

MIGRANT FORUM IN ASIA SUBMISSION OF INFORMATION

**For the Second Periodic Report of the Philippines on the Implementation of the Convention
on the Rights of All Migrant Workers and Members of their Families**

UN Committee on Migrant Workers 20th Session

31 March-11 April 2014



Migrant Forum in Asia Secretariat
85 C Masikap St. Central District, Quezon City 1100 Philippines
(P) +632-4333508 / +632-9282740
mfa@mfasia.org / www.mfasia.org

Introduction

This submission seeks to contribute to the List of Issues Prior to Reporting provided by the UN Committee on Migrant Workers with respect to the implementation of the Philippines on the UN Migrant Workers Convention.

Migrant Forum in Asia (MFA) is a regional network of non-government organizations (NGOs), associations and trade unions of migrant workers, and individual advocates in Asia who are committed to protect and promote the rights and welfare of migrant workers. As a regional migrants' advocacy network, this report provides perspective from destination countries particularly on select list of issues which the Philippine government needs to seriously address into to ensure that the rights and welfare of all migrant workers and members of their families are protected and upheld.

MFA acknowledges the contributions of its members in Japan, Taiwan and Singapore. MFA members who have contributed to this report are – Solidarity Network with Migrants Japan (SMJ), Hope Workers' Center (HWC) - Taiwan and Humanitarian Organization for Migration Economics (HOME) – Singapore. The report also supports the submission of the Center for Migrant Advocacy which has spearheaded the process of consultations among civil society organizations and trade unions.

Replies to List of Issues Prior to Reporting

- 1. In light of the recommendations made by the Committee in paragraphs 14 and 50 of its concluding observations on the initial report of the Philippines (CMW/C/PHL/CO/1), please provide information on the measures taken to improve the capacity of the State party's institutions for effectively implementing the Convention by:***

(b) Allocating sufficient human and financial resources for agents within this structure to carry out their work efficiently

MFA recognizes the efforts being undertaken by the Philippine government to strengthen the capacity of relevant government's institutions to effectively implement the Convention. One major concern though that MFA would like to highlight is the non-compliance of the government on the deployment of Social Welfare Attaches (SWATs) in the embassies/posts.

RA8042, enacted in 1995 and the amended RA10022 passed in 2010 also mandated that *“In countries categorized as highly problematic by the Department of Foreign Affairs and the Department of Labor and Employment, and where there is a concentration of Filipino migrant workers, the government must provide a lawyer and a social worker for the Center.”* Since the enactment of the law, there has been no enforcement of this provision except for the intermittent deployment of a social welfare attaché by the Department of Social Welfare and Development (DSWD).

The Center for Migrant Advocacy reported that the DSWD under its International Social Welfare Services for Filipino Nationals (ISWSFN) Program has been submitting budget requests for the deployment of social workers, however, the proposal was always denied by the Department of Budget and Management (DBM).

To date, out of 87 embassies only Malaysia and Saudi Arabia have been deployed with SWATs.

It was only when the ‘Sex for Flight’ scheme came out when the DBM acknowledged the need to deploy social workers in the posts abroad. More details on the “Sex for Flight” scheme are provided on LOIPR #8.

Recommendation to the CMW to include in its concluding observations:

1. Allocate resources and expedite the deployment of social welfare attaches in select countries where there is high concentration of OFWs to ensure that the government is effectively able to address the psycho-social needs and concerns of Overseas Filipino Workers (OFWs) in particular those that concern about the social cost of migration e.g. family disintegration and relationship issues.

3. Please provide information on the State party’s cooperation with civil society organizations working on migrants’ rights in relation to the implementation of the Convention and the preparation of its periodic reports (see CMW/C/PHL/CO/1, paragraphs 22 (c), 50 and 52).

The Philippine government has also been receptive to civil society organizations’ contributions and participation in various intergovernmental processes both at local and international levels such as the ASEAN, Colombo Process, Abu Dhabi Dialogue and the Global Forum on Migration and Development.

However, this cooperation usually takes place through the initiative of CSOs. CSOs have established an open and inclusive engagement with different sectors including the government on issues concerning OFWs.

Specific to this review, according to CMA, while there is an improvement in the process as compared to the 2009 Committee review, the validation workshop took place upon the initiative CMA. In this validation workshop, only 5 CSOs were invited which demonstrate a lack of genuine cooperation and partnership with CSOs.

The Philippine government needs to improve in this regard if they want a genuine CSO participation. The role of CSOs and NGOs as partners of government has been institutionalized both in the Philippine Constitution and in RA 8042. The government could benefit immensely from collaborating with civil society organizations advocating for the rights of migrant workers. Some of these civil society organizations are focused exclusively on improving the rights of migrant workers and thus can have valuable information and analysis compiled from their work over the years. Many of the changes in the country and in the region are reflective of CSOs advocacies that have persisted overtime.

Further, many migrant workers abroad contact civil society organizations in the Philippines directly when faced with abuse or exploitation. This gives CSOs a deeper understanding of some of real life instances of abuse taking place against migrant workers abroad.

All of this information could prove to be invaluable information in the creation of bilateral agreements, MOUs, national laws and/or policies for the Department of Labour & Employment (DOLE). As well as provide information in the proper implementation of international human rights and labor rights conventions.

Recommendations to the CMW to include in its concluding observations:

1. The Philippine government should uphold its commitment to promote an open and inclusive process of consultation and cooperation with civil society.

2. Report of this second review should be communicated to civil society organizations in various foras.

6. Please provide information on measures taken to strengthen the protection of Filipino migrant workers abroad by reviewing and amending bilateral and multilateral agreements, Memoranda of Understanding or other protective measures with countries of employment of Filipino migrant workers (CMW/C/PHL/CO/1, para. 32 (a)).

The Philippines has the highest number of bilateral agreements and MOUs than any other origin countries. The country has signed over 50 agreements with destination countries. However, majority of these agreements are centered on seafarers and immigrants and not on the most vulnerable sector of OFWs such as domestic workers, construction workers and other OFWS in service sector.

Only in recent years where BLAs were forged to address the issues of domestic workers particularly those who work in the Gulf. These include Jordan, Kuwait, Lebanon and Saudi Arabia. In the case of Saudi Arabia, the process was expedited following a fact-finding report of Congressman Walden Bello about the situation of OFWs in the Kingdom.

However, despite of these agreements widespread abuse is still extensive. This calls into question the strength of these bilateral agreements. One case in point is the provisions in the Household Service Workers Reform Package (HSW) which was promulgated in 2006 states that OFWs need not pay placement fee and that the entry salary should \$400.00. In reality, these provisions are not observed by many of the destination countries. The government needs to come up with effective monitoring system to ensure that destination countries adhere to the rules set out in the HSW reform package. Prevailing wages in the GCC and other Asian destination countries of domestic workers remain from USD200-250.00

While the situation of having an MOU is better than a situation of no agreement at all, MFA still believes that multi-lateral and regional frameworks are still better as BLAs/MOUs are influenced by relative bargaining power of contracting parties and in most cases the interests of the destination countries supersedes and where greater focus on regulation and less on protection of rights. BLAs and MOUs are also only one of the many options to govern labour migration and protect the rights of migrant workers and members of their families.

CSOs in the Philippines are hardly included or involved in drafting and monitoring of BLAs and MOUs. While the Philippines is more transparent when it comes to providing information about BLAs/MOUs, they are only made available in the POEA once they are signed.

Follow up action by the Philippine government after signing a bilateral agreement must be a priority. This may entail inflexibly scheduling joint committee hearings annually to deliberate on the success of the agreement between the two countries and/or conducting ‘fact finding’ missions to countries of origin to ensure they are enforcing their side of the bilateral agreement and revising old agreements updating them with rights-based provisions.

Recommendations to the CMW to include in its concluding observations:

1. The Philippine government should consider broad-based consultations in designing and monitoring BLAs/MOUs. Among others, a clause should be provided on how the government and destination countries intend to disseminate the provisions in the agreements in particular to employers to ensure compliance with the agreement.

2. The monitoring and evaluation mechanism should be made mandatory. Areas to be monitored should be identified which would become the basis for monitoring and evaluation.
3. In order to ensure effective monitoring and evaluation, the government should consider allocating financial resource and competent staff to carry out the task.
4. Results of monitoring and evaluation should be widely disseminated to relevant stakeholders including CSOs.
5. The Philippine government to initiate a process among origin countries or Colombo Process countries to identify core elements which need to be considered in developing BLAs/MOUs.

8. Please provide information on the measures taken to prevent public officials from using corrupt practices to (a) obstruct migrants' access to justice and (b) favor child labor, e.g. by stating a higher age of migrant children on birth certificates.

Curbing corruption is one major agenda of the current administration. Efforts have been intensified and mechanisms are in place to punish public officials who are involved in corrupt practices and abuse of authority. But the big question is how serious the government is in combating this practice which has existed in the country since time immemorial.

One case in point is the alleged “Sex for flight” scandal which involves embassy officials in Jordan, Kuwait, Lebanon and Saudi Arabia who are on trial for alleged sexual favours in exchange of repatriation and for organizing prostitution rings of OFWs and for bribing an OFW so as not to file a complaint obstructing an OFWs access to justice. The “Sex for Flight” scheme came out mid-2013 upon reports received by Cong. Walden Bello from credible sources. Congressman Bello is a member of the House of Representatives and chairs the Philippine Congressional Committee on Overseas Workers Affair.

The House of Representatives initially led this investigation and trial, and then handed it over to the Department of Justice. Since these cases emerged, there has been little action taken. One of the largest hindrances to the progression of these cases is the lack of coordination between the different departments involved. The House of Representatives initiated the investigation then handed it over to the Department of Justice. Meanwhile, the Department of Labor and Employment (DOLE) also conducted their own investigations.

It is not apparent that the different departments have been collaborating or even sharing information on the cases. These cases could progress at a much faster rate with a higher level of collaboration among the different departments.

To date, the DOLE only filed a 4-month suspension to one official involved while administrative cases were filed against the officials who were found not guilty of the allegations but merely dereliction of duty.

The Department of Foreign Affairs moved to increase the number of female staff members at shelters for distressed migrant workers, and enacted other measures such as prohibiting workers in distress from full-time or part-time employment in Philippine embassy or labor offices overseas, forwarding all requests for repatriation tickets to Philippine Overseas Labor Office heads, and requiring receiving agencies to act on these requests within 48 hours.¹

Recommendations to the CMW to include in its concluding observations:

¹ Paterno Esmaguél II, “To prevent sex for flight, females to staff OFW shelters,” *Rappler*, August 8, 2013, <http://www.rappler.com/nation/35962-more-females-staff-ofw-shelters>

1. There is a serious need to look into the practices of the public officials working abroad, especially in countries that receive a large number of OFWs. It is crucial that all government officials deployed abroad are extensively trained in a gender sensitive manner to assist migrant workers while representing the Philippines abroad.
2. Aggressively investigate and punish cases of corruption involving public officials.
3. Ensure that checks and balances are in place to detect public officials abusing their power.
4. Code of ethics and appropriate sanctions should be in place and implemented to give justice to OFWs who have been victims of embassy officials and other public officials.
5. Re-echoing Congressman Bello's recommendation, ambassadors or heads of missions should have a hands-on approach in overseeing the operation of the embassies or consulates.
6. Pre-departure orientation seminars should also tackle real problems or issues that OFWs may encounter in the destination countries.

9. Please indicate whether the State party has undertaken and/or supported a comprehensive study on the situation of children of migrant workers. Please also describe the progress made in developing and implementing strategies, policies and programmes, in collaboration with non-governmental organizations (NGOs), to ensure the protection and promotion of the rights of migrant children through, inter alia, community support programmes, education and information campaigns and school programmes (CMW/C/PHL/CO/1, para. 46).

MFA has not heard of any studies conducted by the government with respect to the situation of children of migrant workers but only on the social costs of migration which was commissioned the DSWD and where MFA's member, ATIKHA, was also involved.

Likewise, MFA members are also not aware of any study on the situation of children of migrant workers in the destination countries initiated by the Philippines.

In the case of Japan, a study was made by an individual on the situation of the half-Filipino and half-Japanese children and the struggles they encounter in Japan.

Recommendations to the CMW to include in its concluding observations:

1. Conduct a comprehensive study on the situation of migrant children both in the country and countries of destination in order to create a demographic profile necessary to come up with appropriate policies and programs for children of migrant workers.
2. Enact a comprehensive program to promote and protect the rights of children and family of OFWs.
3. Ensure that government policy, programs, and officials are sensitive to the needs of women and children.
4. Ensure that children of migrant workers are involved in drafting policies and programs that would serve their best interest.

10. Please indicate whether the State party envisages ratifying International Labour Organization (ILO) No. 189 (2011) concerning Decent Work for Domestic Workers.

The President of the Philippines signed the instrument of ratification on ILO Convention 189 on 18 May 2012 and was subsequently concurred by the Philippine Senate on 6 August 2012. The ratification was deposited with the ILO on 5 September 2012 making it the second country to ratify the Convention. Following its ratification, Republic Act 10361, a national legislation for domestic workers called

“Kasambahay Law” was enacted on 18 January 2013 as part of the Philippines’ compliance to the Convention. Mechanisms were set up to implement the law.

In the recent assessment and planning of the Technical Working Group for Domestic workers where representatives from government line agencies were present some issues and concerns surfaced: information dissemination on C189 and the kasambahay law, unified system of payment of basic social protection benefits such Social Security, Philhealth and PAG-ibig, retroactive collection of SS premiums which discourages employers to register and give accurate information on the duration of the employment of their domestic workers, no budget allocated to staff the domestic workers help desk set up in the regional offices of the Department of Labor and Employment.

The findings of the draft survey on the living arrangements of domestic workers commissioned by the International Labour Organization also revealed that majority of the 200 local domestic workers interviewed are not aware of the Kasambahay Law. For those who know, do not really understand what the law is about.

While it is still premature to judge the implementation of the law, the above concerns need to be addressed to ensure that domestic workers will be able to benefit from the law and ensure that their rights and welfare are protected.

With respect to migrant domestic workers, MFA hopes that with the ratification of C189, the Philippine government would vigorously work to ensure the rights and entitlements of OFWs are upheld and promoted. In particular, review the implementation and effectiveness of the HSW reform package.

Recommendations to the CMW to include in its concluding observations:

1. Intensify information dissemination on the Domestic Workers Convention and the Kasambahay Bill at the community level. The local government units should take a proactive role in this regard.
2. Mechanism should be placed for the unified payment system. This would be an incentive for employers and would encourage them to regularly pay premiums.
3. The SS should not continue the retroactive arrangement of paying premiums to encourage employers to register domestic workers and/or share their contributions. They should devise an arrangement where they would still be able to collect previous premiums but not necessarily starting from the time the domestic worker was employed.
4. Budget should be allocated to effectively run the regional help desk centers.

14. In light of paragraphs 26, 30 and 32 (b) of the Committee’s previous concluding observations, please provide information on the measures taken by the State party to:

(a) Strengthen its legal assistance to Filipino migrant workers;

MFA noted that the efforts of the Philippine government to strengthen its legal assistance to Filipino migrant workers still fall short in addressing the increasing number of OFWs who need legal intervention. While the budget for the Assistance to Nationals (ATN) has been increased, some embassies in particular in Japan, Taiwan and Singapore still rely on pro-bono legal services and assistance from NGOs.

In Japan, the Consular Section’s Assistance to Nationals (ATN), minimally entertains cases brought by migrants to their attention where they provide minimal information to migrants about their rights. In case the problems need legal intervention (needing lawyer for court process or other legal action) usually these are being referred to NGOs. This is the experience of Kalakasan Migrant Women Empowerment Center

where the Philippine Embassy has referred a number of cases of Filipino women victims of domestic violence perturbed about divorce, custody of children and processing of visa in the Japanese immigration. In most cases, Kalakasan provides advice to ATN staff on the important points to negotiate with the particular government agency. This scenario calls the need for appropriate budget allocation to be able to effectively provide legal assistance and further strengthen capacities of embassy officials in dealing with legal cases.

In the case of Singapore, HOME proactively reaches out to the Philippine Embassy to assist distressed OFWs especially those who have been victims of contract substitution and exorbitant recruitment fees. In one case, HOME provided a lawyer to represent Filipinas who have been abused by their employers during court proceedings.

Recommendations to the CMW to include in its concluding observations:

1. Strengthen the implementation of legal assistance (here and abroad) and ensure accountability in cases of human rights violation, violence against women, and not just repatriation. – Utilize the LAF, choose reliable lawyer and maximize existing free legal assistance groups
2. Increase financial and human resources of embassies that would enable them to hire full time lawyers who are knowledgeable of the laws of the land.

(b) Inform Filipino migrant workers of the administrative and judicial remedies available to them; MFA noted the deficiency in terms of OFWs knowledge of their rights and available judicial remedies both in the Philippines and in countries of destination. While OFWs undergo pre-departure orientation seminars, they still are still not aware of their rights and who to approach.

In most cases, OFWs approach the NGOs or a friend because they are not aware of the services the Philippine embassy provides. While these services are available in the website, not all OFWs are computer literate. The most common service they know is the passport renewal. For other concerns like labor issues, Filipinos mostly go to different NGOs or Community Unions for assistance.

In the case of Japan, OFWs who have sought the assistance of SMJ and Kalayaan are not even aware of what the (POLO) Philippine Overseas Labor Office can do for them.

In Taiwan, OFWs are aware of the administrative and judicial remedies but according to OFWs that MFA members encounter the information does not come from MECO.

In Singapore, most of the workers are not aware of the POEA regulations and entitlements under the Philippines Overseas Employment Administration (POEA) system. The Philippines Embassy says that it is delivering orientation training for workers on arrival in Singapore. For example, excessive agency fees are still charged by many employment agents. HOME recently held a forum for workers titled “POEA and You”, attended by approximately 500 Filipino domestic workers who confirmed that they did not know about the zero agency fee rule or of the possibility of claiming these fees back under POEA. An Embassy Labour Attache was invited to address the claims, but HOME considers that holding such forums and coordinating filing of claims should be the responsibility of the Philippines Embassy, rather than a Singaporean NGO.

HOME provides a 24-hour helpdesk and in 2014 has commenced a program to refer agency fee claims to the Philippine Embassy in Singapore for processing by POEA. However, HOME considers that the failure to educate and empower workers about their rights and options before and after they arrive in Singapore must be remedied by the Philippine government as a matter of urgency.

Recommendations to the CMW to include in its concluding observations:

1. First and foremost, embassy officials should not only be aware of the existing administrative and judicial remedies provided by the Philippine government but also being familiar with the judicial remedies and procedures available in the destination countries. There should be on-going learning programs to be given to them to ensure effective delivery and dissemination of information to migrant workers.
2. The government should exert more effort in disseminating information about the administrative and judicial remedies available for OFWs both in the country as well in the destination countries.
3. Philippine embassies should have a 24-hour helpdesk to ensure that urgent cases are immediately attended to.
4. If possible, a common curriculum focused on understanding laws and policies should be made available to all embassies/consulates should be given to ensure that important information is captured and delivered to migrant workers. This curriculum should be periodically period. This process will ensure continuity whenever there is turnover of post personnel.

(c) Increase awareness among Filipino migrant workers, especially women domestic workers, on the available mechanisms for bringing complaints against employers so that any abuses can be investigated and punished;

Information about redress and complaints mechanisms are not easily accessible to women domestic workers. Women domestic workers` concerns are often brought to the aid of NGOs. They feel more comfortable asking help from the NGOs rather than the Philippine Embassy.

In Japan, Filipino migrants who are actually workers in Japan are not informed by the Philippine government of any mechanism for bringing complaints against their employers.

As Japan does not hire foreign domestic workers for its own citizens, only embassy officials and expatriates with high position working in multi-national companies can hire them. The visa category of domestic workers is not for work but labeled as ‘special designated activity’. Domestic workers in Japan are not recognized as workers, they do not have worker’s rights. They can bring their complaints to the embassy under its labor section (POLO) however, in the past, in most cases labor authorities would favor maintaining the employment rather than negotiate respect for their workers’ rights (wage according to contract, no maltreatment, etc). As domestic workers are mostly employed by embassy officials, they are already at a disadvantaged position.

The POLO (Philippine Overseas Labor Office) webpage does not provide information on how it tackles the issue on women domestic workers, but rather states general labor concerns. In all, the Philippine Embassy does not have much mechanism in disseminating this information.

NGOs and Church deliver to the migrants and migrant communities the information about migrant’s rights and how to file complaints when their rights are violated.

In Taiwan, while field visits in places where OFWs gather such as churches and places of worship and radio program every Sunday are being conducted, MFA members notice that these efforts are not enough to ensure that OFWs are aware of their rights both in the Philippines and in Taiwan and the services available to them and how to access them. This information should be made available in PDOs especially those provided by private recruitment agencies that are contracted by the government.

In order to address this lack of information dissemination, the Council of Labor Affairs (CLA) set up a system where upon arrival migrant workers are oriented on basic information where to seek assistance in case of problems with their work, broker and employers. Hope Workers' Center gives monthly education in the church and has set up a Facebook account wherein workers can read updated labor and other related information.

The above is also true in the case of Singapore. Given the limited knowledge, domestic workers oftentimes resort to running away and would approach HOME rather than addressing their complaints using available administrative avenues.

The Embassy advertises an after-hours number for "urgent" matters on its website. However, according to some Filipino workers, they are unable to get through when they try to contact the Embassy. The Embassy is also located in a relatively inaccessible area of Singapore, and does not have an outreach office at popular locations such as Lucky Plaza. As a result, many Filipino workers prefer to contact organizations like HOME. HOME has provided shelter to about 800 Filipina domestic workers per year for the past 10 years. That is 8000 workers who have been assisted by HOME to settle their complaints.

Recommendations to the CMW to include in its concluding observations:

1. The Philippine government should provide alternative contacts, such as HOME's 24-hour hotline number, so that they can access advice and assistance when they need it.
2. Philippine embassies or consulates should expand its reach to ensure that relevant information become accessible to OFWs. Visits to dormitories and places where migrant workers converge and giving them education and empowering them on their right would be a welcome sign.

(d) Ensure that consular services respond effectively to the need for protection of Filipino migrant workers and members of their families;

MFA noted that embassies are also trying their best to respond to the requests of OFWs. However, the problem always lies on the resources and the capacity of embassy/consular staff to effectively respond to the problems of OFWs. Embassies always resort to referrals and approach NGOs for help e.g. to provide shelter, welfare aid and legal assistance and other assistance needed by distressed OFWs.

Members also noted that embassies are not able to address some pressing issues that deal with family relationships. In Singapore, HOME has encountered many Filipino migrant workers who have family-related problems as a result of their work abroad. A key issue for workers is family breakdown as a result of their absence, and the financial and custody issues that result. Because the Philippine government does not allow divorce, many Filipina domestic workers are concerned that their hard-earned wages may end up in the hands of their separated husband and his new partner, rather than going to their children. Again, this situation strongly calls for expeditious deployment of SWATs.

Another concern is the accessibility of services. In Singapore, the majority of domestic workers staying in HOME's shelter are OFWs which is an indication that many of these workers have difficulty accessing the shelter services provided by the Embassy.

Recommendations to the CMW to include in its concluding observations:

1. Consular Section needs more staff equipped with skills and knowledge about the policies and practices related to welfare and rights protection of Filipino migrants in Japan to be able to respond effectively to the needs of Filipino migrants and their families here.

2. The government should seriously address family disintegration and other relationship issues associated with migration. Support services both at home and destination countries should be provided.

(e) Ensure that its diplomatic and consular staff abroad are knowledgeable 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 (DFA) and the Department of Labour and Employment (DOLE);

While Japan, Singapore and Taiwan are not considered “highly problematic” countries, MFA members in these countries would like to draw the attention of the Philippine government about the limited knowledge of embassy/consular staff on the laws and procedures of employment in these countries. Members noted that majority of the cases they received revealed that OFWs approach NGOs first rather than seeking help from the embassy. At times, they even approach recruitment agencies for any concerns pertaining to laws and employment procedures in the destination countries.

To illustrate this seemingly lack of knowledge, in Singapore’s employment law requires employers to pay for repatriation (even if the worker has been terminated and has not served out the duration of the contract) but there are instances when embassy staff request airlines to donate air tickets to send workers back to the Philippines. This supersedes workers’ POEA contracts, which state that workers will pay the cost of repatriation if they are terminated for just cause.

In HOME’s experience, migrant workers often rely on their agents to provide information about the laws and procedures in Singapore. This is problematic as much of the information they receive is incorrect (as agents may have business objectives that do not align with the worker’s rights or welfare). Workers also help each other, which can sometimes lead to misinterpretations and inaccuracies.

As many workers are unsure whether to go to their Embassy for information, they rely on the services of NGOs such as HOME. HOME provides ad-hoc advice, encourages workers to empower themselves by finding information on the internet and in 2014 will be conducting a legal training course for foreign domestic workers about their rights and responsibilities under Singapore law.

HOME also noted the widespread contract substitution in Singapore that has not been addressed by diplomatic and consular staff. Despite the safeguards contained in the POEA standard-form employment contract for Filipino domestic workers, almost all workers will be asked by their employer or agent in Singapore to sign a new contract once they arrive in Singapore. This second contract contains conditions less favourable to the worker, such as lower salary and higher agency fees.

HOME is not aware that Philippine Embassy is taking any action to stop this widespread practice of exploitation that, so far, has not been addressed by the Singapore government either. There is also no representative from the POEA has been posted to work at the Philippine Embassy in Singapore.

Recommendations to the CMW to include in its concluding observations:

1. Relevant national laws and employment procedures in the countries of destination should be part of PDOS trainings.

15. Please provide information on the assistance provided through embassy and consulate staff abroad to migrant workers victims of the “sponsorship” or kafalah system in Gulf countries, especially for women domestic workers, and on endeavours to negotiate a reform or review of such a system with the relevant countries of employment (CMW/C/PHL/CO/1, para. 32 (d)).

While none of the respondents are from the Gulf where sponsorship system is legally allowed, in Singapore, the migrant workers legal presence is tied to their employer. Employers may legally repatriate their migrant workers without any reason, and without the knowledge of Embassy or giving the worker the opportunity to contact authorities or seek help from HOME. This system leaves Filipino workers in Singapore vulnerable to exploitation and forced labour, as they risk immediate repatriation if they raise concerns about their work conditions with employers or with authorities.

HOME is not aware of any endeavours taken by the Philippine Embassy to negotiate a reform or review of the system. HOME made a submission to the Singapore Ministry of Manpower’s review of employment legislation in 2013 that set out our concerns with the sponsorship system in Singapore.

Recommendations to the CMW to include in its concluding observations:

1. The Philippine government must initiate efforts to challenge Singapore’s employment legislation to ensure that OFWs rights and welfare are protected.

17. Please provide information on the measures taken to promote the birth registration of Filipino migrant children abroad, including those in an irregular situation, and to ensure the birth registration of foreign migrant children in the State party.

MFA members noted that the Philippine embassy in Japan and MECO in Taiwan also take measures to promote birth registration including those in an irregular situation.

In the case of Japan, they conduct consular mission outside Tokyo or Osaka where those in irregular situation could avail of this service without fear of being apprehended. However, members are not aware of any services available for the children in particular and even there is such a service, it is not widely disseminated among Filipinos or even NGOs.

In Taiwan, Filipino migrant workers, including those in an irregular situation, who give birth to children in Taiwan, can seek assistance from MECO to obtain a Filipino passport for their children. If the child’s father or mother is Taiwanese the parents can apply for the child’s Taiwan identification card.

Meanwhile, the case in Singapore, is equally opposite. Filipina workers on Work Permits who become pregnant will be repatriated (all foreign domestic workers and other low-skilled, low-wage workers will be on Work Permits). Workers are prohibited from getting pregnant or delivering a child in Singapore during the validity of their Work Permit (unless they are already married to a Singapore Citizen or Permanent Resident).

Filipina domestic workers are not entitled to maternity leave (as the Employment Act does not apply to foreign domestic workers), and their employment can be terminated if they fall pregnant which is discriminatory and restrictive of the reproductive rights of women migrant workers. Another discriminatory policy is the government’s requirement for all domestic workers to undergo periodic pregnancy and HIV testing.

Recommendations to the CMW to include in its concluding observations:

1. The Philippine government to take up the issues above with relevant government particularly during bilateral talks or dialogues.
2. The Philippine government to take up issues of migrants' discrimination especially during the ASEAN Summit and other relevant regional intergovernmental processes.

26. Please provide information on the measures taken to implement the recommendations contained in paragraph 48 (a)-(f) of the Committee's previous concluding observations in order to combat trafficking in persons.

While the Philippine government's response has started to move beyond sex trafficking to include the labor dimension, the question is always about effective enforcement as in the case of OFWs who are trapped into debt bondage.

One case in point is the situation in Taiwan. Information provided by the HWC revealed that since 1989, documented OFWs have been paying excessive placement fees to work in Taiwan. The Filipino government's legal placement fee is one month's salary (NT\$19,047 {US\$635} for factory workers, construction workers and fisher folk; and NT\$15,840 {US\$528} for caretakers and domestic workers) plus processing fees totalling about 60,000 Pesos. However, most OFWs pay twice this amount of money. About 72% of the salaries received by OFWs for the first three years go into the pockets of brokers and recruiters and 5% goes to the workers. In order to augment the scarce money that they have, workers would often resort to overtime work which is also detrimental to their health.

Accordingly, the Philippine government is aware of this corrupt system that leaves all Filipino migrant workers in Taiwan in debt bondage. However, the government has done very little to eradicate this corruption.

A study in 2013 entitled "*License to Exploit: A Report on the Recruitment Practices and Problems Experienced by Filipino Domestic Workers in Hong Kong*" which was commissioned by the Alliance of Progressive Labor (APL) and will soon be published found out that 88% of the respondents used a private agency for placement. The average total recruitment cost is Php80, 736. Under the HSW Reform Package, it obliges the employer to incur the cost of deployment through the "no placement fee policy". Also according to the study, more than 14% were forced by their agencies to accept salaries below the minimum wage, 36% were given wrong, outdated or no information at all by their agencies about Hong Kong laws concerning them, and almost 10% were told by their agencies that they will not be getting one or several mandated benefits.²

Recommendations to the CMW to include in its concluding observations:

1. The government in particular the POEA to effectively monitor its anti-illegal recruitment campaign to curb labor trafficking resulting to debt bondage.
2. Provide incentives for ethical recruitment practice to encourage PRAs to upheld and promote the rights of migrant workers.
3. Regulation and monitoring of private recruitment agencies must be strengthened at stages of pre-departure, en route, and return.

² Alliance of Progressive Labor-Hong Kong & Progressive Labor Union of Domestic Helpers Hong Kong, *License to Exploit*.2013.