



## **Center for Migrant Advocacy – Philippines**

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**The Center for Migrant Advocacy – Philippines** or **CMA** is an advocacy group that promotes the rights and welfare of overseas Filipinos – land – and sea-based migrant workers, Filipino immigrants and their families. CMA works to help improve the economic, social and political conditions of migrant Filipino families through policy advocacy, information dissemination, networking, capacity-building, and facilitation of assistance to distressed migrants.

CMA was formed on December 5, 2002. It is a member of the Philippine Migrants Rights Watch (PMRW, [www.pmrw.org.ph](http://www.pmrw.org.ph)) and Migrant Forum in Asia (MFA, [www.mfasia.org](http://www.mfasia.org)), both of which are migrants rights networks in the Philippines and Asia, respectively. CMA is also a member of the Philippine Alliance of Human Rights Advocates (PAHRA).

# **Report of the Center for Migrant Advocacy for the 3<sup>rd</sup> Cycle Philippines Universal Periodic Review (UPR) on the situation of Filipino Migrant Workers**

## **1. Background and Basic Data**

**1.1.** Since 2006, the Philippines deploys more than 1 million overseas Filipino workers (OFWs). Latest available data from the Philippine Overseas Employment Administration (POEA) states that there were a total of 1,832,668 OFWs in 2014, of which 1,430,842 were land-based and 401,826 were sea based<sup>i</sup>.

**1.2.** Female OFWs are also more numerous than their male counterparts, particularly during the 2014 Survey on OFWs by the Philippine Statistics Authority (PSA), while male OFWs are comparatively older than females<sup>ii</sup>. Female migrants remain concentrated in domestic and care work (categorised under Household Service Workers)<sup>iii</sup> which is quite vulnerable to abuse and exploitation.

**1.3.** For the last five years, the top 10 destinations of OFWs were in the Middle East and Southeast Asia, with the highest number of OFWs deployed in Saudi Arabia, followed by the United Arab Emirates.

**1.4.** Even the country's foremost economic agency, the National Economic and Development Authority (NEDA) admitted that although the Philippines is no longer highly dependent on the cash remittances sent by OFWs, with the takeoff of the BPO (Business process outsourcing) industry which is accidentally surviving on foreign accounts<sup>iv</sup>, it will have the difficulty in surviving without the cash remittances from OFWs<sup>v</sup>.

## **2. Issues and concerns on the promotion and protection of human rights on the ground and implementation of international human rights obligations**

**2.1.** Compared with other sending countries, the Philippines has arguably the most developed protection regime for its migrant workers has in fact been hailed as a model.

**2.2.** The Philippines has an established web of policies and institutions that are directed towards assisting Filipinos working overseas. Abroad, there are 60 embassies and 20 consulates complemented by 37 Philippine overseas labor offices. In the country, there are 13 government institutions focused on migrant concerns. These government agencies are guided by several statutory acts related to migration-for-work including a Magna Carta for Migrant Workers

(Republic Act (R.A.) 8042, amended by RA 10022).

**2.3.** However, improvements are always necessary because of the inherent dynamism of migration, which always results in new challenges being faced by OFWs—their separation from their families and the full protection of their own government, including their own familiar culture—make them especially vulnerable.

**2.4.** For instance, consultations with migrant workers almost always reveal a common attitude towards those seeking government assistance: embassies are sought only as a last recourse. The frontline services of government agencies overseas are therefore crucial in changing this attitude. Government agencies must make OFWs feel that they are not just but Filipino citizens being assisted with care by their government. Otherwise, they would deem approaching government as futile.

### **3. Protection at all stages of the migration cycle**

**3.1.** OFWs and their families should be considered as stakeholders and not mere recipients of government programs and services. The following are specific proposals for this:

**3.1.1.** Governance platforms and spaces should thus allow for broad, meaningful and sustained participation of and representation by the migrant sector, in the country and onsite.

**3.1.2.** Pre-departure information and education must be strengthened through the inclusion of legal rights education and complemented by activities that effectively raise public awareness of the realities of migration.

**3.1.3.** Government must be more systematic and deliberate in identifying countries where OFWs must not be deployed (i.e. countries in the midst of war or countries with poor track records in protecting workers' rights).

**3.1.4.** Bilateral labor agreements with the governments of countries of destination on the protection of worker's rights must be forged and their implementation effectively monitored.

**3.1.5.** The drive against illegal recruiters and human traffickers must be relentless and pertinent laws must be strictly enforced. Prompt and holistic assistance should be provided the victims/survivors from legal assistance to sufficient rehabilitation and reintegration.

**3.1.6.** The legislation of the Overseas Workers Welfare Administration (OWWA) Act that includes provision of government funds for OWWA personnel salaries is welcome and frees up more OFW contributions for their benefit. Delivery of government programs

and services in the country and at the posts require sufficient personnel and budget.

**3.1.7.** Return and reintegration policies of government agencies must be rationalized. Moreover, local governments must be included in the planning and implementation of these policies.

**3.1.8.** Fully implement the Shared Government Information System for Migration (SGISM) as provided in RA 8042 to enable tracking of OFWs from departure to return and facilitate effective and efficient provision of programs and services.

#### **4. Effective access to justice**

**4.1.** Migrant workers' rights are human rights as applied in the workplace - regardless of where the workplace is.

**4.2.** Specific proposals:

**4.2.1** Enactment and revision of laws and ratification of ILO standards

**4.2.1.1.** Notwithstanding the comprehensive protection afforded by the Magna Carta for Migrant Workers, one corrective measure is in order: the provision on money claims. Congress should enact a law amending this in order to align said provision with that of the Labor Code and the rulings of the Supreme Court. Such amendment is needed so that migrants dismissed without just cause can get compensation corresponding to the actual unexpired portion of the contract.

**4.2.1.2.** A Magna Carta for Seafarers should be enacted. This is needed for the protection and promotion of the rights of sea-based OFWs and will fulfill the Philippines' obligation as a state party to the ILO Maritime Labor Convention.

**4.2.1.3** The following ILO Conventions must be ratified by the Philippine government: Convention 181 on Private Employment Agencies to promote ethical recruitment and non-fee charging principles in recruitment of workers and the 2014 Protocol to the ILO Forced Labor Convention 29 to ensure that migrant workers are not held in slavery-like working and living conditions.

#### **5. Creation of decent job opportunities in the Philippine**

**5.1.** Many Filipino workers migrate for economic reasons because of the lack of decent job opportunities in the country combined with wages that are not even enough to sustain decent lives for Filipino families.

**5.2.** The only way to address this is for the government to pursue sustainable development that

generates decent jobs that pay living wages and allow Filipino workers and their families to live decently – here at home.

### **5.3. Specific proposals:**

**5.3.1.** An industrial policy that will allow domestic industries to survive and the domestic economy to flourish must be developed and implemented. In this regard, previous work done by the Department of Trade and Industry (DTI), NEDA and Department of Labor and Employment (DOLE) must be revisited and its continuance considered.

**5.3.2.** Industry road maps based on abovementioned industrial policy must be aligned with the needs of the migrant sector especially with regard the employment or entrepreneurship for returning migrants.

**5.3.3.** Greater effort should be exerted to generate decent jobs for women given that many women, especially from rural areas, opt to work abroad as domestic workers.

**5.3.4.** Return and reintegration policies of government agencies must be rationalized, and local governments must be included in the planning and implementation of these policies. Protocols for both conflict-and-crisis-returned migrants, as well as “regular” returned migrants, should be established.

**5.3.5.** Government must forge bilateral agreements with governments of countries of destination to guarantee the coverage and accessibility of social security and social protection programs, in said countries, for migrants. This will serve as safety net for OFWs, especially for returning migrants. It could also serve as capital for entrepreneurial endeavors.

**5.3.6.** The rampant practice of labor contractualization must be stopped through the enforcement of existing pertinent laws and through the enactment of new legislation (i.e security of tenure act).

## **6. Government agencies, consulates, embassies, labor offices as centers of care for the migrants**

**6.1.** In keeping with the "one-country team approach" of the Philippine government, staff members in Philippine missions or Foreign Service posts, regardless of focus (trade, labor, consular services) must have common knowledge of the plight of OFWs and how best to respond to OFW needs, especially of those in distress.

### **6.2. Specific proposals:**

**6.3.** The number of Foreign Service posts and personnel must be sufficient to meet the

high demand of servicing OFWs on site. An increase in budget allocation for foreign service posts must, therefore, be rationalized and supported.

**6.4.** In 2012, for example, the DFA closed 10 foreign service posts. These closures meant savings of P100-P150 million of public funds but these also meant additional costs for OFWs who had to travel farther (at personal cost) to seek assistance from government.

**6.5.** "Care" demands that OFWs seeking assistance from foreign service posts be treated with dignity and respect. "Care" ranges from simple efforts such as frontline service providers in foreign service posts "being kind" to OFWs who approach them for assistance, to more complex responses that require a "back-and-forth" process and not just one-time assistance. Towards this end, staff of foreign service posts must be trained/ re-trained so they can embrace the full meaning of "care."

**6.6.** Filipino labor migration is a gendered phenomenon. A cause for concern is that most women are in jobs that are stereotypically viewed as "for women only", such as domestic and care work - jobs where workers are vulnerable to abuse and exploitation. There have also been several instances, including the much-publicized "sex-for-flight-scandal," where government personnel were accused and charged by OFWs themselves for abuse.

**6.7.** Given this context, all government staff in overseas government posts must undergo gender sensitivity training to respond to cases in an appropriate manner.

**6.8.** The government must also ensure the full implementation of the provision in RA 9710 or the Magna Carta of Women, which mandates the designation of a Gender Focal Point Officer (GFPO) in countries of destination where there is a huge concentration of Filipino women migrant workers.

**6.9** The Freedom of Information (FOI) Act must be passed. Access to information of OFWs must be guaranteed. While the executive's effort to enforce it at its level is commendable, nothing can replace a full legislation.

## **7. Thematic concerns: How the recommendations of previous cycle were implemented**

**7.1.** To date, the current government has started to enforce some of the recommendations stipulated in the previous cycle:. For instance, to crack down on illegal recruitment, Labor Secretary Silvestre Bello III has offered a P50,000-reward for citizens who can give information leading to the arrest of illegal recruiters in August.<sup>vi</sup>

**7.2.** Also in August, the the Department of Labor and Employment (DOLE) re-opened the one-stop service center for overseas Filipino workers. The center includes representatives from

various agencies with services that are all “relevant to OFWs,” and is expected to be able to serve as many as 2,000 to 3,000 OFWs daily.<sup>vii</sup>

**7.3.** Also in this month, the International Labor Organization (ILO) selected the Philippines as a pilot country for its program on establishing a model against illegal recruitment, citing the country's improving policies on ensuring safe and fair recruitment.

**7.4.** Following her statement that the Philippines has made significant progress in developing legislation and policies that address challenges in the recruitment process, including the hiring of migrant domestic workers, the ILO Regional Director for Asia and the Pacific Tomoko Nishimoto also cited that the country also provides a good model of practice for sea-based workers: that no recruitment fees are charged against workers<sup>viii</sup>.

**7.5.** However, given the volume of OFWs leaving the country's shore on a daily basis, the number of Filipinos already working abroad and the resulting social costs, the room for improvement in governing labor migration remains as big as ever.

**7.6.** However, the Administrative Order 247 issued by former President Gloria Macapagal Arroyo in December 4, 2008 has not been revoked. This instructed POEA to “execute a paradigm shift by refocusing its functions from regulatory to full blast market development efforts...” to break through the 200 (destination) country barrier. Likewise, the Administrative Order 248 issued the same day to create a Filipino Expatriate Livelihood Support Program of P250 M coming from OWWA has also not been revoked. This is not in consonance with the newly-legislated Overseas Workers Welfare Administration Act of 2016 (RA 10801). These two orders may still be invoked by unenlightened bureaucrats counterproductively for OFWs.

## **8. With regards Conclusions and/or Recommendations of the previous cycle:**

**8.1.** 129.2 While the Overseas Workers Welfare and Administration (OWWA) regularly reviews the pre-departure orientation seminar (PDOS) module, it has to pay attention to effective monitoring of the quality of PDOS delivered to departing OFWs, particularly the inclusion of rights. PDOS has still to be fully job-specific and country-specific.

**8.2.** While the Philippine Overseas Employment Administration (POEA) likewise regularly reviews the pre-employment orientation seminar (PEOS) module, it has to pay attention to effective monitoring of the quality of PEOS delivered at the community level. The government also has to address the resource limitations of and buy in of many local governments in terms of carrying out this public information campaign to ensure it covers all barangays, especially the top senders of OFWs.

**8.3.** 129.7 The government has to provide for monitoring and oversight on the performance of the Gender Focal Person at the posts abroad, especially where women migrants are concentrated. An assessment-evaluation should be done on their effectivity.

**8.4.** 129.8 Government should include in its efforts to implement domestic policies to further promote gender equality and strengthen the protection of women against discrimination and violence; the evaluation of the Household Service Workers Policy Reform Package of the POEA that sets a cap for domestic workers for abroad at 23 years old. Likewise, it should speed up negotiations for the bilateral labor agreement with Lebanon so that the 10 year ban on domestic workers can be lifted. This ban has resulted in domestic workers bound for Lebanon to go through irregular channels.

**8.5.** 129.23 While the Anti-Trafficking in Persons Act (RA 9208) has been amended in 2013, government has to pay more attention to ensuring its effective implementation, monitoring and oversight, especially at the local level. Training of government law enforcers have to be complemented by sufficient personnel and budget provision.

**8.6.** 129.29 Government has to pursue judicial reforms, particularly in the criminal justice system, to ensure speedy investigation, arrest, prosecution, trial and conviction of perpetrators of human trafficking and resolve cases of delayed justice and impunity.

**8.7.** 130.3 While there is the National Strategic Action Plan Against Trafficking in Persons 2012-2016, there were observed weaknesses in terms of effective implementation, monitoring and oversight of programs and services, especially at the local level. There should also be more sustained and substantive participation from all stakeholders. In addition, the government should ratify the ASEAN's (Association of South east Asian Nations) Anti-Trafficking Convention.

**8.8.** 130.4 Government can broaden public information campaign on its rehabilitation program for social integration and economic autonomy for women victims of sex exploitation and trafficking. The program, in coordination with OWWA and the National Reintegration Center for OFWs (NRCO), should be expanded to also cover victims of labor trafficking, including male migrant workers, including trafficked fishermen.

**8.9.** 131.3 While government has ratified International Labor Organization Convention 189 on Decent Work for Domestic Workers in 2012 and has forged an Agreement on Domestic Worker Recruitment with Saudi Arabia in 2013, it is timely to assess the implementation of the agreement and to jointly work out oversight and monitoring mechanisms, given continuing cases of exploitation and abuse of domestic workers in Saudi Arabia.

**8.10.** 131.20 It is high time for government to institute substantial reforms of its judicial system in order to achieve progressive development for migrant rights, in particular accessing justice e.g. against illegal practices of recruitment agencies at the POEA and for money claims at the National Labor Relations Commission (NLRC).

## **9. Emerging Issues: new critical developments on human rights in the country**

**9.1.** There are new economic and political developments in the region, particularly in Asia, in which Filipino migrants, will be subjected in a very short while.



**9.2. President** Duterte's pronouncements against human rights and human rights defenders; his priority to restore the death penalty These can have adverse impact on the human rights of OFWs.

**9.3.** There is also the growing anti-migration sentiment particularly in Europe, which is unnecessarily endangering the lives of migrants, while ignoring the overall benefit that migration has historically provided worldwide not only to the migrants but also to the host countries<sup>x</sup>. Additionally, socio-political volatility between Saudi Arabia and some of its neighboring countries is becoming a cause for concern for the 2.2 million Filipinos working in the Middle East<sup>x</sup>.

**9.4.** Finally, climate change has started to cause a number of disasters recently. These has and will affect OFWs as well in terms of direct threat to their lives and well-being as well as to whether they can continue working abroad or have to be repatriated, the displacement also a direct threat to the lives and well-being of their families. The government however has come up

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