



# Brief compendium on the right to social security in the constitutions of countries in the MENA region

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## Acronyms

MENA	Middle East and North Africa
ILO	International Labour Organization
USD	United States Dollar
IMF	International Monetary Fund
UAE	United Arab Emirates

# 1 Introduction

This Compendium was produced in the framework of the Ford Foundation grant titled “Shifting the paradigm: building inclusive, lifecycle social security systems in the MENA region”.

This document provides a brief overview on constitutions in the Middle East and North Africa (MENA) region and their incorporation (or not) of the right to social security, as well as a brief overview on the importance of social security in the MENA region today. It is organised by:

- Outlining the right to social security and an adequate standard of living in internal human rights instruments; and
- Providing a classification of each MENA country in terms of its approach to social security.

## 2 The right to social security

The rights to social security and a minimum standard of living are enshrined in a number of universal human rights frameworks, and are, in many instances, incorporated into national constitutions. International instruments set out the content of the right to social security and some of the principles, by which States are to guarantee that everyone, as a member of society, has the right to social security and the right to a standard of living. Among others, it is considered that everyone should have income security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control, as well as special care to motherhood and childhood, and social insurance:

The right to social security, has been incorporated into some of the following international human rights instruments:

- **Universal Declaration of Human Rights (1948) - Article 22:** “Everyone, as a member of society, has **the right to social security** and is entitled to realisation, through national effort and international cooperation and in accordance with the organisation and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”  
**Article 25:** “(1) Everyone has **the right to a standard of living** adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and **the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.** (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same **social protection.**”
- **International Covenant on Economic, Social and Cultural Rights - Article 9:** “The States Parties to the present Covenant recognise the right of everyone to social security, including social insurance.”
- **Convention on the Rights of the Child - Article 26:** States Parties shall recognise for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realisation of this right in accordance with their national law.
- **ILO’s 1952 Convention concerning Minimum Standards of Social Security, No. 102:** Provided a legal/codified basis.

- **Social Protection Floors Recommendation, No. 202 (2012):** Reaffirms the **human right to social security**. New international consensus on the crucial role of social protection in furthering **human dignity**, social cohesion, **equality, social justice**, as well as sustainable social and economic development.

In addition to these legally binding instruments, within the framework of the Sustainable Development Goals, countries recognised that ending poverty and ensuring healthy lives requires universal social protection systems ensuring adequate protection throughout the life cycle.

The main reason as to why a human right's approach is key to an inclusive and lifecycle social protection system is because it ensures the right to social protection for all, rather than the allocation of scarce resources by targeting the “poorest” – or “the other”. A human rights-based approach to social protection entails framing social protection debates and policy decisions around entitlements rather than charity or handouts.<sup>2</sup> It forces Governments to push for a progressive realisation of the right to social protection for all – with “all” including refugees, migrants and other non-citizens. As rightsholders, individuals become agents of change, also signifying a shift from being merely passive agents or beneficiaries on the receiving end.<sup>3</sup>

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<sup>2</sup> Barrantes, A. (2020).

<sup>3</sup> Ibid

## 3 The right to social security in constitutions

The importance of incorporating any social or economic right into a constitution derives from the fact that it attaches a strong moral dimension to those rights.<sup>4</sup> The right to social security is based on social justice principles and is meant to promote solidarity among working and non-working individuals, as well as among high and low-income individuals.

As such, the recognition of the right to social security in a constitution is key to building the social contract and strengthening social trust between citizens of a country and the State. It also benefits all members of a nation by helping to strengthen the economy, social justice and building human capital. Indeed, “a strong social contract is a precious resource in any country”<sup>5</sup> since without it, citizens would feel less inclined to pay their taxes and governments in turn would be less able to collect much needed revenues for the creation and maintenance of good quality public services including social security).

The incorporation of the right to social security in constitutions at the global level has seen a significant increase over the past decades. However, the degree to which a constitution enshrines the right to social security widely differs. In a global study of around 195 countries, 67% incorporate the right to social security; in 41% it is justiciable and in 27% the right is aspiration (not legally binding).<sup>6</sup> Compared to other regions, the MENA region shows a weaker incorporation of economic, social and cultural rights (including that of social security) into their constitutions, with a larger proportion of aspirational rights versus justiciable rights: countries in the region indicate an average of 1.4 justiciable economic rights and 2.0 justiciable social rights, well below the global average.<sup>7</sup> In the MENA region in particular, a little below 40% of countries incorporate the right to social security as a justiciable right, and another 40% incorporates this right as aspirational in their constitutions.<sup>8</sup>

In this piece, the countries in the MENA region have been grouped into 2 different categories: those countries that clearly incorporate social security as a right (whether it is for all citizens or some defined groups), and those countries in which constitutions do not mention of social security at all.

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<sup>4</sup> Egorov, A. (ILO, 2016).

<sup>5</sup> Kidd, S. (2020).

<sup>6</sup> Jung, C., Hirschl, R., and Rosevear, E. (2013).

<sup>7</sup> Ibid

<sup>8</sup> Jung, C., Hirschl, R., and Rosevear, E. (2013).

### 3.1. Constitutions that incorporate social security provisions

The following Table 1 captures those countries in which the right to social security is clearly defined in their constitutions as right for all citizens or some defined groups of the population.

**Table 1: Constitutions which define the right to social security**

Country	Article/Section
Algeria	<p><b>Article 69:</b></p> <ul style="list-style-type: none"> <li>• “The right to social security for workers shall be guaranteed by law”.</li> </ul>
Bahrain	<p><b>Article 5:</b></p> <ul style="list-style-type: none"> <li>• “The State guarantees the requisite social security for its citizens in old age, sickness, disability, orphanhood, widowhood or unemployment, and also provides them with social insurance and health care services.”</li> </ul>
Egypt	<p><b>Article 17:</b></p> <ul style="list-style-type: none"> <li>• “The state provides social security services.”</li> <li>• “All citizens who have no access to the social security system have the right to social security to ensure a decent life, if they are unable to support themselves and their families in the event of incapacity to work, old age or unemployment.”</li> <li>• “The state works to provide appropriate pensions to small farmers, agricultural workers, hunters and informal labour in accordance with the law.”</li> <li>• “The state guarantees funds for insurance and pensions.”</li> </ul>
Iran	<p><b>Article 29:</b></p> <ul style="list-style-type: none"> <li>• “To benefit from social security with respect to retirement, unemployment, old age, disability, absence of a guardian, and benefits relating to being stranded, accidents, health services, and medical care and treatment, provided through insurance or other means, is accepted as a universal right.”</li> <li>• “The government must provide the foregoing services and financial support for every individual citizen by drawing, in accordance with the law, on the national revenues and funds obtained through public contributions.”</li> </ul>
Iraq	<p><b>Article 30:</b></p> <ul style="list-style-type: none"> <li>• “The State shall guarantee to the individual and the family – especially children and women – social and health security, the</li> </ul>

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	<p>basic requirements for living a free and decent life and shall secure for them suitable income and appropriate housing.”</p> <ul style="list-style-type: none"> <li>• “The State shall guarantee social and health security to Iraqis in cases of old age, sickness, employment disability, homelessness, orphanhood, or unemployment, shall work to protect them from ignorance, fear and poverty, and shall provide them housing and special programmes of care and rehabilitation, and this shall be regulated by law.”</li> </ul>
Jordan	<p><b>Article 23:</b></p> <ul style="list-style-type: none"> <li>• “Special compensation shall be given to works supporting families and on dismissal, illness, old age and emergencies arising out of the nature of their work.” This is considered as a right of all Jordanians who fit the criteria.</li> </ul>
Kuwait	<p><b>Article 11:</b></p> <ul style="list-style-type: none"> <li>• “The State shall guarantee assistance to citizens in their old age, in sickness or in disability. It shall also provide them with social insurance services, social help and medical care.”</li> </ul>
Morocco	<p><b>Article 71:</b></p> <ul style="list-style-type: none"> <li>• Social security is required by law.</li> </ul>
Oman	<p><b>Article 12:</b></p> <ul style="list-style-type: none"> <li>• “The State guarantees aid for the Citizen and his family in cases of emergency, sickness, disability, and old age according to the social security scheme. The State shall work for the solidarity of the Society in bearing the burdens resulting from national disasters and catastrophes.”</li> </ul>
Palestine	<p><b>Article 22:</b></p> <ul style="list-style-type: none"> <li>• “Social, health, disability and retirement insurance shall be regulated by law.”</li> <li>• “Maintaining the welfare of families of martyrs, prisoners of war, the injured and the disabled is a duty that shall be regulated by law. The National Authority shall guarantee these persons education, health and social insurance.”</li> </ul>
Saudi Arabia	<p><b>Article 27:</b></p> <ul style="list-style-type: none"> <li>• “The State shall guarantee the right of its citizens and their families in an emergency of in case of disease, disability and old age. Likewise, it shall support the social security system and encourage individuals and institutions to contribute to charitable pursuits.”</li> </ul>
Syria	<p><b>Article 12:</b></p>

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	<ul style="list-style-type: none"> <li>• “The State shall take steps to improve the wellbeing of its people in general and each of its citizens; to guarantee the individual’s social security and acceptable living standards.”</li> </ul> <p><b>Article 26:</b></p> <ul style="list-style-type: none"> <li>• “Everyone shall be guaranteed social security payments for legal retirement age, in case of illness, disability, loss of breadwinner, incapacitation, unemployment, and in other cases specified by law. Minimum state pensions and social benefits shall be established by law.”</li> <li>• “The State shall facilitate development of charity movements, voluntary social insurance programmes and other forms of social security.”</li> </ul>
Tunisia	<p><b>Article 65:</b></p> <ul style="list-style-type: none"> <li>• The state guarantees the right to social security. It is deemed as an ordinary law.</li> </ul>
United Arab Emirates	<p><b>Article 16:</b></p> <ul style="list-style-type: none"> <li>• “Society shall be responsible for protecting childhood and motherhood and shall protect minors and others unable to look after themselves for any reason, such as illness or incapacity or old age or forced unemployment. It shall be responsible for assisting them and enabling them to help themselves for their own benefit and that of the community. Such matters shall be regulated by welfare and social security legislations.”</li> </ul>
Yemen	<p><b>Article 56:</b></p> <ul style="list-style-type: none"> <li>• “The state shall guarantee social security for all citizens in cases of illness, disability, unemployment, old age or the loss of support. The state shall especially guarantee this, according to the Law, for the families of those killed in war.”</li> </ul>
Libya	<p><b>Article 8:</b></p> <ul style="list-style-type: none"> <li>• The state shall ensure equal opportunity and strive to guarantee a proper standard of living, the right to work, education, medical care and social security to every citizen.</li> </ul>

## 3.2. Constitutions that do not mention social security

Finally, there is a list of countries that have yet to incorporate the right to social security in their constitutions, as shown in Table 2.

**Table 2: Constitutions which do not define the right to social security**

Country	Article
Lebanon	No mention of the right to social security.
Qatar	No mention of the right to social security.

## 4 Conclusion

Ultimately, it is clear that whilst most countries in the MENA region contain some sort of reference to social security in their constitution, many of these are not necessarily inclusive of all citizens – despite the majority of these countries being signatories of international human rights instruments on this matter. Evidently, more action is required in the region to provide adequate social security systems for all individuals. This is especially important when considering that the MENA region has had a substantial increase in refugees and migrants in the past few years, who are not covered by many of the social protection systems.

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