



MIGRANTE INTERNATIONAL

"We dream of a society
that will never be torn
apart just for the need
to survive!"

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For the Defense and Protection of Migrants' Rights

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Good afternoon to all of you and welcome to Manila!

Governments of migrant labor-sending countries are always in chorus whenever they talk about labor export. Saddled by chronic unemployment and massive poverty, they all depend on migration for their country's economic survival. Never mind if they have a huge army of unemployed labor because they can market them abroad like cheap commodities anyway and earn heaps of profits in the process.

The Philippine government, in particular, takes pride in its own labor export program as a model for developing countries. From its early beginnings in the 1970s, the Philippines' labor export program has gained global stature not only for the sheer number of unskilled and highly-skilled workers it deploys every year, but most importantly, for the huge amount of dollar remittances it amasses annually.

According to a World-Bank study, the Philippines is the largest among the most labor export and remittance-dependent countries in the world today. The study also reveals that the Philippines is the fourth biggest remittance-receiving country next to India, China and Mexico with an estimated US\$ 17 billion in remittance inflows in 2007.

The Philippines also boasts of a sophisticated policy regime that promotes and regulates labor migration. It has built a corporate-like bureaucracy that combines initiatives from both government and private sector to capture markets for its "surplus labor" with the goal of cornering huge dollar revenues necessary to defray its mounting trade deficit and to pay for the country's foreign debts. Even war-torn Iraq and Afghanistan have become "black-markets" for Filipino labor because of unscrupulous officials who exploit and take advantage of Filipinos desperate to find jobs abroad.

Every day, international airports in major cities around the world are clogged with young, able-bodied workers coming from almost all corners of the world waiting for boarding announcements of their flight. Their bags neatly packed, they hover around each other with characteristic excitement thinking that the prospect of finally achieving their life-long dream of



working abroad and earning dollars for the family they will leave behind is just hours-flight away.

On the other side of the airport, there are other groups of returning workers waiting in line at the arrival area with their bags either full or empty. And on the extreme side is a pile of wooden boxes carrying dead bodies of returning workers. For the living, the characteristic excitement is still there for finally seeing family and friends after years of separation even though underneath the excitement are many stories of abuse, hardship and cruelty that migrant workers often endure while working abroad. For the dead, the excitement is replaced by bursts of grief from families anxiously waiting to retrieve the body of their loved ones that bear more signs of abuse, hardship and cruelty.

This is the tragedy of forced migration that has become a normal scenario for millions of workers around the world who are pushed to leave their families to work abroad because their government could not offer them decent-paying jobs, much less any bit of hope for their future and the future of their families. Many years of mismanaging the economy, governments of labor-sending countries are forcing their workers to carry the brunt of their wrongdoings. They also create the necessary conditions to train the eyes of their workers to seek jobs overseas and to earn dollars not for their benefit but for the government's relief and selfish interests. Expectedly, forced migration has brought millions more in desperate situation – the families of migrant workers left behind who greatly depend on their loved one's fate abroad.

The issue of forced migration has attracted increased worldwide attention because of its impact not only on migrant workers and individual families but on the nation as a whole. Unfortunately, the central issue i.e. the welfare of migrants and their families and the impact of massive labor outmigration to the long term development of society are often swept aside by overwhelming concern for foreign exchange and the development of more viable markets for migrant labor. In spite of the fact that for decades now, overseas employment has failed to develop the economy of major labor-sending countries like the Philippines, and the fact that there are clear indications that whatever limited contribution it brings to the local economy would start to wane in the near future, policymakers and international financial institutions around the world remain very aggressive in pushing for massive labor export.

Migration costs and effects

Why labor export has been aggressively pushed by governments like the Philippines is obviously because of its potential huge earnings and the perks that policymakers derive from it. For one, governments are not tied to their obligation of providing their citizens with sufficient and decent-paying jobs. Exporting labor is also a convenient way for these governments to avoid responsibility of instituting policy reforms to solve the ills of the economy.



While arguably labor export helps improve household incomes, no one can question the extent of cost it brings to the migrant workers, their families, and the sending countries. Time and again, we say that no amount of remittances, however pouring they may be, can compensate for the social costs that accompany labor migration.

Apart from the moral and social issues that hound families separated by labor migration, the exodus of skilled and educated workers from their home countries where they are most needed results in massive 'brain drain' that has far-reaching effects on the overall welfare of the people, especially the poorest of the poor. Massive migration of teachers and health workers, for example, create negative impact on education and health services in their country of origin that consequently may also compromise long term development.

Meanwhile, labor export allows labor-recipient countries, mostly highly industrialized countries, to amass huge profits from cheap labor and substandard services. In addition, labor export policies are designed to keep developing countries perennially under debt, while instilling dependence on remittances for their cash strapped economies. Heavy reliance on remittances instead on genuine economic development programs is very disturbing considering that labor migration to a great extent is impermanent.

The global economic crisis and the impact on migrants

The International Labor Organization (ILO) took note of the dramatic increase in unemployment worldwide and in the number of working poor resulting from the current global economic crisis. It also recorded the increase in global unemployment levels from 18 million to 30 million workers in April 2009. If it's any consolation, the ILO says that the downturn in global economic activity may have different impact on migrant workers depending on which sector of the economy they belong.

In the US and Europe even skilled migrant workers were affected by the global slump in economic activity. The construction, manufacturing and service sectors that have traditional high levels of migrant employment were also hit by massive retrenchments.

Construction activities in the Arab region have likewise fallen adversely affecting a large percentage of migrant workers deployed in the region. Particularly in the Arab Gulf Cooperation Council States where migrant workers constitute more than two-thirds of the labor force in the construction sector, cutbacks in economic activity have had serious repercussions on their employment

In East Asia where migrant workers are predominantly employed in the manufacturing sector, the downturn in global consumer demand had led to considerable downsizing. In the service



sector where many migrant workers are employed a big chunk are also negatively affected by the current crisis.

Although no precise data are available on the actual extent of job losses for migrant workers and their economic woes, various media reports suggest that they are in the forefront of job cuts.

Employment opportunities for migrant workers also dramatically declined as an effect of populist backlash and its resulting policy decisions that restricted the inflow of migrant labor even in traditional countries of destination. In fact, many governments have already taken steps to favor the employment of its local workers who constantly accuse migrants of stealing away jobs from them. Governments of the United Kingdom and Australia have already announced the policy of reducing admission of skilled workers to ensure jobs for the local labor force. The US Stimulus Bill bars institutions that benefit from the relief program from applying for H1-B visas for highly skilled migrants so as not to compete with its own citizens. In Spain, a voluntary return program for unemployed legal resident migrants offers workers the payment of their unemployment benefits in exchange for a commitment not to return to the country for three years. It is expected that 87,000 will return to their countries of origin under this plan.

Although we have yet to witness massive repatriation because of these developments, at the minimum, it can be expected that wages and other compensation and social benefits will be pressed downwards in many host countries.

Worsening conditions of work and erosion of migrant rights

Even if there are no job losses, migrant workers are forced to accept lower wages and suffer poorer working conditions in order to retain their jobs. Based on past experience, migrant workers, especially women workers and those in irregular status or undocumented are among the hardest hit and most vulnerable during crisis situations. Increasing 'informalization' of work and cutbacks in social protection are likely responses affecting migrants, in general.

Unfortunately, migrant workers are being used by governments as scapegoats of the current crisis. Reports highlight a rise in xenophobic and racist attitudes towards foreigners, particularly migrant workers. In Japan, migrants are being blamed for the rising criminality and cut backs in the employment of the local labor force. In Malaysia, the same attitude has provided ample grounds for discrimination, and unlawful termination of employment without payment of wages. Similar trends have been noted in Thailand, the United Kingdom, South Korea, and the United States, among others.

Before the onset of the global economic crisis, migrants already endure dismal working and living conditions even while performing many regard as 3-D jobs (dirty, dangerous and difficult).



They usually undergo tough immigration laws and stricter national policies, aggravated by constant threats of arbitrary job termination and deportation.

Apart from these, migrants suffer discrimination and racism from their employers and co-workers. Migrant workers' salaries are often depressed and smaller than those of their local counterparts. Integration and association of migrants are also normally restricted which furthers anxiety and impedes the mobility of the workers. Social and cultural differences are also magnified, and in many host countries, migrants are being criminalized for being aliens and for coming from a poorer country.

Irregular or undocumented migrants are always the casualties of tightening border controls in many host countries. In South Korea and Japan, to prevent the rush of undocumented migrants, immigration agencies offer more stringent rules to discourage would be undocumented migrants. Their response to the rising number of undocumented migrants is to use force by conducting raids in suspected lairs of undocumented migrants without due regard to human rights. Worse, many undocumented migrants suffer inhumane treatment during crackdowns, while in detention, and during the actual deportation process. Being 'illegal', the host country offers inadequate legal framework, if there are any at all, that can guarantee their protection, much less defend their rights when violated and abused. Even their own governments are hands off when issues of exploitation and lack of respect for migrants' basic rights are in question. Migrant workers are the biggest contributors to the national coffers yet in times of sickness and death, they are always alone to fend for themselves.

Gender-based abuse and exploitation

Women migrants who are fast inching in to dominate the makeup of migrant workers around the world are also most prone to exploitation and abuse. Because of their subordinate status both as migrants and women, female migrant workers are highly vulnerable to exploitation and ill-treatment. Many migrant women work without official work contracts, or if such contracts exist, they are on unfavorable terms - low salaries, no insurance, and no control over working hours. In some cases, the migrant women's passports are withheld by the employer, which restrict their freedom of movement.

Access to health care, in many countries, is linked to legal status. Such policies leave migrant women vulnerable to poorer health outcomes. Migrant women are also particularly vulnerable to psychological stresses; divergent sets of cultural expectations, marginalization and isolation in the host society and in the labor market and the double burden of family and work are but a few examples. In addition, migrant women are particularly susceptible to physical and sexual abuse. Some of them become victims of rape, physical violence and torture, illegal detention,



and other forms of violence. Many either lose their job before saving enough money to pay their debts, or lose sanity because they could no longer bear the sufferings of working abroad.

The hazards of migration

According to the Department of Foreign Affairs, 6 to 10 dead bodies of overseas Filipino workers (OFWs) arrive in the Philippines in wooden boxes every day. While some die from natural causes, many others die from work-related accidents and mysterious deaths. If we multiply these numbers by 365 days, you have 2,190 to 3,650 dead bodies each year.

The recent massacre of 72 undocumented migrants in Mexico also speaks of how labor migration has become a hazardous way to earn a living. This tragic incident in Tamaulipas, Mexico underscores the prevailing attitude towards migrants and the wanton disregard for human life simply because they are undocumented migrants and they come from a poorer country.

And how can we forget the death of 10 undocumented migrants when a fire gutted the Yeosu Foreigners Detention Center in South Korea in 2007 because policemen on duty simply refused to unlock their cells to free the detainees? They practically left the victims burn to death. This tragic incident wherein 18 more were injured mirrors the very poor living condition inside South Korea's immigration detention centers and the government's lack of regard for detainees' rights and well being.

Since the South Korean government began its massive crackdown on undocumented migrants in November 2003, a total of more than 27 people had died as a result of heavy restrictions on immigration. Since President Lee Myung-bak assumed the presidency in 2008, he has strengthened the drive to flush out undocumented migrant workers through grueling waves of raids and crackdowns which resulted in the arrest and detention of tens of thousands of irregular migrants mostly Nepalese, Filipinos, Chinese and Bangladeshis – 30,576 had been deported in 2008 alone or 65% more compared in 2007. While records of arrest and deportation in 2009 are yet to be released, many expect that this will be much higher than the previous year.

Also, in 2009, the horrible condition of migrant workers inside Malaysian detention camps was uncovered in a fact-finding mission organized by MIGRANTE International and its Malaysian counterparts. Many of the detainees were Filipinos who suffered or died from various illness and inhumane treatment in the hands of Malaysian authorities. Indeed, it is unthinkable that a government that is supposed to protect migrant workers can be their tormentor as well.

Every now and then, Nepalese workers in South Korea, Indonesians in Malaysia, or Filipinos in Saudi Arabia are sent home sick or with amputated legs or fingers, all victims of industrial



accidents. Every hour, every day, a migrant worker's right is being violated some place somewhere in all corners of the world. We can talk endlessly about these violations of human rights inflicted upon migrant workers because the list just goes on and on and on. For as long as the inequities between rich and poor countries continue, and for as long as governments in both sending and receiving countries are remiss of their obligations to uphold and protect the rights and welfare of migrants, more abuses and violations of their rights will continue.

Now, who's going to defend and protect them from all these?

Equity and access to justice

Migrants as with all working people deserve the highest possible protection and the most aggressive possible promotion of their welfare, especially for they serve as powerful engines that keep crisis-ridden economies like the Philippines on track. Unfortunately, in spite of their enormous contributions, they remain marginalized and unshielded from abuse and violations of their rights. Even the International Labor Organization cannot but acknowledge that hundreds of millions of migrants worldwide are in dismal situations of working for low wages in poor and abusive working conditions, yet they are not accorded customary protection by both sending and host countries.

Existing international laws that define and protect migrants' rights are lacking or outdated. The United Nations' International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families is by far the most comprehensive yet still ineffective instrument because many governments refuse to ratify it. As of March 2007, only 36 countries have so far ratified this convention while 12 others have expressed their intention to adhere to the convention without formal ratification. In Asia, only Sri Lanka, the Philippines and East Timor have so far ratified the convention which was signed as an international agreement on December 18, 1990.

Even ILO instruments are hardly effective as governments always have the free will to bypass these just like bilateral labor agreements entered into by contracting governments. A company or employer hiring migrant labor can easily violate a unified employment contract, yet governments of migrant-sending countries can do nothing to correct it much less prevent other violations of workers' rights even if a bilateral labor agreement is in place.

At the end of the day, it is always the government of rich and powerful countries that determines the flow of migrants from one country to another and the amount of protection that they are willing to offer. Sending governments have minimal or no control at all, and therefore, powerless to protect its own nationals.



The reality is that protection laws in recipient countries often exclude migrant labor. Therefore, migrant workers often don't have legal or "paper" protection and even if their rights are recognized, these are always very limited. Governments of sending countries, on the other hand, couldn't do better. Migrant workers to them are nothing more than "milking cows" or "cash-dispensing machines" who can funnel in billions of dollars to save the beleaguered economy. They are remiss of their responsibility to protect the rights and interest of their workers because instituting safeguards and protection would hinder migrants' competitiveness and marketability abroad. Worse, they cause migrant workers further misery through policies that betray the migrants' true interests and overburdening them with numerous State exactions in exchange for miniscule and substandard services.

On the administration of justice, very few migrant workers are able or willing to seek legal redress, many because they are unaware of their rights and because they do not have access to legal remedies, if these are available at all.

Even the provision of a legal counsel is often denied migrant workers. Reports from the field by MIGRANTE International chapter organizations abroad give tell-tale signs of eroding legal frameworks and remedies applicable to migrant workers caught in a legal tussle. Often, simple cases become complicated because migrant workers are denied legal representation. Governments of sending countries through their embassies and consulates abroad often argue insufficient resources to provide legal counsel for nationals embroiled in a legal case.

Meanwhile, because of their dependence on employers for their legal status, many migrant workers are reluctant to report abuse for fear of arrest, detention or deportation. They may have access to information in the host country, albeit these are limited, but language is often a problem. Without access to legal assistance they keep mum about their abusive condition. Furthermore, the legal framework of many receiving countries is often bias against migrant workers, especially the women and undocumented, and public authorities often take the side of employers in times of disputes. And when victims do file a legal case for redress, they are barred from leaving the country for the entire duration of the case, and in most cases, cannot seek alternative employment while their case is in court.

The rising number of migrant workers detained in different parts of the globe and charged with various offenses is alarming. Under extremely difficult conditions there is an indication that migrant workers in distress are taking the law into their own hands.

Among migrant Filipinos alone, more-or-less 5,000 are languishing in various prisons and detention centers around the world for varied offenses ranging from violations of immigration laws to murder; 102 OFWs, according to the Department of Foreign Affairs, are in death row. Many of them have already spent years inside detention without legal support. There are also tens of thousands more men, women and children stranded in various countries abroad unable



to return home because of legal impediments. They too are prisoners in their own cells and without legal support from the government.

Now, anyone who says migration improves life must think twice.

“Tanggol Migrante”: In defense and protection of migrants’ rights

The defense and protection of migrants’ rights is the platform where MIGRANTE International stands firmly. We do recognize the sacrifices migrants endure and the enormous contributions they bring to make all of our lives better. We also assert that under prevailing conditions, migrants are among the most marginalized in the world today, and therefore, as a global alliance and advocate of migrants’ rights, we commit ourselves to stand at the forefront of their struggle as a sector.

We believe that ultimately, migrants all over the world need to form organizations for themselves and establish networks to create shields for themselves against a wide range of abuses and human rights violations committed by governments and by a range of actors in the entire migration process, including employers, recruiters, smugglers, traffickers, immigration officials and border guards, the police and other law enforcers, as well as members of local societies.

There is much that we can do to arrest the deteriorating condition of migrants around the world if we can muster all our strengths together.

The concept of “*Tanggol Migrante*” or Defend Migrants was conceived precisely because of the near absence of adequate, effective and efficient legal support base for disadvantaged overseas Filipino workers. It is a legal support mechanism that operates within the framework of a comprehensive community-based assistance program that offers free legal assistance to migrant workers, would-be migrant workers, returned migrants and their families. This alternative mechanism works in conjunction with other existing national and community-based support networks to offer relief and direct legal support services that are often denied to them by our own government.

If the Philippine government has a model in labor export program, MIGRANTE International has a developing model legal assistance program in “*Tanggol Migrante*”. I am very happy to say that the NUPL and PILC are backing us up in this regard.

As legal practitioners in Asia-Pacific, there is much that you can do too for this marginalized sector. Your knowledge and expertise could offer migrants not just a shield to protect themselves against abuses and violations of their human rights, but a spear as well to face their tormentors and to seek justice.



We are in dire need of your expertise to educate and assist migrants caught in unfair bargaining with employers and to represent them in court against unfair treatment, violence and abuse. There should be a system of accountability especially for governments, transnational companies (TNCs), labor bodies, etc. who violate migrants' rights and profit from their exploitation.

We need your advocacy to amplify their voice in formulating national and international instruments that can protect them against further abuse and exploitation and assert their demands to governments and international bodies. There should be minimum international rights and standards set and effective implementing mechanisms instituted to provide minimum institutional protection for migrants. All countries should ratify the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and other international instruments as well as national protection laws and bilateral agreements beneficial to migrants and their families. And since labor migration magnifies and globalizes gender exploitation, we need to institute specific mechanisms so that employers and governments, and other players in the entire migration process won't get relative advantage by exploiting women migrant workers.

Policies of international agencies like the International Monetary Fund-World Bank (IMF-WB) and the World Trade Organization (WTO) and other similar institutions ultimately determine the economic policies of many developing countries, and therefore, we need to institute mechanisms where people, migrants and social groups, including lawyers' networks can challenge and intervene in these policies.

After all has been said and done, MIGRANTE International believes that lasting and genuine solution to the tragedy of forced migration and the entire problem faced by migrants and their families lies in the resolution of structural inequities in many countries of the world today. We need to change societies where people, regardless of race, gender and religion have jobs and enjoy decent income and governments need not have to export its workers to generate foreign exchange; and where wages, benefits, rights and protection are comparable as possible across countries to totally eradicate disparities that encourage one country to exploit labor from another country.

This is our challenge to the members of this conference. Please do take this challenge and join us in our struggle to defend and liberate migrants around the world from global oppression and exploitation.

Thank you very much.

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