

CSO Shadow Report to the Committee on the Elimination of All Forms of Discrimination Against Women, CEDAW

Philippines

Submitted by Migrant CSOs¹

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¹ On September 22, 2015, the Center for Migrant Advocacy (CMA), with support from the Commission on Human Rights of the Philippines and the UNDP convened a consultation amongst various Civil Society Organizations advocating for migrants rights to discuss and reflect on the Philippine government's report to CEDAW, in particular the sections on women migrant workers. This initial submission is the product of the consultation. The following organizations participated in the consultation: Center for Migrant Advocacy; Migrant Forum in Asia; Coalition Against Trafficking in Women Asia Pacific/ World March of Women Pilipinas; Philippine Alliance of Human Rights Advocates; SENTRO Labor Center; Philippine Migrants Rights Watch; Samahan ng Migrante at Pamilya, Tarlac City; Bannuar Ti La Union; Kaagapay OFW Resource Center, Inc., Cotabato City; Kanlungan Center Foundation; KAMPI; United Domestic Workers of the Philippines; Pinoy Expatriates Blog Awards; Women's Human and Legal Rights Bureau; Scalabrini Migration Center; Labor Education and Research Network; WomanHealth Philippines; Spirit of Home Scalabrini, Inc.; Development Action for Women Network; National Anti Poverty Commission Formal Labor and Migrant Workers Sectoral representative; Commission on Human Rights of the Philippines; Assistant Professor . Jean Encinas-Franco of the Department of Political Science, University of the Philippines, Diliman and several returned Filipino women migrant workers

² The Center for Migrant Advocacy (CMA) is a migrant NGO based in the Philippines that works for the rights and welfare of Filipino migrant workers and members of their families. (centerformigrantadvocacy.com)

Executive Summary

This shadow report intends to provide the Committee of the Elimination of All Forms of Discrimination Against Women (CEDAW) with additional information regarding the 7th and 8th combined state report of the Philippines. This report deals specifically with women migrant workers, focusing on domestic workers, in particular, the most vulnerable of all women migrant workers.

The following report highlights the root causes of the mass labor migration out of the Philippines and how these factors disproportionately impact women, linking the feminization of poverty to the feminization of migration. General Recommendation 26 on women migrant workers, General Recommendation 33 on access to justice, along with the CEDAW convention, frame this shadow report and provide background on the problems encountered by women during all stages of migration: pre-departure, onsite, and return.

While the government has made well-intentioned efforts to protect women migrant workers as seen through: bilateral agreements; measures to protect during pre-departure, on-site employment, and upon return; as well as through reintegration initiatives and programs, these efforts fail to completely mitigate abuses against female domestic workers. Moreover, these measures will never completely eliminate violations and abuses against female migrant workers. As such, it is imperative that the root causes of migration be addressed for migration to become a genuine and informed choice rather than a result of forced circumstances.

1. Background

Currently, more women than men migrate out of the country for work. In 2014, female migrant workers accounted for fifty-six percent of annual deployment from the Philippines.³ Data from 2011-2012 indicated that thirty-three percent of all workers leaving the country were migrant domestic workers.⁴ The overwhelming majority of domestic workers are female.

Female domestic workers are the most vulnerable of migrant workers and are often subject to exploitation and abuse. They are excluded from national labor laws in most countries of destination and lack protections that are afforded to other occupations. Abuses may include, but are not exclusive to: contract violations; non-payment of wages; late payment of wages; long working hours; maltreatment; verbal, physical abuse and also gender-based violations including sexual abuse and rape.

2. On Addressing the Root Causes of Migration and Trafficking (para. 95 & 96) (Article 1, 2, 3, 5, 6, 10, 11, GR 26)

Issue

The Philippine government and incumbent president intend to reduce poverty and increase employment with the aim of inclusive growth for the country, yet the root causes of trafficking and migration continue to remain unaddressed.⁵ While the State report focuses on measures taken, the report neglects to mention the outcome of such measures. Labor migration out of the country is not a choice but is in fact forced migration due to numerous root causes in the country. These include low wages, contractualization of labor, unemployment, underemployment, age discrimination, climate change, armed conflict, and poverty.

Government Action

It has been noted that the government has implemented a five-year development plan from 2011-2016 which aims to enhance economic development within the country. In addition, three broad strategies have been identified: sustained economic growth, equal access to development opportunities and, effective and responsive social safety nets.⁶

CSO Critique

Currently, Filipinos who cannot gain adequate employment in the Philippines find work overseas. Domestic work alone accounted for 487,176 new hires in 2014.⁷ Low wages, contractualization, unemployment, and underemployment contribute to this migration.

Low wages and contract work are characteristic for those employed in the country. In 2006 the daily minimum wage was 300 pesos, or around \$6 USD. As of April 2015 minimum wage was around 450 pesos per day, or \$9-10 USD per day.⁸ Contract workers are only employed for a short period of five

³ Cacdac, H. (2015). Opening remarks: RTD on HSW Policy Reform Assessment. Philippine Overseas Employment Administration [POEA].

⁴ Philippine Overseas Employment Administration [POEA]. (2013). HSW Figures 2011-2013

⁵ 7th and 8th combined State Report of the Philippines to CEDAW, para. 95.

⁶ Ibid, para. 96.

⁷ POEA, "2010-2014 Overseas Employment Statistics",
<http://www.poea.gov.ph/stats/2014%20POEA%20Stats.pdf>

⁸ Department of Labor and Employment, "Summary of Daily Minimum Wage Rates Per Wage Order, By Region, Non-Agriculture (1989 - 2015)", *National Wages and Productivity Commission*,
http://www.nwpc.dole.gov.ph/pages/statistics/stat_wage%20rates1989-present_non-agri.html

months, once the contract exceeds six months they are deemed regular workers and must be paid as such.⁹ Employers limit contracts to 5 months or less to avoid this, leaving workers in a cycle of precarious employment where they are subject to exploitation and abuse. According to Department of Labor and Employment (DOLE), one-third of the Philippine population is involved in a form of contractualization.¹⁰ Another issue pertains to age discrimination.¹¹ Domestic workers who had returned to the Philippines stated that despite their skills and experience their age made local employment near impossible, and this forced them to look for work overseas again.¹² Furthermore, unemployment in July 2015 was 6.5%, while the underemployment rate was 21%. This number is close to both the figures from October 2006 and October 2011, with unemployment at 7.3% in 2006 and 6.4% in 2011. Underemployment in 2006 was 20.4% and 19.1% in 2011.¹³¹⁴ These figures do not include the province of Leyte which was affected by Typhoon Yolanda in late 2013.¹⁵ Climate change is another factor that impacts employment in the country. With a population of 100.1 million (2014), a lack of job prospects weighs heavily on individuals, families, and communities.¹⁶ As a result, many Filipinos are forced to migrate overseas for work, with women representing the majority of this number.

The area most disproportionately affected by poverty is the Autonomous Region of Muslim Mindanao (ARMM) region in Mindanao. The region is mainly Muslim and is composed of five provinces: Basilan, Lanao del Sur, Maguindanao, Sulu, and Tawi-Tawi. It is characterized by a history of conflict and poverty.¹⁷

According to the UNDP, all of the provinces in ARMM, except for Basilan, have the lowest HDI levels in the Philippines, with Tawi-Tawi (0.310), Maguindanao (0.300), and Sulu (0.266) representing the bottom three provinces in the country.¹⁸ The province of Sulu is close to the HDI of countries in Africa, such as Niger and the Democratic Republic of Congo.¹⁹ Disparities are present in education levels and poverty rates. In 2013, the ARMM region had the largest number of children out of school. While females generally are more educated than males in the Philippines, this is not true for the ARMM region. 18.5 percent of females aged six to twenty-four were out-of-school compared to 10.3 percent of males in the

⁹ Cristobal, M., A., E. & Resurreccion, E. 2014. De-Confusing Contractualization: Defining Employees Engaged in Precarious work in the Philippines. Philippine Law Journal. Retrieved from <http://plj.upd.edu.ph/wp-content/uploads/2015/03/88-02-J-88B14-De-Confusing-Contractualization-v1.pdf>

¹⁰ Medenilla, S. 2014. A Third of Total Workforce are 'Non-regular' – DoLE retrieved from <http://www.mb.com.ph/a-third-of-total-workforce-are-non-regular-dole/>

¹¹ Rappler, "Stop age discrimination in hiring workers - Pia Cayetano" <http://www.rappler.com/nation/91819-stop-age-discrimination-workplace-pia-cayetano>

¹² Center for Migrant Advocacy, "HSW Policy Reform Assessment" June 2015, <https://centerformigrantadvocacy.files.wordpress.com/2015/08/hsw-policy-reform-assess-final-version-aug-9.pdf>

¹³ Philippine Statistics Authority, "Unemployment rate is estimated at 7.3 percent in October 2006 results from the October 2006 labor force survey (LFS)," <https://psa.gov.ph/content/employment-rate-estimated-936-percent-october-2011-results-october-2011-labor-force-survey>

¹⁴ Philippine Statistics Authority, "Employment rate is estimated at 93.6 percent in October 2011 results from the October 2011 labor force survey (LFS)," <https://psa.gov.ph/content/employment-rate-estimated-936-percent-october-2011-results-october-2011-labor-force-survey>

¹⁵ Philippine Statistic Authorities. 2015. Reference Number 2015-075. Employment Rate Estimated at 93.5 Percent in July 2015. Retrieved from <https://psa.gov.ph/content/employment-rate-estimated-935-percent-july-2015>

¹⁶ Philippine population 1960 – 2015. Retrieved from <http://www.tradingeconomics.com/philippines/population>

¹⁷ Population Reference Bureau, Population, Health, and Environment: Issues in the Philippine, A profile of the autonomous region in muslim mindanao http://www.prb.org/pdf08/pheregionalprofiles_armm.pdf

¹⁸ UNDP, "Human development index highlights inequality, slow pace of growth," <http://www.ph.undp.org/content/philippines/en/home/presscenter/pressreleases/2013/07/29/human-development-index-highlights-inequality-slow-pace-of-progress.html>

¹⁹ Ibid.

same age group that were out-of-school in this region.²⁰ The same survey, while not broken down into regional data, found that 13.7 percent of females did not attend school due to housework, 17 percent due to insufficient funds to attend school, 8.6 percent due to the high cost of education, and 4 percent that were either employed or looking for employment.²¹ More concerning, is that the provinces of Lanao del Sur, Maguindanao, Sulu, and Tawi-Tawi continue to be characterized by declining levels of income.²² Poverty rates in the ARMM region are as high as 73.8 percent, such as in the province of Lanao del Sur.²³ Females are disproportionately impacted by this.

As such, the lack of sustainable jobs in the country with decent living wages effectively link the feminization of poverty to the feminization of migration. Females are pushed to migrate by their families partially due to the perception that females are more reliable in sending home remittances.²⁴ The feminization of migration refers to the gendered roles female migrant workers largely fill. Lower wages and higher vulnerabilities are characteristic of these gendered roles, and many females are employed in reproductive work.²⁵ With limited education, the only real option for females from this region is that of domestic work. The majority of domestic workers in the ARMM region come from Maguindanao with 15,319 new hires in 2013.²⁶ Furthermore, the push for migration in this region is so significant that documents, such as birth certificates and passports, are often falsified in order to leave the country for domestic work overseas. The region is known for illegal recruitment and human trafficking.²⁷ Recruitment agencies have encountered females from Mindanao females under the legal working age of eighteen.²⁸

The 2015 ASEAN integration will have further impacts on the migration out of the country. Under the regional integration, the ASEAN Temporary Movement of Natural Persons only covers skilled professionals. The majority of migrant workers leaving the Philippines are low skilled, which includes domestic work, and require government assistance and protection in negotiating terms of employment and wages. Low skilled migration out of the Philippines into other ASEAN countries was 47% in 2012.²⁹ Moreover, the ASEAN level of human rights protection does not reflect an international human rights standards and it is not clear if the Socio-cultural blueprint of the ASEAN covers the rights all migrants workers, including women, children, and irregular migrant workers.³⁰

²⁰ Philippine Statistics Authority, Out-of-school Children and youth in the Philippines: Results from the 2013 functional literacy, education and mass media survey <https://psa.gov.ph/content/out-school-children-and-youth-philippines-results-2013-functional-literacy-education-and>

²¹ Ibid.

²² UNDP, Human development index highlights inequality, slow pace of progress, <http://www.ph.undp.org/content/philippines/en/home/presscenter/pressreleases/2013/07/29/human-development-index-highlights-inequality-slow-pace-of-progress.html>

²³ Commission on Philippines Overseas, "A map of philippine poverty: A second look," http://cfo.gov.ph/index.php?option=com_content&view=article&id=2305:a-map-of-philippine-poverty-a-second-look&catid=108:cfo-press-release&Itemid=839

²⁴ Center for Migrant Advocacy, "The feminization of migration," p.5-7, September 2014, <https://centerformigrantadvocacy.files.wordpress.com/2014/04/feminization-of-migration-v-1-0-021315.pdf>

²⁵ Ibid.

²⁶ CMA Powerpoint slides, "Human rights and filipino labor migration: an overview"

²⁷ Trafficking casewatch, "Armed conflict, falsified docs make trafficking easier in Maguindanao", <http://trafficking.verafiles.org/armed-conflict-falsified-documents-make-trafficking-easier-in-maguindanao/>

²⁸ Center for Migrant Advocacy, "HSW Policy Reform Assessment" June 2015, <https://centerformigrantadvocacy.files.wordpress.com/2015/08/hsw-policy-reform-assess-final-version-aug-9.pdf>

²⁹ Center for Migrant Advocacy, "Philippine labor migration and the ASEAN economic community project," September 2014, <https://centerformigrantadvocacy.files.wordpress.com/2014/04/philippine-labor-migration-and-the-asean-economic-community-project.pdf>

³⁰ Ibid, p.10.

Reintegration of Female Migrant Workers

Since 2006, the government has intensified its reintegration program. The establishment of the National Reintegration Center for Overseas Filipino Workers (NCRO) is a case in point. The government's reintegration program is anchored on making women find alternative livelihood in the Philippines. However, without a working database on returning migrants and their skills mix, it is difficult to design programs that can meaningfully provide an alternative to migration and sustained empowerment. While NRCO's creation is a step in the right direction, local government units where migrants will stay for good must be fully incorporated in reintegration programs. Return and reintegration must also be tied with bilateral agreements as the responsibility of both the origin and destination countries. Furthermore, reintegration programs may be designed in such a way as to suit the profiles and capacities of target recipients. For instance, domestic workers who have very little income from abroad may have separate reintegration programs, taking into account their small income, their unique situation abroad, and their family's status in the Philippines.

We urge the CEDAW Committee to include the following in the list of issues and list of questions:

1. Progress of efforts to create full employment that is environmentally sustainable, real and decent jobs, with adequate social protection benefits and living wages that are not hazardous to health; and factors that hinder the realization of such with concrete indicators to measure progress
2. Status of Senate Bill 29 on anti-age discrimination in the employment Act and the Security of Tenure Bill and factors that hinder their passage and how these may be overcome
3. Status of efforts and preparations for the ASEAN economic integration in terms of workers' qualifications for employment both locally and within the ASEAN as well as protection measures with clear indicators to cover low-skilled migrant workers including their free mobility within the ASEAN
4. Inquire on gender-disaggregated data of returned migrants including an inventory of skills acquired while working abroad; include how many have stayed home in the country for good, how many have returned overseas to continue working as migrants
5. Ask for time-bound, measurable reintegration programs and clear indicators of success of reintegration programs for female migrant workers

3. On bilateral labor agreements (para. 82 & 83) (Articles 2, 3, 15, GR 26, GR 33)

3.1 The Issue

Bilateral Labor Agreements (BLAs) are forged with destination countries with the intent to provide improved protections and benefits for domestic workers. At the outset, the framework for negotiating BLAs must be rights based and gender sensitive with clear, detailed guidelines for implementation and mechanisms for monitoring and periodic review.

3.2 Government Action

It has been noted that the Government of the Philippines forged a BLA with the Kingdom of Saudi Arabia (KSA) regarding the employment contract and benefits of Household Service Workers (HSWs) in May 2013.³¹ This agreement was of historical significance as it was the first agreement of this nature. The KSA is one of the top destination countries for Filipino domestic workers.

³¹ "Agreement on domestic labor recruitment between the ministry of labor of the kingdom of Saudi Arabia and the department of labor and employment of the republic of the Philippines", MOU on HSWs, May 19, 2013, <http://www.poea.gov.ph/docs/PH%20KSA%20MOA.pdf>

Benefits included in the BLA:

- One day off per week
- Minimum eight hours rest daily
- No salary deductions based on hiring costs
- Guaranteed \$400 USD salary
- Opening of bank accounts under the name of the worker by the employer to monitor salaries
- Complaint mechanism: 24-hour hotline for dispute resolution^{32 33}

3.3 CSO Critique

While the bilateral agreement for HSW with the KSA puts forth important provisions, the implementing guidelines and monitoring mechanisms of the bilateral agreement have yet to be fully developed and implemented. In order for the BLA to better protect the vulnerabilities of HSWs detailed guidelines must be put in place that specifically details the provisions of the agreement, such as when bank accounts must be opened, how they will be opened, and how payments will be monitored. These must be jointly determined, jointly implemented, and jointly monitored by both the Philippines and the KSA.³⁴

A 2014 online survey on Facebook or migrant domestic workers in Saudi Arabia conducted by the online OFW community organization Patnubay, found that the majority of respondents did not receive one day off per week or the minimum of eight rest hours per day. Out of 92 respondents, 10 had a continuous eight hour rest while 66 did not and 19 respondents did not answer.³⁵ Only 6 respondents had one rest day per week, 66 had no rest day and 20 did not answer.³⁶ While many blamed the employer, they did not complain. This was partially due to the desire to keep their job. From the perception of domestic workers the recruitment agency and Philippine government were little help in this, except for repatriation back to the Philippines.³⁷ As HSWs live in the residence of the employer it is difficult to monitor if HSWs receive the mandated one day off per week or minimum hours of rest. Currently, there are no mechanisms in place to guarantee the implementation of these rights or to monitor employer adherence.

Moreover, recruitment agencies have found ways to circumvent the “zero placement fee” policy for domestic workers. During the pre-departure stage, fees may be increased for skills trainings or assessments, such as the National Certification (NC) II assessment and certification.³⁸ This may be due to poor information dissemination and a lack of information about the migration process or those preparing to go abroad may be aware of these additional fees but the need to work abroad is far greater.

In another instance, a focus group of female HSWs previously employed in the KSA between 2009 and 2015, indicated that less than half of eight previous HSWs received the mandated monthly wage of USD\$400 in the KSA.³⁹ In theory, the opening of banks accounts will help to mitigate the practice of

³² Ibid.

³³ Department of Labor and Employment, “A first between Saudi Arabia and a country of origin, in 2013, historic agreement between PH and KSA sealed stronger protection for the Filipino HSW,” December 2013, http://www.dole.gov.ph/ro_polo_updates/view/631

³⁴ Center for Migrant Advocacy, “HSW Policy Reform Assessment” June 2015, <https://centerformigrantadvocacy.files.wordpress.com/2015/08/hsw-policy-reform-assess-final-version-aug-9.pdf>

³⁵ Patnubay, “Survey for HSWs in KSA,” November 2014 <https://www.facebook.com/PatnubayOnline/photos/a.547120088671603.1073741843.259830960733852/826851517365124/?type=1&permPage=1>

³⁶ Ibid.

³⁷ Ibid.

³⁸ Center for Migrant Advocacy, “HSW Policy Reform Assessment” June 2015, <https://centerformigrantadvocacy.files.wordpress.com/2015/08/hsw-policy-reform-assess-final-version-aug-9.pdf>

³⁹ Ibid.

underpayment of salary. The opening of a bank account for domestic workers has yet to happen due to the absence of implementing guidelines for the bilateral agreement with the KSA.

The same focus group found that six out of eight individuals were not allowed the use of their cell phones while employed as HSWs in the KSA. The majority had their cellular phones taken away by the employer upon arrival in the Kingdom of Saudi Arabia.⁴⁰ The environment of HSWs is often highly restrictive and such an environment compromises the use of the hotline. Moreover, the same Facebook survey by Patnubay found that HSWs who call the hotline are first asked for their iqama number which they either do not have or do not know. The operator then recommends that the HSW go to the Saudi Labor office.⁴¹ This is near to impossible due to restrictions on movement and due to the far distance of the office.

We urge the CEDAW committee to include the following in the list of issues and questions:

1. Inquire on the status of the implementing guidelines including clear provisions for information dissemination and for monitoring and review of the agreement, ensuring that both KSA-bound HSWs and their employers are properly informed of the contents, their respective responsibilities and obligations
2. For government to conduct an information campaign and to include it (the BLA) in the pre-departure orientation (PDOS) for KSA-bound HSWs, as well as to make arrangements for post-arrival orientation (PAOS) for HSWs upon arrival in KSA; similarly, what will be the measures to ensure that employers are informed and are compliant with the BLA provisions?
3. In general, BLAs and other multilateral agreements on labor migration must be gender-sensitive and framed within a human-rights perspective. Corollary, the State reported that twenty bilateral agreements were reviewed. What bilateral agreements were reviewed? Which of these pertained to female migrant workers, in particular, those employed in domestic work or in other sectors of low skilled employment?

4. On Measures to Protect Women Migrant Workers (para. 84- para. 90) (Article 1, 2, 3, 5, 6, 11, 12, GR 26, GR 33)

4.1 Issue

In spite of policies intended to better protect and prepare domestic workers for work abroad through pre-departure orientations and trainings, violations and abuses continue to persist. Domestic workers continue to leave the country lacking the information to capacitate them to protect themselves. Certain rights for domestic workers are not being communicated or reinforced prior to leaving the country, such as rights regarding the freedom of association and regarding access to justice and redress mechanism.

4.2 Government Action

The Philippines under **Republic Act 10022 asserts that it will only deploy Filipino migrant workers to countries where the rights of migrants are protected either through existing national labor and social laws, or that they are parties to multilateral human and labor rights treaties or they forged bilateral labor agreements with the Philippines. Provided further that the destination country is taking positive concrete measures to protect migrant workers. Moreover, in the pursuit of national interest and pulic welfare, the Philippine government may at any time, ban or terminate the deployment of migrant workers**⁴²

Additionally, the Philippines instituted the 2007 HSW Policy Reform Package. The package included; minimum age requirement of twenty-three; no placement fee; minimum salary of \$400 USD; NC II assessment and certification;

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Republic Act 10022, Sections 3 and 4. July 2010

In terms of institutions onsite, the government has 59 embassies, 20 consulates and 4 missions⁴³. This is complemented with Philippine Overseas Labor Offices (POLO) in thirty-six locations, fifty-eight labor attaches at these offices, and thirty-one overseas welfare officers in posts with large numbers of migrant workers.⁴⁴

There are options for returning migrant workers to access justice in the Philippines through the joint and several liability clause⁴⁵ that ties the responsibility of the recruitment agency in the Philippines to the employer abroad. Additionally, the government has instituted programs for trafficked victims once back in the Philippines.

4.3 CSO Critique

It is apparent that Filipino migrants go to countries where the jobs are available, without much regard to the criteria for deployment identified in the law. To date, Filipinos may be found in more than 238 countries and territories across the globe including to countries where there is currently a deployment ban like in Lebanon, Syria, Nigeria, Iraq and Libya. The policies are rendered ineffective as the workers' desire to find work far outweighs any consideration for their safety. And going through the backdoor, because of existing policies sans safety nets, further exposes the migrants to more risks and vulnerabilities⁴⁶.

In practice, the 2007 HSW policy reform package has not been entirely effective in its purpose of reducing vulnerabilities. The age requirement of twenty-three violates CEDAW articles 1, 2, 3, 5, 11 discriminating against both gender and occupation. Moreover, in spite of the age requirement recruitment agencies and foreign service personnel have encountered HSW under the age of both eighteen and twenty-three, either during the process of applying to be an HSW or while seeking assistance abroad.⁴⁷ The issue of women migrant domestic workers being exploited does not have to do with the age of the domestic worker but on the precariousness of domestic work itself.

As already mentioned above, both the zero placement fee policy and the minimum payment of 400 USD\$ have been violated in practice. Domestic workers bound for Hong Kong pay up to four months of their salary in recruitment fees which adds up to over 80,000 Philippine pesos. In response to the 'zero placement fee policy' recruitment agencies have masked these placement fees as fees for the Hong Kong recruiters who are allowed to collect a placement fee equivalent to 10% of the workers' monthly salary.⁴⁸ This is also true for Taiwan but in this instance placement fees are re-labeled as training fees.⁴⁹

⁴³ <http://dfa.gov.ph/about-us/phl/embassies-and-consulates>

⁴⁴ DOLE Agency Profile, Hardcopy, 2015

⁴⁵ RA10022, Section 7

⁴⁶ A case in point is Lebanon where a deployment ban for migrant domestic workers is in effect since 2006 following the conflict at that time. From 2011 to middle of 2012, some 37,082 work visas were issued by the Lebanese Ministry of Labor to Filipino migrant domestic workers. The workers are documented in Lebanon but undocumented in the Philippines. Because of the deployment ban, Filipino women took the back door to exit the Philippines. They ended up going through circuitous routes with long hours of travel. What is more, some of them related that they were not paid on their first three months of work and received only US\$200-250 a month, only half of the required minimum monthly salary of US\$400 [Conversations with Filipino migrants in Beirut, September 2015].

⁴⁷ Center for Migrant Advocacy, "HSW Policy Reform Assessment," p.8, June 2015, <https://centerformigrantadvocacy.files.wordpress.com/2015/08/hsw-policy-reform-assess-final-version-aug-9.pdf>

⁴⁸ Alliance of Progressive Labor, License to exploit: A report on the recruitment practices and problems experienced by Filipino domestic workers in Hong Kong", p.26, http://www.idwfed.org/en/resources/license-to-exploit-a-report-on-recruitment-practices-and-problems-experienced-by-filipino-migrant-domestic-workers-in-hong-kong/@@display-file/attachment_1

⁴⁹ CMA Case file

Other requirements from the reform include a mandatory pre-departure orientation seminar (PDOS) along with mandatory cultural and language training (CPDEP) and a skills assessment and competency certification by TESDA. Research has demonstrated that HSWs have obtained certificates of completion sometimes without even undergoing the course.⁵⁰ HSWs are coached through the test process by recruitment agencies and simply memorize the motions. Even for those who have completed the training, there is a question on the level of effectiveness of the training. While there are requirements in place for domestic workers to complete before leaving the country, the completion of these requirements does not equal proficiency in skill or knowledge.⁵¹

Issues on-site pertain to the treatment and handling of cases for domestic workers. In early 2013, the sex for flight (SFF) scandal exposed rights and gender based violations against female migrant workers by employees of the Department of Foreign Affairs (DFA) and by the Department of Labor and Employment (DOLE). Distressed domestic workers in the Middle East and GCC were offered repatriation back to the Philippines in exchange for sexual favours. Three government personnel were accused of various abuses including sexual harassment, covering up the rape of a migrant worker, the use of vulgar language, and viewing pornographic materials on a work computer. In spite of the scandal and proceedings, the government employees only received short suspensions.⁵²

This issue highlights the exploitation of female migrant workers by government personnel when they are in an already vulnerable state, and further highlights the lack of gender sensitivity when helping female migrant workers in distress. There has been an effort to equip Post personnel with gender sensitivity training and more female staff, however having undergone training, or being a female, does not equate to an individual to being gender sensitive.

Access to justice continues to be a major challenge for female migrant workers. There are a number of factors that influence this.

Recruitment companies are required to keep a minimum amount of one million pesos in an escrow account. This way the government ensures that the recruitment agency has money to pay migrant workers who have been wronged and have made a claim for compensation. Yet, if many claims are made against an agency then the one million pesos may not be enough to cover all claims. Moreover, if agencies do not replenish their escrow accounts their licenses are cancelled to avoid the further exploitation of migrant workers. Some agencies will choose not to replenish the funds in their escrow account, and instead lose their license, all so they can avoid paying out money claims.⁵³

Some domestic workers that have been subject to sexual harassment, violence, or rape abroad, run away to escape their situation. As such, it is the recruitment agency's responsibility to provide airfare home. Agencies have pressured domestic workers into signing a quitclaim excusing the agency of further monetary liability by compelling them to sign the quitclaim before they will be provided with airfare. Once a quitclaim is signed, the agency is absolved of liability and the OFW is prevented from pursuing money claims and other claims.⁵⁴

⁵⁰ Center for Migrant Advocacy, "HSW Policy Reform Assessment," p.16, June 2015, <https://centerformigrantadvocacy.files.wordpress.com/2015/08/hsw-policy-reform-assess-final-version-aug-9.pdf>

⁵¹ Ibid, p.13.

⁵² Center for Migrant Advocacy, "The feminization of migration," p.5-7, September 2014, <https://centerformigrantadvocacy.files.wordpress.com/2014/04/feminization-of-migration-v-1-0-021315.pdf>

⁵³ Center for Migrant Advocacy, "Filipinos access to justice: What stands in the way and what can be done?," p.9-10 (To be published soon)

⁵⁴ Ibid, p.10-11.

There are many steps in money claims and cases that are filed by migrant workers. These may go through up to three government agencies. Within each institution there are several opportunities for the agency and the worker to reach settlement. There are many variables within this process, including time, money, and unbalanced power dynamics, that may cause a worker to agree to a settlement that results in less compensation than deserved.⁵⁵

Other issues within access to justice include corruption and fraud. Furthermore, in regards to trafficking cases, justice is impeded due to such issues as witness intimidation, witness trauma, desistance of cases, and the difference between justice on paper and justice that is carried out.⁵⁶

We urge the CEDAW Committee to include the following in the list of issues and list of questions:

1. Please inquire from the State party how personnel in the foreign service posts are selected and prepared for the job onsite specifically in handling labor migration issues and concerns. Inquire if standards to measure quality service to migrant workers are in place and whether migrants are involved in the process of feedbacking
2. Affirmative action and an enabling social and legal environment – Since migration is a forced option for many, particularly for low skilled migrants, enactment of laws and policies to protect them is no guarantee that their rights will indeed be protected; As such, affirmative actions, including the creation of an enabling social and legal environment and safety nets maybe necessary to render the laws more effective
3. Effective implementation and monitoring have long been a problem. Every time government issues a law/policy/rule/regulation, it has to provide how to effectively implement and also monitoring/feedback mechanism so that results of the implementation can be measured.
4. Immediately and substantively address the weaknesses of the PDOS as already identified in different research and public discussions as well as orientation/training programs/modules of POLOs, welfare officers and other embassy/post personnel. Attention to gender content should be ensured. Ask the State party if the PDOS curriculum is country-specific and job-specific.
5. Evaluate the operationalization of the gender focal point officer per post in terms of handling concerns of women migrant workers⁵⁷; Additionally, inquire form the State party on the usage by the posts and other relevant DFA and DOLE agencies of their GAD budget that could be used to improve protection measures for migrant domestic workers

⁵⁵ Ibid, p.11.

⁵⁶ Ibid, p.13.

⁵⁷ Magna Carta of Women, RA9710, Section 37. 2008.

6. Conclusion

While the efforts of the Philippine government to guarantee protection of women migrant workers, especially migrant domestic workers have been well-intentioned, these efforts fall short of the actual protection and empowerment of women migrants because for most of them, migration is one out of necessity. It is a result of the circumstances surrounding individuals and their families. Furthermore, it must be taken into consideration how forced migration will impact female migrant workers who are willing to keep their job at any cost to their finances, their physical and mental health, their families, and their own safety. Unless the root causes of migration are addressed by the Philippine government, migration will continue to be one out of necessity and will be seen as the only viable option.