



**International Convention on the
Protection of the Rights of
All Migrant Workers and
Members of Their Families**

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**Committee on the Protection of the Rights of All
Migrant Workers and Members of Their Families**
Tenth session

Summary record of the first part (public)* of the 99th meeting

Held at the Palais Wilson, Geneva, on Monday, 20 April 2009, at 3 p.m.

Chairperson: Mr. El Jamri

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The meeting was called to order at 3.20 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention (agenda item 3) (*continued*)

Dialogue with national human rights institutions and non-governmental organizations on the initial report of the Philippines

1. **Ms. Cardona** (Philippines Human Rights Commission) said that the Commission was fully compliant with the principles relating to the status and functioning of national institutions for protection and promotion of human rights (Paris Principles). As such, it had been given “A” accreditation by the International Coordinating Committee of National Human Rights Institutions. The Philippines was one of the principal countries of origin of migrant workers. Republic Act No. 8042 of 1995 recognized the contribution to the national economy made by Philippine migrant workers through their foreign exchange remittances but proclaimed that the State did not promote overseas employment as a means to sustain economic growth and achieve national development. On the other hand, Administrative Order No. 247 of 4 December 2008 directed the Philippine Overseas Employment Agency to intensively explore foreign employment opportunities for Philippine expatriates. That text raised special concerns for Philippine migrant workers, for the safeguards protecting their human rights were weak. Although they were called the “new heroes”, they were nevertheless among the most vulnerable population groups. The Philippine Human Rights Commission recommended that Republic Act No. 8042 be reviewed to ensure consistency with the Convention and better protection of the rights of Philippine migrant workers and their families.

2. The Commission had seen minimal or weak coordination among government agencies dealing with migrant workers, specifically the Department of Foreign Affairs, the Department of Labor and Employment, the Philippine Overseas Employment Agency and the Bureau of Immigration and Deportation. Acting on a request for assistance from several Philippine migrant workers faced with a total ban on travel to Nigeria, even though they had working permits or held residence status in Nigeria, the Commission had attempted to identify the authority responsible for issuing and terminating such travel bans and defining guidelines for them. However, none of the government agencies just mentioned had claimed accountability for that ban. The Commission maintained that the travel ban to Nigeria was not justified, for several reasons: it had been instituted without taking account of the opinions of the persons concerned; it applied to all parts of Nigeria, whereas it could have been made applicable only to specific areas, such as the Niger Delta, where there was real danger to seafarers; the workers affected by the ban were unable to leave the country and to be reunited with their families; the ban left them vulnerable to corruption. She called on the Committee to recommend that the Government establish reasonable and objective criteria for the imposition of travel bans as well as guidelines for their application and termination and ensure that the actions, decisions and programmes of all the agencies engaged in the promotion and protection of migrant workers’ rights were properly coordinated.

3. Pointing out that most of the bilateral treaties mentioned in the Government’s report had expired and had not been extended, she said that those instruments did not take sufficient account of the protection of the rights of migrant workers and their families. She therefore requested the Committee to highlight in its concluding observations the need to review those agreements, identify those that needed to be renewed and concentrate on the protection and promotion of the rights of Philippine migrant workers and members of their families. The Philippines Government should also encourage States that had not yet done so to accede to the Convention.

4. She requested the Committee to mention in its concluding observations the need to recognize the specific role played by national human rights institutions as independent and vital partners in the reporting process and in implementing the Convention. She also called on it to recommend that the Commission's role be specifically elaborated and mention made of its mandate to provide appropriate legal measures for the protection of the human rights of all persons within the Philippines as well as Filipinos residing abroad. Lastly, citing an example of cooperation in protecting the rights of Philippine workers in Sabah between her institution and the Human Rights Commission of Malaysia (SUHAKAM), she emphasized the great potential that national institutions had with regard to the protection and promotion of human rights and amelioration of the living conditions of migrant workers and their families.

5. **Ms. Sana** (Philippine Migrant Rights Groups) said that her organization was made up of human rights and migrant workers' protection networks and groups from the Philippines and other countries, women's organizations, trade unions and members of the academic community from the Philippines and other countries. Nine to 10 million Filipinos (roughly 10 per cent of the population) now lived and worked in 93 countries and territories. Initiated by then-President Ferdinand Marcos in 1974 as a temporary solution to the country's unemployment problem, overseas employment had evolved into an integral component of the Government's development strategy. Some Philippine diplomatic missions abroad covered several countries or territories: for example, the Philippine Embassy in Abuja covered Nigeria and 17 other West African countries. The diplomatic missions were sometimes fairly inaccessible, something that limited their capacity to provide services to Philippine migrant workers, and they did not employ enough staff.

6. A feminization of migration was under way. Philippine women migrants were primarily employed as domestic workers, nurses, caregivers and entertainers. Domestic workers and entertainers were the most vulnerable to human rights violations. About a million Philippine migrant workers were in irregular situations or had undocumented status and their numbers were expected to increase as the global economic crisis unfolded.

7. Although the important role of NGOs as partners of government agencies in the implementation of the Convention was recognized under Republic Act No. 8042, section 2 (h), she regretted to say that in reality, the State did not deal with NGOs in that spirit. No NGOs had been involved in the preparation of the State party reports submitted to the Committee in January 2008 and February 2009, nor had the Government involved civil society organizations in the dissemination and promotion of the Convention.

8. The Office of the Legal Assistant for Migrant Workers' Affairs (OLAMWA) was created initially to provide legal assistance to Philippine migrant workers in distress, but it had expanded its jurisdiction to cover almost all aspects of welfare protection for migrant workers. The Office of the Undersecretary for Migrant Workers Affairs, the lead government agency tasked with protecting the rights of migrants, did not have a website, an e-mail address or a hotline service. It had a very small budget, lacked staff and its working methods were inefficient. The Department of Foreign Affairs had still not set up the Shared Government Information System for Migrants mandated by Republic Act No. 8042. During the pre-departure orientation seminars for migrant workers (PDOS), migrants were advised neither of their rights under the Convention nor of the applicable Philippine law. They received no useful information about their country of destination.

9. Philippine nationals residing abroad could vote only for the president, vice-president, senators and legislative representatives. Those who had pending applications for foreign citizenship were disqualified from voting. Persons who had violated the Overseas Absentee Voting Law (OVAL) could be penalized with imprisonment of one year and disqualification from voting. Under the law, the Philippine passport of such violators must be stamped with the phrase "Not allowed to vote". The Government's own performance

audit had revealed that it was not effective in providing services to Philippine migrant workers and that its implementation of its Overseas Workers' Welfare Programme was unsatisfactory. Laws aimed at better regulating recruitment activities were not being fully implemented or monitored. Men and women from rural areas were often vulnerable to illegal recruitment.

10. In view of that situation, her organization had recently recommended that the Government stop its labour export policy and exert serious efforts to create domestic job opportunities that would provide decent wages and social security benefits. The Government should redefine its sustainable economic development programmes in favour of people-centred development. It should truly work to promote and protect the rights of its migrant workers and members of their families by employing in its agencies, both in the Philippines and overseas, a sufficient number of staff responsive to the needs of migrant workers and concerned with offering them quality services. Regular audits should be carried out in order to monitor the effectiveness of the agencies. The Government should establish the Shared Government Information System on Migration, which must contain a comprehensive sex-disaggregated database of information on migrant workers and members of their families. Such information could be used to develop responsive programmes and services for migrants at every stage of the migration cycle.

10. The Government should demonstrate true political will to prevent and stop trafficking in persons, illegal recruitment, exaction of exorbitant fees and other criminal activities entailing the exploitation of migrant workers by organizing widespread information and education campaigns on the rights of migrants and the realities of migration; strictly regulating and monitoring recruitment agencies; and imposing appropriate penalties. It should pursue bilateral and multilateral agreements with other States and regional and international bodies with a view to protecting the rights of migrant workers and their families and it should adopt a rights-based, peace-based approach in its international relations. Lastly, it should take the partnership with NGOs and civil society seriously, in conformity with the 1987 Constitution and Republic Act No. 8042.

12. **The Chairperson**, speaking as a member of the Committee, asked whether the Government was doing anything to promote the active involvement of civil society in migration matters. He pointed out that the Philippine Government claimed to have a very good policy on migration and asked what the Philippine Human Rights Commission and the Philippine Migrant Rights Groups thought about that. He would also like to know whether the travel ban related solely to Nigeria and who it affected. In addition, he wished to know how NGOs or national human rights institutions gathered information with a view to speaking on behalf of migrant workers. He requested more information on the cooperation between the Philippine Human Rights Commission and SUHAKAM of Malaysia. Lastly, he asked how, in the view of the Philippine Migrant Rights Groups, a country's embassy could guarantee the rights of its nationals in its host country and how civil society could ensure respect for the rights of migrant workers in countries that were new countries of destination and with which the Philippines had not established relations in respect of migration.

13. **Mr. Kariyawasam** asked why the Philippine Human Rights Commission recommended that the Philippine Government should review and amend Republic Act No. 8042 on migrant workers and expatriate Filipinos. He would like the speakers to explain exactly what was the situation with the right to vote of Philippine migrant workers. He also had questions about the feminization of migration: what made it an unfavourable phenomenon, and what steps could be taken to combat it? According to some reports, many highly qualified Philippine emigrants (physicians, engineers and teachers, for example) were employed abroad in jobs for which they were overqualified (taxi driver, for example). He would like to know what the speakers thought on that subject, whether such migration

was discouraged, and if so in what way, and what was done so that migrant workers could find jobs suited to their qualifications. He would also be interested to hear about steps that would help to better protect the rights of Philippine migrant workers in Sabah, given the special situation of the Philippines with regard to that State located in Malaysian territory.

14. **Mr. Alba**, pointing out that both speakers had dealt almost exclusively with Philippine migrant workers abroad, asked what was being done for foreign migrant workers in the Philippines, since it would appear that the protection of their rights was not part of the mandate of the Philippine Human Rights Commission. He was impressed by the composition of the Philippine Migrants Rights Groups and wished to know whether it was an official body and what sort of links it had with the Government and with the Philippine Human Rights Commission.

15. **Mr. El-Borai** requested the speakers to explain how the lack of coordination among government agencies that they had mentioned was manifested and what were the consequences for migrant workers. Did the ban on travel to Nigeria for Filipinos apply also to other countries? Referring to the difficult living conditions of Philippine migrant workers in the Persian Gulf countries, he asked whether the bilateral agreements signed between the Philippines and those countries had resolved the issue of *kefil* (guarantor), a latter-day form of slavery.

16. **Ms. Poussi** enquired about the reasons behind the ban on travel of Filipinos to Nigeria. She requested the representatives of the Philippine Human Rights Commission to explain how the Commission could participate in efforts to follow up on the Committee's recommendations. According to the State party's report, there were several laws on migrant workers and their status, but it would be useful to know if they were applied in practice, and with what effect. With regard to employment in general, she asked whether laws pre-dating the Convention were in line with its provisions, and if not, what was to be done to resolve that problem and whether the Philippine Human Rights Commission and NGOs would be able to play a role in such efforts.

17. **Ms. Cardona** (Philippine Human Rights Commission) said that the Commission was a member of a forum comprising institutions for the protection of human rights from Malaysia, Thailand, Indonesia and the Philippines, and in that capacity, it worked to defend the rights of migrants, including in Sabah. In view of the lack of coordination and inadequate protection of Philippine migrant workers, particularly in Malaysia, the Commission was asking the Philippine Government to involve it more closely in the preparation of its reports on migration and to institute consultations among NGOs present in the region in order to gather information on the actual situation, particularly in Sabah. In addition, the bilateral agreement signed with Malaysia must be strengthened and cooperation with that country improved before offices or missions were established there. Republic Act No. 8042 post-dated the ratification of the Convention by the Philippines, and accordingly most of its provisions were in line with the Convention. The amendment sought by the Philippine Human Rights Commission would do away with the statute of limitations on human rights violations, currently five years, and definitively exempt such violations from any statute of limitations.

18. The Philippines Constitution provided for protection of the human rights of all persons in Philippine territory, thus of foreigners living in the Philippines, and of all Philippine nationals abroad. In addition to Nigeria, the total travel ban applied to such countries as Jordan, Afghanistan and Lebanon. The Philippines was prepared to send migrant workers to countries that had legislation protecting them and were signatories to bilateral agreements on the protection of migrants. The Philippine Human Rights Commission had been given visiting rights at the detention centres of the immigration bureau so it could assist foreigners there, whether or not they were migrant workers.

19. **Ms. Z-Parajas** (Philippine Human Rights Commission) explained that, among other things, the Commission worked for the protection of women and children and was preparing to formulate guidelines on respect for women, particularly those used to promote certain products, in order to oversee the status of the many foreign models working in the Philippines.

20. **Ms. Sana** (Philippines Migrant Rights Groups) said her organization was a network of NGOs whose chief objective was to promote the Convention at all levels. Established with a view to participating in the Committee's current session, it had already become very active – for example, by holding consultations with various participants in the field, including Philippine migrant workers abroad and, to a lesser degree, foreign migrant workers in the Philippines, with a view to drafting its report to the Committee. Alongside its cooperation with the Philippine Human Rights Commission, her organization was working to assist the governmental authorities responsible for migrants by providing them with information and to offset the lack of coordination among them, something that could have serious consequences for migrant workers. While the Philippines obviously lacked the material and financial resources to open diplomatic missions in all the countries in which it deployed migrant workers, it nevertheless needed to put in place some effective mechanisms for overcoming that inadequacy. For example, it was unacceptable that in Saudi Arabia, no consular office existed for 6,000 Philippine nationals; under such circumstances, the Philippines authorities could hardly provide effective services to Philippine migrant workers there. The Government's policy of encouraging migration had had its usefulness at a certain period, over 40 years ago, in what had been a temporary situation. Today, however, migration was constantly growing, yet despite the numerous instruments adopted by the Philippines, the measures taken to deal with the phenomenon were not entirely adequate. Recently, the Philippine authorities had been informed of a case of trafficking of Philippine nationals in Côte d'Ivoire. Lacking any diplomatic mission in that country, their agents had been obliged to obtain visas through the intermediary of the Philippine embassy in Abuja (Nigeria), with all the problems that that entailed, before being able to travel to Côte d'Ivoire.

21. **Mr. Rojas** (Philippine Migrant Rights Groups) said that the Philippine Government had been a pioneer in granting the right to vote to Philippine migrant workers, a right that they could continue to enjoy as long as they retained Philippine nationality. Any law that was not in conformity with the Convention must be brought into line with it, but that that was done only on a case-by-case basis and at the expense of lengthy parliamentary proceedings. Lastly, the importance of good coordination among the various agencies could not be overemphasized, since migrants sometimes found themselves in life-or-death situations.

22. **Ms. Sana** (Philippine Migrant Rights Groups) pointed out that the feminization of migration was a favourable phenomenon when it was synonymous with autonomy for women, but it was a worrisome one when women were mainly employed as domestic workers or in the leisure industry, areas that were not covered by social legislation. The Philippine Government must take account of gender differences in elaborating its migration policies.

23. **Ms. Punongbayan** (Migrante International) acknowledged the importance of the legislation adopted by the Philippines on migration but lamented the fact that there was a huge gap between theory and practice. The Philippine authorities had been remiss in many instances; their assistance to Filipinos in distress abroad had not been helpful. For example, a Filipino accused of murder had received the services of an interpreter but not of a lawyer. The Government did not properly monitor agencies that offered jobs abroad and migrants were often exploited and fled their employer, thereby outlawing themselves, in the absence of assistance from Philippine authorities. That lack of assistance sometimes led to

violations of the right to life or cases of torture or degrading treatment. She hoped that the Committee would draw the attention of the Philippine authorities to such situations so that the migrants subjected to such treatment could seek remedies through the Philippine Human Rights Commission.

24. Many Filipinos fled to Sabah from armed conflict or poverty in their country. Most were arbitrarily detained or had their papers confiscated without getting the necessary assistance from the Philippine authorities. Two hundred thousand undocumented Filipinos were soon to be repatriated. Because of the current global crisis, many Philippine migrant workers would be returned from their host countries for lack of job opportunities, often in violation of the terms and time frames outlined in their contracts. Yet the Philippine Government had no means to assist them with their resettlement in the country. Overall, in its 13 years of existence, Migrante International had seen that the Philippine Government did not respect its obligations, either with regard to migrants under the laws it itself had adopted, or with regard to the Convention.

The public part of the meeting rose at 4.45 p.m.