



# 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

### List of issues prior to submission of the third periodic report of the Philippines\*\*

#### Section I

##### A. General information

1. Please provide information on the measures taken to:
  - (a) Enhance the capacity of the State party's institutions to effectively implement rights under the Convention by strengthening and streamlining the institutional structure dealing with migration issues;
  - (b) Allocate adequate human and financial resources to government departments and agents to carry out their work on migration efficiently;
  - (c) Ensure that the Filipino Workers Resource Centres function effectively (para. 25 (a));<sup>1</sup>
  - (d) Protect migrant workers and members of their families in the country and abroad from involuntary returns due to the coronavirus disease (COVID-19) pandemic, and ensure due process in undertaking involuntary returns.
2. Please provide information on the progress made in creating a centralized and comprehensive database and in ensuring that the Shared Government Information System on Migration has adequate human and financial resources to undertake its work of gathering data on migration, including the effective collaboration and sharing of such data with the State party's embassies and consulates, particularly on migrants in an irregular situation (para. 19). Please provide information on the steps taken to ensure that the Shared Government Information System on Migration also improves coordination with stakeholders such as the Commission on Human Rights of the Philippines and civil society actors.
3. Please provide specific information on cooperation programmes and activities with civil society organizations working on migrants' rights, particularly with regard to the implementation of the Convention, the Committee's previous recommendations and the preparation of periodic reports (paras. 21 (c) and 49).
4. Please provide information on the specific measures taken to:
  - (a) Enhance training programmes on the application of the Convention for public officials working in the area of migration, including consular officials and law enforcement

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\* Reissued for technical reasons on 27 January 2023.

\*\* Adopted intersessionally by the Committee on 11 February 2021.

<sup>1</sup> Unless otherwise indicated, paragraph numbers in brackets refer to the Committee's previous concluding observations (CMW/C/PHL/CO/2).



officers, as well as border personnel, social workers, judges and prosecutors; and to ensure that migrant workers have access to information and guidance on their rights under the Convention (para. 21 (a));

(b) Undertake reforms under the Migrant Workers and Overseas Filipinos Act in order to provide for a more expedient response to calls from distressed migrant workers abroad or their next of kin.

5. Please describe the specific measures taken by the State party to widely disseminate the Convention and the Committee's previous concluding observations, in particular to government departments, the parliament, the judiciary, the national human rights institution and non-governmental organizations (para. 48).

6. Please provide information on measures taken to assess the effectiveness and monitor the implementation of the Household Service Workers Programme of 2006, in particular the compliance with contracts of employment by employers abroad as regards the payment of adequate salaries and the provision of labour benefits (para. 13).

7. Please provide information on specific measures taken to ensure that the Commission on Human Rights of the Philippines has the mandate and can undertake activities to promote and protect the rights of migrant workers and members of their families under the Convention. Please also provide information on steps taken to provide the Commission with the requisite human and financial resources, to adopt transparent selection and dismissal procedures for commissioners, and to pass the Commission's Charter Bill (para. 27).

## **B. Information requested, by article of the Convention**

### **1. General principles**

8. Please indicate whether the provisions of the Convention have been directly applied by officials in the administration. Please provide information on and examples of judicial cases and judgments in which the Convention has been invoked directly before the courts. Please also provide information on:

(a) The judicial and administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including those in an irregular situation;

(b) The number and type of complaints examined by such mechanisms in the past five years and their outcome, disaggregated by sex, age, nationality and migration status;

(c) Whether legal assistance was provided both to immigrants in the Philippines and to nationals of the Philippines who are living as migrants abroad;

(d) Any redress, including compensation, provided to the victims of rights violations under the Convention;

(e) Measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.

9. Please provide information on restrictions placed on the full exercise of the rights of migrant workers and members of their families in the face of the COVID-19 pandemic, including restrictive measures taken at borders in relation to their entry or exit from their countries of origin, transit or destination. Please also provide information on measures taken in relation to voluntary return to their countries of origin in the context of the pandemic. Please indicate the measures taken to ensure that the pandemic does not affect the process of asylum applications or migration procedures, including in relation to the suspension of procedures. Please indicate efforts taken on behalf of migrant workers and members of their families to:

(a) Include them in national pandemic prevention and response plans, especially in relation to ensuring access to a vaccine;

(b) Ensure their access to health-care services;

(c) Uphold the necessary sanitary measures to prevent contagion and maintain the desired level of health protection at their workplaces;

(d) Prevent infections in detention centres and provide health-care services to those who have been infected;

(e) Ensure that families of migrant workers who have died of the disease are informed of their deaths and receive their remains;

(f) Protect their rights in other respects and mitigate the pandemic's adverse effects, in view of the joint guidance note of the Committee and the Special Rapporteur on the human rights of migrants on the impacts of the COVID-19 pandemic on the human rights of migrants.<sup>2</sup>

## 2. Part II of the Convention

### Article 7

10. Please indicate whether national legislation, in particular the Constitution, the Labour Code, the Migrant Workers and Overseas Filipinos Act and the Immigration Act, ensures that all migrant workers and members of their families enjoy the rights established in the Convention, without distinction of any kind, and whether such legislation covers all the prohibited grounds of discrimination, including sex, age, gender identity and sexual orientation, disability, language, national, ethnic or social origin, nationality, economic status, property, marital status, and birth or other status. In the light of the Committee's previous concluding observations (para. 23), please provide information on the steps taken to amend domestic legislation in order to align it with the Convention so that the exercise of rights under the Convention by migrant workers and members of their families is not subject to the principle of reciprocity.

11. Please provide information on steps taken to amend the Anti-HIV/AIDS Discrimination Law to prevent discrimination against migrant workers on the basis of their health status, including real or perceived HIV status or pregnancy, and to ensure that any health testing is voluntary and based on free and informed consent by migrant workers and members of their families (para. 11).

## 3. Part III of the Convention

### Articles 8 to 15

12. Please provide information on the specific steps taken to revise domestic legislation and practice, in line with the Convention, to ensure that the right of a migrant worker to reside in the State party for the purpose of employment is not revoked if the migrant worker loses employment prematurely (para. 29).

13. In the light of the Committee's previous concluding observations (para. 33), please provide information on:

(a) Progress made in monitoring and assessing the implementation of bilateral and multilateral labour agreements and memorandums of understanding between origin and destination countries to identify and address gaps with specific countries in order to ensure the effective enjoyment of rights under the Convention by Filipino migrant workers abroad;

(b) Specific measures taken to address the abuse and exploitation of Filipino migrant workers abroad, particularly those who are victims of the *kafalah* (sponsorship) system in the Gulf countries;

(c) Progress made in ensuring that migrant workers and members of their families travelling to countries with the *kafalah* system are provided with adequate information on the

<sup>2</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Special Rapporteur on the human rights of migrants, "Joint guidance note on the impacts of the COVID-19 pandemic on the human rights of migrants", 26 May 2020.

regulatory framework, and their rights and benefits, as part of the State party's Pre-Employment and Pre-Departure Orientation Seminars.

14. In the light of the Committee's previous concluding observations (para. 25), please provide information on the measures taken by the State party to:

(a) Investigate and punish cases of corruption involving public officials and to detect public officials who abuse their authority in relation to the rights of migrant workers;

(b) Inform Filipino migrant workers and members of their families, including those in an irregular situation, of the administrative and judicial remedies available to them, and to provide legal assistance, including through the Legal Assistance Fund;

(c) Revise the Single Entry Approach rules and process, which provides for an on-site, mandatory conciliation-mediation process for labour disputes involving Filipino migrant workers, in order to protect labour rights;

(d) Ensure that undocumented Filipino migrant workers stranded in Sabah have access to legal documents and can safely return to the city of Zamboanga in the Philippines.

15. In the light of reports of abuse and an increase in the number of Filipino migrant workers deployed in countries with the *kafalah* system, please provide information on:

(a) The number of complaints received and processed by consular services regarding abuse, filed by migrant workers against employers, and the outcome of any investigations, particularly in relation to women domestic workers in Gulf countries, and measures to effectively implement the amended Migrant Workers and Overseas Filipinos Act (Republic Act No. 10022), which prohibits the State party from deploying migrant workers to countries where their rights will not be protected;

(b) Progress made in enhancing the knowledge of diplomatic and consular staff abroad 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 and the Department of Labour and Employment.

#### **Articles 16 to 32**

16. Please provide information on specific measures taken to strengthen consular staffing so that the State party's consular services can respond effectively to the needs of migrant workers and members of their families, in particular with regard to the necessary assistance required when they are deprived of liberty or are subject to an expulsion order (para. 31).

17. In the light of the Committee's previous concluding observations (para. 35), please provide information on the programmes in place to ensure the birth registration of children of migrant workers abroad, including those in an irregular situation, and to update the relevant databases.

18. Please provide an update on the specific steps taken to amend section 22 of the Labour Code, which obliges certain categories of Filipino migrant workers abroad, such as seafarers, to remit up to 80 per cent of their foreign exchange earnings to their families and dependants in the State party (para. 41).

### **4. Part IV of the Convention**

#### **Article 40**

19. Please provide an update on the specific steps taken to amend sections 269 and 272 (b) of the Labour Code in order to guarantee to all migrant workers and members of their families in a regular situation in the State party the right to form associations and trade unions in line with article 40 of the Convention (para. 37).

#### **Article 41**

20. Please indicate the measures taken to implement the recommendations contained in paragraph 39 of the Committee's previous concluding observations, with a view to ensuring

the right of Filipino migrant workers to participate in public affairs, to be elected at elections of the State party, and to vote, including by mail and via the Internet.

## **5. Part V of the Convention**

### **Articles 58 to 63**

21. Please provide information on the measures taken by the State party to ensure that seasonal and itinerant workers enjoy treatment equal to that enjoyed by workers who are nationals of the Philippines, in particular with respect to remuneration and conditions of work, and to ensure systematic monitoring by the relevant authorities of employer compliance with relevant international labour standards.

## **6. Part VI of the Convention**

### **Articles 64 and 66**

22. In the light of the Committee's previous concluding observations (para. 43), please provide information on the measures taken by the State party to:

(a) Ensure the strict enforcement of the regulatory regime for private recruitment agencies, and strengthen the existing licensing system for recruitment agencies in order to protect migrant workers from abuse;

(b) Intensify monitoring and inspections to prevent private recruitment agencies from charging excessive fees for services, and address complicity of public officials with abusive foreign recruiters, including the practice of "contract substitution", debt bondage, and falsification of birth certificates and travel documents;

(c) Ensure that private recruitment agencies provide adequate information to individuals seeking employment abroad and that they guarantee the effective enjoyment of agreed employment benefits;

(d) Investigate, prosecute and punish all illegal practices by recruiters, and provide information regarding abusive practices to those seeking employment;

(e) Protect persons intending to work abroad by adopting a policy banning placement fees;

(f) Ratify the ILO Private Employment Agencies Convention, 1997 (No. 181).

### **Article 67**

23. In the light of the Committee's previous concluding observations (para. 45), please provide information on progress made in:

(a) Establishing the demographic profile of children of migrant workers in situ and of those left behind in the country of origin in order to guide policies and programmes, including by conducting nationwide research on this population;

(b) Adopting a comprehensive strategy to promote and protect the rights of children and families of Filipino migrant workers through, inter alia, education, entrepreneurship, training and community welfare programmes;

(c) Addressing the challenges involved in tracking returnees and in facilitating the resettlement and reintegration of Filipino migrant workers upon their return, including their reunification with children left behind in the Philippines;

(d) Developing and supporting programmes and projects for livelihood, entrepreneurship and financial literacy for returning Filipino migrant workers and their families, in coordination with relevant stakeholders, and ensuring that the reintegration programmes receive adequate budgetary support.

**Article 68**

24. In the light of the Committee's previous concluding observations (para. 47), please describe the progress made in:

- (a) Strengthening existing mechanisms for the proper identification and referral of victims of trafficking in persons in order to improve assistance, and ensuring that migrant workers abroad who are victims of trafficking have access to legal aid and that receiving States implement the non-punishment principle for victims of trafficking in persons;
- (b) Promptly, effectively and thoroughly investigating, prosecuting and punishing all acts of trafficking in persons, and in particular, in expediting the prosecution of cases involving illegal recruiters;
- (c) Enhancing the mechanisms of support, rehabilitation, protection and redress – including State-funded social rehabilitation services and assistance with reporting incidents of trafficking to the police – and ensuring their availability to all victims at provincial and local levels;
- (d) Enhancing training on combating trafficking in persons for law enforcement personnel, judges, prosecutors, labour inspectors, teachers, health workers and staff at the State party's embassies and consulates;
- (e) Systematically collecting data on trafficking in persons and raising public awareness about trafficking in persons among migrants and those seeking employment locally and abroad.

**Section II**

25. The Committee invites the State party to provide information, not to exceed three pages, regarding the protection of migrant workers and members of their families with respect to the following:

- (a) Bills or laws and their respective implementing regulations;
- (b) Institutions and their mandates and institutional reforms undertaken since 2014;
- (c) Policies, programmes and action plans covering migration and their scope and financing;
- (d) Recent ratifications of human rights instruments and other relevant instruments;
- (e) Recent comprehensive studies on the situation of migrant workers and members of their families.

**Section III****Data, official estimates, statistics and other information**

26. Please provide updated statistical data, disaggregated by relevant factors and/or as indicated below, and qualitative information for the past three years on the following:

- (a) The volume and nature of migratory movements to and from the State party during the reporting period;
- (b) Migrant workers in detention in the State party and migrant workers who are nationals of the State party and are detained abroad in States of employment, and whether such detention is immigration-related;
- (c) Migrant workers and members of their families who have been expelled from the State party;
- (d) The number of unaccompanied migrant children or migrant children separated from their parents in the State party;

(e) The number of migrant workers and members of their families who have contracted SARS-CoV-2, the number who have received a COVID-19 vaccine, and the number who have died as a result of COVID-19, disaggregated by sex, age and nationality;

(f) Remittances received from nationals of the State party working abroad;

(g) Reported cases of trafficking in and smuggling of migrants, investigations, prosecutions and sentences imposed on perpetrators, disaggregated by sex, age, nationality and purpose of trafficking;

(h) Legal assistance services provided to migrant workers and members of their families in the State party and to nationals working abroad or in transit through third States.

27. Please provide any additional information on any important developments and measures in implementation of the Convention relating to the protection of the rights of migrant workers and members of their families that are considered a priority, including whether the State party envisages making the declaration under article 76 of the Convention recognizing the competence of the Committee to receive and consider State-to-State communications and/or the declaration under article 77 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

28. Please submit an updated core document in line with the harmonized guidelines on reporting (HRI/GEN/2/Rev.6). In accordance with paragraph 16 of General Assembly resolution 68/268, the common core document should not exceed 42,400 words.

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