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Introduction

In the Americas, the primary reasons for migration are the pursuit of better employment opportunities, social and economic conditions, as well as safer living environments. Social security plays an essential role as a tool for governments to improve the general welfare of society and, particularly, of its most vulnerable sectors.

Migrants are one of the groups that require significant support to manage social risk and secure their livelihoods. However, traditionally social security systems have been designed for non-migratory populations, which contrasts with the reality of today's world, as the number of people who choose or are forced to live outside their country of origin has been steadily increasing.

Social security faces new challenges regarding access, as migrants are insufficiently protected by both their countries of residence and of origin, if not completely excluded (Serra & Mazzucato, 2018). Thus, it is necessary to examine access levels to social security in the Americas from the perspective of international migration.

The Inter-American Conference on Social Security (CISS by its Spanish acronym) has recognized the importance of the matter since its first decades of existence. For example, in its Resolution No. 35, from 1951, the ICSS called for the examination of intervention measures in the matter and the duty of each national social security legislation to ensure equal treatment of nationals and foreigners. The CISS also reaffirmed its role as a forum for the collection of opinions and experiences, and for the establishment of cooperative liaisons between American countries (Centro Interamericano de Estudios de Seguridad Social [CIESS], 1992).

This document explores the available alternatives for origin and host States and the current coverage scope in the continent. In the first section, it briefly reviews the regional migratory context. Secondly, it describes some types of unilateral, bilateral and multilateral social security mechanisms for migrants. And thirdly, it analyzes the main findings of the compilation of information on public policies and international treaties on the subject, implemented in the Americas.

1. Migratory context in the Americas

Migration in the Americas has increased and diversified since the mid-twentieth century. Specifically in Latin America and the Caribbean, between 2010 and 2019 the number of immigrants increased 66% and the number of emigrants, 26%; it is estimated that at the end of 2019 there were around 42.7 million Latin Americans living outside their countries of origin (Acuña-Alfaro & Khoudour, 2020). In 2020, that figure amounted to 47.2 million (International Organization for Migration [IOM], 2022). This increase is due to several causes, including poverty, inequality and exposure to violence (Cabello & Castillo, 2021).

The economic effects of the COVID-19 pandemic also had an impact on the main causes of migration. According to data from the Economic Commission for Latin America and the Caribbean (ECLAC), poverty rate in Latin America and the Caribbean increased from 30.5% to 32.1% and extreme poverty rate from 11.3% to 13.8% between 2019 and 2021. This translates into 201 million people who cannot cover all their basic needs and 86 million people who do not have the resources to acquire the basic food basket (Comisión Económica para América Latina y el Caribe [CEPAL], 2022).

There is also another structural problem in the region: labor informality. The International Labour Organization (ILO) estimates that in 2020 the number of people working informally reached 158 million, equivalent to 54% of the working population of Latin America and the Caribbean (Organización Internacional del Trabajo [OIT], 2020).

As for the main migratory routes in the Americas, although transoceanic migration is a reality —with Spain, Italy and Portugal as the main destinations— intraregional routes predominate (Cabello & Castillo, 2021). In fact, 70% of migrants throughout Latin America and the Caribbean are concentrated in the United States (ECLAC, 2014). There are, however, other important destinations for migration within the continent.

One of the subregions with the highest flow of migrants is Central America. This subregion contains the Northern Triangle —composed of Guatemala, Honduras, and El Salvador— which has Mexico as a transit route and the United States as a destination. However, Nicaragua also appears in this subregion as an issuing country but has Costa Rica as its main destination (Organización de los Estados Americanos [OEA], 2015).

Another subregion with an important flow of migrants is the Southern Cone, where human mobility occurs mostly between neighboring countries (Cabello & Castillo, 2021). In this area, Argentina serves as the main destination with 2.28 million immigrants in 2021, mainly from Bolivia, Chile, Paraguay, and Uruguay (Global Migration Data Portal, 2021b). In the Southern Cone, Argentina is also the country with the highest rate of emigrants, with 1.07 million (Global Migration Data Portal, 2021b); however, its main destination is Spain (OEA, 2015).

Finally, it is important to mention the case of Venezuela, which in 2020 had an immigrant population of 1.3 million and an emigrant population of 5.4 million (IOM, 2022). In July 2021,

Colombia, Peru, and Chile alone registered 4.1 million Venezuelan refugees and migrants (Global Migration Data Portal, 2021b).

In general, although in the Americas there was a decrease in formal migration due to mobility restrictions caused by the pandemic, many of the factors related to migration in the region (usually involuntary and even forced), were also exacerbated (CEPAL, 2020). In the continent, migration is often perceived as a mean to improve living conditions, however, the rights of migrants are rarely guaranteed, which produces

and reproduces injustice and inequality (Cabello & Castillo, 2021).

Social security is a human right recognized in various international instruments and is one of the most violated for migrants, especially for those in an irregular migratory status. Its promotion and protection are fundamental, as it plays a central role in the fight against poverty, in the reduction of inequality gaps, and in the development of the capacity to respond to health and social emergencies (Maldonado, Martínez, & Martínez, 2018).

Table 1. Social security for migrants in international human rights instruments

International instrument	Provisions on social security for migrants
<p>Universal Declaration of Human Rights, 1948</p>	<ul style="list-style-type: none"> • Article 22 states that everyone has the right to social security and is entitled to the realization, through national efforts and international cooperation, of the economic, social, and cultural rights indispensable, to human dignity and the free development of personality. • Article 25 states that everyone has the right to a standard of living adequate for health and well-being, including food, clothing, housing, medical care, and necessary social services. Also, everyone has the right to insurance in case of unemployment, sickness, disability, widowhood, old-age and in other cases of loss of means of subsistence.
<p>International Covenant on Economic, Social and Cultural Rights, 1966</p>	<ul style="list-style-type: none"> • In Article 9, the States Parties recognize the right of everyone to social security, including social insurance.
<p>Additional Protocol to the American Convention on Human Rights on Economic, Social and Cultural Rights, 1998</p>	<ul style="list-style-type: none"> • Article 9 establishes the right of everyone to social security to protect them from old-age and disability, as well as to their dependents. In addition, it determines that employed people must have medical care and an allowance or retirement benefit in cases of work accidents or occupational disease. Working women must also be covered for paid maternity leave before and after childbirth.
<p>General comment No. 19: The right of social security (art.9), United Nations Economic and Social Council, 2008</p>	<ul style="list-style-type: none"> • On physical access to social security, it states that social security benefits must be granted in a timely manner and physical access to services must be guaranteed, especially for people with disabilities, migrant workers, and inhabitants of remote areas. • It determines that when non-nationals have contributed to the social security system of a State, they must be able to benefit from that contribution or recover it if they leave the country. • It institutes that migrants should have access to non-contributory social security plans, as well as affordable access to health care and family support. • It stipulates that all persons, without distinction based on their immigration status, have the right to access primary and emergency medical care. • The Committee on Economic, Social and Cultural Rights of the Economic and Social Council stresses the importance of establishing bilateral or multilateral international agreements to coordinate contributory social security schemes for migrant workers.

<p>Global Compact for Safe, Orderly and Regular Migration, 2018</p>	<ul style="list-style-type: none"> • The unity of purpose of the compact is that migration should never be an act of desperation, but, when it is, States must cooperate to respond to the needs of vulnerable migrants and address the corresponding challenges • One of the compact's goals for safe, orderly, and regular migration is to ensure that migrants have access to basic services and are empowered to achieve full inclusion and social cohesion within societies. It also aims to create the necessary conditions for migrants and diasporas to fully contribute to sustainable development in all countries.
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Source: prepared by the author with information from: Universal Declaration of Human Rights. Articles 22 y 25. December 10th, 1948. International Covenant on Economic, Social and Cultural Rights. Article 9. December 16th, 1966. Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador". Article 9. November 7th, 1988. General Comment No. 19 [United Nations Committee on Economic, Social and Cultural Rights (CESCR)]. The right to social security (Art. 9 of the Covenant) February 4th, 2008. Resolution 73/195 of 2018 [General Assembly of the United Nations]. Global Compact for Safe, Orderly and Regular Migration. January 11th, 2019.

2. Types of social security mechanisms for migrants

Given the presented migratory panorama, the question arises of the instruments available to governments in the Americas to ensure access to social security for migrants. Mendizábal & Kurczyn (2017) propose the internationalization of social security, which they define as the processes by which the protection granted to citizens by the domestic law extends its scope of competence in two possible ways:

- a) Social security regulations protecting nationals beyond their own territorial borders.
- b) States and intergovernmental organizations establishing standards of international application, so that the coverage of migrants increases vertically and horizontally.

Governments can take different approaches to internationalizing social security. They can do

it unilaterally, by creating inclusive programs and benefits that protect immigrants and their families. Alternatively, they can establish bilateral or multilateral agreements with other governments or intergovernmental organizations to extend social security coverage to migrants.

Host countries can take **unilateral measures** to extend social security coverage to migrants. One approach is to enshrine the principle of equal treatment between nationals and foreigners, which would ensure access to social security schemes regardless of nationality. However, in practice, the principle of equal treatment is often limited by the definition of migrant workers at a national level, the type of residence permit and work authorization held, or the duration of the stay (International Labour Organization [ILO], 2021).

Another unilateral measure that can enhance migrants' access to social security is to a **flexible design of benefits**. This could involve simplifying or eliminating access conditions and minimum requirements. For instance, reducing waiting periods¹ or minimum residency requirements in

¹ Waiting periods are lapses, defined in some social security regulations, which must pass before the coverage of certain risks is effectively active (Gutarra, 2017); this lapse is computed from the moment of the affiliation and its extension is variable. That is, the beneficiaries cannot access, for example, health services for the treatment of some or all the diseases diagnosed until they comply with the period of prior assurance.

contributory social security schemes can benefit migrants, as the time between their arrival to the host country and access to benefits can be a disadvantage (United Nations Department of Economic and Social Affairs [UN DESA], 2018). In addition, retroactive payment of contribution periods required to access benefits can also be an option (ILO, 2021).

Furthermore, host countries may allow migrants to **access non-contributory or general tax-funded programs**. Considering that the employment situation of migrants is usually precarious, this type of social-protection becomes essential to guarantee the security of their income and avoid impoverishment (UN DESA, 2018).

According to UN DESA (2018), various dynamic models of the fiscal effects of migration have already shown that the presence of migrants—with regular and irregular status—has positive impacts for the host country in the long term. That is, their net tax contributions—through taxes, purchase of goods, and other contributions—are greater than the benefits they usually receive in the form of economic benefits and public services.

Finally, one more way to ensure that migrants have full access to social security is the **exportability of rights acquired or in the process of being acquired** in the host country. This option involves the possibility of making payments of social security benefits abroad and cooperation between countries is not necessary for this.²

Although it is a great advantage that migrants enjoy the same rights and obligations as nationals in the host country, this sector may be adversely affected at the time of return due to the lack of exportability of benefits. In these cases, the principle of solidarity works against migrants because, although they have the obligation to make contributions, they cannot always receive benefits due to administrative limitations (UN DESA, 2018).

The inability of social security management institutions to make payments abroad is the main barrier to exportability. Given this, an alternative is to make payments in a single exhibition of the periodic economic benefits already acquired, or the reimbursement of contributions to a person returning to their origin country (ILO, 2021).

The calculation of the amount paid may vary according to the country and the regime, but it is common to consider the contributions paid by the worker and the employer. It is important that these payments and refunds are exempt from taxes, as this could also put the migrant at a disadvantage (UN DESA, 2018).

Origin countries can also implement unilateral measures for the protection of their emigrated nationals. For example, by offering a basic level of protection to their diasporas through the establishment of **voluntary schemes**. These initiatives can be implemented in branches of social security that prove limitedly available to the migrant community in the host country—pensions or health services, for example—and can be used by migrants only as complementary protection measures.

Coverage may also be offered for dependents of the migrant who remain in the origin country. The voluntary schemes also offer the advantage of continuity in contribution periods for temporary migrant workers (ILO, 2021) or for those who are contemplating their eventual return. However, these measures require an effective regulatory basis, sufficient control, enforcement, and persuasion mechanisms (Olivier, 2017).

Similarly, origin countries may establish **welfare funds for migrants**. These funds are intended to protect the interests of migrant workers outside the origin country and are often based on laws or decrees that also provide for the creation of institutions, such as provident funds (ILO, 2021).

² It is important to differentiate the concepts of 'exportability' and 'portability', since the latter refers to international cooperation between social security institutions to jointly determine the rights of a particular migrant (ILO, 2018), because of this the prior ratification of international social security agreements is usually required.

The services and benefits provided cover all stages of the migration cycle, including legal advice, pre-departure advising, training, loans, repatriation support, psychosocial counselling, and consular support in host countries. The funds may include social security services and benefits such as medical care, disability and survivors' insurance, etc.; in some cases, protection extends to dependents who remain in the origin country (ILO, 2021).

The main limitation of voluntary schemes and welfare funds is that contributions generally depend solely on migrants (Olivier, 2017), and are too small to provide effective and quality coverage. Additionally, the extraterritorial application of some of the benefits and services can be a restraint as they are unilateral measures, meanwhile extensive diligence and investments are required to guarantee online transactions and the use of embassies as points of attention and response (Olivier, 2017).

In turn, origin countries can design social security systems to be more flexible, giving migrants the opportunity to meet the necessary conditions to access benefits (ILO, 2021). The State may offer its returned nationals the possibility of making retroactive payment of omitted contribution periods, granting subsidies to compensate for contribution periods not completed and reducing or eliminating benefit waiting periods. For migrants, at least the exportability of acquired rights, the lump sum payment of periodic benefits and the reimbursement of contributions before departure can be ensured.

Regarding **bilateral and multilateral measures**, there are **international treaties or agreements on social security**. These require a cooperation framework between origin and host States. These instruments reflect migration patterns between contracting parties; in

addition, they are influenced by factors such as geographical, linguistic, and cultural proximity. An important factor to notice is that these agreements aim towards the creation of liaisons and coordination of the social security systems of the contracting parties, and not towards harmonization or homogenization (Strban, 2018).

Each international convention contains special features which meet the needs and wishes of the Member States. Thus, the material scope may be limited to the financing of social security for old-age, invalidity, or survivors' pensions—excluding other benefits altogether— or some of the other branches of social security, e.g., occupational risks, maternity, health, etc. may be included. The most comprehensive international social security conventions include pension financing, contributory benefits and benefits considered as welfare or non-contributory (Strban, 2018).³

When two countries establish a bilateral or multilateral social security convention, it is necessary to define its guiding principles and objectives. In the first place, Montoya (1964) states that the social security systems of the contracting parties must be coordinated in terms of the **principles of territoriality or extraterritoriality**. The first assumes that both nationals and foreigners within a State are subject to its social security rules. The principle of extraterritoriality, on the other hand, assumes that migrants maintain their rights and obligations regarding social security in their origin State, despite having abandoned it.

It is important that each international social security convention regulates this aspect in order to avoid double concurrence of laws and to ensure the applicability of a single piece of legislation. Generally, bilateral and multilateral conventions establish the principle of territoriality, determining that the host State is responsible for the protection of the migrant. More specifi-

³ According to Fletes (2004), social assistance refers to the range of provisions and actions undertaken by governments to help address the basic and urgent needs of individuals or groups who are unable to meet those needs on their own. It also includes measures aimed at addressing the root causes of their inability to meet their needs.

cally, it is common for workers to be protected by the legislation of the State in which they work and for their dependents to be subject to the legislation of the State in which they live (Hoda & Rai, 2019).

Secondly, **equality of treatment** is a fundamental principle of these conventions, which establishes that nationals and foreigners shall be governed by the same rules, with equal rights and obligations (Montoya, 1964). This principle seeks to prevent migrant workers from being put at a disadvantage or discriminated against.

Convention No. 118 of the International Labour Organization (ILO) upholds this principle. In the Americas it has been ratified by Barbados, Bolivia, Brazil, Ecuador, Guatemala, Mexico, Suriname, Uruguay, and Venezuela. However, not all have adopted it for the full set of nine branches of social security or for all those existing in their national legislation.⁴

Thirdly, the **principle of transferability of rights or portability** refers to the ability of the migrant to maintain and transfer social security rights derived from contributory payments from one system to another (Holzmann, 2018). Portability is extremely important to prevent migrants from losing money and time when they leave the country where they made contributions, by aggregating labor and waiting periods. This represents an invaluable advantage for the migrant worker, since these periods usually vary between 5 and 35 years (Hoda & Rai, 2019) so, if

portability does not take place, their fulfillment is problematic or even impossible.

According to Gala (2019), two current and compatible options to ensure portability are: the ratification of ILO conventions on this issue, and coordination between countries through the conclusion of bilateral or multilateral international agreements. The latter usually apply the principle of portability for all social security benefits included in the material scope of application and that are subject to previous affiliation or contribution periods (Strban, 2018).⁵

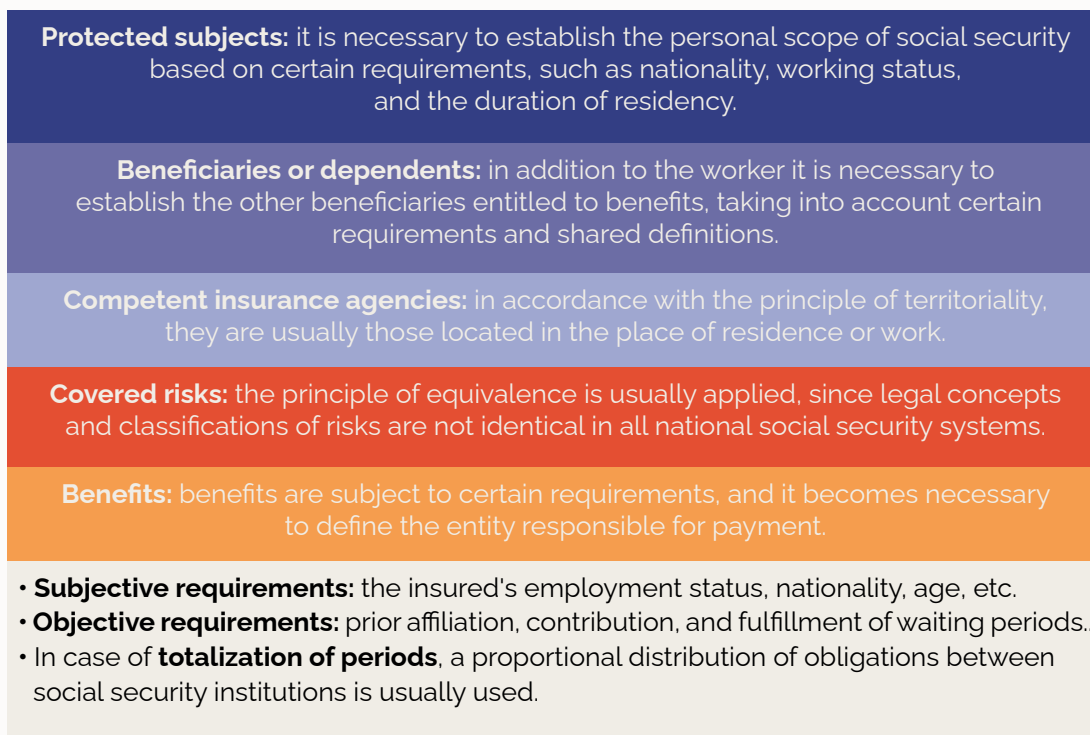
It is important to stress that the conservation of rights or portability is a complex issue in which taxation has an important function, since conceptual guidelines must be established on how to tax benefits between countries (Fornalé, 2017). However, international cooperation in this area offers enormous advantages, both for migrants and for social security institutions, by avoiding economic losses and improving actuarial balance and equity (Sabates-Wheeler & Koettl, 2010).

Finally, the principle of **administrative cooperation** is paramount in the operation of any social security agreement, bilateral or multilateral. This principle is exercised through mutual assistance between States, exchange of information, financial coordination, equal treatment in tax matters, technical cooperation, free administrative and legal assistance, as well as in the amicable settlement of disputes, for which permanent arbitration councils can also be established (Montoya, 1964; Strban, 2018).

⁴ According to the ILO, the nine branches of social security are: health care; sickness benefits; maternity benefits; invalidity benefits; old-age benefits; survivors' benefits; benefits in the event of accidents at work and occupational diseases; unemployment benefits; family benefits.

⁵ Convention No. 19 concerning Equality of Treatment (Accident Compensation); Convention No. 48, on the Maintenance of Migrants' Pension Rights; Convention No. 157 on the Maintenance of Social Security Rights.

Figure 1. Additional elements to be considered for the establishment of an international social security convention



Source: prepared by the author with information from: Montoya, A. (1964). El Derecho internacional de la Seguridad Social. *Revista de Política Social*, enero-marzo (61), 395-426. Retrieved from: <https://www.cepc.gob.es/publicaciones/revistas/revista-de-politica-social/numero-61-eneromarzo-1964/el-derecho-internacional-de-la-seguridad-social-1>

Regarding coverage **for the migrants with an irregular or undocumented status**, it is important to note that this is the group that faces the greatest obstacles in accessing social security systems. Workers who are in an irregular migratory situation often have dangerous, abusive, and exploitative working conditions, so they are subject to greater risk issues. Although in some countries the legislation guarantees them basic access to some branches of social security, such as health, there is a constant fear of being denounced, deported, and even suffering criminal prosecution due to their immigration status (ILO, 2021).

As we mentioned before, the presence of immigrants in any migratory situation tends to have a positive impact on the long-term economic and fiscal level. Its coverage also brings a wide variety of advantages: for migrants, it reduces vulnerability and social exclusion, increases their employability capacity and is a first step towards the regularization of their migratory status; for the host country, it represents a mechanism for controlling and reducing public health risks, especially in periods of crisis such as pandemics (ILO, 2021).

On the one hand, transit and host countries can ensure the protection of people migrating irregularly through social protection floors, and by simplifying eligibility requirements related to

employment, residence, and documentation to be submitted (ILO, 2021). Other alternatives are regularization campaigns; access to non-contributory social security programs to alleviate poverty and preserve human dignity; or guarantee protection at least to the most vulnerable groups within this population, such as children and adolescents (Naciones Unidas, 2014).

On the other hand, origin countries can use unilateral measures we mentioned before, such as voluntary schemes and welfare funds, although, in the case of irregular migrants, it may be necessary to increase flexibility of the requirements and documentation necessary for affiliation.

Finally, the implementation of complementary measures that eliminate administrative and cultural access barriers for migrants will always be favorable for the success of any of the mechanisms reviewed in this section —unilateral, bilateral, or multilateral. Examples include: communication and information campaigns; the translation of materials, forms and websites; campaigns and actions against discrimination and stigmatization; training of administrative staff; data collection; the exchange of good practices at international level, and direct consultation with migrants and their employers at all stages of policy and program development (ILO, 2021).

So far, here we have briefly reviewed the current migratory context of the Americas, as well as the alternatives of public policy and international cooperation that exist to extend social security to migrants. The following section presents and discusses findings regarding the level of protection enjoyed by migrants in the American continent, as well as data regarding the most used social security measures, the best covered benefits, and the countries most dedicated to promoting and protecting this human right for migrants.

3. Social security mechanisms for migrants implemented in the Americas

An exploratory study was conducted to systematize the mechanisms currently in place in the Americas to extend social security coverage to migrants. The study was based on a documentary and normative search of international policies and agreements, and it involved consulting databases, academic studies, and a direct review of existing international treaties and inter-institutional agreements related to the subject.

As a result of these efforts, the *Matrix of Social Security Mechanisms for Migrants in the Americas* was created, which, as of the date of this publication, systematizes 239 measures to improve access to social security for this population (see Annex). This instrument categorizes protection measures by the country or countries where they are implemented, the target population, the migratory status requirements, and the branches of social security included. The main findings are summarized below.

3.1 Unilateral measures in the Americas

Regarding unilateral measures, 57 cases were identified on the continent. These are categorized into different types of protection mechanisms, such as: (a) voluntary insurance schemes for migrants (9 cases); (b) enshrinement of the principle of equality between nationals and foreigners (38 cases); (c) exportability of pensions (6 cases); (d) measures for irregular migrants (4 cases).

The most common mechanism for improving access to social security for migrants is the principle of equal treatment between nationals and foreigners. This principle means that, in accordance with national social security rules, nationality requirements cannot be imposed in

order to qualify for affiliation and benefits. It is important to note, however, that while this principle eliminates an obstacle to the enjoyment of this human right, it does not preclude other requirements such as the need for a regular stay or work permit.

Currently, it was recorded that in the American continent all 35 sovereign States have implemented this principle for medical assistance and the rest of the contributory benefits available in each case. Likewise, it was recorded that 3 dependent territories (Anguilla, Guadeloupe

and Turks and Caicos) have also implemented this principle (Panhuys, Kazi-Aoul, & Binette, 2017).

Then, among the unilateral measures for the social security of migrants implemented by origin countries, the most common is the voluntary insurance of nationals residing abroad. Here the case of Brazil stands out, since it has the most complete scheme of benefits included, counting a total of six types. This is followed by Colombia, Ecuador and Mexico, with five types of benefits covered; Jamaica, with four; Saint Vincent and the Grenadines, with three; and El Salvador,⁶ Haiti, and Mexico, with one (see Table 2).⁷

Table 2. Voluntary insurance for emigrants offered by American countries and the benefits they cover

Country	Social security benefits								
	Medical care	Sickness	Maternity	Invalidity	Old-age	Survivors	Employment injury	Unemployment	Family
Brazil		X	X	X	X	X			X
Colombia	X			X	X	X			X
Ecuador	X			X	X	X			X
Mexico	X			X	X	X			X
Jamaica				X	X	X			X
Saint Vincent and the Grenadines					X				
El Salvador	X								
Mexico	X								
Haiti					X				

Source: prepared by the author based on the compilation of public policies and international treaties on social security for migrants in the Americas.

⁶ The special regime *Salvadoreño Seguro* offered by the Salvadoran Social Security Institute, is the only program in the Americas that provides health coverage both for dependents in the national territory, and for people residing abroad in the form of teleconsultation (Ulloa, 2021; Schwarzer, Ortiz-Vindas, & Arellano, 2020).

⁷ Mexico currently offers two voluntary insurance options for migrants. Firstly, the Mexican Social Security Institute (IMSS) provides the *Seguro de Salud para la Familia*, which grants migrants and their dependents access to medical care within the national territory (Instituto Mexicano del Seguro Social, 2022b). Secondly, in late 2022, the IMSS and the Ministry of Foreign Affairs signed an agreement that allows Mexicans residing abroad to access five types of contributory benefits, including medical care within the national territory. This agreement became available in January 2023 for Mexicans residing in the United States and Canada and will be available for the rest of the world from March of the same year (Instituto Mexicano del Seguro Social, 2022a).

For their part, the host countries resort to the diverse types of exportability of pensions as a measure to preserve the right to social security for the migrant population. In the Americas, the United States (USA)⁸ and Brazil offer the payment of pensions abroad for nationals or foreigners who are eligible; Venezuela stipulates in its legislation the lump sum payment of pensions before the return of the immigrant; and Haiti offers reimbursement of contributions to those who return to their country of origin and have not completed the minimum periods for receiving benefits.

Regarding access to social security for irregular migrants, most of the voluntary insurance offered by origin countries allows them to access certain benefits. It was found that among the host countries in the Americas, Panama is the only case where the right to social security for migrant workers is mandatory, regardless of their stay status. In Mexico, Uruguay and Chile, this group is offered access to medical care.⁹

It should be noted that the United States, Haiti and Mexico are the States that have implemented the most unilateral social security measures for migrants. The US has two forms of exportability; Haiti has a form of exportability and a voluntary insurance scheme; Mexico has two voluntary insurances and a protection measure for irregular migrants. These three countries have also established equal treatment for social security between nationals and foreigners.

It can be concluded that apart from the consecration of equal treatment between nationals and foreigners, there are few unilateral initiatives in the Americas to provide access to social security for migrants: there are only nine voluntary insurances for emigrants and six cases of exportability of pensions.

While people in an irregular migratory situation largely rely on unilateral mechanisms implement-

ed by their origin, transit and host countries, only four cases of permanent measures directly serving this population were identified. Moreover, these measures tend to exclude benefits associated with labor and income security.

3.2 Bilateral measures in the Americas

Social security initiatives between countries in the Americas regarding migrants are primarily established in 178 international legal instruments, including 163 treaties and 15 inter-institutional agreements. These treaties are typically ratified directly by States, while the inter-institutional agreements are signed by government entities, particularly social security institutions. As a result, only the organizations and their members are affected by the legal consequences of these agreements (Sedano, 2020).

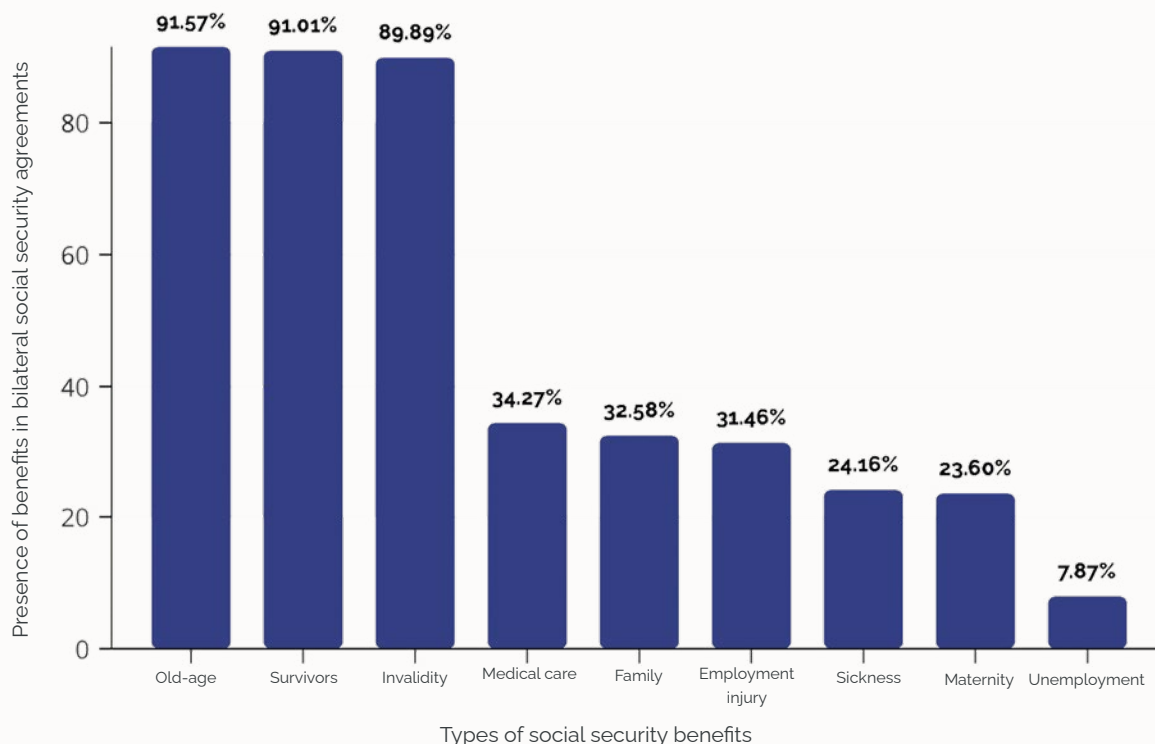
The majority of benefits present in the bilateral social security mechanisms for migrants in the Americas are contributory old-age (91.57%), survival (91.01%), and disability (89.89%). These are all long-term benefits for which cooperation between origin and host countries is essential since they aim to allow the portability of rights and the aggregation of contribution periods.

Instead, short- and medium-term cash benefits for sickness, maternity, occupational risks, unemployment, and family benefits, as well as medical care, are less frequent in bilateral instruments. Although this does not imply an automatic exclusion of these benefits for migrants in the host countries (because, as long as there are no requirements related to nationality, they still have the possibility of accessing them), international coordination in these branches would allow people who emigrate temporarily to choose to continue to make contributions to the social security system of their origin country.

⁸ The United States offers overseas payment of disability, old-age and survivors' pensions for citizens of any American country (except nationals of Paraguay and Suriname).

⁹ In Mexico, the Migration Act (Ley de Migración, 2022) ensures that migrants have access to healthcare on equal terms with nationals, regardless of their migratory status. In Uruguay, the migration law (Ley N° 18.250, 2008) guarantees access to emergency medical assistance for all migrants. In Chile, irregular migrants are allowed to voluntarily enroll in the social health insurance of the National Health Fund (Fondo Nacional de Salud), but only if they are in the process of regularization of their migration status (Fondo Nacional de Salud, n.d.).

Graph 1. Presence of social security benefit types in the 178 bilateral social security mechanisms signed by countries in the Americas



Source: prepared by the author based on the compilation of public policies and international treaties on social security for migrants in the Americas.

Of the bilateral social security agreements identified in this research, the most comprehensive is the one concluded between Chile and Spain, since it includes all nine types of benefits categorized by the iLo. In general, treaties concluded between American and European countries tend to cover a wider range of benefits. Among treaties signed only by American parties, those with the most extensive benefit packages are:

- **With eight benefits:** Argentina-Peru and Brazil-Chile
- **With seven benefits:** Ecuador-Peru.
- **With five benefits:** Argentina-Chile, Bolivia-Uruguay, Costa Rica-Uruguay, Ecuador-Uruguay, Peru-Uruguay, Uruguay-Venezuela.
- **With four:** Antigua and Barbuda-Canada, Argentina-Ecuador, Barbados-Canada, Canada-Chile, Canada-Dominica, Canada-Saint Vincent and the Grenadines, Canada-Saint Lucia, Canada-Trinidad and Tobago, Chile-Colombia, Chile-Ecuador, Chile-Paraguay, Chile-Peru, Chile-Uruguay, Chile-Venezuela, Colombia-Ecuador.

Table 3. Bilateral agreements extending the material scope of application of other regulatory frameworks

Added benefits	Multilateral mechanism to be extended	Medical care	Sickness	Maternity	Employment injury
States Parties					
Bolivia-Uruguay	COISS	x			x
Costa Rica-Uruguay	COISS			x	x
Ecuador-Uruguay	CMISS	x			
Panamá-Spain	COISS	x		x	x
Uruguay-Portugal	COISS	x			
Uruguay-Venezuela	COISS	x			x

Source: prepared by the author based on the compilation of public policies and international treaties on social security for migrants in the Americas.

Other relevant agreements are those used to expand more general international regulatory frameworks, such as the Ibero-American Multilateral Agreement on Social Security (CMISS by its Spanish acronym) of 2011, or its predecessor the Ibero-American Agreement on Social Security (COISS by its Spanish acronym) of 1978. These determine the portability of certain contributory social security benefits between their parties,¹⁰ however, in America there are six bilateral agreements dedicated to extending their original material scopes of application (as shown in Table 3).

Regarding the coverage of migrants in an irregular stay condition, only 14 bilateral mechanisms were identified that are non-discriminatory for this sector (see Table 4). In all cases, these are inter-institutional agreements establishing the right of persons insured with a signatory social security institution, who are temporarily in the territory of the other institution, to receive medical care at the expense of the latter.

It should be noted that these 14 bilateral mechanisms are not intended exclusively for irregular migrants, as the only requirements outlined in the agreements are the identification of the migrant as affiliated to one of the contracting institutions, without any obligation to present documentation proving their regular stay in the host country. However, it is still possible that other administrative barriers may persist when accessing health services.

¹⁰ The CMISS ensures the portability of contributory benefits for disability, old age, survivors' benefits, and employment injury and occupational diseases: 12 countries have adhered to this multilateral agreement: Argentina, Bolivia, Brazil, Chile, Ecuador, El Salvador, Spain, Paraguay, Peru, Portugal, Dominican Republic, and Uruguay (Jacob, 2021). The COISS includes contributory disability, old age, and survivors' benefits and 16 countries have adhered to it: Argentina, Bolivia, Brazil, Colombia, Costa Rica, Chile, Ecuador, El Salvador, Equatorial Guinea, Nicaragua, Panama, Peru, Portugal, Spain, Uruguay, and Venezuela (Santos, 2004). However, the latter is only a framework agreement, so it only has effect until complementary bilateral agreements are concluded between its parties (Jacob, 2021).

Table 4. Non-discriminatory inter-institutional social security agreements and the benefits they provide for migrants in an irregular situation

Social security institutions that sign	Medical care	Emergency medical assistance
Guatemalan Institute of Social Security - Costa Rican Social Security Fund		X
Costa Rican Social Security Fund - Nicaraguan Institute of Social Security	X	
Costa Rican Social Security Fund - Panama Social Security Fund	X	
Guatemalan Institute of Social Security - Salvadoran Social Security Institute	X	
Salvadoran Institute of Social Security - Nicaraguan Institute of Social Security		X
Salvadoran Institute of Social Security – Panama Social Security Fund	X	
Guatemalan Social Security Institute - Honduran Social Security Institute	X	
Nicaraguan Institute of Social Security – Guatemalan Institute of Social Security		X
Guatemalan Institute of Social Security – Panama Social Security Fund		X
Nicaraguan Institute of Social Security – Guatemalan Institute of Social Security		X
Panama Social Security Fund – Honduran Social Security Institute	X	
Panama Social Security Fund – Nicaraguan Institute of Social Security	X	
Dominican Institute of Social Security – Nicaraguan Institute of Social Security	X	
Dominican Institute of Social Security – Panama Social Security Fund	X	

Source: prepared by the author based on the compilation of public policies and international treaties on social security for migrants in the Americas.

Most of these bilateral social security mechanisms for migrants were held between institutions in Central America: Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. This situation responds to the constant and growing intraregional migratory flows, since all these countries are origin, host and transit territories for migrants; in fact, the top two migration destinations in this subregion are Costa Rica and Panama (Global Migration Data Portal, 2021a).

In addition, of these countries in the Central American subregion, only Costa Rica and Panama have taken part in bilateral and multilateral treaties on social security. It is possible for interinstitutional

agreements to be considered an alternative for the protection and conservation of medical benefits for beneficiaries who migrate temporarily within these territories.

As discussed above, international treaties, unlike inter-institutional agreements, often require extensive efforts to be concluded and ratified. Therefore, it is also pertinent to mention those countries that have participated the most in this type of bilateral mechanisms (see Table 5), since they can be considered as main actors highly involved in the extension of coverage and the preservation of social security rights for migrants.

Table 5. American countries with the most bilateral social security treaties

Country	Total treaties	Treaties with other American countries	Treaties with countries in other regions
Canada	49	14	35
United States	30	4	26
Chile	27	10	17
Uruguay	23	9	14
Brazil	15	3	12
Argentina	12	4	8
Ecuador	9	8	1
Peru	7	5	2
Venezuela	6	3	3

Source: prepared by the author based on the compilation of public policies and international treaties on social security for migrants in the Americas.

First, Canada, the United States, Chile, and Uruguay with more than 20 treaties, and Brazil and Argentina with more than 10, appear as the American countries with the most instruments concluded. In all six cases, more than half were celebrated with countries outside the region, mainly in Europe and Asia.

In general, international social security treaties tend to respond to the migration flows of the concerned country. For example, Canada is the third of the main destinations for migrants in the Americas (Global Migration Data Portal, 2021b), however, Canadian migrant population is concentrated in the United States, the United Kingdom, and Australia, among other European and Asian countries (Expansión, 2019c).

In contrast, the United States is the largest receiver of migrations from the Americas (Global Migration Data Portal, 2021b), but its emigrants commonly go to Mexico, Canada, the United Kingdom, Germany or Australia, etc. (Expansión,

2019g). Although Mexico and the United States are each other's main destinations for their migrants, there is no international social security treaty between these two parties.

Now, regarding Chile and Uruguay, their main destinations for emigrants are Argentina, the United States, and Spain (Expansión, 2019d; Expansión, 2019j). Regarding immigration, Chile is one of the most important recipients of migrants from countries in the Southern Cone and Uruguay is the third of the main destinations for European migration (Global Migration Data Portal, 2021b).

Brazil and Argentina are the two main destinations for extra-regional immigration in South America (Global Migration Data Portal, 2021b). In turn, Brazilian emigrants go to the United States, Japan and Portugal; Argentine migrants, to Spain, the United States and Chile (Expansión, 2019b; Expansión, 2019a).

The next countries with the most social security treaties signed are Ecuador with eight, Peru

with seven and Venezuela with six. Of these, the first two concluded most of their treaties on the subject with other American countries.

Ecuador has signed international agreements with countries such as Argentina, Chile, Spain, Venezuela, among others, with which it shares constant flows of migrants (Expansión, 2019e; Expansión, 2019f). A similar case is that of Peru, which has treaties with Argentina, Canada, Chile, Ecuador, Spain, among others. (Expansión, 2019h; Expansión, 2019i). Thus, in these cases, there is also a correspondence between the migratory reality of the countries and their bilateral instruments of protection for migrants.

Venezuela, conversely, given the crisis of recent years, presents an outdated status that doesn't reflect the current relation between its present migratory patterns and its international social security agreements. This situation is especially clear regarding its emigrants, largely concentrated in Colombia (Expansión, 2019k), a country with which Venezuela doesn't have any current bilateral social security agreement.

In general, an extensive network of bilateral treaties on the subject are in force in America, however, only four countries with the most agreements account for 72.47%. Given the complexity involved in designing, agreeing, and

implementing this type of instrument, the political will of some countries of the continent to ensure the protection and preservation of the right to social security of their migrants is evident.

This is an advantage for migrant population, which traditionally faces serious obstacles to the full exercise of this human right. In particular, the migrant sector with a regular status and formal labor relations can advantage from bilateral social security agreements, as irregular migration tends to be excluded.

3.3 Multilateral measures in the Americas

Regarding multilateral social security mechanisms, there are currently four international treaties in operation in the Americas: The Ibero-American Multilateral Agreement on Social Security (CMISS by its acronym in Spanish), the Multilateral Agreement on Social Security of the Southern Common Market (Mercosur), the Andean Social Security Instrument, and the Caribbean Community Agreement on Social Security (CARICOM). All of them serve the fundamental purpose of regulating and facilitating coordination between social security institutions, while also enabling the portability of rights and exportability of benefits across entire subregions of the continent.

Table 6. Multilateral agreements into force in the Americas

Multilateral agreement	States Parties	Material scope
Ibero-American Multilateral Agreement on Social Security (CMISS)	Argentina, Bolivia, Brazil, Chile, Ecuador, El Salvador, Spain, Paraguay, Peru, Portugal, Dominican Republic, and Uruguay.	Contributory benefits for invalidity, old-age, survivors, and employment injuries
Multilateral Agreement on Social Security of the Southern Common Market (Mercosur)	Argentina, Brazil, Paraguay and, Uruguay.	All benefits covered by applicable national legislation

<p>Andean Social Security Instrument</p>	<p>Bolivia, Colombia, Ecuador, and Peru.</p>	<p>All benefits covered by applicable national legislation.</p>
<p>Caribbean Community Agreement on Social Security (CARICOM)</p>	<p>Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago.</p>	<p>Contributory invalidity, old-age and survivors'.</p>

Source: prepared by the author based on the compilation of public policies and international treaties on social security for migrants in the Americas.

The realization of agreements of this nature involve a complex process, since it is necessary to position the issue on national and international agendas, conduct dialogue, achieve convergence of various positions and conclude the design of general rules. To achieve these goals, international organizations have the potential to foster the right conditions because of their role and specialization as organizations dedicated to debate, mediation and cooperation among States.

In fact, the four multilateral mechanisms found in the Americas were formulated and promoted within the framework of international organizations, respectively: the Ibero-American Social Security Organization (OISS), the Southern Common Market, the Andean Community and the Caribbean Community. This, in turn, has helped the monitoring of compliance with the agreements by the institutions that support them.

On the one hand, CISS and the CARICOM agreement stand out for the number of signatory parties they meet, with twelve and thirteen respectively (see Table 6). The second agreement is particularly important since no bilateral social security treaty works between its signatory states. Both mechanisms deal with the regulation of portability for contributory benefits for disability,

old-age, survivors, as well as the guarantee of the right to benefits in case of accidents at work and occupational diseases.

On the other hand, the multilateral agreement of MERCOSUR and the Andean Social Security Instrument only comprise four states parties each. Nonetheless, they are the two mechanisms with the broadest material scopes as the coverage can extend up to nine types of benefits, in accordance with the applicable legislation. They have agreed on equal access to all benefits stipulated in the national social security regulations of the Contracting States (see Table 6), as well as cooperation to ensure the portability of rights.

As mentioned above, the absence of short- and medium-term benefits such as medical assistance, sickness, maternity, occupational risks, unemployment or family benefits does not result in the imperative disqualification of migrants from accessing them. However, their inclusion in the multilateral agreements of MERCOSUR and the Andean Community enshrines the principle of equal treatment, which directly prevents any form of discrimination in the institutional sphere of social security.

Finally, it should be noted that none of the four multilateral mechanisms identified in the region contemplate protection measures for

migrants in an irregular condition. In general, the protection of this sector is not agreed between origin and host countries, since priority is given to encouraging regular and orderly migration. Thus, access to social security benefits for this group depends on available resources and the unilateral political will of the governments of origin, transit, and host countries.

It can be concluded that multilateral social security agreements are extremely relevant in the Americas since they establish common procedures and forms in regions with a significant and constant influx of migrants. This results in numerous benefits, as the general frameworks of principles and regulations applicable to a set of State parties ease the administrative burden of bilateral treaties on the subject (Hirose, Nikač, & Tamagno, 2011). In addition, these agreements can make amend to the lack or scarcity of bilateral treaties between countries with significant migratory flows.

Final thoughts

The need to ensure access to social security for migrants in the Americas is enormous, given the dimensions of this phenomenon and its determining factors in the continent. As reviewed, migration is often motivated by the search for better living conditions. Unfortunately, the migrant population faces significant challenges regarding poverty and inequality, as well as additional obstacles when it comes to accessing their rights.

Social security, one of the most violated rights for this population, aims precisely to serve as a tool to combat the structural problems of the region. Hence the importance of implementing mechanisms to promote and facilitate their exercise at the national and regional levels.

The use of unilateral measures demonstrates the political commitment of some territories to protect migrant groups in the absence of

bilateral or multilateral social security agreements between origin and host countries. Even when international agreements have been established, unilateral measures can help to address gaps in protection that may exist. Such measures are especially crucial for individuals who are staying in a country without proper documentation.

In order to maximize the impact of unilateral social security policies, it is crucial to align them with the prevailing conditions of migration at the national, regional, and global levels. It is also important to coordinate them with policies on economic integration, labor mobility, citizenship, residence, and border management, as the interplay of these factors can significantly affect the access of migrant populations to social security (Panhuys, Kazi-Aoul, & Binette, 2017).

The spaces for dialogue and cooperation offered by international organizations can be useful to promote regional agreements on unilateral policies and to promote the national adoption of general principles such as equality or solidarity. The Inter-American Conference on Social Security, at its XXV General Assembly in 2009, in response to the social impact of globalization in the Americas, recalled the importance of multilaterally coordinating national social security systems to safeguard the social rights of migrants (Conferencia Interamericana de Seguridad Social, 2009).

Migration, as an international and complex phenomenon, requires the collaboration and involvement of multiple actors, as well as the use of diverse tools. Therefore, although it is possible to improve the conditions of access to social security for migrant workers through unilateral acts, it is in international cooperation actions that the greatest potential lies.

Bilateral and multilateral agreements on social security are the most effective tools to enable the aggregation of periods and the portability of rights, as well as to promote the

reciprocal advancement of the principle of equal treatment between nationals and foreigners. Although they often involve long and intricate processes, these are highly beneficial efforts to reduce poverty, manage vulnerability and enhance the human development of migrants through the extension of coverage and the preservation of the right to social security.

Finally, regarding the issues identified in the protection of migrants, despite the extensive network of international social security treaties existing in the Americas and the variety of unilateral measures, there are still persistent gaps. In particular, individuals in an irregular migratory situation or those without a formal employment relationship are seriously unprotected, given that even though there are unilateral, bilateral, or multilateral social security provisions for migration, they often require work and stay documentation as a requirement to access benefits.

In these cases, origin, host, as well as transit countries, need to focus on implementing flexible voluntary insurance schemes and non-contributory measures. Additionally, international cooperation will be essential to address these problems creatively and facilitate the progressive increase in social security coverage, so that protection is as mobile as people and responds precisely to the social reality of the Americas.

The purpose of this document was to conduct a preliminary analysis of social security coverage for migrants in the Americas. However, to gain a better understanding of the significance of the reviewed mechanisms, it is recommended to further research this topic by exploring the sociodemographic characteristics of migrants. Additionally, it is crucial to examine the practical application of the reviewed social security measures to identify and share successful experiences throughout the continent by evaluating the design, implementation, and outcomes of specific cases.

Annex

The data from the matrix used in the preparation of the third section of this technical note are available for consultation on the CISS website.

<https://ciss-bienestar.org/portalintegradodedatos/personas-migrantes/>

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