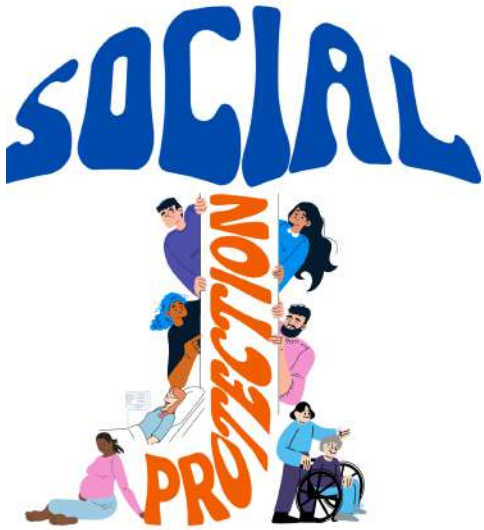
PERSISTENT CHALLENGES IN SOCIAL PROTECTION

MIGRANT FORUM IN ASIA | JULY 2026

I. REALITY CHECK

Migrant workers continue to face major barriers in accessing compensation for workplace injury and death, even where legal protections formally exist. While many labour systems recognise employer liability for work-related injury and death, effective access to compensation remains highly uneven in practice. The central problem is not simply the absence of legal protection, but the way protection systems are designed and administered. In practice, access to compensation is often mediated by employers, filtered through private insurance, and constrained by fragmented administrative processes that workers and their families are poorly positioned to navigate.



This creates a structural contradiction. Migrant workers are indispensable to labour markets characterised by high occupational risk, yet the systems meant to protect them continue to rely on employer discretion, weak reporting incentives, and narrow claims processes. Workers may be legally entitled to compensation, but in practice that entitlement is often delayed, denied, or never realised. Injuries go unreported, claims are not initiated, compensation is delayed or contested, and families abroad face substantial barriers in accessing death benefits.

The problem is therefore not best understood as a narrow implementation gap. It is a structural policy failure. Systems built primarily around employer liability and private claims administration routinely produce exclusion, especially for migrant workers in subcontracted, outsourced, small enterprise, domestic, mobile, and other non-standard forms of employment.

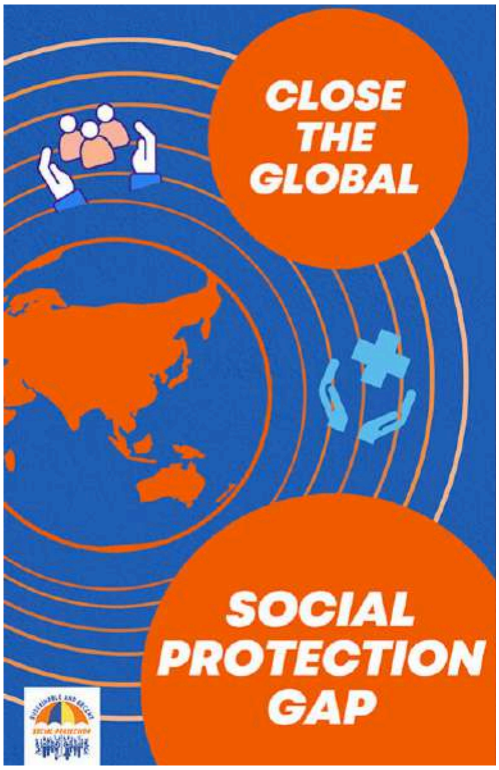
Effective reform requires more than procedural improvement. It requires a shift toward worker-centered, portable, and publicly accountable protection systems that can deliver compensation independent of employer discretion and across borders.

II. THE CORE POLICY FAILURE: WHY PROTECTION REMAINS STRUCTURALLY INACCESSIBLE

The central weakness in current employment injury and death protection systems is not that workers lack formal rights, but that effective access to those rights is structurally inaccessible. Existing systems often recognise compensation in law, but access to compensation is conditioned by employer compliance, worker awareness, institutional coordination, and procedural capacity at precisely the moment workers and their families are least able to navigate them.

This distinction between legal entitlement and effective access is critical.

Formal legal recognition creates the appearance of protection, but in practice workers remain dependent on employers to report accidents, initiate claims, process documentation, and coordinate with insurers and authorities. Access to compensation is therefore not secured by law alone. It is mediated through institutional arrangements that place workers in a structurally subordinate position. This is particularly acute for migrant workers, whose access is shaped not only by workplace hierarchy, but also by language barriers, unequal bargaining power, limited awareness of rights, and cross-border family dependency.

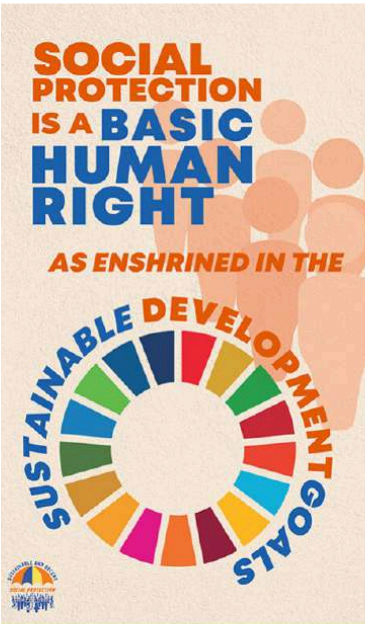


This design shifts the burden of access onto those least able to bear it. Workers are expected to understand complex claims procedures, navigate reporting requirements, preserve documentation, and assert legal rights while injured, economically dependent, and often fearful of retaliation. Families of deceased workers face even greater burdens, often attempting to pursue claims across jurisdictions while lacking legal knowledge, formal authorisation, or even awareness that compensation is owed.

III. STRUCTURAL DRIVERS OF EXCLUSION IN EMPLOYMENT INJURY AND DEATH PROTECTION

Current systems place employers at the center of injury and death compensation processes. Employers are often responsible for reporting workplace accidents, facilitating access to hospitals, initiating claims, and coordinating compensation through insurance or direct payment. In theory, this may create an efficient pathway to compensation. In practice, it creates a structural conflict of interest:

the same actor responsible for worker protection is also the actor with financial, reputational, and regulatory incentives to minimise liability.



Employers may under report workplace injuries, delay formal reporting, or avoid escalating incidents to authorities where claims carry financial consequences or reputational costs. In sectors where safety performance is closely monitored, injuries may be concealed to protect company metrics. In smaller firms, where insurance coverage may be absent or weak, employers may avoid reporting altogether in order to evade compensation obligations.

This creates a system in which access to compensation depends less on legal entitlement than on employer willingness to activate the process. Workers may formally have rights, but those rights remain contingent on employer cooperation at every stage.

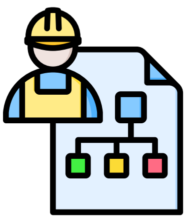
IV. PRIVATE INSURANCE DOES NOT GUARANTEE EFFECTIVE PROTECTION

The existence of private insurance does not ensure that workers are effectively protected. Even where insurance mechanisms exist, workers may still face significant barriers in securing compensation. Insurance systems frequently replicate exclusion through procedural complexity, narrow claim interpretation, and discretionary denial.

Claims may be denied on the basis that an injury falls outside formal job duties, constitutes worker negligence, or does not meet the threshold for compensability. These determinations often rely on narrow interpretations of work and responsibility that fail to reflect actual labour practices.

In effect, insurance may exist as a financing mechanism without functioning as a reliable protection mechanism.

V. SYSTEM DESIGN EXCLUDES WORKERS IN FRAGMENTED LABOUR MARKETS



Current compensation systems are typically designed around direct, standard employment relationships. Yet migrant labour markets are increasingly structured through subcontracting, outsourcing, informal delegation, and non-standard work arrangements. This fragmentation produces systematic gaps in protection.

Workers in subcontracting chains may face uncertainty over which employer is responsible for insurance or compensation.

Domestic workers, delivery workers, and workers in remote or home-based arrangements often fall into legal and administrative grey zones. In these contexts, the entity directing work may not be the same entity legally responsible for protection, creating ambiguity that can be used to delay or deny compensation.

It reflects a wider structural mismatch between labour market organisation and social protection design. Those most exposed to risk are often those least effectively covered.

VI. CROSS-BORDER CLAIMS ARE TREATED AS EXCEPTIONAL RATHER THAN STRUCTURAL

Employment injury and death systems remain poorly adapted to the cross-border realities of labour migration. This is especially visible in death compensation claims, where workers' families often reside abroad and must navigate unfamiliar legal and administrative systems from a distance.

Families may lack awareness of their entitlements, struggle to obtain required documentation, and face delays in securing legal authorisation to pursue claims. Procedural requirements that may appear administratively routine become major barriers when families must act across jurisdictions, often with limited resources and little institutional support.

VII. HOW CURRENT SYSTEMS SHIFT RISK ONTO MIGRANT WORKERS AND THEIR FAMILIES

The current model produces a clear distributional outcome: labour-related risk is generated collectively through economic production, but its costs are transferred downward onto migrant workers and their households.

When injuries are not reported, compensation is delayed, or claims are denied, the financial consequences do not disappear. They are absorbed by injured workers through lost wages, untreated disability, and job loss, or by families through debt, income insecurity, and long-term economic hardship. In death cases, families often bear the social and financial consequences of lost income without timely or meaningful access to compensation.

This is not merely an administrative failure but a structural allocation of risk. Employers benefit from flexible labour arrangements, subcontracting chains, and limited liability exposure, while workers and their families absorb the human costs of occupational harm.

The result is a system in which labour is treated as economically indispensable, but worker protection remains conditional, fragmented, and weakly enforced.

Risk is socialised through labour markets, while protection remains effectively privatised.

VIII. RECOMMENDATIONS

Replace employer-led liability systems with mandatory worker-linked social insurance for employment injury and death. Employment injury protection should no longer depend primarily on employer liability or voluntary insurance compliance. Mandatory social insurance mechanisms should be established to provide universal and continuous protection for all workers, financed through pooled contributions and designed to ensure compensation regardless of employer solvency, compliance, or business closure.

Legally remove employer monopoly over accident reporting and claims initiation. Workers, co-workers, trade unions, labour representatives, hospitals, and accredited community organisations should be legally empowered to report workplace injuries and initiate claims directly. Employers should no longer serve as the sole gatekeepers to compensation processes.

Mandate direct payment of compensation to workers and beneficiaries. Compensation payments should be transferred directly to workers or legally recognised beneficiaries through regulated financial channels. This should replace employer-mediated disbursement systems that enable delay, diversion, coercion, or non-payment.

Impose strict statutory liability across subcontracting chains. Lead firms and principal contractors should bear joint and several liability for employment injury and death protections across subcontracting chains. Liability should not be limited to the direct employer where labour is outsourced, subcontracted, or indirectly controlled.

Extend mandatory coverage to all workers regardless of contract type or employment classification. Legal protection should apply equally to workers in temporary, subcontracted, outsourced, domestic, platform-based, mobile, and remote work arrangements. Coverage should be based on the existence of labour and occupational risk, not on narrow contractual classification.

Recognise commuting accidents, occupational disease, and work-related natural death within compensable protection frameworks. Employment injury systems should be expanded beyond acute workplace accidents to include commuting injuries, occupational illnesses, cumulative exposure, and work-related natural death. Protection frameworks that exclude these risks fail to reflect the real conditions under which migrant workers live and work.

Abolish restrictive claims deadlines that systematically exclude migrant workers and families abroad. Claims limitation periods should be extended and made responsive to cross-border realities. Strict deadlines disproportionately exclude migrant workers and surviving families who face delays in documentation, legal authorisation, repatriation, and transnational coordination.

Establish single-window public claims systems for injury, death, compensation, and repatriation. Fragmented administrative procedures should be replaced by integrated single-window systems that centralise claims reporting, medical verification, compensation processing, family notification, and repatriation support. Workers and families should not be required to navigate multiple institutions during a crisis.

Create publicly administered guarantee funds to ensure payment where employers fail. Compensation should be guaranteed through publicly administered reserve or guarantee funds that ensure immediate payment in cases of employer insolvency, disappearance, non-compliance, or dispute. Workers should not bear the consequences of employer default.

Mandate public disclosure and independent oversight of claims outcomes. Governments should require systematic publication of anonymised data on injury reporting, claims filed, claims rejected, payment timelines, and compensation outcomes. Independent oversight is essential to identify exclusion, detect underreporting, and prevent administrative abuse.

Institutionalise cross-border claims access for families of deceased and injured workers. Families abroad should be able to file and process claims remotely through simplified legal recognition, digital documentation, consular facilitation, and accredited third-party representation. Cross-border access should be treated as a core design requirement, not an exceptional accommodation.

Workers and beneficiaries should receive standardised, multilingual, legally mandated information on compensation rights, reporting procedures, claims timelines, and appeal mechanisms at recruitment, arrival, and contract renewal stages.

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