Filipina Live-In Caregivers in Canada: Migrants' Rights and Labor Issues (A Policy Analysis)

by

JOSEPH GERARD B. CUENCA

J.D., The Ateneo de Manila University School of Law, 1995
B.A., The University of the Philippines, 1991

A THESIS SUBMITTED IN PARTIAL FULFILMENT OF
THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF LAWS

in

THE FACULTY OF GRADUATE STUDIES

(Faculty of Law)

We accept this thesis as conforming
To the required standard

THE UNIVERSITY OF BRITISH COLUMBIA

November 1998

In presenting this thesis in partial fulfilment of the requirements for an advanced degree at the University of British Columbia, I agree that the Library shall make it freely available for reference and study. I further agree that permission for extensive copying of this thesis for scholarly purposes may be granted by the head of my department or by his or her representatives. It is understood that copying or publication of this thesis for financial gain shall not be allowed without my written permission.

Department of LAW

The University of British Columbia
Vancouver, Canada

Date 2 DECEMBER 1998

Abstract

Asian women make up the fastest growing category of the world's population of migrant workers. The thesis examines labor and immigration policies of Canada as a host country for Filipino women migrant workers. It also determines how Canada's working environment for Filipino women migrant workers is mapped out.

The thesis is anchored on three major concerns. The first is an analysis of the Philippines as a leading labor exporting country. The thesis expounds on the state mechanisms promoting labor exportation and the corresponding problems that ensue. It is argued that a majority of the problems of labor migration from the Philippines can be attributed to the inadequate policies and laws of the government in the 1970s when labor export first flourished.

The second area of concern is a situation analysis of the Filipina migrant workers who come to Canada to work as live-in caregivers. This discussion is focused on Canada's general framework of immigration laws, foreign worker policies and the pertinent provincial labor laws of British Columbia. It analyzes how these pieces of legislation have been shaped by Canada's national policies. The thesis argues that Canada's regulations restricting the rights of foreign domestic workers and the marginalization of their social mobility and status reflect the unequal relationship between the host and the sending countries.

The third and most important concern is a policy analysis of the Live-In Caregiver Program vis-â-vis migrants' rights and labor issues. The thesis argues that Canada, through the continuation of the Live-In Caregiver Program, provides Filipino domestic workers inequitable working conditions. It is argued that since Canada is an international forerunner in championing human rights, it becomes anachronistic that a cluster of the country's immigration policies continue to advocate indentured form of labor. Canada is in a unique position, both as a traditional immigrants' country and as an international player, to blaze the trail for international recognition of migrant workers' rights. Canada must eliminate the double standards in the Live-In Caregiver Program vis-â-vis the general immigration policies. Therefore, it is argued that in order to maintain the high marks it has been receiving at the international level, Canada must eliminate two requirements of the Live-In Caregiver Program: First, the two-year live-in requirement and second, the temporary migrant status of live-in caregivers upon initial entry to Canada. Live-in work must be optional and not subject to the granting of permanent residence status. To preserve it international reputation, Canada must also make reforms on the international level by ratifying and implementing international conventions.

FOR VINO & DUCCI

Special thanks to
Prof. Doug Sanders and Prof. Bill Black,
Prof. John Borrows and Prof. Wes Pue,
the B.C. Law Foundation,
LL.M. '96, Lilian Ong,
the women and staff at the Philippine Women's Centre
and at the West Coast Domestic Workers' Association,
and Gerry, Mary and Cindy at the Council.

Ad Majorem Dei Gloriam

Filipina Live-In Caregivers I Canada:
Migrants' Rights and Labor Issues
(A Policy Analysis)

I. INTRODUCTION

In 1993 the Department of Citizenship and Immigration Canada started a national consultation process to obtain the current views about immigration. A Public Policy Forum followed in 1994. In 1996, the Minister of Citizenship and Immigration appointed three persons to an independent Immigration Legislative Review Advisory Group (Advisory Group) which was tasked to conduct a review of Canada's Immigration legislation and policies, and make recommendations by December, 1997. The Advisory Group was given a wide mandate with many issues to consider. Essentially, the Advisory Group examined the suitability of the immigration and refugee legislation to the migration trends in the 21st Century. The Review consisted,

> *...of a re-evaluation of current immigration and refugee legislation through review and analysis of Canadian social, economic and demographic trends and their implications; comparative review and analysis of other countries' experiences with immigration policy, including the results of their own research and reviews; conducting interviews of key partners; and developing a series of options and recommendations to strengthen the legislative framework for dealing with immigration and refugee matters.*

The Advisory Group invited written submissions from interested individuals and groups and hosted round-table discussions with experts within and outside government. The Advisory Group received over 500 submissions.

In December 1997, the legislative review report[1] was submitted to the Minister. In it, the Advisory Group proposes two separate pieces of legislation: one for Immigration and Citizenship

[1] Not just numbers. A Canadian Framework for Future Immigration. Immigration Legislative Review. Minister of Public Works and Government Services, 1997.

and one on Protection. The report consists of ten chapters containing 172 recommendations. Under Chapter 6, "Broadening Canada's Economic Base: Self-Supporting Immigrants", Recommendation 75 states,

> [t]*he Live-In Caregiver Program should be eliminated as a separate visa class and made, both in theory and in practice, entirely consistent with the Foreign Worker Program. The Immigration and Citizenship legislation should allow caregivers with a valid, permanent job offer to apply for landed immigrant status in the Self-Supporting Class.*

In explaining this recommendation, the Advisory Group contends that,

> [c]*aregivers should be allowed to live in or live out according to the arrangement they make with their employer*
>
> . . .
>
> *By eliminating the General Occupations List, we are in effect removing the requirement that a caregiver must live in Canada for two years before applying for landing. . .* [A] *caregiver who meets the core standards for education, official language ability and age could qualify for immigration on the basis of a validated permanent job offer.*

While this is not the first time that Canada's immigration policies have been assessed in such detail[2] the Live-In caregiver Program (LCP) is now cast in doubt with the Immigration Legislative Review. It is in this sense of urgency that the LCP forms the basis for this thesis.

---

[2] In 1980, the Minister of Employment and Immigration commissioned a Task Force on Immigration Practices and Procedures to assess the Immigration Act and immigration procedures with an emphasis on workers on employment authorizations.

A. Background

Between January and June 1997, some 357,209 Filipino[3] migrant workers were deployed to overseas jobs, according to the Philippine Overseas Employment Administration, the government agency primarily tasked with the administration of migrant workers. Meanwhile, the migrant workers sent home remittances amounting to US$1.5 billion in the first half of 1997. The Philippine government estimates that in 1995, about 4.2 million Filipinos were working abroad, 2.4 million of whom had been "processed" or given documented status by the Philippine government.

Overseas labor migration from the Philippines has become so extensive that the government routinely issues "information brochures" to migrant workers going abroad. These information materials aim to familiarize migrant workers with the culture and work ethics in specific host countries. For example, there are materials warning workers deployed as domestic workers in Saudi Arabia of the potential sexual harassment by Saudi men and physical abuse by their Saudi mistresses. Filipino migrant workers are repeatedly cautioned that they are at risk of rape in the Middle East. In June 1997 the Philippine Department of Labor and Employment also gave a warning to Filipino migrants not to accompany their employers to Egypt when their Middle Eastern employers vacation there. Many Middle Eastern families take Filipina domestic workers on vacation with them to Egypt where they are considered illegal aliens under Egyptian law.[4] Yet

---

[3] "Filipino" refers to a man while "Filipina" refers to a woman. However, "Filipinos" is the collective term.

[4] Miguel C. Gil, "Economic Indicator OFW remittances up 29%", [Philippine] *Businessworld*, July 23, 1997.

despite these warning signals from the Philippine government, labor migration to the Middle East continues. Even the regional economic crisis in Asia that has weakened major Asian economies hardly affected the number of Filipino migrant workers travelling to Asian host countries, which rose in 1997 to 235,129, accounting for a 25 per cent increase.[5]

The present phenomenon of Filipino overseas contract workers, or OCW, is steadily increasing as deployment for overseas work continues unabated. The OCW phenomenon is deeply entrenched in the Philippine labor sector as an alternative option to local employment. It is a regular topic within Philippine social, cultural and popular discourse. The migrant worker movement has assumed such an important place in Philippine political institutions that it forms a material aspect in the country's Medium Term Philippine Development Plan (the MTPDP) of 1993. Former President Fidel Ramos launched this government program as part of the "Philippines 2000", to serve as the country's blueprint for economic development. Essentially, "Philippines 2000" aims to achieve an economic stability for the Philippines by the year 2000 and human development is one of the factors in the government's strategy. As a concrete measure of "Philippines 2000", the Migrant Workers and Overseas Filipinos Act of 1995[6] (the Migrant Workers Act) was enacted during Ramos' term. The Migrant Workers Act seeks to institute measures for overseas employment and establish a higher degree of protection for the welfare of migrant workers. "Philippines 2000" became the rallying cry for Ramos' government.

---

[5] Agence France Press, "Filipino Workers in Asia up in '97", *Philippine Daily Inquirer*, April 13, 1998.

[6] Philippine Republic Act No. 8042 was signed into law on June 8, 1995.

However, critics of Ramos' administration argue that the MTPDP and the Migrant Workers Act merely helped Ramos institutionalize Philippine labor export. The only certainty in this debate is that the Migrant Workers Act is the latest addition to the long list of acts, rules and regulations, policies and programs that attempt to deal with the issue of labor migration of four million Filipino workers. The Philippine government has established welfare and protection mechanisms since the early 1970s during the Marcos administration. But if nothing else, the mechanisms are almost always the result of continued public clamor for state intervention in the labor export movement.

Filipinos first started migrating to Canada in sporadic numbers during the third wave of Filipino migration, when North America was in need of health workers. In 1967, when Canada relaxed its immigration requirements and introduced the point system, people from Asia were allowed to enter Canada on an equal footing with people from Europe and the British Isles. The influx of Asian immigrants into Canada rose rapidly, and by the 1990s Asia dislodged Europe as the region of top source countries for Canada's immigrants. In 1996 the top five immigrants came from Asian countries. The Philippines has been one of the top sources in recent years, ranking second, third and fifth in 1994, 1995 and 1996 respectively.[7] In the past years Canada has fast become the coveted destination for Filipina migrant workers. The common route for Filipinas to enter Canada is through the Live-In Caregiver Program (the LCP). The LCP requires them to

[7] "Immigration - Top Ten Source Countries", *Facts and Figures 1996. Immigration Overview*, Citizenship and Immigration Canada, Minister of Supply and Services Canada 1997.

work as live-in caregivers[8] (LICs) for a continuous period of at least two years after which they can apply for permanent residence and for a chance to work other than as LICs. The possibility of permanent residence and eventually, Canadian citizenship, is a great source of motivation for Filipinas to apply under the LCP and migrate to Canada. It has repeatedly been cited by the United Nations as the best country to live in, and for Filipina migrant workers who are pushed by harsh economic realities to leave the Philippines for better employment opportunities, to work as LICs in Canada seems a welcome respite.

While Canada is not a trouble area in terms of the number of cases of abuse and exploitation, it cannot be called a haven for Filipina migrant workers where they are treated equally with the other sectors of the labor force and where the common exploitative tools of the trade are eradicated. True to its effort toward being an egalitarian country where everyone can lay claim to the fruits of a democratic and just nation, Canada has enacted the LCP to regulate the work of LICs and allow LICs to apply for permanent residence status after a two-year period of live-in work. However, this benefit is not a cause for rejoicing among the migrant workers because the bureaucratic route to acquire permanent residence status in Canada is difficult and protracted. The LCP does not create an ideal employment mechanism for foreign domestic workers wherein their rights are secured and their protection is guaranteed. Canada may be a dream destination for the domestic workers, but it is not easy to enter and remain in the country.

---

[8] The terms "live-in caregiver" and "domestic worker" are used interchangeably to refer to a person performing household work.

B. Objective and Limitation

The thesis examines the notion of Canada as a host country for Filipina LICs in relation to applicable legal mechanisms and determines how its working environment for Filipina LICs is mapped out. Can it then be said that Filipina LICs are accorded equal treatment in their employment and migrant status in the supposedly gender-equal, racially neutral, and egalitarian Canada? It is important to pose the question of whether or not Canada is an exemplary country insofar as the employment and living conditions of foreign domestic workers are concerned. The issue is significant to sending countries like the Philippines which can use the Canadian set-up in its international campaign for better employment standards and conditions in problem countries where cases of abuse and exploitation prevail. But if the opposite holds true, namely that foreign domestic workers in Canada in fact work and live in substandard conditions in a high-standard society, then exposition and suggestions can be made as to why these workers are mistreated and how the situation can be rectified.

The thesis is anchored on three main areas: The first area concerns the analysis of the Philippines as a leading labor exporting country. The thesis examines the state mechanisms in promoting labor exportation and the corresponding problems that ensue. It describes the Philippine government in terms of its legal obligations towards Filipino migrant workers. The second area is a situation analysis of the Filipina migrant workers who come to Canada to work as LICs. The thesis discusses Canada's general framework of immigration laws, the foreign worker policies and the pertinent provincial labor laws of B.C. It analyzes how these pieces of

legislation have been shaped by Canada's national policies. The third area which is the core analysis of the thesis presents a policy analysis on the LCP vis-a-vis migrants' rights and labor issues. The thesis argues that Canada, through the continuation of the LCP, provides Filipina domestic workers inequitable working conditions lacking in many human and migrant rights.

Canada is a federal state composed of several provinces which retain vast and autonomous political powers. Because of this decentralized political set-up, the issue of migrant workers in general and the LICs in particular cannot be clearly placed. While immigration is within the domain of the federal government, labor is an amorphous matter that is essentially within the provincial domain. This thesis studies the federal government's immigration set-up for the LCP, specifically how the migrant workers enter Canada and how their working conditions appear. The study of their working conditions is confined within the metropolitan area of Vancouver. Necessarily then, the examination of Canada's Filipina LICs is limited to the provincial labor laws of British Columbia.

Similarly, there is no separate legislation on domestic workers in the Philippines, as they form only a part of the general scheme of migrant workers. The thesis examines Philippine laws to the extent that they affect the situation of female migrant workers. Finally, while there are many kinds of migrant workers from the Philippines in Canada, this thesis only addresses Filipinas who enter Canada under the LCP or under previous Canadian foreign domestic workers' programs. There are two other categories of women's migration from the Philippines who, for

purposes of brevity of this thesis, are not discussed but are well worth noting. They are the 'entertainers' whose main destinations are Japan, Brunei and to a lesser extent, Taiwan and Singapore. Japan's sex industry is a thriving business but a disdained occupational workplace for Japanese women. Hence, foreign women are recruited to work as entertainers who often end up as prostitutes. The other migration movement is the business of mail-order brides which takes advantage of Westerners seeking Asian women as desirable wives or home companions and Filipinas seeking a better life by marrying a foreigner. Countries such as Germany, Australia, Japan and Taiwan are typical destinations with expectant grooms. While this set-up is not a labor migration movement *per se*, it nevertheless works on the assumption that the men provide economic comfort to the women in exchange for their household services and/or companionship.

C. Methodology

This thesis evaluates the existing Canadian policies on migrant workers in the context of Filipina domestic workers working in Canada as LICs. The policy analysis is the culmination of the previous inquiry of the legal set-up of the Philippines and Canada as the sending and host country respectively. The thesis is inspired by some present theories surrounding international labor migration. Lindquist, in his paper on Philippine migration networks,[9] suggests that the migration movement between the sending and host country has been marked by two theories that strive to illustrate migration patterns. The first is the functional theory which focuses on the

[9] Bruce A. Lindquist, "Migration Networks: A Case Study in the Philippines", *Asian and Pacific Migration Journal*, vol.2, no.1, 1993, at 78-80.

economic factors of a migrant nation and the rational decisions of its population which may help bring about the equalization of economic opportunities. The alternative theory is the structural perspective which emphasizes the global economic scenario where migration movements are shaped by external socio-economic arrangements. The thesis freely utilizes either assumption, linking the sending country (origin) with the host country (destination) "*to capture the dynamic nature of various migration flows.*"[10]

This thesis is narrowly focused on female migrant workers from the Philippines primarily because they compose the majority of Filipino citizens working abroad as domestic workers, and in view of the increasing feminization of international labor migration flows. James A. Tyner, in his article "the Social Construction of Gendered Migration from the Philippines"[11], contends that the social construction of gender explains that "*differences between women and men result from the development of sexist ideologies which confuse biological differences with sociological differences.*"[12] Tyner goes further to argue that social construction of gender must be perceived not in isolation but in correlation with social construction of class, race or nationality. This thesis adopts Tyner's argument and clarifies that gender considerations in migration flows are inextricably linked with economic assumptions.

---

[10] *Ibid*, at 80.
[11] *Asian and Pacific Migration Journal*, vol.3, no.4, 1994, at 592-593.
[12] *Ibid*, at 592.

II. THE PHILIPPINES AS A LEADING LABOR EXPORTING COUNTRY

A. Philippine Demographics

The Philippine geography is an archipelago consisting of over 7,000 islands. Because of this fragmentation the people speak over 80 different dialects. Filipino, the lingua franca, is spoken by only 50 per cent of the population. Also, the Philippines is the only Asian country with a predominantly Catholic population. This is a legacy from four centuries of Spanish colonial rule. The present political system follows the democratic style of the United States the second colonizer, which occupied the Philippines in 1898. During this year, Spain "sold" the Philippines to the United States to settle the dispute over Cuba. The United States was later ousted by Japan during World War II. After three years of Japanese occupation, the United States returned to the Philippine shores and helped free the Philippines from Japanese rule. Eventually, the Philippines proclaimed its independence in 1946.

When Ferdinand Marcos was elected as President in 1965, the Philippines' economic performance was second to that of Japan in Asia. However, Marcos led the country into its darkest era. During his dictatorial reign he imposed martial law, enriched his cronies and stashed away millions of Pesos in his foreign bank accounts, created political and social unrest, and committed numerous violations of human and civil rights. The assassination of Marcos' political arch rival Benigno Aquino on August 21, 1983 on his return from exile in the United States triggered an outcry for political change. In 1986, the Marcos dictatorship was overthrown when

an event known as 'People Power' transpired in Manila. Hundreds of thousands of Filipinos poured out to the streets to block the tanks that Marcos had ordered in his last attempt to maintain power. He later fled with his allies and Corazon Aquino, the widow of Benigno Aquino took over the presidency. Although Aquino did not fare well in her six-year term, she was able to preserve the newly acquired democracy. Fidel Ramos succeeded Aquino as President in 1992. In June 1998, Joseph Estrada became the Philippines' 13th President and the third to be elected in a free and democratic process since the late President Marcos fled the country in 1986.

B. Phenomenon of Philippine Labor Migration: Background

In the last years under President Ramos' regime, the Philippine economy seemed to be picking up. The Philippines enjoyed a remarkable increase in its GNP growth in 1996.[13] Recent developments have painted a bright picture of the country's future: The APEC summit, held in Manila last November 1996, was a surprise success and sealed many trade agreements with neighboring economies. The Philippines of 1996 was touted as the new "economic tiger" to watch in Asia.[14] Even the International Monetary Fund "*was finally impressed and gave the country high marks for its ability to keep a tight lid on inflation and sustaining the economic upturn*".[15] The Philippines finally completed its International Monetary Fund program In March 1998.[16] Ramos opened peace talks with the communist and Muslim rebels and reconciled right-wing military rebels back to government ranks. Public perception of President Ramos'

---

[13] "1996 GNP growth registers at 6.8%", *The Philippine Star*, January 30, 1997.
[14] Newsweek called the Philippines "Asia's new tiger" in its November 25, 1996 Asian issue.
[15] "The Star's Top Ten Business Stories for '96", *The Philippine Star*, January 1, 1997.
[16] Doris C. Dumlao, "RP free at last from IMF 'hold'", *Philippine Daily Inquirer*, March 29, 1998.

accomplishments were better than any political analyst had predicted when he was elected in 1992. For a moment, President Ramos appeared to be on the right track for the remainder of his term when he attempted to address and resolve every major public issue that captured the public interest.

The migrant worker situation, one of the country's main problems that has caused national embarrassment and a number of high profile resignations and terminations, was given a long delayed response during Ramos' term when Congress enacted the Migrant Workers Act. One of the major catalysts in soliciting government action was the hanging of Flor Contemplacion, a Filipina domestic worker in Singapore, for killing a fellow domestic worker and the latter's ward in the first quarter of 1995. The tragedy stirred the national consciousness and compelled legislators to squarely address the Philippine migrant worker problem to pacify an agitated and dismayed nation. Further government action became necessary when shortly after the incident in Singapore another Filipina domestic worker, then 16-year old Sarah Balabagan, was sentenced to death in the United Arab Emirates for killing her employer who had repeatedly raped her in one day. Balabagan's death sentence was commuted to a lighter penalty which can be attributed to extensive media coverage and strong public pressure. But the damage was done. Contemplacion was hanged according to schedule, despite a timid plea from the Philippine government for clemency, and later, for a stay of execution. This incident led to a national outrage over the plight of Philippine migrant workers, specifically the vulnerable female domestic workers. There was also a strong public clamor for re-examining government measures

that would protect the workers abroad. Government actions to curb labor migration or to control its flow were often met with cynicism, and not without a reason. In response to the Contemplacion incident, diplomatic ties with Singapore were initially downsized only to be slowly resumed after the flare had died down.[17] The government offered free and safe repatriation to the Philippines for those domestic workers who wanted to leave Singapore because of exploitation and abuse. Although sensing the unusual magnitude of unrest the case triggered, the Philippine government was fully aware that it had to be careful not to overtly offend Singapore. Government had to ensure that the welfare of Filipina domestic workers employed in Singapore was safeguarded. This was a difficult task, considering the outrage displayed by the Filipinos. Because of this public reaction the Singaporean Embassy and its office staff had to be guarded and provided with security. Meanwhile, several groups of concerned Filipinos publicly burned the Singaporean flag, and many feminist groups held vigil in key spots in Manila while they awaited the verdict on Contemplacion's case. Ramos supplied a bureaucratic solution: A national commission was established[18] that made up-to-date studies on Filipino migrant workers deployed around the world. The commission travelled extensively in host countries with Filipino migrant workers. The commission was instrumental in pushing for the passage of the Migrant Workers Act. This legislation is the culmination of over two decades of government grappling with the phenomenon of Philippine labor migration and the myriad of issues and problems it created.

---

[17] The Philippine Embassy in Singapore was reduced on March 22, 1995 when the ambassador was replaced by a charge d'affaires. In April 1996 a new ambassador to Singapore prepared to assume his post, effectively ending the diplomatic friction with Singapore.

[18] The commission was called the Gancayco Commission, named after the head of the commission, a former associate justice of the Philippine Supreme Court.

1. History of Philippine Labor Migration

The Philippines is arguably the world's largest exporter of labor. Filipino workers can be found laboring on construction sites in Saudi Arabia, looking after children in Hong Kong and Singapore, entertaining in Tokyo bars, dusting off furniture in Italian mansions, doing graveyard shifts as nurses in the United States and crewing ships in the high seas. The labor migration from the Philippines formally began in the early 1970s when government openly endorsed overseas employment as a temporary means to curb the growing unemployment rate. But the history of labor migration from the Philippines goes back many decades. Originally envisioned as a temporary policy, the Philippine government has now condoned over two decades of nearly unabated migration of Filipino workers to virtually every corner in the world. Migration movements are traditionally perceived as an individual choice to "seek greener pastures", to start anew in another country, or simply to achieve changes in lifestyle. While the economic situation of the country of origin has often played as a stimulus for migration, this has never been more apparent than in the Philippine migration movement.

There were basically four major waves of labor migration in Philippine history.[19] The first wave occurred during the Manila-Acapulco Galleon Trade where Filipinos assumed labor tasks aboard many of the trade ships. The second outflow began at the turn of this century when a number of

---

[19] The analysis of this section is partly based on a paper by Catherine Paredes-Maceda, "Responding to Filipino Migration Realities: A Framework for Cooperation", *OCWs in Crisis: Protecting Filipino Migrant Workers*, Ateneo Human Rights Center, Makati, Philippines, 1995, at 9, and Philippine Overseas Employment Administration, *White Paper, the Overseas Employment Program*, Department of Labor and Employment (DOLE), Republic of the Philippines, Manila: DOLE, April 1995, at 10.

Filipino workers travelled to Hawaii as plantation workers. The number of Filipinos grew from a mere two hundred to such great proportions that at one point in time, they formed about seventy per cent of Hawaii's labor plantation population. Other Filipino migrants moved to the United States for training as students, and some relocated there to hold menial jobs in restaurants, hotels, railroad constructions, agricultural plantations and canneries. Apple and orange pickers were also in demand in California, and Filipinos filled that need as well. By 1923 there were over 5,000 Filipinos being recruited yearly to work in fish canneries in Alaska. A third wave of Filipino immigrants to the United States started after the Second World War which included military servicemen, young professionals, and students seeking higher studies. As former colonials of the United States, Filipinos could migrate to the United States without restrictions. At about the same time, Australia and Canada had begun to hire medical workers. The last surge of Filipino immigrants consisted mainly of OCWs and engineers who were in high demand in oil-rich countries like Saudi Arabia, Iran and Kuwait during the 1970s. Also, a handful of Filipino veterans moved to the United States to complete their naturalization privileges for serving the Allied Forces during World War II. During the same period, international ship owners began to scout for crews in South East Asia for which the Philippines was a major source. By 1983, job openings in operations and maintenance as well as in service emerged in the Middle East. Nurses, hotel personnel, office clerks, professionals, laboratory and medical technicians and other related worker groups took the opportunity.

It was during the fourth migration wave to the Middle Eastern countries, rich in oil but poor in labor skills and resources, that Filipinos found the greatest number of work opportunities to help in the construction sites and oil fields. The world demand for oil during the mid-1970s produced extraordinary growth in oil-revenues and provided the Middle Eastern countries with the financial resources to build new infrastructure. Initially, these countries turned to their neighbors for inexpensive labor. Pakistan was a favorite sending country. Later, the Philippines proved to be an additional source for a seemingly unending supply of inexpensive but skilful and educated labor. This led to the first regulatory response by the Philippine government when it enacted the Philippine Labor Code (the Labor Code) in 1974.[20]

The 1990s migration movement can be considered the fifth wave in which a gradual shift of employment destination. Workers began to try their luck in neighboring Southeast Asian countries which emerged as the choice destinations. In particular, Japan, Taiwan, Hong Kong and Singapore are the countries soliciting the services of Filipino workers. It is estimated that in 1994, almost 212,000 land-based Filipino contract workers went to Asian countries while almost 313,000 were deployed to the Middle East.[21] The fifth wave also marked a shift of labor migration towards predominantly female workers, most of whom work in foreign countries as domestic workers, nurses and entertainers. Among the land-based workers deployed as of 1994,

---

[20] Philippine Presidential Decree No. 442 [1974].

[21] Philippine Overseas Employment Administration, *White Paper, the Overseas Employment Program*, Department of Labor and Employment (DOLE), Republic of the Philippines, Manila: DOLE, April 1995, at 5.

565,226 are female, while 291,916 are male workers.[22] When occupations in production and construction in the Middle East had been filled the service sector took over as the prevailing occupational category. Furthermore, because of the disparate economic development in the South East Asian region, the richer countries experience a shortage of low-skilled labor, whereas the poorer countries (the Philippines included) suffer from labor oversupply of underemployed or unemployed citizens.

2. Socio-Economic and Cultural Reasons for Migration

When the Philippines declared its independence in 1946 its national economy focused on two aspects: an internationally competitive and export-oriented agricultural sector and a smaller urban industrial and service sector. The Philippine government then adapted to an import-substitution strategy which utilized the earnings from agricultural exports. These resources were used to subsidize the development of home-grown manufacturers who were shielded from foreign competition through high tariffs. However, the dedication to such inward-looking policies proved to be economically unsound. The Philippines used capital-intensive production techniques and imported labor saving machinery which was more suitable to industrialized countries. The result was predictable: rural workers stood in line for jobs in protected urban industries and joined the informal economy while waiting for employment. Many of these unemployed and underemployed workers are now anxious to emigrate. Then President Marcos' declaration of Martial Law in September 1971 paved the way for transforming the planned

---

[22] *Ibid*, at 6.

temporary labor exportation as a permanent human resource program whereby disenchanted Filipino workers could escape the harsh political and economic situation. In 1979 the Philippines was one of the first countries to avail of the structural adjustment loans when these were still at an experimental stage. By the 1980s the Philippines was suffering from a full-blown debt crisis as the economy was taking blows from enforced debt payments and the structural adjustment programs. The structural adjustment loan program merely served to intensify the socio-economic crisis.[23]

Today, the Philippines experiences a population growth of about 2.1 per cent per annum while the labor force is estimated to grow at 2.9 per cent per year. The political system, though democratic in style, is beset with the ways of patronage and privilege.[24] The long Spanish rule instilled a system of political elitism and entrenched family dynasties often composed of landowners in powerful government positions. This socio-political climate has endured over the centuries and has created a tremendous gap between the rich and poor. The World Bank estimated that the proportion of people living in poverty in the Philippines is 39 per cent as compared to 22 per cent in Thailand, 19 per cent in Indonesia, 14 per cent in Malaysia and 5 per cent in South Korea.[25] Indeed, the economic elite in the Philippines is tremendously rich: The average income of the richest fifth in the Philippines is almost 11 times the average income per

---

[23] Antonio Tujan, Jr. The Crisis of Philippine Labor Migration. IBON: People's Policy and Advocacy Studies, May 1995, at 6.

[24] David M. Foreman, "Protecting Philippine Overseas Contract Workers", *Comparative Labor Law Journal*, vol. 16, 1994/95, at 35.

[25] "Steady Eddie", in Back on the Road, *The Economist*, May 11th, 1996, at 5.

head.[26] The economic implications cannot be overlooked. Industrialization became more important than the agricultural sector, even though the natural resources of the Philippines are conducive for farming industries. National economic policies gave preference to urban over rural areas. The result was massive unemployment and underemployment in the rural areas where farmers lost the incentive to toil on land that did not belong to them. The population's exodus to the urban areas was thus inevitable. But the economic woes were not solved in the 'urban jungles'. The national capital region, Metro Manila, already suffering from overpopulation, is now also overcrowded with rural migrants unable to land jobs. Other urban growth problems have also emerged in Manila: traffic congestion, squatter and slum areas, and abject environmental conditions. As a result of Metro Manila's labor oversupply, the wages dropped. The Labor Code mandates a monthly salary of Philippine Pesos (PHP) 550.00 to 800.00 for house helpers,[27] which is about CAN$28.00 to 40.00.[28] In contrast, the salary for domestic workers in Hong Kong is HK$3,750.00, or PHP12,600.00[29] while in Canada it is currently pegged at CAN$1,232.00, or PHP24,640.00 per month. Thus, it is no surprise that overseas work is regarded as an economic salvation.

Another push factor for migration was the pervasive landlessness among the peasant sector. After regaining democracy under the newly installed government of President Aquino, the

---

[26] *Ibid.*

[27] The minimum wage indicated is over four years old, from Art.143, Chapter III - Employment of Househelpers, as amended by Philippine Republic Act 7655, approved on August 19, 1993.

[28] The figures are arrived at by using a CAN$1.00 = PHP20.00 exchange rate.

[29] *Supra*, note 21, at 36.

Comprehensive Agrarian Reform Law was enacted in 1988[30] (the CARL). On paper the CARL seems impressive. It stipulates that all public and private agricultural land is subject to the redistribution of land. The CARL imposes strict deadlines for lands to be redistributed. However, while the CARL was a legislative success, its implementation was discouraging. Legal loopholes were soon taken advantage of. For example, lands originally agricultural in nature, and therefore within the jurisdiction of the CARL, were quickly "declared" as residential or commercial in nature, by setting up bogus construction activities. Also, government lacked the necessary resources to quickly put the CARL provisions into action, thus giving the landowners sufficient time to convert their lands into non-agricultural ones. What further complicated the implementation of the CARL was the fact that anti-agricultural sentiments echoed in the halls of the Congress where until today, ten years after the passage of CARL, legislators who are also large landowners ensure that land reform legislation is stifled. In fact, even then President Aquino, a landowner herself of vast tracts of land north of Manila, seemed hesitant to subject her land to the CARL.[31] Thus, the protective mantle of social justice in the CARL provisions lacked teeth in its implementation stage and could not sustain the farmers and their families who continued to till on land that was not their own. For many disgruntled farmers, the solution to their problems was emigration, to the urban jungle of Manila, or migration from the Philippines.

---

[30] Philippine Republic Act No. 6557.

[31] Ironically, the first Speaker of the House of Representatives of President Joseph Estrada's administration is Rep. Jose Villar who is one of the Philippines' largest landowners.

The lure of overseas employment becomes even more evident if wage rates in neighboring countries are studied. Average wages in Japan or Hong Kong are at least ten times higher than that of the Philippines. These regional wage disparities seemed to justify the sacrifices made for overseas work. The substantial foreign exchange earnings on the part of the government from migrant workers' remittances and the increased purchasing power at home of the migrant workers finally institutionalized the OCW phenomenon. It is no surprise that the Marcos administration turned to labor export policies to quell the economic unrest in the Philippines. A study on labor exporting countries suggests that sending country's rationale for labor export is premised on three assumed developmental benefits:

> *First, labour emigration is considered to be a rapid and inexpensive way to alleviate unemployment. Second, it is thought that the policy will improve the stock of human capital as workers return with skills acquired through their work experience abroad. Third, it is perceived that the remittances of workers will both help to alleviate the balance of payment problems and promote development through increased investment.*[32]

These points sum up the sentiments of the policy makers of the Marcos administration during the early 1970s. The government has since refined the policies into a sophisticated administrative mechanism for labor export that is being studied for its commendable structure by other sending countries such as Vietnam and Egypt. However, its degree of success is another matter. The developmental benefits listed above may hold true for the first years of labor migration, but it is doubtful whether they are valid for the present situation. Although the unemployment rate of the Philippines was greatly reduced by the constant emigration trend it also bred complacency

---

[32] C.W. Stahl, "Manpower Export and Economic Development: Evidence From the Philippines", *International Organization for Migration*, vol. xxvi, no. 2, June 1988, at 147.

in government policy-making. This is particularly evident in the privatization of the overseas recruitment system which government encouraged early on. As will be discussed below, the active participation of the private sector in recruitment mechanism of laborers created a multitude of problems, both for the outgoing workers and the government. Also, while it is generally true that workers bring home newly-acquired skills from their overseas jobs, studies have suggested that these skills could have been learned at home as well. As a counter-argument, one could point out the "brain drain" effect of labor migration. Skilled workers and many professionals such as health workers succumb to the temptation of overseas employment, leaving the rural areas in the Philippines wanting in badly needed health social service personnel and other professional skills. It has also been posited that the labor migration set-up makes it costly for sending countries to send their workers. On the other hand, it is relatively inexpensive for host countries to accept temporary foreign workers because it is the sending countries who pay for the workers education and social services. Finally, while the issue of remittances will be discussed in more detail below, some aspects can be examined briefly at this point. It is suggested that while remittances had and continue to have a tremendous effect on the balance of payment and foreign exchange reserves of the Philippines, studies have also shown that the monies sent home are rarely invested in job-generating activities. They are instead used for direct spending such as purchase or renovation of family homes. It is also argued that, "[w]*hile the record OCW remittances have kept the economy afloat especially in the midst of an economic crisis, there is danger to an excessive reliance on them*".[33]

---

[33] Florian A. Alburo, "Remittances, Trade and the Philippine Economy", *Asian and Pacific Migration Journal*, vol. 2, no. 3, 1993, at 271.

Thus, the long-standing socio-economic conditions that fuelled the debt crisis in the Philippines and caused a stagnant GDP growth and economy throughout the 1980s acted as pressures for migration. The high rate of unemployment and underemployment in the informal labor sectors was another push factor. An additional reason is the generally high level of education and training of Filipino labor in contrast to its level of technological and industrial development. Further, problems of poverty and landlessness stimulated migration towards the urban areas where the labor situation is already overcrowded. This urban growth problem and labor oversupply also contributed to the labor exportation.

Clearly, the deteriorating Philippine economy played a key role in shaping the migration process in the past. The Philippine government hopes that with the improvement of the GNP growth in the last two years there will be sufficient resources to establish a self-reliant economy and create competitive jobs. But it would be incomplete to propose that the phenomenon of migrant workers in the Philippines is solely due to the country's dearth in employment opportunities, although labor exportation certainly provided a source of decompressing the valve of poverty and unemployment. The impetus for emigration is a complex web of interrelated factors: the economic situation of the Philippines, facets of sociological and cultural dynamism and other actors (e.g., government policies advocating labor export, recruitment mechanisms and networks) that fuelled a 'migration mentality'.

3. The Feminization of Labor Exportation

Filipinas now compose the majority of the migrant labor force. It is a particularly disconcerting reality that the government has to come to terms with. Indeed, it is a massive case of Filipino daughters, wives and mothers lost to the world's job markets in the service sectors where the women work predominantly as domestic workers and entertainers. These are occupations that are traditionally marginalized, given low respect and inadequate protection in the labor force. Obviously, the large number of existing private recruitment agencies makes it easier to lure unsuspecting women from far flung provinces. But there is more than mere existence of recruitment mechanisms that increases female labor migration from the Philippines. The overseas occupations available to Filipino labor determined to a large extent the gender flow of labor migration. In the early years, a predominantly male labor force travelled abroad for construction work to Middle Eastern countries like the Kingdom of Saudi Arabia, Iraq, Kuwait and the United Arab Emirates. Male crew members for ships were also in high demand. During this period the two adjunct agencies to the Filipino labor department that handled overseas labor were the Overseas Employment Development Board and the National Seamen Board. During the late 1980s and the early 1990s, the Middle East had completed most of its construction of infrastructure; what it now needed were workers for the service sector. Henceforth, more Filipinas travelled to the Middle East to fill positions as domestic workers and nurses. It is estimated that from 1984 to 1996, the Saudi Arabian labor market absorbed over 2.5 million Filipino contract workers. However, at about the same time, within Asia, a distinct occupational pattern of Filipino migrant workers emerged. The demand for Filipina domestic workers in this

region rose phenomenally marking a shift from the Middle Eastern countries to the newly industrialized Asian economies. While Saudi Arabia remains the top destination for Filipino workers, Hong Kong, Japan, Taiwan and Singapore are fast catching up. In particular, Hong Kong and Singapore are major host countries of Filipina domestic workers. Considering the size of the two countries, the total number of Filipino workers that arrived within a period of twelve years is astounding: Hong Kong with 525,000 and Singapore with 131,000 workers. This demand for Filipina domestic workers has developed as a result of a large number of Hong Kong and Singaporean women entering the labor force, thereby creating the need for hired domestic work to provide family and home care.

A closer look at the pattern of labor mobility within the Philippines suggests that labor migration from the Philippines is not the only activity. Another migration activity, the rural-urban migration, occurs from rural and likely less developed areas of the Philippines to the urban, more developed places. One writer puts it succinctly:

> *The overall pattern is suggestive of a dualistic labor migration phenomenon, where domestic migration involves shifts of population from poorer to the richer regions, but not abroad, and a separate one from the richer regions to overseas destinations.*[34]

A study has yet to be conducted that analyzes Filipinas working overseas as domestic workers who leave their homes and children to the care of other women from the poorer regions of the

---

[34] Ashawani Saith, "Emigration Pressures and Structural Change in the Philippines", Manila: ILO/SEAPAT, draft, 1996, at 30, quoted in Dr. Rashid Amjad, "Philippines and Indonesia: On the Way to a Migration Transition", *Asian and Pacific Migration Journal*, vol. 5, nos. 2-3, 1996, at 353.

Philippines. The Philippines is thus a good example of the theory of dual migration movement at work. The class-based structure of employing domestic help dates back to colonial times and still exists in a typical urban Filipino family which employs a domestic worker so that the wife herself may consider working as one overseas. But this is not an analogous pattern to the emerging household structure in developed countries where in lieu of daycare facilities, middle-class families enjoy the privilege of employing a nanny.[35] What occurs in the Philippine set-up is human labor that handles tasks already being taken care of by machines and superior technology in developed countries. The ability to hire a maid gives both spouses the ability to work which often means overseas work, including work as a foreign domestic worker. Ironically then, while more women from host countries such as Canada are entering the labor market, thereby emancipating themselves and feminizing the work force, they are being replaced in their traditional household functions by Filipina domestic workers, who in turn, are being de-feminized by the bonded labor they perform. De-feminization, therefore, does not occur for the first time in the host countries. The same phenomenon happens within the sending countries such as the Philippines.

Thus, the dual migration pattern in the Philippines in general and in the urban cities such as Metro Manila in particular, provide favorable conditions for women to seek employment abroad. Women who have migrated from the poorer regions find employment in urban households because their employer migrates or intends to do so. In short, the other way of looking at the dual

[35] The terms "domestic worker" and "nanny" are here used interchangeably. The latter is the preferred term in Canada.

migration movement is a "graduated" labor movement, in which women initially migrate from the rural areas to the urban cities, and after succeeding there, finally migrate away from the Philippines for better compensated work abroad.

As previously discussed one stimulus for labor migration are the large wage differences between the Philippines and overseas. There are also visible economic benefits in every family that is related to a Filipina migrant worker that tantalize the underpaid women back home: the neighbor whose sister or daughter has left to work as a domestic worker proudly displaying her latest Japanese electronic gadgets and proudly announcing her younger son's entry into university thanks to the remittances, or the cousin who comes home from work as a Hong Kong nanny donning signature clothes. Sometimes this juxtaposition leads to paradoxical situations, like the sight of a satellite dish in the midst of a squatter area where telephone lines are a luxury and even tap water is a life-threatening scarcity. Most importantly, there seems to exist a cultural attitude among working class Filipinas that romanticizes the notion of traveling abroad. This is not surprising if one considers the economic realities facing these women; the best chance for them to see the world is via the migrant labor route. It is already an enormous investment for rural women to migrate to the urban areas. Hence, in a morbid sense, some of these women desire to make the voyage so they can work abroad and experience travel at the same time. It turns them into instant globetrotters and into financial assets for the family left back home.

C. Overview of Bureaucratic Regulations and Protective Mechanisms

1. Legislation

The Philippine government follows the principle of separation of powers and of three co-equal branches of government: the legislative, the executive and the judicial branch. The primary law of the land, the 1987 Philippine Constitution was overwhelmingly ratified in 1987 in a plebiscite called for that purpose. The 1987 Constitution and Presidential Decree No. 442 which was decreed by President Marcos during the Martial Law period and which became the Labor Code provide for the legislative basis of Philippine labor laws and policies.

i. Constitutional Provisions

The ratification of the 1987 Constitution established for the first time constitutional provisions of a preferential treatment of the labor sector. Article II of the 1987 Constitution enunciates the Declaration of Principles and State Policies. It provides, among others, that, "[t]*he State affirms labor as a primary social economic force ... it shall protect the rights of workers and promote their welfare*"[36], thus categorically protecting the rights of laborers. Inherent in the same provisions of the 1987 Constitution is the protection of the basic human rights of every Filipino. The 1987 Constitution further provides that,

---

[36] 1987 Philippine Constitution. Article II, section 18: Declaration of Principles and Statement Policies - State Policies.

> [t]*he State values the dignity of every human person and guarantees full respect for human rights.*[37]
>
> *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.*[38] (Emphasis supplied)

The provisions show that the Philippine government has recognized the importance of setting up protective mechanisms for its migrant workers. It also shows the level of political attention that the issue on labor export attracts. These constitutional provisions were also meant to respond to the entrenched OCW phenomenon. However, the ratification of the 1987 Constitution presented an ambitious task for the Philippine legislature. The 1987 Constitution was drafted by a Constitutional Commission composed of members appointed by then President Aquino's "freedom government", the revolutionary government that replaced the dictatorial regime of deposed and exiled President Marcos. The Aquino government was revolutionary in the sense that it came into existence in defiance of existing legal processes and in opposition to the authoritarian values and practices of the overthrown Marcos government. Much of the 1987 Constitution's ambitious tone can be traced back to the positive disposition that prevailed in the Philippines in 1986 and 1987, just after the historic "People Power" revolution. Its verbosity arose from the Constitutional Commission's anxiety that omission of some provisions may enable a president to re-impose martial law and repeat what Marcos had done in September of 1972. There was also a concern to ensure that ratification of subsequent constitutions would truly reside with the Philippine people, in reaction to the unceremonious and unilateral "ratification"

---

[37] *Ibid*, Article II, section 11: Declaration of Principles and Statement Policies - State Policies.
[38] *Ibid*, Article XIII, section 3: Social Justice and Human Rights - Labor.

of the 1973 Philippine Constitution by then President Marcos[39]. Thus, the 1987 Constitution is awash with ambitious declarations that amount to very little until implementation has been fleshed out, or until enabling law has been put in place. On the other hand, the 1987 Constitution is a reflection of public determination back in 1986 to start anew and put behind the memories of the Marcos dictatorship that plunged the country into its darkest history. Thus, the lengthiness and aspirational character of the 1987 Constitution is a necessary derivative of the political milieu the Philippines reflected after the "People Power" revolution.

ii. Labor Laws

In the 1970s, during the fourth wave of migration, the Philippine government was facing a deteriorating economy while realizing the opportunities of better employment abroad. Government saw the urgent need to protect the Filipino workers who were quickly seizing the chance and leaving the country. A middle ground between endorsing labor exportation and the protection and welfare of its workers was envisioned when the Labor Code was written in 1974. Article 3 of the Labor Code declares the state's basic labor policy:

> *The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. The State shall assure the rights of the workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work.*

---

[39] President Marcos initially submitted the 1973 Philippine Constitution to the Filipino people for ratification or rejection. Marcos later suspended the plebiscite. Meanwhile, he convened the Citizens Assemblies which was asked, among others, the question, "*do you approve of the New Constitution?*". Marcos then announced that the Citizens Assemblies ratified the 1973 Constitution and the Supreme Court declared the ratification legally valid.

The Labor Code is an innovative yet highly convoluted source for the country's labor laws. From it flow myriads of implementing rules and regulations, circulars and memoranda which are periodically amended to reflect the prevailing labor conditions.

a. The Philippine Overseas Employment Administration (the POEA)

Part of the Labor Code deals with pre-employment. Initially, three government bodies were created to exclusively administer the migrant labor force: The Bureau of Employment Services, the Overseas Employment Development Board and the National Seamen Board. The creation of the three bodies virtually eliminated participation of the private-sector in overseas work recruitment. However, their existence proved to be of short duration. As the demand for Filipino labor steadily increased the regulatory capacities of these bodies were soon exhausted. First, the participation of the private sector was renewed in 1978. This trend of privatization of recruitment activities persisted, and the 1989 POEA Annual Report noted that the private sector was responsible for the placement of 96 per cent of migrant workers. Second, in 1982 the three boards were replaced by the POEA.[40] The POEA became an adjunct office of the Department of Labor and Employment (DOLE) and now oversees the entire system of Philippine labor export. The POEA is mandated to install a systematic program for promoting and monitoring the overseas employment of Filipino workers, taking into consideration domestic labor force requirements, and to protect the rights of workers to fair and equitable employment practices. In short, the POEA became the government agency responsible for the regulation and

[40] Created by Philippine Presidential Decree No. 797 in 1982 and reorganized through Philippine Executive Order No. 247 in 1987.

supervision of all recruitment activities and the hiring and deployment of workers sent abroad. This mechanism worked on the assumption that any recruitment of Filipino laborers would have to pass through the POEA process. However, welfare and protection of the Filipino overseas workers was initially not on the POEA's agenda because the government did not see the need for it.

At the time of its creation the POEA did not anticipate the magnitude of Filipino migrant workers who were to travel abroad in search for (better) employment and higher remuneration. Slowly, cases of abuse, fraudulent hiring practices by both Filipino recruiters and the foreign employers and other recruitment and labor violations began to surface. In 1987, President Aquino restructured the POEA, citing two main reasons:

> *It has become necessary to institute changes in the functional structure of the* [POEA] *in order to enhance its effectiveness in responding to changing market and economic conditions and to all of the national development plan for the strengthening of the worker protection and regulation components of the overseas employment program; and*
>
> *the* [POEA] *has to systematize its operations by rationalizing its functions, structure and organization to make it more efficient in undertaking its principal functions of protecting [the workers'] rights to fair and equitable employment practices, and in order that it may respond more effectively to the new demands for ... more efficient adjudication of cases and more efficient manpower delivery system.*[41]

Thus, President Aquino realized the urgent need to include protective mechanisms for the Philippines' migrant workers. Under the new law, the POEA now manages the whole labor

---

[41] Philippine Executive Order No. 247 [1987], second and third whereas clause, respectively.

exportation process - from recruitment and pre-departure of the workers until their repatriation from the host countries and productive reintegration into Philippine society. Consequently, the POEA is now also responsible for overseeing the welfare of the migrant workers.[42]

Aside from defining the power and functions of the POEA and the DOLE, the Labor Code also spells out provisions on overseas employment[43], specifically on the matters of recruitment and overseas placement[44]. For example, only private agencies and private recruitment entities duly licensed by the POEA are allowed to engage in recruitment and overseas placement.[45] Stringent rules are set up with regard to recruitment and placement of workers: Direct hiring is prohibited[46] (with exceptions to employers such as diplomatic corps and international organizations), while name hires[47] are allowed. The reason for the prohibition on direct hiring is that a Filipino worker hired directly by a foreign employer, without government intervention, is not assured of the best terms and conditions of employment. In theory, the Philippine government, through its embassies and consulates abroad, has up-to-date and accurate information on conditions prevailing in foreign countries. Without government intervention, the foreign employer may be entering into a contract with a Filipino worker who does not really possess the skills or

---

[42] *Ibid*, sec. 3(c): "*Protect the rights of Filipino workers for overseas employment to fair and equitable recruitment and employment practices and ensure their welfare;...*"

[43] Article 13, cl.(h) of the Philippine Labor Code does not give a satisfactory definition of 'overseas employment': "*Overseas employment means employment of a worker outside the Philippines.*"

[44] *Supra*, note 20, art. 12.

[45] *Ibid*, Arts. 13 (c), (d), (e), (f).

[46] *Ibid*, Art. 18: "*No employer may hire a Filipino worker for overseas employment except through the Boards and entities authorized by the Secretary of Labor.*"

[47] Rules and Regulations Governing Overseas Employment, 1991, Book I, Rule 2, z. "*Name hire - a worker who is able to secure employment overseas on his own without the assistance or participation of any agency.*"

qualifications he or she claims to have. Thus, as far as the Philippine government is concerned, migrant workers who are directly hired acquire undocumented status because they did not pass through the POEA in the form of name hires, consequently lacking the proper records concerning their overseas employment. Workers whose work and travel documentation are processed through the legal government channels - be it through accredited private recruitment agencies or through the POEA directly - acquire documented status. Indeed, the POEA's present duties and functions are extensive and powerful. However, based on the wording of the law the POEA considers the promotion of overseas employment its primary mandate, while the protection and welfare of Filipino workers is perceived as a subordinate mandate.[48]

b. Welfare Funds and Remittance Schemes

The remittance scheme is a system where the Filipino OCWs remit their salary or a portion thereof to their beneficiaries in the Philippines and converted to Philippine pesos by the Philippine banking system. During President Marcos' term, the Welfare and Training Fund for Overseas Workers of 1977 was formalized into the Welfare Fund for Overseas Workers[49] (the Welfare Fund) of 1980. The Welfare Fund was created,

---

[48] The Statement of Policy of the POEA Rules and Regulations provides that the primary POEA policy is to "[p]*romote and develop overseas employment opportunities*" and secondarily to "[a]*fford protection to Filipino workers and their families, promote their interest and safeguard their welfare...*"

[49] Philippine Presidential Decree No. 1694 [1980], later amended by Philippine Presidential Decree No. 1809, on January 16, 1981.

> *...for the purpose of providing social and welfare services to Filipino overseas workers, including insurance coverage, legal assistance, placement assistance, and remittance services.*[50] [Emphasis added]

At that time government realized how extensive the labor migration movement had become and how much invaluable foreign exchange sent home by the migrant workers could be tapped by the government financial institutions. The Welfare Fund attempted to persuade migrant workers to use official government financial channels to send home their earnings in exchange for welfare and protection coverage. The government could then collect foreign currencies to bolster its foreign exchange reserves.

It seems that the Welfare Fund program was unsuccessful because in 1982, Philippine Executive Order No. 857 (EO 857), or the Forex Remittance of Overseas Contract Workers, was promulgated, establishing a mandatory remittance scheme and using more forceful provisions:

> *SEC. 1. It shall be mandatory for every Filipino contract worker abroad to remit regularly a portion of his foreign exchange earnings to his beneficiary in the Philippines through the Philippine banking system. Licensed agencies and other entities authorized by the Minister of Labor and Employment to recruit Filipino workers for overseas employment are similarly required to remit their workers' earnings...*

The Labor Secretary was empowered to disapprove renewal of an employment contract and agency or service agreement until proof of remittance was submitted.[51] Contract workers found violating the mandatory remittance scheme were suspended or excluded from the list of eligible

---

[50] *Ibid*, sec. 1.
[51] Philippine Executive Order No. 857 [1982], sec. 4.

workers for overseas employment,[52] while Philippine or foreign employers ignoring the remittance scheme, for example, by not establishing a payroll deductions scheme[53], were excluded from the overseas employment program.[54] The implementing rules even provided punitive measures such as non-issuance or non-renewal of passports of the workers, and non-issuance of accreditation to employers.[55] In short, EO 857 attempted to rectify the ineffectiveness of earlier laws to ensure the remittance of overseas earnings through official financial institutions. Again, the punitive approach seemed ineffective. In 1985, President Marcos promulgated Philippine Executive Order No. 1021[56], this time offering a system of incentives[57] and expressly repealing the punitive provisions of earlier laws.

c. The Overseas Workers' Welfare Administration (the OWWA)

During President Aquino's term in 1986 to 1992, the Welfare Fund was once more reorganized in 1987 through Philippine Executive Order No. 126 (EO 126), establishing the Overseas Workers' Welfare Administration (OWWA). EO 126 reiterated the objectives of past legislation: to establish a remittance scheme to ensure the welfare of the workers' beneficiaries in the Philippines and to reduce the foreign debt burden. A fund board was created to encourage migrant workers to participate in official remittance schemes. In 1991, the Overseas Investment

---

[52] *Ibid*, sec. 9.
[53] *Ibid*, sec.6.
[54] *Ibid.*
[55] Rules and Regulations Implementing Executive Order No. 857, sec. 1.
[56] The Order was aptly titled "*On encouraging remittances of contract workers earnings through official channels*".
[57] The second whereas clause of Philippine Executive Order No. 1021 reads:
"*WHEREAS, government recognizes this contribution of overseas contract workers and should therefore reward them though a package of incentives;...*"

Fund Act was enacted, the only legislation on migrant workers passed in Congress between 1987 to 1991. It aimed to weave the links between workers' remittances and the reduction of the country's foreign debt. Section 4 created the Overseas Workers' Investment Fund Board:

> *There is hereby created the Overseas Workers' Investment Fund Board, which is hereby vested with corporate powers ... to encourage greater remittance of earnings of Filipino workers overseas and to safeguard and oversee the participation of said workers' remittances and savings in the Government's debt-reduction efforts and other productive undertakings.*

Accordingly, the primary focus of the Overseas Investment Fund Act was on the government's obligations on debt servicing. The workers' welfare was merely a subsidiary concern. Government's real interest was to find access to the remittances that pass through the informal channels and to accredit money couriers and informal delivery services as official foreign exchange remittance venues. Once more, incentives were offered to attract compliance with the scheme. Ultimately, the Overseas Investment Fund Act and EO 126 further strengthened the legal basis for the government to establish a remittance scheme for the migrant workers, thus enabling it to operate both on incentives for the workers and on the reduction of the country's foreign debt burden.

In sum, while the POEA is the umbrella arm for government administration of the labor export, it is the OWWA that provides a link between government mechanisms on welfare and protection and the workers in the host countries. Workers must make a contribution to the OWWA fund before they leave the Philippines. They become members of OWWA and are afforded its

protective mechanisms. The contributions are then used by OWWA to finance its various programs and to enable OWWA Welfare Officers to perform their tasks and duties in the country they are assigned to.

The above illustrations are but a part of the spectrum of labor laws and regulations passed for the protection of Filipino migrant workers. But they convey the Philippine overseas employment program as it proceeds from the government's basic assumption that it has the inherent duty of protecting its citizens, wherever they may be. No matter the location of Filipino workers, they enjoy the protective mantle of Philippine labor and social legislation, any contract stipulation to the contrary notwithstanding. Several Philippine Supreme Court rulings have clearly indicated that protection of migrant workers extends to all, documented and non-documented.[58] Moreover, the POEA is now clearly mandated to lend its assistance to Filipino migrant workers not only at the initial stages of recruitment and placement but at the later stage of deployment as well. Evidently, this extraterritorial duty is a monumental task for the Philippine government and it was expected that complications would arise. For one, the government's vacillation between a punitive and an incentive remittance scheme, with the latter prevailing in the end, shows how transitory any laws, rules and regulations are when confronted with the resolute Philippine OCW

[58] For example, the Philippine Supreme Court case of Royal Crown Internationale v. National Labor Relations Commission, 178 SCRA 569 (1989) states this position. Another case, Capricorn International Travel and Tours, Inc. v. Court of Appeals et al, G.R. No. 91096, April 3, 1990, expounds on the joint and solidary liability of a private employment agency and its principal. The peculiar nature of overseas employment makes it very difficult for the Filipino overseas worker to effectively go after the foreign employer for employment-related claims. Thus, public policy dictates that, to afford overseas workers protection from unscrupulous employers, the recruitment or placement agency in the Philippines be made to share in the employer's responsibility.

phenomenon. On the level of international labor standards it can even be argued that the mandatory remittance scheme demands unjustified extraterritorial application of Philippine municipal laws and violates the freedom of workers to dispose of their wages. The International Labor Convention No. 95 on the Protection of Wages contains such protective provisions.

Numerous amendments and legislative changes in over 20 years of labor legislation on migrant workers have each pledged a more effective administrative mechanism and a more rigorous legal framework. One consistent result of the legislative changes was to create legal uncertainty among the entities affected by the laws. Potential employers, recruitment bodies and the migrant workers constantly needed to keep abreast with the latest changes in the laws. At the same time, legal loopholes began to surface, tempting and leading employers, workers and recruiters to circumvent government bureaucracy. What this legislative evolvement cannot mask is the reality that the Philippine government did not anticipate the enormous dimensions Filipino labor migration has now assumed. The government's initial outlook was myopic and the early legislation reflected such attitude. Its naive and failed attempts at exercising total control over the labor export shows its insufficiency in preparation and foresight. These inadequate preparations merely produced a lack of trust on the part of the workers in the government machinery. With brittle building blocks as its base, the administrative structure of the Philippine labor export program was thus always at a risk of collapsing. Ironically, the casualties are the Filipino migrant workers who are the primary movers in the profit-making system of labor migration.

iii. The Migrant Workers and Overseas Filipinos Act of 1995

From 1974 to 1995 only the Overseas Investment Fund Act, was enacted that deals exclusively with the issue of Filipino labor migration. However the Overseas Investment Fund Act can be criticized for merely being a legislative mouthpiece of government's relentless drive to secure as much foreign exchange earnings from the wages of migrant workers. It took several unsuccessful attempts at banning overseas deployment of Filipino workers, the much publicized cases of three female migrant workers[59], and a near collapse of diplomatic ties with Singapore for the Philippine Congress to enact legislation on Filipino migrant workers. On June 7, 1995, the Congress approved the Migrant Workers Act. It provides for the minimum conditions under which the deployment of Filipino workers overseas is permitted. There are two pioneer provisions in the Migrant Workers Act. First, it extends the application of the provisions to documented as well as undocumented workers, thus following legal precedents handed down by the Philippine Supreme Court. Second, the Migrant Workers Act makes illegal recruitment a crime punishable with life imprisonment. Two basic conditions must concur to allow deployment of workers - the skill and fitness of the workers and hospitable country destinations. Further, the

[59] The three cases are the conviction of Sarah Balabagan in 1995, then a sixteen-year old domestic worker in the United Arab Emirates, the execution of Flor Contemplacion, a domestic worker in Singapore in 1995, and the death in Japan of a twenty-year old entertainer, Maricris Sioson, whose body was flown back to the Philippines in 1991. Japanese authorities announced that her death was due to hepatitis, but the Philippine National Bureau of Investigation, after conducting its own autopsy, concluded that she had been tortured. This was the first case that elicited wide publicity and prodded some government action: DOLE Circular 01, November 20, 1991, recommended, among others, that only legitimate performers be allowed to leave the country and that they should be at least 23 years old.

term "undocumented worker"[60], previously defined only in international law[61], is now mentioned in the Omnibus Rules and Regulations of the Migrant Workers Act[62].

The Migrant Workers Act's declaration of policies are unclear: Section 2(c) states that the Philippines does not promote overseas employment as a means to sustain economic growth and national development, and recognizes the particular vulnerability of women migrant workers. However, section 2(I) states that government encourages the deployment of Filipino workers by local service contractors and manning agencies and appropriate incentives may be extended to them. Thus, the Philippine government accepts the reality that labor migration will continue, despite an express contrary declaration of policy. The Migrant Workers Act further declares that only skilled Filipino workers are to be deployed and only to countries where the existing labor laws give protection to the rights of migrant workers, where the countries are signatories to multilateral conventions on the protection of migrant workers, and where they have entered into bilateral arrangements with the Philippines on such matters.[63] Part II defines and sets out the penalties for illegal recruitment of Filipino workers. Part III outlines the government services to assist migrant workers.

---

[60] Non-documentation is further discussed as one of the peculiar migrant labor problems, at page 53.

[61] See the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, [1990], Art.5.

[62] See Part II, section 2, Philippine Republic Act No. 8042 [1995].

[63] *Ibid*, sections 2(c) and 4.

It is still too early to judge the efficiency of the Migrant Workers Act The Philippine Legislature can be commended for enacting such legislation. On the other hand, past and present labor conditions of Filipino migrant workers have long called for such protective mechanisms. It is argued that the Migrant Workers Act must be followed by political determination to implement some of the favorable provisions. Viewed in its entirety the Migrant Workers Act is a good piece of legislation but as with any legislation, its effectiveness will be judged, according to its implementing success in the years ahead, particularly on the provisions of welfare and protection of the migrant workers.

2. Protective Mechanisms

The protective mechanisms provided by the Philippine government are mainly administered by the DOLE through the agencies of the POEA and the OWWA, and more recently, by labor and diplomatic officials through the Philippine Department of Foreign Affairs (the DFA).

The Philippine government realized too late that checks and balances were needed once it allowed the private sector to participate in the recruitment mechanisms of migrant workers. This became the real reason behind the creation of the POEA. The POEA has since created an elaborate licensing system for recruitment agencies to be qualified to process workers for overseas employment. It has also established a number of institutions geared towards the protection and welfare of Filipino migrant workers. Two of the more significant programs are the Medicare and Insurance Policy programs where medical assistance, hospitalization benefits

and life insurance coverage are offered to the workers as well as their immediate family and dependents.

Likewise, OWWA welfare programs seek to provide services over and above those benefits stipulated in employment contracts of Filipino migrant workers. The programs can be divided in five major categories: economic welfare, security and protection, socio-cultural development, skills and career development, and general assistance. These programs are implemented in two ways: either in terms of on-site assistance for distressed migrant workers who are in need of legal and welfare protection, or in terms of re-integration programs for returning migrant workers so that their skills may be applied to economically beneficial use. Two of the more important OWWA programs are the repatriation bond program, which offers assistance to Filipino workers in war-torn areas and other emergency situations, and the entrepreneurship development program, which provides opportunities for returning migrant workers to put up small to medium-size business enterprises. The OWWA funds which are maintained through contributions from the employers and the workers are often used for the repatriation of distressed workers. This became particularly relevant during the Gulf Crisis that led to the Desert Storm operations in 1990. Many Filipino migrant workers were trapped in areas directly affected by the Gulf Crisis: Kuwait, Iran, Iraq and Saudi Arabia. The Philippine government learned its lesson from the Gulf Crisis and realized how important it is to provide its migrant workers with safe houses. The OWWA has since then established regional offices in the Philippines to become more accessible in the rural areas and opened welfare centers in countries with a high concentration of Filipino

workers.[64] The welfare centers are administered by OWWA welfare officers who offer various kinds of assistance to the workers; among others, crisis management, counseling, conciliation, temporary shelter and repatriation. The OWWA has recently created specific projects in the Philippines that are sensitive to the women migrant workers. They include a peer counseling project, a non-governmental organization (NGO) women's desk and the strengthening of the pool of female overseas labor officers.[65]

In 1986, The Secretary of Foreign Affairs issued a number of Foreign Service Circulars which directed foreign service personnel to take measures concerning Filipino workers overseas who encounter various problems in the host country. The circulars also included duties to visit the workers in their work sites and to ensure that the female migrant workers are protected from exploitation. The DFA, together with the Philippine Central Bank, is primarily charged with monitoring and regulating the flow of remittances and taxes from Filipino migrant workers. Originally, the DFA's functions were purely political and catered to traditional diplomatic and consular programs. The new agenda that focuses on national economic objectives created a number of problems in the DFA that until now, remain apparent. For example, while the POEA has original and exclusive jurisdiction over cases involving Filipino migrant workers, it is the DFA that is tasked with the administration of the cases in the host countries. However, the DFA

---

[64] As of 1991, there were welfare centers in the following cities: Singapore, Tokyo, Hong Kong, Riyadh, Jeddah, Kuwait, Oman, Bahrain, Tripoli, Dubai, Abu Dhabi, Madrid, Rome, Milan and Athens.

[65] Vivian F. Tornea, "The Government Welfare Program For Women Overseas Contract Workers", *OCWs in Crisis: Protecting Filipino Migrant Workers*, Ateneo Human Rights Center, Makati, Philippines, 1995, at 27.

personnel overseas can rarely afford to employ a legal staff or hire a local lawyer to handle legal matters.

In line with the Labor Code, the DOLE has created the Labor Attaché program. Philippine labor attachés have been deployed since 1977, apart from the OWWA Welfare Officers who are usually deployed only in host countries where vulnerability of the Filipino migrant workers is a particular concern. The functions of the Labor attachés in the assigned jurisdiction is to assist with deployment, market development, monitoring of workers and the remittances, enforcement of the government mechanisms and policies, legal and welfare assistance, and the collection of taxes.[66] In 1977, the Philippine government assigned 14 labor attachés around the world; in 1995 there were a total of 150 Philippine labor attachés.[67] Yet despite the increased numbers, Filipino migrant workers often choose not to seek redress with the Philippine consulates or embassies because they believe that the political and diplomatic stature of the Philippine government in the host countries is minimal. The workers' fear is that assistance from the Philippine government will only lead to termination of employment or even deportation.

Finally, Part III of the Migrant Workers Act also provides for welfare and protective mechanisms. It establishes government services to assist migrant workers, including an Emergency Repatriation Fund; a Re-placement and Monitoring Center with the function of

---

[66] *Supra*, note 24, at 42.
[67] *Supra*, note 21, at 16.

reintegrating returning Filipinos into the economy; a Migrant Workers and Other Overseas Filipinos Resource Center, and a Shared Government Information System for Migration. Part V creates a position within the Department of Foreign Affairs for a Legal Assistant for Migrant Workers and establishes a Legal Assistance Fund, both with the purpose of rendering aid to Filipinos in distress abroad.

D. Regulations and Problems of Labor Exportation

1. Regulations

To appreciate the various problems that arise in the process from Filipino labor migration is to understand the regulations in place. The problems became more conspicuous with the rapid expansion of the labor export program that is now largely in the hands of private recruitment mechanisms. In theory, the POEA ensures that only legitimate and credible private recruitment agencies can process Filipino workers. Applications for and renewal of licenses to operate as a recruitment agency are strictly monitored.[68] The recruitment agencies are also subject to regular ocular inspection by the POEA.[69] More importantly, the POEA ensures that only the proper fees are deducted by the agencies from the employer and the worker,[70] and that the principals (the foreign employers or agencies) of the Philippine recruitment agencies are properly accredited.[71]

---

[68] Rules and Regulations Governing Overseas Employment, 1991, Book II, Rule II: Issuance of License.
[69] *Ibid*, Book II, Rule IV: Inspection of Agencies.
[70] *Ibid*, Book II, Rule V: Placement Fees and Documentation Costs.
[71] *Ibid*, Book III, Rule I: Accreditation of Principals and Projects.

The agencies must also submit documentary proof consisting of a detailed list of information about the migrating workers before the agencies are allowed to deploy the workers out of the Philippines.[72]

The Philippine government's most important form of regulation of its migrant workers is the remittance scheme. The present scheme not only provides the OWWA with funding for its various welfare programs, it is also an important source for helping the Philippine government in its balance of payments deficit. The total remittance brought home by the migrant workers from 1977 to 1995 is pegged at US$28.2 billion.[73] In 1996 alone, remittances from migrant workers amounted to US $7.5 billion,[74] and it is said that the 1996 remittances of foreign exchange amounted to three times more than the $2.5 billion expected from international donors in 1997.[75] The many changes government has introduced in the laws on mandatory remittances show how vital this scheme is. Yet, it is an unreliable program because of difficulties in enforcement. The expanding administrative bureaucracy is one of many factors contributing to the complication. Additionally, the migrant workers have devised many ingenious ways of remitting their incomes to the Philippines without using the official government channels. Part of the reluctance of the migrant workers to use formal banking channels for their remittances is their inefficiency. Another deterrent is the high percentage of the salary the workers are obliged

---

[72] *Ibid*, Book III, Rule II: Documentary Processing.

[73] IMF Balance of Payments Statistic Yearbook Annual, website: http://migration.ucdavis.edu/Data/remit.on.www/philippines.html.

[74] "OCW Remittances Hit Record 7.5 B", *Philippine Star*, January 9, 1997.

[75] *Ibid.*

to remit. For example, seamen or mariners were required to remit 80 per cent of their salary; workers of Filipino contractors and construction companies 70 per cent, and domestic and other service workers 50 per cent.[76] Thus, the actual amount of remittances that flow into the Philippines are speculative estimates because of the view that official financial mechanisms only capture a fragment of them.

Studies suggest that the Philippine government continues to hope that remittance flows would translate into increased investment. But this has been curtailed by the very low propensity of remittance recipients and returning Filipino migrant workers to undertake productive investment and by the diversion of remittances from formal banking channels into informal channels. Remittance receiving households in the Philippines typically spend the money on basic necessities, repayment of debts, house building or improvement and educational expenditure. Thus, priority is accorded to consumption needs, while the number of investment initiatives remains relatively low. Nevertheless, the social benefits of the remittance payments to receiving families are evident. "*The impacts are visibly seen in real assets accumulated, small businesses acquired and social status achieved*".[77] While the debate on the real economic impact for the migrant workers and the remittance receiving households continues, it is indisputably acknowledged that remittances have helped the Philippine government in sustaining its foreign dollar reserves and in its debt servicing.

---

[76] Rules and Regulations Governing Overseas Employment, 1991, Book VIII, Rule VIII, section 3.
[77] *Supra*, note 33, at 270.

2. Problems

The Philippine government has been unable to curb the negative effects of the labor export phenomenon. Countless measures have been initiated - selective deployment to host countries according to protection given to foreign workers; market or skills restrictions and deployment bans, depending on the labor market and the peace and order situation of the host country; and watchlisting and blacklisting of foreign principals or employers who have defaulted on their obligations and/or have violated rules and regulations.[78] Consequently, the government tries to limit, and at times ban, the exodus of its workers when stories of exploitation, abuse and deception such as contract switching reach the Philippines. When cases of arbitrary employment dismissals are reported, pre-deployment seminars and courses are set up to facilitate the outgoing workers in their adjustment to and survival in a culturally different country. But most of these curative measures have little impact on the adverse effects of labor exportation. The bureaucracy is too limited to deal with the multifarious issues that surround the workers' situation once they are abroad. In the 1990s, when more female workers left the Philippines in search of better work opportunities, national attention began to focus on the experiences of these women whose extremely vulnerable occupations in the service and entertainment sector provided fertile ground for abuse and exploitation. The types and degrees of problems in labor migration from the Philippines vary depending on the host country. The following enumeration represents some of the more current problems surrounding the Philippine labor migration.

---

[78] Jose Brillantes, "The Philippine Overseas Employment Program and Its Effects on Immigration to Canada", in *The Silent Debate: Asian Immigration and Racism in Canada*, eds. Eleanor Laquian, et al., Institute of Asian Research, The University of British Columbia, Vancouver, B.C., 1997, at 140.

1. Illegal Recruitment

Given the uncontrollable pattern of Philippine overseas employment and the participation of the profit-oriented private sector, illegal recruitment was bound to take place. While recruitment for overseas employment is not in itself unlawful, it is the lack of the necessary license or permit by the recruiter that renders the recruitment illegal. The Labor Code defines it as follows:

> *Any recruitment activities . . . to be undertaken by non-licensees or non-holders of authority shall be deemed illegal and punished . . . The Department of Labor and Employment or any law enforcement agency may initiate complaints under this Article.*[79]

Ideally, the POEA exercises full control over the administration of the deployment of migrant workers. Every potential migrant worker is recruited by an entity which must be duly licensed or authorized by the POEA. However, illegal recruitment persists despite the existence of the above provision and the threat of life imprisonment as a penalty in the Migrant Workers Act[80] because of the large number of willing migrants, the poor budget of the POEA, its slow and increasingly corrupt bureaucratic procedures in processing deployment of workers, and the financial leverage of private recruiters. The deceptions employed by unscrupulous illegal recruiters are diverse. They range from fake passports, coercion of workers to accept prejudicial arrangements in exchange of certain benefits, non-existent employers abroad, and to outright fraudulent practices against the unsuspecting workers. For Filipinas, illegal recruitment usually

---

[79] *Supra*, note 43, art 38(a).

[80] Art. 7(b), Philippine Republic Act No. 8042 [1995]. The Migrant Workers Act punishes illegal recruitment with the penalty of life imprisonment if committed by a group of three or more persons conspiring together or confederating with one another. Illegal recruitment committed by not more than two persons is punishable by six to twelve years of imprisonment (Arts. 6[m], 7[a]).

takes the form of travel on tourist or student visas. The Filipinas often end up as entertainers or prostitutes, forced into the trade in order to pay off their travel expenses. Some women are promised good employment contracts with kind-hearted employers only to find out that they are at the complete mercy of an abusive employer who disregards the employment contract. Another widespread illegal recruitment activity is the exaction of exorbitant placement fees from would-be migrant workers. The Labor Code lists the act of collecting placement fees beyond what is legally allowed as a form of illegal recruitment. Still, limits on placement fees are continually violated. The POEA has set the ceiling of placement fees at PHP5,000. But would-be migrant workers routinely have to give between PHP18,000 to PHP45,000 and even up to PHP75,000 in the case of Taiwan, all for the promise by the recruiter to "speed up the process of deployment".

In 1992, the POEA created the pre-employment orientation seminar to supplement its pre-departure orientation seminars. The new seminars are conducted in the rural areas and lectures are given on the dangers of illegal recruitment and other possible pre-employment irregularities. The Labor Code is very specific about the definition of illegal recruitment[81] and the Migrant Workers Act is explicit as to its penalty of life imprisonment. But the Philippine government has yet to completely control and eradicate this anomaly. It is the root of other problems, such as non-documentation and non-protection of the workers.

[81] *Ibid,* Art. 34.

2. Non-Documentation

It has been established that migration from the Philippines occurs in three different streams: 1) permanent migrants, 2) documented migrant workers (or recorded, or official or legal migrant workers), and 3) undocumented migrant workers (or unrecorded, unofficial or illegal migrant workers).[82] Essentially, non-documented migrant workers are those without POEA approved status and who leave the Philippines without having a record in the POEA registers. There are many ways in which non-documentation occurs. The most common method among Filipino workers, particularly women, is to travel to neighboring Asian countries as tourists to look for employment without, of course, informing the Embassy or the Consulate of the Philippines. This scheme is particularly easy to do in member-countries of the Association of South East Asian Nations (ASEAN) where travel without a visa for 14 days as a tourist is allowed. Other common methods of non-documentation are visa overstay and illegal recruitment that amounts to contract substitution. It is a matter of state sovereignty and protection that a country is legally and morally obliged to assist its citizens if in distress in a foreign country. This state obligation becomes a heavy burden in the case of the Philippines which must try to help many of its citizens abroad. Philippine consulates and embassies are routinely equipped with a shoestring budget and with understaffed or underqualified diplomatic personnel. The POEA has set up mechanisms to document every outward bound Filipino worker so that it has the capacity to assist and protect the worker abroad: One is the required surrender of the overseas employment certificate before leaving the Philippines; the second is the information sheet of migrant workers; and the third is

---

[82] Dr. Rashid Amjad, "Philippines and Indonesia: On the Way to a Migration Transition", *Asian and Pacific Migration Journal*, vol.5, nos. 2-3, 1996, at 348.

the embarkation and disembarkation form filled out at the airport. New airport forms have been printed that requires Filipino travelers to identify themselves as migrant or non-migrant workers.[83] Another requirement is the putting up of a pre-departure bond and the remittances. The amounts should give the POEA funds to operate the protective mechanisms. But since many workers choose the undocumented route the Philippine embassies are often compelled to give preferential treatment to a documented worker who has paid her or his bond and remittances. Most of the time, the undocumented workers seeking help from embassy officials are then left without recourse.

It is a traumatic experience for the countless numbers of undocumented Filipino workers to be stranded and helpless in a foreign country. In reality, the non-documented status is frequently not a free choice. Faced with either a long waiting period for a POEA approval or a quick promise of employment from a dubious recruiter, the workers often take the latter chance, not looking beyond the mere words of guarantee by the recruiter. Once a Filipino migrant worker is in the host country with an undocumented status, he or she is left to fend for himself or herself. The Philippine government has tried to respond by issuing a DOLE Department Order[84] that is geared towards protection of the Filipina migrant workers with a comprehensive pre-departure program on household work. The provisions of the order were later supplemented with POEA guidelines to properly implement them.

---

[83] Graziano Batistella, "Data on International Migration from the Philippines", *Asian and Pacific Migration Journal*, vol. 4, no. 4, 1995, at 592.

[84] Department Order No. 13, February 5, 1994.

The Migrant Workers Act also attempts to address this problem and gives the following definition of non-documentation:

> *(e) Documented Migrant Workers -*
>
> *those who possess valid passports and visas or permits to stay in the host country and whose contracts of employment have been processed by the POEA if required by law or regulation; or*
>
> *those registered by the Migrant-Workers and Other Overseas Filipinos Resource Center or by the Embassy.*
>
> *Those who do not fall under the preceding paragraph are considered undocumented migrant workers.*
>
> *(f) Undocumented Filipinos -*
> *Those who acquired their passports through fraud or misrepresentation;*
>
> *Those who possess expired visas or permits to stay;*
>
> *Those who have no travel document whatsoever; and*
>
> *Those who have valid but inappropriate visas;...*[85]

On the other hand, the Convention on Migrant Workers provides for the following definition.

> *...[M]igrant workers and members of their families:*
>
> *Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which the State is a party;*

---

[85] *Part II, section 2, Omnibus Rules and Regulations Implementing the Migrant Workers and Overseas Filipinos Act of 1995.*

Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.[86]

Thus, the international provision focuses on the legal status of migrant workers in the host countries. The Philippine provision, however, requires the concurrence of regular legal status in the Philippines as well as in the host country in order to be classified by the Philippine government as a documented migrant worker. The second subparagraph of section 2(e) contemplates a situation where a non-documented worker registers himself or herself in the Migrant Workers or Philippine Resource Center located in the host country to acquire documented status. In other words, this section allows for non-documented migrant workers to rectify their non-documented status after departure from the Philippines. More importantly, it enables the Philippine government to update the records of outgoing Filipino citizens who left the Philippines other than as documented migrant workers. Although critics are quick to point out that this post-departure registration allows the Philippine government to expand its list of migrant workers for the exclusive purpose of requiring them to remit through government financial institutions, the scheme may ultimately be for the benefit of the newly documented workers. They become members of the OWWA and enjoy its welfare and protective mechanisms, however dismal and limited in results they may be.

Even more intriguing is the definition of non-documentation in the Philippine provision. It lists four instances of non-documented status, the fourth of which is the most notable one: "*those who*

---

[86]*Supra*, note 61, art. 5.

have valid but inappropriate visas". This means, for example, that a Filipina who travels as a tourist to Singapore on a 14-day visa and subsequently finds employment there is one who has a valid but inappropriate visa. Her tourist visa is inappropriate because she is now for all intents and purposes a foreign worker in Singapore, no longer a tourist. While the first three instances of non-documentation are straightforward, this last instance may be the most conspicuous evidence that Philippine legislation on migrant workers is not only protection-oriented but also *post-facto* or curative in application. Legislators are supposed to enact laws that reflect the ongoing changes of a state. But they are also expected to have the insight to enact legal measures that prevent or stop negative results. The fourth enumeration of non-documentation in the Migrant Workers Act is one such negative situation that eluded the lawmakers. Thus, the enumeration of non-documentation is the Philippine government's attempt at providing a remedy to the uncontrollable ills of non-documented migrant workers. What further complicates the problem of non-documentation is the interaction of the sovereignty of two countries - the Philippines as the sending country and the host or receiving country. In the absence of bilateral or diplomatic agreements between the Philippines and a host country it may happen that even when the Philippines considers a migrant worker as non-documented the same worker can acquire documented status from the point of view of the host country. Continuing the previous scenario of the Filipina in Singapore, as soon as she landed her job in Singapore she automatically became a documented foreign worker in Singapore. The Philippine government cannot now inform Singapore officials that she is not documented for Philippine purposes. This legal loophole arises from conflicts of law; Philippine local laws versus Singapore labor laws,

if at all applicable to foreign workers, and the Filipina as the subject caught in the dilemma of having to follow more than one country's laws.

3. Exploitation and De-Feminization

A burst of optimism accompanied the first wave of Filipina migrant workers. The pioneer Filipina migrants were viewed as representing a leap from the traditional role of Filipinas as homemakers. This migration undergoing a 'feminization' represents an instance of the disruption of cultural norms in the Philippines, brought about by economic woes and the open gates to labor migration. In many instances a reversal of roles occurred where the woman became the dominant or sole breadwinner in the family. But the jubilation was quickly overshadowed by the tales of horror from returning Filipina migrant workers. Also, the trend of 'feminization' of migration from the Philippines occurs not only in the area of temporary migrant workers, but also in the case of Filipinas migrating as spouses of foreign men, more often through intermediary 'mail-order' bride agencies. In most of the host countries, Filipina migrant workers are faced with different cultural norms that either shun the conditions of foreign workers or simply have developed little or no gender-sensitive standards. Their working conditions as domestic workers and entertainers are in isolated and marginalized settings where compliance with their rights by the employer is difficult to monitor. This makes Filipina migrant workers more vulnerable and more prone to abuse by their employer. But the exploitation and de-feminization of Filipina migrant workers are not so much the visible aspects such as labor exploitation, physical and sexual abuse or even forced prostitution, although these situations certainly in exist in many

countries, particularly in the Middle East, where the primacy of human rights is not given emphasis. The more anomalous kinds take the form of institutionalized discrimination and exploitation. There are also many imperceptible instances of exploitation which play with variations of objectifying female migrant workers. For example, it is common place in Singapore for placement agencies to advertise foreign migrant workers akin to commodities.[87] Further, the employment standards of Singapore require pregnancy tests of the female migrant workers every six months, while marriages between Singaporeans and foreign domestic workers are prohibited. In Hong Kong, one can find signs posted in apartment buildings saying "*Filipinas must not use the swimming pool*" and "*dogs and Filipinas must use the service elevator*", thus giving domestic workers outsider social status while giving them insider status only as to household and childcare duties. But despite such mistreatments the migration to host countries like Singapore and Hong Kong continues. First-time Filipina migrant workers cross their fingers and hope to become a success story like the ones spun by their recruiter. Indeed, success stories exist in every host country, most likely outnumbering the tales of abuse and exploitation. Also, the lure of the higher wages is often too strong to resist, especially if the host country is only a few hours away by plane. Finally, the lack of concrete employment opportunities, economic and social choices in the Philippines makes overseas migrant work seem capable of setting off any temporary hardship overseas.

[87] Some Singapore placement agencies that specialize in Filipina domestic workers offer a full refund if the new employer is dissatisfied with the services of the worker, thus ascribing to the women the same "return policy" commonly only found in appliances.

In conclusion, it can be said that a majority of the problems of labor migration from the Philippines can be traced back to a shortsighted attitude of the Philippine government in the 1970s when labor export and the OCW phenomenon first flourished. The government refused to realize early on that the migration movement is really about the exodus of workers from the Philippines, about human beings in search for a better life. The Philippine government's myopic outlook merely enabled it to encourage a system that facilitated the deployment of workers. But even lawful deployment of Filipino workers became increasingly difficult. Private recruitment mechanisms mushroomed and took advantage of the demand for overseas work as government yielded to the strong demand for overseas deployment. The private sector rescued the government under the weight of labor recruitment, particularly the early demand for work in the Middle East. The Philippine government could have planned ahead and should have realized that this prospering export scheme was unique because the commodity were human beings. But at all times the human factor was not taken into consideration. Even when cracks in the labor export administration began to appear the government's priority was the establishment and enforcement of the remittance scheme. This is one area where the legislators were prolific in enacting up-to-date legislation.

The legislative developments on the Filipino migrant worker situation is the other disheartening performance of the Philippine government. First, while the pioneer laws on migrant workers seemed acceptable legislation, subsequent and rapid developments in the labor migration movement left the legislators out of touch with current labor and social conditions. Though the

migrant workers became important assets in terms of the remittance of foreign exchange, the lawmakers usually were unsympathetic to their predicament, except during election periods when sloganeering and rhetoric about the "*concerns for the heroic OCWs*" always reached their peak. They were mostly empty promises as politicians know that the migrant workers cannot exercise their right to suffrage. There is no mechanism in place that allows migrant workers to vote from their host countries. Thus, legislation on migrant workers merely became delayed legislative reactions to the latest controversies. Despite government efforts to appear responsive to the workers' needs their actions betrayed their reactive results.

However, some of the efforts of government should be appreciated, particularly the welfare mechanisms it has set in place. Even if the more drastic measures that have been implemented usually took place "after the fact", the altruistic intentions of the government are apparent. For example, some periods of total or partial overseas deployment ban have taken place even if the situation quickly reverted back to the status quo. It is not difficult to understand why:

> *. . . it is quite clear that since the roots of the problem lies in the host countries, women workers continue to face considerable hardship and physical, sexual and other forms of exploitation. It is rightly feared, however, that an outright ban on their emigration may in fact worsen rather than improve the situation, by driving such emigration underground and exposing such women migrants whose status would now be of illegal migrants to even greater exploitation, especially by well organized underground syndicates.*[88]
>
> *In terms of the labor market impact, it would increase pressure on the domestic labor market and make it extremely difficult to even achieve the modest targets of a decline in unemployment . . . eventually, remittances would decline and this would put*

[88] *Supra*, note 82, at 359.

pressure on the balance of payments situation and could slow down the process of economic recovery . . . Perhaps the most unfavorable impact such a policy may have is in the fight against poverty, as remittances have the potential of playing an important pat in boosting incomes and generating jobs in the domestic economy.[89]

The Philippines has consistently had problems in enforcing and implementing its labor export policies both locally and overseas. It does not help that the stringent safeguards of the policies tend to frustrate the employment agencies, recruiters as well as the migrant workers and lure them to process the workers through underground means. However, it must be noted that the existing welfare and protection mechanisms in the Philippines' labor export policies stem from a public demand and the clamors of advocates for migrant workers' rights for more government involvement. As discussed, this turns into a vicious cycle because many migrant workers disregard government policies and choose the faster but illegal route, thereby depriving the Philippine government of substantial financial resources to fund welfare and protection programs. At the same time, many migrant workers overseas often have no recourse other than to seek help from the Philippine embassy/consulate. The corresponding development of documented and undocumented workers has also bred internal prejudice in embassies against undocumented workers - why help them if they do not contribute to the welfare funds? This double standard is now officially eliminated with the Migrant Workers Act which mandates to help migrant workers overseas in distress - whether or not documented. Whether or not the mandate can be actualized is another matter.

---

[89] *Ibid*, at 360.

Critics contend that what the Philippines needs is not protection-oriented and curative legislation but preventive laws coupled with a strong political will to demand bilateral arrangements or at least better working conditions for Filipino migrant workers from the host countries. But the Philippines' continued reliance on its migrant workers' remittances effectively inhibits the government from making formal protests about mistreatment of their workers. Further, the Philippine government still lacks the international stature that the new Asian tiger economies have earned. Without this respect, the Philippines cannot expect concessions from a host country.

The following chapters describe how Canada fares as a host country to Filipina migrant workers in view of Canada's immigration and labor policies. Chapter III outlines the Canadian LCP in the context of migrant Filipinas and provides a critical analysis of the LCP. Chapter IV concludes the discussion with an integration of Canada's foreign worker policies and the Philippines' labor export program.

III. FILIPINA LIVE-CAREGIVERS IN BRITISH COLUMBIA AND THE CANADIAN FOREIGN WORKER AND MIGRATION POLICIES

Canada has long been viewed by Filipina domestic workers as a dream destination. Indeed, Filipinas who want to work abroad or are currently working, as domestic workers outside the Philippines perceive Canada favorably as opposed to the traditional domestic workers' destination such as the Kingdom of Saudi Arabia, Singapore and Hong Kong. These countries are swamped with Filipina domestic workers and are well-known for their harsh working conditions. Canada, on the other hand, provides the promise of a free and democratic society. It is an affluent, high-tech industrial society, with a market-oriented economic system. It enjoys a highly advanced legislation on and protection of civil liberties, including issues on gender equality. It is also a good example of an immigrant country toward which migrants like the Filipinos are drawn to.

However, the discussion in this chapter shows that while Canada offers the best working conditions to foreign domestic workers, it continues the discriminatory treatment of foreign domestic workers that other host countries are being accused of.

A. A Profile of Filipina Live-In Caregivers in British Columbia

In 1967 Canada introduced the point system[90] in its immigration program which facilitated the entry of Filipinos into Canada. Compared to other ethnic groups, Filipino migration to Canada is a fairly recent development. However, since the 1970s the Philippines has been cited as one of the top ten source countries of immigrants.[91] In 1996, Canada counted 242,880 Filipino immigrants in its population count.[92] Statistics also show that a majority of eligible Filipino immigrants elect Canadian citizenship. As of 1991, 87 per cent of Filipino immigrants became Canadian citizens.[93] Another characteristic of Filipino migrants in Canada is the gender ratio where women constantly outnumber the men in entries, thus apparently challenging the notion of the "pioneering male".[94] In fact, the immigration trend of Filipinas is considered unique,

> *...as their high proportion in service occupation is related almost entirely to entry in the domestic helper class. On average, out of a total number of 6,000 females, there were 2,700 who worked in Canada as domestic workers on a temporary visa.*[95]

Statistics from Immigration and Citizenship Canada point out the large gap in 1991 employment rates among Filipina immigrants (80 per cent) and all immigrant women (62 per cent) and Canadian-born women (63 per cent),[96] suggesting that the high rate of Filipinas employed as

---

[90] Essentially, the point system provides applicants points based on their social and demographic profile, including factors such as education, experience and vocational preparation.

[91] Anita Chen. Studies on Filipinos in Canada: State of the Art., Vol. 22, *Canadian Ethnic Studies*, January 1, 1990, at 83.

[92] Top 25 Ethnic Origins in Canada, Showing Single and Multiple Responses, 1996 Census (20 per cent sample data), Statistics Canada.

[93] A Profile of Immigrants from the Philippines in Canada. Publications. Citizenship and Immigration Canada.

[94] *Supra*, note 91.

[95] Margaret Michalowski. A Contribution of the Asian Female Immigrants into the Canadian Population, *Asian and Pacific Migration Journal*, vol. 5, No. 1, 1996, at 78.

[96] *Supra*, note 93.

LICs helped increase the total number of employed Filipinas. Finally, while Filipino immigrants have low unemployment rates and are more likely to have a university degree, their incomes fall below the average income of other immigrant groups.[97]

Just like migration from the Philippines, the migration of Filipinos to Canada is characterized by specific waves. The first wave of Filipino migration to Canada in 1967 can be considered the professional group because of the specific job skills in demand at that time. The second wave became the non-professional group in the mid 1970s, consisting of family-sponsored parents and children of Filipino pioneers in Canada.

The last wave is the group of domestic workers and other non-professional groups. This third migration wave of Filipinos to Canada would hardly occur if there was no demand for their labor. In 1991, 58 per cent of Canadian females were part of the labor force which helped increase institutionalized daycare facilities for children of two-earner families. This changing Canadian workplace where more women started to participate and the limited child care system fuelled a demand for foreign live-in domestic workers as live-out nannies. Day care centers became expensive alternatives. It is in this backdrop that the Filipina domestic worker tries to find her place in the Canadian workforce and in Canadian society.

---

[97] *Ibid.*

It is difficult to create an accurate picture of Filipinas coming to Canada as LICs. Based on Canada Immigration statistics, some 1,820 domestic workers came to work in British Columbia between 1995 and 1996.[98] Between 1994 to 1996, an estimated 12,980 people entered Canada under the LCP.[99] In the same period, about 2,285 of the estimated 12,980 LICs worked in Vancouver.[100] Further, the Philippines ranked in the top five for the same period as a source country for Vancouver's immigrant community.[101] However, no data exists on the total number of domestic workers currently employed in British Columbia or in Canada.[102] Nonetheless, studies have indicated that Filipina migrant workers working as a LICs are more likely to have left a family or relatives in the Philippines since improving the economic base of the family is the most common reason for Filipinas to choose the route of migration from the Philippines. Such is the case even if that means working as domestic workers after having obtained a university degree. The social impact of family fragmentation resulting from the woman's or mother's labor migration has not yet been systematically studied in the Philippines but it promises to be a significant aspect of the migration phenomenon. The topic is also beyond the scope of this thesis, but literature indicates that the separation of family members has caused problems to Filipina LICs in Canada.[103]

---

[98] Jeanne Mikita, B.C. Domestic Workers Survey. Summary Report. Economic Equality for Domestic Workers Project. December 1997, at 8.

[99] Immigration by Levels Component. Facts and Figures 1996. Citizenship and Immigration Canada.

[100] Vancouver Profile. Facts and Figures 1996. Citizenship and Immigration Canada.

[101] Vancouver Top Ten Source Countries. Facts and Figures 1996. Citizenship and Immigration Canada.

[102] Statistics from Citizenship and Immigration classify live-in-caregivers under "other category" together with retirees and the deferred removal order class.

[103] "Canada Beckons Cream of Nannies", *The* [Canada] *Globe and Mail* , January 20, 1996. The newspaper article exposes the havoc caused by family fragmentation as a result of migration.

B. Instruments of Regulation and Protection

In 1971, federal government policy enunciated "the Act for the Preservation and Enhancement of Multiculturalism in Canada", now known as the Canadian Multiculturalism Act. It was meant to accommodate a growing multi-ethnic composition of Canadian society which was the result of the immigration point system that introduced more universalistic criteria and created a shift from predominantly white and Western European immigrants to a multicultural blend.

Historically, the immigration policies of Canada had been shaped in response to its specific needs for population growth and economic development. That meant, prior to 1962, a number of racially-oriented policies that prevailed until the point system in 1967 introduced non-discriminatory immigration mechanisms. In 1973, Canada's Foreign Worker Program, adhered to the "Canadians first" approach. Under the Foreign Worker Program a foreign worker could not be employed in Canada without an employment authorization, and the visa officer had to ensure that in the opinion of the local employment center the employer of the foreign worker made efforts to hire or train a Canadian citizen or permanent resident. In 1973 too, the Employment Authorization Program was introduced in Canada. The program granted permits for temporary entry to foreign workers whose skills were in demand. The permits given to workers were job and employer specific and extension or renewal depended on the immigration officer. In 1976, these regulations were replaced with the Immigration Act which took effect in 1978. The Immigration Act spelled out in detail its objectives and set out the authorities for establishing immigration levels and for managing immigration flows. To a large extent, the Immigration Act established principles of non-discrimination and universality for admission to

Canada of non-Canadian citizens. However, the Immigration Act and its Regulations also continued the past unjust and biased policies concerning the admission of foreign domestic workers into Canada. Particularly, the Foreign Domestic Movement Program of 1981 (the FDM Program) and its successor LCP became instruments that responded to Canada's economic needs without thoroughly considering their immediate and long-term impact on the foreign domestic workers who gained entry to Canada through the said programs.

1. Canada's Foreign Worker Policies: Caribbean Domestic Scheme to the Live-In Caregiver Program

The LCP is not the first law on foreign domestic workers. Canada has a long history of legislation aimed at facilitating the entry of the foreign domestic workers to Canada. Initially, domestic workers in the early years of the twentieth century came from Europe. The presence of foreign domestic workers in Canada began with Black Caribbean women in the post-war period. The program was called the Caribbean Domestic Scheme. The Second Caribbean Domestic Scheme in 1955 limited the number of black women but admitted them as immigrants. This was in effect a bilateral agreement between Canada and the governments of Jamaica and Barbados to import Caribbean domestics into Canada. Only single and healthy women within a certain age group were eligible for recruitment.[104] They were even tested for venereal disease.[105] This scheme continued until Canada changed its immigration rules with the introduction of the

---

[104] Nona Grandea, Uneven Gains. Filipina Domestic Workers in Canada. *The North-South Institute*, the Philippines-Canada Human Resource Development Program, 1996, at 19.

[105] *Ibid.*

point system in 1967.[106] Eventually, the Canadian immigration authorities devised a system of temporary work visas for domestic workers.[107] Under that scheme, domestic workers could remain in Canada for as long as they continue working as such. It was in the 1970s that the predicament of the predominantly female domestic workers attracted public attention. The widely publicized case of the "Seven Jamaican women"[108] in 1977 served as a major catalyst in pushing for reforms on immigration procedures affecting foreign domestic workers. Further, the Task Force Committee on Employment Authorization conducted a study of domestic workers under temporary visas. The study isolated two areas of concern: the dismal working conditions and the inability to apply for permanent residence.

Thus, in 1981 the FDM Program was born and transformed Canada's migrant worker program of 1973 to 1981 into an immigrant program. While it was within the discretion of Canadian immigration authorities to renew a foreign domestic worker's employment authorization during the Foreign Worker Program, under the FDM Program foreign domestic workers were now expressly granted the chance to apply for permanent residence. However, with this came a new mandatory restriction: Application for permanent residence was possible only after two years of live-in work within the first three years from entry in Canada. At about the same time Canada experienced an increase in entries of Filipina domestic workers, while the arrival of black women

---

[106] Information on the Caribbean Domestic Scheme gathered from Agnes Castille, "Canada's Immigration Policy and Domestics from the Caribbean: The Second Domestic Scheme", *Race, Class, Gender: Bonds and Barriers* (Toronto and Montreal: Between the Lines and the Society for Socialist Studies, 1987) at 137, 142 - 146.

[107] The Temporary Employment Authorization Program, SOR/73 - 20.

[108] This is the case of Lodge et al. v. Minister of Employment and Immigration, (1979) 1 F.C. 775, where seven Jamaican women faced deportation proceedings on the ground that they had failed to disclose that they had dependent children under the age of 18.

from the Caribbean and from Jamaica began to decline. Since 1985, Filipina domestic workers have consistently outnumbered the influx of other female foreign workers into Canada. As early as 1990, a total of 10,946 Filipina domestic workers entered under the FDM Program, accounting for 60.2 per cent of the total entry of foreign domestic workers for that year.[109] The FDM Program contained various onerous criteria. Aside from the requirement of completion of two years of live-in service, there is upgrading of skills to expedite integration in the labor force, commitment to volunteer work to demonstrate social adaptation, competent administration of finances including the ability to support dependents, and language proficiency.

On January 30, 1992, the Minister of Employment and Immigration imposed a moratorium on the arrival of foreign domestic workers into Canada. Three months later the FDM Program was replaced with the LCP on April 27, 1992. The policy intent of the LCP was:

> *...to meet a labour market shortage of live-in caregivers in Canada, while providing an avenue for these individuals to work and eventually apply for permanent residence from within Canada.*[110]

Initially, an applicant under the LCP had to show completion of an equivalent of Canadian grade nine in addition to six months of full time formal training related to the duties of a caregiving position. This new requirement resulted in a drastic drop in the number of Filipina applicants: 7,835 people came to Canada in 1991 under the subsisting FDM Program, 5,323 of which were

---

[109] Canada Employment and Immigration Commission (Policy Branch), *Entrants to the FDM program by country of origin -- 1990* (Ottawa: Canada Employment and Immigration Commission, 9 April 1991) [unpublished], as cited in Audrey Macklin, Foreign Domestic Worker: Surrogate Housewife or Mail Order Servant?, *McGill Law Journal*, vol. 37, no. 3, 1992, at 693.

[110] Immigration Canada. Chapter OP (Overseas Processing) 13. Processing Live-in Caregivers. 06 -- 96.

from the Philippines, 208 from Jamaica and 477 from Britain. Prior to the termination of the FDM Program in 1992, 2,406 Filipinas entered Canada. When the LCP was in effect, only 43 Filipinas came to Canada. On that account, immigration procedures changed once more on March 16, 1994. Today, eligibility under the LCP includes:

> *a) successful completion of a course of study equivalent to Canadian secondary education; and b) six months training* ***or*** *twelve months experience related to the job in question....*[111] [Emphasis added]

Thus, since March 1994, the requirements of job-related training and previous job-related experience are in the alternative, making the LCP appear more relaxed and flexible compared to the preceding FDM Program. However, the education requirement was raised from a grade 9 to a grade 12 Canadian equivalent education. This is the equivalent of a second-year college or university education in the Philippines. More importantly, two significant elements of the FDM Program were retained: the temporary status of the domestic workers for at least two years before application for permanent residence is permitted, and the live-in requirement. Nevertheless, the number of Filipinas entering Canada under the LCP rose. In 1993, there were 379 Filipina LICs; in 1994 there were 941 Filipina entrants and 1,392 Filipina LICs in 1995.[112]

A publication of the federal Department of Citizenship and Immigration Canada entitled "The Live-In Caregiver Program -- Information for employers and live-in caregivers from abroad"[113]

---

[111] *Ibid*, at 4.
[112] *Supra*, note 104, at 20.
[113] IM - 198 - 03 - 94.

(the Booklet) outlines the specific steps that potential employers[114] of Filipina LICs have to carry out. It is meant to assist potential employers and future or newly arrived LICs in their work relationship with one another. The requirements for LICs is categorized in two sections: 1) eligibility for application as a LIC under the LCP and 2) requirements for permanent residence. The Immigration Manual for the Processing of Live-In Caregivers[115] (the Manual), on the other hand, is a guide for visa officers abroad who process applications under the LCP and for immigration officers reviewing the LICs' application for permanent residence in Canada. Notwithstanding the existing literature about the LCP, the following procedural summary and discussion of Canada's labor and immigration policies will show how irregular many aspects of the LCP requirements remain.

Typically, potential employers contact the local Human Resource Centre (the HRC), formerly the Canada Employment Centre, to help them locate a LIC from abroad. According to present statistics and employers' preferences, the future LIC is often a Filipina from the Philippines or from a host country of domestic workers such as Singapore, Hong Kong or Taiwan who wants to work in Canada as a LIC.[116] Since the premise of the government for the existence of the LCP is that there is no shortage of live-out caregivers in Canada, the Booklet encourages potential employers to consider hiring a live-out caregiver before deciding to hire a LIC. Only when the potential employers seek to hire a LIC will the HRC extend its assistance. The potential

---

[114] Throughout this chapter the thesis uses the example of spouses-employers, although LICs are often also employed by unmarried couples or by a single employer.

[115] *Supra*, note 111.

[116] For convenience, the thesis uses the example of a Filipina from the Philippines for purposes of illustrating the steps involved in hiring a Filipina as a live-in caregiver in Canada.

employers must identify an individual suitable to their needs using their own methods and resources, including advertisements, personal contacts or hiring agencies. The potential employers must then submit their offer of employment to the HRC and declare that the wages, benefits and working conditions required by the respective province can be met by them. The HRC where the employers sent the offer of employment transmits the same to the visa office in Manila. In reality though, few Filipinas apply from Manila since the waiting period for visa applications to Canada is shorter in Hong Kong or Singapore. It has become an established practice for Filipina domestic workers to use those Asian countries as a springboard to migrate to Canada as LICs. This strategy of first working as a domestic worker in the usual Asian host countries for a number of years also satisfies the requirement that the applicant must have had previous job-related experience or training.

As previously mentioned, the LCP contains two alternative requirements, either six months training or twelve months experience. The Manual clarifies that an applicant LIC who satisfied the training requirement but has no experience as a domestic worker whatsoever, could still be a good LIC. As regards the twelve month experience, the Manual seems to add a "sub-requirement" of completing at least six of the twelve months with one employer, and all within three years prior to the LIC's application under the LCP. But the visa officer is also allowed "*to consider highly experienced applicants who have no formal training.*"[117] The applicant LIC must comply with statutory requirements such as medical examination, police certificate and security

[117] *Ibid*, 3.4, at 5.

check for certain countries, compliance with normal visitor requirements, and the processing fees. Thus, visa officers are given discretion as regards the significant requirements of either previous experience or completed education of applicant LICs.

Upon satisfactory evaluation of eligibility and compliance with the statutory requirements, the applicant LIC is issued her employment authorization (also known as the work permit), which is valid for one year and is job and employer specific.

2. Labor Rights and Standards

In March 1993, the West Coast Domestic Workers' Association (the DWA), an advocacy group for LICs based in Vancouver, submitted a brief to the Employment Standards Act Review Committee. Essentially, the Brief asked for economic equality for LICs because until then domestic workers in British Columbia were paid a daily minimum wage rate rather than an hourly one, and they were excluded from hours of work protection. The DWA also clamored for a more appropriate definition of "work", to accommodate time spent that belongs to and is controlled by the employer. In November 1995, the new Employment Standards Act took effect. It granted LICs the provincial minimum hourly wage and overtime pay, and mandated the employer to enter into and sign an employment contract with the LIC.

The Booklet expounds on these newly acquired labor standards for LICs and informs employers about the specific needs and requirements of the LIC. Before the actual signing of the contract standard matters such as the LIC's ability to drive a car, cooking skills, special customs and

religious practices are considered. The employers are encouraged to discuss every material aspect for the future employment relationship with the LIC. They must meet certain responsibilities in the employer-employee relationship such as acceptable working conditions, reasonable duties, fair market wages, and a key to the house; respect for the LIC's privacy in her own room, her cultural or religious practices; and the benefits of days-off, statutory holidays, overtime pay, and a salary that meets the applicable minimum wage. The employment contract cannot stipulate how long a LIC must work for her employers and the latter must give the LIC notice of termination and contact the appropriate HRC.

The Booklet lists the specific working conditions and employment standards respecting LICs and enumerates the government benefits applicable to LICs such as hospital and medical care insurance, workers' compensation benefits, where applicable, and employment insurance, Canada Pension Plan, Old Age Security and welfare. Advocacy groups caution LICs who receive welfare that they may have difficulty applying for permanent residence in the future. Finally, LIC are informed that employers possess no right to threaten to deport them for arbitrary reasons.

In the final part of the Booklet LICs are advised of the possible circumstance of changing employers. The Booklet advises LICs to remain as much as possible with the original employers for the obligatory two-year duration before application for permanent residence may commence. The Booklet encourages internal settlement between employers and LICs but advices the latter "*to leave a physically abusive situation right away.*" In case of a change of employers, the former employers are mandated to issue a record of earnings (ROE) showing how long the LIC

worked and how much she earned. If the employers refuse to issue a ROE to the LIC the latter can file a complaint with the HRC.

In sum, LICs have to comply with the following working conditions during the two years of live-in period: First, they can only be live-in caregivers, which means that during the live-in period, LICs are not allowed to go to school or take other forms of vocational courses unless the academic or professional pursuit is incidental and secondary to the LIC's function as a caregiver. Second, LICs must work full time and must live in the employers' home at least five days within one week. Third, they can only work for the employers whose names appear on the work permit, which means that if a LIC wants to change her employers she must apply for a new work permit.

3. Immigration Criteria for Live-In Caregivers

Essentially, LICs' application for permanent residence in Canada depends on three types of criteria:

1. her eligibility to have an application processed in Canada;
2. her completion of landing requirements; and
3. her examination and those of her dependants in Canada and abroad concerning admissibility.

As noted earlier, the LCP requires that an applicant successfully complete a course of study that is equivalent to successful completion of Canadian secondary school. The Booklet justifies this as a safety measure for LICs who apply for permanent residence so that they are able to succeed in the general labor market. Government studies have shown that 65 per cent of new jobs in Canada will require at least a high school education. The two-year live-in requirement must be

completed within the first three years from landing in Canada before the LICs can apply for permanent residence. They are then given a summary of requirements in the Manual and must furnish the immigration officer sufficient information so that the officer can verify if LICs meet the following requirements for their eligibility to apply for permanent residence:

1. previous submission of an application for an employment authorization as a LIC in a visa office;
2. possession of valid and subsisting employment authorization to work as a LIC;
3. residence in the employer's home;
4. completion of a total of two years of full-time employment in Canada as a LIC within three years after being admitted to Canada;
5. proof of two-year work record, completed within three years after entry to Canada;
6. There is no inquiry or appeal or application for judicial review following an inquiry under the Immigration Act on the applicant or her/his dependants.[118]

The determination of whether LICs meet landing requirements include factors such as absence of misrepresentation, full description of their dependants and payment of correct fees. In the Manual processing officers are reminded that "[a]*pplicants who provide false transcripts will be refused* [entry]."[119]

The examination of the LIC and those of her dependants in Canada and abroad for admissibility for permanent residence is the last stage in the LIC's application. The Booklet reminds LICs that financial situation, skills upgrading in Canada, volunteer work, marital status or the number of dependents are not relevant factors for a successful grant of permanent residence. There are also

---

[118] *Ibid*, 3.2.2, at 5.
[119] *Ibid*, 3.22, at 5.

certain statutory requirements that need to be complied with, such as medical examination of all dependents whether or not they apply for landing and payment of appropriate landing fees. The examination of all dependants is also known as block assessment. LICs who have applied for permanent residence and are awaiting the result are then eligible to apply for an open employment authorization, or "open visa". This means that the LIC may seek employment other than caregiving.

4. Support Groups and Mechanisms

The DWA[120] was established in 1986 by a group of law students from the University of British Columbia. The students were concerned about the problems domestic workers were then facing in B.C. The law students talked about how the live-in domestic workers were affected by different laws and policies and how they needed to be changed to stop the problems affecting the domestic workers. In February of 1987 the DWA published its first newsletter. Soon, the DWA received a grant from the Legal Services Society which enabled it to write the "Domestic Workers Handbook". In August 1987 the DWA started the legal clinic.

Over the next few years the DWA refined its administrative set-up to include former and present live-in domestic workers in its Steering Committee. In 1990 the DWA received funding from the British Columbia Law Foundation to pay for operations and staff. The DWA worked on two

[120] The history of the DWA was gathered from the DWA publication "10th Year Anniversary" and from personal communication in 1997 with Tarel Quandt, spokesperson and project coordinator of the DWA.

projects: collecting data for a Charter case challenging the Employment Standards Act and responding to an immigration review of the FDM Program. The DWA was now able to employ a lawyer.

In 1992, the DWA lobbied the federal government to change its immigration policy which required all people applying to work in Canada to have had training. The federal government yielded to the lobbying efforts and accepted work experience, not just training, as adequate qualification to work as a domestic worker in Canada. The DWA was also instrumental in lobbying the B.C. government to make changes to the Employment Standards Act in 1995.

The Philippine Women Centre (the PWC) is another organization devoted to the domestic workers' cause. Unlike the DWA, whose programs aim to address the concerns of all foreign domestic workers, the PWC's efforts are geared towards the Filipino community in general and Filipina domestic workers in particular. The PWC was formed in 1989 through the efforts of a group of six Filipino women, including domestic workers. The PWC has since then achieved considerable success in educating the Filipino community on the predicament of Filipina LICs and has recruited and empowered volunteers, many of whom are present or former Filipina LICs and Filipino youths based in Canada. The PWC has also been active and visible in numerous political causes, most recently against the recommendations of the Immigration Legislative Review, in 1997 at the People's Conference Against Imperialist Globalization when the APEC Leaders Summit was held in Vancouver and attendance at the Global Alliance Against

Trafficking of Women Consultative Forum, a feminist-oriented conference. The PWC also connects with GABRIELA Philippines, the national alliance of women's organizations and other Filipino women's groups across Canada, the United States and in other parts of the world. The PWC advocates the elimination of the LCP and argues that many of the LCP's aspects, especially the two-year live-in requirement and the temporary work visa, ensure the domestic workers continue to work in similar low-paying jobs.

The DWA and the PWC represent the organized groups in Vancouver for the foreign domestic workers' cause. Many other organizations have sprouted across Canada, among others, the Association for the Defense of the Rights of Domestic Workers of Montreal, the Calgary Immigrant Women's Center Domestic Workers Group and the Toronto Organization for Domestic Workers' Rights (INTERCEDE). The latter organization is credited for putting pressure on the federal government to make changes to the Temporary Employment Authorization Program and enact the FDM Program, and with it the chance to apply for permanent residence.[121] There appears to be no formal networking system in place among the domestic workers' organization although it is apparent that LICs all over Canada see a need to group together within the provinces to address their distinct concerns.

---

[121] Abigail B. Bakan and Daiva Stasiulis. Foreign Domestic Worker Policy in Canada. *Not One of the Family. Foreign Domestic Workers in Canada*, University of Toronto Press, 1997, at 39.

Canadian government support is extended to the LICs through the Employment Standards Branch (the ESB) and the HRC. As previously discussed these are the government agencies that deal directly with the LICs, from the moment they arrive in Canada until they are qualified to apply for permanent residence. Immigration Canada deals with the LICs' applications for permanent residence. The support mechanism through the extraterritorial role of the Philippine government concerning the welfare of its migrant workers has been discussed in chapter II. However, the Philippine Consulate in Vancouver does not have a labor attaché nor does it run a welfare center for Filipino migrant workers. As mentioned. the Philippine government does not perceive Canada as a trouble spot for its migrant workers. Government support through the labor attaché and welfare centers are therefore concentrated in the Middle East and in Southeast Asia. Also as previously discussed, the Philippine government lacks the necessary resources to carry out its mandate of helping all of its migrant workers.

C. Analysis of the Live-In Caregiver Program and the Immigration and Labor Policies

A close look at the mechanism of the LCP shows the two-tiered and convoluted set of immigration and labor processes. While immigration is within the domain of the federal government, labor is an amorphous matter that is primarily within the provincial domain. Since LICs are affected by both federal and provincial legislation, they find it even more difficult to ensure they are complying with the labor laws which vary from province to province. Thus, the LCP is a program falling under the federal Immigration Act. However, LICs have to educate themselves about the provincial labor standards they fall under. Since 1995 LICs are covered

under the British Columbia Employment Standards Act which stipulates a minimum standard agreement on wages, hours of work, duties and room and board. But many of these rights are merely procedural rights. They are not self-executory and LICs bear the burden of ensuring that their employers are in compliance with the law. For example, the contract itself is negotiated exclusively between LICs and their employers. The Booklet stresses the government's neutrality by not being a party to the contract and having no authority to intervene, in consonance with the principle of freedom of contract. The burden of ensuring that the applicable labor standards are followed lies with the LICs. While any labor standards violations can be reported to the ESB, few LICs actually file a complaint because of fear of reprisals, and even threats of deportation from their employers.[122] The Booklet lists the specific working conditions and employment standards respecting the LIC, but it imposes on the LIC the task of obtaining the legal information from the appropriate government agencies.

Thus, labor standards are not enforceable because of lack of a uniform enforcement mechanism among employers and LICs. The ESB will act only if a complaint is brought forward by LICs. A standard employment contract is just one of the many ways that the working conditions of LICs can be improved. The ROE requirement, while benign in purpose, is a potential source of control for the employers since every LIC who applies for permanent residence must furnish the immigration officer with a ROE to prove completion of two years of live-in work. It has been documented that not all employers willingly comply with this requirement, making it more

[122] *Supra*, note 104, at 19.

difficult for LICs to complete all requirements for the application for permanent residence. While it is the right of every LIC to receive a ROE and it is the employers' duty to issue one, few LICs will complain to the ESB about a delayed issuance or non-issuance of a ROE because LICs know they need it for their application for permanent residence. Thus, the ROE is not much different from its predecessor, the requirement of a release letter which was based solely on the prerogative of the employer.

While LICs are not required to stay with their original employers, the process of changing them requires an application for a new work permit bearing the name of the new employers. This is required because a work permit is job and employer specific. Thus, the LIC who wishes to change employers must first ask for a ROE from the first employers, apply for a new work permit and wait for its issuance before she can start working for the new employers. Delays may occur at any stage; either in finding new employers, obtaining the ROE or receiving the new work permit. The process again underscores the elaborate bureaucracy LICs have to face for an otherwise uncomplicated procedure of changing jobs. Finally, LICs are required to renew their work permit every year. This means that at the end of the validity of the work permit, LICs face an uncertainty of the renewal of their work permit. They must ask their employers to consent to a renewal and then submit the employers' consent letter together with their request for a renewal and the applicable fees.

Thus, it is important that the ESB be pro-active on the situation of LICs and on employers' compliance with the Employment Standards Act. Many of the DWA's recommendations clamor for closer monitoring of the employment relations involving LICs.[123] The recommendations are basic responsibilities expected of the B.C. Ministry of Labour and the ESB. Among the more important recommendations are registration of employers with the ESB with the cooperation of employment agencies, more pro-active enforcement of the Employment Standards Act through monitoring of employers and employment agencies and imposition of penalties on employers for failure to register with the ESB, and provisions for legal aid by both the B.C. and the federal government. Further, since most sending countries require their migrant workers to undergo seminars and orientation session about the cultural norms and habits of the host country, it is suggested that the Ministry of Labour and Immigration Canada coordinate to require employers to attend orientation sessions to understand the responsibilities of employing a LIC.

LICs can be disqualified for making a misrepresentation in their application for permanent residence. Misrepresentation refers to the education, training and/or experience requirements for issuance of an employment authorization, "*whether the misrepresentation was made by the member or **by another person**.*"[124] This punitive measure stems from the 1977 "Case of the Seven Jamaican Women" where the women who had misrepresented their marital and family status were deported but subsequently restored to their landed status under Minister's Permits, in large part due to strong public support from various cause-oriented organizations. The DWA

---

[123] *Ibid.*

[124] Manual, Chapter PO13, 10.1, at 21. See also, section 27(1)(e), Immigration Act.

advises LICs in B.C. that presently, misrepresentation as to age, training or education can still cause serious obstacles to the LICs' application for permanent residence. However, the misrepresentation can now be rectified as long as the LIC admits to its commission and has it corrected prior to her application for permanent residence. What complicates this requirement is the fact that the consequence of misrepresentation by another person is also borne by the LIC. In the past, some Filipina domestic workers who apply for the LCP from Singapore or Hong Kong are asked by unscrupulous employment agencies there to misrepresent their marital and/or family status. The Filipinas are told that the concealment of their marriage and/or their children will improve their chances at working in Canada under the LCP. The employment agencies exploit the Filipina domestic workers knowing the latter often face financial constraints and support family members in the Philippines. Given this unequal relationship between agent and applicant domestic worker, it is argued that while the general purpose for disallowing misrepresentation is commendable, it becomes a rigid rule in the above situation to punish the LICs for their misrepresentation.[125] The real culprit in many instances are the profit-hungry employment agencies eager to deploy the domestic workers.[126]

---

[125] There are a number of federal court cases dealing with the issue of misrepresentation. See Mitra v. Canada, [1996] F.C.J. No. 1495, Borre v. Canada, [1998] I.A.D.D. No. 110, and in Eugenio v. Canada, 38 Imm. LR. (2d) 165.

[126] The case of Eugenio v. Canada, 38 Imm. LR. (2d) 165, presents misrepresentation without undue influence. A domestic worker on her way to Canada was provided by her Singaporean agent with a passport that stated a different person's name. The agent explained that he had arranged for her to take the place of another nanny who had been approved by Canadian immigration authorities but could not then travel. The domestic worker needed the work to support her spouse and her four children. Upon landing in Canada she continued her false identity and eventually obtained Canadian citizenship. Immigration Canada ordered her deported and the domestic worker appealed. The case was dismissed. The court held that the domestic worker, never having applied for entry to Canada, did not have the right to appeal the deportation. The court found that the domestic worker perpetrated the fraud by obtaining various documents, and Canadian citizenship. The court also found that she committed an act of personation punishable under the Criminal Code.

The onerous conditions do not end there. In the application for permanent residence, the LICs are assessed with all their family members whether or not they also apply for permanent residence: "*When they apply for landing in Canada, applicants are required to have all dependants examined.*"[127] This block assessment merely aggravates the emotional and personal hardships LICs already suffer due to lengthy separation from the family. It also further fortifies the stigma that LICs are considered less worthy immigrants. The Canadian immigration program has been accused of formulating racially tainted rules that condone the separation of families of foreign domestics while at the same time mouthing official state discourses on "*the sanctity of the family*":[128]

> *The 'family' that is to be protected from unnecessary state intervention is the middle-class white family. The same state shows no hesitation in disrupting family lives of usually poor, rural women from developing countries.*"[129]

In fact, the Manual makes clear the intent of Canada's immigration policies when it advises visa officers on situations when a LIC wishes to be accompanied by dependants upon her initial entry into Canada:

> *It is expected that live-in caregivers will not be accompanied by dependants. Although, there may be evidence that the employer is aware of the applicant's circumstances and that the employer agrees to a dependant member of the applicant's family residing in the employer's home, there are no guarantees that any subsequent employer would agree to the same terms.*
>
> *Live-in caregivers who wish to bring their children should be given the reasons why this is not possible. Visitor visas should not be issued to these children, but the live-in caregiver applicant may be approved.*

---

[127] *Supra*, note 124, at 3.
[128] *Supra*, note 121, at 17.
[129] *Ibid.*

Clearly, the main interest of Canada is in the LICs' labor and skills as caregivers. What happens to their spouses and children is less important because the presumption is that LICs will sponsor them to Canada after two years. Thus, the requirement of block assessment must be eliminated from the LCP and instead assess family members of LICs on an individual basis.

Although the Booklet states that skills upgrading in Canada, volunteer work and financial situations are not relevant factors for a successful grant of permanent residence they become very relevant for LICs once they obtain an open employment authorization pending the outcome of their application for permanent residence. Since a LIC was more likely unable to go to school while working as a LIC for two years, she now has minimal chances of applying for jobs outside the caregiver milieu, despite the newly acquired "open visa". Thus, a LIC loses two years of general privacy and social space because of the live-in working condition. She also loses two years of opportunity of upgrading her skills, leaving her with the same degree of employability as she had when she first entered Canada two or three years ago. While this loss may be viewed as just another condition of employment and application for permanent residence, Filipinas who enter Canada as LICs lose out on the many chances of self-improvement that other immigrants freely avail of.

The live-in requirement is therefore the all-encompassing requirement of the working conditions of LICs. It is the essence of the LCP and has survived decades of influx of foreign domestic workers into Canada. Because of the live-in requirement workplace and living space are in

essence one and the same. This ambiguous nature of LICs' workplace makes enforcement and monitoring of labor standards more difficult. Thus, LICs find it doubly difficult to be candid with their employers. They are less eager to assert their labor rights on employers whose house they live in. They are also more prone to abuse, threats, cultural insensitivity and even sexual harassment.[130] In fact, the Booklet recognizes the inherently vulnerable working conditions of LICs when it advises them on the proper steps to take in case of abuse in the workplace. LICs are warned about the possible abusive situations that may arise out of the work relationship. They are informed of the nature of abuse and their rights and protections afforded them. The Booklet also contains an explicit note that a LIC who takes up work as a live-out caregiver during the required two-year live-in period can be disqualified from the program.

LICs are aware that their rights as domestic workers, including the newly acquired labor rights in B.C., are subordinate to the employers' prerogative to dictate the rules in the work and living place, to make a favorable recommendation about their work performance to friends and other potential LIC employers, and to promptly issue a ROE for the LICs' application for permanent residence. Finally, the concept of post-entry application for permanent residence has rightly been criticized as gatekeeping and policing measures by Canada of desirable foreign labor but undesirable citizens.

---

[130] In January 1997, the Vancouver parents of a teenage boy were found liable for the son's extreme sexual harassment against their live-in nanny. The B.C. Human Rights Council awarded the live-in caregiver damages and lost wages.

The two-year live-in requirement is also tied with the requirement that the LIC must apply for permanent residence after the two years of live-in work but within three years from entering Canada. Thus, a LIC must finish the two years of live-in caregiving within three years or loses the chance to apply for permanent residence. In addition to the live-in requirement, the LICs two-year temporary status further exacerbates their precarious situation. Inevitably, a LIC may secure or be denied permanent residence status, thus placing her first two years with her work permit in the "technically non-existent category of visiting immigrant".[131]

Thus, Canada follows other host countries in offering an unstable working environment for foreign domestic workers because of inordinate amounts of power given to employers. In effect, the imbalanced relationship between employers and LICs becomes a microlevel representation of the duplicity between the Philippines, a labor sending country, and Canada, a migrant worker host country. In "An Affair Between Nations", Patricia Daenzer posits that:

> "*...the powers of the First World states are increasingly being used to police and limit access of third World migrants to rights associated with First World Citizenship. Such policing is evident in Canadian policies regulating foreign domestic workers, particularly as they have been applied to Third World women of colour.*"[132]

---

[131] Audrey Macklin. Foreign Domestic Workers. *McGill Law Journal*, vol. 37, no. 3, 1992, at 697. Macklin further states:

> [H]*er application to enter Canada as a foreign domestic worker is assessed as if she had the intention of remaining in Canada permanently, but once admitted she is officially labelled a visitor unless and until she successfully applies for landed status two years hence . . . In practice a domestic worker bears the burden of both immigrants and visitors, yet receives the benefits of neither.*

[132] Patricia M. Daenzer. An Affair Between Nations. *Not One of the Family. Foreign Domestic Workers in Canada*, University of Toronto Press, 1997, at 85.

Indeed, Canada's regulations restricting the rights of foreign domestic workers and marginalizing their social mobility and status reflect the unequal relations between "First World Canada" and "Third World Philippines". The development of this relationship is unfortunate, given the reciprocal reliance; of Canada's need for cheap labor and of the Philippines' view of Canada as a safe haven for its migrant workers.

In the concluding chapter it is argued that Canada is in a unique position to blaze the trail for international recognition on the importance of international labor, especially female labor, migration. Before proceeding to the discussion, it is helpful to summarize what has been discussed in the preceding chapters. Chapter I explained the background, objective and limitation of the thesis. In chapter II it is learned that the Philippines, with the world's most extensive labor export program, openly espouses the migrant worker phenomenon because of the lid it puts on its unemployment rate and the valuable foreign exchange it earns from the migrant workers' remittances. It is also learned that the Philippines recognizes, through years of failed legislative control, the resolute trend of labor migration is presently the Philippines' only reliable export policy that keeps its economy buoyant until full economic stability and prosperity is achieved. Chapter III expounds on the experiences of Filipina LICs in British Columbia. The third chapter also elaborates on Canada's foreign worker and migration policies set out in the LCP and gives a critical analysis of the perceived inequities in the LCP.

IV. MIGRANTS' RIGHTS AND LABOR ISSUES IN THE CONTEXT OF THE LIVE-IN CAREGIVERS IN CANADA

A. A Policy Analysis

Canada's foreign worker situation is less oppressive than in the Middle East or the newly industrialized Asian economies. The LCP in general displays a more liberal approach to domestic work than what can be found in the traditional host countries where historical and cultural practices of the ancient master-servant relationship are applied to foreign domestic workers. For example, Singapore's two dominant racial groups, the Chinese and East Indian, have preserved the notion of a feudal paternalism on the part of the employer (the Chinese) and a stringent social hierarchy based on the caste system (the East Indian). Additionally, in both cultures, women traditionally possess a lower status.[133] In Saudi Arabia and in Singapore, foreign domestic workers are not covered by the local labor laws. Singapore in particular has devised stringent rules not only for the domestic worker but for the employer as well. The latter must pay a stiff mandatory bond and ensure that the domestic worker "behaves well" and does not, among others, become pregnant or marry a Singaporean. This environment creates drastic pressure on the employer to ensure that the domestic worker complies with the rules so that the employer does not to forfeit the costly bond. Also, in all traditional host countries for foreign domestic workers, the scope of work is not well-defined. Thus, it is common practice for foreign domestic

[133] Thomas T. W. Tan and Theresa W. Dwanyahan, "Opposition and Interdependence: The Dialectics of Maid Employer Relationships in Singapore", *Philippine Sociological Review*, 35 (3/4), 1987 July/Dec., at 37.

workers to look after the children and pets, clean the home, wash the cars and attend to their employers' needs during social gatherings. Overtime work hours become routine while their commensurate pay is left to the discretion and goodwill of the employer. In Canada, the LCP mechanism ensures that potential employers show proof that they are in real need of an LIC, which means that there is either a child or an elderly person in need of caregiving. As previously discussed, the scope of work of LICs is, at least in theory, also well-defined. Pertinent provincial labor laws in provinces where LICs are concentrated are now applicable to them. It is thus fitting to observe the change of term from "domestic worker" used in earlier Canadian foreign domestic programs to "live-in caregiver", emphasizing the different treatment of foreign migrant workers between the traditional host countries and Canada, and stressing the important 'caregiving' skills of a "live-in caregiver", as opposed to highlighting the bonded labor situation in "domestic work".

However, being the most benevolent host country does not erase the oppressive character of Canada's foreign worker policies. Canada has been accused of implementing immigration policies, upon which the LCP is founded, which "*have been shaped by the demand for cheap labour, as well as racial, ethnic, gender and class biases* [discriminatory of] *women of colour.*"[134] It is important to analyze how effective the LCP is as a policy instrument for Canada. It is argued that the LCP presents a unique scenario where the program, although originally

[134] Agnes Castille, "Canada's Immigration Policy and Domestics from the Caribbean: The Second Scheme", *Race, Class, Gender: Bonds and Barriers*. Toronto and Montreal: Between the Lines and the Society for Socialist Studies, 1987.

driven by Canada's economic demands, attracts female migrant workers who treat the program as an immigration mechanism. Studies have shown that migrant workers and their families feel that the financial rewards that migration is expected to produce offset the family problems resulting from the migration experience. Thus, the contradiction entrenched in the foreign domestic worker movement of painful separation from their family in order to care for another's is emphasized by the fact that most domestic workers migrate to build financial security and secure a brighter future for their children.[135] It is commonly recognized that most Filipinas entering Canada under the LCP migrate to sponsor their family and provide them with a better life:

> *"If it wasn't children, it was parents, or siblings or cousins... Why else would a 32 year old woman be moving half-way around the world to take care of someone else's household?"*[136]

As previously discussed, Canada is different from other host countries for Filipina migrant workers because it offers the chance of applying for permanent residence after having continuously worked for two years as LICs. This chance for social integration also shows Canada's tradition as an immigration country rather than a host of temporary foreign workers. In contrast, Southeast Asian, Middle Eastern and even European host countries[137] of Filipina domestic workers allow entry of the women strictly on a temporary work basis. These are countries with stringent or non-existent immigration policies - situations where the terms "overseas contract worker" and "temporary" or "guest worker" are appropriate. Thus, Canada

---

[135] *Supra*, note 121, at 17.

[136] *Supra*, note 131, at 706.

[137] These would include Hong Kong, Singapore, Taiwan, Saudi Arabia, Kuwait, Bahrain, Oman, United Arab Emirates and Italy.

provides a middle ground for Filipina migrant workers who are looking for better jobs and a better place to live: It asks them to work for two years as a condition to apply for permanent residence in the future.

The notion of a middle ground can be further used to illustrate how Canada enjoys both worlds without suffering from the stigma of either. By offering the chance of permanent residence to foreign domestic workers, Canada aims to differentiate itself from the ill-perceived host countries of foreign domestic workers. Canada also tries to portray itself as a friendly destination via the LCP route for women from developing countries who otherwise lack the resources or qualifications to migrate to Canada. The federal government has always put forward the claim that the LCP is a compassionate program because it gives migrants a chance at migration to Canada. It thus aims to appear benevolent while disguising its need for the labor of foreign domestic workers. In the face of such government rhetoric, it has rightfully been questioned why domestic workers whose labor is in high demand cannot simply enter Canada as permanent immigrants.[138] It is obvious that the Canadian government upholds the duplicity of the LCP and renders unclear whether the LCP is primarily an immigration or labor program. The LCP incorporates elements of labor policies in an immigration program that allows foreign workers to enter but requires them to work before they can permanently stay in Canada. In short, the labor of the foreign domestic workers is needed but their right to stay in Canada is subject to future determination. Even the point system undervalues domestic work which is in such a demand that

[138] *Supra*, note 131, at 697.

the federal government was compelled to create separate programs under the immigration regulations. Clearly, the irregular nature of the LCP is in stark contrast to the other concurrent Canadian immigration programs.

Thus, Canada's domestic worker policy differs only in degree rather than in kind from those existing in other host countries.[139] As in countries such as the Middle East and the newly industrialized Southeast Asian economies, Canada takes advantage of the international migration structures that are primarily dictated by global economic imbalances between developing-sending countries and developed-host countries. In its supposed humanitarian role, Canada accepts poor women from the Philippines whose government eschews the monumental responsibility of protecting its migrant workers all over the world. Although the Philippines has established the world's most sophisticated overseas employment program, it cannot apply it to the LIC situation in Canada as the LCP set-up is viewed by the Philippines as an immigration program, not a temporary foreign worker program. Thus, the Philippines relies on the "benevolence" of Canada's "hospitality", of providing Filipino migrant workers with "the best working and living conditions in the world". The Canadian LCP appears favorable only in comparison to the conditions domestic workers must endure in more oppressive host countries. This fact escapes most Filipina migrant workers whose prior migration experiences make Canada seem like paradise. They are therefore more prone to embrace the government mantra of

[139] Daiva K Stasiulis and Abigail B. Bakan. Regulation and Resistance: Strategies of Migrant Domestic Workers in Canada and Internationally. *Asian and Pacific Migration Journal*, vol. 6, no. 1, 1997, at 53.

"benevolence" and "compassion". Hana Havlicek, founder of Toronto's Selective Personnel employment agency sums up the Filipinas' sentiment in this way:

> *We get thousands of letters from Filipinas who want us to find them jobs in Canada because the working conditions are among the best in the world and they know that they can apply for citizenship here.*[140]

The discussion in this chapter shows that while Canada offers the best working conditions to foreign domestic workers, it has yet to fully acknowledge that there is an economic need to be met and that Filipina domestic workers who enjoy the least labor and migrant rights among workers and immigrants come to Canada to fill that need. Canada prides itself for being internationally known as a compassionate and humanitarian country. Yet the continued existence of the two-year live-in requirement and the two-year temporary status of foreign domestic workers in the LCP, attest otherwise. Thus, this thesis argues that since Canada's role as a forerunner on contemporary international issues and the liberalization of its local laws on gender and sexual equality is renowned, it becomes anachronistic that a cluster of Canada's immigration policies, collated into the present LCP, continues to advocate indentured form of labor and offers a working and social environment lacking in human and migrant rights and devoid of an equitable employer-employee relationship. More importantly, the LCP is proof of how the Philippines as a sending country of migrant workers and Canada as their host country initiate the imbalanced relationship on a state level, thereby paving the way for a similar and unequal setting between Filipina domestic workers and their Canadian employers. Canada fails to measure up to its international commitments as the policies of the LCP do not complement Canada's

---

[140] *Supra*, note 103.

international character as a peacekeeping, immigrant-friendly country. The LCP continues to act as a gatekeeper for Canada's immigration policies.

Thus, within Canada's increasing recognition and eradication of race and gender-based inequalities, particularly in the enactment of the Canadian Charter of Rights and Freedoms, the LCP appears atypical of Canada's civil libertarian advances. It is ironic that a country whose federal government and all provincial governments have a Minister or Secretary of State responsible for the status of women should disregard the female migrant workers' situation. Canada is in a unique position, both as a traditional immigrants' country and as an international player, to blaze the trail for international recognition on the importance of international female labor migration. To do this, Canada must eliminate the double standards in the LCP vis-a-vis the general immigration policies of Canada. Therefore, it is argued that in order to maintain the high marks it has been receiving at the international level, Canada must eliminate two requirements of the LCP: First, the two-year live-in requirement and second, the temporary migrant status of LICs upon initial entry to Canada. Live-in work must be optional and not subject to the granting of permanent residence status. In fact, foreign domestic workers should be recruited as independent immigrants under open permits since their work skills are in constant demand. Simultaneously, the Canadian immigration mechanism must accept the fact that the labor skills LICs offer will continue to be in demand. Only then are all forms and structures promoting indentured labor and racially tainted immigration policies erased.

To preserve its international reputation, Canada must also make reforms on the international level. Studies suggest that forging an international consensus on the migrant phenomenon proves futile and that instead, the root causes of migration should be addressed. However, other studies report on the need for increased bilateral and multilateral aid between host and sending countries and for observance of international labor standards.[141] Canada can address the issues by ratifying and implementing international conventions. Specifically, The UN Convention on the Rights of All Migrant Workers and Members of Their Families has been signed thus far by eight member-countries, including the Philippines. The convention needs 20 signatures in order to be ratified. Canada would be the first host country to sign the Convention which has been adopted and opened for signature since 1990. The significance of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families lies in its comprehensive approach to migrant workers and their rights. It views migrant workers as human beings and not mere economic inputs. It addresses family reunification issues and the right of members of migrant worker families, as well as those of undocumented workers. During the drafting of this Convention, the tension between labor-sending and labor-receiving countries was apparent. The former pushed for maximum protection for migrant workers, the latter wished to reduce political and economic costs.

Bilateral treaties between Canada and the Philippines would assist the latter country in its attempts to extend welfare and protective mechanisms within host countries of Filipino migrant

[141] Female Asian Migrants: A Growing But Increasingly Vulnerable Workforce. International Labour Organization 1996 Press releases. Monday, 5 February, 1996 (ILO/96/1).

workers. This extraterritorial reach of Philippine welfare and protection mechanisms are legally justified through the Philippines' inherent right to the exercise of police power. This is not regarded as an infringement of individual social and economic human rights. Rather, it is viewed as a necessity in the Philippine labor export movement in the face of the Philippines' developing economy and non-welfare state. A recent study posits that extraterritorial laws like those of the Philippines are doomed to fail:

> *There is an absence of international legitimacy, authority and resources for labor-exporting countries to extend extraterritorial protection to their overseas workers. It is therefore the laws, policies, and customary practices of the labor-importing society that will prevail in determining the conditions and protections available for migrant domestic workers . . .* [T]*here is clearly an overall pattern in which domestic workers are subjected to greater and more exceptional levels of restriction relative to most other categories of workers and immigrants.*[142]

It is argued that while the above observation is valid, it unnecessarily assumes that extraterritorial protection is meant to supersede the laws of the host country. Rather, the protection aims to complement that of the host country. Thus, the Philippine is one of the few countries that has a labor desk and welfare center attached to its embassies or consulates. Nevertheless, the recent cases of the hanging of Flor Contemplacion in Singapore and the near execution of Sarah Balabagan in the United Arab Emirates prove how enforcement of Philippine laws becomes almost impossible in host countries that will understandably apply their own laws. Thus, the answer to the Philippines' inability to enforce its laws in another country may lie in the pursuit of international treaties and bilateral agreement, or state-to-state agreements with host countries.

---

[142] *Supra*, note 139, at 43.

B. Conclusion

Asian women make up the fastest growing category of the world's population of migrant workers. The fact that one out of every two international migrants in the world is a woman justifies the plethora of studies made regarding the employment and migration experiences of women. The thesis seeks to contribute to that literature with particular focus on Filipina domestic workers in British Columbia, Canada.

The Philippine migrant labor phenomenon is about the exodus of workers from the Philippines in search for a better life and a brighter future. The Philippine government failed to realize the real impetus or refused to address the root causes of migration. Instead, its focus was on turning the export of migrant labor into a profitable scheme. Where more significant laws were needed the government merely produced delayed legislative reactions to the latest controversies. Even the latest legislative effort, the Migrant Workers Act, was only in reaction to the Contemplacion incident in Singapore.

In the total picture of Philippine labor migration Canada occupies the favorite destination for Filipina domestic workers. The Philippines welcomes Canada's benevolence and economic need in accepting its female migrant workers. But as discussed, the LCP which is Canada's immigration program for foreign domestic workers is not only dissimilar to foreign worker policies of other host countries, it is also discordant with the overall civil libertarian development

of Canadian legislation and constitutional guarantees. With advanced legal concepts on gender and sexual equality entrenched in an egalitarian society the LCP is an unfortunate legacy of Canada's not-so-distant racist past.

The latest Immigration Legislative Review calls for the elimination of the LCP and the reclassification of foreign domestic workers as independent immigrants, thereby freeing them of the live-in requirement and of the two-year temporary status. While the recommendation seems commendable and in line with the arguments presented in this thesis, it must be viewed together with the other 154 recommendations on the Immigration Act and with the general recommendation of dividing the Immigration Act into two separate legislation. What is important, in the final analysis, is that foreign domestic workers enter Canada with equal labor rights and full-fledged migrant status as other members of society.

Bibliography

1987 Philippine Constitution.

Agence France Press, "Filipino Workers in Asia up in '97", *Philippine Daily Inquirer*, April 13, 1998.

Alburo, Florian A. "Remittances, Trade and the Philippine Economy", *Asian and Pacific Migration Journal*, vol. 2, no. 3, 1993.

Amjad, Dr. Rashid. "Philippines and Indonesia: On the Way to a Migration Transition", *Asian and Pacific Migration Journal*, vol.5, nos. 2-3, 1996, at 348.

Asian and Pacific Migration Journal, vol.3, no.4, 1994.

Bakan, Abigail B. and Daiva Stasiulis. Foreign Domestic Worker Policy in Canada. *Not One of the Family. Foreign Domestic Workers in Canada*, University of Toronto Press, 1997.

Batistella, Graziano. "Data on International Migration from the Philippines", *Asian and Pacific Migration Journal*, vol. 4, no. 4, 1995.

Borre v. Canada, [1998] I.A.D.D. No. 110.

Brillantes, Jose. "The Philippine Overseas Employment Program and Its Effects on Immigration to Canada", in *The Silent Debate: Asian Immigration and Racism in Canada*, eds. Eleanor Laquian, et al., Institute of Asian Research, The University of British Columbia, Vancouver, B.C., 1997.

Canada Employment and Immigration Commission (Policy Branch), *Entrants to the FDM program by country of origin -- 1990* (Ottawa: Canada Employment and Immigration Commission, 9 April 1991) [unpublished].

Castille, Agnes. "Canada's Immigration Policy and Domestics from the Caribbean: The Second Domestic Scheme", *Race, Class, Gender: Bonds and Barriers* (Toronto and Montreal: Between the Lines and the Society for Socialist Studies, 1987).

Chen, Anita. Studies on Filipinos in Canada: State of the Art., Vol. 22, *Canadian Ethnic Studies*, January 1, 1990.

Citizenship and Immigration Canada. A Profile of Immigrants from the Philippines in Canada. Publications.

Citizenship and Immigration Canada. Immigration by Levels Component. Facts and Figures 1996.

Citizenship and Immigration Canada. Vancouver Profile. Facts and Figures 1996.

Citizenship and Immigration Canada. Vancouver Top Ten Source Countries. Facts and Figures 1996.

Daenzer, Patricia M. An Affair Between Nations. *Not One of the Family. Foreign Domestic Workers in Canada*, University of Toronto Press, 1997.

Dumlao, Doris C. "RP free at last from IMF 'hold'", *Philippine Daily Inquirer*, March 29, 1998.

Eugenio v. Canada, 38 Imm. LR. (2d) 165.

Foreman, David M. "Protecting Philippine Overseas Contract Workers", *Comparative Labor Law Journal*, vol. 16, 1994/95.

Gil, Miguel C. "Economic Indicator OFW remittances up 29%", *(Philippine) Businessworld*, July 23, 1997.

Grandea, Nona. Uneven Gains. Filipina Domestic Workers in Canada. *The North-South Institute*, the Philippines-Canada Human Resource Development Program, 1996.

International Labour Organization 1996 Press releases. Female Asian Migrants: A Growing But Increasingly Vulnerable Workforce. Monday, 5 February, 1996 (ILO/96/1).

IMF Balance of Payments Statistic Yearbook Annual, website: http://migration.ucdavis.edu/Data/remit.on.www/philippines.html.

Immigration Act, Canada.

Immigration Canada. Chapter OP (Overseas Processing) 13. Processing Live-in Caregivers. 06 -- 96.

IM (Immigration Manual) - 198 - 03 - 94.

"Immigration - Top Ten Source Countries", *Facts and Figures 1996. Immigration Overview*, Citizenship and Immigration Canada, Minister of Supply and Services Canada 1997.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, [1990].

Lindquist, Bruce A. "Migration Networks: A Case Study in the Philippines", *Asian and Pacific Migration Journal*, vol.2, no.1, 1993.

Lodge et al. v. Minister of Employment and Immigration, (1979) 1 F.C. 775.

Macklin, Audrey. Foreign Domestic Worker: Surrogate Housewife or Mail Order Servant?, *McGill Law Journal*, vol. 37, no. 3, 1992.

Michalowski, Margaret. A Contribution of the Asian Female Immigrants into the Canadian Population, *Asian and Pacific Migration Journal*, vol. 5, No. 1, 1996.

Mikita, Jeanne. B.C. Domestic Workers Survey. Summary Report. Economic Equality for Domestic Workers Project. December 1997.

Mitra v. Canada, [1996] F.C.J. No. 1495.

Not just numbers. A Canadian Framework for Future Immigration. Immigration Legislative Review. Minister of Public Works and Government Services, 1997.

Paredes-Maceda, Catherine. "Responding to Filipino Migration Realities: A Framework for Cooperation", *OCWs in Crisis: Protecting Filipino Migrant Workers*, Ateneo Human Rights Center, Makati, Philippines, 1995.

Philippine Department of Labor and Employment Order No. 13, February 5, 1994.

Philippine Executive Order No. 247 [1987].

Philippine Overseas Employment Administration, *White Paper, the Overseas Employment Program*, Department of Labor and Employment (DOLE), Republic of the Philippines, Manila: DOLE, April 1995.

Philippine Presidential Decree No. 442 [1974].

Philippine Presidential Decree No. 797 [1982].

Philippine Executive Order No. 857 [1982].

Philippine Presidential Decree No. 1694 [1980].

Philippine Presidential Decree No. 1809 [1981].

Philippine Republic Act No. 6557.

Philippine Republic Act No. 8042 [1995].

Rules and Regulations Implementing Executive Order No. 857.

Rules and Regulations, Philippine Presidential Decree No. 442 [1974]

Saith, Ashawani. "Emigration Pressures and Structural Change in the Philippines", Manila: ILO/SEAPAT, draft, 1996.

Stahl, C.W. "Manpower Export and Economic Development: Evidence From the Philippines", *International Organization for Migration*, vol. xxvi, no. 2, June 1988.

Stasiulis, Daiva K. and Abigail B. Bakan. Regulation and Resistance: Strategies of Migrant Domestic Workers in Canada and Internationally. *Asian and Pacific Migration Journal*, vol. 6, no. 1, 1997.

Tan, Thomas T. W. and Theresa W. Dwanyahan. "Opposition and Interdependence: The Dialectics of Maid Employer Relationships in Singapore", *Philippine Sociological Review*, 35 (3/4), 1987 July/Dec.

Statistics Canada. Top 25 Ethnic Origins in Canada, Showing Single and Multiple Responses, 1996 Census (20 per cent sample data).

The Economist, "Steady Eddie", in Back on the Road, May 11th, 1996.

The [Canada] *Globe and Mail*, "Canada Beckons Cream of Nannies", January 20, 1996.

The Philippine Star, "1996 GNP growth registers at 6.8%", January 30, 1997.

The Philippine Star, "The Star's Top Ten Business Stories for '96", January 1, 1997.

The Philippine Star, "OCW Remittances Hit Record 7.5 B", January 9, 1997.

The Temporary Employment Authorization Program, SOR/73 - 20.

Tornea, Vivian F. "The Government Welfare Program For Women Overseas Contract Workers", *OCWs in Crisis: Protecting Filipino Migrant Workers*, Ateneo Human Rights Center, Makati, Philippines, 1995.

Tujan, Jr, Antonio. The Crisis of Philippine Labor Migration. IBON: People's Policy and Advocacy Studies, May 1995.