



Other policy options to extend social protection to migrant workers

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Role of BLAs in improving the governance of LM

Bilateral labour agreement is a treaty concluded between two states which describe in detail the specific responsibilities & to be taken by each party.

Memorandum of Understanding – a softer option providing a broad framework of cooperation to address common concerns. Usually non binding.

BLAs/MoUs

- Address specific labour market needs/shortages in specific sectors and lead to better selection of workers, skills matching and recognition of qualification frameworks (CD)
- Reduce domestic employment pressures (CO)
- Improve the regulation of migration flows and curb irregular migration
- Improve MWs' rights protection by addressing recruitment malpractices and risk of exploitation (e.g. with model contracts, wage protection, complaint mechanisms & dispute resolution procedures)
- Promoting economic/cultural/political ties and exchanges.

Not a panacea – implementation difficulties, unequal bargaining power, weak M&E, limited involvement of social partners , sponsorship system etc.

Protecting migrant workers through BLAs/MoUs

BLAs and MOUs can play a significant role in addressing difficulties faced by migrant workers in the realization of their **right to social security.**

Firstly aimed at regulating the labour/employment relationship of migrant workers, those agreements can specifically address social protection, notably by:

- including social security provisions
- referencing existing bilateral social security agreements or national legislation
- ILO Migration for Employment Recommendation (Revised), 1949 (No. 86) include in its annex a model agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons **Art. 21: (Social Security)** recommends to the parties to determine in a separate agreement the methods of applying a system of social security to migrants and their dependents

Protecting migrant workers through BLAs/MoUs

- **Temporary migrant workers** are rarely entitled to SS provisions other than health care.
- **Portability of SS contributions for temporary workers** – good practice mainly found in EU and America agreements. South American agreements provide for SS & health benefits.
- The **GCC countries** only some rare cases, MW have access to accident & health benefits.
- In **African agreements**, some references are made to separate bilateral SS agreements (Spain-Morocco, France-Tunisia) or to the national legislation of the destination country (Spain-Mauritania) while in others (Italy with Morocco, Egypt) there is a reference to an equality of treatment with the nationals of the destination country.

Protecting social security rights through unilateral measures

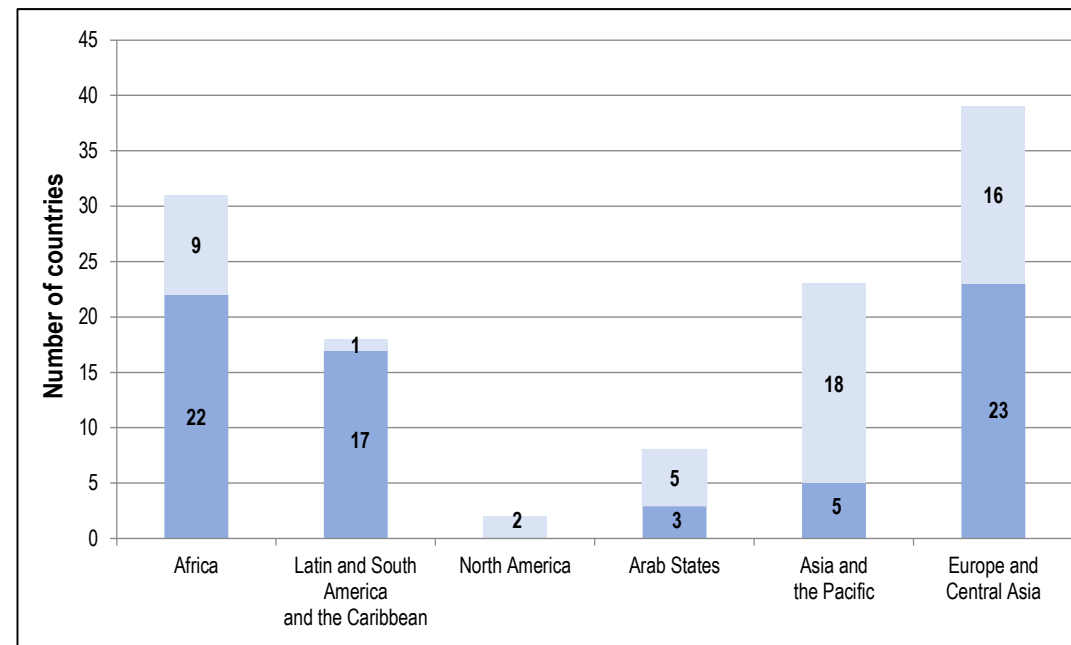
Country of Employment (Labour Receiving Country)

- Equality of treatment
- Payment of benefits abroad (If impossible: Reimbursement of contributions)
- Crediting periods of insurance completed in another country for the purpose of giving immediate access to benefits
- Possibility of covering retroactively missing insurance periods
- Waiving long qualifying periods in favour of migrant workers
- Allowing migrants to remain affiliated in the country of origin

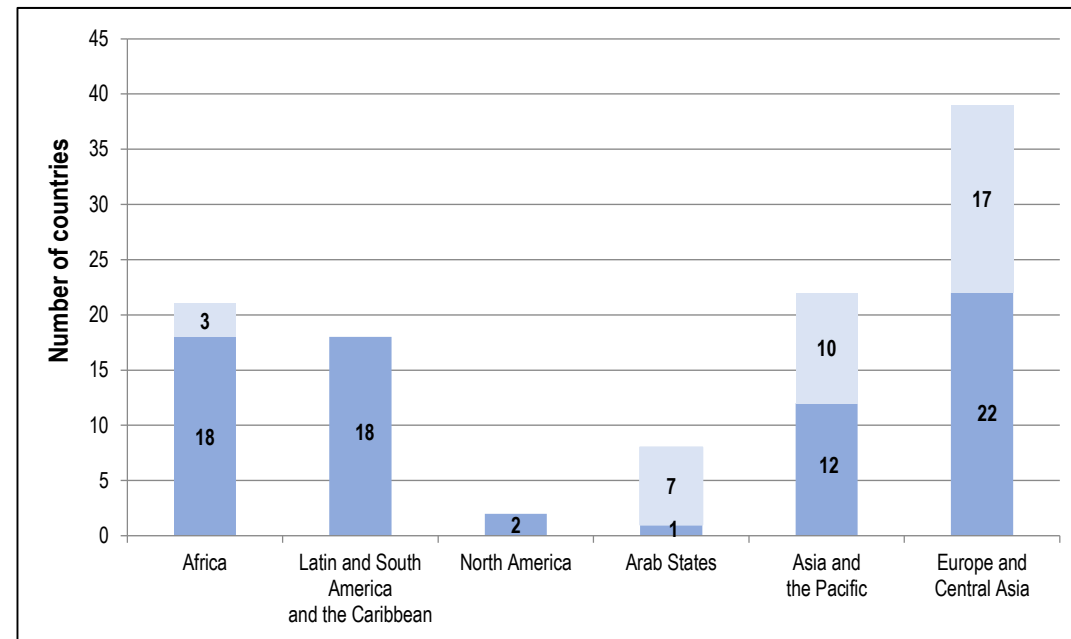
Protecting social security rights through unilateral measures

- Country of Origin (sending country) Liability on recruitment agencies for social security coverage (e.g. Indonesia and Philippines)
- Coordination between migration laws and social security laws and the relevant institutions/offices
- Voluntary insurance for nationals working abroad (e.g. France, Jordan, Philippines, Ecuador etc.)
- **National social protection floors** – very relevant for (1) returning migrants; (2) family/dependents that remain in the country of origin; and (3) for migrants in the destination/transit/host country to at least access essential health care

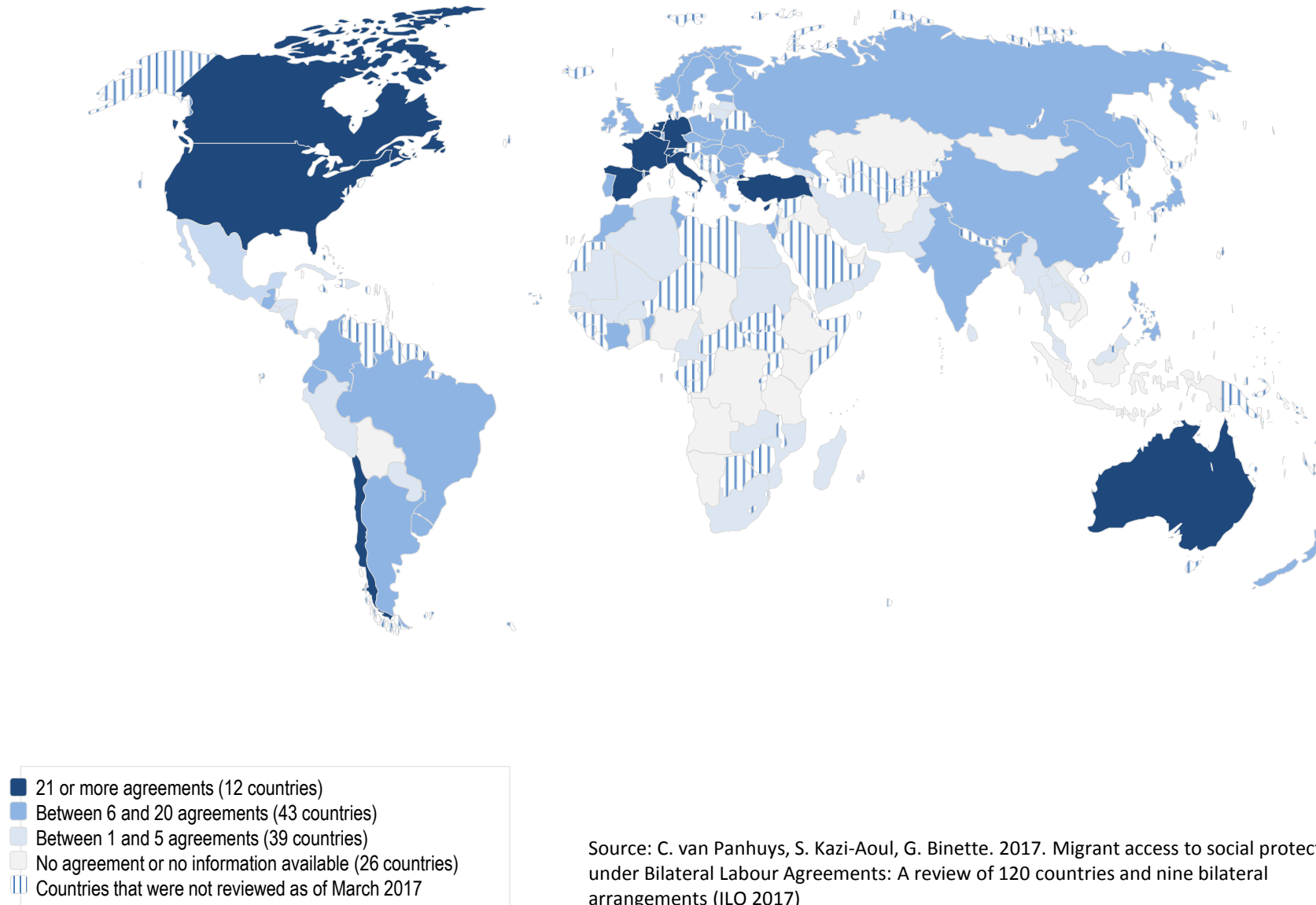
Number of countries per region granting equality of treatment with regard to access to contributory social security benefits



Number of countries per region granting equality of treatment with regard to access to health care



Number of bilateral agreements by country



Source: C. van Panhuys, S. Kazi-Aoul, G. Binette. 2017. Migrant access to social protection under Bilateral Labour Agreements: A review of 120 countries and nine bilateral arrangements (ILO 2017)
See also [inter-active online maps](#) currently being expanded.

From right to reality: complementary measures

Measures aimed at extending the legal social protection coverage of migrants should be complemented by measures addressing **practical obstacles**:

- Awareness-raising and communication campaigns
- Pre-departure training, briefings upon arrival and vocational guidance, coaching, employment services
- Development and translation of texts or information materials
- Efforts to address discrimination - challenge negative stereotypes
- Initiatives to reach out to difficult to reach areas or population groups (eg through boats/ bus/mobile phones)
- Involvement of workers' organizations, cooperatives
- Social dialogue - tripartite consultations
- Simplified or adapted payment /registration methods and procedures
- Harmonization of procedures and data
- Using innovative IT systems
- Access to complaint or conflict resolution mechanisms
- Support with the registration and other procedures
- Provision of pro-bono legal support, free advice and services
- Ensuring that there is an adequate number of well-trained social and health workers
- Subsidizing contributions from external resources (international solidarity)
- Addressing data and knowledge gaps

Conclusion: summary of policy options

To address the different obstacles faced by migrants in accessing healthcare and social security benefits States can adopt different measures.

- **Ratification and application of ILO Conventions and Recommendations.**
The principles and standards therein, notably the principle of equality of treatment, can be incorporated into domestic law.
- **Conclusion of social security agreements (bilateral/multilateral)** to provide for the coordination of social security.
 - ILO Recommendation No. 167 provides a model social security agreement
- **Inclusion of social security provisions in bilateral labour arrangements**
- **Unilateral measures** (sending and receiving countries) incl. **national Social Protection Floors (ILO Recommendation 202)**
- These measures should be **complemented** by measures addressing **practical obstacles** (language barriers, representation of migrants, lack of information/awareness etc.)