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Replies to LOI for the Philippines with a focus on Women Migrant Workers¹

Center for Migrant Advocacy²

Item 12. State assessments of impact of free trade agreements on socioeconomic conditions of women

State assessments of the impact of free trade agreements (FTA), including regional integration into the ASEAN Economic Community (AEC) are urgently needed, as AEC is supposed to improve the legal protections of high-skilled workers moving within the ASEAN region.³ According to 2014 data from the Philippine Overseas Employment Administration (POEA), professionalized workers constitute roughly 11 percent of all migrant workers from the Philippines. Hence, any assessment undertaken to study the impact of free trade agreements on women's rights must recognize that migrant women workers predominantly migrate through low wage, and so-called "low skilled" occupations e.g. domestic work, which are not covered by FTA labour mobility protections.

The Philippines will chair the ASEAN in 2017. It must be used as an opportunity by the government to enjoin the ASEAN region in institutionalizing a more binding agreement on the mobility of workers and the protection of their rights.

Item 13. Impact of the amended Migrant Workers' Act and Household Service Workers (HSW⁴) Reform Policy Package

1 This report supplements the CMA-led CSO Shadow report submitted in October 2015 for the Committee's PSWG meeting held in November 2015.
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fNGO%2fPHL%2f21904&Lang=en

2 Center for Migrant Advocacy or CMA is an independent non-government organization in the Philippines that works for the promotion and protection of Overseas Filipino Workers (OFWs) and their families through policy advocacy and facilitating assistance to distressed migrants. CMA is a member of Migrant Forum in Asia (www.mfasia.org). In the Philippines, it is a member of Philippine Migrants Rights Watch (www.pmrw.org.ph), Philippine Alliance of Human Rights Advocates and World March of Women-Pilipinas.

3 Demetrios G. Papademetriou et al. 2016. *Achieving Skill Mobility in the ASEAN Economic Community*. Asian Development Bank and Migration Policy Institute. Retrieved from <http://www.adb.org/publications/achieving-skill-mobility-asean-economic-community>

4 Household Service Worker (HSW) is the term used by the Philippine government to refer to migrant domestic workers. Following the State party's ratification of ILO Convention 189 on Decemnt Work for Domestic Workers, government said they would drop the HSW term and revert to "domestic worker"; in this report, HSW is sometimes used interchangeably for migrant domestic workers

The State Party's answers in 13.1 and 13.2 both refer to local domestic workers pursuant to RA10361 or the Kasambahay Law (National Domestic Workers Law) and not to migrant domestic workers.

Since the enactment of the amended Migrant Workers' Act (Republic Act 10022) in 2010 and the Household Service Workers (HSW) policy in 2006, investigations into the working lives of women migrant domestic workers called for the urgent need to direct reforms towards the root causes of women migrant worker abuse: the relations of power, primarily between employers and workers, and between recruiters and workers, that legitimize the exploitation of women migrant workers.

The nature of this exploitation is sustained by exclusion of migrant domestic workers from national labour laws in destination countries, reinforced by lack of harmonization in rights-based policies between the Philippines and countries of destination, and capitalizes on patriarchal view of domestic workers and feminized labour sectors. These systemic and structural factors suggest that neither the amended Migrant Workers' Act nor the HSW policy can, on their own, provide substantive access to rights and protections.

The table below from the POEA shows that OFWs go where the jobs are regardless of whether protection measures are available or not.

TABLE 3 - Number of Deployed Landbased Overseas Filipino Workers by Top Ten Destinations, New Hires and Rehires

DESTINATION	2010	2011	2012	2013	2014
All Destinations - Total	1,123,676	1,318,727	1,435,166	1,469,179	1,430,842
1 Saudi Arabia	293,049	316,736	330,040	382,553	402,837
2 United Arab Emirates	201,214	235,775	259,546	261,119	246,231
3 Singapore	70,251	146,613	172,690	173,666	140,205
4 Qatar	87,813	100,530	104,622	94,195	114,511
5 Hong Kong	101,340	129,575	131,680	130,686	105,737
6 Kuwait	53,010	65,603	75,286	67,856	70,098
7 Taiwan	36,866	41,896	41,492	41,145	58,681
8 Malaysia	9,802	16,797	25,261	34,088	31,451
9 Bahrain	15,434	18,230	22,271	20,546	18,958
10 Canada	13,885	15,658	19,283	18,120	18,107
Other Destination	241,012	231,314	252,995	245,205	224,026

Given that deployment bans have the potential to increase irregular migration through illicit and dangerous channels, significant efforts must be made to reduce the potential for exploitation before women migrate, including improving alternatives to migrant work, improving the regulation of private recruitment agencies, and ensuring women have access to comprehensive and updated rights-based education prior to departure.

Sustained Deployment Ban to Lebanon. The Philippines' imposition of a total deployment ban for OFWs in Lebanon back in 2006 was established for security and safety considerations for the OFWs. Later on, the ban was limited to HSWs only. Afterwards, it became applicable only to new hired HSWs due to unmet contract agreements between the Lebanese and Philippine governments. Female migrant domestic workers are the most vulnerable of migrant workers and are often subject to exploitation and abuse.^[1] Recruitment agencies in Lebanon charge between USD 4,000 to USD 5,000 from the employers for the recruitment agency as contained in the MoL's Unified Employment Contract, which at face value is easily perceived to be in favour of the Lebanese employer. Most Lebanese employers opt not to pay the POEA-required salary for domestic workers of USD 400 per month as domestic work is not covered by their country's labour laws^[2]. Thus most OFWs are paid USD200 per month which is the highest salary given to domestic workers in Lebanon.^[3] Owing to the Philippine government's longstanding deployment ban to Lebanon, most particularly domestic workers, who arrived in the country after 2007, are mostly undocumented and may be considered as human trafficking and illegal recruitment victims^[4]. Moreover, the sustained ban does not prevent the existence of female OFWs in Lebanon^[5]. There are also inadequate enabling mechanisms and monitoring on the side of the Philippine government, which acquiesces to the deployment of female domestic workers to Lebanon despite the ban. Thus, rather than being protective, the ban inadvertently promotes the usage of unwarranted and illegitimate means to be able to work abroad^[6]. What is notable is that even at the early stages of the ban (2006-2008), the number of OFWs in Lebanon did not abate, and has not abated until today^[7], demonstrating its ineffectivity.

[1] Human Rights Watch: Lebanon: Recognize Domestic Workers Union: Add Labor Law Protections for These Employees as of March 2015. Domestic workers remain to be excluded under article 7 of Lebanese Labor Law.

[2] Parvaz, D. (2015, June 6). Lebanon's immigrant domestic workers remain vulnerable to abuse. America.aljazeera.com. Retrieved on June 9, 2016 from <http://america.aljazeera.com/articles/2015/6/26/lebanons-migrant-domestic-workers-vulnerable-to-abuse.html>

[3] Semi-Annual Report to Congress January-June 2015. Department of Foreign Affairs Office of the Undersecretary for Migrant's Workers Affairs

[4] Ibid.

[5] Ibid. According to the Philippine embassy in Beirut, there were around 23, 179 female OFWs present in Lebanon despite the ban.

[6] Breaking the Isolation: Access to Information and Media Among Migrant Domestic Workers in Jordan and Lebanon by Elizabeth Frantz, 2014, P. 14-15

[7] Semi-Annual Report to Congress. June 2010-June 2015. Department of Foreign Affairs. Office of the Undersecretary for Migrant Workers Affairs

Estimates of Filipino Domestic Workers in Lebanon

Date	Male DW	Female DW	Total DWs
June 2010	3,200	28,800	32,000
December 2010	3,193	29,541	32,734
June 2011	4,260	38,336	42,595
June 2012	242	28,212	28,454
December 2014	229	22,408	22,637

June 2015	242	22,860	28,
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Monitoring and enforcing the Household Service Workers (HSW) policy

Female-dominated Household Service Workers or domestic workers is the top single job category for OFWs. It comprises about a third of total deployed new hires. (See Table 7 below)

Compliance with the Household Service Workers (HSW) policy reforms remains a daunting challenge to government. Currently, monitoring is through cases or complaints lodged by migrant domestic workers. It has been observed however that migrants will not automatically complain or lodge a report of rights' violation and just endure the situation lest it will cost them their jobs.

TABLE 7 - Number of Deployed Landbased Overseas Filipino Workers by Top Ten Occupational Categories, New Hires

OCCUPATIONAL CATEGORY	2010	2011	2012	2013	2014
All Occupational Categories - Total	341,966	437,720	458,575	464,888	487,176
1 Household Service Workers	96,583	142,689	155,831	164,396	183,101
2 Nurses Professional	12,082	17,236	15,655	16,404	19,815
3 Waiters, Bartenders and Related Workers	8,789	12,238	14,892	14,823	13,843
4 Caregivers and Caretakers	9,293	10,101	9,128	6,466	12,075
5 Charworkers, Cleaners and Related Workers	12,133	6,847	10,493	12,082	11,894
6 Laborers/Helpers General	7,833	7,010	9,987	11,892	11,515
7 Wiremen and Electrical Workers	8,606	9,826	10,575	9,539	8,226
8 Plumbers and Pipe Fitters	8,407	9,177	9,657	8,594	7,657
9 Welders and Flame-Cutters	5,059	8,026	8,213	7,767	7,282
10 Cooks and Related Workers	4,399	5,287	6,344	7,090	5,707
Others	168,782	209,283	207,800	205,835	206,061

Under POEA *Rules and Regulations*, agencies risk licence cancellation for subverting fee policies and other illegal operations. However, data provided by POEA to Center for Migrant Advocacy (CMA) in 2016 on the issuance of suspension and cancellation orders for rules noncompliance revealed that *repeat offenses* are common among “top offender” agencies. Multiple agencies received cancellation and suspension orders over *consecutive years*, indicating that disciplinary action did not stop agencies from re-offending or offending in new ways.⁵ This preliminary data suggests that recidivism is systemic, rather than exceptional.

Statistics on women migrant workers

Section 20 of RA8042 or the Magna Carta for Migrant Workers provides for the Establishment of a **Shared Government Information System on Migration (SGISM)** that will include, but not limited to, the following information:

- (a) Masterlists of departing/arriving Filipinos;
- (b) Inventory of pending legal cases involving Filipino migrant workers and other Filipino nationals, including those serving prison terms;

⁵ Philippine Overseas Employment Administration (POEA). n.d. “Dataset: Top Recruitment agencies with most number of cases for the past 3 years (2012-2014).” Provided to CMA in January 2016.

- (c) Masterlists of departing/arriving Filipinos;
- (d) Statistical profile on Filipino migrant workers/overseas Filipinos/Tourists;
- (e) Blacklisted foreigners/undesirable aliens;
- (f) Basic data on legal systems, immigration policies, marriage laws and civil and criminal codes in receiving countries particularly those with the large numbers of Filipinos;
- (g) List of labor and other human rights instruments where receiving countries are signatories;
- (h) A tracking system of past and present gender disaggregated cases involving male and female migrant workers; and
- (I) Listing of overseas posts which may render assistance to overseas Filipinos, in general, and migrant workers, in particular.

It has been twenty one years already since the enactment of RA8042 in 1995 and this SGISM project has not been realized yet. Hence problems and challenges on migrant data collection and statistics persist.

The Philippines is known to provide large shares of domestic workers to foreign employers. According to UN Women, women migrant workers from the Philippines are more likely to come from rural areas, tend to have less access to employment and education, spend more time abroad, and have less savings.⁶

Families of women migrant workers also earn a higher percentage of their income from agriculture, making them more vulnerable to environmental shocks, corporatization of agricultural production, and lower levels of government investment in public services.⁷ Living further away from Manila-based services for migrant workers also means that women spend more money to access services. These are gendered trends that disproportionately inflate financial burdens on women and women-led households.

Women migrant workers are more likely to work in low wage, precarious jobs in informal settings within the service sector. According to the POEA, the service sector employs 52 percent of all Philippine migrant workers. The vast majority of service workers are domestic workers, which form the largest and fastest growing occupation.⁸ One of the most pervasive barriers to migrant women's access to equality within the current global migration system is the invisibility of women's living and working conditions as domestic workers.

6 Encinas-Franco et al. *Gender, Migration and Development in the Philippines*.

7 Ibid.

8 Philippine Overseas Employment Administration (POEA). n.d. "2010-2014 Overseas Employment Statistics." Accessed January 9, 2016, <http://www.poea.gov.ph/stats/2014%20POEA%20Stats.pdf>.

Women migrant workers also send remittances more often, but in smaller quantities. In 2014, women migrant workers outnumbered men migrants by 20,000,⁹ yet women remitted US\$1.3 billion compared to US\$2.4 billion remitted by men in the same year.¹⁰ Information on the wage gap between migrant workers is incomplete due to the endemic and illegal underpayment and withholding of wages, but this figure alone reflects probable earning discrepancies.

Entrepreneurial supports for return women migrant workers

Programs dedicated to returning migrant workers provided by Overseas Workers Welfare Association (OWWA) focus on including financial literacy, capacity building, and job referrals, among other services, but are relatively limited in gender-based programming. Entrepreneurship programs provided by OWWA avail members with loans between PHP 300,000 and PHP 2 million.¹¹

Given the existing profile of women-owned enterprises, as well as the high participation of women in the informal economy, where total household income averaged PHP 81,398 in urban areas and PHP 56,305 in rural areas,¹² women are unlikely to benefit from OWWA enterprise development loans. Individuals who benefit from these loans are also more likely to be able to access financing options from larger institutions. Exclusionary reintegration services that inadequately recognize women's barriers to sustainable livelihoods reinforce pressures on women to migrate again once they return home. Moreover, livelihood programs must be designed with the view of genuinely empowering women rather than reifying notions of femininity or maintaining the traditional gendered division of labor.

In the State Party's answer, in 13.10 On measures taken to address the minimum age limit for women seeking employment outside the country, the State Party cited the HSW Policy minimum age requirement for migrant domestic workers at 23 years old and for all other types of work at 18 years old.

CMA finds the higher age requirement for migrant domestic workers discriminatory for those between the age of 18 and 22. It may also be violative of the equal protection clause of the Philippine Constitution. It is also not consistent since for local domestic workers, the minimum age requirement is also 18 years old.

Consider this. Young workers aged 15-24 years old had higher unemployment rate, lower labor participation rate and lower employment rate than the general population, for the period 2009-2011.¹³ As such, migration becomes a very attractive option for them. However, the single job

9 The Survey on Overseas Filipinos (SOF) conducted by the Philippine Statistics Authority (PSA) places estimates at 1,170,000 women and 1,149,000 men Overseas Filipino Workers (OFW) in 2014. Retrieved from <http://psa.gov.ph/gender-stat>.

10 Calculated from Philippine Statistics Authority (PSA), "Fact Sheet on Women and Men in the Philippines," <http://psa.gov.ph/gender-stat>. Accessed May 6, 2016.

11 Overseas Worker Welfare Administration (OWWA). "Programs & Services." Accessed May 6, 2016 from <http://www.owwa.gov.ph/?q=node/23/#reintegration>.

12 Batangan and Batangan, "Social security needs assessment."

13 Asis, Maruja M.B and Battistella, Graziano. *Filipino Youth Employment Migration Nexus*. 2013

category that is most in demand is domestic work. In fact, domestic work registered the highest utilization rate for job orders abroad at 65%¹⁴. Hence, young women workers under 23 years old have lower chances of securing a job abroad.

Also, it has been observed that abuses against migrant domestic workers take place across all ages. Based on the data on welfare cases gathered by OWWA between January and June 2011, a total of 219 cases were recorded on OFWs within the 15-24 age group.¹⁵ Similarly, for OFWs aged 25 years old, a total of 126 cases were recorded than those of the younger ages (24 = 66, 23 = 63, 15-22 =90) respectively.¹⁶ Domestic workers are also prone to abuse even in the local setting. The abuse experienced by women migrant domestic workers is rooted in the nature of the job itself regardless of age¹⁷, something the policy seemingly failed to sufficiently acknowledge.

Item 14. Bilateral labour agreement with Kingdom of Saudi Arabia

Saudi Arabia’s bilateral agreement with the Philippines, concluded in 2013, was celebrated for its progressive provisions for domestic workers.¹⁸ As the leading employer of Philippine migrant workers, and one of the largest employers of domestic workers worldwide (estimated at 1.5 million), Saudi Arabia hired 402,800 migrants from the Philippines, or 28% of all landbased workers from the country. Current reports, however, indicate that deeper structural reforms are needed for the agreement to provide substantive protections. The Philippine government must intensify its efforts to advocate the relaxation of the *kafala system*, a system which has been linked to human rights violations in the Kingdom.

The Philippine embassy in Riyadh and Consulate in Jeddah, reported that at the end of December 2014, 246 and 124 run away domestic workers were sheltered at the Filipino Workers Resource Center in Riyadh and OWWA Center at the Philippine Overseas Labor Office in Jeddah respectively¹⁹. Six months later, the number of distressed migrant domestic workers staying in the shelters increased to a high of 1,014 in Riyadh and 446 in Jeddah²⁰.

The same trends may be gleaned from CMA's own case in-take.

CMA Cases of Women Migrants in Middle East

	2013	2014	2015	2016 (Jan-May)
Cases	29	39	61	28
Countries of	KSA – 8 Qatar – 7	KSA – 22 UAE – 6	KSA – 35 Kuwait – 8	KSA – 17 Kuwait – 3

14 POEA. October 2012.

15 Repatriation and Assistance Division OWWA, 2011

16 Repatriation and Assistance Division OWWA, 2011

17 Ibid.

18 Department of Labour and Employment (DOLE), “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,” http://www.dole.gov.ph/ro_polo_updates/view/631.

19 Department of Foreign Affairs. Semi-Annual Report to Congress. July-December 2014.

20 Department of Foreign Affairs. Semi-Annual Report to Congress. January-June 2015.

Destination	UAE – 5 Kuwait – 5 Bahrain – 3 Jordan - 1	Qatar – 4 Jordan – 3 Oman – 2 Kuwait – 2	UAE – 7 Qatar – 5 Lebanon – 2 Jordan – 2 Bahrain – 2	Lebanon – 3 Jordan – 3 Qatar – 1 UAE - 1
Complaints	Wage Violations – 8 Maltreatment – 6 Undocumented – 4 No day-off – 3 Run away – 3 Insufficient food – 2 Overwork – 2 Death – 2 Missing – 2 Sexual abuse – 2 Detention – 1 Rape – 1 Mental disorder – 1	Wage Violation – 14 Maltreatment - 11 Insufficient food – 5 Sexual abuse -3 Overwork – 3 Run away – 3 No day-off - 3 Detention – 2 Sick – 2 Mental disorder – 2 Missing – 1 Rape – 1	Wage Violation – 26 Overwork – 15 Maltreatment – 9 Detention – 6 Rape – 6 Sick – 4 Run away - 2 No day off – 2 Sexual abuse - 2 Illegal recruitment – 1 Insufficient food – 1 Undocumented – 1 Death – 1	Wage Violation – 12 Maltreatment – 5 Overwork – 5 Sick - 4 Made to work for several household – 2 Insufficient food - 2 Undocumented – 1 No day-off – 1 Missing – 1 Detention – 1 Rape – 1 Trafficking - 1

As a general observation, the DFA reports noted the increasing number of maltreated and sexually abused women; but their decision not to file a case against their perpetrators are due to either of the following reasons: 1) pressure from families not to file a case 2) would like to immediately go home to their families 3) may be stranded for a long time due to court hearing schedules; 4) lack of evidence. It was also mentioned that there was an increasing number of HSW runaways due to unfair labor practice such as working in various households/for relatives of the sponsor/ employer.²¹