



**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**
Twentieth session

Summary record of the 250th meeting

Held at the Palais Wilson, Geneva, on Friday, 4 April 2014, at 10 a.m.

Chairperson: Mr. Carrión Mena

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The meeting was called to order at 10.10 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention *(continued)*

Second periodic report of the Philippines (continued) (CMW/C/PHL/2; CMW/C/PHL/Q/2 and Add.1; HRI/CORE/1/Add.37)

1. *At the invitation of the Chairperson, the delegation of the Philippines took places at the Committee table.*
2. **Mr. Yabes** (Philippines), replying to questions asked at the previous meeting (CMW/C/SR.249), said that when Filipino migrants sought consular assistance, the first priority was to ensure their personal safety before assessing the situation and referring them to the appropriate official. Consular services included legal representation, repatriation, assistance during medical emergencies, visits to detained nationals, emergency accommodation and dispute settlement with foreign employers. The Government had set up a legal fund that was available to all Filipinos abroad, regardless of their migration status, who could not afford counsel or were in a country that did not provide legal aid. In 2012–2013, nearly 21,000 Filipinos had received assistance while abroad. The Overseas Filipinos Information System (OFIS) was an inter-agency initiative currently under development, its predecessor having failed to meet the needs of the target audience. Its launch was scheduled for mid-2014 and there were plans to enable online user registration.
3. The Overseas Preparedness and Response Team (OPRT) trained government officials from a range of departments to prepare them for rapid deployment in teams sent to assist migrants in crisis situations. Such teams had recently carried out successful assignments in Egypt, Japan, the Syrian Arab Republic and Yemen, involving mass repatriation of Filipinos. OPRT also worked on mapping, risk assessment and contingency planning in close collaboration with Philippine missions abroad. A system of alert levels, each with its specific protocols, had been set up to guide Government response to emergencies abroad in which its nationals might be caught up. Thanks to the experience of OPRT, the Philippines had been requested to join an international task force on the formulation of guidelines for assisting migrants in crisis situations.
4. Personnel due to be deployed abroad underwent mandatory pre-departure training on a range of topics, including cultural awareness, workplace wellness and stress management. Gender sensitivity training was ongoing; in fact, a team of experts would shortly be touring Philippine missions in the Middle East. Between 2009 and 2013, the budget allocated to the staffing needs of embassies had risen by 20 per cent.
5. The Government did not recognize the sovereignty of any State over Sabah and, therefore, would not use the term “migrants” to describe Filipinos in that region. Nevertheless, services were provided to them, including civil registration, birth certificates and informal schooling through local NGOs.
6. **Ms. Tobias-Shalim** (Philippines) said that the Department of Social Welfare and Development provided social security to vulnerable groups as well as augmentation funds enabling local governments to deliver services to deprived communities. The rights and welfare of children left behind by migrant parents were a priority in the National Plan of Action for Children 2011–2016. Accordingly, the Council for the Welfare of Children had set up the Committee on Family and Alternative Care, which promoted the provision of childcare, family empowerment, public awareness and legal protection for children in alternative care. One of the flagship initiatives was the supplementary feeding programme, which to date had benefited 1.7 million children aged 3 to 5 enrolled in preschool facilities, at an annual cost of 3 billion pesos.

7. Most children left behind were cared for by relatives. Moreover, the prevalence of labour migration had led to a redefinition of the role of fathers as caregivers. The law provided for the immediate removal of children who were ill-treated, abused or neglected by relatives and their placement in either temporary residential facilities or foster care. The Department of Social Welfare and Development was designing a project that would include a review of studies regarding the impact of migration on children left behind and an assessment of existing services.

8. In countries to which the Government had deployed social welfare attachés, children of migrant workers needing special protection had access to various services, such as education, temporary shelter, childcare and repatriation. Such attachés would soon be deployed to three additional countries in Asia and the Middle East.

9. **Ms. Dimapilis-Baldoz** (Philippines) said that Filipino migrants wishing to return were entitled to a package of services, including travel and legal assistance, and were covered by the State health insurance scheme. Returnees who wished to remain in the Philippines were entitled to a business start-up grant that included free skills training, while those who preferred to go abroad again were given a list of job opportunities with accredited employers. Since many migrants, especially those in distress, required recovery time upon their return, they were free to claim the package at a later date from the regional office of the Department of Labour and Employment.

10. **Mr. Paras** (Philippines) said that the Government had launched a high-profile campaign against corruption. Individuals could initiate criminal or administrative proceedings against a public official by filing a written complaint. For administrative action, the complaint could be filed with the agency concerned, the Civil Service Commission or the Office of the Ombudsman, which would then either conduct an investigation or immediately lay charges. If found guilty, the accused faced a penalty ranging from a reprimand to dismissal with loss of all accrued benefits. If warranted, criminal proceedings could be subsequently launched. Criminal cases were brought before the regional court, except cases against public officials at the director level or above, which were heard by the anti-graft court. Aggravating circumstances, incurring harsher penalties, applied to offences committed by a public servant.

11. **Mr. Yabes** (Philippines) said that the Department of Foreign Affairs had formed a fact-finding team to investigate reports of sexual misconduct by Philippine embassy personnel in the Middle East. The investigation had failed to uncover substantive evidence of individuals being offered air tickets in exchange for sex. Nonetheless, all the Foreign Affairs personnel allegedly involved had been sent back to the Philippines. Foreign service posts in the Middle East and North Africa were currently being audited.

12. **Ms. Dimapilis-Baldoz** (Philippines) said that it was her office that had run the investigation of the officials allegedly involved in the “sex for flights” case. Charges less serious than had been contemplated at the outset had been filed, but the ultimate outcome of the case had been a package of reforms meant to ensure that such lapses would not be repeated. For instance, the halfway houses offering shelter to distressed workers, usually female domestic workers, had been assigned full-time, live-in house mothers. She had increased the number of Department of Labour officials sent to the Middle East, and the Department was in the process of setting up an information system to have real-time reports on the cases they handled.

13. **Mr. Cacdac** (Philippines) said that to protect migrant workers, Filipino recruiters were licensed, foreign employers were accredited and recruited workers were properly documented. Employment contracts, particularly those for domestic work, were verified by the Department of Labour and Employment. Licensed recruiting agencies that failed to comply with regulations were subject to a range of penalties, including revocation of their

licence. Excessive recruiting fees, misrepresentation and contract substitution were among the practices deemed unlawful. In the past five years, 336 licences had been revoked. One third of those revocations had involved domestic workers being charged placement fees.

14. Regarding fees in general, the Philippine Government was attempting to encourage the recruitment industry to police itself, to develop its own codes of conduct and to report violations to the authorities. Indeed, a close partnership between the Philippine Government and recruitment-industry associations had made it possible to introduce appropriate sanctions. Enforcement of fee regulations was coordinated with host governments. Discussions with member States of the Association of Southeast Asian Nations (ASEAN) on how to put a stop to the practice of charging illegal placement fees were currently under way. Bilateral discussions were also important and the agreement between the Philippines and Saudi Arabia provided a model for methods of dealing with such practices as contract substitution: if the Philippines and the receiving country validated the same contract, that practice would occur less frequently. Records from the Philippine Overseas Employment Administration (POEA) showed that more than 5,000 orders penalizing recruiters for contract substitution had been issued; nearly twice as many had been issued for misrepresentation. Recruiters had their licences revoked if they committed a third offence.

15. Some government-to-government recruiting agreements, such as the one in place to provide for deployment of Philippine factory workers to the Republic of Korea, had been arranged specifically to curb the practice of charging excessive fees. The most recent such agreement involved the Governments of the Philippines and Germany; it provided for the deployment of Filipino nurses to Germany. Nonetheless, 97 per cent of Filipino migrant workers were recruited by private agencies.

16. He said that Filipino workers in Qatar were generally skilled or semi-skilled and had been recruited to work in the construction industry. No cases regarding Filipino workers in the construction industry had come to the attention of the Department of Labour and Employment. However, the Philippine embassy and the labour attaché would investigate.

17. In the mid-1990s policy had shifted, and since then the law had required that workers be deployed only to countries where the rights of migrant workers were respected. More recent legislation had further raised the degree of protection afforded to migrant workers. A proactive approach to improving bilateral relations with receiving States had been taken. In May 2012, Saudi Arabia and the Philippines had signed an agreement on domestic worker protection that included a standard employment contract. The mutually recognized contract would be a deterrent to contract substitution. The agreement provided for several other mechanisms for improving the lot of Filipino domestic workers employed in Saudi Arabia.

18. **Mr. Paras** (Philippines) said that to afford trafficked persons greater protection, the Philippines had strengthened its anti-trafficking laws. It had also created the Inter-Agency Council against Trafficking (IACAT), an interministerial body that coordinated all projects. He described the major components of the strategic operations plan drafted by IACAT. The multi-pronged plan was made up of four key result areas. Under the plan, each IACAT member agency had specific tasks. The Department of Foreign Affairs, for instance, was tasked with providing assistance to Philippine nationals abroad. The use of assets for the purposes of trafficking had also been made a predicate offence in money laundering. In 2011 the Philippine Congress had allocated US\$ 1.2 million for anti-trafficking activities. Significant sums had been allocated for protection and prosecution operations and for recovery and rehabilitation programmes, and in successive years, those funds had increased further still.

19. **Mr. Catura** (Philippines) said that the Magna Carta of Women was a comprehensive women's rights law. It sought to eliminate discrimination against Filipino

women, especially those from marginalized sectors. It provided for rights complementary to other rights enjoyed by Filipino migrants. It also provided for the creation of local opportunities in an attempt to curb emigration.

20. In addition, the Magna Carta of Women had served as a model for the so-called Women's Empowerment, Development and Gender Equality (EDGE) Plan, which would provide the means to achieve gender-focused goals. Economic empowerment, one of the key themes of the plan, concerned women in the formal, informal and migration sectors.

21. Regarding the State's response to the needs of the Commission on Human Rights of the Philippines, he said that the President of the Philippines placed a premium on having an independent and effective human rights institution. The Constitution made provision for legal measures for the protection of the human rights of all persons within the Philippines, as well as Filipinos living abroad. The Commission had always had the independence to express its own views, and it had participated in the drafting of the State party's report. The executive branch of Government was entirely supportive of legislative initiatives to broaden the Commission's powers.

22. As to whether or not the State party was amenable to the communications procedure provided for in articles 76 and 77 of the Convention, he said that such procedures had sometimes created tension, as they had allowed the Philippines to be investigated. Such instruments could also be abused. The Philippines therefore deferred its agreement to those articles of the Convention.

23. **Mr. Larga** (Philippines) said that since 1995 the law had provided that information be given to those seeking overseas employment. The Government had set up the Pre-Employment Orientation Seminar and the Pre-Departure Orientation Seminar. Those seminars, which were offered in schools and churches, were meant to educate the public at large, and they targeted the groups most vulnerable to the rights violations that often befell overseas workers. The realities of migration were stressed and information on recruitment violations was supplied. The target for 2014 was to have 500,000 people attend a pre-employment seminar, as many as had attended those seminars over the past five years.

24. The pre-departure seminar was mandatory for outbound workers. Information on Middle Eastern countries was emphasized. The modules were led by service providers — recruitment-industry associations, NGOs and others — accredited by the Overseas Workers Welfare Administration (OWWA). Service providers themselves were required to attend training sessions run by OWWA. OWWA had also set up a pre-departure educational programme geared specifically to household service workers, a group at particular risk. Domestic workers leaving for a particular country for the first time were required to attend the programme, which included language and culture classes. For others, the programme was optional. The costs of the programme were borne by OWWA.

25. Pre-employment and pre-departure seminars were currently being reviewed by OWWA and POEA. The objective of the review was to address content overlap, enhance country-specific information and ultimately make such seminars a more reliable means of preventing illegal recruitment and human trafficking.

26. **Mr. Dimaculangan** (Philippines) said that the Bureau of Immigration remained steadfast in fulfilling its mandate, which covered border security, immigration administration and the enforcement of citizenship and alien registration laws. Depending on their circumstances, migrant workers wishing to enter the Philippines could apply for one of nine different visas, including the special investor's resident visa and the pre-arranged employee visa.

27. Between 2009 and 2013, the number of migrant workers and their children living in the Philippines had fluctuated around 10,000, reaching a peak of 12,202 in 2010. Such

workers could enter the country with a tourist visa, before applying to the Department of Labour and Employment for an alien employment permit. Migrants on short-term contracts could apply for a provisional work permit. Application forms and information on new immigration policies were available on the Bureau's website.

28. Responding to questions on regulations for persons leaving the Philippines, he said that the Bureau followed the IACAT procedure, namely a two-stage process involving a primary and secondary inspection, in which employment and other pertinent documents were examined by immigration officials at ports of exit. The age and standard of education of persons identified as vulnerable were ascertained with a view to protecting them from trafficking and illegal recruitment.

29. **Mr. Cacdac** (Philippines) said that the Labour Code was under review, and that articles on the trade union rights of foreign workers were among those to which amendments had been proposed. The Department of Labour and Employment had sanctioned a reciprocal agreement guaranteeing trade union rights to foreigners who were lawfully residing and working in the country, on condition that they were nationals of a country that granted the same or similar rights to workers, or had signed International Labour Organization (ILO) conventions Nos. 87 or 98.

30. Turning to the issue of social security entitlement, he said that, under article 9 of the Social Security Law, coverage was compulsory for all employees under the age of 60. The Social Security Commission was authorized to process payments without regard to nationality. Under the National Health Insurance Act, foreigners residing in the Philippines could register with the national health insurance corporation, PhilHealth, and make contributions either through their employer or on an individual basis.

31. **Ms. Dimapilis-Baldoz** (Philippines) said that there were no plans to extend the remittance requirements imposed on overseas Filipino workers based at sea to land-based workers.

32. **Mr. Kariyawasam** asked whether the State party had developed a standard operating procedure for migrant resource centres and temporary shelters. If it had drawn up guidelines, it should make them known to the Committee, as they might prove useful to other States parties. He would appreciate information on measures taken by the Philippines to verify the implementation of bilateral agreements with other countries. With regard to the right to vote, he wished to know what the voter turnout had been for migrant workers in elections, particularly the general election held on 13 May 2013. The delegation should indicate what steps were being taken to boost the participation of overseas Filipino workers, and whether the right to vote was still conditional on them signing an affidavit declaring their intention to return to the country within three years.

33. In reference to the ban on the deployment of migrant workers under article 5 of the Migrant Workers and Overseas Filipinos Act, he wished to know at what level of government or administration such decisions were made, and how the provisions of the article were implemented. It would also be useful to know how the Government implemented article 29 of the Immigration Act of 1940, on excluded classes, and whether migrant workers could be expelled from the Philippines for becoming pregnant.

34. **Mr. Haque** asked the delegation whether it thought that the Vienna Convention on Consular Relations should be revisited, bearing in mind that it failed to address current migration issues and had not been ratified by a number of destination countries. He would appreciate information on the ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers. In particular, the delegation should indicate how it worked, and whether destination countries were providing adequate responses to critical migration issues. Lastly, he wished to know the Government's stance in respect of the post-2015 development agenda, and how the

Philippines might use its prominent status to ensure that migration issues received appropriate attention.

35. **Mr. Ceriani Cernadas**, noting that legal aid was offered to overseas Filipino workers in criminal and labour procedures, asked whether such services were also provided in migration procedures, particularly those involving detainees or persons under an expulsion order. The delegation should indicate how consular assistance helped combat the growing use of deprivation of liberty against migrants in an irregular situation.

36. Given that several States parties had set up advisory boards to provide a platform for discussion to their national citizens abroad, he asked whether the Philippines had established a formal, institutional mechanism to ensure regular civil society participation in debates on migration policy. He asked whether migrant workers in the country could vote and, if so, under what conditions. The delegation should also indicate whether health insurance coverage was dependent on residency status and, if so, whether migrants in an irregular situation had access to health care.

37. **Mr. El-Borai** wished to know where the Constitution placed international treaties in the hierarchy of legal norms. He asked whether the provisions of ILO conventions Nos. 87 and 97, which the Philippines had ratified, had become part of the Filipino legal arsenal.

38. **Mr. Pime**, noting that the Migrant Workers and Overseas Filipinos Act stipulated that Filipinos could only be deployed to countries where their rights would not be violated, wished to know how the Government ensured respect for rights in destination countries, bearing in mind that many such countries had not ratified the Convention or signed bilateral agreements on social security with the Philippines.

39. **Ms. Castellanos Delgado** called on the State party to strengthen the enforcement of legislation and protocols related to the rights of women, especially pregnant women.

40. **The Chairperson**, speaking as a member of the Committee, enquired about the status of negotiations on bilateral agreements with Lebanon, Kuwait, the United Arab Emirates, Bahrain and Singapore.

41. **Ms. Dimapilis-Baldoz** (Philippines) said that guidelines were in place for the management of overseas resource centres and shelters. Joint guidelines had been drafted for the Department of Foreign Affairs and the Department of Labour and Employment to clarify areas of cooperation and the limits of their jurisdiction. The guidelines had been presented to senior officials and should be issued shortly.

42. **Ms. Rebong** (Philippines) said that the requirement to certify intent to return had been abolished. The Overseas Absentee Voting Act had been amended to expedite the registration of overseas workers through the establishment of mobile registration centres. Alternative modes of voting had also been approved, notably postal voting. Consular officials had been mandated to conduct regular outreach missions during periods of voter registration. As a result, there had been an increase in the registration of overseas workers, particularly for presidential elections, but ultimately, Filipinos could only be encouraged and not forced to exercise their right to vote.

43. **Ms. Dimapilis-Baldoz** (Philippines), referring to the four-level alert system for overseas Filipino workers, said that when the Department of Foreign Affairs issued a level 3 warning, the board of trustees of the Philippines Overseas Employment Administration convened to consider placing a ban on the deployment of first-time workers. A level 4 warning triggered a total ban on the deployment of newly hired and returning workers.

44. **Mr. Dimaculangan** (Philippines) said that, when dealing with applications for visas from migrant workers who intended to settle in the Philippines, the Bureau of Immigration requested a health certificate from the Bureau of Quarantine and International Health

Surveillance. The Philippine AIDS Prevention and Control Act of 1998 prohibited discrimination against persons with HIV/AIDS, both in terms of entry into the country and visa application procedures. Persons who were unable to afford medical treatment were referred to government hospitals for appropriate care.

45. **Mr. Yabes** (Philippines) agreed with Mr. Haque that the Vienna Convention on Consular Relations should perhaps be reviewed. In order to complement that Convention, the Philippines conducted consular consultations with its bilateral partners. Filipinos deprived of their liberty abroad were visited by consular officials, who negotiated for their release, helped pay any fees or charges and repatriated them in cases where immigration laws had been violated.

46. **Mr. Cacdac** (Philippines) said that the ASEAN Committee was developing an instrument to implement the Declaration on the Protection and Promotion of the Rights of Migrant Workers. Discussions and negotiations were progressing and should bear fruit in the near future.

47. **Ms. Dimapilis-Baldoz** (Philippines) said that, in preparation for the planned establishment of the ASEAN Economic Community in 2015, the President of the Philippines had issued an executive order creating an inter-agency committee to develop the national qualifications framework. Training courses and regulations were being reviewed with the participation of industry stakeholders. At the international level, the Philippines chaired the technical task force for the development of the ASEAN Qualifications Reference Framework. A first draft had been produced and would be given due attention with a view to finalizing the Framework by 2015.

48. **Ms. Rebong** (Philippines), responding to the concern expressed by Ms. Castellanos Delgado, said that the Philippines was determined to protect and promote the rights of women and children, a commitment reflected in the contribution that it had made to drafting the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. All consular service staff underwent regular training to ensure that such rights were respected. A thorough investigation had been carried out into allegations of misconduct against Filipino labour officials and, while possible violations had been uncovered, there was no evidence to support claims of a sex-for-flights scheme. The Department of Foreign Affairs had worked with female lawyers in the Philippines to design courses on gender awareness, which included updated information on legislation related to the rights of women and children. Moreover, the Civil Service Commission had established a system requiring all government agencies to set up a committee to investigate reports of sexual harassment, and hotlines had been created to enable embassies and consulates to provide 24-hour support to Filipino workers abroad.

49. **Mr. Cacdac** (Philippines) said that the Government was close to reaching an agreement with Lebanon on three instruments to protect the rights of domestic workers. A general agreement on labour cooperation had been confirmed with Kuwait and negotiations were ongoing with Bahrain.

50. **Mr. Kariyawasam** thanked the delegation and said that the Philippines remained a model country in the provision of an effective welfare system for migrant workers abroad. The aim of the Committee's concluding observations would be to raise the level of excellence achieved in that regard.

The meeting rose at 1.05 p.m.