a sufficient income remains.
What conditions can be prescribed for entitlement to a benefit?	Should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of the injured persons.

► **Table 6. Main requirements: ILO social security standards on family/child benefits**

ILO Recommendation No. 202: Basic protection	
What should be covered?	At least basic income security for children.
Who should be protected?	All children.
What should the benefit be?	Benefits in cash or in kind at a level that ensures at least basic income security for children, providing access to nutrition, education, care and other necessary goods and services.
What should the benefit duration be?	For the duration of childhood.
What conditions can be prescribed for entitlement to a benefit?	Should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of children.

► **Table 7. Main requirements: ILO social security standards on maternity protection**

ILO Recommendation No. 202: Basic protection	
What should be covered?	Essential maternity healthcare. At least basic income security for those who are unable to earn a sufficient income due to maternity.
Who should be protected?	At least all women who are residents, subject to the country's international obligations.
What should the benefit be?	<i>Medical benefits:</i> Goods and services constituting essential maternity healthcare, meeting criteria of availability, accessibility, acceptability and quality; free prenatal and postnatal medical care should be considered for the most vulnerable. <i>Benefits in cash or in kind:</i> should ensure at least basic income security, so as to secure effective access to necessary goods and services, and be at a level that prevents or alleviates poverty, vulnerability and social exclusion and enables life in dignity. Levels should be regularly reviewed.
What should the benefit duration be?	As long as the incapacity to earn a sufficient income remains.
What conditions can be prescribed for entitlement to a benefit?	Should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs and social inclusion, and ensuring the rights and dignity of women.

► **Table 8. Main requirements: ILO social security standards on disability benefits**

ILO Recommendation No. 202:	
Basic protection	
What should be covered?	At least basic income security for those who are unable to earn a sufficient income due to disability.
Who should be protected?	At least all residents, subject to the country's existing international obligations.
What should the benefit be?	Benefits in cash or in kind at a level that ensures at least basic income security, so as to secure effective access to necessary goods and services; prevent or alleviate poverty, vulnerability and social exclusion; and enable life in dignity.
What should the benefit duration be?	As long as the inability to earn a sufficient income remains.
What conditions can be prescribed for entitlement to a benefit?	Entitlement conditions should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs, social inclusion, and ensuring the rights and dignity of persons with disabilities.

► **Table 9. Main requirements: ILO social security standards on survivors' benefits**

ILO Recommendation No. 202:	
Basic protection	
What should be covered?	At least basic income security for those who are unable to earn a sufficient income due to the absence of family support.
Who should be protected?	At least all residents and children, subject to the country's existing international obligations.
What should the benefit be?	Benefits in cash or in kind should ensure at least basic income security so as to secure effective access to necessary goods and services at a level that prevents or alleviates poverty, vulnerability and social exclusion, and enables life in dignity. Levels should be regularly reviewed.
What should the benefit duration be?	As long as the survivors are unable to earn a sufficient income. In the case of children, throughout childhood.
What conditions can be prescribed for entitlement to a benefit?	Should be defined at national level and prescribed by law, applying the principles of non-discrimination, responsiveness to special needs, social inclusion, and ensuring the rights and dignity of people.

► **Workers' guide to ILO Conventions concerning minimum standards of social security**

This guide is part of the Resource package developed by the ILO's Bureau for Workers' Activities (ACTRAV) to assist workers' organizations in the promotion and implementation of effective social protection. The package encompasses a number of key issues in current social protection debates and policy discussions, including a series of policy briefs on „What workers' organizations need to know“ addressing policies options for closing gender gaps in social protection, extending social protection to informal economy workers, finding fiscal space for social protection financing and implementing adequate pension schemes and reforms.

We hope that this guide will serve as a valuable resource, giving practical guidance foremost to workers' organizations, but also to ILO officials, governments, employers' organizations and other partners active in this field to better understand the importance of ILO social security standards, and in particular Convention No. 102.

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