

International Guarantee for Social Security Rights

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1. Introduction

During their turbulent life, humans are always at risk of an unintended and unavoidable events and thus seek to gain pain relief and a way to avoid the consequences of accidents like this. Events such as unemployment, disability, illness, aging, etc. as well as natural disasters can undermine the livelihoods and well-being. In different periods of human life, the fundamental institutions such as family, tribe and relatives were somewhat supportive of their dependents when they were faced by the decisive events or reduction of income and livelihood, but with the industrialization and urbanization process, one of the most important consequences has been breaking the strong bonds of family and extended family, and thus a need to protect people from exposure to these risks and events was formed.

With the creation of social security systems since the late nineteenth century, industrialization and urban communities started to protect their citizens against certain social risks, a process that has evolved over time and now most of the countries have social security schemes and systems with differences in the type and level of support to maintain incomes in cases of retirement, unemployment, old age, disability, orphaned, homelessness, disease and death, and to promote general well-being of individuals and communities. However, despite all the improvements achieved, there are still many problems in the realization of the right to social security.

This research explain the contemporary process of standardization of the social security right and measures of states and international and regional organizations concerned to investigate the mechanisms to ensure implementation of the social security system and the provisions of international law and the national procedures.

2. Part I: Current Status of the Right to Social Security and Administrative Arrangements of Governments

This section investigate the human right to social security standards in the modern period, and the general challenges facing the implementation of this human right in two chapters.

3. Chapter One: The Standardization of the Right to Social Security

This chapter entitled standardization in general studies the practice and procedure of governments regarding realization of the right to social security. Further, for the purpose of standardization process of the said right, the type of relationship of other fundamental human rights to social security will be analyzed.

3.1 Discussion one: Relationship between the right to social security and other human rights

The right to social security means the minimum right provided for under international instruments as considered a necessity for every human and lack of such minimum or possible discrimination and inequality in access to goods and services necessary for a decent life is a violation of such right¹.

¹A key point left undiscussed due to non-relevance to the research's subject is the relative and obscure nature of the definition and defining the scope of most of the social, economic and cultural rights (second generation). This is why governments may a wide scope of

Providing a minimum social security is linked to in its narrow sense to other human rights such as the right to an adequate standard of living, the right to freedom from hunger, the right to physical and mental health and the right to education². The discussion one tries to explain such relationship in general.

3.2 Clause one: Relationship with the right to life

The most fundamental human right is the right to life and the enjoyment of other rights and human freedoms. In fact, the top right is the right to life and violation, even in times of public emergency which threatens the life of a nation, is not permitted³. According to the Human Rights Committee "The right to life is interpreted often strict sensu [and in negative sense]. However, understanding the phrase "inherent right to life" in a narrow way is not possible and protection of this right requires the adoption of positive measures by the governments. In this regard, the Committee believes that it is appropriate for Member States to take all possible measures to increase life expectancy, especially eliminating malnutrition and epidemics decisions⁴. In a decision, European Court of Human Rights explained the right to life and social security as follows: "in certain circumstances, acts and omissions of authorities as regards the health care brings about liability based on Article 2 of the European Convention on Human Rights. If it is proved that authorities of a member state has endangered people's lives to by cutting health care, this may be prosecuted under Article 2"⁵.

3.3 Clause 2: Other rights and freedoms

The right to social security is related to other rights such as the right to independent and impartial competent courts. In the authorized systems with individual complaint proceedings such as the European Convention on Human Rights, cases of violation of the right of access to independent and impartial tribunals for claims related to the right to social security have been raised⁶. "The right to non-discrimination" is also associated with the right to social security and the implementation of the right to social security should be implemented without discrimination of any kind. In this regard, several cases⁷ have been brought before the European Court of Human Rights that can contribute to international standardization of social security.

3.4 Discussion two: The measures of the governments in the field of standardization

The right to social security is a universal right that is embodied in the constitutions of most countries. Mainly inclusion of social rights (including social security) in the constitutions expanded after the First World War and influenced by the establishment of the International Labour Organization in Europe and for the first time some social rights were established in the constitutions of the Weimar Republic (1919) and Finland (1919) and after World War II and the establishment of the United Nations, governments recognized social security as a human right and attempted to make it happen, and such acceptance occurred in terms of both legislation and the adoption. For example, more than 150 governments adopted International Covenant on Economic, Social and Cultural Rights and 192 countries have ratified the Convention on the Rights of the Child and both documents stipulated regulations on social security. Another example is the ILO Convention No. 102; more than 30 African countries have designed their insurance programs based on this

powers in interpretation and implementation of such human right and obviously non-democratic governments that do not give a priority to development and welfare of citizens always use the gaps and evade their obligations in this regard.

² Emmanuel Reynaud, *The Right to Social Security – Current Challenges in International Perspective*, in Eibe Riedel, *Social Security as a Human Right Drafting a General Comment on Article 9 ICESCR - Some Challenges*, Springer, 2007, P. 14.

³ HRC, *General Comment No. 6, 1982, para 1*. Available at: <http://www.refworld.org/docid/45388400a.html>

⁴ *Ibid*, para 5.

⁵ ECHR, *Nitecki v. Poland*, decision of 21 March 2002, Application No. 65653/01.

⁶ *Kovachev v. Bulgaria*, report of the Commission, 28 October 1997, Application No. 29303/95; *Zednik v. the Czech Republic*, judgment of 28 June 2005, Application No. 74328/01; *Salesi v. Italy*, judgment of 26 February 1993, Application No. 13023/87; *Mocie v. France*, judgment of 8 April 2003, Application No. 46096/99; *Makarova and others v. Russia*, judgment of 24 February 2005, Application No. 67099/01.

⁷ *Some of important such cases are:*

Van Raalte v. the Netherlands, judgment of 21 February 1997, Application No. 20060/92; *Michael Matthews v. the United Kingdom*, decision of 28 November 2000, Application No. 40302/98; *Wessels-Bergervoet v. the Netherlands*, judgment of 4 June 2002, Application No. 34462/97; *Willis v. the United Kingdom*, judgment of 11 June 2002, Application No. 36042/97; *Stec and others v. the United Kingdom [GC]*, judgment of 12 April 2006, Applications Nos. 65731/01 and 65900/01.

convention⁸.

In conclusion, in terms of legislation or the adoption and approval, there is not very significant problems facing social security rights in most countries, especially the developed countries, however, in practice there are problems in achieving global and comprehensive realization of this right. Most countries in Western Europe and North America have a comprehensive social security system established; for example in Denmark that is a Scandinavian welfare state basically all citizens enjoy the right to social security⁹. European governments spend most on social support¹⁰. But large numbers of people in developing countries are grappling with extreme poverty and are deprived of any social security. Accordingly, one of the major global problems in the field of social security is the fact that over half the world's population is deprived of any legal social security¹¹. In addition, it is estimated that only 20 percent of the world's population have adequate social security¹².

4. Chapter Two: The Challenges Facing the Realization of the Right to Social Security

Despite the commitment of most governments to provide social security for the population, now over half of the population are deprived of any social security. In other words, the practical realization of a universal and comprehensive social security is today's challenges. The present chapter deals with the challenges.

4.1 Discussion one: The lack of practical universality

About 80 percent of the world population live in a state of "social insecurity". In Africa and South Asia, only 5 to 10 percent of the working population are covered by social security and it should be noted that most of the projects have only a limited situations, such as the elderly and some areas of health protect. In Latin American countries, coverage ranges between 10 to 80 percent. In recent decades the world has undergone important social, political and economic transformations, which also influence social security. Since the early 1970s the welfare state in many developed countries has been under increasing pressure from "globalization" and domestic economies entering recession. The global competition has restricted ability of many governments to implement social policies independently. Moreover, some political views in some developed countries believe that the existence and development of the welfare state led to stagnation in the market, eliminating incentives to work and as a result will weaken communities and that such political pressure will cause the tendency to limit social expenditure. Another social factor undermining social security, especially in developed countries, is related to changes in lifestyle¹³. Unfortunately, these developments are not limited to developing countries, according to the ILO report, the situation exist at lower levels in many developing countries as well¹⁴.

On the other hand, although the globalization process and reducing barriers to international economic transactions and the expansion of foreign investment are creating new opportunities for production, they have caused heavy costs and resulted in major instability. Globalization has caused many challenges to national labor condition and social security systems. Another challenge is related to the expansion of health disasters, for example AIDS prevalence in the second half of the century AD. Despite partial control of AIDS in recent years, it has caused many social problems, particularly in Africa. According to available statistics, about 70 percent of all people with HIV live in Africa¹⁵, often lacking social support and health benefits. Another problem faced by social security is caused by reform programs in developing countries as the governments are indebted to institutions such as the "IMF", and other governments and this reduces their role in

⁸ Jean-Michel Servais, *International Standards on Social Security Lessons from the past for a better implementation*, 2014, P. 7. available at: http://isssl.org/wp-content/uploads/2014/12/Servais_2014_Asian_Conf.pdf.

⁹ Joos P.A. van Vugt and Jeen M. Peet, *Social Security and Solidarity in the European Union : Facts, Evaluations*, Springer Publications, 2000, P. 36.

¹⁰ John Ditch, *Introduction to Social Security Policies, benefits and poverty*, Routledge Press, 1999, P. 205.

¹¹ Wouter van Ginneken, *Extending social security: Policies for developing countries*, ILO ESS Paper No. 13, 2003, P. 7.

¹² Ibid

¹³ James Midgley, Martin Tracy, *Challenges to Social Security: An International Exploration*, Westport, CT: Auburn House, Greenwood Press, 1996, P. 5.

¹⁴ UNAIDS Report on the Global AIDS Epidemic, 2015, available at http://www.unaids.org/sites/default/files/media_asset/JC2702_GARPR2015guidelines_en.pdf

¹⁵ ILO, *World Labour Report 2000: Income Security and Social Protection in a Changing World*, at 32-34. Available at: <http://www.ilo.org/public/english/standards/relm/gb/docs/gb279/pdf/esp-7.pdf>

¹⁶ Paul J.J. Welfens, *Social Security and Economic Globalization*, Springer Publications, 2013, P. 122.

social security systems. The move toward a post-industrial economy has a great impact on the functioning of systems of social protection and social security requirements; and service-oriented emerging economies also increase economic inequality, unemployment, lack of job, expansion of low-wage jobs, and social poverty.

4.2 Discussion two: financial problems

Social security schemes are faced by other problems such financial shortcomings, management (and policies)¹⁶. Financial shortcomings are perhaps the greatest challenge of achieving social security. State financial resources to ensure different aspects of social security are different and in general are classified into five groups and in general governments, employers and stakeholders are involved in financing social security; but it is clear that the main responsibility and main costs in this area are borne by the state and has a considerable number of countries have created a comprehensive¹⁷ social security system, according to which certain groups of people such as the elderly, children and widows, regardless of income and amounts of contribution paid, receive social security. In current situation and given the recent economic crisis, many countries have problem funding social security schemes and even some plans are limited by them. For example, Latin American countries (with middle income) will soon be unable to pay the Social Security costs and even developed countries like the US will be unable to fulfill the obligation in this regard in the next decades¹⁸. Also, some European countries in the late twentieth century continuously reduced costs of social security, let alone low income developing countries.

In recent years, slow economic growth, high unemployment and an increase in the elderly population have resulted in decline of ability of European countries to increase or maintain social security costs. In addition to these factors, political considerations also play a role in reducing public investment in social security schemes. Business and trade union resistance against the policies of social support and influence on politicians is a factor that will lead to financial shortcomings. Another important factor affecting the financial problems of social security schemes could be expansion of coverage and the level of social security. Retirement benefits or contributions for their elderly and often a small contribution in the financing of projects and funds. The growing demand for the enjoyment of the benefits of social security and the pressures for the increasing aforementioned benefits are the main factors creating financial problems for social security programs in the world and in developed countries, this problem is mainly originated from a significant population of seniors that receive pension benefits or annuity and often a small make a small contribution to the funding of schemes and funds.

5. Part Two: Supervision Over the Right to Social Security

This part discusses guarantee of right to social security in two chapters. First some of rights ensuring social security right are discussed and second some international organizations playing a major role in enforcement, ensuring and developing social security are discussed.

6. Chapter One: Duties and Obligations of States

According to international documents such as the International Covenant on Economic, Social and Cultural Rights¹⁹, primary obligation to realize the right to social security and ensuring such right is held by the government. The governments as the highest sovereign entity within the boundaries of the territory are responsible for the implementation and monitoring of the implementation of this right. The government, through the adoption and ratification of relevant international and regional instruments and legislation (usually in the form of the inclusion of this right in their constitutions) are looking to fulfill their obligations. On the other hand, private persons as in some of the countries provide social security services and also in some cases the governments have assigned performance of social security to such persons; in this case too, the task of monitoring is on the government. The lack of state's inspection institutions leads to corruption and violation of rights of those actually deserving social security, and therefore, only laws and sanctions can prevent

¹⁶ UNAIDS Report on the Global AIDS Epidemic, 2015, available at http://www.unaids.org/sites/default/files/media_asset/JC2702_GARPR2015guidelines_en.pdf

¹⁷ James Midgley, Martin Tracy, *op. cit.*, P. 5.

¹⁸ Fatemi, M. (2009). *Human rights in the contemporary world: analytical exploration of rights and freedom*. Tehran: Shahre Danesh, Institute of legal studies and research. Vol. 2.

¹⁹ *Ibid.*, P. 6.

circumventing such rights or reducing their scope²⁰.

One of the items that will ensure the implementation of social security and cause both positive and negative obligation for government is to make all persons entitled to social security to use it, which issue will be discussed below as the right of access to social security.

6.1 Discussion one: The right of access to social security

According to paragraph 1 of Article 2 of the International Covenant on Economic, Social and Cultural Rights, states shall through maximum use of existing resources required, adopt effective measures for the full realization of the Covenant rights, including the right to social security, and in accordance with paragraph 2 of this Article, they are obliged to guarantee the exercise of the provided rights without any discrimination. Economic, social and cultural rights committee also has reiterated the need to ensure access to social security and considers such right to include the access to benefits and continuation thereof²¹.

Thus, government shall be obliged to guarantee the right to social security for all, without any discrimination. However, it should be noted that the said right to access does not necessarily mean that everybody at any time shall receive social security but the right to access mean access when such social security is needed, so that needy people could enjoy a favorable level of life, including food, clothing and adequate housing as provided for in Article 9 of the International Covenant on Economic, Social and Cultural Rights. The reality is that the realization of economic and social rights, including social security often depends on the resources of governments and in most cases, limited are the government resources. However, due to resource constraints, even if governments are unable to provide comprehensive coverage, they shall ensure that their social security programs cover a minority of people with the lowest incomes and provide the mechanisms to guarantee coverage and such people's access to social security benefits.

South Africa's Constitutional Court stated in a judgment the right to access and its principles and stated that "the right to social security, including social assistance for people that are incapable of protecting themselves and their relatives is a established [right] because we value the human person in society and we aim to ensure the provision of basic needs of individuals, a society based on dignity and human freedom and equality should seek to ensure universal access to basic necessities of life"²². Now the right of access to social security is included in regulations of significant countries in Europe and the US as well as in the laws of some developing countries²³ and inclusion of the right of access to the prescribed social security in constitutions is an important step to ensure provision of social security by the government. Adopting measures such as the creation of mechanisms that ensure effective communication and public awareness of social security schemes as well as eligibility requirements and tools available to access them and to ensure quick access of needy people in time of need through the creation of a realistic and effective planning, elimination of discrimination at all decision-making levels including the executive and legislative levels, and to establish complaint mechanisms efficient, independent, accessible and compatible with the principles of a fair trial that enable people to make complaints of non-optimal decisions in the field of social security are all the task of governments and will guarantee the right to social security.

6.2 Discussion two: Enjoyment of social security benefits by foreigners

According to estimates by the United Nations now more than 200 million people live outside their countries²⁴. Most of these are immigrants from working families who migrated mainly from developing countries to developed countries and many of them, especially women, are often not covered by social security and other social support in the country of

²⁰ So far, 160 countries have ratified the Covenant. Read more about the history of the acceptance and ratification of interpretive declaration and conditions of the aforementioned Governments about the Covenant in:

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en

²¹ Alsan, M., Hemmati, M. (2006). *The process of formation of the rights of social security international documents and standards. The journal of social welfare.* No. 19.

²² CESCR, General Comment NO. 19, E/C.12/GC/19, 2008, para. 2.

Available at: <http://www.refworld.org/docid/47b17b5b39c.html>

²³ *Khosa v Minister of Social Development; Mahlaule v Minister of Social Development*, 2004 (6) BCLR 569 (CC).

²⁴ *The right of access to social security in various countries have been stressed including the basic rules in part (b) of paragraph (a) of article 41 of the Constitution of Switzerland, article 37 of the Constitution of Georgia, article 67 of the Constitution of Poland, part (a) of paragraph (c) of paragraph (a), article 64 and article 70 of the Constitution of Portugal.*

employment and not in their country of origin²⁵. The issue of migrants and migrant workers are the major issues that have been problematic, especially in developed countries. An important question that arises is whether the task of governments is to extend social security rights to foreigners living in their territory or not? In other words, the government's commitment towards the realization of the right to social security is restricted to their citizens or to all residents within the territory of a state and if they are entitled to social security. The concept of universality (or comprehensiveness) can also refer to the various social spheres of human rights. To what extent it is possible, for example, to limit the scope only to national citizens?

Universality is one of the characteristics of human rights. The universality of human rights means that it is beyond national boundaries, historical and cultural borders, and all actors are committed in the international arena²⁶. According to another definition, universality of human rights is based on the fact that human dignity is inseparable from human rights and means commitment of all governments to promote and protect human rights²⁷ and universal human rights in general terms means the recognition of human rights on a global scale and that is because the human rights belongs to all human beings and therefore human rights are universal in nature. Another issue is the rule principle of non-discrimination in human rights. As mentioned, every human being regardless of characteristics such as race and orientation, language, religion, gender, nationality or any other classification are entitled to human rights. Non-discrimination is a fundamental principle of human rights instruments and is necessary to achieve those rights. In this context, there is a case law prolific on international and national levels. Such as the European Court of Human Rights in the case of *Gaygusuz v. Austria*²⁸ and also the opinions of the US Supreme Court in the case of *Graham v. Richardson*²⁹ and South Africa's Constitutional Court in the famous case of *Khosa*³⁰, where the court noted that the exclusion of foreigners from social benefits solely on the basis of nationality is contrary to the prohibition of discrimination taken into account other international legal instruments.

The issue of migrants enjoying social security benefits is considered in a number of international instruments upon development of human rights discourse. "International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families" is one of the most important such document that provides that migrant workers have the right to social security as citizens of their country of residence³¹. The EU stressed from the early 1970s on meeting the needs of migrant workers and their families's access to social security benefits and in this respect instructions have been issued in the EU³². Another important international document, "the ILO Convention on the national level of social protection" enacted in 2012 is an important step to ensure social security for migrants and their families.

7. Chapter Two: The Role of International Regulatory Agencies

Documents, conventions and various regional and international institutions have focused on social security as a human right. The institutions such as the International Labour Organization, the International Social Security Association, Committee on Economic, Social and Cultural Rights, and the European Court of Human Rights play an important role in interpreting, explaining, promoting and guaranteeing the right to social security. Study of transnational supervision over government's commitment to the achievement of the right to social security is the subject of the discussion. However, following is a brief review of the most important institutions in ensuring the right to social security.

7.1 Discussion one: ILO

International Labour Organization founded in 1919 has always been one of the most influential international institutions

²⁵ Wouter van Ginneken, *Social Protection for Migrant Workers: National and International Policy Challenges*, *European Journal of Social Security*, Volume 15 (2013), No. 2, P. 210.

²⁶ *Ibid.*

²⁶ *Khosa and Others v Minister of Social Development and Others; Mahlaule and Another v Minister of Social Development and Others*, Constitutional Court of South Africa, CCT12/03; CCT13/03.

²⁷ S. Farran, *Human rights in the South Pacific: Challenges and changes*. Abingdon: Routledge- Cavendish Press, 2009, P. 103.

²⁸ Arnold Rainer, *The Universalism of Human Rights*, Springer Publications, 2013, P. 406.

²⁹ ECTHR, *Gaygusuz v Austria*, (16 September 1996), application number 17371/90.

³⁰ United States Supreme Court, *Graham v. Richardson*, 403 U.S. 365 (1971)

³¹ *Khosa and Others v Minister of Social Development and Others; Mahlaule and Another v Minister of Social Development and Others*, Constitutional Court of South Africa, CCT12/03; CCT13/03.

³² United Nations General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, 1990, Article 27. Available at: <http://www2.ohchr.org/english/bodies/cmw/cmw.htm>

ensuring social rights and welfare. After the founding of the United Nations and the Universal Declaration of Human Rights, this global organization has focused the right to social security and the realization. Several important documents adopted in this regard and the "Convention No. 102 on minimum standards of social security"³³ and "Convention No. 202 on Social protection floor"³⁴ of 2012 are considered most important. Convention No. 102 has been ratified by most member states of the organization and includes a unique set of minimum standards for national social security systems. It provided useful guidelines on the standards in the field of social security schemes, funding, implementation and monitoring of national social security systems. Generally, the ILO has a two-fold strategy in the field of social security. According to Convention No. 202 of the ILO, elements of this strategy include establishing and maintaining social protection minimums as a fundamental element of the national social security system and the adoption of the measures to extend social security with the help of international labor organization standards to progressively ensure higher levels of social security for the highest possible number of people³⁵.

Convention No. 202 completes the ILO social security strategy and takes into account the different situations of Member States provides useful guidelines on the implementation of social security systems providing social protection floor³⁶.

In addition to standardization and in line with it, the International Labour Organization has a regulatory system that enjoys broad pattern of other regulatory bodies created after World War II. This is a multilateral regulatory system, including regular monitoring by the Committee of Independent Experts, inter-government complaint under Article 26 of the Statute³⁷, and collective complaint under Article 24 of the Statute³⁸.

Among these procedures, inter-government complaint system is not used much because governments prefer to settle disputes between them in the political and diplomatic way. On the other hand, each of governments has the obligations and specific deficiencies in the human rights obligations and inter-governmental claims are likely to result in mutual claims or complaints. Non-use of inter-government complaint procedure is more obvious in the field of social security standards because governments do not consider a breach of these standards as in direct conflict with their interests³⁹. Therefore, inter-governmental complaints do not have a big role in ensuring the right to social security. Another regulatory procedure is collective complaints procedure to resolve disputes that, unlike the previous regulations are related to social security standards. According to the ILO Constitution, industrial companies, workers or employers can raise claims of failure by Member States to ensure their adherence to the rules and conventions of the International Labour Office⁴⁰. It is to be noted that according to the regulations, the possibility of international raising of a national action is in place in some cases. Collective regulations have been often used by trade unions to protest against the privatization of social security systems in South America has in their respective countries and one of the most famous such cases is that of claim of National Coordination Council of Trade Unions against the Government of Chile in 1985⁴¹. But the latest and greatest ILO regulation is reporting regulation that is used in many international and regional organizations. This regulation is particularly common in human rights organizations and in comparison with other procedures such as claim against governments that are not yet very efficient due to relative dominance of traditional sovereignty of governments is more efficient and more useful.

The situation exists in the International Labor Organization as well, and advantages of reporting procedure are more than procedure of inter-governmental complaints and collective complaints are merely exceptional arrangements. Reporting procedure as the most important component of the regulatory system is a continuous and regular regulatory

³³ See the Regulations (No. 1408/71 and (No. 574/772) of the EU

³⁴ Social Security (Minimum Standards) Convention, 1952 (No. 102)

³⁵ The Social Protection Floors Recommendation, 2012 (No. 202)

³⁶ ILO, The Recommendation No. 202, paras. 1 and 2. See also Conclusions concerning the recurrent discussion on social protection (social security), 2011, paras. 8–14.

³⁷ ILO, Social security for all: Building social protection floors and comprehensive social security systems, 2012, P. 1. Available at: http://www.socialprotectionfloor-gateway.org/files/social_security_for_all.pdf

³⁸ Paragraph 1 of article 27 of the Statute of International Labour Organization requires every member country has the right to bring action against another such member which the latter believe fails to satisfactorily perform the covenant subject to both having had joint according two above said articles.

³⁹ Article 24 of the Statute of International Labour Organization provides that management council has the power to send the complaints of non-observance of convention by member states as received from labor or employer organizations by international labor office to the countries party to the complaint and urge such states to respond to such complaints.

⁴⁰ Angelika Nubberger, *Evaluating the ILO's Approach to Standard-Setting and Monitoring in the Field of Social Security*, in Eibe Riedel, *Social Security as a Human Right Drafting a General Comment on Article 9 ICESCR - Some Challenges*, Springer Publications, 2007, P. 112.

⁴¹ *Ibid.*

process on the basis of the reports by governments aimed at ensuring compliance between national legislation and international instruments⁴².

7.2 Discussion two: The International Social Security Association

As the ILO seeks to extend social security to all people and in all the targeted communities, "International Union of Social Security" has focused on the development of social security⁴³. This union was formed in 1947 via change the name of the "International Conference on Social Insurance" to provide the basis for international cooperation in the areas of support, promotion and enhancing the development of social security worldwide. The union is a non-profit international organization that has specific goals and tasks. According to Article 2 of its Articles of Association, the purpose of this institution is to "contribute to the promotion and development of social security throughout the world, preferably through improved technical and administrative sectors at the international level that improve social and economic conditions of people based on social justice⁴⁴. The strengthening of the capabilities of social security organizations to carry out their mission in the best and most effective way possible, and to improve the quality, and appropriateness and availability of information on events, innovations and practices of social security around the world is one of the priorities of the institution⁴⁵.

International Social Security Association has a wide range of activities ranging from technical activities to research activities and regional meetings. The technical activities of the Union lends itself to discussion of particular issues in the different branches of social security⁴⁶ and also has several offices in different parts of the world, and holds the Working Group and the Conference in order to promote social security and to train people in the field of social security⁴⁷. Training managers and health care professionals is one of the joint efforts of the ILO and the International Social Security Association to assist in the global development and the right to social security⁴⁸, which is of considered valuable. Exchange of information and comparing experiences and mutual assistance among members are other aspects of these activities. On the other hand, the researches of this body are focuses on different aspects of social security and although the said union does not provide convention and recommendations, it provides useful suggestions and solutions in form of doctrines in different publications and researches of this international boy. According to this union, states should consider the inspection and surveillance and other terms of the efficiency of social services and that in order to ensure the efficiency of the national social security systems, the government should provide independence to operators and managers of social security in policy-making and the social security legislation⁴⁹. In recent years, the International Union for Social Welfare has had good cooperation with international organizations and new initiatives and innovative work of the two organizations that seek to expand coverage and increase the level of social security have had practical effects. However, the important thing is that guaranteeing the right to social security requires various measures such as government support, adequate financing and management of social security programs.

8. Conclusion

Despite efforts to improve the situation of social security at the international level, currently about 75 to 80 percent of the world's population are living in a state of lack of social security and given the difficulties faced by governments in recent years, security coverage social in some countries has been declining. This fact shows that international cooperation in view of paragraph 2 of Article 55 of the UN Charter to promote the right to social security (as a social right) has not been achieved as desired. In the meantime, today we are faced with almost richness of normative documents on human rights

⁴² See: Report of the Committee set up to examine the representation submitted by the National Trade Union Co-ordination Council (CNS) of Chile under article 24 of the ILO Constitution, alleging non-observance by Chile of international labour Conventions Nos. 1, 2, 24, 29, 30, 35, 37, 38 and 111; Vol. LXXI, 1988, Series B, Supplement 1.

⁴³ Angelika Nubberger, op., cit, P. 113.

⁴⁴ International Social Security Association

⁴⁵ Higher Research Institute of social security (1998). *Comprehensive social security system: global organizations and methods commonly used in other countries*. No. 4.

⁴⁶ Salehkho, G. (1999). *International institutions and social security*. Journal of social security. No. 1.

⁴⁷ Shirzad, H. (2002). *An analysis on the international organizations and institutions active in the field of social security*. Political and economic information journal, 185 & 186 (198).

⁴⁸ ILO. *Social Security for social justice and a fair globalization*, 2011, P. 143. Available at: www.ilo.org

⁴⁹ ISSA, *Good Governance Guidelines for Social Security Institutions*, 2011, P. 11.

Available at: <http://en.tamin.ir/file/file/89>

and the right to social security, and conventions and major international and regional organizations Acts shall have been presented on social security. In terms of the practical realization of human rights, we at the beginning of the path and we need an effective and efficient guarantee mechanism because states are not willing in principle to realize the human rights and they are perhaps the greatest violator of them. Social security rights are at least considered at the theoretical stage and organizations such as the ILO and the International Social Security Association have focused on achieving it and quasi-judicial and judicial bodies such as the Committee on Economic, Social and Cultural Rights and the European Court human rights help to ensure, interpret and develop it. However, the implementation of a comprehensive social security is possible only by governments, and until governments particularly in developing countries are not persuaded to attempt to realize human rights, international recommendations and guarantees will not be very effective.

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