

Managing Migration in the Private Sector: A Philippine Experience

Presented by:

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OVERVIEW

Three stages of Philippine migration experience:

Stage 1 Pre-Spanish: Trade and religious interaction with Arabia, China, and India

Stage 2 Spanish Colonial Era: Establishment of the Canton-Manila-Acapulco Galleon Trade, 1565 to 1815

Stage 3 American colonization in 1898.

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1906 - 1930

120,000 Filipinos were working in the sugar plantations of Hawaii, the canneries of California, and the fishing grounds of Alaska.

Wave of skilled and semi-skilled migrants followed by doctors, nurses, engineers, and other technical personnel during the 60s.

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1973

Major shift occurred in the 70s during the OPEC oil embargo.

Middle East countries began importing manpower for their infrastructure and development projects.

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Philippine Labor Code - 1974

Formal and organized contract migration started with the enactment in 1974 of Philippine Labor Code.

The Code set up guidelines for recruitment, placement, licensing fees, foreign exchange inflows, dispute resolution, and documentation.

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Private Participation was Tenured

Phase of our private recruitment agencies
within four years.

This regulation set the tone for the private
sector's participation in overseas contract
migration.

Today, the threat of government intervention
in overseas recruitment remains.

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Migration was temporary at first

The exodus was designed as a stop-gap measure to alleviate severe unemployment problem and earn for the country foreign exchange.

The result was relatively high economic growth mainly due to dollar inflows from overseas workers.

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Now, it is PERMANENT

1978: Labor Code was amended, declaring participation of “licensed, private, fee-charging agencies in the recruitment and placement of Filipino workers for local and overseas jobs.”

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POLICY ENVIRONMENT

Managing migration in the Philippines is a delicate balancing act. There are many regulatory policies, that stymie flexibility and competition.

It is a highly-regulated business, and therefore, risky.

Policies, rules, and regulations evolve on a mixed basis of reaction and intuition rather than rational and deliberate assessment of objective realities, experiences, and policy outcomes.

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Republic Act 8042 -1995

The Migrant Workers and Overseas Filipinos Act of 1995 is a bone of contention in the “push-pull” relationship between the government and the overseas recruitment agencies.

It was enacted in reaction to the hanging of household worker Flor Contemplacion in Singapore in 1994.

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ILLEGAL RECRUITMENT PROVISION

The illegal recruitment provision of R.A. 8042 fails to distinguish licensed recruiters from the illegal ones - who chose to operate outside the law, by lumping them together and charging them the same penalties for violations.

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Joint and Several Liability Provision

Foreign employer and the recruitment agency are jointly and severally liable for claims of a migrant worker is not realistic and enforceable, for labor laws remain distinct and unique in each country.

A recruitment company should not be made to pay for the contractual obligations of foreign employers.

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DEREGULATION POLICY

Goal: To leave migration strictly a matter between the worker and his employer.

Requires the State “to formulate a 5 - year comprehensive deregulation plan on recruitment activities.”

The Department of Labor to phase out the regulatory functions of the POEA within five years from 1995.

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NOT IMPLEMENTED

These provisions have not been implemented.

The government continues to issue policies, rules, and regulations that contravene the intent and spirit of the law's deregulation mandate.

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PUBLIC-PRIVATE RELATIONSHIP

Private recruitment agencies are responsible for placing in overseas labor markets about 97 percent of its total contract migrants.

Recruitment agencies are vulnerable to risks disproportionately higher compared with the rewards of the business.

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MANAGING RULES INDUCED RISK

Migration business requires continuing risk factor analysis.

Recruitment agencies wholly owned by Filipinos has dwindled while foreign-owned ones have increased.

Government and private sector cooperation has reached a maturity level, with the private sector represented in the POEA and the OWWA.

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NO CONGRESS REPRESENTATION

Migrant workers have no representation in Congress.

There is a cabinet-level presidential advisor on migrant workers' affairs.

There are tripartite consultative bodies involved in policy deliberation.

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CONTRACT MIGRATION - A DEVELOPMENT TOOL

Contract migration has not sparked a sustained economic growth and development.

It created a new set of middle class and established a pattern of labor movement.

It has triggered consumption-based development unmatched by any other government program.

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REASONS

1. No deliberate effort to utilize for productive investments the savings and remittances of migrant workers.
2. Government is ambivalent. While recognizing the contribution of migrant workers, it does not promote overseas employment to sustain growth and achieve development. (DECLARATION OF POLICY, Section 2, of Republic Act 8042)
3. Late formulation of reintegration programs.

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MIGRANT WORKER TO ENTREPRENEUR

- Five years as migrant worker in Saudi Arabia (1980-85)
- Reintegrated as Consultant in Overseas Placement business.
- President of two major Recruitment Industry Associations
- LBS e-Recruitment Solutions Corporation – pioneered web based processing of workers with POEA

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SIX POLICY OPTIONS

First, Government must treat contract migration as a “major sector of the economy” and consider it so in development planning.

Yearly, migrant workers remit through the formal and informal channels USD 15 billion while investing only USD 200-500 million to obtain jobs overseas.

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SIX POLICY OPTIONS

Second, it must harness the experience and talents of returning migrant workers.

Skilled migrants should be accredited as trainers and consultants, in educational institutions and strategic agencies of government and private sector businesses.

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SIX POLICY OPTIONS

Third option is entrepreneurship. There is a need to transform migrants into entrepreneurs.

Migrant workers' access to financial capital must be liberalized, and government must make it as easy and simple for them to go into business.

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SIX POLICY OPTIONS

Fourth, efforts must be made to restore migrant workers trust in the banking system.

Remittance costs should be lowered, delivery must be fast and efficient.

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SIX POLICY OPTIONS

Fifth, implement full deregulation of the overseas recruitment sector.

Recruitment, processing, and documentation procedures should be simplified by the POEA.

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SIX POLICY OPTIONS

And sixth, Congress should enact a new law, a Magna Carta for Migrant Contract Workers attuned to the times and one that declares as state policy the utilization of the fruits of contract migration as a tool for development and poverty alleviation.

The Magna Carta should embody a comprehensive and deliberate re-integration program.

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THANK YOU.

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END

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Ministerie van
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IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones

INTERNATIONAL DIALOGUE ON MIGRATION Intersessional Workshop

Migration and Development: Mainstreaming Migration into Development Policy Agendas*

Panel 3

Partnerships in migration and development

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LBS e-Recruitment Solutions Corp., The Philippines

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Loreto B. Soriano

Overview

The challenge to the Philippine private sector of managing workers' migration had its roots in the Labor Code in 1974, which opened the door to 19 "private fee-charging recruitment agencies" in overseas employment.

The Philippines had over three centuries of migration experience, beginning with the Filipinos' early trade and religious interaction with Arabia, China, and India. This was followed during the Spanish colonial era by the establishment of the Canton-Manila-Acapulco Galleon Trade from 1565 to 1815.

The colonization of the country by the Americans in 1898 opened the United States to the flow of Filipino farm and factory workers. In 1906, the Hawaiian Sugar Planters Association sent a delegation to Manila to recruit thousands of Filipino workers.

1906-1930

Between 1906 and 1930, over 120,000 Filipinos were already working in the sugar plantations of Hawaii, the canneries of California, and the fishing grounds of Alaska.

This wave of skilled and semi-skilled migrants was later followed by professionals who trooped to the US to take advantage of the booming American economy in the 60s.

(Loreto B. Soriano, President and Chief Executive Officer of LBS e-Recruitment Solutions Corporation, is actively engaged in Philippine overseas recruitment sector for the last 20 years. He was formerly president of the Philippine Association of Service Exporters, Inc. and Philippine Association of Manpower Agencies Accredited to Taiwan. And was former Secretary General of Urban Poor Party List)

1973

A major shift in Filipino workers' migration occurred in the 70s when the oil embargo against the US and its allies by OPEC in 1973 sent oil prices skyrocketing to unprecedented levels. Awash with petro-dollars, Middle East countries began importing manpower to work on their infrastructure and development projects.

Philippine Labor Code-1974

The government, until that time, monopolized the sourcing and recruitment of professional and skilled workers. With the Labor Code, a system was set into place detailing the guidelines for recruitment, placement, licensing, dispute resolution, and documentation of overseas Filipino workers.

Private Participation was tenured

The participation, however, of the private sector in this field, was tenured. The Code contained a provision that “private employment agencies would be phased-out within four years of the Code’s effectivity.”

This regulatory edict would draw the pattern and set the tone for the Philippine private sector’s participation in overseas contract migration that until today, the threat of government intervention hangs like a sword of Damocles over the heads of private recruitment agencies, even contract migrants themselves.

From “temporary” to permanent

The exodus of Filipino workers to the Middle East and other parts of the world was designed as a stop-gap measure to alleviate the unemployment problem at that time, coupled with the country’s need to earn foreign exchange.

For four years, the Philippines experienced relatively high economic growths due mainly to dollar inflows from its overseas workers.

Now, it’s permanent

Thus, in 1978, the government allowed by amending the Labor Code, wider participation of “licensed, private, agencies in the recruitment and placement of Filipino workers for overseas jobs.” What was initially a temporary program has become a permanent fixture of the Philippine labor landscape.

Policy environment

Managing contract worker migration, from my experience, requires a delicate balancing act. Recruitment is a highly-regulated, and therefore, very risky business.

Policies, rules, and regulations evolved more on a mixed basis of reaction and intuition, rather than on the basis of rational and deliberate assessment of objective realities and envisioned policy outcomes.

R.A. 8042

The **Migrant Workers and Overseas Filipinos Act** of 1995 is an example. It was enacted in reaction to the hanging of household worker Flor Contemplacion in Singapore in 1994. This law governing all aspects of contract worker migration has been the bone of contention in the “push-pull” relationship between the government and the private recruitment agencies

Illegal Recruitment Provision

A product of hasty deliberation and limited debates, this law contains many provisions that heavily tilt the balance against contract migration managers. One such provision pertains to illegal recruitment. Private

recruitment agencies believe that this provision is unfair. It fails to distinguish the licensed recruiters from the illegal ones by lumping them together and charging them the same penalties for violations.

Joint and Several Liability Provision

There is in the law another cause of valid concern to both foreign employers and licensed recruitment agencies. This is the provision which states that the foreign employer and the recruitment agency are jointly and severally liable for any and all claims of a migrant worker arising from a worker-employer relationship. It is a reality that labor laws remain distinct and unique in a particular country, each of which could have its own separate law or rules on the matter.

Furthermore, a recruitment company, being only an agent of a foreign employer, should not be made to answer for the contractual obligations of the principal which existing international laws on agencies so provide.

Deregulation-a 5-year phase out

The most contentious aspect of R.A.8042 is its deregulation and phase out provision, which requires the government “to formulate a five-year comprehensive deregulation plan on recruitment activities taking into account labor market trends, economic conditions of the country, and emerging circumstances which may affect the welfare of migrant workers.” Its goal is to leave migration strictly a matter between the worker and his employer.

A subsequent provision mandates the Department of Labor and Employment to phase out the regulatory functions of the Philippine Overseas Employment Administration within five years from the effectivity of the law.

Not Implemented

Unfortunately, not only have these provisions not been implemented. Instead, the government continues to issue policies, rules, and regulations that contravene the law’s deregulation mandate.

Public-private partnership

It is because of these realities that private recruitment agencies in the Philippines responsible for generating 97 percent of its total overseas jobs have been laid-back in their businesses. Because of the unrealistic policy environment, they face certain risks that are disproportionately high compared with the rewards of the business.

Managing Rules’ Induced Risks

Being in the contract migration business requires continuing risk factor analysis. This must be the reason why over the last few years, the number of recruitment agencies wholly owned by Filipinos has dwindled, while foreign owned ones have mushroomed.

Even so, government and private sector participation in managing migration has evolved and has reached a maturity level over the years. The private sector is represented in the policy-making bodies and welfare offices, such as the POEA and OWWA.

No Congress Representation

Migrant workers' have no representation in Congress despite the participation of many OFW party list parties in the last two national elections. In the executive branch, there is a cabinet-level presidential advisor on migrant workers' affairs.

There are also a number of tripartite consultative bodies involved in migrant policy deliberations consisting of religious groups and non-government organizations.

Contract Migration as Development Tool

Thirty years after the enactment of the Labor Code, the country is still searching for answers as to why overseas employment seemed to have not served as a fuse to spark sustained growth and development.

While it is true that migration has visibly uplifted the lives of workers and their families, creating a new set of middle class with increased purchasing power, it has also established a pattern of labor movement involving the migrant worker who leaves behind an employment void that is easily filled up by a local worker from the rural areas. As the overseas worker plows back his earnings to his family, he creates "capital and triggers consumption-based development" in the countryside, a pattern that is unmatched by any other government program during the last two decades.

But this development pattern among migrant workers and their families has not gone beyond the basic necessities such as housing, education, food, health, clothing and luxury goods, which have very little stimulus to prime up economic growth.

Reasons

This could be one of the reasons why the Philippines still contends itself with migrants leaving on contract after contract because their earnings have been exhausted. There is no deliberate effort to utilize for productive investments the savings and remittances of migrant workers.

Government's ambivalent stand on migration is another reason. While recognizing the significant contribution of migrant workers, the government does not promote overseas employment to sustain economic growth and achieve national development. This is contained in the Declaration of Policy provision of R.A. 8042.

It was only recently that government has started to formulate a comprehensive reintegration plan that will make use of migrant workers' savings, acquired skills, and experience to start small and medium enterprises and other profit-oriented activities.

FROM MIGRANT WORKER TO ENTREPRENEUR

For five years, I worked in Saudi Arabia. Coming home to the Philippines in 1985, I joined the overseas recruitment sector as recruitment and marketing consultant and a part owner of one agency in 1991. During this period, I actively partnered with government, in my capacity as president of two large overseas manpower recruitment associations, in policy reform and formulation.

In 2001, I set up my own company, **LBS e-Recruitment Solutions Corporation**, one of the first human resource companies in the Philippines to use cutting-edge information technology in its operations. We pioneered paperless transaction with the POEA through the Internet.

SIX POLICY OPTIONS

I have six strategic policy options to offer how contract migration can be harnessed to the maximum for development. These options have been derived from practical experience as a migrant worker and now as a migrant manager.

First, the government must treat overseas contract migration as a major "sector" of the economy and consider it so in its development planning. Yearly, migrant workers remit through the formal and informal channels close to 15 billion U.S. Dollars while they only spend 200-500 million US dollars to obtain jobs overseas.

Second Policy Option

Second, it must devise a program that will harness its rich pool of experienced and talented migrant workers. Returning migrants bring home world-class technical skills, new knowledge, and a wealth of experience that could help transform the domestic economy.

They must be accredited as trainers, consultants, or managers, in schools and strategic agencies of government and private sector businesses. *This is one efficient manner to recover for the country the socio-economic cost it invested in the migrants before they left the country.*

Third Policy Option

The third option is entrepreneurship. There is a great need to encourage returning migrant workers to becoming entrepreneurs. They must be trained as owners and managers in small and medium enterprises.

Most migrant workers do not have the capacity to put up collateral for business loans. Access to financial capital must be liberalized. Government must make it easy and simple for them to go into business.

Fourth Policy Option

Fourth, the government should initiate efforts to restore the trust of migrant workers in the banking system to capture their remittances in the formal economy. This can be done through lower cost of remittance coupled with faster and efficient delivery.

Fifth Policy Option

The government should implement fully and sincerely a deregulation policy in the overseas employment sector.

The POEA should simplify and reduce processing and documentation procedures for foreign employers, recruitment agencies, and migrant workers. It is imperative to do away with unnecessary rules and regulations that restrict the ability of the private sector to compete freely in a globalized labor market environment.

Sixth Policy Option

Late last year, a regional trial court has declared parts of R.A. 8042 unconstitutional. It is our position in the private sector that Congress should now enact a new law, a Magna Carta for Migrant Contract Workers that is attuned to the times and one that specifically declares as state policy the utilization of the fruits of contract migration as a tool for development and poverty alleviation. This Magna Carta should also embody a comprehensive re-integration program for returning workers.

Correct and deliberate policy coupled with strong political will are the keys that will unlock the success potential of these options.

For Filipinos who take the option of working away from their families to earn a decent living, we owe it to them to make their stint overseas rewarding when they finally get home.