Social security for migrant workers

The Barbados experience

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Background and recent developments

No Barbados has experienced its fair share of inter-island and out of region migration in the Caribbean starting from the late 19th century with the building of the Panama Canal, which drew in thousands, to more recent times when the pattern has been far more complex.

However, net outward migration has slowed considerably over the last 10 to 15 years, partly as a result of a booming economy. At the same time the growing economy has drawn migrants from other countries of the Caribbean (as well as out of the region) in the last few years. The demand has been for occupations neglected by Barbadians in the more basic and less desirable occupations, as well as for those with the more specialized skills required by new enterprises.

It is a commonly held belief, not without reason, that there are also a growing number of migrant workers operating without permits or whose permits have long expired. The perception is that certain Caribbean states have become major sources of illegal migrants, particularly Guyana, and to a lesser extent St. Vincent.

In this context it becomes necessary to take steps to respond to and regularize the situation such that benefits are seen to, and do, redound to all parties in the development of a more vibrant and flexible economy in the country and region.

Availability of social security to migrant workers

The availability of social security for workers from or in other countries, beyond welfare protection, was anticipated by legislation establishing the National Insurance and Social Security of Barbados allowed for reciprocal Agreements with other jurisdictions. The earliest agreements were with Canada and later the United Kingdom.

In 1996 the Caribbean Community (CARICOM) Reciprocal Agreement came into being with 16 Caribbean states signing on and ratifying the Agreement.

The CARICOM Agreement allowed primarily for workers to accumulate contribution credits in more than one country towards their qualification for pension. In practice, although there have been certain problems with agreeing the precise bases of calculation of such pensions, once entitlement was established in this way, the Agreement has worked well affording many
workers one or more pensions where otherwise they would have received a grant for ‘short service’.

**Practicalities encountered in Barbados**

Social security legislation in Barbados makes it mandatory for all persons who are gainfully occupied in employment in Barbados to be insured under the Act. It should be noted that no reference is made of the nationality or legal status of the workers and therefore it becomes clear that coverage is based only on being engaged in gainful employment. Therefore there is no distinction between migrant workers, whether with or without work permits, or whose work permits have expired, except in one case which will be expounded further. The major reason for lack of social security protection for migrant workers in practice arises from failure of employers to register such workers and, arguably to a lesser extent, the general failure so far of self-employed workers to register and pay contributions.

The experience of inspectors employed by national insurance to police compliance with the law with regard to registration and contribution is mixed. Employers by and large do comply with the requirements in respect to relatively well established workers who may be migrant workers. However, a variety of factors conspire to delay compliance in regard to newly employed migrant workers, as well as those on short term contracts.

Delays in obtaining work permits from the Immigration Department have been reported by employers. Without further investigation the precise causes are not clear. As noted above, there is no legal bar against workers who are actually employed being registered, whatever their current resident status. There is nevertheless a degree of reluctance to being registered and paying contributions or having contributions paid on their behalf related to confusion in the minds of workers as to exactly what their position may be with regard to entitlement to benefits at any particular time.

Such problems of questionable legality between residence and social security coverage do not for the most part exist in the case of high level and/or technical migrant workers and for those granted work permits under the CARICOM Single Market and Economy (CSME) establishment of businesses protocol.

The single apparent exception to total access available to migrant workers is Unemployment benefit. Entitlement to this benefit is predicated on availability for work. A migrant worker whose work permit has expired is clearly not available for work and therefore would not qualify for this benefit under those conditions. With CSME labour mobility there will still be the issue that under the principle of reciprocity there will be no requirement for Barbados to provide this benefit to workers from other Caribbean countries since Barbados is still the only country that provides this benefit.

**Considerations under the ILO Decent Work Agenda**

The intent of the International Labour Office (ILO) Decent Work Agenda includes creating a climate of legal and administrative practices which give comfort and empowerment to workers as respected players in the economic and developmental progress of a country. As it may apply to migrant workers, clearly the objective would be to ensure that such initiatives apply with equal strength to such workers as they may to the local workforce.

Perhaps the main barriers to the establishment of such standards of decent working conditions for migrant workers lie in the treatment of these people by immigration authorities and perhaps also in the practice of other government agencies with regard to contingent
rights, including those pertaining to the families of migrants, for example education of their progeny.

Social security legislation in Barbados, to repeat, does not discriminate on the basis of resident status, neither for the migrant worker himself or herself, nor in respect to family members residing with them in the country. It must be noted however that short term benefits, for example employment injury, are not payable whilst the claimant is not resident in Barbados, as is in fact the case for Barbadian workers. Note however that pensions are payable worldwide in line with another ILO standard.

Conclusion

From the outset the applicability of social security has been based solely on contribution payments. National insurance in Barbados has never denied benefits to migrant workers paying their way. However, other agencies play their part in creating a more or less welcoming climate for the migrant. In turn that can indirectly constrain migrant workers from coming forward both to pay contributions and claim benefits.

As far as long term, that is pension benefits are concerned, the CARICOM Agreement as to totalization for the purpose of qualification for pension has worked well.

The primary need going forward is the education of migrant workers as to their rights and entitlements. There is little doubt that migrant workers, either through their own ignorance or insensitive treatment by others, generally feel restrained in their efforts to obtain fair treatment as far as State provisions are concerned including social security provisions. This is particularly the case for workers at the lower levels of education and training, but it is not unknown for those at the higher levels to also be bemused by the system peculiarities.

As we ourselves become more educated as to the tremendous advantages that free movement of labour creates for every country in the CSME, the emphasis may turn from grudging acceptance to a more welcoming stance by all, whether administrator or facilitator, in the process of integrating our partners in the region.

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