



**International Convention
on the Protection of the
Rights of All Migrant
Workers and Members
of Their Families**

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COMMITTEE ON THE PROTECTION OF THE
RIGHTS OF ALL MIGRANT WORKERS AND
MEMBERS OF THEIR FAMILIES

Ninth session

Geneva, 24 – 28 November 2008

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 73 OF THE CONVENTION**

**List of issues to be taken up in connection with the consideration
of the initial report of the Philippines (CMW/C/PHL/1)**

I. GENERAL INFORMATION

1. Please describe the role, if any, of non-governmental organizations in the implementation of the Convention and in the preparation of the State party's report (see the Committee's provisional guidelines regarding the form and content of initial reports, paragraph 3 (d)).
2. Please explain whether domestic legislation provides for the application of the Convention to refugees and stateless persons art. 3 (d) of the Convention).
3. Please provide further information on measures taken for the dissemination and promotion of the Convention. Please also indicate whether specific training programmes on the Convention are implemented for relevant public officials, such as border police officers, embassy and consulate officials and social workers, but also judges, prosecutors and relevant government officials.
4. Please provide information on how the various government agencies dealing with overseas employment and the protection of Filipino migrant workers coordinate their activities.
5. Please provide information on the activities undertaken by the National Commission on the Role of Filipino Women to improve the situation of migrant women (para.68 of the report). How does the National Commission address the situation of feminization of overseas employment?

II. INFORMATION RELATING TO EACH OF THE ARTICLES OF THE CONVENTION

(a) General principles

6. Please clarify which laws are not applicable to migrant workers and explain why migrant workers do not have the right to own real property in the Philippines (para.76 of the report).
7. Please provide examples of judicial decisions where the Convention has been directly applied by the courts.
8. Please provide more information on the activities of the Legal Assistant for Migrant Workers Affairs under section 24 of the Migrant Workers and Overseas Filipinos Act of 1995 (RA 8042). In particular, how many Filipino migrant workers have benefitted from legal assistance (para.83 of the report)? Please provide more information on when the Legal Assistance Fund was established and how it has been used in practice (paras. 85 and 86). How many Filipino migrant workers have received disbursements from the Fund and for what legal services in which countries?
9. In relation to the State party's claim that it will only deploy Filipino migrant workers to countries where their rights are protected (para. 89 of the report), please explain how this commitment is implemented in practice.
10. Please indicate what types of initiatives the Department of Foreign Affairs has undertaken to promote the accession to the Convention of countries receiving Filipino workers (para. 92 of the report).

(b) Part III of the Convention

Article 11

11. Please provide further information on:
 - (a) Measures adopted to combat the practice of mail-order brides and their impact (para. 69 of the report);
 - (b) Measures adopted to ensure that women recruited abroad, in particular in Japan, as "entertainers" or "overseas performing artists" do not become involved in forced prostitution (para. 53).

Article 16

12. With regard to the information contained in paragraph 208 of the report that "at the time a person is arrested, it shall be the duty of the arresting officer to inform him of the reason of the arrest, *if any*" (emphasis added), please clarify whether migrant workers and members of their families can be arrested without any reason. Please provide data on foreigners in detention in the

Philippines. Please clarify whether and how their right to the free assistance of an interpreter is guaranteed in practice.

Article 17, paragraph 7

13. Please explain why, under the rules for deportation proceedings, foreigners who are detained cannot be released on bail (paras.222 and 238 of the report). Please also indicate what measures are in place to ensure that foreigners who are detained in the Philippines pending deportation are given adequate access to courts and lawyers and that their cases are reviewed by competent authorities without undue delay (para. 239).

Article 21

14. Please explain the measures the State party has taken to prevent the retention of identity documents by the employers/employment agencies of migrant workers.

Article 22

15. Please explain whether and how a migrant worker subject to an expulsion order can submit reasons why he or she should not be expelled and whether appeals from decisions of expulsion have suspensive effect.

Article 26

16. Please clarify whether and how migrant workers, including irregular migrant workers, can exercise their right to engage in trade union activities, and explain why such exercise is subject to reciprocity (para.179 of the report). How is this requirement applied in practice? Furthermore, please explain the rationale behind article 272 of Presidential Decree 442 providing that foreign nationals violating article 269 of the same Decree on trade union activities are immediately deported and permanently barred from re-entering the country, and comment on its compatibility with article 26 of the Convention (para. 181).

Article 29

17. Please provide information on measures adopted to encourage and facilitate the registration of children born abroad to Filipino migrant workers, in particular women migrant workers returning from abroad with their children, irrespective of whether they are documented or not (paras.265-268 of the report).

Article 30

18. Please explain whether the children of migrant workers in an undocumented situation have the right to access to education and how this right is implemented in practice.

Article 33

19. Please specify what information on the rights protected by the Convention is provided to migrant workers during the Pre-Departure Orientation Seminar (PDOS). In particular, what information are migrant workers given on the administrative and judicial remedies that are available to them in the event of a violation of their rights, e.g. a list of contact numbers, especially that of embassies or consular offices and non-governmental organizations (para. 299 of the report). Please provide information on the number of migrant workers benefitting from the PDOS and their country of destination.

(c) Part IV of the Convention

Article 41

20. Please provide information on the level of participation of Filipino migrant workers living abroad in elections held in the Philippines and on any measures taken by the State party to facilitate such participation in practice (paras.325-330 of the report). Please clarify whether Filipino migrant workers can exercise their right to vote only if they commit themselves to return to and live in the Philippines within the three years following their registration as voters.

Article 46

21. Please indicate whether Filipino migrant workers enjoy exemption from import duties and taxes in respect of their personal and household effects upon their final return.

Article 47

22. Please provide information on any measures adopted to facilitate transfers of migrant workers' earnings and savings to the Philippines, including any agreement to reduce the cost of such transactions for migrant workers (paras.296-298 of the report). Please clarify whether article 22 of the Labour Code in relation to Executive Order No. 857 requires that Filipino migrant workers remit 50-70 per cent of their earnings in foreign currency to their families in the Philippines. Are any taxes levied on incoming remittances?

(d) Part VI of the Convention

Article 64

23. Please indicate whether further bilateral agreements and memoranda of understanding are under negotiation with countries and regions hosting substantial numbers of Filipino migrant workers and provide information on the content of such agreements, particularly regarding the protection of migrant rights (paras.263 and 338 of the report).

24. Please provide information on the regional efforts to promote sound, equitable and humane migration conditions initiated, pursued and supported by the State party.

Article 65

25. Please provide information on the impact of the Migrant Advisory and Information Network (MAIN). What services does it currently provide? In which countries are Migrant Advisory and Information centres currently located? (para.69 of the report)

26. Please indicate what measures have been taken to enable consular services to respond more quickly and effectively to the protection needs of Filipino migrant workers and members of their families, and, in particular, to provide assistance to those suffering from the hands of abusive employers and victims of trafficking. What assistance do migrant workers receive to file complaints? Please also specify what assistance is offered to Filipino migrant workers who are the victims of a system of “sponsorship” designed to give the sponsor control over them for the duration of their stay in the State of employment, and sometimes even to prevent them from returning to the Philippines. Please specify how migrant workers and members of their families have benefitted from the services provided by the Migrant Workers and Other Overseas Filipinos Resource Centers and report on their impact (para.350 of the report). How many of these Resource Centres have been open and in which countries? What are the main challenges/obstacles to their effective functioning?

Article 66

27. In the light of article 66, please indicate what efforts have been undertaken to better regulate recruitment activities within the State party. In particular, please provide information on:

- (a) Measures adopted to address violations such as contract substitution or exaction of “exorbitant” placement fees charged on prospective migrants;
- (b) The handling by the Philippine Overseas Employment Agency (POEA) of cases filed by victims of illegal recruitment;
- (c) The number of successful prosecutions for illegal recruitment;
- (d) The plans for the Supreme Court to designate special courts to hear and decide illegal recruitment cases.

Article 67

28. Please provide information on the number of returning Filipino migrant workers and the measures adopted to facilitate the return of these migrant workers, when they decide to return, to facilitate their durable social and cultural reintegration. What types of reintegration programmes are available to returning migrants? Please clarify whether these services are provided to returning Filipino migrant workers.

Article 68

29. In the context of the State party's obligations under article 68, please provide further information on the activities of the Inter-Agency Council Against Trafficking (IACAT) and their impact (para.163 of the report). Please also provide further information on:

- (a) The scale of the phenomenon of trafficking of persons in, through and from the State party's territory;
- (b) The establishment of the Migrant Workers Loan Guarantee Fund as envisaged by section 21 of Anti-Trafficking in Persons Act of 2003 (RA 9208) and its practical application (para. 366);
- (c) The number of victims of trafficking who have benefited from the protection afforded by section 44 of the Anti-Trafficking in Persons Act of 2003 (RA 9208) and for how long (para. 164);
- (d) The status of the cases which the IACAT has assisted in filing since it was created in 2003, including data on prosecutions, convictions and sanctions;
- (e) The measures which have been adopted to improve the low rates of prosecution and conviction of traffickers under the Anti-Trafficking in Persons Act of 2003 (RA 9208);
- (f) The status of the cases reported to embassies and consulates abroad;
- (g) The level of assistance provided to victims of trafficking whose cases are reported to embassies and consulates abroad.

Please clarify whether these services are also available to victims of trafficking who do not wish to testify against their traffickers.

Article 69

30. Please provide more details on the rescue operations which have been conducted to protect irregular Filipino migrants who are victims of trafficking in their country of destination. Please clarify whether any programmes exist to facilitate the return of irregular Filipino migrants who are not victims of trafficking (paras. 369 to 371 of the report).
