

## Social Security for Migrant Workers

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In this presentation, I wish to address two questions:

- How we can secure equality of treatment in social security for migrant workers?
- How we can extend social protection coverage to the currently unprotected population?

## Global Trends in Labour Migration

- In 2000, there were estimated 175 million international migrants worldwide, or 3% of the world's population.
  - More than 86 million migrant workers, of which 34 million work in developing countries.
  - Migrants provide significant remittances to their home countries, amounting to US\$ 80 billion in 2002.
  - Women account for 49% of the world's migrants and are increasingly travelling on their own as primary income earners.
  - Between 10% to 15% of migrants are in irregular status
- ⇒ Growing number and more diverse forms of migration will likely to continue.

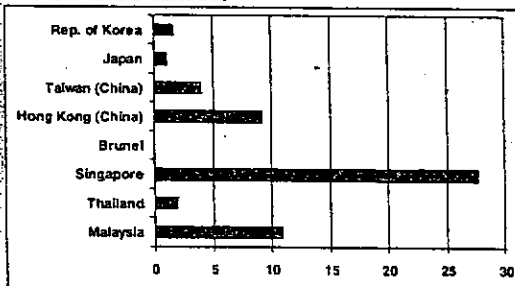


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## Net annual migration (in thousands)

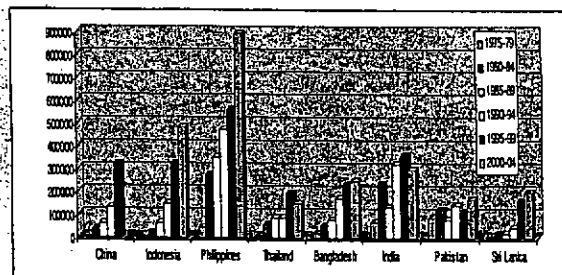
Afghanistan	16
Bangladesh	-60
Bhutan	-1
India	-280
Iran (Islamic Republic of)	-91
Nepal	-24
Pakistan	-70
Sri Lanka	-31
Cambodia	8
Dem. Rep. of Timor-Leste	-32
Indonesia	-180
Laos People's Dem. Republic	-1
Malaysia	9
Myanmar	4
Philippines	-190
Singapore	74
Thailand	-5
Viet Nam	-

## Foreign Workers in the Labour Force of Asian Countries



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## Annual outflows of Asian workers



### Stock of regular Asian migrants, 1997

From \ To	Indonesia	Philippines	Thailand	China	Bangladesh	Myanmar	Others
Japan	11,936	93,265	20,669	252,164	5,900	...	1,098,773
Korea	9,600	10,800	...	26,700	6,300	...	95,300
Taiwan	21,088	113,198	132,576	...	...	...	901
Hong Kong	34,300	146,400	25,000	...	...	...	...
Thailand	...	...	...	...	...	268,600	47,400
Malaysia	716,033	24,882	21,438	...	307,696	...	50,123
Singapore	100,000	60,000	60,000	46,000	...	...	184,000

Statistical Migration Centre, Asian Migration Atlas 2000

### Social Security – A Right

- Declaration of Philadelphia (1944)
- Universal Declaration of Human Rights (1948)
- Social Security Convention (minimum standards) – 1952
- International Covenant on Economic, Social & Cultural Rights (1966)
- International Labour Conference (2001): "highest priority are policies and initiatives which can bring social security to those who are not covered by existing systems"

### Coverage gaps

#### Who is excluded from the existing systems?

- Rural populations (predominantly farmers)
- Urban informal sector populations
- Small- and medium- sized enterprises
- Casual and seasonal workers
- Part-time workers
- Women and children, when formal sector systems only cover the worker
- Migrant workers in overseas (86 million worldwide, some irregular status)

### Challenges of social security coverage for migrant workers

1. Unequal treatment between nationals and non-nationals
2. National legislations result in unfavourable conditions for migrant workers
3. Low compliance by employers and low awareness of workers
4. Problem of social security provision for migrant workers with irregular status

## Principles of coordination

### 1. Equality of treatment

Non-national workers should have the same conditions as national residents in terms of coverage and entitlement to benefits.

### 2. Maintenance of acquired rights

The right acquired in other countries should be guaranteed to the migrant workers.

### 3. Maintenance of rights in course of acquisition

The contribution period served in other country should be taken into account when considering the qualifying period (principle of aggregation).

## Principles of coordination

### 4. Provision of benefits abroad

There should be no restriction on the payment of benefits irrespective of the place of residence of the beneficiary (export of benefits).

### 5. Determination of applicable legislation

Social protection of migrant workers has to be governed by a single law to avoid double benefits or double obligation to pay social security contributions. Rules must be set for calculation and payment of benefits.

### 6. Mutual administrative assistance

Facilitation of administrative arrangements through liaison bodies to ensure a smooth coordination.

## ILO international standards on the social security for migrant workers

- C.118 (1962), The Equality of Treatment (Social Security) [38 ratifications]
- C.157 (1982), The Maintenance of Migrants' Pension Rights [3 ratifications] (also R. 167, 1983)
- C.165 (1987), The Social Security (Seafarers) (Revised) [2 ratifications]
- C.19 (1925), The Equality of Treatment (Accident Compensation) [120 ratifications]

## Coordination at regional levels

### European Unions

In the context of ensuring the free movement of workers within the EU countries, the EU has adopted two social security regulations (EEC regulations No. 1408/71 and 574/72). Their application was subsequently extended to self-employed persons and members of their families, students and nationals of non-EU countries.

### Caribbean Community and Common Market (CARICOM)

The CARICOM Agreement on Social Security (1997) is intended to harmonize the social security legislation of member States. The agreement is largely based on ILO Recommendation No. 167. A total of 13 member States have signed and ratified the agreement, while 12 have enacted national legislation to give it legal effect.

### Others (Africa, Pacific)

- General Convention on Social Security in Economic Community of West African States (1993) and in Economic Community of the Countries of the Great Lakes (1978)
- Pacific Island countries have established Pacific Provident Fund CEO Forum

## National measures (unilateral measures)

- Coverage of social security for migrant workers in the host countries
- Provision of group insurance for overseas workers
- Provision of voluntary social security coverage
- Collection of (voluntary) social security contributions by recruitment agencies
- Use of new technologies (E-money) in the remittance of social security contributions
- Coverage of health care for family members in the home country

## ASEAN perspectives

- > The issue of cross border movement of labour has gained an increasing interest among ASEAN member states. ASEAN's mid-term action plans, *Vientiane Action Programme (2004-2010)*, calls for the following actions regarding "Strengthening systems of social protection and social risk management":
  - i) Establish an integrated social protection and social risk management system in ASEAN;
  - ii) Conduct research on the impact of globalisation and regional integration on labour and unemployment;
  - iii) Strengthen systems of social protection at the national level and work toward adoption of appropriate measures at the regional level to provide a minimum uniform coverage for skilled workers in the region.

### ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (13 January 2007)

#### GENERAL PRINCIPLES

1. Both the receiving states and sending states shall strengthen the political, economic and social pillars of the ASEAN Community by promoting the full potential and dignity of migrant workers in a climate of freedom, equity, and stability in accordance with the laws, regulations, and policies of respective ASEAN Member Countries;

#### OBLIGATIONS OF RECEIVING STATES

5. Intensify efforts to protect the fundamental human rights, promote the welfare and uphold human dignity of migrant workers;

7. Facilitate (...) access to social welfare services as appropriate and in accordance with the legislation of the receiving state, (...);

8. Promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers;

#### OBLIGATIONS OF SENDING STATES

11. Enhance measures related to the promotion and protection of the rights of migrant workers;

#### COMMITMENTS BY ASEAN

15. Promote decent, humane, productive, dignified and remunerative employment for migrant workers;

21. Encourage international organisations, ASEAN dialogue partners and other countries to respect the principles and extend support and assistance in the implementation of the measures contained in this Declaration.

### ILO's perspectives

- International Migration is important part of *ILO's Decent Work Agenda*
- ILO Tripartite Meeting of Experts adopted in 2005 "*The ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration*", which lays down:
  - "(9.9.) entering into bilateral, regional or multilateral agreements to provide social security coverage and benefits, as well as portability of social security entitlements, to regular migrant workers and, as appropriate, to migrant workers in irregular situation"
  - "(9.10.) adopting measures to ensure that migrant workers and accompanying family members are provided with health care and, at a minimum, with access to emergency medical care, and that regular migrant workers and accompanying family members receive the same treatment as nationals with regard to the provision of medical care"

### ILO's approach for the ASEAN countries

- Extending social protection for migrant workers constitutes one of key pillars of *ILO Plan of Action on Labour Migration in Asia Pacific*.

"The Asian Regional Meeting in 2001 asked the ILO to help design a social security treaty for migrant workers, especially for coverage of old age benefits and payment of pensions in countries where the migrants retire. Possibilities for harmonizing benefits that can be availed of by each other's nationals when employed in another member country will be studied, including the requirements and qualifications for membership and for entitlement to various benefits. There may be a need in some cases to amend existing social security legislation to allow for pension-rights to be given to non-nationals.

The International Social Security Association (ISSA) will be asked to help design bilateral agreements on social security, or if the countries are ready design multilateral treaty for several Asian countries (i.e. ASEAN) and to encourage agreement. Both ISSA and SOCSEC will be asked to provide technical expertise on social security issues under the Plan of Action"

### ILO's action

- The ILO/EC Asian Programme on Governance of Labour Migration aims to contribute to the achievement of Decent Work for legally employed migrant workers.
- In this programme, two feasibility studies are conducted for the extension of social security for migrant workers in ASEAN countries.
  - Feasibility study on social security agreements for migrant workers in ASEAN countries
  - Feasibility study on electronic money remittance to extend social security coverage for migrant workers

### Old age, invalidity, survivors' benefits

- Two groups of countries:
  - ◆ Social insurance pension scheme  
Lao PDR, Philippines, Thailand, Viet Nam
  - ◆ Provident fund  
Brunei, Indonesia, Malaysia, Singapore
- Fundamentally different approaches:
  - ◆ Periodical (usually monthly) pensions from social insurance;
  - ◆ Lump-sum payments from provident fund (in some cases, with pension option).

### Old age, invalidity, survivors' benefits

- Agreement(s) *within* each group of countries should present no major difficulties:
  - ◆ Between social insurance countries, there are established solutions (e.g. those used in Philippines' agreements with European countries, Canada);
  - ◆ Between provident fund countries, a migrant worker's balance can be transferred from one scheme to another.

### Old age, invalidity, survivors' benefits

- Agreement(s) *between* the two groups of countries will be more challenging:
  - ◆ No precedents;
  - ◆ New solutions will need to be found;
  - ◆ Possible starting point given in ILO 'model provisions' for social security agreements (annex to Recommendation No. 167).

### Medical care benefits

- Objective: Ensure migrant workers and their family members have access to medical care:
  - ◆ During the initial period in the host country (i.e. before a worker qualifies under the host country's scheme); and
  - ◆ On return to the country of origin, especially on retirement.

### Medical care benefits

- Actual medical care can usually only be provided by the scheme of the country in which the worker/family members is/are located.
- Issue is which scheme pays the costs of the care – host country or country of origin.
- Unless a provident fund is involved, established solutions (e.g. those used in European countries) for payment by either scheme, depending on arrangements agreed between them.
- If a provident fund is involved, no precedents. So, again, new solutions will need to be found.

### Sickness and maternity benefits

- Objective: Ensure that migrant workers receive cash benefits if a contingency (maternity, sickness, accident) occurs during the initial period in the host country (i.e. before the worker completes the minimum qualifying period of the host country's scheme).

### Sickness and maternity benefits

- Solution – totalizing (adding together) periods in the host country and country of origin (or country of previous employment) to determine eligibility.
- When totalizing used to determine eligibility, cost of benefits usually paid by host country's scheme, but can be shared or borne entirely by the other country's scheme, depending on arrangements agreed between them.

### Employment injury benefits

- Objectives:
  - (1) Ensure benefits continue to be paid if an incapacitated worker or survivor(s) of a deceased worker return to country of origin;
  - (2) Ensure eligibility for benefits even when occupational disease/illness is the result of (insured) work in another ASEAN country.

### Employment injury benefits

- Established solution – export of benefits, with administrative assistance between schemes.
- In case of work accidents, costs usually borne entirely by host country's scheme (i.e. where the accident occurred).
- In case of occupational diseases/ illnesses, costs often shared by schemes in proportion to the time worker spent in each scheme, in accordance with arrangements agreed between them.

### Conclusion

- In the context of globalization, international migration of labour is becoming an important and enduring phenomenon in Asia. The greater flow of people across national boundaries and more diverse forms of migration are creating new challenges as migrant workers face multiple disadvantages, including lack of social security.
- To secure the equality of treatment in social security for migrant workers, and to extend the social security coverage, there is an emerging need to ensure the right of social security for migrant workers through international and regional coordination, in particular by multilateral and bilateral agreements.

