



GLOBAL ACTION PROGRAMME ON MIGRANT DOMESTIC WORKERS AND THEIR FAMILIES



International
Labour
Organization

Expanding Social Security Coverage to Migrant Domestic Workers

Based on a report elaborated by Olena Vazhynska

Summary

Globally the domestic work sector employs millions of people and is characterized by increasing demand in the labour market and rapid growth in terms of number of people employed. According to ILO estimates, there were 67 million domestic workers in 2013 and 11.5 million of these were international migrants.¹ Nonetheless, a large number of migrants among domestic workers (DWs) are often excluded from the scope of coverage of social security systems, which makes them a particularly vulnerable group. Under these circumstances, extending social protection to migrant domestic workers (MDWs) goes beyond contributing to economic and social welfare; it is an indispensable component for strategies aiming at gender equality, poverty reduction and combating social exclusion.

The social protection effort has gained sufficient momentum to significantly impact inclusive development and poverty reduction. Today the right to social security is recognized as a human right in many international instruments with global development strategies shifting from a “growth first” to a “people first” approach.²

Building on the progress achieved under the Millennium Development Goals (MDGs), the new **2030 Agenda** proposes to implement appropriate national protection systems for all, including social protection floors, endorsed by the United Nations and the G20. Whereas domestic work has been one of the areas of concern under the International Labour Organization’s (ILO) Decent Work Agenda, the Sustainable Development Goals (SDGs) specifically recognize the importance of social protection policies that cover women, migrants and those in precarious employment; in short, migrant domestic workers.

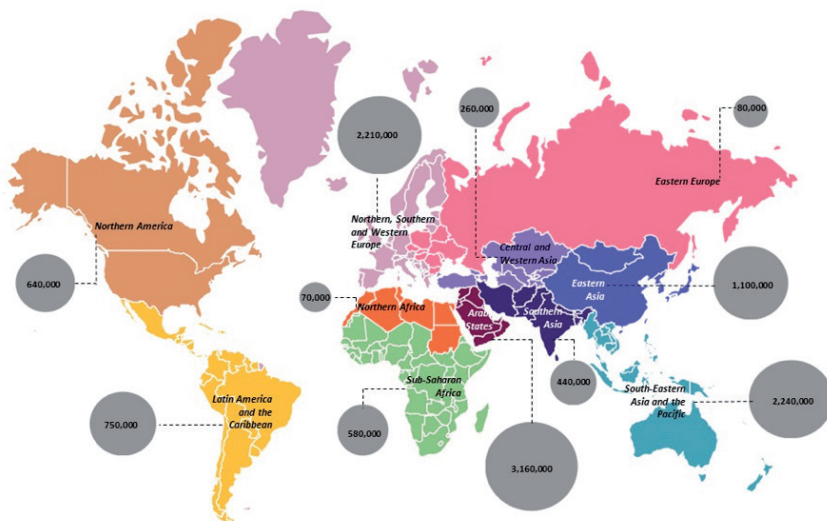
Box 1. Sustainable Development Goals (SDGs) Relevant to MDWs

- 1.3** Implement nationally appropriate social protection systems and measures for all, and by 2030 achieve substantial coverage of the poor and the vulnerable.
- 5.4** Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.
- 8.5** By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.
- 8.8** Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment.
- 10.7** Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.
- 10.c** By 2030, reduce to less than 3 per cent the transaction costs of migrant remittances and eliminate remittance corridors with costs higher than 5 per cent.

Building comprehensive social security systems: ILO strategy

Social Protection is one of the four strategic objectives of the *Decent Work Agenda* that defines the core work of the ILO. As the international agency specifically entrusted with setting international labour standards, the ILO has primary responsibility for the realization of the right to social security.³

Figure 1. Number of migrant domestic workers, by subregion⁴



ILO's recently adopted two-dimensional strategy for the extension of social security aims at building comprehensive systems in line with national priorities and resources.⁵ The strategy consists in supporting rapid implementation of National Social Protection Floors, while progressively ensuring higher levels of protection, in line with the 1952 Social Security (Minimum Standards) Convention (No. 102) and other ILO standards.

ILO legal framework pertinent to MDWs

ILO standards consist of Recommendations providing general or technical guidelines, and Conventions with legally binding obligations for ratifying Member states. Both contribute to realizing the ILO objective to extend social security to all. There are no instruments *specifically* aimed at securing social security rights for migrant domestic workers. However, there is an existing framework of overlapping technical provisions allowing for the expansion of social security coverage to MDWs.

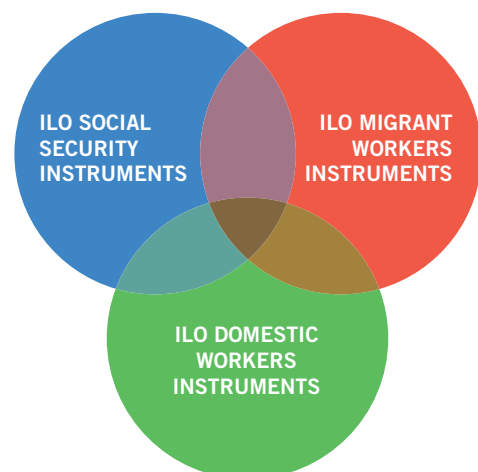
ILO Domestic Worker Protection Instruments

The Domestic Workers Convention, 2011 (No. 189) calls for the progressive extension of social security to domestic workers (including migrant domestic workers) and for their effective protection against abusive practices. Article 14 of the Convention establishes that each Member shall take appropri-

ate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are no less favourable than those applicable to workers overall, with respect to social security protection, including with respect to maternity.

The Domestic Workers Recommendation, 2011 (No. 201) further emphasizes the need for equality of treatment regarding social security and access to entitlements for migrant domestic workers. The Recommendation calls for bilateral, regional or multilateral cooperation among Member states in order to ensure the social security rights of MDWs.

Figure 2. Intersecting provisions for migrant domestic workers under ILO instruments



Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) includes domestic workers as especially vulnerable to the most serious decent work deficits in the informal economy group, recognizing that domestic and migrant domestic workers often lack a regular employment status or formal contract. The Recommendation promotes building and maintaining national social protection floors; and a progressive extension to all workers, in law and practice, of social security, maternity protection, decent working conditions and a minimum wage.

ILO Social Security Instruments

One of the benchmark ILO Conventions that provides for the extension of comprehensive social security systems is the **Social Security (Minimum Standards) Convention, 1952** (No. 102). Part XII of the Convention explicitly calls for the equality of treatment of non-national and national residents through bilateral and multilateral cooperation agreements.

Social Protection Floors Recommendation, 2012 (No. 202) complements Convention No. 189 and 102 by ensuring support for disadvantaged groups and persons both in the formal and informal economy, and extending social security coverage to all, including migrants.

Equality of Treatment (Social Security) Convention, 1962 (No. 118) calls on Member states to grant nationals of any other Member state for which the Convention is in force, equality of treatment under its national social security legislation.

Additionally, the **Maintenance of Social Security Rights Convention, 1982** (No. 157) as well as its accompanying Recommendation, 1983 (No. 167) promote development of and access to social services, particularly for migrant workers.

Universal access to health care is guaranteed under the **Medical Care and Sickness Benefits Convention, 1969** (No. 130), assuring to non-nationals who normally reside and work on the territory of the signing Member state equality of treatment.

Maternity Protection Convention, 2000 (No. 183)/ **Maternity Protection Convention (Revised), 1952** (No. 103) applies to all employed women, including those in atypical form of dependent work, to which migrant domestic workers often belong.

ILO Migrant Workers' Instruments

The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) states that migrant workers shall enjoy equality of treatment in respect of rights arising out of past employment as regards remuneration, social security and other benefits, even in cases when the position cannot be regularized in the host country.

The Migrant Workers Recommendation, 1975 (No. 151) recalls the clauses of the Convention

No. 143 and reiterates the equality of opportunity and treatment of migrant workers and members of their families as regards remuneration, social security and other benefits, both in case of lawful residence on the territory of a Member state as well as in case their position has not been or could not be regularized.

The Migration for Employment Convention (Revised), 1949 (No. 97) contains relevant clauses regarding acquisition of social security by non-national workers, that is to say, legal provision in respect of employment injury, maternity, sickness, invalidity, old age, death, unemployment and family responsibilities, and any other contingency which, according to national laws or regulations, is covered by a social security scheme).

The **Private Employment Agencies Convention, 1997** (No. 181) is particularly relevant as it calls for an adequate protection for workers, including migrants, employed by private employment agencies, among other things, in relation to statutory social security benefits. Employment agencies are heavily used by MDWs in many regions.

Main challenges of standards setting for Migrant Domestic Workers

MDWs receive **poor legal protection and, in many cases, are explicitly excluded from social security.**

The main challenges to providing social security coverage to migrant domestic workers are rooted in the limitations of national legislation. In many countries domestic workers are explicitly excluded from social security and if covered, may be subject to restrictions, such as minimum salary and/or minimum number of working hours for a single employer. In most countries they are not covered for the same contingencies as workers in other sectors. Some countries that require mandatory health coverage for DWs, have not included maternity protection and pension rights. Coverage for accidents and professional illness is uncommon as are unemployment benefits. Voluntary coverage is available in some countries, but international evidence suggests that it is largely ineffective as it appears to be an additional burden for the employer.

Box 2. Social protection in domestic work sector

- Most countries apply health insurance schemes to domestic workers;
- Approximately 14% of countries providing some form of social security for domestic workers, do not grant the same rights to migrant domestic workers;
- In Latin America and the Caribbean, approximately 60% of countries have some social security coverage for domestic workers, in Africa this figure is 25%, while in the Middle East, Asia and the Pacific – only one in five countries has social security provisions for DWs;
- MDWs may be excluded from social security schemes even where they claim legal residency in the destination country;
- Migrant domestic workers remain the most vulnerable and unprotected sector in terms of social security, mainly due to the fact that MDWs are excluded because they are largely associated with temporary or irregular migration.

The principle of territoriality also limits the application of social security legislation to the country in which it has been enacted. Migrant workers may not only lose coverage under the national social security system in their country of origin, but also risk of having limited or no coverage in their country of employment.⁶

Complexity of procedures

Time consuming and difficult to understand procedures raise transaction costs for both employers and migrant domestic workers. Inadequacy of administrative mechanisms is often a deterrent to social security registration for MDWs. Further difficulties relate to monitoring and labour inspection activities of domestic work.

Lack of information

Lack of an adequate base of information translates into constraints for national administrations to determine a strategy for expansion of social security coverage to migrant domestic workers. This lack of information also leads to asymmetric positions in negotiations between workers and employers, putting migrant domestic workers at a disadvantage when advocating for their rights.

Lack of coordination between countries

Where bilateral and multilateral social security agreements exist, migrant domestic workers are rarely identified as a specific group. In most cases they are included among other groups of workers regarding social security rights and coordination of benefits. Such generalizations in international social security agreements often lead to exclusion of those in irregular status or without a formal contract, as is the case of many MDWs. Nevertheless, bilateral or multilateral agreements have proven to be an efficient mechanism to recognize, retain and administer migrant workers' right to accumulated contributions or benefits in the host country. Migrant domestic workers face multiple barriers to accessing social security coverage. In addition to those previously mentioned, there are strong linguistic and cultural barriers, as well as overall stigmatization and discrimination, which prevent MDWs from accessing information regarding their rights.

MDWs in Multilateral Social Security Agreements

The **MERCOSUR Multilateral Social Security Agreement** entered into force in 2005 (pertinent national legislation: Ley Numero 25655 (Argentina, 2001), Decreto Legislativo Num, 451/200 (Brazil, 2001), Ley Numero 17.207 (Uruguay, 1999) and Ley Numero 2513 (Paraguay, 2004)) and is recognized as one of the most advanced in the region due to its effectiveness and coverage. The Agreement includes healthcare, old-age and disability benefits. Migrant domestic workers are granted pension portability rights under this Agreement.

Box 3. Argentina: Good practice for compliance with social security regulations

With the objective of increasing formalization and social security coverage of the most precarious workers (migrants and workers in domestic work and construction), Argentina launched a comprehensive policy, including tax incentives, simplification of procedures and an information campaign. The number of MDWs covered by social security doubled over a period of five years, though overall numbers remain low and enrollment remains a challenge.

The **Inter-American Conference of the Ministries of Labour** (IACML) has agreed on proceeding with migrant domestic workers' maintenance and transfer of acquired social security benefits.

The Andean Community (CAN) Social Security Instrument currently comprises four member states: Bolivia, Colombia, Ecuador and Peru. The Instrument was designed to ensure migrant workers equal treatment and their social security benefits while residing in other member States.

The Ibero-American Multilateral Agreement on Social Security (CMISS) is an instrument for coordinating national legislation on pensions that guarantees the rights of migrant workers and their families. Since 2007, 15 of 22 eligible countries have either signed, ratified or already implemented the agreement.

While the CMISS applies only to persons who are subject to social security in their country of origin, therefore significantly reducing the number of potential beneficiaries, it has a potential to eventually encompass migrant domestic workers as Art. 8 states that the Agreement fully applies in all cases wherein no other social security bilateral or multilateral agreement among the signatories.

Social Protection practices for MDWs under Bilateral Social Security Agreements

There are several examples of comprehensive social security bilateral agreements such as those entered into by France with Tunisia as well as Spain with Morocco and Ecuador.

The bilateral social security agreement between **France and Tunisia** (1965) aimed at facilitating the arrival of workers in France while allowing the payment of family benefits. The agreement covers 54 per cent of the entire Tunisian community abroad and provides access to healthcare and social security benefits under the same conditions as for French citizens where the condition of legal residence is met. Maternity benefits are accessible as well with a minimum contribution period of 10 months before the birth date. A range of family benefits, such as family cash benefits, education allowance, childcare allowances, birth and adoption allowances, disabled child education allowance, supplementary family benefit and housing benefits, are available to foreign

nationals without a minimum employment or contribution period.

The two bilateral social security agreements signed by **Spain with Morocco and Ecuador** apply to workers who are or have been subject to social security legislations of either migrant-sending country, as well as to their dependents and survivors.

Emerging approaches to comprehensive social security coverage

There are limited examples of explicit inclusion of migrant domestic workers into social security systems. ILO estimates that only 10 per cent of domestic work globally (some 5.3 million workers) is covered by general labour laws and has the same coverage as other salaried workers.⁷

Among the countries that provide some form of social security for domestic work, approximately 14 per cent do not grant the same rights to migrant domestic workers.⁸ Ensuring legal inclusion is a first step towards protection of MDWs' rights, yet application and implementation of the law may need to be accompanied with additional measures in order to achieve effective coverage.

Nevertheless, information collected by the ILO Social Protection Department reveals that among 163 countries no less than 70 (43 per cent) plan to introduce legal provisions in at least one of the nine branches of social security in order to provide some form of social protection to domestic workers.⁹ This initiative provides fertile ground for an effective expansion of social security to migrant domestic workers.

Medical care, sickness and employment injury benefits

In some receiving countries, such as Chile or Italy, migrant domestic workers are eligible for medical coverage under a general social security regime, while in other countries coverage is provided via special schemes for MDWs.

Sending countries also have specific programmes for migrant workers, for instance the Overseas Workers Welfare Administration (OWWA) of the **Philippines** provides a range of social services to the country's 3.8 million migrant workers, including domestic workers under the Migrant Workers and Overseas

Filipinos Act (Republic Act 8042). OWWA provides life and personal accident insurance, monetary benefits for members who suffer work-related injuries, illness or disability during employment abroad.

Sri Lanka has a similar voluntary social protection programme, administered by the Overseas Workers Welfare Fund (OWWF).

Ecuador offers migrant domestic workers coverage through a general scheme managed by the Institute of Social Security.

Maternity benefit

In Costa Rica, an employment contract and individual social security coverage are pre-conditions for regularizing migration status. An unexpected side effect of this is the higher coverage of social security among migrant domestic workers as compared to national DWs. Also because of this, maternity coverage of MDWs is nearly twice that of national domestic workers.

Child and family benefits

Universal social security programmes, such as the one in **Chile**, typically include migrant domestic workers in a wide range of social protection, including child and family benefits.

In **Spain**, dependents of migrant domestic workers including the spouse and children younger than 21 years old or younger than 25 years old if they are still studying, receive coverage. Introduction of a universal child allowance in 2009 in **Argentina** closed a gap in the coverage of child benefits for dependents of domestic workers. However, this benefit is not always applicable to dependents of migrant domestic workers as coverage is limited to children of Argentinean nationality or children who have been resident in the country for at least three years.

Unemployment benefit

Migrant domestic workers are generally excluded from coverage, however unemployment insurance schemes do exist for national domestic workers such as those in **South Africa and Brazil**.

Pension rights

Significant inroads have been made in recent years in extending disability benefits and pension rights to MDWs. Among the most recent examples of interstate cooperation is the MERCOSUR agreement on coordination of pension rights for migrant workers, including domestic workers.

Chile and Argentina have a unique medical care agreement, which covers old-age, disability and family benefits.

Similarly, the **Spain – Morocco** Social Security Agreement extends to migrant domestic workers. **Tunisia** has also improved pension coverage for domestic workers and other low-income groups, effectively increasing the proportion of pension beneficiaries among people aged 60 and over from 33.9 per cent to 68.8 per cent in the course of six years.

Conclusions and Recommendations

- As a first step towards promotion and protection of migrant domestic workers' rights and inclusion into social security systems, states should immediately ratify and implement the ILO Domestic Work Convention, 2011 (No. 189) and other ILO Conventions and Recommendations containing standards relevant to MDWs.
- The international community needs to support the Social Protection Floor Initiative and incorporate this into development strategies and comprehensive social protection frameworks.
- Extension of coverage by countries of origin to domestic workers employed abroad would overcome territorial restrictions and ensure universal access to social security. Transitional measures such as voluntary coverage, special programmes or differentiated coverage may be instrumental in achieving full legal coverage in the short-term noting that mandatory coverage may be a challenge for social security institutions in the countries of origin.
- Social security coverage needs for domestic workers must be built into comprehensive social protection frameworks; this will entail social protection schemes based on the principle of equal treatment, allowing migrant domestic workers to have the same labour rights as national workers, including the right to social security.

- Both countries of destination and origin are encouraged to adopt national social security strategies on expansion of core schemes, in accordance with national circumstances and capacities, aiming at establishing a basic set of social guarantees and ensuring support for disadvantaged groups, such as migrant domestic workers.
- National measures to extend social security coverage to migrant domestic workers should be enhanced by cooperation between countries: making migrant domestic workers subject of a bilateral labour agreement or memorandum of understanding could help eliminate barriers faced by MDWs in accessing social security benefits and ensuring rights such as exporting accumulated contributions, and eliminating double taxation of income.
- Diplomatic representations should be empowered to monitor enforcement of MDW contracts abroad, thus encouraging regular employment status and ensuring MDW access to social security.
- Civil society, workers' and employers' organizations should be encouraged to continue their engagement in the design, implementation and monitoring of national policies to ensure that labourers in a vulnerable situation such as migrant domestic workers, have access to basic social protections.
- In addition to legal and policy advocacy in support of MDW rights, measures such as awareness-raising campaigns, translation of indispensable information related to social security schemes, and implementation of complaint mechanisms among others, should be promoted and implemented in order to ensure that migrant domestic workers have effective access to social security benefits.

End Notes

- 1 ILO Global estimates on migrant workers and migrant domestic workers. Results and methodology. ILO, Geneva, 2015.
- 2 Some relevant international instruments include: Universal Declaration of Human Rights, adopted and proclaimed by General Assembly Resolution 217 A (III) of 10 December 1948 (New York, 1948); International Covenant on Economic, Social and Cultural Rights, adopted by General Assembly Resolution 2200 A (XXI) of 16 December 1966 (New York, 1966); Convention on the Elimination of All Forms of Discrimination against Women, adopted by General Assembly Resolution 34/180 of 18 December 1979, Articles 11(1)(e), 11(2)(b) and 14(2) (New York, 1979); Convention on the Rights of the Child, adopted by General Assembly Resolution 44/25 of 20 November 1989,

Box 4. Information guides for migrant domestic workers

- Information guides for migrant domestic workers in different migration corridors (from Paraguay to Argentina, Ukraine to Poland, Zimbabwe and Lesotho to South Africa, Indonesia to Malaysia) were developed as part of the ILO's EU-funded Global Action Programme on Migrant Domestic Workers and their Families (GAP-MDW). The guides provide pre-departure advice, information on migration legislation as well as migrant domestic workers' labour rights in destination countries.¹⁰
- "Know your rights!" booklets for migrant domestic workers in Italy and Spain were developed in English, Italian and Spanish as part of the ILO project on "Promoting Integration for Migrant Domestic Workers in Europe", funded by the European Fund for the Integration of Third Country Nationals.¹¹
- Question-and-Answer fact sheets provide information on the ILO Domestic Workers Convention, 2011 (No. 189) and domestic workers' labour rights.¹²

Articles 26, 27(1), 27(2) and 27(4) (New York, 1989); International Convention on the Elimination of All Forms of Racial Discrimination, adopted by General Assembly Resolution 2106 (XX) of 21 December 1965, Article 5(e)(iv) (New York, 1965); International Convention on the Protection of the Rights of All Migrant Workers and Their Families, adopted by General Assembly Resolution 45/158 of 18 December 1990, Articles 27 and 54 (New York, 1990).

3 ILO Mandate, 1919, <http://www.ilo.org/public/english/about/mandate.htm>.

4 Global estimates on migrant workers. Results and methodology. ILO, Geneva, 2015.

5 The Strategy of the International Labour Organization. Social security for all. Building social protection floors and comprehensive social security systems. ILO, Geneva, 2012.

6 Social Security for Migrant Workers. A rights-based approach, ILO, Budapest, 2011.

7 Domestic Workers Across the World: Global and regional statistics and the extent of legal protection. International Labour Organization, Geneva, 2013.

8 Social Protection of Domestic Workers: Policy Trends and Statistics, ILO, Geneva, 2016 (forthcoming).

9 Nine branches of social security, in line with the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102): medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors' benefits.

10 Available on the GAP-MDW website: http://www.ilo.org/global/topics/labour-migration/projects/WCMS_222567/lang-en/index.htm.

11 Available at: http://www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=165.

12 Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_161104.pdf.

Table 1. Examples of social policy cohesion: Coverage for domestic workers, migrant domestic workers and migrant workers in selected countries

Country	Coverage of Domestic Workers	Coverage of Migrant Domestic Workers	Coverage of Migrant Workers
France	Individual Employer provides benefits Medical insurance for domestic workers broader than general regime of social security. Maternity/paternity benefit.	Labour Code applicable to all foreign employees regardless of occupation. Social Security Code states “every employee shall be affiliated to social regime regardless of nationality, age, gender, whether working for one or several employers”.	
Italy	Under Collective bargaining agreement “Contratto collettivo nazionale di lavoro (CCNL)”, domestic workers subject to common social security administered by the National Social Security Institute; parties to CCNL agree to establish complementary social security. Limited maternity protection for domestic workers.	Migrant domestic workers are covered through general scheme of social security managed by INPS under the category of “Lavoratore Domestico” (domestic worker). Maintenance of rights ensured through range of bilateral agreements.	Applicable to all migrant workers based on formal employment contract All migrant workers, including migrant domestic workers, have access to social security.
Chile	DWs enjoy same protection as other workers in terms of social security, including maternity and provisions for protection on dismissal.	Labour code applies to all migrants based on employment contract in Chile. Migrant workers, including migrant domestic workers, have access to social security under general social security regime.	
Costa Rica	All insurances of salaried workers automatically extended to domestic workers.	Migrant domestic workers have same rights as national domestic workers.	Under the General Law of Immigration and Foreigners (2009), migrants entering Costa Rica must hold certification of insurance with Costa Rican Social Insurance Fund (CCSS).
Philippines	Ensures social security coverage to domestic workers under the general regime of social security.	Philippino MDWs covered under special provisions for emigrant workers. MDWs covered by same institutions as national workers .	Philippine Overseas Employment Administration (POEA) ensures access of workers oversea to social security benefits upon their return and helps monitor of social security agreements with destination countries.
Singapore	Domestic workers explicitly excluded from formal definition of “employee” however covered under a social security savings plan for citizens and permanent residents.	MDWs excluded from benefits of social security. Guidelines define foreign domestic workers as domestic workers employed from an approved country (Malaysia, Philippines, Indonesia, Thailand, Myanmar, Sri Lanka, India and Bangladesh).	Social security savings plan for citizens and permanent residents, covers national and migrant workers. Contributions paid by employee and employer.

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This project is funded by

The European Union

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ISBN 978-92-2-131028-0

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ISBN 978-92-2-131028-0



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