

## OHCHR's overview on the right to social security/social protection

### A. Background

The COVID-19 pandemic and its socio-economic consequences have exposed the fragilities of our economic and social systems that have traditionally neglected to invest sufficiently in fundamental public services such as health care and social protection, leaving the most marginalized behind. Due to the pandemic, more than 350 million jobs have been lost.<sup>1</sup> As a result, forecasts for 2022 estimate that between 75 and 95 million more people than expected prior to the pandemic will be living in extreme poverty.<sup>2</sup> World hunger is rising, with approximately 2 billion people being food insecure.

The most affected are the most marginalized segments of the population, including women, children, migrants, indigenous peoples, internally displaced persons, persons with disabilities, older persons, ethnic and racial minorities and those living in conflict-affected areas. According to the 2020-2022 ILO Social Protection Report, worldwide **only 22 per cent of the unemployed** receive unemployment benefits, **only 28 per cent of persons with severe disabilities** receive disability benefits, **only 35 per cent of children** enjoy effective access to social protection and **only 41 per cent of women** giving birth receive maternity benefits.

### B. Key elements of the right to social security

The right to social security or right to social protection<sup>3</sup> aims to provide income security and support for all people across the life cycle, with particular attention to the most marginalized<sup>4</sup>. Such support, whether in cash or in kind, is provided **without discrimination** in order to secure protection from (a) lack of work-related income caused by sickness, disability, maternity, employment injury,

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1 [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_824098/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_824098/lang--en/index.htm)

2 [https://unstats.un.org/sdgs/report/2022/Goal-](https://unstats.un.org/sdgs/report/2022/Goal-01/#:~:text=Little%20progress%20has%20been%20made,be%20living%20in%20extreme%20poverty.)

01/#:~:text=Little%20progress%20has%20been%20made,be%20living%20in%20extreme%20poverty.

3 This paper uses the right to social security and social protection interchangeably but refer to the right to social security guaranteed by international human rights norms and standards.

4 The right to social security is recognized in numerous human rights instruments including the Universal Declaration of Human Rights (art. 22) and the International Covenant on Economic, Social and Cultural Rights (arts. 9 and 10). Article 11 of the Convention on the Elimination of All forms of Discrimination against Women recognizes the right to social security for women, especially in cases of retirement, unemployment, sickness, invalidity, old age or other incapacity. In addition, article 11 recognizes the right to paid leave. Article 26 of the Convention on the Rights of the Child recognizes the right of the child to social security and social insurance. Article 27 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families sets out the right of all migrant workers to social security on an equal footing with nationals, as well as to reimbursement of contributions if they cannot access benefits. Article 28 of the Convention on the Rights of Persons with Disabilities recognizes the right of persons with disabilities to social protection without discrimination on the basis of disability and enumerates steps to be taken by States to safeguard and promote the realization of this right. See CESCR, general comment No 19.

unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents. According to the **general comment No 19 of the Committee on Economic, Social and Cultural Rights**, the key elements of the right to social security are:

**Availability**: a social security system must be available and in place to ensure that benefits are provided for the relevant social risks and contingencies.

**Adequacy**: benefits, whether in cash or in kind, must be adequate in amount and duration in order that everyone may realize his or her rights to family protection and assistance, an adequate standard of living and adequate access to health care. This would require regular monitoring of the adequacy of benefits and adjustment as necessary.

**Accessibility**:

- Coverage: all persons should be covered by the social security system, especially the most disadvantaged and marginalized groups, without discrimination. In order to ensure universal coverage, non-contributory schemes are necessary.
- Eligibility: qualifying conditions for benefits must be reasonable, proportionate and transparent. The withdrawal, reduction or suspension of benefits should be circumscribed, based on grounds that are reasonable, subject to due process, and provided for in national law.
- Affordability: the direct and indirect costs associated with making contributions must be affordable for all, and must not compromise the realization of other economic and social rights.
- Participation and information: beneficiaries of social security schemes must be able to participate in the administration of the social security system. The system should be established under national law and ensure the right of individuals and organizations to seek, receive and impart information on all social security entitlements in a clear and transparent manner.
- Physical access: benefits should be provided in a timely manner and beneficiaries should have physical access to the social security services in order to access benefits and information.

**Equality and non-discrimination as core cross-cutting content**: to ensure on a non-discriminatory basis a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education. This will require states adopting specific legislation prohibiting discrimination and take measures to address practical obstacles and challenges while seeking and receiving social protection benefits.

## **C. Questions and answers**

### **Who should the social protection system cover?**

Everyone. Building a universal social protection system in which everyone is protected without discrimination requires an improved balance between contributory and non-contributory schemes. A universal system would ensure everybody is protected by risks and contingencies, including the most marginalized who often suffer from multiple and intersecting forms of discrimination and might have not been in a position to contribute formally.

### **How is social protection relevant for gender equality?**

Social protection measures should be gender-responsive and take into account the disproportionate burden of unpaid care work that society places on women. The unpaid care work women perform throughout their life obstructs their ability to access formal employment and therefore contributory social security or decent wages, endangering their right to an adequate standard of living across their life cycle. Childcare, for example, should be guaranteed as a social protection measure and the benefits level for social pensions must ensure an adequate standard of living.

### **What is an inclusive social protection system?**

Social protection is key for persons with disabilities to gain independence from families, boost their social participation and support their ability to live with dignity. It can enhance the productivity, employability and economic development of persons with disabilities and therefore contribute to their income security. An inclusive social protection scheme that ensures adequate income support to persons with disabilities, reflects the special needs for assistance associated with disability, covering individuals, often women, who undertake their care, promotes the autonomy and full participation in society of persons with disabilities and therefore their inclusion and enjoyment of rights in equality.

### **Can States afford a universal social protection system?**

An ILO research shows that even the poorest countries could afford a universal social protection system. A universal social protection system that includes allowances for all children; maternity benefits for all women with new-borns; benefits for all persons with severe disabilities, and universal old-age pensions is generally affordable given that costs stand at an average of 1.6 per cent of GDP. Development cooperation should support this crucial effort where the national government do not have adequate resources.

The wide spreading use of austerity measures erode social protection systems. Fiscal reforms often have an objective to achieve cost savings and ignore human rights obligations and their negative social impacts. International human rights law is clear on this matter. Budgets should be ring-fenced to ensure that essential goods and services are universally accessible.

#### **D. OHCHR's field engagement**

OHCHR is actively supporting countries in expanding social protection coverage to include the most marginalized, including women, LGBTIQ+, migrants, ethnic and racial minorities to ensure that all people receive the support they need throughout and beyond the COVID-19 crisis.

In Somalia, the UN Human Rights and Protection Group is carrying out a human rights analysis of the Government led social protection cash transfer to provide the Government and the UNCT with concrete recommendations for ensuring the programme reaches the most marginalized and contributes to building the founding blocks of a universal social protection system.

In Timor Leste, our Human Rights Advisor is working closely with the Government and ILO in finding strategies to extend social protection coverage to women informal workers who are disproportionately affected by poverty.

#### **E. Good practices in the context of the COVID-19 pandemic**

In the context of the COVID-19 recovery, social protection represents a critical tool for facilitating access to health care, protecting people against poverty and ensuring the satisfaction of basic economic and social rights, including food, water, housing, health and education.

Around the world, countries implemented measures, or strengthen pre-existent measures to extend social protection. Cambodia, Malawi, Peru, the Philippines, Thailand and the United States, have expanded their social assistance programmes by introducing new cash transfers targeting those who are typically excluded, such as informal and laid off workers, freelancers and the self-employed, including those working in the gig economy. Peru launched two programmes of one-time transfers in response to the COVID-19 crisis: “Yo me quedo en casa”, for informal workers, and the “Bono independiente”, for self-employed persons who were not registered in existing social protection systems. Thailand, which has various cash transfer programmes but does not use a social registry to determine eligibility, targeted informal sector workers and set up a website to accept applications.

Countries have also been changing eligibility rules for non-contributory social protection programmes to extend their coverage. Brazil has allowed more flexibility regarding minimum income thresholds with regard to accessing the Benefício de Prestação Continuada. In addition to income, it also evaluates a set of vulnerability criteria, such as the number of children and the members' health status. This is important, as minimum income criteria alone can be misleading and result in exclusion errors. Togo, under its universal income programme, has targeted informal workers, who are asked to register online. Italy and Portugal are regularizing undocumented migrants and making them eligible for social protection. Ireland created the COVID-19 Pandemic Unemployment Payment, which is available to all employees and self-employed persons who have lost their job, including workers who are not from a European Union or European Economic Area country.

At the sub-national level, the State of California in the United States is providing a one-time payment to undocumented adults who are not eligible for other forms of assistance, such as those under the Coronavirus Aid, Relief, and Economic Security Act. From March to June 2020, China doubled its temporary price subsidy cash transfer. Lesotho has increased the amount provided through its child grant programme, which is an unconditional cash transfer given to those households living in vulnerable situations, identified through both means testing and community validation. In Malawi, the Government has committed itself to expanding the coverage of its Social Cash Transfer Programme and increasing the amount paid. Some countries have mobilized domestic resources by making tax adjustments, moving towards more progressive taxation systems, such as Argentina and Bolivia that have implemented a tax on wealth to create a more adequate fiscal space to respond to the pandemic.

#### **F. Background documents**

- Report of the Secretary-General on economic, social and cultural rights (A/HRC/49/28, February 2022)
- UN High Commissioner for Human Rights, Report on economic, social and cultural rights to the Economic and Social Council, June 2021
- Report of the Secretary-General on the impact of the coronavirus disease (COVID-19) on the realization of economic, social and cultural rights (A/HRC/46/43, January 2021)
- OHCHR webpage on the right to social security

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