Introduction

Effective social security systems provide income security, prevent and reduce poverty and inequality, and promote social inclusion and dignity. Social security enhances productivity and employability and supports sustainable economic development, contributing to decent living conditions for all and making extension of social security coverage for migrants vital to workers, the economy and the entire society.

This presentation is about moving forward on Social Security for migrants in the Asia-Pacific context. And about taking action, what to do starting now. This is a question with very big stakes. Getting social security right today will be essential for economic progress, social well being and good governance tomorrow in any country in the region.

The landmark ILO Convention 102 identified nine hallmark areas of social security: 1) Medical Care benefit, 2) Sickness benefit, 3) Unemployment benefit, 4) Old-Age benefit, 5) Employment Injury benefits, 6) Maternity benefit, 7) Family benefit, 8) Invalidity benefit, and 9) Survivors’ benefit. It also proposed minimum standards regarding: personal coverage, level of benefits, qualifying period, duration of benefits etc.

This presentation outlines seven basic principles of Social Security, and follows with an overview of main challenges and tasks for extension of social security to migrant workers, and then present main elements of a roadmap for implementation of the 7 principles for extending social security. This plan suggests specific tasks and expectations for parliamentarians and social security administrations and urges a cooperative effort with relevant international organizations. The roadmap identifies a strategic, progressive approach with specific areas of work, including with governments and legislators.

As context for this discussion, I remind that international migration presents several overarching challenges in this region and worldwide. First and foremost is governance: obtaining legal and policy regimes for increasing international labour and skills mobility to meet growing needs in more and more countries due to changing

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1 This presentation draws on a Framework Guidance Document (FGD) on Social Security for Migrant Workers in Eurasia prepared by this author for the International Social Security Association (ISSA) in 2012.
economic, technological and demographic developments.

Second is ensuring legal recognition of all migrant workers; protecting rights and ensuring decent work conditions for foreign and national workers alike. Thirdly is to reinforce social cohesion by preventing xenophobia. Fourthly is extending social protection and social security coverage for migrant workers.

1 Seven principles of Social Security

Seven fundamental principles of social security provide guideposts for practical, legislative and policy action to extend social security to migrant workers in Eurasia. These seven principles have been established in international law and proven by practice in countries worldwide over more than 70 years.

They are: 1) universality; 2) equality; 3) accessibility; 4) portability; 5) comprehensiveness; 6) credibility; and 7) sustainability.

Universality means that everyone as a member of society has a right to social security. Progressing towards universality urges establishing rights in the law, ensuring legal inclusion of migrants in regulations and practice, adapting social security to evolving economic and social contexts, and expanding compulsory participation.

Equality of treatment means that migrant workers are entitled to the same rights, obligations and treatment as nationals regarding social security coverage. Obtaining equality of treatment means legal recognition of migrant workers, awareness raising, and enhancing compliance and contributions collections.

Accessibility means that social security enrolment, coverage and disbursement of benefits are made aware to, open for, and obtainable by migrant workers as well as other vulnerable groups. It requires targeted information awareness and enrolment outreach, including language and local access accommodations.

Portability is the ability to obtain, preserve, maintain and transfer vested social security rights or rights in the process of being vested, independent of nationality and country of residence. Obtaining portability means establishing international transportability in law and practice, ensuring maintenance of rights acquired and in course of acquisition, and cooperation to interface different national systems together in transnational situations.

Comprehensiveness is the aspirational principle of obtaining coverage to meet the risks of health, unemployment, old age, survivorship, sickness, injury, disability and maternity and family care. Expanding comprehensiveness calls for actions to expand coverage and to improve adequacy regarding scope and numbers.

The principle of credibility means good governance and the effective and efficient management of social security systems. Achieving credibility obliges integrated, proactive and efficient policies promoted by the International Social Security Association (ISSA) concept of Dynamic Social Security as well as democratic governance of institutions and ongoing capacity building of personnel.

Sustainability means assuring the long term social, political and financial sustainability of social security. This requires State involvement, reconciling affordability, equity and efficiency, and expanding the contributor base.

2. Challenges for extending social security to migrants

Inclusion of this discussion as a key topic in this training is an affirmation of the urgency to extend adequate coverage and portability of social security for migrant workers. Although migrant workers fully contribute to the economies of destination and origin countries in this region as elsewhere, they are not taken account of in national social security schemes in most countries. Migrants often loose entitlement to social security benefits in their country of origin due to absence. They generally face restrictive conditions or non-access to social security
in the country of employment. Even when they can contribute to social security in host countries, their contributions and benefits often cannot be transferred to origin countries.

The impediments for extending social security to migrants in Asian and in Pacific countries are similar to those elsewhere. The main challenges are: 1) lack of implementation of existing social security agreements; 2) lacuna in legal regimes; 3) absence of social protection for those in informal activity, notably migrants in irregular legal situations; 4) lack of incentives to incorporate foreigners in social security; 5) lack of administrative mechanisms to extend coverage and portability; 6) inadequate data and lack of information exchange among countries; and 7) lack of a regional framework for social security cooperation.

Specific challenges include: absence of legislation on labour migration; absence or inefficiency of governing and regulatory mechanisms; informal employment relations; tax evasion; and absence of social security provisions for migrant workers. The latter refers to absence of pension and health coverage for migrant workers and their families, non-calculated employment periods, and non-transferability of pensions and benefits.²

Specific mechanisms are required to recognize migrant workers’ Social Security rights and to overcome restrictive conditions, in particular those based on territoriarity and nationality. Although a number of countries recognize equality of treatment between national and non-national workers in social security legislation, some countries discriminate against migrant workers through national legislation that excludes specific categories of migrants or disallows portability, or in more extreme cases excludes all non-nationals from coverage or entitlement to benefits, or applies less favourable treatment to them. An agreed framework of common rules and mechanisms for cooperation among countries in Asia on social security has not yet been formally proposed, yet it would be a key guidepost to encourage extension of coverage as well as harmonization of approaches.

Experience elsewhere shows need for several specific tasks. Crucial immediate tasks are getting national systems to work efficiently, simplifying procedures to accommodate stationary as well as short-term migrants, and accessing migrants into existing mechanisms for coverage. Social security agencies need to assess their existing coverage and identify actual compatibilities and contrasts between national systems. They would need to support generating political will to obtain inter-country agreements and to extend unilateral measures.

In addition, more precise data needs to be obtained and applied on migrant employment and economic activity—data essential for determining social security contributions and coverage. Social security agencies need to interface labour market data on migrants with their administration of social security. They would also need to encourage obtaining data on the often unrecognized migrant worker populations such as those in informal economic activity, the large numbers in seasonal agricultural labour, and those in irregular status situations.

Extending social security to migrant workers anywhere requires a deliberate and strategic process. The complex, inter-related nature of the challenges and tasks invokes need for several stages that are mutually reinforcing and progressively built. These involve complementary and mutually supporting efforts by Parliaments and social security agencies, supported and encouraged by NGOs. The seven law and practice principles on Social Security for migrant workers³ provide a solid framework to meet the challenges and tasks of extending coverage.

A **Roadmap Strategy and Plan**

Following is a suggested roadmap comprising a strategic action agenda for extending social security to migrant workers. It is derived from successful experiences and realization of international standards in countries in different regions around the world. Most of these suggested measures can be—and often have been—initiated

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³ Namely: 1) universality; 2) equality; 3) accessibility; 4) portability; 5) comprehensiveness; 6) credibility; and 7) sustainability.
and implemented “unilaterally” within countries; many of these measures do not require international agreement to put in place. However, international dialogue and cooperation is of course essential to enable portability of entitlements and benefits.

Parliamentarians and social security administrators certainly have leading roles to play. Civil society-- and NGOs can and should provide initiative and impetus. This strategic approach incorporates activities required to implement the seven principles for extending social security to migrant workers. The roadmap proposes five main action areas deriving from these principles, taking account of the context, challenges and tasks noted above. This strategic agenda urges a cooperative process incorporating key national stakeholders accompanied by the concerned international structures, namely the International Social Security Association (ISSA) and the ILO along with relevant regional institutions.

This strategic action agenda proposes activities that can be prompted by NGOs, in dialogue and advocacy with national Parliaments and social security administrators. It proposes a process of progressive implementation with five main action areas:

1. Assessment of social security systems and migrant populations,
2. Implementation of national and unilateral measures to incorporate migrants
3. Adoption of international standards on migrant workers and social security
4. Identification of existing compatibilities and contrasts among national systems
5. Consideration of possible mechanisms for regional Social Security cooperation

A first step is mapping “Extending Social Security Country Profiles,” summarizing law provisions, existing practices, relevant structures, and mechanisms addressing or able to address social security of migrants. A supportive component maps statistical and qualitative data on migrants in the country and nationals abroad.

The second strategic stage is formulating and implementing measures and practices that incorporate migrant workers. These implement the Principles for extending social security. Specific measures will necessarily be determined according to each national context.

The third step is incorporating relevant international standards in national law and practice. ILO Conventions on Social Security and migrant workers ensure an appropriate legal foundation; ISSA offers guidance on operational performance and governance.

The fourth strategic stage is mapping existing compatibilities, convergences and divergences regarding migrants coverage among national social security systems in Asia. A key component of this stage would be a survey analyzing compatibilities.

A subsequent fifth step would be exploration of mechanisms of cooperation to facilitate national systems working together internationally in the region.

**Five Strategic Stages**

In summary detail, these five strategic stages comprise:

1. **Assessment of populations, systems and capacities**

Good policy, practice and cooperation depends on good data. To realize any of the 7 principles requires solid
evidence on existing applicable laws, provisions, practices and capacities for coverage of migrant workers. It equally requires data on the numbers, employment situations, sectoral distribution and status of migrant workers. Much of this data is within the purview of social security administrations.

The first step on the road to extending coverage to migrants should be mapping “Extending Social Security Country Profiles” by each country, in this case Timor Leste. These could consist of:

1) Summary social security law provisions, existing current practices, relevant structures, and mechanisms addressing or potentially able to address social security of migrants
2) Identify coverage existing for non-nationals
3) Specify types of coverage: pension, health, accident, disability, other
4) Identify the transferability provisions and mechanisms
5) Map the systems for obtaining contributions and providing benefits

A second component of the mapping should include --access and availability of data and resources permitting--statistical and qualitative data regarding migrants in the country and nationals abroad:

- Numbers of migrants, including age and gender
- Employment characteristics, including sectoral distribution
- Length of stay, and legal status regimes applying
- Family dependent data

This mapping exercise depends on efforts by national social security administrations, evidently with support and encouragement by national legislators. Cooperation by other national agencies obtaining statistical data is essential, as is interfacing the relevant data and analysis. International guidance and cooperation is well advised. ISSA, the International Social Security Association can offer essential tools and methodologies as well as lessons learned from other countries' experiences.

2. Implementation of national 'unilateral' measures

Expert inputs and experience of social security administrators highlight an array of measures that can be implemented unilaterally and often rapidly within each country. These include:

- Establishment by the country of employment of equality of treatment between national and non-nationals regarding social security coverage and medical care as well as payment of benefits abroad.
- In absence of formal portability arrangements, reimbursement of social security contributions to the migrant when he/she leaves the country.
- The country of origin provides social security coverage through a national scheme for citizens abroad when they are not covered in places of employment.
- Requiring recruitment agencies to include social security provisions.
- Establishing special social security options or voluntary social insurance for migrant workers based on voluntary contributions.
- Providing options for voluntary retroactive payment of contributions in to social security or pension schemes for periods abroad.

A key element for this roadmap stage is formulation and implementation of measures and practices that incorporate migrant workers, particularly in countries of employment. These would naturally implement the Principles for extending social security. Specific measures will necessarily be determined according to each national context in light of national assessments of the migrant population and data on applicable legal provisions, existing practices, relevant structures, and mechanisms addressing or potentially able to address social security of migrants. All of these measures can and should be initiated 'unilaterally' within each country; none depends on international reciprocity for enhancing social security coverage of migrants.
Key signposts for action include:

1. **Recognition of migrant workers and their families**: ensuring explicit recognition and incorporation of migrant workers as eligible participants in social security systems, in equal conditions with nationals.

2. Elaboration of **administration policy statements on recognition and equality for migrants**.

3. **Awareness raising of rights and access**: internal review by administrators and review by Parliamentarians if and as appropriate, and engagement in external public relations to ensure that both migrants and the host populations are aware of migrants’ rights and obligations in equality of conditions regarding social security coverage.

4. **Dialogue among opinion makers, executive officials and legislators** may be especially important to facilitating an environment incorporating migrant participation in social security systems.

5. **Expanding the contributor base** to enhance affordability and efficiency of national social security systems argues for administrators to promote and support full incorporation of migrant workers in national systems.

6. Obtaining wider participation calls for **enhancing control over compliance and contribution collection for migrant workers**; social security administrations should put in place specific oversight and controls regarding obtaining enrolment, contribution collection and compliance regarding migrant worker participation.

7. **Obtaining fairness and equity** requires vigilance in elaboration and implementation of regulations and practices to prevent discrimination, notably regarding gender and ethnicity as well as nationality and residence. Parliamentarians and Administrators would need to review whether contributions required and benefits paid out are equivalent between nationals and foreign workers, between men and women, etc.

8. Legislative and administrative bodies need to implement targeted **awareness raising measures to proactively inform migrant workers** about existing benefits and services and how they can access them on the same basis as nationals. This implies specific language and cultural accommodation measures and may mean providing forms, information, enrolment and reception, advisory and counselling services in languages of migrant groups.

9. Reaching and incorporating migrant worker populations in social security coverage requires administrators to devise and implement specific, **deliberate outreach activities**. These may include mobile social security office units that visit mining camps, isolated construction sites and/or rural farming areas.

10. **ISSA strategy and actions prioritize extension of coverage for health care, by old-age, invalidity and survivors’s pension schemes, and by unemployment schemes as well as administration of tax-financed minimum benefit schemes**. While a progressive process over time, administrators need to begin **expanding coverage** for migrants by measuring what areas of coverage can be readily extended and in which sectors, under existing social security programmes and measures. Administrators will also need to formulate proposals, time lines and means for extending coverage across different work sectors.

11. As migrant workers are incorporated into systems, **increasing adequacy** of coverage requires administrators to assess and revise calculations for benefit levels for all at minimally adequate levels.

ILO and ISSA support, guidance and sharing of good practice examples will be an essential compass for following this section of the roadmap. Some steps can be initiated within a short time frame; however, this agenda is ongoing.

### 3. Adoption of international standards on migrant workers and social security

The third phase on the route to achieve extension of coverage is incorporating the relevant international standards in national law and practice. The ILO Conventions on Social Security and the core international
instruments\textsuperscript{4} on migrant workers ensure an internationally compatible legal foundation for realization of social security. International standards for social security administration and governance provide the basis for credible, sustainable and effective implementation. Domestication of the principles in ILO Conventions 102 and 157, along with C-118 will be key elements. Basic rights need to be defined in national law to set the foundation for “social security for all.” Realizing access and full portability of contributory social security benefits usually requires explicit legal provisions; international cooperation depends on a degree of compatibility among respective national legislations. The Dynamic Social Security (DSS) concept promoted by ISSA as well as democratic, tripartite governance are key strategic signposts on this roadmap.

**Political will is needed:** Social Security administrators can provide evidence and, together with NGOs, make the case to Parliaments and national institutions extending social protection to migrants.

- Parliamentarians need to enact **definition of rights** and **equality of treatment** in national law through adoption of legislation --including ratification of international instruments. They can ask data, expert advice, and testimony from social security administrators.
- Administrators should ensure that social security regulations acknowledge rights and entitlements.
- In order to obtain **legal inclusion**, social security administrators should give attention to formulating and implementing operational regulations and language that ensure migrant access to social security.
- Achieving universal coverage calls social security administrators to advocate establishing the legal basis and mechanisms for migrant workers’ **compulsory participation**.
- Administrators have core responsibility to devise and implement **Dynamic Social Security** measures, such as to reduce official or bureaucratic formalities to provide benefits and services in full and quickly. Administrators should devise ways of including all migrant workers in basic social security coverage, including those in informal employment and/or irregular situations.
- Towards **democratic governance**, administrators should review governance structures with a view to ensure representative stakeholder participation. Administrators could enhance regular operational consultation with social partners. Attention is needed to ensure that migrant workers representatives are included and heard.
- Social security administrators have an important responsibility to urge continued **State responsibility** in financial support and management of comprehensive social security.
- Changing economic conditions and incorporation of migrant workers require ongoing re-evaluation and innovation by administrators to maintain a balance among **affordability, equity and efficiency**.
- Administrators need to ensure ongoing **capacity building**, notably training on the situation of migrant workers.

4. **Identification of existing compatibilities and contrasts among national systems**

The subsequent, fourth strategic stage on this roadmap --and the prerequisite for any discussion of regional cooperation-- is mapping the existing compatibilities, convergences and divergences regarding migrants among the national social security systems across the Pacific and in Asia, as well as in other destination countries of migrants from APC countries.

Key elements are **recognition of portability** and **maintenance of rights acquired and in course of acquisition**. Social security administrators have essential roles in determining applicability of existing legislation and international agreements, including conventions and bi- or multilateral agreements that provide means and mechanisms for ensuring portability in fact. Administrators should also identify mechanisms to

\textsuperscript{4} The three main 'migration governance' instruments are ILO Convention 97 on migration for employment (revised) of 1949, ILO Convention 143 on migrant workers (supplemental provisions) of 1975, and the 1990 International Convention on the Rights of All Migrant Workers and Members of Their Families. A total of 86 States have ratified at least one of these three complementary instruments.
account for periods of employment/contributions by migrant workers in their country.

The key component of this stage will be an “Identification and Analysis of Compatibilities” survey. This would:
1. Comparatively review country profile data,
2. Determine convergences and potential or existing compatibilities among national systems
3. Analyze bilateral and multilateral accords and processes to identify the realization of existing convergences;
4. Identify gaps, divergences, incompatibilities and/or lacuna between countries

Carrying out such a study may involve ISSA expertise, support and coordination. Given available data and further elaboration of country profiles, this study could potentially be initiated within a couple of years.

5. Consideration of possible mechanisms for Social Security cooperation in Asia-Pacific

The ultimate highway on this roadmap is exploration of feasible mechanisms for regional cooperation on social security. Successful regional approaches elsewhere –such as in the European Union and in South America's MERCOSUR-- demonstrate that obtaining social security portability in practice requires a systematized framework and operational regime of cooperation. Such a framework and regime comprises essentially techniques aimed at guaranteeing social security entitlements of migrating persons and their dependants by making national systems work together in transnational situations.

Established cooperation elsewhere –namely Europe (EU), South America (MERCOSUR), the Gulf Coordination Council-- operates among the social security administrations of participating countries, although some formal legislative and government policy commitments were entailed. Building cooperation in Asia may best be advanced by establishing regular dialogue among social security administrations, building on comparative review of partner States social security frameworks, identification of existing compatibilities, and discussing differences that may require accommodation to bridge.

As a future option and following experience in other regions, this fifth stage could be prepared by an expert study identifying options and subsequent steps to consider. A preliminary study might usefully:
- Identify practical measures and steps to realize existing convergences and compatibilities (a matrix showing bilateral and multilateral options based on existing models and agreements)
- Propose options for a common operational framework to engage cooperation among Asia-Pacific countries, realizing existing compatibilities, applying common principles and drawing on successful experiences.
- Identify process options for further dialogue on obtaining accommodations where needed for operational cooperation

Conclusion

Progressively extending social security to migrant workers in the Asia-Pacific regions is more than feasible, it is ultimately imperative to provide for welfare and social cohesion across the increasingly mobile region. However, it will only be achieved by generating political will to obtain the necessary legislative steps, administrative mechanisms and practical measures. This roadmap indicates a viable way forward and could be a useful guide for NGO/CSO advocacy and action. Obviously in concert with social security agencies and parliaments. We urge you to take it up, take action and continue seeking harmony in your combined efforts across the region. The ultimate beneficiaries will be your constituents, your respective countries, and a place in the world for Asia-Pacific countries.

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Patrick Taran,
Key Background, Policy and Practice References


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