

## **PHILIPPINE NGOs-TRADE UNIONS SUBMISSION OF INFORMATION**

### **For the Second Periodic Report of the Philippines on the Implementation of the International Convention on the Rights of All Migrant Workers and Members of their Families UN Committee on Migrant Workers 20<sup>th</sup> Session**

**31 March-11 April 2014**

**Prepared and Consolidated<sup>1</sup> by the**

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<sup>1</sup> CMA with support from the Commission on Human Rights conducted 3 workshop-consultations with CSOs and Trade Unions on the CMW Concluding Observations and LOIPR for the Philippines – in Zamboanga City on September 30, 2011, in Manila on June 11, 2013 for Manila and Luzon-based groups and in Davao City on June 28, 2013 for Mindanao-based CSOs and Trade union

<sup>2</sup> CMA prepared the final report with valuable inputs from the following participants of the workshop-consultations: Ateneo Migrant Center (Davao City), Bannuar Ti La Union/ PKKK, CBCP-Episcopal Commission on Migrants and Itinerants (CBCP-ECMI), Labor Education and Research Network (LEARN), Partido ng Manggagawa (PM), PSLink, Women and Gender Institute (WAGI), Center for Overseas Workers (COW), Batis Center for Women, Women's Legal and Human Rights Bureau (WLB), KAMPI, Migrant Forum in Asia (MFA), Development Action for Women Network (DAWN), ATIKHA, Kanlungan Center Foundation, Scalabrini Migration Center (SMC), Philrights, YMCA-Philippines, CATW Asia Pacific, Philippine Migrant Rights Watch (PMRW Secretariat), Manila Liaison Office-ARMM Governor's Office, PhilComdev, Kanlungan Center, Samahan ng Migrante at Pamilya Inc. (SAMAPI-Tarlac City), LUNA Legal Resource Center for Women and Children (Davao City), Dabawenya-Alliance of Progressive Labor (APL Davao City), BARUG (Davao City), ANAK OFW (Davao City), Mujeres Incorporated-Zamboanga City, AMIN NCR/BANGSA, APL-Cotabato City, Kinlene Sabaani-Tawi-Tawi Province, Sarah Bascones-Basilan Province, KAAGAPAY-Cotabato City, Kagkalinmwa Federation of Returned Migrants-Cotabato-Maguindanao, SK-Maguindanao, CBCP-ECMI-Cagayan de Oro City, Mindanao Migrants Center for Empowering Actions, Inc. (MMCEAI-Davao City), PADC, Atty. Cecilia Jimenez, Gabriela Party List Representative Luz Ilagan, Commission on Human Rights –National and Regional offices; additional inputs were provided by partner CSOs abroad—Patnubay.org (saudi Arabia), Humanitarian Organization for Migration and Economics (HOME-Singapore); Hope Workers' Center and Hsinchu Catholic Diocese Migrants & Immigrants Service Center (HMISC) from Taiwan; Catholic Tokyo International Center (CTIC) and KALAKASAN Migrant women empowerment Center /Submitted by Solidarity Network with Migrants Japan (SMJ) in Japan

**The Center for Migrant Advocacy Philippines (CMA)** is a migrant NGO based in the Philippines. Our work focuses on policy advocacy and facilitating assistance to distressed migrants and their families. These two programmes are enhanced by action research, information and education work with partner NGOs and community-based and local government units, academic institutions. CMA is a member of the Philippine Migrants Rights Watch (PMRW); Philippine Alliance of Human Rights Advocates (PAHRA); Clean Clothes Campaign (CCC) and Migrant Forum in Asia (MFA).

### **Overview of Filipino Labor Migration.**

According to the Philippine Overseas Employment Agency's (POEA) statistics on overseas employment from 2008 to 2012, the number of workers deployed steadily increased every year, with 2012 reaching a new high of 1,802,031 workers, or daily departures of 4,937 OFWs.<sup>3</sup> This represents a staggering number of people that the Philippine government has an obligation to oversee and protect. The number does not even include those migrant workers who are undocumented. Nor does it include Filipinos overseas who migrate for reasons other than work. In 2012, it was estimated that there were 10.489 million overseas Filipinos (including temporary, permanent, and irregular).<sup>4</sup> This sizeable number of Filipino migrants represents a number of challenges for the Philippine government. The government must keep track of its migrants despite the large outflow, it must protect the welfare of its migrants in destination countries, and it must implement effective programs domestically to regulate the process of migration. With its numerous initiatives and programs to extend protection to migrant Filipinos, the Philippines tends to be held up as a model for migration management in the Southeast Asia region.<sup>5</sup> However, the government must not rest on its laurels but be responsive and proactive in the face of current trends and issues.

POEA's statistics reveal some interesting trends. Half of the top 10 destinations for new hires and rehires are countries of the Gulf Cooperating Council (GCC) namely Saudi Arabia, United Arab Emirates, Qatar, Kuwait, and Bahrain.<sup>6</sup> These countries have not ratified many of the migration-related conventions and instruments and have the *Kafala* system in place. Overseas Filipino Workers (OFWs) are found in 238 countries and territories but the top 10 destinations constitute 83.7% of the total number of deployed migrants. Sans Italy, all 9 other destinations in the top 10 are in Asia, making up 82% of total deployment. In 2012, 68% of deployment were rehires or those with renewed or previously-existing contracts. In terms of job categories, household service workers (HSW), also referred to as migrant domestic workers (DW) outnumbered the workers in all other occupational categories combined in 2012.<sup>7</sup> This is worrying because DWs have greater vulnerability due to the difficulties of regulating an industry that occurs primarily in private households. The steady rise of domestic workers employed abroad challenges the Philippine government to ensure the protection of this vulnerable sector.

### **Replies to LOIPR**

**1. In light of the recommendations made by the Committee in paragraphs 14 and 50 of its concluding observations on the initial report of the Philippines (CMW/C/PHL/CO/1), please provide information on the measures taken to improve the capacity of the State party's institutions for effectively implementing the Convention by:**

**(a) Simplifying and streamlining the institutional structure dealing with migration issues; – –**

Despite the large role migration plays in the Philippines, there is considerable lack of coordination in migration governance. Arguably, this stems from competing tensions within government of promoting migration versus regulating it. Over the years, this has created a broad policy framework that has had varying levels of success. Policies vary between National Government Agencies (NGA), between NGAs and Foreign Service Posts (FSP), among agencies within FSPs and between NGAs and Local Government Units (LGUs). Rather than having a

<sup>3</sup> Table 1, "2008-2012 Overseas Employment Statistics," *Philippine Overseas Employment Agency*, [http://www.poea.gov.ph/stats/2012\\_stats.pdf](http://www.poea.gov.ph/stats/2012_stats.pdf)

<sup>4</sup> Stock Estimate of Overseas Filipinos as of December 2012. Commission on Filipinos Overseas, <http://www.cfo.gov.ph/images/stories/pdf/StockEstimate2012.pdf>

<sup>5</sup> United Nations Entity for Gender Equality and the Improvement of Women, *Review of Laws, Policies and Regulations Governing Labour Migration in Asian and Arab States* (Bangkok: UN Women, 2013), 216.

<sup>6</sup> Table 3, "2008-2012 Overseas Employment Statistics," *Philippine Overseas Employment Agency*.

<sup>7</sup> Table 7, "2008-2012 Overseas Employment Statistics," *Philippine Overseas Employment Agency*.

single Department to attend to migration concerns, the Philippine government implements its policies via institutions that operate at different levels and different jurisdictions of government e.g. labor migration, immigration, and permanent migration have implementing agencies that are the responsibility of different Departments. Overlapping mandates and services among these providers causes confusion and issues of accountability. Section 3 of the Migrant Workers and Overseas Filipinos Act of 1995 or Republic Act 8042 as amended by Section 2 of RA10022 broadens the definition of an OFW from one who is not a legal resident in the destination country to one who is not a citizen. This implies that Filipinos who are permanent residents or immigrants in the destination country are now covered by the definition of an OFW. Ergo, all Department of Labor and Employment (DOLE) offices on labor migration should include in their constituents the Filipino immigrants who are under a distinct office –the Commission on Filipinos Overseas (CFO) which is under the Office of the President. Similarly, the expanded definition seemingly expands the mandate of CFO on migration and development.

Another case in point is the government’s return and reintegration program. The National Reintegration Center for OFWs (NRCO) is currently under the administrative supervision of the Overseas Workers Welfare Administration (OWWA), another DOLE agency tasked to provide various programs and services to its “members” including return and reintegration. OWWA members are OFWs who pay the US\$25 contribution. On the other hand, ALL OFWs including OWWA members may avail of the NRCO programs.

Another example is the existence of various social security/ social protection programs for OFWs, namely Social Security System, Philhealth and Home Development Mutual Fund HDMF or Pag-ibig in addition to OWWA. Efforts to streamline these programs and services were initiated in June 2010 by 6 agencies, namely DOLE, POEA, OWWA, SSS, Philhealth and Pag-Ibig. Under a Memorandum of Agreement, these agencies committed to adopt the unified multi-purpose identification card (UMID) as the OFW ID to facilitate availment of benefits and services from these agencies; (2) create a one-stop center at the Philippine Overseas Labor Offices (POLOs) to facilitate access to services and programs; (3) develop and disseminate information materials about these agencies; (4) lower remittance cost by adopting a single platform for collection and data reporting. The project however has been shelved.

There is also a lack of awareness and accessibility of these services at the rural level and even overseas<sup>8</sup>, as the national agencies have not localized their services. International migration remains the domain of national government institutions and, absent from the agenda of local government units.<sup>9</sup> POEA is responsible for the promotion, regulation and monitoring of overseas employment. As part of its functions outlined in RA 10022, POEA must cooperate with other government agencies, including Local Government Units (LGUs) to disseminate overseas employment-related information.<sup>10</sup> However, in practice, coordination between government agencies is complex and often problematic. For example, even if an LGU has an officer assigned to migration-related issues, usually he/she is focused on organizing job fairs, instead of utilizing the LGU frontlines to better connect with migrants and their families.<sup>11</sup> Currently, civil society organizations (CSOs) are the ones taking up the mandate of the LGUs. Under RA 10022, Section 23 (d), LGUs must establish overseas Filipino worker help desks in their localities, thus they forge Memorandums of Understanding (MOUs) with OWWA for the establishment of OFW Help Desks.<sup>12</sup> However, no government agency is tasked to initiate funding for these help desks.

Section 3 of the Migrant Workers and Overseas Filipinos Act of 1995 or Republic Act 8042 was amended by Section 2 of RA10022 by broadening the definition of an OFW from one who is not a legal resident in the

<sup>8</sup> Sentiments expressed in CMA dialogues with OFW organizations in Jordan, Qatar, Saudi Arabia and reiterated by partner NGOS ins Japan, Singapore and Taiwan

<sup>9</sup> Scalabrini Migration Center, *Minding the Gap: Migration, Development and Governance in the Philippines*, 14.

<sup>10</sup> Scalabrini Migration Center, *Country Migration Report: The Philippines 2013*, 172.

<sup>11</sup> Scalabrini Migration Center, *Minding the Gap: Migration, Development and Governance in the Philippines*, 14.

<sup>12</sup> Scalabrini Migration Center, *Country Migration Report: The Philippines 2013*, 110.

destination country to one who is not a citizen. This implies that Filipinos who are permanent residents or immigrants in the destination country are now covered by the definition of an OFW. Ergo, all offices of the DOLE) on labor migration should include in their constituents the Filipino immigrants who are under the CFO. Another implication of the expanded definition is the seeming expansion of mandate of CFO on migration and development by virtue of application of the law.

Responding to the situation, two proposed legislative measures were filed in the 16th Congress for the creation of a Department of OFWs that will put under one department all agencies of government that deal with labor migration “in order to adequately support and give assistance to the OFWs wherever they may be.”<sup>13</sup>

**Recommendation to the CMW to include in its concluding observations:**

- In order to provide clear mandates and to avoid duplication of services, lines of coordination and competencies, an Inter-Agency Council should be established and meetings should occur on a need-basis. By promoting communication and collaboration with other relevant government agencies, it can reduce instances of overlapping services and ensure greater transparency on migration policy.
- For the national government agencies to be truly effective throughout the Philippines, the DILG must be involved in migration governance and the LGUs must be strengthened. In order to better inform the public of their options, strategic information regarding government agencies and the programs & services they offer must be publicized. There needs to be a focus on capacity building for the LGUs, so that they can provide the same level of service that NGAs do.
- Funding of Migrant desks under RA 10022 should be implemented to strengthen and better service. OFWs and migrants abroad; thus far the government agency tasked to initiate funding is unclear to LGUs.<sup>14</sup>

***(b) Allocating sufficient human and financial resources for agents within this structure to carry out their work efficiently;***

Onsite, protection agencies of government are the Philippine embassies, consulates and Philippine Overseas Labor Offices (POLOs). Guided by the One- Country-team Approach (OCTA), they are expected to render effective services to OFWs and their families. However, these offices are very much wanting in terms of quantity and quality.

The House Committee on Foreign Affairs strongly recommended in 2012 the personnel augmentation of FSPs in the Middle East and Asia Pacific, two regions that are ATN (Assistance to Nationals)-intensive, citing that the ratio of government personnel to OFWs range from 1:50,000 in Saudi Arabia to 1:28,000 in Asia Pacific.<sup>15</sup> We take exception on the case of the closure of the PCG in Barcelona that was not in the recommendation. The decision was also opposed by the Filipino community in Barcelona who wrote to Congress about it<sup>16</sup>. The signatories argued that the closure was unjustified as some 20,000 Filipinos out of some 33,000 total Filipino population in Spain were availing of the services of the PCG including seafarers.

Apart from FSP personnel, RA8042 and the amended RA10022 also mandated that “*In countries categorized as highly problematic by the Department of Foreign Affairs and the Department of Labor and Employment, and where there is a concentration of Filipino migrant workers, the government must provide a lawyer and a social worker for the Center.*” Since the enactment of this law in 1995, there has been no enforcement of this provision

<sup>13</sup>

House Bill 132 by Rep. Mark Villar and House Bill 191 by Rep Rosemarie Arenas and Johnny Revilla, accessed at [http://www.congress.gov.ph/download/basic\\_16/HB00132.pdf](http://www.congress.gov.ph/download/basic_16/HB00132.pdf) & [http://www.congress.gov.ph/download/basic\\_16/HB00191.pdf](http://www.congress.gov.ph/download/basic_16/HB00191.pdf) respectively

<sup>14</sup>

OFW Family Party List representative Hon. Roy Seneres has introduced a bill in the 16<sup>th</sup> Congress, House Bill No. 2579, which seeks to require all heads of Local Government Units to create or establish an OFW Family Help Desks in their respective offices in order to strengthen and enhance the protection by the government of the families of OFWs, thus strengthening the provision in Section 16 (d.2) in RA 10022 while also expanding the Help Desks’ mandate to include families of OFWs.

<sup>15</sup>

In accordance with House Resolution 309 directing the Committee on Foreign Affairs to conduct a performance evaluation of Our Philippine Posts, filed on August 26, 2010 by members of the Committee. Report was released in 2011

<sup>16</sup>

Letter was signed by officers of 19 organizations of Filipinos under the jurisdiction of Barcelona PCG

except for the intermittent deployment of a social welfare attaché by the Department of Social Welfare and Development (DSWD). CMA learned that DSWD could not proceed with regular deployment because the budget request was always disapproved by the Department of Budget and Management (DBM)<sup>17</sup>. The latter turned around only a few weeks following the “sex-for-flight” controversy in June 2013<sup>18</sup> where DBM announced that social welfare attaches will be deployed to provide support and assistance to OFWs in need of special protection, allocating Php4M to support the creation of such positions. [More on “sex-for-flight” in Loipr Item 8]

Noticeable also is the disparate treatment of local hired personnel in POLOs and those at the PE/PCG as in the case of Saudi Arabia<sup>19</sup>. Local hires of POLO are not “organic staff” of DOLE and they only receive a monthly salary, all-in. In a meeting to clarify the matter, DOLE informed CMA that DBM disapproves their budget request for salaries and other benefits of local hires. This is not the case however for local hires of the embassy<sup>20</sup>.

**Recommendations to the CMW to include in its concluding observations:**

- To confirm from DFA and concerned agencies the actions taken on the recommendations cited above in the law and in the FSP evaluation study – in terms of personnel augmentation and establishment of additional FSPs and offices abroad; and why Barcelona was included for closure
- For DBM to approve and allocate sufficient funding for concerned agencies of government and to ensure that local hires of POLOs and FSPs get the same treatment in terms of wages and social benefits

***c) Establishing proper follow-up procedures as well as clear, measurable and time-bound targets in order to facilitate tracking the implementation of the various initiatives and programmes in place to respond to challenges faced in the State party’s labor migration policy. Please also provide information on the results of any evaluation made in relation to the implementation the Convention and of relevant national legislation.***

Monitoring of employers' compliance with provisions in the standard employment contract (SEC) is one of the two biggest challenges for government. The other one is monitoring adherence of employers and recruiters to either zero placement fee for domestic workers or the present maximum allowable placement fee equivalent to one-month salary for other workers where placement fee collection is allowed. On paper, compliance, as may be claimed by POEA can be 100% as deployment will not be effected without doing so. However, reality is quite the opposite as SEC provisions are constantly violated specifically provisions on salaries, day off and rest days and other benefits.<sup>21</sup> In addition, migrants continue to be trapped in debt bondage because of exorbitant fees they pay to unscrupulous recruiters as in the case of OFWs in Hongkong<sup>22</sup> and Taiwan.<sup>23</sup>

The Household Service Workers (HSW) policy reform package promulgated by POEA in 2006 was meant to improve the working and living conditions of migrant domestic workers. Provisions include zero placement fee and minimum entry level monthly salary of US\$400, both of which are not effectively enforced. Prevailing wages in the GCC and other Asian destinations of domestic workers remain at US\$200-250<sup>24</sup>.

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<sup>17</sup> This prompted CMA to write DFA, DOLE and DSWD in May 2013 to remind them of the unfulfilled provision particularly to the FSP in Saudi Arabia.

<sup>18</sup> House Resolution 22 introduced by Akbayan Representatives Walden Bello and Ibarra Gutierrez III.

<sup>19</sup> The Condition of Overseas Filipino Workers in Saudi Arabia: Final report of the INvestigating Mission of the Committee on Overseas Workers' Affairs (COWA) to Saudi Arabia, Jue 9-13, 2011.

<sup>20</sup> Meeting between CMA and DOLE led by Sec. Baldoz on January 25, 2011 to clarify the status and benefits of local hires in POLOs.

<sup>21</sup> Report fo Congress, Jan-June 2013. Department of Foreign Affairs

<sup>22</sup> License to Exploit: A Report on the Recruitment Practices and Problems Experienced by Filipino Domestic Workers in Hongkong. Alliance of Progressive Labor-HK and Progressive Labor Union of Domestic Workers in Hongkong, 2013

<sup>23</sup> Inputs from Hope Workers Center, Taiwan

<sup>24</sup> Report to Congress, January-June 2013. Department of Foreign Affairs

Government remains weak in ensuring effective implementation of its policies, either due to lack of human and material resources or political will itself. At the same time, it remains weak in monitoring and tracking the same, especially on site, because of the absence of a clear mechanism and/or indicators to measure their effectiveness. Instead, government relies heavily on complaints reported or filed by OFWs while it bewails the fact that in many instances, OFWs do not automatically report infractions on their rights/ violations in their contracts for various reasons.

Section 37-A on mandatory insurance for OFWs deployed by agencies is up for mandatory review this year, 2014, as provided for in RA10022.

**Recommendations to the CMW to include to its concluding observations:**

- For POLO and POEA to be thorough and diligent in verifying job orders and work contracts and must work and coordinate with each other closely
- For government to forge bilateral cooperation, arrangements and agreements with States of employment in monitoring compliance of employers to SEC and placement fee policies
- Assessment of the implementation of Section 37-A must be undertaken this year because this provision was opposed by OFWs, NGOs and the executive agencies of government because of serious concerns with its intent and implementation.<sup>25</sup>

***2. Please provide information on the progress made by the State party in gathering, processing and analysing data relevant under the Convention, including through the Shared Government Information System on Migration (SGISM), and in improving the compilation of statistical data, or studies and estimates, on migrants in an irregular situation, in line with the recommendation contained in paragraph 20 of the Committee's previous concluding observations.***

The inter-agency committee tasked to establish the SGISM under RA 10022 is co-chaired by the Department of Foreign Affairs (DFA) and the Department of Labor and Employment (DOLE). This sharing of responsibility results in the ongoing issue of a lack of leadership in initiating the large-scale data coordination project. Despite being mandated by law, the SGISM is nowhere near the implementation stage.

A national government agency needs to take the initiative and provide leadership for the establishment of the SGISM, which is necessary not simply to fulfill the Philippines' obligations under the convention, but also because there are pitfalls in the current practice of data collection.

For example, there is no information or statistics on returned migrants.<sup>26</sup> This lack of data creates a serious knowledge gap and makes it impossible for the government to have a well-rounded and comprehensive understanding of the current state of migration. Disaggregated data on return migration, including key variables such as age, gender/sexual orientation, education, and marital status, should be collected and processed, specifically by taking advantage of poorly utilized administrative data sources.<sup>27</sup>

**Recommendations to the CMW to include in its concluding observations:**

- Encourage political leadership in order to increase the speed of SGISM's implementation.
- Coordinate at various levels –NGAs and LGUs; Filipino communities abroad and also with concerned agencies from States of employment of OFWs for verification and additional data mining including data on irregular migrants
- Collect disaggregated data on returning migrants

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<sup>25</sup> benefits-recruiters-not-OFWs

<http://business.inquirer.net/money/topstories/view/20091116-236582/Mandatory-insurance->

<sup>26</sup>

Scalabrini Migration Center, *Minding the Gap: Migration, Development and Governance in the Philippines*,

13.

<sup>27</sup>

Scalabrini Migration Center, *Country Migration Report: The Philippines 2013*, 286.

**3. Please provide information on the State party's cooperation with civil society organizations working on migrants' rights in relation to the implementation of the Convention and the preparation of its periodic reports (see CMW/C/PHL/CO/1, paragraphs 22 (c), 50 and 52).**

While the Philippine government has made efforts to collaborate with civil society organizations working on migrants' rights, the results have been inconsistent. The uneven pattern of government and CSO cooperation stems from the government's lack of proactivity regarding civil society partnerships. The onus falls upon CSOs and NGOs to initiate and pursue collaborations with the government. As a result, many CSOs and NGOs are under unnecessary stress, as they must contend with a heavy workload and fluctuating support from the government. The government should provide better support in regards to knowledge sharing and finances. The lion's share of the work undertaken to protect migrant rights should not fall disproportionately upon civil society.

The Philippine government has improved its relations with CSOs and NGOs since the last Committee report in 2009, however, the initiative for these partnerships still generally originate from civil society, instead of government.

**Recommendations to the CMW to include in its concluding observations:**

- Regularly convene the Land-based Tripartite Consultative Council (LTCC) for migration issues; and support the conduct of regular consultations between OFW representatives in governing boards of migration agencies such as OWWA, POEA and Philhealth
- Government to build responsive, receptive, constructive and transparent relationships with CSOs and trade unions

**5. Please describe the measures taken by the State party to widely disseminate the Convention and the Committee's previous concluding observations, in particular to government departments, Parliament, the judiciary, the national human rights institution and non-governmental organizations (CMW/C/PHL/CO/1, para. 53).**

Currently, the government's dissemination of the Convention and the Committee's concluding observations has been lacking. The information is difficult to find and not always easy to understand. It would also be helpful for the government to translate relevant information into Tagalog in order to improve dissemination. Ideally, the information would be translated into as many local dialects as possible in order to reach as many Filipinos as possible.

Another question is how effective is the dissemination of this information. For example, how many booklets did the POEA print? And in what manner did they distribute them? Considering that approximately ten percent of the Philippines' population is overseas,<sup>28</sup> there are many who would benefit from learning about the convention.

With the advent of new technologies, the government should use them for their benefit when disseminating information. While physical publishing requires funds, many government agencies already have websites set up; therefore, it would only require minimal funds to use their already-established websites as instruments of dissemination.

**Recommendations to the CMW to include in its concluding observations:**

- Ensure that information relevant to the convention is widely available to Filipinos and migrant workers in the Philippines and easily found. Alternate methods of dissemination, such as via the Internet and social media, should also be considered; Disseminate widely
- Assess the effectiveness of the distribution system and approaches

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28

Center, 2013), 196.

Scalabrini Migration Center, *Asian Migration Outlook 2012*, (Quezon City, Philippines: Scalabrini Migration

- It is recommended that there be an agency in charge of information dissemination on the convention, including concluding observations and recommendations, as well as translating the information into other languages and ensuring it is easy to read for the general public.

**6. Please provide information on measures taken to strengthen the protection of Filipino migrant workers abroad by reviewing and amending bilateral and multilateral agreements, Memoranda of Understanding or other protective measures with countries of employment of Filipino migrant workers (CMW/C/PHL/CO/1, para. 32 (a)).**

While bilateral agreements are good steps, further work must be done for effective monitoring and implementation. Bilateral agreements promote good rights-based practices in the origin and destination countries, but the Philippine government must ensure that the agreement is strong enough to protect migrant workers and that these are effectively implemented; otherwise the agreements fail to adequately protect migrant workers. Currently, there are BLAs for domestic workers forged with Saudi Arabia and the UAE, and BLAs under consideration with Lebanon and Jordan. While on paper, these BLAs are laudable for the protections afforded to domestic workers, without proper monitoring and implementation, the BLAs will not improve the reality of domestic workers abroad. To compound the problems of implementation and monitoring, there is limited staff capacity for the Philippines government to adequately analyze BLAs and MOUs, as well as a lack of accessibility when it comes to relevant documents. Sufficient staff and access to these documents are key factors in formulating and implementing strong BLAs and MOUs.

In recent years, the Philippines has opted to negotiate MOUs, which do not need ratification and can be more focused, over BLAs, which are more difficult and take longer to negotiate.<sup>29</sup> The negotiation process excludes civil society, resulting in the drafting of agreements that CSOs and NGOs had no input in.

**Recommendations to the CMW to include in its concluding observations:**

- To review and assess the BLAs forged over the years in terms of rights-based and gender-sensitive elements to make sure that rights and entitlements of migrants are enjoyed de jure and de facto
- Pursue more directed/focused BLAs to enhance protection of specific vulnerable groups/ under specific job categories, enjoining CSOs in the process

**8. Please provide information on the measures taken to prevent public officials from using corrupt practices to (a) obstruct migrants' access to justice and (b) favor child labor, e.g. by stating a higher age of migrant children on birth certificates.**

The State is duty-bound to afford protection to labor, local and overseas. Last year however, there was a big public outrage when Akbayan Representative Walden Bello, chair of the House Committee on Overseas Workers Affairs (COWA) raised the issue of sexual exploitation of distressed female OFWs in the Middle East by some FSP and POLO personnel. The controversy dubbed as “sex-for-flight” prompted DOLE and DFA to create investigation teams to look into the allegations. A few POLO personnel were meted with administrative penalties.<sup>30</sup> Investigations are still ongoing. The expose also prompted DFA and DOLE to make a comprehensive review of the OCTA, the operations and administration of Filipino Workers Resource Centers which also function as shelters, as needed.

**Recommendations to the CMW to include in its concluding observations:**

- Aggressively investigate and punish cases of corruption involving public officials.
- Ensure that checks and balances are in place to detect public officials abusing their power

<sup>29</sup>

“Bilateral Labor Agreements and Social Security Agreements,” Center for Migrant Advocacy, p. 28,

<http://centerformigrantadvocacy.files.wordpress.com/2012/06/bilateral-labor-agreements-and-social-security-agreements1.pdf>

<sup>30</sup>

DOLE Secretary Baldoz ordered the suspension of Labor Attache to Riyadh Adam Musa for “the less grave offense” of simple neglect of duty for one month and one day. Former welfare officer Mario Antonio was also suspended for “grave misconduct. Decision on Assistant Labor Attache Antonio Villafuerte is still pending. The special team tasked to investigate the allegations, however, failed to find evidence to prove the existence of the sex-for-flight scheme. <http://www.philstar.com/metro/2014/02/12/1289298/another-exec-sex-flight-scheme-suspended>

**9. Please indicate whether the State party has undertaken and/or supported a comprehensive study on the situation of children of migrant workers. Please also describe the progress made in developing and implementing strategies, policies and programmes, in collaboration with non-governmental organizations (NGOs), to ensure the protection and promotion of the rights of migrant children through, inter alia, community support programmes, education and information campaigns and school programmes (CMW/C/PHL/CO/1, para. 46).**

A specific few CSO groups have shown interest in OFW children, collecting data and conducting studies, but no comprehensive state-funded study on the children of OFWs and migrants abroad. The registration of undocumented children of migrants abroad continues to be a great concern for CSOs alike. There is a need for greater information and focused study on children of migrants abroad and within the Philippines to better understand the issues and needs of children affected by migration. According to one of the few exploratory studies on this topic, children of migrant workers admitted to understanding the reason for parental migration, but still harbored resentment towards them; they indicated feelings of alienation and also spend considerable time outside their house, which may predispose them to high-risk behaviors and expose them to harmful temptations.<sup>31</sup> No comprehensive program to protect and promote the rights of children and family of OFWs has been established.

**Recommendations to the CMW to include in its concluding observations:**

- Conduct nationwide research on migrant children in order to create a demographic profile to be used as a springboard for policies and interventions.
- Enact a comprehensive program to promote and protect the rights of children and family of OFWs.

**10. Please indicate whether the State party envisages ratifying International Labour Organization (ILO) No. 189 (2011) concerning Decent Work for Domestic Workers.**

The Philippines ratified ILO Convention 189 on September 5, 2012. The Philippine Congress also enacted Republic Act 10361, the national domestic workers law on January 18, 2013. These instruments should inspire the government to pursue more vigorously efforts to make real the rights and entitlements of migrant domestic workers --*de jure* and *de facto*.

**14. In light of paragraphs 26, 30 and 32 (b) of the Committee's previous concluding observations, please provide information on the measures taken by the State party to:**

**(a) Strengthen its legal assistance to Filipino migrant workers**

Free legal assistance provided for in RA 10022 is not effective in anti-illegal recruitment considering the number of OFWs who have been illegally recruited or other recruitment violations (19,206 in 2009-2011<sup>32</sup>) and were reported to POEA since 2009 and those many more who report to NGOs or do not bother to report. The same may be said for the POLO and ATN given the number of distressed OFWs who do and do not report to the post their problems onsite. The Legal Assistance Fund (LAF) of P100 Million may only be availed of by distressed OFWs abroad, subject to recommendation of the FSP and approval of the Undersecretary for Migrant Workers Affairs at the DFA. A major stumbling block is the low level of awareness of OFWs on the LAF and other programs and services for OFWs. In several FSPs, government reaches out to NGOs to assist them on legal cases and even in securing pro bono lawyers<sup>33</sup>.

POEA has a legal assistance division but is very much under staff. They provide legal advice and legal rights education to distressed OFWs who know of their programs.

One serious concern is the so-called "paper victories" of OFWs who pursue their legal cases. The decision will be in their favor but there is no money to be garnished as the escrow deposit has long been depleted and the burden of identifying and locating the properties of the juridical respondents rests with the OFWs.

<sup>31</sup> UN Women, 2013), 98.

UN Women, *Valuing the Social Cost of Migration: An Exploratory Study*, (Bangkok: UN

<sup>32</sup> POEA Annual reports, 2009-2011, [www.poea.gov](http://www.poea.gov)

<sup>33</sup> Information provided by HOME-Singapore and SMJ-Japan

**(b) Inform Filipino migrant workers of the administrative and judicial remedies available to them**

PEOS (reaching only 230,877 in 2009-2011<sup>34</sup> vis a vis the more than 4million deployed for the same period) and PDOS efforts to inform OFWs and the public on judicial remedies and legal aid are insufficient, ineffective and fall short as evidenced by the many OFWs and potential OFWs (the latter in case of illegal recruitment and other recruitment violations and human trafficking) who do not know how to seek remedy from government, those who approach NGOs or who do not even bother to do so. On occasions when FSPs and POLOs will inform OFWs of their legal rights, the information disclosed is usually incomplete.

**(c) Increase awareness among Filipino migrant workers, especially women domestic workers, on the available mechanisms for bringing complaints against employers so that any abuses can be investigated and punished;**

Conversations with distressed OFWs revealed their lack of awareness of available mechanisms for bringing complaints against abusive employers and recruitment agencies. In cases where they already approached the FSP and POLOs, they would indicate that their complaints are not acted upon promptly. This situation is not unique in Saudi. Similar complaints and sentiments against FSP and POLOs are commonplace in other places.

**(d) Ensure that consular services respond effectively to the need for protection of Filipino migrant workers and members of their families;**

The disproportionate ratio of FSP and POLO personnel to the OFW population coupled with scarcity in human and material resources are real stumbling blocks to effective and quality consular services to OFWs and families. Moreover, the lack of monitoring and periodic needs assessment and related processes may further aggravate the situation.

**(e) Ensure that its diplomatic and consular staff abroad are knowledgeable about the laws and procedures of the countries of employment of Filipino migrant workers, especially in those countries categorized as “highly problematic” by the Department of Foreign Affairs (DFA) and the Department of Labour and Employment (DOLE);**

This area of work requires more efforts. Knowledge of the laws and procedures in the States of employment can offer wider avenues for OFWs to access justice and seek redress.

**(f) Undertake regular performance and financial audits of government personnel and agencies dealing with migration issues.**

DFA and DOLE's respective semestral reports to Congress in compliance with RA8042 must be shared with the public for purposes of transparency and accountability. Avenues for discussion of the reports should be made available as well. Likewise, financial and performance audits of departments must also be disclosed.

**Recommendations to the CMW to include in its concluding observations:**

- Government should develop and support programs for continuing education and information particularly on legal rights of migrants in the country and abroad. This is on top of pre-departure information programs;
- Utilization of LAF and ATN funds should be assessed and disclosed; and at the same time, strengthened as the processes for approval and availment are simplified and streamlined; at the same time, programs of public attorneys offices must be adequately supported as they also take on lawyering pro bono for distressed OFWs
- Government must allocate timely and sufficient material and competent human resources to FSPs and POLOs for the effective conduct of work abroad
- Regular capacity building and skills enhancement must also be undertaken for FSP and POLO personnel. This should be complemented by immersions and regular interaction and dialogues with OFW communities in the country and abroad. Increase the transparency of embassies, POLO, ATN performance through the use of audits and the inclusion of OFWs and civil society in the evaluation process. Should be multi-stakeholder in nature

<sup>34</sup> POEA Annual report. 2009-2011. www.poe.gov.ph

- Provide lawyers and legal assistance to victims of illegal recruitment and not just an amicable settlement and affidavit. Framework should be to claim their full rights especially through POEA and NLRC; the burden of escrow deposit replenishment should be with either POEA or NLRC and not on the complainant OFW

**15. Please provide information on the assistance provided through embassy and consulate staff abroad to migrant workers victims of the “sponsorship” or kafalah system in Gulf countries, especially for women domestic workers, and on endeavours to negotiate a reform or review of such a system with the relevant countries of employment (CMW/C/PHL/CO/1, para. 32 (d)).**

#### **Recommendations to the CMW to include in its concluding observations**

- Should open the issue of the Kafala system in bilateral talks with other countries (GCC countries)-lobby GCC countries, bilaterally and multilaterally, to reform or abolish the kafala system
- Government should cater to the needs of those “trapped” OFWs
- Proper orientation of OFWs/families travelling to countries with Kafala System-include in PDOS and PEOS, maximize the multi-media

### **B. Part III of the Convention**

#### **Article 29**

**17. Please provide information on the measures taken to promote the birth registration of Filipino migrant children abroad, including those in an irregular situation, and to ensure the birth registration of foreign migrant children in the State party.**

A Filipino child born abroad may either be registered with the post or not, the latter being due to it being difficult (distance/access to post and/or security/lack of trust) and expensive. But even if they were registered with the post, if their parent/s are undocumented, so are they. Which also creates the problem of access to basic public social services, including the right to education and medical treatment, and unaffordable private social services in host countries<sup>35</sup>.

There are different cases demonstrating the array of difficulties that children in irregular situations face. Therefore, there should also be the creation of a nationwide campaign to promote birth registration and to update all relevant databases.

#### **Recommendations to the CMW to include in its concluding observations:**

- Sustain a nationwide campaign to promote birth registration and update all relevant databases.
- Ensure that shelters are proactively, not reactively, creating spaces for distressed family and children of OFWs; Partner with CSOs and NGOs on site.
- The Philippine government should reach out to destination countries who are parties to the UN Convention on the Rights of the Child to negotiate observance and compliance of the provisions of the CRC.

#### **Article 33**

**18. Please provide information on pre-departure programmes for Filipino nationals considering migration. In this regard, please indicate the measures taken by the State party to implement the recommendations contained in paragraph 22 (b) to (d) of the Committee’s previous concluding observations.**

**(b) Ensure orientation and pre-departure seminars for migrant workers with clear objectives, country-specific information and nationwide outreach using the rights-based approach;**

While the module and trainers’ training includes laws of the host country and the rights and responsibilities of workers as per their contract, these key content continues to be crowded out by salestalk by banks, remittance, telecommunications and/or real estate businesses and or compromised by the lack of time and poor timing (just

<sup>35</sup>UN Women, Valuing the Social Cost of Migration: An Exploratory Study, 115

before OFW departs). These hinder the PDOS' ability to fully benefit prospective or departing OFWs. PEOS reach only a very limited number of its target audience, considering that more than a million were deployed annually since 2009, reaching 1.8 M in 2012.

**(d) Ensure the sufficient allocation of funds for training and, in collaboration with relevant partners, including non-governmental organizations (NGOs), carry out capacity building training for the government agencies handling migration issues, such as the Overseas Workers Welfare Administration, Philippine Overseas Employment Agency, and the Department of Foreign Affairs.**

While DFA through FSI involves NGOs in its training of its foreign service cadets, this is only for half a day session which is deemed very limiting. DOLE on the other hand has not involved NGOs in its training of its officials and personnel for deployment abroad. Their training is also for a much shorter period of time that is deemed insufficient for example to learn the laws in the destination countries.

There are several instances where initiatives and actual skills and knowledge trainings to capacitate government personnel come from NGOs.

**Recommendations to the CMW to include in its concluding observations:**

- OWWA and POEA as the agencies tasked to regulate and monitor pre-departure information programs like PEOS and PDOS must be diligent in monitoring the conduct of such by accredited groups and partners to ensure compliance with approved education and training modules and contents as well as other specifications for conducive and effective adult learning;
- To reiterate to OWWA and POEA that content of the training and education modules must be rights-based and gender-sensitive in approach and framework; that as needed, must be country-specific and job-specific;
- For OWWA not to accredit PRAs to conduct PDOS, especially to their own recruited OFWs to be deployed as this is seen as conflict of interest and to encourage instead more CSOs and community partners to engage in PDOs and other pre-departure information seminars
- Social media and online technology and platforms should be utilized and maximised by the State to inform and update OFWs and communities on developments and trends in labor migration
- For government to allocate financial and human resources to strengthen capacities of government, CSOs, educational institutions and LGU partners nationwide in the effective conduct of pre-departure information trainings and seminars
- For OWWA and POEA to revisit earlier studies and recommendations conducted by CSOs on how to improve pre-departure information courses.

***Part IV of the Convention***

**Article 41.**

***21. Please provide information on the measures taken to implement the recommendations contained in paragraph 36 of the Committee's previous concluding observations, with a view to ensuring the right of Filipino migrant workers to participate in public affairs and to vote and to be elected at elections of the State party.***

For the low turn-out of votes in the May 2013 national elections, overseas Filipinos cited Comelec's and Department of Foreign Affairs' Overseas Absentee Voting secretariat's administrative and operational limitations, minimal/lack of information campaign due to limited budget, outdated Comelec registration records, wrong/incomplete addresses on postal packets and complicated voting instructions, foreign service posts' limited manpower and support to and weak collaboration with Filipino communities abroad, inaccessibility of polling precincts/limited OFW mobility, disillusionment and apathy given it was a non-presidential election, limited suffrage (national elections only), and finally, limited stakeholding and NGOs' waning support <sup>36</sup>

<sup>36</sup> Center for Migrant Advocacy, *Report on OAV 2013 Assessment Forum*

## **Recommendations to the CMW to include in its concluding observations**

- For Comelec, under the newly-created Office for Overseas Voting which replaced the Committee on Overseas Absentee Voting, and in cooperation with other stakeholders, to conduct a comprehensive assessment and evaluation of past overseas voting exercises in order to be more guided, effective and efficient in the conduct of overseas voting in the 2016 national elections; for the Joint Congressional Oversight Committee on Overseas Voting to do a similar project or it can be a coordinated undertaking; For government to ensure sufficient funding for overseas voting.

### **Article 64**

**22. Please provide information on the measures taken to prevent irregular migration, including through international agreements, policies and programmes. Please include information on how such measures have been mainstreamed in overall migration policies and programmes and whether a measurable result on the numbers of irregular migrants has been determined.**

Government has various programs and initiatives to prevent irregular migration. However, we would like to call the attention of the Committee on the following:

According to former Immigration Commissioner Ricardo David, Jr., the BI's campaign against human trafficking requires stricter screening of Filipinos, especially those going to countries known to be destinations of OFWs. He said that it is natural for immigration officers to assess the entire circumstances of all Filipino travellers to determine if the departing passenger is indeed a legitimate tourist travelling for pleasure abroad or a worker that would try to find work abroad without work-related documents.<sup>37</sup>

In furtherance of the above, the BI announced recently that all Filipinos travelling as tourists must show proof of financial capability for travel, proof of work and financial support from benefactors<sup>38</sup> BI however discloses that 40 Filipino travellers are offloaded everyday at the main airport terminal where 3 to 4 of them are genuine undocumented travellers<sup>39</sup>.

The CHR chairperson Loretta Ann Rosales cautioned the BI to be careful in offloading passengers since Filipinos have a constitutional right to travel. She added that there should be enough evidence before the BI stops an individual from leaving the country.<sup>40</sup> Similarly, there is serious concern in the interpretation and implementation of "stricter screening" for Filipinos travelling as tourists especially to destinations like Dubai, Hongkong, Singapore, Malaysia and Bangkok which are major transit points to their actual destinations.

**Recommendation for CMW to include in the concluding observations:** For BI to come up with clear legal bases and guidelines for immigration screening and offloading so as not to compromise the right to travel of Filipinos

### **Article 64**

**23. In line with the recommendations contained in paragraph 28 of the Committee's previous concluding observations, please provide information on the measures taken by the State party to improve the situation of Filipino migrant women facing situations of vulnerability by:**

**(a) Conducting a thorough assessment of the situation of Filipino migrant women, including their income in the informal sector, and taking concrete measures to address the feminization of migration; comprehensively in its labour migration policies, and ensuring minimal social protection for Filipino migrant women; (b) Negotiating more secure employment opportunities and terms and conditions for Filipino migrant women in vulnerable sectors through bilateral agreements in those countries where discriminatory treatment and abuse are more frequent; (c) Carrying out gender training and sensitization for government officials dealing with migration issues, in particular those providing legal and consular assistance to Filipino migrant workers**

<sup>37</sup> "Immigration defends tough screening of departing Pinoys," *The Philippine Star*

<sup>38</sup> <http://www.mb.com.ph/bi-requires-all-tourists-proof-of-financial-capability-to-travel/>. March 14, 2014

<sup>39</sup> <http://www.gmanetwork.com/news/story/351441/pinoyabroad/news/40-pinoys-get-offloaded-at-naia-1-every-day-bi>. March 6, 2014

<sup>40</sup> Ibid.

**abroad seeking justice against abuse in the workplace; (d) Implementing the outcome document of the International Conference on Gender, Migration and Development called the Manila Call to Action as a tool for informed policy decision-making and advocacy; (e) Liaising with local and international partner networks to provide services and support to migrants and to advocate for migrants' rights.**

Women migrants, remain concentrated in gender-stereotypical women's job in the households as domestic workers. They comprise the biggest proportion of workers under one single job category in the annual deployment statistics.

Following the promulgation of the HSW policy, deployment figures for new hire HSWs are as follows: pre-HSW package in 2006: 91,412; first year of HSW, 2007: 47,877; 2008: 50,082; 2009: 71,557; 2010: 96,583; 2011: 142,689; 2012: 155,831. The top ten destinations of HSWs are: all GCC countries, Hongkong, Singapore, Malaysia, Italy. GCC HSW deployment combined comprises more than 60% of the total<sup>41</sup>.

POEA will assert that all HSWs processed and deployed by POEA complied with the HSW reform package as manifested by the legally-binding SEC duly signed by the HSWs and the contracted employers. However, reality on the ground would belie this claim as HSWs continue to experience violations of their rights at work and as human beings. The entry level salary is not followed in many of the states of employment and they receive less. Instances are cited where the POEA mandated SEC was replaced by another work contract, the provisions of which are far more inferior. Worse, zero placement fee is not complied with as confirmed by the 2013 study of HSWs in Hongkong.<sup>42</sup>

Through a focused survey and discussion groups among various stakeholders organized by Battistella and Asis of the Scalabrini Migration Center revealed that there was low awareness of basic rights and of government regulations among domestic workers despite the mandatory pre-departure training orientations. The study also found that the mandatory Comprehensive Pre departure Orientation Program which includes training on language, culture and stress management incurs extra costs onto to prospective migrant with no proven benefits.<sup>43</sup> Alternative evidence provided by a research study conducted by the Center for Migrant Advocacy (CMA) in March- June 2011 shows similar findings.<sup>44</sup> Major findings of the study included a low level of awareness among HSW's of the new, protective policy. Also, findings suggested that the policy is not strictly implemented and different stakeholders follow and uphold the policy differently, a key reason why there are so many violations to the provisions.

#### **Recommendations to the CMW to include in its concluding observations:**

- For CHR, as gender ombud, per provision of the Magna Carta of Women, to audit all agencies of government for compliance to mandatory human rights and gender-sensitivity trainings
- For CHR and Philippine Commission on Women to revisit the Magna Carta of Women and assess the implementation of its provisions, 5 years after its enactment in 2009 and to confirm submission of periodic reports to Congress in regard to compliance of agencies and overall implementation with special attention to the provision of Gender Focal Point Officers at FSPs with high concentration of women migrants and how this improves the situation of women migrants
- Review and assess the efficacy of the Household Service Worker Package 2006 and work to expand employment opportunities for women.
- Conduct a systematic review of databases within all OFW related government agencies and create a unified and accurate database

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<sup>41</sup> POEA data. 2012.

<sup>42</sup> License to Exploit: A Report on the Recruitment Practices and Problems Experienced by Filipino Domestic Workers in Hongkong. Alliance of Progressive Labor-HK and Progressive Labor Union of Domestic Workers in Hongkong. 2013. To be published in April 2014.

<sup>43</sup> Philippine Institute for Development Studies, *Protecting Filipino Transnational*, 1, 1-56

<sup>44</sup> Center for Migrant Advocacy, *Survey Research on the Effectiveness of the Household Service Workers Policy Reform Package (2011)* 1-52

- Create a standardized evaluation tool to monitor the implementation of the recommendations put forth in the Manila Call to Action

#### **Article 66**

**24. Please provide information on the measures taken to review the role of private recruitment agencies and to strengthen the existing licensing system for recruitment agencies, migration regulation and control mechanisms to prevent private recruitment agencies from charging excessive fees for their services and from acting as intermediaries for abusive foreign recruiters (CMW/C/PHL/CO/1, para. 42). Please also indicate whether the State party envisages ratifying ILO Convention No. 181 (1997) concerning Private Employment Agencies.**

The concerns around recruitment tend to focus around the governments weak regulatory regime. Violations concerning recruitment regulations are due to a number of reasons like willful violation of recruitment agencies, unethical practices of foreign recruitment agencies, unrealistic standards of wages set by the POEA, collection of placement fee, lapses in verification and accreditation of recruitment agencies and the need to strengthen recruitment monitoring and inspection.<sup>45</sup>

In 2013 a survey-research conducted among Filipino HSWs in Hongkong<sup>46</sup>, 88% of the respondents used/paid a private recruitment agency for placement. The average total recruitment cost is P80,736. That is why recruitment costs have been identified as the central problem among domestic workers. It is very alarming as this kind of fee is excessive and illegal but still common and widespread. Also according to the study, more than 14% were forced by their agencies to accept salaries below the minimum wage, 36% were given wrong, outdated or no information at all by their agencies about Hong Kong laws concerning them, and almost 10% were told by their agencies that they will not be getting one or several mandated benefits.<sup>47</sup>

In Taiwan, “For 25 years Filipino migrant workers have been paying excessive placement fees to come to Taiwan to work. The Filipino government’s legal placement fee is one month’s salary (NT\$19,047 {US\$635} for factory workers, construction workers and fisher folk; and NT\$15,840 {US\$528} for caretakers and domestic workers) plus processing fees totaling about Php60,000. However, many Filipino migrant workers are paying twice this amount of money” which resulted to debt bondage.<sup>48</sup>

One urgent issue at the moment is how the Philippines will respond to the changes in recruitment policies and regulations in Saudi Arabia which allow for the formation of “mega recruitment companies” (MRCs) that can function either as a (1) placement agency or recruiter or (2) as employer when it acts as labor service provider/ outsourcing to other companies<sup>49</sup>. MRCs' role as employers is problematic as it creates a new triangular configuration for the employment relationship. Accordingly, MRCs will have two distinct contracts –one with the employers and one with the workers with respect to wages to be paid for limited work and for a limited period of time. It is also stipulated in the regulation that employers can request MRC for substitute workers and may allow MRC to deduct from the wages of the workers upon request by the real employer. This triangular set up is already being implemented in Malaysia to the detriment of the workers<sup>50</sup>. The Philippine government must NOT agree to this set up.

#### **Recommendations for CMW to include in its concluding observations**

- Ratify ILO C181 - Private Employment Agencies Convention, 1997 (No. 181)
- Adopt an across the board “no placement fee” policy as a matter of principle that MWs should not pay for their placement; this way it is also easy to monitor compliance

<sup>45</sup> Scalabrini Migration Center, *Country Migration Report, The Philippines 2013*, p. 164

<sup>46</sup> License to Exploit: A Report on the Recruitment Practices and Problems Experienced by Filipino Domestic Workers in Hongkong. Alliance of Progressive Labor-HK and Progressive Labor Union of Domestic Workers in Hongkong. 2013. To be published in April 2014.

<sup>47</sup> Ibid

<sup>48</sup> Inputs from Hsinchu Diocese Migrants & Immigrants Service Center (HMISC)-Taiwan

<sup>49</sup> Mega Recruitment Agencies' Labor System. Implementing Royal Decree No. 51 dated 23/08/1426H. Kingdom of Saudi Arabia

<sup>50</sup> <http://charleshector.blogspot.com/2012/04/in-2011-115-groups-said-no-to-labour.html>. April 26, 2012

- Strengthen enforcement and monitoring of regulations on the charging of illegal recruitment fees; prosecute, penalize illegal recruiters. Inform the public and improve the performance of adjudication of POEA, improve justice system
- Review licensing procedures and make requirements stringent, strict monitoring including on the spot inspections; ensure that escrow funds are intact and maintained at all times;
- Simplify recruitment procedures and establish a one-stop shop to progressively eliminate brokers and intermediaries involved in the process
- Government must not agree to the MRC or any PRA to function as employer for outsourcing purposes
- Establish a publicly available and widely shared blacklist of errant recruiters and expose unscrupulous recruitment agencies and persons involved
- Establish Multi-sectoral Monitoring Committee including trade unions and civil society organizations to monitor implementation of ethical recruitment/bilateral agreements.

#### **Article 67**

**25. Please describe the progress made by the State party in strengthening the reintegration of returning migrant workers and members of their families, as recommended in paragraph 44 (a)-(e) of the Committee's previous concluding observations. Please indicate if bilateral agreements facilitate the return and reintegration of migrant workers and how the National Reintegration Centre for Overseas Filipino Workers operates and coordinates its activities with other relevant institutions to promote the return and reintegration of Filipino migrant workers.**

In 2011, the P2 Billion OFW Reintegration program was launched. According to DOLE, more and more OFWs avail of the loan and in the first quarter of 2013, 113 borrower-beneficiaries have been approved by the Land Bank of the Philippines.<sup>51</sup> However, the number is still very low compared to the number of returning migrants every month. While some OFWs appreciate the program, others complain that to be able to benefit from it, one must undergo a grueling process that includes preparing a business plan that needs to be approved. OWWA reiterates that special seminars are conducted to help in the making of business proposals.<sup>52</sup>

Several other programs are available. However, these rarely reach returning migrants because of the lack of information dissemination. Also, some of those who are informed about these programs are not given access because they fail to adhere to the complicated requirements including collaterals. The returning OFWs who are enrolled in livelihood programs cannot sustain the enterprise due to the lack of skills in running a business.

#### **Recommendations for CMW inclusion in the concluding observations**

- There is a need to intensify information on the assistance provided to returnee migrants
- Access and availment of programs and services on return and reintegration should be simplified, streamlined and migrant-friendly

#### **Article 68**

**26. Please provide information on the measures taken to implement the recommendations contained in paragraph 48 (a)-(f) of the Committee's previous concluding observations in order to combat trafficking in persons.**

Human trafficking is prevalent due to fast pace, ease and in expense of migrating through illegal channels. Although there is both national and international legislation in place to protect migrants against trafficking, enforcement is difficult and costly. Difficulty arises as illegal recruiters are often relatives or the recruitment agency is out of the country. Cases that are filed against illegal recruiters often do not progress and are not given high enough priority over other concerns/cases.

<sup>51</sup> "OFWs evolving into successful entrepreneurs," The Gulf News, <http://m.gulfnews.com/news/world/philippines/overseas-filipino-workers-evolving-into-successful-entrepreneurs-1.1176224>

<sup>52</sup> "OWWA: More OFWs mull returning to PHL for good amid strong economy," GMA News, <http://www.gmanetwork.com/news/story/312313/pinoyabroad/news/owwa-more-ofws-mull-returning-to-phl-for-good-amid-strong-economy>

**Recommendations to the CMW to include in its concluding observations:**

- Comprehensive documentation and disaggregated data of cases; Effective enforcement of all relevant/protective legislation at the national and international level.
- Strengthen AIR- provide funding towards provincial/local needs.
- Further streamline legal channels of migration in order to deter illegal migration
- Better equipped airport service booths with informed/trained personnel and place public information materials in other transport terminals to educate public about trafficking and protection of migrants

***27. Please provide any additional information and measures adopted since the Committee's consideration of the State party's initial report in 2009 to implement the Convention and the Committee's previous concluding observation (CMW/C/PHL/CO/1 para 51), including relevant disaggregated statistical data, as well as information on any other important developments in the State party relating to the provisions of the Convention.***

Following the lifting of the ban for young Filipinos to avail of the Au Pair program in Europe in 2010 and 2012 after 15 years of suspension because of reported abuses and exploitation against Filipino au pairs, already, there is evidence that the majority of au pairs from outside Europe are Filipinos.<sup>53</sup> Even as the au pairs are not considered migrant workers, **We recommend inclusion to CMW concluding observations** that governments will closely monitor the status and well being of Filipino au pairs, most of whom are young women below 30 years old. They are vulnerable to illegal recruitment and trafficking and if not properly monitored, might end up once again as exploited domestic workers in European households or even undocumented migrants.<sup>54</sup>

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<sup>53</sup> Filipino au pairs make up a third to 80% of total au pair deployment in several European countries. (Policy Brief: PHILIPPINE MIGRATION AND AU PAIR PROGRAMS IN EUROPE. Center for Migrant Advocacy-Philippines. February 2014) They are the biggest, non-European au pairs in Norway (<http://www.newsinenglish.no/2012/04/04/philippines-leads-new-permit-statistics/> April 4, 2012

<sup>54</sup> Policy Brief: PHILIPPINE MIGRATION AND AU PAIR PROGRAMS IN EUROPE. Center for Migrant Advocacy-Philippines. February 2014. In addition, CMA was approached by several au pairs to assist them in getting their refund for the P60,000 “good will deposit” each one paid to the au pair agency. They also paid P40,000 for the pre-departure “au pair training”. There were some 100 of them recruited by one agency.