



Study Report on the Portability of Social Security Rights between ASEAN Member States



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Study Report on the Portability of Social Security Rights between ASEAN Member States

The ASEAN Secretariat
Jakarta

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ASEAN: A Community of Opportunities for All

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The Study of Portability of Social Security Rights between ASEAN Member States is a project in the Action Plan 2018-2025 to implement the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers that is led by Thailand through its Social Security Office and Thailand Development Research Institute. Commenced in 2018, the Study was completed in 2020 following a series of close consultations and interviews with various social security agencies in ASEAN Member States. The findings and recommendations were disseminated at the Seminar on the Portability of Social Security Rights between ASEAN Member States held on 25 November 2020.

The Study provides an overview of the national social security systems in ASEAN Member States including the laws, policies, agencies and management. It also provides analyses on key aspects to be considered in working towards transferability of social security benefits of migrant workers to other countries. It recommends some possible ways to build linkages with social security schemes of other ASEAN Member States, as well as options for legislative amendments and capacity building of social security agencies.

Sincere appreciation goes to the following for their technical contributions to this Study Report:

- To the ACMW focal points and their respective social security agencies for their invaluable time and efforts to provide data and information through interviews, share insights, review and provide constructive feedback to the Study Report;
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Foreword by

Mr. Todsapol Kritawongwiman

The Secretary-General of the Social Security Office (SSO)
of Thailand

International migration has been one of the key aspects of human lives. As globalisation deepens and technology advances, travel and communication has become more affordable and the right to mobility can be fully realised. At this moment the world is witnessing the high level of international movement of people; according to the UN, almost 200 million people are living outside of the country of birth.

Within the ASEAN region, there are around seven million of ASEAN migrants and the trend is going up. Key among different types of migration is labour migration, which has been proven to be a crucial part of many countries' social and economic development. Migrant workers fill the needs of labour markets that have been affected by demographic changes, gain new skills, improve their families' livelihood and build people-to-people ties.

With the increase of the intra-regional labour mobility, it is important that ASEAN Member States examine the extent to which social security schemes can be improved to support these ASEAN migrant workers. Social security is a human rights and key to human development and income redistribution. ASEAN instruments in this area include the 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers and the 2017 ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers. They both call for the protection and promotion of social welfare of migrant workers. As an activity under ACMW Work Plan 2016-2020, this study was commissioned by the Social Security Office and carried out by the Thailand Development Research Institute to identify the challenges and prospects with regard to developing a more coordinated social security for ASEAN migrant workers.

It is hoped that this action-oriented study lays foundation and trigger further bilateral and multilateral discussions with the aim to achieve portable social security that will become a driving force for economy development of the ASEAN region in the future.

A handwritten signature in black ink, appearing to read 'Todsapol K', written in a cursive style.

Mr. Todsapol Kritawongwiman



Foreword by

Nguyen Manh Cuong

The Chair of ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) of 2020-2021

The year 2020 will always be an unforgettable year in the history of the world and of every country with the appearance of COVID-19 and its impacts on the lives of human beings. The critical situation posed by COVID-19 also serves as a reminder for us to hasten our pace and focus our goal on responding to and be prepare for the many challenges that will emerge in the future of works of the Post-COVID era. And while the COVID-19 pandemic had severely disrupted the migration landscape and exacerbating the many problems faced by migrant workers, it will reaffirm ASEAN's commitment on the long road we have chosen toward building an inclusive community for all.

In this context, we once again see the very important task of the ASEAN Commission on the Promotion and Protection of the Rights of Migrant Workers (ACMW) in accelerating whatever way to enhance social protection, including social security, for the migrant workers in the region.

With that in mind, I am very supportive of the efforts of Thailand to develop and finalize the *Study on the Portability of Social Security Rights Between ASEAN Member States* in 2020, which has provided a cross-cutting view on the laws, policies benefits and systems of Social Security across the region.

Migration among the ASEAN Member States has been the key contributor of economic growth, driven by the differences in economic development, population structure, unemployment rate, and wage rate of the Member States and as our region develop economically and socially, the exchange of the workforce became more and more frequent. This requires us to find a way to harmonize our policy and measures to benefit from our workers' skills while also providing proper protection to such migrant workforce. The lack of access to a social protection system for our workers while moving to work among AMSs is a pressing matter that needs to be addressed.

On that note, the Study has made a very import step in bridging the gaps between the broadly different social security systems of all 10 AMS and laid out the big-picture of how each country view, see and handle social benefits of their workforces. Based on the recommendations of the report, we could focus our vision and efforts on the areas that of potential cooperations to address the complex issues of the increasing migration among ASEAN Member States to promote greater mobility of workers with better development of a Social security network for the region.

With such efforts, ASEAN will likely become an Inclusive Community for all migrant workers.

Nguyen Manh Cuong



Foreword by

Kung Phoak

Deputy Secretary-General of ASEAN for
ASEAN Socio-Cultural Community

Labour migration in the region has grown over time and become an important contributor to economic development of ASEAN Member States. According to the United Nations, there were more than 10 million migrant workers in the Southeast Asian region in 2019, accounting to around 1.5% of the total population. In spite of the COVID-19 pandemic that had affected the migration landscape, the region is forecasted to have a strong recovery of 5.5% growth in 2021¹. In line with this recovery, labour mobility is also anticipated to bounce back in the near future.

Access to adequate social security benefits is crucial in supporting the livelihoods of all workers, including migrant workers, and their families. Social security becomes even more critical in unfortunate times of injury, sickness or death of workers. The benefits should be availed and enjoyed even after migrant workers return home. The COVID-19 pandemic has exposed the critical need for better social security of migrant workers and their accessibility from home countries, for migrant workers who may have to return home due to wage cuts, non-payment of wages, deteriorating working conditions or job loss.

The ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers protects the right of migrant workers, regardless of gender, to fair and appropriate remuneration and benefits in accordance with the laws, regulations, and policies of the Receiving State.

If migrant workers leave the Receiving State, they should not lose their rights to benefits arising from their employment in accordance with the national laws, regulations, and policies of the Receiving State. Guided by this important commitment, the conduct of this Study on Portability of Social Security Rights between ASEAN Member States was timely. This Study is an activity led by Thailand under the Action Plan 2018-2025 to implement the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers.

This Study Report provides us with important analysis and recommendations on ways to facilitate connectivity of different social security systems and schemes of ASEAN Member States, and options for policy frameworks and capacity building of social security agencies towards transferability of social security benefits across countries.

I hope that this Study Report will be useful to ASEAN Member States in addressing the gaps in social security benefits for migrant workers. I am also confident that the findings and recommendations are supportive to ASEAN Member States in taking the journey towards compatibility of social security systems and transferability of the benefits to migrant workers and their families in home countries.

Kung Phoak

¹ ASEAN Economic Integration Brief, November 2020 accessible online at https://asean.org/storage/AEIB_No.08_November-2020.pdf

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EXECUTIVE SUMMARY

1. INTRODUCTION ABOUT THE STUDY

The Association of Southeast Asian Nations (ASEAN) comprises of ten Member States namely Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam. It is widely known that Southeast Asia is a region with high degree of intra-regional migration. In 2017, there were around 9.8 million migrant workers in the region, accounting to around 1.5% of the total population in the region.¹ Migration within Southeast Asian region has been driven by many factors such as the different level of economic development, population structure, unemployment rate, and wage rate in the ten Member States. ASEAN Member States (hereafter called AMS) can be categorized into two groups. One group consists of Member States with relatively high number of working-age population, high unemployment rate, and low wage rates such as Myanmar, Cambodia, Lao People's Democratic Republic, Indonesia, Viet Nam, and the Philippines. Another group is comprised of Brunei Darussalam, Malaysia, Singapore, and Thailand, in which there are relatively less workforce, low unemployment rate, and high wage rates.²

Despite being the key contributors of the regional economic growth, many migrant workers in ASEAN are still not receiving appropriate social protection due to the lack of access to social protection system in destination country. This may be the result of legal limitations, or unawareness about their rights in the host country. At the same time, the social security benefits and protection that they are entitled to in the home country cannot be portable overseas. The foreign environment, culture, and language could also worsen the livelihood and employment of migrant workers in the destination country.

One of the objectives under the ASCC Blueprint 2025 is for ASEAN to become an inclusive community with an inclusion of migrant workers.³ Realizing an inclusive community may be achieved by connecting social security schemes between ASEAN Member States. This could be done in three models as follows.

First is to establish portability of social security rights between AMS. Portability means the ability to preserve, maintain, and transfer social security right vested or on disbursement, regardless of nationality and country of residence.⁴ A tool to establish portability is a Social Security Agreement (SSA), which is an international agreement that coordinates the social security programs of two or more countries in order to overcome, on a reciprocal basis, the barriers that might otherwise prevent migrant workers and the members of their families from

¹ United Nations, "International Migration Report 2017," http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2017_Highlights.pdf (accessed on 10 July 2018).

² Aniceto Orbeta, Jr., and Kathrina Gonzales, "Managing International Labour Migration in ASEAN: Themes from a Six-Country Study," [http://www.unrisd.org/80256B3C005BCCF9/httpNetITFramePDF?ReadForm&parentunid=22788DE1584F00BEC1257D42002A5935&parentdoctype=paper&netitpath=80256B3C005BCCF9/\(httpAuxPages\)/22788DE1584F00BEC1257D42002A5935/\\$file/Orbeta_Managing%20International%20Labour%20Migration%20in%20ASEAN.pdf](http://www.unrisd.org/80256B3C005BCCF9/httpNetITFramePDF?ReadForm&parentunid=22788DE1584F00BEC1257D42002A5935&parentdoctype=paper&netitpath=80256B3C005BCCF9/(httpAuxPages)/22788DE1584F00BEC1257D42002A5935/$file/Orbeta_Managing%20International%20Labour%20Migration%20in%20ASEAN.pdf) (accessed on 10 July 2018).

³ ASEAN Secretariat, "ASEAN Socio-Cultural Community Blueprint 2025," <http://www.asean.org/wp-content/uploads/2015/12/ASEAN-2025-Forging-Ahead-Together-final.pdf> (accessed on 10 July 2018).

⁴ A. T. Cruz, "Portability of benefit rights in response to external and internal labour mobility: The Philippines experience," Paper presented at the International Social Security Association, Thirteenth regional conference for Asia and the Pacific in Kuwait, March 2004. R. Holzman et al., **Portability regimes of pension and health care benefits for international migrants: An Analysis of issues and good practices**. (Geneva: Global Commission on International Migration, 2005).

receiving benefits under the systems of any of the countries in which they have worked.⁵ At present, only the Philippines has SSAs with other countries, but none with another AMS.

The second model is to connect social security schemes through exportability of social security benefits. Although exportability can be done unilaterally, as a country may define the payment method and process of exporting the benefit, the process could be clearly defined through an Exportability Agreement (EA) between countries, which will then have legal obligation to follow the agreed process, as well as to provide cooperation concerning the export of benefits such as verifying the identity of benefit recipients.

The third model of connecting social security programs between AMS is through administrative cooperation between social security agencies by establishing a Memorandum of Cooperation (MoC). A MoC is a non-binding international document which defines the scope of international cooperation in providing social protection to the nationals who are working in another country, for example, sending information about the insured persons to the social security agency in the signatory country when asked. At present, within ASEAN there is a MoC between the Social Security Organisation (SOCSSO) of Malaysia and *BPJS Ketenagakerjaan* or BPJS employment of Indonesia, signed on 4 March 2019, as a new MoC, Social Security Organisation (SOCSSO) of Malaysia and Social Security Board (SSB) of Myanmar have been signed on 13th of October 2020, with aims to promote information exchange, and to facilitate the enforcement of employment-injury scheme in both countries.

The ASEAN Community could not become an inclusive community if migrant workers in the region do not receive proper social protection according to the international standards. Therefore, it is crucial to study the practicability of connecting social security schemes between AMS.

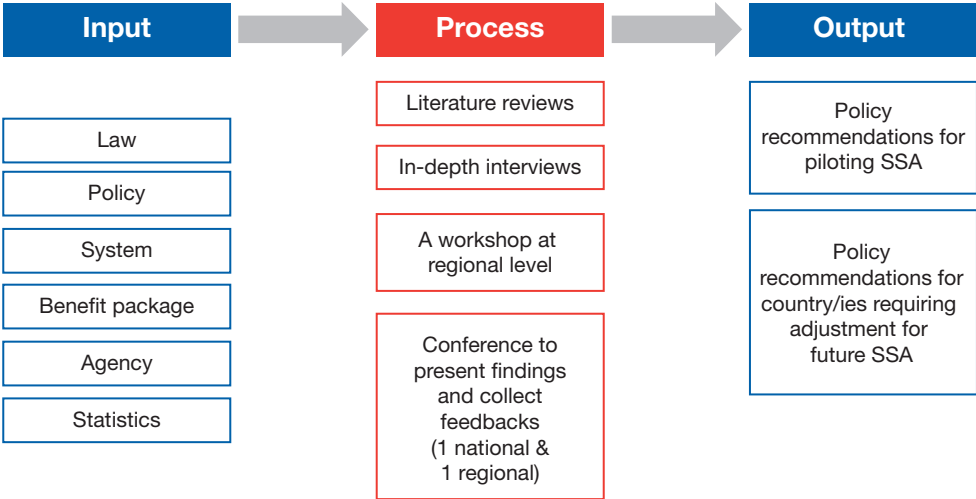
The scope of this study includes only compulsory contribution schemes. Nevertheless, the significant number of workers outside compulsory contribution systems is well recognized. Once the social security schemes in ASEAN are properly connected, expanding the scope of international cooperation to cover those in voluntary systems shall not be too difficult. Also, this study does not include fringe benefits for civil servants, as these are generally not offered to migrant workers.

Social security benefits included in this study are those defined in the Social Security (Minimum Standards) Convention, 1952 (No. 102), which covers nine branches of social security benefits namely Old-age benefits, Invalidity benefits, Survivors benefits, Medical Healthcare, Sickness benefits, Maternity benefits, Employment-injury benefits, Unemployment benefits, and Family benefits.

The framework used in this study to analyze the practicability of connecting the social security schemes within ASEAN is shown in Figure 1 below. The analytical framework can be divided into three parts: input, process, and output. The input comprises of six factors namely law, policy, system, benefit, agency, and statistics – all of which are used in the analysis of this study.

⁵ International Labour Organization (ILO), *Strengthening Social Protection for ASEAN Migrant Workers through Social Security Agreements* (Geneva: ILO, 2007), vi.

Figure 1. Analytical framework to assess the practicability in connecting social security schemes in ASEAN



Methodology used to collect necessary information comprises of three types: (1) literature review including laws, research papers, and official statistics; (2) technical discussion with social security agencies and relevant authorities in three chosen countries which are the Philippines, Viet Nam, and Malaysia; and (3) workshop and seminars which were held three times in Bangkok, Thailand. First is a regional workshop with participants from social security agencies in AMS, ILO, ASEAN Secretariat, as well as ASEAN Trade Union Council (ATUC) and ASEAN Confederation of Employers (ACE). The other two are validating seminars – one aims at domestic audience, and another at regional level with the same group of participants in the regional workshop.⁶

This study takes 300 days (ten months) to completion, starting on 30 August 2018 to 25 June 2019.

2. FINDINGS OF ANALYSIS

Each AMS offers various branches of social security benefits, each of which is managed with different type of social security program. Table 1 presents the overall social security benefits in ASEAN. Some AMS such as Brunei and Singapore do not offer some social security benefits, particularly the long-term benefits such as Old-age, Invalidity, and Survivors, to migrant workers who are not Permanent Resident (PR) in their countries (presented with ‘x’ in Table 1). In the case of Malaysia, migrant workers who are not Malaysian PRs can voluntarily contribute to Old-age program (presented with ‘v’ in Table 1) under the Employees’ Provident Fund (EPF).

Table 1 also shows that each AMS has different types of social security systems. Following Tamagno (2008), the social security system commonly used by AMS are social insurance (presented with ‘1’ in Table 1), provident fund (presented with ‘2’ in Table 1), and employer-liability (presented with ‘3’ in Table 1). In some countries, social security for migrant workers

⁶ The regional workshop was held on 4 December 2018. The domestic seminar was held on 29 April 2019, and the regional seminar on 28 May 2019 respectively.

is provided in a separated scheme, especially Medical benefit which is in a form of private insurance (presented with '4' in Table 1). It should be noted that the system where employers pay contribution to a social insurance agency to administer and dispense social security benefits to workers is classified here as social insurance system. A system in which employers buy private insurance to cover their liability will be labeled as private insurance.

In some AMS, a social security benefit is a part of another benefit (presented with 'y' in Table 1). For example, in Viet Nam, Invalidity benefit is included in Old-age benefit. In the case of Singapore, Invalidity benefit and Survivors benefit are provided under the Dependents' Protection Scheme (DPS) to protect members of the Central Provident Fund (CPF) and their families should the insured person pass away, suffer from terminal illness, or total permanent disability.⁷ Some benefits are provided in a mixed system; for example, Maternity benefit in Cambodia and Thailand are paid by both social security agency and employer. It should be noted that Table 1 presents only one system, with a priority given to the one with intermediary agency.

Furthermore, Table 1 shows that some AMS such as Cambodia and Myanmar have not implemented long-term benefits (presented with 'NI' in Table 1). In the case of Viet Nam, long-term benefits will be extended to migrant workers in the year 2022.

Unemployment benefits and Family benefits are absent in many AMS. However, these benefits may not be applicable to migrant workers in general. More often than not, migrant workers are required to be in employment in order to keep their work permit. If unemployed, migrant workers usually cannot stay in the host country and must return to their country of origin almost immediately. In a similar vein, family members of migrant workers need to have dependent visa in order to enter the destination country, which may not be easily obtainable in many cases. As a result, migrant workers may not in practice receive these two social security benefits in the host country.

An expert in SSA who participated in the regional workshop remarked that, in connecting social security schemes, especially in the case of SSA which has the principle of totalizing contribution period, the amount of benefits or contribution periods that differ across AMS are not considered limitations, but the difference in the type of social security system is. In other words, an SSA should be done between countries with the same type of social security program, e.g. between countries that use social insurance.

⁷ CPF, "Dependents' Protection Scheme," <https://www.cpf.gov.sg/Members/Schemes/schemes/other-matters/dependants-protection-scheme> (accessed on June 2, 2019).

Table 1. Overall social security benefits in ASEAN

AMS	Old Age		Invalidity		Survivors*		Medical Care		Sickness		Maternity		Work Injury		Unemployment		Family	
	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker
BR	2	x	2	x	2	x	5	4	3	3	3	3	3	3	x	x	x	x
CA	NI	NI	NI	NI	NI	NI	1	1	1	1	1	1	1	1	x	NI	x	x
IN	1	1	y	Y	1	1	1	1	3	3	3	3	1	1	x	x	x	x
LA	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	x	x	x
MA	2	2 v	1	X	y	x	5	4	3	3	3	3	1	1	1	x	x	x
MM	NI	NI	NI	NI	NI	NI	1	1	1	1	1	1	1	1	NI	x	NI	x
PH	1	1	1	1	1	1	1	1	1	1	1	1	1	1	x	x	x	x
SG	2	V	2	4	2	4	2	4	3	3	3	3	3	3	x	x	x	x
TH	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
VN	1	NI	y	Y	1	NI	1	4	1	1	1	1	1	1	1	x	x	x

Source: TDRI 2019.

Note: 1 = social insurance; 2 = provident funds; 3 = employer-liability; 4 = private insurance; 5 = universal coverage

V = Voluntary; x = not cover; y = part of another social security benefit; NI = Not Implement

* Survivors benefit means pension paid to dependents when the insured persons pass away by non-work-related causes.

Since AMS have different social security benefit packages, the responsible authorities as well as claiming and payment process could differ across benefits. The analysis is thus made for each benefit individually. The analysis, however, does not include Unemployment benefits and Family benefits.

In each benefit, the practicability of AMS to connect with another will be assessed in three models as follows.

First is a Social Security Agreement (SSA) which comprises of five principles namely Equality of treatment, Determination of the applicable legislation, Export of benefits, Totalizing, and Administrative assistance. If an AMS has equal treatment in providing social protection to migrant worker, and has already exported social security benefits overseas, the AMS is considered having the practicability to have a SSA with another AMS.

If an AMS does not have equality of treatment, but has already export benefits abroad, the AMS may connect with another AMS through an Exportability Agreement (EA).

If an AMS does not currently export social security benefits, such AMS may use a Memorandum of Cooperation (MoC) to increase efficiency in providing protection to migrant workers in the country.

It should be noted that an AMS with practicability to establish SSA may also opt to choose EA or MoC as a tool to establish connectivity with another AMS. The findings of analysis are as follows.

2.1 SOCIAL SECURITY AGREEMENT (SSA)

AMS with practicability to connect by SSA are Lao People's Democratic Republic, the Philippines, and Thailand. All three AMS can have SSA in Old-age benefit and Invalidity benefit. In the case of Survivors benefit, an SSA between Philippines and Lao People's Democratic Republic is possible. In the case of Employment-injury benefits, the three AMS can also have SSA with Malaysia.

These countries may also consider EA or MoC instead of SSA, as SSA negotiation may take longer than that for an EA or MoC. This is because SSA is more comprehensive and covers the essence of both EA and MoC.

2.2 EXPORTABILITY AGREEMENT (EA)

For AMS that has already exported social security benefits abroad, but cannot enter into SSA negotiation due to the absence of equality of treatment, such as Malaysia and Singapore in the case of Old-age benefit and Invalidity benefit.

Employment-injury benefits, Maternity benefits, and Sickness benefits do not require totalization of contribution period, and thus do not have to be connected by SSA. Exporting the benefits to the insured who are overseas should be sufficient. AMS that can connect in these benefits through EA are Lao People's Democratic Republic, the Philippines, and Thailand.

2.3 MEMORANDUM OF COOPERATION (MoC)

Connecting Medical Healthcare benefit through SSA or EA may not be possible at present as this branch of benefit concerns other complex issues such as the recognition of healthcare facilities overseas, the difference in healthcare cost and payment mechanism in each AMS. Thus, MoC may be the most suitable tool to connect medical benefits between Cambodia, Lao People’s Democratic Republic, Myanmar, the Philippines, and Thailand.

AMS with practicability to establish SSA may also opt to have MoC with Viet Nam in Old-age benefit and Survivors benefit. Employment-injury benefits, Maternity benefits, and Sickness benefits can also be connected by MoC between Viet Nam and Myanmar.

In the near future, when Cambodia, Myanmar, and Viet Nam fully implement and extend long-term benefits such as Old-age benefit, Invalidity benefit, and Survivors benefit to migrant workers, and export these benefits abroad, these AMS can also connect with other member countries with SSA.

Table 2 summarizes the findings of analysis about the practicability of AMS to connect social security schemes with each other.

Table 2. Practicability of AMS to connect social security schemes with each other

	Old-age	Invalidity	Survivors	Medical	Sickness	Maternity	Work-injury
BR							
CA				MoC	MoC	MoC	MoC
LA	SSA	SSA	SSA	MoC	EA	EA	SSA
IN							MoC
MA	EA	EA					SSA
MM				MoC	MoC	MoC	MoC
PH	SSA	SSA	SSA	MoC	EA	EA	SSA
SG	EA	EA					
TH	SSA	SSA	MoC	MoC	EA	EA	SSA
VN	MoC		MoC				MoC

3. RECOMMENDATIONS

According to our analysis, three sets of policy recommendations are offered. The first set is recommendations for connecting social security schemes, for AMS with practicability to connect at present. The second set comprises of recommendations for legislative amendment and capacity building. The third set of recommendations is offered to all AMS.

3.1 RECOMMENDATIONS FOR CONNECTING SOCIAL SECURITY SCHEMES BETWEEN AMS THIS SET OF RECOMMENDATIONS IS FOR AMS WITH PRACTICABILITY TO CONNECT AT PRESENT IN THREE MODELS AS FOLLOWS

3.1.1 RECOMMENDATIONS TO ESTABLISH PORTABILITY BETWEEN AMS USING SSA

There are six recommendations as follows:

- (1) Form a working group within the social security agency in each country which will be responsible for bilateral negotiation. The working group will coordinate with relevant domestic agencies as well as with the foreign counterpart, as well as collect and update information about social security schemes in another country. After the SSA become effective, this working group shall be responsible in managing the portability of benefits between the signatories.
- (2) Discuss and mutually agree with domestic authorities about the scope of SSA in order to form a national position at the negotiation table; for example, the preferred method of totalizing contribution period, definition of benefit recipient, and type of benefits.
- (3) Review relevant laws and regulations, both within and outside the authority of social security agency, in order to make sure that SSA would not contradict any domestic laws.
- (4) Prepare and review relevant documents such as claim application form, Certificate of Coverage, and Life certificate. These should be available in both English language and local languages, with exact information that is easy to understand. It is also necessary that these documents are available in electronic format.
- (5) Establish a mechanism to confirm the identity and status of benefit recipients. The Philippines, for example, currently uses Skype session during which the benefit recipients need to show identification document in order to continue receiving Old-age pension. Linking the insured person database to the national population database may facilitate this process.
- (6) For AMS which still has limited payment options, especially in exporting benefits abroad, such as Thailand may negotiate with local banks, and the Bank of Thailand as the regulator of banking business, to reduce the withdrawal fee at ATMs abroad. If successful, the SSO may continue to transfer the benefits into the insured persons' bank accounts in Thailand, and the insured persons can withdraw the benefits by using debit card at ATMs overseas.

3.1.2 RECOMMENDATIONS TO ESTABLISH EA

This is similar to those mentioned under 3.1.1 since both SSA and EA are international agreement. Moreover, SSA already covers the key element of EA, which is to facilitate the export of social security benefits overseas. Hence, recommendation no. (6) under 3.1.1 may be carried out first, as this can be done unilaterally, so that the exportability could be improved while negotiation is underway.

3.1.3 RECOMMENDATIONS TO ESTABLISH MOC

In general, MoC is non-binding and does not affect signatories as much as an international agreement. Nevertheless, MoC could be the first step in connecting social security schemes between AMS. To move forward with MoC, a working group should be assigned to act as focal point, for communicating with both domestic agencies concerning migrant workers (such as Immigration, Ministry of Health, and Ministry of Labour), as well as the foreign counterpart.

Once the working group is established, an international roundtable talk is needed to discuss and determine about the scope of cooperation. This may be done in a form of a workshop where each country offers presentations about overall functions and process in providing social protection to migrant workers. Then, issues that each party need support from the counterpart can be identified, e.g. to approve letter of medical treatment issued by healthcare facilities in another country.

3.2 RECOMMENDATIONS FOR LEGISLATIVE AMENDMENT AND CAPACITY BUILDING

This set of recommendations is for social security agencies in ASEAN, and is divided into two parts: one for legislative amendment and another for capacity building.

3.2.1 RECOMMENDATIONS FOR LEGISLATION AMENDMENT

There are three recommendations as follows:

(1) Establishing equal treatment towards migrant workers

Overall, there are four ASEAN Member States namely Cambodia, Lao People's Democratic Republic, the Philippines, and Thailand, of which social security laws do not differentiate between local worker and migrant worker. Others have additional requirements for migrant workers to access social security benefits (Brunei Darussalam, Indonesia, Myanmar, and Singapore), or set separate schemes for migrant workers (Malaysia and Viet Nam).

Since equal treatment is one of the principles of SSA, it is therefore essential for AMS to establish this principle in their relevant laws in order to establish portability with another country.

(2) Establishing the ability to preserve and maintain in social security rights

Some revision in the law to enable social security agency to preserve and maintain social security rights is needed. For example, in the case of Thailand, except for old-age benefit, social security benefits cannot be preserved or maintained. This recommendation is necessary for the long-term benefit with requires many years of contribution, particularly Survivors benefit in the case of Thailand.

3) Reviewing other laws concerning export of benefits

In some countries, the national laws may limit options in exporting social security benefits abroad. For example, Order of Social Security Board concerning benefit payment B.E. 2555 (2012) only allows export of benefits to be through Ministry of Foreign Affairs in a form of cheque. Such Order may become a barrier for the benefit recipients who do not reside in the capital city where the Thai Embassy is usually located. Moreover, if the beneficiaries are disabled persons, elderly, or not mature enough to travel alone, making their way to the Embassy may not be convenient or even possible.

3.2.2 RECOMMENDATIONS FOR CAPACITY BUILDING

There are three recommendations as follows:

(1) **Using technology in benefit management and administration**

Many AMS provide limited channel of claim application as the insured persons are required to submit the claim application form and necessary document in person at social security office branch. Hence, social security agency should consider adopting technology in claim submission such as online application with program that allows files to be uploaded into the system. The system needs to be user-friendly and secured in terms of personal information protection. Existing systems used by Malaysia, Singapore, and the Philippines may be considered as models to follow.

Using technology will be beneficial to both the insured persons who will no longer have to bear the cost of travel or postage, and the social security agency which will be able to save cost of expanding office branches in order to increase access across the country, as well as cost in storage and destroy of personal document. Electronic system also facilitates the monitoring of claim history in order to find leakages such as illegal claims and duplications.

(2) **Promoting payment of benefits through bank accounts**

In some AMS such as Lao People's Democratic Republic, bank transfer fee is still high and the insured persons must bear the cost of transfer fee. Social security agency may consider negotiating with local banks to bring down the bank fee, and facilitating the insured persons in opening bank accounts to receive social security benefits.

(3) **Integrating all agencies concerning migrant workers into one national system, in particular linking the social security database with immigration and population databases.**

3.3 RECOMMENDATIONS FOR ALL ASEAN MEMBER STATES

There are two recommendations as follows:

3.3.1 IMPLEMENTING THE ILO CONVENTIONS RELATED TO SOCIAL SECURITY OF MIGRANT WORKERS

Especially the Conventions that were ratified by AMS. Even without ratification, AMS can still use the international standards as guidelines in providing social protection to migrant workers. At present, only the Philippines has ratified the ILO Convention No. 19, No. 157, and No. 118 – all of which concerning social security of migrant workers.

3.3.2 ESTABLISHING CHANNEL FOR REGULAR INFORMATION EXCHANGE BETWEEN SOCIAL SECURITY AGENCIES ON ISSUES SUCH AS LAWS AND SOCIAL SECURITY BENEFITS

Every year the social security agencies in ASEAN may review their readiness and practicability to establish portability with another ASEAN country. The ASEAN Social Security Association (ASSA) may be used as a platform for AMS to exchange news, experiences, and best practices with one another.

First, each AMS shall nominate a contact person who will receive and send information about social security schemes in each respective country. The ASEAN Secretariat may also act as a coordinator in compiling the information, summarizing the changes in social security landscape in ASEAN, and publishing such information in an annual report to be distributed to governments, employers, employees, and the general public.

1

INTRODUCTION

1.1 BACKGROUND AND RATIONALE OF THE STUDY

The Association of Southeast Asian Nations (ASEAN) comprises of ten Member States namely Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam. In 2015, ASEAN Member States together formed the ASEAN Community consisting of three pillars: ASEAN Political-Security Community (APSC), ASEAN Economic Community (AEC), and ASEAN Socio-Cultural Community (ASCC). Within all three pillars, issues related to migrant workers can be found. The AEC addresses facilitation of high-skilled workers and professional movement between member countries.¹ Cooperation about migrant workers are among the goals of ASCC.² Furthermore, regional cooperation to promote and protect human rights under the APSC also includes the rights of migrant workers.³ It could be said that ASEAN Member States recognizes the importance of migrant workers in region.

It is widely known that Southeast Asia is a region with high degree of intra-regional migration. In 2017, there were around 9.8 million migrant workers in the region, accounting to around 1.5 of the total population in the region.⁴ Migration within Southeast Asian region has been driven by many factors such as the different level of economic development, population structure, unemployment rate, and wages in the ten member countries. ASEAN Member States can be categorized into two groups. One group consists of labour-sending countries in which there are many working-age population, high unemployment rate, and lower wage rates such as Myanmar, Cambodia, Lao People's Democratic Republic, Indonesia, Viet Nam, and the Philippines. Another group comprises labour-receiving countries such as Brunei Darussalam, Malaysia, Singapore, and Thailand, in which there are relatively less labour, lower unemployment rate, and higher wage rates.⁵

Nevertheless, many migrant workers in ASEAN are still not receiving proper social protection because they tend to lack access to protection system in destination countries. This may be the result of legal limitation or unawareness about their rights in the host countries. At the same time, the benefits and protection in the home countries that they are entitled to cannot be portable overseas. The difference in races, religions, cultures, and languages could also worsen the livelihood and employment of migrant workers in destination countries.

¹ ASEAN Secretariat, ASEAN Economic Community Blueprint (Jakarta: ASEAN Secretariat, 2008), 15-16.

² ASEAN Secretariat, ASEAN Socio-Cultural Community Blueprint (Jakarta: ASEAN Secretariat, 2009), 3-5.

³ ASEAN Secretariat, ASEAN Political-Security Community Blueprint (Jakarta: ASEAN Secretariat, 2009), 5.

⁴ United Nations, "International Migration Report 2017," http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2017_Highlights.pdf (accessed on 10 July 2018).

⁵ Aniceto Orbeta, Jr., and Kathrina Gonzales, "Managing International Labour Migration in ASEAN: Themes from a Six-Country Study," [http://www.unrisd.org/80256B3C005BCCF9/httpNetITFramePDF?ReadForm&parentunid=22788DE1584F00BEC1257D42002A5935&parentdoctype=paper&netitpath=80256B3C005BCCF9/\(httpAuxPages\)/22788DE1584F00BEC1257D42002A5935/\\$file/Orbeta_Managing%20International%20Labour%20Migration%20in%20ASEAN.pdf](http://www.unrisd.org/80256B3C005BCCF9/httpNetITFramePDF?ReadForm&parentunid=22788DE1584F00BEC1257D42002A5935&parentdoctype=paper&netitpath=80256B3C005BCCF9/(httpAuxPages)/22788DE1584F00BEC1257D42002A5935/$file/Orbeta_Managing%20International%20Labour%20Migration%20in%20ASEAN.pdf) (accessed on 10 July 2018).

One of the objectives under the ASCC Blueprint 2025 is for ASEAN to become an inclusive community with an inclusion of migrant workers. A strategic measure to realize this is to “Support accelerated implementation among ASEAN Member States to extend coverage, accessibility, availability, comprehensiveness, quality, equality, affordability and sustainability of social services and social protection”.⁶

Realizing an inclusive community may be achieved by connecting social security schemes between ASEAN Member States. This could be done in three models as follows.

First is to establish portability of social security right. Portability means the ability to preserve, maintain and transfer social security right vested or on disbursement, regardless of nationality and country of residence.⁷ A tool to establish portability is a Social Security Agreement (SSA) between countries which is an agreement that coordinates the social security programs of two or more countries in order to overcome, on a reciprocal basis, the barriers that might otherwise prevent migrant workers and the members of their families from receiving benefits under the systems of any of the countries in which they have worked.⁸ At present, only the Philippines has SSAs with other countries, but none with ASEAN Member States.

The second model is to connect social security schemes through exportability of social security benefits overseas. Although exportability can be done unilaterally as a country may define the payment channel and process of exporting the benefit one-sidedly, having an Exportability Agreement (EA) between countries could facilitate migrant workers when claiming and receiving benefits outside the country. Necessary documents, verification process, and payment options could be clearly defined as a result of mutual recognition by social security agencies in different countries.

The third model of connecting social security programs between ASEAN Member States is through administrative cooperation between social security authorities. This may be done by a Memorandum of Cooperation (MoC) to assist another country in providing protection to their nationals working there; for example, sending information about or confirming identity of the insured persons to the social security agency in a signatory country when asked.

Connecting social security programs would benefit a region with high degree of international migration as such Southeast Asia. Intra-regional migration in this region is expected to increase due to more advanced technology in telecommunication and transportation which facilitate people to find employment and travel overseas with more ease. Professionals and highly-skilled workers movement had already been promoted through the Mutual Recognition Arrangements (MRAs) between ASEAN Member States. Considering that migrant workers tend to come back to countries of origin when they are older, an SSA that allows totalization of contribution period would help them access to old-age pension, which is increasingly essential in many ASEAN Member States that are facing challenges from aging society.

⁶ ASEAN Secretariat, “ASEAN Socio-Cultural Community Blueprint 2025,” <http://www.asean.org/wp-content/uploads/2015/12/ASEAN-2025-Forging-Ahead-Together-final.pdf> (accessed on 10 July 2018).

⁷ A. T. Cruz, “Portability of benefit rights in response to external and internal labour mobility: The Philippines experience,” Paper presented at the International Social Security Association, Thirteenth regional conference for Asia and the Pacific in Kuwait, March 2004. R. Holzman et al., *Portability regimes of pension and health care benefits for international migrants: An Analysis of issues and good practices*. (Geneva: Global Commission on International Migration, 2005).

⁸ International Labour Organization (ILO), *Strengthening Social Protection for ASEAN Migrant Workers through Social Security Agreements* (Geneva: ILO, 2007), vi.

ASEAN Community could not become an inclusive community if migrant workers do not receive proper protection and benefits according to the international standards. Therefore, it is crucial to study the practicability of connecting social security schemes between ASEAN Member States.

This final report comprises of six chapters: Chapter 1 Introduction; Chapter 2 Basic Information About Workers in ASEAN; Chapter 3 Social Security; Chapter 4 Social Security in ASEAN; Chapter 5 Findings of Analysis; and Chapter 6 Policy Recommendations.

The presentation of Chapter 1 Introduction can be divided into seven sections namely, background and rationale of the study; objectives of the study; scope of the study; research methodology; analytical framework; workplan; and deliverables.

1.2 OBJECTIVES OF THE STUDY

This study has three main objectives as follows:

- 1.2.1 To study and assess the practicability of connecting social security schemes in ASEAN.
- 1.2.2 To suggest a suitable model for portability of social security benefits for countries with practicability.
- 1.2.3 To offer recommendations for legal amendment and capacity building in administrative management for countries that cannot connect social security schemes with others at present.

1.3 SCOPE OF THE STUDY

The scope of this study is as follows:

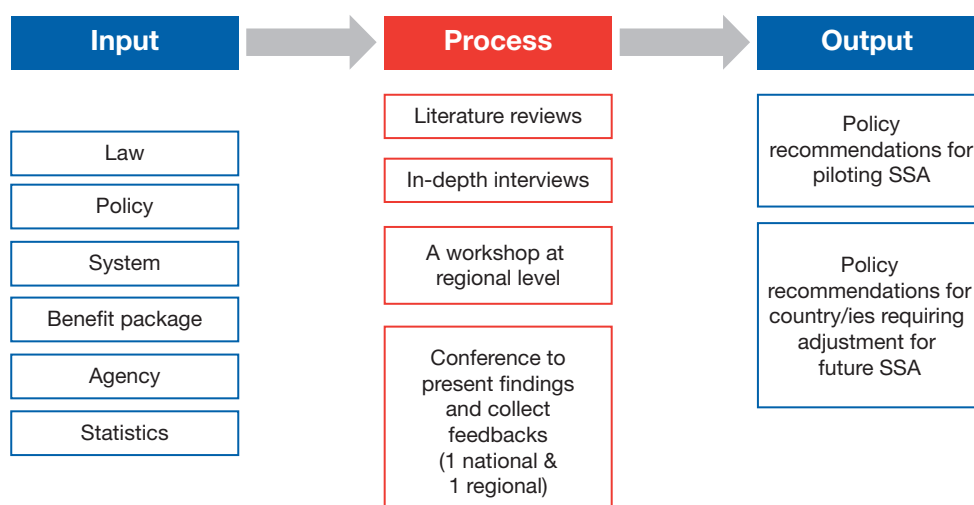
- 1.3.1 In assessing the practicability of ASEAN member countries to establish portability of social security benefits through an SSA, this study considers law, policy, system, agency, and benefits in social security program in each ASEAN Member States as key factors of analysis.
- 1.3.2 This study looks at compulsory contribution schemes only. In the case of Thailand, this means the insured persons under Section 33 of Social Security Act B.E. 2533 [1994]. This is because compulsory contribution scheme is relatively well managed and has wider benefit coverage. Nevertheless, the research team is aware of the importance of workers under voluntary contribution schemes. Once the social security programs in ASEAN are properly connected, expanding the coverage to include voluntary contribution schemes could be done with more ease.
- 1.3.3 This study consider additional information about system, law, and agency related to labour protection and social assistance which concern migrant workers only.
- 1.3.4 For the purpose of comparison, in the case where there are more than one social security programs used in a country, this study chooses to focus on the program administered by a social insurance agency. In countries where there is no social insurance system, the social security program that covers the majority of the people will be focused instead. This study does not include social security programs that are exclusively offered to civil servants, because these are generally not offered to migrant workers.

- 1.3.5 Social security benefits included in this study are those defined in the Social Security (Minimum Standards) Convention, 1952 (No. 102), which covers nine branches of benefits including Old-age benefits, Invalidity benefits, Survivors benefits, Medical Healthcare, Sickness benefits, Maternity benefits, Employment-injury benefits, Unemployment benefits, and Family benefits.
- 1.3.6 Since this study aims to offer recommendations that can be carried out in practice, technical and in-depth information is needed for the analysis. Hence, recommendations offered here may not include countries of which technical and in-depth information is inaccessible.

1.4 ANALYTICAL FRAMEWORK

In order to achieve the stated objectives, this study employs the following analytical framework (See Figure 1.1).

Figure 1.1 Analytical framework to assess the practicability in connecting social security schemes in ASEAN



From Figure 1.1, the analytical framework is divided into three components: Input, Process, and Output. Details of each component are presented below.

1.4.1 INPUT

This refers to factors used in the analysis, which comprise of six factors as follows:

- Law refers to social security laws in ASEAN Member States, as well as labour protection laws and social assistance laws that concern migrant workers.
- Policy refers to social security policies in ASEAN Member States with a specific focus on migrant workers.
- System refers to types of social security programs in ASEAN (please see details about different types of social security program in Chapter 2).

- Benefit package refers to social security benefits offered to participants in the system. These benefits are those defined in the Social Security (Minimum Standards) Convention, 1952 (No. 102), which covers nine branches of benefits including Old-age benefits, Invalidity benefits, Survivors benefits, Medical Healthcare, Sickness benefits, Maternity benefits, Employment-injury benefits,⁹ Unemployment benefits, and Family benefits.
- Agency refers to social security agency or authority in each ASEAN Member States, e.g. the Social Security Office in the case of Thailand.
- Statistics refers to statistics about migrant workers and social security systems in ASEAN, e.g. number of migrant workers and number of insured persons.

1.4.2 PROCESS

This refers to methodology used to process the input factors in the analysis (please see section 1.5 for more details).

1.4.3 OUTPUT

This refers to the findings of analysis, which are in accordance with the objectives stated in section 1.2.

1.5 METHODOLOGY

This study employs three main research tools as follows:

1.5.1 LITERATURE REVIEW

This refers to laws, research papers, statistics, and other documents related to social security from official and reliable sources. This includes but not limit to international standards such as ILO Convention, as well as existing studies in the filed of social security such as Cruz (2004), Tamagno (2008), and Marius (2017).

1.5.2 IN-DEPTH INTERVIEW AND TECHNICAL DISCUSSION

In order to acquire technical information, this study chooses to visit agencies involved in social security programs in three ASEAN Member States. The chosen countries are those identified to have potential to connect social security schemes with another ASEAN country. These are the Philippines, Viet Nam, and Malaysia (please see more details about the country selection in Chapter 5, and summaries of study visits in Appendix 3).

1.5.3 WORKSHOP AND SEMINAR

In total, there are one workshop and two seminars held to collect information and validate findings of this study. The details are as follows:

1. A regional workshop on the portability of social security rights between ASEAN Member States was held on 4 December 2018 at The Berkeley Hotel Pratunam, Bangkok, Thailand. There were 33 participants from social security agencies in ASEAN, ASEAN Secretariat, ILO, ASEAN Trade Union Council, and ASEAN Confederation of Employers.

⁹ In the case of Thailand, this refers to benefits under the Worker's Compensation Fund, under the administration of the Social Security Office.

2. A domestic seminar to validate the findings was held on 29 April 2019 at The Emerald Hotel, Bangkok, Thailand. There were in total 209 participants from government agencies, labour organizations, businesses, and academia.
3. A regional seminar to validate the findings was held on 28 May 2019 at The Berkeley Hotel Pratunam, Bangkok, Thailand. There were 36 participants from social security agencies in ASEAN, ASEAN Secretariat, ILO, ASEAN Trade Union Council, and ASEAN Confederation of Employers.

Please see Appendix 1 for list of participants and minutes of meeting for each workshop and seminar.

1.6 WORKPLAN

This study takes 300 days (ten months) from the date of contract signing to completion. Table 1.1 shows the workplan and deliverables in this study.

Table 1.1. Workplan and deliverables

Activity	Month (from the contract signing date)									
	1	2	3	4	5	6	7	8	9	10
Activity										
1) Literature review	→									
2) A regional workshop			→							
3) In-depth interview and technical discussion					→					
4) Analysis and recommendations							→			
5) Validation seminars							→			
6) Revision of findings									→	
Deliverables (due dates)										
1) Inception report (45 days)		✓								
2) Progress report (120 days)				✓						
3) Draft final report (210 days)							✓			
4) Final report (300 days)										✓

1.7 DELIVERABLES

This study has four deliverables as follows (see Table 1.1 above):

- 1.7.1 Submit ten copies of inception report by 45 days after the date of contract signing. The content of inception report shall include at least analytical framework, workplan, and initial findings from literature review.
- 1.7.2 Submit ten copies of progress report by 120 days after the date of contract signing. The content of progress report shall include all contents in the inception report and findings from additional data collection process.

- 1.7.3 Submit ten copies of draft final report by 210 days after the date of contract signing. The content of the draft final report shall include all contents in the inception report and progress report, as well as the analysis and recommendations. Executive summary in both Thai and English languages shall also be submitted in ten copies each.
- 1.7.4 Submit ten copies of final report by 300 days after the date of contract signing. The content of the final report shall include all findings in the study that have been revised according to the comments from validation seminars. Executive summary in both Thai and English languages shall also be submitted in ten copies each.

Upon the approval from the SSO, the final report will be published in Thai and English languages in 50 copies each. Executive summary in both Thai and English languages shall also be submitted in 20 copies each.

2

WORKFORCE IN ASEAN

Chapter 2 presents data and statistics about labor force in ASEAN, with an aim to provide the background of workforce structure in ASEAN Member States (AMS). There are three topics presented in this chapter, namely (1) definitions of migrant worker, (2) labor force data, and (3) labor migration.

2.1 DEFINITIONS OF MIGRANT WORKER

Currently, many agencies – both international and national level – are using a variety of definitions of migrant workers. This study focuses on definitions from four main agencies as followed.

United Nations (UN), according to the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, defines a migrant worker as a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a citizen.¹⁰

International Organization for Migration (IOM) divides migrant workers into 2 categories. The first category is a labour migrant, defined as those who move for the purpose of employment.

Another category comprises of economic migrants, which form a potentially broader group that includes people entering another state to perform economic activities, such as investors or business travelers.

Within the International Labour Organization (ILO), definitions of migrant worker can be found in two conventions as followed:

- Migration for Employment Convention (Revised), 1949 (No. 97): under article 11(1), migrant for employment is a person who migrates from one country to another with a view to being employed otherwise than on his or her own account. The scope of this convention excludes frontier workers, the short-term entry of members of the liberal professions and artistes, and seafarers.
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143): the definition is the same as Conv. 97, but excludes two further categories which are : (1) persons coming specifically for purposes of training or education, and (2) persons admitted temporarily to a country at the request of their employer to undertake specific duties or assignments for a limited and defined period of time, and who are required to leave that country on the completion of their duties or assignments.

¹⁰ Public Health Aspects of Migrant Health: A Review of the Evidence on Health Status for Labour Migrants in the European Region. Available at <https://www.ncbi.nlm.nih.gov/books/NBK379428/>.

The Association of Southeast Asian Nations (ASEAN) has established the definition of migrant workers in ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, defined as a person who is to be engaged or employed, is engaged or employed, or has recently been engaged or employed in a remunerated activity in a State of which he or she is not a national. The applicability of the Consensus to different categories of migrant workers shall be subject to the laws, regulations, and policies of respective ASEAN Member States.

2.2 WORKFORCE IN ASEAN

2.2.1 THAILAND

Thailand has the fourth largest number of workforce in the region, following Indonesia, the Philippines, and Viet Nam, respectively. In 2017, Thailand had population of 67.66 million, of which 38.17 million (56.41% of the total population) were active in the workforce (see Table 2.1). In addition, unemployment rate was as low as 1.19 percent, the second lowest in the region. During the past five years, there has been a decline in number of population in Thailand. Number of population reached a peak at 68.28 million in 2013, and has been dropping in later years. This trend is also reflected in the national workforce. In terms of income, workers in Thailand earns on average 13,728 Baht monthly¹¹ (431.17 USD¹²).

Table 2.1. Overview of workforce in Thailand

Unit: In Million

Year	Total Population	Population age 15 and above	Total Workforce	Employed Person	Labor Participation Rate (%)	Unemployment Rate (%)
2007	65.80	51.12	37.61	37.12	73.58	1.18
2008	66.51	52.24	38.34	37.84	73.40	1.18
2009	66.93	52.90	38.88	38.37	73.49	1.17
2010	67.33	53.55	39.09	38.69	73.00	0.87
2011	67.62	54.07	39.62	39.32	73.28	0.66
2012	67.93	54.58	39.84	39.58	73.00	0.58
2013	68.28	55.09	39.47	39.11	71.64	0.77
2014	67.01	54.90	38.81	38.42	70.70	0.84
2015	67.24	55.29	38.77	38.33	70.11	0.92
2016	67.46	55.66	38.68	38.26	69.50	0.94
2017	67.66	56.00	38.17	37.65	68.15	1.19

Source: Author calculated from Labor Force Survey (LFS), National Statistical Office (NSO)

Economic activities have shifted from agricultural sector to service sector. In 2017, workers in service sector reached 16.7 million, while those working in agricultural sector was 12.6 million. During the past decade, workforce under agricultural sector has dropped dramatically. In addition, labor force in industrial sector are slidely increased (Table 2.2).

¹¹ International Labour Migration Statistics Database in ASEAN, ILO, June 2017.

¹² Exchange rate through <https://www.xe.com> on June 3, 2019.

Table 2.2. Employment by economic sector in Thailand

Unit: In Million

Year	Total	Agricultural Sector	Industrial Sector	Service Sector
2007	37.07	15.49	7.69	13.89
2008	37.80	16.07	7.40	14.33
2009	38.35	15.93	7.50	14.92
2010	38.67	15.75	7.40	15.52
2011	39.29	16.11	7.63	15.55
2012	39.54	16.66	7.82	15.05
2013	39.02	16.38	7.93	14.71
2014	38.34	13.52	8.72	16.10
2015	38.24	13.01	8.76	16.47
2016	38.16	12.71	8.67	16.79
2017	37.53	12.56	8.27	16.70

Source: Author calculated from Labor Force Survey (LFS), National Statistical Office (NSO)

The majority of employed person in Thailand are private employees, which constituted to 35.78% share in the labor market in 2017. Private employees are the main target group under this study, as they are the insured persons under the social security system. The data from the Social Security Office shows that, there are 10,840,579 insured persons under section 33 of Social Security Act B.E. 2533 (1990). As shown in Figure 2.1, there seems to be a raising in the number of insured persons under section 33, which is the compulsory scheme for employees in private sector.

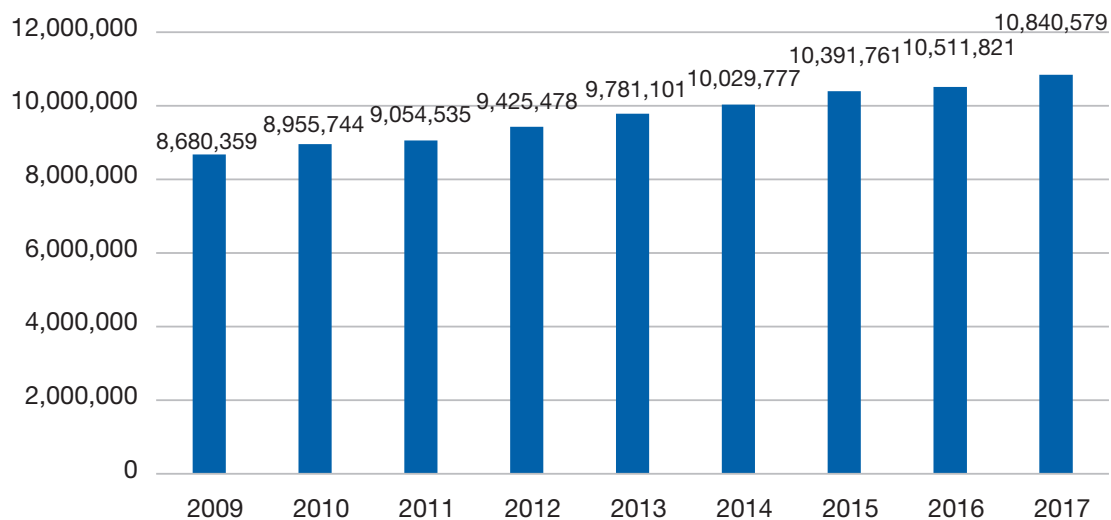
Table 2.3. Employment by status in Thailand

Unit: In Million

Year	Employers	Own-Account Workers	Contributing Family Workers	Government Employees	State Enterprise Employees	Private Employees	Moonlight Employees	Members of Producers' Cooperatives
2007	1,101,372	11,866,446	7,927,630	2,897,901	347,938	12,929,083		51,608
2008	984,924	12,044,907	8,420,046	2,997,410	384,035	12,959,724		45,513
2009	1,047,376	12,512,276	8,316,319	3,069,204	348,126	13,033,182		45,042
2010	1,042,377	12,369,037	8,768,035	3,388,434	330,627	12,766,264		26,806
2011	901,166	12,512,900	9,261,427	3,359,243	350,216	12,866,697		65,586
2012	934,722	12,660,054	9,491,134	3,190,010	324,739	12,928,193		49,493
2013	995,253	13,052,945	8,830,082	3,200,887	315,789	12,148,017	31,244	38,183
2014	1,119,132	12,398,651	7,330,863	3,055,930	351,419	13,528,320	589,964	46,714
2015	1,090,815	12,293,638	7,074,009	3,154,405	354,290	13,643,023	71,363	48,876
2016	1,019,676	12,242,781	6,978,372	3,056,852	449,232	13,633,012	846,147	37,100
2017	1,011,044	11,890,366	6,701,050	3,088,662	422,105	13,472,960	995,205	65,492

Source: Author calculated from Labor Force Survey (LFS), National Statistical Office (NSO)

Figure 2.1. Number of insured persons under section 33 of Social Security Act B.E. 2533 (1990)



Note: Data at December each year

Source: Research and Development Division, Social Security Office

2.2.2 BRUNEI DARUSSALAM

Brunei Darussalam has the lowest number of population in ASEAN. In 2014, there was 410,565 population in Brunei Darussalam, of this 47.37% was in the labor force (203,651 workers). Unemployment rate in the same year was 6.91%, the highest rate among AMS. Nevertheless, the number of employed persons has gradually increased since 2001. In 2014 there was 189,573 employed person (Table 2.4).

Table 2.4. Overview of workforce in Brunei Darussalam

Year	Total Population	Population age 15 and above	Total Workforce	Employed Person	Workforce Participation Rate (%)	Unemployment Rate (%)
2001	332,844	231,932	157,594	146,254	67.95	7.20
2011	393,372	293,937	202,530	183,715	68.90	9.29
2014	410,565	310,514	203,651	189,573	65.59	6.91

Source: ILO (ibid)

The majority of workers in Brunei Darussalam were employed in service sector. In 2017, the share of aforementioned sector rose to 81.57% of total employed person (Table 2.5). On the contrary, the percentage of worker in agricultural sector was only 0.53%. This might be the result of government's attempt to promote employment in service sector, because gas and oil – the country's backbone economic activities – will be diminished in the near future.¹³

¹³ SCB Economic Intelligence Center, “จับตาดอนาคตบรูไน...หลังยุค Oil-rich economy [The future of Brunei Darussalam: the post oil-rich economy],” <https://www.scbeic.com/th/detail/product/1052> (accessed on 21 September 2018).

Table 2.5. Employment by economic sector in Brunei Darussalam

Unit: In Million

Year	Total	Agricultural Sector	Industrial Sector	Service Sector
2011	183,715	2,398	36,101	145,216
2014	189,573	1,002	33,935	154,636

Source: ILO (ibid)

The majority of employed persons in Brunei Darussalam are government's employees. Therefore, the share of employee dominates other types of employment status (91.66% of total employed person) (Table 2.6). In addition, Brunei Darussalam is a welfare state. Provident fund is the main source of old-age pension, while healthcare, education, as well as housing are provided by the government in a form of universal coverage for both national and permanent residents in Brunei Darussalam.

Table 2.6. Employment by status in Brunei Darussalam

Year	Total	Employee	Employer	Own-Account Workers	Members of Producers' Cooperatives	Contributing Family Workers Other	Other
2011	183,715	173,839	3,918	5,366	0	592	0
2014	189,573	173,772	7,009	7,795	0	997	0

Source: ILO (ibid)

2.2.3 CAMBODIA

In 2013, Cambodia had 14.67 million of population, of which 8.26 million were in the workforce (56.28% of total population). The country had a low unemployment rate (2.43%). Within the past five years (2008-2013), the number of employed persons had increased on average 3.33% annually (Table 2.7).

Table 2.7. Overview of workforce in Cambodia

Year	Total Population	Population age 15 and above	Total Workforce	Employed Person	Workforce Participation Rate (%)	Unemployment Rate (%)
2008	13,395,682	8,881,890	6,955,640	6,841,272	78.31	1.64
2010	13,957,779	9,460,020	7,993,281	7,959,997	84.50	0.42
2011	14,154,920	9,662,579	8,226,076	8,203,964	85.13	0.27
2012	14,899,129	10,749,946	7,399,720	7,197,416	68.83	2.73
2013	14,676,591	10,355,193	8,260,136	8,059,608	79.77	2.43

Source: ILO (ibid)

Agricultural sector in Cambodia is the biggest source of employment. In 2013, the sector employed more than 50% of total workforce. Even though the number of workers in agricultural sector increased from 4.93 million in 2008 to 5.17 million in 2013, the share of employment in agricultural sector actually dropped, from 72.13% in 2008 to 64.2% in 2013 (Table 2.8).

Table 2.8. Employment by economic sector in Cambodia

Year	Total	Agricultural Sector	Industrial Sector	Service Sector
2008	6,841,272	4,934,938	586,299	1,320,035
2010	7,959,997	4,358,630	1,271,202	2,330,165
2012	7,197,416	2,393,164	1,816,499	2,987,753
2013	8,059,608	5,174,268	927,234	1,958,106

Source: ILO (ibid)

In terms of work status, most workers are self-employed and family workers. This is partly because the majority of employment are in agricultural sector. Employees, the main target group of this study – was as high as 1.77 million in 2013 (21.96% of total employed persons) (Table 2.9).

Table 2.9. Employment by work status in Cambodia

Year	Total	Employee	Employer	Own-Account Workers	Members of Producers' Cooperatives	Contributing Family Workers Other	Other
2008	6,841,272	1,182,167	10,058	2,707,692	0	2,937,753	3,602
2010	7,959,997	2,299,354	12,110	4,120,843	0	1,509,445	18,245
2012	7,197,416	3,312,644	28,455	2,415,194	0	1,439,847	1,276
2013	8,059,608	1,771,714	26,145	3,202,698	0	3,051,347	7,704

Source: ILO (ibid)

2.2.4 INDONESIA

Indonesia has the highest number of population. In 2017, the number of population reached 262.41 million, of which 48.80% were in the workforce (128.06 million). The total number of employed persons was 121.06 million, while the unemployment rate was 5.61% which was considered as the second highest among AMS (Table 2.10).

Table 2.10. Overview of workforce in Indonesia

Year	Total Population	Population age 15 and above	Total Workforce	Employed Person	Workforce Participation Rate (%)	Unemployment Rate (%)
2007	219,541,393	165,163,034	111,385,630	101,853,665	67.44	8.56
2008	232,034,764	167,627,230	113,796,951	104,642,625	67.89	8.04
2009	235,553,133	170,129,650	115,824,992	107,070,256	68.08	7.56
2010	239,051,102	172,615,190	117,844,141	109,589,715	68.27	7.00
2011	242,559,798	173,851,717	116,097,701	107,416,309	66.78	7.48
2012	245,987,488	176,873,832	119,849,734	112,504,868	67.76	6.13
2013	249,372,772	179,967,361	120,172,003	112,761,072	66.77	6.17
2014	252,711,300	182,992,204	121,872,931	114,628,026	66.60	5.94
2015	255,999,399	186,100,917	122,380,021	114,819,199	65.76	6.18
2016	259,233,263	189,096,722	125,443,748	118,411,973	66.34	5.61
2017	262,409,042	192,079,416	128,062,746	121,022,423	66.67	5.50

Source: ILO (ibid)

In terms of economic sector, employed persons are mostly in service sector. The share of workers in service sector in 2017 was 47.35% of total employment. Similar to Thailand, the trend of agricultural workforce is diminishing, while that of service sector is rising. Unlike Thailand, however, the share of workforce in industrial sector in Indonesia has also increased (Table 2.11).

Table 2.11. Employment by economic sector in Indonesia

Year	Total	Agricultural Sector	Industrial Sector	Service Sector
2007	101,853,665	42,665,638	18,399,394	40,788,633
2008	104,642,625	42,958,038	19,019,954	42,664,633
2009	107,070,256	43,536,759	19,392,726	44,140,771
2010	109,589,715	43,243,111	20,480,412	45,866,192
2011	107,416,309	39,089,827	22,880,279	45,446,203
2012	112,504,868	39,592,105	24,952,190	47,960,573
2013	112,761,072	39,220,261	23,700,755	49,840,056
2014	114,628,026	38,973,033	24,763,212	50,891,781
2015	114,819,199	37,750,317	25,531,956	51,536,926
2016	118,411,973	58,293,189	4,380,002	39,466,170
2017	121,022,423	35,924,541	27,799,180	57,298,702

Source: ILO (ibid)

In Indonesia, the number of employees, the main target group of this study, was as high as 61.05 million, accounting for 50.45% of total employed persons in the country (Table 2.12).

Table 2.12. Employment by work status in Indonesia

Year	Total	Employee	Employer	Own-Account Workers	Members of Producers' Cooperatives	Contributing Family Workers Other	Other
2007	101,853,665	37,937,028	3,011,460	43,234,416	0	17,670,761	0
2008	104,642,625	39,014,785	3,113,401	44,600,147	0	17,914,292	0
2009	107,070,256	40,189,063	3,156,974	44,887,833	0	18,836,386	0
2010	109,589,715	42,497,844	3,301,141	43,879,550	0	19,911,180	0
2011	107,416,309	47,743,572	3,650,645	38,451,855	0	17,570,237	0
2012	112,504,868	52,502,665	3,956,072	37,990,069	0	18,056,062	0
2013	112,761,072	52,378,223	3,862,567	38,553,020	0	17,967,262	0
2014	114,628,026	53,882,772	4,176,729	39,762,116	0	16,806,409	0
2015	114,819,199	56,969,623	4,072,340	37,717,533	0	16,059,703	0
2016	118,411,973	58,293,189	4,380,002	39,466,170	0	16,272,612	0
2017	121,022,423	61,053,427	3,954,629	41,172,114	0	14,842,253	0

Source: ILO (ibid)

2.2.5 LAO PEOPLE'S DEMOCRATIC REPUBLIC

The number of population in Lao People's Democratic Republic ranks the third lowest among AMS. In 2015, there were 6.49 million of population in Lao People's Democratic Republic, of which 3.36 million were in workforce. In addition, the country had a low unemployment rate (1.83%). During the past decade (2005-2015), the number of employed persons had slightly increased, with an approximate of 2.40% increase annually (Table 2.13).

Table 2.1.3 Overview of workforce in Lao People's Democratic Republic

Year	Total Population	Population age 15 and above	Total Workforce	Employed Person	Workforce Participation Rate (%)	Unemployment Rate (%)
2005	5,622,000	3,404,700	2,640,400	2,606,300	77.55	1.29
2010	5,818,447	3,886,600	3,079,852	3,021,212	79.24	1.90
2015	6,492,228	4,137,333	3,364,086	3,302,682	81.31	1.83

Source: ILO (ibid)

The majority of employment in Lao People's Democratic Republic concentrate in agricultural sector. The latest data in 2015 revealed that there was 71.43% of total employed person in this sector (Table 2.14).

Table 2.14. Employment by economic sector in Lao People's Democratic Republic

Year	Total	Agricultural Sector	Industrial Sector	Service Sector
2015	3,016,900	2,155,111	250,751	611,038

Source: ILO (ibid)

Similar to Cambodia, the majority of workers in Lao People's Democratic Republic are family workers. Only 18.6% of employed persons were employees (Table 2.15).

Table 2.15. Employment by Work Status in Lao People's Democratic Republic

Year	Total	Employee	Employer	Own-Account Workers	Members of Producers' Cooperatives	Contributing Family Workers Other	Other
2005	2,738,893	321,106	7,210	1,149,906	0	1,260,671	0
2010	3,021,212	472,294	14,906	1,479,983	0	1,050,946	3,083
2015	3,474,582	646,272	20,847	1,313,392	0	1,494,070	0

Source: ILO (ibid)

2.2.6 MALAYSIA

The number of population in Malaysia reached 32.05 million in 2017, of which 14.95 million were in workforce, approximately accounting for 46.65% of the total population. In the same year, there were 14.45 million of employed persons, while unemployment rate was as low as 3.36%. During the past decade (2007-2017), employment trend had gradually increased, at approximately 3.21% each year. (Table 2.16).

Table 2.16. Overview of workforce in Malaysia

Year	Total Population	Population age 15 and above	Total Workforce	Employed Person	Workforce Participation Rate (%)	Unemployment Rate (%)
2007	27,127,600	17,219,600	10,889,500	10,538,100	63.24	3.23
2008	27,679,000	17,603,800	11,028,100	10,659,600	62.65	3.34
2009	28,247,300	17,980,900	11,315,300	10,897,300	62.93	3.69
2010	28,553,600	19,326,900	12,303,900	11,899,500	63.66	3.29
2011	29,014,800	19,764,000	12,740,700	12,351,500	64.46	3.05
2012	29,450,700	20,149,100	13,221,700	12,820,500	65.62	3.03
2013	30,169,800	20,761,700	13,980,500	13,545,400	67.34	3.11
2014	30,551,400	21,084,700	14,263,600	13,852,600	67.65	2.88
2015	30,931,900	21,387,800	14,518,000	14,067,700	67.88	3.10
2016	31,333,700	21,655,400	14,667,800	14,163,700	67.73	3.44
2017	32,049,700	22,314,000	14,952,600	14,450,000	67.01	3.36

Source: ILO (ibid)

More than half of workforce in Malaysia (60.99% of total employment) are employed in service sector. Similar to Thailand and Indonesia, the share of workforce in agricultural sector had decreased significantly. On the contrary, employment in service sector had continuously expanded (Table 2.17).

Table 2.17. Employment by economic sector in Malaysia

Year	Total	Agricultural Sector	Industrial Sector	Service Sector
2007	10,538,100	1,558,200	3,000,000	5,979,900
2008	10,659,600	1,487,700	3,057,700	6,114,200
2009	10,897,300	1,471,100	2,943,800	6,482,400
2010	11,899,500	1,614,900	3,370,600	6,914,000
2011	12,351,500	1,421,800	3,591,900	7,337,800
2012	12,820,500	1,628,200	3,662,100	7,530,200
2013	13,545,400	1,759,000	3,840,900	7,945,500
2014	13,852,600	1,694,100	3,881,600	8,276,900
2015	14,067,700	1,753,900	3,870,800	8,443,000
2016	14,163,700	1,609,900	3,893,000	8,660,800
2017	14,450,000	1,631,600	4,005,200	8,813,300

Source: ILO (ibid)

The majority of employed persons in Malaysia are employees (73.98% of employment), which are the main target group of this study (Table 2.18). This is considered the highest among AMS.

Table 2.18. Employment by work status in Malaysia

Year	Total	Employee	Employer	Own-Account Workers	Members of Producers' Cooperatives	Contributing Family Workers Other	Other
2007	10,538,100	7,824,000	362,500	1,831,500	0	520,100	0
2008	10,659,600	7,951,100	371,400	1,851,100	0	486,000	0
2009	10,897,300	8,153,600	399,400	1,862,700	0	481,700	0
2010	11,899,500	9,010,200	439,300	1,954,700	0	495,400	0
2011	12,351,500	9,483,700	446,100	1,907,400	0	514,300	0
2012	12,820,500	9,620,000	476,200	2,117,300	0	607,000	0
2013	13,545,400	10,073,500	523,900	2,316,700	0	631,300	0
2014	13,852,600	10,447,600	511,500	2,267,200	0	626,300	0
2015	14,067,700	10,395,500	568,600	2,476,200	0	627,400	0
2016	14,163,700	10,534,200	486,400	2,522,300	0	620,900	0
2017	14,450,000	10,690,100	552,700	2,602,000	0	605,200	0

Source: ILO (ibid)

2.2.7 MYANMAR

After decades of isolation, Myanmar has recently opened the country. Therefore, some statistics are not yet available. In 2014, the country had 51.48 million of population, of this figure, 22.75 million of them were in workforce (44.19%). In addition, 21.87 million were employed persons, with 3.86% of unemployment rate (Table 2.19).

Table 2.19. Overview of workforce in Myanmar

Year	Total Population	Population age 15 and above	Total Workforce (Million)	Employed Person	Workforce Participation Rate (%)	Unemployment Rate (%)
2014	51,419,000	35,880,331	22.75	21.87	63.40	3.86
2015	51,419,000	35,880,331	21.95	21.79	99.27	0.8
2017	51,419,000	35,880,331	22.28	21.94	98.47	1.6
2018	51,419,000	35,880,331	22.74	22.55	99.16	0.9

Source: Myanmar Labour Force Survey Annual Reports ; 2015, 2017, 2018

2.2.8 THE PHILIPPINES

The Philippines ranks the second in terms of number of population (100.75 million). In 2016, there were 43.36 million people in the workforce, with 5.45% of unemployment rate. Within the past decade (2006-2016), the country experienced an increase in employment. The average growth rate in employment rose approximately 2.31% annually (Table 2.20).

Table 2.20. Overview of workforce in the Philippines

Year	Total Population	Population age 15 and above	Total Workforce (Million)	Employed Person	Workforce Participation Rate (%)	Unemployment Rate (%)
2006	85,357,000	55,230,000	35,464,000	32,636,000	64.21	7.97
2007	86,949,000	56,565,000	36,213,000	33,560,000	64.02	7.33
2008	88,482,000	57,848,000	36,805,000	34,089,000	63.62	7.38
2009	90,120,000	59,237,000	37,892,000	35,061,000	63.97	7.47
2010	91,843,000	60,717,000	38,893,000	36,035,000	64.06	7.35
2011	93,563,000	61,882,000	40,006,000	37,192,000	64.65	7.03
2012	95,266,000	62,985,000	40,426,000	37,600,000	64.18	6.99
2013	97,038,000	64,173,000	41,022,000	38,118,000	63.92	7.08
2014	96,854,000	64,033,000	41,379,000	38,651,000	64.62	6.59
2015	98,237,000	64,936,000	41,342,000	38,741,000	63.67	6.29
2016	100,754,000	68,311,000	43,361,000	40,998,000	63.48	5.45

Source: ILO (ibid)

The majority of employment in the Philippines concentrates in service sector. In 2016, more than half of employment (55.55%) happened in this sector. Like many other countries in ASEAN such as Thailand, Indonesia, and Malaysia, employment in agricultural sector had declined, while that in service sector had continuously increased. In addition, similar to Thailand and Malaysia, employment in industrial sector seems to be steady (Table 2.21).

Table 2.21. Employment by Economic Sector in the Philippines

Year	Total	Agricultural Sector	Industrial Sector	Service Sector
2006	32,636,000	11,682,000	4,997,000	15,957,000
2007	33,560,000	11,786,000	5,121,000	16,654,000
2008	34,089,000	12,030,000	5,048,000	17,012,000
2009	35,061,000	12,044,000	5,092,000	17,924,000
2010	36,035,000	11,956,000	5,399,000	18,682,000
2011	37,192,000	12,267,000	5,530,000	19,394,000
2012	37,600,000	12,093,000	5,743,000	19,764,000
2013	38,118,000	11,835,000	5,937,000	20,345,000
2014	38,651,000	11,801,000	6,167,000	20,683,000
2015	38,741,000	11,294,000	6,275,000	21,172,000
2016	40,998,000	11,064,000	7,159,000	22,775,000

Source: ILO (ibid)

More than half of employed persons in the Philippines are employees (61.56% of total employment) (Table 2.22).

Table 2.22. Employment by Work Status in the Philippines

Year	Total	Employee	Employer	Own-Account Workers	Members of Producers' Cooperatives	Contributing Family Workers Other	Other
2006	32,636,000	16,673,000	1,425,000	10,525,000	0	4,012,000	0
2007	33,560,000	17,508,000	1,430,000	10,570,000	0	4,052,000	0
2008	34,089,000	17,846,000	1,426,000	10,654,000	0	4,161,000	0
2009	35,061,000	18,681,000	1,438,000	10,724,000	0	4,218,000	0
2010	36,035,000	19,626,000	1,394,000	10,858,000	0	4,157,000	0
2011	37,192,000	20,538,000	1,354,000	10,994,000	0	4,306,000	0
2012	37,600,000	21,492,000	1,335,000	10,626,000	0	4,147,000	0
2013	38,118,000	22,247,000	1,272,000	10,668,000	0	3,930,000	0
2014	38,651,000	22,407,000	1,210,000	10,869,000	0	4,166,000	0
2015	38,741,000	22,960,000	1,212,000	10,705,000	0	3,863,000	0
2016	40,998,000	25,240,000	1,376,000	11,097,000	0	3,285,000	0

Source: ILO (ibid)

2.2.9 SINGAPORE

In 2017, the total population in Singapore was 5.61 million people. The unemployment rate in Singapore was the lowest rate among AMS, with less than 1%. With the past decade (2007-2017), trend of employment increased approximately 3% annually (Table 2.23).

Table 2.23. Overview of workforce in Singapore

Year	Total Population	Population age 15 and above	Total Labour Force	Total Employed	Workforce Participation Rate (%)	Unemployment Rate (%)
2009	4,987,573		3,030,000	2,905,900		3.20
2010	5,076,732		3,135,900	3,047,200		2.20
2011	5,183,688		3,237,100	3,149,700		2.00
2012	5,312,437		3,361,800	3,274,700		1.90
2013	5,399,162		3,443,700	3,352,900		2.00
2014	5,469,724		3,530,800	3,440,200		1.90
2015	5,535,002		3,610,600	3,516,000		2.00
2016	5,607,283		3,672,800	3,570,000		2.10
2017	5,612,253		3,657,000	3,550,100		2.20

Source: ILO (ibid) and Comprehensive Labour Force Survey, Manpower Research & Statistics Department, MOM

Workforce in service sector dominates the labor market. The share of employment in this sector is 73.68% in 2017. Similar to other high-income countries, service sector had become the main driving force of the national economy (Table 2.24).

Table 2.24. Employment by economic sector in Singapore

Year	Total	Agricultural Sector	Industrial Sector	Service Sector
2007	2,730,800	18,500	862,700	1,849,600
2008	2,952,400	23,000	912,700	2,016,700
2009	2,990,000	21,900	894,300	2,073,900
2010	3,105,900	22,400	899,300	2,184,200
2011	3,228,500	23,200	927,000	2,278,300
2012	3,357,600	24,900	975,800	2,356,900
2013	3,493,800	26,600	1,019,100	2,448,100
2014	3,623,900	27,300	1,030,000	2,566,600
2015	3,656,200	27,900	1,016,000	2,612,300
2016	3,673,100	27,700	990,400	2,655,100
2017	3,669,400	27,200	941,800	2,700,400

Source: Administrative Records and Labour Force Survey, Manpower Research & Statistics Department, MOM

2.2.10 VIET NAM

Viet Nam has the third highest number of population among AMS. In 2017, there were 93.58 million people in Viet Nam, with 54.82 millions in the workforce. In the same year, there were 53.7 million of people in employment, with a low unemployment rate at 2.04%. During the past decade (2007-2017), the growth in employment had risen at approximately 1.56% per year (Table 2.25).

Table 2.25. Overview of workforce in Viet Nam

Year	Total Population	Population age 15 and above	Total Workforce	Employed Person	Workforce Participation Rate (%)	Unemployment Rate (%)
2007	84,295,586	63,178,641	47,176,827	46,020,235	74.67	2.45
2008	84,898,828	63,702,050	48,216,802	47,069,212	75.69	2.38
2009	86,175,432	64,436,283	49,300,394	48,011,950	76.51	2.61
2010	86,927,697	65,710,424	50,837,275	49,493,696	77.37	2.64
2011	87,840,038	67,165,309	51,723,928	50,678,617	77.01	2.02
2012	88,775,523	68,195,475	52,348,041	51,422,441	76.76	1.77
2013	89,715,637	68,687,487	53,245,559	52,207,782	77.52	1.95
2014	90,728,941	69,344,012	53,747,997	52,744,545	77.51	1.87
2015	91,703,811	69,735,983	53,984,213	52,840,045	77.41	2.12
2016	92,672,819	70,936,832	54,445,288	53,302,755	76.75	2.10
2017	93,581,309	71,891,518	54,823,787	53,703,362	76.26	2.04

Source: ILO (ibid)

Similar to Cambodia and Myanmar, agricultural sector has the biggest share in employment in Viet Nam. The trend had been, however, declining in the past few years, while employment in both service sector and industrial sector have increased. From Table 2.26, the growth rate of employment in industrial sector had increased 3.97% annually.

Table 2.26. Employment by economic sector in Viet Nam

Year	Total	Agricultural Sector	Industrial Sector	Service Sector
2007	46,020,235	22,680,413	9,382,657	13,957,165
2008	47,069,212	23,934,228	9,444,026	13,690,958
2009	48,011,950	22,830,919	10,489,632	14,691,399
2010	49,493,696	24,107,049	10,729,538	14,657,109
2011	50,678,617	24,520,966	10,788,280	15,369,371
2012	51,422,441	24,357,151	10,896,398	16,168,892
2013	52,207,782	24,440,237	11,059,290	16,708,255
2014	52,744,545	24,439,587	11,311,650	16,993,308
2015	52,837,783	23,258,146	12,017,466	17,562,171
2016	53,300,047	22,314,130	13,198,219	17,787,697
2017	53,703,362	21,564,822	13,843,227	18,295,313

Source: ILO (ibid)

Considering in work status, employees become the majority. It shared almost half of employment (41.19%) (Table 2.27). Recently launched the new social security system which covered all types of employment.

Table 2.27. Employment by Work Status in Viet Nam

Year	Total	Employee	Employer	Own-Account Workers	Members of Producers' Cooperatives	Contributing Family Workers	Other
2007	46,020,235	14,073,653	1,520,776	24,441,168	69,908	5,914,730	0
2008	47,069,212	14,203,831	1,478,603	22,460,157	18,701	8,907,920	0
2009	48,011,950	16,070,834	2,299,099	21,477,989	56,242	8,107,786	0
2010	49,493,696	16,723,103	1,702,270	21,435,474	22,509	9,610,341	0
2011	50,678,617	17,544,755	1,464,546	22,246,964	11,229	9,411,122	0
2012	51,422,441	17,862,065	1,387,098	23,175,448	16,244	8,981,585	0
2013	52,207,782	18,185,433	1,299,890	23,742,242	8,860	8,962,253	9,103
2014	52,744,545	18,795,569	1,102,262	21,527,839	7,919	11,295,231	15,725
2015	52,840,046	20,769,630	1,532,618	21,443,587	12,509	9,073,442	8,261
2016	53,302,755	21,956,459	1,510,109	21,249,101	25,666	8,556,640	4,780
2017	53,703,362	23,000,836	1,092,399	21,225,448	10,454	8,374,226	0

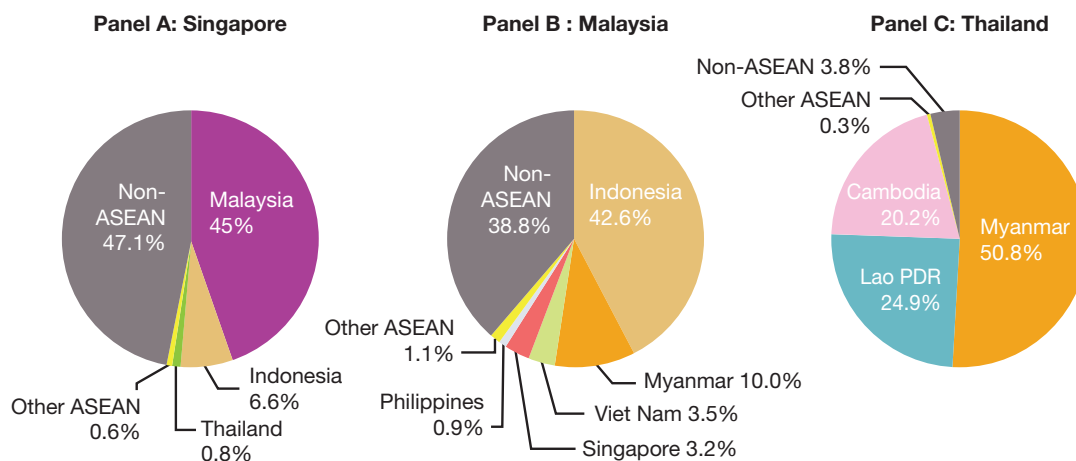
Source: ILO (ibid)

2.3 LABOUR MIGRATION

Labour migration may be caused by the differentiation in socio-economic and political situations, as well as demand and supply of workers in each country. As previously mentioned, ASEAN comprises of countries of origin and destination countries. The main destination countries in the region are Thailand, Malaysia, and Singapore, while the countries of origin are the Philippines, Indonesia, Cambodia, Myanmar, Viet Nam, and Lao People's Democratic Republic.

Figure 2.2 shows migration pattern in Southeast Asian region. It shows that decision about destination for migration depends on distances and cultural similarity. For example, Thailand is a destination country for workers from Cambodia, Myanmar, and Lao People’s Democratic Republic because they are neighbouring countries. In a similar vein, migrant workers in Malaysia mostly come from Indonesia because they share similar language and culture.

Figure 2.2 Migration pattern in Southeast Asian region



Source: Refer from ILO and Asian Development Bank (ADB), 2014. ASEAN Community 2015: Managing Integration for Better Jobs and Shared Prosperity. Bangkok: ILO and ADB

The statistical data shows that many AMS, except Brunei Darussalam, Cambodia and Lao People’s Democratic Republic, had received higher number of migrant workers during the past few years. This is especially true for the region’s main destination countries – Thailand, Malaysia, and Singapore. In addition, the trend of employment among AMS had increased in Indonesia, Malaysia, and Thailand. Indonesia had the highest growth rate in the number of migrant workers during the past decade, approximately 23.98%. For ASEAN migrant workers, Thailand had the highest growth rate of 48.85% between 2007 to 2017 (Table 2.28).

In terms of emigration, the trend is declining in both Thailand and Indonesia. On the contrary, emigration trends in the Philippines, Cambodia, Myanmar, Viet Nam, and Lao People’s Democratic Republic are moving upward (Table 2.29). Unlike migrant workers from Cambodia, Myanmar, and Lao People’s Democratic Republic who tend to migrate to Thailand for employment, migrant workers from Viet Nam tend to emigrate outside the region. This is also the case of Filipino workers.

Table 2.28. Immigration trend in ASEAN

Destination Country	Ref. Year	ASEAN Migrant Worker	Non-ASEAN Migrant Worker	Total	ASEAN Worker Growth Rate (%)	Total Migrant Worker Growth Rate (%)
Brunei Darussalam	2011	55,720	11,978	67,698	-9.37	-8.32
	2014	41,475	10,686	52,161		
Cambodia	2008	51,534	6,924	58,458		-3.41
	2013			49,150		
Indonesia	2015	20,815	44,803	65,618	9.05	23.98
	2017	26,992	73,870	100,862		
Lao PDR	2012	21,407	17,765	39,172	-0.32	-6.26
	2017	21,205	7,148	28,353		
Malaysia	2007	1,294,094	750,711	2,044,805	-11.19	-1.28
	2017	906,332	891,045	1,797,377		
Singapore	2006			756,300		6.30
	2016			1,393,000		
Thailand	2007	570,332	235,432	805,764	48.85	9.86
	2017	1,880,934	181,873	2,062,807		

Source: ILO (ibid)

Table 2.29. Emigration trend in ASEAN

Origin Country	Ref. Year	Work in ASEAN	Work out of ASEAN	Total	Growth Rate of Worker who work within ASEAN (%)	Growth Rate of Worker who work out of ASEAN (%)
Cambodia	2007	8,065	587	8,652	27.01	27.25
	2017	88,074	8,274	96,348		
Indonesia	2007	265,546	431,200	696,746	-8.52	-9.32
	2017	109,020	152,800	261,820		
Lao PDR	2007			2,672		40.85
	2017			58,301		
Myanmar	2007	7,391	229	7,620	35.36	35.75
	2017	152,622	9,275	161,897		
Philippines	2004	43,905	660,681	704,586	16.56	7.34
	2014	203,249	1,227,593	1,430,842		
Thailand	2007	27,351	134,566	161,917	-3.40	-3.35
	2017	19,360	95,855	115,215		
Viet Nam	2008	12,220	74,770	86,990	-20.50	4.98
	2017	1,551	131,969	134,751		

Source: ILO (ibid)

2.4 CONCLUSION

ASEAN consists of 634 million population. This accounts to 8.85% of total population in the world. Among AMS, Indonesia has the highest number of population, followed by the Philippines, Viet Nam, and Thailand. In total, there are 317 million people in the workforce. Unemployment rate among AMS ranges from 0 to 6.91%. Brunei Darussalam, the smallest country in terms of number of population among AMS, has the highest unemployment rate (6.91%). Labor force participation rate in the region varies between 60 and 70% (Table 2.30).

Table 2.30. Overview of Workforce in AMS

Country	Ref. Year	Population		Total Workforce	Employment	Unemployment Rate (%)	Labor force participation rate, (%)	Average Wage (USD)
		Total	Over 15 years old					
Brunei Darussalam	2014	410,565	310,514	203,651	189,573	6.91	61.05	1,358.02
Cambodia	2013	14,676,591	10,355,193	8,260,136	8,059,608	2.43	77.83	111.924
Indonesia	2017	262,409,042	192,079,416	128,062,746	121,022,423	5.50	6.67	157.92
Lao PDR	2015	6,492,228	4,137,333	3,364,086	3,302,682	1.83	79.83	-
Malaysia	2017	32,049,700	22,314,000	14,952,600	14,450,000	3.36	67.01	635.91
Myanmar	2014	51,486,253	35,880,331	22,749,763	21,872,539	3.86	60.96	-
Philippines	2016	100,754,000	68,311,000	43,361,000	40,998,000	5.45	60.02	201.98
Singapore	2017	5,612,253	-	3,657,000	3,669,400	-0.34	-	-
Thailand	2017	67,430,242	55,610,143	38,266,590	37,692,650	1.50	67.78	431.17
Viet Nam	2017	93,581,309	71,891,518	54,823,787	53,703,362	2.04	76.26	232.87

Source: ILO (ibid)

Employees which are the main target group of this study have the highest share of employment, except for Cambodia and Lao People's Democratic Republic, in which the biggest share of workforce are family workers (Table 2.31).

Table 2.31. Employment by Work Status in AMS

Country	Ref. Year	Total	Employee	Employer	Own-Account Workers	Members of Producers' Cooperatives	Contributing Family Workers	Other
Brunei Darussalam	2014	189,573	173,772	7,009	7,795	0	997	0
Cambodia	2013	8,059,608	1,771,714	26,145	3,202,698	0	3,051,347	7,704
Indonesia	2017	121,022,423	61,053,427	3,954,629	41,172,114	0	14,842,253	0
Lao PDR	2015	3,474,582	646,272	20,847	1,313,392	0	1,494,070	0
Malaysia	2017	14,450,000	10,690,100	552,700	2,602,000	0	605,200	0
Philippines	2016	40,998,000	25,240,000	1,376,000	11,097,000	0	3,285,000	0
Thailand	2017	37,646,884	16,983,727	1,011,044	11,890,366	65,492	6,701,050	995,205
Viet Nam	2017	53,703,362	23,000,836	1,092,399	21,225,448	10,454	8,374,226	0

Source: ILO (ibid)

Thailand, Malaysia, and Singapore are the main destination countries for ASEAN workers. Whilst, the Philippines, Indonesia, Cambodia, Myanmar, Lao People's Democratic Republic, and Viet Nam are considered as labour-sending countries. Most migrant workers in ASEAN tend to migrate within the region, except Viet Nam and the Philippines.

3

SOCIAL SECURITY

In connecting social security benefits between Member States, a social security agreement (SSA) is an important instrument. A SSA plays a crucial role as it coordinates the social security programs of two or more countries to overcome, on a reciprocal basis, the barriers that might otherwise prevent migrant workers and the members of their families from receiving benefits under the systems of any countries in which they have worked.¹⁴

This chapter presents overview of social security and can be divided into six sections, namely social security system, international standards relating to social security for migrant workers, social protection for migrant workers, social security agreement, examples of social security agreements, and conclusion.

3.1 SOCIAL SECURITY SYSTEM

As SSA coordinates the social security programs of two or more countries in order to allow migrant workers to access social security benefits, it is important to begin with the overview about social security.

According to ILO, social security can be defined as:

“the protection which society provides for its members through a series of public measures:

1. to offset the absence or substantial reduction of income from work resulting from various contingencies (notably sickness, maternity, employment injury, unemployment, invalidity, old age and death of the breadwinner);
2. to provide people with health care; and
3. to provide benefits for families with children [ILO 2000: 29].

This definition of social security reflects the provisions of the ILO’s social security (Minimum Standards) Convention, 1952 (No. 102) which establishes the first comprehensive international standards for social security systems.²³ Convention No. 102 identifies nine branches of social security benefits, namely Medical Healthcare, Sickness benefits, Unemployment benefits, Old-age benefits, Employment-injury benefits, Family benefits, Maternity benefits, Invalidity benefits, and Survivors benefits.

Social security system varies across countries, due to the differences in socio-economic status of each country. Social security programs may be classified into six types by their financing method as followed.¹⁵

¹⁴ ILO 2007, 4.

²³ ILO, World Labour Report 2000 (Geneva: ILO, 2000) 29.

¹⁵ ILO 2007, 4-5.

- 3.1.1 Social insurance is financed primarily by contribution from workers and employers. In some cases, there are additional income from investment and government's contribution. Benefits under social insurance depend on income and accumulated contributions of the insured persons. The fund is usually publicly administered. This is one of the most common types of social security program used by many countries.
- 3.1.2 Universal coverage refers to a program that is financed by government revenues and is offered to the entire eligible resident population. Eligibility may include age or the minimum period of residence in the country. Benefits under a universal coverage scheme are usually in flat-rate amounts, unrelated to previous earnings.
- 3.1.3 Provident funds refer to compulsory saving programs which are contributed by both workers and employers. The funds can also be financed by earning from investment. Workers may withdraw their savings at a specific time like retirement, or for some specific approved cases such as housing or child education.
- 3.1.4 Individual private account is a retirement saving scheme which is similar to provident funds. The different is that individual private account is privately administered, subjected to public agencies' regulation and supervision.
- 3.1.5 Social assistance is similar to the universal coverage in the way that it is financed by government budget. However, social assistance targets specific groups of population, mostly low-income and disadvantaged groups.
- 3.1.6 Employer-liability scheme refers to a program which employers are required to provide benefits or services to their employees when specific circumstances arise such as disemployment or work-related injury. Employers may buy private insurance to cover their liability.

3.2 INTERNATIONAL STANDARDS RELATING TO SOCIAL SECURITY FOR MIGRANT WORKERS

The ILO has six international standards relating to social security rights of migrant workers as followed.

- 3.2.1 Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19). This Convention was introduced in 1925 and stipulated that foreign workers, referred as workers who are nationals of the ratifying states, and their dependents shall receive equal treatment as national workers in the case of work-related accidents.

Article 1 of this convention states that foreign workers and their dependents are guaranteed to receive equal treatment as national workers with no exception on the ground of residence. If the payment of benefits occurs outside territory in the application of this principle, special arrangements between the parties shall be adopted.

Article 3 stipulates that ratifying countries must institute a workman's compensation system within the period of three years after the date of ratification.

Currently, there are six AMS – Thailand, Myanmar, Malaysia, the Philippines, Singapore, and Indonesia – which had ratified Convention No. 19. The current status of this Convention is an instrument with interim status. Convention No. 19 is currently opened for denunciation.

3.2.2 Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48). This Convention was introduced in 1935 to provide for totalization to determine the eligibility for long-term benefits such as Old-age, Invalidity, and Survivors.

Article 2 of Convention No. 48 prescribes the periods to be totalized as follows:

- (a) contribution periods;
- (b) periods in respect of which contributions were not payable but during which rights are maintained under the laws or regulations under which they were spent;
- (c) periods during which a cash benefit has been paid under an invalidity or old-age insurance scheme of another Member; and
- (d) periods during which a cash benefit has been paid under some other social insurance scheme of another Member, in so far as a corresponding benefit would, under the laws or regulations governing the institution which is totalising, maintain rights in course of acquisition.

It should be noted that, currently, Convention No. 48 is classified as a “shelved convention” because of its outdated information, and is opened for denoucation from 10 August 2018 to 10 August 2019.

3.2.3 Social Security (Seafarers) Convention, 1946 (No. 70). Convention No. 70 was introduced in 1946 to specify social security for seafarers.

Article 1 of this Convention defines seafarers as every person employed on board or in the service of any sea-going vessel, other than a ship of war, which is registered in a territory for which this Convention is in force.

Article 2 specifies that seafarers are entitled to medical benefits, unemployment benefits, death benefits, and invalidity benefits.

Convention No. 70 is currently an outdated instrument and not in force in the ratifying countries.

3.2.4 Social Security (Minimum Standards) Convention, 1952 (No. 102). This Convention was introduced in 1952 to specify the minimum standard of social security benefits, as mentioned previously. Convention No. 102 provides the details of each benefit such as definition, contribution period, payment period, beneficiary, and payment method (please refer to Chapter 4 in section 4.3 for more information about each benefit).

Article 68 of Convention No. 102 stipulates that non-national residents shall have the same rights as national residents: Provided that this may be made subject to the existence of a bilateral or multilateral agreement providing for reciprocity.

Convention No. 102 is still in force in 55 ratifying countries. Nonetheless, no ASEAN Member States has ratified this Convention.

3.2.5 Equality of Treatment (Social Security) Convention, 1962 (No. 118). This Convention was introduced in 1962 to provide for the equality of treatment in all nine branches of social security, and exportability of the benefits.

Article 2 (3) of Convention No. 118 allows each Member States to specify which branch or branches of social security it accepts the obligations of this Convention.

Article 3 (2) of Convention No. 118 stipulates that, in the case of survivors’ benefits, such equality of treatment shall also be granted to the survivors, irrespective of the nationality of such survivors.

Article 5 of Convention No. 118 specified that ratifying countries must guarantee the provision of invalidity benefits, old-age benefits, survivors’ benefits and death grants, and employment injury pensions, to the eligible persons residing abroad. In this sense, it guarantees the exportability of the social security benefits.

Convention No. 118 is still in force in 38 ratifying states, with the Philippines as the only ASEAN Member States.

3.2.6 Maintenance of Social Security Rights Convention, 1982 (No. 157). This Convention was introduced in 1982 to complement Convention No. 118 in area of totalization and export of the social security benefits.

Article 2 of this Convention stipulates that ratification of this Convention shall be applied to every branch of social security benefit. If a new branch of social security benefit is introduced later, this Convention shall be enforced automatically.

Currently, there are only four ratifying countries of Convention No. 157. The Philippines is one of them.

Table 3.1 compiles four international standards relating to social security of migrant workers, which are still effective as of October 2018. It could be seen that Convention No. 19 is the international standard that has ratification from many AMS, while no AMS has ratified Convention No. 102. The Philippines has given ratification to three out of four ILO conventions, the highest number among AMS.

Table 3.1. International standards relating to social security of migrant workers, which are still effective as of October 2018

No.	Name of Convention	Year	BR	CA	ID	LA	MA	MM	PH	SG	TH	VN
C019	Equality of Treatment (Accident Compensation) Convention	1925			✓		✓	✓	✓	✓	✓	
C102	Social Security (Minimum Standards) Convention	1952										
C118	Equality of Treatment (Social Security) Convention	1962							✓			
C157	Maintenance of Social Security Rights Convention	1982							✓			

Source: Author’s own compilation (2018)

3.3 SOCIAL PROTECTION FOR MIGRANT WORKERS

Social protection aims to reduce the vulnerabilities of individuals through measures that supportive or promote prevention, reduction, or elimination of risk and such vulnerabilities, and ultimately improve the rights and social well-being of the disadvantaged population.¹⁶ According to Avato et al. (2010), the social protection for migrant workers can be divided into four types as follow:

- The first type is informal social protection, which are channels that migrant workers use for risk-management through network and organizations that act as unofficial social safety net. Examples are groups or communities of migrant workers in the destination countries which provide information, suggestion, or other form of assistance. Usually, the informal social protection is the main or only option of migrant workers who have issues with their status. However, government often do not have information about the individuals, groups, or organizations that act as informal social protection for migrant workers, and thus cannot regulate them.
- The second type is labour market conditions, which refers to policy, law, or measure in the destination countries that aim to strike a balance of power between employers and employees, such as rules about employment, minimum wage, labour welfare and rights. These are generally inaccessible for migrant workers due to language and inability to access information. Such information gap may result in violation of migrant workers' rights. Moreover, if the policies or measures relating to the employment of migrant workers in destination countries do not conform with the labour market, e.g. a highly strict rule about employment of migrant workers is issued when the demand of migrant workers is high, undesirable forms of employment may happen.
- The third type is access to formal social protection, which means the social security benefits and support for migrant workers in the destination countries. Often, migrant workers may encounter barriers or limitation in accessing the official channel of social protection in a form of eligibility conditions such as the minimum period of residence.
- The fourth type is portability of social security rights, which refers to the ability to preserve, maintain, and transfer social security rights vested or on disbursement, regardless of nationality and country of residence. This is crucial for the pre-saving social security benefits such as old-age benefits. If such benefits cannot be portable, migrant workers who move to work in other countries throughout their working-age period may lack of social protection when they return to the home countries after retirement.

According to Holzmann and Koettl (2011, p. 16), portability consists of the following two elements.

- a) The full receipt of vested and eligible social security rights based on acquired rights through prior contributions/premiums or residency criteria in any chosen residency; and
- b) The full transfer of social security rights as well as rights that are in the process of being vested before eligibility has been established based on acquired rights through prior contributions/premiums or residency criteria in any chosen residency.

¹⁶ Adapted from R. Holzmann and S. L. Jorgensen, "Social risk management: A new conceptual framework for social protection and beyond," Social protection discussion paper 0006 (Washington DC: The World Bank, 2000); and R. Sebates-Wheeler and S. Devereux, "Transformative social protection: The currency of social justice," In Social protection for the poorest. Concepts, policies and politics, edited by A. Barrientos, and D. Hulme (Basingstoke: Palgrave, 2008).

Therefore, international cooperation in determining the conditions, process, and management of social security benefits is required to establish portability. This is generally done in a form of a Social Security Agreement (SSA), which is an instrument to establish portability (for more information, please see section 3.4).

Although, in principle, portability requires international cooperation, this can also be done by unilateral action. A country can initiate a preparation process before instituting a full portability. Preparation measures vary, depending on the type of benefits. Examples are revising or introducing laws or policies to assist migrant workers in accessing social security benefits, as well as building up capacity for exportability.

Even though in theory a country is able to specify the benefits and procedures in exporting social security benefits to the eligible persons living overseas, an Exportability Agreement (EA) between two or more countries can facilitate the eligible persons better. Countries can discuss, determine, and agree on the method of transfer and recognition of documents for exportability such as medical certificate.

It should be noted that, portability differs from exportability in two manners. First, portability requires cooperation between origin and destination countries in specifying benefits and scope of coverage.¹⁷ Examples are the method of totalization of contribution period in order to trigger the eligibility for old-age pension. For exportability, on another hand, a country can unilaterally determine about the benefit branch and transfer method.

Second, the amount of benefits received by exportability is usually lower than that by portability. This is because portability takes into account the accumulated contribution periods in every country where the insured persons had been contributed to. Exportability only count the contribution paid in the exporting country, and thus may offer lower amount of benefit.¹⁸

This study focuses only on the third type of social protection, access to formal social protection, and the fourth type, portability of social security rights. This is because the two types of social protection are directly related to social security.

In providing social protection for migrant workers, the process can be divided into three levels as follows.

3.3.1 UNILATERAL ARRANGEMENTS

Unilateral arrangements refer to actions done by a country to facilitate migrant workers to access social security. This may be in a form of enacting or revising laws or policies concerning migrant workers' social security rights, facilitating and speeding up the process of benefit payment before migrant workers have to leave the host country, or setting up exportability of benefits for migrant workers living abroad.

¹⁷ J. Avato, J. Koettl, and R. Sabates-Wheeler, "Social security regimes, global estimates, and good practices: The status of social protection for international migrants," *World Development* 38, no. 4, 455-466.

¹⁸ Holzmann and Koettl (2011)

3.3.2 BILATERAL ARRANGEMENTS

Bilateral arrangements refers to the cooperation between origin and destination countries in providing social protection for migrant workers. This may result in an international agreements which is legally binding, or a memorandum of understanding, which is less formal and not binding. This can be done by an exportability agreement or a memorandum of cooperation between social security agencies in sharing information when asked by another party.

In addition, bilateral arrangements would apply to the social protection type four, portability, in the form of Social Security Agreement – SSA between the origin and the destination countries. Even though the SSA potentially applies to all branches of social security benefits, an SSA is commonly used for long-term benefits such as old-age, invalidity, and survivors, because these benefits require totalization of contribution periods (for further information, please see section 3.4). Examples of bilateral SSAs are illustrated in section 3.5.1.

3.3.3 MULTILATERAL ARRANGEMENTS

Multilateral arrangements refers to when more than two countries mutually agree on the rules and scope of portability. An intermediary agency may be set up to manage and cooperate between member countries. In some cases, bilateral agreements may be used to complement the multilateral arrangements. Examples of multilateral arrangements are that of the European Union, and MERCOSUR (please see section 3.5.2 and section 3.5.5 for more information).

3.4 SOCIAL SECURITY AGREEMENT (SSA)

In establishing the portability of social security rights among ASEAN Member States, Social Security Agreement (SSA) is an important tool which can be done through a bilateral or multilateral arrangement. The SSA coordinates the social security programs of two or more countries to overcome, on a reciprocal basis, the barriers that might otherwise prevent migrant workers and the members of their families from receiving benefits under the systems of any countries in which they have worked.

According to the 2007 ILO report on social security for migrant workers in ASEAN, an SSA typically includes the following five elements:

3.4.1 EQUALITY OF TREATMENT

In many countries, nationality is used as a condition for joining social security system. This is thus an important barrier for migrant workers to access social security in such countries. In some cases, migrant workers are able to access the social security program in destination country, but may receive unequal treatment such as lower benefit amount relative to the nationals. An SSA aims to address such issue by establishing equality of treatment between migrants and nationals in the signatory countries.

In guaranteeing the equality of treatment for migrant workers in a host country, an SSA also requires migrant workers to equally contribute to the social security system of that country. Therefore, migrants will also be responsible to pay the same rate of contribution money as local workers, and report to the Office of Social Security for any changes to the work status or conditions, such as in the case of work-injury.

3.4.2 EXPORT OF BENEFITS

A country may have laws and regulations that prevent payment of benefits to the insured persons who live abroad, or contain conditions that make receiving benefits overseas rather difficult. Export of benefits principle of the SSA thrives to overcome such situations. The export of benefits may cover only in the signatory countries, or a third-party country.

3.4.3 DETERMINATION OF THE APPLICABLE LEGISLATION

In some cases, migrant workers who have already joined the social security system in their home country are still required to register with the social security system in the host country. This results in double coverage, in which migrant workers have to pay contribution in both countries. This is not only cost-ineffective, but also creates uncertainty about with legislations, the one in host country or the one in home country, shall be used to determine benefit payment. An SSA then mandates that migrant workers who are working in a signatory country shall be subjected to the laws and regulations in the host country. There is, however, a reservation for detached workers, who are usually posted in many countries, and thus requires the continuous social security benefits of the home country. This reservation is often also applied to self-employed, seafarers, or government employees.

In considering any other cases that may require a reservation, an SSA usually allows responsible agency to mutually determine and agree on such cases. Unilateral action is not allowed under the SSA.

3.4.4 TOTALIZATION

In general, social security benefits often have minimum contribution period as requirement to receive such benefits; for examples, continuous contribution of no less than ten years in order to receive old-age pension after retirement. Migrant workers who move to work in other countries may not be able to fulfill such requirement. An SSA allows totalization of contribution periods paid by migrant workers in all the signatory countries, so that the migrant workers can meet the benefit conditions.

For example, supposed there are four signatory countries, namely country A, country B, country C, and country D. All four countries set the minimum contribution period to receive old-age pension at ten years. Sam has been working in country A for 20 years, in country B for eight years, in country C for five years, and in country D for three years.

In the absence of a SSA, Sam would be entitled to receive old-age pension from country A only. However, if an SSA exists, Sam will be entitled to the receive old-age pension in all four countries for the total 36 years of work (reflected 36 years of work). Each SSA has different method of calculating the benefit amounts. In general, there are three calculation methods as follows.

- Proportional calculation. First, calculating the total benefit amount that Sam should receive (in this case, 36 years), then multiply with the proportion of contribution period in each country and the total contribution period. For example, calculating the benefit amount from country B is $8/36$, country C is $5/36$, and country D is $3/36$.

It should be noted that, in the case where total contribution period is over the limit by the law of a particular country, the maximum contribution period for total contribution will be used. For example, supposed that country B only provide the old-age pension for the maximum of 35 years of total contribution period, the calculation will be 35 years (instead of 36 years) multiply with 8/35.

- Direct calculation. This is the most and straightforward method of calculation, by following the laws of that particular country, e.g. 2% of income in the last year of paying contribution. However, direct calculation method could result in unproportion benefits in some cases; for example, 3% of ten-year work comparing to 2% of 20-years work.
- Integration. This is the method in which one country bares the responsibility in paying the social security benefit for the totalized duration of work in all signatory countries. An SSA will stipulate about where responsibility of payment goes, but this is usually the last country where the insured person had worked and paid contribution. Integration is effective for short-term benefits such as medical healthcare or maternity benefits, but could create excessive burden for the country responsible in the case of long-term benefits' pensions.

3.4.5 ADMINISTRATIVE ASSISTANCE

An SSA does not only aims to reduce legal barriers for migrant workers in accessing the social security benefits at the destination countries, but also to ease the administrative process within the social security agencies in the Member States. The form of assistance varies, depending on the content of SSA. In general, the social security agency in one country would receive claim application from every signatories, validate the information, and forward the claim to the involving signatory countries. This may also include collecting additional information when asked by the signatory countries.

In establishing a SSA, there are four steps as follows:¹⁹

- (1) Exploratory meeting between social security agencies of the countries involved has to be arranged. The objective is to set a mutual understanding and determine on the scope and application of the SSA. Topics should include at least the legislation, agency, and type of insured persons and other beneficiaries which will be covered by the agreement. The social security agencies then take the agreed issues back for domestic consultation with other relevant agencies in each country.
- (2) After concluding the domestic consultation and receiving madate from the government, a formal negotiation between the countries involved will be initiated. The negotiation should include at least the scope and application of the agreement (legal, authority, and type of insured persons and other beneficiaries), definitions (such as migrant workers, work, employer, employee, and so on), totalization method that will be applied, as well as other details that will be included in the agreement. The ILO model agreement or exisiting bilateral SSAs that the Philippines has with other countries may be used as reference.
- (3) After the negotiation is concluded, each negotiating party then seeks ratification for the agreement from the authority in each country.
- (4) After the SSA is ratified, a formal notification that the SSA is in force in the signatory countries is then issued.

¹⁹ Summary of an interview with Ms. Judy See on 3 December 2018 in Bangkok, Thailand, and a technical discussion with SSS in Quezon City, the Philippines on 29 January 2019.

3.5 EXAMPLES OF SOCIAL SECURITY AGREEMENT

The presentation in this section consists of the 16 examples of Social Security Agreement (SSA) and these can be divided into 13 SSAs between the Philippines and other countries, EU regulations on the coordination of social security systems, CARICOM Agreement on Social Security, CIPRES Multilateral Convention on Social Security and MERCOSUR Multilateral Agreement on Social Security.

3.5.1 THE PHILIPPINES

From the beginning of 1980, the Philippines, by the Social Security Office, concluded social security agreement with different countries where Filipinos live. The provisions of such agreement in accordance with the standard as prescribed by C157 of the ILO on maintenance of social security rights: Convention concerning the establishment of an international system for the maintenance rights in social security. Until today, the Philippines has concluded in the bilateral agreement on social security with 12 countries and one state, together there are 13 agreements. These will be mentioned in brief subsequently.

a) Japan

Such agreement was signed on the 19 November 2015. It stipulates the responsible agencies, namely, the governmental agencies responsible for the pension system in Japan and for the Philippines, the Chairperson and high level officials of the social security system of chairperson and manager of the government social security. The content covers persons of both countries including family members and heirs of insured persons. The definition of “benefits” includes a periodical pension and other benefits in the form of cash as prescribed by the domestic law of the contracting parties. In addition, it also provides the payment of benefits in the case of residing in a foreign country and the provision provides that the payment of benefits for insured persons outside of their countries and in third country may be made.

In addition, clause 7 of such agreement also states the enforcement of law in different cases, such as, in the case where a person protected under the law of the Contracting Party is employed in a territory of the other Contracting Party whereby the employer resides in such country and is sent by the employer from such country or from a third country to work on behalf of the employer in the Contracting Party, the employee shall be under the first Contracting Party only as if such person worked in the first Contracting Party if such work is not expected to be beyond the period of five years. However, in the case where such work exceeds five years, the responsible agencies of the two countries shall jointly consider whether or not such employee shall be under the jurisdiction of the first Contracting Party for no less than three years.

The calculation of benefits under the agreement is prescribed that in the case where a person does not have sufficient time to be entitled to the rights under the law in Japan, the agency in Japan shall consider the time period under the law in the Philippines so far as it does not overlap with the period covered in accordance with the law in Japan.

In regard to the law amendment, the Philippines is a monism and, therefore, upon signing any international agreement, such agreement shall immediately come into force without issuing a domestic law to implement such agreement.

b) Belgium

This agreement was signed on the 15 May 2018 and is applied to any person covered under the social insurance of such states. It provides equal treatment; transfer into the social security fund; time calculation for the contribution into the fund and cooperation on management between agencies. Moreover, a person able to reside in the Contracting Party for 60 months while he or she is under the system.

Such agreement contains special provisions which are different from other social security agreement made by the Philippines. Clause 11 stipulates the topic of seafarer and international transportations workers. It provides that seafarer who is an employee of a ship of the Contracting State as the flag state and is normally under the jurisdiction of the laws of both Contracting States shall be under the jurisdiction of the Contracting State where he or she resides only. In the case of an employee of a flight under the jurisdiction of the Contracting Parties in the international traffic, the benefits and protection shall be under the law of the country where an employer's office is registered. In the case where the company has a branch or permanent agent in the Contracting State, the person employed by the branch or such permanent agent shall be under the jurisdiction of the other State.

In regard to the benefits under this agreement, it is defined to mean pension or monetary benefits including additional or granted money under the law as prescribed in clause 2. Clause of the agreement stipulates the extent where the agreement applies. In Belgium, it applies to the laws relating to pension from retirement and heir of retired person for those who have regular income and independent professions; compensation in the case of invalidity of regular income earners, miners, international transportations labour and persons who have independent professions. In regard to the Philippines, it applies to the law on social security in the part relating to retirement, invalidity and death.

c) Canada

This agreement was signed on the 1 March 1997. It covers persons who contribute into the social security of Canada and the Philippines or persons who used to reside in Canada or the Philippines. The definition of "benefits" is prescribed to mean cash, pension, remuneration as prescribed by domestic law of that country. It shall also mean additional or granted money relating to the monetary benefit, pension or remuneration. This agreement shall apply to regular income earners who work in the Contracting Parties or persons who possess the independent professions who reside in the other Contracting Party. In this regard, it shall depend on the law of the first Contracting Party.

Nonetheless, money calculation shall be in accordance with the rate of contribution into the social security of Canada or the Philippines. In the case where it does not fall within the criteria for calculation of pension under the law, the Contracting Parties shall calculate the residing period in the other Contracting Party.

However, in the case of retirement in Quebec, there is a separate agreement on social security with the Philippines.

d) Denmark

This agreement was signed on the 11 September 2012. The Contracting Parties shall not be able to reduce or change the benefits of persons being entitled to the benefits. This is based on the principle that the entitled person residing in the other Contracting State and may pay for contribution in the Contracting Parties. In addition, the agreement specifies the extent for both employers and employees who are under the social security law of Denmark or the Philippines in the case of working between the countries.

In regard to the benefits, it prescribes that the Filipino shall be entitled to the Danish benefits if residing in Denmark; if such person works under the Danish law for at least 12 months. The agreement also provides pension may be paid to the Filipino person who resides in the Philippines in the mentioned case. However, if in the case where the qualifying period is not suffice, the Filipino person residing in Denmark may continue to pay for his or her contribution in the Philippines. In addition, the appeal shall be in accordance with the law in each country.

The benefits under this agreement are: pension; invalidity benefits and additional pension for labour market (in the case of Denmark) and survivors' benefit (in the case of the Philippines).

e) France

The agreement was signed on the 7 February 1990 and provides the old-age benefits and survivors' benefit. Salary of French or Filipino worker during the working period and have contributed to the social security of the Contracting Parties shall have the rights to benefits. In the case where the qualifying period is not sufficient in the Philippines or France, the time shall continue to be counted in the other Contracting Party if the time period does not overlap. It also provides the payment of benefits in the case of invalidity and when such invalidity is a result of sickness or accident resulting in a loss of ability to work.

f) Germany

This agreement has been enforced on the 1 June 2018 and it covers retirement, invalidity, death and survivors' benefits. This is in accordance with the Government Service Insurance Act and the calculation for the contribution into the social security. In this regard, the agreement does not cover the outstanding money even though such person may have received the Certificate of Coverage (CoC) from his or her country.

Under this agreement, it provides that Filipino and German employers may hold the Certificate of Coverage for a period of four years. In regard to work in Germany and the Philippines in the future, such Certificate of Coverage ensures that employees are protected under their country and are exempted from the country of destination in regard to contribution into the social security. In a special case, agencies may approve the issuance of Certificate of Coverage for a period exceeding four years. Moreover, it provides that the calculation of social security and pension shall calculate both Germany and the Philippines, the case of necessity, in order to qualify for the pension benefits and the person entitled for pension may request for the transfer of benefits from one Contracting State to the other if the latter State is the country where the employee is retired and wishes to claim for pension benefits.

g) Spain

This agreement was signed on the 12 November 2002 with the specific and different coverage than other agreements. In the part for the Philippines, it covers maternity benefits, medical care, retirement, invalidity, death and employment injury. In respect of Spain, it covers non-permanent invalidity caused by sickness or non-work related accident, maternity and risk in pregnancy, retirement, permanent invalidity from sickness or non-worker related accident, death, employment injury or sickness. This agreement also provides the coverage for workers who are refugees under the Geneva Convention and Protocol on stateless persons who reside in the Contracting States including the family members and entitled persons.

h) Portugal

This agreement was signed on the 1 October 2017 and provides special requirement regarding being sent for work in the Contracting Party by the former employer in a Contracting Party and if it is expected to be less than 24 months, such case shall be under the jurisdiction of the law of the former Contracting Party. It also contains the provisions on employees on board a flight in the case where there is an activity between the Contracting Parties, this shall be under the jurisdiction of the country where such company is located. In regard to seafarer on the ship with the flag state of the Contracting Party and resides in one of the Contracting Parties, this shall be under the jurisdiction of the country where he or she resides. For persons working in shipment and guards at a port, this shall be under the jurisdiction of the country where the port is located.

i) Quebec

This agreement was signed on the 1 November 1998 and enforced with Canadian citizenship, the Philippines citizenship including refugees under the Geneva Convention and stateless persons. The provisions are general as appeared in the social security agreement, namely, equal treatment between the nationals of Contracting Parties, calculation of benefits in the case of any cross-border activity, monetary benefits to persons who have the right to reside in the Contracting States and cooperation in insurance for the part of accident and health insurance.

j) Switzerland

The agreement was signed on the 17 September 2001. The framework of the agreement provides the coverage for pension, death and invalidity benefits. It also covers the Philippines and Swiss citizens and family members including refugees under the Geneva Convention and Protocol on Stateless Persons who are under the jurisdiction of the Philippines and Switzerland including the family members who have the rights to reside in the Contracting States. Moreover, it prescribes the calculation method for the money of the person sent to work in the Contracting Party by his or her employer and in such case, it shall be under the jurisdiction of the former Contracting Party. This is except in the case where the time period exceeds 24 months. It also prescribes that persons working in the international transportations including seafarer in a ship which the flag state is the Contracting Party shall be covered under the jurisdiction of the country where such seafarer resides.

k) United Kingdom

This agreement was signed on the 27 February 1985 while its coverage include disabled persons, persons having independent professions, family members, industrial accidents and diseases, pension calculation which allows the time calculation from the period of residence in both Contracting Parties, and the monetary benefits for persons having the rights to reside in the State.

l) Austria

This agreement was signed on the 1 December 1980. For Austria, it covers accident insurance and pension while for the Philippines, it covers employment injury, pension and death.

Moreover, it stipulates the general provisions as appeared in social security agreements, namely, equal treatment of the nationals of the Contracting States, monetary benefit calculation in the case of cross-border professional activities by which the time of residence in both Contracting Parties may be calculated, monetary benefit payment to the persons who have rights to reside in the Contracting Parties and insurance cooperation in the part of accident and health insurance.

m) The Netherlands

This agreement was signed on the 26 November 2001. The general provisions are prescribed as appeared in social security agreement, namely, equal treatment of the nationals of the Contracting States, monetary benefit calculation in the case of cross-border professional activities, pension calculation to include the time residing in both Contracting Parties, monetary benefit payment to persons having to rights to reside in the Contracting Parties and insurance cooperation in the part of accident and health insurance.

3.5.2 EU REGULATIONS ON THE COORDINATION OF SOCIAL SECURITY SYSTEMS

EU regulations is designed to cover social security upon moving or working within the European Union (EU28, Iceland, Liechtenstein, Norway and Switzerland) by which persons having the nationalities of the EU countries have the right to seek employment in the European Union without work permit; to reside in such country for employment; to reside even when the employment is terminated and to be treated equally in regard to employment access.

The European Union provides the criteria for undertaking these measures in accordance with the social security system. Such measures are to ensure that every person is protected or no one is overlappingly protected in the case of cross-border employment under the following principles:

- One country only. Persons receiving the protection by the law of one country during one period of time shall contribute into the social security of such country;
- Equal treatment: persons having the nationality of the covered country shall have equal rights and duties;
- Benefits totalization: when a national person requests benefits, the time period for contribution, employment or residence in another country shall be calculated if necessary; and

- Exportability of benefits: a national person having the right to receive benefits from one country may contribute to receive such benefits if moving to reside in another country if it satisfies the requirement.

Currently, the relevant rules and regulations on the cooperation as prescribed in Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009 can be summarized as follows: it provides persons having the rights under such Regulation, namely, national persons of the Member States, stateless persons and refugees residing in the Member States under the jurisdiction of one or more Member States including family members and survivors. The coverage is as follows: sickness benefits, maternity benefits, invalidity benefits, retirement benefits, survivors' benefits, work-related accident and professional disease, death, unemployment, benefits prior to retirement, family benefits. It also stipulates the issue of being moved for employment in another Contracting Party by an employer in the other Contracting Party in the case where it is expected that the employment period does not exceed 24 months, it shall be under the jurisdiction of the former Contracting Party.

3.5.3 CARICOM AGREEMENT ON SOCIAL SECURITY

Such agreement was signed in 1996 with the purpose to harmonise the law on social security of Member States. Employed persons and families that register in the ratifying country shall have the rights to benefits paid by the social security of the country he or she contribute the money to. Such benefits cover invalidity, retirement and death. Money for child delivery and sickness is not covered. However, this agreement does not apply in Surinam and Haiti. In regard to the coverage, it covers employees in the multi-national firms, international transportations, seafarer, self employed in the case of cross-border movement.

In the case where a person is sent for employment in another Contracting Party by a previous employer in another Contracting Party, and in the case where such employment is expected not to exceed 24 months, the social security rights shall be under the jurisdiction of the former Party. In the case of international transportations, the insurance shall be in the country where the firm or its branch is located even though the employment and address may be different. In the case of seafarer, except if such time period exceeds 24 months, seafarer of the ship with the flag state of the Contracting Party shall be insured under the country where such seafarer has a residence. In the case where the time period exceeds 24 months, it shall be in accordance with the law of the country of residence.

3.5.4 CIPRES MULTILATERAL CONVENTION ON SOCIAL SECURITY

Inter-African Conference on Social Insurance (CIPRES) consists of 15 French speaking countries in Indian Ocean and West and Central Africa. This was signed in 1996.

Such agreement aims to cover workers, family members and heirs who have the nationality of the Member State and are under the social security system of one Member State. In this regard, the monetary and non-monetary benefits cover old-age benefits (retirement), invalidity, death of family member, employment injury, maternity and sickness benefits including expenses entitled by the families under the social security system. However, the wealthiest countries of destination in the region, such as, Gabon, Cameroon and Senegal have not ratified this agreement.

3.5.5 MERCOSUR MULTILATERAL AGREEMENT ON SOCIAL SECURITY

Multilateral agreement relating to the social security of MERCOSUR which consists of Argentina, Brazil, Paraguay and Uruguay has been enforced since 2005 and replaced all bilateral agreements relating to social security between MERCOSUR Member States.

In this regard, such agreement provides protection to workers of MERCOSUR including families migrating for employment in another Member States. It covers medical care, monetary benefits especially old-age and invalidity benefits.

Under the social security system of MERCOSUR, the Multilateral Social Security Commission (MSSC) is established and consists of representatives of the Social Security Offices of each Member States:

- the Nation Social Security Administration of Argentina;
- the Ministry of Social Welfare of Brazil;
- the Social Welfare Institute of Paraguay; and
- the Social Welfare Bank of Uruguay.

MSSC has the duties to cooperate between social security offices, for instance, the issue of benefits consideration, migrant workers data, collection of contribution, distribution of contribution to each social security offices including cooperating for claiming of benefits which facilitates workers and reduces procedures and time for claiming of benefits.

To conclude, each SSA contains different contents in regard to coverage and social security benefits. However, every SSA has the purpose to reduce and eliminate obstacles in gaining access to social security protection of workers employed in foreign countries by basing on the principles of social security agreement of the ILO. The principles are: Equality of treatment, Export of benefits, Determination of the applicable legislation, Totalization and Administrative assistance.

3.6 CONCLUSION

International Labour Organization has attempted for each country to provide protection to migrant workers in their countries for several decades by passing several Conventions. Even though a small number of ASEAN Member States have ratified these Conventions, it is understood that these Conventions would be used as models to develop the social security system, mostly established after the Second World War, in the Member States. It can be seen that even though no ASEAN Member States has ratified Convention 102, the social security system of the Member States provide most of the benefits as prescribed in the Convention, namely, medical healthcare, Sickness benefits, Unemployment benefits, Old-age benefits, Employment injury benefits, Maternity benefits, Invalidity benefits and Survivors benefits.

Provisions of social protection towards migrant workers may be made unilaterally, bilaterally or multilaterally by which the portability through the conclusion of SSA is one of the tools providing social security to migrant workers.

In general, according to the 2007 ILO Report, an SSA consists of 5 principles as follows: equality of treatment, export of benefits, determination of the applicable legislation, totalization, administrative assistance. Current SSAs reflect all these elements. SSA is the agreement which eliminates or reduces obstacles in gaining access to the social security system and benefits by migrant workers.

Nonetheless, several ASEAN Member States have not ratified the ILO Conventions on social security of migrant workers. The Philippines has ratified most ILO Conventions (3 Conventions) relating to migrant workers whilst Brunei Darussalam, Lao People's Democratic Republic, Cambodia, and Viet Nam has not yet ratified any Convention and No ASEAN Member State has ratified the minimum social security standard (C 102).

4

SOCIAL SECURITY IN THE ASEAN MEMBER STATES

It is well-known that mobility of migrant workers in the Southeast Asian region is relatively high due to several factors such as the emergence of aging society that affects workforce, economic disparity, as well as wage gap between countries in the region. Labour migration may affect the social protection of migrant workers who work in the destination country if they cannot access such protection due to the laws, policies, requirements about nationality and residency, as well as other administrative barriers.

During the ASEAN meeting in January 2007, the Philippines introduced the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.²⁰ Ten years later, at the meeting held in November 2017 in the Philippines, the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers was concluded.²¹ The ASEAN Consensus does not stipulate that the ASEAN Member States (AMS) shall treat migrant workers in their countries with equal treatment with the nationals — as is the case in the ILO's international labour standards. Rather, it emphasises on the national laws and regulations of the respective Member State and is silent on social security during employment and when leaving the receiving Member State. Therefore, it is necessary to understand national laws and policies regarding the social protection in the AMS.

This chapter consists of five sections. The first section reviews the policy of social protection within AMS. Next, the laws relating to social security, labour protection, and social assistance of each AMS, with a specific focus on migrant workers, will be followed in the second section. Section 3 presents information related to social security benefits in the AMS. Subsequently, social security agencies and their administration will be presented in the fourth section. The last section ends this chapter with a conclusion.

4.1 SOCIAL PROTECTION POLICY

4.1.1 BRUNEI DARUSSALAM

Brunei Darussalam is a country endowed with valuable natural resources like oil and gas; hence, the national economic development has long relied in petroleum and gas industry, operated by the government. However, the government is aware that the country will soon encounter the shortage of such resources, and that can negatively impact the economy and labour market. Brunei Darussalam has limited position in the government sector, which has traditionally been the major employer, while the private sector is yet ready to absorb more workforce.

²⁰ <https://www.ilo.org/dyn/migpractice/docs/117/Declaration.pdf>

²¹ <https://asean.org/storage/2012/05/16-ASEAN-Declaration-on-the-Protection-and-Promotion-of-the-Rights-of-Mi....pdf>

A wide range of social protection in Brunei Darussalam such as medical care, education, housing, as well as other subsidies are provided by the government for its citizen and permanent residents. Moreover, the Employee Trust Fund (TAP) has been established since 1993 for old-age benefit which is contributed by the provident fund and the employer-liability.

In 2008, Brunei Darussalam introduced the vision to, by 2035, become the country that is recognized for well-educated and highly skilled people, their quality of life and its dynamic, sustainable economy. A social security strategy aims to ensure that “as the nation prospers, all citizens are properly cared for”.²² With this vision, it is obvious that social security in Brunei Darussalam targets mainly its citizens, while migrant workers are not mentioned.

Nevertheless, in 2015 the Department of Labour, the Ministry of Interior of Brunei Darussalam ordered that employers shall provide health insurance for migrant employees properly.²³

4.1.2 CAMBODIA

Social security system in Cambodia has been introduced since 1955. The system got disturbed, as well as the nation building because of the genocide in 1975. According to article 75 of the Constitution of Cambodia, the state shall establish social security schemes for employees. The system has reactivated Work Injury Insurance in 2008 and Health Insurance in 2016. After that, the new law on Social Security Schemes²⁴ was adopted in 02 November 2019 by covering nationwide: (1) the public employees, and (2) persons defined by the provisions of the Labour Law including personnel serving in the air and maritime transportation as well as domestic workers (including migrant workers), and (3) the self-employed for voluntary scheme.

It's certified that Pension Scheme for Persons Defined by the Provisions of the Labour Law including personnel serving in the air and maritime transportation as well as domestic workers will be launched in 2021.

In addition, Cambodia issued the Social Protection Policy Framework 2016-2025 indicating that the social assistance and social insurance become the main pillars of social protection²⁵. Both pillars are based on the concept of social solidarity which provides aid for the disadvantaged groups through taxation and social security fund.

The key policies from the Framework are as follows:

- Policy on pension which shall be valued the feasibility of mandatory implementation from both employer and employee;
- Policy on voluntary pension for the private sector which shall be regulated to do so and implemented by the financial institution;

²² Hajah Sainah binti Haji Saim (2010), 'Social Protection in Brunei Darussalam Darusslam – Current State and Challenges', in Asher, M. G., S. Oum and F. Parulian (eds.), Social Protection in East Asia – Current State and Challenges. ERIA Research Project Report 2009-9, Jakarta: ERIA. pp.124-156.

²³ <http://www.buruh.gov.bn/Lists/Announcement/DispForm.aspx?ID=1&Source=http%3A%2F%2Fwww%2Eburuh%2Egov%2Ebn%2FLists%2FAnnouncement%2FAllItems%2Easpx&ContentTypeId=0x0104004A76E08F5BE02945A3ED72DB6611A56F>, Access on 8/10/2018.

²⁴ http://www.mlv.gov.kh/index.php?option=com_k2&view=item&id=1283:%E1%9E%85%E1%9F%92%E1%9E%94%E1%9E%B6%E1%9E%94%E1%9F%8B%E1%9E%9F%E1%9F%92%E1%9E%8F%E1%9E%B8%E1%9E%96%E1%9E%B8%E1%9E%9A%E1%9E%94%E1%9E%94%E1%9E%9F%E1%9E%93%E1%9F%92%E1%9E%8F%E1%9E%B7%E1%9E%9F%E1%9E%BB%E1%9E%81%E1%9E%9F%E1%9E%84%E1%9F%92%E1%9E%82%E1%9E%98&Itemid=207&lang=en%9F%E1%9E%BB%E1%9E%81%E1%9E%9F%E1%9E%84%E1%9F%92%E1%9E%82%E1%9E%98&Itemid=207&lang=en

²⁵ NATIONAL SOCIAL PROTECTION POLICY FRAMEWORK 2016-2025 <http://inndec.com/library/docs/SPPF%20English%20-%20Final%20Ver.pdf>. Access on 11/10/2018.

- Policy on health insurance for the employee which shall be regulated to implement properly;
- Policy on supportive infrastructure and mechanism which shall enhance the service by investing more on health facilities and human, providing public awareness of medical care and health protection, and assessing the feasibility of renewed issuer;
- Policy on work injury of the employee which shall adjust the legal framework to help the successor who is a child accessing the survivor benefit even though the employee who dies has no marriage certificate; and to allow the disabled child who is not able to earn can access the benefit from the social security office entirely; and
- Policy on unemployed issuer which shall assess the feasibility of self-insurance from unemployment; enhance the capacity building of the staff of the social security office.

4.1.3 INDONESIA

Indonesia has the greatest number of population in ASEAN region. In this regard, Indonesia has a mixed system for social security which can be divided into 2 main system. One is the social assistance subsidized by the petroleum fund and the local revenues for income support, medical care, and education which grant to the vulnerable groups such as children, old people, disabled person, the poor and those who suffer from natural disaster. The second system is social insurance which is provided specifically for the civil servant and the private employee in general.

Previously, the private employee who can access the social security is one who work in the big company. To extend such security for other employees, the government, then, attempted to establish *BPJS Ketenagakerjaan* in 2015. The *BPJS Ketenagakerjaan* is responsible to provide benefits of old-age, death and work injury, while *BPJS Kesehatan* is responsible for the medical benefit²⁶.

Although this extensive system aims to outreach the worker in the informal sector, it is unclear whether it can cover the migrant worker. It should note that the Constitution of Indonesia commits to provide social protection for all Indonesian only.

4.1.4 LAO PEOPLE'S DEMOCRATIC REPUBLIC

Document titled “Decent Work Country Programme for Lao PDR 2017-2021²⁷” is initiated by the collaboration between the government and the International Labour Organization (ILO). It aims to create the job opportunities through the projects, strategies and goals. The document refers the migrant workers in 1) sub-goal 1.2 (Increased decent and productive employment through (a) improved matching of jobseekers and labour market requirements; (b) entrepreneurship development for women, men and youth; and (c) development of policy and legal instruments to support safe labour migration) which lies in the goal 1 (Promote employment and technical/vocational skills development in line with market demand); and 2) sub-goal 4.3 (Increased capacity of workers to advance Decent Work Agenda and social dialogue) which lies in the goal 1 (Strengthen tripartite cooperation and social dialogue).

²⁶ The Jakarta Post, “Social security for all workers,” <https://www.thejakartapost.com/news/2015/07/07/social-security-all-workers.html>. Access on 17/01/2019.

²⁷ Please see http://www.la.one.un.org/images/publications/ILO/lao_preview.pdf

4.1.5 MALAYSIA

Social Security Organization (SSO) or Perkeso is responsible to provide social security, health insurance and provident funds. In this regard, Malaysia has policy stating that the employer who hires the documented migrant workers shall register with the SOCSO and join and contribute the work injury scheme. The Cabinet resolution regarding the social protection for the migrant worker is in line with the Convention C019 - Equality of Treatment (Accident Compensation) and the Conference Committee on the Application of Standards under the ILO. Under such scheme, the migrant worker is entitled to access medical, temporal and permanent invalidity, remittance and funeral benefits²⁸.

Around 200,000 migrant workers who register in the SOCSO database, have been added up since January 1, 2019 until March 2019 because of the policy. Moreover, by January 1, 2020, the employer shall register all employees with the SOCSO because the Employment Injury Scheme will be replaced to protect the migrant workers. The employer can register by walk-in at the SOCSO and online. Failure to comply within 30 days, the employer shall be penalized by both imprisonment and a fine (Fine not exceeding MYR 10,000 per day and imprisonment for 2 years). The additional penalty can be made, as the case may be.

The registered employee shall be identified with 12 digit number. Whenever the employee leaves Malaysia, the digit number remains unchanged, even in the case of renewal, when s/he returns to work. To register, it requires documents such as passport, contract of employment, or a document indicating the temporal employment, i.e., one-year work permit which allows border crossing in order to verify how legitimate the employee can work.

4.1.6 MYANMAR

Myanmar has tried to create an environment for workers to work in a good and suitable workplace. Therefore Myanmar reforms a labor law which focuses on human resource development and job creation for workers. Myanmar's labor law consists of a large number of old laws which have been approved and enforced since colonial times. The new law has just been approved at the beginning of the legal reform process.

Social Security Board (SSB) is established in accordance with the law. It is responsible for determining and implementing social security programs. SSB has policies to ensuring workers enjoy rights and protection granted under the various labour laws, providing social services for the workers, promoting higher productivity of labour, and participation in international labour affairs²⁹.

In 2016, the Myanmar government has draft drafting a foreign labour law to govern the growing number of international workers seeking opportunity in Myanmar. But the law has not implemented yet³⁰.

²⁸ <https://www.humanresourcesonline.net/malaysian-employers-to-register-foreign-workers-under-socso-from-1-jan-2019/>

²⁹ https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_375631.pdf

³⁰ <https://www.mmtimes.com/business/21592-govt-drafts-labour-law-for-foreign-workers.html>

4.1.7 PHILIPPINES

Department of Labor and Employment is actively taking part in the negotiations of social security rights with other countries to make sure that our migrant workers are covered with work injury benefits similar to the coverage of our workers in the Philippines to achieve the Philippine government goals in targeting a universal coverage for employment compensation for all Filipino workers. The Department support any actions toward establishing equal treatment, preserving and maintaining social security rights, and reviewing our local laws regarding the matter.

Social Security System (SSS) of Philippines has the policy to establish, develop, promote and perfect social security system suitable to the needs of the people throughout the Philippines which shall promote social justice and provide meaningful protection to members and their beneficiaries against the hazards of disability, sickness, maternity, old age, death and other contingencies resulting in loss of income or financial burden. Toward this end, the State shall endeavor to extend social security protection to workers and their beneficiaries³¹.

Social protection in the Philippines requires contribution via SSS, not only for workers in countries under the age of 60, but also those who live and work in the Philippines regardless of their race and duration of employment. But there are some exceptions such as those working in international organizations or government organizations in foreign countries. Domestic workers, drivers, gardeners, chefs, etc. are able to receive social protection as well if their revenues are more than 1,000 pesos per month. Therefore, the government policy regarding migrant workers is not so obvious.

However, the key policy is a policy of Filipino workers working in foreign countries had a mandatory SSS coverage. Due to the past context and policy of the country emphasize on sending workers to work abroad. This is to make sure that all Filipinos in and out of the country are protected under the SSS³².

4.1.8 SINGAPORE

The Central Provident Fund (CPF) is a comprehensive social security system that enables working Singapore Citizens and Permanent Residents to set aside funds for retirement. It also addresses healthcare, home ownership, family protection and asset enhancement.

Foreigners do not save for their retirement through the CPF because their stay in Singapore is transient. However, foreigners have the option to save for their old age through the Supplementary Retirement Scheme (SRS), which is operated by the private sector and complements the CPF. Unlike the CPF, participation in the SRS is voluntary. Foreigners and their employers may contribute up to S\$35,700 annually to their SRS accounts.

Under the Employment of Foreign Manpower Act (EFMA), employers are required to bear the responsibility and costs for the upkeep and maintenance, including medical treatment and insurance, of migrant workers (foreign workers and foreign domestic workers), throughout their employment period in Singapore. In addition, in the case of legal migrant workers, except for domestic workers and seamen, employers must purchase health insurance for the employee

³¹ <https://www.sss.gov.ph/sss/appmanager/pages.jsp?page=sssmandate>

³² <https://www.philstar.com/business/2018/08/06/1839926/mandatory-sss-coverage-ofws-pushed>

and pay compensation to their employees, in case of an accident or injury at work, under the Work Injury Compensation Act (WICA). While domestic workers are not covered under the WICA, employers are required to buy Personal Accident Insurance for their FDWs under the EFMA.

4.1.9 THAILAND

The Social Security Office (SSO) is responsible for social protection for worker in Thailand in the form of social solidarity with the goals for Thai people on job creation, stable income including giving priority to women, underprivileged, and legal migrant workers in order to create fairness and reduce inequality in society The Ministry of Labor has therefore issued the Labor Protection Policy for the year 2018 as follows³³:

1. Enforcing informal workers access to social security systems in order to receive benefits and have a better quality of life such as medical care, child allowance, maternity, death, disability etc.
2. Creating fair and equal social security to protect workers by adding and improving benefits in all cases, return the rights for the insured person. Section 39 to the social security system again.
3. Accelerating the regulation of illegal migrant workers who are granted waiver to have the documents confirming the identity of the person as required by law.
4. Solving the problem of human trafficking in by resolving the illegal fishing practices in accordance with IUU Fishing and preventing child labor.
5. Solving of Thai labor scams to work abroad and integrating agencies to prevent Thai workers from illegally traveling to work abroad such as South Korea and Taiwan, etc.
6. Implementing Safety Thailand policy by inspecting and enforcing the safety laws in the workplace.
7. Promoting the 1506 hotline to be the main network and link to other hotline telephone system of the Ministry of Labor throughout the country in order to receive comments, give advice, receive complaints and give recommendations.

The policy related to social protection for migrant workers is 1, 3 and 4. The 5-year strategic plan (2015-2019) of the Social Security Office that is consistent with the labor policy of the government is:

Strategic 1. Raising the service to the international level to satisfy the needs and expectations of stakeholders together with creating awareness and realizing the value of social security on the basis of fairness and ownership of all stakeholders.

Strategic 2. Developing the benefits to the international in order to support the international social insurance on the basis of the development of the contribution system and potential investment system in order to be able to support stable development with stability and reliability.

Strategic 3. Reengineering and upgrading Information technology systems (IT) and information management (MIT) of the Social Security Office to organizations that have advanced services.

³³ http://minister.mol.go.th/ewt_news.php?nid=777. Access on 8/10/2018.

Strategic 4. Developing and implementing of “human capital” management in accordance with the world (present and future).

Strategic 5. Developing to high-performance organizations (HPO), modern, flexible, transparent and good governance.

And strategic issues on ASEAN. Thai social security system is an important part of the foundation of the ASEAN Social Security System.

The 5-year strategic plan (2015-2019) of the Social Security Office related to migrant workers is the second strategy and the ASEAN strategy.

4.1.10 VIET NAM

Viet Nam has a policy to provide social protection only to legal migrant workers through social insurance, which is a form of social solidarity. Two contribution methods are jointly between employers (17.5%) and employees (8.5%) and employer contributions only which is implemented in 2018. The social insurance covers illness, maternity, accident/injury from work. The benefits of old age and death for migrant workers will be start in 2022. However, the unemployment benefits are covered Viet Nameese workers only.

4.1.11 CONCLUSION

Countries in ASEAN has non-discriminatory policy regarding social protection, as well as employment, quality of life, fair treatment and capacity building for the local and migrant workers. However, the migrant worker that can be entitled to access such protection shall be legal and work in the formal sector, or a permanent resident alternatively.

Forms of social protection can be varied according to the context of ASEAN countries. Those forms are social security, provident fund, social assistance and employer-liability. Mainly, social protection is subject to the social solidarity and popularize in Cambodia, Indonesia, Lao People’s Democratic Republic, Malaysia, Myanmar, Philippines, Thailand and Viet Nam. In contrast, the system in Brunei Darussalam turn to be individualistic through the provident fund or supplementary retirement scheme which the benefits will be provided at the cost of migrant worker. In Singapore, foreigners can contribute to the Supplementary Retirement Scheme which is not a provident fund. Employers are also required to provide medical benefits to migrant workers. In case the migrant worker is not able to get protection from both system, the government shall provide protection in other forms such as social assistance and/or employer-liability.

4.2 LAW REGARDING SOCIAL SECURITY

4.2.1 BRUNEI DARUSSALAM

Labour issue in Brunei Darussalam is under the Ministry of Home Affairs. Brunei Darussalam has ratified two ILO Conventions which are 1) C138 - Minimum Age Convention, 1973 (since 2011); and 2) C182 - Worst Forms of Child Labour Convention, 1999 (since 2008). The Constitution of Brunei Darussalam does not provide benefit or financial contribution related to work and healthcare for non-citizen or permanent resident of Brunei Darussalam. In case of

medical care, the cost will be borne by the employer according to Section 83 (1) of Employment Agencies Order, 2004 apparently stating that the employer shall provide medical treatment for all workmen.³⁴ However, the Department of Labour, Ministry of Home Affairs has requested the employers settling the medical treatment costs while ensuring the health and welfare of foreign workers employed in the country since 2015.³⁵ Below is the law and policy that is relevant with social protection.

a. Social Security Law

The relevant laws on social security of Brunei Darussalam are 1) Old-Age and Disability Pensions, 1955; 2) Employees' Trust Fund, 1992 (which allows the Ministry of Finance to manage the fund for adding value in the supplementary pension); and 3) Supplemental Contributory Pensions Fund, 2009 which was implemented in 2010. However, they only cover the employees who are nationals and permanent residents of Brunei Darussalam.

Apart from those Acts, Workmen's Compensation Act, 1957 can be a legal source to access social security based on the work injury. The "workman" under such Act should likely refer to the migrant worker as there is no way mentioning not to include.³⁶ According to the Act, the employer shall provide medical welfare for all workmen. Failure to comply will be penalized under this Act.

b. Labour Protection Law

Labour protection is in line with the Employment Order, 2009 by the virtue of Section 83 (3) of the Constitution. This Act is under the supervision of the Commissioner from the Department of Labour, Ministry of Home Affairs who is in charge of labour, employment and labour protection.

The Employment Order, 2009 is the main law and enforceable with all kinds of employee, including the civil servant. Only a seaman, domestic worker or any person employed in a managerial, executive or confidential position, or any person belonging to any other class of person whom the Minister, with the approval of his Majesty the Sultan and Yang Di-Pertuan, may by the notification published in the Gazette, declare not to be employees for the purpose of this Act.

c. Social Assistance Law

Based on the preliminary finding, Brunei Darussalam, by law, provides social assistance to the citizen which are incompetency allowance, disability allowance, old-age living allowance, allowance for psychotic disorders, allowance for leprosy patients, self-reliance allowance, etc.³⁷ Nonetheless, there is no way specifying that the migrant worker can be entitled to access these assistances.

³⁴ Section 83 (1) "At every place of employment the employer shall provide for all workmen such medical attention and treatment with medicines of good quality, first aid equipment and appliances for the transportation of sick or injured workmen."

³⁵ <http://www.buruh.gov.bn/Lists/Announcement/DispForm.aspx?ID=1&Source=http%3A%2F%2Fwww%2Eburuh%2Egov%2Ebn%2FLists%2FAnnouncement%2FAllItems%2Easpx&ContentTypeId=0x0104004A76E08F5BE02945A3ED72DB6611A56F>. Access on 8/10/2018.

³⁶ Olivier, Marius (2017). Social Protection for Migrant Workers in ASEAN: Development, Challenges and Prospects. International Labour Organization (ILO). Pp. 37.

³⁷ Ibid. 38.

4.2.2 CAMBODIA

Cambodia has rectified totally 13 ILO Conventions. Of the ten ILO Conventions that are related to migrant worker refer social protection through contributory agreements. Such agreements, mostly done with Thailand, has limitation to access certain benefits. Although Cambodia does not survey the total number of migrant worker in the country, the prediction is likely 50,000 workers.³⁸ In addition, Cambodia does not state clearly about the social protection for these workers according to Part 3: Rights and Obligation, the Constitution of Cambodia which refers only the Cambodian.³⁹ Below is the law and policy that is relevant with social protection.

a. Social Security Law

Employee under the labour law which came into force since September 2002 is entitled to access the social security. Since there is no way specifying to exclude the migrant worker, it is likely that the migrant worker can claim the protection based on such law.

The purpose of the labour law is to establish the social security fund, including the pension for the case of work injury and other emergency causes provided by the sub-decree. It should note that the fund will be paid in line with the actual economy. The National Social Security Fund (NSSF) of Cambodia is responsible to manage the fund in accordance with Sub-decree No. 16 dated on March 2, 2007. The NSSF is a juristic person with the mission of public service provision, employee registration, fund collection and management, and employee benefits. The NSSF is under the technical tutelage of the Ministry of Labour and Vocational Training and the financial tutelage of the Ministry of Economy and Finance. In this regard, the NSSF is responsible for the employment injury insurance, health insurance and pension⁴⁰.

b. Labour Protection Law

Labour protection in Cambodia is in line with the Labour Code which has been approved by the Parliament since 10 January, 1997.⁴¹ The Code is applicable with the employer and the employee who work in Cambodia and bind themselves in the employment contract regardless where the contract is made, what nationality they are and where they live. Also, the Code forbids in the case of forced labour which is consistent with ILO No. 29⁴² and bonded labour.⁴³

c. Social Assistance Law

Cambodia provides social assistance law for certain groups. The case of older person is not specific to get assistance per se, but Cambodia has issued the National Ageing Policy 2017-2030⁴⁴ with an aim to improve well-being of older persons including financial stability, access of medical care, prevention of elder abuse and violence, as well as discrimination.

³⁸ ILO Analytical report on the international labour migration statistics database in ASEAN (2015) 10, 39; ILO Cambodia Country Fact Sheet (2015) 39, 82.

³⁹ Section 36 paragraph 4 states that “Khmer citizens of either sex shall have the rights to obtain social security and other social benefits as determined by law.”

⁴⁰ Cambodia Country Report: The 11th ASEAN & Japan High Level Officials Meeting on Caring Societies Theme “Active Ageing,” https://www.mhlw.go.jp/bunya/kokusaigyomu/asean/2013/dl/Cambodia_CountryReport.pdf. Access on 8/10/2018.

⁴¹ International Labour Organization, “Kram dated March 13, 1977 on the Labour law,” http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_150856.pdf. Access on 9/10/2018.

⁴² Section 15 of Labour Code “Forced or compulsory labor is absolutely forbidden in conformity with the International Convention No. 29 on the forced or compulsory labor, adopted on June 28, 1930 by the International Labor Organization and ratified by the Kingdom of Cambodia on February 24, 1969.”

⁴³ Section 16 of Labour Code “Hiring of people for work to pay off debts is forbidden.”

⁴⁴ https://cambodia.unfpa.org/sites/default/files/pub-pdf/NAP%202017-2030_%20Final_English-Printed.pdf

It is also not specific that a child can receive assistance from the government. Mainly, social assistance comes from the international donors such as child projects (scholarship, food allowance, child healthcare fund)⁴⁵. Other groups may receive the same kind of assistance; otherwise, the assistance may indicate for specific issues such as local investment and governance project, food for work project, cash for work project, or allowance for the poor project. These projects are served for specific groups to enjoy. However, it should note that such assistances are reserved for the Cambodian only even though the law does not say so.⁴⁶

4.2.3 INDONESIA

Indonesia allows the migrant worker to claim benefit or social protection if s/he works for more than 6 months in Indonesia and pay contribution.⁴⁷ The migrant worker can get full coverage of benefits. In addition, the Constitution of Indonesia, 1945 provide that every person shall have the right to social security in order to develop oneself fully as a dignified human being.⁴⁸ Also, the Law on Human Rights (No. 39 of 1999) supports the rights and social welfare for the migrant worker such as the right to an adequate standard of living, the right to the social security necessary for an adequate existence and for the development of well-being, rights of the disabled, elderly, pregnant women and children for special facilities and treatment.⁴⁹

The labour issue is under the power of the Ministry of Manpower and Transmigration (MOMT). It is the only organization that create the strategic policy for manpower, transmigration, profession training, recruitment, labour relation, social welfare, labour inspection, development of labour relocation. Below is the law and policy that is relevant with social protection.

a. Social Security Law

Two key laws provide for the public social security system are the Law Concerning the National Social Security System of 2004 (Law No. 40 of 2004), and the Law Concerning the Social Security Administrative Body (Law No. 24 of 2011). Based on the provisions of these two laws, the benefits are as follows:⁵⁰

- Lump-sum old-age benefit, and associated disability benefit and survivor benefit;
- Old-age pension, and associated disability pension and survivor pension (available in the form of a spouse's pension, and orphan's pension and a parent's pension (if there is no eligible spouse or child);
- Death grant and funeral grant (mandatory life insurance);
- Medical benefits, comprising primary and specialist outpatient care, hospitalisation, medicine and certain other medical benefits, including dependents' medical benefits; and

⁴⁵ <https://www.social-protection.org/gimi/RessourcePDF.action;jsessionid=vXHUznmIU-ssBjOk199YeuMu4OJrLKR9miXtmJ2xdBrHfCCu3wrf!533421577?id=54243>

⁴⁶ Olivier, Marius (2017), 43. See also <https://www.adb.org/sites/default/files/project-document/76061/44152-012-reg-tacr-32.pdf>

⁴⁷ ILO Social Protection for Indonesian migrant workers: Efforts and challenges (Brief, 2015) 3.

⁴⁸ Section 28H (3) states that "Every person shall have the right to social security in order to develop oneself fully as a dignified human being."

⁴⁹ Section 40 of the Human Rights Act 1999 states that "Everyone has the right to a place to live and the right to an adequate standard of living." And Section 41 of the same Act states that "(1) Everyone has the right to the social security necessary for an adequate existence and for the development of his well-being. (2) The disabled, elderly, pregnant women and children have a right to special facilities and treatment."

⁵⁰ Law Concerning the National Social Security System of 2004 (Law No. 40 of 2004), Article 18 and the Law Concerning the Social Security Administrative Body (Law No. 24 of 2011), Article 6.

- Work injury benefits, in the form of temporary and permanent disability benefits, workers' medical benefits and survivor benefits (including a lump sum survivor benefit, a death grant and a funeral grant).

It should note that the migrant worker shall work in Indonesia more than six months in Indonesia and pay contribution in order to access benefit or social protection.⁵¹ Such benefits may not be able to transferable as there is no law provided although benefit transfer is recognized under Indonesian jurisdiction.⁵² Also, the benefit will be payable to the migrant worker once s/he exits the country permanently.⁵³

Apart from both laws, certain other social security benefits are regulated in the Indonesian Labour Law (Act concerning Manpower), Act No. 13 of 2003, Section 99 providing that "The workers/laborers are entitled to social security for employees, in accordance with prevailing legislation", and Section 100 providing that "an employer is obliged to provide welfare facilities". Such law also recognizes that every person shall has the right to receive equal treatment without discrimination from their employer,⁵⁴ meaning that it is applicable in the case of migrant worker.

Finally in this regard, in accordance with a Ministerial Regulation concerning Foreign Manpower Utilisation, No. 16 of 2015, it states that the foreign workers are required to have insurance from an Indonesian insurance company.⁵⁵

b. Labour Protection Law

Labour protection in Indonesia is in accordance with Act of the Republic of Indonesia concerning Manpower or the so-called "Indonesian Labour Law" which was enacted in 2003 and under the supervision of the MOMT. The MOMT is responsible for all issues regarding the labour. In terms of inspection, the MOMT assigns the Directorate General of Labour Inspection (DG-LI) to act on its behalf. The DG-LI has authority to summon all documents regarding the labour inspection, to order and to advise about the labour law. Section 190 of Act Concerning Manpower, 2003 provides that the Prime Minister or the person acting on his or her behalf can sanction the administrative punishment in case of non-legal compliance.

c. Social Assistance Law

Social assistance can be provided through social welfare projects such as basic education, family income (financial subsidy or scholarship), food security, social infrastructure and job opportunity. However, there is no provision stated directly applying with the migrant worker and his or her family.

⁵¹ ISSA and SSA Social Security Programs Throughout the World: Asia and the Pacific (2017) 100-103.

⁵² Law Concerning the Social Security Administrative Body (Law No. 24 of 2011), Article 4(f) read with the explanatory memorandum accompanying the Law (i.e. Elucidation on the Law on the Social Security Administrative Body), the principle of portability refers to the principle, "which provides continuous security despite changes in Participant's job or residence within the boundary of the Unified States of the Republic of Indonesia."

⁵³ Government Regulation No. 46 of 2015 on Old-Age Program Administration, Article 26(1)(d).

⁵⁴ Section 5 of the Indonesian Labour Law (Act concerning Manpower), Act no. 13 of 2003 states that "Every person available for a job shall have the same opportunity to get a job without discrimination." And Section 6 of the same Act states that "Every worker/labourer has the right to receive equal treatment without discrimination from their employer."

⁵⁵ Olivier, Marius (2017). Social Protection for Migrant Workers in ASEAN: Development, Challenges and Prospects. International Labour Organization (ILO). Pp. 52.

4.2.4 LAO PEOPLE'S DEMOCRATIC REPUBLIC

There were around 22,000 migrant workers, or equivalent to 0.2% of 6.9 million of population in Lao People's Democratic Republic during in 2013.⁵⁶ However, it should note that the given figure cannot be accurate from the existing sources.⁵⁷ Below is the law and policy that is relevant with social protection.

a. Social Security Law

The Law on Social Security of 2013 (as amend 2018)⁵⁸ makes provision for most of the classical social security risks covered by ILO Convention 102 of 1952 (Social Security (Minimum Standards) Convention). The types of benefits covered by the Law on Social Security are: health care benefit; maternity or miscarriage benefit; employment injury, occupational diseases or other accident that causes the loss of working capacity or invalidity; sickness benefit; pension benefit; death grant; survivor's benefit; and unemployment benefit. Nonetheless, it is unclear from the explicit provisions of this law as to whether migrant worker is, or could be covered by the social security system provided for by the law.⁵⁹ Although the relevant law and certain provisions do not contain any reference to nationality to be covered by the social security system, they indicate that all employers, employees and their dependents, self-employed persons and voluntarily employed persons across the nation are covered by the system. Moreover, reading together with the Labour Law of 2014, it is clear that foreign worker is indeed covered by the benefit regime provided under the Law on Social Security.⁶⁰

b. Labour Protection Law

The current labour protection law of Lao People's Democratic Republic is the Labour Law, 2013⁶¹ which has been came into force by the end of 2013. This attempt came from the commitment of labour law reform which was in line with the international standards and conventions rectified by Lao People's Democratic Republic. In addition, the current law has been introduced in 1994 and revised in 2006 and 2011 respectively.⁶²

c. Social Assistance Law

The Department of Social Welfare, the Ministry of Labour and Social Welfare is responsible to develop the policy and to provide assistances. There are three projects relevant which are community health insurance, child protection, and food allowance with the following description:

- The Ministry of Health, in association with the Ministry of Labour and Social Welfare, has initiated the pilot project called the community health insurance in five areas aiming to have a better access of health service, but low cost which is supported by the WHO;
- The Ministry of Labour and Social Welfare, together with the UN bodies and NGOs, has carried out the child protection projects such as prevention from human trafficking,

⁵⁶ ILO Analytical report on the international labour migration statistics database in ASEAN: Improving data collection for evidence-based policy-making (ILO, 2015) 10, 39.

⁵⁷ Ibid. 38.

⁵⁸ Lao People's Democratic Republic, National Assembly Law on Social Security, Ref. No 34 / NA (26 July 2013) (unofficial English translation).

⁵⁹ Olivier, Marius (2017), 60.

⁶⁰ Ibid.

⁶¹ International Labour Organization, "Lao People's Democratic Republic > General provisions," http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=96369&p_classification=01. Access on 10/10/2018.

⁶² Somxay Sengdara, "Lao People's Democratic Republic moves to reform labour laws," Vientiane Times, 28 May, 2013.

victim restoration from human trafficking arisen in Thailand, child protection in the rural area, as well as the regional child care academy and orphanage; and

- Food allowance project for the rural area implemented by the Ministry of Education and Sports, as well as the global food project to ensure that all children would have primary education by 2015, including the SDGs.

4.2.5 MALAYSIA

Except for employment-injury scheme, Malaysia provides social security coverage for migrant workers via separate schemes which make available less advantageous benefits in comparison with Malaysian nationals. Especially, the foreign domestic workers⁶³ are effectively excluded from most social security benefits.⁶⁴

The Constitution of Malaysia of 1963 does not explicitly provide for social security. The Constitution generally extends protection to foreigners on the basis of equality, even though the prohibited grounds of discrimination does not per se include nationality.⁶⁵

a. Social Security Law

The Malaysian statutory social security system covers an extensive range of social security risk areas. Regarding retirement benefits, migrant workers can opt to contribute voluntarily to the provident fund system.⁶⁶ Foreign workers who are not Malaysian citizens and are about to leave Malaysia may withdraw their accumulated savings or their contributions.⁶⁷ However, the foreign worker is not entitled to take up an insurance policy (i.e. an annuity) or to indicate nominated beneficiaries.⁶⁸ It should be noted that several categories of workers who are excluded from the definition of “employee” under the Act⁶⁹ which are domestic servants, out-workers, a foreigner who, in accordance with his/her conditions of service, or if he or she has obtained approval of the Employees Provident Fund Board, participated in a provident fund or similar scheme established or administered outside Malaysia.

Regarding the social security benefits for the migrant worker, it is under the supervision of the Social Security Organization (SOCSO) or Perkeso which is established by the Employees’ Social Security Act, 1969 providing that the SOCSO shall be responsible to provide social security benefits for the workers who involve with work injury according to the Employment Injury Insurance Scheme. Such benefits include medical benefits, temporary/permanent disablement benefits, constant-attendance allowance, dependent’s benefits, and rehabilitation.⁷⁰ However, under the First Schedule of Employees’ Social Security Act, 1969 states that certain categories of workers are excluded to apply such as a domestic servant, a waiter, a child’s and baby’s nurse, etc. These categories of workers are mostly are foreigner working in Malaysia.

⁶³ Harkins, B Review of labour migration policy in Malaysia (ILO, 2016) 21, there 300,000-400,000 migrant domestic workers employed in Malaysia.

⁶⁴ Ibid. 21-22: “... social security coverage, mandatory medical insurance and workers’ compensation benefits do not apply to their employment.”

⁶⁵ Olivier, Marius (2017), 65.

⁶⁶ Employees Provident Fund Act 1991 (Act 452). As has been noted (Please see <http://www.kwsp.gov.my/portal/en/employers/employers-responsibility/contribution/termination-of-liability-tocontribute-for-foreign-workers>) Access on 10/10/2018.

⁶⁷ Employees Provident Fund Act, 1991, sections 53B(2)(d); 54(1)(e), and 70C.

⁶⁸ Employees Provident Fund Act, 1991, sections 58B(3) and 70D.

⁶⁹ Olivier, Marius (2017), 66.

⁷⁰ <http://www.ccsenet.org/journal/index.php/jpl/article/download/5276/4390>

Since January 1, 2019, SOCSO is in charge of providing social security for both local and foreign workers through Employment Injury Scheme. Around 200,000 migrant workers who register in the SOCSO database, have been added up since January 1, 2019 until March 2019 because of the policy. Moreover, by January 1, 2020, the employer shall register all employees with the SOCSO because the Employment Injury Scheme will be replaced to protect the migrant workers. The employer can register by walk-in at the SOCSO and online. Failure to comply within 30 days, the employer shall be penalized by both imprisonment and a fine (Fine not exceeding MYR 10,000 per day and imprisonment for two years). The additional penalty can be made, as the case may be.

The registered employee shall be identified with 12 digit number. Whenever the employee leaves Malaysia, the digit number remains unchanged, even in the case of renewal, when worker returns to work. To register, it requires documents such as passport, contract of employment, or a document indicating the temporal employment, i.e., one-year work permit which allows border crossing in order to verify how legitimate the employee can work.

Foreign workers (excluding domestic foreign workers) have been covered by the Workmen's Compensation Act of 1952. In 1993 a separated scheme was initiated for them (the Foreign Workers Compensation Scheme - FWCS). The introduction of the separated scheme had a bearing on the equal treatment of foreign workers, and effectively removed the possibility of portable employment injury benefits.

Regarding health insurance benefits, since January 2011 migrant workers are covered by the separate Health Insurance Protection Scheme (SPIKPA) administered by the Ministry of Health.⁷¹ In this way, private medical insurance under the Hospitalisation and Surgical Scheme for Foreign Workers was made mandatory for all migrant workers; otherwise, it could affect to renew the work permit next year.⁷² Apparently, the health policy provides for a higher medical fee for migrants compared to citizens, who are covered under the different, subsidised mainstream health insurance scheme. As far as SPIKPA is concerned, employers of plantation workers and domestic workers are required to finance the insurance policies.

b. Labour Protection Law

Labour protection law of Malaysia is Employment Act, 1955 which was revised many times. The current revised version was made in April 2012.⁷³

c. Social Assistance Law

Social assistance benefits are only available to Malaysians. The same applies to the related allowances and programmes, such as the "universal" schooling grant (*Bantuan Sekolah*).⁷⁴

⁷¹ All foreign workers are required to have an insurance policy of Foreign Workers Hospitalisation and Surgical Scheme with premium insurance of RM127 for every worker. The scheme provides health insurance protection of RM10,000 per year for hospitalisation costs. Employers in plantation sector and domestic-maid employers bear the premium insurance costs while for other sectors, it is up to employers and foreign workers to decide who bears the cost: see ILO Request for the International Labour Organisation (ILO) assistance on workshop to discuss Convention 19 - Equality of treatment (Accident Compensation) and the way forward (16-17 May 2016).

⁷² ILO Malaysia Country Fact Sheet (2015) 2.

⁷³ International Labour Organization, "Employment Act 1955," <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/48055/99040/F1418369396/MYS48055%202012.pdf>. Access on 10/10/2018.

⁷⁴ Olivier, Marius (2017). Social Protection for Migrant Workers in ASEAN: Development, Challenges and Prospects. International Labour Organization (ILO). Pp. 68.

4.2.6 MYANMAR

The 2008 Constitution does not cover the issue of social security rights or for that matter the position of migrant workers coming to Myanmar but it stipulates that every citizen shall have social security and the right to have health care especially children, the youth, women, the disabled, the aged and the homeless. However, Article 380 though, envisages in principle protection for Myanmar migrants abroad. It stipulates that “Every citizen who has relations with foreign countries shall have the right to seek protection of the Union at home or abroad”.⁷⁵

a. Social Security Law

The government of the union of Myanmar adopted a new Social Security Law, 2012 under the supervision of Ministry of Labour, Immigration and Population. This law came into force in 2014. There are six kinds of insurance systems under the Social Security Law, 2012. However, only two systems; Health and Social Care Insurance System and Employment Injury Benefit Insurance System have been implemented. According to Section-11 (a) of the Social Security Law, 2012, the applicable establishments are stipulated in Social Security Law and five or more employees from these applicable establishments are applied to register in Social Security Board. The worker who is not applicable under the Law, such as informal workers can voluntarily register to the social security system. The existing benefits are medical care, sickness, maternity, funeral, work injury, paternity and the right to take medical treatment for retired persons. However, disability and survivor benefits regardless of employment injury, old age, family benefits and unemployment benefits have not been implemented yet.

Article 202 (a) of the Social Security Rules stipulates that “The foreigners who are working at the establishments applied by the Law and obtain the wages or salaries in foreign currency or Myanmar kyat shall be applied by the provisions on health and social care insurance system and employment injury benefit insurance system contained in the Law”. Migrant workers who are working in applicable establishments can enjoy the benefits as Myanmar nationalities under the two implemented insurance systems in accordance with Law. According to the Social Security Law 2012 section 24 stipulates that the benefit relating to sickness may suspend when the insured person leaves the Myanmar for good.

b. Labour Protection Law

The main law relating to the protection of Myanmar’s workers is the Law defining the fundamental rights and responsibilities of the People’s workers, which was drafted and issued by the Revolutionary Party in 1964. The law determines the rights of workers and state servants. In addition, Myanmar has issued other relevant laws, including the Payment of Wages law, 2016, the Leave and Holiday Act, 2014) and the Minimum Wage Law, 2013. The principal authorities on the protection of workers in Myanmar are the Ministry of Health and Sports and the Ministry of Social Welfare, Relief and Resettlement.

c. Social Assistance Law

Social welfare of Myanmar does not cover migrant workers.

⁷⁵ Olivier, Marius (2017). Social Protection for Migrant Workers in ASEAN: Development, Challenges and Prospects. International Labour Organization (ILO). Pp. 71.

4.2.7 PHILIPPINES

The 1987 Philippine Constitution contains general provisions in relation to social security. It states that “to protect and promote the right to health of the people and instil health consciousness among them” and “to protect the rights of workers and promote their welfare”. There is no indication that the Constitution intends to generally exclude non-nationals and immigrant workers from constitutional protection.⁷⁶

a. Social Security Law

1. Social Security Act, 1997 and Presidential Decree No. 626, 2015

The Social Security system of the Philippines is under the Social Security Act, 1997. The Social Security System is responsible for collect contributions and pay benefits to the insured. The law covers all workers working in the Philippines including migrant workers. The Filipino workers go to work for overseas, they can remain under the social security system voluntarily.

The Social Security system of the Philippines is a joint contribution between employers and employees. Self-employed persons are regarded as both employee and employer at the same time and therefore have to pay both the employer and employee contributions. The benefits are medical care, sickness, old-age, employment injury, maternity, invalidity and death (not include unemployment and family benefits). In addition, there is also a salary loan benefit that allows members to apply for a loan. The Philippines has a Labor Code that provides injury benefits for all employees which covers migrant workers. The contribution comes from employers.

In 2019, the new social security law will be announced which has increased benefits especially the extension of protection for oversea workers, protection for families, protection of migrant workers, and extension of unemployment benefits.

2. National Health Insurance Act, 2013

The Philippine health insurance system is under the Health insurance Act, 2013 and under the management of National Health Insurance Cooperation. Workers including migrant workers contribute to the health insurance system. However, if migrant workers do not pay contributions, they can still use health services under the Social Security system and Labor Code.

3. Overseas Workers Welfare Administration Act, 2015⁷⁷

Philippines is a country that has a lot of workers to work in foreign countries, government therefore issued the Overseas Workers Welfare Administration Act, which is under the responsibility of Overseas Workers Welfare Administration (OWWA). The latest edition of the Act, issued in the year. In 2015, the Act stipulates that Filipino workers who work abroad will receive the same protection as workers working in the country. The act divided labor into 2 categories, which are mandatory for all registered workers with Philippine Overseas Employment Administration (POEA) and voluntary categories for workers who do not apply for jobs through POEA, such as applying for jobs in the company abroad. Benefits received

⁷⁶ Olivier, Marius (2017). Social Protection for Migrant Workers in ASEAN: Development, Challenges and Prospects. International Labour Organization (ILO). Pp. 78.

⁷⁷ [http://www.owwa.gov.ph/sites/default/files/files/IRR%20of%20RA%2010801%20\(OWWA%20ACT\).pdf](http://www.owwa.gov.ph/sites/default/files/files/IRR%20of%20RA%2010801%20(OWWA%20ACT).pdf). Access on 8/10/2018.

include death, disability and illness cases. The Act shows that the Philippines social security system for Filipino workers is portable when going to work abroad.

b. Labour Protection Law

Labor protection is defined in the Philippine Constitution of 1987, which is the highest law of the country which is responsible by Department of Labor and Employment (DOLE). In addition, there are many other related laws, such as Labor Codes and Republic Act No. 7658 (RA 7658), which are laws regarding child labor.

c. Social Assistance Law

A wide range of social assistance benefits are provided in the Philippines as follows:

- The Pantawid Pamilyang Pilipino Program (4Ps), a conditional cash transfer programme providing immediate financial support to poorest households in poor municipalities.
- The Pantawid Pamilyang Philipino Program (4Ps).
- Social Amelioration Program (SAP), providing a cash bonus, death benefit, maternity benefit and a socio-economic grant (e.g., an educational scholarship) to mill and field workers involved in sugar production, small farm cultivators and migratory sugar workers.
- Social Amelioration Program (SAP).
- Kapit-Bisig Laban sa Kahirapan aimed at developing essential public services, encouraging community empowerment and inclusion, and reducing poverty.
- Kapit-Bisig Laban sa Kahirapan.
- DOLE Integrated Livelihood and Emergency Employment Program (DILEEP), aimed at supporting persons with disabilities, poor, marginalised and vulnerable workers, and informal sector workers.
- DOLE Integrated Livelihood and Emergency Employment Program (DILEEP).
- Cash for Work (CfW) and Food for Work (FfW) projects – short-term support interventions made available to persons who have been affected by disasters, and internally displaced persons.
- Cash for Work (CfW) and Food for Work (FfW) projects.
- Sustainable Livelihood Program (SLP), aimed at enhancing people's access to basic social services, improving their standard of living.
- Sustainable Livelihood Program (SLP).
- Social Pension for Indigent Senior Citizens – providing a monthly pension and other forms of social assistance support to vulnerable and indigent older persons.
- Social Pension for Indigent Senior Citizens.

However, social welfare benefits in the Philippines do not cover migrant workers.

4.2.8 SINGAPORE

Singapore's Constitution guarantees that all persons are equal before the law and entitled to the equal protection of the law. However, the grounds of prohibited discrimination do not specifically include nationality. Therefore, migrant workers may not receive equal social protection compared to Singaporean citizens.⁷⁸

⁷⁸ Olivier, Marius (2017). Social Protection for Migrant Workers in ASEAN: Development, Challenges and Prospects. International Labour Organization (ILO). Pp. 89.

a. Social Security Law

There are four Acts in Singapore that provides for the social security of foreign workers: Central Provident Fund Act 2013, Employment of Foreign Manpower Act 2009, Employment Act 2009, and Work Injury Compensation Act 2009.

The Central Provident Fund (CPF) is a comprehensive social security system that enables working Singapore citizens and Permanent Residents to set aside funds for retirement. It also addresses healthcare, home ownership, family protection and asset enhancement. Both employees and employers make monthly CPF contributions to the employees' CPF accounts. Self-employed workers can voluntarily join the fund. Only migrant workers who are permanent residents of Singapore are allowed to contribute to their CPF accounts. Foreigners who are not permanent residents, are not required to contribute to their CPF as their stay in Singapore is transient and they are not retiring in Singapore.

The Employment Act is the main labour law in Singapore, covering the vast majority of employees in Singapore, regardless of nationality. It includes provisions from working hours, leave entitlements and late or non-payment of salaries. Under the Employment of Foreign Manpower Act, (EFMA), employers are required to bear the costs and responsibilities for the upkeep and maintenance, including medical treatment and insurance, of migrant workers, throughout their employment period in Singapore. In addition, employers must provide health insurance for all migrant workers. The Employment Act also requires employers to provide sickness leave and maternity benefits to all employees, except for domestic workers. In case that an employee is injured from at work, he or she will receive compensation under the Work Injury Compensation Act (WICA). While foreign domestic workers are not covered under the WICA, employers are required to buy a personal accident Insurance for their foreign domestic workers under the EFMA.

b. Labour Protection Law

Migrant workers' employment rights are safeguarded under the Employment Act. Employment of Foreign Manpower Act and Work Injury Compensation Act, all of which are enforced by the Ministry of Manpower.

In addition, there are various accessible support and assistance channels for migrant workers to seek help from. These include the Ministry of Manpower's service centre and 24-hour hotline, and advisory/mediation and other services provided by numerous non-governmental organisations.

4.2.9 THAILAND

Thailand promotes equality for all people. Specific provision is also made for social security without discrimination between nationals and non-nationals.⁷⁹ This notion is written in the Constitution of the Kingdom of Thailand BE 2560 as follows:

Section 27

All persons are equal before the law, and shall have rights and liberties and be protected equally under the law. Men and women shall enjoy equal rights. Unjust discrimination against a person on the grounds of differences in origin, race, language, sex, age, disability, physical

⁷⁹ Olivier, Marius (2017). Social Protection for Migrant Workers in ASEAN: Developments, Challenges And Prospects. Final draft version. June 2017.

or health condition, personal status, economic and social standing, religious belief, education, or political view which is not contrary to the provisions of the Constitution, or on any other grounds shall not be permitted.

Section 74

Stipulates that the government should promote abilities of the people to engage in work which is appropriate to their potentials and ages, and ensure that they have work to engage in. The State should protect labour to ensure safety and vocational hygiene, and receive income, welfare, social security and other benefits which are suitable for their living, and should provide for or promote savings for living after their working age. The State should provide a system of labour relations for all relevant parties to participate in.

The government has also introduced the 2017-2021 Strategy for migrant workers, issued on 25 October 2016, with the aim of managing the employment of migrant workers to meet the international standards.

a. Social Security Law

1. Social Security Act

The Social Security Act B.E. 2533 was issued in 1990 and enforced in September 1990. According to the Social Security Act, the Social Security Office (SSO) was established to manage social security system and social security funds. The SSO is a government agency under the Ministry of Labor.

There are three schemes which cover different types of insured persons: Insured persons under Section 33, Insured persons under Section 39, and insured persons under Section 40. The Social Security Fund are jointly contributed by the employer, the employee, and the government. Each type of scheme has different contribution rates, contributing parties, and benefits as follows:

Section 33

Every employees between 15-60 years old must pay contribution to the Social Security Fund at the rate of 5% of the wage/salary (minimum 1,650 baht and maximum 15,000 baht). Employers contribute at the same rate of 5% and the government pays at the rate of 2.75%. The insured persons under Section 33 scheme will receive seven types of benefits: sickness benefits, maternity benefits, invalidity benefits, death benefits, including a funeral grant (available to a dependent), child allowance, old-age benefits, and unemployment benefits.

Section 39

The insured persons who have joined the Section 33 scheme, resigned from work, but still want to maintain the social security benefits can voluntarily pay contributions to the Social Security Fund under the Section 39 scheme. The insured person must have paid contribution into Section 33 scheme for no less than 12 months, and must join the Section 39 scheme within six months after the date of resignation. The insured persons under Section 39 pay the contribution at 432 THB per month, and the government jointly contributes 120 THB per month. There are six benefits under Section 39 scheme namely sickness benefits, maternity benefits, invalidity benefits, death benefits, including a funeral grant (available to a dependent), child benefits, and old-age benefits.

Section 40

Those who are self-employed or informal workers can voluntarily contribute to the Social Security Fund. The insured persons must be at least 15 years of age, and have never joined the Section 33 or Section 39, and must have Thai nationality or a minority who migrated to live in Thailand or is a person who does not have Thai nationality that has been granted a temporary waiver in Thailand.

Insured persons under Section 40 has three options:

- The insured person pays 70 THB, the government pays contributions of 30 THB. The total amount is 100 THB. The benefits include cash compensation for sickness and disability, as well as funeral grant.
- The insured person pays 100 THB, the government pays 50 THB, the total contribution is 150 THB. Insurers receive four benefits which are cash compensation for sickness and disability, funeral grant, and lump-sum for retirement.
- The insured person pays 300 THB, the government pays contributions 150 THB, the total amount is 450 THB. The insured persons receive five benefits which are cash compensation for sickness and disability, funeral grant, lump-sum for retirement and child allowance.

2. Workmen's Compensation Act

The Workmen's Compensation Act is a law issued in 1994. Under the law, SSO establishes the Worker's Compensation Fund to pay compensation for employees who has work-related accident or illness. Those who are protected under the Workmen's Compensation Act are employees in private organizations, government employee (excluding government officials and state enterprise employees), employees in non-profit organizations and employees who have been employed in foreign countries (the local staff) of the embassies and international organizations. The employers pay the contribution to the Fund at the rate of 0.2-1.0% of the wage, depending on the level of occupational risk of each business. The Workmen's Compensation Fund pays compensation in the following four cases:

- Compensation in case of not being able to work: receiving compensation for the absence of income from the first day of work at 70% of the monthly wage (The maximum wage base is 20,000 baht).
- Compensation for loss of some parts of the body (partial disability): receiving 70% of the monthly salary compensation for a period not exceeding 10 years.
- Compensation for disability: receiving 70% of the monthly salary compensation for not less than 15 years.
- Compensation for death or loss: receiving compensation of 70% of the monthly wage for 10 years. The employer has to pay the medical expenses to the employee until the treatment ends.

Migrant workers who are insured persons under Section 33 under the Social Security Act and employees under Workmen's Compensation Act will be entitled to the same benefits as Thai people.

b. Labour Protection Law

1. Labour Protection Act

The Labor Protection Act 1998 is enforced by the Department of Labor Protection and Welfare, the Ministry of Labor under the Labor Protection Act, 1998. The agency is responsible for planning and determining policies related to labor protection, safety at work, labor relations, and labor welfare.

The Labor Protection Act covers all workers except central government employee, provincial government and local government employee as well as state enterprises. The Minister of Labor can issue Ministerial Regulations to enforce employer, for example, the Ministerial Regulations (1998) issued under the Labor Protection Act BE 2541 (1998) are not applicable to employers who operate private school businesses for the principal and teachers.

On 5 May 2019, a revised version of the Labor Protection Act was introduced to be more applicable to current situation. The amendment includes many issues; for example, employees shall have the right to take at least three paid-leave days per year. Employees who are pregnant may take leave for check-up, and such leave shall not be counted as maternity leave. The compensation rate for employees who have worked for 20 consecutive years or more is also increased. Employers are required to set the wage, overtime pay, and holiday pay at the same rate for both men and women employees in the same level of work, in accordance with the international standards.⁸⁰

c. Social Assistance Law

1. Elderly Person Act

The Elderly Person Act 2003 stipulates that all elderly must receive a monthly and fair allowance which is under the responsible from Department of Local Administration, Bangkok metropolitan and the city of Pattaya. The government has continuously paid contributions to Thai elderly people. Thus elderly allowance does not cover migrant workers.

2. Compulsory Migrant Health Insurance Scheme

The government approved the management of the work of foreign workers in Thailand at the beginning of the year 2018, which was issued in accordance with the Emergency Decree on the Management of Foreign Workers 2017. The Ministry of Labor and the Ministry of Public Health have established guidelines for managing the work of foreign workers in Thailand on health examination and health insurance.⁸¹ The guideline provides health check-up services and health insurance for all foreign workers except the collection of examination fees with family members under the age of seven years. The health insurance package costs from 500-3,200 THB which migrant workers (especially Cambodia, Lao People's Democratic Republic, Myanmar and Viet Nam) will receive the following benefits: 1) disease treatment and general rehabilitation; 2) medical expenses and the drug resistance of ARVs; 3) emergency accident; 4) referring the patient between the hospital; and 5) health promotion and prevention of disease.

⁸⁰ https://www.labour.go.th/th/index.php?option=com_content&view=article&id=45118:2561-09-21-02-09-49&catid=1:2011-03-31-03-24-26&Itemid=88. Access on 8/10/2018

⁸¹ <https://dhes.moph.go.th/wp-content/uploads/2018/01/%E0%B9%81%E0%B8%99%E0%B8%A7%E0%B8%97%E0%B8%B2%E0%B8%87%E0%B8%81%E0%B8%B2%E0%B8%A3%E0%B8%94%E0%B8%B3%E0%B9%80%E0%B8%99%E0%B8%B4%E0%B8%99%E0%B8%81%E0%B8%B2%E0%B8%A3%E0%B8%9B%E0%B8%A3%E0%B8%B0%E0%B8%81%E0%B8%B1%E0%B8%99%E0%B8%AA%E0%B8%B8%E0%B8%82%E0%B8%A0%E0%B8%B2%E0%B8%9E%E0%B9%81%E0%B8%A3%E0%B8%87%E0%B8%87%E0%B8%B2%E0%B8%99%E0%B8%95%E0%B9%88%E0%B8%B2%E0%B8%87%E0%B8%94%E0%B9%89%E0%B8%B2%E0%B8%A7-OSS61.pdf>. Access on 8/10/2018

4.2.10 VIET NAM

Article 48 of the Constitution of the Republic of Viet Nam of 2013 states that “Foreigners residing in Viet Nam must obey the Constitution and law of Viet Nam; they shall receive State protection with regard to their lives, possessions and legitimate interests in accordance with the provisions of Vietnamese law.” And In Article 59(2) also stipulates that the State shall create equal opportunities for the citizen to enjoy social welfare, develop a system of social security, exercise a policy assisting old people, disabled, poor people, and people with other difficult circumstances. Article 58 contains undertakings regarding, among others, universal health care, and protection for mothers, children and the family. So migrant workers in Viet Nam have been protected by the social insurance.⁸²

a. Social Security Law

1. Law on Social Insurance, 2014, Health Insurance Law, 2014, and Law on Employment, 2013

The Ministry of Labour, Invalids and Social Affairs (MOLISA) is responsible for social security as defined in the Act. The Law on Social Insurance 2014 has prescribed that legal migrant workers working in Viet Nam must receive social security protection. Employees and employers jointly contribute to the Viet Nam Social Security Office. The benefits consist of sickness, maternity, work injuries, retirement, and death.

In addition, the revised health insurance law in 2014 requires that employees who have a contract for more than three months, employers, and civil servants will receive medical benefit under the health insurance from the Ministry of Health. The health insurance law covers migrant workers who are under the conditions stipulated in the law. However, the employment law of Viet Nam, 2013 have unemployment insurance but the law states that this benefit is only for the citizens of Viet Nam and therefore does not cover migrant workers.

2. Law on Vietnamese workers working overseas under contract, 2006

It states that the employment contract of Vietnamese workers who work abroad must specify the coverage of social security and protection for retirement and death benefits.

b. Labour Protection Law

The Labor Code, 2012 which became effective on 1 May 2013 covers labor standards, labor rights, duties and responsibilities of employers, employees, employers’ representatives and employee representatives. This law is under the responsibility of the Ministry of Labor of Viet Nam (MOLISA).

c. Social Assistance Law

No provision is made for the coverage of foreign workers under Viet Nam’s social assistance regime.

⁸² Olivier, Marius (2017). Social Protection for Migrant Workers in ASEAN: Development, Challenges and Prospects. International Labour Organization (ILO). Pp. 110-111.

4.2.11 CONCLUSION

Law and policy related to social protection in AMS can be divided into three groups. First is social security law which contains provisions on social security benefits. In many AMS, the law on social security in each AMS does not specify directly whether it is applicable to the migrant worker.

The second group is labour protection law, which provides employment rights for both local and migrant workers. In some countries, certain social security benefits are referred and provided by the labour protection law. The third group is social assistance law, which does not cover migrant workers.

4.3 SOCIAL SECURITY BENEFITS IN ASEAN

This section presents social security benefits in AMS according to the ILO Social Security Minimum Standards Convention No. 102 (1952) which is used by many countries as guideline to provide social security benefits. The Convention prescribes nine branches of social security benefits namely Old-age benefits, Invalidity benefits, Survivors benefits, Medical Healthcare, Sickness benefits, Maternity benefits, Employment-injury benefits, Unemployment benefits, and Family benefits.

Article 68 of this convention stated that non-national residents shall have the same rights as national residents, provided that they are subjected to the same regulations such as residency requirement.

The persons protected shall comprise –

1. Prescribed classes of employees, constituting not less than 50% of all employees, and also their wives and children; or
2. Prescribed classes of economically active population, constituting not less than 20% of all residents, and also their wives and children; or
3. Prescribed classes of residents, constituting not less than 50% of all residents; or
4. All residents whose means during the contingency do not exceed limits prescribed in such manner as to comply with the requirements of Article 67; or
5. Where a declaration made in virtue of Article 3 is in force, prescribed classes of employees, constituting not less than 50% of all employees in industrial workplaces employing 20 persons or more.

The social security benefits provided for workers in AMS are generally stated in the social security law in each country, which have different levels of coverage. Table 4.1 summarizes the social security benefits in ASEAN. Overall, it can be seen that some AMS such as Brunei Darussalam and Singapore do not offer long-term benefits such as Old-age, Invalidity, and Survivors benefits to migrant workers who are not permanent resident (PR) in their countries (represented with 'x' in the Table). In the case of Malaysia, migrant workers may participate voluntarily (represented with 'v' in the Table). The social security benefits that are absent in many AMS are Unemployment benefits and Family benefits.

Table 4.1 also shows that many AMS has more than one type of social security program. Using Tamagno (2008) classification as presented in Chapter 2, the most common types are social insurance (represented with '1' in the Table), provident fund (represented with '2' in the Table), and employer-liability (represented with '3' in the Table). In some countries, social security benefits, especially medical benefits, for migrant workers are provided in separated schemes – often in a form of private insurance (represented with '4' in the Table). It should be noted that employer-liability program here means a scheme that employers are fully responsible to provide benefits to employees when specific contingencies occur. In a country where employers pay contribution through a social insurance agency to cover such responsibility, it will be considered social insurance program. If employers purchase private insurance to cover such responsibility, it will be considered a private insurance scheme.

An interesting observation is that some social security benefits are included in another social security benefit (represented with 'y' in the Table). For example, in Viet Nam Invalidity benefits are parts of Old-age benefits, while in Singapore Invalidity benefits and Survivors benefits are provided under Dependents' Protection Scheme as an opt-out program for members of Central Provident Fund (CPF).⁸³ A mixed type of social security program can also be found; for example, in Cambodia employees can receive Maternity benefits from both the social insurance agency (NSSF) and employers.

Moreover, Table 4.1 also shows that Cambodia and Myanmar have not implemented some social security benefits, especially the long-term ones (represented with 'NI' in the Table). In Viet Nam, the long-term benefits are currently offered to local workers and PRs only, but the schemes will be extended to cover migrant workers in the year 2022.

⁸³ CPF, "Dependents' Protection Scheme," <https://www.cpf.gov.sg/members/FAQ/schemes/Other-Matters/Dependants27-Protection-Scheme/FAQDetails?category=Other%20Matters&group=Dependants%27%20Protection%20Scheme&folderid=18095&ajfaqid=2187249>

Table 4.1. Social security benefits in ASEAN

AMS	Old-age		Invalidity		Survivors*		Medical Care		Sickness		Maternity		Work Injury		Unemployment		Family	
	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker	National & PR	Migrant Worker
BR	2	x	2	x	2	x	5	4	3	3	3	3	3	3	x	x	x	x
CA	NI	NI	NI	NI	NI	NI	1	1	1	1	1	1	1	1	x	NI	x	x
IN	1	1	y	Y	1	1	1	1	3	3	3	3	1	1	x	x	x	x
LA	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	x	x	x
MA	2	2 v	1	X	y	x	5	4	3	3	3	3	1	1	1	x	x	x
MM	NI	NI	NI	NI	NI	NI	1	1	1	1	1	1	1	1	NI	x	NI	x
PH	1	1	1	1	1	1	1	1	1	1	1	1	1	1	x	x	x	x
SG	2	V	2	4	2	4	2	4	3	3	3	3	3	3	x	x	x	x
TH	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
VN	1	NI	y	Y	1	NI	1	4	1	1	1	1	1	1	1	x	x	x

Source: TDRI

Note: 1 = social insurance; 2 = provident funds; 3 = employer-liability; 4 = private insurance; 5 = universal coverage

V = Voluntary; x = not cover; y = part of another social security benefit; NI = Not Implement

* Survivors benefit means pension paid to dependents when the insured persons pass away by non-work-related causes.

** Employer-liability program means a scheme that employers are fully responsible to provide benefits to employees when specific contingencies occur. In a country where employers pay contribution through a social insurance agency to cover such responsibility, it will be considered social insurance program. If employers purchase private insurance to cover such responsibility, it will be considered a private insurance scheme.

*** In the case where a social security benefit is administered by more than one program, the table will show only one program. Priority is given to social security program overseen by social security agency.

The presentation in this part can be divided into ten topics: the first nine topics are the presentation on each dimension of social security benefits by comparing interesting aspects of each benefits and the last section presents the summary. The data in each part comes from literature review and inputs from the Regional Workshop held on 4 December 2018, as well as the questionnaires answered by each AMS.

4.3.1 OLD-AGE BENEFITS

4.3.1.1 DEFINITION

This benefit is deemed to be a long-term social security. Clause 26 of Convention 102 provides the definition of this benefit as the saving of some parts of earnings to be returned to the living person when such person is at the retired age. The retired age may be set by each country.⁸⁴ In addition, clause 29 also prescribes that in the case where a person has not completed the contribution to the prescribed qualifying period of contribution, the benefit shall be payable in accordance with the contribution.

Even though this type of benefits also appear in the social security laws of Cambodia and Myanmar, in practice, this is not applied yet.⁸⁵ In Viet Nam, this benefit does not apply to migrant workers yet but it shall be enforced in 2022.

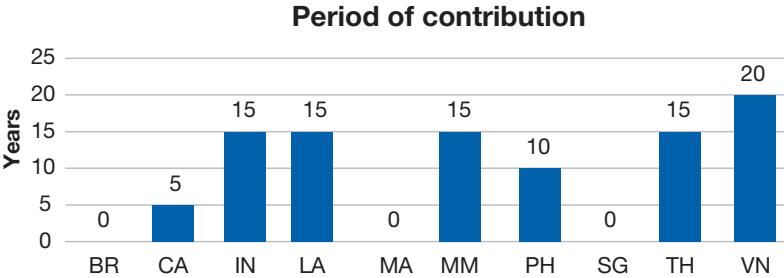
In this regard, these benefits in the ASEAN countries are under social security system except Brunei Darussalam, Malaysia, and Singapore where these benefits are under the provident fund system.

4.3.1.2 CONTRIBUTION PERIOD

According to Figure 4.1, it can be seen that Thailand, Indonesia,⁸⁶ Myanmar, and Lao People’s Democratic Republic prescribe the qualifying period of contribution for old-age benefits as 15 years. Viet Nam prescribes the longest period of contribution, which is 20 years. For AMS that use provident fund system such as Brunei Darussalam, Malaysia, and Singapore, there is no requirement about minimum period of contribution (represented as ‘0’ in the figure).

At the Regional Workshop on December 4th, 2018, representatives from the social security agencies of Cambodia and Myanmar informed the meeting that even though the old-age benefits are prescribed in the law, this branch of benefit has not been enforced yet. For Cambodia, the old-age benefits are expected to be implemented by the end of 2019.

Figure 4.1. Qualifying period of contribution, old-age benefits



Source: Social Security Administration (US) ed., 2013. , <https://prake.org/labour-law/social-security>

⁸⁴ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312247
⁸⁵ <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/71910/96916/F1873020753/KHM71910.pdf>
⁸⁶ For the purpose of comparison, in the case of Indonesia, conditions under pension benefit is payable in the form of pension and defined benefit fund like the social security system in several countries.

4.3.1.3 FORMS OF PAYABLE BENEFITS

Payable benefits are usually available in two forms: pension and lump-sum. From Table 4.2, it can be seen that almost all countries in ASEAN offer both forms of payment. An exception is Viet Nam, in which the old-age benefit is payable in the form of pension only.

For AMS that use social insurance system such as Cambodia, Indonesia, Lao People's Democratic Republic, Myanmar, the Philippines, and Thailand, the old-age benefits will be paid in a form of pension if the minimum contribution period is satisfied. Lump-sum payment is offered in the case where contribution period requirement is not met. For instance, in the Philippines, old-age benefits are payable in the form of lump-sum in the case where the period of contribution of ten years is not satisfied.

For AMS with provident fund system namely Brunei Darussalam, Malaysia, and Singapore, the old-age benefits can also be is paid in both forms. In Brunei Darussalam, under TAP, old-age pension is paid when the eligible person reaches the age of 60 years old, for the period of 20 years.⁸⁷ In the case of Malaysia, EPF pays old-age pension at the age of retirement at 55 years, until the eligible person reaches 100 years old.⁸⁸ In Singapore, CPF members can withdraw some CPF savings in a lump-sum at age 55 and 65⁸⁹. CPF members can also start their monthly retirement payouts anytime between 65 and 70.

In the case of Indonesia, old-age pension is payable under Pension Program, while lump-sum payment will be paid from Old-age Benefit which can be withdrawn upon retirement.⁹⁰

Table 4.2. Form of payable benefits, old-age benefits

	BR*	CA ^{NI}	IN	LA	MA*	MM ^{NI}	PH	SG*	TH	VN
Pension	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Lump-sum	✓	✓	✓	✓	✓	✓	✓	✓	✓	

Source: Social Security Administration (US) ed., 2013. And the questionnaire conducted in the workshop on December 4th, 2018

Note: 1.* Provident Fund 2. NI = Not Implement

4.3.1.4 BENEFIT AMOUNT

Since Brunei Darussalam, Malaysia, and Singapore use provident fund system, the amount of old-age benefit depends on individual savings. For AMS with social insurance system, calculation methods vary across countries. In some AMS such as the Philippines and Thailand, a fixed ceiling of payable benefit amount is applied (see Table 4.3).

In the case of Indonesia, the data presented in Table 4.3 is the amount of benefit paid from the Pension Program. For Cambodia and Myanmar, no information about the amount of payable benefits is available as old-age benefits in the two countries have not been implemented.

⁸⁷ TAP, "TAP Schemes," <http://www.tap.com.bn/Pages/EN/Members-Schemes.aspx> (accessed on 13 April 2019).

⁸⁸ EPF, "Full Withdrawal," <http://www.kwsp.gov.my/member/withdrawals/full/age-55-60#age55> (accessed on 13 April 2019).

⁸⁹ From 2023, CPF members turning age 65 can withdraw up to 20% of their CPF Retirement Account balances as at age 65.

⁹⁰ <https://www.social-protection.org/gimi/RessourcePDF.action?ressource.ressourceId=53915>

Table 4.3. Benefit amount, old-age benefits

Benefit amount	
BR	Depends on individual savings
ID ¹	1% x contribution period x weighted average wage during contribution period (min 300,000 Rp. , max 3,600,000 Rp.)
LA ²	75% of salary, 1% increase each year, but no more than 90%
MA*	Depends on individual savings
SG*	Depends on individual savings
PH*	300 Peso + 2% x average wage (max 16,000 Peso) x contribution period
TH	20% of average salary during the last 60 months (max salary base is 15,000 Baht)
VN ³	75% of the average monthly salary

- Note:
1. Agus Susanto, "Social Security Reform in Indonesia," <https://www.social-protection.org/gimi/RessourcePDF.action?ressource.ressourceId=53915> (accessed on 22 March 2019)
 2. ILO, "Lao PDR Social Security," https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---soc_sec/documents/publication/wcms_secsec_6601.pdf (accessed on 22 March 2019)
 3. VSS, "Old-age benefit," <https://vss.gov.vn/english/thebenefits/Pages/old-age.aspx> (accessed on 22 March 2019)

Source: * from the questionnaires

4.3.2 INVALIDITY BENEFITS

4.3.2.1 DEFINITION

Invalidity benefits are long-term benefits by which clause 54 of Convention 102 provides the definition of these benefits as the insurance to cover inability to engage in any gainful activity, to an extent prescribed, which inability may be permanent, injury or any other hazards unrelated to work. In addition, clause 58 also extends the definition to be granted throughout the contingency or until an old-age benefit becomes payable.

Each AMS uses different classification and definition of invalidity. For example, in the case of the Philippines, invalidity is divided into Permanent partial, and Permanent total, while Thailand uses Non-severe disability, and Severe disability.

Similar to old-age benefits, even though invalidity benefits are included in the social security laws of Cambodia and Myanmar, in practice, these benefits have not been implemented yet.⁹¹ In the case of Indonesia and Viet Nam, invalidity benefits are parts of old-age benefits. In Indonesia, invalidity benefits are under Pension Program (pension payment) and Old-age Program (lump-sum payment), both managed by BPJS of Employment.⁹²

Invalidity benefits in Lao People's Democratic Republic, Malaysia, the Philippines, and Thailand are under the social insurance system. Brunei Darussalam and Singapore use the provident fund system. In the case of Singapore, the Dependents Protection Scheme (DPS) is paid to the insured persons and eligible persons in the event of total permanent disability, terminal illness, or death. The DPS is a term insurance scheme that is automatically extended to eligible CPF members. The DPS is administered by two private insurance entities called Great Eastern Life and NTUC Income.

⁹¹ <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/71910/96916/F1873020753/KHM71910.pdf>

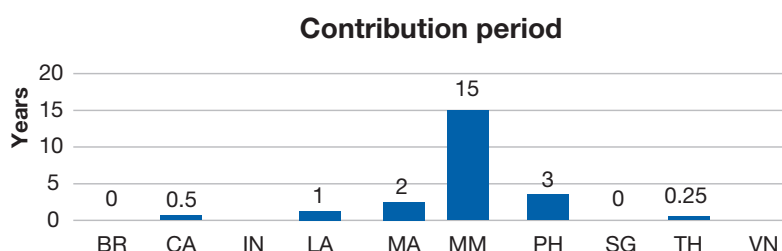
⁹² <https://www.biposervice.com/wp-content/uploads/2018/01/Updates-on-the-Social-Security-System-in-Indonesia.pdf>

It should be noted that invalidity benefits in Brunei Darussalam, Malaysia, and Singapore is offered to the nationals and PRs only.

4.3.2.2 CONTRIBUTION PERIOD

From Figure 4.2, it can be seen that the qualifying period of contribution for invalidity benefits varies across ASEAN Member States, ranging from three months in the case of Thailand to 15 years in the case of Myanmar. For Brunei Darussalam and Singapore, invalidity benefits are under the provident fund and therefore there is no qualifying period of contribution (represented with '0' in the Figure). For Indonesia and Viet Nam, these benefits are parts of the old-age benefits (no data provided in the Figure).

Figure 4.2. Qualifying period of contribution, invalidity benefit



Source: Social Security Administration (US) ed., 2013.;

ILO, <https://www.social-protection.org/gimi/ShowTheme.do?tid=3011>

Note: Cambodia and Myanmar have not implemented invalidity benefits

4.3.2.3 FORMS OF PAYABLE BENEFITS

The payable benefits can be made in two forms: pension and lump-sum. Table 4.4 illustrates that almost all ASEAN Member States offers to pay benefits in both forms. Exemptions are Singapore, which pays only in lump-sum, while in Viet Nam, as invalidity benefits are parts of old-aged benefits, the payable benefits are made in the form of pension only.

Table 4.4. Forms of payable benefits, invalidity benefits

	BR*	CA ^{NI}	IN ^y	LA ^y	MA	MM ^{NI}	PH	SG*	TH	VN ^y
Pension	✓	✓	✓	✓	✓	✓	✓		✓	✓
Lump-sum	✓	✓	✓	✓	✓	✓	✓	✓	✓	

Source: Social Security Administration (US) ed., 2013. ; ILO, "EMPLOYMENT INJURY BENEFITS,"

<https://www.social-protection.org/gimi/ShowTheme.do?tid=3011>

- Note:
1. * Provident Fund
 2. NI = Not Implement
 3. y means under another branch of benefits

4.3.2.4 BENEFIT AMOUNT

According to Table 4.5, each AMS employs different calculation method. In some countries such as Indonesia, the Philippines, and Viet Nam, the calculation formula is similar to that used for old-age benefits. In the case of Brunei Darussalam which uses provident fund system, all accumulated savings will be paid. Some AMS pay fixed rates of benefit amount; for example,

in the case of Singapore, the DPS covers insured members for a maximum sum assured of 46,000 SGD up to 60 years old, while Malaysia pays 77.03 MYR per day until death.

In the case of Indonesia, the data shown in Table 4.5 is the amount paid under Pension Program. For Cambodia and Myanmar, which have not implemented invalidity benefits, no data is shown in the Table.

Table 4.5. Benefit amount, invalidity benefits

Benefit amount (Severe disability or Permanent total)	
BR	All accumulated savings
ID ¹	Same as old-age pension
LA ²	70% of salary
MA*	77.03 MYR per day until death
SG*	maximum 46,000 SGD
PH*	Same as old-age pension
TH	50% of monthly wage until death
VN ³	Same as old-age pension

- Note:
1. Agus Susanto, "Social Security Reform in Indonesia," <https://www.social-protection.org/gimi/RessourcePDF.action?ressource.ressourceId=53915> (accessed on 22 March 2019)
 2. ILO, "Lao PDR Social Security," https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---soc_sec/documents/publication/wcms_sec soc 6601.pdf (accessed on 22 March 2019)
 3. VSS, "Old-age benefit," <https://vss.gov.vn/english/thebenefits/Pages/old-age.aspx> (accessed on 22 March 2019)

Source: * from the questionnaires

4.3.3 SURVIVORS BENEFITS

4.3.3.1 DEFINITION

This is another branch of long-term insurance. Article 60 of the Convention 102 provides the definition for these benefits as the insurance which aims to reduce the burden of the family of the insured person by paying the benefits to the widow, child or parents of the insured person upon his or her death.⁹³ Two forms of assistance are funeral grant, and pension to the dependents of the deceased insured person.⁹⁴

However, for the purpose of comparison, this part only deals with the money paid to the dependents or heirs of the insured person upon his or her death as this is paid in the form of long-term pension.

Like the other two long-term benefits mentioned earlier, even though the laws on social security in Cambodia and Myanmar prescribe this type of benefits, in practice survivors benefits have not yet been implemented in these countries. In the case of Indonesia, survivors benefits are payable in the form of pension under Pension Program, and in lump-sum under Death Benefit, both are managed by BPJS of Employment.⁹⁵ For Viet Nam, survivors benefits will be applied

⁹³ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312247

⁹⁴ <http://web.krisdika.go.th/pdfPage.jsp?type=act&actCode=132> accessed on 10 December 2018

⁹⁵ <https://www.biposervice.com/wp-content/uploads/2018/01/Updates-on-the-Social-Security-System-in-Indonesia.pdf>
 and Agus Susanto (2016) Social Security Reform in Indonesia. Retrieved Mar 22, 2019, from <https://www.social-protection.org/gimi/RessourcePDF.action?ressource.ressourceId=53915>

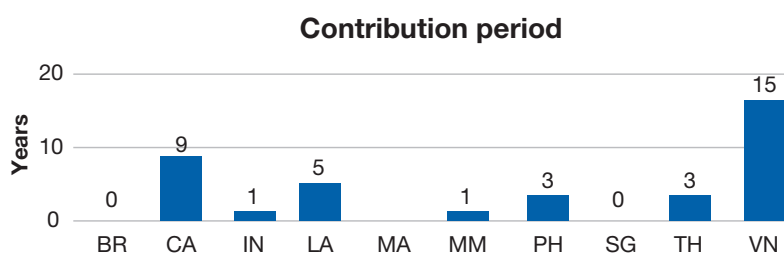
to migrant workers from 2022.⁹⁶ In Malaysia, pension paid to the dependents of the insured persons who pass away by non-work related causes is a part of invalidity benefits, managed by SOCSO and available only to nationals and PRs. In Singapore, the DPS provides survivors pension to the insured member and their families.

It should be noted that survivors benefits in AMS are under the social insurance system, except for Brunei Darussalam which uses provident fund, and Singapore uses private insurance.

4.3.3.2 CONTRIBUTION PERIOD

Table 4.3 shows that contribution period for survivors benefits varies across AMS, ranging from one year in Indonesia and Myanmar, to 15 years in Viet Nam. Brunei Darussalam, which uses provident fund system, does not prescribe the qualifying period of contribution (represented with '0' in the Figure). In the case of Singapore and Malaysia, survivors benefits are parts of invalidity benefits (data not shown in the Figure). For Cambodia and Myanmar, survivors benefits have not been implemented.

Figure 4.3. Qualifying period of contribution, survivors benefits



Source: Social Security Administration (US) ed., 2013. ; ILO, "EMPLOYMENT INJURY BENEFITS," <https://www.social-protection.org/gimi/ShowTheme.do?tid=3011>

4.3.3.3 BENEFICIARIES

Table 4.6 illustrates that in some countries, the beneficiaries of survivors benefits are clearly prescribed in the law, e.g. spouses, children, parents only. In some countries such as, Indonesia, Myanmar, Singapore, Thailand, and Viet Nam, the beneficiaries are more flexible as the law merely prescribe that the beneficiaries are eligible survivors which may cover grandparents or grandchildren.

⁹⁶ Social Security Administration (2016). Social security programs throughout the world: Asia and the Pacific, 2016 (Vol. 13, No. 11801). Government Printing Office.

Table 4.6. Beneficiaries of survivors benefits

	BR*	CA ^{NI}	IN ^{**}	LA	MA	MM ^{NI}	PH	SG*	TH	VN
Spouses	✓	✓	✓	✓	✓		✓			
Children	✓	✓	✓	✓	✓		✓			
Parents	✓			✓	✓		✓			
Eligible Survivors		✓	✓			✓	✓	✓	✓	✓

Note: 1. *Provident Fund
 2. NI = Not Implement
 3. **Survivors benefits are payable in the form of lump-sum under Death Benefit, and in the form of pension (50% of the contribution) under Pension Program

Source: Social Security Administration (US) ed., 2013.; Social Security Health Agency (*BPJS Kesehatan*)

4.3.3.4 BENEFIT AMOUNT

The benefit amount for survivors benefits is similar to that for the invalidity benefits. According to Table 4.7, benefit amount is calculated differently across AMS, e.g. depending on the percentage of salary, at a fixed rate like in Malaysia which pays 46.21 MYR per day, or in Singapore which caps the amount at 46,000 SGD. In the case of Indonesia, the data presented in the Table is from Pension Program. For Cambodia and Myanmar, which have not implemented survivors benefits, no data is shown.

Table 4.7. Benefit amount, survivors benefits

Maximum benefit amount, survivors benefits	
BR	36 times of salary
ID ¹	50% x formular
LA ²	Including all beneficiaries, not exceed 80% of the pension
MA*	RM 46.21 per day til death, or until the child reaches 21 of age
SG*	Max 46,000 SGD
PH*	Same as old-age pension
TH	6 times of salary
VN ³	50% of salary

Note: 1. Agus Susanto, "Social Security Reform in Indonesia," <https://www.social-protection.org/gimi/RessourcePDF.action?ressource.ressourceId=53915> (accessed on 22 March 2019)
 2. ILO, "Lao PDR Social Security," [https://www.ilo.org/wcmsp5/groups/public/---ed_protect/--- soc_sec/documents/publication/wcms_sec soc_6601.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---soc_sec/documents/publication/wcms_sec soc_6601.pdf) (accessed on 22 March 2019)
 3. VSS, "Old-age benefit," <https://vss.gov.vn/english/thebenefits/Pages/old-age.aspx> (accessed on 22 March 2019)

Source: * from the questionnaires

4.3.4 MEDICAL CARE

4.3.4.1 DEFINITION

This benefit is a short-term insurance. Article 8 of Convention 102 prescribes the scope of this social security benefit as the insurance in the case of any morbid condition whereby an insured person shall receive medical care regardless of the disease or reason and this shall include pregnancy, confinement and their consequences.⁹⁷ Moreover, Article 10 of Convention 102 extends the definition of this benefit to include the treatment by general practitioner or specialist in the case of outpatient and inpatient and in the case of domiciliary visiting; dentistry, nursing, hospitalization or confinement in other medical confinements or in a place for patient recovery, medical devices and other as necessary for medical treatment.⁹⁸ In this regard, there may be cases whereby it is necessary for both the contributing parties and the insured person to pay for medical care to prevent problems and to ensure that the insured person is able to receive treatment and return to work as usual. Moreover, organizations or institutes responsible for approving this right shall encourage the insured person to exercise this right in the medical establishment as deemed appropriate by the insured person.

Moreover, Article 12 prescribes that in addition to the medical care under Article 10, there may be certain conditions, for instance, in the case of a morbid condition, its duration may be limited to 26 weeks in each case (but benefit shall not be suspended while a sickness benefit continues to be paid, and provision shall be made to enable the limit to be extended for prescribed diseases).⁹⁹

For Brunei Darussalam and Malaysia, medical care benefit is under universal coverage system provided for nationals and PRs through public healthcare facilities. In the case of Singapore, this benefit is under the provident fund. The remaining seven AMS use social insurance system.

It should be noted that, in Brunei Darussalam, Malaysia, Singapore, and Viet Nam, migrant workers shall receive medical care benefits under private insurance scheme. In Singapore, the employer bears the cost of insurance for a certain group of migrant workers¹⁰⁰.

4.3.4.2 CONTRIBUTION PERIOD

This benefit is a short-term insurance and hence the period of contribution is defined in months. Figure 4.4 shows that there are three countries namely Lao People's Democratic Republic, the Philippines, and Thailand, which similarly prescribe the required contribution period at three months.

Moreover, there are many AMS that do not specify the qualifying period of contribution for medical care benefits; for example, Brunei Darussalam and Malaysia, as this is provided under the universal coverage scheme. In Singapore, this is under provident fund. In Indonesia, even though it is under social insurance system, no qualifying period of contribution is specified.

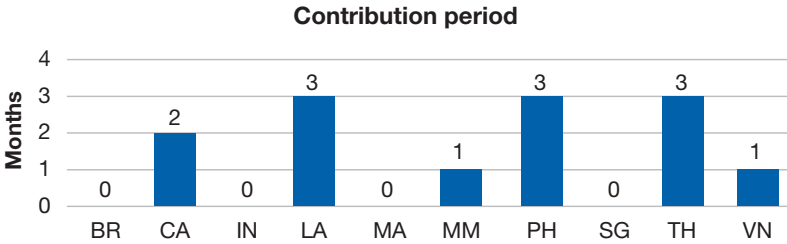
⁹⁷ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312247

⁹⁸ <http://web.krisdika.go.th/pdfPage.jsp?type=act&actCode=132> (accessed on 10 December 2018).

⁹⁹ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312247

¹⁰⁰ Singapore has broadly 3 types of work passes – Employment Pass, S Pass, and Work Permit. Employers are required to bear the cost of insurance for S Pass and Work Permit holders.

Figure 4.4. Qualifying period of contribution, medical care



Source: Social Security Administration (US) ed., 2013

4.3.4.3 PAYMENT MECHANISM

Payment mechanism for medical care benefits can be categorized into three types: (1) Fee for Services (FFS), in which the actual expenses are reimbursed in accordance with the service received; (2) Capitation (CAP), which means the remuneration for physicians in accordance with the number of people responsible during a certain period of time; and (3) Case-based payment or Diagnostic-Related Group (DRG), which is based on the principle and secondary diagnosis.

Table 4.8 illustrates the payment mechanism for medical care in ASEAN. In the case of out-patient treatment, most AMS use either FFS or CAP, while in-patient treatment is paid under DRG.

It should be noted that reimbursement for medical expense is normally paid directly to healthcare facilities, by the responsible agencies.

Table 4.8. Payment mechanism used in Medical Care

	BR**	CA	IN	LA	MA**	MM	PH	SG*	TH	VN
OP	UC	CASE BASED	FFS	FFS	CAP	FFS	FFS	CAP	CAP	CAP
IP	UC	CASE BASED	DRG	CAP	CAP	FFS	N.A.	DRG	DRG	N.A.

Note: FFS = Fee For Service; CAP = Capitation; Case-based or DRGs = Diagnostic – Related Groups; OP = out-patient; IP = in-patient
 *means Provident Fund
 **means universal coverage

Source: World Health Organization, 2004. *Regional overview of social health insurance in South-East Asia* (No. SEA-HSD-274). WHO Regional Office for South-East Asia

4.3.5 SICKNESS BENEFITS

4.3.5.1 DEFINITION

This benefit is a short-term insurance, covering sickness which unable the insured persons to perform their duties. Article 14 of the ILO Convention No. 102 specifies the extent of the benefit as advanced contribution to cover the insured person from diseases and ordinary sickness which are not caused from work.¹⁰¹

Sickness benefits can be divided into two types: cash compensation paid during sick leave, and necessary medical care service including health prevention and promotion. This is to ensure that the insured person recovers quickly and is able to earn income as usual.¹⁰²

In addition, Article 18 of the Convention also provides that the benefit payable may be made in monthly compensation, except in some cases, where the benefit payable is limited to 26 weeks per one sickness, and paid on the third day of the sickness.¹⁰³

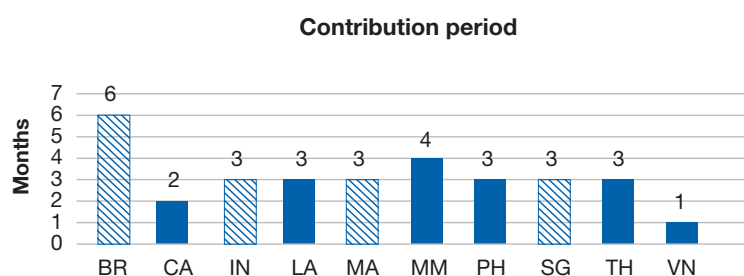
For the purpose of comparison, this section presents only the information about cash compensation. It does not include the amount of sick leave.

For Brunei Darussalam, Indonesia, Malaysia, Singapore, and Viet Nam, medical care benefits are under the employer-liability scheme in which the employer directly pay cash compensation to the employee. For other AMS, social insurance is used.

4.3.5.2 CONTRIBUTION PERIOD

This benefit is a short-term insurance, and therefore does not require long period of contribution. Figure 4.5 shows that AMS that use social insurance system such as Lao People's Democratic Republic, the Philippines, and Thailand prescribe the contribution period at three months, whilst the longest contribution period among AMS is in Myanmar, which is prescribed at four months. In AMS that use employer-liability scheme, the period of work is used instead (in the Figure, the number is presented in dotted box). For instance, in Brunei Darussalam, the employees shall work for a period of six months prior to receiving this benefit. In Indonesia, Malaysia, and Singapore, the employees shall work for a period of three months.

Figure 4.5. Qualifying period of contribution, sickness benefits



Note: Striped graph means Employer-liability; dotted box means required period of working prior to receiving the benefit

Source: Social Security Administration (US) ed., 2013

¹⁰¹ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312247

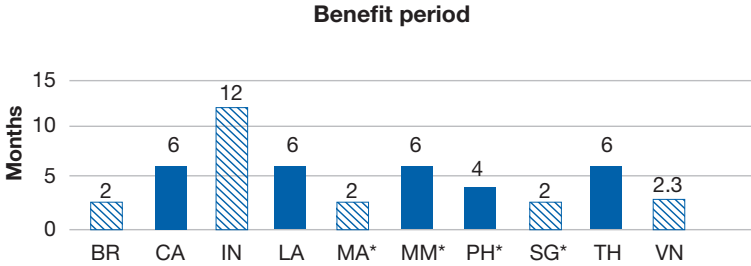
¹⁰² <http://web.krisdika.go.th/pdfPage.jsp?type=act&actCode=132>, accessed on 10 December 2018.

¹⁰³ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312247

4.3.5.3 BENEFIT PERIOD

As this benefit is a short-term insurance, the payable period is not long. According to Figure 4.6, the longest benefit period among AMS is 12 months in the case of Indonesia. Many AMS namely Cambodia, Lao People’s Democratic Republic, Myanmar, and Thailand prescribe the same benefit period at six months (180 days). Brunei Darussalam and Singapore also set the same benefit period at 60 days in the case of in-patient treatment. The Philippines pays sickness benefits up to 120 days (or four months), and Viet Nam up to 70 days (presented in the Figure as 2.3 months).

Figure 4.6. Benefit period, sickness benefits



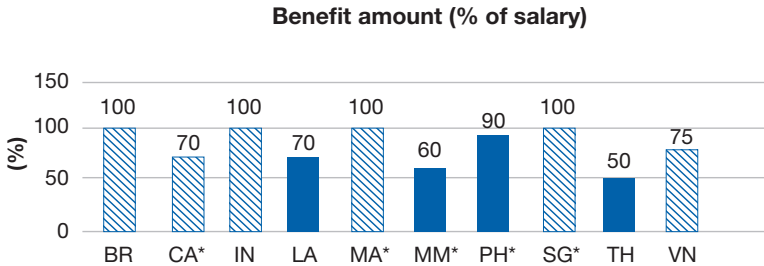
Note: Striped graph means Employer-liability

Source: *from questionnaires; ILO, “Social Protection,” <https://www.social-protection.org/>

4.3.5.4 BENEFIT AMOUNT

According to Figure 4.7, the amount of money every ASEAN Member States pay for sickness benefit is calculated in term of percentage of total salary. For instance, in Brunei Darussalam, Indonesia, Malaysia and Singapore, the payable benefit is equivalent to the usual rate of salary (100%), 90% in the Philippines, 75% in Viet Nam, 70% in Cambodia and Lao People’s Democratic Republic, 60% in Myanmar, and 50% in Thailand.

Figure 4.7. Benefit amount, sickness benefits



Note: Striped graph means Employer-liability

Source: *from questionnaires; ILO, “Social Protection,” <https://www.social-protection.org/>

4.3.6 MATERNITY BENEFITS

4.3.6.1 DEFINITION

This benefit is deemed a short-term benefit. Article 47 of the Convention 102 stipulates the extent of the benefit to cover pregnancy and additional confinement of newborn babies. Article 49 adds that maternity benefits are medical care and this consists of pre-natal, confinement, post-natal care either by practitioners or midwives and hospitalization if necessary. This is for the insured person to recover quickly and to be able to continue to work and receive usual income. The responsible agencies or organisations should encourage the insured persons to register with hospitals for such benefit.

In addition, Article 52 also stipulates that this benefit shall be granted throughout the contingency, except that the periodical payment may be limited to 12 weeks, unless a longer period of abstinence from work is required or authorised by national laws or regulations.

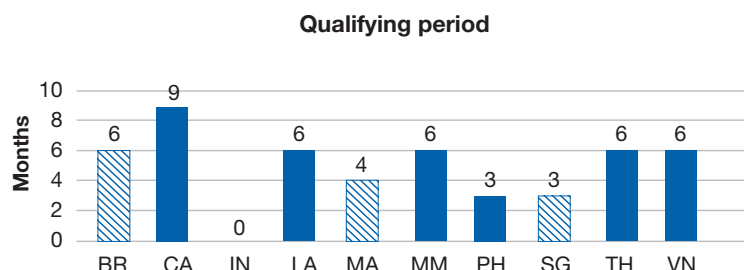
Maternity benefit is similar to sickness benefit, as it provides cash compensation during maternity leave. This section only compares cash benefit received during the maternity leave.

It should be noted that, for Brunei Darussalam, Indonesia and Malaysia, this benefit is under employers-liability scheme. Other AMS uses social insurance. Cambodia and Thailand have two sources of maternity benefits, as an employee may receive cash compensation from the employer (according to labour protection law), and also from social security agency. The employers in Singapore are required to provide 16 weeks of maternity leave if the child is Singaporean, regardless of the nationality of the parent. The employer would need to pay 8 weeks of the maternity, while the Government pays for the other 8 weeks.

4.3.6.2 CONTRIBUTION PERIOD

Figure 4.8 shows that several ASEAN Member States prescribe the same qualifying contribution period. For instance, the qualifying contribution period is prescribed to be six months in Lao People's Democratic Republic, Myanmar, Thailand, and Viet Nam. The longest contribution period requirement is in Cambodia, which is set at 9 months. In the countries that use employer-liability scheme, the period of work is used instead of contribution period (represented with striped graph in the Figure). For example, in Singapore, employees shall work for a period of no less than 3 months prior to receiving this benefit. The working period of four months and six months are prescribed in Malaysia and Brunei Darussalam respectively. No qualifying period for maternity benefit is set in Indonesia.

Figure 4.8. Qualifying period of contribution, maternity benefits



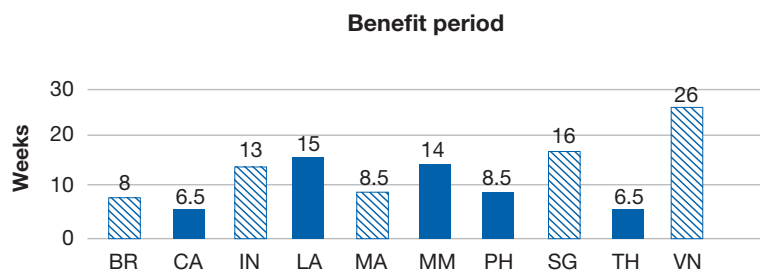
Note: Striped graph means Employer-liability; dotted box means required period of working prior to receiving the benefit

Source: Social Security Administration (US) ed., 2013

4.3.6.3 BENEFIT PERIOD

Figure 4.9 illustrates the difference of benefit period in the case of maternity benefit in each AMS. This may be related to the labour protection law in each country which specifies different maternity leave period. However, some countries prescribe the same period of maternity leave, for instance, 8.5 weeks in Malaysia and the Philippines; 8 weeks in Brunei Darussalam; 16 weeks in Singapore; and 6.5 weeks in Cambodia and Thailand.

Figure 4.9. Benefit period, maternity benefits



Note: Striped graph means employer-liability

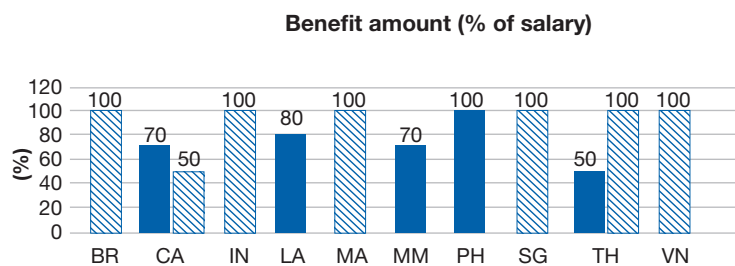
Source: Social Security Administration (US) ed., 2013

4.3.6.4 BENEFIT AMOUNT

The amount of cash compensation for maternity benefit in AMS is similar to that of the sickness benefit. According to Figure 4.10, there are five ASEAN Member States namely, Brunei Darussalam, Indonesia, the Philippines, Singapore, and Viet Nam which provide benefits in accordance with the usual rate of salary (100% of the salary). For other countries, the amount of benefit is 70-80% of the salary.

In the case of Cambodia, the insured persons may receive cash compensation as maternity benefit from the social security agency, the NSSF, at the rate of 70% of salary. In addition, employers must pay maternity benefit to the employees at the rate of 50% of salary. In Thailand, the SSO pays a lump-sum at the rate of 50% of average salary for the period of 90 days, while the employers are responsible to pay full salary for the period of 45 days.

Figure 4.10. Benefit amount, maternity benefits



Note: Striped graph means employer-liability

Source: Social Security Administration (US) ed., 2013

4.3.7 EMPLOYMENT-INJURY BENEFITS

4.3.7.1 DEFINITION

This benefit covers the work-related incident or diseases. Article 32 of the Convention 102 stipulates the extent of this benefit. The amount of benefit depends on several factors as follows: (a) a morbid condition; (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national laws or regulations; (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree likely to be permanent or corresponding loss of faculty; (d) the loss of support suffered by the widow or child as the result of the death of the breadwinner. Nonetheless, in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.

Article 34 of Convention 102 extends the medical care for this benefit to cover: (a) general practitioner and specialist in-patient care and out-patient care, including domiciliary visiting; (b) dental care; (c) nursing care at home or in hospital or other medical institutions; (d) maintenance in hospitals, convalescent homes, sanatoria or other medical institutions; (e) dental, pharmaceutical and other medical or surgical supplies including glasses; and (f) the care furnished by medical professions. Article 36 of Convention 102 prescribes that in the case where the degree of incapacity is slight or where it is for facilitation, the periodical payment may be commuted for a lump-sum under the calculation of the rate of incapacity.

For this benefit, the insured person shall receive special medical care, compensation at the rate higher than sickness benefit, invalidity benefit according to the rate of incapacity for work.

Table 4.9 divides work-related capacity loss into Temporary loss and Permanent loss. In some countries, additional classification may apply. For example, the Philippines further divides capacity loss into Partial loss and Total loss. Definition and benefit payment period vary across AMS.

In many AMS, Temporary loss is defined by the number of sick leave day, with the maximum payment period of 12 months or until recovery. In the case of Permanent loss, the percentage of capacity loss is used as benchmark. Pension payment is offered in many AMS, subjected to the evaluation of medical practitioner.

Most AMS provide employment-injury benefits under social insurance system, in which employers pay contribution to the responsible agency to manage the benefits. Exceptions are Brunei Darussalam and Singapore, which use employer-liability scheme.

Table 4.9. Definition and benefit payment period, employment-injury benefits

	Contributing period (month)	Definition (Degree of physical loss - %)		Benefit payment period (p=pension)	
		Temporary	Permanent	Temporary	Permanent
BR	0	Sick leave > 4 days	Total Loss	6 months ^P	Lump-sum
CA	0	Sick leave > 1 day	21%	Until recovered	Till death ^P
IN	0	Sick leave > 1 day	70%	Until recovered ^P	2 years ^P
LA	1	Sick leave > 1 days	41%	12 months ^P	Doctor's discretion ^P
MA	0	Sick leave > 4 days	Total Loss	12 months ^P	Doctor's discretion ^P
MM	1	Sick leave > 1 days	Total Loss	12 months ^P	Doctor's discretion ^P
PH	0	Sick leave > 1 days (up to 240 days)	Sick leave > 120 days*; or Total Loss	Max 240 days ^P	Partial: lump sum and/or pension** Total: Till death ^P
SG	0	Sick leave >1 days	> 0% (as long the incapacity is certified permanent)	12 months ^P	Lump-sum
TH	0	Sick leave >1 days	60%	12 months ^P	No less than 15 years ^{P*}
VN	0	5%-30%	31%	Until recovered ^P	Doctor's discretion ^P

Source: Social Security Administration (US) ed., 2018.; ILO, "Country report on employment injury insurance," <https://www.social-protection.org/gimi/gess/ShowTheme.do?tid=3725#00>

* Temporary Total Disability lasting continuously for more than 120 days per Rule XI Section 1.b. (1) of the Amended Rules on Employees' Compensation

** Lump-sum for claims less than 12 months. Otherwise monthly pension up to the designated number of months according to the schedule of disability but shall not exceed 50 months

4.3.8 UNEMPLOYMENT BENEFITS

4.3.8.1 DEFINITIONS

This benefit is a short-term insurance. Article 20 of Convention 102 stipulates the extent of this benefit that contingency covered shall include suspension of earnings, as defined by national laws or regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work.

Moreover, Article 24 provides that in addition to the medical care under Article 20, there are cases where other conditions shall be considered as follows: (1) limited period of benefit where classes of employees are protected, to 13 weeks within a period of 12 months, or 26 weeks within a period of 12 months; (2) Where national laws or regulations provide that the duration of the benefit. In this regard, the average duration of benefit is at least 13 weeks within a period of 12 months; (3) in some cases, the waiting period is the first seven days of unemployment; and (4) other conditions in accordance with the type of labour, for instance, temporary workers or seasonal workers.

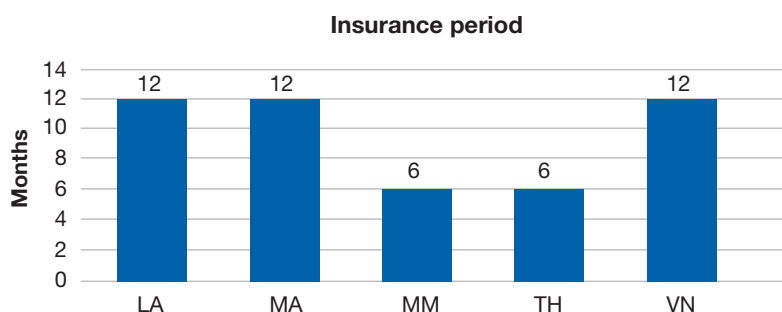
While the International Social Security Association (ISSA) specifies the definition of this type of insurance as one category of social security providing protection for involuntary unemployment by which the state pays the person who has to be absent from work for a limited period of time. In this regard, a person applying for this benefit shall illustrate that he or she is capable of working and is ready to work. Insurance in the case of unemployment is the state measure to promote security and income guarantor for employees in regard to such person has to encounter the economic risk rendering such person to be unemployed. Such unemployment shall occur from uncontrollable factors. Assistance may be in the form of cash and services such as job matching and skill development.

Nonetheless, this section focuses only on cash benefit paid in the case where an insured person is dismissed from employment.

4.3.8.2 CONTRIBUTION PERIOD

Amongst ASEAN Member States, there are five countries namely, Lao People's Democratic Republic, Malaysia, Myanmar, Thailand, and Viet Nam that provide unemployment benefit. Figure 4.11 shows that the qualifying contribution period in Lao People's Democratic Republic, Malaysia, and Viet Nam is similarly set at one year. Myanmar and Thailand prescribe the same qualifying contribution period at six months.

Figure 4.11. Qualifying period of contribution, unemployment benefits

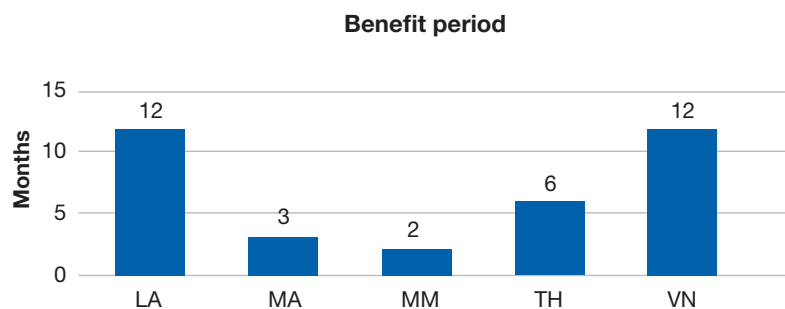


Source: Social Security Administration (US) ed., 2013

4.3.8.3 BENEFIT PERIOD

Figure 4.12 illustrates that benefit payment period varies across AMS that provide unemployment benefits. The longest payment period is in Viet Nam, which pays up to one year, while Myanmar the shortest payment period at two months.

Figure 4.12. Benefit period, unemployment benefits



Source: Social Security Administration (US) ed., 2013

4.3.9 FAMILY BENEFITS

Article 40 of Convention 102 prescribes the definition of this benefit as the benefit which aims to decrease family's burden to allow such family to live peacefully and normally. Article 42 extends the forms of this benefit as (a) periodical payment granted to any person protected having completed the prescribed qualifying period; (b) assistance such as dependant's money, food, clothes, holiday or domestic help and (c) conditions of (a) and (b) together.

There are only two ASEAN Member States, namely, Myanmar and Thailand of which the laws identify family benefits. However, this benefit has not yet been implemented in Myanmar. In the case of Thailand, it is not clear whether the monthly child allowance paid at 600 Baht until the child is six years of age is deemed family benefits.

Table 4.10 shows that Thailand and Myanmar provide family benefits in a different form, i.e. child allowance and tuition fee. Hence, the qualifying period, benefit payment period, and amount of benefit vary across the two AMS.

Table 4.10. Family benefits in AMS

	Forms of benefits	Qualifying period (years)	Period of payment	Amount of benefit
MM (not implemented)	Tuition fee (monthly)	3	10 months/year	10% of salary
TH	Child allowance (monthly)	1	Until 6 years old	600 Baht (\$18)

Source: Social Security Administration (US) ed., 2013

4.3.10 SUMMARY

It was found that, among AMS, there are three main types of social security systems: social insurance, provident fund, and employer-liability. The qualifying contribution period prior to receiving the benefits, amount of benefit, and benefit payment period vary across AMS.

In addition, several ASEAN Member States do not provide unemployment benefits nor family benefits. Nonetheless, unemployment benefits and family benefits may not be applicable to migrant workers. Under the condition of their work permit, migrant workers must remain in employment in order to live and work in the countries of destination. More often than not, migrant workers have to return to their home countries after the end of employment contract. Moreover, migrant workers often cannot bring their families to the destination countries due to restrictions in the immigration law related to dependant visa. Thus, migrant workers are not likely to practically access unemployment benefits and family benefits during their stay in the host countries.

4.4 SOCIAL SECURITY AGENCY AND MANAGEMENT IN ASEAN

This section presents social security agency and management of each ASEAN Member States. It focuses on the the capacity of responsible social security agency in managing social security benefits, especially the benefit claim and payment process.

4.4.1 BRUNEI DARUSSALAM

The social protection system in Brunei Darussalam is based upon the provident fund system, which covers only nationals and PRs. The Employee Trust Fund or Tabung Amanah Pekerja (TAP) was established to promote savings for retirement in Brunei Darussalam.

Under TAP Board Order issued on 18 January 2013, the TAP commission is authorized to regulate and manage the fund, including to invest in equity to the growth of the fund. The commission consists of, at least, nine persons, as follows:

- Chairperson of the Board;
- Maximum of two Vice-Chairpersons;
- Commissioners who are appointed by the government (at least five persons who are representatives from the public sector); and
- Director, acting as the Secretary of the Commission.

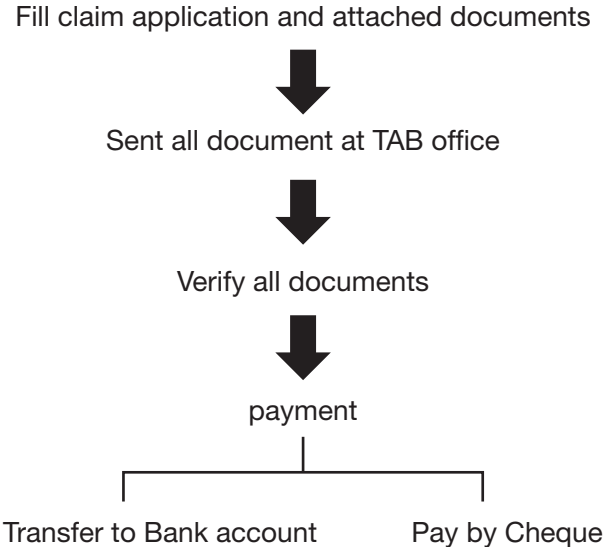
AP office consists of nine divisions as follows: (1) Investment Division; (2) Administration Division; (3) Information Technology Division; (4) Operation Division; (5) Finance Division; (6) Compliance Division; (7) Strategy Division; (8) Performance Division; and (9) Internal Audit.

The Employee Trust Fund consists of provident fund (TAP), and additional pension fund (SCP). Members of TAP receive a lump-sum once they turn 55 years old, and they also receive an additional pension upon the age of 60 years old. Process of benefit claim and payment is shown in Figure 4.13.

Additionally, members of TAP can withdraw money prior to the prescribed period, in the following cases:

- Constructing a house;
- Becoming seriously injured or disabled in a work-related injury;
- Moving to work abroad; and
- Death-in this case; benefits shall be paid to the statutory heir.

Figure 4.13. Process of benefit claim and payment, Brunei Darussalam



Source: Compiled by the research team (2018)

Although the Employee Trust Fund does not cover migrant workers, according to chapter 74 of Workmen’s Compensation Act, the labor protection law which is enforced by the Department of Labour, Ministry of Home Affairs, migrant workers shall be treated according to their rights and entitlement as prescribed in the law, and offered assistance in the case of work-injury.

4.4.2 CAMBODIA

National Social Security Fund (NSSF) is established to administrate social security system in Cambodia. NSSF is responsible for providing the primary social security to the workers in private sector. NSSF registers its members, collects the contribution, manages the NSSF finance, implements and provides benefits to workers or beneficiaries.

Moreover, the National Social Security Fund is regulated by two ministries: Ministry of Labour and Vocational Training regulates the management of social security fund, while the Ministry of Economy and Finance regulates the financial administration.

NSSF is administered by the Governing Body authorized to manage the organization under the provisions of the secondary legislation and its internal regulations. The Governing Body consists of:

- A representative of the Ministry of Labour and Vocational Training - President;
- A representative of the Council of Ministers - Member;

- A representative of the Ministry of Economy and Finance - Member;
- A representative of the Ministry of Health - Member;
- A representative of Employers - Member;
- A representative of Workers - Member; and
- Executive Director of NSSF.

NSSF shall perform the followings:¹⁰⁴

- To manage the social security schemes by the Law on social security schemes for persons defined by the provisions of the labor law;
- To ensure that the same benefits is provided to all members of the NSSF in a bid to alleviate their difficulties with old age, disability, death, occupational risk, or any other contingencies such as maternal illness;
- To collect contributions from its members and employers;
- To facilitate and make available health care and social services beneficial to its members;
- To cooperate with relevant agencies in order to raise awareness on how to prevent a work-related injury and occupational diseases;
- To cooperate with relevant agencies to study and monitor occupational risk; and
- To organize and manage Social Security Fund Investment.

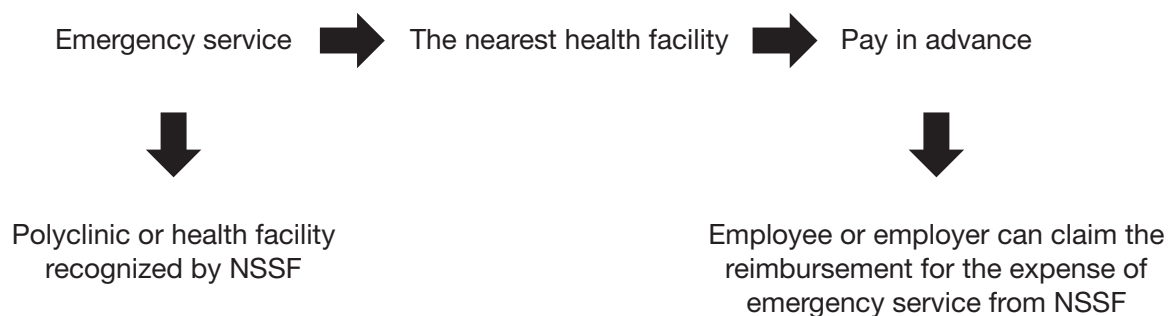
NSSF has many offices in the central and 24 branch offices. The central office, located in Phnom Penh, consists of nine sections as follows: 1) Administration Division; 2) Financial & Accounting Division; 3) IT Division; 4) Registration & Contribution Division; 5) Benefit Division; 6) Inspection & Legal Affair Division; 7) Internal Audit Division; 8) Policy Division; and 9) SHI Division.

The National Social Security Fund covers all workers, including migrant workers who are registered with NSSF. Members of NSSF receive medical care, both in the case of work and non-work related, invalidity benefits, funeral grant, and survivor pension.

To claim for medical care under NSSF, employer shall provide the nearest emergency services and transfer such employee to a health facility or polyclinic recognized by NSSF. The employee or employer pays the medical expense in advance of emergency service and transfers such employee to the nearest health facility or polyclinic. Subsequently, the employee or employer, as the case may be, is able to claim the reimbursement for the expenses of emergency service from NSSF, as shown in Figure 4.14.

¹⁰⁴ Available at <http://www.nssf.gov.kh/default/wp-content/uploads/2015/02/Sub-Decree-16.pdf>

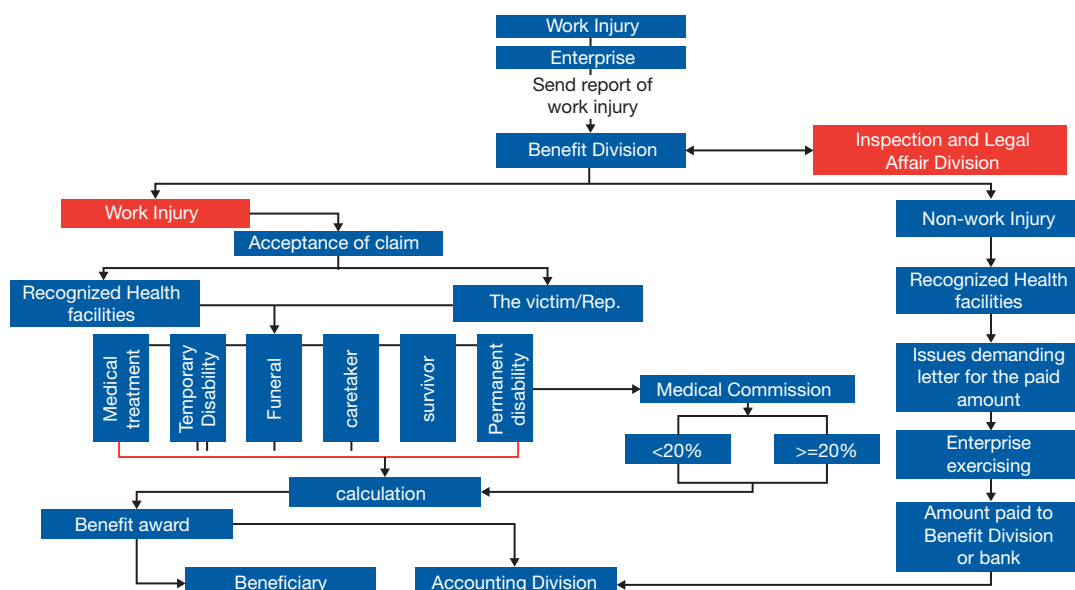
Figure 4.14. Process of receiving medical care under NSSF



Source: Compiled by the research team (2018)

For other types of employment-injury benefits such as invalidity and death, employer shall submit reports to NSSF before starting the claiming process. The NSSF will then consider each case according to the process shown in Figure 4.15.

Figure 4.15. Process of claiming employment-injury benefits under NSSF

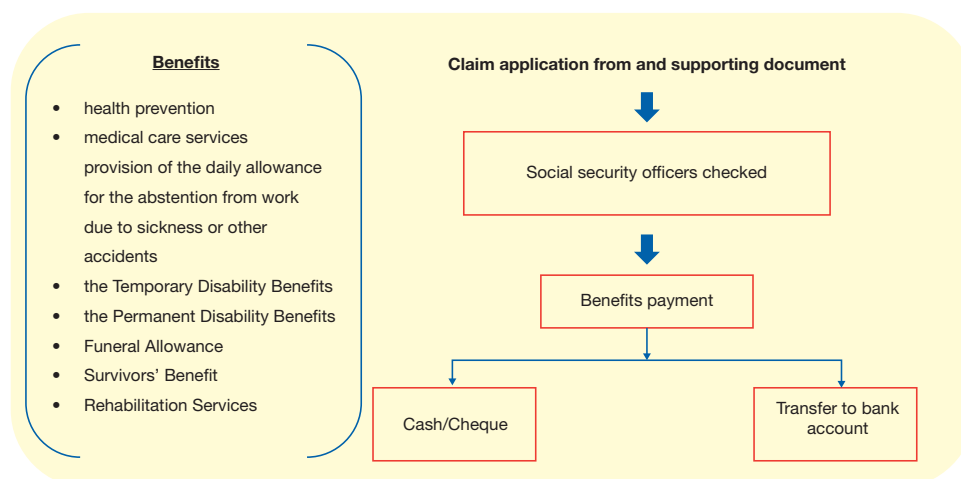


Source: CHEAK LYMENG, Deputy Director of Policy Division National Social Security Fund, Cambodia

https://www.ilo.org/wcmstp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms_434277.pdf

For other social security benefits, members of NSSF may fill the claim application form and submit relevant supporting documents at every NSSF office, as shown in figure 4.16. For migrant workers who are outside Cambodia, claim application can be submitted at the Cambodian embassy overseas.

Figure 4.16. Process of claiming other social security benefits under NSSF



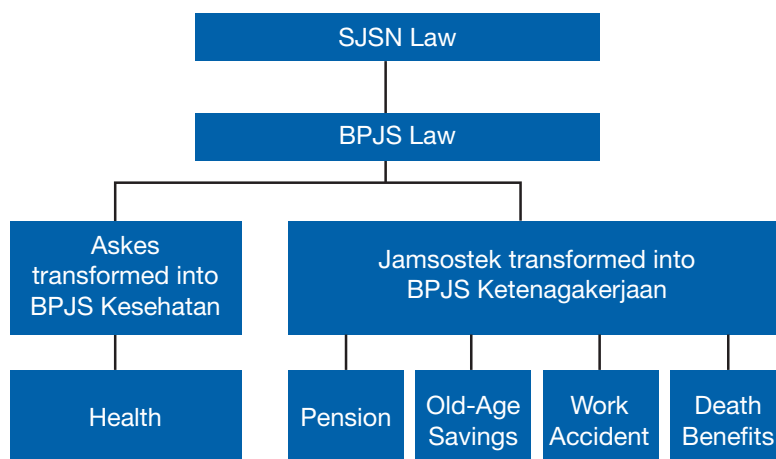
Source: TDRI 2019

4.4.3 INDONESIA

In 2004, the social security system in Indonesia was reformed. It resulted in the establishment of a specific social security agency. Also, revision of related law in 2009 helped to set a clarification of duty among related agencies. Currently, social security is under the monitor of two agencies as follows:

- 1) *Badan Penyelenggara Jaminan Sosial Kesehatan* or *BPJS Kesehatan* – is responsible for healthcare service, and
- 2) *Badan Penyelenggara Jaminan Sosial Ketenagakerjaan* or *BPJS Ketenagakerjaan* – is responsible for social security for employment, effective since July 1, 2015. Workers from both formal and informal sector can apply to become members. Migrant workers who want to participate must work in Indonesia at least six months. The structure of the BPJS is shown in Figure 4.17.

Figure 4.17. BPJS Structure



Source: World Bank. 2012. Policy Note on SJSN, Institutional Transformation of BPJS Ketenagakerjaan (Issue 3 July 2012) available at <http://documents.worldbank.org/curated/en/626261468269435209/pdf/728860BRI0SJSN00904020120Box370115B.pdf> (accessed on November 26, 2018).

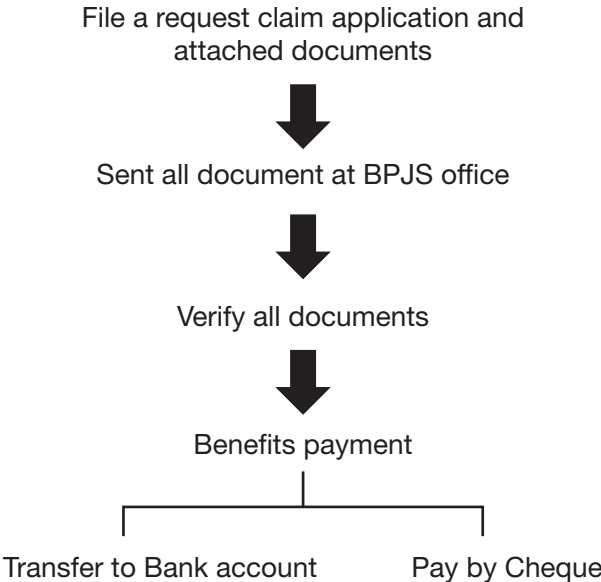
BPJS *Ketenagakerjaan* is under the close monitoring of the Board of Trustees. Also, the external audit is done by the National Social Security Council (*Dewan Jaminan Sosial Nasional*, DJSN). The agency will directly report its work progress to the President Secretariate Office. Revenue from the fund is considered as state income, not BPJS. BPJS acts as the financial administer body.

Board of Trustees consists of seven representatives from various stakeholders, namely two representatives from government, two representatives from employers, two representatives from employees, and one representative from civil society organizations. Under Article 22, point (2) of Law No. 24 of the Year 2011, the Board of Trustees has duties and authorities to:

- Supervise the policy of BPJS management and the board of Directors’ performances;
- Supervise on the management and development of Social Security Fund by the Board of Directors;
- Provide feedback, advice, and consideration to the Board of Directors concerning the policy and management of BPJS; and
- Deliver the supervisory report of the Social Security program as part of the BPJS report to the President with a copy to DJSN.

Figure 4.18 shows the benefit claiming process in Indonesia.

Figure 4.18. Benefit claiming process in Indonesia



Source: Complies by authors

4.4.4 LAO PEOPLE’S DEMOCRATIC REPUBLIC

In the past, the social security system in Lao People’s Democratic Republic was under the Ministry of Labor and Social Welfare. Initially, social security covered only public sector employees, military personel, and police officers. In 2008, social security was extended to private sector employees.

Previously, Lao People's Democratic Republic had several agencies to regulate the social security system, which created inefficiency in operation. In 2013, the government reformed the law on social security and labor law, and established the National Social Security Fund (NSSF), which has been fully effective since April 2015. NSSF is a non-profit organization under the supervision of the Ministry of Labor and Social Welfare. NSSF operated by the Board of Director and the committee consist of representatives from the government sector, employers and employees.

The committee is composed of the following sectors' representatives:

- Minister of Labor and Social Welfares;
- Vice-Minister of Finance;
- Vice-Minister of Public Health;
- Vice-President of Lao Federation of Trade-unions;
- Vice-President of Lao Chamber of Commerce and Industry;
- Director General of Department, Ministry of National Defense;
- Director General of Social Social Welfare Department, Ministry of Public Security;
- Director General of Social Security Department, Ministry of Labor and Social Welfares;
- Director General of Budget Department, Ministry of Finance;
- Director General of Civil Servant Management, Ministry of Interior;
- Director General of Curative Department, Ministry of Public Health;
- Director General of Personnel Department, Lao Women's Union;
- Director General of Labor Protection Department, Lao Federation of Trade-Unions;
- General Secretary of Lao Chamber of Commerce and Industry;
- Representatives from a different organization working on employer and employee's matters; and
- Director General of the National Social Security Fund, as the committee's secretary.

The Social Security Fund's Committee shall be selected by the Minister of Labor and Social Welfare to be appointed by the Prime Minister. The management team includes DG and DDGs, Divisions and branches at the provinces are responsible for routine works. Roles and Functions of the management team shall be stipulated in a specific regulation.

The National Social Security Fund's Committee shall perform the below-listed rights and obligations:

- To consider and approve Internal regulation and action plan of the NSSF;
- To guide, support, follow up and inspect the performance of the Management team;
- To consider and approve sources of NSSF's incomes;
- To allocate NSSF into different sub-funds for a rational expenditure in a certain period with approval from the Government;
- To consider and propose the adjustment of contribution rates as well as the level of benefits to the social security management organization to further submit for Government approval;
- To consider setting up of a social security beneficiaries' database and for card issuance;
- To consider monthly, quarterly, half-yearly, and annually, social security benefit budget as well as administrative expenses and submit to the upper social security management organization for approval;

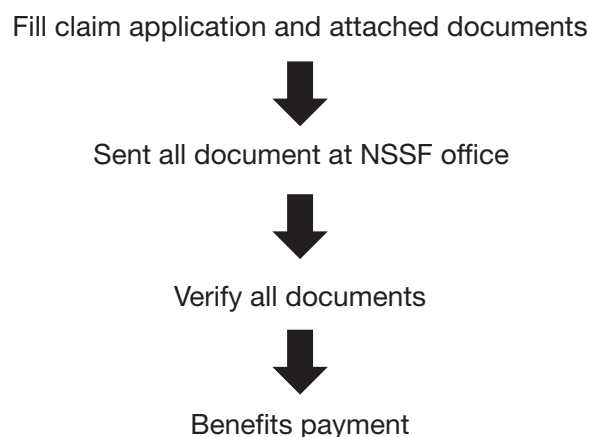
- To have relation and cooperation with a foreign, regional, and international organization in the field of social security management;
- To report regularly on the National Social Security Fund management to the Social Security management organization and the Government; and
- To perform other rights and obligation as prescribed by law and regulations or by order of a higher authority.

The main objective to establish NSSF is to develop the policy of social security system to protect all workers. NSSF has the basic principles concerning social security affairs as follows:

- 1) Social Security Policy and affairs shall be legally, centrally, and nationwide managed;
- 2) Contribution to National Social Security Fund from the employer, employee, self-employed person as well as Voluntary insured person shall proceed accordingly to the defined rates as stipulated in article 55 and 56 of this Law;
- 3) Rights and interests of the insured person and dependents shall be protected;
- 4) Social security management shall be fair, transparent, accountable, and sustainable;
- 5) Principle of the fund is accumulation, risk pooling, mutual assistance, and sustainability;
- 6) Benefit calculation shall be base on insurable earning; and
- 7) Security affairs shall be appropriate with international conventions or treaties, where Lao PDR is a signatory country.

The insured persons of NSSF may fill and submit claim application form at NSSF office, according to the process as shown in Figure 4.19.

Figure 4.19. Benefit claiming process in Lao PDR



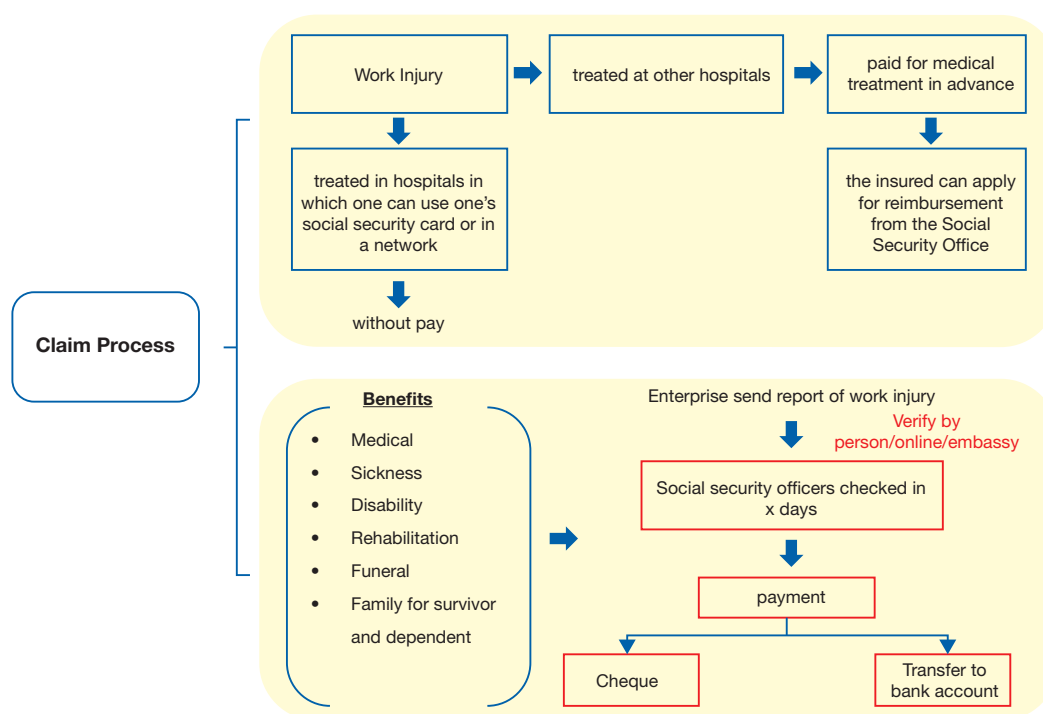
Source: TDRI 2019

4.4.5 MALAYSIA

The Social Security Organization (SOCSCO) is a government agency established to provide the fundamental social security for workers according to the international standards. SOCSCO administers employment-injury scheme, which includes medical treatment due to work injury, cash compensation during sick leave, disability compensation, rehabilitation, survivors allowance, and funeral grant.

For the claiming benefits under SOCSO, the insured persons can fill and submit claim application form at any SOCSO office or online at SOCSO website, following the claim process shown in Figure 4.20. Local and migrant workers who register with SOCSO are treated equally under such process.

Figure 4.20. Benefit claiming process of SOCSO



Source: TDRI 2019

SOCSO will pay benefits to the insured persons through three channels as follows:

- 1) Financial Process Exchange (FPX). This refers to online transfer into bank accounts, both domestic and overseas. Payment is made every three months. Export of benefits usually takes this form;
- 2) Bank transfer; and
- 3) Cash at the bank's counter. The bank must be approved by SOCSO.

4.4.6 MYANMAR

The social security system in Myanmar is administered by the Ministry of Labour, Immigration, and Population.¹⁰⁵ The Social Security Board (SSB) was established in 1954 under the Social Security Act. In 2012, the law was amended to be in accordance with the international standard, resulting in key issues as followed;

- The National Committee on Social Security Board was established on June 19, 2013 consisting of 28 members;

¹⁰⁵ There are four departments under the Ministry of Labour, Immigration and Population namely, (1) Department of Labor; (2) Social Security Board; (3) Department of Factories and General Labor Laws Inspection; and (4) Department of Labor Relation (Source: Maung Maung Aye. 2017). Financial Sustainment of Social Security Funds and Retirement Security by Social Security Board, available at <http://www.sso.go.th/assa34/assets/img/gp/gp01.pdf>

- The Social Security Executive Committee consists of 13 members, responsible for providing close supervision to the implementation of social security affairs;
- Medical Advisory Board was established on December 26, 2013 and it consists of 24 members to provide recommendation for the improvement of medical treatment for the insured; and
- Appellate tribunals in four locations: Yangon, Mandalay, Sagaing and Pago Regions.

Now the National Committee on Social Security Board has been reformed with 20 members on 19th December 2017. It is formed with Union Minister as a chairman, Director General of Social Security Board as a secretary and other representative from government, employer and employee organizations as a members.

4.4.7 THE PHILIPPINES

The Social Security System (SSS) provides social protection for private sector employees. The office of SSS operates the social security system and is supervised by the Social Security Commission, which consists of the following members:

- A representative from the Secretary of Labor and Employment;
- Chairman of the Social Security Office; and
- Seven persons appointed by the President who are representatives of three labour unions, at least one person shall be a woman; three representatives of the employer, at least one person shall be a woman; and one representative from civil society organizations or other stakeholders.

The Commission shall have the powers and duties to regulate and administer the Social Security Office, to set direction and policy of social security, as well as to monitor the result of policy implementation.

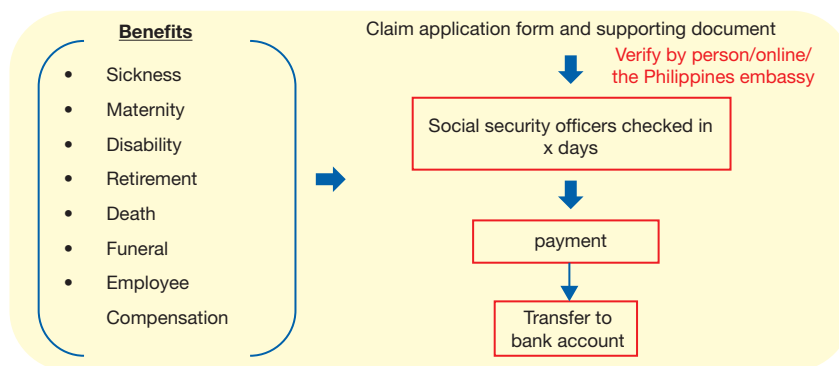
Moreover, as the Philippines has many overseas workers, the policy to protect overseas worker is among the priorities of government. Since 1980s, the Philippines has concluded several social security agreements with foreign countries such as Australia, the United Kingdom, North Ireland, Spain, France, and Belgium.

The SSS provides social security to both local and migrant workers. The benefits provided by SSS may be divided into two categories as follows:

- 1) Social security benefits for contingencies that are not caused by employment:
 - Cash benefit paid during sick leave
 - Cash benefit paid during maternity leave
 - Cash compensation in the case of disability
 - Old-age benefits
 - Survivors benefits
 - Funeral grant
- 2) Social security benefits for contingencies that are caused by employment:
 - Cash compensation in the case of disability due to work injury
 - Death benefit
 - Medical treatment, including medical supplies
 - Rehabilitation

In order to claim the benefits, the insured persons may fill and submit the claim application form and all supporting documents at any SSS branch office or website. In the case of workers who are outside the Philippines, they can proceed at the Embassy of the Philippines in each country. Claim process is shown in Figure 4.21.

Figure 4.21. Benefit claiming process of SSS



Source: Compiled by the research team (2018)

In exporting the benefits overseas, the SSS will pay to the insured persons through their SSS-authorized bank accounts, usually the Chinatrust Philippines Commercial Bank Corp (CTBC). The SSS will help the insured open a CTBC bank account in the Philippines, and the insured person can use an ATM card or Debit card to withdrawn money in a foreign country. The withdrawal fee is maximum 3 USD per time, while the overall process of claim application takes around two to four weeks.

Other than the Social Security System, the Philippines has social welfare protection for overseas workers operated by the Overseas Workers Welfare Administration (OWWA). The OWWA is a government agency and is regulated by the Department of Labor and Employment. OWWA is established to protect overseas workers and their families who are members of OWWA. For this reason, OWWA does not cover migrant workers in the Philippines, self-employed persons aboard and detached workers. The conditions of OWWA membership are:

- Must be a legal worker;
- Has work permit;
- Has employment contract;
- Pay membership fee of 25 USD; and
- The coverage period is two years and renewable at the OWWA office at the Philippine Embassy.

The distinct role between OWWA and SSS is that OWWA protects only Filipino workers who are members of OWWA and work aboard, while SSS covers both local and migrant workers in foreign countries where the Philippines has social security agreements with.

4.4.8 SINGAPORE

The social protection system in Singapore is based on the compulsory provident fund scheme. The Central Provident Fund (CPF) covers Singaporean citizens and PRs who are the members of CPF.

CPF is regulated by the Central Provident Fund Board appointed by the Minister of Manpower. The CPF Board consists of:

- Chairman of the Board;
- Vice Chairman of the Board;
- Two persons from the Government;
- Two persons representing employers;
- Two persons representing employees; and
- Seven other persons appointed by the Minister for Manpower.

All Singaporean citizens and PRs are required to put their monthly savings into their individual CPF account. Since January 2016, the contribution rate for CPF members aged 55 years old and below is 37% of salary (17% contributed by employer, and 20% by employee). The CPF contribution rates taper down after a member is above age 55, and is reduced to 12.5% of the salary when the member turns above age 65. The Singapore government has announced its intent to gradually raise the CPF contribution rates for members aged above 55 to 70 over the next ten years. By the time the full increase is completed around 2030, contribution rates for members aged above 55 to 60 will be restored to 37% of salary. The CPF rates will taper down for members aged above 60 to 70, and remain unchanged for members aged above 70. The first increase in CPF rates will take place from 1 January 2021.

The CPF consists of four accounts: (a) Ordinary account or OA which is an account for home ownership, life insurance, investment, and education; (b) Special account or SA which is for retirement and limited investment; (c) Medisave account or MA which is for health care; and (d) a Retirement Account or RA which is automatically formed with savings from OA and SA when a member turns age 55, to provide a monthly income stream in retirement.

In regard to social protection for migrant workers who are not permanent residents of Singapore, since Singapore has no international agreement regarding social security of migrant workers with any country, the most common form of social protection for migrant workers is private insurance.

4.4.9 THAILAND

Social security in Thailand is under the supervision of the Social Security Office (SSO), a government agency established in 1990 under the Social Security Act B.E. 2533 (1990). SSO is also responsible for the administration of Workmen's Compensation Fund, as prescribed by the Workmen's Compensation Act B.E. 2537 (1994). In addition, the SSO has the responsibilities to:

- Perform the administrative works of the Committee, other Committee, and Sub-Committee under Social Security Act;
- Collect, compile and analyze data regarding social security;

- Organize the registration of employers and insured persons who are required to pay contributions;
- Perform other functions as prescribed in the Social Security Act or any other laws as the powers and duties of the Office; and
- Carry out other activities as entrusted by the Minister, the Committee, other Committee or the Sub-Committee.

The structure of SSO is divided into two levels; the first is the Central organization consists of 32 divisions. The second is the provincial administration, consisting of 76 main provincial social security offices, and additional 49 branches of provincial social security offices which assist the work at provincial level.

In 2016, the SSO had a total number of 7,226 staff, of which 2,910 positions are in the central level.

The social security fund is administrated by the Social Security Committee. The committee consists of the Permanent Secretary for Labour and Social Welfare, a representative of the Ministry of Finance, a representative of the Ministry of Public Health, and a representative of the Bureau of the Budget, and five representatives of employers and five representatives of employees appointed by the Minister, and the Secretary-General.

The Committee have the powers and duties to submit a recommendation to the Minister regarding policy and implementation of social security under the Social Security Act, including to:

- Issue regulations, with the approval of the Ministry of Finance, regarding receipts, payment, and safekeeping of the Fund;
- Issue regulations, with the approval of the Ministry of Finance, regarding the productive investment of the Fund; and
- Review balance sheet, statement of the receipts and expenditures of the Fund, and review an annual report on the performance of the Office regarding social security under the Social Security Act.

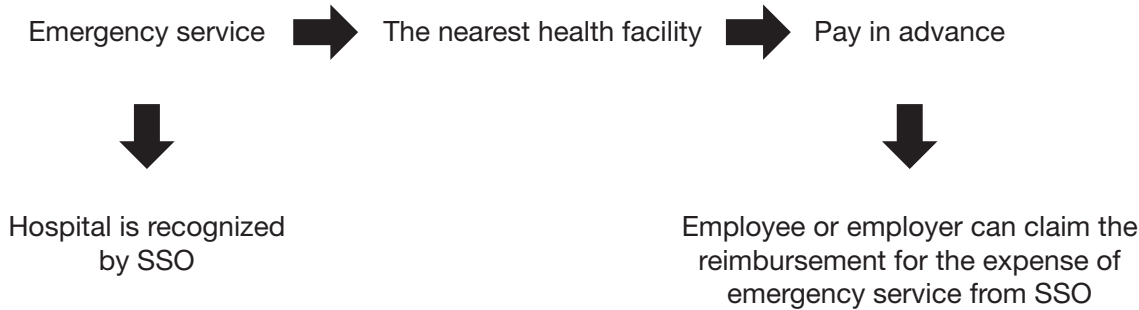
The Social Security Fund consists of three sub-funds as follows:

- 1) Fund for sickness, maternity, invalidity, and death benefits;
- 2) Fund for child allowance and old age; and
- 3) Unemployment benefit fund.

For medical treatment, the insured persons shall go to a hospital, which is recognized by SSO. However, in case of emergency, the insured may go to the nearest hospital and can claim the reimbursement for the expense of emergency service from SSO (as shown in Figure 4.22).

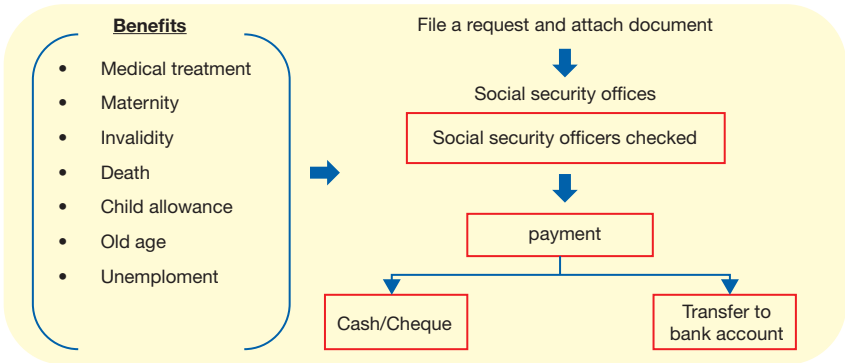
In regard to the claim process for other benefits, an insured person shall submit claim application form along with supporting documents at any branch of the social security office (claim process shown in Figure 4.23). In the case of invalidity benefits, the SSO officer will arrange an appointment for a medical evaluation in order to approve the payment.

Figure 4.22. Process of claiming for medical care under SSO



Source: Compiled by the research team (2018)

Figure 4.23. Process of claiming for other benefits under SSO

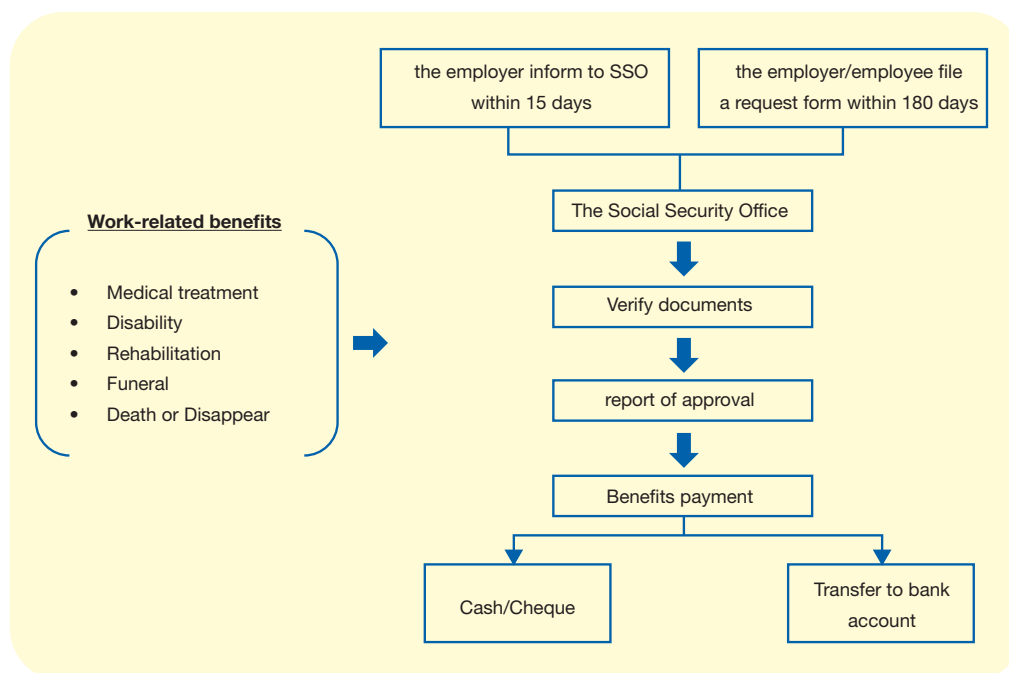


Source: TDRI 2019

In addition to the Social Security Fund, the Social Security Office also oversees the Workmen’s Compensation Fund. This fund is contributed by employers and the government. The Workmen Compensation Fund protects employees, who suffer an employment injury, disability, rehabilitation, and death in a work-related incident.

In the event of a work-related accident or injury, an employer shall report such incident to SSO within 15 days, and an insured person shall file a request to claim benefits within 180 days after such incident happens. On behalf of the employer, the Workmen’s Compensation Fund pays compensation to the employees, including medical care, rehabilitation, funeral grant (shown in Figure 4.24).

Figure 4.24. Claim process of the Workmen’s Compensation Fund



Source: Compiled by the research team (2018)

The Social Security Fund and the Workmen’s Compensation Fund cover both local and migrant workers who register with the SSO. The Social Security Fund takes contribution from the employer at 5% of salary, 5% from the employee, and 2.75% from the government. For the Workmen’s Compensation Fund, the contribution of 0.2% - 1% of salary, depending on the occupational risk level is paid by the employer.

4.4.10 VIET NAM

The social security system of Viet Nam is under two agencies. The Ministry of Labour, Invalids and Social Affairs (MOLISA) has a role and responsibility to oversee the national law and policy of social security, while the Viet Nam Social Security (VSS) acts as the implementing agency. Both agencies report directly to the government.

As the operating agency, the VSS has the following duties:

- Propose the Government regulate the functions, tasks, power, and apparatus of the VSS;
- Submit to the Prime Minister development strategies for the social security sector, including long-term, five-year and annual plans on the VSS’s activities, projects on preserving and developing the social, unemployment and health insurance funds;
- The VSS’s responsibilities and relations with ministries in charge of State management of social, unemployment and health insurance, and financial regimes for the social, unemployment and health insurance funds;
- Issue documents instructing procedures and activities for handling social and health insurance benefits and policies, collecting and spending social, unemployment and health insurance according to legal regulations, and issuing documents for the internal management of the VSS;

- Organize the dissemination of information about benefits, policies, and laws on social, unemployment and health insurance, and organizing the exploitation, registration, and management of those covered by social, unemployment, and health insurance;
- Issue social and unemployment insurance books and dossiers and health insurance cards and granting social insurance books and health insurance cards to insurance buyers;
- Collect social and health insurance premiums paid by agencies, units, organizations, employers, and individuals according to legal regulations. Receive funding from the State budget to spend on social and health insurance benefits;
- Receive dossiers on and dealing with cases of maternity, sickness, work accidents, occupational diseases, retirement, death gratuity, recovery after sickness, maternity, treatment of work accidents and occupational diseases, and medical examination and treatment;
- Pay retirement pensions, work accident, and occupational disease allowances, sickness allowances, maternity allowances, allowances for labor capacity loss, allowances for recovery after sickness, maternity, and treatment of work accidents and occupational diseases, death gratuity, and medical examination and treatment in a full, convenient and timely manner;
- Collect unemployment insurance premiums paid by agencies, units, organizations, employers, and employees; paying unemployment benefits; helping persons receiving unemployment benefits to learning vocations, seek jobs, and pay health insurance premiums;
- Manage and using the social, unemployment and health insurance funds, which consist of the retirement pension and death gratuity fund, work accident and occupational disease fund, sickness and maternity fund, unemployment insurance fund, and health insurance fund, in line with the principles of centralism, consistency, openness, transparency and morality and recording social, unemployment and health insurance funds;
- Conduct inspections over the payment of social, health and unemployment insurance premiums, and punishing administrative violations;
- Implement international cooperation in social, health, and unemployment insurance in line with legal regulations; and
- Implement other tasks and power assigned by the Government and the Prime Minister.

In operating the above duties, the VSS functions at both the central and regional levels, with branches to cover nationwide access.

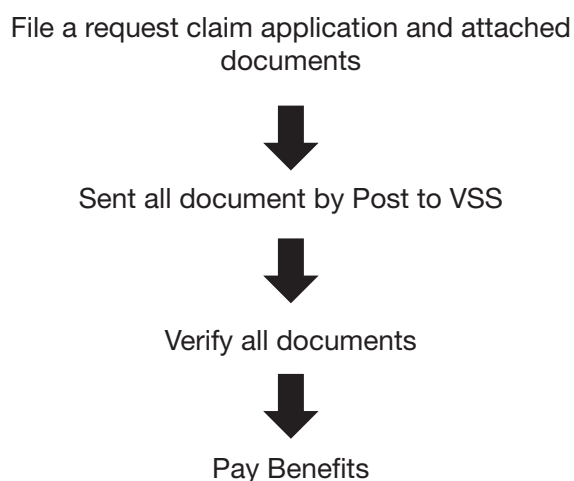
The VSS provides the social security benefits to both local workers and migrant workers. Such benefits include:

- 1) Medical Care;
- 2) Sickness Benefit;
- 3) Maternity Benefit;
- 4) Old-age Benefit;
- 5) Survivors Benefit;
- 6) Unemployment Benefit; and
- 7) Work Injury and Occupational Disease Benefit.

The insured persons can file claim application form which can be downloaded from the website of VSS, fill out the form and send all documents to VSS by post. The application will be considered within ten days, as shown in Figure 4.25. It should be noted that the VSS has piloted online submission channel in some areas.¹⁰⁶

Figure 4.25. Claim process under VSS

Download claim benefit on VSS website



Source: Compiled by the research team (2018)

4.4.11 CONCLUSION

Within AMS, there are many agencies responsible for the provision of social security to workers. The conclusion in this section may be divided into four points as follows:

- First, most social security agencies in ASEAN provide protection towards migrant workers. Some, however, covers only migrant workers who have permanent residence status;
- Second, in regard to the submission of claim, an insured person is generally required to visit a branch of social security office. However, in some countries such as Malaysia, Singapore, the Philippines and Viet Nam, online claim submission channel is available to facilitate the insured person, especially those who reside overseas;
- Third, benefits payment options in most AMS, except for Myanmar, include bank account transfer. Banking fee among AMS is considered high, and access to bank account in some AMS is still limited; and
- Fourth, at present, exportability of social security benefit is available only in Lao People's Democratic Republic, Malaysia, Singapore, the Philippines, and Thailand. Options of exportability are also limited; for example, in Lao People's Democratic Republic, the insured persons must bear the transfer fee, while Thailand issues cheque through the Ministry of Foreign Affairs.

¹⁰⁶ Interview with VSS on 15 February 2019.

Nevertheless, the most crucial barrier for bank transfer, export or otherwise, is the high banking fee. For example, to transfer 5,000 Baht from Thailand to Myanmar will cost 1,271 Baht of transfer fee, accounting to 18% of the transferred amount.¹⁰⁷

Although there are many new Money Transfer Operators (MTOs) apart from financial banks which usually charge lower fee, on average 2.6% of the transferred amount,¹⁰⁸ but these MTOs are not widely available and regulated in many countries. Access to and credibility of their services are therefore still limited.

Table 4.11 summarises the claim application process for social security benefits in ASEAN.

Table 4.11. Claim application process for social security benefits in ASEAN

	Social security agency	Cover migrant	Claim submission			Payment			Exportability
			In person	Post	Online	Cash	Cheque	Bank account	
BR	Employees Trust Fund	PR only	✓	-	-	-	-	✓	N/A
CA	National Social Security Fund	✓	✓	-	-	✓	✓	✓	X
IN	BPJS Ketenagakerjaan	✓	✓	-	-	✓	-	✓	N/A
LA	National Social Security Fund	✓	✓	-	-	✓	✓	✓	✓*
MA	Social Security Organisation	✓	✓	✓	✓	-	✓	✓	✓
MM	Social Security Board	✓	✓	-	-	✓	✓	-	X
PH	Social Security System	✓	✓	-	✓	-	-	✓	✓
SG	Central Provident Fund Board	PR only	✓	✓	✓	-	✓	✓	✓
TH	Social Security Office	✓	✓	✓	-	✓	✓	✓	✓**
VN	Employees Trust Fund	✓	✓	✓	✓***	✓	-	✓	X

Note: * The insured persons are responsible for the transfer fee

** Payment to recipients overseas must be done through cheque issued in the name of Ministry of Foreign Affairs, as prescribed by the Social Security Office

*** Piloted in some areas

Source: TDRI 2019

4.5 SUMMARY

4.5.1 SCOPE OF PROTECTION FOR MIGRANT WORKERS

Based upon the literature review of law and policy regarding the social security in AMS, many countries provide proper protection for migrant workers, as well as promotion of skill development. In general, social security policies in ASEAN do not specifically focus on local workers; therefore, migrant workers should be entitled to access unless otherwise specified for migrant workers only.

¹⁰⁷ Saver Asia, <https://www.saverasia.com/>

¹⁰⁸ Ibid.

In some countries, the laws do not *per se* prohibit migrant workers to access such protection; thus, it leaves some room for interpretation and that migrant workers may pay the contribution to enjoy the social security benefits. However, it should be noted that discrimination against migrant workers may exist in some countries. For instance, the law in Viet Nam explicitly provides that certain benefits are reserved for local workers only.

4.5.2 BENEFIT PACKAGE FOR MIGRANT WORKERS

The social security benefits that are prioritized by several ASEAN Member States are the long-term benefits such as old-age benefits, invalidity benefits, and survivors benefits. These long-term benefits are, however, are not offered to migrant workers in every AMS. In some countries, such benefits are reserved only for nationals and PRs. In other cases, long-term benefits have not been implemented, or extended to migrant workers.

For short-term benefits such as, medical care, sickness benefits, maternity benefits, and employment-injury benefits, various forms of social protection programs are used. The most common types of program are social insurance, provident fund, and employer-liability. In some AMS, migrant workers may access these benefits in separated schemes, mostly in the form of private insurance.

Nevertheless, according to the regional workshop with experts on SSA, it can be concluded that the level of benefits and requirements of each country is not as important to SSA as the social protection system used in the negotiating parties. An SSA between countries with the same type of social protection program, such as the Philippines and Thailand which use social insurance as the main system, will be more practical.

4.5.3 ACCESS TO PROTECTION BY MIGRANT WORKERS

Although, laws and regulations in many AMS welcome migrant workers to join the social security system, some gaps and limitations still exist. For example, in Indonesia, migrant workers must work at least six months in order to be entitled to join the social security system.

Access to the social security coverage also depends on economic factors, especially the level of minimum wage. Table 4.12 shows minimum wage rate and percentage of contribution for social security system in ASEAN. Income levels among AMS vary greatly, ranging from 90-300 USD per month. However, the contribution rates are between 4%-9% of individual wage. The differences in both the minimum wage and contribution directly affect migrant workers as most are unskilled workers who depend upon daily minimum wage. The claim process can also become another barrier for migrant workers to access social security benefits. Some countries require the insured persons to present themselves at the social security office to submit claim. This means that workers need to take leave from work. In addition, bank transfer is limited in some countries.

Table 4.12. Minimum Wage in AMS (as of November 2018)

Country	Currency	Daily Minimum Wage		Monthly Minimum Wage		Exchange rate to 1 USD	Employee's contribution rate (per cent)
		Local Currency	USD	Local Currency	USD		
CA	USD	22,666.67	5.66 (Garment)	680,000	170 (Garment)	4,000	n/a
IN	Rupiah	44,591.50 - 111,858.33	2.93 - 7.35	1,337,745 - 3,355,750	87.90 - 220.49	15,219.30	4
LA	Kip	36,666	4.33	1,100,000	130	8,402.18	4.75
MA	Ringgit	30.67 - 33.33	7.34 - 7.98	920 - 1,000	220.13- 239.27	4.18	8.5
MM	Kyat	4,800	3.03	144,000	90.79	1,586.06	6
PH	Peso	303.00 - 400.00	5.66 - 7.47	9,090 - 12,000	169.77 - 224.12	53.54	3.63
TH ^{2/}	Baht	308 - 330	9.27 - 9.93	9,240 - 9,900	278.07 - 297.93	33.24	750 ^{3/}
VN	Dong	110,666.67 - 125,000	4.75 - 5.37	3,321,000 - 3,750,000	142.58 - 161.04	23,285.50	9

Note: 1. As of November 2018

2. Data From <https://www.bakermckenzie.com/en/insight/publications/2018/02/new-minimum-wage-relief-measures/>

3. Baht

Source: (1) Minimum wage: National Wage and Productivity Commission, Department of Labor and Employment, the Philippines available at

<http://www.nwpc.dole.gov.ph/stats/comparative-wages-in-selected-countries/> Access on January 15, 2019 (2)

Employee's contribution rate: Social Security Programs Throughout the World: Asia and the Pacific, 2016

5

ANALYSIS

The aim of setting up social security agreements are generally linked to the encouragement of, or recognition of the existence of, mobility between different countries (normally countries in the same region).

There are different approaches to put in place such a framework, reflecting different aims, employment realities and legal and other constraints.

This study analyses the possibility of connecting the social security systems in the ASEAN region in accordance with the objective 1.2.1 in three forms:

1. first, portability of social security rights, which means the ability to preserve, maintain and/or transfer vested social security rights or on disbursement, regardless of nationality and country of residence.

To **preserve** means preserving the rights which are already granted, resulting in the eligibility to receive social security benefits. For instance, in the case where an insured person has completed the 15 years of qualifying contribution period to be eligible for old-age pension in Thailand, the rights to receive such pension shall be preserved regardless of nationality or country of residence of such insured person. This can also be the case where, for example, an insured person of Thai social security system shall be entitled to old-age benefits regardless of his/her nationality or period of residency in Thailand. However, an insured person of some systems must take residence inside the country for a particular period per year to be entitled to old-age benefits. Conditions to entitlement also varies according to each scheme and type of benefits.

To **maintain** means maintaining the rights under the process, by being able to continue the contribution to complete the requirement leading to the benefits. For example, in the case where an insured person has contributed to the old-age benefits in Thailand for ten years, those ten years must be able to be maintained in order to accumulate to the rights without the insured person having to contribute from the beginning.

To transfer means transferring the rights which already are in existence or the rights which are under the process of being received regardless of his or her country of residence. For instance, in the case where an insured person has contributed into the old-age benefits for ten years and moved to work in another country by contributing to the fund for five more years, such insured person shall have the right to pension from the transfer of accumulated contribution periods in all countries, which is in the total of 15 years. Therefore the minimum vesting period which gives rights to benefits takes into account the service accrued in each of the countries concerned by the agreement.

Portability is possible where all legal migrant workers can access social security programme regardless of their nationalities. In case the sending and receiving countries have an agreement on portability of social security rights, the workers can enjoy the portable benefits of both countries regardless of the border. The contributions and benefits are guaranteed in disbursement and accumulation. Most agreements cover only pensions but the concept of portability can involve any kind of benefits. Some agreements extend the scope of application to non-residents, granting coverage of social security outside the country.¹⁰⁹

Legal Structure and Agreements

Thus, the portability shall contain the three elements above. Maintaining and preserving the rights can be done unilaterally by specifying in the law provisions of the social security agencies which conduct the management of contribution period and eligibility. However, transferring rights requires more than one party: the sending party and the receiving party. Thus, it is necessary for portability to be done in a form of an international agreement, either in the form of bilateral or multilateral. According to the ILO, an SSA, however, requires five principles: equality of treatment; export of benefits; determination of the applicable legislation; totalization; and administrative assistance (please see the details in Chapter 3, section 3.4).

The second form is an Exportability Agreement (EA). Even though some countries have unilaterally export social security benefits overseas, an international agreement can facilitate migrant workers to receive benefits abroad more easily. For instance, the signatory states may agree on the process and documents required for the receipt of benefits and legalization of supporting documents such as medical certificates. An EA can also include the preferred channel to export benefits, which is mutually determined by the country of origin and destination country.

The third form is a Memorandum of Cooperation (MoC) between social security agencies to provide social protection to migrant workers who are nationals of the parties. For example, sending necessary personal information about insured persons, monitoring and inspecting the existence and eligibility of insured persons, including providing information relating to the social security in the country such as newly-issued laws or policies, so that the country of origin can better prepare their workers before moving to the country of destination.

Type	Aspect				Detail
	Preserve	Maintain	Transfer	Administration	
SSA	✓	✓	✓	✓	The agreement responds to the ILO’s five objectives as mentioned above : equality of treatment, exportability of benefits, determination of applicable legislation totalization and administrative assistance.

¹⁰⁹ Holzmann and Wels, “The cross-border portability of social security benefits: Status and progress?” <https://doi.org/10.1111/issr.12228> (accessed on the 8th September 2020).

Type	Aspect				Detail
	Preserve	Maintain	Transfer	Administration	
EA	✓	✓		✓	To facilitate migrant workers to receive benefits abroad and include the preferred channel to export benefits. Eg. Agree on the process and documents required for the receipt of benefits.
MoC				✓	Cooperation between Social Security Agencies to provide social protection to migrant workers who are nationals of the parties. Eg. Sending insured person information, Monitoring and inspecting the existence and eligibility of insured persons, Provide information relating to the social security in the country.

It can be seen that an SSA is a comprehensive agreement that already covers the elements of EA and MoC, both of which are the principles under SSA (exportability of benefits and administrative assistance, respectively). An SSA is, therefore, the most suitable form to connect social security schemes between countries which already have all five SSA principles. For countries which are not yet ready for SSA, the other two forms, EA and MoC, can be alternatives.

It should be noted that, at present there is already a MoC between SOCSO of Malaysia and BPJSTK of Indonesia that covers employment-injury scheme, signed on the 4th of March 2019 and as a new MoC, Social Security Organization (SOCSO) of Malaysia and Social Security Board (SSB) of Myanmar have been signed on 13th of October 2020. Under the MoC, a cooperation framework in exchanging information and promoting the enforcement of employment-injury scheme for migrant workers in both countries is established.

The presentation in this chapter consists of three parts: the first part is the analysis of the inputs (as identified in Chapter 1, section 1.8) in order to identify three selected case studies, and these are the countries which the research team conducted the in-depth interviews and technical discussion. The second part is the analysis of the possibility to connect social security schemes by benefits. The third part is the summarized analysis of the possibility of connecting social security schemes in the ASEAN region.

5.1 SELECTION OF CASE STUDIES

This section aims to analyse the readiness in connecting the social security schemes between ASEAN Member States (AMS). This should help to identify the readiness of each AMS in establishing portability, as well as recommendations for law amendment and capacity building of social security agencies, which will be presented later in Chapter 6.

The analysis in this section was drawn from six inputs: laws; policies; systems; benefits; agencies and statistics. Information about these inputs are presented in the previous chapters. This analyse focuses on the overall readiness of each country. The objectives of this section is two-fold. First is to identify the cross-cutting factors found in every benefits, which may stem from the main social security law or administration of the social security agencies. Such cross-cutting factors will also affect the analysis by individual benefits presented in 5.2. Second is to select three case studies of AMS for in-depth interviews and technical discussion.

5.1.1 LAW

This means social security laws in each AMS, including labour protection laws and social assistance laws relating to migrant workers. The main points of analysis are whether the relevant laws allows access for migrant workers into social security system in the country, and whether migrant workers are treated equally compared to local workers under such system.

It was found that the laws relating to social security in four AMS, namely, Thailand, Lao People's Democratic Republic, Cambodia, and the Philippines, do not differentiate between local workers and migrant workers. This means that migrant workers are able to access social security systems in these four AMS, as the laws do not specify any prohibitions.

There are four AMS – Indonesia, Myanmar, Malaysia, and Viet Nam – of which social security laws specify the coverage to include migrant workers, but with some additional requirements. In the case of Indonesia, migrant workers who are eligible to join social security system in Indonesia need to have been working and paying contribution in Indonesia for no less than 6 months. In the case of Myanmar, the law clearly stipulates that the social security benefits shall be terminated once migrant workers leave Myanmar. In the case of Malaysia, even though the Employee's Social Security Act does not differentiate between local and migrant workers, the issuance of subordinate laws which gives the authority to the agency, SOCSO, in providing social security for migrant workers only covers employment-injury benefit only.¹¹⁰ In the case of Viet Nam, the requirement to be entitled to join compulsory social security scheme for migrant workers is employment contract of no less than 12 months, while local workers only needs at least 1 month of employment contract. This indicates unequal treatment by laws of these AMS.¹¹¹

For Brunei Darussalam and Singapore which use provident fund as the main type of social security program, the laws on provident fund in these two countries cover only migrant workers who are permanent residents (PR) of each country. In the case of Singapore, foreigners do not save for their retirement through the CPF because their stay in Singapore is transient. However, they have the option of saving through the Supplementary Retirement Scheme.

¹¹⁰ From the interview at SOCSO in KL, Malaysia on the 7th of March 2019.

¹¹¹ From the interview at MOLISA in Ha Noi, Viet Nam on the 14th of February 2019.

Equality of treatment affects the connectivity in other countries as the negotiating party would wish to receive the benefits from an agreement equally before entering into the cooperation. However, the level of emphasis on equality of treatment in SSA, EA, and MoC varies. As one of the principles of SSA is equal treatment, it is necessary for all involving parties to provide equal treatment towards migrant workers in every aspect. By contract, an EA focuses on the exportability of benefits, so if the exportability of benefits is equally applied to migrant workers (e.g. the procedures to export benefits for local and migrant workers are the same), an EA may be made. This is similar to MoC which focuses on administrative cooperation between social security agencies.

5.1.2 POLICY

This refers to social security policies in AMS. The main points of analysis are whether each AMS has social security policy which covers migrant workers, as equal treatment is required under SSA.

According to the literature review, it was found that several ASEAN countries, such as, Cambodia, Lao People's Democratic Republic, Myanmar, and Indonesia have policies which tend to focus on the extension of social protection coverage to include as many of their nationals as possible. This might be because these AMS have a large number of informal workers who have yet to be included in the social security system. Additionally, these countries play the role of countries of origins and thus do not host a large number of migrant workers from other countries. Therefore, non-national workers may not be considered as the main target of the social security policy, compared to national workers who are inside and outside of these country.

For destination countries, the social security policies in Thailand in the past has allowed migrant workers to enter the social security system. However, in the case of Singapore, migrant workers who do not have permanent residence status cannot join the provident fund. In the past few years, ASEAN Member States, such as, Malaysia, Viet Nam and Brunei Darussalam have issued policies to extend social protection to migrant workers. In the case of Malaysia, as of 1 January 2019, employers shall register migrant workers who have work permit in the social security system by which the migrant workers shall receive the employment-injury benefit administered by SOCSO, the social security agency which enforces the Employees' Social Security Act 1969.

5.1.3 SYSTEM

This refers to the social security systems in AMS. According to the literature review, it was found that some ASEAN Member States use more than one social security system for different benefits. Nevertheless, in general, there are three main systems used by AMS as follows: social insurance, provident fund, and employer-liability. For instance, in Malaysia, provident fund is used for old-age benefits, while private insurance covers medical care for migrant workers, and sickness and maternity benefits are covered by employer-liability (please see Table 4.1 for more details).

According to the interview of an SSA expert, it was recommended that an SSA should be done between countries using the same type of social security program, because linking different system types brings more complication in terms of coordination and application.¹¹² There is no existing SSA which is made between the countries with different systems. The complication

¹¹² From the interview at SOCSO in KL, Malaysia on the 7th of March 2019.

stems from the different principles in individual system; for instance, social insurance is based on the principle of social solidarity, and hence established in a form of one collective fund for every member in the society. By contrast, provident fund is largely based on individualism which stresses on the responsibility of individual to take care of oneself. Therefore, the provident fund is administered in a form of individual account for each person.

Each system has different administration and payment methods, for instance, under the provident fund, the management of individual account renders the preserving and maintaining of benefits easier as contribution and saving of each account holder is managed separately. The provident fund, however, normally pays benefit in a lump-sum, while social security offers payment in periodical pension.

For the purpose of analysis under this section, the social insurance which is the system adopted by the majority of ASEAN Member States is used as a benchmark to identify the possibility of connecting social security schemes between AMS.

5.1.4 BENEFIT PACKAGE

This refers to the social security benefits provided by each AMS, in accordance with the minimum standard required in the Social Security (Minimum Standards) Convention (C 102) which identifies social security benefits into nine categories.

According to the Regional Workshop on 4 December 2018, in Bangkok, Thailand, it was found that the benefits which migrant workers may have difficulty to get access to are the long-term benefits such as old-age benefit, invalidity benefit and survivors benefit, because these benefits often require a long qualifying contribution period.

The longest qualifying contribution period among AMS is for the old-age benefit and invalidity benefit in Viet Nam, which equals to 20 years. For survivors benefit in Viet Nam, 15 years of qualifying contribution period is required. Such a requirement is, therefore, an obstacle for migrant workers who may not work and reside in Viet Nam for such a long period of time. An SSA is a tool to remove this obstacle by using the principle of totalization of contribution periods, in order to allow migrant workers to access the long-term benefits.

5.1.5 AGENCY

This refers to the agency or organization responsible for administration and management of the social security system in each AMS. The main point of analysis for this input is whether the process for claiming benefits presents any obstacle to migrant workers, considering from the process for claiming and payment of benefits.

As portability comprises of three elements namely, preserve, maintain, and transfer, regardless on nationality and residency, migrant workers, no matter where they are, shall be able to access the process for claiming and payment of benefit administered by the social security agency in the country where they are eligible to receive such benefit. This means the process for claiming benefits via post or online, and the payment via bank accounts should be available.

It was found that every AMS requires a form for claiming of benefits to be filled and submitted together with supporting documents. In practice, an insured person usually has to undertake this step at a branch of social security office, and this may present an obstacle to a migrant

worker who wishes to receive the benefits but lives outside the country. In Malaysia, Singapore, the Philippines, and some areas in Viet Nam, online submission of claim application and supporting documents is available.

In every AMS, except for Myanmar, payment of benefits to an insured person can be made through bank account transfer, along with other options such as cash and cheques.

5.1.6 STATISTICS

This refers to the statistics related to social security and migrant workers in each AMS, such as the number of migrant workers, and the number of employees who are the main targets of compulsory social security scheme. The statistical data on workforce and labour migration in ASEAN is presented in Chapter 2.

Considering the statistics on labour migration, many countries in ASEAN, especially Thailand, Malaysia, and Indonesia seemed to experience an increase in the number of migrant workers. This is with the exemption of Brunei Darussalam, Cambodia, and Lao People’s Democratic Republic. Thailand has the highest number of migrant workers from ASEAN, followed by Malaysia.

This study focuses on formal workers under the compulsory contribution scheme. In several countries, this means workers who have the status of employees. According to the research, it was found that almost in all AMS, those who have the status of employee hold a majority share of national workforce. This is, however, an exception for Cambodia and Lao People’s Democratic Republic, where the majority of workfoce have the status of family workers. The AMS with the largest share of employees is Malaysia, followed by the Philippines and Indonesia respectively.¹¹³

Table 5.1. The analysis on overall practicability of portibility of the social security rights

	BR	CA	IN	LA	MA	MM	PH	SG	TH	VN
Law		✓		✓			✓		✓	
Policy	✓				✓		✓		✓	✓
System*		✓	✓	✓	✓	✓	✓		✓	✓
Benefit				✓		✓	✓		✓	✓
Agency	✓				✓		✓	✓		✓
Statistic			✓		✓		✓		✓	

Note: *This may vary across benefits. At this stage, the main system which covers the most benefits is selected. A tick (✓) sign means that the main system type in that AMS is social insurance

Source: TDRI 2019

Table 5.1 presents the analysis of the overall practicability of ASEAN Member States in establishing portability of social security rights. It shows that the Philippines, which has experiences in SSAs with non-ASEAN countries, is the only AMS with practicability in all input factors. Although the Philippines is usually regarded as a labour-sending country, the country has policy to treat migrant workers in the Philippines equally under the principle of

¹¹³ The data used for comparison is different in accordance with the data collection year and there is no data for Brunei Darussalam, Myanmar and Singapore.

equal treatment. The country also implements long-term benefits which require long qualifying contribution period. The experience in concluding several SSAs with other countries make the social security agency of the Philippines be equipped with online submission and direct transfer of money via bank accounts. In addition, the Philippines has the second highest ratio of workers who are employees among all AMS.

Thailand has practicability for portability of social security rights under five factors: law, policy, system, benefits, and statistics. In regard to the agency, it was found that there are limitations in the process of claiming for benefits. Claim submission online is not available (though a plan to establish an online system is underway), and benefit payment overseas has to be through Thai embassies abroad. Although, in practice, this may deem to be exportability in a sense that the insured persons who live abroad do not have to travel to Thailand to receive the benefits, by considering that there is usually only one Thailand embassy situated in the capital city of each country, this may present an obstacle for the insured persons to have to commute from other areas to claim for their benefits. Nonetheless, the Thailand government has the policy to promote the use of technology in providing services to the public and the Social Security Office of Thailand is considering removing the limitations in both cases. In the future, Thailand should be ready in all aspects in social security connectivity with other countries in ASEAN.

Viet Nam has a social insurance policy which covers migrant workers. Even though unemployment benefit is not offered to migrant workers, such benefit is generally not applicable to migrant workers who must be in employment as a requirement for work permit. Moreover, the law in Viet Nam stipulates the longest qualifying contribution period in ASEAN of 20 years.

Malaysia, as an important destination country in ASEAN, also has a policy to extend social protection to migrant workers through the provision of employment-injury benefits scheme that is equal to local workers. Malaysia also has practicability in regard to the agency which offers online submission channel and transfer of money abroad. Moreover, the country has high ratio of employees which is the target group benefiting from SSA.

Taking into account the analysis in this section, the research team chose to conduct fieldtrips for in-depth interview and technical discussion in the Philippines, Viet Nam, and Malaysia. The summaries of the three fieldtrips are presented in Annex 3.

Since there are various branches of social security benefits, and there is a possibility that some benefits may be more advanced in terms of management and enforcement than others due to each country's economic and social environments. For instance, in Myanmar, even though the social security law indicates several aspects of social security benefits, in practice, some benefits such as old-age benefit and invalidity benefit are still not enforced. In the next section, the analysis on the practicability to connect social security schemes by each benefit is discussed.

5.2 ANALYSIS ON THE PRACTICABILITY TO CONNECT SOCIAL SECURITY SCHEMES BY EACH BENEFIT

According to the content in Chapter 4, ASEAN Member States have different sets of benefit package. The requirements for each benefits including the claim procedure and payment can also vary across benefits. In this section, the practicability of connecting social security schemes is analysed by each benefit.

However, it should be noted that the analysis in this section does not include the unemployment benefit and family benefit. Unemployment benefit is generally not applicable to migrant workers who must be in employment in order to reside and work in the host country. For family benefit, there are currently only two AMS which provide the benefits, in different forms. Therefore, the possibility to connect family benefits between AMS is rather low.

The analysis in this section also uses the same inputs as the analysis in the previous section, except for the statistics. As each benefit is set as the main object of analysis, the remaining four input factors – law, policy, system, and agency – will be used as variables. Each factor contains the following issues of analysis.

(a) Law

- Does the benefit exist in the law? (Existence)
- Does the benefit cover migrant workers? (Cover migrant)
- Does the benefit treat migrant workers equally to local workers? (Equal treatment)
- Can the benefit be maintained if migrant workers leaves the country? (Maintain)

(b) Policy

- Is there a policy to promote migrant workers to receive the benefit? (Promote migrant)
- Has the benefit been implemented? (Implement)

(c) System

- Type of program used in this benefit (Type): (1) social insurance; (2) provident funds; (3) employers' liability; (4) private insurance; (5) universal coverage
- Who contribute in this benefit? (Contribute party): (1) Employer; (2) Employee; (3) Government; (4) Others

(d) Agency

- Channels of claim application (Claim submission): (1) At office; (2) By post; (3) Online
- Channels of benefit payment (Payment): (1) Cash; (2) Cheque; (3) Bank account

5.2.1 OLD-AGE BENEFITS

Table 5.2 illustrates the analysis result on the practicability of connecting old-age benefits between AMS. This would be greatly beneficial to migrant workers as old-age benefit is a long-term benefit which requires several years of contribution. In ASEAN, Viet Nam prescribes the longest qualifying contribution period of 20 years. Considering that migrant workers often move to work abroad when they are young, and tend to return to their country of origin when they are older, this means that they may be unable to fulfill the contribution period requirement of the social security scheme in their home country, resulting in them lacking of social security

during retirement. Thus, portability in the case of old-age benefits is necessary for ASEAN, the region with high level of labour migration and aging society challenges, especially in the case of Singapore and Thailand.

It was found that Cambodia and Myanmar have not implemented old-age benefits, while Viet Nam will begin providing old-age benefits to migrant workers in 2022. Brunei Darussalam and Singapore offer these benefits only to their nationals and permanent residents (PR). In Malaysia, however, migrant workers may choose to contribute voluntarily, but since this benefit also depends on the contribution from employers, this means that employers may select not to contribute for migrant workers – resulting in migrant workers being unable to access to old-age benefits. In the case of Indonesia, migrant workers are not treated equally compared to local workers as the social security law stipulates that migrant workers must have been working in Indonesia for at least six months and paying contribution, before gaining access to social security scheme in Indonesia.

Thus, AMS with the practicability to establish portability in old-age benefits through SSA is the Philippines, Thailand, and Lao People’s Democratic Republic, all of which use social insurance system for old-age benefits, exercise equal treatment principle, and are able to export benefits overseas.

For Malaysia and Singapore which use the provident fund system, equal treatment principle needs to first be established in order to move toward portability with an SSA. Nevertheless, old-age benefits in the two countries can already be exported; therefore, an EA between Singapore and Malaysia may be established to set a clear procedure of and international cooperation in exporting the benefits. In the future, once equal treatment is offered to all types of migrant workers, the two AMS may enter into an SSA negotiation.

Moreover, the countries which use the social insurance system, such as, the Philippines, Thailand, and Lao People’s Democratic Republic, are also able to conclude MoC with Viet Nam. And in 2022, when Viet Nam will implement old-age benefits for migrant workers, and export the benefits overseas, the country will then be able to conclude an SSA with the other three AMS.

Table 5.2. Analysis on the practicability to establish portability in old-age benefits

	Law				Policy		System		Agency		
	Existence	Cover Migrant	Equal treat	Maintain	Promote migrant	Implement	Type	Contribute party	Claim submission	Payment	Exportability
BR	✓	PR only	x	✓	x	✓	2	1,2	1	3	NA
CA	✓	✓	✓	-	x	x	NI	-	-	-	-
IN	✓	✓	x	✓ ¹	x	✓	1	1,2	1	1,3	NA
LA	✓	✓	✓	✓ ²	x	✓	1	1,2	1	1,2,3	✓ ³
MA	✓	Vol	x	✓	x	✓	2	1,2	1,2,3	2,3	✓
MM	✓	✓	✓	-	x	x	NI	-	-	-	-
PH	✓	✓	✓	✓	✓	✓	1	1,2	1,3	3	✓
SG	✓	PR only	x	✓	x	✓	2	1,2,3	1,2,3	2,3	✓
TH	✓	✓	✓	✓	✓	✓	1	1,2,3	1,2	1,2,3	✓ ⁴
VN	✓	✓	x	✓	x	✓ ⁵	1	1,2	1,2,3 ⁶	1,3	x

Note: Blue = Portability; Green = Exportability; Yellow = Administrative cooperation

1. While in the concept of social security, the contributions paid by participants are entirely those of the participants. If there is no claim or payment of compensation, the premium or fixed contribution is recorded as the participant's right. <https://faq.bpjsketenagakerjaan.go.id/#>
2. Article 51. Aggregation of insured period: Any resigned insured person, when resuming to work and having paid contribution, shall be given insured period for further benefits entitlements <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/95117/128492/F1193623474/LAO95117%20Eng.pdf>
3. The insured person shall be responsible for the transfer fee
4. Payment of benefit to recipients overseas must be in the form of cheque issued by Ministry of Foreign Affairs
5. Will extend to migrant workers in 2022
6. Online channel is available in some areas, according to the interview with VSS on 15 February 2019

Source: TDRI 2019

5.2.2 INVALIDITY BENEFITS

Table 5.3 illustrates the findings of analysis on practicability to establish portability in invalidity benefits, which is another long-term benefit requiring long period of contribution. It is also another branch of benefit which Cambodia and Myanmar have not yet implemented, even though the benefit is mentioned in the national social security laws of these two AMS.

In Viet Nam, invalidity which is not related to employment will receive benefit from old-age benefit. Therefore, after being examined and evaluated, if an insured person is found to be unable to no longer continue to work, he or she shall have the right to receive old-age pension before his or her retirement age. However, the requirement of contribution period for old-age pension of 20 years must be first fulfilled.¹¹⁴ In the case of Indonesia, a person whom has been

¹¹⁴ From the interview with MOLISA on the 14th of February 2018.

diagnosed by a medical practitioner to have loss the capacity to work shall receive a pension under the pension program, which covers the cases of retirement, invalidity, and pension to survivors in the case of death.¹¹⁵ As invalidity benefits in these two AMS are prescribed together with the old-age benefits (represented with ‘-’ in the Table), Viet Nam and Indonesia cannot connect invalidity benefits with other AMS, unless the international negotiation will include old-age benefits as well. As previously mentioned, these two countries are currently not able to initiate portability of old-age benefits.

For Brunei Darussalam and Singapore, invalidity benefits are provided to only migrant workers who are permanent residents (PR). In the case of Malaysia, even though invalidity benefit is under the authority of SOCSO which oversees the employment-injury scheme that is provided equally to migrant workers, the invalidity benefits are still reserved only for Malaysian and PRs.¹¹⁶

AMS which can conclude SSA in invalidity benefits are Lao People’s Democratic Republic, the Philippines, and Thailand. In the case of Thailand, invalidity benefits can be preserved for six months after the eligible insured persons no longer hold the status of employee, as prescribed under section 38 of the Social Security Act. However, contribution in invalidity benefits cannot be maintained, and hence the insured persons must restart contribution from the beginning after being employed again. However, the qualifying contribution period in the case of invalidity benefits in Thailand is only three months. Even though it is not necessary for Thailand to conclude an SSA as the totalization of contribution period is not needed. In regard to the practicability, Thailand can conclude an SSA in invalidity benefits with the Philippines.

In the case of Malaysia and Singapore, an EA may be concluded to set a clear procedure about export benefits between the two AMS. Even though the systems used to manage invalidity benefits in these two AMS are different, which would present complication in totalization of contribution period in the case of SSA, this should not be an obstacle for an EA which focuses only on exportability of benefits.

For every AMS that can conclude SSA and EA, a MoC is also an option.

¹¹⁵ In Indonesia, a person who has been diagnosed by a practitioner that he or she loses capacity to work shall receive pension under Pension security and Old-age security by which those two benefits cover the case of retirement, invalidity and death managed by BPJS of Employment (Source: Richard D. Emmerson and Indrawan Dwi Yuriutomo, “Guide to Benefits in Indonesia,” <https://www.lexology.com/library/detail.aspx?g=72b0f472-505f-4934-8b69-ef1fc4cc5409>)

¹¹⁶ From the interview with SOCSO in KL on the 7th of March 2019.

Table 5.3. Analysis on the practicability to establish portability in invalidity benefits

	Law				Policy		System		Agency		
	Existence	Cover Migrant	Equal treat	Maintain	Promote migrant	Implement	Type	Contribute party	Claim submission	Payment	Exportability
BR	✓	PR only	x	✓	x	✓	2	1,2	1	3	NA
CA	✓	✓	✓	-	x	x	NI	-	-	-	x
IN²	x	-	-	-	-	-	-	-	-	-	-
LA	✓	✓	✓	✓	x	✓	1	1,2	1	1,2,3	✓ ³
MA	✓	PR only	x	✓	x	✓	1	1,2	1,2,3	2,3	✓
MM	✓	✓	✓	-	x	x ¹	NI	-	-	-	-
PH	✓	✓	✓	✓	✓	✓	1	1,2	1,3	3	✓
SG	✓	PR only	x	✓	x	✓	2	1,2,3	1,2,3	2,3	✓
TH	✓	✓	✓	x	✓	✓	1	1,2,3	1,2	1,2,3	✓ ⁴
VN⁵	x	-	-	-	-	-	-	-	-	-	-

Note: Blue = Portability; Green = Exportability

1. According to questionnaire received at the Regional workshop on December 4, 2018
2. Under Pension security (pension payment) and Old-age security (lump-sum payment), both cover the cases of retirement, invalidity, and death, and are administered by BPJS
3. The insured person shall be responsible for the transfer fee
4. Payment of benefit to recipients overseas must be in the form of cheque issued by Ministry of Foreign Affairs
5. It is included in the Old-age benefits

Source: TDRI 2019

5.2.3 SURVIVORS BENEFITS

Table 5.4 illustrates the findings of analysis on practicability to establish portability in survivors benefits, which is another long-term benefit requiring a long period of contribution. Cambodia and Myanmar has not yet implemented survivors benefits despite indentifying such benefits in their social security laws. In the case of Viet Nam, survivors benefits will be extended to migrant workers in 2022. Brunei Darussalam and Singapore offer survivors benefits only to their national and PRs. And in the case of Malaysia and Singapore, survivors benefits are prescribed together with invalidity benefits. In Indonesia, equal treatment between migrant workers and local workers has yet to be established by law.

Table 5.4. Analysis on the practicability to establish portability in survivors benefits

	Law				Policy		System		Agency		
	Existence	Cover Migrant	Equal treat	Maintain	Promote migrant	Implement	Type	Contribute party	Claim submission	Payment	Exportability
BR	✓	PR only	x	✓	x	✓	2	1,2	1	3	NA
CA	✓	✓	✓	-	x	x	NI	-	-	-	-
IN¹	x	✓	x	✓ ²	x	✓	1	1,2	1	1,3	NA
LA	✓	✓	✓	✓	✓	✓	1	1,2	1	1,2,3	✓ ³
MA⁴	x	-	-	-	-	-	-	-	-	-	-
MM	✓	✓	✓	-	x	x	NI	-	-	-	-
PH	✓	✓	✓	✓	✓	✓	1	1,2	1,3	3	✓
SG	x	-	-	-	-	-	-	-	-	-	-
TH	✓	✓	✓	x	✓	✓	1	1,2,3	1,2	1,2,3	✓ ⁵
VN	✓	✓	x	✓	✓	✓ ⁶	1	1,2	1,2,3 ⁷	1,3	x

Note: Blue = Portability; Yellow = Administrative cooperation

1. In the case of death, benefits will be paid from Death benefit (lump-sum) and Pension program (pension)
2. Have not been confirmed, but the website of BPJS Ketenagakerjaan implies that this is possible
3. The insured persons shall be responsible for the transfer fee
4. Pension paid to the survivor of the insured person whose death is non-work related is under the invalidity benefits, which is provided only to the Malaysian citizens and PRs
5. Payment of benefit to recipients overseas must be in the form of cheque issued by Ministry of Foreign Affairs
6. Will cover migrant workers in 2022
7. Online channel is available in some areas, according to the interview with VSS on 15 February 2019

Source: TDRI 2019

The countries which may conclude an SSA for portability in the case of survivors benefits are Lao People's Democratic Republic and the Philippines. For Thailand, the qualifying contribution period for survivors benefits is three years; therefore, the maintenance of contribution into survivors benefits must be first established. Meanwhile, Thailand may conclude an MoC with Viet Nam.

5.2.4 MEDICAL CARE BENEFITS

Table 5.5 illustrates the findings of analysis on practicability to establish portability in medical care benefits between AMS. This is a short-term benefit which requires short period of contribution. The longest contribution period in ASEAN is three months; therefore, medical care benefits do not require maintainance, totalization, and transfer of contribution periods between countries (represented with 'NR', as short for Not Relevant, in Maintain).

Moreover, in general, the responsible agencies usually pay the benefits, in this case, medical expenses directly to the healthcare facilities. The typical process often requires the insured persons to show their identifications and provide the necessary information to the hospital, which will then proceed to claim the medical expenses with the responsible social security agencies (represented with 'NR' in Claim submission and Payment, as this process is not done between the insured persons and the responsible agencies).

Connectivity medical care benefits between different involves several complex issues and arrangements.¹¹⁷ One of them is the recognition of medical institutes in a foreign country, that the medical treatment received there is of the same standards as the domestic medical institutes. This is an issue that warrants consideration and determination by other agencies besides the social security agency, such as the Ministry of Public Health. Considering the different levels of economic and social development between countries in the region, the recognition of medical institutes between AMS may not be straight forward. Moreover, there is also an issue regarding payment mechanism which is different in each AMS. One AMS may use payment per capitation (having a set budget per person), while another may disburse with fee-for-service method (paying the actual expense incurred from treatment). This may affect the payment for medical bills between countries with different levels of living cost, as the expenses may be too high for another country to reimburse.

Brunei Darussalam and Malaysia provide medical care benefits to their citizens and PRs under the universal coverage, while the medical care for migrant workers is under the private insurance system.¹¹⁸ In Singapore, employers of migrant workers need to buy a medical insurance plan for each migrant worker that they employ. The insurance should cover inpatient care and day surgery, including hospital bills for conditions that may not be work related, while Viet Nam uses the social insurance; however, medical care benefits for migrant workers in these two countries are provided in separated schemes.¹¹⁹ In Indonesia, the six-month residence and employment requirement for migrant workers is also applied to medical care benefits.

Thus, this leaves Cambodia, Lao People's Democratic Republic, Myanmar, the Philippines, and Thailand. However, due to the differences in payment mechanism and living cost in each country, as well as the necessity to recognize foreign medical institutes to ensure that the quality of treatment is of the same standards, the portability of medical care benefits within ASEAN is currently not feasible. Instead, an MoC between these AMS by which the responsible agencies can start with a discussion about the recognition of medical institutes in another country is more viable.

¹¹⁷ Holzmann and Koettl (2011), 32.

¹¹⁸ UNDP, "The Right to Health," http://www.asia-pacific.undp.org/content/dam/rbap/docs/Research%20&%20Publications/hiv_aids/rbap-hhd-2015-the-right-to-health.pdf (accessed on the 23rd of March 2019).

¹¹⁹ From the interview with MOLISA in Ha Noi, Viet Nam, on the 14th of February 2019.

Table 5.5. Analysis on the practicability to establish portability in medical care benefits

	Law				Policy		System		Agency		
	Existence	Cover Migrant	Equal treat	Maintain	Promote migrant	Implement	Type	Contribute party	Claim submission	Payment	Exportability
BR	✓	PR only	x	NR	x	✓	5	3	NR	NR	NA
CA	✓	✓	✓	NR	✓	✓	1	1,2	NR	NR	x ¹
IN	✓	✓	x	NR	✓	✓	1	1,2	NR	NR	NA
LA	✓	✓	✓	NR	✓	✓	1	1,2	NR	NR	x ¹
MA	✓	PR only	x	NR	x	✓	5	1,2	NR	NR	x ²
MM	✓	✓	✓	NR	x	✓	1	1,2	NR	NR	x ¹
PH³	✓	✓	✓	NR	✓	✓	1	1,2	NR	NR	x ²
SG	✓	PR only	x	NR	x	✓	2	1,2	NR	NR	x ¹
TH	✓	✓	✓	NR	✓	✓	1	1,2,3	NR	NR	x
VN	✓	x	x	NR	✓	✓	1	1,2	NR	NR	x ²

Note: Yellow = Administrative cooperation NR = Not relevant NA = Not available

1. According to questionnaire received at the Regional workshop on December 4, 2018

2. From the interview and in-depth data collection

3. Managed by PhilHealth

Source: TDRI 2019

5.2.5 SICKNESS BENEFITS

Table 5.6 presents the findings of analysis on the practicability to establish portability in sickness benefits between AMS. Sickness benefits are usually in the form of cash benefit paid during sick leaves from work. This is another benefit branch which does not require long qualifying contribution period and therefore, portability through an SSA is not necessary. However, sickness benefits can be helpful for migrant workers who wish to recuperate or rehabilitate in their home countries. Hence exportability of sickness benefits may be a more appropriate way to strengthen social protection for migrant workers.

In several AMS such as Brunei Darussalam, Indonesia, Malaysia, and Singapore, sickness benefits are under employer-liability as prescribed in the labour protection laws of each country. Therefore, it is unlikely to establish portability or exportability as employers are the persons paying for the benefits (represented with 'NR' in Claim submission and Payment, as this process is not done between the insured persons and the responsible agencies).

The other AMS which provide sickness benefits under the social insurance system, namely, Cambodia, Lao People's Democratic Republic, Myanmar, the Philippines, and Thailand, are ready for exportability. For countries that have already export benefits overseas, in this case the Philippines and Thailand, may opt to start a negotiation for EA. For Cambodia, Myanmar, and Viet Nam, a MoC to start cooperation between social security agencies can be initiated.

Table 5.6. Analysis on the practicability to establish portability in sickness benefits

	Law				Policy		System		Agency		
	Existence	Cover Migrant	Equal treat	Maintain	Promote migrant	Implement	Type	Contribute party	Claim submission	Payment	Exportability
BR¹	✓	✓	✓	NR	✓	✓	3	1	NR	NR	NR
CA	✓	✓	✓	NR	✓	✓	1	1	1	1,2,3	×
IN²	✓	✓	✓	NR	✓	✓	3	1	NR	NR	NR
LA	✓	✓	✓	NR	✓	✓	1	1,2	1	1,2,3	✓ ³
MA⁴	✓	✓	✓	NR	✓	✓	3	1	NR	NR	NR
MM	✓	✓	✓	NR	✓	✓	1	1,2	1	1,2	×
PH	✓	✓	✓	NR	✓	✓	1	1,2	1,3	3	✓
SG⁵	✓	✓	✓	NR	✓	✓	3	1	NR	NR	NR
TH	✓	✓	✓	NR	✓	✓	1	1,2,3	1,2	1,2,3	✓ ⁶
VN	✓	✓	✓	NR	✓	✓	1	1	1,2,3 ⁷	1,3	×

Note: NR = Not relevant; Green = Exportability; Yellow = Administrative cooperation

1. Employment Order, 2009
(http://agc.gov.bn/AGC%20Images/LAWS/Gazette_PDF/2009/EN/s037.pdf)
2. Law No. 13 of 2003 on Manpower (Labour Law)
3. The insured persons shall be responsible for the transfer fee
4. Employment Act of 1955.
5. Employment Act
6. Payment of benefit to recipients overseas must be in the form of cheque issued by Ministry of Foreign Affairs
7. Online channel is available in some areas, according to the interview with VSS on 15 February 2019

Source: TDRI 2019

5.2.6 MATERNITY BENEFITS

Table 5.7 presents the findings of analysis on the practicability to establish portability in maternity benefits. This benefit is similar to sickness benefits in the sense that the totalization of contribution period is not required, and thus exportability of cash benefit paid during maternity leaves for migrant workers who wish to return to their countries of origin to give birth should be the more appropriate arrangement.

Similar to the case of sickness benefits, in Brunei Darussalam, Indonesia, Malaysia and Singapore, maternity benefits are under employers' liability as prescribed by the law on labour protection. The remaining countries with social insurance system such as Lao People's Democratic Republic, the Philippines, and Thailand, may choose to start negotiating an EA to set up the procedure for exportability. For AMS which do not currently export benefits overseas such as Cambodia, Myanmar, and Viet Nam may opt to discuss about MoC to cooperate about maternity benefits.

Table 5.7. Analysis on the practicability to establish portability in maternity benefits

	Law				Policy		System		Agency		
	Existence	Cover Migrant	Equal treat	Maintain	Promote migrant	Implement	Type	Contribute party	Claim submission	Payment	Exportability
BR¹	✓	✓	✓ ¹	NR	✓	✓	3	1,3	NR	NR	NR
CA	✓	✓	✓	NR	✓	✓	1	1	1	1,2,3	×
IN²	✓	✓	✓	NR	×	✓	3	1	NR	NR	NR
LA	✓	✓	✓	NR	✓	✓	1	1,2	1	1,2,3	✓ ²
MA⁴	✓	✓	✓	NR	✓	✓	3	1	NR	NR	NR
MM	✓	✓	✓	NR	×	✓	1	1,2	1	1,2	×
PH	✓	✓	✓	NR	✓	✓	1	1,2	1,3	3	✓
SG⁵	✓	✓	×	NR	×	✓	3	1	NR	NR	NR
TH	✓	✓	✓	NR	✓	✓	1	1,2,3	1,2	1,2,3	✓ ⁵
VN	✓	✓	✓	NR	✓	✓	1	1	1,2,3 ⁶	1,3	×

Note: NR = Not relevant; Green = Exportability; Yellow = Administrative cooperation

1. Employee Order: foreign nationals are allowed to take maternity leave up to nine weeks, while locals and PR can take 15 weeks. However, local and foreign nationals will receive the same amount of cash benefit, which is paid by the employer and government
2. The insured persons shall be responsible for the transfer fee
3. Laws of Malaysia Act 1419 Employment (Amendment) 2012 stipulates that all female workers in the country are entitled to maternity leave, during which the employers shall provide cash benefit
4. Singaporeans and PRs are protected under CPF. Migrant workers will receive maternity benefits paid by employers, as prescribed by the Employment of Foreign Manpower Act
5. Payment of benefit to recipients overseas must be in the form of cheque issued by Ministry of Foreign Affairs
6. Online channel is available in some areas, according to the interview with VSS on 15 February 2019

Source: TDRI 2019

5.2.7 EMPLOYMENT-INJURY BENEFITS

Table 5.8 illustrates the findings of analysis on the practicability to establish portability in employment-injury benefits among AMS. The majority of AMS use the social insurance system in which employers pay contribution to the social security agency to manage the benefits. Exceptions are Brunei Darussalam and Singapore which use employers' liability system.

In the case of Singapore, the Work Injury Compensation Act stipulates that employment-injury benefits are the employer-liability. Therefore, in the case where a migrant worker is no longer employed in and leaves Singapore, he/she shall not be entitled to receive employment-injury benefit in Singapore. However, if there was a pending claim relating to incident that happened during the employment period in Singapore, the migrant worker may receive the benefits via the legal representative or embassy of his/her country located in Singapore. The fact that there is no central agency to manage the payment of employment-injury benefits makes it difficult for Brunei Darussalam and Singapore to connect this branch of benefits with other countries.

Employment-injury benefit is considered to be a ‘mixed’ between short-term benefit and long-term benefit. Although the qualifying contribution period for employment-injury benefit is generally short (the longest period among AMS is only one month), benefit payment can be paid in a periodical pension in the case of permanent invalidity or total capacity loss. Maintaining the benefits for totalisation is therefore not necessary. However, since it may take some time for certain injuries to show symptoms, e.g. a migrant worker working with chemical substance may be found to have cancer after returning to the home country, an SSA will be beneficial in the sense of preserving the right to claim for employment-injury benefits, and facilitating migrant workers to receive the benefits outside the destination country. Moreover, the social security agencies can agree in the SSA about the definitions and scope of employment-injury that will be covered by the agreement, as well as the method to prove that such injuries are caused by employment.

The countries which are ready to conclude SSA in employment-injury benefits are Lao People’s Democratic Republic, the Philippines, Thailand, and Malaysia. These countries may also instead choose EA or MoC, if the negotiating parties mutually agree that it was a sufficient tool to provide the benefits to migrant workers.

For Cambodia, Indonesia, Myanmar, and Viet Nam, a MoC in sharing information and monitoring the status of insured persons who receive pension may be initiated. This shall include the recognition of medical institutes in a foreign country where insured persons can use for rehabilitation from employment-related injury.

Table 5.8. Analysis on the practicability to establish portability in employment-injury benefits

	Law				Policy		System		Agency		
	Existence	Cover Migrant	Equal treat	Maintain	Promote migrant	Implement	Type	Contribute party	Claim submission	Payment	Exportability
BR¹	✓	✓	✓	NR	✓	✓	3	1	NR	NR	NR ⁵
CA²	✓	✓	✓	NR	✓	✓	1	1	1,2	1,2,3	×
IN³	✓	✓	×	NR	×	✓	1	2	1	1,3	NA
LA	✓	✓	✓	NR	✓	✓	1	1	1	1,2,3	✓ ⁶
MA	✓	✓	✓	NR	✓	✓	1	1	1,2,3	2,3	✓
MM	✓	✓	✓	NR	✓	✓	1	1	1	1,2	×
PH	✓	✓	✓	NR	✓	✓	1	1	1,3	3	✓
SG⁴	✓	✓	✓	NR	✓	✓	3	1	NR	NR	✓ ⁷
TH	✓	✓	✓	NR	✓	✓	1	1	1	1,2,3	✓ ⁸
VN	✓	✓	✓	NR	✓	✓	1	1	1,2,3 ⁹	1,3	×

Note: NR means it is not relevant in this benefit E means depends on employers

1. Workmen's Compensation Act
2. <http://www.nssf.gov.kh/default/employment-injury-scheme-2/contribution-payment/>
3. <https://www.bpjsketenagakerjaan.go.id/Jaminan-Kecelakaan-Kerja.html>
4. Work Injury Compensation Act (WICA) <https://www.mom.gov.sg/workplace-safety-and-health/work-injury-compensation/employees-how-to-claim>
5. Social Security Programs Throughout the World : Asia and the Pacific, 2010
6. The insured persons shall be responsible for the transfer fee
7. From the questionnaire
8. Payment of benefit to recipients overseas must be in the form of cheque issued by Ministry of Foreign Affairs
9. Online channel is available in some areas, according to the interview with VSS on 15 February 2019

Source: TDRI 2019

5.3 SUMMARY OF ANALYSIS ON THE PRACTICABILITY TO CONNECT SOCIAL SECURITY SCHEMES IN THE ASEAN REGION

The findings of analysis on the practicability to connect social security schemes in the ASEAN region can be summarized as follows:

5.3.1 PORTABILITY THROUGH SOCIAL SECURITY AGREEMENT (SSA)

ASEAN Member States with practicability to establish portability by SSA are Lao People's Democratic Republic, the Philippines, and Thailand. These three countries are able to conclude SSA in old-age benefits and invalidity benefits, while a SSA in survivors benefits is possible between the Philippines and Lao People's Democratic Republic.

According to the data from the Foreign Workers Administration Office, Ministry of Labor Thailand, as of February 2019, there were 18,308 workers from the Philippines who received work permit to work in Thailand, the majority of them are high-skilled workers and professionals.¹²⁰ According to the World Bank, there were 350 Thai workers who work in the Philippines as of April 2018.¹²¹ Even though the numbers of migrant workers between the two countries are not large, it is deemed positive for a pilot agreement since it would not put too much burden for social security agencies in adjusting their management. This is also a good opportunity for the Social Security Office of Thailand to learn from the experiences of the Social Security System of the Philippines. The SSA may eventually lead to an increase number of migrant workers between the two countries, as their social protection is strengthened by the international agreement.

In a similar vein, there are 222,755 workers from Lao People's Democratic Republic who were permitted to work in Thailand as of February 2019. More than half of these workers are under the MoU between Thailand and Lao governments. However, as many migrant from Lao People's Democratic Republic work as domestic workers in Thailand, they are not covered by the compulsory contribution scheme under section 33 of the Social Security Act. Thus, the number of workers who will be included by a SSA between Lao People's Democratic Republic and Thailand may not be large, similarly to the case of the Philippines and Thailand.

In the case of employment-injury benefits, Lao People's Democratic Republic, the Philippines, and Thailand may initiate SSA negotiation with Malaysia. According to the data from ILO, in 2017, there were 64,043 Filipino workers, 12,442 Thai workers, and 61 Laotian workers in Malaysia.¹²²

The countries which are ready for SSA are able to choose EA or MoC as a preferred tool of connectivity. It should be noted that a SSA is the most comprehensive form of linking social security schemes between countries, as it includes the concept and application of exportability and administrative assistance. However, concluding a SSA may take longer negotiation time and more resources, compared to the case of EA and MoC.

5.3.2 EXPORTING BENEFITS THROUGH EXPORTABILITY AGREEMENT (EA)

For AMS which already export the benefits overseas but are unable to start SSA negotiation due to the lack of equal treatment, such as Malaysia and Singapore, an agreement to establish a clear set of procedure for exportability of old-age benefits and invalidity benefits can help facilitate migrant workers to claim from overseas. An EA can also assist the responsible agencies in monitoring the insured persons who live abroad through information exchange between countries.

For the three short-term benefits – employment-injury benefits, maternity benefits, and sickness benefits, it is not necessary to conclude SSA as the qualifying contribution period is not long and the totalization of contribution period is therefore not needed. Exporting the benefits to migrant workers who reside overseas should be sufficient. The AMS which may conclude EA in the three types of benefit are Lao People's Democratic Republic, the Philippines and Thailand.

¹²⁰ Foreign Labour Bureau, Ministry of Labour "Statistics on foreign workers who receive work permits in the Kingdom as of October 2018", https://www.doe.go.th/prd/assets/upload/files/alien_th/98802fed607243cb1c1afe248b3d29eb.pdf accessed on the 23rd of March 2019).

¹²¹ World Bank, "Migration and Remittance Data," <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data> (accessed on the 23rd of March 2019).

¹²² ILO, "TRIANGLE in ASEAN Quaterly Briefing Note," https://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_580148.pdf (accessed on the 15th of June 2019).

5.3.3 COOPERATION BETWEEN SOCIAL SECURITY AGENCIES THROUGH MEMORANDUM OF COOPERATION (MOC)

A social security benefit which cannot currently initiate SSA or EA due to additional requirements is the medical care benefits, which involve complex issues in recognition of foreign healthcare facilities, as well as differences in medical cost and payment mechanisms in each country.

For medical care benefits, connectivity between AMS may begin with the international cooperation between social security agencies in Cambodia, Lao People’s Democratic Republic, Myanmar, the Philippines, and Thailand by using MoC as a tool.

For the long-term benefits, such as, old-age benefit and survivors’ benefits, the countries which are ready in concluding SSA may choose to conclude MoC with Viet Nam as well. For the short-term benefits, such as, employment-injury benefits, maternity benefits and sickness benefits, these countries may choose to conclude MoC with Viet Nam and Myanmar.

However, in the future when Cambodia, Myanmar, and Viet Nam implement the long-term benefits, such as, old-age benefits, invalidity benefits, and survivors’ benefits for migrant workers in their countries, and exportability is also allowed, a negotiation of SSA between these AMS may be initiated.

Table 5.9 summarises findings of analysis on the practicability to connect social security schemes in the ASEAN region in three forms. First is establishing portability via SSA which would help migrant workers to access the long-term benefits by totalization of contribution period. The second form is to help migrant workers who live abroad to receive social security benefits by streamlining the exportability process via EA. Third, international cooperation in management and administration of social security agencies through MoC can assist the provision of social security towards migrant workers in the ASEAN region.

Table 5.9. Summary of the analysis on the practicability to connect social security schemes in the ASEAN region

	Old-age	Invalidity	Survivors	Medical	Sickness	Maternity	Work-injury
BR							
CA				MoC	MoC	MoC	MoC
LA	SSA	SSA	SSA	MoC	EA	EA	SSA
IN							MoC
MA	EA	EA					SSA
MM				MoC	MoC	MoC	MoC
PH	SSA	SSA	SSA	MoC	EA	EA	SSA
SG	EA	EA					
TH	SSA	SSA	MoC	MoC	EA	EA	SSA
VN	MoC		MoC				MoC

6

RECOMMENDATIONS

This study offers three sets of recommendations. The first set comprises of recommendations for the AMS with practicability to move forward with the appropriate forms of connecting social security schemes with other countries. The second set of recommendations is related to law amendment and capacity building for social security agencies in order to advance the connectivity in the future. The third set of recommendations is offered to all Member States of ASEAN. The details are as follows.

6.1 RECOMMENDATIONS FOR THE AMS WITH PRACTICABILITY TO MOVE FORWARD WITH THE APPROPRIATE FORMS OF CONNECTING SOCIAL SECURITY SCHEMES WITH OTHER COUNTRIES

This section offers recommendations to initiate SSA, EA, and MoC respectively.

6.1.1 RECOMMENDATIONS TO ESTABLISH PORTABILITY OF SOCIAL SECURITY SCHEMES BY USING SOCIAL SECURITY AGREEMENT (SSA)

There are six recommendations as follows:

- (1) Establish a working group to be responsible to study the feasibility for a bilateral agreement. This working group shall have the duties to coordinate with relevant agencies, both domestic and international especially the social security agency of another country, as well as to collect and update information related to the social security schemes of another country.
- (2) Arrange a domestic consultation to consider and identify the negotiation positions about the coverage of SSA such as, definitions, eligibility, and totalization method.
- (3) Review other related laws and coordinate with the responsible agencies as prescribed by such laws to ensure that the conclusion of SSA will not contradict any domestic law.
- (4) Prepare and review the related documents such as claim application form, certificate of coverage, and life certificate. These shall be available in English and local languages of the counterparts, in a user-friendly format and in electronics form.
- (5) Establish a mechanism to monitor the status of benefit recipients. For instance, in the case of the Philippines, Skype session is used to confirm the identify and eligibility of the benefit recipients as a requirement to continue receiving pension payment. For coordination with the social security agency in another country, the database of social security agency shall also be connected to the databases of relevant agencies such as the Ministry of Interior, should questions relating to the status of Thai workers arise.

- (6) Consider more options in exporting benefits overseas. For instance, Thailand only transfers social security benefits via the Ministry of Foreign Affairs and the insured persons claiming for the benefits have to collect cheque at the Thai embassy in such foreign country. Such process is not convenient for the benefit recipients, especially those who have movement limitation. Negotiating with commercial banks in the country, along with the regulatory body of the banking sector, to reduce the transfer fee can help facilitate the receipt of benefits overseas. The social security agency still pays into the bank accounts in Thailand, while the benefit recipients may use their ATM cards to withdraw money from any ATM in a foreign country.

6.1.2 RECOMMENDATIONS TO ESTABLISH EXPORTABILITY AGREEMENT (EA)

The recommendations under this part is the same as provided under section 6.1.1, because both SSA and EA have a status of international agreement. An EA, however, highlights the exportability of benefits. Recommendation No. 5 about expanding more options for overseas transfer may be undertaken first. While negotiation is underway, exportability of benefits may also be done unilaterally.

6.1.3 RECOMMENDATIONS TO ESTABLISH COOPERATION BETWEEN SOCIAL SECURITY AGENCIES USING MEMORANDUM OF COOPERATION (MoC)

Comparing to an international agreement, a Memorandum of Cooperation does not generally have strong legal effect obligating the parties. However, an MoC may be considered as the first step in connecting social security schemes between AMS. In order to move forward with an MoC, a working group which will act as the main coordinating body with foreign counterpart and domestic agencies that are responsible for providing social protection to migrant workers (e.g. the Ministry of Labour, Immigration Bureau, and Ministry of Public Health) should be established.

Once the working group is established, a consultative dialogue with foreign agencies in relation to the framework of cooperation should be followed. This may be conducted through a series of workshops to create the understanding about each agency in providing social protection to migrant workers. This will also help to identify the support needed from the foreign counterparts. For example, in the case of migrant workers who return to the home country to receive medical treatment, but wish to claim the medical care benefits or employment-injury benefits in the destination country, the social security agency in the home country may help to certify the medical certificates issued from the healthcare facilities there.

6.2 RECOMMENDATIONS FOR LAW AMENDMENT AND CAPACITY BUILDING

This set of recommendations can be divided into two parts: recommendation for law amendment, and recommendation for capacity building of the social security agency.

6.2.1 RECOMMENDATIONS FOR LAW AMENDMENT

There are three issues as follows:

- (1) With respect to developing SSA, equality of treatment towards migrant workers in the country needs to be guaranteed in the law

Overall, there are only four countries namely, Cambodia, Lao People's Democratic Republic, the Philippines, and Thailand, of which the law on social security does not specifically differentiate between local and migrant workers. Other AMS still have some requirements for migrant workers to access to the national social security schemes, as prescribed in the law.

Equal treatment between local and migrant workers is one of the main principles of SSA; therefore, it is necessary to amend the laws by removing any provisions that may result in additional requirements for migrant workers to access social security in their countries, should they wish to establish portability in the future.

- (2) Preserving and maintaining social security benefits

A provision in the social security law may be revised or added in order to provide authority to the social security agencies to preserve and maintain the benefits and contribution of the insured persons.

- (3) Review other laws relating to exportability of benefits

Similar to the above recommendation, this is related to the authority of social security agency as prescribed by the law. Countries which cannot export benefits to another country or have limited options due to restrictions in the relevant laws should consider revising such laws to facilitate the export of benefits with the most efficient channel. For instance, in the case of Thailand, the Rules of Social Security Commission on receipt of money, payment and maintenance of fund B.E. 2555 issued under the Social Security Act provides that the exportation of money shall only be done in cheque through the Ministry of Foreign Affairs. Such rules may limit the channel for migrant workers in receiving the benefits abroad, especially if the benefit recipients has movement limitation, such as, a disable person, elderly, or a child who may not be able to travel to the embassy to collect their benefits.

6.2.2 RECOMMENDATIONS FOR CAPACITY BUILDING

There are three recommendations as follows:

- (1) Adopting technology for administration and management

In several countries, the channel for benefit claiming is limited as the eligible persons must submit the form and supporting document in person. Thus, technology shall be used to increase channels for claim submission, for instance, online channel for claim application and uploading relevant documents. The system shall be easy to used and data confidentiality must be applied to those service users. The already-established system of other AMS such as Malaysia, the Philippines, and Singapore may be used as models.

The use of technology will help both the insured persons from not having to spend time and expenses in travelling to the social security office, as well as the social security agency by saving the budget to expand to more locations to increase access, which usually comes with future maintenance cost. It can also facilitate the verification of information and help identify leakages such as double claims.

(2) Promoting more payment options

Some AMS still have limitation in regard to transferring the money into bank accounts due to high banking fee. The social security agencies may negotiate with the domestic banks to reduce such fee, and to facilitate the insured persons to gain access to bank accounts.

(3) Integrating cooperation between relevant domestic agencies

In line to the provision of social protection, for instance, to connect the database of insured persons with the house registration and immigration databases.

6.3 RECOMMENDATIONS FOR ALL ASEAN MEMBER STATES

There are two recommendations as follows:

6.3.1 Consider exploring aligning national laws with provisions under the ILO Conventions relating to the social security of migrant workers, especially the Conventions which have been ratified by the AMS. Conventions which are not ratified may be also used as standards, for example, C019, C17, and C118. Even though the ratification of the ILO Conventions is not a requirement for portability, it is deemed a tool to increase the confidence of such country that it will provide social security towards migrant workers under the international standard.

6.3.2 Set up a regularly channel for information exchange and conduct a consultative dialogue between social security agencies in ASEAN. For instance, readiness in concluding portability between a country with another country may be reviewed every year. This may be done by using the platform of ASEAN Social Security Association (ASSA) which organizes an annual meeting. This shall be a good opportunity for social security agencies to exchange their experiences, share and learn about successful case studies.

During the initial period, each AMS shall nominate a contact person who will be coordinating information relating to the social security scheme of such country to the ASEAN Secretariat. The ASEAN Secretariat may also coordinate between AMS; collect information and publish annual report about the change in social security systems in ASEAN to be distributed to stakeholders such as the government, employers, employees, and general public.

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อัตราแลกเปลี่ยนสกุลเงิน : www.xe.com.

APPENDIX 1

Minutes on Regional Workshop on the Portability of Social Security Rights between ASEAN Member States December 4th, 2018 The Berkeley Hotel Pratunam, Bangkok, Thailand

List of participants

Name	Position	Affiliation
Mr. Cedric Bagtas	Deputy General Secretary	ASEAN Trade Union Council (ATUC)
Mr. Jesse Francis Rebutillo	HR Consultant	ASEAN Confederation of Employers (ACE)
Ms. Vanxay Souvannamethy	Deputy Director General	Ministry of Labour and Social Welfare (MOLSW), Lao People's Democratic Republic
Ms. Thianthong Keoboua	Deputy Director of Administration and Planning	National Social Security Fund, (LNSSF), Lao People's Democratic Republic
Mr. Sum Sophorn	Deputy Director	National Social Security Fund, (NSSF), Cambodia
Mr. Borhan Osman	General Manager (Legal)	Social Security Organisation (SOCSSO), Malaysia
Mr. Muhamad Farqani	Policy & Strategy Officer	Social Security Organisation (SOCSSO), Malaysia
Ms. Madyah Rahmi Lukri	Senior Officer	The ASEAN Secretariat
Dr. Kiran Sagoo	Senior Officer ASCC Analysis Division	The ASEAN Secretariat
Mr. Ha Thanh Tung	Officer of Social Insurance Department	Ministry of Labor, Invalids and Social Affairs, Viet Nam
Ms. Ngo Thuy An	Deputy Head of General Issues & Projects Division, International Cooperation Department	Viet Nam Social Security, Viet Nam
Ms. Than Than Nu	Director (Department of Insurance)	Social Security Board, Ministry of Labour, Myanmar
Mr. Pholawat Chuentrakulvitaya	Foreign Relation Officer	International Cooperation Bureau, Thailand
Ms Marja Paavilainen	Senior Programme Officer	International Labour Organization (ILO)
Mr. Nuno Meira Simoes da Cunha	Senior Specialist	International Labour Organization (ILO)
Ms. Judy Frances See	Senior Vice President	Social Security System (SSS), Philippines

Name	Position	Affiliation
Ms. Varatsuda Saradatta		Policy and Planning Division, Social Security Office (SSO), Thailand
Mr. Tanodom Jariyapan		Policy and Planning Division, SSO Thailand
Ms. Nisachon Mahothan		Office of the Workmen's Compensation Fund, SSO Thailand
Ms. Arporn U-pahanrod		Contribution Bureau, SSO Thailand
Ms. Jarunee Boribalburibhand		Research and Development Division, SSO Thailand
Mr. Napoom Suwannapoom		Research and Development Division, SSO Thailand
Mr. Treewat Chomdee		Legal Affairs Division, SSO Thailand
Ms. Isadee Thiengsurindr		Finance and Accounting Division, SSO Thailand
Mr. Kuntol Tipsuvan		SSO Thailand
Dr. Boonwara Sumano Chenphuengpaw	Research Fellow	TDRI
Dr. Yongyuth Chalamwong	Research Director	TDRI
Mr. Jirawat Suriyashotichyangkul	Researcher	TDRI
Ms. Chatsumal Mongkolsiri	Researcher	TDRI
Mr. Yos Vajaragupta	Senior Researcher	TDRI
Ms. Khanittha Hongprayoon	Researcher	TDRI
Ms. Thanthip Jantarasiri	Researcher	TDRI
Ms. Visarkorn Ramangkoon	Secretary	TDRI

Opening remarks by Social Security Office of Thailand and International Labour Organization (ILO)

1. The representative of Social Security Office (SSO) Thailand, Ms. Varatsuda Saradatta, emphasized the importance of the portability of social security rights which increasingly became one of the topics often discussed in many recent ASEAN venues. An absence of social protection for the migrant workers would eventually affect the economic growth and social development in the region. Coordination was then a key. Today's main objectives were to gather as much information, to verify data, and to build a network of relevant contact points among the ASEAN countries. She also expressed hope that the Workshop would take us closer to the establishment of a Social Security Agreement (SSA).

2. The representative of International Labour Organization (ILO), Mr. Nuno Meira Simoes da Cunha, welcomed all participants and reiterated that social protection was one of the most important aspects to make sure that nobody is left behind according to the Post 2015 Development Agenda. The flow of labor force in ASEAN kept moving up, but social security had not yet responded to this trend. Social security could play an important role in establishing a safer and better environment for both local and migrant workers. In this regards, the ILO strongly committed to be part of the process in order to meet the objective of this Workshop, and the Sustainable Development Goals.

Afterward, the participants briefly introduced themselves.

Session I: The Present State of Social Security Systems in ASEAN

3. Dr. Boonwara Sumano Chenphuengpaw presented the overview of the social security schemes in ASEAN Member States. Her presentation comprised of three sections namely 1) Scope of analysis; 2) Laws relates to social security in ASEAN countries; and 3) Social security agencies in ASEAN and claim process. The objective is two-fold, first to identify similarity and gap in social security systems in ASEAN, and second to verify the information with participants.
4. For the first section, all participants understood that this study focused only on formal employment and compulsory contribution. The social security benefits included in this study are those in the ILO Convention No. 102 covering nine benefit branches which were medical, old-age, unemployment, maternity, invalidity, survivor, sickness, work injury, and family.
5. In the second section and third section, participants offered correction, comment, and clarification as follows.

5.1 Cambodia by Dr. Sum Suphorn:

- invalidity benefit could be paid as a lump-sum for contributions less than 60 months;
- survivor benefit could be paid for children (18 years and less);
- medical benefit could be paid for Outpatient Department (OPD) and Inpatient Department (IPD) with 'case-based payment' mechanism;
- sickness benefit could be paid at 70% of wage, with floor of \$50 (US dollars) and ceiling of \$300 (US dollars);
- maternity benefit could be paid by the Employer-liability scheme at 50% of wage, and by NSSF at 70% of contributory wage (floor: 50\$ and ceiling: 300\$);
- work injury benefit, for permanent injury, benefit amount could be differed between partial loss and total loss; and
- migrant workers could claim their benefit by cheque and bank transfer.

5.2 Myanmar by Ms. Than Than Nu:

- medical benefit could be paid both for OPD and IPD on Fee-for-Service (FFS) basis;
- sickness benefit could be paid at 60% of wage;
- maternity benefit could be paid up to 18 weeks; and
- temporary injury which was part of the work injury benefit could be paid up to 12 months.

5.3 **Malaysia** by Mr. Borhan Osman:

- work injury benefit in the case of temporary could be paid up to 180 days, and could be extended by the decision of the Medical Board under Ministry of health;
- family benefit is available in a form of education loan;
- unemployment benefit could be paid by unemployment insurance, but available only to Malaysian citizen;
- Malaysia is in the process of enacting the Employment Insurance Act in 2019. This new law would be under the authority of the SOCSO;
- claiming process required the insured person to submit claim application both online and in person. Benefits could be given by cheque and bank-transfer (no cash); and
- under SOCSO, migrant workers' benefits were covered only under the employer-liability scheme, meaning that contributions were paid by the employer only.

5.4 **ASEAN Trade Union Council (ATUC) and ASEAN Confederation of Employers** by Mr. Cedric and Mr. Jesse respectively:

- the study should mention the roles of employer in providing social security benefits, some of which could be considered more generous than the laws require.

5.5 **Philippines** by Ms. Judy See:

- the Philippines would soon approve the new Social Security law (2018) which covers unemployment benefits (50% of wage) for two months, upon 38 months of contribution; and
- many benefits could be provided by both pensions and lump-sums. Usually, lump-sum was offered when the insured had not reached the qualifying contribution period.

6. This session drew attention to the participants to verify the information regarding social security in their own countries. Such contribution reflected how their coverage were different based on definition, scope, and benefits. This could be a starting point for them to collaborate in establishing a coverage standardization.

Session II: Introduction to the Social Security Agreement

7. Ms. Judy, the SSS of the Philippines, provided a brief introduction about Social Security Agreement (SSA) in terms of concept, definition, principles, scope, including some selected case studies of SSA. Her presentation consisted of four sections which were 1) Background: Issues on Social Security of Migrant Workers; 2) Social Security Agreements (SSA) and the Philippines SSA Model; 3) The Philippines Social Security Program for Overseas Filipinos; and 4) Toward Realization of the 2007 ASEAN Declaration. Ms. Judy raised the challenges that the Philippines had also faced at the beginning of agreement dialogue and negotiation toward the establishment of SSA. Some of the problems were yet resolved such as the difficulty in totalization two different social security systems, i.e. social insurance v. provident fund.

8. After the presentation, participants raised questions and offered comments as follows:

8.1 Malaysia by Mr. Borhan Osman:

- every agreement must be mutually agreed by all parties. There was no one-size-fits-all approach for every ASEAN countries. Also, it should be noted that the domestic laws must be in line with the SSA; otherwise, it would be impossible to implement the SSA.

In response to this comment, Ms. Judy clarified that, based on her experience, domestic laws in signed countries must first assured the adherence of basic principles of SSA according to the ILO conventions. She emphasized that the core of SSA was for migrant workers' best interests; therefore, any limitations of territory boundaries should be removed so that migrant workers could enjoy working in the signed countries. With that, she also acknowledged that political boundaries or governmental reforms were also important challenges for the Philippines.

Session III: Facilitated group discussion: Migrant Workers' Challenges and Barriers to ACCESS Social Security in ASEAN

9. Mr. Nuno Meira Simoes Cunha, the representative of the ILO, acted as the moderator in this section. The topic of this session had been modified and shortened the length of it within 40 minutes. Mr. Nuno viewed that concentrating on basic understanding of how ASEAN can initiate an SSA may be in the interest of all participants. He then collected the views from the discussants and drew up linkage between countries, based on the work of 'Edward Tagmano's possible ASEAN bilateral social security agreements, which was published in 2007. Dots and lines were then drawn to show where SSA would be possible, considering migration flows as well as compatible social security scheme (See Figure 1 in Annex). In Figure 1, the dotted lines indicated where agreements could be useful but migration flows were relatively small. No-line meant that the agreement was yet still to be considered. It should be noted that Figure 1 dealt with long-term benefits such as old-age, invalidity and survivor.

10. In terms of other benefits, Mr. Nuno moved on discussing the Work-Injury scheme. He asked to what extent each ASEAN country covers migrant workers in this scheme, what were the challenges and what could be done next. The participants responded as follows:

10.1 Thailand by Mr. Pholawat Chuentrakulvitaya:

- work injury benefit was a special scheme which should be justified separately. For this benefit, portability was not an issue, but rather the extent of 'exportability'. The insured person should be able to claim the benefit in their home countries. However, other benefits such as old-age, disability or survivor were applicable to transfer aboard.

Miss Judy responded that work injury benefit required qualifying contribution period; therefore, such benefit should not have based solely on the emphasis of exportability but the portability of the benefit too. The insured person should be able to receive the benefits elsewhere if he/she could prove that the injury was related to occupational causes. It was noted that the Philippines' SSAs only cover old-age, invalidity and survivor.

10.2 **Cambodia** by Dr. Sum Suphorn:

- there was still a problem in transferring the money across borders, as well as the calculation adjustment related to the portion of the benefit the insured person had been earning.

Ms. Judy replied that the SSA would make 'earned contributions' in one country rights become 'earned rights' in another country for the migrant workers in the receiving countries. Since SSA prevents double coverage, therefore benefit adjustment should not be a problem.

11. This session helped the participants to explore the feasibility of initiating SSA with ASEAN countries. Participants agreed that SSA would be a promising tool to provide social protection for migrant workers.

Session IV: Facilitated group discussion: Possible Interventions to Promote Portable Social Security Mechanisms

12. Dr. Boonwara Sumano Chenphuengpaw, a Research fellow from the Thailand Development Research Institute (TDRI), encouraged all participants to share their experiences on technical and/or practical barriers to social security benefit faced by migrant workers in their countries. She began by asking whether the country's social security scheme was ready for the 'exportability'. If so, it could have been the stepping stone toward 'social security portability' with another states. Also, questions were also asked how exportability of benefit would be plausible to apply aboard and what need to be done primarily.
13. The representative of SSO, Thailand agreed that financial transaction between countries remained the problem because benefits' money could only be transferred legally through the consulate. Thai law did not allow the government transferred money (related to social security) directly to the international bank which would become one example of the limitation of SSA coordination.
14. Dr. Sum, NSSF of Cambodia, concurred with Thailand and faced with the same problem.
15. Mr. Borhan Osman, the representative from SOCSO in Malaysia pointed out that the most important thing to consider about the SSA is the facilitation of the payment system. He was positive that money transfer could be convenient because of an advancement of technology and globalization that connected all of us together quickly.
16. Miss. Judy, the SSS of the Philippines, gave an example in the Philippines in order to minimize the concern of money transfer. With that, she added that the social security agency could partner with international remittances agencies which could make it easier when it comes to collect the contributions as well as transferring the payment of benefits abroad.
17. The ASEAN Secretariat referred the CLMVT meeting held in last month. The discussions were made on the problem of coordination between the ministries or social security offices. They argued that in the area where borders were very blurred like the ASEAN borders, data synchronization and standardization between the agencies were not aligned with each other. Such difficulty made the social security organizations having a hard time to decide which data was correct or which amount of money was to be transferred abroad.

18. Mr. Nuno, the representative of the ILO encouraged by asking all participants which countries were ready to start “exportability” before “portability” of the social benefits or which countries were willing to move forward. By exportability meant that two countries who shared the same type of social security scheme, could work together toward the establishment of the SSA as well as overcoming any small limitations.
19. The ASEAN Secretariat reveal the five recommendations on the portability of Social Security” (aligning with the CLMVT meeting) which were: 1) it should have allied national laws/policies with international instruments related to the portability; 2) it should have provided comprehensive data on the movement of migrant workers across their states including their families; 3) it should have promoted the adoption of SSA between countries in the region, which can be used as framework; 4) it should have promoted the portability of SSA by “step by step Approach”; and 5) it should have promoted the harmonization between countries of origins and the recipients and how to export the agreement.
20. Ms. Marja, the representative of the ILO, went back on the issue of financial inclusion problem. She opined that many ASEAN countries had limited condition and access of finance such as Cambodia, Myanmar and Thailand. She mentioned a tool which could help regarding the money transferring problem through “Saver Asia”. It focused its goal in providing information on remittance costs and comparison portal. The aim was to help migrant workers with instructions on transactions with both online and offline transactions and gave information about the corridors costs of the ASEAN countries. She concluded that the website was currently featured the 9 ASEAN corridors but it was under the process of further expansion. Lastly, she underlined that countries should put the ‘equality of treatment’ at the heart for the advancement of the SSA.
21. Dr. Boonwara reiterated for mutual understanding that the existence of SSA was not to overrule the domestic system or regulation (although some unilateral legislation might be required), it only aimed to cooperate the system for the better condition for migrant workers. She moved on to other issues by asking the participants to share their ideas and suggestions (opinions or concerns) for appropriate steps to be mutually taken for adopting the SSA in the future, as well as the key contact person for future collaboration in this regard.
22. Mr. Cedric and Mr. Jesse, Philippines, ATUC and ACE pointed out that SSA would become a burden for the employers to pay twice. They viewed that the heart of business was about the amount of productivity meaning that supporting the well-being of the workers was very important. Therefore, the establishment of SSA would be essential for the migrant workers. However, in-depth study was required as some other countries had different institutions to provide benefits.
23. Dr. Sum, NSSF of Cambodia, expressed that the SSA should have not made by the universal framework for ASEAN. In fact, a bilateral framework negotiated separately between the countries would be more plausible and applicable. He added that a new Cambodian law on social security was being adopted by the end of this year which could be a good step towards the portability of SSA in the near future.

24. Dr. Boonwara, argued that it would be better for ASEAN countries to understand the SSA by learning from the Philippines model such as the management of the payment and registration system or any other relevant points. She also mentioned her conversation with Judy earlier of how the Philippines used the technology such as 'Skype' as a way to examine if the migrant workers were alive and entitled to claim for their benefits every month.
25. This session seemed that the SSA was quite welcome by all participants. The believed it was the best tool to secure the social benefits for the migrant workers and their domestic workers working aboard. However, challenges were raised by many of them how the SSA could be applicable. It seemed further study and collaboration were a consensus but such consensus could not be successful without a strong commitment among the ASEAN Member States.

**Minutes of the domestic validation seminar on
the Portability of Social Security Rights between ASEAN Member States
The Emerald Hotel, Bangkok, Thailand
Monday, 29 April 2019**

Participants: 209 people representing from the following sectors

1. Governemnt
2. Businesses
3. Labour unions and network
4. Academia

Opening remark by the Social Security Office

- I. Presentation by Dr. Boonwara Sumano Chenphuengpaw, lead consultant of the project and research fellow, TDRI

- II. Q & A session
 1. M. Kosol, Confederation of Thai Labour
Section 71 of the Social Security Act actually allows migrant workers to send their contribution back to their home countries for accumulation. In practice, this law only covers migrant workers from four AMS namely Cambodia, Lao PDR, Myanmar, and Viet Nam. The question is, will this be worthwhile? How and what can Thailand benefit from SSA?

 2. S. Temlertwong, Department of Skill Development
 - 2.1. Agree that social protection shall cover family members, as well as Thai workers overseas and migrant workers in Thailand. Special focus should be on children of migrant workers.
 - 2.2. Agree that international agreement should be piloted in a small area. Payment network within ASEAN needs to be first developed by negotiation between banks, to increase access and convenience.

 3. M. Tavorn, National Farmers Council
 - 3.1. Databases of workers in the region should be linked.
 - 3.2. Apart from setting up a working group to be responsible for the connectivity of social security in the region, recognition and support of the working group are also needed. This is to ensure that the government will take the initiative from the working group and amend necessary laws. Endorsing this issue into international platform, like ACMECS, might help.
 - 3.3. For the past experience of working in agricultural sector, Thailand has limitation in monitoring seasonal workers who move across plantations. This should be addressed to ensure that the law can be suitable applied.

 4. N. Sermsatith, Institute for Continuing Education and Human Resources
 - 4.1. Linking between domestic agencies is difficult enough, not to mention linking between foreign agencies. Sharing information might be a good start.

5. V. Kaewpradub, Engineering Institute of Thailand
 - 5.1. The Eastern Economic Corridor (EEC) policy promotes foreign skilled workers and professionals to work and reside in the designated areas. What social protection will these workers receive, and whether they will receive more than Thai people? Thailand should ensure the equal treatment between Thai and migrant workers of all levels.

6. C. Sookprasertpol, representative of tourism business
 - 6.1. This study clearly points that it includes only employees in private sector. Additional issues concerning livelihood of workers like education and funeral should be added. Integration between domestic agencies must be prioritized, as there are too many government agencies such as Ministry of Public Health, Ministry of Interior, and Ministry of Foreign Affairs involved.
 - 6.2. The information in this study will be beneficial to private insurance businesses in assessing the demand of migrant workers in Thailand.
 - 6.3. Apart from inspection, monitoring and verification the status of migrant workers must be made in a more simple and clear procedure.
 - 6.4. Equality of treatment between migrant workers and local workers must be guaranteed.

7. S. Tantrakul, Chiang Mai University
 - 7.1. More information about social security benefits for detached workers should be added. In many cases, Thai workers do not contribute to the social security system in host country because they only work for three months.
 - 7.2. The SSO should go ahead with initiating a SSA, so that each position of the negotiating party can be learnt.
 - 7.3. The Social Security Act (no. 4) revised 2015 contains many exemptions. Employees of international organizations are also not covered by the Act. This might need some review for amendment. Dispute settlement mechanism should also be discussed during SSA negotiation.
 - 7.4. Section 178 of the Constitution 2017 stipulates that the Minister shall be responsible for the negotiation of international agreement. The general public should be thoroughly consulted before this happens.
 - 7.5. All laws have to be reviewed and, if needed, revised before entering into international agreement.

8. S. Lewmano, Lawyer
 - 8.1. Every law needs to be reviewed and revised from time to time to ensure that the provisions in the law are still applicable to the current situation. Nowadays, the world is linked into one. This is an opportunity for Thailand as the ASEAN Chair to show its commitment in the region.

9. P. Panuchathip, Public Prosecution Official Training Institute
 - 9.1. The definition of migrant worker can be applied to skilled worker. Does this mean Thai professionals and expats like engineers and architects who work in Thai companies overseas are covered by the definition?
 - 9.2. Social protection include social welfare besides social security benefits. Therefore, all laws relating to social protection, such as social assistance laws need to also be reviewed.

- 9.3. Nowadays, migrant workers receive social protection from many policies. There should be a careful consideration about using national budget to increase such protection, to ensure that the government will not be too much burdened in the future.
 - 9.4. Sharing personal information is a sensitive issue, which might affect personal security. Personal information is a fundamental right and sharing such information may be considered a violation of right.
 - 9.5. Exportability seems to be more possible and suitable because it can be done unilaterally. This may be the duty and responsibility of Labor Attaches in the future.
 - 9.6. Either exportability or portability, the interests of local workers should be the main issue of consideration. The negotiation approach should be towards harmonization, as ASEAN Member States vary greatly in terms of economic and social conditions.
 - 9.7. Medical certificate is usually credible, if it is issued from recognized healthcare institutes.
 - 9.8. The trend in labour migration seems to increase every year. The government needs to be more active in order to properly address this issue.
10. A. Kertmongkol, Migrant Working Group Thailand
- 10.1 Where shall we start? Should Thailand start with a SSA or a MoC?
 - 10.2 Nowadays there are many self-employed workers, and thus the definition of migrant worker should include this type of worker.
 - 10.3 Stakeholder participation, i.e. level of access for the insured persons to policy-making platform, should also be included as an input for the analysis.
 - 10.4 Recognition and verification of documents are complicated involved many technical consideration. Most importantly it involves series of translation into different languages. One way to address this issue is to promote the use of one common language like English.
 - 10.5 In monitoring and verification of identity of benefit recipients, there should be harmonization of understanding about the scope and definition.
 - 10.6 The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers should be more legally binding to the ASEAN Member States.

Conclusion and closing

- **Mr. Tanit Loipimai, SSO**

Thankful and glad to learn that social protection of migrant worker receive many interest from the public. Migrant workers include both Thai workers who work abroad, and non-Thai workers in Thailand. Currently, migrant workers often lack social protection when moving to work in destination country, as well as when they return to the home country. The SSA can make the social protection for migrant workers seamless, in this sense, the totalization of contribution period to ensure that migrant workers will receive long-term social security benefits. SSA does not make all social security systems in the region into the same system, but only acts as a social security corridor.

- **Boonwara Sumano Chenphuengpaw, TDRI**

Express gratitude and regard this a good opportunity for the SSO and TDRI to gather all comments for revision of the study to be more well-rounded. The final report, once approved, shall be made available to the public.

Meeting Minutes
The Regional Seminar on the Portability of Social Security Rights
between ASEAN Member States
May 28, 2019
The Berkeley Hotel, Bangkok, Thailand

List of participants

Name	Title	Organization	Country
Dr. Sum Sophorn	Advisor and Deputy Director or National Social Security Fund	Advisor and Deputy Director or National Social Security Fund	Cambodia
Ms. PHIM Sereyrath	Deputy Director of Employment and Manpower Department	National Social Security Fund	Cambodia
Mr. Japar Malik	Head of section for Domestic Institutions Cooperation	Ministry of Manpower	Indonesia
Mr. Nugroho Bangun Witono	Senior Canvassing Officer	Ministry of Manpower	Indonesia
Ms. Phaeng Souk Likayya	Director of Division	Social Security Department	Lao PDR
Mr. Bounnorth Chanthavone	Deputy Director General of NSSF	National Social Security Fund	Lao PDR
Ms. Noor Azian Jamaludin	Principal Assistant Secretary	Ministry of Human Resources	Malaysia
Mr. Borhan Osman	General Manager (Legal)	Social Security Organization	Malaysia
Mr. Farqani Mohd Noor	Policy of Strategy Officer	Social Security Organization	Malaysia
Mr. Thein Win	Director	Ministry of Labour	Myanmar
Ms. Kay Thi Khaing	Assistant Director	Ministry of Labour	Myanmar
Ms. Riza Mae B. Daguplo	Planning Officer III	Department of Labour and Employment	Philippines
Ms. Janna B. Garces	Human Resource Specialist	Department of Labour and Employment	Philippines
Ms. Aurora Ignacio	President and CEO	Social Security System	Philippines
Mr. Roberto Bautista	Department Manager III	Social Security System	Philippines
Mr. Ha Thanh Tung	Official	Ministry of Labour, Invalids and Social Affairs	Viet Nam
Mr. Dinh Duy Hung	TBC	Viet Nam Social Security	Viet Nam
Mrs. Dinh Thi Hang	TBC	Viet Nam Social Security	Viet Nam

Opening remark by Mr. Tanit Loipimai, Social Security Office (SSO), Thailand

1. As of the second and last regional meeting on this topic, Mr. Tanit Loipimai reemphasized the growing need of the Social Security scheme coordination among Member States due to the high and increasing number of intra ASEAN migrant labour. The coordination mechanisms are important as they ensure Social Security coverage and benefit for migrant workers yet, the Social Security system among the Member States are diverse in the stage of development. However, in the light of hope, it is potential for many of the mechanisms to be implemented.
2. Most importantly, two points of focus are stressed with great appreciation to the so far collaboration of each nation and related organizations. First, today, the ability to access to social protection and preserve, maintain, and transfer one's Social Security rights and entitlement is equally important to conventional concerns of labour migration, safe migration, lawful recruitment, and employee's expectation. Second, even though the subject of portability of Social Security rights has been frequently discussed, there is the needs for concrete actions. Because of this, the seminar would lead from the study of findings from the research, consider the recommendations, to the possibilities of bilateral discussion. Second, the way forward after completed this study is essential. The post project of capacity and knowledge building activities would be a potential scheme that will ensure the sustainability of this study.

Meeting agenda 1: Presentation of the Study on the Portability of Social Security Rights between ASEAN Member States by Dr. Boonwara Sumano Chenphuengpawm, Thailand Development Research Institute (TDRI)

3. Dr. Boonwara Sumano mentioned the relatedness of the study of Portability of Social Security for migrant workers across ASEAN Member States through its connection with the three pillars of the ASEAN Community. In addition, the two megatrends in ASEAN was introduced and show to help promote the significant of the study. The better transportation and telecommunication technology would create more movement while the aging and longevity society would create more demand for social security. Overall, the ultimate three objectives of search of possibilities to connect Social Security among Member States, suggestion of suitable models to connect the Social Security system among ASEAN Member States who are ready, and to provide recommendation for legal revision and capacity building for countries that are not yet ready to connect are presented through the six sections of the presentation includes About the Study, Key Statistics about Labour in ASEAN, Social Security: an overview, Social Security in ASEAN: policies, laws, benefits, and administrative management, Findings of Analysis, and Conclusion and Recommendation.

3.1 The ASEAN Confederation of Employer

- In response to this section of the presentation, a delegate from the ASEAN Confederation of Employer commented on the annex, specifically the 2nd objective of the workshop as followed: The comment is toward the word choice and for future interpretation purpose. The phrase "Rights of Worker" needs to correspond to obligation to be neutral on subject. As of, the delegate suggests deleting "Rights" and redefine "Worker" as the subject also includes other parties such as government and employers.

4. In term of the overview to the Social Security, the international standards related to Social Security of migrant workers according to ILO Conventions act as the framework which every participant is aware of. Through this, it shows the areas needed to look forward as the majority of the Member States only achieved the C19 related to work injury, and C118 and C157 only in Philippines.
5. Concentrating to the Social Security within ASEAN and its finding, the similarities and uniqueness of each country were found. Through the study, in most Member States, the Social Security policies are similar in a way that only cover the legal migrant workers based on immigration and employment law of that country, and only apply to permanent resident for some countries such as Singapore and Brunei Darussalam. The another important aspect focusing on the approach to the framework found through the position of a country, either generally an origin or a destination country in term of labour. The laws and concentration for the origin countries would focus in protecting the oversee workers whereas the destination countries would focuses on the mechanisms toward migrant workers in one's country. In this section, a table displays common Social Security benefit programs separated by its contribution period whether it is short-term or long-term used with the variables is presented, and the separate table for the Work Injury benefit also discussed because Work Injury benefit has mixed characteristics among member state.
6. The major barriers for the portability of Social Security benefit found to be mainly on the financial aspects. This includes the assistance to oversee workers in documenting, effort in accessing to the financial institution and fees involved.
7. Subsequently, the remarks to the finding are as followed:

7.1 Dr. Sum Sophorn from Cambodia

- On Work Injury benefit, on the side of temporary disability, the 70% of contributory wage will be provided. On the side of permanent disability, there are two cases which are first, in the case where the payment is less than 20% of contributory wage, the lump-sum will be applied. Second, in the case where the payment is more than 20% of contributory wage, lifetime monthly payment will be applied.
- Furthermore, on the table relates to Social Security benefits, the suggestion was to change to number 1 for Work Injury and Sickness benefit as they support by the Social Security Fund.
- Specifically to the area of Maternity and Sick leave, the Maternity benefit should be categorize into number 1 and 3 visibly through its mechanism. Maternity fall into number 1 because NSSF pay 70% of the contributory wage ranged from \$50-300, and number 3 as employer pay 50% of total salary wage. For Sick Leave benefit, this belongs to number 1 as supports by National Social Security Fund.

7.2 Mr. Bounghnorth Chanthavone from Lao People's Democratic Republic

- The clarification to the data of Lao People's Democratic Republic' system was made. First, people are under the Social Insurance system, yet the Social Insurance system does not contributes by the government. The government only contributes to the public sectors employees. However, there is the integrate scheme into the National Social Security Fund which works among the public and private sectors. Still, on the table of Social Security benefits, the National and Pr sections were suggested to change to "X" as support by the government.

- On the side of Invalidity benefit, the benefit is independent and not under another benefits.
- For the Unemployment benefit, currently still applies to local workers and the qualify period is 12 months for minimum. On top of this, the benefit payment period is up to 12 months for the eligible workers.
- On Work Injury benefit, this section is under the Social Security. As for the contribution period related to this subject, the contribution period can be separated into two classes. First, the temporary benefit for sick leave. The temporary benefit for sick leave applies to 12 months where the first 6 months 80% of contributory wage will be provided, and 70% of contributory wage will be provided for the second 6 months. After the temporary benefit ended, the Invalidity benefit will be assessed afterward. The person who lost working capacity start from 40% will received the payment in form of lifetime monthly payment whereas in the case of less than 40%, the payment will be in form of lump-sum.

7.3 Mr. Borhan Osman from Malaysia

- In the case of Survivor benefit and Work Injury benefit, both the National and Pr and Migrant worker sections should fall into number 1 as supporting by the Social Insurance.

7.4 Mr. Thein Win from Myanmar

- relation to the Work Injury benefit, the contribution period is 1 month. In addition, reference to the Avalon 1912 and socio-economic status that prevents the possibilities to implement the proposal, the Unemployment and Family benefits in the National and Pr section should changed to “NI” and “X” for migrant workers.

7.5 Philippines

- In relation to Work Injury benefit, temporary disability applies to only 120 days for the benefit payment period. Whereas, permanent disability can be either partial or total. In the case of partial, the benefit payment period can range from 3 to 5 years depends on the degree of physical damage. In the case of total loss, the benefit payment period can be lifetime pension.
- Concerning to the barriers in exporting social security benefits abroad, individual in the bilateral agreement countries does not need to travel back to the origin country to file his or her claim as the counterparty Social Security institution will forwarded the documents to one’s resident country. Moreover, in the area of accessing to the financial services, the use of city debit card instead of cash or check has improved the accessibility and related transaction fees. Currently, the banking fees are as followed: \$1.5 for withdrawal and \$3 for any inquiry.
- To note with interest, the Unemployment benefit for both resident and migrant workers is already on the process of implementation. Toward this concern, the further information and details will be emailed shortly.

7.6 Mr. Ha Thanh Tung from Viet Nam

- Regarding to the Social Security benefits table, in the Invalidity section, both National and Pr, and Migrant worker should categorize into number 1 as support by the Social Insurance. In addition, the Employer Liability is under the long-term benefit.

8. Leading to the findings of analysis which took place in the second half of the seminar is when the analytic framework focusing on the input factors of Law, Policy, System, and Agency were revisited. Each input factors are incorporate with subset of elements and questions that correspond to that factor which then linked to Social Security programs includes Old-age, Invalidity, Survivors, Medical, Sickness, Maternity, and Work Injury. As a result, the suggested models to connect Social Security systems between AMS was introduced.
9. In response to this section of the presentation, the further information provided by delegate from Malaysia was mentioned as followed:
 - 9.1 Mr. Borhan Osman from Malaysia
 - In term of the MOC, the Employment Injury MOC with Indonesia has signed since March 5th. Currently, the team is working on the MOC toward exporting countries such as Bangladesh, Nepal, India, Myanmar, and Viet Nam.

Meeting Agenda 2: Q&A and comments and feedbacks

10. Mr. Bounnorth Chanthavone from Lao People's Democratic Republic
 - In updating to the MOC progress, the MOC with Thailand is in the developing process and the MOC with Viet Nam is only apply to technical corporations which does not related to migrant workers aspects.

In response, Dr. Boonwara Sumano reminded that the presentation is the proposal. As of, it is not necessary that the MOC or the portability agreement or Social Security Agreement already exist. Instead, the models were to shed light of possibilities for future actions.

11. Dr. Sum Sophorn from Cambodia
 - The questions were posed related to the distinction between Social Insurance and Employer Liability. In addition, in term of the Work Injury in Cambodia and Thailand, the Work Injury benefit is more likely to falls into the Social Insurance instead of the Employer Liability through Cambodia's view.

In response to the questions posed by a delegate from Cambodia:

- 11.1 The representative from ILO has agreed with the delegate from Cambodia that Work Injury benefit both in Thailand and Cambodia context should fall into Social Insurance. The underlying rational is that the employer is in charge to pay, but made through the social security. As of, this does not categorize in the Employer Liability section.
- 11.2 The delegate from Lao People's Democratic Republic also help clarified this issue in the similar way to ILO and Cambodia's standing. He said that the employers are only contributed to the Social Security Fund which is under the Social Security package.
- 11.3 The representative from the Social Security Office, Thailand tried to explain this issue based on Thailand context. The representative mentioned the separation of the Work Injury laws from the others. The employers are responsible by law to contribute, and the government will provide additional help to the employers for some part of the payment. However, if the employers do not contribute in the first place, they will need to pay the work injury benefit all by themselves.

11.4 Dr. Boonwara Sumano concluded and restated the standing of the focus which will be on the figure administrate the benefit. Further on this, Dr. Boonwara Sumano asked for the further contribution in gathering the information in one's country once again for the purpose to re-confirmed the information.

12. Malaysia

12.1 The delegate from Malaysia posed a question toward the relationship between the Survivor benefit and Dependent benefit on whether the Dependent benefit is in lieu of Survivor benefit.

In response, Dr. Boonwara Sumano clarified the confusion by stated that the tables and information are presented for the purpose of comparison and only focused on non-work related.

12.2 The delegate from Malaysia also concern why the Provident Fund affiliate for Survivor benefit.

In response, Dr. Boonwara Sumano said that she views the Survivor benefit as same as the Old Age benefit under EPF. Also, in the case where person passed away, the survivor is eligible to access to the money in that person's bank account.

12.3 As to the conclusion of this issue, Ms. Aurora Ignacio, the President and CEO of the Social Security, Philippines showed the understanding of comparison purpose. Yet, the suggestion was made to present each benefit on its own due to the uniqueness in each country.

13. The ASEAN Confederation of Employer

- The representative from the ASEAN Confederation of Employer has recognized the missing models to connect benefits for Brunei Darussalam and Indonesia, and interested to look forward to this.

In response, Dr. Boonwara Sumano appreciated the interest and accept the limitation of the study as the study confines to the availability of information provided. However, the models should be upcoming soon after this seminar because of the new progress of information.

14. Mr. Japar Malik from Indonesia

- The representative from Indonesia appreciated the study and apologize for the unprovided data due to the absent of the representative from the Social Security agency. Yet, the information is expected to be delivered shortly after this seminar. Furthermore, the representative was interested in the possibilities of the Social Security Agreement whether it will resulted in form of recommendations or the product of legal binding.

In response, Dr, Boonwara Sumano sees the great light of possibilities for the Social Security Agreement to be implemented in the product of legal binding, which the international agreement is one of the mechanisms. However, the MOC which is the non-binding mechanism can be an initial option that will potentially lead to the full version of the Social Security Agreement later in the stage.

Meeting Agenda 3: Way forward

15. For the future effort and discussion, the delegate from Philippines stressed the need to separate the Work Injury benefit from the Social Security for some cases. For instance, the Double Recovery program in the Philippines is one of the significant case. The program provides a special type of benefit where the pension will be provided from Social Security System and Employer Commission for the work-related injury employees.
16. The delegate from Malaysia showed great appreciation to the TDRI's recommendation models and urge the need to move forward. Either thriving for the Social Security Agreement since the beginning or start with the MOC would be a meaningful step.
17. The representative from the ASEAN Confederation of Employer is looking forward to using this study to circulate among employers. Yet, the representative would like the research team to recheck parts that fall into Employer Liability for the purpose of accuracy.
18. The representative from the ILO is up keen to support in years to come especially to the countries with the confirm interest in thriving for the bilateral agreement.
19. Mr. Roberto Bautista, the delegate from the Philippines, motivated every participant to begin thinking of the progress immediately as of the growing need of the Social Security for migrant workers.

Conclusion and closing of the seminar

20. Mr. Tanodom from the Social Security Office, Thailand acknowledged every participant for their support. Because most migrant workers are still defined as short-term employment, this study is very significant and essential as the byproduct of the Social Security Agreement would provide Social Security for migrant workers when they go back to their origin country or resign as of retirement outside their origin country. Ultimately, the emphasis to the needs of post activities after this study ended was mentioned so to ensure the sustainability of the study. In this regard, the result of more bilateral discussion would signify the success of this study where the support from expert countries and organization in this respect would be greatly appreciated.
21. Dr. Boonwara Sumano greatly appreciated all of the Social Security authorities and Social Security Office, Thailand for throughout contribution and support. In addition, she sees the great light of possibilities in implementing the Social Security Agreement among Member States. Along with this, two things that will be done after the seminar are mentioned. First and foremost, the correction notes and comment will be sent to each participant to once again validate the changes. Second, after the corrections had confirmed, the whole report will be translated and distributed shortly after approved by the Social Security Office, Thailand.

APPENDIX 2



QUESTIONNAIRE

Regional Workshop on the Portability of Social Security Rights between ASEAN Member States

This questionnaire is a part of the Regional Workshop on the “*Regional Workshop on the Portability of Social Security Rights between ASEAN Member States*,” hosted on December 4th, 2018 in Bangkok, Thailand. The purpose of this questionnaire is to collect information on social security schemes in ASEAN member countries. It comprises of five sections namely, Law, Policy, Benefits, Agency and System.

In this questionnaire, social security scheme means the protection which society provides for its members who make compulsory contribution to the scheme. Such protection includes nine types of social security benefits, namely, Medical, Sickness, Unemployment, Old-age, Work injury, Maternity, Family, Invalidity and Survivor.

Kindly fill this form and return it to us by email to Mr. Jirawat at cook@tdri.or.th by December 2nd, 2018.

Personal Information

Please ensure that we will not disclose your personal information to any third party. We collect this information solely for the purpose of future clarification or request for additional information.

Name

Organization

Country

E-mail address

Part I Law: This section deals only with the law regarding the social security benefits in your country.

1.1 Please name the law(s) that is related to social security benefits in your country

.....
.....

1.2 Which type(s) of social security benefit is covered by the above law(s)?

Workers	Type of Benefits								
	Medical	Sickness	Unemployment	Old-age	Work Injury	Maternity	Family	Invalidity	Survivor
Local									
Migrant									

1.3 Please specify how the above law(s) is enforced? By which agency(ies)?

.....

Is there any legal barriers preventing migrant workers from accessing the social security scheme in your country? If so, please specify.

Part II Policy: This section deals only with the policy regarding the social security benefits in your country.

2.1 Does your country have any social security policy that covers the migrant workers? If so, please elaborate.

.....

2.2 Does your country have a policy to establish a social security agreement with other ASEAN member countries?

.....

Part III Benefits: This section deals only with the social security benefits in your country.

3.1 **Medical** (If answer in a sum of money, please identify your local currency)

Migrant covered? (Y/N)	Out-Patient			In-Patient		
	Maximum compensation amount	Duration of contribution	Duration of benefit	Maximum compensation amount	Duration of contribution	Duration of benefit

If there is any other condition, please specify.

.....

3.2 **Sickness** (If answer in a sum of money, please identify your local currency)

Migrant covered? (Y/N)	Maximum compensation amount	Duration of employed	Duration of contribution	Duration of benefit	Duration of sick leave

If there is any other condition, please specify.

.....

3.3 **Unemployment** (If answer in a sum of money, please identify your local currency)

Migrant covered? (Y/N)	Resignation			Lay-off		
	Maximum compensation amount	Duration of contribution	Duration of benefit	Maximum compensation amount	Duration of contribution	Duration of benefit

If there is any other condition, please specify.

.....

.....

3.4 **Old-age** (If answer in a sum of money, please identify your local currency)

Migrant covered? (Y/N)	Maximum compensation amount	Duration of contribution	Duration of benefit	Minimum age

If there is any other condition, please specify.

.....

.....

3.5 **Work injury** (If answer in a sum of money, please identify your local currency)

Migrant covered? (Y/N)	Permanent Disability Benefits (26-52 weeks continuation)			Temporary Disability Benefits		
	Maximum compensation amount	Duration of contribution	Duration of benefit	Maximum compensation amount	Duration of contribution	Duration of benefit

If there is any other condition, please specify.

.....

.....

3.6 **Maternity** (If answer in a sum of money, please identify your local currency)

This benefit only means Maternity leave.

Migrant covered? (Y/N)	Maximum compensation amount	Duration of contribution	Duration of benefit

If there is any other condition, please specify.

.....

.....

3.7 **Family** (If answer in a sum of money, please identify your local currency)

Migrant covered? (Y/N)	Maximum compensation amount	Duration of contribution	Duration of benefit

If there is any other condition, please specify.

.....

.....

3.8 **Invalidity** - Non Occupational Causes (If answer in a sum of money, please identify your local currency)

Migrant covered? (Y/N)	Permanent Invalidity (At least 66% loss of physical capacity)			Non-severe Invalidity (At least 30% loss of physical capacity)		
	Maximum compensation amount	Duration of contribution	Duration of benefit	Maximum compensation amount	Duration of contribution	Duration of benefit

If there is any other condition, please specify.

3.9 **Survivor** (If answer in a sum of money, please identify your local currency)
 This benefit excludes death grants.

Migrant covered? (Y/N)	Maximum compensation amount	Duration of contribution	Duration of benefit

If there is any other condition, please specify.

Part IV Agency: This section deals only with the agency/organization being in charge of social security benefits in your country.

4.1 Does social security agency in your country provide social security for migrant workers?

4.2 Please identify the limitations in your institutional capacity to provide social security for migrant workers.

4.3 Does your agency have any collaboration with any ASEAN member countries regarding social security for migrant workers?

Part V System: This section includes payment mechanism and procedure for social security benefits in your country.

5.1 Are social security benefits payable for migrant workers? If so, How?

5.2 Please identify any obstacles in payment mechanism and procedure preventing migrant workers from receiving social security benefits in your country.

.....
.....

Other additional information regarding the social security scheme

.....
.....
.....

THANK YOU

APPENDIX 3

Summary of technical discussion during fieldtrip visits

The Philippines

Interview Summary of the Overseas Workers Welfare Administration (OWWA) on 28th January 2019

Participants

1. Josefino I. Torres (OWWA Deputy Administrator)
2. Dr. Boonwara Sumano Chenphuengpaw (TDRI)
3. Ms. Thanthip Srisuwannaket (TDRI)
4. Ms. Chatsumal Mongkolsiri (TDRI)

1. General Understanding: There are 4 social protection systems regarding the Filipinos migrant workers

- 1.1 OWWA insurance/assistance
 - 1.2 SSS insurance
 - 1.3 Premium Mandatory Insurance Scheme: managed by the employer and recruitment agency
 - 1.4 Medical Health Insurance (Phil-Health): Insure person and their dependents (who is less than 21 years old) with the cost of ₱2,400/year
- For the 'New Hire workers', they will be covered by 4 schemes because all of the schemes required general registrations before going to work abroad.
 - For the 'Old Hire workers' will be covered by those schemes which they continue to contribute.

2. OWWA Responsibility

- OWWA only concerns of Filipinos working aboard (not migrant workers in the Philippines).
- OWWA does not concerns migrant workers in the Philippines.
- Self-employed, seafarers, detached workers can become OWWA members only with the prove of work-permit, social security pass, letter of employment.

3. To sign up for OWWA membership includes the following requirements;

- Must be a Legal migrant workers.
- Must have a work permit visa.
- Must have a valid letter of employment with approval address.
- Must pay the \$25 dollars' membership fee (over the counter or online).
- The total insurance period is 2 years (must go to the embassies to re-new the membership).

- Remark: Self-employed, seafarers, detached workers can become OWWA members only with the prove of work-permit, social security pass, letter of employment.

4. OWWA Locations

- There are 17 OWWA offices domestically and 33 offices abroad (in 26 countries). Generally, they are located around the embassy or consulates.
- Locations are also considered where there has been a high volume of migrant's workers. For example, there has been an expansion of OWWA offices in Taiwan to over 3 posts.

5. OWWA Responsibility and Social Assistance

OWWA responsibility ranges from training, assisting to consulting Filipinos workers abroad. It also covers some social benefit which is usual paid as a lump-sum. The Social Assistance under OWWA is a direct welfare assistance which cover 3 stages including;

5.1 Pre-departure

- Education and training (preparing for job) e.g. English language course.

5.2 On-site Employment

- Benefits under Work-injury, Disability and Survivor package are entitled to disability/dismemberment of up to ₱100,000.00. However, if death via accident are entitled up to ₱200,000.00.
- Other Assistance includes:
 - Assistance in cases of company shutdown, war-crime, disability or survivor, members will be given shelter, food, medicine or other related labours welfare.
 - Assistance where there are dangers abroad, members will be given help until he/she gets home safely.
 - Moreover, OWWA will encourage the family/dependents of overseas workers to sort out the Financial Saving while they are abroad.

5.3 Return and Re-integration

- Give advice to the employers about any options when returning home.
- Remittances are not provided for members who come back home, but OWWA encourage members to save via enhancing the encouragement with their dependents (by holding seminars, meetings).

6. Budget and Cost Management

- The OWWA fund consists of the total fee of \$25 per member plus the investment fund which sum up to approximately ₱19 billion. The fund is used for administrative allowances to other related internal activities costs.
- Governmental budgets/support is approximately ₱1.4 billion which is use for the international costs (including oversea posts) as well as pay for the OWWA staffs' labor wages.

7. Challenges

- There has been issues in fee collecting due to location of OWWA posts. Collecting agents are not located where workers work, therefore it might be inconvenient and costs plenty for workers.

8. Future Policy

- Expands the presence of OWWA posts in where there is an increase volume of all Filipinos e.g. Africa, Thailand.
- Develops services and allow access of members in all programs. Within this year OWWA is planning to develop the registration system via using IT/online tools and broaden the required documents for registration so that it could covers many other types of workers (self-separated, seafarers, irregular workers and detached workers). Business certificate is one of the future intention.
- Re-structure the Institutional Design: OWWA is planning to separate itself from the Department of Labor and Employment of the Philippines (DOLE).
- Improves services regarding the transfer of the money and Case Management (OWWA plans to interact when where is immediate actions required).

9. Collecting Feedbacks/Follow-up

- Comments and feedbacks are collected through internal and external process and also via social media.
- Most of the complaints are not usually about the benefits, generally are more of the facilities issues e.g. dirty bathrooms.
- Complaints are expected to be response with 72 hrs.

10. Open Forum

1. OWWA agreement is mostly a unilateral action but some is a 'bilateral agreement' (from entry to welfare) e.g. Memorandum of understandings in UAE, Saudi Arabia.
 - Although OWWA acknowledged and followed the International Standards (ILO conventions), it is up to the DOLE or Ministry of Foreign Affairs responsibility to negotiate the terms.
2. The difference between the OWWA and the SSS regarding the mandate/responsibility.
 - The SSS is responsible for Filipinos workers in the country and abroad whereas, the OWWA only response for Filipinos oversea.
 - SSA is a complex agreement with many 'different sets of agreements' which only covers Permanent workers (not temporary) and requires contributions & residency. Therefore, SSS portability is capable but it still depends on the number of contributions
3. The Statistics and Data of the No. of Philippines workers in Thailand who is OWWA members is approximately 1,000 people.
4. Benefits
 - Normally, all members of OWWA would get the same standard benefits apart from certain criteria e.g. Saudi Arabia vs. Canada. Or for Large companies, there may be a private insurance coverage e.g. BUPA.
 - Social benefits and protections for other schemes including the premium Insurance scheme or the medical scheme will get feedbacks separately.

Interview Summary of the Social Security System (SSS) on 29th January 19

Participants

1. Roberto B. Bautista (Manager, Bilateral Agreements Department SSS)
2. Francis Paolo P. Lazaro (CEO IV, Bilateral Agreements Department SSS)
3. Roam Jasmin B. Diaz (Senior analyst, Bilateral Agreements Department SSS)
4. Eloiza Mae S. Marino, Jr (Executive Asst, Bilateral Agreements Department SSS)
5. Dr. Boonwara Sumano Chenphuengpaw (TDRI)
6. Ms. Thanthip Srisuwannaket (TDRI)
7. Ms. Chatsumal Mongkolsiri (TDRI)

1. Ensuring social Protection of SSS members

1.1 About the SSS:

- The SSS was established on 1 September 1957.
- It administers 2 social insurance funds including the Social Security and the Employee's compensation fund.
- The social security fund is contributed by both the employers and employees whereas the employee's contribution is in the responsibility of the employer's (Work-Injury benefit package).
- The SSS has 26 foreign offices in 18 countries. It also aims to open 2 branches every year and sign two SSA contracts/year.
- The SSS is currently promoting the online system such as the online registration process and the online payment process.
- The new law which will be launched in 2019 will expand the responsibility and the benefits provided by the SSS. It aims to cover all oversea workers, family members, foreign workers as well as expand the coverage of the unemployment benefit.

1.2 Responsibility and social benefits:

- The social security benefit under the SSS covers all private sector members, member who are less than 60 years old, compulsory members (employed and self-employed) and voluntary members (separated-workers, non-working spouses and OFWs).
- The cost of each membership fee is at least ₱1,760 per month. The benefits are not restricted to Filipinos nationals only but also are given to foreign nationals and de-tached workers (whom are temporary in the Philippines).
- The total number of the membership, according to the information on December 2017, is approximately 36.1 million (26.1 M employed, 4.4 M self-employed, 4.2 M voluntary and 1.4 M OFWs). Yet, the SSS have not collected the number of migrant workers.
- The benefits under the program are provided both in long term (retirement, disability and death) and short term (sickness and maternity).
- Moreover, the program also provides 'a salary loan' which is a unique financial support for any emergency but members must have contributed at least 36 months of contributions. Members are required to pay back afterwards, if they fail to do so the contribution money will be deducted.

- Pensions under SSS program are paid for the Old-age benefit (package) and Invalidity benefit (package).
 - The Old Age pension are provided if member have contributed at least 10-20 years for ₱1,200 monthly. For members who have contributed more than 20 years, ₱2,400 monthly will be given.
 - The Invalidity pensions are paid to members who have contributed. With less than 10 years contributions, ₱1,000 will be given. With 10-20 years, ₱1,200 will be given. For above 20 years, ₱2,400 will be given.
 - Furthermore, the recent 2017 law subsidize another ₱1,000 annually into members' scheme due to the fact that the salary ceiling in the country is very low.
- For any Emergency, the 24/7 Hotline are available to contact from Mon-Sat. Moreover, if there is the need for any urgent assistance, members can contact the nearest SSS offices. In case there is no SSS agency in the country, the closest post in the nearest country should also be of help.

1.3 Future Plan:

- The KPIs includes the setting of 2 new SSS posts per year and the implementation of 2 SSAs per year.
- The establishment of the new offices/posts worldwide are considered under four factors; high volume of Filipinos workers, presence of the consulate/embassy, transferring partners (banks) and the validity of operations (meaning suitable cost management which does not exceed 10% over-budget).
- Future policy
 - Promotes the online system for members to file for loan.
 - Portrays compulsory scheme for all oversea workers (currently voluntarily).
 - Improves the contribution system (online and offline).
 - Promotes the continuation of pensions transmitted for self-employed workers.
 - Promotes permanent insurance system.
 - Regardless of number or volume of migrants, the SSS should pursue as many bilateral agreements as it could.

2. Experience on implementing the SSAs

- There are currently 13 bilateral SSAs and 3 signed arrangements (with Sweden, Luxembourg and Korea).
- The SSA generally covers long-term benefits, but some short-term are also valid e.g. SSA with Spain and Portugal.
- The SSS key responsibility includes:
 - The issuance of various certifications e.g. “Fe de Vida” or “Proof of Life” for Spanish authorities.
 - The issuance of the Certificate of Coverage (COC) for detached workers.
 - Other related services such as collecting and transferring of the documents, receiving transactions and sends replies, receiving benefit application, pre-processing and monitoring SSA claims, compiling data on benefits and submitting report on SSA activities. The most challenging part is collecting and transferring of the documents.

- Benefits are transferred via 3 channels; by collecting at the counter, by cheque or by bank transfer
 - The only bank providing cash card is the ‘China-trust Banking cooperation’ or the ‘CTBC’ which is convenient when transferring the benefit through cash card and reporting/identifying the membership online. For other banks, benefits are given through cheque only. There is a ₱100 fee to open the bank account in the local area (in which the formal agreement will be reviewed by a sector in the SSS who will negotiate with the Bank). Yet, there has not yet been any procedure with the account in the international bank.
 - For workers abroad, benefits are handed through cheque via post to the residence or via ATM and merchant networks of pensioner’s debit/cash card with worldwide access (noted that withdrawal fee may cost at least \$3 dollars). The current statistics of claimed in 2018 is approximately of 5,872 claims.
 - For migrant workers, the claiming process usually takes around 2 weeks to one month depending on each conditions. For workers residing in the Philippines, benefit will be handed in pension transfer through the personal saving account.

3. Challenges & Recommendation

- The language barrier e.g. problem in translating required documents in to other language such as Spanish, French or Germany. In principal, there has been the use of Google translate to help.
- The country-specific document requirements. For example, in Spain there is a requirement of family book or “Libro de Familia.”
- The recommendations would be to establish a dedicated unit to serve as a liaison in the SSA negotiations and secondly to keep track of the social security reforms.

4. Open Forum

- The SSS budget and cost management are monitored under the commission and audit sector in the SSS. These budgets are being invested in the governmental fund as well as private equity.
- There is no challenges regarding the Fund life. The SSS fund life is 20-32 years and the EC fund is 50 years old.
- Comments and feedbacks are collected via the members of complaints and administrations unit of the SSS (both are responsible for issues with the services and pension matters). The SSS is under the Ministry of Finance, therefore it must report to the ministry on the annual basis.
- The SSS will be re-negotiating the SSA with South Korea in February due to the shifting of the new law. It also aims to expand the agreements to USA, Norway, Australia and Viet Nam (for exploratory visit) in the near future.
- Although SSS acknowledged and followed the International Standards (ILO conventions), there is no need to ratify the conventions in order to negotiate the SSA.
- SSA is a two-pronged approach agreement which aims to avoid any dual payment. Generally, it is a full-blown package, yet there is one partial agreement with the Netherlands (in the fact that it does not consider the totalization process).
- The Standardized benefits are provided for all members of the SSS. The benefits are given via pension for members who have contributed at least 120 months and via lump-sum who have contributed with less duration.

- Statistics
 - There has not been any data regarding the social security utilization rate after the implementation of the SSA but there is data according to the rise of transactions rates (especially in the de-tached workers sectors).
 - There has not been any data regarding the rise of migrant workers due to the SSA (works the other way around).
 - The job sectors of the Filipinos employees who are SSS members depends in each country. For example, there are mostly Filipinos working in service in Hong Kong, construction in the Middle East and Medical in the UK.

**Summary of In-depth Interview
Ministry of Labour - Invalid and Social Affair (MOLISA)
February 14, 2019, 14.00 - 16.00 P.M.**

Participants

1. Mr. Tran Hai Nam (Social Security Department)
2. Ms. Nga (Viet Nam Working Oversea Department)
3. Ms. Ngoc (Viet Nam Working Oversea Department)
4. Mr. Tung (International Affairs Department)
5. Dr. Boonwara Sumano Chenphuengpaw (TDRI)
6. Ms. Khanittha Hongprayoon (TDRI)
7. Mr. Jirawat Suriyashotichyangkul (TDRI)
8. Mr. Pham Van Vinh (Translator)

1. Introduction and Role of MOLISA

- Previously, the regulations on social security in Viet Nam covered only the government officials. Such coverage extended for the workers working in the private sector in 1995. However, it provided by the decree that the firms where employed the workers more than 10 did have to register for accessing the social security. Later on in 2003, the decree allowed a firm that had a worker more than one could register. Such decree was abolished and substituted by the Act in 2006.
- MOLISA is the organization mandated in labour management and social security and the following responsibilities:
 - To plan the strategy for labour management;
 - To study the relevant direction and policy for labour management;
 - To enact the relevant law regarding the labour issue;
 - To advise the policy and performance on labour to other agencies; and
 - To monitor and examine.
- In terms of monitoring and examination, there are 2 approaches for examining the firm where is illegally committed as follows:
 - Routine examination which is a regular check with a notice; and
 - Urgent examination which is a specific check through a complaint without a notice.

For social security examination, it is under the VSS's authority.

2. Social security system in Viet Nam

- There is 2 kinds of social security system as follows:
 - Mandatory which is provided for the worker working the formal sector; and
 - Voluntary which is for the freelancer or self-employed.

The Vietnamese government endeavors to have the two systems connected; namely, the employee can switch to maintain his/her benefits in the case of resignation, and vice versa.

- Funds under the VSS can be divided into 5 categories which are:
 - Sickness and maternity;
 - Work injury and occupational disease;
 - Old-age;
 - Unemployment; and
 - Medical.
- The government will allocate those fund for many kinds of low risk investment such as government bond, infrastructural investment (hydropower plant), saving.
- Contributory payment can be made through 2 kinds:
 - Solo employer contribution which are: 1) 3% in sickness and maternity; and 2) 0.5% in work injury.
 - Joint contribution between the employee and employer which are: 1) old-age and survivor; 2) unemployment; and 3) medical.

3. Social security for local worker

- The firm where hiring more than one employee and more than 1 month must register its employees as provided by law.
- Such provision applies all local workers, regardless where they work.
- The Vietnamese working aboard may maintain his/her benefit by paying contributory fee before or after going aboard.
- The formal sector worker will get 7 kinds of social protection which are:
 - Sickness;
 - Maternity;
 - Work injury and occupational disease;
 - Old-age;
 - Survivor;
 - Medical; and
 - Unemployment.
- For old-age benefit, the employee must be qualified with the contributing period at least 20 years.
- The employee whose invalidity exists during or after employment, s/he may be entitled for old age benefit if his/her invalidity is certified by the government and completes with the contributing period at least 20 years.

4. Social security for migrant worker in Viet Nam

- The labour regulations protected for the migrant worker are Decree 143 on Regulating Details on Law on Social Insurance and Law on Occupational Safety and Hygiene Regarding Compulsory Social Insurance for Employees Who are Foreign Nationals Working in Viet Nam which came into force on 1st December 2018.
- The migrant worker who can access the social security must:
 - have professional certificate;
 - have work permit; and
 - have period of employment at least 12 months.

It is noted that the detached worker and worker whose age is over 60 years old are not qualified.

- The migrant worker can claim 3 kinds of benefits which are:
 - Sickness;
 - Maternity; and
 - Work injury and occupational disease.
- Social security in Viet Nam can only avail domestically; namely, it cannot export the benefit to overseas. The entitled worker who have already left Viet Nam must authorize those who reside in Viet Nam accessing the benefit as a beneficiary. Alternatively, the worker shall claim benefit prior departure.

5. Viet Nam and SSA

- Presently, Viet Nam is about to conclude the SSA with German. Other two which are South Korea (4th round) and Japan are in the process of negotiation.
- The reason lied in the SSA because of double payment avoidance.
- Viet Nam promotes SSA and assigns the MOLISA as the primary agency working together with other agencies such as the Ministry of Foreign Affairs, Ministry of Finance, Ministry of Justice, Bank of Viet Nam and VSS.
- In the future, tantalization would be applied in the case where payment is made both in the host country and the home country. For example, if the employee has been working in Viet Nam for 18 years and other 2 years in overseas, the total contributing period will be totally 22 years.

Summary of In-depth Interview
Viet Nam Social Security (VSS)
15th February, 2019, 09.00 - 11.00 P.M.

Participants

1. Mr. Dieu Ba Duoc (Director of Social Security Policy Office)
2. Ms. Phung Thi Mai Oanh (Foreign Affairs Office)
3. Mr. Dinh Duy Hung (Deputy Director of Collection Office)
4. Mr. Tran Thai Thu (Deputy Director of Finance Office)
5. Mr. Hoan (Legal Office)
6. Dr. Boonwara Sumano Chenphuengpaw (TDRI)
7. Ms. Khanittha Hongprayoon (TDRI)
8. Mr. Jirawat Suriyashotichyangkul (TDRI)
9. Mr. Pham Van Vinh (Translator)

1. Organization and responsibility

- The VSS is a governmental body serving and executing the policy initiated by the MOLISA.
- Governmental officer, local employee and migrant worker are under the VSS responsibility. Viet Nam is a few country where the social security fund for governmental officer and private employee are combined.
- The VSS establishes and assign the regional offices to collect the contribution on behalf of the central office. IT system helps the employer and the VSS to connect each other conveniently.
- The structural feature between the MOLISA and the VSS is horizontal relationship. Both agencies are under the government directly. The MOLISA is in charge of policy making, while the VSS is responsible for policy implementation.
- The social security fund is excluded from the government budget. The VSS generate the profit from the fund through the low risk investment. Such investment must be subject to law. The financial status of the VSS will be audited by the competent agency.

2. Social security for Viet Nam worker working in domestic and overseas

- There are 14.7 million local workers, or equivalent to 30.4 of the labour force.
- Contribution collection is based on the monthly wage of the workernation wide even though the minimum wage is varied in each region.
- For the long-term benefit like old-age, the applicant was provided to report to the VSS regional office every 6 months previously. Presently, the local administrative office is in charge of report instead. In case of Vietnamese working aboard, the embassy will be a channel for report and coordination.

3. Social security for migrant worker

- At the moment, there are 33,500 migrant workers registered in the system.
- The migrant worker can access 3 kinds of benefit:
 - Sickness;
 - Maternity; and
 - Work injury and occupational disease.

The given benefits are paid by the employer. Apart of this, the employer and the employee may mutually contribute in medical benefit as well. The rate of contribution is 4.5% where 3% and 1.5% are paid by the employer and the employee respectively. Such rate of contribution in the medical benefit will be adjusted to 6% in the future.

- The migrant worker is not entitled to old-age and survivor. According to the Decree 143, these benefits will be accessible by 2020.
- Challenges of the VSS regarding the migrant worker can be identified as follows:
 - Language – only 2 languages which are Vietnamese and English are acceptable, while the migrant workers come from the countries where English is not their native;
 - Performance period – the VSS has difficulty to hasten the claim process within the short period of departure of the migrant worker; and
 - Death in the host country – the beneficiary contact from the home country may be complicated.

4. Claim process

- Claim process must be applied in Viet Nam only.
- Document will be submitted by the employer through online or the VSS regional office.
- The payment can be made by:
 - Cash – at the VSS regional office; and
 - Bank transfer.

It should be noted that the claim process is applicable for both local and migrant workers equally. If the insured person cannot receive the payment from such channels, payment by post or by the VSS officer will be in place. However, it is less possible to depend on this special channel.

Summary of In-depth Interview The Social Security Organisation (SOCSO) March 7, 2019

Participants

1. Dr. Boonwara Sumano Chenphuengpaw (TDRI)
2. Ms. Thanthip Srisuwanaket (TDRI)
3. Mr. Jirawat Suriyashotichyangkul (TDRI)
4. Mr. John Riba Anak Marin (Deputy Chief Executive (Operations))
5. Mr. Borhan Bin Osman (Chief of Legal Division)
6. Mr. Mohamad Asri Bin Ngosman (Chief of Planning & Corporate Affairs Division)
7. Mrs. Hajah Rosmawati Binti Zainuddin (Chief of Treasury Division)
8. Mr. Muhammad Farqani Bin. Mohd Noor (Policy and Strategy Officer)

1. General information of SOCSO and migrant workers

- SOCSO is responsible to take care and protect the local and migrant workers through Employment Injury Scheme.
- Previously, migrant worker got protection from the workmen's compensation Act 1952 (Act 273) which is under the supervision of the Department of Labor. Recently, it is now under the authority of SOCSO since January 1, 2019.
- Around 200,000 migrant workers who register in the SOCSO database, have been added up since January 1, 2019 until March 2019. Moreover, by January 1, 2020, the employer shall register all employees with the SOCSO because the Employment Injury Scheme (EIS) will be replaced to protect the migrant workers.
- The contributing rate for the EIS paid by the employer is 1.25 of the employee's monthly salary.
- To register, it requires documents such as passport, contract of employment, or a document indicating the temporal employment, i.e., one-year work permit which allows border crossing in order to verify how legitimate the employee can work.

2. Benefits

Under the scope of SOCSO authority, 7 benefits are conferred to the migrant worker as follows:

Medical Benefit

- Medical benefit only covers in the case of work injury. The migrant worker must get medical treatment from the public hospital where they registered with the SOCSO because the SOCSO pay the medical fee directly at the hospital.
- Alternatively, the migrant worker may get medical treatment from other unregistered hospital, but the migrant worker will reimburse under the cap rate paid by the SOCSO.

Temporary Disablement Benefit

- The employee who suffers from temporary disablement from work will receive compensation upon submission of the medical certificate in case of sick leave not greater than 4 days from the date of accident.
- The employee shall receive the compensation approximately 80% of the daily wage, or around 30-105.33 RM/day, depending on the contributing period.
- SOCSO shall refrain to pay the compensation if it is believed that the disabled employee remains to work and get paid.

Permanent Disablement Benefit

- In case of permanent disablement, the employee shall receive the lump sum compensation with the rate of 90% of daily wage (around 30-118.50 RM/day depending on the contributing period) multiplied with percentage of organ loss or percentage of permanent disablement, as well as age factor.
- Age factor shall be subject to universal principle. However, it should note that the average age of Malaysian women are 75 years old, while the men are 72 years old.
- Permanent disablement benefit shall be approved by the Medical Board of SOCSO. So far, this approval is yet made, only in the case of temporary disablement.

Dependants' Benefit

- Benefit paid to the family or the relatives of the employee who is death shall be paid monthly with the rate of 90% of daily wage multiplied with the working day, as well as the share of daily rate.
- The benefit can be paid to the spouse or the child which the SOCSO will terminate the payment until death of spouse or the marriage of the child alternatively.

Funeral Benefit

- In case of death in Malaysia, the issued person will receive the funeral subsidy for deceased transportation and funeral service with an amount of 6,500 RM.
- Alternatively, the issued person will receive only 2,000 RM or actual cost for the funeral service if it manages in Malaysia.

Constant-Attendance Allowance

- This allowance is granted to the disabled employee around 500 RM/month to compensate the cost of rehabilitation.

Rehabilitation Facilities

- Rehabilitation is not only the monetary basis, but also the medical or rehab assistance.

3. Registration

- The employer can register by walk-in at the SOCSO and online.
- Failure to comply within 30 days, the employer shall be penalized by both imprisonment and a fine (Fine not exceeding MYR 10,000 per day and imprisonment for 2 years). The additional penalty can be made, as the case may be.
- The registered employee shall be identified with 12 digit number. Whenever the employee leaves Malaysia, the digit number remains unchanged, even in the case of renewal, when s/he returns to work.

4. Benefit payment

SOCSSO pays the benefits to the employee through the following 3 channels:

- Financial Process Exchange (FPX) which is the online transfer to other banks or international banks, pays every 3 months, and aim to pay the export benefit (previously, it has paid the employees in Indonesia, China, Nepal, India, etc.).
- Bank transfer.
- Bank counter which is approved by the SOCSSO.

5. Other issues

- Treatment for work injury shall be made in Malaysia only even though the employee is permanently disable and unable to work. The treatment shall be complete prior to exiting the country.
- Under the SOCSSO system, it is only for employment without the minimum period of contribution.
- Other benefits such as:
 - Old-age benefit is not under the SOCSSO, but it is mandatory under Employee Provident Fund Act 1991 (Act 452) for local worker and voluntary under Employee Provident Fund for migrant worker.
 - Maternity benefit is also not applicable by the SOCSSO, but under the Ministry of Labour by the power of the labour protection law.
 - Sickness benefit is subject to the negotiation with the employer and condition stated in the employment contract. The employer may refuse to pay the compensation even though such sickness is arisen from work.

Summary of In-depth Interview
The Social Security Organisation (SOCSO)
March 7, 2019

Participants

1. Mr. Shahabuddin (Chief of International Division)
 2. Nur Najihah Binti MD Abas (Assistant Secretary International Division)
 3. Dr. Boonwara Sumano Chenphuengpaw (TDRI)
 4. Ms. Thanthip Srisuwanaket (TDRI)
 5. Mr. Jirawat Suriyashotichyangkul (TDRI)
-
1. The relevant law on labour protection under the MOH Rare totally 27 Acts such as the Employment Act, 1955. Moreover, other laws involving with migrant workers can be under other Ministries, i.e., the Ministry of Health, the Ministry of Labour, etc.
 2. The migrant worker is allowed to work in 6 categories of occupation such as construction or factory. In case of work injury, the SOCSO is responsible to provide aid and benefits.
 3. Under the MOU, the domestic migrant worker can claim the benefit through the private insurance paid by the employer. In case of work permit renewal, the employer shall pay the insurance for its migrant employees in order to fulfill the condition.
 4. Previously, the 3 MOUs were made with Cambodia, Viet Nam and Indonesia. The period of MOU with the Indonesia is soon terminating and under the process of renewal.
 5. The Employment Act is now revising in order to protect the domestic worker.
 6. The long-term benefits such as pension in the case of old-age or disability are not particularly granted for the foreigners.
 7. Work permit is issued for the short-term employment only. The law only allows to work in Malaysia not exceeding 10 years. After 10 years, the migrant workers may apply for the permanent resident. However, it is difficult in practical because of the security of native citizen.
 8. Maternity benefit is not subject to the mission of the SOCSO, but the Ministry of Labour, by the power of the Employment Act. The employer shall pay the contribution so that the employee can take leave greater than or equal to 60 days while getting subsidy.
 9. Old-age benefit or pension is subject to the Employee Provident Fund (EPF) managed by the Ministry of Labour. The EPF is mandatory for the private employee or the government officer who cannot claim for the pension. The contribution will go to both the employer (13% of the monthly salary) and the employee (8% of the monthly salary).
 10. The synergy between the MOHR and the EPF is based on information sharing in order to examine whether all employees are included and activated in the EPF.

RESEARCH TEAM

- | | |
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