



**International Labour Conference, 101st Session 2012
Report IV (2B) Social protection floors for social justice and a fair globalization**

Promotion of and respect for rights and dignity: a briefing note

The fourth item on the agenda of the 2012 International Labour Conference (from 30 May to 15 June 2012) is a draft Recommendation to establish, complete and maintain, as applicable, social protection floors as a fundamental element of national social security systems.

The objective of this briefing note is to welcome the Recommendation and to advocate for its adoption. The Recommendation was the result of a broad consultation and is clearly rights-based, reflecting the clear relationship between the establishment of social protection floors and the realisation of human rights.

States should follow the lead of the Recommendation in adopting a human rights-based approach to social protection. The adoption of such an approach not only responds to international obligations and commitments but also improves the effectiveness of social security systems in reducing poverty, inequality and social exclusion and aligns them with the holistic perspective required to tackle the various dimensions of poverty. Those most in need of assistance are more likely to be reached by a human rights-based social protection programme, and the assistance they receive is more likely to be appropriate and effective in addressing their deprivations. Poverty reduction is then more effective and sustainable, as participatory and accountability mechanisms ensure that the voices of social protection beneficiaries are taken into account and programmes are designed to respond to their needs accordingly. The human rights approach to social protection also assists in building social consensus and mobilising durable commitments at the national and international level, facilitating a more efficient use of resources by promoting access to information and fighting corruption, and empowering those living in poverty.

In order to reflect the important and symbiotic relationship between social protection and human rights, ILO members are encouraged to consider the following when adopting the Recommendation:

Ensure that the Recommendation is in line with commitments regarding social security

Establishing social protection systems is a legal obligation under international human rights standards. The obligation flows directly from the right to social security, which is articulated in Articles 22 and 25 of the Universal Declaration of Human Rights and Article 9 of the International Covenant on Economic, Social and Cultural Rights. These are referred to in the Preamble of the Recommendation.

The right to social security is also enshrined in the Convention on the Elimination of All Forms of Racial Discrimination, Article 11; Convention on the Rights of the Child, Article 26; and the Convention for the Protection of Migrant Workers and their Families, Article 27. It also appears in regional human rights instruments (for example, Article 9 Protocol of San Salvador and Article 12 European Social Charter). The Convention on the Rights of Persons with Disabilities explicitly refers to the right to social protection (Article 28).



The proposed Recommendation recalls that the right to social security is a human right and in Section I, paragraph 3 of the draft (see Annex A below) includes a number of principles to be applied in giving effect to the Recommendation.

The principles call on ILO Member States to provide universality of protection, based on social solidarity; to ensure that entitlements to benefits are prescribed by law; to apply non-discrimination, gender equality and responsiveness to special needs; and ensure adequacy and predictability of benefits. These principles are in line with human rights obligations.

To strengthen the Recommendation and the set of principles included therein and to ensure the protection of the dignity of beneficiaries when designing and implementing social security systems, the Special Rapporteur on extreme poverty and human rights suggests inclusion of the following further principle to Section 1:

“promotion of and respect for the rights and dignity of beneficiaries.”

Provide for the participation of beneficiaries

Participation is a key element of the human rights framework: international human rights law sets out a right to participation in public life,¹ and participation is also an essential prerequisite to the enjoyment of other rights. Effective participatory channels allow policy-makers and programme administrators to seek and receive feedback from beneficiaries and, in turn, to improve the effectiveness and sustainability of social protection programmes.

States must put in place adequate mechanisms for beneficiaries to participate in the design, implementation, monitoring and evaluation of social protection programmes. Participatory mechanisms must ensure that participation is authentic, takes into account the existing asymmetries of power within the community and is tailored to ensure the broadest participation possible by vulnerable and disadvantaged groups.

In order to ensure the consistency of the Recommendation with human rights obligations, members are urged to make the following additions:

To Section 1, paragraph 3, sub-paragraph (k) of the draft:

“involvement of representative organizations of employers and workers as well as consultation with **and participation of** representatives of other organizations and persons concerned.”

To section 13(1)

¹ See ICCPR, art. 25, and the Human Rights Committee General Comment No. 25 (1996).



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“Members should formulate and implement national social security extension strategies, based on national consultation **with and participation of organizations and persons concerned**, and effective social dialogue.”

Put accountability at the heart of social protection floors

In line with human rights standards that emphasize that everyone has the right to an effective remedy when his or her rights have been violated, rights-based social protection necessitates that policy makers, programme administrators and others are held accountable when their decisions and actions impact negatively on the enjoyment of the right to social security. Effective accountability mechanisms not only enhance protection for beneficiaries, they also improve the efficiency of social protection, minimise wastage and mismanagement and help to eradicate corruption and clientelism from the administration of social policies. Accountability is necessary not only in regard to the financial aspects of social protection programmes but in all areas of the system, and throughout the life cycle of programmes.

The Recommendation provides for transparent and sound financial management and administration, and monitoring. It also states that “Effective, simple, rapid, accessible and inexpensive complaint and appeals procedures” should be specified.

In order to ensure the consistency of the Recommendation with human rights obligations, members are suggested to make the following addition to Section 1, paragraph 3, sub-paragraph (k) of the draft:

“(b) entitlement to benefits prescribed by law, **and access to accountability mechanisms;**”



Annex A

Extract from the draft Report IV (2B) Social protection floors for social justice and a fair globalization, International Labour Conference, 101st Session 2012

I. Objectives, scope and principles

1. This Recommendation provides guidance to Members to:

- (a) put in place, complete and maintain, as applicable, social protection floors as a fundamental element of their national social security systems; and
- (b) implement social protection floors within strategies for the extension of social security that progressively ensure higher levels of social security to as many people as possible, guided by ILO social security standards.

2. 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. Such guarantees may be achieved through contributory or non-contributory schemes, whether means tested or not.

3. In giving effect to this Recommendation, Members should apply the following principles:

ADDITION: (new sub-paragraph) promotion of and respect for the rights and dignity of beneficiaries;

- (a) universality of protection, based on social solidarity;
- (b) entitlement to benefits prescribed by law, **ADDITION: and access to accountability mechanisms;**
- (c) non-discrimination, gender equality and responsiveness to special needs;
- (d) adequacy and predictability of benefits;
- (e) a fair balance between the interests of those who finance social security schemes and the interests of those who benefit from them;
- (f) coherence with social, economic and employment policies;
- (g) progressive realization;
- (h) diversity of methods and approaches, including of financing mechanisms and delivery systems;
- (i) transparent and sound financial management and administration;
- (j) financial, fiscal and economic sustainability;
- (k) involvement of representative organizations of employers and workers as well as consultation with **ADDITION: and participation of** representatives of other organizations and persons concerned; and
- (l) overall and primary responsibility of the State.