



International
Labour
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► Social Security (Minimum Standards) Convention, 1952 (No. 102)

Committee of Experts on the Application of
Conventions and Recommendations

General observation, publication 2024



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At its 2023 session (November–December), the Committee of Experts on the Application of Conventions and Recommendations (CEACR) adopted a general observation on gendered language of the Social Security (Minimum Standards) Convention, 1952 (No. 102). The text of this observation is reproduced below.

As part of the regular supervisory system on the application of ILO international labour standards, the CEACR is an independent body whose function is to provide an impartial and technical assessment of the application of these standards by ILO Member States. The CEACR is composed of 20 experts, eminent jurists from different geographical regions, legal systems and cultures.

In addition to the comments directly addressed to Governments, the CEACR may decide to publish the so-called "general observations" on certain issues concerning the application of a Convention.

General observation on gendered language of the Social Security (Minimum Standards) Convention, 1952 (No. 102)

Background context

The Committee recalls that at its sixth meeting in 2021, the Standards Review Mechanism Tripartite Working Group (SRM TWG) discussed the question of the implications of gendered and outdated terms in all international labour standards, including in the social security instruments.¹ This led the Governing Body to request the Office to prepare a background paper in this regard for its consideration at its 352nd Session in November 2024.²

The Committee further recalls that in 2011, at its 100th Session, the International Labour Conference (ILC) made a number of decisions on gender-related language in the ILO social security instruments. The most relevant decision, in relation to the Social Security (Minimum Standards) Convention, 1952 (No. 102) (hereinafter Convention No. 102), concerned the recognition by the ILC of the “need for a pragmatic solution that would enable its interpretation in a gender-responsive way without revising the instrument itself or weakening the prescribed levels of protection and population coverage”.³

In this context, the Committee wishes to underline that Convention No. 102 does not seek to define a conceptual family model but rather establish internationally agreed minimum standards for social protection systems adaptable to any national context. ***The Committee emphasizes its remaining commitment to monitoring the application of Convention No. 102 in a***

¹ SRM TWG sixth meeting, GB.343/LILS/1.

² SRM TWG seventh meeting, GB.346/LILS/1.

³ Conclusions of the Committee for the Recurrent Discussion on Social Protection, paras 30 and 38. The ILO Governing Body was in consequence invited “to consider, in light of the resolution concerning gender equality and the use of language in legal texts in the ILO, the question of gender-sensitive language in ILO social security standards”. In addition, the ILC urged the Office to “proactively and consistently mainstream gender in its activities relating to social security,” and to “further strengthen Member States’ capacities to design, implement and monitor social security systems that are responsive to challenges including changing demographic trends [...]”.

gender-responsive manner while upholding the minimum level of protection.

Continued relevance of Convention No. 102

The Committee recalls that Convention No. 102 is considered as a “key reference for the definition of the content of the right to social security” under the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966 and the European Charter of the Council of Europe of 1961.⁴

The Committee also underlines that Convention No. 102 is the sole international treaty that addresses social security in a comprehensive manner, referring to nine social security contingencies⁵ for which it sets the minimum standards of protection for States to progressively achieve universal coverage, comprehensive, and adequate social protection systems.

The Committee recognizes that the wording of Convention No. 102 remains marked by language which is a product of its time⁶ and may seem out of step with the realities of employment and contemporary egalitarian values. It nevertheless wishes to emphasize that the standards of this Convention are perfectly suited to an implementation based on gender equality not only due to their exhaustiveness and relevance, but also because of the universality of the right to social security. Their formulation makes them applicable to both female and male workers and the derived rights by which they provide additional protection to women are perfectly compatible with the application that is more gender-responsive and better adapted to current employment, family and social protection realities. ***The Committee encourages governments and social partners to ensure gender equality in the implementation of social security rights and to use language adequate to this objective.***

Universality

As regards coverage, Convention No. 102 gives States flexibility in applying its benchmarks to different types of mechanisms, cognizant that

⁴ General Survey of 2011, para. 81; see also paras 70–71, 154–160 and table 5.

⁵ The need for medical care and benefits in the event of sickness, unemployment, old age, employment injury, family responsibilities, maternity, invalidity and survivorship.

⁶ General Survey of 2019, para. 754.

there are many ways to provide social security. Minimum coverage thresholds are framed around “categories of employees”, “categories of economically active population”, and “residents”.⁷ Women’s social protection coverage can be assessed as persons protected in their own right, in relation to their employment or residency status, and not to their gender.

Comprehensiveness

With respect to the nine social contingencies covered by Convention No. 102, there are two gender-specific benefits. The first pertains to “pregnancy and confinement and their consequences” (*Article 47*) underlining the importance of maternity cash and health benefits for the well-being of pregnant and nursing women and their children.

The second concerns survivors’ benefits, for which Convention No. 102 provides that the contingency covered shall include the loss of income support suffered by the dependent widow and children as a result of the death of the breadwinner (*Article 60*). The Committee notes that many national legislations still provide survivors’ benefits to widowers under more restricted conditions.⁸ Additionally, in practice, the large majority of adult survivors’ pensions are still received by women,⁹ which can be partially explained due to the fact that women still have longer life expectancies, partner with men who are older than they are, earn lower incomes, and are less likely to meet the conditions for contributory pensions. On the contrary, men are more likely to be excluded from survivors’ schemes that are pension-tested. In this respect, the Committee notes that today the national law upholds such distinction in only one fifth of the 51 countries that have accepted Part X (Survivors’ Benefits) and that the countries that ratified Convention No. 102 in the last decade have legislation that allows both widows and widowers to qualify for survivors’ benefits on similar terms.¹⁰ ***The Committee therefore considers that the acceptance of Part X (Survivors’ Benefits) of Convention No. 102 has neither served as an impediment to the evolution of the social protection system nor as a reason to revise***

⁷ Articles 9, 15, 21, 27, 33, 41, 48, 55, and 61 of the Convention.

⁸ In over 30 countries. See for example latest date available online information in [ISSA Social Security Around the World – Country Profiles](#).

⁹ Based on estimates of the World Social Protection Database.

¹⁰ Except for 4 countries out of 17.

conceptual family models or reduce existing protections. The Committee also wishes to emphasize that Convention No. 102 constitutes a minimum standard, and therefore a State can grant better protection, for instance through additional benefits to widowers.

Adequacy

Determination of a reference wage

Convention No. 102 prescribes the minimum level of cash benefits which shall be assessed against the reference wage of a “standard beneficiary”. More specifically, Convention No. 102 sets out different options to determine the reference wage which refers to either the earnings of the “skilled manual male employee” or the “ordinary male labourer”.¹¹ The Committee notes that some of the statistical options to establish the said *reference wage* are gender neutral, like those that refer to earnings equalled to or greater than the earnings of 75 per cent of all the persons protected or earnings equalled to 125 per cent of the average earnings of all the persons protected. These reference wages determine the minimum and maximum benefits, expressed as percentages of the ordinary male laborer’s and skilled manual male employee’s wages, respectively. These limits apply equally to men and women. ***In this context, the Committee wishes to recall that these references are used as statistical benchmarks to assess benefit levels, and not to establish a family model that national legislations must adhere to. Furthermore, the reference to men’s wages is used as an arithmetical proxy for setting the level of all cash benefits, including maternity benefits, that member States should achieve in order to ensure the adequacy of benefits, without promoting discrimination against women or endorsing a specific family arrangement.***

Breadwinner model

The Committee recognizes the significant advances in the labour market and family structures over the past 50 years, particularly in high-income countries. Despite these advances, challenges remain, such as the persistence of the gender wage gap worldwide, where women earn on

¹¹ Articles 65(6) and 66(4).

average 20 per cent less than men.¹² This reality has implications for international social security standards, since using instead the earnings of “skilled manual female employees” as a reference wage would ultimately lead to reduced minimum and maximum benefit levels in most countries. While the Convention employs a family model presented as a man supporting a wife and two children, it is crucial to note that Convention No. 102 explicitly states that benefits for other beneficiaries should be determined in a manner reasonably related to the standard beneficiary.¹³ For instance, this provision applies to scenarios like that of a divorced employed mother raising her children alone. ***As such, despite the use of outdated language, the Committee has insisted that the “gender biased” statistical reference point established by Convention No. 102 still has the effect of reaching higher levels of protection applicable to both male and female workers, given the persistent gender pay gaps.***¹⁴

Identifying gender biases in national benefit formulas

The Committee notes that member States, fulfilling reporting obligations, shall provide statistical information on benefit levels for both a “standard beneficiary” (i.e., man with a wife and two children) and a “woman employee” across accepted branches of Convention No. 102.¹⁵ This entails demonstrating how benefits for a standard beneficiary meet minimum levels, but also how benefits for women employees earning the same wage as the standard beneficiary compare to these levels. This comparative statistical information is crucial for evaluating whether the national social protection system protects such women employees from receiving lower benefits. The Committee observes that few countries have submitted statistical information regarding women employees, and some that did, reported no distinction between men and women. ***The Committee points out that the Convention is cognizant of gender inequalities and recognizes the potential of social security systems in addressing these disparities.***

¹² ILO Global Wage Report 2022/23.

¹³ Articles 65(5) and 66(3).

¹⁴ ILO, General Survey of the Reports relating to the Social Security (Minimum Standards) Convention (No. 102), 1952, the Invalidity, Old-Age and Survivors' Benefits Convention (No. 128) and Recommendation (No. 131), 1967, in so far as they apply to old-age benefits, Report III (Part 4B), International Labour Conference, 76th Session, Geneva, 1989.

¹⁵ Report form on Convention No. 102, under articles 65 and 66, Title V.

Conclusions and challenges ahead

While recognizing the use of outdated concepts, the Committee considers that the value of Convention No. 102 cannot be denied in establishing internationally agreed minimum standards for social protection systems adaptable to any national context.

Additionally, the Committee observes positive developments, noting that some countries previously concerned about the gendered language in Convention No. 102 have either ratified it or taken significant steps in that direction.

Finally, the Committee wishes to underline that social protection policies are crucial for enhancing gender equality and realizing women's rights.¹⁶ The Committee therefore wishes to recall that social protection systems based on international social security standards enhance women's enjoyment of the human right to social security. ***Accordingly, the Committee encourages all ILO constituents to avail themselves of ILO technical assistance to implement a gender-responsive approach to social protection, guided by the benchmarks and principles outlined in Convention No. 102. To this effect, the Committee wishes to highlight the importance for member States to address data gaps insofar as possible, to enhance understanding of the scope of women's social protection. It calls on the Office to actively assist the constituents in this undertaking to the extent requested, enhancing existing social protection methodologies and data collection endeavors, and to support Member States in shaping gender-responsive social protection policies, aligned with international social security standards.***

¹⁶ General Survey of 2019, para. 120; see also paras 598–600.