



YOUTH AND INTERNATIONAL MIGRATION: ROLE AND RELEVANCE OF SOCIAL PROTECTION*

Chapter 3

Despite the growing number of young people affected by international migration, adolescent and youth migration has received scant attention in social protection and migration policies and frameworks. Bleak employment trends, exacerbated by a lack of economic and social opportunities in many countries, have increased incentives if not pressures for adolescents and youth to migrate. As noted elsewhere in this Report, youth and adolescents between the ages of 15 and 24 represent about 12 per cent of all migrants residing in destination countries, while young people comprise a large proportion of current migration flows. The prevalence of youth in international migration underscores the need to meet the risks and vulnerabilities they face with legislative, policy and practical measures that expand and extend social protection for young migrants.

Social protection policies play a critical role in realizing the human right to social security for all, reducing poverty and inequality, and supporting inclusive growth – by boosting human capital and productivity, supporting domestic demand and facilitating structural transformation of national economies.¹ National social protection floors as a fundamental element of social security systems, should ensure at a minimum basic income security and access to essential health care for all. Both social protection floor policies and social security schemes providing higher levels of protection contribute to enhancing productivity and employability and supporting sustainable economic development, thereby contributing to decent living conditions for all, making extension of social security coverage for migrants vital to workers, the economy and the entire society.²

Among policy options, social protection is increasingly recognised as a critical tool to address economic and social vulnerabilities related to chronic poverty and social exclusion. Its relevance is further heightened by current trends in demographic transitions, ageing and decline of work forces, and international migration as well as evolving economic and employment crises.

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Despite its increasing relevance and universal recognition as an essential component of social and economic development, only some 27 per cent of the world's people have access to comprehensive social protection. About 5.1 billion people – 73 per cent of the world's population – still live without adequate income security and/or access to services. Most of the world's migrant population and especially young migrants find themselves in the latter situation.

This chapter seeks to stimulate discussion on the challenges confronting young migrants in relation to social protection and social security. It seeks to build awareness of the normative standards, policy frameworks and strategic approaches countries of origin and destination and regional communities can utilise to ensure young migrants' access to social protection.

What is Social Protection?

The concepts of social security and social protection have evolved over time and are used in various ways throughout the world, differing widely across countries and international organizations. In many contexts the two terms social protection and social security may be used interchangeably, encompassing both contributory and non-contributory benefits. Social protection is also seen to include components such as cash and in-kind transfers, social insurance schemes, social assistance programmes and public work programmes.

The ILO uses both social protection and social security and refers to the notion of social security as covers all measures providing benefits, whether in cash or in kind, to secure protection, inter alia, from:

- lack of work-related income (or insufficient income) caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member;
- lack of (affordable) access to health care;
- insufficient family support, particularly for children and adult dependants;
- general poverty and social exclusion.

UNICEF defines social protection as a set of public and private policies and programs aimed at reducing and eliminating economic and social vulnerabilities to poverty and

deprivation (UNICEF, 2012). This translates into supporting four social protection components, which are examined in this study:

- Social Transfers
- Programmes to ensure economic and social access to services
- Social support and care services
- Legislation and policies to ensure equity and non-discrimination in children and families' access to services and employment/livelihoods.)³

International legal instruments

Social security is enshrined as a human right in the Universal Declaration of Human Rights (1948) and the International Covenant on Economic, Social and Cultural Rights (1966), as well as in conventions adopted under UN auspices articulating the rights of specific groups, such as the Convention on the Rights of the Child (CRC, 1989) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW, 1990). In this regard,, the Committee on the Rights of the Child dedicated a Day of General Discussion in October 2012 to “the rights of all children in the context of international migration” and adopted a set of recommendations including specifically on ensuring all migrant children’s rights to “effectively accessing services and benefits such as health care, education, long-term social security and social assistance, among others.”⁴

A number of ILO Conventions and Recommendation make provisions for the social security rights of migrant workers and their families thus complementing and giving specific form to the provisions in international human rights instruments. The most prominent of the eight up to date social security instruments are thk ILO Social Security (Minimum Standards) Convention, 1952 (No. 102) and the Social Protection Floors Recommendation, 2012 (No. 202). Convention No. 102 lays down principles and minimum standards for the nine classical social security branches: 1) Medical care, 2) Sickness benefits, 3) Unemployment benefits, 4) Old-Age benefits, 5) Employment injury benefits, 6) Maternity benefits, 7) Family benefits, 8) Invalidity benefits, and 9) Survivors' benefits.⁵ It establishes minimum standards regarding amongst others personal coverage, level of benefits, qualifying period, duration of benefits. Its Article 68 affirmed that “non-national residents shall have the same rights as national

residents” although application was defined as “subject to the existence of a bilateral or multilateral agreement providing for reciprocity.”

The Constitution of the International Social Security Association (ISSA) provides a succinct definition of *social security* in conformity with ILO Convention 102. It reiterates the nine branches of social security, highlights that social security comprises “any scheme or programme established by legislation, or any other mandatory arrangement, which provides protection, whether in cash or in kind, ...” and encompasses, benefits for children and other family members, health care, prevention, rehabilitation, and long-term care.⁶

The Social Protection Floors Recommendation, 2012 (No. 202), adopted nearly unanimously by the International Labour Conference (constituted of Government, workers’ and employers delegates of the 185 Member States of the ILO) in June 2012 provides useful guidance on building comprehensive social security systems and extending social security coverage by prioritizing the establishment of national floors of protection accessible to all in need. In particular, it assists Member States in providing social protection to the unprotected, the poor and the most vulnerable, including migrants and their families.

Other ILO standards dealing with equality of treatment for migrants include the Equality of Treatment (Social Security) Convention, 1962 (No. 118) and the Migration for Employment Convention, 1949 (no. 97) in article 6. The ILO Maintenance of Social Security Rights Convention, 1982 (No. 157) provides norms for coordination among different national social security schemes, in order to facilitate international portability of contributions and benefits. In addition the ILO Multilateral Framework on labour Migration (2005) calls for the conclusion of social security agreements to ensure the portability of social security entitlements.

ILO standards also addresses migrant workers in irregular situations and their rights to equality of treatment intreatment in respect of rights arising out of past employment as regards remuneration, social security and other benefits. In particular the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) in Article 9(1) of the ILO Migrant Workers Recommendation, 1975 (No. 151), paragraph 8(3) as well as Recommendation No. 202 mentioned above.

Box 3.1. The social protection floor

Social protection floors are nationally-defined sets of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion. An international consensus emerged around a “social protection floor” approach to extending coverage articulated in a two-dimensional strategy at the 100th Session of the International Labour Conference in 2011. This approach aims at the rapid implementation of national social protection floors containing basic social security guarantees that ensure universal access to essential health care and income security at least at a nationally defined minimum level (horizontal dimension), in line with the Social Protection Floors Recommendation, 2012 (No. 202), and the progressive achievement of higher levels of protection (vertical dimension) within comprehensive social security systems according to the Social Security (Minimum Standards) Convention, 1952 (No. 102).

The Social Protection Floor Recommendation calls for, at a minimum, access to essential health care and basic income security throughout the life cycle. To this end, national social protection floors should comprise at least the following guarantees, defined at national level: access to essential health care, including maternity care; basic income security for children, providing access to nutrition, education, care and any other necessary goods and services; basic income security for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and basic income security for older persons.

These guarantees should be provided to all residents and all children, as defined in national laws and regulations, and subject to existing international obligations.

WHY MIGRANT ADOLESCENTS AND YOUTH: NEED SOCIAL PROTECTION?

In the context of the global economic downturn affecting many countries, limited economic and social opportunities have increased pressures for adolescents and youth to migrate. The ILO estimates that nearly 40 per cent of the world’s unemployed are between the ages of 15 and 24.⁷ Under- and unemployment among adolescents and youth is therefore a rising concern in many countries.⁸ In particular, growing populations of young people in a number of countries in Africa and Asia – a so-called *youth bulge* – face high unemployment and absence of social protection and employment prospects for supporting themselves and their families. Among main causes for emigration are insufficient generation of decent jobs, significant losses of jobs in some countries, mismatch between educational policies, curricula or systems and labour market demands, and lack of employable skills among youth. Almost half

the world's adolescents do not attend secondary school. When they do attend, many – particularly those from the poorest and most marginalised households and communities – fail to complete their studies, or finish with insufficient knowledge and skills to be employable in the modern globalized economy.

Despite international economic crises and high unemployment in some countries, demand for migrant labour and skills remains strong and is likely to grow in a number of countries for reasons explored in the chapter on youth migration and employment in this Report. Factors include demographic ageing and decline in work forces, technological evolutions demanding skills not available locally, and transformations in the organization of work.

Youth itself can be said to constitute, at least indirectly, a 'pull factor' in migration; young people are attractive for employers and recruiters as they are usually in good health, recently trained, are fast learners, tend to adapt quickly to new working environments, and normally have fewer family responsibilities than older workers. Young migrant workers appeal because they may be perceived to offer higher productivity at lower cost.

The propensity to migrate tends to be highest among young people who are at a pivotal age, during which it is extremely important to sustain and consolidate the investments and gains of early and middle childhood, as well as to ensure an effective transition into adulthood.⁹ The ages 15-to-24 are years when young people make the transition from the dependence of childhood to the independence of adulthood. It is also a period during which a number of social, economic, biological and other events occur that set the stage for adult life; such as education, marriage, and entry into the labour market.

Migration provides opportunities to access education and employment. However, it also exposes migrants and their families to risks and vulnerabilities at each stage of the migration process, risks that adolescents and youth have not gained adequate skills and life experience to overcome on their own.. In countries of origin, family separation leads to vulnerabilities for children and spouses left behind when parents migrate abroad to work to provide family sustenance. Migrants moving across borders – particularly children, youth, and women – risk abuse and exploitation, especially when they end up in unauthorized migratory or employment situations.

Adolescence represents a transitional period when young people continue to experience multiple vulnerabilities. Adolescents aged 12-to-17 and even younger children may migrate without parents. Rising numbers of unaccompanied minors have been arriving in European and North American destination countries, many in irregular situations. Motivations include seeking employment, but also parents sending children out of homelands marked by widespread violence and/or economic desperation. However, recruitment and admission policies targeting only high-skilled migrants with tertiary education and substantial job experience limit young migrants' avenues for regular migration. Nor do they provide legal means to access safe haven for children and adolescents fleeing desperate situations. Restrictions imposed by destination countries on work for foreign nationals dictate the legal migration options available for youth. In contexts in which push factors are particularly strong, this barrier can lead youth as well as families of children and adolescents to opt for irregular migration and unauthorized entry to destination countries, increasing their exposure to abuse by smugglers, by corrupt or untrained authorities and by unscrupulous employers.

In countries of destination young migrants may become victims of discrimination and social marginalisation, and face difficulties and restrictions in accessing employment, education, and social protection. In Western industrialized destination countries where data is available, statistics show that migrants, and migrant youth in particular, generally face significantly higher unemployment rates than native citizen peers. This situation extends to 'second generation' citizens born of immigrant parents.

Newly arrived migrants, documented or not, are particularly vulnerable as they are away from their home country and the informal social networks that usually help migrants in the transition and integration processes.¹⁰ Unaccompanied minors are especially at risk as they often lose both their social networks – their known world – and are without parents or family members who can provide guidance or care.

Many young migrants face poor working conditions, increasing their vulnerability, often not covered by health insurance schemes because they are not part of the formal labour market. For youth, a lack of, or inability to access, formal social protection in destination countries – combined with unfavourable labour market conditions – increases their chance of exposure to job-related risks. For adolescent migrants

especially, vulnerabilities extend beyond the labour market to include inability to access education and health services. The working and living conditions of young migrants along with public health considerations require that they have access to both comprehensive and emergency health care.

Taking specific measures to ensure that social protection programmes in destination countries cover young migrants would help ensure their access to basic social services including education and healthcare. Young people remaining at home when parents migrate would also benefit from social protection programmes, such as the pilot programme in Moldova referred to in the chapter on mainstreaming migration into development policy. Further, social protection policies and programmes in countries of origin that provide cash transfers to low-income households, for example, can help pay adolescents' school costs and reduce the pressure to migrate, as was the case with Mexico's 'Progresas' programme.¹¹

Social protection is, nonetheless, one essential component among several required for effective governance of migration as well as protection of migrant workers and their families. As other chapters in this GMG report describe, effective migration governance also means facilitating labour and skills mobility and access to employment in response to recognizable needs, ensuring legal recognition or regularization of migrant workers, protecting rights, including the right to non-discrimination and equality of treatment, to ensure decent work for national and foreign workers alike, and shoring up social cohesion by preventing xenophobia and facilitating integration.

MIGRATION-SPECIFIC RISKS AND VULNERABILITIES: FOR YOUTH

The conditions leading to and characterizing migration to a large extent determine the extent and depth of risks and vulnerabilities experienced by young migrants (Table 3.1). The table below identifies some of the important risks and vulnerabilities affecting social protection of young migrants. For instance some health risks are elevated for adolescent and youth – such as sexually transmitted diseases, adolescent pregnancy, maternal mortality, low birth-weight, emotional distress, tobacco use, and alcohol and substance abuse – which are further heightened by the economic, social and cultural vulnerabilities linked to migration.

Table 3.1. Risks and vulnerabilities faced by young migrants affecting their social protection

Countries of origin

- Exposure to generalized violence, civil warfare, violent gang activity (in some places).
- Economic desperation, absence of access to minimum decent living conditions.
- Absence of access to employment and decent work.
- Absence of access to/availability of schooling and training in employable skills.
- Absence of social protection ensuring at least basic income security and access to basic social services including health care
- Employment recruitment malpractices.

Countries of destination

- Social and legal exclusion based on nationality, ethnicity, gender, age and/or irregular status.
- Discrimination in employment, in services and/or in day-to-day civic life based on actual or perceived nationality, ethnicity and/or migration status.
- Increased exposure to health risks, especially in urban informal settlements and at work, notably in industrial, agricultural and/or mining environments.
- Exposure to lack of occupational safety and health (OSH) protections and risky working conditions, particularly in '3-D' jobs (dirty, dangerous, degrading) where migrants tend to be concentrated.
- Risks of abuse and exploitation in employment (non-payment of wages, substandard pay, unpaid overtime, workplace violence).
- Risks of mistreatment and abuse by authorities (arbitrary measures in disaccord with regulations or due process, corrupt practices, physical violence, etc.)
- Limited or no access to basic social services. Limited or non-existence of service facilities, and/or of information on health, education, children's, and other services in a language young migrants can understand.
- Restricted access to health and social services for short-term temporary and/or undocumented migrants where entitlements are made dependent on status.
- Limited or no access to social protection schemes, institutions and/or services, notably in less developed countries.
- No access to social security entitlements built up in country of origin due to lack of bilateral or multilateral agreements ensuring the portability of these entitlements.
- Non-portability of contributions and benefits earned in country of employment.
- Legislative barriers: legal requirements/restrictions on access to health, housing, schooling and other social protection, in particular by nationality and territoriality.
- Lack of fluency in official language(s).
- Lack of familiarity with a new environment.
- Isolation in geographic locations (such as rural agricultural, forestry, mining areas) distant from where services may be available. Lack of recognition of schooling, diploma, or training credentials; lack of recognition of equivalent experience.
- Lack of political participation or representation.

Within families

- Children, adolescents and youth obliged to drop out of school and work to provide for household welfare, in some cases resulting in child labour situations.
- Separation of families and resulting family instability, and, in some situations, social stigma.
- Obligation for children to migrate unaccompanied by parents to escape desperate situations of violence, economic privation, etc.
- Unaccompanied child and adolescent migration for family reunification, family unity.

Table 3.1. Cont...

Migrants returning to homelands

- Non-portability of contributions and benefits earned in country of employment.
- Reintegration challenges such as barriers to labour market integration.
- Lack of recognition of educational and/or experience credentials from period of stay abroad.
- Limited access to education, health and other social services upon return.
- Restrictions on access to social benefits, allowances or services in home country due to being abroad, difficulties in enrolment in domestic coverage.

Sources: Developed from Sabates-Wheeler, R., and Waite, M., "Migration and Social Protection: A concept paper", Development Research Centre on Migration, Globalisation and Poverty, Institute of Development Studies, Brighton, 2003; UNICEF, "Social Protection for Children and Adolescents in the context of Migration", (mimeo), UNICEF, New York, 2010; Global Migration Group, *Mainstreaming Migration into Development Planning: A handbook for policy-makers and practitioners*, International Organization for Migration, Geneva, 2010; and Taran, P., "Framework Guidance Document, Extending Social Security to Migrant in Eurasia", International Social Security Association (ISSA), Geneva (forthcoming).

Table 3.1 reveals that young migrants face numerous risks and vulnerabilities. At the outset, accentuated risks and vulnerabilities in homelands may be factors compelling displacement and emigration. These risks may compound the impact on youth of risks they face in transit and especially, destination countries. The political-economic situation of host countries, particularly the relative existence or absence of social protection measures and a coherent social security system will also affect the extent to which social protection is meaningfully available for youth and adolescent migrants.

Social security barriers to young migrants

Although migrant workers of all ages generally contribute to the economies of both destination and origin countries, they are not taken account of in national social security schemes in many countries. Migrants often lose entitlement to social security benefits in their country of origin due to absence and/or lack of bilateral or multilateral agreements ensuring portability. 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 are often not portable, they cannot be transferred to origin countries. Moreover, where bilateral and

multilateral social security agreements exist, they may primarily cover workers with formal employment relationships, leaving migrants working in irregular situations and/or the informal economy and their families unprotected.

The analytical literature on social protection regarding international migrants categorises the risks and vulnerabilities into four types:¹²

1. **Temporal** – associated with the different stages in the migration process.
2. **Spatial** – dislocation and remoteness, particularly relevant for transit migration.
3. **Socio-cultural** – perspectives, norms and values with respect to migrants, closely linked with culturally held notions of race, gender and illegality.
4. **Socio-political** – institutional constraints on migrants' access to services and political participation in a host country.

Adolescents and youth migrants face vulnerabilities that are both spatial (being in a territory that is not their country of citizenship) and socio-political, given that within a 'foreign' territory they may not share the same degree of protection and services as nationals or citizens of that state. This is especially the case for unauthorized migrants. The socio-political vulnerabilities are typically exacerbated by restrictions arising from "territoriality" and "nationality".¹³ These restrictions imply that migrant workers may lose coverage under the social security system in their country of origin, as well as risk having limited or no coverage at all in their country of destination.¹⁴

Young migrants are often more at risk of not being covered or losing benefits due to short durations of their contributions to social security schemes—if indeed they can be enrolled—or because they are in precarious jobs or working in the informal economy thus limiting their access to contributory social security schemes. The non-portability of contributions and benefits can affect the decision to migrate elsewhere or return, which in turn impacts families in countries of origin. The lack of portability or the impossibility to obtain social security benefits despite their contribution to social security schemes might also push migrants to work in the informal economy.

For a majority of young migrant workers, effective access to certain elements of social protection is contingent on their migration and/or work-permit status. The moment their permit and/or regular status expires, migrants often lose their access to basic services, leading a significant number of migrants to join the informal economy reducing their access to contributory social protection schemes. In the case of youth

migrants in the working-age category, it can be argued that this is a loss also for the country of destination, since the sustainability of most national social security schemes relies on integrating as many youths as possible into formal employment so that formal contributions to social protection schemes can be made.

Authorized immigration status is a key determinant in practice of whether, and to what extent, migrant adolescents and youth have access to basic social protection and social security benefits. While bilateral agreements can ensure that *some* migrants benefit from full access, in other cases, migrants (particularly migrants in an irregular situation or those working in the informal economy) will have limited or no access to social protection in host countries. Undocumented adolescents and children of migrant parents with irregular status may be unable to access education, health care or other social services. Moreover, undocumented adolescents and youth often lack acceptable identification documents, which can block school or labour market registration in destination countries. Bilateral and multilateral agreements that either ensure access to social protection or the portability of social security entitlements represent an important step towards addressing the vulnerabilities of adolescent and youth migrants. As these agreements will mostly cover formal workers, to ensure migrant workers in the informal economy and their families benefit from basic social protection coverage, the Social Protection Floors recommendation, 2012 (no. 202) aims to ensure at least basic income security and access to essential health care for all.

Legal and administrative barriers for social security for migrants

Several barriers on the legislative and institutional side underlie the barriers experienced by individuals outlined above. These include, firstly, the inadequacy of legal immigration regimes, notably where authorization for admission, residence and employment of migrant workers does not correspond either to labour market demand or to the actual presence of migrant workers and family members.

Secondly, lack of implementation of existing social security agreements even for regular migrant workers often leaves migrants who are entitled without real access to social security nor maintenance of their rights. Thirdly, few social security systems adequately provide social protection mechanisms for those employed in informal activity and their dependents, where in fact many migrants are working –including in highly industrialized countries in Europe. This lacuna is widespread for migrants in

irregular status. Fourthly, some analytical approaches judge that, despite contributions made by migrant workers, the 'export' of their contributions and entitlements under portability regimes represents a loss of resources – of capital – for the national social security system, and is therefore discouraged. Contributions by migrants to social security systems represent an important subsidy to the solvency and continuing viability of national social security accounts, all the more so the un-reimbursable contributions made by unauthorized migrants. The United States Social Security Administration, for example, has acknowledged that mostly un-reimbursable contributions by undocumented workers represented a US\$12 billion annual net gain to the US accounts in 2010.¹⁵

At the administrative level, barriers to extending social security coverage and portability to migrants include the lack of administrative mechanisms in both employment and origin countries to a) incorporate migrants into social security regimes; b) ensure maintenance of their rights through amongst others portability of contributions and benefits' regimes; c) manage transfers to migrant home countries; and d) issue benefits and services in origin countries based on contributions made elsewhere and transferred or potentially transferred to the origin/home country.

A basic and generalized issue is the lack of data and information required to operate a social security system, incorporate migrants and manage portability provisions. This lacuna includes lack of data on migrant employment and actual or potential contributions; lack of information by migrants on how to enrol and participate; and lack of compatible and systematized data exchange between or among concerned countries for calculating contributions, transfers, benefits, etc.

These data, information and data sharing lacuna are compounded in the growing number of regional economic communities and common market areas where free circulation regimes are already in place. As has been the case in the European Union, the multi-country mobility regimes require coordinated area-wide social security coverage regimes among participating countries. This is discussed in more detail below.

The need for international cooperation is also laid down in ILO Recommendation No. 202, which encourages countries to share and exchange information, experiences and expertise. This complements Convention No. 118 which requires ratifying Member States to afford each other administrative assistance. Such assistance allows for the necessary administrative arrangements to be put into place to ensure the effective implementation of coordination mechanisms, as well as capacity building through exchange of expertise and good practices. Sharing good practices may also encourage States to enhance the protection of migrants' social security rights and to improve the implementation of existing coordination agreements and mechanisms.

Box 3.2. Examples of social protection schemes that extend benefits to migrants

Canada allows access to tax-financed universal pension and health care benefits and earnings-based pensions to all residents, including most migrants in regular status. Australia also has a dual social security system, including a means-tested national pension and mandatory earnings-based occupational pension.

Two categories of social security systems are in force in some East Asian host countries. Hong Kong (China), Japan and Republic of Korea have multi-tiered schemes, consisting of a basic part covering all residents and an occupational scheme. All migrant workers working in Korea under the Employment Permit Scheme (EPS) are granted the same level of access and the same kinds of social security as national workers. Malaysia and Singapore have provident funds that collect resources not only for retirement, but also for financing health care, education and housing. Social security provisions in these countries allow limited portability of long-term benefits, sometimes in the form of pensions paid abroad.

Middle-income countries – particularly in the Caribbean, Eastern Europe, Latin America and North Africa – have relatively well-developed social security systems with good coverage of the labour force, including migrants. Hence to the extent that migrants participate in the formal economy, they can access the contribution-based social security and exportability of acquired rights. In addition, in some countries, such as Argentina and Uruguay, new legal provisions provide for equal access by all to social services and social security, including immigrants and their families, regardless of their status.¹⁶ In low-income countries, however, a large segment of the population works in the informal labour market and thus does not contribute to already weak social security systems, and a significant proportion of migrants are also undocumented.

The “Aide Médicale d'Etat” (AME) scheme in France provides support for essential health care to migrants resident but in irregular situations with little or no income or resources.¹⁷

Social protection for young migrants

Within the context of international migration, providing social protection can be seen as a way to maximize the opportunities and address the risks and vulnerabilities confronting adolescent and youth migrants. Investing in social protection as a strategy to address economic and social vulnerabilities has become an important part of development discourse. However discussion has rarely focused on the importance of providing social protection for young migrants.

As noted above, universal social security is enshrined in UN human rights conventions, ILO Conventions and regional human rights agreements. These international instruments affirm the need for implementing a social protection regime to ensure a minimum standard of living for all.¹⁶ The ILO Social Protection Floor Recommendation No. 202 adopted at the International Labour Conference in 2012 calls upon all countries to establish and maintain “nationally defined sets of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion” (see Box 1).¹⁷ These guarantees should ensure, at a minimum, that, over the life cycle, ***all in need*** have access to essential health care and to basic income security which together secure effective access to goods and services defined as necessary at the national level. These guarantees should also be provided “at least to all residents and children”.²⁰

As social protection measures aim to strengthen resilience, accelerate equity and contribute to human development, social protection can also be seen as a strategy for maximising the opportunities and addressing the economic and social vulnerabilities associated with adolescent and youth migration. Two key dimensions of social protection should, as a minimum, apply to youth (and other) migrants in destination countries; these along with essential complementary support mechanisms and policies are listed in Box 3.3 and elaborated below. Crucial, complementary dimensions for ensuring social protection for young migrants include *informal support networks* and *policy addressing labour market access and employability*, in particular access to employment services and vocational training/skills development, as well as other programmes that enhance employability.

Box 3.3. Two aspects of social protection and two complementary measures particularly relevant for migrants²¹

1. Access to social protection schemes/programmes, provision of benefits, including to ensure access to health care and other basic social services in host countries;
2. Portability of social security benefits.
3. Informal support networks
4. Policies addressing labour market access and employability

Access to social protection programmes (including access to universal social benefit schemes, social insurance schemes, social assistance schemes, public employment schemes and/or employment support schemes) can directly address some of the risks young migrants face, in addition to enhancing their human development.

Access to social services provides a smoother transition for international youth migrants, facilitating their economic and social integration. Social protection measures may address the economic and social barriers that can prevent access to services. Certain schemes focus on the most vulnerable parts of the population in an effort to achieve a fairer more inclusive distribution of resources and benefits. They thus help level the playing field, supporting both children and adults to realise their full potential. In relation to migrants, these services can help overcome economic or socio-cultural barriers; for example, in schools or labour markets, promoting effective integration.

Portability of social security benefits refers to the ability to “preserve, maintain and transfer vested social security rights or rights independent of nationality and country of residence”.²² For instance, migrants working in a destination country may be contributing to an old age pension scheme or to another social security scheme that accrues benefits after a certain qualifying period, before which, if they return to their home country, their contributions would be partially or totally lost. Without portability, migrants and their families incur losses that are both financial, in terms of

contributions made, and in terms of social security benefits, particularly retirement income.

However, factors often impeding portability of social security that need to be addressed include: lack of basic data capacity and exchange capability between employment and origin countries, incompatibility between social security systems, the need to bridge different legal regimes, absence of common regional legal frameworks or bilateral accords, lack of adoption and utilization of relevant international standards by concerned countries, non-convertibility of contributions and entitlement values across different currencies and varying exchange rates, and differing administrative capacity and competences between different country administrations, to name but several.

Promoting and establishing bilateral or multilateral social security agreements can expand and extend the social security coverage and portability that migrants have access to. Such agreements –along with ratification of the relevant ILO Conventions including Nos. 102, 118 and 157 reinforce equality of treatment with nationals of the country of employment, as well as maintain social security rights acquired in the host country and allow for periods of contribution completed in different countries to be added for the calculation of the benefit entitlement. Such agreements provide for the export of benefits from the country of employment to the country of origin, and can ensure that young migrants benefit from protection of accumulated benefits acquired in different countries (See Box 3.3).²³ Therefore, it is important for young migrants to be informed of these agreements/schemes that extend benefits to migrants.²⁴ Moreover such schemes provide a starting point and basis for countries to afford and extend social protection benefits for a migrants, particularly adolescents and youth.

For a large number of countries, portability can be enhanced by implementing the existing or emerging multilateral social security agreements in the regional economic communities or common markets with established regimes of free circulation of workers or persons generally. Cooperation among social security institutions in these multi-country areas is essential to ensure coverage and portability for migrants.

Informal support networks are formal and informal institutions that act as non-traditional social safety nets providers, either complementing formal social protection schemes or compensating for their absence. They are essential for workers in the informal economy, including migrant workers – whether in authorized or undocumented situations. Such networks include cooperatives, mutual associations, trade unions, religious and charity institutions, non-governmental organizations (NGOs), family networks, and diaspora associations. In the absence of either contributory or non-contributory income support measures organized by the State – i.e. tax- or contribution- financed social benefits, in cash or in kind, and medical care – arrangements developed by NGOs are often the only form of social protection support available to migrants. ‘Reverse remittances’ (flows of goods or money from countries of origin to destination) also constitute an important source of informal social protection that help migrants struggling due to periods of unemployment or other unforeseen situations.²⁵

Coordination and complementarity between social protection/social security measures and *policies addressing labour market access* are also important for supporting and protecting youth and adolescent migrants. Labour market policies can offer incentives to employers to contribute to facilitating access to social protection for migrant workers. However, absence of deliberate policy as well as policy approaches ignoring social protection leave vacuums that allow employers to avoid providing for social protection and/or to employ young migrants on sub-standard terms and in conditions that may expose young migrants to aggravated health and safety risks.²⁶

Chapter 5 on youth migration and employment touches on *policies addressing labour market access and employability* for youth migrants, in particular access to employment services and vocational training/skills development, and other policies and programmes that enhance employability.

Enhancing social protection systems to include migrant youth and adolescents

Building on points outlined above, the main impediments for extending social security to migrants can be summed up as: 1) lacuna in national legal/legislative regimes, namely absence of access to, in particular pensions and health protection coverage for migrant workers and their families, non-calculated employment periods, and non-portability of pensions and benefits; 2) Lack of implementation of existing social

security provisions that cover migrants; 3) absence of social protection for workers in informal or unregistered activity, 4) absence of provisions ensuring basic social protection for migrants in irregular, unauthorized or undocumented situations; 5) disincentives to incorporate non-nationals in social security; 6) lack of administrative mechanisms to extend coverage and portability; 7) inadequate data and lack of information exchange in countries and, consequently, among countries; and 8) lack of multilateral or bilateral frameworks for social security cooperation.²⁷

Related contextual policy challenges include: absence of legislation governing labour migration; absence or inefficiency of administrative and regulatory mechanisms; and prevalence of informal employment relations.

For social protection to be extended to youth and adolescent migrants, specific mechanisms are required to recognize migrant workers' social security rights and to overcome restrictive conditions, in particular those based on territoriality 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. Specific measures may be needed to ensure that all migrant youth and adolescents can access social protection regardless of status, including those in informal and/or temporary employment situations.

A number of specific steps can be taken unilaterally to improve social security outreach to and incorporation of migrants, independent of concluding bilateral or international agreements. As a primary step countries should establish and strengthen national social protection floors ensuring at least basic income security and access to essential health care for all residents and children including migrant workers and their families as quickly as possible, especially countries that do not have a minimum level of social security guarantees. Secondly, governments should seek to provide higher and wider levels of protection to as many people as possible, progressively extending and building their national security systems. For those countries, with comprehensive social security systems already in place, it is crucial to strengthen its efficiency, simplify procedures, including to accommodate resident as well as short-term

migrants, and enable migrants to effectively access existing social protection schemes. Social security institutions in member States of regional economic communities (RECs) need to assess their existing coverage and identify actual compatibilities and contrasts between national systems in the RECs. They also need to support generating the political will to obtain inter-country agreements and to extend unilateral measures.

More precise data and information 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 also need to encourage obtaining data on the often un-recognized migrant worker populations such as those in informal economic activity, the large numbers in seasonal agricultural labour, and those in irregular situations.

Extending social security to migrants, particularly young migrant workers, 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, concerned ministries and social security institutions.

Specific action steps may be needed in four areas:

1. Assessment of populations, systems and capacities

Good policy, practice and cooperation depends on good data. Extending social protection coverage requires solid evidence on existing applicable laws, provisions, practices and capacities for coverage of migrants as well as the numbers, age and gender distribution, employment situations and status of migrants.

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. A first step in any country should be mapping “Extending Social Security Country Profiles” (Box 3.4). Mapping would include both an assessment of relevant law, practice and structures, and statistical and qualitative data regarding migrants in the country as well as nationals abroad.

Box 3.4. Mapping Country Profiles for Extending Social Security

Two main areas:

- 1) Summarize applicable social security law provisions, existing current practices, relevant structures, and mechanisms addressing or potentially able to address social security of migrants:
 - Identify coverage existing for non-nationals including that applicable for undocumented migrants and migrants working in the informal economy.
 - Specify types of coverage: pension, health, accident, disability, other
 - Transferability provisions and mechanisms
 - Systems for obtaining contributions and providing benefits
- 2) Obtain statistical and qualitative data regarding migrants in the country and nationals abroad – access and availability of data and resources permitting:
 - Numbers of migrants, including their age and gender
 - Employment characteristics, including sectoral distribution
 - Length of stay, and applicable legal status regimes
 - Family dependent data

Any such mapping will be dependent on national social security administrations cooperating with relevant ministries in charge of social protection and related services and social security institutions. In some countries agencies in charge of managing and distributing social security benefits can also include private insurance boards and foundations, provident funds, and judicial institutions. The International Social Security Association (ISSA) can offer essential tools and methodologies as well as lessons learned from other countries' experiences.

2. Implementing national 'unilateral' measures

Expanding the contributor base to enhance affordability and efficiency of social security systems argues for promoting full incorporation of migrant workers in national systems. Expert inputs and experience of social security administrators and social partners (worker and employer organizations) highlight an array of measures that can be implemented unilaterally and often rapidly within each country, and usually applying to origin, transit and destination countries, recognizing that today most countries are all three. 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.

- Provisions for inclusion in social protection measures of all migrants resident in the country regardless of status.
- Extending social protection coverage, including through establishment and strengthening of national social protection floors ensuring basic social protection guarantees to all residents and children.
- In the 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 is the country of employment and/or enables citizens abroad to continue to contribute to social security schemes at home.
- Requiring recruitment agencies to include social security provisions in recruitment/employment contracts.
- Establishing special social security options or voluntary social insurance for migrant workers based on voluntary contributions.
- Providing options for voluntary retroactive payment of contributions into social security or pension schemes for periods abroad.

Much can be done through implementation of administrative measures and practices, particularly in countries of employment (Box 3.5). Specific measures will necessarily be determined according to each national context. For this, the national profiles are especially relevant, by providing decision-making data on applicable legal provisions, existing practices, relevant structures, and mechanisms addressing or potentially able to address social protection of migrants, and young migrants in particular.

Box 3.5. Actions that social protection administrators can take:

- Establishing explicit recognition and incorporation of migrant workers and their families as eligible participants in social security systems, in equal conditions with nationals.
- Promulgating dispositions applying social protection measures to all migrants resident in the country regardless of status or employment situation.
- Elaborating administration policy statements on recognition and equality for migrants.
- Awareness raising of rights and access for administrators and engagement in external public relations to ensure that both migrants and host populations are aware of migrants' rights, equality of treatment, and obligations regarding social security coverage.
- Dialogue with opinion makers, executive officials and legislators to facilitate an environment incorporating migrant participation in social protection systems.
- Enhancing participation by migrant workers with specific oversight measures to obtain enrolment, contribution collection and compliance regarding migrant participation.
- Preventing discrimination in regulations and practices, notably regarding nationality, gender and ethnicity
- Devising deliberate outreach activities to inform migrant workers about benefits and services and how they can access coverage. This may urge mobile outreach to mining camps, isolated construction sites and/or rural farming and forestry areas; it may mean language accommodation measures such as information, enrolment and advisory services in languages migrants can understand.

Source: Adapted from Taran, P., "Framework Guidance Document: Extending Social Security to Migrants in Eurasia", International Social Security Association (ISSA), Geneva (forthcoming).

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

A complementary basic step to extending social protection for young migrants is incorporating relevant international standards in national law and practice. The core international instruments on migrant workers including ILO Conventions and Recommendations on social security and ILO migrant-specific instruments ensure an internationally compatible legal foundation for realization of the right to social security for migrant workers and their families. Basic rights need to be defined in national law to set the foundation for "social security for all", including migrants and young migrants and their families. 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. International standards for social security administration and governance provide the basis for credible, sustainable and effective implementation. The *Dynamic Social Security* (DSS) concept promoted by ISSA, as

well as democratic, tripartite governance, are key strategic components. In addition, national protection floors can be used as a means to palliate the lack of coordination arrangements between countries in respect of any branch of social security. This is often the case where short-term benefits are concerned, as well as for health care and non-contributory benefits.

Social Security Administrations are especially important partners to “making the case” for extending social protection to migrants (Box 3.6) They can work together with advocates, migrant-concerned organizations, faith-based groups, and others concerned with social welfare and social cohesion to promote the ratification and implementation of international standards, the promulgation of legal and administrative measures to extend social security, and to encourage public awareness and understanding.

Box 3.6. Actions that social protection administrators can take:

- Establishing explicit recognition and incorporation of migrant workers and their families as eligible participants in social security systems, in equal conditions with nationals.
- Support definition of rights and equality of treatment in national law through legislation – including ratification and implementation of international instruments – by providing data, expert advice, and testimony to legislators.
- Give attention to formulating and implementing operational regulations and language on legal inclusion that acknowledge migrants’ rights and entitlements and ensure their access to social security.
- Establish the regulatory basis and mechanisms for migrant workers’ compulsory participation.
- Devise and implement Dynamic Social Security measures, such as reducing bureaucratic formalities to provide benefits and services in full and quickly, and finding ways of including all migrant workers in basic social security coverage, including those in informal employment and/or irregular situations.
- Review governance structures to ensure representative stakeholder participation and democratic governance of social security. Administrators should enhance regular consultation with social partners and ensure that migrant representatives are included and heard.
- Urge continued State responsibility in financial support and management of comprehensive social security.
- Engage ongoing re-evaluation and innovation to maintain a balance among affordability, equity and efficiency.
- Ensure ongoing capacity building, notably training on the situation of migrant workers.

Source: Adapted from Taran, P., “Framework Guidance Document: Extending Social Security to Migrants in Eurasia”, International Social Security Association (ISSA), Geneva (forthcoming).

4. Identifying existing compatibilities and contrasts among national systems in regions

The prerequisite for cooperation on social protection in the growing number of regional economic communities implementing free circulation regimes is identifying existing compatibilities, convergences and divergences among the national social security systems on coverage of migrants. Key elements include recognition of portability and maintenance of rights acquired and in course of acquisition.

Social security administrations have important roles in determining applicability of existing legislation and international agreements, including conventions and bilateral or multilateral agreements that provide means and mechanisms for ensuring portability in fact. Administrators should also identify mechanisms to account for periods of employment/contributions by migrant workers in their country.

The key components of this mapping could be an “Identification and Analysis of Compatibilities” survey to:

- Comparatively review country profile data;
- Determine convergences and potential or existing compatibilities among national systems;
- Analyze bilateral and multilateral accords to identify existing convergences; and
- Identify gaps, divergences, incompatibilities and/or lacuna between countries.

The section below outlines a number of the emerging regional social protection cooperation mechanisms addressing migrants in regional free circulation regimes.

Regional regimes for social protection of migrants

Economic integration through freer circulation of people along with capital, resources, goods, services, and technology is advancing – to greater or lesser degree – today in eleven regional integration processes involving a total of more than 100 countries. The **European Union** with its consolidated regime of free movement among 28 member countries is best known. In addition, liberalized circulation regimes for labour and skills are being implemented to a greater or lesser degree in nine others involving more than 70 countries. These include the **Andean Pact** (4 member countries); – **CARICOM** – Caribbean Community (15 members, 5 associates); **CEMAC** – Communauté économique et monétaire de l’Afrique Centrale (6 members); **EAC** – East African

Community (5 members); **ECCAS** – Economic Community of Central African States (8 members); **ECOWAS** – Economic Community of West African States (15 members); **EEC** – Eurasian Economic Community (6 members); Southern Common Market – **MERCOSUR**, (5 members, 5 associates); and **SICA** – Central American Integration System (8 members; 4 with a joint free circulation/common passport zone). Memberships of CEMAC and ECCAS overlap.

Processes are underway in four other regional economic communities to establish, renegotiate or adopt free circulation regimes: **ASEAN** – Association of Southeast Asian Nations (10 members), **COMESA** – Community of Eastern and Southern Africa (19); **IGAD** – the Inter-Governmental Authority on Development (5 members in the Horn of Africa region); and **SADC** – Southern Africa Development Community (15 members).

Regional multilateral social security agreements or frameworks have been established in several of these processes. The regimes outlined below are significant in that they recognize needs for access to and portability of social protection by migrants across the respective regional economic communities (RECs). However, there has generally been little explicit attention to the specific social protection/social security needs of adolescent and youth in these regimes.

European Union (EU)

The EU social security coordination regulations, elaborated over 50 years, are generally regarded as the most advanced social security coordination system in the world. The rules apply to 32 countries, the EU member States plus Iceland, Liechtenstein, Norway and Switzerland. They apply across nearly all of the nine contingencies identified in ILO Convention No. 102. The system is certainly the most inclusive and complex, both in terms of the number of persons covered and the degree of comprehensiveness. The regulations largely replaced earlier bilateral agreements, filling important gaps, and ensured consistent provisions applicable to all persons lawfully resident in the EU, replacing those that varied according to factors such as nationality.

Young people who are EU nationals and lawfully resident non-EU or *third-country nationals* moving within the EU to pursue education and/or employment are regarded as residents of their home countries, entitling them to all necessary benefits in kind.

The EU has elaborated an extensive framework for cooperation among national social security administrations to ensure access to and portability of social security coverage among EU nationals and legally residing *third-country nationals*. Other examples of EU social security measures and their application to third countries are the 1990s Euro-Mediterranean agreements between the EU, its Member States and the Maghreb countries of Algeria, Morocco and Tunisia, as well as an earlier agreement with Turkey, all of which contain provisions on the portability of social security benefits for migrant workers.²⁸

Caribbean Community (CARICOM)

CARICOM's Revised Treaty of Chaguaramas,²⁹ in its Chapter 3, stipulates rights to free movement and calls for removal of restrictions on rights to establishment in a member State by nationals of other member States, expressly to provide services and, for certain skills categories, to seek employment across the region. Article 35 of the Treaty explicitly calls for establishing common standards and measures for accreditation or mutual recognition of diplomas, certificates and other evidence of qualifications, for "mechanisms to determine equivalency or accord accreditation", and for measures to co-ordinate legislative and administrative requirements for participation of Community nationals in employment and other activities in the Community. The CARICOM Agreement on Social Security (CASS)³⁰ provides for portability of pensions and also migrant workers' access to claim other safety-net allowances, such as workers' compensation and unemployment benefits (as long as they are lawfully present).

Southern Common Market (MERCOSUR)

MERCOSUR has established a comprehensive agreement and operational system recognizing the rights, obligations and contributions to pension systems of workers who work or have worked in one or more of the MERCOSUR countries, and of their families. The system ensures non-discriminatory access to social services and makes benefits portable for intra-regional migrants.³¹ The system is based on the principle of *prorate temporis* (i.e. in proportion to the length of time involved), and transferability of individual capitalization. It operates as a unified system, taking into account the specificities of national administrations. Bilateral agreements by countries party to the accord with non-parties are anticipated, permitting transferring contributions among and elsewhere from MERCOSUR countries. Development of the joint data base for

MERCOSUR social security institutions with its Data Transfer and Validation System (DTVVS) was a major advance, systematizing and computerizing pension contribution data across the member countries.

Association of Southeast Asian Nations (ASEAN)

The 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers' requires receiving States to "facilitate access to social welfare services as appropriate and in accordance with the legislation of the receiving state", as well as appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers.³²

East African Community (EAC)³³

The East African Community Treaty of 1999 addresses social security and social protection (in Article 120), although defined in terms of social welfare. The Treaty anticipated free movement of persons and their access to labour markets across the now five member countries. The EAC Protocol on the Common Market (2010) recognises the need for Partner States to "coordinate and harmonise their social policies to promote and protect decent work and improve the living conditions of the citizens" and Partner States agree to coordinate and harmonise social policies relating to: good governance, the rule of law and social justice, protection of human and peoples' rights, and protection of the rights of marginalized and vulnerable groups. An expert study for a coordinated approach to social security in the EAC recommended several common principles for implementation of the Common Market Protocol provisions:

- a) Social security as a right ought to be recognised in all the constitutions of EAC countries.
- b) The contingencies covered should include all nine elements stipulated in ILO Convention No. 102.
- c) Benefits must be adequate in amount or duration to ensure an adequate standard of living and healthcare.

- d) Accessibility and coverage: All persons should be covered by the social security system especially individuals belonging to the most disadvantaged and marginalised groups. This aspiration must be embedded in laws, although implementation may be gradual taking into account the available resources at any given time.

Southern African Development Community (SADC)

Social protection-related instruments within the SADC include the Declaration and Treaty of the SADC, the Charter of Fundamental Social Rights, the Code on Social Security, the Protocol on Gender and Development, Protocols on Health, and Education and Training, and a Draft Protocol on Facilitation of Movement of Persons in the region. While the Treaty and its protocols and the Social Charter are legally binding on SADC member States, the Code on Social Security – which ensures the right to social protection for some particularly vulnerable populations such as children, young people and migrants – merely provides guidelines.³⁴

Economic Community of West African States (ECOWAS)

The Economic Community of West African States has had Protocols on free movement, rights to establishment and access to labour markets for member State nationals across the fifteen member countries since the 1980s. The ECOWAS 2008 ‘Common Approach on Migration’ highlighted provisions to ensure protection of migrant workers and promote regular migration and gender-sensitive policies. Recent adoption of the ECOWAS General Convention on Social Security was a major step towards better coordination of social security schemes in the region. However, while implementation of these instruments has met several obstacles.³⁵ new initiatives are tracing ways to accelerate giving them effect. Although the Social Security Convention has not yet been ratified by many Member States, ECOWAS administrative provisions are being utilized to give immediate effect to key provisions. As in other RECs, national adoption and implementation of the instruments as well as greater coordination and cooperation are needed to effectively extend social security to migrant workers and their families.

Gulf Coordination Council (GCC)³⁶

In January 2006 the six Gulf Cooperation Council (GCC) Member States promulgated a unified social security law to cover GCC member citizens working in other GCC member countries against the risks of old age, disability and death. The Unified Law on Insurance Protection Extension for Citizens of Gulf Cooperation Council States Working outside Their Countries in Any of the Council Member States and its full implementation are seen as a significant step towards integration and coordination among GCC countries in all fields, including social security for citizens. Employers are now required to register all GCC member State citizens employed by them according to the procedures of the employee's home country. The undertaking also aimed at increasing labour mobility by enabling freedom of movement of workers between GCC states. The initiative facilitates transfer of knowledge and expertise among social security institutions and permits greater administrative and legal coordination. By expanding the base of social security contributors, the 2006 law resulted in increased financial revenues for the states' respective social security agencies. However, non-GCC "third country" nationals, many of whom have little or no social protection coverage yet comprise the vast majority of workers in most GCC countries, are not addressed in this scheme.

Ibero-American Multilateral Convention on Social Security

The Ibero-American Multilateral Convention on Social Security is the newest inter-regional multilateral agreement to come into effect. It has been signed by two European countries and 12 Latin American countries of which 11 have ratified the Convention while three have ratified the Administrative Arrangements. The Convention replaces a network of social security agreements among Latin American Countries. The Convention covers all persons who are or have been subject to social security legislation of any of the signatory states as well as to their family members deriving rights from them. It includes benefits in cash in the event of disability, old age, death of a family member and employment injury (work accidents and occupational diseases). The Convention applies to all schemes either general or special and benefits in kind relating to branches included. While of far-reaching importance by the number of persons potentially covered, implementation remains limited as only three countries have to date ratified the Administrative Arrangement.³⁷

It is important to note that the extent to which a number of these schemes are implemented and enforced has not yet been extensively documented, monitored or evaluated, with exception of the European Union, although even there attention to the specific situations of adolescent and youth migrants has been lacking. Research and documentation is essential for shedding light on their effectiveness, particularly in relation to migrant adolescents and youth.

KEY MESSAGES

The message of this chapter is that equitable access to and coverage of social protection, including access to health care, for adolescent and youth migrants enhances their well-being and their contributions to development.

- Social protection is a critical tool for addressing economic and social risks and vulnerabilities; yet young migrants often face restricted access to, or exclusion from, social protection and social security systems.
- Governments have the primary responsibility for ensuring effective access to social security for all. Effective social dialogue processes play a key role in the formulation and implementation of social security policies.
- It is critical to ensure that adolescent and youth migrants are covered by existing social protection mechanisms, to eliminate territoriality, nationality and legal status barriers to access and restrictions on portability of social security, and to ensure responsiveness to the specific needs of young migrant women and girls.
- International legal instruments including ILO Conventions and Recommendations on social security and migrant-specific instruments referring to social security provide a comprehensive legal and policy framework for extending social protection to young migrants both horizontally and vertically through a two-dimensional approach.
- The ILO Social Protection Floors Recommendation, 2012 (No. 202) provides a useful framework for the establishment of national social protection floors as a fundamental elements of national social security systems aimed at achieving universal protection by ensuring at least minimum levels of income security and access to essential health care to all including migrant workers and their families (*horizontal dimension*). It provides additional guidance on the formulation and implementation of extension strategies.
- In line with national priorities, resources and circumstance, strategies to extend

social protection should also progressively ensure higher levels of social security to as many people as possible, taking into account Convention No. 102 and other ILO more advanced social security standards (*vertical dimension*).

- Important steps have been taken in several regions to enhance access to social protection and social security coverage for migrants, including youth migrants, by implementing bilateral and multilateral social security frameworks complementing regimes of free circulation of persons in regional economic communities.
- In the absence of international social security agreements, national Social Protection Floors can palliate the lack of coordination arrangements between countries and can address gaps in the social security coverage of migrant workers and their families. The ILO Social Protection Floors Recommendation, 2012 (no. 202) provides useful guidance in this regard.
- Significant steps to extend social protection coverage and access to social security entitlements for young migrants and their families can be taken unilaterally by countries, including by their respective social security administrations.

POLICY RECOMMENDATIONS

To extend social protection measures to incorporate young migrants

- Ratify and implement relevant international conventions and implement recommendations which make provisions for the right to social security of migrant workers and their families.
- Ensure that social security policies address the needs of women and men and children during all stages of the life cycle and the specific needs of vulnerable groups including migrant workers.³⁸
- Implement the ILO Social Protection Floors Recommendation, 2012 (No. 202) to cover youth migrants and their families in the State where they reside, as well as in their home country, to ensure at a minimum that, over the life cycle, all in need have access to the four social security guarantees comprised of at least: access to essential health care, including maternity care; basic income security for children; basic income security for persons in active age unable to earn sufficient income: and basic income

security for older persons.

- Provide effective access to universal social protection rights, such as to healthcare and education, for all young migrants and their families, without discrimination of any kind, including on the basis of migration status.
- Conclude bilateral, regional and/or multilateral agreements that provide equality of treatment in respect of social security as well as access to, preservation of and portability of social security entitlements for migrant workers, including access, at a minimum, to basic social protection for adolescents and youth, including young female migrants, in countries of origin and destination.
- Implement existing regional frameworks on social security coverage and portability, while ensuring their applicability to adolescent and youth migrants.
- Adopt unilateral measures to extend social protection coverage to all migrants, including citizens living abroad and non-nationals present in national territories, as well as ensuring access to social security entitlements.
- Ensure that social protection measures covering migrants apply to adolescents and children and to temporary and seasonal migration schemes.

NOTES

¹ ILO (2014). *World Social Protection Report 2014-2015*, International Labour Organization, Geneva, June 2014. p. xix.

² Taran, P. (forthcoming). "Framework Guidance Document", International Social Security Association (ISSA) and International Association of Pension and Social Funds (IAPSF) Working Group on Migrant Workers in Eurasia (FGD), ISSA, Geneva.

³ UNICEF (2012). "Integrated Social Protection Systems – Enhancing Equity for Children", Social Protection Strategic Framework for UNICEF, New York.

⁴ CRC (2012). Report of the 2012 Day Of General Discussion: the Rights of All Children in the Context of International Migration. UN Office of the High Commissioner for Human Rights. October 2012. See particularly paras. 86 and 88, pages 20, 21. Available at: <http://www2.ohchr.org/english/bodies/crc/discussion2012.htm>.

⁵ Since its establishment in 1919, the ILO has played a major role developing an internationally defined normative framework guiding the establishment, development and maintenance of social security systems across the world, and has become the world's leading point of reference for efforts to this end. Elaborated and adopted by the Organization's tripartite constituents, governments, employers' and workers' representatives of all ILO member States, and stemming from the Organization's mandate, the Conventions and Recommendations that compose this framework are unique: they establish standards that States set for themselves, building on good practices and innovative ways of providing enhanced and extended social protection in countries from all regions of the world. At the same time, they are built on the notion that there is no single perfect model for social security; on the contrary, it is for each society to develop the best means of guaranteeing the protection required. Accordingly, they offer a range of options and flexible routes for their application, which can be achieved through a combination of contributory and non-contributory benefits, general and occupational schemes, compulsory and voluntary insurance, and different methods for the administration of benefits, all directed at ensuring an overall level of protection which best responds to each country's needs.

⁶ The definition in the Constitution of ISSA reads, "any scheme or programme established by legislation, or any other mandatory arrangement, which provides protection, whether in cash or in kind, in the event of employment accidents, occupational diseases, unemployment, maternity, sickness, invalidity, old age, retirement, survivorship, or death, and encompasses, among others, benefits for children and other family members, health care benefits, prevention, rehabilitation, and long-term care." The full text of the ISSA Constitution is available at: <http://www.issa.int/details?uuid=da0af86b-b150-4313-938d-185ce2316fbb>.

⁷ ILO (2010). "Global Employment Trends for Youth", ILO, Geneva.

⁸ UNICEF (2011). *Adolescence: An Age of Opportunity*, State of the World's Children Report 2011, UNICEF, New York.

⁹ UNICEF (2012), *op. cit.*

¹⁰ Avato, J., Koettl, J. and Sabates-Wheeler, R. (2010). "Social Security Regimes, Global Estimates and Good Practices: The Status of Social Protection for International Migrants", *World Development*, 38.4 :455–466

¹¹ For a description of this programme and its impact, see "Mexico's Progresas-Oportunidades and the emergence of social assistance in Latin America" by Miguel Niño-Zarazua. Brooks World Poverty Institute, The University of Manchester, Chronic Poverty Research Centre, March 2011. Available in pdf format from Munich Personal RePEc Archive at: <http://mpra.ub.uni-muenchen.de/29639/>

¹² Sabates-Wheeler, R., and M. Waite (2003). "Migration and social protection: a concept paper", Migration Globalisation and Poverty Development Research Centre (DRC) Working Paper WP-T2, Brighton: Migration DRC, University of Sussex, available at: http://www.migrationdrc.org/publications/working_papers/WP-T2.pdf.

¹³ Territoriality confines the application of social security legislation to the territory of the country in which it has been enacted. The second restriction is based on nationality where in one country migrant workers may receive differentiated benefits according to their nationality.

¹⁴ See: <http://www.socialsecurityextension.org/gimi/gess/ShowTheme.do?tid=2925>.

¹⁵ "The Social Security Administration estimates that in 2010 illegal immigrants paid a net contribution of \$12 billion, either by working under a fraudulent Social Security number or by using a legitimate Social Security number after overstaying a visa or otherwise losing permission to work," : "Immigration and Social Security" by Shaila Dewan, *New York Times*, 2 July 2013. See: http://economix.blogs.nytimes.com/2013/07/02/immigration-and-social-security/?_php=true&_type=blogs&_r=0. See also: "Illegal Immigrants Give Billions to Medicare, Social Security With No Hope of Benefit" by Kimber Solana, The Medicare NewsGroup, 7 January 2013: <http://www.medicarenewsgroup.com/context/understanding-medicare-blog/understanding-medicare-blog/2013/01/07/illegal-immigrants-give-billions-to-medicare-social-security-with-no-hope-of-benefit>.

¹⁶ Morlachetti, A. (forthcoming). “Youth Employment and Migration: A comparative legal review”. UNICEF, Social and Economic Analysis Unit.

¹⁷ See French Public Administration website explanation of “Aide médicale de l’État (AME)” benefits, conditions and services (in French) at: <http://vosdroits.service-public.fr/particuliers/F3079.xhtml>

¹⁸ Blank, L., S. Devereux and S. Handa (2011). “The case for social protection for Africa’s children”, S. Handa, S. Devereux and D. Webb (eds), *Social Protection for Africa’s Children*. Routledge.

¹⁹ ILO Social Protection Floors Recommendation, 2012 (No. 202), para. 2.

²⁰ ILO Social Protection Floors Recommendation, 2012 (No. 202), para. 6.

²¹ This formulation of relevant aspects of social protection is adapted from Sabates-Wheeler et. al., 2007. “[Migration and Social Protection: Exposing Problems of Access](#)”. Sabates-Wheeler, R. and I. MacAuslan in *Development (Special Issue on Migration) Vol. 50 (4): 26–32*.

²² Sabates-Wheeler et al, 2010, *op. cit.*

²³ For long-term benefits such as pensions, which require a lengthy qualifying period, it is important for young migrants to be aware of their rights and informed about the existence of social security agreements so that they keep the record of the contributions they make to different countries’ social security schemes. It is likely that quite a few migrants lose their benefits because they do not know that they could be entitled to such benefits.

²⁴ For long-term benefits such as pensions, which require a lengthy qualifying period, it is important that young migrants be made aware of their rights and informed about the existence of social security agreements and the need to keep records of their contributions to different countries’ social security schemes. It is likely that quite a few migrants lose their benefits due to lack of information.

²⁵ Mazzucato, V.. 2011. “Reverse Remittances in the Migration–Development Nexus: Two-Way Flows between Ghana and the Netherlands”, *Population, Space and Place*, 17: 454-68.

²⁶ While portability of social security benefits and labour market conditions may not be directly applicable to adolescent and youth migrants below the legal working age, it may still affect their families.

²⁷ This listing was identified in a meeting of the of ISSA- IAPSF Working Group on Migrant Workers in Eurasia, 30 November-1 December 2011 in Geneva among a number national social security agencies from the Eurasia region; it is generally consistent with findings in other regions.

²⁸ Sabates-Wheeler, 2003, *op. cit.*

²⁹ Text available at: http://www.caricom.org/jsp/community/revise_treaty.jsp?menu=community

³⁰ Text available at: http://www.caricom.org/jsp/secretariat/legal_instruments/agreement_socialsecurity.jsp?menu=secretariat. An ILO good practice brief “The CARICOM Agreement on Social Security” provides a summary on the agreement and how it works, at: http://www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=17. A CARICOM user guide “Social Security in CARICOM” explaining how the agreement applies and how to access coverage and benefits is available at: http://www.caricom.org/jsp/single_market/social_security_in_caricom_nov2010.pdf.

³¹ Ayuso A.. “Argentina and the Strengthening of Freedom of Movement within MERCOSUR”, presented at the Expert Roundtable on South-South Labour Migration, 22-23 November 2010. EuropeAid and International Centre for Migration Policy Development (ICMPD), Brussels.

³² ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, paras 7 and 8; text available at: <http://www.asean.org/communities/asean-political-security-community/item/asean-declaration-on-the-protection-and-promotion-of-the-rights-of-migrant-workers-3>.

³³ This sub-section on the EAC is adapted from: Taran, P., “Framework Guidance Document”, ISSA and IAPSF Working Group on Migrant Workers in Eurasia. ISSA, Geneva. (forthcoming).

³⁴ Oliver, M. (2008). “Regional Overview of Social Protection for Non-Citizens in the Southern African Development Community (SADC)”, Washington D.C., World Bank.

³⁵ Touzenis, K., S. Yao Konan, and S.N. Mohamed-Saleh (2009), “Etude de synthèse des politiques migratoires et des cadres législatifs en matière de migration sur le continent africain”, OIM et CIGEM, Genève/Bamako.

³⁶ This sub-section on the GCC is an edited summary of the ISSA 2010 good practices profile: *Social security coverage for migrant workers in the Gulf Cooperation Council States*.

³⁷ This description adapted from the ILO Social Protection Department webpage “Examples of multilateral social security agreements”, available at: <http://www.socialsecurityextension.org/gimi/gess/ShowWiki.action?wiki.wikid=953>

³⁸ As agreed by the ILO 183 member States at the International Labour Conference in 2011 in the Conclusions on the recurrent discussion on social protection (social security), para 33 (e).