

## The Human Right to Social Security

*“Social security is very important for the well-being of workers, their families and the entire community. It is a basic human right and a fundamental means for creating social cohesion... It is an indispensable part of government social policy and an important tool to prevent and alleviate poverty.”*

- International Labour Organization, 2001 Report, “Social Security: A New Consensus”

### What is Social Security?

The right to social security guarantees the basic resources needed for a decent life in the event that an individual is unable to work, temporarily or permanently, due to old age, disability, maternity or any other factors outside of her or his control. It provides a safety net to protect human beings from violations of their dignity, harm to their well-being, and conditions of abject poverty. Under international law, social security is recognized as a human right. Social security is also explicitly provided for in national constitutions of countries around the world.

Income support is a core aspect of social security. Such support should be appropriate to meet the basic needs of the individual and should reflect the special needs for assistance and other expenses often associated with disability.

Key Principles of the Human Right to Social Security <sup>1</sup>	
<p><i>Comprehensiveness:</i> The social security system should aim to provide comprehensive coverage against all contingencies and life circumstances that threaten income-earning and the ability of persons to maintain an adequate standard of living.</p>	<p><i>Universality:</i> All those who need social security should be able to access it.</p>
	<p><i>Respect for equality:</i> Social security programs should not discriminate against anyone on grounds such as race, sex, gender, sexual orientation, religion, political opinion, national or social origin, birth or income.</p>
<p><i>Adequacy and appropriateness:</i> The level of benefits provided should be adequate and appropriate. Although the particular benefit will depend on the type of social security system and its rules, it should be need-based and at least sufficient to ensure that an individual does not fall below a clearly defined minimum subsistence level or poverty line. The kind of benefits provided should also be appropriate to the circumstances faced by the individual in need.</p>	<p><i>Respect for procedural rights:</i> The rules and procedures governing eligibility for social security programs, as well as the termination of benefits, must be reasonable and fair. Persons aggrieved by an adverse legal rule or administrative decision should have access to speedy, affordable and effective legal remedies for the determination of their rights.</p>

## Social Security Benefits and Human Rights

### Social Security Benefits are Mandated in the Following Circumstances:<sup>2</sup>

- ✦ *Sickness:* Absence from work as a result of disease or injury requiring medical treatment or supervision.
- ✦ *Maternity:* Absence from work due to childbirth.
- ✦ *Disability:* Inability to work because of a chronic condition, due to disease or injury, or by reason of the loss of bodily function.
- ✦ *Injury:* Traumatic injury or disease resulting from employment and not brought about deliberately or by the serious and willful misconduct of the victim, which results in temporary or permanent incapacity.
- ✦ *Old age:* Reaching a prescribed age at which persons commonly become incapable of efficient work, the incidence of sickness and invalidity becomes heavy, and unemployment, if present, is likely to be permanent.
- ✦ *Survivors.* Loss of support presumably suffered by the dependants as the result of the death of the head(s) of the family.
- ✦ *Unemployment:* Loss of employment by an individual capable of working and still seeking employment.

### Does the U.S. Government Recognize the Human Right to Social Security?

There was no national social security system in the U.S. until 1935, when the Social Security Act was passed as part of President Franklin Delano Roosevelt's New Deal program. The Act launched federal grants to support state welfare programs for the disabled, elderly, unemployed and low-income families with children. Benefits proportionate to prior earnings were paid through mandatory old-age insurance for persons over 65, and a reserve fund accumulated through payroll taxes on employers and employees.

Although the social security insurance system has become part of the country's economic fabric, the U.S. does not recognize social security as a human right. As a result, the provision of social security is dependent upon the political will and current budgetary priorities of the government. This exposes social security programs to threats of reductions in levels and types of benefits to needy individuals. It also results in a lack of standards and criteria for consistency. For instance, some benefits (e.g. retirement) are increased to reflect inflation and others (e.g. workers' compensation in most states) remain stagnant. Furthermore, adequacy in coverage is not guaranteed, as reflected in high poverty rates and the many families that are unable to meet basic needs.

The U.S. has failed to meet its human rights obligations by not fulfilling its responsibility to ensure social security. The U.S. is bound by the *American Declaration on the Rights and Duties of Man*, which calls on States to protect the right to social security. The U.S. has signed, although not ratified (formally incorporated into domestic law) the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* and the *Convention on the Rights of the Child (CRC)*, which recognize social security as a human right. Additionally, it has ratified the *Convention on the Elimination of All Forms of Racial Discrimination (CERD)* and signed the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, which prohibit discrimination in the realization of the right to social security.

<sup>1</sup> From Circle of Rights: Economic, Social and Cultural Rights Activism: A Training Resource, Module 11, Social Security as a Human Right, produced by the Human Rights Resource Center of the University of Minnesota.

<sup>2</sup> International Labour Organization, *Income Security Recommendation: Guiding Principles*, 1944 .