

International Labor Migration and the Philippine Experience: Challenges to Industrial Relations

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Abstract

Labor migration is a key issue in the landscape of Philippine industrial relations. Eleven percent (11%) of our current population is migrant workers, the Philippines being an especially potent source of globally competitive professionals, with a presence in more than two hundred territories around the world. Given this data, this article intends to briefly explore the causes of labor migration; the social cost of domestic and international migration; the effects on the national economy; its emergent challenges to Philippine industrial relations; and a survey of existing legislations that ensure the protection of migrant workers. This article will cover the economic implications of the phenomenon of migration in the Philippine setting. The effects of globalization on Philippine employment practices and social conditions will also be briefly touched upon as a general survey on the basic causes of labor migration. This paper will sample the top three Asian labor-receiving countries in 2010 to sketch sample profiles of Filipino professionals pursuing gainful employment abroad. This paper will be concluded with an evaluation of key areas of concern as prescribed by the Global

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Forum for Migration and Development, and its application to the Philippine setting.

Introduction

Labor migration has been a perennial challenge to domestic talent development. The idea behind this talent movement is not as simple as it seems or has been made to look (Wickaramasekara, 2002).

This diaspora is both a welcome and lamentable event (Ducanes and Abella, 2008). It positively shows the competency of our Filipino laborers and how they successfully thrive overseas, but sadly shows how bereft of work opportunities the country is.

This event has triggered an ever more urgent need to assess the protection we afford our Filipino labor migrants also in partnership with, through bilateral agreements, labor-receiving countries.

Internally, the perspective on employment relationships and labor protection has been altered by the impact of globalization, notably in the Philippines. In the past, work relationships were maintained based on a rigid employment arrangement. However, this arrangement has been shaken by the influx of new employment trends such as outsourcing, flexible work relationships and labor migration.

This same impact has resulted in a greater inclination towards the reevaluation of the Labor Code of the Philippines, even to the point of total revision, to address the pressing challenges brought about by flexible work relationships. According to Macaraya (2000, 225): “[T]he various provisions of the Code are centered on the promotion of the welfare of regular employment.” This also entails a total evaluation of existing IR systems and how adaptable they are, or must be, to the fast-changing work environment, taking well into consideration the “developmental requirements and cultural characteristics of each country while upholding basic human rights” (Binghay, 2007, 1).

This paper intends to discuss (1) what globalization is and its significance to industrial relations; (2) what its effects on the national economy are and its implications on labor mobility; (3) current legislations on international labor migration; (4) the emergent threats to labor migrants, both offshore and onshore, considering the current repatriation activities, forced or otherwise, and their effect on the economy, and; (5) the ILO’s provisions on international labor migration followed by the current state of labor migrants, then the concluding remarks.

Theoretical Framework

This paper will make use of a theoretical framework that evaluates existing migrant legislation in the Philippines and highlight global key areas of consideration in the mutual protection of migrant workers. This will be done through: (1) the identification of key existing threats to labor migrants; (2) the evaluation of government activities in pursuit of an affordable, comprehensive labor migrant protection system, and; (3) the identification of current international prescriptions for labor migrant protection.

It is also important to note that, to understand the implications of globalization to migration, this paper will likewise evaluate the effect of globalization first to industrial relations (Diagrams 1 and 2) and the eventual international mobility of workers. This paper will focus on a unidimensional objective of labor migration, economism, and how it impacts the Philippine economic regime and social construct.

What is globalization?

There is nothing new about globalization. It has been at the forefront of developmental economics for many years. Noriel (2000, 76) has noted that, even in the 1980s, “questions were raised regarding the changes resulting from increasing global economic competition and trade liberalization from deregulation and the introduction of new technologies.” The most obvious effect we see now of the growth and development of technology is the utilization of e-technologies in the facilitation of work.

Call centers, for one, have already been riding the wave of this development. Coordinating work with an offshore client base, upselling products to unseen prospective customers, and addressing menial concerns from anywhere around the world using trained accents to simulate “being there” are but some of the work-related areas of the business process outsourcing (BPO) industry. This practice is now prevalent in most developed and developing countries alike, especially in the Philippines, this being the effect of the technologization of the United States as one of the countries at the forefront of innovation. Noriel (2000, 76) noted further that “certain developments emerging in the United States were likely to spread internationally, such as de-unionization, union concession bargaining, greater use of contingent workers, and a general loosening of the employer-employee relationship.” This work innovation has generated employment to a great number of previously unemployed individuals—those who are

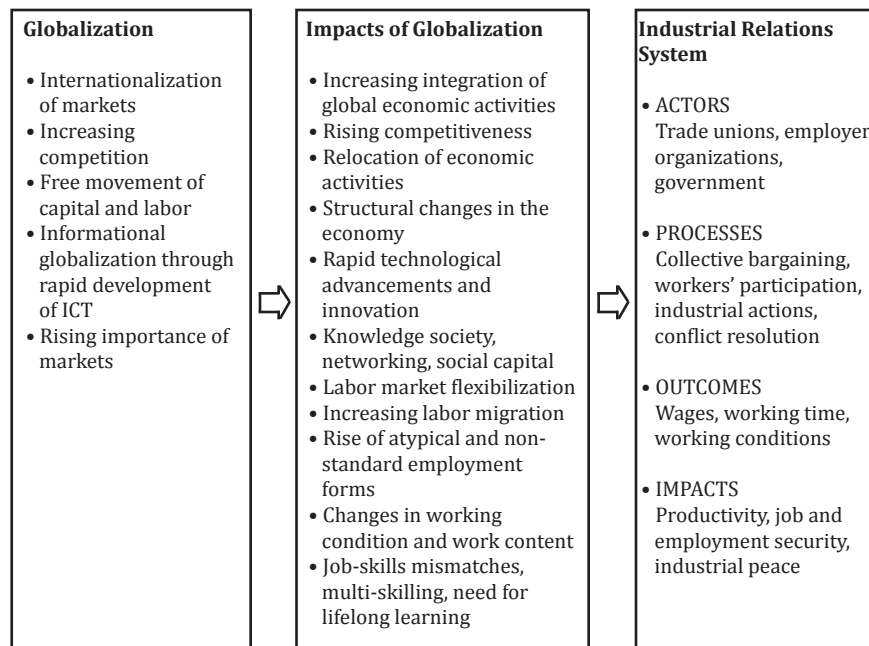
past the age constraint, those who graduated with less marketable course choices, and those who simply cannot find work because of the influx of so many new graduates seeking the same. The competition for jobs is a perennial concern, if not a problem itself.

According to Macaraya (2000, 232): “Globalization is a contentious concept.”

It could refer to a process and it may also mean an economic regime. As a process, it means the rapid integration of domestic economies to the world economy. As an economic regime, it connotes free movements from one nation to another of (1) capital or investment; (2) technology; (3) products or goods; and (4) services that may include labor.

This only shows that globalization is not simply event-related but more of a state of affairs. The concurrence between domestic practices and an innovative economic practice is very crucial.

Diagram 1. Challenges of globalization on industrial relations (EFILWC, 2007, 2)

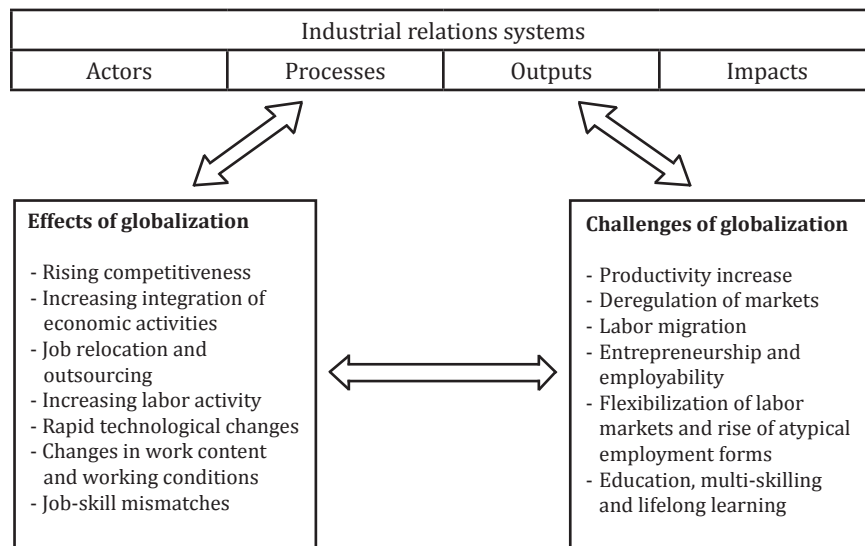


Globalization has likewise impacted the practice of industrial relations. The objective of a sound industrial relations system is to facilitate

the interplay between various actors relative to labor bargaining relations and labor protection. In 2007, the European Foundation for the Improvement of Living and Working Conditions published a research paper on the impact of globalization on industrial relations in the EU and other major economies. For this paper, the focus will be on the impacts of globalization on IR systems.

Globalization poses a contradictory impact on industrial relations (EFILWC, 2007, 11). Even though the free movement of goods and services has rendered the world flat, the impact to migration is both positive and negative, given that some more developed countries are openly in need of migrant professionals to address internal labor shortages (Binghay, 2007, 67). On the other hand, restrictions on cross-border movements of people in some countries, like the US and most European countries, have not been eased (EFILWC, 2007, 11).

Diagram 2. Effects and challenges of globalization on industrial relations systems (EFILWC, 2007, 11)



According to de Silva (1997): “There is a large migration of labor from labor surplus to labor shortage countries in Asia. Among the issues which have arisen are their legal or illegal status (which may affect their rights), trade union rights and their access to the same level of pay and other conditions enjoyed by nationals. Social security for migrant workers is one of the major problems as many receiving countries do not extend

social security benefits to them.” This is an essential dimension wherein industrial systems must adapt.

Globalization is an accelerating event and countries cannot deny its very progress. What concerns us is how we can cope with its emergent threats and opportunities.

Macaraya (2000, 224) notes that prior to globalization, “the Philippine economic development strategy was one called import substitution characterized by (1) the government’s engagement with local pioneering industries; (2) fixed foreign exchange rate system; (3) protective tariffs to make imported goods uncompetitive; and (4) create demands in the domestic market by strengthening trade unionism, setting up an institution of minimum wage fixing, extending protection to workers and promoting collective bargaining.” However, at the onset of globalization, neoliberal economic policies prospered, which revised tariff policies by first lowering and eventually eliminating tariffs. This promoted rigid competition for market demands that forced domestic industries “to achieve efficiency and competitiveness to ensure continued operations” (Macaraya, 2000, 225). This was not an easy endeavor for domestic industries, most of which eventually closed, leading to increased un- and under-employment rates. The effects of this ultimately prompted the remaining domestic industries to utilize a flexible employment arrangement (Macaraya, 2000, 225). Job creation is one thing, but labor protection is a wholly different matter. The flexibilization of employment arrangements has compromised the objectives of the Code in the promotion of employment welfare and rights. This is a challenge the government faces today.

Secondly, the government should also be able to stimulate the development of domestic industries to promote internal employment, and to curb the need for Filipinos to work abroad. It may be that OFW remittance has topped 14,449.9¹ (POEA/NSO) in 2007 of the total deployed OFWs at 1,070,192, and that this is “still on the low end because it is well known that a large number of OFWs do not really pass through the POEA, leaving the country as tourists or students and joining the labor market of the host countries as ‘undocumented’ or ‘illegals’” (Ofreneo, 2009, 26). The US\$14.4 billion remittance is a potent economic indicator and a good source flow for government income. But it is only one dimension of development. Often overlooked are the reasons OFWs need to be OFWs.

Between the 1970s and 1980s, the country’s agricultural sector was a strong component in economic development and sustainability. We exported rice to a multitude of neighboring countries. Now, however, we import rice. Governments then and now have failed to maintain agricultural

development, and have instead centered on foreign investments to secure developmental strategies. The number of OFWs deployed in 2010 alone, including land- and sea-based workers and rehires, reached 1,470,826 from 1,236,013 in 2008, covering multiple countries in Asia, Middle East, Europe, Americas, Africa and Trust Territories. This spurred growth for both the labor-sending—through foreign currency remittances—and labor-receiving countries, usually the more advanced economies who are mainly meeting labor shortages (Binghay, 2007, 67).

Table 1. Number of Deployed Overseas Filipino Workers
by Type of Hiring: 2008-2011

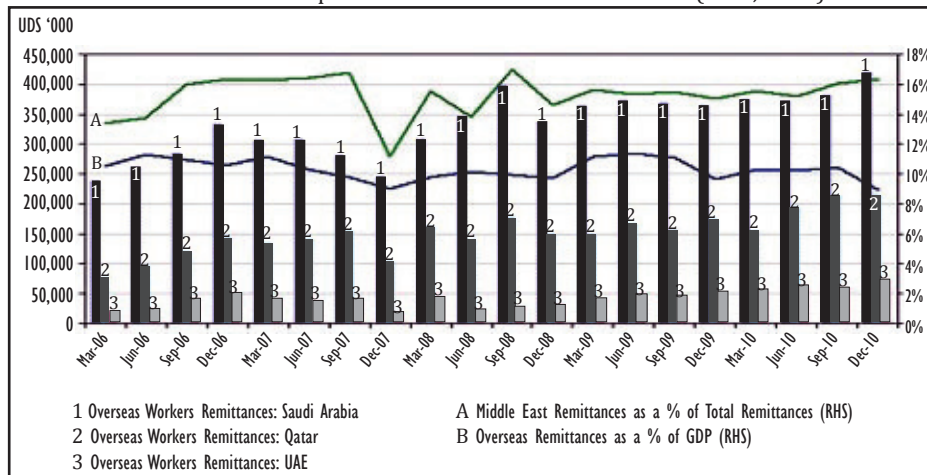
Type of Worker and Hiring	2008	2009	2010
Total	1,236,013	1,422,586	1,470,826
Landbased Workers	974,399	1,092,162	1,123,676
New Hire	376,973	349,715	341,966
GPB Hire	4,102	3,192	6,519
Private Agency Hire	347,000	326,156	322,198
Name Hire	25,263	19,660	13,249
Workers with Special Exit Clearance ^{1/}	72	253	NA
Employment-based Immigration (EB3) ^{2/}	536	454	NA
Rehires	597,426	742,447	781,710
Seabased Workers	261,614	330,424	347,150

Source: (POEA-OES, 2010)

The Middle East is the “third largest source of OFW remittances, contributing 15.80% of total remittance income [...] amounting to 9.98% of the Philippines GDP” in 2010 (CEIC China Database Team, 2011). Given that remittance flows to recipient families will spur spending, Soriano (2009, 10ff) cautions that this may not be truly developmental. His recent paper on the adverse effect of remittances to development shows that, apart from remittances being a potent force in sustaining national economy, it may also be an avenue for governmental laxity. He refers to this as our “Dutch disease.” Because of a temporal increase in foreign exchange, the government relaxes its thrust towards sustainable economic activities. The government’s eventual dependence on remittances has contributed

to the underdevelopment of internal national capability-industries that could generate work and stimulate rural development.

Table 2. The importance of remittances-Middle East (CEIC, 2011)



In 2010, the total Filipino labor migration of land-based workers in Asia topped 280,808 (documented), the highest number based on a seven-year window, the top destination being Hong Kong.

Table 3. Number of Deployed Landbased Overseas Filipino Workers by Country (Asia): New Hires and Re-hires (2003-2009), (POEA-OES, 2010)

Country	2004	2005	2006	2007	2008	2009	2010
Asia	266,609	259,209	222,940	218,983	219,598	260,995	280,808
Afghanistan	148	498	887	1,097	6	4	21
Bangladesh	286	350	413	546	534	445	451
Bhutan	3	3	2	-	-	9	-
Brunei	10,313	9,083	9,461	14,667	6,930	7,413	7,907
Cambodia	605	691	571	954	1,015	1,526	1,499
China	2,942	4,608	5,654	5,901	7,029	8,771	8,954
East Timor	553	735	283	471	472	816	1,208
Hong Kong	87,254	98,693	96,929	59,169	78,345	100,142	101,340
India	316	394	332	884	989	1,010	842
Indonesia	1,744	2,186	2,102	3,285	2,798	3,705	4,084
Japan	74,480	42,633	10,615	8,867	6,555	6,418	5,938
Kazakhstan	314	558	787	1,661	1,351	2,023	2,291

Country	2004	2005	2006	2007	2008	2009	2010
Kirgiztan	2	-	2	3	51	38	25
Korea	8,392	9,975	13,984	14,265	12,367	14,851	11,697
Laos	54	164	153	434	647	615	734
Macau	2,361	2,684	2,802	3,578	6,067	6,729	5,713
Malaysia	6,319	6,599	5,749	9,725	6,034	7,256	9,802
Maldives	142	180	365	910	774	874	681
Mongolia	32	48	45	68	86	87	238
Myanmar	139	152	92	94	126	186	194
Nepal	6	6	3	9	8	5	10
Pakistan	84	170	206	281	317	407	383
Singapore	22,198	28,152	28,369	49,431	41,678	54,421	70,251
Sri Lanka	293	362	231	365	276	265	249
Tadzhikistan	3	-	3	8	8	11	3
Taiwan	45,059	46,737	39,025	37,136	38,546	33,751	36,866
Thailand	1,750	2,401	2,497	3,144	3,750	5,009	5,133
Turkmenistan	29	41	26	53	49	75	228
Uzbekistan	5	3	4	5	5	7	10
Vietnam	783	1,103	1,348	1,972	2,785	4,126	4,056

Economy and labor migration

Given that the pressures of globalization have dented internal employment stability across all levels, and the flux of companies giving up operations in turn laying off a multitude of workers, the pursuit and appeal of working elsewhere is all the more urgent.

Workers from LDCs have always looked forward to the economism of progress and stability of the more developed countries. Accordingly for Ghose (2003, 80): “[E]conomic analysis of international migration starts from the premise that workers move across national frontiers in search of higher incomes and better working conditions.” The prospect of working abroad is a worn-out but still highly appealing option for struggling domestic professionals who cannot seem to find work domestically, given the intense competition for local jobs. Along with international migration, there are also cases of internal or domestic migration. Between the 1980s and the 1990s, people from the rural areas crowded towards centers of progress, central cities where businesses thrive and work and educational

opportunities flourish; women even considered marriage as a reason for internal migration (Quisumbing and McNiven, 2005). Work migration offers a means to a perceived end, but at times the means far outweigh the objectives. Given the economical dimension of work, the social cost of migration should not be overlooked and will be discussed below. Apart from gainful employment abroad, potential migrant workers also consider the economic stability of option-countries as a guarantee of continued employment.

Table 4. International Migrants in 2005 (in Mils)²

Origin/Destination	Industrial	Developing
Industrial	53	14
Developing	62	61

The objective is almost always economism: to be able to put food on the table and acquire other basic necessities of everyday living. More often than not, the population of labor migrants is peopled by those coming from poor households. According to Kaur (in Larsen, 2010), “[T]he southeast Asian region has seen a high level of predominantly intraregional migration since the 1980s.” The boom of the Japayukis and household service workers in the 80s to neighboring nations like Singapore and Hong Kong, among others, and the Western Asia move, are the most obvious case samples. Approximately, about 20% of Filipinos abroad work in Asia, mainly in Japan, Malaysia, Hong Kong, and most recently in Brunei (Ball and Piper, 2006, 215).

There are around 8.6 to 11 million OFWs worldwide or about 11% of the total current Philippine population (POEA, 2009).

Jobs

The POEA received constant manpower requests from many countries in 2010 (Wikipilipinas, 2010). From January to September, 267,942 workers were requested abroad but the deployed workers did not even reach half this number at 88,530. Also in 2010, Saudi Arabia had the most number of vacancies at 16,000 last January 2010. The top 10 jobs according to deployment across all regions are the following:

1. Healthcare Workers – covering nurses, nursing assistants and caregivers. The top destinations for these professionals are New Zealand, United Arab Emirates and the United Kingdom. There has been a significant decrease though in the deployment of HWs to the United States because of the institutionalization of stringent examinations and requirements prior deployment.
2. Household Service Workers – POEA has indicated a significant increase for household service workers request in the Middle East, Korea, Japan and Brunei in 2010.
3. Seamen/Seafarers – who work for ship-owners in Europe and Asia. DOLE has even developed stricter measures in 2010 because of the Somalia incident when pirates kidnapped Filipino sailors.
4. Equipment operators and laborers – demand rose in Japan, Korea and the Middle East to run large machineries in construction projects.
5. Skilled Workers – for New Zealand and Australia; the appeal lies in the chance to acquire permanent resident status after years of employment. Examples of skilled overseas workers are hairdressers, dressmakers, plumbers, electricians, wiremen, flame cutters, refrigeration technicians and steel fabricators among others.
6. Engineers – especially in the Middle East like Saudi Arabia, Qatar and the United Arab Emirates to man various infrastructure projects.
7. Teachers – the Filipinos’ fluency in English has posed a great advantage for us; this has also contributed to the Philippines becoming the second hub for BPO companies, second only to India. Likewise, English language instructors find fertile employment in South Korea and Japan.
8. Administrative and Clerical Workers – also in the Middle East.
9. IT Professionals – POEA has noted a great demand for IT professionals in Australia and neighboring Asian countries such as Singapore, Malaysia and Hong Kong where businesses rely heavily on development computerization. The bulk of Computer Science, Computer Engineering, IT graduates in the Philippines find hope in overseas employability.
10. Hotel and Restaurant Staff – most especially in the Middle East.

The Philippines can boast of specializing professionals who are competent enough for overseas employment and practice. Foreign employers also take note of the values by which Filipino professionals are commonly known for. Among others, Filipinos are known to be fast learners, and are recognized for their industry and keen eye for details. Hong Kong nationals also express their outright admiration of Filipino DHs in household and childcare.

The very fact that the objective of employment is to support the needs of the family is sufficient drive for Filipinos to thrive in overseas work, although the sacrifices they make are also dire: being away from home for a number of years, and the period of adjustment needed to survive on foreign soil. Accordingly, OFWs are doubly cautious in terms of adhering to local laws of their foreign employers.

In order to show sample figures of current stock estimates of Filipino migrant workers in Asia and their professional profiles, this paper has considered the following top three labor-receiving countries:

1. Hong Kong – As of 2010, there are 101,340 recorded OFW based on the DOLE-BES statistics. Most of them are household service workers, a number of which are members of the Filipino Migrant Workers Union. They are known as “*amahs* or *feiyungs*, less politely as *bun mui* or *bun bun*” (Wikipedia, 2011). In order to secure a Hong Kong employment visa, the prospect should have undergone some years of higher education in order to be conversant in English. This even leads to educated women with college degrees pursuing such jobs to earn wages that are higher than what they earn in the Philippines as working professionals. From a seven-year window, there has been a 13% increase in deployment from 87,254 in 2004.
2. Singapore – In the 2010 statistics, there are 70,251 deployed OFWs in Singapore, most likewise are domestic helpers or IT professionals. A small group, on the other hand, is involved in clinical research. Singapore is a clinical research hub that hosts Quintiles and Glaxo Smith Kline, among others. Filipino biologists and research scientists conduct the testing here. In 2004, the recorded number was 22,198, a whopping 315% increase in the percentage of deployment.
3. Taiwan – There are 36,866 recorded OFWs in Taiwan as of 2010. A bulk of this works in the manufacturing sector and a lesser number in the personal services sector like household service

workers. In 2004, on the other hand, there were more people deployed at 45,059. The discrepancy of less 13% is credited to the strict contract demands of the Taiwan government prior the development of another memorandum of understanding/ bilateral agreement in the mid-2000s, which will be discussed below.

Accordingly, even though the economic advantages of overseas employment are significant, it still is important to note the social disadvantages.

Binghay (2009, 118-119) has identified four key areas in the “social cost of labor migration”: (1) The breakdown of the social family, wherein only one parent—either a mother or a father—is present, or both parents work abroad and leave their children to the care of relatives. This has spurred juvenile delinquency on the part of the children who are not adequately guided by relatives or parents, leading to educational problems and pointless rebellion, and on the part of either or both spouses, to marital infidelities. (2) The perennial “brain drain” (Albuero and Abella, 2002; see Ghose, 2003, 87) wherein we lose skilled, technical, managerial professionals to respectable international organizations. According to Albuero and Abella (2002), the phenomenon saw the migration of physicians, teachers, seamen, mechanics and engineers, among others. The more recent case samples are migrant nurses between the late 1990s towards the mid-2000s (Lorenzo, Galvez-Tan, Icamina and Javier, 2007). However, there is also a small factor that we should consider, wherein these same professionals still decide to go back to the Philippines and utilize what they have learned in order to improve the practice of their professions here in the country. But this is a very ideal situation which does not always occur, as labor migrants tend to extend contracts and return only to enjoy the fruits of retirement by investing in small businesses. (3) The de-skilling of workers is another issue stemming from labor migration, wherein a large group of high school- or college-educated OFWs who secure jobs not at par with their educational achievements or stature eventually fall short of contributing to the long-term Philippine market as future entrepreneurs or educators. A clear example Binghay cites was the practice of professionally trained doctors or specialists to take nursing studies during the nursing migration within the first decade of the 2000s. This development generally affected the number of professional practicing doctors. And (4), issues on national identity, wherein the idea of “country” can only be attributed to whatever place offers opportunities and a new way of life. The influx of people wanting to

work abroad because of economic fallouts and absence of work prospects in their own country has spurred a desire to leave the country to “seek greener pastures,” where one can freely and safely graze.

The way we view opportunities are always relative to what our present needs are. We cannot blame anyone for wanting to improve his or her way of life by working abroad. Filipinos are well able to quickly adapt to new situations, and so are able to take full advantage of the presence of multiple opportunities. One example I can give is when my father started working abroad. He first left the county in 1983, a few months after marrying my mother, and worked continuously for six years. He took on multiple jobs in Saudi Arabia during the labor migrant boom of the 80s. My father was a Mechanical Engineering major in his undergraduate years; he worked in stores, for an electronics company and did domestic work during his free time. This was the time when the Saudi government was more lenient in terms of accommodating labor migrants. During that time, they were able to save much. Now, however, the jobs are not as plentiful as before, and although my father still works at Saudi, at one point he opted to work in Taiwan for a number of years. Currently, Saudi has enacted strict rules on sideline jobs. The first time I saw my father was when I was already five years old, and I see him now every two years or so when he is given the chance to take a vacation.

My story is just one among many others, I am sure. With the population of labor migrants increasing over the years to come, experiences will change and, hopefully, it will be for the better.

Threats to labor migrants

Given the large population of Filipino workers deciding to work abroad, threats to their well-being there must not be overlooked.

The most obvious threat labor migrants confront on a daily basis is the possibility of exploitation and trafficking, physical threat and discrimination.

Exploitation and trafficking. Bingham has given the examples of Sioson, Contemplacion and Balabagan (Binghay, 2009, 111ff):

Maricris Sioson was a Filipina entertainer in Japan who was found dead and mutilated in September 1991. Her ruthless murderer was never prosecuted. Flor Contemplacion was a Filipina domestic helper in Singapore who was hanged by the government in March 1995 despite appeals for clemency from the Philippines. She was accused of murdering another

Filipina maid named Delia Maga, and Maga's young Singaporean ward. Sarah Balabagan was a Filipina domestic helper in UAE and was sentenced to death in 1996 for killing the man who tried to rape her. With the help of various civil society groups here and abroad, which pressured the Philippine government to make a more active role in her defense, she was spared from suffering the same fate as Contemplacion.

The Filipinos are not the only ones suffering from this same fate as most minorities do abroad. The number of undocumented deaths and injustices inflicted upon minority migrant workers has risen year after year. There are many more undocumented events in labor-receiving countries that our government must take account of.

A recent event even is likewise troubling. The proliferation of Filipino and African "drug mules" who are operated on to conceal packets of cocaine or other illegal drugs, and then paid to "deliver" the drugs to buyers abroad is an emergent threat that, unfortunately, members of our impoverished populace find appealing in spite of the considerable risk. The cases of Sally Villanueva, Ramon Credo and Elizabeth Batain, who were executed last March 30, 2011 in China in spite of multiple appeals from the Philippine government and other special interest groups, come to mind.

According to Philippine Consul Noel Novicio (*Philippine Star*, 2011), there are two additional and as yet unidentified Filipinos also sentenced with death without reprieve. He said that, after a thorough review by the Supreme People's Court of China, the two Filipinos' sentences were lowered to death with two years' reprieve.

"Based on Chinese laws, if you are given a two-year reprieve on account of good behavior, your sentence will be lowered to life imprisonment," Novicio said, adding that the sentence can still be lowered to a fixed term of at least 20 years if the detainee further displays good behavior. Furthermore, he said that a reversal of a death sentence is very rare in China. He said that it was just fortunate that the two Filipinos were given two years' reprieve.

Filipinos, even prior to going abroad, are faced with these same threats of "easy money" for minimal risk. The government should also put these things in check. Internally, there is also the threat posed by illegal recruiters who take advantage of Filipinos seeking the opportunity to work abroad.

Physical threats. Apart from the act of exploitation, migrant workers are also taken advantage of physically. Given the rising feminization of the labor force, both domestic and abroad, the threat to women laborers is all

the more pervasive. They are vulnerable to gender-based forms of violence such as rape, forced labor and prostitution. There have been many cases of false work opportunities abroad. One such example is the opening of the Japanese entertainment scene in the 80s and 90s, which exposed Filipino women laborers to the risk of forced prostitution, sometimes by Filipino pimps. In addition to the threat of rape is the possibility of sickness. Bingham (2009, 114) takes, for example, the transference of AIDS.

In addition, domestic helpers are also potential victims of physical abuse, physical injury, psychological stress and being overworked.

Discrimination. Migrant workers, who belong to the minority, are discriminated against and regarded as unskilled, unintelligent and not at par with the labor-receiving country's standards. They are bullied, threatened and made fun of. When I asked my father if this has happened to him before in Saudi or Taiwan, he answered no, because most Filipinos know how to adapt to the work environment easily. However, according to him, another minority, the Bangladeshis, are preyed upon by the Arabs because they cannot converse as fluently as Filipinos do, and because most of them are perceived as lazy.

In the United States, discrimination is a criminal offense. The price of democracy entails that it be so. Some countries, however, are more intolerant of this practice.

Civil issues. Civil unrest has plagued the Middle East and North Africa for the past months. The basic reason for this is to topple down long-standing dictatorships which have failed to at least bridge the gap between poverty and economic resilience. In the very likely event that this continues, it will pose an inevitable threat to OFW employment, impact the inflow of remittances, and ultimately dent our country's economic conditioning. What can we expect, given the data in Table 2 and the premise of national underdevelopment and overdependence on remittances? Initially, the money sent by OFWs incites necessity-driven spending: education, housing, et al., which are merely causal, situational and purely at the family-level. On the national level on the other hand, it contributes to the country's international financial standing and stimulates foreign exchange (Soriano, 2009, 11). If and when remittance influx lowers, OFW-dependent industries will fall—real estate, educational institutions, banks and money transfer outfits, among others (Soriano, 2009, 12). Recent urban-from-rural-transferees of OFW dependents will be forced to return to the rural margin. This is because real estate firms are highly dependent on OFW incomes as housing investments are a necessity. OFWs easily succumb to the desire of ownership, and are given preferential treatment by the real estate industry.

Deferred payments are often the terms of purchase. However, given that OFW employment is contract-dependent and not necessarily geared for the long-term, non-payment and failure of investment occur.

Rural families of labor migrants crowd towards the center of development to gain equal access to education and work opportunities. However, in light of the inevitable termination of OFW work contracts or in the face of forced repatriation, sustaining urban living will become a challenge, most especially if savings have not been prioritized. Money transfer outfits, which rely on remittance-based incomes, will likewise be heavily affected. In the end, the middle-class families will dwindle, for most OFW families gain a middle-class standing. The slow dissolution of the middle class will result in an increased income gap. Given the tendency of rural middle-class families to crowd to the center, plus the government's failure to launch rural development, no improvement is truly achieved. Former urban middle-class settlers will revert to their origins and nothing more. Middle-class income families of OFW returnees who intend to carry on with the urban way of life will either put up a small business from meager savings, but they will still eventually rely on additional income from family members who must take up the cudgels and seek work in a competitive workplace—and this in addition to the inevitable utility payments and the necessity of food and clothing. There is no guarantee, however, that jobs will be easily found, and the longer it takes to find work, the greater the drain to the perceived savings. With little or no training in business sensitivities, the business enterprise fails—and the families revert to a hand-to-mouth economy. It was as if the achievement of the good life was merely situational and accidental.

Early this year, Labor Secretary Baldoz reported to the Senate Foreign Affairs Committee that we are facing a loss of \$1.6 billion in annual remittances from Middle East OFWs (Torres, 2012). In the event that remittances trickle down, is it only then that the government will seek redress? This initial jostle of global threats to OFWs' economic contributions should be a wake-up call to a *Juan-medyo-Tamad* government to develop internal national capability so that income would be sourced from within and would ultimately be truly sustainable. Governments then and now have always failed to promote internal capacity, revive natural industries and support new local industries. But in spite of the dangers caused by civil unrest, at least a large percentage of OFWs still remain adamant in wanting to retain their work provisions. Obviously, this is due to the fear of not having a job to come home to—that their skill sets are better utilized elsewhere. And what of their vision of their own country? It comes

down to the notion that, maybe, there truly is some better place for them elsewhere.

In terms of job creation, governments since circa 2001 have been reliant on BPO companies as job nets for thousands of graduates. However, during Obama's recent State-of-the-Union address, he described his vision of internal employment for the US, with the thrust toward limiting, if not to putting a stop to, the outsourcing and offshoring activities of major US companies. We have already achieved our quest to become a BPO hub, apart from India and the UK, but compared with those countries—with the former exerting major efforts at education and the latter having a mature economic sector and lived-in industries—we have more to fear if the US pursues this path. Similar events have happened and are happening in the Middle East—Omanisation in 1988, Emiratisation in 2009, and an extreme Saudization in mid-2011 to the present. It is, however, a welcome development that the Saudization project has stalled temporarily. The targeted December 2011 total implementation failed to be realized. Saudi Labor Minister Adel Faqih accounts that 90 percent of the workforce in Saudi's private sector are foreigners and around one million nationals are still unemployed (MENAFN, 2011). However, a recent advisory from the DFA has reiterated that the project is still in process and safety nets should still be put in place for repatriated OFWs. Globally, unemployment has already eroded educational competence as job opportunities are sorely lacking, heavily affecting the youth population, which is also the evaluation of ILO Director General Juan Somavia (MENAFN, 2011). Competition for domestic jobs is very high and eventually, the outlook is toward seeking jobs abroad. But given the efforts of other countries to generate internal job opportunities for locals, options are diminished.

In line with these pressing concerns that labor migrants face abroad, are there existing legislations that safeguard the rights and welfare of our migrant workers? If so, what improvements should be considered in existing legislations and policies? What international standards of law are in place to support these efforts in preserving the well-being of our labor migrant workers?

Laws protecting migrant workers

The Philippine government has adopted the Migrant Workers Act of 1995, otherwise known as R.A. 8042, as an active response to the Flor Contemplacion case. This has been instituted for the sole purpose of "protecting migrant workers, their families and overseas Filipinos in distress"

(Binghay, 2009, 119). The full title of the legislation is “An act to institute the policies of overseas employment and establish a higher standard of protection and promotion of the welfare of migrant workers, their families, and overseas Filipinos in distress, and for other purposes.”

In its declaration of state policies by which the government, its legal representatives and social partners are in support of, the law states:

Section 2. Declaration of Policies

(a) In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount in its relations with other states, the State shall, at all times, uphold the dignity of its citizens whether in country or overseas, in general, and Filipino migrant workers, in particular.

(b) The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. Towards this end, the State shall provide adequate and timely social, economic and legal services to Filipino migrant workers.

(c) While recognizing the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances, the State does not promote overseas employment as a means to sustain economic growth and achieve national development. The existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizen shall not, at any time, be compromised or violated. The State, therefore, shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of development.

(d) The State affirms the fundamental equality before the law of women and men and the significant role of women in nation-building. Recognizing the contribution of overseas migrant women workers and their particular vulnerabilities, the State shall apply gender sensitive criteria in the formulation and implementation of policies and programs affecting migrant workers and the composition of bodies tasked for the welfare of migrant workers.

(e) Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty. In this regard, it is imperative that an effective mechanism be instituted to ensure that the rights and interest of distressed overseas Filipinos, in general, and Filipino migrant workers, in particular, documented or undocumented, are adequately protected and safeguarded.

(f) The right of Filipino migrant workers and all overseas Filipinos to participate in the democratic decision-making processes of the State and to be represented in institutions relevant to overseas employment is recognized and guaranteed.

(g) The State recognizes that the ultimate protection to all migrant workers is the possession of skills. Pursuant to this and as soon as practicable, the government shall deploy and/or allow the deployment only of skilled Filipino workers.

(h) Non-governmental organizations, duly recognized as legitimate, are partners of the State in the protection of Filipino migrant workers and in the promotion of their welfare. The State shall cooperate with them in a spirit of trust and mutual respect.

R.A. 8042 does not only focus on migrant workers while they are abroad, it also safeguards migrant workers' interests even prior to their leaving the country—from job prospecting, recruitment, deployment, actual work and upon the completion of the contract. The main points in consideration are the following: (1) the existence of basic rights; (2) the promotion of equal opportunity employment; (3) the role and contributions of migrant workers to the economy; (4) gender sensitive treatment; (5) the presence of judicial and quasi-judicial bodies to address migrant concerns here and abroad; (6) the right of migrant workers to participate in democratic activities (such as the right to vote even when out of the country); (7) skill competencies of Filipinos; and (8) the partnership of the state with legitimate NGOs in the pursuit and promotion of migrant workers' rights. An important factor likewise in the legislation is the protection afforded to even the undocumented OFWs.

Aside from the affordance of protection to migrant workers abroad, the state also recognizes its role in the protection of migrant worker interests even prior leaving the country. Prieto (2009, 34ff) has pointed out a very crucial insert in the legislation, which will later be amended by R.A. 9422, wherein

Section 29 of R.A. 8042 mandated the Department of Labor and Employment (DOLE) to "formulate a five-year comprehensive deregulation plan on recruitment activities" while Section 30 provided for the gradual phase out of the regulatory functions of the POEA. The deregulation policy envisioned a program of OFW empowerment where the OFWs themselves negotiate the terms of employment with their employers. This was set to be implemented within five years after the law's effectivity.

This was never realized. The "de" in deregulation disappeared. A new law, R.A. 9422, was passed in April, 2007 amending R.A. 8042. The said amendment further strengthened the regulatory functions of the POEA by specifically repealing Sections 29 and 30 of R.A. 8042.

Agencies are in favor of deregulation to save on expenses in licensing activities. The passing of R.A. 9422 guarantees state intervention on the promotion of migrant workers interests. This also prevents the illegal recruitment activities of private agencies through the enactment of licensing and accreditation with the POEA. Otherwise, parties involved in illegal recruitment are penalized and/or imprisoned.

Table 5. Penalties on illegal recruitment (Prieto, 2009)

	Imprisonment	Fines
Guilty of illegal recruitment	Not less than 6 years and 1 day - 12 years	Php 200,000 - 500,000
Illegal recruitment including economic sabotage	Not less than 6 years and 1 day - 12 years	Php 500,000 - 1,000,000

- Maximum penalty if the person illegally recruited is a minor or committed by a non-licensee or non-holder of authority.
- Licensed agencies are also subject to these penalties if involved in the illegal recruitment practices outlined by the law

Sections 4 and 5 also stipulate the importance of selective deployment wherein migrant workers are only deployed to countries that: (1) have existing labor and social laws that protect the rights of migrant workers; (2) are signatories to multilateral conventions, declarations or resolutions relating to the protection of migrant workers; (3) have concluded a bilateral agreement or arrangement with the government protecting the rights of overseas Filipino workers; and (4) are taking positive, concrete measures to protect the rights of migrant workers. The government, through the DOLE, has adopted such a stance through Department Order No. 32 in 1996. Of the more than 200 territories that are frequented by migrant workers, the government has taken all actions in evaluating its compliance with these simple rule sets to safeguard and protect migrant workers' interest. According to Prieto (2009, 34ff), the government has even developed a labor market of friendly countries that adhere to these provisions through "marketing missions" to promote the employability of Filipino migrant workers, and eventually generate ample jobs that they can explore in host countries. In 2010, R.A. 10022 was enacted, otherwise known as "The Migrant Workers and Overseas Filipinos Act of 1995, as amended." This strengthens the deployment ban to companies and contractors with international operations in noncompliant countries (DOLE, 2011). Labor Secretary Rosalinda Baldoz, also acting as chairman of the POEA Governing Board, issued a statement upon the approval of the Board on October 28, 2011 of GB Resolution No. 7, listing 41 countries where OFWs cannot be deployed due to noncompliance with the guarantees required under R.A. 10022 (DOLE, 2011). These guarantees are as follows: (1) It

(the receiving country) has existing labor and social laws protecting the rights of workers including migrant workers. (2) It is a signatory to and/or a ratifier of multilateral conventions, declarations or resolutions relating to the protection of workers, including migrant workers. And (3), it has concluded a bilateral agreement or arrangement with the government on the protection of the rights of Overseas Filipino Workers.³

The provision of onsite protection for migrant workers is also very important as a viable presence of state protectionism. This is achieved through the development Philippine Overseas Labor Offices or POLOs. These offices provide legal assistance, medical assistance, welfare, counseling, information or advisory, training and skills upgrading, women empowerment and assistance, orientation and monitoring.

BLAs, MOUs and other agreements with prospective host countries

According to Go (2007): “[B]ilateral agreements...are formal, legally binding treaties relating to cooperation in various aspects related to labor migration...which can either be bilateral labor agreements (BLA), bilateral maritime agreements (BMA), bilateral social security agreements (SSA) or anti-trafficking agreements (ATA).”

The Philippines negotiates with various host countries in the promotion of Filipino migrant workers’ rights. Accordingly, the Philippines has been able to forge agreements in 2007 with only 13 countries (Go, 2007), including the adherence to mutual Memoranda of Understanding (MOU) such as the one with Taiwan where Taiwanese employers can freely conduct direct hiring of Filipino workers without the aid of manpower agencies with the agreement that the interest of both parties—the employers’ and the Filipino workers’—will be promoted. A significant achievement likewise is the development of an MOU with Indonesia, another high labor-sending country, in 2003. This guarantees a mutual objective in the promotion of migrant workers’ welfare in the region.

For social security agreements, according to Go (2007), the Philippines has been able to tie up with eight countries covering the following important points:

1. Mutual assistance between the Philippines and the other country in the field of social security – covered members or beneficiaries may file their claims with the designated liaison

- agencies of the Philippines or the other country, which will extend assistance to facilitate the processing of claims;
2. Equality of treatment – a Filipino covered by social security, including his/her dependents and survivors, shall be eligible to benefits under the same conditions as the nationals of the other country;
 3. Export of social security benefits – a Filipino shall continue to receive his/her benefits wherever he/she decides to reside (in the Philippines, in the other country, or even a third country);
 4. Totalization – creditable membership periods in both the host country and the Philippines (excluding overlaps) shall be added to determine qualification for benefits; and
 5. Prorated payment of benefits – both the host country and the Philippines shall pay a fraction of the benefit due from their respective systems, in proportion to the actual contributions or creditable periods.

Also, maritime bilateral agreements ensure that seafarers are also afforded the protection they need in the conduct of their respective tasks, given that seafarers are covered by multiple territories.

These agreements benefit the labor-receiving countries through the provision of able workers to fill up their domestic requirements, the ties forged with the labor-sending countries, and the promotion of mutual responsibility for migration. On the other hand, the labor-sending countries are given the chance to open up the possibility of access to a variety of labor markets, address even temporarily the burden of domestic unemployment, provide protection for deployed migrant workers, and secure remittance through foreign exchange.

Unfortunately, we have yet to secure any mutual agreement with top destination countries such as Saudi Arabia, Singapore and Japan due to inherent agreement difficulties. This is particular in the case of Saudi Arabia, given the efforts of the Saudi government towards Saudization—the promotion and stimulation of domestic local employment. The situation is similar in Singapore, where Filipino migrants are in pursuit of permanent residence. The Singaporean government has however limited migrant entry to maintain economic coherence. Japan, on the other hand, has always been strict in implementing contractual agreements with manpower agencies, and is in itself restrictive. Japan's Immigration Law, which took effect in 1990, bars the entry and residence of foreign unskilled workers (Binghay, 2009, 116).

The ILO, UN and labor migrant protection

Even prior to the enactment of R.A. 8042, the Philippines has been a signatory to the ILO's Declaration on Fundamental Principles and Rights at Work, which promotes the elimination of discrimination in respect of employment and occupation as a fundamental right of the worker (in Bingham, 2009, 120). Member countries are obliged to promote the same in their own territories. Also, the Philippines has ratified the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of their families.

The Philippines has incorporated the objectives of these declarations in the formalization of R.A. 8042. These serve as guides in the inserts in aid of legislation. It is however likewise important that even the labor-sending countries take precautions in their desire to compete with other labor-sending countries. This competitive drive is borne from the ideal of global human resource development, racial competition and remittance targets. In this way, the government might even fall victim to the perils of equating labor with commodity.



(Illustration: © Dina Ionesco/IOM, 2007)

The very existence of laws is not in itself a guarantee that migrant workers' rights will be protected. More importantly, laws rely on their ample and efficient implementation, which will be mirrored in the adherence of both the labor-receiving and labor-sending countries.

Concluding remarks and final observation

The GFMD or Global Forum for Migration and Development has identified key areas of consideration in labor migration (Martin, 2008): (1) the protection of both the labor migrant workers and the local workers; (2) enhanced cooperation between labor-sending and labor-receiving countries; and (3) promoting development in labor-sending countries.

Protection of both the labor migrant workers and the local workers. A certain form of displacement occurred in the outbreak of labor migration in the 70s and 80s. This outbreak has resulted in the competition between local workers and migrant workers. It has been initially perceived that employers from industrialized countries prefer the proliferation of migrant workers from LDCs to counteract the comparably higher cost of hiring local workers. This, in fact, is true. The cheapest labor in industrial countries is comparatively higher than our statistical equivalent in LDCs. The Philippines is one of the top labor-sending countries in the world. It has a presence in more than 200 territories worldwide, most especially in Western Asia, US and SEA. Filipinos more often than not are substitutes to the less-skilled local workers abroad. According to Ghose (2003, 87), based on American statistical data, labor migrants from LDCs are more educated compared to local population. Those coming from LDCs place a higher value on education as a bridge out of poverty.

In this case, the competency level of LDC migrants is higher than that of the local population. This leads to a higher preference factor for more educated workers. However, given that labor migrant protection entails that the interests of both the labor-receiving and labor-sending countries be promoted, there should also be a regulated balance of incoming migrant workers to balance out domestic development. I am saying this objectively. Having read quite a number of articles on this topic in preparation for this paper, only once or twice did I see such an observation mentioned but not developed. Labor-receiving countries should also make it a point to upgrade populational competence so that development can come from within. Conversely, in relation to the third point, labor-sending countries should also be able to improve domestic markets to stimulate foreign investments, and eventually generate more jobs internally to counteract the negative effects of labor migration to families and national identity. This observation leads to the second point.

Enhanced cooperation between labor-sending and labor-receiving countries. The establishment of agreements with labor-receiving countries, both actual and prospective, is also a very important factor to consider in

protecting labor migrants from various threats of employment abroad. These mutual agreements safeguard both interests, and will give rise to the first point. Globalization has flattened the world so much; enhanced cooperation among countries is a necessity in promoting developmental relationships and exchange.

The absence of MOUs or BLAs with top destinations of OFWs— notably Saudi Arabia, Japan and Singapore—is a crucial concern as they are home to millions of workers. In the targeted Saudization this year, the displacement of regular migrant OFWs is a pressing situation that needs attention. The government should prepare for the repatriation of thousands, if not millions, of workers who will be bereft of work upon return. The forced repatriation of migrants working in warring countries such as Libya, with whom there is an existing BLA, should also be enforced in addition to physical protection of migrant workers from harm. Even with the presence of the BLA, the Philippine government still finds it difficult to repatriate the endangered migrant workers. An important improvement to consider is for the POLOs to broaden their role in the protection of migrant concerns, and not simply serve administrative functions. They should be able to gauge the situational characteristics of labor-receiving countries, and evaluate the stability of mutual agreements that are not simply person-based. They should also be ready to act upon emergent problems, and be able to conduct dialogical communication with country foreign affairs counterparts to foresee potential threats to migrant workers. They should also serve as an avenue for the maintenance of a just order for migrant workers, in partnership with its foreign counterparts, to ensure the mutual protection of labor migrants.

The Philippines has always been reactionary, developing safety nets instead of investing on proactive solutions to possible threats to migrant workers.

Promoting development in labor-sending countries. OFWs have been dubbed the “heroes of our time.” Indeed, they are so. But the government should not be so heavily reliant on them alone. OFWs have sacrificed much just to earn meager bucks and provide the necessities of the families they leave behind.

Labor migration, as mentioned above, is both a welcome and lamentable event. Welcome because it projects Filipino competency abroad, and is in itself a concrete marketing strategy of Filipino skill-worth. Lamentable because it shows that one still needs to leave the country just to find work opportunities. Why is there a dearth of opportunities here? The way I see it, the government has failed to develop domestic markets to

aid local industries and stimulate organic, domestic development, as well as the linkage of social clauses to counteract the “threat” of globalization to local job-generating entities. The government can achieved this through the upgrading of technologies to enable local industries to compete on an equal level and prevent them from closing down. Local industries should be initially assisted in reinventing themselves to be globally competitive. This can be achieved through the advancement of workers’ skills to levels sufficient for industrial development. Employers’ organizations should also be strengthened to promote mutual reinforcement to combat the impact of a globalized competition (Macaraya, 2000, 231-232).

My father has been an OFW even before I was born. Being away from family is a burden in itself; the need to go abroad to find an adequate job another. Of the millions and millions of Filipino OFWs around the world, how many of them can only dream of establishing a business of their own or eventually finding a job in their own country so they could be close to their families? However, recent efforts by the present administration have showed us a glimpse of a future we could look forward to.

The PNoy administration has initiated the development of the Philippine Development Plan in late 2010 and finalized in early 2011. In its introduction to Chapter 3 on *Competitive industry and service sectors*, it has indicated a need to

Enable the industry and services sectors to contribute significantly to economic growth and employment requires addressing a number of constraints to their development. Strategies shall therefore be pursued to help raise the competitiveness of industries by improving the business environment; raising productivity and efficiency and inculcating quality consciousness among manufacturers and producers to offer quality goods and services comparable with global brands.

Business competitiveness will be enhanced by improving governance, strengthening economic zones, and strengthening national brand identity/ awareness. To increase productivity and efficiency, government shall focus interventions on key priority areas, provide firm level support to MSMEs, increase market access, expand industry cluster development and intensify the culture of competitiveness. Proactive measures to empower consumers, promote competition and enforce trade regulations shall also be pursued.

The PDP has also encouraged the development of the fisheries and agricultural sector to kindle development across all regions and not simply the city centers.

The government is on the right path of identifying key concerns that need to be addressed. The PDP centers on five key strategies: (1) boosting competitiveness in the productive sectors, thus giving massive employment opportunities; (2) improving access to financing to address the evolving needs of a diverse public; (3) investing in infrastructure development; (4) promoting transparent and good governance; and (5) developing human resources through improved social services and protection.

The promotion of inclusive growth⁴ must be partnered with the improvement and advancement of the production sectors to generate employment and ultimately, livelihood opportunities.

Should government enable itself to bring forth domestic development, through industrial partnerships, technologization and access to utilities and security, there would be no need to pursue work abroad. A key contributor is the diversion or utilization of remittances. In 2008, the total government income from remittances bested all the external incomes combined (Soriano, 2009, 9). If part of this can be used to improve economic sectors of agriculture and manufacturing, then development would not be not capital-centric and even the rural margins would improve and develop.

The challenge to industrial relations is to determine how it applies to social protection and international labor law. IR systems should be adaptive, and should be able to see the bigger picture of the issues that need to be addressed and how it impacts the perspective change in IR's significance. The advent of globalization has itself challenged the IR practice as discussed earlier. Practitioners of today should be able to know the trends brought about by globalization and how it generally affects the way we view work, output and its undeniable impact to national economy and identity.

Endnotes

¹ In US\$ (million).

² See http://www.un.org/esa/population/publications/2006Migration_Chart/Migration2006.pdf

³ R.A. 10022, Section 3.

⁴ Inclusive growth means, first of all, growth that is rapid enough to matter, given the country's large population, geographical differences, and social complexity. It is sustained growth that creates jobs, draws the majority into the economic and social mainstream, and continuously reduces mass poverty. This is an ideal which the country has perennially fallen short of, and this failure has had the most far-reaching consequences, from mass misery and marginalization, to an overseas exodus of skill and talent, to political disaffection and alienation, leading finally to threats to the constitution of the state itself. (PDP I)

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