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Underwriting the Poor

A Global Fund for Social Protection

SUMMARY

Seventy-five to eighty per cent of the world's poor do not have comprehensive social protection, yet the total costs of introducing social protection would amount to only 2-6 per cent of global GDP. Poorer States often have not adopted social protection systems because a) the development models supported by major international institutions have pushed States to lower government spending and reduce the size of the State; b) where poverty and need is widespread, infrastructure limited and the ability of local populations to pay into the system weak, meeting the basic costs of social protection systems today is a major challenge; and c) in many developing countries (particularly small ones) a large portion of the population is susceptible to the same risks of unpredicted covariant shocks, e.g. natural disasters, epidemic diseases or extreme food price increases, leading to simultaneous surges in demand for social protection and decreases in State export and taxation revenues. To help overcome these obstacles and ensure the provision of human rights-based social protection systems in all countries, the Special Rapporteurs call for the creation of a Global Fund for Social Protection (GFSP) with two key functions: a) its **facility** branch would close the funding shortfall for putting in place a social protection floor in least developed countries (LDCs); b) its **reinsurance** branch would help underwrite these schemes against the risks of excess demand triggered by major shocks.

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Introduction

Health care, unemployment insurance, food aid, disability benefits: all of these services aim to ensure the right to an adequate standard of living for everyone, including the right to food. They are part of what is commonly known as social protection, social insurance or social security.[1] Social protection alleviates human beings from being exposed to existential fears connected to the risk of illness, accident, loss of income, parenthood, old age and other situations they cannot meet solely with their own resources. It aims to make poor people less vulnerable and to provide the stability and resources needed to develop capabilities and to make choices about their lives and futures. Social protection can work to combat poverty and inequality, to foster social inclusion and cohesion, to ensure adequate opportunities for decent work, and to act as a stabilizer in times of crisis.[2] Indeed the fundamental importance of social protection is recognized by its inclusion in the Universal Declaration of Human Rights as a basic human right endowed to all individuals.[3]

The Human Rights Council has requested the Special Rapporteur on the right to food, Mr. Olivier De Schutter, *inter alia*, to "submit proposals that could help the realization of Millennium Development Goal No. 1 to halve by the year 2015 the proportion of people who suffer from hunger, as well as to realize the right to food, in particular, taking into account the role of international assistance and cooperation in reinforcing national actions to implement sustainable food security policies" (Res. 6/2). The Council has asked the Special Rapporteur on extreme poverty and human rights, Ms. Magdalena Sepúlveda Carmona, *inter alia*, to "identify approaches for removing all obstacles, including institutional ones, to the full enjoyment of human rights for people living in extreme poverty and to identify efficient measures to promote their rights" (Res. 17/13). The proposal made in this note by the Special Rapporteur on the right to food, together with the Special Rapporteur on extreme poverty and human rights, is based on a simple fact: While the benefits of social protection are well acknowledged, they are too often unavailable. According to estimates from the International Labour Organization (ILO), seventy-five to eighty per cent of the world population does not have access to "comprehensive social security" protection to shield them from the effects of unemployment, illness, or disability – not to mention crop failure or soaring food costs.[4] If a crisis hits, the lack of social protection leaves millions of people to rely on their own limited coping mechanisms and charity – they must resort to drastic measures, such as removing their children from school to save money, or selling the assets that they use to generate income, such as land or livestock, thus jeopardizing their ability to cope with future shocks.

In part, historical reasons explain why low income or poorer States have not adopted social protection systems. In the past, major international institutions have pushed States to lower government spending and programming in favour of economic development, opening markets and reducing the size of the State. In the last decade however, many international institutions have begun to address the benefits of social protection systems to development and to promote their adoption. The ILO), through a number of initiatives, including the development of the social protection floor concept, has been leading the way. The World Bank and the G20 have made similar calls for the adoption of social protection[5] and social protection will serve as a point of discussion in the 2012 annual plenary session of the Committee on World Food Security (CFS).[6] These developments indicate new policy space and international support for the creation of social protection systems in poor countries.

But the obstacles that low-income countries face in moving towards this objective are not simply the legacy of now defunct development models. In many developing countries – especially small countries in which a large portion of the population is susceptible to the same risks – governments may be understandably reluctant to insure their citizens against the risks they face. One of the reasons little or no social protection is provided by Least Developed Countries (LDCs),[7] even if it is affordable, is the fear of unpredicted, covariant shocks.[8] In these countries, shocks such as natural disasters,[9] epidemic diseases or extreme price increases of basic food commodities could lead to peaks in demand for social protection that could not be accommodated by the national system and would cause its ruin.[10] If a single event affects a significant portion of the population, not only will demand for social support grow too rapidly for the government to absorb, but the shock may decrease government revenues at the same time by, for example, lowering tax or export revenues. Where poverty is widespread, infrastructure limited and the ability of local populations to pay into the system weak, meeting the basic costs of social protection systems is already a challenge for many low-income countries, even before shock-related risks are accounted for. Given these basic costs, as well as the cost associated with the risks, governments have been reluctant to adopt social protection systems. In order to make social protection a reality it will be necessary to address both types of cost.

This paper suggests the creation of a **Global Fund for Social Protection** (GFSP), to provide States the financial support needed to make social protection viable. The GFSP would provide two services: (1) it would respond to "structural," or endemic, poverty by providing support for States to meet basic social protection floors ; and (2) it would serve as a reinsurance provider offering protection to the State against unexpected shocks to their social insurance systems. Offering reinsurance against these shocks would allow LDCs to cede the relevant risks and sustainably operate social protection systems.[11] Grounded in the commitment of poor States to provide their maximum available resources to their social protection systems, as well as in the commitment of all States to discharge their duties of international assistance and cooperation in support of the realization of human rights, the GFSP would allow both for a sharing of costs, and for the utilization of reinsurance mechanisms to account for risks.

While the individual costs for LDCs might be daunting, it is not unfeasible for the international community to collectively fund social protection systems.[12] The total costs of introducing basic social protection are estimated to amount to 2 per cent to 6 per cent of global GDP, depending on how many people would be covered – only the world's poor or all people currently without basic social protection.[13] Based on the global GDP of 2010 the amount needed to finance social protection would therefore equate to 1.26 trillion USD to 3.79 trillion USD.[14] To set up and fund the proposed GFSP for the LDCs, only a small fraction of this sum would be required, however: the GDP of LDCs represents less than 2 per cent of total GDP, and it would be expected that LDCs cover most of the cost of social protection of their populations.[15] And these figures relate to the costs of covering all LDCs, by the establishment of a mechanism at global level. But the model of cooperation proposed here could be implemented also, or during a first phase, between a small group of rich countries and a small group of low-income countries;

or it could form a template for a new form of South-South cooperation. In addition, a mechanism such as the International Financial Facility (IFF), in which bonds are issued on the capital markets in order to raise money against the security of government guarantees to maintain future aid flows, could be used to kick-start the process of establishing the GFSP, as has been done to raise funds for the GAVI Alliance for improving access to immunization in poor countries.

Financing a global social protection floor and ensuring that everyone has access to social security is possible. But it can only be achieved if developed and emerging countries join forces with developing countries to form the political will to do so. This paper presents the GFSP and begins to discuss how it could function to provide the support required by countries to pursue social protection systems. It begins by defining what social protection and the right to social protection entail, the relationship between the right to food and the right to social protection, what a rights-based approach tells us about all States' obligations and finally, the new policy space open for the adoption of social protection. The section ends with a discussion of the ILO initiative on social protection floors. A second section details the functional obstacles to States adopting social protection systems and how the GFSP could respond. A final section discusses how the GFSP could function, what it could provide and the various ways it could be financed. A brief conclusion is then offered.

1. Promoting Social Protection

1.1. Social Protection

Social protection, social insurance and social security provide benefits that secure the means for a basic standard of living both in cases of social risk and of need. All of these terms, used interchangeably in this paper,[16] refer to systems by which benefits are provided, in cash or in kind, to protect individuals against risks such as the loss of work-related income (or insufficient income), caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; lack of access or unaffordable access to health care; insufficient family support, particularly for children and adult dependants; or more generally, poverty and social exclusion.[17] According to the ILO, social protection measures can include cash transfer schemes, public work programmes, school stipends, unemployment or disability benefits, social pensions, food vouchers and food transfers, and user fee exemptions for health care or education subsidies.[18] The schemes may be either contributory (insurance) schemes, involving generally "the compulsory contributions from beneficiaries, employers and, sometimes, the State, in conjunction with the payment of benefits and administrative expenses from a common fund",[19] or non-contributory schemes, which in turn can be either universal (providing "the relevant benefit to everyone who experiences a particular risk or contingency"[20]), or targeted (providing benefits to those in a situation of need[21]).

The benefits of social protection have already been noted above. Social protection can play a key role in securing people against extreme poverty, deprivation and uncertainty about the future. Crucially, social protection measures insure the poor against risks stemming from various shocks, to which they are particularly vulnerable. Social protection systems have the potential to contribute to the realization of basic human rights, such as the rights to food, education and health, and to combat systemic inequality. Building from this, social protection provides States a means to support marginalized groups, tackle the immediate problems of child hunger and malnutrition,[22] and advance women's rights.[23] For example, the *Bolsa Família* in Brazil,[24] and the Child Support Grant in South Africa,[25] which both provide cash-transfers to poor families have been successful in reducing child poverty, and hunger. Further it is estimated that in Organisation for Economic Co-operation and Development (OECD) countries, poverty and inequality rates are "approximately half of those that might be expected in the absence of such social protection provisions."[26] Social protection is also able to "help people adapt their skills to overcome the constraints that block their full participation in a changing economic and social environment, contributing to improved human capital development in both the short and the longer term, and in turn stimulating greater productive activity."[27] Finally, social protection systems are able to generate growth and development, by supporting cash infusions into local economies[28] and improving the human capital of citizens.

1.2. The Right to Social Protection

Social protection is a human right, enshrined in multiple sources of international law. Article 22 of the Universal Declaration of Human Rights (UDHR) enshrines the right to social security, and read together with article 25 forms the right to a standard of living adequate for the health and well-being of oneself and of one's family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other livelihood-curtailing circumstances beyond one's control.[29] Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) reiterates the right to social security, including social insurance.[30] In addition, article 26 of the Convention on the Rights of the Child[31] and article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women[32] explicitly protect children's and women's right to social security.

The right to social protection is authoritatively defined by the Committee on Economic, Social and Cultural Rights (CESCR) in General Comment No. 19, The Right to Social Security, as encompassing "the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, *inter alia*, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, 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."[33] Further, the "right to social security includes the right not to be subject to arbitrary and unreasonable restrictions of existing social security coverage, whether obtained publicly or privately, as well as the right to equal enjoyment of adequate protection from social risks and contingencies."[34]

The core content of the right to social protection is also authoritatively defined in General Comment No. 19. Like other economic and social rights, the core content of the right to social protection has availability, accessibility and adequacy elements. *Availability* means that sustainable social protection is in place, established under domestic law, "to ensure that benefits are provided for the relevant social risks and contingencies" for present and future generations.[35] *Adequacy* means that benefits "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", with States paying full respect to the principles of human dignity and non-discrimination.[36] Finally, *accessibility* encompasses a number of parts including coverage of all persons,[37] reasonable, proportionate and transparent eligibility requirements,[38] affordable contributions in the case of contributory schemes,[39] the participation of beneficiaries in the administration of the social security system (in order to ensure accountability and that the system is responsive to needs),[40] and that the physical access to benefits be provided in a timely manner.[41] More generally, *accessibility* requires that States pay special attention to developing programmes based on the principles of non-discrimination and equality, in particular gender equality, recognition of those workers who tend to be inadequately protected (i.e. part-time, casual, self-employed and home workers) as well as those working in the informal economy, and members of vulnerable or marginalized groups, including indigenous peoples, minority groups, non-nationals, internally-displaced persons, and internal migrants.[42]

As for other economic and social rights, States must *respect, protect*, and *fulfill* the right to social protection. The obligation to *respect* requires that States "refrain from interfering directly or indirectly with the enjoyment of the right to social security."[43] The obligation to *protect* requires that States not allow third parties to hinder the ability of individuals to enjoy their right to social protection.[44] Finally, the obligation to *fulfill* requires that States "adopt the necessary measures, including the implementation of a social security scheme, directed towards the full realization of the right to social security."[45] The obligation to *fulfill* is divided into three sub-obligations: the obligations to facilitate ("take positive measures to assist individuals and communities to enjoy the right to social security"), promote (use education and public awareness concerning access to social security) and provide ("provide the right to social security when individuals or a group are unable, on grounds reasonably considered beyond their control, to realize that right themselves, within the existing social security system").[46]

The human right to social protection also implies a number of procedural requirements that guide the decision making and implementation process[47]. These include the human rights principles of Participation, Accountability, Non-discrimination, Transparency, Human dignity, Empowerment and Rule of law, following the "PANTHER" framework developed by FAO that is based on the UN Common Understanding on a Human Rights Based Approach.[48] Participation means that every person and all peoples are entitled to active, free and meaningful participation in and contribution to decision-making processes that affect them. *Accountability* requires that elected representatives, government officials and other duty-bearers be held accountable for their actions through judicial procedures or other mechanisms, ensuring effective remedies where rights are violated. *Non-discrimination* prohibits arbitrary differences of treatment and requires a focus on the most marginalized segments of the population. *Transparency* requires that people be able to know processes, decisions and outcomes. *Human dignity* requires that people be treated in a dignified way and that they are not forced to sacrifice their human rights in order to satisfy basic needs, while *empowerment* requires that they are in a position to exert control over decisions affecting their lives. Lastly, *rule of law* requires that every member of society, including decision-makers, must comply with the law.[49]

Finally, a rights-based approach to social protection ensures that individuals have a course of action when violations of the obligation to *respect, protect* or *fulfil* the right to social protection occur.[50] This means that individuals cannot be unjustly deprived of the benefits of social protection and that the State is held accountable for both the substance of what is provided by social protection as well as for the means by which it is provided. When individuals are unjustly deprived of entitlements, a human rights approach requires that they receive compensation and ensures their entitlements in the future. In addition, a rights based approach requires the monitoring, evaluation and updating of programmes to ensure effectiveness, transparency and accountability.[51]

1.3. The Right to Social Protection and the Right to Food

The right to social protection is deeply linked to the right to adequate food. Social protection can play a vital role in increasing the ability of individuals to have access to food. Economic access implies that individuals have the purchasing power and the means to acquire food from markets.[52] When individuals are unable to secure sufficient income for reasons of disability, unemployment health or poverty, the State must step in to provide support, thus discharging its obligation to fulfill the right to food.[53] By fulfilling the right to food through social protection, States can ensure that hunger is not stigmatizing and that individuals are able to lead lives of dignity, where they make choices about their lives and their food consumption, and live without fear of hunger.

Social protection can relieve immediate hunger, but also relieves the fear of future hunger. A recent report by the High Level Panel of Experts on Food Security and Nutrition established by the Committee on World Food Security (CFS) describes succinctly the connection between long-term food security and social protection: "People who are already poor are vulnerable to hunger because they lack the resources to meet their basic needs on a daily basis. They are also highly vulnerable to even small shocks that will push them closer to destitution, starvation, and even premature mortality. The appropriate social protection response to chronic poverty-related food insecurity is social assistance linked to 'livelihood promotion' measures that enhance incomes. People who are not poor now but face the risk of future poverty are vulnerable to hunger if these risks materialize and they are inadequately protected against them (they will face transitory food insecurity)."[54]

1.4. Obligations for the Allocation of Resources

Under the International Covenant on Economic, Social and Cultural Rights (ICESCR), States must devote their **maximum available resources** to the fulfillment of economic and social rights, including through the establishment of social protection systems.[55] As recognized under the ICESCR, some dimensions of economic and social rights can only be achieved progressively over time. However, this cannot be invoked as a pretext for delaying action. States are required to devote their maximum available resources at any given time towards the progressive realization of economic and social rights.

What constitutes a country's **maximum available resources** should be determined dynamically, rather than from a static perspective. Certain core obligations must be complied with at all times, even by States, which have few resources available. According to the CESCR, "In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations."[56] Specifically, in regards to the right to food, the Committee states that "Should a State party argue that resource constraints make it impossible to provide access to food for those who are unable by themselves to secure such access, the State has to demonstrate that every effort has been made to use all the resources at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations."[57] Determining what constitutes a State's maximum available resources is not a question of delegating a certain portion of taxes to the fulfillment of economic and social rights, but a question of broader fiscal policy and how the tax system is conceived. What constitutes maximum available resources, is thus a question of both willingness and ability to pay,[58] and requires that States take their human rights obligations into account when making decisions regarding the mobilization of resources (including through taxes) and the setting of the budget.

States which are unable to mobilize sufficient resources by themselves must call upon international assistance and cooperation, and those States in a position to assist should provide the support required, as recalled in Principle 33 of the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights.[59] This obligation is an implication of article 28 UDHR entitling everyone to a social and international order in which the rights and freedoms set forth in the UDHR can be fully realized.[60]

In regards to the right to social security, the Committee on Economic, Social and Cultural Rights has stated that "[d]epending on the availability of resources, States parties should facilitate the realization of the right to social security in other countries, for example through provision of economic and technical assistance. International assistance should be provided in a manner that is consistent with the Covenant and other human rights standards, and sustainable and culturally appropriate. Economically developed States parties have a special responsibility for and interest in assisting the developing countries in this regard."[61] On the right to food, States "should recognize the essential role of international cooperation and comply with their commitment to take joint and separate action to achieve the full realization of the right to adequate food. In implementing this commitment, States parties should take steps to respect the enjoyment of the right to food in other countries, to protect that right, to facilitate access to food and to provide the necessary aid when required."[62] Helping to create and co-fund the GFSP could be a means for richer States to meet their legal and moral obligation to assist LDCs in providing social protection. The following sections of this Briefing Note explain how.

1.5. The Political Space for Social Protection and the Social Protection Floor

Over the last decade, new political space and international support has emerged for the promotion and adoption of social protection systems at the domestic level. The ILO has been at the forefront of the promotion of social protection but in recent years numerous other entities from the G20 and the CFS to the World Bank have begun to develop policies on social protection. One of the key developments has been the emergence of the **social protection floor** concept, pioneered by the ILO. The social protection floor concept seeks to describe the basic package of social protection that States should adopt as well as to provide a concrete and measurable concept from which to build policy.

More than a decade ago, the ILO came to the conclusion that the prevailing model of globalization and the emphasis on structural adjustment policies had made social protection more necessary than ever.[63] At the 2001 International Labour Conference the Committee on Social Security met for the first time and began to discuss how to promote social protection systems.[64] In 2003, the International Labour Office launched the Global Campaign on Social Security and Coverage for All.[65] Social protection has remained on the agenda of the ILO, gaining prominence and international support since.[66]

In recent years, the ILO has promoted the concept of the social protection floor.[67] This concept was clearly spelled out in June 2011 when the ILO, at its 100th Session, adopted a resolution setting out a two-pronged strategy for the adoption of social protection systems.[68] The first dimension of the strategy, the horizontal dimension, seeks to encourage states, in line with national circumstances, to adopt or extend current social protection coverage to meet the universal protection of the population with respect to at least minimum levels of income security and access to health care.[69] This is the **social protection floor**. The second dimension, the vertical dimension, seeks to encourage States to progressively build on their social protection coverage in order to ensure higher levels of protection in line with up-to-date ILO social security standards.[70] The 100th Session also led to a demand for "a Recommendation complementing the existing standards that would provide flexible but meaningful guidance to member States in building Social Protection Floors within comprehensive social security systems tailored to national circumstances and levels of development."[71]

Several months later, a comprehensive report advocating for the global implementation of the social protection floor was published by the Social Protection Floor Initiative's advisory group convened by the ILO with the collaboration of the World Health Organization (WHO), and chaired by Michelle Bachelet, head of UN Women and former president of Chile.[72] The findings of the report include recommendations for coherence and coordination among international organizations and call for innovative solutions to address economic shocks, structural changes and sustainability as well as for finding creative sources for financing social protection.[73] The report stresses the importance of linking the social protection floor initiative to other strategies on the international level, noting that adopting social protection could be a major step towards achieving the UN Millennium Development Goals in 2015, in particular to eradicate extreme poverty and hunger, reduce child mortality rates, improve maternal health and combat HIV/AIDS, malaria and other diseases.[74] In June 2012, the ILO Conference adopted the Recommendation Concerning National Floors of Social Protection, referred to as Social Protection Floors Recommendation, 2012. An overwhelming majority of delegates from the ILO's 185 member States, including government, employer and worker delegates, supported the initiative, with 453 votes in favour of adopting the Recommendation and one abstention.[75]

The **social protection floor** draws from and is grounded in human rights.[76] It is "predicated on the normative belief that social protection should reflect a social contract between governments as duty-bearers and citizens or residents as rights-holders".[77] The ILO defines social protection floors as "nationally defined sets of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion."[78] More specifically,

> *They are nationally defined sets of basic social security guarantees, which aim at ensuring basic income security and access to essential health care and other social services for all. They should secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion, and allowing a life in dignity. Defined at the national level, such social protection floor guarantees may be achieved through a variety of means, including contributory or non-contributory social transfers. These can include old-age pensions, disability benefits, child benefits, income support benefits and/or employment guarantees and services for the unemployed and working poor, as well as access to essential health care. National social protection floors would also facilitate access to essential social services, including health, water and sanitation, education, food security, housing, and other areas defined according to national priorities.*[79]

The social protection floor includes guarantees of (1) "basic income security, in the form of various social transfers (in case or in kind), such as pensions for the elderly and persons with disabilities, child benefits, income support benefits, and/or employment guarantees and services for the unemployed and the working poor" as well as (2) "universal access to essential affordable social services in the areas of health, water and sanitation, education, food security, housing, and others defined according to national priorities".[80]

The ILO calls on member States to, "in accordance with national circumstances, establish as quickly as possible and maintain their social protection floors comprising basic social security guarantees. The guarantees should ensure at a minimum that, over the life cycle, all in need have access to essential health care and to basic income security which together secure effective access to goods and services defined as necessary at the national level."[81] More specifically, the ILO mentions that social protection floors should include at least four basic social security guarantees:

a. access to a nationally defined set of goods and services, constituting essential health care, including maternity care, that meets the criteria of availability, accessibility, acceptability and quality;
b. basic income security for children. At least at a nationally defined minimum level, providing access to nutrition, education, care and any other necessary goods and services;

c. basic income security, at least at a nationally defined minimum level, for persons of active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and
d. basic income security, at least at a nationally defined minimum level, for older persons.[82]

The social protection floor sets a target to be achieved, but it does not prescribe which measures a country should adopt. It allows policy space for countries to adopt their own tailored social protection systems so long as programmes result in providing the basic minimums needed by the population and coverage is increased over time.

The concept of the social protection floor has been gaining international recognition and support.[83] Most notably, the United Nations Chief Executive Board adopted the Social Protection Floor Initiatives in April 2009 as one of the nine UN joint initiative multilateral actions to address the global crises of 2008 (food, financial and economic). The social protection floor approach was again endorsed by the United Nations Chief Executives Board and by the Heads of State and Government in the 2010 Millennium Development Summit, where it was part of an integrated set of "social policies designed to guarantee income security and access to essential social services for all, paying particular attention to vulnerable grounds and protecting and empowering people across the life cycle."[84] Most recently, when they met in Los Cabos on 18-19 June 2012, the leaders of the G-20 released a declaration in which they offered support for the promotion and adoption of social protection systems. Specifically, they stated, "We recognize the importance of establishing nationally determined social protection floors. We will continue to foster inter-agency and international policy coherence, coordination, cooperation and knowledge sharing to assist low-income countries in capacity building for implementing nationally determined social protection floors. We ask international organizations to identify policy options with low-income countries on how to develop effective sustainable protection floors."[85] Similar messages have also been put forward in the High Level Segment Ministerial Declaration of the United Nations Economic and Social Council,[86] and the International Monetary Fund (IMF) has worked with the ILO on piloting the Social Protection Floor Initiative in three countries (El Salvador, Mozambique and Vietnam).[87]

The CFS will be discussing social protection and the social protection floor at its 39th session on 15-20 October 2012, emphasizing the connection between social security and food security, and how implementing rights-based social protection systems can lead to improved food security outcomes. In June 2012, the High-Level Panel of Experts on Food and Nutrition released a report, *Social Protection for Food Security*, which reflects and builds on the ILO social protection floor concept, while making specific links to hunger.[88] The report proposes a "Food Security Floor" concept, which is similar to the social protection floor, but focused on realizing the right to food and serves as a complementary "package of interventions" with the social protection floor.[89] The Food Security Floor "recognizes "that food is a basic need for survival – freedom from hunger being the only human right declared a 'fundamental' right in the ICESCR – and proposes a minimum set of interventions that would ensure food security for all. While there are obvious overlaps between the two agendas, the 'food security floor' focuses explicitly on measures to ensure or protect individual access to food, which is especially important in countries or regions affected by chronic food deficits or occasional food shocks."[90] The High-Level Panel of Experts draws specific attention to the need for policy space within both sets of floors for countries to design and implement programmes and policies which reflect their needs, rather than the promotion of one-size-fits-all models.[91] In advocating for the Food Security Floor, the CFS will also be advocating for the social protection floor, and will be promoting both concepts as an approach to development and the fulfillment of human rights.

While not specifically tied to the social protection floor, a number of other institutions are now discussing and contemplating how to support and advance social protection. For example, the Special Rapporteur on extreme poverty and human rights has been undertaking work on social protection[92] and has recommended that States ensure "at the very least, minimum essential levels of non-contributory social protection – not as a policy option, but rather as a legal obligation under international human rights law".[93] Recently, the United Nations Children's Fund (UNICEF) put forward its own approaches and principles in its Social Protection Strategic Framework.[94] Meanwhile, in April of 2012, the World Bank released its Social Protection and Labor Strategy 2012-2022, designed to support risk management for individuals and societies in order to foster resilience and opportunity.[95] The Strategy emphasizes, *inter alia*, building coherent portfolios of social protection and labour programmes, extending social protection and labour programmes to the poorest countries and the poorest people, the centrality of jobs and opportunities, and sharing knowledge.[96] Like the ILO and the CFS, the World Bank does not promote a one-size-fits-all model, but "calls for improving evidence, building capacity, and sharing knowledge across countries to facilitate informed, country-specific, fiscally sustainable social protection and labor programs and systems."[97]

Increasingly, developing countries are receiving international support in moving towards the adoption and implementation of social protection systems. The World Bank has been providing financial support for social protection, lending 11.5 billion USD between 2000-2010 to support such programmes in 83 countries.[98] Various other commitments have been made in this regard. Agreements to support domestic social protection commitments in developing countries, with relevance for the right to food, have been made in the Marrakesh Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. The Marrakesh Decision is part of the WTO Agreements and contains the unfulfilled promise to support LDCs during short-term difficulties in financing normal levels of commercial imports of basic foodstuffs.[99] Although its realization is far from satisfactory since developed countries have invoked ambiguities in the text to dilute and/or delay the fulfillment of their political commitment,[100] the Marrakesh Decision nonetheless serves as a model of how development concerns such as social protection can be implemented into different regimes of international law such as the trade regime. Even more relevant to the proposed GFSP, the 2000 Cotonou Agreement,[101] signed between the European Union (EU) and 79 countries from Africa, the Caribbean, and Pacific (ACP), requires the EU to "provide support for market based insurance systems designed for ACP States seeking to protect themselves against short term effects of exogenous shocks."[102] Through the Cotonou Agreement, the EU has already pledged to engage in capacity development for insurance against exogenous shocks. Supporting the GFSP, which protects against exogenous and endogenous covariant risks would be an ideal opportunity for the EU to fulfill its obligations under the Cotonou Agreement.

We can and must do more. There is now a strong consensus on the value of social protection systems not only in facilitating social inclusion, but also in advancing development. And there is a consensus on the need to develop global partnerships and collective actions to promote social protection. Building on these advances, we must move towards the Global Fund for Social Protection.

2. The Challenges for States in Making Social Protection Commitments

Given the global recognition of the importance of social protection systems and the new international support for the adoption of social protection systems, why are so few States adopting social protection systems and what are the impediments to them doing so? There are at least three main challenges to adopting rights-based social protection systems at the national level, all of which feed the lack of political will for national governments to develop and implement comprehensive systems.

The first challenge is the cost of providing basic services in poor countries where present demand would be high. In many poor countries large segments of the population currently live in poverty and would likely qualify for support immediately, putting early strains on the cost of social protection. In addition, in many countries a lack of infrastructure would make service delivery difficult or too costly. Although the costs of providing basic social protection may be affordable when estimated globally,[103] for many countries the domestic costs still may be beyond their capacity, even if they were to devote their maximum available resources to that objective. Contributory schemes, which help to reduce costs in many developed countries,[104] may also not be an option in countries where large segments of the population are poor and where employment-linked social insurance is often not suitable due to the significant per cent of those informally employed.[105] Given the costs associated with providing even a basic social protection floor, as articulated by the ILO, many countries may be hesitant to adopt the necessary schemes.

But there is also a second challenge, which the proposed GFSP seeks to address more directly. That challenge relates to the risks of future surges in the cost of social protection provisions. For many countries, particularly small, low-income countries, one particular challenge to implementing social insurance approaches is that the population has a rather homogeneous set of vulnerabilities when considering the covariant risks of natural disasters, epidemic diseases, a sudden loss of export markets or of remittances, etc. If such a covariant risk materializes, the peak in demand for social protection could be too costly for one national system to bear alone, and cause its ruin. For instance, in a primarily agrarian society, where the majority of the population lives off of subsistence farming, a drought or other climate-related shock could trigger a surge in demand that exceeds the capacity of the system. Similarly, an event of this nature could reduce available funds of the government, further limiting its ability to provide protection. The same is true for hefty exogenous shocks such as the global financial crisis[106] or a significant rise in the price of importing food commodities for food-deficit countries.[107] The risks of suddenly having to accommodate such a large pool of people, when government revenues are also under pressure, could significantly deter the adoption of social protection systems.

Finally, States may see the cost of adopting rights-based social protection systems as an additional challenge to the general adoption of social protection. Under a rights-based approach to social protection, benefits are legal entitlements that individuals may claim as rights for which they must have access to independent claims mechanisms such as courts. If the State was unable to fund the basic costs of a social protection system, or if a future crisis resulted in an inability to pay entitlements, it could be unable to fulfill its commitments and therefore face legal claims from the intended beneficiaries of social protection. The GFSP would allow States to adopt rights-based social protection systems without having to fear that adopting such systems might prove fiscally unsustainable in the face of shocks.

3. Making Social Protection Happen: The Global Fund for Social Protection

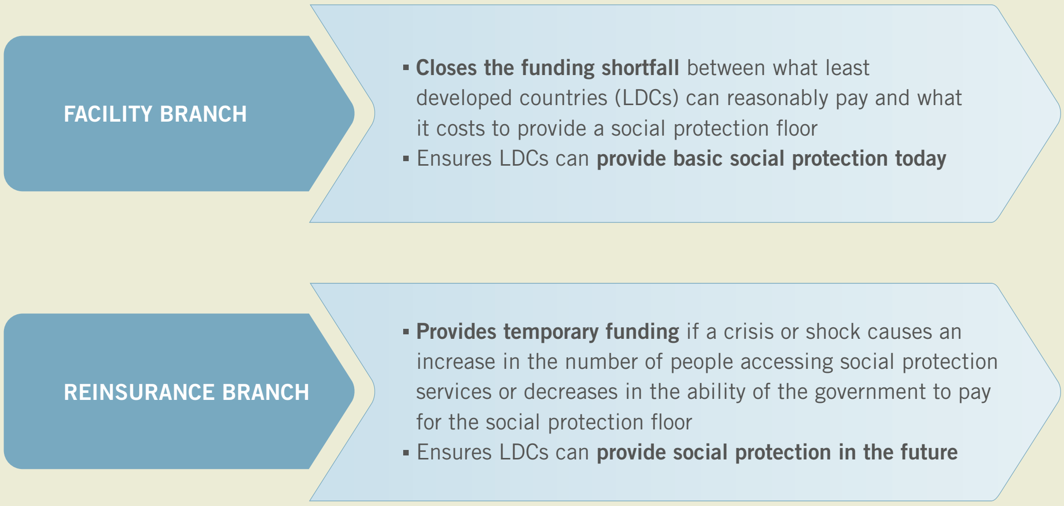
3.1. The Global Fund for Social Protection

The factors that prevent States from adopting rights based social protection systems can be summed up as the risks associated with the costs of fulfilling commitments made. A solution could thus be found in providing a means for States to manage these risks and costs. What is needed is a mechanism guaranteeing the support of the international community for commitments to provide basic social safety nets if the costs exceed the capacities of individual States' budgets, both today and tomorrow. The Global Fund for Social Protection, described below, could fill this void.

The Special Rapporteur on the right to food first introduced the idea of a global mechanism to support social protection at the national level and help insure against risk in a report presented to the United Nations Human Rights Council in September 2008, at the request of the Council, on the measures needed to address the global food price crisis of 2007-2008.[108] At that time, the early effects of the surge in prices of foodstuffs on international markets were already clear. Rising food prices and weak or non-existent social protection systems left many around the world unable to purchase adequate food, and often unable to turn to their State for support. It was clear from the impacts of the crisis that insurance mechanisms could play a useful role in managing risk. In his report, *Building Resilience: A Human Rights Framework for World Food and Nutrition Security*, the Special Rapporteur noted that "uncertainty about possible future shocks to their economies is a major disincentive for poor countries to establish robust social-safety nets, since they know their fiscal resources may be strained as a result of adverse shocks brutally increasing the needs of the population. In order to address this problem, the establishment of a global reinsurance fund has been proposed, providing insurance to poor countries against sudden shocks, whether of internal or of external origin, leading to rising demands for social support in ways that might not be fiscally sustainable for the countries concerned."[109] Since that time, the idea for and the scope of the mechanism has grown to also include support for the daily costs of social protection systems, in addition to insurance against future shocks.

The **Global Fund for Social Protection** could provide the vital support needed by States in order to make social protection for all a reality. The concept for the GFSP relies on commitments made by all States that stem from their human rights obligations. It relies on poorer States, or LDCs, devoting their maximum available resources to domestic social protection systems grounded in human rights in an effort to provide at least the basic social

Figure 1. The two branches of the GFSP: Facility and Reinsurance



protection floor. It then relies on the richer countries, those in a position to assist and which have a duty of international assistance and cooperation, to help meet the gap between what poorer States are able to provide and the social protection floor. Establishing the GFSP would provide a means for both sets of commitments to work in tandem.

As envisioned, the GFSP would consist of two branches, each providing a particular service to poor countries to support their adoption of social protection systems, and ensure that a rights-based approach to these systems could be taken. First, through the **facility branch**, the GFSP would both support States and supplement the costs of their basic commitments to build social safety nets. Second, through the **reinsurance branch**, the GFSP would provide reinsurance against the future risks associated with providing social protection, by offering financial assistance to a country unable to make good on its social protection commitments if a future event results in the costs of the system exceeding the country's capacity to pay. These future events could include a natural disaster, an epidemic disease, an extreme price increase of basic food commodities and commodities needed for operating the social security system (such as pharmaceuticals or medical supplies), a sudden loss of revenues from exports, extreme fluctuations of exchange/interest rates, or an armed conflict.[110]

As an example of how the GFSP could function, imagine a State decided to adopt a basic social protection floor. Assuming, even after committing its maximum available resources to general social protection, this State was only able to fund two-thirds of this social insurance or protection system, the State could turn to the GFSP for financial support to cover the remaining third of the costs. This would be the work of the **facility branch**. If a severe drought in the future suddenly caused massive unemployment, widespread hunger and a drastic increase in the number of people eligible for social protection, leaving the State unable to provide the level of support committed to, the State would be able to seek temporary support from the GFSP to cover these non-permanent costs. This would be the work of the **reinsurance branch**.

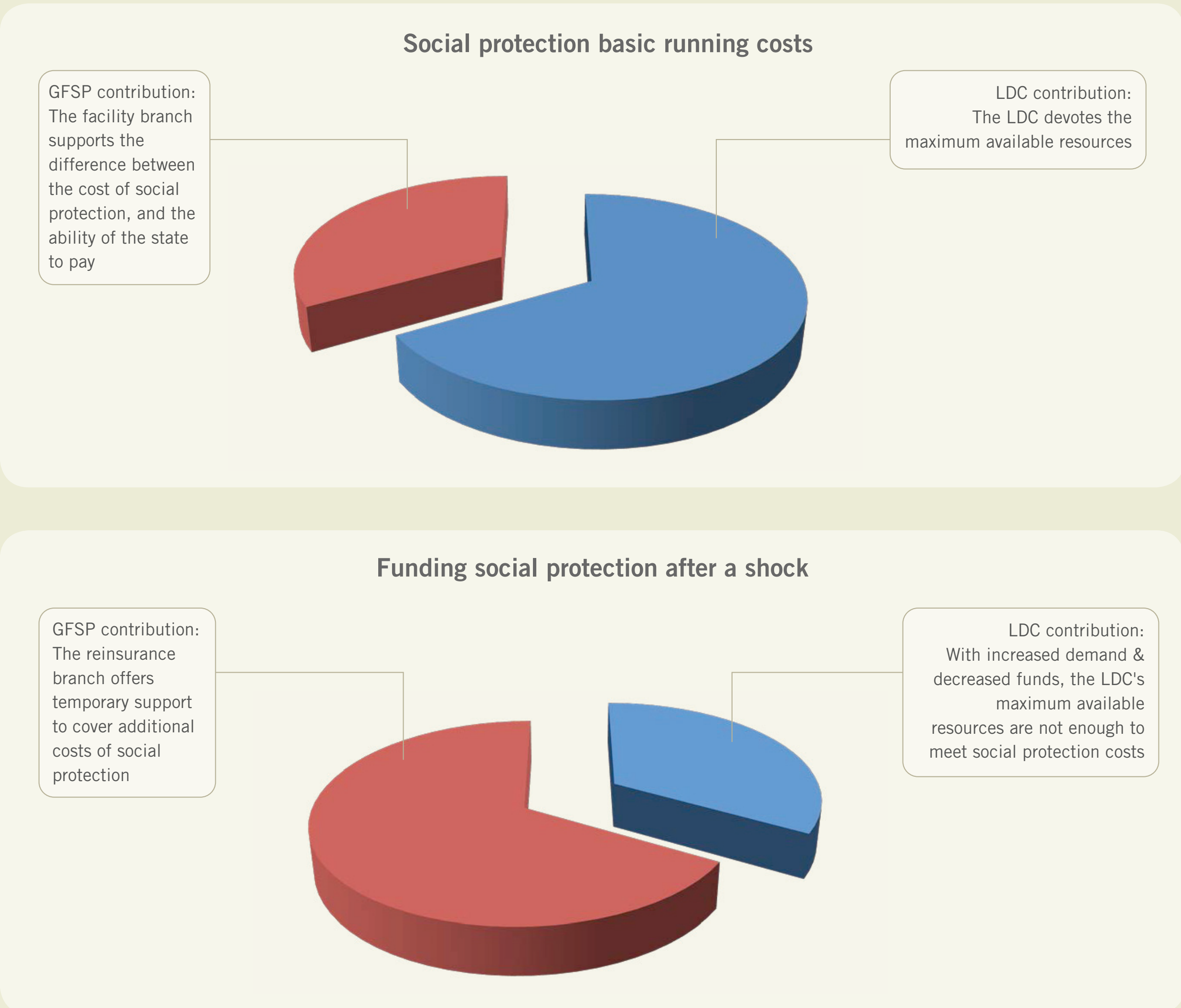
With both financial services available to States, it would be feasible to set up social protection systems. Importantly, it would also be feasible to set up rights-based systems. The direct aid and the insurance-based aid, would allow States to make rights-based commitments without fear of being held accountable for inability to pay in the future.

In summary, the GFSP would involve the commitment of poor States to implementing rights-based social protection systems with their maximum available resources and the commitment of richer States to devote a share of their international development budgets towards support for social protection. It would involve both the establishment of a support fund, the **facility branch**, to allow countries to meet their commitments to basic social floors, and the creation of a reinsurance mechanism, the **reinsurance branch**, to guard against future risk. What the scope of eligible social protection programmes would be, how funding for everyday costs would be administered, and what form of reinsurance would provide the most effective support remains open to deliberation. However, elements of what could constitute the GFSP are detailed below, in order to initiate a conversation grounded in human rights on the feasibility and operability of the GFSP.

3.2. How it Could Work: Domestic Commitments of Poor Countries

In order for the GFSP to function, poor countries would need to adopt of a set of domestic commitments towards the institutionalization of social protection systems to provide the minimum floor of social protection. These commitments could be both substantive and procedural regarding the programmes to be implemented. First, countries could be asked to adopt social protection systems that allow everyone to have access to the minimum social floor. This means that no one, including those employed in the informal economy, should be discriminated against in access to social protection systems.[111] For some countries this will mean creating new social protection systems. For others, it will involve taking account of gaps in current provisions. Countries would need to figure out the costs associated with providing a social protection floor, and given their obligation to devote maximum available resources, would need to identify whether and what level of support was needed from the international community and the GFSP in order to meet these basic requirements.[112] Countries

Figure 2. How the GFSP would help meet the costs of social protection



could be asked to progressively take steps to ensure the future funding of social protection system from domestic resources, unassisted by the international community.

Second, countries could be asked to ensure that social protection systems are able to quickly respond to crises that either increase the number of people who depend on the system or reduce the funds available to the State, or both. This will first involve understanding the covariant risks faced by the population through collecting relevant data and establishing a mechanism to monitor risk factors. An adequate public statistics system will be of utmost importance for the mid-term and long-term success of the national social protection system as well as for the GFSP.[113] States could also be asked to develop elements of social protection systems that have the possibility of responding to future shocks. This would mean ensuring that plans are in place to account for increased demand and to deliver increased services if need be. Finally, as part of being a member of the GFSP, in order to reduce the "moral hazard" involved in any insurance scheme, States could be asked to adopt policies that reduce the risk of shocks. For example, countries in drought-prone areas could be encouraged to support irrigation, to encourage drought-resistant agricultural practices, to build rainwater-harvesting systems, or to establish food reserves.

Third, participating countries could be asked to commit to adopting social protection systems grounded in human rights. Human rights-based social protection systems have a number of characteristics, as detailed above. Social protection would need to be institutionalized in law, so that access becomes a legal entitlement rather than a benefit. The beneficiaries should be informed about their rights to social protection. The individuals excluded from the system should have access to claims mechanisms allowing an independent body to review the decision to deny benefits to which they claim a right.[114] Social protection systems would also have to be non-discriminatory, to be designed in participatory fashion, and seek to empower individuals and communities by involving them at the design, implementation and evaluation stages.

A global social protection floor for everyone must of course be a top priority on the international agenda. However, "one-size-fits-all" design for social protection systems should not be encouraged. Human rights norms and standards do not prescribe specific policy measures, and States have discretion to formulate policies most appropriate to their national context in discharging their international human rights obligations. Indeed, the welfare system components as they currently exist in LDCs are quite diverse.[115] LDCs should be able to design social protection systems that best support the needs and risks of their populations. This idea is supported by the social protection floor concept, which allows each country to set its own social protection minimums – identifying what policies to put in place and how to design those policies. The social protection floor concept does, however, require that States give due consideration to a number of factors when designing social protection systems, including that "basic income security should allow a life of dignity" and that levels of "basic social security guarantees should be regularly reviewed through a transparent procedure that is established by national laws, regulations or practice".[116]

3.3. How it Could Work: the Facility Branch and Support for General Commitments

In a number of studies, the ILO examined the costs of adopting universal basic old-age and disability pensions, basic child benefits, universal access to essential health care and social assistance/100 day employment systems in several African and Asian countries. The costs for providing these basics services ranged from under 4 per cent of GDP for India in 2010, to just above 10 per cent for Burkina Faso.[117] Projecting the costs into the future, the studies found that the general per centage of GDP remained similar in 2020 and 2030, though for some countries including Cameroon, Senegal and Guinea the per centage costs were estimated to decrease, while for countries like Ethiopia and the United Republic of Tanzania, estimates for the same period showed that an increasing share of GDP would be needed to cover the basic costs.[118] These costs may be out of reach for some LDCs, even in a scenario where they allocate maximum available resources.

The GFSP would be used to fill the gap between the cost of the social protection floor and the maximum available resources of States. What would then be required to fill this gap is a figure significantly less than 2 per cent of global GDP. According to ILO statistics, it would cost less than 2 per cent of global GDP to provide the basic social floor to all the world's poor.[119] Given that low-income countries, or LDCs, would be asked to cover a significant portion of these costs through the allocation of their maximum available resources, it would simply be the additional costs that the international community would be asked to provide. Although, in theory, a 'GFSP-minus' could be conceived in which only the costs of reinsurance would be covered, allowing LDCs to face unpredictable shocks, it would be neither practical nor desirable for the GFSP to only address that dimension: the GFSP should also support low-income countries in establishing and funding social protection systems in the first place, when they lack the resources to do so. The cost of this component (complementing the investment in social protection by the LDCs themselves) may be estimated to represent about one per cent of the GDP of the least developed countries, or about five billion USD.

The GFSP could also provide non-financial services to LDCs to assist them in strengthening their basic commitments to providing social protection. To this end, in addition to financial services, the GFSP could offer technical support to local and national authorities; assistance in building civil society's capacity for monitoring the social protection system and holding the Government accountable; and advise on the implementation of effective taxation systems

The support for basic commitments could be organized in a number of ways. Support could be provided by a formal fund through which richer countries allocate donations and funnel expertise. This fund could then be redistributed to poor countries to close the gap between the resources they can mobilize domestically (their "maximum available resources") and the costs involved in providing a social protection floor, including the overhead in administrative costs involved. A new body could be constituted to distribute this fund and provide knowledge echange, or it could be housed in an existing international institution. A second option could be that richer States simply allocate their foreign development support to social protection systems in developing countries directly. This may result in less even distribution of funds across countries, but may also be more politically viable for the donor States. This note provides a deeper discussion of various options below.

3.4. How it Could Work: the Reinsurance Branch and Support for Future Risk

The insurance market's traditional and well-tried answer to covariant risk is reinsurance.[120] Reinsurers insure the insurers by taking over a portion of their risk for a reinsurance premium. The main functions of reinsurance are financing, capacity, stabilization and most pertinent here, catastrophe protection.[121] Catastrophe protection allows insured schemes to protect themselves against insolvency, to lower their need for contingency reserves, and thus to enhance their discretionary budget.[122] Buying reinsurance allows insurers to include certain individuals and groups in insurance schemes who would otherwise be excluded because of covariant risk. The principle of reinsurance is therefore highly relevant to overcoming risk-based deterrents to the adoption of rights-based social protection systems in LDCs.

Reinsurance, as shown in Box 1, is already being used to protect social goods against different kinds of covariant risks. Past practices demonstrate the feasibility of using reinsurance for elements of social security systems. On the other hand, they also show the obstacles in designing, financing, and operating reinsurance mechanisms. These obstacles include a lack of infrastructure, statistical data, and expertise, what is often viewed as prohibitive reinsurance costs, and an unwillingness of commercial reinsurers to enter into developing markets on their own. Based on existing expertise and mechanisms in place it is highly unlikely that LDCs would be able to reinsure themselves on existing reinsurance markets at affordable terms and without technical assistance.[136] The GFSP could help tackle these obstacles by promoting knowledge building, and financially supporting the reinsurance process.

a. What to Reinsure?

What would be reinsured under the GFSP would depend on the institutional set-up, but at least two types of coverage can be imagined. The first would seek to reinsure a commitment to meet the minimal floor of social protection. In this way, reinsurance would cover any covariant risk and any event that leads to an inability of the State to meet the basic floor. It would not be project- or programme-specific but inclusive of all programmes that make up what is needed to reach the minimum social floor in the particular country. Alternatively, if such an expansive approach to reinsurance is deemed too costly, and therefore not desirable, the insurable risks could be negotiated between the LDC and the GFSP[137] in order to offer reinsurance through an "à la carte" menu of possibilities, e.g. reinsurance against natural disasters, epidemic diseases, extreme price increase of basic food commodities or supplies such as pharmaceuticals, extreme price decrease of export

Box 1. Reinsurance Mechanisms to Support the Delivery of Public Goods: Some Precedents

A variety of reinsurance mechanisms are already being used to protect public goods. These experiences that may serve as a source of inspiration for the GFSP fall into different categories. The first set is **market-based mechanisms**, and in particular those for catastrophe protection. There are two main types of catastrophe protections. First, reinsurance catastrophe treaties – also known as pre-occurrence excess contracts – are designed to insure against large accumulations of losses from a single occurrence such as a hurricane or an earthquake, causing accumulated claims to ruin the insurance system. All losses arising from a single occurrence determine the loss amount, hence the definition of a single occurrence is the most important part of a catastrophe treaty.[123] Another form of insuring against catastrophes is catastrophe bonds (CAT bonds). These are securitized risk-linked financial instruments paying off on the occurrence of a defined catastrophic event. Unless the event occurs the CAT bond holders are paid interest on the bond above market-rate and the principal at the end of maturity. If the defined catastrophic event occurs during the term of the CAT bonds, the holders will lose the right to receive interest and depending on the terms and conditions (and the severity of the trigger event) also the principal. CAT bonds are used by (re)insurance companies, public and private issuers alike, often to cover so-called "high layers of reinsurance protection" for events that have a probable occurrence of less than once per hundred years. CAT bonds could be used by the GFSP in combination with traditional reinsurance techniques to provide additional risk-bearing capacity. CAT bonds are attractive for investors since they typically pay interest above market-rate and their risk profile is independent from developments on the financial markets and thus help hedging risks within a mixed portfolio.[124] The World Bank established the "MultiCat Program", a catastrophe bond issuance platform to allow its members to access the capital markets by issuing CAT bonds.[125]

Reinsurance for microinsurance schemes is another, though less prominent, example of a market-based reinsurance model for private insurance schemes for social goods.[126] Although microinsurance schemes differ from national social protection systems, they share the main characteristic of a homogeneous risk pool exposed to covariant risks. They also often lack actuarial expertise and vital data and statistics. Despite these difficulties, examples of how to use reinsurance mechanisms for microinsurance schemes with social purposes exist in different countries.[127] In Sri Lanka the Yasiru Mutual Provident Fund offers an integrated accident, disability, life and hospitalization microinsurance product for families, who can choose from five different levels of coverage. Yasiru targets the poorest segments of the population and serviced around 24,000 persons in 2004[128] and 76,000 in 2008.[129] Yasiru cooperates with the Radobank Group (Netherlands) and receives financial support through the Radobank Foundation, as well as technical know-how and IT hardware, software, and training. Interpolis N.V. is Radobank's reinsurance subsidiary and provides long-term reinsurance against catastrophes and technical assistance to Yasiru on concessional terms. The arrangement is market-based but offers favorable conditions for Yasiru, though these details are not disclosed.[130] Another example is the International Cooperative and Mutual Insurance Federation's (ICMIF) "ICMIF Reinsurance Services" that encourages reinsurance placements between members of the ICMIF and assists them in obtaining reinsurance. One of their projects is to support the "Columna" insurance scheme in Guatemala to obtain reinsurance by helping to prepare the requisite information and statistical data.[131]

Besides these examples of market-based social reinsurance, **public and public-private-partnership (PPP) social insurance and reinsurance** schemes exist in both the developed and developing world. At the national level, for example, Spain and Canada have public agricultural reinsurance schemes[132] that have collected vast statistical data over decades. India also has successfully developed various mechanisms of public agricultural insurance since the 1970s.[133] At the international level, the World Bank Group's International Finance Corporation offers reinsurance for weather insurers.[134] And the World Food Programme has insured a portion of its emergency assistance to Ethiopia against drought through a contract with insurer Axa Re.[135]

goods leading to a significant loss of revenue for the State, extreme fluctuations of exchange/interest rates, and armed conflict.[138] Reinsurance could also be based on the ability to provide certain services and thus be project- or goal-specific. For example, a country could commit simply to providing vaccinations to children or antiretroviral medications to HIV/AIDs patients, rather than adopting a comprehensive medical benefits system. If the country was not able to meet these project-specific goals due to a financial crisis they could seek support from the GFSP. Under this option, to determine which risks are eligible and which are not (as they could be handled on a country level), the GFSP will have to play an important role as knowledge provider and risk management adviser. In either case, only those risks that could not be managed on a country level should be eligible for the GFSP – this embodies so to speak the principle of "subsidiarity of risk management".

b. How to Reinsure?

A major obstacle to using reinsurance today for social protection systems is that reinsurance markets are not very developed in LDCs,[139] and developing countries generally face manifold difficulties in tapping the financial markets to seek reinsurance for covariant risk. Reinsurance can be expensive or impossible to acquire since reinsurers are often not willing to operate in developing countries because the premium income is low, administrative costs are relatively high, and relevant infrastructure is lacking.[140] While there are exceptional institutions such as "Africa Re",[141] which acts as government-sponsored reinsurer, there are very few options for LDCs. By creating and supporting the GFSP, the international community could make reinsurance accessible and available to LDCs.

As a simple first step, regardless of how the mechanism is ultimately set up, the GFSP could assist LDCs with premium costs necessary for a functioning reinsurance scheme. The reinsurance premium costs will vary according to the hazards experienced. Even assuming a relatively high insurance rate, the cost of the premium may be minimal: perhaps one fifth of one per cent of the GDP (0.2 per cent) of the poor countries concerned, or a little more than one billion USD (based on the World Bank figures on LDCs' total GDP).

However, the most challenging question then is how – through which mechanisms – to provide reinsurance through the GFSP. This section explores three potential models for how the GFSP could function, and exactly what entity would provide the reinsurance. In the first model, the GFSP would subsidize reinsurance coverage by private reinsurers and act as a broker as well as pay the premiums if necessary. In the second, the GFSP would act as reinsurer itself. In the third model, a hybrid of the first two, the GFSP would reinsure certain risks itself and pass on others to the private reinsurance markets and subsidize the premium. It would be outside the scope of this paper to provide economic and actuarial details, therefore only the generic traditional form of reinsurance and the more innovative approach of issuing CAT bonds will be discussed. The question of funding of the GFSP itself depends partially on the legal set-up of the GFSP and partially on the functions taken over by the GFSP. How different types of legal structure and funding are more or less suited for different functions of the GFSP is elaborated in the following sections.

Subsidizing and Brokering Reinsurance Coverage by Commercial Actors

There are a number of reasons why LDCs and poor countries may not already use reinsurance. These include *inter alia* difficulties in financing the premium and insufficient knowledge about reinsurance markets and/or public tendering for reinsurance contracts. Under this first model, the GFSP would serve primarily as a coordinating and knowledge-providing mechanism between private reinsurers and States with a limited pecuniary role in the reinsurance process. Essentially, the GFSP could step in to subsidize and broker reinsurance coverage, acting as a specialized financial intermediary.[142] The GFSP could first do a joint risk assessment with the LDC. Second, the GFSP could negotiate with the LDC to determine which risks could be reinsured and the GFSP and the LDC would decide together if the LDC is itself able to obtain reinsurance on the global markets through public tendering[143] or if the GFSP should act as a broker between the LDC and reinsurers.[144] Finally, the GFSP could assist the LDC locate and pick a reinsurer or organize a public offering. The GFSP would then decide what share of the premiums could be subsidized by the mechanism.[145] The LDC would subsequently contract directly with the commercial insurer and receive minimal financial support from the GFSP. In order to avoid the risk of insolvency, a ceiling could be set (Probable Maximum Loss), defining the limits of what can effectively be insured as opposed to systemic (non hedgeable) risk.

The advantage of this model is that the risks could be reinsured by (different) commercial reinsurers who have the expertise to calculate and price the risk. Public tendering by the LDCs themselves or by the GFSP would enable competition that, under the right conditions, should lead to a fair and accurate pricing of the risk. The risks would be dispersed in the global reinsurance market, where they could be hedged or atomized through securitization and/or other risk management techniques. The GFSP itself would therefore not become a concentration risk for the LDCs because it would not retain risks on its books. Not taking over risks itself means that the GFSP would not need substantial capitalization to counterbalance risks on its balance sheet.

The obvious disadvantage of this model is its complete reliance on commercial reinsurers. Generally, reinsurance markets have been criticized widely for being inefficient, costly, and for suffering from pricing cycles that respond to major losses.[146] Furthermore if no counterpart is found to reinsure a risk, the GFSP would not be in a position to provide coverage. Commercial reinsurers might abuse their position and not offer fair and accurate prices since they are aware that they are the only ones to offer coverage and that the premiums get subsidized by the GFSP. Even if commercial reinsurers would not be prone to moral hazard of this kind, they are of course operating on a for-profit basis, and whatever profit margin they have, this amount of money is not going to be used for the advancement of LDCs' social protection systems. Another critical aspect is that know-how transfer would probably be hampered by conflicts of interest for reinsurers who could try to create dependence between them and LDCs to obtain subsequent reinsurance contracts.[147]

In a variation of this model, the GFSP would assist LDCs in issuing CAT bonds and subsidize the underwriting and/or interest payments on the bonds. Issuing CAT bonds may be more cost-efficient than seeking traditional reinsurance, as some scholars have shown in comparative models.[148] The MultiCat Program platform of the World Bank could provide the necessary framework for the issues. The GFSP could act as a broker for the CAT bonds if necessary but not as an underwriter since the GFSP itself would not take any share of the risk. Ideally the World Bank would be able to underwrite the CAT bond together with commercial investment banks. Similarly to reinsurers, investors on capital markets have professional knowledge and would only buy the CAT bonds if they fit into their portfolios and are well-priced, meaning that the functioning of the approach would depend on the behaviour of market participants. Another disadvantage is that the LDCs together with the World Bank and GFSP would have to find investment banks agreeing to act as underwriters or else LDCs would have to issue the CAT bonds without underwriting, which means taking the risk that the issue cannot be placed on the markets. Furthermore, investors in CAT bonds would not contribute to any knowledge transfer, as reinsurers could.

Given the fact that the core function of the GFSP in this model would be to subsidize reinsurance from commercial reinsurers and investors, it would not seem possible to create a PPP model integrating these actors and/or to receive funding from them without introducing conflicts of interest. Even if these conflicts of interest would not materialize and business would be conducted at arm's length, the semblance of undue bonding would undermine the credibility of the GFSP. Hence if the GFSP was to subsidize reinsurance it would have to be created as an intergovernmental organization, publicly funded, excluding donations from financial market participants and affiliated organizations.

Acting as Reinsurer of Last Resort

The GFSP could be designed as a "reinsurer of last resort" for covariant risks of LDCs, serving itself as the reinsurer. Acting as reinsurer the GFSP could as a first step carry out a risk assessment and assist in necessary adaption of national social protection systems just like in the subsidizing model described above. As a second step the GFSP and the country concerned could negotiate which risks could be reinsured and at what price. If these negotiations were successful, the GFSP could enter into a reinsurance contract with the government. Whether there were premiums attached and at what rate would be a question to determine by the institutional set-up of the GFSP and the fiscal support for the mechanism provided by the global community.

The concept of a central public player acting as a reinsurer of last resort, i.e. taking over risks that no commercial reinsurer covers, is not new: there is ample precedent for such a role.[149] In some cases the reinsurance function might be carried out implicitly, e.g. for ageing-related costs in ageing societies where insurance systems might come to the end of their tether because of increasing health, nursing, and pension costs. In other cases governments have played an explicit role as reinsurer for example when underwriting deposit insurance for the banking system.[150] The OECD has observed that an adequate financial response of smaller OECD countries for mega-risks exceeding the financial capacity of insurance markets and of a single State may only be provided via an international mechanism involving States as last resort capacity and possibly including the financial markets.[151] The underlying rationale is not only cost-efficiency but also fiscal sovereignty as ultimate means of potentially enlarging the capacity to absorb losses by increasing the tax level.

The main advantages of creating the GFSP as international social reinsurer that emerge are i) to be independent from commercial reinsurers and ii) to be able to operate on a non-profit basis, thus avoiding moral hazard in pricing and paying a profit margin. The GFSP would be able to pool different types of risks from more than one LDC and to become a specialized issuer of CAT bonds on the financial markets, ideally cooperating with the World Bank's MultiCat Program.[152] A third advantage would be greater oversight of the provision of reinsurance and the management of funds. Having the GFSP serve as the reinsurer could ensure that all LDCs are able to get coverage, including those with extremely high risk factors, and particular vulnerability to shocks.

The obstacles and downsides to having the GFSP serve as the reinsurer itself are primarily that reinsurance is a complex business and it would be *per se* challenging to create a new reinsurer. It is therefore crucial to conduct the necessary modeling in order to establish whether it would be actuarially feasible to have a reinsurer covering only LDCs' social protection systems, and how much capital such an insurer would need. Even if the question could be answered in the affirmative, more likely than not the reinsurer would need to decide on which generally insurable risks to reinsure and which to reject due to capital constraints. This would make it necessary to implement a fair decision procedure and would contradict the aim to facilitate universal basic social protection in every LDC. In order to make coverage universal, the GFSP would perhaps then have to rely on additional donations from richer States to provide support to those social protection systems or countries for which providing reinsurance was not fiscally viable.

Hybrid Model

The GFSP could be constituted under a hybrid model, combining elements of the subsidizing model with the reinsurance model. The GFSP would act as reinsurer for risks it can reinsure on its own and as intermediary for risks it cannot – these would be passed on to the global reinsurance market. Deciding if and how to reinsure would remain with the GFSP, while the LDCs could use it as the means to obtain risk assessment, assistance in designing social protection systems, and reinsurance coverage.

The hybrid model would allow the GFSP to operate on a non-profit basis for certain risks, which could be facilitated by pooling and/or securitizing them, but avoid the need for extremely high capitalization by accessing the reinsurance market for other risks. If the GFSP succeeds to establish itself as such player on the reinsurance markets, it would have more technical skills and bargaining power to bear in negotiating with reinsurers than if it acted only on behalf of one LDC at a time.[153] Thereby moral hazard by reinsurers would be minimized compared to the subsidizing model.

The question of adequate capitalization and expertise remain challenging also for the hybrid model, as well as the concentration and insolvency risk of the GFSP itself. There are two different incentives, however, that could motivate reinsurers to back such a PPP. First, they would have the chance to develop untapped markets with substantial potential under favorable conditions they would not find elsewhere (without public participation and subsidy). Second, they may wish to do it for reputational reasons, e.g. to prove their corporate social responsibility.[154] However the most difficult question seems to be the legal structure and sources of funding. Neither the set-up as a traditional international organization nor the set-up as a public-private partnership as described above would be adequate for it would either lead to a lack of capital or to conflicts of interests and (perceived) dependencies. The only alternative is to create a tailor-made international financial institution that enjoys the advantages of an international organization and allows as well for private shareholders.[155] Strict compliance codes and mechanisms would be necessary to avoid business between the GFSP and shareholders that is not conducted at arm's length.

3.5. How it Could Work: Institutional Set-Up

With respect to the institutional set-up of the GFSP, many different approaches can be imagined. It would be possible to establish it as a new international organization with its own legal personality and to aim for global membership. Creating an international organization would not only have the advantage of giving the GFSP a certain independence and credibility, but would also free the GFSP from fulfilling obligations under the national law (such as reinsurance regulations) of countries it is servicing. As an international organization the GFSP could receive additional voluntary funding from donors under the condition of full disclosure and avoiding conflicts of interest. The GFSP could also be institutionalized in a preexisting international organization. It could be housed as one of the World Bank Group's agencies to benefit from the World Bank's vast experience in financing development projects and established infrastructure; or managed through the ILO. Alternatively the GFSP could be organized as a national (non-profit) enterprise or association thus allowing for public and private owner-/membership but being bound by the governing laws of the country of incorporation and countries where the GFSP carries out its activities. Incorporating the GFSP as a sort of PPP would enable direct participation of possible partners from civil society and (re)insurance industry and thereby possibly permit the GFSP to attract more expertise and funding from non-governmental actors.[156]

No matter what format the GFSP takes, it will be essential for its success to ensure the participation of developed and developing countries in the organization and design of the mechanism. Without participation, the GFSP will not reflect the needs of the various parties. The GFSP should be designed to ensure that LDCs make commitments to adopt or expand human rights-based social protection systems, and that developed countries provide financial support. By maximizing the commitment of LDCs through participation and empowerment in the risk management process – including the control of risks and their avoidance and minimization – and by asking LDCs to pay a share of the reinsurance premium, the GFSP could also minimize the problem of moral hazard. The more engaged LDCs are in the risk management process and the bigger the share they contribute to the premium, the more expensive moral hazard would be for them and the more unlikely it would occur.

4. Conclusions

In 2012, the ILO's Advisory Group on the social protection floor recommended that "donors provide predictable multi-year financial support for the strengthening of nationally defined social protection floors in low-income countries within their own budgetary frameworks and respecting their ownership". It further suggested that "traditional donors, such as the OECD member countries, and emerging donors, agree on triangular cooperation mechanisms to enable building social protection in partner low-income countries. We recommend that such mechanisms be agreed in the high-level forums on aid effectiveness and other international forums on development cooperation."[157] The Global Fund for Social Protection is one channel through which this recommendation can be implemented. It is consistent with the idea, also put forward by the ILO, that while countries should in principle finance their social protection systems, "Members whose economic and fiscal capacities are insufficient to implement the guarantees may seek international cooperation and support that complement their own efforts".[158]

The GFSP, as described above, would place responsibilities on both States implementing social protection systems – which would be expected to make rights-based commitments towards the establishment of a social protection floor and to devote their maximum available resources to the financing of such systems – and other States – which are in a position to support those implementing social protection systems. It would encourage countries with relatively weak administrative capacity to move towards the development of statistical tools allowing them to gather data needed to develop the knowledge and expertise crucial to the management of social security systems, and most importantly to secure affordable financial conditions for insuring themselves against the risks involved in shocks such systems may undergo. The GFSP would ensure a long-term perspective and predictability in providing assistance as well as coordination amongst the international donor community, necessary for the effectiveness and sustainability of social protection, and would avoid a short-sighted, uncoordinated and fragmented approach from donors. Finally, the GFSP through facilitating the funding of social protection today and tomorrow, would assist in making access to social protection for all a reality, and help to ensure that futures generations are less vulnerable and have the stability and resources needed to make choices about their lives and futures.

References

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3. Universal Declaration of Human Rights, art. 22, G.A. Res. 217 A (III), U.N. Doc. A/810, at 71 (1948) (hereinafter UDHR).
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6. Committee on World Food Security (CFS), High Level Panel of Experts on Food Security and Nutrition, Social Protection for Food Security 11 (2012), *available from* http://www.fao.org/cfs/cfs-hlpe/en/ [hereinafter CFS High Level Panel Report].
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9. Tse-Ling Teh & Alan Martina, *Developing Countries Spreading Covariant Risk Into International Risk Markets: Subsidised Catastrophe Bonds or Reinsurance, or Disaster Assistance*, Working Papers in Econ. & Econometrics 3 et seq. (2008) (developing countries suffered in the past more from natural disasters than developed countries (measured though losses in relation to gross domestic products [GDP]) and are more prone to negative consequences of climate change in the future).
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32. Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.
33. General Comment No.19, *supra* note 19, at para. 2.
34. *Id.* at para. 9.
35. *Id.* at para. 11. The Committee lists nine principal branches of social security that should be covered by the State: health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability and survivors and orphans. *Id.* at paras. 13-21.
36. *Id.* at para. 22.
37. *Id.* at para. 23 ("All persons should be covered … especially individuals belonging to the most disadvantaged and marginalized groups, without discrimination").
38. *Id.* at para. 24 ("Qualifying conditions for benefits must be reasonable, proportionate and transparent").
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40. *Id.* at para. 26.
41. *Id.* at para. 27 ("Benefits should be provided in a timely manner and beneficiaries should have physical access to social security services in order to access benefits and information, and make contributions where relevant").
42. *Id.* at paras. 29-39.
43. *Id.* at para. 44.
44. *Id.* at para. 45. Third parties can include individuals, groups, corporations or any other entity.
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50. General Comment No.19, *supra* note 19 at paras. 62-65, 77-81.
51. *Id.* at paras. 74-81.
52. Committee on Economic, Social and Cultural Rights, General Comment 12: The Right to Adequate Food, para. 13, U.N. Doc. E/C.12/1999/5 (May 12, 1999) (hereinafter General Comment No. 12) ("Economic accessibility implies that personal or household

financial costs associated with the acquisition of food for an adequate diet should be at a level such that the attainment and satisfaction of other basic needs are not threatened or compromised. Economic accessibility applies to any acquisition pattern or entitlement through which people procure their food and is a measure of the extent to which it is satisfactory for the enjoyment of the right to adequate food.").

53. *Id.* para. 15 ("The obligation to *fulfill (facilitate)* means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. In addition, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to *fulfill (provide)* that right directly.").
54. CFS High Level Panel Report, *supra* note 6, at 11.
55. ICESCR, *supra* note 31, at art. 2.1 ("Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.").
56. U.N. Econ. & Soc. Council (ECOSOC), Comm. on Econ., Soc. & Cultural Rts. (CESCR), *The Nature of States Parties Obligations*, para. 10, U.N. Doc. E/1991/23 (Dec. 14, 1990).
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58. The language of willingness and ability comes from General Comment 12, *supra* note 16, at para. 17 ("In determining which actions or omissions amount to a violation of the right to food, it is important to distinguish the inability from the unwillingness of a State party to comply."). For the requirement as it relates to social security, see General Comment No. 19, *supra* note 19, at para. 4 ("States parties to the Covenant must take effective measures, and periodically revise them when necessary, within their maximum available resources, to fully realize the right of all persons without any discrimination to social security, including social insurance.").
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62. General Comment No. 12, *supra* note 16, at para. 36.
63. Report of the Committee on Social Security, Social Security – Issues, Challenges and Prospects 33 (International Labour Conference, Provisional Record, 89th Session, 2001).
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65. United Nations Int'l Labour Org. (ILO), Global Campaign on Social Security and Coverage for All, http://www.ilo.org/public/english/protection/socsec/pol/campagne/.
66. See e.g. United Nations Int'l Labour Org. (ILO), Social Sec. Dep't, Social Security for All: Investing in Social Justice and Economic Development (Social Security Policy Briefings, Paper 7, 2009), and United Nations Int'l Labour Org. (ILO), Declaration on Social Justice for a Fair Globalization (2008).
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69. *Id.* at 1.
70. *Id.* at 1-2.
71. *Id.* at 1.
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75. United Nations Int'l Labour Org. (ILO), Global Extension of Social Security, *ILO Social Protection Floors Recommendation Adopted* (June 12, 2012).
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89. *Id.* at 14, 58.
90. *Id.* at 58.
91. *Id.* at 58-60.
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97. World Bank, *supra* note at 5, at ii.
98. World Bank Group, Independent Evaluation Group, Social Safety Nets: An Evaluation of World Bank Support, 2000-2010 xi (2011), *available at* http://ieg.worldbankgroup.org/content/ieg/en/home/reports/ssn.html.
99. Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries (1994), *available at* https://www.wto.org/english/docs_e/legal_e/35-dag_e.htm. Developing countries proposed to establish a revolving fund that would on the one hand provide technical and financial assistance to LDCs for specific projects to improve agricultural productivity and related infrastructure, and on the other hand offer contingent credit lines that could be drawn upon if food bills were excessively high without requiring any other justification. This initiative was developed further by the United Nations Conference on Trade and Development (UNCTAD) and the WTO but eventually abandoned. Olivier De Schutter, International Trade in Agriculture and the Right to Food, Dialogue on Occasional Papers, Friedrich Ebert Stiftung, No. 46 (Nov. 2009).
100. *The Marrakesh Decision*, ActionAid, http://www.actionaid.org.uk/doc_lib/50_1_marrakesh_decision.pdf.
101. Second Revision of the Cotonou Agreement (Mar. 11, 2010).
102. *Id.* at art. 68(5).
103. *See* above.
104. Insurance has often also become a public responsibility in developed countries: the taxpayer cedes a portion of his income, in return for which the state may provide unemployment benefits, health care, and other essential services.
105. Roger Beattie, *Social Protection for All: But How?* 139 Int'l Lab. Rev. 129 (2000); S. Guhan, *Social Security Options for Developing Countries*, 133 Int'l Lab. Rev. 35 (1994).
106. Florence Bonnet, Ellen Ehmke & Krzysztof Hagemejer, *Social Security in Times of Crisis*, 63 Int'l Soc. Security Rev. 47 (2010); Anna McCord, *The Impact of the Global Financial Crisis on Social Protection in Developing Countries*, 63 Int'l Soc. Security Rev. 31 (2010).
107. Committee on World Food Security (CFS), High Level Panel of Experts on Food Security and Nutrition, Report on Price volatility and Food Security (2011), *available at* http://www.fao.org/cfs/cfs-hlpe/report-1-price-volatility/en/.
108. Report of the Special Rapporteur on the right to food, Olivier De Schutter, Building Resilience: A Human Rights Framework for World Food and Nutrition Security A/HRC/9/23 (2008).
109. *Id.* at para. 44.
110. J. David Cummins & Olivier Mahul, World Bank, Catastrophe Risk Financing in Developing Countries (2009); Olivier Mahul & Eugene Gurenko, *The Macro Financing of Natural Hazards in Developing Countries* 4075 (World Bank Policy Research Working Paper, 2006).
111. Special mention is made of those employed in the informal economy in the ILO, Recommendation Concerning National Floors, *supra* note 78, at para. 15 ("Social security extension strategies should apply to persons both in the formal and informal economy").
112. States could also be asked to address some of the factors that weaken the implementation of social protections systems.
113. Reddy, *supra* note 11, at 161.

114. One of the obstacles to effective social protection coverage is coverage under the law does not always reflect compliance i.e. persons entitled to coverage are not always receiving the benefits owed to them. Beattie, *supra* note 110, at 130.
115. Nita Rudra, *Welfare States in Developing Countries: Unique or Universal?* 69 J. of Pol. 378 (2007) (focusing especially on LDCs). *See also* Ahmad, *supra* note 12; Jean-Jacques Dethier, *Social Security – What Can Developing Countries Learn from Developed Countries?* Int'l Food Policy Research Institute (2007), *available at* http://www.ifpri.org/sites/default/files/publications/beijingbrief_dethier.pdf (last visited Feb. 3, 2012); Wouter van Ginneken, Extending Social Security: Policies for Developing Countries, 142 Int'l Lab. Rev. 277 (2003).
116. ILO, Recommendation Concerning National Floors, *supra* note 78, at para. 8 (b)-(c); Advisory Report, supra note 2, at 91-92.
117. ILO, Can Low-Income Countries Afford Basic Social Security? *supra* note 13, at 10.
118. *Id.*
119. *Id.* at 3; ILO, Social Security for All: Investing in Global Social and Economic Development, *supra* note 13.
120. Teh & Martina, *supra* note 9 (arguing that subsidizing catastrophe bonds (CAT bonds) is more efficient than subsidizing traditional reinsurance). *See also* Donald A. McIsaac & David F. Babbel, The World Bank Primer on Reinsurance (1995) (providing an introduction to reinsurance).
121. David M. Dror, *Reinsurance of Health Insurance for the Informal Sector*, 79 Bulletin of the World Health Org. 672, 675 (2001). Reinsurers also offer ancillary services, most importantly underwriting expertise since their client-base and therefore their data-base typically include more than one insurer in the same or similar markets. Thus reinsurers have an advantage in preparing statistical estimates of risks and costs and can advise insurers on which risk to retain and which to cede.
122. David M. Dror & Thomas Wiechers, *The Role of Insurers and Reinsurers in Supporting Insurance for the Poor*, in Protecting The Poor: A Microinsurance Compendium 524, 526 (2007).
123. *Id.* at 64. *See also* Cummins & Mahul, *supra* note 115.
124. J. David Cummins, *Cat-Bonds and Other Risk-Linked Securities: State of the Market and Recent Developments*, 11 Risk Mgmt. & Ins. Rev. 23 (2008) (providing an in-depth description of CAT bonds).
125. The programme enables governments to pool multiple risks (earthquake, floods, hurricanes, etc.) of different geographic regions. The CAT bonds are issued under the same "MultiCat" brand name and share a common legal structure and documentation. The World Bank acts as arranger (lead underwriter) and cooperates with investment banks and reinsurance companies to place the issue in the capital markets. Mexico issued a 290 million USD MultiCat bond in 2009 to obtain coverage against earthquakes and hurricanes and so to indirectly provide parametric insurance for Mexico's Fund for Natural Disasters (FONDEN). The issue was oversubscribed, i.e. there was more demand than supply for Mexico's MultiCat bond on the financial markets. *Insuring against Natural Disaster Risk: MultiCat Program*, World Bank, http://treasury.worldbank.org/bdm/pdf/Handouts_Finance/Financial_Solution_MultiCat.pdf.
126. The concept of reinsurance for health microinsurance systems, for example, is discussed in David M. Dror & Alexander S. Preker, Social Reinsurance – A New Approach to Sustainable Community Health Financing (2002). *See also* Alan Fairbank, *Sources of Financial Instability of Community-Based Health Insurance Schemes: How Could Social Reinsurance Help?* Technical Report No. 024 (2003) (showing how to operationalize social reinsurance).
127. In addition to the examples listed here, a pilot-project called "Social Re" has been set up and began working in India and South Africa, unfortunately little information is available about its operations. Social Re – Reinsurance for community-funded health insurance, http://www.socialre.org.
128. Dror & Wiechers, *supra* note 122, at 618 (Appendix I).
129. United Nations International Labour Organization (ILO), Sri Lanka: Yasiru Mutual Provident Fund Social Security Scheme (2008), *available at* http://www.ilo.org/gimi/gess/RessShowRessource.do?ressourceId=6611.
130. Dror & Wiechers, *supra* note 122, at 531-33.
131. *Id.* at 532.
132. Organization for Economic Co-operation & Development (OECD), Managing Risk in Agriculture: Policy Assessment and Design 32-33 (2011).
133. S. S. Raju & Ramesh Chand, *Progress and Problems in Agricultural Insurance*, 42 Econ. & Pol. Wkly. 1905 (2007).
134. Jerry Skees et al., *Can Financial Markets Be Tapped to Help Poor People Cope with Weather Risks?*, in Insurance Against Poverty 433 (Stefan Dercon ed., 2004).
135. Harold Alderman & Trina Haque, *Insurance Against Covariate Shocks – The Role of Index-Based Insurance in Social Protection in Low-Income Countries of Africa* (World Bank Working Paper No. 95, 2007). An insurance is index-based if the payout is indexed to an objectively-measured indicator instead of an individual damage occurred. The index has an insurance payout that is triggered by an easily-measured event such rainfall or temperature, so that the insurance holder does not need to prove an individual damage caused by this event. *See also* Sommarat Chantarat et al., *Using Weather Index Insurance to Improve Drought Response for Famine Prevention*, 89 Amer. J. Agr. Econ. 1262 (2007).
136. Two solutions to this problem have been tabled in the microinsurance community with regard to health insurance providers. A first option might be to create a reinsurance facility with public funding that would service the market until it becomes sufficiently attractive for commercial reinsurers. A second option could be to form a "Joint Reinsurance Underwriting Association" or syndicate among several reinsurers that would allow them to develop this market while sharing costs and risks. Dror & Wiechers, *supra* note 127, at 533-37.
137. Reddy, *supra* note 11, at 160-61.
138. Cummins & Mahul, *supra* note 110; Mahul & Gurenko, *supra* note 110, at 4075.
139. *Compare* the findings in UNCTAD, Reinsurance Problems in Developing Countries (1973), most of them are presumably still true today for LDCs.
140. Skees et al., *supra* note 134, at 422; Dror & Wiechers, *supra* note 122, at 524.

141. African Reinsurance Corporation, http://www.africa-re.com/ (last visited Feb. 1, 2012). Africa Re owned by African governments, the African Development Bank, several additional development finance institutions, and a large number of insurance and reinsurance companies.
142. Teh & Martina, *supra* note 9, at 17.
143. Public tendering was successfully used when the World Food Programme's sought to hedge its exposure to extreme drought in Ethiopia: five leading reinsurance companies were bidding in the tender, and Axa Re made the most competitive offer and won the first humanitarian derivative contract, *see* Alderman & Haque, *supra* note 140, at 17.
144. Offering reinsurance in developing countries might be an interesting opportunity for reinsurers to optimize existing risk pools with a new source of independent contingent risk. Teh & Martina, *supra* note 9, at 4-6.
145. A fair and transparent procedure how to distribute the subsidies among different LDCs would need to be designed to avoid arbitrary decisions.
146. Skees et al., *supra* note 134, at 425.
147. United Nations Conference on Trade and Development (UNCTAD), Reinsurance Problems in Developing Countries 25 (1973).
148. Teh & Martina, *supra* note 9.
149. *See generally* Organisation for Economic Co-Operation and Development (OECD), Catastrophic Risks and Insurance 196 (2005): different roles of government as (re)insurer are described and compared with examples of OECD countries.
150. Todd Groome et al., *The Limits of Market-Based Risk – Transfer and Implications for Managing Systemic Risks*, IMF Working Paper 6, 38 (2006).
151. Organisation for Economic Co-Operation and Development (OECD), Large-Scale Disasters Lessons Learned 58 (2004).
152. *See e.g.* Skees et al., *supra* note 139; Jerry R. Skees & Barry J. Barnett, *Conceptual and Practical Considerations for Sharing Catastrophic/Systemic Risks*, 21 Rev. of Agric. Econ. 424 (1999).
153. UNCTAD, *supra* note 147, at 36.
154. United Nations World Food Programme (WFP), *News Release: World's First Humanitarian Insurance Policy Issued*, http://www.axa.com/lib/axa/uploads/cpsocietes/2006/United_nations_PR_20060306.pdf.
155. The Bank for International Settlement (BIS) could serve as inspiration, as it is an international legal entity *sui generis* and had private shareholders until 2001. *See* Bank for International Settlement, http://www.bis.org/about/shareswd.htm.
156. *Compare* the model of the Global Fund to Fight AIDS, Tuberculosis, and Malaria that defines itself as a "financial instrument" to attract, manage, and disburse resources in order to enable other development organizations to implement projects on the ground. Contributions are voluntarily made by governments, the private sector, social enterprises, philanthropic foundations, and individuals: The Global Fund to Fight AIDS, Tuberculosis, and Malaria, http://www.theglobalfund.org/en/about/donors/.
157. Advisory Group, *supra* note 2, at xxxi.
158. ILO, Recommendation Concerning National Floors, *supra* note 78, at para. 12.

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