

ISSUE FOCUS

Migrant Workers' Rights and Status under International Law: the Asian Experience

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The importance and extent of the migration phenomenon, affecting as it does huge numbers of people the world over cannot be overemphasized. Coming from third world countries, poverty-stricken and strangers in foreign lands, migrant workers irrespective of country of origin indeed become vulnerable to oppression and exploitation and all kinds of abuses. The question that needs to be addressed continues to be whether or not the existing ILO Conventions and Recommendations as well as the core international human rights treaties together with the International Convention on Migrant Workers have been adequately implemented in order to effectively address the problems related to the promotion and protection of migrant workers' rights. Given the flood of unabated reports and complaints of abuses and exploitation that migrant workers the world over have to suffer and contend with, the answer is quite obvious. While bilateral and multilateral agreements continue to serve the specific concerns of sending and receiving States pertinent to the protection of the rights of migrant workers, the real need is for a continent-wide forum in Asia which can eventually consolidate all mechanisms and measures that will promote and protect the rights of migrant workers in a truly comprehensive and integrated manner.

Keywords

Migrant Worker, ILO, IOM, ICMW, AsianSLL, International Human Rights Law, Integrated Comprehensive Regional Approach

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I. Introduction

A. Background

In late 2008, the entire world was jolted from its complacency by the widening financial crisis that has spread to economies integrated into the global market, causing “massive retrenchment and lay-offs of workers and increased unemployment in labor receiving and sending countries alike.”¹

Indeed in the Philippines which sends one of the biggest contingents of migrant workers all over the world, banner headlines - 200,000 layoffs feared,² Hundreds lose jobs³ - at the beginning of the year 2009, prognosticated hundreds of layoffs on a daily basis in domestic corporations as an offshoot of the global economic crisis which was precipitated by the Lehman Brothers’ debacle sometime in October 2008. The Department of Labor and Employment forecasted that: “[I]f companies continue to shed jobs at the present rate, the government may be looking at 200,000 jobless workers in six months.”⁴

Optimistic business leaders highlighted the options available to affected workers. Those workers “finding themselves suddenly without employment because of the slowing global economy can turn to the information technology and business process outsourcing sectors where thousands of jobs are on offer” or they “can join the approximately 3,000 Filipinos who fly out of the country every day for countries where apparently the demand for Filipino workers has not abated.”⁵

The global economic crisis, needless to state, will certainly increase the already phenomenal rate of migration at present time and magnify the problems of migrant workers. UN Secretary-General Ban Ki-Moon said: “[G]iven these developments, it would be naive to think the current crisis will have no effect on the movement of people across borders, and how our publics perceive migration and the migrants in their midst.”⁶ More than ever today, there should be a sustained concern for the implementation of universal, international standards affording protection to migrant workers.

¹ M.A. Villalba, *Migration: Development Issue*, presented at the Academic Congress of the University of the Philippines (Feb. 1-5, 2010).

² PHILIPPINE DAILY INQUIRER (“PDI”), Jan. 27, 2009, at A1, available at <http://www.inquirer.net> (last visited on Sept. 2, 2010).

³ PDI, Jan. 24, 2009, at A1.

⁴ *Labor Chief Forecasts Job Losses*, PDI, Jan. 27, 2009, at A1.

⁵ *IT, BPO Sectors can absorb jobless workers*, PDI, Jan. 24, 2009, at A1 & 6.