

Dialogue with Indonesian Members of Parliament

08 July 2010, 5:30 – 7:30 PM

Somerset Hotel Salcedo, Makati City

Philippines

Present:

Indonesian Delegation

Chair:

Dr. Irgan CHaerul Mahfiz, Fraksi Partai Persatuan Pembangunan

Members:

Hang Ali Saputra Syah Pahan, Fraksi Partai Amanat Nasional

Chairul Anwar, Fraksi Partai Keadilan Sejahtara

Sri Rahayu, Fraksi Partai Demokrasi Indonesia Perjuangan

Rieke Pitaloka, Fraksi Partai Demokrasi Indonesia Perjuangan

Kunjung Masehat, Ministry of Manpower and Transmigration, Directorate of Productivity
Chief, Board of Placement and Protection

Head of Research, Development and Information, Board of Placement and Protection

Philippine Guests

Former Senator Aquilino “Nene” Pimentel (3-term senator until the 14th Congress)

Congressman & Mrs. Carlos Padilla (Lone District, Nueva Vizcaya, Northern Philippines)

Ms. Kit Melgar, Chief of Staff of Congressman Walden Bello (Akbayan Party-list)

Teody Navea (Bukluran ng Manggagawang Pilipino)

Organizers

William Gois (Migrant Forum in Asia)

Ellene Sana (Center for Migrant Advocacy)

Joanne Carmela Barriga (FES Philippines)

Terence Osorio (Migrant Forum in Asia)

Introductions

Introductions were made and each group expressed gratitude for the opportunity to share, link and learn. Areas of concern raised were the following: policy framework for assistance to migrant workers, especially domestic workers, at pre-departure, onsite and upon return; existing Philippine laws and regulations and mechanisms for protection; status of the domestic workers’ bill; and how a bill becomes a law in the Philippines.

Discussion Points

- The Philippines has a Magna Carta for Migrant Workers (Republic Act 8042) which was enacted in 1995. This provides, among other things, sanctions for joint and several liability between foreign employers and local recruiters. It has also been twice amended:
 - In 2007, thru RA 9422, which provides for stricter regulation for recruiters and strengthening the mandate of the Philippine Overseas Employment Agency (POEA) to regulate the labor migration industry
 - On March 8, 2010, thru RA 10022, which provides, among others, for
 - stricter criteria to allow deployment
 - Before deployment, country of destination should be a signatory to UN / ILO conventions, has bilateral agreements with the Philippines and has national policies to protect migrant workers. If the POEA allow deployment otherwise, there are sanctions on the POEA person.
 - stricter and broader definition of prohibitive acts and illegal recruitment
 - mandatory insurance for agency-recruited and deployed migrants

- 2007 Household Service Workers (HSW): Policy reforms particular to the protection of domestic workers:
 - no placement fee – recruiter cannot collect placement fee
 - minimum entry level salary of 400 USD
 - at least 23 years old
 - verification of documents by Philippine Overseas Labor Office (POLO) in the receiving country before recruitment is allowed

- Government protection mechanisms provided by law:
 - Shelter houses for women migrant workers in countries of destination
 - Labor attaches and welfare officers in addition to embassy and consular officers
 - **POLO (labor attaches) get their funds from DOLE, welfare officers are funded by the Overseas Workers Welfare Association (OWWA). OWWA is attached to the Department of Labor and Employment (DOLE) but gets no allocation from the department. Embassies and consulates are under the Department of Foreign Affairs (DFA) which oversees all operations in foreign assignments through the *one-country team approach*.
 - Gender focal point officer (as per RA 9710 - Magna Carta for Women) in embassies and consulates; will be operational by December 2010 in receiving countries with high number of WMWs

- Pre-departure Assistance
 - skills assessment by the Technical Education and Skills Development Authority (TESDA) which issues a certificate
 - free language and culture orientation (8 hours everyday for 3 days) is provided by OWWA which also issues a certificate

When the worker has met the requirements, s/he accomplishes a standard contract with POEA. This is not something new but there is increasing problem of contract substitution, i.e., when the contract is not followed in the receiving country. Example, in Singapore and Middle East which has no minimum wage, the amount stipulated in the contract will not be followed.

- The Philippines has been discussing a bill for Household Service Workers (domestic workers and care givers), the *Kasambahay Bill*, which would provide protection for local domestic workers.
 - The work of a domestic worker, in the Philippine experience, covers not only house work. It may also include babysitting, running errand and anything and everything else the employer asks to do. In many ways, a domestic worker is a servant, and in many cases, a slave. This is in contrast with the coverage in the US which has very specific jobs; thus, a baby sitter only takes care of the baby. In the Philippines, most domestic workers are treated as part of the family.
 - **This is a cultural thing which Indonesia also shares.*
 - The question arose: how is this cultural factor shown or adopted in the law? The Philippine lawmakers emphasized that culture should not be allowed to abuse the rights of domestic workers. Thus, for example, in the proposed HSW bill which provides for only 8 hours of work, the 8 hours can be spread out and not necessarily continuous, so that rest periods are given the domestic worker.
 - The *Kasambahay Bill*, when approved, will raise the standards for domestic workers and allow them to enjoy their rights (standard wage, day off, etc.). We push for the law because, while the relationship between employer and domestic worker are generally good because domestic workers are treated as family, there are some concerns that can only be addressed by the law, such as Social Security Service payments (insurance/pension), one-day off and mandatory vacation.
 - **A national law on domestic workers is a must for their protection. If Indonesia's problem with domestic workers are more about abuses of local DWs than migrant DWs (only 20%) then it must continue to deliberate and enact a domestic workers' bill.*
 - The *Kasambahay* bill was approved in the Senate during the last Congress. It was not passed by the Lower House, or the House of Representatives, however, so it will have to be filed again during this Congress.

How a bill becomes a law in the Philippines

- The Philippine Congress has 2 houses: the Upper House or the Senate (composed of 24 nationally elected senators) and the Lower House or the House of Representatives (composed of regular members elected by districts and Party-List I representatives, maximum 250 in number together).

- A bill may start from any house (e.g., House) and goes through committee hearings. During committee hearings, executive officials (e.g., DOLE, DFA) and representatives of civil society are invited to give their views on the bill.
 - The committee should give its approval and sponsor it in the plenary, or else the bill is dead.
 - A similar process takes place in the other house (e.g., the Senate) where a version of the bill will also have been filed.
 - A bill is heard in plenary for three hearings before final approval.
 - Once the House and Senate committees have approved and sponsored the bill in the plenary, a bilateral committee (composed of both House and Senate representatives) discusses the bill which may undergo several revisions to reconcile differences between the two versions.
 - The approved bill by the bilateral committee is brought back to the respective chambers for final approval (record vote of each member)...then it is transmitted to the President of the Republic for signature or veto, or non-action on it, in which case it lapses into law after a required period of time..
 - The time it takes for the bill to become a law varies; it depends on how the legislators see it as important or urgent. The Overseas Absentee Voting bill took 16 years before it became a law.
 - The Executive can also make it difficult because of their allies in Congress. There are some bills which, if the President certifies urgent and having the numbers in the legislature, goes smooth sailing. If it is not a priority of the administration, more time and lobbying will be needed.
- With regard to implementation and monitoring, there are many beautiful laws but as many problems with implementation. The Philippines has the Congressional Oversight Committee which follows up if the law is being implemented properly through several mechanisms:
 - congressional hearings where POEA, DOLE, OWWA, OUMWA and other relevant agencies are invited to answer/comment on concerns raised
 - information gathering from NGOs and migrant workers themselves
 - visits to receiving countries (shelter houses/sanctuary established by government for OFWs thru its overseas labor offices (POLO)
 - recommend amendments or calling attention to the involved departments
 - The House of Representatives also has the Committee on Overseas Workers Affairs (COWA) composed of 25-27 members which takes on the concerns of migrant workers. It is a separate committee from the Committee on Labor which deals with labor issues in the country. There is no counterpart committee in the Senate, only the Labor Committee that deals with both domestic and migrant workers. The COWA works full time, as in all permanent committees, and tries to get information not only from government sources but from non-government organizations as well. Many times the information from NGOs help to validate what government agencies are saying.

***In Indonesia, the Labor Commission covers many commissions, like women, and every commission has to partner with the Executive, so sometimes bill comes from Executive. There are 46 people under the commission. Indonesia has a unicameral system.*

- COWA also receives reports from DOLE and DFA as to number of Filipinos with problems abroad. Most of the complaints are with contracts which are not complied with, i.e, different salary and even different work (entertainers instead of domestic workers).
- With regard to remittances, Filipinos abroad have many ways of sending their money home: through friends coming home, through remittance companies like the Western Union, and through the banks. The government prefers that remittances are made through banks so it can be recorded.
- With regard to OWWA which collects \$25 from every departing migrant worker, there are no clear guidelines on how to manage its funds and programs. This is one policy area which we are currently engaged: lobbying congress for a charter to make operations clearer.
- On an ILO Convention for Domestic Workers (DWs)
 - Only in ILC 2010 that a convention for DWs supplemented by a recommendation became possible. This would include job description, scope and coverage.
 - The Gulf countries, Singapore, Korea and Japan are also not in favor of a convention.
 - In Asia, only the Philippines asked for a convention *only*. Sri Lanka voted for a convention supplemented with a recommendation; China too.
 - What is encouraging is that host countries like the US (who hosts migrant domestic workers) and European countries are asking for a strong convention with strong protection for domestic workers. Latin American countries and African countries that both have domestic and migrant domestic workers are also moving for very strong protection for domestic workers.
 - It was surprising that Indonesia did not support having a convention. Indonesia should rethink its position and, like host countries, should ask for strong convention with strong protection. This will also influence the campaign on the ratification of the Migrant Workers' Convention which gives more bargaining power with host countries.

Conclusion

3 issues that the Indonesian government and parliament can take on:

1. Support an ILO Convention on Domestic Workers..
2. Indonesian ratification of the International Convention on the Rights of Migrant Workers and their Families (MWC) which is celebrating its 20years this 2010. This covers protection for all migrant workers AND members of their families, irregardless of their status, and in all stages of migration.
3. A national law on domestic workers – both local and migrant - which is important when advocating for the rights of DWs in the receiving countries.