

# Social Protection for Low-Skilled Migrant Workers and their Families

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## BACKGROUND

The current dominance of neoliberal globalisation has led to an attack on social protection systems around the world. Many citizens are experiencing the loss of social protection entitlements leading to increasing disparities and insecurity for many workers. The increase in informalisation of work functions to place many workers in less secure contexts. Structural adjustment policies in most developing countries has led to an increase in the informal sector of work. Social protection has become an urgent issue for all workers; especially low skilled migrant workers who face triple disadvantages of discrimination, marginalisation and vulnerability[1] and are often excluded from social security benefits.

## What is social protection?

Social protection carries a range of definitions reflecting contending approaches from different stakeholders thus the core elements are far from agreed upon. An introduction includes the following which is by no means exhaustive or comprehensive:

*The market driven approach to social protection* as a driver of the neoliberal agenda has emerged as the dominant framework and has been advanced by The World Bank's Social Risk Management framework (SRM) which aims to address a narrow set of economic problems or livelihood shocks i.e. risks to incomes, protection against low or declining living standards and risks inherent in earning a living. It has removed the social dimension that would guarantee any socio-economic rights and allowed states to relinquish their prime obligation to their citizens to provide them with a life of dignity through social policies.[2]

This approach seeks to reduce the social and economic obligations of states to citizens by differentiating amongst its members as to who shall receive specific entitlements creating divisions; constructing some members of a society as undeserving of benefits (such as migrants) and reducing solidarity. This has long-term implications for migrant workers poverty as it renders them vulnerable and leads to the reduction and elimination of their entitlements, which is visible today.

*The rights based approach to social protection.* This approach contrasts with the market-driven approach by having the underlying premise of universality of a right to social protection, thus includes extending the right of social protection to migrant workers. It seeks to restore a social agenda on a national, regional and global level

by covering everyone (not only citizens), with a right to social security that will be enforced by states.

The social justice objectives allow for the realisation of the right to social protection for migrant workers and the appropriate policy supported by institutions and the ability of migrant workers to claim these rights. However for low skilled migrant workers does it go far enough? There needs to be an analysis of the politics of the social protection policies and programs to ensure that they have a transformative potential.

*Transformative social protection* originating from the international development field presents an alternative wider agenda that emphasises social justice as a 'transformative' element. It supports the rights based approach of the universal right to basic security as a priority to safeguard lives and livelihoods against economic risk and vulnerability. However it also seeks to address the underlying structural causes of poverty and vulnerability such as inequality, social exclusion and an elite captured by local power structures.

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It extends social protection to areas such as equity, empowerment and economic, social and cultural rights.[3] For migrant workers this means addressing the social injustice arising from structural inequalities and abuses of power and empowering them to overcome the sources of their vulnerability and injustices.[4]

## The right to social protection

The discourse on social protection for low-skilled migrant workers often focuses on their right to social security, whilst advocating for the protection and promotion of other labour and human rights. The right to social protection means that migrant workers are more than mere recipients or beneficiaries or that they are claimants. Social security is a universal human right to which everyone in any society should have access to; including low skilled migrant workers who are often excluded or significantly limited in their coverage.

**Social Security:** “the protection which society provides for its members through a series of public measures, against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, unemployment, invalidity old age and death; the provision of medical care and the provision of subsidies for families with children.” ILO, 1984.

The ILO *Social Security (Minimum Standards) Convention*, 1952 (No. 102) contains these nine classical branches of Social Security.

ILO and UN conventions have set international standards for the progressive extension of decent social security coverage and protection of rights for migrant workers.

The right to social protection is recognized as a human right in several legal instruments of the UN including the *Universal Declaration of Human Rights* (1948) Articles 22, 25 and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966) Article 9, as well as in other international and regional legal instruments. The *International Convention on the Elimination of All Forms of Racial Discrimination* Article 5, the *Convention on the Elimination of All Forms of Discrimination against Women* and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (1990) article 25, 27, 28, 43.

Protecting the fundamental human right of migrant workers to social security requires: securing equality of treatment i.e. that migrant workers are entitled to the same rights, obligations, and treatment as nationals in social security coverage. Non-discrimination and effective social security systems across borders; as encapsulated in the ILO standards for the

protection of migrant workers social security rights.

The ratification of ILO conventions[5] related to social security for migrant workers is very low amongst destination countries. Whilst countries of origin with an interest to protect the rights of their workers abroad may be more likely to ratify. E.g. The Philippines government has ratified most of these conventions. Raising awareness of their right to social security and advocacy for the adoption of these international standards is urgently required.

The ILO Social Protection Floors Recommendation, 2012 (No.202) complements existing Conventions and Recommendations. According to the recommendation, members should establish and maintain national social protection floors comprising basic social security guarantees to ensure that all members of society. As such, migrants and their families should have access to these basic social security guarantees in the State where they reside, as well as in their home country.[6]

## Social security concerns for low-skilled migrant workers

- **Coverage:** Low-skilled migrant workers currently face discrimination in social security, are often excluded or restricted from coverage by the national social security system in destination countries based on nationality or residency criteria and risk the loss of entitlement to social security benefits, which they enjoyed in their country of origin.
- **Portability:** When they are entitled to social security benefits in destination countries, they often lose what they have accumulated during their stay when they return to their country of origin due to restrictions on export of benefits abroad to non-nationals. I.e. the rights are not portable.
- **Minimum Qualifying Conditions:** Migrant workers often contribute to a social security scheme from which they cannot benefit because their employment period is too short to meet the eligibility criteria required for entitlement to benefits.

- **Violation of Rights and Administrative obstacles:** Even when formal entitlement rules are established, migrants have to negotiate with employers and administrators of the claims to secure their rights; which has proven to be highly problematic.
- **Coordination:** The lack of social security coordination through bilateral /multilateral agreements between countries means there is no guarantee of maintenance of migrant workers social security rights and makes it difficult for migrant workers to qualify for benefits in any country.

they are usually dismissed and repatriated, (sometimes according to law) violating their right to reproductive health. Gender equity should forbid this practice. Low skilled migrant workers' right to a family life is frequently violated due to the absence of family unification policies in destination countries. Thus family benefits, such as basic health care and family allowance are not accessible. Countries of origin at times include in their welfare policy and legislation, the access to health insurance for family remaining at home or emergency funds.

Unemployment benefit is often not available to low skilled migrant workers. When unemployment benefits are available to local workers, they should also be made

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### ***Specific ILO standards for the protection of migrant workers social security rights***

- The Social Security (Minimum Standards) Convention, 1952 (No. 102) = 47 ratifications (no country in Middle East, no South Asian or South East Asian country)
- The Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) = 120 Ratifications
- The Equality of Treatment (Social Security) Convention, 1962 (No. 118) = 38 Ratifications
- The Maintenance of Social Security Rights Convention, 1982 (No. 157) = 3 Ratifications

Source: Ursula Kulke, Senior Regional Social Security Specialist, ILO Regional Office for Arab States, Beirut

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## **Access to social security benefits for migrant worker in countries of origin and destination**

Low skilled migrant workers and their families are often explicitly excluded or attempts to extend social security coverage remain inaccessible. Migrant domestic workers are frequently not covered by social security systems. Undocumented migrant workers are rendered particularly vulnerable. Discriminatory policies in destination countries means low skilled migrants are regularly denied the same rights as high-skilled migrant workers, in particular portability of work permits, family reunification, and possibilities of permanent settlement, violating their right to social protection.

**Destination country:** Short-term benefits such as work injury and basic healthcare are often officially provided in destination countries, although in practice access to these benefits may be limited or denied. When migrant workers become seriously ill their contracts are usually terminated. Migrant workers rarely receive sick pay; subsequently also limiting their claim on healthcare benefits. Healthcare professionals may be required by law to report undocumented workers reducing their access to healthcare when available. Maternity benefit is not available to migrant domestic workers in the GCC countries as, if found to be pregnant, they are more likely to be charged with adultery or sex outside of marriage. In other destination countries if found to be pregnant

available to migrant workers who become unemployed or who suffer a loss of income. Those migrants who become unemployed and choose to return in their home countries and need guarantees that their rights and entitlements will follow them.

*Long-term benefits:* A particular concern for low skilled migrant workers is their access to and portability of long-term benefits, in particular pension benefits such as old-age, disability, survivors and healthcare benefits after retirement. As often many low skilled workers may return from abroad with limited or no savings. OECD countries (not Singapore) provide coverage of old-age benefits but not necessary eligibility upon retirement or portability of accrued rights upon departure. In OECD countries, however, eligibility to pension is typically conditioned on lengthy contribution periods or residency that is beyond the reach of the typical low skilled migrant. Migrant domestic workers are not entitled to disability compensation or retirement benefits. The GCC countries do not provide pension benefits for low skilled migrants but all have end-of-service benefits arrangements of about 1 month wage for each year worked.[7] These migrant workers classified as 'temporary' workers are often excluded from social security provision on the basis of a false dichotomy between temporary and permanently employed workers. As contracts are frequently renewed, a 'temporary' worker may live for years in the destination country and work for the same employer, but yet not qualify for long-term benefits. Developing options to create long-term security for migrant domestic workers is an urgent issue.

In the current global discourse on social security there is an emergence of extreme positions with the prevailing notion now that a balance needs to be struck between full coverage of rights to social security for migrant workers vs. nothing at all. Social security systems for migrant workers must be comprehensive and encompass all nine areas of social security.[8]

**Countries of origin:** Some countries of origin have adopted unilateral measures to fill the gap by extending social security coverage to those abroad with national security systems for migrant workers; however many remain inaccessible. Several major countries of origin have established national migrant welfare funds drawing on the Philippines model[9] and related emigration support services to provide adequate protection for their overseas workers. These funds mainly provide emergency and repatriation services, work-related benefits and legal assistance, and welfare provisions for families left behind.[10] They may offer limited reintegration assistance such as loans to establish a small business. However typically they also exclude long-term benefits. The funds are financed by compulsory workers' contributions, thus it is important that their accessibility for migrant workers are evaluated and ensured.

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*The feminisation of international labour migration is not reflected in social security debates and approaches which have been largely gender-blind. Migrant women, heavily represented in the low-skilled and precarious jobs, often experience greater exclusion from social security coverage than men and receive less wages. Migrant domestic workers (often women) are denied social security coverage given their discriminatory exclusion from national labour laws, occupational health and safety legislation and other protective mechanisms afforded most workers, rendering them especially vulnerable. The standards in C189 – ILO Domestic Workers Convention, 2011 (No.189) present an important step in improving their social protection. The challenge remains how best to overcome the isolated nature of domestic workers workplace to ensure their access to information/knowledge about their rights.*

*Gender-based violence against women migrant workers abroad remains an urgent social protection issue that must be addressed. The gendered patterning of poverty and vulnerability must be reflected in a systematic way in social protection strategies, policies and programmes.*

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*Social protection for migrant workers requires more than access to social security benefits. Whilst far from an exhaustive, social protection demands:*

- Enforcement of labour rights in destination countries to improve the conditions under which migrants work such as wage equality with native workers,

anti-discrimination policies and occupational health and safety etc. Labour Departments must be more effective in following up on cases.

- Stopping the violation of migrant workers rights endemic in recruitment processes.
- The realisation of migrant workers' right to health - inclusive of a marked improvement in their living standards abroad.
- Improving the migration process through effective comprehensive pre-departure training and diplomatic and consular support post-arrival.
- Ensuring that countries of origin are responsible for facilitating their timely right to return and a comprehensive plan for reintegration.

## Protecting migrant workers right to social security through unilateral measures and coordination of social security agreements (SSA)

- Social Security coordination should be established between countries through bilateral or multilateral agreements covering social security as well as broader protections to safeguard the rights of migrant workers and their families.[11] Benefits accrued in the destination country should be exportable to the migrant's country of origin, and contributions made in every country the migrant worker is employed in should be aggregated upon his/her return home or migrating onto another country. Administrative capacity, assistance and expertise are necessary for such systems to work properly.[12]
- The country of origin should develop social security mechanisms for its citizens, including its overseas workers when they are not covered abroad. Insurance for migrant workers and their families should include:
- Guaranteed benefits against key contingencies, in particular health care, pension, survivors (from death /disability incurred by the migrant) and family benefits.
- Continued social insurance for the worker and family in their country of origin for the full duration that they are abroad; to ensure they are not stripped of their rights, whilst contributing remittances.

# ANALYSIS

Low skilled migrant workers experience a significant gap between their entitlement to social protection and being able to access, exercise and enforce their right. As identified in the following discussion highlighting some issues from Migrant Forum in Asia's experience in practice. Social protection policies are only successful when migrant workers recognise their rights and have the ability, capacity and position to claim their rights; it's not enough that the rights just be bestowed. Social security systems will fail to overcome the poverty trap if accessibility is denied and meanwhile the migrant worker situation deteriorates.

## **Social security systems are under challenge: protecting migrant workers**

Successful social protection policies require broad public support yet low skilled migrant workers are frequently constructed as a threat to the resources of public benefit systems in destination countries, despite evidence to the contrary. For example: In Italy immigrants produce 11% of national GDP and, according to the Social Security agency INPS, they provide almost €11 billion for the state treasury whilst costing a lot less in terms of allowances and services.[13]

"The Taiwan government wants young, healthy migrant workers who will not be a strain on the healthcare system. The 190,000 migrant domestic workers are contributing US\$16.6 million annually into the Taiwan healthcare system, and the other 197,000 migrant workers working in the industrial, construction and fisheries sectors are contributing US\$20 million annually. These figures clearly show that migrant workers are not a strain on the healthcare system. In fact they are contributing nearly 37 million dollars every year to help support the scheme." [14]

The uptake of social protection is influenced by its relevance for governments as political capital and propaganda instrument in electoral competitions.

There is a need to raise awareness and challenge negative stereotypes that ignore structural factors; to promote non-discrimination and equality of treatment and build solidarity between all of those impacted on by the reform of benefit systems; to decrease resistance to social protection coverage for low skilled migrant workers in destination countries.

## **The responsibility of the state for migrant workers social protection**

Social protection is an important duty of the government to one of the most vulnerable sectors in society, migrant workers. Whilst NGOs, charities and other voluntary organisations fill a critical gap in social protection of migrant workers, they should not present as a substitute for state involvement, as they cannot guarantee the delivery of universal, comprehensive and sustainable intervention nor enforcement of legislation.

It is the primary responsibility of the state to create the rules and conditions for a social security system. However, whether the schemes are run by the state, local communities, mutual assistance schemes or private insurance companies carries significant implications for migrant workers access to social protection. It is imperative that states do not abdicate their responsibility to monitor the implications of the policies and implementation. Determining how agents actually deliver social security is essential to ensure it does not become another site of exploitation of low skilled migrant workers.

## **Participation of migrant workers: Essential for successful social protection policies**

Migrant workers' role in policy processes is often absent or limited to consultation processes aimed at improving the management and delivery of a social security system rendering them a 'user' upon whom things are imposed. Without their engagement in policy and a voice in institutions, it may create new vulnerabilities and social costs that could have been avoided and impact negatively on the uptake. To confront social vulnerability, migrant workers must first know their rights, be given agency, capacity to articulate and claim their right and also freedom of choice.

Migrant workers emphasize that a wider concept of social protection should be adopted that includes enforcing access to fair decent and equal wages and redress for the violation of their human and labour rights. For example: Providing a health care benefit is inadequate if the health problems are caused by exploitation and/or abuse and further rights violations prevent access to healthcare services.

Migrant workers should participate in the development, negotiations, implementation, and monitoring of social protection, including social security agreements. Labour organizing by trade unions and/or migrant organisations on their right to social protection is key to holding the state accountable. As is overseas absentee voting practices that facilitate their political participation whilst living abroad.

## Financing social security benefits: Avoiding a burden for migrant workers

As an objective of social security is to provide income security; the right to a basic income must be upheld by ensuring it is affordable. There is a variety of ways that a social security system can be financed by social security contributions including from the state and employers dependent on the conceptual framework of social protection being employed. A market-based approach leads to the cost of social security benefits being borne entirely by the individual, low skilled migrant worker. An alternative would be for the employer to shoulder a portion and/or payments to be subsidised by the government.

Filipino migrant workers abroad are responsible for paying an enrolment fee and the entire monthly contribution into the national Social Security System (SSS) which becomes an additional financial burden for some workers with the considerable expenses prior to deployment. Once abroad they experience difficulties paying contributions into the social security system, meaning that contributions are either not paid or are underpaid.[15] Low skilled migrant workers are often in debt bondage, underpaid or not paid whilst abroad. This has have serious implications for their ability to pay voluntary contributions.

Extension of Social Security coverage for low skilled migrant workers must be at minimal or no cost to the worker. They must be allowed to opt out and/or withdraw contributions in line with international standards on social security for migrant workers.[16] Migrant workers should be consulted regarding introducing the option of voluntary retroactive payments. Strengthening of collective bargaining agreements remains imperative.

## Law and governance: Enforcing social protection of migrant workers

Progressive social protection interventions must be underpinned by enforceable legislation that transforms the charitable gesture into a justifiable right.[17] Legislation guaranteeing social protection for migrant workers is largely not enforced to secure its implementation. The violation of migrant workers rights in destination countries is well-established. Inclusion of social protection provisions within work contracts will only be realised if enforceable.

Rights-based legislation alone is not enough. Migrant workers must be able to exercise and enforce their rights. Migrant workers are frequently denied access to justice because of lack of knowledge, fear, being unable to afford a lawyer, the absence of qualified translators and lack of income during the legal process. When migrant workers file a complaint regarding violation of the provisions in their contract, they are often met with

alleged retaliatory criminal charges by the employer to deter the migrant worker from pursuing the case to secure their rights. They may also be asked to sign waivers stating that they have received all the benefits in exchange for repatriation or less compensation.

The problem of accountability between the state and migrant workers is limited when: there is denial of the right to freedom of association and right to collective-bargaining leading to unfair labour practices; migrants fear losing their employment and/or the threat of deportation is used to silence them from speaking out on violations of their right to social protection.

Commitment and political will for justice is necessary to enable low skilled migrant workers to access, assert and enforce their rights. Transparent, effective, timely complaint and appeal procedures should be established free of charge to the applicant. A system should be in place to ensure effective and expedient complaint and redress mechanisms, specifically for migrants' rights violations. Governments should also ensure protection of migrant workers against legal reprisals from employers.

Migrant domestic workers' discriminatory exclusion from labour laws violates the right to social protection. In some countries, migrant agricultural workers and caregivers also face discrimination being excluded and denied social protection. The lack of equality in accessing rights demands law reform. The concept of social protection must reconceptualise work with all forms of work are recognised and respected the same and include gender equity.

## The impunity of employers violates the right to social protection of migrant workers

Recruitment agencies and employers of low skilled migrant workers can often take away their benefits with impunity. Violations of their right to social protection are numerous, examples relating to social security include the following:

Migrant workers are often unable to avail of social security despite paying into the system if employers cancel a work permit without explanation or justification. Migrant workers should be able to seek work without the current employers consent.

Migrant workers covered by the Singapore Employment Act require a medical certificate (MC) in order to take sick leave. TWC2 and HOME[18] have encountered cases where doctors paid by companies deliberately issued 'short Medical Certificates' to injured men (i.e. less than three days). TWC2 has seen a man with crushed knees and several with severed fingers who were given two days MC. Migrant workers were denied healthcare protection and sick pay so that the companies' occupational accident record would look good.[19]

In the USA, some employers confiscate social security cards alongside passports forcing migrant workers to live in a situation of constant blackmail and labour exploitation. [20]

“About 1.2 million Myanmar migrant workers in Thailand are living without the health care they are entitled to under Thai law. Failure to enrol workers in the program is a crime under Thai law but many employers don’t want to spend the money, so they don’t tell their employees about the system.” [21]

Some Filipino migrant domestic workers in Hong Kong “were not aware that they could not be terminated because of illness or pregnancy, but those who were aware of these policies did not trust that they could pursue a case against their employers. Even officers from the Philippine Consulate General thought that employers could terminate a domestic workers contract for any reason at any time.”[22]

### **The lack of credibility of social security systems is a significant issue**

The absence of a transparent fair process of decision-making when establishing social security systems and agreements results in inequality of access to opportunities and rights for migrant workers. Transparency is essential for disbursement of funds to avoid accusations of corruption. Equal treatment often does not benefit the low skilled migrant worker because of poor management of systems and administrative obstacles that significantly limit their ability to claim benefits. For example:

Indonesian and Filipino migrant workers families find it complicated and costly to claim death benefits for family members in Taiwan. Their financial need may result in them accepting only a portion of the entitled amount from the employer.

There are a relatively low number of insurance claims amongst eligible Filipino migrant workers in the Philippines. Evaluation of why they don’t make full use of their entitlements despite paying contributions is essential. Some of the reasons include the following: Confusion created by documents needing to be certified by several governmental agencies. Filipino migrant workers living in rural areas incur additional travel expenses when they attempt to make a claim in Manila, acting as a deterrent.

Credible systems must be transparent with sound financial management. Administrators should reduce unnecessary paperwork and minimise the number of governmental departments involved.

Accountability must be improved by clearly identifying the government body responsible for the implementation of the system and ensuring Governmental oversight if private insurance companies are involved. More importantly, it is imperative to determine who is actually benefiting from the system.

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### **Designing appropriate coverage for migrant workers: considering healthcare**

Healthcare benefits are often not designed to adequately address the right to health of low skilled migrant workers. Migrant workers payment from their low wages should be beneficial to them, rather than a states tax system or the profit margin of a private health insurance company.

All migrant workers entering Taiwan must undergo a mandatory medical examination three days after arrival and after the sixth, 18th and 30th month in the country. Despite the medical examination costing the equivalent of US\$70, their health insurance does not cover the cost of these compulsory examinations.[23]

Treatment of occupational accidents often requires rehabilitation to ensure the migrant worker is not left with a chronic disability. In South Korea migrant workers can be compensated through industrial accident compensation insurance regardless of their legal status when they are injured. The Korea Workers’ Compensation & Welfare Service (KWCWS) in response to the petition of injured migrant workers about their exclusion, now supports the occupational rehabilitation training expenses. However without a sickness benefit to cover the cost of living, most migrant workers do not complete their treatment risking their long-term health, particularly if they continue working.[24]

The design of the healthcare benefit for migrant workers must include the areas of health care most likely to be required by the workers coupled with an adequate sickness benefit.

## **Paying taxes for Social Security benefits for which they are not eligible or are prevented from collecting**

When migrant workers are helping to fund a social security scheme, they should be able to avail of the benefits that they have been paying for in times of need. In the absence of effective social security agreements, which provide portability of accrued rights, contributions are effectively a wage tax to the detriment of the worker. It increases their insecurity with loss of wages and accrued benefits; whilst financially benefiting the destination country. Their right to claim is frequently violated by destination countries via the act of deportation.

Injured migrant domestic workers in Singapore are simply deported instead of being given access to the medical treatment to which they are legally entitled. Migrant workers are deported if they contract Tuberculosis in Taiwan, despite it being which is quite prevalent in that country. This discriminatory policy effectively denies them access to healthcare services and sick leave that they have paid for. [25]

Social security systems must establish funds with guaranteed returns and in the absence of formal portable arrangements, develop reimbursement arrangements. There should be enforcement of implementation of legal remedies available to prevent unlawful termination of contracts and deportation without judicial supervision being used to avoid making payments.

## **Migrant workers' lack of information about social protection and capacity is a major obstacle to realisation of their right**

The ability of migrant workers to claim their rights is imperative for the realisation of the right to social protection. Migrant workers frequently have minimal awareness and appreciation of their right and social security benefits. As social protection systems do not exist in their home countries, they do not know much about developed / destination country's Social Security systems. They lack information about how to access social security benefits and make claims both abroad and at home. Additionally, they lack understanding of social protection, in terms of their human and labour rights.

In the Philippines the policies especially for OWWA and PHIL health were never explained thoroughly to migrant workers based on casework feedback and/or there was a lack of information regarding how and where to avail of the benefits and the limitations of each. There is confusion on the part of migrant workers regarding where to go to assistance for the claims.[26]

Research on Filipino migrant domestic workers employed

in Hong Kong revealed that several workers were not aware that they had health insurance or that their employers were obliged to pay for the cost of treatments that were not covered by the insurance. [27]

There must be comprehensive outreach information campaigns and capacity building on social protection to ensure they can claim their right and facilitate enrolment, coverage, and disbursement of social security benefits. Community legal education is important to raise awareness of their rights and how to enforce them.

## **CRITIQUE**

The discourse on social protection for low skilled migrant workers requires further development and vision if it is to truly address their marginalisation and vulnerability whilst also empowering them. This necessitates revisiting some of the concepts. The following are contributions to the discussion:

- The assessment of social protection policies and programmes for migrant workers must be more than technocratic, evaluating aspects of design, outreach and impact. Evaluations must consider if there has been a transformative element that challenged structural factors to ensure social justice.
- The territoriality nature of social security systems, designed in a time when Labour was mostly confined within the boundaries of one country, nationality remains one of the various requirements associated with entitlements creating a particular challenge for migrant workers to avail of their rights. Further exploration of links between rights, citizenship and social protection is required to address the rights of the growing global mobility of workers. For example: noncitizens could have access to the same rights as citizens through the principle of universal citizenship: based on respect for people on the basis of their humanity, rather than on the basis of the nationality. For now there is a call for migration policies to include mechanisms through which low skilled migrants can access permanent residency and citizenship.
- Principles of enforcing labour and human rights and equal access to benefits are important to realising the right to social protection for migrant workers. However a progressive social protection model could be constructed with additional key principles such as compassion - They are human beings like me therefore it is unacceptable; Empathy- you have as much right to pursue a good life as I do and social solidarity addressing a loss of humanity[28] and contributing to a more cohesive movement. Gender equity should also be incorporated.

# RECOMMENDATIONS

- A rights-based approach to migration and development to ensure social protection for migrant workers in all stages of migration including when stranded and in transit.
- The right to social security should be universal and affordable for all, including low skilled migrant workers.
- States should ratify all Conventions that make up the human rights framework for migration and implement them nationally in law, policies and regulations.
- Both governments and NGOs should ensure the ability of migrant workers to claim their rights. This necessitates raising awareness that social security is a right to which migrant workers are entitled. Provide comprehensive outreach information campaigns and capacity building on social protection and available social benefits in local languages. Create resource centres and helplines to facilitate this and the claiming of benefits for migrant workers and their families.
- Capacity building to establish structures of care within migrant communities. I.e. migrants helping migrants in claim taking and general pursuit of their rights.
- Build knowledge on social security for migrant workers and conduct country specific critical assessment of protection gaps of existing social security systems and agreements for migrant workers and develop recommendations.
- Call for low skilled migrant workers to be involved in all stages of social protection policy-making in particular development and accountability of implementation and social security agreements.
- Labour organising by migrant workers on the right to social protection for state accountability.
- Migrant workers should actively participate in overseas absentee voting to facilitate their political participation whilst living abroad.
- Develop a set of recommendations for migrant workers families to be involved in the social protection of their family members abroad.
- Advocate for: the progressive extension of social security coverage to migrant workers. Compliance with international standards as stated in the relevant ILO/UN conventions. Ratification of ILO Conventions in the field of labour migration and specific ILO conventions for the protection of migrant workers social security rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- Social security systems for migrant workers must be comprehensive and encompass all nine areas of social security.
- Governments must take up their duty to create the rules and conditions for a Social Security system and be responsible in monitoring the implications of the policies and implementation. They must provide oversight about how agents actually deliver social security to ensure it is not a site of further exploitation of low skilled migrant workers.

# RECOMMENDATIONS

- Advocate that countries of origin conclude comprehensive social security agreements that build on international standards for the protection of the rights of all migrant workers and their families with the major countries of destination.
- Advocate protecting migrant workers social security right through unilateral measures in destination country: advocating for equality of treatment: payment of benefits abroad if not possible reimbursement of contributions. Waiving long qualifying periods in favour of migrant workers. If migrant workers are paying into a social security scheme in a destination country that does not have formal portable arrangements, mechanisms must be devised to facilitate reimbursement such as a lump-sum payment upon departure or ensure that the benefit is accessible upon return.
- A possible solution to provide for better long-term security for migrant workers, could be to transform the EoSB arrangements into a funded defined contribution program for all temporary workers. Alternatively, for rehired migrants, it could be supplemented with a voluntary funded defined contribution scheme; in which contributions by employees are matched by employers (with a ceiling) and with a default option in which temporary migrants are automatically enrolled with a basic contribution (around 5%) unless they opt out.[29] The design of their benefits must reflect that these workers have difficulty finding work abroad past age 50 years.
- The country of origin should develop social security mechanisms for its citizens including its overseas workers when they are not covered abroad. Guaranteed benefits should include in particular healthcare, pension, survivors and family benefits.
- In the country of origin, create voluntary insurance for nationals working abroad, the possibility of covering retroactively missing insurance periods, medical coverage for family members left behind and retired returning migrant workers. In countries of origin that have not yet signed social security agreements: encourage participation in the voluntary pension insurance schemes and distribute information on its application and benefits.
- Strengthen the capacity of the social security institutions through the engagement of civil society, especially low skilled migrant workers. Advocate for these institutions to recognize and commit to equality of treatment for migrant workers.
- Extension of Social Security coverage for low migrant workers must be at minimal or no cost to the migrant worker. They must be allowed to opt out and/or withdraw contributions in line with international standards on Social Security for migrant workers.
- Social Security systems must be transparent with sound financial management. Administrators must reduce unnecessary paperwork and minimise the number of government departments involved. Assessment of implementation must be continuous to ascertain who is actually benefiting from the system.
- States should regularly collect, compile, analyse and publish an appropriate range of social security data, statistics and indicators, disaggregated, in particular, by gender. Article 21 of ILO Social Protection Floors Recommendation, 2012 (No. 202)
- Reform the migration process through effective comprehensive rights based pre employment, pre departure training and diplomatic and consular support post arrival.

# RECOMMENDATIONS

- Reform the system of the diplomatic and consular missions on the protection of migrants' rights in the destination countries focusing on transparency and accountability, capacity, commitment and attitude, delivery of effective, time bound and gender sensitive services and complaint mechanisms.
- Countries of origin and destination should be responsible for facilitating migrant workers timely right to return and a comprehensive plan for reintegration.
- Stop and prosecute the violations of migrant workers rights endemic in recruitment processes.
- Campaign against the unlawful termination of contracts/dismissal and deportation being used as instruments to violate migrant workers right to social protection, including deprivation of social security payments.
- Access to justice must be upheld to ensure migrant workers who are victims of violations are protected, compensated and perpetrators sanctioned.
- Advocate for legal reform to ensure the inclusion of domestic workers, agricultural workers and caregivers under labour laws, social legislation and other protective mechanisms afforded to most workers.
- Incorporate domestic workers rights in national labour law and relevant policies in line with ILO Domestic Workers Convention, 2011. (No. 189)
- Advocate for the ratification of ILO Domestic Workers Convention, 2011 (No. 189)
- Establish gender sensitive and gender responsive social protection mechanisms for women migrant workers that recognize and take into account the numerous, specific risks that migrant women face and provide redress, including compensation.
- Develop and prioritise a campaign against Gender-based violence of women migrant workers.
- Improve access to social protection for undocumented workers through regularization and advocacy to repeal laws that require health professionals to report them to authorities violating their right to patient confidentiality.
- Enforce labour rights in destination countries to ensure decent work for migrants, such as wage equality and conditions with local workers, antidiscrimination policies, Occupational Health & Safety and protect their rights to join and organise in trade unions. Labour and foreign affairs departments must be more effective in following up on cases.
- Develop technology systems to ensure timely, regular, and full payment of wages as well as overtime, bonuses, social security, and all other benefits stipulated in the employment contract.
- Advocate that low skilled migrant workers should have the same rights as high skilled migrant workers, in particular portability of work permits, family reunification and possibilities of permanent settlement.
- Call for the progressive realisation of migrant workers right to health inclusive of a marked improvement in their living standards abroad and access to healthcare.

# RECOMMENDATIONS

- Build transnational campaigns and/ or a social movement to raise awareness and challenge negative stereotypes of migrant workers that ignore structural factors. Promote non discrimination and equality of treatment and build solidarity between all those negatively impacted on by the neoliberal attack on social benefit systems.
- Develop the discourse on social protection for migrant workers inclusive of revisiting the concept of social protection. The concept must re-conceptualise work with all forms of work are recognised and respected the same and include gender equity.
- Refer to recommendations from Asia on the 5-year, 8-point Civil Society Agenda Outcome Documents from the Asia-Pacific and West Asia Regional Consultations for social protection recommendations.

# ENDNOTES

1. Social protection for migrant workers requires challenging the unjust or prejudicial treatment they receive; addressing the social process that makes them marginal in society and protecting them from abuse and exploitation whilst transforming structural factors that render them vulnerable.
2. Devereux, Stephen & Rachel Sabates-Wheeler 2004. 'Transformative Social Protection', IDS Working Paper 232, Institute of Development Studies, Sussex. p.13.
3. Ibid. p9.
4. Devereux,S, et al Introduction: Social Protection for Social Justice,IDS Bulletin,Vol 42,No.6,Nov 2011, p 6
5. The International Labour Organisation' mandate to social protection was established in its preamble to the ILO Constitution (1919) and the Declaration of Philadelphia (1944) Since 1919, the ILO has adopted 31 Conventions and 23 Recommendations in the area of extending social security to all. Conventions provide international standards that need to be translated into national legislation and then complied with. See: <http://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>.
6. See: <http://www.ilo.org/ilc/ILCSessions/101stSession/on-the-agenda/social-protection-floor/lang--en/index.htm>
7. Holzmann Robert and Pouget Yann, Social Protection for Temporary Migrant Workers: Conceptual Framework, Country Inventory, Assessment and Guidance. A Study prepared for the Global Forum of Migration and Development ; World Bank and Marseille Center for Mediterranean Integration Marseille, October 27, 2010, p8.
8. Taran, Dr. The implementation of a social security system for migrant workers. Global migration Policy associates.
9. These funds are often based on the welfare fund model established by the Philippines in 1977. In the Philippines a worker contributes US\$25 to the overseas welfare administration (OWWA), receiving coverage for the duration of their contract abroad; however they are not covered when they returned to the Philippines. Health benefits are not included as they now come under a separate body called Phil health.
10. Holzmann Robert and Pouget Yann, Social Protection for Temporary Migrant Workers: Conceptual Framework, Country Inventory, Assessment and Guidance. A Study prepared for the Global Forum of Migration and Development ; World Bank and Marseille Center for Mediterranean Integration Marseille, October 27, 2010, p 36.
11. The ILO Multilateral Framework on Labour Migration (2005) calls for the conclusion of SSAs for the benefit of migrant workers. (Guideline 9.9, p18).
12. Additional challenges to concluding SSA include: countries of origins' social security schemes are insufficiently developed for reciprocal arrangements and some countries lack the political will to conclude agreements.
13. Longhi, V, The Immigrant War: Global Movement against Discrimination and Exploitation, The Policy Press, UK, 2013, p.82-3.
14. O'Neill, P, Fr. The Importance of Social Security for Migrant Domestic Workers, Migrant Forum in Asia, Paper presented at the Parallel event to the 17th session of the UN HRC, Tuesday, 7 June 2011, p.2.
15. Puhawan, E, Kalungan Centre Foundation Inc. Centre for Migrant Workers, Manila, Philippines. MFA. Online interview, June 2, 2013

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- 17 Devereux,S, et al Introduction: Social Protection for Social Justice,IDS Bulletin,Vol 42,No.6,Nov 2011, pg.2.
- 18 Transient Workers Count Too. (TWC2) see: <http://www.twc2.org.sg/> Humanitarian Organisation for Migration Economics. (HOME ) See: <http://www.home.org.sg/>
- 19 Op cit. p.46.
- 20 Longhi, V, The Immigrant War: Global Movement against Discrimination and Exploitation, The Policy Press, UK, 2013,p.33.
- 21 Myanmar times, Thai System Fails Mynamar Migrants. Available at <http://www.mmmtimes.com/index.php/national-news/7622-thai-system-fails-myanmar-migrants.html>
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