

Round Table Discussion: Philippine Migration to Australia

November 29, 2013, Friday, 9.00am-5.00pm
Multi-purpose Hall, Commission on Human Rights
Quezon City

Organized by the Center for Migrant Advocacy (CMA)
in Partnership with the Commission on Filipinos Overseas (CFO)
and the Commission on Human Rights (CHR)

Agenda

1. Registration
2. Welcome Remark and Acknowledgements of Participants
3. Australian Migration Legal Framework, Particularly Concerning the Amendments to the 457 visa,
4. Presentation Philippine Labor Migration to Australia
5. Open Forum
6. Marriage and Permanent Migration to Australia
7. Domestic Violence: the Case of Filipino Women in Australia
8. Protection of Children in Migration: Provisions in the Australian Immigration Law
9. Open Forum

Introduction

The Round Table Discussion (RTD) was part of a continuing series of forums on Philippine migration to Australia initiated by CMA. Previous forums had discussed various issues concerning Filipinos in Australia. This RTD particularly focused on labor migration to Australia and domestic violence. The morning session was designated for labor migration with presentations of the POEA and CMA, while the afternoon session discussed domestic violence against Filipino women and children in Australia, with presentations from CFO and Nicki Saroca from Australia. To our deep regret, the Australia embassy declined the invitation to participate in the forum.

In light of recent developments in labor migration policies in Australia, the Australian immigration program was briefly discussed in a presentation by Peter Van Zoeren, CMA volunteer under the Australian Youth Ambassador for Development (AYAD), with special attention given to the Temporary (Skilled) Work visa 457 visa. The recently enacted amendments to this visa may have far reaching implications for Filipinos in Australia. After discussing the 457 visa, Marketing Director Levinson Alcantara presented on behalf of the Philippine Overseas Employment Administration (POEA). His presentation included a general overview of Philippine labor migration to Australia, recruitment issues and the 457 visa.

In the afternoon, CFO representative Ivy Miravalles, from the Migrant Integration and Education Frontline Division, presented on permanent migration to Australia with emphasis on marriage migration and the role of CFO. It was our privilege to once again welcome Nicki Saroca, an Australian feminist activist who has done extensive research on violence against Filipino women in Australia. Nicki led the discussion on domestic violence and marriage migration from a gendered perspective.

Philippine Migration to Australia; policies and the Temporary Skilled 457 Visa

The presentation by CMA AYAD volunteer Peter Van Zoeren provided a brief overview of the history and demographics of Philippine Migration to Australia. Roughly 230,000 Filipinos are living in Australia. Over 180,000 are permanent migrants making Filipinos the 7th largest migrant population in Australia, accounting for 0.8% of the total population. In the 1950s Filipino students started migrating to Australia. With the easing of the restrictions on the White Australian Policy that favoured white European migrants, more Filipinos arrived in Australia during the 1960s. More followed after former President Marcos imposed martial law in 1972. The 1970s and 1980s were mainly characterized by family reunification, when predominantly Filipina women migrated to Australia. Today, women account for two thirds of all Filipinos in Australia. The last decade in particular has seen a remarkable growth in migration to Australia for skilled labor purposes. 46% of all Filipinos in Australia arrived after 2001.

The Temporary (Skilled) Work 457 visa program is designed to address skill shortages in the Australian labor market. The visa allows Australian employers to sponsor foreign workers if they are unable to find a suitable qualified Australian to fill the vacant position. The visa can grant up to 4 years of residency with the possibility of attaining permanent residency after 2 years. The 457 visa is for many migrants the first step in attaining permanent residency. 457 visa holders are generally not entitled to medicare or social security benefits under Centrelink, other than pension benefits (superannuation) that must be contributed by the employers. Although returning temporary migrants can access their pension in lump sum, POEA recognizes the importance of the portability of social security as many migrants come home with nearly nothing.

While the program was established with genuine intentions, abuse and exploitation remain prevalent under the 457 visa program. Underpayment, working excessive hours, physical and verbal abuse, discrimination double contracts and deductions from pay are among the most common forms of exploitation experienced by 457 visa holders in Australia. The program was widely criticised as a tool to attract cheap labor and by undercutting Australian wages. Since the program had seen a rise in 457 applications in industries that did not experience a need for skill supplementation the visa program was also criticized as a way for employers to prioritize foreign workers over domestic workers. Responding to the widespread misuse of the 457 visa, the former Australian government enacted amendments to improve the integrity of the 457 visa program by implementing measures to prevent exploitation and abuse while protecting Australian jobs. Amongst the amendment are measures that ensure that migrants are not underpaid, underemployed or have to work excessive hours such as the increase of threshold salaries, authorising 300 fair work inspectors to inspect sponsors, and the requirement of sponsors to prove that position description is genuine. Under the new amendments sponsors must pay for the departure flight of the visa holder while the period to find a new employer after termination of the work increased from 28 to 90 days to reduce the power of the employer. A direct employer-employee contract, enacted by the new amendments, prevent double contracts. On the other hand, application fees increased, English language requirements are stricter and employers now have to prove that no suitable Australian was able to fill the position. Even the dependents of 457 visa holders are affected as school fees for children of 457 visa holder increased,

OFWs in Australia: Presence, Policies and Prospects

On behalf of the POEA, Marketing Director Levinson Alcantara presented and led the discussion on Australia's migration legal framework, a migration profile of Filipinos to Australia and prospects of Philippine migration to Australia. Filipinos migrating to Australia are generally high skilled migrants. Their top professions include; production workers, professionals, technical workers and service workers. Although there has been a high increase in Philippine migration to Australia in the last decade, the global crisis resulted in lower demand for migrant workers in 2008, followed by an increase in the last two years. As the Australian migration policies are designed to address skill shortages in the Australian labor market, generally only migrants in jobs that are on the Skilled Occupation List (SOL) can migrate under the skilled migration stream. Under the program, migrants can migrate temporarily or permanently. As the eligibility requirements for permanent migration are strict, many migrants use the temporary 457 visa as the first step towards attaining permanent residency.

The amendments to the 457 visa institute a system called Labor Market Testing (LMT). LMT is a process in which employers are required to satisfy the Department of Immigration that they were unable to find a local worker to fill the position before sponsoring a migrant worker. This process is likely to result in a further decrease in Philippine migration to Australia, especially the IT sector. The slowing down of the mining boom in Australia already led to a decrease in migrants.

Apart from dismissals and redundancies, migrant workers have been affected by unscrupulous recruitment and migration agencies in the Philippines and Australia. Migrant workers are advised to avoid migrant consultancy agencies. These agencies have been illegally demanding exorbitant fees resulting in high indebtedness of migrant workers. The red tape involved in the LMT increase the costs for employers who sometimes illegally deduct these costs from the migrant workers' pay. To prevent such exploitation, the POEA conducts country specific Pre-Departure Orientation Seminars (PDOS), develops information dissemination systems to educate Filipino migrants, and developed an effective tracking of students in work visa transition. Moreover, the qualifications of migrant workers are often not recognized in Australia.

The Australian government has various laws affecting Filipinos in Australia. The Employers Sanction Act of 2007 penalizes the employment of illegal migrants. International agreements can promote the rights of migrants overseas. While Association of South East Asian Nations (ASEAN) has international agreements with Australia, there are no bilateral migration agreements between the Philippines and Australia. However, bilateral negotiations between South Australia and the Philippines have been concluded but not signed. Neither has the Australian government ratified the UN Migrant Workers Convention as it argues that migrants are 'already adequately promoted and protected by Australian labor and other relevant laws'

Open Forum Morning

Social Security benefits were a important issue during the open forum discussion. Temporary (Skilled) Work 457 visa holders are generally not entitled to the social security benefits provided by Centrelink with few exceptions. Neither are 457 visa holders entitled to Medicare benefits. However, employers of 457 visa holders are obliged to pay pension benefits under the superannuation scheme. Unlike permanent residents, temporary migrants can claim back their superannuation contributions upon permanent departure of the country. If the temporary migrant decides to access the superannuation benefits as a lump sum before the age of 55 the amount will be taxed by 21.5%. POEA representative Levinson Alcantara added that the Philippine government is working on the portability of Social Security System benefits with different countries. It was suggested to include information on SSS in the PDOS.

Worker rights are often protected by unions. Only 7% of Filipino workers are members of a union. Non-union members enjoy the same working rights as any other union member or Australian worker under labor laws. However, they do not enjoy the benefits that unions can have. Unfortunately, Australian unions have a long history of racism and sexism according to Nicki Saroca.

Other concerns were raised about the negative consequences of the 457 visa with respect to the brain-drain in the Philippines. The purpose of the 457 visa program is to address skill shortages in the Australian labor market. Hence, migrants eligible for the visa are often highly skilled professionals. The outflow of highly skilled migrants from the Philippines may contribute to the brain drain phenomenon.

There are other visa types available for visitors to Australia. Visitor visas comprise of a large part of the visas granted to Filipinos Although Filipinos are not eligible for the Working Holiday visa they can enter Australia on a tourist visa, generally for 3 months. Parents with children that are Australian permanent resident or New Zealand eligible citizen who are applying for permanent parent residency but are in the queue, may be granted a visa up to 5 years. Other visitor visas include business, tourist, approved destination and family sponsor. The length of stay will be determined by the Department of immigration. In terms of undocumented migrants, only 1% of Philippine born people in Australia are undocumented. This can happen by overstaying the visa or other ways.

Marriage Migration and Permanent Residency

On behalf of the Commission on Filipinos Overseas, Ms. Ivy Miravalles presented on marriage and permanent migration to Australia. In a brief summary of Philippine migration, Ms. Miravalles highlighted the Philippines as the third largest migrant sending country, with over 10 million Filipinos all over the world. Australia ranks 4th in permanent residency granted to Filipinos after the US, Japan and Canada. A large majority of Filipinos in Australia reside in New South Wales followed by Victoria and Queensland. Among others, students account for a large portion of Filipino migrants in Australia. Filipinos migrating to Australia are generally highly educated.

As expected, over 90% of all Filipino spouses migrating to Australia are women. Prior to migrating to Australia, future permanent residents must undergo a Pre-Departure Orientation Seminar (PDOS) at the CFO, focussing on financial literacy and reintegration campaigns. The PDOS provides information on international travel requirements, immigration policies, teenage concerns, coping mechanisms, country specific discussion on marriage, rights and obligations, available support networks and cultural differences. Filipino emigrants must register with CFO, thereby contributing to an information resource center that can be used for policy formulation and program development. PDOS are customised to age, country of destination and purpose of migration. Amongst other motivations, migrants migrate for better opportunities, higher standards of living, acquisition of small businesses, higher wages and the ability to support the family, all valid reasons. While there are considerable benefits of migration such as technology transfer, professional growth and exposure to different cultures, there are high social costs associated with migration including the brain drain, broken families, inequality between migrant and non-migrant families, conspicuous consumption, and careless dependency on remittances.

Ms Miravalles highlighted the achievements and cases that CFO had dealt with. From 15 March 2011, until 30 September 2013 CFO received 18,401 cases of which 247 actual cases concerning 265 victims. Sixty of these cases were resolved, 8 migrants were rescued, 14 repatriated and 7 rescued and repatriated. Another 187 cases are ongoing. Among these achievements, CFO developed several programs including YouLeaD is a framework on how the next generation of and Financial Literacy Program to utilize migration in the development programs of the Philippines. YouLeaD was created as a framework on how the next generation of Filipinos overseas can contribute to the country's growth aligned with CFO's strategic goals, policy advocacy, socio-economic development, culture and education, and reintegration. The Financial Literacy Program consists of activities including lectures and workshops that aim to educate the migrants and other participants on proper management of their finances through savings, budgeting, financial planning and investments. However, CFO recognizes that migration must not be used as policy to development. The social costs associated with migration outweigh the benefits. Ivy identified the following issues of concern: cultural differences between Australia and the Philippines, the lack of information dissemination among migrants, falsification of marriage documents, misuse of remittances, recognition of qualifications, and the need for post-arrival programs.

Domestic Violence and the Protection of Children in Migration

We were privileged to have Australian feminist activist, Nicki Saroca as special guest speaker. Nicki took a few days off from her academic responsibilities in the Asian University for Women in Chittagong, Bangladesh to travel to the Philippines to lead the afternoon discussions. Nicki is married to a Filipino and has had teaching stints at the University of the Philippines before. She has extensive involvement and knowledge of the advocacy of the Filipino communities in Australia and the Philippines .

Nicki led the discussion on domestic violence and the protection of children in migration. Migration to Australia must be viewed in the sexist and racist context prevalent in Australia. In this context, the government had previously set up schemes that brought young women, mainly Irish and English, to Australia as workers but with the intention to marry Anglo-Australian men. These women were expected to become housewives, good mothers and breeders of the Australian nation. Despite a lack of data indicating ethnicity, most Filipinas are married to Anglo Australian men.

Filipinas are often portrayed in the media as opportunistic women seeking a better life at the expense of the Australian men, or as sex slaves. The media played a big role in socially constructing a negative image of Filipina women. The negative social construct, perpetuated by the media, renders the women vulnerable to abuse in Australia. The idea that no marriage between Australians and Filipinas can be a genuine love relationship is a misconceived and dangerous perception. While many of these relationships are genuinely based on love, the media endorses the stereotypical negative perception of these marriages. The racist and sexist construction of Filipinas in Australia as mail-order brides takes the form of the opportunistic gold-digger who marries the unsuspecting Australian as a ticket out of the Philippines, or of the poor, naïve sex slave of an abusive man.

Many of the Filipina women married to Australian men are perceived beyond the marriageable age in the Philippines and experienced pressure from their families to get married. Femininity in the Philippines is often defined by marriage and conceiving children. However, Filipinas who are dedicated to their work have little time to engage in relationships when they are pursuing a career. Teachers are a example of this. As they remain single for a long time, they experience difficulty to find a Filipino man , because once they get past “marriageable age” they are seen as being unable to have children. Marriage migration allows Filipinas to fulfil an important part of Filipina identity: being a mother. Many Filipino women migrating to Australia are very highly educated professional women.

The negative social construct that portrays women as subservient housewives and mothers or sex objects and prostitutes, renders the women more vulnerable to domestic violence. As the Australian men realize that this stereotype is not accurate, abuse starts. Often, the Australian media has perpetuated the social construct by treating the husband as victim instead of violator. In such violent relationships, women live in a constant state of terror while they are often blamed for not leaving the relationship. Filipina victims of domestic violence are constructed as “bad mothers” and “gold-diggers”, in an attempt to remove their victimhood. The money that the migrant women remit to support their, often impoverished families, is perceived as exploiting the Australian men, while these women often work double jobs. Many of these women are forced to stay while their sense of

reality is undermined by the constant mental and physical abuse. Despite extensive anti-violence legislation, racism and sexism is still very much prevalent in Australia's day to day life. The Center for Philippine Concerns Australia (CPCA) holds records of 44 cases of disappearances and deaths of Filipina women. In a related research conducted by Chriss Cunneen and Julie Stubbs, it was revealed that Filipina women are almost 6 times as likely to be victims of homicide than Australian women. The children of abused women also suffer, as exposure to domestic violence is a form of child abuse. There are also cases where the abuser killed the children to punish the mother or to prevent her from leaving

It cannot be stressed enough that not all Filipina-Australian relationships are abusive relationships based on material motivations from the Filipinas. Nor are all Australian men married to a Filipina abusers. Many of these relationships are genuine love relationships. There is a need to end the stereotyping that accommodates and often renders the women vulnerable to abuse.

Open Forum Afternoon

Nicki's presentation was followed by an open forum. The engaging and constructive dialogue raised various interesting and contentious issues. Terminology and language was one of the prominent issues raised. It was noted that Mail Order Brides (MOB) is a derogative and sexist term and applies only to women, not men. Bride is a term used for a time sequence. While non Filipino women are no longer perceived as brides after the wedding, Filipino women are often branded as MOB long after the wedding has past. Other terms such a Dirty Old Man or Sexpat for Australian men worsens the stereotyping and perpetuates the misinformed view that no marriage between Filipinas and Australians can be a genuine love relationship. The negative stereotyping occurs from both sides. While Filipina women in Australia are branded as gold diggers, Australian men in the Philippines are branded Sexpats or DOM. In fact, Filipino families often discourage their daughters to marry Australian men due to this misperception of DOM and Sexpats. The feminization of migration is another term that can be misunderstood. The characterization of Filipina women as victims denies the fact that many Filipinas are very strong and successful women. These terms can have damaging effects and induce violence. One of the reasons why homicide is high amongst Filipina women, is because many men who enter in these relationships with Filipinas have a misinformed view of a submissive Filipina women, inviting violence.

With the presence of Ivy Miravalles of CFO and Australian community activist, Nicki, there was an emphasis on services for Filipinas in Australia and the Philippines. CFO conducts mandatory PDOS for women and children. There are many community services for Filipinos in Australia but unfortunately, awareness of them is low. While there are no mandatory consultation session in Australia, courses for couples are made available by the government.

There were concerns raised about online matchmaking agencies and human trafficking. Online meeting agencies are no different from other means of meeting a partner. The stigma around online matchmaking is largely unfounded. While there are unscrupulous agencies, online match making should not be judged. It is irrelevant how you meet. What is important is what you do in your relationship. While matchmaking agencies are prohibited by law in the Philippines, other countries do not illegalize them.

Concluding Remarks

The Philippine is now the 4th largest migrant sending country to Australia. The geographical location and easygoing lifestyle makes Australia an attractive destination for many Filipinos. Sadly, exploitation, abuse and domestic violence persists for many Filipino migrants in Australia. We owe it to our loving Filipinos in Australia to protect their rights and safeguard their wellbeing. However, much remains to be done. These forums are a critical tool to inform stakeholders about Philippine migration to Australia ranging from policies to cultural differences. Like the previous forums, this RTD has left many question. We must keep actively discussing and monitoring Australian immigration developments and actively participate to protect the rights of our Filipinos in Australia. With this in mind, further forums will undoubtedly help us protecting our Filipinos in Australia.

Useful references

Commission on Filipinos Overseas

<http://www.cfo.gov.ph>

Department of Immigration and Border Protection

<http://www.immi.gov.au>

Philippine Overseas Employment Administration

<http://www.poea.gov.ph>

Australian Department of Immigration – Community Information Summary the Philippines

http://www.immi.gov.au/media/publications/statistics/comm-summ/_pdf/philippines.pdf

Australian Department of Immigration – Country Profile the Republic of the Philippines

http://www.immi.gov.au/media/statistics/country-profiles/_pdf/philippines.pdf

Australian Department of Immigration – Family Violence Provisions

<http://www.immi.gov.au/media/fact-sheets/38domestic.htm>

The Subclass 457 visa: a quick guide (Australian Parliament House)

http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1314/QG/Subclass457Visa#_Visa_holders

457 Visa Booklet (DIBP)

<http://www.immi.gov.au/allforms/booklets/books9.pdf>

Right and Obligations of 457 visa holders(DIBP)

http://www.immi.gov.au/translated-info/_pdf/rights-obligations-workers/english.pdf (English)

http://www.immi.gov.au/translated-info/_pdf/rights-obligations-workers/tagalog.pdf (Tagalog)