



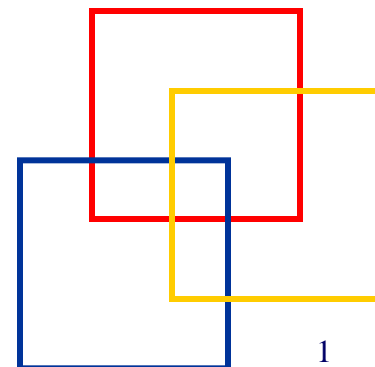
International  
Labour  
Office

## Working Group 2: International Accountability

*Do we need a new MDG target and  
a new international legal standard*

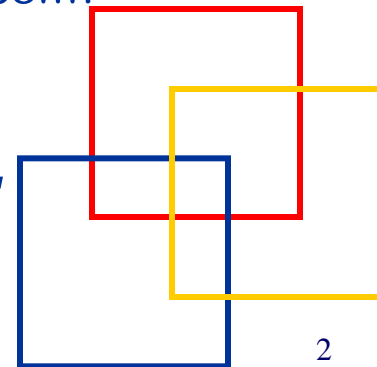
*Right to Social Security in Development  
International Symposium  
Berlin, 19 – 20 October 2009*

*Ursula Kulke, Coordinator for Standards and Legislation,  
Social Security Department, International Labour Office, Geneva*



# *Overview of the presentation*

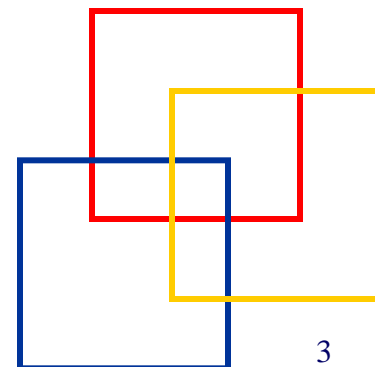
- **Part I: Do we need a new international legal standard?**
  - The right to social security and ILO's mandate in the field of social security
  - Recent developments in the UN and the ILO
  - The « *four essential social security guarantees* » as part of the UN social protection floor
  - ILO's main tools for the extension of social security coverage and how effective are these tools for the extension of social security coverage to all
  - Potential solutions, constituents views and the next steps....
- **Part II: Do we need a new MDG target?**
  - Decent Work constitutes part of a new target of MDG 1, ILO has developed indicators for measuring this new target
  - Social security appropriate as new MDG?



## Do we need a new international legal standard?

### *The right to social security ...*

- *Universal Declaration of Human Rights:*
  - *Article 22:* Everyone, as a member of society, has the right to social security
  - *Article 25:* Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family
- *International Covenant on Economic, Social and Cultural Rights:*
  - *Article 9:* The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance

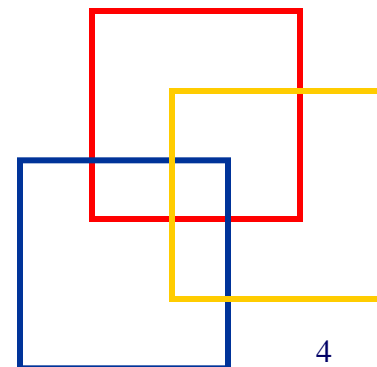




## Do we need a new international legal standard?

### *The ILO Mandate in the field of social security...*

- The Preamble to the ILO Constitution mandated the ILO with: ... the improvement of conditions of labour, inter alia, through the *«prevention of unemployment, ...the protection of the worker against sickness, disease, and injury arising out of his employment, the protection of children, young persons and women, provision for old-age and injury »*
- The ILO's Declaration of Philadelphia (1944) charged the ILO *"to further among the nations of the world programmes which will achieve the objectives.... the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care"*
- This mandate was confirmed by the Declaration on Social Justice for a Fair Globalization (ILC 2008)



## Do we need a new international legal standard?

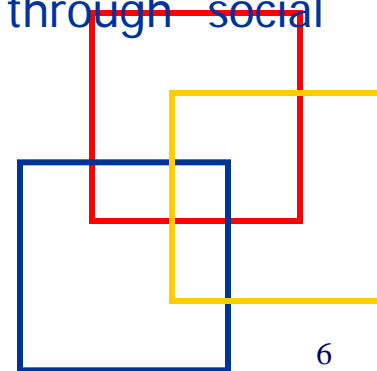
### *Recent developments in the UN and ILO ...*

- In 2003, ILO launched a Global Campaign to Extend Social Security to all
- The UN Chief Executives' Board (CEB) suggests a *social protection floor* consisting of
  - essential social services, and
  - a *basic set of essential social transfers*, paid to the poor and vulnerable to provide a minimum income security and access to essential services, including health care
- The Global Jobs Pact (June 2009) requests countries ... to build
  - *"adequate social protection for all, drawing on a basic social protection floor" and urges "the international community ... to provide development assistance, including budgetary support, to build up a basic social protection floor on a national basis"*.
- ILO Tripartite Meeting of Experts on Strategies for the Extension of Social Security Coverage (Geneva, September 2009), which confirmed the need for the *basic set of essential social transfers*, as part of the *UN social protection floor*
- Inter-agency technical meeting "*UN CEB Joint Crisis Initiative VI: A Social protection Floor*", Turin, October 2009, confirmed the need for inter-agency collaboration regarding the *basic set of essential social transfers*

## Do we need a new international legal standard?

*The basic set of essential social transfers of the social protection floor could consist of **four essential social security guarantees**...*

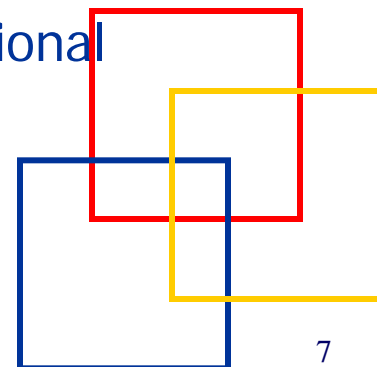
- All residents have access to a nationally defined set of essential health care services;
- All children have income security, at least at the level of the nationally defined poverty line level, through family/child benefits aimed at facilitating access to nutrition, education and care;
- All those in active age groups who are unable to earn sufficient income on the labour markets should enjoy a minimum income security through social assistance;
- All residents in old age and with disabilities have income security at least at the level of the nationally defined poverty line through pensions for old age and disability.



## Do we need a new international legal standard?

### *What do we need to assist ILO constituents in establishing the four essential social security guarantees?*

- Ideally, an *international legal instrument* that
  - makes concrete the human right to social security
  - establishes the four essential social security guarantees
  - sets the social rules in the globalising economy
  - defines a benchmark for which national and international pressure groups can campaign, and
  - contributes to the achievement of relevant Millenium Development Goals



## Do we need a new international legal standard?

### *On what can we build ...*

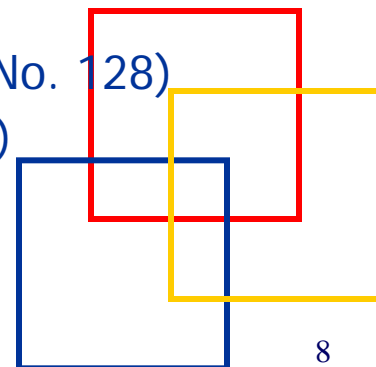
*Main tools for extending social security to all are ILO social security standards:*

#### **Comprehensive up-to-date standards**

- Income Security Recommendation, 1944 (No. 67)
- Medical Care Recommendation, 1944 (No. 69)
- *Social Security (Minimum Standards) Convention, 1952 (No. 102)*

#### **Higher up-to-date standards for different branches of social security**

- Employment Injury Benefits Convention, 1964 (No. 121)
- Invalidity, Old-age and Survivor's Benefits Convention, 1967 (No. 128)
- Medical Care and Sickness Benefits Convention, 1952 (No. 130)
- Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)
- Maternity Protection Convention, 2000 (No. 183)



## Do we need a new international legal standard?

### *How effective are ILO social security standards in establishing the four essential social security guarantees?*

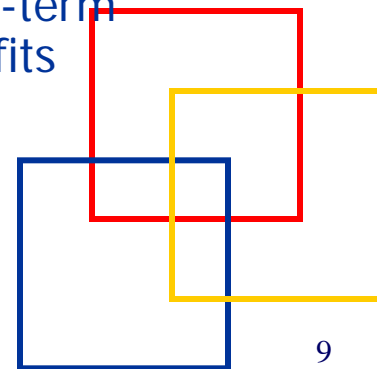
#### *- Recommendations Nos. 67 and 69:*

Universal coverage for cash benefits under 8 branches and universal health care benefits, through social insurance or social assistance (for those not covered)

#### *- Convention No. 102:*

- Protection of certain percentages of classes of population (e.g. 50% of all employees, or economically active persons constituting not less than 20% of all residents or all residents with small means)
- Ratification of minimum of 3 out of 9 branches (incl. one long-term or unemployment benefit), without indication of priority benefits
- Benefit levels are too high for universal basic benefits

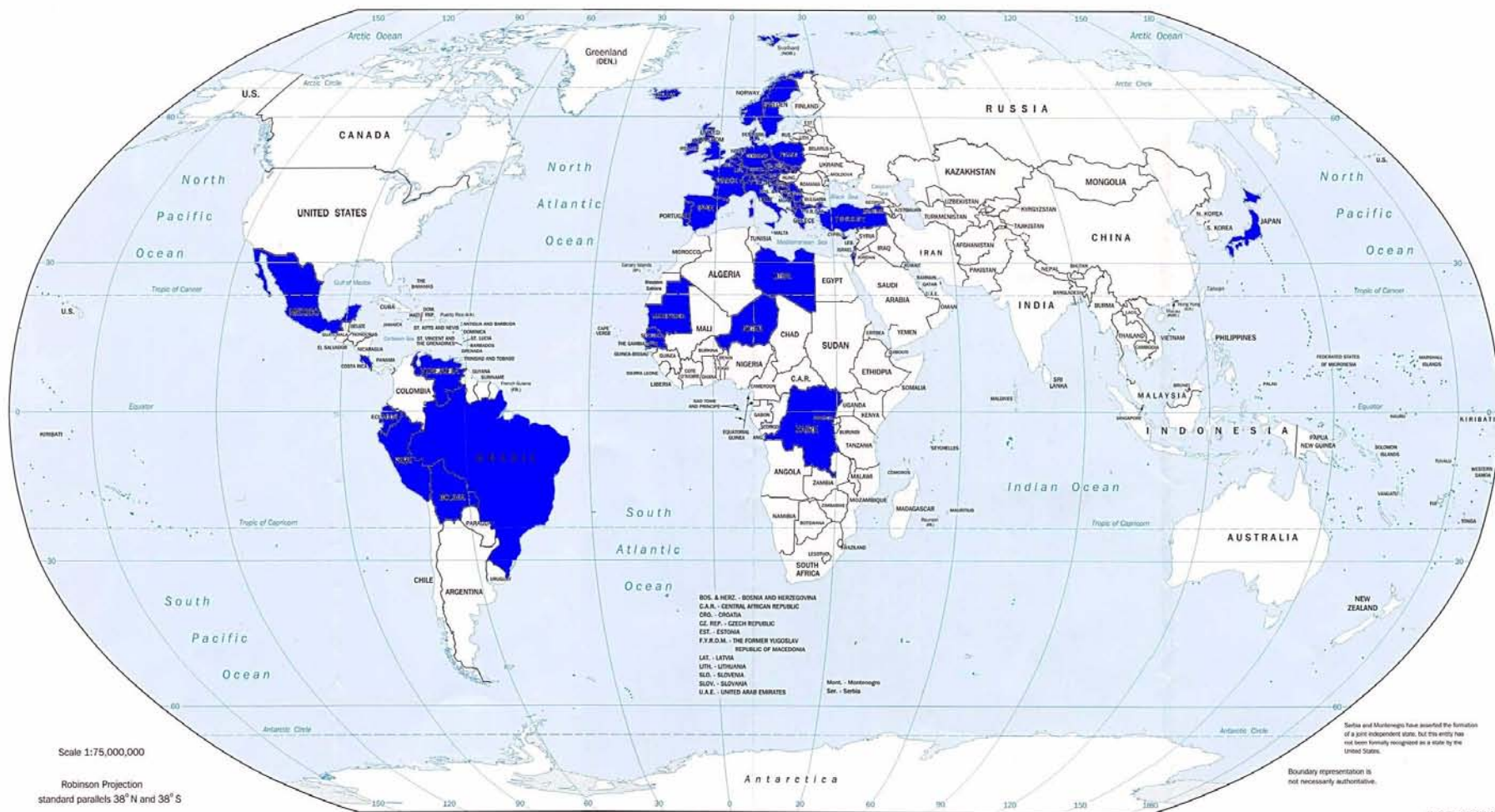
➤ *R. 67 and 69 appear effective for providing minimum benefit package for all, but non-binding, while C. 102 is not, due to limited scope of personal coverage*





International Labour Office

# Ratification Map of Convention No. 102 (45 ratifications as of Oct. 2009; the Romanian and Urugayan Parliament have adopted its ratification, and more are expected ...)





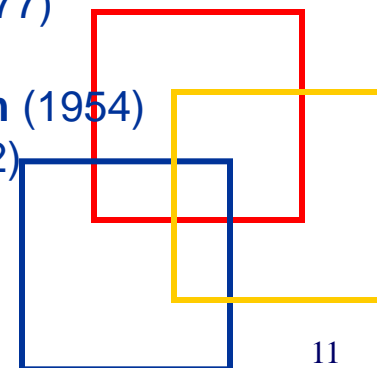
# Ratification chart of Convention No. 102

**Albania** (2006)  
**Austria** (1969)  
**Barbados** (1972)  
**Belgium** (1959)  
**Bolivia** (1977)  
**Bosnia and  
Herzegovina** (1993)  
**Bulgaria** (2008)  
**Brazil** (2009)  
**DR Congo** (1987)  
**Costa Rica** (1972)  
**Croatia** (1991)  
**Cyprus** (1991)  
**Czech Rep.** (1993)  
**Denmark** (1955)

**Ecuador** (1974)  
**France** (1974)  
**Germany** (1958)  
**Greece** (1955)  
**Iceland** (1961)  
**Ireland** (1968)  
**Israel** (1955)  
**Italy** (1956)  
**Japan** (1976)  
**Libya** (1975)  
**Luxembourg** (1964)  
**Macedonia** (1991)  
**Mauritania** (1968)  
**Mexico** (1961)  
**Montenegro** (2006)  
**Netherlands** (1962)

**Niger** (1966)  
**Norway** (1954)  
**Peru** (1961)  
**Poland** (2003)  
**Portugal** (1994)  
**Senegal** (1962)  
**Serbia** (2000)  
**Slovakia** (1993)  
**Slovenia** (1992)  
**Spain** (1988)  
**Sweden** (1953)  
**Switzerland** (1977)  
**Turkey** (1975)  
**United Kingdom** (1954)  
**Venezuela** (1982)

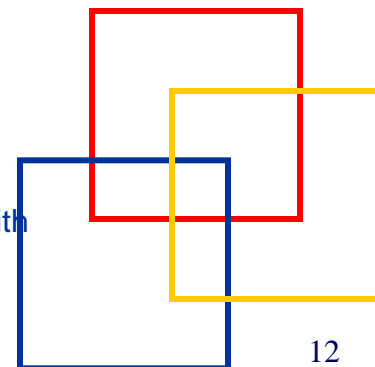
*Romanian and Uruguayan Parliament adopted ratification law in 2009*



## Do we need a new international legal standard?

# The relevance of Convention No. 102 at the international, regional and national level

- ***Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights***
  - Convention No.102 serves as main reference for interpretation and definition of the right to social security and implementation guidance
- ***Regional human rights and social security instruments***
  - In the European Social Charter: reference for establishing the minimum level of social security in line with Convention No. 102 (Art. 12 of EC)
  - European Code of Social Security: modelled after Convention No. 102,
  - CARICOM Agreement on Social Security and SADC Code on Social Security make reference to Convention No. 102
- ***National social security system***
  - Important impact on social security legislation all over the world
    - An examination of the country cases where the CEACR has observed non-compliance with ratified social security Conventions shows that, in most cases (in 75 cases since 1964), the national law and practice has been brought in conformity with the requirements of the Convention by ratifying States following the recommendations of the CEACR



## Do we need a new international legal standard?

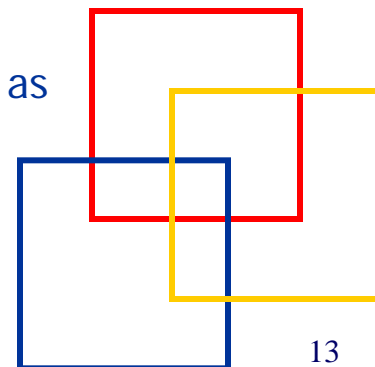
### *Conclusions*

#### *What do we have?*

- **Existing social security Conventions, and in particular C. 102**
  - Embody an internationally accepted definition of social security,
  - Have had and still have substantial influence at international, regional and national level
- *Are thus of utmost relevance for ILO member States*
- *But they fall short of providing universal access to the four essential social security guarantees*

#### *What do we need?*

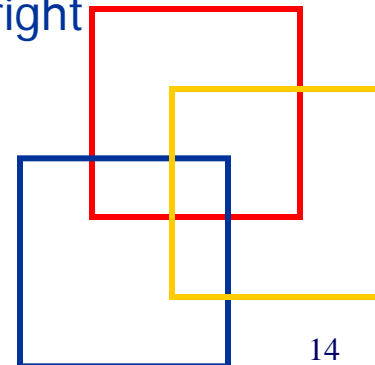
- **A new mechanism**
  - Achieving universal access to basic benefits to combat poverty as fast as possible,
  - Progressively providing for more comprehensive social security protection, and
  - Linked to a mechanism, as Convention No. 102, providing income replacement according to economic performance



## Do we need a new international legal standard?

### *Potential Solutions*

- **Option 1:**
  - Designing a promotional strategy for a *wider ratification and gradual application* of existing standards with the objective of extending social security to all
- **Option 2:**
  - Development of a *new stand-alone* social security instrument (Convention or Recommendation) providing for a universal right to a minimum set of social security guarantees for all in need (social assistance Convention or Recommendation)
- **Option 3:**
  - Development of a *new instrument linked to Convention No. 102* (Protocol to Convention No. 102) and providing for a universal right to a minimum set of social security guarantees for all in need
- **Option 4:**
  - Development of an overarching *non-binding mechanism* (multilateral framework) setting out core social security principles and defining the elements of a minimum set of basic social security guarantees

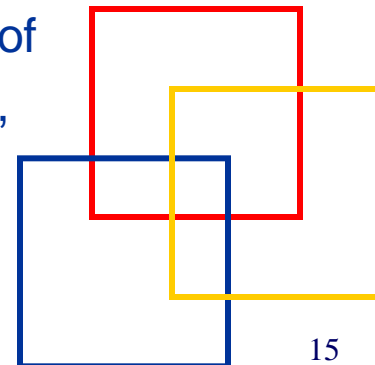


## Do we need a new international legal standard?

### *Potential Solutions*

#### Advantages of adopting a new international standard

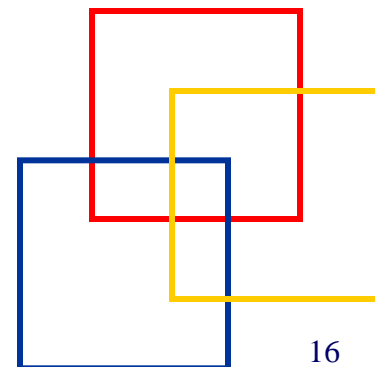
- International labour standards (Conventions and Recommendations) are ILO's main tools in pursuing its mandate
  - Conventions, are open for ratification and, if ratified, are legally binding
  - Recommendations are not open for ratification, but serve as guidelines for national policies
- Adopted by the International Labour Conference (ILC)
  - ILO constituents would be directly involved in the formulation of the standard and could provide input according to their needs, priorities and capacities for setting the benchmarks and the progressiveness of reaching higher levels of protection



## Do we need a new international legal standard?

### *Constituents views...*

- **In Tripartite Expert meeting on Strategies for the Extension of Social Security Coverage (Geneva, September 2009)**
  - *The workers and a number of Governments*
    - Made the case for the creation of an new international labour standards, since the current existing instruments are focused on standards relating to social insurance schemes, and an instrument on social assistance programmes is still lacking
  - *The employers*
    - Expressed a preference for a non-binding mechanism given that for them a pragmatic approach based on best practices would be the most efficient mechanism to achieve the goal of extending coverage of social security



## Do we need a new international legal standard?

### *NEXT STEPS ...*

- The Office will present, *for information and guidance*, a summary of the Tripartite Meeting of Experts on Strategies for the Extension of Social Security Coverage (Geneva, September 2009) in form of a Supplementary Report to the Report of the Director General, to the ILO Governing Body in its November 2009 Session
- A *General Survey* on the application of ILO social security instruments (Recommendation No. 67 and Conventions No. 102 and No. 168) according to Article 19 of ILO Constitution is under preparation and will be submitted to the ILC in 2011
- Social Security will be discussed within the *Recurrent Review at the ILC 2011*
  - The Office Report for the ILC 2011 will be based on the outcome of the Tripartite Meeting of Experts on Strategies for the Extension of Social Security Coverage (Geneva, September 2009)
  - The Office Report for the ILC 2011 will also reflect on the nature of a possible mechanism to support the formulation of national social security extension strategies

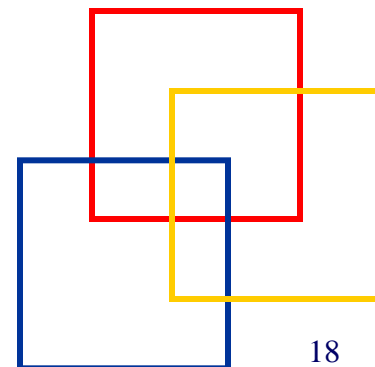
# Do we need a new MDG target?

- None of the MDGs relate expressively to social security
- MDG 1: Eradict Extreme Poverty and Hunger

- Target 2 of MDG 1:

Achieve full and productive employment and decent work for all, including women and young people

- This target includes «Decent Work »
- The indicators for this target have been prepared in collaboration with the ILO, however, none of the indicators relate to social security



# Do we need a new MDG target?

- **Could social security constitute a new MDG?**

- No discussion at the ILO regarding this issue (there were discussions when the indicators for target 2 of MDG 1 were developed)
- MDGs relate to specific development objectives; even if social security constitutes a right, it is mainly a mechanism for reaching the existing MDS (e.g. MDG 1)

- *Thus the question arises as to whether*

- *social security should be a MDG by itself, or*
- *Social security should be a new target , e.g. under MDG 1*

*In that case , due to the short time-frame, it would be better to include a new MDG on social security when MDGs and their time-frame are revised*

