



POLICY BRIEF 3

FORGING PHILIPPINE BILATERAL ARRANGEMENTS AND AGREEMENTS: EXPERIENCES AND LESSONS

Executive Summary

Bilateral arrangements and agreements (BLAs) are important policy instruments to facilitate ethical recruitment and circular migration of health professionals. While bilateral arrangements are non-legally binding and flexible, bilateral agreements formalize specific terms for the commitment of concerned parties. These are advocated by the World Health Organization in its *Global Code of Practice for International Recruitment of Health Professionals* and the International Labour Organization in several conventions and policy instruments such as the *Multilateral Framework on Labour Migration*. This policy brief presents the findings of an overview of the bilateral commitments between the Philippine government, as the source country of migrant health professionals and the governments of five destination countries, namely, the United Kingdom, Norway, Spain, Kingdom of Bahrain and Japan. Difficulties in enforcement vary by receiving country: policy and political changes, accessible alternatives to government bilateral arrangements, problems with requirements and logistics. The pro-active Philippine approach and process in forging bilateral arrangements and agreements concerning Filipino health professionals may be reviewed for greater efficiency and impact.

Introduction

The shortage of health personnel in many developed countries has spurred an international demand for and recruitment of skilled health professionals. As health is a fundamental right, the migration of health professionals between countries directly impact the achievement of health related MDGs and raised ethical concerns.

This migration of health professionals has exacerbated the critical shortages and inequitable distribution of health personnel in developing countries. The World Health Organization (WHO 2006) estimates the global shortage of 4.3 million health personnel in 57 developing countries, mostly located in sub-Saharan Africa and South-East Asia.

As a guide to managing the migration of health professionals, the WHO adopted the Global Code of Practice on the International Recruitment of Health Professionals (2010). The International Labour

Organization also advocates for social dialogue in the governance of international migration.

International organizations agree on the importance of bilateral arrangements and agreements between the source and destination countries. Bilateral arrangements are considered to be non-legally binding and flexible. Bilateral agreements formalize specific terms of commitment between and among the concerned parties.

The Philippines regularly enters into bilateral labour arrangements and agreements with destination countries of migrant health professionals. The study on the “Philippines’ Bilateral Labour Arrangements on Health-care Professional Migration: in Search of Meaning” (Makulec, 2012), commissioned by the International Labour Organization and the European Union funded Decent Work Across Borders project examines five recent commitments, from 2001 to 2009, between the Philippines and, respectively, the United Kingdom, Norway, Spain, Bahrain and Japan.

Philippine experiences in developing bilateral arrangements and agreements on the recruitment of health professionals suggests the need for improving negotiations, implementation, monitoring and evaluation of such international commitments for greater efficiency and impact.

Approach and Results

The assessment reviewed the documents on the BLAs between the Philippines and respectively, the United Kingdom, Norway, Spain, Bahrain and Japan¹ and relevant literature, legislation and statistics. A total of thirty two interviews and a focus group discussion were conducted in the Philippines and selected receiving countries, among government, academia, trade unions, professional organizations and recruitment agencies.

The policy brief draws from the assessment's findings. It calls on government to improve the bilateral negotiation process, include more provisions addressing migrant's rights and ethical recruitment and for government and relevant stakeholders to play an active role in the implementation, monitoring and evaluation of the agreements.

Implementation, Constraints and Results

The Philippine government actively forges bilateral labour arrangements and agreements concerning Filipino health professionals, pursuant to Republic Act 10022, the amendment to the 1995 Migrant Workers and Overseas Filipinos Act. However, these efforts are not without challenges in terms of the process, design, implementation, monitoring and evaluation of bilateral labor agreements. The study clearly shows that experiences in negotiating bilateral agreements and implementing them vary.

Bilateral agreement with Norway

The agreement with Norway (2001) involved the recruitment of nurses. It was terminated six months from signing. Norway was expected to carry the costs of language training for Filipinos. Norway was also concerned with recruiting from the Philippines as a developing country with a potential critical shortage and mal-distribution of health personnel.

Bilateral agreement with Bahrain

The Memorandum of Agreement signed with Bahrain in 2007 has not been implemented. The content of the agreement has nonetheless been acknowledged as a model and promising practice due to its addressing ethical recruitment, support for education and development of human resources in health in the Philippines, return-reintegration and facilitation of research on related health topics. Recruitment has progressed in the Middle East countries through private channels.

Bilateral arrangement and agreement with the United Kingdom

The first recruitment agreement for nurses with the United Kingdom of Great Britain and Northern Ireland (2002) was enforced and monitored for a year. The Memorandum of Understanding signed in 2003 and ratified in 2004, incorporated ethical recruitment provisions such as the obligation for UK employers to contribute to the Filipino overseas workers welfare fund, to cover the processing fees, air fare and repatriation of the migrant workers at end of the employment contract, among others.

The United Kingdom drastically reduced its recruitment from the Philippines in 2006, as the government changed its international recruitment policies and shifted to training its own health-care professionals. The mobility of health professionals from other European Union countries offered easier prospects than recruitment overseas, such as from the Philippines, which incur higher costs for UK's government.

Bilateral agreement with Japan

The Philippines-Japan Economic Partnership Agreement (JPEPA), signed in 2006 and ratified in 2008, deployed Filipino nurses and caregivers to Japan. The additional Memorandum of Understanding in 2009 stipulated the terms for acceptance of Filipino candidates for employment in Japan, such as the Japanese language requirement, nurse licensure in Japanese and working conditions.

Deployment under the JPEPA and the MoU showed fluctuations in the number of recruited Filipino nurses. The reasons cited were: Japan's economic conditions, the hospitals' focus on currently

employed migrant workers rather than on new candidates and the recent interest in the health professions among the Japanese, and the concern regarding the licensure examination in Japanese language. Makulec also cited Carlos (2013) that as of 237 Filipino nurses deployed to Japan from 2009 to 2012, only five Filipino nurses passed the national exam and 36 have left.

Bilateral arrangements with Spain

The non-legally binding MoU signed with Spain (2006) recruited only two nurses.

The agreement involved future cooperation in the field of health care professional's migration and a pilot project for nurse recruitment.

Conclusions

The Philippines faced difficulties in forging and implementing ethical bilateral arrangements and agreements with receiving countries of Filipino migrant health professionals. Three issues may be observed from the data.

1. With efficient private sector recruitment transactions and absence of incentives, destination countries are not compelled to enter into government level negotiations and commitments.
2. Even with existing arrangements and agreements supportive of ethical migration, destination countries stopped or delayed implementation to explore more fluid and less costly alternatives.
3. Changing political and policy contexts in the destination countries stopped the implementation of their bilateral commitment.

Implications and Recommendations

The results of the study indicate that bilateral arrangements and agreements between source and destination countries are complex.

- o The Philippines' experience shows the importance of consultative processes and participation from a wide range of stakeholders,

including trade unions and other relevant organizations in all aspects from negotiation to evaluation.

- o The Philippines' experience also shows the importance of the timeliness of the introduction of agreements. The agreement should be forged before private recruitment captures the labor market.
- o The Philippines' experience indicates the importance of incentives for source and destination countries in view of the implementation of the various provisions included in the arrangements and agreements.
- o The Philippines' experience confirms that the scope of the bilateral agreements should be comprehensive and cover migrants' rights and mitigation of recruitment effects on the sending country.

Recommendations to improve the Philippine negotiation, implementation, monitoring and evaluation of bilateral commitments include:

- o Setting safe recruitment targets and monitoring the health system situation during the period of the agreement.
- o Negotiating for compensation such as scholarships, exchange of experts, joint ventures and investments in health system facilities in the country and support for return and re-integration of the migrant health professionals.
- o Engaging the participation of multi-stakeholders, non-state actors in sending and destination countries in the negotiation, implementation, monitoring and evaluation processes.
- o Applying international soft laws and best practices and design national regulations to enforce the bilateral commitments.
- o Designing the terms of the agreement to fit the needs of both source and destination countries, specifically to ensure protection of migrants' rights in the destination country and to mitigate the effects of recruitment in sending country.
- o Intervening and implementing the commitment in a timely manner. Recruitment ought to take place within the agreement's implementation period.

- o Incorporating regular monitoring and evaluation and discipline to conduct such as scheduled. Stipulating the objectives of the commitment and indicators clearly from the start. Using evaluation results to adjust to current needs in both countries and to improve implementation.
- o Inclusion in the text of the commitment of provision for the access and portability of social entitlements for migrant workers, access continuous skills and professional development and measures for the return-and-re-integration of migrants in their country of origin.

This policy brief calls on the Department of Labor and Employment, the Philippine Overseas Employment Administration, the Overseas Workers Welfare Administration, the Department of Foreign Affairs and the Department of Health in spearheading efforts to improve bilateral labour commitments for the recruitment of health professionals. And in collaboration with trade unions, non-government organizations and professional associations in the Philippines and their counterparts in destination countries, government can exert synergistic efforts with partners to improve the approach and processes of negotiating, implementing, monitoring and evaluating bilateral labour agreements and arrangements.

- ¹a. Memorandum of Understanding between the Government of the Philippines and the Government of the Kingdom of Great Britain and Northern Ireland on Healthcare Cooperation (July 30, 2003).
- b. Recruitment Agreement Between the Government of the Republic of the Philippines and the Government of the United Kingdom of Great Britain and Northern Ireland (January 8, 2002).
- c. Agreement Between POEA and the Directorate of Labour Norway on Transnational Co-Operation for Recruiting Professionals from the Health Sector to Positions in Norway (June 26, 2001).
- d. Memorandum of Understanding on Cooperation for the Management of the Migration Flows Between the Ministry of Labor and Social Affairs of the Kingdom of Spain and the Ministry of Labor and Employment of the Republic of the Philippines (June 29, 2006)
- e. Memorandum of Agreement Between the Republic of the Philippines and the Kingdom of Bahrain on Health Services Cooperation (April 24, 2007).
- f. Memorandum of Understanding Between the Philippine Overseas Employment Administration and the Japan International Cooperation of Welfare Services on the Deployment and Acceptance of Filipino Candidates (JPEPA) (January 12, 2009).
- g. Memorandum of Understanding Between the Philippine Overseas Employment Administration and the Japan International Corporation of Welfare Services on the Deployment and Acceptance of Filipinos.

Main Reference

Makulec, Agnieszka. 2014. *Philippines' Bilateral Labour Arrangements on Health-care Professional Migration: in Search of Meaning*. ILO – Decent Work Across Borders project. 52 pages.

About the Decent Work Across Borders project

In 2011, the European Union awarded the International Labour Organization (ILO) funds to implement a three-year project on the issue of circular migration. The ILO Decent Work Across Borders project: A Pilot project for Migrant Health Professionals and Skilled Workers sought to better understand schemes in line with circular migration of health professionals. Through this project, the ILO sought to facilitate an approach to migration that benefits the migrant workers, the source and destination countries within a rights-based framework for labour migration governance. The project focused its activities on three Asian countries concerned with the outflows of health professionals and skilled workers for foreign employment, namely the Philippines, India and to a lesser degree, Viet Nam.

http://www.ilo.org/manila/info/public/pr/WCMS_173607/lang--en/index.htm

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