

**Statement of the Philippine Migrant Rights Groups
to the UN Migrant Workers Committee on its 10th Session
April 20, 2009, Palais Wilson, Geneva, Switzerland**

1. **Statement of Thanks and Appreciation:** On behalf of the Philippine Migrants Rights Groups, we thank with appreciation the UN Migrant Workers Committee for the opportunity to make an oral presentation today to articulate the issues contained in our responses to the Committee's List of Issues for the Philippines.
2. **Who We Are:** The Philippine Migrants Rights Groups is composed of migrant workers, advocates and networks from the Philippines and from other countries that provided inputs and participated in the preparation of the response to the List of Issues that was submitted to the Committee in March 2009. It included 4 national networks (Philippine Alliance of Human Rights Advocates, Philippine Migrants Rights Watch, Public Services Labor Independent Confederation and Labor Education and Research Network), 1 Asian regional network (Migrant Forum in Asia), 24 migrants rights advocacy groups, women organizations, trade unions and members of the academe from the Philippines, Australia, Israel, Taiwan, Saudi Arabia, Greece, Switzerland, Filipino migrant workers currently based in Saudi Arabia, Lebanon and UAE as well as returned Filipino migrants from Saudi Arabia, UAE, Singapore, Malaysia and Israel. Our report was consolidated by the Center for Migrant Advocacy Philippines, Inc. (CMA). We are happy to inform the Committee that for the 10th session of the MWC, we have 4 delegates from the Philippine Migrants Rights Watch and 12 delegates from the Geneva Forum for Philippine Concerns.

I am Ellene Sana, the Executive Director of CMA, which is a member of PMRW- one of the main Philippine advocacy networks founded in 1995. Each of its 12 member organizations in the Philippines, Korea, Taiwan and Switzerland, has long standing record in promoting the rights of OFWs and their families; CMA is also a member of PAHRA, a national network of human rights advocates and defenders founded in 1986. CMA itself works with some 50 partner organizations and networks overseas. I am also the Chairperson of the Migrant Forum in Asia, a regional advocacy network formed in 1994 which has more than 290 organizations, country-level networks and advocacy groups in 16 countries in Asia.

The Philippine Context. Labor Export Policy.

3. **The Philippine Context -Labor Export Policy:** There are an estimated 9-10 million Filipinos today living and working in 193 countries and territories. Overseas Filipinos compose roughly 10% of the current Philippine population. The Philippines is the world's third biggest source of migrant workers, next only to China and India. The Philippines is also the biggest source of international seafarers. For many Filipinos, labor migration is a forced option, a decision borne out of necessity and not out of an informed and free choice. Mass overseas migration takes place in the Philippines primarily because of the

structural economic and social inequalities that spawn large-scale unemployment and underemployment; the failure of the government to address the Filipino people's right to development within their own country through the provision of decent jobs and a living wage to its people; and the conscious policy of successive Philippine governments to export labor.

4. Initiated by then President Ferdinand Marcos in 1974 ostensibly as a temporary solution to the country's unemployment problem and balance of payments deficit, the overseas employment program has evolved into an integral component of the government's development strategy. On December 4, 2008, in response to the global crisis, President Gloria Macapagal Arroyo issued Administrative Order 247¹ which instructed the Philippine Overseas Employment Administration (POEA) to "execute a paradigm shift by refocusing its functions from regulation to full-blast markets development efforts, the exploration of frontier, fertile job markets for expatriate Filipino workers." The AO further directed the POEA "to increase the countries currently hosting Filipinos and break through the 200-country barrier."
5. **Under Labor Export Policy, the protection of the rights of migrants will always be inadequate, often unresponsive and ineffective:** At present, there are 88 Philippine embassies and consulates, 3 cultural offices, 37 overseas labor offices and 20 Filipino Workers Resource Centers tasked to address the problems of the estimated 9-10 million Filipino migrants worldwide. A number of these foreign service posts include within their jurisdiction more than one country or territory. For example, the Philippine embassy in Saudi Arabia takes care of about 800,000 OFWs in the central and eastern regions of Saudi Arabia. At the same time, it extends its consular jurisdiction over Yemen. The embassy in Abuja covers Nigeria and 17 other West African countries. Not only is the number of posts limited but many of them are difficult to access because either the location is too far away or in so-called secured areas or there is no mass transportation system available or the telephone system is not reliable. This objectively limits the capacity of the post to provide immediate service to OFWs. Personnel onsite is quite limited. In terms of the proportion of labor attache or welfare officer to the number of OFWs being served, the ratio ranges from 1:5,712 to 1:100,000.
6. **Feminisation of Migration.** Filipino labour migration has acquired a woman's face as more women join the ranks of the migrant workers. They are concentrated in jobs that are stereotypically women's jobs –as domestic workers, nurses, caregivers and entertainers. There is a special concern for women migrant domestic workers and entertainers because they are the most vulnerable to human rights violations and exploitation. They are also excluded from the coverage of labor and social laws of many countries.
7. **Significant Number of Filipinos Overseas in Irregular or Undocumented Status.** About a million overseas Filipinos are in irregular or undocumented status. Their rights as migrants and as human beings are practically denied because of their undocumented status. Amidst the unfolding global economic crisis, their number is expected to increase significantly.

¹ www.pia.gov.ph

8. **Exploitative practices of recruitment agencies and collection of exorbitant placement fees from the OFWs.** Private recruitment agencies take the lead role in the recruitment and placement of overseas workers subject to regulation by the government. At the start of the migration cycle, many migrants already experience abuse and exploitation by paying large sums of money in order to work abroad. As a consequence, many migrant workers have to devote most of their income in the first 12 to 18 months (as in the case of migrants in Taiwan) to pay off their debts.

Our Issues, Our Concerns on the Philippines as a State Party to the MWC.

9. The Philippines is a State Party to the core labour and human rights conventions of the United Nations (UN) and the International Labor Organization (ILO), and is also taking the lead in advocating for mechanisms for the protection and promotion of migrant workers in the ASEAN. It has also forged bilateral agreements with a few countries that host Filipino workers. There are also national laws and administrative rules that are intended to protect the rights of migrant workers. All these efforts are intended to make the Philippine labor export program even more efficient and as a global model for mass migration. Our group will prove otherwise.
10. **No Genuine Regard to NGOs as partners in advocacy.** While “the important role of non-governmental organizations, as partners of government entities, in the implementation of the Convention is recognized by the Philippine Government,” and Section 2 (h) of the Republic Act No. 8042 or “The Migrant Workers and Filipino Act of 1995” explicitly provides that legitimate NGOs are State partners in protecting overseas Filipino workers (OFWs) and promoting their welfare, in reality, the State does not deal with NGOs in this spirit.

As a glaring example, participating CSOs in this report do not know of any NGO involved in the preparation of the State party’s reports that were submitted to the Committee in January 2008 and February 2009. Likewise, the government did not involve or seek the support of civil society in order to disseminate and promote the Migrant Workers Convention.

11. **Inability to Implement Protection Criteria for Deployment.** Under the present administration of President Gloria Macapagal-Arroyo, a million migrant workers is targeted for deployment every year in contravention of RA 8042 Section 2c which states that “...the State does not promote overseas employment as a means to sustain economic growth and achieve national development”. Moreover, whereas the law (RA 8042) allows the deployment of OFWs supposedly only in countries where the rights of Filipino Migrant Workers are protected based on existing labour and social laws, agreements, declarations and resolutions, and other protective measures, there are more than 2 M OFWs in many of the Gulf countries where their rights are very difficult to protect.

As part of its labor export policy, the Government negotiates with labor receiving countries of Filipino workers, but at present has forged agreement with only 9% of the total 193 countries and territories. It was also only last December 2008 that human resource

development cooperation became an important element of these bilateral labor agreements. But these BLAs deal more with operational arrangements and fall below human rights protection requirements for overseas Filipino workers.

12. The Office of the Legal Assistant for Migrant Workers Affairs (OLAMWA) was created primarily to provide legal assistance on-site to Filipino migrant workers in distress. It has since expanded its jurisdiction to cover almost all aspects of welfare protection for migrant workers.² As one of the lead government agencies tasked to protect the rights of migrants, the OUMWA has outdated and inefficient means and system of communications: no website nor efficient email address, no hotline service, and no one to pick up the phone during office hours. With a very small budget, few personnel and an inefficient work method, the OUMWA has been overwhelmed by the sheer volume of migrants' rights abuses needing immediate government intervention. The DFA has also not set up the Shared Government Information System for Migration (SGISM) as mandated by RA 8042.

13. Discriminatory policies towards migrant workers in the Philippines. As a State Party to the Migrant Worker Convention, the Philippines is likewise obligated to provide migrants' and human rights protection, consistent with the Convention, to all foreign workers in the Philippines. In reality however, several archaic national laws discriminate against the human and migrant rights of foreigners in the Philippines. Foreign workers have very limited trade union rights and they can also be detained and deported if they participate in rallies or demonstrations against the Philippine government.

14. Gaps in Informing migrants of their rights. As far as had been observed, the Convention is not discussed in the orientation seminars for migrant workers. During the pre-departure orientation seminar (PDOS), the workers are not substantively advised of their rights under the Convention and applicable Philippine laws. They are also not sufficiently provided with useful information about their country of destination. - this is the conclusive assessment not only of the migrant workers and NGOs but as well as of the Philippine Government's Commission on Audit as well.³

15. Efforts to promote conducive humane environment for OFWs. The retention or confiscation of the passports of migrants and other identity documents by the employers/employment agencies in the country of employment is one of the principal ways to curb and control the rights of migrant workers. The Philippine government does not exert proactive lobby with other governments on this issue, although it did welcome the Qatari government's new legislation to overhaul the "sponsorship system", including declaring illegal the confiscation of passport by Qatari employers⁴. Such complacent, accepting attitude shows lack of political will of the Philippine government to negotiate with host governments for the interests of Filipino migrant workers.

² From presentation of DFA Undersecretary Jose Brillantes in the CMA-FES Forum on Onsite Protection for Migrant Filipinos, August 31, 2004, UP Asian Centre

³ The Overseas Workers' Welfare Program of the Government. Management Services Report 2007-01. Sectoral Performance Audit. Commission on Audit. May 2008. p. 69-70

⁴ <http://www.arabianbusiness.com/548219-foreign-embassies-welcome-qatar-sponsorship-laws>, March 1, 2009.

16. Discrimination in the OFWs' voting rights in the Philippines. Political participation must be made available even to Filipinos who are abroad. The Overseas Absentee Voting Law (OAVL) makes it possible for overseas Filipinos to exercise their right to vote, though only for President, Vice-President, Senators and Party-list Representatives. In practice, however, the law disenfranchised millions of overseas Filipinos because Filipino immigrants or permanent residents in other countries are disqualified unless they execute an affidavit to return and reside in the Philippines within three years from registration as an overseas absentee voter. Those who have pending applications for foreign citizenship are also disqualified from voting. Violation of the law is penalized with imprisonment for not less than one year and by disqualification from voting. The Philippine passport of violators are also required by law to be stamped with the phrase "not allowed to vote".

17. Gaps in effective regulation of recruitment agencies. Government efforts to prevent violation of overseas Filipino workers' rights, especially with the recruitment process, are also found wanting. Government's own performance audit revealed that "the government may not be considered effective in regulating overseas recruitment agencies and providing sufficient responsive services to OFWs in view of a number of ineffective policies and lapses in the implementation of its (Overseas Workers' Welfare) Program." Existing laws and regulations to better regulate recruitment activities are not being fully implemented or monitored; illegal recruitment continues to victimize women and men especially from the rural areas. This is compounded by the lack of database on recruitment agencies, as well as the proper documentation of workers and employers by the pertinent authorities (Department of Labor and Employment, DFA, POEA, Overseas Workers' Welfare Administration).

18. Problems of exorbitant placement fees and effective remedies. A major complaint among migrant workers is the issue of contract substitution and the exaction of 'exorbitant' placement fees charged on prospective migrants. The POEA supposedly has a package of reforms in response to these by providing stringent requirements which include among others the pre-qualification of employers (together with the foreign placement agency). Many cases, however, point to the failure of stricter regulations; high placement fees are even sometimes double-charged by agencies on both worker and prospective employer. OFWs and their families become resigned to illegal fees exaction because they think that's the cost they have to pay to find a job abroad or else suffer unemployment or underemployment and poverty in the Philippines.

In addition, the POEA's passive and long drawn out handling of cases filed by victims of illegal recruitment evidence the weaknesses and failures of the government's anti-illegal recruitment campaign especially if we measure success by illegal recruiters being found guilty and put behind bars, closure of the agency and just compensation for the victims in a speedy manner. In general, OFWs and their families assert that both prosecution and initial arrests take a long time and a lot of effort and resources on the part of victimized OFWs which they usually cannot afford.

19. **Trafficking** is another serious concern that continues to grow and expand. There are new modes of recruiting victims, like the use of spouse visa, and new ways of conniving with corrupt authorities, especially at the airport. It is, however, low on the list of government's budget priorities and hardly receives any direct funding; most government agencies rely heavily on the services and expertise of NGOs. There is also lack of cooperation with law enforcement and migration authorities in neighbouring countries.

20. **No effective reintegration programmes.** With regard to measures for migrants' return and reintegration, past administrations have not designed or implemented effective reintegration programmes for returning migrants. Existing programs of DOLE, OWWA and POEA to facilitate the social and economic reintegration of returning OFWs have reached and assisted only a limited number of beneficiaries compared to those needing support.

21. **Lack of coordination among government agencies.** An important factor in the government's failure, not only to regulate and punish illegal recruitment activities, but also in its whole effort to protect and promote migrant workers' rights is the lack of coordination among the different agencies involved, which in fact aggravate if not contribute to the problems that migrants face because of "turfing", disowning responsibilities and corruption. The same weak coordination has also been observed between home offices and the foreign service posts. Combined with the deplorable lack of updated and consolidated data information on OFWs, this contributes largely to government inefficiency.

22. **Caution on Regional and Bilateral Agreements.** On the regional level, there are efforts to promote sound, equitable and humane migration conditions and the Philippines is taking the leadership in the ASEAN Committee on Migrant Workers for a collective rights-based response of ASEAN to migrants rights issues.

These efforts nonetheless may prove fruitless if the present trend of bilateral free trade agreements which promote the commodification of workers continues.

23. **Duty of the State Party to Protect is lacking and wanting.** It is the government's duty to protect its citizens' human rights wherever they may be found. The Philippine accession to the Convention and the plethora of laws and measures the State has enacted and adopted to support this is laudable but they do not guarantee the genuine protection and promotion of the rights of migrant workers and their families.

On the contrary, the government's labor export policy which promotes deployment of workers as part of its development strategy, but without the accompanying capability to monitor and ensure the protection of their human rights, as well as of their families, negates whatever success it has in dealing with the issues that confront overseas Filipino workers.

Its disregard moreover of the role that non-government and civil society organizations play in helping to address the challenges of labor migration shows an inherent arrogance that is proving fatal to the number of Filipino migrant workers who remain vulnerable and in need.

The government must be made accountable, not only to its treaty obligations, but especially

to its primary obligation to respect, promote, protect and fulfill the human rights of its citizens, wherever they are.

24. Recommendations to the Committee in its consideration of the Philippines as a State party to the Convention:

1. Government should stop its labor export policy and truly exert serious efforts in creating job opportunities in the country for all men and women workers. These job opportunities should be able to provide decent wages, social security benefits, and other rights and entitlements under the ILO decent work programme. Under the MWC, labor migration is considered temporary only and it is imperative that ultimately, origin countries, like the Philippines, are able and equip to provide decent jobs to their citizens.
2. Government should redefine its development framework in favor of self-reliant, sustainable and people-centered development and economic programs.
3. Government should not strive to simply meet a “passing grade” or have minimum compliance in its treaty obligations and implementation of its own laws and policies that aim to promote, protect and fulfill the human rights of Filipino men and women migrant workers and members of their families in terms of having a proportionate number of pro-active sensitive and compassionate government personnel in the Philippines and overseas, provision of adequate resources, responsive, prompt and quality services and programs for OFWs and their families, upholding their rights as Filipino citizens even if they are overseas and ensuring adequate representation in pertinent government bodies. Regular periodic performance and financial audit of government personnel and agencies should be conducted, their progress monitored.
4. Government through the DFA OUMWA should fulfill the mandate in RA8042 and establish the Shared Government Information System on Migration (SGISM) that will contain a comprehensive sex-disaggregated database of information of OFWs and their families at every stage of the migration cycle –from pre-departure, onsite and upon return and reintegration. The government can use the database to develop responsive programs and services to migrants and their families at every stage of the migration cycle.
5. Government should exert serious political will to prevent and stop trafficking in persons, illegal recruitment, exaction of exorbitant fees and other irregular and criminal activities that exploit and abuse migrant workers and their families through effective and widespread information and education campaign on the rights of migrants and the realities of migration; strict regulation and monitoring of recruitment agencies and their activities and imposing corresponding penalties thereof.
6. Government should persevere to pursue bilateral and multilateral agreements with other States, regional and international bodies that aim to protect and promote the rights and welfare of OFWs and their families. Government should promote a rights-based, peace-orientated approach in the conduct of diplomacy and international relations.
7. Government should not only pay lip service to the mandate of the 1987 Constitution and RA 8042 that regard NGOs and Civil society organizations as peoples organizations as partners of the State in promoting the rights and welfare of the Filipino people. It should take this partnership seriously.

The composition of the Philippines Migrants Rights Groups is listed herewith for your reference. Thank you for your attention.

Composition of the Philippine Migrants Rights Group

Apostleship of the Sea (AOS)

Batis Centre for Women

Bohol Initiatives on Migration and Community Development (BOHOLDEV), Bohol

Center for Migrant Advocacy Phils. Inc. (CMA Phils)

Center for Overseas Workers (COW)

Centre for Philippine Concerns Australia -Solidarity Philippines-Australia Network, Brisbane, Australia

UP Center for Women Studies Diliman (CWS)

Daughters of Charity

Department of Women and Development Studies-College of Social Work and Community Development (CSWCD), University of the Philippines

Development Action for Women Network (DAWN)

Episcopal Commission for the Pastoral Care of Migrants and Itinerant People (ECMI-CBCP)

Episcopal Diocese of North Central Philippines (EDNCP), Baguio City

Gender Watch Against Violence and Exploitation (GWave), Dumaguete City

Geneva Forum for Philippine Concerns (GFPC)

Hope Workers Center, Taiwan

Ing Makababaying Aksyon Foundation (IMA Foundation), Angeles City

Institute for Migration and Development Issues (IMDI)

Kaagapay, Cotabato City

Kabalikat ng Migranteng Pilipino, Inc. (KAMPI)

Kanlungan Centre Foundation

Kasama Inc., Cebu City

Kasapi-Hellas, Athens, Greece

Kav La Oved Workers' Hotline, Israel

Labor Education and Research Network (LEARN)

Mariners' Association for Regional and International Networking (MARINO)

Merchant Marine Overseas Association (MMOA)

Migrant Forum in Asia (MFA)

Mindanao Migrants Center for Empowering Actions, Inc. (MMCEAI), Davao City

Overseas Filipino Workers from UAE, Israel, Saudi Arabia, Singapore, Taiwan, Hongkong, Lebanon

Overseas Filipino Workers Multi-Purpose Cooperative

Philippine Alliance of Human Rights Advocates (PAHRA)

Philippine Human Rights Information Center (PHILRIGHTS)

Philippine Migrant Rights Watch (PMRW)

Public Services Labor Independent Confederation (PSLINK)

Regional Center of Expertise on Education for Sustainable Development (RCE-Cebu), Cebu City

Samahan ng Migrante at Pamilya (SAMAPI), Tarlac City

Sentro ng Alternatibong Lingap Panligal (SALIGAN)

Scalabrini Center for People on the Move (SCPM)

Scalabrini Lay Association (SLA)

Scalabrini Migration Center (SMC)

UP School of Urban and Regional Planning Diliman (UP SURP)

Silsilah Dialogue Movement, Zamboanga City

Unlad Kabayan Migrant Services

Union Network International Philippine Liaison Council (UNI-PLC)

Visayan Forum

Women and Gender Institute (WAGI)

Women in Development Foundation (WIDF)

Women's Legal Bureau (WLB)