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An Analysis of the Situation of Filipino Domestic Workers



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AN ANALYSIS OF THE SITUATION OF FILIPINO DOMESTIC WORKERS

Nicole J. Sayres

**ILO Special Action Programme to Combat Forced Labour:
Mobilizing Action for the Protection of Domestic Workers
from Forced Labour and Trafficking in Southeast Asia**

Foreword

Domestic work is one of the most important sources of employment for Philippine women both in the country and abroad. About one-quarter of Philippine workers deployed overseas every year enter domestic service. Concern for their safety and protection from abuse is particularly strong in the Philippines in the aftermath of the execution of Flor Contemplacion, a Philippine domestic worker in Singapore in 1995. Indeed, the hidden nature of domestic work within the private sphere of the employers' household and the informal employment arrangements often practiced, make domestic workers particularly vulnerable to exploitation, and in some circumstances, to forced labour and trafficking.

The International Labour Organization promotes decent work for all, including those employed in households. Its Declaration on Fundamental Principles and Rights at Work adopted in 1998, obligates member States to respect, promote and realize freedom of association and the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation. The ILO's Special Action Programme to combat Forced Labour (SAP-FL) under the Programme on Promoting the Declaration aims to promote understanding and effective action to eliminate forced labour and trafficking. One of its activities is to extend support to ILO member States in adopting appropriate policy and programmes to protect domestic workers from the threat of forced labour and human trafficking. The Situation Analysis presented in this paper forms the backdrop for the ILO's technical cooperation in the Philippines under the project entitled "Mobilizing Action for the Protection of Domestic Workers from Forced Labour and Trafficking in Southeast Asia".

Werner Blenk
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This paper examines the rights and working conditions of Philippine domestic workers employed in the country and abroad. It reveals that there are marked differences between migrant and local domestic workers in educational qualifications and work experience. The fact that they form two distinct pools of labour certainly has implications for policies and programmes on domestic work. The discussion surrounding the Batas Kasambahay Bill raises important issues of minimum wage and social security for domestic workers, an occupation that is in many other countries excluded from the ambit of labour law. Organizations of domestic workers in the Philippines represent a ray of hope - as their voice and representation increase, they will gain in recognition and fray a path towards decent working conditions for themselves. Support to such organizations is the main focus of ILO's technical cooperation on domestic work.

This study was carried out by the consultant, Nicole Sayres, under the supervision of Naomi Cassirer, the Gender Specialist in ILO Manila. It has been updated by Asha D'Souza, Anti-Trafficking Specialist of the Special Action Programme to Combat Forced Labour, ILO Declaration Programme, Geneva, with the help of Ricardo Casco, National Project Coordinator, ILO Manila. It expresses the views of the author, which are not necessarily those of the ILO.

Domestic work being a major source of income for poor women, the ILO firmly believes that regulation of working conditions combined with empowerment of organizations of domestic workers can make an important contribution to gender equity and poverty alleviation.

Roger Plant
Head, Special Action Programme
to Combat Forced Labour

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ACRONYMS

ACILS	American Center for International Labor Solidarity
ADB	Asian Development Bank
AusAID	Australian Agency for International Development
BBK	Bantay Bata sa Komunidad (or Child Watch Community)
BCPC	Barangay Council for the Protection of Children
BLE	Bureau of Local Employment
BWC	Bureau of Working Conditions
BWYW	Bureau of Women and Young Workers
CATW-AP	Coalition Against Trafficking of Women - Asia Pacific
DFA	Department of Foreign Affairs
DILG	Department of Interior and Local Government
DOJ	Department of Justice
DOLE	Department of Labor and Employment
DSWD	Department of Social Welfare and Development
ECOP	Employers Confederation of the Philippines
ECPAT	End Child Prostitution, Child Pornography, and the Trafficking of Children for Sexual Purpose
FFW	Federation of Free Workers
IACAT	Inter-Agency Council Against Trafficking
ILO	International Labour Organization
IOM	International Organization for Migration
IPEC	International Programme on the Elimination of Child Labour
JICA	Japan International Cooperation Agency
MFA	Migrant Forum in Asia
NBI	National Bureau of Investigation
NCR	National Capital Region
NCRFW	National Commission on the Role of Filipino Women
NGO	Non-Government Organization
NSO	National Statistics Office
OFW	Overseas Filipino Worker
OUMWA	Office of the Undersecretary for Migrant Workers' Affairs
OWWA	Overseas Workers Welfare Administration
PMRW	Philippine Migrants Rights Watch
PNP	Philippine National Police
POEA	Philippine Overseas Employment Administration
POPEA	Philippine Organization of Private Employment Agencies
RA	Republic Act
SAP-FL	Special Action Programme to Combat Forced Labour
SBM	Sagip-Batang Manggagawa (or Rescue Child Labourers)
SMC	Scalabrini Migration Center
SUMAPI	Samahan ng mga Manggagawang Pantahanan sa Pilipinas (Association and Linkage of Domestic Workers in the Philippines)
TESDA	Technical Education and Skills Development Authority
TUCP	Trade Union Confederation of the Philippines
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
VF	Visayan Forum Foundation, Inc.
WB	World Bank

Introduction

Domestic work is both an integral and invisible part of Filipino society. The practice of employing domestic help is historically embedded in Filipino culture and continues to be part of everyday life. Related traditions, such as migrating in search of employment and the boarding of less well-off relatives in exchange for household help, likewise are socially accepted and widespread in occurrence. The presence and affordability of domestic help allows women in middle and upper-income classes to leave their household duties and enter the work force, thereby contributing to the economic growth of the country. Domestic work also helps alleviate national poverty by providing an important source of employment, mainly for the poorest and most vulnerable members of society - women and children from rural areas, and by providing much needed income in the form of remittances.

At the same time, domestic work remains an invisible sector. The work itself occurs behind private doors, beyond the reach of labour laws and enforcement authorities. Within households, domestic helpers are expected to work continually and for long hours, but must be as unseen as possible. Domestic work is considered neither a formal nor an informal occupation, and many people regard it as unskilled, women's work. Although scant data exists to reveal the extent of domestic work and its complexities, available information about the living and working conditions of domestic helpers raises serious concerns about labour violations, including forced labour, trafficking, and other abuses.

Positive steps have been taken in recent years to examine the situation of domestic workers in the Philippines, as well as in other Asian countries. Beginning in the mid-1990s, the International Labour Organization (ILO), local non-government organizations, and regional and international partners have convened several consultations on domestic workers. In 2003, the ILO Special Action Programme to Combat Forced Labour (SAP-FL), in conjunction with Anti-Slavery International and the Asian Migrants Centre, held a consultation in Hong Kong to address the protection of domestic workers in Asia from forced labour and trafficking. Following this consultation, the ILO began preparations for a project entitled "Mobilizing Action for the Protection of Domestic Workers from Forced Labour and Trafficking in Southeast Asia." The project aims to address the needs and concerns of domestic workers in the Philippines and Indonesia through five areas of concrete action: law and policy development, advocacy and research, outreach and empowerment, capacity building, and targeted interventions to respond effectively to reports of forced labour and trafficking of domestic workers.

The purpose of this analysis is to examine the situation of domestic workers in the Philippines as a preparatory step under the above-mentioned ILO project. The report will focus on Filipino domestic helpers working in their own country, but will include available information on the situation of Filipino domestic workers in Southeast Asia, primarily Singapore and Hong Kong. The assessment will explore, among other issues, the scope of domestic work, the legislative and regulatory framework relevant to domestic work, the typical working conditions of domestic workers, common labour violations and abuses, and the organizations addressing the issues of domestic work and trafficking. The vulnerabilities of domestic workers to forced labour and trafficking will be addressed specifically, since the aim of the related ILO project is the protection of domestic workers from those two forms of abuse. The analysis will conclude with the identification of existing challenges and recommended courses of action.



Research Methodology

2.1 Literature Review

Existing studies and surveys by both government and non-government sources form the foundation for this analysis. Key documents include two surveys by the Department of Labor and Employment (DOLE) Bureau of Women and Young Workers (BWYW), publications resulting from various consultation meetings on domestic work, and several studies by the Visayan Forum Foundation, Inc. (VF), a non-government organization (NGO) that is actively involved in combating child labour, abusive and exploitative domestic work, and trafficking in persons. Data from the National Statistics Office (NSO) and the Philippine Overseas Employment Administration (POEA) provide critical quantitative benchmarks for analysis and discussion.

2.2 Key Informant Interviews

Seventy-nine interviews¹ were conducted with key individuals who have knowledge, experience, and/or responsibility for addressing issues relevant to domestic work. The scope of interviews reflects the multi-sectoral approach of the situational analysis, with the key informants representing the government, private, union, and non-government sectors. The interviews served to fill in research gaps and to present an overall picture of the national infrastructure for addressing domestic work.

2.3 Voices of Domestic Helpers

In order to validate the research and to incorporate the opinions of domestic workers themselves, focus group discussions and interviews were held with current and former domestic helpers enrolled in night school programmes at Negros Occidental High School in Bacolod, Batangas National High School and Saint Bridget College in Batangas. Focus group discussions and interviews were also conducted with leaders of SUMAPI (Samahan ng mga Manggagawang Pantahanan sa Pilipinas, or Association and Linkage of Domestic Workers in the Philippines) in Manila, Bacolod, and Batangas. The assistance of VF in organizing and facilitating the focus group discussions was invaluable to the development of this analysis.

The research process and the resulting analysis were based on the following principles:

- Domestic work is a legitimate occupation of critical value to Philippine households and the country as a whole;
- Domestic work per se is not illegal or prohibited work, but that in instances where the working conditions of domestic workers are characterized by coercion, physical or psychological abuse, or violations of the Labor Code and other relevant legislation, it can be considered forced labour;
- Inclusion of information from government and non-government sources should be balanced, in order to remain consistent with the multi-sectoral approach of the ILO.

Although information on child domestic workers and overseas domestic workers is included, the primary focus of the situational analysis is on adult domestic workers and

their working conditions in the Philippines. As a group, adult domestic helpers have received the least amount of attention, in terms of both academic research and media intervention. There is limited public awareness about their working conditions, legal protections, and vulnerabilities to forced labour, trafficking, and other abuses. Child domestic helpers have been the subject of several studies, and as a result, there is generally more information available about this category of domestic helpers. The ILO-International Programme on the Elimination of Child Labour (ILO-IPEC) has also launched a Time Bound Programme on the Elimination of the Worst Forms of Child Labour in the Philippines, which includes child labour in domestic work as one of its six priority target groups. The ILO-IPEC project will serve to bring further attention to the plight of these children. Public awareness of the situation of overseas domestic helpers, at least those in Hong Kong and Singapore, is also relatively high, due to strong networks and government outreach programmes for Overseas Filipino Workers (OFWs). Furthermore, the prevention-oriented approach of the ILO domestic work project necessitates a focus on the situation and mechanisms in place in the Philippines.

The assessment does not include caregivers in its scope of coverage. Although in some employment situations the role of caregivers may be similar to that of *yayas*², and some home-based caregivers are expected to assume additional housecleaning duties, caregivers are considered a different occupation with a distinct set of technical skills. It should be noted, however, that home-based caregivers, particularly those overseas, may face similar vulnerabilities as domestic workers with regards to forced labour, trafficking, and other abuses.

As mentioned above, the overall objective of the analysis is to inform the development of the ILO project on the protection of domestic workers from forced labour and trafficking in Southeast Asia. However, in pursuing that goal, the situational analysis is designed to fulfill several micro-objectives. First, the analysis is intended to bring together from various sources quantitative and qualitative data about the situation of Filipino domestic workers and their vulnerabilities to forced labour and trafficking. Gathering such information under one framework serves as a useful benchmark of the present status of domestic workers and the present state of knowledge about domestic work. Second, the analysis is designed to help inform the development of policies and programmes for Filipino domestic workers. In this way, it can be a tool not only for the ILO, but also for government decision-makers, non-government organizations, and advocates for the rights of domestic workers. Lastly, the analysis is aimed at bringing the situation of Filipino domestic helpers into the emerging international picture of domestic work. This strengthens the overall global understanding of domestic work and provides useful lessons for other countries with a sizeable domestic work sector such as Indonesia.

¹ See Annex 1 for list of persons interviewed

² *Yaya* is the Filipino term for nanny or babysitter.

Scope of Domestic Work

3.1 Domestic Work in the Philippines

The Labor Code of the Philippines defines "domestic or household service" as "service in the employer's home which is usually necessary or desirable for the maintenance and enjoyment thereof and includes ministering to the personal comfort and convenience of the members of the employer's household, including services of family drivers."³ Domestic work includes the services of maids, cooks, yayas, and drivers. Although the Labor Code does not specify their exclusion, independent service providers such as gardeners and masseurs, are generally not considered domestic work employees due to the fact that they service multiple households and visit each household on an occasional, as-needed basis.

Estimates of the number of domestic workers in the Philippines vary considerably. In 1987, the NSO estimated that there were 569,000 helpers⁴ and related housekeeping service workers in the country.⁵ The 1995 NSO Labor Force Survey identified approximately 766,200 domestic workers.⁶ According to the 2002 Labor Force Survey, the number of domestic helpers fluctuated from 631,000 to 574,000 between January and October 2002.⁷ The April 2002 Labor Force Survey, however, indicated that there were over 1.3 million "households with employed persons." VF estimates that the number of domestic workers in the country may be as high as 2.5 million.

Data on the magnitude of child domestic work differs as well. According to a July 1995 ILO-IPEC-sponsored survey on working children, there were 120,664 children working away from home in the service sector. The April 1995 NSO Labor Force Survey found that 301,701 househelpers were 19 years old and younger, with the majority (272,819) between 15-19 years old. The number of "children" - defined as individuals under the age of 18 - is not reflected specifically in this survey since the category of domestic workers aged 15-19 is not disaggregated.⁸ The 2001 NSO Survey on Children 5-17 Years Old indicated that of the 4 million working children in the Philippines, 230,000 worked in private households, with 120,000 working children living away from home employed in private households. VF estimates that there are over 1 million child domestic workers.

Although the exact magnitude of domestic work is unknown, it is clear that the majority of domestic workers, both child and adult, are female. The 1995 Labor Force

Survey found that the ratio of female domestic workers to total domestic workers was 86%. Of the 631,000 domestic helpers identified in the Labor Force Survey data from January 2002, 92% were female. In a 1996 study on child domestic workers by the BWYW, 93.2% of the respondents were female.

The age of househelpers and the region of employment, however, appear to affect the male-female ratio. According to the 1995 Labor Force Survey, there were a higher percentage of males in the 10-14 age group (23.7%) than that reflected across all age groups. This data indicates that the participation rate of males in domestic service may decline as boys get older. Within the 10-14 age group, males outnumber female domestic workers by a ratio of 11 to 9 in the Central Visayas region. Roughly 33% of 10-14 year-old domestic workers are male in the following regions: Cagayan Valley, the National Capital Region (NCR), Northern Mindanao, Eastern Visayas, and Southern Tagalog. These regions have been identified as having a high number of domestic workers.⁹

The majority of domestic workers are young. According to the 1995 Labor Force Survey, 59% of domestic workers nationwide were between the ages of 15 and 24. 36% of domestic helpers were 15-19, 23% were 20-24, and 16% were 25-34 years old. The age groups with the least amount of domestic workers were the 10-14 year old group (4%), 55-64 year old group (3%), and those 65 and older (0.9%). This is consistent with anecdotal evidence of a demand among employers for young, unmarried female domestic helpers. It may also reflect the decision by young domestic workers to withdraw from their employment upon marriage or childbearing. The results of a 1988 BWYW survey of domestic helpers in metro Manila, in which 83% of the 175 respondents were single women, support these findings.

Regionally, the NCR employs the highest number of domestic workers. According to the 1995 Labor Force Survey, 30% of domestic helpers nationwide worked in the NCR. In 2002, approximately 45% of domestic helpers worked in the NCR. Other regions with high numbers of domestic workers include, Southern Tagalog¹⁰, Western Visayas, Davao, Central Visayas, Northern Mindanao, and Central Luzon. Table 1 presents the number of domestic helpers by region during the period January to October 2002.

3 Labor Code of the Philippines, Presidential Decree No. 442, as amended, Article 141. The main provisions governing the working conditions of domestic workers are contained in Book III, Title III, Chapter III of the Labor Code, entitled "Employment of Househelpers."

4 "Helpers" includes household helpers, hotel and restaurant helpers, and related workers and other housekeeping service workers not elsewhere classified.

5 Bureau of Women and Young Workers, Department of Labor and Employment, "Working and Living Conditions of Domestic Helpers in Metro Manila," July 1988.

6 National Statistics Office Labor Force Survey, April 1995, cited by Ma. Alcestis Abrera-Mangahas, "General Situation of Child Domestic Workers in the Philippines," 1996.

7 NSO Labor Force Survey, January to October 2002. These figures were based on the number of persons who identified "domestic helper" in response to the survey category "relationship to household head."

8 Abrera-Mangahas, 1996.

9 Bureau of Women and Young Workers, Department of Labor and Employment, "Developing Strategic Services for Child Domestic Workers Using Survey Data on their Working and Living Conditions in Metro Manila," September 1996.

10 In 2002, Region IV (Southern Tagalog) was divided into Region IV-A (Calabarzon) and Region IV-B (Mimaropa). Regional data presented in this report covers the years prior to the division; therefore, this report will refer to Region IV as Southern Tagalog.

Table 1
Number of Domestic Helpers by Region: January - October 2002
 (Number in thousands)

Region	Jan 2002	Apr 2002	July 2002	Oct 2002
TOTAL Philippines	631	623	611	574
National Capital Region	303	306	272	247
Region 4 Southern Tagalog	67	66	75	78
Region 6 Western Visayas	51	55	61	61
Region 11 Davao	38	39	41	36
Region 7 Central Visayas	33	29	27	27
Region 10 Northern Mindanao	19	19	23	23
Region 3 Central Luzon	23	19	18	18
Region 9 Zamboanga Peninsula	19	19	24	14
Region 5 Bicol	14	20	12	14
Region 8 Eastern Visayas	14	14	12	14
Region 1 Ilocos	13	12	12	11
Region 2 Cagayan Valley	9	4	10	10
Region 13 Caraga	8	5	8	7
Region 12 Soccsksargen	9	8	8	6
Cordillera Administrative Region	7	5	5	6
Autonomous Region in Muslim Mindanao	2	4	5	3

Source: NSO Labor Force Survey, January to October 2002.

Note: Ranked according to October 2002 figures.

Many domestic helpers in the Philippines work outside of their home provinces, with NCR being the top destination. In its 1988 study of domestic workers in Metro Manila, the BWYW found that the majority (41.7%) of respondents were from Western, Central, and Eastern Visayas, with the second largest group from the Bicol region. A BWYW 1996 survey on child domestic workers in metro Manila identified the places of origin of the respondents in the following order, according to percentage of respondents: Eastern Visayas, Bicol, Western Visayas, Central Visayas, Southern Tagalog, and Northern Mindanao. Another study on child domestic workers in metro Manila found that most of those coming from the Visayas regions are from the provinces of Samar, Iloilo, Cebu, Leyte and Bohol.¹¹ Anecdotal information on age and location of domestic workers suggests that the youngest domestic workers may be in the provincial areas, which serve as a training ground for many domestic workers before they move to Manila or other cities.

Several factors account for the migration of domestic workers from the Visayas and Bicol regions. The primary "push" factor is poverty. These regions are considered the economically depressed regions of the country, characterized by a scarcity of livelihood and employment opportunities and an oversupply of unskilled manpower. This is consistent with findings of the 1988 BWYW survey, which found that the mean family income of surveyed domestic workers was P836.22 (\$15) per month, with the majority of parents engaged in subsistence agriculture and over 50% of the mothers being unemployed. In that study, the mean family size of surveyed domestic workers was 8, with approximately 25% of the respondents having at least one parent deceased. In this context, having a child or family member work as a domestic helper is part of the family survival kit.

On the "pull" side, anecdotal information indicates that there is a demand for provincial domestic workers in urban areas such as Metro Manila for three main reasons:

(1) workers in urban areas find employment in factories or industrial jobs, so are less inclined to work

as house helpers,

(2) greater participation in the workforce among urban women, which results in a need for household help; and

(3) the migration of urban domestic workers overseas which leaves a gap in the local supply of domestic workers.

In addition, there appears to be a specific demand among some employers for domestic workers from these regions because of their perceived submissiveness and desperation for employment. Ironically, the rural backgrounds and lack of experience of newly-hired domestic workers are deemed favorable by some employers, who want to train the domestic helpers themselves and prefer helpers without any expectations regarding their working conditions.

The main reasons cited by domestic workers for moving to Metro Manila include the need to earn a living, the promise of a job with better pay, wanting to help their parents, the chance to see Manila, wanting to escape the hard life in the provinces or the cruelty of their home situations, and a lack of job opportunities in the provinces. Domestic workers interviewed in Batangas highlighted their perception that domestic helpers in Manila earn higher salaries and do less work, since they are more likely to perform discrete tasks rather than serving as cleaner, laundrywoman, cook, and *yaya* all in one. Some newly-arrived helpers in Manila view domestic work as a stepping-stone towards factory work and other jobs. Others migrated in order to study but lacked the necessary financial support, while some domestic workers from Mindanao fled due to the lack of peace and order in their home region.

In general, there appears to be a positive relationship between the presence of domestic helpers and the income level of households. However, it may be the case that the employment of child domestic workers is more closely related to the number of middle-income households. The 1996 BWYW survey on child domestic workers found that a sizeable proportion of the respondents were employed by middle-income households. BWYW observed that middle-income households may employ low-paid child

11 Roland Romeo R. Pacis, "Cursorial Assessment Report: Towards a Time-Bound National Action on Child Domestic Workers in the Philippines," 2002.

domestic workers as a method of "income stretching." This theory suggests that as the size of the middle class increases, the employment of child domestic helpers would correspondingly increase. It also implies that child domestic workers and adult domestic workers may be viewed as two distinct pools of labour, due to the higher cost of adult domestic workers. On the other hand, it is not clear whether the low number of respondents in the upper class households could be explained by the surveyors' inability to gain access to these households.

In terms of educational attainment, the majority of domestic workers do not complete high school. According to the 1995 Labour Force Survey, 83.7% of domestic workers graduate from elementary school, but only 36.9% complete high school. While 56.7% of domestic helpers enter high school, 19.8% drop out before graduation. Only 7.4% of domestic workers complete some years of college. Interestingly, older domestic workers above the age of 45 also have lower rates of high school enrollment and completion.

3.2 Domestic Work Overseas

Domestic workers also comprise a significant portion of Filipinos who go abroad for employment. This phenomenon began in the mid-1980s, prior to which the OFW population was comprised mainly of male Filipinos undertaking construction work in the Middle East. Since then, there has been a feminization of the OFW population. In 1975, 12% of total labour outflow from the Philippines were women. By 2002, women accounted for 73% of total labour outflow. This increase can be attributed to, among other factors, the rise in prosperity of some Asian countries, and the increase in women's participation in the labour force in those countries. In addition, in some countries, the employment of a foreign domestic helper is perceived to enhance the social status of the household. For Filipino domestic helpers, the benefits of overseas employment include higher salaries than those in the Philippines, enhanced social status as an OFW, and, in particular for female OFWs, a greater degree of independence.

In the late 1980s, amid complaints of abuse and exploitation of Filipino domestic workers overseas, the administration of President Cory Aquino banned the deployment of domestic workers abroad. Countries interested in hiring Filipino domestic helpers had to negotiate on a country-by-country basis regarding the terms of employment that would have to be met for the ban to be lifted. On the one hand, the ban pushed the destination countries to establish and improve standards of employment

for Filipino domestic helpers. On the other hand, the ban may have also prompted overseas employers to hire domestic helpers through clandestine channels, and thus in effect deepened illegal channels of migration. Although this hypothesis has not been examined, the ban could have also made the domestic helper population in the Philippines worse off because the surplus of labour would have forced down wages. In addition, several countries retaliated by imposing bans on the importation of Filipino workers. Kuwait, for example, enacted a ban against OFWs that lasted ten years.

In 1995, the Philippine government again banned the deployment of Filipino house helpers, in response to the case of Flor Contemplacion, a Filipina house helper convicted of murder, despite evidence of her innocence, and hanged in Singapore. The Flor Contemplacion case highlights how overseas employment policies can affect a country's foreign relations and domestic politics. It damaged the existing relationship between Singapore and the Philippines and created a political backlash against former Philippine President Ramos, who was accused of not acting swiftly enough to prevent her execution. For a country like the Philippines, it can be a difficult balance between the protection of the rights of nationals overseas and the preservation of strong relationships with countries that offer employment - and thus remittances - and trade benefits. Today, the ban against the deployment of Filipino domestic workers has been lifted for all destination countries, including Jordan, where special conditions for sending domestic workers there are being negotiated.

According to data provided by POEA, 63,434 domestic workers and related household workers were deployed overseas as new hires in 2002. That amounts to 22% of the newly hired overseas Filipino workers that year (288,155). Of the newly-deployed domestic workers, 99% are women. The majority (75%) of female domestic helpers went to Hong Kong (36%), Kuwait (20.5%), and Saudi Arabia (18.8%).

Table 2 presents the top destination countries of Filipino domestic helpers, and Table 3 presents the number of domestic helpers deployed by sending region. It should be noted that these tables capture the domestic workers deployed through the formal overseas recruitment and placement process. It is widely accepted, however, that many domestic workers go abroad through informal channels. Some travel without visas or on tourist visas, while others use false documentation to go overseas for work. Therefore, the actual number of Filipino domestic workers who go abroad for work each year is likely to be higher than the numbers presented here.

Table 2
Top Destination Countries* of Filipino Domestic Helpers and Related Workers (New Hires)

Destination	2000	2001	2002
TOTAL Worldwide	68,270	71,378	63,434
Hong Kong	27,713	27,513	22,870
Kuwait	9,225	10,212	12,835
Saudi Arabia	10,660	10,902	11,934
United Arab Emirates	5,422	5,228	4,950
Qatar	1,329	1,585	1,899
Lebanon	1,583	2,050	1,933
Singapore	1,518	1,356	1,428
Malaysia	772	1,536	1,350

Source: POEA, unpublished data provided by POEA, March 19, 2004.

*Selected countries with consistently high deployment of Filipino domestic helpers and related workers.

Note: Ranked according to 2002 figures.

Within Southeast Asia, the primary destinations for Filipino domestic workers are Hong Kong and Singapore. One study indicates that, as of May 2000, Filipino domestic workers comprised roughly 75% of the foreign domestic helper population in Hong Kong, with 147,400 Filipino helpers out of a total of 202,900 foreign domestic helpers.¹² In Singapore, it is estimated that there are 140,000 foreign domestic helpers, of which 80,000 are from the Philippines.¹³ There appears to be a decline from 1995, when an estimated 75% of foreign domestic helpers in Singapore were Filipino. The decline is attributed to an increased demand for Indonesian and Sri Lankan domestic helpers, following the Philippine government ban on the deployment of domestic helpers.¹⁴

As indicated in Table 3, the main regions from which Filipino domestic helpers are deployed overseas are NCR, Southern Tagalog, Ilocos, Cagayan Valley, Central Luzon, Soccsksargen, and Western Visayas. The provinces and municipalities that have the highest number of overseas Filipino domestic helpers include Manila, Quezon City, Pangasinan, Taguig, Maguindanao, Isabela, Iloilo, Cagayan, Zamboanga del Sur, Laguna, Nueva Ecija, Cavite, Negros Occidental, Batangas, Ilocos Norte, and Ilocos Sur.



Table 3
Sending Regions of Deployed Filipino Domestic Helpers (New Hires)

Region	2000	2001	2002
National Capital Region	16,956	16,396	11,495
Region 4 Southern Tagalog	7,723	7,235	5,046
Region 1 Ilocos	7,954	7,355	4,809
Region 2 Cagayan Valley	6,230	5,840	4,172
Region 3 Central Luzon	5,987	5,799	3,992
Region 12 Soccsksargen	2,957	3,337	3,658
Region 6 Western Visayas	3,968	4,154	3,074
Region 9 Zamboanga Peninsula	2,310	2,603	2,294
Region 11 Davao	2,680	2,703	1,899
Cordillera Administrative Region	2,409	2,344	1,614
Region 7 Central Visayas	1,222	1,231	1,335
Region 10 Northern Mindanao	814	1,109	1,124
Region 5 Bicol	1,496	1,498	1,103
Region 13 Caraga	351	498	456
Autonomous Region in Muslim Mindanao	310	364	430
Region 8 Eastern Visayas	529	531	393

Source: POEA, unpublished data provided by POEA, March 19, 2004.

Note: Ranked according to 2002 figures. Data does not include "related workers;" therefore, the totals do not coincide with the worldwide totals from Table 1.

A common misconception is that the domestic helper population abroad shares the same demographic profile as domestic helpers in the Philippines. In fact, research indicates that domestic helpers deployed overseas tend to be older, better-educated, have a broader range of professional experiences, and come from more urban backgrounds than house helpers working in the Philippines. Most overseas Filipino domestic helpers are reported to be between 25 and 34 years old.¹⁵ A 2001 survey of domestic helpers in Hong Kong indicated that the average age of Filipino domestic helper was 33 years, and that 62% of Filipino domestic helpers had completed tertiary education.¹⁶ An earlier study found that in Singapore, 50% of Filipino domestic helpers had at least a high school

education, while 43% had completed college. That study also indicated that over 50% of the Filipino house helpers surveyed in Hong Kong were married. In Hong Kong, although some respondents were employed as domestic helpers, prior to deployment, many had worked in clerical, teaching, or nursing professions.¹⁷ Overseas Filipino domestic helpers also come from more urban areas. As mentioned above, many local domestic helpers who migrate to Metro Manila and other cities come from the Visayas, Bicol, and Mindanao regions. However, overseas Filipino domestic helpers come from NCR, Southern Tagalog, Ilocos, Cagayan Valley, and Central Luzon. Table 4 presents a comparison between the demographic profiles of local and overseas Filipino domestic workers.

12 Wako Asato, "Organizing for Empowerment: Experiences of Filipino Domestic Workers in Hong Kong," in *Filipino Diaspora: Demography, Social Networks, Empowerment and Culture*, ed. Mamoru Tsuda, 2003.

13 Asian Migrant Yearbook 2001.

14 Chihō Ogaya, "Feminization and Empowerment: Organizational Activities of Filipino Women Workers in Hong Kong and Singapore," in *Filipino Diaspora: Demography, Social Networks, Empowerment and Culture*, ed. Mamoru Tsuda, 2003.

15 N. Heyzer and V. Wee, "Domestic Workers in Transient Overseas Employment: Who Benefits, Who Profits?" in *The Trade in Domestic Workers: Causes, Mechanisms and Consequences of International Migration*, ed. N. Heyzer, G. Lycklama a Nijeholt, and N. Weerakoon, 1994.

16 Asato, 2003.

17 N. Heyzer and V. Wee, 1994.

Table 4
Profiles of Local and Overseas Filipino Domestic Workers

Local Domestic Workers	Overseas Domestic Workers
• Age 15-24	• Age 25-34
• Elementary school graduates	• High school and college graduates
• Little prior work experience	• Broad range of work experience
• From Visayas, Bicol, Southern Tagalog,	• From NCR, Southern Tagalog, Ilocos, Cagayan Valley, Central Luzon, Soccsksargen, Western Visayas

There are several implications of having two distinct pools of domestic workers. First, it suggests that interventions aimed at preventing trafficking of domestic helpers should have two different approaches, based on the different demographic profiles of the target beneficiaries. The project regions, informational materials, and activities should be tailored to the needs of the two populations. For example, colleges and universities could be tapped as venues for information dissemination on trafficking risks for overseas domestic helpers. However, elementary schools and high schools would be the more appropriate educational institutions to channel domestic trafficking information to local house helpers.

Second, this finding suggests that there may be little correlation between being employed as a domestic worker in the Philippines and being an overseas domestic helper. Therefore, channeling information and assistance to local domestic helpers may not necessarily have a significant impact on reducing the vulnerabilities of overseas domestic helpers.

Third, the fact that overseas domestic workers may be of a higher socioeconomic class than local domestic

workers indicates that the balance of weight between the pull and push factors of migration may differ for the two pools of labour. Overseas domestic workers have generally had longer periods of work experience in occupations with greater remuneration than domestic work. Therefore, unlike local domestic workers who come from the poorest regions and may migrate for economic survival, overseas domestic workers may choose to migrate in order to take advantage of the better economic opportunities abroad. In other words, the push factor may be a stronger catalyst in the migration of local domestic helpers, while the pull factor may provide a more powerful impetus for domestic workers who migrate overseas. Further understanding of the balance between the push and pull factors can help inform interventions designed to mitigate migratory pressures. Lastly, the deployment of trained, well-educated, married Filipinos overseas in domestic work raises concerns about the "brain drain" from the Philippines, the de-skilling of overseas workers, and the societal consequences of "broken" families.



Legislative and Regulatory Framework

The legislative framework for the protection of domestic helpers presents a mixed scenario. On the one hand, the Philippines has numerous laws and regulations that address the rights of domestic workers and the protection of Philippine citizens from labour violations and other abuses. This legal framework includes laws and regulations on migrant work, child labour, trafficking in persons, illegal recruitment, violence against women, and general labour and employment. The Philippine government has also made a significant commitment to the protection of human rights and labour rights through the ratification of a long list of international conventions. On the other hand, the laws regarding the treatment of domestic workers are scattered throughout a variety of legal instruments, inconsistent with each other and with the legal protections for other types of workers. Besides, they are outdated. The current monthly minimum wage of 800 pesos (\$14.80) for domestic workers is one example of a legal provision that has not kept pace with the socioeconomic state of the country. The absence of a comprehensive legislative and regulatory framework for domestic work results in a lack of understanding even among law enforcement officials as to the conditions that constitute different types of offences and the procedures to handle such problems.

In addition, enforcement of existing laws is weak, with little inspection of the working conditions of domestic helpers. The location of domestic work makes legal enforcement difficult, since constitutional provisions regarding the right to privacy may be invoked to prevent labour inspectors and law enforcement officials from entering private households. Nevertheless, some critics assert that since there is an employer-employee relationship, it is within the right of DOLE to investigate and ensure compliance with the laws. The labour inspectorate, however, has reportedly focused on the inspection of factories and other business establishments. Lastly, the Philippines is in the process of ratifying relevant ILO Conventions such as the Convention on Forced Labour, (No. 29), the Migration for Employment Convention (Revised) (No. 97), and the Migrant Workers (Supplementary Provisions) Convention (No. 143).

4.1 International Instruments

The Philippines has ratified or acceded to the following international human rights instruments relevant to the protection of domestic worker and migrant worker rights:

- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social, and Cultural Rights
- Convention on the Elimination of All Forms of Discrimination against Women
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Rights of the Child

- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

- Slavery Convention and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

- UN Convention Against Transnational Organized Crime and the supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (also called the Palermo Protocol)

In terms of the ILO's core labour conventions, the Philippines has ratified all but ILO Convention No. 29, the Convention on Forced Labour, 1930. This convention was discussed by the Senate Foreign Affairs Committee in March 2005 as a prelude to debate on ratification by the Senate.

The 7 ratified ILO fundamental conventions are as follows:

- No. 87 Freedom of Association and Protection of the Right to Organize Convention, 1948

- No. 98 Right to Organize and Collective Bargaining Convention, 1949

- No. 100 Equal Remuneration Convention, 1951

- No. 105 Abolition of Forced Labour Convention, 1957

- No. 111 Discrimination (Employment and Occupation) Convention, 1958

- No. 138 Minimum Age Convention, 1973

- No. 182 Worst Forms of Child Labour Convention, 1999

Although the Philippines has so far ratified only one of the two fundamental conventions on forced labour, the definitions of prohibited forced labour embodied in the conventions are useful standards for examining the situation of domestic workers. The Convention on Forced Labour (No. 29) defines forced or compulsory labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." The convention prohibits certain forms of forced or compulsory labour, including forced or compulsory labour that is for the benefit of private individuals, companies or associations. The Abolition of Forced Labour Convention, 1957 (No. 105), which the Philippines has ratified, supplements Convention No. 29. Convention No. 105 calls for the immediate and complete abolition of any form of forced or compulsory labour that is used in the following ways: "(a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; (b) as a method of mobilizing and using labour for purposes of economic development; (c) as a means of labour discipline; (d) as a punishment for having participated in strikes; and (e) as a means of racial, social, national or religious discrimination."

Two ILO conventions relevant to the rights of migrant domestic helpers - namely, the Migration for Employment Convention (Revised) (No. 97) and Migrant Workers (Supplementary Provisions) Convention (No. 143) - have been endorsed by the President and submitted to the Senate for ratification.

4.1.1 Regional Agreements

The Philippines has been an active participant in regional efforts to combat trafficking in persons and to promote the rights of migrant workers. As a member State of the Association of Southeast Asian Nations (ASEAN), the Philippines has adopted the ASEAN Declaration on Transnational Crime and the Manila Declaration on the Prevention and Control of Transnational Crime, which aim to strengthen regional cooperation in combating trafficking in persons and other types of transnational crime. In addition, in March 2000, the Philippines co-hosted the Asian Regional Initiative against Trafficking in Persons- Particularly Women and Children (ARIAT).

4.2 National Laws¹⁸



**"Batas Kasambahay, ipasa agad!
pang ang kasambahay. dahil sa at bayan ay umunlad"**

4.2.1 Domestic Work

The main provisions governing the working conditions of domestic workers are contained in the Labor Code of the Philippines, Presidential Decree No. 442, as amended, Book III, Title III, Chapter III, entitled "Employment of House helpers." As stated in the Labor Code, Chapter III applies to "all persons rendering service in households for compensation."

- Article 141 defines "domestic or household service" as "service in the employer's home which is usually necessary or desirable for the maintenance and enjoyment thereof and includes ministering to the personal comfort and convenience of the members of the employer's household, including services of family drivers." According to the Omnibus Rules Implementing the Labor Code, Book III, Rule XIII, Section 3, this definition excludes children and relatives of a house helper who live within the employer's household but are not engaged as house helpers and are not required to perform "substantial" household work.

- Article 142 states that the original contract of a domestic helper shall last no more than two years, but it may be renewed for any period agreed upon by the two parties.

- Article 143, as amended by Republic Act No. 7655 - the Minimum Wage for House helpers Act of 1993, sets the minimum wage of house helpers in different municipalities and requires employers to review the employment contracts of house helpers every 3 years with

a view to improving the terms of employment. At present, the monthly minimum wage for house helpers is 800 pesos (\$14.80) in Metro Manila and highly urbanized cities, 650 pesos (\$12) in other chartered cities and first-class municipalities, and 500 pesos (\$9.25) for those in other municipalities. Article 143 also requires, in accordance with R.A. 7655, that house helpers receiving at least 1,000 pesos (\$18.50) be covered by the Social Security System (SSS).

- Article 144 states that the minimum wage prescribed above shall be paid in addition to lodging, food and medical attendance.

- Article 145 prohibits the assignment of house helpers to work in a "commercial, industrial, or agricultural enterprise at a wage or salary rate lower than that provided for agricultural or non-agricultural workers.

- Article 146 applies to house helpers under the age of 18. Under this article, employers must give a child domestic worker the opportunity for at least an elementary education, with the cost of education being a part of the house helper's compensation, unless otherwise stipulated.

- Article 147 requires employers to treat house helpers in a "just and humane manner" with no physical violence.

- Article 148 requires the employer to provide suitable and sanitary living quarters, adequate food, and medical attendance to the house helper free of charge.

The Civil Code also contains provisions related to domestic work. In some cases, the Civil and Labor Code provisions reinforce the same standard. For example, the Labor Code Article 147 and the Civil Code Article 1694 both require employers to treat domestic workers in a humane manner and prohibit them from inflicting physical violence upon domestic workers. However, in other places, there are gaps between the two pieces of legislation. Regarding hours of work, for example, the Labor Code's provisions do not apply to "members of the family of the employer who are dependent on him for support, domestic helpers, [and] persons in the personal service of another."¹⁹ However, under the Civil Code, house helpers are not required to work more than 10 hours per day, and are allowed 4 days vacation each month with pay.²⁰

4.2.2 Child Protection

The Philippines has substantial legislation on the rights of children that may be invoked for the protection of child domestic workers. These provisions are included in the Philippine Constitution, Labor Code, Civil Code, Child and Youth Welfare Code, Penal Code, and special laws related to child abuse and exploitation.

- The Philippine Constitution guarantees the right of children "to assistance... and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development."²¹

¹⁸ For further information, see "Legal Protection of Child Domestic Workers: Case Study on Philippines" by Ana Janet F. Sunga, in "Study on the Legal Protection of Child Domestic Workers in Asia-Pacific" by Amparita S. Sta. Maria.

¹⁹ Labor Code, Article 82.

²⁰ Civil Code, Article 1695.

²¹ Philippine Constitution, Article XV, Section 3, Par. 2.

- The Labor Code, Article 139, prohibits the employment of children under the age of 15, except when the child works under the sole responsibility of his parent or guardian and the work does not interfere with his schooling. It also prohibits the employment of children under the age of 18 in hazardous work.

- Department Order No. 4, also known as the Hazardous Work and Activities to Persons Below 18 Years of Age, lists the major categories and specific activities of hazardous work prohibited for children. According to Order No. 4, children between 15 and 18 years of age may engage in domestic service, subject to the limitations prescribed under the five major categories of prohibited hazardous work. These five major categories include, among other types of prohibited activity, work which exposes children to physical, psychological, or sexual abuse; work involving heavy loads, work involving long hours or night work, or work where the child is unreasonably confined to the employer's premises.

- Republic Act No. 7610, Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act²², penalizes certain acts of child exploitation including child trafficking. The law also mandates that child victims be placed under the protective custody of the Department of Social Welfare and Development (DSWD).

- Republic Act No. 7658²³ amended the minimum age provisions of R.A. 7610 to prohibit employment of children under 15 years of age except in family undertakings and in public entertainment and information under certain conditions.

- Presidential Decree No. 603, The Child and Youth Welfare Code, defines the 12 fundamental rights of every child, including the right to "protection against exploitation, improper influences, hazards, and other conditions or circumstances prejudicial to his physical, mental, emotional, social and moral development."²⁴ Title VI, Chapter 2 of the Decree addresses working children and provides similar, though not as extensive, guarantees as granted in the Labor Code.

- Republic Act No. 9231, the Anti-Child Labor Act²⁵, was signed into law on December 19, 2003. The new law prohibits the worst forms of child labour, limits the hours of work for working children, requires working children be provided access to primary and secondary education, regulates the ownership, usage, and administration of the working child's income, and mandates stiff penalties and fines for violation of the law.

4.2.3 Illegal Recruitment

Book I, Title I of the Labor Code governs the recruitment and placement of workers. Article 13(b) defines recruitment and placement as "any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not." Furthermore, "Provided, that any person or entity which, in any manner, offers or promises for a fee, employment to two or more persons shall be deemed engaged in recruitment and placement."

Article 34 defines as unlawful the following recruitment practices:

"(a) To charge or accept, directly or indirectly, any amount greater than that specified in the schedule of allowable fees prescribed by the

Secretary of Labor, or to make a worker pay any amount greater than that actually received by him as a loan or advance;

(b) To furnish or publish any false notice or information or document in relation to recruitment or employment;

(c) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;

(d) To substitute or alter employment contracts approved and verified by the Department of Labor from the time of actual signing thereof by the parties up to and including the periods of expiration of the same without the approval of the Secretary of Labor;

(e) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under this Code and its implementing rules and regulations."

Further procedures and prohibitions regarding local recruitment are contained in the Rules and Regulations Governing Private Recruitment and Placement Agencies for Local Employment. (See Section 5.1 Local Recruitment)

Illegal recruitment for overseas employment is also prohibited under Republic Act No. 8042, the Migrant Workers and Overseas Filipinos Act of 1995.²⁶ The definition of illegal recruitment under R.A. 8042 is consistent with the Labor Code provisions on recruitment and placement, and is as follows:

"any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority... Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged."

The regulatory framework for overseas recruitment is outlined in the Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers. (See Section 5.2 Overseas Recruitment)

4.2.4 Trafficking in Persons

On May 26, 2003, President Arroyo signed into law Republic Act 9208, the Anti-Trafficking in Persons Act of 2003. The Act defines the elements of trafficking, establishes policies and institutional mechanisms for the elimination of trafficking and the protection of trafficking victims, and prescribes penalties for trafficking violations.

R.A. 9208 defines trafficking in persons as:

the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, servitude or the removal or sale of organs."

Three categories of trafficking acts are punishable under the Act:

1. Acts of Trafficking in Persons

22 An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for Other Purposes.

23 An Act Prohibiting the Employment of Children Below 15 Years of Age in Public and Private Undertakings, Amending for this Purpose Section 12, Article VIII of R.A. 7610.

24 Presidential Decree No. 603, Article 3, Par. 8.

25 An Act Providing for the Elimination of the Worst Forms of Child Labour and Affording Stronger Protection for the Working Child, Amending for This Purpose Republic Act No. 7610, as Amended, Otherwise Known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act."

26 An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes.

2. Acts that Promote Trafficking in Persons

3. Qualified Trafficking in Persons, which includes child trafficking

Before the enactment of the Anti-Trafficking Law, the offence of "trafficking in persons" was not explicitly defined under Philippine law. Elements of trafficking or certain categories of trafficking, such as illegal recruitment or the use of fraudulent documents, were covered by various pieces of legislation, including the following:

- Republic Act No. 7610, Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act
- Republic Act No. 8042, the Migrant Workers and Overseas Filipinos Act of 1995
- Republic Act No. 6955, the Mail Order Bride Act²⁷
- Republic Act No. 8043 Philippine Passport Act of 1996

In addition to bringing together disparate legislative provisions regarding trafficking, R.A. 9028 also expands the traditional definition of complainant to include "any person who has personal knowledge of the commission of any offense under this Act, the trafficked person, the parents, spouse, siblings, children or legal guardian." This provision has the potential to significantly affect the number of cases reported and prosecuted. In general, victims of illegal recruitment and other abuses abroad are reluctant to pursue legal cases for fear of deportation, retribution, or because of the financial need to continue working. Without participation of the victim, labour attachés had been unable to bring cases forward on their own, resulting in a lack of prosecution of cases. This more expansive provision of R.A. 9208, would, in theory, allow labour attachés or family members to act as complainants. The adoption of the law being recent, the efficacy of this provision has not yet been tested.

4.2.5 Forced Labour

- The Constitution guarantees the right against involuntary servitude, as well as the liberty of abode and the right to travel.²⁸
- The Revised Penal Code includes laws against slavery and debt bondage. Article 274 states that penalties "shall be imposed upon any person who, in order to require or enforce the payment of a debt, shall compel the debtor to work for him, against his will, as a household servant or farm labourer."

4.2.6 Women's Rights

- Republic Act No. 9262, the Anti-Violence against Women and their Children Act of 2004, prohibits physical, sexual, or psychological acts of violence, and economic abuse, on women and children. Similar to the Anti-Trafficking law, violations of the Anti-Violence law are considered public crimes, whereby any citizen who has personal knowledge of the circumstances can seek prosecution through the filing of a complaint.
- The Labor Code (Articles 130-138) outlines special conditions for the employment of women. However, the provisions do not directly apply to the work situations of house helpers.

4.2.7 Pending Legislation

At present, there are two bills pending in the Philippine Congress that are relevant to the rights of domestic helpers.

- Batas Kasambahay²⁹, or the Magna Carta for Domestic Workers, would put in place a comprehensive regulatory framework for the protection and promotion of the rights

of domestic workers.

Under the proposed law, the monthly minimum wage for full-time domestic helpers would be raised to 1,500 (\$27.30) in NCR, 1,200 pesos (\$22.20) in chartered cities and first class municipalities, and 1,000 pesos (\$18.50) in other municipalities. The work hours of domestic helpers would be limited to 10 hours per day, exclusive of one-hour meal breaks. Domestic workers could work beyond normal working hours, provided that they receive additional compensation and are allowed 8 hours of continuous rest per night. The bill would entitle domestic workers to 1 rest day per week, 14 days vacation leave with pay, maternity and paternity leave benefits after 1 year of service, annual salary increases, basic necessities such as meals and humane sleeping arrangements, medical assistance for work-related illnesses and injuries, coverage in the Social Security and Philippine Health Insurance systems, 13th month pay, and termination pay. The Batas Kasambahay also prohibits bonded labour and affords domestic helpers the right to self-organization and access to outside communication. The bill also outlines the rights and privileges of child domestic workers and self-employed domestic workers, as well as the penalties and fees for violation of its provisions. Passage of the law would lead to the establishment of a national task force on domestic workers.

The most recent version of the proposed law defines a domestic worker or kasambahay as "any person employed full-time in the employer's house, performing tasks ascribed as normal household chores within a specific household for which he/she is being paid by the employer."³⁰ Coverage under this law would extend to maids, cooks, houseboys, family drivers and yayas who "provide daily service to a single and specific household either on a live-in or live-out basis." The proposed definition of domestic worker is viewed by advocates as an improvement over the definition of "domestic or household service" currently embodied in the Labor Code, which has been criticized for obligating helpers to work for the "personal comfort and convenience" of employers, a provision that arguably condones exploitation by employers.

Some critics of the Batas Kasambahay argue that it would significantly raise the costs of employing a domestic helper to the degree that many households would be forced to terminate the services of their current household helpers. Another criticism of the proposed legislation is that it places the burden on the employer of proving that he or she is not at fault, without recognition of the rights of employers. On the other hand, research indicates that most domestic helpers, particularly in NCR, already receive salaries above the proposed minimum wage, as well as other benefits articulated in the Batas Kasambahay. Supporters of the law assert that it is not raising the entitlements of domestic helpers beyond that of other occupations, but rather simply providing to domestic helpers the same rights and privileges already enjoyed by other workers.

- A bill to amend the Migrant Workers' Act, R.A. 8042, by repealing Sections 29 and 30, among other proposed changes, is also awaiting passage. Sections 29 and 30 relieve the Philippine Overseas Employment Agency of their responsibility for regulating the labour export industry, leaving local recruitment agencies to manage the foreign placement of workers. Some migrant worker organizations view these sections as undermining the protection of migrant workers and have called for their repeal.

²⁷ An Act to Declare Unlawful the Practice of Matching Filipino Women for Marriage to Foreign Nationals on a Mail Order Basis and Other Similar Practices, Including the Advertisement, Publication, Printing or Distribution of Brochures, Fliers and other Propaganda Materials in furtherance thereof and providing penalty thereof.

²⁸ Sections 18 and 6.

²⁹ Kasambahay is a contraction of kasama sa bahay, meaning "companion at home."

³⁰ Draft Report of the Senate Committee on Labor, Employment, and Human Resources Development, January 20, 2004.

Recruitment and Training

5.1 Local Recruitment

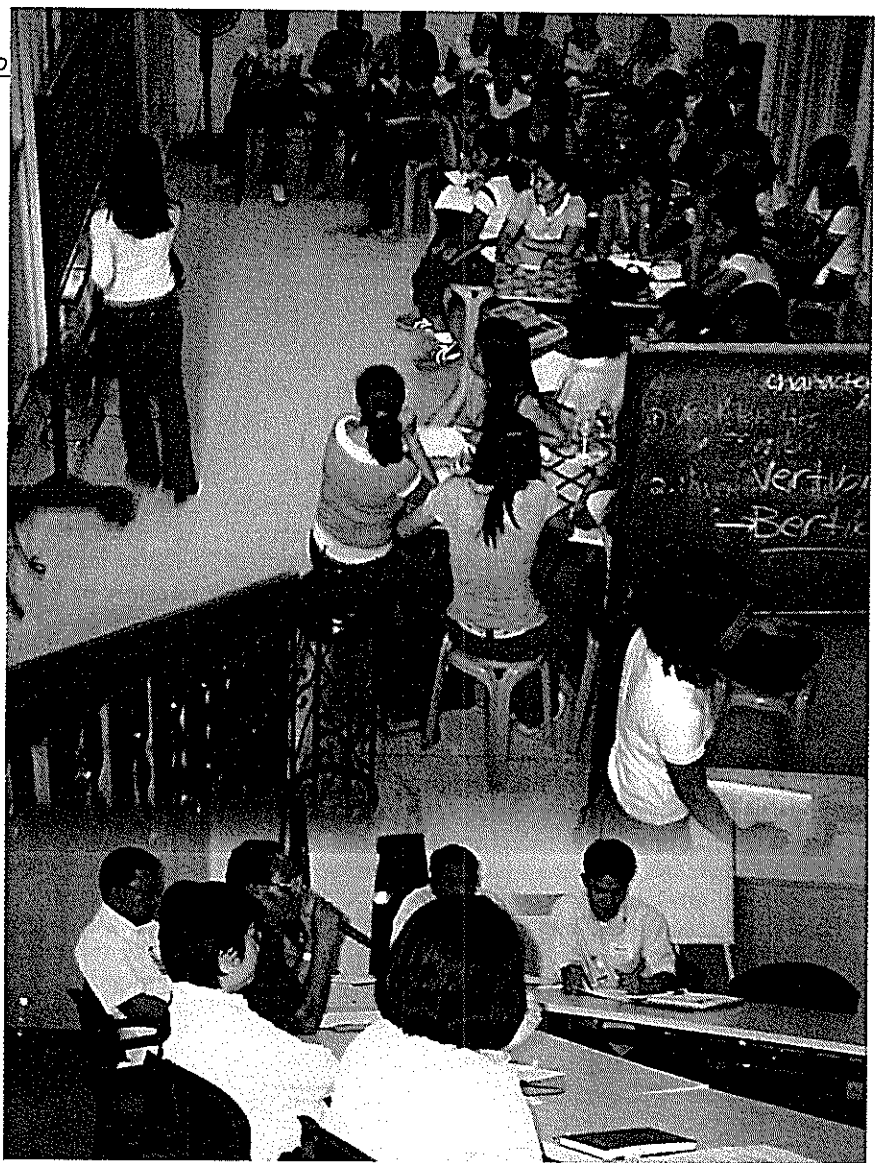
Local recruitment is officially overseen by the DOLE Bureau of Local Employment and must comply with the DOLE Rules and Regulations Governing Private Recruitment and Placement Agency for Local Employment (hereafter Local Recruitment Rules and Regulations). The Local Recruitment Rules and Regulations outline the application process for a recruiter or recruitment agency to obtain a license and the authority to recruit, the fee structure, and the penalties and fines for recruitment violations. Under the regulations, anyone who "offers or promises employment for a fee, to two or more persons shall be deemed engaged in recruitment and placement."

The regulations require recruiters to obtain two types of permits:

- a license to operate a private recruitment and placement agency, and
- a permit granting the "authority to recruit" in a specific jurisdiction.

Once they have obtained those permits, licensed agencies work with local agents in those jurisdictions to find recruits. According to the Bureau of Local Employment, there are approximately 580 licensed local employment agencies nationwide, with 80% of them based in the NCR. Domestic workers appear to be the occupation most often recruited through such agencies.

In terms of fees, a local private recruitment and placement agency is allowed to charge a worker a placement fee that is not to exceed 20% of the worker's first month's basic salary. A local agency may also charge an employer a service fee not to exceed 20% of the annual basic salary of the worker, in addition to the transportation expenses of the worker from the place of origin to the place of employment. The fees charged to the employer by the recruitment agency may depend on the sex of the person recruited. Due to the perception that females are more suited to perform household tasks, there is a greater demand, and thus a higher fee, for female domestic workers. The Rules and Regulations stipulate that the service fee and



transportation costs "shall in no case be deducted from the worker's salary."

Despite the established laws, however, the recruitment of domestic workers for local employment occurs primarily through informal channels. Estimates of the amount of recruitment conducted through informal channels range from 50% to 90%. This appears to be true for adult and child domestic workers, as well as recruitment within cities and recruitment from provinces to cities. In the 1988 DOLE survey on domestic workers, only 1 of the 175 domestic helper respondents was recruited through a private recruitment agency. In the 1996 DOLE survey on child domestic workers, 2.3% of respondents found their jobs through recruitment agencies.

In general, there are two patterns of informal recruitment. The first is direct recruitment by an employer, who finds a domestic helper through a network of relatives and friends. This appears to be the more common situation, as most domestic helpers report finding their jobs through relatives, friends, friends working as domestic helpers, employers' relatives, or town mates. The Labor Code provisions governing recruitment and placement do not cover this type of informal recruitment, provided that the employer or person making the referral does not offer or promise employment for a fee to two or more persons.

The second type of informal recruitment is illegal recruitment through unlicensed recruitment agencies or unauthorized agents. It is in this pattern of recruitment that the line between legal and illegal recruitment is often

unclear. In some cases, informal recruitment agencies operate without a license and therefore are clearly engaged in illegal recruitment.

On the other hand, in many cases, the recruitment agencies themselves are licensed but operate in the provincial areas without the local authority to recruit. Although the agency itself is legal, the agency's actions constitute illegal recruitment. In this pattern, the recruitment agencies use local community members, who are not registered as official company representatives, as recruiting agents. These agents operate without a permit and are paid a commission for each person recruited by the agency. The absence of a formal, legal relationship with the local agent insulates the recruitment agency from accusations of illegal recruitment or from responsibility for problems with the recruits.

Within local communities, these agents are often known as helpful town mates with contacts in the cities who can help people find jobs. Given this common pattern, it is likely that many of the "town mates" identified by domestic helpers as their means for finding jobs are actually illegal local recruiting agents. This conclusion is supported by the UNICEF study on local trafficking of Filipino girls, in which respondents did not know they had been recruited illegally because the "recruiters" frequented their communities. The fact that the recruiter-town mates are able to operate openly without any interference from local law enforcement creates the perception that their activities are legal. It also highlights the weakness of efforts to enforce illegal recruitment and anti-trafficking laws at the local levels.³¹

The recruitment process, both formal and informal, involves numerous actors with distinct roles. In its study on the trafficking of women and children at the Manila port, VF identified the following main actors:

- Recruiters: screen potential recruits with the help of a local contact;
- Local Contacts: identify areas of potential recruitment, venues for initial screening, and introduce the recruiters to local family members
- Transporters or Facilitators: accompany the recruits during transit
- Fetchers: bring the recruit from the port to the recruitment agency or employer
- Freelancers: engage in any or all of the above roles, which may include looking for potential recruits - such as stranded or lost passengers - at points of transit
- Employers: "order" or hire persons by transaction with a recruitment agency or "direct order" through relatives or friends

Provincial recruits are typically transported to their city of employment in groups via public utility bus, jeep, or passenger boat. Accompanied by a transporter or facilitator, the recruits are given specific instructions not to talk to anyone or, if asked, to say that they are travelling with relatives.* This is particularly the case for child recruits. Once they arrive in the city, prospective domestic helpers may wait from one day to one week before being placed in an employer's household. Most domestic helpers stay with friends, town mates, or relatives during that time. Those, however, who do not have acquaintances or support groups in their city of employment, are housed in the office of the recruitment agency or with the recruiter. In Priya Gopalen's study of domestic helpers in metro Manila, 48% of the respondents did not have any support network in the city.³²

Problems occur within both the informal and formal recruitment channels. When domestic workers are recruited informally, they often lack information about their future

place of employment, including duties, terms of employment, and the costs they will incur for transportation, placement, and other expenses paid by the recruiter or employer. For domestic workers hired into jobs in or close to their hometowns, this may not be such a significant problem. If the conditions of employment are not to their satisfaction, they can return to their hometowns with relative ease. However, for those who travel away from their hometowns for work, it is more difficult to leave the employment situation, since they must bear the costs of transportation home, as well as any debts incurred during the recruitment process.

Manipulation of the fee structure is a common complaint, with domestic workers being charged fees that, according to the Local Recruitment Rules and Regulations, are to be paid by the employment agency or the employer. The nature of expenses commonly charged to domestic workers include transportation expenses, the costs of identity papers and National Bureau of Investigation (NBI) and police clearances, food while in transit, and accommodation fees if the hired domestic worker is not immediately employed. In addition, placement fees charged to domestic helpers are often inflated beyond the legal limit.

As a result of illegal recruitment fees, transportation costs, and cash advances given to family members, many domestic workers begin employment already in debt. Surveys by the DOLE reveal cases where child domestic workers were "bonded off" by their parents, who accepted cash advances from the recruiters. Although in many cases, these debts are properly repaid through the domestic worker's salary, this is one aspect of the recruitment process that leaves domestic workers vulnerable to forced or bonded labour. There have been some reports of domestic workers finding themselves in difficult or abusive work situations but unable to leave due to the debts incurred during their recruitment. In these instances, the employers would not let the domestic workers leave until the debt was paid back, with some employers threatening to accuse the domestic workers of theft if they tried to leave. Many of the domestic worker respondents in the DOLE studies were unaware of how much money they would owe after their recruitment. Anecdotal information reveals that, in general, domestic workers lack awareness of the rules and regulations governing local recruitment. These situations illustrate that the vulnerability of domestic workers to forced or bonded labour begins with the recruitment stage, prior to the commencement of employment.

Domestic workers recruited through formal channels are more likely to have a written contract, typically lasting six months to a year, which stipulates the general terms of employment. In this way, such domestic workers may have a greater measure of protection than those recruited informally. However, there have also been reports of recruitment contracts being manipulated. In some cases, the age of a child domestic worker is misrepresented in a written contract. In other cases, the terms indicated in the initial contract, including the nature of work to be performed, are false. Even with the presence of a written contract, the amount of debt to be incurred by the newly-hired domestic worker is often hidden until the domestic worker begins employment. Some contracts include provisions that impose penalties on domestic workers for leaving their employment before the end of the contract, which may force domestic workers to stay in abusive situations.

Another aspect of the recruitment process that leaves domestic workers vulnerable to abuse is the restriction of

31 Institute for Labour Studies, "The Local Trafficking of Filipino Girls for Employment," 2001.

32 Priya Gopalen, "A Situational Analysis on Violence and Violence-related Working Conditions of the Domestic Helpers Employed in Metro Manila," 1996.

helpers to the recruitment agency premises prior to placement. Reports indicate that some agencies and recruiters do not permit the recruits to leave, even locking them inside, due to concerns that the recruits may be using the agency as a way to get free transportation to Manila. Since the recruiters do not want to lose the opportunity to recoup the transportation and other costs already paid for the domestic worker, it protects its investment by keeping the domestic worker at its premises. Although these agencies and individuals may have legitimate concerns about possible misuse of the relationship by domestic workers, their actions can also be viewed as illegal detention.

Employment agencies have also reported problems with recruitment of domestic workers. In the 1988 DOLE survey, private recruitment agencies cited the following problems: recruits using fictitious names, recruits using agencies for free transport to Manila, reluctance of helpers to start work after placement, hesitance of domestic helpers to leave their provinces after receiving cash advances, and demands for high salaries from domestic helpers.

5.2 Overseas Recruitment

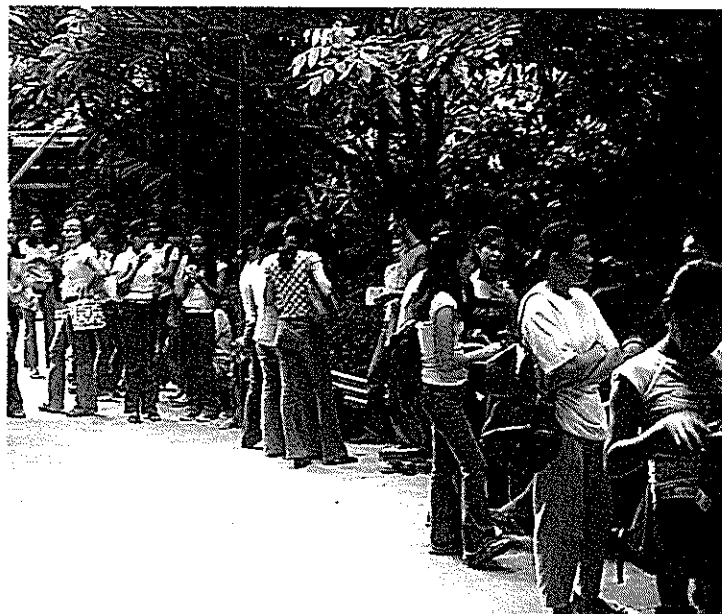
Recruitment of domestic helpers for overseas employment also appears to occur through a mix of formal and informal processes. The formal process is overseen by the Philippines Overseas Employment Administration (POEA), which licenses employment agencies to recruit Filipinos for overseas employment. The procedures for overseas recruitment and the penalties for violations are outlined in the Rules and Regulations Governing Recruitment and Employment of Land-based Overseas Workers (hereafter Overseas Recruitment Rules and Regulations). The typical formal recruitment process involves collaboration between a licensed recruiter in a foreign country with a licensed recruitment agency in the Philippines. Overseas employers and government clients are also able to hire a limited number of "direct hire" employees through POEA.

The formal recruitment process involves the collection of numerous fees. According to the Overseas Recruitment Rules and Regulations, Philippine recruitment agencies may charge their overseas counterparts for service fees, visa fees, airfare, POEA processing fees, and Overseas Workers Welfare Administration (OWWA) membership fees. A Philippine recruitment agency may charge its hired workers a placement fee equivalent to one month's salary, plus documentation costs for passports, NBI, police, and barangay clearances, authentication of documents, birth certificates, medicare, trade tests if necessary, inoculations if required by the host country, and medical examination fees.

The circumvention of formal recruitment channels for overseas employment also appears to be common. Some Filipino domestic workers travel to Singapore or other regional cities on tourist visas, and then enter into work after arrival. Bangkok has also been identified as a transit city, since Philippine "tourists" are not required to get visas for Thailand. Once there, some OFWs acquire visas for other countries within the region as well as Europe and the Middle East. Another type of informal recruitment involves recruitment by overseas domestic workers who source among friends, neighbours, and relatives back home. In some cases, these domestic workers receive a commission from the recruitment agency overseas and charge the new hire a recruitment fee.

Illegal recruitment by non-licensed agencies or licensed agencies with unauthorized agents, similar to that found in local recruitment, also occurs in overseas recruitment. In some cases, local agents in the provinces find recruits for

Philippine employment agencies, who then pass on the recruit to an overseas placement agency. The agencies themselves may be legal, but the local agents are not authorized to recruit. In other cases, local agents in the Philippines work directly with their counterparts overseas, sometimes arranging for the recruits to migrate illegally, with false or no documentation. In a study on the recruitment of Filipino house helpers in Malaysia, Diana Wong found that a well-organized network existed between Malaysian employment agencies and sub-agents in the Philippines. According to Wong, "These sub-agents are widely found in the various barrios, provinces or cities of the Philippines. They are usually known to the women they recruit as family friends, acquaintances, neighbours or well-known figures in town, such as businessmen or relatively educated people."³³ Because such informal channels are so widely used, Wong estimated that the transaction cost of brokering a Filipino domestic worker also includes bribes. In such cases of illegal recruitment, the domestic worker may be reluctant to report any problems with her employment because of her illegal entry into the country and illegal employment status. In 2003, POEA provided legal assistance to 1,625 victims of illegal recruitment.



In addition to illegal recruitment, contract switching and overcharging appear to be a significant problem with the overseas recruitment of Filipino house helpers. Often, before departing from the Philippines, a domestic worker signs a contract that outlines the terms of employment, including salary. However, upon arrival overseas, the domestic helper is forced to sign another contract, which may be in a foreign language, often with a lower salary and substandard employment conditions. Another common violation appears to be the overcharging of fees by employment agencies. This violation forces some prospective OFWs and their families to borrow money from the agencies or other sources in order to secure the overseas job, contributing to debt bondage situations. These types of recruitment violations occur in both formal and informal recruitment.

Domestic helpers are often lured into these situations by false promises made by illegal recruiters. Some of the benefits touted by recruiters include the promise of high salaries, the convenience of a "fly now, pay later" scheme, the higher status of foreign employment, the presence of

³³ Diana Wong, "Foreign Domestic Workers in Singapore," in *Asian Women in Migration*, ed. Graziano Batistella and Anthony Paganoni, 1996.

cheap consumer goods in the host country, the ease of working with high-tech appliances, the lack of cultural problems due to Asian similarities, and promises of regular pay increases, days off, kind employers, and that all costs would be covered.

There is little information on the overseas recruitment of child domestic workers. However, some sources suggest that the overseas demand for Filipino domestic workers attracts more mature women from urban areas, who already have experience working with high-tech appliances and already have the necessary contacts to secure overseas work. It is speculated that the departure of experienced house helpers from the cities for overseas employment contributes to the increasing demand younger domestic workers, including children from the provincial areas to replace them. Though further study is needed to examine this theory more closely, these initial observations would imply that interventions to prevent domestic trafficking should focus on the migration of young women and minors from rural areas, while international anti-trafficking initiatives should address the vulnerabilities of adult female migrants from more urban areas.



5.3 Training for Domestic Workers

Overall, there is a lack of formal, professional training programmes in domestic work. This situation serves to perpetuate the perception that domestic work is unskilled work, requiring no training or prior experience. While some private recruitment agencies may provide training in the use of electric appliances for provincial recruits who lack experience with such equipment, this appears to be done on an ad hoc, informal basis. Existing studies indicate that some employers prefer untrained domestic helpers so that they can conduct the training themselves. There are reports of organizations offering training courses of less than 1 month to domestic workers. However, anecdotal information suggests that

few domestic helpers avail of these training opportunities.

There are also few formal training programmes for those seeking to work as domestic helpers overseas. Reports indicate that it may be common for provincial recruits to come to Manila for the purpose of getting on-the-job training, so that they can seek overseas employment. Recently, the Technical Education and Skills Development Authority (TESDA) has begun the development of a training and certification programme for domestic helpers going to the Kingdom of Saudi Arabia. Although this programme is not yet operational, it could potentially serve as the first step to establishing a formal training programme for overseas domestic helpers.

All departing overseas workers, including domestic helpers, are required to attend pre-departure orientation seminars (PDOS). These seminars are offered by accredited licensed recruitment agencies, industry organizations, and non-government organizations. Formerly managed by POEA, the PDOS programme was transferred in July 2002 to the jurisdiction of OWWA, although POEA continues to conduct PDOS for direct-hire workers and workers through

its Government Placement Branch. A 5-hour PDOS typically takes place a few days prior to departure and includes the following topics: values clarification, the code of discipline for OFWs, coping mechanisms, rights and obligations in the employment contract, duties and responsibilities, institutional support systems, remittance procedures, HIV/AIDS education, and travel procedures. Recently, self-defence was added to the curriculum, and is presented through a thirty-minute video developed by the International Organization for Migration (IOM). IOM has also prepared educational materials on the physical, sexual, and financial abuses faced by migrant workers, and is in the process of completing a thirty-minute video on health risks in labour migration for use in PDOS.

There are several concerns with the PDOS system. First, reportedly up to 90% of the seminars are conducted by recruitment agencies. Given that recruitment agencies earn fees for each recruit they send abroad and, therefore, have a self-interest in ensuring that the recruits begin their employment, these agencies may be less likely to fully inform the recruits about the potential risks they face. Anecdotal information indicates that some agencies allow recruits to skip the PDOS but submit paperwork indicating that the recruits have completed the seminar. Second, the pedagogical approach of PDOS does not promote learning among the participants. During the days immediately prior to departure, recruits have numerous travel preparations and concerns and are unlikely to absorb the material presented in the seminar. In addition, the curriculum may be too ambitious for the time frame of the course, resulting in insufficient time to address each topic. In particular, reports indicate that much of the focus of the PDOS is on the remittance process, leaving little time for issues such as employment contracts, workers' rights, complaint reporting procedures, and risks such as trafficking and illegal recruitment.

Information on overseas recruitment and job opportunities is also presented in the half-day pre-employment orientation seminars (PEOS) offered by POEA. Intended for prospective job seekers, the free and voluntary PEOS cover such topics as employment options for Filipino workers, modes of recruitment and documentary requirements, illegal recruitment, and realities of overseas work.

Another type of training to examine in the context of domestic work is alternative skills training for domestic workers interested in entering other occupations. While domestic work is a worthy occupation that some choose to make their career, many domestic helpers enter the profession due to the lack of alternative economic opportunities in their towns or provinces. Only 9% of respondents in Gopalen's study of domestic helpers in metro Manila chose to be domestic helpers, and only 6% wanted to stay in the profession permanently. For OFWs, domestic work may be a more accessible occupation, due to the lack of certification or educational requirements. VF, in cooperation with TESDA, has offered alternative skills training on an occasional basis in some localities. OWWA reportedly offered training courses for alternative occupations to Filipino house helpers around the time of the return of Hong Kong to China. However, most of the trainees reportedly chose to continue as domestic workers after the training. Filipino communities in Singapore and Hong Kong have also organized skills training through the Philippine Embassy, churches, and private training institutions. These programmes typically serve either to prepare the domestic workers for reintegration to the Philippines or to train the domestic helpers in new skills for work in other countries.³⁴



Conditions of Work in the Philippines

6.1 Terms of Employment

In the Philippines, there are no standard terms of employment for domestic helpers. The scope of duties, salary, and other conditions of work are arranged on an individual basis between the helper and employer. The tasks required depend on the characteristics of the household, including the number of members and the socioeconomic class of the household. In general, domestic workers in wealthier households have lighter tasks and more clearly defined roles, serving as, for example, a cook or *yaya*. In middle-class households or in rural areas, domestic helpers usually perform multiple tasks such as cooking and cleaning. The typical categories of helpers and their associated duties are as follows:

- Maid: cleans the residence, does laundry including ironing, serves the members of the household
- Cook: does the grocery shopping and prepares the meals in the household
- *Yaya*: takes care of the children of the household
- All-rounder: performs a combination of the above, including cleaning, laundry, grocery shopping, cooking, and in some cases, childcare
- Driver: drives the members of the household and maintains the household vehicles

The wages of domestic helpers vary greatly and depend on a number of factors: location of employment, required duties, income level of employer, work experience of the domestic helper, method of recruitment, and relationship to employer. Domestic helpers in metro Manila earn higher salaries than those in provincial cities and rural areas. Domestic helpers recruited through private employment agencies also appear to earn higher wages than those recruited informally. According to the 1988 DOLE survey, among in-house helpers, *yayas* and cooks receive higher wages than other house helpers and laundrywomen. Drivers, however, generally earn higher salaries than all categories of in-house domestic helpers.

Some observers contend that gender discrimination contributes to the wage disparity between drivers and in-house helpers, since most drivers are male and most in-house helpers are female. This contention is supported by the disparity in working conditions of drivers and in-house helpers. Domestic workers typically have more physically demanding duties with longer working hours, while drivers have more sedentary work with shorter working hours and often periods of rest time during the day. Although drivers face a certain degree of risk in their duties, few drivers have training or knowledge in how to deal with risk situations.

There is no comprehensive study or survey data on the wages of domestic workers in the Philippines. Anecdotal

information indicates that most adult domestic workers earn above the current P800 (\$14.80) minimum wage for house helpers. Of the salaried domestic helpers interviewed in Batangas, almost all receive over 1500 pesos (\$27.75) per month. According to the 1996 BWYW study, the average salary for a child domestic worker in metro Manila was 1,039 pesos (\$19.25) per month. VF has estimated that child domestic workers receive an average of 800 pesos (\$14.80) per month. It is common for domestic helpers to send part of their salaries to their family members in the provinces or to use part of it to cover educational expenses for immediate relatives.

Some domestic helpers, however, receive no salary, but rather are given small daily allowances and have their school expenses paid for by their employers. Such arrangements appear to be more common in rural areas, where the domestic workers are children, and/or where the employer is a relative of the domestic worker. This arrangement is widely accepted in the Philippines, as there is a cultural tradition of caring for the children of less-fortunate relatives. The range of allowances received by interviewed domestic workers was generally between 10-40 pesos (20 to 80 US cents) per day.

Working in the households of relatives entails both positive and negative consequences. On the one hand, many domestic helpers in this situation report having few problems since they are looked after by their extended family members. Others feel that they are part of the family. On the other hand, the "employer-relatives," in viewing the domestic helpers as members of the family rather than as employees, often do not recognize their legal obligations. Many households, in particular those with child domestic workers, will not admit that a domestic helper is present in their household. Some will not report the presence of a domestic helper because they know that they are not in compliance with the law, while others simply do not recognize the nature of the relationship as such. The domestic helpers themselves may also fail to recognize their legal rights as domestic helpers and understand that complaint and redress mechanisms are available to them under the Labor Code and other pieces of legislation.

Domestic helpers also receive non-wage benefits such as food and lodging. Typically, domestic helpers receive their food benefits in one of two ways: (1) the helper eats the same food as the family; or (2) the helper receives a food allowance to purchase her own meals. Although live-in helpers receive free lodging, live-out helpers often receive higher salaries to compensate for their lodging costs. Additional benefits include toiletries and personal products, school supplies, rice, and water.

6.2 Domestic Violations and Abuses

Anecdotal information, surveys, focus group discussions, and other sources reveal that labour violations and other abuses are widespread in the domestic work sector. Some violations occur due to a lack of understanding about the laws governing domestic work. Some maltreatment, however, is a manifestation of the discriminatory attitudes that exist towards domestic workers. This discrimination falls along ethnic, gender, and socioeconomic lines. Domestic workers often come from different ethnic groups than their employers, with different skin colour, languages, cultural practices, and in some cases, religious beliefs. Most domestic workers are also women, who are culturally expected to occupy subservient positions within the household and community. The disparities in social status and economic standing between employer and domestic worker also affect many employers' attitudes towards their household helpers. Domestic workers, often as a result of maltreatment at work, develop low self-esteem, which keeps them from leaving abusive employers or from reporting rights violations.

In addition, the personalized nature of the employer-employee relationship may contribute to a higher level of tension between employers and domestic helpers than might exist in a professional workplace, where there is a greater degree of detachment between the employer and employee. In an office or factory, the employee is not occupying the personal space of the employer, the nature of the work does not typically involve the personal needs of the employer, and there is greater oversight of the situation by other staff.

In households with more than one domestic staff member, household helpers may also face problems resulting from their relationships with each other. Younger workers may be supervised by older household helpers who see themselves as the bosses of these workers. In other cases, tensions may exist in the work environment due to personal jealousies, gossip, or regional, ethnic or linguistic differences between workers. Further research may be needed to examine the extent to which relationships among house helpers contribute to hostile or abusive working environments.

Some NGOs argue that the current Labor Code definition of domestic service does not protect the rights of domestic helpers, but rather contributes to their exploitation. In particular, the phrase "ministering to the personal comfort and convenience of the members of the employer's household" has been criticized as obligating domestic helpers to serve members of the employers' household at whatever hour needed and in whatever capacity required. Such criticisms are supported by existing studies and surveys, which show that domestic helpers work long hours with little rest time and that they may perform duties outside of the scope of domestic work.

One phenomenon that results from the problems faced by domestic workers is a high rate of turnover. During the focus group discussions in Bacolod and Batangas, many of the domestic workers, who were in their late teens or early twenties and had been working for five to eight years, reported having had several employers during their short careers. This finding is supported by the DOLE BWYW study on child domestic workers, in which 218 (45%) of the 481 respondents had worked previously. Of those 218, 75% (164) had worked for less than 1 year with their previous employer, with 60% having worked less than six months.

It must be recognized, however, that as an employment situation domestic work is a two-way relationship. As such, it would be illogical to assume that all problems in this relationship always stem from one party. In addition to providing information about employer abuses, anecdotal information and statements by key informants have

presented examples of domestic helpers who have failed to carry out their responsibilities or have abused the trust of the employer. These cases include stealing by the domestic helper, lying, failing to complete required duties, leaving without notice, job hopping for a higher salary, and borrowing money without repaying it.

In terms of the violations and abuses faced by domestic workers, it should be emphasized that they may exist to a greater degree than is indicated here. Much of the information about working conditions of domestic helpers comes from available surveys and interviews. These research methods may underreport the existence of violations and abuses in two ways. First, the domestic workers who are accessible to researchers and have permission from their employers to participate in such studies are not the most vulnerable domestic helpers. The most vulnerable helpers are those who are isolated from the outside world, constrained by a lack of mobility and ability to communicate with family members, friends, and other sources of assistance. Second, as indicated in several studies, the presence of the employers during the interviews may have influenced the accuracy of the domestic helpers' statements. While some studies of domestic helpers include information from abused domestic helpers who have left their work situations, many studies rely on surveys and interviews of current domestic helpers.

The following are the most common types of violations and abuses faced by domestic workers.

► No written contract

Although the Labor Code mandates a contract of domestic service, few domestic helpers have a written contract. Most helpers accept verbal promises from their employers regarding the terms of employment. There is little room for negotiation, as most helpers feel that they will lose their job if they do not accept the proposed offer of the employer. The lack of any written contract results in greater job insecurity and instability for domestic helpers, and indeed many complain that they often do not receive the salary they were promised, or that they were made to undertake more duties than agreed upon.

► False contract or violation of contract terms

In some cases, even though there is a written contract, the terms of the contract are not followed during employment, or the contract contains false information. A typical example involves the age of a child domestic worker being misrepresented to indicate that he or she is over 18 years of age.

► Long working hours, with no day off or overtime pay

Domestic workers, particularly those who live in the employer's household, typically have no definite work time and can be called on to serve the members of the household twenty four hours a day. The 1996 DOLE survey on child domestic workers found that the workday for the helpers would start once they woke up and would end once they went to sleep. The survey respondents worked an average of 14 hours per day, with the longest reported workday being 18-19 hours. Many helpers also have no day off, while some of those with a day off are restricted by their employers in how they can spend that day. As a result of the long work hours, heavy workloads, and lack of sleep, many domestic helpers suffer fatigue, headaches, colds and other illnesses.

► Assignment of non-household duties

Contrary to Article 145 of the Labor Code, some domestic helpers are also made to work in the small enterprises of their employers, without any additional salary provided.

► Non-payment or late payment of wages

Some domestic helpers report that their employers have failed to pay their salaries on occasion or for several months at a time. In addition, many domestic helpers, in particular child domestic helpers who work for relatives, receive daily and/or educational allowances rather than salaries. There are also reports of child domestic helpers receiving no salary or allowance.

It should be noted that there are few reports of employers paying less than the minimum wage. This is primarily due to the outdated minimum wage standard, which is considerably below current market wages for domestic workers, particularly in Metro Manila. It should also be noted that the minimum wage for domestic workers is also much lower than the minimum wage mandated for other occupations, in which people may work fewer hours than domestic workers. On the other hand, live-in domestic workers benefit from subsidized or free boarding and lodging which should also be taken into account.

► No social security or health benefits

This labour violation is widespread, with many employers failing to pay social security and Philippine Health Insurance Corporation contributions for their domestic helpers. However, complaints regarding the lack of social security and health benefits do not appear to be reported by domestic helpers because of their (1) lack of awareness regarding the services and benefits of the programmes, (2) lack of awareness regarding their rights, and (3) reluctance to contribute to the systems. In Gopalan's study, 68% of respondents were unaware of the services and benefits of the Social Security System (SSS). Of those helpers without SSS coverage, 20% stated that they were "ashamed" to ask their employers for it.

Focus group discussions and surveys indicate that most domestic helpers are not registered with the social security system. Some do not register because they prefer to keep more of their salary or they do not trust that their money will return to them through the system. Others fail to register because they are not able to leave their employers' premises during the day to register during government working hours. Some employers reportedly prevent their domestic helpers from registering because they do not want to be accused of non-compliance with the law. Many domestic helpers are similarly reluctant to enrol and pay their contributions to the Philippine health insurance system.

► Verbal, physical, and sexual abuse

Domestic workers are highly vulnerable to abuse. In her study on the incidence of violence against domestic helpers in metro Manila, Gopalan found that the majority of respondents (85%) had faced some form of abuse or abusive working condition. In 55% of the cases, the perpetrator of abuse was the female employer. One conclusion of her study was that domestic helpers viewed verbal and physical abuse as occupational hazards rather than abuses necessitating action. The respondents, however, perceived sexual abuse to be grounds for seeking assistance.

Verbal abuse was the most common complaint of domestic workers participating in the focus group discussions conducted for this analysis. According to VF, some typical insults suffered by domestic helpers include being called stupid (*tanga, gaga, bobo*), lazy (*batangan*), careless (*tarantada*), illiterate (*walang pinag-aralan*), rude (*bastos*), flirt (*malandi*), and liar (*sinungaling*). Even the commonly-used words *katulong* (helper) and *alalay* (assistant) carry a negative connotation to some domestic workers. It is for this reason that VF advocates use of the term *kasambahay* (companion at home).

Domestic workers also face situations of physical and

sexual abuse. Physical abuse is often committed by another member of the household rather than the primary employer. Domestic workers, particularly *yayas*, complain of verbal and physical abuse by household children. Many domestic workers are also vulnerable to sexual abuse by members of the employer's household. In the cases of attempted sexual abuse reported by domestic helpers during this situational analysis, the perpetrator was a relative - brother, father, or uncle - of the employer. The problem was "resolved" in these cases by either moving the relative outside of or to a different part of the employer's household, or by the domestic worker quitting her job.

VF has identified the following common types of verbal, physical, and sexual abuse faced by child domestic workers, which appear to be suffered by adult domestic workers as well.

- "Verbal Abuse: calling names, insults, constant threats, finding faults, filthy language, obscene words, raised voices, shouting, screaming
- Physical Abuse: overwork, pushing, beating, kicking, slapping, pulling of hair, whipping, punching, shaving of hair, denial of food, being hurt with a broom or pots on different parts of body
- Sexual abuse: lewd innuendos, perverse behaviour, molestation, incest, prostitution, pornography, rape and attempted rape"³⁵

► Worst forms of child labour

Although children aged 15 and above are not prohibited from engaging in domestic service per se, the working conditions of many child domestic helpers appear to meet the criteria for hazardous work, and therefore can be considered a worst form of child labour. Such working conditions include long working hours, heavy workloads, and exposure to physical, psychological, and sexual abuse. Furthermore, focus group discussions and other research indicate that domestic workers often begin working before they reach 15 years of age. In some cases, the children begin working alongside their mothers who work as domestic helpers.

► Lack of opportunity for education or self-improvement

Household work also often interferes with the schooling of child domestic workers. Although Article 146 of the Labor Code provides that all house helpers under the age of 18 should be given an opportunity for education, many child domestic helpers are unable to attend school, due to work obligations, the lack of financial and other support from their employers, and the limited number of night schools.

► Lack of accommodation

Although there is little information on the accommodation of adult domestic workers, several studies show that many child domestic workers lack adequate sleeping accommodation. In the 1996 BWYW survey on child domestic workers, 24% of respondents were not provided a bed by their employer. An ILO-IPEC assessment on the girl-child in domestic labour found that some domestic helpers sleep on a sofa, share a bed with other domestic helpers, or sleep in stockrooms or guardhouses.





6.2.1 Domestic Forced Labour and Trafficking

There is little information and few formal complaints regarding the forced labour and trafficking of domestic workers. One reason for the lack of information is that the concepts of forced labour and trafficking are not well understood by domestic workers, as well as the general population. In addition, domestic workers who are victims of forced labour and trafficking are the most difficult for law enforcement and non-governmental organizations to reach because of the hidden nature of their work, their isolation, and often their migration through informal or illegal channels. Furthermore, many domestic helpers and their families accept as normal the practice of having to pay recruitment fees and repay cash advances, and therefore do not view even extreme cases of exorbitant fees or debts as debt bondage situations. These factors contribute to the low incidence of these types of cases.

However, as described earlier, the recruitment process and working situation of domestic workers leave them vulnerable to such abuses. In terms of forced labour, some restrictions placed on domestic helpers may in effect entrap them in their work situations. Some domestic helpers, in particular live-in helpers, report having their mobility or communication with friends and family members restricted by their employers. In the worst cases, domestic helpers who are restricted to the employer's household are even locked inside when the employer goes out. Bonded labour is also a serious concern, with some domestic workers having to work off unnecessary fees or being forced to stay with their employers until their debts are repaid.

The fear of reprisal forces some domestic helpers to stay in abusive or exploitative situations. The threat of being charged with theft by the employer appears to be a common concern among domestic workers. In other cases, domestic workers may stay in such situations because, under their employment contracts, they are imposed penalties for leaving employment before the end of the contracts. There have also been reports of employers refusing to allow their domestic helpers to leave unless or until the helper finds a replacement domestic worker. Anecdotal information

reveals a few isolated cases where domestic workers trapped in unsatisfactory or abusive situations resorted to leaving notes outside the door or the gate of the employer's house to reach out for help. Drivers appear to be less vulnerable to forced labour and other abuses because of the location of their work place outside the residence, their freedom of movement and communication, and thus their ability to report violations or leave the employment situation at any time.

The distinction between internal migration and trafficking in persons is not well understood in the Philippines, resulting in few reported cases of domestic trafficking. The movement of people for employment is so widespread and accepted that even victims of domestic trafficking are not likely to identify themselves as such. Although illegal recruitment does not necessarily constitute trafficking, studies by VF and other sources indicate that many cases beginning with illegal recruitment end in the recruits being victims of trafficking.

Available information on trafficking within the Philippines, though not specific to the trafficking of domestic workers, indicates that trafficking victims may come from the Visayas and Mindanao regions, from areas such as Samar, Leyte, Negros, Cebu, Davao, Zamboanga, and General Santos City. It should be noted that the trafficking of girls and women for sexual exploitation appears to be a significant problem in the Philippines; therefore, much of the focus on domestic trafficking to date has been on trafficking for forced prostitution.

Anecdotal information reveals two patterns of domestic trafficking that are relevant to the protection of domestic workers. In the first pattern, women and girls promised jobs as domestic helpers are deceived about their working conditions and end up in exploitative or abusive servitude. In the second pattern, women and girls promised jobs as domestic workers are brought to another part of the country and forced into prostitution. Although there is minimal data on these patterns, key informants indicated that the second pattern is more prominent, particularly for child domestic workers. According to the BWYW, complaints regarding the second pattern are usually made after the domestic worker is out of the situation of prostitution and is seeking redress from the recruiter. Further research is needed of both patterns in order to design interventions to prevent the trafficking of domestic workers.

Two methods of transporting local recruits have come under recent suspicion as being linked to the trafficking of domestic workers. One is the "door to door delivery" of domestic workers. Under this system, a recruiter will take a domestic helper from the provinces and accompany her directly to the employer's premises. During such time, the domestic helper's movement is closely controlled by the recruiter, and once placed in employment, the domestic helper has no recruitment agency, agent, or other contact from whom to seek assistance or redress if she is being exploited. The other method of transporting domestic workers involves the use of the "ro-ro" - roll on, roll off ships that carry passengers in their cars. There are concerns that the "ro-ro" system may be misused for purposes of local trafficking. Recruiters may use cars or vans with tinted windows to transport minors or other domestic helpers in groups. This practice would allow recruiters to transport domestic helpers across the Philippines with little inspection by authorities and to control the interactions of the recruits. For example, a vehicle could roll on in a port in the Visayas region, roll off in Batangas port, and drive to anywhere in Luzon with minimal inspection and interference.

Conditions of Work in Southeast Asia

7.1 Terms of Employment

Within Southeast Asia, Hong Kong and Singapore have the highest number of Filipino domestic helpers.

In Hong Kong, in general, working conditions for Filipino domestic helpers appear satisfactory, although there are isolated cases of abuse. Domestic workers in Hong Kong benefit from having a standard two-year contract with a fixed minimum salary and can avail of vacation leave and other benefits. Reports indicate, however, that the minimum wage level is not strictly enforced, resulting in some domestic helpers earning less than the legal amount. In addition, in April 2003, the government of Hong Kong cut the HK\$3,670 (US\$470) minimum monthly wage for foreign domestic helpers by HK\$400 (US\$51) and imposed a monthly tax of the same amount on employers of foreign domestic helpers. Another controversial provision for foreign domestic helpers is the "two-week rule," which requires foreign domestic helpers whose contracts are terminated prematurely, regardless of the reason, to leave the country within two weeks. Intended to prevent job-hopping, this provision could in effect force domestic helpers to stay in exploitive or abusive situations. Notwithstanding the "two-week rule," studies on foreign domestic workers indicate that, among receiving countries, Hong Kong has the most developed legal system for the protection of foreign domestic helpers. For example, foreign domestic helpers have the right to join or establish unions in Hong Kong. Filipino domestic workers generally enjoy better working conditions than other foreign domestic helpers, due in part to the availability of Philippine government assistance and redress mechanisms and an active Filipino community.

Filipino domestic helpers in Singapore also have standard written contracts and good working conditions. However, there have been several reports of deaths of Filipino house helpers under unusual circumstances. In such cases, families of the Filipino helpers have sought assistance for investigations. There has also been an upsurge in the number of stranded Filipino victims of illegal recruitment and smuggling. The Singapore government tightly controls the employment of foreign domestic helpers, and such helpers are not permitted to organize labour unions or initiate political activities. The Singapore government terminates the employment of and deports any foreign domestic worker who becomes pregnant, fails the compulsory 6-month medical screening for sexually-transmitted diseases and HIV/AIDS, is discovered to be working at an address different from what is registered, or is caught violating any laws. In order to change employers, foreign domestic workers must secure a release clearance from their existing

employer. The limited activity of the NGO community contributes to a lack of legal protection and social support for foreign domestic helpers.

7.2 Overseas Violations and Abuses

The nature of overseas violations and abuses differ by host country. In general, however, the following are reported to be the most common types of violations and abuses faced by domestic helpers in Southeast Asia:

- ▶ Contract substitution
- ▶ Misrepresentation/Fake job orders
- ▶ Non-payment or underpayment of wages
- ▶ Verbal, physical, and sexual abuse
- ▶ Long working hours
- ▶ Lack of accommodation
- ▶ Insufficient food

Many of the problems faced by overseas domestic workers can be linked to the employment discrimination faced by them as migrant workers and as women. OFWs in general often face employment discrimination that takes the form of exclusion from standards, benefits, or services enjoyed by nationals of the host country or from eligibility for certain jobs. According to Carmelita Dimzon, Deputy Administrator for POEA, the discrimination experienced by Filipino migrant workers usually involves the following: "the confiscation of passports and other travel and employment documents by the employers, non-payment, partial payment, or withholding of salaries, unilateral reduction of wages, illegal deductions from pay slips, substandard living and working conditions, denied access to compatriots and friends, denied access to medical and health services, and many others."³⁶ Filipino domestic workers experience "double discrimination" since as "women and as migrant workers, they are exposed to serious human rights violations during the entire migration process like involuntary servitude, non-payment of salaries, debt bondage, round-the-clock services, deprivation of privacy, deprivation of food, sexual, physical, emotional and verbal abuse, deprivation of rest day, [and] denied access to essential public services."³⁷

Overseas domestic helpers also face the difficulties of adapting to life in a different country - cultural disorientation, social isolation, and language barriers. While these problems occur independently of the employment situation, they can affect the ability of the domestic helper to perform her duties, the level of understanding between the employer and employee, and thus the overall work situation of the domestic helper.

It should be noted that, although some Filipino house helpers suffer abuses in their work situations abroad, they typically have better working conditions and benefits and

36 Carmelita S. Dimzon, DPA. "The Scourge of Discrimination and the Filipino Migrant Worker." Paper presented at the Presentation of the ILO Global Report on "Time for Equality at Work" on November 27, 2003, at the Intercontinental Manila, Makati City.

37 Dimzon, 2003.

have greater access to legal and social protections than domestic workers from other countries, such as Indonesia and Thailand. Strong social networks, more responsive Philippine government and non-government agencies, and English language capabilities contribute to Filipino domestic helpers being considered of a higher social class than other foreign domestic helpers.

7.3 Overseas Forced Labour and Trafficking

Domestic workers are vulnerable to forced labour, including debt bondage, beginning in the recruitment stage of the migration process. Inflated or illegal recruitment costs may be shifted to the domestic worker as debt, with some domestic workers owing both the recruiters in the Philippines and those in the host country. In such illegal recruitment cases, the worker or her family may borrow money to pay the exorbitant recruitment fee demanded by the recruitment agency. In other cases, domestic workers' mobility may be controlled by the confiscation of their passports or other identity documents. The fear of reprisal, including imprisonment or deportation, may force domestic helpers to stay in such situations.

International trafficking is also a concern of particular importance to the Philippines, a country which maintains a vibrant tradition of migration abroad for economic or other opportunities. In 2001, the Commission on Filipinos Overseas (CFO) estimated that there were 7.41 million Filipinos abroad, with over 3 million contract workers, 2.74 million permanent residents, and 1.62 million undocumented contract workers. The CFO has documented 935 cases of international trafficking of Filipinos from 1993 to 2001.

There is no data on the international trafficking of domestic workers specifically. However, anecdotal information reveals several patterns of trafficking to which domestic helpers may be vulnerable. Further study of these general patterns may be beneficial in clarifying the degree to which they apply to the domestic work sector.

As with domestic trafficking, international trafficking of domestic workers is believed to take two common forms: (1) those promised jobs as domestic helpers are deceived about their conditions of work and end up in abusive or exploitative servitude; or (2) those promised jobs as domestic helpers, once abroad, are deceived or forced into working as bar girls or prostitutes. Unlike domestic trafficking, however, anecdotal information indicates that the former situation is more common in international trafficking of house helpers. Organizations that work on trafficking in persons have reported that Filipino women who are trafficked for sexual exploitation are typically told that they will be working as bar girls or entertainers, not domestic workers.

There have, however, been cases of the second form of

trafficking of domestic workers. One reported scenario entails women who have applied for jobs as domestic workers at employment agencies and are told that there are no current vacancies in the initial destination country but that once they arrive there, the agency will route them to another country where there is an opening. Once at the final destination, the women are forced into prostitution or other work.

One pattern of migration that has raised concerns about trafficking is the "back door" migration of Filipinos from southern Mindanao to Malaysia. There have been numerous reports of Filipinos traveling by fishing boat from Zamboanga to Sandakan or Kota Kinabalu in the Malaysian state of Sabah. By boat, the trip takes a few hours, and there are no immigration checkpoints. Once in Malaysia, the OFWs will either be placed in work there or will use Malaysia as a transit point for migration to Europe or the Middle East. The Malaysian government began a campaign against illegal aliens in 2002, and now there are many cases of Filipinos being arrested in Malaysia for illegal entry. In some cases, the arrests occur upon arrival, while, in other cases, the OFWs are discovered through a raid on their workplace or through their own outreach for assistance. Typically, after the Malaysian government notifies the Philippine Embassy of an arrest, a Philippine Embassy staff member will visit the OFW in prison to document the case.

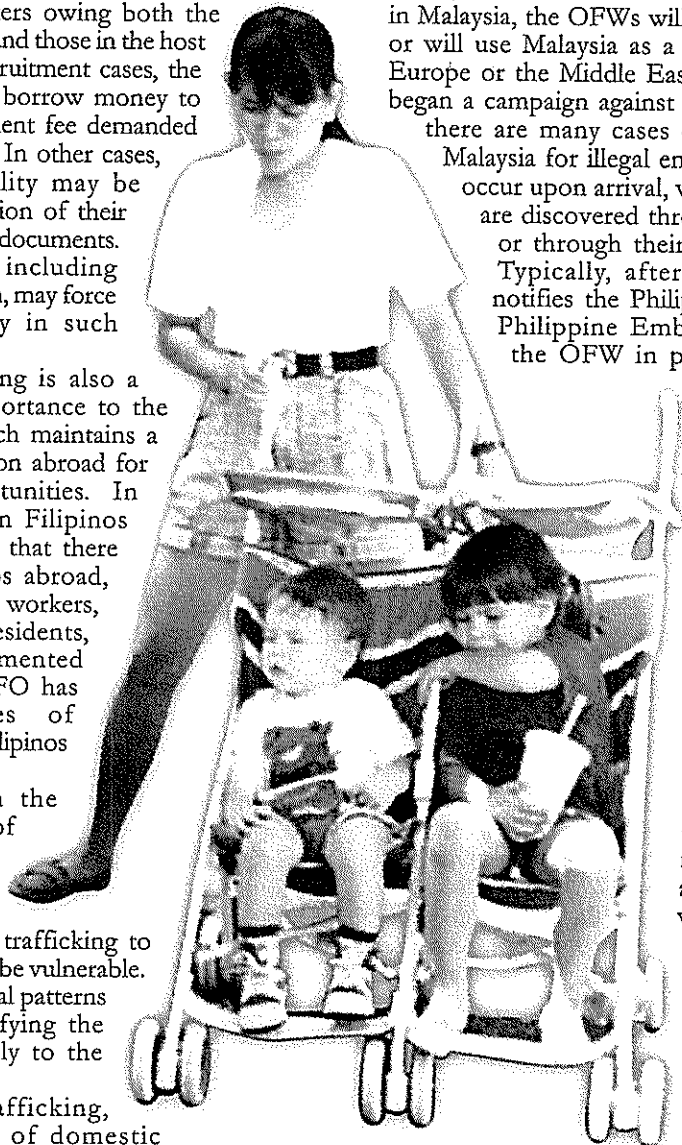
It is at that point that the OFWs are often discovered to be victims of illegal recruitment. The Department of Foreign Affairs (DFA) considers such OFWs to be "willing victims" since they generally know that their actions are illegal and have even paid a smuggling fee to make the journey.

In the typical scenario, Filipino women promised jobs as waitresses, singers, dancers, or bartenders, end up working as prostitutes. Once again, many of these female OFWs are aware of what their true working conditions will be; however, some are forced because of the debts incurred by their family members who have paid for their trip. Interestingly, most victims of these illegal recruitment and trafficking cases do not come from

Mindanao. Rather, Filipinos

from all over the country have used this migration pattern, with many coming from northern Luzon.

It should be noted that there appear to be few instances of the trafficking of domestic helpers via this route. The DFA and anti-trafficking organizations have determined that most cases of trafficking for prostitution via this route do not involve domestic helpers or promises to work as domestic helpers. This, however, does not rule out the possibility that traffickers could use this existing route to target domestic workers or those seeking to be domestic workers in the future. Clearly, further research on this migration route is needed.





Reporting of Abuses

8.1 In the Philippines

There is a lack of awareness among domestic helpers regarding the available mechanisms to report labour violations and other abuses. Focus group discussions and studies reveal that domestic helpers in the Philippines are most likely to report problems to the following individuals and organizations: friends, relatives, neighbours, the church, and NGOs such as VF and Bantay Bata 163. It is interesting to note that domestic helpers view government agencies, including the local DOLE and police offices, as a last resort for complaints. Many domestic workers are reluctant to utilize government complaint mechanisms due to fears that they themselves will be in trouble, that their employers have personal contacts in government who will protect the employers, or that it will make the problem worse. Domestic helpers interviewed under Gopalen's study on violence in domestic service, however, identified the police as the primary mechanism of redress in times of distress. The church was found to be the secondary outlet for assistance, with little awareness among respondents of women's shelters or NGOs that could assist them.

According to the Bureau of Working Conditions (BWC), under a normal inspection process, after DOLE receives a complaint, a labour inspector is sent to investigate. In the case of a domestic work situation, where there is one employer and one employee, DOLE will summon both parties to the regional office to investigate and assist in the filing of a complaint. If the employee chooses to proceed with the complaint, then the case will go to a hearing. However, the first course of action is always to seek a settlement. The emphasis on settlement, along with the bureaucratic and lengthy judicial process in the Philippines, results in the prosecution of few cases.

8.2 Overseas

Overseas domestic helpers typically go to the Philippine Embassy to report abuses, based on the general approach recommended during the pre-departure orientation seminars. Although this mechanism appears straightforward, the internal process for handling a problem case is quite complex, with an array of government agencies and actors involved. Most cases are handled by labour attachés from DOLE, although Assistance-To-Nationals officers from the Department of Foreign Affairs (DFA) and OWWA welfare officers may also be involved.

Few reported cases, however, are prosecuted because of the complex, bureaucratic, and lengthy process. In some countries, foreign domestic helpers are not permitted to work while seeking legal redress. Since many OFWs are supporting family members back home, the need to continue earning an income often outweighs the possible future benefits of pursuing a case. There have also been reports that some Embassy staff discourage OFWs from filing cases, and push them to accept financial settlements instead. Also, in some cases, it is difficult for the domestic worker to visit the Embassy, due to work obligations, the lack of a day off, or the inability to leave the employer's premises. It has been reported that some domestic helpers who are unable to visit the Embassy, instead write to their families with their complaints. Overseas workers reportedly also have the option of seeking redress through the local laws of their host country; however, in some countries, foreign workers may not enjoy the same legal protections as nationals. In addition, some governments direct the domestic helpers to seek redress through the recruitment agencies, who may assume the role of mediator between the employer and domestic helper. This is often not in the best interest of the domestic helper, given that recruitment agencies are not mandated to protect the rights of workers but rather exist for the purpose of making a profit.

National Infrastructure to Address Issues relating to Domestic Work

The national infrastructure to address domestic work, forced labour, and trafficking is quite vibrant. Government agencies, inter-agency partnerships, workers associations, employer associations, employment agencies, NGOs, and several international donors are involved in addressing some aspect of these issues. However, these efforts remain uncoordinated, resulting in missed opportunities for leveraging resources, overlapping of activities in some areas, and gaps in other key areas. In addition, while there are many recent initiatives against trafficking in persons, few interventions focus on the situations of domestic workers specifically.

9.1 Government Stakeholders

Several government agencies have responsibility for overseeing, regulating, enforcing, or protecting some aspect of domestic work. At the national level, the role of the government agencies primarily involves policy making and standards setting. Local government units under provincial and municipal authorities are responsible for implementation of programmes and the provision of services.

The Department of Labor and Employment (DOLE) has several divisions with responsibility for oversight of the recruitment or employment of domestic helpers.

- The Bureau for Women and Young Workers (BWYW) has primary responsibility for addressing the situation of domestic workers. At the national level, the Bureau formulates policies and develops programmes on the rights of house helpers. For example, the Bureau has produced IEC materials on the rights of house helpers in several local languages and distributed them to regional DOLE offices and recruitment agencies. The Bureau also receives occasional complaints from domestic workers regarding labour violations, which they refer to the regional offices. The National Program Against Child Labor (NPACL) also falls under the jurisdiction of the BWYW.

- The Bureau of Local Employment (BLE) has the mandate to license, accredit, and monitor local private recruitment and placement agencies. At the national level, the Bureau formulates policies which are implemented by all DOLE regional offices, in coordination with partner organizations, such as the Philippine National Police and the National Bureau of Investigation. Regional offices have the authority to shut down non-licensed recruitment agencies and work with NGOs and Philippine National Police officers in local areas to apprehend such agencies.

- The Bureau of Working Conditions (BWC) formulates policies and establishes standards for the administration and enforcement of labour laws. The national BWC has technical supervision over 16 regional labour offices, and sets policies and standards in areas such as wages, hours of work, occupational safety, and general safety. Labour inspectors, who are mandated to enforce the labour code, operate under the administrative supervision of the regional

offices. BWC has developed a pamphlet regarding the rights of domestic helpers that was distributed through the regional offices.

- The Philippine Overseas Employment Agency (POEA) is responsible for promoting, regulating, and monitoring the overseas employment of Filipino workers. POEA's functions include licensing and monitoring overseas employment agencies, providing pre-employment orientation seminars (PEOS), approving job orders, processing employment contracts, and facilitating the hiring needs of foreign governments. POEA also runs an information dissemination campaign against illegal recruitment, assists in the prosecution of illegal recruitment and other recruitment violations, and offers PDOS for direct-hire workers.

- The Overseas Workers Welfare Agency (OWWA), an agency attached to the DOLE, is the primary membership welfare institution for OFWs. OFWs who have paid the US\$25.00 membership contribution³⁸, have access to a range of benefits including life insurance and health care benefits, pre-departure and family assistance loans, education and training scholarships, repatriation and reintegration programmes, and on-site medical, legal, psycho-social, and other assistance. OWWA welfare officers are deployed in many overseas posts and in almost all regions of the Philippines. In local regions, OWWA community development officers visit families of overseas domestic workers to provide any necessary support. Since July 2002, OWWA has been responsible for overseeing the PDOS programme.

- The Philippine Overseas Labor Office (POLO), under the Office of the Secretary of Labor, administers and enforces DOLE policies and programmes that support the welfare of OFWs. Currently, there are thirty-four POLOs in countries in Asia, the Middle East, the Americas, and Europe. The POLOs coordinate with Philippine government agencies, host government officials, Filipino communities, and NGOs involved in assisting the overseas workforce. Labour attachés assigned to Embassies abroad under POLO are responsible for assisting Filipino workers with employment issues, including foreign exchange remittances to the Philippines, and filing complaints of labour violations.

- The Technical Education and Skills Development Authority (TESDA) formulates manpower and skills plans, sets skills standards and tests, and provides policy directions for resource allocation for the Technical and Vocational Education Training institutions in private and public sectors. In the area of domestic work, the TESDA regional centre in Batangas has partnered with VF to provide domestic work and alternative skills training to domestic helpers. The TESDA Planning Department, at the request of DOLE, is also in the process of developing a competency-based curriculum and a related skills training programme for domestic workers being deployed to the Kingdom of Saudi Arabia.

³⁸ The membership contribution of US\$25.00, or its local currency equivalent, is paid per employment contract but must not exceed two (2) years. If the employment contract is processed in the Philippines, with the contract registered at POEA, then the OWWA membership fee is paid by the recruiter or overseas employer. However, some non-government organizations have found that many OFWs are told to pay the membership fee themselves.

The Department of Justice (DOJ) is responsible for the prosecution of labour violation cases. DOJ generally has little involvement in domestic worker issues since most cases are resolved through mediation between the regional BWYW offices and the employers. The DOJ, however, chairs the Inter-Agency Council Against Trafficking.

Within the DOJ, the National Bureau of Investigation (NBI) has two offices that have handled cases related to the situation of domestic workers. The Violence Against Women and Children Division investigates cases of violence against women and children, including isolated cases of physical abuse, sexual harassment, and sexual abuse of child and adult domestic helpers. The Anti-Human Trafficking Division is mandated to investigate cases of trafficking in persons.

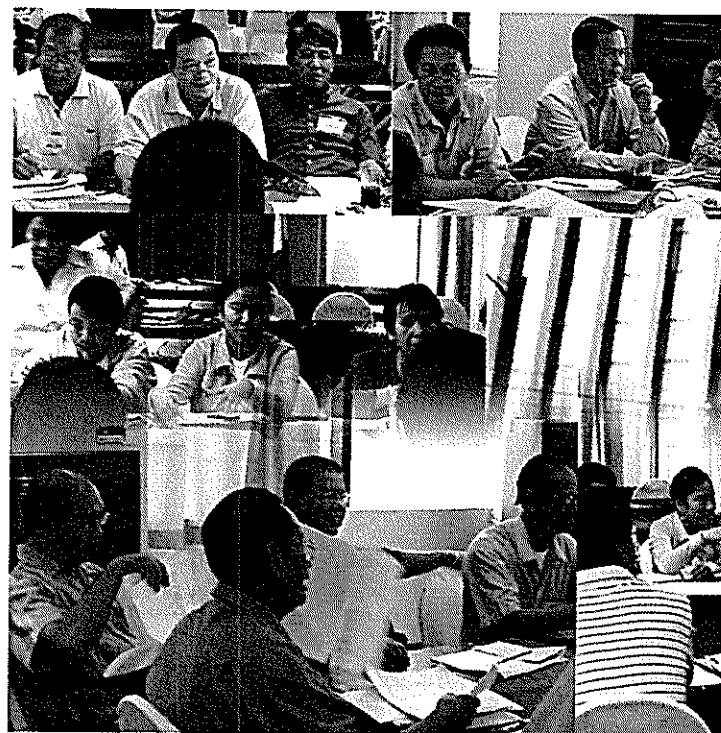
The Department of Social Welfare and Development (DSWD) provides direct assistance to victims of physical and sexual abuse, trafficking, and child labour through residential care services, including the provision of counselling and therapy. The national DSWD operates approximately 65 protective shelters nationwide. Some of these shelters are only for children, while others include "women in especially difficult circumstances." DSWD maintains statistics on the victims they assist, either through shelters or community-based outreach. The data is disaggregated by gender and nature of abuse, including categories for sexual abuse, physical abuse, child trafficking and illegal recruitment. At present, the occupation of the victim is not included; however, there is the potential to build on this existing data-gathering system to track the number of domestic helpers seeking DSWD services as a result of abuse or exploitation. The Social Welfare and Development offices within local government units also offer protective custody, rehabilitation, and skills training for women and children in local centres. DSWD is also the co-chair of the Inter-Agency Council Against Trafficking.

Within the Department of Foreign Affairs (DFA), the Office of the Undersecretary for Migrant Workers' Affairs (OUMWA) operates the Assistance-to-Nationals (ATN) programme, which includes the placement of ATN officers in Philippine Embassies abroad. ATN officers work with government and non-government sectors abroad to provide assistance to any overseas Philippine citizens.

The Department of Interior and Local Government (DILG), though not a member of IACAT, is mandated under the Anti-Trafficking in Persons Act to conduct an information and advocacy campaign against trafficking, monitor and maintain a database on trafficking cases, guide local government units on how to monitor recruiters and raise public awareness, and to promote family and community empowerment to prevent trafficking. The role assigned to the DILG highlights the importance of community-level activities and the involvement of local government in the prevention of trafficking.

The National Commission on the Role of Filipino Women (NCRFW), a government entity under the Office of the President, advises the President and the cabinet on matters related to gender issues. NCRFW focuses on three broad areas - economic empowerment, human rights, and good governance, and works with the gender focal points at each line agency to ensure that government programmes take into account the interests of women.

The Philippine National Police (PNP) operates Women's and Children's Desks in almost every police station in country to respond to complaints of abuse of women and children. The National Police Commission (NAPOLCOM) has adopted a standard reporting form to be used by the PNP to gather data on victims of trafficking.



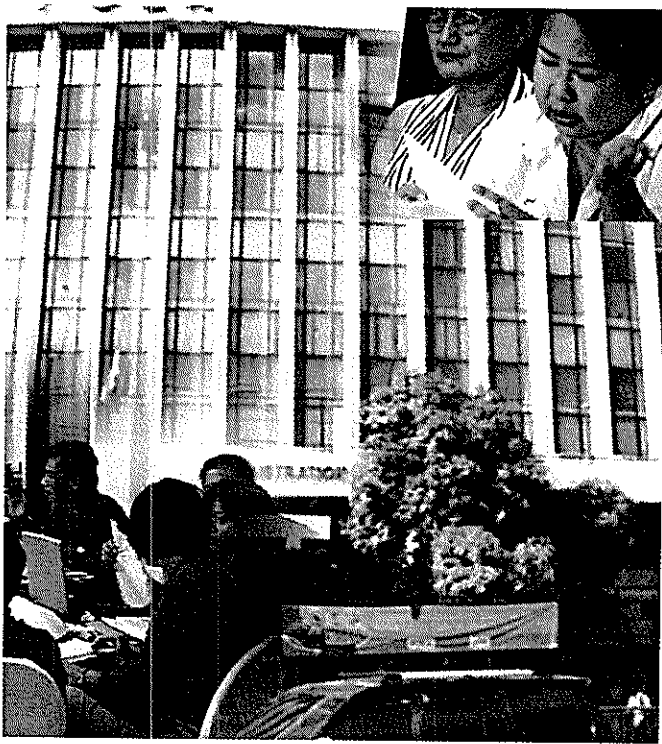
9.2 Inter-Agency Partnerships

The Inter-Agency Council Against Trafficking (IACAT) is mandated to implement the Anti-Trafficking in Persons Act, in cooperation with other relevant government agencies. The IACAT is composed of the following government agencies: DOJ (Chair), DSWD (Co-Chair), DFA, DOLE, POEA, Bureau of Immigration (BI), PNP, and NCRFW. The IACAT also includes three NGO representatives, from the women, children, and OFW sectors, who are nominated by the government members, and appointed by the President to serve for a term of three years. The nominated NGO representatives are from the following organizations: the Coalition Against Trafficking of Women - Asia Pacific (CATW-AP), ECPAT (End Child Prostitution, Child Pornography, and the Trafficking of Children for Sexual Purpose), and the Philippine Migrants Rights Watch (PMRW).³⁹ The IACAT has completed the Rules and Regulations Implementing the Anti-Trafficking in Persons Act of 2003 and formulated a National Strategic Plan of Action.

The IACAT superseded the Inter-Agency Executive Committee (IAEC) of the Coalition Against Trafficking in Human Beings, a pilot project under the UN Global Programme Against Trafficking in Human Beings. The IAEC was comprised of thirteen government agencies and mandated to formulate a strategic plan for combating trafficking in human beings. Some of the IAEC's accomplishments include development of a strategic action plan for 2002-2004 and publication of the Philippine Manual on Anti-Trafficking in Human Beings. The Coalitions Against Trafficking in Human Beings project was undertaken with the assistance of the UN Office on Drugs and Crime (UNODC) and the UN Interregional Crime and Justice Research Institute (UNICRI).

The Sagip-Batang Manggagawa (SBM or Rescue Child Labourers) is an inter-agency mechanism launched in 1994 under the NPACL for the purpose of detecting, monitoring, reporting, and rescuing children in abusive or abject conditions, including the worst forms of child labour. Established nationwide in all regions, the SBM network includes 24-hour quick action teams, comprised of social welfare officers, labour inspectors, police officers, and NGO representatives, who respond to child labour cases. In addition to conducting rescue operations, SBM network

³⁹ The nominations are currently awaiting approval by the President of the Philippines.



acknowledge the presence of a child domestic worker within their households.

9.4 Employer and Employment Associations

The Employers Confederation of the Philippines (ECOP), through its Committee on Child Labor, launched the Child-Friendly Firms Recognition Project (CFFRP) in partnership with ILO-IPEC. ECOP showcases model companies which have initiatives to protect the rights of children.

The Philippine Organization of Private Employment Agencies (POPEA) has made efforts to improve the local recruitment process through standardization and transparency. POPEA developed a code of conduct, which includes a prohibition against the recruitment of minors, to which all member agencies must adhere. At present, there are 40 member agencies in POPEA.

9.5 Non-Government Organizations

The Visayan Forum Foundation (VF) was the first organization in the Philippines to specifically address the issues of child and adult domestic workers. It is also one of the forerunners in the international promotion of the rights of domestic workers and the prevention of child labour. Under its Kasambahay Programme, VF has undertaken numerous activities to assist child domestic workers and to prevent exploitative child domestic labour. Although the Kasambahay programme is targeted towards child domestic workers, VF does not turn away adult domestic workers seeking assistance.

The following are the main interventions of the Kasambahay Programme:

- The provision of direct services, temporary shelter, social security coverage, and educational opportunities to child domestic workers
- The institutionalization and strengthening of domestic worker associations (see SUMAPI below)
- The development of laws and policies for the protection of domestic work, in particular child domestic work
- The establishment of a Resource Centre on child domestic workers

As part of their direct services for domestic workers, VF operates temporary shelters for domestic helpers who have been victims of abuse or who have left their employment for other reasons. VF temporary shelters are located at the VF Headquarters in Manila, the Kasambahay Centre in Batangas, the VF office in Bacolod, and the Halfway House in Davao. After granting VF an initial three-year license to operate its Manila shelter in 1999, DSWD assessed all VF shelters in 2002 and granted VF a lifetime license to operate the shelters. VF social workers employed at these shelters coordinate with government and non-government agencies to provide counselling, medical assistance, and legal services to abused domestic workers. VF also runs a 24-hour hotline for domestic workers.

VF has established the first organization of domestic workers in the Philippines: SUMAPI (Samahan ng mga Manggagawang Pantahanan sa Pilipinas - Association and Linkage of Domestic Workers in the Philippines). Now an independent people's organization, SUMAPI works with VF to create networks of domestic workers for the purpose of awareness raising, advocacy, empowerment, capacity building, and social activities. SUMAPI, in coordination with barangay, police, and DOLE officials, also participates in rescue operations of abused domestic workers. At present, SUMAPI has over 5,000 members nationwide, of

members provide physical and psychosocial service and assist victims with reintegration. From 1993 to the 1st quarter 2001, SBM conducted 303 rescue operations resulting in the rescue of 1,000 minors engaged in slavery or bonded labour, prostitution, and other hazardous work.

Barangay Councils for the Protection of Children (BCPCs), organized through the DILG and composed of representatives from government, private, and non-government agencies, have also been established to facilitate immediate responses to reported cases of child abuse and exploitation.

9.3 Workers Associations

The Trade Union Congress of the Philippines (TUCP) and the American Center for International Labor Solidarity (ACILS) are implementing a project on combating the trafficking of women and children in the Philippines. The project, which is funded by the U.S. Agency for International Development (USAID) has several main activities: a public information and media campaign, the development of a trafficking database, the facilitation of services to trafficking victims, capacity building, and the establishment of a multi-sectoral trafficking watch group. The project does not distinguish between domestic and cross-border trafficking and focuses mainly on women, in response to the trafficking cases reported to the programme. Some achievements of the project include the development of a Standard Reporting Form - formally adopted by the National Police Commission (NAPOLCOM) and endorsed by the IACAT - to be used by the PNP Women's and Children's Desks; the establishment of multi-sectoral trafficking watch groups in 4 communities identified as trafficking points of origin (General Santos City, Leyte, Dumaguete City, and Tagbilaran City); and the publication of a Primer on the Anti-Trafficking in Persons Act and a compendium on "Anti-Trafficking Law, Rules and Local Instruments." The TUCP also has an informal sector programme, although it is not clear whether domestic workers would fit under the informal sector framework.

The Federation of Free Workers (FFW) is currently implementing a project to examine the incidence of child domestic workers within households of its confederation members in metro Manila. Early efforts have highlighted the reluctance of employers, even unionist-employers, to

which approximately 20% are male. There has been some discussion of SUMAPI becoming a workers organization; however, the advantages and disadvantages of that approach are reportedly still being considered. SUMAPI and VF reach out to domestic workers through church and school-based initiatives, as well as through directly approaching domestic helpers in parks or public areas where they typically go on their days off. Locations where SUMAPI and VF undertake outreach activities are as follows:

- In Manila and the National Capital Region: Luneta Park, the Quezon City Memorial Circle Park, Manila Port Area, and the schools of Miriam and La Salle Greenhills
- In Bacolod: Negros Occidental High School, La Consolacion College, Dela Salle University Integrated School waiting Area, and the Bacolod Public Plaza
- In Batangas: St. Bridget's School, Parish of the Immaculate Conception, and Mabini Plaza
- In Davao: Assumption College Davao, Rizal Memorial College and Magsaysay Park

VF has developed unique partnerships with government and non-governmental organizations, academic institutions, and the church, to create a broad coalition for the protection of the domestic workers. For example, VF partners with the Social Security System to register domestic workers during weekends and on *Araw ng Kasambahay* (Domestic Workers Day) in certain localities. VF in Batangas also works with TESDA to provide domestic work and alternative skills training. In addition, the Ateneo Human Rights Center (*Adhikain para sa Karapatang Pambata- AKAP*) offers legal assistance and labour law training seminars to domestic workers referred by VF. In terms of local legislative advocacy, VF has been successful in advocating for the passage of an executive order in Bacolod City that requires all barangays to establish a domestic helper registry. The purpose of the registry is to reduce the invisibility of household helpers and, thus, reduce their vulnerability to abuse, exploitation, forced labour, and trafficking. VF also promotes the education of domestic helpers through the provision of educational assistance, as well as partnerships with schools in Bacolod, Batangas, and Davao that offer night or weekend classes designed to accommodate the schedules of domestic workers. Lastly, the special relationship that VF has established with the Parish of the Immaculate Conception in Batangas City also highlights the important role that churches and religious groups can play in using the moral influence of the church to raise awareness about the rights of domestic workers.

VF is also implementing an anti-trafficking programme, in partnership with the Philippine Ports Authority (PPA)-Gender and Development Programme, and has established a Multi-Sectoral Network Against Trafficking in Persons. Under the trafficking programme, VF provides 24-hour services for victims of trafficking, information about travel and support networks, case referral, a telephone hotline counselling, outreach for stranded passengers, and training and advocacy to port community members. A key component of the anti-trafficking programme is the operation of several halfway houses for victims of trafficking or stranded recruits. The first halfway house, called "Balay Silungan sa Daungan," opened in August 2000 in Manila North Harbor. At present, VF operates trafficking halfway houses in Davao, Batangas, and Matnog, Sorsogon. The commitment of the PPA has been to build and furnish some of the shelters and to mobilize partners within the port community to undergo training on trafficking in persons.

Another programme run by VF is the *Bantay Bata sa Komunidad* (BBK or Child Watch Community) programme, which is aimed at the protection of children from abuse,



including child labour. Activities under the BBK programme include psychosocial education and training, community outreach and conciliation, educational assistance to help children stay in school, vocational training, and micro-savings and lending schemes for parents. Although the programme is not targeted at domestic helpers, it offers a useful model of how community mobilization can help prevent members of the community from entering into abusive or exploitative work environments.

CATW-AP has as its primary mandate policy advocacy at the international, regional, national, and local levels. Through its *Bantay Bugaw* (Trafficker Watch) Programme, CATW-AP also undertakes education and training activities among community members, barangay leaders, and local government officials to raise awareness and understanding of the issue of trafficking. In addition, CATW-AP gathers research and documentation on trafficking, provides training in the Human Rights Documentation System, and assists returning trafficking victims with counselling and legal assistance.

ECPAT focuses on trafficking for the commercial sexual exploitation of children (CSEC), in particular in the entertainment industry. ECPAT also serves as the focal point for the Philippine Campaign against Child Trafficking and has established a Coalition against Child Trafficking for Sex Exploitation in the Visayas regions. ECPAT has held three major consultations on child trafficking, which resulted in recommendations for action at the regional level. Some of ECPAT's current activities include the Community Education Programme on trafficking and commercial sexual exploitation of children; the Monitoring and Case Work Programme to assist child victims through prosecution of high-impact cases; and the Children and Youth Empowerment Programme.

PMRW is a civil society network of migrant rights organizations, currently comprised of nine member-organizations: Apostleship of the Sea-Manila, Center for Migrants Advocacy-Philippines, Center for Overseas



Workers, Development Action for Women Network, Episcopal Commission on Migrants and Itinerant People, Kaibigan ng OCWs, Scalabrini Center for People on the Move, Scalabrini Migration Center, and the International Catholic Migration Commission-Southeast Asia. The PMRW conducts education, lobbying, and monitoring activities for the recognition, protection, and fulfilment of the rights of Filipino migrants in all stages of the migration process.

The Kanlungan Centre Foundation, Inc. is a centre for migrant workers that provides legal and welfare assistance, temporary shelter for women who have been abused or are pursuing legal cases, education and training courses, resource and advocacy programmes, and community extension services. Kanlungan operates an extension centre in La Union, through which the organization provides psycho-social, economic, and advocacy assistance to returned workers and their families in the Ilocos region.

The Scalabrini Migration Center (SMC) has conducted a study in 2004 on the migration industry in the Philippines that examines, among other topics, the roles of recruitment and government agencies in the migration process and the types of abuse and exploitation faced by migrant workers. The SMC has also recently completed a study on the social costs of migration in the Philippines.

The Migrant Forum in Asia (MFA) is a membership-based, regional network of migrant support groups, migrants' associations, unions, church groups, and national networks that promotes region-wide responses to migration issues and undertakes regional campaigns to improve the situations of Asian migrants.

9.6 International Donors

The Asian Development Bank (ADB) does not have any existing programmes on domestic workers or trafficking in Southeast Asia. The ADB has produced a book entitled "Combating Trafficking of Women and Children in South Asia," as part of a regional technical assistance effort in Bangladesh, India, and Nepal. The ADB has also conducted

a study on the nature and magnitude of OFW remittances from major destination countries.

The Australian Agency for International Development (AusAID) does not currently have any programmes specific to domestic workers. Regionally, however, AusAID is supporting a project on Asia Regional Cooperation to Prevent People Trafficking that is being implemented in Cambodia, Laos, Burma and Thailand, with other ASEAN countries and China. Within the Philippines, AusAID is also conducting a series of capacity building multi-disciplinary workshops on women's human rights, justice, and the Anti-Rape Law.

ILO-IPEC launched a Time Bound Programme on the Elimination of the Worst Forms of Child Labour in the Philippines in June 2002 that includes child labour in domestic work as one of its six priority target groups. The TBP will focus on strengthening the enabling environment for the elimination of the worst forms of child labour and reducing the incidence of selected forms of child labour through direct action for child labourers and their families. Coordination between the ILO project on domestic workers and the ILO-IPEC activities for child domestic workers will be important to leverage resources and to prevent duplication of efforts.

IOM, as part of its Labour Migration Project, has produced educational materials for the PDOS process on the risks of migration, including the physical, sexual, and financial abuses that can be afflicted on migrant workers. The materials - written handouts, a video on self-defence, and a video on health risks - are being provided to OWWA for copy and distribution to the PDOS providers.

The Japan International Cooperation Agency (JICA) has no existing projects on trafficking or forced labour. JICA is, however, assisting the TESDA Women's Center in developing training in non-formal education, which is relevant to women across all sectors who are interested in alternative skills training.

UNICEF has undertaken several activities to mobilize action against trafficking in persons, in particular trafficking of children for commercial sexual exploitation. UNICEF-funded research on trafficking includes the following: studies by VF on trafficking at the Manila Port and trafficking in Davao, Cebu, and Matnog; a situational analysis by the Development Academy of the Philippines, in cooperation with ILO-IPEC, on child trafficking; a study by the Institute for Labour Studies on the local trafficking of Filipino girls for employment. UNICEF is also implementing community education and trafficking prevention programmes in parts of Luzon, Visayas, and Mindanao.

USAID has several current and planned projects related to trafficking in persons. At present, USAID is overseeing two anti-trafficking grants:

- (1) to VF to support maintenance of its halfway houses in Manila and Davao; and
- (2) to ACILS for the anti-trafficking project mentioned above.

In addition, USAID is anticipating three new grants:

- (1) to the National Office of Mass Media for trafficking prevention activities;
- (2) to the CATW-AP for prevention, prosecution, and livelihood interventions; and
- (3) to ECPAT for prevention, prosecution, and reintegration activities.

The World Bank (WB) has no existing or planned projects on trafficking, forced labour, or domestic work in the Philippines. However, the WB conducted a small study in 2003 on migrant workers in the East Asia-Pacific region and is planning a future study on remittances from OFWs in the East Asia-Pacific region.

Other Issues

10.1 Gender

The issue of gender in domestic work must be addressed for several reasons. First, the ILO has identified gender as a crosscutting issue to be mainstreamed into its policies and programme interventions. Gender equality at work has been codified in key ILO labour conventions and is a central component of the Declaration of Fundamental Principles and Rights at Work that all ILO Member States must respect and promote.

Second, the vast majority of Filipino domestic workers are women, and domestic work is viewed as a women's domain. This socio-cultural attitude contributes to the demand for women domestic workers. This holds true for maids, yayas, cooks, all-round helpers - all house helper categories except drivers. Although drivers also face labour violations, it appears that they are the least vulnerable category of domestic workers, given their mobility beyond the employers' premises and their higher wages. There are also fewer instances of drivers being recruited internationally or from distant places in the country for employment.

Third, many of the inequities faced by domestic helpers are related to their status as women. As stated in *The Trade in Domestic Workers*, overseas female workers "experience the adverse effects of multiple inequities arising from their status: as domestic workers doing women's work that is conventionally unpaid work, as females in their own families... whose education, career, and personal development are not family priorities, [and] as foreign workers from a less developed country working temporarily in a more developed country."⁴⁰

One implication of this relatively clear gender boundary is that interventions designed to promote and protect the rights of domestic helpers must be targeted primarily towards women. Such interventions must take into account the alternative economic opportunities available to women in the Philippines, the familial and societal obligations women may face, and the violations and abuses, such as sexual abuse, forced labour, and trafficking, that are more likely to be suffered by women.

However, examining the issue of gender in Filipino domestic work raises concerns about the lack of information on and support services for male domestic workers. Although a small percentage of domestic workers are male, there are male domestic workers who may suffer the same violations and abuses as female domestic workers. Little is known about the particular working conditions and vulnerabilities of houseboys and drivers. Therefore, it is not clear the degree to which male domestic workers suffer abuses. In addition, while boys who work as domestic helpers can avail of the myriad support services for children, adult male domestic helpers lack such resources. DSWD shelters are mainly for abused girls and women, and most domestic helper cases that require PNP involvement are referred to the Women's and Children's Desks. Such lack of support may discourage male domestic workers from reporting problems. Clearly, the focus of any domestic helper project

should be on female domestic helpers as noted above. However, the point here is that more information is needed on the particular vulnerabilities of male domestic workers.

10.2 Racial and Ethnic Discrimination

The abuses faced by local and overseas domestic helpers can also be linked to racial and ethnic discrimination. Within the Philippines, domestic helpers working in Luzon tend to come from the Visayas and Mindanao regions, and thus have different ethnic backgrounds, skin tones, local languages, cultural practices, and in some cases, religious beliefs than their employers. Even many domestic helpers working in the Visayas or Mindanao regions appear to have migrated from their communities, provinces, or regions of origin, thereby maintaining a different racial and/or ethnic profile than that of their employers. For overseas domestic helpers, racial and ethnic discrimination is compounded by language and cultural barriers. In some destination countries, the discrimination is evident in the usage of the phrase "Filipina" to refer to a domestic worker, which highlights the discriminatory view that the role of someone from the Philippines is to serve others. Existing studies and anecdotal information indicates that this is an issue warranting further exploration.

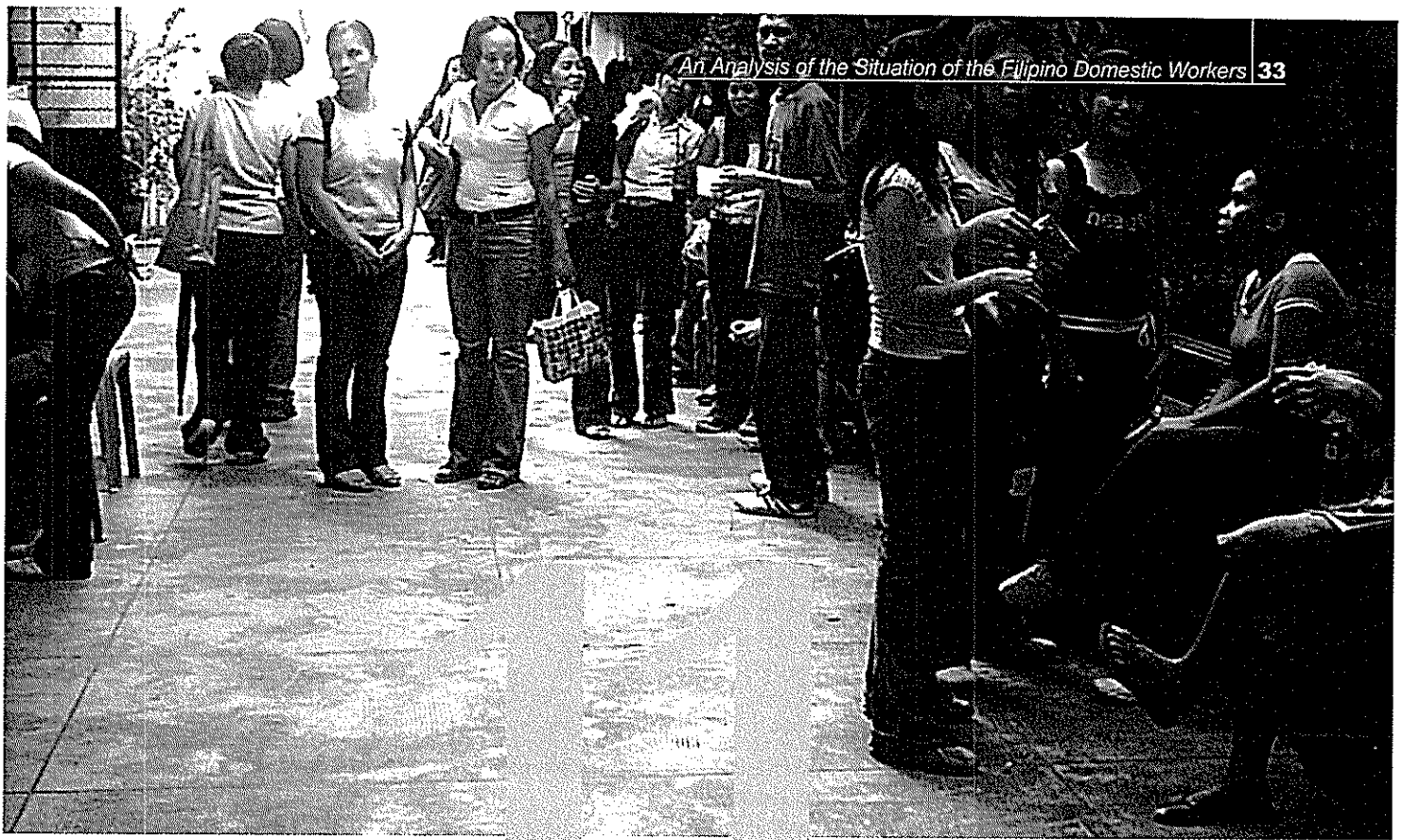
10.3 Health

Domestic workers face several health-related issues. First, the long working hours and heavy workloads of many house helpers can contribute to health problems such as fatigue, headaches, colds, and other illnesses. In addition, the vulnerability of domestic workers to sexual abuse and trafficking for sexual exploitation may require increased awareness within this occupation about protecting themselves from unwanted pregnancies, sexually transmitted diseases, HIV/AIDS, and drug use.

Furthermore, some efforts to protect domestic workers from health problems can also be seen as violations of their privacy, reproductive, and mobility rights. In Singapore, for example, the requirement on foreign domestic workers to undergo pregnancy tests every six months may be viewed as usurpation of control over the private, reproductive choices of the domestic helpers. Another example comes from the recent outbreaks of SARS and the avian flu that greatly affected the Asian region. Some employers in Singapore, reportedly concerned about the spread of such diseases, restricted their house helpers to their premises and forbade them to go out on their days off. In this latter case, the health security concerns of the employers outweighed the freedom of mobility and the right to a day off of the domestic helpers. At the same time, however, the right of the employer to protect his family from highly contagious diseases must also be acknowledged. This issue raises two questions:

(1) How much control should an employer have over the life of a domestic worker, and (2) Under what circumstances is it justified to restrict the rights of domestic workers?

40 Heyzer et al, 1994, p. 32.



Existing Challenges

There are numerous challenges to improving the situation of Filipino domestic workers, many of which serve to reinforce each other. For example, the lack of voice for domestic helpers and the lack of value placed on domestic work contribute to the lack of data available on the situation and needs of domestic helpers. While such challenges are specific to domestic work, other underlying issues, such as poverty and the lack of economic opportunities in many parts of the Philippines, also have a critical impact on the situation of domestic workers.

The primary challenges are as follows:

1. Insufficient legal and policy framework. With scattered, inconsistent, and outdated provisions, the current legal and policy framework for domestic work excludes domestic helpers from legal protection, work standards and benefits, and redress mechanisms available to other workers. In addition, enforcement of such laws is weak, with relatively few cases of abuse reported and prosecuted. This includes insufficient monitoring of recruitment agencies and local recruiters. Moreover, several relevant ILO conventions have not yet been ratified.

2. Lack of data on domestic workers. There is limited data and research on the current situation of Filipino domestic workers in the country and overseas. In particular, there is a lack of sufficient information on the number of domestic workers, their demographic and geographic profiles, living and working conditions, and vulnerabilities to forced labour, trafficking, and other abuses. While existing studies highlight some general patterns and provide useful case studies, many of them are out of date, have insignificant sample sizes, or focus solely on child domestic workers or domestic workers in the NCR. In addition, available survey data likely underestimates the incidence of domestic work.

Several factors account for the lack of available information and the underreporting of data on domestic workers, including the hidden and migratory nature of domestic work, the difficulty of gaining access to private households, the lack of recognition of relatives as domestic helpers, the informal recruitment patterns and employment practices, the lack of value assigned to the situation of domestic helpers, and the lack of funding for nationwide surveys.

3. Lack of value placed on domestic work. Domestic work is generally viewed as unskilled women's work that is conventionally unpaid and requires no experience or training. This perception does not take into account the variety of skills used in domestic work, nor that there can be varying levels of achievement in the performance of domestic duties. This commonly-held view also fails to recognize the contribution of domestic work to society, which includes the salaries and remittances that domestic helpers send to their families, the higher salaries of households who are able to have more members in the labour force due to the presence of domestic helpers, and the higher tax revenues of the national government due to the presence of more people in the labour force.

4. Lack of awareness of domestic worker rights. In general, there is a lack of awareness of the rights of domestic helpers among employers, government and law enforcement officials, the families of domestic helpers, the general public, and domestic workers themselves. Confusion regarding the laws on domestic work and the lack of advocates for domestic helpers contribute to this problem.

5. Lack of voice for domestic workers. At present, Filipino domestic helpers lack the necessary voice to advocate for their rights. Isolation, limited free time, and restricted mobility inhibit the formation of domestic worker

associations or unions. Moreover, domestic workers fall between the cracks of formal and informal sector worker outreach programmes. On the one hand, domestic workers are not typically categorized as formal sector workers since their work takes place in private non-commercial establishments. On the other hand, domestic workers have not been included in informal sector associations since their work entails a clear employer-employee relationship and they are covered by the Labor Code. As a result, domestic helpers are not represented by trade unions or informal sector coalitions. Although the establishment of SUMAPI has been a significant step in bringing a collective voice to domestic helpers, this nascent organization needs to considerably expand its membership and geographic scope in order to serve as a national representative for domestic helpers.

6. Lack of national and international coalitions for domestic workers. Although there are overseas networks for migrant workers that include domestic workers, alliances have not been formed among local and overseas groups of domestic helpers. In addition, coordination of efforts across government, private, and NGO sectors, as well as between sending and receiving regions, has not been realized. The lack of such coalitions results in missed opportunities for joint initiatives, resource maximization, and information sharing.

7. Lack of government outreach to domestic workers. Both within the Philippines and abroad, government agencies have relied considerably on NGOs, religious organizations, and Filipino communities to serve as the primary mechanisms to inform, protect, and assist domestic helpers. Although government agencies may be made aware of domestic helpers with problems and, in the case of domestic helpers overseas, file complaints and legal cases for domestic helpers, it is generally as a last resort that domestic helpers seek assistance from the government. Even in such cases, it is often the social partners that refer domestic helpers to the authorities. In the Philippines in particular, government programmes have not shown sufficient flexibility in meeting the realities of domestic helpers' long hours of work and limited mobility.

8. Lack of understanding of forced labour and trafficking. The concepts of forced labour and trafficking are relatively new to the Philippines, and therefore not well understood at present. Although general awareness regarding trafficking in persons is expected to rise as implementation of the Anti-Trafficking in Persons Act of 2003 progresses, there is currently a lack of awareness regarding the risks and realities of forced labour and trafficking among domestic helpers, source communities for domestic helpers, and the general public. There is also a lack of understanding regarding the distinctions between trafficking, illegal recruitment, and economic migration.

9. Poverty and a lack of economic opportunities. These underlying issues are critical factors in the decisions of Filipinos to enter domestic work, to migrate in search of domestic work opportunities, and to accept working conditions of hardship and abuse. In many cases, the poverty of their families or the lack of economic opportunities for their parents prompts children and young women to risk illegal recruitment and/or illegal migration, leaving them vulnerable to abuse and exploitation. The cultural and psychological pressure of feeling responsible for supporting one's family can serve as a strong inducement for staying in such situations. Therefore, the prevention of abuses of domestic helpers requires addressing these underlying issues as well.



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Recommendations

1. Strengthen the legal and policy framework for domestic work. In addition to putting in place a comprehensive and updated regulatory framework, efforts in this area should focus on establishing minimum standards of employment, developing systems to monitor and enforce working conditions and recruitment practices, and providing mechanisms to handle complaints. The adopted legislation should uphold the rights of domestic workers to international human and labour rights standards. At the community level, the passage of local ordinances, such as the executive order enacted in Bacolod, could help strengthen the promotion and protection of the rights of domestic helpers. Extending coverage in the social security system and national health insurance programme to domestic workers should also be priorities.

2. Broaden understanding of the situation of domestic workers through research. This should include a national survey on domestic work, as well as studies on local and overseas forced labour and trafficking of domestic helpers. The studies should examine the factors that may render domestic helpers more vulnerable to abuse, such as, for example, the socioeconomic standing or geographic region of the employer, or the migration route, ethnic background, or education level of the domestic helper. It would also be useful to conduct research on the



perspectives of employers, whose views have not been sufficiently presented in existing studies.

3. Professionalize domestic work. Formal training programmes should be put in place to promote domestic work as a skilled occupation and to establish minimum standards of domestic service. Such training should also include modules on dealing with employers and handling unexpected problems, which could help create more harmonious employer-employee relationships.

4. Raise awareness of the rights of domestic workers. Awareness campaigns should be undertaken at the national level and in local areas which have a sizeable domestic worker population or which serve as source communities for domestic workers. These campaigns should target not only domestic helpers, but also employers, recruitment agencies, government agencies, and the public. Since there are no formal associations for the employers of domestic helpers, such campaigns could utilize homeowners associations, business groups, and recruitment agencies as vehicles for information dissemination to employers.

5. Strengthen the outreach and organization of domestic workers. Efforts should be made to bring domestic workers out of isolation and to unite them for the purpose of advocacy, awareness raising, and empowerment. Building the capacity of SUMAPI to expand operations and become self-sufficient, as well as forming other networks of domestic helpers, should help to channel the views of domestic helpers to policy-makers, government agencies, employers, NGOs, and the general public. Trade unions and informal sector associations may also serve as important partners in this process of creating and strengthening domestic helper organizations. In addition to helping build the capacity of SUMAPI and other domestic worker organizations, trade unions and informal sector associations could be engaged to examine the feasibility of unionism for domestic worker organizations.

6. Build alliances across sectors and internationally for the promotion of domestic worker rights. This should include the formation of a multi-sectoral network for domestic workers in the Philippines, as well as the creation of alliances among organizations representing

local Filipino domestic workers, domestic workers from other countries, and overseas Filipino migrant workers. In particular, efforts should focus on building alliances with organizations in countries that deploy overseas domestic workers, such as Indonesia, and in countries that employ large numbers of Filipino domestic helpers, such as Hong Kong and Singapore.

7. Build the capacity of government entities to assist and protect domestic helpers. Government agencies should be assisted in developing a more proactive approach to supporting and protecting domestic helpers. Government officials at the national and local levels, including law enforcement personnel, social workers, and labour inspectors, should receive training in reaching out to domestic workers and responding to reports of violations and abuse. Moreover, the government's ability to prevent and protect overseas domestic helpers from abuse and exploitation should be improved by strengthening the pre-departure orientation process and by training labour attachés and other government officials in the risks faced by migrant workers.

8. Raise awareness about forced labour and trafficking. National and community-based campaigns should be undertaken to raise awareness of the risks of illegal recruitment, forced labour, and trafficking. Information should be targeted to regions that serve as source communities for domestic helpers and regions where many domestic helpers are employed. Recruitment agencies and local government agencies can play important roles in this process since the vulnerability of domestic workers to such abuses often begins at the recruitment stage. Existing mechanisms to assist victims of forced labour and trafficking should also be strengthened.

9. Provide alternative training and economic opportunities for domestic workers. In order to alleviate the pressures on domestic helpers to accept situations of abuse and exploitation, alternative skills training, skills upgrading, and/or micro-credit programmes should be established for domestic helpers. This should also include the expansion of night school or flexible education programmes and/or the provision of educational stipends to allow domestic helpers to pursue their studies while working.

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Conclusion

The employment of domestic workers in the Philippines and the migration of Filipino domestic workers abroad are historically-embedded practices that offer significant benefits to Philippine households and the nation. Households with domestic workers are able to increase their participation in the labour force, and thus enjoy greater household earnings. The cumulative effect of the increased income of middle and upper-income households is that the government benefits from higher tax revenues. In addition, the employment opportunities for women from rural areas as domestic helpers and the remittances from overseas domestic helpers contribute to national poverty alleviation.

However, the benefits of domestic service contrast sharply with the vulnerability of domestic workers to labour violations and abuses, including forced labour and trafficking. Domestic work continues to remain an invisible occupation, in which domestic helpers lack the ability to voice their concerns and to demand changes to their employment situations. The current legal framework provides insufficient protection of their rights, while national government initiatives have yet to be targeted to the realities of their working conditions and schedules. The perception of domestic helpers as neither formal nor informal sector participants hinders their capacity to mobilize alliances to advocate for their rights. Moreover, the creation of a united voice for Filipino domestic workers is complicated by class, regional, and socioeconomic differences between domestic helpers in the Philippines and those overseas.

In the Philippines, initial efforts to improve the situation of domestic helpers have helped to put in place a supportive environment for further action. These efforts include the passage of national laws to combat trafficking in persons, violence against women and children, and child labour. In addition, the involvement of the tripartite social partners and the NGO community in addressing issues of domestic work and trafficking in persons offers a solid foundation for greater coordination of efforts and resources.

The present task facing the ILO and its social partners is the need to build on this momentum in meaningful, effective, and sustainable ways. Interventions are recommended in several key areas: legal and policy reform to promote and protect the rights of domestic workers; advocacy and research to broaden understanding of the situation of domestic workers; outreach and empowerment of domestic workers to enhance their voice and rights; capacity building for government, domestic worker, and employer representatives to improve their approaches towards protecting the rights of domestic workers; and strengthening mechanisms to prevent the trafficking and forced labour of domestic workers and to assist victims. It is hoped that this situational analysis will contribute to the development of such interventions and to the identification of issues for further exploration.



ANNEX 1: KEY INTERVIEWS AND FOCUS GROUP DISCUSSIONS

ORGANIZATION	NAME
International Labour Organization Sub-Regional Office, Manila	Ms. Carmela Torres, Deputy Director Ms. Naomi Cassirer, Senior Gender Specialist Ms. Hilda Tidalgo, Senior Programme Assistant Ms. Sylvia Fulgencio, Senior Programme Assistant Mr. Kenichi Hirose, Social Protection Specialist Ms. Concepcion Sardaña, ILO-IPEC Time-Bound Programme
GOVERNMENT AGENCIES	
Department of Labor and Employment	Ms. Irma Valiente, Bureau of Women and Young Workers Ms. Teresita Manzala, Bureau of Working Conditions Ms. Elena Calingasan, Bureau of Local Employment Mr. Jose Sandoval, Bureau of Local Employment Mr. Ricardo Casco, Philippine Overseas Employment Admin. Atty. Felicitas Bay, Philippine Overseas Employment Admin. Dr. Vivian Tornea, Overseas Workers Welfare Admin. Ms. Maria Dela Rama, Technical Education and Skills Development Authority
Department of Social Welfare and Development	Undersecretary Lourdes Balanon Ms. Alica Bala, National Capital Region
Department of Foreign Affairs	Atty. Golda Roma, Commission on Filipinos Overseas Atty. Cheryl Vitales, Office of Undersecretary for Migrant Workers' Affairs
Department of Justice	Atty. Robert Larga, State Counsel Atty. Angelica Somera, National Bureau of Investigation
National Commission on the Role of Filipino Women	Dr. Aurora Javate de Dios, Chairperson
National Statistics Office	Ms. Josie Perez, Income and Employment Statistics
National Police Commission	Ms. Celia Sanidad-Leones, Commissioner
Senate	Mr. Jacinto Rcales, Committee on Labor, Employment and Human Resource Development
WORKERS ORGANIZATIONS	
Trade Union Congress of the Philippines	Mr. Cedric Bagtas, Deputy Secretary General Ms. Jazz Pauline Blanco, Anti-Trafficking Desk
Federation of Free Workers	Mr. Richard Valenzuela, Philippine Social Institute
American Center for International Labor Solidarity	Mr. Greg Schulze, Field Representative Ms. Judy Geronimo, Director of Programmes
PRIVATE SECTOR	
Employers Confederation Of the Philippines	Mr. Jose Roland Moya, Deputy Director-General
Philippine Organization of Private Employment Agencies	Mr. Bernardino Miguel, President
NON-GOVERNMENTAL ORGANIZATIONS	
Ateneo Human Rights Center	Atty. Sedfrey Candelaria, Director Amparita Sta. Maria, Research Director
Bishops-Businessmen's Conference for Human Development	Mr. Julio Flauta, Child Labour Programme Coordinator
Center for Migrant Advocacy-Philippines	Ms. Ellene Sana, Executive Director
Coalition Against Trafficking in Women-Asia Pacific	Ms. Jean C. Enriquez, Deputy Director
End Child Prostitution, Child Pornography, and the Trafficking of Children for Sexual Purpose	Ms. Dolores Alforte, Executive Director
Episcopal Commission for the Pastoral Care of Migrants and Itinerant People/ Catholic Bishops' Conference of the Philippines	Rev. Fr. Savino Bernardi, Executive Secretary

Informal Sector Coalition of the Philippines	Ms. Susanita Tesiorna
Kanlungan Center Foundation, Inc.	Atty. Mirabel Cristobal-Amar, Chairperson
Migrant Forum in Asia	Mr. Ashley William Gois, Programmes and Secretariat Coordinator
Philippine Migrants Rights Watch/ Development Action for Women Network	Ms. Carmelita Nuqui, President
Scalabrini Center for People on the Move	Fr. Edwin Corros, Director
Scalabrini Migration Center	Fr. Fabio Baggio, Director
Stop Trafficking of Pilipinos	Ms. Lourdes Villanueva, Executive Director
Samahan at Ugnayan ng mga Manggagawang Pantahanan sa Pilipinas (SUMAPI)	Ms. Milaluna Tibubos, President
Visayan Forum Foundation, Inc.	Ms. Cecilia Flores-Oebanda, President
	Mr. Apolinario Maranan, Regional Coordinator, Batangas
	Ms. Mary Cris Aydalla, Social Worker, Batangas
	Ms. Lolita Catral, Social Worker/Field Organizer, Batangas
	Ms. Niña Genoveva Dueñas, Professional Volunteer, Batangas
	Ms. Karen Marquez, Student Volunteer, Batangas
	Ms. Gigilyn Gétape-Endaya, Bacolod

DEVELOPMENT ORGANIZATIONS

Asian Development Bank	Ms. Susanne Wendt, Social Sector Specialist
AusAID	Ms. Lily Hidalgo, Senior Programme Officer
International Organization for Migration	Ms. Katsui Kaya, Project Developer
Japan International Cooperation Agency	Ms. Yllah Labayen, Programme Assistant
UNICEF	Ms. Victoria Juat, Child Protection Officer
U.S. Agency for International Development	Ms. Maria Robielos, Economic Policy Assistance Manager
World Bank	Mr. Jose Nicolas, Operations Officer on Social Safeguards

LOCAL GOVERNMENT/ORGANIZATIONS

Bacolod City	Atty. Andrea Si, City Administrator
	Ms. May Alvamento, Department of Labor and Employment
	Ms. Gina Castro, Women's Crisis Center
	Capt. Carmecita Saliba, Balay Pasilungan
	Ms. Liza Asan, Visayan Forum Kasambahay Advisor
	Ms. Elmira Baguloro, Negros Occidental HS Night School
Batangas City	Ms. Aleta Frigillana, Department of Labor and Employment
	Msgr. Rafael Orondo, Basilica of the Immaculate Conception
	Ms. Charity Calabia, City Social Welfare and Development
	Ms. Hiyasmin Candava, City Social Welfare and Development
	Ms. Fredesvinda Mendoza, Provincial Social Welfare and Devpt.
	Ms. Adela Macaraig, Provincial Social Welfare and Development
	Ms. Marissa Manalo, Provincial Social Welfare and Development
	Ms. Letecia Chua, Public Information Office
	Ms. Josephine Sebollena, Philippine Ports Authority
	Capt. Marcelino Lusuegro, Philippine Port Police
	Ms. Fe Faytaren, Aries Arrastre, Passenger Terminal Management
	Ms. Corazon Balagbis, Social Security System
	Ms. Milagros de Chavez, Technical Education and Skills Development Authority

FOCUS GROUP DISCUSSIONS

Bacolod City	Domestic worker-students at Negros Occidental High School
	SUMAPI and BBK representatives
	BBK Council of Leaders
Batangas City	Domestic worker-students at Batangas National High School
	Domestic worker-students at Saint Bridget College
	SUMAPI leaders

ANNEX 2: BIBLIOGRAPHY

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